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Editors:

Muhammad Ridhwan Ab. Aziz

Nurul Aini Muhamed

Nathasa Mazna Ramli

Khairil Faizal Khairi

Asmaddy Haris

Suhaila Abdul Hamid

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CONTRIBUTION OF CORPORATE *WAQF* IN SOCIOECONOMICS DEVELOPMENT

Nurul Adilah Hasbullah[1]
Khairil Faizal Khairi[2]

ABSTRACT

Waqf is one tool to solve poverty problems among the community because it can support the socioeconomics well-being development in the country. If the socioeconomics well-being of people can reach, obviously there is no gap between rich and poor people. In order to warrant that the *waqf* system is line with the modernization reached nowadays, then Johor Corporation Berhad (JCorp) was took initiative to introduce corporate *waqf*. This corporate *waqf* was bringing the great changes into the *waqf* system as a whole. The purpose of this article is to recognize the uniqueness of the corporate *waqf* and to explore the contribution of this type of *waqf* towards socioeconomics development. This article uses both primary and secondary data in collecting the information. The general finding of this article indicates that the corporate *waqf* provides huge contribution towards socioeconomics development.

Keywords: Corporate *waqf*, Johor Corporation Berhad (JCorp), Waqaf An-Nur Corporation Berhad (WANCorp), socioeconomics development

1. INTRODUCTION

Economic activities are essential to bring people to a way of life organized. However, the economic system adopted today is the capitalist system which often occur usury, fraud, corruption, disproportionate monopoly, market manipulation and so on. Therefore, many in our society suppressed and still curbed by poverty and misery of life. Then contribute to the problem of poor become poorer and rich become richer.

Figure 1 shows the percentage of the poverty especially for the Bumiputera's ethnic group. Although the incidence of poverty for Bumiputera showed a decrease from 5.3% in 2009 to 2.2% in 2012, but Bumiputera still stated a large percentage compared to Chinese and Indians. Why Bumiputera's ethnic that live in Malaysia which is the home country of their ancestors stated a larger percentage of the incidence of poverty compared to the other both ethnics? The most disappointing is almost of them are Muslims. If we not take any action to combat this problem, of

[1] Postgraduate Student, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM). Corresponding author: n.adilahasbullah@gmail.com.
[2] Senior Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM).

course, the fate of the poor still neglected and the rich looked more rampant. In order to solve this problem, charity is a one of the potential ways because it can be in many forms. But, the only charity in a long lasting form is *waqf* because it has the element of perpetuity.

The *waqf* or charitable endowments is one of the important institutions in preventing poverty among the community and generating socioeconomics well-being of people because its fund that cannot be forfeited or lost and must be managed by the trust. It also cannot be traded for the sake of greed and desire to unrestricted money. Thus, it becomes a perpetual property in the interest of the people all the time. The important of *waqf* is similar to *infaq*, *sadaqah jariyah* and *hibah* (Abd. Shakor, 2011) and it is a vital instrument in helping the community.

Through *Quran* or *Hadith*, we cannot found the exact meaning of the *waqf*. The *fuqaha* defines the *sadaqah jariyah* as a giving some property in his or her life and its usage everlasting (Abd. Shakor, 2011). From literally, the word *waqf* derived from Arabic word *waqafa* that means restrain (*al-habs*) or forbid (*al-man*) (Siti Mashitoh, 2007).

Based on the *jumhur ulama'* views, the *waqf* in legally means to restrain a property that can gain the benefits from it, its physical is perpetual and not becoming the property of a third party (Nurul Asyikin and Muhammad Hakimi, 2013). Based on the definition above, we can understand that once a person donated his or her property as *waqf*, then he or she not have any ownership on that donated property anymore instead will become Allah belongings forever and it can never be transact. At the same time, the public will earn the benefits from that donated property without any certain period.

As mentioned earlier, *waqf* had no definite meaning in the *Quran* and *Hadith*. But, the existence of *waqf* in Islam based on three foundations (Dahlia & Haslindar, 2013):

First, The Prophet (p.b.u.h) mentioned as reported in a *Hadith*: *Whence a child of Adam dies, his or her deed comes to an end except for three things; running and continuous sadaqah, knowledge that benefits (others) and a righteous child who pray for him or her.* (*Hadith* reported by Muslim, Tarmidhi, Abu Dawud, Nasa'i and Ibn Majah).

Second, Umar bin al-Khattab, as reported by Ibn Umar, went to the Prophet (p.b.u.h) and said "*Messenger of Allah! I got a land in Khaibar. I never got a property more precious to me than this. What do you advise me?*" The Prophet (p.b.u.h) said, "*If you want you can make habs on (bequeath) it, and give it as sadaqah (charity); provided that it should not be sold, bought, given as a gift or inherited*". Then Umar gave it as charity for the poor, relatives, slaves, wayfarers and guests. There is no harm for the person responsible for it to feed himself or a friend from it for free, without profiting.

Third, All the Prophet's (p.b.u.h) companions proclaimed their lands as *waqf*. This evidenced through narrations and report by Thabit bin Anas Jabir bin Abdullah and Ibn Hazm.

All these foundations from *Hadith* about the *waqf* are strengthened by the some verses in the *Quran* which encouraged the human to act kindly for the importance of community. One of the verses is:

"*By no means shall you attain al-Birr (piety, righteousness-here it means Allah's reward, i.e. paradise), unless you spend (in Allah's cause) of that which you love; and whatever of good you spend, Allah knows it well*".

(al-Imran: 92)

Allah (SWT) also remind in the verse:

"And whatever good they do, they will not be denied the meed thereof. Allah is Aware of those who ward off (evil)".

(al-Imran: 115)

Allah (SWT) also says in the verse:

"The likeness of those who spend their wealth in Allah's way is as the likeness of a grain which growth seven branches, in every branch contains of hundred seeds, and (remember) Allah will give increase manifold to which he will and Allah is All Embracing and all knowing".

(al-Baqarah: 261)

Based on those foundations from *Hadith*, it is clearly shown that the *waqf* was practiced long time ago and it existed since the era of Prophet (p.b.u.h). In addition, the foundation from *Quran* shows that the *waqf* is encouraged in Islam because it is a one of the kindness and it can reward by Allah to the *waqf* giver.

This article will explore the concept of corporate *waqf* and how Johor Corporation Berhad (JCorp) implemented it in Section 2. The research methodology of this article will be exposing in Section 3. While, the result and conclusion of this study will be explain in Section 4 and 5 respectively.

2. LITERATURE REVIEW

2.1 Concept of Corporate *Waqf*

The *waqf* practice today is differ from the traditional one because it follows the requirement nowadays and parallel with the modernization. One of the *waqf* innovations that attract the world's attention is corporate *waqf* that was introduced by Johor Corporation Berhad (JCorp). The uniqueness of this corporate *waqf* is the share as a main fund in contributing to the *waqf*. From the law perspective, *waqf* in form of share is permissible in *Shariah* since it's in line with the principles and concept of *waqf* in Islam (Abd. Shakor, 2011).

According to Magda Ismail (2014), corporate *waqf* can be defined as the confinement of an amount of liquid money, shares, profit, dividends by founder (s) such as individuals, companies, corporations, organizations or institutions, and the dedication of its usufruct in perpetuity to the welfare of society. The same author also mentioned that the creation of corporate *waqf* the following conditions must be fulfilled;

i. Founder (s) of corporate *waqf* can be individuals, shareholders of the corporate bodies, institutions, companies or even government who are capable of transferring their shares from their ownership to the ownership of Allah (s.w.t).
ii. The board of directors, who has been created by the founders, has to appoint the *mutawalli*/ trustee, specifically an associate institution in order to manage the affair of the corporate *waqf*.
iii. The board of directors, in their role as founder, must specify the beneficiaries in the *hujjah*/ *waqfiyah*/ *waqf* deed.
iv. Beneficiaries can be for specific purpose or for public purposes as specified by the board of directors.

Corporate *waqf* is an innovative mechanism in generating income for the benefits of most society in the form of cash *waqf*, *waqf* share and other assets investment methods (Dahlia and Haslindar, 2013). The same authors also mentioned that the corporate *waqf* is an initiative in combining perpetuity characteristic of *waqf* to achieve the power of entrepreneurial dynamism. Based on Norma, Salina and Zarinah (2013), corporate *waqf* is an idea combining corporate efforts with the aim of giving back to the society through *waqf* concept. They added that the corporate *waqf* is an innovation with the intention to revitalize the once powerful *waqf* institution and benefitting from its dynamics towards adding value and producing wealth through business and corporate efforts to encourage economic growth.

According to Nurul Asykin and Muhammad Hakimi (2013), during 'Seminar Awqaf Antarabangsa 2008', Prof. Murad Cizakca said that the corporate *waqf* management is a most sophisticated in Islamic financial practice nowadays. The existence of corporate *waqf* shows the big success of *waqf* system because the money collected through share can be use for many economic development projects without having any restrictions or obstacles same as *waqf* of immovable property (Asmak, 2009).

2.2 Corporate Waqf of Johor Corporation Berhad (JCorp)

i. Waqaf An-Nur Corporation Berhad (WANCorp) as a Mutawalli

Waqaf An-Nur Corporation Berhad (WANCorp) is a one of JCorp's subsidiary that was entrusted to manage all JCorp groups' assets and shares that are donated as *waqf* (Dahlia and Haslindar, 2013). On 25 October 2000, WANCorp start their operation by using name of 'Pengurusan Klinik Waqaf An-Nur' (Abd. Shakor, 2011). After memorandum of understanding (MOU) was made between JCorp and State Islamic Religious Council of Johor (SIRCJ) on 4 December 2009, SIRCJ agreed to appoint WANCorp to act as a special *mutawalli* in order to manage shares and assets which have been made *waqf* assets by JCorp and transferred to WANCorp (Norma, Salina and Zarinah, 2013). It is follows the Waqf Procedures 1983 under the Enactment of Islamic Administration Johor 2003 (Dahlia and Haslindar, 2013).

Nurul Asykin and Muhammad Hakimi (2013), the objective of the establishment of WANCorp consists of management and administration based on the Islamic values, planning and coordinating

religious activities and roles as mosque committee secretariat and coordinating the management of that mosque. WANCorp also run the research that used contemporary approach, next, suggest the project implementation that suitable with the JCorp's vision and struggle to be references hub in matters related business management in Islamic.

ii. Six Subsidiaries of JCorp are al-Waqif

Six subsidiaries of JCorp are *al-waqif* in the corporate *waqf* practice. Annual Report WANCorp 2012, three of them are Listed Companies and the three left are Unlisted Companies. The Public Listed Companies are KPJ Healthcare Berhad, Kulim (M) Berhad and Al-'Aqar KPJ Reit. The Unlisted Companies are Tiram Travel Sdn Bhd, Larkin Sentral Property Sdn Bhd and Capaian Aspirasi Sdn Bhd.

Based on the Annual Report WANCorp 2012, the JCorps' share donated as *waqf* as Table 1. KPJ Healthcare Berhad was donated 14.38% (18.6 millions of share, Kulim (M) Berhad was donated 3.85% (12.35 millions of share), Al-'Aqar KPJ Reit was donated 1.81% (12.62 millions of share), Tiram Travel Sdn Bhd was donated 75% (225 thousands of share), Larkin Sentral Property Sdn Bhd was donated 61% (50.33 thousands of share) and Capaian Aspirasi Sdn Bhd was donated 75% (75 thousands of share).

Based on the Annual Report WANCorp 2012 also, the financial performance of WANCorp in 2012 was keep growth caused of the strength national economic condition which contributes towards increasing in the performance of the *waqf* share. The dividend earned in 2012 from the *waqf* share is increasing dramatically which about RM57.56 millions compared to just RM16.94 millions in 2011. In order to know about the performance of those companies, please refer Table 2 and 3.

iii. Distribution of the Dividend Earned

Refer to Figure 2, the productivity's model of the corporate *waqf* can be seen through the benefits of the property as an input that consists of annual dividend of the share from six subsidiaries of JCorp, contribution of cash *waqf* by WANCorp as a membership participation and 70% of dividend of the reinvestment. The total of the benefits will be collect and distribute to the three groups with different percentage of the distribution which based on the *hujjah waqf* that agreed 70%, 25% and 5%. The benefit's distribution as called as production process and welfare programmes and Islamic Corporate Social Responsibility (ICSR) as an output of this kind of *waqf* concept.

The 70% of the dividend earned goes back to JCorp for reinvestment and human capital development, 25% goes to WANCorp for *Fisabilillah* and 5% goes to SIRCJ. Until 31 December 2012, the 70% of fund for reinvestment is about RM36.27 millions and invested as fix savings in financial institutions which based on the *Shariah*. The income earned from the investment in 2012 is about RM421,418.71. The total income earned from the investment until 31 December 2012 is about RM1,017,696.86.

Based on the Annual Report WANCorp 2012, 60% (RM2,088,117) of fund from *Fisabilillah* used for charity and social works such as sick patient's treatment, mosques management and other Corporate Social Responsibility Programme, 38% (RM1,312,303) used for human capital development such as 'Tabung Akedemi Mutawwif' and 2% (RM60,000) used for special project such as 'Program Kemantapan Orang Asli Johor'. The amount from 5% goes to SIRCJ is about RM2,861,700 in 2012.

3. RESEARCH METHODOLOGY

As mentioned earlier, this article uses both primary and secondary data. The primary data gained by referring the *Quran* and the *Hadith*. While secondary data gained by referring published sources including articles, journals, annual reports, published books and websites. Those data collected related to the concept and implementation of corporate *waqf*. In order to study in detail about the contribution of corporate *waqf* in socioeconomics development, thus, Johor Corporation Berhad (JCorp) and few its subsidiaries will be references due to JCorp is first ever implemented of corporate *waqf* in Malaysia through its subsidiaries.

4. RESULT

Corporate *waqf* implemented by JCorp is able to give the benefits for many parties. Firstly, for the government, the *waqf* is a one of the instruments to redistribute the wealth due to reach economic development entirely. This is because *waqf* plays an important role that is significant in providing education, economic and infrastructure. Indirectly, the government will able to reduce the expenditure which leads to a reduction in the budget deficit. In addition, through *waqf* also, the government's need in borrowing will be low which leads to a reduction of the interest rate that curbing the growth of the country.

Secondly, for the company, besides they can fulfil the Islamic Corporate Social Responsibility (ICSR), they also can gain the long-lasting benefit if they are practice the corporate *waqf*. Besides help the needy, they also can ensure that the equity ownership is belongs to Malaysian Muslims. Thus, it can bring the potential growth and addition of equity for public benefits. The equity growth will be gained through revenue from the investment of some *waqf* property in the form of share. The equity here means the share and securities of the companies.

Lastly, for the community, the corporate *waqf* can provide them a lot of the benefits. Those are benefits has been realized in terms of the buildings and the services provided by it, such as building mosques, suraus, clinics, hospitals and dialysis centres, treating deserving patients with the minimum amount of only RM5 for both treatment and medication (Magda Ismail, 2014). The same author mentioned that the corporate *waqf* also provide the benefits in terms of voluntary acts such as assisting victims of disasters and giving donation to schools and universities. In addition, it also assists small businesses by providing interest-free loans through a scheme known as Dana Waqf Niaga.

JCorp through WANCorp managed 5 mosques and they also advising 33 of mosques and suraus established at farms managed by Kulim (M) Berhad. The WANCorp employees assigned at the mosques managed by WANCorp are 17 persons which consist of 8 *Imam* and 9 *Bilal*. A senior executive was responsible for the management of the mosques under WANCorp. The objective of WANCorp that the mosques under their management can continue in providing best services to the local community besides diversified *da'wah* activities to attract people attention to enliven mosques.

Based on annual report WANCorp 2012, until 31 December 2012, Waqaf An-Nur Clinics including Waqaf An-Nur Hospital consist of 18 and 4 out of it used container concept. The end of 2012, the total patients received treatment at all Waqaf An-Nur Clinics is 885,403 and 62,129 out of it are non-Muslims patients. Dialysis treatment services provided at Waqaf An-Nur Hospital, Pasir Gudang and other 5 Waqaf An-Nur Clinics. Until 31 December 2012 also, 101 patients suffered from kidney disease have been treated with 39 dialysis machines. The establishment of Waqaf An-Nur Hospital and Waqaf An-Nur Clinics successfully realize the goal of WANCorp to help the community, especially the less fortunate to enjoy health care facilities through the concept of *waqf* .

Dana Waqf Niaga managed by WANCorp was launched on 5 May 2007 in order to provide financial assistance to the traders who faced lack of capital in run the business by using *Qardhul Hassan* concept. Dana Waqf Niaga started with the fund of RM14,000 result from individual cash *waqf*. For the purpose of give more assistance to the other traders, this fund was added from *Fisabilillah*'s allocation around RM200,000 which brings to the total fund is RM214,000. From 2007 until 2012, 510 applications were received and 256 traders were received this assistance with the total of RM402,200. This assistance was given to the traders which run various businesses as Table 4.

Briged Waqf was established to provide assistance in any form calamities like floods and others. Briged Waqf also took the opportunity to get involved in the community programs organized by JCorp such as a collaborative program of cleaning the mosque, suraus, and a Muslim cemetery in all districts in the state of Johor. In 2012, a total 22 community programs were conducted by JCorp with collaboration of Briged Waqf. In 2012 also, Briged Waqf was able to channel RM93,000 of the contribution to the people who disaster, fire and the needy. Those programs were able to bind relationship between JCorp through Briged Waqf with local community.

5. CONCLUSION

As a conclusion, corporate *waqf* is very applicable nowadays because its line with the modernization reached. Since share as a main fund in contributing into the *waqf*, thus the community are capable to practice it. The corporate *waqf* can provides a lot of the contribution in preventing economic problems among the community due to the dividend earned from the this type of *waqf* can fulfil the people's need entirely. As evidence, the corporate *waqf* that was implemented by JCorp is successful in helping community because 25% allocated for *Fisabilillah* from the dividend earned used for the various activities such as charity and social works, human

capital development and special project. As a result, the corporate *waqf* will able to contribute towards socioeconomics development.

REFERENCES

Abd. Shakor bin Borham. (2011). Pelaksanaan Pembangunan Wakaf Korporat Johor Corporation Berhad (JCorp): Satu Tinjauan. *International Conference on Humanities 2011*.

Annual Report WANCorp 2011.

Annual Report WANCorp 2012.

Asmak Ab Rahman. (2009). Peranan Wakaf dalam Pembangunan Ekonomi Umat Islam dan Aplikasinya di Malaysia. *Jurnal Syariah, Jil. 17, Bil. 1 (2009) 113-152*.

Dahlia binti Ibrahim and Haslindar binti Ibrahim. (2013). Revitalization of Islamic Trust Institutions through Corporate Waqf. *4th International Conference on Business and Economic Research (4th ICBER 2013) Proceeding.*

Department of Statistics Malaysia. <http://www.statistics.gov.my/portal/index.php?lang=en>.

Magda Ismail Abdel Mohsin. (2014). *Corporate Waqf from Principle to Practice*. Kuala Lumpur: Pearson.

Mark Saunders, Philip Lewis and Thornhill. (2009). *Research Methods for Business Students*. 5th Ed. Prentice Hall: Italy.

Monzer Kahf and Siti Mashitoh Mahamood. (2011), *Essential Readings in Contemporary Waqf Issues*. Selangor: CERT Publications.

Muhammad Ridhwan Ab. Aziz. (2012), *Introduction to Islamic Institutions in Economics and Finance*. Negeri Sembilan: USIM Publisher.

Norma Md Saad, Salina Kassim and Zarinah Hamid. (2013). Involvement of Corporate Entities in Waqaf Management: Experiences of Malaysia and Singapore. *Asian Economics and Financial Review, 2013, 3 (6): 736-748.*

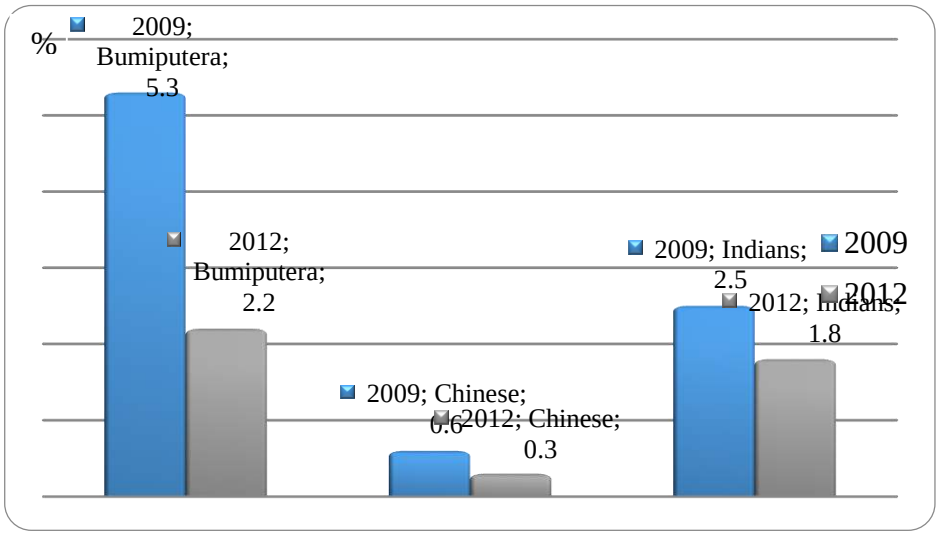
Nurul Asykin Mahmood and Muhammad Hakimi Mohd Shafiai. (2013). Potensi Wakaf Korporat kepada Pemilikan Ekuiti Muslim: Kajian di Wakaf An-Nur Corporation. *Prosiding Persidangan Kebangsaan Ekonomi Malaysia Ke VIII 2013.*

Siti Mashitoh Mahamood. (2006). *Waqf in Malaysia: Legal and Administrative Perspectives.* Kuala Lumpur: University of Malaya Press.

Siti Mashitoh Mahamood. (2007). Pembentukan Dana Wakaf Menurut Perspektif Syariah dan Undang-undang serta Aplikasinya di Malaysia. *Jurnal Syariah, 15: 2 [2007] 61-83.*

APPENDICES

Figure 1**:** Incidence of Poverty and Hardcore Poverty by Ethnic Group of Head of Household, Malaysia, 2009 & 2012



Source: Department of Statistics Malaysia

Table 1: *Waqf* Share of JCorp's subsidiaries

Listed Companies	
Kulim (M) Berhad	3.85% (12.35 Millions of Share)
KPJ Healthcare Berhad	14.38% (18.6 Millions of Share)
Al-'Aqar KPJ Reit	1.81% (12.62 Millions of Share)
Unlisted Companies	
Tiram Travel Sdn Bhd	75% (225 Thousands of Share)
Capaian Aspirasi Sdn Bhd	75% (75 Thousands of Share)
Larkin Sentral Property Sdn Bhd	61% (50.33 Thousands of Share)

Source: Annual Report WANCorp (2012)

Table 2: The Performance of Listed Companies

Company	Unit of *Waqf* Share (Millions of Unit)	Net Asset Value in the Beginning of *Waqf* (RM Millions)	Market Value in the Beginning of *Waqf* (RM Millions)	Net Asset Value in 31 Dec 2011 (RM Million)	Market Value in 31 Dec 2011 (RM Millions)	Net Asset Value in 31 Dec 2012 (RM Millions)	Market Value in 31 Dec 2012 (RM Millions)
Kulim (M) Berhad	12.35	142.00	51.61	270.66	208.43	204.97	242.02
KPJ Healthcare Berhad	18.60	45.00	34.03	78.56	218.49	158.99	266.84
Al-'Aqar KPJ Reit	12.62	13.00	-	14.13	14.51	14.52	16.28
Total		200.00	85.64	363.35	441.43	378.48	525.14

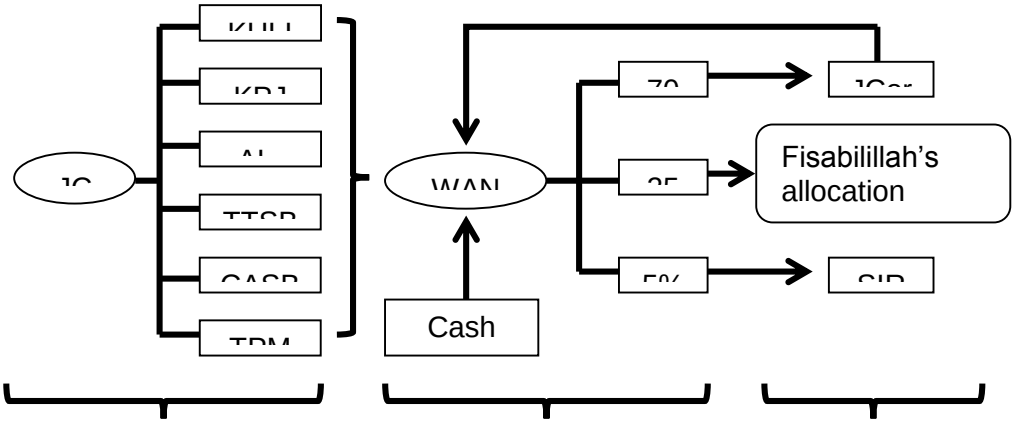
Source: Annual Report WANCorp (2012)

Table 3: The Performance of Unlisted Companies

Company	Unit of *Waqf* Share (Millions of Unit)	Net Asset Value in the Beginning of *Waqf* (RM Millions)	Net Asset Value in 31 Dec 2011 (RM Millions)	Net Asset Value in 31 Dec 2012 (RM Millions)
Tiram Travel Sdn Bhd	0.23	0.26	1.75	2.32
Capaian Aspirasi Sdn Bhd	0.08	0.01	0.45	0.48
Larkin Sentral Property Sdn Bhd	50.33	50.00	60.39	63.41
Total		50.27	62.59	66.21

Source: Annual Report WANCorp (2012)

Figure 2: The Model of Corporate *Waqf* by JCorp



Source: Muhammad Nurul Asyikin and Hakimi (2013)

Table 4: Type of business conducted by the receivers of Dana Waqf Niaga

No.	Type of Business	No. of Receiver	Total Assistance (RM)
1	Food & Beverages	67	150,000
2	Tailor Shop	9	26,800
3	Cafeteria/ Canteen	4	19,000
4	Cosmetic Products/ Bridal	8	21,900
5	Motorcycle/ Car Workshop	5	15,000
6	Welding/ Grill	3	9,000
7	Nursery	2	6,000
8	Grocery Store	3	9,000
9	Printing and Advertising	2	5,000
10	School Transportation	3	9,000
11	Others	14	43,400
12	Ayamas Corner	133	88,100
	TOTAL	**256**	**402,2000**

Source: Annual Report WANCorp (2012)

WAQF PERFORMANCE OF THE STATE ISLAMIC RELIGION COUNCILS OF MALAYSIA BENCHMARKING TO SINGAPORE

Nathasa Mazna Ramli[1]
Zurina Shafii[2]
Rochania Ayu Yunanda[3]

ABSTRACT

Assesing the factors which can improve performance is very crucial in every organization including *Waqf* institutions as charitable institutions. *Waqf* institutions have significant roles in a country to mobilize and distribute public funds. Examining its performance could be useful to assess *Waqf's* perpetual existence. In the context of business organizations, financial ratios which rely on the bottom line can be the tools to examine the performance. Financial ratios somehow reflect the financial health and vulnerability of the organizations. Besides that, the organizations frequently compare actual performance with standards or expectations to enhance the organizations' achievements. Several financial ratios might be applicable to evaluate non-profit organizations although those ratios do not seem sufficient. Financial ratios alone cannot serve as measures of success in non-profits organizations, these organizations have to be assessed in more complex ways, generally dealing with efficiency and effectiveness. Therefore, the purpose of this study is to examine the performance of *Waqf* institutions using financial and operational approaches. Using content and ratio analysis, this study examines five years (2008-2012) annual reports of *Waqf* institutions administered by *Majlis Ugama Islam Singapura* (State Islamic Religion Council or Singapore) and three *Majlis Agama Islam Negeri in Malaysia* (three State Islamic Religion Council in Malaysia). This study found in terms of *Waqf* collections, both institutions have growing amount of *Waqf* funds. This can be a hint of *Waqf* awareness among people. Both institutions are also able to generate income from their core activities. However, it can be highlighted from program expenses that both institutions might not have a number of projects and programs relating to the role as *Mutawalli*. Since financial ratios cannot be the utmost measures of success in Waqf institutions, these organizations have to develop the performance measures which can better evaluate efficiency and effectiveness.

Keywords*:* financial ratios, operational ratios, effectiveness, efficiency

[1] Lecturer at Faculty of Economics and Muamalat, USIM
[2] Lecturer at Faculty of Economics and Muamalat, USIM
[3] PhD student at Faculty of Economics and Muamalat, USIM

1. INTRODUCTION

Waqf is one of Islamic economic instruments to promote the distribution of public wealth. This perpetual voluntary charity concept is that the underlying asset should remain and the people can take the benefits of the asset. It promises a continuous reward in the eternal life for as long as the useful years of the underlying asset endure. As in the past, the *Waqf* sector has the potential to become part of a strong civil society which promotes socio-economic welfare and reduces inequality (Zuki, 2012). Unfortunately, *Waqf* has not been so popular recently. In some Muslim countries, *Waqf* properties have been neglected. Therefore, it is not surprising if some of the *Waqf* assets are not recorded properly or some have even gone missing. In fact, *Waqf* assets are contributory in providing social and economic welfare as well as promoting religious charity.

Since the *Waqf* assets should be in existence in perpetuity, the assets must be managed and administered by the appropriate parties responsible to supervise *Waqf* property benefits so that the benefits can be distributed to the recipients (Mat Rani and Aziz, 2010). In Islam someone who is appointed to manage a *Waqf* property as a trustee is known as an "*al-Mutawalli*". The major tasks of a trustee are to preserve and develop the properties that are donated, and collect *Waqf* income and distribute the income. *Mutawalli* should also preserve the properties from any loss and damage.

In recent years, Muslims' wealth has grown rapidly and some portion of the wealth has been redirected for philanthropy purposes (Zakaria, Samad & Shafii, 2012). Measures to revitalize *Waqf* institutions has also emerged amongst Muslim countries in the last decades.In Southeast Asia, Singapore and Malaysia have a surprisingly large number of *Waqf* properties. In Singapore, the *Waqf* assets are largely administered by MUIS*(Majlis Ulama Islam Singapore)*. In Malaysia, there is an increase amount of *Waqf* land given by the Muslims from time to time. More than that, Singapore has introduced a more advanced and progressive approach through *'sukuk'* structure namely *Musyarakah* bond. This encourages people to invest their assets and indirectly involve in the development of *Waqf.*

Managing public assets must be based on transparency and accountability. The financial reports of the *Waqf* institutions should be provided to meet the accountability and transparency demanded by the stakeholders. With regard to the above *Waqf* accountability, Ihsan (2007) explains that accountability to stakeholders could be discharged through Islamic accounting system. *Mutawalli* has to provide report to *Waqif* (donors), *Waqf* board, beneficiaries and community. However, Ihsan (2007) did not explain what kind information should be provided by *Mutawalli* besides to whom the priority should be given (Ihsan and Adnan, 2010).

Information provided by *Mutawalli* can be used to assess its performance. Examining the performance could be useful to assess *Waqf's* perpetual existence. In the context of business organizations, financial ratios which rely on the bottom line can be the tools to examine the performance. Financial ratios somehow reflect the financial health and vulnerability of the organizations. In the context of non-profit organizations, the bottom line might be irrelevant. Several financial ratios are applicable for non-profit organizations; however, these do not seem sufficient to the non-profit context. Other measurements are required to evaluate the *Waqf* institutions. Zuki (2012) suggested that there is scope for enhancing the management and business

operation of *Waqf* institutions by adopting modern approaches that will equip the institutions to provide better and more efficient services to the community.

In non-profit environments, three key characteristics frequently play a dominant role in organizational performance namely organization's resource-acquisition ability, the attainability of the organization's goals, and organizational efficiency (Mensah *et. al*, 2008). Non-profit organizations should be able to find proxies to measure efficiency. For example, Hughes (2013) suggested that a higher program expense ratio indicates higher cost efficiency.A higher ratio of program expenses to total expenses suggests non-profit organizations deliver their programs with fewer total expenses absorbed by management. In short, it is more cost efficient than those with a lower program expense ratio.

More specifically, our study attempts to investigate the performance of one Islamic State Religious Council (ISRC) in Malaysia benchmarked to ISRC of Singapore using financial and operational measures. The study contributes to existing literature relating to *Waqf* performance. *Waqf's* perpetual existence relies on its financial health, determining its financial performance is important. Other than that, *Waqf* institution has a role to mobilize *Waqf* assets productively. Therefore, evaluating its operational activities may also significant. It is to ensure that the institutions are performing their function.The rest of the paper is organised as follows. The next section provides the literature review discussing on the overview of *Waqf* practices in Singapore and Malaysia, *Waqf* financial and operational performances. Section 3 focuses on data collection and analysis. Section 4 concludes this study.

2. LITERATURE REVIEW

Even though there is not a single verse in the *Qur'an* that deals specifically with *Waqf,* Islamic scholars and jurists (the four prominent schools of thought, Shafie, Hanbali, Maliki and Hanafi) agreed that a few of the following verses are to be referred to as the source of the subject matter (Hameed and Yacoob, 2005). In *Surah Al Imran*, *verse* 92, Allah (*s.w.t.*) says, *"By no means shall ye attain righteousness unless ye give (freely) of that which ye love; and whatever ye give, of a truth God know it well"*. The verse states that Muslims will not be rewarded with goodness unless they are willing to give their best to others. The gift must be of value and which is dear to the giver.

2.1. Waqf practices in Malaysia and Singapore

In Malaysia, all *Waqf* assets are governed and administered by the Islamic State Religious Council or *Majlis Agama Islam Negeri* (MAIN) as the sole trustee of the *Waqf* property (Mat Rani and Aziz, 2010).MAIN issued enactments regarding administration aspect and simple procedures of *Waqf* donation; however, most state enactments do not discuss explicitly how to administer the *Waqf* property. As a sole trustee to all *Waqf* properties, MAIN has to ensure that the *Waqf* property is well administered and managed for welfare purposes. From the legal aspect, MAIN can buy, take, hold, and invest all Waqf properties registered under MAIN. This rule empowers MAIN to develop the *Waqf* property. Therefore, MAIN is responsible for all development activities, *Waqf* management and benefits distribution.

Every state has its own MAIN which may have different projects and policies. For example, *Waqf* Management of Selangor which is managed by MAIS has introduced a scheme called Selangor Share Scheme with the purpose to encourage the public to purchase the share units which are offered by MAIS. This scheme is established based on Section 17 Waqf Enactment (Selangor) 1999 with the main purpose of taking care of the importance andwelfare of the Muslims(Isa et.al (2011)). While, a new approach introduced by Majlis Agama Islam Kedah to encourage the public to do good deeds is through a project called "Waqf Jemba". Majlis Agama Islam will purchase a property/land and then will divide it according to Jemba and later on, sold to the public. Whereas, in Penang *Waqf* management is managed through Development of Majoodsaw *Waqf*, Development of Khan Mohamad *Waqf*, and AlimsahWaley Waqf Mosque. *Waqf* Management in Federal Territory, this unit's role as sole trustee for all general *Waqf* in Federal Territory and is responsible to develop *Waqf* lands for the benefit of Muslims throughMosque, Education centres, Old folk's &Orphanage, Shelter centres, A 34 storeys 'A" class office building which will be rented out , Dialysis centres, Service apartments and Waqf Share Scheme (Isa et.al, 2011).

Waqf has grown rapidly in Singapore. With the establishment of The Administration of Muslim Law Act (AMLA) in 1968, and in accordance with Section 58 of AMLA, all *Waqf* created are vested in Majlis Ugama Islam Singapura (MUIS) or Islamic State Religious Council (Hasan, 2010). While all *Waqf* are vested in MUIS, there were many *Waqf* that were still managed by the private trustees. In order to resolve this problem AMLA was amended again in 1995 to include the registration of *Waqf*. Henceforth, all *Waqf* in Singapore are required to be registered in MUIS. The registrationof Waqf has enabled MUIS to have complete database of all *Waqf* properties, revenue, expenses and disbursement information.This information is important for the effective and efficient management of the *Waqf*. Being a sole trustee of *Waqf* properties, MUIS established its subsidiary namely WareesPlc in 2003, to manage, develop and monitor Waqf projects. Karim (2008) states that there were still a sizeable number of Waqf which are still undeveloped. Some of the properties are located in very prime location. Warees has successfully transformed a number of unproductive *Waqf* lands into huge commercial residential areas (www.warees.com). The effective and efficient management of *Waqf* assets and properties by MUIS has enabled *Waqf* revenue to increase exponentially. Due to the high potential of *Waqf* properties, a more advanced and progressive approach needs to be adopted through *'sukuk'* structure. Warees has introduced cash *Waqf* scheme and modern financial mode of *Sukuk Musharaka* bond to fund *Waqf* development activities. Muslims in Singapore as well as abroad can directly involve in developing various *Waqf* assets by becoming the investor of modern sukukmusyarakah instrument. Presently, there are three types of *Waqf* administered in Singapore: the family *Waqf*, the charitable *Waqf*, and a combination of the family and charitable *Waqf* (Hasan, 2010).

2.2. *Waqf* performance

The theoretical framework for *Waqf* accounting has not been well-established. Previous studies (Ihsan (2007), Adnan and Ihsan (2010), Nahar and Yacoob (2011)) show that there was no specific guideline in maintaining *Waqf* report, and there was no explainationof what kind information should be provided by *Mutawalli* (Ihsan and Adnan, 2010). Since there was no specifically standardized accounting measurement and report, *Waqf* institutions follow the general accounting standards which are not wholly appropriate. Furthermore, the reporting format using the "profit

and loss account" is also unsuitablein the context of *Waqf* since they operate as not-for-profit institutions which could onlygenerate either "surplus" or "deficit" instead of "profits" or "losses".Hence, applying the economic model of accounting and reporting(which emphasizes on profit) to *Waqf* proves to be problematic (Nahar and Yacoob, 2011). It leads to measure the performance based on financial numbers which are insufficient for *Waqf* institutions.

Financial ratios are crucial to evaluate the financial condition of an organization, but those ratios might not be the utmost measures of success in non-profits, these organizations have to be assessed in more complex ways, generally dealing with the questions of both efficiency and effectiveness. *Waqf* institution cannot be evaluated based on financial figures only. For example, high current assets dominated by cash and cash equivalent could be a hint the institution might not mobilize its assets.

2.3. Financial and Operational Measures

In non-profit environments, three key characteristics frequently play a dominant role in organizational performance namely organization's resource-acquisition ability, the attainability of the organization's goals, and organizational efficiency (Mensah *et. al*, 2008). Non-profit organizations should be able to find proxies to measure efficiency. For example, Hughes (2013) suggested that a higher program expense ratio indicates higher cost efficiency.A higher ratio of program expenses to total expenses suggests non-profit organizations deliver their programs with fewer total expenses absorbed by management. In short, it is more cost efficient than those with a lower program expense ratio.

There are a few perspectives to measure the performance of Waqf institution. Some researchers try to measure from good governance perspectives (Dewi *et al*). They proposed a measurement model for Waqf institution using several financial ratios as the indicators. These financial indicators are used to measure organization efficiency and effectiveness (Atan *et al*, 2013).

Dewi *et al.* proposed a measurement model for *Waqf* institution using 6 ratios: Program efficiency ratio, operating expense efficiency ratio, margin of rental activities ratio, Return on investment, fundraising efficiency ratio, and distribution efficiency ratio. They argued that as non-profit organization and fully supported by the government, *Waqf* institution should focus more on its efficiency. Epstein & Buhovac (2009) proposed four categories of ratios which could represent the efficiency and sustainability of the *Waqf* institution through its programs. The categories comprise administrative efficiency, program efficiency, fundraising efficiency and other financial performance measures.

Atan *et al* (2013) proposed performance efficiency ratio and operating efficiency ratio to measure the performance. Even though those ratios explore the institution efficiency; they argued that those two ratios are the suitable indicators to measure the consistency of the institution. Those ratios will give an overview for the stakeholders whether the institution disburses the funds in accordance with its mission. Other researchers argued that the institution should choose ratios to measure the performance based on certain questions (Abraham, 2006). First, do the non-profit organizations have adequate money to support its mission? Second, what sources of funding are available to support the NPO's mission? From these questions, he proposed nine ratios namely return on assets

ratio, viability ratio, primary reserve ratio, net income ratio, operating income ratio, contributed income ratio, debt burden ratio, debt coverage ratio and leverage ratio.These nine ratios will examine the institution from many perspectives, but still there are some challenges. The main challenge is how the researcher put the correct perspective to analyze the ratios. The way to find it by examining some qualitative factors influencing the institution (Abraham, 2006).

Rashid (2011) suggested that the *Waqf* officer should make very detailed enquiries about *Waqf* properties. This can help *Waqf* institution to assess its performance. Details may differ from country to country, but broadly the scope of the enquiries to be made by *Waqf* officer should consist of investigations into:

a. the income and expenditure, verified by spot visits;
b. illegal occupation of a *Waqf* property, verified by local witnesses, spot inspection, etc.;
c. the gross income as compared with net income;
d. payment of taxes, land revenue, levies, etc;
e. expenditure on litigation and who was defendant, *Mutawalli* personally or the *Waqf*;
f. the object of *Waqf* and extent of its fulfilment;
g. matters considered relevant by the *Waqf* officer.

3. DATA AND METHODOLOGY

This study is conducted using descriptive quantitative methods. It is mainly based on numerical data from annual reports. For data, annual reports of two Islamic State Religious Councils (MAIN X, MAIN Y, MAIN Z and MUIS), 5 year observations (2008 to 2012) were examined. In addition, secondary data sources and document analysis through audited annual reports published in official website of each ISRC were also sourced. The latest five year annual reports were examined to know the current performance of *Waqf* in the two institutions. The data will be analysed using ratio and content analysis.

The data will be tabulated based on several ratios adopted. The data will be analysed using financial and operational measured modified from several past studies. The ratios used are as follows:

Table 1: Measures of performance

Category	Ratio	Performance measures	Formula
Financial performance	Net Income Ratio	Whether operating activities resulted in a surplus or deficit	$\frac{\text{Change in net assets}}{\text{Total income}}$

	Operating Income Ratio	Extent to which income generated from core activities	$\frac{\text{Core Income}}{\text{Expenses}}$
	Income growth	Extent to which the organization is able to generate income from its activities	$\frac{\text{Inc year n} - \text{Inc year (n-1)}}{\text{Inc year (n-1)}}$
Operational Performance	Administrative efficiency	Percentage of the expenses spent on administrative expenses	$\frac{\text{Administrative expenses}}{\text{Total expenses}}$
	Program efficiency	Percentage of the expenses spent on core activities	$\frac{\text{Program expenses}}{\text{Total expenses}}$
	Growth of program	The increase of core activities	$\frac{\text{Prog Ex. year n} - \text{Prog. ex. year (n-1)}}{\text{Prog. Ex year (n-1)}}$
	Fundraising efficiency	Extent to which the organization is able to generate surplus from the donation	$\frac{\text{Surplus}}{\text{Total donation}}$
	Cash availability	Percentage of cash and bank balances	$\frac{\text{Cash and bank balances}}{\text{Total assets}}$

Modified from Hughes (2013), Atan*et al* (2013), Dewi et al., Rashid (2011), Epstein &Buhovac, (2009), Abraham (2006).

4. ANALYSIS AND DISCUSSION

To examine the financial and operational performance of *Waqf* institution, specific accounts were tabulated in the following tables.

4.1. Analysis of MUIS

Table 2: Specific Accounts of MUIS *Waqf* Report (reported in SGD)

Specific accounts	2012	2011	2010	2009	2008
Waqf income	13,913,586	13,879,546	12,687,004	14,339,371	14,282,745
Program expense	427,819	597,361	8,904,189	2,528,262	51,173,204
Administrative expense	4,369,400	4,523,021	3,815,347	3,453,408	4,224,783
Total expense	4,797,219	5,120,382	12,719,536	5,981,670	55,397,987
Waqf funds	499,234,893	451,856,939	438,912,859	391,194,700	344,556,970
Waqf assets (other than cash)	29,889,024	24,355,101	22,254,941	14,406,291	14,650,506
Waqf asseta (cash and bank balances)	62,099,328	59,596,023	59,776,450	61,028,987	54,268,988
Investment of waqf	472,477,038	431,182,302	419,544,174	349,593,018	308,429,091
Surplus generated from waqf assets	31,469,052	11,681,778	17,824,251	43,909,664	(53,599,720)

From the Table 2, we can see that *Waqf* core income of MUIS fluctuated. It decreased in 2012 but gradually increased in the last two years. Program expenses are the expenses disbursed to run the core programs. The high cost of program in 2008 might be due to high investment cost in that year. It varied in the observed years but the expense tended to decrease. It indicated that the institution might not conduct several programs because it mainly involved in investment projects. It can be seen from the investment rate which increased 11.43% a year in average. Administrative expenses were a bit fluctuating but relatively stable. The *Waqf* collection rate has increased 9.8% per year. It indicates that the institution is able to attract people to contribute more on *Waqf*.

Table 3: Financial and Operational Ratios of MUIS

RATIO	2012	2011	2010	2009
NI	1.506	1.108	2.677	1.062
OI	2.900	2.711	0.997	2.397
IG	0.002	0.094	(0.115)	0.004
AE	0.911	0.883	0.300	0.577
PE	0.089	0.117	0.700	0.423
GP	(0.284)	(0.933)	2.522	(0.951)
FE	0.063	0.026	0.041	0.112
CA	0.060	0.054	0.051	0.037

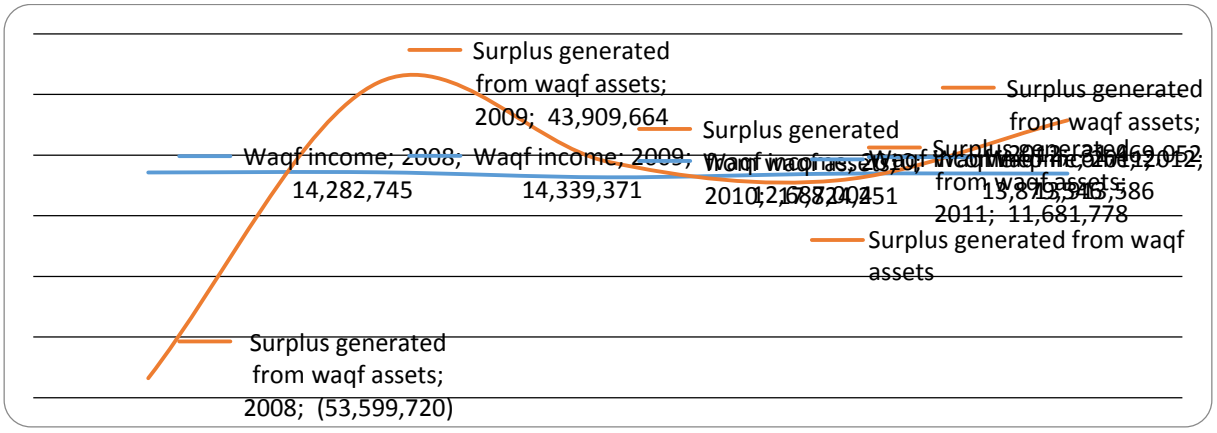
Notes:
NI : Net Income Ratio
OI : Operating Income Ratio
IG : Income Growth
AE : Administrative Efficiency

PE : Program Efficiency
GP : Growth of Program
FE : Fundraising Efficiency
CA : Cash Availability

This study analyses eight ratios categorized as financial and operational performance. NI, OI and IG can be the proxies to measure financial performance. AE, PE, GP, FE and CA are the proxies to measure operational performance. NI indicates whether operating activities resulted in a surplus or deficit. OI reveals the extent to which income generated from core activities. IG points out the extent to which the organization is able to generate income from its activities from time to time. The higher NI, OI and IG indicate that the institution performs better in managing the assets to generate income. AE indicate how much the costs spent on administrative expenses. High AE ratio means that the expenses are spent a lot for administrative rather than program. PE shows the percentage of the expenses spent on core activities while GP shows the increase of core activities. High PE ratio shows that the most expenses are disbursed to run the programs. FE indicates the extent to which the organization is able to generate surplus from the donation.The higher the ratio the better the performance. Last but not least, CA indicates the amount of idle cash and bank balances. The higher the cash availability indicates that the institution keeps high amount of idle cash.

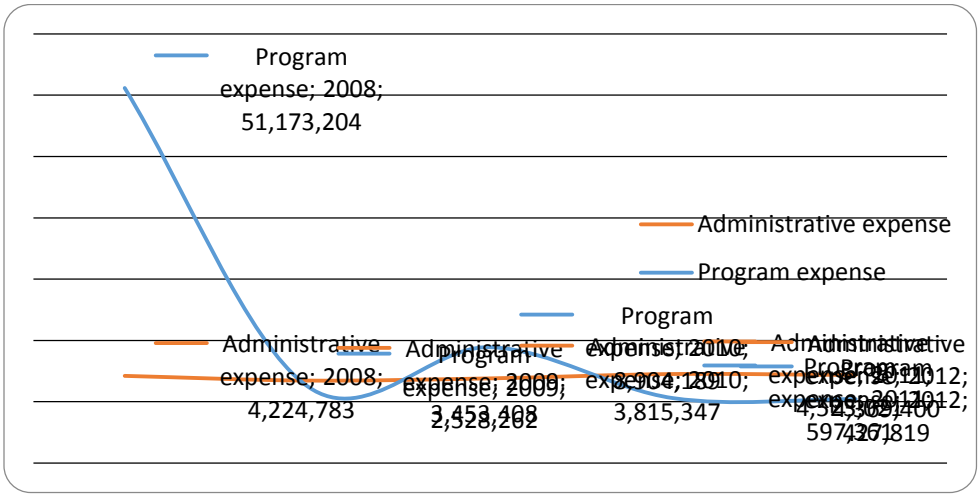
In terms of financial performance, NI, OI and IG ratios fluctuated from time to time and could be considered as high. NI ratio has the average of 1.59 which means that the percentage of change in net assets is 159% of the generated income. The average of OI is 2.25 indicating that the institution is able to generate income from its core activities 225% from the total expenses.

Figure 1: Waqf Income and Net Surplus of MUIS (expressed in Singaporean Dollars)



The above figure shows the comparison between *Waqf* income and net surplus generated from *Waqf* assets. During a five-year observation, the *Waqf* income from core activities was relatively stable while the surplus is quite fluctuating. Steady income indicates that the institution is able to maintain its income from the core activities. The surplus varied over five years because surplus (deficit) generated from *Waqf* income and impairment gain or loss in available-for-sale financial assets (MUIS annual reports, 2008-2012).

Figure 2: Administrative Expense and Program Expense of MUIS (expressed in Singaporean Dollars)



Administrative expenses were considerably steady while program expenses were quite shifting. The administrative line shows that administrative expenses did not absorb the expenses that much. The fluctuating program did not really change the administrative expenses. It is a good sign for the administrative efficiency.

Figure 3: Waqf Funds and Waqf assets (Cash and Bank Balances)

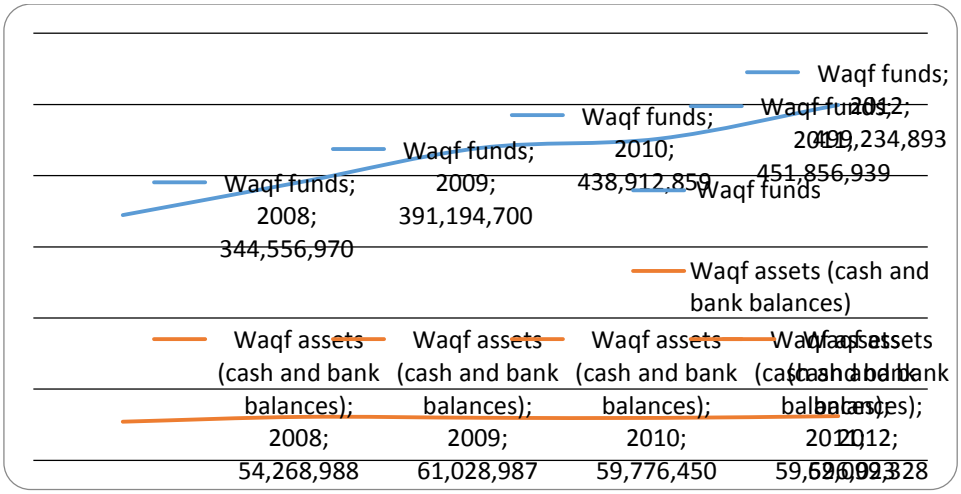


Figure 3 shows the comparison of the amount of *Waqf* funds and *Waqf* assets in cash and bank balances. The low level of cash maintained by the institution indicates that MUIS does not keep the *Waqf* funds in cash. It invested the *Waqf* funds to generate more income. The amount of *Waqf* funds keeps increasing while the availability of cash remains steady. This practice is in line with investment management, i.e. in order generate income, most of the capital need investment rather than kept in cash form.

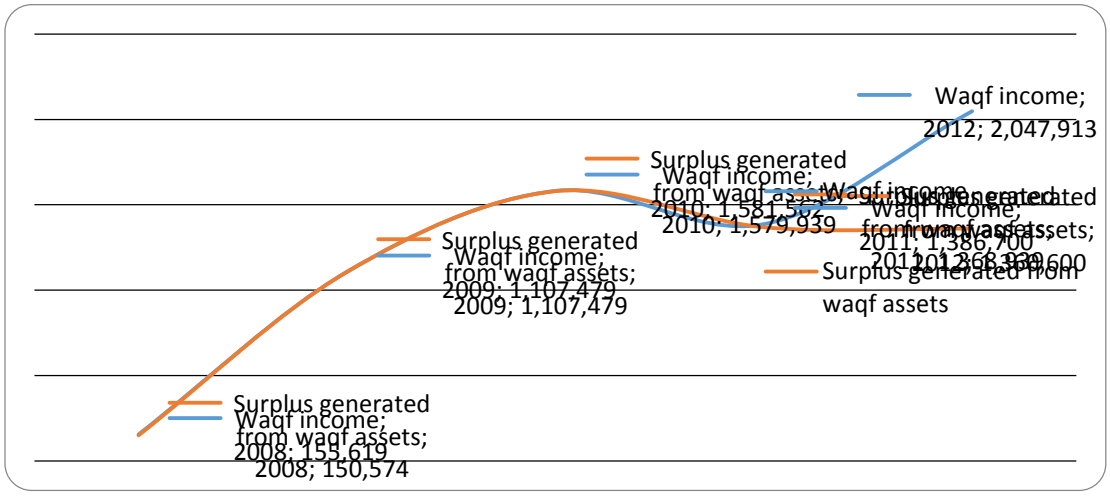
4.2. Analysis of MAIN (X, Y, Z)

Table 4: Specific Accounts of MAIN X Waqf Report (expressed in Malaysian Ringgits)

Specific accounts	2008	2009	2010	2011	2012
Waqf income	155,619	1,107,479	1,581,562	1,386,700	2,047,913
Program expense	0	0	0	0	495,513
Administrative expense	5,045	0	1,623	17,761	191,800
Total expense	5,045	0	1,623	17,761	687,313
Waqf funds	150,574	1,258,053	2,837,992	4,206,931	5,567,531
Waqf assets (other than cash)	0	0	0	0	0
Waqf asseta (cash and bank balances)	0	0	0	0	0
Investment of waqf	0	0	0	0	0
Surplus generated from waqf assets	150,574	1,107,479	1,579,939	1,368,939	1,360,600

According to the data from MAIN X financial reports, MAIN X's income increased significantly in 2009. It continued increasing in 2010, but decreased slightly in 2011. The core income increased 48% in 2012. The data shows that MAIN X did not disburse any program expense in 2008 to 2011. Administrative expenses were also quite low; in 2008 MAIN X did not incurred the administrative expenses in. This was because Waqf administrative expenses like salaries were not paid by *Waqf* unit but subsidized by MAIN X. MAIN X performed very well in collecting *Waqf* funds. It increased severely every year. It multiplied almost 37 times in five years. However, information on *Waqf* assets and the amount of investment are reported in the financial reports.

Figure 4: Waqf Income and Net Surplus of MAIN X (expressed in Malaysian Ringgit)



In 2008 to 2011, *Waqf* core income and the surplus were slightly different. It indicated that the surplus was mainly generated from the core income alone. In 2012, surplus decreased as compared to *Waqf* income which increased significantly. It can be concluded that during the year 2012, *Waqf* unit of MAIN X incurred loss from non-operating activities.

Table 5: Financial and Operational Ratios of MAIN X

RATIO	2012	2011	2010	2009
NI	1.000	1.000	1.000	7.355
OI	2.980	78.076	974.468	N/A
IG	0.477	(0.123)	0.428	6.117
AE	0.279	1.000	1.000	N/A
PE	0.721	N/A	N/A	N/A
GP	N/A	N/A	N/A	N/A
FE	0.244	0.325	0.557	0.880
CA	N/A	N/A	N/A	N/A

Notes:
NI : Net Income Ratio
OI : Operating Income Ratio
IG : Income Growth
AE : Administrative Efficiency
PE : Program Efficiency
GP : Growth of Program
FE : Fundraising Efficiency
CA : Cash Availability

NI and OI show relatively high percentage which mean that Waqf unit of MAIN X was able to generate surplus. Looking at OI ratio, the high percentage shows the high percentage of income to the total expense. The high percentage of OI was because the expenses rate was very low. It was because MAIN X subsidized the expenses of *Waqf* unit.

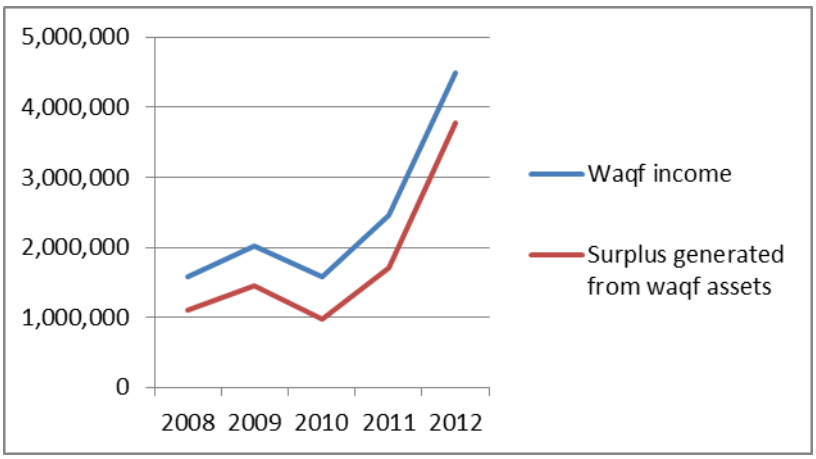
From the financial reports of MAIN X, it can be highlighted that *Waqf* unit of MAIN X has been improving. It is proven by the multiplied amount of *Waqf* funds in five years. However, there are still rooms for improvements in term of management, *Waqf* programs, and reporting. In term of reporting, the information reported is limited and the continuity of annual reports is also problematic. Masruki and Shafii (2013) also found that recording and reporting for *Waqf* in Malaysia has been inconsistent. MAIN X issued annual reports in 2008 and 2009 but it did not provide the similar reports in the following years. It published audited financial statements only with very limited information. As part of good governance and best practices of *Waqf* institutions, reporting is believed to be able to improve the accountability and transparency of the *Mutawalli.* Sacred accountability is evidently examinable from the vantage point of Islamicorganizations like *Waqf*. Its unique attributes and socio-economic implications deservedue attention; especially the strategic role of accounting and reporting as accountabilitytools to enhance ummah's confidence in current *Waqf* practices (Nahar and Yacoob, 2011).

Table 6: Specific Accounts of MAIN Y Waqf Report (expressed in Malaysian Ringgits)

Specific accounts	2012	2011	2010	2009	2008
Waqf income	4,498,331	2,465,859	1,571,011	2,010,062	1,583,747
Program expense	116,993	90,390	115,866	108,544	100,608
Administrative expense	597,109	663,705	481,839	445,569	376,295
Total expense	714,102	754,095	597,705	554,113	476,903
Waqf funds	22,108,899	38,527,536	17,962,978	10,945,836	3,757,507
Waqf assets (other than cash)					
Waqf assets (cash and bank balances)	610,360	2,193,748	6,678,211	1,839,154	624,871
Investment of waqf	21,498,539	36,333,788	11,284,767	9,106,682	3,132,636
Surplus generated from waqf assets	3,784,229	1,711,764	973,306	1,455,949	1,106,844

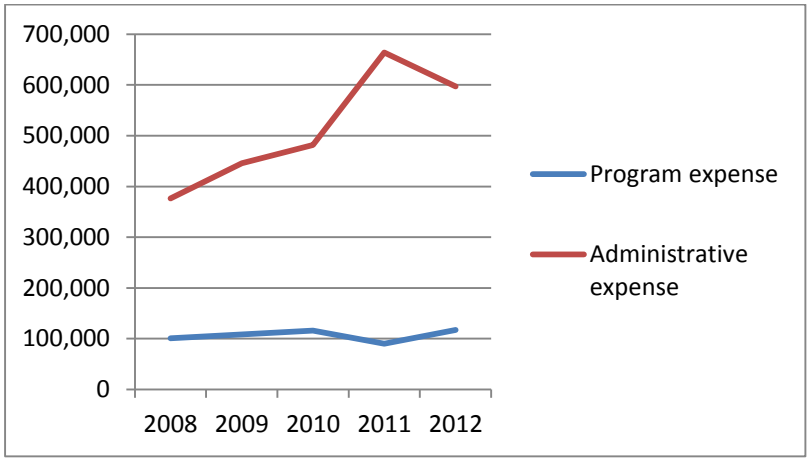
According to the data from MAIN Y financial reports, MAIN Y's income fluctuated during the five year observations. It increased in 2009, 2011, and 2012.. In five years, Waqf income became almost three times from 2008. Program expense tended to increase as well. It decreased in 2011 only. . Administrative expenses were quite high and dominated the total expenses. Income and expenses varied during five years.

Figure 5: Waqf Income and Net Surplus of MAIN Y (expressed in Malaysian Ringgit)



Waqf core income and the surplus tended to increase in the same direction. It indicated that the surplus was mainly generated from the core income alone. Waqf income and surplus increased incredibly in 2012.

Figure 6: Administrative Expense and Program Expense of MAIN Y (expressed in Malaysian Ringgit)



Program expenses were considerably steady while administrative expenses were quite shifting. The program expense line shows that program expenses did not absorb the expenses that much. The fluctuating administrative expenses and steady program expenses show that there were no significant programs during five years.

Figure 7: Waqf Funds and Waqf assets of MAIN Y (Cash and Bank Balances)

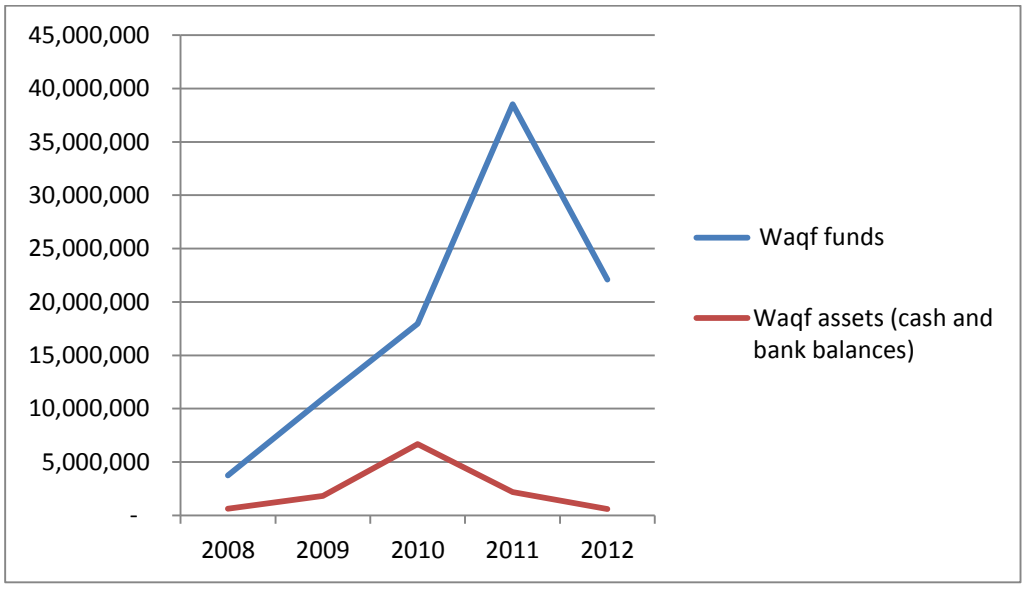


Figure 3 shows the comparison of the amount of *Waqf* funds and *Waqf* assets in cash and bank balances. The low level of cash maintained by the institution indicates that MAIN Y does not keep the *Waqf* funds in cash. It invested the *Waqf* funds in terms of Waqf shares to generate more income. This practice is in line with investment management, i.e. in order generate income, most

of the capital need investment rather than kept in cash form. The amount of *Waqf* funds kept increasing until 2011 and dropped significantly in 2012.

Table 7: Financial and Operational Ratios of MAIN Y

RATIO	2012	2011	2010	2009
NI	(4.339)	12.014	7.210	4.937
OI	6.299	3.270	2.628	3.628
IG	0.452	0.363	(0.279)	0.212
AE	0.836	0.880	0.806	0.804
PE	0.164	0.120	0.194	0.196
GP	0.294	(0.220)	0.067	0.079
FE	0.171	0.044	0.054	0.133
CA	0.028	0.057	0.372	0.168

Notes:
NI : Net Income Ratio
OI : Operating Income Ratio
IG : Income Growth
AE : Administrative Efficiency
PE : Program Efficiency
GP : Growth of Program
FE : Fundraising Efficiency
CA : Cash Availability

NI and OI show relatively high percentage which mean that Waqf unit of MAIN Y was able to generate surplus. Looking at OI ratio, the high percentage shows the high percentage of income to the total expense. The high percentage of OI was because the expenses rate was very low. It was because MAIN Y subsidized the expenses of *Waqf* unit.

From the financial reports of MAIN Y, it can be highlighted that *Waqf* unit of MAIN Y has been improving. It is proven by the multiplied amount of *Waqf* funds in five years. However, there are still rooms for improvements in term of management, *Waqf* programs, and reporting. In term of reporting, the information reported is limited anthough the institution provides annual reports continuously.

MAIN Z cannot be analysed since the waqf information is very limited. MAIN X, Y and Z provides regular reports but the contents are not comprehensive enough in terms of Waqf information. The three institutions provide detailed information about Zakat. It indicates that Waqf might not be the priority in the three institutions.

5. CONCLUSION AND RECOMMENDATION

The purpose of this study is to examine the performance of *Waqf* institutions using financial and operational ratios. Using content and ratio analysis, this study examines five years (2008-2012) annual reports of *Waqf* institutions administered by *Majlis Ugama Islam Singapura* (State Islamic

Religion Council or Singapore) and one *Majlis Agama Islam Negeri in Malaysia* (one State Islamic Religion Council in Malaysia). In terms of *Waqf* collections, both institutions have increasing amount of *Waqf* funds. This can be a hint of *Waqf* awareness among people. Both institutions are also able to generate income from their core activities. However, it can be highlighted from program expenses that both institutions might not have a number of projects and programs relating to the role as *Mutawalli*.

Managing public assets must be based on transparency and accountability. The financial reports of the *Waqf* institutions should be provided to meet the accountability and transparency demanded by the stakeholders. Therefore, the performance audit process is also very necessary for *Waqf* institution which has a different nature from other non-profit organizations.

The study did not include the analysis of all *Waqf* institutions in Malaysia. MUIS is the only body governing *Waqf* in Singapore while MAIN represents *Waqf* practices in one state in Malaysia only. In terms of assets and management, both institutions are not comparable. However, this study focuses on exploring two different institutions, not comparing them. In addition, using the financial ratios to measure performance could be another limitation. On one hand, ratios can provide meaningful comparisons of similar institutions. On the other hand, they possess several weaknesses. Some ratios by themselves are not highly meaningful. For example, the high level of Operating Income ratio which can be a good indicator of financial performance but on the other hand it is not a good indicator in terms of Program Efficiency in which the high rate of OI is because of the low level of program expenses.

Since financial ratios cannot be the utmost measures of success in *Waqf* institutions, these organizations have to develop the performance measures which can better measure efficiency and effectiveness.

REFERENCES

Al Quran Al Kareem

Abraham, A. (2006). Financial Management in the Nonprofit Sectors: A Mission – Based Approach to Ratio Analysis in Membership Organizations. *The Journal of American Academy of Business*, 9 (2), 212-217.

Affandi, A. & Nufus, D. N. (2010). Analysis on Cash *Waqf*Return Fund Allocation in Indonesia: Acase Study in Indonesian *Waqf* Deposit. *Seventh International Conference – The Tawhidi Epistemology:Zakat And Waqf Economy.*

Atan, R., Zainon, S., Aliman, S. & Nam, R.Y. (2013).*Financial Management in Religious Non-Profit Organizations: A Mission Based Approach to Ratio Analysis.*International Conference on Advanced Computer Science and Electronics Information (ICACSEI).

Al-Safi, S. O. A. (1992). "*Accountability: A Comparative Study of Human Responsibility between Islam and Man-Made Doctrine"*. Kuala Lumpur: Darulfikr.

Baumuller, J. (2013). *Audits in the Non-profit Sectors: Current Challenges from the Perspective of German Speaking Countries.*Presented in 3rd Annual International Conference on Accounting and Finance.

Baydoun, N. & Willett R. (2000), "Islamic Corporate Reports", *Abacus*, 36 (1), pp71 – 90

Cooper, D.R. and Schindler, P.S.(2008). *Business Research Methods*.McGraw-Hill.

Dewi, M.K., Ibrahim, S.H. &Ferdian, I.H. Measuring Performance of *Awqaf*Institutions: A Proposal. Retrieved from http://conference.qfis.edu.qa/app/media/7041.

Epstein, M. J Buhovac, A. R. (2009).Performance Measurement of Not-For-Profit Organizations.Retrieved from http://www.ef.uni-lj.si/docs/osebnestrani/Not-for-Profit.pdf.

Hameed,S & Yaacob, H. (200)5. Waqf Accounting in Malaysian State Islamic Religious Institutions: The Case of Federal Territory SIRC. *International Islamic University Malaysia.*

Hasan, M.K., (2001). *Worldview Orientation and Ethics: A Muslim Perspective. In Ethics in Business and Management: Islamic and Mainstream Approaches*. London: Asean Academic Press Ltd.

Hasan, S. (2010).Role of *Waqf*in Enhancing Muslim Small and Medium Enterprises (SMEs) in Singapore.*8th International Conference on Islamic Economics and Finance.*

Hughes, J.P. (2013). A New Cost Efficiency Measure for Not-for-ProfitFirms: Evidence of a Link between Inefficiency and Large Endowments. *Atl Economics Journal*. 41. 279–300

Ihsan,H. (2007). An Exploratory Study of *Waqf*Accounting and Management in Indonesian *Waqf*Institutions: The Cases of DompetDhuafa and UII *Waqf*Foundations. *International Islamic University Malaysia.*

Ihsan, H and Adnan, M. A. (2010). Waqf Accounting and The Construction of Accountability. *International Islamic University Malaysia.*

Isa, Z. M, Norhidayah, A andRabitah, H. (2011). A Comparative Study of Waqf Management in Malaysia.*International Conference on Sociality and Economics Development.*

Karim, S. A. (2008). *Contemporary Waqf Administration And Development In Singapore: Challenges And Prospects.*Islamic Religious Council of Singapore.

Masruki, R. & Shafii, Z. (2013). The Development of Waqf Accounting in Enhancing Accountability. *Middle-East Journal of Scientific Research*, 1 (6), 1-6.

Mat Rani, A. E & Aziz, A. A. (2010).Waqf Management AndAdministration In Malaysia: ItsImplementation From thePerspective of Islamic Law, *Malaysian Accounting Review, Special Issue*, 9 (2), 115-121.

Mensah, Y. M., Lam, K. & Warner, R. (2008). An Approach To Evaluating Relative EffectivenessIn Non-Profit Institutions. *Journal of Public Budgeting, Accounting and Financial Managemen*t, 20 (3), 324-354.

Nahar, H. S. & Yaacob, H. (2011). Accountability in the sacred context: The case of management, accounting and reporting of a Malaysian cash awqaf institution. *Journal of Islamic Accounting and Business Research*, 2 (2), pp. 87-113.

Oberauer, N. (2009). "Fantastic Charities": The Transformation of *Waqf*P ractice in Colonial Zanzibar .*Islamic Law and Society* ,15, pp.315-370.

Rashid, S. K. (2011).*Certain Legal And Administrative Measures For The Revival And Better Managementof Awqf*. IRTI Working Paper Series, Wp # 1432-02.

Sekaran, U. (2003). *Research Methods for Business: A Skill Building Approach* (*Fourth Edition)*. John Wiley & Sons Inc.

Sekaran, U. and Bougie, R. (2010).*Research Methods for Business A Skill Building Approach (5th Edition)*. United Kingdom: Wiley

Sulaiman, M. & Zakari, M. A. Efficiency and Effectiveness of *Waqf* Institutions in Malaysia: Toward Financial Sustainability.
Retrieved from http://9icief.sesric.org/presentations/Day2/Session9/2%20-%2060%20%20Muntaka%20Zakari%20%20Efficiency%20and%20Effectiveness%20of%20Waqf%20Institution.doc.

Wagner, R. B. (1989). *"Accountability in Education"*. New York: Routledge.

Zakaria, A., Samad, R. & Shafii, Z. (2012). Venture Philanthropy - Waqf Practices and Its Implementation: Scenario in Malaysia. *International Journal of Business, Economics and Law*, 1, 108-115.

Zuki, M. S. (2012).*Waqf*And Its Role In Socioeconomic Development, *ISRA International Journal of Islamic Finance*, 4 (2).

WAQF IN SINGAPORE: WHAT NEXT?

Roslan Abdul-Rahim[1]

ABSTRACT

Waqf has always been regarded as the defining socio-economic instrument in ensuring the welfare of the Muslim society. Particularly with reference to the institution of *waqf* in Singapore, it has been widely accepted that the management of *waqf* in Singapore has recorded a number of success stories. This paper intends to argue that despite the current practice of *waqf* management, while proven to be useful and effective in many ways, much more could be done in order to render *waqf* a more viable instrument within the future context of economic development in Singapore. This paper will show that existing interpretations of the meaning of *waqf* in Singapore are not only limited, but also inconsistent. This is reflected in the way *waqf* has been understood and managed in Singapore, particularly in the self-imposed restrictions in investment and financing strategies. At the level of management, theoretical inconsistency and practical restrictions have great strategic implications to the *waqf* institution given that management practices are often contingent upon their legal assumptions. For the purpose of its arguments, this paper departs from the assumption that *waqf* in essence has no clear and direct legal basis in the Qur'an or the Hadith. Whatever could be gleaned from Hadith reports concerning its early nature only suggests that *waqf* is a fluid, loosely understood philanthropic terminology that submits to multiple interpretations. This assumption in turn suggests the susceptibility of *waqf* to innovation. To this end therefore, this paper proposes other practical alternatives to *waqf* and *waqf* management for Singapore.

Keywords: *Waqf*; Corporatizing *Waqf*; *Waqf* in Singapore

[1] Dr. Roslan Abdul-Rahim is a Senior Lecturer in the Faculty of Islamic Civilization, Universiti Teknologi Malaysia, Johor Bahru.

1. INTRODUCTION

In his *The Long Divergence*: *How Islamic Law Held Back the Middle East*,[1] Timur Kuran observes that the Islamic Law is by no means a "static construct", the fact that it had been interpreted so many times along the way in Islam's and the Muslims' developmental history. The Law too seems "compatible with the Middle East's medieval success in the global economy." Yet the Middle East seems to have miserably failed to initiate the kind of transformation necessary to compete in the changing world economy (Kuran 2011, xiii). In relation to the institution of *waqf*, while corporate services in the medieval Muslim World were delivered through the *waqf* institution, the institution of *waqf* itself is unincorporated. A salient problem is that a *waqf* typically outlives its founder, yet it is constrained by the requirement to abide by the founder's wishes. This in turn contributed to the rigidity of the system of *waqf*. It is precisely the rigidity of *waqf* that has ultimately reduced "its usefulness in the face of structural economic changes". Existing interpretations of *waqf* are therefore problematic (Ibid. 284). This constitutes Kuran's main hypothetical arguments on *waqf*. Interestingly, embedded in Kuran's thesis is the need to corporatize *waqf*.

Waqf is "Islam's alternative to the corporation," so says Kuran.[2] Gleaned upon as a corporation, however, there are major differences between what a corporation is and what *waqf* is the way it is presently understood. Among the many differences are:[3]

1. A corporation could be governed collectively by its members, in a *waqf*, the founder had to be an individual;
2. A corporation may be subjected to changing membership, whereas a *waqf* is governed by its founder forever;
3. Whereas the mission of a corporation may be subjected to changes from time to time, in a *waqf* its mission is irrevocable;
4. Whereas rules and regulations of a corporation could be negotiated, those of *waqf* remained fixed.

[1] Published by Princeton University Press (Princeton, NJ; Oxford), 2011.
[2] See Timur Kuran (2011), 158.
[3] Directly quoted from Kuran, 110 & 128.

5. *Waqf* dampens the need for organizational modernization in the profit-oriented private sector.
6. Unlike the business corporation, *waqf* is not a profit-maximizing entity.
7. An individual's share of a *waqf*'s income is not transferable.
8. No clear separation exists between the property of a *waqf* and that of its caretaker.
9. *Waqf* lacks legal personhood.

In light of the above thesis of Timur Kuran, how does the Singapore *waqf* system fit into the whole scheme of things? What would corporatization mean to the Singapore *waqf*? How can Singapore increase its *waqf* contribution? What are the alternatives to the current Singapore *waqf*? How well have the Singapore Muslims benefited from *waqf* and how has the Singapore *waqf* contributed to the overall well being of other Singaporeans at large?

This paper, in the main, is a brief discussion on the legal conception and management of *waqf*, and the extent to which the two relate in the context of Singapore. For this purpose, our discussion will draw heavily on four main sources: the Singapore *Administration of Muslim Law Act*, abbreviated as *AMLA*; the Website of the *Islamic Religious Council of Singapore*, hereafter known as MUIS (*Majlis Ugama Islam Singapura*);[1] and the works of Shamsiah Abdul Karim,[2] her unpublished dissertation, *Contemporary Shari'ah Structuring for the Development and Management of Waqf Assets in Singapore* (Durham University, 2010), and article, "Contemporary *Shari'a* Compliance Structuring for the Development and Management of *Waqf* Assets in Singapore".[3]

Singapore's success story in managing the Island's *waqf*s is widely acclaimed in the region and is well attested to.[4] Understanding how Singapore interprets and understands *waqf* is crucial and fundamentally significant. Not only that, this paper is also interested in critically examining the

[1] Accessed through http://www.muis.gov.sg/cms/services/Wakaf.aspx.
[2] She is a Singaporean, who is now serving as the Assistant Director of Asset Development with MUIS.
[3] In *Kyoto Bulletin of Islamic Area Studies*, 3-2 (March 2010), pp. 143–164.
[4] See for example, Amirul Faiz Osman (*et al.*), "Determinants of Cash Waqf Giving in Malaysia: Survey of Selected Works" (u.d., unpublished), Magda Ismail Mohsin, "What Can We Do With *Waqf* Properties?" presented in a roundtable discussion on the development of *waqf* properties in Malaysia (u.d., unpublished), and Norma Md Saad (*et. al*), "Involvement of Corporate Entities in Waqaf Management: Experiences of Malaysia and Singapore," in *Asian Economic and Financial Review*, 2013, 3(6): 736–748.

relationship between how *waqf* is legally conceived and how it is managed in Singapore. However, our attempt to understand will only make sense if we realize the extent to which such a localized conception converges or diverges from certain benchmarks set within the long Muslim interpretive tradition of *waqf*. For this contextual and historical understanding of *waqf,* we will rely on the work of Joseph Schacht, "Early Doctrines on *Waqf*."[1] In this work, Schacht enlightens us with the doctrinal arguments surrounding the *fiqh* of *waqf* found in the various established schools of Islamic legal interpretation of Sunnni Islam. For these early doctrines, Schacht relied on the *Mudawwana* of Saḥnūn (d. 240), a work which contains the opinions of Mālik (d. 179), Ibn Qāsim (d. 191), and other early authorities of Medina; the *Kitab Ahkam al-Waqf* of Hilāl (d. 245), a work containing authentic information on the doctrines of Abū Ḥanīfa (d. 150), Abū Yūsuf (d. 182), and other early authorities of Iraq; the *Kitab al-Siyar al-Kabir* of al-Shaybānī (d. 189) that touches on an important aspect of *waqf*; and the *Kitab al-Umm* of al-Shāfiʻi (d. 204).[2] The ideas that have precipitated along the *madhhabic* predilections will serve as a credible point of departure in our comparative analysis of the so-called Singapore version of *waqf*.

Recently, there has been a newly energized enthusiasm in the scholarship of economics and finance in Islam. What is interesting about the scholarship this time around is the new twist that it brings. *Waqf* as we know it has always been lauded as an economic tool for the development of Muslim communities around the world, the fact that it has always been. Critics have now argued that it is precisely in the very nature of *waqf* institution that we locate the origin for the backwardness of the Muslim economy. One such critic is Timur Kuran.[3] Timur Kuran is a Turkish American economist and political scientist, who is also a dedicated scholar of Islamic studies. He has been seriously studying the relationship between the institutions of the economy and law in Islam since the mid-nineties and has been writing a number of treatises on the study. His recent publication, *The Long Divergence: How the Islamic Law Held Back the Middle East*,[4] tries to make sense of the Middle East's transformation from being once an economically advanced region to becoming

[1] in *60. doğum yıh münasebetiyle Fuad Köprülü Armağani. Mélanges Fuad Köprülü*, İstanbul: Osman Yalçin Matbaasi (1953): 444–52.
[2] Schacht, 444.
[3] Another critic is Jeffrey A. Scheonblum. He wrote on "The Role of Legal Doctrine in the Decline of the Islamic Waqf: A Comparison with the Trust," published in the *Vanderbilt Journal of Transnational Law,* 1999.
[4] Published by the Princeton University Press, 2011.

an economic laggard. Kuran views existing interpretations of *waqf* as problematic and argues that the rigidity of *waqf* has "reduces its usefulness in the face of structural economic changes."[1]

Given Kuran's observations, it would be very interesting to see how his critique squares with the Singapore *waqf*'s success story. To the extent that his thesis makes sense, it is relevant to discuss the areas of meaning and management in which reforms could be plausible in order to sustain *waqf*'s contested viability in the changing landscape of the Singapore economy. In this context therefore, the Singapore story is a test case for Timur Kuran's thesis, or perhaps the former is simply the exception to the latter's rule.

We begin directly with our overview of the *waqf* institution in Singapore.

2. *WAQF* IN SINGAPORE: AN OVERVIEW[2]

Brief History[3]

Singapore has had a long history of *waqf* (or *wakaf* in Malay) tradition. Going back to as early as 1820, the first documented *waqf* was the Omar Mosque in Kampung Melaka. It was endowed by Syed Omar Ali Aljunied, an Indonesian trader of Yemenite origin. Syed Omar also created another *waqf*, the Bencoolen Street Mosque and its surrounding properties. Since then, the proliferation of *waqf*s has brought *waqf* funds to an initial number of 115, but to date, this has dwindled to 91[4] with a total asset value of slightly more than S$480 million.[5]

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[1] *The Long Divergence*, 282.
[2] Unless otherwise stated, all information regarding *waqf* in Singapore is obtained through MUIS at http://www.muis. gov.sg/cms/services/Wakaf.aspx (last available, May 10, 2014).
[3] See also A. Karim (2010), 144, and her unpublished dissertation, 81 ff.
[4] MUIS Annual Report 2012 (MUIS AR2012), 74–116. The notes to financial statement of this Report, however, puts the number of *waqf* funds vested in MUIS at 100 (MUIS AR2012, 79). Whether it is 100 or 91, this figure needs further adjustment considering the "asset migration" project involving 43 *waqf*s discussed below.
[5] MUIS Annual Report 2012, p. 74 & 116. The Report records the initial total net asset value at S$486,733,086. But since its publication

, two *waqf* properties (WA/88 – Fatimah Omar Aljunied & WA/46 – Abdullah b Said Mukarim Fund) had been disposed of in April 2013 valued at a total of S$3.8 million.

Administration and Legislation[1]

Waqf activity in Singapore is administered and regulated by the Strategic Unit of Zakat and Wakaf of the Islamic Religious Council of Singapore (MUIS). It is legislatively governed by the *Administration of Muslim Law Act* (*AMLA*).[2] The legal provisions, in Sections 58–64 of the AMLA, concern *waqf*. The *AMLA* requires that all *waqf*s in Singapore be registered with the Council. When the Act was first enacted in 1968, only six *waqf*s were registered with MUIS. Today, all *waqf*s are fully registered with the Religious Council.

But while AMLA empowers MUIS to act as the administrative and regulatory body, *waqf*s in Singapore are generally managed by both private and corporate trustees. Private trustees refer to the relatives or descendants of the *waqif*s. Presently two corporate trustees help manage some of the *waqf*s. They are the British and Malayan Trustee, a trust company that was set up prior to MUIS, that currently manages three *waqf*s, and the Warees Investments Pte. Ltd., a corporate investment arm of MUIS, created in 2000 to help corporatize *waqf* management. In the absence of a trustee, MUIS automatically becomes the appointed trustee of the *waqf* (MUIS, 2014).[3]

Definition

MUIS defines *waqf* as a *sadaqah jariyah* in the form of a voluntary charitable endowment for "Shari'ah compliant causes" that comes from one's personal belonging or wealth. It could be in cash or a property. A *waqf* is further defined as an asset whose ownership has been "completely transferred to Allah" and whose endowed purposes are to serve pious, religious and charitable causes. The conditions of a *waqf* are that it should be made clear in its intent, it is irrevocable, and that once endowed, it remains permanent without limitation.

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[1] See also Karim (2010), 146–8; and (*Diss*.), Chapter 4, 79 ff.
[2] *AMLA* is Chapter 3 of the Singapore Statutes. Posted by the Attorney General's Chambers, it is accessible online at http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=DocId%3A%2 23e90fc65-b364-434b-b2dc-ced1d9608640%22%20Status%3Ainforce%20Depth%3A0;rec=0
[3] See also Karim, ibid.

A typical *waqf* is characterized by four constitutive elements, or what MUIS describes as the *Pillars of Wakaf*: the donor (***waqif***), the endowed asset (***mawquf***), the endowed beneficiary or recipient (***mawquf 'alayh***), and the declaration of intent (‘***aqd***). All these elements are preconditioned and conceived as follow:

The donor (***waqif*** – also known as founder, trustor, settlor, or testator) must be an independent Muslim (as permitted by the *AMLA*), who is intellectually sound and capable, and financially able to donate, and whose act of donating is voluntary, not coerced.

The endowed property (***mawquf***) must be objectified (“i.e. in the form of a property or it is not valid otherwise”) and transferable, and that it “could be used forever”, the use of which is permitted under Islamic law.

The beneficiary(ies) (***mawquf 'alayh***) of the *waqf* may be specified or otherwise. If not specified by the donor, the recipient(s) of the *waqf* would generally be constituted of the poor. However, MUIS clearly stipulates that “under Islamic law, the beneficiaries of a *waqf* can be [the] *wakif* himself, family and descendants of the *waqif*, mosques, institutions and organizations, and [the] general public”.

The expression of intent (‘***aqd***) is mandatory for the validation of a *waqf*, the absence of which invalidates the intended endowment. It must clearly spell out the intent and purposes of the *waqf*. This intention may be inferred or understood, or expressed in writing. A “clear pronouncement” may come in the form of “I intend to *wakaf* my house for the poor,” while a pronouncement that is inferred may suggestively be uttered as “My assets are for charity to the poor.”

MUIS rests its conception of *waqf* on the popular prophetic tradition that reads:

إذا مات ابن أدم انقطع عمله إلا من ثلاث: صدقة جارية و علم ينتفع به

و ولد صالح يدعو له[1]

> When the son of Adam dies, his act of good deeds ceases except in three matters: his act of perpetual charity, his knowledge that others benefit from, and his noble son, who continues to pray for him.

Purposes[2]

The "establishment of [a] *waqf* is [solely] for the development and welfare of the Muslim community based on religious principles and the spirit of *Fardhu Kifayah*." "The yields from Wakaf serve as a continuous income (perpetuity) for the community and can be used to finance activities of the Muslim community in general."

Accordingly, "funds (as per written will of Wakif) from the Wakaf are generally used for:

- The development and welfare of the Muslim community based on religious principles and the spirit of cooperation;
- [The] building and maintenance of mosques [and] madrasahs, [the] provision of burial grounds, and contributions to the poor and needy;
- The provision of education, health and social services; [and]
- The financing of socio-religious activities of the Muslim community."

Types

The Islamic Religious Council of Singapore admits two types of *waqf*: *waqf ahli* (family *waqf*, or *waqf khas*) and *waqf khayri* (public *waqf*, or *waqf* '*am*). The former is aimed at the family members of the donor and that the *waqf* is primarily intended for their benefit. The latter however aims at

[1] This *hadith* is allegedly reported by Abu Hirayrah and recorded in the *Sahih* of Muslim, the *Musnad* of Ahmad, the *Sunan* of Abu Dawud, al-Tirmidhi, and al-Nasa'i, *al-Sunan al-Kubra* of al-Bayhaqi, and the *Mustadrak* of al-Hakim, all with a singular *matn* slightly different from the above. The recorded *hadith* reads: ... إذا مات الإنسان إنقطع عنه عمله .

[2] What is written under "Purposes" has been reproduced from MUIS's Website under the classification of "Wisdom of Wakaf".

making the public the main beneficiary and that its nature is solely charitable. The *waqfi khas* however could also be conceived for specific intention and not necessarily meant for family members of the donors (Karim, *Diss*., 16).

This whole division of *waqf* into *waqf* '*am* and *waqf khas* is only given by MUIS in its interpretation of *waqf*. Again here, this paper fails to locate the division of *waqf* into the two types and the definitions of the two in the *AMLA*. Yet again, Karim alleges such division and stipulations of the meaning of the two by alluding them to the *AMLA* (2010, 144–5).

In any event, the sense of perpetuity rendered by the AMLA (as presented by Shamsiah Abdul Karim) in stipulating *waqf* as "a permanent dedication by a Muslim of any movable or immovable property" for pious, religious and charitable causes permissible under Islamic law leads to the creation of *waqf*s that often involved free-hold properties. Under these *waqf*s, we typically find the creation of mosques, the madrasahs, and properties to help maintain the mosques and the madrasahs.

There are however *waqf*s that are often regarded as ***cash-waqf*s**. In this category, there are in existence three types of *waqf*. MUIS has unknowingly created the first type of cash-*waqf* that is otherwise commonly known as the ***MBMF*** (the Mosque Building and Mendaki Fund).[1] There are two components to this Fund: the Mosque Building Fund (*MBF*) and the Yayasan Mendaki Fund (*MF*).

Under this *waqf*, Singapore Muslim employees have, since 1975, allowed monthly deductions of their salary through the Nation's Central Provident Fund (*CPF*) to fund the building of "new generation mosques" and the implementation of "educational and social development programs". Since its inception, this *waqf* has built 24 new generation mosques with a total budget of S$138,876,000. Another two mosques are still in the pipeline with a projected estimated cost of S$40.2 million, thus making the total cost of the mosque at S$179,076,000. As of the end of 2012,

[1] The MBMF is regarded as the unknowing cash *waqf* because the fund has never been declared as a *waqf*.

MUIS had collected S$147,818,434 in MBF. Unfortunately, MUIS does not officially regard the *MBMF* as a *waqf*, cash *waqf* notwithstanding.

The other type of this *waqf* is the cash fund established as a result of the sales of previous *waqf* land properties that had been liquidated due to land acquisition by the Singapore Government (Karim, Diss., 97–98).

The third type of cash-*waqf* is the "***knowledge-waqf***", known as the ***Wakaf Ilmu***. This *waqf* was initially created through the "consecration of shares of the beneficial income of the Muslim estates worth S$3 million." The subsequent building of this *waqf* capital relies on the generous contribution from the public. The money generated through this *waqf*-fund will be invested in properties and other Shari'ah-compliant investments. The investment returns will then be disbursed to the principal *waqf* beneficiaries, namely, the Singapore Islamic Education and the Singapore Madrasahs.

Gleaning from the types of *waqf* being created in Singapore, one can readily see how *waqf* has been generally utilized as a strong instrument for the preservation of religious, charitable and educational institutions of the Singapore Muslim community.

Management, Authority and Management Strategy

The authority over all *waqf* assets in Singapore is vested in MUIS in accordance with the provisions of the law as stipulated in the *AMLA*.[1] However, MUIS is "only obligated to develop and make good the *waqf* properties under [its] care." In this sense, the obligation to develop such *waqf* properties is "to enhance the socio-religious well-being of the Singapore Muslim community."

MUIS regards no "objection to redevelop" and that it does not constitute "a breach of religiosity for MUIS to develop a company [in order] to redevelop *waqf* properties" in the absence of other better ways. It is precisely under these terms and understanding that MUIS established its corporate

[1] See sections 58–64 of the *AMLA*.

investment arm, the Warees Investments Pte. Ltd., in 2000 to help redevelop *waqf* properties under its care.

The legal provisions under the *AMLA* require that all *waqf*s in Singapore be registered with and administered by the Islamic Religious Council, but MUIS is only trustee to *waqf*s that do not already have designated and appointed private trustees or those not managed by the existing corporate trustee, the British and Malayan Trustee Company. However, MUIS has the overriding power to appoint or remove any trustee (*mutawlli*) or determine the validity of any given *Waqf*. In this last instance, the *AMLA* further stipulates that no *waqf* made after July 1, 1968, shall exceed one third the total value of an individual's wealth, regardless of whether or not it was "made by way of will or death-bed gift", and that no *waqf khas* is permissible after that date unless approved by the President in accordance with the Islamic law.[1]

Unless MUIS becomes the *de facto* trustee of a *waqf* in the absence of an appointed or designated trustee, it plays the role of the general administrator of all *waqf*s constituted in Singapore. In such a circumstance, MUIS sees its role and obligation in fulfilling the following objectives:

- To create new Wakaf for new financing needs of the Muslim community;
- To continue redeveloping all Wakaf properties in its portfolio;
- To ensure the growth and diversification of Wakaf assets;
- To maximise the potential of Wakaf properties;
- To efficiently and effectively manage Wakaf fund;
- To establish that Wakaf is a model formula for charitable spending; and
- To channel the proceeds towards community development.

Waqf Development and Financing Strategies[2]

[1] See also A. Karim (2010), 166 ff.
[2] Ibid, 148 ff. See also Karim (Diss.), Chapter 3, 39 ff.

Aggressive development projects for *waqf* had started since the early ‘90s. In developing and restructuring a *waqf* and thinking about its financing, A. Karim observes, a number of elements need to be considered:

a. *Shari‘ah* requirements: from aspects of management to uses are to be *Shari‘ah* compliant;
b. Requirements of the *waqif*;
c. Law of the land that *waqf* needs to comply with; and
d. Investment policy.

The bottom line in *waqf* restructuring is that any development strategy must “guarantee” the creation of “an enhanced net value for the beneficiaries without violating any Islamic legal principle or trust deeds.[1] In this regard, over the years, MUIS has come up with the following creative instruments and strategies:

Istibdal **(**lit. **‘*replacement*’):** This is the act of substitution and relocation. An existing *waqf* property is replaced with another that is of equal value or that may cost cheaper, but potentially yields a greater value in the future. Traditionally MUIS only subjects properties to *istibdal* that are commercial in nature, except for mosques that have been acquired under the country’s land acquisition act. A special case involved the *Madrasah al-Ma‘arif al-Islamiyyah* that had to be relocated due to its non-viability at the previous existing premise as a result of its own expansion. Permissible by MUIS under this scheme are those properties that meet these conditions:

a. Assets that are in a state of dilapidation;
b. Assets in danger of acquisition;
c. Assets that are in an unsuitable or promiscuous area; or
d. Assets that, by relocation and through redevelopment promise to yield a better return.

[1] Karim (Diss.), 39.

In seeking replacements for properties being subjected to *istibdal*, MUIS requires that the newly acquired assets must at least be freehold and that they stand to provide gains that are higher than the replaced properties.

Equity-Based Internal Financing:

Musharakah (Joint-Venture) Financing

Equity-based financing is MUIS's favourite mode of asset financing. A typical example of this mode is the development of the Kassim *Waqf* in 1999. It involves both the sale and long lease of the *waqf* property.[1] The *waqf* land belonging to an Ahna Mohamed Kassim bin Ally Mohammed consisted of a parcel for a mosque and another for colonial shop-houses. The latter was meant to generate the income necessary to maintain and sustain the former. The mosque was in a state of disrepair; it needed a makeover. The development project slated for this *waqf* involved erecting a new mosque building and redeveloping the shop-houses to provide income for the mosque. The whole redevelopment project was projected to cost S$15 million.

MUIS initiated an internal financing arrangement between its Bayt al-Mal and the Kasssim *Waqf*. A *musharakah* arrangement was ultimately created: the *Waqf* provided the land while the Bayt al-Mail serviced the capital and expertise necessary for the total development. This financing involved the construction of a 40-unit maisonette apartment at a cost of S$10 million. All 40units were sold based on a long 99-year lease, yielding sales proceeds amounting to about S$28 million. The net gain of the development was S$15 million, an amount that helped developed the building of a new mosque and a commercial complex to finance the mosque. Profit to be accrued is to be equitably distributed according to prior agreement between the two parties.

This is an example of how a *waqf* and the Bayt al-Mal came and worked together in a partnership to redevelop an existing *waqf*. To cater for this business collaboration and to work within the boundary of *shari'ah* compliance, MUIS invoked the *maslahah* fatwa. The fatwa renders a

[1] Ibid, 45–9

sustainable *waqf* life that allows for the enhancement of benefits for the *waqf*'s beneficiaries. This could be seen from the exponential increase in income from a mere rental earning of S$10,000/month before the development to about S$300,000/month after the development.

In this type of internal/*musharakah* financing mode, MUIS believes that it helps reduce the risk of losses. It has always been MUIS's policy to ensure that in developing a *waqf* asset, the *waqf* itself should not be exposed to unwarranted risk. In this case, the Bayt al-Mal acts as a "cushion" to any calculated risk.

Mudarabah Structure Financing

In this financing strategy, *waqf* properties in Upper Dickson Road were developed. Here, the tenants serve as the capital provider ('*rabb al-mal*'), who provided the capital, and the owner acted as the '*mudarib*', who provided the management and development expertise. The refurbishment cost was S$300,000. In return, the tenants received a discounted rental rate for 12 years in a secured 12-year tenancy agreement, while the owner of the *waqf* gets to own a refurbished property. This Upper Dickson Road-*Waqf* redevelopment is yet another example of a typical *waqf* in Singapore circumventing the need to borrow in servicing a development cost.

Debt-Based External Financing:

Sukuk Financing

Sukuk as a financing strategy is best suited for developing property as opposed to cash *waqf* assets. In the Singapore case, it involved the issuance of a S$60 million-*musharakah* bond issued by the Islamic Religious Council of Singapore in 2000 to cater for two *waqf* redevelopment projects. The first was the S$25 million-*musharakah* bond issued for the purchase of a commercial building at 11 Beach Road, and the second is worth S$35 million for a mixed development project at Bencoolen Street.

The S$35 million Bencoolen Street Project belongs to the Shaikh Ali bin Omar Aljunied *Waqf*. The *Waqf* had a property of shop-houses and a mosque on Bencoolen Street. Both the shop-houses and the mosque were in a dilapidated state with the shops contributing to a mere S$400/month in rental income, an income that barely fulfilled the existing needs of the mosque. MUIS decided to help redevelop the *Waqf* property. The proposed project included the ambitious 104-service apartments, a mosque and a 6-storey commercial complex. To meet this great challenge, MUIS structured an external financing *musharakah* bond, the kind of financing that had never been done for any *waqf* in Singapore.

This *musharakah* bond involved a 2-part contract. The first part is the joint-venture *musharakah* contract between the *Waqf*, the Bayt al-Mal and Warees Investments. The *Waqf* provided the land and a small capital, the Bayt al-Mal the S$35 million acquired through investors, and Warees the expertise and some nominal capital. The second part of the contract is the '*ijarah*' leasing contract, a contract that was jointly entered with an Ascott International Pte. Ltd. Ascott was to lease the property for an agreed period of 10 years. The profit accrued from the project was to be distributed proportionately among the contracting parties according to capitals invested. For its part, the Bayt al-Mal gets to own the service apartment for a 99-year lease.

The Bencoolen Street redevelopment project created added value to the *Waqf*. The new Bencoolen Street Mosque doubled its capacity while its commercial properties generated an increased gross rental income from a meagre S$400 to S$20,000 per month, a 5000% increase! The only so-called setback is having the *Waqf* to "loose" part of its land to the Bayt al-Mal for 99 years. But this "loss" is worth the while in order to sustain a viable *waqf*. In doing so, the Bencoolen Street *Waqf* redevelopment project introduced an Islamic capital market for the first time in history to the local financial sector, thus "creating a demand for *Shari'ah*-compliant fixed income investments".[1]

[1] Ibid, 56.

Asset Migration-*Istibdal* Financing

This financing involved the S$25 million-*musharakah* bond issued for the purchase of the commercial building at 11 Beach Road mentioned above. The basic principle involved in this asset migration financing is the pooling together of a number of different *waqf* assets and using its cumulative value to acquire a single high-value asset. The idea is to 'migrate' low-yielding assets into a higher yielding property, hence the concept of *istibdal*.

To establish this asset migration financing instrument, MUIS first identified and then purchased a six-storey commercial building located at a prime area on Beach Road. The building cost S$31.5 million to purchase. To raise this huge sum of money, MUIS brought together a total of 43 different *awqaf* as shareholdings of a company. Again here, in this particular *waqf* financing strategy, the unique Islamic bond was created in a single structure comprising of two forms of contract: the *musharakah* contract and the leasing contract, similar to the Bencoolen Street Project.

To address the likelihood of *Shari'ah* legal concerns, MUIS established a *fatwa* guideline that stipulates that "*waqf* must secure the shareholdings in the new property before [the] existing *waqf* assets are sold."[1] And for its part, the Bayt al-Mal "has to serve the role of filling in the gap and selling the shareholding once the *waqf* has come on board to purchase its share of the property."

Other Forms of Financing:

Apart from the above creative ways of *waqf* financing adopted by MUIS, other types of financing have also been practiced. One is the use of **'*istibdal*' coupled with a 99-year lease**. A typical example is the *waqf* development of the Yahya al-Lukmanji Saif Charity Trust Fund.

This *Waqf* had 5 bungalows in the high-end residential area of Chancery Lane. Each bungalow yielded a rent income of S$2,400 a month. There was "no pressing redevelopment need" for this *waqf*. The only target was to increase its income base in order to finance the increasing needs of

[1] Ibid, 63.

its beneficiaries. A development plan was put in place. The idea was to develop the location into 33 units of terrace houses with common shared facilities.

The development project cost the *Waqf* S$12 million (excluding the land cost). All the housing units were sold for a 99-year lease each. Profits gained out of this project were later used to acquire new freehold properties in place of the capital amount sold.

Another type of financing is the ***saham waqf* or *waqf shares***. First mooted by the Islamic Religious Council of Johor, it consolidates the *waqf* cash fund through the issuance of public shares (Karim, *Diss*., 67). This type of *waqf* financing, while attractive **remains alien to the Singapore scene**.

Yet another type of *waqf* financing and management is the ***REIT*s (*Real Estate Investment Trust*)**. REITs was first initiated in the ’60s in America with the objective of creating a financial vehicle that allows the public to own equity shares in the commercial real estate (Ibid., 68). In 2006, the Islamic REITs (I-REITs) was born. Malaysia has produced its World’s first I-REITs through al-‘Aqar KPJ REITSS. The Singapore *waqf* administration has yet to catch up with the newly conceived I-REITs despite the fact that Singapore itself is “Asia’s second largest property trust with 20 listed REITs worth US$19 billion” (Ibid., 70). Compare this figure with the total *waqf* assets in Singapore valued at only S$480 million.

All the above modes of *waqf* financing are complementary to existing ‘traditional’ methods of ‘*hukr*’ (a long lease or lease in perpetuity), ‘*ijaratayn*’ (a lease with dual payment), and ‘*khuluw*’ (or ‘*khuluw al-intifa*’, a kind of loan made to the *waqf*).

Waqf Investment

Looking ahead for possible investment and contemplating on investment strategies, Shamsiah Abdul Karim wrote and raised the following questions: “What are the better options for *waqf* investments? Should *waqf* investments be placed solely in property or should they go through the same investment exercises and be subjected to the investments criteria set by trust funds? ... What

are the investment objectives for *waqf* funds? Are they to generate income flow or to enhance capital so as to generate higher income flows? Since a *waqf* needs to preserve its capital, what is the risk-return profile that it can perform? Does it invest for the long term horizon, the intermediate or the short in order to make quick profit? These are very important questions and guidelines need to be set for *waqf* investments objectives before investment decisions are made. Although for a statutory board like Muis, the investment guideline is for capital preservation investment guideline. Currently, there are no clear specific guidelines on *waqf* investments. Investment decisions are taken on a project basis and, for cash investments there should be a benchmark which is used for all investment portfolios ...," (Ibid, 98).

Cash *waqf* (*waqf nuqud*) is never fully and clearly conceived in Singapore. That granted, it does exist haphazardly given the conditions outlined above. However, to the extent that exisitng cash *waqf* may be used for investments, investment alternatives are very limited. This is due to the limited availability of *Shari'ah*-compliant investments in Singapore (Ibid, 62).

Present State of *Waqf*

There are 91 *waqf*s[1] presently registered under MUIS. Of these, MUIS is trustee to 68 of them, while 38 others are managed by private trustees. MUIS disbursed a total of $3.082 million in 2011 and $2.702 million in 2012, out of which 13.2% and 15.5% were respectively disbursed to foreign recipients. The 2012 foreign disbursement included to India, Indonesia, Saudi Arabia and Yemen. Of its local 2012 disbursement, 57% of the amount went to the mosques, 12% to the madrasahs, and the rest to others (MUIS Chart of Disbursement 2013).

According to MUIS, developmental projects involving *waqf* properties in Singapore have included the follwoing:

- Residential properties at Duku Road, Telok Indah (Wakaf Kassim)

[1] See pg. 5 above, f.n. 12 regarding this number.

- Service apartments at Somerset Bencoolen (Wakaf Syed Omar Ali Aljunied)
- Commercial properties at Dunlop Street, Kandahar Street, Pagoda Street, South Bridge Road, Telok Ayer Street, Temple Street, Changi Road, North Bridge Road, Upper Dickson Road and Joo Chiat Road.
- Wakaf mosques: Masjid Haji Md Salleh (Makam Habib Nuh), Masjid Khalid, Masjid Khadijah, Masjid Kassim and Masjid Bencoolen.
- The Chancery Residence, an exclusive cluster housing in a prime district
- Madrasah Al-Maarif Al-Islamiah at Lorong 39 Geylang (Asset Migration Wakaf)

Despite an encouraging figure of almost half-a-billion Singapore dollars' worth of *waqf* assets today, no new *waqf* has been created since four decades ago. The last *waqf* to be recorded was created by Shaikh Taha bin Abu Bakar Mattar in the '70s. MUIS attributes this absence of new creations of *waqf* to three factors:

a. The rising price of property in Singapore, thus making property *waqf* beyond the reach of many Muslims;
b. The 'effect' of "donor fatigue" resulting from "too many charities and good causes" targeting the same Muslims for "the same dollar";
c. The lack of information and publicity on *waqf* needs.[1]

Summarizing *Waqf* in Singapore

Singapore has had a long history of *waqf* that goes back to as early as 1820. To date *waqf* funds number at 91 with a total asset value of slightly more than S$480 million. *Waqf* activity in Singapore is administered and regulated by MUIS, whose authority is derived from the *AMLA*. The *AMLA* requires that all *waqf*s in Singapore be registered with MUIS. *Waqf*s in Singapore are generally managed by both private (relatives or descendants of the *waqif*s) and corporate trustees. The two corporate trustees managing some of the *waqf*s today are the British and Malayan Trustee and the Warees Investments Pte. Ltd.

[1] A. Karim (2010), 144.

MUIS defines *waqf* as a *sadaqah jariyyah*, a form of a voluntary charitable endowment that comes from one's personal belonging or wealth, either cash or a property. A *waqf* is further defined as an asset whose ownership has been "completely transferred to Allah" and whose endowed purposes are to serve pious, religious and charitable causes. The conditions of a *waqf* are that it should be made clear in its intent, it is irrevocable, and that once endowed, it remains permanent without limitation.

The donor must be an independent, intellectually sound and capable Muslim, who is financially able to donate, and whose act of donating is voluntary. The endowed property must be objectified (i.e. a property or it is otherwise invalid), transferable, and perpetually endowed as permitted under Islamic law. The beneficiary may be specified or otherwise, and could constitute the poor, the donor himself, his family and descendants, mosques, institutions and organizations, and the general public.

The establishment of a *waqf* is solely for the development and welfare of the Muslim community based on religious principles and the spirit of *Fardhu Kifayah*. The yields from *waqf* serve as a continuous income for the community and can be used to finance activities of the Muslim community in general, including the building and maintenance of mosques and madrasahs, the provision of burial grounds, contributions to the poor and needy, and the provision of education, healthcare and social services.

MUIS admits two types of *waqf*: *waqf ahli* (family *waqf*, or *waqf khas*) and *waqf khayri* (public *waqf*, or *waqf* '*am*). The former is aimed at the family members of the donor and that the *waqf* is primarily intended for their benefit. The sense of perpetuity rendered by *waqf* leads to the creation of *waqf*s that often involve free-hold properties.

There are however *waqf*s that are often regarded as *cash-waqf*s. In this context, there are three types of *waqf*. MUIS has unknowingly created the first type of cash-*waqf* that is otherwise commonly known as the *MBMF*, comprising of the Mosque Building Fund (*MBF*) and the Yayasan

Mendaki Fund (*MF*). The second type of cash-*waqf* is the cash fund established as a result of the sales of previous *waqf* land properties that had been liquidated due to land acquisition. The third type of cash-*waqf* is the "*knowledge-waqf*". The money generated through this *waqf*-fund will be invested in properties and other *Shari'ah*-compliant investments. The investment returns will be disbursed to the principal *waqf* beneficiaries, namely, the Singapore Islamic Education and the Singapore Madrasahs.

Gleaning from the types of *waqf* being created in Singapore, one can readily see how *waqf* has been generally utilized as a strong instrument for the preservation of religious, charitable and educational institutions of the Singapore Muslim community. In the interest of the Muslim community, MUIS has creatively developed and financed *waqf*s in Singapore using the dual strategies of equity-based internal financing and debt-based external financing.

MUIS has had an impressive *waqf*-fund disbursement record. For instance, MUIS disbursed a total of $3.082 million in 2011 and $2.702 million in 2012. The 2012 foreign disbursement included to India, Indonesia, Saudi Arabia and Yemen. Of its local 2012 disbursement, 57% of the amount went to the mosques, 12% to the madrasahs, and the rest to others.

Nonetheless, despite an encouraging figure of almost half-a-billion Singapore dollars' worth of *waqf* assets today, no new *waqf* has been created since the '70s. MUIS attributes this phenomenon to three factors: rising property price; effect of "donor fatigue"; and the lack of information and publicity on *waqf* needs.

The Other Issue

As of 2013, Singapore residents number 3,844,800.[1] Singapore Malays number around 511,000, or 13.3% of the resident population.[2] Muslims make up about 15% of the population, which is

[1] *Population Trends 2013* (Department of Statistics Singapore), 1.
[2] *Ibid.*, 3.

equivalent to about 576,720. Almost all of the Malays in Singapore are Muslims. This suggests that the Malays make up around 88.6% of the Muslims in Singapore, a significant majority.

71.5% of Malays, or the equivalent of 364,650, are of working age. Despite the progress that has been made over the years, against other communities, the Malays typically lag behind in household income and in their social and educational development.[1] In 2010, almost half (or at 48.8%) of the Malays earn below S$2,000/month, with 32.1% earning below S$1,500.[2] If the study conducted by National University of Singapore's Social Work Department in 2013 is anything to go by,[3] then almost 50% of Malays may be considered as poor, with 32.1% or almost 1/3 of the Malay/Muslim population living below the poverty line.[4] This statistic is rather staggering!

The Big Questions

Considering the above situations and conditions of *waqf* and the Malay/Muslims in Singapore, big questions are bound to arise. They are not simply big, they are also very troubling. Singapore needs to address issues like:

1. Why has there been no *waqf* creation in Singapore since the '70s?
2. Why has there been no real cash-*waqf*s created in Singapore?
3. Why has MUIS not invested *waqf* funds beyond property investments?
4. How has the general Singapore Muslim population benefitted from Singapore *waqf*s?
5. How have the Malays in Singapore benefitted from the Singapore *waqf* institution?
6. Why have religious/community services financed by *waqf*s greatly centred only on mosques, madrasahs and religious education at the expense of other areas of social services like healthcare (including hospitals, clinics and health insurance), old-age, orphanage, disability, general education, and research?

[1] See *Demographic Study on Singapore Malays* commisioned by the *AMP* – Association of Muslim Professionals (Singapore), 2013.
[2] Ibid., 201.
[3] The result of the study was reported by Channel News Asia in September 2013. This is accessible online through http://news.xin.msn.com/en/singapore/working-poor-in-singapore-cant-make-ends-meet.
[4] The NUS-DSW Study estimates the poverty line in Singapore at the personal income level of S$1,500 per month.

The fact that MUIS has the prerogative and the sole authority to administer and manage *waqf* in Singapore, the above questions are as much questions concerning the legal meaning and nature of *waqf* as they are concerning *waqf* management in Singapore. It goes to show that how *waqf* is being understood and imagined in Singapore significantly contributes to the way it is being administered and handled.

Joseph Schact and the Singapore *Waqf*

To her credit, Shamsiah Abdul Karim did make an attempt at presenting the various legal leanings and interpretations of *waqf* gleaned from the different legal schools (*madhahib*) of Sunni Islam.[1] Her treatment from this perspective, however, is rather superficial. We therefore turn to the work of Joseph Schacht, "Early Doctrines on *Waqf*," (1953), for an instructive glimpse of the legal debates surrounding the issue of *waqf* in early Islam among the early authorities of Baghdad, Madinah and Makkah. These debates grew out of the formative period of Islam and they therefore define what *waqf* has since come to be understood. This includes the Muslims' legal interpretation of *waqf* in Singapore.

Quoting W. Haffening (*EoI*, Leiden 1934), Joseph Schacht observes that the origin of *waqf* is not traceable "to a single source". *Waqf* has no clear basis in the Qur'an and what could be understood from the *Hadith* is only plausible when read obliquely. Its conception and institutionalization could hence be regarded as *ijtihadi*, or, in Schacht's terminology, the "result of the combination of several factors and various elements, which were intimately fused during the formative period of Muhammadan law" (1953, 444). This is a very important observation that requires our astute appreciation. What his argument is basically saying is that *waqf* is a negotiated concept developed through the intimate discourse among early authorities of Madinah, Iraq and Makkah. To justify this point, let us consider the 'Umar tradition that has been popularly and commonly referred to in the study of *waqf*.

[1] See chapter 2 of her dissertation.

إبن عمر: أن عمر بن الخطاب اصاب أرضا بخيبر فأتى النبي صلعم يستأمره فيها فقال: يا رسول الله إني اصبت أرضا بخيبر لم أصب مالا قط أنفس عندي منه فما تأمرني به؟ قال: إن شئت حبست أصلها و تصدقت بها. قال: فتصدق بها عمر أنه لا يباع و لا يوهب و لا يورث و تصدق بها في الفقراء و في القربى و في الرقاب و في سبيل الله و ابن السبيل و الضيف لا جناح على من وليها أن يأكل منها بالمعروف و يطعم غير متمول.

Ibn ‘Umar (r.a.) reported: That ‘Umar ibn al-Khattab acquired a land in Khaybar. He then went to the Prophet (saw) to seek his advice. Said he, “O Prophet of God, verily I have acquired a piece of land in Khaybar. I have never owned any wealth that is dearer to me than it. Tell me what I should do with it.” He [the Prophet] said: “If you so wish, you could unalienate the land and give to charity what it yields.” [Ibn ‘Umar] then went on: ‘Umar gave to charity its usufructs and he never sold it, nor gave it away, nor passed it down as inheritance. Instead, he gave it away in charity to the poor, his relatives, for the manumission of slaves, *jihad*, the travellers, and the guests.

Two things we need to consider in regard to the above report. One is, judging by what we could discern from the *hadith*, the only thing that the Prophet said by way of advice or suggestion was that “if ‘Umar wanted” or “if he so wished” that he arrested the capital and gave away the usufruct. The fact that Ibn ‘Umar later went on to say that his father never sold or gave it away, but instead, use the benefits from the land for charitable causes is simply a matter of choice on the part of ‘Umar and not a matter of principle or prophetic design. Secondly, the term used to describe the unalienation of property is ‘*habs*’ (pl. *hubus*) and not ‘*waqf*’ (pl. *awqaf*), but somehow the two have since been used interchangeably. We therefore need to look further into the historical use of *habs*. Interestingly, what has come out of this simple event in the Islamic history is a whole corpus of legal debates and dictates that gave birth to the character and institution of *waqf*.

The Madinah of Malik in early Islam, according to Schacht’s observation, is said to have used and understood ‘*habs*’ often in the context of “*fi sabil Allah*”, and that “*habs fi sabil Allah*” referred to the contributions to holy war (‘*jihad*’) simply on the technical strength that when used without any other qualification, “*fi sabil Allah*” always referred to “holy” war. By this, the objects that were given away for such a cause were often movables in the form of horses, weapons, garments, or even slaves. For the Maliki scholar, Ibn Qasim, ‘*habs*’ is conceived in terms of “individuals”, “the poor”, and “*fi sabil Allah*” (Schacht, 445).

The transition from ‘*habs*’ to ‘*waqf*’ is unclear, but soon these were used interchangeably. Another term that was also introduced to synonymously refer to *habs* is *sadaqah*. Both the Malikis and the

Hanafis share in the traditional use of these two. In their usage, animal *sadaqah*, for instance, is always for the holy war, while the produce of land is used as *sadaqah* in the way the term is being mentioned in the Qur'an (9: 60).

We now have three terms sharing the same import: *waqf*, *habs*, and *sadaqah*. For the Hanafi jurist, Hilal, *waqf* is *sadaqah mawqufah*. In this context, *waqf* of animals, merchandise or garments is not valid; only houses and land are *waqf*-able. *Waqf* of movables could be made permissible only when regarded as *sadaqah mawqufah fi sabil Allah*. Exclusion of movables represents both the Hanafi doctrine as well as the Malikis (Ibid, 446). On his part, al-Shafi'i defines *waqf* as "*sadaqah muharramah mawqufah*" or "*ma subbila mahbusan*" (that which has been made *habs fi sabil Allah*). He therefore differentiated *waqf* in terms of the ordinary and *fi sabil Allah*. To him, the former is permanent and the latter is temporary (Ibid, 447).

All things considered, Schacht makes a very poignant analysis: that holy war is one of the most important and legitimate purposes of *waqf* and that "individual contributions to the holy war during the first generations of Islam was an important constituent factor of the institution of *waqf*" (*loc cit.*). While this may be true, what remains important to this paper up to this point is the fact that all the above legal schools of *fiqh* concur in the idea of an ordinary *waqf* and *waqf fi sabil Allah*. The ordinary *waqf* is considered as permanent, constituting of immovables (land or house), whereas the *waqf fi sabil Allah* is temporary and it constitutes the movables (horses, weapons, shields, etc.). in other words, the first Muslim generation conception of *waqf* (or rather *habs*) revolved around the notion of either unmovable land properties or the movables solely for *sabil Allah*.

Quoting Maliki scholars like Abul Zinad (d. 130), Rabi'ah (d. 136), Ibn Wahb (d. 192) and Sahnun, Schacht further observes that early Madinese scholars also recognized a temporary *habs* in favor of someone or a number, upon "whose death it reverts [back] to the original owner or to his heirs" for as long as posterity was not mentioned at the time of creating the *waqf* (*loc cit*). This temporary *habs* is also known as the *sadaqah mawqufah*, a term similarly used by Hilal, but to denote a permanent *waqf* instead. It is more likely that the *sadaqah mawqufah* in the Maliki scholars' sense

is truer and closer in sense and meaning to temporary *habs* than it is to a permanent *waqf* the fact that the term, *mawqufah*, gives in essence the natural meaning of being "provisional". It goes to show that when expressed as *habs mawquf* or *sadaqah mawqufah*, the idea of *waqf* being "provisional" or a "non-perpetual charity" is more original. That *waqf* later takes the non-provisional or perpetual character is a late construct, the result of "doctrinal developments" (ibid. 448). It is in this last context that we find the Hanafis dictating that all *waqf*s must be permanently vested in the poor. That is to say, even when posterity was mentioned, the property will ultimately be reverted back to the poor. Here we see the Malikis differing from the Hanafis in terms of the temporary *habs*.

On the issue of the administration of *waqf*, the Malikis and the Hanafis are unanimous is saying that any *waqf* or *sadaqah* that is not passed over to an administrator is deemed as invalid. On the other hand, if a *habs* or *waqf* is handed over to an administrator and he then took possession of it, the *waqf* is not only valid, it is also irrevocable. And finally, it was the position of Abu Hanifah that *waqf* is only constituted in the public work of building mosques. Other than the building of mosques, there is no *waqf* (Schacht, 452).

We may have noticed at this juncture that all that has been discussed from the differing perspectives of the legal schools only goes to indicate that the legal opinions expressed are purely subjective and arbitrary, and that they represent a late doctrinal development. Just take a look at how far the doctrine has come from the first instance of 'Umar's attitude and action on his Khaybar plot of land to what our scholars have opined. For instance, the issue of provisional or permanence did not arise in the situation of 'Umar. Secondly, the matter of the declaration or pronouncement of intent of the so-called *waqf* was never part of the alleged conversation between 'Umar and the Prophet of Islam.

Going back to the position of MUIS on *waqf* in Singapore, there seems to be a confusion between the Shafi'i position that ought to define MUIS and the Hanafi influence that is often reflected in their definiton. Very pronounced is the position that MUIS takes in terms of the irrevocability of waqf against the Shafi'i's stand on *waqf* as *sadaqah muharramah mawqufah*. There also seems to

be an inconsistency in MUIS's character between trying to be "progressive" in thinking and fatwa, the fact that this is reflected in the various *waqf* management, financing and investement strategies, and insisting that *waqf* involves the endowment of immovable properties.

Singapore *Waqf* and the Kuran Thesis

Going back to our foregoing pages and recalling the present state of *waqf* and *waqf* management in Singapore, we soon realize that Singapore has done fairly well in terms of managing and financing *waqf*. To a certain extent, MUIS has done a tremendously good job. But more could be done. There are issues of interpretation and practice that need to be addressed. Let us then highlight some of the issues dealing with the *waqf* scene in Singapore that may at the same time address the problems raised by Kuran.

Kuran rightfully argues that while *waqf* has been the cornerstone of the Muslims' economy, it has never been incorporated. To a very minimal extent, MUIS has tried doing this. Unfortunately, MUIS's attempt is barely significant and mainly cosmetic. Setting up Warees Investments Pte. Ltd. is a good step and strategy toward corporate management in Singapore. However, what Warees is doing is simply to manage *waqf* development and investment. We need to think bigger and further. What we need is not simply an ad hoc solution to managing *waqf*. What we need is corporatizing *waqf* in Singapore. The management of *waqf* needs to be corporatized in every aspect and every single detail. In this context, we need to bear in mind the differentiating characteristics between a corporation and *waqf* as outlined above.

One characteristic is that a corporation could be governed through collective management as opposed to the individual founder-based *waqf* institution. Here we simply need to recall the present state of *waqf* in Singapore. Since more than four decades ago, there is no new *waqf* creation. This has been a pressing problem only because the way *waqf* is being conceptualized requires a transformation at two levels: at the level of allowing a corporation to create a *waqf* and not simply

having to rely on individuals; and at the level of allowing for a new revolutionized concept of *waqf*.

The conception of temporary and permanent *waqf* requires rethinking. Requiring that *waqf* is land /property based is rather antiquated. If Singapore can decisively move from property-based to cash-based *waqf*, then the issue of the rising cost of property in Singapore does not arise.

The Singapore's Mosque Building and Mendaki Fund suggests that Singapore is not new to this whole idea of a cash-based *waqf*. If we remind ourselves that the Hanafis view the building of the mosques as paramount (not that we are limiting ourselves to such a restriction here, but the idea of mosque building being central to the notion of *waqf* is unanimously shared by all legal schools) to the whole institution of *waqf*, then one at least wonders why MUIS is not calling the MBF as a *waqf* and by that, Singapore Muslims have actually been contributing to the creation of *waqf*. Also, the *Wakaf Ilmu* is another *waqf* that is actually cash-based, except that the beneficiaries of this *waqf* are too limited.

What MUIS needs to do now is to do away with the existing structures and create an overarching cash *waqf* fund where all the financial resources of fellow Singapore Muslims could be pooled together and use that fund for all purposes. Alternatively, some of the present features could still be maintained, but let them get absorbed into a larger fund structure. Let us assume that we could get all the 364,650 Malay-Muslims who are of working age (and this figure is excluding the Chinese and Indian Muslims) convinced of the need to do their bit at *infaq* or *zakat* or *sadaqah* and then create and establish this cash *waqf* by having their salary deducted at $2,000 per year for the next 5 years. In five years time the money would have accumulated to a sum of S$3.6465 billion. The S$2,000 is a large sum by any standard, and the S$10,000 coming from a 5-year contribution is even a larger amount. But if the Singapore Muslims could be convinced of *waqf*, the simple idea of *waqf* is in itself an enticing selling point.

The S$3.65 billion goes a long way. But this is just the beginning. The fund could still come from businesses or corporations and generous philanthropists who are willing to donate much larger sums and it could run perpetually. It is about time that MUIS looks ahead and beyond the property

investment per se. With that kind of money funding for all kinds of religious and social services is a matter of imagination. *Waqf* is not just about building mosques or madrasahs or for religious education. There are many areas that have not been serviced by the *waqf* institution in Singapore. Singapore Muslims are in dire need of healthcare (hospitals, clinics, rehab centers, etc.), finance (banks, insurance, loans, etc.), housing (renting, etc.), general education (schools, teachers, bursaries and scholarships, etc.), sports (sports centers and facilities), social care (home for the aged, orphanage, etc.), and research, just to name a few.

The *waqf* fund will also allow the Muslims to invest in not just properties but also business and company acquisitions. They could buy into existing successful businesses and industries. Singapore Muslims could become major shareholders of businesses and companies and get dividends and still maintain the identity and characteristic of the *waqf*. Perhaps the most significant and tangible outcome of the *waqf* would be addressing the problem of poverty among the Malays in Singapore. Imagine the kind of jobs that could be created for all!

All these require a changed mindset. The legal considerations as presented by Joseph Schacht is a true revelation for us Muslims to look back into our sources of antiquity and rich tradition and rethink the latitude that such a legal discourse could bring into the institution of *waqf*. The proposed corporatization of the *waqf* institution and the use of the *waqf* fund help not only in allaying the fears and scepticism of Timur Kuran, but also help address and circumvent the problems that are real and truly coming from our rigid legal interpretations. At the same time, the proposed solutions will help answer all the questions raised by Shamsiah in her dissertation.

Conclusion

Waqf is a very important institution in Islam. It is not only important to the Muslims in Singapore, it is as well important to all Muslims and to the whole of the Muslim World. Marshall Hodgson in his *The Venture of Islam* (1974) makes a very astute observation when he remarks that the *waqf* system is “the primary vehicle for financing Islam as a society.” What is even more interesting is that it represents the highest form of charity in Islam. As such, Muslim participation and

establishment of *waqf* not only serve to support them in their socio-financing activities, but also as an expression of their faith and commitment to the religion of Islam. The theological basis and underpinning of *waqf* serves as a primary social and ethical capital for all Muslims to engage in the creation of *waqf*s.

Waqf assets form the largest group of assets in Singapore managed by the Singapore Muslim Religious Council (MUIS). The attempt to reform the *waqf* institution takes into account the legal, management and financing considerations.[1] In light of the legal debates surrounding the conception of *waqf* and the implications they had on the way the institution is being managed leads to suggestions in this short paper on alternatives of *waqf*.

The Muslim Religious Council of Singapore has done a tremendous job in administering and managing *waqf* since the last five decades. Over the years we have seen how MUIS has transformed the landscape of *waqf* in Singapore. This can be seen through the various progressive methods of *waqf* management and the bold steps that MUIS has taken to invest and finance existing *waqf*s. To its credit MUIS has played a very positive and pro-active role in even helping out *waqf*s that are being managed by private and personal trustees that would otherwise have gone bust, and turning and converting lack-lustre *waqf* properties into multi-million dollar estates.

While the professional management of *waqf* in Singapore helps define its success story and a source of pride for the Majlis, the fact that MUIS even won awards and recognition for its handling of *waqf* projects, the sad thing is, no new *waqf*s have been created since the ‘70s. The reasons given by MUIS to explain this unfortunate phenomenon may be reasonable and justified. It nevertheless explains only the symptoms but not the cause(s). It is the belief of this paper that the conditions of *waqf* and *waqf* management in Singapore is simply due to the rigid and static mindset that has this far defined the Singaporean interpretation of *waqf*. A bold position needs to be taken and embraced by the Singapore Majlis if it ever wants to see further progress being made in the institution of *waqf* in Singapore.

[1] Karim (Diss.), iii.

Singapore Muslims have already had a good start with this effort. For a start, the Majlis has already embraced a progressive and pragmatic attitude in dealing with legal issues in Islam in Singapore. The Majlis is not afraid to "think outside the box" and the legal debates found in the tradition of the formative schools of Islamic *fiqh* have provided it with greater latitude to think even further. What is required of MUIS is to remain consistent with its philosophical position and to take the bold steps at looking into alternative thinking in dealing with *waqf* thereby creating new alternatives in *waqf* and *waqf* management. The readiness of the Muslims under the leadership of MUIS to meet up with modern challenges is a good capital to begin with. All they need further is to be convinced of the necessity and importance of *waqf* and the potentials that *waqf* could bring in the service of Islam and the Singapore Muslim community.

The potential of *waqf* investment is endless and is only limited by the imaginations of the Singapore Muslim minds. The courage to venture into new territories and the ability to manage the *waqf* as a corporatized system will potentially enable the Singapore Muslims to deal with their economic and social problems. The future success of the *waqf* institution in Singapore, the fact that it is already succeeding, will further augur the important role that Singapore *waqf* has to play in the changing economic landscape of Singapore. It will also help debunk some of the assumptions that the Kuran thesis has raised, not so much because the assumptions are untrue, but more so because the Singapore condition presents a unique case that enables the *waqf* story to be an exception to the Kuran rule. It could also be a demonstration of the ability in Singapore to overcome the problematic conditions portrayed in the *Long Divergence*.

REFERENCES

Abbasi, Muhammad Zubair. "The Classical Islamic Law of *Waqf*: A Concise Introduction." *Arab Law Quarterly* 26 (2012): 121-153.

Abdul Karim, Shamsiah. *Contemporary Shari'ah Structuring for the Development and Management of Waqf Assets in Singapore* (unpublished thesis) Durham University, 2010.

Abdul Karim, Shamsiah. "Contemporary *Shari'a* Compliance Structuring for the Development and Management of *Waqf* Assets in Singapore," *Kyoto Bulletin of Islamic Area Studies*, 3-2 (March 2010): 143–164.

AMLA, Chapter 3 of the Singapore Statutes. The Singapore Attorney General's Chambers Website. <http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=DocId%3A%223e90fc65-b364-434b-b2dc-ed1d9608640%22%20Status%3Ainforce%20Depth%3A 0;rec=0>

AMP – Association of Muslim Professionals (Singapore). *Demographic Study on Singapore Malays*, 2013.

Gil, Moshe. "The Earliest Waqf Foundations." *Journal of Near Eastern Studies* 57, 2 (1998): 125–40.

Haffening, W. "*Waqf*". *Encyclopedia of Islam*, Leiden 1934. See latest entry by Rudoph Peters *et. al* (Leiden: Koninklijke Brill NV, 2000).

Kuran, Timur. "The Absence of the Corporation in Islamic Law: Origins and Persistence." *American Journal of Comparative Law* 53, 4 (Fall, 2005): 785-834.

Kuran, Timur. *The Long Divergence*: *How Islamic Law Held Back the Middle East*. Princeton, NJ; Oxford: Princeton University Press, 2011.

Magda Ismail Mohsin. "What Can We Do With *Waqf* Properties?" (u.d., unpublished).

Md Saad, Norma (*et. al*). "Involvement of Corporate Entities in Waqaf Management: Experiences of Malaysia and Singapore," *Asian Economic and Financial Review* 3, 6 (2013): 736–748.

MUIS Annual Report 2012 (MUIS AR2012).

MUIS (*Majlis Ugama Islam Singapura*) Website, 2014. <http://www.muis.gov.sg/cms/services/Wakaf.aspx>

National University of Singapore Social Work Department, 2013. < http://news.xin.msn.com/en/singapore/working-poor-in-singapore-cant-make-ends-meet>

Osman, Amirul Faiz (*et al.*). "Determinants of Cash Waqf Giving in Malaysia: Survey of Selected Works" (u.d., unpublished).

Population Trends 2013 (Department of Statistics Singapore).

Schacht, Joseph. "Early Doctrines on *Waqf*." In *60. doğum yıh münasebetiyle Fuad Köprülü Armağani. Mélanges Fuad Köprülü*, İstanbul: Osman Yalçin Matbaasi (1953): 444–52.

Scheonblum, Jeffrey A. "The Role of Legal Doctrine in the Decline of the Islamic Waqf: A Comparison with the Trust," *Vanderbilt Journal of Transnational Law*, 1999.

CASH WAQF AS AN ALTERNATIVE PANACEA TO POVERTY ALLEVIATION: AN OVERVIEW OF HUMAN DEVELOPMENT IN NIGERIA

Oladapo, Hakeem B[1]
Norma Saad [2]
Mustafa Omar M.[3]
Gapur Oziev[4]

ABSTRACT

The study investigated how cash waqf was used to alleviate education poverty in Nigeria among the orphans and less privileged in Zamfara State in particular. Poverty undeniably has become a household in Nigeria and in fact every part of the globe. The menace has deprived people of good health, shelter, education and basic necessity of life at different point in time. Further, the government believed that education sector is not the only sector of her responsibility. Also, efforts of both private and voluntary sectors have yielded no useful result in poverty alleviation and especially in sponsoring student education. The present study used qualitative technique hence, document analysis and in-depth interview was conducted on three respondents. The data gathered from the interview was analyzed using phenomenological approach. It is hoped that the findings would be useful to policy makers in *waqf* institutions and the Nigerian government to reformulate their policies and strategies towards poverty alleviation; orphans and less privileged scholarship inclusive to boost the literacy level in Nigeria

Key words: poverty alleviation, education, cash *waqf*, phenomenology

1. INTRODUCTION

In Nigeria, poverty has been responsible for people's lack of education, ill health, economic emancipation as well as poor people becoming emaciated (Chitranshi, 2009). It also, impairs people's knowledge as well as depriving them of shelter and other basic needs in life. Efforts of the government to tackle this menace yielded no appreciable result. Apparently, this could be

[1] Oladapo, Hakeem B. is a Ph.d candidate, Faculty of Economics and Management Sciences, International Islamic University Malaysia (IIUM).
[2] Prof. Dr. Norma Saad is Professor, Faculty of Economics and Management Sciences, International Islamic University Malaysia (IIUM).
[3], [4] Lectures, Faculty of Economics and Management Sciences, International Islamic University Malaysia (IIUM).

traced to high level of corruption, insensitivity, lack of substantial commitment and due consideration for the poor in poverty alleviation programs.

In addition, private sector involvement in poverty alleviation in the economy failed to ameliorate the problem. This could be due to the sector's profit motive most of the time (Werker & Ahmed, 2007). Furthermore, the voluntary sector as well has not been able to fruitfully resolve this problem of poverty still. More to the above, finances from conventional bank for individual human development may likely send the borrowers to their early graves due to high cost of capital and other unfavorable conditions at expense of the poor borrowers.

Additionally, the nature and dimension of banes confronting education sector in Nigeria informed the country of a new approach to governance which called for processes that would make them transparent and efficient (University World News, 2014). Also, government hold to the believe that education was not only its responsibility and called on other stakeholders such as voluntary sector to substantially commit to investing in higher education including sponsoring researches (University World News, 2014).

Moreover, education problems in Nigeria have been blamed on the following: political will, lack of continuity of programs and high level of corruption (Okoroma, 2006). Similarly, Momoh (nd) attributes failure of educational policies to lack of adequate planning, continuity, contradictory policies, underfunding among others contributed significantly to policy implementation failure in Nigeria.

Waqf institution in history has track records of efficiency and transparency which had really assisted in poverty alleviation in the past (Kuran, 2001; Kahf, 2002). Hence, in Zamfara State, Nigeria, *Shari'ah* was introduced in 1999 and in the same year *waqf* was institutionalized in order to relief people of poverty in the state. The plan of the institution is to encourage small and medium enterprise, foster education, health care for orphans and less privileged among others. The present study intends to find out to what extent the *waqf* institution in Zamfara State, Nigeria has been able to alleviate education poverty.

1.1 Problem Statement

The level of poverty in Nigeria is very high like other African countries. This menace has deprived people of good health, shelter, education and basic necessity of life at different time. Government has held to the fact that education sector is not only of her responsibility. Therefore, sponsorship in the governmental sector should be least expected due to the insensitivity of the government towards education. Private sector would appear to be expensive for the purpose of poverty alleviation especially in education sector due to high cost of borrowing as well as the sector's profit motive (Werker and Ahmed, 2007).

Furthermore, the voluntary sector, the NGOs, have failed in this direction too compared to the contribution by this sector in the developed economy. However, the hope is now on *waqf* institution which has proved in the past to alleviate poverty even in the area of education through donations from pious Muslims (Ahmed, 2004).

Therefore, the present study intends to find out to what extent the institution in Zamfara State, Nigeria has been able to foster human development among the less privileged and orphans in the state.

1.2 Objective of the Study

1. To examine how Zamfara State *waqf* institution enhances education among the poor.
2. To investigate how cash *waqf* endowed is used for poverty alleviation.
3. To proffer suggestion and recommendation.

2. LITERATURE REVIEW

Poverty is prevalent in Nigeria like any other country in African zone of the world. It affects all sectors of the economy. However, the present study focuses on the education sector using *waqf* as alternative panacea for poverty alleviation with special interest in education of the orphan and less privileged in the society in Nigeria generally and specifically in Zamfara State.

2.1 Cash Waqf for Poverty Alleviation

The study by Muhammad, Fuadah and Mohd (n.d) discusses cash waqf for the establishment of financial institution for financing education. The study though emphasized on education similar to the present study but the authors went through financial intermediation. This is quite different from the present study in which the waqf institution enhanced education directly among the poor in Zamfara State, Nigeria using returns from endowed funds.

Furthermore, the study by Md. Mizanur (2013) emphasizes on the number of mosques that are waqf based in Bangladesh. He concludes that out of about 200,000 mosques in the country, 123, 006 are *waqf* properties. This study is not in tandem with the present study. Additionally, the study by Rininta (2013) sheds light on the implication of cash waqf in the society. The author stresses on planned programs that are mostly voluntarily based in nature. The writer concludes that this does not guarantee that the programs based on cash waqf would be accomplished on time due to financial involvement. The study does not align with the present study which focuses mainly on education. Moreover, Md. Shahedur, Mohd, and Mohd (2011) study shows concern on management of cash waqf model for generating more returns for the benefit of the involving parties. However, the study did not focus on education like the present study.

Also, the study by Farhah et al. (2014) examined the possibility of integrating cash waqf with poverty alleviation initiatives of Malaysian government beyond religious purposes. However, the study did not specifically focused on education like in the present study. Further to the above, Ahmed (2004) observes the contribution of Zakah and Awqaf in the macro-context to the development of the human capital and to the designing of specific programs for the poor and vulnerable. He concludes that programs may include provision of education which is the focus of the present study among other things. However, the study by Ahmed combines two Islamic poverty alleviation tools as against one Islamic poverty alleviation tool (waqf) in the context of the present study.

3. METHODOLOGY

The study is purely exploratory hence; it carried out document analysis as it affected education. Also, in-depth interview was conducted on three respondents; two of the respondents were graduating students of tertiary institutions (School of Health Technology, Zamfara State, Nigeria and Usman dan Fodio University, Sokoto Nigeria) and one official of the *waqf* institution. The interviews were transcribed and analyzed using phenomenological approach.

4. RESULTS AND DISCUSSION

The two students who graduated from tertiary institutions in Nigeria interviewed, agreed that the *waqf* institution paid their school fees from the very 1st year to their final year in their respective institutions in Nigeria. The school fees according to them were paid through the institution to avoid diversion of funds which is of course inimical. The school fees paid included their accommodation but excluded pocket money for their upkeep in the school as well as money for clothing and other necessity of life. One of the students agreed that the institution normally required his academic performance from the school. This is to enable the institution to plan a head for the next school fees of the student if is seen to be progressing well in his endeavor. Though there were no conditions specified to be taken on any student that performs woefully. On the other hand, the document information shows file for each and every beneficiary with records and document backing the financial assistance to such people.

One of the beneficiaries of the scholarship was an orphan while the second beneficiary came from poor family background. One respondent from the waqf institution said that apart from the scholarship they gave to the deserving students they also built schools for the orphans and less privileged free of charge. This is to ensure that most children of the poor become literate and compete with the children of the privileged in the society. Additionally, the institution has series of poverty alleviation packages, this includes health care services which is being provided by the institution free of charge for the less privileged and orphans, financial assistance for marriage as well as for small and medium enterprises. Aside this, the institution has 10 primary schools for the benefits of the target audience as enunciated above. It also maintained endowed schools of 4 and another block of six class rooms. The institution also provides school uniforms for the students, zero school fees and stationery for the schools. However, the registered orphans apart from the free schooling they are also provided with meals in the school.

The institution total number of beneficiaries stood at 62,981 on all endowment packages out of which 35, 650 falls into education including scholarship into higher school of learning in Nigeria and outside Nigeria. The two students interviewed thank Allah for the opportunity they had through the institution without which they would not have the privilege to attend higher institutions either in Nigeria or elsewhere due to the circumstances surrounding their cases. The respondents are now helping the institution in the healthcare services and school respectively in view of the educational attainments.

5. CONCLUSION

The efforts of the *waqf* institution in Zamfara State, Nigeria to exchange hands of fellowship to the poor in the state in ensuring their smooth running of their education in the tertiary institutions is a welcome idea. This will make the beneficiaries to be responsible human beings as they will shun all social vices in life. Further to this, beneficiaries will turn to be recognized citizens in the society. Though this institutionalized *waqf* is very common in the northern part of the country nonetheless, it would be a tremendous thing if south west could also imbibed in this practice in order to help a lot more of people who are out there without any help coming to them to further their education. Recently, students of two well known universities in Nigeria went on demonstrations over hike in fees. This development, the students perceived will add more burden to their parents in obliging their school fees knowing fully well that their parents have other responsibilities. If such students could be on scholarship from any *waqf* institutions in Nigeria, they would not have reacted because there is no single burden on either them or their parents as regards such development. It study suggests that the *waqf* institution in Zamfara State, should intensify further efforts to offer more of such assistance to the poor. Where possible the institution could also absorb them at the end of their programs so that they we not only be literate but as well become sustainable and capable of staying on their own for years to come.

The researchers irrevocably recommend that south west majority Muslims in Nigeria should intensify efforts to institutionalized *waqf* within them for helping majority of the less privileged and orphans within the region. This will go a long way to ameliorate poverty among the poor in the area especially in the area of human development. Thereby, grooming vibrant and able leaders of tomorrow.

REFERENCES

Ahmed, H. (2004). Role of Zakah and Awqaf in Poverty Alleviation, Islamic Research and Training Institute, Islamic Development Bank, Jeddah.

Chitranshi, M. (2009). *Causes and effects of poverty*. Retrieved from www.articleswave.com on 30th May, 2011.

Farhah, S. et al. (2014). The role of cash waqf in poverty alleviation: case of Malaysia. Proceeding – Kuala Lumpur International Business, Economics and Law Conference, 272-289

Kahf, M. (2002). *Waqf and its Social Aspects*. Retrieved fromwww.monzer.kahf.com. on 15th September, 2010

Kuran, T. (2001). The provision of public goods under Islamic law: origins, impact, and limitations of the *waqf* system: *Law & Society Review*, Vol. 35, No. 4, 841-898 Published by: Blackwell Publishing on behalf of the Law and Society Association.

Md. Mizanur, R. (2013). *Cash waqf* : a new concept of waqf for alleviating poverty. Retrieved from www.thefinancialexpress.bd.com on 15th June, 2014.

Md. Shahedur, R.C. et al. (2011). Economics of cash waqf management in Malaysia: a proposed cash waqf model for practitioners and researchers. African Journal of Business Management Vol.5, 30, 12155-12163.

Momoh, U. (n.d). *Implementation of educational policies in Nigeria: issues and suggestions for reform*. Retrieved from www.uniben.edu on 15th June, 2014.

Muhammad, R.A. et al. (n.d). Cash waqf models for financing in education, 1-8

Okoroma, N. S. (2006). Educational policies and problems of implementation. *Australian Journal of Adult Leaning Vol*.46, 2, 245-263.

Rininta, N. (2013). The implication of cash waqf in the society. *MPRA*, 1-10.

University World News. (2014). *Higher education stakeholders to forge a social contract*. Retrieved from www.universityworldnews.com on 15th June, 2014

Werker, E.D. and Ahmed, F. Z. (2007). What do non-governmental organizations do? Working paper 08-041, 2-38.

THE ROLE OF THE *QADHIS* AND THE *MUTAWALLIS* IN THE DEVELOPMENT OF *AWQAF*

Mahadi Ahmad[1]

ABSTRACT

It is a shared understanding that the performance of *awqaf* worldwide is poor when compared to profit oriented ventures. It has been argued that some of the factors responsible for low performance are attributable to the poor knowledge of *mutawallis* on technical know-how of how to administer and manage *awqaf*. This paper argues that the *Mutawallis* are not the only people concerned on *waqf* management and administration but also, the *Qadhis* in their capacity as those acting on behalf of Allah reserve the powers to stimulate aggressive developments to this noble institution. Unfortunately, this practice has appeared to go into extinction, or mildly adhered to in this era, leading to the low performance of this viable economic unit. The *mutawallis* of *awqaf* are responsible to the *waqif*, the designated beneficiaries and ultimately, they are responsible to Allah Who the ownership of the *waqf* vests in. These varying degrees of responsibilities mandate on him to work tirelessly towards actualizing the *Maqasid shariah* of *waqf*. These therefore require appointment of a competent person as *mutawalli* who must manage the affairs of *waqf* with utmost good faith, failure of which allows the *Qadhi* to interfere. This paper will lean on both the Primary and secondary sources of the Shariah to understand the role of the *mutawalli*, his powers and mandate, rights and duties, in the administration and management of *awqaf*. The paper concludes that effective *qadhi*'s oversight on *mutawalli* will take *awqaf* to the next level.

Key words: *waqf*; *Qadhi*, *mutawalli*; management, administration, and Shariah.

Introduction

A *mutawalli* or *nazir* is the person appointed to administer and manage *waqf*. The two words will be used interchangeably. His appointment is normally made by the *waqif* but the *qadhis* also has a role to play in overriding the powers of the *waqif* if warranted and regulate the omissions and commissions of the *mutawalli*. This *qadhi-mutawalli* relationship, if enhanced, will contribute immensely to the development of *awqaf*. The objective of *waqf* apparently suggests that such a *mutawalli* is saddled with many and heavy responsibilities to manage the *waqf* with vision and mission tailored at actualizing the objective of the *waqf* and the *waqif*.

However, human beings have varying degrees of trusts; some are trustworthy while some are not. Due to this the *mutawalli* may handle the property as expected and may also mishandle it, leading to the underdevelopment of the waqf. But with the active concern of the *qadhi* who reserves the right to override the actions of a wanting *mutawalli* the *waqf* can hardly been underdeveloped. In most cases *waqf* is founded for poor beneficiaries. This makes the responsibility of the *qadhi* and

[1] PhD Candidate, Kulliyyah of Law IIUM, almahdi_2k2@yahoo.com

the *mutawalli*s to be heavier as both are acting on behalf of Allah Who ownership of the *waqf* vests in. If a *mutawalli* is bad the management of the *waqf* will be bad and the objectives of the *waqif* and that of the *waqf* itself will not be realized and such will also amount to breach of the constructive covenant with Allah to which the *mutawalli* has assented. And the *qadhi* of the jurisdiction, if he is active will pre-empt any imminent danger posed by bad *mutawalli* as he has the powers to appoint additional more competent and trustworthy *mutawalli* to the existing one or remove him completely if the circumstance warrant that.

This paper argues that the *qadhis* originally have the powers conferred on them by the Shariah by virtue of being *qadhis,* to wield into the affairs of *awqaf*, whether public or private. And that these powers should be formalized by laws of competent legislating body. And that the *mutawalli* should have a group of experts assisting him to monitor all the private and public *awqaf*, which must be registered with the *qadhis* with full addresses of their locations, names and addresses of the *mutawallis*. The role of the *Qadhi* and the *mutawalli* manifests more, looking at the segment of the society they are working for their well-being. The *mutawalli*, by virtue of the meaning of the word is expected to work diligently for the efficient and effective management of the property under him, while the *Qadhi* by virtue of his being the one who enforces Allah's law must protect the rights of the weaker ones.

It is to this reason the paper sets to unravel the paramount role of these two important personalities in waqf arena.

The *Qadhis*' Powers over private and Public *Awqaf*

Researchers argues that prior to the reign of Hisham Ibn Abdulmalik (d.125 AH) *awqaf* were distinct from state affairs, solely remaining under the *mutawalli*'s control and that it was during this reign, a *qadhi* called Tawbah Ibn Numayr in Egypt made a pronouncement that these *awqaf* ultimately revert to the poor people, as a result I have hereby put them under my surveillance.[1] However the researcher argues that these has already been provided for by the Holy Quran; only what *Qadhi* Tawbah did was reiterating and reawakening of the role the *qadhis* should play in *awqaf*. This argument is premised on the following; The Prophet S.A.W operated in various capacities out of which the capacity as a *qadh* is one.[2] In this capacity he used to regulate private affairs without waiting to a formal complaint or institution of legal suit. Example of this is the man who wanted to make *wasiyyah* with all his only six slaves. The Prophet S.A.W asked him if he has another property other than these and the man replied negatively. Then the Prophet S.A.W casted a lot on the six slaves and allowed him to make the *wasiyyat* of 1/3 (2) of the slaves and returned banned him from making *wasiyyah* of the remaining four (4) of them.[3] This is a private affairs and personal ownership which the Prophet S.A.W interfered with. This automatically establishes the permissibility for an owner of authority to interfere for the best interest of the concerned people. These slaves, if the man has successfully gave them out, would belong to specific individuals he wanted to give them to. The same ruling is applicable to private *awqaf* because analogically there is no difference in the *illah* effective cause. The case of the slave is protection and preservation of the properties in favour of potential owners, the heirs. And so, *awqaf* whose beneficiaries are known from the onset through registration known are more appropriate for the *qadhi* to interfere with for optimization of the *awqaf's maslahah*. This is further corroborated by the legal maxim:

"زمام الراعي بالرعية منوط بمصلحة"[4] It means the management of the affairs of the led by the leader is based on public interest. Without argument, the Qadhi is representing the leader of the Muslim within his jurisdiction.

In addition, Umar Ibn Al-Khattab's *waqf* was *waqf mushtarak* (for both private and public). And it could not be refuted that if he had appointed another person as the *mutawalli* he would still have monitored the management while he was the caliph of the *Ummah*, by extension qadhi represents caliph. Furthermore it was reported that before his demise he passed over the trusteeship to his daughter, Hafsah as his appointed *mutawalli* and he called the Sahabah to bear witness of her appointment.[5] It is known that as principle of an Islamic state that the caliph has council of *shura*, and ab initio the members of the council of Shurah will be kept abreast, directly or indirectly as his waqf was popular in Islamic history. This is actually the involvement of the state into the affairs of a private *waqf*. His *waqf* was *waqf mushtarak*.

[1] IDB-Kuwait Public *Awqaf* s Sample *Waqf* Law, (2012); at 3

[2] Ahmad Ibn Idris al-Qarafi, al-Furuq Anwar al-Buruq,Fi Anwai al-Furuq, (Alam al-Kutub, n. d), v.1, at 206.

[3] Muslim, Sahih Muslim, (Beirut: Dar Ihyau Al-Turath Al-Arabi), Muhammad Fuad Abdul Baqi's edition, Hadith No., 1668, v.3, at 1288

[4] Ali Haydar Khawajah Amin, Durar al-Hukkam Fi Sharh Majallat al-Ahkam, (Beirut: Dar al-Jil, 1991), v.1, at 57.

[5] Ahmad Ibn Ali Ibn al-Hajar al-Asqalani, Fat-hulbari, edited by Ibn Baz, (Beirut: Dar al-Maarifah, 1379), V.5, at 402.

Based on these evidences it becomes compulsory to revive this sunnah if benefit of *awaqf* are to be optimized.

The predominant practice today by establishing a specific Ministry of *awqaf* as innovated by the Ottoman Empire is a welcoming development. This does not however inhibit both the judiciary and the ministry from working hand-in-hand. This will really make *awqaf* truly represented by those who act on behalf of Allah, the Muslim leaders, Qadhis and their appointed trustees.

Conditions of a *mutawalli*

In *al-Mawsuat Al-Kuwaitiyyah*, the conditions that must be fulfilled by any *mutawalli* are as follows,[6]

1- Soundness of the mind. That is, he must not be an insane.
2- Maturity. That is, he must not be a minor, as a minor is yet to get freedom to manage his personal wealth, and it more inappropriate for him to be entrusted on another person's wealth.
3- Trustworthiness. The mutalli must not be known as one who breaches and confidence.
4- Competency. He must be able to manage *awqaf* with a degree of professionalism of the job; otherwise his appointment is not useful.
   The author of *Asna al-Matalib*, further emphasized that breach of Trustworthiness and Competency is valid ground for the qadh to sack mutawalli. He further argues that the qadh will still maintain his right to sack the *mutawalli* even if the *waqif* himself was the *mutawalli*. This is because the ownership of *waqf* vests in Allah.[7] This further supports the position of this research that the *qadhi* reserves the powers to interfere into the affairs of *waqf* regardless whether it is public or private, so long he is acting based on *maslahah*.

5- Islam. The Mutawalli must be a Muslim. The scholars agreed that it is not permissible for a non- Muslim to be appointed as the mutawalli of the wealth of a Muslim.[8] They supported this ruling with Quran chapter 4, verse 141. The verse reads as follows, "And never will Allah grant to the unbelievers a way (to triumphs) over the believers."[9] Part of the scope of 'grant of a way' is appointing a non-Muslim to have a decisive control over the property of a Muslim. There is no doubt that the work of a *mutawalli* is about administration of *waqf*'s assets and by virtue of this he is occupying a strategic position of the ummah, which is economic position and making the decision on how to share it or alter the sharing formula given by the waqif if he made mistake. And so, such position should be occupied by a Muslim who Allah permits to have powers over his fellow Muslim brethren. This is not

[6] Ministry of A*waqf*, *Almawasuat Al-Fiqhiyyah Al-Kuwaitiyyah,* (Kuwait: Dar Al-Salasil, 1427AH), v.30, at 80-81.
[7] Zakariya Ibn Muhammad Ibn Zakariya Al-Ansari, *Asna Matalib Fi Sharh Rawadh Al-Talib*, (N.P:Dar Al-Kitab Al-Islami, N.d), V. 2, at 471-2
[8] Ministry of A*waqf*, *Almawasuat Al-Fiqhiyyah Al-Kuwaitiyyah,* (Kuwait: Dar Al-Salasil, 1427AH), v.2, at 310.
[9] Quran, Surat 4, verse 141.

contradicted by the permissibility of inter-trade and investment with the non-Muslims as that is a contractual relationship why it is not a *wilayah* (overseeing of affairs).

It worth mentioning that there is no gender specific in the management of *awqaf*. Hence both male and female may be appointed as *mutawalli* as exemplified by the appointment of Hafsah mentioned above.[10] Albeit these conditions, the researcher also opines that there must be criteria for selecting from all the people that fulfilled the above mentioned conditions. The criteria must be in line with the nature of the work of a *mutawalli* which is managing the *waqf*. Thus these are discussed in the following section.

Criteria of a *Mutawalli*

1- Technical know-how on wealth management. This criterion can be seen from the saying of Prophet Yusuf (may Allah be pleased with our Prophet and him). "Set me over the store-houses of the land: *I will indeed guard them*, *as one that knows* (their importance)."[11]It is observed from this verse that Prophet Yusuf mentioned two criteria for which he deserves to hold this office, as the minister of agriculture produces. These two criteria are: 1- ability to preserve what has been entrusted on him. This is understood from his statement, "I will indeed guard them", and 2- the technical know-how of keeping, administering and managing the resources of the land. This is contained from his statement, "as one that knows" (their importance). Though, these two criteria were also preceded by another two criteria that were formally sanctioned by the King himself. These are; 1- highly ranked person, and 2- trustworthy. [12] These are contained from the statement of the king himself that, "Be assured this day, thou art, before our own presence, with rank firmly established, and fidelity fully proved!"[13]

2- Power and trustworthiness have also been criteria for appointing for wealth management. These are as mentioned by one of the two girls[14] who asked the father to appoint Musa[15] (May Allah be pleased with our Prophet and Musa) as the shepherd to his livestock. The verse reads as follows, "said one of the (damsels): "O my (dear) father! engage him on wages: truly the best of men for thee to employ is the (man) who is strong and trusty."[16] The girl mentioned two criteria for Musa () deserves to be a wealth manager, and these two criteria are, 1- to be strong, and 2 to be a trusted person. These two criteria are vital in managing wealth as a weak person is not able be self-motivated without external encouragement and untrusted person is prone to committing moral hazard in the wealth entrusted on him. Based on these it is pertinent to consider these criteria in the

[10] Note 5.
[11] Quran, Surat 12, verse 55.
[12] Ibn Kathir, Taseer Al-Quran Al-Azeem, (Saudi Arabia: Dar Taybah Li Nashr Wa Tawzi', 1999), v.4, at 395.
[13] Quran, Surat 12, verse 54.
[14] According to Ibn Kathir, the most popular view about the father of these two girls is that he was Prophet Shauib (may Allah be pleased with our Prophet and himself), while some said a child to Shauib's brother, and another group said he was believer among the people of Shuaib. See Ibn Tafseer Ibn Kathir, v.6, at 228.
[15] Quran Surat Al-Qasas, verse, 26.
[16] Quran, Surat Al-qasas, verse, 26.

appointment of the *mutawalli,* and if the *mutawalli* appointed by the *waqif* does not fulfill these criteria the *Qadhi* whose jurisdiction covers the location of the *waqf* should reserves the right to appoint additional *mutawalli* to cover the lapses of the original one.

Responsibilities of a *Mutawalli*

As the word implies, a *mutawalli* is a person appointed to administer a *waqf* with utmost good faith and with the intent of working towards actualization of the objectives of the *waqf*.[17] The responsibilities of a *mutawalli* therefore are as follows;[18]

1- Maintenance of the *waqf* properties: he should maintain the *waqf* property so that it will not get dilapidated or reduced to low economic value. For the importance of maintenance Umar Ibn al-Khattab's waqfiyyah's draft expressly states that the mutawalli may use part of the revenue of his waqf to purchase slaves to work on the orchard if the he sees this to be the best option.[19] Analogically, at this present time the Mutawalli must be clever enough to device a mechanism that will be cheaper for the management of the waqf.
2- Leasing the property out at the best price and not at a giveaway price.
3- Safe keeping of the proceeds of the lease of *waqf*.
4- Preservation of the origins of the *awqaf*. This point is important in order to retain the perpetuity nature of *waqf*.
5- The mutawalli is the one responsible for distributing the revenues to the beneficiaries. This ruling will apply regardless whether the *waqif* expressly grants him the powers to do so or not. The author of *al-bahjah* reported from al-Suyuti (911) that any delayed distribution of the revenues that affected the value of the money by way of reduction in the value the *mutawalli* is liable to pay the difference between the value at the time the revenue was ready for distribution and the value at odd time of distribution.[20] This indicates that the *mutawalli* has to remit the returns to the beneficiaries without unreasonable delay. However, this ruling is subject to the terms of the *waqfiyyah* (deeds of *waqf*) and whether the *waqf* is cash based or tangible. This is because the conditions of the *waqif* are like the text of the sources of Shariah if they did not violate the Shariah. Therefore, the *waqif* has the right to invest the revenues before the specified time for distribution. So long he is acting within his mandate, he is not liable for any damage because he is a *wakil* and a *wakil* is not liable until he acted beyond his authority committed misconduct or negligence. On this note, the terms (*waqfiyyah*) of the *waqf* should be made in a way they will allow the *mutawalli* to have freedom to act in the best interest of the beneficiaries which definitely translate to the development of the *waqf* asset. Ibn Taymiyyah added that the Nazir has to give anyone that comes to request for a share from the *waqf* if he is sure of his honesty.[21]

6- The jurists observed that if a *qadhi* or *nazir* lease out a *waqf* asset at a very low price their action is void. This point also strengthens the need for the qadhi of the jurisdiction of every waqf to be furnished with all information about the awqaf in his vicinity.

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[17] Ministry of A*waqf*, *Almawasuat Al-Fiqhiyyah Al-Kuwaitiyyah,* (Kuwait: Dar Al-Salasil, 1427AH), v.2, at 383.
[18] Zakariya Ibn Muhammad Ibn Zakariya Al-Ansari, *Asna Matalib Fi Sharh Rawadh Al-Talib*, (N.P:Dar Al-Kitab Al-Islami, N.d), V. 2, at 471-2; Ministry of A*waqf*, *Almawasuat Al-Fiqhiyyah Al-Kuwaitiyyah,* (Kuwait: Dar Al-Salasil, 1427AH), v.45, at 175.
[19] Ahmad Ibn Ali Ibn al-Hajar al-Asqalani, Fat-hulbari, V.5, at 402
[20] Ali Ibn Abdul Salam Ibn Ali Al-Tasuli, *Al-bahjah Sharh Tuhfah Al-Hukkam,* (Beirut: Dar Al-Kutub Al-Ilmiyyah, 1998), v. 2, at 20.
[21] Ibn Taymiyya, Al-Fatawa Al-Kubra, (Beirut: Dar Al-Kutub Al-Ilmiyyah, 1987), v.5, at 443.

This is premised on the Islamic legal maxim that says, everyone acting on behalf of another person must act in the best interest of that person. This concise with the same *qaidah* that says the validity of the management of affairs of the led by a leader is subject to attainment of *maslahah*.[22]

7- It is compulsory on the *mutawalli* to invest the *waqf* for profit generation. This is based on the *qiyas* drawn on the compulsion to manage the property of orphans in Quran chapter 6, verse 152. The verse reads as follows, And come not nigh to the orphan's property, except to improve it, until he attain the age of full strength…"[23] The *mufasirun* said that this refers to investment management. Mujahid Ibn Daamah interpreted the verse as "to do trading with the property of orphan." The question that arises from here is that what is the way out if the *mutawalli* is not good in investing the *waqf* asset? The general oversight of the *Qadhi* mandates require from him to assign a second *mutawalli* to assist in investment of the *waqf*.

8- The author of '*muntahah Iradat'* said that the duties of the *mutawalli* are preservation of the *waqf*, its maintenance, giving it out, cultivating it, defending the *waqf* against trespassers, collection of its revenues; rentals, produce, striving towards its development, and spending the revenues as appropriate: improvement, maintenance, and distribution for the designated beneficiaries. In the light of this, the revenues of the *waqf* should be distributed into different accounts viz; one account for the improvement and maintenance, another account for the beneficiaries. The maintenance account will assist the *mutawalli* contribute a portion of the cost of maintenance in diminishing partnership when the need arises; preventing 100% investment of a potential investor, and

9- Enforcement of the *waqif*'s conditions that are not contrary to the Shariah,[24] Ibn Taymiyyah said that anyone who stipulates for a *waqf* conditions that are contrary to the Holy Quran and the Sunnah such conditions are void by unanimous agreement of the *Ulama*.[25]

10- He should not sell the *waqf* except for necessity,

11- Investment of *waqf* revenues for additional profits, and

12- He is responsible for the consequences of all his negligence[26]

The Oversight of the *Qadh* on *Mutawalli*

In the affairs of *awqaf* management the *mutawalli* is regulated by the *qadhi* who streamlines his omissions and commissions. Thus in *'Durar al-Hukkam',* it is submitted that if a *waqf* is

[22] Majallat Majma' Al-Fiqh Al-Islami, v. 12, at 31.
[23] Quran, 6:152.
[24] Majallat Majma' Al-Fiqh Al-Islami, v. 12, at 81-2.
[25] Al-Bassam Abu Abdul Rahman, Abdullah Ibn AbdulRahman, *Taysir Al-Allam Sharh Ubdat Al-Ahkam,* (Cairo: Maktabah Al-Tabiin, 2006), v.1, at 537.
[26] Majallat Majma' Al-Fiqh Al-Islami, v. 12, at 82.

in need of maintenance and the *mutawalli* refused to maintain it the *Qadh* has the powers to compel him to do the right thing.[27]

The jurists have also said that the *mutawalli* is subject to auditing and accountability of his performances. However, the contemporary development in a*waqf* supervision has seen specific ministry for *awqaf* affairs. The ministries take care of the public *awqaf*, appoint their *mutawalli*, and make them accountable for their actions. While the private *awqaf* remain under the supervision of the *waqif* appointed *mutawalli*.[28] This is one aspect that needs remedy in the affairs of *awqaf*; the ministry of *awqaf* should also monitor the affairs of the private awqaf with or without request. The Ministry is headed by a minister and minister is representing the overall leader of a country and the overall leader is responsible for protection of all the five essentials of *maqasid Shariah*, namely religion, life, progeny, intellect and property, hence the ministry and the qadhi become substantially relevant in the protection of interest of awqaf both public and private alike.

Among the oversight of the *Qadhi* over *mutawalli* is what was reported from Malik, "if a *waqif* stipulates that any of his daughter that get married her shares in the *waqf* will terminate", Malik said that "this type of deed of *waqf* should be rescinded."[29] Without doubt, the enforceability of this action, as sanctioned by Imam Malik totally lies with the *qadhi*, otherwise there would be chaos among the vested interests.

Powers of the *mutawalli* over the *awqaf*

The powers of the *mutawalli* over the *awqaf* are as follows;

1- The powers to utilize the *waqf* for anything that appears to be part of its aim and objective. The *mutawalli* has the powers to do everything that is regarded as objective of the *waqf* even if it violates the conditions given to him by the founder. They gave example of this scenario as *waqf* of water dedicated for ablution and bath but the *mutawalli* also offers it as drinking water, they said that this is permissible because if the *waqif* was alive he will not prevent extension of the uses of the ablution/bath water to drinking water.[30]

2- The power to carry out *istibdal* (substitution of waqf property with a better one). The *mutawalli* also has the powers to execute *istibdal*. To this effect Ibn Aqil Al-Hanbali held that,

> "*waqf* is a perpetual charity but if the retaining of the perpetuity becomes difficult preference is given to the usufruct of the corpus and the intended benefit of the waqf over the corpus by replacing it with another corpus so that the objective is

[27] Ali- Haydar Khawajah Ameen, *Durar Al-Hukkam Fi Sharh Majallat Al-Ahkam,* (N.p: Dar Al-Jeel, 1991), v. 3, at 327

[28] Majallat Majma' Al-Fiqh Al-Islami, v. 12, at 82.

[29] Ibn Abdul Barr Abu Yusuf, Al-Kafi Fi Fiqh Ahl Al-Madinah, (Saudi Arabia: Maktabat Riyadh Al-Hadithah, 1980), Muhammad Muhammad Ahid's Edition, v.2, at 1013

[30] Majallat Majma' Al-Fiqh Al-Islami, v. 12, at 81.

retained. Tenacious clinging to retaining the [original] corpus of the *waqf* while it is not functioning will destroy the objective."[31]

Corroborating the above quotation, Ibn Taymiyyah said that it is compulsory to execute *istibdal* on *waqf* when the need arises; either because the existing property is no longer functioning or because of quest for a greater benefit for the *waqf*.[32] This makes the responsibility of the *mutawalli* extendable to upgrading the production capacity of the *waqf*. This will also allow him to take the best decision in the best interest of the *waqf* at all time. In continuation, based on this principle of *Istibdal* the *mutawalli* can replace the property with another one which is different in genus of the former which was no longer economically viable. But in order to avoid arbitrariness and abuse of powers of a *mutawalli* it becomes religiously and morally binding on him to make consultation with the *Qadhi*. This is the applicable rule in the Kingdom of Saudi Arabia's courts.[33]

Based on the permissibility of *istibdal*, it is also permissible to exchange one genus of a corpus with another genus. For example, a car that is declared as waqf is sold to purchase a real estate perceived by the mutawalli to be more profitable than the original corpus, which is car. Some jurists had demonstrated this permissibility using farm land containing grape plants but the inhabitants at adjacent place to the grape feel hurt with the grape.[34] This is due to their odour and their attraction to the bees and consequently the bees disturb the neibours. For this reason the mutawalli is permitted to sell the farm land of grape and use the proceeds to purchase a different asset which is not grape farm and consequently the later asset will automatically become the waqf instead of the former grape land.

3- The powers to enforce decisions against the will of the *waqif*. *al-Mawsuat al-Fiqhiyyah al-Kuwaitiyyah* said that the trusteeship on a*waqf* is a specific appointment that grants enforcement of decision on behalf of another person whether that person likes it or not.[35] The powers of the *mutawalli* allow him to do what is appropriate in the development of the *waqf* without violating the conditions of the *waqif* that are not contrary to the Shariah. And he is permissible to alter the conditions that are contrary to the Shariah by virtue of Quran chapter 2, verse 182 which says "But if anyone fears partiality or wrong-doing on the part of the testator, and makes peace between (The parties concerned), there is no wrong in him: For Allah is Oft-forgiving, Most Merciful."[36] The overall powers granted to an executor to make a reform on a biased bequest of his testator is extendable to anybody who is entrusted on something with conditions that violate the Shariah. This is because everyone is responsible to Allah before being responsible to the person that assigns him on

[31] Al-Bassam Abu Abdul Rahman, Abdullah Ibn AbdulRahman, *Taysir Al-Allam Sharh Ubdat Al-Ahkam,* (Cairo: Maktabah Al-Tabiin, 2006), v.1, at 537.
[32] Al-Bassam Abu Abdul Rahman, Abdullah Ibn AbdulRahman, *Taysir Al-Allam Sharh Ubdat Al-Ahkam,* (Cairo: Maktabah Al-Tabiin, 2006), v.1, at 538.
[33] Al-Bassam Abu Abdul Rahman, Abdullah Ibn AbdulRahman, *Taysir Al-Allam Sharh Ubdat Al-Ahkam,* (Cairo: Maktabah Al-Tabiin, 2006), v.1, at 539.
[34] Mustapha Ibn Saad Ibn Abduhu, *Matalib Ul al-Nuha Fi Sharh Ghayah al-Muntah*, (N.p: al-Maktab al-Islami, 1994), V.4, at 370.
[35] Ministry of A*waqf*, *Almawasuat Al-Fiqhiyyah Al-Kuwaitiyyah,* (Kuwait: Dar Al-Salasil, 1427AH), V.45, at 175
[36] Quran, Al-Baqarah, verse 182.

duty. Hadith says no obedience to mankind in order to disobey the creator.[37] Empirically, Umar Ibn Abdul Azeez died at the time he determined to rescind all the *awqaf* in which women were precluded from being part of the beneficiaries.[38]

The above are empirical evidences on the exercise of *mutawalli* his powers over *awqaf* in order to alter the void conditions. It should be noticed here that Umar ibn Abdul Azeez was not the specific *mutawalli* and yet reserves the right to override the *waqif*. Nevertheless the consultation with the *qadhi* remains matter of paramount of importance.

The *Mutawalli*'s Powers to generate money For Maintenance and Improvement

Mutawalli is permissible to sell the *waqf* for a prevailing *maslahah* with the permission of the *Qadhi*.[39]The powers of the *mutawali* are regulated by the *Qadhi*. In al-Durar al-Hukkam, if the *mutawalli* did not find money to maintain the *waqf* he is permitted to borrow the required amount for the purpose of maintaining the *waqf* property after obtaining the permission of the *qadhi*. It is not permissible for the *mutawalli* to establish a financial obligation on the *waqf* without prior approval of the *qadhi*. The borrowing however is subject to no-*riba* basis. But if there is no source of borrowing without *riba* then the *mutawalli* should obtain permission from the *qadhi* to enter into *muamalat* for profit and loss sharing investment on the *waqf* maintenance.[40] According to Syed Khalid Rashid, study has led to developing *awqaf* with some of the following *muamalat*; *Musharakah Mutanaqisah* (Diminishing Partnership), *istisna*, back-to-back istisna, *waqf* development corporation.[41]

Using these contract arrangements warrant the *mutawalli* to have some knowledge of the Islamic Finance in order to take the right decision on which of the contracts would better serve the interest of the *awqaf* without jeopardizing their objectives. Further, using alternative contracts to borrowing based on interest in the development of *awqaf* will encourage the *mutawalli* to innovate a contract for better development of the *awqaf*. This particular point reiterates the need of the aforementioned criteria and conditions of a *mutawalli*. Otherwise he may not be able to contribute immensely to the institution. The scholars defined sales as a contract of exchange of wealth for wealth which involves employment of cleverness from both parties. And so if the *mutawalli* is not clever in understanding differences between one contract and another he will cause retardation to the *awqaf* instead of development. For example it will not be a wise decision to use build-operate-and-transfer (B.O.T) to develop waqf if the development could be done using *musharakah mutanaqisah*. The former will suspend the beneficiaries from receiving any

[37] Ahmad Ibn Hanbal, Musnad Imam Ahmad, (Cairo: Dar Al-Hadith, 1995), Ahmad Shakir's Edition, hadith no. 3889, v.4, at 73.
[38] Ibn Abdul Barr Abu Yusuf, Al-Kafi Fi Fiqh Ahl Al-Madinah, (Saudi Arabia: Maktabat Riyadh Al-Hadithah, 1980), Muhammad Muhammad Ahid's Edition, v.2, at 1017.
[39] Majallat Majma' Al-Fiqh Al-Islami, v. 12, at 81.
[40] Al- Haydar Khawajah Ameen, *Durar Al-Hukkam Fi Sharh Majallat Al-Ahkam,* (N.p: Dar Al-Jeel, 1991), v. 3, at 328.
[41] Syed Khalid Rashid, a paper that was presented at the international Conference on "Poverty Alleviation: Challenges for the Islamic World" organized by The Centre For Poverty & Development Studies, Faculty of Economics and Administration, University of Malaya, 2-3 August, 2007.

benefit over a period of time that is normally very lengthy while the latter will not stop them from getting benefit except that the benefit will be for the meantime be small as compared to when there was no any other partner that has a share from the revenues of the waqf.

The right of the *mutawalli*

The right of the *mutawalli* is as follows;[42]

1- Equitable Remuneration; the *mutawalli* is entitle to remuneration from the *waqf* revenues an amount prescribed by the *waqif*, it is immaterial whether such remuneration prescribed by the *waqif* is more than the fare price of his service. The researcher argues against this opinion and holds that only what is regarded as equitable price as determined by technical expert should be paid to him. This is accentuated by the required probity and prudency in this noble sector. It should be recalled that in the chapter of zakat the jurists hold that the reward of those employed to administer the zakat (its collection and distribution) are only paid the equitable price to their labour.[43] Also, when Umar Ibn Alkhattab founded his *waqf* he said there is no wrong on the manager (*mutawalli*) to eat from it what is regarded as equitable as determined by custom.[44] And most of the rulings of *awqaf* are based on the *waqf* of Umar Ibn Al-Khattab, and so let it be so in determining the reward of the *mutawalli*. However, it will be wise to stipulate for him, a conditional compensation; that his generation of revenue above a certain amount will attract generous compensation as an incentive for him to be more serious for the development of the waqf.

2- Appointment of assistants; the *mutawalli* also has the powers to employ other employees to assist him to deliver the required jobs in collection with the development of the *waqf*. However, all his actions must observe the required trust and confidence reposed in him and remember the saying of Allah, “And say:” "Work (righteousness): Soon will Allah observe your work, and His Messenger, and the Believers: Soon will ye be brought back to the knower of what is hidden and what is open: then will He show you the truth of all that ye did."[45]

3- Right to resign but with notice. The mutawalli has the right to resign his or her appointment. But he has to give notice and inform the Qadhi so that he can appoint a replacement.

Removal of the *mutawalli*

As in any other appointment there are factors that necessitate the removal of the *mutawalli* or demotion. These are;[46]

1- Incapacitation of the *mutawalli* due to health problem,
2- It is also permissible to remove him for failing to perform his duties.

[42] Zakariya Ibn Muhammad Ibn Zakariya Al-Ansari, *Asna Matalib Fi Sharh Rawadh Al-Talib*, (N.P:Dar Al-Kitab Al-Islami, N.d), V. 2, at 471-2.
[43] Al-Mawardi, Abu Al-Hasan Ali Ibn Muhammad, *Ahkam Al-Sultaniyyah*, (Cairo: Dar Al-Hadith, n. d), at 196.
[44] Al-Bukhari, Sahih Al-Bukhari, (N.P: Dar Tawq Al-Najah, 1422 AH), Nasir Al-Nasir’s edition, hadith no.2737, v.3 at 197.
[45] Quran, Surat 9, verse 105.
[46] Majallat Majma’ Al-Fiqh Al-Islami, v. 12, at 81

Conclusion

Awqaf are trusts entrusted on the *mutawalli* in particular and the *Qadhi* in general. This is because both of them are working on behalf of Allah the Exalted in Might. Regardless to whether the religious scholars or the specific ministry are the ones responsible for *awqaf* the *Qadhi* still reserve the right to interfere as and when necessary. This is part of their primary duties; to act on behalf of Allah in the best interest of the Muslims and those oppressed. Qadhi Tawbah has well exemplified this position as mentioned above. And the interference of the *qadhi* should not limited to only public a*waqf*, but also private *awqaf* without waiting for a complaint, but he is to send his assistant to monitor the awqaf on his behalf to see what is happening to the *awqaf*. This makes it compulsory to lodge copies of all privates and public *awqaf*'s records with him. And also the accounting and auditing record of the *awqaf* should be furnished to him so that he would present them to experts to determine the healthiness of the transactions throughout the years and the type of ijarah; whether long term or short term so that he will repudiate the one that will be unfair to the beneficiaries due to its undue lengthy period which causes gharar. This *qadhi-mutawalli* relationship will reawaken the institution of *waqf* and make it to galvanize. Therefore the various stakeholders of *awqaf* should make concerted efforts to bring Shariah courts into the *awqaf* administrative system. Notwithstanding whether a religious body such as council of scholars is already part of the a*wqaf* administrative system or not. It is a religious ethic and obligation for any such religious body to obey the *qadhi* whose jurisdiction covers a particular set of *awqaf*.

References

Quran

Ahmad Ibn Hanbal. Ahmad Shakir's Edition. (1995). Musnad Imam Ahmad. Cairo: Dar Al-Hadith.

Ali- Haydar Khawajah Ameen. (1991). *Durar Al-Hukkam Fi Sharh Majallat Al-Ahkam.* N.p: Dar Al-Jeel.

Al-Bassam Abu Abdul Rahman, Abdullah Ibn AbdulRahman. (2006). *Taysir Al-Allam Sharh Umdat Al-Ahkam.* Cairo: Maktabah Al-Tabiin.

Al-Bukhari, Sahih Al-Bukhari. Nasir Al-Nasir's edition. (1422AH). N.P: Dar Tawq Al-Najah.

Ali Ibn Abdul Salam Ibn Ali Al-Tasuli. (1998). *Al-bahjah Sharh Tuhfah Al-Hukkam.* Beirut: Dar Al-Kutub Al-Ilmiyyah.

Al-Mawardi, Abu Al-Hasan Ali Ibn Muhammad. (n.d). *Ahkam Al-Sultaniyyah*. Cairo: Dar Al-Hadith.

Ahmad Ibn Idris al-Qarafi. (n.d). al-Furuq Anwar al-Buruq,Fi Anwai al-Furuq, Alam al-Kutub.

Abduhu, M. I. (1994). *Matalib Ul al-Nuha Fi Sharh Ghayah al-Muntah.* Lebanon: al-Maktab al-Islami.

al-Asqalani, A. I.-H. (1379). *Fat-hulbari, edited by Ibn Baz.* Beirut: Dar al-Maarifah.

Amin, A. H. (1991). *Durar al-Hukkam Fi Sharh Majallat al-Ahkam.* Beirut: Dar al-Jil.

Ibn Abdul Barr Abu Yusuf. Muhammad Muhammad Ahid's Edition. (1980). Al-Kafi Fi Fiqh Ahl Al-Madinah, (Saudi Arabia: Maktabat Riyadh Al-Hadith.

Ibn Kathir. (1999). Taseer Al-Quran Al-Azeem. Saudi Arabia: Dar Taybah Li Nashr Wa Tawzi'.

Ibn Taymiyya. (1987). Al-Fatawa Al-Kubra. Beirut: Dar Al-Kutub Al-Ilmiyyah.

IDB-Kuwait Public *Awqaf*'s Sample *Waqf* Law,(2012).

Majallat Majma' Al-Fiqh Al-Islami.

Kuwaiti Ministry of A*waqf*. (1427AH). a*lmawasuat al-Fiqhiyyah al-Kuwaitiyyah,* Kuwait: Dar al-Salasil.

Muslim. Muhammad Fuad Abdul Baqi's edition. (n.d). Sahih Muslim. Beirut: Dar Ihyau Al-Turath Al-Arabi.

Syed Khalid Rashid, a paper that was presented at the international Conference on "Poverty Alleviation: Challenges for the Islamic World" organized by The Centre For Poverty & Development Studies, Faculty of Economics and Administration, University of Malaya, 2-3 August, 2007.

Zakariya Ibn Muhammad Ibn Zakariya Al-Ansari. (n.d). *Asna Matalib Fi Sharh Rawadh Al-Talib.* N.P: Dar Al-Kitab Al-Islami.

WAKAF DALAM SEKTOR PENDIDIKAN DAN EKONOMI DI NEGERI SEMBILAN

Mohamad Khairul Izwan Rifin[1]
Wan Kamal Mujani[2]
Izziah Suryani Mat Resad@Arshad[3]

ABSTRAK

Wakaf dalam kalangan masyarakat Muslim di Malaysia telah lama dilaksanakan. Pengurusan harta wakaf di Malaysia diletakkan di bawah pentadbiran agama negeri masing-masing dan *al-mutawalli* yang dilantik. Banyak kajian telah dilakukan berkaitan wakaf yang memberi pelbagai manfaat dan sumbangan kepada masyarakat Muslim. Justeru, objektif utama kajian ini adalah mengkaji ibadah wakaf dalam sektor pendidikan dan ekonomi di Negeri Sembilan serta pembangunan harta wakaf yang dilakukan oleh Majlis Agama Islam Negeri Sembilan (MAINS), pihak swasta dan individu. Metode yang digunakan dalam kajian ini adalah kajian kualitatif yang melibatkan kajian kepustakaan dan kajian lapangan. Hasil kajian mendapati, wakaf dalam sektor pendidikan dan ekonomi di Negeri Sembilan ternyata memberi pelbagai kemudahan kepada umat Islam khasnya dan masyarakat setempat umumnya. Ekoran daripada itu, pihak kerajaan, swasta dan individu haruslah bersama-sama bertanggungjawab dalam membangunkan harta wakaf dan memastikan sumbangan wakaf dapat dimanfaatkan kepada masyarakat dengan semaksimum mungkin.

Kata Kunci: Wakaf, Pendidikan, Ekonomi dan Manfaat

1. PENGENALAN

Dari segi bahasa, perkataan wakaf memberi erti sesuatu yang diberikan untuk kegunaan orang ramai sebagai derma atau bagi keperluan yang berkaitan dengan agama Islam (Kamus Dewan 2002). Dalam bahasa Arab, wakaf berasal dari perkataan *waqf* yang bererti berdiri atau berhenti (Ibn Manẓūr 1990). Perkataan lain yang sama erti dengan wakaf ialah al-ḥabs (Ibrahim Muṣṭafa, t.t) yang bermaksud berhenti atau menahan, manakala perkataan *ḥabbasa* dalam kamus *al-Munjid fi al-Lughah wa al-A'lām* (1992) bererti menahannya pada jalan Allah. Ulama Fiqh bersepakat mentakrifkan wakaf dari segi bahasa dengan perkataan *al-ḥabs*, kerana perkataan ini lebih hampir kepada pengertian syarak. Wakaf juga dikenali sebagai sedekah jariah, atau disebut sebagai ṣadaqah al-muharramāt (al-Shawkāni t.t; Sayyid Sābiq 1999). Apabila perkataan *al-Waqf* dikaitkan dengan harta seperti tanah, binatang dan lain-lain, ia membawa maksud pembekuan hak milik bagi tujuan atau faedah tertentu (Ibn Manẓūr 1990).

Dari sudut istilah syarak, para ulama' telah mengemukakan beberapa pentakrifan tentang wakaf. Namun begitu walaupun di sana terdapat perbezaan pentakrifan dalam kalangan Fuqaha', tetapi pada

[1] Pensyarah, School of Behavioral Sciences and Humanities, KPJ Healthcare University College Nilai, izwandps@gmail.com.
[2] Prof. Dr. Wan Kamal Mujani, Jabatan Pengajian Arab dan Tamadun Islam, Fakulti Pengajian Islam, Universiti Kebangsaan Malaysia, inamal@yahoo.com.
[3] Dr. Izziah Suryani Mat Resad@Arshad, Jabatan Pengajian Arab dan Tamadun Islam, Fakulti Pengajian Islam, Universiti Kebangsaan Malaysia, izziah@ukm.my.

hakikatnya kesemua definisi yang dikemukakan mempunyai beberapa persamaan dari segi prinsipnya. Terdapat tiga prinsip utama dalam konsep wakaf iaitu pemilikan oleh Allah yang bermaksud sifatnya adalah abadi, hapusnya hak pemilikan daripada pewakaf dan manfaatnya untuk umat manusia (Mohd Zain Haji Othman 1998). Menurut mazhab al-Shafiᶜī, pewakafan harta ialah penahanan harta yang berkekalan dan dapat dimanfaatkan harta tersebut, manakala pemilik harta itu akan terputus hak pemilikannya. Penggunaan harta tersebut adalah berbentuk kebajikan untuk mendekatkan diri kepada Allah S.W.T (al-Sharbīnī 1994; al-Shirazī 1995). Menurut Abu Ḥanīfah pula, pewakafan harta membawa maksud penahanan harta (ᶜain) yang dimiliki oleh pemilik wakaf kepada pihak lain untuk mendapatkan faedah daripada harta tersebut dengan cara kebajikan, sama ada untuk masa kini ataupun masa akan datang (Ibn al-Humam 1977; Hasan, A.F 1986). Pada pandangan ulama mazhab al-Malikī, wakaf bererti penahanan daripada urusan pemilik, pada masa yang sama harta tersebut kekal menjadi milik pewakaf dan boleh dimanfaatkan untuk tujuan kebajikan (al-ᶜAynayn 1986).

Pemberi wakaf juga boleh membahagikan harta secara kombinasi iaitu Wakaf Am dan Wakaf Khas. Sebagai contoh, pemberi wakaf boleh memberi peratusan yang tetap dari hasil tanah kepada ahli keluarganya (wakaf khas) dan selebihnya diberi kepada perbadanan wakaf (wakaf am). Wakaf Am adalah wakaf yang tidak dikhaskan oleh pewakaf kepada pihak tertentu. Harta itu boleh dibangunkan bagi apa-apa maksud tertentu asalkan sesuai dengan kehendak syarak. Wakaf Khas pula adalah wakaf yang manfaatnya dikhaskan kepada pihak tertentu sebagaimana yang ditentukan oleh pewakaf. Pewakaf akan menyatakan secara spesifik tujuan wakaf itu seperti khas untuk pembinaan masjid, surau, perkuburan dan sebagainya. Ini bermakna harta wakaf tersebut hendaklah digunakan hanya untuk tujuan yang dinyatakan secara khusus itu.

Di Negeri Sembilan, MAINS telah menyenaraikan luas keseluruhan tanah wakaf yang terdiri daripada wakaf am dan wakaf khas dengan jumlah 14.8464 hektar. Bagi daerah Seremban sahaja, keluasan tanah wakaf yang disenaraikan adalah 2.6478 hektar, daerah Kuala Pilah 3.6639 hektar, daerah Port Dickson 3.0800 hektar, daerah Jempol 0.2569 hektar, daerah Tampin 2.0790 hektar, dan daerah Jelebu 3.1188 hektar (Majlis Agama Islam Negeri Sembilan 2013). Jadual 1 di Lampiran adalah senarai tanah Wakaf di Negeri Sembilan sehingga tahun 2012 mengikut pecahan daerah. Kebanyakkan jenis tanah atau kategori wakaf yang disenaraikan adalah bangunan, rumah, apartmen, tanah pertanian, tanah kosong, pusat pengajian, masjid, surau dan tanah perkuburan. MAINS juga masih meningkatkan usaha untuk menyenaraikan sebanyak mungkin tanah waqaf yang belum lagi diserahkan secara bertulis kepada pihak MAINS. Usaha ini dilihat sebagai langkah strategik untuk memudahkan MAINS mengenalpasti jenis wakaf atau tanah yang bersesuaian untuk dibangunkan dan diusahakan terutamanya dalam bentuk wakaf am.

2. ULASAN KEPUSTAKAAN

Secara umumnya, kajian ini bertujuan untuk menganalisis sumbangan wakaf dalam sektor pendidikan dan ekonomi di Negeri Sembilan. Osman Sabran (2002) dalam kajiannya *Pengurusan Harta Wakaf* menyatakan bahawa harta yang diwakafkan perlu diurus dengan cara yang betul, sama ada diuruskan oleh pihak kerajaan atau pihak swasta yang diamanahkan. Lantaran dari pengurusan harta yang baik dilihat mampu untuk memberi manfaat yang maksimum kepada umat Islam dan masyarakat setempat.

Mohamad Tahir Sabit (2006) dalam kertas kerja *Innovative Modes of Financing: The Development of Waqf Property* telah menyatakan di Malaysia terdapat beribu ekar tanah wakaf yang tidak aktif. Ini berlaku disebabkan oleh layanan tidak sama rata oleh undang-undang dan kuasa pasaran di dalan pasaran hartanah. Tanah wakaf selama ini dibangunkan secara tradisional sahaja. Maka penulis cuba merungkai adakah keadaan yang sama berlaku pada tanah-tanah dan harta wakaf di Negeri Sembilan

dan bagaimana tanah-tanah wakaf yang wujud di Negeri Sembilan dibangunkan dan dimajukan oleh institusi kerajaan, swasta dan individu.

Menurut Habibollah Salarzahi, Hamed Armesh serta Davoud Nikbin (2010) dalam artikel jurnal akademik International *Journal of Business and Mangement,* Waqf as a Social Entrepreneurship Model in Islam menyebut bahawa wakaf dilihat sebagai satu alat yang boleh digunakan dalam pengagihan kekayaan melalui usahawan di dalam sesebuah masyarakat. Pembangunan sumber perlu dilakukan tetapi ia juga memerlukan dana dari pihak kerajaan. Justeru itu, kajian mengenai pembangunan sumber dari amalan wakaf adalah amat perlu dilakukan bagi mengenalpasti kewujudan dana dalam membantu mengembangkan amalan wakaf. Daripada dana yang diperoleh, maka pelbagai projek pembangunan dapat dilakukan oleh pihak berwajib dan mampu memberi impak kepada kemajuan ekonomi negara.

3. METODOLOGI KAJIAN

Kajian kertas kerja ini menggunakan pendekatan kajian kualitatif menerusi metode *historical study*. Secara keseluruhannya dalam rangka menyiapkan kajian ini, penulis menggunakan kaedah *library research* (kajian kepustakaan) untuk mengumpulkan maklumat dan bahan rujukan yang berkaitan dengan kajian. Di samping itu, penulis turut merujuk maklumat dari laman sesawang untuk mendapatkan bahan-bahan yang berkaitan. Walaubagaimanapun, penulis terlebih dahulu akan memastikan keautoritian maklumat yang dibekalkan dan hanya memilih laman yang bersifat ilmiah sahaja. Antara laman sesawang tersebut ialah laman web perpustakaan UKM dan laman web institusi kerajaan serta swasta. Melalui laman tersebut, penulis boleh mengakses bermacam-macam jurnal, tesis dan artikel yang dihasilkan oleh penulis-penulis di luar negara serta dalam negara yang amat berguna kepada kajian penulis. Selain itu juga, penulis juga melakukan temubual bersama pegawai kerajaan yang berkhidmat di dalam pembangunan wakaf di Negeri Sembilan, serta individu yang terlibat secara langsung atau tidak langsung dalam hal berkaitan wakaf. Temubual ini direkodkan dan dijadikan rujukan serta panduan penulis untuk mengukuhkan bukti maklumat yang diperoleh dalam bentuk data.

4. WAKAF DALAM SEKTOR PENDIDIKAN DAN EKONOMI DI NEGERI SEMBILAN

4.1 Wakaf Dalam Sektor Pendidikan

Institusi wakaf seperti Majlis Agama Islam Negeri Sembilan (MAINS) dan Perbadanan Wakaf Negeri Sembilan (PWNS) sememangnya mentitikberatkan dalam menyediakan pendidikan kepada umat Islam di Negeri Sembilan. Pendidikan adalah amat penting untuk melahirkan masyarakat yang berilmu dan intelek bagi pembangunan sumber manusia. Malahan, ahli ekonomi berpendapat bahawa faktor penting dalam mencapai pertumbuhan ekonomi selepas Perang Dunia II adalah melalui pendidikan (Rahmah Ismail 2003). Sebagai contoh di negara-negara sedang membangun, didapati bahawa di Afrika bagi petani yang mendapat pendidikan walaupun pendidikan rendah selama empat tahun mampu menghasilkan hasil pertanian yang tinggi berbanding petani yang tidak pernah ke sekolah (The World Bank 1990).

Selain itu juga, pendidikan adalah sangat penting untuk mengembangkan pengetahuan masyarakat dan seterusnya mempengaruhi proses pembangunan negara. Melalui pendidikan, ia akan dapat membantu seseorang dalam meraih pekerjaan dan membolehkan mereka memilih untuk

mengusahakan pekerjaan dan membolehkan mereka memilih untuk berusaha dalam pekerjaan yang mendatangkan keuntungan. Malah dalam proses pemilihan pekerja, majikan akan lebih cenderung untuk memilih pekerja yang mempunyai pendidikan yang tinggi berbanding pekerja yang berpendidikan rendah (Todaro et al. 2009).

Malaysia juga tidak ketinggalan dari segi harta wakaf yang menjadi bukti keteguhan *muṣābaqāt al-khayrāt* di kalangan muslimin terdahulu. Malahan kebanyakkan madrasah dan pondok didirikan di atas tanah wakaf, begitu juga pembiayaan bagi perjalanannya seperti Madrasah Hamidiah (kini Maahad Mahmud) di Kedah, Madrasah al-Sultan Zainal Abidin (kini UNISZA) di Terengganu dan Kolej Islam Malaya (kini Kolej Islam Klang) di Selangor (Khoo Kay Kim 1980). Berdasarkan fakta yang ditemui, sumbangan wakaf banyak menyediakan pendidikan kepada umat Islam di Malaysia amnya dan di Negeri Sembilan khususnya. Institusi pendidikan melalui amalan wakaf ini bermula dengan institusi pengajian pondok, diikuti sistem pengajian madrasah atau sekolah aliran Arab dan seterusnya setelah merdeka kerajaan mengambil aliih institusi pendidikan wakaf ini untuk diurus mengikut persekolahan aliran perdana. Pada masa kini, institusi pendidikan melalui amalan wakaf adalah terdiri daripada Sekolah Agama Rakyat (SAR), Sekolah Agama Negeri (SAN), madrasah dan juga pondok (Ahmad Zaki Haji Abd Latif et al. 2006). Sehingga tahun 2005 dianggarkan terdapat sebanyak 174 buah institusi pendidikan yang berkembang melalui amalan wakaf di Malaysia termasuk Negeri Sembilan.

i) Pusat Pendidikan al- Saᶜidiyyah

Antara sekolah yang dibina di atas tanah wakaf di Negeri Sembilan adalah Sekolah Rendah Islam al-Saᶜidiyyah Seremban. Nama al-Saᶜidiyyah diambil bersempena dengan nama seorang ulama yang terbilang di Malaysia khususnya di Negeri Sembilan iaitu Sheikh Haji Mohd Saᶜid bin Sheikh Haji Jamaluddin. Pada sekitar tahun 1934-1950, anak beliau iaitu Tuan Sheikh Haji Ahmad bin Sheikh Haji Mohd Saᶜid yang merupakan bekas Mufti kerajaan Negeri Sembilan telah mula mendirikan sebuah pusat institusi Pendidikan Islam yang dikenali sebagai Madrasah al-Saᶜidiyyah di Pondok Rasah, Negeri Sembilan. Usaha murni oleh Sheikh Haji Ahmad bin Sheikh Mohd saᶜid ini diteruskan oleh dua orang anak beliau iaitu Sahibus Samahah Dato' Haji Mohd Murtadza bin Sheikh Haji Ahmad yang merupakan mantan Mufti kerajaan Negeri Sembilan sebagai penaung dan al-Hafiz Ustaz Muhamad Muhsin bin Sheikh Haji Ahmad sebagai pengetua Maahad Tahfiz al-Quran al-Saᶜidiyyah (Pusat Pendidikan al-Saᶜidiyyah 2013). Kedua-kedua anak Sheikh Haji Ahmad ini telah menerajui pengurusan pusat pendidikan ini sehingga sekarang.

Penubuhan Pusat Pendidikan al-Saᶜidiyyah ini adalah bagi membangunkan institusi pendidikan Islam bersepadu di Negeri Sembilan. Pusat ini ditubuhkan sebagai lanjutan sebuah sekolah agama rakyat (SAR) yang ditubuhkan pada tahun 1985. Sejarah sekolah agama rakyat ini adalah bermula dengan nama Darul Falah sebelum dikenali sebagai Sekolah Rendah Islam al-Saᶜidiyyah (SRIAS). Pada permulaannya, hanya sebuah kelas pengajian yang wujud dengan jumlah tidak sampai 10 orang pelajar dan seorang guru di rumah salah seorang dari pengasas SRIAS di Golf Heights Seremban. Pada tahun 1992, selepas beberapa kali berpindah, SRIAS telah membina bangunan sementara di atas sebidang tanah yang disewa dari Sekolah Agama Rakyat Ampangan di Gedung Lalang. Akhirnya, pada tahun 1999, selepas 14 tahun ditubuhkan, SRIAS membina bangunannya sendiri di atas sebidang tanah wakaf di Tamah Rashidah Utama, Jalan Senawang-Paroi, Seremban Negeri Sembilan (Pusat Pendidikan al-Saᶜidiyyah 2013).

Selepas terbinanya bangunan SRIAS yang di bina sendiri oleh pihak pusat pendidikan islam al-Saᶜidiyyah di atas tanah wakaf tersebut, sebuah sekolah menghafaz al-Quran iaitu Maahad Tahfiz al-Saᶜidiyyah (MTAS) telah ditubuhkan. Maahad Tahfiz al-Saᶜidiyyah ini merupakan sebuah pusat pengajian tahfiz al-Quran peringkat menengah berasrama. Maahad Tahfiz ini ditubuhkan dan mula beroperasi pada tahun 2000 dengan jumlah bilangan pelajar ketika itu sebanyak 10 orang pelajar. Oleh kerana Maahad Tahfiz ini dibina di tanah kerajaan Negeri Sembilan, maka MTAS telah

berdaftar di bawah Jabatan Hal Ehwal Agama Islam Negeri Sembilan (JHEINS). Pihak pengurusan pusat pendidikan al-Saᶜidiyyah telah berusaha untuk mendaftarkan Maahad Tahfiz ini dengan Kementerian Pelajaran Malaysia sebagai sebuah sekolah swasta (Pusat Pendidikan al-Saᶜidiyyah, 2013). Tempoh pengajian adalah selama 5 tahun yang melayakkan pelajar di sini menerima Sijil Tahfiz al-Quran 30 juzuk. Pelajar ini juga berpeluang menduduki peperiksaan Penilaian Menengah Rendah (PMR) di tingkatan tiga dan Sijil Pelajaran Malaysia (SPM) di tingkatan lima. Kurikulum MTAS adalah gabungan Kurikulum Bersepadu Sekolah Menengah (KBSM) dan Kurikulum Diniyyah Majlis Guru Besar Sekolah-Sekolah Islam Malaysia (MGBSIM).

ii) Pusat Pendidikan al-Irshad

Selain dari Pusat Pendidikan al-Saᶜidiyyah, terdapat juga Pusat Pendidikan al-Irshad di Negeri Sembilan. Pusat Pendidikan al-Irshad dahulunya dikenali sebagai Sekolah Agama Rakyat al-Irshad. Sekolah ini merupakan sebuah institusi pendidikan swasta rendah dan menengah yang berdaftar dengan Majlis Agama Islam Negeri Sembilan dan Jabatan Pelajaran Negeri Sembilan. Pada tahun 2002, sekolah ini telah mula beroperasi di sebuah lokasi strategik iaitu di persimpangan jalan utama Seremban-Nilai-KLIA, Batu 10 Jalan Labu, Seremban. Melalui draf perancangan pembangunan al-Irshad, sebuah kawasan kompleks pendidikan yang lengkap dengan infrastruktur pembelajaran dan sumber ekonomi sedang dibangunkan dengan tiga konsep utama (Wakaf al-Irshad t.t).

Antara konsep yang diterapkan adalah menjadikan Pusat Pendidikan al-Irshad sebagai pusat pendidikan pelbagai cabang ilmu duniawi dan ukhrawi, sebagai pusat khidmat masyarakat majmuk dan berbilang bangsa di Malaysia dan sebagai pusat nadi bagi menggerakkan ekonomi umat Islam di Negeri Sembilan khususnya dan di Malaysia amnya. Objektif penubuhan pusat pendidikan ini juga jelas untuk menyuburkan amalan wakaf yang sangat dituntut oleh Islam serta memberi ruang kepada umat Islam untuk bersama-sama membangunkan amalan wakaf di dalam sektor pendidikan (Wakaf al-Irshad t.t). Penyertaan umat Islam amat digalakkan di dalam membantu memperkembangkan amalan wakaf di dalam pendidikan di mana rancangan pembangunan wakaf al-Irshad ini masih berusaha untuk membina sebuah Kompleks Pendidikan al-Irshad yang lebih moden dan selesa.

Rancangan pembangunan al-Irshad ini adalah tertumpu kepada pembangunan jasmani, mental dan spiritual generasi muda Islam yang terzahir melalui akhlak, pemikiran dan ketaqwaan. Program Pusat Pendidikan Al-Irshad terbahagi kepada 3 peringkat pendidikan yang berteraskan metode pendidikan Islam antaranya Pendidikan dan Khidmat Peringkat Muda untuk kanak-kanak yang berusia antara 6 bulan hingga 12 tahun. Di dalam peringkat ini, telah diwujudkan Nurseri atau Pusat Asuhan Anak-anak (6 bulan – 3 tahun), Kelas Didikan Kanak-Kanak, Kelas Pra-Sekolah Rendah dan Menengah, Kelas Hafaz al-Quran dan sebagainya. Peringkat yang kedua adalah Pendidikan dan Perkhidmatan Peringat Remaja yang berusia 13 hingga 18 tahun yang menerapkan kepada Kelas Hafaz al-Quran, Kelas Bimbingan Peperiksaan PMR dan SPM, Kelas Seni Beladiri, Bimbingan Pemulihan Akhlak dan Ibadah dan Perlindungan Anak-Anak Yatim dan Miskin. Manakala peringkat yang ketiga adalah Pendidikan dan Perkhidmatan Peringkat Dewasa yang lebih tertumpu kepada pengajian Fardhu Ain, bimbingan talaqi, kaunseling keluarga, pemulihan akhlak dan perlindungan ibu tunggal, warga emas dan fakir miskin (Wakaf al-Irshad 1997).

iii) Yayasan Sofa

Yayasan Sofa Negeri Sembilan juga dilihat menekankan aspek pendidikan di dalam amalan wakaf. Yayasan Sofa Negeri Sembilan (Yayasan Sofa) telah ditubuhkan pada 17 Februari 2004. Tujuan penubuhan Yayasan Sofa adalah untuk menjadi nadi kepada aspek-aspek pembangunan modal insan, pendidikan dan penyelidikan ilmu-ilmu Islam berasaskan kepada tiga sendi agama iaitu Iman, Islam dan Ihsan. Pegangan yang berlandaskan kepada Ahli Sunnah wa al-Jamaah berteraskan al-Quran, al-Sunnah, Ijma' dan Qias adalah merupakan tunjang tanggungjawab yang besar dipikul dalam misi dan visinya. Yayasan Sofa juga amat komited dengan mengambil peranan sebagai pendidik masyarakat yang mengimbangi antara keperluan duniawi dan ukhrawi (Abdullah Abdol Razak

2013). Pendidikannya adalah berasaskan penyampaian intelektual serta tarbiah Islamiyyah dan diterapkan melalui institusi-institusi yang bernaung di bawahnya agar dapat melahirkan insan rabbani. Dato' Syeikh Muhammad Fuad bin Kamaludin al-Maliki merupakan pengasas dan pencetus kepada idea penubuhan Yayasan Sofa ini (Yayasan Sofa 2012).

Dalam menghidupkan amalan wakaf untuk pembangunan pendidikan ruhaniah, Biro Ekonomi Yayasan Sofa adalah satu biro yang aktif dalam menggerakkan usaha untuk mempromosi amalan ini. Antara strategi yang digunakan oleh biro ini ialah mencari dana secara konvensional iaitu memberi tumpuan kepada khidmat sokongan dan membina silaturrahim. Sumbangan berbentuk sedekah atau wakaf yang dimasukkan oleh orang ramai adalah dibuat secara berkala bagi tempoh tiga tahun, sama ada melalui muamalat Islamiyyah atau hubungan dua hala. Sebagai contoh, dalam membantu pembangunan pendidikan, Yayasan Sofa telah mewujudkan sumbangan umum dan bulanan kepada orang ramai dalam bentuk pemotongan gaji melalui majikan atau Angkatan Koperasi Malaysia Berhad (ANGKASA). Sistem pemotongan terus dari akaun bank juga digalakkan dari wakil sah yang dilantik oleh pihak Yayasan Sofa. Selain itu juga, Sijil Wakaf yang berkaitan dengan pembelian tanah, pembangunan, pendidikan dan dakwah telah diwujudkan untuk mengukuhkan lagi kewangan Yayasan Sofa dalam amalan wakaf ini (Abdullah Abdol Razak 2013).

Menurut En. Abdullah Abdol Razak yang merupakan Yang diPertua Yayasan Sofa, sumbangan dalam bentuk sedekah dan wakaf kepada Yayasan Sofa akan diagihkan mengikut saluran yang telah dibentuk oleh pihak pengurusan. Pejabat Urusan Yayasan Sofa bertanggungjawab dalam melantik wakil dan menyalurkannya kepada Unit Kutipan Dana bagi membantu menguruskan Sekolah Rendah Islam Sofa, Sekolah Tinggi Islam Sofa, Daqwah dan Wakaf Kitab Pendidikan. Sekolah Rendah Islam Sofa (SRIAS) adalah sebuah sekolah tahfiz ala madrasah moden yang terletak di Bangi. Sekolah rendah ini menerapkan konsep al-Quran dan al-Sunnah dalam sistem pendidikannya dalam perjuangan membudayakan ilmu di kalangan masyarakat Islam kontemporari. Pada 22 Muharram 1433H bersamaan 17 Disember 2011, Sekolah Rendah Islam Sofa telah dilancarkan. Sekolah ini dilengkapi dengan pelbagai kemudahan termasuklah ruang hafazan, dewan solat, ruang akademik, ruang kudapan, kutub khanah serta kawasan riadah (Yayasan Sofa 2012).

Sekolah Tinggi Islam Sofa (STIAS) pula merupakan sebuah pusat pengajian peringkat menengah yang didaftarkan secara rasmi di bawah Kementerian Pelajaran Malaysia (Bahagian Swasta) pada tahun 2009. Pusat Pengajian ini memberikan penekanan kepada Pengajian Islam di dalam bahasa Arab, pengajian bahasa Arab yang efektif dan hafazan al-Quran bagi para pelajar tingkatan satu hingga lima disamping menekankan subjek-subjek akademik Kurikulum Baru Sekolah Menengah (KBSM) (Yayasan Sofa 2012). Bagi mencapai matlamat dalam pendidikan Islam melalui penerapan ruhaniah, sistem pendidikan di sekolah ini mengaplikasikan kaedah pengajian tradisi para ulama antaranya melalui hafazan matan-matan ilmu dan ayat-ayat al-Quran.

Bagi peringkat pengajian tinggi, Yayasan Sofa telah mengambil alih sebuah institusi dan melakukan penambahbaikan dengan menukar lembaga pengarah dan sistem pengurusannya. Maka pada 23 Jun 2011, Kolej Islam Sofa telah sempurna beroperasi dengan matlamat tinggi dalam melahirkan graduan yang cemerlang bukan sahaja dalam bidang akademik tetapi dalam kemuliaan akhlak dan ketrampilan sebagai generasi Islam (Yayasan Sofa 2012). Aspek akademik diterapkan kepada pelajar dengan cara pembelajaran yang moden dan teratur mengikut sistem yang telah diwajibkan oleh pihak Kementerian Pengajian Tinggi. Kolej Islam Sofa menawarkan program diploma yang berkaitan dengan ilmu syariah islamiyyah berteraskan al-Quran dan al-Sunnah dengan penekanan kepada bentuk pelajaran turath pondok (Abdullah Abdol Razak 2013).

Pembinaan pusat pendidikan yang berteraskan konsep wakaf jelas menunjukkan bahawa wakaf berupaya membangunkan sahsiah ruhaniah dan jasmaniah umat Islam. Peranan semua pihak dalam membangunkan wakaf dalam sektor pendidikan amat dituntut agar umat Islam tidak ketinggalan dalam mendapatkan perkhidmatan pendidikan yang terbaik disamping membantu mereka yang tidak berkemampuan dari sudut kewangan dan pendapatan.

4.2 Wakaf Dalam Sektor Ekonomi

Sejarah membuktikan bahawa ibadah wakaf memainkan peranan yang sangat signifikan dalam pembangunan ekonomi sesebuah negara. Ibadah wakaf ini berupaya menjadi alat agihan semula kekayaan bagi mencapai pembangunan ekonomi dalam konteks yang lebih luas. Antara peranan yang dimainkan melalui wakaf ini adalah dengan menyediakan pendidikan, pusat kesihatan, tempat ibadat serta menyediakan kemudahan jalan raya dan sebagainya (Sadeq AbulHasan Muhammad, 2002). Sejak Perbadanan Wakaf Negeri Sembilan Sendirian Berhad (PWNSSB) ditubuhkan dan membantu MAINS dalam menguruskan amalan wakaf di Negeri Sembilan, sebanyak 36 permohonan tanah wakaf telah dipindah milik atas nama MAINS diseluruh Negeri Sembilan iaitu 13 di Seremban, enam di Kuala Pilah, lima di Rembau, empat di Jelebu dan Tampin serta tiga di Port Dickson dan dua di Jempol. Urusan pindah milik ini melibatkan tanah dan bangunan kediaman. Kebanyakkan tanah yang telah diwakafkan adalah melibatkan Wakaf Am dan selebihnya adalah Wakaf Khas (Mohd Shahrul bin Bahaman 2013).

Pihak MAINS dan PWNS berusaha membangunkan pelbagai projek wakaf yang di lihat boleh mendatangkan manfaat ekonomi umat Islam secara langsung dan tidak langsung. Hasil sewaan bangunan wakaf dan lain-lain projek wakaf akan diagihkan untuk kebajikan dan kepentingan umat Islam. Sebagai contoh memberi bantuan kepada orang yang dikenal pasti termasuk dalam golongan asnaf-asnaf zakat, bantuan untuk pembinaan pembangunan, pengurusan dan pengimarahan masjid, surau, madrasah, klinik, hospital dan kesihatan, bantuan kepada orang yang ditimpa bencana alam, kemalangan, rawatan perubatan, anak-anak yatim, orang yang dalam tahanan, bantuan pendidikan, meningkatkan syiar Islam dan bantuan untuk membangunkan negara dan lain-lain yang berkaitan dengan kepentingan dan kebajikan umat Islam. Pembangunan ekonomi yang dilaksanakan oleh MAINS dan PWNS adalah menggunakan harta wakaf itu sendiri, hasil pulangan dari harta wakaf atau dari kumpulan wang dana wakaf. Projek-projek ini sememangnya memberi kesan kepada pembangunan ekonomi secara langsung mahupun tidak langsung kepada masyarakat Muslim.

Projek Wakaf Mart dan Bazaar Wakaf merupakan pembangunan hartanah wakaf di atas tapak Tanah Wakaf Masjid yang dikenal pasti berdaya maju di Negeri Sembilan. Projek ini adalah hasil kerjasama dengan pihak Yayasan Wakaf Malaysia (YWM). Projek ini dilaksanakan oleh kerajaan sebagai projek pembangunan ekonomi ummah bagi meningkatkan pendapatan umat Islam. Sebagai permulaan sebanyak enam buah tapak wakaf di enam buah masjid telah dilaksanakan dengan mendirikan tiga Wakaf Mart dan tiga Bazaar Wakaf. Keseluruhan projek ini dapat menampung peluang 20 peniaga untuk menjalankan pelbagai jenis perniagaan. Lokasi projek dan jumlah yang terlibat adalah seperti berikut:-

i) Wakaf Mart Masjid Kariah Panchor Jaya, Seremban- Sebuah kedai serbanika Koperasi Masjid Kariah Panchor Jaya.
ii) Wakaf Mart Masjid Jamek Pekan Gemas, Gemas- Sebuah kedai runcit.
iii) Wakaf Mart Masjid Jamek Tunku Besar Tampin- Sebuah kedai Busana Muslim dan buku-buku Agama.
iv) Bazaar Wakaf Masjid Felda Jelai Empat, Gemas- Lima buah kedai pelbagai jenis perniagaan.
v) Bazaar wakaf Masjid Kariah Rasah Jaya, Seremban- Enam buah Kedai pelbagai jenis perniagaan.
vi) Bazaar Wakaf Masjid Yam Tuan Raden, Kuala Pilah- Enam buah kedai.

Pembinaan projek kedai Wakaf Mart dan Bazar Wakaf ini menjadikan masjid sebagai pusat penggerak kemajuan umat Islam mampu menjana ekonomi masyarakat Islam. Usaha mengimarahkan masjid serta mengembalikan masjid sebagai pusat kegemilangan Islam adalah objektif utama projek ini. Pelbagai barangan keperluan harian dengan harga yang murah dan berpatutan dapat membantu menjana pendapatan koperasi di mana koperasi juga membantu perbelanjaan program dan kos penyelenggaraan masjid, disamping menjana keuntungan dividen

untuk ahli koperasi yang kebanyakkannya umat Islam setempat (Sinar Harian 2012). Selain itu, konsep dakwah bil-hal juga berjaya diterapkan daripada kewujudan projek sebegini dengan kunjungan daripada ahli-ahli kariah dan luar kariah, terutamanya sekitar masjid termasuk semua golongan bangsa, seperti Cina dan India, serta kaum-kaum yang lain. Secara tidak langsung, peranan masjid itu sendiri dilihat oleh masyarakat Islam dan bukan Islam bukan semata-mata tempat ibadah, malah berupaya menjadi pusat kegemilangan Islam dalam pembangunan ekonomi negara.

Skim Wakaf Tunai pula merupakan skim yang menggalakkan orang ramai membeli unit-unit saham yang ditawarkan oleh Majlis Agama Islam Negeri Sembilan (MAINS) dan mewakafkan sijil-sijil tersebut selama-lamanya hanya kerana Allah demi kepentingan dan kebajikan umat Islam. Skim ini bertujuan untuk memudahkan umat Islam untuk mewakafkan aset yang berbentuk kekal dan mempunyai nilai yang tinggi seperti tanah, rumah, bangunan dan sebagainya. Skim ini turut menggalakkan orang ramai menyumbang sedekah jariah (wakaf) yang berkekalan melalui wang tunai dengan nilai minimum yang rendah tanpa kadar maksimum (Mohd Shahrul bin Bahaman 2013). Sumbangan dana wakaf tunai yang terkumpul akan disatukan dan dijadikan modal untuk membeli dan membangunkan harta kekal seperti tanah bangunan dan sebagainya.

Selain itu juga, dalam ekonomi pertanian, sebuah tanah telah diwakafkan oleh Puan Che Bon Binti Sumat pada bulan Februari 2013 di Sg. Timun, Linggi Negeri Sembilan. Tanah seluas 0.7 hektar itu merupakan sebidang tanah pertanian untuk memajukan penanaman kelapa sawit dan hasil tanaman yang lain. Pada asalnya, tanah tersebut merupakan tanah yang tidak terurus. Selepas diwakafkan, pihak koperasi pengurusan Masjid Kariah Sg. Timun telah mengusahakannya dan pulangannya digunakan untuk kepentingan dan membangunkan ekonomi umat Islam setempat. Usaha Puan Che Bon mewakafkan tanah beliau dilihat sebagai satu usaha mulia dan sangat memberi impak yang positif kepada pembangunan ekonomi dan pertanian untuk memberi pulangan hasil manfaat kepada masyarakat Islam setempat (Mohd Shahrul bin Bahaman 2013).

Oleh yang demikian, banyak lagi projek-projek yang perlu dibangunkan terhadap tanah dan harta wakaf yang telah dikenal pasti oleh MAINS dan PWNS. Pembangunan projek wakaf harus menjadi tumpuan utama pihak yang berwajib bagi menjamin perolehan dan pulangan yang maksimum kepada masyarakat Islam setempat. Penjanaan ekonomi yang lebih efisien dan berkesan dalam menumpukan terhadap harta dan tanah wakaf sememangnya telah berjaya dibuktikan sejak dari dahulu lagi. Justeru, dengan peranan pihak berwajib dalam menonjolkan wakaf dalam sektor ekonomi berupaya menarik perhatian umat Islam dan bukan Islam untuk sama-sama menyumbang dan membangunkan ekonomi negara.

5. KESIMPULAN

Pelaksanaan pembangunan terhadap harta wakaf bukanlah suatu perkara yang remeh dan mudah. Hal ini kerana setiap harta wakaf terletak di lokasi yang berbeza dan keadaan fizikal harta tersebut juga adalah berbeza. Selain itu, pelaksanaan pembangunan terhadap harta wakaf tersebut juga perlu mematuhi syarat-syarat dan prosedur yang telah ditetapkan. Namun, dengan langkah dan tindakan yang telah dilaksanakan oleh MAINS dan PWNS, didapati bahawa institusi ini telah berusaha sedaya upaya untuk membangunkan tanah-tanah wakaf seperti mana yang telah disyaratkan oleh pewakaf agar kesemua harta tersebut dapat dimanfaatkan secara optimum dan memberi kebaikan kepada pihak yang berhak.

Peranan dan sumbangan dari amalan wakaf oleh umat Islam Negeri Sembilan sangat memberi impak kepada kemajuan ruhaniah dan insaniah. Individu dari pelbagai lapisan masyarakat seperti golongan ulama, bangsawan, hartawan yang terdiri daripada golongan atasan, pertengahan dan bawahan turut terlibat di dalam amalan wakaf untuk menyuburkan lagi sunnah Rasulullah ini. Pengetahuan Islam yang tinggi dan kesedaran kepada pentingnya meneruskan amalan wakaf di Negeri Sembilan

menunjukkan bahawa umat Islam di Negeri Sembilan khususnya dan di Malaysia amnya berjaya mendidik masyarakat Muslim dalam mengukuhkan wakaf untuk pembangunan insan yang menerapkan kesempurnaan amalan sunnah. Amalan wakaf masyarakat Muslim di Negeri Sembilan sememangnya perlu diambil perhatian. Sumbangan dalam pendidikan, ekonomi, teknologi dan sebagainya berjaya menarik minat umat Islam untuk terus mengekalkan amalan wakaf ini bagi tujuan pengibadatan kepada Allah S.W.T. Peranan dari individu dan juga institusi kerajaan dalam memelihara harta wakaf juga perlu dititiberatkan agar harta wakaf yang sedia ada tidak dibiarkan begitu sahaja tanpa pembangunan.

RUJUKAN

Abdullah Abdol Razak. 2013. Wakaf Al-Sofa. Temu bual, 15 Mac.

Ahmad Zaki Haji Abd Latif, Zuina Ismail & Norzaidi bin Mohd Daud. 2006. Pengurusan Harta Wakaf dan Potensinya ke Arah Kemajuan Pendidikan Umat Islam di Malaysia. Konvensyen Wakaf Kebangsaan 2006. Anjuran Jabatan Wakaf Zakat dan Haji, Hotel Legend Kuala Lumpur, 12-14 September.

Anon. *Al-Munjid fi al-Lughah wa al-A'lām*. 1992, Ulang cetak. Bayrūt: Dar al- Masyrik

al-ᶜAynayn, Badran Abu. 1986. *Aḥkām al-Waṣāyā wa al-Awqaf fī al-Sharīᶜat al-Islāmiyyah.* Qāhirah: Dar al-Jamīᶜah.

Habibollah Salarzahi, Hamed Armesh & Davoud Nikbin. 2010. Waqf as A Social Entrepreneurship Model In Islam. *International Journal of Bussiness and Management*. Vol 5. No. 7. t.tp, t.pt.

Hasan, A.F. 1986. *Aḥkām Waṣayā wa al-Awqaf fi al-Shariᶜat al-Islāmiyyah*. Kaherah: Dar al-Jamīᶜah.

Ibn al-Humam, Kamāl al-Dīn Muhammad bin ᶜAbd Waḥīd al-Siwasī al-Sakandarī, 1977, *Sharḥ Fatḥ al-Qādir*. Ulang cetak. Jil. 6. Bayrūt: Dar al-Fikr.

Ibn Manẓūr, Muhammad Ibn Mukarram Ibn ᶜAli Ibn Ahmad Ibn Manzūr al-Anṣārī. 1990. *Lisān al-ᶜarab*. Jil. 9. Bayrūt: Dar al-Fikr.

Ibrahim Muṣṭafa. t.t. *Muᶜjam al-Wasiṭ*. al-Maktabah al-Islamiyyah: Istanbul: t.pt.

Kamus Dewan. 2002. Edisi Ke-3. Kuala Lumpur: Dewan Bahasa dan Pustaka.

Khoo Kay Kim. 1980. Perkembangan Pelajaran Agama Islam dalam Awang Had Salleh (pnyt). *Pendidikan ke Arah Perpaduan: Sebuah Perspektif Sejarah*. Kuala Lumpur: Penerbit Fajar Bakti.

Majlis Agama Islam Negeri Sembilan. 2013. Senarai Tanah Wakaf Negeri Sembilan 2012.

Mohamad Tahir Sabit. 2006. Innovative Modes of Financing: The Development of Waqf Property. Konvensyen Wakaf Kebangsaan. Anjuran Department of Awqaf, Zakat and Hajj. Kuala Lumpur, 12-14 September.

Mohd Shahrul bin Bahaman. 2013. Amalan wakaf Negeri Sembilan. Temu bual, 4 Februari.

Mohd Zain Haji Othman. 1998. Wakaf Dari Perspektif Undang-Undang Islam, Amalan dan Permasalahan di Malaysia, dalam Ahmad Ibrahim Undang- Undang Keluarga dan Harta Wakaf, *Al-Ahkam*. Jil. 6. Kuala Lumpur: Dewan Bahasa dan Pustaka.

Osman Sabran. 2002. *Pengurusan Harta Wakaf*. Skudai: Penerbit Universiti Teknologi Malaysia.

Pusat Pendidikan al-Saᶜidiyyah, 2013. Mengenai al-Saᶜidiyyah. http://www.saidiyyah.com/index.php?option=com_content&view=article&id=111&Itemid=92. [2 Februari 2013].

Rahmah Ismail. 2003. *Pendidikan dan Pembangunan, Ekonomi Pembangunan Isu Sumber Manusia*. Bangi: Penerbit Universiti Kebangsaan Malaysia.

Sadeq, AbulHasan Muhammad. 2002. Waqf, Perpetual Charity and poverty Alleviation. *International Journal of Social Economics*. t.tp, t.pt.

Sayyid Sābiq. 1999. *Fiqh al-Sunnah*. Syeikh Muhammad Naṣiruddīn al-Albānī (pnyt.) Dār al-Fatḥ, t.pt.

al-Sharbīnī, Muhammad b. Ahmad. 1994. *Mughni al-Muḥtaj ilā Maᶜrifāt al-Maᶜānī al-Faẓ al-Minhāj*. Jil. 21. Bayrūt: Dar al-Kutub al-ᶜilmiyyah.

al-Shawkāni, Muhammad bin ᶜAli. t.t. *Nayl al-Awṭar Min Ahadith Sayyid al-Akhbar Sharh Muntaqa al-Akhbar*. Jil. 6. Qāhirah: Mustafa al-Bāb al-Ḥalabī.

al-Shirazī. Abi Ishak Ibrahim b. Ali. 1995. *al-Muhadhab fi Fiqh al-Imām al-Shāfiᶜī*. Ulang cetak. Jil. 2. Bayrūt: Dar al-Kutub al-ᶜIlmiyyah.

Sinar Harian. 2012. Wakaf Mart dan Bazar Wakaf. http://www.sinarharian.com.my/edisi/6-masjid-di-negeri-sembilan-ada-wakaf- mart-dan-bazar-wakaf-1.77707. [2 Februari 2013]

The World Bank. 1990. World Development Report 1990. Oxford: Oxford University Press for The World Bank.

Todaro, M.P & Smith, S.C. 2009. *Economic Development*. England: Pearson Education Limited.

Wakaf al-Irshad Jaminan Bekalan Akhirat. t.t. Majlis Agama Islam Negeri Sembilan: Bil (5), BAIT-NS 10/97.

Yayasan Sofa. 2012. Mengenai Sofa. http://www.yayasansofa.com/v2/index.php/home/pengenalan. [12 April 2013].

LAMPIRAN

Jadual 1: Senarai tanah wakaf Negeri Sembilan 2012

Jenis No. Hakmilik	No. Lot/PT	Keluasan Wakaf	Jenis Wakaf/Tujuan	Catatan
GRN 181874	LOT 3446	0.0234 ha	Wakaf Am	Sebuah Rumah
HS(M) 2876	Lot 17444	0.0511 ha	Wakaf Am	Tanah Kosong
GM 1507	Lot 26556	0.5294 ha	Wakaf Khas (Sekolah Agama)	Tanah Kosong
GERAN 20323	Lot 9329	0.0557 ha	Wakaf Am	Sebuah Rumah
GERAN 20323	Lot 13799	0.0780 ha	Wakaf Khas (Surau)	Tanah Kosong
GM 975	Lot 2194	1.255 ha	Wakaf Am	Tanah Kosong
GERAN 130480	Lot 6712	0.1457 ha	Wakaf Khas (Masjid)	Tanah Kosong
GM 4048	Lot 6781	0.4133 ha	Wakaf Khas (Surau/Kubur)	Tanah Kosong
HSM 287	PT 416	0.4047 ha	Wakaf Khas (Kubur)	Kubur
GM 1710	Lot 423	0.0651 ha	Wakaf Khas (Surau)	Surau
GM 327	Lot 4464	1.0286 ha	Wakaf Khas Sekolah Agama	Sekolah
GM 3295	Lot 316	0.1686 ha	Wakaf Khas (Masjid)	Tanah Kosong
GM 217	Lot 10330	0.5816 ha	Wakaf Am	Tanah Kosong
GM 1739	Lot 4709	0.9493 ha	Wakaf Am	Tanah Kosong
GM 110	Lot 552	0.9358	Wakaf Am	Tanah Kosong
GM 1833	Lot 5940	1.151 ha	Wakaf Khas (Pusat Pengajian Islam)	Tanah Kosong
GM 1342	Lot 1205	1.5302 ha	Wakaf Khas (Masjid)	Tanah Kosong

bersambung...

GERAN 50107	Lot 1300	0.0077 ha	Wakaf Am	Rumah Pangsa
GM 1076	Lot 2685	0.3911 ha	Wakaf Am	Rumah Sewa
GERAN 69991	Lot 2766	0.2569 ha	Wakaf Khas (Surau)	Tanah Kosong

GERAN 76040	Lot 1301	2.0108 ha	Wakaf Am	Tanah Kosong
GM 200	Lot 1667	0.4473 ha	Wakaf Am	Getah
GERAN 69794	Lot 805	0.1614 ha	Wakaf Am	Tanah Kosong
GERAN 185343	Lot 189	0.4993 ha	Wakaf Khas (Masjid)	Tanah Kosong
GM 256	Lot 1252	0.7131 ha	Wakaf Am	Tanaman Geharu
GM 1155	Lot 8341	0.574 ha	Wakaf Khas (Masjid/Surau)	Tanah Kosong
GM 389	Lot 1098	0.4125 ha	Wakaf Am	Tanah Kosong
GM 165	Lot 319	0.3794 ha	Wakaf Khas (Kubur)	Tanah Kosong

Sumber: Majlis Agama Islam Negeri Sembilan 2012

THE CONCEPT OF RISK SHARING IN ISLAMIC JURISPRUDENCE

Yussuf Adam Al-Badani[1]

ABSTRACT

The sharing of risk is one of the most essential topics related to Islamic financial transaction (IFT) that has arisen recently. Participating in risk sharing is one of the most important Shari'ah objectives and principles in IFTs, as it achieves justice, equality, fairness and satisfaction between the contracting parties. Hence, it is clear that studying risk sharing, its basis in Islamic jurisprudence and its contemporary applications are very important. Thus, this paper explains the concept of risk participation in IFIs and its legitimacy in Islamic jurisprudence.

Keywords: Risk sharing, Risk bearing, Risk transfer, Risk shifting

1. INTRODUCTION

All praise and gratitude is due to Allah, and may the peace and blessings of Allah be upon his final messenger, his pure family, his companions and all those who follow them with righteousness until the Day of Resurrection. Whoever Allah guides, no one can misguide; and whoever Allah misguides, no one can guide. I bear witness that there is none worthy of worship but Allah, and I bear witness that the Prophet Muhammad—peace be upon him—is Allah's messenger and slave.

The sharing of risk is one of the most essential topics related to Islamic financial transaction (IFTs) that has arisen recently. Participating in risk sharing is one of the most important Shari'ah objectives and principles in IFTs, as it achieves justice, equality, fairness and satisfaction between the contracting parties. Hence, it is clear that studying risk sharing, its basis in Islamic jurisprudence and its contemporary applications are very important.

2. LITERATURE REVIEW

3.

Attempt has been made by contemporary Muslim economists (Abbas Mirakhor, 2012; Zamir Iqbal, 2011) and Shari'ah scholars to propose the concept as viable alternative to the existing financial system. Nevertheless, the Islamic juristic particularities of the concept of risk sharing remain untouched. The classical books of Islamic jurisprudence emphasize only on the issue of ÌamÉn in various financial transactions which is inevitably necessary for profit legitimization and abstention from prohibitive elements (Ibn ÑÓbidÊn, 1992, Malik; 1994 ;

[1] Yussuf Adam Al-Badani is currently a PhD candidate at International Islamic University Malaysia (IIUM), Kulliyyah of Islamic Revealed Knowledge and Heritage (IRK). And Shari'ah Officer at International Islamic Liquidity Management Corporation (IILM). Former Part Time Lecturer at (IIUM).

al-Sharbini, 1994; Ibn QudÉmah, 1968;). The jurists assert that this is important to maintain the economic equilibrium of the financial contracts where both parties should benefit from the financial transactions equally and none of them exploits the other. However, there is no specific mention of the concept of risk sharing in classical books of Islamic jurisprudence. The purpose of this study is to explain the concept of risk sharing in IFIs and its legitimacy in Islamic jurisprudence. The paper also addresses the legality of transferring and shifting risk from one party to another and the contracts by which risk are shared. The paper will also touch upon the legality of one of the contracting parties volunteering to take the risk. This is followed by the conclusion and recommendations. Based on the aforementioned, the paper will address the following:

- ✓ The concept of risk sharing.
- ✓ The legitimacy of risk sharing in Islamic jurisprudence.
- ✓ The rules on risk transfer and risk shifting.
- ✓ The legality of one of the parties volunteering to take the risk
- ✓ The contracts by which risks are shared
- ✓ The Parameters of Risk Sharing in Islamic Financial Institutions
- ✓ The conclusion.

4. RESEARCH METHODOLOGY

The study follows inductive method for data collection. Comparative method to compare the jurists' opinions on risk sharing, shifting and transfer. And analytical method to analyze how risk can be shared in some contracts.

5. THE CONCEPT OF RISK SHARING

The English word "risk" is a modern term derived from the Latin "rescares", and the French "risques". It means a deviation from the expected.[2] The Arabic equivalent, *makhatir*, is the plural of *mukhatarah*. The root word is *khatara/ukhatiru*/*mukhataratan*; one of the meanings of *mukhatarah* is "participation in something", which implies the existence of at least two relevant parties.

The three-letter root is *khatar*, which has two main meanings: 1) weightiness or significance; 2) oscillation and vibration. A usage derived from the second meaning is *murahanah* (wager), as the outcome of a wager oscillates between gain and loss. It is also used to mean *gharar* (ambiguity) and *jahalah* (being unknown).[3]

[2] Barahiliyyah, Badruddin and Barahiliyyah Lialayimmah Fatimah, (2011), *Makhatir Al-Tamwil bi sighat al-Salam*, a Paper presented to 8th International Conference on Islamic Economics and Finance (Qatar), Pg. 8.

[3] Abu –al- Husseien, Ahmad bin Faris Zakariyya, (1979), *Mu'jam Maqayis al-Lughah*, Abdussalam Haran (edt), (Beirut: Daral Fikr), Vol. 2, Pg. 199; Al-Kafumi, Abul Baqa' Ayyub bin Musa al-Hassani, (1998), *Al-Kulliyyat*, Adnan Darwish and Muhammad El-MisrÊ (edt), (Beirut: Mu'ssasat al-Risalah), Vol.1, Pg. 679; Ibn Manzur, Jamaluddin Muhammad Akram, *Lisan Al-Arab* (Beirut: Dar Sadir, 1st edition), Vol.4, Pg. 249; A;-Fayyumi, Ahmad bin Muhammad, *Al-Misbah al-Munir fi Gharib Al-Sharh al-Kabir* (Beirut: al-Maktabah al-Ilmiyyah), Vol.1, Pg, 173; al-Zubaidi, Ahmad bin Muhammad, *Tajul Arus Min Jawahir al-Kamus* (Daral Hidayah), Vol.13, Pg. 233.

Many technical definitions of risk have been offered by both Western and Muslim economists. The most notable definitions are as follows:
John Downs has defined risk as the "measurable possibility of losing or not gaining money. Risk is differentiated from uncertainty, which is not measurable."[4]
Frank Reilly and Keith Brown defined risk thus: "Although there is a difference in the specific definition of risk and uncertainty, one way to define risk is the uncertainty of future outcomes. An alternative definition might be the probability of an adverse outcome."[5]
Madura defined it as follows: "Risk is the probability that the result of an event will differ from the expected outcome."[6]

In the researcher's view, the most comprehensive definition among the abovementioned is that of Madura. The reason for preferring it is that the first two definitions focused more on the distinctions between risk and uncertainty while Madura defined risk clearly.
Among the contemporary Muslim economists who have defined risk are:

Mohammad Ali Elgari, who defined it as "a situation in which we confront two possibilities, either of which could occur".[7] **Sami al-Suwailem** defines risk as "the possibility of loss".[8]

6. THE DEFINITION OF RISK SHARING

It is quite difficult to find economic books, researches or articles that clearly define the term risk sharing, nevertheless, it can be define as follows:-

Risk sharing occurs in the form of a business partnership in which the resulting costs and benefits are distributed amongst all the participating partners. In doing so, partners rely on the commercial success of the business to receive their share of financial benefit from the enterprise while reducing the risk of individual loss in case the enterprise loses money.[9]
In other words, risk sharing occurs when two contracting parties enter into an investment and agree to share the risk upon the occurrence of any loss or damage in the transaction, or to share the profit if any.

7. TYPES OF RISK IN ISLAMIC FINANCIAL INSTITUTIONS AND THEIR DEFINITIONS

[4] John. D. *dictionary of Finance and Investment Terms*, 2nd edition (New York: Published by Barrons), pg. 347.
[5] Frank K. Reilly & Keith C. Brown, (1996), *Investment Analysis and Portfolio Management*, 5th edition (Publishers: The Dryden Press Harcourt Brace College), Pg. 253.
[6] Madura, *Introduction to Financial Management* (New York: Published by: west publishing company), Pg. 110
[7] Al-Ghari, Muhammad Ali, (1425 AH), *Al-Mukaatarah Fi Al-Siyagh Al-Tamwil Al-Islaami*, Majallah Dallah Al-Barakah, Ramadhan, Vol.6, Pg. 281.
[8] Sami Ibrahim Al-Suwailim, (2007), *Hedging in Islamic Finance* (Jiddah: Islamic Development Bank, IRTI, 1st edition), Pg. 55.
[9] See: *Risk Sharing Law & Legal Definition*, USLEGAL.com http://definitions.uslegal.com/r/risk-sharing/

There are many types of risk and many ways to classify them. One classification scheme is primary versus secondary risk: primary risk is associated with ownership and is non-transferable. Secondary risk includes financial and non-financial risks. Financial risks include credit risk, market risk and liquidity risk, among others. Non-financial risks include operational risk, Shari'ah non-compliance risk, legal risk, etc.

Credit Risk

Credit risk arises due to a counterparty defaulting on a contract, or the potential that a counter party will fail to meet its obligations in accordance with the agreed terms and conditions of a credit-related contract. The exposure in Islamic financial institutions arises in connection with

- Murabahah (BBA) - account receivables
- Salam and Parallel Salam - counterparty risk
- Istisna' and Parallel Istisna' - account receivables and counterparty risk
- Ijarah - lease payment receivables
- Musharakah and Mudharabah – exposures to counter party risk.[10]

Market Risk

Market risk is the risk that arises to the economic value of an asset from the potential impact of adverse price movements such as benchmark rates, foreign exchange rates and equity prices.[11]

Liquidity Risk

Liquidity risk is the risk that arises due to a potential loss from an institution's inability to meet its obligations or to fund increases in assets as they fall due without incurring unacceptable costs or losses.[12]

Operational Risk

Operational risk is the risk that arises from the inadequacy or failure of internal business process or transaction flow, a result of staff failure to perform, inefficient management of human capital by the institution, an inadequate defaulting system, or an external event.[13]

Shari'ah Non-Compliance Risk

Shari'ah non-compliance risk is the risk that arises from an Islamic financial institution's failure to comply with the Shari'ah rules, parameters and principles set out by the relevant Shari'ah supervisory bodies, such as International Islamic Fiqh Academy, AAIOFI, Shari'ah advisory councils and the IFI's own Shari'ah committee.

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[10] See Hj Mohd Nazri Chik, *Credit Risk: Shariah Compliance Perspective*, a paper presented in the Seminar on Introduction to Risk Management in Islamic Financial Institutions: Shariah Compliance Review, organized by Islamic Banking and Finance Institute Malaysia, 22-23 May 2007, P 2; cf. Badrul Hisham Mohd Salleh, *Islamic Risk Management*, a paper presented in the Seminar on Risk Management in Islamic Financing, organized by Islamic Banking and Finance Institute Malaysia, 7-8 March 2006, p.6.

[11] Ibid.

[12] Ibid.

[13] Ibid.

In order to mitigate this type of risk, there should be internal Shari'ah officers to ensure that all the financial activities of the institution are compliance with Shari'ah.

8. THE LEGITIMACY OF RISK SHARING IN ISLAMIC JURISPRUDENCE

The basis of risk sharing is the maxim "*Kharaj* (revenue) goes with liability." The maxim is derived from several texts. One of the more detailed is the *Hadith* narrated by Aishah (may Allah be pleased with her) that a man bought a slave. After some time, he discovered a defect in the slave which the seller had not mentioned at the time of their transaction. He then went to the Prophet (peace be upon him) to complain. The Prophet (peace be upon him) instructed him to return the slave to the seller and take back what he had paid. The seller objected, "Messenger of Allah! He has used my slave." The Prophet said: "Revenue comes with liability."[14]

What he meant was that the buyer had assumed liability for the slave when he took possession of him. That meant that he would have borne the loss if the slave had been injured or died. That liability was the basis for his entitlement to the slave's labour during that period; thus, the seller was not entitled to compensation for it. It is understood from the above maxim that any revenue benefits or profit should go with liability or indemnity. In other words, if you want profit you have to be ready to bear the attendant risk of loss.

For example: in a *mudharabah* transaction, the capital provider (*rabb al-mal*) is entitled to profit even though he is not involve in managing it, as he bears the risk to the capital. On the other hand, a creditor is not entitled to profit in a loan contract as he doesn't bear any risk.

Another maxim that is in line with the above regarded as the basis of risk sharing is the maxim "Liability accompanies [the right to] profit". The origin of this maxim is the above mentioned hadith of Aishah may Allah be pleased with her and some verses in Qur'an such as: "Allah has permitted sale and prohibited *riba*".[15]

It is understood from the aforementioned maxim that revenue or profit is generated along with risk borne. For example: Islamic financial institutions are entitled to profit from the funds deposited with them on the basis of *wadiah yad dhamanah*, as they undertake to bear any loss incurred to them.

These maxims are among the most important maxims that relate to Islamic financial transactions, as they are linked to some of the most important Shari'ah principles: justice, fairness and equality. In fact, most of *fiqh* rulings on the financial system are based on these maxims.

[14] Abu Daud SulaimÉn Al-Sajistani, Sunan Abi Daud, Bab: Al-Kharaj bi Al-Dhaman (BeirËt:Daral Kitab Al-Arabi), 3:30.
[15] Al-Baqarah, 2:275.

The participation in risk and profit sharing should be real, not merely in words and forms. This is because, "in contracts, consideration is given to intention and meaning rather than words and forms"**.**[16]
Ibn Taymiyyah said, regarding the above maxims: "The goal of the two contracting parties in the investment is the outcome; if there is any growth, they will share it between them; otherwise, each of the contracting parties will lose his benefit."[17]

Ibn al-Qayyim made a similar observation: "The basis of partnerships is justice between the two partners; therefore, it would be unjust for one of the contracting partners to claim all the profit and exclude the other. That is different from each of them having a share of the profit with both of them sharing in the gain and the loss. If there is profit they should share it together, and if there is no profit they should share the loss together."[18]

Dr. Al-Sawi says: "This maxim is based on justice and due balance and it represents the foundation upon which investment is built. Profit-and-loss sharing is the foundational principle that cannot be ignored. If it is, the pure idea advocated by the Islamic economic system will be flipped to the interest-based system, i.e., the profits will be reserved for one of the contracting parties while the other party is exclusively exposed to the risk and loss."[19]
These statements clearly indicate that the sharing of risk and profit is the basis of justice and fairness in financial transactions while making one of the contracting parties bear all losses and risk and allowing the other party to take all the profits is the essence of usury (*riba*), ambiguity (*gharar*), gambling and consuming the wealth of others unlawfully, which Islam forbids. Thus, in order to apply justice, balance and fairness in financial transactions, each of the contracting parties should be liable accordingly and neither should profit at the expense of the other.

9. ARE RISK TRANSFER AND RISK SHIFTING PERMISSIBLE?

Linguistically, risk transfer and risk shifting are the same thing, i.e., moving investment or business risk from one party to another. However, some scholars differentiate between the two, using the term "risk transfer" exclusively for cases where the transfer occurs with the knowledge and consent of the party who ends up bearing the risk. "Risk shifting", on the other hand, is used when the transfer occurs without the receiving party's knowledge. An example of the latter is the taxpayers who were burdened with the expenses of bailing out

[16] Ibn al-Qayyim, *ZÉd al-MaÑad*, 5:110, 5:813; Ibn al-Qayyim, *Ighathat al-Lahfan fa Ùalaq al-GhaÌban*, Dar ÑAlam al-FawA'id, p. 38; Ibn al-Qayyim, *I'lÉm al-MuwaqqiÑIn*, vol. 4, pp. 499, 500, 520, vol. 5, p. 74; al-SubkI, *al-Ashbah wa al-NaÐaÑir*, 1:175; al-KarkhÊ, *Risalah fi al-Usul*, p. 162; Ibn Nujaym, *al-Ashbah wa al-NaÐaÑir*,, p. 18-19, al-Shatibi, *al-Muwafaqat*, commentary by al-Darraz, 2:323; al-WanshariÎi, *IddaÍ al-Masalik*, p. 98; Ibn Rajab, *al-QawÉÑid*, 1:64; Ibn Taymiyyah, *MajmuÑ al-Fatawa*, 20:551; al-SuyuÏi, *al-Ashbah wa al-NaÐaÑir*, 1:166; al-Zarkashi, *al-Manthur fi al-QawaÑid*, (Kuwait: Ministry of Awqaf, 1982), 2:371; al-HiÎnÊ, *al-QawaÑid*, 1:401; AÍmad ibn Idris al-Qarafi, *al-Dhakhirah fi al-Fiqh*, (Morocco, Dar al-Gharb al-Islami, 1994), 1:243-244, 6:336.

[17] Ibn Taymiyyah, (1408AH, 1987AD), *Al-Fatawa al-Kubra*, Muhammad Abdul Kadir AÏa´ and MuÎtapha Abdul Kadir AÏa´ (edt) (Beirut: Daral Kutub Al-Ilmiyyah, 1st edition), 4:64.

[18] Ibn Al-Qayyim, (1973), IÑalÉmul MuaqqÑin An-Rabil ÑAlamIn, ÙAha Abdul Rauf Saad (edt) (Beirut: Daral Jil), 2:6.

[19] Al-Øawi, Muhammad Øalah, (1410 AH), Mushkilatu Istithmar fi al-Bunuk ak-Islamiyyah (Jiddah: Daral MajmÑa li al-Nashr wa al-tawziÑa), Pg 440.

insolvent banks in the financial meltdown of 2008 without having any share in the profits of those banks.

It requires little investigation to conclude that Islamic law does not tolerate shifting risk to another party without his knowledge. One of the main differences between Islamic and conventional financial institutions is the avoidance of *riba*. *Riba* is a means of investment that transfers all risk of loss to the other party with his knowledge and consent. It is a matter of common knowledge among Muslims—and even among many non-Muslims—that Islam strictly prohibits *riba*. Therefore, shifting risk to another party without his knowledge is even more deserving of prohibition.

The prohibition of *riba* prevents an investor from gaining profit without being liable for the investment. In order for an investor to earn profits, he must bear the minimum ownership risk. In supporting this argument, Dr. Hussein Hamid Hassan, one of the prominent current Islamic economists stated: "Islamic law does not allow risk transferring but allows sharing it…Islam has prevented the purchase and sale of risk because it involves massive ambiguity (*gharar jaseem*), as, for example, in the trading of impermissible debts; however, it allows the purchase and sale of currencies by observing the Shari'ah parameters of spot payment and delivery."[20]

Dr. Najatullahi also mentioned: "Islam's prohibition of gambling requires the prohibition of third-party purchase of risk."[21]

Therefore, in line with implementing justice and fairness in financial transactions, it is compulsory on each and every Muslim investor to observe balance and justice between his interests and the interests of the society in investing his wealth.

Overburdening one party by transferring and shifting all risk to him will harm him, and it is clear that Islam does not tolerate harming others, in fact, it has forbid harming them, as per the Prophetic maxims, *"Harm shall neither be inflicted nor reciprocated,"* and *"Everything pertaining to a Muslim is inviolable to another Muslim: his blood, his property and his honor"*. In fact, these are among the most important principles of Islamic economics.

10. IS RISK BEARING PERMISSIBLE?

Risk bearing refers to a situation where one of the contracting parties volunteers to bear the risk of the investment for the other party for an agreed amount to be paid by the other party. Another way to describe it is transferring risk from a party who doesn't want it to a party who is ready to take it for an agreed amount. This party can be an insurance company, trust company or any other entity involved in this kind of transaction.

[20] Hussein HÉmid Hassan, *The Tools of Risk Management in Islamic Financial Institutions*, 11th Shari'ah Committees Conference in Kingdom of Bahrain, Pg 8 – 9.

[21] Ghassan Muhammad al-Shaygh and Muhammad Dawabah, MakhatÏir Istithmar Amwal Al-Arabiyyah fi al-Duwal Ghayr al-Islamiyyah, a paper presented for International conference for Islamic Economic, under the topic: Investment in Foreign Countries: its parameters and risks, Kuwait, 09/04/2007, Pg 168.

An example: supposing that a financial institution takes a loan of $250 million dollars, to be repaid in euros. Given that exchange rates fluctuate constantly, the financial institution is afraid it will be harmed if the euro's price rises. Therefore, it purchases a call option from a second party to buy euros at a future date, paying today's price.

Some scholars such Dr. Hussein Hamid Hassan observed: "It is only permissible to bear risk as a charitable act, although it contains all kinds of prohibited ambiguity; this is because the one who has been promised a *hibah* by another party should not pay for the promise."[22]

This view, which is consistent with the view of the International Islamic Fiqh Academy, prohibits bearing risk in exchange for compensation due to the high levels of *gharar* that are intrinsic to the contract. However, the suggested alternative, i.e., bearing another party's risk as a charitable act, is far removed from market realities. It is difficult to imagine any entity that would choose to do so. This practical difficulty leads us to revisit the issue of derivatives, which are almost unanimously prohibited by the contemporary Islamic jurists, due to the presence of *riba*, ambiguity, gambling, etc. in an exchange contract. The particular derivative of interest in this regard is the option. The subject matter of an option is a promise to buy or sell a specified asset at a specified future date for a specified price. The seller of the option is the promisor, and the contract is binding upon him. The purchaser, on the other hand, is not bound to exercise the option. He will do so only if the pre-agreed price is more attractive than the market price on the day the option can be exercised. If it is not to his advantage, he can simply allow the option to lapse unused and make his purchase or sale of the asset on the open market. In that case, he loses the money paid for the option.

Dr. Nazih Hammad is one of the contemporary Islamic economists who make a compelling argument for the permissibility of foreign exchange options when they are used strictly for hedging the foreign exchange risks of companies involved in transnational transactions. Dr. Hammad supported this view with very solid evidence, which may force Islamic jurists to review their decisions on the issue of options. The most notable evidence is as follows.

a) **The Principle of the Removal of Difficulty: (التيسير ورفع الحرج):**
   It is clear that one of the principles and general foundations of the Shari'ah is removal of difficulty from people and avoidance of imposing duties that cause hardship. Such difficulty could result either from performing an act or omitting an act. In this regard, Allah says: "Allah does not want to impose difficulty upon you…"[23] Allah also says: "We have not imposed any difficulty upon you in the religion."[24] In this regard, if the Lawgiver had prevented people from concluding contracts of which they are in dire need and cannot do without, they would have fallen into hardship and harm; therefore, Allah, in His fairness and benevolence to people, permits all contracts and transactions of which they are in need.[25]

b) It is well established in the Shari'ah that "Dire need necessitates permissibility of what is forbidden," and that applies equally for both individuals and groups.

[22] Hassan, Hussein Hamid, *Tools of Risk Management in Islamic Financial Institutions*, A paper presented in Shari'ah Committees conference in Bahrain, Pg. 9.
[23] Surah al-Ma'idah verse 6.
[24] Sirah al-×ajj verse 78.
[25] See: Hammad, Nazih Kamal, *Al-Muawadah an al-Iltizam bi-bay' al-Umlat fi al-Mustaqbal*, pp. 35 – 39.

Darurah (dire need) is a situation which forces a person to do what is forbidden, such that, if he fails to do it, he is certain to die or he has good reason to believe he will. The contracts or sales which people need to rid themselves of difficulty and hardship are considered tantamount to dire need in causing the forbidden to become permissible. Ibn Taymiyyah said: "Anything which people need to buy, concessions are made for it that are not made for other things; thus the Lawgiver permits it due to need, even though the effective cause for its prohibition is present."[26] Ibn al-Arabi said: "The seventh principle: consideration is given to mid-level need (*Hajah*) in allowing the forbidden (*mamnu'*), just as consideration is given to dire need (*darurah*) in making the prohibited (*haram*) permissible."[27]

c) Traders, contractors, industrialists and the like—who import goods and raw materials at specific times for deferred payments in a certain currency and then sell those goods, or the industrial products made from those materials, in a currency different from the purchase currency by spot or deferred payments, or by *salam* contracts, or parallel *istisna'*, or continuous supply contracts, etc.—realize their goals by purchasing an undertaking for a currency exchange to fulfill their obligations at a future date. It is crystal clear that prohibiting them from purchasing such pledges will expose them to massive hardship, difficulty and risk that may cause them to go bankrupt or to take losses too huge to be borne. This due to their real need for those currencies on the stipulated dates; and the advance knowledge of the prices of those commodities or raw materials in their local currency in order to accurately calculate their costs of doing business. This is to be able to maintain the processes of import, supply, industrial production, and early marketing without bearing the risks of currency fluctuations, which may have catastrophic effects on their trade or manufacturing or the execution of the supply contracts which they have committed themselves to.[28]

He then concluded his argument, saying, "there is no Shari'ah objection, in my view, to ruling that this transaction is permissible for those who need it among traders, industrialists, suppliers, etc. due to realization of a special need (*Hajah khasah*) for it, since "*hajah khasah* induces the permissibility of what is forbidden, and "*hajjah* (mid-level need), whether general or special, is given the same legal effect as *darurah* (dire need)." These are well established *qawaid fiqhiyyah* (Islamic legal maxims).

Nevertheless, the question to be raised is, are market players really in need of risk bearing? Are there any real difficulties in their daily transactions that force them to deal with non-permissible products such as options? Or is it just a way of profit maximization? It is true that the basic principle of Islam and the Shari'ah is to remove hardship and anything that will cause harm for our lives. On top of that, Allah does not command us to do what is beyond our power. Thus, if the prohibition of dealing with impermissible products will cause hardship that may cause harm to our lives and wealth, they should be ruled temporary permissible until an alternative is provided. This view is based on the maxim that says: "anything that people are in need of dealing with, such that their daily transactions and lives

[26] *Al-Masa'il al-Mariiniyyah,* p. 99; Ibn Taymiyyah, *MajmuÑ al-Fatawa,* 29:488.
[27] *Al-Qabas ala al-Muwatta',* 2:790.
[28] Ibid.

will be exposed to harm without it, should be permissible till a Shari'ah-compliant alternative is provided."

(ما احتيج إلى بيعه فإنه يتوسع فيه ما لا يتوسع في غيره، فيبيحه الشرع للحاجة مع قيام الحاظر)

Therefore, based on the aforementioned, bearing risk is permissible, despite all the prohibited elements that it contains, provided that the market players do not use it for speculative purposes.

It is clear that some of the market players are using risk bearing or transferring instruments as way of trading in risk, which is non-Shari'ah-compliant.

The International Monetary Fund declared: "Financial markets have developed infinite methods to trade risk through the use of financial derivatives instruments".[29]
It is clear that the tools developed to transfer risk, such as derivatives, have become instruments of pure speculation and that their nominal monetary value far exceeds that of the real economy.

Dr. Samir Ridhwan observed: "Risks are sold and bought in these markets just as commodities are sold and bought in other markets."[30] Similarly, Dr. Sami Suwailem stated: "The most important tools to address the prevailing risk, which are derivatives, are having the opposite tendency as they separate risk from ownership and make it a commodity."[31]

This clearly shows that the tools that are being developed for the purpose of addressing risk transfer are being used for another purpose. Thus, in order for risk bearing to be permissible, it should be real and be done by risk transfer tools, and should be according to Shari'ah parameters and ruling.

11. THE APPLICATION OF RISK SHARING IN CONTRACTSIN ISLAMIC FINANCIAL INSTITUTIONS

Risk sharing can be applicable to all exchange contracts as well as partnership contracts, such as *musharakah* and *mudharabah*. For example: an Islamic financial institution, acting as a *mudharib*, collects deposits from depositors or investors and then invests them; if there are any profits, they will be shared between the institution and the depositors or investors; if there is a loss, they will share it among themselves as well. By this there will be equality, justice and fairness among the investors in financial transactions. This is unlike conventional financial institutions, which pay interest on deposits for the depositors, whereby only the bank is exposed to the risk.

The Application of Risk Sharing in Sale Contracts

[29] Robert Heith, a staff member, IMF Working paper, *the statistical measurements of financial derivatives*, pg. 14.
[30] Ridhwan, Samir Abdul Hamid, (2005), *Al-Mushtaqqat al-Maliyyah wa Dawruha fi Idarat al-Makhatir wa Dawrul Handasah al-Maliyyah fi Sinaat Adawatiha* (Cairo: Daral Nashr, 1st edition), pg 294.
[31] Sami bin Ibrahim Al-Suwailim, (2007), Hedging in Islamic Finance (IRTI, Islamic Development Bank), p.15.

Sale (*al-bay*) literally means: an exchange of property for property, or an exchange without qualification. Technically, it is the exchange of any property having commercial value (*mal mutaqawwam*) for another such item so that ownership of each item is transferred to the other party. An alternative definition is "to permanently exchange the ownership of a tangible asset or permissible benefit for financial compensation".
In a sale contract, the seller must bear all risk associated with the commodity as long as the property is in his possession until it is sold and delivered to the purchaser. When the property is sold and delivered to the purchaser and comes into his possession, all the ownership risks related to the commodity will be transferred to the purchaser, and any loss or damage to which the commodity is exposed must be borne by him.

The Application of Risk Sharing in a *Mudharabah* Contract

In the case of a *mudharabah* contract, the *rabb al-mal* should bear all the risks associated with the *mudharabah* assets, i.e. their physical damage or loss as well as a decrease in their value, as long as it is not due to the negligence of the *mudharib* or his error in taking investment decisions. This because damage to or loss of property and decrease of its value should be borne by its owner (*rabb al-mal*).

However, the *mudharib* also bears a risk: the loss of his effort if no profit is achieved. Likewise, he is entitled to a portion of the profit earned (if any).

The Application of Risk Sharing in *Ijarah* Contract

Ijarah literally means: compensation given for service rendered. Technically, it is a contract for transferring the ownership of usufruct for compensation, or sale of a known usufruct for a known compensation.[32]
In the case of *ijarah*, the subject matter of the contract is the usufruct (*manfaah*) or the use of the leased asset (*al-intifa' bi al-Asl al-Mu'ajjar*). Once the lessor makes the asset available to the lessee, the lessee must pay the rent regardless of whether he/she uses it or not. The lessor continues to own the asset itself; therefore, he/she should bear any loss or damage that occurs to the property without any negligence or transgression by the lessee, as well as the insurance expenses of the asset, basic maintenance, and the taxes imposed on the property.

12. THE PARAMETERS OF RISK SHARING IN ISLAMIC FINANCIAL INSTITUTIONS

The main objective of laying down the foundation of the parameters of risk is, to identify legitimate risk and forbidden risk. If the risk is within the designated Shari'ah parameters, the risk is permissible. However, if it's not under the Shari'ah parameters, then it's not permissible. The following are the main risk sharing parameters in Islamic Financial Institutions:

- ✓ The risk should meet the general Islamic objective which is to save the nation and the system sustainability of the validity of human goodness, as the Shari'ah always

[32] See: ibn Manzur, Lisan al-Arab 4:10, Durar al-Hukkam 2:423, Al-Ta'rifaat , p.23, Al-Mabsut Bidaayat al-Mujtahid 2:229.

demands securing benefit and pealing harm. And this represents the main Shari'ah objectives and parameters in risk Sharing.

- ✓ Another parameter that is applicable on risk Shariah is that, the objection of risk Sharing should for the sake of wealth protection. The protection of wealth is one of public interest in Shari'ah that should be achieved. This is because the nation cannot be in the right direction without it.[33]
- ✓ Justice and fairness, i.e., the profit and the risk in each contract and investment should be shared accordingly. The Prophet's prohibition of ambiguity was because it contradicts the principle of justice and fairness in risk sharing; *Kharaj* (revenue) goes with liability."
- ✓ Refraining from usury. The Qur'an prohibits *riba*: "And Allah has permitted sale and forbidden usury", verse 2:275.
- ✓ Mitigation of financial and non-financial risks, which are secondary, should not be at the expense of ownership risk (primary risk).
- ✓ Refraining from unacceptable ambiguity (*Gharar Fahish*).

[33] ويقول الشاطبي: " وعلم هذه الضروريات صار مقطوعا به ولم يثبت ذلك بدليل معين بل علمت ملاءمتها للشريعة بمجموع أدلة لا تنحصر في باب واحد... وحفظ هذه الضروريات بأمرين: أحدهما ما يقيم أصل وجودها ويثبت قواعدها وذلك عن م ا رعاتها من جانب الوجود. والثاني ما يدفع عنها الاختلال الذي يعرض لها والمتوقع فيها وذلك عبارة عن مراعاتها من جانب العدم. والمقصد الشرعي في الأموال كلها خمسة أمور: 31 رواجها ووضوحها وحفظها وثباتها والعدل فيها: - فالرواج دو ا رن المال بين أيدي أكثر من يمكن من الناس بوجه حق وهو مقصد شرعي عظيم دل عليه الترغيب في المعاملة بالمال ومشروعية التوثق في انتقال الأموال من يد إلى أخرى ففي الترغيب في المعاملة جاء قوله تعالى: "وآخرون يضربون في الأرض يبتغون من فضل الله"، 32 وقول النبي صلى الله عليه وسلم: ما من مسلم يزرع زرعا أو يغرس غرسا فيأكل منه طير أو إنسان أو بهيمة إلا كان له به صدقة 33 وروي عن عبد الله عمر أنه قال: ما موت أحب إلى بعد الشهادة في سبيل الله من أن أموت متج ا رً" لأن الله قرن بين التجارة والجهاد في قوله تعالى: "وآخرون يضربون في الأرض يبتغون من فضل الله وآخرون يقاتلون في سبيل الله" وأما وضوح الأموال فذلك إبعادها عن الضرر والتعرض للخصومات بقدر الإمكان - وأما حفظ المال فأصله قول الله تعالى : "يا أيها الذين آمنوا لا تأكلوا أموالكم بينكم بالباطل إلا أن تكون تجارة عن ت ا رض منكم" 34 ، وقول النبي صلى الله عليه وسلم في حجة الوداع: "إن دماءكم وأموالكم عليكم ح ا رم كحرمة يومكم هذا في شهركم هذا في بلدكم هذا" - وأما إثبات الأموال فتقريرها لأصحابها بوجه لا خطر فيه ولا منازعة - العدل فيها بأن يكون حصولها بوجه غير ظالم

13. CONCLUSION

Risk sharing is the best treatment and solution for the current problems facing the financial system. It is the basis of justice and fairness in financial transactions. It is one of the most important Shari'ah objectives regarding financial institutions. Therefore, in order for Islamic financial institutions to remain in business, save their reputations, be distinguishable from conventional financial institutions and be fit to carry the name "Islamic", this principle should be observed throughout the sequence of their daily transactions. On the other hand, avoiding it may lead to losing their reputation and the Islamic name, and perhaps there will not be any differences between IFIs and CFIs. Nevertheless, commercial contracts in which one party bears risk foe compensation are permissible as long as they are within the Shari'ah ruling and parameters. The most important findings of this research are as follows:

1) Risk Sharing occurs when two parties enter into a contract and agree to share the risk upon the occurrence of any loss or damage in the transaction.
2) There are many types of risk, however, the most common types faced by financial institutions are: market risk, liquidity risk, operational risk, credit risk, reputational risk and legal risk.
3) The legitimacy of risk and profit sharing "Kharaj (revenue) goes with liability." And the maxim "Liability accompanies [the right to] profit". The origin of these maxims is the previously quoted hadith of Aishah (may Allah be pleased with her) and some verses in Qur'an such as: "Allah has permitted sale and prohibited riba".
4) Risk transfer or shifting from one party to another party without his knowledge overburdens him, and overburdening a party by transferring and shifting all risk to him will harm him, and it is clear that Islam does not tolerate harming others, in fact, it has forbid harming them, as per the Prophetic maxim, "Harm shall neither be inflicted nor reciprocated."
5) Risk bearing is permissible if the market players are really in need of it, whereby their daily transactions, provided that it is not used as a way of trading in risk.
6) Risk sharing can be applicable to all exchange contracts as well as partnership contracts, such as Musharakah and Mudharabah.
7) The most important parameters in sharing risk and profit are justice and fairness, as the profit and the risk of each investment should be shared accordingly.

REFERENCES

Abu –al- Husseien, Ahmad bin Faris Zakariyya. (1979). *Mu'jam Maqayis al-Lughah*. Abdussalam Harun (edt). Beirut: Daral Fikr.

Abu Daud Sulaiman Al-Sajistani. *Sunan Abi Daud*. Beirut: Daral Kitab Al-Arabi.

Ahmad ibn Idris al-Qarafi. (1994). *Al-Dhakhirah fi al-Fiqh*. Morocco, Dar al-Gharb al-Islami.

Al-Fayyumi, Ahmad bin Muhammad. *Al-Miibah al-Munir fi Gharib Al-Sharh al-Kabir*. Beirut: al-Maktabah al-Ilmiyyah.

Al-Ghari, Muhammad Ali. (1425 AH). *Al-Mukaatarah Fi Al-Siyagh Al-Tamwil Al-Islaami*. Majallah Dallah Al-Barakah, Ramadhan.

Al-Kafumi, Abul Baqa' Ayyub bin Musa al-Hassani. (1998). *Al-Kulliyyat*. Adnan Darwish and Muhammad El-Misri (edt). Beirut: Mu'ssasat al-Risalah.

Al-sawi, Muhammad Salah. (1410 AH). *Mushkilatu Istithmar fi al-Bunuk ak-Islamiyyah*. Jiddah: Daral Majma' li al-Nashr wa al-tawzi'a.

Al-Zarkashi. *al-Manthur fi al-Qawa'id*. (1982). Kuwait: Ministry of Awqaf.

Al-Zubaidi, Ahmad bin Muhammad. *Tajul Arus Min Jawahir al-Kamus.* Daral Hidayah.

Barahiliyyah, Badruddin and Barahiliyyah Lialayimmah Fatimah. (2011). *Makhatir Al-Tamwil bi Îighat al-Salam*. A ppaper presented to Tthe 8th International Conference on Islamic Economics and Finance. Qatar.

Badrul Hisham Mohd Salleh. (2006). *Islamic Risk Management*. A paper presented in the Seminar on Risk Management in Islamic Financing, organized by Islamic Banking and Finance Institute Malaysia. 7-8 March.

Frank K. Reilly & Keith C. Brown. (1996). *Investment Analysis and Portfolio Management*. 5th edition. Publishers: The Dryden Press Harcourt Brace College.

Ghassan Muhammad al-Shaygh and Muhammad Dawabah. (2007). *Makhatir Istithmar Amwal Al-Arabiyyah fi al-Duwal Ghayr al-Islamiyyah.* A paper presented for International Conference for Islamic Economic, under the topic: Investment in Foreign Countries: its parameters and risks. Kuwait.

Hj Mohd Nazri Chik. (2007). *Credit Risk: Shariah Compliance Perspective*. A paper presented in the Seminar on Introduction to Risk Management in Islamic Financial Institutions: Shariah Compliance Review, organized by Islamic Banking and Finance Institute Malaysia.

Hussein Hamid Hassan. *The Tools of Risk Management in Islamic financial institutions*. 11th Shari'ah Committees Conference in Kingdom of Bahrain.

Ibn Al-Qayyim. (1973). *I'alamul Muaqq'in An-Rabil A'lamIn*. Abdul RaUf Saad, (edt). Beirut: Daral Jil.

Ibn al-Qayyim. *Ighathat al-Lahfan fi Ùalaq al-GhaÌban*. Dar I'lam al-Fawa'id.

Ibn Manzur, Jamaluddin Muhammad Akram. *Lisan Al-Arab.* Beirut: Dar Sadir. 1st edition.

Ibn Taymiyyah. (1408AH, 1987AD). *Al-Fatawa al-Kubra*. Muhammad Abdul Kadir Ata´ and Mustapha Abdul Kadir Ata´ (edt). Beirut: Daral Kutub Al-Miyyah. 1st edition.

John. D. *dictionary of Finance and Investment Terms*. 2nd edition .New York: Published by Barrons.

Madura. *Introduction to Financial Management*. New York: Published by: west publishing company.

Ridhwan, Samir Abdul Hamid. (2005). Al-*Mushtaqqat al-Maliyyah wa Dawruha fi Idarat al-Makhatir wa Dawrul Handasah al-Maliyyah fi Sinaat Adawatiha.* Cairo: Daral Nashr li Al-Jaamiah. 1st edition.

Robert Heith, a staff member. IMF Working paper, *the statistical measurements of financial derivatives.*

Sami Ibrahim Al-Suwailim. (2007). *Hedging in Islamic Finance.* Jiddah: Islamic Development Bank. IRTI, 1st edition.

William T. Thornhill. *Effective Risk Management for Financial Organizations*. Published by: Bank administration institute.

THE DETERMINANTS OF NON-LINEARITY IN THE BANK LENDING SUPPLY FUNCTION: EVIDENCE FROM PAKISTAN

Khalil Ullah Mohammad[1]

ABSTRACT

This paper is an empirical study carried out to identify the factor that results in the non-linearity of the optimal lending function of a bank using data from Pakistan. The analysis confirms that the banks in Pakistan are forward looking. Empirical evidence in concurrence with theory reveals that the capital to asset ratio is the factor that results in the concavity of the lending supply function. As is predicted, the analysis validates that the forward looking behavior of banks results in the cutting down of the amount of lending that the bank is doing when the capital falls to a certain level close to the regulatory requirements. This behavior is a consequence of the banks attempt to avoid falling below the capital adequacy ratio (CAR) that is being enforced on the banks by the regulatory authority in the country.

Keywords: Bank lending, Basel regulation, CAR, nonlinearity

1. INTRODUCTION

In developing countries like Pakistan the moral hazard problem, accompanied with an adverse selection problem, exists on a large scale which results in low recovery rates on loans that can be seen from the increasing nonperforming loans of the banking industry (Table 1). This moral hazard between banks and the customers is normally driven from the presence of deposit insurance schemes. Banks lend out to risky businesses and this results in high default rates. In countries with high moral hazard problems a supervisory check needs to be kept on the banks activities so that they do not engage in excessive risk taking. The capital reserve requirement is a cornerstone in modern day bank regulation and forms an effective way to keep a check on this risk. By imposing the reserve requirements the regulatory authorities ensure the banks do not undertake undue risk taking. In high risk of default environments the presence of a higher CAR is feasible to cushion the bank against possible default. A global supervisory authority called the BASEL committee prescribes the amount of capital to be kept by banks.

[1] Tohoku University Japan

2. THE BASEL FRAMEWORK

In an effort for global regulatory standardization the International BASEL Committee on bank supervision has come up with a framework for bank regulation with the aim of global standardization. Their suggested framework has over time gone through many improvements. At the moment the BASEL II framework is being implemented in most countries worldwide. This framework was introduced in 2004 and was an improvement to the previously applicable BASEL I. Previously there was a "one size fit all" approach that was being employed with no distinction on the bases of the riskiness of the assets in the calculation of the Capital Adequacy Ratio (CAR) requirements with banks having to keep 8% of capital to risk weighted assets. This framework had some underlining defects that were addressed in the form of new standards. The currently in place framework has 3 pillars the first one of which focuses on regulatory capital adequacy requirements embodying risk management and is the focus of this paper. By doing so, a minimum capital requirement has been proposed which is focused on controlling credit and operational risks that a bank faces. The assets get assigned risk weighted values and minimum capital requirement is calculated that banks need to keep. In doing so BASEL II rewards the banks that are managing their risk properly and penalizes the others.

3. BASEL IN PAKISTAN

Most countries worldwide have come up with variations in the BASEL framework to suit their environment. For example in Japan, the large banks are supposed to keep 8% of capital to assets where as small banks which have higher liquidity needs to serve their clients have to keep a 4% minimum of capital to assets. Pakistan is also no exception to the rule.

Till 2008 the banks of Pakistan were regulated under the BASEL 1 framework, which was in place in the Pakistani banking industry since 1997. Under this framework the banks were required to maintain a minimum of 8% of their risk weighted assets. The State Bank of Pakistan assigned the risk weights, which is the regulating authority of Pakistan. For example, the Loans and advances to private sector, investment in shares and other capital instruments of private sector, fixed assets and other assets were given 100% risk weight while collateralized loans 50% risk weight. Using this, the bank would calculate its capital to risk weighted assets and this was required to be more the 8%.

The uncertain global financial environment where banks were facing risk of failures a need to have a more sound regulatory framework that would be taking into account individual bank riskiness. The framework for a more risk sensitive capital allocation method i.e. BASEL II was enforced by the State bank of Pakistan by 2008. The lack of a robust risk management system in a still developing banking system meant that initially the minimum capital requirement calculation was going to be done using the Standard Approach. The banks would have to rely on the State bank of Pakistan, the main regulatory body, to access their risk weights. The Standard Approach although easier for banks to implement has many

disadvantages for banks. Therefore according to plans the Internal Rating Based Approach was to be implemented by 2010. By doing so the banks would be in a better position to anticipate the likelihood of default ex ante and use capital to cushion for the risk. The banks would also be able to classify unrated firms according to their repayment capacities and therefore access appropriate capital requirement. Lastly the banks would be able to take advantage of diversification in portfolios to manage their risk.

Although it carries many advantages but the State Bank of Pakistan introduced some flexibility in the adoption of the internal rating approach, which resulted in only one bank adopting this approach for the calculation of their minimum capital requirement. Under BASEL II banks are required to keep a certain percentage of their risk-weighted capital (CAR), 8%, to absorb the loss in case of defaults and protect depositors. However in order to strengthen the solvency of banks in Pakistan the percentage of risk weighted capital (CAR) for banks is based on a performance indicator called CAMELS-S which is calculated by the State bank and each banks required CAR is be assigned according to this rating. (See Appendix Figure 1).

The State bank of Pakistan also enforces a minimum paid up capital requirement (net of losses) below that which a bank cannot carry on its business. By doing so and keeping a reserve the bank looses out on possible profitable lending opportunities. If the bank falls below this level the bank is subject to penalties from the State bank, might be de-scheduled and ultimately the license of the bank can be cancelled if the problem continues.

Theory suggests that once the bank capital reaches close to the minimum capital adequacy requirement level the bank becomes more sensitive to capital shocks and reduces its lending in the event of one. By reducing it's lending (risk-weighted asset denominator) the bank improves its capital to asset ratio therefore avoiding a penalty by the regulatory authority. The bank reduces its lending volume because it is easier for the bank to reduce the lending volume rather than taking the route of issuing new capital. The reduction in the lending of the bank as the capital of the bank decreases would imply that the capital to asset ratio that the bank maintains should be a concave function of the bank's lending supply. This is supported by Van den Heuvel (2006) which simulates the banks optimal lending function as a concave function and concludes that banks are forward looking and reduce their lending in response to loss of capital to prevent the bank from falling under the minimum capital reserve requirement.

This paper empirically tests the Van den Heuvel (2006) theory to confirm whether this nonlinearity is present in the lending supply function of the bank and whether it is indeed caused by the minimum capital requirements.

4. CONTEMPORARY RESEARCH

Nishiyama et al. (2006) carried a study on the decline in the loans of the Japanese banks in the late 1990s. They argue that the banks are forwarding looking and have an incentive to

avoid falling below the regulatory requirement and in doing so reduced their lending, which resulted in a credit crunch in the Japanese economy. Their findings were that public capital effects the lending of banks with different capitals differently and that the lending supply function was indeed concave and increasing with respect to bank capital in the Japanese case.

Watanabe (2010) empirically examined the ever-greening effect that took place in Japan in the late 1990s. The paper uses real estate lending share of the bank's lending portfolio as the instrument for bank capital. The paper goes on to find that the Evergreening effect that was observed in Japan was a consequence of excessive regulatory stance by the regulatory authority and this gives the bank an incentive to rebalance the lending portfolio by continuing to lend to risky firms.

Van Den Heuvel Theory

Heuvel (2006), in examining the effect of the bank lending on the transmission of the monetary policy came up with a dynamic model for a forward-looking bank that features the bank reserve requirements. He formulates a dynamic model of banks asset and liability management that incorporates capital to asset requirements. The paper shows that there exists a bank capital channel of the monetary policy that effects the lending of a bank by manipulating the bank's capital. It concludes that financial structure, lending opportunities and market interest rates determine the lending of the bank refuting the Modigliani-Miller theorem that states that the value of the firm is independent of the financial structure. It goes on to show that the bank's lending is dependent on the capital requirements and is concave with respect to it. For that purpose he uses the following specifications.

$$V_t = \max_{\{N_{t+s},\, D_{t+s}\}_{s=0}^{\infty}} E_t\left[\sum_{s=0}^{\infty}\left(\prod_{u=0}^{s-1}(1+r_{t+u})^{-1}\right)D_{t+s}\right] \quad (1)$$

His model contains this bellman value function in which the bank maximizes its shareholders sum of discounted dividends subject to laws of motion for capital and loans, a regulatory constraint, a financial constraint and the initial position of the balance sheet. The laws of motion represent the evolution of loans and equity capital for the bank. In the model the loans evolve according to the following equation.

$$L_{t+1} = (1-\delta_{t+1}-\omega_{t+1})L_t + (1-\delta_{t+1}-b_{t+1})N_t \quad (2)$$

The new loans are old loans L_t plus the new loans N_t with default and repayment modeled in it. δ is the repayment rate; the ω is the default rate for old loans and b the random fraction of the new loans that will go bad, which is an increasing function of new loans N_t and ω_{t+1}. The average contractual interest rate, a decreasing function of new loans N_t, on all outstanding loans is represented by

$$\bar{\rho}_{t+1} = \frac{\{(1 - \delta_{t+1} - \omega_{t+1})L_t\}\bar{\rho}_t + \{(1 - \delta_{t+1} - b_{t+1})N_t\}\rho(N_t)}{L_{t+1}} \quad (3)$$

The capital evolves according to the following equation.

$$E_{t+1} = E_t - D_t + (1 - \tau)\pi_{t+1} \quad (4)$$

The new capital is the last year's equity E_t minus the dividends D_t plus the after tax profit represented by $(1-\tau)\pi_{t+1}$. The regulatory constraint incorporates how the bank cannot have capital less the percentage of the total loans outstanding. Capital must be greater than γ times the loans, which is the capital requirements

$$E_t \geq \gamma L_t \Rightarrow E_t - D_t \geq \gamma(L_t + N_t)$$
$$E_t \geq \gamma L_t \Rightarrow N_t = 0 \text{ and } D_t = 0$$

The financial constraint in the model restricts negative dividends for the bank, which incorporates the inability of the bank to issue new equity. The dividends therefore cannot be negative as that is equivalent to issuing new equity.

$$D_t \geq 0 \quad (5)$$

Using this model Heuvel (2006) tests two propositions. Proposition 1 state that the banks lending is only a function of interest rates. Proposition 2 states that under the assumption that the probability of unconstrained dividends being negative is more than zero the bank unable to issue equity (financially constrained) will in some periods deviate from the unconstrained optimal lending even if it feasible for the bank to keep lending at the same level.

To test these propositions a value iteration method is used to obtain a solution of the banks value function in which the bank maximizes its shareholders sum of discounted dividends with the restrictions of to the lower reserves requirement creating a lower bound value. By calibrating interest rate, new lending of the bank, charge off rate, loan repayment rate, average maturity of loans the simulation is carried out. He uses the variable excess capital i.e. the capital above the reserve requirements that the bank holds and derives the above-mentioned relationship. The result of the simulation can be seen in the graph Figure 2 in the appendix.

The result is simulated using two different interest rates and shows three variables: the new loans, the dividends and Z is the result with the regulatory constraint having a slack. The model reveals that the lending function of the bank is an increasing concave function with respect to the bank capital to asset. The highly capitalized bank lending looks the same as the unconstrained lending. The lending seems to be unaffected when the capital changes for those are highly capitalized. The highly capitalized banks would be therefore less responsive to capital shocks. Interest rate is negatively related with new lending.

His results show that banks reduce lending as a function of both excess capital and outstanding loans when the loans are low or when the interest rate is high. The new lending in fact ceases with banks that have low loans and are not highly capitalized.

In this paper I test whether this simulation result holds in the real world. This result shows that the nonlinearity can be tested the best in a country where the banks are observing a capital reserve close to the minimum requirement. The prevailing high default rates also makes Pakistan an ideal case to test this theory as can be seen from the scatter graph showing the capital position of various banks. Figure 3 shows the scatter plot of capital to asset position against the change in lending of new banks maintained by all the banks in Pakistan. Figure 4 is the scatter graph shows the scatter plot for all the commercial banks operating in Pakistan. Lastly Figure 5 is a scatter plot of all banks starting from 2006. The fact that the capital to asset position of banks is maintained close to the BASEL requirement makes it an idea case to test for the new lending supply functions nonlinearity.

The rest of the paper is organized as model, data and preliminary diagnostics, results and robustness test and finally the conclusion.

1.

5. MODEL

To check for the nonlinearity of the lending function with respect to capital to asset ratio depicted by Heuvel (2006) the following quadratic baseline regression model is used as a

$$\frac{(\Delta L_{jt})}{A_{jt}} = \beta_0 + \beta_1\left(\frac{\Delta L_{j,t-1}}{A_{j,t-1}}\right) + \beta_2\left(\frac{K_{jt}}{A_{jt}}\right) + \beta_3\left(\frac{K_{jt}}{A_{jt}}\right)^2 + \beta_4 \mathrm{Log}(A_{jt}) + \beta_5 i_{kt} + \beta_6 \mathrm{Res}_{jt} + \gamma_0 \mathrm{Ctrl}_{jt} + \lambda_j + \mu_{jt} \quad (6)$$

The $(\Delta L_{jt})/A_{jt}$ represents new lending for bank j at time t normalized for asset size. It represents the increase in the outstanding net loans of the bank as has been used by Heuvel (2006). (K_{jt}/A_{jt}) is the book-based capital to asset ratio of the bank representing the γ in the regulatory constraints of the original Heuvel (2006) model and the squared term captures the effect of the non-linearity of the lending function. This is used in model as the proxy of the capital regulatory requirement that banks are supposed to follow. $Log\ (A_{jt})$ is the log of total assets. The initial balance sheet position is considered in Heuvel (2006). This variable is also important because in Pakistan the variance in size of the banks in terms of total assets is large. In the model the log of asset size has been used to control for this difference. The squared term is included in another variation of the baseline model. This is done to confirm that asset size is not the factor the results in the concavity of the lending function.

In the model i_{kt} represents the weighted average lending rate of banks for nationalized, private domestic, foreign and specialized banks. k represents the category of banks. The interest rates do not vary across banks of a specific category in a specific year. This variable

is included into the model to see if the negative relationship with new lending predicted in the Heuvel (2006) result can be tested. As a robustness test a quadratic term is also included in a modification of the baseline model to confirm that the new loan granting policy is not nonlinear with respect to interest. The variable Res_{jt} represents the reserves for loan loss kept by the bank. This variable is included in the modeling after taking into account that in modeling the bank Heuvel (2006) takes in to account the default risks. In order to control for macro variables effecting the lending *inflation* and *GDP* are included in the model.

The fixed effects model is used in the regression analysis as is supported by the Hausman test result. The use of fixed effects model results in the inability to the measure time consistent bank type dummy, which is a weakness of this type of regression model. However as robustness test the random effects model is also used to see the effect of these particular bank type dummies.

6. DATA AND PRELIMINARY DIAGNOSTICS

There are not many empirical studies that have been carried out on the banking system of Pakistan. The main reason for this is the unavailability of a consolidated database from where financial data can be taken. This unavailability has been a big hindrance for empirical research on Pakistan. Therefore for the purpose of this study data was collected from the State Bank of Pakistan library. Bankscope was another source from where data was used. The data from the two sources has been consolidated together to fill in the missing years.

For the main regression, the data set consists of 54 banks from 1998-2012 and forms an unbalanced panel denominated in dollar terms. This data set also includes some banks that are not active now. The Bank type specific weighted average lending rate is taken from the State bank of Pakistan website and is weighted average lending of nationalized, domestic private, foreign and specialized banks published by the State Bank of Pakistan.

The 54 banks also include the investment banks and these have been classified under the category of specialized banks. Macroeconomic variables like inflation and GDP growth rate have been collected from the World Bank database. The main concerns related to the data sample are to check for unusual data i.e. anomalies or outliers, the normality of residuals, testing for heteroscedasticity and multicollinearity. By doing so the data was confirmed in regards to feasibility of running the ordinary least squared regression.

The analysis of the data shows there are four Pakistani banks that became insolvent over some periods and resultantly the K/A becomes negative. Since the Van Den Heuvel model creates a lower bound restriction on the K/A ratio i.e. the BASEL requirement the negative values are dropped from the sample. The analysis of the box plot revealed one outlying value that was also removed before running the final regression.

The result from the error distribution has an Epanechnikov distribution. OLS does not have to be necessarily normally distributed to the data passes this test. The homogeneity of variance of the residuals can be seen in the graph plot that shows that there is no pattern in the data showing that the heteroscedasticity is not present (See Figure 6 and Figure 7 in Appendix).

To confirm the non-existence of multicollinearity in the data the Variance Inflation Factor (VIF) is calculated. The tests for the co-linearity reveal that VIFs are under acceptable ranges. Since the model used for checking for nonlinearity includes squared terms the VIF is in the acceptable range but a little higher than the rest. Evidence from past research reveals that multicollinearity coming from squared terms is ignored by previous researchers so I have chosen to follow suit (See Table 2 in Appendix).

7. **RESULTS AND ROBUSTNESS CHECKS**

The main results are listed in Table 3. The baseline model represents the main regression results. The table reports the regression results using the fixed effects model and uses robust standard errors. As robustness test models 2 to 5 are also run. Model 2 includes time dummies in the baseline model. Model 3 and 4 are modified to include the quadratic terms for interest and total asset to see whether they have any affect on the nonlinearity of the lending supply function.

The squared term for the capital to asset requirement ratio is significantly affecting the nonlinearity of the new lending function as can seen from the regression result. The significant negative sign shows that the lending function is indeed nonlinear and concave with respect to the capital to asset requirement. This result is in concurrence with the nonlinear lending function that Heuvel (2006) predicts using his simulations. Interest rate has a negative affect on lending however the coefficient is insignificant and does not seem to be affecting the choice of new lending of the bank significantly as was predicted by Heuvel (2006). This insignificant result may be attributed to the fact the lending rates of the banks used in the regression are not changing across the cross sections.

The size proxy that was used to so that the varying sizes of the banks in the Pakistani banking industry can be accounted for are highly significant and are inline with the theory that larger banks lend more. The loan loss reserves as a proxy for the default rate that Heuvel modeled is also significant especially since the recovery rate is very low in Pakistan due to the moral hazard problem and high default rates which affects the banks optimal policy to lend more (Table 1). The model has an adjusted R-squared of 14.8%. The affect of Gdp growth rate is insignificant where as inflation has negative affect on the new lending decision of the bank at a 10% significance level.

Model 2 is run with the same variables after the inclusion of time dummies. The capital to asset requirement becomes significant at 5% and the squared term is still robust and

negatively affecting the lending function. The interest rate negative affect is still insignificant. However the inclusion of time dummies makes the affect of GDP growth rate and Inflation significant. The sign of the Gdp growth rate however is negatively significant. This sign is not consistent with the sign of the baseline model. The time dummies are significant especially from 2004 onward. This significance is due to the regulatory introduction of the BASEL 2 globally and the State Bank of Pakistan's stronger regulatory stance in respect to regulatory requirements. The banks were asked to start preparing for the adoption of the BASEL 2, which was finally adopted in 2008. The inclusion of time dummies increases the fitness of the model by 8% to 23.3% adjusted R-squared.

To insure that interest isn't the factor that is affecting the nonlinearity observed in the lending supply function Model 3 is run which is the base line model with the inclusion of the quadratic term of interest. The capital to asset ratio is significant and the squared term is significant at 5%. The inclusion of the squared term results in the interest term become significant at 5% in accordance to the result predicted by Heuvel (2006). The square term also becomes significant but at 10% however the positive sign clearly shows that this is not factor that is resulting in the concavity of the lending function. The inflation factor is also significant at 5%.

Model 4 is done to check the robustness of the affect of capital to asset on the new lending decision of the bank and includes the squared term of interest and the size proxy Log (A) as well. The result show that the interest rate affects significance reduces to 5%. The log (A) is also significantly affecting the nonlinearity however this result is not robust when the same regression is rerun on a more specific data set.

Model 5 includes all the squared terms along with the time dummy variables. The results show that that the new lending decision of the bank is independent of the previous years new lending decision of the bank. The new lending is positively concave with respect to capital to asset ratio. The bank loan loss reserves are significantly affecting the banking lending decision as well. The inflation has a consistent negative affect on the lending. However the Gdp growth rate is significant but no conclusive result can be derived about it.

The earlier regression revealed that asset was also a factor affecting the nonlinearity of the lending decision. To confirm this and the robustness of the results the same models are rerun using a different data from 2007 to 2012. This is done specifically because the regulation got more stringent and the BASEL 2 got enforced from 2008 in Pakistan. This was not included in the model because capital to asset ratio was being taken as a proxy of the capital to weighted risk assets. To take into account the fact that the initial model did not take account for this change in regulation to weighted risk assets this particular regression is carried out. The results of this regression are shown in table 4.

The result shows that the quadratic term for capital to asset is still consistent and robust where as the earlier significant log (Asset) quadratic becomes insignificant. This confirms the hypothesis that the bank lending is nonlinear and concave with respect to the bank new

lending. From the "Table 4" it can see that the r-square improves drastically for all models. The inconsistency seen in the Gdp growth rate sign also is removed. It is positively affecting the lending of the bank.

From the final model 5 from the table it can be seen that capital to asset requirement is affecting the lending policy of the bank. Interest rate is also affecting the lending decision of the bank as was predicted by Heuvel (2006). The loan loss reserve is not affecting the lending of the bank significantly. This probability of default affect on lending is being captured by the Capital to asset requirement as predicted by Heuvel (2006).

The fixed effect estimation method used on this model restricts the estimation of time constant variables. The bank type is an important factor that may affect the lending optimal policy of banks. An advantage of the random effects model is that time invariant variables could be measured using this approach. Although the Hausman test reveals that the difference of the coefficients of the fixed and random effects model are large and shows that the fixed effects model should be implemented the estimation technique is confirm the effect of the bank type on the lending decision. The dummies of the private, public, foreign private and specialized banks are used. As a last robustness test the 5 models were rerun using the random effect estimation technique on both the large and small data set. The results of the regression can be seen in table 5 and table 6 of the appendix.

The capital to asset ratio is still significantly affecting the nonlinearity of the lending supply function. As for the bank specific variables the first table with all the data starting from 1998 reveals inconsistent results in terms of significance of the affect. Table 4 however, shows that after taking account for the implementation of BASEL 2 in 2008 the public and national private banks are better at lending then the foreign banks operating in the Pakistani banking system. This result is consistent along all five models. The foreign banks by themselves have a smaller share in terms of assets in Pakistan and this affect is depicted in the results. As a final robustness test the model is re-estimated using a quadratic dynamic panel model specification.

$$Y_{j,t} = \alpha Y_{j,t-1} + \beta X' + \lambda_j + \mu_{jt} \qquad (7)$$

The dependent variable $Y_{j,t} = \left(\frac{\Delta L_{j,}}{A_{j,t}}\right)$ represents new lending for bank j at time t normalized for asset size. It represents the increase in the outstanding net loans of the bank as has been used by Heuvel (2006). X is [1 x j] vector consisting of all the independent variables

$$X = \left\{\left(\frac{K_{jt}}{A_{jt}}\right), \left(\frac{K_{jt}}{A_{jt}}\right)^2, \mathrm{Log}(A_{jt}), i_{kt}, \mathrm{Res}_{jt}, \mathrm{Inflation}, \mathrm{GDP}..\right\}$$

The estimation technique is used because the capital to asset ratio is assumed to be endogenous and its relationship with new loans might be bidirectional. The other second issue is that the model involves bank specific unobservable effects that are present that need

to be considered as the maybe correlated with the explanatory variables. The presence of a lagged dependent variable complicates the situation for it can be creating an autocorrelation problem with the model and causing a bias in the results. To address these problems the Arellano-Bond Dynamic Panel GMM Estimation is used. The model will be differenced first to remove the fixed effects and the final to be estimated model takes the form of

$$\Delta(Y_{j,t}) = \beta(\Delta Y_{j,t-1}) + \Delta\beta X'_t + \Delta(\mu_{jt}) \quad (8)$$

To address the endogeneity problem of the capital to asset ratio a 2-year lag of the same variable are used as instruments. The Arellano-Bond test for AR(2) is not rejected for the appropriateness of the use of lag 2 variables values as instruments. This estimation also reveals robust results. (Table 7 and Table 8).

After running multiple regressions the robustness of the results can be confirmed. The robustness tests reveal that significance of K/A in all regression where as 10% significant result of interest rates affect on lending is not confirmed. The capital requirement being represented by K/A is the factor affecting the nonlinearity of the lending function in concurrence with Van Den Heuvel (2006).

8. CONCLUSION AND FURTHER STUDIES

2.

The empirical analysis of the bank lending supply function reveals that the banks new loans function is indeed an increasing nonlinear concave function with respect to the BASEL capital to asset requirements. The evidence shows that the banks in Pakistan are forward looking and reduce their lending in case of capital falling close to the minimum required level. This decrease in the new lending can be explained by the bank reducing it's lending to avoid falling below the minimum capital adequacy requirement that it is supposed to fulfill.

In conclusion the analysis empirically proves the Van den Heuvel (2006) theory to be consistent in the Pakistani banking industry. The bank capital affects the amount of lending the bank does and banks that are low on capital have reduced lending. This phenomenon is the cause of the nonlinearity in the bank loan supply function. Interest rates have a robust negative effect on the lending of the bank but this result became less significant with the inclusion of time dummies. This insignificance can be attributed to the lack of bank lending rates for individual banks being available.

This study has some limitations, which can form the bases for the extension of this paper. The first issue is that the individual annual lending interest rates were not used in this analysis due to the lack of this data. Therefore the affect of interest rate on the lending that the bank predicted by Van den Heuvel (2006) does is not come as significant. If data was to be available this could be incorporated in the analysis to see how it affects the results. Also due to lack of risk weights the book value capital to asset was used in the analysis. Risk weighted assets could be incorporated in the model as an extension of this paper.

As another extension to this study the welfare cost of an increase in the minimum capital requirement can be carried out to see whether there is a significant cost being incurred by keeping a higher reserve requirement in the case of Pakistani banks.

3. REFERENCES

Anil K Kashyap and Jeremy C. Stein, (2000).“What do a million observations on banks say about the transmission of Monetary Policy?”, The American Economic Review, Vol. 90, No. 3 (Jun., 2000), pp. 407-428

Bank nonperforming loans to total gross loans, World Bank database (http://data.worldbank.org/indicator/FB.AST.NPER.ZS)

Hoshi Kashyab, (1999). The Japanese Banking Crisis: Where did it come from and how will it end, National Bureau of Economic research, Working Paper 7250 (1999)

Nishiyama, Okada, Watanabe, (2006).“Do banks reduce lending pre-emptively in response to capital losses?”, RIETI Discussion Paper Series, 06-E-016

Skander Van den Heuvel, (2006)."The Bank Capital Channel of Monetary Policy,"2006 Meeting Papers 512, Society for Economic Dynamics.

State bank of Pakistan BSD Circular No. 06 dated October 28, 2005 for minimum capital requirements for banks and DFIs

Takeo Hoshi, (2001). “What happened to Japanese banks?”, Monetary and Economic Studies,

Van den Heuvel, Skander J., (2008). "The welfare cost of bank capital requirements," Journal of Monetary Economics, Elsevier, vol. 55(2), pages 298-320, March.

Watanabe, (2010)."Does a large loss of bank capital cause Evergreening? Evidence from Japan," Journal of the Japanese and International Economies, Elsevier, vol. 24(1), pages 116-136, March.

APPENDIX

Table 1. Non-performing loans to gross loans

Country Name	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
UAE	12.7	15.7	15.3	14.3	12.5	8.3	6.3	2.9	2.3	4.3	5.6	6.2	7.6
Argentina	16	13.1	18.1	17.7	10.7	5.2	3.4	2.7	2.7	3	1.8	1.2	1.5
Armenia	17.5	24.4	9.9	5.4	2.1	1.9	2.5	2.4	4.3	4.9	3	3.4	4.4
Australia	0.5	0.6	0.4	0.3	0.2	0.2	0.6	0.6	1.3	2	2.2	2	1.9
Bangladesh	34.9	31.5	28.1	22.1	17.5	13.2	12.8	14.5	11.2				
China	22.4	29.8	26	20.4	13.2	8.6	7.1	6.2	2.4	1.6	1.1	1	0.9
Germany	4.7	4.6	5	5.2	4.9	4	3.4	2.7	2.9	3.3	3.2	3	
Egypt	13.6	16.9	20.2	24.2	23.6	26.5	18.2	19.3	14.8	13.4	13.6	10.9	10.7
United Kingdom	2.5	2.6	2.6	2.5	1.9	1	0.9	0.9	1.6	3.5	4	4	
Georgia		11.6	7.9	2.4	2	1.2	2.5	0.8	4.1	6.3	5.4	4.6	4.1
Greece	12.3	5.6	5.5	7	7	6.3	5.4	4.5	5	7.7	10.4	14.4	17.2
Indonesia	34.4	31.9	24	6.8	4.5	7.4	6.1	4	3.2	3.3	2.5	2.1	2.1
India	12.8	11.4	10.4	8.8	7.2	5.2	3.3	2.7	2.4	2.4	2.5	2.3	3
Iceland	1.5	2	2.6	2.1	0.9	1.1	0.8			42	40	23	
Israel	6.9	8.2	2.4	2.6	2.5	2.3	2	1.5	1.5	1.4	3.1	2.5	2.4
Italy	7.8	6.7	6.5	6.7	6.6	5.3	4.9	5.8	6.3	9.5	10	11.7	
Jordan	18.4	19.3	17.1	15.5	10.3	6.6	4.3	4.1	4.2	6.7	8.2	8.5	
Japan	5.3	8.4	7.4	5.2	2.9	1.8	1.5	1.5	1.4	1.6	2.5	2.4	
Korea, Rep.	8.9	3.4	2.4	2.6	1.9	1.2	0.8	0.7	1.1	1.2	1.9	1.4	1.5
Kuwait	19.2	10.3	7.8	6.1	5.3	4.1	4.6	3.8	6.8	11.5	8.9	7.3	
Lebanon	7.8	10	12.4		17.7	16.4	13.5	10.1	7.5	6	4.3	3.7	3.7
Malaysia	15.4	17.8	15.9	13.9	11.7	9.6	8.5	6.5	4.8	3.6	3.4	2.7	2.2
Namibia		3.4	3.5	3.9	2.4	2.3	2.6	2.8	3.1	2.7	2	1.5	1.4
Nigeria	22.6	19.7	21.4	20.5	21.6	18.1	9.3	9.5	7.2	36.1	20.1	11.6	
Netherlands	1.8	2.3	2.4	2	1.5	1.2			1.7	3.2	2.8	2.7	3.1
Norway	1.2	1.3	1.8	1.6	1	0.7	0.6	0.5	0.7	1.3	1.5	1.7	
Pakistan	19.5	23.4	21.8	17	11.6	8.3	6.9	7.6	10.5	12.6	14.7	16.2	
Peru		9	7.6	14.8	9.5	6.3	4.1	2.7	2.2	2.7	3	2.9	3.1
Saudi Arabia	10.4	9.1	8.8	5.4	2.8	1.9	2	2.1	1.4	3.3	3	2.3	
Singapore	3.4	8	7.7	6.7	5	3.8	2.8	1.5	1.4	2	1.4	1.1	1
Thailand	17.7	11.5	15.7	13.5	11.9	9.1	8.1	7.9	5.7	5.3	3.9	2.9	2.7
Turkey	9.2	29.3	12.7	11.5	6	5	3.9	3.3	3.4	5	3.5	2.6	2.5
United States	1.1	1.3	1.4	1.1	0.8	0.7	0.8	1.4	3	5.4	4.9	4.1	3.9
World	9.5	8.5	8	6.25	4.2	3.5	3.1	2.7	3.1	4.25	3.95	3.7	

(Source: World Bank database)

Table 2. Multicollinearity diagnostics

Variables	VIF	Sqrt VIF	Tolerance	R-Squared
((ΔL)/A)(-1)	1.07	1.04	0.9332	0.0668
K/A	7.25	2.69	0.138	0.862
(K/A)^2	6.59	2.57	0.1518	0.8482
Interest	1.75	1.32	0.5728	0.4272
Log(A)	3.36	1.83	0.298	0.702
Reserves	2.2	1.48	0.4551	0.5449
GDP growth	1.86	1.37	0.5364	0.4636
Inflation	1.67	1.29	0.5973	0.4027
Public	1.58	1.26	0.6342	0.3658
Private	2.42	1.55	0.4139	0.5861
Specialized	1.19	1.09	0.8425	0.1575
Mean VIF	2.81			

Table 3. Main Results

Estimation method:Fixed Effect Regression	Baseline Model	Model 2	Model 3	Model 4	Model 5
Dependent Variable: (ΔLoan)/Asset	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)
Bank Specific Variables					
Constant	-1.110***	-1.561***	-0.987**	-1.530***	-1.731***
	(0.289)	(0.370)	(0.302)	(0.353)	(0.476)
Lag(-1)	0.047	0.038	0.041	0.034	0.031
	(0.037)	(0.047)	(0.037)	(0.038)	(0.046)
K/A	1.150**	1.268**	1.146**	1.055**	1.203**
	(0.504)	(0.525)	(0.503)	(0.509)	(0.528)
(K/A)^2	-1.768**	-2.035**	-1.758**	-1.586**	-1.902**
	(0.668)	(0.722)	(0.664)	(0.695)	(0.739)
Interest	-0.007*	-0.003	-0.034*	-0.028	-0.034
	(0.004)	(0.007)	(0.018)	(0.018)	(0.024)
Interest^2			0.001	0.001	0.001
			(0.001)	(0.001)	(0.001)
Log(A)	0.143***	0.161***	0.148***	0.349***	0.301***
	(0.030)	(0.031)	(0.030)	(0.082)	(0.073)
Log(A)^2				-0.018**	-0.012**
				(0.007)	(0.006)
Reserves	-0.000**	-0.000**	-0.000***	-0.000***	-0.000**
	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Macroeconomic Variables					
HHI	0.608**	1.225***	0.581**	0.478**	1.086***
	(0.193)	(0.298)	(0.196)	(0.188)	(0.288)
GdpGrowth	0.025**	0.015	0.025**	0.023**	0.017
	(0.009)	(0.023)	(0.009)	(0.009)	(0.023)
Inflation	0.004	0.026**	0.003	0.003	0.024**
	(0.003)	(0.010)	(0.004)	(0.004)	(0.010)
Time Dummies Variables					
Y00		0.006			0.003
		(0.069)			(0.070)
Y01		-0.129			-0.104
		(0.088)			(0.090)
Y02		0.135**			0.133**
		(0.057)			(0.055)
Y03		0.175**			0.134*
		(0.065)			(0.071)
Y04		0.108			0.065
		(0.081)			(0.082)
Y05		0.093			0.077
		(0.082)			(0.085)
Y06		0.126**			0.112**
		(0.045)			(0.047)
Y07		0.147***			0.134**
		(0.041)			(0.041)
Y08		-0.206**			-0.195**
		(0.080)			(0.078)
Y09		-0.053**			-0.051*
		(0.026)			(0.026)
Adj. R-squared	0.193	0.233	0.194	0.209	0.239
No. of Obs	326	326	326	326	326

* p<.1, ** p<.05, *** p<.001

Table 4. Robustness using data from 2006 onwards

Estimation method:Fixed Effect Regression	Baseline Model	Model 2	Model 3	Model 4	Model 5
Dependent Variable: (ΔLoan)/Asset	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err	Coef./(Rbt. Std.Err	Coef./(Rbt. Std.Err
Bank Specific Variables					
Constant	-1.389**	-2.303***	0.317	-0.098	-1.020
	(0.492)	(0.491)	(0.721)	(0.724)	(0.734)
Lag(-1)	0.069	0.046	0.055	0.049	0.036
	(0.042)	(0.048)	(0.043)	(0.044)	(0.051)
K/A	1.284*	1.426**	1.460**	1.481**	1.554**
	(0.690)	(0.683)	(0.698)	(0.696)	(0.688)
(K/A)^2	-1.979**	-2.282**	-2.276**	-2.262**	-2.430**
	(0.903)	(0.933)	(0.922)	(0.938)	(0.957)
Interest	-0.008	-0.003	-0.270**	-0.263***	-0.208**
	(0.008)	(0.008)	(0.075)	(0.071)	(0.073)
Interest^2			0.011**	0.010***	0.008**
			(0.003)	(0.003)	(0.003)
Log(A)	0.162***	0.175***	0.163**	0.334**	0.276**
	(0.041)	(0.039)	(0.040)	(0.113)	(0.114)
Log(A)^2				-0.016*	-0.010
				(0.009)	(0.009)
Reserves	-0.000	-0.000	-0.000	-0.000	-0.000
	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Macroeconomic Variables					
	-1.967	10.943**	-3.365	-3.696	7.102*
	(2.596)	(3.197)	(2.609)	(2.674)	(3.748)
GdpGrowth	0.075**	-0.025	0.080**	0.078**	-0.001
	(0.029)	(0.033)	(0.029)	(0.028)	(0.037)
Inflation	0.019**	0.030**	0.015	0.014	0.025**
	(0.010)	(0.010)	(0.009)	(0.009)	(0.010)
Time Dummies Variables					
Y07		0.119***			0.084**
		(0.032)			(0.033)
Y08		-0.394***			-0.322**
		(0.111)			(0.113)
Y09		-0.090**			-0.077**
		(0.029)			(0.031)
Adj. R-squared	0.210	0.248	0.236	0.243	0.262
No. of Obs	247	247	247	247	247

*p<.1,**p<.05,***p<.001

Table 5. Random Effect Estimation

Estimation method:Randoms Effect Regression	Baseline Model	Model 2	Model 3	Model 4	Model 5
Dependent Variable: (ΔLoan)/Asset	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)
Bank Specific Variables					
Constant	-0.203*	-0.571**	-0.153	-0.321	-0.614*
	(0.110)	(0.211)	(0.166)	(0.240)	(0.372)
Lag(-1)	0.124**	0.130**	0.122**	0.114**	0.120**
	(0.047)	(0.042)	(0.047)	(0.046)	(0.041)
K/A	0.433**	0.479**	0.437**	0.433*	0.482*
	(0.216)	(0.236)	(0.218)	(0.228)	(0.247)
(K/A)^2	-0.534**	-0.585**	-0.536**	-0.514**	-0.570**
	(0.226)	(0.245)	(0.228)	(0.248)	(0.265)
Interest	-0.007	-0.006	-0.016	-0.014	-0.026
	(0.004)	(0.007)	(0.021)	(0.020)	(0.026)
Interest^2			0.000	0.000	0.001
			(0.001)	(0.001)	(0.001)
Log(A)	0.029**	0.034**	0.030**	0.086	0.091
	(0.011)	(0.012)	(0.011)	(0.063)	(0.067)
Log(A)^2				-0.005	-0.005
				(0.005)	(0.005)
Reserves	-0.000**	-0.000***	-0.000***	-0.000**	-0.000**
	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Public	0.064**	0.058	0.060**	0.061*	0.054
	(0.030)	(0.035)	(0.031)	(0.033)	(0.037)
Private	0.027	0.019	0.023	0.023	0.013
	(0.024)	(0.028)	(0.024)	(0.025)	(0.027)
Specialized	0.006	-0.004	0.003	-0.002	-0.015
	(0.030)	(0.033)	(0.030)	(0.032)	(0.035)
Macroeconomic Variables					
HHI	0.067	0.631**	0.054	0.040	0.584**
	(0.103)	(0.270)	(0.119)	(0.118)	(0.284)
GdpGrowth	0.012	0.015	0.012	0.012	0.016
	(0.007)	(0.024)	(0.007)	(0.008)	(0.025)
Inflation	0.000	0.025**	-0.000	-0.000	0.024**
	(0.003)	(0.011)	(0.004)	(0.004)	(0.011)
Time Dummies Variables					
Y00		-0.006			-0.004
		(0.071)			(0.072)
Y01		-0.056			-0.045
		(0.101)			(0.105)
Y02		0.106**			0.109**
		(0.053)			(0.052)
Y03		0.119*			0.098
		(0.061)			(0.061)
Y04		0.036			0.015
		(0.086)			(0.082)
Y05		0.015			0.013
		(0.090)			(0.091)
Y06		0.057			0.056
		(0.051)			(0.052)
Y07		0.098**			0.097**
		(0.043)			(0.043)
Y08		-0.236**			-0.231**
		(0.085)			(0.085)
Y09		-0.068**			-0.067**
		(0.031)			(0.030)
Adj. R-squared	0.158	0.196	0.157	0.156	0.193
No. of Obs	326	326	326	326	326

Table 6. Random Effect Estimation on sample starting from 2007

Estimation method:Randoms Effect Regression	Baseline Model	Model 2	Model 3	Model 4	Model 5
Dependent Variable: (ΔLoan)/Asset	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)	Coef./(Rbt. Std.Err)
Bank Specific Variables					
Constant	-0.203*	-0.571**	-0.153	-0.321	-0.614*
	(0.110)	(0.211)	(0.166)	(0.240)	(0.372)
Lag(-1)	0.124**	0.130**	0.122**	0.114**	0.120**
	(0.047)	(0.042)	(0.047)	(0.046)	(0.041)
K/A	0.433**	0.479**	0.437**	0.433*	0.482*
	(0.216)	(0.236)	(0.218)	(0.228)	(0.247)
(K/A)^2	-0.534**	-0.585**	-0.536**	-0.514**	-0.570**
	(0.226)	(0.245)	(0.228)	(0.248)	(0.265)
Interest	-0.007	-0.006	-0.016	-0.014	-0.026
	(0.004)	(0.007)	(0.021)	(0.020)	(0.026)
Interest^2			0.000	0.000	0.001
			(0.001)	(0.001)	(0.001)
Log(A)	0.029**	0.034**	0.030**	0.086	0.091
	(0.011)	(0.012)	(0.011)	(0.063)	(0.067)
Log(A)^2				-0.005	-0.005
				(0.005)	(0.005)
Reserves	-0.000**	-0.000***	-0.000***	-0.000**	-0.000**
	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Public	0.064**	0.058	0.060**	0.061*	0.054
	(0.030)	(0.035)	(0.031)	(0.033)	(0.037)
Private	0.027	0.019	0.023	0.023	0.013
	(0.024)	(0.028)	(0.024)	(0.025)	(0.027)
Specialized	0.006	-0.004	0.003	-0.002	-0.015
	(0.030)	(0.033)	(0.030)	(0.032)	(0.035)
Macroeconomic Variables					
HHI	0.067	0.631**	0.054	0.040	0.584**
	(0.103)	(0.270)	(0.119)	(0.118)	(0.284)
GdpGrowth	0.012	0.015	0.012	0.012	0.016
	(0.007)	(0.024)	(0.007)	(0.008)	(0.025)
Inflation	0.000	0.025**	-0.000	-0.000	0.024**
	(0.003)	(0.011)	(0.004)	(0.004)	(0.011)
Time Dummies Variables					
Y00		-0.006			-0.004
		(0.071)			(0.072)
Y01		-0.056			-0.045
		(0.101)			(0.105)
Y02		0.106**			0.109**
		(0.053)			(0.052)
Y03		0.119*			0.098
		(0.061)			(0.061)
Y04		0.036			0.015
		(0.086)			(0.082)
Y05		0.015			0.013
		(0.090)			(0.091)
Y06		0.057			0.056
		(0.051)			(0.052)
Y07		0.098**			0.097**
		(0.043)			(0.043)
Y08		-0.236**			-0.231**
		(0.085)			(0.085)
Y09		-0.068**			-0.067**
		(0.031)			(0.030)
Adj. R-squared	0.158	0.196	0.157	0.156	0.193
No. of Obs	326	326	326	326	326

Table 7: Robustness check using Arello-Bond Dynamic Panel Estimation

Estimation method:GMM Arellano-Bond dynamic panel-data estimation	Baseline Model	Model 2	Model 3	Model 4	Model 5
Dependent Variable: (ΔLoan)/Asset	Coef./(Std.Err)	Coef./(Std.Err)	Coef./(Std.Err)	Coef./(Std.Err)	Coef./(Std.Err)
Bank Specific Variables					
Lag(-1)	0.110	-0.129	0.107	0.085	-0.076
	(0.106)	(0.116)	(0.106)	(0.106)	(0.122)
K/A	1.736**	1.628**	1.597**	1.931**	1.128
	(0.786)	(0.654)	(0.778)	(0.770)	(0.834)
(K/A)^2	-2.751**	-2.542**	-2.545**	-2.802**	-2.013*
	(1.241)	(1.040)	(1.234)	(1.219)	(1.213)
Interest	-0.004	0.006	-0.030	-0.026	-0.049
	(0.004)	(0.006)	(0.026)	(0.026)	(0.045)
Interest^2			0.001	0.001	0.002
			(0.001)	(0.001)	(0.002)
Log(A)	0.138***	0.291***	0.143***	0.525**	0.267*
	(0.027)	(0.037)	(0.028)	(0.168)	(0.160)
log(A)^2				-0.031**	0.001
				(0.014)	(0.013)
Reserves	-0.001*	-0.000	-0.001*	-0.000	-0.000
	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Macroeconomic Variables					
HHI	0.972**	0.095	0.881**	0.779*	-0.048
	(0.411)	(0.312)	(0.416)	(0.417)	(0.432)
GdpGrowth	0.015**	-0.145***	0.016**	0.017**	-0.157***
	(0.007)	(0.029)	(0.007)	(0.007)	(0.032)
Inflation	-0.001	-0.062***	-0.002	-0.002	-0.062***
	(0.003)	(0.012)	(0.003)	(0.003)	(0.013)
Time Dummies		(0.050)			(0.052)
Y01		-0.317***			-0.304**
		(0.093)			(0.095)
Y02		-0.143*			-0.119
		(0.072)			(0.073)
Y03		0.075			0.055
		(0.068)			(0.087)
Y04		0.720***			0.733***
		(0.121)			(0.145)
Y05		0.807***			0.876***
		(0.136)			(0.149)
Y06		0.429***			0.486***
		(0.079)			(0.090)
Y07		0.291***			0.352***
		(0.057)			(0.069)
Y08		0.377***			0.356***
		(0.094)			(0.102)
Y09		0.223***			0.243***
		(0.047)			(0.054)
Y10		0.269***			0.283***
		(0.045)			(0.050)
No. of Obs	264	264	264	264	264

* p<.1, ** p<.05, *** p<.001

Table 8. Robustness using Arello-Bond Dynamic Panel Estimation (data 2007)

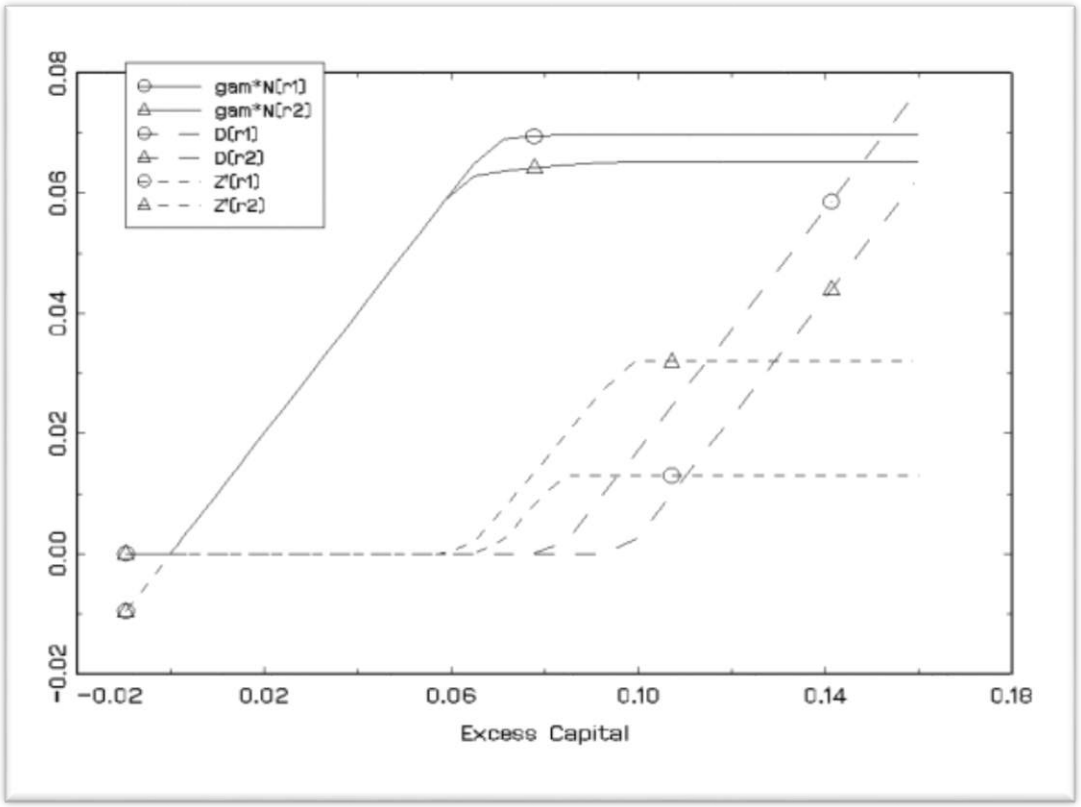
Estimation method:GMM Arellano-Bond dynamic panel-data estimation	Baseline Model	Model 2	Model 3	Model 4	Model 5
Dependent Variable: (ΔLoan)/Asset	Coef./(Std.Err)	Coef./(Std.Err)	Coef./(Std.Err)	Coef./(Std.Err)	Coef./(Std.Err)
Lag(-1)	0.105	-0.044	0.026	-0.010	0.034
	(0.152)	(0.164)	(0.157)	(0.158)	(0.174)
K/A	2.927**	2.493**	3.174**	3.505**	2.403**
	(1.176)	(0.885)	(1.165)	(1.085)	(1.160)
(K/A)^2	-4.182**	-3.630**	-4.609**	-4.882**	-3.652**
	(1.677)	(1.366)	(1.673)	(1.579)	(1.589)
Interest	-0.001	0.005	-0.211	-0.199	-0.105
	(0.008)	(0.008)	(0.128)	(0.130)	(0.131)
Interest^2			0.009	0.008	0.004
			(0.005)	(0.005)	(0.005)
Log(A)	0.299***	0.307***	0.306***	0.628**	0.265
	(0.060)	(0.058)	(0.059)	(0.254)	(0.284)
log(A)^2				-0.030	0.003
				(0.023)	(0.026)
Reserves	-0.000	-0.000	-0.000	-0.000	-0.000
	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Macroeconomic Variables					
HHI	-1.159	-1.084	-1.289	1.933	-1.143
	(3.100)	(2.854)	(3.053)	(3.900)	(4.027)
GdpGrowth	0.058**	-0.029	0.054**	0.043*	-0.039
	(0.024)	(0.033)	(0.024)	(0.025)	(0.035)
Inflation	0.015*	-0.000	0.009	0.005	-0.005
	(0.008)	(0.009)	(0.009)	(0.009)	(0.011)
Time Dummies		(0.069)			(0.095)
Y09		0.042			0.064
		(0.030)			(0.041)
Y10		0.082**			0.109**
		(0.032)			(0.038)
No. of Obs	172	172	172	172	172

* p<.1, ** p<.05, *** p<.001

Figure 1: BSD Circular No. 06 dated October 28,2005 (Banking Services Department SBP)

CAMELS-S	Required CAR effective from	
	31.12.2008	31.12.2009
1&2	10%	10%
3	10%	12%
4	11%	14%
5	12%	15%

Figure 2. Heuvel 2006 Optimal policy with respect to Excess capital r1=0.05 & r2=0.06



(Source: Heuvel (2006))

Figure 3. Scatter graph of all Pakistani banks

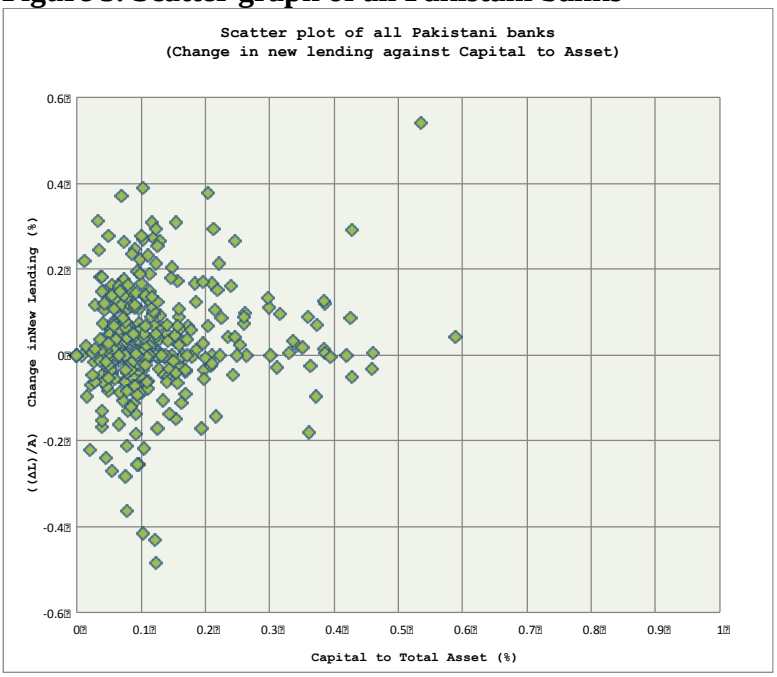


Figure 4. Scatter Graphs of All Commercial Banks

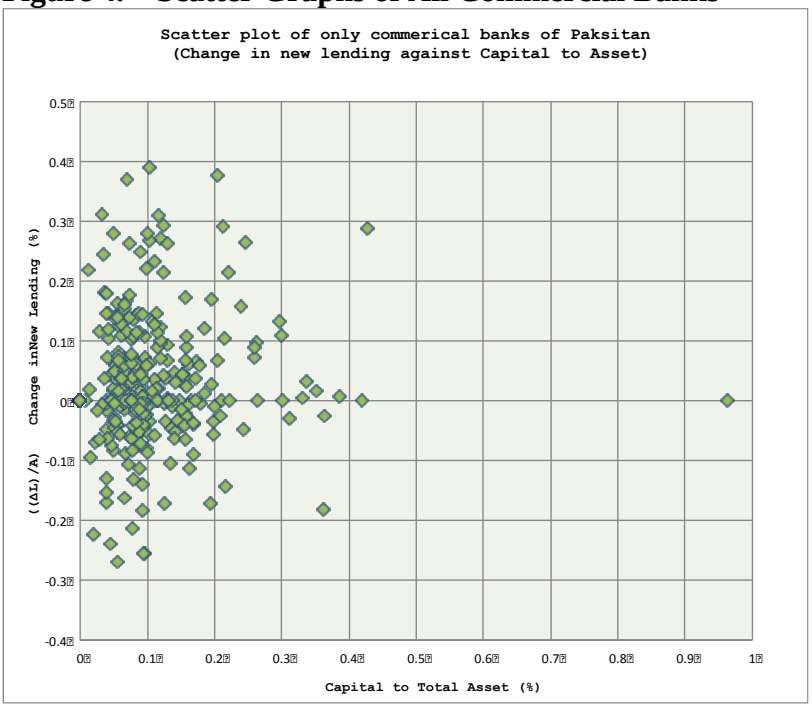


Figure 5. Scatter Graphs of All Commercial Banks

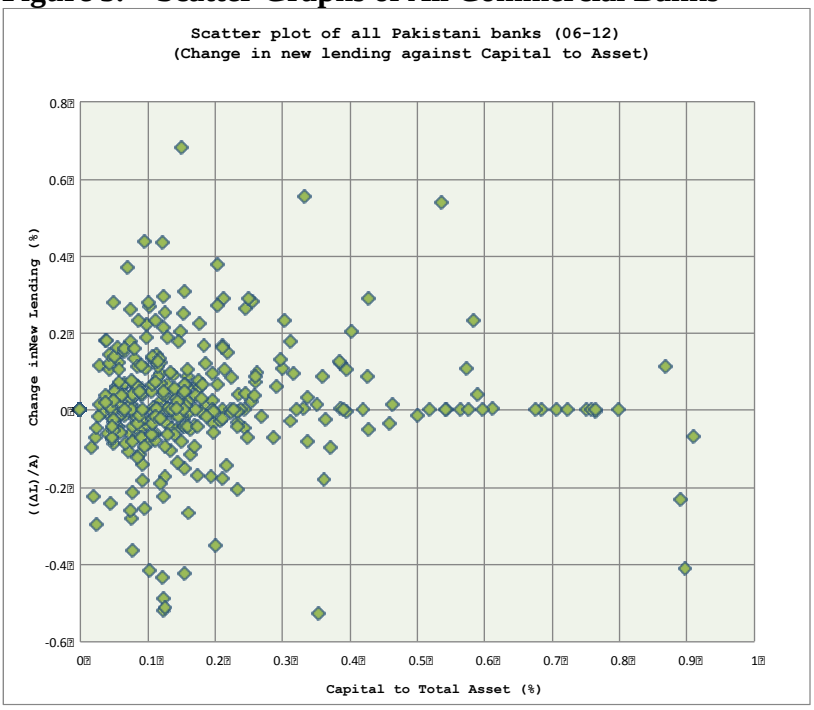


Figure 6. Heteroscedasticity of residuals

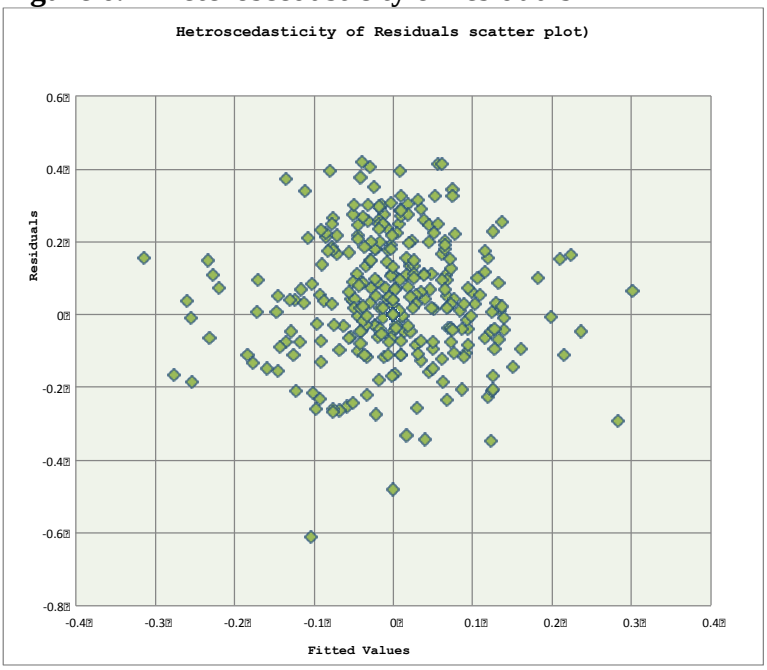


Figure 7. Distribution of residuals

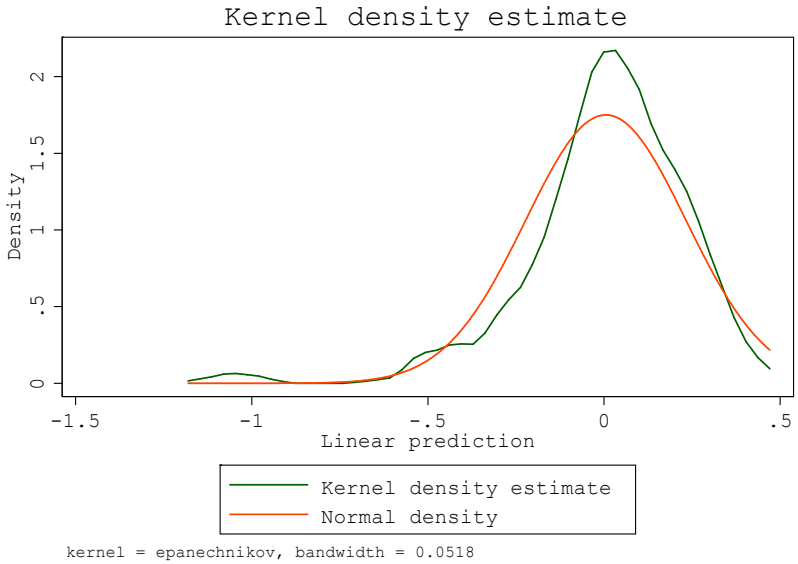
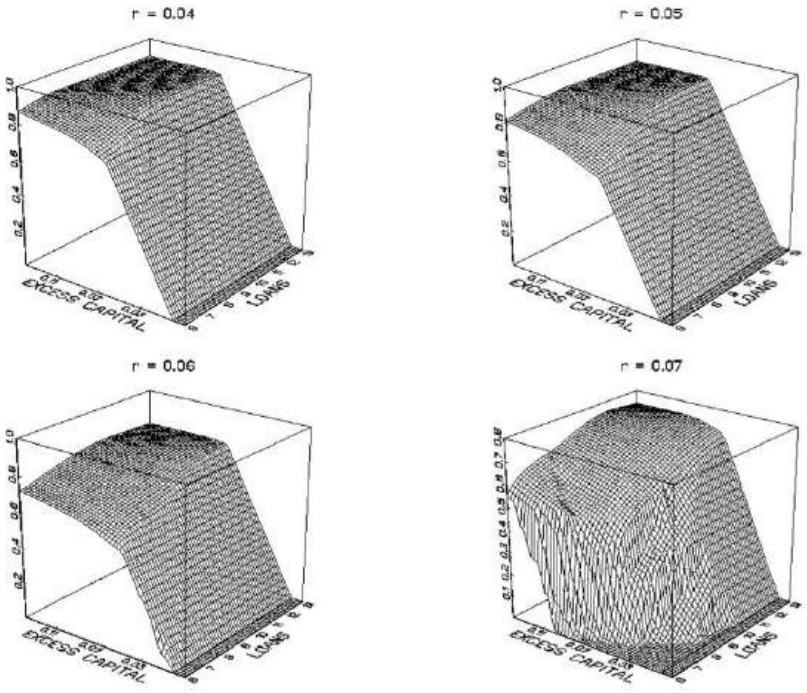


Figure 8. Optimal bank policy with respect to Excess capital and loans (Source: Heuvel (2006))



(Source: Heuvel (2006))

THE CONSUMER ISLAMIC DEBT FINANCING AND ITS IMPLICATION IN MALAYSIA IN LIGHT OF MASLAHAH AND MAQASID AL-SHARIAH

Mohd Daud Awang[1]
Mehmet Asutay[2]
Mohd Kamal Azman Jusoh[3]
Mohamad Sabri Yusoh[4]
Norsazali Abdullah[5]

ABSTRACT

In facing the competition and current challenges in banking industry, Islamic banks in Malaysia have successfully established consumer Islamic debt financing products and services which aims to achieve Maqasid al-Shariah through Maslahah concept as its operation does not involve riba or interest based and fulfilling the Muslim people's needs of financing. Thus also underlying the Shariah requirements accordance to Shariah Advisory Committee Bank Negara Malaysia. As we know, the consumer debt financing product sin Malaysia based on some principles still disputed among Islamic scholars such as Bai' al-'Inah, al-Tawarruk, Bai' Bi Thaman Ajil and Murabaha. Today in Malaysia, the increasing of bankruptcy cases become a serious issues. It relates to some debt financing products. This paper have two objectives. Firstly aims to critically explore and examine Maslahah principles which was used for Islamic debt financing in Islamic banking in relation to Maqasid based on particular circumstances. Secondly, to analyze these products based on Maslahah concept to measures the level of Masalih or Mafasid and to show the implication whether there is abuse of the concept. Based on Maslahah concept, some conditions are suggested to overcome the issues of consumer debt financing operation that the IBF can continue in offering these products to Muslims and Non-Muslim people in line with Shariah compliance.

Keywords : Maslahah, Maqasid Shariah, Consumer Islamic Debt Financing.

1. INTRODUCTION

[1] Senior Lecturer, Faculty of Human Ecology, Universiti Putra M alaysia, Serdang, Selangor.
[2] Director, Durham Centre for Islamic Economics and Finance, Durham University.
[3],[4] Senior Lecturer, University Technology MARA (UiTM) Pahang, Malaysia.
[5] Lecturer, University of Kuala Lumpur MIIT, Malaysia. Corresponding author: sazali@unikl.edu.my

Since the 50's, Malaysia has taken important initiative in the studies on Islamic Financial System and its implementation. Currently, Malaysia has been recognized as a leading international Islamic Banking and financial (IBF) hub for halal agenda. The main successfully factor of IBF development is the collective efforts of all Muslims in avoiding "riba", a common practice in conventional banking system. Most of the Malay population in Malaysia, which are the majority Muslims, normally choose Islamic banking which is in line with their religious need (Wan Marhaini et.al.,2006). With the rapid growth of Islamic banking industry, the customers persistently change from the conventional banking system to Islamic banking industry. The government strongly supports this effort : "The government prasent focus is on developing greater and better relation between the rapidly Islamic finance and banking industry and the global halal market (Utusan Online, 2004). One example is the prestigious achievement gain by the Bank Rakyat. It has gain the rank of 241 out of 300 in the Asia Pacific region. (The Asian Banker, 2009). On the development of IBF, there are some criticism of the products and services which point out the negative implication of its socio-economic aspect.

Consumer debt financing is regards as a crucial need to the Muslim. Today, many cases of bankruptcy occurred due to the customers' failure to pay out their loans or financing. The Islamic banks have now established Islamic debt financing as a new consumer product; thus fulfilling the current demand and need of the Muslim people. Unfortunately the issues of bankruptcy is ever increasing among the people in Malaysia including Muslims. This study will explore the principles of the Islamic debt financing products and examine their implication; through Maslahah as a concept which is used in the Islamic banking. It also will exsplore the meaning of Maslahah as an important mechanism to measure the implication aspect. The researcher will identify and analyze the issues and challenges of the Islamic Banking and financial. Finally, some suggestions will be outlined for future studies in this area.

2. UNDERSTANDING TO CONCEPT OF MASLAHAH AND MAQASID SHARIAH

Maslahah concept is one of the importance mechanism of Shariah as outline by the Holy Quran and Sunnah. Maslahah aims to protect and benefits the people, whether as an individual or the society from harm or chaos or destruction. Maslahah is also to ensure the suggested practise fulfil people needs in life to achieve the well-being in economic aspect as Maqasid Shariah. For example, establishing the Islamic bank which can provide Islamic financial services and which is different from the conventional services free from riba which is not accepted and not considered valid in the Islamic jurisprudence.

Maslahah is important mechanism of Shariah in facing the challenges of social change, needs and development in the modern times that understand relation between Islam law and these natures. Many scholars and writers attempt to elaborate the role of Maslahah concept and objective of *Shariah* or *Maqasid Shariah* to solve current and contemporary problems. This mechanisms or concept stand from the spirit of compassion and mercy as such term in the Quran: "We have not sent you but as mercy to the worlds" (21:107). On another note one can refer to the concessions that Allah said "Allah burdens not any soul but according to its capacity" (3: 286). Some Scholar explains its relation to the meaning of mercy is to establish justice and avoid hardship. The Maqasid view is to alleviate

harm and as a protection thus facilitating the activities via underlying Islamic values. It is also to fulfil the Muslim need with the convenience requirements to achieve truly well-being.

What is Maslahah? Maslahah is benefit or useful acknowledge by Shariah. It also can meant as public interest. All of the jurists define Maslahah literally as benefit or interest, and in technical term means unrestricted public interest in the absence of regulation by the Allah and when no textual authority can be found on its validity or otherwise. For instance, the Companions decided to impose tax (*kharaj*) on agricultural lands in the conquered territories despite the fact that no textual authority could be found in favour of this. Al-Ghazali, define Maslahah as "consideration which secure a benefit or prevent a harm (prohibition).".It is also defined as a consideration which is proper and harmonious with the objectives of the Shariah, either by securing benefit or preventing harm in situation where there is no indication as to its validity. If the consideration is contrary with the textual, it shall not be considered as Maslahah or Maslahah Mutlaqah because it is not in light of Shariah. Maslahah broad use in Islamic law in such secondary areas as economics, business, halal food and other worldly activities require flexibility and development according to time and space. Among the first jurists who regarded Maslahah as a legal principle in legislation are al-Juwayni, al-Ghazali, al-Razi, al-Shatibi, Schactt, Ahmad Hasan, Kamali etc (Wan Azhar, 2003). There were also evidence that in the time of Hanafi, Maliki and Shafie, they also apply some of Maslahah practices though there were no precise definition of the principle for the consideration of Maslahah (public interest). For example Imam Malik once said that" It is permisibble to kill one-third of the people for the interests of the remaining two-thirds" (al-Zuhaili, 1986).

Kamali (2008), expended the meaning of Maslahah to the real of justice which is very meaningful in the life of the peoples in the modern time. These is because the meaning from Islamic law and Maqasid on the particular aspect seem limited and confusing. For example, according to Kamali, Maslahah aim to achieve the Justice which it is not only in its corrections and retributive sense of adjudicating grievances but also in the sense of distributive justice, establishing equilibrium of benefits and advantages in society. He added if Shariah fail to preserves public interest it means that Islam has failed to serve its followers. This is surely absurd. From these points, the meaning of Maslahah in line with the objective of Shariah is not to impose any difficulty or inconvenience on people but is to promotes goodness, benefits and utility. This view is aim actually to express the meaning of Maslahah is the Maqasid indirectly. Before his opinion about justice, al-Qurtubi had illustrates the meaning of Maslahah in establishing justice. Some cases are more related to establish justice than to understand Maslahah itself.

The term of Maslahah has also been recognized as Maqasid. It meant of al-Dharuri situation or essential level of benefits. This opinion also approved by Dusuki A.W, Abdullah, they said, Maslahah sometimes connotes the same meaning as maqasid, and scholars have used these two terms almost interchangeably (Dusuki, A. W., Abdullah, N. I., 2007). Kamali (2008) also has wrote the similar meaning in his book entitle "Maqasid Al-Shariah Made Simple". He said, that the entire range of Masalih-cum-Maqasid can be divided into three categories in a descending order of importance; beginning with the essential Masalih (*daruriyyat*), followed by the complementary benefit (*hajiyyat*) and then the embellishments (*tahsiniyyat*). All categories also related to five areas namely faith, life, lineage, intellect and property. According to Imam al-Ghazzali: Maqasid al-Shari`ah is to promote the well-being of all mankind, which lies in safeguarding their faith (*din*), their human self (*nafs*),

their intellect (*`aql*), their posterity (*nasl*) and their wealth (*mal*). Then actually what is exact the meaning of Maslahah and Maqasid in this case. Base on the above fact of discussion, and conclusion, Maqasid al-Shariah have three situations level or interests (Maslahah). The first situation level as a key point require flexibility and adjusting to change with permanent features and mechanisms for adapting to change, to fulfill the needs of the people in life and it was also be known as essential interests.

What is the essential interests? Essential interests or al-Dharuri accordance to 'Abas Husni Muhammad (1983) means "thing which must be executed for the necessary protection and benefit of the ummah in life and thereafter". Kamali (2008) define the essential interest to meant that to create normal order in society as well as to sustain the survival and spiritual well-being of individuals so much so that their destruction and collapse will precipitate chaos and collapse of normal order in society. How to know this level and it's different from other level, is to understand the level of needs where it's absent will lead to the peoples' destruction and collapse and what is not achieve these level, is not al-Dharuri. This can be properly conducted when it can distinguish between different needs. To understand the level of needs in case of the management of purchasing needs,the needs to purchase should be refered to the real needs. It should be differentiated between own needs and the enjoyment of life. This is important as there are many cases of financing management that are too extravagant in spending. Islam forbids the ummah to be excessive or wasting because it will lead the people to destruction and collapse. Therefore a successful man must have high level of sacrifice. He should know which one to sacrifice in accordance to the importance in order to obtain better return. Understanding the definition of needs is something that is a must to a certain extent in order to achieve harmony. Need is something that must be provided. Whereas the 'demand' or 'desire' is something supplementary to the needs which will just increase the level of satisfaction. However, when we do not meet our desires it will only cause us to feel less satisfy. We can distinguish between desire and needs based on its function. Something that we call desire will act supplementary to the main function of needs. However if we do satisfy our need it is intolerable. Therefore Islam do not like extravagant. Those who like extravagant and wasting are considered as friend of evil.

The underlying Maslahah is to protect benefit acknowledge by Sharia. If it used is absolutely prohibited by Shariah it is considered as invalid Maslahah or Maslahah Mulgha. Tawfiq said, *al-masalih al-mulghat* or the benefits which are rejected are also clearly mentioned in the holy texts, and that are disapproved in the Shariah. Examples can be drawn from the verse of inheritance, which prescribes that generally the share of a male (son) is as double the share of a female (sister), though it seems to have been beneficial to provide equal shares for both parties. In other case, one which is engage in the conventional banking product that is clearly involve riba or into the conventional investment which transactions involve *riba* (interest, sometimes also used for 'usury') are also prohibited despite the fact that *riba* enables one to make profit. These cases occur because of misuse of the term of Maslahah and application not in a proper manner or approach and lack of understanding of Islamic law. The main factors for abuse of the Maslahah concept is due to *jahil* or misunderstanding of exact meaning of Maslahah in Shariah.

3. THE CONTRACTS FOR ISLAMIC DEBT FINANCIAL OF ISLAMIC BANKING AND FINANCE

Malaysia has been successfully establishing IBF products and services on particular approach so much so that refer to Islamic business principles or Muamalat contracts. Therefore, Islamic scholars have attempts to adapt particular approaches link to Muamalat activities to offer Islamic banking products and services such as al-Wadiah and al-Mudharabah, al-Murabahah and al-Musyarakah, al-Ijarah and so forth. The Islamic financing operations that it also offers the debt financing category in fulfilling of people's needs which ensure the Islamic way can solve the financing demand is conducted fairly and justice. Today IBF has offer Islamic personal financing based on Bai' al-'Inah or Al-Tawarruk and i-Home financing based on Bai' bi thaman Ajil. Both of contracts are controversy products and also have rejected by some countries which established IBF. As we know, these contracts used Maslahah concept to achieve Maqasid al-Shariah in facing the demand of people's need of financing. This study will explore contracts of Bai' al-'Inah and Al-Tawarruk for Personal Financing and Islamic credit card, while BBA and Murabahah for Home financing as consumer Islamic debt financing in light of Maslahah and Maqasid al-Shariah.

3.1 Bai' al-'Inah and Al-Tawarruk Contracts

Bai' al-'Inah is a sell and buy-back contract. There are two separate transaction. Base on the analysis by Mohd Daud, Norsazali, Mohd Kamal Azman and Sayuti (2013) has discussed about the contract Bai' al-'Inah and its significant to the IBF operation is consider as Maslahah concept. The question is why it is regarded to Maslahah, since the majority of jurists have rejected this contract due to contractual exercise similar on agreement of loan. It also intrepreted as planning of two parties for cash money to customer and to earn the profit for bank, which the transaction of sale of goods is not intention of the parties but the hightlighted questions indicate that the main issue is *Helah* reason or trick which related in the contrack as a view point due to riba or usury. Accordance to Shafie opinion, it is permits as the contract has fulfilled all of the pillars or elements of the Islamic contract of sale or in line of Islamic law. In Malaysia this contract offered for Islamic Personal Financing and card credit that they refer to Maslahah are due to two main factors. Firstly, there are essential situation to offer these products and secondly, any contracts not applicable for both of the products except Bai' al-'Inah and al-Tawarruk. The analysis also concluded that the implementation of Bai' al'-Inah and also al-Tawarruk were considered as Maslahah level as a result, through interviews with some of the Muftis and Executive officers of Islamic Banking in Malaysia. It also concluded that al-Tawarruk contract rather than Bai' al-'Inah contract and Bai' al-'Inah should be exercise. Bai' al-'Inah also should be restricted using and that only for difficult products to be structured. It also must be monitored by authority bodies accordingly. All of them: Muftis and Shariah officers of IBF have described that implementation of Bai' al-'Inah and al-Tawarruk are in light of Maslahah as long as they remain significant to Islamic financing operation. The arguments of Maslahah, can be understood through serious requirement of IBF product personal loan and card credit as necessary need of the people. If they are not offered, than the peoples will get them from the conventional bank or sharks loan (illegal loan) which are confirm prohibited due to riba. At the same time, there are nonexistence of applicable contract to be used for Islamic personal financing except that if only Bai' al-'Inah and al-Tawarruk were exercise. Hence the contracts require that all conditions pertaining to sale are fulfilled. On the other reason refer at absently of particular text of hadith as proof of

prohibition of Bai' al-'Inah specifically and most of hadiths which forbid it still in incontrovertible validity (Awang Haji Metussin Haji 2006; Bank Negara Malaysia, 2007).

According to Fazlur Rahman Ebrahim (2005), Bai' al-'Inah and Bai' al-Dayn are largely attributed to be application of contract in consumer and trade financing and need to be understood to fully appreciate and maximize the true potential and wisdom of Shariah. The significant of these products can also be understood from the same author when he said, suitable IBF instruments need to be developed to meet the requirements of more diverse business activities. In the global market, standardisation, harmonisation and application of Shariah compliant products based on some general principles should be promoted.

An additional proof can be refer to Imam Ibn Taymiyyah opinion about the usage of the al-Tawwaruk contract. He is of an opinion that to get cash money in a desperate situation (*Dharuri*) is permitted. Thus the al-Tawarruk and the Bai' al-'Inah are similar approach that is strongly point of this view.

The al-Tawarruk contract is concluded as a permitted contract at the 15th conference of al-Majma al-Fiqhi al-Islami. However in the 17th conference, the contract of al-Tawarruq al-Munazzam was banned in Islamic banking practices, whereas the contract of al-Tawarruq al-Fiqhi is remain permitted as stated in the classical practice (Majallah Majma', 2003). The above statements and other discusions indicated support to al-Tawarruk contract rather than Bai' al-'Inah contract. In the middle east contract of al-Tawarruk was used in offering Islamic financing products. For example, personal financing at Shamil Bank of Bahrain and credit card products at Tayseer al-Member in The National Commercial Bank (NCB) of Jeddah in Saudi Arabia. Looking at this effort, more positive transaction which prefer to use the al-Tawarruk contract proved that Maslahah as not only sound but a good practice as well. (Mohd Kamal Azman, 2014)

According to Ahmad Zaini Othman (2006), even though banks in Malaysia still offers products based on Bai' al-'Inah with specific characteristics especially for Islamic personal financing and Islamic credit card, nowadays, all the Islamic bank have prescribe to tranform all products based on Bai' al-'Inah to al-Tawarruq contract as alternative. The BNM has held a Discussion entitled "Muzakarah Cendikiawan Shariah Nusantara" on 28-29 June 2006 to examine and review the law of sale of Bai' al-'Inah and al-Tawarruk in current practice and have decided as the follows are:

a. The permissible of Bai' al-'Inah and al-Tawarruk still in debating among jurists, however for each view has its own arguments.

b. The permissible requirement for Al-Tawarruk is similar to Bai' al-'Inah. Therefore, both of them based of the same ruling.

c. Bai' al-'Inah contract is still necessity for the developing of Islamic finance in national level.

However, practitioners need to strengthen and streamline operational processes and documentation must be comply all of the criteria of Bai' al-'Inah as required. (Bank Negara Malaysia, 2007):

These discussions showed that in Malaysia, the use of the al-Tawarruq contract which replace Bai' al-'Inah contract can be considered as Maslahah efforts. All Islamic bank (Bank Islam Malaysia Berhad (BIMB) and Bank Muamalat Malaysia Berhad (BMMB)) has decided to use al-Tawarruk concept for credit cards and personal financing starting from 2013. Though, Bai' al-'Inah is still in use, it is limited in IBF operation. All of arguements and improvement of these contracts from time to time is recognized as a good Maslahah exescise.

3.2 BBA and Murabaha Contracts

Murabahah and BBA contracts are distinguished from loan contract (conventional) as their contractual capacity to earn profit income is based an underlying of Shariah of exchange of real good and services. Nonexistence of such good invalidates the contract. Pricing of the real good rather than the financing services accorded to the transaction is the substance of the consideration of exchange. Not anticipating subsequent productive activity during the ex-post sale or credit period, the contract limit the price ceiling to the ascertained credit period agreed at the point of sale (Syed Musa, 2005). Murabaha involving method of promising with other contract such Bai' al-'Inah. On other hand, severe criticism posed at the BBA financing is its involvement in 'hidden' Bai' al-'Inah contracts, where the financier buys and sells the products back to the customer. (M.Fahim Khan and Layachi Feddad, 2005; Syed Musa, 2005: Tawfique Al-Mubaraka and Dr. Noor Mohammad Osmani, 2012). While in BBA the price BBA is higher than the price of normal transaction. The increment in price is allowed in case of deferment of price in a sale contract provided that there is asset to be sold which represent the subject matter of the contract or the object of trade. Therefore, *the increase of price is against the commodity* and not against money or loan, otherwise it will be taunt amount to riba. *Maslahah can be understood* that the bank have to ensure its benefit of the satisfaction of price against the fluctuations of financing system and buyer have no cash to purchase some properties of necessary needs except by financing instrument. From the *Maqasid Shariah in BBA* in imposing such requirements is to ensure a win win situation, whereby both parties benefit from the transaction in a very satisfactory manner. There is an increase of the price for the satisfaction of the seller (bank) by advancing the asset against deferred payment and a scheme of instalment for the benefit of the buyer (Achene, 2013). BBA and Murabaha sometime will be engaging Bai' al-'Inah. In Syed Musa (2005), he explain BBA and Murabahah conditions : "In financing activity the property has become not only the object of sale but has become the basis for liquid funds to be made available to deficit units. This particularly relevant in sell and buy-back arrangements for re-financing. Bai' al-'Inah which has the characteristics of mark-up financing resembles Murabahah except that it allows the customer to be the agent and subsequent purchaser". However the Central Bank of Malaysia has approved a 'floating-rate' BBA where the customer pays a monthly instalment amount that is on the higher end, but subsequently gets a rebate based on the prevailing market interest rate. The rebate showed that it is one conditions of Maslahah requirement. Therefore this paper also suggest BBA and Murabahah have to review their price and rebate from time to time to benefiting all the parties fairly and justice.

4. EXPLORATION ON CONSUMER ISLAMIC DEBT FINANCING, ISSUES AND ITS IMPLICATION IN LIGHT OF MASLAHAH

In Malaysia consumer debt financing is a crucial need to people in earning of the property and the current needs. The Islamic banks have established products of Islamic debt financing for their customers based on Shariah compliance. For examples Islamic Home financing use principle of Bai' bi Thaman Ajil and Murabahah and personal Financing has established with principle of Bai' al-'Inah or al-Tawarruk and also being adopted for card credit product. Of course, establishment of these products have enhanced the market of Islamic banking and finance and an effort in providing the competitive products due to fulfil Muslim requirement on Islamic financing need. But in the growth of Islamic banking and financial industry there are significant issues in relation to customer failure to pay their instalments as particular grounds. Therefore, this section to explore the implication of these products and is examine these issues through Maslahah concept which is used in a facilitator manner in Islamic banking.

4.1 The Consumer Islamic Debt Financing In Light of Maslahah

Undoubtedly, that the consumer Islamic debt financing is an important role of development of Islamic socio-economy, where the emerging of Islamicity of banking and finance there are many opportunities for Muslim to own their properties by the Islamic facilitator manner. It is meant the objective of Shariah suggest the Islamic way for economic activities over IBF system to challenge the conventional services which to avoid riba-based or interest. The products have approved to run in light of Maslahah where in the present, many Muslims people can buy and own their properties through banking and financial system. While the significant of personal financing and credit card seem as counterweight of individual finance to meet current needs and aimed to achieve well-being of the ummah, universal brotherhood, justice and equitable distribution of income. According to above analysis of Muftis and Shariah officers of Islamic banks by Mohd Daud, Norsazali, Mohd Kamal Azman and Sayuti (2013), it concluded that implementation IBF product use Bai' al-'Inah and al-Tawarruk are in light of Maslahah as long as they are significant to Islamic financing operation. The arguments of Maslahah, can be understood through serious requirement of IBF product personal loan and card credit at necessary level from the people, if they are not offered that peoples will get them from the conventional bank.

In the modern time, banking system is a part of the reality of economic nature, where some of necessary needs might not by cash either in term of price is very expensive or in term of transaction conditions. It is only to overcome by banking and financing services which make it as a manner in the modern transaction that linked the cycle of economic activities. According Achene (2013) he said, Islamic banking is linked to the economics and business activities in the real market, Islamic banking is not mere loan extended to the client regardless whether there is physical movement of the asset sold or bought. The Islamic bank is not a loan provider; it is not a money lender. The Islamic bank can take different positions in the market depending on the nature of the transaction. The Islamic bank can be a buyer or seller in trade transaction and it can be a partner in case of musharakah, etc. He added, that the Islamic bank behaves as an enterprise in the market by taking different positions to earn money and generate wealth. Therefore there is a link between the Islamic banking activities and the activities of the business in the real market, whereby any banking transaction executed in the

Islamic banks has an impact on the real economy which shows the contribution of the Islamic bank in the real economy sector. The link between the Islamic bank activities and the real economy is one of the key features that distinguish the Islamic banking entity from the conventional banks. This statement really proof that IBF is very important in Islamic economy including the Islamic debt financing that based on Bai' al-'Inah and al-Tawarruk. All the above statement witnesses that implementation of both contracts as Maslahah in macro aspect or macro-Maslahah. On the other aspect to make sure Islamic banking in convenience stand or run their business accordingly that it's market must be success in operation through its innovations of products would be meaningful in the market demand to grow well. According to Fazlur Rahman Ebrahim (2005), he said, the creation of a bigger market in this industry is extremely important in order to ensure the growth and sustainability of Islamic banking and finance at present and in the future. New innovations of products would be meaningless if the market does not grow. Therefore, IBF needs to be dynamic and proactive in meeting the needs of the Muslim community and other communities at large to gain growing trust from them. The suggestion of Maslahah of Islamic debt financing also can be understand from view of economy to achieve the Maqasid in protection of people from involving of riba bank.

4.2 Implication of Consumer Islamic Debt Financing Issues in Light of Maslahah

The question, what is the status of Maslahah, if these products lead to the destruction and chaos. This case is contrary of the meaning of Maslahah concept as on the purpose of the well-being. Understanding of the meaning of Maslahah, if any bad implication occurred in operation of Islamic financial system so that is considered as abusive application. The present issue is increasing of bankruptcy among the peoples in Malaysia. It is refer to analysis and studies by MK Azman, M Daud & Atikullah (2012), indicated that the issues of debt in Malaysia considered the social failure which the bankruptcy figure increase seriously from year to year. These issues have become more negative implication when there were no proper actions taken. It is could be abuse Maslahah refer to case of bankruptcy from customers of IBF. The paper also reported is increasing number of bankruptcy cases in Malaysia among young people which in 2009 total of 1,086 public servants had been declared bankrupt by the Insolvency Department. The statement also relate the greatly affects with the attractions and promotion of financial institutions that offer debt financing scheme which has influenced the society being trapped into the midst of serious debt.

They added also in 2010, the Malaysian community household debt is the highest in Asia increased by 76.7% of Gross Domestic Product (GDP) from the year 2009 and it increased in 2011 with the increasing by 5% from 2010. The latest report case of bankruptcy in Malaysia in 2012 that total of 19,575 public servants had been declared bankrupt by the Insolvency Department. While from January to September 2013 the total of bankruptcy is 16,306, (http://www.sinarharian.com.my). The seriously case of indebtedness has been damaging the public service image in Malaysia. Theseissues have pointed out the personal loan of financing and card credit customer as main contribution of bankruptcy including customers of Islamic banks. With references to two tables at the appendix indicated that Islamic finance in Malaysia could be involving in this problem. Based on, table 1 showed that Bai' al-'Inah contract of BIMB (2010) contributed 13.64%, while BBA 50.55% and al-Tawarruk contract acquire 20.95%, which the consumer Islamic debt financing become the biggest percentage of financing segment. While table II illustrated that the level of the consumer durable (debt-based) at in highest level out of others financing (asset-based) in financial industry has been

very dangerous situation. These situation could be lead the Islamic finance to financing crisis if debt-based figure over asset-based continues without any action of prevention and how the role of Maslahah in this case. Surely, development of Islamic financing product underlying Maslahah should be make the people success in economic aspect, and surely also if the bankruptcy issue rooted on the vulnerable in the contract that Maslahah is become abusive application.

On the other hand, the analysis of bankruptcy issue is very significant to what Asutay meant in his analysis with mention as the 'social failure' of IBFIs into his words sound that these new products, as the controversy around al-Tawarruk and sukuk as well as other Islamic derivatives and futures indicates, are constructed by compromising the value system of IBF. The result, therefore, has been the financialisation of IBF, which as a principle was considered detrimental to a robust economy by IME. Thus, the particular and pragmatist path followed has resulted in internalising 'financialisation' as an essential part of IBF, which runs against the aspirations and values of IME and IBF. In a recent study by Asutay and Aksak [2011], the performance of IBFI indices were examined for a number of cases and compared to conventional finance, a direct correlation between the performance of both the financial sectors is established, and it is argued with evidence that IBF does not necessarily bring stability to the financial system. It is assumed by the IME that IBF should provide stability to the financial system and should also be a moral compass for capitalism (Asutay, 2012).

From the general observation show a lot of peoples who applies the loan not for necessary situation as its define as Maqasid but most of them for purpose to buy something better than what they has belonging before such as buy a new car and the same time his old car still good for used. This situation will become reality if proper investigation is not carried out. The management of needs purchasing can be properly conducted when it can distinguish between different needs. The needs purchase should be referring to the real needs. Besides that, a Muslim should be able to differentiate their needs and the enjoying of life. This is important as there are many cases that about Muslim that too extravagant in expending. Islam forbid the ummah to be excessive or wasting as mentioned by Allah: "Those who are excessive (in expending) is a family to evil whereas evil creature that is very disobedient toward its gods.(al-Isra':27).

In order to achieve the Maqasid Shariah through Maslahah, that every man must have high level of sacrifice. He should know which one to sacrifice in accordance to the importance in order to obtain something bigger in return. Understanding the definition of needs is something that must be understand to a certain extent in order to achieve harmony or otherwise. Need is something that must be provided. Whereas the 'demand' or 'desire' is something supplementary to the needs which will just increase the level of satisfaction. However, when we do not meet our desires it will only cause us to feel less satisfy. We can distinguish between desire and needs based on its function. Something that we call desire will act supplementary to the main function of needs. However if we do satisfy our need it is intolerable. Therefore Islam do not like extravagant. Those who like extravagant and wasting are considered as friend of evil and injustice.

BNM, has issued the order of limiting the tenure for personal loans to ten years compare to twenty years previously as reported on July 5, 2013. BNM had implemented a set of measures aimed at avoiding excessive household indebtedness and to reinforce responsible lending practices by key

credit providers. These included a 10-year cap on the tenure for personal loans, a 35-year limit on both housing and non-residential property loans, as well as a prohibition on pre-approved personal financing products. (Posted on 21 August 2013 - 10:16pm, http://www.thesundaily.my/news). According to Akram Laldin, regarding to this issue, BNM has outlined the instruction of limitation for personal financing to 10 years as a Maqasid effort. (Akram Laldin, 2014). With the implementation of the scheme it overcomes issues related to Non-performance loans/financings (NPLs) and achieve Maqasid for both finance institution and client.

4.3 Recommendation

From the analyses that have been discussed, this paper provide some suggestions to overcome the issues of consumer Islamic debt financing in Malaysian. Below are the suggestions:

i. Gradually, stopping the offering of the re-financing for personal loan due to negative culture of wealth for people and replacing it with new innovative product that solve the people' needs such as al-Rahn and others.

ii. Introducing the new innovative product to Muslim entrepreneurs based on Muamalat principles, such as al-Musharakah with suitable conditions. Because many of them who failed to obtain the trade financing, use limited personal financing for their capital

iii. The government and IBF institutions should introduce special scheme of consumer debt financing with particular conditions based on transparency and accountability

iv. The education institutions in Malaysia should educate and inculcate the people, with new knowledge on how to manage the financing in light of Masalahah and Maqasid Shariah to increase the understanding among Malaysians people on IBF.

5. CONCLUSION

Maslahah and Maqasid Shariah are the important concepts in developing of IBF operations. They are a solution of IBFS challenges in the development of financing system to gain the well-being in the world fairly. Nowadays, IBFS is most important purpose in fulfilling the human needs. Therefore the concept of Maslahah has been widely used for issues of IBFS. Understanding of Maslahah in IBFS issues that need to the comprehensive study and analysis. Establishing of many products of IBFS by using Maslahah approach is necessary in facing the competition the conventional banking in financial industry. In Malaysia, some products of IBFS are undertaken under Maslahah concept is Bai' al-'Inah and al-Tawarruk contract, and BBA in Islamic debt financing. All of these have been approved by Shariah Committees of BNM and considered in line with Shariah compliance. But Maslahah concept is a consensus refer to particular features and not absolute divine. It also refer to understanding of Shariah concept meant that Islam is able in all times and places to achieve well-being in the world. In this study, the fact that the acceptation of these contracts and additional certain conditions have been considered as Maslahah which is need the improvement at the present. It argues to remain offering to the people due to the financing needs. But refer to the bankruptcy cases increase

from year to year and stand of the consumer durable (debt-based) at in highest level out of others financing in financial industry has been very dangerous situation. This paper aims to provide opinions in the spirit of Maslahah and Maqasid. If these products are still affecting the bankruptcy issues, then the terms and conditions of these contracts are in a vulnerable position due to the lenient approval process. BNM needs to take additional measures to tighten the contracts' terms and conditions. If the same issues persists, then Islamic banking institutions, with good strategies, have to gradually stop offering personal financing based on these contracts to remove the negative culture of debt. It could be replaced with a new innovative contract as a solution such as al-Rahn which requires personal liability and collaterals. This does not mean that we reject Bai' al-'Inah and Al-Tawarruk contracts but both contracts are only used in a manner to fulfil the liquidity requirement of IBF operations when necessary. It is not to encourage debt culture among the people. To achieve Maqasid al-Shariah, the government can educate the people about the true meaning of wealth from an Islamic view through education institutions. Therefore, the implementation of Maslahah and Maqasid not only to establish the IBF product, but to achieve the justice with transparent and particularly strategies over the economy implication based as part of the protection.

REFERENCES

Al-Quran.

Ahcene Lahsasna, 2013, *Maqasid Al-Shariah in Islamic Finance*, Kuala Lumpur: IBFIM.

Ahmad Zaini Othman. 2006, Isu-Isu Dalam Penggunaan Bai' al-'Inah & Al-Tawarruk : Perspektif Industri. Dalam Muzakarah Cendikiawan Shariah Nusantara.

AkramLaldin, 2014, *Role of Shariah Research for Developing Islamic Finance*, Sixth Foudation of Islamic Conference 2014, 2-3 April 2014, Durham University, United Kingdom.

Asutay, 2012, *Conceptualising and Locating the Social Failure of Islamic Finance: Aspirations of Islamic Moral Economy vs the Realities of Islamic Finance*, Asian and African Area Studies.

'Abas Husni Muhammad (Dr), 1983, Al-Isytirat Li Maslahah al-Ghair Fi al-Fiqhal Islami Wa al-Qanun al-Muqarin, Saudi: Syarikat Maktabat 'Ukaz Linnasyar Wa al-Tauzi'.

Dusuki, A. W., Abdullah, N. I.,2007, The American Journal of Islamic *Maqasid Al-Shari'ah, Maslahah and Corporate Social, Responsibility.* Social Sciences, 24(1), 25-45 (Published by

The International Institute of Islamic Thoughts (IIIT), U.S.)

Fazlur Rahman Ebrahim 2005, *Toward Standardisation Of Banking Practices, Corporate Governance And Benchmarking For Malaysia Islamic Banks : Initiatives By The Association Of Islamic Banking Institutions Malaysia (AIBIM)*, in Corporate Governance An Islamic Paradigm, Editors Vaseehar Hassan, Bala Shanmugam & Vignesen Perumal, Serdang Malaysia: UPM Publication.

Glossary, The International Journal of Banking and Finance, Volume 10 (Issue 2), 2013.

http://www.sinarharian.com.my/jumlah-muflis-meningkat-manifestasi-esempitan-252171 (accessed 22 February 2014)

http://www.thesundaily.my/news/764394 (accessed 13 April 2014).

Kamali, 2008, *Maqasid Al-Shariah Made Simple*, London: The Islamic Institute of Islamic Thought.

Kamali, 2011, *Maqasid al-Shari'ah and Ijtihad as Instruments of Civilisational Renewal: A Methodological Perspective*, in Islam and Civilisational Renewal Journal, Volume 2, Number 2, 2011.

Majallah Majmaʻ al-Fiqh al-Islami, 2003.

M.Fahim Khan & Layachi Feddad, 2005, *The Growth of Islamic Financial industry: The need for Setting Standard for Shariah Application* in Corporate Governance An Islamic Paradigm, Editors Vaseehar Hassan, Bala Shanmugam & Vignesen Perumal, Serdang Malaysia: UPM Publication.

Mohd Daud, Norsazali, Mohd Kamal Azman and Sayuti, 2013, *Pelaksanaan Bai' al-'Inah Dalam Sistem Perbankan Islam Di Malaysia: Satu Analisa Pandangan Pakar* (*Implementation of Bai' al-'Inah in Islamic Banking system in Malaysia: An analysis among expertise*), KonferensiAntarabangsa Islam Borneo (VI), 18-19 September 2013, Sarawak Malaysia.

Mohd Kamal Azman, Mohd Daud & Atikullah, 2012, *Comparison of Understanding Islamic Debt Concept Among Academic and Administrative Staff at Universiti Teknologi Mara (UITM), Malaysia*, USA: International Journal of Business and management studies.

Saiful Azhar 1999, International Journal Of Islamic Financial Services, vol 1, no 2.

Tawfique Al-Mubarak & Dr. Noor Mohammad Osmani, 2012, *Applications Of Maqasid Al-Shari'ah And Maslahah In Islamic Banking Practices: An Analysis*, http://irep.iium.edu.my/4251/1/Applications_of_Maqasid_Shari%60ah.pdf. (accessed 28 November 2013).

Wahbah Zuhaili, 1997, Al-Quran Perlaksanaan Hukum dan Peradaban Manusia (*Quran in Implementation of Islamic Law and Human Civilization*), Selangor :ALBAZ Publication.

Wan Azhar Wan Ahmad, 2003, *Public Interests In Islamic Jurisprudence An Analysis of The Concept in The Shafi'I School*, Kuala Lumpur, Malaysia: IIUM

Yusuf Qardhawi, 1990, *al-Madkhal li Dirasat al-Shariah al-Islamiyyah*, Cairo: Maktabah.Wahbah

Zaharudin, 2006, Published on NST Business Times on 21st June, http://zaharuddin.net/senarai-lengkap-artikel/38/58--ruling-on-debt-trading-in-shariah.html. (accessed 22 Mei 2014).

APPENDIX

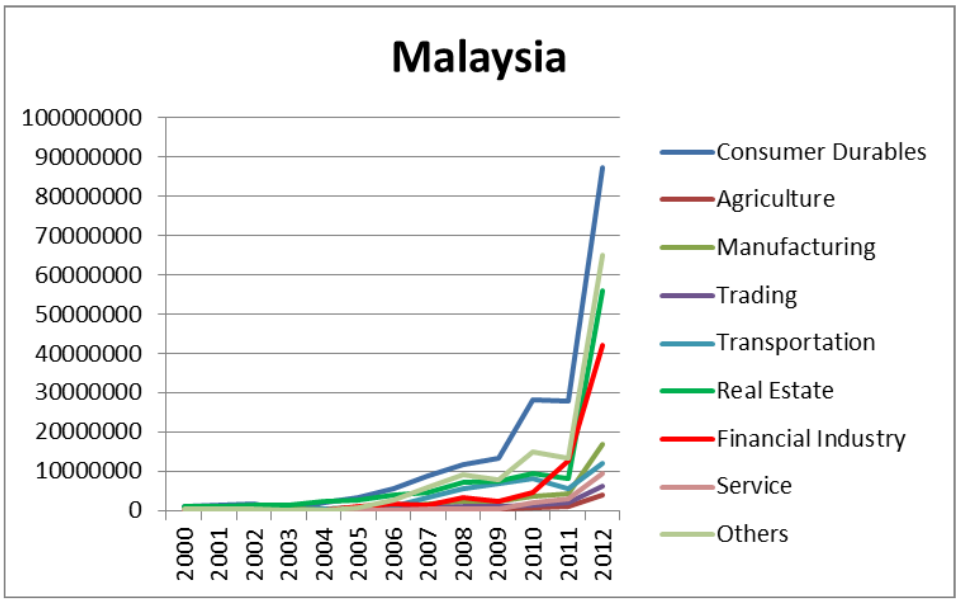
Table 1 Islamic Finance Realities: Debt OverAssetbased/Backed Financing

Islamic Financing Methods In 2010 For Selected Banks

Name of the Bank	Musawama and wakalah	Bithaman Ajil	Ijarah	muntahia bittamleek	Musharak(ho using and	Musharakah	Mudarabah	istisna	trade financing	Qard Hasan	Salam	Mutajara	Tawarruq	Bai' Inah	Others
Al meezan Bank	41.88%		13.19%		27.18%	0.12%		11.31%	2.53%	0.01%	1.28%				2.49%
Kuwait Finance House	82.82%		15.13%					2.06%							
ABC bank	49.63%		14.52%	35.66%		0.10%	0.10%								
Al-rajhi Bank(installmen	10.57%	63.30%						0.39%				25.19%			0.56%
Bahrain Islamic Bank	49.49%			14.55%		11.68%	6.17%			0.001%			18.11%		
bank Islam	9.12%	50.55%	2.72%	0.09%			0.05%	2.87%					20.95%	13.64%	
Gulf Finance House	100.00%														
Bank Muamamlat	40.90%		0.02%	4.39%		38.11%	8.82%	0.30%		7.47%					
Dubai Bank	30.52%		34.51%			15.07%	5.75%	11.30%		0.01%	2.17%				0.67%
Qatar Islamic bank	69.75%		17.49%			0.17%	2.91%	9.49%							0.20%

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Table 2 Financing Breakdown Of Islamic Banks And Industry Formation



Models of Islamic Finance Industry Formation Mehmet Asutay 21-23 December 2013, Kizilcahamam, Ankara, BDDK Workshop 2013

CREDIT RISK AND ISLAMIC FINANCIAL CONTRACTS IN ISLAMIC BANKING SYSTEM: AN ISLAMIC PERSPECTIVE

Siti Nor Amira Mohamad[1]
Mohamad Yazis Ali Basah[2]
Muhammad Ridhwan Ab. Aziz[3]
Khairil Faizal Khairi[4]
Nur Hidayah Laili[5]
Mazlynda Md. Yusuf[6]
Hisham Sabri[7]

Abstract

The future of ethical banking industry towards managing credit risk will depend on how well they manage credit risk. This ability could be innovated if the guidelines procedures are in line with Islamic principles which these guidelines will affect credit risk is systematically identified. In fact, the methodology of credit risk management which integrates recognition of credit risk, its assessment, implementing strategies to manage it, and credit risk defense is by using existing managerial resources. Some existing credit risk management is focused on credit risk which stemming from physical or legal causes. Therefore, this paper will use secondary data with reviewed some of the literatures and some verses in Al-Quran and *Sunnah* related to the Islamic banking principles. Several implications are addressed to promote 'green-environment' of managing credit risk in banking industry. To have a lean credit evaluation and credit risk management in Islamic financial industry, this paper state the assumption of axioms of credit risk management and control which based on the Islamic perspectives.

Keywords: ethical banking, credit risk, implication of credit risk, Islamic perspectives

1. INTRODUCTION

The credit risk environment in banking industry is being treated by the defaults from the debtors who are unable to fulfill the obligations to pay the debt. Credit risk can be defined as customers failed in making payments and tend to default. Thus, financial institution will incur losses from the defaults from the customers and will increased collection costs. Therefore, credit risk management with guidelines principle is important to mitigate the treat such defaults from the perspective of banks and the customers. Therefore, to have a sustainable and ethical banking industry, banks must be a part of larger societal movement which concerned with the environmental impacts of its investment and credit activities (Ferguson et.al, 2012). In general, an efficient Islamic banking system has far-reaching impact on overall financial stability and any risk and disruption may create serious implications for the economic conditions of a country. It is because Islamic banking system

[1]Siti Nor Amira Mohamad is a Graduate Research Assistant (GRA), Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM).
[2, 3, 4,5,6,7] Senior Lecturers, Universiti Sains Islam Malaysia. Corresponding author: yazis@usim.edu.my

concerns on the welfare, equality and justice that contrast from the perspective of conventional banking system.

Therefore, this paper will use secondary data with reviewed some of the literatures and verses in Al-Quran and *Sunnah* related to the Islamic banking principles. This will helps for Islamic banks dealing with credit risk which is from the Islamic perspectives and guidelines.

2. ISLAMIC BANKING PRINCIPLES

Islamic banking system conducts a business based on *Syariah* principles and the purpose is same as conventional banking system except that it operates under the *Shariah* law. Islamic banks are differing from the conventional banks in terms of the principles and nature of the contracts offered. According to Kamal Khir et.al (2008), Islamic banks conduct activities through the prohibition of taking interest (*Riba*) and sharing of profit and loss. In Islamic financing activities, Islamic banks do not allowed *Riba* because Al-Quran stated that:

"Those who devour usury will not stand except as stand one whom the Evil one by his touch Hath driven to madness. That is because they say: "Trade is like usury," but Allah hath permitted trade and forbidden usury. Those who after receiving direction from their Lord, desist, shall be pardoned for the past their case is for Allah (to judge) but those who repeat (The offence) are companions of the Fire: They will abide therein (for ever)."

(Surah Al-Baqarah, 2:275)

Furthermore, Hadith narrated by Samura bin Jundab R.A stated that:

"He speaks of in a dream related to the Prophet صلى الله عليه وسلم *that there is a river of blood and a man was in it, and another man was standing at its bank with stones in front of him, facing the man standing in the river. When the man in the river wanted to come out, the other one threw a stone in his mouth and caused him to retreat back into his original position. The Prophet* صلى الله عليه وسلم *was told that these people in this river of blood were people who dealt in Riba (usury).*

(Sahih Bukhari, 2.468*)*

On top of that, Islamic financing is based on the belief that the banks and borrower must equally share the risk of the business venture. This principle is contrast from the conventional banking system because in conventional banking system borrower has to pay the principal amount with interest, regardless of profit or loss from the venture.

"Allah deprives interest of all blessing and develops charity; and Allah does not like an ungrateful, sinful person."

(Surah Al-Baqarah, 2:276)

The above verse stated that Allah prohibit taking interest because it causes of the decline and actual regression that serves as a strain on spiritual and economic growth. The concept of charity in the verse above is allowed in Islam. For example, when lend money to who are in need, they should return back the money if they can and able to pay it. This will enhance the human's moral qualities and Islamic ethics principles. From the Islamic views perspectives, taking interest (*Riba*) may lead to the selfishness which leads to capitalize and exploit and that society does not rest on stable foundations. Therefore, when giving a financing to who are in need, any risk must be shared together between of them and true thankfulness that

instead of doing this, the persons who are shared the risk tries to become richer and encourage borrowers to maximize their efforts.

Besides that, Islamic banking system applies the sanctity of contracts. This enable for Islamic banks reduce the moral hazards from the risk. Contracting parties should have good knowledge of the products intended to be exchanged as a result of their transactions and they cannot predetermine a guaranteed profit. *Shariah* principles prohibit the transaction of undertaking from the customers to repay the borrowed principal plus an amount that leads to inflation and this is to protect from exploitation activities. The implication of exploitation to the others which Al-Quran stated that:

"Nay, but surely man is rebellious when he thinks himself independent."

(Surah al-Alaq, 96:6-7)

This verse above stated that the more people become able to exploit, the more he or she becomes selfish in his or her relations with other individual/person.

Furthermore, Akkizidis and Khandelwal (2008) stated that Islamic financing comprise of following principles:

1. Prohibition of interest (*Riba*)
2. Facilitate social, economic and financial activities
3. Stress on social, ethical and financial efficiency
4. Strong moral dimension

The Islamic financing activities are not purely materialist, although the motive is profit with the supported by strong social responsibilities because both of these cannot be separated from the objectives in Islamic banking systems.

3. CREDIT RISK MANAGEMENT ISSUES IN ISLAMIC FINANCIAL CONTRACTS

Gallati (2003) defined risk as a condition of the possibility of deviation that comes from the outcome that is expected for. Therefore, risk can be defined as the situation which the occurrence of exposure to adversity and it's called hazard or peril. There are different types of risk in Islamic financial contract and it includes of market risk, operational risk and credit risk. Focus on this study is on credit risk in Islamic financial contracts. In general, Bank for International Settlement (1996) or it called as BIS defined credit risk is the occurrence of exposure of risk happen when a counterparty unable to settle down the payment for full value and then the risk is includes of principal and replacement risk. Therefore, for a bank to strive in the competitive market, managing credit risk with a proper techniques and approach is the best way because it is a necessity for stability of the overall financial system. The Islamic banking system has different orientation towards credit risks because it's more lined up on the nature of different contract types and its tend to special forming for Islamic banking system in terms of the contracts.

To extent this further, there are six (6) main Islamic financial products in Islamic banking system according to Akkizidis and Khandelwal (2008) that expose to the credit risks- *Musharakah*, *Mudarabah*, *Murabahah*, *Salam*, *Istisna'* and *Ijarah* contracts of Islamic financing products that related to the credit risk.

3.1 Credit risk in *Musharakah* contracts and management of credit risk

Musharakah or partnership (joint venture) contracts can be difined as a mutual agreement between two or more parties who conduct a business of financial enterprise to gain a profit (Akram Khan, 1990). While Bank Negara Malaysia (2013) defined *Musharakah* contracts is an Islamic financial contracts that relate to partnership of the related parties by having contractual relationship or *'aqd* which means at the end the contracting parties will bear for loss and share the gain from the partnership. Therefore, the purpose of *Musharakah* contracts is to supply capital to who are in need such as enterprise as to provide funds to them and to share profit and bear for loss over the business with a standpoint and view that *Musharakah* contracts is not only profit is shared together but bear for loss and liability (Noraziah and Abdul Ghaffar, 2010).

There are two forms of *Musharakah* contracts which are permanent and diminishing *Musharakah* contracts. When the counterparties enter in the permanent *Musharakah* contracts, Islamic banks will participates in the investment and the profit and losses will be shared annually pre-rated basis. In this contracts, credit risk exposures occurs when Islamic banks enter to this types of contracts in the business, any failures due to credit, they may face default case as they must provide the expected cash due to the other risks and thus at the end Islamic banks are unable to carry on business. While for diminishing *Musharakah* contracts, Islamic banks are intended to stay in the contracts for a limited time and equity's share are reduced and the customer (partner) are intended to becomes the owner. Credit risk exposure when dealing with this types of contracts involve when there are defaults cases on the expected payments from the joint ventures (partner/s) and this may result in losses and variations to the cash expectations for the Islamic banks (Al-Kawamelah and Nuruddin, 2008).

For permanent *Musharakah* contracts, Akkizidis and Khandelwal (2008) stated that Islamic banks can be mitigated by involving in the activities related to business management and the profits and losses of business must be monitored. While credit risk in diminishing *Musharakah* contracts can be managed by selling equities to other parties but with the approval of the *Shariah* committee.

3.2 Credit risk in *Mudarabah* contracts and management of credit risk

Mudarabah contracts can be defined as contracts that consist of the kind of partnership when Islamic banks gives funds to the other party (business partner or commercial enterprise) for purpose of invest (Bacha and Obiyatullah, 1997). This is one type of business venture agreement because it has special kind of partnership between the related parties that involves of capital and entrepreneur.

Islamic banks that are dealing with this type of contract are exposed in credit risk such when the investors of the *Mudarabah* contracts are failed in providing the expected cash gain or profit. This affects the Islamic banks which they are unable to carry on business or will tend to default or bankruptcy. To maintain the bank's performance, credit risk can be mitigated by maintaining the balance sheet and monitoring the performance in business.

3.3 Credit risk in *Murabahah* contracts and management of credit risk

Murabahah contracts can be defined as a sale that used for buying a specific commodity based on credit. The specific commodity or product provided by banks is based on the profit and added to the cost stated (Tarek El-Diwani, 2010). Based on the definition stated, there is a profit payable at a maturity or stated time or day as Islamic banks will measure the profit margin (based on benchmark) over the principal amount and the percentage must be expressed in terms of time which contrasted from the way of conventional banking system. Credit risk also exposed in this type of contract when Islamic banks in agreed initial date provide certain commodity to customer, but during the lifetime of *Murabahah* contract Islamic banks may not receive the payment from the customer at the maturity date. Akkizidis and Khandelwal (2008) stated that when in case of default occurs in *Murabahah* contract, collateral and guarantees maybe applied. Thus, in mitigating the credit risk, appropriate documentation of the *Murabahah* financing contract should be made by a mortgage or guarantor or cash security.

3.4 Credit risk in *Salam* contracts and management of credit risk

Salam contracts can be defined as a sale of an object which buyer makes advance payment due to the object is not available for the current sale and will be delayed until distinguished time in the fixed future date (Nawawi, 1999). It is because forward sale is prohibited in Islam. This contract allows the purchaser to lock the price and thus protect the parties related from fluctuation of price. *Salam* contract is differing from forward sale contract in term of the payment is set at the deal date where the Islamic banks promises to deliver the object stated at the future date.

Credit risk also may occur in *Salam* contract when the seller tends to default in the time of delivery of the object sale and default from the buyer's side to purchase the object sale at the agreed price (Islamic Financial Services Board, 2005). Therefore, to defend this from the defaults, Islamic banks should take further techniques to estimate the default case and expected losses as therefore maintain the business performance in the financial industry.

3.5 Credit risk in *Istisna'* contracts and management of credit risk

Muhammad Al-Amine (2001) defines *Istisna*' contract as a contract which buyer makes advance payment that may be manufactured later based on the mutually agreement between the parties and it is a sale of contract which banks will deliver the asset at the future date. One of the different from *Salam* contract, Kamali (1991) stated that Istisna' contract can be terminated before the manufacturer starts the works is more confined to the industrial sector especially goods produced on prior order.

Credit risk may occur in this type of contract when the constructed asset is billed to the customer at selling time and when the Islamic banks is not receiving the selling price of the asset from the project sponsor in the date specified. It is default from the buyer itself to purchase the constructed asset agreed in the contract. The probability of default must be estimated based on both of qualitative criteria and quantitative information data.

3.5 Credit risk in *Ijarah* contracts and management of credit risk

Usmani (2002) defined *Ijarah* contract as an Islamic leasing financial contract that one being the owner of the asset, transferring the usufruct to another party in exchange for a rent claimed from him. Usually, the buyer will pay the advance payment of the rents from the lessor. At the end, the delivery date is fixed in the future but they are based on benchmarking analysis. According to Akkizidis and Khandelwal (2008), there are two (2) types of *Ijarah* contracts which are hire purchase contract (*Ijarah Wa Iqtina*) which the owner of the asset is promised to sell the leased asset to lessee at a maturity date and the other type is *Ijarah Thumma al-Bay'* which provides an option to the lessee or purchase the asset at the maturity date of contract.

Credit risk may occur in *Ijarah* contract when there is a failure to re-pay back the lease by the lessee and then Islamic banks is exposing to credit risk. On top of that, credit risk may occur when there is early leave (before the maturity date) and banks will lose the expected payments on the predetermined installments. Therefore, to manage the occurrence of credit peril and risk, banks should use the guarantees and any collateral by revoking the contract's agreement from the renter at the maturity date.

4. IMPLICATION OF CREDIT RISK IN ISLAMIC FINANCIAL CONTRACTS

Mohamed Ali Elgari (2003) stated four (4) of implication of credit risk in ilsmaic financial contract because Islamic banking system is differing from conventional banking system in terms of the nature of contracts and the justification for this is that credit risk management in Islamic banking are highly developed and it is possible to utilize them and some of the Islamic financial contracts are still at the development at early stages. The implications includes of: (1) after the financing has been established, there is no increase in financing. (2) Based on the level of occurrence of risk, it has effect in the form of the contract. (3) Trading in financing activities is prohibited in Islamic Principles and laws such the sale before agreed time to other parties is prohibited and lastly is (4) non-permissibility of conditional discounting and this sometimes is the best for banks to make solution as they rely on the stipulations in the financing contract.

5. CONCLUSION

Since the emergence of Islamic banking system in 1960s, more researches and studies have been conducted in the area of Islamic banking system to better understand the concepts and practices involved. Nevertheless, Islamic banks still may face credit risk and other types of risks. It is because the Islamic modes of financing is in complexity modes which sometimes banks have limit in the funding and credit risk management activities and also for the probability of the clients are expected to be more concerned about the beliefs in Islam (religiosity). To have a lean credit evaluation and credit risk management in Islamic financial industry, this paper state the assumption of axioms of credit risk management and control which based on the Islamic perspectives. First, Islamic banking system is one that follows to the Islamic Principles which found in the *Al-Quran* and *Sunnah*. Second, each the outcome from credit risk in Islamic banks has spiritual (intrinsic) and material (extrinsic) contents and there is a tight relationship between the effort of doing business, ability to help who are in

need and the outcome from the performance of business and lastly is the relationship between Allah and individual must have no information asymmetry because Allah has perfect knowledge of everything. While the estimation of expected loss by using the qualitative and quantitative analysis provided by Islamic banks is still enabling to mitigate the credit risk, because credit risk must be identify, measure and monitor to ensure that Islamic financial industry to be one of the most diverse environment and more concern on religious belief.

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REFERENCES

Akkizidis I. and Khandelwal S. K. (2008). Financial Risk Management for Islamic Banking and Finance. *Finance and Capital Markets, Palgrave Macmillan Publisher.*

Akram Khan M. (1990). Glossary of Islamic Economic. *MANSELL*, London, p. 100.

Al-Kawamelah and Nuruddin A. Karim. (2008). *Musharakah* and its Contemporary Practice: Jordan Islamic Bank as an Example. *Dar al-Nafa'is*, Jordan.

Bacha and Obiyatullah (1997). Adopting Mudarabah Financing to Contemporary Realities: A Proposed Financing Structure. *The Journal Of Accounting, Commerce & Finance*, 1, 26-54.

Bank Negara Malaysia. (2013). *Shariah* Requirements, Optional Practices and Operational Requirements of *Musharakah*. *Concept Paper*. Issued on: 20 December 2013

Ferguson R., Heimann J., Rhodes W. and Walker D. (2012). Banks Must Solve Question of Ethics. *The Times*. London. 22 August.

Gallati R. R. (2003). Risk Management and Capital Adequacy. *McGraw-Hill Publisher*.

Islamic Financial Services Board. (2005). Capital Adequacy Standard for Institutions (Offering only Islamic Financial Services), pp.6-7.

Kamali, M. H. (1991). Principles of Islamic Jurisprudence. *Kuala Lumpur, Malaysia: Ilmiah Publisher*

Mohamed Ali Elgari. (2003). Credit risk in Islamic Banking and Finance. *Islamic Economic Studies*, 10, March.

Muhammad Al-Amine. (2001). Istisna' in Islamic banking and Finance: Law and Practice. *Kuala Lumpur, Malaysia: ASN Publishing*.

Nawawi, R. (1999). Islamic law on Commercial Transactions. *Kuala Lumpur: CT Publications*

Noraziah Che Arshad and Abdul Ghafar Ismail (2010). Shariah Parameters for *Musharakah* Contract: A Comment. *International Journal of Business and Social Science*, 1, 1-18.

Tarek El Diwany. (2010). The Problem with Interest. Third (3rd) Edition, published by Kreatoc Ltd.

Usmani, M. T. (2002). An Introduction to Islamic Finance. *London, New York: Kluwer Law International*

http://www.theislamicbanker.com/history_islamic_banking/

AN ANALYSIS OF THE EFFECT OF ISLAMIC FINANCING AND WORK RELATION FOUNDING TOWARDS NON PERFORMING FINANCING IN ISLAMIC BANKS INDONESIA

Muhammad Bahrul Ilmi[1]

ABSTRACT

The purpose of this research is to analyze the influence of Islamic financing and work relation founding simultaneously and partially towards non performing financing in Islamic banks. This research was regression quantitative field research, and had been done in Muammalat Indonesia Bank and Islamic Danamon Bank in 3 months. The populations of this research were 15 account officers of Muammalat Indonesia Bank and Islamic Danamon Bank in Surakarta, Indonesia. The techniques of collecting data used in this research were documentation, questionnaire, literary study and interview.

Regression analysis result shows that Islamic financing and work relation founding simultaneously has positive and significant effect towards non performing financing of two Islamic Banks. It is obtained with probability value 0.003 which is less than 0.05 and F value 9.584. The analysis result of Islamic financing regression towards non performing financing shows the significant effect. It is supported by double linier regression analysis with probability value 0.001 which is less than 0.05. The regression analysis of work relation founding effect towards non performing financing shows unsignificant effect. This is shown in the double linier regression analysis which probability value 0.161 which is bigger than 0.05

Keywords: Islamic financing, work relation founding, non performing financing (NPF), Islamic bank

[1] Lecturer and Researcher, Indonesia

1. INTRODUCTION

Today, the development of world banking in Indonesia increases rapidly. It is proven by the emergence of a wide range of banking products and systems. The banking systems known to the Indonesian public is conventional system. However, there has been developed a banking system based on the needs of the community, called Islamic banking system. The emergence of the Islamic banking system can create a new competition among the banks and or even the financial institutions.

Since the enactment of Act No. 21 of 2008 about Islamic banking in Indonesia, the number of Islamic banks has increased rapidly. A data from Indonesian Bank shows that until November 2012 the total of Islamic commercial banks are 11 banks with 1,703 service offices, 24 sharia business units with 482 service offices, and BPR of Sharia 156 (BPRS) with 390 offices, scattered in Indonesia. The total of Islamic banks began to increase in 2009 with the introduction of licensing of banks. They are Islamic Bukopin Bank, Islamic Panin Bank and Islamic BRI Bank. The growth increased in 2010 become 11 banks, are Islamic BNI Bank, Islamic BJB, BCA Bank Maybank Islamic and Sharia Victoria. (Sri Nurhayati-Wasilah, 2013: 6).

Islamic banks are required to meet the needs of the community in fulfilling the capital, with the sassy system requirements. Therefore many Islamic banks provide the financing product range in customer choice, for example *musyarokah, mudharabah, murobahah, salam, istishna' , ijaroh*, and *qord*. The formation of product with the Islamic system is expected to be able to contribute in fulfilling effective and banking for the society. In this case the Islamic banks need to establish good surveillance for users of Islamic financing products.

Surveillance activities becomes the smoothness measurement of customer financing Islamic bank that the Islamic bank will undertake the found and supervision of the performance of the client's business. The purpose is that the clients of Islamic bank have attachment to mutually beneficial business to increase revenue and responsibility in the discharge of obligations, and ease the Islamic banks in analyzing the customer financing economic development. A research conducted by Robbiyah (2004: 7) about an analysis of the effect of Islamic financing and work relation founding towards the income increase of small

entrepreneur in Islamic Finance Centre. Shows that the Islamic financing and work relation founding has a significant effect on the small entrepreneur's income, although it has different level of effect there are defferent and domination.

Coaching work relation founding in terms of supervision conducted by Islamic banks for distributing funds is less caution, therefore if causes many problems in the rate of return. Many clients do not make payments in installments, consequently the cash flow (cash basis) received is a little if the amount of the cash basis accepted is small, the revenue that will be divided between Islamic banks and the owners of capital (*shohibul maal*) is also little, the effect is that, the division received by the *shohibul maal* is small too. The customer not making payment in installments is categorized trouble customer or called by none performing financing (NPF).

The problematic of customer financing is possibly caused by carelessness of the bank, lack of knowledge of client in understanding the Islamic financing products or lack of coaching and supervision from Islamic banks. Design and formulation are required for the problem solving of non performing financing on Islamic banks. Relevant with previous research, this study identified two independent variables they are Islamic financing and work relation founding as the effect of the non performing financing (NPF). The Object of this research is Account Officers in Islamic Banking, in which Account Officers as professional person in Islamic Financing and supervision to customer financing bank. While, none performing financing will be examined with the financial ratio of NPF. Therefore, the Islamic financing products and work relation founding of the customer financing towards non performing financing on Islamic banks, needs to be examined more deeply.

The formulation problems of this reseacrh questions (RQ) are:

RQ_1 : Does Islamic financing have an effect towards non performing financing in the Islamic bank?

RQ_2 : Does work relation founding have an effect towards non performing financing in the Islamic bank?

RQ_3 : Does Islamic financing and work relation founding have an effect towards non performing financing in the Islamic bank?

Based on the explanation above, allegedly Islamic financing and work relation founding had an effect on the level of the ratio non-performing financing (NPF) of the Islamic banks. Then the proposed following hypothesis are as follows :

H_1 : Islamic financing has significant effect towards non performing financing in the Islamic banking.

H_2 : Work relation founding has significant effect towards non performing financing in the Islamic bank.

H_3 : Islamic financing and work relation founding simultaneously has significant effect towards non performing financing in the Islamic bank.

The beneficial and motivations for this research are as follows:

a. A researcher knowing about Islamic financing and work relation founding has effect towards non performing financing in the Islamic Bank.
b. Islamic Bank knowing about work relation founding is important element in operational funding to minimalize non performing financing value.
c. A small entrepreneur or customer financing Bank knowing about work relation founding can helpfully trouble founding.

2. LITERATURE REVIEW

Anik Malikah stated in her research (2007) about an analysis of Islamic financing with Islamic system and work relation founding towards small enterprise income increase. The results of research study shows that the Islamic Financing and work relation founding have positively effect 0.638 with Islamic financing and 0.456 for work relation founding towards small enterprise income. It is proven by X_1 (Islamic financing) with t test value 0.638 > 0.050, and X_2 (work relation founding) with t test value 0.456 > 0.050, it means means that Islamic financing and work relation founding partially has significant effect towards the small and medium enterprise income.

Another research was conducted by Robbiyah (2004) that is about an analysis of the effect of Islamic financing and work relation founding towords the increased small entrepreneur in Islamic Finance Centre. The result states that Islamic financing and work relation founding

has a significant effect on the young entrepreneur's income, although the level of the effect is defferent and there is one which dominates. The research of Reza Yudhisthira (2011) about the problematic of financing strategy on Islamic Mandiri Bank, said that Islamic Mandiri Bank has worked maximally and procedural through long enough stages in solving the financing problems with restructuring, resceduling, reconditioning, execution, and write off final.

Research of Sri Budi Cantika Yuli (2009) about an Analysis of Islamic Financing on SMEs in Islamic Mandiri Bank Malang, stated that financing information, requirements, guarantee, verify, disbursement credit, the symptom of troubled financing are good rated, accessible, and timely, as well as the suitability of distributing of financing on Islamic Mandiri Bank in providing credit to customers.

Research of Yazdan Gudarzi Farahani dan Masood Dastan (2013) about an Analysis of Islamic Bank Financing and Economic Growth: A Panel Co-integration Approach. The results of research study that Islamic Bank Financing is positive and significantly correlated with economic growth and capital accumulation in these country. The results obtained from the Granger causality test reveal a positive and statistically significant relationship between economic growth and Islamic banks' financing in the short run and in the long run. It also found that the long run relationship is stronger than the short run relationship.

Sofyan Syafri Harahap (2003) his research about The Disclosure of Islamic Values: Annual Report Analysis of Bank Muamalat Indonesia's Annual Report. The results states that Bank Muamalat Indonesia, has compiled information using capitalistic accounting standards so as to clarify its financial position and results of operations to stakeholders. It is hypothesized though, that the current disclosure system employed gives no indication of justness or fairness and so is incompatible with Islamic value.

Another research was conducted by Tarek H. Selim (2008) about an Islamic Capital Asset Pricing Model, stated that There are four major findings. *First,* an Islamic financing partnership based on complementary capital is proven to necessarily yield a lower beta-risk of investments than that compared to the market. *Second,* in order for the above conclusion

to hold, capital lenders (such as banks) must abide by a maximum partnership share inversely proportional to project risk and increasing with opportunity cost of capital. *Third*, the sum of lender's share and relative risk level balances to unity at equilibrium. Hence, tradeoffs exist in risk-shares and not in risk-returns. *Fourth*, without accounting for inflation, and in contrast to predetermined fixed interest, a maximin strategy of financing partnerships (maximum return with minimum risk) imply an existence of an optimum zero risk-free rate.

This research identified two independent variables called Islamic financing (X_1) and work relation founding (X_2). In which the dependent variable (Y) of this research is non-performing financing (NPF) measured using the ratio of the financial reporting statement of the Islamic Bank. While the population and sample of the research is the account officer on two Islamic banks, they are Muamalat Bank Indonesia and Islamic Danamon Bank in Solo, Indonesia.

3. RESEARCH METHODOLOGY

3.1 The Type and Data of Research

This research used quantitative field research that emphasizes an analysis on numerical data (numbers) processed with statistical methods. The source of data in this reserach was obtained directly from the object examined such as financial reporting statements of Islamic bank, questionnaires, and other documents.

3.2 The Place and Time of Research

The object of this research was made from Muamalat Bank Indonesia and Islamic Danamon Bank in Indonesia. The time needed for this reserch is three months.

3.3 Populations and Samples

The populations in this research were 15 accounts officers at Muamalat Bank Indonesia and Islamic Danamon Bank in Surakarta, Indonesia. Total sampling was used in this research, in which the total of population of the Islamic bank taken as sampling accounts officer, both Islamic Danamon Bank and Muamalat Bank in Solo, Indonesia.

3.4 The Technique Collection of Data Collections

The technique of data collections in this research is documentation, literary study, questionnaires, and interviews.

3.5 The Techniques of Data Analysis

3.5.1 Classic Assumption Test

The techniques of data analysis in this research started with classic assumption test, in which the data will be processed through several stages such as, multikolinieritas test, heteroskidastisitas test, autocorrelation test, and normality test.

3.5.2 Regression Analysis

The technique of data analysis in this research uses multiple regression analysis, in which the data processing uses SPSS program version 21. Multiple linear regressions of this research are formulated by:

$$\mathbf{Y = \alpha + \beta_1 X_1 + \beta_2 X_2 + e}$$

Description:

Y = *Non performing financing* (NPF)

α = Constants

β_1, β_2 = Coefficient regression

X_1 = Islamic financing

X_2 = Work relation founding

3.5.3 T Test

T test is used to analyse the significance of independent variables partially towards dependent variables. The formulation of T test as follow:

$$t = \frac{b}{Sb}$$

Description :

b : Coefficient regression

S_b : Standard error of koefesien regression

As conclusion, if t value > t table or p value < 0.05, then H_0 is denied. It means that independent variables has significant effect towards dependent variable.

3.5.4 F Test

F test is used to analyse the significance of independent variables simultaneously towards dependent variable. The formula of calculation of the value of F is:

$$\boldsymbol{F = \frac{R^2/(k-1)}{(1-R^2)/(n-k)}}$$

Description:

R^2 : Coefficient determinate

k : The total of independent variables

n : The amount of data

The conclusion of T test is comparing between F value and F table or comparing between *p* value and significance value 0.05, then it can be determined H_0 is rejected or accepted.

3.5.5 Coefficient Determination

The aim of coefficient determination test (R^2) is to know the magnitude of effect of independent variables (Islamic financing and work relation founding) towards non performing financing on Islamic bank.

4. EMPIRICAL RESULTS AND ANALYSIS

4.1.1 Classic Assumption Test

In this research the data of research have been qualified for testing each stage with relevant test such as multikolinieeritas test, heterokidastisitas test, autocorrelation test, and normality test.

Table 4.1

The Results of Multikolinieritas Test

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.	Collinearity Statistics	
		B	Std. Error	Beta			Tolerance	VIF
1	(Constant)	-8,486	3,384		-2,508	,028		
	X1	,059	,014	,964	4,106	,001	**,582**	**1,717**
	X2	-,053	,036	-,350	-1,492	,161	**,582**	**1,717**

a. Dependent Variable: Y

If the value of tolerance > 0.1 and the values VIF resulted from each variable < 10, it does not multikolinieritas. The result of multikolinieritas test is tolerance value (0.582) > 0.1 and VIF (1.717) < 10. Therefore, doubles linier regression in this research does not multikolinieritas.

Table 4.2

The Results of Heteroskedastistas Test

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	-3,843	1,466		-2,621	,022
	X1	,006	,006	,267	**,923**	**,374**
	X2	,024	,015	,441	**1,526**	**,153**

a. Dependent Variable: ABSOLUT_RESIDUAL

The criteria test expected is that if each independent variables are not significant to absolute residual or produce *p* value > 0.05 then there is no problem of regression models heteroskidastisitas. This is shown by probability values (0.374; 0.153) > 0.05.

Table 4.3

The Results of Autokorelasi Test

Runs Test

	Unstandardized Residual
Test Value[a]	,07367
Cases < Test Value	7
Cases >= Test Value	8
Total Cases	15
Number of Runs	6
Z	-1,059
Asymp. Sig. (2-tailed)	**,290**

a. Median

The regression model is free from autocorrelation if Runs Test produces Asymp.Sig. (2-tailed) > 0.05. Based on the results above, it shows that the regression model is not autocorrelation, because the autocorrelation test results of runs probability value 0.290 bigger than 0.05.

Table 4.4

The Results of Normalitas Test

One-Sample Kolmogorov-Smirnov Test

		Unstandardized Residual
N		15
Normal Parameters[a,b]	Mean	,0000000
	Std. Deviation	,53888350
Most Extreme Differences	Absolute	,138
	Positive	,120
	Negative	-,138
Kolmogorov-Smirnov Z		,536
Asymp. Sig. (2-tailed)		**,936**

a. Test distribution is Normal.

b. Calculated from data.

Normality test is conducted by using Kolmogorov-Smirnov test in which the test criteria is if the test result producing probability value bigger than 0.05. Then the regression model of this research has normal residual. If the results of Kolmogorov-Smirnov test 0.936 > 0.05 it means normal residual.

4.1.2 Regression Analysis

Double linier regression using SPSS program version 21, produces as follow:

Table 4.5

The Results of Double Linier Regression

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	-8,486	3,384		-2,508	,028
	X1	,059	,014	,964	**4,106**	**,001**
	X2	-,053	,036	-,350	**-1,492**	**,161**

a. Dependent Variable: Y

Based on multiple linear regression analysis, the equation obtained is described as follow:

$$\mathbf{Y = -8,486 + 0,059X_1 - 0,053X_2}$$

4.1.3 T test

The aim of T test is to analyze the significance effect of Islamic financing and work relation founding partially towards non performing financing on Islamic bank.

Table 4.6

The Result of T Test

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	-8,486	3,384		-2,508	,028
	X1	,059	,014	,964	**4,106**	**,001**
	X2	-,053	,036	-,350	**-1,492**	**,161**

a. Dependent Variable: Y

The result shows that the Islamic financing (X_1) has significant effect towards non performing financing (Y), in which the multiple linear regression analysis result produces T value 4,106 with probability value 0.001 less than 0.05.

Therefore, work relation founding (X_2) does not have significant effect towards none performing financing (Y), it is shown in the multiple linear regression analysis that produces T value -1.492 with probability value 0.161 bigger than 0.05.

4.1.4 F Test

The aim of F test is to analyze the significance effect of Islamic financing and work relation founding simultaneously towards non performing financing.

Table 4.7

The Result of F Test

ANOVA[b]

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	6,494	2	3,247	**9,584**	**,003[a]**
	Residual	4,066	12	,339		
	Total	10,560	14			

a. Predictors: (Constant), X2, X1

b. Dependent Variable: Y

The result of F test produces F value 9.584 with probability value 0.003 < 0.05. it means has there is significant effect on Islamic financing and work relation founding simultaneously towards non performing financing.

4.1.5 Coefficient Determination

The results Determination of coefficient test as follows:

Table 4.8

Coeficient Determination Result Test

Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	**,784[a]**	,615	**,551**	,58206

a. Predictors: (Constant), X2, X1

The result of coefficient determination produces adjusted R^2 (Adjusted R Square) 0.551. It means that donation of variable on Islamic financing and work relation founding towards non performing financing value 55.1%.

The recycle test is 44.9 % (100%-55.1%) described other variables such as total of nonperforming loans, volume of loan, the competence of employees, experience of employees, act.

5. CONCLUSIONS AND IMPLICATION

Based on the analysis and discussion of this research, it can be concluded that :

a. Simultaneously, there is significant effect between Islamic financing and work relation founding towards non performing financing, in which F value 9.584 with probability value 0.003 < 0.05. It means Islamic financing and work relation founding simultaneously have significant effect towards non performing financing on Islamic banks. The implication is

when Islamic financing and work relation founding are carried out simultaneously supported by the level of understanding of Islamic principles, it can minimize non performing financing on Islamic banking.

b. Partially, Islamic financing has significant effect towards non performing financing. It is supported by double linier regression analysis with probability value 0.001 which is less than 0.05. Islamic financing on Islamic banks has important element in operational funding. This research emphasizes human resources of Islamic bank as (account officer) for the main standard in Islamic financing services.
c. Work relation founding in Islamic bank does not have effect towards non performing financing. This is shown in the double linier regression analysis which probability value 0.161 is bigger than 0.05. This research shows that if it is measured work relation founding insignificant, it means that work relation founding does not have effect towards non performing financing.

REFERENCES

Al-Makki, Arsyad (2010) *Pengawasan dan Pembinaan Pembiayaan Bermasalah oleh Account Officer*. Tesis. Yogyakarta: Program Pascasarjana UIN Sunan Kalijaga Yogyakarta

Antonio, Syafii (2011) *Bank Syariah : Teori dan Praktek*. Jakarta: Gema Insani Press

Arif, Muksin (2003) *Peranan PPS (Pusat Pendanaan Syariah) Fakultas Ekonomi Universitas Islam Malang dalam membantu Usaha Kecil dan Menengah melalui Pembiayaan Musyarokah,* Skripsi tidak dipublikasikan. Malang: Fakultas Ekonomi Universitas Islam Malang

Arikunto, Suharsini (2006) *Prosedur Penelitian*. Edisi Revisi VI. Jakarta: Rineka Cipta

Farahani, Yazdan Gudarzi and Masood Dastan (2013) *Analysis of Islamic Banks' Financing and Economic Growth: A Panel Co-integration Approach.* International Journal of Islamic and Middle Finance and Management.Vol.6 No.2, 2013.pp 156-157

Harahap, Sofyan Syafri (2003) *The Disclosure of Islamic Values: Annual Report Analysis of Bank Muamalat Indonesia's Annual Report*. Journal of Managerial Finance, Volume 29 Number 7.Accounting Department, Faculty of Economics, Trisakti University

Herijanto, Hendy (2013) *Selamatkan Perabankan Demi Perekonomian Indonesia*. Jakarta: Penerbit Expose (PT. Mizan Publika)

Imam Ghozali, 2005, *Aplikasi Analisis Multivariate Dengan Program SPSS*, Badan Penerbit Universitas Diponegoro, Semarang

Kementerian Agama RI (2011) *Al-Qur'an dan Terjemahannya Dilengkapi dengan Kajian Ushul Fiqih dan Intisari Ayat.* Bandung : Syamil Qur'an PT. Sygma Examedia Arkanleema

Majelis Ulama Indonesia Fatwa DSN Nomor: 19/DSN-MUI/IV/2001 tentang *Al-Qord.* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 01/DSN-MUI/IV/2000 tentang *Giro*. Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 02/DSN-MUI/IV/2000 tentang *Tabungan*. Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 03/DSN-MUI/IV/2000 tentang *Deposito*. Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 04/DSN-MUI/IV/2000 tentang *Murobahah*. Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 05/DSN-MUI/IV/2000 tentang *Jual Beli Salam.* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 06/DSN-MUI/IV/2000 tentang *Jual beli Istishna'.* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 07/DSN-MUI/IV/2000 tentang *Pembiayaan Mudhorobah (Qirodh).* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 08/DSN-MUI/IV/2000 tentang *Pembiayaan Musyarokah.* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 09/DSN-MUI/IV/2000 tentang *Pembiayaan Ijaroh.* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 10/DSN-MUI/IV/2000 tentang *Wakalah.* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 11/DSN-MUI/IV/2000 tentang *Kafalah.* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 12/DSN-MUI/IV/2000 tentang *Hawalah.* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 25/DSN-MUI/III/2002 tentang *Rahn.* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 27/DSN-MUI/III/2002 tentang *Al-Ijarah Al-Muntahiyah Bi Al-Tamlik.* Jakarta

Majelis Ulama Indonesia, Fatwa DSN Nomor: 44/DSN-MUI/VIII/2004 tentang *Pembiayaan Multijasa.* Jakarta

Malikah, Anik (2007) *Analisis Pembiayaan Dengan Sistem Syariah dan Pembinaan Hubungan Kerja Terhadap Peningkatan Pendapatan Pengusaha Kecil.* Malang : Fakultas Ekonomi Universitas Islam Malang (UNISMA)

Nurhayati, Sri dan Wasilah (2013) *Akuntansi Syariah di Indonesia*. Edisi ketiga. Jakarta: Salemba Empat

Pusat Pengkajian dan Pengembangan Ekonomi Islam (2012). Ekonomi Islam. Jakarta: PT. Raja Grafindo Jakarta

Rianto, Muhammad Nur (2011) *Dasar-Dasar Ekonomi Islam*. Solo: Era Adicitra Intermedia

Rivai, Veithzal (2012) *Principle of Islamic Finance*. Edisi pertama. Yogyakarta: BPFE Fakultas Ekonomi dan Bisnis UGM

Robiyah, Nur (2004) *Analisa Pengaruh Pembiayaan Syariah dan Pembinaan Hubungan Kerja Terhadap Peningkatan Pengusaha Kecil*. Skripsi tidak dipublikasikan. Malang: Fakultas Ekonomi Universitas Gajayana Malang

Selim, Tarek. H (2008) *Islamic Capital Asset Pricing Model*. International Journal of Humanomics. Vol.24, No.2, pp 122-129

Setyowati, Cici (2005) *Analisis Pembiayaan Musyarokah Terhadap Pendapatan Usaha Kecil Menengah Pada Pusat Pendanaan Syariah Fakultas Ekonomi Unisma* (PPS FE Unisma). Skripsi tidak dipublikasikan, Malang: Fakultas Ekonomi Universitas Islam Malang

Sudarto, Sarwono (2013) *Commercial Bank Manajemen*. Jakarta: PT. Raja Grafindo Jakarta

Sugiyono, Prof. Dr (2013) *Metode Penelitian Kuantitatif Kualitatif dan R &D. Bandung* : Alfabeta Bandung.

Trimurti, MM. Dra (2008) *Metode Penelitian Bagian Satu.* Fakultas Ekonomi Uiversitas Islam Batik Surakarta

_____ *Metode Penelitian Bagian Dua.* Fakultas Ekonomi Uiversitas Islam Batik Surakarta

Undang-Undang Republik Indonesia Nomor: 21 Tahun 2008 tentang *Perbankan Syariah.* Jakarta.

Yudistira, Reza (2011) *Strategi Penyelesaian Pembiayan Bermasalah Pada Bank Syariah Mandiri*. Skripsi. Jakarta: Program Studi Muamalat Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta

Yuli, Sri Budi Cantika (2009) *Analsis Pembiayaan Syariah Pada Usaha Kecil Menengah (UKM) di Bank Syariah Mandiri Cabang Malang*. Jurnal Volume 5 Nomor 1. Malang: Program Studi Manajemen Keuangan dan Perbankan Fakultas Ekonomi Universitas Muhammadiyah Malang

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WORKPLACE FINANCIAL EDUCATION TRAINING NEEDS FOR GOVERNMENT WORKERS: EMPLOYER'S VIEWPOINTS

Safeza Mohd Sapian[1]
Rosdi Abu[2]
Norhazlina Ibrahim[3]
Zurina Shafii[4]

ABSTRACT

The objectives of this study is to investigate the needs of government workers on financial education training at their workplace focusing on employer's standpoint. Statistics on bankruptcies and increasing numbers of indebtedness among government workers had become the motivation for us to embark on this study. This trend is very much alarming and put the employers in the most worrying state. One common element that has been highlighted by many studies contributing to this issue is financial illiteracy. This study uses content analysis of employer's reports regarding financial education training need analysis (TNA) to examine the initiatives taken by employers in relation to financial literacy among government employees. Our findings have suggested that the Head of Department is responsible in closely monitoring number of employees with financial difficulties and frequent reporting is critically required. From the analysis, the serious financial indebtedness which would give contagion effects to job performance such as emotional stress, low productivity, lack of work discipline and corruption practices. Since our focus in this study is the need of training for government workers, Workplace Financial Education (WFE) content should be standardized and conducted by a special unit rather than putting the burden solely on the Head of Department.

Keywords: Workplace Financial Education (WFE), Training Need Analysis (TNA), Government workers

1. INTRODUCTION

Given the current situation in Malaysia where the percentage of bankruptcies has become so alarming and continuously becoming a worrying trend, this has initiated Malaysian government to suggest ways in improving financial literacy levels from an early age to adulthood (Marican et al., 2012). Marican et al. (2012) further asserts that, under the National Key Result Areas (NKRAs) introduced by Prime Minister of Malaysia, Y.A.B Dato' Sri Mohd Najib bin Tun Haji Abdul Razak in January 2010 had highlighted the need to educate all the Malaysian on some basic financial and retirement planning knowledge[2]. Accordingly, long-term financial education program called National Financial Literacy Program (NFLP) will be organized for the public in order to create awareness on financial literacy.

[1,2,3,4] Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM). Corresponding author: E-mail: safeza@usim.edu.my, rosdiabu@gmail.com, norhazlina@usim.edu.my, zurina.shafii@usim.edu.my

[2] All the information can be derived from the NKRAs financial services handbook.

This issue is also affecting the government workers. There is an increasing concern on debt problem affecting civil servants in Malaysia. In 2009 the Insolvency Department reported 1086 civil servants were declared bankrupt with 73% were men[3]. The number keeps on increasing and based on the recent statistics report by Malaysia Department of Insolvency (MDI), from year 2005 until 2012, 2120 bankrupted government servants have made their appearance at MDI office[4]. The breakout statistics of bankrupted government servants' cases handled by each MDI's branches throughout Malaysia is shown in Table 1.

Table 1: The number of bankrupted government servants' cases handled by MDI's branches (Year 2005-2012)

BRANCHES	TOTALCASES
SELANGOR	165
KUCHING	256
WPKL	314
MUAR	101
IPOH	169
KELANTAN	109
KEDAH	109
JOHOR BAHRU	92
KUANTAN	64
NEGERI SEMBILAN	94
KOTA KINABALU	109
PULAU PINANG	83
TERENGGANU	55
MIRI	52
SIBU	78
MELAKA	74
TAWAU	56
PERLIS	28
TEMERLOH	39
SANDAKAN	36
TAIPING	37
TOTAL	**2120**

Source: MdI

More than 70% of these government servants are men aged between 35 to 44 year old. Most of the government servants are Malay, which constitutes around 85% of the total amount of bankrupted government servants.

[3]The Sun dated 3 March 2011.
[4]Based on the presentation made at Nilai Spring Golf Resort by Puan Nur Lailey binti Sehan on 13 June 2013.

Table 2: The number of bankrupted government workers' according to gender

GENDER	NUMBER	PERCENTAGE
Male	**1,540**	**74.61**
Female	**580**	**28.1**
TOTAL	**2,120**	**100**

Source: MDI

Table 3: The number of bankrupted government workers' cases according to age

AGE	NUMBER	PERCENTAGE
<25 year	**12**	**0.57**
25-34 year	**438**	**20.66**
35-44 year	**716**	**33.77**
45-54 year	**668**	**31.51**
>55 year	**286**	**13.49**
TOTAL	**2,120**	**100**

Source: MDI

Table 4: The number of bankrupted government servants' cases according to race

RACE	NUMBER	PERCENTAGE
Malay	**1,794**	**84.62**
Chinese	**62**	**2.92**
Indian	**60**	**2.83**
Others	**204**	**9.62**
TOTAL	**2,120**	**100**

Source: MDI

As stated by Delafrooz and Paim (2011), one of the reasons for personal financial problems is financial illiteracy. Hence, being financially literate, would help in handling day to day financial matters as well as making sound financial decisions. Good financial decisions and good money management are reflecting each other where it would contribute to an individual's and organization's long term financial planning. Furthermore, findings by Delafrooz and Paim (2011) on financial wellness in the case of Malaysian workers indicated that education, financial literacy, financial behaviors and financial stress level had a direct effect on financial wellness. This has further highlight on the importance of having financial education training at the workplace.

This study aims to identify the importance of financial education training for government workers from the viewpoints of employers from various groups of government sectors. In addition, the study also investigates the challenges faced by the employer in providing the financial education training in the workplace.

2. LITERATURE REVIEW

2.1 The Significance of Financial Education

As cited in Hung et al. (2009), the President's Advisory Council on Financial Literacy (PACFL, 2008) defines financial education as the process by which people improve their understanding of financial products, services and concepts, so they are empowered to make informed choices, avoid pitfalls, know where to go for help and take other actions to improve their present and long-term financial well-being. In addition to that, Bernheim & Garret (2003) states that, financial education carries wide range of differences among employers. The differences of programs offered are based on three primary dimensions: content, media, and frequency. All these are depending on the need of each organization and level of seriousness in relation to the issues of indebtedness of the employees.

The awareness of financial education has continuously become an important agenda for many employers in view to improve the performance of their companies as well as the well-being of their employees. This has been strongly proven by Garman et al. (1999) that workers will show better financial wellness when the employers could provide workplace financial education. The bottom line is, financial illiteracy is the culprit. Financial literacy defined by Worthington (2006) as the competency to undertake rational, informed judgments pertaining to money management. Similarly, as defined by PACFL (2008)[5], financial literacy is the ability to use knowledge and skills to manage financial resources effectively for a lifetime of financial well-being. Accordingly, Braunstein & Welch (2002) also advocate that financial literacy deficiencies such as lack of workplace financial education and not knowing a proper tools in making sound financial decision could lead to hick-ups in day to day money management. Furthermore it also would affect propensity for long-term saving objectives like wanting to buy a home or planning for retirement. All in all, the ability to perform good money management would positively affect personal well-being of a person hence many studies has proven that the existence of unnecessary stress due to poor money management will lead to poor job performance. Ineffective money management can also result in behaviors that make individuals sensitive and helpless to severe financial crises.

Nowadays many employers choose to have financial education training at the workplace in view to achieve the organization's objectives, to increase financial wellness of the employees as well as to improve the employee's job productivity. When employee's productivity is in good shape, of course it will contribute to the organizational productivity as a whole and therefore resulted to good performance and profitability. This fact is very critical to be observed as quoted by Garman et al.(1996) and Kellar & Nolf (1984), when *"financial problem arise, it is in the workplace that they are likely to surface first".* In fact, this is very true. Workplace is the place that we are spending most of our time other than home. It is

[5]Please see Hung et. al (2009) - Defining and Measuring Financial Literacy. RAND Labor and Population working paper series. WR-708. September.

our second home and whatever personal problem we are facing, the most likely place it could explode is at the office. So, it does affect job performance.

In the case of Malaysia, 60.4% of its population is Muslim[6]. Thus, being the majority it further magnifies the need for employers in Malaysia to have financial education in place for Muslims. Accordingly, Bensaid et al. (2013) stated that personal debt is not a good practice and Muslim are encouraged to earn their living through legitimate means and must avoid any situation that would resort to borrowing. In addition, based on Islamic tradition, indebtedness may not only affect the conditions of a Muslim's life in this world but also in the hereafter. As the saying from our beloved Prophet Muhammad s.a.w.: "*The greatest sin is that a man dies while he has debt due from him and does not leave anything to pay it off and meets Him with it*" (Bensaid *et.al*, 2013). However, this tradition depends on the conditions and commitment of the debtor for it is legitimate for Muslim to have personal debt for personal needs and other public causes as long as he shows utmost commitment in paying the debt. Civil servants need to tackle the debt borrow prudently, wisely manage and reduce Credit Card debt (UMS, 2012).

2.2 Relationship between Financial Education and Job Performance

As mentioned earlier, as a result from illiterate in financial education, inability to make sound financial decision and negative effects might follows from poor decision making. Therefore, inability to meet financial responsibilities would cause stress and paralleled with this view Garman et al. (1999) also agrees that personal finance mismanagement is one of the main causes of employee's stress. Another study done by Brown (1999) claimed that financial hardship has become one of the contributing factors leading to lack of performance at a workplace. Adding to that, Brown also states that at least 10% of employees with financial difficulties had mixed those personal financial issues with their professional duties thus significantly impact productivity.

Study conducted by Fox & Chancey (1998) stated that personal life stresses is closely related to financial problems thus financial stability can influence an individual's psychological state and behavior at work. Marican et al. (2011) shared the opinion and indicated that employees with financial stress show poor financial management and their financial problems would affect their professional affairs including health and behavior at their workplace.

Joo (1998) also found that good financial wellness and key measures of high worker productivity are positively related. Accordingly, he proved that people with financial problems are those who are frequently absent from work, have poor performance evaluation, spending more time at work dealing with personal financial problems and declining in productivity.

3. RESEARCH METHODOLOGY

[6] Malaysia Demographics Profile 2013, http://www.indexmundi.com/malaysia/demographics_profile.html

In order to examine employer's perspectives on workplace financial education, content analysis of any employer's reports regarding financial education training need analysis were carried out. All these documents are extracted from various sources such as newspaper, circulars distributed by the Public Services Commission of Malaysia and reports by government agencies.

4. ANALYSIS

This study has examined a trail of documents on monitoring actions related with serious indebtedness of civil servants undertaken by employers in the public sector. This document has been marked as exhibit A1, A2, A3, A4, A5 and A6. Here are some excerpts from the relevant paragraphs in the document and analysis of the document.

Exhibit A1: Proposal on Personal Financial Management Workshop Curriculum Presented In The INTAN Curriculum Development Committee Meeting on April 16, 2007 at Hotel Le Meridean, Sabah.

On March 29th 2007, Berita Harian reported concerns about the seriousness of the bankruptcy cases involving young people due to the spending habit beyond capacity with the use of credit. There were about 1,280 people or 8% of the 16,000 bankruptcy cases filed in 2005 involving young people within the aged 30 years. The Government is committed to address this problem and one of the chosen approach is to implement education and awareness programs about personal financial management among Malaysians regardless of age. A study was made by the Ministry of Health on the status of its members who have a monthly wage bill cuts more than 60%. The study found that as many as 547 people or 3.8% of the 14,494 members of the Ministry in the Klang Valley with month ly emolument cuts exceeding 60%. While a total of 5,418 people or 4.8% of the 114.024 members of the State Health Department was located in the same state of indebtedness.

Source: INTAN

The discovery of the documents have shown that Workplace Financial Education(WFE) has been implemented in the public sector since 2007. This initiative was undertaken by the Institute of Public Administration (INTAN), training agencies in the public sector under the auspices of the Public Service Department (PSD) since 2007 following the bankruptcy issue and studies conducted in the Ministry of Health.

Exhibit A2: Letter to the Head of the Department from State Health Director on Amendment In Personal Loan Application Procedures

There are outstanding issues regarding personal loan application procedure before public servants falling into serious financial burden. Accordingly, the department has made several amendments to the procedure for tightening the application process personal loans to members of the department informed.

Head of Department shall not encourage civil servants to take personal loan. However, if public servants still need a loan for specific reasons, such undertaking letter form must be signed. **Head of Department** may consider to reject the application if the amount of deduction for the loan (including the new loan) will exceed 60%. Only members who have been confirmed in their service, could be allowed to apply for a personal loan. **Head of the Department** responsible for this information have to extends to their employees to avoid incomplete applications pass to the management for approval.

Source : Department of Health, Kuala Lumpur and Putrajaya

Analysis refers to the personal loan application procedures have been tightened, the status of the head of department responsibilities in the approval process and enlightenment regarding this procedure should be extended to the officers.

Exhibit A3: Letter to the Head of Department from Chief Secretary of Ministry of Health on the Statement of Serious Financial Indebtedness of Among officers of the Ministry of Health dated June 21, 2012

The ministry's secretary-general circular number 2 of 2007 on the prohibition of borrowing money and in serious financial indebtedness attached outlines the actions to be taken by the **Heads of Department** to reduce the number of health ministry officials from suffering serious indebtedness. In accordance with the circular, each department head is required to monitor the situation every six (6) months to the ministry.

Source: Ministry of Health

This statement analysis indicates the need for department heads lowered the number of people who have financial difficulties and do monitoring and more frequent reporting.

Exhibit A4: Letter to the Head of Department from Chief Secretary of Ministry of Education on Rules of Prohibition Be In Serious Condition Financial Indebtedness Against Public Officials dated June 29, 2012

Findings show that 27,586 officers in the State Education Department and the agency of the Ministry of Education deduct more than 60% of monthly income and 91 officers of zero income. Among the main causes identified were caused by a combination of cuts of mortgage loan and personal loan or personal loan deduction entirely and other loan repayment. Officers included in the category of serious financial indebtedness can lead to emotional stress and thus affect the performance and encouraged to commit offenses under such absence from duty, involved in abuse of power, embezzlement and corruption. Indebtedness also cause serious financial officer liable to disciplinary action. **Heads of Department** are required to monitor wage cuts before approving loan

applications, officials have a minimum net income limit set and the officer in charge of financial affairs understand the rules and those who refuse to report. Cooperation and action is needed to ensure the financial indebtedness of serious issues to be addressed to ensure the integrity and reputation of the public service is always maintained.

Source: Ministry of Education

Analysis found that personal loan is a leading cause of serious financial indebtedness can lead to other problems such as emotional stress, low productivity, lack of work discipline and corruption practices.

Exhibit A5: Letter to the Head of Department from Chief Secretary of Ministry of Higher Education on Rules of Prohibition to Borrow Money and Be In Serious Financial Indebtedness on Public Officers dated July 16, 2012

Public Services Department (PSD) is currently being actively monitor the issue of public officers bear heavy debt and had to do outside of work that can affect their job performance. It could also encourage them to do a variety of misconduct absent from duty, often late in the office, fraud, corruption and other integrity-related problems. **Department heads** are required to monitor for salary deductions when approving loans to them to avoid heavy debt-ridden officials.

Source: Ministry of Higher Education

This document relates debt burden problem with extra job out of the office, poor discipline and corruption practices.

Exhibit A6: Letter to the Head of Department from Secretary of the Selangor State Government on Guidelines of Prohibition of Borrowing Money And Be In Serious Financial Indebtedness dated March 7, 2013

The administrative has taken the initiative to formulate guidelines on the regulation and prohibition of borrowing money and in serious financial indebtedness. The first thing in this guideline is on the official net income less 40% of emoluments. **Heads of Department** to identify the officers who have net income less 40% of the monthly emoluments and periodically report on this by quarters. **Head of the Department** issued a show cause letter and make a recorded meeting with officials to discuss the issues and reach a consensus on an action plan to remove the officer from the problem. **Head of Department** may instruct the officer referred for counseling and if officials fail to implement corrective actions agreed between the officer and the head of the department, disciplinary action may be imposed on the officer. The second leg of this

guideline is an application for a **personal loan.** Application for a loan from any financial institution licensed by any officer shall be made via the **Head of Department**. Officers are required to declare the entire income and liabilities (stated and are not recorded in the consolidated monthly salary) using the form provided and submit it to the head of the department together with the application for a loan.

Source: Secretary of Selangor State Government

This exhibit shows the analysis of the efforts and measures in preventing, to cure and enforcement processes involved to address serious financial indebtedness that does not spread to more critical problems of discipline.

5. FINDINGS

By looking trails of these documents (Exhibit A1 to A6), there is clearly a serious financial indebtedness among public services. This is further supported by the statistics given by the Malaysia Department of Insolvency (MdI). As mentioned earlier according to MdI from 2005 until 2012, 2120 bankrupted government servants have made their appearance at MdI office. The gravity of this problem in some cases affecting their daily job such as low productivity, lack of discipline and bribery. However, if looking at the trail of these documents, all the burden to identify and rectify the problem of serious indebtness fall on the shoulder of the Head of Department. Heads of the Department have to monitor and warn employees under their supervision to comply with circulars and regulations in force. For example, if the employees have failed to comply with this circulars and are in serious financial indebtedness, Heads of the Department should be responsible to ask the officer how he maintains his life. Despite having serious financial indebtedness, but the officer was doing a good job and does not violate the civil service code of conduct under Rule 4, then no disciplinary action should be taken. Head of Department must monitor continuously so as not to affect the work performance and the abuse of power (Public Services of Malaysia, 2013). Due to this issue the Public Services Commission of Malaysia has come out with circular that civil servants should not have their loan deduction more than 40% of their salary. On top of that any aplication for a loan from any financial institution licensed by any officer shall be made via the head of department. Officers are required to declare the entire income and liabilities (stated and are not recorded in the consolidated monthly salary) using the form provided and submit it to the head of the department together with the application for a loan.

Clearly, the Head of Department is the right person to detect any misconduct and performance of their job. Nonetheless the real question is whether the responsibility should only be held by one party (Head of Department) or is there a need to set up a special unit under Human Resources by every government organization. Undoubtedly, Head of Departments have many other things in their mind and if there is a special unit established to cater this problem, more monitoring and even consulation could be given to aid these troubled government servants. This special unit with the collaboration with the Head of Department could identify the problematic goevrnment servants, perform continious monitoring and provide them means or consultations on how they could clear their debt. Importantly, this special unit could provide Workplace Financial Education (WFE) to the

existing problematic government servants on how to restructure their debt and managing their finance. In addition, there is also a need to educate other government servants as to prevent themfromfollowing the same mistakes as their co-workers who are heavily indebt.

6. CONCLUSION

As a conclusion, Workplace Financial Education (WFE) is needed to cater the need to aid the existing government servants who are heavily indebted in helping them restructure and managing their finance. In order to avoid the other government servants to fall into the same trap, WFE is also important to educate them on financial planning and how to manage their finance. There are many studies that able to provide evidence of the outcomes of heavily indebtedness such as financial stress, work absenteeism and increased productivity. In the case of government organization, employers play an important role in educating their employees. This can be done by spreading the policies and regulations of the department with clear and well-organized in the form of seminars or courses WFE. Thus a special unit under human resource can be established to organize the financial planning education to all government servants. Nonetheless, the collaboration and connection of this special unit with every Head of Department is important in identifying and monitoring the troubled government servants. Presently, the improvements to the existing rules and procedures have been implemented by various departments in order to ensure the monitoring done by the department head. Hence WFE content should be standardized and could include religious elements to address this negative behavior. It is hoped that the financial planning approach with additional content in WFE employer policies can strengthen the financial management of public servants thereby improving the effective delivery of services.

REFERENCES

Bensaid, B., Grine, F., Mohd Nor, M. R. And Mohd. Yusoff, M. Y. Z. 2013. “Enduring Financial Debt: An Islamic Perspective”. *Middle-East Journal of Scientific Research*. Vol. 13. (2):pp. 162-170.

Bernheim, B. D. and Garret, D. M. 2003. “The Effects of Financial Education in the Workplace: Evidence from a Survey of Households”. *Journal of Public Economics*. Vol. 87. pp. 1487–1519.

Braunstein, S. and Welch, C. 2002. “Financial Literacy: An Overview of Practice, Research, and Policy”. *Federal Reserve Bulletin*. November. pp. 445-457.

Brown, R. C. 1999. “Financially-Troubled Employees and Threats of Violence Impact the Workplace”. *Personal Finances and Worker Productivity*. Vol. 3. (1): pp. 38-47.

Delafrooz, N. and Paim, L. 2011. “Determinant of Financial Wellness among Malaysia Workers”. *African Journal of Business Management*. Vol. 5. (24): October. pp. 10092 – 10100.

Fox, G. L and Chancey, E. 1998. "Sources of economic distress: Individual and family outcomes". *Journal of Family Issues*.Vol. 19. (6): pp. 725-749.

Garman, E.T, Kim, J., Kratzer, C. Y, Brunson, B. H and Joo, S. 1999. "Workplace Financial Education Improves Personal Financial Wellness". *Financial Counseling and Planning*. Vol 10. (1):pp. 79-88.

Garman, E.T, Leech, I. E and Grable, J. E. 1996. "The Negative Impact Of Employee Poor Personal Financial Behaviors On Employers". *Financial, Counseling and Planning*. Vol. 7. pp. 157-168.

Hung, A. A, Parker, A. M and Yoong, J. 2009. Defining and Measuring Financial Literacy. RAND Labor and Population working paper series. WR-708. September.

INTAN. 2007. "Cadangan Kurikulum Bengkel Pengurusan Kewangan Peribadi", 11 April 2007.

Jabatan Kesihatan Negeri Kuala Lumpur & Putraya. 2012. "Pindaan Terhadap Prosedur Permohonan Pinjaman Peribadi", 2 Mei 2012.

Joo, S. 1998. Personal financial wellness and worker job productivity , unpublished doctoral dissertation, Virginia Tech.

Kellar, B. and Nolf, N. 1984. *Preliminary report: Troubleshooter training, a financial counseling course for military personnel.* March. Unpublished manuscript.

Kementerian Kesihatan Malaysia. 2012. "Penyata Keterhutangan Kewangan Yang Serius Di Kalangan Pegawai Kementerian Kesihatan Malaysia", 21 Jun 2012.

Kementerian Pelajaran Malaysia.2012."Peraturan Mengenai Larangan Berada Dalam Keadaan Keterhutangan Kewangan Yang Serius Terhadap Pegawai Awam". 29 Jun 2012.

Kementerian Pengajian Tinggi Malaysia.2012." Peraturan Mengenai Larangan Meminjam Wang Dan Berada Dalam Keterhutangan Kewangan Yang Serius Ke Atas PegawaiAwam", 16 Julai 2012

Marican, S., Zakaria, R. H. and Abdul Rahman, A. 2012. "Financially Stressed Employees at Workplace: A Malaysian Perspective". *International Journal of Research in Social Sciences*. Vo. 2. (2): May. pp. 350-363.

Setiausaha Kerajaan Negeri Selangor. 2013. "Garis Panduan Mengenai Peraturan Meminjam Wang Dan Larangan Berada Dalam Keterhutangan Kewangan Yang Serius Bagi Pentadbiran Setiausaha Kerajaan Negeri Selangor", 7 Mac 2013.

Suruhanjaya Perkhidmatan Awam Malaysia, 22 Julai 2013 Soalan Lazim. http://www.spa.gov.my

Universiti Malaysia Sabah, 13 Jun 2012, Kakitangan Awam Perlu Membuat Belanjawan Kewangan Peribadi. http://wwwkal.ums.edu.my

Worthington, A.C. 2006. ‘‘Predicting financial literacy in Australia’’. *Financial Services Review*. Vol. 15. (1): pp. 59-79.

FINANCIAL LITERACY AMONG GOVERNMENT SERVANTS FROM THE PERSPECTIVE OF FINANCIAL EDUCATION PROVIDERS

Norhazlina Ibrahim[1]
Zurina Shafii [2]
Safeza Mohd Sapian[3]
Rosdi Abu[4]

ABSTRACT

This paper investigates the possible solutions to overcome the financial literacy among government servants from the perspective of financial education providers. This study applies qualitative method via focus group by inviting several financial education providers from diverse organization. The focus group reported the lack of financial knowledge among government servants that resulted to the increasing number of bankrupted figures in recent years and the possible causes. The outcomes from the discussion revealed there is a dire need to provide a module to these government servants as to increase their knowledge in financial planning and reduce the number of indebtedness government servants. They also proposed several vital topics of financial planning that should be included in the module which contain Islamic values and thoughts.

Keyword: Financial planning, government servants

1. INTRODUCTION

There is a growing concern on debt problem affecting civil servants in Malaysia. In 2009 the Malaysia Department of Insolvency (MdI) reported 1086 civil servants were declared bankrupt and almost 73% of them were men[5]. Many of them fail to keep aside their income for saving and apply for loans when they need money. Loans for the civil servants are easily available due to their job security and stability. According to the General Orders governing the government servants, their job is guaranteed until they reach pension age and will only be terminated as a result of disciplinary action or the dissolution of their department. This is due to the fact that those who work with the government are secured and moreover these financial institutions received installment from the salary deduction every month.

[1,2,3,4] Faculty of Economics and Muamalat Universiti Sains Islam Malaysia.
[5] The Sun date 3 March 2011.

The Department of Insolvency (MdI) reported the total number of 2120 bankrupted government servants and made their appearance at MdI office. The number keeps on increasing and the breakout statistics of bankrupted government servants' cases handled by each MdI's branches throughout Malaysia is shown in Table 1. Sarawak has the highest number of bankruptcy compared to other branches, followed by Wilayah Persekutuan, Perak and Sabah.

Table 1: The number of bankrupted government servants' cases handled by MdI's branches (Year 2005-2012)

STATES (Branches)	**TOTAL CASES**
SELANGOR	**165**
SARAWAK (Kuching, Miri and Sibu)	**256+52+78=386**
WILAYAH PERSEKUTUAN KL	**314**
JOHOR (Muar and Johor Bahru)	**101+92=193**
PERAK (Ipoh and Taiping)	**169+37=206**
KELANTAN	**109**
KEDAH	**109**
PAHANG (Kuantan, and Temerloh)	**64+39=103**
NEGERI SEMBILAN	**94**
PULAU PINANG	**83**
TERENGGANU	**55**
MELAKA	**74**
SABAH (Tawau, Sandakan and KK)	**56+36+109=201**
PERLIS	**28**
TOTAL	**2120**

Source: (MdI, 2012)

By looking at the distribution in Table 2, more than 70% of these government servants are men aged between 35 to 44 year old. Most of the bankrupted government servants are Malay, which constitutes around 85% of the total amount of bankrupted government servants (Please refer to Table 4). This result is expected since the large majority of government servants are Malay.

Table 2: The number of bankrupted government servants' cases according to gender

GENDER	**NUMBER**	**PERCENTAGE**
Male	**1,540**	**74.61**
Female	**580**	**28.1**
TOTAL	**2,120**	**100**

Source: (MdI, 2012)

Table 3: The number of bankrupted government servants' cases according to age

AGE	NUMBER	PERCENTAGE
<25 year	**12**	**0.57**
25-34 year	**438**	**20.66**
35-44 year	**716**	**33.77**
45-54 year	**668**	**31.51**
>55 year	**286**	**13.49**
TOTAL	**2,120**	**100**

Source: (MdI, 2012)

Table 4: The number of bankrupted government servants' cases according to race

RACE	NUMBER	PERCENTAGE
Malay	**1,794**	**84.62**
Chinese	**62**	**2.92**
Indian	**60**	**2.83**
Others	**204**	**9.62**
TOTAL	**2,120**	**100**

Source: (MdI, 2012)

The major reason for getting caught in this financial trap is the lack of knowledge in financial planning. Most of them are lured by easy access on different types of loans especially personal loans offered by financial institutions (FIs) and non-bank financial institutions (NBFIs). They are using this loan to finance unnecessary expenses such as expensive cars, smartphones and home furnishing. Most of the time, they are unable to distinguish between the necessity and luxury expenses. This is when the knowledge on financial literacy is crucial and government has to play its role in educating them. The objective of this paper is to come up with the possible solutions to overcome the increasing number of bankruptcy figures of the government servants from the perspective of financial education providers.

2. LITERATURE REVIEW

There are several definitions for financial literacy. According to the ASIC discussion paper on financial literacy in schools, financial literacy is "the ability to make informed judgments and to take effective decisions regarding the use and management of money". On the other hand, Schagen and Lines (1996) define the term financial literacy as "the ability to make informed judgments and to take effective decisions regarding the use and management of money".

However, most of these definitions consist of two important elements. Firstly, a person is deemed a financial literate if he has the financial knowledge on basic key financial concepts

and able to apply this numerical skill when dealing with financial transactions. The second element is having a positive financial behavior such as budgeting, saving and choosing financial products. The positive behavior is vital because there are people who are financially literate but failed to behave accordingly. For instance, they know how to prepare budgeting and the importance of saving (knowledge), but practically they act otherwise (behaviour). Thus, they may not be considered as financially literate. The person will only be considered financial literate if they are able to possess financial skills and knowledge and form a good financial decisions.

This knowledge and skills are vital due to the rising complex financial products in the current market. Many governments around the world are interested in finding effective approaches to enhance the population's level of financial literacy. Some of these processes include free seminars, flyers, roadshow and websites. In Malaysia, the financial providers consist of various government agencies (Bank Negara (BNM), Securities Commission (SC) and *Agensi Kaunseling Dan Pengurusan Kredit* (AKPK)) and non-government agencies.

Many studies have been conducted in measuring the financial literacy of a country (Atkinson and Messy, 2012). Atkinson and Messy (2012) investigate the variations in financial knowledge, behaviour and attitude across countries and within countries by socio-demographics in 14 countries. The results will enable countries to identify needs and gaps in financial education provision and develop national policies or strategies.

3. METHODOLOGY

The methodology applied in this study is using focus group. The focus group comprised of several financial education providers whom were invited in half-a-day program as to discuss the need to educate and increase the financial literacy among government servants. The participants representing financial education providers are from various organizations; public sectors (Bank Negara, AKPK, Malaysia Department of Insolvency) and private sectors (NGOs and consultants). A total of 10 financial education providers participated in this focus group discussion. Reactions and feedbacks were collected and recorded to extract the major issues in the increasing number of government servants' bankruptcy cases. The session were divided into two main parts, the first part was the presentation by the participants on the gravity of the indebtedness among government servants. On the later part more intense discussion on the substance of the module that should be included and the major causes. The moderator asked pre-determined set of questions to guide discussion, probing for more detail when needed. Participants were asked to give constructive feedback about their views and all the answers were recorded, preserving as much of the data as possible.

4. ANALYSIS

Basically all the participants agreed on the need of training for government servants at the workplace. This Workplace Financial Education (WFE) module should be standardized and best conducted during the induction training for new employees. Nonetheless this WFE module can also be offered to the existing employees by rotational basis and online if the

training cost is too high. The participants also discussed in great detail on the array of topics to form the Module for the government servants. They consensually agreed that the module should encompass a basic understanding of the financial concepts required for daily living so that they would be better able to make thoughtful financial decisions for making more thoughtful spending, saving, and credit use decisions. One neglected topic – pre retirement knowledge---usually this knowledge were sought after several years before pension but all of them agreed that at this point it maybe too late. For example to receive "golden handshake"[6] upon retirement they need to plan the accumulated number of unused annual leave throughout their employment. In addition, they proposed that pre-retirement training should be made mandatory to all employees aged 35 and above.

Another important issue raised in the discussion is the inputs of Islamic values and thoughts in the module. These elements are important because majority of the government servants are Muslim. Islamic financial planning could be defined as a process of assisting clients in determining their financial goals and priorities and the resources to meet them optimally within the parameters of the *shariah* or the process of meeting life goals through the management of finances in accordance with the *shariah.* Islamic financial planning is a process of understanding of how to create, accumulate, preserve, purify and distribute the wealth according to the *shariah* ruling. The Quran says in surah Al-Tawba, verse 121 that "Nor spend they any spending, small or great, nor do they cross a valley, but it is recorded for them, that Allah may repay them the best of what they used to do".

Certain topics such as Islamic law of inheritance (faraid and wasiyyat), Takaful and waqf should be embedded in the module as well. In addition by including these Islamic financial planning elements, the module can be referred by Islamic financial consultants. The lack of these materials in the markets and usually not in the comprehensive form made it quite difficult for these consultants to make any references when advising their clients.

More worrying part is the fastest growing in personal loans[7]offered to low-income borrowers through the non-bank financial institutions (NBFIs)[8]. Many of these borrowers are also government servants. The amounts of loan are quite alarming and keep on rising. As such the loan approvals through NBFIs rose 63.7% in 2012, and the average personal loan was for RM68,000 (US$22,300) with a duration of 20-25 years[9]. All financial institutions that offered loans are supervised and monitored by Bank Negara Malaysia (BNM) under the banking Act. Other NBFIs fall under Furthermore, according to the report by Bank Negara almost 80% of personal loans come from NBFIs and taken by the government servants with household incomes of less than RM3000 a month (Su-Lyn and AR, 2013). Due to this reason many economists have expressed their concern on NBFIs that easily provide personal loans to be strictly monitored and supervised.

[6] The golden handshake is the annual leave accumulated in lieu of cash that the civil servant will receive upon retirement. Currently, Civil servants will be able to accumulate their 'golden handshake' up to 150 days.
[7] One of the components in low income household debt.
[8] These NBFIs are Bank Rakyat Sdn Bhd, Malaysia Building Society Bhd (MBSB) and development financial institutions (DFIs) such as Agrobank, SME Bank and Lembaga Tabung Haji.
[9] Extracted from http://asiapacific.anu.edu.au/newmandala/2013/04/16/reducing-malaysias-debt-burden/

5. CONCLUSION

Malaysia strives to become what World Bank would categorise as a "high-income nation" by the year 2020. Nonetheless, this achievement would be pointless if the bankruptcy rate keep on rising. Thus, a proactive measure such as introducing and bringing up the level of financial literacy of these government servants could be one of the means to achieve the best of both worlds. Clearly from the perspective of financial providers the WFE must be introduced as soon as possible before the numbers keep on growing.

REFERENCES

Australian Securities and Investments Commission, 2003, Consumers Understanding of Financial Literacy, [Internet Document] [cited 19-01-2010] available from http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/AFAlert_speech_190404.pdf/$file/AFAle rt_speech_190404.pdf

Atkinson, A. and F. Messy (2012), "Measuring Financial Literacy: Results of the OECD / International Network on Financial Education (INFE) Pilot Study", *OECD Working Papers on Finance, Insurance and Private Pensions*, No. 15, OECD Publishing. http://dx.doi.org/10.1787/5k9csfs90fr4-en

Schagen, S., & Lines, A., 1996, *Financial Literacy in Adult Life*. *A Report to the Nat West Group Charitable Trust. Slough.* Berkshire: National Foundation for Educational Research (NFER.) as cited in ANZ Report on Adult Financial Literacy in Australia[Internet Document] [cited 5-1-2004] available from http://www.smithfamily.com.au/documents/ANZreportMay03_6B798.pd

Su-Lyn, B. and AR, Z. (2013, July 1). Easy Loan access plunges civil servants into greater debt rut. *The Malay Mail online*.

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CONTRIBUTING FACTORS FOR ASSETS' FROZEN IN ISLAMIC WEALTH DISTRIBUTION AMONG MUSLIMS

Muhammad Ridhwan Ab. Aziz[1]
Mohammad Noorizzuddin Nooh[2]
Khairil Faizal Khairi[3]
Fuadah Johari[4]
Azrul Azlan Iskandar Mirza[5]
Nurul Izzati Nordin[6]

ABSTRACT

Frozen asset is a huge and serious issues faced by Muslims country including Malaysia. Thus, the purpose of this paper is to review the literatures pertaining to the factors that contribute to the issues of frozen assets in Islamic wealth distribution among Muslims in Malaysia. A brief introduction regarding the wealth distribution, concepts, and the administration will be touched in the first part of this paper. The methodology of this paper is through qualitative research based on documentary based-research. The general finding of this paper shows that the factors contributed to the problem of frozen assets among Muslims is due to the lack of awareness and knowledge in terms of concepts, process and procedure for wealth distribution and attitudes of Muslims towards Islamic estate planning and wealth distribution.

Keywords: Islamic wealth distribution, *wasiyyah, waqf,* f*araid*

1. INTRODUCTION

Islam encourages it's follower to generate wealth as long as it is in line with Islamic law. From Islamic perspective, basically all wealth belongs to Allah and man is only a trustee as prescribed by Allah in Al-Quran," *To Him (Allah) belongs that is in the heavens and all that is on the earth, and all that is between them, and all that is under the soil*." The Quran further says, "… *and give them something out of the wealth that God has bestowed upon you*." (Surah An-Nur: 33). In simple description, man is only as a trustee to manage abundance of wealth belongs to Allah and those individuals are expected to return it back to the society and his heirs.

However, when individuals generating the wealth, issues pertaining to frozen assets become worst from year to year since every year there are increasing in the total amount of frozen assets (Alma'amun, 2013). Up until February 2013, it is estimated the total amount of frozen assets was 52 billion compared to only 42 billion in year 2011 and the majority of them are Malay. According to Buang (2008), factors that contributed to the increasing in the total

[1,2,3,4] Senior Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM).
[5] Tutor, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM).
[6] Post Graduate student, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM).

amount of frozen assets is due to the increasing of the income level and assets possession among Malaysian Muslims. While Ariffin Sabirin (2013), provides an evidence based on statistic. According to him, the statistic shows continuous increasing of the frozen assets from RM40 billion in 2007 due to the increasing of property and estate claims. Thus, in 6 years started from year 2007 to year 2013, overall there are increasing of RM 12 billion or 30% in 6 years. The issues in frozen assets should be reduced as low as possible so that Muslims can fully utilized and gain benefits from the wealth.

2. ISLAMIC WEALTH DISTRIBUTION

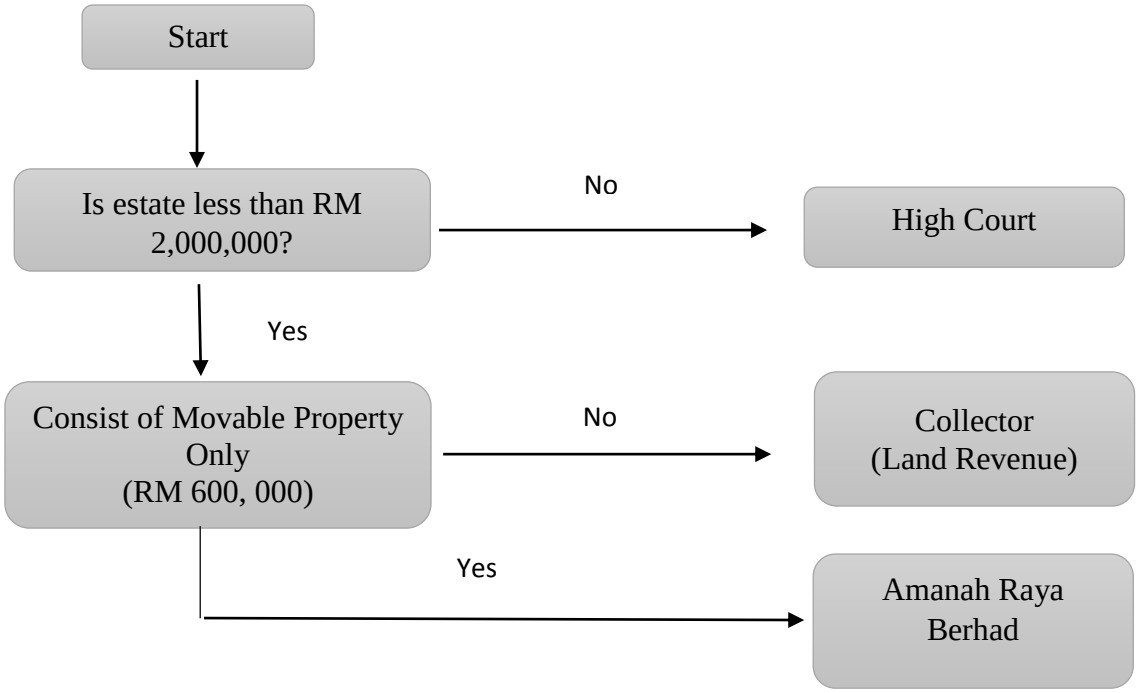
Islamic wealth distribution can be defined as an act of passing on an assets through Islamic will and trust and it is one of the discipline under the scope of wealth management in Islamic financial market. Therefore, it is importance to every Muslims to plan their wealth distribution so that the benefits of future generations will be protected.
Alarming with the importance of wealth distribution to the Muslims, undoubtedly, Islamic estate planning plays important role in Islamic wealth distribution. In order to distribute the wealth, individuals should have proper planning and managing of their assets. In Islam, estate management planning is divided into two, during the lifetime or before the death and after the death of the Muslims. For estate management planning before the death, there are several concepts may be used by Muslims community such as gift inter vivos (*hibah*), bequest (*wasiyyah*), endowment (*waqf*), charity and vows. While the estate management after the owner's death is the most crucial part since it is subject to law of succession (*faraid*). *Faraid* has been playing a vital role in the wealth distribution among Muslims after the owner's death. However, if it is not properly administered and truly understood it may lead to the crucial issue faced by government as well as society. (Kamarudin & Alma'amun, 2013; Amir Bahari, 2014:21)

In order to plan Islamic wealth distribution before and after the death, individuals should aware with the authorized bodies engaging the administration and distribution of estates in Malaysia as well as the process and procedure of Islamic wealth distribution. In Malaysia, there are three main authorized bodies engaging with the administration and distribution of estates such as High Court, The Department of Director General of Lands and Mines and Amanah Raya Berhad (ARB) and each of the authorized bodies engaging in different matters of cases. While for Muslims, there is additional authorized bodies engaging in administration and distribution of estate that is *Syariah* Court that has the authority to issue *faraid* certificate (Alma'amun, 2013; Amir Bahari, 2014: 31-54; Noraini Nordin et al., 2012).

According to Zurina Shafii, Zarinah Mohd. Yusof and Shahizan Md. Noh (2013: 349), estate administration process started with the valuation of estate to determine the procedure applicable to the estate. According to the authors, there are three categories of estate based on the value:

i. RM 2,000,000 above; or
ii. RM 2,000,000 or below; or
iii. RM 600,000 or below

Figure 1.1 How estate administration of deceased will be decided.

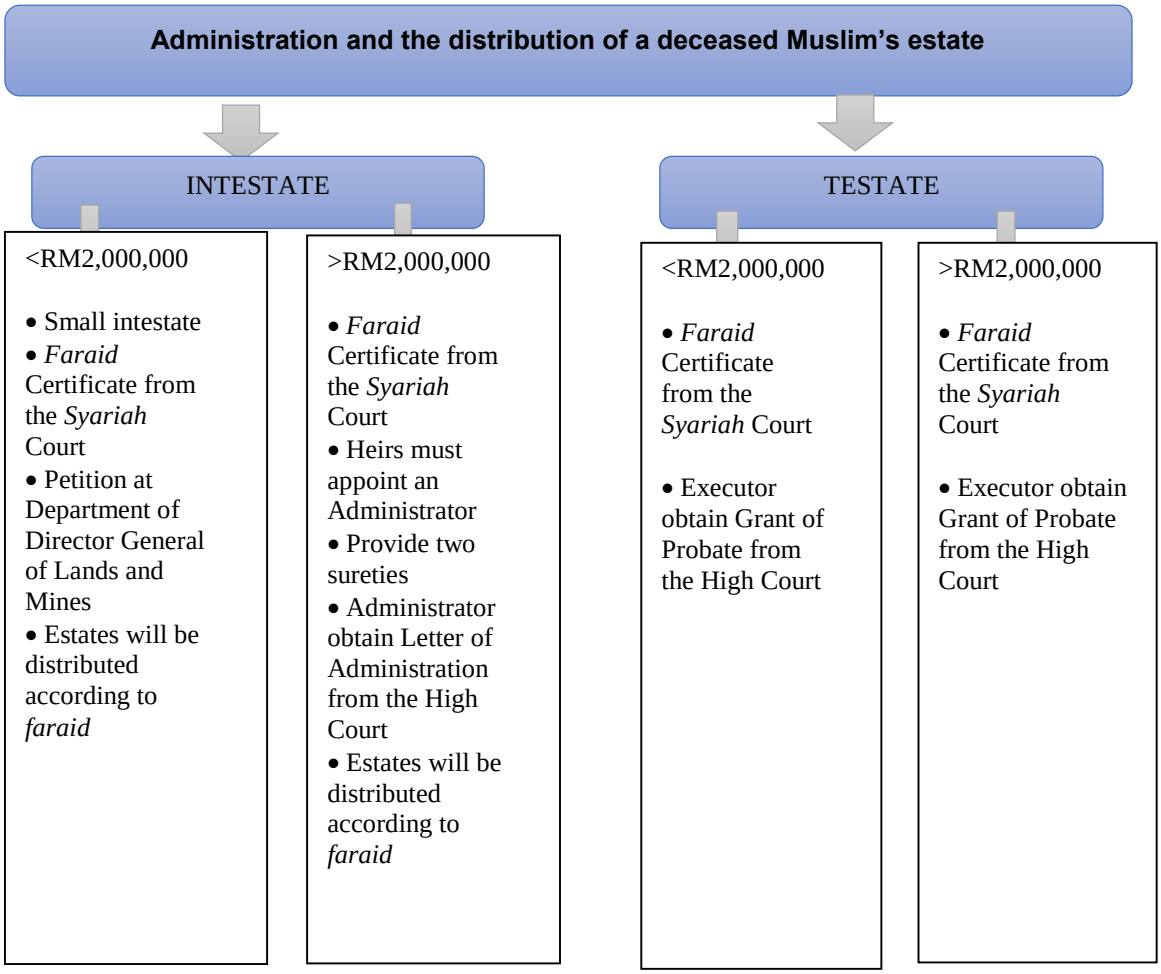


Source: Azman Ismail, 2007

Thus, figure 1.1 illustrated a glimpse on how estate of deceased will be decided. Generally, the jurisdictions of legal institutions for assets above RM 2,000,000 consisting of movable properties, immovable properties or combination of both will be under High Court while for assets of deceased with total value of RM 2,000,000 or below consisting of movable and immovable properties or immovable properties only the matter will be under Collector or Land Revenue. While for movable assets with total values 600,000 or below will be under Public Trustee or Amanah Raya Berhad (ARB) (Zurina Shafii, Zarinah Mohd. Yusof and Shahizan Md. Noh, 2013; Amir Bahari, 2014; Alma'amun: 2010).

In addition to what has been illustrated in Figure 1.1, in terms of administration and distribution of a deceased Muslim's estate, according to Alma'amun (2010: 110) argued that the process of administration and distribution of deceased estates starts with the determination of whether the deceased died intestate or testate. Therefore, Figure 1.2 shows the processes and procedures applicable to the estates when the deceased died intestate or testate. Alma'amun (2010) claimed that in order to unfreeze the assets of the deceased who died intestate with total value of more than RM 2,000,000, an administrator required to obtain Letter of Administration. However, if the deceased died testate, regardless of whether the value of assets is less or more than RM 2,000,000, the executor is required to obtain a Grant of Probate.

Figure 1.2 Shows the administration and distribution of a deceased Muslim's estate in Malaysia



Sources: Alma'amun, 2010

Since different authorized bodies engaging with different matters in estate administration and distribution, therefore, it is important for every Muslims to aware and understand regarding the process and procedure applicable to the estate in Islamic wealth distribution in order to avoid those assets remain as frozen assets. Therefore, in the countries where there is a large Muslim population, it is important that the financial planner of properties belonging to a Muslim be provided with adequate information on laws, concepts and practices especially pertaining with distribution of wealth or assets in accordance with the *Shariah* laws.

3. LITERATURE REVIEW

3.1 Conceptual Definition

Wasiyyah is derived from the word '*wassa*' which means to order, advise, promise or give away property after the death. Shafii scholars are of the opinion that it originated from the adjective "*wassa*" which means connecting or delivering (MZ Muda, 2008). In other words, it connects or delivers someone's good deeds during his lifetime to be rewarded later after his demise. Literally, *wasiyyah* can be defined as a declaration of a person made during his life time with respect to his property or benefit thereof, to be carried out for the purpose of charity or for any other purposes permissible by Islamic law, after his death. (Muhammad Ridhwan Ab. Aziz, 2012:252; Hassan, 2008).

According to Section 2(1) Selangor Muslim Wills Enactment 1999, a will is a vow made at the time of a person's lifetime on property or benefits for a charitable purpose or for any purpose that is allowed by the Islamic law, after his death. *Wasiyyah* is a legal documentation which outlines on how you wish your assets to be distributed upon demise. Islam strongly encourages its followers to write *wasiyyah* in estate planning. Therefore, every Muslims have an obligatory duty to planning *wasiyyah* as prescribed by Allah in Al-Quran, "*Prescribed for you when death approaches [any] one of you if he leaves wealth [is that he should make] a bequest for the parents and near relatives according to what is acceptable - a duty upon the righteous*" (Surah Al-Baqarah: 180). However, these will be limited to only a third property. For those Muslims who die without *wasiyyah*, the assets shall be divided rigidly amongst their heirs in accordance with the *faraid*. The *wasiyyah* is applicable to 1/3 of the estate whereas the remaining 2/3 is subject to the *faraid.* The total value of the property that will be distribute to the beneficiaries is after the deduction of the funeral fees as well as debts of the testator as prescribed by Allah, *"....(The distribution in all cases is) after the payment of legacies and debts"*. (Surah An-Nisaa':11).

Waqf (Awqaf/wuquf) literally means to stop, contain or to preserve. Technically, *waqf* means withholding one's property to eternally spend its revenue on fulfilling certain needs depending on the choice and conditions made by the *al-waqif* or the person who owns the property (Muhammad Ridhwan Ab. Aziz, 2012). While Ihsan and Ibrahim (2007: 2), defined *waqf* as a donation and considered as an act of charity that can be characterized as *sadaqah jariyah* (ongoing charity). For instance, ongoing charity can be in the form of endowed public buildings or other places such as accommodation for travelers, mosques, a well, canal, etc. (Ahmed, 2004: 28).

Faraid is an instrument that will be implement to divide the estate to the heirs in the case of the testator dies intestate. *Faraid* literally means resolutions. *Faraid* is defined as the Islamic law of succession or the Islamic law of inheritance, which is one of the most important branches of Islamic jurisprudence. This makes the study of *faraid* as an important core of the Islamic inheritance system is inevitable (Alma'amun, S. 2010). *Faraid* is the division of the estate after the death of a Muslim who has been prescribed under Islamic law on the legal heirs and entitled (as daughter, wife, husband, mother, father, etc.). That means, in the process of distributing the deceased estates to the heirs, total amount of the estate that will be received by the heirs will be limited to certain rate as prescribed by Allah in Al-Quran, "*Allah (thus) directs you as regards your children`s (Inheritance): to the male, a portion equal to that of two females: if only daughters, two or more, their share is two- thirds of the*

inheritance if only one, her share is a half. For parents, a sixth share of the inheritance to each, if the deceased left children if no children, and the parents are the (only) heirs, the mother has a third if the deceased Left brothers (or sisters) the mother has a sixth. (The distribution in all cases is) after the payment of legacies and debts. Ye know not whether your parents or your children are nearest to you in benefit. These are settled portions ordained by Allah. and Allah is All- knowing, All-wise." (Surah An-Nisaa': 11).

3.2 Factors Contributing To Frozen Assets Among Muslims

Issues in frozen assets are very closely interrelated with Islamic estate planning in wealth distribution. Therefore, when there is any particular matter at one side, the other side will also affected. Based on studies conducted by previous researcher, in general, the Islamic estate planning among Malaysian Muslims is not widely practiced. This is the factor that contributed to the issues of frozen assets. Basically, Malaysian Muslims particularly Malay people do not really want to write *wasiyyah* due to three reasons. The first reason is because they are not really understand about *wasiyyah* and its significants. Normally, people in this group have misconception towards *wasiyyah* in which they think only *faraid* instrument applies in the estate distribution and hence they think either leaving *wasiyyah* or not will not have any impact since at the end of the distribution process the estate will be distributed according to *faraid* rules. Second reason why Islamic estate planning is not widely practice among Muslims due to their atitude that is reluctant to write *wasiyyah* even though they are well informed about it. Generally, those who in second group, take this matter lightly and keep postponing in drawing up *wasiyyah*.

Last reason is because they cannot afford to draw up a *wasiyyah* even though they are well informed about it. Cost is the main consideration for the third group of people and this is largely contributed by their zero knowledge on the actual charge imposed by ARB as well as other *wasiyyah* writing providers. (Omar, 2009a)
Malaysian Muslims do not actually fully realize the significances of *wasiyyah* (ZAR Perunding Pusaka, 2004a: 8 and its methods (Hassan and Yusop, 2006: 156) pertaining to of lack awareness and knowledge about Islamic estate planning in Malaysia. Besides that, they also are not aware to the significances of writing *wasiyyah* as the main tool in the Islamic estate planning itself (Mohyin, 2004: 10). Their misunderstanding towards the concepts of the Islamic estate planning, *faraid* and *wasiyyah* are reflected from poor level of awareness which associated to the lack of knowledge among Malaysian Muslims regarding this matter.

Pertaining to misunderstanding and misconception regarding this matter, it is because, Malaysian Muslims hold a perception that the function of Islamic estate planning only comes into play when there is an intention and planning to make a *wasiyyah* for the purpose of charity or for non-heirs. (Ahmad and Peyman, 2008:1). It seems only those who are leaving the estates and those who probably receiving the inheritance aware the importance of Islamic estate planning (ZAR Perunding Pusaka, 2004a: 8; ZAR Perunding Pusaka, 2004c: 11).
The wrong perception goes deeper to the extent that they believe the *faraid* system is already provided to ensure the entitlement to the shares and it is obligatory in the sense that the provision in *faraid* should be strictly followed. Therefore they thought estate planning is not necessary for Muslims since at the end it will divided according *faraid* (ZAR Perunding Pusaka, 2004a: 8; ZAR Perunding Pusaka, 2004c: 11; Hassan and Yusop, 2006: 155). There

were opposite research finding between Hassan and Ahmad and Peyman since Hassan (2005b: 80) claims that there has been a serious misconception on the *wasiyyah* while Ahmad and Peyman (2008: 1) add that Malaysian Muslims are alert and familiar with the term of *wasiyyah* but they have no clear idea or enough understanding about *wasiyyah* and they claim this is a result of the lack sufficient knowledge of *wasiyyah*.

The confusion towards *wasiyyah* comes in the form which Muslims define *wasiyyah* as a bequest up to third to non-heir. This confusion will not happen if there were enough potential estates to be left for the need of the family, therefore there should be no reason for them to leave the bequest to non-heirs. In other words, Malaysian Muslims actually fail to understand the significances of having *wasiyyah* especially for the purpose of asset administration and settlement in the future as they interpret it in the wrong way. The major cause for the lack sufficient of knowledge could lay in the Malaysian education system particularly on the Islamic studies. In Malaysia, the Islamic studies are compulsory for Malaysian Muslims and they begin to learn about it starting from the primary education till the higher level of education.

However, in Islamic studies, the emphasis is given more on the *Tawhid*, *Fiqh* and *Ibadah* aspect compared to Islamic inheritance. Those who go to the Islamic secondary school have an opportunity to get a basic knowledge of the Islamic inheritance while a depth studies on this subject only available for those who are specialize in Islamic studies when they further their education in higher level which is in the college or university. The other means obtaining such knowledge is by attending a series of lectures, talks or courses run by individuals or private companies such as at the mosques or workplaces. (Hassan and Yusop, 2006: 154).

Apart from this, Ahmad and Peyman (2008) whom investigated the practice of making a *wasiyyah* within the Malaysian Muslim society generally found that the participants of the study were familiar with *wasiyyah* term. Thus this made the participants aware and had knowledge regarding the objective and purpose of making a *wasiyyah*. However, from the findings of the study, researchers also found that the participants of the study are lacking at the aspect of knowledge about body or institutions that manage *wasiyyah*. The results shows that there were not coherent since level of awareness of *wasiyyah* is 87.3% compared with only 33.3% knowledge about body or institutions.

Fatin and Mohammad (2011) claim that there are six main possible causes that contributes to the delay distribution of estate. In this paper, the researchers provide detailed explanation on each possible causes. Compared to other researchers who are agreed lack of awareness and knowledge is the main factors triggering to freezing assets problem, however, the authors have opposite opinion on the main causes of this problem. Both of them agreed that the main possible causes is due to the complexity of law followed by the lack of knowledge. Thus, overall of their studies, they propose (1) the complexity of law; (2) the lack of knowledge; (3) lengthy process; (4) the lack of cooperation and/or contact between various parties; (5) the lack of a cohesive mechanism; and (6) attitude that needs to be discovered are the main possible causes contribute to delay of distribution estate. At the end of the study, the researcher proposed to reform of the law and procedure is needed.

Kasimah and Md. Yazid (2012) who conducted study on analysis of the understanding of Muslim will writing in Malacca claims that, generally the level of understanding Muslims in Malacca especially the level of understanding of Muslims in Malacca, especially among writers of will, the heirs and the property management agent are at a satisfactory stage. However, the level of understanding among Muslims in Malacca of the heirs are lower compared to the testators and agents since they involved directly in estate management. But in contrast, the researchers found that Muslims in Malacca especially writers of will, the heirs and the property management agent have clearly confusion towards question regarding *wasiyyah* that involved 1/3 of the estate in distribution process. At the end of the study, the authors suggested to related parties should enhance its efforts to continue to educate the public on the matters relating to the importance to plan and write *wasiyyah* in the life of Muslims through campaign and seminar.

Based on study focus on practice of wealth distribution in Malacca, unawareness among clients of processes and procedures to claim their rights to inheritance is another factors that contributed to the frozen assets in Malaysia (Noraini et al., 2012). Based on the research conducted, majority of clients have problems in compiling documents to complete the claim form. Overall from the study, they found that clients or Muslims people are just confused about processes and procedures. They do not know where to start, how to proceed and where to go to process a claim to inheritance (Abd Ralip, 2011; Abdul Rahman, 2008; Mahamood, 2006a; W. A. H. Wan Harun, 2009; Yaacob, 2006).

Apart from this, estate planning in Malaysia is not widely practiced. It is because most of Malaysians feel estate planning is not too important as Malaysians feel that estate planning is only for the wealthy (Hassan, 2005; Hassan and Yusof, 2006; Fatin, 2011). Sharfina et al. (2013) have conducted the study on the determinants that contribute to attitude towards estate planning. In this paper, five determinants are proposed by the researchers; knowledge, media awareness, perceptions, family influence, religious/ethic belief and attitude. Results of this study suggest that knowledge have the strong effects on the attitude towards estate planning, followed by media awareness, perceptions, family influence and religious/ethic belief.

4. CONCLUSION

Given the findings from the previous researches and observations from credible people who have actively been involving in the Muslims estate administration and Islamic estate planning service, it is not surprising that Malaysian Muslims are still far behind in this particular matter in the aspects of knowledge and implementation. In conclusion, there are several factors that contributed to the problem in freezing assets among Malaysian Muslims. The lack of awareness and knowledge is a main factors that lead to the misunderstanding about concept used in Islamic estate planning especially for *wasiyyah* and *faraid* instruments. As a results, there is lower number of people who plan their assets. Besides that, the complexity and no uniform law provision in every state in Malaysia also contributed to this problem.

Besides that, they seem rather to take for granted as the provision in terms of the legislation has been designed for them and their heirs instead of preparing themselves with the knowledge of the Islamic estate planning. Their ignorance finally leads to emergence of the estate administration and settlement problems. Even though the Islamic estate planning

service has grown rapidly recently with the various types of product, there is still lot of space need to be addressed in the future and educate public should be the main priority.

5. ACKNOWLEDGEMENT

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REFERENCES

Ahmad Hidayat Buang. (2008). *Appreciation Of Shariah Principle In Property Management In Contemporary Malaysian Society. Shariah Journal*, Vol. 16, Special Edition (2008), pp 555-566)

Ahmad, I. and Peyman, J. (2008). Exploring Muslim Society's Knowlege of Wasiyyah. Paper presented at the Islamic Banking, Accounting, Finance Conference (iBAF), organised by the Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia on 28th – 29th July 2008, The Legend Hotel, Kuala Lumpur.

Badrul Hafizan Mat Isa. (2013, February 17). ' Harta Pusaka Tertunggak'. *Utusan.com.* Retrieved March 4, 2014 from http://www.utusan.com.my/utusan/Dalam_Negeri/20130217/dn_17/Harta-pusaka-tertunggak RM52b

Fatin and Mohammad. 2011. "The Causes of Unclaimed, Late Claimed or Distributed Estates of Deceased Muslims in Malaysia". (Paper). *International Conference on Sociality and Economics Development.* IACSIT Press, Singapore

Hassan, A. A. (2005a). "Malay Dilemma", *Personal Money*, 77–78.
——————. (2005b). "Islamic Will Explained", *Personal Money*, 79–80.
——————. (2005c). "The Blind Men and The Elephant", *Personal Money*, 67–68.
——————. (2005d). "State Your Wishes", *Personal Money*, 38 & 42.
——————. (2007). "Perancangan Pusaka Islam. Konvensyen Perwarisan Harta Islam", in *Konvensyen Perwarisan Harta Islam*. Kuala Lumpur: Amanah Raya Berhad.

Hassan, A. A. and Yusop, Y. (2006). "Perancangan Harta di ZAR Perunding Pusaka Sdn. Bhd.", in Mahamood, S. M. (Ed.), *Harta Amanah Orang Islam di Malaysia Perspektif Undang-Undang dan Pentadbiran*. Kuala Lumpur: Universiti Malaya.

Investopedia.com (2009, February 15). *Finance Definition*. Retrieved March 4, 2014, from http://www.investopedia.com/terms/e/estateplanning.asp

Kahf, Monzer: *Financing the Development of Awqaf Property, Waqf and Its Sociopoltical Aspects and Waqf: A Quick Review at* (www.kahf.net)

Kasimah and Md. Yazid (2012). " Analisis Kefahaman Penulisan Wasiat Orang Islam di Negeri Melaka". *Islamiyyat 34 (2012): 71 – 82*

Noraini et al., (2012). *Review On Issues And Challenges In Islamic Inheritance Distribution In Malaysia. OIDA International Journal of Sustainable Development* 03: 12 (2012)

Muhammad Ridhwan Ab. Aziz, (2012). *Introduction to Islamic Institutions in Economics and Finance*. Bandar Baru Nilai: USIM Publisher.

Mohyin, Z. (2004). "Surat Wisoyah Menyempurnakan Pembahagian Harta", *Utusan Malaysia*, 10(22 April).

Omar. (2009a). *Wasiat: Tool For Islamic Estate Planning as Practiced at Amanah Raya Berhad*. Paper Presented at the IFWMI Intellectual Discussion on Islamic Finance and Wealth Management, organised by the Islamic Finance and Wealth Management Institute (IFWMI), Universiti Sains Islam Malaysia (USIM) on 27th May 2009, USIM, Negeri Sembilan.

Suhaili Alma'amun. (2010). "Islamic Estate Planning: Malaysian Experience". *Kyoto Bulletin of Islamic Area Studies, 3-2 (March 2010), pp. 165–185*

Suhaili Alma'amun. (2010). *Islamic Estate Planning: Analysing the Malaysian Perception On Wasiyyah (Will) and Bequest Practice. Durham Theses*, Durham University

Suhaili Al-ma'amun. (2008). *Analysing The Practice Of Wasiyyah (Islamic Will) Within The Contextual Form Of Islamic Estate Planning In Malaysia: Variations Across Control Variables. ibtra.com/pdf/journal/v8_n3_article4.pdf*

Shafinar et. al. (2013). Determinants of Attitude towards Estate Planning In Malaysia: An Empirical Investigation. International Conference on Economics and Business Research (ICEBR) 2013.

INVESTMENT EFFICIENCY DETERMINANTS OF LIFE INSURERS AND TAKAFUL OPERATORS

R. Yakob[1]
Zulkornain Yusop[2]
Alias Radam[3]
Noriszura Ismail[4]

ABSTRACT

The objective of this study is to understand the efficiency and determinants of investment management among life insurers/takaful operators and, thus be able to describe their investment efficiency and provide information to firms about the things that need to be improved. This study will use slack-based measure (SBM) to determine the efficiency of investment management and Tobit analysis in identifying the determinants of the investment management efficiency. The result of SBM shows that the investment management of insurers/takaful operators was moderate. Additionally, this study reveals that operating system and investment-linked product enhance the investment management efficiency of insurers/takaful operators.

Keywords: efficiency; life insurer; takaful; investment management; slack-based measure

1. INTRODUCTION

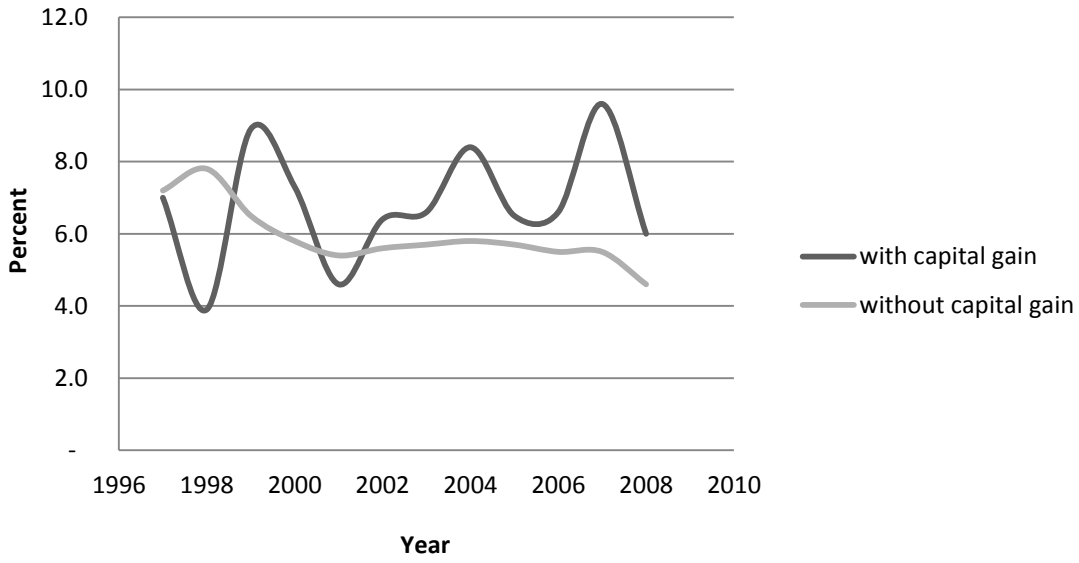
Similar to other investors, insurance and takaful operators also prefer higher returns from their investments to minimize the cost of insurance/takaful products and to maximize wealth of the

[1] School of Management, Faculty of Economics and Management, National University of Malaysia (UKM). Corresponding author: rubayah@ukm.my
[2] Department of Economics, Faculty of Economics and Management, Universiti Putra Malaysia (UPM).
[3] Department of Management and Marketing, Faculty of Economics and Management, Universiti Putra Malaysia (UPM).
[4] School of Mathematical Sciences, Faculty of Science and Technology, National University of Malaysia (UKM).

shareholders. The insurers must ensure the returns that exceed pricing assumptions and maintain an appropriate relationship between life insurer's/takaful operator's asset and liability cash flows (Black and Skipper, 2000). Thus, the return from investment offers an important contribution to their operation as a whole through favorable premium charges to their potential policyholders and attractive bonuses and dividends to their shareholders, thereby improving their competitiveness (Cummins and Grace, 1994; Smith, 1989; Oppenheimer and Schlarbaum, 1983). However, it has been known that the rate of return on investment is very closely related to changes in interest rates. This study has identified four significant relationships between interest rates and investment return in insurance/takaful transactions.

Firstly, the prices of life insurance are dependent on the assumption of loss distribution and interest rate. Conservatively, the interest rate is assumed fixed throughout the term of the policy. The instability of the interest rate can mean that an inadequate premium is charged. Insurers/takaful operators with above-average investment returns are able to offer a more attractive premium than others, and insurers/takaful operators with below-average investment returns are not able to retain customers in a competitive market (Black and Skipper, 2000). Thus, in order to secure solvency and profitability, the return on investment must at least be equal to the return assumed in the pricing calculation, otherwise the life insurers will suffer from interest spread loss, and this will lead to insolvency situation. Figure 1 shows the rate of return on investment excluding and including capital gains respectively for Malaysian Insurance Industry.

Figure 1. Net Rate of Interest Earned (Excluding and Including Capital Gain)



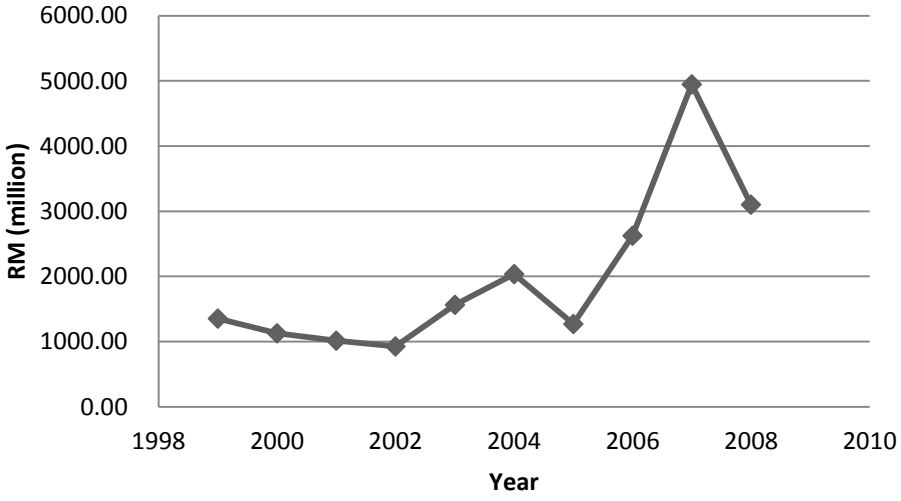
Source: Annual Insurance Report, 2000-2005; The Financial Stability and Payment Systems Report, 2010

The former indicates the decreasing trend while the latter represent upward and downward trend during the 10 year period of time. As at end-2008, the maximum (minimum) value for the rate of investment return excluding and including capital gains are 7.8% (4.6%) and 9.6% (3.9%) respectively. The inconsistent rate of investment return will endanger the insurers in ensuring the interest spread gain or at least breakeven situations.

Secondly, life insurance/takaful policies are a package of options that include settlement options, reinstatement privileges, surrender and renewal privileges and policy loan options on the part of the insured (Smith, 1982). The implementation of this option is based on the policyholder situation especially in an environment of stable interest rates (Babbel and Santomero, 1999). The options expose the life insurers/takaful operators to the complex interest rate risk. The execution of the options by policyholders, either in a rising or falling interest rate, can reduce the insurer's capital accordingly. The capital plays an important role in ensuring the profitability and success of the insurer, and in fact, the strength and reliability of the insurer also is reflected by the ability of their capital. With their own capital, together with the premiums paid by the policyholders, insurers pay out insurance policies' claims and the related business expenses (Kielholz, 2000). He further explained the time lag between the raising of capital, the premium collection and the payment of losses and expenses in the life insurance transaction is very important. Insurers utilize this time lag and invest the capital and the premiums until the claims and expenses occur.

Thirdly, volatility in interest rates can also change the market value of the insurer's assets and liabilities. The relationship between the movement of the interest rate risk and the market value of asset/liability is negative. Hence, in a falling interest rate environment, the market value of the insurer's assets and liability will rise and conversely in a rising interest rate environment. The insurer can be affected by these situations and in the worst circumstances, it can expose the insurer to losses and insolvency (Black and Skipper, 2000). Furthermore, the changes of interest rate can influence not only the value of the assets and liabilities of the insurer, but also influenced the behaviour of their customers. Figure 2 represents the profit on sale of assets and miscellaneous income for insurers during 1999-2008. During the first 7 years, the average profit was around RM1000 million, then increased to the highest value at about RM5000 million and went downward approximately at RM300 million. The volatility of the profit is most likely due to the inconsistent in the current interest rate. The market-value of insurers' assets is very much depends on the interest rate.

Figure 2. Profit on Sale of Assets and Miscellaneous Income

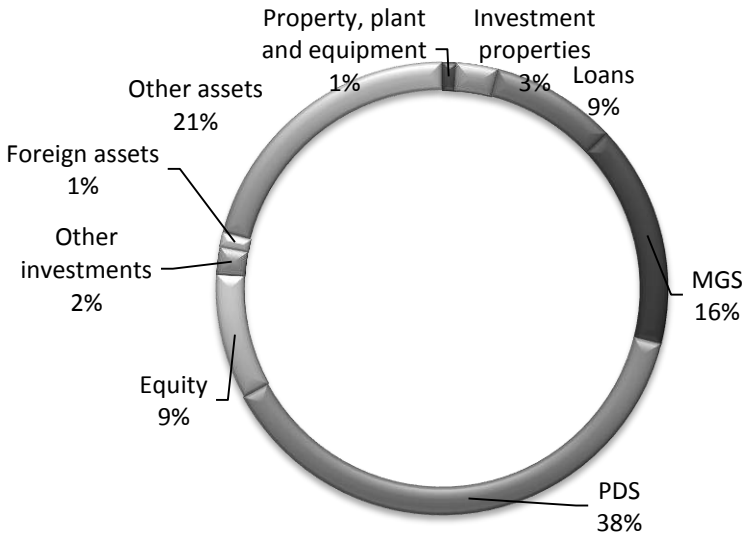


Source: Annual Insurance Report 2000-2005; The Financial Stability and Payment Systems Report 2010

Last but not least, the fluctuation in interest rates can create refinancing risk and reinvestment risk to life insurers. The refinancing risk will occur when the refinancing funds needed are higher than the return on investment. As for reinvestment risk, it refers to the return on investment that is lower than the cost of financing (Black and Skipper, 2000). Thus, both risks can cause the actual return to deviate from the expected one. The huge deviation between actual and expected return from the investments can lead to declining profit, thus, exposing the insurer to insolvency. Life insurers have to find such a way that risk-return tradeoffs can be balanced. One way life insurers can mitigate the exposure of the interest rate risk, is to include financial tools such as forwards, futures and swaps in their portfolio strategies (Smith, 1993). In addition, Lamm-Tenant (1989) and Forbes (1987) proposed a wise approach to curb the problem of fluctuating interest rates and the volatility of financial markets on the value of the assets and liabilities of the insurer which by implementing prudent asset-liability management. Because of the unstable interest rate and generally long-term nature of insurers' liabilities, it is not surprising that life insurers focus their assets on fixed-income investment. Malaysian life insurers held total assets of more than RM109 billion at the end of 2008. The Central Bank of Malaysia (BNM) (2008) reported that given the larger investment in

equities and bonds (Figure 3), the management of market risk such as interest rate has become increasingly demanding during the year. However, the industry experienced a decrease in market value of total equity holdings by 43.5% to RM13.8 billion as at end-2008 due to the unfavourable condition of the domestic equity market.

Figure 3. The Composition of Insurance and Takaful Industry Assets



Source: Financial Stability and Payment Systems Report

Consequently, holdings of Malaysian Government Securities (MGS) and corporate bonds became more favourable, rising at 9.2% and 6.7%, respectively, because of the shift towards a safer investment environment.

Briefly, the unpredictability of the financial market, specifically the interest rate and asset prices can have an effect on the operation of life insurers/takaful operators which in turn will jeopardize their ability to meet obligations to stakeholders (policyholder, regulator and shareholder). Life

insurers/takaful operators have been urged towards the need to strengthen the efficiency and effectiveness of their investment management. The insurers/takaful operator must have the proper framework to balance the risk-return trade-off (which is very dependent on the interest rate volatility) as well as sound and prudent investment management. Against this backdrop, it is beneficial to investigate the efficiency level and determinants of investment management among the registered life insurers/takaful operators and, thus be able to describe their investment efficiency and provide information to firms about the things that need to be improved.

There are two main contributions in this study. With reference to takaful operators, they are under Syariah Law and governed by the Takaful Act 1984. It is noticeable that a takaful operation must comply with Syariah in each and every respect. All investments transacted by takaful operators have to evade interest bearing and prohibited investments (have to be Islamic financial instruments). There are other disputes faced by takaful operators with reference to investments, Frenz et al. (2008) posited that long-term and high quality investment instruments were very limited and apparently will reduce the investment return of takaful operators. Therefore, the investment management for takaful operators is more challenging than the conventional one. Tied to the rigid regulation requirements similar to the conventional life insurers and the challenges in complying with Syariah Law, it is constructive to analyse the investment performance of takaful operators. This is the first contribution of the study.

The increasingly complex demands of customers and the competitive environment with non-traditional competitors such as banks, mutual fund institutions, and investment firms have led to the creation of non-traditional insurance product such as investment-linked products. In introducing this new product, certain aspects in life and takaful operations need to be reformed. This matter may involve new approaches to firm's risk, investment policy, capital requirements and asset-liability matching. Hence, the final contribution of this study is to observe the effect of investment-linked products on investment efficiency.

The remainder of this study proceeds as follows: in section 2, discusses the literature on previous studies; section 3 describes the theoretical framework of the study; section 4 illustrates data and the methodology; section 5 discusses the experimental results; and finally, the conclusion is provided in section 6, followed by some useful references.

2. LITERATURE REVIEW

Most studies on efficiency among insurance firms have only been carried out to measure the overall efficiency of the firm as well as cost, technical, allocative and revenue efficiency. These

studies include studies by Eling and Luhnen (2010), Yao et al. (2007), Yang (2006), and Brockett et al. (2005). The study that was truly provided important information and an outlook of US life insurance industry efficiency is the study by Cummins (1999). He concluded that the life insurance industry indicated relatively low efficiency scores compared to other financial institutions, such as property-liability insurance and banking sectors. His study also furnishes a comprehensive guide towards the best practices that other firms might adopt and worst practices that other firms should avoid. The findings from these studies provide many firm performance enhancements.

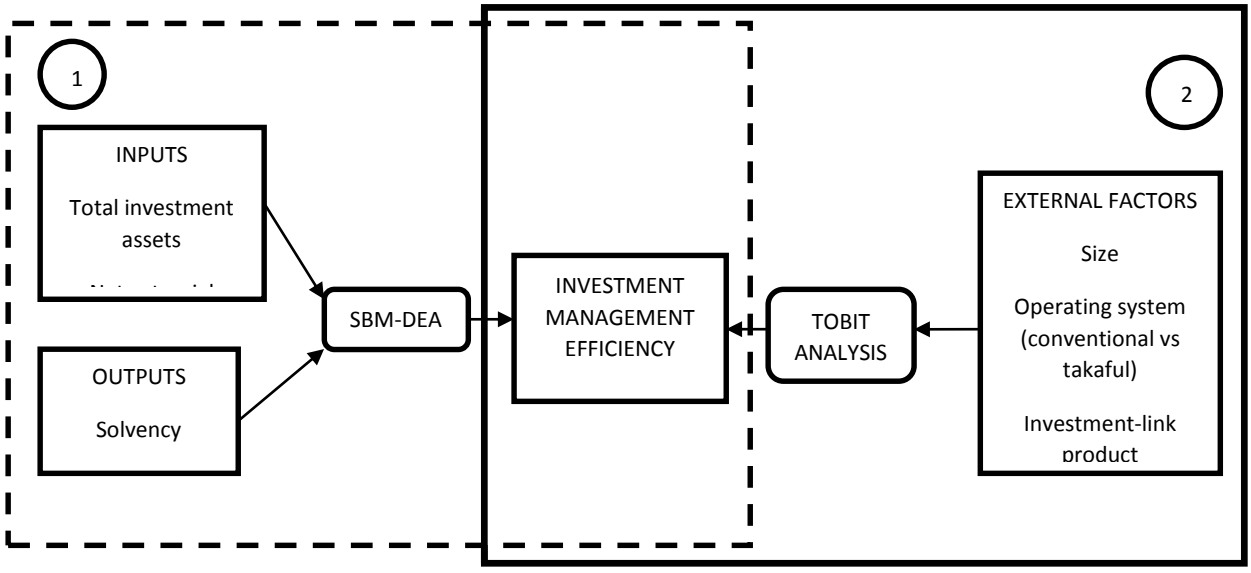
However, recognizing that the fact that insurers are the financial intermediary and the importance of the investment performance of insurers, the researchers began to deviate their investigation on the efficiency of investment management of insurers. Hsiao and Su (2006) evaluated the investment performance of life insurers in Taiwan, across 3 different groups of insurers. They used data envelopment analysis (DEA) to estimate the efficiency scores and calculated the Malmquist Index to measure the productivity change. They concluded that the performance of an investment is a fundamental factor in the overall performance of the business management. Yang (2006) disagreed with most previous researchers that aggregated the production performance and investment performance into the same model. He suggested that the efficiency of production and efficiency of investments should be separately identified, and then will be combined to obtain the overall evaluation of the insurance industry. Consequently, he performed 3 models separately, namely, production model, investment model and second-stage DEA model. Each of these models measured the production efficiency score, investment efficiency score and overall efficiency score, respectively. A firm that is considered to be efficient must be efficient from both the production and investment perspectives. He concludes that life and health insurance in Canada operates efficiently and exhibits scale efficiency. Similarly, Wu et al. (2007) studied production and investment performance simultaneously by using three different models. Though, the study by Adam (1996) is quite different as not to focus on the efficiency of investment management directly, but instead provided important insights into the determinants of investment earnings of life insurance firms in New Zealand. His study revealed that the ownership structure, size, leverage and underwriting risk were among other factors that influenced investment earnings.

3. THEORETICAL FRAMEWORK

The main objective of this study is to determine the factors that affect the efficiency of the investment management of insurers/takaful operators. This situation would explain why some insurers/takaful operators are more efficient in terms of investment managements than others. Figure 4 illustrates the theoretical framework of the study that describes the process to achieve this objective. The structure of the theoretical framework involves 2 layers. These layers are interdependent. Briefly, in the first layer, the efficiency score of investment management will be calculated. The efficiency score is measured by slack-based measure (SBM)-DEA. In the second layer, the linkage between the determinants and the investment management efficiency is

investigated by two-stage analysis that is Tobit analysis where the efficiency scores from the first layer are treated as dependent variables. The second layer is completed by the identification of the determinants that affect the investment management of conventional life insurers and takaful operators.

Figure 4. Theoretical Framework



3.1.*THE INVESTMENT MANAGEMENT EFFICIENCY – LAYER 1*

The issue that is still being debated until today in the study of the insurance company efficiency is the determination of input and output variables. Cummins and Weiss (2000) and Leverty and Grace (2010) claimed that the determination of input and output in studies involving the efficiency of the insurer as a decision making unit (DMU) is complicated. This matter will be further complicated if the DMU involved is an activity or a department in the insurance company. It is noted that the DMU observed in this study is the investment management of insurers/takaful operators. According to Thanassoulis (2001), DMU has a control over the process it used to transform its resources into outcomes and these resources are referred to inputs, while the outcomes are referred to outputs. Therefore, the input and output variables must be related to the function of investment management. In terms of inputs, it seems that the inputs that are commonly used in previous studies such as labour, business services and material, and financial capital may be less appropriate

because these inputs are more applicable if the insurer itself is observing DMU. However, in terms of output, it is likely that value-added or intermediation approach can still be applied since the outcomes of investment management should be consistent with the outcomes of the insurers/takaful operatos as a whole. Based on previous studies, the availability and suitability of data, this study has identified a number of input and output variables for the investment management that will be used to obtain the relative efficiency of each insurer/takaful operator observed. Input and output variables are as follows:

Investment management inputs

The successful operation of the insurer and its relationship with customers is significantly depending on the investment management (Black and Skipper, 2000). Insurer will use their technical provisions (reserves) and equity capital for investment purposes. However, reserves are the largest source of investment funds in which it sometimes reaches more than 80% (Black and Skipper, 2000). Thus, the first input of investment management is what is known as net actuarial reserves. These reserves belong to the policyholders only if the policy is surrendered, as specified under the non-forfeiture values options. But, as long as the insurance contract remains in force, the reserve is the responsibility of the insurer and it forms part of the death benefits to be claimed in the future. These reserves will be invested by the insurers to guarantee their contractual liability to policyholder can be met. Vela (1999) noted that these reserves consist of loss reserves and unearned premium reserves. Furthermore, "Loss reserves represent the company's obligations for unpaid losses, whereas unearned premium reserves represent premiums held for coverage not yet provided", Vela (1999, p. 54).

Continuing on the same notes, the final input for investment management performance analysis is total investment assets. Insurance firms place their investment in a variety of instruments including equity and debt issues or bonds, mortgages, loans, government securities and real estates. Government securities, corporate bonds, mortgages and private loans are fixed income investments. Vela (1999) stated that the first two investments are free form insolvency and default risk, while the other two investments offer higher lending rate to compensate for higher risk. However, these types of investments are non-liquid in nature. She also explained, investments in equities do not promise a fixed rate of interest or "repayment of the purchase money in any amount at any fixed date" (Vela, 1999, p. 55). On top of that, real estate investment is considered very interesting because, besides providing a high rate of return and increasing capital value, it also offers cash flow from the tenancy rates and rental fees (Vela, 1999). However, because of the unique nature of life insurance firm's operation and the resulting risk profiles, the majority of life insurance firms' assets comprise fixed-income investments (Black and Skipper, 2000).

Investment management outputs

In many countries, the aggregate investment activities contribute the main source of capital for national economic growth. Zurich Financial Service (2007) stressed that the investment management role is to harmonize between risk-adjusted return and regulatory requirement in relation to their asset and other financial restrictions. Besides, the solvency and profitability of the insurers are also highly dependent on the investment management (Black and Skipper, 2000). In short, they claimed that the prominent elements for most life insurers are solvency and profitability in which the former is for regulatory and policyholders requirement, while the latter is to reward the shareholders for bearing the risk. In order to accomplish their promise to regulators and especially to policyholders and provide strong creditworthiness, the insurers must be solvent. Therefore, insurer must ensure that their investment is sufficient to cover future liabilities (Doff, 2007). The investment management has to foresee the potential mismatch in the value of its assets and liabilities and ensure that such a mismatch will not endanger the company as a going concern (Zurich Financial Services, 2007). However, at the same time, the party that provides the capital and bears the risk, that is, the shareholder must be rewarded too. Value added from bearing risk via return on investment (ROE) or dividends can be only provided by profitable businesses.

Against this backdrop, it seems that investment management activities fulfil the pure intermediaries' function of insurers. Therefore, the choice of output variables for investment management activity is following the intermediation approach[1]. Based on the work by Brockett et al. (2005) together with Wu et al. (2007) and Ren (2007) as well as Yang (2006), the objectives or targets of the intermediation functions of insurers/takaful operators that is solvency and profitability can be treated as the output variables. Thus, in this study, the solvency measurement is represented by the ratio of the policy owner's funds to valuation liabilities[2], which measures the ability of supporting the future obligations to policy owners, while profitability is represented by rate of return on investments (Brockett et al., 2005; 2004)[3]. The input and output variables for investment management together with their measurements are described in Table 1.

[1] Refer to Berger and Humprey (1992)

[2] Based on the Annual Report of Insurance, life insurance companies in Malaysia are required under Section 85 of the Insurance Act 1996 the annual actuarial investigation into the financial condition of the business of their lives related to liabilities to policy. Actuarial investigations form the basis for determining the appropriate level of reserves to meet future policy benefits for life policies in force at the valuation date. The level of the reserve fund is the ratio of policy owners to liability valuation

[3] Brockett et al. (2004, p. 501) explained that, "Rate of return on investment is a general indicator of the quality of a company's investment portfolio". Rate of return on investment or investment yield is defined as net investment income divided by the average amount of cash and short-term investment in securities.

Table 1. Inputs and outputs of investment management

Input variables	Output variables
Actuarial reserves	Solvency = Leverage
Total investment assets	Profitability = Investment return

3.2 *EXTERNAL FACTORS AND, RISK AND INVESTMENT MANAGEMENT EFFICIENCY – LAYER 2*

Three variables are considered in this study to explain the differences in the efficiency of the investment management among insurers/takaful operators. There are size, operating system and investment-linked products. The variables that are considered as the determinants of investment efficiency are as follows:

Size

Firm size is often associated with the performance of insurer. In Malaysia, the difference in size is obvious among the players in the insurance and takaful industry. The assets owned by the insurer/takaful operator in Malaysia are in the range of 7 million - 32.87 billion during the year from 2003-2007. Most previous studies (Eling and Luhnen, 2010; Hao, 2008; Klumpes, 2007; Hao and Chou, 2005; Eckles, 2003; Diacon et al. 2002; Cummins and Zi, 1997; Meador et al. 1997; Gardner and Grace, 1993) have discussed the effect of size on the efficiency of insurance company operations as a whole, but not on the efficiency of investment management functions in particular.

However, the study by Boose (1993) generated the idea that differences in size also lead to differences in investment returns. She explained that a high return on invested assets were due to economies of scale in the investment management which was resulting from an increase in the size of the firm. Moreover, the difference in size also caused the differences in resources to hire expert fund manager in-house who can maximize the investment returns. The result by Boose (1993) in line with Adams (1996) who suggested that size were significantly related to life insurers' investment earnings. In addition, Mayer and Smith (1994) said that the owner of the larger firms give more discretion to managers in making investment decisions and take advantage of market opportunities. Against this background, it seems that the investment management practice by insurers vary by size. Thus, it is worth to examine the effect of size on investment function of insurer/takaful operator.

Operating system (takaful operator versus conventional insurer)

The Malaysian insurance market comprises of conventional insurers and takaful operators, which is governed by different legislative and regulation. Takaful operators are governed by the Takaful Act 1984, whereas the conventional life insurer is guided by the Insurance Act 1996. These different Acts give the impression that some aspects of the operation of conventional insurance and takaful are different.

Under The Takaful Act 1984, in each and every aspects of Takaful operation must comply with Syariah Law. This aspect is emphasized in investment activities in which all investments must be in activities and instruments allowable under the Syariah. To be specific, takaful operator is forbidden to invest in commodities such as alcohol, gambling and pork as well as any associated activities or investments. To ensure this regulation is being complied at all time, activities undertaken by the takaful operator are not only governed by Shariah Advisory Council (SAC) for Islamic Banking and Takaful (established in BNM) but also must comply with the appointed Shariah committee as part of its internal governance as well. Each takaful operator has to establish a Syariah Supervisory Council (SSC). Normally, The SSC constitutes of 3 members and they must be Syariah scholars or proficient in Syariah. The appointment of the member of SSC is under the consent of SAC. The rigid internal and external oversight from SSC and SAC is able to minimize mistakes in the asset-liability management as well as investment activities and thus will reduce the investment risk assumed by takaful operator.

The investment risk that might be confronted by the takaful operator is limited investment options, lack of high-quality investment instruments and shortage of market liquidity for Islamic securities (Frenz et al., 2007; Abouzaid, 2007). They explained that this leads to low investment returns, slow product innovation and increase liquidity risk. In fact, the victory of the takaful operator is highly dependent on the ability of Islamic asset management industry (Fenz et al., 2007). Thus, because of these differences between the two operating systems, it is expected that this variable has a significant effect on investment management efficiency.

Investment-linked product preference

Based on Porter (1985) hypothesis, the firms that adopt one of the 3 strategies namely cost, customer focus and product differentiation strategies are more efficient than those who fail to perform any one of the 3 strategies above. However, the development of policies based on consumer needs, such as investment-linked policies is something new for insurance as well as takaful industry in Malaysia. The insurer/takaful operator probably have to dismantle or modify

the existing risk profile and investment strategy to the new one which is more suited to the new business which satisfies the need of marketplace (Forbes, 1987). Indeed, offering new product/policies could be also worsening if the industry does not accomplish market research in detail to perceive the level of customer acceptance of new line of business. Insurance companies and takaful operators are projected to develop and perform appropriate policies and techniques to prudently manage risks related to the products offered by them to ensure their business objectives are achieved and consistent with the ability and capacity to address related risks. Furthermore, the value of such policy is very much influenced by the value of the underlying investment funds in which the amount of death benefit, annuity payment, cash value are all very dependent on the investment performance with a minimum guaranteed death benefit (The Commissioner of Insurance of Hong Kong, 2007). Shortly, the offering of investment-linked by both the conventional insurance and takaful market might be changed their risk profile and investment practices. Therefore, the effect of this determinants on investment efficiency should be considered.

4. METHODOLOGY

The methodology used in this study will also be adjusted in line with the achievement of 2 layers described in the theoretical framework. Different layers will deal with different methodologies/analyses. Consequently, this section is divided into 2 subsections according to the 2 layers that must be accomplished. Briefly, the first analysis will be carried out to calculate the efficiency score for investment management, and the second analysis is to identify the determinants that affect the investment management efficiency of insurers/takaful operators based on the efficiency score obtained in the first analysis.

4.1.*SBM-DEA - OBTAINING THE INVESTMENT MANAGEMENT EFFICIENCY SCORE*

After completing a careful review on past studies and the appropriateness of the data, this study will employ the SBM-DEA as a frontier efficiency technique in assessing the efficiency of investment management. The SBM model is a variant of the additive DEA model, which was first presented by Tone (2001). As in the additive model, the SBM differs from the Charnes- Cooper-Rhodes (CCR) (Charnes et al., 1978) and Banker-Charnes-Cooper (BCC) (Bankers et al., 1984) model as it combines both orientations in a single model, i.e. input-oriented model and output-oriented model. SBM focuses on maximizing the non-zero slacks in the optimal objective. The slacks give the estimate of input excess and output shortfalls that could be improved without worsening any other input and output. The subsequent properties are regarded as important in designing the SBM measures (Cooper et al. 2007; Tone, 2001): (1).The measure is unit invariant

which implies that this measure is independent (invariant) to changes in location and scale of input and output; and (2). The measure is monotone decreasing in each input and output slack.

Compared to other DEA models (CCR, BCC and additive), SBM offers some nice properties (Cooper et al., 2007; Tone, 2001). Cooper et al., (2007, p. 120) claimed that the CCR and BCC measure of efficiency θ^* "is not a complete value and, instead, the nonzero slacks may far outweigh the value of $(1-\theta^*)$". On the other hand, in SBM model, all such inefficiencies are identified. This means that SBM takes into account these nonzero slacks in the calculation of efficiency score "after the radial inefficiencies have been identified" (Avkiran, 2007, p. 225). Thus, the efficiency score $(\rho)$of the SBM model can be considered more complete. One of the drawbacks of the CCR and BBC models is that they only estimate the relative performance of the DMU and not absolute performance (Ren, 2007)[1]. However, a single measure of efficiency that is provided by SBM (ρ) which is also monotonic makes the ranking process become easily. In addition, as Brockett et al. (2004, p. 497) state, "Ranking of evaluated entities according to their efficiency is a frequent managerial desire and use of DEA, and useful for subsequent statistical analysis".

Equipped with these attractive properties, then SBM is regarded as a more appropriate (in view of this study) than CCR, BCC and additive model as specified by Avkiran (2007, p. 225), "...SBM as a more appropriate model unless one is certain that there are no significant slacks; or, there is no need to summarise efficiency evaluation in a single figure which facilitates ranking; or, variables have the same dimensions". Thus, the SBM model will be applied to obtain the efficiency score of investment management of each firm under observation.

Throughout this study the DMUs refer to the investment management function of the life insurers and takaful operators. According to Tone (2001), for each DMU_j $(j = 1, \dots, n)$ and input matric $X = x_{ij} \in R^{mxn}$ used by DMU_j and amount of output matric $Y = y_{ij} \in R^{sxn}$ yielded by DMU_j, with the assumption, the data set is positive $X > 0$ and $Y > 0$, the production possibility set for SBM is defined by:

$$P = \{(x, y) | x \geq X\lambda, y \leq Y\lambda, \lambda \geq 0\} \quad (1)$$

[1] Cooper et al. (2007, p. 120) explained this through example: "... a value of θ^*=0.9 for DMU A means that its purely technical efficiency is 90% of the efficiency generated by members of its (efficient) reference group. Similarly a value of θ^*=0.8 for DMU B refers to its performance relative to a different group. This does not imply that DMU B is less efficient than DMU A".

where λ is a nonnegative vector in R^n. In an attempt to estimate the efficiency of a DMU (x_o, y_o), the following fractional program (FP) is formulated:

$$(SBM_{FP}) \min_{\lambda j s_i^- s_r^+} \rho = \frac{1-\frac{1}{m}\sum_{i=1}^{m} s_i^- / x_{io}}{1+\frac{1}{s}\sum_{r=1}^{s} s_r^+ / y_{ro}} \quad (2)$$

subject to

$$x_o = X\lambda_j + s^-$$

$$y_o = Y\lambda_j - s^+$$

$$0 \leq \lambda, s^-, s^+$$

The optimization in (2) is over the variables $\lambda, s^-, s^+ . x_{io}, y_{ro}$ represent the corresponding input and output values for DMUo, the DMU whose efficiency is to be evaluated. The vectors $s^- \in R^m$ and $s^+ \in R^s$ represent the input excess and output shortfall respectively, and are called slacks. Referring to the objective function in (2), by dividing each slack variables s_i^- and s_r^+ with the input and output variables x_{ij} and y_{ij} for numerator and denominator respectively, the measure of inefficiency is unit invariance because all the slacks have the same scale with its input or output variable and the ratio of these two measures eliminate the scale of each input and output variable. This feature according to Cooper et al., (2007, p. 100) is a "dimension free" measure of SBM inefficiency. It can also be verified that, the increase in either s^-or s^+, all else held constant, will decrease the value of ρ, and "indeed, do so in a strictly monotone manner" (Cooper et al., 2007, p. 100).

The SBM index of efficiency ρ actually portrays the ratio of average input and output mix efficiencies with the upper limit, $\rho = 1$, that will be achieved only when slacks are zero in all inputs and outputs[1]. Consequently, DMU_0 is said to be fully efficient if and only if all slacks are zero at optimum (2). This implies that for this DMU_o no other DMU (or combination of DMUs) can produce the same output with smaller amounts of inputs, or can use the same set of inputs to produce more output. In order to simplify the calculation, SBM (2) can be transformed into a linear program using the Charnes-Cooper transformation (Charnes et al., 1978). By introducing variable t as a positive scalar, and defining:

$$S^- = ts^-, S^+ = ts^+, \Lambda = t\lambda$$

[1]For details, please see Cooper et al., (2007, p. 100)

Then, (2) is replaced by the following LP in $t, S^-, S^+$and Λ:

$$SBM_{LP} \min_{t,S^-,S^+,\Lambda} \tau = t - \frac{1}{m}\sum_{i=1}^{m} S_i^- / x_{io} \quad (3)$$

subject to

$$1 = t + \frac{1}{s}\sum_{r=1}^{s} S_r^+ / y_{ro}$$

$$tx_o = X\Lambda + S^-$$

$$ty_o = Y\Lambda - S^+$$

$$\Lambda, S^-, S^+ \geq 0; t > 0$$

The constraint $t > 0$ make the transformation is reversible, thus, the FP is equivalent to LP[1] (Cooper et al., 2007). If the optimal solution of SBM_{LP} would be $(\tau^*, t^*, \Lambda^*, S^{-*}, S^{+*})$, then, the optimal solution of SBM_{LP} will be defined by $(p^* = \tau^*, \lambda^* = \Lambda^*/t^*, s^{-*} = S^{-*}/t^*, s^{+*} = S^{+*}/t^*)$. Therefore, based on this definition, a DMU (x_o, y_o) can be decided as SBM-efficient if and only if $\rho^* = 1$. This condition is achieved when $s^{-*} = 0$ and $s^{+*} = 0$, i.e. the value of all slack variables is equal to zero.

Tone (2001) also claimed that the SBM measure of efficiency ρ^* is unlike the other efficiency measures in which they "incorporate statistics over the whole data set". For the purpose of this study, the efficiency score of the investment management will then be taken from the SBM-efficiency measure ρ^*. This study will also use the SBM-constant return to scale (CRS) model. According to Yao et al. (2007), the key objective of a firm is to operate at CRS. They added further that if the assumption of CRS is waived, the number of DMU that will be efficient is high, especially for a small data set and this cause a problem of comparing and improving the efficiency scores obtained. By using both inputs and outputs that have been discussed before, the efficiency of investment management for each insurer/takaful operator is now can be calculated using the SBM-DEA.

4.2.*TOBIT ANALYSIS - IDENTIFYING THE FACTORS THAT AFFECT THE INVESTMENT MANAGEMENT EFFICIENCY*

[1] Proof of this theorem can be found in Cooper et al. (2007, p. 24)

This study implements the two-stage method[1] in order to identify the determinants of the investment management efficiency of insurers/takaful operators. According to Coelli et al. (2005), the first stage involves obtaining the efficiency scores via DEA that requires only the traditional inputs and outputs. In the second stage, the regression analysis is conducted where the efficiency score obtained from the first stage is treated as dependent variable, while the determinants as independent variables. The second-stage regression analysis is used to determine separately the effect of determinants on efficiency. They also explained that the factors include all the variables that cannot be treated as traditional inputs and are assumed not directly under the control of manager. Various analyses have been used by previous researchers in the second stage to obtain the determinants that influence the efficiency of the insurers as a whole.[2] However, in the context of this study, the Tobit regression analysis is felt most appropriate to identify the determinants that affect the efficiency of investment management (Coelli et al., 2005; Pasiouras, 2008).

The dependent variable in this study is the investment management efficiency score which is obtained from the first stage analysis (SBM-DEA). It is noted that the efficiency score lies in the range 0 to 1. Thus, it is very important to ensure that the analysis used must accord with the habits of the dependent variable that only takes the values in the range 0 to 1. The regression analysis that can take into account the dependent variables with such limited value is censored regression model or also known as Tobit model (Gujarati, 2011; Greene, 2003 and Wooldridge, 2002). Tobit analysis was proposed by Tobin (1958) which it is assumed that the dependent variable is clustered or censored at a limiting value, which is usually 0. Hoff (2007, p. 428) summarized what was stated by Wooldridge (2002) that Tobit analysis is appropriate when the dependent variable is bounded by the lower or upper limit or both, "with positive probability pileup at the interval ends, either by being censored[3] or by being corner solutions[4]". In relation to DEA efficiency score as

[1]Advantages of applying the two-stage method can be found in Coelli et al. (2005, page: 194)

[2] Please refer to Coelli et al. (2005)

[3]According to Wooldridge (2002), censored regression applications fall into two categories: i) censored regression applications; ii). corner solution models.

[4]"In the first case there is a variable with quantitative meaning, call it y^* and we are interested in the population regression $E(y^*|x)$. If y^* and x were observed for everyone in the population, there would be nothing new: we could use standard regression methods (ordinary or nonlinear least squares). But a data problem arises because y^* is censored above or below some value; that is, it is not observable for part of the population. A second kind of application of censored regression models appears more often in econometrics ad, unfortunately, is where the label "censored regression" is least appropriate. To describe the situation, let y be an observable choice or outcome describing some economic agent, such as an individual or a firm, with the following characteristics: y takes on the value zero with positive probability but is a continuous random variable over strictly positive values. …Just a few examples include amount of life insurance coverage chosen by an individual, family contributions to an individual retirement account, and firm expenditures on research and development. In each of these examples we can imagine economic agents solving an optimization problem, and for some agents the optimal choice will be the corner solution, $y^* = 0$. For corner solution applications, we must understand that the issue is not data observability: we are interested in features of the distribution of y^*given x, such as $E(y|x)$ and $P(y = 0|x)$" (Wooldridge, 2002).

dependent variables, Pasioras (2008), Hoff (2007), Coelli et al. (2005), Ruggiero and Vitaliano (1999), Carr (1997), Cilingerian et al. (1995) and Bjurek et al. (1992) suggested to apply the Tobit analysis in the second-stage DEA approach. Given that DEA efficiency scores resemble corner solution variables (Hoff, 2007), this study also will employ two-limit Tobit regression to estimate the effect of size, operating system and investment-link product preference on the investment management efficiency. The relationship may be described by the model:

$$Y_i^* = X_i\beta + \mu_i \quad (4)$$

where $\mu_i \sim N(0, \sigma^2)$. Y_i^* is a latent variable following censored normal distribution with mean $X_i\beta$ and variance σ^2. X_i is a $k \times 1$ vector of observations on the constant and $k-1$ efficiency factor explanatory variables; β a $k \times 1$ vector of unknown coefficients[1]. The data generating process (DGP) – (4) postulates that Y_i is the observed SBM-DEA efficiency score and the censored values of Y_i^* with censoring below 0 and above 1 (McDonald, 2009). Y_i is defined by the following measurement equation:

$$Y_i = \begin{cases} Y_i^*; if\ 0 < Y_i^* < 1 \\ 0; if\ Y_i^* \leq 0 \\ 1; if\ Y_i^* \geq 1 \end{cases} \quad (5)$$

The Tobit model is usually estimated using the maximum likelihood (ML). For a data set with N observations, the ML function is:

$$L = \prod_i^N \left[\frac{1}{\sigma}\emptyset\left(\frac{Y_i - X_i\beta}{\sigma}\right)\right]^{d_i} \left[1 - \Phi\left(\frac{X_i\beta}{\sigma}\right)\right]^{1-d_i} \quad (6)$$

In general, the Tobit analysis is preferred over other regression techniques because it will take into account all observations to estimate the regression line, including those at the limit and those above it, while, for the other techniques, estimation of regression line is based on observations above the limit (McDonald and Moffit, 1980). As stated earlier, three independent variables namely size,

[1] Definition of each of the variables extracted from the study by McDonald (2009)

operating system and investment-link product preference will be considered in this study and all of them will be regressed with the dependent variable (investment management efficiency score) using Tobit analysis.

4.3.*HYPOTHESES DEVELOPMENT*

i. The use of resources through the scope and scale economies varies by size of the insurer. In addition, the financial capacity also varies according to size. Any insurer who can take advantage of the scope and scale economies and have a lot of financial capability is said to be more efficient in terms of investment management. Thus, it appears that size is expected to be able to explain the differences in the efficiency of the investment management of each insurer/takaful operator. In agreement with most of the previous studies, this study will use the natural logarithm of total life assets as a proxy to the size of the insurer/takaful operator. The hypothesis is:

H1 size has a significant effect on investment management efficiency

ii. The takaful operator and conventional life insurer is said to be faced with different risk exposure through underwriting, pricing and investment activity practiced (Kwon, 2007; Ali, 1989). This is most likely due to the nature of operations and different governing Act. Thus, it is expected that the performance of the investment management of both markets are most likely to be different. In this study, the difference in operating system practiced by both the conventional insurers and takaful operators is represented by a dummy variable where 0, if the observed firm is takaful operator and 1, otherwise. The hypothesis is:

H2 operating system has a significant effect on investment management efficiency

iii. When insurers/takaful operators change their book of business in accordance with consumer preferences, their risk profile and investment portfolio will also change. The risk and investment management adopted by the insurer must take into consideration these changes in order to maintain or improve existing performance. Thus, it is expected that there are differences in the efficiency of the insurer/takaful operator when taking into account the changes in consumer preferences embedded in products offered such as investment-linked policy. In this study, the consumer preference towards the investment-linked policies is represented by the ratio of total investment-link asset to total life asset. The hypothesis is:

H3 *investment-link product preference has a significant effect on investment management efficiency*

Table 2 summarizes the dependent and independent variables, as well as their measurements.

Table 2. Dependent and independent variables used in Tobit analysis

Dependent Variable	Measurement
Investment management efficiency	SBM-DEA investment management efficiency score (The score lies in a range 0 -1)
Independent Variable	**Measurement**
Size	Natural logarithm of total asset
Operating system	0 – takaful operator; 1 – conventional insurer
Investment-link product preference	Total investment-linked asset/Total life asset

4.4.*DATA*

For this study, the selection of the firms is restricted to direct conventional (life and composite) insurers and takaful operators which consistently present in the industry for the period 2003-2007. The data is limited to life and family takaful business as well as investment-linked business. For the composite insurers, which offer general and life products, the data is segregated between the two lines of business and can be obtained from the companies' financial report. The professional life reinsurers have to be excluded because of data difficulties and difference in the nature of business. The study also totally excluded the new entrants during the study periods but maintained the firms involved in merger and acquisition (M&A) activities. The total insurance operators observe are 20 firms, which represents about three-quater of the total players for the study period. The sample also accounts for approximately more than two-thirds of the total assets of life insurance fund assets and family takaful fund assets in the overall life insurance and takaful industry respectively. The firms under observation according to the type of business are depicted in Table 3.

Table 3. The list of insurer/takaful operator* under observation 2003-2007

No.**	Name of Firm	Type of Business
A	Allianz Life Insurance Malaysia Berhad	Life
B	Uni. Asia Life Assurance Berhad	Life
C	Manulife Insurance (Malaysia) Berhad	Life
D	Asia Life (M) Berhad	Life
E	Mayban Life Assurance Bhd	Life
F	Great Eastern Life Assurance (M) Berhad	Life
G	Commerce Life Assurance Berhad	Life
H	Tahan Insurance Malaysia Berhad	Composite
I	Hong Leong Assurance Berhad	Composite
J	AmAssurance Berhad	Composite
K	MCIS Zurich Insurance Berhad	Composite
L	Malaysian National Insurance Berhad	Composite
M	Malaysian Assurance Alliance Berhad	Composite
N	Takaful Nasional Sdn. Bhd.	Composite
O	Takaful Ikhlas Malaysia Sdn. Bhd.	Composite
P	Syarikat Takaful Malaysia Berhad	Composite
Q	MaybanTakaful Berhad	Composite
R	Prudential Assurance Malaysia Berhad	Composite
S	ING Insurance Berhad	Composite
T	American International Assurance Company, Ltd	Composite

*Notes: * Insurers/takaful operatos' name refers to the recent registration: ** After this, insurers and takaful operators will be referred by the letter given*

5. RESULTS

5.1. *SBM-DEA ANALYSIS - DISTRIBUTION OF INVESTMENT MANAGEMENT EFFICIENCY*

The efficiency of investment management is achieved by different insurers/takaful operators for each year from 2003-2007. According to Table 4, none of the insurers/takaful operators is seen to preserve efficiency for the 5 consecutive years. Insurer M is the only insurer that has been on the frontier for 4 times. In addition, the performance of takaful operator Q is also encouraging as for achieving efficient investment management for 3 times. Insurer/takaful operator I, L, D, E, C, O, K and T also present efficient investment management at least once in 5 years time, while another 10 insurer/takaful operator namely A, B, F, G, H, J, N, P, R and S experience inefficient investment management.

Table 4. SBM-DEA Results for Investment Management for Individual Insurer/Takaful operator

2003		2004		2005		2006		2007	
DMU	Efficiency Score	DMU	Efficiency Score	DMU	Efficiency Score	DMU	Efficiency Score	DMU	Efficiency Score
A	0.5751	A	0.5149	A	0.5093	A	0.5713	A	0.6526
B	0.5356	B	0.5641	B	0.6984	B	0.5308	B	0.5680
C	0.5597	C	0.5341	C	0.9164	C	0.7272	**C**	**1.0000**
D	0.6903	D	0.7249	**D**	**1.0000**	D	0.7759	**D**	**1.0000**
E	0.5210	E	0.7595	E	0.8105	**E**	**1.0000**	**E**	**1.0000**
F	0.5532	F	0.6607	F	0.7904	F	0.6387	F	0.7703
G	0.4763	G	0.6175	G	0.5412	G	0.5597	G	0.6505
H	0.5081	H	0.4652	H	0.5465	H	0.7958	H	0.3548
I	**1.0000**	**I**	**1.0000**	I	0.9022	I	0.7038	I	0.9501
J	0.6033	J	0.5919	J	0.7642	J	0.7764	J	0.8415
K	0.4866	K	0.5582	K	0.7390	K	0.8133	**K**	**1.0000**
L	**1.0000**	L	0.6405	**L**	**1.0000**	L	0.6947	L	0.9288
M	0.8688	**M**	**1.0000**	**M**	**1.0000**	**M**	**1.0000**	**M**	**1.0000**
N	0.2708	N	0.3523	N	0.5072	N	0.3889	N	0.4359
O	**1.0000**	O	0.1847	O	0.2173	O	0.2752	O	0.3375
P	0.3189	P	0.4479	P	0.4860	P	0.4325	P	0.5946
Q	0.2191	**Q**	**1.0000**	**Q**	**1.0000**	**Q**	**1.0000**	Q	0.4359
R	0.5105	R	0.5619	R	0.7847	R	0.6202	R	0.7424
S	0.4871	S	0.5386	S	0.6586	S	0.5683	S	0.6981
T	0.5158	**T**	**1.0000**	T	0.8087	T	0.6865	T	0.8592

The average investment management performance which is shown in Table 5 is increasing from 58.5% to 74.1% during the period 2003-2007, despite a slight decline in the midterm. According to Cummins (1999), an increase in the average efficiency score indicates increased competition among insurance firms (insurers/takaful operators) especially with the advancement of computing and communications technology as well as dynamically changes in various type of risks. In addition, the average efficiency of 58.5% to 74.1% implies that the average insurers/takaful operators have to improve from 25.9% to 41.5% if it were to perform the best investment management practice.

Table 5. Summary of SM-DEA results for investment management activity

	2003	2004	2005	2006	2007
Average score	0.585	0.636	0.734	0.678	0.741
Standard deviation	0.220	0.219	0.209	0.192	0.224
Max of efficiency score	1	1	1	1	1
Min of efficiency score	0.219	0.185	0.217	0.275	0.337
% of efficient insurer/takaful operator	15.0	20.0	20.0	15.0	25.0

Moreover, the heterogeneity or dispersion of investment management efficiency (which is shown by the standard deviation values) declined during the period of 2003-2006 and increased in the period 2007. This is particularly encouraging because it shows that the insurers/takaful operators are converging towards the best practices (Cummins, 1999). However, the decreasing rate is quite slow and this condition is reasonable because there are some insurers that show very low efficiency score of investment management which is in the range of 0.185 to 0.337. This indicates that the insurers/takaful operators are most likely not put an enough effort to compete intensively with each other to achieve efficient investment management. Table 5 also presents that in the year 2003 and 2006, 15% of insurers/takaful operators are identified to have an efficient investment management, while 20% and 25% are efficient in the years 2005, 2006 and 2007, respectively. This clearly shows that the number of insurers/takaful operators that are having inefficient investment management is approximately more than 70% over the period of 2003-2007. The result also reveals that the inefficiencies in investment management are mostly caused by the failure to manage all the resources at optimum level. In the context of this study, it was found that insurers/takaful operators have dealt with excessive total investment and actuarial reserve as well as shortage of both outputs which are investment return and solvency.

From the above observations, it is likely that an efficiency variation among insurers/takaful operator are exists. Yao et al. (2007) claimed that the efficiency score itself is not be able to provide

information on the difference in value achieved. Thus, the Tobit regression analysis is performed to verify the determinants of investment management efficiency (Coelli et al., 2005).

5.2.*THE TOBIT ANALYSIS - SUMMARY STATISTICS*

As shown in Table 6[1], the average size (represented by total life asset) of insurer/takaful operator for the industry is 4.41 billion with a standard deviation of 6.04 billion. The average total investment-link asset in billion which represents the investment-linked product preference is 0.36 billion with a standard deviation 0.67 billion. The difference in average values between total life asset (size) and total investment-link asset is visible, implying that the offer of investment-linked products is still at its early stage. This condition can be associated with low market penetration rates for the insurance industry in Malaysia. For the whole population, the rate of market penetration has not yet reached 50%. This means that there are still many people in this country do not have an insurance policy even the basic policy that only provides protection (whole life/endowment/term policy). Perhaps, the insurer may not yet confident to offer complex product such as investment-linked policy which of course is only required by a small part of society. The standard deviation values imply that there is a significant variation in life asset and investment-link asset among the insurers/takaful operators.

Table 6. Summary statistics[a]

Variable	Min	Max	Mean	SD[b]
Size[*]	0.007	32.87	4.41	6.04
Investment-link asset[*]	0	3.49	0.36	0.67

Note: [a]Operating system is not listed in the table because it is a dummy variable taking the value 0 or 1; [b]SD–standard deviation; [*]size and investment-linked preference in billion

[1] Distribution of the average investment efficiency of insurers/takaful operators are the same as in Table 5, thus Table 6 only describes the distribution of other variables, namely size, operating system and investment-link preference

5.3.*THE TOBIT ANALYSIS – THE DETERMINANTS AFFECTING THE INVESTMENT MANAGEMENT EFFICIENCY*

Each result in relation to each hypothesis described before, is presented as follows:

(H1) Size has a significant effect on investment management efficiency

Size does not provide a significant effect on the efficiency of investment management of insurers/takaful operators which is shown in Table 7. This situation is likely due to the strict regulations governing the insurance and takaful industry, particularly in matters relating to investment activities. Investment regulations and capital requirements come with limitations. For controlling the investment activities among insurers/takaful operators, the Government of Malaysia had introduced the Authorized Malaysian Assets. Authorized Malaysian Assets comprise the range of assets typically held against insurance funds (Lee, 1997). At a minimum, the percentage of total assets in insurance fund to be preserved in Authorized Malaysian Assets is 80%. This requirement has caused the insurance fund of insurer/takaful operator is largely held in the fixed-income investments such as Malaysia Government Securities and corporate securities. Additionally, for investment in real estates or loans, the requirement has stated that this shall not exceed 30% of total assets in insurance funds, while the investment in stocks and shares should not exceed the amount of shareholders' fund of the insurers (Lee, 1997). Thus, regardless of insurer/takaful operator's size, the investment portfolio diversification is restricted to some degree of the percentage and portfolio choices. What is more important is the investment activities need to think about safety, yield and liquidity. If these considerations are given attention and wisely balanced, insurers/takaful operators will certainly be able to meet all their liabilities (Lee, 1997). Boose (1993) and Adams (1996) in their study in the US and New Zealand life insurance industry respectively, however, found different conclusions. They suggested that size were significantly related to life insurers' investment earnings. This was due to larger insurers can take advantage of economies of scale in their investment function.

Table 7. Tobit regression results; (dependent variable = efficiency score)

Independent variables	Coefficients	z-Statistic
Constant	-0.106	-0.352
Size	0.028	1.900
	0.360	2.850*

Investment-linked preference	0.182	3.423*
Operating system		

*Note: *significant at 5%*

(H2) The operating system has a significant effect on risk and investment management efficiency

In contrast to size, the operating system is found to be a significant predictor to investment management efficiency at 5% critical level. This is exhibited in Table 7. The result suggests that the conventional life insurers experience better investment management efficiency than takaful operators. It seems that not many previous studies that correlate this variable with the efficiency of the insurance industry, not to mention the insurance investment management efficiency. This situation may be due to many countries in the world apply the same legal system for all insurance companies operating in the country. However, in some countries in Asia, Europe and Africa, there are 2 insurance systems operating in the market namely conventional insurance system and Islamic insurance system (takaful). Although, the takaful market is booming, but so far it is limited to markets in Asia, Africa, Levant, Gulf Cooperation Council (GCC), Far East and the Middle East where the Muslim population is large. In this regard, Eling and Luhnen (2010) examined the effects of civil, mixed and common law on the efficiency of the insurance industry internationally. Their study proved that the efficiency of the insurer was not affected by legal system practiced in the country. It is also interesting to highlight here that the operation of the takaful operator are similar to mutual form and the operation of conventional insurers are adopting the form of stock, thus this relationships here is likely can be explained by the relationship between the organization form and efficiency. The number of studies such as Spiller (1972), Hansmann (1985), Armitage and Kirk (1994), Adams (1996) and Boose (1993) are able to portray the relationship between investment efficiency and organizational form, the only difference is that they use financial ratios as a measure of investment efficiency. Spiller (1972) and Hansmann (1985) clarified that different organizational form does not influence the investment performance which is measured by the rates of return on invested assets. In addition, Hansmann (1985) commented that in principle, the owner of the insurer, regardless of organizational form, must ensure that the investment of equity capital and policy premium, at any time must be able to pay all claims submitted, even if the mortality experience turn out to be higher than expected. However, Boose (1993) and Adams (1996) found that the organizational form was significantly related to life insurers' investment earnings. Similarly, Armitage and Kirk (1994) confirmed a significant difference in returns on with-profit endowment policies between the mutual and stock, where the mutual provided greater returns.

In the context of this study, this result is expected because the takaful operators have to confront with several challenges with regard to investment (Fenz, et al. 2007), such as: (1). Takaful

operators may experience potentially unfavourable investment returns, limited product innovation and high concentration and liquidity risk because of limited accessibility of Islamic investment choices specifically for long term instruments (2). Limited availability of proper Islamic investments prevents the takaful operator to obey the constraints imposed on the asset allocation of the takaful fund assets (3). Suitable Islamic investments might be issued in a foreign currency exposing the operator to potentially significant currency exchange risk. Compared with the conventional life insurers, it seems that their investment mechanisms are more stable and diverse. At the firm level, it is very crucial for takaful operators to act towards far greater efficiency in their investment management to resolve the above conflict.

(H3) Investment-linked product preference has a significant effect on investment management efficiency

Similar to operating system, the investment-linked preference is proved to be positively and significantly related to the performance of investment management at 5% critical level (see Table 7). The result implies that the insurers/takaful operators with more investment-linked businesses are having better investment management performance. In this study, the efficiency of investment management means that insurers/takaful operators are able to increase investment earnings and solvency of the company at an optimum level by the utilization of available resources. The cash flow of insurers' investment choices have to be consistent with the expected liability cash flows and asset-liability risk management strategy. Thus, the investment choices are very important. According to Adams (1996), the investment choices for insurers are highly depending on the nature of policies in force. Further, he explained that the consumer preference product such as investment-linked policies, the risks and investment returns are normally borne by the policyholders. It is true that, this will eliminate the need to accurately match the investment earnings with outstanding liabilities, but, however, the growth of investment-linked policies will increase the number of policies in force in the market and this will affect the rate of acquisition of new business. Therefore, the higher the amount of investment-linked products offered by insurers, the higher the investment earnings they are likely to achieve in order to meet any maturity or death benefit promised in the policy in the event of inadequate reserves, as well as promised return to the policyholders. Accordingly, at a favorable stage of investment earnings, the insurers' solvency will be preserved.

Recently, investment-linked products are recognized as very appealing in the eyes of many insurers. This situation as described by Moore and Santomero (1999) in their study - the products with greater flexibility and variability in wealth accumulation and benefit build-up are the choices for the future. Furthermore The Commissioner of Insurance of Hong Kong (2007) emphasized that

the main advantage of an investment-linked policy lies in the favorable return on investment and flexibility in which this flexibility permits the suitable insurance plan to be personalized for each individual policyholder. In addition, this policy seems to be more profitable is because most of the investment risk that is borne by the insurer is transferred to the policyholder (Masters and Gutterman, 2002). For investment-linked policies, the share of the premium to be invested is greater than the share used for protection. Typically, customers who buy investment-linked policies have a purpose to accumulate wealth for the future or save for their old age (Tuohy, 1999). As such, it appears that when the insurer/takaful operator write investment-based policies, the investment portfolio of the insurer will also change. According to Black and Skipper (2000) the investment activities of insurer have a very broad interest in the relationship between companies and their customers. Thus, the insurer will endeavor to make a profitable investment to meet the expectations of policyholders. However, higher returns will always associated with higher risk. This is why asset-liability matching in investment management undertaken by the insurer has to consider the product design and management (Black and Skipper, 2000). Apparently, the insurers will have no choice other than to adopt efficient investment management in order to ensure a profitable investment.

6. **CONCLUSION**

From SBM-DEA results attained, the efficiency investment management of insurers/takaful operators for the period 2003 to 2007 was moderate. The average efficiency of 58.5% to 74.1% implies that the average insurers/takaful operators have to improve from 25.9% to 41.5% if it were to perform the best investment management practice. Thus, there is a large potential for life and takaful industry in improving the performance in investment management functions. Further, from the Tobit analysis, this study confirms that the investment management efficiency of insurers/takaful operators vary by operating system and investment-linked product preference but not the size of insurers/takaful operators. This study suggests that the government needs to address the investment related problems faced by takaful operators to be on par with the performance of the investment management of conventional life insurers. Further, more customer-based products have to be offered by insurers/takaful operators in the future. However, in the excitement of offering these products, insurers need to be careful about their selected investment portfolio as well as asset-liability matching to ensure that the trade off between risk and return is equitable.

An efficient investment management motivates the optimal allocation of resources. It can realize the function of insurance as a financial intermediary which will ultimately help the economy through the allocation of capital for potential projects that can promise the highest risk-adjusted returns for the shareholders. However, this efficiency requires the legal support and implementation. Before that, what is more important, efficiency is essential in acquiring the

confidence of consumers and investors. Last but not least, through the efficient investment management, the ultimate objective of insurer/takaful operators i.e. value creation of the organization can be achieved. This study can be extended to cross-country investment management efficiency study which includes emerging markets such as Indonesia, China, India and Vietnam as well as developed market for a longer time frame using a metafrontier model.

REFERENCES

Abouzaid, C (2007). Takaful market: The challenges of the fast growing industry. *MiddleEast Insurance Review*, 70.

Adams, M (1996). Investment earnings and the characteristics of life insurance firms: New Zealand evidence. *Australian Journal of Management*, 21, 41-55.

Ali, Kasi Md. Mortuza (1989). Principles and practices of insurance under Islamic framework. *Insurance Journal*, 29-38.

Armitage, S. and P. Kirk (1994). The performance of proprietary compared with mutual life offices. *Service Industries Journal*, 14, 238-261.

Avkiran, N. K (2007). Stability and integrity tests in data envelopment analysis. *Socio-Economic Planning Sciences*, 41, 224-234.

Babbel, D.F. and A.M. Santomero (1999). An analysis of the financial risk management process used by life insurers. In Cummins, J.D. and A.M. Santomero (eds.), *Changes in the Life Insurance Industry: Efficiency, Technology and Risk Management*, Boston.

Banker, R. D., Charnes, A. and W.W. Cooper (1984). Some models for estimating technical and scale inefficiency in data envelopment analysis. *Management Science*, 30, 1078-1092.

Berger, A.N. and D.B. Humphrey (1992). Measurement and efficiency issues in commercial banking. In Griliches, Z (eds), Output Measurement in the Service Sectors, University of Chicago Press.

Bjurek, H., Kjulin, U. and B. Gustafsson (1992). Efficiency, productivity and determinants of inefficiency at public day care centers in Sweden. *Scandinavian Journal of Economics*, 94,173-187.

Black, K. Jr. and H.D. Skipper Jr (2000). *Life & Health Insurance*. New Jersey: Prentice Hall, Inc.

BNM (2000-2005). *Annual Insurance Report*, Kuala Lumpur.

BNM (2008-2010). *Financial Stability and Payment Systems Report*, Kuala Lumpur.

Boose, M.A (1993). Investment returns of life insurers: Test of agency theory and its alternatives. *Managerial Finance*, 9, 18-34.

Brockett, P.L., Cooper, W.W, Golden, L.L., Rousseau, J.J and Wang, Y. 2004. Evaluating solvency versus efficiency performance and different forms of organization and marketing in US property-liability insurance companies. *European Journal of Operation Research* 154: 492-514.

Brockett, P.L., Cooper, W.W, Golden, L.L., Rousseau, J.J and Y. Wang (2005). Financial intermediary versus production approach to efficiency of marketing distribution systems and organizational structure of insurance companies. *The Journal of Risk and Insurance*, 72, 393-412.

Carr, R.M (1997). *Strategic Choices, Firm Efficiency and Competitiveness in the US Life Insurance Industry*, PhD Dissertation, University of Pennsylvania.

Charnes, A., Cooper, W. W. and E. Rhodes (1978). Measuring the efficiency of decision making units. *European Journal of Operational Research*, 2, 429-444.

Chilingerian, J.A (1995). Evaluating physician efficiency in hospitals: A multivariate analysis of best practices. *European Journal of Operational Research*, 80, 548-574.

Coelli, T. J., Rao, P., O'Donnell, C. J. and G.E. Battese (2005). *An Introduction to Efficiency and Productivity Analysis*. US: Springer Science+Business Media, LLC.

Cooper, W.W., Seiford, L.M. and K. Tone (2007). *Data Envelopment Analysis: A Comprehensive Text with Models, Applications, References and DEA-Solver Software*. US: Springer Science+Business Media LLC.

Cummins, J. D. 1999. Efficiency in the US life insurance industry: Are insurers minimizing costs and maximizing revenues? In Cummins, J.D. and A.M. Santomero (eds), *Changes in the Life Insurance Industry: Efficiency, Technology and Risk Management*, Boston.

Cummins, J. D. and E. Grace (1994). Tax management and investment strategies of property-liability insurers. *Journal of Banking and Finance*, 18, 43-72.

Cummins, J.D. and M.A. Weiss (2000). Analyzing firm performance in the insurance industry using frontier efficiency methods. In Dionne, G (eds), Handbook of Insurance, Boston.

Cummins, J.D. and H. Zi (1997). *Measuring Cost Efficiency in the US Life Insurance Industry: Econometric and Mathematical Programming Approaches.* Working Paper, The Wharton Financial Institution Centre, University of Pennsylvania.

Diacon, S., Starkey, K., O'Brien, C.O. and C. Odindo (2002). *The Most Successful Insurers in the UK Long-term Market*. Discussion Paper, Centre for Risk & Insurance Studies, The University of Nottingham.

Doff, R (2007). *Risk Management for Insurers: Risk Controls, Economic Capital and Solvency II*. Spain: Risk Books, Incisive Financial Publishing Ltd.

Eckles, D.L (2003). *Economic Theory and Financial Issues in Insurance Markets*, PhD Dissertation, University of Pensylvania.

Eling, M. and M. Luhnen (2010). Efficiency in the international insurance industry: A cross-country comparison. *Journal Banking and Finance*, 34, 1497-1509.

Forbes, S.W (1987). Life insurance Financial Management Issues. *Journal of Risk and Insurance,* 54, 603-613

Frenz, T., Sridharan, M. and K. Iyer (2008). *Developing a Takaful Product in India*. Paper presented at Global Conference of Actuaries, India.

Gardner, L. and M. Grace (1993). X-efficiency in the U.S. life insurance industry. *Journal of Banking and Finance*, 17, 497-510.

Green, W (2003). *Econometric Analysis*. New Jersey: Prentice Hall Inc.

Greene, W.H. and D. Segal (2004). Profitability and efficiency in the US life insurance industry. *Journal of Productivity Analysis,* 21, 229-247.

Gujarati, D (2011). *Econometrics by Examples*. UK: Palgrave McMillan.

Hansmann, H (1985). The organization of insurance companies: Mutual versus stock. *Journal of Law, Economics & Organization*, 1, 125-153.

Hao, J.C (2008). Measuring cost efficiency in the Taiwan Life insurance industry. *International Journal of Management*, 25, 279-286.

Hao, J.C. and L.Y. Chou (2005). The estimation of efficiency for life insurance industry: The case in Taiwan. *Journal of Asian Economics*, 16, 847-860.

Hoff, A (2007). Second stage DEA: Comparison of approaches for modelling the DEA score. *European Journal of Operational Research,* 181, 425-435.

Hsiao, S.H. and S.H. Su (2006). An evaluation of investment performance and financial standing for life insurers in Taiwan. *The Journal of American Academy of Business*, 10, 278-284.

Kielholz, W (2000). The cost of capital for insurance companies. *The Geneva Paper on Risk and Insurance*, 25, 4-24.

Klumpes, P.J.M (2007). *Consolidations and Efficiency in The Major European Insurance Markets*. Working Paper, Imperial College.

Kwon, W.J (2007). Islamic principle and takaful insurance: Re-evaluation. *Journal of Insurance Regulation*,26, 53-81.

Lamm-Tennant, J (1989). Asset/liability management for the life insurer: Situation analysis and strategy formulation. *Journal of Risk and Insurance*, 56, 501-517

Leverty, J. T. and M.F. Grace (2010). The robustness of output measures in property-liability insurance efficiency studies. *Journal of Banking and Finance*, 34, 1510-1524.

Lee, H.L (1997). *The Insurance Industry in Malaysia*. Kuala Lumpur: Oxford University Press.

Masters, N. and S. Gutterman (2002). *Financial Management of A Life Insurer in A Fair Value World*. Paper presented at International Actuarial Congress, Mexico.

Mayers, D. and C.W. Smith (1994). Managerial discretion, regulation and stock insurer ownership structure. *Journal of Risk and Insurance*, 61, 638-655.

McDonald, J (2009). Using least squares and Tobit in second stage DEA efficiency analyses. *European Journal of Operational Research*, 197, 792-798.

McDonald, J.F. and R.A. Moffitt (1980). The uses of Tobit analysis. *The Review of Economics and Statistics*, 62, 318-321.

Meador, J. W., Ryan, Jr. H. E. and C.D. Schellhorn (1997). *Product Focus Versus Diversification: Estimates of X-Efficiency for the US Life Insurance Industry*. Working Paper. The Wharton Financial Institution Centre, University of Pennsylvania.

Moore, J.F. and A.M. Santomero (1999). The industry speaks: Results of the WFIC insurance survey. In Cummins, J.D. and A.M. Santomero (eds), *Changes in the Life Insurance Industry: Efficiency, Technology and Risk Management*, Boston.

Opppeiheimer, H. R. and G.C. Schlarbaum (1983). Investment policies of P-L insurers and pension plans: a lesson from Ben-Graham. *The Journal of Risk and Insurance*, 50, 611-630

Pasiouras, F (2008). International evidence on the impact of regulations and supervision on bank's technical efficiency: An application of two-stage data envelopment analysis. *Review Quantitative Finance and Accounting*, 30, 187-223.

Porter, M.E (1985). *Competitive Advantage: Creating and Sustaining Superior Performance*. New York: Free Press.

Ren, Y (2007). *Measuring Risk Management Performance of Insurers: A DEA Approach*. Paper presented at American Risk and Insurance Association (ARIA) Annual Meeting, Quebec City.

Ruggiero, J. and D.F. Vitaliano (1999). Assessing the efficiency of public schools using data envelopment analysis and frontier regression. *Contemporary Economic Policy*, 17, 321-331.

Smith, M (1982). The life insurance policy as an options package. *Journal of Risk and Insurance*, 49, 583-601.

Smith, M. L (1989). Investment returns and yields to holders of insurance. *Journal of Business*, 62, 81-98.

Smith, Jr., C. W (1993). Corporate risk management and the insurance industry. In Cummins, J.D. and J. Lamm-Tenant (eds), *Financial Management of Life Insurance Companies*, Boston.

Spiller, R (1972). Ownership and performance stock and mutual life insurance companies. *The Journal of Risk and Insurance*, 39, 17-25.

Thanassoulis (2001). *Introduction to the Theory and Application of Data Envelopment Analysis*. US: Springer Science+Business Media LLC.

The Commissioners of Insurance of Hong Kong (2007). *Insurance Intermediaries Quality Assurance Scheme*. Macao.

Tobin, J (1958). Estimation of relationships for limited dependent variables. *Econometrica*, 26, 24-36.

Tone, K (2001). Theory and methodology: A slack-based measure of efficiency in data envelopment analysis. *European Journal of Operational Research*, 130, 498-509.

Tuohy, M. R (1999). Challenges and issues for growth in the life industry. In Cummins, J.D. and A.M. Santomero (eds), *Changes in The Life Insurance Industry: Efficiency, Technology and Risk Management*, Boston.

Vela, S.A (1999). *Canadian Life and Health Insurance Productivity Evaluation Using Data Envelopment Analysis*, Masters Thesis, University of Toronto.

Wooldridge, J.M (2002). *Econometric Analysis with Cross Section and Panel Data*. Cambridge: MIT Press.

Wu, D., Yang, Z., Vela, S. and L. Liang (2007). Simultaneous analysis of production and investment performance of Canadian life and health insurance companies using data envelopment analysis. *Computers & Operational Research*, 34, 180-198.

Yao, S., Han, Z. and G. Feng (2007). On technical efficiency of china's insurance industry after WTO accession. *China Economic Review*, 18, 66-86.

Yang, Z (2006). A two-stage DEA model to evaluate the overall performance of Canadian life and health insurance companies. *Mathematical and Computer Modelling*, 43, 910-919.

Zurich Financial Services (2007). *Investment management – A creator of value in an insurance company*.

ASSESSING FINANCIAL EDUCATION AND FINANCIAL PLANNING PROGRAMME IN MALAYSIA

Ainulashikin Marzuki[1]
Zurina Shafii [2]

ABSTRACT

Financial planning programme is one of the efforts to educate the consumers about the importance of financial planning in every stage of life cycle. The proliferation and complexity of financial products and services in the market triggers the need for public to have certain level of financial literacy so that they are able to make wise financial decision making. The objective of this paper is to provide a comprehensive review on the financial literacy programmes conducted in Malaysia initiated by various players namely government agencies, related industries, communities and workplaces. This paper will be useful towards the policy on financial planning education in term of the availability of the programmes to the intended groups of population and the scope of the training programmes to be delivered.

Keyword: Islamic financial planning; financial planning programme; financial literacy

1. INTRODUCTION

Financial planning programme provides guidance for consumers to make wise decision and execute proper planning for every stage of life cycles. There are five planning cycles which starts from wealth creation or wealth generation (cash flow and liability management), wealth protection (risk management and takaful planning), wealth accumulation (Islamic investment planning), wealth purification (zakat and tax planning) and wealth distribution (Shariah retirement and estate planning). In order to have these planning in place, people need to have a certain level of financial literacy skill.

The needs for financial planning education has been significant with among others, the proliferation and increased complexity of financial products, deregulation of financial markets,

[1] Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia, Bandar Baru Nilai, 71800 Negeri Sembilan. Corresponding author: ainulashikin@usim.edu.my
[2] Faculty of Economics and Muamalat & Islamic Finance and Wealth Management Institute, Universiti Sains Islam Malaysia, Bandar Baru Nilai, 71800 Negeri Sembilan.

easier access to credit facility, innovation in the marketing of financial products and the independency of people (from government) to plan for their own retirement income.
The proliferation of various financial products in the market results in difficulties on behalf of customers in comprehending and differentiating each product. The complexity of financial products in the market including hybrid financial products such as investment-linked, private retirement scheme (PRS), fund of fund, real-estate investment trusts and derivatives further complicates financial decision making. Consumer needs to be financially literate in order for them to choose the best financial products that suit their need at their life cycle stage. Deregulation in financial market also has resulted in increased competition in the financial industry. One of the implications is financial institutions make access to their credit facilities easier in order to increase their market share.

Among the implication of financial illiteracy is the increased number of consumers declared bankrupt. Recently, it was reported that about 20,000 Malaysians were declared bankrupt in 2013, which is a 12 percent increase from last year, 2012 (Zahiid, 2014). This number is said close to double the numbers recorded in 2007. Statistics showed that those who defaulted on car loans continued to top the list of bankrupts followed by guarantors.

The rising number of household debt is also partly due to lack of ability in managing own finances among Malaysian. The easing of credit policy by the Malaysian government and the low level of interest rates these years have attracted people to borrow for buying property for own living and also for investment. However, consumers have taken this opportunity by maximising the loan eligibility to the maximum amount of loan and to the maximum loan tenure. This leaves consumers in fragile financial situation if there is an income or economic shock. There are also news reported that consumers are prone to become victims for illegal investment and financial scheme such as Swiss Cash scam.

Financial problems are key to depression, divorce, stress and low productivity among employees. Financial literacy and financial planning education is significant to ensure individuals are able to make informed financial decision and improve financial wellbeing. This article is organised as follows. Section 2 provides the background on financial literacy and financial planning programmes and the objectives it aims to achieve . Section 3 provides a comprehensive review on financial planning programmes conducted by government agencies, related industries, communities and workplaces. Section 4 concludes the paper.

2. BACKGROUND ON FINANCIAL PLANNING PROGRAMMES AND THE OBJECTIVES ITS AIM TO ACHIEVE (FINANCIAL LITERACY)

Financial literacy is a combination of awareness, knowledge, skill, attitude and behaviour necessary to make sound financial decisions and ultimately achieve individual financial wellbeing (Atkinson, 2011). Financial education is the process by which individuals improve their understanding of financial products and concepts; and through information, instruction and/or objective advice develop the skills and confidence to become more aware of financial risks and

opportunities, to make informed choices, to know where to go for help, and to take other effective actions to improve their financial well-being and protection (OECD, 2005). It is belief that financial education helps individual to improve financial literacy and financial decision.

The needs for financial education programme emerged when the Organisation for Economic Co-operation and Development (OECD) reported in 2003, that there were low levels of financial literacy in all OECD countries. In 2008, the OECD launched the International Gateway for Financial Education (IGFE) to serve as the first global clearing house on financial education. The main objective of this initiative is to raise awareness on the importance of financial education and to widely disseminate the research output, best practices and guidelines and to build a worldwide network of government stakeholders on financial education. Since then, several countries, mostly members of the OECD, have developed and implemented their own national strategies on financial literacy.

Malaysia for example has started its financial education through the central bank, Bank Negara Malaysia (BNM). BNM through its agency, AKPK or Credit Counselling and Debt Management Agency (CCDMA) has developed various types of financial education programme to assist people to manage their finances.

3. MALAYSIAN FINANCIAL LITERACY POLICY FRAMEWORK AND FINANCIAL PLANNING PROGRAMME IN MALAYSIA

In view of the importance of financial literacy and financial education, Malaysian government has taken numerous steps to ensure that financial literacy programme becomes one of the main agenda in building the national policy framework.

Malaysia has launched a ten year national policy called the New Economic Model (NEM) in 2009. This policy aims to transform the country into a high income-based country by the end of 2020. This aspiration is only achievable if the grass root of the problems is tackled well such as the issue of deficient level of financial literacy among Malaysian. Through the Economic Transformation Plan (ETP), Malaysia aims to improve the issue of low level of the Malaysian financial literacy. The low level of financial literacy hinders effective participation in economy and investment in the Malaysian capital market. Out of 16 chapters outlined in the ETP, one chapter (Chapter 7) is dedicated to Financial Services. In this chapter, BNM is responsible to lead the creation of a coordinated national financial literacy programme based on a public-private partnership. Financial education has been identified as an enabler to ensure financial services sector could contribute to propel Malaysia as high-income nation. Among the areas that are highlighted in the financial education programme are e-payment, insurance and pension.

Besides, BNM has launched the Second Financial Sector Blueprint which provides a ten year direction of financial system, from 2011 to 2020. One of the nine focus areas is "**Empowering consumers". In this area, BNM provides** a comprehensive and holistic approach towards consumer protection and education which will be pursued in collaboration with various

stakeholders. The aim is to promote a culture of mutual responsibility shared between consumers, who are empowered with the knowledge, skills and financial literacy to manage their personal wealth, and financial service providers, who uphold fair and responsible dealings in the conduct of their business.

The infrastructure to support greater consumer empowerment will be strengthened through establishing single consumer credit legislation, integrated dispute resolution system and an enhanced credit information framework. Measures to promote financial capability among consumers through the integration of financial curriculum at schools and targeted financial literacy programmes based on life events will be pursued". The related recommendations for this are to **"**Promote financial capability as an essential life skill from an early age through the integration of FE into the formal curriculum..." (Recommendation 5.2.1), "Adopt life events approach to the development and delivery of programmes & encourage greater collaboration among stakeholders.." (Recommendation 5.2.2) and finally "Strengthen the enabling infrastructure by providing comprehensive access to financial education info and introducing a mechanism to gauge the financial capability of consumers and enhancing the effectiveness of the implementation of financial education initiatives." (Recommendation 5.2.6)

Besides the national policy framework, there are various initiatives from the government, industry, community and employers to provide financial education programmes. Providing financial education programmes is believe to be the best option to increase financial literacy and improve financial wellbeing among Malaysian.

3.1 Government initiatives

Malaysian government has taken various initiatives to provide financial planning programme to the public across population. These programmes are principally financed, administered and delivered by government through relevant government departments and agencies such as Bank Negara Malaysia (BNM), Securities Commission (SC), Agensi Kaunseling dan Pengurusan Kredit (AKPK) (also known as Credit Counselling and Debt Management Agency (CCDMA)).

The Bank Negara Malaysia (BNM) has started to drive financial education initiatives at the national level. Among the initiatives are (1) setting strategic direction, – Integration into school curriculum; School adoption programme; school financial club; adult education via AKPK and (2) identification of target groups and priority areas – for examples, school children, youths, lower income households and teachers. In another programme, the BNM also collaborated with MOE in integrating Financial Education (FE) into the school curriculum from 2011 to 2013.

In addition, there are a number of investors' education programmes conducted by the Malaysian Securities Commission (SC). Among them are the "National Smart Investment Campaign" which was held between October 2012 and March 2013 which reached close to six million new and potential investors.

In 2006, AKPK was established as part of Bank Negara Malaysia's (BNM) Financial Sector Master Plan, a 10-year plan aimed at developing and boosting the country's financial sector. AKPK was put in place to provide financial counselling and advice, debt management and financial education to help Malaysians take control of their finances. Along with that, AKPK aims to help all individuals seeking services to not only take charge of their financial situation, but to further gain peace of mind from living life through the wise use of credit.

Employee Provident Fund (EPF) in September 2013 organised an International seminar entitled "Towards Securing a Comfortable Retirement". This seminar provided a platform to participants and employees to kick start their road map in retirement planning. Besides employees themselves, it was also recommended that 500,000 employers registered with EPF to lead the way to initiate an education programme at their workplace to enhance employees' know-how on financial management. The seminar which is part of the EPF's efforts to help its members to attain a sustainable retirement assembles international experts and policy makers to share their expertise and financial literacy best practices with the participants. Other initiatives led by the government are outlined in Table 1 below.

Table 1 List of financial education programme initiated by Malaysian government

	BNM	SC
Agency	AKPK (CCDMA)	SIDC
	Bankinginfo	Be Money Wise *This practical programme by the Securities Commission of Malaysia (SC) is conducted via seminars to assist parents, rural communities, blue collar workers & women to understand money management, increase familiarity with investing, create awareness of investors` rights and responsibilities and develop resistance to scams.*
	Insuranceinfo	Cash@campus *This programme by the Securities Commission of Malaysia (SC) especially tailor-made for university students to increase their capacity in managing savings & developing investment capability.*
	Duitsaku.com	Investor Clinics is a programme which takes the Securities Commission of Malaysia (SC) to the public to increase its reach in its investor education efforts and access to SC across the nation.
	Financial Consumer Education and Awareness	Investor education radio series A nationwide multilingual radio series to allow the Securities Commission of Malaysia (SC) to deliver key financial literacy messages frequently and consistently in a cost-effective manner.
	Financial and credit information This programme by the Credit Counselling and Debt Management Agency (AKPK) seeks to provide a	Investor website www.min.com.my The Malaysian Investor website provided by the Investor Education Department of Securities Industry Development Corporation (SIDC), the training and

variety of educational services designed to help individuals take control of their financial situation and use credit wisely. Consumer Education Programme to promote financial capability of consumers *The CEP was implemented with the launch of informational materials on banking and insurance products by the Central Bank of Malaysia/ Bank Negara Malaysia (BNM).*	development arm of the Securities Commission Malaysia, is dedicated toward educating Malaysian investors so they are protected from fraudulent transactions to the maximum extent possible and able to make choices as informed market participants. <u>Kids & Cash and Teens & Cash</u> This programme by the Securities Commission of Malaysia (SC) is an interactive & engaging programme aimed at inculcating young people with a money management culture & basic understanding of investment. <u>Money@work</u> With this programme by the Securities Commission of Malaysia (SC), employees of public & private organisations learn how to take control of their finances and plan for a safe and secure future. Train the trainer for Teachers (Kids and Cash and Teens and Cash module) The Securities Commission of Malaysia (SC) trains teachers for the Kids & Cash and Teens and Cash modules, to equip schools and teachers with the knowledge and skills to develop children financial literacy and discipline.

3.2 Financial planning industry initiatives

There are a handful of programmes organised by the industry players related to financial planning. Each of the programmes has differentiated objectives and deliverables depending on the nature of the industry the providers come from. This section will sample financial planning programmes by financial planning associations that also act as 'Self Regulating Organisations' in financial planning industry. Two financial planning associations operate in Malaysia; a home-grown association and an international association having it presence in Malaysia. Both offers ranges of financial planning certifications and trainings for conventional financial planning and Islamic financial planning stream. In addition, this section will cover the programmes conducted by IBFIM, the leader in the Islamic banking industry that offers training programmes for practitioners in industries related to financial planning, such as Islamic bankers that offers ranges of wealth management products and takaful operators that offers risk management solutions and investment-linked protection products. IBFIM offers certifications for Islamic finance practitioners for various tracks, namely, Islamic banking, Islamic wealth management, takaful, and Islamic capital market. In general, financial planning services in Malaysia were generally product-centred, where the emphasis was on marketing of specific products. A specialized approach to offering financial planning services that focused on the needs of clients are conducted certified financial planners. To provide certification and training to financial planners, Financial Planning Association of Malaysia (FPAM) was formed in 1999, comprising members from the fields of unit trusts, stock

broking, law and accounting, in addition to insurance. It was awarded the licence to conduct CFP (Certified Financial Planner) examinations by the CFP International Council in September 1999. FPAM and IBFIM introduced its inaugural Islamic Financial Planning (IFP) certification starting in 2008. As in year 2011, there are more than 300 financial planners being certified through Islamic Financial Planner (IFP) of IBFIM (Islamic Banking & Finance Institute Malaysia) and Shariah Registered Financial Planner (RFP) of Malaysian Financial Planning Council (MFPC).

A home grown financial planning association is Malaysian Financial Planning Council (MFPC) that was formed in 2002, with the primary aim to promote financial literacy as well as enhancing financial planner as profession in the country through professional education and training. Promoted by LIAM, NAMLIFA and MII, the MFPC awards the Registered Financial Planner (RFP) designation. Holders of FChFP and ChFC may apply for conversion to RFP. MFPC aims at becoming the national body responsible for unifying financial planning services and strengthening the accountability, conformance to laws, regulations and ethics in the profession. MFPC has its Islamic financial planning track referred to as Shariah Registered Financial Planner.

The module of the certification programmes offered by FPAM and MFPC aims at developing skills to perform besides improving the candidates' knowledge. Programs that have been introduced to participants or candidates are needed to develop the quality of practitioners in Islamic financial services. Clients will undoubtedly believe the practitioners who have the knowledge and skills. According *Financial Planner Associate Malaysia* website, there are six modules applied in their Islamic Financial Planner program as syllabus. The first Module: Fundamental of Islamic Financial Planner, Second Module: Risk Management & Takaful Planning, Third Module: Islamic Investment Planning, Fourth Module: *Zakat* & Tax Planning, Fifth module: Islamic Estate, Retirement and *Waqf* Planning, and Sixth Module: Plan Construction and Professional Responsibilities.

In the *Malaysian Financial Planning Council* website, there are seven modules in the Registered Financial Planning Program provided for their candidates. The modules are: Fundamentals of Financial Planning, Risk Management & Insurance Planning, Investment Planning, *Zakat* & Tax Planning, Estate Planning, Retirement Planning and Application in Financial Planning. Both programs are designed by financial planning providers for their candidates to meet customer's needs.

These programs offer their candidates with Islamic products in the module given. It can develop and create quality candidates who are able to provide good services to their client based on their skills and knowledge. Trustworthiness is a factor for customers when choosing wealth management providers. It is to define the relationship of attitude behaviour to the wealth management services that are provided by banks in China.

This shows that having a certified qualification would build client's trust to the Islamic Financial Planner (IFP) in their quality of services. The understanding and providing good services will build trustworthiness with the Islamic financial planners and their clients as well as the impact to the country's development.

In addition to the financial planning association, Islamic banking industry has been benefitting from the training programmes offered by Islamic Finance and Financial Institute in Malaysia (IBFIM) in four areas related Islamic banking and finance, takaful, Islamic wealth management and Islamic capital market. These areas are related to financial planning at various degrees. The trainings are conducted at the basic, intermediate and advance level for four pillars previously stated. At the basic level, Associate Qualification in Islamic Finance (AQIF) serves as the building blocks for Shariah knowledge grasps among the practitioners in Islamic banking industry with the delivery of Shariah modules at this level of training. Intermediate Qualification in Islamic Finance (IQIF) is the specialisation route for the four pillars; Islamic banking and finance, takaful, Islamic wealth management and Islamic capital market. At current, the Islamic banking pillar is the most subscribed programme. The top of IBFIM training apex is Advanced Qualification in Islamic Finance (AdvQIF). Islamic wealth management pillar is the only sector that produced qualifiers as in May 2014.

In addition to the financial planning associations and training institutes, financial planning companies involves with the provision of financial planning service to the individuals. Financial planning companies are regulated by Securities Commissions (SC) of Malaysia. The activities are regulated under Capital Market Service Act 2007. A Financial Planner is defined as a person who analyses the financial circumstances of another person and providing a plan to meet that other person's financial needs and objectives'. To be a representative of a financial planning company, the person must hold either a CFP, ChFC or Registered Financial Planner (RFP) qualification. A qualified person for financial planning can apply to be a Capital Market Services License holder. He must have a minimum 8 years relevant experience and have net worth of RM 50,000. An SC licensed person is also required to fulfil the Continuing Professional Education (CPE) requirements. 20 CPE points per year is required for license renewal. The Capital Market Service License is granted to the companies that deal with investment advisory. Nine companies are listed as license holders by SC as in June 2014. On the other hand, Bank Negara Malaysia (BNM) regulates the service providers that offer financial planning advisory of financial products, especially insurance and takaful. As at 30th September 2013, approved financial advisor companies stand at eighteen numbers of companies. Individual financial advisor representatives are positioned within these companies to advice on the clients of the companies.

3.3 Community

Several community groups has also participated in providing financial planning programme and most of the time it is a collaboration work with government departments or agencies or private sector. Recently, The Federation of Malaysian Consumers Association (FOMCA), the Association of Banks in Malaysia (ABM) and the Bank Negara Malaysia (BNM) jointly organised Financial Literacy Month of Malaysia in October 2013. This event was launched in 2011 and this year was its third event. The theme for the latest is "*Financial responsibility begins with me"*.

AKPK also offers financial education programme to community targeting those who are not in the education, employment or training sector. The organisation has been organising financial

education and financial planning programme with community and religious centres, consumer associations and non-government organisations (NGOs) to reach larger community base and work through the existing networks of training, education and outreach. For example AKPK collaborates with Jabatan Kemajuan Islam Malaysia (JAKIM) on implementing various financial awareness programme. Some of the programmes are implementing a Personal Financial Management (PFM) module into the compulsory pre-marriage courses, and (2) introducing sermons before Friday prayers on different topics centred on PFM and its relation to Islamic teachings.
Pengurusan Wang Ringgit Anda, POWER! programme is specially designed to equip young individuals and new borrowers by empowering them to manage their finances responsibly through well-informed borrowing decisions. The programme, a joint partnership between BNM, AKPK and the banking industry, will be offered and managed by AKPK (AKPK, 2014).

Alliance bank with BNM "In 2012, the Bank launched an exciting Financial Literacy programme for young students in schools called the Money & Math Challenge. The Challenge aimed to teach young Malaysian children at an early age about how money really works, and equip them with basic money-management skills and habits such as saving regularly and spending wisely. This is so that the children will grow up to become financially-responsible adults when they grow up to avoid the problems due to bad money-management habits that we see in many young adults today. The Bank also supports nation-wide initiatives for schools, organised by local government and non-government agencies. For example, the Bank participated in Bank Negara Malaysia's 2011 Annual Financial Education Workshops for Teachers and School Children - Alliance Bank employees in Johor Bahru organised a financial education workshop for 35 teachers at the Taman Molek branch (Alliance Bank, 2014).

Personal financial planning initiatives are also provided by Non-Governmental Organisations (NGOs). An example of not-for-profit-organisations' players is the Association of Islamic Financial and Wealth Management (AIFiWM). The association was registered in 21st March 2006 that aims to champion the cause of Islamic wealth management especially in the area of Islamic estate management. The establishment was initiated by seven industry players in the wealth management industry, namely Amanahraya Berhad, CIMB Trustee Berhad, Hijrah Strategic Advisory Group Sdn. Bhd , Amanah Hibah Sdn. Bhd, Persatuan Peguam-Peguam Muslim Malaysia, Persatuan Peguam Syarie Malaysia and Zar Perunding Pusaka Sdn. Bhd. AIFiWM also offer Islamic financial planning certification to would-be Islamic wealth managers. The certification of Perunding Kewangan Syariah (Shariah financial consultant) contains seven modules that covers the comprehensive scopes or components of financial planning.

3.4 Workplace

Workplace financial education commonly includes the programs such as retirement planning, benefit of education, financial management, credit management, college planning, investments, estate planning, insurance, major purchases (vehicle or house), and tax planning (Joo and Garman, 1998). Workplace financial education programs have been found to increase the participants' confidence in their investment decisions, change their attitudes in positive directions (Fletcher et

al., 1997), and improve their financial management, such as saving more money (Bernheim and Garrett, 2003).

Despite the overwhelming respond from both government and private sectors, employers hardly seen to provide exclusive financial planning programmes to their employees. Workplace financial education programmes is defined as financial education programmes initiated by employers for the benefit of their employees. These employers include businesses, government agencies and other workplaces. In Malaysia, there are not many known workplace financial education programme offered by private sectors. Malaysian government through its agency, National Institute of Public Administration (INTAN), a training institute of civil servants with cooperation from Malaysian Financial Planning Council (MFPC) as instructors provides workplace financial planning programme for government servants. This programme is Personal Finance Course for civil servants which is held in two series annually. This course begin in 2007 and attracts a maximum of 70 participants per annum. Currently, there are about 1.4 million civil servants in Malaysia and a small number of participants that have attended the course still quite disappointed and is a far away from the reasonable target.

AKPK also provides workplace financial education programme on demand with small service charge. Besides, AKPK also provides financial counselling and debt management programme. These programmes help employees to manage all aspects of their finances. Employees who are financially well informed are able to take greater personal responsibility for their financial decisions, are more proactive and confident in their financial decision making, experience less stress at home and at work and are more productive employees.

In addition, National Human Resource Centre (NHRC) Malaysia through its Human Resource Development Fund (HRDF) has taken initiative to encourage the development of workplace financial education by extending the current scheme (where employers are allowed to use the funds for training their employees in any skills including accounting and finance) to include financial education. Besides that, according to (Shafii et al., 2013) there are also financial planning programme offered to workplace provided by Hijrah Wealth Advisory, Al-Falah Consulting, Banyan Tree Money Academy, MFPC and AFIQ Training & Advisory.

4. CONCLUSIONS AND POLICY IMPLICATION

Despite the comprehensive financial planning programme provided by financial planning associations that provide certification and training to certified financial planners, other programmes concentrate on savings and debt management. Government, industry and community initiatives centred on financial literacy, debt and cash management and savings. These efforts may not adequately address the need for comprehensive financial planning needs from the introduction of private retirement schemes and complicated financial assets features. Private retirement schemes management, for example, requires considerably high level of knowledge on investment portfolio management. As for the workplace financial education, there is a lack of coordination by

the policymakers on the content and deliverables of the programmes that hampers the employee's ability to make informed financial decisions.

REFERENCES

AKPK. (2014). POWER! Retrieved 1 May, 2014, from www.akpk.org.my.

Alliance Bank. (2014). Giving back to the Community. Retrieved 24 May, 2014, from www.alliancebank.com.my.

Atkinson, A. (2011). *Measuring financial capability using a short survey instrument: Instruction manual*. Personal Finance Research Centre. University of Bristol.

Bernheim, B. D. and Garrett, D. M. (2003). The effects of financial education in the workplace: Evidence from a survey of households. *Journal of Public Economics, 87*(2003), 1487–1519.

Fletcher, C. N., Beebout, G. and Mendenhall, S. (1997). Developing and evaluating personal finance education at the worksite: A case study. In E. T. Garman, J. E. Grable & S.-h. Joo (Eds.), *Personal Finances and Work Productivity, 1*, pp. 54–59). Roanoke, V.A.

Joo, S.-h. and Garman, E. T. (1998). The potential effects of workplace financial education based on the relationship between personal financial wellness and worker job productivity. *Personal Finances and Worker Productivity, 2, 1*, 163–173.

OECD. (2005). Improving financial literacy Analysis of Issues and Policies, from www.oecd.org.

Shafii, Z., Marzuki, A. & Rosdi, A. (2013). *Comprehensive Workplace Financial Education Programme Development for Employees: Results from a Focus Group Study*. Paper presented at the 2nd International Management Conference, Trengganu, Malaysia.

Zahiid, S. J. (2014). Minister tells Parliament over 20,000 declared bankrupt last year, number rising, *Malay Mail Online*. Retrieved from www.themalaymailonline.com

SUMBER MAKLUMAT DAN KELEBIHAN PRODUK PEMBIAYAAN PERDAGANGAN DI INSTITUSI PERBANKAN ISLAM : KAJIAN KEPADA USAHAWAN MUSLIM LEMBAH KLANG

Norsazali Abdullah[1]
Mohd Daud Awang[2]
Amaludin Ab. Rahman[3]
Mohamed Hisham Dato Hj Yahya[4]

ABSTRAK

Kertas ini bertujuan untuk melihat dan menganalisa sumber maklumat dan kelebihan produk pembiayaan perdagangan yang diperolehi oleh usahawan Muslim di Lembah Klang dari institusi perbankan Islam. Kajian lepas dan analisa temu bual yang dijalankan oleh penyelidik telah mendapati bahawa para usahawan Muslim amat memerlukan maklumat yang tepat berkaitan pembiayaan perdagangan dari institusi perbankan Islam untuk memulakan dan mengembangkan perniagaan mereka. Beberapa sumber maklumat dan kelebihan produk pembiayaan perdagangan yang telah dikenalpasti oleh penyelidik melalui temu bual mendalam (*in-depth interview*) yang dijalankan terhadap 6 orang pegawai bank (informan) dan 8 orang usahawan Muslim (responden) yang telah memperolehi pembiayaan perdagangan dari empat institusi perbankan Islam yang menjadi lokasi kajian penyelidik telah memberikan kesan yang positif kepada usahawan Muslim. Justeru itu, kajian ini dilakukan bagi mendapatkan data yang tepat berkaitan sumber maklumat dan kelebihan produk pembiayaan demi kebaikan institusi perbankan Islam, para usahawan dan pihak kerajaan dalam memajukan bidang keusahawanan di Malaysia khususnya.

Kata kunci : sumber maklumat, kelebihan produk, usahawan Muslim, perbankan Islam.

1. PENDAHULUAN

[1] Pensyarah, Universiti Kuala Lumpur MIIT. Corresponding author: sazali@unikl.edu.my
[2,3,4] Pensyarah Kanan, Universiti Putra Malaysia, Serdang, Selangor.

Kajian berkaitan pembiayaan perdagangan yang ditawarkan oleh institusi perbankan Islam agak terbatas dan terhad khususnya dari aspek faktor penghalang dan rintangan usahawan dalam mendapatkan pembiayaan dari institusi perbankan Islam. Kebanyakan penulisan berkaitan institusi perbankan Islam lebih memfokuskan tentang sejarah, perbandingan sistem perbankan Islam (SPI) dan sistem perbankan konvensional (SPK), kajian terhadap produk SPI dan kaitannya dengan hukum Fiqh serta perkembangan SPI di Malaysia dan sebagainya. Secara umumnya, terdapat beberapa kertas kerja yang dibentangkan dalam seminar dan persidangan yang membincangkan tentang produk pembiayaan perdagangan, dana-dana Syariah yang ditawarkan dan bantuan kewangan kepada usahawan di Malaysia. Namun demikian, kajian-kajian lepas berkaitan sumber pembiayaan perdagangan dan kelebihan produk-produk tersebut amat kurang dan terbatas. Justeru itu, penyelidik cuba mengetengahkan isu dan masalah ini untuk diselesaikan melalui kajian yang dijalankan.

2. KAJIAN LEPAS

Menurut Ab. Aziz Yusof (2003:34), masalah utama yang dihadapi oleh para usahawan dalam memulakan perniagaan adalah masalah kewangan. Ini turut disokong oleh Hashim (1999:1-12), Boocock dan Wahab (1997:1-28), Haron dan Shanmugam (1994:88-95) yang menyatakan bahawa masalah utama yang dihadapi oleh usahawan adalah kekurangan dan kesukaran untuk mendapatkan modal bagi memulakan perniagaan. Menurut Abdul Halim Ismail (1992:262), keperluan kepada pembiayaan hutang sekurang-kurangnya melibatkan beberapa bidang antaranya pembiayaan perdagangan dalam negeri seperti pembelian dan jualan kredit serta pembiayaan perdagangan antarabangsa seperti pembelian barangan import dan eksport secara kredit.

Para usahawan perlu memikirkan dan berusaha untuk mendapatkan bantuan kewangan bagi memulakan perniagaan sebelum para usahawan itu memikirkan perancangan keseluruhan perniagaan (John, Wilkund and Shephard, D (2003:1307-1314). Malah menurut Mohd Sani (2003:20-21), terdapat banyak kes di mana peratusan peruntukan pinjaman yang sepatutnya diagihkan kepada IKS telah diberikan kepada firma-firma dan syarikat-syarikat besar. Satu kajian yang dilakukan oleh Kementerian Perdagangan Antarabangsa dan Industri atau *Ministry of International Trade Industry* (MITI) terhadap 15 hingga 992 buah pertubuhan industri kecil di seluruh Malaysia pada tahun 1990 telah mendapati 67% daripada mereka mengalami masalah kewangan sebagai masalah utama perniagaan (Mohd Asri, 1997:47). Menurut Ismail Mohd Salleh (1990:12-18), masalah usahawan dapat dibahagikan kepada empat kategori iaitu masalah teknologi yang rendah, kurang bantuan kewangan, pasaran yang terhad dan hubungan yang lemah dengan syarikat-syarikat yang besar.

Menurut Ab. Mumin (1999:380), infrastruktur dan produk kewangan Islam telah memainkan peranan yang sama pentingnya dengan infrastruktur fizikal. Infrastruktur kewangan yang cekap dan telus sangat penting dalam membina perniagaan. Sehubungan itu, pelbagai kontrak secara Islam telah diperkenalkan sama ada dari segi pembiayaan modal atau pembiayaan hutang.

Berdasarkan kajian yang dibuat di Malaysia oleh JBIC Institute (2007:85), tujuan utama para usahawan kecil mendapatkan pembiayaan dari pelbagai institusi kewangan adalah untuk tujuan-tujuan seperti 32% adalah untuk menampung kekurangan modal kerja, 30% adalah untuk membeli mesin dan peralatan, 16% adalah untuk membina bangunan dan membiayai hartanah, 11% adalah untuk menjalankan penyelidikan dan pembangunan, 5% adalah untuk pembiayaan semula dan 6% adalah untuk lain-lain keperluan.

Malcolm Harper (1984:25-32), menyatakan bahawa masalah yang sering dihadapi oleh para usahawan ialah kekurangan modal, kekurangan permintaan, mendapatkan bahan mentah, peralatan, undang-undang dan peraturan-peraturan kerajaan. Kajian oleh Mohd Noor Mohd Shariff dan Mohd Khairuddin Hashim (2005:39-56) memfokuskan kepada pembiayaan PKS yang sering menghadapi masalah kewangan dalam memulakan perniagaan mereka. Kajian ini mendapati bahawa untuk mengatasi masalah kekurangan modal serta kesukaran mendapat pembiayaan, pihak kerajaan di kebanyakan negara telah memperkenalkan pelbagai skim bantuan kewangan bagi membantu PKS antaranya dengan memperkenalkan pendanaan ekuiti dan pembiayaan hutang. Menurut Boocock dan Wahab (1997:1-28), bagi PKS di Malaysia, dua pertiga (2/3) dari jumlah pembiayaan hutang adalah bergantung kepada institusi perbankan.

Kajian Mori Kogid et.al (2009:185-198) memfokuskan tentang hubungan IKS di Sabah dengan kemudahan pembiayaan jangka pendek dan jangka panjang yang diperolehi dari institusi kewangan. Kajian berbentuk empirikal adalah untuk melihat dan menganalisa hubungan antara IKS dan kemudahan pembiayaan jangka pendek dan jangka panjang. Hasil kajian mendapati bahawa tidak wujud hubungan antara IKS dengan kemudahan pembiayaan kewangan sama ada jangka pendek atau jangka panjang dan dirumuskan bahawa mungkin kemudahan pembiayaan kewangan bukanlah faktor yang terpenting dalam pembangunan industri kecil dan sederhana tetapi ianya lebih kepada pemangkin pertumbuhan IKS di Sabah.

Kajian Hazmi Dahlan, Nurulasyikin Muda, Hanudin Amin dan Mohd Zulkifli Muhammad (2008:1-15) memfokuskan persepsi usahawan IKS terhadap pemilihan pembiayaan secara Islam dan tahap pengetahuan serta kepentingan pembiayaan secara Islam berbanding konvensional di Wilayah Persekutuan Labuan. Kajian mendapati walaupun pengetahuan tentang perbankan Islam agak tinggi iaitu 58%, namun 84% responden atau usahawan itu tidak mengetahui tentang produk *Bai Bithaman Ajil* (BBA). Justeru itu, 80.6% dari responden mengatakan bahawa perbankan Islam perlu mempromosikan pembiayaan IKS secara lebih aktif agar segala produk pembiayaan yang ditawarkan diketahui umum. Selain itu, kajian juga mendapati bahawa 71% responden tidak mengambil pembiayaan dari perbankan Islam dengan 28.4% berpendapat mereka sukar untuk mendapatkan pembiayaan dan 25% responden pula mengatakan perbankan Islam terlalu mahal berbanding konvensional walaupun mereka menyedari tentang kepentingan pembiayaan secara Islam.

Kajian Habshah Bakar et.al (2002:5-15) telah membincangkan tentang pembiayaan bank kepada 31 usahawan wanita selaku responden kajiannya. Kajian mendapati bahawa 38.8% responden memiliki syarikat sendirian berhad kerana ianya akan memudahkan mereka memperolehi pembiayaan bank bagi mengembangkan perniagaan. Berkaitan modal perniagaan, kajian mendapati 54.3% responden mendapatkan modal dari keluarga terdekat. Mereka tidak meletakkan institusi perbankan sebagai sumber mendapatkan modal untuk berniaga. Kajian juga mendapati walaupun ramai daripada responden memulakan perniagaan dengan modal sendiri, namun 67.8% menyatakan bahawa mereka tidak menghadapi sebarang masalah untuk mendapatkan pembiayaan bagi memulakan perniagaan. Selain itu, 93.5% responden mengetahui tentang pelbagai skim dan kemudahan yang disediakan oleh pihak kerajaan dan institusi perbankan untuk IKS, namun hanya 22.6% sahaja yang mendapatkan pembiayaan dari agensi kewangan dan institusi perbankan.

Kajian Faridah Shahadan dan Madeline Berma (2004:37-65) berkaitan kepentingan pembiayaan IKS di Malaysia dari aspek sumber pembiayaan yang terbahagi kepada dua sumber kewangan iaitu sumber tidak formal dan sumber kewangan formal. Kajian ini membuat perbandingan antara dua sumber kewangan dan mendapati bahawa sumber kewangan tidak formal lebih kecil nilainya serta tempohnya lebih pendek berbanding sumber kewangan formal yang lebih besar nilainya dan tempoh pinjamannya juga lebih panjang. Sumber kewangan tidak formal seperti saudara mara, kawan dan peminjam wang. Manakala sumber kewangan formal pula ialah institusi perbankan dan syarikat kewangan berdaftar. Dalam kajian ini, kebanyakan usahawan tidak menghadapi masalah kewangan untuk memulakan perniagaan. Masalah modal hanya timbul kepada usahawan yang memerlukan modal permulaan yang besar untuk memulakan perniagaan mereka. Kajian mendapati bahawa kaum bumiputera merupakan golongan yang tinggi peratusannya menghadapi masalah kewangan atau modal permulaan berbanding dengan kaum lain.

Noor Azman Ali dan Fauziah Mahat (2009:1-14) telah menjalankan kajian terhadap keupayaan dan peranan pihak kerajaan serta institusi perbankan di Malaysia dalam melahirkan usahawan IKS di negara ini. Kajiannya telah menghuraikan tentang sumber pembiayaan IKS seperti institusi kewangan merangkumi agensi kerajaan, institusi perbankan, institusi kewangan pembangunan, syarikat pemajakan dan pemfaktoran, syarikat modal usaha niaga yang menyediakan pembiayaan modal dan ekuiti. Kajian juga menjelaskan bahawa jumlah pembiayaan terkumpul institusi perbankan dan institusi kewangan pembangunan pada 2007 berjumlah RM128 bilion dan ianya telah disalurkan kepada 625,167 usahawan IKS di mana institusi perbankan adalah penyedia utama pembiayaan IKS dengan RM114.2 bilion (89%) dari jumlah pembiayaan terkumpul yang disediakan oleh kedua-dua institusi tersebut. Selain itu, terdapat 12 buah kementerian dan 40 buah agensi kerajaan terlibat sepenuhnya dalam pembangunan IKS. Kajian juga menyatakan bahawa terdapat empat jenis pembiayaan perdagangan iaitu pembiayaan melalui hutang, pembiayaan ekuiti, kredit perdagangan dan pajakan peralatan.

3. METODOLOGI KAJIAN

Kajian ini dijalankan dengan menggunakan empat metod iaitu pertama, metod pengumpulan data, kedua, metod pemilihan sampel kajian, ketiga, instrumen kajian yang digunakan dan keempat ialah metod penganalisaan data. Kesemua metod ini sangat penting kepada penyelidik dalam menjalankan sesi temu bual mendalam (*in-depth interview*) kepada enam (6) orang pegawai bank selaku informan dan lapan (8) orang usahawan Muslim selaku responden khususnya bagi mendapatkan data-data yang tepat berkaitan sumber maklumat dan kelebihan produk pembiayaan perdagangan yang diperolehi dari institusi perbankan Islam. Data temu bual ini dianalisa dengan menggunakan perisian atau *software Nvivo* untuk mendapatkan semua tema kajian dan menjawab objektif kajian penyelidik.

4. DAPATAN KAJIAN

4.1 Sumber Maklumat Produk Pembiayaan Perdagangan

Maklumat dalam jadual 1 menunjukkan betapa pentingnya sumber maklumat terhadap produk pembiayaan perdagangan kepada usahawan yang memerlukan pembiayaan. Sumber atau bagaimana maklumat itu diperolehi adalah bergantung kepada promosi dan usaha oleh institusi perbankan Islam dalam memasarkan produk pembiayaannya kepada pelanggan.

Jadual 1 : Sumber Maklumat Produk Pembiayaan Perdagangan

ITEM	KEKERAPAN	PERATUS (%)
Promosi pihak bank		
i. Media elektronik	3	15
ii. Pameran	2	10
iii. Menganjurkan karnival	2	10
iv. Iklan	2	10
v. Promosi di tempat awam	1	5
Vi.Promosi usahawan berjaya	1	5
Kenalan	3	15
Promosi kerajaan	1	5
Promosi pemaju	1	5

Pergi sendiri ke bank	2	10
Konsultan atau agen	2	10
JUMLAH	20	100.00

Berdasarkan hasil temu bual yang dijalankan kepada pegawai bank (informan) dan usahawan (responden), mereka telah menyatakan bahawa maklumat berkaitan produk pembiayaan perdagangan ini diperolehi dengan pelbagai cara antaranya ialah promosi oleh pihak bank melalui media elektronik dan kenalan (15%), pameran, penganjuran karnival, iklan, pergi sendiri ke bank dan melalui konsultan atau agen (10%). Manakala sumber maklumat melalui promosi di tempat awam, promosi dari kalangan usahawan yang berjaya, promosi yang dibuat oleh kerajaan dan pemaju (5%).

Promosi pihak bank sering dilakukan untuk memperkenalkan atau mempromosikan apa juga produk-produk baru bagi pembiayaan perdagangan. Perkara ini telah dinyatakan oleh pihak bank sendiri seperti katanya*, "Kita juga ada masuk TV melalui wawancara, melalui radio, kita masuk BFM atau Business Financing Malaysia"."Di radio pun ada seperti Ikim.fm, Selangor fm, Radio Kelantan"*. Selain melalui media elektronik, promosi pihak bank juga dilakukan melalui pameran, seperti kata pegawai bank ini, *"Kita juga ada masuk dalam pameran-pameran yang dibuat oleh kerajaan dan ada juga kita buat pameran sendiri, ada pameran-pameran kita pergi, MARA juga bagi kita peluang mempromosikan produk kita dan macam-macam lagi yang kita buat".*

Selain itu, bank juga telah menganjurkan karnival mengikut zon dan mempromosikan melalui media cetak iaitu surat khabar. *"Kami ada masukkan iklan di dalam akhbar seperti Berita Harian sebulan sekali".* Terdapat juga promosi yang dijalankan dengan kerjasama usahawan-usahawan yang berjaya dalam perniagaannya untuk mempromosikan produk pembiayaan perdagangan yang diperolehinya kepada pelanggan-pelanggan yang baru. Kajian yang telah dijalankan oleh Hazmi Dahlan et.al (2007:1-15) mendapati bahawa 61% usahawan IKS mengetahui adanya pembiayaan bank kepada IKS dan 80.6% responden (usahawan IKS) berpendapat bahawa institusi perbankan Islam perlu mempromosikan pembiayaan perdagangan yang ditawarkan kepada IKS dengan lebih agresif lagi agar produk pembiayaan perdagangan yang ditawarkan oleh institusi perbankan Islam dapat diketahui oleh semua usahawan IKS.

4.2 Kelebihan Produk Pembiayaan Perdagangan

Institusi perbankan Islam telah menawarkan berbagai produk pembiayaan perniagaan untuk memenuhi keperluan dan kehendak usahawan dalam memajukan perniagaan mereka. Terdapat

berbagai jenis produk pembiayaan perdagangan yang ada di empat (4) institusi perbankan Islam yang menjadi lokasi kajian penyelidik. Antara jenis produk pembiayaan perdagangan yang ditawarkan oleh institusi perbankan Islam dan ianya telah menjadi pilihan usahawan berdasarkan keperluan mereka dalam memperkembangkan perniagaan adalah seperti yang ditunjukkan dalam jadual 2.

Jadual 2 : Jenis Dan Kelebihan Produk Pembiayaan

ITEM		KEKERAPAN	PERATUS (%)
Penawaran kepelbagaian produk pembiayaan			
i.	Skim Pembiayaan Ekonomi Desa (SPED)	6	18
ii.	Small Enterprise Financing Fund (SEFF)	1	2.9
iii.	Trade Working Capital Financing (TWCF)	1	2.9
iv.	Skim BBA (Bai' Bithaman Ajil)	1	2.9
v.	Skim i-Cash	1	2.9
vi.	Skim Contract Financing	1	2.9
vii.	Skop Patuh Syariah	1	2.9
viii.	Tabung Usahawan Siswazah (TUS)	2	5.9
ix.	Pembiayaan Pembelian Saham	1	2.9
x.	Produk Pembiayaan Peribadi (Koperasi)	1	2.9
xi.	Produk Ar-Rahnu	1	2.9
xii.	Produk Asset Consistion	1	2.9
xiii.	Produk ATOM (Kedai Runcit)	1	2.9
xiv.	Produk Tukar (Kedai Runcit)	1	2.9
xv.	Modal Kerja	1	2.9
xvi.	Pembiayaan Mikro	1	2.9
xvii.	Pembiayaan Mikro IKS	1	2.9
Pengurusan pemberian pembiayaan yang mudah		1	2.9
Pinjaman pembiayaan tanpa memerlukan cagaran		2	5.9
Rebet		2	5.9
Memberi keuntungan yang tinggi kepada usahawan		1	2.9

Prinsip pembiayaan pembayaran yang fleksibel	1	2.9
Proses pembayaran yang cepat	1	2.9
Syarat pemohonan yang tidak ketat kepada usahawan	1	2.9
Keistimewaan dan ciri-ciri produk	2	5.9
JUMLAH	34	100.00

Dalam kepelbagaian produk pembiayaan perdagangan yang ditawarkan oleh institusi perbankan Islam, produk yang paling tinggi permintaannya dari kalangan usahawan ialah Skim Pembiayaan Ekonomi Desa (SPED) sebanyak 18% dan juga Tabung Usahawan Siswazah (TUS) sebanyak 5.9%. Manakala bagi produk-produk pembiayaan yang lainnya masing-masing hanya 2.9%. Apakah keistimewaan yang ditawarkan dalam produk SPED sehingga ianya menjadi pilihan usahawan? Temu bual bersama responden (usahawan) telah cuba menjelaskan tentang produk SPED seperti katanya, *"saya mohon dengan bank, produk Skim Pembiayaan Ekonomi Desa (SPED). Saya dapat RM50,000 khusus untuk mengubah suai dan membesarkan premis perniagaan".* Responden lain juga memberikan pandangannya tentang SPED antaranya, *"Pertama kali dapat SPED ni, bank bagi saya RM190K. Untuk kali kedua ni, mungkin pihak bank nak bagi RM250K, harap-harap dapat lah".*

Salah seorang responden yang menjalankan perniagaan penternakan di Sungai Besar, Sabak Bernam juga memberikan pandangannya, *"Bank ini membantu saya melalui pembiayaan SPED, yang ada 30% rebet, saya pun ambil pembiayaan ini. Saya yakin saya boleh bayar balik sebab saya nampak dalam perancangan itu".* Begitu juga dengan pandangan usahawan perkhidmatan dan peralatan perkahwinan yang menyatakan,*"Saya dapat pembiayaan SME Bank, produk SPED (Skim Pembiayaan Ekonomi Desa), tapi bank tak (tidak) bagi cash (tunai), sebab saya minta untuk membeli barang-barang pelamin, baju-baju, sebab pelanggan nak (hendak) macam-macam".*

Skim SPED ini ditawarkan kepada pengusaha bumiputera luar bandar dalam semua bidang ekonomi yang berdaya maju dan dibenarkan undang-undang. Ciri-ciri produk pembiayaan ini, antaranya :

- Skim ini menggunakan konsep Syariah Ijarah Thummal Bai' dan juga Bai' Bithaman Ajil, Bai' Murabahah, Bai' al-Dayn).
- Tempoh pembayaran balik antara 3-5 tahun bagi pembiayaan RM250,000 ke bawah dan 5-7 tahun bagi pembiayaan yang melebihi RM250,000 hingga RM500,000 tidak termasuk tempoh pernafasan maksima selama 6 bulan bagi aktiviti atau industri pembuatan, perkhidmatan dan pelancongan desa manaka 10 bulan untuk aktiviti atau industri pertanian dan penternakan.

- Tidak membiayai modal kerja seperti membiayai pra operasi, kos tenaga kerja, bayaran utiliti, yuran guaman, kos pemprosesan pendaftaran syarikat, bayaran lesen berkaitan dengan perusahaan yang dijalankan.

Kelayakan bagi permohonan produk pembiayaan perdagangan SPED ini ialah :

- Perniagaan atau perusahaan dimiliki sepenuhnya oleh bumiputera.
- Keutamaan diberikan kepada pemohon yang mempunyai tapak perusahaan di luar bandar.
- Hanya perusahaan dan perniagaan yang bertaraf mikro dan kecil (PKS).
- Had umur peminjam tidak melebihi 60 tahun.[1]

Bagi produk pembiayaan Tabung Usahawan Siswazah (TUS) pula, responden memberikan pandangannya, *"Produk pembiayaan yang saya perolehi dari bank ialah Tabung Usahawan Siswazah atau TUS untuk memulakan perniagaan. Bank bagi RM50,000 untuk tujuan penyewaan bangunan dan membesarkan perniagaan".* Ini menunjukkan bahawa institusi perbankan Islam juga telah memberikan kelonggaran dalam penawaran produk pembiayaan perdagangan TUS ini kerana pihak usahawan atau pemohon tidak perlu menyediakan cagaran bagi mendapatkan pembiayaan perdagangan TUS ini. Sekiranya usahawan yang mendapat pembiayaan SPED dan TUS ini menjalankan perniagaannya secara beretika dan bersunguh-sungguh, maka mereka akan memperolehi kejayaan dalam perniagaannya.

Skim TUS – Tabung Usahawan Siswazah.

Kemudahan kewangan khusus untuk graduan. Pihak kerajaan telah menyalurkan peruntukan tambahan sebanyak RM25 juta di dalam Rancangan Malaysia ke-9 untuk Tabung Usahawan Siswazah (TUS). Peruntukan ini untuk menggalakkan lebih ramai lepasan universiti menceburkan diri dalam bidang keusahawanan. SME Bank telah berjaya melahirkan para usahawan siswazah yang berjaya menambahkan pendapatan diri melalui perniagaan dan meningkatkan pertumbuhan negara. Dana ini merupakan pembiayaan mudah bagi memulakan perniagaan dalam sektor perkhidmatan dan perindustrian kepada para graduan yang mempunyai perniagaan sedia ada.

Ciri – Ciri Tabung Usahawan Siswazah (TUS) ialah :

- Pembiayaan dari RM20,000 hingga RM500,000
- Pembiayaan sehingga RM750,000 boleh diberi bagi pengambilan-alihan syarikat sahaja *(untuk pembiayaan aset tetap sahaja)*
- Kadar keuntungan (tokokan) 4% setahun baki bulanan

[1] http://www.bankrakyat.com.my/web/guest/pembiayaanmikro, di akses pada 30hb Okt 2013.

Kelayakan bagi permohonan produk pembiayaan perdagangan TUS ini ialah :

- Terbuka kepada warganegara Malaysia
- Sekurang-kurangnya memiliki Diploma yang diiktiraf MQA
- Menamatkan pengajian tidak melebihi 15 tahun
- Berumur tidak melebihi 40 tahun
- Tiada Penjamin diperlukan.

Tempoh maksimum pembiayaan TUS diberikan sehingga 10 tahun atau 20 tahun (untuk bangunan/premis perniagaan sahaja). Tempoh penangguhan juga boleh dipertimbangkan sehingga 48 bulan. Pembiayaan maksimum boleh diberikan sehingga 95% daripada jumlah kos projek bagi pembiayaan kurang dari RM100,000 dan 90% daripada jumlah kos projek bagi pembiayaan melebihi RM100,000. Firma perseorangan, perkongsian dan syarikat Sendirian Berhad boleh memohon TUS. Semua jenis perniagaan adalah dibenarkan kecuali pelaburan hartanah dan industri *Primary Agriculture*.[1]

5. KESIMPULAN

Kesimpulannya, kesemua produk pembiayaan perniagaan yang ditawarkan oleh keempat-empat bank (BIMB, BMMB, Bank Rakyat dan SME Bank) ini bertujuan untuk membantu para usahawan dalam memperkembangkan perniagaan mereka. Kepelbagaian produk pembiayaan yang ditawarkan juga telah memberikan satu kemudahan kepada para usahawan untuk menyesuaikan pembiayaan perdagangan yang diperlukan dengan bidang perniagaan yang mereka jalankan. Produk pembiayaan perdagangan yang ditawarkan itu mempunyai konsep, ciri-ciri, syarat permohonan, kelebihan dan keistimewaannya yang tersendiri dan menjadi daya penarik kepada para usahawan dalam membuat pemilihan terhadap produk pembiayaan perdagangan mereka.

Adalah menjadi satu tanggungjawab dan peranan yang cukup besar kepada institusi perbankan Islam untuk mempromosikan, memasarkan, memberikan penjelasan serta penerangan terperinci terhadap produk-produk pembiayaan perdagangan yang ditawarkan kepada pelanggan khususnya para usahawan. Pihak institusi perbankan Islam seharusnya mempromosikan produk-produk pembiayaan perdagangan ini secara agresif dengan menggunakan pelbagai media agar manfaatnya dapat dirasai oleh para usahawan dalam memajukan bidang keusahawanan Islam di Malaysia.

[1] http://www.smebank.com.my/ms/pembiayaan-pks/program-sme/tabung-usahawan-siswazah/ di akses pada 31hb Mei 2014.

RUJUKAN

Ab. Mumin Ab. Ghani (1999). *Sistem Kewangan Islam dan pelaksanaannya di Malaysia*. Kuala Lumpur: Jabatan Kemajuan Islam Malaysia.

Abd Aziz Yusof (2003). *Prinsip Keusahawanan*. Petaling Jaya Selangor : Prentice Hall.

Abdul Halim Ismail (1992). *Bank Islam Malaysia Berhad: Principles and Operations.* Dalam Sheikh Ghazali Sheikh Abod et.al (Ed.), *An Introduction to Islamic Finance*. Kuala Lumpur: Quill Publishers.

Boocock, J.G & Wahab, I.A (1997). The Financing Practices and Problems of Growth Oriented Small Firms in Malaysia. *Journal of International Business & Entrepreneurship*, 5(2).

Faridah Shahadan dan Madeline Berma (2004). Pembiayaan Industri Kecil Di Malaysia. Dalam Rahmah Ismail (Ed.), *Industri Kecil Malaysia Isu Pembiayaan Teknologi dan Pemasaran*. Bangi: Penerbit UKM.

Habshah Bakar, Rosli Mahmood & Asiah Bidin (2002). Pembiayaan Bank Kepada Usahawan-usahawan Wanita Di Malaysia, *Persidangan Nasional Isu-isu Kewangan IKS*, UUM pada 19-20 Oktober 2002, Langkawi Kedah.

Hashim, Mohd Khairuddin (1999). *A Study On The Weakness of SMEs In The Manufacturing Sector*. TITISAN, hh.1-12; Boocock, J.G. & Wahab (1997), The Financing Practices and Problems of Growth Oriented Small Firms in Malaysia. *Journal of International Business & Entrepreneurship*.5(2), hh.1-28, Lihat juga Haron, S. & Shanmugam, B. (1994). Lending to Small Business in Malaysia. *Journal of Small Business Management.* 32(4), hh.88-95.

Hazmi Dahlan, Nurulasyikin Muda, Hanudin Amin & Mohd Zulkifli Muhammad (2008). Persepsi Pengusaha Industri Kecil Dan Sederhana (IKS) Terhadap Pemilihan Pembiayaan Secara Islam: Satu Kajian Kes Di Wilayah Persekutuan Labuan. *Proceedings International Conference on Entrepreneurship (ICE 2008) Langkawi Kedah*. Anjuran Kolej Universiti Islam Antarabangsa Selangor (KUIS).

Ismail Md Salleh (1990). *Small and Medium Scale Industrialization : Problems and Prospects.*Kuala Lumpur: Institute of Strategic and International Studies (ISIS).

JBIC Institute (2007). *Report on Infrastructure Financing and Bond Issuance in Malaysia*. h.85.

John, Wilkund and Shephard,D (2003). Knowledge Based Resources, Entrepreneurial Orientation And The Performance Of Small And Medium Sized Business. *Strategic Management*, vol.24, 13,1307-1314.

Malcolm Harper (1984). *Small Business in The Third World : Guidelines for Practical Assistance.* New York: John Wiley & Sons.

Mohd Sani Mohd Said. (2003). Pelbagaikan Eksport Negara : IKS Main Peranan Besar. *Dewan Ekonomi.* Januari 2003,20-21.

Mohd Asri Haji Abdullah (1997). *Industri Kecil Dan Sederhana di Malaysia : Tinjauan Terhadap Perkembangan Program Bantuan*. Shah Alam: Penerbit Fajar Bakti.

Mohd Noor Mohd Shariff & Mohd Khairuddin Hashim (2005). Modal Teroka: Alternatif Pembiayaan Bagi Perniagaan Kecil Dan Sederhana (PKS). Dalam Isu-isu Kewangan Industri Kecil dan Sederhana (IKS), cet.1, Penerbit UUM.

Mori Kogid, Kasim Mansur, Dullah Mulok & Wilson Akmadia (2009). Industri Kecil dan Sederhana (IKS) Dan Pinjaman Kewangan di Sabah: Satu Analisa Empirikal. *Prosiding Persidangan Kebangsaan Ekonomi Malaysia (PERKEM IV).* Kuantan Pahang, 2-4 Jun 2009, Jil.2.

Noor Azman Ali, Fauziah Mahat (2009). Keupayaan Institusi Pembiayaan Industri Sederhana, Kecil dan Mikro Dalam Melahirkan dan Memperkasakan Usahawan Kecil Yang Berdaya Maju : Ke arah Satu Pendekatan Baru Yang Lebih Berkesan. *Kongres Ekonomi Islam* ke3, Dewan Merdeka PWTC Kuala Lumpur, 12-15 Jan 2009.

INDUSTRY MOMENTUM STRATEGY IN MALAYSIAN STOCK MARKET

Siti Masitah Elias[1]
Nur Nabilah Hanis Nur Azmi[2]
Karmila Hanim Kamil[3]

ABSTRACT

Momentum strategy is applied in the stock market by buying past winners and selling past losers. In this study, the profitability of industry momentum strategy will be explored for Malaysian stock market. The motivation of this study arises from the notion that industry momentum is more significant than individual stocks momentum strategy. In this study, we use monthly data of 24 Malaysian industry sector indices from January 2008 till December 2012. The results indicate that industry momentum strategy is profitable in Malaysia market and most of the momentum strategy is derived from long position of winners while the losers do not contribute to the profitability of momentum strategy. Also, this study shows that systematic risk, measured by beta, cannot explain the industry momentum strategy in Malaysia. This evidence may suggest that Malaysian market is not weak form efficient as past prices could be utilised by investors to reap abnormal profit following industry momentum strategy.

Keywords: *Industry momentum strategy, Market efficiency*

1.0 INTRODUCTION

Momentum strategy is constructed to exploit the ongoing stock price movement by buying hot stock and selling cold stock. Momentum investors believe that stocks which have done well in the past will continuously perform in the future and vice versa for stocks which perform poorly. There are two possible explanations for the momentum effect and the first one is stock prices under react to information. Chan, Jegadeesh and Lakonishok (1996) find stock prices react gradually to earning announcements. Secondly, investors tend to follow herding behaviour by replicating the action of other investors. Lakonishok, Shleifer and Vishny (1992) document an evidence of herding behaviour for investors like pension fund managers.

If past stock price could give indication of how stocks will perform in the future, it will violate the traditional finance theory which is the Efficient Market Hypothesis. An efficient market is a market in which the securities prices are accurately and instantaneously reflect all possible information. Thus, it is difficult for investors to make an abnormal profit due to the assumption that efficient market is consist of many rational and well-informed investors, who are actively trading in the

[1 ,2,3] Financial Mathematics Program, Faculty of Science and Technology, Universiti Sains Islam Malaysia (USIM).
Corresponding author: masitah@usim.edu.my

market. When the securities prices fully reflect all the information, it is hard to outperform the market by pricking undervalued stocks. The reason that the prices behave in a random manner on an efficient market implies that investors in a highly competitive market will instantaneously digest any new information.

In any investment strategy, the main purpose is to receive a good return which is comparable with the risk taken. Thus, the study is important and could be useful to investors to make an investment decision by examining the profitability of industry momentum strategy in Malaysian stock market. Furthermore, Moskowitz and Grinblatt (1999) find evidence that industry momentum strategy is more profitable than individual stock momentum strategy. Husni (2006) studied the profitability of individual stock momentum strategy in Malaysian market. In this study, focused are given on industry momentum strategy. Therefore, the objectives of this paper are threefold, which are to construct industry's index portfolio by buying past winners and selling past losers for Malaysian stock market, to investigate the raw return that will be generated from industry momentum strategies and to examine whether systematic risk can explain the profitability of industry momentum strategy in Malaysia stock market.

2.0 LITERATURE REVIEW

2.1 Return predictability and market efficiency

Evidence on predictability of return is among the most controversial issue that has being debated since it violates the traditional finance theory, the Efficient Market Hypothesis(EMH) (Fama, 1990). Generally, EMH is related with the random walk theory which state that changes in stock prices happen randomly and can be defined as a market in which the securities prices always fully reflect the possible information. This theory entails that it is impossible for an investment strategy that based entirely on information to make an abnormal return.Hence, according to Shleifer (2000), in a market where EMH is applied; the best investment strategy is to passively buy and hold the market portfolio.

Weak form market efficiency indicates that past price would not be useful to help investors to earn abnormal profit. According to Shen, Szakmary and Sharma (2005), evidence against weak form market efficiency could be proven by examining the profitability of momentum strategy and contrarian strategy. The strategies are following price continuation and price reversal respectively. Using weekly returns of NYSE stocks, Conrad and Kaul (1989) and Lo and MacKinlay (1988) find positive serial correlation over short horizon which suggested that momentum investing is profitable for US stock market and thus suggesting market is not weak form efficient.

On top of that, Jegadeesh and Titman (1993) found a momentum effect in which good or bad current performance of stocks continue over time in an investigation of intermediate-horizon stock price behavior using three to twelve months holding period. They conclude that portfolios of the good performing stocks in the current past appear to outperform other stocks. Thus, there is an evidence of short-to-intermediate-horizon price momentum. However, Fama and French (1988) and Poterba and Summers (1988) found a reversal effect because of the negative serial correlation

when investigated the predictability of long-horizon portfolio returns and their result is same as DeBondt and Thaler (1985) which shed evidence on profitability of contrarian investement.

2.2 Empirical Evidence on Momentum Strategy.

Momentum strategy is based on the assumption that market is underreact to information and found out that momentum strategy give contradicting evidence from weak form market efficiency (Husni, 2006). Recently, several researches have documented that stock returns exhibit momentum effect where past winners will continue to perform well and past losers will continue to perform badly at medium-term horizons ranging from three to twelve months. Jagadeesh and Titman (1993) investigated profitability of momentum strategy using NYSE stocks data from 1965 to 1989. Their findings showed a strategy that buys past six-month winnersand sells past six-month losers earns one percent per month over the six months.

Generally, evidence for momentum profits is weaker in Asian markets. Except for Japan and Korea, Chui et al. (2000) find evidence for momentum profits in these markets. Hameed and Kusnadi (2002)find no evidence of momentum profits in the six Pacific Basin countries' stock market. However, many researchers have found that momentum strategies work in international stock markets even though the findings were not uniform. Rouwenhorst (1998) discovers that European and U.S. momentum strategies have a common component that may drive the profitability of momentum strategies in both the U.S. and international markets. Based on these findings, Schiereck et al. (1999) document an intermediate horizon profits to momentum strategies in the German market and find that the U.S. and German markets behave very similarly. Next, for U.K stock market, Hon and Tonks (2003) find strong evidence for momentum profits out to 24-months horizon, but only from year 1977 to 1996 and no evidence of momentum profits in the earlier 1955 to 1976 period in U.K.

For Malaysian stock market, Husni (2006) utilised individual stock data to examined profitability of momentum strategy in Malaysian market. From the study, it can be concluded that momentum strategy is profitable in Malaysian stock market. Furthermore, trading volume turnover has also been identified as a factor, which contributed to momentum profit. Companies with higher trading volume turnover give higher momentum profit.

2.3 Momentum Investment versus Contrarian Investment.

There are many body of literature empirically reporting the stock return predictability that give rise to the profitability of two investment strategies which are momentum and contrarian strategies. Both of these investment strategies have been stated as a simple investment strategy based on the past cross-sectional stock returns by previous researchers. While momentum investment is a strategy that buys the past winners and sells the past losers (price continuations), contrarian investment is a strategy that buys the past losers and sells the past winners (price reversals).

DeBondt and Thaler (1985) examine the return patterns over extended periods of times in the U.S. Stock Market and found out that contrarian strategies perform very well over three to five year

horizon. In contrast, Jegadeesh and Titman (1993) report momentum strategy that buy past winners stock and sell past losers stock produce a significant positive return, about 1% monthly over three to twelve months holding periods. Conrad and Kaul (1998) also find both contrarian and momentum investments generate a positive return, depending on the time horizons examined. To be specific, momentum investment is profitable for the medium term, three to twelve months and contrarian investment is profitable for short term, which is weekly or monthly and long term, which is two to five years or longer holding period.

The momentum and contrarian investment are also reported in non-U.S. Stock Market. For contrarian investment, Chang et al. (1995) documented abnormal profit of short-term contrarian investment in Japan Stock Market. Baytas and Cakici (1999) find abnormal profits of long-term contrarian investment in stock market of seven non-U.S. industrialized countries. For momentum investment, Rouwenhorst (1998) discovers significant price momentum for an intermediate time horizon for stocks in twelve European countries between 1980 and 1995. Rouwenhorst (1999) also find significant price momentum based on the six-month performance of the stocks in 17 of 20 emerging markets during the period spanning from 1980 to 1990.

3.0 RESEARCH METHODOLOGY

3.1 Data

This study uses average monthly closing indices of 24 Malaysian industry sector indices and the data is obtained from Datastream. The period of the study is five years starting from January 2008 and end on December 2012.

Raw returns generated from momentum strategies are statistically tested. The return of the closing index price will be calculated as the given formula:

$$R_i = \left(\frac{P_t}{P_{t-1}}\right) - 1 \qquad (3.1)$$

where P_t is the index value of the stock at the end of month t and P_{t-1} is the index value of stock at time t-1 which is obviously the previous month-end.

3.2 Portfolio Formation

Industry momentum portfolios are constructed following Jeegadesh and Titman (1993), where at the end of each period from January 2002 to December 2012 the indices are ranked from the highest to the lowest based on the return earned. However, in this study we do not choose the top and bottom ten per cent as been applied in Jagdeesh and Titman (1993). Instead we use the top twenty five per cent as the winner and the bottom twenty five per cent as the loser. This slight modification is done since in this study the number of indices is small as compared to the number of individual stocks.

The industry portfolio will be held based on corresponding holding period. Then, the portfolios are liquidated at the end of the holding period and replaced by the winners and the losers from the

next ranking period. To get good and comparable results with previous researches, different combinations of ranking and holding periods is utilised. Table 3.1 below shows the combination tested for this study.

Table 3.1 : Ranking (R) and holding (H) period

R/H	12/12	12/6	6/6

3.3 Capital Asset Price Model

One of the objectives of the study is to calculate and analyse the beta of the stock indices to see whether momentum effect exist in Malaysia stock market. Empirically, the value of beta can be estimated based on the historical return on the security and the market. For the purpose of the study, Capital Asset Price Model will be employed in generating the value of the beta. The dependent variable used in the study is return on the security which use index price as the proxy of the return. Meanwhile, independent variable is the market return. Each of these variables should give impact on momentum strategy.

$$R_i = c + ß_i R_m + \varepsilon_t \quad (3.3)$$

where,

R_i = Return on security i

c = constant

$ß_i$ = Beta value

R_m = Return on market

ε_t = Error term

Beta can be defined as a number that measures no diversifiable risk, also known as market risk. The beta for overall market is 1.00, thus indicates that the beta of the average stock is 1.00. In addition, beta can be positive or negative, depends on the market by looking at the returns. When the stock returns move in the same direction as market, then it is a positive beta and when the stock returns move in the opposite direction as market, it is a negative beta.

4.0 RESULTS AND DISCUSSION

4.1 Descriptive Statistic of Return of 24 Industries

This study documents about the descriptive statistic that shows the returns of 24 selected industries throughout the whole study period.

Table 4.1: Descriptive Statistic for 24 Industries Monthly Return

	Mean	SD, &	Kurtosis	Skewness	Min	Max
Auto & Parts	0.04	1.16	7.6479	-0.4012	-0.0902	0.0638
Banks	0.03	1.01	7.3313	-0.3736	-0.0798	0.0572
Construction & Materials	0.01	1.57	12.6076	-0.9821	-0.1615	0.0819
Consumer Goods	0.01	1.24	10.1417	-0.3604	-0.0924	0.0935
Consumer Services	0.02	1.34	2.2239	0.3847	-0.0551	0.0595
Electrical	0.01	1.62	42.6810	2.0630	-0.1503	0.2329
Food Producer	0.00	1.56	17.1044	0.0732	-0.1384	0.1547
Financials	0.03	1.01	8.0899	-0.4090	-0.0851	0.0582
Fixed Line Telecom	0.09	1.34	32.5620	0.1705	-0.1545	0.1606
General Retailer	0.09	2.48	516.3520	17.8975	-0.1635	0.7099
General Industry	-0.01	1.39	16.7128	-1.2879	-0.1455	0.0667
Gas, Water & Multi Utilities	0.00	1.00	10.4218	-0.8221	-0.1007	0.0455
Industrial Transport	-0.02	1.16	4.6311	-0.0921	-0.0747	0.0758
Industrial	-0.01	1.06	20.9971	-1.5458	-0.1321	0.0460
Media	0.04	1.23	47.1746	3.0269	-0.0556	0.1882
Mobile Telecommunication	0.04	1.25	6.3566	0.0105	-0.0826	0.0641
Real Estate Inv trust	-0.01	1.55	26.8522	-0.9112	-0.1688	0.1202
Real Estate Inv Serv	0.02	1.93	11.5048	-0.2357	-0.1688	0.1202
Telecommunication	0.04	1.09	6.0252	-0.2748	-0.0854	0.0489
Tobacco	0.04	1.24	2.5872	0.0238	-0.0533	0.0577
Travel & Leisure	0.02	1.43	2.4014	0.4549	-0.0554	0.0659
Utilities	0.00	1.00	18.0769	-0.8339	-0.1171	0.0743
Oil & Gas	0.05	1.01	6.8139	0.3121	-0.0552	0.0635
Oil & Gas Production	0.05	1.02	6.8080	0.3173	-0.0552	0.0635

4.2 Industry Portfolio Formation and Returns

In this study, mean returns of the 24 industries are documented according to the several formation periods for Malaysian market, from January 2008 to December 2012. The indices are ranked based on the return it generated during the ranking period. The top twenty five percent are classified as winners, meanwhile the bottom twenty five per cent is the losers. After being ranked, the securities will be held for a given time period, such as twelve months and six months and will be liquidated at the end of the holding period. Next, the return generated from the winners, losers and momentum strategies are statistically tested under the alternative hypothesis that the returns are greater than zero.

Table 4.2: Average monthly returns for the formation period of 12 months ranking and 12 months holding (12/12)

	YEAR	WINNERS/INDUSTRIES						LOSERS/INDUSTRIES					
		General Retailer	Tobacco	Fixed Line Telecom	Industrial Transport	Gas, Water & Multi Utilities	Oil & Gas	Travel & Leisure	Mobile Telecom	Food Producer	Industrial	Construction & Materials	General Industry
R	2008	0.0588	0.0084	0.0071	-0.0097	-0.0160	-0.0168	-0.0402	-0.0405	-0.0460	-0.0486	-0.0580	-0.0652
H	2009	0.0302	-0.0022	0.0258	0.0040	0.0186	0.0055	0.0386	0.0186	0.0444	0.0330	0.0472	0.0477
		General Industry	Construction & Materials	Food Producer	Banks	Financials	Travel & Leisure	Mobile Telecom	Real Estate Inv trust	Oil & Gas	Oil & Gas Production	Industrial Transport	Tobacco
R	2009	0.0477	0.0472	0.0444	0.0436	0.0429	0.0386	0.0186	0.0162	0.0055	0.0055	0.0040	-0.0022
H	2010	-0.0007	0.0285	0.0113	0.0198	0.0203	0.0284	0.0219	0.0000	0.0156	0.0156	0.0111	0.0055
		Real Estate Inv Serv	Media	Consumer Services	Construction & Materials	Travel & Leisure	Mobile Telecom	Industrial	Electrical	Tobacco	General Retailer	Real Estate Inv trust	General Industry
R	2010	0.0376	0.0314	0.0294	0.0285	0.0284	0.0219	0.0083	0.0062	0.0055	0.0043	0.0000	-0.0007
H	2011	-0.0008	0.0000	0.0034	-0.0066	0.0034	0.0156	-0.0046	-0.0076	0.0105	0.0068	0.0000	0.0048
		Fixed Line Telecom	Oil & Gas	Oil & Gas Production	Telecom	Mobile Telecom	Tobacco	Industrial	Construction & Materials	Electrical	Utilities	Gas, Water & Multi Utilities	Industrial Transport
R	2011	0.0360	0.0303	0.0303	0.0169	0.0156	0.0105	-0.0046	-0.0066	-0.0076	-0.0146	-0.0191	-0.0205
H	2012	0.0216	0.0192	0.0229	0.0227	0.0228	0.0207	0.0019	0.0040	0.0148	0.0083	0.0043	-0.0064

Table 4.3: Average monthly returns for the formation of period 12 months ranking and 6 months holding (12/6)

	PERIOD	WINNERS/INDUSTRIES						LOSERS/INDUSTRIES					
		General Retailer	Tobacco	Fixed Line Telecom	Industrial Transport	Gas, Water & Multi Utilities	Oil & Gas	Travel & Leisure	Mobile Telecom	Food Producer	Industrial	Construction & Materials	General Industry
R	Jan-Dec08	0.0588	0.0084	0.0071	-0.0097	-0.0160	-0.0168	-0.0402	-0.0405	-0.0460	-0.0486	-0.0580	-0.0652
H	Jan-Jun09	0.0490	0.0020	0.0437	0.0083	0.0261	0.0076	0.0500	0.0060	0.0486	0.0429	0.0897	0.0520
		General Retailer	Real Estate Inv trust	REIS	Construction & Materials	Fixed Line Telecom	Media	Electrical	Consumer Goods	Telecom	General Industry	Food Producer	Mobile Telecom
R	Jul08-Jun09	0.0833	0.0323	0.0323	0.0315	0.0217	0.0165	-0.0078	-0.0193	-0.0200	-0.0203	-0.0226	-0.0273
H	Jul-Dec09	0.0115	-0.0182	0.0005	0.0048	0.0079	-0.0098	0.0223	0.0317	0.0282	0.0434	0.0401	0.0312
		General Industry	Construction & Materials	Food Producer	Banks	Financials	Travel & Leisure	Mobile Telecom	Real Estate Inv trust	Oil & Gas	Oil & Gas Production	Industrial Transport	Tobacco
R	Jan-Dec09	0.0477	0.0472	0.0444	0.0436	0.0429	0.0386	0.0186	0.0162	0.0055	0.0055	0.0040	-0.0022
H	Jan-Jun10	-0.0182	0.0239	-0.0069	0.0136	0.0136	-0.0034	0.0235	0.0000	0.0045	0.0045	0.0087	0.0050
		Banks	Financials	Mobile Telecom	Media	Telecom	Food Producer	Gas, Water & Multi Utilities	Industrial Transport	Oil & Gas	Oil & Gas Production	Tobacco	Real Estate Inv trust
R	Jul09-Jun10	0.0286	0.0279	0.0274	0.0265	0.0255	0.0166	0.0048	0.0042	0.0039	0.0039	-0.0007	-0.0091
H	Jul-Dec10	0.0259	0.0269	0.0202	0.0000	0.0194	0.0296	0.0210	0.0134	0.0268	0.0268	0.0060	0.0000
		Real Estate Inv Serv	Media	Customer Services	Construction & Materials	Travel & Leisure	Mobile Telecom	Industrial	Electrical	Tobacco	General Retailer	Real Estate Inv trust	General Industry
R	Jan-Dec10	0.0376	0.0314	0.0294	0.0285	0.0284	0.0219	0.0083	0.0062	0.0055	0.0043	0.0000	-0.0007
H	Jan-Jun11	0.0120	0.0000	0.0051	0.0030	0.0043	0.0136	0.0012	0.0042	0.0072	0.0197	0.0000	0.0085
		Real Estate Inv Serv	Travel & Leisure	Oil & Gas	Oil & Gas Production	Customer Services	Fixed Line Telecom	Auto & Parts	Utilities	Gas, Water & Multi Utilities	Industrial Transport	Media	Real Estate Inv trust
R	Jul10-Jun11	0.0368	0.0322	0.0319	0.0319	0.0305	0.0206	0.0062	0.0049	0.0018	0.0007	0.0000	0.0000
H	Jul-Dec11	-0.0136	0.0025	0.0234	0.0234	0.0017	0.0393	0.0070	-0.0210	-0.0208	-0.0288	0.0000	0.0000
		Fixed Line Telecom	Oil & Gas	Oil & Gas Production	Telecom	Mobile Telecom	Tobacco	Industrial	Construction & Materials	Electrical	Utilities	Gas, Water & Multi Utilities	Industrial Transport
R	Jan-Dec11	0.0360	0.0303	0.0303	0.0169	0.0156	0.0105	-0.0046	-0.0066	-0.0076	-0.0146	-0.0191	-0.0205
H	Jan-Jun12	0.0224	0.027	0.0296	0.0157	0.0152	0.0211	0.0048	-0.0041	0.0240	0.0218	0.0186	-0.0134
		Fixed Line Telecom	Oil & Gas Production	Auto & Parts	Oil & Gas	Tobacco	Telecom	Travel & Leisure	Consumer Services	Construction & Materials	Real Estate Inv Serv	General Retailer	Industrial Transport
R	Jul11-Jun12	0.0308	0.0265	0.0263	0.0252	0.0175	0.0174	-0.0069	-0.0078	-0.0102	-0.0127	-0.0197	-0.0211
H	Jul-Dec12	0.0207	0.0162	0.0461	0.0115	0.0202	0.0297	-0.0076	-0.0055	0.0121	-0.0117	0.0234	0.0006

Table 4.4: Average monthly returns for the formation of 6 months ranking 6 months holding (6/6)

	YEAR	WINNERS/INDUSTRIES						LOSERS/INDUSTRIES					
		Fixed Line Telecom	Tobacco	Food Producer	Media	General Retailer	Consumer Goods	Consumer Services	Industrial	Telecom	Real Estate Inv trust	Real Estate Inv Serv	Construction & Materials
R	Jan-Jun08	0.0144	0.0137	0.0017	0.0006	0.0000	-0.0029	-0.0415	-0.0455	-0.0464	-0.0783	-0.0783	-0.0895
H	Jul-Dec08	-0.0003	0.0031	-0.0937	-0.0416	0.1176	-0.0772	-0.0355	-0.0517	-0.0340	0.0139	0.0139	-0.0266
		General Retailer	Real Estate Inv Trust	Real Estate Inv Serv	Industrial Transport	Tobacco	Fixed Line Telecom	Industrial	Telecom	Mobile Telecom	Consumer Goods	General Industry	Food Producer
R	Jul-Dec08	0.1176	0.0139	0.0139	0.0091	0.0031	-0.0003	-0.0517	-0.0521	-0.0605	-0.0772	-0.0925	-0.0937
H	Jan-Jun09	0.0490	0.0506	0.0506	0.0083	0.0020	0.0437	0.0429	0.0121	0.0060	0.0387	0.0520	0.0486
		Construction & Materials	Media	General Industry	Consumer Services	Real Estate Inv trust	REIS	Telecom	Industrial Transport	Oil & Gas	Oil & Gas Production	Mobile Telecom	Tobacco
R	Jan-Jun09	0.0897	0.0745	0.0520	0.0509	0.0506	0.0506	0.0121	0.0083	0.0076	0.0076	0.0060	0.0020
H	Jul-Dec09	0.0048	-0.0098	0.0434	0.0231	-0.0182	0.0005	0.0282	-0.0002	0.0034	0.0034	0.0312	-0.0063
		Banks	General Industry	Financials	Food Producer	Consumer Goods	Mobile Telecom	Oil & Gas Production	REIS	Industrial Transport	Tobacco	Media	Real Estate Inv trust
R	Jul-Dec09	0.0437	0.0434	0.0423	0.0401	0.0317	0.0312	0.0034	0.0005	-0.0002	-0.0063	-0.0098	-0.0182
H	Jan-Jun10	0.0136	-0.0182	0.0136	-0.0069	-0.0045	0.0235	0.0045	0.0137	0.0087	0.0050	0.0629	0.0000
		Media	Construction & Materials	Mobile Telecom	Telecom	Fixed Line Telecom	Real Estate Inv Serv	Gas, Water & Multi Utilities	Industrial	Telecom	Consumer Goods	Food Producer	General Industry
R	Jan-Jun10	0.0629	0.0239	0.0235	0.0229	0.0162	0.0137	-0.0016	-0.0025	0.0229	-0.0045	-0.0069	-0.0182
H	Jul-Dec10	0.0000	0.0331	0.0202	0.0194	0.0085	0.0616	0.0210	0.0191	0.0194	0.0252	0.0296	0.0168
		REIS	Travel & Leisure	Consumer Services	Construction & Materials	Food Producer	Financials	Electrical	Fixed Line Telecom	Tobacco	General Retailer	Media	Real Estate Inv trust
R	Jul-Dec10	0.0616	0.0602	0.0559	0.0331	0.0296	0.0296	0.0097	0.0085	0.0060	0.0016	0.0000	0.0000
H	Jan-Jun11	0.0120	0.0043	0.0051	0.003	-0.0078	0.007	0.0042	0.0327	0.0072	0.0197	0.0000	0.0000
		Oil & Gas	Oil & Gas Production	Fixed Line Telecom	General Retailer	Telecom	Mobile Telecom	Auto & Parts	Consumer Goods	Food Producer	Utilities	Industrial Transport	Gas, Water & Multi Utilities
R	Jan-Jun11	0.0371	0.0371	0.0327	0.0197	0.0148	0.0136	-0.0030	-0.0059	-0.0078	-0.0083	-0.0121	-0.0174
H	Jul-Dec11	0.0234	0.0234	0.0393	-0.0061	0.019	0.0176	0.0070	0.0050	0.0041	-0.0210	-0.0288	-0.0208
		Fixed Line Telecom	Oil & Gas	Oil & Gas Production	Telecom	Mobile Telecom	Tobacco	Real Estate Inv Serv	Construction & Materials	Electrical	Gas, Water & Multi Utilities	Utilities	Industrial Transport
R	Jul-Dec11	0.0393	0.0234	0.0234	0.019	0.0176	0.0139	-0.0136	-0.0162	-0.0195	-0.0208	-0.0210	-0.0288
H	Jan-Jun12	0.0224	0.027	0.0296	0.0157	0.0152	0.0211	-0.0177	-0.0041	0.0240	0.0186	0.0218	-0.0134
		Auto & Parts	Oil & Gas Production	Oil & Gas	Electrical	Fixed Line Telecom	Utilities	Food Producer	Real Estate Inv Serv	Industrial Transport	Travel & Leisure	Consumer Services	General Retailer
R	Jan-Jun12	0.0456	0.0296	0.027	0.024	0.0224	0.0218	-0.0045	-0.0117	-0.0134	-0.0162	-0.0172	-0.0334
H	Jul-Dec12	0.0461	0.0162	0.0115	0.0056	0.0207	-0.0052	-0.0103	-0.0117	0.0006	-0.0076	-0.0055	0.0234

Generally, almost all industries are included in the list as winners or losers for all portfolio formation ranking and holding periods. We could not detect any pattern in term of persistency of industry performance during different sub periods. Therefore, it is plausible to say that the performance of industry differs over time and thus the composition of long and short position will be altered significantly from one holding period to another. The only exception is for 12/12 strategy, where automobile and parts and consumer goods are grouped as neither winner nor loser. Thus, the two industries performed moderately during the whole sub periods. There are number of industry that positioned as a losers climbing up being ranked as a winners. The most obvious industry for 12/12 strategy is mobile telecommunication; from being ranked as a loser in 2009 and 2010 to be a winner in 2010 and 2011.

Table 4.5: Average returns from the winners, losers and momentum portfolio (12/12). The t-test is calculated as the mean return divided by its standard error. Significant P-values on the 5% level is indicated in bold wording.

POS/HOL	2009	2010	2011	2012
WINNERS	0.0137	0.0179	0.0025	0.0216
t-stat	2.5566	3.9428	0.8285	36.0861
pvalue	**0.0254**	**0.0055**	0.2226	**0**
LOSERS	-0.0382	-0.0116	-0.0017	-0.0045
t-stat	-8.4051	-3.614	-0.5804	-1.5577
pvalue	0.9998	0.9923	0.7066	0.91
MOMENTUM	-0.0246	0.0063	0.0008	0.0172
t-stat	-5.2438	0.8321	0.225	6.6527
pvalue	0.9983	0.2216	0.4154	**0.0006**

Table 4.6: Average returns from the winners, losers and momentum portfolio (12/6). The t-test is calculated as the mean return divided by its standard error. Significant P-values on the 5% level is indicated in bold wording

POS/HOL	Jan-Jun09	Jul-Dec09	Jan-Jun10	Jul-Dec10	Jan-Jun11	Jul-Dec11	Jan-Jun12	Jul-Dec12
WINNERS	0.0228	-0.0006	0.0038	0.0203	0.0063	0.0128	0.0218	0.0241
Tstat	2.7839	-0.1241	0.5858	4.6489	2.9159	1.6253	9.218	4.7789
Pvalue	**0.0194**	0.547	o.2917	**0.0028**	**0.0182**	0.0825	**0.0001**	**0.0025**
LOSERS	-0.0482	-0.0328	-0.0077	-0.0157	-0.0068	0.0106	-0.0086	-0.0019
Tstat	-4.4329	-10.356	-2.2916	-3.4521	-2.3381	1.7666	-1.3744	-0.3431
Pvalue	0.9966	0.9999	0.9647	0.9909	0.9667	0.0688	0.8861	0.6273
MOMENTUM	-0.0254	-0.0334	-0.0039	0.0047	-0.0005	0.0234	0.0132	0.0222
Tstat	-2.3959	-6.086	-0.4288	0.5894	-0.1189	2.0436	1.8721	4.1127
Pvalue	0.969	0.9991	0.657	0.2906	0.545	**0.0482**	0.06	**0.0046**

Table 4.7: Average returns from the winners, losers and momentum portfolio (6/6). The t-test is calculated as the mean return divided by its standard error. Significant P-values on the 5% level is indicated in bold wording

POS/HOL	Jun-Dec-08	Jan-Jun-09	Jul-Dec-09	Jan-Jun-10	Jul-Dec-10	Jan-Jun-11	Jul-Dec-11	Jan-Jun-12	Jul-Dec-12
WINNERS	-0.0154	0.034	0.0073	0.0035	0.0238	0.0039	0.0194	0.0218	0.0158
t-stat	-0.4946	3.6888	0.7883	0.5459	2.6917	1.4711	3.2384	9.218	2.2336
Pvalue	0.6791	**0.0071**	0.2331	0.3043	**0.0216**	0.1006	**0.0115**	**0.0001**	**0.0379**
LOSERS	0.02	-0.0334	-0.0099	-0.0158	-0.0286	-0.0106	0.0091	-0.0059	0.0018
t-stat	1.7812	-4.1956	-1.5437	-1.6444	-4.3549	-1.9987	1.3783	-0.8209	0.3445
Pvalue	0.0675	0.9957	0.9083	0.9195	0.9963	0.9489	0.1133	0.7755	0.3722
MOMENTUM	0.0047	0.0006	-0.0027	-0.0123	-0.0048	-0.0067	0.0285	0.016	0.0177
t-stat	0.1645	0.0427	-0.2043	-0.9094	-0.3902	-1.165	5.0614	2.0222	1.5519
Pvalue	0.4379	0.4838	0.5769	0.7976	0.6438	0.8517	**0.0019**	**0.0495**	0.0907

The average return for winners, losers and momentum strategies for 12/12 formation, which indicates that the securities is rank and held for twelve months are given in table 4.5. The momentum strategy yields a return in the range of -2.46% to 1.72% per month. These returns are not significant for all strategies except for holding period of 2010. For winners' strategy, it yields a return in the range from 0.25% to 2.16% and only holding period of 2010 and 2012 are significant. Another interesting note is that the losers' strategy never yields a positive and

significant return. This is why the return of momentum strategy for 12/12 is only significant for one sub period. Next, table 4.6 records the formation period of 12 months ranking and six months holding. The momentum strategy yields a return between -0.05% and 2.34% per month and only two sub periods that yield a significant return, Jul-Dec11 and Jul-Dec12. For winners strategy all the sub periods' return is positive, except for Jul-Dec09. Besides that, only three sub periods that does not yield significant results, which are Jul-Dec09, Jan-Jun10 and Jul-Dec11. For the formation of six months ranking and six months holding, the result is shown in table 4.7. The momentum strategy yields a return in a range of -0.27% to 2.85% per month and gives significant return only for Jul-Dec11 and Jan-Jun12. Another important note is that winner's strategy yields a negative return on Jun-Dec08 and there are five sub periods of its strategy that gives significant return; Jan-Jun09, Jul-Dec10, Jul-Dec11, Jan-Jun12 and Jul-Dec12, while a loser's strategy never yields significant results.

This study is in line with the findings made by Vilbern (2008) who study the momentum effect in Swedish stock market. Also, as shown in the Table 4.5,4.6 and 4.7, we can observed that profitability of the strategy is almost entirely derived from the long position of winners, while the contribution from the short position of losers is only positive for 12/6 strategy on Jul-Dec11 and 6/6 strategy on Jul-Dec08 and Jul-Dec11. This result is in line with Jegadeesh and Titman (1993). However, the results contradict with Li, Brook and Miffre (2007) as from the study, the short position explained most of the momentum profits in United Kingdom (U.K). Li, Brook and Miffre (2007) show that the high profits of the losers strategy in the U.K is explained by its large exposure to small cap firms. On top of that, the results from this study definitely show that the long position is a profitable compared to short position. Besides that, this study compare the holding period by looking at the 12/12 and 12/6 strategy, given the ranking period is constant which is 12 months. The result shows the similar output where winners' position is the main contribution to the momentum strategy. The strategy remains profitable for the longer holding period (12 months) but become less profitable for the shorter period (6 months). The cause of this situation is that, when the holding period gets shorter, the trading becomes more intensive.

4.3 Systematic Risk

Table 4.8 : Average beta values for the winners, losers and momentum portfolio.

	12/12	12/6	06/6
WINNERS	0.88	0.87	0.86
LOSERS	0.96	0.91	0.95
MOMENTUM	0.92	0.89	0.91

Among the objective of this study is to see whether the profits generated from momentum strategy can be explained by the systematic risk, measured as beta assuming the CAPM theory is valid. Table 4.8 shows the value of average beta value for winners' portfolio, losers' portfolio and momentum portfolio.

Overall, the average beta values for the winners, losers, momentum portfolio are positive, which indicates that the securities return more in the same direction as market; the increment of the market return will result in the increment in securities return. However, the average beta values for the three portfolios are less than 1; hence it is considered less risky than market index. Also, the average beta values for both winners and momentum portfolios are practically lower than the losers' portfolio for all the different sub periods. Thus, it implies that investing

in winners is less risky than investing in market index. It can be conclude that it is not possible to explain the momentum strategy with the difference in systematic risk based on these measures. The findings on the systematic risk are in line with Jegadeesh and Titman (1993), Rey and Schmid (2007) and Vilbern (2008).

5.0 CONCLUSIONS

This study investigates the profitability of industry momentum strategy in Malaysia stock market. First of all, this study discusses the concept of momentum strategy that can be used for the investment purpose. This study is done by focusing on average monthly indices of 24 Malaysian industry sector's indices. Therefore, this study follows Jegadeesh and Titman (1993) method, where at the end of each period from January 2008 to December 2012 the securities are ranked from the highest to the lowest based on the average monthly return earned. Then, the portfolios are held for a given time period and liquidated at the end of the holding period. To get a good and comparable results, different combination of ranking and holding periods is used; 12/12 strategy, 12/6 strategy, 6/6 strategy. Next, in order to see whether systematic risk, measured as beta can explain the momentum strategy, the return on the security is regressed against the market return and the slope is thus the average beta value.

This study shows that industry momentum strategy in Malaysia stock market is mostly derived from the long position of winners. Surprisingly, the average bate value, as measured for systematic risk cannot explain industry momentum effect since the average beta value for winners position is lower than losers position. To conclude this study, all the results are in line with Jegadeesh and Titman (1993) and Vilbern (2008). When considering the efficient market hypothesis in its weak form where it is not possible to profit from historical prices, the results presented for this study proved that Malaysia market is not weak form efficient. Hence, the industry momentum effect remains to be one of the anomalies that cannot be explained by efficient market hypothesis.

REFERENCES

Baytas, A., & Cakici, N., (1999). Do markets overreact: international evidence. *Journal of Banking & Finance, 23*(7), 1121-1144.

Chan, L.K.C., Jegadeesh, N., Lakonishok, J., (1996). Momentum strategies. *Journal of Finance51*, 1681–1713.

Chang, R. P., McLeavey, D. W., & Rhee, S. G., (1995). Short-term abnormal returns of the contrarian strategy in the Japanese stock market. *Journal of Business Finance & Accounting, 22*(7), 1035-1048.

Chui, A., Titman, S.,Wei, K.C.J., (2000). Momentum, ownership structure, and financial crises: an analysis of asian stock markets. Working Paper, University of Texas at Austin.

Conrad, J., & Kaul, G., (1989). Mean reversion in short-horizon expected returns. *Review of Financial Studies, 2(2),* 225-240.

Conrad, J., Kaul, G., (1998). An anatomy of trading strategies. *Review of Financial Studies11*, 489–519.

DeBondt, W., Thaler, R., (1985). Does the stock market overreact? *Journal of Finance 40*, 793–808.

Fama, E. F., & French, K. R., (1988).Permanent and temporary components of stock prices.The Journal of Political Economy, 246-273.Fama E., (1990). Stock Returns, Expected Returns and Real Activity, *Journal of Finance 45*, 1089-1108.

Gitman, L.J., Joehnk, M.D., Smart, S.B., (2011). *Fundamentals in Investing*.Boston : Pearson Education. 325

Hameed, A., Kusnadi, Y., (2002). Momentum strategies: evidence from Pacific Basin stock markets. *Journal of Financial Research 25 (3, Fall)*, 383–397.

Hon, M.T., Tonks, I., (2003). Momentum in the UK stock market.*Journal of Multinational Financial Management 13 (1)*, 43–70.

Husni, T. (2006). Momentum Strategies and Trading Volume Turnover in Malaysian Stock Exchange. *The Journal of Management & Accountancy*, *6*(1).

Jegadeesh, N., Titman, S., (1993). Returns to buying winners and selling losers: implications for stock market efficiency. *Journal of Finance 48*, 65–91.

Lakonishok, J., Shleifer, A., Vishny, R., (1992). The impact of institutional trading on stock prices.*Journal of Financial Economics 32*, 23–43.

Li, X., Miffre, J., Brooks, C., & O'Sullivan, N. (2008). Momentum profits and time-varying unsystematic risk. *Journal of Banking & Finance*, *32*(4), 541-558.

Lo, A. W., &MacKinlay, A. C. (1988). Stock market prices do not follow random walks: Evidence from a simple specification test. *Review of financial studies*, *1(1)*, 41-66.

Moskowitz, T.J., Grinblatt, M., (1999).Do Industry Explain Momentum?*Journal of Finance 54*,1249-1290.

Poterba, J. M., &Summers, L. H. (1988). Mean reversion in stock prices: Evidence and implications. *Journal of Financial Economics*, *22(1)*, 27-59.

Rey, D. M., &Schmid, M. M. (2007). Feasible momentum strategies: Evidence from the Swiss stock market. *Financial Markets and Portfolio Management*,*21*(3), 325-352.

Rouwenhorst, G., (1998). International momentum strategies.*Journal of Finance 53*, 267–284.

Rouwenhorst, K. G. (1999). Local return factors and turnover in emerging stock markets. *The Journal of Finance*, *54(4)*, 1439-1464.

Schiereck, D., De Bondt, W., Weber, M., (1999).Contrarian and momentum strategies in Germany.*Financial Analysts Journal 55 (6)*, 104–116.

Shen, Q., Szakmary, A.C., Sharma, S.C., (2005). Momentum and Contrarian Strategies in International Stock Markets : Further Evidence. *Journal of Multinational Financial Management 15 (3),* 235-255

Shleifer, A., (2000). Inefficient Markets : An Introduction to Behavioral Finance. New York : Oxford University Press.

Vilbern, M., (2008). The Momentum Effect : Evidence from the Swedish Stock Market. Uppsala University

THE ROLE OF ISLAMIC CAPITAL MARKET IN DEVELOPING MUSLIM ECONOMY

Muhammad Azizur Rahman Ramli[182]
Abdul Jalil Borham[2]
Muhamad Firdaus Mohd Shahidin[3]

ABSTRACT

The role Islamic capital market is to raise funds, trading and mobilizing funds from one sector to another sector of the economy to ensure the humankind life. Unlike the conventional capital market its objectives is maximization of profit. Islamic capital market has two objectives; firstly is to eliminate usury and secondly to develop Islamic economics and the global economy. These two objectives should be the role of Islamic Capital Market in developing muslim economy. The Islamic capital market comprises two main components: the debt market and the equity market. Sukuk, known as Islamic bonds, have been the most active Islamic debt Market. Nevertheless it is active but the objective of the Islamic social development must be complying. It's not just to boost the rich corporate economy but also has to assist muslim community to develop their economy power. This paper discusses the relationship between Islamic Capital Market and Maqasid. Also discuss its roles in developing real estate industry and halal industry. Many scholars agree that innovation in Islamic capital market must be actively discuss as the Islamic capital market broadly use in term of development of Muslim economy

Keywords: *Islamic* capital market, Sukuk,

1. INTRODUCTION

The aim of this paper is to review the role of Islamic capital market in muslim economy development. The development of the Islamic capital market in Malaysia began as early as the 1990s. From Islamic equity markets it evolved into the Islamic debt market known as the Sukuk market. Sukuk is Islamic investment certificates to finance large-scale projects but there is difference between financing for social development objective and for investment profit. In conventional economy the goal of investment is profit oriented but in Islamic economy there are social development shall be done in Muslim community and not just for the profit. In most muslim countries, sukuk instruments are divided into three; Sukuk Ijarah, Sukuk Mudarabah and Sukuk Musharakah. These Sukuk market can boost the muslim economies. Although its successful traded in the market are the Sukuk Market really develop the muslim community or its issuance only for the wealthy people economy?. So it must be different with the bond and others riba instrument. If it really difference from others, muslims organization will get the benefit from these funds and reinvest to achieve happiness in this world and the hereafter. Through Sukuk securitization the principle of sale theory and real asset can be applied and it must comply to shariah and its maqasid .The objective of sukuk securitization is to develop muslim community through investment and giving the muslim companies or agency

[1],3 Postgraduate students in UMP, corresponding author :azizursyuhada@gmail.com
2. Prof Abdul Jalil Borham is a Professor in Muamalat in UMP

opportunity to access the Islamic capital market. Nevertheless the sukuk market has been broadly attract the investor but there is still not showing the great development in the muslim comunity Many Islamic countries are undeveloped capital market, only several countries has broad capital market such Malaysia, Gulf Countries and Turkey.

2. LITERATURE REVIEW

There is a research has been done by Adesina,Uthman Ganiyat (2011) that revealed the issue of poverty and corruption has been identified as a problem to finance the economic development in west African countries. He suggested that the Islamic financial system should be back in order to build strength. Based on the success of the Sukuk in financing economic development, he suggested IDB should continue this structure to develop the real economic development. The real economic development should showed in the real GDP, then it will reflect to sukuk market (Ali Sa'id,2013). Therefore as alternative, the market player can use a gold payment system in the capital market in western Africa. Unfortunately the gold payment system now still not yet develops and the international sukuk currently use the USD dolar as the main currency in the international market.

Also there is research in developing the waqf land using sukuk has been done by Hydzulkifli Omar Hashim, (2013). He found to develop the muslim economy, sukuk structures are not only seen as an investment profit motive. He also found Sukuk structure successfully can be applied to finance and develop waqf lands in Singapore and Saudi Arabia. He suggests it can be an alternative financing in developing waqf properties in Malaysia's. For example Sukuk Musharakah has been used for the development of waqf land located in Bencoolen. Sukuk al-intifā 'was used by Saudi Arabia in developing waqf land located near the mosque in Mecca with the construction of a hotel tower Zamzam. Both asset endowment (waqf land) was successfully commercialized. The results (leasing benefits) of development on land donated will be distributed to mawquf 'alayh and is non-refundable. With the use of a systematic method development, profits from the securitization will be used to maximum as possible. But this type of securitization is not popular among investor because of the objective is for charity. Nevertheless is marketable but how many originator want to contribute in charitable objective?

Although sukuk market in very great development, but research done by Mohd Faisal Ibrahim (2012) found not all Sukuk structure applied in muslim countries. As an example, there was big demand to finance property development by using Sukuk Ijarah in the gulf countries like Kuwait, UAE, Saudi Arabia and others . The Sukuk structure in gulf countries only available for financing the properties industries are Sukuk Ijarah, Sukuk Mudarabah and Sukuk Musharakah. A study of the perception of the three funding among industry players such as real estate consultants and investors in the Gulf states found 93% liked and agree with the Ijarah and Sukuk to finance Real Estate, 86% and 81% for mudarabah and musharakah. However both Mudarabah and Musharakah financing is not offered by the bank in the Gulf countries. However, this is challenge to regulators among Islamic countries to harmonize the legal and syariah framework in Islamic capital market (Ahmad Lebbe abdul Rauf,2013). The product in real estate in gulf countries and Islamic countries are limited and need innovation to meet the demand and to adapt the charitable activities in developing muslim community. Also, the halal industries currently develop rapidly and this development bring opportunities to expand halal market. Halal market including health tourism need financing from capital market. Therefore the role of sukuk is to tap the demand of halal industries but unfortunately there is no product to assist the halal project.

3. METHODOLOGY

The paper adopts content descriptive analysis approach. The analysis covered the article are published in period of 2008 to 2013. Some classic text used to help analysis correctly.

4. RESULTS AND DISCUSSION

The scope of the issues raised by Chapra (2008) can be highlighted as the fundamental principles of the Islamic capital market. The objective of sukuk issuance is to eliminate the riba, gharar and non halal trading activities. Secondly is to develop the muslim economy and global economy as chapra mentioned about the Ibn Khaldun's theory of development that emphasizes; firstly the elimination of corruption in the management of public property. Secondly, efficiency of public property usage, eradicate illiteracy, improve the quality of education and health infrastructure suitable is his view of the concept of development in Islam. But how to determine this concept?. Hence the role of Islamic capital market toward muslim economy development should drive by using the usul fiqh as a tool to define the appropriate technique for structuring the product (Muhd Ridhwan Abdul Aziz,2013). It is the best way to comply the objective of Islamic economy. In the classical text , Syeikh Izzuddin Abdul salam highlighted the objective of ijarah transaction is to solve the problems of ownership and he also highlighted how to use all of the transaction such us bay', hiwalah,, qardhul hasan, salam and etc. using the maqasid (Syeikh Abdul Salam, 1998). Therefore any products in Islamic capital market should refer to usul fiqh and maqasid syariah as the mazhab scholar defines the objective in every transactions.

4.1 Sukuk Securitization and Maqasid al-Shariah

Islamic Finance and the concept of social investment responsibility is a parallel concept for economic development. Convergence of the two concepts is to create opportunities for fixed income products to be developed that could appeal to investors who intend to comply with the welfare and syariah. With this concentration, it acts as a bridge between conventional and Islamic financial markets. The concept of social responsibility investment is the investment strategy in the 1980s in the USA and the total assets of approximately USD3 trillion (Michael S. Bennett, 2011). Meanwhile Islamic investment markets still remain and cannot seem to be developed while the concept of social responsibility investment is growing with high demand. Therefore the role of the Islamic market become a potential opportunity fulfilled this demand in the market.

From Islamic perspective, sukuk structuring must compliance to syariah principle. However it must compliance to principle of maqasid al Shariah too. Hence, syariah principles used in structuring sukuk have implications to the capital structure theory. Where, Islam prohibits taking advantage of the extreme cost of trading. This contrast with conventional debt concept assumes that interest is an additional cost that is allowed to determine the value (Firmansyah Kusasi, 2013). In Islamic securitization, a rule of leverage has certain limitations and proposed the concept of capital structure based on the assets owned by exempt trade costs. Therefore this is the role of sukuk can reduce excessive trading in economic transactions. This is what Syeikh Izzudin Abdul salam highlighted all of transaction in dunya is depend on 3 levels. 1; dhoruriyat, 2;hajiyat,3;kamaliyat.(Syeikh Abdul Salam,1998) . The cost of transaction should excluded from payment as the cost is part of dhoruriyat.

From research has be done by Roslina Mohd Shafie (2010) Islamic capital markets are more marketable and become an active mediator has substantial funds available and easy to finance economic development and can solve the problems of poverty and unemployment. To improve, it is important for banks to participate more heavily in the sukuk market. This is to overcome mobilization of fund, banks' liquidity management, risk and long-term investments. However it is important to categorize the instrument from maqasid perspective.

To implement the trust among that it is important in maqasid Rusni Hassan (2012) suggested in structuring sukuk products, trustees confidence must be noted. This is to ensure the continuity of the development of the Islamic capital market environment. In Malaysia, the function of institutional trust is equipped with the legal framework and guidelines by the Securities Commission. The role of institutional trust should be active as a mediator, the welfare of investors and issuers, particularly in the event of default. So it plays a role in managing the entire transaction up to maturity

3.2 Developing The Sukuk Market

Majid Karimzadeh (2012) found in Iran, the role of the sukuk market is to develop Islamic capital market. Securities Commission confirms sukuk in Iran such as Murabahah sukuk provide financing as well as musharakah and Ijarah sukuk. The sukuk market also serves to create a competitive environment among financial institutions and financial markets. However, for developing the sukuk market, taxation issues and the law should be improved for market development.However the studies done by Nafis Hassan,et.al (2013) found the impact sukuk and wealth between the years 2004-2012 among sukuk holder found the companies that issue the sukuk is the weak companies who do not have the opportunity to raise capital in a conventional bond. However, in Islamic economic objective of maximizing profits is not the main objectives.

3.3 Developing Muslim Real Estate Industry

Mamoru Nagano (2009) has studied the instrument used by large companies that have been familiar and experienced use of financial services before. Islamic banking loans typically focuses on industry sectors that dominate the business of real estate and urban development. Even the issuance of sukuk is not as instruments to mobilize the funds, but most tend to sukuk social ethics policies geared towards the economic growth. He suggested In-depth study should be done after the age of post-issuance of sukuk.

This issue also highlighted by Noraziah Che (2010). She found the instrument which is available in Islamic financial system is now non-profit motive but also based on socio-economic motives. In the conventional system, it is different because all funds directed to the industry that has the credibility to be able to repay the loan. The Islamic funds used to finance small-scale industries and medium. Therefore musyarakah can be used in socio-economic development of the country. Musyarakah parameter is the concept of balance between conventional and Islamic financial system. Hence, this is how to develop the muslim real estate industry driven with high ethics.

3.4 Developing the Halal Industry

Sukuk also plays a role in the development of health tourism industry. As Nurhani Mahjom (2011) proposed musyarakah mutanaqisah can be an alternative to those in the finance hospitals and health centers in Islam. This instrument can cause a Muslim and indigenous and active in the industry. Hence, the industry is able to integrate between halal and financial instruments that will create a holistic concept of Sharia-compliant. However, after the outbreak of the concept of medical tourism industry, and the indigenous Muslims of entering this market, there are many Muslim-owned private hospitals do not comply with shariah in their finances.

5. CONCLUSION

After seeing some of the issues mentioned above. Sukuk innovation should be done, especially in the area of financial analysis for sukuk structure and its role as a tool for liquidity management of money. Innovation should also be in breach of the promise that the issue remains the same problem with conventional instruments. These innovations need to go back to study the books of fiqh and return to real economic benchmarks, rather than on financial benchmarks alone. For this purpose, it is proposed to base the use of Sukuk investor participation should be developed. Risks management in the structure shall be in accordance with the various rules against default risk only lip service. From a profitability and return on investment for investors, there is criticism on the Sukuk Ijarah which pledged to return habits LIBOR rates close to the interest rate (interest). Thus the data will be changed in the simulation that can be compared with a benchmark lap. It distinguishes between the interest rate and the profit rate. The importance of the quality sukuk issuance should be enhanced, thus fiqh scholars should use ijitihad approach rather business analysis. Wilson (2008) also found sukuk currently still offer the same things as those offered by conventional instruments. To distinguish them, there is need to refer the finance engineering and innovation of new products is essential to diversify financial risk management. FoudH.Al-Salem, (2009) suggested the development of financial products should be based on the methodology of Islamic investment rather than return to the method of loans and credit facilities. Accordingly, the banks and financial institutions to ensure quality and product innovation to happen so that it can compete in the market

REFERENCES

Ahamed Lebbe Abdul Rauf, (2013), Emerging Role For Sukuk In The Capital Market. South East Asia Journal of Contemporary Business, Economics And Law, Vol. 2, Issue 2 (P.)

Majid Karimzadeh, (2012), Role of Sukuk In Islamic Capital Market: Experience of Iran (1994-2011), Arabian Journal Of Business And Management Review (Oman Chapter), Vol. 1, No.7

Sulamī, ʻIzz Al-Dīn., ʻAbd Al-ʻAzīz Ibn ʻAbd Al-Salām. Qawaid Al-Ahkam Fi Masalih Al-Anam. S.L: S.N, 1968, Dar Kutub Ilmiah : Beirut

Hydzulkifli Hashim Omar, (2013), The Application Of Sukuk In Sustaining The Waqf Asset: Experience Of Selected Waqf Trustee. Jurnal Syariah, Jil. 21, Bil. 2 (2013) 89-116 Shariah Journal, Vol. 21, No. 2 (2013) 89-116

Adesina-Uthman Ganiyat Adejoke, (2011), Islamic Financial Culture: Alternative Economic System for Rapid And Sustainable Economic Growth In West African Countries. Australian Journal of Basic And Applied Sciences, 5(7): 286-294

Firmansyah Kusasi, (2013), The Theory Of Capital Structure From Islamic Perspective, And The Role Of Sukuk, Jurnal Ekonomi Maritim Indonesia Jemi, Vol. 4, No. 1, Juni 2013

Roslina Mohamad Shafi (2010) Modelling Sukuk Structures In Indonesia: Economic Development And The Risk Management Proceedings Of International Shari'ah Economic Days 2010, Universitas Indonesia

Rusni Hassan (2012) The Role Of A Trustee In Sukuk: The Malaysian Perspective Australian Journal Of Basic And Applied Sciences, 6(11): 326-330

Michael S. Bennett And Zamir Iqbal (T.T) How Socially Responsible Investing Can Help Bridge The Gap Between Islamic And Conventional Financial Markets The World Bank Treasury, Washington, DC, USA

Muhamamd Ridhwan Abdul Aziz (2013) Tools Ofusul Al-Fiqh Inrealizing Maqasid Al-Shari'ah In Sukukstructures In Malaysia: An Initial Analysis, International Journal Of Education And Research Vol. 1 No. 10

Nurhanie Mahjom Mohammad Haji Alias (2011) Critical Success Factors For Bumiputera/Muslim Medical Tourism Providers: Solution For Financing Needs Using Islamic Financing Instruments

Michael J.T. Mcmillen (2008) Sharīcah-Compliant Project Finance:An Overview, Including Structures. Journal Of Islamic Economics, Banking And Finance

Mohammad Badri Rozali (2007) The Maturity Structure Of Corporate Debt: An Analysis Of Malaysian Bond And Sukuk Issues

Wedderburn-Day, A Roger (2010) Law & Contemporary Problems Vol. 73 (4) P. 325 – 333

Sulistya Rusgianto (2013). Volatility Behavior Of Sukuk Market:An Empirical Analysis Of The Dow Jones Citigroup Sukuk Index. Middle-East Journal Of Scientific Research 13 (Research In Contemporary Islamic Finance And Wealth Management): 93-97

Hussin, M. Y. M., & Borhan, J. T. (2009). Analisis Perkembangan Pasaran Saham Islam Di Malaysia. International Journal Of Mechanical And Materials Engineering, 17(3).

Ali Said And Rihab Grassa (2013). The Determinants Of Sukuk Market Development:Does Macroeconomic Factors Influence The Construction Of Certain Structure Of Sukuk?. Journal Of Applied Finance & Banking, Vol. 3, No. 5.251-267

Murat Cizakca (2010) Domestic Borrowing Without The Rate Of Interest: Gharar And The Origins Of Sukuk. INCEIF, Kuala Lumpur

Jarita Duasa And Nursilah Ahmad. (2009). Income Convergence And The Degree Of Openness: The Case Of Selected Muslim Countries. Paper Presented At The Islamic Economic System Conference (*I*econs 2009).

Mohammad Hj Alias, Zurina Kefeli & Nursilah Ahmad. (2007). *Graduate Employability: A Case Study Of Islamic Studies Graduates In Malaysia*. Penerbit USIM: Bandar Baru Nilai.

SHARIAH COMPLIANT ASSURANCE HIERARCHY: A CONCEPTUAL MODEL FOR ISLAMIC FUND MANAGEMENT IN MALAYSIA

Yusnurfadil Bin Osman[1]
Zurina Binti Shafii[2]

ABSTRACT

This paper is exploring the conceptual model for shariah compliant assurance hierarchy for Islamic Fund Management industry .A brief introduction on growth experience of the industry which is not supported by a comprehensive regulatory guidance on the shariah compliance process is highlighted. This is followed by explanation on the importance of shariah compliant and theoretical foundation for the accountability held by the stakeholders within the fund which require them to provide assurance on the shariah compliant. The study found that the shareholders of the fund hold the highest accountability within Islamic Fund Management. The research also had demonstrated that whilst naqli knowledge tells what Allah has commanded, things that Allah has forbidden and what Allah has destined for, then the aqli knowledge describes the structure proper, components required, processes involved, tools and parameters to be adopted for shariah compliant. As the original basis for the foundation of the Islamic Fund Management is based on the teaching of Islam, strict compliance is crucial to support this claim in order to secure public confidence and fulfill the obligation towards Allah.

Keyword: Islamic fund and Shariah compliant

1. INTRODUCTION

A systematic shariah compliance framework is a must to maintain unique identity of the Islamic Finance industry including the Islamic Fund Management. As the original basis for the foundation of the industry is based on the teaching of Islam, strict compliance to the shariah is crucial in order to secure public confidence especially the pious muslims about the integrity of the industry. The Islamic finance is may be viewed as an option for the non-muslims but for muslims it is an obligation to seek and ensure lawful earnings once they engaged in the finance activities. It is very critical for the institutions offering Islamic financial products and services to have proper shariah compliance framework to ensure that all operations are, indeed, shariah compliant (Zurina, Ahmad, Suppiah, Kamaruzaman & Nawal, 2013). What is shariah compliant? In this study, shariah compliant simply means the economic and muamalat activities related to the Islamic Fund Management are 1) conducted in accordance with what Allah has commanded, 2) avoiding what Allah has forbidden and 3)

[1] Yusnurfadil Bin Osman is a PhD student, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM). Corresponding author : abufaheem2014@yahoo.com

[2] Prof. Madya Dr Zurina Binti Shafii is Director of Islamic Finance and Wealth Management Institute, Universiti Sains Islam Malaysia (USIM).

accepting what Allah has destined. These three requirements are the basis and fundamental of the religion (Keller , 2002) that serves as a control for the mankind.

The adherence to the shariah should be motivated by the fact that the objective of the shariah is to promote the wellbeing of mankind. Imam Al-Ghazali (Asyraf & Bouheraoua, S., 2011) defined Maqasid Al-Shariah as "The objective of the shariah is to promote the well-being of all mankind, which lies in safeguarding their faith, their human self, their intellect, their posterity, and their wealth. The benefits of the shariah not all well understood by the limited thinking of the mankind. The study also is not attempting to prove the relationship between the benefits of Islamic Fund Management in promoting the well-being of all mankind because it is just another significant topic of study itself. Nevertheless, the study is an effort to introduce an organized way to ensure the Islamic Fund Management activities strictly adhere to the shariah. This is to secure public confidence on the credibility of the market and ultimately fulfill the obligations towards Allah.

2. ISLAMIC FUND MANAGEMENT INDUSTRY

Islamic fund management is the professional management of shariah-compliant securities and assets based on shariah that is governed by Section 377 of the Capital Market Services Act 2007. The scope of activity involves financial analysis, asset and securities selection, investment planning and on-going monitoring of investment portfolios under its management. The industry first emerged in the 1960s when Muslim investors sought an alternative to the conventional form of investment, due to interest-dealings in this banks which is prohibited in Islam (Introduction to Islamic Fund Management, 2014). The progress of Malaysia's Islamic finance industry which include strong market demand, government incentives and rapid liberalization of the Islamic financial industry in Malaysia then paved the way for the establishment of two shariah compliant unit trust funds in 1993 (Insigths Report: Global Islamic Funds, 2013). The industry grew to more than 220 approved funds as at 31 December 2013 in which 175 funds are active with a net asset value of RM42.8 billion (Insights Report: Global Islamic Fund, 2013).

Despite this growth, there is no specific shariah governance framework for the Islamic Capital Market (Nawal, Sheila, & Syed, 2013) where the Islamic Fund Management resides in. This is supported by the fact that the existing internal arrangement within the Islamic Fund Management that reinforces shariah compliance through shariah advisor, compliance, audits, and risk management functions is dispersed in various documents. Although the shariah compliance measures which are documented in Guidelines on Islamic Fund Management (Securities Commission Malaysia, 2007a), Guidelines on Unit Trust Funds (Securities Commission Malaysia, 2008) and Guidelines on Compliance Function for the Fund Management Companies (Securities Commission Malaysia, 2005) give guidance for institutionalization of these functions but it lacks clarity on their structure, process and linkages between them. The focus of these guidelines is limited on the roles of the shariah advisor and the compliance officer functions.

Other than that, the selection of Islamic Fund Management, sub-sector of Islamic Capital Market is due to the fact that the existing stock screening methodology allows recognition of stocks with certain percentage of non-permissible income and funding as shariah compliant stock (Insights Report: Shariah Screening Methodology, 2013). The shariah compliant securities are the prominent sources of investment for the Islamic funds. In view of this, there

should be zero tolerance for the shariah non-compliance in this aspect. It is important to highlight that the listing of the shariah compliant securities is being updated every six months or twice a year. The Islamic fund manager should be more proactive in providing internal assurance on the continuous permissibility of the stock to be invested and not to rely solely on the listing issued by the Securities Commission of Malaysia. Other than that, there is no evidence that the shariah concerned issues such as halal certification, food safety, green environment and corporate social responsibility which are very close to the teaching of Islam are being considered before making an investment decision.

In light of the above, the objective of this paper is to propose a conceptual model for shariah compliance assurance hierarchy (SHARICAH) for the Islamic fund management in Malaysia. The model is critical to facilitate the establishment of appropriate structure and processes as a result of the accountability held by the stakeholders to ensure continuous shariah compliant in the Islamic fund operation. This is important to preserve the confidence of the market in general and concerned Muslims about the integrity of the industry. Ultimately, the aim of the market players especially the Muslims should be to gain the pleasure of Allah by fulfilling their obligation. The Islamic finance including the Islamic Fund may be viewed as an option by non-muslims for them and also for the muslims (Wilson, 2007) but for teaching of the religion is that ,it is an obligation to seek and ensure lawful earnings once they engaged in the finance activities (Fazlur, 1993). For this research, the theoretical foundation associated with accountability and assurance processes are studied.

2.1 Shariah Compliant

Shariah

There are various terminologies of shariah adopted by the standard setting bodies in Islamic finance industry. The shariah law by Bank Negara Malaysia (BNM, 2011), shariah principles by Securities Commission Malaysia (SC, 2007), shariah rulings by Islamic Financial Services Board (IFSB, 2009) are all terminologies utilised in their guidelines which are directed towards the shariah rules and regulation to be observed and complied with. Nevertheless, shariah is a divine law and is equated with religion (din) itself. In one Islamic public lecture on sources of religion (usul-al-din), Muhammad Hafidz[3](2014), simply put that Islam is all about law or shariah to control and to provide direction for human life after we testifying that there is no god other than Allah and the prophet as the messenger of Allah which are for the benefits of the mankind both in this world and more importantly the next world. The statement made is in line with the following verse of Al-Quran, whereby Allah says "And verily, this is My Straight Path, so follow it. And do not follow (other) paths, for they will separate you away from His (Allah) path. This is what He has ordained for you; so that you may become al- Muttaqin (the pious and righteous person who fear Allah much and abstain from all kinds of sins and evil deeds which He has forbidden" (Al-Quran Al An'am 6:153)[4].

Shariah Compliant

[3] Sheikh Muhammad Hafidz Bin Selamat is the founder of the Al-Jenderami Foundation in 2003, a non-profit organization based in Selangor. He conducts regular public Islamic lectures at the Al-Jenderami Foundation Complex and Awqaf Religious School (Madrasah Attaufiqiah) in Kajang which was established in 1913.

[4] All Quranic translations in this writing are based on Abdullah Yusuf Ali. 1989. The Meaning of the Glorious Quran:Text, Translation & Commentary. Maryland: Amana Corporation. Translations from other sources will be cited accordingly.

Bank Negara Malaysia in its Shariah Governance Framework (BNM, 2011), defined shariah compliant as compliance to shariah rulings and decisions issued by the Shariah Advisory Council of BNM ,respective shariah committee of the individual Islamic financial institutions , and as determined by other relevant bodies. In new Islamic Financial Services Act 2013, BNM emphasises on the management of the shariah non-compliant risk and to ensure shariah compliant at all times. Securities Commission of Malaysia in its Guidelines on Islamic Fund Management, states that Islamic Fund Management business to be conducted in accordance with the shariah principles. Whilst Islamic Financial Services Board (IFSB , 2009) stressed on the role of the shariah boards at ensuring an appropriate shariah governance system in place so that Islamic Finance Institutions (including Islamic Fund) adheres to shariah rules and principles with respect to all Islamic financial products and services that it offers.

The definitions given by the standard setting bodies is an attempt to integrate the shariah with common law without emphasizing on the importance of shariah to gain the pleasure of Allah in their respective documents leaving a gap that shariah compliant is just another set of law ensuring orderly market to achieve worldly objective. Saiful (2010) attempts is more meaningful , as he stated that shariah compliant means observing strictly to the permissible and abstaining from the prohibited as commanded by Allah. Therefore in Islamic finance , the shariah compliant' title carries the expectation of a financial system and practices that are truly based on all the tenets of the shariah, namely the aqidah, legal principles and akhlaq, and that serve the noble goals prescribed by Islam (Muhammad & Hafas, 2012). Hence, in this study, shariah compliant simply means the economic and muamalat activities related to the Islamic Fund Management are 1) conducted in accordance with what Allah has commanded, 2) avoiding what Allah has forbidden and 3) accepting what Allah has destine, is not only limited to the commercial rules and regulation but appreciate the importance of aqidah and akhlaq as integral part of the shariah. The Islamic Fund Management activities require integration of then naqli (divine revelations) and aqli (mankind thinking) for its implementation.

Importance of shariah compliant

Ghazanfar, S.M., & Islahi, A.A. (1998) revealed that Imam Al-Ghazali had identified three distinct goals of economic activities that is self-sufficiency for one'survival, provision for the wellbeing of one's posterity and provision for assisting those in economic need. All these are not only virtuous for their own sake, but also represent part of one's religious duties (Ghazanfar & Islahi, 1998). Hence, at all levels, the services provider or the investors, the Muslims, should strive for lawful earnings in order for their good deed to be accepted by the God (Karim, 1993).

The boundary of halal and haram is distinct. According to Hadith 6 on Lawful and Unlawful in Forthy Hadith An-Nawawi (Faith in Allah, 2014), "The Messenger of Allah, peace and blessings be upon him, said: Verily, the lawful is clear and the unlawful is clear, and between the two of them are doubtful matters about which many people do not know. Thus, he who avoids doubtful matters clears himself in regard to his religion and his honor, and he who falls into doubtful matters will fall into the unlawful as the shepherd who pastures near a sanctuary, all but grazing therein. Verily, every king has a sanctuary and the sanctuary of Allah is His prohibitions. Verily, in the body there is a piece of flesh which if upright then the entire body is upright, and if corrupt then the entire body is corrupt. No doubt it is the heart". Practicing Muslims are very much conscious about the view of what is lawful and unlawful as taught by this hadith, which compels them for the consideration of Islamic Fund as their choice instead of the conventional fund.

That is why the assurance on the shariah compliant is important because it will preserve the market confidence (BNM, 2011) especially for the devout muslims (Rusnah, 2011). Strict compliance with shariah principles would bring confidence to religious Muslim investors in helping them to erase any doubtful feeling to make an investment decision[5], and the credibility of the Islamic fund operations in eye of the non-muslims (BNM, 2011). Both are crucial for the sustainability of the whole Islamic finance industry (Zurina, Supiah, & Syahidawati, 2010). For Muslims, the believers are taught by Allah via the Prophet Muhammad (PBUH) that Allah made the next world the place of reward and punishments and this world the place of efforts, troubles and earnings (Fazlur Karim, 1993). The earnings by the shareholders (profits) and the investors (dividend and capital gain) in Islamic Fund Management should not be the aim of believers' life but it is the door to enter the next world as a result of their good deeds.

2.2 Maqasid Al-Shariah

The teaching of Islam which has been revealed is to promote the wellbeing of mankind both in this world and the world hereafter, not the other way. Allah says, "Allah intends every facility for you; He does not want to put you to difficulties."(Al-Quran. Al Baqara 2:185). Allah says further, "He commands them to what is decent and forbids them what is evil; he allows them as lawful what is good and pure and prohibits them from what is bad and impure; He releases them from heavy burdens and from the yokes that are upon them" (Al-Quran. Al A'raf 7:157). As the believers, the ultimate aim of human life is to gain the pleasure of Allah by executing all of the duties prescribed by Him (Yusof & Suhaimi, 2011).

Therefore, shariah which determines which is lawful and which is unlawful comes with purpose. Maqasid al-shariah is referred to as the goal or objective to be achieved in an Islamic law (Kamali, 1999). Thus, complying with shariah is promote the human well-being as critically advocated by Imam Al-Ghazali (Asyraf & Bouheraoua, 2011). According to Imam Al-Ghazali, in an Islamic society there are five necessary shariah-mandated foundations of proper individual and social life. These are: din or religion, nafs or human self,nasl or prosterity, mal or wealth and aql or intellect. Whatever ensures the safeguard of these five serves public interest and is desirable (Asyraf & Bouheraoua, 2011). Indeed, the noblest of all worships is the promotion of society's well- being; al-Ghazali quotes one of the Prophet Muhammad's (PBUH) sayings, "all creatures are dependents of Allah and the most beloved of them to Allah are those who are most beneficial to His dependents (Ghazanfar & Islahi, 1998).

2.3 Accountability in Islam

Sources of accountability

The accountability arises from the trust (amanah) undertaken from Allah by the owner to provide the Islamic Fund Management business. In general perspective, trust is a contract between Allah and man since it is mention in the Al-Quran that Allah had given the trust to the mankind where the other creatures of Allah refused to accept because they were afraid of the heavy burden (Al-Quran. Al-Ahzab 33:72). By putting a trust to mankind as a vicegerent, Allah control and directed in every affairs of human and at all times (Chapra & Ahmed, 2002).

[5] Shaikh Yusuf Talal DeLorenzo (cited in Qureshi, A. A., 2011), a Shariah scholar, says that unless a financial product or service can be certified as Shariah compliant by a competent Shariah Supervisory Board, that product's authenticity is dubious

This principle of accountability flows from the vicegerent principle and denotes that individuals will be accountable to Allah for all of their actions on the Day of Judgment. Originally, the trust is not imposed on the various players of the Islam Fund Management. However since they involve in this industry, they are obliged to shoulder the accountability as expounded in several verses of Al-Quran which are: 1) 'Allah takes careful account of everything' (Al-Quran. An-Nisa' 4:86); 2) "On that day will men proceed in groups, sorted out, to be shown their deeds. Then shall anyone who has done an atom's weight of good, see it! And anyone who has done an atom's weight of evil, shall see it." (Al-Quran. Al-Zalzalah 99:6-8); 3) "Every soul will be held in pledge for its Deeds" (Al-Quran. Al-Muddaththir 74:38) and 4) "….No bearer of burdens can bear the Burden of another" (Al-Quran. Al-Isra' 17:15).

Accountability hierarchy

The highest level of accountability for shariah compliance should rest on the shoulder of the owner of the Islamic Fund whether as an individual or as collective individuals[6] because the owners are the one that offer the Islamic Fund Management product and services to the public. Therefore they have to fulfil their promise or contract to support such claim, as Allah says "*O you who believe, fulfill contracts*" (Al-Quran. Al Ma'idah 5:1). The act to involve in the Islamic fund management business is not imposed on anyone and not compulsory from the Islamic perspective. But once these individuals involve in the business, the obligation to ensure the shariah compliance are imposed on the owner of the fund. Therefore it is their duty to provide assurance to the investors that rely on them that the fund is shariah compliant.

The delegation of the accountability to the other parties to provide the assurance is allowable as Allah says "…And cooperate with one another in virtuous conduct and conscience, and do not cooperate with one another in sin and hostility" (Al-Quran. Al-Ma'idah 5:2). In another verse, the act to delegate the accountability and command work from each other is acceptable in Islam as God says "…It is We Who portion out between them their livelihood in the life of this world: and We raise some of them above others in ranks, so that some may command work from others. But the Mercy of thy Lord is better than the (wealth) which they amass" (Al-Quran. Al- Zukhruf 43:32). On this premise, the owner of the fund management companies via its Annual General Meeting needs to appoint qualified Board of Directors to serve as their agent in directing and controlling the fund. The board again has the duty to appoint (qualified) member of the shariah board and the top management team to run the fund as mandated by the owner. Next, the top management need to select qualified individuals to sit on every single function within the fund organization to run the business. These are the trust assumed at various levels within the fund which resulted that every single level of hierarchy has the accountability on shariah compliant and thus responsible in the assurance process.

The different level of hierarchy on accountability can best described from one hadith reported by Imam Al-Bukhari "Allah's Apostle said, "Surely! Every one of you is a guardian and is responsible for his charges: The Imam (ruler) of the people is a guardian and is responsible for his subjects; a man is the guardian of his family and is responsible for his subjects; a woman is the guardian of her husband's home and of his children and is responsible for them; and the slave of a man is a guardian of his master's property and is responsible for it" (Abd & Suhaili, 2005).

[6] Help ye one another in righteousness and piety, but help ye not one another in sin and rancour: fear Allah.For Allah is strict in punishment (Al-Quran. Al-Maidah 5:2)

From the conventional perspective, this different level of hierarchy may reflect personal intellectual and achievement in their career but from the Islamic perspective this reflects the will and set up of Allah for the mankind' benefits in their life as stated by God, "…It is We Who portion out between them their livelihood in the life of this world: and We raise some of them above others in ranks, so that some may command work from others. But the Mercy of thy Lord is better than the (wealth) which they amass" (Al-Quran. Al-Zukhruf 43:32). With this in mind, every single individual for every functions and components will perform their duty to the level best and should not look down the contribution of other party neither envy on the higher positions of the other party because the different level of hierarchy is a bless from Allah where the objective is for the mankind to command work from the others in helping them to implementing task at hand.

Dual Accountability

The previous section had discussed on who is held accountable, the different level of individual held accountable and ultimately the justification for this different level of accountability. In this section, the study aim to describe to whom the accountability is meant for? From the Islamic perspective, the concept of dual accountability is established to ensure comprehensive shariah compliance assurance (Zurina et al., 2013). Accountability is at the heart of Islamic belief (Benayoune, 2011) because one of the six pillars of Islam is the belief in the Day of Judgement (Keller, 2002) when people are held accountable in front of Allah for all their actions on earth.

Accountability to Allah

The ultimate accountability in Islam is towards Allah as supported in the Al-Quran in Surah Al Baqara verse 284 "Whatever is in the heavens and whatever is in the earth is Allah's; and whether you manifest what is in your minds or hide it, Allah will call you to account according to it; then He will forgive whom He pleases and chastise whom He pleases, and Allah has power over all things" (Ronia & Zurina, 2013). In another verse, Allah says, "And obey Allah and the Messenger; that ye may obtain mercy" (Al-Quran. Al 'Imran 3:132). According to these verses, mankind is held responsible in the Day of Judgment to Allah for everything he does because it is Allah's instruction for the mankind to obey Him. More importantly , this verses show us that rendering an account to discharge accountability is recognized as part of worship to Allah and virtuous deeds to achieve Al-Falah that is benefit for the people in this world and the Hereafter (Rosnia & Zurina, 2013).

Accountability to stakeholders

Within the organisation , there is a clear teaching of Islam that we not only to obey the order of Allah and the Prophet but also the order of the people in charge of your works as stated in the following verse "Obey Allah and obey His messenger and those among you who are in charge of your affairs…."(Al-Quran. Al-Nisa' 4:59). In Islam it is allowed to share the burden of the works given to us as it is the teaching of Islam to help each other , as in this verse "…..Help ye one another in righteousness and piety, but help ye not one another in sin and rancour: fear Allah. for Allah is strict in punishment" (Al-Quran. Al-Ma'idah 5:2). Nevertheless, one should bear in mind that we only assign or give the task to the qualified people only, as again this is the teaching of Islam as God says, "Allah doth command you to render back your Trusts to those to whom they are due…." (Al-Quran. Al-Nisa' 4:58).

As with accountability outside the fund management, in particular the investors, there is a strong reminder by the Allah that "O ye who believe! Fulfill all obligations" (Al-Quran. Al-Ma'idah 5:1). What is the fund obligation towards the investor? The obligation is derived from the Islamic Fund Management claims that the fund is shariah-compliant. Based on this claim, investors decided to choose the fund and rely on the fund manager to undertake the Islamic Fund Management activities on their behalf (BNM, 2013). This is the contract to be fulfilled. It is important to appreciate that everything which may have impact on the shariah matters in the economic and muamalat activities of the fund will be recorded and measured by the God as stated in this verse, "…Then shall anyone who has done an atom's weight of good, see it! And anyone who has done an atom's weight of evil, shall see it."(Al-Quran. Al-Zalzalah 99:6-8).

2.4 Assurance

The effort to provide assurance on the shariah compliance is as result of the dual accountability as explained in the previous section. The process of assuring shariah compliance in Islamic Fund Management should involves a structured chain of activities, which are interconnected. The process involves a set of components, tools and parameters which cover various activities from the initial formation of the fund till such funds are launched, marketed and transacted. The shariah compliance should be continuous and not just a one-off assurance. Therefore a proper framework should exist to ensure all transactions, practices and activities of the Islamic Fund Management are in compliance with the shariah and ultimately the objectives of the shariah for conducting the business is met.

Assurance hierarchy

The level of hierarchy created for the assurance process is a set of aqli knowledge to support the naqli knowledge of different level of accountability. In this study, the conceptual framework for the shariah compliance assurance will explore on the adoption of the three line of defence model as guidance for the effective risk management and control as issued by The Institute of Internal Auditors in 2013. The utilisation of this model in this study is not from the risk perspective but rather from the control perspective. This is in line with the governance definition which is a set of system to monitor and control the activities of an organisation. The justification for each level of the line of assurance process is as following;

First line of assurance (adopted and adapted from the first line of defense)
This is self-assurance to be conducted mainly by the line managers who own their respective processes in the Islamic Fund Management and risk management functions to help them to identify, measure, monitor, control and report all pertinent factors to ensure shariah compliant. Their activities are monitored and supervised by the top management. The concept is consistent with the teaching of Islam for one to always to be aware of what they do because all their actions will be queried by Allah in the Day of Judgment as narrated in Al-Quran; Surah Al Hashr verse 18 (Imam Al-Ghazali, 2008)

Second line of assurance (adopted and adapted from the second line of defense)
This is a secondary assurance to be conducted by the shariah specialist group. The shariah specialist group is the backbone for the Shariah Committee which oversight their activities. The concept of secondary assurance is based on the teaching of Islam that we need to help each other in conducting good deed and not in evil as narrated in Al-Quran; Surah Al Ma'idah

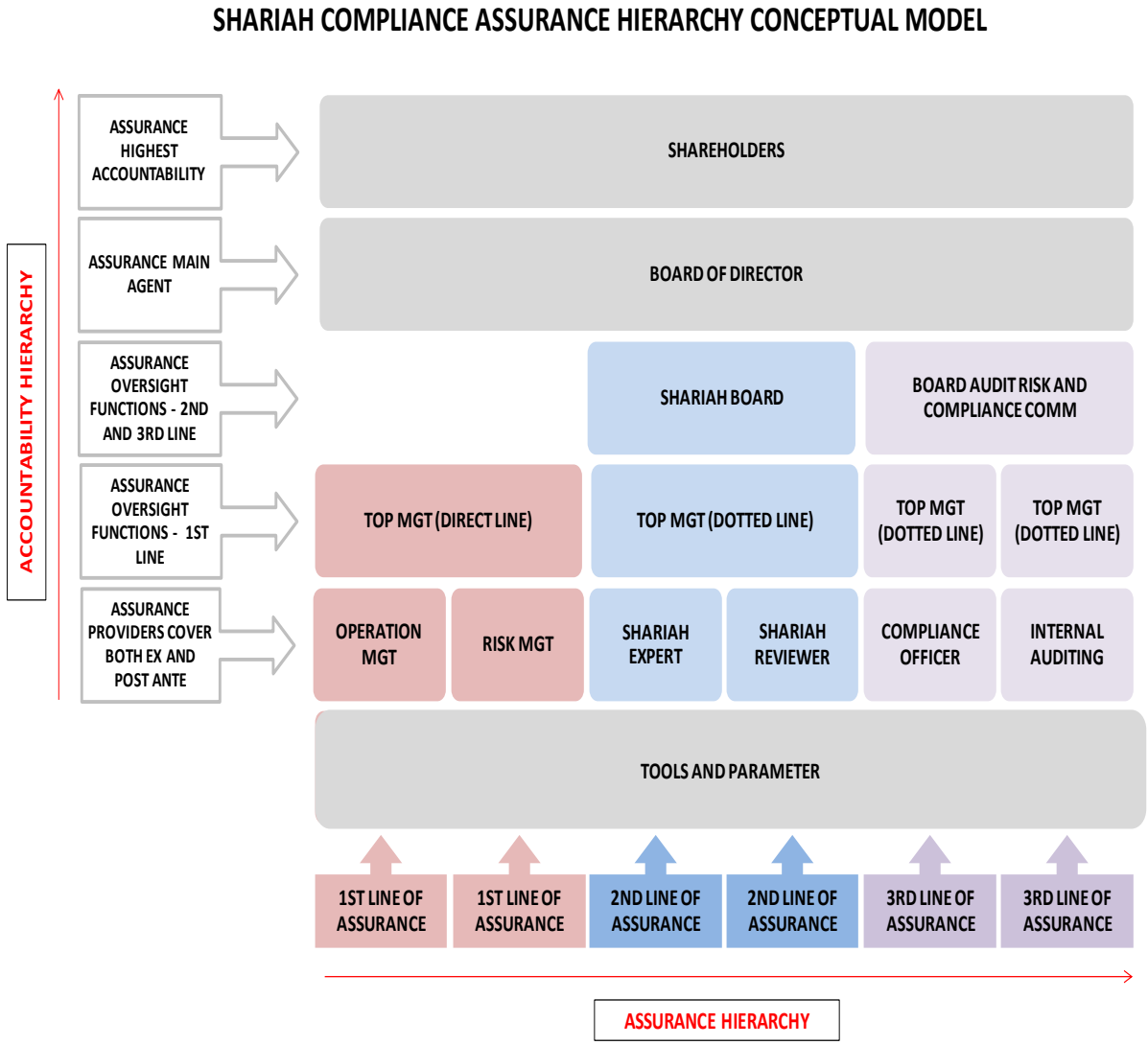
verse 2 (Imam Al-Ghazali, 2008). The shariah specialist group is not only an assurance provider on its own line of assurance but also serve as link between the first and second line of assurance and the shariah committee.

Third line of assurance (adopted and adapted from the third line of defense)
This is an independent assurance within the Islamic Fund Management to be conducted by the compliance officer and internal audit functions. Their activities are to be monitored and supervised by the Board Audit, Risk & Compliance Committee. The concept of the third line of assurance is based on the teaching of Islam on enjoining good and forbidding evil. Allah the Exalted has said in Al-Quran; Surah Al Imran verse 104, "Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong: They are the ones to attain felicity (Imam Abdullah Al-Hadad, 1998).This third line of assurance is consistent with the Hisbah practices in the past (Bhatti, M & Bhatti, I., 2010).

3.0 SHARIAH COMPLIANCE ASSURANCE HIERARCHIES (SHARICAH)

Compliance with shariah will be better achieved by having a proper shariah compliance assurance process. As the act to provide the assurance on the shariah compliant is the process whilst the governance is the building block to implement the processes involves. Thus, SHARICAH will leverage on the existing corporate governance system of an Islamic Fund Management companies with proposed addition on its existing components, processes, roles and responsibilities, scope of work and services, as well as the tools and parameters. Since the conceptual model benchmarked its framework largely based on the Shariah Governance Framework issued by the Bank Negara Malaysia (BNM, 2011), Guiding Principles on Shariah Governance Systems for Institutions Offering Islamic Financial Services (IFSB, 2009) and related guidelines on Islamic Fund Management by Securities Commission, various unresolved issues or highlighted limitation will be addressed. Apart from this, the conceptual model integrates the concept recommended in the three line of defense model as promoted by the Institute of Internal Auditors in 2013 (IIA, 2013), to ensure strict shariah compliant on the Islamic Fund Management business activities.

The Conceptual Model



The Model's Sources of Reference

Table 1: Sources of reference for the conceptual frameworks

Concepts	Definition/ or sub-components/concepts)	References
Structure	**Shareholders (via AGM)**	Al-Quran. Al-Muddaththir 74:38
	Board of Directors (BOD) Based on the agency theory, the Board was given the accountability on behalf of the shareholders. However it is the duty of the shareholders (via the AGM to appoint "fit and proper" board members.	CMSA (SC,2012),Guidelines on Islamic Fund Management (SC, 2007),
	Board , Audit ,Risk and Compliance Committee (BARC) This is an integrated board committee serve as an oversight functions for the third line of defense	Shariah Governance Framework (BNM,2011), IFSB-10

	Internal Shariah Board Committee (SSC) This is a unique component in Islamic finance that serves as an oversight functions for the second line of defense.	Guidelines on Islamic Fund Management (SC, 2007), Shariah Governance Framework (BNM,2011)
	Top Management (TM) Comprise the CEO and the other top executive positions responsible for the first line of defense.	Shariah Governance Framework (BNM,2011)
	Line Managers (LM) Naturally serve as the first line of defense as controls are designed into system and process under their guidance for the day-to day activities.	The Three Lines of Defence model by The Insititute of Internal Auditors, (IIA,2013).
	Shariah Specialist Group (SSG) head by a Shariah Secretariat of which consist of the main components i.e. Shariah Reviewer and Shariah Expert	Shariah Governance Framework (BNM,2011)
	Compliance Officer (CO)	Guidelines on Islamic Fund Management (SC,2007)
	Risk Management Functions (RMF)	Guidelines on Islamic Fund Management (SC,2007),Shariah Governance Framework (BNM,2011)
	Internal Audit Department (IAD)	Guidelines on Islamic Fund Management (SC,2007),Shariah Governance Framework (BNM,2011),
Process -Assurance Providers Hierarchy	1st line – self-assurance (LM) 2nd line – secondary assurance (SSG) 3rd line – independent assurance	The Three Lines of Defence Model by The Insititute of Internal Auditors, (IIA,2013), Al-Quran. Al-Mujadilah 58: 18 Al-Quran. Al-Ma'idah 5:2 Al-Quran. Al-'Imran 3:110
Accountabilities-Assurance Accountability Hierarchy	Operational Level – LM,SSG,CO,RMF Top Management Level – TM Strategic Level – BOD/BARC/SSC	Shariah Governance Framework (Bank Negara Malaysia, 2011b) , Guidelines on Islamic Fund Management (SC,2007),IFSB-10
	Ownership Level – Shareholders	Al-Quran. Al-Muddaththir 74:38

Tools & Parameters	Operational Policies and Procedures	Shariah Governance Framework (BNM, 2011)
	Know Your Investors' Policy (Similar concept to anti-money laundering)	Shariah Governance Framework (BNM , 2011)
	Investment Portfolio Review on both financial and non-financial data of the targeted investment instruments. 1. Existing investment portfolio 2. Potential investment portfolio	Guidelines on Islamic Fund Management (SC,2007), IFSB-6
	Investment Screening Policy 1. Regulated instruments/industries 2. Unregulated instruments/ industries	Guidelines on Islamic Fund Management (SC,2007), IFSB-6
	Internal and External Regulations	Guidelines on Islamic Fund Management (SC,2007),Shariah Governance Framework (BNM,2011)
	Whistle Blowing Policy	IFSB-6
	Income Purification	IFSB-6

4. CONCLUSION

Due to the fact that the research on shariah compliance assurance for Islamic Fund Management is a new domain, the nature of this research is exploratory rather than hypothesis testing. As the original basis for the foundation of the Islamic Fund Management is based on the teaching of Islam, strict compliance is crucial to support this claim in order to secure public confidence and fulfill the obligation towards Allah. To achieve this, the study found that the shareholders of the fund hold the highest accountability within Islamic Fund Management. The conceptual model is supported by the theoretical explanation on the accountability held by the stakeholders and subsequently , the responsibility on the assurance process to ensure shariah compliant The research also had demonstrated that whilst naqli knowledge tells what Allah has commanded, things that Allah has forbidden and what Allah has destined for, then the aqli knowledge describes the structure proper, components required, processes involved, tools and parameters to be adopted for shariah compliant

REFERENCES

Ab. Mumin Ab. Ghani & Suhaili Sarif (2005). Penerapan Budaya Keusahawanan Dalam Masyarakat Islam. *Seminar Keusahawanan Islam Peringkat Kebangsaan 2005* (pp. 1–18). Kuala Lumpur

Asyraf Wajdi Dusuki & Said Bouheraoua (2011*).* The Framework of Maqasid Al-Shariah (Objectives of the Shariah) and Its Implications for Islamic Finance. *ISRA International Journal of Islamic Finance, (No : 22/2011)).*

Abu Emina Alias. Forty Hadith An-Nawawi in English and Arabic, 2014. *Faith in Allah*. Retrieved from http://www.faithinallah.org/forty-hadith-nawawi/. accessed: 5 June 2014

Benayoune, M (2011). *Accountability in Muslim Organisations*. Retrieved from <http://www.thecanadiancharger.com/page.php?id=5&a=1044> accessed : 1 June 2014

Bhatti, M., and Bhatti, I. (2010). Toward Understanding Islamic Corporate Governance Issues in Islamic Finance. *Asian Politics and Policy, 2, 1,* 25-38.

Bank Negara Malaysia (2013) *Islamic Financial Services Act*. Kuala Lumpur: BNM.

Bank Negara Malaysia (2011) *Shariah Governance Framework for Islamic Financial Institutions*. Kuala Lumpur: BNM.

Chapra, M. U., & Ahmed, H. (2002). Corporate governance in Islamic financial institutions. *Occasional paper, 6*. Jeddah. IRTI

Ghazanfar, S. M., & Islahi, A. A. (1998). *Economic thought of al-Ghazali (450-505 AH/1058-1111 AD)*, 2. Scientific Publishing Centre, King Abdulaziz University.

Global Islamic Funds Industry Growth Despite Challenging and Volatile Market , 2013. *Insight.* Retrieved from <http://www.mifc.com/index.php?ch=28&pg=72&ac=61&bb=uploadpdf>. accessed : 10 June 2014

Imam Al-Ghazali (2008). *Penenang Jiwa Terjemahan Kitab Mukasyafah al-Qulub* (Nur , M.Q. Trans.). Wholesale-Mart Business Point Selangor: Basic Books.

Islamic capital market statistics. *Data and Statistics*. Retrieved from <http://www.sc.com.my/data-statistics/islamic-capital-market-statistics/>. accessed : 10 June 2014.

Islamic Financial Services Board (2009). *Guiding Principles on Shari'ah Governance Systems for Institutions Offering Islamic Financial Services (IFSB-10)* .Kuala Lumpur, IFSB.

Introduction to Islamic Fund Management (2014). *MIFC Knowledge Centre*. Retrieved from http://www.mifc.com/index.php?ch=ch_kc_definitions&pg=pg_kcdf_overview&ac=230/>. accessed : 10 June 2014.

Islamic Financial Services Board (2009). *Guiding Principles on Governance for Islamic Collective Investment Schemes (IFSB-6)*. Kuala Lumpur: IFSB

Kamali, M. H. (1999). *Law and society: The interplay of revelation and reason in the Shariah*. The Oxford History of Islam, 107-153.

Keller, N. H. M. (2002). *Al-Maqasid : Nawawi's Manual of Islam (2nd edition.)*. Marryland: Amana Publications.

Karim, F. (1993). Ihya Ulum-id-Din. (Fazlul Karim, Trans.*). In Revival of Religous Learnings by Imam Ghazaali's Ihya Ulum-Id-Din (First Edition).* Karachi Pakistan: Darul_ishaat.

Malaysian International Islamic Financial Centre (2013). Shariah Screening Methodology: Adopting a Two-Tier Quantitative Approch. *Insights*, Bank Negara Malaysia, 1–4.

Muhammad Hafidz Selamat. (2014). *Kitab Usul Tauhid – Karangan Sheikh Hussin Nasir*. (Talk). 3 June.

Muhammad Akram Laldin & Hafas Furqani. (2012). The Objective Of The Shariah In Islamic Finance : Identifying The Ends (Maqasid) And The Means (Wasail). *ISRA International Journal of Islamic Finance* (p. 26). Kuala Lumpur.

Nawal Kassim, Sheila Nu Nu Htay & Syed Ahmed Salman. (2013). Conceptual Framework for Shariah Corporate Governance with Special Focus on Islamic Capital Market : *International Journal of Trade, Economics and Finance*, 4, 15, 336-339.

Rosnia Masruki & Zurina Shafii (2013). *The Development of Waqf Accounting in Enhancing Accountability*, 13, 1–6. doi:10.5829/idosi.mejsr.2013.13.1873

Rusnah Muhamad (2011). Market Segmentation and the shariah compliancy process in Islamic Banking Institutions (IBIs). *ISRA International Journal of Islamic Finance, 21/2011*, 46.

Saiful Azhar Rosly (2010). Shariah parameters reconsidered. *International Journal of Islamic and Middle Eastern Finance and Management*, *3*, *2*, 132–146. doi:10.1108/17538391011054372

The Institute of Internal Auditors (2013). IIA Position Paper : *The Three Lines of Defense in Effective Risk Management and Control 2013*. IIA

The Book of Assistance by Imam Abdallah Ibn Alawi Al Haddad trans. Mostafa Al-Badawi 1988.

Securities Commission Malaysia (2007).*Capital Markets and Services Act (Revised 2012*). Kuala Lumpur: Securities Commission Malaysia.

Securities Commission Malaysia (2007) *Guidelines on Islamic Fund Management.* Kuala Lumpur: Bank Negara Malaysia.

Securities Commission Malaysia (2008). *Guidelines On Unit Trust Funds (Revised 2014)*. Kuala Lumpur: Bank Negara Malaysia.

Securities Commission Malaysia (2005). *Guidelines on Compliance Function for Fund Management (Revised 2014*). Kuala Lumpur: Bank Negara Malaysia.

Shariah Screening Methodology: Adopting A Two-Tier Quantitative Approach, 2013. *Insights* Retrieved from .<http://www.mifc.com/index.php?ch=28&pg=72&ac=54&bb=uploadpdf >. accessed: 10 June 2014

Wilson, R. (2007). *Islamic Finance in Europe.*

Yusof Ismail & Suhaimi Mhd Sarif (2011). The role of Tawhidic paradigm in the transformation of management system. *In Proceedings of the National Seminar on Islamic Management Systems Transformation* (Trans-SPI) (pp. 127–147). doi:ISBN: 978-967-5295-91-1)

Zurina Shafii, Ahmad Zainal Abidin , Suppiah Salleh, Kamaruzaman Jusoff & Nawal Kassim (2013). Post Implementation of Shariah Governance Framework : The Impact of Shariah Audit Function towards the Role of Shariah Committee. *Middle-East Journal of Scientific Research, 13*, 7–11. doi:10.5829/idosi.mejsr.2013.13.1874.

Zurina Shafii, Supiah Salleh & Syahidawati S. (2010). Management of Shariah Non-Compliance Audit Risk in the Islamic Financial Institutions via the Development of Shariah Compliance Audit Framework and Shariah Audit Programme. *Kyoto Bulletin of Islamic Area Studies*, 14.

OUTPUT GAP AND MONETARY POLICY FRAMEWORK IN SUKUK ISSUING OIC MEMBER COUNTRIES

Nursilah Ahmad[1]

ABSTRACT

The aim of this study is to estimate the size of output gaps for ten sukuk issuing Organization of Islamic Cooperation (OIC) member countries. The output gap is measured based on univariate Hodrick-Prescott filter for the period 1980 until 2011 using annual data. Data are sourced from the World Economic Outlook Database. The findings indicate those countries under inflation targeting and other monetary policy framework display smoother trend between real GDP and its trend. That is, the size of output gap is smaller in these economies. The findings would be useful to policy-makers since the estimate of output gap can contribute towards identifying and assessing the effectiveness of monetary policy framework over time.

Keywords: *Hodrick-Prescott filter, monetary policy framework, output gap, sukuk*

1. INTRODUCTION

One of the important issues in macroeconomics is understanding macroeconomic fluctuations. One way to measure the fluctuations is by estimating output gap. Output gap, or business cycle, is defined as the difference between actual and potential output. Potential output is an unobservable variable that reflects the maximum output an economy can sustain without inducing inflation. It is the level of Gross Domestic Product (GDP) that is consistent with full utilisation of all factors of production under conditions of stable inflation.

Capacity utilization is the extent to which an economy uses its productive capacity. If market demand grows (weakens), capacity utilization will rise (decline). The convention is that when utilization rises above 80 percent, price inflation will increase. Excess capacity means that insufficient demand exists to warrant expansion of output. “Undercapacity” refers to a situation when utilization rate is high. “Excess capacity” or “surplus capacity” exists when utilization rate is low. Bondholders view capacity utilization rate above the trend rate as inflationary.

[1] Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM). This research is funded by FRGS Research Grant: FRGS/1/2013/SS07/USIM/02/1. Corresponding author: nursilah@usim.edu.my

Higher inflation decreases bond prices and require a higher yield to compensate for the higher inflation rate.

Output gap captures the effect of shifts in domestic demand thus represents demand shocks. The argument is higher domestic demand would tend to raise domestic and import prices (Bussiere, 2006). Output gap captures the notion that with increasing sales, firms are more likely to pass-through increases in costs to final prices. The reverse is also true. The current output gap should provide information regarding future inflation. Since economic policies have direct impacts on the gap, the gap model is central to almost all inflation models. The present study contributes to the literature by investigating whether the degree of excess capacity in the economy is an important determinant of inflation in sukuk issuing country.

Output gap estimates could also be used in identifying and assessing patterns of monetary policy framework over time. A positive output gap is indicative of demand pressures and a signal that inflationary pressures are increasing and that policy may need to tighten. A negative output gap has the opposite implication.

The present study seeks to measure the size of output gap in ten selected Organization of Islamic Cooperation (OIC) member countries namely Brunei, Bahrain, Indonesia, Kuwait, Malaysia, Pakistan, Qatar, Saudi Arabia, Turkey and the United Arab Emirates (UAE). These countries are sukuk issuing countries. Sudan is excluded from the study due to data constraints. The findings would indicate whether output gap estimation is a good indicator of inflationary pressures for these economies. We would also examine the effectiveness of macroeconomic policy management over time since the degree of capacity utilization rate is an important determinant of inflation. In turn, inflation is one of the key factors affecting sukuk performance. Moreover, the literature suggests that Islamic financial institutions create a clear link between financial sector and real sector thus contributes more towards economic development. The present research contributes to the literature by attempting to examine this issue from the output gap perspective.

The paper is organized as follows. After the Introduction, Section 2 discusses literature review. Section 3 examines the research method while Section 4 presents the findings. Section 5 concludes the discussion.

2. LITERATURE REVIEW

Output Gap

There are at least five different methods of estimating output gap namely linear time trends, Hodrick-Prescott (HP) filter trends, multivariate HP filter trends, unobservable components models and a production function model. In general, these methods produced similar broad time profile of the output gap (deBrouwer, 1998). Coe and McDermott (1997) find the

estimated output gap is in the range of ±3 percent for the 13 Asian economies under their investigation.

Output gaps are estimated for two reasons. Firstly is to provide information about excess capacity in the economy at a particular point in time. From the perspective of monetary policy, the output gap over the forecast horizon is of most interest. Secondly, time series of the output gap is to be used in modelling exercises. The inclusion of output gap produce better estimates of inflation. For example, given that excess demand pressures are a key driver of rising inflation, the output gap can be included in price or wage inflation equations to obtain a more precisely estimated equation and more accurate forecasts (deBrouwer, 1998). Hence, the importance of output gap in macroeconomic models is due to its importance in assessing inflationary pressures, cyclical position of the economy and convergence criteria of the countries trying to form a currency union.

Exchange Rate Arrangement

Most of the OIC member countries are classified under "conventional peg" exchange rate arrangement. Other exchange rate arrangements include currency board, stabilized arrangement, crawling peg, crawl-like arrangement, and other managed arrangement, floating and free-floating. In addition, the member countries are further categorized into different monetary policy framework classifications such as 'Exchange rate anchor', 'Monetary aggregate target', 'Inflation targeting framework' or 'Other' category (SESRIC, 2012).

Malaysia subscribed to 'other managed arrangement' under the 'Other' policy framework category. Indonesia and Turkey belongs to 'Inflation targeting framework' and they adopt floating exchange rate arrangement. Pakistan is the only country under 'Monetary aggregate target' with stabilized exchange rate arrangement. Meanwhile, six other economies adopt conventional peg arrangement under 'Exchange rate anchor' classification. Table 1 summarizes the monetary policy framework of the sukuk issuing countries under study.

Table 1: Monetary Policy Framework Classification in Sukuk Issuing Countries

Monetary Policy Framework	**Countries**		
Exchange Rate Anchor (6 countries)	Anchor		
	USD (4 countries)	**Composite** (1 country)	**Other** (1 country)
	Bahrain, Qatar, Saudi Arabia and UAE	Kuwait	Brunei

Monetary Aggregate Target (1 country)	Pakistan
Inflation-Targeting framework (2 countries)	Indonesia and Turkey
Other (1 country)	Malaysia

Notes: Adapted from Table 5.1 and Box 5.3. of the Annual Economic Report on the OIC Countries, 2012 (SESRICb). The classification is based on the IMF Annual Report 2011. Sudan is excluded due to data unavailability. A brief explanation of each policy framework is reproduced below:

Exchange Rate Anchor: In this framework, the monetary authority buys or sells foreign exchange to maintain the exchange rate at its predetermined level or within a range. The exchange rate thus serve as the nominal anchor or intermediate target of monetary policy.

Monetary Aggregate Target: The monetary authority uses its instruments to achive a target growth rate for a monetary aggregate, such as reserve money, M1, or M2, and the targeted aggregate becomes the nominal anchor or intermediate target of monetary policy.

Inflation Targeting Framework: This involves the public announcement of numerical targets for inflation, with an institutional commitment by the monetary authority to achieve these targets, typically over a medium term horizon.

Other Category: The country has no explicitly stated nominal anchor, but instead monitors various indicators in conducting monetary policy. This category is also used when no relevant information on the country is available.

Marrewijk (2005) analyzes the effectiveness of fiscal policy and monetary policy under fixed and flexible exchange rate regime. The author concludes that in the short run, fiscal policy is more effective under fixed regime while monetary policy is more effective under floating regime. This reflects the consensus view. Table 2 below compares the effectiveness of both policies under fixed and flexible exchange rate regimes.

Table 2: Effectiveness of Fiscal and Monetary Policy under Perfect Capital Mobility

A. Fixed Exchange Rate Regime				
Home is	Monetary Expansion in Home		Fiscal Expansion in Home	
	Effect on output in		Effect on output in	
	Home	Foreign	Home	Foreign
Small country	0	0	+	0
Large country	+	+	+	?
B. Flexible Exchange Rate Regime				
Small country	+	0	0	0

Large country	+	-	+	+

Notes: Under fixed exchange rates, a small country can only increase output through a fiscal expansion, which if the country is large may reduce output abroad. Similarly, under a flexible exchange rate, a small country can only increase output through a monetary expansion, which if the country is large will reduce output abroad for sure. In this respect, when facing unemployment, the rest of the world will always support the less effective policy expansion in Home, as it may never hurt and may benefit the foreign output level.

Source: Adapted from Marrewijk (2005).

In short, the economic structure and level of development of a country will determine the appropriate exchange rate regime. In developing countries, with fairly new financial systems, trade variables will most likely determine the exchange rate. For the developed economies, the movements of capital and financial assets will affect exchange rates. Hence, selecting appropriate exchange rate arrangements and moving from a fixed to flexible regime requires a good understanding of macroeconomics fluctuations.

3. METHOD

The sample consists of ten OIC sukuk issuing member countries as mentioned earlier. Data are annually, covering the period 1980 to 2011 and are sourced from the World Economic Outlook Database. For annual data, Gross Domestic Product (GDP) is used as the proxy for real output and trend estimates. The study also includes data on annual percentage changes in Consumer Price Index (CPI). Data are in log values, in constant USD 2005 prices. Output gap is measured in growth rates and CPIs are measured in percentage changes.

Output gap is estimated as the log difference between actual output and its Hodrick-Prescott (HP) filter. The Hodrick-Prescott filter (HP filter) decomposes output into permanent and transitory components generating a smoothened trend of output. The generated smoothened series is the estimated potential output. The HP filter is defined as follows. Suppose a time series $ygap_t$ can be decomposed into trend (growth) component, $ygap_t^g$ and cyclical component, $ygap_t^c$:

$$ygap_t = ygap_t^g - ygap_t^c \quad (1)$$

The HP filtering process will choose the growth component, $ygap_t^g$ that minimize the following problem:

$$Min(1/T)\sum_{t=1}^{T}(ygap_t - ygap_t^g)^2 + (\lambda/T)\sum_{t=2}^{T-1}[(ygap_{t+1}^g - ygap_t^g) - (ygap_t^g - ygap_{t-1}^g)]^2 \quad (2)$$

where *T* is the sample size. The first term is the sum of the squared deviations and indicates the goodness of fit. The second term is the sum of the squares of the trend component's second differences and measure the degree of smoothness. The parameter λ is the smoothness parameter, set at 100 for the annual data, following the literature in the subject. The λ parameter penalizes the variability in the growth component. If the value of λ is zero, then the second term becomes zero, the sum of squares is minimized when $ygap_t - ygap_t^g, \forall_t$, and the HP filter would return the original series $ygap_t$ as the growth component. Meanwhile, the second term is minimized when $ygap_t^g - ygap_{t-1}^g$ is the same $\forall_t$. The objective of the minimization problem is to select the trend component that minimize the sum of squared deviations from the observed $ygap_t$ series, subject to the constraint that changes in the trend component ($ygap_t^g$) vary gradually overtime.

4. RESULTS

The output gaps are estimated for each country and results are presented below in Figure 1. Real GDP are in log values, constant 2005 USD prices. The countries are arranged according to their monetary policy framework in order to compare their performance. Real GDP and its estimated trends for each country are displayed in the top panels in all figures. Real GDP is measured on the vertical axis in all figures. The annual rates of inflation and the estimated changes in output gaps are displayed in the bottom panels. In all figures, output gap is measured on the left-hand side on the vertical axis in terms of growth rates. Inflation is measured on the right-hand side on the vertical axis in terms of percentage changes. Note that the scale for each country is different.

Based on the visual plots, the estimated trends are relatively smooth for countries under 'inflation targeting' and 'other' monetary policy framework for the period under study. For the countries under 'monetary aggregate target', there are some noticeable deviations between the actual and the estimated trend during certain years, particularly during early 1980s. These might be due to the rising oil price during this time because most countries under this category are oil producers.

There was a large negative output gap spikes during mid-80s in the countries under Exchange rate anchor framework, probably affected by the Persian Gulf War. The highest inflation spike

at approximately 16 percent was recorded by Qatar in 2008 during global financial crisis. Indonesia was adversely affected by the 1997 Asian financial crisis in which there was the largest negative output gap and the highest inflation spike reaching almost 60 percent. Turkey, on the other hand, has high inflation and high fluctuations in output gaps estimations. Beginning mid-2000, inflation seems to stabilize at a much lower level. Pakistan shows rising inflation at the end of 2000s while Malaysia, with the largest negative output gap spike during 1997 Asian financial crisis, still have rising inflation even though output gaps are stable.

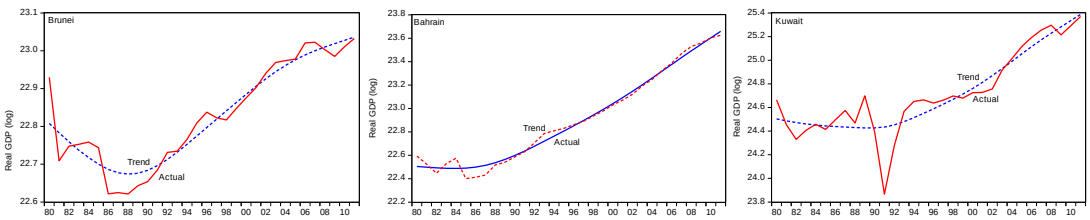
On the other hand, visual inspections on the output gap and inflation suggest that most of the inflation spikes tend to be associated with smaller spike in the output gaps. However, there are certain periods where the spikes in output gap are not accompanied by similar rise in inflation for some of the countries. We examine the output gap on level (instead of growth rates as shown here), and found that the rise in inflation in most cases occurred after the spike. This might be due to persistent large output gaps (PLOGs), in which the trade-off between inflation and unemployment is tight when output gaps are large but disinflation decelerates at very low inflation rates (R.A., 2013). This might indicate that inflation, at both level and changes, are equally important to policy makers.

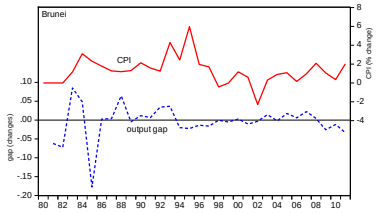
After mid-1990s, most countries under 'exchange rate anchor' arrangement, except Qatar, show almost similar patterns in their output gap changes. There is also a smoother trend between real and potential output. However, further empirical works are required to ascertain that output gaps are a good predictor for inflationary pressures for these countries.

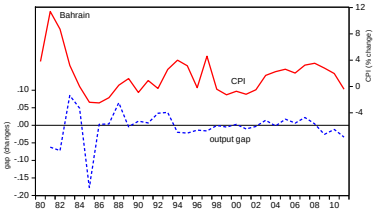
Figure 1: Output Gaps and Inflation

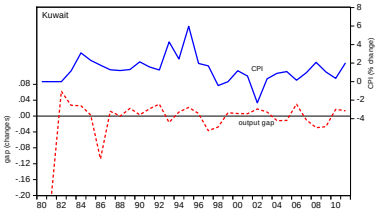
1(a): Exchange Rate Anchor

Brunei Bahrain Kuwait

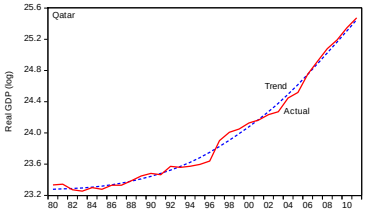


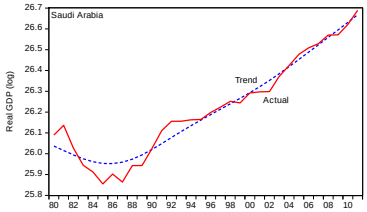


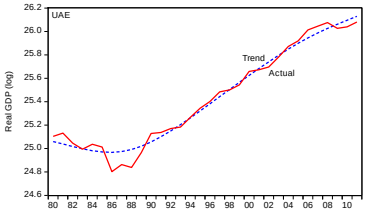


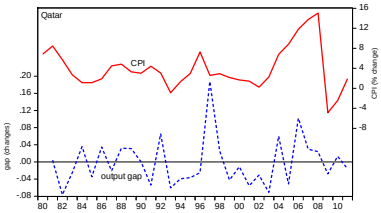


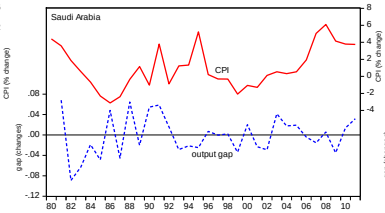
Qatar Saudi Arabia UAE

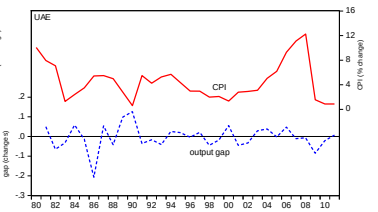






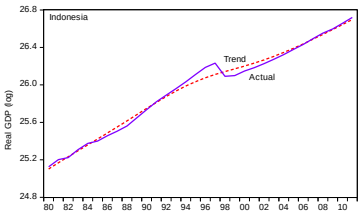


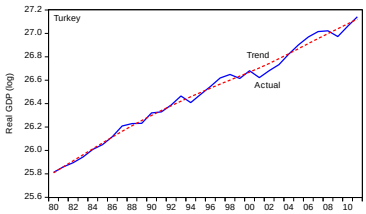


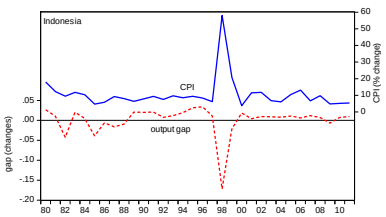


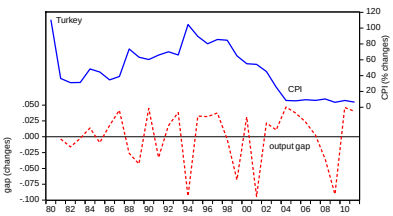
1(b): Inflation Targeting

Indonesia Turkey







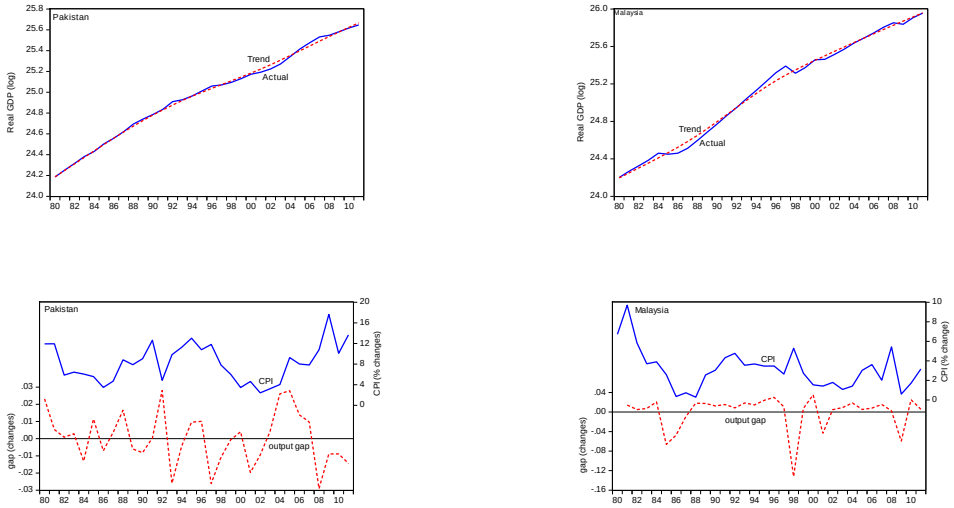


1(c): Aggregate Monetary Target

1(d): Other Category

Pakistan

Malaysia



In short, countries under 'exchange rate anchor' arrangement might learn from both the 'inflation targeting' and 'other' monetary policy framework. The literature suggests that output gaps have valuable information content about movement in price and wage inflation (de Brouwer, 1998). However, the information should be used along with other broad set of information in policy setting. Assessing model predictions based on output gap produce better results when policy has clear targets.

5. CONCLUSION

The study compares the size of output gaps in ten selected OIC sukuk issuing member countries. The findings reveal that Bahrain, Pakistan and Malaysia have smooth trend between real GDP and its trends. Some of the countries under study display similar patterns of business cycles. Towards mid-2000s, most countries display fewer fluctuations in business cycles and changes in inflation. Indonesia seems to be able to track inflation well based on the visual plot of output gaps estimations. Hence, the results suggest that output gap estimations contain key information for monetary policy.

The output gap is an important concept in the preparation of inflation forecasts and assessments of the economic outlook and the stance of macroeconomic policies. The size of output gap helps policy-makers design appropriate policies to sustain economic growth in the long run

without inducing inflation. Therefore, more accurate forecasts of inflation should help improve formulation of monetary policy in a particular economy.

For future research, since the output gap discussed above were all obtained based on univariate data analysis for each economy, other variables might be included in the estimation models such as inflation and capacity utilization rate. In addition, the output gaps estimations could be included in the empirical inflation equation to reduce *ex-post* prediction error.

REFERENCES

Andrle.M. (2013). What is in Your Output Gap? Unified Framework and Decomposition into Observables. *International Monetary Fund Working.* Paper WP/13/105.

deBrouwer, G. (1998). Estimating Output Gaps. *Research Discussion Paper 9809*, Economic Research Department, Reserve Bank of Australia.

Bukhari, S.A.H. & Ullah, K. S. (2008). *Estimating Output Gap for Pakistan Economy: Structural and Statistical Approaches*. Research Department: State Bank of Pakistan, Karachi, Pakistan.

Bussiere, M. (2006). *Exchange Rate Pass-Through to Trade Prices: The Role of Non-Linearities and Asymmetries*. European Central Bank: Frankfurt am Main: Germany.

Claus, I. (2000). Is the Output Gap a Useful Indicator of Inflation? Reserve Bank of New Zealand. *Discussion Paper Series*. No: 2000/05.

Coe, D.T. & McDermott, C. J. (1997). Does the Gap Model Work in Asia? *IMF Staff Papers*, 44, 1, 59-80.

Marrewijk, C.V. (2005). Basic Exchange Rate Theories. *Tinbergen Institute Discussion Paper*. TI 2005-024/2, Amsterdam.

Meltzer, A.H. (1993). Real Exchange Rates: Some Evidence From the Postwar Years, *Review-Federal Reserve Bank of St Louis, 75,2, March/April*: USA.

Osman, M. (2011). Potential Output and Output Gap for the Gulf Cooperation Council (GCC) Countries: Alternative Methods, *Journal of Economic and Social Research*, *13, 2*, 29-44.

Rajan, R.S. (2004).Choosing an Appropriate Exchange Rate Regime for Small Open Emerging Economies. *Briefing Notes in Economics, 59*. Available at: http://www.richmond.ac.uk/bne. [Accessed on August 8, 2005]

R. A. (2013). Output Gaps, When the Fed Fights, it Wins, *The Economist*, March 6 2013. Available at: http://www.economist.com/blogs/freeexchange/2013/03/output-gaps. [Accessed on 6 July 2013.]

SESRICa. (2012). Exchange Rate Regimes in the OIC Member Countries, *OIC Outlook Series, February 2012*. Organisation of Islamic Cooperation and Statistical, Economic and Social Research Training Centre for Islamic Countries (SESRIC), Ankara: Turkey.

SESRICb. (2012). *Annual Economic Report on the OIC Countries 2012*. Statistical Economics and Social Research and Training Center for Islamic Countries (SESRIC), Ankara: Turkey.

Slevin, G. (2001). Potential Output and the Output Gap in Ireland. *Central Bank of Ireland Technical Paper*. 5/RT/01.

Stockman, A.C. (1999). Choosing an Exchange Rate System. *Journal of Banking and Finance*, *23*, 1483-1498.

THE MISERY INDEX (MI) ESTIMATES FOR SUKUK ISSUING OIC MEMBER COUNTRIES

Nursilah Ahmad[1]
Nor Haziah Hashim[2]
Hanim Misbah[3]
Fuadah Johari[4]

ABSTRACT

The Misery Index (MI) is an economic indicator calculated by adding unemployment rate to the inflation rate for an economy. The assumption is that a higher inflation and unemployment rate creates economic and social costs for a country. The present study estimates the MI indicator for the 11 sukuk issuing Organisation of Islamic Cooperation (OIC) member countries. Data are annual and sourced from the WEO and SESRIC database covering the period 1980 to 2011. The findings suggest that inflation is a pressing issue in Turkey, Sudan, Indonesia, Pakistan, Kuwait, Qatar and the UAE for the last three decades. Conversely, unemployment is more prominent in Bahrain, Brunei, Malaysia and Saudi Arabia. To the policymakers, the MI implies the effectiveness of policy stance over the years and indicates area of policy improvements in curbing either inflation or unemployment or both.

Keywords: inflation, Misery Index, unemployment, sukuk issuing countries

1. INTRODUCTION

Price stability, often measured through inflation, is one of the main concerns of monetary policy. Economic slack is often used as the short term predictor for inflation. Economic slack is a measure of underutilized resources in the economy, such as labor and capital. A large amount of economic slack exerts downward pressure on inflation. Economist describe the short-term relationship between economic slack, measured through unemployment, and inflation with the Phillips curve. Recent studies show that the relationship between inflation and unemployment varies over time and tends to be stronger during recessions (Doh, 2011). The outlook for inflation, along with the unemployment rate, is an important element in the Central Bank's decision to increase monetary accomodation through purchases of long-term government treasuries and an expansion of asset-backed securities purchases. This is because a moderate rate of inflation is conducive to the growth of real investment.

Sukuk, or Islamic bond, are the most active Islamic debt market financial instrument to date. They are investment certificates with bond and stock-like features issued to finance trade or the

[1] Dr. Nursilah Ahmad, Senior Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM). This research is funded by USIM Research Grant PPP/FEM/IWM/30/14112. Email: nursilah@usim.edu.my
[2, 3, 4] Lecturers, Universiti Sains Islam Malaysia

production of tangible assets. According to market efficiency literature, unacticipated news about the macroeconomic indicators of a country influences the behavior of markets and participants. The study by Ahmad et al. (2012) suggests that sukuk granger-causes GDP (Gross Domestic Product) while GDP granger-causes both PPI (Producer Price Index) and CPI (Consumer Price Index). Therefore, changes in macroeconomic variables contain important information for capital market participants.

The paper is organized as follows. After the Introduction, the next section discusses background of study and the related literature. Section 3 examines the research method and research findings. Finally, Section 4 concludes the discussion and offer policy recommendations.

2. LITERATURE REVIEW

Definition of Sukuk

Sukuk (plural of *sakk*) is the Arabic term for Islamic securities, which in economic terms are akin to conventional bonds. The literal meaning of sukuk is certificates. Technically, sukuk refer to securities, notes, papers or certificates, with features of liquidity and tradability. Sukuk financing activities are mostly for the infrastructure and utilities, financial services sectors, property and real estate, oil and gas and energy sector. Sukuk issuance accounted for 10 percent of the global Islamic finance industry in 2010 (CIMA FM Magazine, 2012).

Economic Indicators of Sukuk Issuing OIC Member Countries

The study collect some macroeconomic indicators for selected countries under study to assess the degree of financial openness, capital account openness and the exchange rate policies of the countries involved. The financial openness of a particular economy assesses the effectiveness of exchange rate regimes implemented in that country. A financially open economy, with an open capital account, is susceptible to the risk of financial crisis without a well-regulated financial system. In addition, less financial openness prevents member countries from tapping into global funds and international asset classes. Meanwhile, current account balance determines the exposure of an economy to the rest of the world. The capital and financial account explains how it is financed. Countries with large current account deficits tend to have depreciating currencies. Table 1 lists the sukuk issuing countries based on their regional location, income, exchange rate arrangement and monetary policy framework. Majority of the countries under study belong to the high income MENA countries, fall under exchange rate anchor for the exchange rate arrangement and pegged their currency to United States dollar (USD) under monetary policy framework.

Table 1: Sukuk Issuing Countries by Category and Location

Country	Categories Group	Income	Region	Exchange Rate Arrangement	Monetary Policy Framework
Brunei	FEC	High	East Asia & Pacific	Exchange Rate Anchor	Currency Board
Bahrain	FEC	High	MENA	Exchange Rate Anchor	Conventional peg: USD
Qatar	FEC	High	MENA	Exchange Rate Anchor	Conventional peg: USD
Saudi Arabia	FEC	High	MENA	Exchange Rate Anchor	Conventional peg: USD
UAE	FEC	High	MENA	Exchange Rate Anchor	Conventional peg: USD
Kuwait	FEC	High	MENA	Exchange Rate Anchor	Conventional peg: Composite
Malaysia	MDC	Upper-middle	East Asia & Pacific	Other managed arrangement	Other Category
Turkey	MDC	Upper-middle	Europe & Central Asia	Inflation Targeting framework	Floating
Indonesia	MDC	Lower-middle	East Asia & Pacific	Inflation Targeting framework	Floating
Sudan	LDC	Lower-middle	Sub-Sahara Africa	Exchange Rate Anchor	Other managed Arrangement: USD
Pakistan	MDC	Low	South Asia	Stabilized arrangement	Monetary Aggregate Target

Notes:
(1) FEC: Fuel-exporting country, LDC: Least-developed country, MDC: Medium-developed country.
(2) Low income (GDP per capita < USD650) , Lower-middle income (GDP per capita <USD2,000), Upper-middle income (GDP per capita < USD9,999), High income (GDP per capita > USD10,000).
(3) MENA: Middle East and North Africa countries.
Source: Annual Economic Report on the OIC Countries, 2008& 2012. Statistical, Economic and Social Research Training Centre for Islamic Countries (SESRIC).

Table 2 summarizes the average values for all countries under study with respect to GDP per capita, consumption growth rate, inflation, unemployment and Misery Index (MI). The MI is an economic indicator created by Arthur Okun. It is calculated by adding the unemployment rate to the inflation rate for an economy. The assumption is that a higher inflation and unemployment rate creates economic and social costs for a country. Bahrain, Brunei, Kuwait,

Qatar and the UAE display the value of Misery Index below five percent. The double-digit MIs are Indonesia, Pakistan, Sudan and Turkey, mostly contributed by high level of inflation. The UAE, Qatar and Brunei are the top three highest GDP per capita income averaging more than USD20,000 for the period under study.

Table 2: GDP per capita and Misery Index for all Countries, 1980 - 2011

Country	GDP per capita (USD)	Inflation (%)	Unemployment (%)	Misery Index (%)
Bahrain	12,582.94	1.67	4.57	2.43
Brunei	20,042.18	1.41	4.38	4.72
Indonesia	1,077.98	9.33	5.66	14.42
Kuwait	18,838.43	3.55	1.30	4.78
Malaysia	4,026.50	3.13	4.17	7.06
Pakistan	583.37	8.29	5.32	13.59
Qatar	32,848.88	4.00	1.53	4.27
Saudi Arabia	11,411.55	1.26	10.24	5.15
Sudan	582.28	39.90	16.52	56.03
Turkey	4,534.30	49.07	8.70	57.73
UAE	34,913.93	4.62	3.13	4.93

Notes: All values are calculated averages over the period 1980-2011. Figures calculated from individual country data available online from the World Economic Outlook (WEO) and SESRIC. Data are in constant 2005 USD prices.

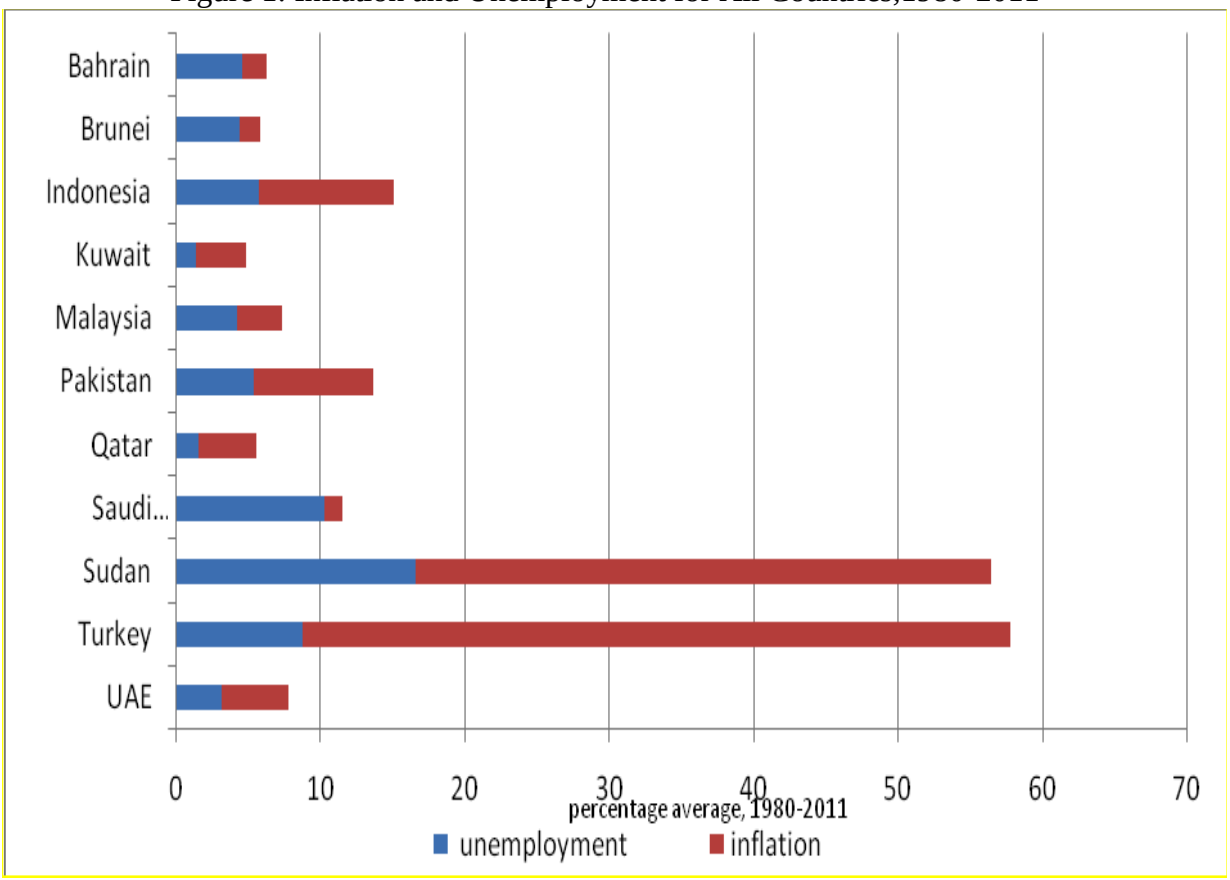
3. METHOD AND RESULTS

The research collects annual data of inflation and unemployment for the period 1980 until 2011 for the ten sukuk issuing OIC member countries. Data are sourced from the World Economic Outlook (WEO) and SESRIC database. In addition, GDP per capita and saving and investment as percentage of GDP for each country are also calculated. Data are in log values, in constant USD 2005 prices. The data are used to calculate the Misery Index for each economy and to identify which economy have good prospect in sukuk related investment financing activities.

Figure 1 illustrates the Misery Index for each economy for the period 1980 to 2011. The Index is decomposed into individual inflation and unemployment component to identify which indicator carries more weight. In general, inflation is a pressing issue in Turkey, Sudan, Indonesia, Pakistan, Kuwait, Qatar and the UAE for the last three decades. On the other hand, unemployment is more prominent in Bahrain, Brunei, Malaysia and Saudi Arabia. Bahrain and

Brunei are fuel-exporting countries. This implies the effectiveness of the policy stance of the member states over the years and suggest the area of policy improvements in curbing the impact of the specific component that contributed to the rising index.

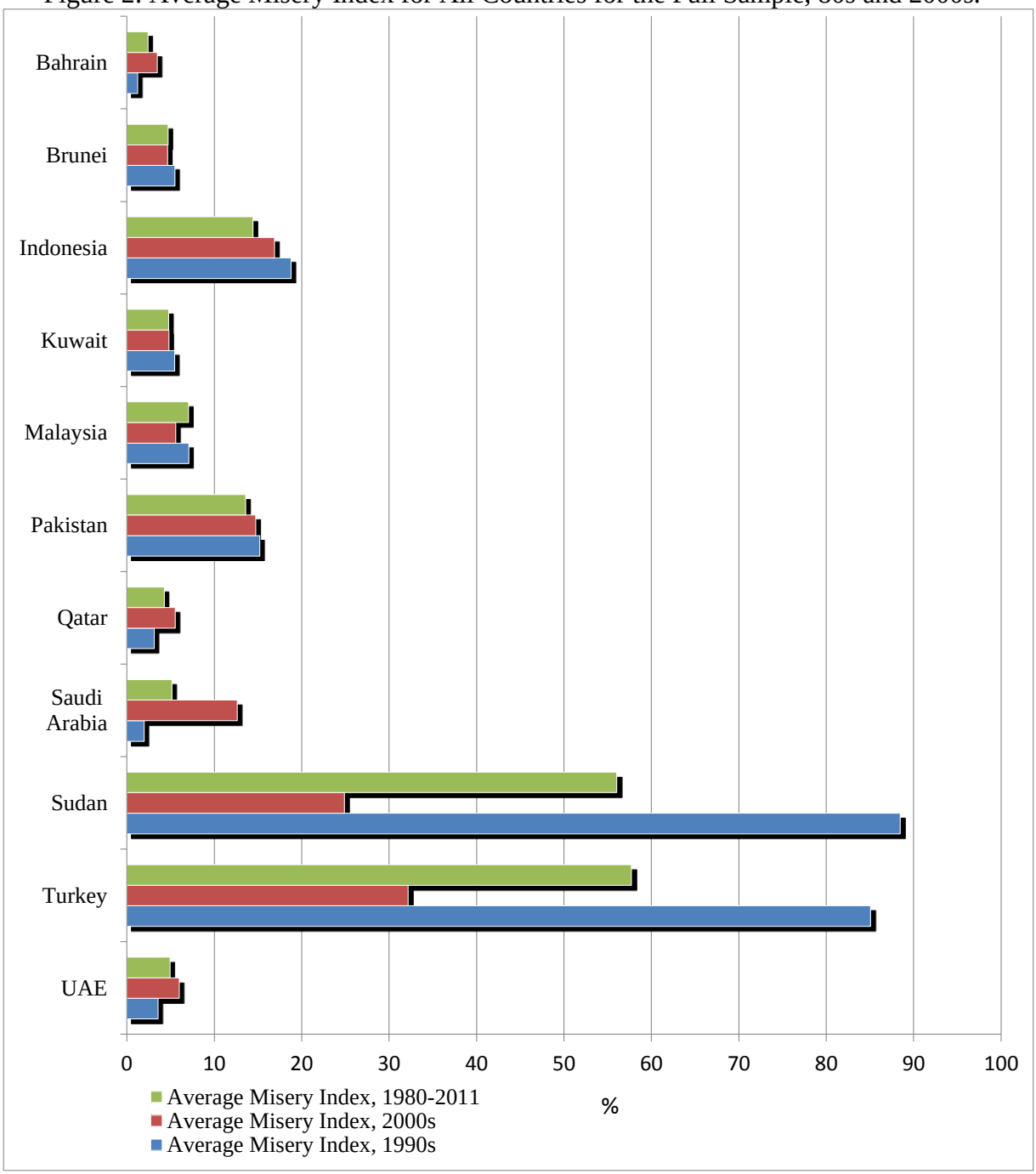
Figure 1: Inflation and Unemployment for All Countries,1980-2011



Note: Figures calculated from individual country data available online from the World Economic Outlook and SESRIC.

To examine the contribution of each decade, the Misery Index are re-calculated separately for the 1990s, 2000s and the full sample period (1980-2011). Sudan and Turkey displayed the two highest Misery Index of close to 60 percent, contributed mainly during 1990s buttoned down in 2000s. Based on the Misery Index for the full sample, all the high-income, fuel-exporting countries have low Misery Index compared to other countries. Another pattern that emerged is that for countries with relatively higher average Misery Index in the full sample due to high percentage countries with lower MI averages, the Index remained quite stable during1990s and 2000s. However, the fuel-exporting, high income economies of Bahrain, UAE, Saudi Arabia and Qatar have higher percentage contribution of the Index during 2000s.

Figure 2: Average Misery Index for All Countries for the Full Sample, 80s and 2000s.



Note: Figures calculated from individual country data available online from the World Economic Outlook and SESRIC databases.

3.1 SAVING AND INVESTMENT AS A PERCENTAGE OF GDP

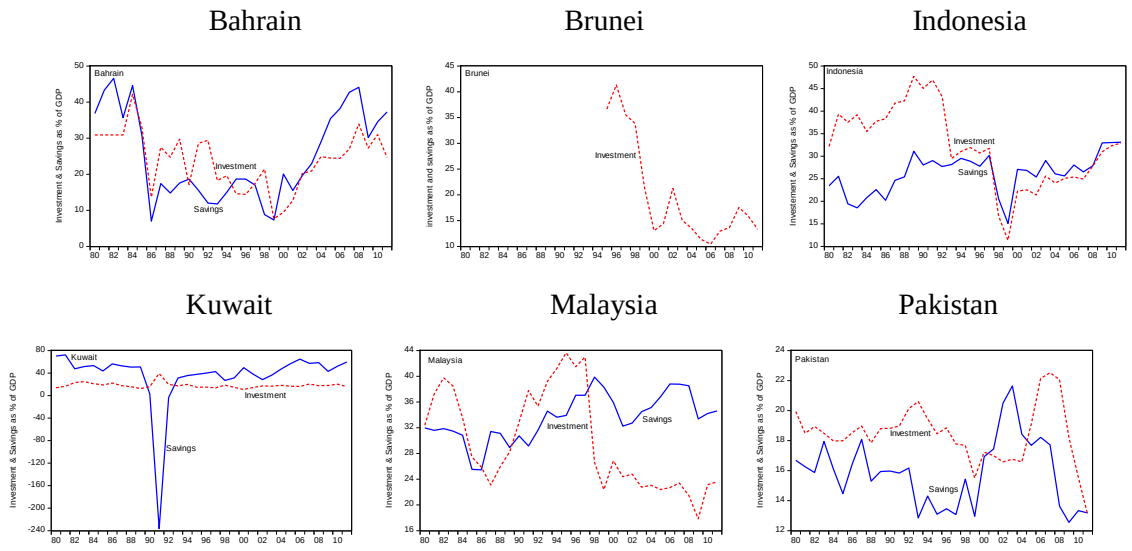
To examine which country has a higher prospect for sukuk investment financing activities, it is necessary to look at her saving and investment as percentage change of GDP. If investment could be increased, then productivity growth and output growth would also increase in the long run and the increase would be sustainable.

To increase investment, savings must be increased to provide funds necessary for expanded investment. It is widely observed that there is a close cross-national relationship between national investment rates and national rates. That is, they tend to vary together. However, the question remains whether investment rates in some countries are higher than others because their national saving rates are higher.

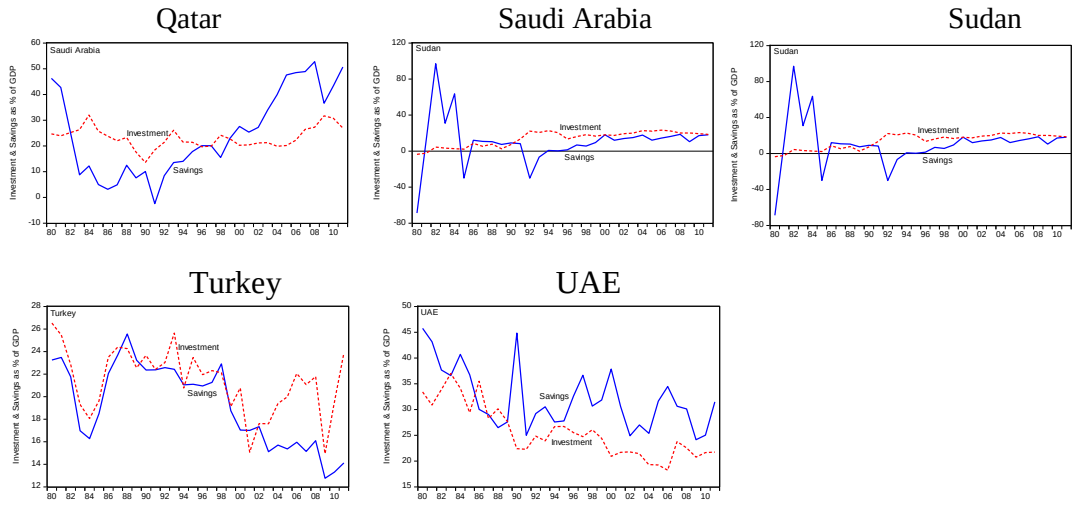
Figure 3 shows the visual plots for saving and investment as a percentage of GDP for the 11 sukuk issuing countries. The scales are different for each country. There are some similar co-vary saving-investment patterns for some economies. Qatar and Saudi Arabia have high saving rates exceeding 50 percent of GDP towards the end of 2000s. Pakistan and Turkey have downward trending savings rate.

The UAE, Saudi Arabia and Malaysia have the highest percentage of international sukuk issuance. These three economies have high saving rates and approximately the same investment rate of slightly above 20 percent during 2000s. Savings are much higher than investment rates, which help explain the increase in sukuk issuance, both internationally and domestically for these economies starting from 2000s. These economies fall under the category of high-income economies and they also recorded low Misery Index estimates.

Figure 3: Saving and Investment as Percentage of GDP, 1980-2011



Gulf War (2 Aug.1990 – 28 Feb. 1991)



4. CONCLUSION

The Misery Index estimates calculated for the 11 sukuk issuing countries indicate that on average, seven countries recorded single digit estimates for the period 1980 to 2011. Countries with double-digit MI estimates are Indonesia, Pakistan, Sudan and Turkey.

Sukuk issuing countries that recorded double digit inflation rate might want to adopt inflation targeting policy and reduce it to below five percent per annum to reduce pass-through due to external shocks. Negative current account balance and negative per capita growth rate are other aspects that should be considered to continue issuing sukuk at competitive pricing compared to conventional bonds. The level of indebtedness is also an important factor consideration in issuing either short term or longer tenor sukuk issuance. Based on the Misery Index estimates and other macroeconomic indicators, some sukuk issuing countries need to improve their capital and current account positions to provide robust environment for future sukuk issuance. In addition, to sustain low inflation and low unemployment rate, productivity boom and trade openness should be key policy considerations. Future research may look into time-varying estimates of the trends of inflation and unemployment to assess inflation dynamics.

REFERENCES

Al-Maglauth, A.K. (2009). *Sukuk: An Inside Study and is Background, Structures, Challenges and Cases*. Master Research Proposal. Open University of Malaysia (OUM): Bahrain Branch.

Amin, S. (2011). Causal Relationship between Consumption Expenditure and Economic Growth in Bangladesh. *World Journal of Social Sciences, 1, 2,* 158-169.

Bank Negara Malaysia (2010). Funds Raised in the Capital Market. *Monthly Statistical Bulletin*. Bank Negara Malaysia: Kuala Lumpur.

Bank Negara Malaysia and Securities Commission Malaysia. (2009). *Malaysian Debt Securities and Sukuk Market*. Bank Negara Malaysia: Kuala Lumpur.

Barth. J.R., Keleher, R.E. and Russek, F.S. (1990). The Scale of Government and Economic Activity. *Southern Economic Journal*, 13, 142–183.

CIMA FM Magazine. (2012). *CIMA: Chartered Institute of Management Accountant.*

Clifford Chance Report. Available: http://www.cliffordchance.com/publicationviews/publications/2013/04/introduction_to_sukuk.html

Dogan, E. (2006). Government Expenditure and National Income: Causality test for five South East Asian Countries. *International Business and Economics Research Journal, 510,* 49-58.

Doh, T. (2011). Is unemployment helpful in understanding Inflation? *Economic Review, Q, IV,* 5-26.

Ernst & Young. (2009). *Ernst & Young Islamic Funds and Investments Report 2009*.

Ernst & Young. (2012). Growing Beyond DNA of Successful Transformation. *World Islamic Banking Competitiveness Report for 2013*. Available: http://www.ey.com/Publication/vwLUAssets/Jan__Bank_2._World_Islamic_Briefing/$FILE/2.%20World%20Islamic%20Briefing.pdf

Friedman, M. (2008). *Theory of the Consumption Function*. Princeton University Press.

Garg, S. (2013). Sukuk and Its Growth Across Major Islamic Financial Markets. *Perspective*, Consultant, FinacleInforsys. Available: www.infosys.com/financial

Holmes, J.M. & Hutton, P.A. (1990). On the Causal Relationship between Government Expenditures and National Income. *The Review of Economics and Statistics*, 72: 87-95.

IIFS, *IIFS Global Sukuk Market H2-2010 Report*.

IIFM (International Islamic Financial Market). (2011). *IIFM Sukuk Report 2nd Edition: A Comprehensive Study of Global Sukuk Market*. IIFM: Bahrain.

IIFM (International Islamic Market). (2011). *IIFM Sukuk Report 3rd Edition: A Comprehensive Study of Global Sukuk Market*. IIFM: Bahrain.

Mardam-Bey, I., Berenjforoush, P. & Peter M. (2013). Sukuk: Bridging the Gap. *Islamic Finance and Infrastructure*. EMEAFinance. April/May: 64 – 65. Available: *www.taylor-dejongh.com/.../uploads/***2013***/05/***Sukuk-***Bridging-the-***Gap*.*pdf* · PDF file

MIFC (Malaysia International Islamic Financial Centre). (2010). The Rise of Islamic Finance. *Special Advertising Section Reprinted from the July 26, 2010 issue of Fortune*.

Mohamad, H.N. and Said, F. (2011). Comparing Macroeconomic Performance of OIC Member Countries. *International Journal of Economics and Management Sciences, 1, 3*. 90-104.

Qi, L. and Prime, P.B. (2009). Market Reforms and Consumption Puzzles in China. *China Economic Review, 20,* 388-401.

RAM Ratings. (2010). *2009 Corporate-Default & Ratings-Performance Study (1992–2009).* RAM Rating Services Berhad: Kuala Lumpur.

RAM Ratings. (2010). *Sukuk Focus.* RAM Rating Services Berhad: Kuala Lumpur.

Sakthivel, P. and Yadav, I.S. (2007). Causality between Public Expenditure and National Income in India: A Re-examination. *The Icfai University Journal of Public Finance,* 5, 4, 36-51.

SC (Securities Commission Malaysia). (2009). *Quarterly Bulletin for the Malaysian Islamic Capital Market*. Securities Commission Malaysia: Kuala Lumpur.

SC (Securities Commission Malaysia). (2011). Islamic Securities Guidelines (Sukuk Guidelines). Kuala Lumpur: Securities Commission Malaysia. Available: http://www.sc.com.my/ [Accessed on October 6, 2012]

Thomson Reuters. (2012). *Thomson Reuters Zawya Sukuk Perceptions and Forecast Study 2013*. Islamic Finance Gateway. Thomson Reuters.

Vishwanath, S. R. & **Azmi,** S. (2009). An Overview of Islamic **Sukuk** Bond. *Journal of Structured Finance.* 14, 4, 58–67.

HOUSEHOLD AND GOVERNMENT FINAL CONSUMPTION EXPENDITURE IN SUKUK ISSUING OIC MEMBER COUNTRIES

Nursilah Ahmad[1]
Zurina Kefeli[2]
Siti Nurazira Mohd Daud[3]
Fuadah Johari[4]
Kalsom Abd. Wahab[5]

ABSTRACT

At the macro level, the final output is consumed by public sector, corporate sector and households. When government final consumption expenditure tends to be high, it will play a negative role in household consumption rate. Declining household consumption rate suggests that the momentum of economic growth will slow down. The present study investigates the direction of causality among household and government final consumption expenditure and consumption growth rate. The study covers 11 sukuk issuing OIC member countries for the period 1980 - 2011 based on annual data. Data are sourced from the World Economic Outlook and SESRIC database. Based on the Granger-causality test within *vector-autoregressive* (VAR) framework, the findings indicate that household expenditure granger-causes consumption growth rate in four countries and consumption growth rate granger-causes household and government final expenditure in seven out of 11 cases. Malaysia reports bi-directional granger-causality for all three variables under study. Based on the findings, policy makers may use sukuk financing to raise consumption level and sustain economic growth in the long run.

***Keywords*:** consumption expenditure, government expenditure, granger-causality, sukuk

1. INTRODUCTION

Domestic market development that allow increased consumption would help sustain growth in the long-run. In the last two decades, China's consumption share in GDP averaged 57 percent

[1] Dr. Nursilah Ahmad, Senior Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM). This research is funded by FRGS Research Grant: FRGS/1/2013/SS07/USIM/02/1
Corresponding author: nursilah@usim.edu.my

[2, 3, 4, 5] Lecturers, Universiti Sains Islam Malaysia

compared with India's 75 percent, and China's household consumption averaged only 43 percent compared with India's 64 percent (Qi and Prime, 2009). As a comparison, in the year 2009, household consumption rates for the world average is approximately 62.16 percent. When government consumption tends to be high, it will play a negative role in household consumption rate. Declining household consumption rate suggests that the momentum of economic growth will slow down.

The current 57 OIC countries as a group represents more than one fifth of the total world population. However, the member countries produced only 10.9 percent of the world total GDP (expressed in USD and based on purchasing power parity). Over the last five years, the OIC economies have increased its share of world output by 0.6 percentage point only. The share of the OIC countries in the total GDP of developing countries group has declined steadily which indicates that the economies have performed poorer than other developing countries in expanding their output (SESRIC, 2012).

Against this background, the present study examines the level of household and government final consumption expenditure and the direction of causality between these two variables and consumption growth rate in 11 sukuk issuing Organisation of Islamic Cooperation (OIC) member countries. The special reference to sukuk issuing countries is motivated by the theory that Islamic economics has connection to the real economy. Among the *Maqasid al-Shariah* objectives are to eliminate poverty, provide basic human needs, circulate wealth and achieve equitable and sustainable growth. Raising consumption growth rate would be one of the policy instruments to help the OIC economies expand their output and contribute more to the world's Gross Domestic Product (GDP).

The paper is organised as follows. After the introduction, Section 2 reviews the related literature. Section 3 continues with research method followed by the findings in Section 4. Finally, Section 5 concludes the discussions.

2. LITERATURE REVIEW

The final output is consumed by three sectors: public sector (government and other public administrative organizations), corporate sector and households. In theory, the consumption by the public and corporate sector may crowd out household consumption. Crowding out means that a high demand of government consumption may force government to collect more revenue, thus decreases the disposable income of household sector. Hence, the ratio of household consumption to GDP will most likely fall. In cases where government consumption tends to be high, it will play a negative role in household consumption rate. Based on the WDI Report, the average household final consumption expenditure is 59.5 percent and total government final consumption expenditure is 16 percent for the period 2000 – 2011.

In turn, the declining household consumption rate might indicate the followings: (1) the economic growth has not brought synchronic improvement in terms of living standard to households; (2) the momentum of economic development will slow down due to inadequate

domestic demand and weak export market, which might lead to (3) surplus liquidity, investment inefficiency and economic instability (Qi and Prime, 2009). Therefore, it is important to investigate the patterns of household consumption as an important source of domestic demand for the OIC member countries under study. Domestic market development that allows increase consumption would be helpful for long-run, sustained growth.

Sukuk Issuing OIC Economies

Sukuk is one of the most popular instruments under Islamic finance. Sukuk issuance accounted for 10 percent of the global Islamic finance industry in 2010 (CIMA FM Magazine, 2012). In the last two years, sukuk issuance has attained new heights driven by the rise in Islamic banking assets. According to Ernst & Young (E&Y, 2012) in a recent report, Islamic banking assets with commercial banks globally grew to USD1.3 trillion in 2011 and might reach USD1.8 trillion in 2013, suggesting an average annual growth of 19 percent over the past four years (in 2011 the growth rate was 24 percent).

Sukuk is the Arabic term for Islamic securities, which in economic terms are akin to conventional bonds. The literal meaning of sukuk is certificates. Technically, sukuk refer to securities, notes, papers or certificates, with features of liquidity and tradability. Sukuk must comply with shariah law and are prohibited from involving in activities that include interest (*riba*), excessive risk (*gharar*) and a ban on investments that promote Islamic vices such as gambling and alcohol. Like conventional bonds, sukuk can be traded, rated by credit agencies and redeemed. Sukuk financing activities are mostly for the infrastructure and utilities, financial services sectors, property and real estate, oil and gas and energy sector.

The 11 sukuk issuing OIC member countries included in the study are Brunei, Bahrain, Qatar, Saudi Arabia, the United Arab Emirates (UAE), Kuwait, Malaysia, Turkey, Indonesia, Sudan and Pakistan. Six out of the 11 countries are fuel-exporting high income economies with exchange rate anchor arrangement that pegged their currency to United States dollar (USD). Table 1 summarizes the average values for all countries with respect to household consumption and government as percentage share of total consumption, consumption per capita, GDP per capita and consumption growth rate for the period 1980 to 2011. Qatar and Brunei have almost the same percentage share of household and government consumption composition in their final consumption. For the average consumption per capita and GDP per capita period average, only Turkey has higher consumption per capita as compared to GDP per capita. The UAE, Qatar and Kuwait have more than USD10,000 consumption per capita for the period under study.

Table 1: GDP and Consumption for All Countries, 1980 – 2011

Country	Household Consumption (% share of total consumption)	Government Consumption (% share of total consumption)	Consumption per capita (USD)	GDP per capita (USD)	Con-sumption growth rate (%)
Bahrain	71.89	28.11	9,608.99	12,582.94	2.73
Brunei	52.00	48.00	9,981.98	20,042.18	4.99
Indonesia	87.61	12.39	717.55	1,077.98	5.55
Kuwait	63.52	36.48	13,216.09	18,838.43	3.70
Malaysia	79.70	20.30	2,325.14	4,026.50	5.92
Pakistan	89.03	10.97	503.39	583.37	4.48
Qatar	47.92	52.08	18,590.53	32,848.88	5.96
Saudi Arabia	60.12	39.89	6,885.66	11,411.55	4.71
Sudan	91.90	8.10	109.28	582.28	4.38
Turkey	87.16	12.84	4,724.34	4,534.30	4.00
UAE	74.79	25.21	27,666.72	34,913.93	6.17

Notes: all values are averages for the period 1980-2011. Data are in constant 2005 USD prices.

3. METHOD

To examine the consumption-led growth hypothesis, the study conducted Granger-causality test on the 11 sukuk issuing countries. Annual data on the household (H) and government final consumption expenditure (G) and the growth rate of total consumption (C_g) are collected for the period 1980 to 2011. The data are in log values, at constant 2005 USD prices and are sourced from the World Economic Outlook and SESRIC databases. To test the hypothesis of consumption-led growth, the data are first subjected to unit root and cointegration tests. Since the variables are cointegrated, the Granger-causality tests are conducted within *vector-autoregressive* (VAR) framework. There are several possible outcomes. First, neither variable Granger causes each other. Second, there would be either a uni or bi-directional causality among H, G and C_g.

For the cointegration test, the lag length *k* is determined using unrestricted VAR method based on the LR, FPE and AIC selection criteria. For majority of the economies, *k* is set to k=*2*. If the results are conflicting, correlogram of the residuals and the Ljung-Box statistics are inspected instead. Next, Johansen-Juselius (JJ) cointegration tests are performed. The presence of cointegration implies that the variables are tied together in the long run and their deviations from long run equilibrium path will be corrected. The residuals correlation and covariance matrix are examined to detect autocorrelation problems. The covariance results show no significant figures, meaning that no remaining autocorrelations are being ignored by the model. In addition, no variables have correlation coefficients exceeding 0.2 percent.

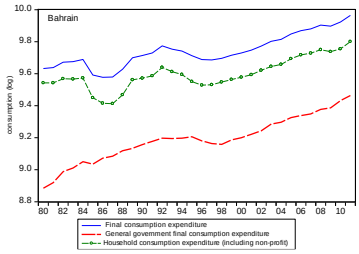
If the variables are cointegrated, there is at least a unidirectional causality among them. Granger-causality tests denote the short run dynamics among the variables. When there is cointegration, in the short run, deviation from equilibrium will feed back on the changes in the dependent variable in order to force movements towards the long run equilibrium. If the dependent variable is driven by this long-run equilibrium error-correcting process, then it is responding to this feedback. Otherwise, it is only responding to short term shocks to the stochastic environment.

4. RESULTS

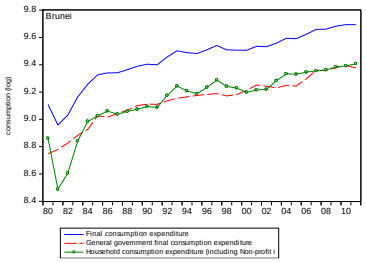
Figure 1 plots the household and government final consumption expenditure relative to total final consumption. Data for consumption are in log values, constant 2005 USD prices. Visual inspections of the individual country data on the breakdown of the household and government final consumption expenditure plot would indicate which economy would be most likely to experience crowding-out effects. This is shown by the rising trend of general government final consumption expenditure over the years as compared to the level of household consumption. Based on Figure 1, Brunei, Qatar and Saudi Arabia have high government consumption amount with an increasing trend which might crowd-out household consumption in the future.

Figure 1: Household and Government Final Consumption Expenditure, 1980-2011

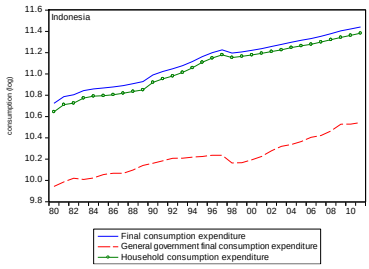
Bahrain



Brunei



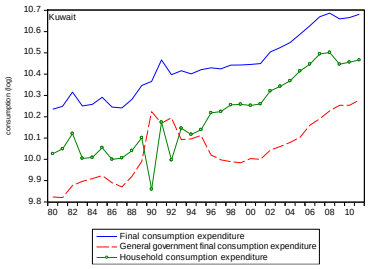
Indonesia

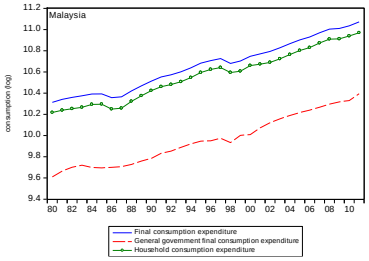


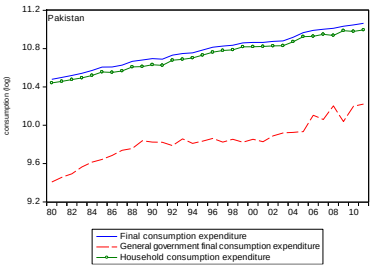
Kuwait

Malaysia

Pakistan



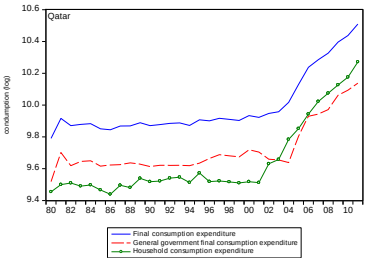


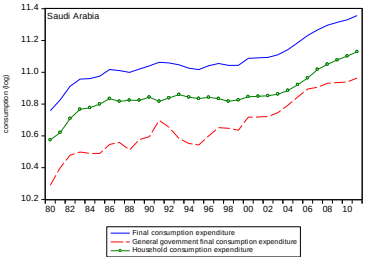


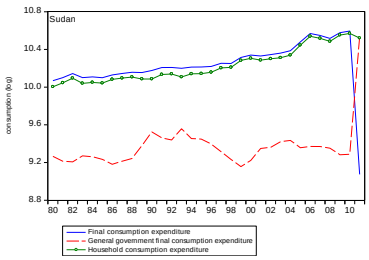
Qatar

Saudi Arabia

Sudan

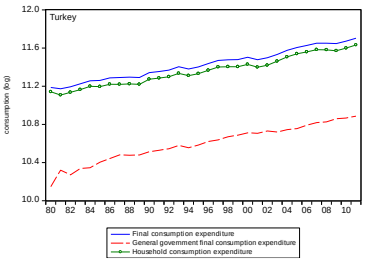


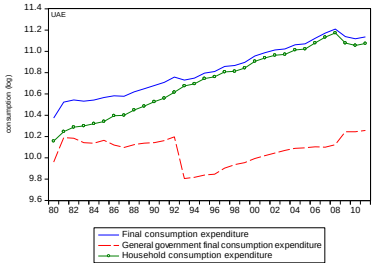




UAE

Turkey





Granger-Causality Test

The granger-causality tests are conducted for each country individually to detect the directions for the three variables of H, G and Cg. Based on the PP test, all variables ate stationary at first diffferences. The variables are cointegrated for all economies. Results for the Granger-causality tests are displayed in Table 2.

Table 2: Granger Causality Tests for the 11 Sukuk Issuing Countries

Dependent Variable Eg. Hypothesis: H does not granger-causes C_g	F-statistics of lagged first differenced terms		
	Consumption growth rate (C_g)	Household Final Expenditure (H)	Government Final Expenditure (G)
Bahrain Consumption growth rate (C_g)	-	12.13*** [0.00]	13.13*** [0.00]
Household Final Expenditure (H)	3.18 [0.20]	-	14.91*** [0.00]
Government Final Expenditure (G)	3.07 [0.22]	0.75 [0.68]	-
Brunei Consumption growth rate (C_g)	-	6.00** [0.049]	2.36 [0.307]
Household Final Expenditure (H)	1.91 [0.38]	-	9.55*** [0.00]
Government Final Expenditure (G)	0.14 [0.98]	0.27 [0.87]	-
Indonesia (k=3) Consumption growth rate (Cg)	-	3.46 [0.33]	2.78 [0.43]

Household Final Expenditure (H)	3.40 [0.49]	-	2.95 [0.39]
Government Final Expenditure (G)	6.85* [0.076]	2.79 [0.42]	-
Kuwait (*k=2*) Consumption growth rate (Cg)	-	2.26 [0.322]	0.26 [0.87]
Household Final Expenditure (H)	7.540** [0.023]	-	7.26 [0.26]
Government Final Expenditure (G)	0.67 [0.713]	4.30 [0.116]	-
Malaysia (\=2) Consumption growth rate (Cg)	-	6.10** [0.047]	5.65* [0.0594]
Household Final Expenditure (H)	6.22** [0.044]	-	5.29* [0.071]
Government Final Expenditure (G)	4.65* [0.097]	4.77* [0.092]	-
Pakistan (k=2) Consumption growth rate (Cg)	-	0.82 [0.66]	0.49 [0.78]
Household Final Expenditure (H)	6.10** [0.047]	-	1.56 [0.45]
Government Final Expenditure (G)	1.96 [0.374]	3.05 [0.216]	-
Qatar (k=2) Consumption growth rate (Cg)	-	20.77*** [0.00]	16.73*** [0.00]
Household Final Expenditure (H)	0.83 [0.659]	-	1.18 [0.55]
Government Final Expenditure (G)	3.76 [0.152]	18.78*** [0.00]	-
Saudi Arabia (k=3) Consumption growth rate (Cg)	-	1.89 [0.59]	1.86 [0.603]

Household Final Expenditure (H)	21.82*** [0.000]	-	16.12*** [0.001]
Government Final Expenditure (G)	0.617 [0.892]	0.455 [0.928]	-
Sudan (k=2) Consumption growth rate (Cg)	-	3.41 [0.182]	1.36 [0.505]
Household Final Expenditure (H)	6.42** [0.040]	-	2.90 [0.234]
Government Final Expenditure (G)	2.75 [0.252]	3.34 [0.187]	-
Turkey (k=1) Consumption growth rate (Cg)	-	0.310 [0.856]	0.187 [0.910]
Household Final Expenditure (H)	1.003 [0.606]	-	0.163 [0.922]
Government Final Expenditure (G)	0.226 [0.893]	10.423*** [0.00]	-
UAE (*k*=2) Consumption growth rate (Cg)	-	2.95 [0.228]	5.93* [0.051]
Household Final Expenditure (H)	6.18** [0.045]	-	4.67* [0.096]
Government Final Expenditure (G)	0.086 [0.957]	0.938 [0.625]	-

Notes: Figures represent t-ratios and [.] p-values, respectively. ***, **, * denotes significant at 1%, 5% and 10% , level, respectively.

Based on the results, consumption growth rate (C_g) granger-causes another variables in seven cases ($C_g \rightarrow H$; consumption growth granger-causes household consumption in Malaysia, Sudan, UAE, Indonesia, Kuwait and Saudi Arabia). Household consumption granger-causes other variables in six cases and government expenditure granger-causes other variables in eight cases. Overall, household consumption was on the receiving end for 11 cases, which indicate that policies aimed at increasing total consumption should focus on this component.

In Sudan, Indonesia, Kuwait, Pakistan and Turkey there is only one granger-causality case. Brunei reported two cases($H \rightarrow C_g$ and $G \rightarrow H$) and Saudi Arabia has two cases ($C_g \rightarrow H$ and $G \rightarrow H$). Meanwhile, Bahrain, Malaysia, Qatar and the UAE each has three granger-causality cases. Malaysia displays uni-directional relationship among H, G and C_g.

In Bahrain, Malaysia and Qatar, both H → C_g and G → C_g. A closer inspection of these economies reveal that both Bahrain and Malaysia has similar trend in the visual plots of H, G and C_g as shown in Figure 1 earlier. However, Qatar displays a rising trend in all three variables starting in early 2000. The ratio of H (47.92%) and G (52.08%) to GDP is almost equal for the period under study in Qatar and household consumption rises above government consumption starting in 2003 onwards. Hence, consumption leads to economic growth in Bahrain and Malaysia since the ratios of consumption to GDP are higher than the world average of approximately 60 percent. For Qatar, the ratio is slighly lower at approximately 48 percent, but the consumption growth rate is the second highest for all countries under study at 5.96 percent. Both Bahrain and Qatar have high GDP per capita and consmuption per capita. For policy makers, consumption can be used as the tool in sustaining growth in these three economies.

5. CONCLUSION

The Organization for Economic Cooperation and Development (OECD) estimates that globally USD71 trillion is needed for investment in infrastructure by 2030 (Mardam-Bey et al., 2013). There are also massive infrastructure and constructions requirements in the Middle East and emerging Asia, especially in real estate, oil and gas and transport sectors. The policy makers should promote investment activities that would stimulate household consumption at the same time. First, financing of infrastructure such as roads, bridges and rails through sukuk issuance. There are also massive infrastructure and constructions requirements in the Middle East and emerging Asia, especially in real estate, oil and gas and transport sectors. Second, increase public expenditures on education and health. Third, select optimal channel to finance public expenditures.

The findings would be useful to policy makers since consumption has become an increasingly important source of domestic demand and can act as the engine of growth. Therefore, to achieve balanced and sustainable growth, policies should be geared towards domestic market development that support consumption-led growth policies. In order to sustain issuance momentum, policies targeting higher consumption growth rate should consider sukuk as the financing instruments. Future research in the area might explore financing through cross-border sukuk issuance as well as the exchange rate risk exposure associated with cross-border issuance.

REFERENCES

Al-Maglauth, A.K. (2009). *Sukuk: An Inside Study and is Background, Structures, Challenges and Cases*. Master Research Proposal. Open University of Malaysia (OUM): Bahrain Branch.

Amin, S. (2011). Causal Relationship between Consumption Expenditure and Economic Growth in Bangladesh. *World Journal of Social Sciences. 1, 2,* 158-169.

Bank Negara Malaysia (2010). Funds Raised in the Capital Market. *Monthly Statistical Bulletin*. Bank Negara Malaysia: Kuala Lumpur.

Bank Negara Malaysia and Securities Commission Malaysia. (2009). Malaysian Debt Securities and Sukuk Market. Bank Negara Malaysia: Kuala Lumpur.

Barth. J.R., Keleher, R.E. and Russek, F.S. (1990). The Scale of Government and Economic Activity. *Southern Economic Journal, 13*, 142–183.

CIMA FM Magazine. (2012). CIMA: Chartered Intitute of Management Accountant. *Clifford Chance Report*. Available: http://www.cliffordchance.com/publicationviews/publications/2013/04/introduction_to_sukuk.html

Dogan, E. (2006). Government Expenditure and National Income: Causality test for five South East Asian Countries. *International Business and Economics Research Journal, 5, 10,* 49-58.

Ernst & Young. (2009). *Ernst & Young Islamic Funds and Investments Report 2009*.

Ernst & Young. (2012). Growing Beyond DNA of Successful Transformation. *World Islamic Banking Competitiveness Report for 2013*, Available: http://www.ey.com/Publication/vwLUAssets/Jan__Bank_2._World_Islamic_Briefing/$FILE/2.%20World%20Islamic%20Briefing.pdf

Friedman, M. (2008). *Theory of the Consumption Function*. Princeton University Press.

Garg, S. (2013). Sukuk and Its Growth Across Major Islamic Financial Markets. *Perspective*, Consultant, FinacleInforsys. Available: www.infosys.com/financial

Holmes, J.M. and Hutton, P.A. (1990). On the Causal Relationship between Government Expenditures and National Income. *The Review Of Economics and Statistics, 72,* 87-95.

IIFS, *IIFS Global Sukuk Market H2-2010 Report*.

IIFM (International Islamic Financial Market). (2011). *IIFM Sukuk Report 2nd Edition: A Comprehensive Study of Global Sukuk Market*. IIFM: Bahrain.

IIFM (International Islamic Market). (2011). *IIFM Sukuk Report 3rd Edition: A Comprehensive Study of Global Sukuk Market*. IIFM: Bahrain.

Mardam-Bey, I., Berenjforoush, P. & Peter M. (2013). Sukuk: Bridging the Gap. *Islamic Finance and Infrastructure*. EMEAFinance, April/May: 64 – 65. Available: *www.taylor-dejongh.com/.../uploads/***2013***/05/***Sukuk***-*Bridging-the*-**Gap**.*pdf* · PDF file

MIFC (Malaysia International Islamic Financial Centre). (2010). The Rise of Islamic Finance. *Special Advertising Section* Reprinted from the July 26, 2010 issue of Fortune.

Mohamad, H.N. and Said, F. (2011). Comparing Macroeconomic Performance of OIC Member Countries. *International Journal of Economics and Management Sciences, 1, 3,* 90-104.

Qi, L. and Prime, P.B. (2009). Market Reforms and Consumption Puzzles in China. *China Economic Review, 20,* 388-401.

RAM Ratings. (2010). *2009 Corporate-Default & Ratings-Performance Study (1992–2009),* RAM Rating Services Berhad: Kuala Lumpur.

RAM Ratings. (2010). *Sukuk Focus.* RAM Rating Services Berhad: Kuala Lumpur.

Sakthivel, P. and Yadav, I.S. (2007). Causality between Public Expenditure and National Income in India: A Re-examination. *The Icfai University Journal of Public Finance, 5, 4*, 36-51.

SC (Securities Commission Malaysia). (2009). *Quarterly Bulletin for the Malaysian Islamic Capital Market*. Securities Commission Malaysia: Kuala Lumpur.

SC (Securities Commission Malaysia). (2011). Islamic Securities Guidelines (Sukuk Guidelines). Kuala Lumpur: Securities Commission Malaysia. Available: http://www.sc.com.my/ [Accessed on October 6, 2012]

Thomson Reuters. (2012). *Thomson Reuters Zawya Sukuk Perceptions and Forecast Study 2013*. Islamic Finance Gateway: Thomson Reuters.

Vishwanath, S. R. & **Azmi,** S. (2009). An Overview of Islamic **Sukuk** Bonds. *Journal of Structured Finance, 14, 4*, 58–67.

APPENDIX

Appendix 1: Unit Root Statistics

Country	Variables	ADF statistics with intercept and trend		PP statistics with intercept and trend	
		Level	First Difference	Level	First Difference
Bahrain	Household Final Expenditure	-2.55 (0.30)	-4.58** (0.01)	-2.01 (0.58)	-3.49* (0.05)
	Government Final Expenditure	-1.50 (0.81)	-4.24** (0.01)	2.24 (0.45)	-4.24** (0.01)
	Consumption growth rate	na	na	na	na
Brunei	Household Final Expenditure	-1.89 (0.63)	-4.88*** (0.00)	-1.54 (0.79)	-6.66*** (0.00)
	Government Final Expenditure	-3.24 (0.09)	-4.88*** (0.001)	-2.81 (0.21)	-4.88*** (0.00)
	Consumption growth rate	na	na	na	Na
Indonesia	Household Final Expenditure	-2.55 (0.30)	-4.58** (0.01)	-2.01 (0.58)	-3.49* (0.05)
	Government Final Expenditure	-1.50 (0.81)	-4.24** (0.01)	2.24 (0.45)	-4.24** (0.01)
	Consumption growth rate	na	na	na	Na
Kuwait	Household Final Expenditure	-2.55 (0.30)	-4.58** (0.01)	-2.01 (0.58)	-3.49* (0.05)
	Government Final Expenditure	-1.50	-4.24**	2.24	-4.24**

		(0.81)	(0.01)	(0.45)	(0.01)
	Consumption growth rate	na	na	na	Na
Malaysia	Household Final Expenditure	0.48 (0.98)	-3.811** (0.029)	-2.351 (0.396)	-3.55* (0.051)
	Government Final Expenditure	-1.16 (0.898)	-3.96** (0.025)	-1.43 (0.831)	-5.79*** (0.00)
	Consumption growth rate	na	na	na	na
Pakistan	Household Final Expenditure	-0.81 (0.80)	-7.46*** (0.00)	-1.67 (0.435)	-12.11*** (0.00)
	Government Final Expenditure	-2.82 (0.203)	-10.33*** (0.00)	-2.78 (0.214)	-9.79*** (0.00)
	Consumption growth rate	na	na	na	na
Qatar	Household Final Expenditure	0.98 (0.99)	-1.36 (0.38)	-0.43 (0.99)	-5.93*** (0.00)
	Government Final Expenditure	-0.59 (0.97)	-3.87*** (0.03)	-0.59 (0.97)	-7.97*** (0.00)
	Consumption growth rate	na	na	na	na
Saudi Arabia					
	Household Final Expenditure	-1.39 (0.84)	-1.99 (0.57)	-2.04 (0.55)	-2.93*** (0.00)
	Government Final Expenditure	-2.69 (0.24)	-4.83*** (0.00)	-2.84 (0.19)	-8.50*** (0.00)
	Consumption growth rate	na	na	na	na

Sudan	Household Final Expenditure	-1.73 (0.71)	-5.57*** (0.00)	-1.86 (0.65)	-4.97*** (0.00)
	Government Final Expenditure	-1.42 (0.84)	-1.11 (0.91)	-1.55 (0.79)	-1.25 (0.88)
	Consumption growth rate	na	na	na	na
Turkey	Household Final Expenditure	-2.97 (0.15)	-4.94*** (0.002)	1.67 (0.99)	-4.97*** (0.00)
	Government Final Expenditure	-1.84 (0.36)	-15.88*** (0.00)	4.79 (1.00)	-6.95*** (0.00)
	Consumption growth rate	na	na	na	Na
UAE	Household Final Expenditure	-0.63 (0.96)	-4.10** (0.01)	-0.55 (0.975)	-4.99*** (0.001)
	Government Final Expenditure	-1.76 (0.69)	-6.32*** (0.00)	-1.89 (0.640)	-6.54*** (0.00)
	Consumption growth rate	na	na	na	na

Some data are estimated with intercept only.

Appendix 2: The Johansen Cointegration Tests

Null Hypothesis	Test Statistics		Critical Values (0.05)	
	Trace	Max-Eigen	Trace	Max-Eigen
Bahrain (k = 2)				
r = 0	55.48***	34.14***	29.79	21.13
r = 1	21. 34***	21.13***	15.49	14.26
r = 2	0.209	0.209	3.84	3.84
Brunei (k = 2)				

r = 0	50.83***	35.97***	29.79	21.13
r = 1	14.86*	14.27**	15.49	14.27
r = 2	0.594	0.594	3.84	3.84
Indonesia (*k* = 2)				
r = 0	35.46**	31.86***	29.79	21.13
r = 1	3.60	3.38	15.49	14.26
r = 2	0.21	0.21	3.84	3.84
Kuwait (*k* = 2)				
r = 0	32.75**	26.29***	29.79	21.13
r = 1	6.45	6.44	15.49	14.27
r = 2	0.008	0.008	3.84	3.84
Malaysia (*k* = 2)				
r = 0	39.73***	29.28***	29.79	21.13
r = 1	10.45	9.44	15.49	14.27
r = 2	1.00	1.00	3.84	3.84
Pakistan (*k* = 1)				
r = 0	38.61***	36.05***	29.79	21.13
r = 1	2.55	2.30	15.49	14.26
r = 2	0.25	0.25	3.84	3.84
Qatar (*k* = 2)				
r = 0	50.58**	36.99**	29.79	21.13
r = 1	13.58	10.30	15.49	14.27
r = 2	3.28	3.29	3.84	3.84
Saudi Arabia (k = 2)				
r = 0	61.77**	43.65**	29.79	21.13
r = 1	18.13**	17.92**	15.49	14.27
r = 2	0.21	0.21	3.84	3.84
Sudan (k = 2)				

r = 0	33.80**	22. 25**	29.79	21.13
r = 1	11.55	9.77	15.49	14.27
r = 2	1.78	1.77	3.84	3.84
Turkey (k = 1)				
r = 0	48.57***	30.84***	29.79	21.13
r = 1	17.73**	17.73**	15.49	14.26
r = 2	0.00	0.00	3.84	3.84
UAE (k = 2)				
r = 0	34.74***	27.72***	29.79	21.13
r = 1	7.02	3.91	15.49	14.27
r = 2	0.11	3.11	3.84	3.84

Notes: The lag order *k* specified based on visual inspection of residuals and VAR lag order selection criteria. Effective number of observations ranges from 26 to 27.
Trace test and Max-Eigenvalue test indicates 2 co-integrating equations at the 0.05 level for Bahrain, Brunei, Saudi Arabia and Turkey. Other countries indicate 1 cointegrating equation based on the two tests.

REVISITING THE *SHARI'AH* STATUS OF *MUWA'ADAH* AND *WA'DAN*: A GENERAL REVIEW

Md. Faruk Abdullah[1]
Asmak Ab Rahman[2]

ABSTRACT

The paper aims at discussing the *Shari'ah* rulings for *muwa'adah* and *wa'dan*. Therefore, it studies the views of classical and contemporary scholars on this issue and analyzes them critically. The study concludes that even though *muwa'adah* is practiced as binding on both of the promisor but still it is not similar to a contract. On the other hand, if *wa'dan* involves two independent promises subject to two different conditions then it is allowed. However, when *wa'dan* includes two promises related to the same condition then it is similar to *muwa'adah*. Although binding *muwa'adah* and *wa'dan* are different from a contract but their application in some Islamic financial products should be followed some parameters and might be restricted in some cases based on *sadd al-dhara'i'* (blocking the means). The study might benefit the Islamic finance industry to develop products based on *muwa'adah*. Moreover, it draws the attention of the academics to re-investigate the *Shari'ah* ruling for *muwa'adah*.

Keywords: *Muwa'adah*, *Wa'dan*, Contract, *Shari'ah*

1. INTRODUCTION

Muwa'adah is derived from *wa'd*. *Wa'd* means promise and *muwa'adah* means mutual promise. *Wa'd* is a very crucial term in Islamic financial jurisprudence because a number of Islamic financial products are based on it. However, the usage of *muwa'adah* in Islamic financial products is very limited. This is because a number of studies conclude that if a *muwa'adah* is practiced as binding on both of the promisor then it is similar to an *'aqd* (contract).[3] While *muwa'adah* itself is a contract then it cannot take place to perform another contract.

This study argues that there is a difference between a binding *muwa'adah* and an *'aqd* even though they look similar. This is because, a *muwa'adah* does not transfer the ownership of the commodity and therefore, the price of the commodity is not a debt on the promisor. On the other hand, when an *'aqd* is concluded then it transfers the ownership of the commodity to the purchaser and the price of the commodity has become a debt on the purchaser.

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[1] PhD Candidate, Department of Syariah and Economics, Academy of Islamic Studies, University of Malaya, 50603 Kuala Lumpur, Malaysia. Corresponding author: farukabdullah77@gmail.com
[2] Senior Lecturer, Department of Syariah and Economics, Academy of Islamic Studies, University of Malaya, 50603 Kuala Lumpur, Malaysia.
[3] Nazih Kamal Hammad, "Al-wafa' bi al-wa'd fi al-fiqh al-'Islami", *Majallah al-majma' al-fiqhi al-Islami*, session 5, vol. 2, 831; International academy for Islamic jurisprudence, 5th session, resolution no 40-41, 1988, retrieved on 28 May 2013, http://www.fiqhacademy.org.sa/qrarat/5-2.htm; Bank Negara Malaysia, *Shariah Resolutions in Islamic Finance*, (Kuala Lumpur: Bank Negara Malaysia, 2010), 139.

Nevertheless, considering the restriction on binding *muwa'adah* the Islamic finance industry has renovated a concept which is termed as *wa'dan*. It means two independent promise. *Wa'dan* is introduced to avoid the restriction on *muwa'adah*. It is claimed that *wa'dan* is a different concept from *muwa'adah* as it involves two promises related to two different conditions. However, the practice of *wa'dan* is often questioned that it is not actually different from *muwa'adah*. This is because in practice *wa'dan* involves two promises related to the same condition. Thus, an investigation on the Shari'ah ruling for *wa'dan* is necessary.

The first section of this paper will discuss the Shari'ah ruling of *muwa'adah* including the classical and contemporary scholar's opinion on this. Finally, it will shed some light on the Shari'ah appraisal of *wa'dan*.

2. MUWA'ADAH

Literally, *muwa'adah* means mutual promise.[4] Technically, *muwa'adah* is defined mostly by the *Maliki* scholars. Ibn Rushd defined it as: "To promise each one of the two to the other as it is a mutual action which will not happen except by two persons."[5] *Muwa'adah* is a mutual action where two parties promise to each other. If only one person promises to other then it is unilateral promise (*wa'd*) and when two persons promise to perform something good to each other then it is *muwa'adah* (mutual promise).

Similarly, another *Maliki* scholar describes *muwa'adah* in relation with marriage as: "To promise each of the two to the other for marriage. It is a mutual action therefore, it will not occur except by two persons. And, if only one person has promised then it is called '*iddah*' (unilateral promise)."[6] This definition follows the previous definition except it defines *wa'd* in the case of persons who promises between them for marriage. It clarifies that if the promise is made by only one person then it is an *wa'd* (unilateral promise). These two are the classical scholars' definition regarding the *wa'd*.

The modern definition of *muwa'adah* is more specified to financial affairs. Nazih Kamal Hammad states on the definition of *muwa'adah*: "Declaration by two persons on their interest to make a contract in the future which consequences will fall onto them.[7] Similar to the classical scholars, this definition says that *muwa'adah* is declaration by two persons to do something good in the future. However, this definition is restricted to making a contract in the future. Therefore, according to this definition only the declaration to conclude a contract in the future is called *muwa'adah*. So, *muwa'adah* can be defined as a mutual promise made by two individuals to perform something good to each other regardless of whether it is a contract or otherwise. It seems that Nazih Kamal Hammad's definition specified to executing contracts only is due to his focus on the contemporary practice of *muwa'adah* in the Islamic banking contracts.

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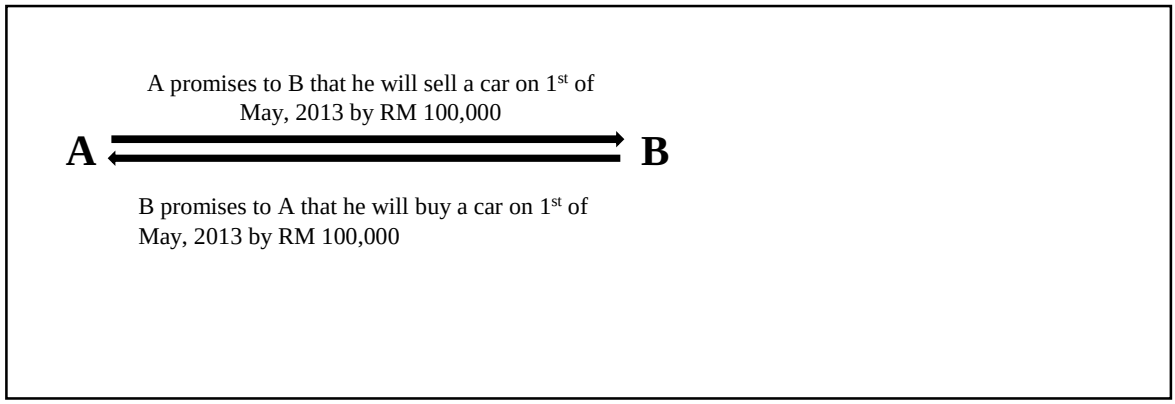
[4] Abu Mansur Muhammad bin Ahmad al-Azhari, *Tahdhib al-Lugah*, ed. Muhammad 'Aowd Mur'ab, (Beirut: Dar 'Ihya al-Turath al-'Arabi, 2001), 3:85-86.

[5] Muhammad bin Yusuf bin Abi al-Qasim bin Yusuf al-'Abdari al-Gharnati, *Al-Taj wa al-'Iklil li Mukhtasarin Khalil*, (Beirut: Dar al-kutub al-'ilmiyyah, 1994), 5:314.

[6] Abu 'Abdullah Muhammad bin Muhammad bin 'Abdul Rahman al-Hattab, *Mawahib al-Jalil li Sharh Mukhtasari Khalil*, ed. Zakariya 'Umayrat (Beirut: Dal al-kutub al-'ilmiyyah, 1995), 5:33.

[7] Nazih Kamal Hammad, "Al-wafa' bi al-wa'd fi al-fiqh al-'Islami", 730.

The graph below shows an example of *muwa'adah*. In this example, A promises to B that he will sell a car on 1st of May, 2014 by RM 100,000. At the same time, B promises to A that he will buy a car on 1st of May, 2014 by RM 100,000.



2.1. The Status of *Muwa'adah* in the *Shari'ah*

The status of *muwa'adah* in the *Shari'ah* will be discussed in two steps. Firstly, the classical scholars' opinions will be discussed followed by the contemporary scholars' views.

2.1.1. The classical scholars' view

Among the classical scholars the *Malikis* discussed on *muwa'adah*. Their discussion on *muwa'adah* was mostly in relation with *bay' al-sarf* (money exchange). Al-Wansharisi states that, a *muwa'adah* to perform something in the future is not allowed in the *Shari'ah* if it is invalid at the present. Therefore, Imam Malik has prohibited *mawa'adah* for marriage during the *'iddah* period, sale of food before taking possession, during the call for Friday prayer and sale of something that he does not own. In case of *muwa'adah* for *sarf* (currency exchange), Imam Malik's famous view is that it is prohibited. It is also his well-known opinion that *muwa'adah* for *sarf* is disliked (*makruh*) based on the ground that if it is done at present then it is allowed. However, in that case there is a doubt that it has become a forward contract.[8] It seems that *muwa'adah* is not prohibited by Imam Malik in actual fact. It is prohibited due to prevent the means for an evil action. Moreover, in his second opinion he allowed *muwa'adah* for *sarf*.

Al-Adawi, another Maliki scholar adds that there is no harm in *muwa'adah* for *sarf*. If someone says to another, "Let us go to the market with your silver money; if it is good, then we will exchange it," and the other party accepts then it becomes *muwa'adah*. The exchange contract takes place after that.[9]

[8] Ahmad bin Yahya al-Wansharisi, *'Idah al-Masalik ila Qawa'id al-Imam Abi 'Abd Allah Malik*, ed. Al-Sadiq bin Abd al-Rahman al-Farbani, (Beirut: Dar Ibn Hazm, 2006), 114.

[9] Abu al-Hasan Ali bin Ahmad Al-'Adawi, *Hashiyah al-'Adawi*, printed with Muhammad bin Abdullah al-Khurashi, *Sharh Mukhtasarin Khalil li al-Khurashi*, (Egypt: al-Mtba'ah al-khayriyyah, 1890), 3:421.

Similar to the Maliki scholars, Imam Shafi'i has allowed *muwa'adah* for *sarf*. He cites that if two persons promise to each other to make exchange contract then there is no harm for them to buy silver coins and keep those to one of them until they make the contract.[10]
In relation with this, Qazi Khan, a Hanafi scholar has allowed *muwa'adah* as binding promise in case of necessity. He points out that sometimes it becomes necessary to be involved with *muwa'adah*. Therefore, *muwa'adah* becomes binding on the parties due to the necessity of the people.[11] According to Qazi Khan, *muwa'adah* can be binding on the people if there is necessity for that.

Moreover, Ibn Hazm from the Jahiri School has allowed *muwa'adah* as well. He mentions that it is allowed to make a bilateral promise (*muwa'adah*) to buy gold with gold, or gold with silver, or silver with silver, or other *ribawi* items regardless of the two parties enter into the contract after that or not. This is because; a bilateral promise (*muwa'adah*) is not a contract.[12]

From the opinions of the classical scholars we can resolve that *muwa'adah* for marriage is not allowed during the *'iddah* period. It is allowed by the majority of the scholars to make a mutual promise for *sarf* contract. However, *muwa'adah* is not binding in this case because, we have known that Ibn Hazm and the Maliki scholars did not allow the *wa'd* to be binding in general. The Malikis allowed *wa'd* to be binding if the promisee has entered into an action based on the promise. Therefore, the same rule should be applied in *muwa'adah* as well. Qazi Khan's opinion seems close to the Maliki scholars as he allowed *muwa'adah* to be binding on the parties based on the necessity of the people.

2.1.2 The contemporary scholars' view

The status of *muwa'adah* in the *Shari'ah* is a debatable issue among the contemporary scholars. They have divided into three major opinions on its bindingness. This is due to the fact that, some view that if the *muwa'adah* is binding on both of the parties then it becomes a forward contract. Therefore, it should not be allowed. On the other hand, a group of scholars view that there is still difference between a binding *muwa'adah* and a forward contract. [13] Finally, some view that it should be allowed due to necessity.

Firstly, Nazih Hammad argues that although the classical scholars have divided into different opinions on the permissibility of *muwa'adah* but none has mentioned that *muwa'adah* is binding on one party or both of the parties. If both of the promisors in *muwa'adah* agree that, the promised contract that will be executed in the future is binding upon them from the time of *muwa'adah* then it turns into a contract. Therefore, all the *Shari'ah* rulings pertaining to a

[10] Abu 'Abdullah Muhammad bin Idris al-Shafi'i, *Al-Umm*, ed. Rif'at Fawzi Abd al-Muttalib (Al-Mansurah: Dar al-wafa', 2001), 4:58.
[11] Fakhr al-Din Hasan bin Mansur al-Ujzandi Qadi Khan, *Fatawa Qadi Khan*, printed with Nizam al-Din al-Balkhi with others, *Al-Fatawa al-Hindiyyah*, (Bulaq: al-Matba'ah al-kubra al-'amiriyyah, 1892), 2:165.
[12] 'Abi Muhammad 'Ali bin 'Ahmad bin Sa'id bin Hazm, *Al-Muhalla bi al-'Athar*, ed. 'Ahmad Muhammad Shakir, (Egypt: 'Idarat al-tiba'ah al-muniriyyah, 1352 AH), 8:513.
[13] 'Abdullah bin Muhammad, "Al-wa'd wa al-mu'awadah fi al-tabarru'at wa al-mu'awadat", *Journal of Islam in Asia*, vol. 7, 2010 (1), 46.

contract will come into effect. This is based on the legal maxim that reads: "In contracts effect is given to intention and meaning and not words and forms". [14]

The international Islamic jurisprudence academy in its fifth resolution asserts that a binding *muwa'adah* is prohibited in the *murabahah* contract. It states:

> Bilateral promises are permitted in *murabahah* sales on the condition that either or both parties have the option to annul the sale; however, if there is no such option, such a promise is not allowed because a binding bilateral promise in a *murabahah* sale bears a similarity to the sale transaction itself. In that case the condition is laid down that the seller must be the owner of the commodity being sold in order that no dispute arises [based upon the prohibition of the Prophet (peace be upon him) of people selling what they do not possess].[15]

However, the international Islamic jurisprudence academy has become flexible in cases where there is a public need. Therefore, it has allowed mutual promise in documentary credit transactions in its 17th session. Nevertheless, in general circumstances mutual promise is prohibited.

Furthermore, the Bank Negara Malaysia (Central bank of Malaysia) has stated in its *Shari'ah* resolutions that binding mutual promise (*muwa'adah muljimah*) is prohibited for a foreign exchange transaction because it comprises selling debt for debt which is termed by the classical scholars as '*bay' al-kali bi al-kali*'.[16]
Marjan Muhammad et al. shows that the economic effect of binding *muwa'adah* and a contract are same. Moreover, there are similarities between them in terms of documentation as in both of the cases only one documentation is used. Furthermore, in both of the cases two parties are involved. The nature, obligation, subject matter and price are the same in both binding *muwa'adah* and contract.[17]

Contrary to the previous opinion, Khairun Najmi et al. argue that binding *muwa'adah* is not similar with a contract. A contract is concluded through the connection of offer and acceptance that implicates some legal effects on the subject matter. However, binding *muwa'adah* is promise done by two persons reciprocally that does not have any legal implications on the subject matter e.g. transfer of the ownership. *Muwa'adah* means to promise mutually that a contract will be executed in the future through the offer and acceptance.[18]

Moreover, *muwa'adah* comprises an expression to perform something in the future e.g. "I will buy your house tomorrow." The scholars unanimously agree that this type of expression is not

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[14] Nazih Kamal Hammad, "Al-wafa' bi al-wa'd fi al-fiqh al-'Islami", 831.
[15] International academy for Islamic jurisprudence, 5th session, resolution no 40-41, 1988, retrieved on 28 May 2013, http://www.fiqhacademy.org.sa/qrarat/5-2.htm
[16] Bank Negara Malaysia, *Shariah Resolutions in Islamic Finance*, (Kuala Lumpur: Bank Negara Malaysia, 2010), 139.
[17] Marjan Muhammad, Hakimah Yaacob and Shabana Hasan, "The bindingness and enforceability of a unilateral promise (wa'd): an analysis from Islamic law and legal perspectives", (Research paper no. 30, International Shari'ah Research Academy for Islamic Finance (ISRA, Kuala Lumpur, 2011), 27.
[18] Khairun Najmi Saripudin, Shamsiah Mohamad, Nor Fahimah Mohd Razif, Sofhan Jamiela Rosli and Bahiyah Ahmad, "Application of Promise in Sukuk Musharakah Structure", *Middle-East Journal of Scientific Research* 12, no. 2 (2012), 163.

a contract rather it is a promise. On the other hand, the contract involves past or present expression e.g. the buyer says, "I bought your house" and the seller says, "I agreed".[19]

Furthermore, unlike a contract, the possession of the commodity does not change by *muwa'adah*, and if the promisor to buy a commodity fails to pay the purchase price then it is not considered a debt on his liability. In case of breach, the promisor only pays for the damage happened to the promisee. In contrast, in a sale contract if the buyer fails to pay then the total purchase price has become a debt on his responsibility.[20]

The third group of scholars hold the middle position between the previous two groups. They view that *muwa'adah* can be binding in case of necessity only. According to Taqi Uthmani, *muwa'adah* is allowed as binding on both of the parties in case of necessity. Referring to Qadi Khan, he mentions that *muwa'adah* can be binding in the *Hanafi* School of jurisprudence if it becomes necessary for the people. He argues that in the context of *'aqd al-tawrid*, it has been necessary to make the *muwa'adah* binding on both of the parties. Pertaining to the argument that a binding *muwa'adah* might be a forward contract, he explains that there are differences between binding *muwa'adah* and a forward contract. In a forward contract, the ownership of the asset transfers to the buyer immediately after the contract is concluded. The price of the asset has become a debt on the buyer. On the other hand, there is no transfer of ownership between the buyer and the seller in case of binding *muwa'adah*. Therefore, there is not debtor and creditor relationship between the promisors.[21]

Moreover, the bindingness in *muwa'adah* is not the same as a contract. If one of the promisors cannot fulfill the promise due to a valid reason then he will not be forced to make the contract. When the promisor does not fulfill his promise without any valid reason then the judge will force him to fulfill the promise. If he does not fulfill his promise then he is obliged to pay to the promisee the amount of loss due to the non-fulfillment of the promise. Only the amount of loss will be paid but not the contract price. On the contrary, in a forward contract the contract price is due to the buyer.[22]

Abbas Ahmad Muhammad al-Baz argues that *muwa'adah* is not a contract if it is non-binding on the parties. He argues that if the non-binding *muwa'adah* is similar to a forward contract then it is not logical that the classical scholars would have allowed *muwa'adah* for *sarf*. However, the *muwa'adah* can be binding on both parties in cases where breaking the promise will cause harm on the related parties. In this case, the mutual promise can be binding to remove the harm. If the mutual promise is binding on both parties just to remove the harms then it does not change the promise to a contract. This is because a promise is different from a contract and the real contract takes place after that.[23]

Moreover, the international Islamic jurisprudence academy in its' 17th session resolves that *muwa'adah* can be binding on both parties in case of necessity. The resolution reads:

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[19] Ibid.
[20] Ibid.
[21] Al-Qadi Muhammad Taqi Uthmani, "'Uqud al-tawrid wa al-munaqasah", *Majallah majma' al-fiqhi al-'Islami* 12, (2000), 675.
[22] Ibid.
[23] Abbas Ahmad Muhammad al-Baz, *Ahkam Sarf al-Nuqud wa al-'Umlat fi al-Fiqh al-Islami wa Tatbiqatuh al-Mu'asirah*, (Amman: Dar al-nafais, 1999), 130-131.

> There may be cases where it is impossible to conclude a sale agreement due to the commodity not being in the possession of the seller while a general need exists to oblige both parties to implement a contract in the future, either by legislation or some other means, such as the recognized practices of international commerce. An example of the latter would be opening a letter of credit in order to import goods. In such cases, it is permissible to oblige both parties to fulfill their promises, either through governmental legislation or by the agreement of both parties to a clause in the agreement that will make the promises binding on each of the two parties.[24]

However, the academy clarifies that this binding mutual promise is not a future contract that will be executed in the future. Therefore, the ownership of the commodity does not transfer to the buyer and the purchase price does not become a debt for the byer. The actual sale contract will be executed on the agreed upon date through the offer and acceptance between the buyer and the seller. In case the promisor does not fulfill his promise then he is compelled to either fulfill the promise or compensate the actual loss occurred to the other party due to the breach of the promise.[25]

Finally, referring to the *Hanafi* and *Maliki* scholars, Abu Ghuddah mentions that when a promise or mutual promise is attached to a cause then it is binding on the promisor. However, if the promise is free from any indication that makes it compulsory or otherwise then it should be referred to necessity.[26] So, if there is necessity to make the unilateral promise or mutual promise as binding then it should be binding on both of the promisor.

2.1.2. Discussion of the arguments and the weightiest opinion

Pertaining to Nazih Hammad's argument, it is accepted that in transactions the intentions and the meaning have effect on deciding the *Shari'ah* ruling rather than the words and forms. However, if we look into the practice of binding mutual promise then we can see that there are some practical differences between a contract and a binding mutual promise. In case of binding mutual promise, there is no transfer of ownership and if the promisor cannot fulfill his promise due to a valid reason then he is not obliged to compensate. Furthermore, when the promisor breaches the promise without any valid excuse then he is obliged to compensate the promisee only the amount of loss incurred due to the non-fulfillment of the promise but not the contract price. This is very much different from a forward contract where the ownership of the commodity is transferred to the buyer and the purchase price has become a debt on him.

On the other hand, though the classical scholars did not mention clearly the bindingness of a mutual promise but we can refer back to their positions in unilateral promise. We have known that the *Hanafi* and *Maliki* scholars have permitted the unilateral promise to be binding if it is attached to a cause. Moreover, Qadi Khan clearly mentions that a mutual promise can be binding in case of necessity for the public. It is reported that according to Ibn Hazm mutual promise for an exchange contract is not binding. However, in this case it can be argued that

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[24] International Islamic Jurisprudence Academy, 17th Session, retrieved on 5 Jun 2013, http://www.fiqhacademy.org.sa/qrarat/17-6.htm

[25] Ibid.

[26] 'Abd al-Sattar Abu Ghuddah, "Ta'ahhudat mudiri al-'amaliyyat al-istithmariyyah", *Nadwah al-Barakah li al-Iqtisad al-Islami*, 31st Session, 2010, retrived on 6 Jun 2013, http://www.islamfeqh.com/Nawazel/NawazelItem.aspx?NawazelItemID=1182

according to Ibn Hazm the unilateral promise is not binding as well but his opinion is not accepted by the majority of the scholars.

In relation with the resolution of the international Islamic jurisprudence academy in its fifth session, it can be said that if the mutual promise is binding upon either one of the parties then it becomes injustice on him. Rather it is just that it should be binding upon both of the parties. Furthermore, if the bindingness of a mutual promise in exercised based on what is discussed above then it is far different from a contract. Apart from this, it is seen that the academy itself has become flexible in its seventeenth session where it has allowed the mutual promise to be binding upon both of the parties in case of necessity.
The Bank Negara Malaysia did not provide any justification on how a binding mutual promise becomes similar to selling debt with debt in the event of exchange contract (*sarf*). If we have accepted that the binding mutual promise is not a contract then there is no doubt of sale of debt with debt here. This is because; the binding mutual promise does not create any debt between the promisors. Therefore, there is no ground to argue that a binding mutual promise for exchange contract involves sale of debt with debt.

Marjan Muhammad et al. have showed a few similarities between a binding mutual promise and a contract. However, one basic characteristic that is the transfer of ownership of the commodity is sufficient to differentiate between them. Therefore, there is different economic effects for a contract and a binding mutual promise. Nevertheless, it is recommended that two documentations should be used for binding mutual promise to eliminate the doubt of being similar with a contract.

Khairun Najmi et al. has pointed out some important differences between a binding mutual promise and a contract. The main difference between binding mutual promise and a contract is the non-transfer of the ownership. The transfer of the ownership will be done through a contract in the future which is decided by a binding mutual promise at the present. The bindingness of the mutual promise is not the same as the contract that we have discussed earlier.

Corresponding to the third type of view, it can be argued that if the binding mutual promise is far different from a contract then there is no basis to make the mutual promise binding upon both of the parties in cases of necessity only. An action is allowed in cases of necessity only if that action is prohibited by the *Shari'ah* in general. The case of necessity makes the prohibited action permitted until the necessity is eliminated. When the necessity is eliminated then the action becomes prohibited once again. However, if an action is generally permissible in the *Shari'ah* from the beginning then there is no ground to allow it only in necessary circumstances. Therefore, a binding mutual promise should be allowed in normal cases.

However, it is noteworthy to mention that if the binding mutual promise is used as a trick to legalize interest then it should be prohibited based on the legal concept "*sadd al-dhara'i*" (blocking the means). Therefore, *bay' al-'inah* (promise to sell and buy back) should be prohibited. Concerning this matter the international Islamic jurisprudence academy decided as follows:

> Mutual promises from two parties on contractual forms in order to circumvent the prohibition of *riba* - for example, collusion to involve *'inah*

> sale or a mutual promise to engage in a sale combined with a loan - are prohibited in the *Shari'ah*.[27]

Based on the discussion above, we can resolve that a mutual promise can be binding upon both of the parties subject to the following conditions:

1) The mutual promise is not used as a trick to legalize interest.
2) The promisor is not compelled to fulfill his promise if the breach of the promise is due to a *Shari'ah* permitted excuse.
3) In case the promisor does not fulfill his promise then he is compelled to either accomplish the promise or pay to the promisee the actual amount of loss incurred due to the breach.
4) If the breach of the promise does not incur any loss to the promisee then the promisor is not required to pay any compensation.

3. WA'DAN

Wa'dan is a new concept.[28] Therefore, the classical scholars did not discuss *wa'dan*. Among the contemporary scholars Aznan Hasan defines *wa'dan* as: "Two unilateral promises given by two parties to each other which are not interrelated and their application relies on two different conditions."[29] It may seem that *wa'dan* is similar to *muwa'adah* but the difference between them is that in *wa'dan*, the two promises are not interrelated to each other. It means that there is no mutual relation between the first promise with the second one. Both promise are independent. Pertaining to this, Marjan Muhammad and others have pointed out that *wa'dan* has two important characteristics which are: the promises are not dependent on each other and their application depends on two separate conditions.[30]

Therefore, we can sum up that *wa'dan* is a new concept which is different from *muwa'adah* where two separate independent promises are made by two persons to do something good to each other in the future. The chart below provides an example of *wa'dan*. In the first *wa'd*, A promises to B that he will sell a Honda Civic car on 1st of May, 2013 by RM 100,000, if the market price goes higher. After that, in the second *wa'd*, B promises to A that he will buy a Honda Civic car on 1st of May, 2013 by RM 100,000, if the market price goes lower. In this example, both of the promises are independent which are based on two different conditions. The two different situations are firstly, when the market price of the car is higher than the price fixed earlier and secondly, when the market price is lower than the price fixed earlier.

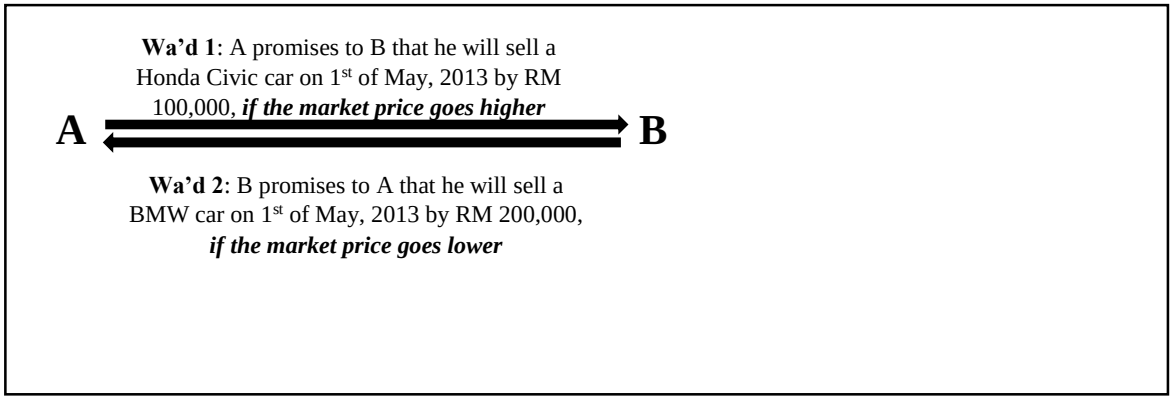
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[27] International Islamic Jurisprudence Academy, 17th Session, retrieved on 5 Jun 2013, http://www.fiqhacademy.org.sa/qrarat/17-6.htm

[28] Marjan Muhammad et al., "The bindingness and enforceability of a unilateral promise (*wa'd*)", 31.

[29] Aznan Hasan, "Pengertian al-wa'ad, al-wa'dan dan al-muwa'adah" (paper presented in *Muzakarah Cendekiawan Syariah Nusantara*, International Shari'ah Research Academy for Islamic Finance (ISRA), Kuala Lumpur, 27-28 February 2008), 1.

[30] Marjan Muhammad et al., "The bindingness and enforceability of a unilateral promise (*wa'd*)", 31.



3.1. The Status of *Wa'dan* in the *Shari'ah*

Wa'dan is a recently invented term in Islamic finance. It cannot be found in the classical books of Islamic jurisprudence.[31] Therefore, only the contemporary scholars' opinions on the status of *wa'dan* will be discussed.

Firstly, Marjan Muhammad et al. concludes that *wa'dan* is a legal trick to avoid *muwa'adah*. They argue that *wa'dan* is different from *muwa'adah* because *wa'dan* is having different conditions that will result in the fulfillment of only one promise in the future. Therefore, it is not correct to believe that *wa'dan* is impermissible in the *Shari'ah*.[32]

Secondly, Shafi'i and Rusni mentions that *wa'dan* is used in *Shari'ah*-approved securities product. The *Shari'ah* board of *Dar al-Istithmar*, which contains five international renowned *Shari'ah* scholars, namely Hussein Hamed Hassan, Ali Al Qaradaghi, Abdul Sattar Abu Ghuddah, Mohamed Ali Elgari and Mohamed Daud Bakar accepted these products.[33] Based on this, it can be resolved that according to these five scholars *wa'dan* is allowed in the *Shari'ah*.

Besides, Khairun Najmi et al. points out that in some cases the purchase and sale undertaking practices are in fact *muwa'adah* that is binding upon both parties but not *wa'dan*. They assert that even though the *wa'd*, *muwa'adah* and *wa'dan* are binding upon the parties but it is permissible to implement these in purchase undertakings. This is because; these are just promises without having any offer (*'ijab*) and acceptance (*qabul*) in the agreement.[34]

On the other hand, Aznan Hasan clarifies that, in the case of *wa'dan* if the two promises have really two different conditions and they result in two distinct effects then it is permissible.

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[31] Azlin Alisa Ahmad, Shofian Ahmad, Mustafa 'Afifi Ab Halim and Mat Noor Mat Zain, "Bilateral promise: comparison from the common law and Islamic law perspective", *Malayan Law Journal* 2, (2012), x.
[32] Marjan Muhammad et al., "The bindingness and enforceability of a unilateral promise (*wa'd*)", 36.
[33] Shafi'i Abdul Azeez Bello and Rusni bt Hassan, "The scope and application of *wa'ad*, *muwa'adah* and *wa'dan* in Islamic finance", *Merit Research Journal of Accounting, Auditing, Economics and Finance* 1, no. 1 (2013), 8-9.
[34] Khairun Najmi Saripudin, et al., "Application of Promise in Sukuk Musharakah Structure", 165.

Therefore, according to him if the conditions are same and have similar implication then it is not accepted.[35]

Azlin Alisa et al. states that if the two promises in *wa'dan* have different economic consequences then it is permissible. However, they do not clearly point out the status of a *wa'dan* that has similar economic effect. They conclude that *wa'dan* is permissible for structured products, as it does not involve currency exchange transactions. Furthermore, they claim that no Islamic jurist has permitted *wa'dan* for currency exchange transactions. This is because *wa'dan* may resemble *muwa'adah*, which is analogous to a contract and hence it may involve interest in currency exchange contract.[36]

In another study, Azlin Alisa shows that *wa'dan* is different from a contract based on the fact that *wa'dan* involves future event while a contract occurs on the spot. Moreover, there is no delivery of goods in *wa'dan*, but in a contract; the goods are delivered on the spot. In *wa'dan*, there is no liability on the buyer to pay the price and the ownership of the commodity is not transferred.[37]

On the contrary, after providing an example of FX forward based on *wa'dan*, Asyraf Wajdi mentions that the application of *wa'dan* seems similar to *muwa'adah*. However, a number of Islamic financial institutions in the Middle East have been using *wa'dan* despite the criticism. A number of *Shari'ah* scholars have allowed *wa'dan* as well assuming that it is different from *muwa'adah*. However, they have approved this contract only for hedging purposes.[38]

In relation with the application of *wa'd* in total return swap, Atallah and Ghoul show that the application of *wa'd* - which is in fact *wa'dan* - is a *hilah* (legal trick) to make gambling Islamic and a way to legalize prohibited future sales. They conclude that a total return swap based on double-*wa'd* may be accepted in the *Shari'ah* in form but not in substance.[39]
Similarly, Yusuf Talal DeLorenzo has highlighted that even though *wa'd* – in fact, it is *wa'dan* - is legitimated in the *Shari'ah* but its application in total return swap should be prohibited based on the concept of *sadd al-dhara'i'* which denotes that if a legitimated means is employed to achieve an illegitimate end then it is unlawful.[40]

Finally, Muhammad Ayub mentions that some banks are using "two unilateral independent promises" in Islamic swaps, hedge funds and short selling. He questions the *Shari'ah*-compliancy of using *wa'dan* in those products. He states, "One cannot understand how the two reciprocal promises are unilateral and independent when no party is given option for not entering into the contract, and if either party wishes to cancel, it has to pay on the basis of

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[35] Aznan Hasan, "Pengertian al-wa'ad, al-wa'dan dan al-muwa'adah" (paper presented in *Muzakarah Cendekiawan Syariah Nusantara*, International Shari'ah Research Academy for Islamic Finance (ISRA), Kuala Lumpur, 27-28 February 2008).
[36] Azlin Alisa Ahmad et al., "Bilateral promise: comparison from the common law and Islamic law perspective", xi.
[37] Azlin Alisa Ahmad, Shofian Ahmad, Hailani Muji Tahir, Shahidah Shahimi, Saadiah Mohammad and Mat Moor Mat Zain, "Islamic forward exchange contracts as a hedging mechanism: an analysis of wa'd principle", *International Business Management* 6, no. 9 (2012), 53.
[38] Asyraf Wajdi Dusuki, "Principle and Application of Risk Management and Hedging Instruments in Islamic Finance", retrieved on 9 Jun 2013, http://www.asyrafwajdi.com/v25/index.php/article?start=20
[39] Chady C. Atallah and Wafica A. Ghoul, "The Wa'd-Based Total Return Swap: Sharia Compliant or Not?", *The Journal of Derivatives* 19, no. 2 (2011), 80.
[40] Yusuf Talal DeLorenzo, "The Total Returns Swap and the "Shariah Conversion Technology" Stratagem, retrieved on 17 Jun 2013, http://uaelaws.files.wordpress.com/2012/06/delorenzo-copy.pdf

muqassah".[41] It is clear from the statement that he did not accept that difference between *wa'dan* and *muwa'adah*.

Based on the discussion above, we can sum up the opinions of the scholars that if *wa'dan* involves two independent *wa'd* with different economic effects then it is permissible even though it is binding on the promisor. This is because, it is agreed to all that a unilateral *wa'd* is allowed in the *Shari'ah*. Therefore, there is no question on *wa'dan* having different conditions and economic effects since the two promises are separate from each other. However, if *wa'dan* has similar economic effects then it is not allowed. This is because; there is a doubt that it is similar to *muwa'adah*.

Nevertheless, being similar with *muwa'adah* does not affect the permissibility of *wa'dan*. We have come across earlier that a *muwa'adah* is permissible in the *Shari'ah* even though it is binding upon both of the parties. Therefore, *wa'dan* should be permitted as well.

In relation with the annulment option in *wa'dan* we would like to argue that *wa'd* does not give an option to the promisee to cancel the *wa'd*. This is because; *wa'd* is a unilateral offer. The execution of *wa'd* does not rely on the acceptance of the promisee. If the execution of a *wa'd* depends on the acceptance of the promisee then it becomes a contract. Therefore, the *khiyar* (option) to cancel the promise should not be allowed. However, in *wa'dan* only one *wa'd* is fulfilled based on the conditions. As there are two contradictory conditions in *wa'dan* then only one *wa'd* is fulfilled based on which one of the conditions are realized.

Then again if the usage of *wa'dan* leads to a non-legitimate end then it should not be allowed based on *sadd al-dhara'i'*. Islamic legal maxim reads, "Matters are determined by intention".[42] Therefore, it is necessary to revisit the permissibility of total return swap in the *Shari'ah*. Along with this, some conditions related to the implementation of binding *wa'dan* should be followed that we have mentioned earlier in the section of *muwa'adah*.

4. CONCLUSION

Muwa'adah can be a crucial instrument to invent many Islamic financial products. It will ease for the practitioners to come out from following the tenets of the *'aqd*. On the other hand, *wa'dan* provides more confidence to practitioners in terms of the adherence to the Shari'ah. However, a number of conditions should be fulfilled to practice *muwa'dah* and *wa'dan* so that their practice do not lead to an illegal end. Therefore, case studies should be done on *muwa'dah* and *wa'dan* based products whether their practices become a means to reach an illegal objective or otherwise.

[41] Muhammad Ayub, "Use of W′ad and Tawarruq for Swaps in the framework of Islamic Finance", (paper presented in *Eighth International Conference on Islamic Economics and Finance*, Doha, Qatar, 19-21 December 2011).

[42] Zayn al-Din ibn Ibrahim Ibn Nujaym, *Al-Ashbah wa-al-Naza'ir*, ed. Muhammad Muti' al-Hafij, (Damascus: Dar al-fikr, 2005), 1: 22; Muhammad Sadqi bin Ahmad al-Burnu and Abu al-Harith al-Ghazzi, *Mawsu'ah al-Qawa'id al-Fiqhiyyah*, (Beirut: Mu'assasah al-risalah, 2003), 1: 120.

REFERENCES

‘Abd al-Sattar Abu Ghuddah, “Ta’ahhudat mudiri al-‘amaliyyat al-istithmariyyah”, *Nadwah al-Barakah li al-Iqtisad al-Islami*, 31st Session, 2010, retrieved on 6 Jun 2013, http://www.islamfeqh.com/Nawazel/NawazelItem.aspx?NawazelItemID=1182

‘Abdullah bin Muhammad, “Al-wa’d wa al-mu’awadah fi al-tabarru’at wa al-mu’awadat”, *Journal of Islam in Asia*, vol. 7, 2010 (1), 31-53.

‘Abi Muhammad ‘Ali bin ‘Ahmad bin Sa’id bin Hazm, *Al-Muhalla bi al-‘Athar*, ed. ‘Ahmad Muhammad Shakir, (Egypt: ‘Idarat al-tiba’ah al-muniriyyah, 1352 AH).

Abbas Ahmad Muhammad al-Baz, *Ahkam Sarf al-Nuqud wa al-‘Umlat fi al-Fiqh al-Islami wa Tatbiqatuh al-Mu’asirah*, (Amman: Dar al-nafais, 1999).

Abu ‘Abdullah Muhammad bin Idris al-Shafi’i, *Al-Umm*, ed. Rif’at Fawzi Abd al-Muttalib (Al-Mansurah: Dar al-wafa’, 2001).

Abu ‘Abdullah Muhammad bin Muhammad bin ‘Abdul Rahman al-Hattab, *Mawahib al-Jalil li Sharh Mukhtasari Khalil*, ed. Zakariya ‘Umayrat (Beirut: Dal al-kutub al-‘ilmiyyah, 1995).

Abu al-Hasan Ali bin Ahmad Al-‘Adawi, *Hashiyah al-‘Adawi*, printed with Muhammad bin Abdullah al-Khurashi, Sharh Mukhtasarin Khalil li al-Khurashi, (Egypt: al-Mtba’ah al-khayriyyah, 1890).

Abu Mansur Muhammad bin Ahmad al-Azhari, *Tahdhib al-Lugah*, ed. Muhammad ‘Aowd Mur’ab, (Beirut: Dar ‘Ihya al-Turath al-‘Arabi, 2001).

Ahmad bin Yahya al-Wansharisi, ‘*Idah al-Masalik ila Qawa’id al-Imam Abi ‘Abd Allah Malik*, ed. Al-Sadiq bin Abd al-Rahman al-Farbani, (Beirut: Dar Ibn Hazm, 2006).

Al-Qadi Muhammad Taqi Uthmani, “’Uqud al-tawrid wa al-munaqasah”, *Majallah majma’ al-fiqhi al-‘Islami 12*, (2000), 672-690.

Asyraf Wajdi Dusuki, “Principle and Application of Risk Management and Hedging Instruments in Islamic Finance”, retrieved on 9 Jun 2013, http://www.asyrafwajdi.com/v25/index.php/article?start=20

Azlin Alisa Ahmad, Shofian Ahmad, Hailani Muji Tahir, Shahidah Shahimi, Saadiah Mohammad and Mat Moor Mat Zain, “Islamic forward exchange contracts as a hedging mechanism: an analysis of wa’d principle”, *International Business Management 6*, no. 9 (2012), 47-54.

Azlin Alisa Ahmad, Shofian Ahmad, Mustafa 'Afifi Ab Halim and Mat Noor Mat Zain, “Bilateral promise: comparison from the common law and Islamic law perspective”, *Malayan Law Journal 2*, (2012), x.

Aznan Hasan, “Pengertian al-wa’ad, al-wa’dan dan al-muwa’adah” (paper presented in *Muzakarah Cendekiawan Syariah Nusantara*, International Shari’ah Research Academy for Islamic Finance (ISRA), Kuala Lumpur, 27-28 February 2008).

Bank Negara Malaysia, *Shariah Resolutions in Islamic Finance*, (Kuala Lumpur: Bank Negara Malaysia, 2010).

Chady C. Atallah and Wafica A. Ghoul, “The Wa’d-Based Total Return Swap: Sharia Compliant or Not?”, *The Journal of Derivatives 19*, no. 2 (2011), 71-89.

Fakhr al-Din Hasan bin Mansur al-Ujzandi Qadi Khan, *Fatawa Qadi Khan*, printed with Nizam al-Din al-Balkhi with others, Al-Fatawa al-Hindiyyah, (Bulaq: al-Matba'ah al-kubra al-'amiriyyah, 1892).

International Islamic Jurisprudence Academy, 5th session, resolution no 40-41, 1988, retrieved on 28 May 2013, http://www.fiqhacademy.org.sa/qrarat/5-2.htm;

International Islamic Jurisprudence Academy, 17th Session, retrieved on 5 Jun 2013, http://www.fiqhacademy.org.sa/qrarat/17-6.htm

Khairun Najmi Saripudin, Shamsiah Mohamad, Nor Fahimah Mohd Razif, Sofhan Jamiela Rosli and Bahiyah Ahmad, "Application of Promise in Sukuk Musharakah Structure", *Middle-East Journal of Scientific Research 12*, no. 2 (2012) 160-167.

Marjan Muhammad, Hakimah Yaacob and Shabana Hasan, "The bindingness and enforceability of a unilateral promise (wa'd): an analysis from Islamic law and legal perspectives", (Research paper no. 30, *International Shari'ah Research Academy for Islamic Finance (ISRA)*, Kuala Lumpur, 2011).

Muhammad Ayub, "Use of W´ad and Tawarruq for Swaps in the framework of Islamic Finance", (paper presented in *Eighth International Conference on Islamic Economics and Finance*, Doha, Qatar, 19-21 December 2011).

Muhammad bin Yusuf bin Abi al-Qasim bin Yusuf al-'Abdari al-Gharnati, *Al-Taj wa al-'Iklil li Mukhtasarin Khalil*, (Beirut: Dar al-kutub al-'ilmiyyah, 1994).

Muhammad Sadqi bin Ahmad al-Burnu and Abu al-Harith al-Ghazzi, *Mawsu'ah al-Qawa'id al-Fiqhiyyah*, (Beirut: Mu'assasah al-risalah, 2003).

Nazih Kamal Hammad, "Al-wafa' bi al-wa'd fi al-fiqh al-'Islami", *Majallah al-majma' al-fiqhi al-Islami*, session 5, vol. 2, 823-837.

Shafi'i Abdul Azeez Bello and Rusni bt Hassan, "The scope and application of wa'ad, muwa'adah and wa'dan in Islamic finance", *Merit Research Journal of Accounting, Auditing, Economics and Finance 1*, no. 1 (2013), 1-11.

Yusuf Talal DeLorenzo, "The Total Returns Swap and the "Shariah Conversion Technology" Stratagem", retrieved on 17 Jun 2013, http://uaelaws.files.wordpress.com/2012/06/delorenzo-copy.pdf

Zayn al-Din ibn Ibrahim Ibn Nujaym, *Al-Ashbah wa-al-Naza'ir*, ed. Muhammad Muti' al-Hafij, (Damascus: Dar al-fikr, 2005).

EDUCATION IN COOPERATIVE SECTOR IN MALAYSIA: ISSUES, CHALLENGE & PROSPECT

Rose Ruziana Samad[1]
Zurina Shafii[2]
Norhaziah Nawai[3]

ABSTRACT

The importance of cooperative sector has been recognized by government as one of the economic mobilizers in a country. The roles played by the cooperatives shows that it acts as an alternative source of banking especially for the poor. However, the performance of many cooperatives are questioned due the failure of many in achieving their mission and vision. It has been identified that one of the major problems contributes to the phenomena is the education and training issue among the cooperative members.This paper is a conceptual paper which tends to discuss the issues, challenges and prospects of education in cooperative sector in Malaysia. Among the problems which have been identified in cooperative sector includes the issue of accountability, weak structure of corporate governance, lack of management integrity and talent in which an education is perceived as a pivotal point in addressing all the issues.Effort and contribution towards improving the competitiveness of the cooperative sector still need to be improved so that it can continue to provide added value to the national economy, particularly in improving the capacity and capability of the cooperative sector to explore new areas.As cooperatives are community-based and involves participation of the members, this paper is also exploring the potential of Islamic cooperatives to achieve the economic objectives of the society. The Islamic finance industry is yet to prove to the community that it enhances the quality of life of the society as well as championing the cause of the society.

Keywords: education, cooperative sector, training

1. INTRODUCTION

The cooperative sector as the third sector in the national economy should be able to play its role as a 'balancing factor' between the public and private sectors. The capacity of this sector should be geared toward making cooperatives in Malaysia the third viable catalyst for economic growth.

Cooperative development, growth and contribution have been affected by globalization, liberalization, deregulations and changes in government policies where the cooperative philosophy, concepts and identity are being challenged by both the external and internal forces.

2. EDUCATION IN COOPERATIVE SECTOR

[1] PhD student from Faculty of Economics & Muamalat, Universiti Sains Islam Malaysia.

[2] Associate Professor & Senior Lecturer from Faculty of Economics & Muamalat, Universiti Sains Islam Malaysia.

[3] Senior Lecturer from Faculty of Economics & Muamalat, Universiti Sains Islam Malaysia.

2.1 The Importance and Goal of Education in Cooperative Sector

The most vital resource of today's enterprise is the collectiveknowledge residing in the minds of an organization's employees, customers, and vendors (Becerra et al, 2004). The changing nature of the cooperatives requires capability of the employees andmanagers to determine the type of knowledge that they will need in the future.This represents competencies of the cooperatives such that all intellectualabilities and knowledge possessed by employees as well as their capacity to learnand acquire knowledge are geared towards the effectiveness of the sector. In thecontext of managing information and knowledge, a cooperative should realizeits potential as an important catalyst in the growth of the Malaysian economy. Themore disciplined and dedicated the sector, the more significant is the thrust toencourage knowledge management as a guiding principle in operatingcooperatives in the country.

The International Co-operative Congress in Vienna which was held in 1966 stressed on the fifth principle in thecooperative which is,*"all cooperatives should have the provision of education for members, officers and the public in connection with the principles and techniques of cooperatives"*.Cooperative education should be able to increase the knowledge of the cooperative's members, enhancing efficiency in the managing works and make them more responsible for the organization to which they belongs. An education should be seen as a long-life process. Pascale (1999) states that continuous learning provides the firm with new and up-to-date sets of skills, which allow the firm to adapt to its environments as it encounters changes.

In a book wrote by Idris and Safaai (2012), *The Principles and Philosophy of Cooperation* states, P. R. Dubashi (1970) express that "the realization of all other principles depend on the fulfillment of the principle of education. Education is veryimportant in any system, whether socialistic or capitalistic. But it can justifiably maintain that education has a unique place in cooperation as much as for the cooperative". Acooperative that failed to carry out any educational program, it is likely to fail in the implementation of the other cooperative principles.

Based on the "Statement of Cooperative Identity" issued by the International Cooperative Alliance (ICA), one of the seven principles that should be included in a cooperative has placed emphasis on the educational aspects which is the *5th Principle: Education, Training and Information.* It is believed that cooperatives which provide education and training for their members, elected representatives, managers, and employees, they can contribute effectively to the development of their cooperatives. As such, they should be able to inform the general public, especially young people and leaders about the nature and benefits of cooperatives.

A discussion in a book "Introduction to Cooperatives" by Idris and Safaai (2012) further states that the goal of education in the society, including:

i. Cultivate required attitudes, knowledge and understanding to meet the challenges of the members themselves, and the problem of self-interest in general.
ii. Produce leadership qualities and team spirit among the members to enable them to solve problems together.
iii. Generating efficiency among members to enable them to solve economic and social problems in society more effectively.

2.2 Division of EducationalScopes in Malaysian Cooperative

According to Idris and Safaai (2012), the educational scopes in Malaysia could be divided as follows:

i. Education related to cooperative elements associated with different types of activities and functions.
ii. Education related to the administration, management, staff leadership and so on.
iii. Special education for cooperative members.

The National Cooperative Policy (NCP) has been approved by the government in 2002 to determine the direction of the cooperative movement in Malaysia which later had contributed towards a positive development. As such, the government has launched NCP2 to support cooperatives' development in 2011-2020.

NCP2 has outlined five "core strategies" to help cooperatives in Malaysia in which the third strategy is to create and emphasize the importance of human capital in the cooperative. The third strategy relates to the efforts of establishing and improving the capacity of human resources in the cooperative sector. The educational aspect is seen as an important aspect in enhancing human resources, expand the intellectual strength, enhance business knowledge, inculcate positive attitudes and encourage continuous learning among members of the cooperative. A formal process that evaluates a company's people, organizationalprocesses and technology and also develops a solution to captureknowledge and deliver information to the right people at the right time (Sanchez, 2002).

2.3 Requirements of Cooperatives Education Program

When the cooperative movement was introduced in Malaysia in 1922, there were no formal programs available for education and training. An increasein cooperative numbers from year to years show that the education and training is significantly required.

Accordingly, in 2002, the Chief Registrar of Cooperatives has issued a circular which require its Board of Cooperative (ALK) and Member of Internal Audit Committee (IAC) to attend two compulsory courses - "Co-operative Governance and Management" and "Code of Auditing and Cooperative Accounting". These courses have been organized by the Co-operative College of Malaysia (CCM) and the National Cooperative Commission (SPACE).Furthermore, in order to strengthen the human capital aspect, there are another two additional compulsory courseswere introduced - 'Strategic Management' and 'Financial Management'.

3. EDUCATION ISSUES AND TRAINING IN COOPERATIVE

Among the problems identified which must be addressed immediately include the following matters:

i.Increase competency among cooperative members either in management or members.
Each cooperatives urged to plan, allocate funds and implement education programs to achieve this objective. It is very important for every member to practice and hold a concept of "lifelong learning" to build a better quality of human capital that can make a meaningful contribution to their society.

ii.A low level of computer literacy among cooperatives.

In the era of ICT and globalization, it is very necessary for the cooperative sector to adapt the latest communication techniques in order to be in line with the current development.

iii. Lack of other commitments.

In 2010, it was reported that there were about 5% problematic cooperatives in the country due to the factor of financial constraints, lack of commitments from the Board and the absence of opportunities.

iv. Shortage of professional manpower.

This problem could be overcomed by strengthening the cooperatives education and training to fulfill the long-term goals.A target by the Cooperative Commission of Malaysia (CCM) is to establish a total of 16 000 units by 2020 cooperative capable contribute to GDP of 10%.

Based on the above problems, the overall key question is the extent to which the capacity of training institutions in Malaysia can support education in cooperative sector in the long run. One of the matters concerned in a report published onDecember 28, 1999 by the United Nations Department of Economic and SocialsAffairs (DESA), is thecontribution of the cooperative in promoting and supporting entrepreneurial development. It is hoped that cooperatives are able to create productive employment, reduce poverty and enhance social integration issues. Yeop (2002) mentioned that knowledge is being identified asa key asset in the organization because changes in the methods and transformation in the forms oforganization are also the way in which knowledge is appreciated.

In the United Statesof America, the National Cooperative Business Development has set up the CLUSA Institute for Cooperative Development in 1996 to act as a catalyst for thedevelopment of successful cooperative development models within the countryand elsewhere. Similarly, the ICA has encouragedcooperative enterprises in developing countries and to have access to its businessnetworks as well as trade assistance programs through promoting inter-cooperativetrades. Strategic alliances between cooperative businesses within different regionswould thus require high priority to be given for human resources development.
The organization and management of cooperatives always emphasized on humanresource developmentas an important element in thecooperative technical assistance programs (Yeop,2007).

The increase in number of cooperatives over the years may reflect the growingacceptance of this sector among the population. As more new members are subscribed to join the cooperatives, efforts to conduct the cooperatives in a moreprofessional way should be given utmost consideration by the management ofthese cooperatives. Mobilizing human resources in this sector also calls forchanges in running of the cooperatives. Greater emphasis on education andtraining are cited as one of the measures to improve conditions in the sector. Davenport and Prusak (1998) stressed that effective organizations create broader knowledge, deeperand richer than data and information.

According to Y. B. Dato' Sri Mohamed Khaled Nordin in his foreword in the *"Blueprint on enculturation of lifelong learning for Malaysia 2011 – 2020*", a knowledge society is crucial to facilitate a smooth transformation of Malaysia into becoming a high income economy by 2020. In this regard,the enculturation of lifelong learning is one of the critical success factors in

ensuring that the nation's goal could be achieved.The so called knowledge-based resources must be managed appropriately to ensure competitive advantage of the cooperatives.

Yeop (2007) emphasized that the structures, systems and strategies are the essential elements that allow thecooperatives to build their strength that can bring lasting benefits to members.The NCP is seen as a framework in designing the future outlook of cooperative sector with developmentprograms toimplement the strategies in which will expose managers and employees of the cooperativewith vast experience and learning opportunities.

Knowledge-based environment inthe cooperatives encourage strategic thinking among the managers and their subordinates to satisfy the members and subsequently end-users of the productsor services. Effective cooperatives often placeindividuals who can greatly contribute towards achieving organizational goals. Thishowever requires the persons to exercise a certain degree of adaptability as well asbeing proactive to the change of conditions.

Knowledge management is perceived as animportant element which requires attention and to be given priority so that organizations will be committed to developing and nourish theworkplace with dissemination of vital information to assist the managers andemployees in discharging their duties. Knowledgeable people tend toperform more appropriately in adverse conditions as they are more prepared tolearn.

Ryan (2000) underlined several advantages of knowledge management which include:

i. Improving customer service experience through making accessibility to in-depth knowledge and solving customer problems instantly.
ii. Preventing recurring costs as existing knowledge can be reused formulating similar solution to other problems.
iii. Improving productivity of employees as problem resolutions can be made faster.
iv. Handling problems that cross a broad range of topics and job functions.

4. POTENTIAL OF ISLAMIC COOPERATIVE

As cooperatives are community-based and involves participation of the members, it is timely to enhance the role of cooperative in Islamic finance to achieve the economic objectives of the society. The Islamic finance industry is yet to prove to the community that it enhances the quality of life of the society as well as championing the cause of the society. Zaman (2013) highlighted that Islamic finance could achieve the sought after equity participation through the cooperative. This is by the engagement of Islamic finance to provide service-based provisions for the community. He highlighted the success of a service-based provisions such as the service of hajj management in Malaysia by Tabung Haji. The large population of Muslims makes it possible for such service-based provisions are feasible for the Islamic finance industry.

Since most of services are all social needs, it makes sense that the members are paying since the are part of the society. The challenge to move to the next development of Islamic finance that focuses on the societal involvement that are equitable and participatory are hilghlighted by Zaman (2013). He highlighted that there is a need to develop new breed of bankers as the current generation does not have training to enter real world applications. He put forward the case of micro-finance and agricultural loans application in many countries such as in Pakistan and Indonesia. Evidence in Pakistan showed that moneylenders in Pakistan are succesul in both

micro-finance and agricultural loans, while bankers failed at both, due to lack of required knowledge, experience and training.

In Malaysia, the New Economic Model (NEM) promotes inclusiveness by the way of reducing the inequity divide for the haves and haves not. For that to happen, an economic transformation is needed to promote equality. It has been proven that in most countries 60-80% of the GDP growth is achieved by SMEs (Small, Medium Eusinesses) and the similar portion of job growths come from this sector. The player in sectors has problems to get financing, even though it is one of the primary contributing sectors to the GDP growth even in developed countries like Germany and the US (Saeed Haq, 2012). In theory, the presence of a large number of community and cooperative banks ensures that funds/wealth generated within the community also stay within the community. This is ensured because business owners in a locality know each others' reputation and credibility and this reduces long procedures and paperwork in approving loans (SaeedHaqq, 2012). This problem could be enhanced using the cooperative mechanism. Figure 1 depicts the areas in Islamic finance that are critical to be studied in order to steer the development of Islamic cooperatives.

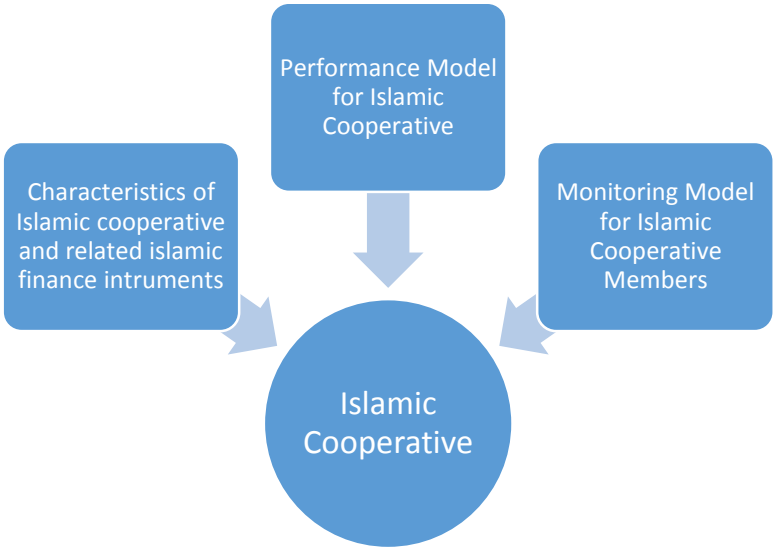


Figure 1: Critical Areas of Development in Islamic Cooperative

Therefore, researches concentrating the following areas to understand the feasibility of adopting Islamic finance in developing Islamic cooperative model are needed to examine:

1) The suitability of adoption of Islamic finance in a cooperative setting
2) The applicability of the conventional performance measurement measures for Islamic co-operative
3) The applicability of conventional cooperative members monitoring measures for Islamic co-operative

In specific, studies could be conducted to explore the usage of distinctive partnership contracts such as the *muzaraah/mukhabarah* (share cropping), *mugharasah* (share planting) and *musaqah/muamalah* (share watering) that are specifically developed for agriculture sector. These contracts are used especially in Madinah during the reign of the Prophet (pbuh) and companions as the sources of financing for agricultural activities. Looking at their potential and the suitability of the area of studies, these contracts will become the underlying structure for the proposed cooperative financing products.

In addition, focus group study is needed to inquire about the feasibility of developing of Islamic cooperative among Shariah scholars for product development and top management of cooperatives to learn on how cooperatives could be mobilized as an Islamic finance instrument. This includes performance and monitoring measures development, taking into account the success and setbacks of micro-finance and other community-based financial performance such as a programme offered by the Institute for Research and Community Development Tazkia, i.e. Tazkia Microfinance Centre (TMFC). In addition, questionnaires to the members of cooperatives to learn about the background of the members to identify the expectation for Islamic cooperative.

Having Islamic cooperatives is one of the fastest ways to for Malaysia to become an Islamic financial hub. This is because this will boost the fund under management and also the number of individuals having access to Islamic finance.

5. CONCLUSION:

A cooperative is a member-owned and controlled business that operates for the mutual benefit of its members. Cooperatives operate across all sectors of the country's economy and promote the fullest possible participation in the economic and social development of all people.The cooperative movement in Malaysia has undergone rapid development over time. However, effort and contribution towards improving the competitiveness of the cooperative sector still need to be improved so that it can continue to provide added value to the national economy, particularly in improving the capacity and capability of the cooperative sector to explore new areas. Therefore, the quality of human capital to be considered in line with the goals of the National Cooperative Policy (NCP).

REFERENCES:

Ahmed, H. 2003. The Role of Islamic Financial Institutions in Financing Microenterprises: Theory and Practice. Forum of Islamic Economics and Finance. Amman, September 27-29, 2003

Al-Muamalat. *Pena Syariah Bank Muamalat*. Siri 07, PP1703/10/2012 (031346).

Bank Negara Malaysia. www.bnm.gov.my

Becerra-Fernandez, I., Gonzales, A., & Sabherwal, R. (2004). *Knowledge Management: Challenges, Solutions and Technologies*. USA: Pearson Prentice-Hall.

Blueprint on enculturation of lifelong learning for Malaysia 2011-2020. www.mohe.gov.my

Idris and Safaai (2012). *Pengenalan Koperasi*. Edisi Bharu. Utusan Publications & Distributors Sdn. Bhd.

H., & Prusak, L. (1998). *Working Knowledge: How Organizations ManageWhat They Know*. USA: Harvard Business School Press.

Jennifer, B (2004). Islamic Philanthropy: Reviving Traditional Forms for Building Social Justice. *CSID Fifth Annual Conference: Defining and Establishing Justice in Muslim Societies*. Washington – DC.

Nafis Alam (2010) *Islamic Venture Philanthropy: A Tool For Sustainable Community Development.* Social Science Research Network.

Palgrave Macmillan. Knowledge Management Research & Practice. http://www.palgrave-journals.com/kmrp/journal/v4/n2/full/8500090a.html

Pascale, R. T. (1999). Surviving the Edge of Chaos. *Sloan Management Review, 40, 3,* 83–94.

Ryan, J. (2000). The strategic benefits of knowledge management. Available at www.serviceware.com.

Sanchez, R.(2002), "*Knowledge Management and Organizational Competence",* UK: Oxford University Press.

Suruhanjaya Koperasi Malaysia. www.skm.gov.my

Yeop Hussin (2007). Positioning Knowledge Management as Key Factor in the Growth of Cooperatives in Malaysia. *Asian Academy of Management Journal, 12, 1*, 69–82, January 2007.

Zaman, A. (2013). A New Phase of the Islamic Finance: Capturing the Untapped Area to Improve the Quality of Economic Development, *paper presented in 3rd Bank Indonesia International Seminar on Islamic Finance* in Nusa Dua, Bali, 30th & 31st May.

BAITULMAL (MUIS) [MUSLIM RELIGIOUS COUNCIL OF SINGAPORE] INHERITING *RADD*

Sadali bin Rasban[1]

ABSTRACT

This paper will give participants an insight of how the *Radd* in net estate is being disposed in Singapore. How a non-family member, *Baitulmal*, who has made no contribution to the well-being of a deceased during his life time is able to inherit the deceased's net estate at the expense of a reduction in the inheritance share or worst scenario a total loss to the deceased's family members or dependants. This paper will cover the different classical and the contemporary classical views of the 4 Sunni *madhdhab;* Hanafi, Hanbali, Maliki and Shafii and the AMLA (Administration of Muslim Law Acts) on this subject. It also elaborates the legal practices and its justifications in some Muslim and non-Muslim countries in matters pertaining to this subject.

Keywords: *Baitulmal, Radd*

1. INTRODUCTION

This paper will specifically discuss current practice about *Baitulmal* inheriting *Radd* from the net estate in the *Fara'id* system. It will focus on the current challenges facing Muslim and non Muslim family in Singapore pertaining to this subject. This paper is not questioning *Allah*'s will or the *Quran, hadiths, ijma, ijtihad* or all other sources of the Muslim law. It is about presenting other interpretations of the same facts that were not presented to Muslim and others in the past. This study analysed the jurisdictions and justifications whether *Baitulmal* should continue receiving *Radd* from the net estate when there is no *'asabah* legal heirs. Ultimately, a change is recommended in this current practice is necessary to achieve the *Maqasid al Syari'ah*.

2. LITERATURE REVIEW

Define *Radd*

The literal first meaning of *Radd* is rejection or keeping away. The word *Radd* is used in rejecting or keeping away from oneself being harmed. The second meaning is to return back to the person[2]. The second meaning is more precise in this subject of pertaining to the *Fara'id* system. *Radd* is defined as the excess share of a net estate or residuary established through the *Fara'id* system. It is established after the *Quranic* shares as redefined in the *Quran* of those classified as *Fard*[3] legal heirs have been given and there is no *'Asabah* legal heirs.

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1 Principle Consultant of HTHT Advisory Services Pte Ltd

2 Muhammad Mustafa Shalabi, "Ahkam al-Mawarith Bayna al-Fiqh wa al-Qanun, Dar Al-Nahdah Al-Aradiyyah, 1978, Beirut Lebanon, p 261, translated by Associate Professor Dr Badruddin Ibrahim from AIKOL, IIUM

3 Muslim legal heirs that will get their predetermined share of an estate through the *Fara'id*, as quoted in *Surah An Nisa'; 4:11/12/176*

There are major disagreement among the companions[5], like Sydina Abu Bakar, Zayd bin Thabit and minority of the companions in one camp and Sydina Uthman bin ‘Affan, Jabir Ibn Zaid and majority of the companions in another camp. This difference also goes to the 4 sunni *madhdhab* (Shafii, Maliki, Hanafi and Hanbali) on the status of *Radd*: should it go to *Baitulmal*[6] or should it go to the *Fard* legal heirs or to the surviving spouse/s as an addition to the shares they have received, or should it go to *Dhawu al-Arham*[7] when there are no *Fard* legal heirs or *‘Asabah* legal heirs? In general, Shafii and Maliki agree that *Radd*, should go to *Baitulmal.* Hanafi and Hanbali disagree that it should go to *Baitulmal*, and agree it should go to *Fard* legal heirs or *Dhawu al-Arham.*

Generally[8], majority of the Sunni’s 4 *madhdhab* is of the opinion that the *Baitulmal* will receive the *Radd* by way of escheat when there is no surviving relative.

Traditional (classical) views of the 4 Sunni *madhdhab*.

Maliki’s View[9]

Traditionally, all the authorities of Maliki (Imam Maliki) *madhdhab* seem to have the extreme view on the position of *Baitulmal* pertaining to *Radd*. *Baitulmal* is a Public Treasury. It holds the view that *Baitulmal* is to be treated as *‘Asabah* (residuary heir) in the absence of any surviving *‘Asabah* legal heirs (agnatic residuary heir by blood). That means there is no *Radd,* as the residuary will go to *Baitulmal* when there is no surviving *‘Asabah* legal heirs. This means that the *Radd* will not go back to any surviving *Fard* legal heirs or even to *Dhawu al-Arham.* Such a view was upheld in Tunisia till 1959[10].

Shafii’s view

Original traditional Shafii (Imam Shafii) *madhdhab* is of the view that the *Radd* must go to *Baitulmal* on the condition that it is “properly administered”. Shafii’s original opinion is that

Baitulmal is a representative to the *‘asabah* legal heirs. Thus, Shafii recognized *Dhawu al-Arham* but *Baitulmal* is of higher priority to receive the *Radd* and *Dhawu al-Arham* cannot receive the *Radd*.

Their argument for *Radd* not to be returned to the *Fard* or go to *Dhawu al-Arham* is based on the following verses and *hadith*:

Surah An Nisa’; 4:13

*“**Those are limits set by Allah**: those **who obey Allah and His Messenger** will be admitted to Gardens with rivers flowing beneath, to abide therein (for ever) and that will be the supreme achievement.”*

[5] Mohd Zamro Muda dan Mohd Ridzuan Awang, Undang-undang Pusaka Islam, Syarikat Percetakan Putra Sdn, 2006, p 120

[6] Prof. Dr. Wahbah Az-Zuhaili, Fiqah Islam Wa Adillatuhu Jilid 10, p 435

[7] These are Muslim legal heir that are not classified as *Fard* legal heirs or *‘Asabah* legal heir but have blood relation to the deceased, e.g. maternal uncle, son of daughter, etc.

[8] Asaf A. A. Fayzee, Outlines of the Muhammadan Law, Oxford University Press, p 402

Surah An Nisa'; 4:14
"But ***those who disobey Allah and His Messenger and transgress His limits*** *will be admitted to a Fire, to abide therein: And they shall have a humiliating punishment."*

The *hadith* that is upheld by the Shafii and the Maliki *madhdhab*, was recorded by Abu Dawud, Al Tarmizi and Ibn Majah.

"*Allah have given those with the right their right, thus* ***the legal cannot inherit more than the defined right***".

These *Quranic* verses and *hadith* mentioned that we cannot change the share of those who had received their shares based on the defined *Quranic* shares. Thus the residuary estate or *Radd* must go to *Baitulmal*, as the residuary heir (*'asabah*).

The *Surah An Nisa'; 4:13/14* did not specifically mention that in a situation when *Radd* occurs, the residuary estate after the defined shares had been given to the *Fard* legal heirs. It does not state that the *Radd* must not go to the *Fard* legal heirs. Nor did it mention that the

Radd must go to *Baitulmal.*
This argument seems to be in conflict with the Doctrine of *'Awl*, where the defined *Quranic* shares for the *Fard* legal heirs were changed and reduced based on their prorated defined *Quranic* shares.

Hanafi and Hanbali's views
Hanafi (Imam Abu Hanifah), Hanbali (Imam Ahmad bin Hanbal) and majority of the scholars of that time do not agree that *Baitulm*al acts as the Treasury role or represents the legal heir, thus the *Radd* must not go to *Baitulmal*. It should be returned back to the *Fard* legal heir or to *Dhawu al-Arham* when they are presented. They adopted the view of Imam Ali bin Abi Talib, Ibn Abbas, Ibn Masud[11], Abdullah bin Abbas, and majority of the companions. *Baitulmal* will receive the *Radd* through escheat, when there is no legal heir. Their argument is based on *Surah Al Ahzab, 33:6,*

"*The Prophet is closer to the Believers than their own selves, and his wives are their mothers.*

Blood-relations among each other have closer personal ties, in the Decree of Allah*. Than (the Brotherhood of) Believers and Muhajirs: nevertheless do ye what is just to your closest friends: such is the writing in the Decree (of Allah).*"

Fard legal heirs or to *Dhawu al-Arham* are linked to the deceased by blood. This relationship is much closer[12] to the deceased than any stranger or even the Muslim community as a whole represented by *Baitulmal*. The *Fard* legal heirs will receive their *Quranic* shares as per the *Quran* while the residue will either go to the *Dhawu al-Arham* or back to the *Fard* legal heirs.

Issuing on Inheritance Certificate in Singapore
Currently, in Singapore the Inheritance Certificate (I C) is issued by Syariah Court through its e-Inheritance Certificate. It's application is solely based on the traditional (classical) Shafii *madhdhab* of *Farai'id* system. If the application is made based on other *madhdhab*, like Hanafi, the Syariah Court will process the Inheritance Certificate manually still based on the traditional (classical) view of *madhdhab Fara'id* system.

Spouse (widow/s or widower) share in the *Radd*

Traditionally (classical) Hanafi, Hanbali and Shafii scholars is of the view that when the spouse (widow/s or widower) is the surviving legal heir, after giving the predetermined share (widow/s to get 1/4 or widower to get 1/2), the residue (*Radd*) will be inherited by other *Fard* legal heirs or *Dhawu al-Arham* or *Baitulmal*. The maximum a wife will get is 1/4 and a husband will be 1/2. This is because the spouse is related to the deceased by marriage, not by blood. This view is supported by *Surah Al Ahzab, 33:6* and *Surah Anfal; 8:75.*

Family with blood relation's share in *Radd*

The surviving family that is related by blood relation, like, children & parent are closer to the deceased than others, like a spouse, who is related to the deceased by marriage. The relationship by marriage, like, spouse, or brotherhood is not as close as that of blood relationship, but nevertheless are still closer then the *Baitulmal*. Thus the surviving spouse can only inherit what was prescribed in the *Surah An Nisa'; 4:12*. They cannot get the *Radd*. While the others that are related by blood ties, like, mother, daughters, sisters, maternal relative can receive the *Radd*.

Singapore and Malaysia who have adopted the classical Shafii *madhdhab* held that the *Baitulmal* as the representative of the *'Asabah*, will inherit the residue (*Radd*) after the portion of the spouse has been disposed.

Contemporary traditional (classical) view of the 4 Sunni *madhdhab*.

The condition set by some Shafii and Maliki scholars that *Baitulmal* is to be qualified as Public Treasury or as a representative to the *'Asabah* so that it can inherit the *Radd* is when it is "properly administered". The view by N J Coulson[13] of "properly administered" is: "that is to say its existence and organization as a function of state should be strictly in accordance with the constitutional precept of *Shari'ah* doctrine which, inter alia, precisely define the mode of expenditure of its revenues." Technically *Baitulmal* should act for the state, operate and be managed in accordance with *Shari'ah*. Most contemporary Shafii[14], like Imam Al Ghazali[15] and Maliki[16] authorities accept that in today's situation where the country's function lies on politicians not on the Muslim authorities or scholars, it does prevent
Baitulmal from being "properly administered" in accordance with the constitutional precept of *Shari'ah* doctrine. Thus most of contemporary Shafii and Maliki authorities or scholars tend to adopt the Hanafi and Hanbali *madhdhab*.

Hanafi, Hanbali, and Shafii hold that the *Radd* will first go to the inner family, followed by the outer family with the absence of inner family. Finally to *Baitulmal* as escheat[17] when there are no other legal heirs.

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[13]N. J, Coulson, Succession in the Muslim Family Law, Cambridge University press, 1971, P 49/50

[14]Ibid, P 50

[15]Prof Dr Wahbah Az Zuhaili, Figh Islam Wa Adillatuhu 10,Gema Insani (DarulFikir), Jakarta, 2011, p 436

[16]Ibid, p 436

[17]N. J, Coulson, Succession in the Muslim Family Law, Cambridge University press, 1971, P 50

Legislation of the 4 Sunni *madhdhab* in some Muslim and non-Muslim countries.

The legislation made by these countries seems to recognise that today's *Baitulmal* is not able to function as the State or Public Treasury like the past, thus it is difficult to adopt the previous stand that *Baitulmal* is or represents the *'Asabah* (residuary heir). Thus the *Radd* should be return to relative/s related by blood ties or marriage.

The legislation in Yemen[18] that adopts the Shafii, allows the *Radd* to be given back to the *Fard* legal heirs proportionately but not to the surviving spouse. The *Radd* will go to *Baitulmal* not to the spouse.

The legislation in Tunisia[19], a state that predominantly practices the Maliki *madhdhab*, does not give the *Radd* to the spouse before 1959. After 1959, it has changed and improved their practices on succession by recognizing and implementing *Radd* to be given to the surviving spouse. The surviving spouse is to be treated like other *Fard* legal heirs, he/she will share the *Radd* with others proportionately. Tunisia still does not recognize *Dhawu al-Arham.*

India[20] and Pakistan legislation have also adopted the changes with a slight modification by allowing the spouse to receive the *Radd* in the absence of all other legal heirs. This means that if there are other known *Dhawu al-Arham*, kinsman (like other relatives than the spouse, children, parent, grandparents, siblings, agnatic uncles or nephew from the agnatic uncles), the spouse will not inherit the *Radd*. The *Radd* will be given to the kinsman. This was also adopted in Sudan[21] in 1925.

The legislation of Egypt[22] and Syria[23] who are majority Hanafi *madhdhab* also adopted the changes but with a difference, that is, by returning the *Radd* to the spouse even though there is *Dhawu al-Arham. Dhawu al-Arham* will get their share when there are no other surviving legal heirs, like a spouse, children, parent, grandparent, sibling, agnatic uncle or nephew from the agnatic uncle.

It is interesting to note that Indonesia[24], with predominantly Shafii *madhdhab* adopted the disposal of *Radd* in accordance with Sydina Uthman bin 'Affan's view. That is that all *Fard* legal heirs, including the spouse are to be treated equally. They are to receive the *Radd* in proportion to their *Quranic* shares. This is documented in June 1991 in the Indonesian constitution on Muslim law in the book, "Kompilasi Hukum Islam, Juni 1991, Bab IV, Pasal 193[25]".

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[18] http://www.law.emory.edu/ifl/legal/yemen.htm as of 12/10/2013

[19] http://www.law.emory.edu/ifl/legal/tunisia.htm as of 12/10/2013

[20] Asaf A. A. Fayzee, Outlines of the Muhammadan Law, Oxford University Press, p 405 / 426.

[21] http://www.law.emory.edu/ifl/legal/sudan.htm as of 19/10/2013

[22] http://www.law.emory.edu/ifl/legal/egypt.htm as of 11/10/2013

[23] http://www.law.emory.edu/ifl/legal/syria.htm as of 11/10/2013

[24] H. Amri Hamzah,S.H., A. Rachmad Budiono, S.H., M.H, Hukum Kewarisa dalam Kompilasi Hukum Islam, Penerbit IKIP Malang, p 51

[25] Ibid, p 115

Justification on why *Radd* can be given to *Baitulmal.*

The views that the *Radd* must go to *Baitulmal* are held by Zayd bin Thabit[26], Abu Bakar and a small number of companions[27]. This was then adopted by Imam Shafii, Maliki and few others. *Baitulmal* through *Ijma* (Consensus of the Scholars) is being positioned as the third[28] beneficiary after the *Fard* and *Asabah* before *Dhawu al-Arham*.

An important condition imposed by today's Shafii and Maliki scholars for the *Radd* to be given to *Baitulmal* is that, the *Baitulmal* must be "properly administered"[29].

These are the arguments why *Radd* must go to *Baitulmal*;

- The *Fard* legal heirs are to receive specifically what is prescribed from the *Quran Surah An Nisa'; 4:11 / 12 / 176*. This is supported by a severe warning as in:
  Surah An Nisa'; 4:13
  "Those are limits set by Allah: those ***who obey Allah and His Messenger*** *will be admitted to Gardens with rivers flowing beneath, to abide therein (for ever) and that will be the supreme achievement."*

  Surah An Nisa'; 4:14

  "But ***those who disobey Allah and His Messenger and transgress His limits*** *will be admitted to a Fire, to abide therein: And they shall have a humiliating punishment."*

  The above verses (*4:13/14*) do not clearly define that they are specifically directed to *Surah An Nisa'*; *4:11 / 12 / 176.* The above verses provide general guidance that we cannot go against teachings or *surah* in the *Quran*, like not praying or not performing *Zakat*, or to go against the agreement that one has made as in *Surah An Nisa'; 4:33*, etc. not just *Surah An Nisa'*; *4:11 / 12 / 176.* The warning through *Surah An Nisa'; 4:13 / 14* of hell fire for those that do not comply with the *Surah An Nisa'; 4:11 / 12 / 176* is nowhere clearly defined.

- The *hadith* that is upheld by the Shafii and the Maliki *madhdhab*, was recorded by Abu Dawud, Al Tarmizi and Ibn Majah.
  "*Allah have given those with the right their right, thus* ***the legal cannot inherit more than the defined right*****"**.

  This *hadith* mentioned that we cannot increase the shares of those who receive their shares based on the *Quranic* shares but it did not specifically mention that this applied to *'Awl* or *Radd* situation or mentioned the *Radd* must go to *Baitulmal.* Logically, if *Radd*

[26] Prof Dr Wahbah Az Zuhaili, Figh Islam Wa Adillatuhu 10,Gema Insani (DarulFikir), Jakarta, 2011,P 435
[27] Mohd Zamro Muda dan Mohd Ridzuan Awang, Undang-undang Pusaka Islam, Syarikat Percetakan Putra Sdn, 2006, p 120
[28] Mohd Zamro Muda dan Mohd Ridzuan Awang, Undang-undang Pusaka Islam, Syarikat Percetakan Putra Sdn, 2006, p 121, 129
[29] N. J, Coulson, Succession in the Muslim Family Law, Cambridge University press, 1971, p 49

cannot go to the *Fard* legal heirs, then should it go to *Dhawu al-Arham* which is closer to the deceased then *Baitulmal?*

This *hadith* also seems to be in conflict with the concept of *'Asabah* where the father can receive more than 1/6 of the prescribed share mentioned in *Surah An Nisa'; 4:12*. For example a man dies and leaves behind a daughter and father. Based on the *Surah An Nisa'*; *4:11/12*, the daughter will get 1/2, the father will get 1/6. The residue of 1/3 will be given to the father. The father now gets 1/2, 1/3 more than the prescribed portion of 1/6 as in *An Nisa'; 4:12*

- The above *surahs* and *hadith* seem to deter any change of the breakdown for the legal heirs that were already well prescribed in the *Quran* as mentioned in the *Surah An Nisa'; 4:11 / 12 / 176*. The residuary estate therefore cannot be given to the *Fard* legal heirs who had already received the prescribed shares or even to *Dhawu al-Arham,* other distant (kindred) legal heirs. Giving additional share to *Fard* legal heirs will contravene *Surah An Nisa'; 4:11 / 12 / 176*. Thus *Radd* must go the *Baitulmal*.

In summary, the main reason why it must go to *Baitulmal* is because Muslims must comply exactly with those *Surah An Nisa'; 11 / 12 / 13 / 14 / 176* and the above *hadith* nothing else.

There is also no clear reference to restrict the *Dhawu al-Arham* from getting the shares of the net estate. But there are many *Quranic* verses[30] and *hadiths* that state that those closer to the deceased, like *Dhawu al-Arham* can receive the net estate, not *Baitulmal*.

There is also no specific and clear verse or statement mentioned in the *Quran* and *hadith* that *Baitulmal* is a legal heir and can inherit a deceased Muslim's estate. The view that *Baitulmal* can inherit was due to most Muslim's common understanding that we 'must' comply with the advice given by the Muslim authority through the following *Surah An Nisa'; 4:59*

"***O ye who believe! Obey Allah, and obey the Messenger, and those charged with authority among you. If ye differ in anything among yourselves, refer it to Allah and His Messenger****, if ye do believe in Allah and the Last Day: That is best, and most suitable for final determination*."

This *surah* tells us to follow the Muslim leader (authority) of our time. **But** it also tells us that we can have differences in understanding and practicing *Shari'ah*. To resolve these differences we are instructed to refer back to the *Quran* and *Hadith*, not the leader (Muslim authority).

It is important for Muslims in Singapore to understand that the advice given by Muslim leaders (authority) is not a law, it is just an opinion[31]. They should think of the impact of such opinions as commanded in *Surah An Nahl*; 16:44

"(*We sent them) with Clear Signs and Books of dark prophecies; and* ***We have sent down unto thee (also) the Message; that thou mayest explain clearly to men what is sent for them****, and* ***that they may give thought***."

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[30] *Surah An Nisa'; 4:7/8/33, Surah Al Ahzab, 33:6, Surah Anfal; 8:75.*

[31] AMLA, cap 3, s 32.7

Those above verses give every Muslim the right to question the opinion issued by Muslim bodies and to evaluate based on the *Quran* and *hadith*. It is improper for Muslims to just accept an opinion blindly even though they know that the opinion does not achieve the *Maqasid Al Shari'ah*.

Argument by Singapore *Baitulmal* to keep the *Radd*

Baitulmal in Singapore has been actively collecting the *Radd*. Their first justification is the entitlement under *Fara'id* as stipulated in Inheritance Certificate (I C) issued by the Syariah Court. Their second justification is to perform the *amal jariah*, good deed for the deceased. Generally, *Baitulmal* increases its wealth upon receiving the *Radd* and at the same moment creates at least an equivalent or more loss to the deceased's family or dependants (Muslim or non-Muslim). In some cases, this extends even to the loss of a basic necessity of life, a home.

Baitulmal in Singapore

Baitulmal is not the State or Public Treasury in Singapore. It is part of the General Endowment Fund that is managed by MUIS[32]. MUIS[33] is a body in Singapore authorised to manage the *Baitulmal* fund for Muslim in Singapore. It looks after assets from which the Muslim public could benefit. In Singapore, the funds collected by *Baitulmal* are commonly the inheritances[34] from Muslim excess net estates (*Radd*) based on the Inheritance Certificate using the *Fara'id* system that was issued by the Syariah Court. The excess net estate (*Radd*) of deceased Muslim which is inherited by *Baitulma*l falls in the following scenarios;

1. There is no rightful Muslim beneficiary to the estate based on the Inheritance Certificate (I C) issued by the Syariah Court. For example, a man dies and leaves behind maternal uncles (*Dhawu al-Arham*). *Baitulmal* claims priority over maternal uncles.
2. There is no Muslim beneficiary as stated by the I C, even though the deceased may leave behind non-Muslim dependants. For example, a man dies and leaves behind non-Muslim parents who are his dependants. *Baitulmal* claims all the net estate.
3. After giving all the *Fard* beneficiaries their shares as in accordance to the I C in reference to the *Quranic* verses pertaining to the *Fara'id* breakdown, as in *Surah An'Nisa; 4:11, 4:12* and *4:176*, yet there is still a residuary (*Radd*) that remains. For example a man dies and he leaves behind only a Muslim wife. She received 1/4 and 3/4 (*Radd*) of the net estate will go to *Baitulmal*.
4. There is no claimant to the estate.

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[32] AMLA, cap 3, s 58.1

[33] AMLA, cap 3, s 3

[34] MUIS Annual Report 2012, http://www.muis.gov.sg/cms/uploadedFiles/MuisGovSG/About_MuisGovSG/Annual_Reports/MUIS%20AR12.pdf as of 24/12/2013

Table 1: Inheritance in $ '000 collected[35] by *Baitulmal* in the last 10 years as in MUIS Annual Reports

Year	2012	2011	2010	2009	2008
Amt '000	1 583	987	2 199	834	1 025

Year	2007	2006	2005	2004	2003
Amt '000	325	1 290	1 509	595	877

The total inheritance collected by *Baitulmal* from 2003 to 2012 is $ 11,112,400. The average inheritance that goes to MUIS during the last 10 years per annum is about $ 1,122,400. The annual collection varies seems from year to year.

Justification for the surviving spouse to inherit the *Radd* instead of *Baitulmal*.

Responsibility of husband to his spouse/s;

Surah Al Baqarah, 2:240:

"And those of you who die and leave widows should ***bequeath for their widows a haul maintenance and residence;*** *but if they leave (the residence), there is no blame on you for what they do with themselves, provided it is reasonable. And Allah is Exalted in Power, Wise."*

It is the deceased's (husband) responsibility to provide the same economic standard of living for the surviving spouse (widow/s) by leaving enough financial support and the same home when he demised. It is customary for a husband to ensure that the widow/s he left behind can continue her life in the same status quo as when he was alive. If the widow/s only gets 1/4 and is denied the *Radd* to be returned back to the only surviving spouse/s (widow/s), it seems to be inconsistent to this verse.

To protect each other (Spouse).

Surah Al Tawbah : 71

*"The Believers****, men and women, are protectors of one another****: they enjoin what is just, and forbid what is evil****: ye observe regular prayer, practice regular charity, and obey God and His Messenger. On them will God pour His Mercy: for God is Exalted in power, Wise".*

It is natural that a family (husband and wife/ves) to stay together in good or bad times and to protect each other in their life time. Thus it is sensible when the spouses work together for the family interest. This *surah* supported the argument that every spouse has the obligation to

[35] MUIS Annual Report from 2003 to 2012. http://www.muis.gov.sg/cms/uploadedFiles/MuisGovSG/About_MuisGovSG/Annual_Reports/MUIS%20AR12.pdf as of 24/12/2013

protect each other. They have the responsibility to ensure that the surviving spouse can still uphold the same economic standard of living and not to lose the wealth when one of them demises.

Sydina Uthman bin 'Affan's view[36]

The view of the 3rd caliph Sydina Uthman bin 'Affan and Jabir Ibn Zaid supported that the spouse is to be treated like any other *Fard* legal heirs, they can receive the *Radd*. They justified that if the spouse can have their *Quranic* shares being reduced by the *'Awl* doctrine, than, it is sensible that their shares can be increased due to *Radd* doctrine.

This argument is well supported in *Shari'ah* principle of equality, No. 87 "*The detriment is as a return for the benefit*" and No. 88 "*The burden is in proportion to the benefit, and the benefit in proportional to the burden*" as mentioned in The Mejelle. The Mejelle is an English translation of Majallah El-Ahkam-I-Adliya[37].

Legislation in some Muslim and non-Muslim countries that practice Shari'ah.

The legislation passed by those countries mentioned below allowed the sole surviving spouse to receive the *Radd* instead of *Baitulmal* inheriting the *Radd*. The countries are; Syria, Egypt, Sudan, Algeria, Tunisia, India, Pakistan, Jordan and Indonesia. The principle of *Maslahah Mursalah,* public interest is the justification to the legislation.

[36]Prof Dr Wahbah Az Zuhaili, Figh Islam Wa Adillatuhu 10,Gema Insani (DarulFikir), Jakarta, 2011, p 437

[37]It is the civil code of the Ottoman Caliphate (1877-1926)

Authority to legislate Muslim Estate Law in Singapore

The authority in Singapore to legislate Muslim law on estate matter lies with the civil court[38]; the State Courts or High Court, not Syariah court. The civil court can also make judgment on any hearing of Muslim estate based on Muslim law as defined in the AMLA, cap 3, s 114.

There is no specific section that gives MUIS the authority to legislate Muslim estate matter. They can only give *fatwa*, an opinion, as in AMLA, cap 3, s 32.

The Syariah Court is confined only to give an opinion[39] on person's entitlement and their respective shares by issuing the Inheritance Certificate (I C). This means that the I C is not the ultimatum in distributing the estate of a Muslim.

Unfortunately, Singaporeans (Muslims and non-Muslims) have the misperception that the authority to legislate Muslim law on estate matters lies with MUIS and the Syariah Court. They treat the I C as the ultimatum to the Muslim law. They also treat MUIS's fatwas as a "revelation" that must be complied.

Why *Radd* should not go to *Baitulmal*

The view believes that *Radd* must go to the *Fard* legal heirs, including spouse or to *Dhawu al-Arham* when there is no *'asabah* legal heirs, then to *Baitulmal* when those above do not exist, i.e. technically there is no surviving Muslim family member. This classical view is being adopted by the Hanafi and Hanbali. This view is also supported by the 3rd caliph Sydina Uthman bin 'Affan[40] and recently, some contemporary[41] Shafii and Maliki scholars also are inclined to Hanafi and Hanbali *madhdhab* position on *Radd*. This is due to their understanding that *Baitulmal* today is not the same institution as it was during the glorious era of the Muslim empire, when it's responsibilities were immense. Today, in Singapore, *Baitulmal's* function is being narrowed to a much small scope that is not clearly defined in the AMLA, cap 3, other then s58(1). The secular government has assumed much of the past *Baitulmal*'s function, as State Treasury.

The arguments to support that *Radd* should not go to *Baitulmal* are:

1) **Rebutt the argument about *Surah Al Ahzab, 33:6, An Nisa, 4:13* and *4:14.***

   Surah Al Ahzab, 33:6, tells us about the closeness of the persons to the deceased. The surviving family that is related by blood relation is closer to the deceased than others, like the spouse, who is related to the deceased by marriage. It directs us that the closer relatives should inherit the net estate. Should there be *Radd,* it should go to the closet person in terms of blood ties. The relationship by marriage or brotherhood is not as close

[38] AMLA, cap 3, s 2

[39] AMLA, cap 3, s 115

[40] Mohd Zamro Muda dan Mohd Ridzuan Awang, Undang-undang Pusaka Islam, Syarikat Percetakan Putra Sdn, 2006, p 131

[41] Ibid, p 126

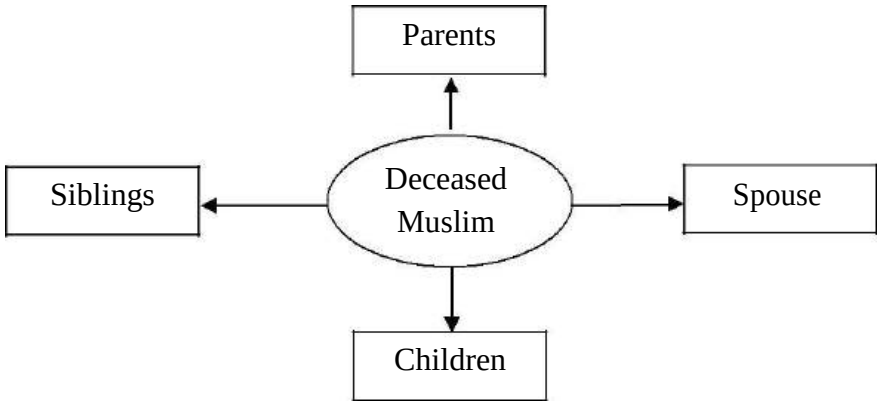
as that of blood relationship but they are much closer than *Baitulmal*, a strange entity. *Baitulmal* can receive the net estate, as escheat, when there is no surviving legal heir, including the spouse.

Surah An Nisa'; 4:11, Surah An Nisa'; 4:12, Surah An Nisa'; 4:176

These are the *surahs* that are frequently quoted in determining the shares for the legal heirs in the *Fara'id* system. They specifically mentioned that only persons who are linked to the deceased by blood ties and marriage can inherit the net estate. These *surahs* simply stated the shares that each individual (person) can inherit in a certain situation.

The other important factor mentioned in the above *surahs* is the principle of private ownership of the estate. Thus is should only be inherited by family members, no others parties, like *Baitulmal*. The *surah* does define that the heir/s must be person/s not a non person, like *Baitulmal*. It is not like *Zakat*, where the *Quran* defined *Zakat*[42] and the beneficiaries[43] clearly.

Chart 1 : Summary of beneficiaries to a deceased Muslim's net estate based on *Surah An Nisa'; 4:11, 12 & 176*



By including *Baitulmal*, which is a non person and has no ties to the deceased as an additional beneficiary to a Muslim net estate, that is not based on the *Quran* and *hadith* but based on *Ijma* and *Ijtihad* is itself in conflict with *Surah An Nisa'; 4:13* and *Surah An Nisa'; 4:14* and *hadith.*

2) *Gharar* in the condition of a "properly administered[44]" *Baitulmal*

How well the *Baitulmal* is being managed is very subjective. It is not mentioned specifically in the *Quran* about *Baitulmal* and its functions. Who and how can we ensure that *Baitulmal* is being "properly administered" when there is no direct and proper guide from the *Quran* and

[42] *Surah Al Tawbah, 9:103*

[43] *Surah Al Tawbah, 9:60*

[44] The condition set by Shafii and Maliki for *Baitulmal* to receive the *Radd* is when it is "properly administered".

hadith? What are the criteria of a "properly administered" *Baitulmal*? What are the criteria in disposing the *Radd* by *Baitulmal*? Who will be the primary or secondary beneficiaries to benefit the *Radd*? These are just some queries that need a clear answer.

The performance of *Baitulmal* as "properly administered" is an important consideration as the condition that *Baitulmal* can receive the *Radd*. There is no clear definition on the method or a key performance indicator to measure the performance of *Baitulmal* to meet the condition of "properly administered" that the Muslim can use to measure *Baitulmal's* performance. Muslim scholars have not defined and agree with those elements in this era. As such, the performance of *Baitulmal* today is also not measured by the community. Unfortunately, this undefined condition creates uncertainty or *gharar*. When there is *gharar* in any practices, we are encouraged not to comply with that practices. For *Baitulmal* to receive the *Radd* share in today context seems to place this practice in an uncertain (*gharar)* state. The condition for *Baitumal* to receive the *Radd* is very controversial. Thus, we should not comply with such practice.

What is certain today, *Baitulmal* is far different from the past *Baitulmal*. That is the main reason why the 4 contemporary sunni *madhdhab* and the legislations or legal practices in some Muslim and non-Muslim states that practise Muslim law are not inclined to handover the *Radd* to *Baitulmal*, unless by means of escheat.

When there is uncertainty, the *Radd* will go to the *Fard* legal heirs on prorated, based on their acquired proportions or *Dhawu al-Arham*, not *Baitulmal*.

3) Spouse receiving *Radd*

Traditionally, the *Fard* legal heirs with blood relationship, like mother, daughter, sisters, etc will receive the *Radd* except the spouse. Their argument to this practice is supported by *Surah Al-'Aĥzāb*; 33:6 "*The Prophet is closer to the Believers than their own selves, and his wives are their mothers.* ***Blood-relations among each other have closer personal ties****, in the Decree of Allah. Than (the Brotherhood of) Believers and Muhajirs: nevertheless do ye what is just to your closest friends: such is the writing in the Decree (of Allah).*"

As such, there are arguments by some scholars that the spouse; husband or wife, cannot receive the *Radd* as they are linked to the deceased not by blood ties but by marriage. The tie is dissolved when one of the spouses dies. It differs from the blood relationship; the ties never dissolve after the death of any family members. The amount they receive is what's stated in *Surah An Nisa'; 4:12*. Some scholars argue that the maximum amount the husband can receive is 1/2 and the wife is 1/4.

Except for Sydina Uthman bin 'Affan, the third caliph and Jabir Ibn Zaid,[45] are of the view that the spouse can inherit the *Radd,* like *Fard* legal heirs which have blood relationship. They should share the *Radd* on a prorated basis like others.

[45] Doi, Abdul Rahman, Shariah: The Islamic Law, Third Print, A.S Noordeen, Malaysia, (1992), p 323

4) Not mentioned in the *Quran* or *Hadith* that B*aitulmal* can inherit the net state

It is not mentioned specifically in the *Quran* or *hadith* that the *Baitulmal* is one of the beneficiaries of a Muslim's estate, likewise in *Quran Surah An Nisa'; 4:11 / 12 / 176*, the beneficiaries are clearly spelt out with the respective proportions.

Likewise, the *hadith*; Zayd bin Thābit narrated that the Prophet ruled that of "*an estate left by a woman survived by a husband and a full sister, the husband should be given a half.*"

These verses and *hadith* explicitly define the beneficiaries of a Muslim estate as persons; like, parent, children, spouse, siblings, etc., not a non person; like *Baitulmal*.

5) Estate beneficiaries mentioned in the *Quran*.

There are other verses that specifically mention who are the persons benefiting a deceased Muslim's estate, for example *Surah Al Ahzab, 33:6,*
"*The Prophet is closer to the Believers than their own selves, and his wives are their mothers.* ***Blood-relations among each other have closer personal ties, in the Decree of Allah***. *Than (the Brotherhood of) Believers and Muhajirs: nevertheless do ye what is just to your closest friends: such is the writing in the Decree (of Allah).*"

The blood ties relate to persons; like parents, children, siblings from same parent / father / mother, etc are the closet beneficiaries to the deceased's estate. *Baitulmal* is a non person and has no blood ties or marriage ties to the deceased. It is no closer than any of those persons mentioned. It is an absolute stranger to the inheritance.

In summary, there is not a single verse from the *Quran* pertaining to the *Fara'id* system mentioned that *Baitulmal* can inherit from a Muslim's net estate.

6) Estate beneficiaries mentioned in the *Hadiths*

This is well supported by *hadiths* compiled by Bukhari, Muslim and Abu Dawud.

Translation of Sahih Bukhari*, Translator: M. Muhsin Khan*[46]

Volume 8, Book 80, Number 723: Narrated Abu Huraira:

The Prophet said, "*I am more closer to the believers than their own selves, so whoever (of them) dies while being in debt and* ***leaves nothing for its repayment, then we are to pay his debts on his behalf and whoever (among the believers) dies leaving some property, then that property is for his heirs***."

Volume 8, Book 80, Number 737: Narrated Abu Huraira:

Allah's Apostle said, "*I am more closer to the believers than their ownselves, so whoever (among them****) dies leaving some inheritance, his inheritance will be given to his 'Asaba,*** *and* ***whoever dies leaving a debt or dependants or destitute children, then I am their supporter.*****"**

[46] http://www.usc.edu/org/cmje/religious-texts/hadith/bukhari/080-sbt.php as of 07/12/2013

Volume 8, Book 80, Number 755: Narrated Abu Huraira:

The Prophet said, "*If somebody dies (among the Muslim)* ***leaving some property, the property will go to his heirs;*** *and if he leaves a debt or dependants, we will take care of them.*"

These *hadiths* explain that the *Baitulmal* function is to settle the debt of a Muslim and to look after the dependants or destitute children. The estate will go to the family and not to *Baitulmal*. *Baitulmal* will not inherit the estate when there is a legal heir.

7) Practical and just application of the *Quran* pertaining to *Fara'id.*

The decision of *Baitulmal* to receive the *Radd* is based on *Ijma* by Sydina Abu Bakar, Zayd bin Thabit and minority of the companions. It was then followed by Shafii and Maliki past scholars. There is not a single or any explicit *surah* in the *Quran* or *hadiths* that supported this view. This section tends to counter-argue the understanding of those classical scholars that subscribed that since the *Fard* legal heirs' shares must adhere exactly to the shares mentioned in the *Quran*, then the *Radd* must go to *Baitulmal*. Below are some case where the application of the *Quranic* shares in *Fara'id* is being modify by the companions, like Zayd bin Thabit and Sydina Umar al-Khattab to achieve the *Maqasid Al Shari'ah.*

1) **Changing the *Quranic* share mentioned in the *Quran***

The understanding that one cannot change the *Quranic* share of the *Fara'id* breakdown for the legal heirs seems to be in conflict with many other doctrines within the *Fara'id* system that are in practice today. To mention some;

Doctrine of *'Awl*

'Awl is a situation when the number of shares is greater than the estate. It is the opposite of *Radd*. For example, a man dies and leaves behind the following legal heirs: a wife, a mother, a father, a daughter, a granddaughter from a son (when the son has predeceased the man), and a sister from the same parents. All legal heirs are categorized as *Fard.* The *Quranic* shares of *Fard* are predetermined in the *Quran*. From the *Quran* these predetermined *Quranic* shares are as follows:

Legal heirs	Quranic Share	*Quran* verse
Wife	1/8 (12.5%)	4:12
Daughters	2/3 (66.67%)	4:11
Mother	1/6 (16.67%)	4:11
Father	1/6 (16.67%)	4:11
Total	1 1/8 (112.5%)	

When added together, notice that the total shares exceed the available estate by 1/8 (12.5%). In *'Awl* the shares of all legal heirs are reduced in prorated proportions to keep within the available estate. Their new shares are as follows:

Legal heirs	*Quranic* Share	Modified share
Wife	1/8 (12.5%)	11.11%
Daughters	2/3 (66.67%)	59.26%
Mother	1/6 (16.67%)	14.81%
Father	1/6 (16.67%)	14.81%
Total	1 1/8 (112.5%)	100.00%

If we want to uphold the argument based on *Surah An Nisa'; 4:13/14* then we should not change or reduce the *Quranic* shares of the legal heirs. We should get *Baitulmal* to add on the short fall of 1/8 in order to ensure that *Quranic* shares are not changed because if *Baitulmal* can inherit *Radd* than it should add on if there is a short fall as in *Shari'ah* principle of equality, No. 87 "*The detriment is as a return for the benefit*" and No. 88 "*The burden is in proportion to the benefit, and the benefit is proportional to the burden*" as mentioned in The Mejelle[47]. Of course, this will not happen as there is no verse in the *Quran* and *hadith* that *Baitulmal* needs to add to the short fall. This is the same argument why *Baitulmal* cannot inherit the *Radd*.

8) *Radd* does not change the *Quranic* share[48]

The understanding that *Radd* changed the *Quranic* share is not true. The *Radd* does not change the *Quranic* share of the *Fard* legal heir but instead enhances the share acquired by the legal heirs. *Fard* legal heirs can receive two forms of inheritance share. For example; in the case of surviving *Fard* legal heirs that comprises father and one daughter. The daughter will receive 1/2 as the *Quranic* share, the father will receive 1/6 as the *Quranic* share plus the residue. In total the father receives 1/2, an enhancement of 1/3. This does not change the *Quranic* share. In contrary to *Doctrine of 'Awl*, *Gharawain*, *Asabah Ma' a Ghayrihi*, *Mushtarakah* the *Quranic* shares are changed. Thus relating *Surah An Nisa; 4:13* and *4:14* for *Radd* not to be given back to the *Fard* legal heirs or other family members seems to be improper. This *Surah An Nisa 4:13* and *4:14* should be applied to the *Baitulmal* inheriting the *Radd* as there is no mention in the *Quran* that *Baitulmal* is a beneficiary.

In summary, there is no conflict to any *surah* in the *Quran* when the *Radd* is returned to the family members.

9) The principle of *Akhlak (Ehsan)*

Islam came to this world with a clear objective of bringing goodness and blessings to mankind. This can be quoted from *Quran, Surah Al Qasas*; *28:86*

[47] C.R. Tyser, B.A.L, The Mejelle, The Other Press, Malaysia, 2001, p 14

[48] Muhammad Mustafa Shalabi, "Ahkam al-Mawarith Bayna al-Fiqh wa al-Qanun, Dar Al-Nahdah Al-Aradiyyah, 1978, Beirut Lebanon, p 266, translated by Associate Professor Dr Badruddin Ibrahim from AIKOL, IIUM

"*And thou hadst not expected that the Book would be sent to thee* ***except as a Mercy from thy Lord****: Therefore lend not thou support in any way to those who reject (Allah's Message)*."

Where is the goodness when the widow, as in the above case, who has faithfully (*Akidah*) accepted the death of the husband and complied with the Muslim law of *Fara'id*, now loses her husband's economic strength (3/4 of wealth goes to *Baitulmal*) that was meant to protect her needs? The principle of *Ehsan* of returning the *Radd* (3/4) to her with no condition will certainly help to achieve the *Maqasid Al Shari'ah*.

This practice of *Ehsan* which MUIS has been preaching[49] was inforced in latest case of a deaf and mute widow[50].

10) Reform and legislating of *Radd* in *Shari'ah* law (Muslim law)

Shari'ah law is always being expressed as a divine ordain which is eternally valid and immutable. The issue is not *Shari'ah* law but the interpretation based on past and new knowledge and its application at different times, locations and situations are the drivers to this reform and development. The doctrine of *taqlid* is the justification to this reform and development. There are developments of legislating Muslim law in some Muslim countries on how *Radd* is to be treated. In these countries the *Fard* legal heirs and in some states *Dhawu al-Arham* is prioritised to receive the *Radd* over *Baitulmal*.

- Syria

  The Law of Personal Status 1953 (Syria Family Law[51]) 1953, in inheritance matter, a reform extending doctrine of *Radd* to allow surviving spouse to share in residue of deceased partner's estate.
- Egypt

  Egypt Inheritance Law[52] 1943, in inheritance matter, a notable reform was introduced by legislation in 1946. The doctrine of *Radd* was also extended to allow the spouse relict to share in the residue of the deceased spouse's estate.
- Yemen[53].

  The doctrine of *Radd* was also extended to allow the *Fard* legal heirs to share the *Radd* in proportion to their share, excluding the spouse.

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[49] http://www.muis.gov.sg/cms/uploadedFiles/Harta%20dalam%20Islam_Ust%20Nazirudin.pdf as of 15th May 2013

[50] Lega ada tempat berteduh, Berita Harian, Singapore, 01st June 2014, Saini Salleh

[51] http://www.law.emory.edu/ifl/legal/syria.htm as of 12/11/2013
Mohd Zamro Muda dan Mohd Ridzuan Awang, Undang-undang Pusaka Islam, Syarikat Percetakan Putra Sdn, 2006, p 132

[52] http://www.law.emory.edu/ifl/legal/egypt.htm as of 12/03/2013
Mohd Zamro Muda dan Mohd. Ridzuan Awang, Undang-undang Pusaka Islam, Syarikat Percetakan Putra Sdn, 2006, p 131

[53] http://www.law.emory.edu/ifl/legal/yemen.htm as of 19/11/2013

- Sudan[54]
  The doctrine of *Radd* was also extended to allow the *Fard* legal heirs including the spouse to share the *Radd*.
- Algeria[55]
  The doctrine of *Radd* was also extended to allow the *Fard* legal heirs including the spouse to share the *Radd*.
- Tunisia[56]
  The Law of Personal Status, 1956. The doctrine of *Radd* was also extended to allow the *Fard* legal heirs including the spouse to share the *Radd*. When there are daughters, the paternal uncle should not get the share.
- India / Pakistan[57]
  The doctrine of *Radd* was also extended to allow the *Fard* legal heirs including the spouse to receive the *Radd*.
- Jordan[58]
  The doctrine of *Radd* was also extended to allow the *Fard* legal heirs including the spouse to receive the *Radd.*
- Indonesia[59]
  Kompilasi Hukum Islam, Juni 1991, Bab IV, Pasal 193 stated that the doctrine of *Radd* was also extended to allow the *Fard* legal heirs including the spouse to receive the *Radd* in proportion to their *Quranic* shares.

There are also reforms made in many other countries[60] pertaining to the *Radd* matter. Such developments reflect the up-to-date and dynamicity of *Shari'ah* to accomplish the *Maqasid Al Shari'ah* at any corner of the world and at any era.

Contemporary[61] Shafii and Maliki scholars are in favour of returning the *Radd* to legal heirs as viewed by Hanafi and Hanbali. These scholars tell us that the decision to prioritise the *Radd* to legal heirs over *Baitulmal* is more inclined to achieve the *Maqasid Al Shari'ah*.

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[54] http://www.law.emory.edu/ifl/legal/sudan.htm as of 19/11/2013

[55] http://www.law.emory.edu/ifl/legal/algeria.htm as of 19/11/2013

[56] http://www.law.emory.edu/ifl/legal/tunisia.htm as of 19/11/2013

[57] N. J, Coulson, Succession in the Muslim Family Law, Cambridge University press, 1971, p 139

[58] http://www.law.emory.edu/ifl/legal/jordan.htm as of 18/11/2013

[59] H. Amri Hamzah,S.H., A. Rachmad Budiono, S.H., M.H, Hukum Kewarisa dalam Kompilasi Hukum Islam, Penerbit IKIP Malang, p 115

[60] Mohd Zamro Muda dan Mohd Ridzuan Awang, Undang-undang Pusaka Islam, Syarikat Percetakan Putra Sdn, 2006, p 132

[61] Prof Dr Wahbah Az Zuhaili, Figh Islam Wa Adillatuhu 10,Gema Insani (DarulFikir), Jakarta, 2011, p 435
Muhammad Mustafa Shalabi, "Ahkam al-Mawarith Bayna al-Fiqh wa al-Qanun (pp. 261-266), translated by Associate Professor Dr Badruddin Ibrahim from AIKOL, IIUM

11) *Maslahah Mursalah* (Public Interest)

Maslahah Mursalah[62] is an accepted *Shari'ah* principle based on the needs of the community. It encourages the betterment of the community or lessens something that threatens the well-being of the community.

This concept can be derived from some *Quranic* verses such as *Surah Al-Hajj*; 22:78:

"And strive in His cause as ye ought to strive, (with sincerity and under discipline). He has chosen you, and has imposed no difficulties on you in religion…"

This principle was mentioned in the AMLA[63]. This section allows MUIS to adopt other views from the same *madhdhab* or other *madhdhab* or legislation in some Muslim and non-Muslim countries that can achieve public interest (*Maslahah Mursalah*) if the existing ruling is against public interest (*Maslahah Mursalah*). This means the view of Sydina Uthman bin 'Affan which was also adopted by some Hanafi and Maliki *madhdhab* and other Shafii's scholars and legislation in some Muslim and non-Muslim countries that states that we can return the *Radd* to the *Fard* legal heirs, including the spouse, can be adopted. The principle of *Maslahah Mursalah* [64] is the main justification why the *Radd* must go to the family members or surviving spouse to maintain the relationship that exists between the family or couple during their lifetime. Thus it is better for them to receive than others.

Based on the MUIS justification for *Baitulmal* to receive the *Radd* as for the deceased's good (*Amal Jariah)* deed. This argument of benefitting the public (*Maslahah Mursalah*) is very difficult for us to accept. The principle of fulfilling one's responsibility to the creditor, legal heirs and dependants is a priority over any good deed *(Amal Jariah)* of the deceased. This is shown by the practice of the Prophet Muhammad pbuh in distributing the estate. He cleared the deceased's debts first before giving the Will (*Wasiyyah*), even when the *Surah An Nisa'; 4:11/12* mentioned that the Will (*Wasiyyah*) is positioned before clearing debt. The sensible process is to discharge the deceased's obligation before performing a good deed on his behalf. The deceased's obligation includes the responsibility to ensure that the family is not worse off after a death in the family.

The other incident is of a man who must pay the *Kaffarah*[65] to the poor and needy due to his misdeed. Prophet Muhammad pbuh instructed him to give the *Kaffarah* to his needy family. The responsibility towards the family comes before others in the community.

In summary, the practice of denying the family or dependants their needs from the net estate by giving that limited net estate to *Baitulmal* as a good deed of the deceased is not consistent with *Shari'ah*.

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[62] Principle of Islamic Jurisprudence, 2nd revised edition, Muhammad Hashim Kamali, p 267.

[63] AMLA Chp 3, 33 (2)

[64] Muhammad Mustafa Shalabi, "Ahkam al-Mawarith Bayna al-Fiqh wa al-Qanun, p 266, translated by Associate Professor Dr Badruddin Ibrahim from AIKOL, IIUM

[65] http://forums.islamicawakening.com/f16/the-fiqh-kaffarah-qada-intentionally-breaking-fast-21143/ as of 5/2/2013

12) *Surah Al-'Aĥzāb; 33:36*

"It is not fitting for a Believer, man or woman, ***when a matter has been decided by Allah and His Messenger*** *to have any option about their decision: if any one disobeys Allah and His Messenger, he is indeed on a clearly wrong Path."*

As mentioned earlier that there was no mention in the *Quran* or *Hadith* that *Baitulmal* can inherit from an estate. But what is commonly ordained in the *Quran* and *Hadiths* is that the next of kin or legal heirs or dependants do have the interest in the deceased's estate, not *Baitulmal*. This means that *Baitulmal's* current practice in Singapore of taking an interest in a Muslim deceased's estate, especially when it is at the expense of needy legal heirs, dependants or next-of-kins, is a concern.

18) AMLA, Administration of Muslim Law Act, cap 3.

***Baitulmal* inheriting net estate**

Baitulmal is never mentioned as a beneficiary to a Muslim's net estate in the AMLA in any section, except in s 58 (1) and s 59

S 58, *Wakaf* or *Nazar Am*

"(1) Where, after 1st July 1968, any Muslim person dies in **such circumstances** that, under the provisions of the Muslim law, his property would vest in, or become payable to, the *Baitulmal*, the property of that person, in pursuance of such provisions, shall vest in and become payable to the Majlis and form part of the Fund."

This section stated that when a person does a *wakaf* or *nazar am*, which can be defined as charitable contribution, the amount should be paid to *Baitulmal*. Nothing in this section states that *Baitulmal* can inherit a Muslim net estate. *Baitulmal* is part of the General Endowment Fund that is managed by MUIS.

The *Baitulmal* in Singapore is being defined as part of the General Endowment fund; it is just a sub fund. **It clearly stated that the *Baitulmal* in Singapore, as an entity, is not the same the *Baitulmal* during the Prophet and the companions' era** when it can inherit the *Radd*. Thus it is difficult to ensure that *Baitulmal* is "properly administered" in accordance to the past *Baitulmal*, Treasury house of the state.

S 59, Vesting of wakaf and nazar am in Majlis

"All property subject to section 58 shall if situate in Singapore vest in the Majlis, without any conveyance, assignment or transfer whatever, for the purpose of the Baitulmal, wakaf or nazar am affecting the same."

This section defined that the Majlis will manage all the property that is *wakaf* or *nazar* located in Singapore in the *Baitulmal.* This is another evidence that *Baitulmal* is not "properly administered" in accordance to the past *Baitulmal*, Treasury house of the state.

S 112, Distribution of Muslim estate to be according to Muslim law

"(1)In the case of any Muslim person domiciled in Singapore dying intestate, the estate and effects shall be distributed according to the **Muslim law** as modified, where applicable, by Malay custom."

Muslim law does not confine to one specific view only, the classical Shafii / Hanafi / other *madhdhab* view as practiced by the Syariah Court when issuing the Inheritance Certificate. Muslim law is defined in s 114. Any view that can be supported by some of these mentioned books can be accepted as Muslim law. When there is a *Ikhtilāf* (disagreement) in views, Muslims are to refer to the *Quran* and *Hadiths*, as quoted in *Surah An Nisa'; 4:59* to help them to decide.

S 113, Application for probate and letters of administration

"In all applications for probate or letters of administration the affidavit supporting the application shall, in the case of a deceased Muslim, state the school of law (Mazhab) which the deceased professed, in addition to the particulars required by any other written law."

If the deceased is of Hanafi *madhdhab*, the *Faraid* system will be based on the deceased's *madhdhab*. It is also important for the court to realise that even between the same *madhdhab*, the opinions of scholars from that *madhdhab* can be different on the same issue. This difference is known as *Ikhtilāf.*

Ikhtilāf (disagreement) does exist in *Shari'ah* law. These differences are not only within the different schools of thought but also within the same school of thought. *Ikhtilāf* should be treated positively by Muslims. Muslims need to realise and accept the different opinions and adopt the view that will place Muslims in a better position. Disagreements can be caused[66] by the following:

1 Linguistics that relate to the understanding and interpretation of the relevant text.
2 the knowledge and authenticity of the *hadiths*
3 methodology

Two famous hadith[67] of that in favour of *Ikhtilaf* are;

1. "Differences of opinion in Muslim Community is a sign of divine favour"
2. "It is the mercy of God that men of knowledge (*ulama*) differ in opinion"

It is a concept of how One Islam is able to accept and recognize universal differences, and yet achieve unity within diversity.

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[66] Mohammad Hashim Kamali, Introduction of Syariah, Malaysia, Ilmiah Publisher Sdn Bhd, (2006), p 94

[67] http://dictionary.reference.com/browse/ikhtilaf;

Islamic Jurisprudence According to the fopur Sunni Schools, Fons Vitae, Canada, 2009, 'Abd Rahman al-Jaziri, Foreword by Maryam Ishaq al-Khalifa Sharief, Al-Azhar University, Cairo, Egypt, p xxiii

S 114, Proof of Muslim law

"(1) In deciding questions of succession and inheritance in the Muslim law, the court shall be at liberty to accept as proof of the **Muslim law** any definite statement on the Muslim law made in all or any of the following books:

(*a*) **The English translation of the *Quran*, by A. Yusuf Ali** or Marmaduke Pickthall;

(*b*) *Mohammedan Law*, by Syed Ameer Ali;

(*c*) *Minhaj et Talibin* by Nawawi, translated by E. C. Howard from the French translation of Van den Berg;

(*d*) *Digest of Moohummudan Law*, by Neil B. E. Baillie;

(*e*) *Anglo-Muhammadan Law*, by Sir Roland Knyvet Wilson, 6th Edition Revised by A. Yusuf Ali;

(*f*) ***Outlines of Muhammadan Law*, by A. A. Fyzee**;

(*g*) *Muhammadan Law*, by F. B. Tyabji."

This section gives the civil court, not MUIS or Syariah court, the legislation to define the Muslim law based on the facts presented from those mentioned books. The court need not take MUIS's fatwa or the Syariah court Inheritance Certificate as proof of Muslim law.

S 33, Authority (*madhdhab*) to be followed.

"(1) Subject to this section, the Majlis and the Legal Committee in issuing any ruling shall ordinarily follow the tenets of the Shafi'i school of law.

(2) If the Majlis or the Legal Committee considers that the following of the tenets of the Shafi'i school of law will be opposed to the public interest, the Majlis may follow the tenets of any of the other accepted schools of Muslim law as may be considered appropriate, but in any such ruling the provisions and principles to be followed shall be set out in full detail and with all necessary explanations.

(3) In any case where the ruling or opinion of the Majlis or the Legal Committee is requested in relation to the tenets of a particular school of Muslim law, the Majlis or the Legal Committee shall give its ruling or opinion in accordance with the tenets of that particular school of Muslim law."

Muslims in Singapore predominantly subscribe to the classical Shafii *madhdhab*[68]. The principal legislation pertaining to Singapore Muslim law, AMLA[69], makes provision for MUIS to adopt the practices of other views or *madhdhab* than the Shafii *madhdhab* where it is prudent to do so in order to achieve the benefits that are required. This is known as *Taqlid.*

[68] AMLA, cap 3, s33.1

[69] AMLA, cap 3, s33.2

Section 115 Inheritance Certificate

"(1) If, in the course of any proceedings relating to the administration or distribution of the estate of a deceased person whose estate is to be distributed **according to the Muslim law**, any court or authority shall be under the duty of **determining the persons entitled to share** in such estate or the **shares to which such persons** are respectively entitled, the **Syariah Court may**, on a request by the court or authority, or on the application of any person claiming to be a beneficiary and on payment of the prescribed fee, certify upon any set of facts found by such court or authority or on any hypothetical **set of facts its opinion as to the persons** who are, assuming such facts, whether as found or hypothetical, **entitled to share in such estate** and the shares to which they are respectively entitled."

This section is similiar to Administration of Islamic Law (Federal Territories) Act 1993 Act 505[70]

"50 : If in the course of any proceedings relating to the administration or distribution of the estate of a deceased Muslim, any court or authority, other than the Syariah High Court or a Syariah Subordinate Court, is under the duty to **determine the persons entitled to share** in the estate, or the **shares to which such persons** are respectively entitled, the Syariah Court may, on the request of such court or authority, or on the application of any person claiming to be a beneficiary or his representative and on payment by him of the prescribed fee, **certify the facts found by it and its opinion as to the persons** who are **entitled to share in the estate** and as to the shares to which they are respectively entitled."

The Malay translation of this section in a book "Undang-Undang Pusaka Islam"[71] **defined persons as "orang-orang"**. "Orang" means human being. This supports our argument that person mentioned in the AMLA, s 115 is a human being, not a non human being, *Baitulmal*.

This section clearly spelt that the beneficiary/ies of a Muslim estate stated in the inheritance certificate must be based on Muslim law and must also must be a person or persons. *Baitulmal* is a not a person (non-person). It is just part of the General Endowment Fund in Singapore.

As mentioned earlier, the *Quran*[72] and the *hadiths* which are the primary sources of Muslim law mentioned that the beneficiaries to the net estate is always person/s, they had never mentioned that a non-person, *Baitulmal* can inherit a Muslim net estate. Thus this section is in harmony with Sydina Uthman bin 'Affan's view, the contemporary classical views of Hanafi, Maliki, Shafie and Hanbali and the legislations by some Muslim and non-Muslim countries on *Radd*. *Baitulmal* can only inherit through escheat, when there is no surviving legal heir, person.

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[70] http://www.scribd.com/doc/10884938/Administration-of-Islamic-Law-Federal-Territories-Act-1993-Act-505 as of 18/02/2014

[71] Mohd Zamro Muda dan Mohd Ridzuan Awang, Undang-undang Pusaka Islam, Syarikat Percetakan Putra Sdn, 2006, p 222

[72] *Surah An Nisa'; 4:11/12/176*

Thus stating *Baitulmal* as a beneficiary in the Inheritance Certificate is in contradiction to the primary sources of Muslim law and AMLA s 115.

"(2) The Syariah Court may, before **certifying its opinion**, require hearing the parties on any question of law, but shall not hear evidence or make findings on any question of fact."

The Inheritance Certificate issued by the Syariah court is an opinion. It is not an order as in the issue of a divorce case. This means that the Inheritance Certificate is not the ultimatum of how a Muslim estate is to be disposed.

The Syariah court needs to know what law to apply from the parties concerned but will not be able to ask for evidence or make queries of the facts presented. For example, if the applicant stated that the deceased is of Hanafi *madhdhab*, the Syariah court will just accept the fact and not question further to determine those facts. The Syariah court will then issue the Inheritance Certificate based on Hanafi *madhdhab*.

19) *Baitulmal* Function in comparison to the past

The functions[73] of *Baitulmal* can be traced back to the Prophet himself, pbuh. Credit goes to the 2nd caliph Umar for officially forming it as an institution to consolidate all the revenues and distribute to all other departments to run a state.

But today's *Baitulmal* functions and roles are completely different than that of the past and glorious Muslim era. For example, today, *Baitulmal* does not pay the debt of a deceased Muslim nor is it able to look after the long time welfare of the deceased's needy dependents or legal heirs (Muslim or non-Muslim).

The *Baitulmal* is not collecting taxes from the rich and managing the revenue for the state either. Even the *zakat*, donation, *wakaf* and many other forms of revenues for Muslims are not consolidated 100% by *Baitulmal*. They are collected and managed by many other Muslim NGO. They are not able to enforce the obligation of *Zakat* on all Muslim or all others revenues (sources 1 – 10) to be given to them either.

Thus, in the writer's view, it can be considered as **not "properly administered".** *Baitulmal* has failed to uphold the past practices of being the sole Islamic financial institution. That is to collect all the Islamic revenues and distribute to all other departments in the Islamic state for the benefit of its citizen (Muslim and non-Muslim) and the state. This is the main reason why the contemporary classical 4 sunni *madhdhab* and the legislation implemented in some Muslim countries to have the *Radd* returned to the heirs, or even spouse. "Properly administered" is the criterion for the reason why *Baitulmal* can inherit the *Radd* over other legal heirs as in the Shafii and Maliki *madhdhab*.

20) 3rd caliph, Sydina Uthman bin 'Affan's view

His view stated that the surviving spouse can inherit the *Radd* if the surviving spouse is one of the surviving beneficiaries or the sole beneficiary. The spouse is treated like other *Fard*

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[73] Abdul Azim Islahi, Economic Concepts of Ibn Tamiyah, Islamic Foundation, UK, 1988, p 201

legal heir. *Dhawu al-Arham* can also receive the *Radd* in the absence of *Fard* legal heir. This means that *Baitulmal* should not get anything from the estate when there is a legal heir.

In summary, it is obvious that there are many justifications to change the current practice of *Radd* going to *Baitulmal.* It is to achieve the *Maqasid Al Shari'ah* and also uphold the constitution of Singapore and *Shari'ah.*

3. METHODOLOGY

A through research on the literature on this subject from Islamic books, internet and annual report of MUIS and the experience the consultant are compiled in this paper.

4. RESULTS AND DISCUSSION

In general, the findings of the study revealed that the justification for *Baitulmal* to receive the *Radd* is no more relevant. The return of the *Radd* to *Fards* or *Dhawu al-Arham* legal heirs is more justifiable and fullfil the *Maqasid Al Syari'ah.*

The current practice creates more hardship on the deceased legal heirs and dependants. And on many occasions facts quoted from the *Quran* and *Hadiths* in this subject are not easily accessible to the normal person.

The facts presented to support that *Radd* must go to *Baitulmal* are weak and sensibly cannot be justified based on Muslim law. Whereas the facts that the *Radd* must be return to the legal heirs are more toward achieving the *Maqasid Al Syari'ah.*

5. CONCLUSION

In today's context, *Baitulmal* is never similar to the *Baitulmal* during the victorious decade of the Muslim empire. It can no longer support or has the ability and means (capability) to provide for the full needs of the needy in the Muslim community, especially the legal heirs or the dependants (Muslim or non-Muslim) of the deceased.

The recommendations are made to 4 sectors that influence the Baitulmal roles.

MUIS (*Baitulmal*)

Baitulmal in principle must prioritise the needs of the deceased's legal heirs and dependants.

This can be done by accepting the contemporary classical view and current legislations on *Radd* as practiced by many Muslim and non-Muslim countries, by returning the *Radd* back to the legal heirs or dependants.

Syariah Court

To apply AMLA, cap 3, s 33.2 that states "If the Majlis or the Legal Committee considers that the following of the tenets of the Shafii *madhdhab* of law will be opposed to the public interest, the Majlis may follow the tenets of any of the other accepted *madhdhab* of Muslim law as may be considered appropriate, but in any such ruling the provisions and principles to be followed shall be set out in full detail and with all necessary explanations."

This section of the AMLA allows the Syariah Court to adopt 3rd caliph, Sydina Uthman bin ‘Affan’s view regardless of the deceased *madhdhab* to acheive the Public Interest (*Maslahah Mursalah*)

Government

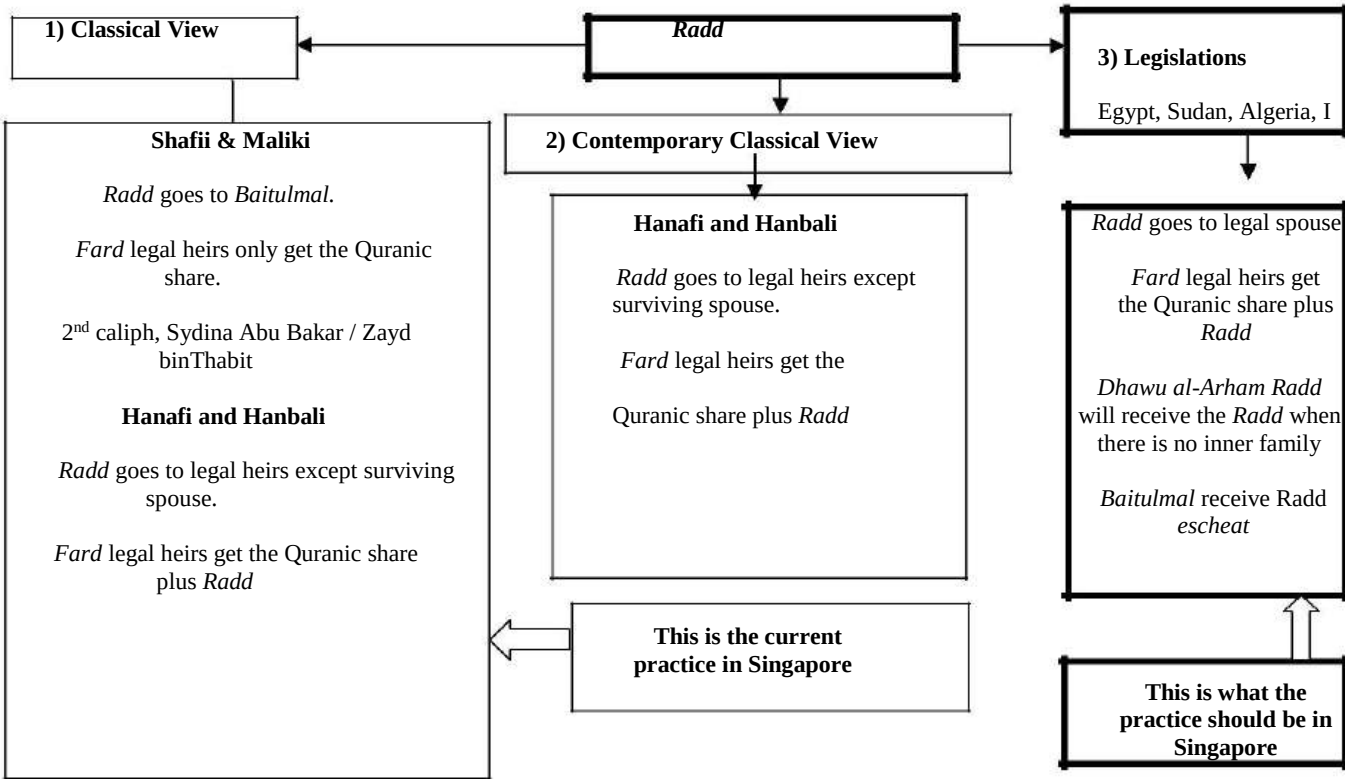
As discussed, the AMLA is a constitute pertaining to Muslim affairs. The government should also make a similar legislation like those in India, Pakistan, Indonesia, Tunisia, etc on *Radd.* The legislation should allow the all Muslim heirs, including spouse to receive the *Radd* and *Baitulmal* can only receive the *Radd* through escheat, when there is no surviving Muslim heir.

Even if, should *Baitulmal* receive the *Radd,* when there is a deceased’s dependant, like an adopted child, foster parents, aging non-Muslim parent or non-Muslim child, the civil court should make recommendations or enforcement to *Baitulmal* to exercise the *Ehsan,* to return back to them \.

Muslim community

Muslims must continuously learn about the principle of wealth/estate transfer in accordance with *Shari‘ah* not just the *Fara’id.* They must resort to the *Quran* and *Hadiths*, not just simply accepting the *fatwas* or advice by some religious teachers. When there is a conflict in *Shari‘ah* Law, especially the *fatwas* one must return back to the *Quran* and *Hadith*s in accordance with *Surah An Nisa’; 4:59.*

Chart 2 : Summary of the development of *Radd* disposal



REFERENCES

Doi, Abdul Rahman. (1992). *Shariah: The Islamic Law*. Third Print, A.S Noordeen: Malaysia,

N. J, Coulson. (1971). *Succession in the Muslim Family Law*. Cambridge University press.

Abdul Azim Islahi. *Economic Concepts of Ibn Tamiyah*. Islamic Foundation: UK.

1988 AMLA (Administration of Muslim Law Act), cap 3.

Islamic Financial System, Principles and Operations, ISRA.

Muhammad Mustafa Shalabi. (1978). *Ahkam al-Mawarith Bayna al-Fiqh wa al-Qanun, Dar Al-Nahdah Al- Aradiyyah*. Beirut Lebanon. translated by Associate Professor Dr Badruddin Ibrahim from AIKOL, IIUM.

Mohd Zamro Muda & Mohd Ridzuan Awang. (2006). *Undang-undang Pusaka Islam*. Syarikat Percetakan Putra Sdn,

Prof Dr Wahbah Az Zuhaili. (2011). *Figh Islam Wa Adillatuhu 10,* Gema Insani (DarulFikir). Jakarta.

Asaf A. A. Fayzee. *Outlines of the Muhammadan Law*. Oxford University Press.

H. Amri Hamzah,S.H., A. Rachmad Budiono, S.H., M.H, *Hukum Kewarisa dalam Kompilasi Hukum Islam*. Penerbit IKIP Malang

MUIS Annual Report 2012, http://www.muis.gov.sg/cms/uploadedFiles/MuisGovSG/About_MuisGovSG/Annual_Reports/MUIS%20AR12.pdf as of 24/12/2013

Sadali Rasban. (2006). *Joint Tenancy in Muslim Law, Singapore*, HTHT Advisory Services Pte Ltd

C.R. Tyser, B.A.L, The Mejelle, The Other Press, Malaysia, 2001

Faiz Badruddin Tyabji, Muhammadan Law, N. M. Tripathi & Co, 1940, Third Edition

Principle of Islamic Jurisprudence, 2nd revised edition, Muhammad Hashim Kamali
Wasiat dalam Islam, ISBN 967-942-076-0, Abdul Rashid Hj. Abdul Latif

M Hidayatullah & Arshad Hidayatullah (1990). *Mulla's Principles of Mahomedan Law*, LexisNexis. Butterworths. Ed 19,

Islamic Jurisprudence According to the fopur Sunni Schools, Fons Vitae, Canada. (2009). 'Abd Rahman al-Jaziri, Foreword by Maryam Ishaq al-Khalifa Sharief, Al-Azhar University, Cairo, Egypt

Kumpulan Fatwa. (1998) book 3. MUIS.

Translation of Sahih Bukhari, ***Translator: M. Muhsin Khan V***olume 8, Book 80, Number 723,

Berita Harian Singapore

An extract from MUIS website on 17/12/2013, http://www.muis.gov.sg/cms/oomweb/fatwa.aspx?id=14386 http://www.usc.edu/org/cmje/religious-texts/hadith/bukhari/080-sbt.php as of 07/12/2013 http://www.law.emory.edu/ifl/legal/syria.htm as of 12/11/2013 http://www.islam101.com/sociology/wills.htm as of 28/02/2013

http://www.scribd.com/doc/10884938/Administration-of-Islamic- Law-Federal-Territories-Act-1993-Act-505 as of 18/02/2014

https://www.hdb.gov.sg/fi10/fi10325p.nsf/w/MaxFinancesOverview ?OpenDocument as of 15th May 2013

http://www.channelnewsasia.com/stories/singaporelocalnews/view/1249234/1/.html as of 6/2/2013

http://tsaofoundation.org/doc/Profile_Of_Older_Men_-Singapore.pdf

*h*ttp://www.usc.edu/org/cmje/religious-texts/hadith/bukhari/080- sbt.php

ANALISIS PROSPEK DAN PEMBANGUNAN PRODUK PEMBIAYAAN RUMAH SECARA ISLAM: KAJIAN TERHADAP PERBANKAN ISLAM DI MALAYSIA

Rahisam Ramli[1]

Ahmad Dahlan Salleh,.[2]

ABSTRAK

Pembiayaan rumah menjadi instrumen penting dalam merealisasikan matlamat pemilikan rumah. Pelbagai produk telah dibentuk dengan ciri-ciri unik dan berbeza dengan pinjaman konvensional. Justeru, makalah ini bertujuan untuk mengenal pasti prospek dan mekanisme yang digunakan dalam pembangunan produk pembiayaan rumah. Kajian kualitatif ini menganalisis dokumen seperti artikel jurnal, laporan-laporan yang diterbitkan oleh Bank Negara Malaysia, Jabatan Perangkaan dan maklumat dari perbankan Islam terpilih yang menawarkan produk pembiayaan rumah. Hasil kajian mendapati prospek pembiayaan rumah signifikan dengan dua situasi iaitu perkembangan harga rumah semasa dan kepelbagaian produk berasaskan pertukaran, jualan dengan harga tangguh dan perkongsian untung dan rugi. Selain itu empat mekanisme dalam membangunkan produk pembiayaan rumah ialah *hibah*, *ibra',* konsep *hybrid* dan *wakalah*. Penemuan ini menunjukkan pembangunan produk melalui proses dari konsep tradisional kepada reka bentuk moden selari dengan keperluan masyarakat ke arah pemilikan rumah.

Katakunci: pembiayaan rumah, prospek, mekanisme pembangunan produk, perbankan Islam.

1. PENDAHULUAN

Pemilikan rumah adalah keperluan asas yang penting kepada manusia dalam apa jua keadaan selain keperluan makanan, kesihatan, pendidikan dan pakaian (Ahamed Kameel & Dzuljastri 2005; Wan Nor Aisyah 2011; Siti Saidatulakmal 2013; Mohd Zaim et.al 2013). Namun memiliki rumah bukan satu perkara mudah bagi kebanyakan orang yang berpendapatan rendah dan sederhana. Ini disebabkan tahap kebolehupayaan seseorang untuk memiliki rumah memerlukan komitmen dalam dua bentuk. Komitmen pertama; bayaran ansuran rumah secara berterusan dalam jumlah yang besar. Komitmen kedua; tempoh pembiayaan pula mengambil masa yang panjang seperti 20-30 tahun atau mengikut umur persaraan.

[1] Pensyarah Akademi Pengajian Islam KUIM dan calon PhD Jabatan Syariah UKM.

[2] Pensyarah di Jabatan Syariah, Fakulti Pengajian Islam UKM.

Menjelang tahun 2020, lebih separuh daripada jumlah pembiayaan dijangka diperoleh daripada pasaran kewangan (2010: 46%). Sementara itu, pembiayaan yang berlandaskan prinsip Islam juga dijangka berkembang untuk mencakupi 40% daripada jumlah pembiayaan pada tahun 2020 (2010: 29%). Kadar pertumbuhan industri kewangan Islam domestik dijangka terus mampan dalam dekad ini, diperkukuh oleh jangkauan dan inovasi produk yang lebih besar (Bank Negara Malaysia, 2011a).

Pembangunan produk pembiayaan Islam berdiri pada prinsip-prinsip keagamaan di mana nilai-nilai integriti, identiti dan ciri-ciri uniknya perlu stabil dan kompetitif. Justeru ia tidak boleh dibiarkan tercemar. Malah pematuhan syariah sebagai asas kewangan Islam dan maqasid syariah perlu diberi penekanan yang sewajarnya. Selaras dengan daya inovasi produk, industri kewangan Islam perlu menjauhkan diri daripada meniru pelaksanaan yang menyerupai konvensional hingga kelihatan tidak ada bezanya lagi (Habib Ahmed 2011; Mohamad Akram dan Nusaibah 2013).

1. 2. KADAR PENGAMBILAN UNTUNG DALAM PEMBANGUNAN PRODUK PEMBIAYAAN RUMAH

Pembiayaan rumah melibatkan nilai aset yang besar. Malah institusi perbankan terdedah kepada risiko ketidaktentuan ekonomi dan peningkatan kos kewangan bagi memastikan operasi perkhidmatan kewangan terus berdaya saing. Keadaan tersebut perlu diambil kira dalam menentukan kadar keuntungan agar bagi mengekalkan daya saing perbankan Islam dalam menghadapi suasana ekonomi global.

Persoalan bagi menentukan berapa kadar pengambilan untung dibincangkan oleh para ulamak. Sebagai contoh menurut al-Tabariy (1989) untung atau *al-ribh* adalah perolehan yang terhasil dari pertukaran barangan yang dimiliki oleh seseorang dengan barangan lain yang lebih bernilai atau bayaran harga yang diperolehi melebihi harga belian. Takrif *al-ribh* merujuk kepada huraian Allah SWT dalam surah al-Baqarah:16,

أُوْلَٰٓئِكَ ٱلَّذِينَ ٱشْتَرَوُا۟ ٱلضَّلَٰلَةَ بِٱلْهُدَىٰ فَمَا رَبِحَت تِّجَٰرَتُهُمْ وَمَا كَانُوا۟ مُهْتَدِينَ ﴿١٦﴾

Maksudnya: Mereka itulah orang-orang yang membeli kesesatan dengan meninggalkan petunjuk; maka tiadalah beruntung perniagaan mereka dan tidak pula mereka beroleh petunjuk hidayah.

Al-Ribh berasal daripada kata *rabiha* yang membawa maksud pertambahan dalam kegiatan perniagaan atau pertambahan ke atas modal. Maka, keuntungan dapatlah diertikan sebagai sebarang pertambahan kepada modal hasil daripada kegiatan pelaburan yang diakui syarak seperti perniagaan, perindustrian dan seumpamanya, setelah ditolak semua kos yang

dibelanjakan dalam usaha penghasilan keuntungan tersebut (Ab. Rahim Ab. Ibrahim, 2012; Shamsiah Mohamad, 2002).

Selain itu, berdasarkan hadis Rasulullah SAW perkataan *al-ribh* melibatkan pelbagai aktiviti sama ada dari aspek usaha, kuantiti dan kualiti barang. Malah ia turut melibatkan hasil perolehan, membeli dan menjual semula dengan harga tinggi, lebihan kuantiti barang jualan, jual semula dalam pasaran sama, pemberian harta modal *(Qirad)*. Selain itu *al-ribh* juga diperoleh menerusi aktiviti yang bersifat jujur, integriti dan amanah dalam urus niaga yang sebenar. Tiada batas dan larangan mengambil keuntungan seratus peratus sebagaimana dalil sebuah hadis daripada Imam Bukhari yang meriwayatkan daripada ‘Urwah;

أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَعْطَاهُ دِينَارًا يَشْتَرِي لَهُ بِهِ شَاةً فَاشْتَرَى لَهُ بِهِ شَاتَيْنِ فَبَاعَ إِحْدَاهُمَا بِدِينَارٍ وَجَاءَهُ بِدِينَارٍ وَشَاةٍ فَدَعَا لَهُ بِالْبَرَكَةِ فِي بَيْعِهِ وَكَانَ لَوْ اشْتَرَى التُّرَابَ لَرَبِحَ فِيهِ

Maksudnya: "Sesungguhnya Nabi SAW. telah memberinya (yakni kepada 'Urwah) satu dinar supaya dia membeli seekor kambing untuk baginda. Lalu ia membeli dua ekor kambing dengan harga satu dinar, salah seekor daripadanya dijual dengan harga satu dinar. Kemudian dia pergi berjumpa Nabi berserta dengan seekor kambing dan duit satu dinar, lalu baginda berdoa supaya diberkati jual belinya, (sambil bersabda) kalau dia jual tanah sekalipun, dia akan memperoleh keuntungan” (Sahih al-Bukhari Juz 11, hal. 473) .

Keuntungan menjadi isu dalam penawaran kontrak dalam perbankan. Shamsiah Mohamad (2002) Keuntungan mempunyai peranan yang besar dalam menjamin kesinambungan kegiatan ekonomi. Ini kerana mereka yang terlibat dalam kegiatan berkenaan sentiasa berusaha meningkatkan keupayaan mereka sama ada dari segi pengeluaran atau pengurusan dan sebagainya, demi untuk menambah perolehan keuntungan mereka.

Prinsip perkongsian untung merupakan salah satu bentuk dalam perbankan Islam. Teori “tiada risiko, tiada keuntungan” perlu dibentuk ke dalam sistem perbankan yang bebas dari amalan riba agar dapat menghadapi persaingan dengan perbankan konvensional yang menjadikan riba sebagai teras keuntungan (Zubair Hasan, 2010).

Keuntungan dalam aktiviti perbankan Islam merujuk kepada konsep berasaskan risiko dan pelaburan. Ini merupakan salah satu langkah menggantikan pengambilan riba yang diharamkan kepada pengambilan untung yang diharuskan. Maka bagi mencapai objektif syariat, pengharaman riba dalam sebarang aktiviti perbankan Islam boleh dicapai dengan sebarang aktiviti yang berasaskan kepada kontrak (lihat Jadual 1).

Penanda aras untuk menetapkan kadar keuntungan oleh bank ialah menerusi Kadar Pembiayaan Asas (BFR), sebelum mereka putuskan jumlah bayaran yang akan dikenakan bagi pembiayaan yang mereka tawarkan (Ab. Rahim Ab. Ibrahim, 2012; Affin Islamic Bank Berhad, 2013; AmIslamic Bank, 2013; Anuar Saaban &Sanep Ahmad, 2013; Bank Islam Malaysia Berhad, 2014; RHB Islamic Bank Berhad, 2011).

BFR mengambil kira kos operasi bank dan dipengaruhi oleh Kadar Dasar Semalaman (OPR) yang ditetapkan oleh BNM. Kadar Keuntungan pula merupakan satu kadar keuntungan bagi produk perbankan Islamik. Bagi pinjaman perumahan Islamik, kadar keuntungan disebut sebagai peratusan atas atau di bawah BFR. Sebagai contoh: jika BFR semasa adalah 6.6% dan peminjam ditawarkan kadar keuntungan BFR -2.4%, maka kadar keuntungan sebenar akan menjadi 6.6% - 2.4% = 4.2%.

Anuar dan Sanep (2013) meninjau kesan perubahan dalam kadar bunga ke atas tiga indikator perbankan Islam dan perbankan konvensional. Kajian ini mengenal pasti pengaruh kadar bunga dalam sistem perbankan Islam khusus dalam menentukan kadar pulangan deposit di perbankan Islam. Hasil kajian telah menunjukkan bahawa wujud hubungan antara kadar pulangan deposit perbankan Islam, dan kadar bunga deposit tabungan bank konvensional. Maka motif keuntungan memang wujud dalam sistem perbankan sebagai entiti perniagaan.

2. 3. rumah sebagai tanggungjawab sosial dan komersial

Menteri Kesejahteraan Bandar, Perumahan dan Kerajaan Tempatan, Datuk Abdul Rahman Dahlan berkata, komitmen itu juga bagi menampung keperluan isi rumah yang masih menyewa dengan penyediaan rumah melalui usaha kementerian, Perbadanan Perumahan Rakyat 1Malaysia (PR1MA), Syarikat Perumahan Negara Bhd. (SPNB) serta pemaju swasta (Utusan Malaysia, 2013). SPNB yang ditubuhkan pada 21 Ogos 1997 sebagai sebuah syarikat milik penuh Menteri Kewangan Diperbadankan (Mof Inc.) bertujuan menyediakan rumah mampu milik yang berkualiti kepada setiap keluarga di Malaysia sejajar dengan Objektif Perumahan Negara. Malah Rancangan Fizikal Negara ke-2 (RFN 2010) menetapkan rumah mampu milik sebagai salah satu perkhidmatan asas utama untuk bandar sesuai didiami dan masyarakat mampan.

Terbaru, Program MyHome yang dilancarkan pada bulan April membolehkan pembeli rumah yang layak diberikan subsidi maksimum sehingga RM30,000 untuk mereka membeli rumah terpilih pada harga kos rendah. Kerajaan bersetuju memperuntukkan RM300 juta tahun ini bagi menjayakan program berkenaan, yang disasar untuk melibatkan 10,000 unit rumah. Program itu, subsidi akan diberikan kepada pemohon yang layak untuk membeli pada harga rumah kos rendah mengikut definisi yang ditetapkan kerajaan negeri.

Tidak dinafikan bahawa salah satu projek yang memerlukan pembiayaan yang tinggi ialah projek perumahan. Dalam hal ini, setiap pemaju yang diberi tanggung jawab untuk menyediakan kemudahan sosial ini perlulah mempunyai sumber kewangan yang kukuh sebelum menjalankan aktiviti pembinaan. Untuk itu, peranan bank-bank dan institusi kewangan amat penting dalam memastikan pemaju-pemaju ini mendapat sumber kewangan yang mencukupi(Norharnila Rusli, 2006).

Kajian isu perumahan telah dilakukan oleh ramai pengkaji. Umpamanya (Aminah Md Yusof, 2008; Junaidi Awang Besar et al., 2012; Nor Malina Malek &Azrina Husin, 2012; Rosalan Ali, 2009; Wan Nor Azriyati Wan Abd Aziz et al., 2010; Zainal Abidin Hashim, 2010)

Kajian oleh Nor Malina Malek &Azrina Husin (2012) yang mengenal pasti permasalahan kebolehupayaan peluang membeli rumah ialah kurang penawaran rumah kos rendah, kadar urbanisasi dan lonjakan harga rumah. Keadaan ini dilihat masih tidak dapat memenuhi permintaan penduduk bandar di negara ini. Walaupun kerajaan telah memperkenalkan Program Pemilikan Rumah Mampu Milik dan Skim Rumah Mesra Rakyat khusus untuk keluarga miskin, termasuklah ibu tunggal yang tidak mempunyai rumah, namun hakikatnya masih ramai yang tidak mampu membeli rumah. Perkara ini berlaku akibat kadar urbanisasi yang semakin meningkat di negara Malaysia. Masalah seterusnya ialah peningkatan harga semua jenis rumah di kawasan bandar.

Konsep lestari atau mampan selalunya dikaitkan dengan kualiti kehidupan yang merangkumi sistem ekonomi, sosial dan persekitaran bagi menjamin keselesaan hidup dan persekitaran yang sihat dan produktif. Matlamat ini bukan sahaja untuk keperluan generasi masa kini tetapi juga untuk generasi akan datang (Haryati dan Norasyikin 2011).

Antara cabaran yang sedang dihadapi ialah projek rumah terbengkalai. Isu projek rumah terbengkalai turut merumitkan keadaan pemilikan rumah apabila masalah ini berlaku pada setiap tahun (Siti Saidatulakmal Arishin &Abdul Ghafar Ismail, 2013).

Kaedah bina dan jual dijadikan kaedah baru berbanding bina dan jual (Azima Abdul Manaf &Suraiya Ishak, 2013). Kaedah ini digunakan untuk menggantikan sistem beli-dan-jual yang menyumbang projek rumah terbengkalai. Konsep baru ini diharap dapat melindungi hak pengguna, apabila menerusinya pembeli hanya dikenakan bayaran 10 peratus daripada harga rumah, manakala bagi 90 peratus dibuat selepas rumah siap dibina. Pelancaran konsep baru ini diharap boleh menjadi alternatif terhadap konsep jual dan bina yang diamalkan sekarang. Sehubungan itu, perlaksanaan konsep ini telah dijalankan secara berperingkat-peringkat sejak awal 2007 dan bakal diwajibkan pada tahun 2015.

Namun kajian Azima dan Suraiya (2013) merumuskan konsep yang baru diperkenalkan ini akan memberi tekanan khususnya kepada pihak pemaju. Hal ini jelas melalui rungutan yang telah diutarakan oleh pihak pemaju. Sehubungan itu, dalam hal ini kerajaan seharusnya mengambil pendekatan secara holistik dengan membenarkan juga konsep konvensional terus diamalkan namun dengan prasyarat yang tertentu terutama kepada pemaju bumiputera kecil yang mempunyai modal yang terhad.

Selain isu harga, pemilikan rumah juga dilihat dari aspek kepuasan dan keselesaan. Ini kerana keselesaan terma di tempat kediaman merupakan aspek keselesaan yang perlu diberi keutamaan dalam sesuatu pembangunan perumahan bagi mewujudkan kehidupan yang

berkualiti. (Haryati Shafii, 2012). Kajian oleh Haryati (2012) menjelaskan perkaitan kualiti rumah dengan peningkatan kualiti hidup. Kajian penerokaan ini merumuskan bahawa untuk mencapai kualiti hidup yang baik di bandar banyak aspek yang perlu diberi perhatian.

3. 4. PROSPEK PEMBANGUNAN PRODUK PEMBIAYAAN INSTITUSI PERBANKAN ISLAM

BNM (2012) merekodkan sistem perbankan Islam telah mencatat pertumbuhan keuntungan yang kukuh, iaitu lebih daripada 60% pada tahun 2012 kepada RM4.9 bilion (2011: RM3 bilion) lantas menjana pulangan purata atas aset dan ekuiti masing-masing pada 1.4% dan 19.6% (2011: masing-masing 1% dan 13.5%).

Perbankan Islam merujuk kepada satu sistem yang tubuhkan bagi menyediakan dan perkhidmatan bank berasaskan syariah dan tidak sama dengan konvensional dari aspek aktiviti, tetapi matlamat keuntungan tetap sama..

Perbankan Islam bukan sahaja dinikmati dari kalangan orang Islam semata-mata bahkan orang bukan Islam turut berminat menggunakan produk-produk Islam. Senario terhadap orang bukan Islam selain dilihat sebagai satu perkembangan sihat produk perbankan yang bersifat universal, penetapan kadar keuntungan menjadi faktor pemilihan instrumen berteraskan syariah.

Di Malaysia, perkhidmatan perbankan Islam tertakluk di bawah Akta Perkhidmatan Kewangan Islam 2013. Bahagian VI Akta Bank Negara Malaysia 2009 menyatakan sistem kewangan di Malaysia hendaklah terdiri daripada sistem kewangan konvensional dan sistem kewangan Islam. Diawasi oleh Majlis Penasihat Shariah (MPS) mengenai kewangan Islam yang hendaklah menjadi pihak berkuasa bagi penentuan hukum Syarak bagi maksud perniagaan kewangan Islam. Ini bermakna hal ehwal pembangunan produk tertakluk di bawah kawal selia MPS sebagai badan tertinggi kewangan Islam. Hal ini menjadikan penawaran produk oleh institusi perbankan diawasi oleh badan tertinggi yang berkelayakan dari segi kepakaran kewangan Islam.

Perbankan Islam yang sebagai institusi pelaburan swasta perlu menilai setiap aspek bagi meraih keuntungan maksimum. Oleh itu, semua institusi pembiayaan swasta mempunyai satu matlamat asas: untuk membuat keuntungan sebanyak mana yang mereka boleh. Ini bermakna segala aktiviti pengurusan dan perkhidmatan adalah tertakluk di bawah kerangka kerja syariah. Monzer Kahf (2004) dalam artikel bertajuk *Success Factors Of Islamic Banks :Based on a study of the actual conduct of some Islamic Banks* menyenaraikan dua aspek yang menyumbang kepada kejayaan perbankan Islam.

Dua aspek tersebut ialah aspek jangka panjang dan jangka pendek. Aspek jangka panjang ialah peningkatan jumlah deposit, mengutamakan kualiti perkhidmatan, memperluaskan perkhidmatan teras, melindungi modal bank, di samping menumpukan perkhidmatan kebajikan dan sosial. Dalam usaha untuk merealisasi keuntungan semaksimum, sesebuah bank, sama ada Islam atau tidak, perlu meningkatkan keuntungan bagi jangka masa panjang tanpa mengorbankan perspektif jangka pendek. Keuntungan jangka panjang dipengaruhi oleh pertumbuhan deposit dan elemen-elemen sumber dana lain yang memberikan bank peluang untuk mempunyai keuntungan menjana pelaburan aset. Oleh itu, Monzer Kahf (2004) menegaskan kita perlu mengambil kira kadar pertumbuhan pelbagai bentuk deposit.

4. 5. PERTIKAIAN PRODUK PERBANKAN ISLAM

Institusi perbankan Islam dikategorikan sebagai entiti yang tertakluk di bawah undang-undang undang-undang yang berkaitan seperti Akta Kontrak 1950, Akta Jualan Barangan 1957, Kanun Tanah Negara 1965, Akta Syarikat 1965, Akta Sewa Beli 1967, Akta Suruhanjaya Syarikat 1993, Akta Duti Setem 1959, Akta Pencegahan Wang Haram 2001 dan juga Undang-undang Prosedur di Mahkamah (Zulkifli Hasan, t.t.)

Di sebalik kepelbagaian undang-undang, risiko perbankan Islam dalam pembiayaan tidak berbayar akan membabitkan kesahan produk. Pelaksanaan produk pembiayaan rumah menjadi isu apabila berlaku kes individu mengalami kegagalan membayar ansuran bulanan hingga membawa perisytiharan bankrap. Presiden Persatuan Penyelesaian Pengguna dan Peminjam Malaysia (4PM), Rosland Mohd. Arif menjelaskan kebimbangan kaedah menjual aset atau tindakan melelong rumah yang gagal diselesaikan boleh mengakibatkan pihak lain mengambil kesempatan membeli aset walaupun terdapat kekangan penjualan. Contohnya larangan menjual milik tanah bumiputera kepada bukan bumiputera tidak terkawal akan menyebabkan masalah pemilikan aset bumiputera (Utusan Malaysia 2014).

Kajian Siti Saidatul dan Abd Ghafar (2013) menyatakan adalah lumrah di sebalik kejayaan yang dicapai oleh bank Islam dalam mempelbagaikan seperti *Musharakah Mutanaqisah* (MM), *Ijarah* produk dalam pembiayaan, ia juga menghadapi pelbagai masalah. Antara masalah utama yang dihadapi ialah masalah hutang tertunggak yang disebabkan pelbagai faktor. Ia berlaku kerana bank tidak di benarkan menetapkan sebarang bayaran faedah atau bunga terhadap pembayaran yang levat atau kegagalan dalam melunaskan hutang.

Institusi perbankan Islam tidak terlepas dari diheret atas dakwaan ketidakadilan kontrak dengan pelanggan. Perbicaraan ini melibatkan bidang kuasa institusi mahkamah sivil, bukan di bawah bidang kuasa mahkamah syariah. Sedangkan jika kita lihat aspek kepakaran kontrak syariah hanya mampu difahami oleh pakar syariah sahaja. Mantan Ketua Hakim Negara Tun Abdul Hamid Mohamad (2011) dalam siri Kuliah Peringatan di UIAM menjelaskan para hakim mahkamah sivil tidak mempunyai kepakaran dalam isu-isu syariah apatah lagi mengesahkan sesuatu produk itu memenuhi kriteria pematuhan syariah atau tidak patuh. Menurut beliau

kesukaran ini merujuk kepada pemahaman produk Islam kelihatan begitu kompleks untuk difahami bagi mereka yang bukan berlatarbelang perundangan Islam.

Antara produk perbankan Islam yang sering dicabar di mahkamah ialah produk *Bai' Bi thaman Ajil* kerana kesahan kontrak[3]. Noor Suhaida Kasri (2012) merumuskan pembangunan pertikaian BBA disebabkan tidak memenuhi maqasid syariah. Perdebatan ini telah membawa kepada perbezaan di antara produk patuh syariah dengan produk berteraskan syariah. Walau bagaimanapun, tidak ada definisi dan kriteria yang jelas bagi menentukan apakah perbezaan dan perasamaan antara keduanya. Dalam hal ini, satu cara yang objektif bagi mengklasifikasikan kategori produk kewangan yang berteraskan Islam ialah maqasid syariah sebagai penanda aras yang disyorkan (Habib Ahmed 2011).

Pertikaian kes-kes mahkamah pula perlu difahami antara tugas dan sempadan bidang kuasa. Bidang kuasa Majlis Penasihat Syariah (MPS) Bank Negara Malaysia hanyalah untuk menentukan hukum Syarak berhubung dengan isu-isu yang dikemukakan. MPS tidak mempunyai bidang kuasa untuk membuat penemuan fakta atau mengaplikasikan sesuatu hukum itu ke atas fakta kes dan membuat keputusan, sama ada mengenai sesuatu isu atau bagi kes tersebut kerana perkara-perkara tersebut terletak dalam bidang kuasa mahkamah atau penimbang tara. Ada dua perkara iaitu 1) penentuan hukum syarak dalam isu tertentu (MPS) dan 2) pelaksanaan /aplikasi hukum ke atas sesuatu isu (mahkamah)

Isu pembiayaan rumah yang diheret ke mahkamah masih berterusan kerana tahap pengetahuan pelanggan masih rendah, isu pemberian rebat, ketidakupayaan membayar dan penanda aras Kadar Pembiayaan Asas (Base Financing Rate) (Amir Shaharuddin, 2012)

Aduan dan kritikan masih kedengaran akibat dari pelaksanaan yang mempunyai keraguan dalam produk Islam. Ketua Biro Pemantau Perkhidmatan Kewangan, Persatuan Pengguna Islam Malaysia (PPIM), Sheikh Abd. Kareem S. Khadaied berkata, beliau bimbang kerana terdapat beberapa kesalahan dan keraguan dalam pelaksanaan perbankan Islam terutama dalam sistem kiraan pinjaman. Jelasnya, antara kesalahan itu ialah terdapat unsur-unsur keraguan melampau (*gharar*) dalam transaksi peminjam, prinsip BBA yang tidak dilaksanakan secara betul dan berhubung soal diskaun (*ibra*') semasa pembelian hartanah yang dilelong (Utusan Malaysia, 2014).

3 Sebagai contoh kes Bank Islam Malaysia Bhd v Lim Kok Hoe & Anor and lain-lain perayu [2009] 6 MLJ 839; [2009] 6 CLJ 22. Mahkamah Tinggi menyatakan BBA tidak sah tetapi dalam kes rayuan, Mahkamah Rayuan telah memutuskan,kontrak BBA adalah sah dan berkuat kuasa. Bank Islam Malaysia Bhd v Adnan Omar, Dato' Hj Nik Mahmud Daud v Bank Islam Malaysia Bhd, Bank Kerjasama Rakyat Malaysia Bhd v Emcee Corporation Sdn Bhd, Arab-Malaysian Finance Bhd v Taman Ihsan Jaya Sdn Bhd & Ors; Koperasi Seri Kota Bukit Cheraka Bhd (Third Party) And Other Cases, Affin Bank Berhad v Zulkijli Abdullah, CIMB Islamic Bank Bhd v LCL Corporation Bhd & Anor, Tan Sri Abdul Khalid Ibrahim v Bank Islam Malaysia Berhad & Another Case. Tinta Press Sdn Bhd v Bank Islam (M) Berhad. Lihat Noor Suhaida (2012) dan Zulkifli Hasan (t.t).

Atas senario tersebut perkembangan kemudahan pembiayaan secara Islam memasuki fasa dalam memenuhi tuntutan seseorang dari sudut memenuhi keperluan asasnya. Selain melahirkan persaingan sihat dalam sistem perbankan Islam pembangunan produk pembiayaan yang lebih kompleks telah meluaskan maqasid syariah kriteria sebagai salah satu kriteria yang perlu diberi perhatian sewajarnya untuk mengesahkan pematuhan syariah.

5. 6. PEMBANGUNAN PRODUK PEMBIAYAAN RUMAH

Transformasi pembangunan produk kewangan Islam bersifat trasdisional kepada bentuk moden adalah untuk memenuhi keperluan manusia yang sentiasa berubah dan lebih praktikal. Perundangan Islam tradisional tidak mengamalkan pembiayaan kewangan seperti yang diamalkan pada masa ini seperti melalui instrumen *Murabahah, Bay' bi thaman ajil, ijarah thuma al-bay ',* sekuriti hutang dan sebagainya. Pembiayaan rumah secara Islam yang digunakan adalah seperti *Bay' Bithaman Ajil*, *Murabahah,* dan terdapat juga beberapa buah bank yang mula memberi tumpuan kepada kontrak pembiayaan berasaskan ekuiti seperti *Musharakah Mutanaqisah (MM), Ijarah Mausufah Fi Zimmah* dan *Istisna'* (Siti Saidatulakmal Arishin &Abdul Ghafar Ismail, 2013).

Mohd Daud Bakar (1997) menyatakan kemunculan dan amalan instrumen-instrumen ini dalam pembiayaan kewangan semasa mempunyai latar belakang dan justifikasi yang tersendiri yang perlu dilihat daripada perspektif moden iaitu sistem perbankan Islam yang beroperasi selari dan sejajar dengan sistem perbankan konvensional khususnya apabila sistem perbankan tanpa faedah diperkenalkan pada tahun 1993.

Pembiayaan berasaskan hutang seperti BBA telah lama bertapak dalam perkhidmatan kewangan Islam. Secara tidak langsung pembiayaan secara hutang sangat mudah dikendalikan berbanding pembiayaan berasaskan perkongsian dan ekuiti seperti MM .

Dalam kes kemungkiran pembayaran, isu rebat *(ibra')* mewujudkan dua polemik sama ada ia bergantung pada budi bicara yang tidak memerlukan dinyatakan dalam perjanjian atau ia mesti dinyatakan secara jelas sebagai bukti ketelusan. ISRA melakukan kajian daripada tahun 2003 hingga penghujung 2009,kebanyakan kes-kes muamalah yang didaftarkan di Mahkamah Tinggi adalah menyentuh isu rebat atau Ibra' terutamanya dalam perselisihan mengenai tuntutan pihak bank terhadap hutang yang tidak dapat dijelaskan oleh pihak pelanggan yang mungkir (Asyraf Wajdi et.al 2010). Namun dari analisis pembangunan produk pembiayaan terdapat empat mekanisme yang menjadikan pembiayaan rumah mendapat perhatian perbankan Islam.

6.1 Mekanisme *Hibah*

Salah satu mekanisme untuk menarik minat penggunaan perbankan Islam dalam memiliki rumah, hibah atau insentif boleh digunakan sebagai mekanisme meningkatkan permintaan pelanggan. Merujuk kepada Resolusi Syariah Majlis Penasihat Syariah BNM 2007 perbankan yang menawarkan pemberian hibah dalam kontrak al-Ijarah thumma al-Bai` (AITAB) bagi memberikan insentif dan galakan kepada pelanggan membayar sewa bulanan mengikut jadual yang ditetapkan. Dalam aturan yang dicadangkan, hibah akan diberikan kepada pelanggan yang melunaskan bayaran sewa bulanan pada tahun pertama tanpa sebarang kelewatan. Kadar hibah yang dicadangkan ialah sebanyak 1% daripada jumlah pembiayaan dan akan dikreditkan terus ke dalam akaun pelanggan yang layak pada bulan ke-13. Namun, pelanggan yang melunaskan semua hutangnya dan menamatkan kontrak AITAB dalam masa 12 bulan yang pertama tidak layak untuk memperoleh hibah ini. MPS membuat keputusan kaedah ini diharuskan sebagaimana dalil al-Quran

فَإِن طِبْنَ لَكُمْ عَن شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ هَنِيٓـًٔا مَّرِيٓـًٔا ۝٤

Maksudya: *"...kemudian jika mereka dengan suka hatinya memberikan kepada kamu sebahagian dari mas kahwinnya maka makanlah (gunakanlah) pemberian (yang halal) itu sebagai nikmat yang lazat, lagi baik kesudahannya"*. (Surah al- Nisa':4)

Malah al-Baihaqi meriwayatkan sebuah hadis daripada Abu Hurairah radiallahuanhu bahawa Nabi Muhamad SAW bersabda;

تهادوا تحابوا

Maksudnya: *Saling memberilah hadiah dan kamu akan saling kasih mengasihi*." (Sunan al-Kubra al-Baihaqi Juz 6 hal 169)

6.2 Mekanisme *Ibra'*

Mekanisme yang telus lebih berkesan berbanding mekanisme budi bicara. Ini merujuk kepada perubahan keputusan MPS membatalkan keputusan yang dibuat pada mesyuarat yang ke-13 bertarikh 10 April 2000, mesyuarat ke-24 bertarikh 24 April 2002 dan mesyuarat ke-32 bertarikh 27 Februari 2003 yang memutuskan bahawa pemberian ibra' adalah tertakluk kepada budi bicara institusi kewangan Islam dan sekiranya institusi kewangan Islam berjanji untuk memberikan ibra' kepada pelanggan, institusi kewangan Islam adalah terikat dan mestilah melaksanakan janji tersebut.

Namun kestabilan dan potensi pembiayaan bergantung pada mekanisme yang telus dan keyakinan tinggi antara pihak-pihak yang berkontrak. Justeru BNM (2012) menyatakan dalam sektor kewangan Islam, kepentingan pengguna dilindungi menerusi keperluan memberikan *ibra'* (rebat) kepada semua pelanggan bagi penyelesaian awal dalam kontrak pembiayaan

berdasarkan jualan seperti *murabahah* dan *bai' bithaman 'ajil*. Pemberian *ibra'* oleh institusi kewangan Islam memberi kesan kewangan yang setara dengan amalan perbankan konvensional yang peminjam hanya perlu membayar balik jumlah pokok dan keuntungan yang terakru sehingga tarikh penyelesaian awal.

Keadaan ini disebabkan kebanyakan institusi kewangan Islam tidak memasukkan klausa *ibra'* dalam perjanjian yang ditandatangani dengan pelanggan kerana dikhuatiri timbul isu ketidakpastian (*gharar*) dalam harga jualan. Walau bagaimanapun, amalan tidak memasukkan klausa *ibra'* dalam perjanjian pula boleh menimbulkan pertelingkahan antara pelanggan dan institusi kewangan Islam berhubung dengan hak pelanggan untuk mendapatkan ibra' sekiranya mereka melunaskan pembiayaan lebih awal. Selaras dengan keperluan untuk menjaga kepentingan umum (maslahah) serta memastikan keadilan terhadap pembiaya dan penerima biaya, MPS dirujuk berhubung dengan cadangan untuk mewajibkan institusi kewangan Islam memberikan ibra' kepada penerima biaya yang melunaskan hutang lebih awal bagi pembiayaan berdasarkan kontrak jual beli (seperti *bai` bithaman ajil* atau *murabahah*).

Selanjutnya BNM menjelaskan Garis Panduan Mengenai *ibra'* telah menyelesaikan masalah sebelum ini yang dikaitkan dengan elemen berdasarkan budi bicara *ibra'*, ketakjelasan tentang keadaan bagi memberikan *ibra'*, dan penzahiran yang tidak mencukupi dalam dokumentasi undang-undang telah mengakibatkan hasil yang berbeza-beza bagi pelanggan dan salah tanggapan umum bahawa pembiayaan Islam lebih mahal daripada pinjaman konvensional apabila peminjam membuat penyelesaian pembiayaan lebih awal.

6.3 Mekanisme Produk *Hybrid*

Musyarakah Mutanaqisah (MM) merupakan produk *hybrid*. Kontrak-kontrak yang terlibat dalam MM terdiri dari *Musharakah, Ijarah dan bai'*.(Mohd Sollehudin Shuib et al., 2011; Siti Saidatulakmal Arishin &Abdul Ghafar Ismail, 2013). Apabila berlaku kemungkiran seperti pelanggan gagal membayar atau lewat, langkah pertama ta'widh 1% kepada pelanggan lewat bayar bagi beberapa bulan tertentu (iaitu 1-3 bulan) berbanding konvensional 8% dan akan berganda tunggakan berterusan. Langkah kedua, bank akan mengambil alih rumah dan menyewakan kepada pihak ketiga. Langkah ketiga, bank akan mengambil alih rumah dan sewakan kepada pihak lain terlebih dahulu sementara menunggu ada pembeli baru rumah tersebut. Langkah keempat, bank akan menyusun semula pembiayaan dengan menilai semula harga rumah dan menawarkan kepada pelanggan untuk membelinya semula. Langkah kelima, bank akan mengeluarkan notis kepada pelanggan tersebut, sekiranya tidak mendapat jawapan sewajarnya dari pelanggan, bank akan mengambil pendekatan membawa kes tersebut ke mahkamah.

Biasanya selepas mendapat perintah mahkamah, bank akan melelong hartanah tersebut. Hasil dari lelongan akan digunakan untuk membayar hutang pembiayaan pelanggan yang masih berbaki. Sekiranya terdapat lebihan, wang tersebut akan diberikan kepada pelanggan kembali.

Sekiranya hasil lelongan tidak cukup untuk menampung baki hutang pembiayaan pelanggan, maka pelanggan akan diperintah membayar baki pembiayaan yang ada kepada bank. Justeru pembiayaan produk hybrid dijangka mendapat permintaan yang lebih tinggi dan memberi kemudahan kepada pelanggan.

6.4 Mekanisme *Wakalah*

Skim Rumah Pertamaku (SRP) yang telah diumumkan oleh Kerajaan Malaysia dalam Bajet Malaysia 2011 adalah bertujuan untuk membantu warga muda Malaysia untuk memiliki rumah pertama mereka. Skim SRP ini membolehkan pelanggan institusi perbankan yang berkelayakan mendapatkan pembiayaan sehingga 100% daripada institusi-institusi perbankan yang mengambil bahagian untuk membiayai rumah pertama mereka. Melalui Skim SRP ini, institusi perbankan akan memberikan sehingga 100% pembiayaan perumahan secara Islam kepada pelanggan yang berkelayakan.

Institusi perbankan akan melantik anak syarikat Cagamas Holdings Berhad (Cagamas) iaitu Cagamas Skim Rumah Pertamaku Berhad (Cagamas SRP) sebagai wakil (dalam kontrak wakalah) untuk melaksanakan perkhidmatan-perkhidmatan tertentu, termasuklah penilaian risiko ke atas portfolio pembiayaan perumahan secara Islam dengan upah yang dipersetujui. Institusi perbankan memindahkan tanggungannya untuk membayar upah tersebut terhadap Cagamas SRP kepada Cagamas di bawah prinsip hiwalah al-dayn. Cagamas SRP kemudiannya akan menjamin pembiayaan yang diberikan oleh institusi perbankan sehingga10% di bawah prinsip kafalah tanpa sebarang fi. Cagamas SRP selaku penjamin akan membayar apa-apa tuntutan (terhad kepada jumlah jaminan) kepada institusi perbankan sekiranya berlaku kejadian kemungkiran melaksanakan pembayaran pembiayaan oleh pelanggan. Setelah membayar tuntutan kepada institusi perbankan, Cagamas SRP akan melaksanakan rekursa ke atas pelanggan melalui institusi perbankan (Bank Negara Malaysia, 2011b). Mekanisme memberi kemudahan pembiayaan sehingga 100% yang memudahkan pelanggan tanpa perlu bayaran pendahuluan untuk pemilikan rumah.

7. KESIMPULAN

Pembangunan produk pembiayaan rumah secara Islam memasuki fasa baharu bagi mengimbangi isu-isu perumahan dan potensi instrumen kewangan Islam. Selain melahirkan persaingan sihat dalam sistem perbankan Islam pembangunan produk pembiayaan yang lebih kompleks telah memperluaskan dimensi maqasid syariah sebagai salah satu kriteria yang perlu diberi perhatian sewajarnya untuk mengesahkan produk patuh syariah. Dalam konteks pembiayaan rumah, pembentukan kontrak dipengaruhi oleh tiga bentuk penentuan pengambilan untung iaitu keuntungan jualan *(al-ribh*), pulangan pelaburan *(al-ghallah)* atau pertambahan harta kekal *(al-faidah).* Penawaran produk patuh syariah semata-mata masih belum memadai meningkatkan pemilikan rumah kepada golongan sasaran seperti golongan

berpendapatan rendah dan sederhana. Maka mentransformasikan pembiayaan kepada produk yang mampu memenuhi keperluan maqasid syariah telah mewujudkan perbincangan baharu di kalangan sarjana Islam yang mahu memastikan pembiayaan rumah menjadi instrumen penting memenuhi keperluan asas manusia. Di samping tidak menafikan matlamat keuntungan bank sebagai salah satu matlamat untuk menjaga maslahat terhadap pihak-pihak berkepentingan, para pelabur dan pendeposit, maka pelbagai kaedah boleh membantu meningkatkan kebolehupayaan pelanggan untuk menikmati keperluan asas. Justeru inovasi produk menerusi pembangunan produk seperti hibah, ibra' *hybrid* dan agensi wakalah dikenal pasti mampu menjadi alternatif perbankan Islam untuk menawarkan produk pembiayaan yang boleh memenuhi maqasid syariah dan menjana keuntungan bank.

SENARAI JADUAL

Jadual 1. Senarai kontrak mengikut jenis dalam perbankan Islam

Bil	Jenis	Kontrak
1.	Kontrak berasaskan jual beli	Mudharabah, Murabahah, Bai' Bithaman Ajil, Bai' Inah, Bai' Dayn, Bai' Salam, Musyarakah, Dan Tawarruq.
2.	Kontrak berasaskan sewa	Ijarah, Ijarah Muntahia Bi Tamlik, Ijarah Thumma Al-Bai'.
3.	Kontrak berasaskan pembinaan/projek	Istisna'
4.	Kontrak berasaskan ekuiti/perkongsian	Mudharabah, Musyarakah, Musyarakah Mutanaqisah
5.	Kontrak berasaskan pembiayaan	Qard
6.	Lain-lain kontrak -simpanan, gadaian, jaminan, upah, pindah hutang, agensi	Wadi'ah, Rahnu, Kafalah, Ujrah, Hawalah, Wakalah dan lain-lain

Sumber: Diubahsuai dari Bank Negara Malaysia (2013b), Mohd Daud Bakar (1997) dan Mohd Yahya et.al (2010)

Jadual 2: Identiti perbankan Islam

Item	Huraian
Perniagaan kewangan Islam	Akta Bank Negara Malaysia, A1448 "perniagaan kewangan Islam" ertinya apa-apa perniagaan kewangan dalam ringgit atau mata wang lain yang tertakluk kepada undang-undang yang

	dikuatkuasakan oleh Bank dan selaras dengan Shariah;
Asas penubuhan berasaskan perundangan syariah	Segala urusan perbincangan, transaksi, pendekatan perniagaan, kelebihan produk, fokus dan tanggungjawab pelaburan
Konsep	Menjadi rakan perkongsian, perkongsian untung dan risiko, nilai tambah antara bank dan pelanggan.
Kawal selia	Selain BNM, institusi perbankan Islam dikawal selia oleh MPS sebagai badan tertinggi pakar rujuk dan pengesahan kontrak.

6. RUJUKAN

Ab. Rahim Ab. Ibrahim. (2012). *Riba Dan Ribh. Mekanisme Penentuan Kadar Keuntungan Pembiayaan Jangka Panjang Dalam Perbankan Islam.* (Tesis PhD). Universiti Malaya

Abdul Hamid Mohamad. (2011). Malaysia As An Islamic Finance Hub: Malaysian Law As The Law Of Reference And Malaysian Courts As The Forum For Settlement Of Disputes *Kuliah Prof. Emeritus Ahmad Ibrahim*. IIUM. 7 Disember 2011

Abdulazeem Abozaid & Asyraf Wajdi Dusuki. (2007). The challenges of realizing maqasid al-shari`ah in Islamic banking and finance. *International Conference on Islamic Banking and Finance: Research and Development: The Bridge between Ideals and Realities.* IIUM, Kuala Lumpur. 23-25 April 2007

Abu Ja'far Muhammad Ibn Jarir al-Tabariy. (1989). *Jami' al-Bayan fi al-Tafsir al-Quran* (Vol. 3). Damsyiq: Dar al-Fajr al-Islamiy

Affin Islamic Bank Berhad. (2013). *Product Disclosure Sheet*.

Aminah Md Yusof. (2008). Malaysian Housing Investment Information Price Modelling *1st NAPREC Conference* INSPEN.

Amir Shaharuddin. (2012). Tahap pengetahuan perbankan Islam perlu ditingkatkan, *Utusan Malaysia.* http://www.utusan.com.my/utusan/info.asp?y=2012&dt=0307&sec=Rencana&pg=re_07.htm. (7 Mac 2014)

AmIslamic Bank. (2013). *Product Disclosure Sheet*.

Anuar Saaban & Sanep Ahmad. (2013). Pengaruh Kadar Bunga dalam Perbankan Islam di Malaysia. *Persidangan Kebangsaan Ekonomi Malaysia VIII*: 938-950

Azima Abdul Manaf & Suraiya Ishak. (2013). Sistem Bina Dan Jual: Sejauhmana Kesediaan Pemaju? *Persidangan Kebangsaan Ekonomi Malaysia VIII*: 1188-1194

Bank Islam Malaysia Berhad. (2014). *Product Disclosure Sheet Property Financing-Baiti SingleTier*.

Bank Negara Malaysia. (2011a). *Pelan Sektor Kewangan 2011-2020 Memperkasakan Masa Depan*. Kuala Lumpur: Bank Negara Malaysia.

Bank Negara Malaysia. (2011b). *Resolusi Syariah dalam Kewangan Islam Majlis Penasihat Syariah Bank Negara Malaysia (2010 - 2011)*. Kuala Lumpur: Bank Negara Malaysia.

Bank Negara Malaysia. (2012). *Laporan Kestabilan Kewangan dan Sistem Pembayaran*. Kuala Lumpur: Bank Negara Malaysia.

Bank Negara Malaysia. (2013). *Financial Reporting for Islamic Banking Institutions*. Kuala Lumpur: Bank Negara Malaysia.

Habib Ahmed. (2011). Maqasid al-Shari'ah And Islamic Financial Products: A Framework For Assessment. *ISRA International Journal of Islamic Finance* 3(1): 149-160.

Haryati Shafii. (2012). Keselesaan Terma Rumah Kediaman Dan Pengaruhnya Terhadap Kualiti Hidup Penduduk. *GEOGRAFIA Online Malaysia Journal of Society and Space* 8(4): 28-43.

Haryati Shafii & Nurasyikin Miskam. (2011). Pembentukan Penunjuk dan Indeks Kualiti Hidup Bagi Mengukur Kesejahteraan Hidup Masyarakat di Pekan Parit Raja, Johor. *Persidangan Kebangsaan Geografi dan Alam Sekitar kali ke 3*. Universiti Pendidikan Sultan Idris, Tanjong Malim.

Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia. (2010). *Rancangan Fizikal Negara Ke-2*: Kementerian Perumahan dan Kerajaan Tempatan.

Junaidi Awang Besar, Rosmadi Fauzi & Amer Saifude Ghazali. (2012). Penilaian Awal Impak Perlaksanaan Dasar Perumahan Negara Terhadap Sektor Perumahan Di Kuala Lumpur. *GEOGRAFIA Online Malaysia Journal of Society and Space* 8(6): 90-108.

Mohamad Akram Laldin & Nusaibah Mohd Parid. (2013). Senario Kewangan dan Perbankan Islam Masa Kini: Prospek, Isu-isu dan Cabaran. Dalam Azizi Che Seman & Mohd Nazri Chik (Pnyt). *Kewangan dan Perbankan: Isu-Isu dan Cabaran.* Selangor: Persatuan Ulama' Malaysia.

Mohd Daud Bakar. (1997). Aspek-aspek Pembiayaan Projek dalam Amalan Perbankan Islam. *Jurnal Syariah* 5(2): 204-228.

Mohd Sollehudin Shuib, Joni Tamkin Borhan & Azizi Abu Bakar. (2011). Musharakah Mutanaqisah Home Financing Products: An Implementation Analysis, Product Advantages and Issues at Citibank (Malaysia) Berhad. *Journal of Techno-Social* 3(2): 43-53.

Monzer Kahf. (2004). Success Factors Of Islamic Banks. *Brunei Symposium on Islamic Banking and Finance*. Brunei.

Noor Suhaida Kasri. (2012). *A Critical Analysis of the Resolution of the Malaysian Securities Commission Shariah Advisory Council: A Case Study of the Crude Palm Oil Futures Contract.* (Tesis PhD Islamic Banking, Finance and Management). The University of Gloucestershire.

Nor Malina Malek & Azrina Husin. (2012). Pemilikan Rumah dalam Kalangan Masyarakat Bandar Berpendapatan Sederhana dan Rendah di Malaysia. *Sosiohumanika* 5(2): 269-284.

Norharnila Rusli. (2006). *Salah Urus Risiko Projek Perumahan.* (Tesis Sarjana Sains). Universiti Teknologi Malaysia.

RHB Islamic Bank Berhad. (2011). *Annual Report 2011*

Rosalan Ali. (2009). A Study On The Use Of Asset-Backed Securities As An Alternative Debt Financing: An Examination On The Viability Of Real Estate Securitization In Malaysia. *2nd NAPREC Conference*

Shamsiah Mohamad. (2002). Ciri-ciri Keuntungan Menurut Perspektif Islam. *Jurnal Syariah* 10(1): 121-137.

Siti Saidatulakmal Arishin & Abdul Ghafar Ismail. (2013). Perbandingan Kaedah Penyelesaian Kemungkiran (Default) dalam Pembiayaan Rumah di Perbankan Islam. *Persidangan Kebangsaan Ekonomi Malaysia VIII*. Fakulti Ekonomi dan Pengurusan 7-9 Jun

Utusan Malaysia. (2013). 1.7juta isi rumah belum miliki rumah. http://www.utusan.com.my/utusan/Parlimen/20131025/pa_02/17-juta-isi-rumahbelum-miliki-rumah#ixzz2ihBYoYa0. (24 Oktober 2014)

Utusan Malaysia. (2014). Perbankan Islam perlu elak kekeliruan. http://www.utusan.com.my/utusan/Dalam_Negeri/20140110/dn_19/. (10 Januari 2014)

Wan Nor Azriyati Wan Abd Aziz, Noor Rosly Hanif & Kuppusamy a/l Singaravello. (2010). A Study On Affordable Housing Within The Middle Income Households In The Major Cities And Towns In Malaysia *4th NAPREC Conference* 29 September

Zainal Abidin Hashim. (2010). House Price and Affordability in Housing in Malaysia. *Akademika* 78(Jan-April): 37-46.

Zubair Hasan. (2010). Profit sharing ratios in mudaraba contract. *International Journal of Banking and Finance* 7(1): 1-18.

Zulkifli Jalil. (2014). Muflis: Pihak Ketiga Lebih Kejam, *Utusan Malaysia.* http://www.utusan.com.my/utusan/Rencana/20140120/re_01/Muflis-Pihak-ketiga-lebih-kejam. (20 Januari 2014)

GUARANTEE OF INVESTMENT DEPOSITS IN ISLAMIC BANKS: A *FIQHI* ANALYSIS

Md. Habibur Rahman*

ABSTRACT

In Islamic banking system the *sharÊÑah* principle used for investment deposit, whether general or specific, is *MuÌÉrabah* partnership. In principle the *muÌÉrib* (bank) is not allowed to provide any guarantee for the principal and fixed return. However, some argue otherwise. Hence, this study intends to make a *fiqhÊ* analysis on the issue of guaranteeing the investment deposits. The methods followed are inductive and analytical. After having discussion, argument and counter-argument the study demonstrates that it is not permissible for the bank to provide any contractual guarantee on investment deposits except on voluntary basis. However, in this case bank can arrange a third party guarantee like the Malaysia Deposit Insurance Corporation (MDIC). Nevertheless, in respect of MDIC, the study posits that the structure of *kafÉlah bil ujr* contract may need to be reassessed and the concept of *takÉful* can be applied instead.

Keywords: *Fiqh*, Guarantee, Investment Deposits, *MuÌÉrabah*

1. INTRODUCTION

This study intends to analyze the issue of guarantee of investment deposits in Islamic banks from *fiqhÊ* perspective and to assess the prospective arguments thereof. Deposit is the fundamental source of funding for banks in contemporary banking system. It is said that for current banking system guarantee of deposit is a crucial and important issue; even for developing a viable Islamic banking system, it is also essential to give protection and guarantee of depositors' money. Currently a depositor is seeking both security and growth of his saving, while Islam gives him to choose one of them, either security without growth, or growth by taking risks and liability of loss.

Deposit guarantee or insurance is a mutual insurance system supported by the insured banks themselves and administered either through a government-controlled agency or a privately held one. While it seeks to maintain a sound and efficient banking system, it is not by itself a guarantee for these ends. There are a number of reasons advanced to justify having a system that guarantees the deposits. The major ones are financial stabilization, competitive efficiency and equity considerations. Among the key objectives of deposit guarantee are protection of individual depositors, prevention of bank runs, maintenance of public confidence in banks, and promotion of stability in the economy as a whole, (Maria L., 1991).

* PhD Candidate, Dept. of Fiqh and Usul al-Fiqh, International Islamic University Malaysia (IIUM), can be reached at hrnizamee@yahoo.com

In Islamic banking system deposits are accepted based on *sharÊÑah* principles. They are offered under various *sharÊÑah* contracts such as (*wadÊÑah*) safe-keeping, (*qarÌ*) loan, (*murÉbaÍah*) mark-up sale and (*muÌÉrabah*) profit sharing. However, with the exception of the profit-sharing contract, none of these contract types has given rise to concerns over the protection of deposits. The deposits taken under a profit-sharing contract (known as a profit-sharing investment account or PSIA) are *muÌÉrabah* placement made by an investor (PSIA holder) with an Islamic bank, which acts as entrepreneur. The bank will invest the fund for *sharÊÑah* compliant business activities, and profits yield thereof will be shared between the PSIA holder and the bank according to a pre-agreed profit-sharing ratio. Any loses are borne by the PSIA holder, except in the case of the bank's negligence or mismanagement, where loses are borne by the bank. So, since loses are borne by the PSIA holders, some argue that PSIA holders should not enjoy any guarantee. On the other hand, some are of the view that PSIA holders should be protected by the third party in the event of bank's failure only and not in the normal course of business. Also, if the PSIA holder is the major player in the financial system, protection will contribute to the stability of the financial system, (*IADI, International Association of Deposit Insurers, 2010).*

2. LITERATURE REVIEW

Guaranteeing deposit in Islamic banking system is a need of individual and society, particularly based on the principle of justice (*al-Ñadl*), yet the return shall not be guaranteed. Nevertheless, the guarantee of such principal amount is not necessary for investors other than depositors in the banking system. The absence of such guarantee of deposits in a banking system will result to that the bank's capacity to mobilize resources will decline substantially which will create simply a dead weight loss and the money not coming to the banking system may end up sitting in form of unproductive assets. Moreover, certain vulnerable groups of society who cannot afford to take any sort of risk on their deposits will find themselves at disadvantage in the financial system compared to other groups which are not so vulnerable and can afford to take risk. In general the welfare of depositors of economically less privileged groups in the society will be reduced, (Fahim Khan, 2003).

On the contrary, Mohammad Ali El Gari (2003) argues that the right approach to this issue does not lie in whether *bank deposits are guaranteed or not, but rather in the extent of risk the deposit owner is willing to take. Such guarantee from bank does not essentially mean a low rate of risk if the Islamic bank offering it is itself not financially strong. Basically the best and least risk-laden of bank loans are those which banks extend to their best customers without collateral or guarantee. However, guarantee may consider as part of several means of risk minimization. In this context, the level or risk could be reduced to its minimum through investment diversification, good and prudent management, control of investment periods and choice of parties that are credit-worthy etc. These diverse measures could be taken to the extent that would enable the investor reach a suitable and acceptable level of risk-taking without the need to have a guarantee of the investment deposit from the deposit-receiving bank. Furthermore, one would undertake these measures while bearing in mind that the receiving bank bears full responsibility for the investment deposit in case of any transgression of default on its part, without this constituting a violation of the principles of sharÊÑah. Acceptance of the bank to guarantee the capital of the investment deposit explicitly in the deposit contract would convert the investment contract into a loan contract. This would, in turn, lead to treating any increase in the amount deposited as a form of unlawful interest. sharÊÑah has no objection*

to any efforts made for the sake of risk management and risk minimization to the extent that would bring such efforts close to those exerted when considering the risks involved in a loan. The objection of sharÊÑah is centered on the contract form; once the condition of guarantee is stipulated in the investment deposit, the contract automatically changes into a loan contract.

In the history of Islam, it was not the intention of the prophet (pbuh) to rigidly fix the structure of conduct and action for all time, regardless of any changes in circumstances. Instead, the Prophet only provided His companions with general guidelines and allowed them to adjust to varied circumstances. The basis of reference has always been the consideration of maÎlaÍah, i.e. the public interest. So, guaranteeing and insuring the deposits would be permissible under the sharÊÑah, as it contains the element of public interest since deposit insurance protects the public from losing money that they place in a bank when the bank fails. Also, it can install confidence among the general public as regards the safety of their bank deposits, (IADI, 2010).

In addition to that, among the justifications for a sharÊÑah compliant deposit insurance system is that, Islamic deposit insurance could provide protection to profit sharing investment accounts (PSIA) where the conventional deposit insurance may not be able to do so. Protecting PSIA will therefore create a level playing field between the Islamic and conventional banking products, and this can further propel the growth of the Islamic financial industry by reducing the potential outflow of Islamic deposits from Islamic banks to conventional banks. Furthermore, the Muslim community aspires to have a deposit insurance system that is in line with sharÊÑah requirements and fits in with their way of life. In this regard, the system must not contain elements that are strictly prohibited, such as interest, uncertainty and gambling. This is more relevant in countries with majority Muslim populations who demand a comprehensive Islamic financial system covering Islamic banking and Islamic deposit insurance. Likewise, establishing an Islamic deposit insurance system could be beneficial to a country that practices Islamic finance. A comprehensive safety net within the Islamic financial industry would contribute to the strength of the system, (Md Khairuddin: 2011).

Nonetheless, a *sharÊÑah compliant deposit insurance system could be designed by several approaches including government regulation and initiative to set up deposit insurance conforming to the concept of siyÉsat al-sharÑiyyah, i.e. any action taken by the government ensuring public interest, though it is prescribed explicitly neither by the Qur'Én nor by the Sunnah. Another approach here is the adoption of a contract whereby the contract of guarantee with fee is a contractual guarantee given by a guarantor to assume the responsibilities and obligations of the party being guaranteed should claim arise. As consideration for the guarantee, a fee is paid by the guaranteed party to the guarantor. The third approach here is the combination of contract and government regulation whereby the deposit insurer will first find the most suitable contract, i.e. contract whose conditions match some or most of the deposit insurance operations. Any aspect of operations that is not in line with the conditions will be addressed by government regulation. For instance the government has assessed and decided to adopt a takaful contract for its Islamic deposit insurance system (IDIS). As a takaful contract involves voluntary contributions or premium payments from Islamic banks, the government could issue a regulation making premium payments mandatory, (IADI, 2010).*

3. *METHODOLOGY*

The paper attempts to analyze *and asses the views regarding the issue of guaranteeing the investment deposits in Islamic banks from fiqhÊ perspective by using the existing research works of both in Arabic and English on the respective topic, as well as relying on the reading of primary sources of sharÊÑah and fiqh. The paper is qualitative in nature and method utilized is inductive and analytical.*

4. *DISCUSSION* AND ANALYSIS

In Islamic banking system deposits are received based on various *sharÊÑah* contracts. Islamic banks do have demand deposits, saving deposits, and general and special investment deposits. Saving and demand deposits are usually accepted based on *WadÊÑah* (safe keeping with guarantee) or *QarÌ al-×asan* (benevolent loan) contracts, whereas general and special investments accounts are based on *MuÌÉrabah*.

The issue of guaranteeing the deposits does not concern demand or saving deposits under *WadÊÑah* or *QarÌ al-×asan* contracts, since under *WadÊÑah* contract, where the nominal value is guaranteed, Islamic banks act as a custodian or guarantor of the funds deposited by customers. In principle, banks are not supposed to use these funds in investment or financing or risk-bearing projects. However, in reality they do, and in that case some banks provide a token of appreciation known as *hibah* to the depositors for banking with them. As the custodian service is provided here without a price Islamic bank is not obliged legally to pay depositors any fixed return and may do so only on voluntary basis, yet in the event of loss banks are obliged to reimburse the funds at par value to their depositors. Another contract is widely used for Islamic deposits is *QarÌ al-×asan*. Pursuant to the Islamic Fiaqh Academy ruling, shareholders must guarantee those deposits as they received returns from utilizing the deposits in investment projects, (Khnifer, 2010).

Nevertheless, the issue of guaranteeing the deposits concerns the profit sharing investment accounts known as PSIA. The profit and loss sharing (PLS) or *MuÌÉrabah* forms the bulk of Islamic deposits. In this partnership arrangement, no guarantee is given for capital protection or a fixed income. This product structure is run under the principle of sharing equity, and this makes it a risky product for depositors as the underlying contract is based on profit-loss sharing system.

4.1 Glancing over MuÌÉrabah

MuÌÉrabah is defined in the *SharÊÑah* Resolutions of Central Bank of Malaysia as a contract between two parties to conduct a particular joint venture. It involves the *rabb al-mÉl* as investor who provides the capital, and the *muÌÉrib* as entrepreneur who manages the joint venture. Any profits generated from the joint venture will be shared between the investor and the entrepreneur based on the agreed terms and ratio, whereas any losses will be solely borne by the investor, (Bank Negara Malaysia: 2010).

In the *SharÊÑah* Standard no (13-4/4) AAOIFI stated: A *MuÌÉrabah* contract is one of the trust-based contracts. Therefore, the *muÌÉrib* is investing *MuÌÉrabah* capital on a trust basis in which case the *muÌÉrib* is not liable for losses except in case of breach of the requirements of the trust, such as misconduct in respect to the *MuÌÉrabah* fund, negligence and breach of the term of *MuÌÉrabah* contract. In committing any of these, the *muÌÉrib* becomes liable for the amount of the *MuÌÉrabah* capital, (AAOIFI: 2010).

So, in Islamic banking system under a *MuÌÉrabah* contract, the depositors act as providers of funds who place a specified sum of money to the bank, while Islamic bank act as entrepreneur through investing the funds and sharing the investment profit according to the predetermined profit sharing ratio. Profits are acquired only when the investments are gaining ground, while capital may depreciate or even diminish if the investment does not turn a profit. Banks bear the entirety of the loss if there is negligence and mismanagement on the part of the bank.

4.2 Capital of MuÌÉrabah

Capital is the principal feature of *MuÌÉrabah* forming the substance of the contract. The capital shall be contributed by the capital provider only. The capital shall be managed by the manager to generate income. Capital of *MuÌÉrabah* may be in the form of monetary or non-monetary assets. An important feature of *MuÌÉrabah* is that the manager shall not guarantee the *MuÌÉrabah* capital, (BNM: SPR 3).

4.3 Juristic Views on Guarantee by the MuÌÉrib

The jurists unanimously agreed that in a *MuÌÉrabah* arrangement the *muÌÉrib* is treated as trustee. Thus, in principle *muÌÉrib* holds no responsibility in the case of any loss subject to such loss is not due to his negligence or misconduct. However, is it allowed to stipulate that *muÌÉrib* shall bear liability for loss in all cases; the jurists have different opinions thereof as follows:

First: The majority of Muslim scholars such as ×anafÊ, MÉlikÊ, ShÉfiÑÊ and ×anbalÊ schools opine that such provision of guarantee or undertaking is void given that it would certainly defeat the original stipulation of a contract, (Ibn Nujaym, Ibn Rushd, Ibn QudÉmah, Ibn MufliÍ, al-ShÊrÉzÊ & al-BahËtÊ). There is a legal maxim says, "The stipulation of undertaking on the trustee is void". Their arguments as follows:

a. The general rule of *MuÌÉrabah* is a trust, if there is any stipulation of undertaking imposed on the *muÌÉrib*, it would certainly be contrary to the original status of *MuÌÉrabah*, and a contract concluded on the contrary to its original status of stipulation is rendered void.

b. Ibn QudÉmah said: the imposition of undertaking on the manager is a void condition, as the imposition is not in line with the interest of the contract and its original stipulation, (al-MughnÊ & al-MabsËÏ).

c. The Islamic Fiqh Academy has taken this view on its ruling no 30 (4/5) in Jeddah. The *MajmaÑ* in its ruling forbids the impositions of undertaking on *Ñamil* to guarantee the capital of *MuÌÉrabah*, whether such imposition is made clearly of impliedly. Likewise, its ruling no 86 (9/3)- on the deposited capital for investment in the Islamic bank-held

undertaking should not be imposed on the *muÌÉrib* (bank) to guarantee the capital in the contract of the *MuÌÉrabah* between the bank and depositors, (Sanusi, 2011).

Second: There is a minority opinion in MÉlikÊ and ×anbalÊ Schools and which also the opinion of Ibn Taymiyyah, that the stipulation of undertaking on the *muÌÉrib* is valid and permissible. The ground of this opinion as follows:

a. The Prophet (pbuh) said: "Muslims are held on their conditions/promises" (AbË DÉËd & TirmidhÊ). Another narration mentioned "except a promise which amounts to legalize what Allah forbids and forbid what Allah allowed". It is fairly clear that the imposition of undertaking on the *muÌÉrib* not in any way contradicts the legal text or amounts to legalize what Allah forbids and forbids what Allah has allowed. When Imam AÍmad was asked he said: liability of the Muslims is subject to their stipulations in the contracts, (Ibn QudÉmah & Ibn MufliÍ).

b. The *muÌÉrib* has agreed upon him to undertake the undertaking despite the fact that he was not initially obliged to so undertake. Furthermore, consent is the paramount consideration in dealing with properties of others. As ShawkÉnÊ said: paramount consideration in allowing the dealing with properties - commodity or services - of others is no other consent except the *sharÊÑah* specifically forbids it, (*al-Sayl al-JarrÉr*).

c. The imposition of undertaking on the *muÌÉrib* by the capital provider to return the capital is just like the condition imposed by the seed's owner in sharecropping who want to repossess the seeds, and similarly the condition imposed to reclaim the land and trees by the respective owner in the sharecropping and watering. Ibn Taymiyyah mentioned in *al-IkhtiyÉrÉt al-Fiqhiyyah*: should the owner of the seeds stipulate to get back the seeds, it is permissible just like *MuÌÉrabah*. He further mentioned in his *MajmËÑ al-FatÉwÉ*: the stipulation which imposed to repossess the capital in *MuÌÉrabah* is like the stipulation to repossess the trees and land, i.e. sharecropping and watering. In this regard Ibn al-Qayyim said: land in sharecropping is equivalent to the capital in *MuÌÉrabah*, (Sanusi, 2011).

4.4 Assessment of juristic views

Basically, those who are in the opinion that undertaking is not allowed, based their argument on that such stipulation is incompatible and contrary to the general provisions of all kinds of contracts of trust, given that it would not certainly serve the interest of such a contract and therefore is void. The proponents, however, rebutted this argument on several grounds, (Sanusi, 2011), as follows:

a. The maxim which says, 'those who keep property of others on trust is held no responsibility to guarantee except for his negligence and misconduct' is not an absolute (*kulliyah*) principle but is a partial (*aghlabiyyah*) one. This is because there are other exemptions instead of negligence which constitute responsibilities and obligations. However, this argument can be refuted that, being a partial does not weaken or rescind

the maxim as each maxim has some exclusions and exceptions. Also, the discussion is regarding the usual situation without having any exemption such as negligence, misconduct and so forth.

b. In the event where a trustee (deceased) does not acknowledge his heirs that holds a trust during his life time; in this regard a maxim of ×anafÊ School says, 'a trustee by way of ignorance is a guarantor'. Also, the article (1430) of the *Majallah* says, 'if a *muÌÉrib* died unknown –to his heirs that he was a guarantor- the undertaking is transferred to his heirs', as well as article (1883) says, 'the assets of *MuÌÉrabah* remain as a debt on a deceased inheritance, if he died unknown - to his heirs that he was a guarantor-'. The argument, however, can be confuted that the situation of ignorance is incomparable with other situations. Moreover, in example given, the heirs are liable not the *muÌÉrib* as he already died.

c. ×anafÊ and MÉlikÊ Schools believe that, custom requires converting the trusteeship into a guarantor as it is considered a basis of judgment provided that it does not go against any legal text. Ibn Nujaym was asked if a person was hired to cook and while he is cooking he breaks a jar in the kitchen and the custom requires in such case, the cook has to be liable for the broken jar, he answered: a widely known is like determined and it becomes as if the cook consented to be liable. However, such custom is not applicable in the case of *MuÌÉrabah* as it goes against the general principle of *MuÌÉrabah*.

d. The MÉlikÊ School is with the opinion that, those who are hired to produce goods –for instance tailors or carpenters- are held responsible for the commodities stored in their custody. The opinion is based on the principle of public interest as well as closing the course of harm.

e. The majority jurists stated, the co-employees are free from undertaking if there is no connection between the damage inflicted on the goods and his specific work, and there are no proofs whatsoever to show his negligence and misconduct. However, some scholars from MÉlikÊ School opined that, the frequent incidence of breach of trust nowadays requires undertaking to be imposed, and this is preferred in the case of the vehicle's broker.

4.5 The Preponderant opinion

After having discussion on arguments and counter-arguments the present researcher prefers the opinion of the majority of the jurists, since the scholars of MÉlikÊ, and ShÉfiÑÊ Schools, as well as ×anbalÊ School in one stand opined that such stipulation invalidates the *MuÌÉrabah* arrangement, whereas ×anafÊ School, as well as ×anbalÊ School in famed stand opined that such stipulation is invalid but the *MuÌÉrabah* partnership will remain valid, as this condition does not lead to the ignorance about the profit. So, all scholars are agreed on the invalidity of the stipulation though they have differed regarding the contract that contains such stipulation. Nevertheless, with regard to this ruling there is no difference between the single or exclusive *muÌÉrib* that manages the funds of a specific individual only and the common *muÌÉrib* who manages the funds of many persons and mingles them and then puts in investment as it happens in the banks.

Moreover, the comparison of the common *muÌÉrib* with the co-employees is not sound, and it is a wrong and invalid reasoning. The co-employees are basically the worker, carpenter, and manufacturer etc. who receives the goods and materials from their owners to make something for them against a specific fee(s), such as a dressmaker takes the cloth to sew that, the carpenter receives the timber from the owner to make something for him against a defined payment, and so on. On the other hand, the common *muÌÉrib* who receives the funds from many persons and commingles them with their consent, and then puts these in the investment on *MuÌÉrabah* partnership, and being a partner he receives his portion of the profit yields from the *MuÌÉrabah* project according to the ratio agreed thereon with capital providers. Nevertheless, the exclusive *muÌÉrib* also does the same with his financier. So naturally the capital of *MuÌÉrabah* is subject to profit and loss, whether exclusive or common, thus the *muÌÉrib* shall not be liable for the capital except the event of his negligence and misconduct, while the materials and goods given to the employee are not subject to loss naturally, so if there is any damage obviously it will be due to negligence and misconduct unlike the capital of *MuÌÉrabah*, and hence he will be liable. So, both cases are not similar and ruling thereof also will be different accordingly, thus the comparison and reasoning between two cases is unsound and invalid.

Furthermore, reasoning based on the case of undertaking of the co-employee is invalid; since the view of the validity of undertaking of co-employee is verified neither by the legal text nor by the scholarly consensus, rather this is just opinion of some jurists. So this is contrary to the established principle of *UÎËl al-Fiqh* which says the ground of reasoning shall be the ruling that is verified and proven either by the legal text or by the scholarly consensus. The ground of the reasoning in our case is the ruling of validity of undertaking by co-employee, which is controversial per se among the scholars and proven neither by legal text nor any scholarly consensus, so reasoning and comparing with this case is unsound and invalid, (IRTI, 2000).

4.6 Voluntary Guarantee by MuÌÉrib

From the above discussion it is evident that being the *muÌÉrib* Islamic bank is not allowed to guarantee the profit sharing investment accounts. However, Islamic bank can provide it voluntarily (*tabarruÑ*), as suggested by Al-Tegani (2002), since *muÌÉrib can volunteer to offer such a guarantee as a gift. This is further advocated by Fahim Khan (2003) that it deserves serious consideration particularly in the banks-depositors MuÌÉrabah relationship in an Islamic banking system. However, that tabarruÑ on the part of the bank to compensate for a loss to the depositors will be acceptable in sharÊÑah particularly when in a contemporary banking system banks are heavily regulated and supported, the probability of a bank making a loss on the investment of depositors' money is small, and banks are voluntarily willing to make the tabarruÑ while they have the capacity to make such tabarruÑ, (Fahim Khan, 2003).*

Nonetheless, attention should be paid to the meaning of a donation or a gift. In order to ensure the validity of such offer a guarantee as a gift, it should not be stated in the MuÌÉrabah contract, neither explicitly or implicitly, nor should it be given except after the MuÌÉrabah contract has already been concluded. In other words, conclusion of the MuÌÉrabah contract should not be based on the condition of offering such a guarantee. Besides, offer of the guarantee, as a free voluntary act, should not be binding on the muÌÉrib; because it is a form of voluntary gift or donation. The contract should not be abrogated as a result of the absence of such voluntary offer of guarantee, for if this happens it would be, in reality, as if the guarantee has been made a condition of the contract, (Ali El Gari, 2003).

Furthermore, this tabarruÑ fund can be allocated in a way that when banks make such a tabarruÑ, may like to retain a fraction of the yearly income of shareholders in a special account of shareholders which would be used to compensate the depositors for any loss of their principal amount that may occur when doing business with their money. Maintaining such an account from contributions from shareholders' income will be similar to paying an insurance premium to a third party to guarantee the depositor's principal amount. Maintaining own special account rather than paying a third party for deposits' insurance is a better option as it would reduce the possibility of moral hazard on the part of the bank's management in using depositors' money, (Fahim Khan, 2003).

4.7 Guarantee by the Third Party

The capital provider may require the manger to arrange for an independent third party performance guarantee. The guarantee shall be executed as a separate contract and be utilized to for any loss or depletion of capital in the event of misconduct, negligence, dishonesty, fraud or breach of the terms of the contract by the manager. The third party guarantor shall be independent from the manager such that is shall not be a related party where the manager has majority ownership and/or having control in the entity nor shall it be either as a subsidiary or an entity that the manager owns or controls. The *MuÌÉrabah* third party guarantee may be in the form of performance guarantee of the *MuÌÉrabah* transactions or *MuÌÉrabah* capital itself. For example, capital employed to sell assets or render services may be accompanied by a third party guarantee on payment for such sales and services, (BNM: SPR 3).

An example of third party guarantee is Malaysia's PIDM (known internationally as the Malaysia Deposit Insurance Corporation MDIC). In tandem with the dual banking system Malaysia established a deposit insurance system that provides protection to both Islamic and conventional deposits. This deposit insurance system was introduced on 1st September 2005 and was the first deposit insurer to provide separate protection for conventional and Islamic deposits under one organization. The Islamic deposits insurance system in Malaysia is endorsed by the Bank Negara Malaysia's *SharÊÑah* Advisory Council based on the arrangement of *'kafÉlah bil ujr'*, i.e. guarantee with fee. Under this arrangement, MDIC is the guarantor and a member bank is the guaranteed party. According to this contract, a member bank is required to pay premiums for the guarantee received. In the event of a member's failure, MDIC will reimburse the insured depositors and banks be automatically subrogated to the rights and interests of the depositor's claim to the extent of the payment mode. Such arrangement serves as a legal basis for the relationship between MDIC and its member, (Sobourin, 2009).

As to the issue of *'kafÉlah bil ujr'*, i.e. guarantee with fee; though almost all classical scholars and Schools of *fiqh* are with the opinion that guarantee with fee is not permissible, (*KashshÉf al-QinÉÑ, al-Mudawwanah, al-MughnÊ*), as receiving any fee to provide guarantee service converts the *tabarruÑ* arrangement into commercial exchange (*muÑÉwaÌah*) contract, a group of contemporary scholars namely YËsuf al-QaraÌÉwÊ, Shaykh NazÊh HammÉd and scholars at SAC Bank Negara Malaysia have allowed charging fee to provide guarantee service. They argued that a guarantor deserves a good reward from the guaranteed person similar to his contribution for the guaranteed person or even more, just like the *hibah* when it is associated with the expectation of a reward, i.e. *hibah al-thawÉb* or *bi sharÏ al-thawÉb*. Similarly a

lending contract associated with a consideration will convert to it *ijÉrah*. The same is true with *wakalÉh* which can be converted to *wakalÉh bi al-ajr*, (Azman Noor & Muhamad Nasir).

Like others (Azman & Nasir) the present researcher, however, is reluctant to accept the concept of *'kafÉlah bil ujr'* for PIDM, rather it is suggested here that the concept of *takÉful* can be studied as an alternative to *'kafÉlah bil ujr'* to be the underlying contract of PIDM. In the *takÉful* arrangement the MDIC will play the role of *takÉful* operator and the member bank will be the *takaful* participant. A pool of fund will be created by the donation of the member banks and any adverse situation will be tackled by this fund. Since one of the approaches to set up a *sharÊÑah* compliant deposit insurance is the combination of contract and government regulation (discussion paper of IADI, 2010), the government may assess and decide to adopt a *takÉful* contract for its Islamic deposit insurance system. As a *takÉful* contract involves voluntary contributions or premium payments from the Islamic banks, the government could issue a regulation making premium payments mandatory.

5. CONCLUSION

Islamic banks receive deposits by using various *sharÊÑah* principles as the underlying contract thereof. The issue of guaranteeing investment deposits concerns the profit sharing investment accounts (PSIA) only as in other contracts like *WadÊÑah* and *QarÌ al-×asan* bank has to provide guarantee as bank plays the role of a custodian thereof. Nevertheless, with regard to PSIA, Islamic bank cannot guarantee as the underlying principle here is *MuÌÉrabah* and in the liability side of the balance sheet bank plays the role of *muÌÉrib*. So the *muÌÉrib* is not allowed to provide any guarantee for the principal and profit as far as *sharÊÑah* provisions are concerned. However, Islamic bank can do it voluntarily or can arrange a third party guarantee for the PSIA holders. Malaysia's PIDM is an example on third party guarantee. Nonetheless, in respect of PIDM, the study suggests that the structure of *kafÉlah bil ujr* contract may need to be reconsidered and the concept of *takaful* can be utilized instead.

REFERENCES

AAOIFI. (2010). *SharÊÑah Standards for Islamic Financial Institutions*.

Abu IsÍÉq IbrÉhÊm al-ShÊrÉzi. (2003). *Al-Muhadhdhab fÊ Fiqh al-ImÉm al-ShÉfiÑÊ*. BayrËt: DÉr al-MaÑÉrif.

Al-Imam MÉlik. (2005). *Al-Mudawwanah*. QÉhirah: DÉr al-×adÊth.

Azman Mohd Noor & Muhamad Nasir Haron. (n. d.). *Charging Fee for Guarantee (al-KafÉlah bi al-ajr) and its Application by Deposit Insurance Corporation Malaysia (PIDM) for Takaful Benefits Protection Scheme*. Paper Presented at 8th International Conference on Islamic Economics and Finance, Centre for Islamic Economics and Finance, Qatar Faculty of Islamic Studies, Qatar Foundation.

Bank Negara Malaysia. (2009). Draft of SharÊÑah Parameter Reference 3: MuÌÉrabah Contract, (SPR 3).

Bank Negara Malaysia. (2010). SharÊÑah Resolutions in Islamic Finance, Second Edition.

×asan ÑAbd AllÉh al-AmÊn. (2000). *Al-MuÌÉrabah al-SharÑiyyah wa TaÏbÊqÉtuhÉ al-×adÊthah, (MuÌÉrabah and its Contemporary Applications*). IRTI. IDB. Third Edition.

Ibn Rushd. (2006). *BidÉyat al-Mujtahid wa NihÉyat al-MuqtaÎid. BayrËt*: Mu'assasat al-MaÑÉrif.

International Association of Deposit Insurance, IADI. (2010). *Deposit Insurance from the SharÊÑah Perspective*. Discussion Paper, February 2010.

Jean Pierre Sabourin. (2009). *Role of Islamic Deposit Insurance in Providing Stability to the Islamic Financial System*. Paper presented at the 3rd IFSB Public Lecture on Financial Policy and Stability, Kuala Lumpur, 2009.

Mahmood M. Sanusi. (2011). *SharÊÑah Issues in Islamic Finance*. INCEIF, The Global University of Islamic Finance, Kuala Lumpur.

ManÎËr ibn YËnus ibn IdrÊs al-BahËtÊ. (1982). *KashshÉf al-QinÉÑ Ñan Matan al-IqnÉÑ*. BayrËt: DÉr al-Fikr.

Maria L. Fres-Felix. (1991). *Deposit Insurance Schemes: Its Nature, Role and Issues*. The South East Asian Central Banks' Research and Training Centre, Kuala Lumpur, Malaysia.

Ministry of AwqÉf and Islamic Affairs. (1998). *Al-MawsËÑat al-Fiqhiyyah*. Kuwayt. Vol. 34 & 38.

Mohammad Ali El Gari. (2003). Guarantee by the Islamic Bank of the Investments Deposit. *J. KAU: Islamic Econ*. Vol. 16, No.2, pp. 23-27.

Muhammad Fahim Khan. (2003). Guaranteeing Investment Deposits in Islamic banking System. *J. KAU: Islamic Econ*. Vol. 16, No.1, pp. 45-52.

Mohammed Khnifer. (2010). Towards A Universal Islamic Deposit Insurance System. *Islamic Business & Finance*. November 2010, pp. 20-24. December 2010, pp. 26-30.

Md Khairuddin Hj Arshad. (2011). *Implementation of an Islamic Deposit Insurance System for the Islamic Financial Service Industry*. Paper presented at the Fourth Islamic Financial Stability Forum, Kuala Lumpur, 2011.

MuÍammad Muwaffaq al-DÊn ÑAbd AllÉh ibn QudÉmah al-MaqdasÊ. (1998). *Al-MughnÊ*. BayrËt: DÉr al-Fikr.

MuÍammad ibn AÍmad al-SarakhsÊ. (2009). *KitÉb al-MabsËÏ*. BayrËt: DÉr al-Kutub al-ÑIlmiyyah.

MuÍammad ibn ÑAlÊ al-ShawkÉnÊ. (1985). *KitÉb al-Sayl al-JarrÉr al-Mutadaffaq ÑAlÉ ×adÉ'iq al-AzhÉr*. BayrËt: DÉr al-Kutub al-ÑIlmiyyah.

Zayn al-DÊn ibn IbrÉhÊm ibn Nujaym. (2002). *Al-BaÍr al-RÉ'iq sharÍ Kanz al-DaqÉ'iq*. BayrËt: DÉr IÍyÉ' al-TurÉth al-ÑArabÊ.

MICROFINANCE THROUGH ISLAMIC BANKING TO EMPOWER WOMEN

Sreejata Banerjee[4]
Azhar Uddin[5]

ABSTRACT

There is universal consensus on the significance of microfinance in enhancing the productivity of the marginalized members of the society. This paper proposes a modified version of *Mudaraba* model, which can be applied to microfinance through active participation of Muslim women. Islamic banking can expand its outreach to the poor by applying this variant of *Mudaraba* model of profit sharing. Islamic law provides women the right to earn money. Improving cash flow in the family through women's participation in small household level enterprise can raise economically weak families out of poverty at the grass root level. The proposed model differs from the conventional *Mudaraba* model. The borrower has the incentive to keep a higher proportion of the profit while loss if any is borne by the capital provider. But the lender's interest is protected by using group lending as a vehicle to control transaction costs reducing risk.

Keywords: Islamic banking, Microfinance, *Mudaraba* ,Women empowerment.

1. INTRODUCTION

Many Muslims across the world decline to access financial services offered by conventional banking which is based on interest, because Islam prohibits *riba* in unconditional terms (Quran: Chapter 2, Verse 278). Hence there is an overwhelming need for the development of financial services that are Islamic law, *sharia* complaint to meet the growing need for Islamic banking. Since the last decade of the twentieth century initiatives have been taken to expand Islamic finance to microfinance sector to provide the poor access to financial services. With an estimated population of over 1.2 billion Muslims in the world, more than 650 million of them earn income less than $2 a day or below the national poverty line. (Obaidullah and Khan, 2008).With this wide spread poverty among the Muslims, Islamic microfinance can play a vital role in the pursuit of poverty alleviation.

The importance of microfinance in Islamic banking is well documented since the phenomenal success of the Grameen bank in Bangladesh pioneered by Nobel Laureate Professor Muhammad Yunus. Amanah Ikhtiar Malaysia (AIM) the Malaysian microcredit organization was established in 1986, it broadly followed the Grameen model. Mamun, Wahab, Hossain and Malaravizhi (2010) explored the road traversed by AIM upholding Islamic principles to benefit significantly the quality of life of the extremely poverty stricken families through its microcredit schemes The highlight of their paper is their assessment of the success of AIM in

[4] Dr. Sreejata Banerjee, Visiting Professor, Madras School of Economics sreejata@mse.ac.in
[5] Azhar Uddin, Academic Intern, Indian Institute of Management Bangalore. Corresponding author: azharrla@yahoo.com

a well-structured statistical method to show how apart from the poverty alleviation program of the Malaysian government since the 1970s the AIM's role has been an exemplary. Shahinpoor (2009) establishes the compatibility of microfinance and Islamic banking on its principle of a just society where the poor are encouraged to take part in economic activities to extricate themselves from the vicious cycle of poverty. Rahman (2010) emphasizes upon the ethical and moral values of Islamic finance that would help micro entrepreneur to prosper by developing different financing schemes suited for different types of entrepreneurs. El-Komi and Croson (2013) experimentally tests *sharia* compliant microfinance contracts with that of interest based contracts and find that *sharia* compliant contract performs better in terms of compliance compared to interest based financing. They suggest that the borrowers in profit and loss sharing (PLS) contract feel morally obliged to "comply with the terms of the contract" to show their loyalty towards their risk sharing partner. Development of micro entrepreneurship through microfinance will have its impact on wellbeing of many poor Muslim particularly for Muslim women (Zapalska and Haugland, 2013). Dusuki (2006) advocates adoption of the various group-based lending in light of social capital for implementation of Islamic microfinance, referring to the "Asabiyah" of social solidarity for applying the group lending model for larger access to the poorer section of the Malaysian society. He proposes that the trust and willingness to cooperate provides the platform to achieve common goals.

Despite tremendous growth of Islamic microfinance in terms of number of clients (an estimated 1.28 million) and service providers (an estimate of more than 255), the challenge remains in developing sustainable *sharia* compliant products to serve the financial needs of poor Muslims. The most popular products practiced are *Murbaha* and *Qard Hassan* while *Mudaraba* has become almost eliminated in comparison to *Murabaha* (CGAP, 2013). The sustainability and success of Islamic microfinance lies in developing a variety of financial services to meet the needs of the poor. *Mudaraba* financing could be a useful method for those who have basic skills for a small retail trade or business but urgently require capital (Khan, 2008).

Dhumale and Sapcanin (1998) presents *Mudaraba* model with an example where the entrepreneur buys the share of the loan in each instalment assuming that the entrepreneur makes a fixed weekly profit. It also recognizes the complexity associated with the varying instalments to be paid by the entrepreneur, which gets worse when the profit fluctuates. Nadeem (2010) presents a similar *Mudaraba* model citing five challenges of the model as- monitoring of loan, moral hazard, adverse selection, uncertainty of profits and uncertainty of payment amounts.

With the success of Grameen bank in Bangladesh, microfinance has spread to many countries across the world to provide credit to the poor who were considered to be "unbankable". The interest based microfinance has also spread in many Muslim countries, yet a sizable part of the Muslim population hesitates to take financial service based on interest which is strictly prohibited in Islam. Therefore there is an overwhelming need for financial products that are *sharia* compliant and developed on the PLS contract rather than on interest rate. *Mudaraba* contract is based on the principle of PLS contract. Yet over the years its use has declined because of the greater inherent risk. Presently Islamic banking has extended its scope in microfinance. In microfinance, two financial products that are widely used are *Murabaha* and *Qard Hasan*. The original *Mudaraba* product has been replaced by *Murabaha* which is comparatively less risky. To the best of our knowledge, there is no literature on improving the original *Mudaraba* product so that it can be used in microfinance given that this is the closest

to the belief of Islamic finance. This study proposes a modified version of the original *Mudaraba* model that can be applied effectively to handle the credit needs of the poor who have an appetite for trade or business but lack the wherewithal.

This paper is organized as follows. After the introduction, the second section discusses the right and status of women in Islam and how microfinance can enable women to be empowered within the Islamic laws and social customs. The third section compares the different traditional products of Islamic banking. The fourth section contains the modified *Mudaraba* model and its advantages compared to the traditional *Mudaraba* model. The conclusion and limitations of the study with scope for future research are given in the last section.

2. WOMEN EMOPWERMENT AND THEIR ECONOMIC RIGHTS

2.1 Women empowerment

The status of women and their rights in Islam remains a widely discussed and debated within and outside the Muslim society. There is a view in general that Muslim women are deprived of many basic rights and privileges. The primary reason for this "debate" is that people perceive Islam on the basis of what they observe among Muslims, rather on the basis of what the Quran and authentic *Hadidth* say. Prior to the development of Islam during the time of Prophet Muhammad (Pbuh), women were objectified and female children were buried alive in Saudi Arabia during the age of darkness and ignorance. Islam brought the dignity by assigning women the rights to live with dignity and freedom. Starting with the right to education, women were empowered in Islam with their right to earn income, right to inheritance, to participate in political affairs, right to take marital gift, *Mehr*, to marry someone of their choice to name a few. Unfortunately even today, Muslim women are not allowed to assert their rights in Muslim societies as prescribed by the Holy Quran and the *Hadidth*. Most Muslim women are not even aware of their own rights. Until and unless Muslim women realize their own rights and are allowed to practice them, they will continue to suffer and the Muslims as a community have a long way to go before they become an equitable and just society.

Although microfinance has the potential in alleviating poverty, its impact on empowering women is debatable. Pitt et al. 2006 find micro credit program enhances women empowerment through its impact on the role played by women in domestic decision making. Other studies also reiterate the increase of women empowerment through microfinance services (Leach & Sitaram, 2002; Rai & Ravi, 2011). However, critics of microfinance argue that Microfinance Institutions extort poor people by charging a high interest rate which compels them to remain inside the vicious cycle of poverty.

In case of Islamic microfinance, the issue of charging high interest rate does not arise. Encouraging Muslim women to take part in economic activities through provision of financial services can ultimately lead to the realization of their rights and achieve empowerment.

2.2 Economic Rights of Women in Islam

Looking back in history, the right to own property was established in Islamic law 1400 years back. Even though women are completely financially secure in Islam, they are deprived of their

financial security because of the poverty within the family. According to Islamic law, women have the option of not working to earn their livelihood. But she has the right to possess or to own or to dispose any of her own property in any way she feels fit irrespective of whether she is single or married. There is no Islamic law that prevents women from working or taking part in business if that job or business is legitimate. Poverty is a universal phenomenon touching lives of all across the globe; yet Islamic finance provides a pragmatic approach to alleviate poverty without compromising the dignity and motivation of beneficiaries, as is widely visible in politically determined doles and unemployment benefits. Many Muslim families around the world face severe financial constraints for lack of physical assets and assured source of income. In such families if women are encouraged to take part in economic activity (though they cannot be coerced) through active participation in small business or trade, it will substantially improve their quality of life.

Islam is completely against the system of dowry that is prevalent in some societies where men demand and sometimes force the parents of the bride for dowry. Instead, Islam advocates that men must give women a marital gift, *Mehr* at the time of marriage (Quran: Chapter 4, Verse 34) which is exclusively hers and she has no obligation to spend that for her family. But in many cases, men do not give this *Mehr* the way it has been prescribed and usually it is decided by the parents of the bride and groom, rather than the bride who has the sole authority of accepting or rejecting a *Mehr* proposed by the groom. After the marriage, the bride need not spend her *Mehr* on family expenditure; rather she can use that in business to earn income. The fact that women have a right to claim a certain amount of money or assets at the time of her marriage is itself an evidence of her economic power. It is high time that Muslim women realize their economic rights which will make them financially independent as they do not have any financial obligation even if they earn income. Once women are independently financially secure, they can exert pressure for their other rights and will have greater decision making power within the family. The scope for the evolution of an equitable and just society where both men and women have their role to play without any gender discrimination remains as yet a distant dream. In the next section the different financial services developed under Islamic finance is discussed.

3. TRADITIONAL ISLAMIC PRODUCTS:

MUDARABA

Probably the most fundamental product of Islamic finance is *Mudaraba*. In this contract, the financier provides the funds and the entrepreneur/borrower provides his labour and skill for the business. In case of profit from the business, it is shared between the two parties in a pre - determined ratio, not on lump sum amounts. In case of loss, the financer loses his capital while the entrepreneur loses his time and effort unless it can be proved that the loss is due to the neglect and mismanagement on the part of the entrepreneur. The two main issues in this type of contact are- the inherent risk involved and the complexity of the contract. As the nature of the contract suggests that it is a very risky product particularly for the financer who loses all

his funds in case of loss from the business. For this reason, the financer has to spend a great deal of time and effort before the approval of loan so that it does not lose his entire capital, thus he faces high transaction costs. The other problem with this contract is the complexity of the contract. As the borrower has to negotiate with a myriad of instalments rates rather than equal instalments, it requires considerable accounting skills.

MUSHARAKA:

This is a partnership contract in which both the parties- the entrepreneur and financer contribute their capital for the business. In case of profit, it is shared between the two parties in pre determined ratio. In case of loss, it is also shared between the parties usually according to the contributions of each party's capital share unlike *Mudaraba* contract where loss is entirely borne by the capital provider.

MURABAHA:

This is the most controversial and widely used Islamic banking product. This is probably because of the lower risk anticipated and the simplicity of the contract compared to other Islamic banking products. Though many believe that this type of product is almost equivalent to the interest based financing in conventional banking, there are others who believe that this is in line with the principles of *sharia.* But we can safely conclude that this type of contract is not closest to the principle of Islamic banking compared to other practiced PLS contracts in Islamic banking.

This contract is based on cost plus mark up pricing. The financer buys a commodity on the request of a borrower and sells it to the borrower after adding a mark up on the cost of the commodity at which it bought initially. Though at first sight, it might sound similar to the interest based financing of conventional banking with a different name, but there are crucial differences. The most significant difference of this product with that of interest based financing is the risk involved for the financer. The financer takes the risk of buying the product on behalf of the borrower as the borrower has the option of declining to accept the product after the financer has invested his resource to purchase the product for the borrower. In interest based financing, the financer is certain that he would receive a certain amount of interest, but in *Murabaha* contract the financer is not certain that the borrower would actually buy the product from the financer, so there is risk involved for the financer unlike interest based financing.

IJARAH:

This is a popular financial product used extensively in Islamic finance and is similar to conventional leasing. An entrepreneur who requires a commodity or asset approaches the financer to buy it on his behalf. The financer then rents the commodity or asset to the borrower for a specified period. During the renting period, the financer is responsible for the maintenance of the product who also holds the ownership of the product. At the end of contract, the financer takes back the possession of the product. In some cases, the entrepreneur/borrower has the

option to buy the asset when he agrees to pay regular instalments for the ownership of the product at the end of the contract as per the agreed price.

QARD HASAN:

This is an interest free loan to those who are in need. The Quran encourages Muslims to utilize this type of loan. The borrower only repays the principal amount, although a service charge is allowed for administration cost of the loan which must not be higher than the actual administrative cost incurred for the loan. Pragmatically, this is purely an altruistic service by an IMFI. The charitable component makes this an unviable method unless supported by rich donors. This type of loan is given only to those who are in dire need of financial assistance and IMFI can utilize the charity fund for advancing these loans.

4. MODIFIED MUDARABA MODEL, COMPARISION AND ITS SUSTAINABILITY

4.1 Modified Mudaraba Model

We present our version of *Mudaraba* model with a simple example. We emphasize here on only women group though this version can also be used for men group. Let's assume two women form a group to avail a loan. We call them W1 and W2. They need capital to start a business where they will buy flowers to make garlands and sell them in the market to earn income. They do not have the required capital to buy the raw materials (flowers) to start this business. They approach an IMFI for loan of, say 5,000[6] for 6 months. Inspecting the feasibility of the prospective business, IMFI approves a loan of 5,000 with pre-determined share of profits. They divide 5,000 and each take 2,500 to start their own flower selling business. The profit should be shared in a pre-determined ratio. We propose that there should be various pre determined ratios in which profit should be distributed between the entrepreneur group and the IMFI. For simplicity, if the profit is 50%, they share the profit on 50:50 ratios. If it is 60%, then ratio of profit between the entrepreneur group and the IMFI becomes 55:45, if 70% then the ratio becomes 60:40, for 40% profit it becomes 45:55 and so on.

The rationale for assigning differentiated levels of profit sharing ratios is to incentivise the entrepreneurs to make higher profit in order to earn a larger share of profit from the business. If there were a single pre-determined ratio and the entrepreneurs realize after starting their business that they could have bargained for a higher share of the profit ratio, improving their cash flow; they may become demotivated by a single pre-determined profit share that would favour the IMFI. This mechanism if implemented could also ensure that the IMFI's initial investment is not loss due to negligence or lack of diligence on the part of the entrepreneurs. At the end of 1st month, let's assume W1 makes a profit of 400 and W2 makes a profit of 50. They deposit the total profit as a group of 400+50 = 450 at the end of the month at the IMFI. In the 2nd month, a total of 450 profit (W1=300, W2=150) is deposited at IMFI and in the 3rd month a total of 300 (W1=100, W2=200). A total profit of 600 (WI= 500, W2=100), 600 (W1=200, W2=400), 600 (W1= 500, W2= 100) are deposited at the end of 4th, 5th and 6th month respectively. Whether the entrepreneurs will deposit their profit on weekly or monthly basis

[6] This number is for illustrative purpose. It can be used in any currency.

depends on the type of business they are doing. Sometimes it may be costly for the borrowers to deposit their profit on weekly/monthly basis at the IMFI. In that case, staff member of the IMFI can directly collect the profit for that particular week/month on receipt of confirmation from the borrowers that they are ready to deposit their profit. Communicating to the IMFI to collect their profit should not be a problem at this age of widespread mobile services.

It can be argued that to reduce transaction costs the frequency to profit submission can be reduced to monthly or even quarterly. However, for the extremely poor holding on to liquid cash is a serious challenge. Moreover, if the borrowers deposit their profit on weekly/monthly basis, the IMFI has a mechanism to monitor the borrowers and their business. In case of delay or lapse in depositing profit for a specific period, IMFI representative can inspect and report to the group members and also act as a motivator by providing moral support to perform better in the future.

Now suppose that at the end of six months they have deposited 3,000 as group at the IMFI and they return the initial total loan amount of 5,000. So, the business makes a profit of 60% (3,000). According to the pre-determined ratio, the group entrepreneur gets a profit of 55% of 3,000 = 1,650 and the IMFI gets a profit of 45% of 3,000 = 1,350. W1 and W2 will divide this profit of 1,650 as a group between them in the ratio of their profit contribution 2000:1000= 2:1. So, W1 gets a profit of (2/3)*1,650 = 1,100 and W2 gets a profit of (1/3)*1,650 = 550. If the business had made a profit of 70% (3,500), the entrepreneurs would have got 60% of 3,500 =2,100 and the IMFI would have got 40% of 3,500 =1,400. If the profit were 50% (2,500), both the parties would have got 1,250 each. In case of 40% (2,000) profit, the entrepreneurs get 45% of 2,000 = 900 and the IMFI gets 1,100.This is the ideal scenario which may not work in real life always. This model is based on number of assumptions which may not hold in all circumstances and we try to answer what needs to be done if these assumptions are violated.

One major criticism of this model could be that why should the profit amount deposited over the periods be lying idle at the IMFI and be distributed only at the end of the loan period, 6 months in our example. We do not advocate that profits should be calculated at the end of the loan period. Rather it is advised that profit could be divided after the end of 3 months or every quarter till maturity date of the loan in the original contract between the entrepreneurs/borrowers and the IMFI. In fact the deposit of profit on weekly basis is likely to apply immense pressure on the borrowers given the vagaries of business environment even at the small retail level. Even if an entrepreneur does not make profit initially for a few periods, may be due to his lack of experience in this field, he can earn substantial profit in subsequent periods. The IMFI should believe in the capability of the small entrepreneurs and give adequate time to flourish in their business before establishing the profit sharing criteria mentioned in the contract as shown in the following table.

Table 1: Multiple pre-determined shares and the profits.

Profit %	Loan Amount	Total Profit Amount	Share (Entrepreneur)	Amount (Entrepreneur)	Share(IMFI)	Amount(IMFI)
10	5,000	500	0.3	150	0.7	350
20	5,000	1,000	.35	350	.65	650
30	5,000	1,500	.4	600	.6	900
40	5,000	2,000	.45	900	.55	1100
50	5,000	2,500	.5	1250	.5	1250
60	5,000	3,000	.55	1650	.45	1350
70	5,000	3,500	.6	2100	.4	1400
80	5,000	4,000	.65	2600	.35	1400
90	5,000	4,500	.7	3150	.3	1350
100	5,000	5,000	.75	3750	.25	1250

Source: Prepared by authors for the illustration of the proposed model.

Secondly, there is no guarantee that the group entrepreneur would always make a profit at the end of each week/month. There could be some weeks in which they can even make loses. Suppose both the entrepreneurs combined make a 100 loss in the second week while it makes a profit of 150 at third week. In this case the entrepreneurs do not deposit any money in the second week but deposits 50 at the end of third week. The members of the group will keep track of their own profit/loss in each period. The mechanism of loss adjustment clause can be inserted in the contract between the borrowers and the financier. If the trend of loss continues so that the entrepreneurs is unable to deposit any profit for some time and the IMFI feels that the business would not be successful, it can terminate(in fact either party can terminate the contract) the contract mid way, but the condition of termination should be mentioned at the beginning of the contract.

Thirdly, there is no guarantee that even in this varying profit share tilted in favour of the entrepreneurs when they make higher profit would in fact reveal and deposit their true profit although honesty is expected in Islamic context at the end of each week. For example, as can be seen from the above table that when profit is 10%, the entrepreneurs get 150 while if it is 20% they get 350. What the entrepreneurs can potentially do is that they form a cartel and show a 10% profit when the actual profit is 20%. In this way they get 150 + 500 (by not revealing the true profit) = 650 which is a better bargain than 350 though in an unethical way. If we have

to force the entrepreneurs to reveal their true profit the share should have been more than 65%, in that case they are better of revealing the true profit. But in this scenario IMFI's profit amount would be even less than what it received with 10% profit in the business. So, we need a balanced ratio where both parties are better off and the profit share may be tilted towards the entrepreneurs hoping they would reveal their true profits. Since there is no guarantee of loyalty, the IMFI could include a loyalty clause in the contract such that a second loan is assured if they show sufficient-profit and the amount of loan they would get is proportional to the profit they earn for the first loan. The higher the profit, greater will be the subsequent loans sanctioned. The strategy for this model to succeed from the financier's side is to ensure that the entrepreneurs reveal the true/actual profit. In case of more than 100% profit, (see Table No. 1) the entrepreneurs can take all the profit above the 50% profit amount of 1,250. It can also be observed that the amount of profit amount decreases for the IMFI as the entrepreneurs make higher profit as the profit ratios are skewed in favour of the entrepreneurs. As the profit share increases for the entrepreneurs, the IMFI should at least make 50% of profit (1,250) irrespective of however higher profit the entrepreneurs make. In the next section we examine the two types of model: the modified *Mudaraba* model proposed here to the conventional one.

4.2 Comparison and Sustainability

The two main problems with the conventional *Mudaraba* is the uncertainty of profit and the complexity associated with the contract. Probably because of the higher risk involved particularly for the financer, this fundamental product is almost defunct from Islamic banking even though this is closest to the thinking of Islamic finance. Obviously the risk cannot be eliminated in this product which is necessary in Islamic finance; we can try to minimize the risk inherent in this type of product so that this product can be extensively used in microfinance.

Although there is no financial obligation on women in Islam, yet in poor households it is indeed has become necessary for women to take part in economic activities so that they can lead a better life. Women have to be encouraged to participate in economic activity as Islam gives them their right to own property and take part in business to make profit. Currently in microfinance industry around the world, joint liability is used as an instrument for giving collateral free loans to the poor. So, women of homogeneous background and interest can form group to avail loan from the IMFI. Lending this way in group would drastically reduce the transaction cost of IMFI. The risk involved in group lending of, say 10 people with joint liability to pay back is much less compared to the loan given to 10 individual each. As the model specifies, in case of loss IMFI loses all its capital. There is greater likelihood of loss in case of individual loan. It is very unlikely that all the 10 members of the group would make losses. Losses of 2/3 members can be compensated by the profit of the other members so that as a group it makes profit. In this way, the risk of IMFI can be reduced with group lending and make it sustainable. There are many advantages of women participation. Loyalty of the borrower plays a critical role in this type of contract for a successful business. It is perceived that women are more trustworthy than their male counterpart and they would handle the accounting with greater level of commitment and sincerity than the men, although such a statement may be construed to be sexist or gender biased. The risk involved in this type of contract is high. While Islam encourages giving loan without any interest which is welcome. But if IMFI is based on this type of loan alone, it may not be sustainable. For sustainability it must develop some other products which Islam permits. *Mudaraba* is one such product, but the

risk in this type of contract is so high that IMFI are avoiding it. Because of likelihood that business would make profit and once it makes profit, IMFI could be sustainable. The pre-determined ratio of profit share given in the above table should be determined by the two parties on mutual agreement. But the financer should give enough incentive to the entrepreneurs so that it does its best to make the business successful.

There are a wide range of activities which can be supported through this method. Small trading business like home-made food items like pickles and jams, hand embroidery and stitching of scarfs or skull caps worn by Muslim men and related type of very small scale cottage industries can provide employment and livelihood to the marginalized and poverty stricken citizens of a society without appearing to be charity. It has been documented that acceptance of charity is considered to be lowering self- esteem and dignity.

In this aforementioned discussion the IMFI's sustainability is assured. The larger the group, greater are the economies of scale and lower the possibility of default, assuming there is no deliberate attempt to sabotage the program. Thus the modified *Mudaraba* model proposed in this paper focuses not only on the beneficiaries wholly on the issue of empowerment of women but also at the sustainability and success of the profit sharing modus operandi vis-a-vis the interest payment model that does not comply with the fundamental law of Islamic finance, by developing a model with a holistic approach to financial inclusion and poverty alleviation in compliance with modes of Islamic banking and finance.

Another major contribution of the model is its simplicity compared to the conventional model. In conventional *Mudaraba* model the borrower has to repay instalments of their loan amount which varies at each instalment. It is not only difficult to understand for the borrower but also for the loan officer to calculate the exact amount to be paid at each instalment. In the model we have proposed, the borrowers need not pay any instalments of their loan amount on weekly/monthly basis. At the end of week/month, they would deposit their profit if at all it has during that week/month. This is so simple that it would be easily understood by the women borrowers who are in most cases are either illiterate or have no formal education to keep track of sophisticated accounts.

We summarise the major differences of our model with that of the traditional model in the following table.

Table 2: Differences between the traditional and modified model.

Traditional *MUDARABA* model	**Modified *MUDARABA* model**
Single pre-determined profit sharing ratio	Multiple pre-determined profit sharing ratio
Not much emphasis on women participation, not always based on group lending.	Higher emphasis on women participation, only women would form group.
Loan amount is paid back in every instalment. It varies in each instalment as	Loan amount is not paid back as instalments, it is returned at the end of the

the borrower buys the share of initial loan amount at each instalment.	loan contract. Only profit is to be deposited during the loan period.
Lesser incentive for making higher profit for the borrower.	Higher incentive for making higher profit for the borrower.
Very difficult to understand and calculate each instalments not only for the borrower but also for the loan officer.	Very easy to calculate profit.
Profits are distributed at each instalment.	Profits are not distributed at each instalment.

Source: Prepared by authors for the illustration of the proposed model.

5. CONCLUSION

This paper is an attempt to revive the practise of *Mudaraba* model in microfinance industry with the modified version of the model. Though risk is inherent in this type of financing, the fact that borrowers show more loyalty towards this *sharia* complaint contract compared to the interest based financing as testified by El-Komi and Croson (2013) gives a reason for successful implementation of the *Mudaraba* contract in microfinance sector.

We present here the modified version of *Mudaraba* model which differs in key respect with that of the conventional *Mudaraba* model. One distinguishing feature of this modified PLS contract is that it gives the borrowers ample incentive to work hard and to be loyal with the risk sharing partner. Multiple profit sharing ratios depending upon the profit a business earns will result in greater transparency on the part of the borrowers which will also benefit the financer as the moral hazard problem is associated in this type of contract. Our model is based on joint liability arrangement where only women participate to bring changes to their life through entrepreneurship. It has been observed that women form groups with neighbours, relatives and friends with comparatively greater ease. This is evidenced by the collective group behaviour among women like the popular kitty parties and chit schemes that abound in Asian countries among women.

Islam emphasises on equality of men and women although they are not identical. The present Muslim world is far away from giving women their due rights as prescribed in Islam which is why many question women's status in Islam. Encouraging women to take part in economic activity could be the way ahead to realize their due rights which will enhance women empowerment. Although Islam provides complete financial security to women, but the fact that women are financially dependent upon men; women do not get their due rights in household decision making and to lead the kind of life they wish to live. Once women would be financially independent (though they may opt not to be), they will have greater role to play in decision making and will help enhancing their empowerment.

Our version of the model can be implemented where it is easy to calculate profit periodically as in small retail business or handicraft or homemade incense sticks or baking biscuits that can

be undertaken on a small scale with a reasonably good local market. Though on the side of abundant caution, it must be mentioned that this modified version of *Mudaraba* may not be universally applicable for all types of micro business. Since there exists scarcity of Islamic banking products it will serve the needs of some who are inclined towards or have an appetite for entrepreneurship. This version of the model could be adopted and introduced even as a pilot scheme since the traditional *Mudaraba* model is almost non-existent. There is a massive scope and need for research in developing other *sharia* compliant products that will serve the demand and the need of financial services for the Muslim poor around the world.

REFERENCES

Abdul Rahim Abdul Rahman, (2007). Islamic microfinance: A missing component in Islamic banking. *Kyoto Bulletin of Islamic Area Studies, 1*(2), 38-53.

Abdul Rahim Abdul Rahman, (2010). Islamic microfinance: an ethical alternative to poverty alleviation, *Humanomics, Vol. 26 Iss: 4*, pp.284 – 295.

Abdullah- Al- Mamun, Sazali Abdul Wahab, Sayed Hossain and C. A. Malarvizhi. (2010). Impact of Amanah Ikhtiar Malaysia's Microcredit Schemes on Hardcore Poor Households Quality of Life. *International Research Journal of Finance and Economics, ISSN 1450-2887 Issue 60 (2010).*

Ajaz Ahmed Khan, (2008). Islamic Microfinance Theory, Policy, and Practice. *Islamic Relief*, February 2008.

Alina Zapalska and Erik Wingrove-Haugland. (2013). *Business Journal for Entrepreneurs;2013, Vol. 2013 Issue* 1, p91.

A. Rai and S Ravi. (2011). Do Spouses Make Claims? Empowerment and Microfinance in India. *World Development*, *39*(6), 913–921.

Azhar Nadeem, (2010). *Islamic Business Contracts and Microfinance-A Case of Mudaraba. MRPA paper.*

Asyraf Wajdi Dusuki, (2006). Paper presented at Monash University 4th International I slamic Banking and Finance Conference. Kuala Lumpur on 13-14 November, 2006.

CGAP, 2008. Islamic Microfinance: An Emerging Market Niche. World Bank.

CGAP, 2013.Trends in Sharia-Complaint Financial Inclusion. Focus Note, No. 84.

F. Leach and S Sitaram. (2002). Microfinance and women's empowerment: A lesson from India. *Development in Practice*, *12*(5), 575–588.

Mark M Pitt, Shahidur Rahman Khanker and Jennifer Cartwright. (2006). Empowering Women with Micro Finance: Evidence from Bangladesh. *Economic Development and Cultural Change, 2006, vol. 54, issue 4*, pages 791-831.

Mohamed El-Komi and Rachel Croson. (2012) Experiments in Islamic microfinance. *Journal of Behavior & Organization* 95 (2013) 252-269.

Mohammed Obaidullah and Tariqullah Khan. (2008). Islamic Microfinance development Challenges and initiatives**.** IRTI Policy dialogue paper No.2 Jeddah.

N. Karim, M. Tarazi and X. Reille, (2008). Islamic Microfinance: An Emerging Market Niche. Focus Note 49. Washington D.C: CGAP, August.

Rahul Dhumale and Amela Sapcanin. (1999). An Application of Islamic Banking Principles to Microfinace. Technical Note, A study by the Regional Bureau for Arab States, UNDP, in cooperation with the MENA Region, World Bank.

Shahinpoor Nasrin, (2009).The link between Islamic banking and microfinancing. *International Journal of Social Economics, Vol. 36 Iss*: 10, pp.996 – 1007.

Vani S Kulkarni, (2011). Women's empowerment and microfinance. Discussion paper produced by the Asia and the Pacific Division, IFAD.

CREDIT RISK IN MICRO BUSINESS: DISCUSSION ON NET WORKING CAPITAL

Nur Masitah Muhamad[7]
Mohamad Yazis Ali Basah[8]

ABSTRACT

The aim of this paper is to examine credit risk in micro business by giving the attention at net working capital of the business. There are many approach can be used to examine credit risk of a business but in this paper just focuses on net working capital. Since micro finance institutions provide credit facility to micro business in short-term so, the author believes that net working capital is one of the suitable approach to measure credit risk in micro business. In general, credit risk may happen in two conditions. Firstly, risk as a lender. Secondly risk as a borrower. In this paper, the author will explain about credit risk in micro business as a borrower. Credit risk defined as a risk default by the borrower in fulfilling its repayments obligations. In addition this paper also emphasize on microfinance institutions because it is one of the institutions that provide credit facilities to micro business. As a lender, a micro finance institution is carrying out a risky business that provides credit to risky customer. In this paper, the author will discuss about net working capital which is one of the approach for micro finance institution and micro business in identifying the level of credit risk in the business. Identifying net working capital in the business is important part because its shows the performance of the business to the stakeholder.

Keywords: Micro, Business, Credit, Risk, Net Working Capital

1.0 INTRODUCTION

The nature of business is exposed to the several of risk. Generally there are variety of risk that can affect the success and failure of a business. Among them, there is a credit risk. Credit risk may happen in two conditions which are risk as a borrower or risk as a lender. In this paper, the author will highlight on micro business as a borrower. By doing so, it's clearly shows that, the topic will discuss on the credit risk associated with micro business when they get the credit facilities from micro finance institutions. Identify credit risk is crucial part for micro business in order for them to avoid any failure in business transaction. Net working capital is a main topic in this paper whereby it's become one of the approaches to see the level of credit risk in micro business. For micro finance institutions there are important for them in evaluating the level of credit risk in micro business since they provide credit facilities to the business. The level of credit risk of micro business may affect the cyclical flow of fund between micro finance institutions and other customer. Micro business is chosen in this topic because of their important contribution to the economy. Even the size of business is too small but its roles to the country are quite significant.

In Malaysia, micro business can be defined by looking at the number of workers and its annual revenue. According to SMECorp (www.smecorp.gov.my) generally, micro business refers to the business that has its annual revenue less than RM 250, 000.00 and comprises of less than

[7] Postgraduate Student, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM), mashitahmuhamad@gmail.com
[8] Senior Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM)

five permanent full time workers. Table 1.1 depicts the detail definition on Micro Business based on the sectors.

Table 1.1: Details definition on Micro Business by sectors

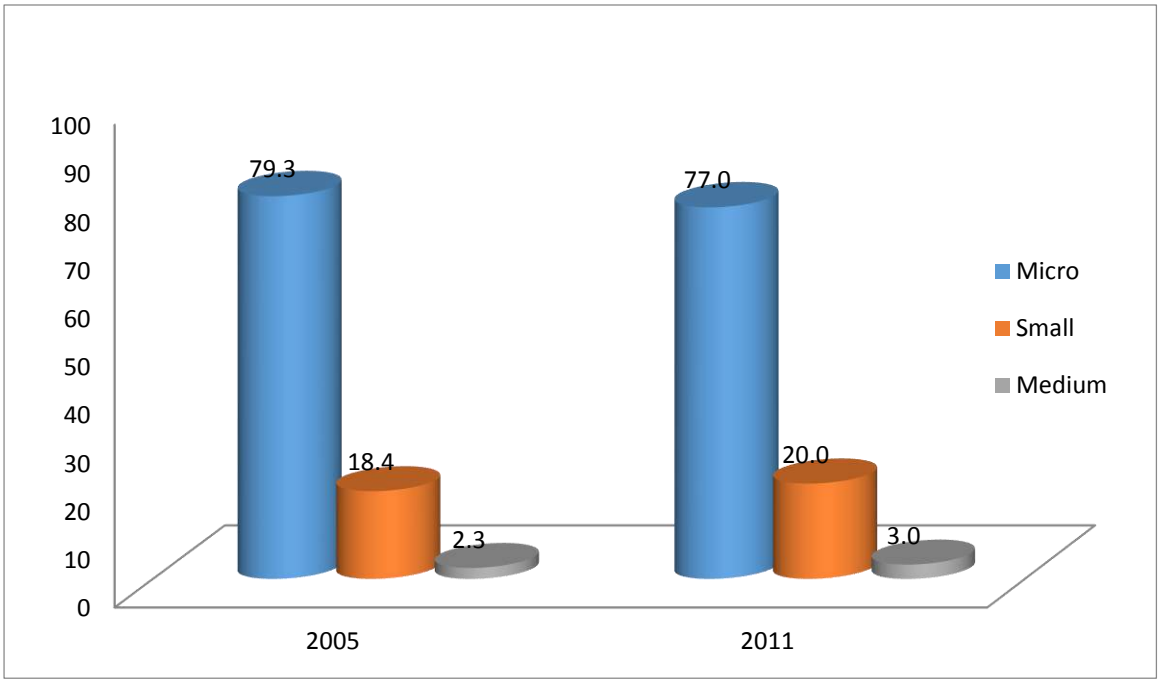
Sectors	**Agriculture**		**Manufacturing**		**Service**	
Micro Business	Workers	Sales	Workers	Sales	Workers	Sales
	<5 Workers	RM200,00.00	<5 Workers	RM 250,000.00	<5 Workers	RM 200,000.00

Source: SMEs Corp (www.smecorp.gov.my)

These three sectors covered in the Baseline Census of Establishments and Enterprise 2005 (SME Census 2005). While, the economic Census 2011 which was officially release on 18 September 2012 undertake comprehensive census covering all the five key economic sector which are not only agriculture, manufacturing and service sectors but also additional two sector were construction and mining & quarrying.

According to SMECORP (2008) Micro Business is a one of the category in the SMEs, which is SMEs categorized into medium sized companies, small business and micro business. Due to lack of specific information on Micro Business, this paper will present information on SMEs, since Micro business as one of the share proportion in SMEs. The following chart 1 show the percentage of SME by size.

Chart 1: Percentage of SME by Size



Source: Census of Establishments and Enterprise 2005 and Economic Census 2011, Department of Statistics, Malaysia

Census of establishments and enterprise 2005 and economic census 2011 undertaken by Department of statistics, Malaysia show that, micro businesses have a major percentage which are 79.3% in 2005 and 77.0% in 2011. The others are small and medium where the percentage of them is 18.4% and 2.3% respectively for 2005; 20.0% and 3.0% respectively for 2011. The percentage that represents small and medium business is quite small as compared to micro business.

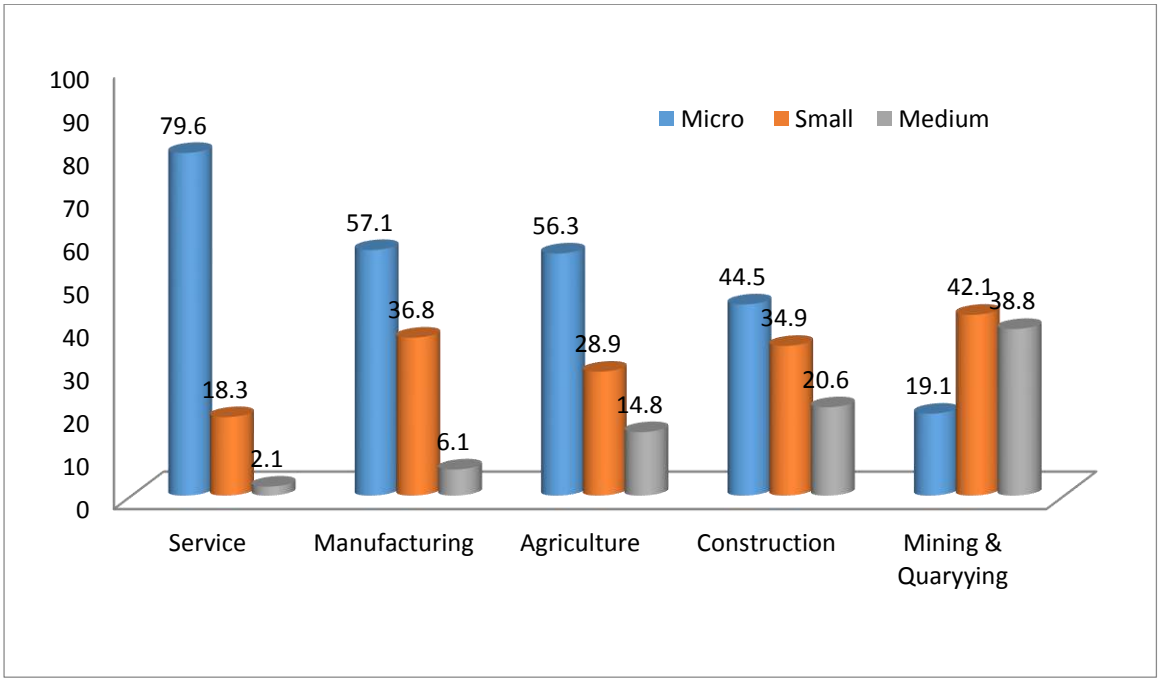
The aim of this paper is to examine credit risk in micro business by looking at the net working capital of the business as one of the approach to see the level of credit risk. This paper will start with the introduction. Then, follow by section literature review, which is review on the previous research on micro business as a borrower and micro finance institutions as a lender. After that, this paper emphasize on net working capital and net working capital cycle. In addition, this paper also discuss on the net working capital as an indicator. Furthermore, the used of working capital management in credit management and difficulty in preparing working capital management: Micro Business perspective will be discussed in next section. Lastly, this paper will conclude the discussion on section conclusion.

2.0 LITERATURE REVIEW

2.1 Micro Business as a Borrower

Micro business becomes a subject in this paper based on their roles and contribution towards the developments of the country. The important of micro business can be seen through its contribution towards the economy. Its plays an important role towards the development of the economics of the country over the world included Malaysia (Peters and Waterman, 1982; Amini, 2004; Radam et al, 2008). According to Ashok (2012) manufacturing business is the business engaged in the manufacturing or production of goods pertaining to any industry specified in the first schedule to the industries. While, service business is a business that engaged in providing or rendering of service and are defined in terms of investment in equipment. According to chart 2, micro business is predominant in the service sector with the highest percentage 79.6% as compared to small and medium business.

Chart 2: Percentage Represent by Sector



Source: Census of establishments and Enterprise 2005 and Economic Census 2011, Department of Statistics Malaysia.

Micro business also indicates the higher percentage in manufacturing, agriculture and construction sector as compared to small and medium business. The details percentage can be seen in chart 2.

According to Dildar (2010) the role of micro business can be seen by several ways especially by creating employment and service provision. As already mention before, micro business have three main sector which are agricultural, manufacturing and services. Opportunities in these sectors can create the employment and reduce the number of unemployment rate. According to Department of Statistics (2005) the census indicate that Micro Business and SMEs contribute about 64% (3,223,000 out of 5,038000) of total employment and generated RM 159,411 million value added in 2003. In 2005, SMEs manage to contribute towards country's employment opportunities around 5.6 million employment opportunities, equivalent to 56.4 percent of the workforce in Malaysia (Censes of Establishment and Enterprise, 2005). The percentage of contribution remains increased in 2006 where SMEs was employed 65.3% of national workforce in Malaysia (Thurasamy et al.,2010).

Micro Business also contributed to the Gross Domestic Product (GDP) of the country. Gross domestic product is one of the primary indicators used to measure the health of a country's economy. According to Department of Statistics (2005) Micro Business accounted for 79.4% (412,000 from a total of 552,804) of the total of SMEs and 78.7% of business establishment in Malaysia. Since Micro Business as the highest share of SMEs by establishment size, they are also one of the entities that contribute to the GDP of the country. According to Malaysian Dutch Business Council (www.mdbc.com.my), SMEs was contributed 32.5% of GDP in 2011 and increase to 32.7% in 2012.

As mention earlier, Micro Business consists of manufacturing, agriculture and service sector. Every sector contributes significant contribution towards the development of the country.

Manufacturing sector has a higher proportion of large enterprises relative to all other sectors (Department of Statistics, 2005). According to Mustapha et al (2011) and Kassim and Sulaiman (2011), the function of SMEs operating in manufacturing sector is significantly acknowledged and mainly involves in activities such as production and processing of raw materials, for example rubber, wood, beverages, textiles, food, petroleum and the assembling, and manufacturing of electrical and electronics appliances. In addition, activities on electronics and electrical manufacturing is significantly positive and it's consider as value added on high knowledge intensive (Muhammad et al.,2011). In 2008, according to ministry of Industrial Development Authority (MIDA) the total gross output of electrical and electronics industries in economy was US$53.9 billion and export amounted to US$ 75.4 billion (www.mida.gov.my). According to Departments of statistics (2005), Micro Businesses are dominant mainly in the distributive trade service sub-sector which is 83.6% share of total establishment in this sub-sector. Besides that, agriculture represents 93.1% of total establishment in this sub-sector.

According to Norhaziah and Mohd Noor (2013) accessing to a financing is important to micro business in the business operation. In addition, study conducted by Fenne (2010) found that there are many types of financing have been set up by the government to assist micro business to expand and grow the business. However, a majority of micro business entrepreneur believe that it is difficult to obtain the financing since micro finance institutions put a straight requirement to customer. According to Norhaziah and Mohd Nor (2013) as a lending institutions, micro finance institutions is a risky business because it offer credit to customer without collateral. But many previous research prove that micro business may help micro finance institutions around the world to grow with provide small loan to micro business. Among of the researcher cited in Norhaziah and Mohd Noor (2013) are Khandker (2005); Hossain(1998); Mead & Liedholm(1998) and Woller & Parsons (2002).

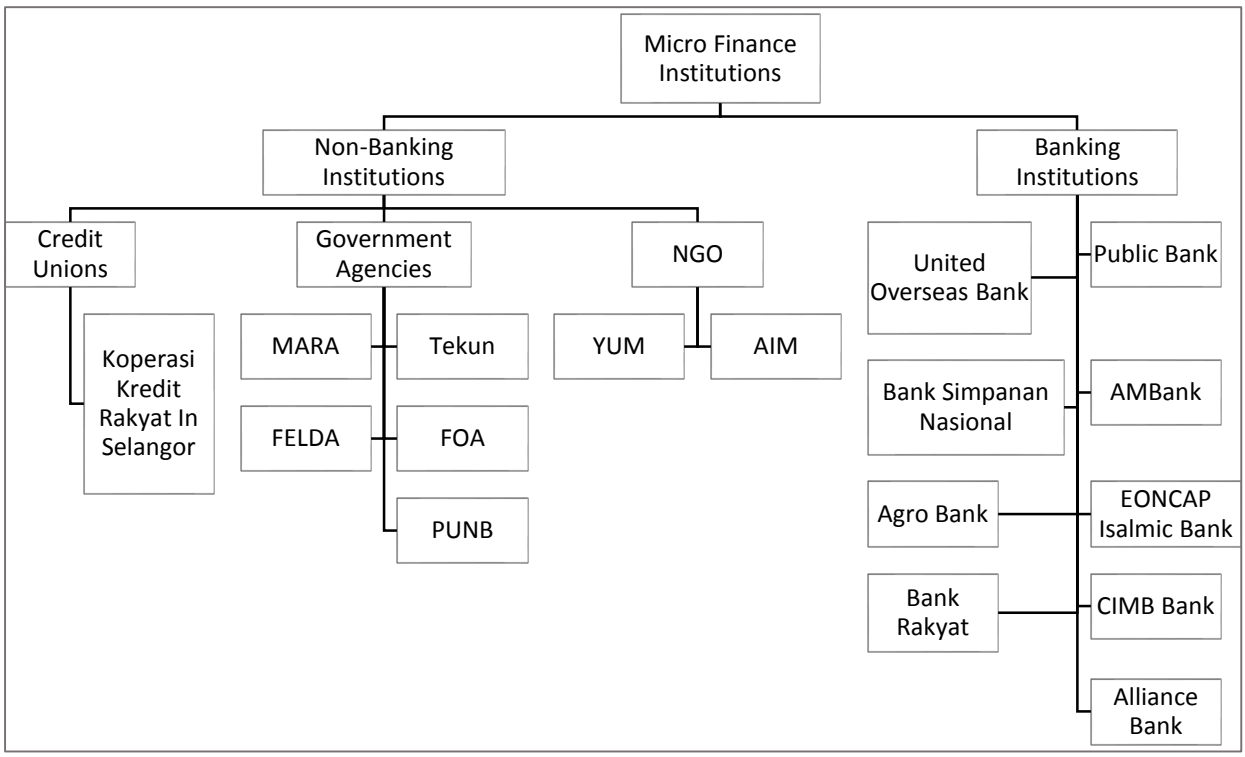
According to Ciby (2013) credit is a good if used it wisely. However, there are many lender and borrower and even global economics suffer because of credit. So that, as a borrower it's crucial for the business to aware on the level of credit risk associated with them. Many studies has been conducted on factors affecting on credit management problem in micro business, among them Fenne (2010), Pang (1991), Weinberg(2006), Kinggundu (2002) and Longenecker et al. (1999). But there are still a few research discuss on how micro business should identify their level of credit risk for their business. Study conducted by Sudar (2003), Mustapha and Che Abdullah (2011), Rajuddin and Alias (2010) and Yahaya et al. (2010) shows that the knowledge and awareness on financial management among micro business entrepreneur was unsatisfied.

2.2 Micro Finance Institutions as A Lender

During the last three decades microfinance was introduced in Malaysia. The purpose of this institution is to give finance to micro business. There are two types of microfinance, which are banking institutions and non-banking institutions as shown in diagram 2. Microfinance is one of the important components required to get sustainable micro business besides technical support, training, technology, input supplies and market access. The fundamental activities in microfinance is giving small loans to customer for working capital, group guarantees, compulsory savings, insurance and access to repeat loan for a larger amount based on repayment performance. Study conducted by Norhaziah and Mohd Noor (2013) stated that there are many research emphasize the important of loan repayment performance such as Hulme and Mosley (1996) and Stearns (1995). The important of repayment performance is due to impact if the borrower does not make a loan repayment; it will disrupt the cyclical flow of

fund and will interrupt the efficiency fund between the microfinance and other borrower. According to Schreiner (2001) the greater risk exposure for the larger loan given and if the lender does not take extra care there could be more loan default, indirectly, increase the percentage on non-performing loan.

Diagram 2: Structure of Micro Finance Institutions



Source: Norhaziah and Mohd Noor (2013)

Based on the diagram above, Microfinance Institutions can be categorized into two types wich are banking institution and non-banking institutions. Under banking institution there are numbers of banking that provide microcredit such as Public bank, United Overseas Bank, AM Bank, Bank Simpanan Nasional, EON CAP Islamic Bank, Agro Bank, CIMB Bank, Bank Rakyat and Alliance Bank. While, under non-banking institution there are further divided into three categories which are NGO, Government Agencies and Credit Unions. These three agencies also provided soft loan or microcredit for micro business. Under NGO there are *Amanah Ikhtiar Malaysia* (AIM) and *Yayasan Usahawan Malaysia* (YUM). Besides that, a Government agency consists of *Tabung Ekonomi Usahawan Nasional* (TEKUN), *Majlis Amanah Rakyat* (MARA), *Farmers Organization Authorities* (FOA), Federal Land Development Authorities (FELDA), *Perbadanan Usahawan Nasional Berhad* (PUNB). Example of credit unions that offers credit facilities is Koperasi Kredit Rakyat is Selangor.

2.3 Net Working Capital

Net working capital defined by Steven and Petersen (1993) as current asset less current liability. There are three major component of working capital under current asset which are account receivable, inventories and cash. While, current liability consists of account payable and debt due in less than one year. Many others researchers use working capital management to see the profitability of the business. According to Marc Deloof (2003) a popular of working capital management is the cash conversion cycle. This measurement is calculated the time lag between

the expenditure for the purchase of raw materials and the collection of sales of finish goods. The longer this time lag, the larger the investment in working capital. Profitability of a business might increase if longer times for cash conversion cycle are taken because it leads to higher sales. In this paper, researcher will focus on how net working capital measure credit risk of the company.

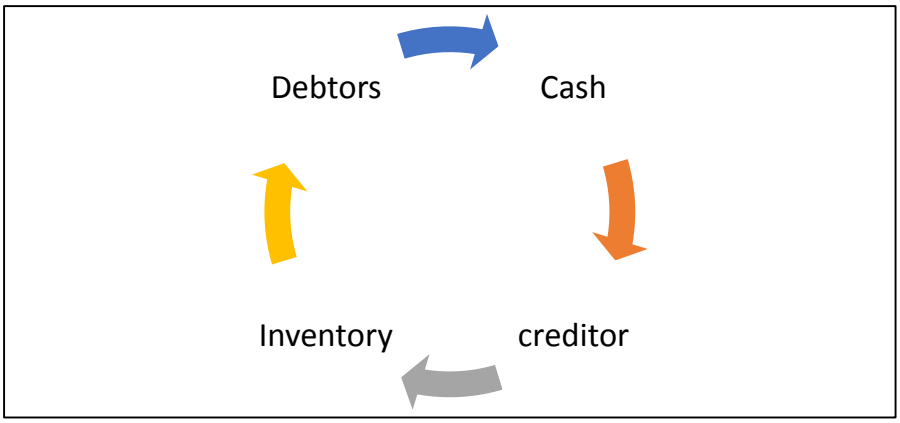
Financial statement is a statement that holds the secret of the company. By looking at the net working capital in balance sheet, people can know how much the asset and liabilities of the business. This due to formula to calculate net working capital is total asset minus total liabilities. The different between total asset and total liabilities is net working capital. Adam Smith which is economist has recognized that working capital is an important part of the firm's stock of capital. According to Steven and Petersen (1993) financial institutions measure a firm's liquidity by looking at net working capital since it's measure net position of firm liquid assets.

The value of working capital has been explored in modern literature to explain why working capital becomes one of the key elements of the business. This is because of an inventory is a component of working capital that entering directly into the production function. Besides that, to achieve economies of scale, work in progress inventories are used by running large batch size. In addition, account receivable can affect sales to customer who are themselves liquidity of the firm. Cash and current liabilities is another component of working capital that affected cost through the liquidity of firm.

2.4 Working Capital Cycle

The working capital cycle measure the time between paying for goods supplied to the business and the final receipt of cash to business from the sale of the goods. It is desirable to keep the cycle as short as possible. This is because it will increase the effectiveness of working capital. According to Small Business Development Corporation, the working capital cycle is made up of four core components as follows:

Component of Net Working Capital Cycle

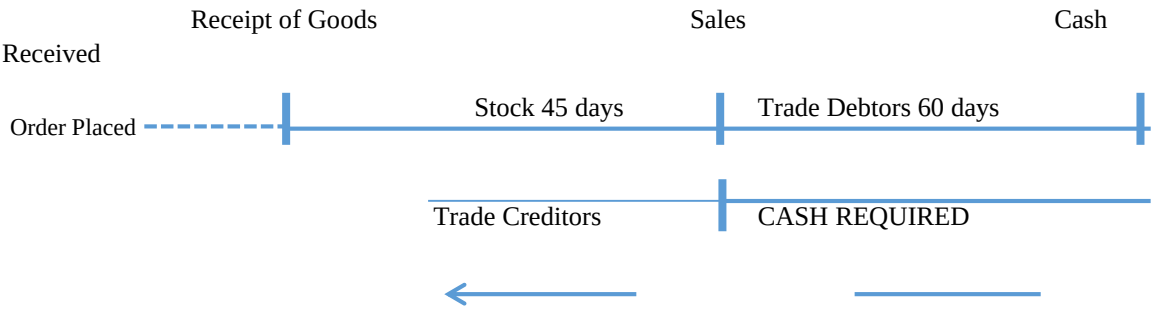


Source: Small Business Development Corporation

Each step in cycle should be in control in order to achieve successful in cash management. Business will increase its liquidity if they can quickly convert the trading operation into

available cash. By doing so, business will less reliant on the cash from customer and loan from a micro finance institutions. Indirectly it shows the business is less in term of credit risk.

Besides that, in term of manufacturing company, working capital cycle denotes the time between a raw materials bought and the point at which the raw materials transform to finished good are converted into cash. According to Ciby (2013), the shorter the working capital cycle indicates the more efficient the company use of working capital. The above is the diagram depicts the working capital cycle:



Usually, the operating cycle starts from the date of receipt of goods and not from the date of placing the order, because the supplier may not supply the goods and there is possibility of cancellation by mutual understanding. While, the operating cycle ends with the collection of money from the debtor. We can see the in Balance Sheet where the progress of operating cycle from inventory to trade debtors to cash.

2.5 Net Working Capital as Indicator

Net working capital is used to determine the availability of a company's liquid assets by subtracting its current liabilities. The formula is shown as follows:

Net Working Capital = Current Asset – Current Liabilities

In many cases, the following formula can be used to calculate net working capital:

Net Working Capital = (Cash + Account Receivable + Inventories) – (Account Payable + Accrued Expenses)

It is important to highlight that, current asset are the asset is available within 12 months and current liability also are the liability with 12 months. According to Small Business Development Corporation, the types of industry and particular circumstance the business participate determine the right level of working capital. Business that only sells a service is different from business that sells a product. For example, if the business sells the only service, they need a lower level of working capital because they do not need to pay cash for inventory. While, business that sells a product that need certain time to make a sell of product need a higher level of working capital.

Identify the level of net working capital is crucial because if net working capital is too high its means the business has surplus of fund and which are not earning a return. But, if the net working capital is too low it's indicate that the business facing financial difficulties. If the business with low level of net

working capital, it will gives a signal to a micro finance institutions on the disabilities of a business in managing the business. In general, all micro finance institutions believe that the business have a higher credit risk when certain loan are disbursed. All entrepreneur need to know their net working capital of business, because it indicates the position of the business and as a signal for the business to make a further action.

Working Capital Ratio

Working capital ratio can give an indication of the ability of a business to pays its credit. All the information to calculate working capital ratio is obtain from business' balance sheet. The calculation to obtain ratio as follows:

$$\text{Working Capital Ratio:} \quad \frac{\text{Current Assets}}{\text{Current Liability}}$$

Working capital Ratio is an important factor in the financial statement analysis of a business. It is measure the business's ability to meet its short term obligation from the liquidation of its current assets within the next 12 months. If a business cannot meet its short term obligation it may be force into liquidation and therefore will not have the opportunity to operate in the long run. Following are the example of the Comparative Balance Sheet and the interpretation of the ratio:

Maju Sdn Bhd Comparative Balance Sheet As at 31 December 2012 and 2011		
	2012	2011
Assets		
Current Assets		
Cash At Bank	390	300
Quoted Investment	380	440
Trade Debtors	1,460	1,290
Stocks	2,010	1,770
Prepaid Expenses	100	100
Total Current Assets	**4,340**	**3,900**
Non-Current Assets		
Long-term Investment	400	500
Plant and Equipment	2,600	1,800
Other Assets	100	100
Total Non-Current Assets	3,100	2,400
Total Assets	7,440	6,300
Liabilities		
Current Liabilities		
Trade Creditors	1,040	900
Other Creditor	620	600
Accrued Expenses	100	100

Total Current Liability	**1,760**	**1,600**
Non-Current Liability	1,900	1,700
Total Liability	3,660	3,300
Net Assets	3,780	3,000

The calculation of working capital ratio:

Year 2012	Year 2011
Current Assets / Current Liabilities 4,340 / 1,760 = 2.5	Current Assets / Current Liabilities 3,900 / 1,600 = 2.4

From the calculation above, it can be conclude that for every ringgit of current liabilities, Maju Sdn Bhd has between RM 2.40 and RM 2.50 of current assets available to cover the liabilities. All entrepreneur need to know on how to measure working capital and able to interpret the ratio in order for them to know their business performance.

2.6 The used of working capital management in credit management

Credit risk is defined as the risk of default by the borrower in fulfilling its repayment obligation (Johny et al, 2008). Besides that, credit risk also can be defined as a distribution of financial losses due to unexpected changes in the quality of counterparty in a financial agreement (Kay, 2002). Credit risk is an internal risk. So that, for micro business the risk should be managed by the entrepreneur itself. Managing credit risk is a crucial part to make sure the longevity of the business. Managing variety of risk especially credit risk is an on-going process that can help improve operations, prioritize resource, ensure regulatory compliance, achieve performance targets, improve financial stability and ultimately, prevent loss/damage to the entity (Ashok, 2012). It is important for entrepreneur to identify the level of credit risk in their business. Since, many micro finance institutions offer short term loan to the entrepreneur, they can use calculation of Working Capital to measure credit risk in the business.

As mention earlier, information from working capital reveals business performance especially in credit management of a business. For many firms, working capital management is a very crucial component of the financial management (Marc Deloof, 2003). It also measures the ability of a business in managing its credit. Obtain financial assistance are common practiced by micro business in order for them run and expand the business. The term "liability" implies a promise to various parties to obtain funds. The funds are used to buy a plant and machinery as an asset of the business for the purpose of business operation. The amount of such "liability" and assets can be seen in balance sheet of the business.

According to Hrishikes (2007) an entrepreneur may not like to hold many of the assets appearing on the balance sheet even assets denote wealth. But, they are like to hold fixed assets like plant and machinery which can generate goods and services that can give profit to the business. The reason for entrepreneur do not like hold many current assets because according to Hrishikes (2007) an entrepreneur believe that production process may takes quite some of time where the finished product are not sold quickly. It means that a quantity of stock remains

in the go down. In addition, the sales are not always in cash, credit are usually given to the debtor and takes some of time to collect the sales. Even debtor is an asset for the business but they do not like hold it in big amount because it's uncertain for creditors to makes a payment and the business has to keep a certain amount of safety stock all the time.

According to Hrishikes (2007) this current assets may block business funds which should have been otherwise for business meeting working expenses. This process needs to be understand by entrepreneur so that they aware on every cycle of operation that generate current assets needed to be funded for immediate financing of working expenses that done by working capital. Able to manage and well understand on working capital is crucial part in order to manage business credit. By doing so, entrepreneur is aware either they need for financial assistance and how much they need for the business operation.

2.7 Difficulty in preparing working capital management: Micro Business Perspective

One of the difficulties for micro business in preparing working capital management is they do not have useful information on working capital management (Alejandra, 2012). They might be understood on theory of working capital, but it's difficult to adopt when it comes in practically. According to Ibara (1995) and Van Auken and Howard (1993) the main causes of business failure are lack of financial planning, limited access to funding and excessive fixed-asset investment and capital management. So, information on working capital management is an important criterion for a micro business to sustain their life.

Calculation on working capital is somewhat difficult to understand by certain micro business entrepreneur as compared to calculation on fixed capital requirements. A business can easily calculate fixed capital requirement by compute total cost of the plant and machinery, vehicles and computer it want to buy and know how much it should raise in funds. However, calculation of working capital is dynamics and nobody can calculate the working capital exactly.

Ciby (2013) gives an example on complex operation in identify working capital which is; in a manufacturing business, they accept new truckloads of raw materials, while sending finished goods to buyers. Some debtors may delay payments while suppliers pressurizes for speedier payments. This situation shows why working capital is dynamics. It is challenging for micro business entrepreneur to fully predict the working capital and related financing requirements, especially if the trading circumstances undergo rapid changes.

3.0 CONCLUSION

Net working capital becomes one of the approaches in determining the position of the business as well as to see the level of credit risk in the business. Since, net working capital measure short term asset and short term liability it is suitable to see the position of micro business that usually get credit facilities in short term. Due to complex process to understand and calculate on working capital management, comprehensive information on calculation working capital are required to give full of understanding for entrepreneur in order for them to adopt in their business operation. From this paper, the authors believe that further study need to be conduct in order to help micro business entrepreneur expose to the information and skill on how to manage working capital of the business.

REFERENCE

Alejandra, Ricardo and Rafael. 2012. *The Impact of Financial Decision and Strategy on Small Business Competitiveness.* Global Journal of Business Research. Vol 6. Number 2.

Aris, N. M.(2007*), SMEs: Building Blocks for Economic Growth*. Department of Statistics, Malaysia.

Ashok Kumar. 2012. Risk Management in Micro, Small and Medium Enterprise (MSMEs) in India: A Critical Appraisal. *Asia Pacific Journal of Marketing & Management Review* Vol.1 (4) 2012.

Ciby Joseph. 2013. *Advance Credit Risk Analysis and Management.* Chichester, United Kingdom.

Frank, W & Alan, S. 2002. *Business Accounting Ninth Edition.* London: United Kingdom.

Hashim, M.K, & Wafa, S.A, 2002. Small and Medium Sized Enterprise in Malaysia: Development Issues. Petaling Jaya, Malaysia: Prentice Hall.

Hrishikes Bhattacharya. 2007. *Working Capital Management Strategies and Techniques.* New Delhi, India.

Kassim, Zorah Abu & Sulaiman Mohamad, 2011. Market Orientation And Leadership Styles Of Managers In Malaysia. International Journal of Leadership Studies, Vol. 6 Iss. 2, 2011.

Muhammad Khalique, Abu Hasan, Jamal & Adel, 2011. Challenges Faced By The Small And Medium Enterprise (SMEs) In Malaysia: An Intellectual Capital Perspective. *International Journal of Current Research* Vol.3 Iss. 6, 2011.

Mustapha, Mohamad Reeduan, Mohd Shalahuddin Muda, Hassan, Fauziah Abu, 2011, *A Survey of Total Quality Management in The Malaysian Small And Medium Enterprise. A Human Resource Development Perspective*. International Journal of Humanities and Social Science Vol. 1 No. 2.

Mustapha, R., and Che Abdullah, N. (2011). "Amalan Pengurusan Perniagaan Usahawan Tani IKS Bumiputera: Satu Kajian Kes Di Negeri Terengganu*". Journal of Technology*, 55(1), 75-105.

Norhaziah Nawai and Mohd Noor Mohd Shariff (2011), The important of Micro Financing to the Microenterprise Development in Malaysia's Experience. *Asian Social Science*. Vol. 7, No.12

Osman, Nor Hasni, and Abdul Aziz Jemain (2003). "Keutamaan amalan perniagaan di kalangan usahawan efisien.". Seminar Kebangsaan Sains Pemutusan, Langkawi Seaview Hotel, Langkawi Kedah.

Peters, TJ. And Waterman, R. (1982*). In Search Excellence*, Harper & Row, New York, NY.

Pratt, (V) *Sharing Business skills in Kenya*. Centre for International Private Enterprise, Washington DC, www.cipe.org (retrieved on 29-5-2009.

Radam, Aalias, Abu, Bmimi Liana, Abdullah & Camin Mahir. 2008. Technical Efficiency of Small And Medium Enterprise in Malaysia: A Stochastic Frontier Production Model. *International Journal of Economics and Management2(2).*

Schreiner, Mark. (2002) Aspect of Outreach: A Framework for the Discussion of the social Benefits of Microfinance. Micro Finance Risk Management, and Centre for Social Development, Washington University in St. Louis, U.S.A

Teoh, W.M.Y & Chong, S.C. 2008. Improving Women Entrepreneurs in Small and Medium Enterprise in Malaysia: Policy Recommendations. Communication of The IBIMA, 2, 31-38.

Thurasamy, Ramayah, Mohamad Osman, Omar Azizah, and Marimuthu Malliga, 2009. Technology Adoption among Small and Medium Enterprise (SMEs): A Research Agenda. Proceedings of World Academy of Science, Engineering and Technology Volume 41.

Ting , O. K., Customer Default of Delinquent Adjustable-Rate Mortgage Loans. *The journal of Consumer Affairse*. Vol. 22. 22, No.1, pp. 38-53

Yahaya, A., Hashim, S., and Beddu Halike, H. (2010). "*Kursus Keusahawanan-Usahawan Industri Kecil Dan Sederhana (IKS) Bumiputera Sabah"*. "*Keperluan Kursus Keusahawanan Dalam Kalangan Usahawan Industri Kecil Dan Sederhana (IKS) Bumiputera Sabah*", 1-8.

FINANCIAL STABILITY AND ISLAMIC BANKS: CASE OF SMES FINANCING

Nor Irriana Sirat[1]
S.Shahida[2]
Aisyah Abdul-Rahman[3]

ABSTRACT

Economic crisis are often associated with the instability of the banking system. However, there are also other factors leading to instability of banking institutions. Bankruptcy risk and management problems of SMEs will give a negative impact to the loan repayment thus affect the stability of the funding banks. This paper will examines the challenges faced by the SMEs, thus causing less convincing performance and whether it gives impact to the instability of Islamic banking in Malaysia. By employing the Z-score as proxy for bank (in) stability from 2007 to 2013, this study provides empirical evidence for 16 Islamic banks. The results show that SMEs financing have impact on the banks' stability. This study contributes through a practical application which identifying strengths in financing by Islamic banks thus find better solutions to help towards the development of SMEs in Malaysia.

Keywords: Financial stability; financing; Islamic banks; Malaysia

1. INTRODUCTION

Islamic banking refers to a system of banking that complies with *shariah*. The essential of underlying principles that governed Islamic banking are the assurance of fairness. These principles will give benefit through a cultivation activity in banking institutions such as SMEs financing. Furthermore, the enactment of the Islamic Banking Act (IBA) 1983 and Islamic Financial Services Act (IFSA) 2013 has strengthened the establishment of Islamic banks for over 30 years as well as preparing them to the challenges of current global finance. According to Bank Negara Malaysia (BNM) in 2009, Malaysia needs to always be preparing to the changes of world economics and global finance to make sure the higher standardization of Islamic finance in Malaysia.

There are several previous studies emphasize the instability of Islamic banking is attributable to the current macroeconomic conditions, bank specific factors and different regulatory in each countries (Rahman 2011; Yudistira 2004; Beck et al. 2013). The instability will lead to the difficulty in managing the unexpected risks such as market and credit risks (Rahman 2011). Realizing the constraints of studies on the implications of SMEs' financing to the instability of banks are yet to be implemented, the author takes step to this research by using empirical

[1] Master of Islamic Economics (final semester), Faculty of Economics and Management, UKM. irriana_riz@yahoo.com (Corresponding author).
[2] Assoc. Prof. (Islamic economics, banking and finance), School of Economics, Faculty of Economics and Management, UKM. shahida@ukm.edu.my
[3] Assoc. Prof., School of Management, Faculty of Economics and Management, UKM. eychah@ukm.edu.my

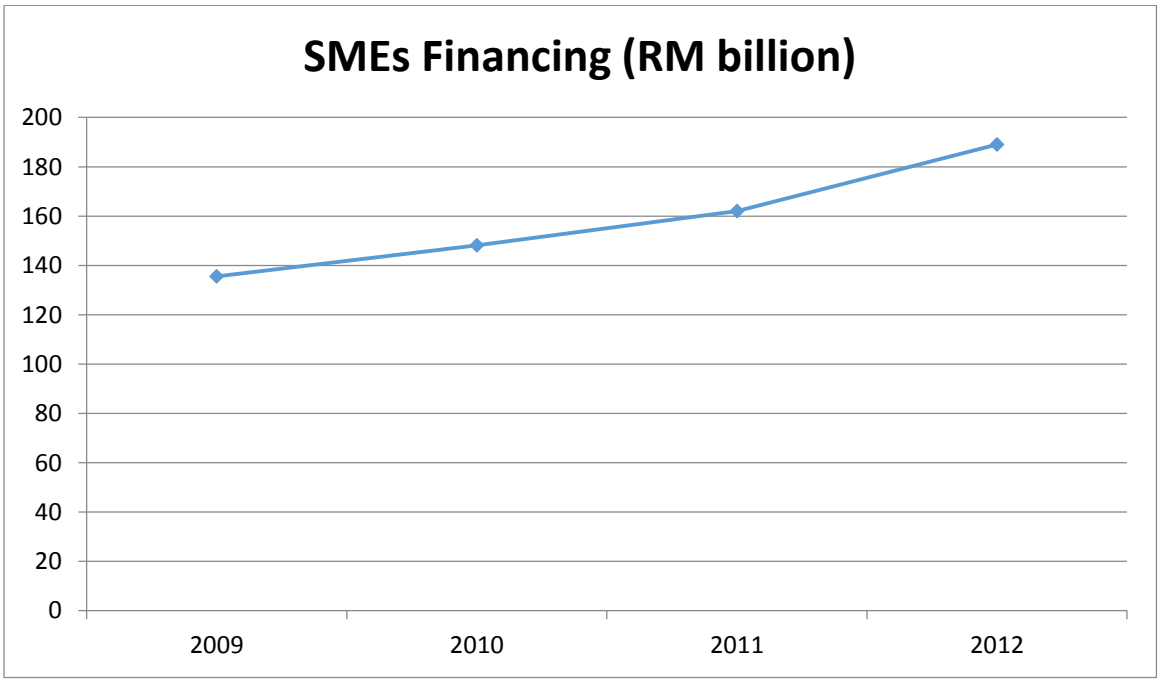
methodology. Poor SMEs contribution to GDP (32%) in 2010 is one of the reasons to the challenges of SMEs financing (Anon. 2012). Most of developed countries have problems with SMEs because of their volatility of performance that lead to the bankruptcy risk especially when the global financial crisis happened (Organisation for Economic Co-operation and Development 2009). This has led the authors to conduct a more detailed on this issue in Malaysia since it is a developing country (The Star 2013 & Berita Harian 2013). Reflecting that, BNM (2009) stated that SMEs adversely impacted by the current economic slowdown at that particular time. Furthermore, SMEs are the industry that seen as a high-risk industry in terms of bankruptcy due to their poor management in financial, capital and labour skills. If these things happen, the performance of SMEs might be predisposing to the bank instability and decrease the profitability of banks due to the difficulties of banks in getting payment from the financing that has been provided to SMEs.

Therefore, this research contributes through a practical application which identifying strengths in financing by Islamic banks thus find better solutions to help towards the development of SMEs in Malaysia.

This study is organized into several parts that are introduction for the first part, followed by section 2 that discuss on the SMEs financing by banks in Malaysia. Section 3 is a literature review that highlights about determinants on bank stability, while section 4 is a research methodology. Section 5 will discusses the findings and section 6 concludes.

2. SMES FINANCING BY BANKS IN MALAYSIA

Nowadays, 89% of the totals SMEs financings are provided by the financial institutions and almost half of the numbers were provided by banking institutions, which is 40.5% in 2012 (Zeti Akhtar 2013). The volume plays an important role in determining the stability of banks in Malaysia because it is depends to the SMEs performance and their ability to pay the financing. Below are the details of bank financings to SMEs from 2009 to 2012:



Source: SME Annual Report, SME Corporation Malaysia (2009-2012)

Diagram 1: SMEs Financing

According to the Diagram 1, bank financings to SMEs show the increasing trend from 2009 to 2012. For example, financial outstanding in 2012 grew by 14.3% from 2011 and it rose further to RM189 billion. Unfortunately, this trend does not show a significant relationship with SMEs performance. SME Corporation Malaysia stated in SMEs Annual Report for year 2009 to 2012 that SMEs performance are keep decreasing for that particular years. It shows that bank institutions still give their hands to help those SMEs to improve their business especially after economic downturn in 2008. But, will this initiative help those bank institutions too in getting their loan repayment back? Thus, some institutional that related to this area especially government need to highlight this thing in order to ensure the smoothness of both industry which is bank institutions and SMEs industry.

Zeti Akhtar (2013) highlight on her speech about the importance of SMEs. It has been discovering by the Government to endure SMEs development and consistency in Malaysia as well as in other countries. For example, in 2012, over RM200 billion in financing has been disbursed to SMEs through banking institutions compared to lower disbursement a decade ago. Besides, she also urged all the banking institutions in Malaysia to being evolve especially at an early stage for a better solution for SMEs performance. Realizing the strict requirement for SMEs financing by banking institutions, they will also need to expand their scope of requirement beyond the business activities or tangible assets by measuring SMEs intellectual capital. These methods will ensure the value of SMEs is totally assessed beyond their collateral and historical performance.

3. Literature Review

Previous researchers (Mat Rahim & Hazli Zakaria 2013; Cihak & Hesse 2008) have highlighted some of the determinants for financial instability. The techniques to measure this stability are difference based on the approached of some researchers such as z-score by Mat Rahim and Hazli Zakaria (2013) that has been used to measure the volatility of return. The aim of this literature is to investigate the determinants of financial stability for banks by different researchers as well as previous studies on SMEs in Malaysia. Therefore, we highlighted a comparison between Islamic banks and conventional banks to show the differences of some factors. Even though there are many previous research in this area but it is still lack in information especially the determinants of financial stability. Thus, we examine those determinants and focus on the impact of financing for SMEs.

Macroeconomic factor is one of the determinants and it was quite popular among the researchers because this factor has affected some of the banking institutions during global financial crisis. Boumediene and Caby (2009) agree that both Islamic and conventional banks had a significant effect to this crisis in 2007 but Islamic banks tend to be more severe (Yudistira, 2004) due to the differences of risk taking behaviour that are more likely to be efficient than conventional banks. Meanwhile, Hasan and Dridi (2010) mention that Islamic banks faced a poor risk management and might reduce their profitability as well as affect their performance. Despite this finding, Islamic banks have a higher asset quality and better capitalization during

global financial crisis (Beck et al. 2013) due to the healthier return on stock market (Boumediene & Caby 2009). Beck et al. (2013) examine three contribution factors to the bank instability such as business orientation, efficiency and assets quality. Hassan et al. (2013) also examine the financial stability for both banks in Saudi Arabia and found that the major factor of stabilization is not the differences between types of banks. They highlighted that the diversity of banks such as bank size are much more affected the bank instability because previous finding shows that small banks tend to be more stable than the bigger banks (Cihak & Hesse 2008; Beck et al. 2013). Other than that, further study on Islamic banks and financial stability find that economic growth (Mat Rahim & Hazli Zakaria 2013) and higher market shares (Beck et al. 2013) could lead to the improvement of their stability especially during economic boom.

Besides the external factors, internal factors should be monitored because it will give a huge impact to the banks too. Mat Rahim and Hazli Zakaria (2013) mention about the impairment of asset which is it will increase the insolvency risk because banks does not have enough sources to cover that risk. Surprisingly, it is contradict with study by Cihak and Hesse (2008). In addition, Islamic banks have to face the higher risk if the banks' liquidity is quite low (Mat Rahim & Hazli Zakaria 2013; Agusman et Al. 2008; Hassan & Dridi 2010), based on the previous findings that show the adverse relationship between banks liquidity and instability. Rahman (2011) find that Islamic banks in Bangladesh applied the concept of profit sharing and loss, thus he believes that it's contribute to the stability of banks through justice in financing products. The quality of good loan is positively related to the high performance of banks (Eisenbies & Kwan 1997) and reduces the possibility to affect by the risk such as market risk and credit risk. Olson and Zoubi (2008) highlighted that the development of deposit products are one of the factors that contribute substantially to the increasing of capitalization and profitability of banks. Thus, they also suggested that regulator should aware and differentiate the requirement of capital buffer among the Islamic banks and conventional banks for the sake of Islamic banks' development. Apart from these findings, we added one variable that is known by SMEs financing from the banks for the superior findings as well as to show the impact to the banks instability.

SMEs gave a huge upturn of their contribution to Malaysia's Gross Domestic Product (GDP) on 2013, which is 33% especially for micro SMEs (Mohd. Naroden, 2013). Also, he highlighted that the percentage will rose up to 40% on 2020. Although there is an increasing of SMEs but the operation and management must be also improved or standardized to make sure that it will not give a negative impact to the bank instability and economy. It is because most of the SMEs get their financing from banking institutions.

People will use their own savings or borrowings from families to start their business, but what about a person who does not have enough money to run their business? This is the biggest obstacle of making a business or doing the right thing for your own business. They have to find for additional fund in order to make sure that the business could go smoothly without having a financial problem in a future. Unfortunately, most of the banks will give a fund to the person who already started the business as well as having a good performance of their business. This is to ascertain the positive flow of paying for a debt and avoiding the insolvent of SMEs. The major problem of SMEs is difficulties in paying a debt (SMEs Annual Report, 2006 & 2007). The debt squeeze will trouble the SMEs to get a fund from banks. Furthermore, the quality of business performance is very important to the banking institutions because it will determine

the quality of SMEs' loan repayment. So, how come the SMEs could pay back their loan while having other debt? It will for sure interrupt the repayment process and affect the bank stability.

Besides debt problem, the phenomenon of bankruptcy risk in SMEs is getting worst from to time to time because most of the SMEs are in a small or micro category, which is 77% from the total of SMEs in Malaysia (Md Hashim & Hussain 2012). The new SMEs' micro are tend to have less business skills and might lead to the early bankruptcy risk. These obstacles might influence the bank confidence to SMEs in getting financing for their businesses. Furthermore, Abd Ghani & Darawi (2012) highlighted the challenges faced by SMEs especially the retailers. She mentioned that there are three difficulties or challenges, which is the increasing of groceries price, capital management and business location. It shows that this sector has a lot of improvement to do as Malaysia work towards achieving developed nation status by 2020. Moreover, in many developed nations, SMEs are thought to contribute between 40% and 60% to GDP and 60% and 70% of the employment, but the SME sector in Malaysia has not reached the mark yet since the percentage of employment in this country is still not exceeds 60% (The Star 2013).

Sooner or later, if SMEs' performance is still obscure, all the risks that have been mentioned above will give a negative impact to the banks through the financing for SMEs. The competency in handling business in any division should be tightened in order to prepare SMEs to the expected or unexpected risks. A good performance of SMEs will simplify the process of financing for them as well as giving advantages to the bank stability. Therefore, this research assumes that the performance of SMEs is a key factor for banks to give a funds and it will determine whether the financing for SMEs has affected the bank instability.

4. METHODOLOGY

We proposed a model based on the measurement of z-score (Mat Rahim & Hazli Zakaria, 2013; Cihak & Hesse, 2008) to investigate factors that lead to the Islamic banks' instability due to financings extended to SMEs. The focus of this study is to examine 16 Islamic Banks[4] in Malaysia as listed by BNM, including both full fledge and Islamic subsidiaries. Data are based on the financial statements, consolidated and unconsolidated bank statement which is sourced online and published copies from year 2007 to 2013 which is during economic crisis on 2008 and a few mergers of conventional banks into Islamic subsidiaries. Meanwhile, macroeconomics data were gathered through online database Trading Economics and Monthly Statistical Bulletin of BNM.

Based on the literature review, this study includes seven variables[5] that influenced bank stability which is the internal and external factors. The internal factors refer to SMEs financing ratio (SFL), log total assets (LTA), non-performing loans (NPL) and equity asset ratio (EAR). SMEs financing ratio is a focus on this study which examine the influence to the bank instability. Higher value of this ratio show that banks have to bear a higher risk since the amount

[4] See Appendix A
[5] See Appendix B

of SMEs financing is too much. This study assumes that if the SMEs financing given by Islamic banks is too high it will negatively impact the banks' risk. Banks will bear the insolvency risk because some of the SMEs facing big challenges in their business (Zeti Akhtar, 2013) and it will affect their loan repayment to the banks. According to Sufian (2010), Ariff (2007) and Madura et al. (1994), asset quality measured non-performing loans over total financing (NPL). Higher values of NPL represent a high risk to the banks as well as bring to the instability of banks. Besides, if the banks bear the high level of NPL, it will decrease their financing (Mat Rahim & Hazli Zakaria, 2013). Also, this study use log total assets (LTA) as a proxy of bank size (Sufian, 2010). The bigger the size of banks, it will be more stable (Mat Rahim & Hazli Zakaria, 2013). Capital adequacy measured equity to assets ratio (EAR). A higher level of equity will give a positive impact to the z-score and banks' stability.

Meanwhile, the external factors refer to growth of gross domestic product (GDP), consumer price index (CPI) and interest rate (IR). The increasing in GDP will give a positive impact to bank stability (Mat Rahim & Hazli Zakaria, 2013). If loans repayment is effectively paid by all debtors, banks will decrease the loan loss provision (Chortareas et al. 2011; Beck et al. 2013; Sufian, 2010). The higher IR shows the higher cost of financing. Mat Rahim and Hazli Zakaria (2013) suggests that there were positive relationship between CPI and profitability of banks. Meanwhile, Beck et al. (2013) and Kassim and Abdul Majid (2010) find that a higher CPI will bring to the probability of economic crisis. This study assumes that the stability of banks will be affected during economic crisis and high CPI.

Therefore, estimated model can be written as:

$$Z\text{-}SCORE_{it} = \beta_0 + \beta_1 SF_{it} + \beta_2 LTA_{it} + \beta_3 NPL_{it} + \beta_4 EAR_{it} + \beta_5 GDP_{it} + \beta_6 CPI_{it} + \beta_6 IR_{it} + e_{it} \quad \text{(Eq. 1)}$$

According to the model above, z-score is a proxy to the financial stability which act as a dependent variable,*i* for Islamic banks in Malaysia and *t* are a time series from 2007 to 2013. We use z-score as a proxy measurement to the financial stability as some researchers suggested to use this measurement (Cihak & Hesse 2008; Boyd et al. 1993; Mat Rahim & Hazli Zakaria 2013). Details are as below:

$$z_{it} = (\mu ROA_{it} + EQ_{it}/A_{it})/\sigma ROA_{it} \quad \text{(Eq. 2)}$$

z_{it} is a proxy to the financial stability that related to the banks' insolvency, μROA_{it} is a return on assets ratio, EQ_{it}/A_{it} is a total equity to total assets meanwhile σROA_{it} is a rate of return for assets. According to Mat Rahim and Hazli Zakaria (2013) the probability of default would decrease if the value of z-score is high. The lower value of z-score shows that the smaller amounts of return and banks have to face a lot of risk (Yeyati & Micco, 2007) such as market risk and credit risk. Cihak and Hesse (2008) mentioned that z-score could be the right way to measure financial stability and insolvency risk determination. For the purpose of research method, we use e-views to prove the results.

5. FINDINGS

This part is divided into two major sections. The first section provides the descriptive statistics while the regression results discuss the influence of SMEs financing by Islamic banks to the banks' stability.

The descriptive statistics (Table 1) comprises the discussion on the findings from the sample mean and correlation matrix. In this finding, SMEs financing varies from zero with an average of 85%. Meanwhile, NPL showed from less than zero with a mean of 16%. Solvency risk might be obtained from the impairment of financing which higher NPL could bring to the instability of banks. Despite of the higher NPL, the average of LTA showed a higher value too which indicate that the huge different value between NPL and LTA does not give a big impact to the bank instability. According to Mat Rahim and Hazli Zakaria (2013), the banks would be more stable if the banks' size becomes larger. Unfortunately, Cihak and Hesse (2008) find that even small banks could be more stable than the larger because of their efficiency in business operations and better risk management. With regards to the capital related variables, the average of equity assets ratio (9.2%) has exceeded the 8% capital requirement as required by the Basel Accord (Basel III). This finding suggests that Islamic banks are not having problems in meeting the regulatory capital requirement (Abdul Rahman 2012).

For the macroeconomic variables, the value of GDP varies from less than zero with an average of 471%. Previous researches (Mat Rahim & Hazli Zakaria, 2013; Shayegani & Arani, 2012) highlight that higher value of GDP and z-score tend to stabilize the performance of banks. The average value of IR is 30.3%.

To the extent of Jacque-Bera test, if the probability of Jacque-Bera statistic is less than 0.05, normal distribution can be rejected (Mat Rahim & Hazli Zakaria, 2013). However, some of the variables show that the probability is more than 0.05 and it means that this sample is a normal distribution.

Table 1 Descriptive statistics

	Mean	Std. Dev	Jacque-Bera	Probability
Z-SCORE	22.28683	16.15197	37.66113	0.000000
SF	0.850857	7.462566	55404.16	0.000000
LTA	7.041591	0.389203	0.780959	0.676732
NPL	0.164299	1.436798	55296.51	0.000000
EAR	0.092464	0.053398	263.5105	0.000000
GDP	4.717143	2.682216	58.4084	0.000000
CPI	113.0686	4.298939	4.049727	0.132012
IR	3.03	0.438835	12.08373	0.002377

The independent variables have been examined (table 2) to check whether the multicollinearity exist in this study or not. Considering the relationship among the independent variables ($r < 0.50$), there is no severe correlation exists for the case of Islamic banks. All independent variables can be including in the regression estimation.

Table 2 Correlation matrix of independent variables

Correlation	SF	LTA	NPL	EAR	GDP	CPI	IR
SF	1.00000						
LTA	-0.06494	1.00000					
NPL	0.999522	-0.05936	1.00000				
EAR	0.01217	-0.52521	0.012472	1.00000			
GDP	0.05707	0.03707	0.056498	-0.00736	1.00000		
CPI	-0.16242	0.226721	-0.15465	-0.09901	0.067452	1.00000	
IR	0.134163	-0.10799	0.129661	0.04436	0.778099	-0.29878	1.00000

This study proceeds with the regression results by using Panel Least Square (PLS) and Fixed Effect (FE) models. The result show that the null hypothesis is rejected and the result of Hausman test statistics suggest that FE model is the appropriate panel data estimator for this study. F statistics show that it is statistically significant at 1% significance level. Based on the table 3 below which is the result of specification test, the FE model appears to be the best model according to the Likelihood Ratio and Hausman test.

Table 3 Correlated Likelihood Ratio: Hausman test

		df	Probability
F-stats	147.9893	(15,89)	0
Chi-square	0	7	1

According to the table 4, some of the variables are significant such as SF, NPL and EAR. Interestingly, financing to SMEs which is representing by SF seems to be positively related to the z-score. A higher value of SF means a higher z-score index that implies a lower instability of banks. Although the result of SF is contradict with the theory of this study, but there are several things that might be consider as a reason. The result is support by previous finding (Abdul Rahman 2012) which is highlight the inverse relationship between lending structure and insolvency risk are applicable for the case of Islamic banks. Nowadays, Islamic banks are seen as an important industry since they are following the rules of shariah. The proper systems for the financing procedures make it easy for both Islamic banks and customers to deal with it and decrease the probability of default (Abdul Rahman 2012). Furthermore, the awareness is getting increase based on the improvement of profitability by Islamic banks. They also acknowledge that they do not want to come under the category of people who do not care about issues of non-shariah compliance. Referring to the second significant result which is NPL, the result is parallel with Mat Rahim and Hazli Zakaria (2013), Sufian (2010), Ariff (2007) and Madura (1994). Negative relationship between NPL and z-score show that a higher of NPL tends to be riskier to the Islamic banks as well as the value of z-score is lower. For the case of EAR, Islamic banks show the positive or inverse relationship. It is proven by Abdul Rahman

(2012) that Islamic banks are able to cover their loss if they meet the capital's requirement by BNM.

Table 4 Result for the fixed effect model

Independent variables	PLS	FE
CONSTANT	-3.1740 (-0.1383)	9.8863 (1.0973)
SF	6.5921** (1.9445)	3.1346*** (3.2385)
LTA	-0.8460 (-0.3873)	-0.5492 (-0.4678)
NPL	-33.2123* (-.1.8858)	-16.0101*** (-3.1885)
EAR	170.1672*** (8.4736)	194.2767*** (42.6633)
GDP	0.1631 (0.5424)	0.0584 (0.5770)
CPI	0.1488 (1.2233)	-0.0079 (-0.1855)
IR	-0.9534 (-0.4880)	-0.3674 (-0.5652)
R^2	0.1831	0.9910
Adj R^2	0.5748	0.9887
S.E. reg	13.5690	2.5939
F-stats	22.4329***	443.5619***
Prob (F)	0	0
D. W stat	0.1819	1.9830

Notes:
1. Figures in parentheses are t-statistics
2. ***, **, * denotes significant at 1%, 5% and 10% confidence level.

5. CONCLUSION

This study examines the behaviour of SMEs financing by focusing on the Islamic banks of Malaysia. The findings show that SMEs financing has been identified as the significant factor towards risk for Islamic banks. Comparison studies between Islamic and conventional banks need to be conducted to have a better representative since much more work remains for future research. The impact of SMEs financing can be assess by improving some variables such as NPL for SMEs financing (if the value has been disclose in financial statement of banks) for a better research findings.

REFERENCES

Abd Ghani, M. A. & Darawi, Z. 2012. Transfornation and business performance of malay entrepreneurs in small and medium enterprise in Johor. National Conference of Malaysian Economics. Faculty Economics and Management, The National University of Malaysia. Ipoh, 4-6 June.

Abdul Rahman, A. 2012. *Risks Exposures and Lending Structures of Malaysian Banks*. Bandar Baru Bangi: Publisher University Kebangsaan Malaysia.

Affin Islamic Bank Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher AIBB.

Agusman, A., Monroe, G. S., Gasborro, D. Zumwalt, J. K. 2008. Accounting and capital market measures of risk: evidence from Asian bank's during 1998-2003. *Journal of Bank Finance*. 32(4): 480-488.

Alliance Islamic Bank Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher AIBB.

Al-Rajhi Banking & Investment Corporation (M) Berhad. 2007-2013. Audited annual report. Kuala lumpur: Publisher ARBIC.

AmIslamic Bank Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher AIBB.

Anon. 2012. SMEs development in Malaysia. http://www.comcec.org/UserFiles/File/%C3%BClkeraporlar%C4%B1/28_isedak_%C3%BClke_rap/28%C4%B0S-CR%285%29-ENG%20-%20MALEZYA.pdf [5th May 2014]

Anon. 2013. Kepesatan Negara membangun dahului G7. *Berita Harian*, 17 January. http://www.bharian.com.my/bharian/articles/KepesatannegaramembangundahuluiG7/Article [1 Jun 2014]

Anon. 2013. Najib: Malaysia set to become developed nation before 2020. *The Star*. 11 June. http://www.thestar.com.my/News/Nation/2013/06/11/Najib-Malaysia-set-to-become-developed-nation-before-2020/ [6 Mac 2014]

Ariff, M. 2007. Islamic banking: A variation of conventional banking?. *Monash Business Review*. 3(1): 1-8

Asian Finance Bank Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher AFBB.

Bank Islam Malaysia Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher BIMB.

Bank Muamalat Malaysia Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher BMMB.

Bank Negara Malaysia. 2003. The Islamic financial system. http://www.bnm.gov.my/files/publication/ar/en/2003/cp05.pdf [1st February 2014]

Bank Negara Malaysia. 2009. Press release. http://www.bnm.gov.my/index.php?ch=8&pg=14&ac=1750 [23th May 2014]

Beck, T., Demirguc-Kunt, A. & Merrouche, 0. 2013. Islamic vs. conventional banking: business model, efficiency and stability. *Journal of Banking & Finance*. 37: 433-447

Boumediene, A. & Caby, J. 2009. The stability of Islamic banks during the subprime crisis. Available at SSRN: http://ssrn.com/abstract=1524775 [1st February 2014]

Boyd, J. H., Graham, S. L. & Hewitt, R. S. 1993. Bank holding company mergers with nonbank financial firms: effects on the risk of failure. *Journal of Banking and Finance.* 17(3):43-63.

Chortareas, G., Girardone, C. & Ventouri A. 2011. Financial frictions, bank efficiency and risk: evidence from the Eurozone. *Journal of Business, Finance and Accounting.* 38(1-2): 259-287.

Cihak, M. & Hesse, H. 2008. Islamic banking and financial stability: an empirical analysis. IMF Working Paper. International Monetary Fund. Washington.

CIMB Islamic Bank Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher CIMB.

Ensenbies, R. A. & Kwan, S. 1997. Bank risk, capitalization and operating efficiency. *Journal of Financial Services Research*. 12(2):117-131.

Hasan, M. & Dridi, J. 2010. The effects of the global crisis on Islamic and conventional banks: a comparative study. IMF Working Paper. International Monetary Fund. Washington.

Hassan, B. G., Fachin, S. & Abdelkarim, A. G. 2013. Financial stability of Islamic and conventional banks In Saudi Arabia: a time series analysis. DSS Empirical and Econometrics Working Paper Series. Department of Science Statistic. Italy.

Hong Leong Islamic Bank Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher HLIB.

HSBC Amanah Malaysia Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher HSBC.

Kassim, S. & Abd Majid, M. S. 2010. Impact of financial shocks on Islamic banks: Malaysian evidence during 1997 and 2007 financial crises. *International Journal of Islamic and Middle Eastern Finance and Management.* 3(4): 291-305.

Kuwait Finance House (M) Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher KFH.

Madura, J., Martin, A. D. & Taylor, D. A. (1994). Determinants of implied risk of depository institutions. *Applied Financial Economics.* 4: 363-370.

Malaysia. 2006. *Laporan Tahunan Perusahaan Kecil dan Sederhana*.

Malaysia. 2007. *Laporan Tahunan Perusahaan Kecil dan Sederhana*.

Mat Rahim, S. R. & Hazli Zakaria, R. 2013. Comparison on stability between Islamic and conventional banks in Malaysia. *Journal of Islamic Economics, Banking and Finance.* 9(3): 132-149

Maybank Islamic Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher MIB.

Md Hashim, A. & Hussain, L. 2012. Isu jaminan mudarib dalam konteks mudarabah: Rujukan khusus terhadap industri kecil dan sederhana. *International Shari'ah Research Academic*. Research Paper. 41.

Naroden, M. 2013. PKS antara nadi utama kemajuan Negara. *Utusan Melayu*. 29th August. http://m.utusan.com.my/Sabah_%26_Sarawak/20130830/wb_06/PKS-antara-nadi-utama-kemajuan-negara---Naroden [1 Jun 2014]

OCBC Al-Amin Bank Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher OCBC.

OECD. 2009. The impact of the global crisis on SME and entrepreneurship financing and policy responses. Italy: Organisation for Economic Co-operation and Development.

Olson, D. & Zoubi, T. 2008. Using accounting ratios to distinguish between Islamic and conventional banks in the GCC region. *International Journal of Accounting.* 43:45-65.

Poo, C. Financing for SMEs. *The Star*. 2013. 27 September. http://www.thestar.com.my/Business/SME/2013/09/27/Financing-for-SMEs/ [7 Mac 2014]

Public Islamic Bank Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher PIBB.

Rahman, M. S. 2011. Credit risk management practices in banks: An appraisal. *Journal of Islamic Economics, Banking and Finance.* 7(3): 37-62.

RHB Islamic Bank Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher RHB.

Shayegani, B. & Arani M.A. 2012. A study on the instability of banking sector in Iran economy. *Australian Journal of Basic and Applied Sciences*. 6(1): 213-221.

Standard Chartered Saadiq Berhad. 2007-2013. Audited annual report. Kuala Lumpur: Publisher SCSB.

Sufian, F. 2010. The impact of the Asian financial crisis on bank efficiency: the 1997 experience of Malaysia and Thailand. Journal of International Development. 22(7):866-889.

Yeyati, E. L. & Micco, A. 2007. Concentration and foreign penetration in Latin American banking sectors: impact on competition and risk. *Journal of Banking & Finance.* 31: 1633-1647.

Yudistira, D. 2004. Efficiency in Islamic banking: an empirical analysis of eighteen banks. *Journal of Islamic Economic Studies*. 12(1): 1-19.

Zeti Akhtar. 2013. Grow Your Business: Access to Financing for SMEs in Malaysia. 27th August. Malaysia: Bank Negara Malaysia. http://www.bnm.gov.my/index.php?ch=en_speech&pg=en_speech_all&ac=473 [17 Jun 2014]

Appendix A

Sample: Islamic Banks

NO	ISLAMIC BANKS
1	Affin Islamic Bank Berhad
2	Al Rajhi Banking & Investment Corporation (M) Berhad
3	Alliance Islamic Bank Berhad
4	AmIslamic Bank Berhad
5	Asian Finance Bank Berhad
6	Bank Islam Malaysia Berhad
7	Bank Muamalat Malaysia Berhad
8	CIMB Islamic Bank Berhad
9	HSBC Amanah Malaysia Berhad
10	Hong Leong Islamic Bank Berhad
11	Kuwait Finance House (M) Berhad
12	Maybank Islamic Berhad
13	OCBC Al-Amin Bank Berhad
14	Public Islamic Bank Berhad
15	RHB Islamic Bank Berhad
16	Standard Chartered Saadiq Berhad

Appendix B

Variables

	Dependent Variables	Description
	Z-SCORE	(μROA+EQ/A)/σROA
	Independent Variables	Description
SF	SMEs financing ratio	SF= SMEs financing/ Total financing
NPL	Non-performing loan	NPL= Non-performing loans/ Total financing
LTA	ln(assets)	ln(Total assets) of a bank (RM Million)
EAR	Equity to assets ratio	EAR= Total equity/ Total assets
GDP	Real gross domestic product	Growth rate of GDP
CPI	Consumer price index	CPI index (%)
IR	Interest rate	Overnight policy rate

"مدى ملآئمة أدوات وأساليب الرقابة التقليدية مع خصوصية العمل المصرفي الإسلامي"

1.مرعـي علي ضو عبدالله.
2.د. محمد رضوان بن عبدالعزيز.
3.د. فؤاده جوهري.

الملخص..

تناولت هذه الدراسة طبيعة المصارف الإسلامية وخصوصيتها وما تتطلبه هذه الخصوصية من أدوات وأساليب رقابية تتلائم و خصوصية عملها وعلاقتها مع البنك المركزي التقليدي. كما هدفت الدراسة أيضا إلى التعرف على مدى ملائمة أدوات الرقابة التقليدية و خصوصية العمل المصرفي الإسلامي.

توصلت الدراسة إلى جملة من المتطلبات الضرورية لتكييف أدوات رقابة البنك المركزي التقليدي وخصوصية العمل المصرفي الإسلامي . كما وضعت الدراسة تصوراً لإطار رقابي يدعم العمل المصرفي الاسلامي وينظم علاقة المصارف الإسلامية مع البنك المركزي التقليدي بما يضمن لها توفير مناخ استثماري ملائم وخال من عراقيل الرقابة والأشراف.

الكلمات المفتاحية: المصرفية الإسلامية، البنوك المركزية، الأدوات والأساليب الرقابية.

المقدمة..

إنّ ما يميّز العمل المصرفي الإسلامي هو إسلامية الكيان، فهو يتطلب الالتزام بمبادئ وأحكام الشريعة الإسلامية المبنية على ثلاثية العقيدة والأخلاق والفقه.[1] فالعمل الإسلامي له خصوصية وأسس تختلف عن تلك التي يقوم عليها النظام المصرفي التقليدي كتحريم التعامل بالفائدة المصرفية ومبدأ المشاركة في الربح والخسارة إضافة إلى هدف التنمية الاقتصادية والاجتماعية للمجتمع. فظلاً إلى أن هذه الصناعة تحتاج إلى نظام رقابة وأشراف ذات طابع خاص يستمد خصوصيته من خصوصية العمل المصرفي الإسلامي. أصبح لزاماً علينا التعرف على مدى ملائمة أدوات واساليب الرقابة المصرفية التقليدية مع خصوصية وطبيعة العمل المصرفي الإسلامي. وتتأتي هذه المعالجة من خلال المحاور الأساسية التالية:

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1.المحور الأول: ماهية وخصوصية العمل المصرفي الإسلامي.
2.المحور الثاني: أدوات وأساليب الرقابة التقليدية وخصوصية العمل المصرفي الإسلامي.

أولاً. ماهية وخصوصية العمل المصرفي الإسلامي.

لقد تعددت مفاهيم وتعاريف المصارف الإسلامية فلقد عرفها عادل عيد بأنها" ذلك البنك أو المؤسسة التي ينص قانون إنشائها ونظامها الأساسي صراحة على الالتزام بمبادئ الشريعة الإسلامية، وعلى عدم التعامل بالفائدة أخذا وعطاءً."[2] ويرى إبراهيم عبادة بأنها" مؤسسة مالية مصرفية تقوم بتجميع الموارد المالية و توظيفها في مجالات تخدم الاقتصاد الوطني وفق ضوابط المشروعية، بهدف تحقيق الربح، لها رسالة إنسانية ذات بعد تنموي واجتماعي تهدف إلى توفير منتجات مالية تحوز على السلامة الشرعية." [3]

وعرفها آمال لعمش بأنها"مؤسسات مالية مصرفية، واقتصادية، واجتماعية، وتنموية، تقوم على تلّقي الأموال من مختلف المتعاملين للقيام بالوظائف والأنشطة المتوافقة مع الشريعة الإسلامية، وترمي من خلال ذلك إلى تحقيق مجموعة من الأهداف التي تخدم الفرد والمجتمع والاقتصاد ككل."[4] ومماسبق نجد أن فلسفة وطبيعة العمل المصرفي الإسلامي من خلال مزاولة أعماله وأنشطته التجارية يقوم على أحكام ومبادي الشريعة الإسلامية وذلك لغرض تحقيق التنمية الاقتصادية والاجتماعية داخل المجتمع .

اما فيما يتعلق بخصوصية المصارف الإسلامية فمن خلال استعراضنا لتعريف المصارف الاسلامية نجد ان هذه المصارف تتمتع بالخصائص الاتية:

1- أن الأساس الذي تنطلق منه المصارف الإسلامية يختلف عن ذلك الأساس الذي تقوم عليه المصارف التقليدية، فالمصارف الإسلامية تنطلق من أساس عقيدي يتمحور في مبدأ الاستخلاف، أي ان ملكية المال لله تعالى وملكية الانسان له بالوكالة ويخضع لتوجيهات واشراف المالك الأصلي (الاصيل) ويتبع اوامره
ونواهيه وبذلك يكون للمصرف الاسلامي ايدولوجية أساسية وهي الألتزام بأحكام الشريعة الإسلامية فيما يتعلق بالمعاملآت المالية وأنشطتها.[5]

2-عدم التعامل بالفائدة الربوية اخذا وعطاءا أي أنها لا يمكن أن تعطي فائدة مقابل الموارد التي تحصل عليها من المتعاملين معها، وعليه لابد من أن تدخل جميع معاملات المصرف الإسلامي وأنشطته في إطار الحلال. وفي نفس الوقت فإن تحريم تعامل المصارف الإسلامية بالفوائد الربوية ليس معناه عدم استهداف الربح بل هي بإعتبارها مؤسسات مالية تقوم بتحقيق الربح في إطار ضوابط إسلامية محددة يتقرر من خلالها مصدر الربح على أساس معاملات مصرفية وانشطة أستثمارية قائمة على أساس أدوات وصيغ إسلامية.[6]
3- الأستثمار في المشاريع الحلال تولي المصارف التقليدية اهتماماً قليلاً بالأنعكاسات الأخلاقية للنشاطات التي تمولها وفي مقابل ذلك يعمل كافة الوكلاء الاقتصاديون في النظام الإسلامي في إطار من القيم الأخلاقية المنبثقة من الإسلام، وليس ثمة استثناء بالنسبة

للمصارف، فهي لا تستطيع أن تمول أي مشروع يتناقض مع نظام القيم الأخلاقية الإسلامية.[7] فهي لا تقوم مثلاً بتمويل مصنع للخمور أو أية أنشطة يحرمها الإسلام وتسبب ضررًا للمجتمع.

4-تحقيق التنمية الاقتصادية و الاجتماعية يعتبر مطلبا توليه المصارف الإسلامية اهتمامًا بالغًا، وتسعى لتحقيق ذلك من خلال إقامة مشاريع استثمارية حقيقية توافق الضوابط الشرعية وتساهم في تحريك عجلة النشاط الاقتصادي، مراعية في ذلك البعد الاجتماعي، من خلال تلبية حاجات فعلية للمجتمع، فتكون بذلك قد حققت العائد المادي والاجتماعي على حد سواء.[8]

ومن هنا يتبين إن العمل المصرفي الإسلامي له فلسفة مختلفة تماماً عن فلسفة المصارف التقليدية ذلك أن الأخيرة تتاجر بالنقود عن طريق بيع وشراء الائتمان والتكسب من الفرق، فهي قائمة على الربا وليس على التعامل في السلع والخدمات، وبالمقابل فإن المصارف الإسلامية تتقيد بوظيفة النقود التي هي تسهيل انتقال السلع والخدمات وتجنب الربا وتحل محله المشاركة سواء بين مال ومال (شركات الاموال) او بين جهد ومال (المضاربة الشرعية).[9]

ثانياً: أدوات وأساليب الرقابة التقليدية وخصوصية العمل المصرفي الإسلامي.

إن الحاجة إلى تنظيم العلاقة بين البنك المركزي والمصرف الإسلامي حاجة متبادلة، فالمصرف الإسلامي يحتاج إلى مساعدة البنك المركزي في حالة افتقاره إلى السيولة، كما يحتاج إلى ثقة الجماهير التي لاتتوفر إلا بعلم الجميع أن البنك المركزي سوف يساعد المصرف في الأزمات وذلك عن طريق المراقبة وإخضاعه لمختلف الأدوات الرقابية،كما أن البنك المركزي لا يمكن أن يتجاهل وجود المصرف الإسلامي لأنه حريص على مراقبة كل المصارف والمؤسسات المالية التي تعمل في الجهاز المصرفي الذي هو مشرف عليه.[10] وفيما يلي الأدوات الرقابية التي يطبقها البنك المركزي على المصارف التقليدية، ومدى صلاحيتها للتطبيق على المصارف الإسلامية، والبدائل المتاحة في حالة عدم صلاحيتها لذلك.

1.سعر الخصم وخصوصية المصارف الإسلامية.

يعد سعر الخصم أو كما يسمى سعر إعادة الخصم بمثابة سعر الفائدة الذي يتقاضاه البنك المركزي من المصارف التجارية مقابل إعادة خصمه لما يقدم إليه من كمبيالات وأذونات الخزانة، ويحصل البنك المركزي على سعر الخصم عند تقديمه قروض وسلف مضمونة إلى المصارف التجارية.[11]كما يسمح سعر الخصم بوجود فرص حقيقية للمصارف التقليدية للحصول على القروض من البنك المركزي، وبخاصة حينما تواجه هذه المصارف خسارة غير متوقعة في الاحتياطات أو زيادة في سوق مفاجئة على شباك الائتمان أو عدم القدرة على تحصيل سيولة ضرورية في سوق النقد.[12]

ومن جانب آخر، يتحكم البنك المركزي في سعر الفائدة بالزيادة أو بالنقصان تبعا للظروف الاقتصادية المختلفة بغية التأثير في حجم الائتمان المتاح، فإن كانت هناك بوادر تضخم رفع البنك المركزي سعر الفائدة حتى تزيد تكلفة الاقتراض على المصارف التجارية وعملائها، وبالتالي يحد من حجم الائتمان ويخفض من وسائل الدفع المتاحة في الاقتصاد، أما إذا كانت هناك بوادر انكماش فإن البنك المركزي يخفض سعر الفائدة لتشجيع الاقتراض ومن ثم زيادة وسائل الدفع.[13] وبالنظر إلى سياسة سعر الخصم نجد أن المصارف الإسلامية لا يمكنها الاستفادة منها، حيث إنها تتعارض مع منهج عملها القائم على عدم التعامل الفوائد الربوية.

إلا أنه يستطيع البنك المركزي أن يتبنى بدلا من سياسة سعر الخصم صيغة ملائمة لأحكام العمل المصرفي
الإسلامي كصياغة اتفاق عقدي خاص بين البنك المركزي والمصرف الإسلامي تنص على عدم التعامل بالفائدة على الخصم، أي لا يتقاضى البنك المركزي فائدة مقابل الخصم على الأوراق التجارية، والمصرف الإسلامي يودع لدى البنك المركزي مبلغا ولو بسيطا بدون عائد .وإذا تسلم البنك المركزي هذه الأوراق يجعلها كضمان لقروض يمنحها للمصرف الإسلامي دون احتساب فائدة عند تحويلها إلى سيولة نقدية، أو يعيدها المصرف الإسلامي بصورة مضاربة أو مشاركة أو مرابحة بعد تحويلها إلى نقد، لذا يجب على البنك المركزي أن يعتمد نظام المشا ركة في الربح والخسارة بديلا لنظام الفائدة، ليدفع بنشاط المصارف الإسلامية ويساعدها في تحقيق أهدافها. [14]

ويمكن للبنك المركزي أن يحدد الحد الأدنى والأعلى لأسعار الفائدة بالحد الأدنى والأعلى لنسب الأرباح والخسارة، ويخضع بذلك جميع أشكال السلف والودائع والتحويلات الممنوحة للمصرف الإسلامي لآلية العمل الاستثماري الذي بدوره يخضع للربح والخسارة. ويمكن أن يحددكذلك شكل مشاركة البنك المركزي في إطار الصيغة الشرعية على نمط مماثل للتأثير الذي يحدثه التغيير في سعر الفائدة، فيقوم البنك المركزي باعتماد سياسة تغيير نسب المشاركة في الأرباح للتمويلات الممنوحة، بما يتماشى مع أهدافه الرامية لضبط الائتمان وتنظيم الطلب على التمويل المصرفي بوجه عام .وحينما يهدف البنك المركزي إلى توسيع مظلة الائتمان تتوقف مشاركته على تحقيق هامش ربح أقل وبعكس ذلك يزيد من هامش الربح، وتبعا لذلك يتأثر الهامش الصافي للربح الذي يحققه البنك الإسلامي مما يسهم في ضبط تمويلاته ومجال مشاركته في إحداث الائتمان المرغوب.[15]

2- عمليات السوق المفتوحة وخصوصية المصارف الإسلامية.

تتلخص هذه العمليات في قيام البنك المركزي ببيع وشراء الأوراق المالية والنقدية في السوق المالية والنقدية، بهدف التقليل من حجم الائتمان الذي تقدمه المصارف التجارية عن طريق منافستها، وكذا الضغط على سيولة الأفراد في حالة بيعهم للأوراق المالية، وقد تشمل

هذه السياسة التعامل في العملات الأجنبية والذهب .ففي حالة الانكماش يقوم البنك المركزي بشراء الأوراق المالية بهدف زيادة السيولة النقدية في الاقتصاد وفي حالة التضخم يقوم ببيع الأوراق المالية بهدف تخفيض السيولة.[16] ويعتبر التعامل بالأوراق المالية ومن بينها السندات الحكومية مخالفا لأحكام الشريعة الإسلامية لأن السندات تمثل صورة من صور عقد القرض، وتحمل فائدة ثابتة من قيمتها الأسمية فتتحول بهذا الشكل إلى أحد أشكال القروض الربوية وهو مايخالف طبيعة العمل المصرفي الإسلامي.[17]

ومن أهم البدائل المطروحة في جانب معالجة اختلال التعامل بالسندات أن يقوم البنك المركزي بإصدار أوراق مالية مختلفة تعتمد مبدأ المشاركة في الأرباح والخسائر، وتكون على شكل قسائم تحمل نسب أرباح متغيرة بدلا من السندات التي تحمل عائد ربوي ثابت، وعن طريق هذه الآلية يستطيع البنك المركزي أن يحقق أهدافه النقدية ويضبط حجم العرض النقدي حسب هذه الأهداف، ففي حالة سياسته الرامية لتخفيض مستوى العرض النقدي يتعين على البنك المركزي أن يحدد نسب أرباح أقل من بيع القسائم، فتكون مشاركته أقل وقدرته أكبر على امتصاص المدخرات ومن ثم خفض العرض النقدي، وفي حالة الشراء يمكنه تحديد نسب أرباح أعلى عن طريق مشاركة أكبر مما يوسع ويزيد حجم العرض النقدي ويحقق مجالات أوسع للائتمان.[18]

3. الاحتياطي النقدي القانوني وخصوصية المصارف الإسلامية.

تلزم سياسة البنوك المركزية في الدول المختلفة المصارف التابعة لها بضرورة الاحتفاظ لديها بنسبة معينة من قيمة إجمالي الودائع لدى كل مصرف كرصيد نقدي في حساب خاص لدي البنك المركزي، وتتغير هذه النسبة من بلد لآخر وتتراوح في الغالب بين 10%-25% من قيمة إجمالي الودائع المختلفة لدى كل مصرف، ويهدف البنك المركزي من استخدام الاحتياطي إلى التحكم في حجم الائتمان الذي تستطيع أن تمنحه هذه المصارف، ومن ثم التأثير على قدرة خلق النقود.[19] أن هذه الأداة لاتتوائم مع طبيعة الأموال في المصارف الإسلامية لاختلافها عن مثيلتها في المصارف التقليدية، فقد قدمت الأموال للمصرف الإسلامي بغرض الاستثمار على أساس المضاربة مثلاً مما يعني ذلك تقاسم المسئولية بين المصرف وصاحب الأموال وفقاً لنتائج الفعلية للاستثمار ومن ثم ليس هناك التزام على المصرف الإسلامي ضمان رد هذه الأموال كاملة لأصحابها إلا بالتعدي والتقصير، هذا بخلاف الودائع في المصارف التقليدية والتي تعتبر ديوناً في ذمة المصرف.

كما أن قدرة المصارف الإسلامية على خلق النقود وزيادة العرض النقدي تعد محدودة جداً إذا ماقورنت بحال التمويل بالقروض في المصارف التقليدية، وذلك لأن استخدامات الأموال في المصارف الإسلامية تكون في استثمارات حقيقية.[20] مماسبق يتضح أن سياسة الاحتياطي النقدي القانوني تتعارض مع حسن استثمار المال كاملاً، وتؤثر سلباً على القوة الاستثمارية،

والعائد الموزع على أصحاب الحسابات الاستثمارية، وذلك لتعطيلها جزءاً من هذه الحسابات دون استثمار، على الرغم من أن هذه الإداة لاتتوافق مع فلسفة وطبيعة العمل المصرفي الإسلامي إلا أنها تحابي المصارف التقليدية. ومن هنا فإنه لابد من إعادة تكييف الاحتياطي الإلزامي لينسجم مع معطيات العمل المصرفي الإسلامي، وتبرز أهم الأفكار المطروحة في هذا المجال على النحو التالي:

أ. أن يقوم البنك المركزي بإعفاء الودائع الاستثمارية لدى المصرف الإسلامي من حسابات قيود الاحتياطي لأن هذه الودائع قدمها المودعين للمصرف الإسلامي على أساس المضاربة وفقاً للنتائج الفعلية للاستثمار من ربح أو خسارة، ومن ثم فليس هناك التزام على البنك الإسلامي بضرورة ردها كاملة فهي ليست مضمونة على المصرف كما هو الحال بالنسبة للودائع الآجلة في المصارف التقليدية كما أن سياسة الاحتياطي القانوني تؤدي إلى تعطيل جزء من موارد المصرف الإسلامي على غير رغبة المودعين وتتعارض مع
حسن استثمار المال كاملا، وهذا مايؤثر سلبا على العائد الموزع على أصحاب الحسابات الاستثمارية. [21]

ب.عدم تطبيق سعر الفائدة الجزائي على المصرف الإسلامي في حالة عدم الوفاء بالحد الأدنى لمتطلبات الاحتياطي القانوني واستبداله بنظام غرامة مرتبطة بحجم التجاوز، وذلك انسجاما مع واقع العمل المصرفيالإسلامي الخالي من الربا.[22]

4.السيولة النقدية وخصوصية المصارف الإسلامية.

من ضمن الإجراءات التي تقوم بها البنوك المركزية من أجل تنظيم السيولة وحماية أموال المودعين لضمان ردها إليهم فرض نسب للسيولة تحددها البنوك المركزية من إجمالي أرصدة المودعين لدى مصرف تجاري، حيث يقوم المصرف بالاحتفاظ بالأرصدة المقابلة لهذه النسبة في صورة سائلة في خزائنه أو لدى البنك المركزي، على أن تكون العناصر التي يتم الاحتفاظ بها من الأصول ذات السيولة المرتفعة حتى يسهل تحويلها إلى نقدية إذا ما زادت حركة المسحوبات من قبل المودعين عن المعدل المتوقع ومثل هذه العناصر كالسندات وأذونات الخزانة يدر عائداً بالنسبة للمصارف التقليدية بينما يلاحظ أن المصارف الإسلامية لاتتعامل بها، وبالتالي فإن عليها حتى تحافظ على نسبة السيولة المقررة أن تختفظ بكميات أكبر من السيولة النقدية التي لاتدر عليها أية عوائد.[23] وتتراوح نسب السيولة التي تقررها البنوك المركزية عادةً ما بين 20%-25% من إجمالي الودائع.[24]

إن تطبيق سياسة السيولة النقدية على المصارف الإسلامية يؤدي إلى احتفاظها بنسبة كبيرة من ودائع العملاء الاستثمارية في صورة أصول سائلة، مما يقلل من القوة الاستثمارية لتلك الودائع، وبالتالي انخفاض ربحيتها. ومن هنا فإن المساواة بين المصارف الإسلامية والمصارف التقليدية عند فرض هذه النسبة تضع المصارف الإسلامية في موضع غير تنافسي وغير عادل وستحرمها من استثمار أموال معطلة، حيث أن القاعدة الفقهية التي تستند عليها المصارف الإسلامية هي قاعدة "الغنم بالغرم" وهذه بدوره تجعل المصارف الإسلامية غير ملزمة لضمان أموال المستثمرين وانهم شركاء في الارباح والخسارة.

5. السقوف الائتمانية وخصوصية المصارف الإسلامية.

السقوف الائتمانية عبارة عن إجراءات تنظيمية تقوم بموجبها البنوك المركزية بتحديد حد أقصى لمحفظة القروض لاتتعداه المصارف التجارية بكيفية إدارية مباشرة وفق نسب محددة خلال العام، وهذا بغرض الحد من التوسع في التمويل الإجمالي أو جعله عند المستوى المأمون للتوسع النقدي والتمويل المطلوب، وكذلك توزيع القروض في اتجاه القطاعات التي تعتبر أكثر حيوية بالنسبة للتنمية أو التي تتطلب موارد مالية كبيرة، أي ضمان توزيع هادف لاستثمارات المصارف وتخصيص الأموال في أوجه الاستثمار التي تحقق الرفاهية الاقتصادية من خلال الخطة التي ترسمها الدولة في تحديد أولويات المجتمع وأهدافه.[25]

أما بالنسبة لمدى صلاحية هذا المعيار الرقابي للتطبيق على المصارف الإسلامية فإنه يفضل عدم استخدامه

نظرا لما قد يؤدي تطبيقه من تأثيرات سلبية تضر بالمودعين و المساهمين، لأن طبيعة أعمال المصارف الإسلامية تختلف عن أساليب منح الائتمان في المصارف التجارية، فصيغ التمويل الإسلامي كالمرابحة والاستصناع والمزارعة تعتمد أساسا على استخدامات سلعية أي تمويل عمليات لإنتاج السلع بشكل مباشر أو غير مباشر .وبمعنى آخر، فإن التدفقات النقدية المترتبة على تلك الصيغ ترتبط بتدفقات سلعية أكثر من تلك التي تنجم عن عملية منح الائتمان لدى المصارف التقليدية، ومن ثم فإن التوسع في التمويل الإسلامي له تأثير أقل نسبيا من آثار التمويل التقليدي المتعلق بالتضخم. [26]

6.حظر التعامل في الأصول المنقولة والثابتة وخصوصية المصارف الإسلامية.

تمنع البنوك المركزية المصارف التجارية من تملك الأصول الثابتة أو المنقولة باستثناء ما تحتاج إليه المصارف من عقار والمنقول المخصص لإدارة أعمال المصرف، ويتفق هذا القيد مع طبيعة المصارف التقليدية التي تعتمد على أموال الغير كسلعة تتاجر فيها، وهذا الأمر يتنافى مع الميزات التي تميز المصارف الإسلامية عن المصارف التقليدية.[27] فأن طبيعة الاستثمار في التمويل الإسلامي قائم على أن النقود وسيلة للأستثمار في العمليات الأنتاجية

والخدمية والصناعية، بهذا فأن من خصوصية النظام الإسلامي أمتلاك الأصول سواء الثابتة أو المنقولة، بأعتباره مشاركاً وليس وسيطاً مالياً مثل نظيرتها التقليدية.

7.سياسة المقرض الأخير وخصوصية المصارف الإسلامية.

يعتبر البنك المركزي هو الملآذ الأخير للمصارف التجارية، فإذا احتاجت إلى سيولة لجأت إليه وأخذت ما تحتاج إليه بفائدة، لكن بالنسبة للمصرف الإسلامي لايمكن تدعيم مواقفه في مجال السيولة والائتمان بالاستفادة من القروض الممنوحة بسبب ارتباطها بنسبة حسم ربوية.[28] ولتفادي هذا الاختلاف في علاقة المصرف الإسلامي بالبنك الإسلامي هناك عدة طرق من أهمها:[29]

أ. مساهمة المصارف ومؤسسات التمويل الإسلامية بنسبة معينة من ودائعها لدى البنك المركزي، فتشكل هذه المساهمة وديعة مصرفية واحدة يمنحها البنك المركزي لأي مصرف إسلامي يواجه أخطارا ومشاكل محققة.

ب. أن يتبنى البنك المركزي أسلوب المشاركة في الربح والخسارة، وأن ينتهج في تطبيقه هذه الآلية مسلك الأخذ بنسبة المشاركة التفضيلية للقطاعات ذات الأولوية بدلا من أسعار الحسم التفضيلية.

جـ. إحلال مصرف إسلامي عالمي أو مركزي للقيام بدور المقرض الأخير وفق أحكام الشريعة الإسلامية وذلك من خلال عضوية المصارف الإسلامية حيثما وجدت، ودون النظر إلى امتيازات الإقليم الواحد.

الخلاصـــــــة:

أن النظم والأدوات والأساليب التي تتبعها البنوك المركزية لاتتماشى إلى حداً كبير مع طبيعة وفلسفة عمل المصارف الإسلامية، لأن البنك المركزي قد بني منهجه في الرقابة والتعامل مع طبيعة عمل المصارف التقليدية، فجاءت هذه الأساليب والأدوات متماشية مع منهجها على خلاف منهج وطبيعة عمل المصارف الإسلامية، ومن ثم يجب أن يختلف المنهج والأسس التي يتعامل بها البنك المركزي مع المصارف الإسلامية حتى يناسب طبيعة عملها.

التوصيـــــــات:

1.ضرورة الأخذ بعين الاعتبار خصوصية المصارف الإسلامية وتميزها عن المصارف التقليدية في فرض مختلف القواعد الرقابية عليها.

2.ضرورة التكامل بين المصارف الإسلامية لتوظيف الفائض في السيولة النقدية التي تشكل عبئاً كبيراً عليها.

3.السعي لأستصدار قوانين خاصة تتلائم مع طبيعة وخصوصية المصارف الإسلامية حيث يمكن أن يكون موازياً لتلك القوانين التي تخضع لها المصارف التقليدية.

المراجـــــــع:

1.عبد الستار أبو غدة،(2006م)،**المصرفية الإسلامية: خصائصها وآلياتها، وتطويرها،** ورقة بحثية مقدمة إلى المؤتمر الأول للمصارف والمؤسسات المالية الإسلامية، سوريا، مارس،ص4.

2.عادل عبد الفضيل عيد،(2007م)، **الربح و الخسارة في معاملات المصارف الإسلامية : دراسة مقارنة،** دار الفكر الجامعي، الإسكندرية ، ط1،، ص397.

3.إبراهيم عبد الحليم عبادة،(2008م)، **مؤشرات الأداء في البنوك الإسلامية،** دار النفائس، عمان، ط1، ص27 .

4. آمال لعمش،(2012م)، **دور الهندسة المالية في تطوير الصناعة المصرفية الإسلامية،** رسالة ماجستير، جامعة فرحات عباس، الجزائر، ص3.

5. حربي محمد وسعيد جمعة،(2010م) **ادارة المصارف الاسلامية،** دار وائل، الا ردن، ط1، ،ص91. 6.فادي محمد الرفاعي،(2007م)، **المصارف الاسلامية،** منشورات الحلبي، بيروت، ط2،ص32.

7.جلال وفاء البدري،(2008م) ،**البنوك الاسلامية،** دار الجامعة الجديدة،ص52-53 .

8.قريشي يوسف،(2005م)، **سياسات تمويل المؤسسات الصغيرة والمتوسطة في الجزائر،** دراسة ميدانية، أطروحة دكتوراه، غير منشورة، جامعة الجزائر،ص161.

9. فارس مسدور،(2007م)، **التمويل الإسلامي :من الفقه إلى التطبيق المعاصر لدى البنوك الإسلامية،** دار هومة، الجزائر، ص98 .

10. حامد ميرة،(2011م)، دراسة تكشف ان التمويل الاسلامي يوسع قاعدة المشاركة في ملكية المشاريع والتكامل، جريدة الشرق الاوسط، العدد 11759 في 7 فبراير.

11. أحمد أمين حسان،(1990م)، **علاقة البنوك المركزية بالبنوك الإسلامية** .مجلة الاقتصاد الإسلامي، بنك دبي الإسلامي، العدد(109).

12.ناظم محمد نوري الشمري، (1999م)،**النقود والمصارف والنظرية النقدية،** عمان، الأردن : دار زهران للنشر والتوزيع، ص 194.

13. ياسر الحوراني، (1999م)،**تقييم جوانب اختلالات العلاقة الوظيفية بين البنك المركزي والمصرف الإسلامي** .مجلة إسلامية المعرفة، المعهد العالمي للفكر الإسلامي، الولايات المتحدة الأمريكية، العدد16،ص122 .

14. وسام ملاك، (2000م)،**النقود والسياسات النقدية الداخلية** .دار المنهل اللبناني، بيروت، ط1، سنة ، ص222.

15. أحمد محمد السعد، **العلاقة بين البنوك الإسلامية والبنك المركزي،** ص 123 .

16.عدنان الهندي،(1989)، **العلاقة بين البنوك الإسلامية والبنك المركزي** .اتحاد المصارف العربية، بيروت، **نقلا عن** :ياسر .**اختلالات العلاقة الوظيفية بين البنك المركزي والمصرف الإسلامي** .مرجع سابق، ص 123 .
17. محمود سحنون، **الاقتصاد النقدي و المصرفي** .مرجع سابق، ص 119.
18. محمود الجمل ،(2003م)، **إشراك المصارف الإسلامية في معاملات السوق المفتوحة للبنوك المركزية** .مجلة جامعة الملك عبد العزيز، جدة، ، ص9 .
19. ياسر الحوراني، **تقييم جوانب اختلالات العلاقة الوظيفية بين البنك المركزي والمصرف الإسلامي** .مرجع سابق ، ص125 .
20.محمود عبدالكريم إرشيد،(2007م)، **الشامل في معاملات وعمليات المصارف الإسلامية**، الطبعة الثانية، دار النفائس للنشر والتوزيع، عمان، الاردن،،ص317.
21. أشرف محمد دوابة،(2005م)، **علاقة البنك المركزي بالبنوك الإسلامية** –دراسة تطبيقة على مصر- ورقة مقدمة الى ندوة نحو ترشيد مسيرة المصارف الإسلامية، ص14.
22 .أشرف محمد دوابة، **علاقة البنك المركزي بالبنوك الإسلامية**، 2006/03/10م .www. Islamonline.net/arabic/contemporory/2005/11/article04/shtml.
23. ياسر الحوراني، **تقييم جوانب اختلالات العلاقة الوظيفية بين البنك المركزي والمصرف الإسلامي** .مرجع سابق، ص 113 .
24. أحمد محي الدين أحمد،(1993م)، **علاقة البنك المركزي بالنسبة للمصرف الإسلامي**، المؤتمر الاقتصادي الأول المنعقد في الفترة 6-8 فبراير ، ص15.
25. أشرف محمد دوابة، **علاقة البنك المركزي بالبنوك الإسلامية**، مصدر سبق ذكره، ص15.
26.أحلام موسى المبروك،(2007م)، **آلية رقابة البنك المركزي على أعمال البنوك في ظل المعايير الدولية**، دراسة حالة الجزائر، رسالة ماجستير غير منشورة، كلية العلوم والاقتصاد وعلوم التسيير، جامعة الجزائر، سنة ،ص31-32.
27. محمد حسن صوان، أساسيات العمل المصرفي الإسلامي .مرجع سابق، ص 238 .
28. محمود عبدالكريم إرشيد، **الشامل في معاملات وعمليات المصارف الإسلامية**، مصدر سبق ذكره،ص318.
29. محمد عثمان شبير،(1999م)، **المعاملات المالية المعاصرة في فقه الإسلامي** .دار النفائس، الأردن، الطبعة الثالثة، لسنة ، ص 372 .
30. ياسر الحوراني، **تقييم جوانب اختلالات العلاقة الوظيفية بين البنك المركزي والمصرف الإسلامي** .مرجع سابق،120.

أثر نظام الحوافز على جودة الخدمات الصحية

[1]حسن محمد العربي

[2]د.فؤادة جوهاري

كلية الاقتصاد و المعاملات , جامعة العلوم الاسلامية الماليزية

الملخص

إن إدارة الموارد البشرية تعد اليوم من أهم الوظائف الإدارية في أي مؤسسة حكومية أو خاصة وتعتبرالرعاية الصحية من أحد أهم عناصر التنمية الشاملة والمستدامة التي تخصص لها الدول جزءاً كبيراً من ميزانياتها العامة، و لقد تعددت الدراسات العربية والأجنبية المتعلقة بدور و فعالية إدارة الموارد البشرية بشكل عام و العوامل التي تؤثر على أداء الأفراد و العاملين في المنظمات الصحية والقطاع الصحي والوظائف التي تضطلع بها هذه الإدارة والمتمثلة في التخطيط للموارد البشرية والتوظيف والتدريب وتقويم أداء العاملين و الحوافز والمكافآت. هدفت هذه الدراسة إلى إبراز أهمية تبني نظام الحوافز في المستشفيات الحكومية الليبية و الخاصة من خلال أستعراض أهم الدراسات التي تطرقت الى دور نظام الحوافز في تحسين أداء العاملين وعلاقته بجودة الخدمات الصحية. وتوصلت الدراسة الى العديد من الأستنتاجات التي تسهم في رفع أداء الافردا من خلال تحقيق أداء متميز وكفائة عالية لإدارة الموارد البشرية بتطبيق نظام حوافز شمولي وفعال يهدف الى تطوير الأداء وجودة الخدمات الصحية.

1. المقدمة

تمارس المؤسسات العامة والخاصة اعمالها بواسطة كادرها البشري واعتمادها بصورة أساسية على الأداء المتميز للعاملين في المؤسسة وذلك لتنفيذ اهدافها على المدى القريب والبعيد. ولكي تصل هذه المؤسسات الى الهدف المراد الوصول اليه كان لا بد لها من ايجاد الكادر الوظيفي القادر على ايصال المؤسسة الى ذلك الهدف ، وعلى هذه المؤسسة الاهتمام أولاً بتحفيز الموظف على الاستمرارية في الاداء الجيد والفعال من خلال نظام حوافز فعال.[6] و يعتبر العنصر البشري من أهم العناصر التي تعتمد عليها المؤسسات في تنفيذ أنشطتها المختلفة وبرامجها وتحقيق أهدافها ولازالت المؤسسات الحديثة وخاصة مؤسسات القطع العام تبحث عن كل السبل لجعل الافراد والعاملين في المنظمة يقدمون أفضل ما لديهم لصالح المؤسسة، بما يؤدي الى تحقيق أهداف المنظمة في النمو والتطور وزيادة الانتاجية وتحقيق الأرباح ورفع جودة الخدمات، حيث أن أفضل استغلال لعناصر الانتاج أو المدخلات يعتمد بصورة أساسية على العنصر البشري.[7]

وتشكل الرعاية االصحية في المستشفيات جوهر النظام الصحي السائد وأساسه في العديد من دول العالم وذلك لاعتبارات كثيرة في مقدمتها إن خطط التنمية وبرامجها المختلفة تعتمد على توافر قوى عاملة تتمتع بقدر من الصحة والكفاءة العالية.في الأداء. وتعد المستشفى منظمة خدمية مسؤولة عن تقديم خدمات صحية متكاملة تشخيصية وعلاجية وتعليمية وبحثية . والمستشفى كنظام إداري يستخدم موارد بشرية وفنية ومادية ومالية تتزايد أحجامها وقيمها تواكباً مع التقدم التقني والصحي، وتعد جودة الخدمات الصحية عنصر هام للغاية في مجال إدارة المستشفيات حيث ترتبط بأهم جانب من جوانب حياة الإنسان وهي صحته ، لذلك لابد لنا أن نقف عند هذا

[6] الجساسي،عبدالله حمد محمد. 2011. اثر الحوافز المادية والمعنوية في تحسين اداء العاملين في وزارة التربية والتعليم بسلطنة عمان، الأكاديمية العربية البريطانية للتعليم العالي، ص 12.

[7] المغربي، كامل. 1995. السلوك التنظيمي: مفاهيم وأسس سلوك الفرد والجماعة في التنظيم، دار الفكر للنشر والتوزيع، عمان – الأردن، ص2.

المطلب الإنساني ونوليه اهتمامنا سائرين نحو إمكانية إقامة أبعاد جودة الخدمات الصحية[8] وقد تبلور هذا الاهتمام بجودة الخدمة الصحية بقيام المهتمين بهذا المجال بتحديد أبعاد جودة الخدمة الصحية وهذه الأبعاد تعد بمثابة مؤشرات لقياس مستوى جودة الخدمة الصحية وعلاقتها بالعوامل الأخرى ومنها الحوافز و أداء العاملين في المؤسسات الصحية. لذلك حظي موضوع الحوافز باهتمام العديد من علماء السلوك الاداري ووذلك لأثره المباشر على تحسين انتاجية ومستوى الخدمات في المنظمة من خلال تحسين أداء العاملين والأفراد، حيث يعزي البعض أن الحوافز بشتى انواعها المادية والمعنوية تمثل أحد أهم المتغيرات المستقلة الايجابية في زيادة الدافعية للعمل و التي تنعكس على مستوى جوجة الخدمات المقدمة من قبل المؤسسة الصحية.

2. الغرض من الدراسة

تناقش هذه الدراسة أهمية التحفيز ودوره في تطوير الأداء الوظيفي لدى العاملين في المؤسسات الصحية وأهمية التحفيز على شعور الفرد أثناء اداء عمله بما ينعكس على جودة الخدمة الصحية، حيث تفترض الدراسة إن المؤسسة الناجحة هي تلك المؤسسة التي تعرف كيف تحفز عامليها على تقديم افضل أداء، حيث عمل الباحثون في سبيل الحصول على الوصفة الكاملة لرفع الكفاءة المهنية للأفراد العاملين وقيام الإدارة باختيار العناصر الفعّالة للمؤسسة وربط أهدافها بالأهداف الشخصية للعاملين التي تنعكس إيجابيا على أدائهم، وسوف تقوم الدراسة باستعراض الدراسات التي بحثت في نظام الحوافز وأثره على أداء العاملين بالشكل الذي يزيد من ولائهم للمؤسسة الطبية ويرفع من مستوى الخدمات الصحية .

8 أكرم أحمد الطويل، آلاء حسيب الجليلي، رياض جميل وهاب. 2011. إمكانية إقامة أبعاد جودة الخدمات الصحية: دراسة في مجموعة مختارة من المستشفيات في محافظة نينوى، منشورات جامعة الموصل، ص 3-5.

3. نظام الحوافز

الحافز هو الشيء الذي يحفز الفرد لأداء هذا العمل. وتمثل دراسة نظم الحوافز أمر أساسي لدراسة جميع الأنشطة الاقتصادية (سواء من حيث اتخاذ القرارات الفردية أو من حيث التعاون والمنافسة داخل بنية مؤسسية أكبر). ولا يوجد سلوك دون دافع يكمن وراءه، لذا وجب تحريك تلك الدوافع عن طريق الحث والإثارة من خلال أدوات ووسائل معينة يحبها الأفراد ويتمنونها، تلك التي يطلق عليها الحوافز[9]، ويعد الاختلاف بين المجتمعات (وبين المنظمات المختلفة داخل المجتمع) إلى حد كبير إلى تميز الاختلافات في هياكل الحوافز التي يواجهها الأفراد المنظمين في هذه الجهود الجماعية. في نهاية المطاف، تهدف الحوافز لتوفير أفضل قيمة من الفرد مقابل المال والمساهمة في النجاح التنظيمي.[10] ويعد التحفيز من أهم النشاطات التي يمارسها المديرون لكسب ولاء العاملين وحثهم على تحقيق أهداف المؤسسة من خلال تطوير أدائهم مقابل المزيد من الدعم المادي والمعنوي، بل ويمكن القول أن عملية التحفيز أصبحت جزءاً مهماً من نظريات السلوك الإدارية التي ترى أنه من الممكن، لا بل ومن اللازم تغيير سلوك العاملين من خلال وسائل فعالة. بحيث يمكن تقوية الرغبة لديهم في تكرار السلوك المرغوب به، وبالوقت نفسه إضعاف السلوك غير المرغوب – أو حتى منعه– وذلك وفقاً للآلية التي تعمل لإثارة الدافعية عن طريق المثيرات الخارجية[11]، وكل ذلك سوف يسهم في تحسين جودة الخدمات المقدمة من قبل المنظمة برأي الباحث.

وتنقسم الحوافز الى نوعين هما [12]

[9] عون مفيد عبد الله السقا، 2013. الدوافع النفسية والحوافز وعلاقتها بأداء العاملين في حقل القطاع المصرفي في قطاع غزة، منشورات الجامعة الإسلامية-غزة، فلسطين، ص 35.

[10] Armstrong, Michael (2013). Employee Reward. CIPD House. P.88.

[11] الفارس، سليمان. أثر سياسات التحفيز في الولاء التنظيمي بالمؤسسات العامة، مجلة جامعة دمشق للعلوم الاقتصادية والقانونية– المجلد 27 - العدد الأول-2011، ص71.

[12] الجساسي،عبدالله حمد محمد. 2011. اثر الحوافز المادية والمعنوية في تحسين اداء العاملين في وزارة التربية والتعليم بسلطنة عمان، الأكاديمية العربية البريطانية للتعليم العالي، ص12.

أ- **الحوافز المادية**. والتي تتمثل في المكافآت المالية والهدايا والدرجات والعلاوات الاستثنائية التي تمنح للموظف نظير قيامه بعمل مميز او جهد واضح للنهوض بالمؤسسة، ويمكن تحديد ثلاثة أنواع رئيسية من الحوافز المادية وهي[13]:

1. منح بدل تنقل
2. العلاوات والمكافآت الدورية
3. التأمين الصحي

ب- **الحوافز المعنوية**. وتتمثل في عبارات وخطابات الثناء والشكر والتقدير الموجهة للموظف، وتعتبر الحوافز المعنوية أقل تأثيراً مقارنة مع الحوافز المادية[14]، ولكنها تعطي انطباعاً ايجابيا بوجود تعزيز لكل عمل جيد يقوم الموظف بتنفيذه وتحقق درجة عالية من الرضا الوظيفي والذي يرتبط بالادتء الوظيفي برأي الباحث. ، حيث بين بعض الباحثون أن الحافز المعنوي من خلال كتب الشكر والثناء والاعتراف بمجهود المرؤوسين من قبل الرؤساء، والمشاركة في الدوارت التدريبية وتفويض السلطات وروح الفريق، تؤثر تأثيراً كبيراً على الإنتاجية والأداء الوظيفي.[15]

ويعرف الباحث الحافز بأنه المثير الخارجي الذي يحرك في نفس الفرد الدوافع للقيام بعمل معين بصورة إيجابية، وتوجد صلة مباشرة بين الحافز ومستوى الأداء الوظيفي وينعكس على جودة الخدمات في المنظمة بصورة عامة، لذلك يمكن القول أن العوامل والمتغيرات المؤثرة التي تحث الفرد على التصرفات بطريقة إيجابية تخدم أهداف المنظمة ، وتقلل

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[13] ميرفت، توفيق ابراهيم عوض الله. 2012.أثر التحفيز ودوره في تحقيق الرضا الوظيفي للعاملين، منشورات الأكاديمية العربية في الدنمارك، ص111.

[14] علي محمد عبد الوهاب . 2003. إدارة الموارد البشرية وأهميتها في تطوير الإدارة، منشورات الامم المتحدة اللجنة الاقتصادية والاجتماعية لغربي آسيا بيروت 3-1 تموز/يوليو 2003 ، ص3.

[15] عون مفيد عبد الله السقا، 2013. الدوافع النفسية والحوافز وعلاقتها بأداء العاملين في حقل القطاع المصرفي في قطاع غزة، منشورات الجامعة الإسلامية-غزة، فلسطين، ص 132.

أو تزيد من سرعة هذا التصرف الإيجابي يطلق عليها اسم الحوافز، وتمثل مجموعة المحفزات المعنوية والمادية نظام الحوافز.

وعادة ما تستخدم المنظمة أكثر من نوع من الحوافز، ويختلف ذلك بالنسبة للفرد الواحد حسب تدرجه الوظيفي ومدة عمله ومكانته ومستواه الإداري، وتؤثر إمكانات المنظمة وفلسفتها في نوع الحافز الممنوح، وتبقى المسؤولية على إدارة المنظمة لاختيار تصنيفات الحوافز المناسبة وفق ما تراه مناسباً لطبيعة عملها.[16]

4. جودة الخدمات الصحية

يقصد بالجودة أولاً كما ورد في بعض المعاجم العربية حيث يشير المعجم الوسيط الى أن الجودة تعني كون الشي جيداً، وفعلها الثلاثي "جاد" أما المعنى الاصطلاحي للجودة الشاملة فقد نظر اليها البعض على انها إتحاد الجهود واستثمار الطاقات المختلفة للمنظمة والإدارة والعاملين فيها بشكل جماعي لتحسين الأداء والانتاجية [17] ويذهب البعض الى ان الجودة تعني الكفاءة ويرى آخرون بانها تعبر عن الفعالية وقد عرفها البعض على انها تحقيق رغبات وتوقعات العميل وذلك من خلال تعاون الافراد في جوانب العمل بالمؤسسة، ويتفق هذا المفهوم مع المفهوم الذي يرى بان الجودة تعني تلبية رغبات العميل وتحقيق توقعاتة ورضاه من خلال تضافر الجهود لجميع الاعضاء سواء أكانوا داخل المؤسسة أم خارجها.[18]

فالجودة وفق تعريف سرحان (2012)[19] هي ثورة إدارية وتطوير فكري شامل وثقافة تنظيمية جديدة تجعل كل فرد في مؤسسته مسؤولاً عنها ومشاركا فعالاً في ادارتها وفقاً لموقعه واختصاصه وصولاً الى التطوير المستمر في

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[16] عواد، فتحي. 2012. ادارة الأعمال ووظائف المدير في المؤسسات المعاصرة، عمان: دار صفاء للطباعة والنشر والتوزيع، ص101.

[17] قاموس الجودة والاعتماد مركز ضمان الجودة، جامعة الإسكندرية، الواردة في موقع انترنتwww.pdffactory.com

[18] صبري كامل الوكيل ، أدارة الجودة الشاملة في التعليم الأمريكي و إمكان تطبيقها في مجال إدارة التعليم الاساسي في مصر. بحث منشور في مؤتمر التعليم الأساسي: حاضره و مستقبله (1979) ، ص14

[19] سرحان، فتحي. 2012. إدارة الجودة الشاملة: الاتجاهات العالمية الإدارية الحديثة، مكتبة الشريف ماس للنشر والتوزيع، القاهرة – مصر، ص1.

العمليات الادارية وتحسين الاداء بها لمواكبة التقدم الهائل في العصر الذي نعيشة والمستقبل الذي نتطلع الى ريادتة فقد اصبحت كافة المؤسسات الخدمية ومنها الصحية بحاجة الى لتبني فلسفة الجودة من أجل نيل رضا العملاء. ويشير البرواري وباشيوة (2009)[20] الى أن الجودة تمثل مدخلات ومقومات الأداء المتميز القادر على تجويد عناصر المنظمة وتطويرها والابتكار هو مقدرة جودة عناصر الموارد البشرية العالية التأهيل والكفاء فيه.

أما جودة الخدمة الصحية فقد عرفتها الهيئة الأمريكية المشتركة للمنظمات الصحية بأنها "درجة الالتزام بالمعايير المعاصرة المعترف بها على وجه العموم للممارسة الجيدة والنتائج المتوقعة لخدمة محددة أو أجراء تشخيص أو مشكلة طبية"، أما أدجرن يرى أن الرعاية الصحية يجب أن ينظر إليها من مجال أبعد أفقاً بأنها " أكثر من أن تكون مجرد رعاية طبيب وأن أنظمة الرعاية الطبية ال تحتاج أن تعطي اهتماماُ بالمعالجة الطبية فقط أيضا سلسله من العوامل العاطفية والمعرفية واالجتماعية ". (Edgren, L., 1991)[21]

ويرى الباحث إنه وبالرغم من التباين بين الباحثين في مفهوم الجودة الا إنه يمكن القول بانها تشمل الكفاءة والفعالية معاً، وذلك لانه إذا كانت الكفاءة تعني الاستخدام الامثل للإمكانات المتاحة (المدخلات) من اجل الحصول على نواتج ومخرجات معينة أو الحصول على مقدار محدد من المخرجات باستخدام أدنى مقدار من المدخلات (اقل تكلفة ممكنة) فهذا يمثل أحد الاسس التي تركز عليها الجودة الشاملة وهو تحقيق المواصفات المطلوبة بافضل الطرق وباقل جهد وتكلفة.

ويستنتج من التعريفات السابقة أن جودة الخدمات الصحية هي:

- معيار لدرجة تطابق الأداء الفعلي من توقعات العملاء على الخدمة الصحية.

[20] نماذج الإدارة التعليمية المعاصرة بين متطلبات الجودة الشاملة والتحولات العالمية "دراسة مقارنة". 2009. البرواري، نزار و باشيوة، لحسن عبد الله. المجلة العربية لضمان جودة التعليم الجامعي، العدد (3) 2009. ص 126-127.

[21] Edgren, L. (1991), “Service management Inm svensk Halsooch sjukvard, Lund”, Sweden, Lund University Press, P. 16.

- الفرق بين توقعات العملاء للخدمة الصحية وإدراكهم للأداء الفعلي لها.
- أن المستفيدين يحكمون على جودة الخدمة الصحيمن خلال مقارنة الخدمة الفعلية التي يتلقونها والخدمة التي يتوقعون الحصول عليها.

ويتضح من أعلاه إياً كانت الجودة المدركة التي تم الحصول عليها فعلاً (تفوق التوقعات، فأن المستفيدين سيكونون راضين عن الخدمة وسعداء بها. أما إيا كان أداء الخدمة أقل من التوقعات، فأن المستفيدين سيكونون غير راضيين عن الخدمة (الطائي وآخرون ، 2009).[22]

و يرتكز أي جهد لتحقيق الجودة في قطاع الخدمات الصحية على ثلاث أنشطة رئيسية و هي: [23]

1. تعريف الجودة: يشير إلى تطوير توقعات أو معايير للجودة و تصميم نظم عمل لتحقيق هذه المعايير.
2. قياس الجودة: يشير إلى قياس و توثيق مستويات الأداء المالية و مدى تطابقها مع التوقعات والمعايير التي تم تطويرها، و يشمل ذلك رضا المريض.
3. التحسين المستمر: التحسين فيشير إلى تطبيق طرق تطوير الجودة و استخدام أدواتها لجسر الهوة بين مستويات الأداء المالية و المتوقعة من خلال فهم و تحديد نقاط القوة و الضعف في الأنظمة التي تم تصميمها.

أي يمكن القول بأن مجال تطبيق الجودة في القطاع الصحي لا حدود له من الناحية العملية .وهذا ما يمكن فهمه حيث أن جوهر إدارة الجودة يمثل ثقافة إدارية جديدة تهدف إلى التطوير المستمر في العمليات، وأن تطبيق ممارسات تحسين الجودة بين المستشفيات يكون مصحوبا بتغيير في ثقافة المجموعة إلي ثقافة الإبتكار وتقدير دورفرق العمل،

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[22] الطائي، حميد، و العال ، بشير،)2229(، "تسوي الخدمات"، مدخ إستراتيجي، وظيفي، تطبيقي، دار اليازور ، عمان، ص:243.

[23] L.M. France, D.R. Silimperi, Tisna Veldhuyzen van Zanten, C. MacAulay, Karen Askou, Bruno Bouchet and Lani Marquer. Sustanining Quality of health care, September, 2002.

ومع ذلك وبغض النظر عن نوع المنظمة الصحية أو القسم الذي تطبق فيه إدارة الجودة فإن المفاهيم والطرق والأدوات هي نفسها ولا تختلف من مكان لأخر.

5. أثر نظام الحوافز على جودة الخدمات الصحية

أن توفير الحوافز المادية والمعنوية للكوادر البشرية العاملة في المستشفيات الحكومية يؤدي الى توليد الرغبة لديهم للاستمرار في العمل وتقديم الخدمات الطبية بشكل مناسب[24] و قد بين Conrad and Perry(2009)[25] أن الحوافز المالية الشاملة و تحقيق التوازن بين المكافآت والعقوبات؛ وقياس الأداء باستخدام معايير الأداء المطلق؛ وتحديد حجم المكافآت الإضافية إلى زيادة التكاليف الهامشية لتحسين الجودة في الخدمات الصحية، واستدامة المكافآت والحوافز – يفتح آفاقا جديدة لتعزيز الجودة في المجال الصحي بشكل ملحوظ. لذلك باتت العلاقة الملحوظة بين تبني نظام حوافز فعال وتحقيق جودة الخدمات في القطاع الصحي أكثر وضوحاَ ويتم تبنيها في الدول المتقدمة. فعلى سبيل المثال يتم تبني قانون الإصلاح الصحي[26] في الولايات المتحدة من أجل إنشاء نظام حوافز على مستوى الولاية من مدفوعات الحوافز القائم على الجودة لمقدمي الرعاية الصحية. وأحيانا تسمى هذه المدفوعات أيضا حوافز "الأجر مقابل الأداء". حيث يتم استخدام هذا النظام من قبل عملاء الرعاية الصحية العامة والخاصة. وهذا نهج أكثر تنسيقا لقياس والإبلاغ ودفع للحصول على جودة الرعاية الصحية من خلال خلق حوافز أقوى لمقدمي الرعاية الصحية لتحسين نوعية الرعاية الصحية من خلال تبني نظام الحوافز، وقد استخدمت معايير الجودة

[24] ذياب، صلاح محمود. 2012. قياس أبعاد جودة الخدمات الطبية المقدمة في المستشفيات الحكومية الأردنية من منظور المرضى والموظفين، مجلة الجامعة الإسلامية للدراسات الاقتصادية والإدارية، المجلد العشرين العدد الأول، ص 69 – ص 104 يناير

[25] Conrad DA, Perry L. 2009. Quality-based financial incentives in health care: can we improve quality by paying for it?, Annu Rev Public Health. 2009;30:357-71. doi: 10.1146/annurev.publhealth.031308.100243.

[26] http://www.health.state.mn.us/healthreform/measurement/qips.html

للرعاية الصحية لتطوير نظام مدفوعات الحوافز الجودة لمقدمي الرعاية الصحية، بناء على تحقيق المستويات المستهدفة للأداء أو على أساس التحسن مع مرور الوقت. وقد تم تنفيذ نظام الدفع للحافز في عام 2010 للمشاركين في الخطة الصحية والمسجلين في برامج التأمين العامة في الولايات المتحدة.

ويؤكد Scott et al[27] (2011) أن استخدام طرق مختلفة للدفع للعاملين في مجال الرعاية الصحية في محاولة لزيادة نوعية وجودة الرعاية يؤدي الى نتائج إيجابية ورضا المرضى، بما في ذلك استخدام حوافز مالية لمكافأة الأداء و الجودة بصورة مباشرة، وأن هذا النهج آخذ في الازدياد في عدد من البلدان في أوربا و اسيا. وكذلك هناك العديد من الأمثلة في الولايات المتحدة، وإطار الجودة والنتائج للممارسين العام في المملكة المتحدة، وهي مثال على الإصلاح في جودة الرعاية الصحية.

ويبين معهد البحوث الأمريكية [28] أن الأدلة على آثار الحوافز المالية واضحة في القطاع الصحي، ويحدد ما يلي:

• بشكل عام، الحوافز المالية تعمل بشكل أفضل عندما استهدفت بعناية لمجموعة سكانية محددة،

مجموعة من الخدمات، أو الحالة الصحية. ومع ذلك، توفير جودة عالية، يمكن أن تكون فعالة ولكن الرعاية الصحية باهظة الثمن.

• إذا لم تكن الحوافز المالية مصممة بعناية، فأنه يمكن أن يكون لها عواقب سلبية غير مقصودة، بما في ذلك نتائج صحية أقل وأعلى التكاليف على المدى الطويل وعلى رضا المرضى أيضاً.

[27] Scott A, Sivey P, Ait Ouakrim D, Willenberg L, Naccarella L, Furler J, Young D. The effect of financial incentives on the quality of health care provided by primary care physicians. Cochrane Database of Systematic Reviews 2011, Issue 9. Art. No.: CD008451. DOI: 10.1002/14651858.CD008451.pub2

[28] http://www.mathematica-mpr.com/Publications/PDFs/health/reformhealthcare_IB5.pdf

6. الخلاصة

بينت الدراسة أن تبني نظام الحوافز في المؤسسات الصحية له دور إيجابي على تطوير الأداء الوظيفي وبالتالي تطوير جودة الخدمات الصحية وتحقيق رضا المرضى عن الرعاية الصحية المقدمة لهم في المستشفيات العامة. وقد خلصت الدراسة الى أن معظم الدراسات السابقة المتعلقة بنظام الحوافز قد أثبتت العلاقة المباشرة بين تحفيز العاملين وتحسين مستوى الأداء وكذلك بين تبني نظام الحوافز بصورة شمولية وتحقيق التطوير المستمر في الأداء وأثره المباشر على جودة الخدمات الصحية في المؤسسات الصحية. وتؤكد الدراسة على أهمية نظام الحوافز المدفوع مسبقاً في سبيل تحقيق رعاية صحية ذات مستوى عالي كتلك المتبعة في الولايات المتحدة و بريطانيا.

ومما سبق يتضح دورة إدارة الموارد البشرية في تأهيل العاملين كافة في المؤسسة من خلال وضع خطة للتدريب والتعليم على المستويات كافة وذلك لنقل المفاهيم والمبادئ الأساسية لإدارة الجودة. كما

ينبغي على المؤسسةالصحية أن تهيئ وتعد العاملين بالمؤسسة على مختلف مستوياتهم نفسيا لفهم

وقبول والاقتناع بمفاهيم وممارسات إدارة الجودة في القطاع الصحي، حيث يساعد على تعاونهم والتزامهم والتقليل من مقاومتهم للتغيير.

7. التوصيات

توصي الدراسات بتبني الخطوات التالية لتبني نظام الحوافز الفعال في سبيل تطوير جودة الخدمات الصحية في المؤسسات الطبية في ليبيا:

1. يجب أن يرتبط صرف الحوافز فعلياً مع أداء العاملين وشمولياً في الوقت نفسه، مما يشجع العاملين جميعاً وبدون استثناء على بذل أقصى جهد لتحسين أدائهم لكون الحوافز تشمل الجميع. وبذلك يتم ربط تقديم الحوافز بتحسين الأداء وتطوير جودة الرعاية الصحية.
2. إقامة ورش العمل والندوات التي تبحث في كيفية زيادة تأثير التحفيز للعاملين في القطاع الصحي في ليبيا.

3. الاستمرار في توفير فرص التدريب والتأهيل للعاملين في المستشفيات الليبية لكي يلبي احتياجاتهم في التطوير الذاتي.
4. الاهتمام بالتحفيز المادي للعاملين في المستشفيات الحكومية الليبية وخاصة صغار الموظفين وأصحاب التأهيل المنخفض.
5. الاستمرار بمنح الميداليات وشهادات التقدير وخاصة للعاملين الذين يشهد لهم بحسن الأداء والتعامل مع المرضى.
6. دعم الحوافز المادية وذلك للدور الكبير الذي يقوم به هذا النوع من الحوافز في إيجاد الكثير من الحلول للمشاكل الاجتماعية والمادية التي تواجه العاملين في المؤسسات الصحية.
7. إجراء المزيد من الدراسات والبحوث المستقبلية المتعلقة بالحوافز ودورها في تحسين مستوى أداء لمستويات الأداء . العاملين ، أو رفع مستوى رضاهم الوظيفي ، وتصميم برنامج لكيفية تقديم الحوافز وفقا لبيئة العمل في القطاع الصحي.

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العربية المصادر

الجساسي،عبدالله حمد محمد. 2011. اثر الحوافز المادية والمعنوية في تحسين اداء العاملين في وزارة التربية والتعليم بسلطنة عمان،الأكاديمية العربية البريطانية للتعليم العالي.

المغربي، كامل. 1995. السلوك التنظيمي: مفاهيم وأسس سلوك الفرد والجماعة في التنظيم، دار الفكر للنشر والتوزيع، عمان – الأردن.

الفارس، سليمان. أثر سياسات التحفيز في الولاء التنظيمي بالمؤسسات العامة، مجلة جامعة دمشق للعلوم الاقتصادية والقانونية– المجلد 27 – العدد الأول–2011.

أكرم أحمد الطويل، آلاء حسيب الجليلي، رياض جميل وهاب. 2011. إمكانية إقامة أبعاد جودة الخدمات الصحية: دراسة في مجموعة مختارة من المستشفيات في محافظة نينوى، منشورات جامعة الموصل.

الطائي، حميد، و العال ، بشير،)2229(، "تسوي الخدمات"، مدخ إستراتيجي، وظيفي، تطبيقي، دار اليازور ، عمان، ص:243.

عون مفيد عبد الله السقا، 2013. الدوافع النفسية والحوافز وعلاقتها بأداء العاملين في حقل القطاع المصرفي في قطاع غزة، منشورات الجامعة الإسلامية–غزة، فلسطين.

ميرفت، توفيق ابراهيم عوض الله. 2012.أثر التحفيز ودوره في تحقيق الرضا الوظيفي للعاملين، منشورات الأكاديمية العربية في الدنمارك.

علي محمد عبد الوهاب . 2003. إدارة الموارد البشرية وأهميتها في تطوير الإدارة، منشورات الامم المتحدة اللجنة الاقتصادية والاجتماعية لغربي آسيا بيروت 3-1 تموز/يوليو 2003 ، ص 3.

عواد، فتحي. 2012. ادارة الأعمال ووظائف المدير في المؤسسات المعاصرة، عمان: دار صفاء للطباعة والنشر والتوزيع، ص101.

قاموس الجودة والاعتماد مركز ضمان الجودة، جامعة الإسكندرية، الواردة في موقع انترنت:

www.pdffactory.com

صبري كامل الوكيل.1979. أدارة الجودة الشاملة في التعليم الأمريكي و إمكان تطبيقها في مجال إدارة التعليم الاساسي في مصر. بحث منشور في مؤتمر التعليم الأساسي: حاضره و مستقبله.

سرحان، فتحي. 2012. إدارة الجودة الشاملة: الاتجاهات العالمية الإدارية الحديثة، مكتبة الشريف ماس للنشر والتوزيع، القاهرة – مصر.

نماذج الإدارة التعليمية المعاصرة بين متطلبات الجودة الشاملة والتحولات العالمية "دراسة مقارنة". 2009. البرواري، نزار و باشيوة، لحسن عبد الله. المجلة العربية لضمان جودة التعليم الجامعي، العدد (3) 2009.

ذياب، صلاح محمود. 2012. قياس أبعاد جودة الخدمات الطبية المقدمة في المستشفيات الحكومية الأردنية من منظور المرضى والموظفين، مجلة الجامعة الإسلامية للدراسات الاقتصادية والإدارية، المجلد العشرين العدد الأول.

المصادر الأجنبية

Armstrong, Michael (2013). Employee Reward. CIPD House.

Edgren, L. (1991), "Service management Inm svensk Halsooch sjukvard, Lund", Sweden, Lund University Press.

L.M. France, D.R. Silimperi, Tisna Veldhuyzen van Zanten, C. MacAulay, Karen Askou, Bruno Bouchet and Lani Marquer. Sustanining Quality of health care, September, 2002.

Conrad DA, Perry L. 2009. Quality-based financial incentives in health care: can we improve quality by paying for it?, Annu Rev Public Health. 2009;30:357-71. doi: 10.1146/annurev.publhealth.

Scott A, Sivey P, Ait Ouakrim D, Willenberg L, Naccarella L, Furler J, Young D. The effect of financial incentives on the quality of health care provided by primary care physicians. Cochrane Database of Systematic Reviews 2011, Issue 9. Art. No.: CD008451.

http://www.mathematica-mpr.com/Publications/PDFs/health/reformhealthcare_IB5.pdf

http://www.health.state.mn.us/healthreform/measurement/qips.html

التخفيف من وطأة الفقر

Rabie Mohamed Mohamed Abd AlRahman

الحمد لله رب العالمين والصلاة والسلام على أشرف المرسلين سيدنا محمد وعلى آله وصحبه أجمعين. وبعد

خلقنا الله، لعبادته وعماة كونه، وأرسل رسله بشرائع مناسبة ؛ لكل أمةٍ حسب زمانها،فقال:"لكلٍ جعلنا منكم شرعةً ومنهاجًا"[29]وربط الأسباب بالمسببات فقال:"وأتيناه من كل شئ سببًا فأتبع سببًا"[30]وصاحب العقيدة الصحيحة يعلم أنّ الله قدّر رزقه وأجله، والفقر نعمة أو نقمة، والأمور تجرى بمقادير والمال وديعة غادٍ ورائحٍ، وأنّ الله أرسل رسله بشرائع منظمة للحياة، والمال تميل إليه فطرةُ الإنسان قال الله "زُين للناس حب الشهوات من النساء والبنين والقناطير المقنطرة من الذهب والفضة والخيل المسومة والأنعام والحرث ذلك متاع الحياة الدنيا والله عنده حسن المئاب"[31]وللبعد عن منهج الله اتسعت دائرة الفقر وكثرة مخاطرهُ ،فأصبحت مشكلة الفقر من أسباب الصراع فى المجتمع قديمًا وحديثًا فاحتلت الدول القوية الدول الضعيفة للسيطرة على مواردها، وقتل الإنسان الإنسان وقطع الأرحام ،وأهان كرامته بسبب المال وهروبًا من الفقر .

،والشريعة الإسلامية وضعت منهجها لهذه المشكلة الملازمة للإنسان والمنبثقة عن سوء إدارته أوسوء منهجه أوسوء استهلاكه،أو فساد هدفه ووضعت الحلول والبدائل والتى لا تهتم بالمال فقط بل بالإنسان وبالمال بصنوفه المختلفة.

فللشريعة دور فى الحد من وطأة الفقرقائم على الفرد والجماعة والإدارة

الهدف من البحث: بيان دورالشريعة الإسلامية فى التخفيف من وطأة الفقر.

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[29]–سورة المائدة أية 48.

[30]– سورة الكهف أية 84 –85

[31]– سورة آل عمران أية 14

وخطتى كالتالى:. تقسيم البحث إلى تمهيد ومبحثين ،التمهيد: العلاقة بين التشريع والمجتمع ثم المبحث الأول :بيان حقيقة الفقر وأسبابه وأضراره.

المبحث الثانى: وسائل التخفيف من وطأة الفقر فى الشريعة الإسلامية ويشتمل على ستة مطالب:.المطلب الأول:دورالعقيدة والعبادات فى التخفيف من الفقر.

المطلب الثانى:دورالمعاملات والأحوال الشخصية فى التخفيف من وطأة الفقر.

المطلب الثالث:. دور الإدارة فى التخفيف من وطأة الفقر.

المطلب الرابع:. الأنظمة الحديثة لمعالجة الفقر وموقف الفقه الإسلامى منها

المطلب السادس :المقارنة بين التشريعات الوضعية والفقه الإسلامى.

أولًا التمهيد ويشتمل على بيان العلاقة بين التشريع والمجتمع والفرد

1-العلاقة بين التشريع والمجتمع، التشريع لا يكون إلا فى مجتمع ولا عمران إلا باجتماع ولا اجتماع إلا بتشريع؛ لذا فوجود التشريع مصاحب لتاريخ العمران .

2-العلاقة بين الفرد والمجتمع كالبدن وأعضائه فبسلامة الأعضاء يكون البدن سليمًا وكذا بسلامة الأفراد يسلم المجتمع.

3-العلاقة بين التشريع والأفراد :وضع التشريع لحفظ الحقوق وإخراج المكلف عن هواه،والخضوع للتشريع للمحافظة على الضروريات ومنها المال.[32] فيتضح أنّ الفرد محور التشريع وله سُخِرالكون وعليه بُنيت الشرائع،ولقد حاول البشرُ التخفيف من وطأة الفقر أو القضاء عليها، وكان لكلٍ اتجاهه، فمنهم من رأى أنّ الفقر ليس شرًا ، ومنهم من رأى أنّ الفقر شر وبلاء ولا علاج له إلا بالصبر عليه والرضا بقضاء الله، وفى العصر الحديث تنوع الفكر ما بين الشيوعية والرأسمالية شيوعية اشتركية ترى السيطرة على مال الأغنياء لمصلحة الفقراء، ورأسمالية ترى الفقر مشكلة الفقير ناتج عن كسله والمال جهد الغنى وذكاؤه وزعيمهم قارون قال

[32]– المدخل للفقه الإسلامى ص9 د/محمد سلام مدكور ط:دار الكتاب الحديث

الله:"قال إنما أوتيته على علم عندى"[33] لكنّ شريعتنا الغراء عالجته بتربية الفرد على منهجها وجعلت الفقير أساسًا لعلاج المشكلات.

ثانيًا :المباحث المبحث: الأول حقيقة الفقر وأسبابه وأضراره

المبحث الثانى: وسائل التخفيف من وطأة الفقر.

المبحث الأول :حقيقة الفقر وأنواعه وأسبابه ومخاطره ويشتمل على أربعة مطالب.

المطلب الأول:حقيقة الفقر

الفقر في اللغة: ضد الغنى، والفقر الحاجة، ورجل فقير من المال وقد فقر فهو فقير.[34]

الفقر اصطلاحًا: مرادف لكلمة الفقير: من لا يملك شيئا أو يجد شيئا يسيرًا لا يكفيه.[35]

المطلب الثانى:أنواع الفقر:من الواجب الوقوف على أنواع الفقر لنحاول معرفة الحلول

1-فقر مادى:وحقيقته عدم وجود ما يكفى من الحاجيات وربما للضروريات.

2-فقرمعنوى :تُصاب به النفس فتفقد أخلاقًا كالقناعة والرضا وقد يوجد فى وجود غنىً مادى؛ والثروة بلا أخلاق تجعل الغنى طاغية فيزيدالفقر الاجتماعى.[36]

المطلب الثالث: أسباب الفقرومنها:.

1- ما يخص الفقير أوالأغنياء كالبطالة والكسل والإخلال بالمسئولية واستنبط العلماء أسبابًا للفقر من قوله تعالى " من ذا الذي يقرض الله قرضا حسنا فيضاعفه له أضعافا كثيرة والله يقبض ويبسط وإليه ترجعون"[37]ومنهاالعجز عن

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[33]–مشكلة الفقر وكيفية علاجها للدكتور يوسف القرضاوى ص7 ط:دار الرسالة ،والأية سورة القصص أية 78 .

[34] – لسان العرب لابن منظور ص60/5 ط:دار صادر

[35] –الموسوعة الفقهية الكويتية 117/36 صادرة عن وزارة الأوقاف الكويتية

[36] – معالجة الفقرص 311 د:صالح بن عبدالله ج:أم القرى، ودور التربية الأخلاقية ص 108للدكتور مقداد يالجن.الشروق.

[37]– سورة البقرة أية 245

الكسب،والجهل، والجوائح كاضطراب البحار، والأغنياء متمكنون من إزالة البطالة بإحداث أعمال ومصالح للفقراء، فالله يعول الفقراء بأيدي الأغنياء، ويعول الأغنياء بتوفيقهم لأسباب الغنى.[38]

2- غلاء الأسعار والتضخم.([39]) الغلاء يمنع الإنسان الشراء أو يشترى بسعر عالٍ ،فيرهق نفسه بالدَّين فيكون سببًا من أسباب الفقر[40]

3- الابتلاء بالفقر لحكمة إلهية "إنّا كل شئ خلقناه بقدر"([41]) وقال تعالى:" نحن قسمنا بينهم معيشتهم فى حياتهم الدنيا ورفعنا بعضهم فوق بعض درجات"[42]

4- غياب العدالة الاجتماعية وتميّيز البعض بالاختصاص أو التمليك أو الدعم.

5- سوء إدارة المال على مستوى القيادة أو الأفراد بالإسراف وقصور التشريعات،و الاستثمار المخالف للتشريع الإسلامى بالربا أو بيع المحرمات والربا كنموذج مسبب للفقر اسم لفضل يستفاد بالعقد.[43] قال تعالى"وأحل الله البيع وحرم الربا"[44] فتضمنت الأية حُرمة الربا وجواز عقود المبايعات، والوعيد للمرابى.([45]) ولعن رسول الله صلى الله عليه وسلم من له صلة بالربا[46]؛ لأثر الربا على الاقتصاد،وترك العمل والاعتماد علىه يُصيب الإنتاج بالعقم، وتحريم الربا تنظيم اقتصادى.[47]

6-التناحر بين الدول أوالأفراد فى المجتمع الواحد من أجل السيطرة والنفوذ.

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[38] -تفسير المنار 363/2 للشيخ محمد رشيد رضا ط:الهيئة المصرية العامة للكتاب

[39] – تضخم النقود:زيادة النقود أو وسائل الدفع على حاجة المعاملات (معجم الصواب اللغوى 237/1)

[40] – الحسبة لابن تيميه 119/1 تحقيق على نايف الشحود

[41] – سورة البقرة أية 49

[42] – سورة الزخرف أية 32

[43]– البدائع 192/5

[44]– سورة البقرة أية 275

[45]– تفسير القرطبى338/3 .

[46]– البخارى عن أبى جحفة 169/7 كتاب اللباس باب من لعن المصور

[47]– تحريم الربا تنظيم اقتصادى كتاب للشيخ محمد أبو زهرة الناشر الدار السعودية.

7-التبذير المالي: ذمّه الله بوصف المبذرين بإإخوان الشياطين فقال" إنّ المبذرين كانوا إخوان الشياطين"[48] أمثالهم في الشر أوإخوانهم يطيعونهم فيما يأمرونهم به[49]
ونهى عن الإسراف فقال :"ولا تُسرفوا إنّه لا يحب المسرفين"[50]أضف إليه قلة الانتاج.

8- غياب الضوابط الشّرعية ونتيجته الغش وبيع المحرمات وتزييف النقود .....[51]

المطلب الرابع:مخاطر الفقر :الفقر له أضرار ومخاطر

1- يؤثر على العقيدة لما فيه من السخط وعدم الرضا بالقدر

2-انتشار الجهل والأمراض الاجتماعية كالكذب ،عن أم المؤمنين عائشة قالت قال رسول الله"إنّ الرجل إذا غرم حدث فكذب ووعد فأخلف [52]وأمراض أخرى كالحقد والقتل والزنا،قال تعالى:"ولا تقتلوا أولادكم خشية إملاق "[53]

3-التضخم والتبعية الاقتصادية واستنزاف الثروة البشرية وتكييف الهياكل الاقتصادية فى المجتمعات الفقيرة لصالح الدول الغنية.[54]

المبحث الثانى:وسائل التخفيف من وطأة الفقر فى الشريعة،ويشتمل على ستة مطالب

المطلب الأول: دور العقيدة فى التخفيف من وطأة الفقر

اهتمت العقيدة ببناء الفرد باعتباره اللبنة الأولى وبصلاحه يصلح المجتمع فعلاقة المجتمع بالفرد كالجسم بالأعضاء "إذا اشتكى منه عضو تداعى له سائر الجسد بالسهر والحمى " [55]والصالح لا يسعد إلا فى مجتمع صالح؛ فربت العقيدة الإسلامية الفرد لحل أزماته والتصدى لمشكلاته على النحو التالى:.

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[48] – سورة الإسراء أية 27 .

[49]– تفسيرالنسفى 254/2

[50]– سورة الأعراف أية 31 .

[51]– الفساد فى المشاط الاقتصادى ص30 د:رشاد خليل المؤتمر الثالث للاقتصادالإسلامى جامعة أم القرى –

[52] – صحيح البخارى 166/1 كتاب الصلاة باب:الدعاء قبل السلام

[53]– سورة الإسراء أية 31 .

[54]– الأليات المؤسسية لعلاج ظاهرة الفقر فى الاقتصاد الإسلامى ص48 للطيب وكى ماجستير 1431 /1432

[55]– مسند الإمام أحمد 30 /330

1-غرس الرضا بالقدروالقناعة والصبر على الابتلاء قال تعالى:"ولنبلونّكم بشئ من الخوف والجوع ونقصٍ من الأموال والأنفس والثمرات"[56]وعن القناعة قال الله :"ولا تمدنّ عينيك إلى ما متعنا به أزواجًا منهم"[57]والإيمان بعدالة الله وإنه لا يلحقه جور ولا يجوز أن يوصف به[58] مع التوكل والتسبب قال تعالى :"ومن يتوكل على الله فهو حسبه"[59] وفى الحديث:"اعقلها وتوكل " [60]

2-حرمة القتل خاصة قتل الأولاد خشية الفقرفعن عبد الله، قال: سألت رسول الله أي الذنب أعظم عند الله؟ قال: «أن تجعل لله ندا وهو خلقك» قال: قلت له: إن ذلك لعظيم، قال: قلت: ثم أي؟ قال: «ثم أن تقتل ولدك مخافة أن يطعم معك» قال: قلت: ثم أي؟ قال: «ثم أن تزاني حليلة جارك»"[61]

3-إقامة المجتمع على أساس الأخوة قال تعالى:"إنّما المؤمنون إخوة"[62]وهذا ما فعله رسول الله مع المهاجرين فى مكة ومع المهاجرين والأنصار فى المدينة وللأخوة تأثير فالتعاون والكفالة والمواساة.

5-ترسيخ قاعدة توحيد الذات بتوحيد الهدف والميول والطريق[63]انطلاقًا من توحيده لربه ولغايته"وأنّ هذا صراطى مستقيمًا فاتبعوه ولا تتبعوا السبل "وقوله تعلى:"قل إنّ صلاتى ونسكى ومحياى ومماتى لله"[64]

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[56]- سورة البقرة أية 155 .

[57] - سورة طه أية 131

[58]- العقيدة للإمام أحمد بن حنبل رواية الخلال 114/1 تحقيق عبد العزيز عز الدين .الناشر :دار قتيبة دمشق سورية.

[59]- سورة الطلاق أية 3

[60] - صحيح ابن حبان 510/2 باب ذكر الأخبار بما يجب على المرء من قطع القلب عن الخلائق،رواية جعفر بن عمرو

[61] - صحيح مسلم 90/1 كتاب الإيمان باب الشرك أقبح الذنوب

[62]- سورة الحجرات أية 10

[63]- دور التربية الأخلاقية الإسلامية فى بناء الفرد والمجتمع والحضارة ص 63 د/مقداد يالجن ط:دار الشروق بيروت

[64]- سورة الأنعام أية152 ، 162

6-صبغ المجتمع بالعقيدة، ففى تنظيم المجتمع يتصدر الخطاب بقوله يا أيها الذين أمنوا،أو يختم بالأمر بالتقوى وفى بناء الأسرة الجانب العقائدى"إذا جاءكم من ترضون دينه وخلقه فزوجوه"[65]ولربط المسلم بعقيدته "والله جعل لكم من أنفسكم أزواجا وجعل لكم من أزواجكم بنين وحفدة ورزقكم ."[66]

المطلب الثانى:.دور المعاملات والأحوال الشخصية فى تخفيف وطأة الفقر

الشريعة مدنية فى تركيبها عقدية فى جذورها تضفى على الناس عدلًا [67]

لذا بنت الشريعة الإسلامية المعاملات والأحوال الشخصية على الفرد والجماعة على النحوالتالى:1-أباحت العقود لتعلق البقاء المقدور بتعاطيها وأباح التكسب بعوض كالبيع والإجارة أوبغيرعوض كالميراث والعطايا[68] وضبطتها لحماية المتعاقدين كاشتراط الرشد والرضا قال تعالى:":يا أيها الذين أمنوا لا تأكلوا أموالكم بينكم بالباطل إلا أن تكون تجارة عن تراض منكم "[69] وفى الحديث:"إنما البيع عن تراض "[70]ومنع ما يضر كالإكراه ويرى جمهور الفقهاء عدم صحة عقد المكره مستدلين بقول عطاء" بلغني أن رسول الله قال: " إن الله تجاوز لأمتي عن ثلاث: عن الخطأ والنسيان، وما استكرهوا عليه "[71]واشتراط الملك أو الولاية وعدم تعلق حق الغير والخيارات واشترط الفقهاء فى المعقود عليه أن يكون مالًا حلالًا ومملوكًا والثمن والمبيع معلومًا.[72]وفى هذا توفير فرص للعمل.

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[65]- سنن الترمذى 386/2 وقال :(حسن غريب) أبواب النكاح باب إذا جاءكم من ترضون دينه،رواية أبى حاتم المُزَنى.

[66]- سورة النحل أية 72

[67]- الردة وآثارها ص1 وما بعدها د/تيسير العمر ط:دار النوادر سورية

- البناية على الهداية 3/8 والقوانين الفقهية لابن جزى 165/1 ،الفقه الإسلامى فى المعاملاتص57 كتاب جامعى

[68]ك:الشريعة .الأزهر 1996

[69]- سورة النساء أية 29

[70]- صحيح ابن ماجه 737/2 كتاب البيوع باب بيع الخيار،رواية أبى سعيد الخدرى.

[71]- مصنف ابن أبى شيبة 172/4 باب ما قالوا الرجل يحلف على الشئ بالطلاق

[72]- الفقه الإسلامى فى المعاملات والعقود ص11 كتاب جامعى ك:الشريعة ج:الأزهرسنة1996-

2-معالجة الأمراض الخلقية بتحريم العقود التى تسبب الفقر وانتشار الرذيلة كبيع الات اللهووالمخدرات.والتحريم والفساد لتحريم العين أوالربا أوالغش أوالضرر[73] والمعالجة بغرس العقيدة ومنع الفساد من خلال التربية على العبادات التى تنمى فى الإنسان حس المراقبة واللالتزام التعبدى والسلوكى .[74]

3-توفير فرص العمل بإباحة المضاربة والشركة والوكالة والإجارة والقرض لتنشئة الفرد على أن يكون نافعًا منتجًا، فهذه عقود قائمة على استثمارمال الغنى وتوفير عمل للفقير،وحفظ المال فلا تأكله ظروف الحياة وارتفاع الأسعار.

4-حماية الفرد بتشريع الشفعة والحجر، وجواز التسعير حالة الضرورة وهذا ما ذهب إليه الحنفية وبعض المالكية وابن تيميه وابن القيم.[75]فيتضح أنّ المشكلات لا يأتى حلها إلا بمنهج الإسلام - بناء الفرد -على الأسس تتمثل فى الصدق والأمانة " إنّ الله يأمركم أن تؤدوا الأمانات إلى أهلها"[76] والمعاملات على المصلحة ومنع الغش والغبن[77] عملًا بحديث "من غشنا فليس منى"[78]

5-الأسرة هى أساس المجتمع فبناهاالإسلام على أسس منها التكافل والنفقة وأسبابها ثلاثة الزوجية والقرابة والملك، فحمّل الزوج مسئوليتها بدايةً من الخطبة والمهرثم النفقة على الأسرة، وإذا لم يكتب الله للزوجين النجاح والعشرة الدائمة، فحفاظًا على المرأة من الفقر وجبرًا لخاطرها وصيانةً لها شرع الإسلام الطلاق على مال والخلع ثم المتعة، وكفالة الوالدين إن كانا

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[73]- بداية المجتهد 145/3 .

[74] - منهج الشريعة فى حماية المجتمع من الفساد المالى ص30 إعداد عبدالله ناصر جامعة نايف بالسعودية

[75]- مسائل فى الفقه المقارن ص213 د/ماجد أبو رخية ط:دار النفائس وعزاه إلى الفتاوى الهندية 214/3 والحسبة ص39

[76]- سورة النساء أية 85

[77]- عقد التأمين بين الشريعة والقانون ص 32 إعداد أحمد النجدى رسالة دكتوراه ك الشريعة ج: الأزهر.

[78] - صحيح مسلم 99/1 كتاب الإيمان باب: قول النبى من غش فليس منى، رواية أبى هريرة.

فقيرين والأقارب[79]، وبعد الموت ينتقل المال إلى الورثة ([80])حرصًا على تداول المال ونمائه.

المطلب الثالث:.دور الدولة فى التخفيف من وطأة الفقر .

للدولة دور بحديث:"كلكم راعٍ ومسئول عن رعيته" [81]وحديث:" «أنا أولى بالمؤمنين من أنفسهم، فمن توفي من المؤمنين فترك دينا فعلي قضاؤه، ومن ترك مالا فلورثته».[82]"ومسئولية الدولة شملت المسلمين وغير المسلمين وهذا عمر مرّ بكتابى يسأل على أبواب الناس فقال : ما أنصفناك "[83]وصرف له مالًا،فليس خلق الإسلام أن يأخذ الجزية فى غناه ويتركه عند حاجته

1-تفعيل دور القيادة الصالحة والتعاون معها ففى الحديث:" اسمعوا وأطيعوا، وإن استعمل عليكم عبد حبشي، كأن رأسه زبيبة"[84]

2-إقامة المؤسسات الاقتصادية وفق المنهج الإسلامى الصحيح كالمصارف والتأمين التعاون والحسبة ومؤسسة الوقف والزكاة .[85]

3-القضاء على الفساد المالى من خلال

أ-حسن اختيار العمال وتدريبهم وتطوير فكرهم بما يتناسب مع العصر وربطهم بدينهم وعقيدتهم وتحفيزهم من خلال أُسس العدالة الاجتماعية.

ب-إسناد التخصصات لأهلها عملًا بقوله تعالى"فاسألوا أهل الذكر إن كنتم لا تعلمون"[86] وتشكيل الحكومات والتوظيف باختيار الأمين والأصلح

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[79]- رد المحتار لابن عابدين 572/3 والشرح الكبير على المقنع 229/9 والمهذب 150/3

- الدرر السنيةص28 لأبى عبدالله محمد عبد القادرص ط:دار ابن حزم ومتن الرحبية ص3 ط:دار المطبوعات [80]الحديثة.

[81] -صحيح البخارى 120/3 كتاب فى الاستقراض وأداء الديون :باب العبد راعٍ فى مال سيده ،عن عبد الله بن عمر.

[82]- صحيح البخارى 67/7 كتاب النفقات باب من ترك كلًا أو ضياعًا فإلىَّ عن أبى هريرة.

[83]- الأموال 162/1لأبى أحمد حميد بن مخلد -ابن زنجويه الناشر مركز الملك فيصل للبحوث والدراسات الإسلامية.

[84]- صحيح البخارى 62/9 كتاب: الأحكام ،باب السمع والطاعة للإمام ما لم تكن معصية رواية أنس بن مالك.

[85]- الأليات المؤسسية لعلاج ظاهرة الفقر ص48

[86]- سورة الأنبياء أية 7

لحديث أبى ذر"إنك ضعيف وإنّها أمانة وإنّها يوم القيامة خزى وندامة"[87] واختيار القادر " قال اجعلنى على خزائن الأرض إنّى حفيظ عليم"[88] وبالحفظ والعلم تتحق القدرة على إنجاز هذا العمل، وابنة شعيب تطلب منه استئجار نبى الله موسى لصفتين لا غنى للعامل عنهما القوة والأمانة "قالت إحداهما يا أبت استئجره إنّ خير من استئجرت القوىّ الأمين"[89]والتأكد من هذه الصفات لا يتحقق إلا من خلال المقابلات الشخصية[90] كما فعله رسول الله مع معاذ حينما أرسله إلى اليمن :بم تحكم ؟ قال بكتاب الله...."[91]

ت- تحقيق العدالة الاجتماعية بما يُحقيق مصلحة المجتمع قاطبة.

ث-تطوير التعليم ومراكز التدريب وإقامة الندوات للأفراد للارتقاء بهم.

د- إقامة الأسواق الحرة المضبوطة بالمعايير التى لا يُظلم فيها أحد.

ذ-تفعيل إحياء الموات وتعميره مع مساندة الأفراد وعدم تركهم لإمكانياتهم مما يترتب عليه قدرة الغنى وزيادة غناه وضياع الفقير وزيادة فقره.

ر- تفعيل المشاركة بين الدولة والأفراد بما يحفظ حق الأفراد والمجتمع من خلال تفعيل دور مكاتب خدمة المواطنين والعمل الميدانى للوقوف على أسباب الشكوى والعمل على حلها بمشاركة صاحبها.

ز-تدريس المعاملات الإسلامية فهى الدليل والمعيار على مصداقية التدين والالتزام بشرع الله [92]وببُعد الإنسان عن شرع الله يهتز شأن الملكية ويرتبك شأن الفرد والمجتمع .[93]وزاد الفقر.ورسول الله فى إدارته للمال

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[87]- صحيح مسلم 1457/3 كتاب: الإمارة ، باب كراهة الإمامة بغير ضرورة.

[88]- سورة يوسف أية 55 .

[89]- سورة القصص أية 26 .

[90]- منهج الشريعة فى حماية المجتمع من الفساد المالى والإدارى ص40 وما بعدها4.

[91] - مشكل الآثار 209/9 لأبى جعفر الطحاوى باب بيان مشكل ما روى فى القضاة الناشر :مؤسسة الرسالة.

[92]- المعاملات المالية المعاصرة ص 13 د:وهبة الزحيلى الناشر دار الفكر المعاصر.

[93]- أحكام المعاملات ص 15 تأليف الأستاذ الدكتور كامل موسى الناشر مؤسسة الرسالة .

خير نموذج يحتذى به فى الإدارة،تعددت حلوله لمشكلة الفقر الاجتماعى فى مكة والمدينة ففى مكة كان التكافل قال تعالى "والذين فى أموالهم حق معلوم للسائل والمحروم"[94] ثم تنظيم المال بمنع الربا ووجوب الصدقة بقوله تعالى "وما أتيتم من ربًا ليربوا فى أموال الناس فلا يربوا عند الله"[95]

وفى مجتمع المدينة قام النبى بمجموعة أعمال ذات صبغة مالية ومنها:.

1-إقامة السوق والسماح بممارسة التجارة بدون مقابل فعن أبى أسيدالساعدى عن النبى قال"هذا سوقكم، فلا ينتقصن، ولا يضربن عليه خراج"[96]

2-المؤاخاة بين المهاجرين والأنصار ثم تشمل المؤاخاة كل قاطنى المدينة فتنص صحيفة المدينة على التعاون فى دفع ديات القتلى وفكاك الأسرى.

2-تعيين جهاز إدارى لما يخص أموال للزكاة والصدقات يعتمد على الخبرة وخشية الله ويقظة الضمير وحسن السيرة ولهذا نماذج منها تولى عبدالله بن رواحة خرص تمر خيبر وتولى الصحابة للقضاء والإمارة كعلى ومعاذ.

3-تنظيم الزراعة والصناعة والتجارة .ففى الزراعة شجع إحياء الموات،فعن سعيد بن زيد، عن النبي صلى الله عليه وسلم، قال: «من أحيا أرضا ميتة فهي له، وليس لعرق ظالم حق"[97]وشجع على الزراعة[98] بيان أجر من يزرع وفى العمل ولوقامت القيامة.ونظم التجارة بإقامة الأسواق ووضع القواعد المنظمة لها كالنهى عن السلع المحرمة الضارة والنهى عن الاحتكار والنجش وبيع الحاضر للبادى ويزين التجار بحسن الخلق والسماحة مبينًا أفضلهما، فعن جابر بن عبد الله رضي الله عنهما: أن

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[94]- سورة المعارج اية 24 ،25

[95]- سورة الروم أية39 .

[96]- سنن ابن ماجه 751/2 كتاب التجارات باب الأسواق ودخولها.

[97] - سنن أبى داود 178/3 باب فى إحياء الموات، وصحيح البخارى 106/3 عن عمرو بن عوف كتاب المزارعة

[98]- ذكر ابن قدامة الإجماع عليها مستدلا بما فعله النبى مع يهود خيبر.(المغنى290/5)

رسول الله صلى الله عليه وسلم، قال: «رحم الله رجلا سمحا إذا باع، وإذا اشترى، وإذا اقتضى""[99] وللسماحة فضل فى التعاون.وأمر بتوثيق العقود بالإشهاد والكتابة ومراقبة السوق،ونظّم الصناعة [100] باختلاف مجالاتها عمران كبناء المساجد والمساكن وحفر الخنادق وتمهيد الطرق واستعمال الآلات كالمكاتل وصناعة الأسلحة والصياغة والحلى ونسج الأدوات والأثاث من خوص النخل.ونظّم الأموال العامة بالقيام على حفظها وهى إما نقدية أو عينية فالنقدية كان يحفظها فى بيته والعينية فى المسجدأو يختر لها مكانًا آمنًا كدار رملة بنت الحارث.وكان يقوم بتسجيل الأموال والمستحقين فكان يأمر الزبير بن العوام وجهيم بن الصلت بكتابة الأموال والمستحقين.[101]

المطلب الرابع:الأنظمة الحديثة للتخفيف من وطأة الفقر

تعددت أشكال الأنظمة الحديثة لاستثمار المال والهدف الغالب تحقيق الغنى وسد الحاجات ولكل طريقته فى تطبيق منهجه.

1-المؤسسات المصرفية وأسواق المال والتى تسببت فى اتساع الهوة بين الفقراء والأغنياء فهى تعالج جانب المال فقط دون النظر للفقير.

2-بيوت مال المسلمين مثل بيت مال الزكاة الكويتى والأوقاف

3-مؤسسات التأمين والوقف والكفالة [102]

المطلب الخامس:المقارنة بين التشريعات الوضعية والتشريع الإسلامى

المنهج الاقتصاد الاسلامى ربانى المصدر قال تعالى:"ونزلنا عليك الكتاب تبيانًا لكل شئ وهدًى ورحمة وبشرى للمسلمين"[103]والهدف قال تعالى:" وما

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[99]- صحيح البخارى 57/3 كتاب البيوع باب السماحة فى الشراء والبيع.

[100]- فى البحر الرائق ثبت الاستصناع بالإجماع العملى (البحر الرائق 572/6)

[101]- الإدارة فى عصر النبى ص 179 د:حافظ أحمد عجاج الناشر دار السلام مصر.

[102]- ملتقى الأبحر 573/1 ونهاية المحتاج على شرح المنهاج 359/5المغنى 4/6

[103]- سورة النحل أية 89

خلقت الجنّ والإنس إلا ليعبدون " [104]وقال أيضًا :" وابتغ فيما أتاك الله الدار الأخرة ولا تنسى نصيبك من الدنيا وأحسن كما أحسن الله إليك "[105]ويتمتع بالشمولية والمرونة والصلاحية لكل زمان ومكان ويجمع بين المادية والروحية قال تعالى :" ألا يعلم من خلق وهو اللطيف الخبير"[106] وقال سبحانه " ولو أنّ أهل القرى أمنوا واتقوا لفتحنا عليهم بركاتٍ من السماء والأرض ولكن كذبوا فأخذناهم بما كانوا يكسبون"[107]ومراعاة المصالح والواقعية قال تعالى :"نحن قسمنا بينهم معيشتهم فى الحياة الدنيا ورفعنا بعضهم فوق بعض درجات "[108] والعالمية [109] "وما أرسلناك إلا رحمة للعالمين"[110] فدلّت الأية على عالمية الرسالة،وقال سبحانه فى بيان مهمة النبى صلى الله عليه وسلم، وأنّ الله بعثه للعالمين نذيرًا.

أما المناهج الوضعية فنظرتها قاصرة على زمانٍ ومكانٍ وظرووفٍ بيئةٍ خاصةٍ بمجموعة أفراد تفشل بفشلهم وتستمد أحكامها من سلطان الدولة و يعنيها الناحية السلبية فتعتنى بدفع المفاسد ومنع الأذى وقاصرة على الظاهر.[111]

النتائج:.أهمية تطبيق المنهج الإسلامى للتخفيف من وطأة الفقر

1-الاهتمام بالفرد كأساس للتخفيف من وطأة الفقر

2-الفقر الذى يسبب الأزمات ليس المادى وإنّما يسببها الفقر المعنوى

3-المجتمع والأفراد بحاجة ضرورية إلى الدين لتنظيم الحياة.

المصادر:.أولاً: القرآن الكريم والتفسير:.1-القرأن الكريم

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[104]- سورة الذاريات أية 56

[105]- سورة القصص أية 77 .

[106] – سورة الملك أية 14 .

[107] – سورة الأعراف أية 96 .

[108]- سورة الزخرف أية 32 .

[109]- الاقتصاد الإسلامى والقضايا المعاصرة ص64 د:على السالوس

[110]-سورة الأنبياء أية 107 .

[111]- المدخل ص20 د: محمد سلام مدكور.

2-الجامع لأحكام القرآن لمحمد بن أحمد القرطبي الناشر:دار الكتب
3-تفسير المنار محمد رشيدرضا الناشر: الهيئة المصرية العامة للكتاب
4-تفسير النسفي لعبد الله بن أحمد النسفي الناشر:دارالكلم الطيب، بيروت
5-أحكام القرآن لحمد بن علي الجصاص:دارإحياء التراث العربي بيروت
6-العقيدة للإمام أحمد رواية الخلال الناشر:دار قتيبة دمشق سورية.
7-صحيح البخاري لمحمد بن إسماعيل البخاري ط:طوق النجاة دمشق
8-صحيح مسلم بن الحجاج ط: دار إحياء التراث العربي – بيروت
9-سنن الترمذى لمحمد بن عيسى الترمذى الناشر:مصطفى الحلبى.
10-سسن أبى داود لسليمان بن داود الناشر:دار هجر مصر.
11-سنن ابن ماجه لمحمد بن يزيد القزوينى ط:دار إحياء الكتب العربية.
12-صحيح ابن حبان لمحمد بن حبان بن أحمد الناشر دار الرسالة.
13-مصنف ابن أبى شيبة لأبى بكر بن أبى شيبة ط:دار الرشد .الرياض
14-شرح مشكل الأثارلأحمد بن محمد بن سلامى الطحاوى ط:دار الرسالة.
15-مسند الإمام أحمد بن محمد بن حنبل الناشر: دار الرسالة.
اللغة:16- لسان العرب لابن منظور الناشر:دار صادر بيروت
17- معجم الصواب اللغوي: لأحمد مختار عمر الناشر:عالم الكتب، القاهرة
الفقه:18-بدائع الصنائع لأبى بكربن مسعود الكاساني ط: دارالكتب العلمية.
19-البناية لمحمود بن أحمد بن موسى بدر الدين العينى:دارالكتب بيروت

20-البحرالرائق لزين الدين بن إبراهيم-ابن نجيم- ط: دارالكتاب الإسلامى
21-رد المحتارلمحمد بن عمر بن عابدين، الناشر: دار الفكر بيروت
22-المبسوط لمحمد بن أحمد بن أبى سهل السرخسى ط:دارالمعرفة بيروت.
23-مجمع الأنهرلإبراهيم بن محمد بن إبراهيم الحلبى ط: دارالكتب العلمية
24ملتقى الأبحرلعبد الرحمن بن محمد بن سليمان داماد أفندى،ط:دار إحياء
25-بداية المجتهد لأبى الوليد بن محمد بن أحمد بن رشد،ط: دار الحديث.
26-القوانين الفقهية لأبى القاسم محمد بن أحمد بن محمد بن عبدالله
27-الشرح الكبير لعبد الرحمن بن محمد بن قدامة ط: دار الكتاب العربى
28-المهذب لإبراهيم بن على بن يوسف الشيرازى دارالكتب العلمية بيروت
29-المغنى لأبى محمد موفق الدين عبد الله بن أحمد الناشر مكتبة القاهرة.
30-الاليات المؤسسية لعلاج ظاهرة الفقر ماجستير للطيب وكى1431
31-المعاملات المالية المعاصرة د:وهبة الزحيلى الناشر:دارالفكر المعاصر
32-أحكام المعاملات تأليف الأستاذ الدكتوركامل موسى ط:مؤسسة الرسالة
33-مدخل الفقه الإسلامى د/محمد سلام مدكور ط:دار الكتاب الحديث

34-مشـــكلة الفقـــر وكيفيـــة علاجهـــا للـــدكتور يوســـف القرضـــاوى ط دار الرسالة.
35-الموسوعة الفقهية الكويتية صادرة عن وزارة الأوقاف الكويتية
36-معالجـــة مشـــكلة الفقـــر د/صـــالح بـــن عبـــد الله مجلـــة ج: أم القـــرى 1429هـ
37-الفساد فى النشاط الاقتصادى د:رشاد خليل بحث للمؤتمرالإسلامى
38-دورالتربيـــــة الأخلاقيـــــة الإســـــلامية فـــــى بنـــــاء الفـــــرد د/مقـــــداد يالجن:ط.الشروق
39-الفقـــه الاســـلامى فـــى المعـــاملات والعقـــود وأحكامهـــا ك :الشـــريعة ج :الأزهر
40- منهج الشريعة فى حماية المجتمع د:عبدالله ناصر:جامعة نايف
41-مسائل فى الفقه المقارن د/ماجد أبو رخية ط:دار النفائس
42-عقـــد التـــأمين بـــين الشـــريعة والقـــانون إعـــداد أحمـــد النجـــدى رســـالة ك الشريعة
43- الإدارة فى عصر النبى د:حافظ أحمد عجاج الناشر دار السلام
44- الاقتصاد الإسلامى والقضايا المعاصرة د:على السالوس
45- الحسبة لشيخ الإسلام ابن تيمية أبى العباس أحمد بن عبد الحليم.
46- الردة وآثارها د/تيسير العمر ط:دار النوادر سوريا ولبنان.
47-الـــدرة الســـنية لأبـــى عبـــد الله محمـــد عبـــد القـــادر المـــالكي ط:دار ابـــن حزم.
48-الرحبية لموفق الدين أبو عبد الله ط:المطبوعات الحديثة.

الفهارس: المقدمة والهدف ص1
الخطة والتمهيد: ص2
المبحث الأول حقيقة الفقر وأسباب وأضراره ص 3 :5
المبحث الثانى:وسائل الشريعة المطلب الأول:دور العقيدة والعبادات ص5

المطلب الثانى:دور المعاملات والأحوال الشخصية ص6
المطلب الثالث:دور الدولة فى تخفيف وطأة الفقر ص 8
المطلب الرابع:الأنظمة الحديثة ص11
المطلب الخامس:المقارنة بين التشريع الوضعى والإسلامى ص 12
النتائج والمصادر:.ص13 الفهرس:. ص15

هــذا ومــا كــان مــن توفيــق فمــن الله وماكــان مــن خطــأ فمنــى ومــن الشــيطان والشريعة منه براء.

الشكر لله أولًا وآخرًا ثم لإدارة كيبساس ثم للسادة القائمين على المجلة

إعداد/د:ربيع محمد محمد عبد الرجمن أستاذ مساعد كلية الشريعة بهانج السلطان أحمد شاه (كيبساس)

الاستثمار الإسلامى
(Islamic investment)

د/ سعد المغازى عبد المعطى محمود

كلية بهانج الإسلامية – السلطان أحمد شاه (Kipsas)

- الحمد لله والصلاة والسلام على رسول الله – صلى الله عليه وسلم
وبعد
يقوم الاستثمار فى بدور كبير فى التنمية الاقتصادية، وازدهار الدول والارتقاء بمستوى معيشة أفرادها ، وتوفير فرص ا لعمل الملائمة ، وتقليص الجرائم التى ترتكب .
والإسلام عالج هذا الجانب الهام ووضع له الضوابط والقيود التى تحقق الهدف المرجو منه .
ولا غرو فالاستثمار في الإسلام عبادة وقربي إلى الله ، بعمارة الكون وتحقيق مفهوم الاستخلاف
والتنمية في حقيقتها مسئولية وأمانة ، حملها الإنسان ، فوجب عليه أن ينهض بمسئوليته ما دام أنه قد ارتضاها باختياره،والإسلام حثت علي العمل والسعي في الأرض لتحصيل الرزق.
ويهدف البحث الذى أقدمه بيان منهجية الإسلام فى الاستثمار من حيث مقاصده وضوابطه وتنتظمه مقدمة وثلاثة مباحث وخاتمة :-
االمبحث الأول :- تعريف الاستثمار وحكمه
المبحث الثاني :- مقاصد الاستثمار فى الإسلام
ج- مقصد العدالة ا- مقصد المحافظة على المال ب- مقصد تداول الثروة
المبحث الثالث :- ضوابط الاستثمار في الإسلام
ا – ضوابط إيمانية (ضوابط عقدية) .ب – ضوابط القيم والأخلاق
ج- الضوابط الاجتماعية . د – الضوابط الاقتصادية
الخاتمة وفيها ما توصلت إليه من نتائج وتوصيات

المبحث الأول
تعريف الاستثمار وحكمه

تعريف الاستثمار
فى اللغة :-

ثمر الشجر ثمورا ظهر ثمره ، والشيء نضج وكمل ، ويقال ثمر ماله كثر ، وأثمر الشجر بلغ أوان الإثمار، والشيء أتى بنتيجته، ويقال أثمر ماله كثر ([112]).

وفى الاصطلاح :-

عرفه البعض بأنه :- توظيف الفرد المسلم ماله بشكل مباشر أو غير مباشر فى نشاط اقتصادى لا يتعارض مع مبادئ الشرع ؛ بغية الحصول على عائد منه يستعين به على القيام بمهمة الخلافة لله وعمارة الأرض([113])

حكم الاستثمار

الاستثمار ضرورة شرعية لتحقيق خلافة الإنسان فى الأرض وتعميرها ، والنصوص القرآنية جلية فى الدعوة إلي العمل والسعى فى مناكب الأرض تحصيلا للرزق.

قال تعالى {هُوَ الَّذِي جَعَلَ لَكُمُ الْأَرْضَ ذَلُولاً فَامْشُوا فِي مَنَاكِبِهَا وَكُلُوا مِنْ رِزْقِهِ وَإِلَيْهِ النُّشُورُ}([114]).وقال تعالى " هُوَ أَنشَأَكُمْ مِّنَ الأَرْضِ وَاسْتَعْمَرَكُمْ فِيهَا " ([115])

والأحاديث النبوية صريحة فى الحث على العمل ، والسعى لتحصيل الرزق ، والعمل لتحقيق الحياة الكريمة للإنسان .

عَنْ الْمِقْدَامِ رَضِيَ اللَّهُ عَنْهُ عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ مَا أَكَلَ أَحَدٌ طَعَامًا قَطُّ خَيْرًا مِنْ أَنْ يَأْكُلَ مِنْ عَمَلِ يَدِهِ وَإِنَّ نَبِيَّ اللَّهِ دَاوُدَ عَلَيْهِ السَّلَام كَانَ يَأْكُلُ مِنْ عَمَلِ يَدِهِ ([116])

المبحث الثاني

مقاصد الاستثمار في الإسلام

أولا :- مقصد المحافظة على المال وتنميته

المال في الإسلام عصب الحياة والشريعة الإسلامية حرصت على حفظ المال كأحد مقاصدها وكلياتها الرئيسية ([117]) .

وأصل هذا المقصد قوله تعالى {ياأيها الذين آمَنُواْ لاَ تأكلوا أموالكم بَيْنَكُمْ بالباطل إِلاَّ أَن تَكُونَ تجارة عَن تَرَاضٍ مِّنْكُمْ وَلاَ تقتلوا أَنْفُسَكُمْ إِنَّ الله كَانَ بِكُمْ رَحِيماً} ([118]) .

فهذا دليل ينوه بشأن حفظ، وحافظه وإثم المعتدى عليه وإذا كان ذلك حكم حفظ مال الفرد فحفظ مال الأمة أجل وأعظم ([119]) .

ولقد وضع الإسلام العديد من التشريعات للحفاظ على المال

1 - إخراج حق الله تعالى من المال يحقق له الحفظ من الناس

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[1] – المعجم الوسيط – باب الثاء ج100/1 مجمع اللغة العربية بالقاهرة .

[2] – د/ قطب مصطفى سانو – مقاصد الشرع في الاستثمار – مجلة المسلم المعاصرص161 العدد 103- 1422هـ- مارس 2002 م – السنة السادسة والعشرون .

[114] – سورة الملك آية 15 .

[115] – سورة هود من الآية 61.

[116] – صحيح البخارى باب كسب الرجل وعمله بيده

6– الشيخ / محمد الطاهر بن عاشور : مقاصد الشريعة الإسلامية ص455 الطبعة الثانية – دار النفائس – 1421هـ - 2001م .

[7] **–** سورة النساء من **الآية 29** .

[8] – ابن عاشور المرجع السابق ص 473.

وإذا أخرج الإنسان حق الله في ماله انتفت البغضاء والكراهية ؛حين يشعر الفقير بأن الغنى القادر يعبأ به ويهتم بأمره ، فيدفعه ذلك إلى المحافظة على مال الغنى .

2 -إخراج حقوق الله سبب من أسباب الحفاظ على المال وشفاء الأسقام

قال تعال {خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا " ([120]).

3 -إخراج حق الله في المال دافع إلى إنمائه واستثماره ،فإذا علم الإنسان المسلم هذا الأمر عمد إلى تنمية ماله حتى لا تأكله الزكاة ([121]).

4 - الحفاظ على المال بالاعتدال والبعد عن الإسراف والتبذير

قال تعالى" وَالَّذِينَ إِذَا أَنْفَقُوا لَمْ يُسْرِفُوا وَلَمْ يَقْتُرُوا وَكَانَ بَيْنَ ذَلِكَ قواما" ([122]) .

5- الحفاظ على المال بالابتعاد عن الربا وعن الرشوة وعن السرقة وعن الميسر .

6 - الحفاظ على المال بعدم تسليمه إلى من لا يحسن التصرف فيه وتنميته .

قال تعالى " وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَامًا وَارْزُقُوهُمْ فِيهَا وَاكْسُوهُمْ وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا" ([123]) .

7 - الحفاظ على المال بتوثيقه بالرهن والكتابة.

قال تعالى " يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَى أَجَلٍ مُسَمًّى فَاكْتُبُوهُ [124]"

وقال تعالى " وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَانٌ مَقْبُوضَةٌ " ([125]) .

ثانيا :- مقصد تداول الثروة

والمقصود بالتداول أن يكون المال متداولا بين أيدى الناس جميعا ومتحركا في شكل استهلاك و استثمار ،ومحافظة على هذا المقصد شرعت عقود المعاملات لنقل الحقوق المالية بمعاوضة أو تبرع ، بل شرعت عقود مشتملة على الضرر(الخطر)مثل السلم والقراض ([126]).

ومن أسباب تداول الثروة شرعت التجارة؛لتحقيق دوران المال على آحاد الأمة، ومتنقلا من واحد إلى واحد مقصد شرعى ، فهمت الإشارة إليه من قوله تعالى " كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ " ([127])، فالدُولة تداول المال وتعاقبة[128].

ومن أنجع الأمور في تحقيق التداول للثروة الزكاة ؛فالزكاة تؤثر في الناحية الاقتصادية ؛ بزيادة الاستثمار وتشجيعه ، والعمل على تداول الأموال وخلق السيولة ، وأداة فعالة في إعادة توزيع الدخل، كما أنهاتقلل من انسياب الأموال بشدة إلى مجرى الادخار، وتحول جزءا منها

9– سورة التوبة من الآية 103.

[10] – د / عمر مصطفى جبر إسماعيل – ضمانات الاستثمار فى الفقه الإسلامى ص93 الطبعة الأولى 1430هـ .

[11]– سورة الفرقان الآية 67.

12– سورة النساء الآية 5.

13– سورة البقرة من الآية 282.

14 – سورة البقرة من الآية 283.

15– ابن عاشور – مقاصد الشريعة المرجع السابق ص 465.

16 – سورة الحشرمن الآية 7 .

[128] – الطاهر بن عاشور – المرجع السابق 466 .

إلى مجرى الاستهلاك، الأمر الذى يمنع من الركود الاقتصادى، أو يعمل على تخفيفه([129]) .

كما أن منح الفقراء من أصحاب الحرف والمهن بعض رءوس الأموال من الزكاة التى تمكنهم من فتح مشروعات بقصد معاونتهم ومساعدتهم له أثر كبير في شحذ هممهم ودفعهم للعمل .

ومن الوسائل التى تحقق هذا المقصد (تداول الثروة) منع اكتناز المال وتعطيله قال تعالى " وَالَّذِينَ يَكْنِزُونَ الذَّهَبَ وَالْفِضَّةَ وَلَا يُنْفِقُونَهَا فِي سَبِيلِ اللَّهِ فَبَشِّرْهُمْ بِعَذَابٍ أَلِيمٍ " ([130]).

ثالثا : ـ مقصد العدالة

قال تعالى {إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ "([131]).

وقال تعالى " وَأُمِرْتُ لِأَعْدِلَ بَيْنَكُمُ اللَّهُ رَبُّنَا وَرَبُّكُمْ " ([132]).

وهذا المقصد نعنى به الموازنة بين الحقوق والواجبات ، وهذه العناصر يأخذها الشارع في الحسبان ليرتب عليها حكمه العادل ، ومساواته المحسوبة [133] .

والإسلام سوى بين البشر جميعا في نقطة البدء ، والانطلاق ، إلا أنه قدر الجهد البشروالطاقة التى تبذل لتحصيل الرزق. فوسائل الرزق متاحة للجميع ، ومن غير المقبول في الإسلام حرمان بعض الفئات من وسائل رزق تقريرا لامتيازات لفئة معينة من الناس دون غيرهم ([134]).

فالعدل مصدر تفرد الشريعة الإسلامية وتميزها فلا يعطى حق لغير مستحقه ولا يؤخذ من يد صاحبه .

وتأكيدا لمعنى العدالة في التصرفات المالية منع الإسلام كل ما يخل بهذا المبدأ ،فحرم الربا وأغلق كل الأبواب الخلفية له ؛ليزيل كل أشكال الظلم والاستغلال.وتأكيدا لمقصد العدالة في الأموال حكم الفقهاء بفساد العقود التى تقترن بها شروط تؤدى إلى الإخلال بمقصد العدالة فيها ، فجعلوا من الشروط المفسدة لعقد الوقف تخصيص البنيين به دون البنات ([135])

وحرمت الرشوة حفاظا على ميزان العدالة من الاختلال .

ومن وسائل تحقيق مقصد العدالة في الأموال العدل في دفع ضرورات الناس وحاجاتهم ؛ لأن دفع الضرورات والحاجات هو المقصود الأكبر من النفقات ([136]).

المبحث الثالث

ضوابط الاستثمار في الاسلام

أولا :ـ الضوابط العقدية (الإيمانية)

18– أحمد إسماعيل يحى – الزكاة عبادة مالية وأداة اقتصادية ص 226 ، د / عمر مصطفى جبر – ضمانات الاستثمار ص93 .

19– سورة التوبة من الآية 34.

20– سورة النحل من الآية 90 .

[21] – سورة الشورى من الآية 15 .

22– د/ فتح الله سعيد – المعاملات فى الإسلام ص153 سلسلة دعوة الحق ، د / عز الدين بن زغيبة / مقاصد الشريعة الخاصة بالتصرفات المالية ص 310 الطبعة الأولى 1422هـ – 2001م .

23– د/ فتح الله سعيد المرجع السابق ص 154.

[135] – د/ عز الدين بن زغيبة– مقاصد الشريعة الخاصة بالتصرفات المالية ص312

25– العز بن عبد السلام / قواعد الأحكام ج172/1.

هذه الضوابط العقدية تشكل الإطار الذى ينبغى للمسلم أن يسير بداخله ولا يحيد عنه ،ومن هذه الضوابط التى ينبغى للمسلم أن يعيها جيدا أن المال الذى بين يديه هو مال الله قال سبحانه(لَهُ مَا فِي السَّمَاوَاتِ وَمَا فِي الأَرْضِ وَمَا بَيْنَهُمَا) ([137])

فالمسلم وهو يمارس نشاطه يعلم أن ما يملكه من مال ليس له حرية التصرف فيه بدون ضابط ؛ لأن الله هو المالك الحقيقى لهذا المال ، فتصرفه ينبغى أن يكون وفق إرادة مالكه ،وإذا أدرك المسلم هذه الحقيقة ، فإنها تصبح ضمانة حقيقية لتوجيه المال لما يعود بالنفع عليه وعلى غيره ([138])

باعتبار أن الإنسان هو خليفة الله في أرضه ،ومأمور بإصلاح الأرض لا إفسادها .

وإذا كان الإسلام قد أقر الملكية الفردية وحماها ، إلا أنها ملكية ليست مطلقة ، وإنما مقيدة بعدم الإضرار بالآخرين " فلا ضرر ولا ضرار " ([139])

وإذا كان المال مملوكا ملكية مطلقة لله سبحانه وتعالى ، فمعنى ذلك أن الله قد أوجده لجميع خلقه القادر منهم وغير القادر على حد سواء ولذا يقول سبحانه وتعالى { وَالَّذِينَ فِي أَمْوَالِهِمْ حَقٌّ مَعْلُومٌ لِلسَّائِلِ وَالْمَحْرُومِ }([140])

فالإطار العقائدى الإيمانى للنظام الاقتصادى في الإسلام ، يشكل المدخل الرئيسى لفهم هذا النظام وإدراك كيفية عمله ([141])

والإسلام يعتبر النشاط الإقتصادى الذى يقوم به المسلم من قبيل العبادة شريطة إخلاص النية لله سبحانه ،عن سعد بن أبى وقاص أن رسول الله صلى الله عليه وسلم قال " إنك لن تنفق نفقة ينبغى بها وجه الله إلا أُجرت عليها ، حتى ما تجعل في فم امرأتك "([142])

ولا غرو فالطابع التعبدى ليس محصورا في الجانب الاقتصادى من حياة الإنسان المسلم بل يشمل كل حياته ... وحين يدرك هذه الحقيقة يتحول نشاطه الاقتصادى من مجرد وسيلة للاسترزاق وكسب المعاش إلى عبادة يستشعرها المرء بقلبه .

ثانيا :- الضوابط الأخلاقية

النشاط الاقتصادى في الإسلام له علاقة وثيقة بالجانب الخلقى، والدراسات الاقتصادية تنصب أساسا حول سلوك الإنسان في مختلف مراحل ممارسته ؛ ولذا فإن أخلاقه لا يمكن بحال أن تنفصل عن أعماله ([143]).

ولقد نوه الإسلام على جملة من الأخلاق له دورها في الاقتصاد ،ولا يمكن بحال إهمالها ، أو التقصير فيها ، فالتداخل شديد بين الدائرة الاقتصادية والدائرة الأخلاقية في الإسلام ، وهذه

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[26]– سورة طه من الآية 6.

27– د– شوقى أحمد دنيا / سلسلة أعلام الاقتصاد الإسلامى ص34 مركز صالح كامل للاقتصاد الإسلامى – جامعة الأزهر – 1998م .

28– البيهقى : السنن الكبرى 70/6 الطبعة الأولى 1344هـ ،المعجم الأوسط 1ا90 دار الحرمين 1415هـ ، سنن الدار قطنى 77/3 دار المعرفة – بيروت 1486هـ 1966م .

[29]– سورة المعارج

[30] – د– أميرة عبد اللطيف مشهور – الاستثمار فى الاقتاد الإسلامى ص30 الطبعة الأولى – مكتبة مدبولى – القاهرة – 1991م .

31– صحيح البخارى باب ما جاء إن الأعمال بالنية والحسبة

[32] – د –عبد الحميد الغزالى – الإنسان أساس المنهج الإسلامى فى التنمية الاقتصادية ص13 سلسلة ترجمات الاقتصاد الإسلامى – المعهد الإسلامى للبحوث والتدريب – البنك الإسلامى للتنمية – جدة – 1994م .

القيم التى دعا الإسلام هى التى تحفظ النشاط الاقتصادى من الاختلال والتعارض بين المصالح المتشابكة.

ومن هذه الضوابط الاخلاقية

أ - الأمر بالصدق في التعامل ،قال تعالى " يا أيها الذين آمنوا اتقوا الله وكونوا مع الصادقين"(144) .

فالنشاط الاقتصادى كثيرا ما يشوبه الكذب ولبس الحق بالباطل ،ولذا كان أهم وصف للتاجر المرضى عند الله تعالى ما جاء في الحديث " التاجر الصدوق الأمين مع النبيين والصديقين والشهداء "(145) .

وقد حث صلى الله عليه وسلم على الصدق وبالغ في الوصية به ، وبين أن التاجر الكذوب تمحق بركة بيعه ، عن حكيم بن حزام عن النبى صلى الله عليه وسلم قال :- البيعان بالخيار ما لم يتفرقا ، فإن صدقا وبينا بورك لهما في بيعهما ، وإن كتما وكذبا محقت بركة بيعهما " (146).

ب - التناصح في مجال النشاط الاقتصادى ، وهو خلق تفرضه الأخوة الإسلامية ، والمبدأ في الإسلام أن تحب لأخيك ما تحب لنفسك (147).

والإسلام اهتم بهذا الضابط ؛ حتى تبنى المعاملات والعلاقات الاقتصادية وغيرها على أسس ثابتة سليمة معيارها معرفة الحقيقة وإعمال الفكر وبلوغ الاختيار غايته .

ج - من ضوابط الاستثمار في الإسلام الوفاء بالعقود والالتزام بها قال تعالى " يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ"(148) .

وقد اتفق الفقهاء على وجوب الوفاء بالعقود ديانة ؛لأن الوفاء بالعقد من مكارم الأخلاق ومن دلائل الصدق والإيمان ،قال تعالى " يَا أَيُّهَا الَّذِينَ آمَنُوا لِمَ تَقُولُونَ مَا لَا تَفْعَلُونَ ، كَبُرَ مَقْتًا عِنْدَ اللَّهِ أَنْ تَقُولُوا مَا لَا تَفْعَلُونَ "(149) .

د - ومن ضوابط الاستثمار تحريم الخيانة من الشريك لشريكه

تطورت التجارة في عصرنا الراهن ولم تعد قاصرة على تجارة فرد في رأس ماله ، بل أصبح النشاط الاقتصادى يمارس من خلال شركات عملاقة تضم رؤوس أموال ضخمة تتعدى ميزانياتها ميزانية كثير من الدول (150).

ولكى تظل علاقة الشركاء طيبة ،وتسودها الثقة المتبادلة ؛ليتحقق الهدف المرجو من النشاط الاقتصادى ،حث الإسلام الشركاء على مراعاة الأمانة والبعدعن الخيانة والإخلاص في العمل .

33– سورة التوبة من الآية 119 .

34– سنن الترمذى والحديث فيه عن أبى سعيد وقال فيه حديث حسن – باب ما جاء فى التجار، سنن الدار قطنى 7/3 دار المعرفة – بيروت 1388هـ - 1966م .

35– صحيح البخاري باب ما يمحق الكذب والكتمان فى البيع

36 – د – محمود بابلى – خصائص الاقتصاد الإسلامى وضوابطه الأخلاقية ص 212،213 طبعة المكتب الإسلامى .

37– سورة المائدة من الآية الأولى .

38– سورة الصف آية 2،3 .

39– د / أمين عبد المعبود زغلول – المال واستثماره فى ميزان الشريعة ص56 الطبعة الأولى – 1406هـ - 1986م .

عن أبى هريرة رضى الله عنه قال : قال رسول الله صلى الله عليه وسلم يقول الله – عز وجل " أنا ثالث الشريكين ما لم يخن أحدهما صاحبه فإذا خان خرجت من بينهما "([151]) .

هـ - ومن ضوابط الاستثمار فى الإسلام (عدم الترويج للسلعة بالدعاية الكاذبة "

وهذه الطرق وقف الإسلام منها موقفا حازما ، وخصوصا فيما يتعلق بكتمان العيوب الموجودة في سلعة ما عند الإعلان عنها،أوإضفاء أوصاف عليها غير موجودة بها ، واعتبر الإسلام كتمان العيوب بهذا الشكل وتلك الصورة في المبيع من قبيل الغش ، وأكل لأموال الناس بالباطل

أثر الالتزام بضوابط الاستثمار

الضوابط العقدية والأخلاقية لها أثرها الواضح في التعامل الاقتصادى،ومردودها الطيب على الاستثمار

فالالتزام بهذة الضوابط لا يقتصر أثره الطيب على الإنسان ،وإنما يتعدى أثره الحسن إلى الآخرين ، وإذا تحققت تلك الضوابط في مجال الاستثمار اطمأنت النفوس بعضها لبعض ، وعم الخير والتضامن بين أفراد المجتمع ، وكان له أثره الحسن في جميع شئون الحياة وفي طليعتها الحياة الاقتصادية ([152]).

فالاستثمار لا يمكن له أن يتم في ظل مناخ يتهاون أهله في قيم الصدق والوفاء بالعهود ، بل ما كان لتنمية ولا لتقدم أن يتحقق في حالة غياب كل هذه الضوابط ، التى تؤدى الى غياب الثقة الواجب توافرها بين المتعاملين ، فالاستثمار في حقيقته قائم على الثقة المتبادلة والالتزام الكامل من كل أطرافه وأى إخلال بأى ضابط من هذه الضوابط من شأنه أن يؤدى الى أمور لا تحمد عقباها ([153]).

ثالثا :- الضوابط الاجتماعية

وضع الإسلام عدة ضوابط وشدد على ضرورة الالتزام بها ؛لأن الإخلال بها يفضى الى مشاكل اجتماعية كبيرة ، نتيجة الخلل الاقتصادى الذى ينتج من عدم الالتزام بهذه الضوابط ، ومن الضوابط التى وضعها الإسلام لتحقيق تلك المفاهيم التى يسعى اليها

أ – تحريم الربا - ب- تحريم الاحتكار -ج - تحريم الاتجار في السلع المحرمة - د - تحريم الاكتناز

أولا :- الاحتكار

ومعناه كل ما أضر بالناس حبسه ولو كان ذهبا أو فضة أو ثيابا .

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40 – المستدرك 60/2 وقال فيه صحيح على شرط الشيخين ولم يخرجاه كتاب البيوع – دار الكتب العلمية –بيروت – 1411هـ - 1990 ،سنن الدار قطنى 37/3 – دار المعرفة بيروت 1386هـ 1966م .

[152] – د/ محمد المبارك – الاقتصاد مبادئ وقواعد ص 148 ط دار الفكر.

42- د – قطب مصطفى سانو – الاستثمار أحكامه وضوابطه فى الفقه الإسلامى – 163 .

والاحتكار غير جائز[154] ، لورود الأدلة بذلك إلا أنهم اختلفوا في دائرته بين موسع له ويرى أن الاحتكار يكون في كل شئ يتضرر الناس بحبسه سواء أكان قوتا أم غيره ،وبين مضيق يري أن الاحتكار خاص بأ قوات الآدميين والبهائم

إلا أن ما يعنينا في هذا الأمر هو أثر الاحتكار على المجتمع

الإسلام حرم الاحتكار لما فيه من الضرر ، فإذا تحقق الضرر تحقق الاحتكار ([155]) .

فالمحتكر يتحكم في السوق ويفرض ما يراه من أسعار على الناس ، ويضارهم في حياتهم وضروراتهم كما أنه يغلق الباب أما الآخرين للاسترزاق ([156]).

فالاحتكار في الحقيقة قتل للإنسانية بسلاح اقتصادى فتاك وهو سلاح الجوع والعطش ([157]).

ومن مساوئه على التنمية الاقتصادية (الاستثمار):-

1 – التحكم في الأسواق واهدار حرية التجارة وفرض المحتكر ما يشاء من أسعار .

2 - يؤدى إلى عدم المساواة في توزيع الدخول ، نتيجة سيطرة المحتكر على السوق ، وتحقيق أرباح خيالية على حساب الغير ([158]) .

3 - انعدام روح المنافسة والإتقان ؛لأنه يقلل فرص تطوير النشاط الاقتصادى([159]).

4 - هيمنة الشركات الكبرى على التجارة والصناعة في البلاد الإسلامية([160]).

ثانيا :- تحريم الربا

ويعد تحريم الربا في الاسلام من أهم الوسائل لضمان تحقيق مقاصد الشريعة في الاستثمار والتنمية ،فالتعامل بالربا ينتج عنه أضرار اقتصادية كثيرة منها انتشار البطالة ، وتوقف الكثير من المشروعات الصناعية والتجارية والزراعية التى تعم بفوائدها على المجتمع ([161]) .

ومن مضاره أيضا – ما يصاب به الاقتصاد من نوبات كساد ؛ نظرا لأثره الخطير على انخفاض معدل الاستثمار والإنتاج ؛ لأن اصحاب رؤوس الأموال يفضلون إيداع أموالهم بفائدة في البنوك ويمتنعون عن إقامة المشروعات لا تؤمن عواقبها بالنسبة لهم ([162]).

كما أن له أثره في ارتفاع أسعار المنتجات نتيجة إضافة الفوائد الربوية إلى تكاليف إنتاج السلعة وارتفاع أسعار المنتجات في ظل الدخول الثابتة للعاملين يؤدى إلى انخفاض القوة الشرائية ،

43- بدائع الصنائع 5/ 129 ط دار الكتب العلمية – بيروت – ط 2 – 1406هـ ، مواهب الجليل 4/ 227 ط دار الفكر ط2 - 1398هـ، المهذب 229/1 ط3 مصطفى الحلبى 1396هـ ، ابن قدامة المقدسى – الكافى 41/2 ط3 1402هـ .

44- د- حسن الشاذلى – الاقتصاد الإسلامى ص209 ، ط دار الكتاب الجامعى – القاهرة -

45 – الأستاذ – سيد قطب العدالة الاجتماعية فى الإسلام ص119 -

46- الشيخ الإمام – محمد أبو زهرة – العلاقات الدولية فى الإسلام ص69. -

47- د –عبد السميع المصرى – التجارة فى الإسلام ص 47- مكتبة وهبة – ط 1 – 1406 هـ . -

[159]- د – علاش أحمد – محفزات النشاط الاقتصادى فى الإسلام ص19 جامعة يوسف بن خدة – الجزائر -2005م. -

[160] – د – يوسف كمال – أسس الاقتصاد الإسلامى ص 361 طبعة دار التوزيع 2001م .

[161] – الشيخ / أحمد شاه ولى الله الدهلوى – حجة الله البالغة ج2 /106 طبعة المكتبة السلفية 1395هـ .

51 – د/ سهير حسن عبد العال – معالجة مشكلة التضخم من منظور الفكر الإسلامى والفكر الوضعى ص49 ، 50 المجلة العلمية –كلية التجارة –جامعة الإزهر .

وانخفاض السيولة النقدية مع ارتفاع تكاليف الإنتاج يؤدى الى صعوبة تصريف المنتجات وظهور الركود الاقتصادى (الكساد)([163]) .

فالربا من عوامل تعويق الاستثمار والتنمية الاقتصادية والمجتمعية ، لما له من ضرر بالغ على علاقات المجتمع ، وزيادة الضغائن والاحقاد وتركز الثروة في يد فئة محددة ،وزيادةالظلم الاجتماعى ولا نبالغ إذا قلنا أن المرابين أشبه بالديدان الطفلية التى تعيش على المكونات الغذائية داخل الجسد الانسانى وتحرمه من فوائدها

فالربا صورة كريهة من صور الظلم الاجتماعى ، فما يحصل عليه المرابى من فوائد لا يأتى نتيجة عملية إنتاجية أسهم فيها ؛ بل إنها تأتى بدون مقابل اقتصادى ، فهو مبلغ قد استقطع من مال المقترض ، وبالتالى قد استقطع من الثروة العامة بدون أن يحدث هذا القرض زيادة فى إحدى الثروتين ([164]) .

ثالثا :- تحريم الاتجار في السلع المحرمة كالخمور والمخدرات والدخان لما لها من نتائج وخيمة على العملية الاقتصادية ،وقد دلت البحوث والإحصائيات على أن تعاطى المخدرات بجميع أنواعها يؤثر على إنتاجية الفرد في العمل كما ونوعا ، فضلا عن تأثيره على جودة الإنتاج ،كما يؤدى تعاطى المخدرات إلى اضطراب الذاكرة وانخفاض كفاءة التفكير([165]).

كما تشكل عبئا على اقتصاديات الأسر ؛نظرا لإتفاق جزء كبير من الدخل للحصول عليها مما يؤثر بطبيعة الحال على الحالة المعيشية للأسرة من جميع الجوانب ،كما أن تعاطيها يؤثر على الاقتصاد لأى دولة من الدولة لما تنفقه الدولة من تكاليف باهظة لعلاج المدمنيين ([166]).

ولعلنا بذلك ندرك الحكمة العظيمة من وراء تحريم الإسلام للخمر قال تعالى " { يَاأَيُّهَا الَّذِينَ آمَنُواْ إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالأَنصَابُ وَالأَزْلاَمُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ }([167]).

رابعا :- الضوابط الاقتصادية

الإسلام يستنكر أى خروج على أولوياته فلا يراعى تحسينى إذا كان في مراعاته إخلال بحاجى ولا يراعى حاجى إذا كان في مراعاته إخلال بضرورى ([168]) .

فالمفاضلة بين أساليب الاستثمار له أهمية – لمعرفة أولوية كل أسلوب وأيهما يقدم على الأخر فلا شك أن الاستثمار في المشروعات التى تستهدف رفع الضرر مع جلب أكبر قدر من المنفعة تأتى في أول سلم الأولويات الاستثمارية ،ثم تليها المشروعات التى تهدف إلى دفع

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[163] – د/ أميرة مشهور المرجع السابق ص205 .

53 – د / إبراهيم الطحاوى – الاقتصاد الإسلامى مذهبا ونظاما ج326/1 –مجمع البحوث الإسلامية –القاهرة/1394هـ ، د / على عبد الواحد وافى – التكامل الاقتصادى الإسلامى ج3/ 153 المؤتمر السادس لمجمع البحوث الإسلامية .

54 – د/ سعد المغربى – ظاهرة تعاطى الحشيش ص 82 ، 110 دار المعارف القاهرة 1964م ، د / شوقى عبده الساهى – المخدرات من المنظور الإسلامى وآثارها على اقتصاديات المجتمع ص39 ، 40 مؤتمر المخدرات مشكلة اقتصادية – مركز صالح كامل.

55– د / علا عادل عبد العال – التكاليف الاقتصادية للإدمان فى مصر على المستويين (الاقتصاد القومى) والجزئى (الأسرة) رسالة دكتوراة –كلية التجارة – جامعة الأزهر ص 95 – 1996 م .

[56] – سورة المائدة آية رقم 90 .

57– د/ محمد فاروق النبهان – الاتجاه الجماعى فى التشريع الاقتصادى الإسلامى ص 126 ،127 – بيروت – دار الفكر 1970م .

ضرر كبير مع جلب منفعة ضعيفة ، وتليها في الأولوية المشروعات التى تجلب نفعا كبيرا مع دفع ضرر قليل، ويأتى في مؤخرة سلم الأولويات المشروعات التى تجلب نفعا ضعيفا وتدفع ضررا خفيفا ([169]) .

وعند البدء في المشروعات الاستثمارية يراعى ترتيب معين فلا شك أن الضرورى يقدم على الحاجى والحاجى يقدم على التحسينى ،فهناك هرم للأولويات في المشاريع الاستثمارية ، لأن الشريعة قامت على فكرة المصلحة والمفسدة ، جلب المصلحة ودرء المفسدة (درء المفاسد مقدم على جلب المصالح)فالضروريات أو مقاصد الشريعة تأتى في سلم الأولويات من حيث اعتبارها في مجال الاستثمار([170]).

نتائج البحث والتوصيات

1 - أضحى الاستثمار في البلاد الإسلامية يرقى إلى مرتبة الضرورة الشرعية .

2 - المال في الإسلام عصب الحياة وأساس التقدم والرقى لأى مجتمع .

3 - وضع الإسلام العديد من التشريعات للمحافظة على المال وضمان نموه ، ويجب أخذها فى الاعتبار عند تقنين تشريعات الاستثمار ، والنشاط الاقتصادى بصفة عامة .

4 - للاستثمار في الإسلام مقاصد يجب العمل على تحقيقها وإلا أثم الجميع .

5 - تشكل الزكاة كأحد أركان الإسلام حلا ناجعا لمشكلات اقتصادية عويصة .

6 - الالتزام بقيم الإسلام وأخلاقياته في التعامل كفيل بتجنيب العالم ويلات اقتصادية كبيرة .

7 - للاستثمار في الإسلام أولوياته التى تراعى حاجات الإنسان الماسة .

المصادر

القرآن الكريم

1 - أميرة عبد اللطيف مشهور – الاستثمار فى الاقتصاد الإسلامى الطبعة الأولى 1991م.

2 - أمين عبد المعبود زغلول - المال واستثماره فى ميزان الشريعة ط1 1406هـ

3 - إبراهيم الطحاوى الاقتصاد الإسلامى مذهبا ونظاما / ط مجمع البحوث الإسلامية -

4 - البيهقى : السنن الكبري الطبعة الأولى 1344-

5 -حسن الشاذلى/الاقتصاد الإسلامى/مصادره وأسسه /طبعة دار الكتاب الجامعى – القاهرة

- 6 - حسين شحاته / دراسات الجدوى وتقويم المشروعات الاستثمارية فى المنهج الإسلامى

7 - الدار قطنى – السنن - دار المعرفة بيروت 1386هـ 1966م

8-سهير حسن عبد العال/ معالجة مشكلة التضخم من منظور الفكر الإسلامى والفكر الوضعى المجلة العلمية – كلية التجارة -جامعة الإزهر

9 - سعد المغربى – ظاهرة تعاطى الحشيش دار المعارف القاهرة 1964م

58- د / عيسى حيرش – محاولة لحصر بعض معايير التمويل الإسلامى للمشروعات ص 9 الدورة التدريبية الدولية حول تمويل - المشروعات الصغيرة والمتوسطة – المعهد الإسلامى للبحوث والتدريب – 25 – 28 مايو 2003م .

59- د / حسين شحاته – دراسات الجدوى وتقويم المشروعات الاستثمارية فى المنهج الإسلامى ص7 سلسلة بحوث ودراسات فى - الفكر الاقتصادى الإسلامى .

10-شوقى عبده الساهى/ المخدرات من المنظور الإسلامى وآثارها على اقتصاديات المجتمع -
11 - شوقى أحمد دنيا / سلسلة أعلام الاقتصاد الإسلامى مركز صالح كامل
12-الطبراني – المعجم الأوسط دار الحرمين القاهرة 1415 هـ .
13 - عبد الحميد الغزالى – الإنسان أساس المنهج الإسلامى فى التنمية الاقتصادية .
14-عز الدين بن زغيبة،مقاصد الشريعة الخاصة بالتصرفات المالية ط1 1422هـ
15 عمرمصطفى جبرإسماعيل: ضمانات الاستثمارفى الفقه الإسلامى ط1 1430هـ.
16-علاش أحمد/ محفزات النشاط الاقتصادى فى الإسلام/جامعة بن يوسف بن خدة / الجزائر
17 - علا عادل عبد العال/ التكاليف الاقتصادية للإدمان فى مصرعلى المستويين (الاقتصاد القومى) والجزئى (الأسرة) رسالة دكتوراة / كلية التجارة / جامعة الأزهر/1996 م .
18 - عيسى حيرش/محاولة لحصر بعض معايير التمويل الإسلامى للمشروعات .
19 - عبد السميع المصرى / التجارة فى الإسلام/الناشر مكتبة وهبة ط1 1406هـ.
- فتح الله سعيد/ المعاملات فى الإسلام سلسلة دعوة الحق / 1402هـ العدد20.
20 - قطب مصطفى سانو – مقاصد الشرع في الاستثمار مجلة المسلم المعاصر العدد 103
21-محمد بن إسماعيل أبو عبد الله البخارى – صحيح البخارى /ط1– 1422هـ .
22-مسلم بن الحجاج بن مسلم القشيرى النيسابورى/ صحيح مسلم/ طبعة دارطيبة
23- مجمع اللغة العربية بالقاهرة - المعجم الوسيط
24 - محمود بابلى/خصائص الاقتصاد الإسلامى وضوابطه /ط المكتب الإسلامى
25-محمد الطاهر بن عاشور: مقاصد الشريعة الإسلاميةط2/ دار النفائس / 1421هـ
- 26 -محمد المبارك / نظام الإسلام /الاقتصاد مبادئ وقواعد – ط دار الفكر
27-محمد فاروق النبهان/الاتجاه الجماعى فى التشريع الاقتصادى الإسلامى .
28 - يوسف كمال – أسس الاقتصاد الإسلامى طبعة دار التوزيع 2001م

أهمية المقومات البيئية لتحقيق سياحية مستدامة في سلطنة عمان

Ahmed Hamoud al-Qasimi
Amir Shaharuddin, PhD
Universiti Sains Islam Malaysia

الملخص

تعد الاستدامة مهمة عند وضع الخطط وخصوصا التخطيط الاستراتيجي في جميع المجالات التنموية بحيث يراعى فيها جميع الجوانب الاقتصادية والاجتماعية والبيئية، وتعتبر السياحة ضمن أحد القطاعات التي يتطلب عند وضع الخطط لها السعي لتحقيق الاستدامة، كذلك لتحقيق الأهداف التي أعدت من أجلها الخطط والوصول إلى التنمية السياحية المستدامة يتطلب الابتكار ومعرفة نقاط القوة والضعف ومن هم المنافسين في نفس المجال للاستفادة وتعزيز نقاط القوة وتجنب نقاط الضعف، هذه الورقة تتنا ولمقومات السياحة البيئة في سلطنة عمان والتي تتميزها عن غيرها من الدول المجاورة، والتي تعتبر نقاط قوة وعوامل إيجابية إذا لاقت قدر كافي من الاهتمام والدعم الذي يتناسب وأهميتها. و تحاول هذه الورقة التركيز على أهم المقومات السياحية المرتبطة بالسياحة البيئية في سلطنة عمان كأحد نقاط القوة الرئيسية للوصول إلى سياحة مستدامة والتي هي أحد أهداف الدولة في المجال السياحي، وكذلك معرفة مدى رغبة السياح من الداخل والخارج في السياحة البيئية في السلطنة، وأهم العوامل التي تساعد في إظهار المقومات السياحية لاستقطاب السياح إليها، وذلك من خلال دراسة الواقع السياحي ومقابلة المسئولين عن التخطيط السياحي في السلطنة ومقابلة السياح والمهتمين بهذا القطاع، والوصول إلى نتائج وتوصيات تساعد صناع القرار في وضع الخطط التي تحقق الاستدامة السياحية.

المقدمة

القطاع السياحي يشكل ثاني أكبر نمو في العالم بعد قطاع الاتصالات، وذلك بسبب التطور والتنوع في وسائل الاتصال والتنقل، لذلك أطلق على هذا القرن (بقرن السياحة) حيث تعد السياحة من أهم الصناعات في العصر الحديث، كما تعد السياحة البيئية الأسرع نموا بين أنواع السياحة الأخرى. حيث تتراوح نسبة النمو السنوية بها بين 10 – 30 % على مستوى دول العالم.

ولأهمية هذا القطاع فقد اهتمت سلطنة عمان به، سواء من حيث الاهتمام بالبنية التحتية كجانب غير مباشر مرتبط بالسياحة أو الجانب المباشر للسياحة من مشاريع وأنشطة سياحية، غير أن الاهتمام بقطاع السياحة تركز على الأنماط السائدة في دول الجوار على الرغم مما تزخر به السلطنة من مقومات السياحة البيئية التي تتميز بها عن غيرها من دول المحيطة. فقد كان الاهتمام والدعم يتركز على بناء الفنادق الفاخرة والمنتجعات السكنية ذات الطابع السياحي الذي يشكل الجانب العقاري محوره الأساسي مثل المجمعات السياحية السكنية، وقد استهلك هذا الجانب غالبية الدعم والتسهيلات الحكومية، ولم تستغل مقومات السياحة البيئية كنقاط قوة، مما ترتب عليه عدم تحقيق تطلعات كثير من المهتمين بقطاع السياحة،ولم تستطع السلطنة الوصول إلى وجهة سياحية تنافسية في المنطقة تتناسب ومكانتها في هرم المقومات السياحية الخليجية وتحقيق تنمية سياحية مستدامة، غير أنه في الوقت الحالي هناك محاولات جادة من قبل المعنيين بالتخطيط السياحي في السلطنة لتغيير الإستراتيجية السابقة، وتركيز الاهتمام على مقومات السياحة البيئية بإقامة مشاريع وأنشطة في مواقع السياحة البيئية، ووضع خطط يشارك فيها جميع المعيين بقطاع السياحة والاستفادة من ببيوت الخبرة العالمية في هذا القطاع وقد أعتمد هذا التوجه ضمن الخطة الخمسية الثامنة (2011 – 2015) ويعول عليها زيادة الوجهة السياحية إلى السلطنة ومواقع السياحة البيئية بصفة خاصة سواء من سياح الداخل والخارج وتحقيق قدر أوفر من السياحة المستدامة.

أهداف الدراسة

تهدف هذه الورقة البحثية إلى الآتي:

1– التعرف على أهم المقومات السياحية المرتبطة بالسياحة البيئية كنقاط قوة في تحقيق السياحة المستدامة في السلطنة.

2- التعرف على متطلبات السياح للمقومات السياحة البيئية لتكون جاذبة للسياحة.

3- التعرف على ملائمة البنية التحتية المرتبطة بالسياحة في السلطنة

4- الخروج بنتائج وتوصيات تساهم في التنمية السياحية المستدامة في سلطنة عمان.

منهج البحث وجمع معلومات الدراسة

لتحقيق الأهداف التي يطمح الباحث التوصل إليها في هذه الدراسة فقد اتبع الباحث المنهج الوصفي في هذه الدراسة ويحتوي على شقين، الجانب النظري، والجانب العملي التطبيقي ، وبعد الحصول على البيانات يتم تحليل النتائج.

الجانب النظري:

حيث يشمل الجانب النظري الاطلاع على الدراسات والبحوث المتعلقة بالسياحة وخصوصا السياحة البيئية والموروثات الشعبية والمشاريع والأنشطة المتعلقة بهذا النوع من السياحة، معرفة ما كتب عن الآثار الايجابية والسلبية للسياحة، والأهمية الاقتصادية والاجتماعية والبيئية و دورها في تحقيق السياحة المستدامة، وذلك من خلال البحث والقراءة والاطلاع في الكتب والمجلات العلمية والدراسات الأكاديمية ، وأوراق العمل المقدمة في المؤتمرات والندوات. وكذلك من خلال الاطلاع والبحث في القوانين والأنظمة المعمول بها في سلطنة عمان.

الجانب العملي التطبيقي :

يشتمل هذا الجانب على عدة محاور

1- الاطلاع والتمحيص في القوانين والأنظمة والتقارير الفنية عن واقع السياحة في سلطنة عمان.
2- الاستبيان ويدور حول وجود وأهمية مقومات السياحة البيئية، ورغبة السياح في السياحة البيئية، أهم الأنشطة والمشاريع التي تساعد على إظهار مقومات السياحة البيئية واستقطاب السياح إليها، وجود جودة الخدمات السياحية في مواقع السياحة البيئية، و مساهمة قطاع السياحة في الاقتصاد الوطني، ويستهدف الاستبيان السياح والمهتمين بقطاع السياحة في الوزارات المعنية، وموظفي الفنادق وشركات السفر والسياحة.
3- المقابلات الشخصية للقائمين والمهتمين بالجانب السياحي في القطاعين العام والخاص والسياح، لمعرفة واقع صناعة السياحة في سلطنة عمان، فيما يتعلق بالبنية التحتية والقوانين والأنظمة المعمول بها في البلاد ومدى ملائمتها لتحقيق التنمية السياحية المستدامة، وما هي المشاريع والأنشطة والفعاليات المطلوب إقامتها لإظهار مقومات السياحة البيئية وزيادة الجذب السياحي لها.

4- حصر أهم المقومات السياحية التي لها ارتباط بالسياحة البيئية في سلطنة عمان من خلال الوثائق و التقارير الفنية المتخصصة و الزيارات الميدانية و المقابلات الشخصية مع القائمين على السياحة.

تحليل وتفسير النتائج:

بعد الحصول على المعلومات تم تحليلها وتفسير نتائجها حيث تم تحليل المقابلات مع المهتمين بقطاع السياحة والبيانات والإحصائيات والاستنتاجات التي توصل إليها الباحث عن واقع السياحة البيئية في سلطنة عمان، و ذلك من خلال التحاليل المعمول بها في هذا الجانب برامج التحاليل الإحصائية.

تعريف السياحة البيئية:

تعتبر السياحة البيئية ظاهرة حديثة نوعا ولذلك لا توجد تعريفات ثابتة ومحددة للسياحة البيئية فلها تعريفات متعددة حسب نظرة كل جهة إلى هذا النوع من السياحة غير أن جميع التعريفات تدور حول السياحة المرتبطة بالطبيعة والتراث الثقافي والحضاري للإنسان مع ضرورة المحافظة على هذه المقومات وتقديم المنافع للسكان المحليين.

ومن أهم تعريفات للسياحة البيئية هي:

- ((تعرف السياحة البيئية بأنها السفر والانتقال إلى أماكن الطبيعة والتراث والثقافة بهدف الجمع بين الترفيه والمعرفة وحماية البيئة والتنوع الحيوي والثقافي وربط الاستثمار والمشاريع السياحية بالمجتمع المحلي وتقديم المنافع لهم مع الحفاظ على البيئة.))
- تعريف مجلس إدارة جمعية السياحة البيئية: ((السفر المسئول إلى المناطق الطبيعية و الذي يحافظ على البيئة ويدعم تحقيق الرخاء للسكان المحليين)).

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[171]إبراهيم بظاظو وآخرون ، 2012 . السياحة البيئية بين النظرية والتطبيق. **الوراق للنشر والتوزيع. الإسكندرية مصر. الطبعة الأولى ص 73**

[172]- الحوامدة نبيل، 2006 . الجغرافيا السياحية في القرن الحادي والعشرين. الطبعة الأولى **دار الحامد للنشر عمان الأردن. ص 112**

❖ عرفت السياحة البيئية حسب الصندوق العالمي للبيئة بأنها: ((السفر إلى مناطق طبيعية لم يلحق بها التلوث ولم يتعرض توازنها الطبيعي إلى الخلل وذلك للاستمتاع بمناظرها الطبيعية ونباتاتها وحيواناتها البرية وتجليات حضاراتها ماضيا وحاضرا))

تعريف السياحة المستدامة

هناك عدد من التعريفات للسياحة المستدامة أهمها:
تعريف الاتحاد الأوربي للبيئة والمنتزهات القومية بأنها ((نشاط يحافظ على البيئة ويحقق التكامل الاقتصادي والاجتماعي ويرتقي بالبيئة المعمارية))
تعرف التنمية السياحية المستدامة وفق تعريف منظمة السياحة العالمية بأنها ((الاستخدام الأمثل للموارد البيئية والاقتصادية والاجتماعية داخل المواقع السياحية دون التأثير السلبي على هذه الموارد، أو التعرض لقدرة الأجيال القادمة على تلبية حاجياتهم والاستجابة لمتطلباتها التنموية، مع الحرص على حماية البيئة و المقومات الطبيعية والبشرية من الخراب والاستنزاف))
وعليه فإن السياحة المستدامة هي سياحة تحافظ على الموارد السياحية وتعزيز الجوانب الإيجابية للسياحة وتقلل من الآثار السلبية لها لأجل استدامتها في الحاضر والمستقبل.

معلومات عن سلطنة عمان

تقع سلطنة عمان في أقصى الجنوب الشرقي لشبه الجزيرة العربية وتمتد بين خطي عرض 40' 16 و 20'26° شمالا، وبين خطي طول 50' 51 و 40'59° شرقا، وتمتد سواحلها الرئيسية مسافة 1.700 كيلومترا تقريبا من مضيق هرمز في الشمال وحتى الحدود المتاخمة لجمهورية اليمن، وتطل على ثلاثة بحار هي:الخليج العربي، وبحر عمان، وبحر العرب.

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[173] -Inskeep. E. 1991. Tourism Planning; An Integrated and Sustainable Development Approach. **New York, Van Nostrand Reinhold. P 78**

[174] - EmanHelmy, 1999. Towards Sustainable Planning for Tourism Development : Case Study for **Egypt . Ph. D Theses .Faculty of Tourism and Hotel.HelwanUniversity.Cairo Egypt. P 58**

[175]- فاروق عبد النبي حسانين عطا الله ، 2004 .التنمية السياحية المستدامة " **دراسة تقييمية لبعض معايير التخطيط بقطاع الغردقة – سفاجا " رسالة ماجستير غير منشورة . جامعة الفيوم كلية الدراسات السياحية قسم السياحة والفنادق**

حدود السلطنة يحدها من ناحية الغرب دولة الإمارات العربية المتحدة والمملكة العربية السعودية، ومن الجنوب الجمهورية اليمنية ومن الشمال مضيق هرمز، ومن الشرق بحر العرب.

وتبلغ المساحة الإجمالية للسلطنة نحو (309) ألآلف كيلومترا مربع وتضم نماذج متعددة من أشكال الأرض تتباين ما بين السهل والجبال والمناطق الرملية، ويشكل السهل مساحته 5% من المساحة الكلية تقريبا. بينما تشغل الجبال نحو 15% من إجمالي المساحة وأهمها سلسلتان من الجبال هما سلسلة جبال الحجر، التي تمتد بشكل قوس من رأس مسندم في الشمال وحتى رأس الحد، والثانية هي سلسلة جبال القرى التي تقع في أقصى الجنوب الغربي من عمان. وتغطي المناطق الرملية والصحراوية المساحة الكبر حيث تبلغ 85% من المساحة الكلية تقريبا، والتي تنتمي في معظمها لمنطقة الربع الخالي.

المناخ في السلطنة به تنوع فهو يختلف من محافظة لأخرى، وكذلك هناك اختلاف حسب طبوغرافية الأرض، ففي المحافظات الساحلية نجد الطقس حارا رطبا في الصيف في حين نجده حارا جافا في الداخل، ومعتدلا يميل إلى البرودة في بعض الأيام في فصل الشتاء، أما بعض الأماكن المرتفعة حيث الطقس يكون معتدلا على مدار العام عدى أشهر الشتاء من (ديسمبر – فبراير) يكون الطقس باردا، أما في المنطقة الجنوبية نجد أن المناخ أكثر اعتدالا وخصوصا في فصل الصيف حيث تهب على المنطقة رياح موسمية محملة بالغيوم والضباب يطلق على هذا الفصل عند أهل المنطقة بالخريف وتكتسي الجبال اللون الأخضر .

التركيبة السكانية: طبيعة السكان في سلطنة عمان بها شيء من التباين فهناك سكان المدن والريف والبادية، وهذه تضفي أهمية سياحية حيث يرغب السياح في التعرف على طبيعة حياة السكان ونمط معيشتهم والنشاطات الاجتماعية وأنشطتهم التقليدية الثقافية التي تعكس ثقافتهم على مر السنين.وقد بلغ عدد سكان السلطنة حوالي 4 ملايين نسمة من العمانيين والوافدين حسب إحصائية 2013.

الوضع الاقتصادي: تتميز سلطنة عمان بمقومات اقتصادية ممتازة، وذلك بما حباها الله من ثروات وموارد طبيعية، وكذلك الاستقرار الذي من الله به على هذا البلد، ليكون مهدا مناسبا للنمو الاقتصادي، و من أهم مقومات الاستقرار نعمة الأمن والأمان، وصون الحقوق، وعدالة ووضوح القوانين والأنظمة، التي إن شاء الله تعد بمستقبل مشرق، كما يتصف الاقتصاد العماني بأنه اقتصاد منفتح على العالم الخارجي، ويعتمد على النفط بدرجة كبيرة حيث يشكل أعلى نسبة إيراد، والجدول رقم (1) يبين المؤشراتالاقتصاديةوالاجتماعيةالرئيسية سلطنة عمان.

176- كتاب عمان 2012 – 2013 **وزارة الإعلام سلطنة عمان**.

177- كتاب عمان 2012 – 2013 مصدر سابق

178- Mohammed, H. 1988.Tourism development and government role in the Sultanate of Oman.**Master Thesis, nun Published. Surry University.**

179- التقرير السنوي 2013 ،**وزارة الإعلام سلطنة عمان.**

جدول رقم (1) يبين المؤشرات الاقتصادية والاجتماعية الرئيسية سلطنة عمان

المؤشرات الاقتصادي	الوحدة	2009	2010	2011	نسبة التغير % 11/10
الناتج المحلى الإجمالي بالأسعار الجارية	مليون ر.ع	8,548.4	22,613.6	26,904.2	19.0
الدخل القومي الإجمالي	مليون ر.ع	17,387.4	21,552.6	25,674.2	19.1
نصيب الفرد من إجمالي الدخل القومي	ر.ع	5,677	7,772	7,792	0.3
إجمالي الإيرادات الحكومية	مليون ر.ع	6,748.4	7,916.5	12,491.2	57.8
نسبة إيرادات النفط والغاز من إجمالي الإيرادات الحكومية	%	77.4	80.8	86.8	7.3
نسبة ساهمة لسياحة في الناتج المحلي الإجمالي	%	2.83	2.43	2.18	-10.3
موظف والحكومة المدنيون	عدد	159,538	163,982	184,440	12.5
العمانيون المسجلون في الهيئة العامة للتأمينات الاجتماعية	عدد	158,315	177,716	174,441	-1.8
العمالة الوافدة في ا لقطاع الخاص الذين يحملون بطاقة عمل سارية المفعول	عدد	874,245	955,630	1,114,590	16.6
أطوال الطرق المعبدة	كم	25,926	28,903	29,685	2.7
الهاتف المتنقل (الآجل الدفع)	عدد	358,744	414,011	432,093	4.4
الهاتف المتنقل المدفوع القيمة	عدد	3,611,819	4,192,122	4,377,155	4.4
إجمالي منتفعي الإنترنت	عدد	78,135	73,908	89,063	20.5

المصدر: النشرة الإحصائية الشهرية ابريل/ 2013 المركز الوطني للإحصاء والمعلومات . المجلس الأعلى للتخطيط سلطنة عمان. بتصرف

واقع السياحة في سلطنة عمان

تحاول حكومة السلطنة أن تضع خطط إستراتيجية للنهوض بقطاع السياحة وفق الخصوصية العمانية، وكان الاهتمام واضح خلال السنوات الأخيرة، وخصوصا خلال الخطة الخمسية السابعة (2006 – 2010) والثامنة (2011 – 2015)، غير أن الاهتمام والدعم تركز بصورة كبيرة على مشاريع وأنشطة ارتباطها بالمقومات السياحية البيئية التي تنفرد وتتميز بها السلطنة كان قليل جدا، وكان الاهتمام والدعم شبه منحصر على إنشاء الفنادق 5 و4 نجوم والقرى السياحية على شواطئ البحر خصوصا في العاصمة مسقط وفي مناطق محددة والذي يغلب عليه الطابع العقاري واستغلال الأراضي في هذا الشأن، وسار على نفس منهج الدول المجاورة التي لا تتمتع بالمقومات السياحية الطبيعية،لذلك فإن قطاع السياحة لازال يحتاج إلى وقفة مراجعة ووضع إستراتيجيات مغايرة لما أعتمد سابقا لهذا القطاع الحيوي في السلطنة، وذلك من خلال إشراك جميع المعنيين بقطاع السياحة في السلطنة وكذلك بيوت الخبرة الإقليمية والعالمية في وضع هذه الخطط. ولهذه الدواعي تم تشكيل اللجنة الوطنية للسياحة للنهوض بالقطاع السياحي وقد اسند إليها الكثير من الصلاحيات والأعمال، وهذه اللجنة برئاسة وزير السياحة وعضوية الوزارات والهيئات التي لها علاقة بالسياحة وعدد 5 أشخاص من أصحاب الخبرة والدراية في المجال السياحي من القطاع الخاص، ويتطلع المهتمين بالسياحة والمواطنين في السلطنة إلى مزيد من المنجزات العملية على أرض الواقع وتحقيق نسبة عالية من التنمية السياحية المستدامة.

جدول رقم (2) يبين المؤشرات الاقتصادية المتعلقة بالسياحة				
المؤشر الاقتصادي	الوحدة	2009	2010	2011
عدد الفنادق و وسائل الإيواء	عدد	224	229	235
إجمالي الإنفاق في السياحة الوافدة	ألفر.ع	144,367	140,548	158,674
إجمالي الإنفاق في السياحة المحلية	ألفر.ع	629,649	708,903	782,587
إجمالي لإنفاق في السياحة الخارجية	ألفر.ع	228,230	262,971	285,811
إجمالي الإنتاج السياحي	ألفر.ع	774,016	849,452	941,260
إجمالي الاستهلاك السياحي الوسيط	ألفر.ع	264,950	295,834	331,531
إجمالي لقيمة المضافة للسياحة	ألفر.ع	509,066	553,618	609,730
نسبة مساهمة السياحة في الناتج المحلي الإجمالي	%	2.83	2.43	2.18

إجمالي عدد الزوار القادمين	العدد بالألف	1,587	1,502	1,395
إجمالي عدد الزوار الخارجين	العدد بالألف	2,470	2,835	3,352
المصدر: النشرة الإحصائية الشهرية ابريل/ 2013 المركز الوطني للإحصاء والمعلومات . المجلس الأعلى للتخطيط سلطنة عمان. بتصرف				

مقومات السياحة البيئية في السلطنة

تتميز سلطنة عمان بالعديد من المقومات السياحية، سواء كانت هذه المقومات طبيعية ربانية أو كانت بتوفيق من الله ثم ساهم فيها الإنسان العماني بشخصية وفطرته التي من الله بها عليه من خلال الإرث التاريخي أو سجية حسن التعامل وكرم الضيافة ونعمة الأمن والأمان، ولهذه الأسباب فإن مستقبل السياحة واعد في السلطنة وخصوصا السياحة البيئية حيث حصلت السلطنة على جائزة أفضل وجهة سياحية عام 2008 من قبل مجلة "فوج" و وكذلك مطبوعة "كوند ناست " وذلك لاحتوائها على الكثير من مقومات السياحة البيئية وتنوع مناظرها الطبيعية وثرائها الثقافي، كما حصلت السلطنة على الجائزة الأولى للوجهة السياحية العربية المفضلة للسياح الألمان، وذلك خلال معرض بورصة السفر العالمية ببرلين عام 2012.

كما تتميز مقومات السياحية البيئية بأنها تتوزع على كثير من مناطق السلطنة ولا تتركز في منطقة محددة فكل منطقة تتميز بخصائص سياحية معينة مما يعزز من الأهمية السياحية واستفادة جميع المحافظات من الأنشطة السياحية.

180- جريد الوطن العمانية 10 مارس 2013 م العدد 10806



شكل رقم (1) يبين خارطة سلطنة عمان السياحية وتظهر بها مواقع أهم المعالم السياحية.

المصدر وزارة السياحة سلطنة عمان

أهم المقومات السياحية البيئية المتميزة والتي تساهم في تحقيق تنمية سياحية مستدامة

خريف محافظة ظفار

تتعرض عدد من الولايات بمحافظة ظفار وخصوصا السلاسل الجبلية إلى حالة مناخية استثنائية سنوية، تبدءا بالحساب الفلكي في 21 يونيو من كل عام وتستمر إلى نهاية شهر سبتمبر، حيث تهب على المحافظة رياح موسمية قادمة من الهند محملة بالرطوبة فتتلبد السماء بالسحاب والضباب، و تساقط الرذاذ وسخات المطر، مما يحول الجبال

والمناطق المحيطة بها إلى طقس مختلف تماما عن المناطق والدول المجاورة؛ فيكسي اللون الأخضر الجبال والسهول، وتسيل الأودية والعيون وشلالات المياه، وتنخفض درجات الحرارة إلى أقل من 30 درجة مئوية في حين تكون أغلب بقية المناطق في السلطنة والدول المجاورة جرداء قاحلة، ودرجة حرارتها مرتفعة تقترب أحيانا من 50 درجة مئوية الشكل رقم (2.) يبين النباتات المغايرة للمناطق والدول المجاورة والتي تعتبر أحد أهم المقومات السياجية البيئية.

الجبل الأخضر

تتميز سلطنة عمان بالسلاسل الجبلية، ويعد الجبل الأخضر التابع لسلاسل جبال الحجر الغربي من أهم هذه الجبال من حيث الارتفاع، حيث يصل ارتفاعه إلى أكثر من عشرة آلاف قدم، وتكون درجة الحرارة معتدلة في فصل الصيف باردة في فصل الشتاء، وتصل إلى درجة الصفر المئوية في بعض أيام الشتاء. وسمي بالجبل الأخضر لوجود غطاء نباتي جيد من الأشجار والشجيرات بعضها مزروع والكثير منها بري، ومن أهم النباتات البرية شجرة البوت وهي فاكهة برية حلوة المذاق صغيرة الحجم، وشجرة العلعلان وهي شجرة ظل برية كبيرة وكذلك شجرة العتم وهي أسماء محليه لهذه الأشجار، أما النباتات المزروعة، يشتهر الجبل الأخضر بزراعة الورد الجبلي (المحمدي)، وينتج منه ماء الورد الجبلي المشهور على مستوى المنطقة، كذلك يزرع بالجبل فواكه المناطق الباردة وبجودة عالية وأهم هذه الفواكه الرمان والجوز واللوز والمشمش والخوخ و التفاح والكمثرى وغيرها من فواكه المناطق الباردة، إضافة إلى المحاصيل وأهمها الثوم الشكل رقم (3) يبين أهم النباتات والنمط الزراعي في الجبل الأخضر .

181- خالد المشيخي ، 2013 .العيون المائية في محافظة ظفار. ندوة المياه من أجل صناعة السياحة المستدامة. 24 – 25سبتمبر 2013- نزوى - سلطنة عمان.









شكل رقم (2) يوضح صور تبين تفرد بعض ولايات محافظة الجنوبية بالطقس الماطر والضباب في فصل الخريف(من شهر 6- إلى 9) و توفر النباتات والفواكه الاستوائية. المصدر.وزارة السياحة سلطنة عمان









الشكل رقم (3) يوضح صور نمط الزراعة المروية بنظام مدرجات وكذلك الغطاء النباتي من الأشجار البرية وأشجار الفاكهة وخصوصا الرمان. المصدر: موقع صور جوجل وتصوير الباحث نفسه

الشواطئ والخلجان

السلطنة تتمتع بشواطئ ممتدة تصل إلى أكثر من 3000 متر وهذه الشواطئ تتميز بنظافتها وتنوعها بين الرمال الفضية والذهبية والجبال والكهوف والخلجان وتقع شواطئ السلطنة على 3 بحار بحر العرب وبحر عمان والخليج العربي ويوجد عدد كبير من الجزر، وتعتبر من المقومات السياحية التي ترتبط بالسياحة البيئية لتواجد التنوع الحيوي والجيولوجي بها، الشكل رقم (4) يبين نماذج من الشواطئ في السلطنة والحياة الفطرية التي تزخر بها.

رمال الصحراء وحياة البادية

تشكل الصحراء ورمالها الذهبية حوالي 80 % من مساحة السلطنة، وتتواجد في عدد من محافظات السلطنة وأهمها محافظة الوسطى والشرقية وظفار. والصحراء في السلطنة تعج بالحياة حيث يقطنها عدد من قبائل السلطنة وتزخر بالثروة الحيوانية وخصوصا الإبل والأغنام والتنوع الحيوي وتوجد بها محميات طبيعية أهمها محمية المها العربية والشكل رقم (5) يوضح التنوع في نشاطات اهل الصحراء وأنواع الحيوانات التي تزخر بها صحاري السلطنة.

الأودية والأفلاج وعيون المياه

تتميز السلطنة بوجود الأودية والأفلاج وعيون المياه،والأفلاج تنتشر بنمط فريد من نوعه في المنطقة وهي عبارة عن مياه متدفقة تستخدم كأداة لري البساتين الزراعية وواحات النخيل، ومياه الأفلاج تجري وفق نظام الجاذبية بدون عملية الضخ، وتنقسم الأفلاج في السلطنة إلى 3 أنواع أفلاج داؤدية وغيلية وعينية وتعتبر الأفلاج وواحات النخيل والمزارع المرتبطة بها أحد مقومات السياحة البيئية في السلطنة الشكل رقم(6) يوضح نماذج من الأودية والأفلاج والعيون الساخنة دائمة الجريان والتي تمثل أحد أهم المزارات السياحية البيئية في السلطنة.

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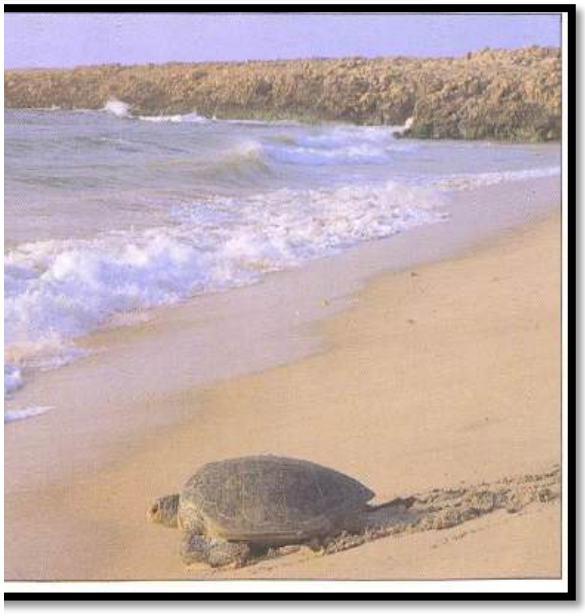
[182]- عبدالله بن علي العليان. 2006. العمانيون وتحدي الجغرافيا. **وزارة الإعلام مسقط سلطنة عمان**

183-وزارة البلديات الإقليمية وموارد المياه، 2009 الأفلاج في عمان. سلطنة عمان.

[184]وزارة الإعلام عمان 2012 – 2013 مصدر سابق





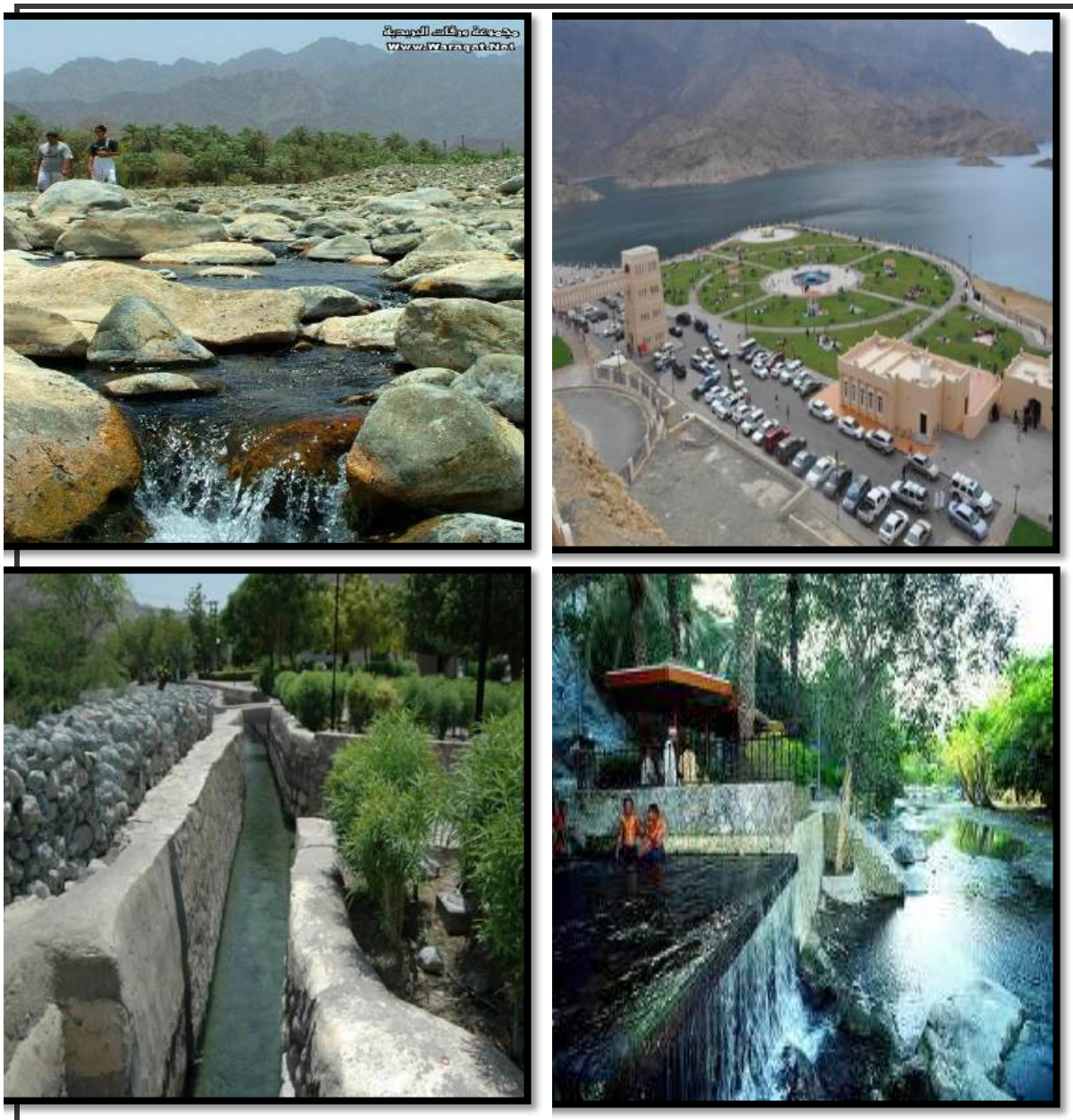


شكل رقم (4) يبين الشواطئ العمانية والحياة الفطرية بها وخصوصا السلاحف الموجود في رأس الحد وموسم التعشيش ووضع البيض. المصدر: وزارة السياحة سلطنة عمان



شكل رقم (5) يوضح صور صحراء السلطنة وهي تعج بالحياة، وتواجد الثروة الحيوانية والحيوانات البرية .

المصدر : وزارة السياحة سلطنة عمان



شكل (6) يبين صور الأودية والسدود و الأفلاج والعيون الساخنة في السلطنة كأحد مقومات السياحة البيئية في السلطنة: المصدر: وزارة السياحة سلطنة عمان

الكهوف والحدائق الصخرية

تتميز الكهوف في السلطنة بتباين أنواعها وأطوالها وأحجامها وتكويناتها الجيولوجية و الجغرافية، وهناك كهوف يمكن تصنيفها عالميا، كما يوجد بالسلطنة عدد من الحدائق الصخرية ذات التكوينات الجيولوجية الطبيعية، ويمكن أن تشكل هذه الكهوف والحدائق الصخرية فرصة لاستقطاب سياحة المغامرات والسياحة الجيولوجية والاكتشافات العلمية، وأهم كهوف السلطنة كهف مجلس الجن؛ الذي يبلغ طوله 310 أمتار وعرضه 225 متراً وتبلغ المسافة من الأرض إلى السقف 120 متراً على هيئة قبة، ولم يتم استغلاله سياحيا بعد ويصنف ضمن أكبر الكهوف في العالم. .كما يعتبر كهف الهوتهضمن أهم المقومات السياحية البيئية في السلطنةيمتد الكهف لمسافة 5 كيلومترات تحت الأرض ، أما المسافة التي يمكن الدخول إليها هي 860 متراً تنتهي ببحيرة الكهف، يتميز الكهف بتشكيلاته الصخرية والصواعد والهوابط الكلسية الموجودة في الكهف، كما توجد به بحيرة مياه بها أسماك عمياء، كما يوجد عدد من الكهوف التي يمكن أن تصنف عالميا من حيث الحجم والتشكيلات الصخرية.كذلك تعتبر حديقة الصخور بولاية لدقم بمحافظة الوسطى وهي عبارة عن تشكيلات صخرية رائعة تسوقف السياح وخصوصا السياحة الجيولوجية والعلمية حيث يقصد الموقع آلاف السياح سنويا للتعرف على الموقع وطبيعة التشكيلات الصخرية الشكل رقم (7) نماذج من الكهوف والحدائق الصخرية.

القلاع والحصون في عمان

حيث تعتبر القلاع و الحصون من ابرز المعالم التاريخية و الحضارية التي شيدت بعضها منذ آلاف السنين وذلك مع بداية الحياة المستقرة في البلاد. وذلك من أجل الحماية من العدوان وتكون مقر وقصر الحاكم والوالي في ولايات السلطنة. ويوجد في كل ولاية من ولايات السلطنة واحد أو أكثر من الحصون والقلاع كما تنتشر الأبراج والأسوار المحيطة بالمدن والقرى القديمة ويصل عدد القلاع والحصون والأبراج إلى المئات، غير أن 26 قلعة وحصن فقط يتم استغلالها للسياحة ومزار للسياح، كما يتم حاليا الإعداد لمجموعة أخرى من القلاع والحصون لتفح أمام السياح الشكل رقم (8) يوضح بعض من القلاع والحصون المنتشرة في العديد من ولايات السلطنة.

185- القلاع والحصون في عمان. 2009 . وزارة التراث سلطنة عمان.

186-سالم شامس الحجري، 2006 .التراث والثقافة وعلاقتهما بالسياحة البيئية.**المؤتمر الدولي للسياحة البيئية سلطنة عمان 2006 .**

187- Salem Al Mamari . 2011. Developing Geotourism in Oman. 3rd Global Geotourism Conference, 30 October 2011.



شكل رقم (7) يبين نماذج من السياحة الجيولوجية المرتبطة بالكهوف والصخور (صور مدخل وكهف الهوته وكهف مجلس الجن وحديقة الصخور بالدقم).المصدر: وزارة السياحة سلطنة عمان



شكل رقم (8) يوضح صور عدد من القلاع والحصون المنتشرة في ولايات سلطنة عمان

المصدر: وزارة التراث سلطنة عمان

الأسواق الشعبية التاريخية

تعكس الأسواق الشعبية تاريخ البلد وحضارته حيث ترتبط التجارة بالحضارة، حيث كانت الأسواق وما تزال صورة للتآلف الإنساني بين بني البشر بالإضافة إلى أهمية وجودها في التجمعات السكانية لتوفير عناصر الالتقاء وتبادل المنفقة. وتتميز الأسواق العمانية بالطابع التراثي الأصيل، لقد ارتبطت الأسواق القديمة ذات الوحدات المعمارية المستقلة بمناطق التجمعات السكنية الفعلية، وارتبطت أهميتها بأهمية هذه المراكز السكانية ووظيفتها في النظام الإقليمي، لذلك امتدت بامتداد الطرق الرئيسية والموانى، وكانت همزة وصل بين البيئات المختلفة وتلك التجمعات السكنية ومن هنا قامت الأسواق العمانية بالإضافة إلى وظيفتها التجارية المهمة ترتبط بوظيفة أخرى وهي أنها كانت تلعب دورا مهما في التبادل الاجتماعي وتبادل الأخبار بين التجمعات السكانية المختلفة.188

مقومات السياحة البيئية عناصر جاذبة تحتاج إلى دعم وتنمية.

اهتمت السلطنة بالبنية التحتية وهي العناصر الغير مباشرة لصناعة السياحة والتي تعتبر مناسبة جدا من حيث شبكة الطرق ووسائل الاتصال وخصوصا بنهاية الخطة الخمسية الحالية بعد اكتمال وافتتاح توسعات وإنشاء المطارات والموانى الرئيسية في السلطنة وعلى هذا تعتبر البنية التحتية جاذبة للنشاط السياحي والمستثمرين في هذا المجال من الداخل والخارج سلطنة عمان.

ويحتاج القطاع السياحي في السلطنةإلى الاهتمامبالعناصر الرئيسية المباشرة المرتبطة بالسياحة من أنشطة وخدمات ومشاريع سياحية وأماكن إيواء، وخاصة تلك المرتبطة بمقومات السياحة البيئية .

ومن خلال استطلاع أراء السياح والمهتمين والعاملين في القطاع السياحي وذلك من خلال رصد رأي المستجيبين في الاستبيان لعدد 333 شخص من المستجيبين الذين اكتملت المعلومات في استماراتهم وقام الباحث بتحليل آرائهم، فقد أظهرت هذه الدراسة حسب رأي المستجيبين في الاستبيان افتقار كثير من مواقع السياحة البيئية إلى العديد من الخدمات والأنشطة السياحية، ورغبة السياح في السياحة البيئية وتعد العامل الأساسي للوجهة السياحية للسلطنة وللمواقع السياحية بها.

وقد اشتمل الاستبيان طرح عدد من الأسئلة حول البنية التحتية المتعلقة بالسياحة، أسباب اختيار السياح السلطنة وجهة سياحية، أهم الأماكن التي تستقطب السياح في السلطنة،ومدى توفر أماكن الإيواء والخدمات السياحية في مواقع السياحة البيئية وملائمة أسعارها، والجداول من رقم 4 إلى رقم 8 يحلل الأسئلة المتعلقة بذلك.

188- ثريا البقصمي. 1997 . الأسواق الشعبية في الخليج العربي . **مجلة العربي الكويت. العدد 30 – 10 – 1997.**

جدول رقم (3) يبين التحليل الوصفي للمعلومات الأساسية للمشاركين في الدراسة لعدد 333 مستجيب استمارتهم مكتملة			
المعلومات الأساسية	الخصائص	العدد	النسبة المئوية
الجنس	ذكر	223	67
	أنثى	110	33
الديانة	مسلم	221	66.4
	غير مسلم	112	33.6
الجنسية/ الدولة	عماني	192	57.7
	دول عربية	38	11.4
	دول أخرى	103	30.9
العمر/ سنة	25 وأقل	13	3.9
	26- 40	226	67.9
	أكبر من 40	94	28.2
المستوى الدراسي	أقل من جامعي	119	35.7
	جامعي وأعلى	214	64.3
الدخل الشهري ر. ع	أقل من 500 ريال	26	7.8
	500 – 1000 ريال	187	56.2
	أكثر من 1000 ريال	120	36.0

جدول رقم (4) يحلل سؤال حول البنية التحتية: (ما مدى مناسبة البنية التحتية / من حيث المطارات الموانى الطرق والفنادق والاتصالات وغيرها من الخدمات المرتبطة بالسياحة ؟)			
مناسبة جدا لجعل السلطنة وجهة سياحية تنافسية	مناسب بصورة مقبولة وتحتاج إلى شيء من التنمية	غير مناسبة وتحتاج إلى تطوير كبير	الإجمالي
56	232	45	333
16.8	69.7	13.5	100

جدول رقم (6) يحلل سؤال (أهم الأماكن التي تستقطب السياح في السلطنة والتي يمكن أن تشكل وجهة سياحية تنافسية)					
المجمعات والمعارض التجارية	الفنادق والمنتجعات السياحية	عناصر السياحة البيئية : خريف صلالة، الجبل الأخضر،الشواطئ، الأماكن الأثرية، البادية والصحراء	المؤتمرات والملتقيات العلمية	أخرى	الإجمالي
5	20	306	2		333
1.5	6	91.9	0.6		100

جدول رقم (5) يحلل سؤال حول اختيار السلطنة وجهة سياحية (أهم أسباب اختيار السياح السلطنة وجهة سياحية هي ؟)					
الاستمتاع بالطبيعة وثقافة الشعب	التسوق والشراء	العلاج	الترفيه	أخرى	الإجمالي
301	7	13	12		333
90.4	2.1	3.9	3.6		100

جدول رقم (7) يحلل سؤال (توفر أماكن الإيواء والخدمات السياحية في مواقع السياحة البيئية)			
متوفرة بصورة مناسبة في كل المواقع	متوفرة في بعض المواقع	غير متوفرة بصورة مناسبة في اغلب المواقع	الإجمالي
22	165	146	333
6.6	49.5	43.8	100

جدول رقم (8) يحلل سؤال(أسعار أماكن لإيواء والخدمات السياحية في مواقع السياحة البيئية)			
مناسبة وفي متناول الجميع	غالية بصورة عامة وتحتاج للتخفيض	غير مناسبة وغالية جدا	الإجمالي
95	175	63	333
28.5	52.6	18.9	100

يتبين من خلال تحليل الجداول فيما يتعلق بالبنية التحتية الجدول رقم 4 فإن النسبة الكبيرة أشارت إلى أنها مناسبة لتحقيق وجهة سياحية تنافسية إلى السلطنة وقد أعرب فقط 45 شخص 13.5 % أنها غير مناسبة وتحتاج إلى تطوير كبير، أما الجدول رقم 5أسباب اختيار السياح السلطنة وجهة سياحية فقد أوضح أكثر من 90 % إلى

الاستمتاع بالطبيعة وثقافة الشعب وهي مرتبطة بمقومات السياحة البيئية.وفيما يتعلق بالجدول رقم 6أهم الأماكن التي تستقطب السياح في السلطنة والتي يمكن أن تشكل وجهة سياحية تنافسية فقد أفاد ما يقرب من 92 % إلى عناصر السياحة البيئية مثل خريف صلالة، الجبل الأخضر،الشواطئ، الأماكن الأثرية، البادية والصحراء. وفيما يتعلق بتوفر أماكن الإيواء والخدمات السياحية في مواقع السياحة البيئية وأسعارها، من خلال الجدول رقم 7 و8 فقد أوضحت الإجابات شح في توفرها وكذلك ارتفاع أسعارها.

التوصيات:

1- حكومة سلطنة عمان قدمت اهتمام كبير ودعم سخي للسياحة، ويوصي الباحث بضرورة تركيز الدعم والاهتمام الذي تقدمه الحكومة على السياحة البيئية، والاستغلال الأمثل للمقومات السياحية التي تتميز بها السلطنة، والتي لا يمكن أن ينافسها فيه أحد لأنها هبة ربانية، و أن الاهتمام بمقومات السياحة البيئية يؤدي إلى وجهة سياحية تنافسية، وتحقيق تنمية سياحية مستدامة في السلطنة.

2- يوصي الباحث أن تربط المشاريع السياحية من حيث الموافقة عليها ودعمها وإقرارها بالعائد الاقتصادي والاجتماعي والبيئي الذي يمكن تحقيقه على الدولة وأفراد المجتمع، وخصوصا ما يتعلق بتوفير فرص عمل حيث أن مساهمة قطاع السياحي في تشغيل العمالة الوطنية ضعيف جدا مقارنة بالدعم الحكومي، كذلك ضرورة إشراك السكان المحليين في امتلاك المشاريع السياحية خصوصا المرتبطة بالمقومات السياحية التي تتميز بها كل منطقة لكي يستفيد الأهالي من مقدرات وخيرات مناطق سكناهم.

3- كذلك يوصي الباحث بضرورة زيادة الاهتمام بالمشاريع الصغيرة والمتوسطة وخصوصا في مجال السياحة البيئية، لارتباط هذا النوع من السياحة بالأنشطة، وغالبا تناسبها المشاريع والأنشطة الصغيرة والمتوسطة والتي تساهم بصورة كبيرة في التشغيل الذاتي وتوفير فرص العمل.

4- التخطيط السياحي متشعب الأركان، وهي حلقة متكاملة بين مجالات عديدة تؤثر بصورة مباشرة وغير مباشرة على السياحة، لذلك لابد أن يشترك في العملية التخطيطية كل المعنيين بالسياحة وكذلك إشراك المجتمع المحلي وبيوت الخبرة العالمية.

5- السياحة البيئية هي أكثر موائمة للدول الإسلامية وتساهم في حفظ ثقافتهم وتنمية مجتمعاتهم، التوصية بالتنسيق المشترك بين الدول الإسلامية لمزيد من التعاون لاكتشاف الفرص السياحية والابتكار في استغلالها لتعزيز جوانب الاستدامة السياحية.

نظرية المحاسبة الإسلامية

أحمد عبد القادر إبراهيم

ملخص

قامت الحضارة الإسلامية على أساس تحقيق العدل بين أفراد هذه الأمة، فرأت في المحاسبة أداة تحقيق العدل المنشود. باعتبار أن المحاسبة صناعة تقوم على أمور مشتركة بين الفكر والعمل، مما جعل بعضهم أن اعتبر المحاسبين أعلام إنصاف وانتصاف وشهودا مقنعين عند حصول الاختلاف. يستهدف هذا البحث إلى بيان مفهوم المحاسبة في الفقه الإسلامي، والتطور التاريخي لها، وتأصيل المحاسبة الإسلامية. كما يهدف إلى بيان منهج المحاسبة الإسلامية، وتوضيح مفاهيم المحاسبة في الفقه الإسلامي (أى فقه المعاملات المالية)، والتركيز كذلك في دراسة فقه النظام المحاسبي، ومقومات النظام المحاسبي، وبالتالي استخلاص المعايير المحاسبية الإسلامية المرنة. فالمنهج المتبع في هذا البحث هو منهج الاستقراء والتحليل من خلال استقراء كتب وبحوث متخصصة ذات الصلة بالموضوع، منعطفا ذلك بتحليل ومناقشة المحتوى. وفي الختام يستخلص من هذا البحث بأن المحاسبة الإسلامية تميزت بخصوصيات دون غيرها، كتميزها بالعدل والطمأنينة. كما تميزت بالسعة والمرونة من حيث الأدوات والمصطلحات التي ابتكرها واستخدمها الفقه الإسلامي في النظام المحاسبي، مما دل على صلاحيتها مع أي زمان ومكان. ويستنتج كذلك بأن الحضارة الإسلامية انتهجت نهجها تجاه المحاسبة بناء على حاجات فرضتها السياسة العامة والنظام الاقتصادي والسياسي للشريعة الإسلامية. واستنتاج هام من البحث كذلك يكمن في تفنيد القول بأن لوقا باشيليو الإيطالي هو أول من وضع أساس القيد المزدوج أي المقابلة في الحسابات، لوجود تطورات محاسبية أساسية من علماء المسلمين لا يمكن تجاهلها. كما أن الفقه الإسلامي أرسى نظاما محاسبيا مقننا في السوق ذا دعائم بعيدة عن الغش وأساليبه، وخال من المنافسة غير المشروعة بتاتا في جميع المجالات.

الكلمات الرئيسية: المحاسبة؛ المحاسبة الإسلامية؛ النظام المحاسبي؛ فقه المحاسبة الإسلامية؛ القيد المزدوج؛ مميزات المحاسبة الإسلامية.

Abstract

The Islamic civilization is based on the justice achievement in the accounting among this nation. Considering that the accounting is an industry which is based on things that are common in terms of thought and action. Hence some they consider the accountants as competent, equitable and rightful especially when it comes to dispute. This research aims at alerting the practitioners of accounting in the Islamic world to be aware of the concept of accounting in Islamic jurisprudence, its historical development, and rooting of Islamic accounting. It also aims to discuss an analytical approach of the Islamic accounting methodology as well as clarifying the jurisprudence of financial transactions. There is a need to determine the jurisprudence of the accounting system, the elements of the accounting system and subsequently to draw the flexible Islamic accounting standards. The methodology adopted in this research is the qualitative method through the consultation of relevant literature, which focus on the thematic study of the subject matter. This is followed with analysis and discussion on the contents of the materials used. It is concluded that Islamic accounting is unique in its norms as it has been characterized by fairness and tranquility. It was also qualified by capacity and flexibility in terms of the tools and terminology used and invented by Islamic jurisprudence in the accounting system, which is indicated its validity and consistency anytime and anywhere. It concludes further that Islamic civilization has pursued its approach to accounting based on the needs imposed by public policy and economic political system of Islamic law. An important conclusion of the research also lies in the refutation of the popular idea which says that an Italian writer known as Loca Patcilio was the first writer who developed the basis of double-entry due to the presented proofs by Muslim scholars of critical accounting developments which cannot be ignored. The Islamic jurisprudence draw the accounting system codified in the foundations of a market which is far from fraud, cheating and unfair competition in all areas decisively.

Keywords: Accounting; Islamic accounting; Accounting system; Islamic jurisprudence; Double entry; Islamic accounting Features.

بسم الله الرحمن الرحيم

المقدمة

الحمد لله الذي وضع ميزان العدل ليقوم الناس بالقسط ﴿ ڤ ڤ ڤ ڤ ڦ ڦ ڦ ڦ ڄ ڄ ڄ ڄ ڃ ڃ ڃ ڃ ﴾[189]، ﴿ □ □ □ □ □ ﴾[190]، والصلاة والسلام على أشرف الأنبياء والمرسلين نبينا محمد وعلى آله وصحبه أجمعين، وبعد.

تعتبر المحاسبة علم اجتماعي متطور وفن كسائر العلوم الاجتماعية، فهي قابلة للتغيير حسب الظروف الاقتصادية، إذ فعالية هذا التغيير تكمن في تزايد قدرة المحاسبة بالمعلومات كيما تتبوء المكانة العالمية العظمى لخدمة المجتمع، الأمر الذي يجعلها تتميز من بين العلوم الأخرى. فالمحاسبة الإسلامية تتميز بالاستمرارية لكونها علم قديم وجديد، فهي قديمة قدم الإسلام نفسه كما شاهدت بذلك النصوص المتضافرة. وهي جديدة من حيث التطور والبحث والتنقيب في مكونها وتحليل الإطار النظري لها وحلّ مشكلاتها.

إن تراثنا الإسلامي قد زخر لنا ما للمحاسبة من فوائد جمة وخاصة في فقه المعاملات والأنشطة التجارية، وفي فقه الزكاة، وفقه الصرف، وفي الوقف، وفي فقه التعامل بالشركات، وفي بيت المال وغير ذلك. فإن الإسلام في جميع ذلك أرسى مبادئ وأسسا إسلامية محاسبية تحافظ على سلامة رأس المال، وتعالج الشخصية المعنوية المحاسبية. فعليه إنه من الخطأ بمكان القول بأن "لوكا باتشيليو" Loca Patcilio (عالم الرياضيات الإيطالي) هو أول من وضع أسس علم المحاسبة في سنة 1494م – 913هـ، وأن استعماله على نطاق واسع لم يتم إلا في سنة 1869م – 1288هـ. كما سيأتي بيان تفنيد هذا القول في التطور التاريخي للمحاسبة الإسلامية.

ولا أدل على قدم المحاسبة الإسلامية من وجود طائفة من النصوص القرآنية والحديثية في بيان المحاسبة ومشتقاتها. فقد ورد بيان سجل المحاسبي في القرآن، وبيان استقلالية الحساب، وبيان مبدأ المقابلة في حساب النفس، كما وردت المحاسبة في القرآن بمعنى العد والإحصاء ثم الجزاء والعقاب، ووردت كذلك بمعنى الحساب وتعلّمه، وبمعنى التوثيق والإشهاد وغير ذلك. وفي المقابل وردت كلمة المحاسبة ومشتقاتها في السنة النبوية الشريفة كذلك بمعاني مختلفة منها: ورود كلمة "حاسب" في حديث ابن اللتبية لتدل على المعيار النبوي للتفريق بين المال العام والمال الخاص، وكما جاء في حديث عائشة رضي الله عنها ما يدل على دقة وشدة الحساب، وغير ذلك من المعاني في أحاديث كثيرة. وفيما سنذكره في هذا الخصوص غُنية عن هذه الإشارة هنا.

هذا ويشمل البحث على ستة مباحث وخاتمة على النحو الآتي:

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189 الأنبياء : ٤٧

190 الفرقان: ٢.

المبحث الأول: مفهوم المحاسبة في الفقه الإسلامي

المبحث الثاني: التطور التاريخي للمحاسبة الإسلامية

المبحث الثالث: تأصيل المحاسبة الإسلامية

المبحث الرابع: منهج المحاسبة الإسلامية

المبحث الخامس: توضيح مفاهيم المحاسبة في الفقه الإسلامي (أى فقه المعاملات المالية)

المبحث السادس: خصائص ومعايير المحاسبية الإسلامية

خاتمة: وتشمل على أهم نتائج البحث

منهج البحث:

إن المنهج المتبع في هذا البحث يكمن في توضيح مفاهيم المحاسبة والتطور التاريخي لها، وبيان تأصيل المحاسبة الإسلامية ودراسة فقه النظام المحاسبي، ثم ننعطف ذلك بدراسة وتحليل المنهج المحاسبي الإسلامي والتلميح لمقومات النظام المحاسبي، ورسم توضيحي لما يتطلب ذلك، كما سنقوم بنقد وتحليل المفاهيم الخاطئة وخاصة فيما يتعلق بجانب التطور التاريخي للمحاسبة. وفي هذا الأثناء سنحاول تقديم صورة علمية للفكر المحاسبي من منظور إسلامي بأسلوب معاصر، وبالتالي استخلاص المعايير المحاسبية الإسلامية المرنة.

الهدف من المحاسبة الإسلامية:

للمحاسبة الإسلامية عدة أهداف نجملها في النقاط التالية:

1. المحافظة على الأموال ومراجعة المكاسب وتنظيم المعاملات المالية.
2. توافر الحجج الكتابية في حالة المنازعات أمام القضاء، لأن الشهادة القائمة على الكتابة أقوى.
3. المساعدة في اتخاذ القرارات المختلفة، لأن اتخاذ القرار يبنى على ما هو مسجل بالدفاتر.
4. تحديد نتيجة الأعمال لفرض الزكاة في نهاية السنة، لأن ذلك يحدد صافي رأس المال العامل وصافي الربح أو الخسارة، كما يحدد أساس حساب زكاة المال.

5. المساعدة في تحديد وقياس حقوق الشركاء في الأموال والأرباح في حالة الانضمام والانفصال[191].

المبحث الأول: مفهوم المحاسبة في الفقه الإسلامي

وقبل الخوض في بيان مفهوم المحاسبة في الفقه الإسلامي، ينبغي أن نعرّف المحاسبة من حيث اللغة والمفهوم الاصطلاحي لها بصفة عامة، ثم نردف ذلك بتعريف المحاسبة في الفقه الإسلامي، وذلك على النحو التالي:

أولاً: تعريف المحاسبة في اللغة:

كلمة المحاسبة مأخوذة من (حاسبه) مُحَاسَبةً وحِساباً أى: ناقشه الحساب وجازاه. والحساب: العدّ والكثير الكافي، وفي التنزيل العزيز: ﴿ ٹ ٹ ٹ ٹ ڈ ڈ ﴾[192]. والحِساب: معروف، وهو مصدر المحاسبة: حاسَبْته مُحاسبةً وحِساباً. وقد سمَّت العرب حَسيباً وحُسيباً، واحتسب فلان على فلان: أنكر عليه قبيحاً عَمِله[193]. وأما كلمة حاسب في اللغة العربية والتي يقابلها باللغة الإنكليزيا Accounting أو Accountancy فإنه يقصد بها عملية الإثبات في الدفاتر وذلك بالأرقام والكلمات للمعاملات والتصرفات والقرارات التي تَمّت. بينما كلمة يُحاسِب تعني المساءلة الحالية أو المستقبلية أو كلاهما لتصرف أو سلوك رقمي[194]، وهذا ما يفهم لكلا المعنيين: (حاسب و يُحاسِب) من الآية الكريمة ﴿ ڃ ڃ ڃ ڃ ڃ ڃ ڇ ڇ ڇ ڇ ڍ ڍ ﴾[195].

ثانياً: تعريف المحاسبة في الاصطلاح:

ولعل أشمل التعريفات للمحاسبة هو تعريف الدكتور عمر عبد الله زيد من العلماء المعاصرين الملمّ بفن المحاسبة، فإنه عرّف المحاسبة بأنها: "عملية منتظمة تتعلق بتسجيل المعاملات والتصرفات والقرارات المشروعة ومبالغها في السجلات المعتمدة، وقياس النتائج المالية المترتبة على تلك المعاملات والتصرفات والقرارات للمساعدة في ترشيد القرارات"[196].

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[191] غالى، د. أشرف؛ **المحاسبة من منظور إسلامي**، http://world-acc.net/vb/showthread.php?t=4854، تاريخ التسجيل: 2011/8/30م، الدولة: فلسطين، تاريخ زيارة الموقع: 8/أبريل/2013م.

[192] النبأ: ٣٦، وانظر: إبراهيم مصطفى، وأحمد الزيات، وحامد عبد القادر، و محمد النجار؛ **المعجم الوسيط**، (طبع وتحقيق: مجمع اللغة العربية بالقاهرة، ط2، 1965م)، 171/1.

[193] أبو بكر، محمد بن الحسن بن دريد؛ **جمهرة اللغة**، تحقيق: رمزي منير بعلبكي، (مطبعة دار العلم للملايين، الطبعة الأولى 1987م)، 274/5.

[194] عمر عبد الله زيد؛ **المحاسبة المالية في المجتمع الإسلامي**، (عمان: دار اليازوري، الطبعة الأولى، 1416هـ / 1995م)، ص89.

[195] الانشقاق: ٧ – ٨.

[196] **المحاسبة المالية في المجتمع الإسلامي**، مرجع سابق، ص90.

تعريف المحاسبة الإسلامية:

ويمكننا تعريف المحاسبة الإسلامية أو علم المحاسبة في الإسلام بأنه "مجموعة القواعد والمبادئ المستخدمة في جمع وتصنيف وتحليل وتسجيل العمليات المالية من أجل قياس نتائج أعمال المشروعات الاقتصادية وإعداد البيانات المالية وعرضها وفق أحكام الشريعة الإسلامية"[197].

المبحث الثاني: التطور التاريخي للمحاسبة الإسلامية

لقد تطورت المحاسبة الإسلامية ومرت بمراحل عديدة منذ الرعيل الأول إلى عصرنا هذا، وفي هذا الصدد سوف نتناول بعض الأمور الهامة التي تدل على تطور وقِدم المحاسبة الإسلامية مع دحض نظريات الغربيين. ومن هذه الأمور: تطور علم المحاسبة في الإسلام، وطريقة إثبات أطراف المعاملة (القيد المزدوج).

أولاً: تطور علم المحاسبة في الإسلام

شهد علم المحاسبة في الإسلام تطورات جذرية منذ عهد الرسول ρ إلى عصرنا هذا، بما فيها التطورات المحاسبية في مجال المعاملات والنظام النقدي. ويمكننا هنا ذكر بعض هذه المراحل على سبيل الإيجاز كما يلي:

1. **مرحلة الكتابة:** فقد جاءت إشارات في القرآن الكريم لتدل على أهمية الكتابة في المعاملات المالية وفي جميع المعلومات، فيقول الله تعالى: ﴿ ﹷ ﹹ ﹻ ﹼ ﹽ ﹾ ﹿ ﺀ ﺁ ﺂ ﺃ ﺄ ﺅ ﺆ ﺇ ﺈ ﺉ ﺊ ﺋ ﺌ ﺍ ﺎ ﺏ ﺐ ﺑ ﺒ ﺓ ﺔ ﺕ ﺖ ﺗ ﺘ ﺙ ﺚ ﺛ ﺜ ﺝ ﺞ ﺟ ﺠ ﺡ ﺢ ﺣ ﺤ ﺥ ﺦ ﺧ ﺨ ﺩ ﺪ ﺫ ﺬ ﺭ ﺮ ﺯ ﺰ ﺱ ﺲ ﺳ ﺴ ﺵ ﺶ ﺷ ﺸ ﺹ ﺺ ﺻ ﺼ ﺽ ﺾ ﺿ ﻀ ﻁ ﻂ ﻃ ﻄ ﻅ ﻆ ﻇ ﻈ ﻉ ﻊ ﻋ ﻌ ﻍ ﻎ ﻏ ﻐ ﻑ ﻒ ﻓ ﻔ ﻕ ﻖ ﻗ ﻘ ﻙ ﻚ ﻛ ﻜ ﻝ ﻞ ﻟ ﻠ ﻡ ﻢ ﻣ ﻤ ﻥ ﻦ ﻧ ﻨ ﻩ ﻪ ﻫ ﻬ ﻭ ﻮ ﻯ ﻰ ﻱ ﻲ ﻳ ﻴ ﻵ ﻶ ﻷ ﻸ ﻹ ﻺ ﻻ ﻼ ﴿[198].

ويقول تعالى: ﴿ ﹷ ﹹ ﹻ ﹼ ﹽ ﹾ ﹿ ﺀ ﺁ ﺂ ﺃ ﺄ ﺅ ﺆ ﺇ ﺈ ﺉ ﺊ ﺋ ﺌ ﺍ ﺎ ﺏ ﺐ ﺑ ﺒ ﺓ ﺔ ﺕ ﺖ ﺗ ﺘ ﺙ ﺚ ﺛ ﺜ ﺝ ﺞ ﺟ ﺠ ﺡ ﺢ ﺣ ﺤ ﺥ ﺦ ﺧ ﺨ ﺩ ﺪ ﺫ ﺬ ﺭ ﺮ ﺯ ﺰ ﺱ ﺲ ﺳ ﺴ ﺵ ﺶ ﺷ ﺸ ﺹ ﺺ ﺻ ﺼ ﺽ ﺾ ﺿ ﻀ ﻁ ﻂ ﻃ ﻄ ﻅ ﻆ ﻇ ﻈ ﻉ ﻊ ﻋ ﻌ ﻍ ﻎ ﻏ ﻐ ﻑ ﻒ ﻓ ﻔ ﻕ ﻖ ﻗ ﻘ ﻙ ﻚ ﻛ ﻜ ﻝ ﻞ ﻟ ﻠ ﻡ ﻢ ﻣ ﻤ ﻥ ﻦ ﻧ ﻨ ﻩ ﻪ ﻫ ﻬ ﻭ ﻮ ﻯ ﻰ ﻱ ﻲ ﻳ ﻴ ﻵ ﻶ ﻷ ﻸ ﻹ ﻺ ﻻ ﻼ ﴿[199]. ويقول الحق سبحانه وتعالى: ﴿ ﹷ ﹹ ﹻ ﹼ ﹽ ﹾ ﹿ ﺀ ﺁ ﺂ ﺃ ﺄ ﺅ ﺆ ﺇ ﺈ ﺉ ﺊ ﺋ ﺌ ﺍ ﺎ ﺏ ﺐ ﺑ ﺒ ﺓ ﺔ ﺕ ﺖ ﺗ ﺘ ﺙ ﺚ ﺛ ﺜ ﺝ ﺞ ﺟ ﺠ ﺡ ﺢ ﺣ ﺤ ﺥ ﺦ ﺧ ﺨ ﺩ ﺪ ﺫ ﺬ ﺭ ﺮ ﺯ ﺰ ﺱ ﺲ ﺳ ﺴ ﺵ ﺶ ﺷ ﺸ ﺹ ﺺ ﺻ ﺼ ﺽ ﺾ ﺿ ﻀ ﻁ ﻂ ﻃ ﻄ ﻅ ﻆ ﻇ ﻈ ﻉ ﻊ ﻋ ﻌ ﻍ ﻎ ﻏ ﻐ ﻑ ﻒ ﻓ ﻔ ﻕ ﻖ ﻗ ﻘ ﻙ ﻚ ﻛ ﻜ ﻝ ﻞ ﻟ ﻠ ﻡ ﻢ ﻣ ﻤ ﻥ ﻦ ﻧ ﻨ ﻩ ﻪ ﻫ ﻬ ﻭ ﻮ ﻯ ﻰ ﻱ ﻲ ﻳ ﻴ ﻵ ﻶ ﻷ ﻸ ﻹ ﻺ ﻻ ﻼ ﴿[200].

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[197] د. حسين محمد سمحان و د. موسى عمر مبارك؛ **محاسبة المصارف الإسلامية في ضوء المعايير الصادرة عن هيئة المحاسبة والمراجعة والضوابط للمؤسسات المالية الإسلامية**، (طبعة دار المسيرة، الطبعة الأولى، 2009م / 1429هـ)، ص19.

[198] البقرة: ٢٨٢.

[199] الإسراء: ١٣.

[200] الأنبياء: ٤٧.

وقد جاء الحث على الكتابة من أجل تحقيق الأهداف التالية:

أ. تحقيق العدالة في الحقوق والالتزامات.

ب. حفظ المعلومات وزيادة الثقة فيها.

ج. حفظ الحقوق وزيادة الثقة في المعاملات خاصة الآجل منها[201].

2. **مرحلة الحساب (أى حساب الأموال)**: يعتبر تطور الدولة الإسلامية وتطور المجتمع والمعاملات من أهم العوامل في ازدياد الاهتمام بعملية احتساب الأموال بصورة منظمة على هذا التدرج:

- حساب المال في عهد الرسول ρ، حيث استعمل عليه السلام رجالا لجمع الصدقات والزكاة وأمر بكتابة الأموال والتدقيق على عملية جمع وصرف هذه الأموال.
- حساب المال في عهد الخلفاء الراشدين: فقد استمروا رضي الله عنهم في جمع الزكاة والصدقات بعد الرسول ρ، وزادت أهمية تعيين كتاب الأموال في عصرهم بسبب زيادة الفتوحات والغنائم.
- حساب المال في أوج الدولة الإسلامية: لقد تطورت عمليات التسجيل وتقسيم الحسابات، وازدهرت عملية تنظيم الحسابات، وتنوعت السجلات المستخدمة في تسجيل أموال بيت مال المسلمين بسبب عظم الدولة الإسلامية. وفي هذه المرحلة دعت الحاجة إلى علم المحاسبة في الإسلام، وهذا يستلزم أن تكون كل عملية محاسبية مؤيدة بالمستند الصحيح، وإيجاد نظام رقابة فعال للرقابة على الأموال.. ووجوب مراجعة الحسابات بصورة دقيقة ومتزنة.
- حساب المال في العصر الحديث: فإن الأمر في العصر الحديث مغاير تماما عن سابقيه، حيث إنه لم يعد الاهتمام باتخاذ نظام إسلامي كنظام سائد في تطبيق الشريعة الإسلامية على نظام المحاسبة بشكل كلي، اللهم إلا النذر اليسير من المؤسسات الاقتصادية التي تلتزم بأحكام الشريعة، مما أدى إلى تطوير المحاسبة الإسلامية بما يناسب مع طبيعة المعاملات المعاصرة[202].

ثانياً: طريقة إثبات أطراف المعاملة (القيد المزدوج)

بالنظر إلى تاريخ المحاسبة عند غير المسلمين نجد أنهم يركزون حول فترتين، الأولى: هي الفترة السابقة على قيام الدولة الإسلامية، والثانية: هي الفترة التي تبدأ مع نهاية القرن الخامس عشر بظهور كتاب "لوقا باتشيليو" Loca

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[201] محمد كمال عطية، **محاسبة الشركات والمصارف في النظام الإسلامي**، (الإسكندرية: دار الجامعات المصرية، الطبعة الأولى، 1984م)، ص30.

[202] د. حسين محمد سمحان و د. موسى عمر مبارك؛ **محاسبة المصارف الإسلامية في ضوء المعايير الصادرة عن هيئة المحاسبة**، مرجع سابق، ص21،20. بتصرف من الباحث.

Patcilio، والذي أفرد فيه فصلاً عن المحاسبة. وهم بذلك يهملون الفترة منذ بزوغ الإسلام وحتى عام 1494م وهو العام الذي فيه نشر Patcilio كتابه. وربما سبب هذا الإهمال ناتج عن جهلهم بالإسلام ومتطلباته من ناحية، وباللغة العربية من ناحية أخرى[203].

ويعتبر Patcilio — حسبما يقول غير المسلمين – أول كاتب إيطالي الذي تكلم عن القيد المزدوج وجعله كنظام أو وسيلة من وسائل القيد المحاسبي. ولعل المقصود به هو التفرقة بين المحاسبة ككل وطريقة إثبات أطراف المعاملة Double Entry كوسيلة من وسائل القيد المحاسبي. حيث إنه أشار إلى أن المحاسبة قد نشأت في الجمهوريات الإيطالية كنتيجة للعمل التجاري هناك والذي كان متطورا في ذلك الوقت. ويقترح الدكتور عمر عبد الله زيد تسمية هذه الطريقة باسم: "طريقة إثبات أطراف المعاملة" بدلا من "القيد المزدوج" بحيث تعني الإثبات بالمديونية والدائنية لأطراف المعاملة الواحدة، وهذا ما تقصده أيضا التسمية المعروفة باسم القيد المزدوج[204].

وهاك توضيح للطريقة الإيطالية حول إثبات أطراف المعاملة (القيد المزدوج):

الطريقة الإيطالية

تستخدم هذه الطريقة في المشروعات صغيرة الحجم، ويطلق عليها الطريقة التقليدية، أو الطريقة العادية، وذلك بسبب قدمها وسهولتها وقلة عدد الدفاتر المستخدمة، حيث يتطلب العمل طبقا لهذه الطريقة دفترين أساسيين، يعتمدان بالطبع على نظرية القيد المزدوج؛ دفتر يومي عام ودفتر الأستاذ العام.. وفي نهاية الفترة المحاسبية ترصد الحسابات التي يحتوي عليها هذا الدفتر، ثم يعدّ ميزان المراجعة وتجرى بعد ذلك التسويات الجردية اللازمة فعداد القوائم المالية.

ويمكن تلخيص مراحل العمل المحاسبي في الطريقة الإيطالية فيما يلي:

1) تحليل المستندات إلى أطرافها المدينة والدائنة وفقاً لنظرية القيد المزدوج، ثم إثباتها بالدفتر اليومي العام حسب تسلسلها التاريخي.
2) ترحيل أطراف المعاملات من الدفتر اليومي العام إلى الحسابات الخاصة بدفتر الأستاذ العام لتحديد مراكز الحسابات.
3) استخراج موازين المراجعة بالمجاميع والأرصدة من دفتر الأستاذ العام.
4) إعداد الحسابات الختامية وقوائم المركز المالي من ميزان المراجعة[205].

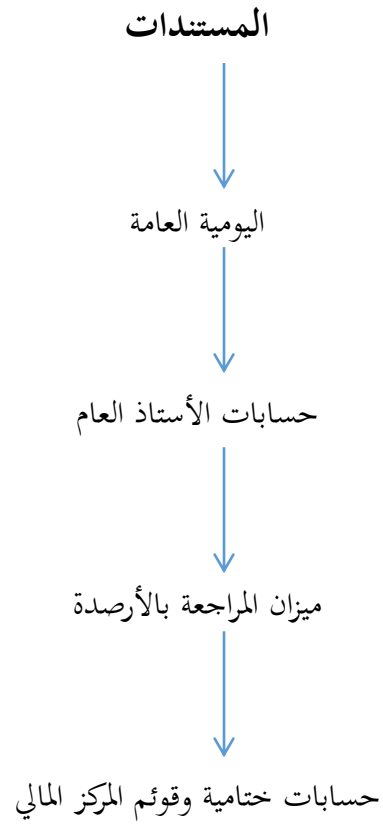
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[203] **المحاسبة المالية في المجتمع الإسلامي**، مرجع سابق، ص19،20. بتصرف يسير.

[204] **المحاسبة المالية في المجتمع الإسلامي**، مرجع سابق، ص21،22.

[205] http://almu7asbah.blogspot.com/2012/11/Ways-constraint-accounting-books.html **طرق التسجيل المحاسبي**، 2/أبريل/ 2013م.

شكل رقم (1)



إنه لا يستبعد أن يكون كتاب Loca Patcilio هو أول كتاب مطبوع ظهر في أوربا ليتضمن فصلا في المحاسبة، ولكن لا يعني هذا أن يكون أول كتاب تمت كتابته في أوربا أو العالم. إذ أن بعض الأبحاث الغربية تشير إلى وجود كتاب مخطوط أوربي يسبق Patcilio .. فقال بعضهم: "إن أول من كتب في المحاسبة أو طريقة إثبات المعاملة هو الكاتب الإيطالي Cotrugli". ذلك أن كتابه أقدم من كتاب Patcilio. وذهب بعض الباحثين إلى أن أول من كتب في المحاسبة أو طريقة إثبات المعاملة هو: Angelo Senesio في عام 1348م[206].

ومما يفنّد زعم الغربيين بأن أول كتاب تمّ تأليفه عن طريقة إثبات أطراف المعاملة (القيد المزدوج) هو كتاب Loca .Patcilio؛ وجود كتاب مخطوط يعود لعام 765هـ / 1363م تقريبا وقد كتبه المؤلف المسلم عبد الله بن محمد

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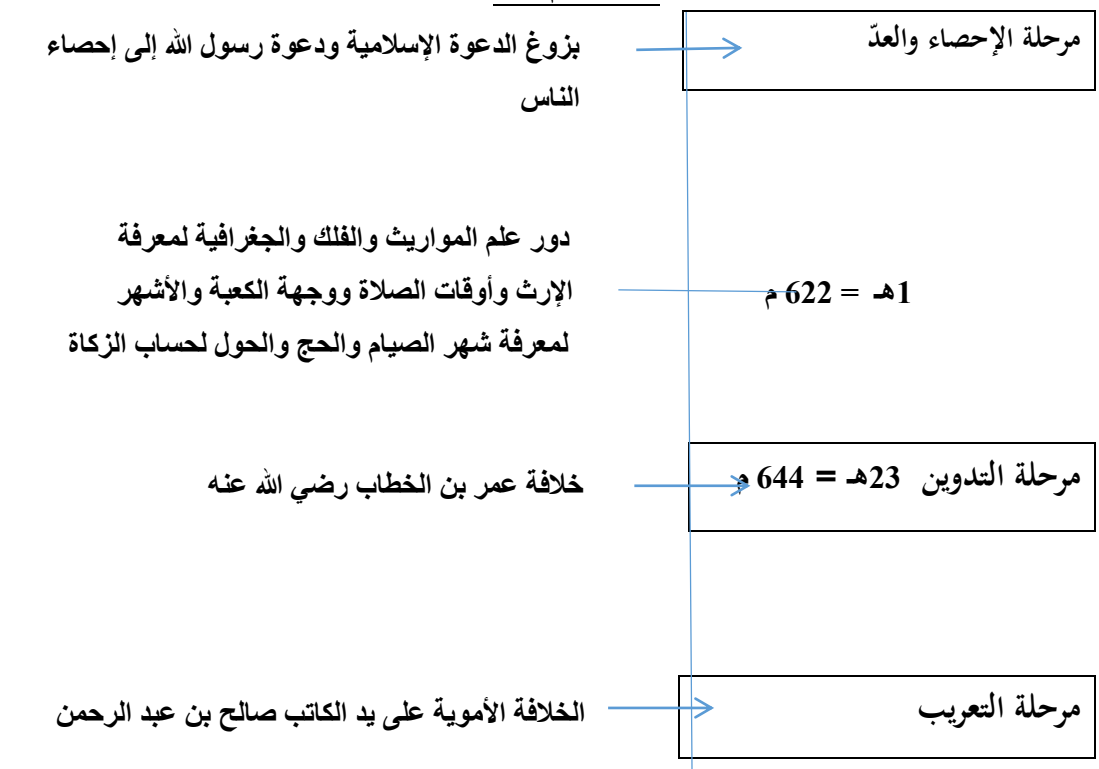
[206] **المحاسبة المالية في المجتمع الإسلامي**، مرجع سابق، ص27.

بن كاية المازندراني بعنوان: "رسالة فلكية كتاب السياقات"[207]. استخدم المؤلف رحمه الله في كتابته لهذا الكتاب الأحرف العربية، ولكن أحيانا باللغة العربية، وأحيانا أخرى بالفارسية، كما استخدم في بعض الأحيان بعض الكلمات التركية التي كانت سائدة في ظل الدولة العثمانية. لقد تمت كتابة هذا الكتاب قبل حوالي 131 عاماً من ظهور كتاب Patcilio مما يدل على بطلان ما ذهبوا إليه في أبحاثهم.

وعليه فإن تطور المحاسبة في الفقه الإسلامي قد جاوز القنطرة على ما تفترضه معظم الكتابات العالمية وخاصة الكتابات الغربية بأن لوقا باشيليو الإيطالي هو أول من وضع أساس القيد المزدوج أي المقابلة في الحسابات في عام (٨٩٩هـ / ١٤٩٤م). فعلى كلٍّ إن التدوين الذي جاء به قد سبقته تطورات محاسبية أساسية من علماء المسلمين لا يمكن تجاهلها.

وهاك رسم توضيحي على تطور المحاسبة في الفقه الإسلامي حسب ترتيب الدكتور سامر مظهر القنطقجي[208]:

شكل رقم (2)



[207] الكتاب مودع لدى مكتبة السلطان سليمان القانوني في إسطانبول، بتركيا، ومسجل بقسم المخطوطات تحت رقم 2756، وموضوعه: **المحاسبة والنظم المحاسبية في الدولة الإسلامية**.

[208] قنطقجي، د. سامر مظهر؛ **فقه المحاسبة الإسلامية**، مؤسسة الرسالة، الطبعة الأولى 1425هـ / 2004م، ص46 مختصرا.

132هـ = 740 م ← الخوارزمي وضع أول كتاب في الحساب الجبري

150هـ = 767 م ← أبو حنيفة

158هـ = 775 م ← أنس بن مالك

168هـ = 785 م ← إسماعيل بن صبيح كاتب ديوان الخراج زمن الرشيد

182هـ = 798 م ← أبو يوسف

203هـ = 819 م ← القرشي

204هـ = 820 م ← الشافعي

224هـ = 839 م ← أبو عبيد بن سلام

307هـ = 920 م ← علي بن عيسى

321هـ = 933 م ← أبو جعفر الطحاوي

327هـ = 939 م ← أبو جعفر الدمشقي

328هـ = 940 م ← ابن قدامة

مرحلة التأصيل 733هـ = 1332 م ← النويري وضع أول مرجع علمي محاسبي متكامل في العالم

ابن خلدون (779هـ) الشاطبي (790هـ) ابن رجب الحنبلي والقلقشندي.

ومن الدلائل التي تشير إلى تطور المحاسبة في ظل الدولة الإسلامية؛ وجود متطلب أساسي يقتضي بضرورة حفظ الدفاتر والمستندات المتعلقة بها بطريقة منتظمة، كما يتطلب أن تفهرس الدفاتر والمستندات بأسلوب يسهل الرجوع إليها عند الحاجة بعد انتهاء التسجيل في الدفاتر واستكمال حفظ المستندات في الملفات[209]. ولا أدل على ذلك من فعل الخليفة الراشد عمر بن الخطاب رضي الله عنه، حيث إنه أرسى نظام الدواوين والمستندات بطريقة منتظمة، وتبعه على ذلك الأجيال المتعاقبة جيل بعد جيل إلى عصرنا هذا.

المبحث الثالث: تأصيل المحاسبة الإسلامية

لقد لعبت الحضارة الإسلامية دورا إيجابياً وأسهمت إسهاما كبيراً في تطوير مختلف العلوم لتشمل جميع نواحي الحياة، كنظام الحكم والقضاء والخلافة والإدارة العامة والوزارة والحسبة والشرطة والولايات والدواوين والبريد، كما حظيت النواحي العسكرية من هذا التطور. وأبدع علماء المسلمين في علوم الفقه الإسلامي، وعلوم اللغة العربية، والرياضيات والعلوم الاجتماعية والطبيعية والفلك والترجمة والطب والصيدلة. وحظيت كذلك فنون العمارة والزخرفة والصناعة بنصيب وافرٍ من هذا التطوّر.

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[209] **المحاسبة المالية في المجتمع الإسلامي**، مرجع سابق، ص54.

وفي هذا المبحث سوف نتناول تأصيل المحاسبة الإسلامية في القرآن الكريم، وفي السنة النبوية الشريفة، وكذلك في الفقه الإسلامي، وذلك على النحو الآتي:

أولاً: المحاسبة في القرآن الكريم

وردت كلمة المحاسبة ومشتقاتها في القرآن الكريم أكثر من تسعين مرة، فجاءت بمعنى **المحاسِب** كما في قوله تعالى: ﴿ڤ ڤ ڤ ڤ ڤ ڦ ڦ ڦ ڄ ڄ ڄ ڄ ڃ ڃ ڃ ڃ چ چ﴾[210]. وقوله تعالى: ﴿ [211]. وقوله تعالى: ﴿ [212]. كما جاءت بمعنى إستقلالية الحساب في قوله تعالى: ﴿ [213]. وقوله تعالى: ﴿ [214]. كما بيّن تعالى مبدأ المقابلة في حساب النفس فقال عز من قائل: ﴿ [215]. وُذكرت المحاسبة بمعنى **العدّ والإحصاء ثم الجزاء والعقاب** فقال تعالى: ﴿ [216]. كما ذكرت بمعنى **الحساب** وتعلّمه في قوله تعالى: ﴿ [217]، وفي قوله تعالى: ﴿ [218]. ووردت بمعنى **التوثيق والإشهاد** في قوله تعالى: ﴿ [219]. وعن **سرعة الحساب** في قوله تعالى: ﴿چ چ چ

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210 .الأنبياء: ٤٧.

211 النساء:6.

212 النساء: ٨٦.

213 البقرة: ١٣٤.

214 الإسراء: ١٤.

215 البقرة: ٢٨٦.

216 الطلاق: ٨.

217 الإسراء: 12.

218 يونس: ٥.

219 النساء: ٦.

ﮂ ﮃ ﮄﮅ ﮆ ﮇ ﮈ ﮉ ﮊ ﮋ﴾[220]، وقوله تعالى: ﴿ﭵ ﭶ ﭷ ﭸ ﭹ ﭺ ﭻ ﭼ ﭽ ﭾ ﭿ ﮀ ﮁ ﮂ ﮃ ﮄ ﮅ ﮆ ﮇ ﮈ ﮉﮊ ﮋ ﮌ ﮍ﴾[221].

وبينت آية التسجيل أو المداينة الأسس العريضة للأصول المحاسبية، وهي أطول آية في القرآن الكريم: ﴿ ﭑ ﭒ ﭓ ﭔ ﭕ ﭖ ﭗ ﭘ ﭙﭚ ﭛ ﭜ ﭝ ﭞﭟ ﭠ ﭡ ﭢ ﭣ ﭤ ﭥ ﭦ ﭧ ﭨﭩ ﭪ ﭫ ﭬ ﭭ ﭮ ﭯ ﭰ ﭱ ﭲ ﭳ ﭴ ﭵ ﭶﭷ...﴾ إلى آخر الآية[222]. حيث علمنا الله سبحانه وتعالى آلية الكتابة العادلة الصادقة ﴿ﭜ ﭝ ﭞ ﭟ ﭠﭡ﴾ ثم أكّد ذلك في نهاية الآية بقوله: ﴿ ی﴾.

بالتمعّن في الآية الكريمة يلاحَظ أنها أوضحت التعابير المحاسبية التالية: الدَّين، مقدار الدَّين، أجل الدَّين، كاتب الدَّين، العدالة في الكتابة، من يملل هو المدين وكأنه يقر بما عليه دون إكراه، المبلغ كما هو دون بخس في القيمة، حالات خاصة، الشهود وهم شهود عدل وفيها تشديد واضح للإثبات والموضوعية، الغاية من الكتابة، استثناءات، الحياد حتى لا تتشوه الصورة العادلة[223].

ثانياً: المحاسبة في السنة النبوية الشريفة

وردت كلمة المحاسبة ومشتقاتها في السنة النبوية الشريفة مرات كثيرة وبمعاني مختلفة، نذكر منها ما يلي:

أ. روت السيدة عائشة عن رسول الله ρ قوله: «لا أحد يحاسب إلا هلك، قالت: قلت يا رسول الله جعلني الله فداءك أليس يقول الله عز وجل: ﮋ ﭻ ﭼ ﭽ ﭾ ﭿ ﮀ ﮁ ﮂ ﮃ ﮄ ﮅﮊ[224]، قال: ذاك العرض يعرضون، ومن نوقش الحساب هلك»[225].

ب. ورواه أبو حميد الساعدي قال: استعمل رسول الله ρ رجلا من الأسد على صدقات بني سليم يدعى ابن اللتبية، فلما جاء حاسبه قال: هذا مالكم وهذا هدية فقال رسول الله ρ: «فهلا جلست في بيت أبيك وأمك حتى تأتيك هديتك إن كنت صادقاً»[226]، وبذلك أرسى رسول الله ρ معيارا للتفرقة بين المال العام والمال الخاص، وأوضح الرشوة بما لا يدع مجالا للشك. ويدل هذا الحديث على شدة ودقة الحساب.

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[220] الأنعام: ٦٢.

[221] النور: ٣٩.

[222] البقرة: ٢٨٢.

[223] قنطقجي، **فقه المحاسبة الإسلامية**، مرجع سابق، ص45-47. بتصرف يسير.

[224] الانشقاق: 7-8.

[225] رواه البخاري: [103] 32/1، ومسلم [7406] 164/8.

[226] رواه البخاري: [1500] 130/2، ومسلم 11/6.

ج. وأخبر رسول ρ عن حسن ختام الدائن الذي يمهل مدينيه ولا يشق عليهم، فقد روى أبو مسعود عن رسول الله ρ أنه قال: «حوسب رجل ممن كان قبلكم فلم يوجد له من الخير شيء إلا أنه كان رجلا ًموسراً أو كان يخالط الناس، وكان يأمر غلمانه أن يتجاوزوا عن المعسر فقال الله عزّ وجلّ: "نحن أحق بذلك منه تجاوزوا عنه»[227].

د. ويروى عن عمر بن الخطاب رضي الله عنه قوله: "حاسبوا أنفسكم قبل أن تحاسبوا، وتزينوا للعرض الأكبر، وإنما يخف الحساب يوم القيامة على من حاسب نفسه في الدنيا"[228].

هـ. ويروى عن ميمون بن مهران رضي الله عنه قوله: "لا يكون العبد تقيا حتى يحاسب نفسه كما يحاسب شريكه من أين مطعمه و ملبسه"[229].

و. وروى شداد بن أوس عن رسول الله ρ قال: «الكيس من دان نفسه وعمل لما بعد الموت، والعاجز من أتبع نفسه هواها وتمنى على الله الأماني»[230].

ثالثاً: المحاسبة في الفقه الإسلامي

أدرك الفقهاء دور المحاسبة الاقتصادي في الحياة الاجتماعية ، فالغزالي أوضح ضرورة الحساب في المعاملات، وعرّف المحاسبة بأنها "عبارة عن النظر في رأس المال والربح والخسران ليتبين فيه الزيادة من النقصان[231].

ويمكن تحديد مراحل تطور المحاسبة[232] في الفقه الإسلامي على النحو التالي:

- **مرحلة الإحصاء والعد**: قال رسول الله ρ: «اكتبوا لي من تلفظّ بالإسلام من الناس، فكتبنا له ألفا وخمسمائة رجل»[233].
- **مرحلة التدوين**: ثم كثرت الأموال المجتباة ، فتم إحصاء الناس على أساس القربى لرسول الله ρ، وكان العطاء على أساس الأسبقية في الإسلام. فقد قدم أبو هريرة رضي الله عنه بمال من البحرين فقال له الفاروق عمر رضي الله عنه: ماذا جئت به؟ قال: خمسمائة ألف درهم، فاستكثره عمر وقال: أتدري ما

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227 رواه مسلم: 33/5، والترمذي [1322] 385/2، والبخاري في الأدب المفرد [293] 110/1، وابن حبان 274/3.

228 رواه الترمذي 54/4، وصحح الألباني وقفه في سلسلة الأحاديث الضعيفة 24/9.

229 رواه الترمذي: 54/4.

230 رواه الترمذي [2577] 54/4، وابن ماجه [4260] 1423/2، وضعفه الألباني في ضعيف سنن الترمذي [436]، وضعيف ابن ماجه [930].

231 الغزالي، أبو حامد محمد بن محمد؛ **القسطاس المستقيم**، تحقيق: محمود بيجو، المطبعة العلمية بدمشق ١٩93م، ج ٤ ص 405-407. بتصرف يسير من الباحث.

232 انظر مراحل تطور المحاسبة في الفقه الإسلامي بالتفصيل في كتاب: **فقه المحاسبة الإسلامية**، د/ سامر مظهر ص35-37.

233 رواه البخاري: [3060] 72/4.

تقول؟ قال نعم، مائة ألفٍ خمس مرات، فقال عمر: أطيب هو؟ فقال لا أدري فصعد عمر المنبر فحمد الله وأثنى عليه ثم قال: أيها الناس قد جاءنا مالٌ كثيرٌ، فإن شئتمْ كِلْنا لكم كيلا ًوإن شئتم عددنا. فقام إليه رجل فقال يا أمير المؤمنين قد رأيت الأعاجم يدونون فدوّن أنت ديوانًا[234]".

- **مرحلة تعريب الدواوين** في زمن الخليفة عبد الملك بن مروان على يد صالح بن عبد الرحمن كاتب الحجاج بالعراق وعلى يد سليمان بن سعد في الشام، وكان عبد الحميد بن يحيى كاتب مروان يقول" لله در صالح ما أعظم منته على الكتّاب"[235].
- **مرحلة التأصيل** لصناعة كتابة الحساب على يد النويري وهدفت إلى وضع دليل عمل ومرجع علمي، وبيّن ذلك بقوله: فسألني بعض إخواني أن أضع في ذلك ملخصا يعلم منه المباشر كيف المباشرة، ويستضيء به فيما يسترفعه أو يرفعه من ضريبة و موافرة[236]". ويعتبر النويري (677 - 733هـ / 1278-1333م) أول من أطلق على مهنة المحاسبة تعبير "صناعة" أي صناعة الحساب كمرادف لكتابة الأموال، وبذلك يقول: "فأوردت هذه النبذة إزالة لسؤاله وتحقيقا لآماله وذكرت من صناعة الكتابة ما هو بالنسبة إلى مجموعها قطرة من بحرها وشذرة من عقود درها مما لابد للمبتدئ من الإحاطة بعلمه والوقوف عند رسمه"، وبذلك بين ضخامة علم المحاسبة، وأن ما كتبه هو قطرة من بحر. أما القلقشندي، فقد عدّد أنواع المحاسبين ودرجاتهم، وبيّن أهميتهم في تحديد الحقوق وبيان الأرباح (ثمرة الاكتساب) عند كل فترة زمنية، وأكّد أن المحاسبة عماد المعاملات، ونتائجها قابلة للتفسير والمناقشة وليس ككتابة الإنشاء القابلة للتقوّل والاحتمال. ونقل عن الحريري (ت ٥٠٤ هـ/ ١١١١ م) قوله في مقاماته: "اعلموا أن صناعة الإنشاء أرفع، وصناعة الحساب أنفع، وقلم المكاتبة خاطب وقلم المحاسبة حاطب، أساطير البلاغة تنسخ لتدرس، ودساتير الحسابات تنسخ وتدرس"[237].

المبحث الرابع: منهج المحاسبة الإسلامية

إن الحضارة الإسلامية انتهجت نهجها تجاه المحاسبة بناء على حاجات فرضتها السياسة العامة والنظام الاقتصادي والسياسي للشريعة الإسلامية. فالمحاسبة الإسلامية اعتمدت على الاقتصاد الكلي وذلك بتحقيق

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[234] النويري، شهاب الدين أحمد بن عبد الوهاب؛ **نهاية الأرب في فنون الأدب**، (ب.ت.ط)، 196/8.

[235] النويري، مرجع سابق، 199/8.

[236] النويري، مرجع سابق، 193/8.

[237] القلقشندي، مرجع سابق،56/1.

العدالة الاجتماعية على مستوى المجتمع بتطبيق نظام الزكاة، وعلى مستوى الأسرة بتطبيق نظامي المواريث والنفقة، بخلاف المحاسبة التقليدية.

فإن منهج المحاسبة من وجهة النظر الإسلامية يلتزم بالثوابت الشرعية، ويستفيد من العلوم الأخرى بما لا يتناقض مع هذه الثوابت باستخدام المناهج العقلية أو التجريبية أو كليهما، فالحكمة ضالة المؤمن. فالمدخل المعياري يفيد في اقتراح المفاهيم والفروض المحاسبية، أما المدخلان الإيجابي والاستقرائي فيفيدان في إثبات وبرهنة المحتوى التطبيقي والعملي لهذه المفاهيم والافتراضات. كما أن المدخل السلوكي والأخلاقي يساعد في التزام الأفراد والجماعات بالمدخل المعياري وانسجام تطبيقاتهم مع هذا المدخل الإيجابي، وذلك بانضباطهم من خلال المراقبة الذاتية التي مصدرها الخوف من الله تعالى والمراقبة الخارجية التي مصدرها الرقابة والمراجعة الخارجية من الأطراف ذات الاهتمام[238].

منهج المحاسبة في الإسلام

لقد أرسى الخبراء من علماء المحاسبة الإسلامية مناهج ذات أبعاد وأنماط علمية واقتصادية وسلوكية للدلالة على مرونة المنهج المحاسبي واتساع رقعته، ومن هذه المناهج ما يلي:

أ) **العلم**: وذلك عن طريق استخدام المنهج الحسي أو التجريبي، فالعقل يشكك بقدرات الحواس، والمنهج هو الاعتماد على التجربة الحسية فعلا ولا يكون ذلك إلا بالعلم، قال الله تبارك وتعالى: ﴿ٱ ٹۀ ۀ ہ ہ﴾[239]. إن قيمة العلم تكمن فيما يبثه من اليقين في العقل، ولذا فإن الدلائل التي تورث الظن أبعد ما تكون عن تسميتها عِلماً. فإذا استقر اليقين في العقل باتباع المنهج المنطقي العقلي، فقد تحققت له القيمة الذاتية للعلم وتكاملت فيه كل خصائصه ومزاياه. وفي ذلك رأى ابن خلدون أن مهنة المحاسبة تحتاج إلى الاستدلال العقلي[240].

ب) **المدخل السلوكي الأخلاقي**: إن نمط السلوك الإنساني للمسلم هو سلوك محكوم بالقيم الأخلاقية الإسلامية التي تقوم على المسؤولية أمام الله أيا كان مصدر الالتزام ذاتيا من نفسه أو تعاقدياً مع الغير مما يلزم مراعاة القيم الإنسانية المرتبطة بهذا السلوك كالقناعة والصدق والأمانة والوفاء والعدل وغير ذلك[241].

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238 قنطقجي، فقه المحاسبة الإسلامية، مرجع سابق، ص 77.

239 الذاريات، 21.

240 البوطي، د. محمد سعيد؛ **هذه مشكلاتهم**، مطبعة دار الفكر بدمشق، ص122.

241 القرضاوي، د. يوسف؛ **حسن الإدارة**، مجلة الاقتصاد الإسلامي، منشورات بنك دبي الإسلامي، المجلد الأول ص ٣٩٩.

ت) **المدخل التاريخي الاستقرائي:** يهدف هذا المنهج للبحث عن الممارسة العملية والنظرية للفكر المحاسبي في التاريخ لإسلامي والاطلاع عليها لإثبات درجة نضوج هذا الفكر، ويتبين هذا من قول النويري في وصفه للقواعد المحاسبية السائدة في عصره "فهذه هي القواعد التي استقرت في زماننا[242]".

ث) **المدخل الإيجابي:** إن هذا المنهج يكمن في تطوير نظرية محاسبية تفسر السبب الذي أدى بالقوائم المالية إلى أن تأخذ شكلها القائم في الوقت الحاضر وتحديد ما إذا كانت المعايير والإرشادات النموذجية يمكن تطبيقها في الواقع، وكيف يمكن مواءمتها تمشيا مع متطلبات التطبيق والممارسة المحاسبية. لذلك يهدف هذا المدخل لبيان مدى ملاءمة معايير المحاسبة للمجتمعات الأخرى مع الشريعة الإسلامية حيث إن الحكمة ضالة المؤمن أينما وجدها فهو أحق بها[243].

منهج هيئة المحاسبين الدوليين:

بدأت هيئة المحاسبين الدوليين في بريطانيا – وهي من المجتمعات المحاسبية العالمية – بتغيير منهجها لتتلاءم مع المحاسبة الإسلامية وذلك بتطوير أدوات خاصة. كما أنها منحت ولا تزال تمنح لمراجعي حسابات الشركات شهادات دولية لممارسة المحاسبة الإسلامية في العالم حسب منهج واضح المعالم والأهداف بينتها الورقة (15) بعنوان "مراجعة الحسابات الإسلامية والممارسة المصرفية":

الأعمال القانونية والشرعية:

- تشريع الزكاة
- قانون التكافل
- قانون العقود وتطبيقاته
- المضاربة
- المشاركة
- إدارة الأصول والخصوم
- إدارة السيولة
- نسبة كفاية رأس المال
- سوق رأس المال الإسلامي

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[242] النويري، مرجع سابق، ص208.

[243] النويري، مرجع سابق، ص244. بتصرف يسير.

وغير ذلك من المصطلحات المحاسبية[244]. وقد حافظت هذه المنظمة على بقاء المصطلحات المحاسبية الإسلامية على لفظها العربي مثل: *Morabaha, Zakah, Wadiah, Wakalah*

المبحث الخامس: توضيح مفاهيم المحاسبة في الفقه الإسلامي (أى فقه المعاملات المالية)

إن الفقه الإسلامي أرسى نظاما محاسبيا مقننا في السوق ذا دعائم بعيدة عن الغش وأساليبه، وخال من المنافسة غير المشروعة بتاتا في جميع المجالات. ولما كان الربح في الفقه الإسلامي المحاسبي نماء في المال جاريا في الحول، سواء نض المال في آخر الحول أو لم ينض وبقي على العروض، فإن هذا النماء موجود في المال عروضًا كان أو نقدًا. فإن البيع – والحالة هذه — هو ما يظهر هذا النماء، وبلا ريب أن النماء والربح يصيران متحققين بالبيع وينض المال. وفي نظر الفقه الإسلامي المحاسبي يستوي في قياس الربح أن يكون النماء والربح بالقوة أو بالفعل، باعتبار أن كليهما نمو وزيادة في القيمة يجب أخذها في الحسبان.

نظرا لسعة وتشعب مجالات المحاسبة في المعاملات المالية الإسلامية، أكتفي بذكر نموذج واحد حول العملية المحاسبية لتكلفة المرابحة على النحو الآتي:

إن العملية المحاسبية لتكلفة المرابحة تلعب دورا إيجابيا في التعاملات المصرفية، وذلك لأنها عبارة عن قياس حقوق الملكية والالتزام والأحداث المالية، ويتضمن القياس بصفة عامة تحديد تكافؤ من نوع ما، بين أشياء وأحداث مختلفة، وهذا التكافؤ هو أساس القياس في أى مجال من المجالات. ويعتبر القياس المحاسبي ركنا أساسيا من أركان المحاسبة، يهدف إلى تحديد نتيجة النشاط في نهاية كل فترة زمنية معينة، وكذلك الوقوف على المركز المالي الحقيقي، ومن ثَمّ الإفصاح السليم والدقيق للمعلومات المحاسبية بُغية الاستفادة منها.

هذا ويمكن إلقاء الضوء لبعض جوانب هذه العملية، علما بأن مجالها واسع نطاقه يمكن القارئ الرجوع إلى الكتب والبحوث المتخصصة في هذا المجال حتى يتعرف على كيفية المعالجة للعملية بشكل مُبسَّط. هناك جانبان هامان من جوانب العملية المحاسبية، وهما: الجانب الأول: التكلفة الضِّمنية للعملية المحاسبية، الجانب الثاني: عملية استنتاج أسلوب محاسبي جديد. علّنا نكتفي هنا بالجانب الثاني لأهميته ولخشية الإطالة، وذلك كالآتي:

عملية استنتاج أسلوب محاسبي جديد:

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[244] قنطقجي، **فقه المحاسبة الإسلامية**، مرجع سابق، ص 66.

ويمكن استنتاج أسلوب محاسبي جديد لتقويم بضاعة المرابحة في ظل تغيرات الأسعار يقوم على قاعدة "الغُنْمُ بالغُرْمِ" المتعارف عليها في الفقه الإسلامي. وقد يستدل في ذلك بمذهب المالكية في شأن حكم (ما يقع من زيادة أو نقصان في خبر البائع بالثمن الأول). وفيما يلي ما أورده الإمام مالك رضى الله عنه في هذا الخصوص:

قال رحمه الله: "إذا باع رجل سلعة مرابحةً فقال: قامت عليّ بمائة دينار، ثم جاءه بعد ذلك أنها قامت بمائة وعشرين دينارا، خُيِّر المبتاع، فإن شاء أعطى البائعَ قيمة السلعة يوم قبضها، وإن شاء أعطى الثمن الذى ابتاع به على حساب ما ربحه بالغًا ما بلغ، إلا أن يكون ذلك أقل من الثمن الذى ابتاع به السلعة؛ فليس له أن ينقص ربّ السلعة من الثمن الذى ابتاعها به، لأنه قد كان رضى بذلك، وإنما جاء ربّ السلعة يطلب الفضل؛ فليس للمبتاع فى هذا حجة على البائع بأن يضع من الثمن الذى ابتاع به على البائع[245]".

وقياسًا على ما سبق قال الدكتور محمد كمال عطية: "إنه يمكن تقويم بضاعة المرابحة في ظل تغيرات الأسعار على النحو التالي:

أ– في حالة هبوط الأسعار

كأن يشتري البنك السلعة بمبلغ 100 رنجيت، وعند بيعها مرابحة – بهامش ربح 10% مثلا – ينخفض سعرها في الأسواق إلى90 رنجيت. في هذه الحالة يعطي البنك الخيار في أن يبيع بالتكلفة التارخية بدون ربح (أى: بمبلغ 100رنجيت)، أو بالتكلفة الجارية مضافًا إليها الربح (أى: بمبلغ 90 + (90 × 10%) = 99 رنجيت، وذلك أيهما أفضل(أى: أعلى) بالنسبة له.

ب– في حالة ارتفاع الأسعار

كأن يشتري البنك السلعة بملغ 100 رنجيت، وعند بيعها مرابحة – بهامش ربح 10% – يرتفع سعرها في الأسواق إلى 120 رنجيت. في هذه الحالة يُخيَّر العميل بين أن يدفع للبنك التكلفة التاريخية مضافا إليها الربح (أى: مبلغ 100+ (100 × 10%) = 110 رنجيتت)، أوالتكلفة الجارية مضافا إليها الربح).

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[245] أبو عبدالله، مالك بن أنس، **الموطأ**، تحقيق: محمد مصطفى الأعظمي (مؤسسة زايد بن سلطان آل نهيان، ط1، 1425هـ / 2004م)، ج4 ص353.

مما سبق يتضح أن تقويم بضاعة المرابحة في ظل ثبات الأسعار أو ارتفاعها؛ سيكون دوما (بالتكلفة التارخية + الربح). أما في ظل هبوط الأسعار؛ فسيكون التقويم على أساس (التكلفة التاريخية) أو (التكلفة الجارية + الربح)، أيهما أفضل للبائع[246].

مشكلة قياس تكلفة بضاعة المرابحة في ظل تغيرات أسعار الصرف:

تحدث مشكلة كبيرة حالة تذبذبات أسعار صرف العملة أو تغيراتها، خاصة عند استيراد بضاعة المرابحة في الخارج. ففي هذه الحالة قد يواجه البنك (المرابِح) أحد أمرين:

الأمر الأول: أن يقوم البنك باستيراد السلعة من الخارج، ويتعاقد عليها بعُملة أجنبية محددة، ولسبب ما يسدد البنك الثمن بعملة أخرى، ثم يحدث تغير في سعر الصرف بين العملتين في تاريخ البيع مرابحة إلى العميل عما كان عليه سعر الصرف بينهما في تاريخ الشراء.

الأمر الثاني: أن يقوم البنك باستيراد سلعة من الخارج بعملة أجنبية محددة، وعند بيعها مرابحة للعميل؛ يتغير سعر الصرف بين العملة الأجنبية والعملة المحلية التي سيسدد بها العميل.

فمثال الأول: أن يتعاقد البنك على استيراد جهاز كشف الأشعة من أمريكا بمبلغ 100000 دولار، ولاعتبارات السيولة النقدية يقوم البنك بالسداد بعملة أخرى ولتكن الريال السعودي، فيفرض أن سعر الصرف بينهما هو (4 ريالات/ دولارات)، فإن البنك سيسدد فعلا مبلغ 400000 ريال ثمنا للجهاز. فإذا فرض وتغير سعر الصرف بين العملتين في تاريخ البيع مرابحة للعميل، ليصبح (5 ريالات/ دولار). **والأمر الثاني:** وهو قيام البنك باستيراد سلعة من الخارج بعُملة أجنبية محددة، وعند بيعها مرابحة للعميل؛ يتغير سعر الصرف بين العُملة الأجنبية والعملة المحلية التي سيسدد بها العميل. ففي هذه الحالة أيضا يدور التساؤل حول أساس حساب الثمن الأول، هل سيحسب على أساس سعر الصرف يوم الشراء، أم يوم البيع؟

يُجيب فقهاء المالكية على هذا التساؤل، فيقول ابن رشد القرطبي: "... فإن مالكًا والليث قالا – فيمن اشترى سلعةً بدنانير، والصرف يوم اشتراها صرفٌ معلوم، ثم باعها بدراهم والصرف قد تغير إلى زيادة، – أنه ليس له أن يعلّم يوم باعها بالدنانير التي اشتراها، لأنه من باب الكذب والخيانة، وكذلك إن اشتراها بدراهم ثم باعها بدنانير وقد تغير الصرف"[247].

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[246] الجلف، أحمد محمد محمد. **المنهج المحاسبي لعملية المرابحة في المصارف الإسلامية**، (نشر المعهد العالمي للفكر الإسلامي، ط1، 1417هـ / 1996م)، ص43.

[247] ابن رشد (الحفيد)، محمد بن أحمد بن محمد بن رشد القرطبي. **بداية المجتهد ونهاية المقتصد**، ج2 ص241.

وكذلك فقد ورد في الموطأ ما نصه: "... قال مالكٌ في الرجل يشتري المتاع بالذهب أو بالورق، والصرف يوم اشتراه عشرة دراهم بدينار، فيقدم به بلدا فيبيعه مرابحة، أو يبيعه حيث اشتراه مرابحة على صرف ذلك اليوم الذي باعه فيه[248]".

من ذلك يخرج الدكتور محمد عبد الحليم عمر بنتيجة مفادها: أن المقرر شرعًا أن احتساب الثمن الأول للسلعة؛ يكون على أساس سعر صرف يوم البيع لا يوم الشراء. ويضرب على ذلك مثالا فيقول:

إذا اشترى بعملة أجنبية وباع بعملة محلية، وتغير سعر الصرف للعملة المحلية إلى العملة الأجنبية من يوم الشراء الأول إلى يوم البيع مرابحة، مثل أن يكون ثمن الشراء الأول 100000 دولار، وسعر الصرف حِينها 3ر3 رنجيت ماليزياً بالدولار، وعند البيع مرابحة 3ر4 رنجيت ماليزيا للدولار. وبالتالي فإن الثمن الأول يوم الشراء 330000 رنجيت، ويوم البيع 340000 رنجيت. فأيهما يؤخذ به؟ المقرر شرعًا وما يحدث تطبيقا هو أن الثمن يحسب على سعر الصرف يوم البيع لا يوم الشراء الأول، أى 340000 رنجيت[249].

وهذه المسألة –كما يرى بعض الباحثين – لا تعدو كونها تغيرا في التكلفة الاستبدالية الجارية للسلعة يوم البيع عن تكلفتها التاريخية الأصلية يوم الشراء. فتكلفة السلعة يوم الشراء 330000 رنجيت ماليزي. أما إذا رغب البنك في استبدالها يوم البيع فيجب عليه أن يوفر 340000 رنجيت ماليزي، ومن ثَم فإن الأستاذ أحمد الجلف يرى إمكانية بل وأفضلية معالجة هذه المسألة في إطار ذات الأسس السابق الإشارة إليها في المشكلة السابقة[250].

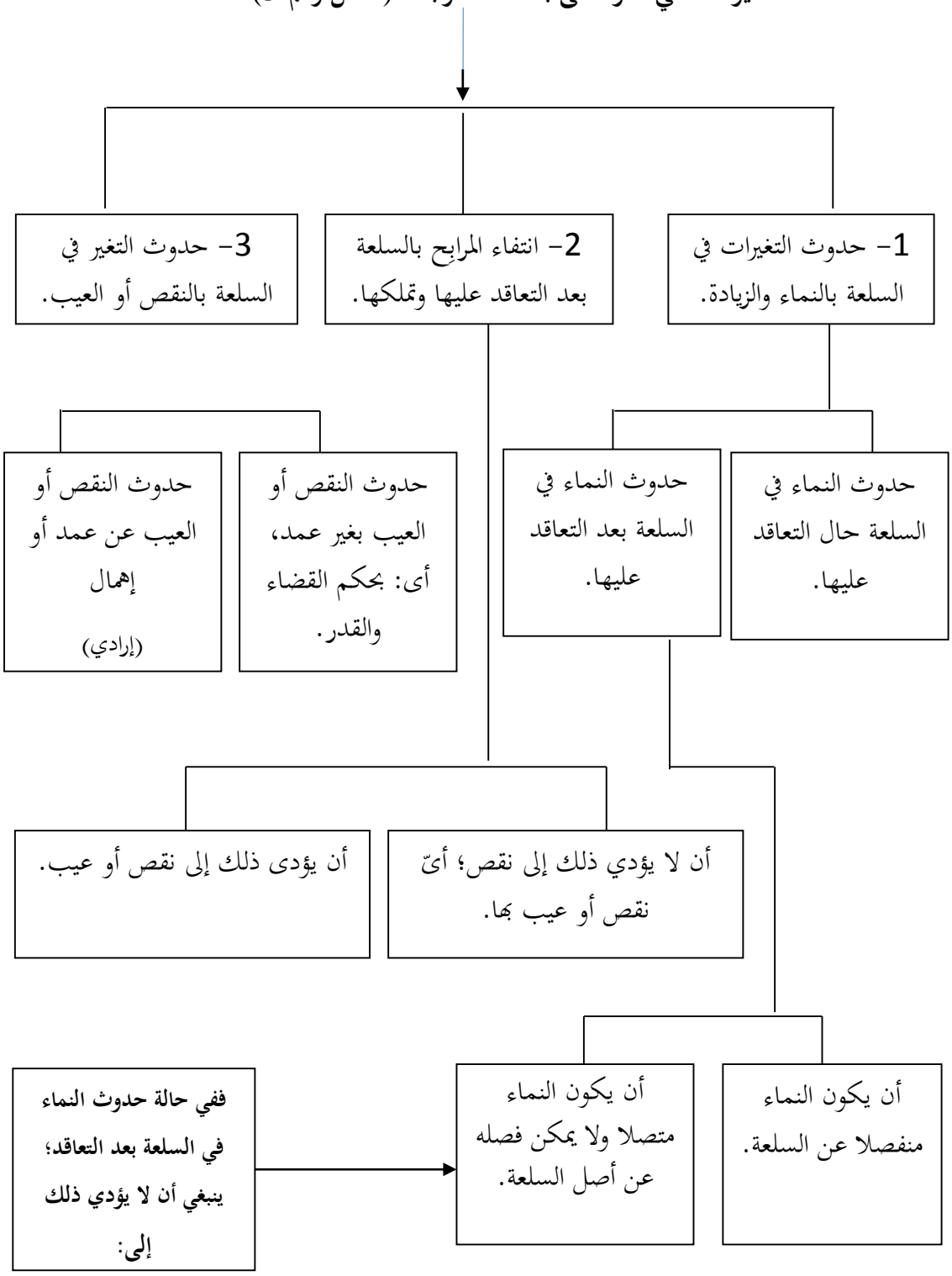
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[248] أبو عبد الله، مالك بن أنس. **الموطأ**، ص 414- 415.

[249] الجلف، أحمد محمد محمد. **المنهج المحاسبي لعملية المرابحة في المصارف الإسلامية**، ص 47. نقلاً عن: محمد عبد الحليم عمر؛ **التفاصيل العلمية لعقد المرابحة الإسلامية لأجل**، ص29.

[250] المرجع السابق ص47.

التغيرات التي تطرأ على بضاعة المرابحة (شكل رقم 3)



المبحث السادس: خصائص ومعايير المحاسبية الإسلامية

إن المحاسبة الإسلامية تميزت بخصوصيات ومعايير دون غيرها، كتميزها بالعدل والطمأنينة[251]. كما تميزت بالسعة والمرونة والاستمرار من حيث الأدوات والمصطلحات التي ابتكرها واستخدمها الفقه الإسلامي في النظام المحاسبي، مما دل على صلاحيتها وتأقلمها مع أي زمان ومكان. وفيما يلي ذكر لبعض خصائص ومعايير المحاسبة الإسلامية.

أولا: خصائص المحاسبة الإسلامية:

1. إن الفكر المحاسبي في الإسلام يستمد قواعده من القران الكريم والسنة النبوية والفكر الإسلامي.
2. ترتكز المحاسبة في الإسلام على العقيدة والإيمان الراسخ بأن المال ملك لله ويجب التصرف فيه وفق ما حدده الله.
3. المحاسبة في المنهج الإسلامي تتولى العمليات المحاسبية من خلال محاسب يتصف بالأمانة والصدق والحياد والعدل والكفاءة.
4. المحاسبة في المنهج الإسلامي تتعلق بالعمليات المالية المشروعة.
5. يعتبر المحاسب في المنهج الإسلامي مسئول أمام المجتمع عن مدى التزام الوحدة الاقتصادية بأحكام الشريعة الإسلامية.
6. تهتم المحاسبة في المنهج الإسلامي بالنواحي السلوكية للعنصر البشري[252].

ثانياً: معايير المحاسبة الإسلامية

للمحاسبة الإسلامية عدة معايير منها:

1. **الشمولية:** بالنظر إلى أن الإسلام بنظرته الشمولية للمجتمع، واعتباره المحاسبة كوظيفة اجتماعية، فقد استطاع معالجة المحاسبة ضمن السياق الاجتماعي، ولم يفرضها قسرا على المجتمع. والفرد الذي دُرب وهُيئ للصراع الاقتصادي والتنافس المادي القائم على الأسس الرياضية والإحصائية دون النظر لمصالح المجتمع؛ يصبح من الصعب إجباره أو توجيهه نحو حسابات اجتماعية يظهر معها آثار الضرر البيئي

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[251] كما ذكر الله سبحانه وتعالى أن من أهداف الكتابة والتسجيل في المعاملات؛ العدل والطمأنينة كما في الآية الكريمة: ﴿ ﮮ ﮯ ﮰ ﮱ ﯓ ﯔ ﯕ ﯖ ﯗ ﯘ﴾ البقرة: ٢٨٢.

[252] د/ اشرف غالي: المحاسبة من منظور إسلامي، http://world-acc.net/vb/showthread.php?t=4854، تاريخ التسجيل: 30 /8/2011م، الدولة: فلسطين، تاريخ زيارة الموقع: 8/أبريل/2013م.

والاجتماعي الذي يُحدثه مشروعه في المجتمع وما يحيط به. فالغزالي (ت ٥٠٥ هـ / ١١٢٧م) وصف في إحيائه السوق، وصفات التاجر وأنواع المعاملات، واستثنى فيها كل ضار بالإنسان وبالبيئة، أي أن الإسلام بدأ بالذروة (المحاسبة كعلم) بعد أن بنى الإنسان الصحيح. فالنشاط الاقتصادي ليس منه الهدف المنافسة والاحتكار ومصلحة الفرد فقط، بل له طابع تعبدي ويعمل أيضا على خير المجتمع وتحقيق المصلحة العامة[253]. وقد خلص Zeff في دراسة العلاقة بين نظرية المحاسبة والممارسة المهنية إلى أن" نتائج البحوث النظرية غالبا ما يكون تأثيرها ضئيلا على السياسات المحاسبية التي تحددها كل من الهيئات المحاسبية المهنية وبورصة الأوراق المالية"[254] ، مما يؤكد على عدم وجود رابط للالتزام بين الشكل النظري والممارسة العملية بسبب المنهجية المعتمدة.

2. **التكلفة التاريخية**: وذلك عند بداية المشروع حيث يتم التسجيل بالتكلفة التاريخية (وبديهي أنها تساوي تكلفة الاستبدال في تاريخ الشراء).
3. **التسجيل التاريخي**: يتم التسجيل التاريخي يوما بيوم عن كل عمليات المشروع وحساب النتائج في نهاية الفترة المالية.
4. **الاستمرار**: فإن المحاسبة الإسلامية تفترض استمرار المشروع، وهذا المبدأ عرفت به المحاسبة الإسلامية منذ 14 قرنًا[255].

الخاتمة

وتشمل على أهم نتائج البحث:

بهذا التلميح العاجل لقضايا المحاسبة الإسلامية نصل إلى ختام البحث، ويمكننا أن نستخلص أهم النتائج المستفادة من البحث، وذلك كما يأتي:

1. إن المحاسبة عملية منتظمة تتعلق بتسجيل المعاملات والتصرفات والقرارات المشروعة ومبالغها في السجلات المعتمدة، وقياس النتائج المالية المترتبة على هذه الأشياء للمساعدة في ترشيد القرارات.
2. لقد شهد علم المحاسبة في الإسلام تطورات جذرية منذ عهد الرسول ρ إلى عصرنا هذا، كما تميزت المحاسبة الإسلامية بالسعة والمرونة، مما يدل على صلاحيتها وتأقلمها مع أي زمان ومكان.

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[253] الغزالي، أبو حامد محمد بن محمد، **القسطاس المستقيم**، تحقيق: محمود بيجو، (دمشق: المطبعة العلمية، 1993م)، ص85.

[254] Zeff, Stephen A., *Comments on Accounting Principles How they are Developed*, in Robert R. Sterling ed, Institutional issues in Public Accounting (Scholars books Co., 1974) P.P. 172-178

[255] دكتورة ثناء علي القباني، **بعض خصائص تطور الفكر المحاسبي المعاصر والمحاسبة الإسلامية**، مطابع الاتحاد الدولي للبنوك الإسلامية، (د. ت. ط)، ص55.

3. إن الحضارة الإسلامية انتهجت نهجها تجاه المحاسبة بناء على حاجات فرضتها السياسة العامة والنظام الاقتصادي والسياسي للشريعة الإسلامية.
4. إنه لا يصح القول بأن لوقا باشيليو Lucas Patcilio الإيطالي هو أول من وضع أساس القيد المزدوج أي المقابلة في الحسابات في عام (٨٩٩هـ / ١٤٩٤م)، فالتدوين الذي جاء به قد سبقته تطورات محاسبية أساسية من علماء المسلمين لا يمكن تجاهلها. ويمكن القول بأن كتابه هو أول كتاب مطبوع ظهر في أوربا ليتضمن فصلا في المحاسبة، ولكن لا يعني هذا أن يكون أول كتاب تمت كتابته في أوربا أو العالم.
5. لقد لعبت الحضارة الإسلامية دورا إيجابيا في تطوير مختلف العلوم لتشمل جميع نواحي الحياة، كنظام الحكم والقضاء والخلافة والإدارة العامة والوزارة والحسبة .. وأبدع علماء المسلمين في علوم الفقه الإسلامي وعلوم اللغة العربية والرياضيات والعلوم الاجتماعية والفلك والطب والصيدلة وغيرها من العلوم الأخرى.
6. يتبوء الربح في الفقه الإسلامي المحاسبي مرتبة عالية تتمثل في نماء المال الذي يكون جاريا في الحول، سواء نض المال في آخر الحول أو لم ينض وبقي على العروض؛ فلذا وضع الفقه الإسلامي نظاما محاسبيا مقننا في السوق ذا دعائم بعيدة عن الغش وأساليبه، وخال من المنافسة غير المشروعة بتاتا في جميع المجالات.

قائمة المراجع

المصادر باللغة العربية:

أبو عبدالله، مالك بن أنس بن مالك؛ **الموطأ**، تحقيق: محمد مصطفى الأعظمي (مؤسسة زايد بن سلطان آل نهيان،

ط1، 1425هـ / 2004م).

أبو بكر، محمد بن الحسن بن دريد؛ **جمهرة اللغة**، تحقيق: رمزي منير بعلبكي، (مطبعة دار العلم للملايين، الطبعة الأولى 1987م).

إبراهيم مصطفى، وأحمد الزيات، وحامد عبد القادر، و محمد النجار؛ **المعجم الوسيط**، (طبع وتحقيق: مجمع اللغة العربية بالقاهرة، الطبعة الثانية 1965م).

ابن ماجه، أبو عبدالله محمد بن يزيد القزويني، **سنن ابن ماجه**، مصطحبًا بأحكام الألباني، (الرياض: مكتبة المعارف للنشر والتوزيع، ط1 بدون).

الألباني، محمد ناصر الدين بن الحاج نوح الألباني؛ **سلسلة الأحاديث الضعيفة والموضوعة وأثرها السيئ في الأمة**

(الرياض: دار المعارف، ط1، 1412هـ / 1992م).

الألباني، محمد ناصر الدين؛ **صحيح وضعيف سنن أبي داود**، (الرياض: مكتبة المعارف، ط1، بدون تاريخ).

البخاري، أبو عبد الله محمد بن إسماعيل الجُعفي؛ **صحيح البخاري**، ضبط النص: محمود محمد محمود حسن نصار،

(بيروت: دار الكتب العلمية، ط2، 1424هـ / 2003م).

البوطي، د/ محمد سعيد؛ **هذه مشكلاتهم**، مطبعة دار الفكر بدمشق، (د.ت).

الترمذي، أبو عيسى محمد بن عيسى بن سورة؛ **سنن الترمذي**، اعتنى به: أبو عبيدة مشهور بن حسن آل سلمان،

(الرياض: مكتبة المعارف للنشر والتوزيع، ط/1، بدون).

ثناء علي القباني، **بعض خصائص تطور الفكر المحاسبي المعاصر والمحاسبة الإسلامية**، (مطابع الاتحاد الدولي للبنوك

الإسلامية، (د. ت. ط).

الجلف، أحمد محمد محمد؛ **المنهج المحاسبي لعملية المرابحة في المصارف الإسلامية**، (نشر المعهد العالمي للفكر

الإسلامي، ط1، 1417هـ / 1996م).

حسين محمد سمحان و موسى عمر مبارك؛ **محاسبة المصارف الإسلامية في ضوء المعايير الصادرة عن هيئة المحاسبة**

والمراجعة والضوابط للمؤسسات المالية الإسلامية، (دار المسيرة، الطبعة الأولى 2009م – 1429هـ).

عمر عبد الله زيد؛ **المحاسبة المالية في المجتمع الإسلامي**، (عمان: دار اليازوري، الطبعة الأولى 1416هـ/1995م).

الغزالي، أبو حامد محمد بن محمد؛ **القسطاس المستقيم**، تحقيق: محمود بيجو، (المطبعة العلمية بدمشق 1993م).

فؤاد توفيق ياسين و أحمد عبد الله درويش؛ **المحاسبة المصرفية في البنوك التجارية والإسلامية**، (عمان: دار

اليازوري العلمية، 1996م).

قنطقجي، الدكتو سامر مظهر؛ **فقه المحاسبة الإسلامية**، (مؤسسة الرسالة، الطبعة الأولى 1425هـ / 2004م).

القرضاوي، د/ يوسف؛ **حسن الإدارة**، مجلة الاقتصاد الإسلامي، منشورات بنك دبي الإسلامي.

مجلس معايير المحاسبة المالية، **أهداف المحاسبة المالية**، مفاهيمها ومعايير العروض والإفصاح العام ومعلومات عن الهيئة، جمادى الأولى 1415هـ / أكتوبر 1994م.

محمد عبد الحليم عمر؛ **معايير المحاسبة للمصارف الإسلامية**، مطبعة صالح كامل للاقتصاد الإسلامي بجامعة الأزهر، مدينة نصر، (د.ت.ط).

محمد كمال عطية؛ **محاسبة الشركات والمصارف في النظام الإسلامي**، الإسكندرية: (دار الجامعات المصرية، الطبعة الأولى، 1984م).

النويري، شهاب الدين أحمد بن عبد الوهاب؛ **نهاية الأرب في فنون الأدب**، (ب.ت.ط).

النيسابوري، أبو الحسين مسلم بن حجاج بن مسلم القشيري؛ **صحيح مسلم**، (القاهرة: دار الحديث، ط1، 1412هـ / 1991م).

المصادر باللغة الإنجليزية:

Bala Shanmugam, Vignesen perumal and Alfieya Hanuum Ridzwa (Editors). (2005). Issues *in Islamic Accounting*. University Putra Malaya Press Serdan.

Hussien Shehata, *Islamic Accounting Methodology*, Prof. of Accounting Al-Azhar University.

Suraini Saufi and Noraani Mustapha. (2012). *Islamic Accounting and Business Practices: A Conceptual Framework* Universiti Malaysia Kelantan (UMK).

Zeff, Stephen A. (1994). *Comments on Accounting Principles How they are Developed*. Robert R. Sterling ed, Institutional issues in Public Accounting (Scholars books Co).

المصادر عبر الإنترنيت:

د. أشرف غالى، **المحاسبة من منظور إسلامي**، http://world-acc.net/vb/showthread.php?t=4854، تاريخ التسجيل: 30 /2011/8م، الدولة: فلسطين، تاريخ زيارة الموقع: 8/أبريل/2013م.

طرق التسجيل المحاسبي، http://almu7asbah.blogspot.com/2012/11/Ways-constraint-accounting-books.html 2 أبريل/ 2013م.

د/ اشرف غالي، **المحاسبة من منظور إسلامي**، http://world-acc.net/vb/showthread.php?t=4854، تاريخ التسجيل: 30 /2011/8م، الدولة: فلسطين، تاريخ زيارة الموقع: 8/أبريل/2013م.

CORPORATE SOCIAL RESPONSIBILITY FROM AN ISLAMIC PERSPECTIVE

Afaf Albahlol Milod Alghodban[1]
Nathasa Mazna Ramli[2]

ABSTRACT

For decades, business organization is known to have an impact on economic and social aspect of an individual life or society. As business organizations grow, there is a dire need to regulate social life and economy through a comprehensive social and economic procedure. As a result, the Islamic religion has brought with it principles and guidelines on how to achieve a balance between spiritual and material needs. This study focuses on the concept of Corporate Social Responsibility (CSR) from an Islamic perspective based on previous research. Based on systematic literature review, this study uncovers the underlying relationship between Islam and CSR. This paper will create awareness on Islamic CSR and open for potential future research in the area of CSR from an Islamic perspective.

Key words: Corporate Social Responsibility, Islamic Corporate Social responsibility

1. INTRODUCTION

The area of Corporate Social Responsibility (CSR) has witnessed a rapid expansion in the last three decades as outlined by Mohammed (2013). The significance of CSR has led more companies to integrate its concept into their business repertoire. The positive changes in the relationship between society and business which led to trade globalization were due to the consequence of the adopting CSR by the international business environment. The willingness of organizations to adopt such a concept has not only increased them in size, but also the acceptance and reputation of their product (Mohammed 2013). Varying needs and circumstances are responsible for the constant development of CSR. Concept of CSR is not restricted to generating ideas that make successful businesses, but it also incorporates an unrelenting commitment towards supporting communities through philanthropic projects. Activities within the CSR also include protecting the environment, operation policies that are in best interest of employees and implementing ethics in trading. This paper aims to describe the concept of CSR from the Islamic view point through literature review.

The significance of this study goes back to the increase of the development of the investments and finance adopted based on Islamic principles particularly in Islamic countries and around the world in general. As well as the number of Muslims that is growing in the world the growing population of Muslims in the west is also one of the leading factors that stimulated the development of Islamic commerce. Studies from the Islamic point of view are limited. So far,

[1] PhD student at the Faculty of Economics and Muamalat, Universitiy Sains Islam Malaysia,71800 Bandar Baru Nilai, Negeri Sembilan, Malaysia
[2] Lecturer at the Faculty of Economics and Muamalat, Universitiy Sains Islam Malaysia,71800 Bandar Baru Nilai, Negeri Sembilan, Malaysia

substantial amount of research and discussion on CSR has been from the western point of view. Although the Islamic tradition is known to have possessed substantially rich values with regards to issues pertaining CSR, research on business practices according to the tradition is inadequate and superficial and thus cannot address the pressing issue of responsibility in dealing with CSR. Hence, this reason necessitates our study.

2. DEFINITION OF CORPORATE SOCIAL RESPONSIBILITY

Due to the dynamic nature of corporate social responsibility, it has no precise definition. However, regardless of its unclear boundaries every CSR definition is derived from three basic dimensions known as; economic, social and environmental dimensions. Adeyanju (2012) mentions in his study that CSR means addressing the ethical, legal, commercial and other expectations that society has for business, and thus making decisions that are fairly balanced to all key stakeholders. Furthermore, it is also known to have a comprehensive set of policies, practices and programmes that are integrated into business operations and decision making procedures. Another definition by Baker (2004) states that corporate social responsibility constitutes how organizations manage their businesses and organizational procedures to produce a positive impact on the society. The World Business Council for Sustainable Development further defines CSR as:

> "Corporate social responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large" (from Bayoud (2012), p.1).

Its definition can include short-term costs which are not solely based on return on investment to the organization, but rather to reinforce positive environmental and social change (www.investopedia.com). According to Duff and Guo (2010), another definition of CSR provided by Business in the community (2010) is as follows: A series of positive actions and procedures taken by an organization to improve standard of environment and society, across its operations, services or products and through its dealings with main stakeholders such as employees, customers, suppliers, communities and investors.

Hopkins (2011) outlines that the definition of corporate social responsibility means the treatment of internal and external organizational key stakeholders in a manner that conforms to international norms, while preserving the profitability and integrity of the corporation or institution. Corporate social responsibility can also be identified as a process to achieve sustainable development in societies. Corporate social responsibility is defined by the European Commission as: the responsibility of enterprises for their impacts on society. Khanifar et al (2012) discussed in their study that corporate social responsibility is effective with a set of stakeholders. The managers in companies have to face the complex task of choosing any stakeholder dialogue practices to adopt. Cecil (2010) said that the corporate social responsibility is:

> … a multi-dimensional construct that incorporates the interaction between principles of social responsibility, the process of social responsiveness, and the policies and programs designed by corporations to address social issues (Cecil, 2010. P,1).

Three major components make up corporate social responsibility. These components are: the legitimacy of corporate social responsibility within a particular society, processes of corporate social responsiveness which includes environmental assessment and stakeholder management and lastly the outcome of corporate social behavior which results from charity support and community development (Wood, 1991).

Hill (2006) mentions that corporate social responsibility are set of activities that formulate a part of good business or management practices which encourages accountability and transparency within the organization. The concept of corporate social responsibility is closely associated with the concept of the sustainable development. The concept of the sustainable development is made up of three main elements: environment protection, economic growth and social justice. In addition, it constitutes actions whereby firms are concerned about societal need in their business policies and operations. Among the major concerns of societal need include social, environmental and economic concerns.

3. MOTIVATIONS OF THE CORPORATE SOCIAL RESPONSIBILITY

Academic literature shows that there are number of the potential incentives for companies to engage in activities that are inclined towards corporate social responsibility. Adeyanju (2012) pointed out in his study four ranges of motivations that drive corporate social responsibility. Firstly, CSR activity could improve public image of company. Unethical activities of a firm can motivate whistle blowers to disclose certain bad practices of that firm to the public. Thus, when this happens, the company will most likely lose its reputation in the public eye. The corporate social responsibility initiatives were a response to media exposure of poor behaviour of company and public pressure. Corporate social responsibility was supposed to reveal that the companies were able to clean up their act.
Secondly, Adenyanju (2012) stated that CSR activities could attract investors. Firms that proactively work with sustainable development program and advocacy in the investment must mobilize support, interest and understanding between investors. This will eventually prompt a premium to share price. Corporate social responsibility makes firms attractive to investors due to its ethical practices. This would also accelerate the growth of the investment. With this motive, many investors would see that environmental and social management risk improves market value of firm in the long term.

Thirdly, it is part of firm's permission to operate. In recent time, corporate social responsibility has become a vital element that assists firms to secure approval for projects that have significant political and social risks. Lastly, CSR activity can be used in lobbying against regulations. Corporate social responsibility is one of the leading factors that enable further regulations by reference to the engaging of business in sustainable and ethical activities and to show that multi-stakeholder dialogue with society avoids the need for regulation of the binding. The voluntary measure of companies can help to improve the ethical behaviour of private sectors. This means that voluntary activity is no substitute for regulation and that the companies that adopt voluntary approach to fulfil environmental and social standards are involved in resisting external regulations, particular by government.

On the other hand, Duff and Guo (2010) suggested that there are five motivations for companies to carry out CSR activities. These five motivations are: (1) the need for companies to be seen as legitimate entities by stakeholders. Organisations adopt certain strategies in order to be

considered as legitimate entities by relevant stakeholders. As an impact of part of the profession of accounting, companies will identified as competent entities that work in the best interest of the public. This can be seen as producing results which are of reasonable standards, which may not be possible to be directly observed, and disposition in a responsible manner through CSR activities.

(2) Enhancing and maintaining reputation. The concern for environment and society would encourage the public to accept and patronise with the company. The customers may have some confidence on the quality of services provided by the company, and also on the quality of the supplier to invest in developing the CSR framework. In return, the provider of the service with the strengthen reputation can achieve the rents. (3) To recruit the best staff. The CSR makes work of the accounting potentially more attractive to new employee, and provides a means of making the companies more inclusive. (4) To create a consistent framework through a global network. The CSR framework provides the adoption of a unified policy, which depends on the company's activities globally, nationally and locally. (5) To reduce operating costs. Decreasing the emission of carbon has the ability to save costs. Example of such are; air travel and the limit of the individual cars by replacing sharing of car, travel by train and use of the tele-conferencing can reduce costs, and also the investment in buildings with lower consumption of carbon.

4. ISLAMIC CONCEPT IN BUSINESS

The relationship with God would be inspired by the values of truthfulness, kindness, fairness, uprightness rather than backbiting, envy, discrimination. This must naturally manifest in activities of business as well as their relationship with their all stakeholder (Hossain and Siwar). Islam encompasses every aspect of human life through business and social justice, which includes spirituality and taking part in worldly activities with the provision that any material enhancement and growth must also lead to social justice and spiritual enhancement.

Uddin Khan and Karim outlined that the objectives of the Islamic system of the business are not solely based on the material sense, but also on the concepts of human well-being and achieving a good life and establishing a balance between the material and spiritual needs. One of the main features of the Islamic ethical system does not recognize the idea of segregation between the life of an individual in public and in private. In contrast, many societies of the western world may follow the view that religion is essentially a private matter.

In addition, Islam has permitted trade, buying and selling, but has forbidden "riba" or interest in business transaction. Indeed, Islamic foundations of economy have introduced concepts of Halal (lawful) and Haram (unlawful). Islam has prohibited illegal ways of the earning. For example, bribery, interest, games of chance and gambling, speculation, short measuring and short weighing, etc. Similarly, Islam has also considered certain food items as unlawful and thus their consumption has been prohibited. Example of such food items are blood, swine flesh and animals slaughtered in the name other than that of Allah (SWT), dead animals, also expenses on certain items such as drinks, narcotics, debauchery, prostitution, pornography, etc. are all considered unlawful and therefore prohibited. Both the worldly life and the hereafter are included in Islamic business.

5. CONCEPT OF CORPORATE SOCIAL RESPONSIBILITY FROM THE ISLAMIC PERSPECTIVE

To some extent the Islamic vision of CSR takes comprehensive approach, which is derived from the divine revelation i.e. the holy Qur'an, unlike the Western theories. Thus, the ethical principles may serve as better guidelines for corporations when exercising social responsibilities and their business simultaneously. In addition, the concept of CSR from an Islamic perspective does not only require duties of stakeholders and the material interests for them, it also involves ethical commitments. Thus, CSR, as a part of Islamic framework model, is not an exogenous notion that expected to be clear in institutions financial of state (Dusuki, 2008).

Basah and Yusuf (2013) argue that In Islam the concept of CSR is in accordance with the Unity (Tawhid) concept according to the monotheistic concept i.e. believing in the unity and oneness of God. In accordance to the concept, God is the Owner, Creator, and source of all things and has entrusted mankind as a vicegerent to manage the worldly affairs wisely. The exchange is for the physical universe, mankind is required to be consistent in good actions, for every individual shall be held accountable for how they manage and use the universe. Hence, the aim of man is to live life in obedience and in submission to Allah.

Farook (2007) discusses that the Islamic corporate social responsibility derives its core principles from the holy Qur'an. There are three major foundational principles that constitute for Islamic corporate social responsibility. These principles are; mankind, divine accountability and the duty on mankind to enjoin good and forbid evil. These core principles thus constitute the basis of individual social responsibility.

Mohammed (2013) argues that the concept of responsibility of social justice has been the basis of an Islamic society. The practices (Sunnah) of the holy Prophet Mohammed (Peace and blessings be upon him) reflects the principles of responsibility of the justice social, which is an integral part of the holy Qur'an to establish a social system that governs both business principles and practices which permeate every aspect of the Muslim's life. Furthermore, the concept of corporate social responsibility may entirely mean different things that explain the relationship between the business and society that suits social interests. Consequently, there are six major ethical models which control the ethics of thinking that leads to the concept of corporate social responsibility. The six models are: (1) Relativism: Ethical decisions that are made based on the basis of selfish interests and needs. (2) Utilitarianism: Whatever is good for majority is considered good for every individual. (3) Universalism: Every individual under similar circumstances should make similar decisions. (4) Rights: These are based on individual rights ensuring freedom of choice. (5) Distributive Justice: This includes fairness and equality of wealth and benefits to all individuals of a given state. (6) Eternal Law: The basis of eternal law which is revealed in and preserved in the religious scripture.

Furthermore, Uddin Khan and Karim in their study stated the activities of the social business, which is aimed at helping others without thinking of any financial gain for oneself, where the surplus amount is invested to increase the benefits for others and expansion of the business to the benefit of the society and not the owners. Necessary funds of the social business may be derived from philanthropy money, while the Islamic business means the earning through investment keeping in mind the Islamic principles and satisfaction of the ultimate of Allah.

6. ISLAM AND CORPORATE SOCIAL RESPONSIBILITY

In the past few decades, many discussions and studies about corporate social responsibility have been conducted. This study will review the previous studies about corporate social responsibility in Islam. Platonova (2013) aimed to identify and identify the CSR nature of Islamic finance from an Islamic Moral Economic Perspective. The study concluded that Islamic moral economy foundations of Islamic finance necessitates that Islamic norms must be integrated in financial activity, which include the activity of the real economy, observing social good, contributing to economic and human development, and promotion and protecting individual right, environment and society. Till this day, the corporate social responsibility CSR has remained an integral part of Islamic commerce and it is an inevitable reality.

Another study by Aribi and Gao (2012) was aimed at examining the effect of Islam on corporate social responsibility and corporate social responsibility disclosure in Islamic financial institutions, and the study focuses on an analysis of narrative reporting. The study sample consisted of 21 Islamic financial institutions in the Gulf region. The findings of the study provided evidence of effect on the disclosure of the corporate social responsibility of Islamic financial institutions. The annual reports also disclose other Islamic information such as "Zakah", charity donation, and free interest loan. The study showed reports on the compliance of Islamic financial institutions with Islam business practices along with information of philanthropy, employees and community.

Dusuki (2008) identified that the key objective of the study was to examine the concept of CSR, which gained wide acceptance among the business in the Western community from an Islamic perspective. The study concluded that the CSR concept is not a subject alien to Islam, as it is deeply provided by the Islamic law, known as the "Shariah". Through the concept of vicegerency, business companies do not only act as caretakers of financial institutions or shareholders resources, but also of the economics of society resources, and holding property for them in trust for the benefit of society as a whole and attaining God's pleasures. This points the dire need for companies to instill the good practices of the CSR in their business embracing issues such as occupational safety, good practice of the environment, contributions of philanthropic and the harmless activities and initiatives. The paradigm of god-consciousness inspires companies to always work in a good and socially responsible manner whatever the consequences of the financial outcome might be.

Another structured definition of the social purpose of institutions of Islamic Finance derived from principles of Islamic of redistributive justice and social equity in all aspects of their activities was proposed by Farook (2007). The study concluded that Islamic corporate social responsibility provides accountability and transparency through mandating disclosure of conduct.

Mohammed (2013) suggested that the concept of corporate social responsibility needs to be consistent with an Islamic view of society. Conclusion of the study shows that the principles and values that have been central to Islam since the time of the holy Prophet Mohammed (Peace and blessings be upon him) can serve as a foundation for notions corporate social responsibility notion similar to those practiced in the West. The study also indicated that concept of social responsibility and justice has been an integral part of Islamic society for nearly 14 centuries.

Uddin Khan and Karim outlined that the objective of their study was to focus the traditional CSR concept, in addition to the Islamic concept of CSR. It discusses the alternatives provided Islamic to the various theories underpinning CSR. The conclusion of the study states that the Islamic values which protects the rights of both primary and derivative stakeholders, equity, trust, equilibrium, benevolence, fairness and excellence in their own operations also scrutinizes the operations of their companies in ethical conduct, are an integral part of the obligations laid upon the individual and the society. Therefore, Islam provides distinctive values and the CSR of special characteristics with goal to uphold and maintain the principle of justice of social equity not only to the shareholders of the company but also to the all individuals. Thus, it can be argued that the concept of CSR from an Islamic perspective dominates and exceeds the conventional concept of CSR.

Another study was conducted by Nor (2012), and the study was aimed at studying the CSR concept from the Islamic point of view with particular reference to the values of moral in Islamic banks. The study concluded that Islamic banks must revolutionize the exercise of giving charity and zakah from the traditional method to a more systematic manner of performing charity and zakah in order to ensure the development of society. It also reflects from the previous example which showed that the CSR practiced in the field of Islamic banking is still incomparable to its traditional counterparts.

The study conducted by Williams and Zinkin (2010) their study was aimed at examining whether the core tenets of Islam are in consistent with the 'Ten Principles' of responsible businesses outlined in the United Nation UN Global Compact. The conclusion of the study indicated that there is no divergence between the religion tenets and the principles of the Compact of the UN Global. The study revealed that Islam often goes further and has the advantage of clearer codification of ethical standards as well as a set of explicit enforcement mechanisms, thus, the convergence of values between Islam and UN Global can be useful in the developing new understanding of CSR in a global context.

Arshad et al (2012) conducted another study which was aimed at examining the effect of Islamic corporate social responsibility disclosure on the reputation company and its performance. The study was used in content analysis of annual reports. The sample of the study was 17 Malaysian banks between periods of 2008 to 2010. The findings revealed that CSR activities and disclosure from Islamic perspectives are equally important business strategies in creating continuous superior performance for organizations. Thus it indicated that organizations need to develop a stakeholder orientation on organizations that engage in trading and commercializing Islamic products to increase their social responsibilities from the Islamic perspectives.

7. CONCLUSION

The study conducted in this research concludes that the concept of Islamic corporate social responsibility derived from the holy Quran, Hadith and practices of the holy Prophet Muhammad (peace be upon him) is broader and more comprehensive than traditional corporate social responsibility, where the Islamic values and principles include. This principle involves protecting the rights of primary and derivative stakeholders, equity, trust, equilibrium, benevolence, maintain the principle of social justice not only to the shareholders of the company but also to the all individuals. Therefore, it can be argued that Islamic perspective

corporate social responsibility dominates and exceeds the traditional concept of corporate social responsibility. The discussion of the paper could create awareness on Islamic CSR and ultimately, open for potential future research in the area of CSR from an Islamic perspective.

REFERENCES

Aribi, Z.A. and Gao, S.S. (2012) "Narrative disclosure of corporate social responsibility in Islamic financial institutions", Managerial Auditing Journal, Vol. 27 Iss: 2, pp.199 – 222.

Adeyanju, Olanrewaju David. (2012). "An assessment of the impact of corporate social responsibility on Nigerian society: The examples of banking and communication industries ". Universal Journal of Marketing and Business Research Vol. 1(1) pp. 017-043, May, 2012 Available online http://www.universalresearchjournals.org/ujmbr Copyright © 2012 Transnational Research Journals.

Arshad, R., Othman, S. and Othman, R. (2012), "Islamic corporate social responsibility, corporate reputation and performance". International journal of social, human and engineering. Vol 6. No 4. 2012.

Bayoud, N.S.M. (2012), " Corporate social responsibility disclosure and organisational performance: The Case of Libya, A Mixed Methods Study". PhD Thesis university of southern queensland.

Basah, M.Y.A and Yusuf, M. (2013), "Islamic bank and corporate social responsibility (CSR)". EJBM-Special Issue: Islamic management and business. Vol.5 No.11 2013.

Baker, M. (2004), "Corporate social responsibility - What does it mean?". Available at:www.mallenbaker.net/csr/definition.pdf

Cecil, L. (2010). "Corporate social responsibility reporting in the United States". McNair Scholars Research Journal: Vol. 1: Iss. 1,Article 6.

Dusuki, A.W. (2008), "What does Islam say about corporate social responsibility?", review of Islamic economics, Vol.12, NO.1, 2008, pp 5- 28.

Duff, A. and Guo, X. (2010) "Corporate social responsibility and the professional accounting firm: insights from firms' disclosures". Center for business performance. icaew.com/centre.

Farook, S. (2007), " On corporate social responsibility of Islamic financial institutions". Islamic economic Studies. Vol. 15, No. 1, July 2007, pp 31- 46.

Mohammed, A. J. (2013), "An Islamic perspective of corporate social responsibility". GBSR e- Journal of business, economic and social Sciences 2013 (e- ISNN: 2289 - 4985), pp 102- 119. Available at: WorldResearchConference.com

Nor, S.M. (2012), "Integrating moral in a dynamic model of corporate social responsibility in Islamic economics and finance". Asian and African area studies. Vol 11. No 2 . PP 137-150, 2012.

Platonova, E. (2013), "Corporate social responsibility from an Islamic moral economy perspective: A literature survey". Afro eurasian studies, Vol. 2, Issues 1& 2, Spring & Fall 2013, 272-297.

Aribi, Z.A. and Gao, S.S. (2012) "Narrative disclosure of corporate social responsibility in Islamic financial institutions", Managerial auditing journal, Vol. 27 Iss: 2, pp.199 – 222

Uddin Khan. M.S. and Karim, M.N. "Corporate social responsibility: contemporary thought and Islamic perspectives". Thoughts on economics. Vol. 21, No. 01. PP 45-66. Available at: www.ierb.bd.org/../corporate-Social-Responsibility-Shamim-Uddin-Kh.

Hassan, N, T. (2010). "Corporate social responsibility disclosure: an examination of framework of determinants and consequences". durham theses, Durham university. Available at Durham E-Theses Online: http://etheses.dur.ac.uk/480/

Hossain, M.T and Siwar,C. "A Comparative analysis between Islamic concept on corporate social responsibility and Malaysia mangers opinion". Available at: www.crrconference.org/downloads/binhossainsiwar.pdf

Hopkins M. (2011), "Corporate social responsibility: What is it? What's the point? Howdoes it Work?"In: Conrady R, Buck M, editors. Trends and Issues in Global Tourism 2011, pp. 281-291. Available at: (mhcinternational.com).

Hill, I. (2006), "How finance can help move CSR up the agenda", The cost and management, Iss. Vol 34. No. 6. PP 5 – 9.

Khanifar, H., Nazari, K., Emami, M. and Soltani, H .A. (2012). " Impacts corporate social responsibility activities on company financial performance". Institute of interdisciplinary business research, January 2012, Vol.3. NO.9, PP 583-592.

Wood (1991). "Corporate social performance revisited". Academy of management review 16, pp 691–718.

Williams,G. and Zinkin, J. (2010), "Islam and CSR: A study of the compatibility between the tenets of Islam and the UN Global Compact". Journal of business ethics. Volume 91. Issue 4. February 2010, pp 519-533.

FINANCIAL REPORTING QUALITY AT ISLAMIC BANKS IN INDONESIA: AN INTERNAL STAKEHOLDERS PERCEPTION

Rini[1]

ABSTRACT

This study describes financial reporting quality in Islamic Banks. The data is provided from 33 Islamic banks in Indonesia that was taken by questionnaire from 173 employees (head of group, head of division, and internal auditor), audit committee members, and sharia supervisory board members. Questionnaire is consisted of 24 questions. Research instrument contains eight dimensions of financial reporting quality (ie. timeliness, verifiability, completeness, representation faithfulness, neutrality, comparability, consistency and clarity). Types of research is qualitative. Data analysis used interpretive analysis. The result of this research showed that representative faithfulness is considered as the most important component by internal party of Islamic banks.

Keywords: Islamic bank, financial reporting quality, representative faithfulness.

I. INTRODUCTION

Islamic bank is one form of Islamic financial institutions. Chapra and Khan (2000) stated that Islamic banks are applying Islamic sharia banks in all aspects of belief and practice.

In 2013 slowdown in world economic growth. World Bank lowered its economic growth prediction in 2013 and 2014 for the state of China and some developing countries of East Asia. World Bank cites China's economic slowdown and falling commodity prices can hit exports and investment in several countries including Indonesia. East Asia continues to be the engine of economic growth, contributing for 40% of world economic growth (Rendra, 2013). Otherwise, International Monetary Fund (IMF) lowered its forecast for world economic growth to 3.3 percent and 3.4 percent in 2013 and 2014. Senior Economist Mandiri Securities, Aldian Taloputra said the downward trend of world economic growth forecast this will be good but the recovery would ramp. Aldi explained until now the European economy contraction still occurs because small countries such as Spain and Greece are to make savings and unemployment rate in Europe was 10.9 percent (Berita Lampung, 2013). However, the growth of Islamic banking in the world, and in Indonesia in particular, in 2013 still continues to rise. In Indonesia alone, it is indicated by an increase in the number of bank branches by 8% compared to 2012. Meanwhile, the total assets of the Islamic banking penetration, an increase in the number of outstanding countries: Malaysia 200%, the United Arab Emirates and Qatar (100 %), and Indonesia 55% (Hamzah, 2014).

Deputy Governor of Bank Indonesia, Halim Alamsyah on June 22, 2011 said a bank in Indonesia should learn from the case of Barings Bank and Enron. Barings Bank is one of the oldest banks in London, England. However, the bank finally collapsed in 1995, after suffering

[1] Lecturer in Accounting Department, Universitas islam Negeri Syarif Hidayatullah Jakarta, email adress: rini@uinjkt.ac.id

losses of up to U.S. $ 1.3 billion due to employees made speculative investments in futures contracts. Enron Corporation was an American energy company based in Houston, Texas, United States. Enron into the public spotlight in late 2001, when the disclosure of accounting fraud is systematic, institutionalized, and creatively planned in financial reporting (Purnomo, 2011).

The occurrence of important issues related to financial accounting and reporting system which resulted in the bankruptcy of big companies, such as Enron, WorldCom and Global Crossing in the early 21st century, making the business world aware of the importance of the quality of financial reporting (Kintzele, 2008). The bankruptcy because of financial reporting issues (Fogarty, 2009). Robinson and Munter (2004) revealed, based on a survey conducted on portfolio managers and securities analysts by the Association for Investment Management and Research (AIMR), found that the quality of financial reporting is very important (43%), very important (30%) and somewhat important (22%) for the user.

Here are the cases related to the quality of financial reporting that occurred in Indonesia and the world. The cases showed some Islamics banks Islamic banks have not implemented sharia principles well and doing financial reporting violations.

Table 1. Cases related Banking Financial Reporting problems

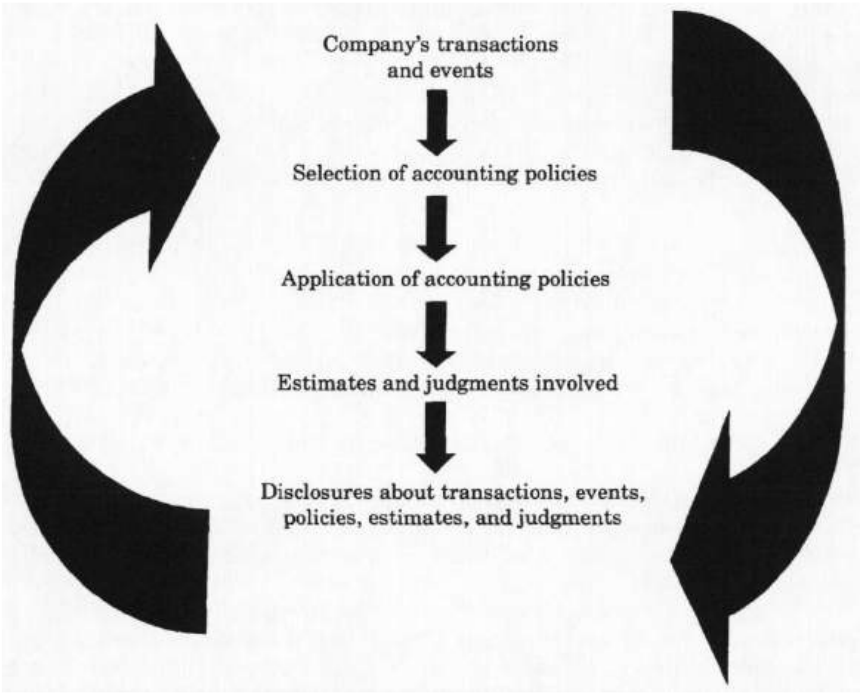
No.	Cases
1.	Bank Syariah Mandiri (BSM) and BNI Syariah Business Division even participate in syndicated loans project Indosat Multimedia Mobile (IM3) and earned interest on the financing of 19% per year. Islamic banks can not use the concept of interest, so that the advantages of this financing should not be reported in the income statement.
2.	Islamic Bank of South Africa went bankrupt in November 1997 with debts between R50-R70 million, this happens due to poor management and accounting systems and improper management, the internal party unsecured loans in large amounts causes the amount of bad loans in the balance sheet.
3.	Dubai Islamic Bank fraud suffered nearly U.S. $ 300 million in 1998. This happens due to poor financial reporting banks.
4.	Bank Piety and the Islamic Money Management Companies in Egypt bankrupt, whereas before financial statements are not problematic.
5.	Incomplete financial statements by Islamic banks in Indonesia. Some banks do not present the sources and uses of qardhul hasan funds and report the source and uses of zakah.

Sources: Processed from Agustianto (2008), Rajhi & Hasairi (2011) and annual report from Islamic Banking in Indonesia.

Based on table 1, Bank Syariah Mandiri (BSM) and BNI Syariah Business Division used interest rate system in syndicated loans project Indosat Multimedia Mobile (IM3). It was not complied with and earned interest on the financing of 19% per year. Section 2 – 4 showed some Islamic bank in South Africa, Dubai and Egypt bankrupt because of financial reporting problems.

2. LITERATURE REVIEW

In contrast to the financial statements which is the output of accounting, Financial reporting is not an end product, it is a process that starts from the transaction / event, then the selection of accounting policies and then apply the policy. Financial reporting also involves estimates and judgments as well as disclosures about transactions, events, policies, estimates and judgments that have been made. The quality of financial reporting depends on the quality of each part of the financial reporting process (Jonas and Blanchet, 2000).



Source: Jonas and Blanchet (2000)

Figure 1. Process of Financial Reporting

There are several approaches to assess the quality of financial reporting (Jonas and Blanchet: 2000), namely:

1. *FASB Conceptual Framework*
2. 1994 *AICPA Special Committee on Financial Reporting (Jenkins Committee)*
3. *Earning Persistence Model*
4. 1994 *POB Advisory Panel on Auditor Independence (Kirk Committee)*
5. *SEC model in evaluating the quality of International Accounting Standard* (IAS)
6. *Blue Ribbon Comittee Recomendation No.8*
7. SAS No.61

These approaches divided into two categories, namely: the needs of users and the protection of shareholders / investors. Three initial approach focuses on the needs of users, while the other four approaches focus on the protection of shareholders / investors. The focus of existing approaches in defining the quality of accounting and financial reporting.

Figure 2. The criteria for determining the quality of financial reporting

Recommendation No. 8	SAS No. 61	Kirk Committee	SEC Model to Assess Quality of IAS
Clarity of disclosures	Clarity, consistency, and completeness of accounting information and disclosures	Clarity of financial disclosure practices	Transparency
Degree of aggressiveness or conservatism of accounting principles and underlying estimates		Conservative, moderate, or extreme choices of accounting principles	
	Consistency of application of accounting policies	Common or minority practices	Comparability
	Items that have a significant impact on representational faithfulness, verifiability, neutrality, and consistency of accounting information		
			Full disclosure

Source: Jonas and Blanchet (2000:357)

Some following researchers have been stated the concept of the quality of financial reporting. Miller and Bahnson (1999) is proxied by the quality of corporate financial disclosure is complete, timely and understandable. Jonas and Blanchet (2000) defined quality in financial reporting refer to some quality characteristics of financial information. Financial reporting quality characteristics meet be resulted in as follow: earnings persistence, disaggregated information, feedback value, timeliness, verifiability, completeness, Comparability, consistency, representational faithfulness, neutrality and clarity.

One way of measuring the quality of financial reporting is to consider the presence/ absence of revenue recognition problems (George and Philips, 2001). While Broadley (2007) concludes the discussion of the Hundred Group of Finance Directors that the financial reporting quality measure of the fulfillment of the following eight factors: 1) the purpose of the financial statements, 2) financial reporting framework, 3) accounting standards, 4) convergence, 5) reporting performance, 6) basic measurements, 7) narrative reporting and supplemental information, 8) forward looking information.

In Islamic society, the development of accounting theory is based on Islamic law and in line with the principles and postulates that other non bertenntangan with Islamic law. Islamic law has a very clear view of the above basic principles for financial reporting and accounting practices should be carried out with respect to the goal that is based on the spirit of Islam and its teachings (Lewis, 2001). The fundamental principles of financial reporting (Lewis, 2006):

a. Full disclosure
   Full disclosure is necessary to predict the obligations in the future and assess the investment risk. In financial institutions also contained a religious obligation of zakat payment for mustahik (QS 2:71; 4:135).
b. Materiality (QS 5:16; 2:282-283)
c. Bookkeeping
   In Islam the necessity of bookkeeping can be seen in QS 2:282.
d. Reliabilitas
   Askary dan Clarke, 1997 in Lewis, 2001 states there are 19 verses in the Qur'an related to reliability, namely QS 2:283; 3:122,159; 4:58,81; 7:89; 8:2,27,49,61; 12:11,64,66; 23:8; 27:39; 33:72; 65:3; 70:32; 81:21. If the publication of financial information is not reliable, so many people can not fulfill his religious responsibility to pay Zakat accordingly. QS 4:58 indicates that managers must provide honest disclosure of financial information and a complete, reliable to the parties concerned.
e. Transparency (QS 11:84-85)

Isgiyarta (2010:130) stated that there are four characteristics of the primary qualities of accounting information, ie:

1. Useful information in getting good and forbidding the evil (amar ma'ruf nahi mungkar).
   The basis of the first characteristic is QS Ali Imran:104; QS At Taubah:71; QS An Nuur:21; QS Al Ashr:2-3.

To achieve information that invites to goodness and forbidding the evil, then (Isgiyarta:132) :

- Accounting information is provided in accordance with the needs of the company and the community in relation to achieving corporate objectives, namely: sustainability efforts and its contributions to society. Accounting information is capable of being the basis for making decisions that increase the benefit of the company in society.
- Accounting information provided should be able to prevent the destruction of the company, waste and actions that exceed the limit. With the accounting information can be corrected over the policies or implementation of corporate management that is not in accordance with corporate goals (QS Al Furqaan:67; QS Thaahaa:127).

2. Away information from the action lies
   Accounting accounting information would be useful if the information disclosed away from falsehood and slander. Accounting information must be based on objective data and re-testing when there is no material difference.
   Ayah relating to the action away from lies and slander QS An Nuur: 7; Surah Al Ankabuut: 68 and Surah Al-Baqarah: 191. While the hadiths pertaining thereto is:
   - There would enter Paradise people who like to spread slander (HR Bukhari).
   - A believer does not accuse, curse, do not say dirty, and not denounced (HR At Tirmidzi)

The information disclosed by lies and slander will cause the injured party. Information containing slander, evil and vile is not only detrimental in the afterlife, but also the destruction of the world.

3. Impartial information-neutral
   Accounting information must be presented in a neutral, impartial. In the process of disclosure is not free from subjective interpretation of financial statements over a constituent of certain events. Drafting financial statements trying to keep away from various interested parties. In the Qur'an Surah Al-Baqorah: 282 disclosure must be in writing to be neutral and fair.

4. Information support religious observance of sharia rule
   The information disclosed in the financial statements must be able to accommodate the interests of religion sharia rule (QS An Nahl:90).

While supporting the qualitative characteristics include (Isgiyarta, 2010).

1. Completeness and materiality
   The information disclosed in the financial statements must be complete, even if the financial statements are not able to accommodate all of the data or information, the reduction of data or information that will not change the attitudes, opinions, or decisions, when the person is aware of any reduction or removal of the information. The information disclosed should be no intentional omission or concealment of data or information that can make people to change attitudes, opinions, or decisions. Ayah relating to completeness and materiality is QS Al Ahzaab:54 dan Ash Syua'raa:181-183.

2. Comparability
   Comparison of financial reporting is indispensable in the effort easier for the reader to understand or interpret the economic activities of the company. Benchmarking financial statements will be easier for the reader to understand the progress of the company's performance. Benchmarking financial statements for the detection performance of the company, changes in policy, strategy changes, or changes in the information behind the numbers of the results of benchmarking the financial statements. Ayah underlying information can be compared QS Al Baqarah:185 dan QS An Nisa':28.

Syahatah (2001:111) argues Islamic accounting information has attributes of trust, detailed, honest, objective, timely, clear and transparent.
Zaid (2004:86) states that the user can optimally utilize the financial statements, then it must meet the qualitative requirements in the financial information. Qualitative terms is that if there is no specification of the financial information loses its significance and becomes meaningless. Requirements that must be met in the financial information to realize the optimal benefits are:

1. Relevant
   Financial information that is relevant is the information according to user needs. So that the information is relevant, the factors that must be met are:
   a. Perfect
   b. Substantive
   c. Restrictions on the scope of

d. Standards and assumptions used
e. On time

2. Reliable
   Reliable financial information is reliable information, thus providing peace of the users who use the information in making decisions. In order for the information reliably, it is a factor that must be fulfilled are:
   a. Verifiable
   b. Honesty
   c. Netrality
   d. Completeness

3. Comparability
   To be useful financial information should also be compared with similar companies or companies that are different but have the same characteristics, or by the company itself in the previous period.
   To be able to compare financial information must use the same standards consistently and have the same periodicity. When there is a change in the method, must be disclosed.

4. Understandability
   Means that the user can understand the financial inforasi can logically understand without any ambiguity and difficulty. In order to understand financial information must be prepared with a sentence that is not complicated and unclear.

3. METHODOLOGY

The method used in this study is a survey method with the approach of the verification method. Type of research is the relationship causal, because examining the relationship between the variables under study and to determine the effect of one or more variables to the other variables.
Financial reporting quality (FRQ) consists of dimensions: timeliness, verifiable, complete, honest representation, neutrality, comparability, consistency, and clarity. Full operationalization of these variables can be found in the appendix.
The data in this study is primary data. Source of data derived from the questionnaire were distributed to members of the audit committee, member of shariah supervisory board, group head, division head or staff associated with the research topic.

4. RESULTS AND DISCUSSION

Number of questionnaires sent as many as 340 copies, but just back at 179 copies. Of the returned questionnaires, only 173 questionnaires can be used, because 6 is not a completed questionnaire. The rate of return the questionnaire can be seen in Table 2.

Table 2. Questionnaire Information

No	Explanation	Item	Percentage
1	Number of Questionnaire which scatter	340	100.00%
2	Number of Questionnaire which return	179	52.65%
3	Number of Questionnaire which can not be processed	6	3.35%
4	Number of Questionnaire which can be processed	173	50.88%

Source: Data processed

A questionnaire sent to 34 banks. As of December 31, 2011 in Indonesia there are 11 Islamic banks and 23 Islamic business units. The bank is filled out questionnaires as many as 34 banks, but the banks are not filled completely, so that the processed questionnaires from 33 banks. This means that the rate of the questionnaire responses of 97.06%.

Here are presented the results of a questionnaire distributed to respondents from various Islamic banks.

Table 3. Summary of questionnaire result

1. To meet requirement of stock exchange board in term of timeliness.	4.1098
2. Bank compare with competitors in the timely publishing of its financial statements.	4.1098
3. To ensure that it provides the same information to all interested users at the same time.	4.2428
4. Information in financial statements allow the most judgmental aspects of financial reporting.	4.2312
5. Information in financial statements communicates the significant estimates and assumption used to develop financial information.	4.2081
6. Estimates and assumptions based on best information available.	4.0347
7. The most significant events be communicated to investors.	4.0751
8. Negative events or unsatisfactory outcomes be presented in financial statement.	4.2428

9. Positive events or outstanding outcomes be presented in financial statement.	4.3179
10. Accounting principles selection appropriately convey the underlying economics of the transactions.	4.3237
11. Valuation for precision in apply principle accounting.	4.3410
12. Accounting is a honesty and clear portraying/description about substance and objective of transaction.	4.3295
13. Bank provide information (in footnotes and others) to supplement the investor understanding.	4.2659
14. Management's assesment of the likely outcome was neutral.	4.1965
15. Management's selection of accounting principle was neutral.	4.2543
16. Accounting policies, disclosures, format of financial statement and other financial communications compare to competitors.	3.8555
17. Accounting policy reflects a specifics industry practice. Practice in accordance with accounting requirement specifically codified as part of GAAP.	4.3237
18. The effect of the changes in accounting policies, or in the application of the policies and the use of estimates and judgments on all periods presented should be appropriately disclosed.	4.2254
19. The changes in accounting policies, or in the application of the policies and the use of estimates and judgments are motivated by management's desire to achieve a specific accounting result.	4.0636
20. Disclosures go beyond complying with the absolute minimum requirements of GAAP.	4.1908
21. The bank's presentation of information (considering the constraints of GAAP) well organized and easy to follow.	4.1387
22. The language used in the financial reports easily understandable by nonaccountants.	4.0636
23. Bank made clear graphs and charts in its financial report, to enhance the understandability of the financial information.	4.1387
24. Financial statement and other disclosures form a comprehensive, cohesive, and coherent set of financial information that describe the whole event in banking.	4.3121

Source: data processed

Based on the above results, it is important in the quality of financial reporting stakeholders are perceived appraisal accuracy in applying accounting principles. All indicators in representative faithfulness earn high points of the respondents. So it can be said that an honest presentation is very important in financial reporting. While the need to compare accounting policies,

disclosures, financial reporting formats and other financial communications with competitors is that not important according to internal stakeholders of Islamic banks.

Important findings in this study revealed for the quality of financial reporting of financial reporting quality dimensions, most importantly, is a honest representation (Representation faithfullness). This shows the importance of the application which reads on the Quran surah Al Baqarah verse 282:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓاْ إِذَا تَدَايَنتُم بِدَيۡنٍ إِلَىٰٓ أَجَلٖ مُّسَمّٗى فَٱكۡتُبُوهُۚ وَلۡيَكۡتُب بَّيۡنَكُمۡ كَاتِبُۢ بِٱلۡعَدۡلِۚ وَلَا يَأۡبَ كَاتِبٌ أَن يَكۡتُبَ كَمَا عَلَّمَهُ ٱللَّهُۚ فَلۡيَكۡتُبۡ وَلۡيُمۡلِلِ ٱلَّذِي عَلَيۡهِ ٱلۡحَقُّ وَلۡيَتَّقِ ٱللَّهَ رَبَّهُۥ وَلَا يَبۡخَسۡ مِنۡهُ شَيۡـٔٗاۚ فَإِن كَانَ ٱلَّذِي عَلَيۡهِ ٱلۡحَقُّ سَفِيهًا أَوۡ ضَعِيفًا أَوۡ لَا يَسۡتَطِيعُ أَن يُمِلَّ هُوَ فَلۡيُمۡلِلۡ وَلِيُّهُۥ بِٱلۡعَدۡلِۚ ٢٨٢

> 282. O you who believe! when you deal with each other in contracting a debt for a fixed time, then write it down; and let a scribe write it down between you with fairness; and the scribe should not refuse to write as Allah has taught him, so he should write; and let him who owes the debt dictate, and he should be careful of (his duty to) Allah, his Lord, and not diminish anything from it; but if he who owes the debt is unsound in understanding, or weak, or (if) he is not able to dictate himself, let his guardian dictate with fairness;…

These results are also relevant to accounting theory put forward by stating Thaheri accounting in Islamic financial institutions is primarily a form of accountability to God and should be implemented in accordance with honest Qur'an surah Al-Baqarah verse 282 (QS 2:282), Al-Anfal verse (QS 8:58) and Al Mutaffifin verse 1 (QS 83:1).

Qur’an Surah Al-Anfal verse 58 (QS 8:58)

وَإِمَّا تَخَافَنَّ مِن قَوۡمٍ خِيَانَةٗ فَٱنۢبِذۡ إِلَيۡهِمۡ عَلَىٰ سَوَآءٍۚ إِنَّ ٱللَّهَ لَا يُحِبُّ ٱلۡخَآئِنِينَ ٥٨

58. And if you fear treachery on the part of a people, then throw back to them on terms of equality; surely Allah does not love the treacherous.

Qur’an Surah Al Mutaffifin verse 1(QS 83:1)

وَيۡلٞ لِّلۡمُطَفِّفِينَ ١

1. Woe to the defrauders,

These three verses show the importance of honesty in the transaction and make record of property mandated, so that in the end can be calculated that the actual obligation of zakat which is the purpose of accounting in Islamic financial institutions (Karim, 1987).

5. CONCLUSION

Based on a questionnaire distributed to the bank's internal, it can be concluded that the honesty in disclosing financial information to stakeholders is the most important thing in financial reporting. Financial information that is true of course have an impact on the accuracy of the profit sharing, zakat calculation, and so forth.

Due to the results of this research, there are several recommendations to regulators. To improve the quality of financial reporting, preferably in the financial reporting of Islamic banks contain the following: 1) the most significant events are communicated to the investor; 2) the bank's accounting policies, disclosures, financial reporting formats, and other financial communications compared with competitors; and 3) the use of language in the financial statements are easily understood by non-accountants.

REFERENCES

Agustianto. 2008. Optimalisasi Dewan Pengawas Syariah. www.niriah.com Accessed on July 11th, 2012.

Antonio, Muhammmad Syafii. 2001. *Bank Sharia: Dari Teori ke Praktek*. Jakarta: Gema Insani Press.

Berita Lampung. 2013. proyeksi pertumbuhan ekonomi dunia 2013-2014. **http://www.beritalampungonline.com/2013/05/proyeksi-pertumbuhan-ekonomi-dunia-2013.html.** Accessed on August 3rd, 2014.

Broadley, Philip. 2007. Discussion of 'Financial reporting quality: is fair value a plus or a minus?' Accounting and Business Research Special Issue: International Accounting Policy Forum. Accounting and Business Research Vol.37, No.3: 45-48.

Chapra, U.M & Ahmed, H. 2002. Corporate Governance in Islamic Financial Institutions. *Occasional Paper No. 6*. Jeddah: Islamic Research and Training Institute, Islamic Development Bank.

Chapra, M. Umer & Thariqullah Khan . 2000. *Regulation and supervision of Islamic bank* Occasional paper No.3. Jeddah: Islamic Development Bank & Islamic Research and Training Institute

Chen, Shuping, Terry Shevlin and Yen H. Tong. 2007. Does the Pricing of Financial Reporting Quality Change Around Dividend Changes? Journal of Accounting Research, Vol. 45 No. 1: 1-40

Direktorat Perbankan Syariah Bank Indonesia. 2009a. Perbankan Syariah Global. www.bi.go.id Accessed on November 10th, 2010.

_____. 2009b. Perkembangan Impresif IB Perbankan Syariah. www.bi.go.id. Accessed on November 10th, 2010.

George, Moriarty dan Philib B. Livingston. 2001. Quantitative measure of the Quality of Financial Reporting. *Financial Executive*. Jul/Agus, Vol.17, No.5, pp.53-56.

Hamzah, Muhammad Zilal. 2014. Perbankan Syariah 2014. http://www.investor.co.id/home/perbankan-syariah-2014/75386. Accessed on June 10th, 2014.

Hassan, M. Kabir dan Mervyn K. Lewis. 2007. *Handbook of Islamic Banking*. Cheltenham: Edward Elgar.

Isgiyarta, Jaka. 2010. *Teori Akuntansi dan Laporan Keuangan Islami*. Semarang: Badan Penerbit Universitas Diponegoro.

Jonas, Gregory J dan Jeannot Blanchet. 2000. Assessing Quality of Financial Reporting. *Accounting Horizons*, Sep; 14,3; Pg. 353

Karim, R. A. A. 1990a. Standard Setting for the Financial Reporting of Religious Business Organizations: The Case of Islamic Banks. *Accounting and Business Research*, Vol.20, No.80, pp.299-305.

_____. 1990b. The Indepence of Religious & External Auditors: the case of Islamic Banks. *Auditing, Accounting and Accountability Journal*. Vol.3, No.3, pp.34-44.

_____. 1995. The Nature and Rationale of a Conceptual Framework for Financial Reporting by Islamic Banks. *Accounting and Business Research*, Vol. 25, No. 100, pp. 285-300.

Kintzele, Philip L., et.al. 2008. Audit Committee and Auditor Internal: Their Role in Financial Reporting. *Internal Auditing;* May/Jun 2008; 23, 3; pg. 30.

Labelle, Re'al, Rim Makni Gargouri dan Claude Francoeur. 2010. Ethics, Diversity Management, and Financial Reporting Quality. *Journal of Business Ethics*. Vol. 93:335–353.

Lewis, Mervyn K. 2001. Islam and Accounting. *Accounting Forum* Vol.25 No.2: 103-127.

_____. 2006. Accountability and Islam. Paper. Fourth International Conference on Accounting and Finance in Transition Adelaide, April 10-12, 2006

Miller, Paul B dan Paul R. Bahnson. 1999. Quality Financial Reporting: Why You Need It and How to Implement It. The Journal of Corporate Accounting and Finance, Vol.11, No.1: 83-101.

Pomeroy, B. & Thornton D.B. 2010. Meta-analysis and the Accounting Literature: The Case of Audit Committee Independence and Financial Reporting Quality, *European Accounting Review*, 17, 305-330.

Rajhi, Wassim dan Slim Ahmed Hassairi. 2011. Unconventional Banking System in Distress. *International Journal of Economics and Finance*, Vol. 3, No. 4: 70-82.

7. Rendra, 2013. World Bank Pangkas Proyeksi Pertumbuhan Ekonomi Cina & Asia Timur. **http://www.topgrowthfutures.com/2013/10/world-bank-pangkas-proyeksi-pertumbuhan-ekonomi-cina-asia-timur/**. Accessed on August 3rd, 2014.

Robinson, Thomas R dan Paul Munter. 2004. Financial Reporting Quality: Red Flags and Accounting Warning Signs. *Commercial Lending Review* Vol.19, No.1: 2-15.

Rosly, Saiful Azhar. 2010. Sharia Parameters Reconsidered. *International Journal of Islamic and Middle Eastern Finance and Management*, Vol. 3, No. 2: 132-146

Sekaran, Uma dan Roger Bougie. 2010. *Research Method for Business: A Skill Building Approach*. John Wiley and Sons.

Sutaryono, Paul. 2011. Saatnya Pengawasan Bank menjadi Panglima. http://www.infobanknews.com/2011/05/saatnya-pengawasan-bank-menjadi-panglima/. Accessed on May 5th, 2011.

Syahatah, Husein. 2001. *Pokok-pokok Pikiran Akuntansi Islam*. Translated by Husnul Fatarib. Jakarta: Akbar

Tim Pengembangan Perbankan Sharia Institut Perbankan Indonesia. 2003. *Bank Sharia: Konsep, Produk dan Implementasi Operasional*. Jakarta: Djambatan.

Zaid, Omar Abdullah. 2004. *Akuntansi Syariah: Kerangka Dasar dan Sejarah Keuangan dalam Masyarakat Islam*. Translated by M. Syafii Antonio & Sofyan Syafri Harahap. Jakarta: LPFE Universitas Trisakti.

APPENDICES

Table 4. Operationalization of Variable

FRQ=Financial Reporting Quality Jonas & Blanchet, 2000; Pomeroy & Thornton, 2007; Labelle et.al, 2007; Syahatah, 2001; Zaid, 2004; Isgiyarta, 2010.	*1. Timeliness*	1. To meet requirement of stock exchange board in term of timeliness. 2. Bank compare with competitors in the timely publishing of its financial statements. 3. To ensure that it provides the same information to all interested users at the same time.
	2. Verifiability	4. Information in financial statements allow the most judgmental aspects of financial reporting. 5. Information in financial statements communicates the significant estimates and assumption used to develop financial information. 6. Estimates and assumptions based on best information available.
	3. Completeness	7. The most significant events be communicated to investors. 8. Negative events or unsatisfactory outcomes be presented in financial statement. 9. Positive events or outstanding outcomes be presented in financial statement.
	4. Representation faithfullness	10. Accounting principles selection appropriately convey the underlying economics of the transactions. 11. Valuation for precision in apply principle accounting. 12. Accounting is a honesty and clear portraying/description about substance and objective of transaction. 13. Bank provide information (in footnotes and others) to supplement the investor understanding.
	5. Neutrality	14. Management's assesment of the likely outcome was neutral. 15. Management's selection of accounting principle was neutral.
	6. Comparability	16. Accounting policies, disclosures, format of financial statement and other financial communications compare to competitors. 17. Accounting policy reflects a specifics industry practice. Practice in accordance with accounting requirement specifically codified as part of GAAP.
	7. Consistency	18. The effect of the changes in accounting policies, or in the application of the policies and the use of estimates and judgments on all periods presented should be appropriately disclosed. 19. The changes in accounting policies, or in the application of the policies and the use of estimates and judgments are motivated by management's desire to achieve a specific accounting result.
	8. Clarity	20. Disclosures go beyond complying with the absolute minimum requirements of GAAP. 21. The bank's presentation of information (considering the constraints of GAAP) well organized and easy to follow. 22. The language used in the financial reports easily understandable by nonaccountants. 23. Bank made clear graphs and charts in its financial report, to enhance the understandability of the financial information. 24. Financial statement and other disclosures form a comprehensive, cohesive, and coherent set of financial information that describe the whole event in banking.

Source: processed from many literatures

MODERATING EFFECT OF MUSLIM DIRECTORS/CEOs BETWEEN CORPORATE GOVERNANCE AND EARNINGS QUALITY

Nuraddeen Usman Miko[1]
Hasnah Kamardin[2]

ABSTRACT

Recent collapses and financial scandal around the globe put doubt in the mind of investors about the integrity and accountability of the managers and the board of directors that are based with responsibility of running affairs of the corporations. This study introduces religiosity as moderating variable because, the theory belief that religious belief can control irregularity. This study investigates moderating effect of Muslim directors/CEOs between corporate governance mechanisms and the earnings quality in Nigeria.

Keyword: muslim directors/CEOs, corporate governance, earnings quality.

1. INTRODUCTION

Financial scandals around the corporate institutions such as Adelphia, Enron, World Com, Commerce Bank and XL Holidays have shaken investors' confidence in the corporate investments. The effectiveness of existing corporate governance practices for promoting transparency and accountability have a deficit.

Accounting earnings is one of the fundamental components of corporate information provided to investors as yardstick to assess firm performance. Nevertheless, its reliability becomes doubtful when managers have incentives to manipulate reported earnings (Brown, 1999; Bugshan, 2005). Such manipulations alter shareholders' opinion of the reliability of reported earnings. Earnings quality is a key ingredient in the corporate governance process, as accounting numbers provides the information required for most governance mechanisms to operate efficiently (Qiang, 2010).
Effective corporate governance decreases "control right" of shareholders and creditors bestow on managers, increasing the probability that managers invest in positive capital projects (Shleifer & Vishny, 1989). Al- Faki (2006) stated that managers and boards work together to ensure transparency and fairness to the shareholders wealth. This will eradicate agency cost (Jensen & Meckling, 1976). The function of corporate governance is to reduce divergence of interest between shareholders and managers. Sanda et al. (2005) posit that there is need for effective corporate governance and financial reporting quality.

[1] Ph. D Student, School of Accountancy, Universiti Utara Malaysia (UUM), nuraumiko@yahoo.com.
[2] Associate Professor, School of Accountancy, Universiti Utara Malaysia (UUM), hasnahk@uum.edu.my.

Corporate performance is an important concept that relates to the way and manner in which financial resource available to an organization are judiciously used to achieve the overall corporate objectives (Chang & Sun, 2010). To achieve this corporate performance, corporate governance need to be straightened. However, whereas governance structures alone failed to prevent financial scandals, additional new ingredient need to be add. Religious social norms potentially represent a mechanism for reducing agency costs. Examining the strength of local religious social norms could help to identify firms that are more or less likely to engage in actions that are costly to shareholders (Terpstra et al. 1993; Weaver & Agle 2002).

Several studies have been conducted to study the relationship of directors, such as duality of CEOs (Gul & Wah, 2002; Mitchell, 2005; Chang & Sun, 2009), board size (Monks & Minow, 2004; Klain & Omri, 2011), big 4 auditors (Teo & Wong, 1993; Klein, 2003), independent audit committee (Klein, 2002; Bryan et al. 2004; Chang & Sun, 2009), audit committee's ability (Jensen, 1993; Bhagat & Bolton, 2012; Bolton, 2013), and religion belief (Conroy & Emerson, 2004; Longenecker et al. 2004; McGuire et al. 2012). To the authors' knowledge no study has use religiosity to enhance the relationship between corporate governance and earnings quality. Thus, the current study is to examine the moderating effect of religiosity as proxy by Muslim CEO on the relationship between corporate governance mechanisms and earnings quality.

2. LITERATURE REVIEW

Agency theory posits that the relationship between the shareholders (owners) of the company and managers is clearly agency relationship. Agency theory provides a natural backdrop of this study, because financial reporting quality concern arises when there are conflicts of interest between managers and owners attached with information asymmetries. Adelegan (2009) put forward that agency relationship arises in any situation involving cooperative effort by two or more people. Pendy (2005) views that asymmetrical information occurs when one party (manager) has more knowledge regarding critical information required in the contract than the other (investors). Ibikunle (2013) reveals that essential target of corporate governance structures is to reduce agency problem. As such, a natural link exists between corporate governance and financial reporting quality. The second theory of culture which said that peoples are mentally programmed to act similar to the group they belong to, for example Muslim person acted the way Islam provided (Hofstede, 1983).

Duality of CEOs

There is debate on whether CEOs should serve as the chair of a majority-independent board because a dual-role CEO enhances a firm's performance by having a focused direction for the firm's strategies and operations. While, from another perspective, corporate insiders other than the CEOs are absent from a majority independent board, directors become more dependent upon their link with CEOs for inside information. As a result, the critical information is often hidden from the directors or falsified (Mitchell 2005) and the CEOs may influence the boards on many decisions.

Several studies have investigated the relationship between earnings quality and the duality of CEOs. Gul & Wah (2002) report that firms with dual-role CEOs are more likely to manipulate discretionary accruals especially when the managerial ownership exceeds 25 percent. Day

(2008) finds partial support that the duality of CEOs is negatively related to the credibility of earnings announcements. Chang & Sun (2009) also find a negative relationship between dual-role CEOs and earnings informativeness after SOX. Wang (2010) finds that CEOs of firms with higher internal control quality receive higher compensation and experience less forced turnover rates after SOX. Therefore it is argued that after the negative publicity of CEOs' involvement in the financial scandals, investors become suspicious that a dual-role CEO may further jeopardize the board's fiduciary duties. Thus, it is hypothesized that:

H1. There is a positive relationship between a dual-role of CEO and discretionary accruals.

Board Size

The size of the board is connected with good financial reporting quality (Klai & Omar, 2011). Monks & Minow (2004) put forward that large boards are able to commit more time and effort to overseeing management due to their ability to distribute the workload over a greater number of observers. Abdulrahman & Ali (2006) find a positive relationship between the size of the board and earnings management. Yu (2008) finds that small boards seem more prone to failure to detect earnings management. Zahra & Pearce (1989) explain that smaller boards may be more likely to be captured by management or dominated by block holders. Therefore it is hypothesized that:
H2. There is a negative relationship between board size and discretionary accruals.

Big 4 Auditors

Appointing first class audit firms provide good quality audit. Teoh & Wong (1993) investigate investors' perception of the quality of big 8, client accounting numbers vs that of non-big 8 clients. They find that big 8 auditors are perceived to provide greater audit quality. Frankel et al. (2002) find a positive relationship between earnings management and higher proportion of external auditors' non-audit services. Klein (2003) suggests that big 4 auditors may shift some of their responsibility of monitoring financial reporting to firms' audit committees after SOX. Whether firms' earnings management after SOX is associated with the big 4 auditors is an unanswered empirical question. We put forward the following hypothesis:
H3. There is a negative relationship between Big 4 Auditors and discretionary accruals.

Independent Audit Committee

The functions of independent audit committee after SOX are supported for the committee to actively supervise managers' earnings management behaviors. The SOX act also directed firms to provide audit committees with independent counselors and advisers in an effort to assure that audit committees are capable of performing their tasks effectively. Jenkins (2002) finds that independent audit committee mitigates the income increasing. Klein (2002) reports negative relationship between the discretionary accruals and majority independent audit committee. Bryan et al. (2004) find that an effective audit committee improves the credibility of reported earnings. Chang & Sun (2009) find negative relationship between earnings management and fully independent audit committees. If a fully independent audit committee as anticipated by the regulators and investors is effective in monitoring managers' earnings management behaviors, the relation between discretionary accruals and the disclosure of a fully independent audit committee is expected to be negative for the firms. We therefore stated that:

H4. There is a negative relationship between independent audit committee and discretionary accruals.

Audit Committee's Ability

Audit committee's ability plays vital role in determining the review of the adequacy and compliance with internal and external accounting controls. Many studies (e.g. Klein, 2002; Bryan et al. 2004; Jenkins, 2002) have examined the relationship between earnings management and audit committee effectiveness. Audit committee members with larger stock ownership are more likely to perform their duties in accordance with shareholders' interest (Jensen, 1993). Board members having served as audit committee members over longer period are more experienced about the firms' financial reporting practices. Basely (1996) discovers that the possibility of financial statement fraud decrease with the percentage of stock owned by outside directors and with the average tenure of outside directors. Bhagat & Bolton (2012) document that the money values of director stock ownership are significant and positively related to operating performance for both pre- and post- SOX. Similarly, Bolton (2013) finds that firms with highest levels of audit committee stock ownership. Bhagat & Tookes (2012) observe that voluntary holdings of stock do not correlate with performance. Rose et al. (2013) find that directors who own stock were less likely to agree with management's aggressive reporting. We stated the following hypothesis:
H5. There is a negative relationship between audit committee's ability and discretionary accruals.

Islamic Religion as Potential Moderator

The impact of religion on financial reporting is important because social norms are known to be a strong influence on human behavior (Sunstein, 1996; Cialdini & Goldstein, 2004). Previous research documents that religion is a key social mechanism for controlling beliefs and behaviors (Kennedy & Lawton, 1998). In the context of financial reporting quality, prior research suggests that highly religious individuals are less likely to view accounting manipulation as an acceptable practice (Conroy & Emerson, 2004; Longenecker et al. 2004). Indication on how local social norms influence corporate policies can provide useful insights to standard-setters, investors and regulators (Barro & McCleary, 2003; Guiso et al. 2006).

Previous research put forward that the influence of religiosity on business ethics extends to financial reporting. Conroy & Emerson (2004) find that church attendance (their proxy for religiosity) is associated with lower acceptance of the use of accounting manipulations. Longenecker et al. (2004) find that survey respondents who indicate religion is of high or moderate importance to them are less accepting of unethical decisions than others in their evaluations. More importantly, Longenecker et al. (2004) conducted a survey study with approximately 1,200 business managers and professionals in the US asking them to evaluate the ethical acceptability of 16 business scenarios. The study reveals that business managers and professionals who view their religious beliefs important are significantly less likely to approve of either situation. McGuire et al. (2012) examine the impact of religion on financial reporting and find that firms with head office in areas with strong beliefs generally experience lower financial irregularities.

Similarly, as a Muslim believer, must comply with rules and regulation layout by Islam, Allah said in the Qur'an "in deed, Allah conferred a great favour on the believers when He sent

among them a messenger (Muhammad S.A.W) from themselves, reciting to them His verses (the Qur'an) and purifying them (from sins by their following him), and instructing them (in) the book (Qur'an) and Al-Hickmah [the wisdom and the sunnah of the prophet S.A.W (i.e. his legal ways, statements, act of worship)], while before that they had been in manifest error" (v.3:164). CEO/director as Muslim must be a trust leader, Allah said in the Qur'an "O you who believe: Betray not Allah and His messenger, nor betray knowingly your Amanat (things entrusted to you, and all the duties which Allah has ordained for you)" (v.8:27).

Furthermore, Narrated Hudhaifah: Allah' messenger S.A.W sai to us "Certainly Al-Amanah (the trust or the moral responsibility or honest in the roots of the hearts of men (faithful believers) and then the Qur'an was revealed and the people read the Qur'an, (and learn Al-Amanah Iran it) and also learn it from the sunnah. [Both the Qur'an and Assunnah strengthened their (the faithful believer's) Amanah]"(Al-Bukhari no.381). The Qur'an and Sunnah guided the muslims to be conscious of Amana, to remain trusted. We put on these hypotheses:

H6. Muslim directors/CEOs moderate relationship between Dual-role of CEO and discretionary accruals.

H7. Muslim directors/CEOs moderate relationship between board size and discretionary accruals.

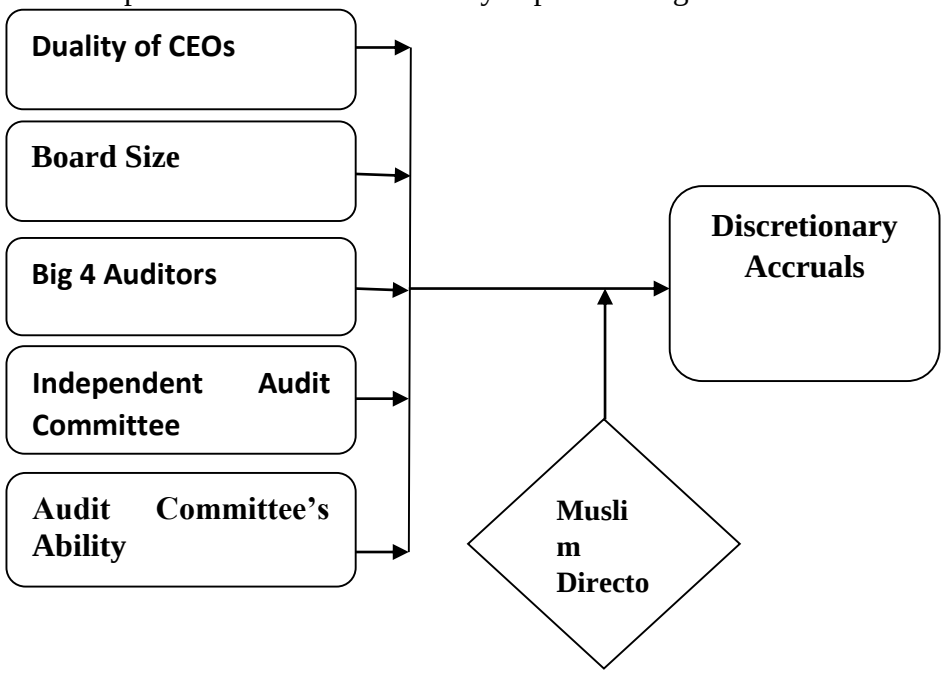
H8. Muslim directors/CEOs moderate relationship between Big 4 Auditors and discretionary accruals.

H9. Muslim directors/CEOs moderate relationship between Independent audit committee and discretionary accruals.

H10. Muslim directors/CEOs moderate relationship between audit committee's ability and discretionary accruals.

CONCEPTUAL FRAMEWORK

The conceptual framework of the study depicted in figure 1 below:



In the Figure 1 above conceptual framework indicated the discretionary accruals as the dependent variable, Muslim director/CEO as moderator of the study and five other independent variables of the study (duality od CEOs, board size, big 4 auditors, independent audit committee and audit committee's ability).

Measurements of variables

1- Earnings Quality: this study uses modified Jones model (John, 1991; Dechew et al. 1995) to measure discretionary accruals. Dechow et al. (1995) posit that modified jones model is powerful and better than other because it captured effect of receivable accounts in measuring discretionary accruals, which is not done by others. 2- Board Size: is measured as the total number of directors on the board. 3- Audit committee independence: is measured as the proportion of non- executive members to total audit committee members. 4- Big 4 Auditors are represented as 1, other wise 0. 5- Audit committee Ability: is measured as the proportion of shares held by the audit committee members. 6- Duality of CEOs is assigned 0 for the dual-roles, other wise 1. 7- Muslim director/CEO: is measured as 1 for Muslim CEO other wise 0.

CONCLUSION

The aim of corporate governance is to reduce manipulation of accounting numbers, but relationship between corporate governance mechanism and earnings quality have shown inconsistent result based on the literature. This study introduced Islamic religion as moderator, from the culture perspective to reduce the dysfunctional behavior of managers.

REFERENCES

Abdulrahman, R. & Ali, F.H. (2006). Board, audit committee, culture and earnings management: Malaysian evidence, *Management Auditing Journal*, 21 (7), 783-804. abstract¼304399

Adelegan, O.A. (2009). Does corporate Leadership matter? Evidence from Nigeria, AERC research paper 189, *African Economic Research Consortium*, Nairobi.

Al-Bukhari (Sahih Bukhari Hadith Book)

Al-Qur'an (the Holy Book)

Barro, R. J. & McCleary, R. M. (2003). Religion and economic growth across countries. *American Sociological Review* 68 (5): 760–781.

Beasley, M. S. (1996). An empirical analysis of the relation between the board of director composition and financial statement fraud. *Accounting Review*, 71 (4), 443-465.

Bedard, J., Chtourou, S.M. & Courteau, L. (2004). The effect of audit committee expertise, independence and activity on aggressive earnings management; Auditing. *A Journal of Practice & Theory*, 23, 55-79.

Bhagat, S., & Bolton, B. (2012). Director ownership, governance and performance. Working paper. University of Colorado at Bolder, Leeds School of Business.

Bhagat, S., & Tookes, H. (2012). Voluntary and mandatory skin in the game: Understanding outside directors' stock holdings. *European Journal of Finance*, 18, 191–207.

Bolton, B. (2013). Audit committee performance: ownership vs. independence – Did SOX get it wrong? *Accounting and Finance* (in press).

Brown, P. (1999). Earnings management: A subtle (and troublesome) twist to earnings quality. *Journal of Financial Statement Analysis*, New York, 4, 61-63.

Bryan, D.M., Liu, C. & Tiras, S.L. (2004). ''The influence of independent and effective audit committees on earnings quality'', working paper, available at: http://ssrn.com/ abstract¼488082

Bugshan, T.O. (2005). Corporate Governance, Earnings Management and the Information Content of Accounting Earnings: Theoretical model and Empirical tests, PhD, e Publications@ bond University, Faculty of Business.

Chang, J. C., & Sun, H. L. (2010). Does the disclosure of corporate governance structures affect firms' earnings quality?. *Review of Accounting and Finance*,*9*(3), 212-243.

Chang, J.C., & Sun, H.L. (2009). ''Cross-listed foreign firms' earnings informativeness, earnings management and disclosures of corporate governance information under SOX''. *The International Journal of Accounting*, Vol. 44 No. 1, pp. 1-32.

Cialdini, R. B., & Goldstein, N. J. (2004). Social influence: Compliance and conformity. *Annual Review of Psychology* 55 (1): 591–621.

Conroy S. J., & Emerson, T. L. N. (2004). Business ethics and religion: Religiosity as a predictor of ethical awareness among students. *Journal of Business Ethics* 50 (4): 383–396.

Dechow, P. M., Sloan, R. G; & Sweeney, A. P; (1995). Detecting earnings management. *The Accounting Review*, 70(2), 193-225.

Dey, A. (2008). ''Corporate governance and agency conflicts''. *Journal of Accounting Research*, Vol. 46 No. 5, pp. 1143-81.

Frankel, R., Johnson, M.F. & Nelson, K.K. (2002). ''The relation between auditors' fee for non audit services and earnings management''. *The Accounting Review*, Vol. 77 (Supplement), pp. 71-105.

Guiso, L. P., Sapienza, & Zingales, L. (2006). Does culture affect economic outcomes?. *Journal of Economic Perspectives* 20 (2): 23–48.

Gul, F.A., & Wah, L.K. (2002). ‘‘Insider entrenchment, board leadership structure and informativeness of earnings’’. working paper, available at: http://ssrn.com/

Hofstede, G. (1983). The cultural relativity of organizational practices and theories. *Journal of international business studies*, 75-89.

Ibikunle, J. (2013). Corporate Governance and Quality of reported earnings of listed insurance firms in Nigeria, Unpublished M.sc Thesis, Department of Accounting, University of Abuja, Nigeria.

Jenkins, N.T. (2002). ‘‘Auditor independence, audit committee effectiveness, and earnings management’’, doctoral dissertation, UMI No. 3073378, The University of Iowa, Iowa City, IA.

Jensen, M.C. (1993). ‘The Modern Industrial Revolution, Exit, and the Failure of Internal Control Systems’. *Journal of Finance*, Vol. 48, pp. 831–80.

Jensen, M.C., & Meckling, W.H. (1976). Agency cost of free cash flow, corporate finance and taken over, unpublished working paper. Harvard Business School.

Jones, J. (1991). Earnings Management during Import Relief Investigations. *Journal of Accounting Research*, 29 (2), 193-223.

Kennedy, E. J., & Lawton, L. (1998). Religiousness and business ethics. *Journal of Business Ethics* 17 (2): 163–175.

Klai, N., & Omri, A. (2011) Corporate governance and financial reporting quality: The case of Tunisian firms. *International Business Research*, Vol.4 (1).

Klein, A. (2002). ‘‘Audit committee, board of director characteristics and earnings management’’. *Journal of Accounting and Economics*, Vol. 33 No. 3, pp. 375-400.

Klein, A. (2003). ‘‘Likely effects of stock exchange governance proposals and Sarbanes-Oxley on corporate boards and financial reporting’’. *Accounting Horizons*, Vol. 17 No. 4, pp. 343-55.

Longenecker, J. G., McKinney, J. A. & Moore, C. W. (2004). Religious intensity, evangelical christianity, and business ethics: An empirical study. *Journal of Business Ethics* 55 (4): 373–386.

McGuire, S. T., Omer, T. C., & Sharp, N. Y. (2011). The impact of religion on financial reporting irregularities. *The Accounting Review*, *87*(2), 645-673.

Mitchell, L. (2005). ‘‘Structural holes, CEOs, and the missing link in corporate governance’’. *Brooklyn Law Review*, Vol. 70, pp. 1313-68.

Monks, A., & Minow, N. (2004). Corporate governance. 3rd edition, Blackwell Publishing.

Pandey, I.M. (2005). Financial management: Vikas Publishing House Pvt Ltd, New Delhi India.

Qiang .W. (2010). Three essay on corporate governance and financial disclosures, Rensselaer Polytechnics Institute, New York.

Roodposhti, F. R. & Chashmi, S.A.N. (2009). Corporate governance and earnings management. *African Journal of Business Management*, 5 (11), 4143-4151.

Sanda, A., Mikailu, A. S., & Garba, T. (2005). Corporate governance mechanisms and firm financial performance in Nigeria. *African Economics Research Consortium*, Nairobi Kenya, 1- 47.

Sunstein, C. R. (1996). Social norms and social rules. *Columbia Law Review* 96 (4): 903–968.

Teoh, S.H. & Wong, T.J. (1993). ''Perceived auditor quality and the earnings response coefficient''. *Accounting Review*, Vol. 68 No. 2, pp. 346-66.

Terpstra, D. E., Rozell, E. J., & Robinson, R. K. (1993). The influence of personality and demographic variables on ethical decisions related to insider trading. *The Journal of Psychology* 127 (4): 375–389.

Wang, X. (2010). ''Increased disclosure requirements and corporate governance decisions: evidence from chief financial officers in the pre- and post Sarbanes-Oxley period'', Journal of Accounting Research, working paper, available at: http://papers.ssrn.com/sol3/ papers.cfm?abstract_id=1568930

Weaver, G. R., & Agle, B. R. (2002). Religiosity and ethical behavior in organizations: A symbolic interactionist perspective. *Academy of Management Review* 27 (1): 77–97.

Whittington, G. (1993). Corporate governance and the regulation of financial reporting. *Accounting and Business Research*, 23 (91), 311-319.

Yu, F. (2008). Corporate governance and earnings management, *Journal of Financial Economics*, 88, 245-271.

Zahra, S., & Pearce, J. (1989). Board of directors and corporate financial performance: A Review and Integrative Model. *Journal of Management*, 15, 291-334.

BRIDGING THE GAP BETWEEN LIFE AND DEATH: A NEED FOR ICT BASED SECRETS MANAGEMENT

Mohd Fadzli Marhusin[1]
Mohd Khairul Nizam Zainan Nazri[2]
Nurul Adibah Rahmat[2]
Muhammad Izzul Izwan Mohd Isa[2]
Mohamad Asyraf Mohd Rodzi[2]
Syed Ubaydillah Syed Ahmad[2]
Adila Shahida Azmi[2]

ABSTRACT

The emergence of ICT opens a new paradigm on how we solve problems, including within the area of wealth management. This paper will review the existing techniques of managing secrets in society. This paper will also cover the background of publications, and the sub-topic of interest and issues arising. The important issue of human life will be raised i.e., the need to have a bridge between our time alive and when we die, so that our important secrets can be safely handed over to our heirs. We have identified that gaps exist in current implementations, or that interest in the subject is either scarce or contains missing information. We will propose the framework of an information system to provide a solution to these problems. Several threats and other challenges will also be highlighted. This paper will conclude with a discussion on the need to proliferate further research in this area for the benefit of society and the country's economic sustainability.

Keywords: Asset management, Secrets management, ICT-based legacy management

1. INTRODUCTION

A good management of assets liabilities is important for every individual. It is more important for every patriarch or a head of a family to properly managing those matters. While it is important to have a proper management of those matters while he is still alive, what more important is to avoid a disaster or conflict on a family once a patriarch pass away.

In this paper, we will review existing research and publications related to these issues. We will propose a mechanism to overcome the fundamental problems. We will then describe the newly proposed implementation in detail. Before the conclusion, we will also highlight any gaps in the proposed idea.

[1] Faculty of Science and Technology, Universiti Sains Islam Malaysia (USIM).
[2] Faculty of Sunnah and Quranic Studies, Universiti Sains Islam Malaysia (USIM).
Corresponding author: fadzli@usim.edu.my

2. LITERATURE REVIEW

The purpose of this study is to 1) highlight the present gaps in society on managing their assets 2) propose a solution for bridging these gaps. We will also highlight any issues surrounding the proposed solution.

All living individuals have property and/or liabilities. Information about these properties and/or liabilities is commonly kept secret from family members. This tendency to keep one's assets and liabilities secret may cause enormous problems to family members left behind. They will face difficulties to survive, and some will be left in situations with conflicting interests over the assets left.

In all countries, crises like this are a serious problem; whereby these unclaimed assets are simply assets without a useful purpose. According to a news report several years ago, there are more than RM40 billion unclaimed assets at Amanah Raya Berhad (ARB), which is an authoritative government agency responsible for managing the assets of the deceased (Rahman and Azizi 2010).

There are conflicting roles in the implementation of wills, and no institution seems to have absolute control; thus, causing more diversity and subsequently confusion among the public. Therefore, a more concrete law is needed (Muda 2008). Despite established will agencies being played by ARB and several law firms, only 1% of Muslims in Malaysia have engaged these will services (Buang 2010). This indicates that either these existing will services are immature or that there is still a problem that needs a solution.

Azmi and Mohammad (2011) described six reasons why there are huge sums of unclaimed assets; despite these existing agencies that should assist in the distribution of the assets of the deceased. One of the reasons identified is the lack of a cohesive mechanism. They argued that due to the complexity of the deceased assets and liabilities, lots of information is scattered across organisations such as banks, land offices, employee provident funds, insurance companies, self-appointed trustees, etc. There is no single body that controls all records. In order to request information, the process requires tedious processes, some might involve legal practitioners, and the cost to acquire might be expensive; from both money or time points of view. All of these factors (barriers) may discourage some (if not all) of the affected family members to participate in claiming assets; especially if there are disagreements over certain asset claims.

The Importance of Secrecy

Depending on one's state of mind and the possible consequences, it is normal for us to keep some information confidential (Kelly and McKillop 1996). A wealthy individual may keep information secret; if disclosure may be harmful for him/her or their family. This is often influenced by past experience or stigma among people in society. A recent study revealed a secret disclosure process model, understanding the disclosure decision making, and the outcome (Chaudoir and Fisher 2010). Understanding from the proposed model, people have a tendency to hide; it if the negative implication is greater than the benefits of revealing their secrets.

A disclosed amount of assets may lead relatives to ask for assets to be spent unwisely, not aligning with the owner's strategic plan. Young children might boast over potentially owning assets, unwilling to struggle for learning themselves, and achieving what they should deserve to get; just like the majority of others. However, disclosing liability could be harmful for the person, thus losing the respect of others. Also, the information could lead others to blackmail or take advantage strategically; especially on certain business issues. There is a tendency that people keep some information secret, such as passwords of various systems, unregistered marriages, or valuable information, such as business trades, patent data, etc. Some of this information might lead to conflicting disputes over one's assets at a later stage.

The Risk If You Die

While it is important and advantageous to keep secrets for ourselves, a greater loss is waiting if we die without being able to disclose these secrets to the family members that we trust first.

- It is really hard because settling debts is only possible if the lender/pawnbroker asks for a payment
- Assets might be seized over default payments i.e., involving a pawnbroker.
- Unclaimed insurance benefits.
- Failure of trustees to discharge the trust-ownership of assets to heirs

The Gap in Existing Implementations

Some countries already provide professional services to manage assets/liabilities through wills (or hibah). From a Malaysian perspective, there are several public and private agencies that provide/offer services related to property/liability management, such as hibah or wills i.e., ARB (Amanah Raya Berhad 2014), Rockwills (Rockwills Corporation 2014) and various other law/hibah/amanah firms. Azmi and Mohammad (2011) claimed that the existing roles played by these agencies are in a failed state; hence, an immediate solution is needed to fill the gap.

The problem is that these services are too costly for everyone to have. Even though these services in some countries are cheap, 1) as the owner or the claimant of assets, prior to declaring all the details, you might need to prepare before heading to that office, so that everything is covered. It is a real headache if you need to go back and forth several times, just because you overlooked some important data. Some people might hesitate to engage with lots of people i.e., when somebody corrupted is in the circle, because there is no longer secrecy within the inner circle of the people who are involved in the dealings, over the quality of our assets.

We need a respectable information system that everyone can trust, a system that can keep our secrets safe where no one can ever access the data, while we are alive. And when we die, it should be able to help asset claimants and our appointed trustees, before involving the correct authorities.

Table 1: Existing solutions vs. the proposed (iLegacy) solution

Types of Issues	Amanah Raya	Existing Wills Services	iLegacy
Secrecy	Secret - but still known by the staff involved	Secret - but still known by the staff involved	Completely secret
Nature of Info	Assets	Assets	Assets + other things/issues
Competing Nature	Compete	Compete	Complement

3. THE PROPOSED FRAMEWORK

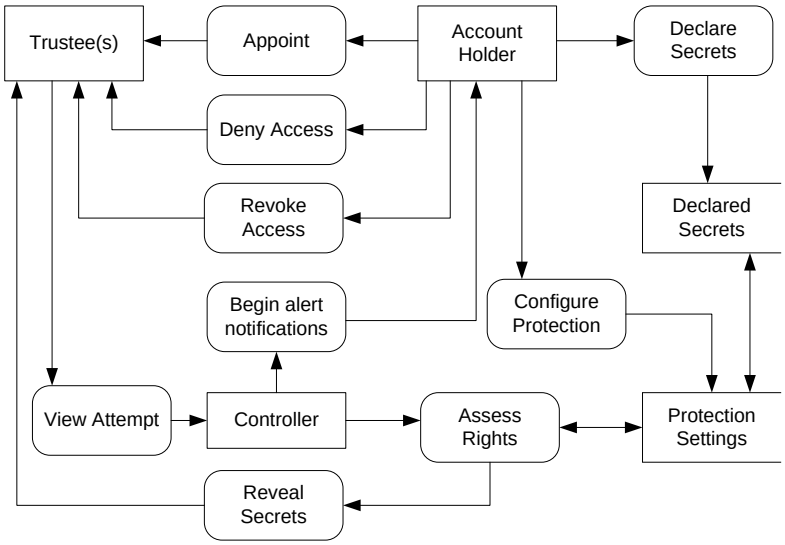
Our proposed information system framework is known as iLegacy[3]. With this system, we can declare sensitive information and set one or more trustees that can help us to settle everything left behind on our behalf. Trustees can be anyone from siblings to close relatives, or whoever we trust. When we die, our heirs can quickly regain all details with the assistance of these trustees. The proposed information system framework is illustrated in Figure 1.

Figure 1 describes that within the proposed processes, there are three active players, namely Account Holder, Trustee(s), and Controller. The first two are human and the third is a special agent contained within the system. Anyone can register as an account holder. However, the account holder must follow these steps:

- Manage the protection setting of the secrets – This includes adding, updating, denying access to, and setting a countdown timer.
- Manage secrets – This includes adding, updating, and deleting secrets.
- Manage trustees - This includes appointing, updating, and revoking trustee privileges.

[3] At the time of publication the system is accessible via https://www.faraidsys.org

Figure 1: The proposed architecture



The Account Holder must set a countdown timer for his/her secrets to become accessible. Once the countdown timer has elapsed, only then can the secrets be accessible by the trustee(s). It is the responsibility of the account holder to set a suitable timespan for the countdown timer. The timer should be set entirely based on his/her judgement, who should know a suitable duration that suitable for him/herself based on experience in the past.

A shorter timespan means that the risk of the secrets becoming unlocked is higher, because he must be alert to any notifications of access attempts and stop these attempts within that shorter time span. If the time span is too long, it gives a longer time for the account holder to stop the access. However, should the account holder die, the trustee(s) must wait that much longer before the secrets can be accessible. In case the trustee(s) want to skip this long waiting time, a manual verification must be executed, which could be costly for the System Administrator to do a thorough cross-check of records.

Once a trustee has been appointed, he/she will get an email notification from the account holder that gives the trustee a number of instructions to finalize the account creation.

A trustee will be informed that his/her responsibility is to only access the secrets once the account holder has died. Any attempt to access the secrets will initiate a countdown timer and trigger an alarm email to the account holder. If the account holder is still alive, he/she can deny access by stopping the countdown timer.

The secrets will only be revealed once the set timespan has elapsed. If still alive, any attempts to unlock and read the sensitive information will be notified to the account holder, and access may be denied the trustee involved within the specified timeframe. In the event of a breach of trust, one has the option to revoke the privileges given to the trustee. However, if the account holder has died, the specified timespan will definitely elapse, because it can no longer be stopped; hence allowing your trustees to view your secrets. Beside assets and liabilities, the account holder can also include other sensitive information, such as wishes, vows, obligations, etc. Table 2 summarises all of the activities according to the corresponding roles.

Table 2 : Summary of Roles vs. Activities

Type of Roles	Activities
Account Holder	• Declare secrets. • Set secrecy period if secrets are requested by a trustee. • Appoint trustees. • Deny trustee's access to secrets while the Account Holder is still alive.
Trustee	• Request to view secrets. • View secrets once the secrecy period is over. • For assets, get faraid assessment/asset distribution.
Controller	• Alert Account Holder that a trustee has requested to access the secrets; hence initiating a countdown timer based on the secrecy period specified by the Account Holder. • Deny trustee's access to secrets while the secrecy period has not yet elapsed. • Allow trustee's to access secrets once the secrecy period has elapsed. • Assess assets vs. liabilities in order to provide a faraid assessment/asset distribution.

4. RESULTS AND DISCUSSION

The existing agencies have played a significant role in reducing the existing amount of unclaimed assets. In general, the findings of this study reveal that there is a gap at a national level in the existing implementation of controlling the amount of unclaimed assets in the future. This could be seen as very undesirable for the following reasons:

1) Awareness of the public to see the importance of keeping their secrets safe whilst ensuring that those secrets would be safely handed over to their heirs.
2) The government to provide trusted, high calibre, and compliant information system solutions that could provide a bridge for the aforementioned gap.

It is an undeniable fact that the roles of existing agencies have offered acceptable service levels based on the problem statements. Only a tiny gap has caused billions of unclaimed assets to come to the public's attention. If we did not have those agencies, but numerous private services instead, this information may not have surfaced.

The proposed solution will help heirs to simplify their efforts to obtain all of the records related to the assets and liabilities of the deceased. All of the required information should be available from a single source of reference in the system. With this information in hand, heirs could go through existing channels to claim their assets and settle all debts; thus leaving no stone unturned.

However, problems could arise if the information system used has no authority over what should be accepted by those agencies. This might lead to legal disputes by those parties who were against an original claim; warranted by the deceased stipulated in the system. One solution is for us to establish strong ties with the related stakeholders, or introduce a new institution to

follow our proposed framework with small adjustments to fully utilise all relevant government agencies.

The proposed solution depends highly on the use of ICT. There are some percentage of ICT literacy among the population, depending on which states or countries, and pushing for a fully ICT based solution might be too harsh for those who currently live without it. A semi-manual approach is therefore suitable and this is part of our future work.

Heartbleed, which is a fundamental security issue that affects the vulnerability of the OpenSSL library, surfaced in May 2012 (Finkle 2014) left certain encrypted systems open to attack, whereby encryption keys would be harvested from computer memories. With this kind of attack, the only way was for the system's administrator and software developers to stay alert for any security vulnerability announcements and quickly patch the affected systems.

The willingness of everyone to disclose their secrets to our system depends very much on trust gained. The use of highest level security and customized cryptographic techniques would strengthen our security. Verified penetration tests would ensure that we have taken preventive steps towards possible hacking threats. These measures increase the level of trust among users to use our proposed system. For those users who are sceptical about the strength of our proposed system, they could disclose partially meaningful information, whereby only the trustees understood the meaning of the information, as they would know the remaining half.

Further research in this area is required to strengthen the idea of having a trusted institution managing the existing gap.

5. CONCLUSION

The emergence of ICT has opened a new paradigm on how we solve problems. This includes the area of wealth management. In this paper, we raised the important issue of the need to provide a bridge between our time alive and when we die, so that our important secrets could be safely handed over to our heirs. We hope that, via the proposed approach, we could solve the problem of future unclaimed assets, using an initiative that would require a state or national-level initiative.

We discussed the technical aspects of the proposed framework. We also highlighted the challenges of the proposed solution. Our proposed framework is currently operational and accessible for evaluation and user acceptance purposes. Our next goal is to evaluate the level of end users' acceptance and assess the secured level of the system to protect end users' confidential information.

REFERENCES

Amanah Raya Berhad. (2014). "Amanah Raya." Retrieved 16 June 2014, from http://www.arb.com.my.

Azmi, F. A. B. M. and M. T. S. Mohammad (2011). The Causes of Unclaimed, Late Claimed or Distributed Estates of Deceased Muslims in Malaysia. International Conference on Sociality and Economics Development, Singapore, IACSIT Press. 10: pp. 440-444.

Buang, S. (2010). Instrumen Perancangan Harta Pusaka Islam: Amanah dan Hibah. Convention of Islamic Small Estate Planning System 2010, Institut Kefahaman Malaysia (IKIM)

Chaudoir, S. R. and J. D. Fisher (2010). "The disclosure processes model: Understanding disclosure decision-making and post-disclosure outcomes among people living with a concealable stigmatized identity." Psychological Bulletin 136(2): pp. 236–256.doi: 10.1037/a0018193

Finkle, J. (2014). "Little Internet users can do to thwart 'Heartbleed' bug." Retrieved 10 April 2014, from http://www.reuters.com/article/2014/04/09/us-cybersecurity-internet-bug-idUSBREA3804U20140409.

Kelly, A. E. and K. J. McKillop (1996). "Consequences of revealing personal secrets." Psychological Bulletin 120(3): pp. 450-465

Muda, M. Z. (2008). Instrumen Hibah : Analisis Hukum Dan Aplikasi Di Malaysia. Konvensyen Faraid dan Hibah Kebangsaan. Dewan Serbaguna, Masjid Wilayah Persekutuan, Kuala Lumpur, JAKIM: pp. 1-19

Rahman, R. A. and M. A. Q. Azizi. (2010). "RM40bil in assets stuck." thestar.com.my. Retrieved 16 June 2014, from http://www.thestar.com.my/story.aspx/?file=%2f2010%2f7%2f17%2fnation%2f6686295.

Rockwills Corporation. (2014). "Rockwills." Retrieved 16 June 2014, from http://www.rockwills.com.my.

A PROBLEM-BASED LEARNING EXPERIENCE: A STUDY ON FINANCIAL SERVICES MARKETING CLASSROOM

Mohammad Noorizzuddin Nooh[1]

Syadiyah Abdul Shukor[2]

ABSTRACT

Problem-Based Learning (PBL) is an approach to teaching that focuses on student-centred learning as compared to the teacher-centred learning. A study was done at the Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia to gauge student acceptance towards using PBL in the classroom. The results show that even though there is positive acceptance among the students but it is not enough to draw any positive conclusion on that exercise. It is understood that this is the first time that PBL is used systematically in the university and more exposure has to be given to the students before engaging deeper into using this technique of teaching in the classroom.

Keywords: Problem-based learning; student-centred learning, marketing

1. INTRODUCTION

Problem based learning (PBL) derives from a theory which suggests that for effective acquisition of knowledge, learners need to be stimulated to restructure information they already know within a realistic context, to gain new knowledge, and to then elaborate on the new information they have learned, for example by teaching it to peers or by discussing the material in a group setting (Kilroy, 2014). It is an instructional method that will prepare students for real life problems (Schmidt, 1983). This approach falls under the student-centred learning (SCL) as compared to the teacher-centred learning (TCL). Norman and Schmidt (September 1992) argued that some preliminary evidence suggests that PBL curricula may enhance both transfer of concepts to new problems and assimilation of basic science concepts into clinical problems, enhances intrinsic interest in the subject matter and appears to enhance self-directed learning skills, and this enhancement may be maintained. PBL belongs to the Constructivist Learning Environment school of thought in which it shows the correspondence between our underlying views of knowledge and how we think about instruction (Wilson, 1996).

2. METHODOLOGY

[1] Senior Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia, Bandar Baru Nilai, Negeri Sembilan, MALAYSIA. Corresponding author: noorizzuddin@usim.edu.my

[2] Senior Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia, Bandar Baru Nilai, Negeri Sembilan, MALAYSIA

Survey questions were replicated from a study by Michele Garvey (2011) from the Trinity College Dublin and further refined to fit the environment at the current research venue. Questions were grouped into the following themes:

- Initial meeting / tutorial,
- Self-directed study,
- Second meeting / tutorial,
- Roles within PBL,
- Feedback within PBL,
- The Physical Environment, and
- Time spent on PBL.

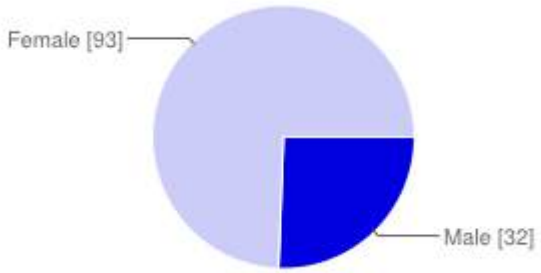
The aim of the study was:

- to understand students' experience of PBL as a learning process,
- to identify facilitators and barriers to engagement in PBL
- to evaluate positive and negative experiences of PBL
- to improve current teaching delivery from teacher-centred learning to student-centred learning

3. DATA COLLECTION AND ANALYSIS

Student were informed about the survey during the third week of class. The questionnaires were administered online and students have up until the fourteenth week to complete the survey. A set of questionnaires were administered online to 125 students from the Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia who are enrolled in the Financial Services Marketing class. These students have no prior formal exposure of PBL and during the first lesson, the facilitator has briefed them on what to expect throughout the semester. All of them were exposed to the teacher-centred learning (TCL) in which the facilitator is the centre of referral for the students to learn and understand the subject. Figure 1 illustrates the gender distributions of the students based on gender.

Figure 1: Gender Distribution

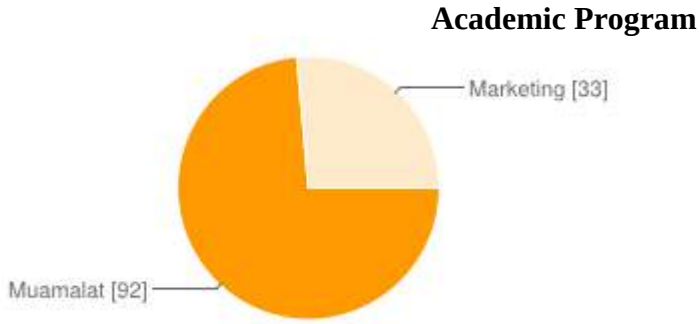


These students, came from two different programs:

1. Muamalat Administration, and
2. Marketing

Figure 2 illustrates the distributions of students based on their respective programs.

Figure 2: Program Distribution



Muamalat 92 74%

Marketing 33 26%

Previous Knowledge of PBL

Students were asked on their previous knowledge of PBL and the adoption of PBL approach in the class. Figure 3 shows that 77% of the students had no previous knowledge of PBL while Figure 4 shows that 90.4% of the students felt that it was better if more classes adopted the PBL approach in class.

Figure 3: Previous Knowledge of PBL

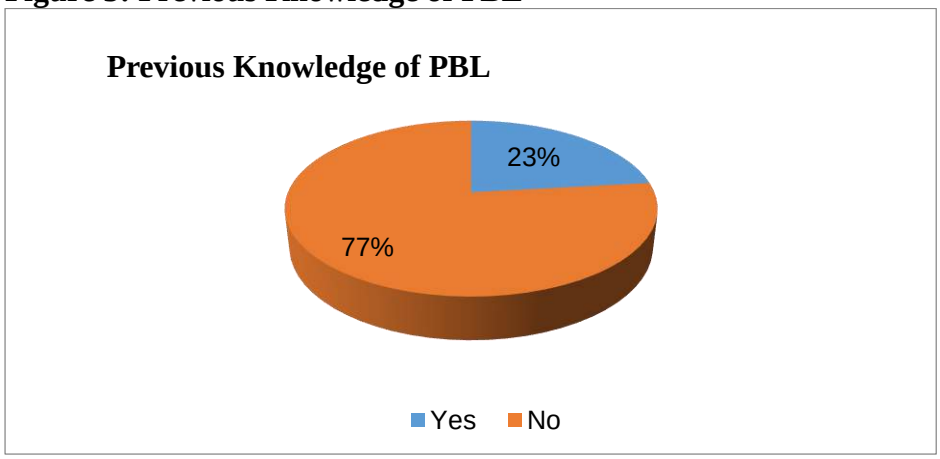
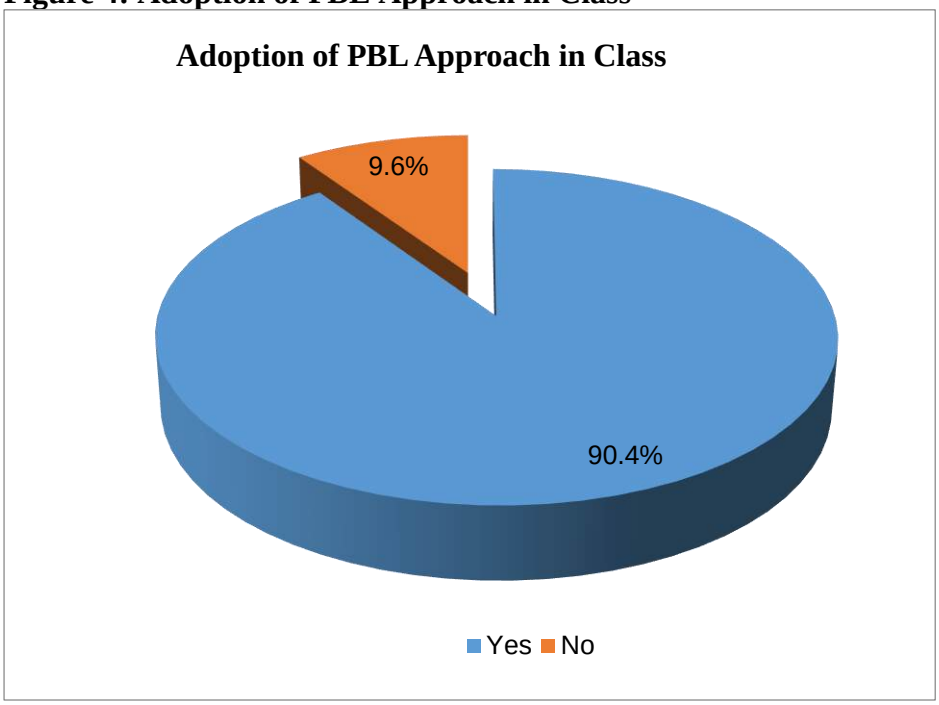


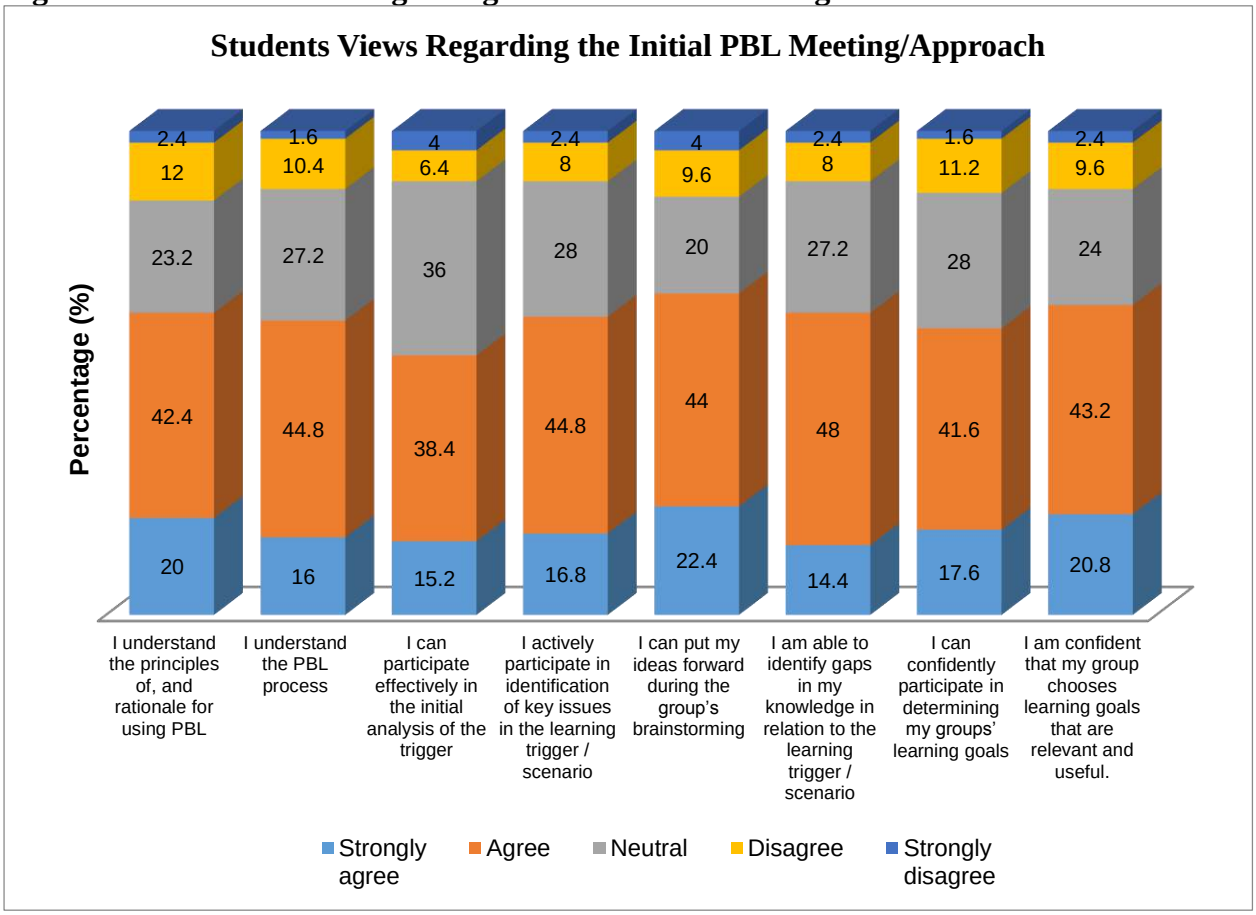
Figure 4: Adoption of PBL Approach in Class



Students View Regarding the Initial PBL Meeting/Tutorial

Students were asked their views regarding the initial PBL meeting/tutorial. As shown in Figure 5, 62.4% of the students strongly agreed or agreed that they understood the principles of, and rationale for using PBL while 60.8% of the students strongly agreed or agreed that they understood the PBL process. 53.6% of the students strongly agreed or agreed that they could participate effectively in the initial analysis of the trigger. 61.6% of the students strongly agreed or agreed that they actively participated in identification of key issues in the learning trigger / scenario. 66.4% of the students strongly agreed or agreed that they could put forward their ideas during group's brainstorming and 62% of the students strongly agreed or agreed that they could identify gaps in knowledge in relation to the learning trigger/scenario. 62.4% of the students mentioned that they were able to identify gaps in their knowledge in relation to the learning trigger/scenario. When students were asked about their participation in determining the group's learning goals, 59% of the students strongly agreed or agreed that they could confidently participate in determining the group's learning goals. Finally, 64% of the students strongly agreed or agreed that they were confident that their group choses learning goals that were relevant and useful.

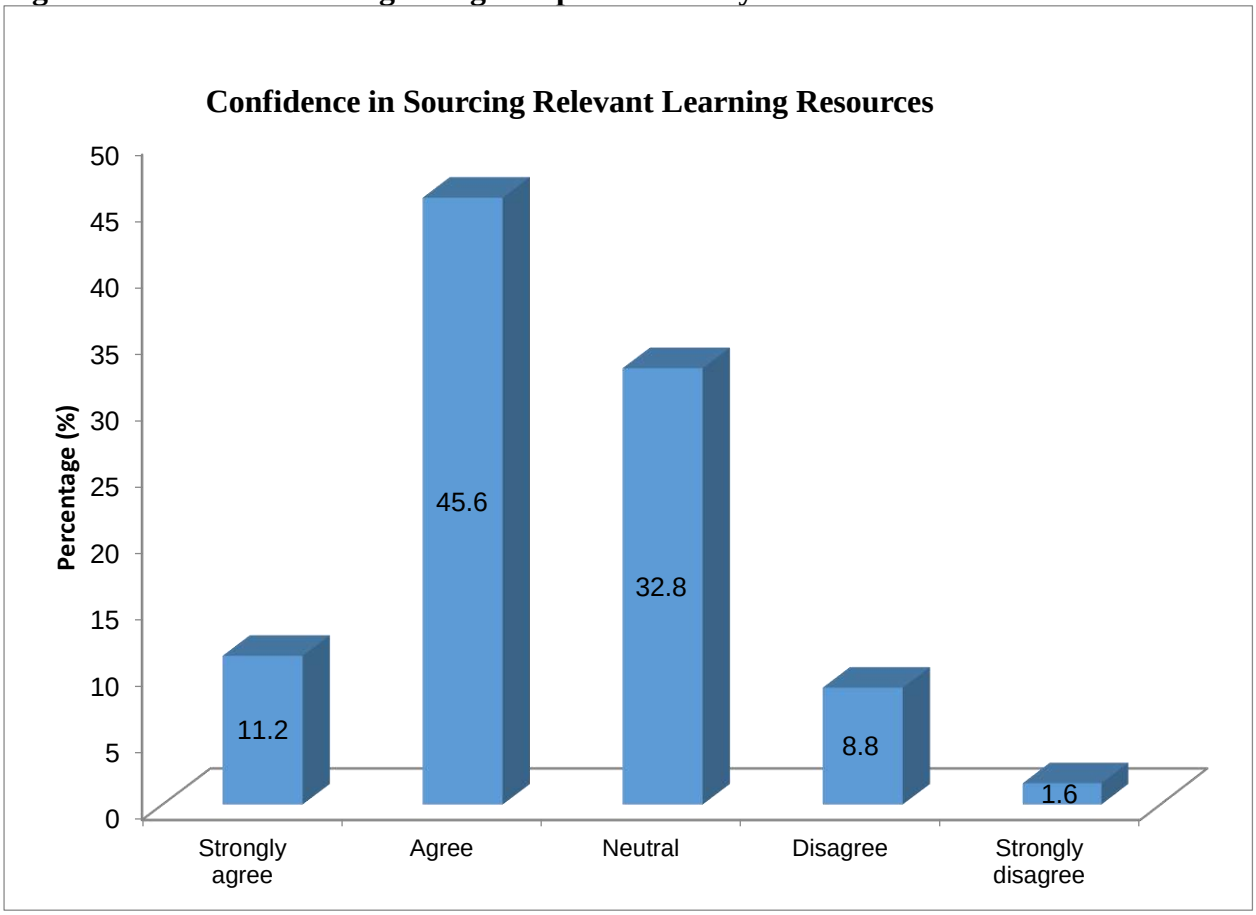
Figure 5: Students Views Regarding the Initial PBL Meeting/Tutorial



Students View Regarding Independent Study within PBL

Students were also asked on their views regarding the independent study within PBL as portrayed in Figure 6. 56.8% of the students strongly agreed and agreed that they were confident in sourcing relevant learning resources to acquire knowledge and understanding of their groups' learning goals during independent study time.

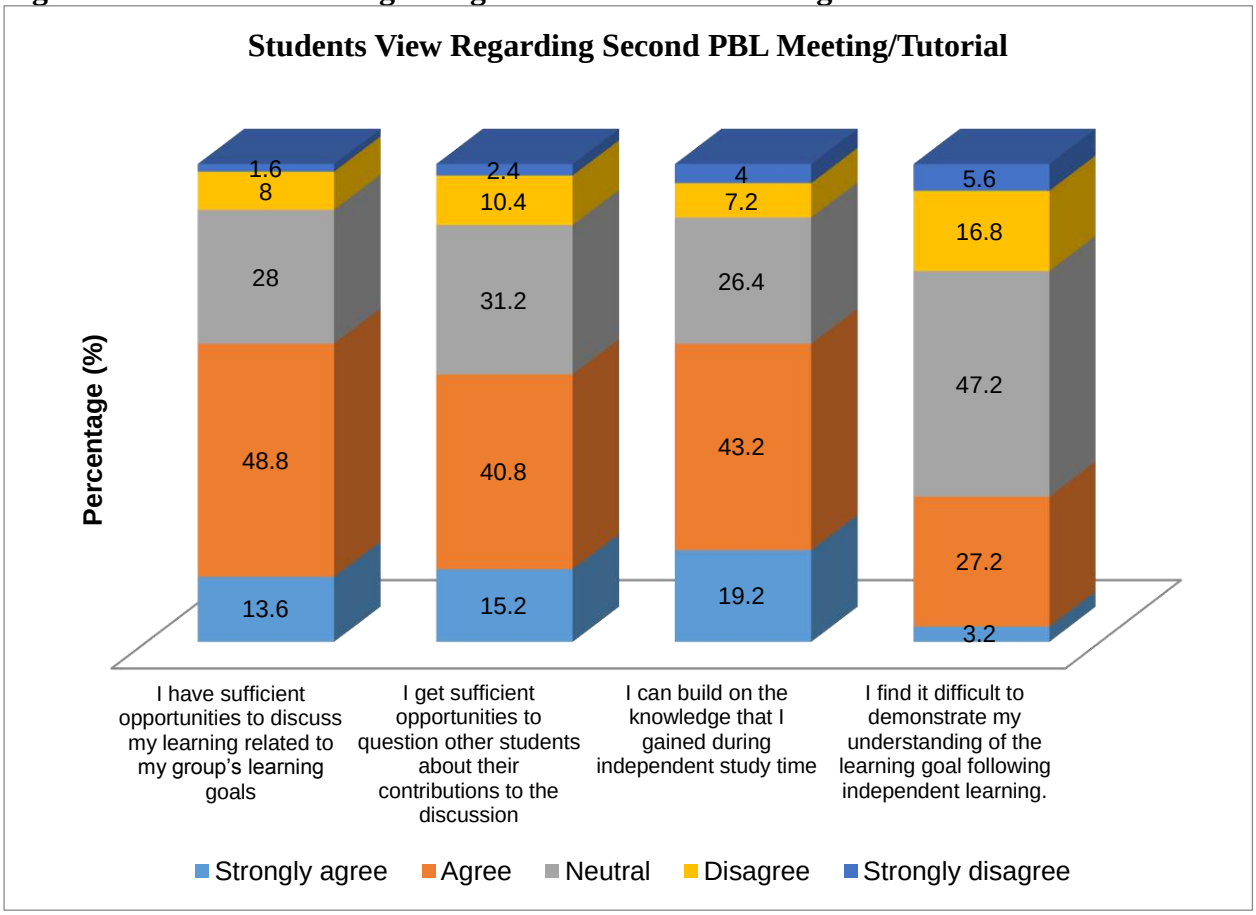
Figure 6: Students View Regarding Independent Study within PBL



Students View Regarding the Second PBL Meeting/Tutorial

Students were asked their views regarding the second PBL meeting/tutorial. As shown in Figure 7, 62.4% of the students strongly agreed or agreed that they had sufficient opportunities to discuss their learning related to their group's learning goals while 56% of the students got sufficient opportunities to question other students about their contributions to the discussion. 62% of the students mentioned that they could build on the knowledge that they gained during independent study time. In addition, 47.2% had neither agreed nor disagreed that they had difficulties to demonstrate their understanding of the learning goal following independent learning.

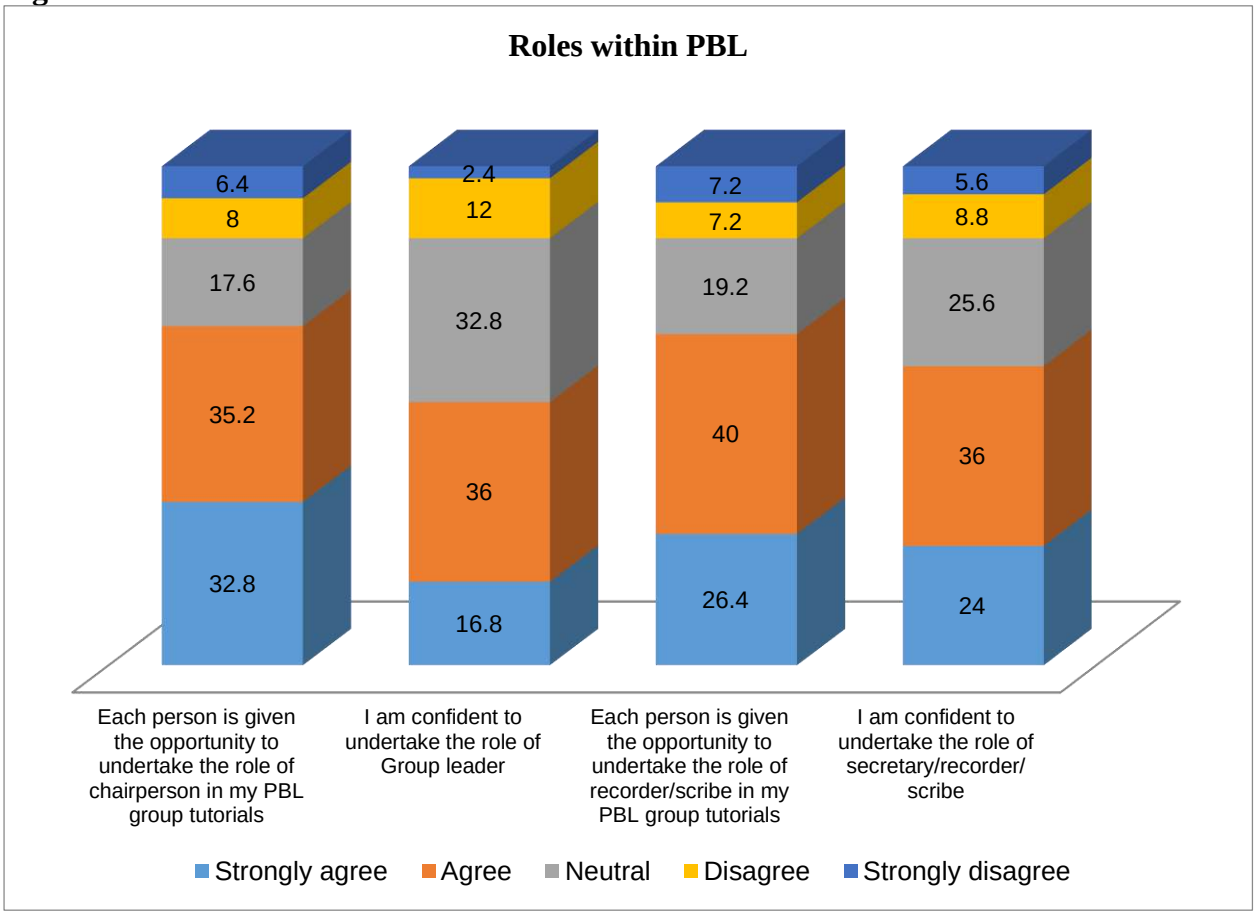
Figure 7: Students View Regarding the Second PBL Meeting/Tutorial



Roles within PBL

Students were asked to rate their views with regards to roles within PBL. As shown in Figure 8, 85% of the students were strongly agreed or agreed that each person was given the opportunity to undertake the role of chairperson while 88% of the students were strongly agreed or agreed that they were given the opportunity to undertake the role of recorder/scribe. 75% were confident in their performance as secretary while 66% of the students were agreed or strongly agreed that they were confident to undertake the role of Group leader.

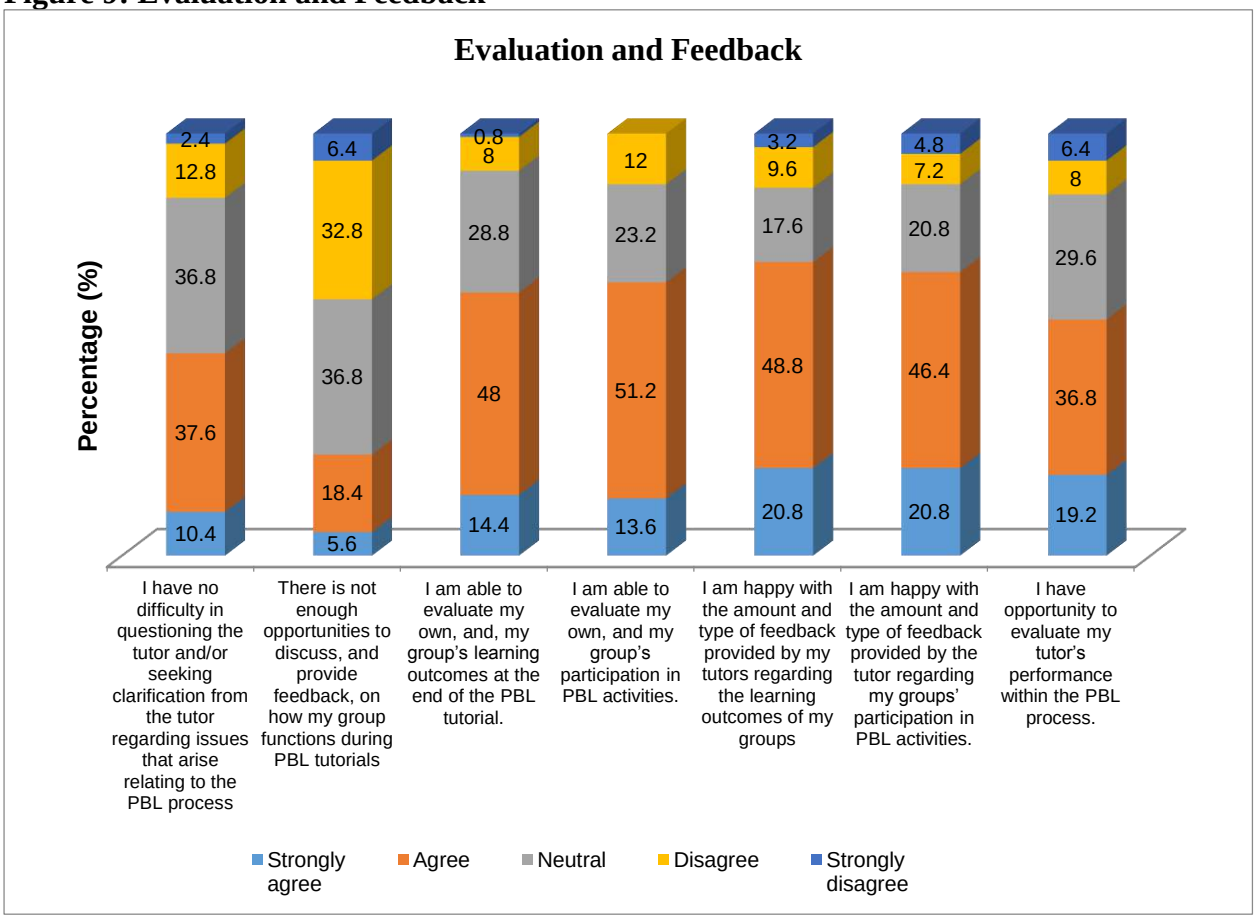
Figure 8: Roles within PBL



Evaluation and Feedback

Students were asked on the amount of evaluation and feedback they received. As shown in Figure 9, 60% of the students strongly agreed or agreed that they had no difficulty in questioning the tutor and/or seeking clarification from the tutor regarding issues that arise relating to the PBL process. 49% of the students strongly disagree or disagreed that there was not enough opportunities to discuss, and provide feedback, on how the students' group functions during PBL tutorials. 78% of the students strongly agreed or agreed that they were able to evaluate their own, and, their group's learning outcomes at the end of the PBL tutorial. 81% of the students were able to evaluate their own, and their group's participation in PBL activities. 87% of the students strongly agreed or agreed that they were happy with the amount and type of feedback provided by the tutors regarding the learning outcomes. 83% of the students strongly agreed or agreed that they were happy with the amount and type of feedback provided by the groups' participation in PBL activities. 70% of the students have the opportunity to evaluate the tutor's performance within the PBL process.

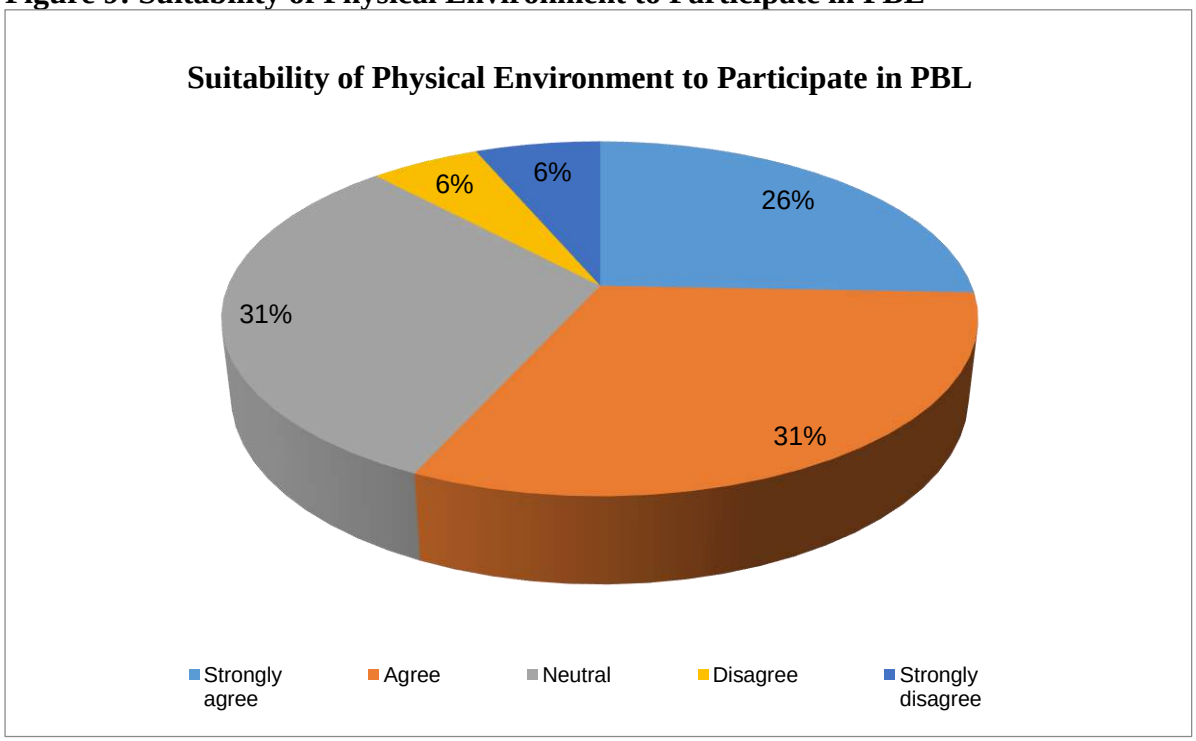
Figure 9: Evaluation and Feedback



Physical Environment

56% of the students were generally strongly agreed or agreed that the physical environment was suitable for the students to participate in PBL (e.g. room and furniture layout, acoustics, lighting) as illustrated in Figure 9.

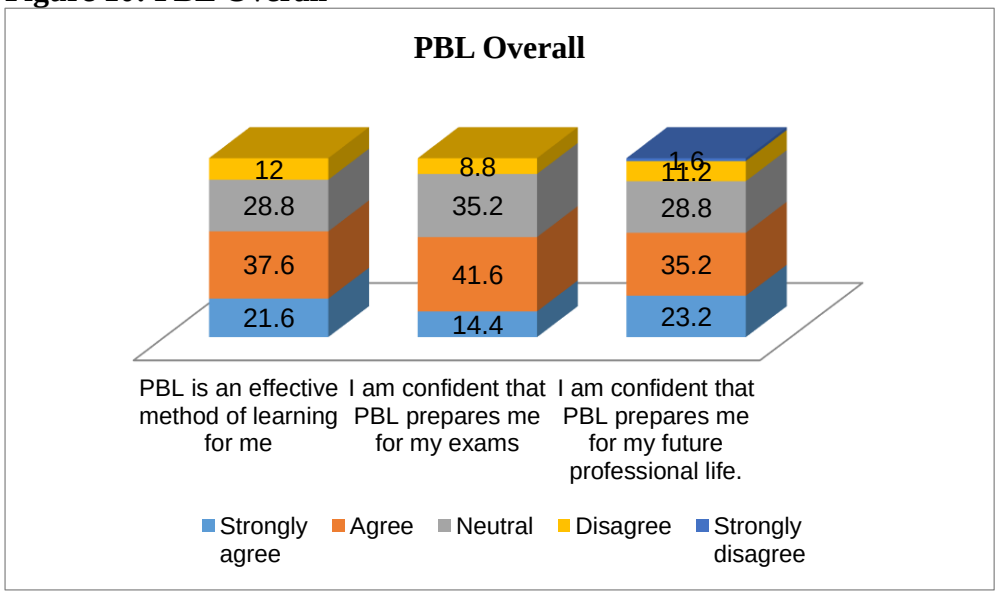
Figure 9: Suitability of Physical Environment to Participate in PBL



PBL Overall

Overall, as shown in Figure 10, 59.2% of the students strongly agreed or agreed that that PBL was an effective method of learning for them. 56% of the students strongly agreed or agreed that they were confident that PBL prepared them for their exams and 58.4% of the students strongly agreed or agreed that they were confident that PBL prepared them for their future professional life.

Figure 10: PBL Overall



4. CONCLUSION

Before initiating the survey, the researcher has anticipated that there will be a huge percentage of students that will have confidence that PBL will help them in many ways but the results showed that even though the percentage is more than 50 percent or in other words, the percentage is near to 60 percent, it is not as significant as the researchers assumed to be. All in all, the researcher understood that this is the first time that PBL was systematically introduced in this university. Resistance and misunderstanding on how PBL should work are two anticipated antecedent of these problem. It is hoped that there will be more research done in this area to gauge students' acceptance of PBL in classroom.

8. REFERENCES

Garvey, M., 2011. *Report on the Students Experiences of Problem Based Learning,* Dublin: Trinity College.

Kilroy, D. A., 2014. Review: Problem based learning. *Emergin Med J,* 411-413.

Norman, G. R. & Schmidt, H. G., September 1992. The psychological basis of problem-based learning: a review of the evidence. *Academic Medicine,* 557-565.

Schmidt, H. G., 1983. Problem-based learning: rationale and description. *Medical Education,* 11-16.

Wilson, B. G., 1996. What is a constructivisit learning environment?. In: *Constructivist Learning Environments: Case Studies in Instructional Design.* New Jersey: Educational Technology. p. 252.

CAMPURAN PEMASARAN ISLAM: TINJAUAN SEMULA

Lakrina Faidiwati Latif[1]
Hanim Misbah[2]
Nursilah Ahmad[3]
Norhaziah Hashim[4]

ABSTRAK

Kertas kerja konsep ini bertujuan untuk membincangkan campuran pemasaran mengikut perspektif Islam. Penerangan tentang pengenalan pemasaran dan kepentingannya kepada perniagaan adalah antara aspek yang di bincangkan diikuti dengan campuran pemasaran Islam 5P iaitu manusia (people), produk, harga (price), pemilihan lokasi dan promosi. Ianya bertujuan untuk membantu pemasar yang bergiat didalam pemasaran produk berteraskan pemasaran Islam dalam mencapai objektif perniagaan mereka. Kertas kerja ini akan cuba merungkai permasalahan yang berkaitan dengan campuran pemasaran 5P dengan merujuk sumber al-quran dan as-sunnah. Hasil dapatan bagi kertas kerja ini mendapati diantara semua campuran pemasaran 5P, people atau manusia merupakan elemen terpenting dalam memastikan pemasar melaksanakan pemasaran mengikut garispanduan Islam. Ini adalah kerana people mengatasi elemen lain sebagai khalifah Allah.

Katakunci: pemasaran Islam, produk, perletakan harga, promosi

1. PENGENALAN

Secara tradisinya, pemasaran merupakan sebahagian daripada aktiviti perniagaan dan merupakan unit yang mempunyai kepentingan yang besar bagi sesebuah organisasi perniagaan. Menurut Muhammad Arham (2010), beliau menyatakan bahawa apabila sesebuah syarikat itu terlibat dalam aktiviti perniagaan, jabatan pemasaran syarikat tersebut memainkan peranan yang sangat penting dalam memastikan proses penyampaian produk atau perkhidmatan yang menepati kehendak pelanggan.

Pemasaran dari sudut pandangan lazim boleh ditakrifkan sebagai proses untuk memenuhi keperluan pelanggan dan kehendak melalui proses pertukaran diantara mereka ataupun dengan sesuatu yang mempunyai nilai dengan manusia yang menawarkan keperluan yang dikehendaki. Persatuan Pemasaran Amerika menyatakan bahawa pemasaran adalah fungsi organisasi dan sesuatu proses untuk mewujudkan, berkomunikasi dan meyampaikan nilai kepada pelanggan dan juga dalam urusan perhubungan dengan pelanggan yang memberi manfaat kepada organisasi dan pihak yang berkepentingan (AMA, 1960). Berdasarkan kepada definisi tersebut, jelas menunjukkan pemasaran lazim adalah berorientasikan kepada keuntungan semata-mata tanpa memikirkan keperluan sebenar yang diperlukan oleh pelanggan. Pada kebiasannya, syarikat pengeluar hanya akan mengeluarkan produk atau perkhidmatan berdasarkan kepada kehendak pelanggan dan bukan atas dasar apa yang diperlukan oleh pelanggan kerana konsep pemasaran lazim adalah berasaskan kepada kehendak dan bukannnya keperluan kerana dengan

[1] Lakirina Faidiwati Latif merupakan pelajar Sarjana Pentadbiran Muamalat, Fakulti Ekonomi dan Muamalat dan Penyelaras Pusat Tamhidi, Universiti Sains Islam Malaysia (USIM). lakirina@usim.edu.my
[2,3,4] merupakan pensyarah di Universiti Sains Islam Malaysia. Penulis bersama: hanim@usim.edu.my, nursilah@usim.edu.my dan haziah.h@usim.edu.my

memenuhi kehendak pelanggan, syarikat akan dapat memperolehi keuntungan yang banyak kerana kehendak manusia secara tabiinya adalah tidak terhad dan keuntungan yang akan diperolehi oleh pengeluar juga tiada hadnya (Md. Mahabub Alom & Md, July, 2011, Ahmad, Hussnain, 2011).

Konsep ini adalah bertentangan denagn pandangan Islam dimana didalam Islam, perniagaan yang berasaskan kepada keuntungan adalah berasakan kepada material semata-mata akan menjadikan seseorang itu lebih bersikap kearah kebendaan semata-mata yang mana secara tidak langsung akan menjadi hamba kepada pemasaran berorientasikan keuntungan. Islam itu sendiri menggalakkan umatnya untuk berniaga dengan tujuan untuk mencari kekayaan walaubagaimanapun, pemasaran dari perspektif Islam perlulah mengikut peraturan yang telah ditetapkan didalam al-quran dan juga as-sunnah. Kenyataan ini adalah berdasarkan kepada ayat al-quran yang bermaksud:

"Wahai orang-orang yang beriman, janganlah kamu makan (gunakan) harta-harta kamu sesama kamu dengan jalan yang salah (tipu, judi dan sebagainya) kecuali dengan jalan perniagaan yang dilakukan secara suka sama suka diantara kamu dan janganlah kamu berbunuh-bunuhan sesama sendiri. Sesungguhnya Allah sentiasa Mengasihani kamu"

(An-Nisa': 29)

Dari ayat al-quran diatas, maka jelaslah bahawa Islam menggalakkan umatnya untuk menceburi bidang pekerjaan selagi mana ianya tidak bertentangan dengan ajaran Islam. Peniaga-peniaga muslim wajib menjauhkan diri daripada terlibat dalam sebarang transaksi yang bertentangan dengan agama sebagaimana firman Allah yang bermaksud :

" Allah menghalalkan jual beli dan mengharamkan riba"

(Al- Baqarah: 275)

Memandangkan pemasaran adalah sebahagian daripada aktiviti perniagaan, sebagai seorang pemasar Islam, sepatutnya mempraktikkan ajaran Islam didalam aktiviti pemasaran apabila berurusan dengan pelanggan mereka. Pemasaran Islam didefinisikan sebagai satu proses dan strategi (hikmah) dalam memenuhi keperluan melalui produk dan perkhidmatan yang halal dengan persetujuan dari kedua belah pihak dan untuk mencapai al-falah dalam memenuhi kehendak material dan juga untuk kebahagiaan didunia dan akhirat (Md. Mahabub Alom & Md, July, 2011).

2. TINJAUAN LITERATUR

Pemasaran Campuran

Sejak dulu lagi, elemen – elemen pemasaran campuran terkenal dengan produk, harga, promosi dan pemilihan tempat. Tetapi pada masa kini, elemen-elemennya telah bertambah lebih daripada 4P, seperti 5P, 7P, dan 10P. Untuk artikel ini, tumpuan adalah pada 5P dimana pemasaran campuran dari perspektif pemasaran lazim sentiasa memulakan P yang pertama dengan produk kerana untuk pemasar pemasaran lazim, mereka percaya bahawa produk atau perkhidmatan adalah unsur utama yang akan menentukan kejayaan atau kegagalan dan keuntungan sesebuah firma perniagaan. Dalam pemasaran Islam, penulis ingin mencadangkan

bahawa pemasaran harus bermula dengan ‘people’, kemudian produk, perletakan harga, promosi dan pengedaran.

Orang (People)

“People” dalam pemahaman pemasaran lazim merupakan orang yang bekerja di dalam sesebuah organisasi yang akan menentukan kualiti perkhidmatan dan barangan yang diterima oleh pelanggan. Di dalam pemasaran campuran(marketing mix), “people” merupakan elemen yang kelima sesudah produk (product), tempat (place), perletakan harga (price) dan promosi(Marketing, 2009). “People” bolehlah dianggap sebagai penggerak dalam proses penyampaian barangan atau perkhidmatan terus kepada pelanggan. Penulis beranggapan sedemikian kerana bersandarkan kepada firman Allah yang bermaksud :

“ Sesungguhnya aku hendak menjadikan seseorang khalifah dibumi”

(Al-Baqarah : 30)

Dari perspektif pemasaran Islam, “people” juga dianggap sebagai orang yang memainkan peranan penting kerana mereka juga merupakan khalifah Allah di mukabumi yang mempunyai peranan penting dalam melaksanakan amanah Allah. Ini dapat dilihat dari sudut tasawwur Islam bahawa asas tasawwur itu terdiri daripada Allah sebagai Pencipta, manusia sebagai makhluk dan alam semesta juga sebagai makhluk (Salleh, 2001). Selaku khalifah Allah, wajib bagi manusia untuk memakmurkan mukabumi ini sebaik mungkin berlandaskan kepada firman Allah yang bermaksud :

“ ……sesungguhnya kami telah menjadikan khalifah dimukabumi, maka jalankanlah hukum diantara manusia dengan yang benar….”

(Al-Sad : 26)

Walaupun manusia itu dibenarkan untuk menjalankan hukum Allah di mukabumi dengan sesama manusia dan juga alam semesta, manusia itu masih lagi terikat dengan hukum Allah dan tidak boleh mengambil kesempatan terhadap sesama makhluk (Abdullah, 2009). Justeru itu, sebagai seorang pemasar Islam, mereka juga tidak terlepas daripada tugas mereka sebagai khlaifah di mukabumi ini kerana maksud khalifah itu tidak terhad kepada agama sahaja tetapi mencakupi segala aspek kehidupan manusia kerana penulis percaya sesebuah sistem pemasaran itu akan wujud hanya apabila adanya manusia (people) sebagai penggeraknya untuk menjalankan sistem tersebut.

Jika dilihat dari huraian diatas, pemahaman dan pengertian “people” dari konsep pemasaran lazim dan juga “khalifah” dari sudut Islam, peranan “people” itu hanya terhad dalam sesebuah organisasi sahaja dan ianya adalah sangat berbeza dengan konsep “khalifah” yang diketengahkan oleh Islam yang lebih bersifat menyeluruh dari segi perhubungan seseorang “khalifah” (manusia) dengan Allah , sesama makhluk dan juga alam semesta. Walaupun terdapat perbezaan dari segi konsep “people” dalam pemasaran lazim dan juga konsep “khalifah” dalam konteks Islam, konsep “khalifah” boleh juga dikaitkan dengan konsep pemasaran lazim dimana dalam konteks perhubungan pengurusan pemasaran yang didefinisikan oleh Gronroos sebagai proses yang melibatkan beberapa orang atau pelaku yang perlu mencapai sesuatu objektif. Proses ini dapat dicapai melalui persetujuan kedua-dua belah pihak melalui proses proses pertukaran dan memenuhi janji-janji masing-masing dengan mengamalkan satu konsep penting dalam pemasaran iaitu kepercayaan (Gronroos, 1989, Grönroos, 1994). Definisi oleh Gronroos juga mempunyai persamaan dengan konsep

pemasaran Islam yang diketengahkan oleh Alom dan Hoque (Md. Mahabub Alom & Md, July, 2011) yang menyatakan pemasaran merupakan proses dan strategi (hikmah) dalam memenuhi keperluan produk yang halal (tayyibat) dan perkhidmatan dengan adanya persetujuan dan juga kebajikan dari kedua-dua belah pihak untuk mencapai hasrat material dan spiritual didunia dan akhirat.

Peranan 'people' atau khalifah ini dapat dibuktikan dengan kajian yang telah dilakukan dibawah tajuk " Retaining Customers through Relationship Marketing in an Islamic Financial Institution in Malaysia" yang telah dijalankan di Lembaga Urusan Tabung Haji, kepuasan pelanggan, komitmen daripada kakitangan dan kepercayaan merupakan elemen-elemen yang memainkan peranan penting dalam menjayakan perhubungan diantara pemasar dan juga pelanggan(Kamsol Mohamed Kassim, 2009). Daripada kedua-dua definisi di atas ini, menunjukkan bahawa sesuatu proses pemasaran itu akan wujud dan tercapai jika adanya "people" selaku penerajunya yang dapat melengkapkan sesuatu proses pemasaran.

Produk

Sesebuah organisasi perniagaan dibina adalah berdasarkan kepada keinginan untuk berniaga dan akan berhubung dengan masyarakat melalui wakil syarikat yang akan memasarkan dan mempromosikan produk atau perkhidmatan yang ditawarkan. Produk merupakan elemen yang utama yang ditawarkan oleh pasaran dimana produk adalah merupakan elemen utama dalam pemasaran campuran yang ditawarkan yang memberi nilai atau value kepada pelanggan yang disasarkan. Penawaran produk ini jugalah yang menjadi asas utama bagi sesebuah syarikat dalam membina hubungan yang menguntungkan dengan pelanggan. Produk dapat didefinisikan sebagai sesuatu yang ditawarkan dipasaran untuk perhatian, pengambilalihan dan digunakan yang dapat memenuhi kehendak dan keperluan(Kotler, 2009). Sebagai tambahan, produk juga boleh didefinisikan sebagai produk atau perkhidmatan ataupun idea yang mengandungi ciri-ciri yang boleh dirasai dan disentuh yang dapat memberi kepuasan kepada pelanggan dan diterima dengan penukaran wang atau sesuatu yang bernilai (Kerin et al., 2009).

Berdasarkan kepada definisi produk yang dinyatakan, produk atau perkhidmatan yang dihasilkan oleh sesebuah syarikat akan hanya memenuhi kehendak dan keperluan yang dapat memberi pulangan keuntungan kepada syarikat. Situasi ini dapat dilihat dari definisi pemasaran itu sendiri yang mana bagi mencapai matlamat organisasi bergantung kepada mengetahui keperluan dan kehendak pasaran sasaran dan menyampaikan keupayaan yang diingini lebih baik daripada pesaing, ini bermakna sesuatu aktiviti pemasaran itu akan hanya terjadi jika pengeluar memahami kehendak dan keperluan pelanggan kerana dengan penghasilan produk dan perkhidmatan yang memenuhi kehendak dan keperluan pelanggan, barulah pengeluar akan memperolehi pulangan dan keuntungan daripada penjualan produk dan perkhidmatan yang dihasilkan yang memenuhi kehendak pelanggannya.

Objektif sesuatu aktiviti pemasaran adalah memenuhi kehendak dan keperluan pelanggan mereka tetapi jika dilihat dari sudut ekonomi konvensional, kehendak manusia secara semulajadinya adalah tidak terbatas manakala sumber untuk memenuhi kehendak adalah terhad. Menurut Adnan (2011)setiap manusia secara fitrahnya memerlukan kepada keperluan dan kehendak terhadap produk dan perkhidmatan dan demi memenuhinya, proses pertukaran akan berlaku diantara pihak pemasar dan pengguna yang dapat direalisasikan jika ianya mempunyai nilai, kepuasan dan kualiti kepada produk atau perkhidmatan yang diniagakn. Ini

jelas membuktikan bahawa konsep pemasaran lazim adalah salah satu daripada bidang sains sosial lazim yang memberikan penumpuan sepenuhnya terhadap keupayaan ekonomi seperti matlamat pemaksimuman pengeluaran dan pemaksimuman penggunaan (Caroll, 1997). Sehubungan dengan itu dapatlah disimpulkan bahawa pengeluaran produk dan perkhidmatan dari perpektif pemasaran lazim adalah untuk memaksimumkan pengeluaran dan memaksimumkan penggunaan yang dapat memberi pulangan keuntungan yang tinggi kepada pengeluar.

Matlamat penghasilan produk dari sudut pemasaran Islam adalah sama dengan perspektif pemasaran lazim iaitu pengeluar akan menghasilkan produk atau perkhidmatan berdasarkan kepada keperluan dan kehendak pelanggan tetapi pemasaran Islam perlu mematuhi peraturan dan garis panduan yang telah digariskan dalam Islam. Penghasilan sesuatu produk atau perkhidmatan itu perlulah digarisi dengan criteria –criteria tertentu yang mempunyai nilai-nilai yang baik dan memberi kebaikan kepada masyarakat kerana matlamat utama penghasilan sesuatu barangan atau perkhidmatan itu adalah untuk memenuhi keperluan asas kehidupan terlebih dahulu (Abul Hassan, 2008).

Selain daripada itu, menurut pandangan Islam, setiap produk yang ingin dihasilkan itu perlulah memenuhi keperluan masyarakat terlebih dahulu dan tidaklah semata-mata berlandaskan kepada prinsip keuntungan semata (Alserhan, 2011). Produk yang dihasilkan perlulah memenuhi keperluan asas kehidupan seperti keperluan makanan, keperluan pakaian dan tempat tinggal, kemudian barulah ditumpukan kepada pengeluaran produk yang boleh memenuhi kehendak pelanggan yang lain tetapi penghasilan produk tersebut tidaklah melampau atau berlebih-lebihan kerana Islam itu mementingkan kesederhanaan dalam segala aspek kehidupan manusia. (Md. Mahabub Alom & Md, July, 2011).

Perletakan Harga (Price)

Dalam memasarkan produk atau perkhidmatan, sesuatu aktiviti perniagaan itu memerlukan kepada pendapatan iaitu keuntungan yang diperolehi daripada penjualan produk dan perkhidmatan yang disasarkan. Keuntungan pada kebiasaannya bergantung kepada harga yang yang ditetapkan terhadap produk atau perkhidmatan. Harga adalah merupakan aspek yang kedua terpenting dalam bidang pemasaran lazim selepas produk kerana harga adalah satu-satunya elemen dalam marketing mix yang menghasilkan pendapatan dan keuntungan kepada sesebuah organisasi, manakala elemen marketing mix yang lain adalah memerlukan kos sahaja (Kotler, 2009).

Didalam pemasaran lazim, penepatan harga masih lagi tidak ada panduan khusus yang perlu diikuti dan selagi mana proses itu dapat memberi pulangan kepada syarikat dan harga barangan atau perkhidmatan tersebut masih mendapatkan reaksi yang positif dari pelanggan,harga yang dikenakan itu bolehlah diterima pakai tetapi terdapat tiga faktor utama (Kotler, 2009) yang perlu diambil perhatian iaitu: yang pertama adalah persepsi pelanggan terhadap nilai sesuatu barangan dan perkhidmatan akan menentukan harga syiling untuk produk atau perkhidmatan yang ditawarkan, maka harga yang ingin ditetapkan tidaklah boleh melebihi harga syling tersebut kerana jika harga yang ditetapkan itu melebihi harga syiling tersebut maka ianya tidak akan ada permintaan. Kedua, harga kos untuk sesuatu barangan dan perkhidmatan adalah merupakan harga lantai bagi barangan dan perkhidmatan tersebut dan harga jualan yang ingin ditetapkan perlulah melebihi daripada harga lantai tersebut. Faktor ketiga yang perlu diambil kira berkaitan penetapan harga perlulah mengambilkira faktor-faktor dalaman dan

luaran dalam bidang pemasaran seperti kehendak dan keperluan pasaran, strategi dan harga yang ditetapkan oleh pesaing. Manakala, dalam sistem penepatan harga dalam Islam, harga pada asalnya ditentukan oleh penjual dan pembeli berasaskan kerelaan masing- masing, serta penilaian masing-masing setelah kedua-duanya benar- benar mengetahui tentang harga dan nilai barangan atau perkhidmatan itu (Abdullah, 2012). Konsep yang diketengahkan ini membuktikan bahawa Islam tidak melarang dan manipulasi harga untuk menepati keperluan pasaran (Abul Hassan, 2008). Selain daripada itu, peniaga juga berhak untuk menentukan harga barangan yang dimilikinya selagi mana ianya masih terikat dengan harga pasaran dan jika harga produk & perkhidmatan itu tinggi dari harga pasaran, ianya mestilah di letakkan "nilai tambahan" pada produk tersebut (Misbah, 2011).

Walaupun penepatan harga sesuatu barangan dan perkhidmatan itu adalah berdasarkan kepada persetujuan diantara penjual dan pembeli, masih terdapat beberapa faktor yang perlu diambil kira semasa melakukan proses penepatan harga. Perkara penting utama yang perlu diambilkira adalah Islam melarang umatnya untuk memperoleh keuntungan dengan jalan yang mudah dan tanpa bekerja keras (Al-Buraey, 2007). Selain daripada itu, penepatan harga tidak bersandarkan kepada melakukan perubahan kuantiti atau kualiti barangan tanpa mengubah harga asal barang tersebut. Islam juga tidak membenarkan umatnya menetapkan harga kurang atau melebihi harga pasaran kerana ianya akan melahirkan persaingan yang tidak sihat di kalangan penjual dan Islam juga melarangkan umatnya mengamalkan riba kerana unsur riba ini seolah–olah menindas pelanggan terutama mereka yang datang daripada golongan miskin.

Kesimpulannya disini adalah terdapat persamaan dalam proses penetapan harga dalam Islam dan pemasaran lazim iaitu penentuan harga terhadap sesuatu barangan dan perkhidmatan perlu mengambilkira harga kos sesuatu baranngan supaya ianya memberi pulangan keuntungan kepada pemasar, harga yang ditetapkan perlulah mampu dibeli oleh pelanggan serta berpadanan dengan kualiti barangan atau perkhidmatan tersebut dan penentuan harga perlulah mengambilkira faktor-faktor dalaman dan luaran dalam pemasaran seperti harga dari pesaing, keperluan dan kehendak pasaran dan juga strategi yang digunakan.

Pengedaran

Setelah mengetahui pemilihan terhadap orang yang terlibat didalam pemasaran, produk atau perkhidmatan yang perlu dijual serta penetapan harga yang dapat menghasilkan pendapatan dan keuntungan, penumpuan yang harus yang diberi perhatian yang seterusnya adalah pemilihan lokasi atau dimanakah sepatutnya seseorang pemasar Muslim itu memasarkan produk atau perkhidmatan yang telah dihasilkannya. Pemilihan lokasi pemasaran melibatkan skop perbincangan yang meluas, tetapi didalam artikel ini, penulis akan hanya akan menumpukan kepada aspek yang umum sahaja. Lokasi pemasaran yang dipilih perlulah bersesuaian dengan pasaran yang dapat menyampaikan produk atau perkhidmatan yang dihasilkan kepada sasaran pengguna yang bersesuaian. Kerana dengan melakukan pemilihan lokasi yang tepat kepada sasaran pengguna yang betul sahaja yang dapat menjayakan sesuatu aktiviti pemasaran yang berkesan.

Selain daripada pemilihan lokasi, didalam Islam juga ada menggariskan bahawa selain pemilihan lokasi pasaran, seseorang pemasar itu perlulah menempatkan diri mereka didalam pasar –pasar yang dipilih itu serta membina jaringan hubungan yang baik dengan pelanggan-pelanggan di kawasan pasar tersebut (Isa, 2012). Maksud pemasar perlulah menempatkan diri mereka didalam pasar-pasar yang dipilih itu adalah pemasar hendaklah mengenali

latarbelakang masyarakat yang dijadikan sasaran dalam memasarkan produk dan perkhidmatan kerana ianya dapat memudahkan pemasar memahami kehendak pengguna sasarannya. Sebagai tambahan, lokasi yang menjadi pilihan juga perlulah lokasi yang tidak menyukarkan pengguna untuk mendapatkan barangan dan perkhidmatan yang dikehendaki serta memudahkan urusan jual beli dan juga penghantaran barangan dan perkhidmatan tersebut kepada pelanggan (Shafai, 2011).

Promosi

Langkah seterusnya yang perlu dilakukan dalam aktiviti pemasaran setelah melakukan pemilihan lokasi adalah melakukan promosi bagi menyampaikan maklumat dan informasi berkenaan produk atau perkhidmatan yang dipasarkan kepada pengguna sasaran. Promosi yang berkesan adalah amat penting dalam menjayakan sesuatu aktiviti pemasaran. Terdapat pelbagai strategi yang boleh dilakukan seperti kempen, promosi terus kepada pelanggan dan banyak lagi dalam menyampaikan maklumat produk atau perkhidmatan yang dipasarkan. Walaupun terdapat pelbagai rangkaian promosi yang dapat digunakan dalam mempromosi sesuatu produk atau perkhidmatan, secara umumnya Islam telah menggariskan beberapa peraturan ketika melakukan promosi diantaranya, kita dilarang melebih-lebihkan tentang produk atau perkhidmatan yang kita promosikan dari segi kualitinya kerana sebaik –baik promosi adalah memberitahu kualiti yang sebenar berkenaan dengan produk atau perkhidmatan yang dipromosikan dari segi kelebihan dan kekurangannya, kita juga tidak dibenarkan menaikkan harga produk atau perkhidmatan dengan tujuan untuk menggambarkan kualiti produk / perkhidmatan yang berkualiti walaupun pada realitinya ciri-ciri produk atau perkhidmatan yang dipromosikan itu adalah tidak mencapaikan kualiti seperti harga yang dipromosikan (Gabriela Chachula, Rice, Feb 1999) .

3. KESIMPULAN

Memandangkan bidang pemasaran Islam ini merupakan bidang yang masih lagi baru, banyak perkara yang perlu dikaji dan dilihat dengan lebih mendalam. Untuk setiap cabang atau elemen campuran pemasaran, perlulah ada butiran khusus atau garispanduan tentang pelaksanaan seperti penentuan pemilihan “people”, apakah ciri-ciri “people” yang patuh syariah mengikut Islam. Begitu juga dengan aspek-aspek lain. Bagi aspek produk, keadaan sudah agak jelas dengan adanya standard pengeluaran IMP (Islamic Manufacturing Procedure) serta system pemantauan dan pengawalan produk halal oleh JAKIM. Selain itu, produk halal memang sangat jelas diperincikan dan mudah untuk orang ramai serta pemasar mendapatkan maklumat mengenainya. Walaubagaimanapun, masih terdapat kekurangan penulisan atau garispanduan untuk elemen-elemen lain seperti perletakan harga dan strategi promosi yang dibenarkan dalam Islam. Dan menjadikannya antara beberapa elemen penting untuk kajian akan datang. Menurut ajaran Islam, setiap ilmu itu telah sedia ada didalam al-quran dan as-sunnah, cuma ianya terpulang kepada kita selaku manusia untuk mencungkilnya dan merangkakannya supaya ianya bersesuaian dengan bidang yang dikaji. Apa yang telah ditulis di dalam kertas kerja ini adalah hanya sebahagian daripada analisis yang telah dilakukan dan dari perbincangan literatur di atas, dapat dirumuskan bahawa dalam setiap elemen pemasaran campuran itu, peranan “people” yang dapat dibahagikan kepada penjual / pemasar dan pengguna merupakan faktor utama yang perlu diambilkira dalam setiap apa keputusan yang dibuat dalam proses elemen pemasaran campuran.

RUJUKAN

Abdullah, A. (2009). Fiqh Lestari: Ke Arah Penyusunan Prinsip-Prinsip Muamalat Islam untuk Pembangunan Lestari yang Sepadu. *MALIM,* 10**,** 20.

Abdullah, A. S. C. (2012). *Ekonomi dan Kewangan* [Online].

Abul Hasan, A. C. A. S. A. L. (2008). Islamic Marketing Ethics and Its Impact on Customer Satisfaction in the Islamic Banking Industry. *JKAU: Islamic Economics,* 21.

Adnan, A. A. (2011). Aspek Pemasaran Sebagai Penentu Pemilihan Bank Mengikut Muslim Idel. *The 5th International Islamic Development Management Conference*. Universiti Sains Malaysia.

Ahmad, F. A. Pemasaran Berteraskan Tassawwur dan Epstimologi Islam. Pusat Kajian Pengurusan Pembangunan Islam (ISDEV).

Al-Buraey, P. M. A. (2007). Marketing Mix Management From An Islamic Perspectives : Some Insights. Victoria Management School.

Al Serhan, B. A. (2011). The principles of Islamic marketing. *International Journal of Market Research,* 54**,** 865-867.

AMA (1960). Marketing Definitions : A Glossary of Marketing Terms. *Journal of Marketing Theory & Practice*.

Arham, M. (2010). Islamic Perspectives in Marketing. *Journal Of Islamic Marketing,* 1**,** 149-164.

Caroll, J. B. (1997). Language, Thought and Reality : Selected Writings of Benjamin Lee Whorf

Gabriella, C. H. K., Anna Lubas, Katarzyna M. & Bilyana M. The Influence of Slected Aspects of Islam on Advertising Efforts. . School of Business and Informmatics, University of Boras Sweden.

Gronroos, C. (1989). Defining Marketing : A Market Oriented Approach *European Journal of Marketing* 23, No.1**,** 52-60.

Gronroos, C. (1994). From Marketing Mix to Relationship Marketing:Towards a Paradigm Shift in Marketing. *Management Decision,* Vol. 32 No. 2**,** 4-20.

Hussnain, S. A. (2011). What Is Islamic Marketing. *Global Journal of Management and Business Research,* XI**,** 101.

Isa, E. Z. (2012). *28 Tips Perniagaan Nabi s.a.w* [Online]. Available: www.rahsiarezeki.wordpress.com.htm.

Kamsol Mohamed Kassim, A. B., Norizah Kassim, Nik Ramli Nik Abdul Rashid & Kamaruzzaman Jusoff (2009). Retaining Customers through Relationship Marketing in an Islamic Financial Institution in Malaysia. *International Journal of Marketing Studies,* Vol:1**,** 6.

Kerin, R. A., Hartley, S. W., Rudelius, W. & Theng, L. G. (2009). *Marketing in Asia,* Singapore, McGrawHHill.

Kotler, A. (2009). *Marketing : An Introduction*, Pearson Prentice Hall.

Marketing, T. C. I. O. (2009). *Marketing and the 7Ps: brief Summary of marketing and how it works* [Online].

Misbah, H. (2011). Permasalahan Di Dalam Islamization Of Marketing : Satu Tinjauan Umum. *International Islamic Development Management Conference*. Centre for Islamic Development Management Studies.

Rice, G. Feb (1999). Islamic Ethics and the implications for business. *Journal of Business Ethics,* 18, 4**,** 345.

Salleh, M. S. Pengurusan Pembangunan Berteraskan Islam : Konsep dan Perkaedahan. Syarahan Umum Perlantikan Professor, 2001 Universiti Sians Malaysia. Pusat Kajian Pengurusan Pembangunan Islam, Universiti Sains Malaysia, 41.

Shafai, G. V. D. J. (2011). A Guideline to Islamic Marketing Mix. *Interdisciplinary Journal of Contemporary Research in Business*, 3.

ENTREPRENEURIAL MARKETING IN MALAYSIA: INTRODUCTION AND CHALLENGES

Hazrita Abdul Rahim[1]
Marina Mohd. Nor[2]

ABSTRACT

Entrepreneurial marketing (EM), i.e., the interface of the two research fields of entrepreneurship and marketing, is a scholarly concept that is receiving increasing interest. In our article, we attempt to address definitional issues, theoretical foundations, historical milestones and new, preliminary empirical findings. More exactly, we propose our own definition of EM especially taking into consideration the entrepreneurial orientation behind this new marketing concept and the aim of creating customer value through such means as innovativeness, creativity, selling, networking or flexibility. Besides, we offer an overview of EM's 'modern history' within the last 20 years and show related empirical results from a study in the US.

Keywords: entrepreneurial marketing (EM), entrepreneurship, innovation, small and medium enterprise (SME), marketing.

1. INTRODUCTION

Entrepreneurial Marketing (EM) is a concept that was developed at the interface between two sciences – marketing and entrepreneurship – almost thirty years ago. While Marketing-Entrepreneurship Interface (MEI) has attracted researchers not only from marketing and entrepreneurship, but also from economy, psychology and sociology, the evolution of this construct is still underdeveloped. There are a variety of definitions, specific principles in this area are missing, practical tools are inadequate developed and unfortunately there is no unifying theory. Although it is generally accepted that entrepreneurs behave differently regarding "traditional" marketing, however some of them are very successful. Lacking a unique definition makes research efforts remain fragmented and misaligned. Consequently, the theoretical development is limited to the identification of concepts, mostly borrowed from other social sciences and the development of some conceptual models. However, there is a strong need to develop tools, principles and theories to help businesses – especially start-ups and small ones – to survive and thrive in an increasingly hostile and unpredictable environment. This article presents a brief history of the evolution of EM concept, an analysis of the most common definitions, a comparison with "traditional" marketing, a brief overview of the most important concepts developed in the MEI and an inventory of research methodologies.

Other definition of entrepreneurial marketing includes:

[1] Lecturer, Universiti Sains Islam Malaysia, Nilai, Malaysia. Corresponding author: hazrita@yahoo.com
[2] Lecturer, INTI International University, Nilai, Malaysia

- Low budget marketing
- No brand and no reputation marketing
- Innovation marketing
- Personal selling
- Guerilla marketing

SMEs in Malaysia play an important role in the country's economic development. According to statistics provided by SMIDEC (2004), SMEs accounted for 89.3 per cent of all establishments in the manufacturing sector in the year 2000. They contributed 29.1 per cent of total manufacturing output, 26.1 per cent to value-added, 27, and 32.5 per cent of employment in 2003. In addition, value added production from SMEs is expected to be worth RM120 billion or 50 per cent of total production in the manufacturing sector by 2020. However, the share of SMEs in total exports in Malaysia is only around 20 per cent, lower than many other countries such as the Philippines, Hong Kong, Taiwan and even the USA (SMIDEC, 2002).

The largest concentration, by number, of SMEs in Malaysia is in the textile and apparel sector, food and beverages, metals and metals products and wood and wood products. The majority of manufacturing companies in Malaysia are located in the central part of Malaysia and around the country's major industrial regions.

The government's commitment and concern for the development of SMEs was made evident from the early 1970s with the introduction of the New Economic Policy in 1971, which aimed to improve people's welfare and restructure ethnic economic imbalances. Furthermore, the government's commitment to the development of SMEs can also be seen in the second Industrial Master Plan (IMP2), which will end in 2005, followed by the Third Industrial Master Plan (IMP3), from 2006-2020, coinciding with the country's vision for 2020 (MITI, 2005). For example, the government has implemented numerous policies and strategies under this plan which was formulated to enhance the growth of the manufacturing sector through the entire value chain and to encourage cluster-based industrial development. Hence, this plan provides an integrated approach to the development of industrial areas and opportunities for the growth of SMEs (MITI, 2005).

It is recognized, however, that SMEs in many countries face severe and numerous challenges. At the theoretical level prior studies have identified some of the barriers facing SMEs (for example Wan, 2003; Stuti, 2005; Moha, 1999; Hall, 2002; and SMIDEC, 2002). Wan (2003), for example, highlighted the many challenges facing SMEs in a globalized environment, including, for example, lack of financing, low productivity, lack of managerial capabilities, access to management and technology, and a heavy regulatory burden. In the Malaysian context SMEs face many similar challenges, which have been highlighted by APEC survey (1994), SMI development Plan, 2001-2005 (SMIDEC, 2002), Ting (2004), UPS survey (2005) and others. For example, among the major challenges included: lack of access to loans; limited adoption of technology; lack of human resources; and competition from MNCs and globalization.

Research in recent decade's shows that EM has received increasing attention, not only in theory but also in practice (Jones/Rowley 2011; Simmons et al. 2009). Based on the literature, EM has been seen from two different perspectives (Kraus et al. 2008): The first perspective views EM as special marketing for start-up enterprises which is characterized by the age and size of a company. This means that, in this perspective, EM is considered to be marketing in a specific

situation (e.g. Gruber 2004a; 2004b; Lodish et al., 2003; Bjerke/Hultman 2002; Hill/Wright, 2000).

The second perspective (Morrish et al. 2010; Roessl et al. 2007; Morris et al. 2002; Chaston 2000) describes EM as an entrepreneurial, innovative and risky marketing concept which is not limited to age or size of a company. Essential to this perspective is the proactive role in bringing about changes (Kraus et al. 2008). Additionally, this perspective manifests an entrepreneurial attitude or behavior in marketing (Chaston 2000).

Both perspectives are reflected in the scientific discourse, but for this paper the second perspective (EM as an entrepreneurial, innovative and risky marketing concept) will be used. Not only Kraus et al. (2008) favor the second perspective, but also recent research has shown that EM does not necessarily depend on the size or age of a company (Schmidt 2012; Kilenthong et al. 2011). Consequently, EM will be defined as follows:

"The proactive identification and exploitation of opportunities for acquiring and retaining profitable customers through innovative approaches to risk management, resource leveraging 5 and value creation" (Morris et al. 2002: 5) "by an individual and/or organization which adopts a philosophy of challenging established market conventions during the process of developing new solutions" (Chaston 2000: 7).

Against this defamatory background, EM can be characterized as innovation-oriented and idea-driven. Breaking the rules is a further essential aspect. EM makes use of informal networks (Roessl et al. 2007; Stokes 2000), thus conserving resources in line with resource leveraging, another aspect of EM (Morris et al. 2002). EM does not attempt to determine customer wants by means of surveys, but rather tries to discover still latent needs via lead users. Compared to managerial marketing, EM is therefore market-driving rather than market-driven marketing (Schindehutte et al. 2009). In order to be able to conduct EM, the business owner must show special strategic characteristics (e.g., willingness to take calculated risks). Given those characteristics, EM develops its full impact mostly in dynamic markets (Schindehutte et al. 2009).

Table 1.1 : Difference between traditional marketing and entrepreneurial marketing

Marketing principles	Traditional Marketing	Entrepreneurial Marketing
Strategic orientations	Customer orientated (market driven)	Innovation oriented (idea driven)
Strategy	Top-down approach: segmentation, targeting, positioning	Bottom-up approach: targeting a limited base of customers, further expansion
Methods	Marketing mix (4/7 P's)	Interactive marketing methods, word-of-mouth, direct selling, referrals
Market intelligence	Formalized research and intelligence Systems	Informal networking and information gathering

A Profile of SMEs in Malaysia

SMEs in Malaysia have been defined according to size, turnover and activity.
Definitions of SMEs in Malaysia fall into 2 broad categories:

1. Manufacturing, manufacturing-related services and agro-based industries
    - •Full-time employees not exceeding 150; OR
    - •Annual sales turnover not exceeding RM25 million
2. Services, primary agriculture and Information and Communications Technology (ICT)
    - •Full-time employees not exceeding 50; OR
    - •Annual sales turnover not exceeding RM5 million

Table 1.2 : Definition of SMEs in Malaysia

Category	Microenterprises	Small enterprises	Medium enterprises
Manufacturing, Manufacturing related services and Agro-based Industries	Sales turnover of less than RM250,000 OR full-time employees less than 5.	Sales turnover between RM250,000 and RM10 million OR full-time employees Between 5 to 50.	Sales turnover between RM10 million and RM25 million OR full-time employees between 51 and 150.
Services, Primary Agriculture and Information and Communication Technology (ICT)	Sales turnover of less than RM200,000 OR full-time employees less than 5.	Sales turnover between RM200,000 and RM1 million OR full-time employees between 5 and 19.	Sales turnover between RM1 million and RM5 million OR full-time employees between 20 and 50.

Source: SMIDEC

On a conceptual level, EM is illustrated in Figure 1. EM is about marketing actions taken by entrepreneurs, while traditional marketing management typically represents marketing actions taken by managers.

Figure 1: EM behavior is derived from entrepreneurial cognitions/thinking



Adapted from: Hill, G.E., Hultman, C.M., Kraus, S. and Schulte, R. (2010)

Measuring Entrepreneurial Marketing:

For this study, the framework of Morris et al. (2002) with its seven dimensions was chosen as the foundation of measuring EM because it is applicable in the Malaysian SME context:

- Opportunity-driven: recognizing and pursuing opportunities
- Proactiveness: redefining external conditions and perceiving the external environment as not given

- Innovation-focused: identifying opportunities and generating concepts for sustainable innovations – here, the importance of the marketing function is underpinned
- Customer intensity: incorporating creative approaches for customer acquisition, retention and development
- Value Creation: creating customer value by discovering untapped sources and creating unique resource combinations
- Risk Management: managing the firm's risk profile and reducing environmental uncertainties
- Resource Leveraging: stretching resources by using other people's and/or other firms' assets and complementing one resource with another in creative ways

Based on the recent findings in EM (Finotto et al. 2010; Eggers et al. 2009), the framework of Morris et al. (2002) needs to be developed further:

• Market-driving instead of opportunity-driven: Research has revealed that more than just recognizing the opportunities is necessary (Eggers et al. 2009). Therefore, influencing and driving the market instead of just being driven by opportunities should be considered a relevant component of EM (Stolper 2007). This should affect the market in the direction of the company's own strengths; thus, sustainable competitive advantages can be created (Stolper 2007; Kumar 2004). Consequently, these considerations lead to replacing the dimension of "opportunity-driven" with the dimension of "market driving". The new dimension of "market driving" is based on the qualitative research by Stolper (2007), which was used to develop a scale for market driving.

• Proactiveness, innovation-focused and risk-management: There are a number of established scales to operationalize these three dimensions (Matsuno et al. 2002; Zahra/Garvis 2000; Morris/Sexton 1996; Covin/Slevin 1994; Miller/Friesen 1983). For this study, the measurement approach of Matsuno et al. (2002) – which developed the scales introduced by Covin and Slevin (1994) and Miller (1983) further – is used, because it is well known for its reliability and validity. Furthermore, it can be well adapted to the context of Austrian SMEs without any distortion of the content.

• Customer intensity and value creation: In order to measure these two dimensions, the scale by Narver et al. (2004) was selected. In contrast to Morris et al. (2002), Narver et al. (2004) label these dimensions as responsive market orientation (RMO) and proactive market orientation (PMO); however, the meaning is identical. RMO refers to the dealing with existing customer needs; PMO refers to the discovering, understanding and fulfilling of latent customer needs (Narver et al. 2004).

• Resource Leveraging: Morris et al. (2002) explicate this dimension on the operational level as "stretching resources much further than others have done in the past; getting uses out of resources that others are unable to realize; using other people's (or firm's) resources to accomplish one's own purpose; complementing one resource with another to create higher combined value; using certain resources to obtain other resources" (Morris et al. 2002: 8). However, as no resource leveraging scale is available, we had to develop an item battery for measuring this dimension on the basis of Morris et al.'s (2002) understanding.
Based on this framework for EM, the questionnaire employed in this study was developed. The measuring tool then developed for EM, which ultimately comprised 31 items, yielded a

Cronbach's alpha of 0.762 in the subsequent empirical study, thus proving the scale's reliability.

2. CONSTRAINTS FACED BY MALAYSIAN SMES – REVIEW OF AVAILABLE LITERATURE.

Despite their important contribution to exports, employment and economic growth, there is a wide recognition in the literature about the challenges and barriers facing SMEs in Malaysia, preventing them from growing further and putting them in a critical position to face the new challenges that are arising from globalization, liberalization and extensive organizational, institutional and technological change. It has been documented that the barriers facing SMEs in Malaysia undermine their performance. Some of the existing literature, including Wan (2003); Stuti (2005); Moha (1999); Hall (2002); and SMIDEC (2000), highlight many challenges facing SMEs in a globalized environment, for example from a lack of financing, low productivity, lack of managerial capabilities, access to management and technology, heavy regulatory burden among many others.

Malaysian SMEs face many challenges, which have been highlighted by APEC survey (1994); SMI development Plan, 2001-2005 (SMIDEC, 2002); as well as Ting (2004); and UPS (2005). According to the APEC (1994) study SMEs in Malaysia face many challenges, which can be summarized as follows:

1. Lack of a comprehensive framework in terms of policies towards SME development.
2. Agencies use inconsistent definitions to categorize SMEs at the operational level.
3. There are too many agencies, or channels, for SMEs without effective coordination (this leads to a lack of transparency to the target groups).
4. Inadequate data and information on the development of Malaysian SMEs.
5. Inability to be in the mainstream of industrial development.
6. Difficulties in accessing loans and other forms of financial assistance.
7. Many SMEs in Malaysia are still occupying land sites which have not been approved for industrial use purposes.
8. Underutilization of technical assistance, advisory services and other incentives made available by the government and its agencies.
9. Lack of skilled and talented workers, affecting the quality of production as well as efficiency and productivity.
10. Non-leveraging of various incentives which are provided by the promotion of Investment Act, 1986 and the Income Tax Act 1967.

The finding on challenges faced by SMEs in Malaysia also includes the marketing and promotion activities. Research shows that only 12.9 percent of SMEs undertake promotion for their products and services. The medium of marketing commonly used was the media, followed by participation in local trade expos and efforts in promoting and developing brand names, each accounting for 4.9 percent, 2.8 percent and 2.5 percent respectively (see Table 1.3).

Table 1.3 Percentages of marketing and promotion activities by industry category.

Marketing activities	Total %	Manufacturing %	Services %	Agriculture %
Media promotion	4.9	10.9	4.7	0.7
Local trade expo	2.8	7.8	2.5	1.0

Overseas trade expo	0.6	3.1	0.4	0.1
Linkages with foreign companies	1.1	4.0	0.9	0.1
Brand name	2.5	9.9	2.0	0.2
Others*	1.0	1.1	1.1	0.5
Total	12.9	36.8	11.6	2.6

Note: * including franchise operations and owned or managed by franchisor

3. FINDINGS

The potential of Malaysian SMEs to contribute significantly to economic growth is demonstrated by their contribution to output, their numbers (half a million) and substantial employment generation (labor-intensive). Our large SME base is capable of providing immense opportunities for SMEs to become catalyst in the economy. With the adoption by the Government of a more comprehensive approach towards SME development such as increasing their access to financing, providing greater access to business facilities locally and abroad, enabling business infrastructure, the way forward for SMEs then is for them to enhance human capital development, be adaptive in the use of information technology and improve their operations and productive capabilities to move up the value chain in order to remain competitive.

SMEs must be strengthened to be the next engine of growth. To summarize, the Ninth Malaysia Plan envisages "to develop competitive and resilient SMEs that are equipped with strong technical and innovation capacity as well as managerial and business skills" to innovate the country to higher economic growth (Government of Malaysia, 2006).

Malaysia has established SME business incubation centers, and an SME Bank to meet the financing needs of SMEs. SMEs are contributing significantly to the growth and value added of the services and manufacturing sectors, and they form the seedbed from which future Malaysian global corporations can arise. They can and do play a central role in the deepening of key industries through inter-firm backward and forward linkages.

SMEs need to change their way of conducting business, with orientation towards higher efficiency, quality and cost effectiveness. They need to undertake structural changes in the form of reorganization, consolidation and repositioning in the domestic and global market place. Ability to integrate into the global economy to access supply chains of multinationals and trans-nationals is no longer an option but a necessity. SMEs are challenged to improve product quality and to conform to international standards to enhance market share. Towards this end, SMEs need to look towards the adoption of innovative and cutting edge technologies. Companies must give priority to R&D to improve product quality and work processes.

Initiatives for SMEs in Malaysia have focused on addressing constraints and enhancing their capacities and capabilities in areas such as strengthening enabling infrastructure, access to financing, market access, branding, human resources, technology development and ICT. Lying in the heart of business strategy development, the issue of their ability to sustain competitiveness continues. Often, this issue forces SMEs to shift towards higher value added activities and to adopt industry-best business practices. More often than not, Malaysia's SMEs encounter difficulties in ensuring their operations are able to meet market demands. They lack

the ability to upgrade and expand their operations, due mainly to lack of financing, know-how and technology.

CONCLUSION

Malaysia stands out in its commitment to develop and strengthen SMEs; it is a success story in that it has recognized the great potential of this sector to contribute to economic growth and human development. Its experience provides valuable insights on what to do and what to avoid. And the ability to learn from, and correct, shortcomings in a continuous effort towards improving its SME development strategy, demonstrates the spirit in which public policy should be conducted. As noted earlier, the government offers a broad range of incentives and financial assistance to its SMEs, not only to assist them in their business development, but also in human resource training and the implementation of ICT strategies.

REFERENCES

Hill, J. (2001a). A multidimensional study of the key determinants of effective sme marketing activity: Part 1. *International Journal of Entrepreneurial Behavior & Research, 7, 5,* 171-204.

Hill, J. (2001b). A multidimensional study of the key determinants of effective SME marketing activity: Part 2. *International Journal of Entrepreneurial Behavior & Research, 7, 6,* 211-35.

Hills, G.E. and Hultman, C.M. (2006). Entrepreneurial marketing. In Lagrosen, S. and Svensson, G., editors, *Marketing-Broadening the Horizons*. Lund: Studentlitteratur

Hills, G., Hultman, C., Kraus, S. & R. Schulte (2010). History, Theory and Evidence of Entrepreneurial Marketing – An Overview. *International Journal of Entrepreneurship and Innovation Management (IJEIM), 11, 1,* 3-18

Hills, Gerald & Hultman, Claes & Morgan Miles (2008). The Evolution and Development of Entrepreneurial Marketing. *Journal of Small Business Management, 46, 1,* 99-112.

Morris, M. H., and D. L. Sexton. (1996). The concept of entrepreneurial intensity: Implications for company performance. *Journal of Business Research, 36,1,* 5-13.

Morrish, S. (2008). 42 Below: Exploring vodka opportunities. in Walker, O.C., Gountas, J., Mavondo, F., Mullins, J.W., Boyd, H.W. and Larre´che´, J.-C. (Eds). *Marketing Strategy and Cases: A Decision-focused Approach*, 1st ed., McGraw-Hill: Sydney. 370-5.

Morrish, S. (2009). Portfolio entrepreneurs: an effectuation approach to multiple venture development. *Journal of Research in Marketing and Entrepreneurship,* Vol. 11 No. 1, 32-48.

Morrish, S. and Deacon, J. (2011). A tale of two spirits: entrepreneurial marketing at 42below vodka and Penderyn Whisky. *Journal of Small Business and Entrepreneurship, 24, 1,* 113-24.

Morrish, S.C., Miles, M.P. and Deacon, J.H. (2010). Entrepreneurial marketing: acknowledging the entrepreneur and customer-centric interrelationship. *Journal of Strategic Marketing, 18, 4,* 303-16S.

TOWARDS MS1900:2005 QUALITY MANAGEMENT SYSTEM FROM ISLAMIC PERSPECTIVE: A CASE STUDY AT MACS

Arbain Sarion[1]
Ummi Salwa Ahmad Bustamam[2]
Amir Shaharudin[3]

ABSTRACT

The purpose of this study is to reveal the strategy implemented by the applicant towards achieving the MS1900:2005 which ultimately will assist other organizations in pursuing the standard. Case study was used as a methodology for the paper. A semi-structured interview was carried out to answer the purpose of the study. The interview was conducted with Manager of Service Monitoring Division at Malaysian Airports Consultancy Services (MACS). The study found that there are several strategies implemented by MACS in getting the standard. Those strategies can be divided into two phases. Seeking approval from top management is a good starting point for pursuing standards management system. Specific department or unit should be set up in order to strategically obtain the standard. This study only assessed the strategy implemented by MACS in getting the MS1900:2005 which might be insufficient to be implemented by other organizations.

Keywords*:* Case Study, MS1900:2005, Quality Management System, Strategy Management in Islamic Perspective

1. INTRODUCTION

Quality management system has been established in Malaysia as one of the Government's agenda to provide a respectable public service. Along the way, many programs have been introduced such as Total Quality Management (TQM), Quality Control Circle (QCC), Quality Assurance Unit, Strategic Management and Customer Charter. Furthermore, since 1996, ISO 9000 has been established in public services in Malaysia (Siddiquee, 2006).
Malaysia also practices ISO 9001 which covers the public and private service introduced by the International Organization Standardization (ISO Geneva). As a Muslim-majority country, Malaysia is heading further by introducing and implementing the MS1900:2005, a Quality Management System from shariah perspective (Che Pa et al., 2010). This standard was developed based on ISO 9001, an international practice standard. This standard requires organization to have a comprehensive quality management system in order to accommodate the customer needs, to fulfil the requirement of a quality product/service, to enhance the effectiveness and productivity as well as to reduce the operational costs. These requirements

[1] Research Assistant, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM).
[2, 3] Lecturer, Faculty of Economics and Muamalat , Universiti Sains Islam Malaysia. Corresponding author: arbainsarion@gmail.com

are value added from the ISO 9001 and are aligned to the shariah perspectives. As stated by the Departments of Standard Malaysia (2005), the objectives of MS1900:2005 are:-

i- To implant the shariah in quality management system with emphasis on management through value.
ii- To improve the effectiveness and efficiency through noble universal values in all levels of organization.
iii- To upsurge the practice of shariah compliance and increase the confidence level among the Muslims and stakeholders.

The value of MS 1900:2005 is universal and although its compliance is from the Islamic perspective, its universal values can be accepted by all including the non-Muslims. For example improving work quality and performance, as well as proper and timely delivery. All of these are not in conflict with universal values and general features of the other religions (Bernama, 2008).

2. LITERATURE REVIEW

According to Bernama, in 2008, five companies have received the MS1900:2005. They are Natural Wellness Sdn Bhd, Century Total Logistic Sdn Bhd, Takaful Ikhlas, PNB Darby Park and Pusat Zakat Melaka. In 2011, another 10 organisations have received this standard. They were Syarikat PNB Ilham Resort, Universiti Sains Islam Malaysia (Jabatan Pembangunan dan Pengurusan Fasiliti), Universiti Tenaga Nasional Sdn Bhd (UNITEN), Penang Port Sdn Bhd, Jabatan Kehakiman Syariah Perak, Kolej Komuniti Gerik, Sindora Berhad, Tabung Baitulmal Sarawak, Jabatan Wakaf, Zakat dan Haji and KFC Manufacturing Sdn Bhd (Group Logistic Division). In total, currently, there are 18 organizations who have received the MS1900:2005 from SIRIM Berhad with the latest recipient was Malaysian Airports Consultancy Services (Utusan Malaysia, 2012).

The idea of MS1900:2005 was mooted by Tun Ahmad Sarji in 2003. During that time, he was the former chairman of SIRIM Bhd. He said that the emergence of MS1900:2005 is due to the absence of standard based on Islamic guidelines that could be made as a yardstick or gauge to evaluate the efficiency of the organization. In addition, the management nowadays did not give serious attention to the focus and appreciation of Islamic noble values. Tun Ahmad Sarji asserted that MS1900:2005 will ensure the continuous company's quality of product and service. Apart from that, the implementation of MS1900:2005 can be seen as part of business strategy to win Muslim consumer market while strengthening the work culture in organization and company (Bernama, 2010).

Hanida (2013) asserted that MS1900: 2005 is developed based on ISO 9001: 2008. The main idea of MS1900: 2005 is a structured system to assist organization to deliver products and services, meeting customers' requirements, compliance to regulatory requirements and comply with the shariah requirements. In addition to that, MS1900: 2005 inculcate and put into practice the Islamic values system into the organization daily operations. There are three principles behind MS1900: 2005. Organization shall strictly adhere to the principles of halal and haram as well as the principles of Muamalat. The implementation of MS1900: 2005 also ensure organization operates based on the "objective of shariah (Maqasid Al-Shariah)". One of the requirements stated in the standard is compliance to shariah requirements in financial

management, human resources management, procurement procedures, production and marketing.
There are some reasons and concern on why organisation seeking for standards. As stated in the article titled *Importance of Standards* (2014), standard make life safer, healthier and do assist people and organisation by provide a benchmark against which performance can be judged. Standard also gives benefit to organisation especially since it can reduce cost, time consuming whereby organisation may push aside R&D for new product. "Some customer will only buy from suppliers that comply with certain standards (often the case of public sector contracts), standard-compliance can provide competitive advantage too, it could be a deciding factor when a buyer has to choose between two comparable suppliers" (Reliancestandards.co.uk, 2014).

3. METHODOLOGY

This study is conducted by utilizing upon a case study method in order to study in-depth about the research question (Yin, 2009). This study is sought to understand of why and how business organizations crafting strategy towards achieving the MS1900:2005 and eventually to gain business competitiveness. Primary data were sought through semi-structured interviews with three main organizations which are the standard body of SIRIM Berhad, the current recipient of the standard and also with a company who is in the process of gaining the MS1900:2005. Besides that, secondary data such as company documents, newspapers and articles were sought to support the input from the interviewees.

For this particular paper, data used in this paper was gained from the interview conducted with Manager of Service Monitoring Division at Malaysian Airports Consultancy Services (MACS). This paper highlights Puan Roslina's experience as the Division Manager who responsible for managing the MS1900:2005's application and auditing process. Puan Roslina's experience is undeniably important since she is the person in-charge throughout the application process. The access that the researchers gained in getting her invaluable experiences is very much appreciated. This is especially when there are a very limited number of companies that have been certified with MS1900:2005.

4. FINDINGS

An action is strategic when it allows a firm to become better than its competitors, and when this "competitive advantage" can be sustained (Mazzucato, 2002). According to Michael E. Porter (1996), strategy is the creation of a unique and valuable position, involving a different set of activities. In order to maintain in the industry, an organization shall have an outstanding strategy which will differentiate it from its competitors. Strategy will become vital when there are many players in the industry and firm with outstanding strategy will become the leader.

Despite of its size, Malaysian Airports Consultancy Services (identical with MACS) being a leader in consultancy industry when they became the first consultancy firm that has been certified by MS1900:2005. With the intention of getting this standard as a value added and marketing strategy, MACS has prepared strategy towards getting this standard. As a result, after two years, they were awarded with MS1900:2005.

This paper addresses about the strategies used by MACS towards getting the MS1900:2005. Those strategies will be divided into two phases. First, the strategy before being awarded and the second is strategy after being awarded. Both phases are important since the first strategies were used in order to get the standard while the second were used in order to sustain its dominion. It is important to realize that every certified organization will undergo an audit once in three years to renew their eligibility, thus it is necessary to have a strategic action after being certified.

First Phase: Strategy towards getting MS1900:2005

1. **Make a proposal to top management**

   This is basically the first step to be taken when a firm wanted to make some changes in their business. As a subsidiary company to Malayian Airport Holdings Berhad (MAHB), MACS was bound with the parent company. Thus, the first strategy is look for top management's support and approval. Anthony (1965) suggested that top management is responsible for the development and implementation of an organization's strategy. Lederer and Mendelow (1988) found that one of the reasons why top management refuse to recognize strategic impact of Information System is lack of awareness. In conjunction with this, MACS prepared the best proposal to convince top management as well as to give awareness to them. Every point to be proposed must come with a good reason and justification. According to Huber and Seiser (2001), there are two types of justifications; those are called accounting and convincing respectively. In this case, MACS used convincing justification whereby they persuade other decision maker that MS1900:2005 is the best standard management system that should be adopted.

   Boatright (2000) advocates an integrated approach to decision making in business that gives appropriate weight to each of three points of view: economic, legal and ethical. In this situation, MACS's concern is more on economic view as they highlight on the potential of positive business growth after being certified. It is vital to realize that MAHB is a huge corporation which consists of Muslim and non-Muslim in their top management team. MACS needs to prepare a very convincing proposal in order to gain approval from them especially from the non-Muslim Board of Directors (BOD). The presenter for the proposal should be very competent whereby he/she must be prepared for any question that will be asked by the BOD. "Justifying a decision is a quite complex cognitive process. It involves not only knowledge about the domain of decision, but also the construction of subjective theories about the specific values of other people" (Huber and Seiser, 2001).

2. **Getting people on the same page**

   In order to get this certification, every person involve in the organisation should be in the same line and path. This means, they should give their commitment and cooperation along the process in getting the standard and also after being certified. It is important to ensure that everyone in the organization has a same mindset to achieve the same goal [to obtain MS1900:2005 and sustain it] in the first place. According to (Blackburn, 1998; Einhorn & Hogarth, 1981; Pitz & Sachs, 1984), within the context of decision making theory, mindset has been described as a set of assumptions which is so

established in the minds of people that it creates a powerful incentive within them to continue to adopt to accept prior choices. With this in mind, MACS approach is that, giving awareness about MS1900:2005 to their staff first. After being aware, staff will become clear, followed by cooperation and commitment.

2.1 Giving an awareness about MS1900:2005

According to Endsley (1995), awareness is knowledge created through interaction between an agent and its environment- in simple terms, "knowing what is going on". Believe awareness as a principle of commitment, the first approach taken by MACS in their way of gaining staff commitment is giving awareness. They do brief their staff about the standard so that their employees will understand about MS1900:2005 and objective of getting it. Supported by a clear objective, mission and vision of the firm, staff will understand, ultimately will give their support and commitment.

From a practical point of view, MACS is basically practiced strategic awareness in this project. Strategic awareness can be defined as "the ability to make an assessment of the total impact of any particular change. This means not only awareness of the immediate impact of any new development but also reflection on the longer term repercussions" (Gibb & Scott, 1985).

With this awareness programs, the process of getting certificate will be easier and smooth. This is due to the cooperation given by the people (management and staff) in the firm. To illustrate, when Certification Body (CB) comes to perform audit, they can see the unanimous, togetherness and cooperation of the firm as a whole in getting the standard. This will give the firm some good point to be considered.

2.2 Getting commitment and cooperation

After giving awareness, MACS expect commitment in return. As stated by Cooper (2006), managerial commitment can be defined as "engaging and maintaining behaviours that help others achieve a goal". Although this process takes time, it is worthwhile since the bigger business await, which is being certified by MS1900:2005. This can be considered as a strategy whereby MACS are very wise in planning and utilizing time. They gain top management approval, followed by staff commitment then only they go for documentation and audit process.

Since this project can be considered as a big project, planning should be spectacular and great. According to Snyder and Glueck (1980), planning is working out in broad outline the things that need to be done and the methods for doing them to accomplish the purpose set for the enterprise. In this case of MACS, there are specific team for this project called Management System Unit. This unit handled everything about management system and implement the company's policy. Besides being mastermind for this project, they being an implementer of the company's existing policy.

3. **Having a good relationship with the Certification Body (CB)**

   As MS1900:2005 solely CB is SIRIM QAS, MACS do have a good relationship with them, especially their auditors. This is a wise strategy to be taken since a good relationship will provide an advantage to the applicant later on. A good relationship will help the applicant in terms of auditing process. This is in line with what has been reported by Sherry (2013), "many supply chain problems begin and end with the customer-supplier relationship". The extent to which critical issues, wastes and cost drivers can be identified and mutually addressed depends heavily on the strength of the customer-supplier relationship. Customer-supplier relationship quality can drive success.

   What makes it even more strategic is that, Manager of Service Monitoring Division, Puan Roslina, she herself involved with SIRIM QAS, she participated in MS1900:2005 seminar and even joined the auditing process of the other applicants. This brings benefit for MACS because they know how audit process will be and what they need to do in order to avoid problems. Having a knowledge plus experience is really crucial to ensure everything going smooth. Supported by Patrick Sukind (1985) "...talent means nothing, while experience, acquired in humility and with hard work, means everything."

Second Phase: Strategy after being awarded with MS1900:2005

As mentioned earlier, this strategy is very important in order to ensure the belongingness of the standard/certificate. After three years being certified, re-certification audit will take place. Thus, to ensure company keep holding the standard, strategies should be taken into consideration. Below are the strategies taken by MACS in order to maintain their eligibility.

1. **Provide training**

   After being awarded with MS1900:2005 by SIRIM QAS, MACS became very concern on Islamic values, aligned with MS1900:2005 objective which is to implant the shariah in quality management system with emphasis on management through values. MACS approach to inculcate Islamic values is by doing training programs to their staff. They invite external person such as lecturer and motivator to give training to their employees. The training is basically about Islam, what can be done and what is not. With the overarching content, MACS expects their employees could inculcate Islamic values in their work and life as the outcome from the training programs.

   Training is basically a planned and organized process which develops a person's ability to perform a function in order to achieve a goal, (Hoff, 1970). Training is a process whereby a series of activities or operations designed to accomplish a specific change of result. Training usually continues over extended period. In this case of MACS, training is divided into two types. First is fard ain and second is shared value training.

   Fard ain focuses on Muslim's obligation like prayer (*Solah*) while shared value training is more on management from the Islamic side. For instance, one of the shared value training topics that have been done by MACS is "Cooperation and adaptation in Islamic Perspective". During the programs, staffs are free to ask questions. This is a good practice whereby vague things will be unravelled. Sometimes there are some unclear

things especially about *Muamalat* (Islamic transaction), with this program, the expert will give the best answer and clarification.

2. Giving back to society

To show an appreciation of being awarded, MACS decided to share it with society. They have done a Quality Day with their staff. It is like a family day and it is one way of acknowledging their staff. Besides that, MACS helped the less fortunate one by doing "*iftar jama'ie*" (breakfast) at orphanage. They think this is their responsibility to share and help less fortunate people like orphanage. This activity can be considered as a Corporate Social Responsibility.

Definition of Corporate Social Responsibility (CSR) given by International Standardization Organization (ISO) and strategic advisory group on CSR is- "a balanced approach for organizations to address economic, social and environmental issues in a way that aims to benefit people, communities and society." Companies with sound reputations not only for financial results but also for environmental and social contributions promise long-term sustainable growth.

Apart from that, CSR impact a wide range of organizational activities including product manufacturing and integrity, marketing and advertising, selling practices and so forth. Thus, it is fair to conclude that CSR will bring a good image to MACS simultaneously. In other words, MACS will have a positive image concurrently convincing SIRIM QAS as a CB throughout the first three years (before re-certification audit).

5. CONCLUSION

As being discussed, there are several strategies used by MACS in getting the standard. Those are proposing to management, get people at the same page and having good relationship with Certification Body (CB). These strategies could be followed by the current applicant of MS1900:2005. But, it is important to follow the sequence. Begin with proposal, getting staff commitment and doing good with CB. Otherwise, the outcome might be different.

Apart from that, there are some strategies being implemented by MACS after being certified. They claimed that, these strategies are important to avoid problems in the future. For example, while re-certification audit take place, plus it is required by the policy itself. In a nutshell, both phases of strategies are important to be taken into account if organization/firm intended to apply for MS1900:2005. The strategy used is definitely different from one certified company to another certified company. Discussed strategies above are used by Malaysian Airports Consultancy Services (MACS). With those strategies being executed, they are finally being certified after 2 years.

As a matter of fact, after being certified for about 2 years, MACS is growing now in their business. They have been awarded with a few tenders both from local and abroad. For instance, they got tender for upgrading Kuah Jetty, Langkawi and tender from Doha for expanding airport project, specifically in facility management, cleaning and operation. With this in mind, it is worthwhile to conclude that MS1900:2005 can be seen as part of business strategy to win Muslim consumer market while strengthening the work culture in organization and company (Bernama, 2010).

REFERENCES

Anthony, R. (1965). Planning and control systems: a framework for analysis. *Division of Research, Graduate School of Business Administration, Harvard University Boston, MA.*

Bernama.(2008). *MS 1900:2005 - Halal standard for quality management*. Accessed from http://kpdnkk.bernama.com/news.php?id=367563& on 9th September 2012.

Boatright, J. (1995). Cases in Ethics and the Conduct of Business. *Prentice Hall Englewood Cliffs, NJ*.

Che Pa, B., Basir, S.A. & Mohamed, S. (2010). Perlaksanaan siyasah syariyyah dalam pentadbiran di Malaysia. *Jurnal Al-Tamaddun, 5*, 57-72.

Cooper, D., Psychd, C. and Fiosh, C. (2006). The impact of management's commitment on employee behavior: A field study.

Coughlan, R. (2005). Codes, values and justifications in the ethical decision-making process.*Journal of Business Ethics*, 59(1-2), pp.45--53.

Departments of Standard Malaysia. (2005). *Quality management standard: Requirement from Islamic perspectives.* Accessed from www.ipgperlis.edu.my/.../142-rujukan-ms-iso--ms-1900-2005, on 9th September 2012.

Endsley, M. (1995). Toward a theory of situation awareness in dynamic systems. *Human Factors: The Journal of the Human Factors and Ergonomics Society*, 37(1), pp.32--64.

Gibb, A. and Scott, M. (1985). Strategic awareness, personal commitment and the process of planning in the small business. *Journal of Management Studies*, 22(6), pp.597--631.

Hoff, W. (1970). The importance of training for effective performance. *Public health reports*, 85(9), p.760.

Huber, O. and Seiser, G. (2001). Accounting and convincing: The effect of two types of justification on the decision process. *Journal of Behavioral Decision Making*, 14(1), pp.69--85.

Lederer, A. and Mendelow, A. (1988). Convincing Top Management of the Strategic Potential of Information Systems. *MIS Quarterly*, 12(4).

Leonard, D. and McAdam, R. (2003). Corporate social responsibility. *Quality progress*, 36(10), pp.27--33.

Mazzucato, M. 2002. *Strategy for business*. London: Sage in association with the Open University

Porter, M. (1996). What is strategy?. *Published November*.

Reliancestandards.co.uk. (2014). *Importance of Standards*. [online] Available at: http://www.reliancestandards.co.uk/importance-of-standards.html [Accessed: 10 Feb 2014].

Sherry, R. (2013). *Customer-supplier relationship quality can drive success*. [online] Value Chain Group. Available at: http://valuechaingroup.com/customer-supplier-relationship-quality-can-drive-success/#sthash.1BtWHBoQ.dpbs [Accessed 4 May. 2014].

Siddiquee, N. A. (2006). Public management reform in Malaysia: Recent initiatives and experiences. *International Journal of Public Sector Management. 19*(4), 339-358.

Snyder, N. and Glueck, W. (1980). How managers plan—the analysis of managers' activities. *Long Range Planning*, 13(1), pp.70--76.

Utusan Malaysia, 27th March 2012, *MACS pertama terima MS1900:2005*. Accessed from http://www.utusan.com.my/utusan/info.asp?y=2012&dt=0327&pub=Utusan_Malaysia&sec=Korporat&pg=ko_02.htm on 9th September 2012.

Yin, R.K. (2009). Case study research- Design and methods, applied social research methods series (4th Ed, Vol 5). Thousand Oaks, CA: Sage

10 Steps to ISO Certification | The British Assessment Bureau. [online] Available at: http://www.british-assessment.co.uk/articles/10-steps-to-iso-certification [Accessed: 10 Feb 2014].

Transcript of interview- Interview session conducted on 30th August 2013- Interviewee/respondent was the senior auditor at SIRIM Berhad.

Transcript of interview- Interview session conducted on 17 October 2013- Interviewee/respondent was the Manager of Service Monitoring Division at Malaysia Airport Consultancy Services (MACS).

APPENDICES

Figure 1: The flow of strategy implemented at first phase

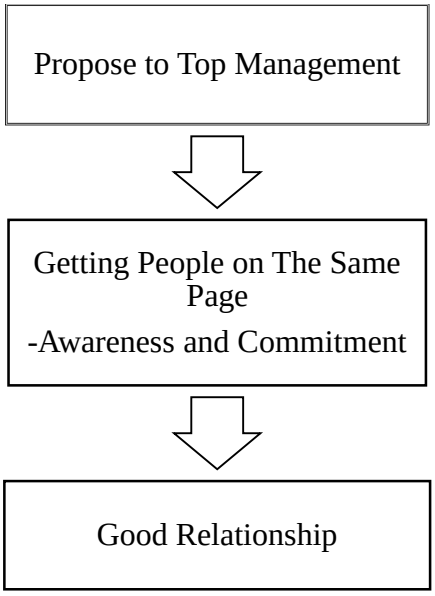
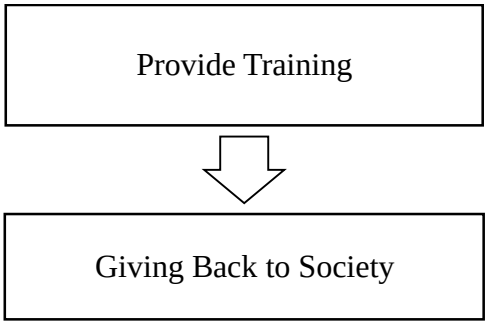


Figure 2: The flow of strategy implemented at second phase



'IBADAH: THE FOUNDATION IN FORMATION OF ISLAMIC BUSINESS ETHICS

Mohd. Faizal P.Rameli[1]
Kalsom Ab. Wahab[2]
Muhammad Ridhwan Ab. Aziz[3]
Suhaida Mohd. Amin[4]

Abstract

This study was conducted to determine the 'ibadah practicing among the Muslim entrepreneurs in Melaka, Malaysia. The sample groups are Muslim entrepreneurs in food and beverages manufacturing sub-sectors. The number of respondents is 144 people and distributed to the respondents using self-collected techniques and simple random sampling. Data were analyzed using IBM Statistical Package for Social Sciences (SPSS) version 20.0 for the mean, standard deviation and frequencies. The findings show that the high means, standard deviation and frequencies among Muslim entrepreneurs in practicing al-'Ibadah. Islam seeks to deliver the goodness to all mankind according to its rules and principles. The integrated system of the Islamic worldview encompasses all aspects of both worldly and hereafter- including the aspect of business.

Keywords: *'Ibadah*, Islamic Business Ethics, Muslim Entrepreneurs, *Akhlaq*

1. INTRODUCTION

Islam as a comprehensive way of life encompasses a complete moral system that is an important aspect of its world-view. Many people often looked at the good and evil as relative concepts. However, Islam holds that moral positions are not relative and has defined a universal standard by which actions may deem moral or immoral which commonly has known in Islam as *akhlaq*. This moral system is striking in that it not only defines morality, but also guides the people in how to achieve it at both the individual and society level. *Akhlaq* stems from its primary creed of belief in

[1] Mohd. Faizal P.Rameli is Ph.D candidates at Faculty of Economics and Muamalat, University Sains Islam Malaysia (USIM), Bandar Baru Nilai, Nilai, Malaysia on study leave from the Academy of Contemporary Islamic Studies (ACIS) University Teknologi MARA (UiTM), Melaka, Malaysia.
[2] Assoc. Prof. Dr. Kalsom, Ab. Wahab is an Associate Professor at Faculty of Economics and Muamalat, University Sains Islam Malaysia (USIM), Bandar Baru Nilai, Nilai, Malaysia.
[3] Dr. Muhammad Ridhwan Ab. Aziz is a senior lecturer at Faculty of Economics and Muamalat, University Sains Islam Malaysia (USIM), Bandar Baru Nilai, Nilai, Malaysia.
[4] Suhaida Mohd. Amin is Ph.D candidates at Faculty of Economics and Administration University Malaya on study leave from Faculty of Business Management, Universiti Teknologi MARA (UiTM), Melaka, Malaysia. Corresponding author: faizal061@bdrmelaka.uitm.edu.my.

Allah as the Creator and Sustainer of the Universe. Islam considers the human race to be a part of Allah's creation, and as His subjects.

Akhlaq addresses every aspect of a Muslim's life, from greetings to international relations. It is universal in its scope and its applicability. A Muslim is expected to not only be virtuous, but also to enjoin virtue. They must not only refrain from evil and vice, but must also actively engage in asking people to eschew them. In other words, they must not only be morally healthy, but must also contribute to the moral health of society as a whole.

The Islamic principles of the morality (*akhlaq*), therefore, appeal naturally to the human intellect, while elevating the pursuit of morality to the level of '*ibadah.* It is because Islam has held that every action that performed with the goal of attaining of Allah's pleasure is the '*ibadah*. From an Islamic perspective, the purpose of human life is to '*ibadah* (worship Allah), by leading this worldly life in harmony with the Divine Will, and thereby achieve peace in this world, and everlasting success in the life of the hereafter. Muslims make al-Quran and al-Hadis as the basis for their morality guide. Allah SWT says:

> "*It is not righteousness that ye turn your faces Towards east or West; but it is righteousness- to believe in Allah and the Last Day, and the Angels, and the Book, 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 of slaves; to be steadfast in prayer, and practice regular charity; to fulfill the contracts which ye have made; and to be firm and patient, in pain (or suffering) and adversity, and throughout all periods of panic. Such are the people of truth, the Allah-fearing.*" (Al-Qur'an. Al-Baqarah, 2: 177)

This verse underscores the Islamic belief that righteousness and piety as a based, before all else on a pure and real faith. The key to virtue and good conduct is a strong relation with Allah at all times, everywhere, and in all aspects of life. Allah knows the secrets of the hearts and the intentions behind all actions. Therefore, Islam enjoins moral behavior in all circumstances; Allah is aware of each one when no one else is. It may be possible to deceive the world, but it is not possible to deceive the Creator. The love and continuous awareness of Allah and the Day of Judgment enable man to be morally conduct and sincere in intentions, with devotion and dedication.

Allah says:

> *Say: the things that my Lord hath indeed forbidden are shameful deeds, whether open or secret; sins and trespasses against truth or reason; assigning of partners to Allah, for which He hath given no authority; and saying things about Allah of which ye have no knowledge.* (Al-Qur'an. Al-A'raf, 7:33)

It is interesting that the al-Qur'an refers to sins and trespasses against truth or reason. It is an indication of God's blessing to every human being, of an innate moral sense. Such a moral sense, when uncorrupted by family or society, is what leads people to commendable acts of virtue. Islam aims to enhance and amplify the moral sense in every human being and adorn the individual's character with the noblest of virtues.

2. LITERATURE REVIEW

Ethics is referring to applied the right things in dealing with the moral principles behind the operation and regulation of business transaction (Abdul Shukor Shamsudin, Abdul Wahid Mohd Kassim, Mohamad Ghozali Hassan, & Nor Azmi Johari, 2010). Ethics as one of the major branches of philosophy that informed the right and wrong conduct and what good for life. The concern about ethics in business is closely related to the issue of social responsibility which refers to the doing of societal good either unrelated or less related to the business activity (Camenish, 1991). In doing the business, entrepreneurs and businessmen are facing with myriad ethical issues involving moral judgements, standards, rules of conduct and perceptions concerning right or wrong doing (Kavali, Tzokas, & Saren, 1999).

Islam has offered a unique perspective on ethic and has formulated specific conceptualization of work ethics as well. The foundation of Islamic ethic was the Muslim understanding and interpretations of the Quran teachings and the Prophet Muhammad practices (Sunnah) which is always leading to the submission and worship to Allah. The main motive of the Islamic ethics is the notion that every human being is required to practice the good and forbid the evil in all aspects of life. There for, the Islamic ethical values are different from western or secular ethical values and moral code.

The western or secular system assumed moral codes that were transient and myopic because the system was base on the values of their founders. This model proposed a system of ethics separated from religion. While, Islamic ethics focuses on the relationship of man to his creator (Beekun, 1996). The similarity of both systems are both of ethics and *akhlaq* place considerable emphasis on hard work, commitment and dedication to work, creativity, get rid of unethical ways of wealth accumulation, cooperation and competitiveness at the work place (Yousef, 2001).

The work related to the Islamic teaching can group into several categories namely pursuing legitimate business, wealth accumulations, quality of work, fair wages, reliance on self, monopoly, bribery, deeds and intentions, transparency, greed and generosity (Beekun, 1996). The Islamic ethical system demonstrates that business and entrepreneurship in Islam not only concern on the economic aspect, but also has moral, psychological and social dimensions. Every work included business activities done must be meaningful to the individual and society at large (Yousef, 2001). There for, the Islamic ethical values in businesses stand on four primary pillars: effort, competition, transparency and morally responsible conduct and all the elements can strengthen the business and economic progress in the society (Ali & Al-Owaihan, 2008).

According to the Islamic perspective, the Muslim entrepreneurs must have faith and '*taqwa*' to Allah SWT. Allah SWT says:

> "*O you who have believed, shall I guide you to a transaction that will save you from a painful punishment? [It is that] you believe in Allah and His Messenger and strive in the cause of Allah with your wealth and your lives. That is best for you, if you should know*." (Al-Quran. Al-Saff, 61: 10-11).

An entrepreneur, according to those Quranic verses must believe in Allah and strive in accumulating the wealth to improve himself. They also must practices all the Islamic teaching that revealed to

Prophet's SAW. The Muslim's faith and obedience to Allah SWT always reflected in his activities. It was possible with the embedded of high moral and ethics values in Muslim themselves. It is because the ethics and moral codes in Islam are part of the overall Islamic faith with the Hereafter orientation, and the ultimate goals of all activities is the worship (S. Mohammad Ghazanfar & Abdul Azim Islahi, 1997). Thus, Islamic ethical and moral codes create a sense of responsibility and accountability in the minds of the believers includes the entrepreneurs (Sabahuddin Azmi, 2005).

According to Mohammad Sahar Bin Mat Din (2007), the real Muslim entrepreneur should have faith and '*taqwa*' to Allah. Faith and '*taqwa*' means a total recumbence and by then they will be able to taste the sweetness and greatness of '*iman*' or faith through gaining lots of profit from the business. There for, the characteristics of Muslim entrepreneurs in implementing the Islamic business ethics can see through the practice of the '*ibadah*' in their daily activities. Thus, the characteristic that should be possessed by every Muslim entrepreneurs to form the Islamic business ethics in their business activities encompass all types of *al-'Ibadah*. It is included reciting Al-Quran daily, performing prayer 5 times a day, pay the '*zaka*t' (tithe), fasting in Ramadan, donating to the poor and those in need (*sadaqāt*), performing '*dhuha*' prayers, performing gratitude prayers and performing '*hajj*' and '*umrah*' when they have the ability.

The person who performs *al-'Ibadah* to Allah are considered as the ethical people because they have fulfilled the purpose of *al-Ihsan* as stated in the al-Hadis (Joni Tamkin, 2013; Nor 'Azzah, 2013 and Siti Rahmaniah, 2013). The implementation of *'al-ibadah* also assists every entrepreneur become a better person from time to time (Ideris, 2013; Mohamad Shah, 2013 and Muhammad Shukri, 2013).

3. METHODOLOGY

This study used a descriptive research design with quantitative approached. This study aims to identify the practicing of the obligatory individual worship to Allah SWT (*fardu 'ain*) among the Muslim entrepreneurs in Melaka, Malaysia. A field study was conduct on 156 Muslim entrepreneurs in Melaka, Malaysia, which are involved in the food and beverage manufacturing sub-sectors by using systematic random sampling. The totals of 144 questionnaires were collected back from the respondents. The list of respondents obtained from the various sources, namely:

a. Direktori Usahawan Bumiputera Negeri Melaka 2012 & 2013/2014, Majlis Tindakan Ekonomi Dan Sosial Bumiputera, Jabatan Ketua Menteri Melaka.

b. Buku Direktori Satu Daerah Satu Industri (SDSI) Negeri Melaka 2012 & 2013, Bahagian Perusahaan Kecil dan Sederhana, Jabatan Ketua Menteri Melaka.

c. Bahagian Penyelidikan Jabatan Agama Islam Melaka

d. Melaka Halal Hub Sdn. Bhd., Serkam, Melaka

e. Senarai Usahawan Industri Asas Tani Negeri Melaka, Program Digital Malaysia - AGR1Media FAMA; see: http://jommakan.fama.gov.my/B40/melaka.htm.

f. Portal 3P-Pusat Pengumpulan Produk Usahawan Kemas, Bah Pembangunan Desa, Jab. Kemajuan Masyarakat (KEMAS); see http://etabika.kemas.gov.my/portal3p/.

In order to determine the reliability of the instrument, the reliability test was used. Table 1.0 show the reliability (Cronbach Alpha) of 15 items in the implementation of '*al-Ibadat*' domains that tested. Chua Yan Piaw (2012) suggests a value between 0.65 to 0.95 is consistent and reliable.

The questionnaire requires the entrepreneurs to answer according to a five-point scale. Each scale refers to respondent's answers of being "Strongly Disagree" (value 1) to "Strongly Agree" (value 5). All the 15 variables used in this study showed Cronbach Alpha values are between 0.845 to 0.860 indicating that the chosen item are consistent and reliable.

Table 2: Reliability Test

Items	Cronbach's Alpha
Prayer five times daily	.858
Fasting in *Ramadan*	.860
The voluntary fast	.854
Pay *Zakat*	.852
Sadaqah	.850
Reciting al-Quran	.848
Dhuha Prayer	.845
Syukur (Gratitude) prayer	.853
Hajj and *Umrah*	.859
Start with '*Basmallah*'	.852
End with '*Alhamdulillah*'	.851
Always start with '*wudu*'	.850
Always 'zikr' to Allah	.845
Cover the '*aurat*'	.852
hasten to pray when the time came	.849

4. FINDING

Respondent of this study consist of 64 (44.4 %) male and 80 (55.6) females out of 144 respondents as showed in Table 2 such as below.

Table 3: Gender

		Frequency	Percent
Valid	Male	64	44.4
	Female	80	55.6
	Total	144	100.0

Table 3 showed that 7.6% of the respondent have completed their study at primary school level compared to 53.5% have finished their secondary school level. 22.2% of the respondents are diploma holder, 14.2 of them are bachelor degree holder from local and overseas university, but only 1 of them has a background in Islamic studies. Only 2.1% of the respondents are Master degree holder, and none of them has a Ph.D. degree.

Table 4: Respondent Education Level

Level of Education		Frequency	Percent
Valid	Primary school	11	7.6
	Secondary school	77	53.5
	Diploma	32	22.2
	Bachelor Local Islamic Studies	1	.7
	Bachelor Local Non-Islamic Studies	16	11.1
	Bachelor Overseas Islamic Studies	2	1.4
	Bachelor Overseas Non-Islamic Studies	2	1.4
	Master Local Non-Islamic Studies	3	2.1
	Total	144	100.0

Table 4 showed that the most of the respondent produced traditional food and beverages as their main production. It consists of 49 (34%) respondent produced traditional food and beverages and followed by bakery and confectionery (17.4%), Beverages (14%), Snacks (14%), Healthy food and beverages (10%), Sauce and ketchup (8%), Frozen Food (7%), Spices (6%) and 2% for each production of cooking oil, fruit and honey based products.

Table 5: The Type of Products

Products		Frequency	Percent
Valid	Traditional food & beverages	49	34.0
	Beverages	14	9.7
	Snacks	14	9.7
	Healthy food & beverages	10	6.9
	Noodles	5	3.5
	Bakery & confectionery	25	17.4
	Sauce and Ketchup	8	5.6
	Cooking oil	2	1.4
	Spices	6	4.2
	Frozen Food	7	4.9
	Fruit based products	2	1.4
	Honey based products	2	1.4
	Total	144	100.0

Table 5 showed the mean of the fifteen elements of *al-'Ibadah* practiced by Muslim entrepreneurs. The obligatory worship (*fardu*) as listed from items 1 to 5 showed that the item 1 "*fasting in Ramadan*" (M = 4.92, SD = .336) is the highest mean values. The study also showed that the item 5 "*cover the 'aurat*" (M = 4.56, SD = .564) is the lowest means value. For the voluntary worship (*sunat*), the findings showed that the item 6 "*start with basmallah*" (M = 4.78, SD = .429) is the highest means value and the item 15 "*always start with the wudu'* (ablution)" (M= 3.83, SD = .856) is the lowest means value. In general, the entire respondent possessed the high mean values from the 15 items in the survey.

Table 6: The Practicing of *al-'Ibadah* amongst the Muslim Entrepreneurs

Items	Mean	Std. Deviation	Interpretation
Obligatory (*Fardu*)			
1. Fasting in *Ramadan*	4.92	.336	High
2. Prayer five times daily	4.81	.583	High
3. *Hajj* and *Umrah*	4.81	.447	High
4. Pay *Zakat*	4.60	.606	High
5. Cover the '*aurat*'	4.56	.564	High
Voluntary (*Sunat*)			
6. Start with '*Basmallah*'	4.78	.429	High

7. End with '*Alhamdulillah*'	4.67	.579	High
8. Sadaqah	4.48	.614	High
9. Performing the prayer on time	4.29	.708	High
10. Reciting al-Quran	4.22	.691	High
11. Always 'zikr' to Allah	4.21	.688	High
12. *Dhuha* Prayer	4.08	.849	High
13. The voluntary fast	3.89	.803	High
14. *Syukur* (Gratitude) prayer	3.88	.852	High
15. Always start with '*wudu*'	3.83	.856	High

Table 6 showed the frequency of *al-'Ibadah* practicing amongst the Muslim entrepreneurs. All the 15 items in the survey form used the scale of being "Strongly Disagree" (value 1) to "Strongly Agree" (value 5). The study showed that Value 4 (Agree) and Value 5 (Strongly Agree) are the most-selected answer among the respondent. The combination of both values in each item showed that the total frequencies are from 95 (66%) to 135 (99.3%).

Table 7: The Frequency of *al-'Ibadah* practicing amongst the Muslim entrepreneurs

Items	Strongly disagree		Disagree		Not Sure		Agree		Strongly Agree	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
1. Fasting in *Ramadan*	0	0.0	1	0.7	0	0.0	8	5.6	135	93.8
2. Prayer five times daily	2	1.4	0	0.0	1	0.7	18	12.5	123	85.4
3. Hajj and *Umrah*	0	0.0	0	0.0	3	2.1	22	15.3	119	82.6
4. Pay *Zakat*	0	0.0	0	0.0	9	6.3	39	27.1	96	66.7
5. Cover the '*aurat*'	0	0.0	0	0.0	5	3.5	53	36.8	86	59.7
6. Start with '*Basmallah*'	0	0.0	0	0.0	1	.7	29	20.1	114	79.2
7. End with '*Alhamdulillah*'	0	0.0	1	.7	5	3.5	35	24.3	103	71.5
8. Sadaqah	0	0.0	1	.7	6	4.2	60	41.7	77	53.5

9. Performing the prayer on time	1	.7	0	0.0	15	10.4	68	47.2	60	41.7
10. Reciting al-Quran	0	0.0	2	1.4	16	11.1	75	52.1	51	35.4
11. Always 'zikr' to Allah	0	0.0	2	1.4	16	11.1	76	52.8	50	34.7
12. *Dhuha* Prayer	2	1.4	4	2.8	22	15.3	68	47.2	48	33.3
13. The voluntary fast	1	0.7	9	6.3	22	15.3	85	59.0	27	18.8
14. *Syukur* (Gratitude) prayer	3	2.1	6	4.2	26	18.1	80	55.6	29	20.1
15. Always start with '*wudu*'	0	0.0	9	6.3	40	27.8	62	43.1	33	22.9

The findings of this study are equivalent to the findings of previous studies on the topic that was being studied. Mohd Faizal P.Rameli, Muhammad Ridhwan, & Kalsom (2013) concluded that the Muslim entrepreneurs should differ from other entrepreneurs in their motives and aims. It is hope that if they can manage their business successfully, they should also have good performance in terms of faith and belief towards Allah SWT. While Sadeq (1977) pointed out that the entrepreneurship in Islam is highly regarded, and forcefully argued that Islam provides not only the incentives but also the conducive framework for economic and entrepreneurship development and asserting that *al-'ibadah* must be paramount in all their affairs. His argument is base on the interpretation of the *Qur'anic* verse such as Al-Jumu'ah (62: 10) and Al-Hijr (15: 67) and also on the many traditions of the Prophet Muhammad SAW.

The basic framework of Islamic business ethics consists of *Taqwa* (piety) and '*ibadah* (worship) to Allah SWT. From this basic framework, there are other elements that will complement the characteristics of Muslimpreneurs. The *Taqwa* (faith) to Allah SWT can be realized through the implementation of mandatory and voluntary worship both of *fardhu ain* (personal) and *fardhu kifayah* (community). It includes a prayer, fasting on Ramadan, *hajj* and *Umrah* (pilgrimage), charity, *zakat* (alms), sunat prayers, and others. The respondents also stressed the importance of *Halalan Thoyyiba*, cleanliness, environmental stewardship and establishing the Islamic brotherhood (Mohd Faizal P.Rameli, Muhammad Ridhwan Ab. Aziz, Kalsom Ab. Wahab, & Suhaida Mohd Amin, 2014).

5. CONCLUSION

The goal of a Muslim entrepreneur is to achieve success worldly and in the hereafter. A Muslim entrepreneur must be a person who is eager to seek excellence. This may lead to an increase in the quality of job performed by him. Hence, there is no dichotomy between efforts made for worldly

developments and preparation for life in hereafter. In carrying out business activities, Muslim entrepreneurs must conform to Islamic rules.

As a Muslim, business activities are the field for worship in addition for seek the profit. It is compulsory for a Muslim to perform as well as possible in their works and to do fairly in his business because everything counted in the Hereafter. Moreover, business also contains mission for satisfying the public interest (*maslahah*). All of these must run hand in hand to reach the benefit of the world and the Hereafter (*falah*).

As a conclusion, Islamic entrepreneurship is ultimately based on *aqidah*, *syariah* and *akhlaq*. As a Muslim entrepreneur, *aqidah, syariah* and *akhlaq* cannot be treated separately, but rather done simultaneously. The result of the submission is that all of one's activities should conform to the instructions of Allah, to whom the person is submitting to. Islam being a complete way of life requires that its followers follow every aspect of their life according to its teachings.

REFERENCES

Abdul Shukor Shamsudin, Abdul Wahid Mohd Kassim, Mohamad Ghozali Hassan, & Nor Azmi Johari. (2010). Preliminary Insights on the Effect of Islamic Work Ethic on Relationship Marketing and Customer Satisfaction. *The Journal of Human Resource and Adult Learning*, *6*(June 2010), 106–114.

Ali, A. J., & Al-Owaihan, A. (2008). Islamic work ethic: a critical review. *Cross Cultural Management an International Journal*, *15*(1), 5–19.

Beekun, R. I. (1996). *Islamic Business Ethics*. Virginia: International Institute of Islamic Thought.

Camenish, F. P. (1991). Marketing ethics: some dimensions of the challenge. *Journal of Business Ethics*, *10*, 245–248.

Chua Yan Piaw. (2012). *Asas Statistik Penyelidikan Buku 2* (2nd ed.). Kuala Lumpur: McGraw-Hill (Malaysia) Sdn. Bhd.

Kavali, S. G., Tzokas, N. X., & Saren, M. J. (1999). Relationship marketing as an ethical approach: philosophical and managerial considerations. *Management Decision Journal*, *37*(7), 573–581.

Mohammad Sahar Bin Mat Din. (2007). *Bina Wadah, Memperkasa Ekonomi Ummah*. Kuala Lumpur: Dewan Perdagangan Islam Malaysia.

Mohd Faizal P.Rameli, Muhammad Ridhwan, A. A., & Kalsom, A. W. (2013). The Entrepreneurs Characteristic from al-Quran and al-Hadis. *International Journal of Trade, Economics and Finance*, *4*(4), 191–196. doi:10.7763/IJTEF.2013.V4.284

Mohd Faizal P.Rameli, Muhammad Ridhwan Ab. Aziz, Kalsom Ab. Wahab, & Suhaida Mohd Amin. (2014). The Characteristics of Muslimpreneurs from the view of Muslim Scholars and

Academician. *International Journal of Teaching and Education*, *2*(2), 47–59. Retrieved from http://www.iises.net/?p=10383

S. Mohammad Ghazanfar, & Abdul Azim Islahi. (1997). *Economic Thought of Al-Ghazali, Islamic Economics Research Series King Abdul Aziz University-2*. Jeddah, Saudi Arabia: Scientific Publishing Centre, King Abdulaziz University.

Sabahuddin Azmi. (2005). An Islamic Approach to Business Ethics. *Pakistan: Renaissance a Monthly Islamic Journal*, *1*(1), 1. Retrieved from http://www.renaissance.com.pk

Sadeq, A. (1977). Entrepreneurship development and training: an Islamic perspective. *Hamdard Islamicus*, *20*(4), 37–43.

Yousef, D. (2001). Islamic work ethic – A moderator between organizational commitment and job satisfaction in a cross-cultural context. *Personnel Review*, *30*(2), 152–169.

http://jommakan.fama.gov.my/B40/melaka.htm. retrieved January 8, 2014.

httt://etabika.kemas.gov.my/portal3p/. retrieved January 8, 2014.

RE-DEFINING ISLAMIC ECONOMICS; WHILE ENTITLING IT AS" FAITH BASED ECONOMICS"

Hussain Mohi-ud-Din Qadri[1]

ABSTRACT

This paper will seek to present a clear and competitive definition of Islamic economic system by drawing on the principles of Islam. It will highlight how and why it differs from other two models and what ends it serves in the longer run. In other words, it will explore how it establishes an egalitarian society through equitable distribution of resources.

Keywords: re-defining Islamic economics, faith based economics, religions, finance

1. INTRODUCTION

Broadly speaking, the world economic system has operated under capitalism and socialism. Both economic systems have been characterized by a clear-cut theory, definitive principles as well as practice that have marked their functioning in different political contexts. They represent two extremes from being free market economies to being over-regulated economies thereby undermining the essential attributes of human freedom and nature.

Islam offered broad principles of economics some 1400 years ago. These principles, generic in nature, were based on imperatives of human freedom, self-development, and collective wellbeing. They offered a middle and moderate way between two available options of capitalism and socialism. The problem with Islamic economic model is that it has not been codified into a well-knit, structured and comprehensive system like other models in vogue.

2. NATURE OF PROBLEM

The world has been a witness to unhindered immoral freedom of capitalist economics, which led to usurping money in vanity, while the impoverished are deprived of subsistent care. Capitalist economies are, hence, vulnerable to stagnation and troubles. On the other extreme, we have seen how the socialist abolition of property and profit ended in an economic breakdown. To date, the world economic system has been alternating between capitalism and socialism, or a hybrid system based on mingling of both.

There has been paucity of intellectual efforts to explore broad contours of a new economic system, which will help overcome moral and institutional defects imposed by Capitalism and Socialism. Faith based economics is an effort that tends to look at the economic model from the prism of moral values. The paper attempts to make a strong case for Faith-based economic system as an alternate economic system to deal with the ever-growing economic woes and chaos in the world. It is for the people of all faiths. Many think that Islamic economics is for the Muslims only. That is not true and that is why I am writing this paper to prove that moral

[1] Minhaj University Lahore

values are common to all religions and they have their practical side to them. It aims at redefining and presenting an economic system, which is a faith-based,and responsive to socio-economic needs of the society.

3. WHAT IS THE SCIENCE OF ECONOMICS?

“Economics is a study of man in the ordinary business of life. It enquires how he gets his income and how he uses it. Thus, it is on the one side, the study of wealth and on the other and more important side, a part of the study of man” (Marshall, 1890).

Adam Smith,who is considered to be the founding father of modern Economics, defined Economics as the study of the nature and causes of nations’ wealth or simply as the study of wealth. Adam Smith himself never used the term "capitalism". He described his own preferred economic system as "the system of natural liberty. “The central point in Smith’s definition is wealth creation (Smith, 1776).

Alfred Marshall also stressed the importance of wealth. But he also emphasized the role of the individual in the creation and use of wealth.His definition is still widely citeddefinition that extends analysis beyond wealth and from the societal to the microeconomic level (Marshall, 1890).

On the other hand Lionel Robbins defined modern economics in these words:
“Economics is the science that studies human behavior as a relationship between ends and scarce means which have alternative uses” (Robbins, 1932).

3.1 CRITICISM ON THE DEFINITION OF MODERN ECONOMICS

The definition of modern economicshas faced criticism from many economists. Modern economics discovers only the facts that give rise to certain problems and does not give suggestions as to how to deal with human behavior that varies from man to man and from time to time. So it is not a physical science, which deals with matter and energy and remains unchanged at any place.

In the view of critics, the Western economic school of thought is the product of the principle of freedom. It sees the world as a machine created by God Who left it moving without His interference. Profit is pursued, as the most important boost for production, drawing satisfaction and utility as its ends; also, usury is permitted on a large scale, and disparity of incomes prevails which is reinforced by monopoly. Such manifestations engendered exploitation, usury, wars, rifts and crises.

4. BRIEF ACCOUNT OF VARIOUS ECONOMIC SYSTEMS

A system sought by any society is an organic manifestation of its members’ beliefs and perception on and of life, its purpose and their role in his world. Thus, the social system can never be separated from its doctrinal roots. The term “system” incorporates a set of relations, sub-systems, beliefs and institutions activated in the life of people, as well as the activities, policies and laws that underline their governance.

In order to transform the philosophy of science of economics into practical form capable of addressing man’s needs and implementation in the society, economic systems are created. Basing on the definitions given above, we have threepopular economic systems that are currently in vogue today:

- Capitalistic Economic System.

- Socialistic Economic System.
- MixedEconomic System.

4.1.CAPITALISTIC ECONOMIC SYSTEM

It is not easy to define term ‘capitalism’. Pierre Proudhon, who first used it in 1861, called it "an economic and social regime in which capital, the source of income, does not generally belong to those who make it work through their labor"(Braudel, 1982). The term ‘capitalism’ does not appear in the writings of Karl Marx and did not gain currency until 1902, when the German economist Werner Sombart used it to denote the opposite of socialism. But definitions alone won’t help us fully understand the dynamics of something as complex as a capitalist economy. We need to understand the major characteristics of capitalism to be able to appreciate how it has permeated our lives as an economic and a cultural system (Robbins, 2013).

“Capitalism is a political, social, and economic system in which property, including capital assets, is owned and controlled for the most part by private persons. Capitalism contrasts with an earlier economic system, feudalism, in that it is characterized by the purchase of labor for money wages as opposed to the direct labor obtained through custom, duty or command in feudalism. Under capitalism, the price mechanism is used as a signaling system which allocates resources between uses. The extent to which the price mechanism is used, the degree of competitiveness in markets, and the level of government intervention distinguish exact forms of capitalism” (Blume, 1986).

In other words Capitalism is defined as “An economic and political system in which a country’s trade and industry are controlled by private owners for profit, rather than by the state" (Oxford Dictionaries, 2013).

4.1.1 HISTORY OF CAPITALISTIC ECONOMIC SYSTEM

The history of capitalism can be traced back to early forms of merchant capitalism that was practiced in Western Europe during the middle Ages(Banaji, 2007).Many economic historians consider The Netherlands as the first thoroughly capitalist country. In Early modern Europe, it featured the wealthiest trading city (Amsterdam) and the first full-time stock exchange. Several major challenges to capitalism emerged in theearly part of the 20th century. The Russian revolution in 1917 established the first communist state in the world; a decade later, the Great Depression triggered increasing criticism of the existing capitalist system. One response to this crisis was a turn to fascism, an ideology which advocated state-influenced capitalism; whilst others rejected capitalism altogether in favor of communist or socialist ideologies.

By the beginning of the 21st century, capitalism had become the pervasive economic system globally. The collapse of the Soviet bloc in 1991 significantly reduced the influence of Communism as an alternative economic system and political ideology. However, Socialist movements continue to be influential in some parts of the world, most notably Latin-American Bolivarianism, with some having strong ties to more traditional anti-capitalist movements, such as Bolivarian Venezuela's ties to communist Cuba.As history suggests,capitalism is a necessary condition for political freedom. Clearly it is not a sufficient condition (Friedman, 1962).

4.1.2 CRITICS OF CAPITALISTIC ECONOMIC SYSTEM

Adam Smith acknowledged deep moral ambiguities towards the system of capitalism.Smith had severe misgivings concerning some aspects of each of the major character-types produced by modern capitalist society: the landlords, the workers and the capitalists(Pack, 1991).Marxists have advocated a revolutionary overthrow of capitalism that would lead to socialism, before eventually transforming itself into communism. Many socialists consider capitalism to be irrational, in that production and the direction of the economy are unplanned, creating manyinconsistencies and internal contradictions(Brander, 2006).

Many aspects of capitalism have come under attack from the anti-globalization movement, which is primarily opposed to corporate capitalism. Environmentalists have argued that capitalism requires continual economic growth, and that it will inevitably deplete the finite natural resources of the Earth (McMurtry, 1999).Many religions have criticized or opposed specific elements of capitalism. Some Christians have criticized capitalism for its materialist aspect(Vaticana, 2008).

Human society is not a vessel for unhindered liberal satisfaction of individual desires and instincts. The modern convictions of instinctive freedom and fierce competition under the slogan "survival for the fittest," expunged the most human traits of justice and mercifulness. It can be said that absolute freedom leads to oppression and corruption. The more prosperity and wealth are achieved, under liberty, private property and competition, the more the rich illegitimately usurp the state's finance, and the more the rights of the poor, the deprived and the needy are abused.

4.2 SOCIALISTIC ECONOMIC SYSTEM

"A socialist economic system consists of a system of production and distribution organized to directly satisfy economic demands and human needs, so that goods and services are produced directly for use instead of for private profit driven by the accumulation of capital"(Kotz, 2006).In other words Socialism is defined as "a centrally planned economy in which the government controls all means of production" (Heilbroner, 1972).

Leaping from one extreme to another, socialism emerged as a reaction to the capitalist remnants of social injustice, concentration of resources and oppression. Socialism is based on dialectical materialism, which deifies matter, considering it the root of existence. Conflicts are dubbed as promoters of change. Materialistic life, as related to the mode of production, determines conflicts of social, cultural, political, religious and moral affairs. The cause of conflict, in the socialistic view, is ownership, which is considered a tool for exploitation. In socialistic view, religion is opium that is used to exploit the weak for the interest of the exploiter. Therefore, the salvation is said to lie in the dictatorship of the proletariat applying expropriation to end the cause ofconflict (Fundamentals of Marxism and Leninism, 1964). The result was nationalization, planning, and dictatorship.

4.2.1 HISTORY OF SOCIALISTIC ECONOMIC SYSTEM

Throughout the course of history, Robert Owen was the first to use the term "socialism". He believed that people can achieve the maximum benefit from productive forces if they cooperate for the sake of public interest, abolishing private property and profit, and establishing independent industrial and agricultural communities. Owen viewed that the development of machines would lead to unemployment, on one hand, and accumulation of production, on the other. According to him, the only solution was to expand the market by raising the labor wages and free competition. Moreover, prosperity could be reached through abundant

production under a socialist system. The Australian Labor Party was the world's first elected socialist party when the party won the 1899 Queensland state election (Blainey, 1976).

In the first half of the twentieth century, the Soviet Union and the Communist parties of the Third International Conference mainly came to represent socialism in terms of the Soviet model of economic development, the creation of centrally planned economies directed by a state that owns all the means of production, although other trends condemned what they saw as the lack of a democracy. In the UK Herbert Morrison said, "Socialism is what the labor government does", whereas Aneurin Bevan argued that socialism requires that the "main streams of economic activity are brought under public direction", with an economic plan and workers' democracy(Bevan, 1961).

4.2.2 CRITICS OF SOCIALISTIC ECONOMIC SYSTEM

Some of the primary critics of socialism claim that it creates distorted or absent price signals, results in reduced incentives, causes reduced prosperity, andhas low feasibility. Besides it has negative social and political effects (Yeung, 1999).

In the second half of nineteenth century, Karl Marx came out from the heart of capitalist miseries and social injustice, labor exploitation, monopoly, usury and speculations. Radically, Marx moved to the other extreme to elevate his principle of expropriation, profit abolition, and melting difference. The core of Marx's thought was atheism and the deification of matter. He resembled the old paganists who defied natural phenomena but replacing the sun or moon or cows with the means of production, which is considered the determinant of the socio-cultural structure of society. As a consequence, those who believed in this paganism launched campaigns against religion and religious people were persecuted under communist rule.

Critics from the neo-classical school of economics criticize state-ownership and centralization of capital on the grounds that there is a lack of incentive in state institutions to act on information as efficiently as capitalist firms do because they lack budget constraints, resulting in reduced overall economic welfare for society (Henderson, 2008). Economists of the Austrian school argue that socialist systems based on economic planning are unfeasible because they lack the information to perform economic calculation in the first place, due to a lack of price signals and a free price system, which they argue are required for rational economic calculation (Kahane, 1981).

4.3 MIXED ECONOMIC SYSTEM

"Mixed economy is an economic system in which both the state and private sector direct the economy, reflecting characteristics of both market economies and planned economies"(Stilwell, 2006).

"Mixed economic system, where individual decisions are respected but the government attempts to affect these through the policies it implements"(Hendricksand Myles, 2006). The basic idea of the mixed economy is that the means of production are mainly under private ownership; that markets remain the dominant form of economic coordination and activity; and that profit-seeking enterprises and the accumulation of capital remain the fundamental driving force behind economic activity.

However, unlike a free-market economy, the government would wield considerable indirect influence over the economy through fiscal and monetary policies designed to counteract economic downturns and capitalism's tendency toward financial crises and unemployment, along with playing a role in interventions that promote

social welfare. Economies ranging from the United States (Outline of the U.S. Economy, 2011) to Cuba (An Interview with Dr. Antonio Romero) have been termed mixed economies. Also, India has been ahub for practicing mixed economic structure since its independence. Jawaharlal Nehru was a strong proponent of mixed economy. Same is the case with Muhammad Ali Jinnah and Pakistan.

Mixed economic system stands at the spectrum between capitalism and Marxist socialism. On the one hand, it shares the private sector in the free vocational choice, consumer's power, price reference in directing production, and privatizing productive sources. On the other hand, an important sector of the mode of production is owned by the state, relying on centralization in management and implementation. The extent of the state ownership is disparate from one country to another. It might be limited so it gets nearer to capitalism, or the state controls an expansive section of production, so leaning toward the other extreme, i.e. Marxism.

4.3.1 HISTORY OF MIXED ECONOMIC SYSTEM

The term "mixed economy" cropped up in the context of political debate in the United Kingdom in the postwar period, although the set of policies later associated with the term had been advocated from at least the 1930s (Meade& Reisman,1995).

Supporters of the mixed economy, including R. H. Tawney (1964), Crosland(1977) and Andrew Shonfield were mostly associated with the British Labour Party, although Conservatives including Harold Macmillan expressed similar views. Critics of the British mixed economy, including Ludwig von Mises and Friedrich von Hayek, argued that what is called a mixed economy is a move towards socialism and increasing the influence of the state (Gardner, 1991). Around 1930s, fascists in Italy supported the use of a mixed economy in an effort to protect national defense and security (Sarti, 2004).

4.3.2 CRITICS OF MIXED ECONOMIC SYSTEM

Mixed economic system has a natural tendency to move further and further away from reliance on competitive market mechanism to greater and greater bureaucratic controls and interventions until the system's efficiency goes down to zero and it breaks down or dictatorships get fairly established to hide inefficiencies and remove all economic and political freedom from the citizens. Mixed economic systems tend to encourage more state monopolies, higher and higher tax to GDP ratio and dominant public finances, making the Government overwhelmingly large economic player as compared to corporate or individual entities.

5. FAITH BASED ECONOMICS

Economic development and prosperity in any religion are conditioned by God's obedience, rather human arrogance and futile living, which result in omnipotence and violence. The relation between faith and good deeds is an organic un-separated one.

The believers' development according to the belief in God and the Hereafter is reflected in their proper worldly manner of piousness and benevolence. The selfish and greedy love of the mundane world is washed out from their souls to be replaced with generosity and philanthropy. The world is a means and not an end to obey God. God's pleasure is the ultimate objective of human existence.

"And seek the home of the Hereafter with what (wealth) Allah has given you, and (also) do not forget your share of the world. And do (such) good (to the people) as Allah has done good to you. But do not look for

(ways to spread) evil and terror in the land (through oppression, accumulation of wealth and exploitation). Surely, Allah does not like those who violate peace".[Sura al-Qasas:77]. Incorporation of religious, moral and ethical values into the economic system being its core and necessary ingredients, would transform any prevailing economic system into a faith based economic system.

Moreover, in his teachings, Prophet Muhammad taught a strong lesson that a man bought a house from another. After buying it he found a pot full of gold, so he told the seller 'take your gold, I have bought your house only'. The other replied but I sold you the land with all it carries. They went to a third person to arbitrate. The third said: 'Do you have children? One replied 'I have a boy' and the other said 'I have a girl'. So the arbitrator said 'Marry them and disburse the expenses and donate for charity.' (Sahih Muslim. Vol.1 Al-Halabi, p. 413).

This story shows how good and transparent financial dealings should be. The buyer felt it illegitimate to have wealth not agreed upon, as it might be earned illegally so it would pollute his money and cause torment to his self-conscience. The seller thought that it was right of the buyer to have this wealth, so he doubted that taking it from him was misusing the buyer's right, as he wanted to take his right only.

5.1 WHAT IS ISLAMIC ECONOMICS?

"Islamic economics is the knowledge of injunctions and rules of the Shari'ah that prevent injustice in the acquisition and disposal of material resources in order to provide satisfaction to human beings and enable them to perform their obligations to God and the society"(Zaman, 1404).

As is generally understood, the objective of any economic activity is satisfaction of human wants needs and desires. But in Islam, this is not an end in itself. A man is not supposed to live for himself or for his kin only. His obligations as a social being are much larger than this. He has obligations and responsibility towards the needy of the society. A Muslim earns in order not only to satisfy his own and his family's wants but also discharge his obligations toward the society at large. This is what God has ordained for him and this is an objective, which also makes his earning a pious act (`ibadat), in the sight of God.

Islamic economics holds the knowledge of contemporary facts through the discovery of divine laws of economics. The current term of economics is synonym with "dealings" in the language of jurisprudence. So, it includes the legitimate guidance to regulate its flow and infuse goodness. We need a scientific method in economic research as well as we need jurisprudence precision in the legitimate text. Under these premises, we will be apt to transfer modern technologies to the Muslim reality in order to embed it with a rationalized knowledge as inspired by the text. Thus, by linking the present to a text, which rationalizes realities, we will be hoisting the contemporary reality to reach the text horizon.

To set pleasure and satisfaction as the only maximum aim to be realized does not correspond to the mental and contemplative capabilities of human beings. Sound life stands on self-regulation so as not to be indulged in covetous and lustful settings. Al-Baidawi (1317, A.H)says: "Most of the obligations by nature are reluctantly executed by the self, although they are the forms of righteousness and cause of success; what is forbidden is desirous and cherished by the self despite encompassing means of destruction".

"Absolute utility is either pure or preponderant. If it prevents preponderance or leads to harm, it is incorrect to be considered. Also, what seems to be useful while it is not, or that from which corruptive pleasure by God and his Messenger is vain, which never contains utility, pure or preponderant" (IbnTaimiya, 1314 A.H).

The first thing we sense of the Islamic economic characteristics is the equilibrium, which it is keen to preserve, for it includes a balance between the individual interests and the societal interest at the same time.

It is apparent that other economic systems, either they tend to overweigh the group's interest over that of individual, they ignore the individual's interest and underrate it. If the individuals attain a right thought as what is known to be a group's interest, or not then they don't think of it or busy themselves to incur it for them.

There is another contradictoryelement of these systems; that gives the individual an absolute disposition and allows him to endeavor as he can to attain profit; the criterion in its view is what brings great profit to the individual and not to the society.

One of the aspects is preference of common interests over private ones, if their unity is possible. Another aspect of Islamic economics is that money in Islamic economics has a function not a gain or loot as it so in the capitalistic theory in which view, when man collects money he does it without any deterrent or any fear. People look at him and dub him as 'a millionaire'. But in Islam, money functions indicated by the Quranic verse: (And you shall seek what Allah gives you in the other life, but don't forget your share in the present life, don't seek corruption on earth, for Allah doesn't accept the corrupted ones). This is a comprehensive verse, every part of it regulates an aspect of life, and tackle problems that face money dealers who collects money whatever it be legally or illegally (halal) or (haram).

The Islamic outlook of the subject matter of economics is pertinent to the Islamic interpretation of the world and life. The purpose of existence is worship. Matter is a supportive tool, in this case essential, since it is a medium for worship. There is no worship without human beings. There is no living without development and prosperity of this world.

Man's pursuit of freedom is ensured by his worship of God. Worship releases man from being enslaved to his desires through piety, and from being enslaved to people through divine knowledge, so his relation to his fellow man will never be that of slave and master. His belief, that God is his creator and provider, sets him free from all forms of slavery. He fears none but God in determining his means of living. Thus, his freedom is conditioned by his enslavement, obedience to God and compliance with His commandments.

Nevertheless, Islam does not entertain freedom as being absolute in nature. Islam by nature takes the middle course, the moderate way between two extremes. Deviation curbs the freedom of others, or at least harms it. Society should limit individual freedom, which in many cases restricts the freedom of others. For example, the monopolist starts his activities by relying on the principle of individual freedom and ending up in the state of monopoly, which hurts others' freedom and constraints, the fulfillment of their demands. On the other hand, Islam espouses the concept of freedom with limitations.

5.2 THE ISLAMIC ECONOMIC SYSTEM

Islamic Economic System implies a mode of satisfying the economic needs of the members of organized society in accordance with injections of Quran and Sunnah. The mode of spending, production, distribution and exchange of wealth is determined by the tenor of these injections. In this system, the economic activities of the members of the society are regulated by certain values of which pity, justice, benevolence, cooperation, brotherhood and equality are especially important. The sources and origin of these values are the Holy Quran and the Sunnah of Allah's Apostle (PBUH). They are eternal and immutable. Consumers, producers and traders are under religious and moral obligation to abide by these values.

At one level, the state can also use its power to implement and enforce these values. However, Islam mostly ensures their implementation and regulates daily affairs of life through its system of education and training and by creating and fostering a general climate of piety in the society.

5.3 RE-DEFINING THE ISLAMIC ECONOMICS

The Islamic economic approach mainly hinges on the principle of individual freedom limited by public interest, which is aimed at ensuring freedom of others. It is primarily freedom, which counts. The core premise of Islamic economic system revolves around the middle course between individualism and communism of the concept of freedom. This begins withan individual interest and ends at the communal interest.

Islamic economics is a combination of two sets of thoughts namely: Islamic thoughts and economic thoughts. Islam, being a complete code of life, stands for wellbeing of mankind by offering solutions to the problems of not only this world but those of the world hereafter. It seeks to establish a just and egalitarian society wherein everyone is required to behave conscientiously and honestly, and not as 'cunning foxes' combating for as big a share of something as possible without considering the virtues of honesty, truth, faith and accountability. Through a comprehensive system of moral and spiritual training, Islam nurtures human freedom as a means to attain spiritual growth. The system of Islamic worships ordained by Islam is aimed at making man beneficial not only to himself, his kith and kin as well as society at large. Islam achieves this objective through self-purification.

Islamic economic ideals consider the promotion of justice to be indispensable for achieving the desired integration of the world economies. Islam strikes a balance between human desires and human needs. It does not limit the human desire for self-growth and development but at the same time it prescribes the permissible and legal means of earning in addition to restraining individuals from concentrating wealth. Islamic economic thoughts imply a mode of fulfilling the economic needs of the members of organized society in accordance with injections of Quran and Sunnah. The Islamic ideas regarding unity of mankind and human life were reflected in Islamic economic thought from the earliest period of Islamic history.

Injection of Islamic moral and ethical values into economic life of a society make an economic system Islamic.

5.3.1 DEFINITION OF ISLAMIC ECONOMICS

As Islamic economic system is considered competitive as capitalistic and socialistic economic systems are, it is necessary that Islamic economics has its definition equally competitive as well. Here, I take an opportunity to define Islamic economics in these words:

"Islamic economics is the science that studies human behavior as a relationship between limited desires and unlimited resources".

Fundamental features of Islamic Economics System are mentioned below:

- All wealth belongs to Allah (SWT):
  "And give them of the wealth of Allah which He has given you." [An-Nur: 33]

- The community is the trustee of the wealth:
  "Believe in Allah and His Messenger, and spend whereof He has made you heirs."[Al-Hadid: 7]

- Hoarding of wealth is prohibited:
  "And those who hoard up gold and silver and spend not in the way of Allah; announce to them a painful chastisement." [At-Tauba: 34]

- Circulation of wealth is a duty:
  "Whatsoever Allah may restore unto His Messenger - is due unto Allah and unto His Messenger - the orphans and the needy. So, that it may not be confined to the rich amongst you." [Al-Hashr: 7].

The broad contours of the Islamic economic system strike a much-needed balance between unrestrained freedom to amass wealth, role of free markets and nationalism and over-regulation of economic activities at the hands of the state. Islam allows individuals the freedom to earn through lawful and permissible means, as this attribute is intrinsic to self-development and human nature. At the same time, it discourages concentration of wealth by ensuring that money is redistributed in the society. Islam stands for establishment of an egalitarian society wherein the economic needs of the underprivileged sections of society are taken care of by the state. It puts restraints on desires, discourages wasteful, lavish spending and enjoins individuals to exercise moderation. It shapes an individual's economic choices under its very comprehensive system of moral and ethical training wherein giving in the form of Zakat, alms and donations has been described as a means of purification of wealth.

6. IMPLICATIONS FOR FAITH BASED ECONOMIC SYSTEM

The subject of economics is undergoing drastic changes, as it cannot stay immune to the fast-paced transformation currently underway at various strata of society. However, the mention of religion or moral and ethical teachings with reference to economic theory and practice has always tended to raise eyebrows among the puritans who believe that religion, being a private affair between man and God, does not have anything to do with Economics or any other discipline for that matter.

The invocation to Islamic economic system may invoke a negative criticism from non-Muslim individuals and societies. They may contend as to why they should emulate Islamic economic model as the nomenclature reflects the teachings and values of a religion of other community not theirs. This criticism is justified.

However, this writer is of the considered opinion that moral and ethical teachings and values are common to all religion. It may thus be safe to allude to this economic system as faith-based economics to establish its relevance and commonness to all communities. The failure of Socialism and now the global financial meltdown of capitalism have created space for an alternative economic model that corresponds to aspirations of individuals and is also bereft of the ills that were associated with the other two models. Hence, faith-based economics presents a new path for economists.

7. LIMITATIONS AND AREA FOR FURTHER RESEARCH

The above-mentioned submissions highlighting the need for faith-based economics are by way of generalities. They are more of a food for thought for igniting creative thinking and research in this area. What I have narrated above is a kind of concept paper, which can be further, developed and codified into a well-knit system after incorporation of input from the religious scholars, moralists and economists.

8. CONCLUSIONS AND RECOMMENDATIONS

Western predicament is embodied in rejecting the reference to revelation in research methods as a source of knowledge for the invisible, beside the mind and senses for the worldly phenomena. As a consequence, the constants of values and morals were denied in order to focus on the motives for production and profit.

Such kind of denial is a degradation of science and the future of humanity. It is isolation from the righteousness and an indulgence in aberration. Unfortunately, the new generations of Muslims were brought up following this methodology. They became materialistic in running their research and systems in their way of understanding, typically following the practices of precedent religions.

There is a great disparity between the two methods. In rational and empirical methodology, man communicates with assumptions conceived by the mind and defined by experiments using the limited human senses. Nonetheless, Faith based methodology is established through the use of mind and senses as integrated with the revelation. Thus, righteousness is recognized according to the Creator who never forgets nor misleads, and due to messenger of God who never deviated nor tyrannized.

The Islamic economic system stems out from this principal trunk. When we get closer to it, we feel that the contemporary crisis with all it dimensions where the cultural heritage and modern culture converge. Accordingly, what should be clearly elucidated, therefore, is that the faith based economic system is not a positive science, despite its rules being similar to other science. It is different in the following points:

- First: It does not stop at the descriptive limitation of what is being but it involves what ought to be. Thus it is a purposeful science.
- Second: Since its relation is indispensable to the other laws of nature which order life so it cannot be detached from moral and belief system.
- Third: Since it is related to the Islamic law which organizes all the ways of living, it is indulged in the rules of what is lawful and forbidden in earnings and expenditures according to the book of Allah and the Prophet teachings. Thisis the subject of justice.

REFERENCES

Definition of Islamic Economics from; http://islamicbankwiki.blogspot.com/2011/09/definition-of-islamic-economics.html

al-Baidawi, Abdallahibn Omar. (1317 A.H). Anwar al-TanzilwaAsrar al-Ta'wil (The Lights of revelation and Secrets of interpretation) (Vol. 1): Al-matreebaat Al-Omria.

Antonio Prieto , ISLA. (2010). The Challenges of Cuba's Economy: An Interview with Dr. Antonio Romero Retrieved 15 Aug, 2013, from http://isla.igc.org/Features/Cuba/cuba1.html

Banaji, Jairus. (2007). Islam, the Mediterranean and the Rise of Capitalism Materialism. Historical Materialism , Brill Publishers, 15(1), 47-74.

Bevan, Aneurin. (1961). In place of fear. New ed.

Bevan, Aneurin, & Lee, Jennie. (1961). In place of fear. London, UK: p50, p126-8. MacGibbon and Kee.

Blume, Lawrence, &Durlauf, Steven. (1986). Palgrave Macmillan Dictionary of Modern Economics (3rd ed.): Palgrave Macmillan.

Brander, James A. (2006). Government policy toward business (4th ed.). Mississauga, Ontario: John Wiley & Sons Canada.

Braudel, Fernand. (1982). Civilization and Capitalism, 15th-18th Century: The perspective of the world (Vol. 3): University of California Pr.

Braudel, Fernand. (1982). Civilization and Capitalism, 15th-18th Century: The wheels of commerce (Vol. 2): University of California Pr.

Chamberlain, Edna. 1. RH Tawney, Equality, (London: Allen & Unwin, 1964), p. 30. 2. M. Okun, Equality and Efficiency: The Big Trade-off (Washington, DC: Brookings Institution, 1975). 3. See particularly David G. Gil, Unravelling Social Policy (Cambridge, Mass.: Schenkman Publishing Co., 1976): JSTOR.

Crosland, Anthony, & Leonard, Richard Lawrence. (1956). The future of socialism: Westport, Conn: Greenwood Press. ISBN 0-8371-9586).

Dictionaries, Oxford "Capitalism" (2013). Oxford dictionaries. Retrieved on 21 Sep 2013.

Embassy, US. (1981). Outline of the U.S. Economy "How the U.S. Economy Works". Information Resource Center, US Embassy. Retrieved 14 August, 2013

Friedman, Milton. (1962). Capitalism and Freedom (Chicago, 1962): University of Chicago press.

Friedman, Milton. (2009). Capitalism and freedom: University of Chicago press.

Gardner, Martin. (1991). The whys of a philosophical scrivener. Flatiron Building in New York City: Macmillan: St. Martin's Press

Hasan-uz-Zaman, Syed Muhammad. (1991). Economic functions of an Islamic state:(the early experience): Definition of Islamic Economics (Vol. 14): Islamic Foundation.

Heilbroner, Robert L. (1972). A radical view of socialism. Social Research, ISSN 0037-783X ; 80 Fifth Avenue, 7th floor New York, NY 10011, USA, 1-15.

Henderson, David R. (2008). "Socialism" Concise Encyclopedia of Economics: Indianapolis: Library of Economics and Liberty. ISBN 978-0865976658. OCLC 237794267.).

Hindriks, Jean, & Myles, Gareth D. (2006). Intermediate public economics. 77 Massachusetts Ave, Cambridge, MA 02139, United States: MIT Press - Massachusetts Institute of Technology.

Ibne-Taimiya, Taqi ad-Din Ahmad. (1314 A.H). Magmouaat Al-Rasal Al-Masael (The group of messages and Issues) (Vol. 5): The Arab Heritage Committee: Matebaat Al-Manara.

Kahane, J. (1981). Socialism: An economic and sociological analysis (Vol. IV.30.21). Auburn, Alabama 36832-4501: Ludwig von Mises Institute, 518 West Magnolia Avenue •

Kotz, David M. (2006). Socialism and Capitalism: Are They Qualitatively Different Socioeconomic Systems? Paper presented at the Symposium “Socialism after Socialism: Economic Problems,” sponsored by the Institute of Economics of the Russian Academy of Sciences, Moscow.

Lacour-Gayet, Robert, Grieve, James, &Blainey, Geoffrey Norman. (1976). A concise history of Australia:

Penguin Books, Australia.

Marshall, Alfred. (1890). Principles of Political Economy. On a tentérécemmentunedémonstrationpeuconvaincante pour prouverque la problématique de lévolutionéconomiquen'était pas étrangère à Marshall,(B. Glassburner" Alfred Marshall on Economic History and Historical Development", Quarterly Journal of Economies, LXIX, 1955, p. 577-595).

McMurtry, John. (1999). The cancer stage of capitalism, ISBN 0-7453-1347-7.: Pluto Press, Gernwood Publishing, Halifax.

Meade, James Edward, &Reisman, David A. (1994). Theories of the mixed economy. 6. Planning and the price mechanism (Vol. 6): Pickering &Chatto Limited.

NEW, WHAT'S. Encyclopedia> Mixed economy.

Pack, Spencer J. (1991). Capitalism as a moral system: Adam Smith's critique of the free market economy: Edward Elgar Publishing, Camberley, UK.

Robbins, Lionel. (2007). An essay on the nature and significance of economic science: Ludwig von Mises Institute.

Robbins, Richard H. (June 25, 2013). Global Problems And The Culture Of Capitalism, 3/e Chapter Two: The Laborer in the Culture of Capitalism (6th ed.): Boston, MA: Allyn and Bacon.

Sarti, Roland. (2004). Italy: A Reference Guide from the Renaissance to the Present. New York, NY 10001: Infobase Publishing.

Smith, Adam. (1776). An inquiry into the nature and causes ofthe wealth ofnations.London: George Routledge and Sons.

Stilwell, Frank. (2011). Political economy: The contest of economic ideas (2nd ed.). Stilwell: Oxford University Press.

Sura-al-Qasas, Al-Quran. (28:77). English Translation :Irfan-ul-Quran: Minhaj-ul-Quran Publications, Lahore, Pakistan.

Sura-al-Hadid, Al-Quran. (57:7). English Translation :Irfan-ul-Quran: Minhaj-ul-Quran Publications, Lahore, Pakistan.

Sura-al-Hashr, Al-Quran. (59:7). English Translation :Irfan-ul-Quran: Minhaj-ul-Quran Publications, Lahore, Pakistan.

Sura-al-Qasas, Al-Quran. (28:77). English Translation :Irfan-ul-Quran: Minhaj-ul-Quran Publications, Lahore, Pakistan.

Sura-at-Tawbah, Al-Quran. (9:34). English Translation :Irfan-ul-Quran: Minhaj-ul-Quran Publications, Lahore, Pakistan.

Vaticana, LibreriaEditrice. (2008). Compendium of the Social Doctrine of the Church. Retrieved 18 August,

2013, from http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html

Yeung, Bernard. (1999). Small and medium-sized enterprises in the global economy, : University of Michigan Press.

ISLAMIC FINANCE IN THE ECONOMIC TRANSFORMATION PROGRAMME (ETP): KEY CHALLENGES

Mohd Izzat Shahmi Bin Abdul Hadi[1]
Mohd Yaziz Bin Mohd Isa[2]
Zulkiflee Bin Mohammed[3]
Yap Voon Choong[4]
David Yong Gun Fie[5]

ABSTRACT

The purpose of this paper is to emphasize on basic concept of Islamic finance and its role in the Malaysia's Economic Transformation Programme (ETP) which have been launched in September 2010. Since the millennium era, the concept of Islamic finance has gained the fastest growing acceptance in banking and finance industry as an alternative form of financial intermediation. The initial part of this paper contains specific elaborations on what is the concept of Islamic finance and is followed by an explanation on the agenda of Islamic Financial System of the ETP, where the concept has its prominent role. The paper is concluded by discussing ambitious targets and significance impacts to be delivered by the Islamic finance in the ETP, and remaining key challenges and opportunities. The methodology used in this paper is through journal research by gathering relevant information that relate to the subject from various sources particularly journals, presentation and conference papers. The paper discovers that the Islamic finance system in Malaysia could be the main contribution to the accomplishment of the ETP. It will be achieved through its development of the Islamic banking and finance in the domestic and as well as the global stage.

Keywords: Economic Transformation Programme (ETP), Islamic banking and finance

[1] Undergraduate student, Tun Abdul Razak School of Government (TARSOG), Universiti Tun Abdul Razak
[2] Senior Lecturer, [3] Associate Professor, FCPA Melbourne, Australia; Universiti Tun Abdul Razak
[4] Senior Lecturer, [5]Associate Professor; Multimedia University. Corresponding author: mohd_yaziz@unirazak.edu.my

1. INTRODUCTION

The global Islamic banking and finance industry is on a remarkable growth path. The worldwide assets with Shariah compliance continues to grow while the financial crisis left the western economies ailing. Malaysia has achieved a reputation as being a global hub for Islamic banking and finance. To further strengthen this position, the country has set up an ambitious development plans that include becoming an intellectual and capital center for the entire industry. In 2009, total corporate debt issuance increased 22 percent year-on-year to reach RM61 billion. Of the total issuance volume, RM32 billion represented issuance of sukuks and also, Malaysia had a dominant share in the global sukuk issuance market, accounting for 47 percent of the global market.

The size of sukuk issuance grew from RM71.09 billion in 2012 to RM99.6 billion in 2013. Malaysia also has the largest Islamic fund management industry in the world in terms of number of funds, and is recognized as a centre for product innovation in the realm of Islamic finance.

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The growth of Islamic finance owes much to the strong legal and regulatory framework that has been established here so far. Malaysia today is the world's third largest market for Islamic banking, takaful and sukuk. The country's Islamic capital market tripled in size to a value of RM1.05 trillion over the past decade. In comparison, other large Muslim countries such as Indonesia, Pakistan, Bangladesh and Egypt are still at an early stage of growth. The global share of Islamic banking assets in Malaysia is targeted to increase from eight per cent in 2009 to 13 per cent in 2020. That accounted for USD1,334 billion in 2012 and have increased to USD1,811 billion in 2013. At least one Islamic financial institution in Malaysia should enter the global top ten by assets size list by 2020. The global Islamic financial assets currently only account for 2 percent of the world GDP and is expected to continue growing at double digits for the next decade. With its leading position in Islamic finance, Malaysia is poised to benefit from increased awareness and interest in Islamic finance, especially in the ASEAN region.

Historically, the first Islamic bank was established in Malaysia in 1983. In 1993, commercial banks, merchant banks and finance companies began to offer Islamic banking products and services under the Islamic Banking Scheme (IBS banks). Under the IBS, the Islamic banks have to separate the funds and activities of the Islamic banking transactions from the non-Islamic banking business (conventional banking).

However, the much-heralded economic blueprint has entered its mature phase that resulted in a decline in investment climate in 2013. Its development projects aside, there are issues and challenges in the ETP in terms of Islamic finance that needs to work on. Section 2 discusses development of tenets of Islamic finance, and Section 3 highlights Islamic banking and finance in the Economic Transformation Programme (ETP). Section 4 discusses some key challenges, and Section 5 concludes.

2. ISLAMIC BANKING AND FINANCE

Al-Jarhi (2005) takes up the issue of philosophical underpinnings of Islamic finance. He identifies three building blocks that relate to the subject. First, the Islamic law (Shariah) from which the very idea of Islamic banking has been drawn from. Second, monetary and macro theory which helps explain why Islam considers dealing through the rate of interest as totally unacceptable, and the economy-wide consequences of its prohibition. Third, is the banking theory itself. It explains the nature of Islamic banking and finance, as well as assesses its comparative performance.

Kahf (2005) highlights that Islamic banks are profit oriented organizations with the difference that they have enjoyed on themselves to conduct their affairs within the limits of the rulings of Shariah, and to comply with its overall objectives. These objectives imply that the banks would be eager to boost all forms of deposits, improve the quality of customer services, expand the base of banking services, protect capital, provide humanitarian and social services, as well as work towards other factors that raise the profit margin. However, Shariah compliance will also induce a different kind of relationship among the stakeholders (owners, depositors, and financed parties). In his paper, he analyzes the experiences of seven Islamic banks in achieving their objectives and measures their performance in assets growth, growth of invested assets, the growth of cash and deposits in other banks, the growth of customers' deposits in Islamic banks, changes in earnings, expenses, and net profits, and the commitment to the Shariah and charitable and social contributions. Islamic finance

is more than this however, as Derbel, Bouraoui & Dammak (2010) contend that it is more stable than the conventional finance and a means to reduce the impact of financial crises.

The Islamic banking had its origins in Malaysia and Asia, from efforts to send the faithful muslim to Mecca to perform the annual Haj pilgrimage, the concept conceive by Royal Professor Dr. Ungku Abdul Aziz. He conceives the Haj Pilgrimage Board in 1962, and now it is regarded as the Asia's first modern Islamic financial institution, formalizing an Islamic-oriented asset management framework.

In an earlier paper, Mohd Yasin (2001) describes the relevant laws and delves into various issues in the development of law and its application to Islamic banking. The paper highlights the difficulties of now repealed legal frameworks in implementation of Islamic finance contracts. As such, a new legal framework for Islamic banking and finance known as the Islamic Financial Services Act 2013 launched on 22nd March 2013 has since not only provides greater clarity on the legal and prudential requirements by Shariah principle for the Islamic finance and banking, but also facilitates the smooth running and operations of the Islamic banking system. The new enacted legal framework supports inclusive growth in the financial system and the economy as well as provides stronger consumer protection.

The Islamic banking and finance can be described as a system through which finance is provided in the form of money in return for either equity or rights to share in future business profits, or in the form of goods and services delivered in return for a commitment to repay their value at a future date. The Islamic banking is a banking based on Islamic law (Shariah). It follows the Shariah, called fiqh muamalat (Islamic rules on transactions). The rules and practices of fiqh muamalat came from the Quran and the Sunnah, and other secondary sources of Islamic law such as opinions collectively agreed among Shariah scholars (ijma') analogy (qiyas) and personal reasoning (ijtihad). The philosophy of Islamic banking and finance is a set of theories and ideas related to its understanding to the rules of Islamic Shariah from which the very idea of Islamic banking has been drawn, based on Islamic teachings in the fields of muamalat, or transactions, prohibit selling a certain quantity of any present goods or service for a different (presumably larger) quantity of the same good or/and service delivered in the future. Under the concept of Islamic finance, all financial practices must comply with Shariah principles, with the most predominant considerations being the prohibition of riba and gharar. That's what triggers curiosity in the Islamic finance, the absence of interest, the backbone of western or conventional banking system (Malik, Malik & Shah (2011)).

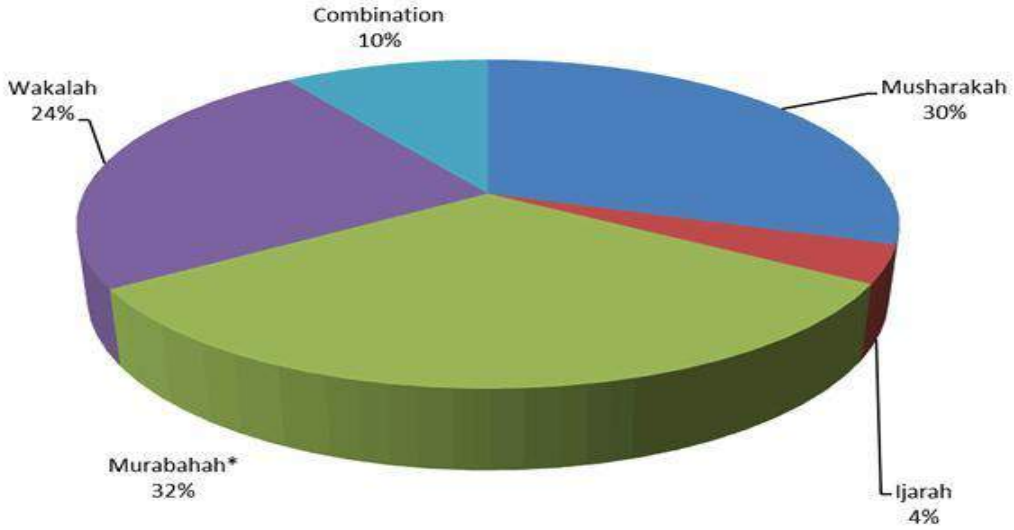
3. ISLAMIC BANKING AND FINANCE IN THE ECONOMIC TRANSFORMATION PROGRAMME

The Prime Minister of Malaysia, Dato' Seri Mohd Najib bin Tun Haji Abdul Razak, has given the global Islamic finance industry a major boost by stressing that the Islamic banking and finance would play an important role in the country's Economic Transformation Program. The Programme launched in 2010 would help Malaysia to become a high income and developed nation by 2020. According to Yaacob, Yaacob & Ismail (2013) in their study on generating income from the Programme, it is where human capital and resources are fully utilized. The ETP itself is part of the National Economic model, and encompasses 12 key National Key Economic Areas (NKEA). One of which is to make Malaysia the indisputable Global Hub for Islamic Finance targeting at least one of its Islamic Financial Institutions to be the top 10 Islamic banks in the world in terms of assets by

2020. Among its objective is to increase the Islamic financing share of total financing from 29% in 2010 when it was launched to increase to 40% in 2020.

Today, there is a vibrant sukuk market as evidence with the size of sukuk approved in 2013 as highlighted below in the Chart 3.1.

Chart 3.1: Size of corporate sukuk approved based on Shariah principle in 2013



(Source: Bursa Malaysia)

Since Islamic finance is one of the most significantly core unit in the Economic Transformation Programme (ETP), it draws a lot of players and investors into the banking and finance sector in Malaysia. The sector holds a range of opportunities. It is expected to contribute RM11.1 billion in incremental GNI by 2020. This will be supported by strong growth of 15 per cent per annum up to 2015. Most of the GNI value is expected to be derived from baseline growth, with additional contribution from several business opportunities, including from Islamic pawn broking (second-hand lending), and migration of the money lending business to Islamic banks. The development plan in this sector estimates the capital requirements for the sector development at RM50.2 billion in funding, of which approximately RM46.9 billion should be sourced from the private sector to make the Islamic finance sustainable to face remaining challenges.

4. KEY CHALLENGES

In achieving the objectives of the Economic Transformation Programme (ETP), the primary key areas of challenges still remaining are: legal, human capital and research development and innovation. The task has been entrusted to the Ministry of Higher Education, the Bank Negara Malaysia, the International Centre for Education in Islamic Finance (INCEIF), the Asian Institute of Finance (AIF), and local universities led by International Islamic University Malaysia. Further, as Jusoff, Kamaruzaman, Yusoff, Osman, Ismah, Ali, Husniyati, Zainuddin & Wan Rashid, Wan Edura (2009) highlight, the key challenges for full-fledged Islamic banks are facing are to ensure their continued compliance with the shariah in order to become the choice of customers.

Apart from this, the World Islamic Banking Competitive Report 2013 by Ernst & Young identifies, because each different region - Bahrain, Egypt, Kuwait, Indonesia and Pakistan - has a different key challenges and opportunities, each has a different challenges and opportunities. Thus, for Malaysia's Islamic banks to become the biggest players in the biggest Islamic financial hubs globally, however the report lists an urgent need to solve some legacy start-up issues with fixed operating cost as a proportion overall income. The report adds performance challenges are further exacerbated due to small size of Islamic banks and high proportion of non-yielding assets and basic risk culture at stand alone Islamic banks. To this end, the banks in the country, the report suggests, could consolidate to create larger Islamic banks with capacity to grow regionally. Locally, the Development Financial Institutions too, are to expand their services to advisory and technical assistance, and adopting an Islamic finance first.

5. CONCLUSIONS

As the conclusions, the vision 2020 will stimulate Malaysia to progressively undertaking major steps to boost the banking and finance industry which crucially require full funding engagements from the private sector in order to globalize Islamic finance products and heading towards Malaysia's reputation as worldwide Islamic finance hub as well as new and better training facilities for Islamic scholars and bankers.

REFERENCES

Al-Jarhi, Mabid Ali. (2005). The case for universal banking as a component of Islamic banking. *Islamic Economic Studies*, 12, 2 & 13,1, 1-65

Derbel, Hatem, Bouraoui, Taoufik & Dammak, Neila. (2011). Can islamic finance constitute a solution to crisis*?. International Journal of Economics and Finance, 3, 3,* 75-83

Economic Transformation Programme (ETP) Annual Report 2013, 1-345

Jusoff, Kamaruzaman, Yusoff, Osman, Ismah, Ali, Husniyati, Zainuddin & Wan Rashid, Wan Edura (2009). Customers satisfaction in Malaysia Islamic banking. *International Journal of Economics and Finance, 1, 10,* 197-201

Kahf, Monzer (2005). Islamic Banks: The rise of a new power alliance of wealth and *Shariah* scholarship. *The Politics of Islamic Finance*. Oxford University Press: Karachi, 17-36.

Kaur, Gurmeet (2014, May 17). *Transformation losing steam*. Star, 23-24

Malik, Ali, Malik, Muhammad Shaukat & Shah, Haider (2011). *Asian Social Science, 7, 1,* 179-186

McLean, David. (2013). *The World Islamic Banking, Competitiveness Report 2012-2013 Growing Beyond DNA of Successful Transformation*. 1-108

Mohd Yassin, Norhashimah (2001). Legal hiccups and suggested remedies. *International Islamic University Malaysia (IIUM) Law Journal*, *9*, *1*, 1-20

Yaacob, Baharuddin, Yaacob, Hakimah & Ismail Yaacob. (2013). Utilising Economic Transformation Programme (ETP) through Islamic Finance: Generating Income for Malaysia Prison Department, *Proceedings Kebangsaan Ekonomi Malaysia ke-VIII*, 217-223

SUSTAINABLE DEVELOPMENT IN ISLAM

Yousef Sa'adeh[1]

ABSTRACT

Sustainable development means that companies must develop its social environmental and economic responsibility for the sake of the coming generations. But in Islam it extends to the Day of resurrection . Allah, ,Subhanah , says : Verily ,We, it is We Who have sent down the Dhikr (i.e.the Quran) and surely ,We will guard (from corruption) (Surat Al-Hijr :9). Also ,Allah ,Subhanah ,says "But seek with that (wealth) which Allah has bestowed on you , the home of the Hereafter , and forget not your portion of lawful enjoyment of this world ; and do good as Allah has been good to you ,and seek not Mischief in the land. Verily, Allah likes not the Mufsidin (those who commit great crimes and sins, oppressors, tyrants, mischief-makers, corruptors)"; (surah Al-Qasas: 77). Allah, Subhanah, mentioned to this victory saying, "Verily We will indeed make victorious Our Messengers and those who believe (In the Oneness of Allah-Islamic Monotheism) in this world's life and on the Day when the witnesses will stand forth, (i.e. Day of Resurrection) (Ghafir: 51). The final victory and sustainability are for Islam .So from Islam doctrines: Verses of Quran and Prophet Speeches, we must extract our social, ethical, accounting and auditing standards.

Keywords: Islamic Accounting, Islamic Development, Islamic Management, Sustainable Development

1. INTRODUCTION

Islamic nation should awake to do her job in calling the mankind for the sake of Allah , subhanah, and to convertibility guidance to Allah. Allah subhanah said : " You[true believers in Islamic Monotheism , and real followers of prophet Mohammed (peace be upon him) and his sunnah] are the best of people over raised up for mankind",(Surah 3.Al-'Imran:110). This message (letter) and duty is continuous till the day of judgment, handing the letter is adhered with Islamic nation, which is it's way of proud, victory. Allah, subhanah, said:

(يا أيها الذين آمنوا إن تنصروا الله ينصركم ويثبت أقدامكم): "O you who have believed, if you support Allah , He will support you and plant firmly; your feet. (Surah47.Muhammad:7)

وما جعله الله إلا بشرى لكم ولتطمئن قلوبكم به وما النصر إلا من عند الله العزيز الحكيمAlso Allah, subhanah said:" And Allah made it not but as [a sign of] good tidings for you and to reassure your hearts thereby. And victory is not except from Allah , the Exalted in Might, the Wise –"(Surah 3.Al-Imran:126), also Subhanah said:"

[1] Professor at the Applied Sciences University, Amman- JordanEmail: yousef442002@yahoo.com

"لَقَدْ كَانَ لَكُمْ فِي رَسُولِ اللَّهِ أُسْوَةٌ حَسَنَةٌ لِمَنْ كَانَ يَرْجُو اللَّهَ وَالْيَوْمَ الْآخِرَ وَذَكَرَ اللَّهَ كَثِيرًا"

" There has certainly been for you in the Messenger of Allah an excellent pattern for anyone whose hope is in Allah and the Last Day and [who] remembers Allah often.(Surah33. Al-Ahzab: 21)

وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا Also Allah, subhanah said:" And whatever the Messenger has given you - take; and what he has forbidden you - refrain from. And fear Allah ; indeed, Allah is severe in penalty (Surah 59.Al-Hashr:7)

This religion was exercised twice in the past, the days of Prophet Muhammad (pbuh), when he founded the Islamic State, and the second was the days of Crusaders' and Mongol, when they together invaded Islamic state .Saladin dismissed them. Now we are looking for Islam for the third time to reunite Muslims. Allah subhanah, said:"
إنا لننصر رسلنا والذين آمنوا في الحياة الدنيا ويوم يقوم الأشهاد. Indeed, We will support Our messengers and those who believe during the life of this world and on the Day when the witnesses will stand" (Surah40.Ghafir:24).To attain this we must work hard using science and religion to renew Islam and Muslims role.

2. LITERATURE REVIEW

Sustainable development was heavily used, which means to raise the standard of living, since the finest individual is the base for development in a suitable social and environment culture.(Alghad2/5/2014), so nations are aiming to grow their societies sustainable development: economic, social and environmental. Although these efforts failed for many reasons such as : the interest in materialistic aspects and not moral aspects (Doctrine), also it served the present and day life aspects while the real sustainable development should:

1- Take care of mankind and his needs, material and morale, cover the day life and the last day , Allah says (كُلُّ نَفْسٍ ذَائِقَةُ الْمَوْتِ وَإِنَّمَا تُوَفَّوْنَ أُجُورَكُمْ يَوْمَ الْقِيَامَةِ فَمَنْ زُحْزِحَ عَنِ النَّارِ وَأُدْخِلَ الْجَنَّةَ فَقَدْ فَازَ وَمَا الْحَيَاةُ الدُّنْيَا إِلَّا مَتَاعُ الْغُرُورِ) which means Every soul will taste death, and you will only be given your [full] compensation on the Day of Resurrection. So he who is drawn away from the Fire and admitted to Paradise has attained [his desire]. And what is the life of this world except the enjoyment of delusion. (Surah3.Al-Imraan:185)

2- Sustainable development must correlate to mankind, his present and future as considering Riba is haram (forbidden) because it destroyed states all along the history , the latest of which is the international financial crisis 2008 which was caused by Riba in real estate loans.

3- Sustainable development should correlate with benefits and punishments, a dominant power (Allah Subhanah), people are unable to contradict or do against them and are looking and ambitious in its rewards , Allah says .: (: قَالَ اهْبِطَا مِنْهَا جَمِيعًا بَعْضُكُمْ لِبَعْضٍ عَدُوٌّ فَإِمَّا يَأْتِيَنَّكُم مِّنِّي هُدًى فَمَنِ اتَّبَعَ هُدَايَ فَلَا يَضِلُّ وَلَا يَشْقَى) which means : [Allah] said, "Descend from Paradise - all, [your descendants] being enemies to one another. And if there should come to you guidance from Me - then whoever follows My guidance will neither go astray sin the world] nor suffer [in the Hereafter]. (Surah20. Ta-Ha:124)

4- Sustainable development grows the capital money, although it decreases money in appearance, Allah Says (خذ من أموالهم صدقة تطهرهم وتزكيهم بها وصل عليهم إن صلاتك سكن لهم والله سميع عليم) which means : Take, [O, Muhammad], from their wealth a charity by which you purify them and cause them increase, and invoke [Allah 's blessings] upon them. Indeed, your invocations are reassurance for them. And Allah is Hearing and Knowing (Surah9. Al-Tauba:103)

Prophet Mohammad(pbuh) says (حصنوا أموالكم بالزكاة وداووا مرضاكم بالصدقة وأعدوا للبلاء الدعاء)
"Protect your money by Zakat, Treat your sick by Charity and prepare for scourge by Doaa."

5- Sustainable development means the extension of Muslim territories and the success of its call, prophet Mohammad (pbuh) says ليبلغن هذا الأمر ما بلغ الليل والنهار ولا يترك الله بيت مدر ولا وبر إلا أدخله الله هذا الدين بعز عزيز أو بذل ذليل عزاً يعز الله به الإسلام وذلاً يذل الله به الكفر

For this religion will reach the total night and day, Allah will leave no house of a building or a tent without His religion entering it, with the glory to Islam and humiliation to nonbelievers.

6- : No one muslim turned back to become a nonbeliever all over the history. If someone did, it's because he entered Islam as hypocrisy, Islam has not failed to solve any problem along its history.

2.1 Research importance

Islam is a comprehensive system for the day life and the last date, drew the way for glory. Allah subhanah, said:" (يا أيها الذين آمنوا إن تنصروا الله ينصركم ويثبت أقدامكم) : "O you who have believed, if you support Allah , He will support you and plant firmly; your feet. (Surah47.Muhammad:7), but Allah subhanah, warned from loss and failure saying:" The Prophet said that the Lord had taken a national deserted this Quran (30) and also made every prophet an enemy of criminals and Enough Lord guide and helper (31)) (Surah25. Al-Furqan:30)

هَاأَنْتُمْ هَؤُلاءِ تُدْعَوْنَ لِتُنفِقُوا فِي سَبِيلِ اللَّهِ فَمِنْكُمْ مَنْ يَبْخَلُ وَمَنْ يَبْخَلْ فَإِنَّمَا يَبْخَلُ عَنْ نَفْسِهِ وَاللَّهُ الْغَنِيُّ وَأَنْتُمُ الْفُقَرَاءُ وَإِنْ تَتَوَلَّوْا يَسْتَبْدِلْ قَوْمًا غَيْرَكُمْ ثُمَّ لا يَكُونُوا أَمْثَالَكُمْ

Here you are - those invited to spend in the cause of Allah - but among you are those who withhold [out of greed]. And whoever withholds only withholds [benefit] from himself; and Allah is the Free of need, while you are the needy. And if you turn away, He will replace you with another people; then they will not be the likes of you. (Surah47. Muhammad:38). The Prophet (pbuh) disclosed the reasons for this failure saying:" Bukhari said: Tell us Saeed bin Abi Maryam, narrated Abu Ghassan, said: Tell me Zaid bin Aslam from Ata ibn Yasar, Abu Sa'eed that the Prophet peace be upon him, said:

«Will certainly follow the ways of Shubra inch by you, and the cubit, even if you have gone in the hole of a lizard to Sketmoh».

We said: O Messenger of God, the Jews and the Christians?

The Prophet, peace be upon him: «It? »
In spite of his warnings (pbuh), this had happened. But the question is how to get rid of this situation?

Islamic state and every muslim are working all the time to receive \ propagate the message of Allah subhanah. When some become Muslim the Prophet says:"

It means to teach \educate the new muslim the Fiqh (Shariaa), the Islamic law,

وَابْتَغِ فِيمَا آتَاكَ اللَّهُ الدَّارَ الْآخِرَةَ ۖ وَلَا تَنْسَ نَصِيبَكَ مِنَ الدُّنْيَا ۖ وَأَحْسِنْ كَمَا أَحْسَنَ اللَّهُ إِلَيْكَ ۖ وَلَا تَبْغِ الْفَسَادَ فِي الْأَرْضِ ۖ إِنَّ اللَّهَ لَا يُحِبُّ الْمُفْسِدِينَ

But seek, through that which Allah has given you, the home of the Hereafter; and [yet], do not forget your share of the world. And do good as Allah has done good to you. And desire not corruption in the land. Indeed, Allah does not like corrupters." (Surah28. Al-Qasas:20)

(وَمَا مِن دَابَّةٍ فِي الْأَرْضِ وَلَا طَائِرٍ يَطِيرُ بِجَنَاحَيْهِ إِلَّا أُمَمٌ أَمْثَالُكُم ۚ مَّا فَرَّطْنَا فِي الْكِتَابِ مِن شَيْءٍ ۚ ثُمَّ إِلَىٰ رَبِّهِمْ يُحْشَرُونَ)
which means :

And there is no creature on [or within] the earth or bird that flies with its wings except [that they are] communities like you. We have not neglected in the Register a thing. Then unto their Lord they will be gathered. (Surah 6.Al-anam:7)

(الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ الْإِسْلَامَ دِينًا)

This day have I perfected your religion for you and completed My favor unto you, and have chosen for you as religion AL- ISLAM (Surah 5.Al-Maidah:3)

Development in Islam covers the every-day life till the last day of life, males and females, the young and the old, so its effect is longer than with the development concept used now a days . Muslim aims to attain his goals in day life and in the last day, especially his most valuable aim is to attain Allah subhanah complacence and the foundation of Islam state and heaven entrance in the last date, so Allah subhanah grews your charity, so as half date become as Ohod mountain at the last day . Also Muslim intends to grew his deeds, society and his nation : economical by forming firms, social by growing his and of the society doctrine (faith), and environmental by cleaning the community and to make equilibrium between generations, but for muslims it will extend to the last day.

(انا نحن نزلنا الذكر و إنا له لحافظون)
which means : Indeed, it is We who sent down the Qur’an and indeed, We will be its guardian.
(Surah15.Al-Higr:14)

Development in Islam takes care in the first place of the Muslim and his belief to be eligible for Shariaa regulations at day life and the last date. It begins with teach your brother for not to wander away from Islam, read to grow your belief, and propagate and call people for Allah's religion to protect the society and it`s doctrine, and to protect Islam so as not to be invaded

from your side by ousted of shariaa then the muslim will be eligible for punishment of Allah subhanah.

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ And We have not sent you, [O Muhammad], except as a mercy to the worlds. (Surah21. Al-Anbiya:107)

: (قل لئن اجتمعت الإنس والجن على أن يأتوا بمثل هذا القرآن لا يأتون بمثله ولو كان بعضهم لبعض ظهيرا) which means Say, "If mankind and the jinn gathered in order to produce the like of this Qur'an, they could not produce the like of it, even if they were to each other assistants. Surah17. Al-Isra:88)

This message,(Religion) Shariaa was exercised twice in early times ,the days of prophet Mohammed when he established the Islamic State in Al-Madinah, the second the days of Crosaders and Magool, when they together invaded Islamic State. Saladin dismissed them and united Islamic state for the second time. And now we are looking for this Shariaa to reunion Islamic people and state to restore it`s role.

2.2 Research Aims

The research aims to:
- To aware Muslim and Islamic Nation about the necessity to develop Muslims` and their Society an overall development, since this is a goal of every Muslim and the community now a days, in the past , and it will be in the future,for males,females, young or old according to Prophet Mohammed(PBUH) speech

لَا تَزُولُ قَدَمَا عَبْدٍ يَوْمَ الْقِيَامَةِ حَتَّى يُسْأَلَ عَنْ أَرْبَعِ خِصَالٍ : عَنْ عُمُرِهِ ، فِيمَ أَفْنَاهُ ؟ وعَنْ شَبَابِهِ ، فِيمَ أَبْلَاهُ ؟ وَعَنْ مَالِهِ ، مِنْ أَيْنَ ؟ وَفِيمَ أَنْفَقَهُ ؟ وَعَنْ عِلْمِهِ ، مَاذَا عَمِلَ فِيهِ ؟ "

Messenger of Allah (PBUH) said, "Man's feet will not move on the Day of Resurrection before he is asked about his life, how did he consume it, his knowledge, what did he do with it, his wealth, how did he earn it and how did he dispose of it, and about his body, how did he wear it out."

-To clarify the importance of development in Islam , for nowadays and the last day. Muslims must benefit not only for his own, but to benefit the society , the Prophet said:
(من لم يهتم بأمور المسلمين فليس منهم)

Prophet Mohammad PBUH said:" He who doesn't care of the matters of Muslims is not one of them. "

- To clarify to Muslims that sustainable development nowadays is limited by this time, it failed to maintain Marxism system in Soviet Union , and failed to protect Free market system from Crisis: generally especially ethical crisis as economical depression in 1929 , and financial crisis in 2008, fraud and misstatement in half of American Companies in between 1987-1997 , this was done by executives of these companies, most of these companies went to bankruptcy, also the biggest audit firms failed in 2002. Also transparency reports prepared by global American and English organizations revealed that corruption is increasing and it was done by the same ways for the same goals and the same reasons ,which is the absence of ethics and transparency and dignity which needs to be built in an overall approach. This approach means a mankind failure because of the absence of the notion of final judgments and rewards.

- To clarify, to Muslims and non muslims that the Islamic approach is ideal, divine and integral, Allah subhanah says: (الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ الْإِسْلامَ دِينًا) which means : This day have I perfected your religion for you and completed My favor unto you, and have chosen for you as religion AL- ISLAM. (Surah5. Al-Maida:3),which means we must introduce it to mankind and call all of them to manage acts of people , material or morale. It is distinguished, ideal, we are proud of it, we must work hard to turn back to and implement them, for the sake of Muslims and mankind.

-Because Muslims exercised and implemented all other systems and regulations. All of them failed to be of benefit or diligence. We know that leaders in Muslims states have stolen its wealth, but most of them are non muslims.

-To clarify, for non muslims the Islamic approach (doctrine), its divine integrate with disruption of other doctrines. It is a reference for muslims and others to derive standards of it: auditing, accounting and ethical standards, especially it is constant and unchangeable until the last day, rule people by justice, not publicized or any other thing.

2.3 Research problem

People suffer from different problems and sacrifice to solve them, but these solutions are interim (temporal), because people are interested in the day life and its problems: economic, social and political. So these suggestions fail to overcome any new problem, since it is man made and restricted with man's abilities and capabilities : as audit standards amendments in 1933, 1973 and 2002 and global depression in 1929, the global financial crisis in 2008 and more.

In Islam, there are comprehensive solutions for every problem, because it is of Allah Subhanah arragement. Allah Subhanah Says: : (الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ الْإِسْلامَ دِينًا) which means : This day have I perfected your religion for you and completed My favor unto you, and have chosen for you as religion AL- ISLAM. (Surah5.Al-Maida:3)

To assert these solutions role and credibility, it didn't fail in solving muslims` problems, individually or globally since 15 century. So they are confident that it is able to solve their problems, they believe in its necessity for them and their need to them and for mankind.
Because of disability of mankind solutions, and because of loyalty to the message of Allah, subhanah, in addition to their ambition to mankind and their desire to introduce Allah Shariaa to nonbelievers as a constant solution to their problems.

3. METHODOLOGY

This is an analytical study of Quran Verses and Prophet Mohammad Speeches because:

1- The two books are the most trustful and accurate sources, Allah Subhanah says : (انا نحن نزلنا الذكر و إنا له لحافظون) which means : Indeed, it is We who sent down the Qur'an and indeed, We will be its guardian. (Surah15.Al-Higr:14)

2- The two books aimed to benefit the human kind and tell the right faith

3- The disability of human kind to imitate them: Allah said : (قل لئن اجتمعت الإنس والجن على أن يأتوا بمثل هذا القرآن لا يأتون بمثله ولو كان بعضهم لبعض ظهيرا) which means Say, "If mankind and the jinn gathered in order to produce the like of this Qur'an, they could not produce the like of it, even if they were to each other assistants. (Surah17. Al-Israa:15)

4- The two books statements are eligible for every time and place , Allah Subhanah says : (وَمَا مِن دَابَّةٍ فِي الْأَرْضِ وَلَا طَائِرٍ يَطِيرُ بِجَنَاحَيْهِ إِلَّا أُمَمٌ أَمْثَالُكُم ۚ مَّا فَرَّطْنَا فِي الْكِتَابِ مِن شَيْءٍ ۚ ثُمَّ إِلَىٰ رَبِّهِمْ يُحْشَرُونَ) which means : And there is no creature on [or within] the earth or bird that flies with its wings except [that they are] communities like you. We have not neglected in the Register a thing. Then unto their Lord they will be gathered. (Surah6. Al-Anaam:38)

4. RESULTS AND DISCUSSION

The paper ended with some results:

1- Real sustainable development is in the obedience of Allah Shariaa
2- To study and follow up sustainable development projects in absence of Sharia, so as to reassure the first result.

5. CONCLUSION

To continue calling for Allah, religion and shariaa in conferences and symposiums, by papers and lectures.

REFERENCES

Al-Imam Malik,"AL-Mowataa"

Saleh , N.A ., (2014), " Building Alphabetic String Developing Culture , (at the man- citizen), Al-Ghad Newspaper , 23/5/2014.

Arens.A.A ; Elder .R.J.; Beasly .S.M, (2014) , " *Auditing And Assurance Services – An Integrated Approach "* , Pearson , Global Edition.

Association Of Certified Fraud Examiners (ACFE .2010) " Report to the Nations on Occupational Fraud and Abuse Study.

Moanis,H,(1988)" *Riba and Devastation of The Life", Al-Zahraa for Information (advertisement),* Cairo, third edition.

The Noble Qura'n , King Fahd complex for the printing of the Holy Qura'n, Madinah, K.S.A

The prophet(peace be upon him), Sahih Bukhari Revelation, Hadith Collection

A QUALITATIVE APPROACH TO UNDERSTAND TAX COMPLIANCE BEHAVIOUR OF MUSLIM TAX PROFESSIONALS IN MALAYSIA

Suhaila Abdul Hamid[1]

Abstract

Since tax professionals are important in a tax system, this study examines the tax compliance behaviour of sixteen Muslims tax professionals in Malaysia. The study used semi-structured telephone interviews and later analysed the data according to themes. The findings imply that to a certain extent tax compliance is situational. Attitudes are important in complying with the tax laws which can be translated as fear towards being penalized, audited, and reputation being damaged. Important referent others are also an important factor in this study, while mixed findings are found for perceived behavioural control. None of the interview participants come from the 'Big Four' public accounting firms or in-house tax professionals which may operate in a different environment. This study adds to the existing literature by reporting findings in the real world and provides another perspective of understanding the tax compliance behaviour of tax professionals using a qualitative approach.

Keywords: Muslim Tax professionals, Tax Compliance Behaviour, Semi-structured Telephone Interviews

1. INTRODUCTION

A tax system in a modern world performs various functions for governments. Apart from being used as tool to obtain resources for the government through the collection of tax, at the same time it could be a mechanism for the government to implement their policies (Alley & James, 2006). Due to the broad consequences of non-compliance with the tax law, undertaking research on the issues which impact the levels of tax compliance (and non-compliance) is important for any tax system.

The importance of tax professionals in a tax system has been supported in previous literature especially from the western-based tax compliance studies (Jackson & Milliron, 1986; Richardson & Sawyer, 2001). Previous studies such as Tan and Sawyer (2003), Devos (2012) and Mohd Isa (2012) suggest that tax professionals act as advocates to their clients and also as an intermediary to the government. Tax professionals are appointed to assist their clients in various tax matters such as minimizing the problems of being audited, tax saving, risk management, reducing tax compliance costs, submitting accurate tax returns or to resolve uncertainties (Tan & Sawyer, 2003; Hite et al., 2003; Tan, 2006). Depending on the complexity of the tax law, tax professionals could become an enforcer or exploiter of the tax law (Klepper & Nagin, 1989). If the law is ambiguous, then tax professionals will favour aggressive positions in tax, and if the law is not complex, then tax professionals will enforce the law (Hite et al., 2003).

[1] Lecturer in Universiti Sains Islam Malaysia.

With the changes in the tax landscape such as the implementation of the self-assessment systems (SAS) in many countries, the roles of tax professionals are becoming more challenging because SAS transfers more responsibility to taxpayers to voluntarily comply with the tax laws. Those taxpayers who seek the assistance of tax professionals may place greater reliance on them under the SAS since tax professionals have the expertise to interpret the frequently complex tax laws. In addition, there are Muslim tax professionals in Malaysia who also act as *amil* for zakat collection purpose (Malaysian Association of Tax Accountants, 2013). The various roles of tax professionals could lead to a challenging situation for tax professionals to remain objective in their decision making, due to the conflict of interests arising from performing these roles.

Due to their importance in a tax system, the viewpoint of tax professionals could be considered as essential in tax compliance. Despite their important roles in a tax system, Tan (2006) suggests that studies of tax professionals are sparse compared to research on other factors in tax compliance studies. Therefore, the objective of this paper is to provide an insight into the perceptions of Muslim tax professionals in Malaysia with regard to their tax compliance behaviour. Using semi-structured telephone interviews, this paper specifically explores the perceptions of sixteen (16) Muslim tax professionals with regard to their general understanding of complying with the tax law and the influence of attitudes, important referent others and perceived behavioural control in complying with the tax law. This study contributes to the lack of literature in tax professionals' tax compliance behaviour from a non-western tax jurisdiction. It reports the findings in a real-world setting from another perspective by using a qualitative approach, in this case, through interviews.

Throughout this paper, the term tax professionals refer to tax professionals, tax agents or tax practitioners practising in public accounting firms, tax consulting firms or sole practitioners in tax practice. After the introduction section, the remainder of the paper is organized as follows. Section 2 presents the literature review, followed by Section 3 on the research methods. The findings and discussion are outlined in Section 4. The conclusions are provided in Section 5.

2. LITERATURE REVIEW

2.1 Ethics and accountability from Islamic perspective

Tax compliance refers to the willingness of taxpayers to comply with the tax laws and non-compliance is associated with violating the tax laws whether or not it is intentional (Kirchler, 2007). Consequently, tax compliance (and non-compliance) behaviour is a result of ethical and unethical decision making process (Singh, 2003). Ethics is normally described as the moral principles or values that an individual has which influence him or her in making the right or wrong decision in a given situation and are often used interchangeably with morality (Crane & Matten, 2003).

In Islam, ethical values are emphasized in all aspect of human life, from individual affairs to family affairs, social affairs as well as in business affairs. Muslims are expected to behave according to the rules prescribed in Islamic law. The importance of moral and ethical values in Islam can be seen from the numerous verses in the Al-Quran and Al-Hadith. For instance in Surah An-Nisa' (3:10), Allah s.w.t says,

"You are the best nation that has been raised up for mankind: you enjoin right conduct, forbid evil and believe in Allah".

As narrated by Ibn Hambal, the Prophet Muhammad s.a.w also proclaimed, *"I have been sent for the purpose of perfecting good morals".*

The concept of *tawhid* of the true faith of monotheism, regards every individual in Islam as a trustee and a leader. The *tawhid* guides Muslims to full submission to Allah s.w.t. which later shapes their behaviour. The *tawhid* emphasizes on divine values such as honesty, trustworthiness, truthfulness, equality, priority of the society, fairness and empathy. Therefore, the concept of accountability in Islam encompasses a broader scope and is not limited to accountability towards other human and environment as thought by Western ethical theories. The ultimate accountability in Islam of an individual is towards Allah s.w.t, the genuine owner of everything. Mankind are only the trustees who are accountable for their trusted wealth before Allah s.w.t on the Day of Judgment. In view of this, Muslim tax professionals are not only accountable to their clients, their firms, the government and the societies, but more importantly they are accountable to Allah s.w.t in performing their roles.

2.2 Definitions of tax compliance and approaches in tax compliance studies

Previous studies suggest a few definitions of tax compliance, such as voluntary compliance with the letter as well as the spirit of the tax law (Alley & James, 2006), timely voluntary payment of the difference between actual tax due and the amount reported to the tax authorities (Andreoni, Erard, & Feinstein, 1998) and the timely filing of tax returns accurately according to the tax law and settling any tax owed without further enforcement (Singh, 2003). While the variety of definitions have contributed to understanding tax compliance, this paper uses a more comprehensive definition which is commonly accepted (Richardson & Sawyer, 2001) in explaining tax compliance provided by Roth, Scholz, and Witte (1989:2) which is,

> "The taxpayer files all required returns at the proper time and that the returns accurately report all liability in accordance with the Internal Revenue Code, regulations and court decisions applicable at the time the return is filed".

Based on the various definitions, the central tenets in tax compliance are voluntary reporting and timely payment according to the tax law. However, in reality, what is considered as the acceptable level of complying with the tax law is subjective and varies. In New Zealand for instance, Elliffe (2011:466) argues that the recent Supreme Court and Court of Appeal decisions in New Zealand tax practice, suggest that "…an aggressive tax avoidance transaction may converge into criminal tax evasion". In this kind of situation, the role of tax professionals is important to assist their clients in determining the boundary between tax avoidance, tax mitigation and tax evasion.

Studies in tax compliance (and non-compliance) basically approach the issue of tax compliance using either the economic-based theories or the psychology-based theories (Andreoni et al., 1998; Alley & James, 2006). The economic approach suggests that economic benefits or costs such as the level of penalty, tax rate, probability of being audited, could increase compliance to tax laws. Conversely, the psychological approach promotes the behavioural and psychological factors such as attitude, moral judgment, ethical concern and fairness to encourage tax compliance. Recent findings in tax compliance, however, also suggest that

taxpayers are motivated by both the economic and non-economic factors in complying with the tax laws (Blanthorne & Kaplan, 2008). Since this study attempts to understand the perspective of Muslim tax professionals in Malaysia regarding tax compliance, therefore the behavioural approach is considered more appropriate.

2.3 The influence of attitude, important referent others and perceived control in tax compliance

Ajzen (1991) defines attitudes as how individuals perceive the consequences of a particular behaviour as favourable or unfavourable. It is suggested that attitude is directly related to behaviour to the degree it is influenced by the intention to perform behaviour (Armitage & Christian, 2003). In many tax compliance studies, Kirchler (2007) found that despite weak relationship between attitude and tax compliance, they are significant. However, Kirchler (2007) also argue that the definition of attitude in tax compliance is not clear since attitude towards tax compliance is an ambiguous construct. Previous studies such as Saad (2011) and Langham et al., (2012) found positive influence between attitudes and taxpayers' tax compliance behaviour. Interestingly, Buchan (2005) reported that accountant's attitude has strong direct relationship with ethical intention in complying with the tax law.

Important referent others or subjective norms as defined by Ajzen and Fishbein (1980), are global social pressure from those who close to an individual such as family, friends and colleagues, who could exert influence on an individual's ethical decision making. In tax context, Kirchler (2007) argues that the tax compliance behaviour of taxpayers is influenced by the group they are associated with. This argument is aligned with prior tax compliance studies. In a synthesis of past studies in tax compliance, Jackson and Millirion (1986) and later in an updated work by Richardson and Sawyer (2001), important referent others in the form of peer influence is found to be an important factor in complying with the tax law. Similar findings on the positive influence of important referent others in tax compliance studies were also recorded by more recent studies such as Saad (2011) and Langham et al., (2012).

With respect to tax professionals, Hite et al., (2003) reviewed past studies on factors that affect tax professionals' tax compliance behaviour and argued that tax professionals' aggressive behaviour is influenced by the opinions of others. A recent study by Smart (2012) with tax professionals in New Zealand indicates a positive and significant influence of important referent others in the forms of expectations, threat of losing respect and the behaviour of important referent others on tax professionals' compliance behaviour to tax law.

Ajzen (1991) argues that a particular behaviour may not likely to be performed if that individual does not have control over performing the behaviour, even in the existence of strong attitude and influence from important referent others. Thus, the performance of behaviour is also posited to be influenced by the ability of that person to have control in performing the behaviour (Ajzen, 1991). Perceived behavioural control considers personal and environmental factors, such as the availability of information, skills and opportunities for a person to engage in a particular behaviour (Fishbein & Ajzen, 2010). The influence of perceived behavioural control is still less explored in tax compliance, and in general, findings from past studies (see for instance Bobek and Hatfield, 2003; Saad, 2011 and Langham et al., 2012) on the influence of perceived behavioural control in tax compliance are not favourable. Similar findings were recorded in a recent study by Smart (2012) who found that perceived behavioural control has no effect on the behaviour of tax professionals in New Zealand in complying with the tax law.

A review of relevant literature in this paper suggests that attitude and important referent others have positive influence on tax compliance behaviour. The influence of perceived behavioural control in tax compliance however, was not supported. While previous studies have examined the abovementioned selected factors, there are still limited studies examining the influence of those factors in tax compliance behaviour of tax professionals, particularly in non-Western tax jurisdiction (see Richardson and Sawyer, 2001; Tan and Sawyer, 2003), which this paper attempts to achieve.

9. 3. METHODOLOGY

Oats (2012) argues that taxation studies have been dominated by the positivist paradigm, which leads to the use of quantitative approaches, and thus suggests future research to consider other alternatives such as applying interpretivism paradigm, which is normally associated with qualitative methodology to understand tax issues. Patton (1990) explains that sample size in qualitative inquiry basically depends on the nature of the studies and time constraint. This is because under the qualitative approach, the purpose is to obtain contextual understanding of a particular situation which requires rich data and depth understanding (Bryman & Bell, 2011). Based on this argument, there is no specific guideline to determine sample size in qualitative studies even though researchers in qualitative studies normally use the saturation effect as a rule (Patton, 1990).

The samples in this study were identified from an earlier survey conducted by the researcher. The interview participants came from those survey respondents who agreed to be involved in the semi-structured telephone interviews which could be considered as self-selection sampling as explained by Saunders et al., (2003). Initially 21 survey respondents indicated their interest to participate in the interview, however, 4 of them were not available despite two attempts of calling to confirm their participation. Ultimately, 16 interview participants from various positions, experience and type of firms voluntarily participated in the study. The diversity of interview participants' professional background is expected to provide rich information which could be helpful to understand the tax compliance behaviour of tax professionals in this study. The profiles of the interview participants are summarized in Table 3.1 as follows:

Table 3.1: Profiles of interview participants

Position	Years of experience in tax practice	Type of firms	Reference in the paper
Tax Consultant	16	Sole practitioner	Participant no. 1
Principal	16	Medium size public accounting firm	Participant no. 2
Manager	16	Medium size public accounting firm	Participant no. 3
Senior Tax Assistant	6	Medium size public accounting firm	Participant no. 4
Senior Tax Assistant	7	Medium size public accounting firm	Participant no. 5
Tax Director	22	Small tax consulting firm	Participant no. 6

Tax Consultant	21	Sole practitioner	Participant no. 7
Tax Consultant	13	Small tax consulting firm	Participant no. 8
Tax Director	16	Medium size public accounting firm	Participant no. 9
Tax Director	12	Small size public accounting firm	Participant no. 10
Tax Assistant	4	Small size public accounting firm	Participant no. 11
Partner	20	Small tax consulting firm	Participant no. 12
Tax Assistant	4	Small size public accounting firm	Participant no. 13
Tax Assistant	4	Small size public accounting firm	Participant no. 14
Tax Assistant	4	Small size public accounting firm	Participant no. 15
Tax Assistant	3	Small size public accounting firm	Participant no. 16

The interviews with the participant were conducted using semi-structured telephone interview. Despite several drawbacks of using telephone interviews as compared to other modes of conducting interviews, such as missing the opportunity to witness the non-verbal reactions of the interview participants which may be important in interpreting the information (Bryman & Bell, 2011), the use of telephone interviews in this study is considered as suitable. The study involved tax professionals who are located in different parts of Malaysia and thus, due to the distance constraints, it was impractical to conduct face to face interviews. Due to the scattered distance and since tax professionals are normally busy people, it was also cost and time effective to use the telephone in conducting the interview. Furthermore, Bryman and Bell (2011) suggested that, the telephone interview is more effective in encouraging participation during the interviews involving sensitive issues, such as in this study.

To be consistent with the nature of a semi-structured interview, the researcher prepared an interview protocol or guideline, consisting of a list of questions based on themes relevant to the study. Despite the themes being determined *a priori* in the interview protocol, the nature of a semi-structured interview which is flexible (Bryman & Bell, 2011), allows some freedom for other themes to emerge during the interview which is relevant to understanding the tax compliance behaviour of tax professionals. During the interview, several questions related to tax professionals' general understanding on tax compliance, attitudes, important referent others and perceived behavioural control in complying with tax laws were asked. On average each participant was interviewed for approximately 30 to 45 minutes using a mixed between Malay and English. While Malay is the official language in Malaysia, English is also commonly used in commerce. The interview was recorded using an audio-tape after getting the consent from the interview participants. Despite being time consuming to transcribe the recording, by recording the interview, it allowed the researcher to concentrate on the questioning and listening during the interview (Saunders et al., 2003). Furthermore, it also provided an opportunity for a more thorough examination on the information which may lead to more accurate findings (Bryman & Bell, 2011).

The first step in analysing the interview data involved transcribing the recording of the interviews into written text. As the interviews were conducted in a mixed language of Bahasa Malaysia and English, after transcribing the recording, the raw transcript was translated into a full English text before further analysis. The transcripts were repeatedly checked to ensure that there were no obvious errors and compared the transcript against the recording. Following the suggestion by Lincoln and Guba (1985), the data was coded and given respective themes. Finally, a few of the interview participants checked their interview transcriptions as well as the themes identified and provided their feedback. This procedure, according to Creswell (2009), could increase the validity of the findings.

10. 4. FINDINGS AND DISCUSSIONS

4.1 Tax compliance behaviour

In explaining their understanding about tax compliance behaviour, generally all interview participants associated tax compliance with complying with the Income Tax Act, standards, rules and regulations by the tax authority. Their understanding is translated by meeting the deadlines for filing of tax returns, and payment owed to the tax authority, having proper documentation, possessing knowledge, and declaring the income that taxpayers earned. The following comments are some examples of how tax professionals in this interview understand tax compliance.

> *"Tax compliance means…tax professional has to comply with all standards and public rulings, rule and regulations set by the Income Tax Act…"*
>
> (Participant 2, principal, medium size public accounting firm)
>
> "*Basically if you say about tax compliance, it can be from two areas…one is the computation [and] the other is from the timing…for example [the] submission deadline, payment deadline, filing deadline. At the end of the day, it is the question of effectiveness…if you do not meet the deadlines, then you are not efficient".*
>
> (Participant 3, manager, medium size public accounting firm)
>
> *"In my opinion, tax compliance is following the rule, it means we follow what is required by the Income Tax Act or [any] regulations, legislations determined by the IRB".*
>
> (Participant 4, senior tax executive, medium size public accounting firm)

There is also a suggestion that tax compliance means exercising justice, on the side of taxpayers and tax authority. This could be achieved by ensuring that taxpayers do not overpay or underpay the amount of tax.

> *"It is wrong to under declared the income…it should be a win-win situation. Taxpayers will not pay more or less even by a cent, we just pay what we are supposed to pay".*

(Participant 8, tax consultant, small tax consulting firm)

Interestingly, as commented by an interview participant, complying with the tax law to a certain extent is situation specific. In the cases of natural disaster for instance, it becomes very challenging and requires tax professional to be more flexible with their clients in their approach to obtain the appropriate documents for tax filing purposes.

> *"The taxpayers know the things that they can claim and those that they cannot claim…it depends on situation. Let's say…in 2006, we had severe flooding in our town. The bills were drifted away…so how are we going to prepare the computation? I think in this case we have to tolerate. We had to collect as much evidence as we could, found whatever documents which were still available…and referred to previous records as well. I think we have to consider our client situation as well in this kind of circumstances".*

(Participant 6, tax director, small tax consulting firm)

4.2 Attitudes towards tax compliance

When probed further, the interview participants also explained that their attitudes to a certain extent guide them to comply with the tax law. For instance, in addition to their awareness on the importance of complying with the tax laws, as professionals, there is a concern that their attitude has to be aligned with the professional ethics while performing their roles.

> *"As a tax professional, we are given the trust, and I am afraid of the tax law. We should not go against the law. As an accountant we have to follow the ethical conduct"*

(Participant 7, tax consultant, sole practitioner)

> *"As tax professionals we have to follow our [tax professional] ethics"*

(Participant 8, tax consultant, small tax consulting firm)

> *"It is our own self…have to follow the tax regulation. My intention also influences me but I also want to help my client, so it's combination"*

(Participant 16, tax executive, small size public accounting firm)

There are also suggestions that their attitudes towards the possibility of being penalised for non-compliance, the risk of losing credibility as a tax professional and the feeling of guilt for non-compliance, influence them to comply with the tax law. Some tax professionals commented, for instance:

> *"Personally I think the factors that can influence…is the individual himself/herself, mainly…the people that I met, is all depends on that individual person. It is one's upbringing. I don't want any problem, for example I prepare a client's tax, there is something that I do not properly check, the client relies on me, I do the work for the sake of doing, so I feel guilty. The other thing is, if I don't do the work properly,*

later the IRB audits the client, the blame is on me, it's not nice if being penalised, professionally it is not nice"

(Participant 5, senior tax executive, medium size public accounting firm)

"Any decisions which are against the tax law will have effect on the taxpayers. It will damage our credibility as tax professionals. As a tax professional I have to understand this and be ethical. The Code of Ethics by the Malaysian Institute of Accountants becomes my guideline. Membership in professional accounting bodies is indeed helpful"

(Participant 9, tax director, medium size public accounting firm)

"…depends on that particular person whether or not to comply with the tax laws, sometimes…we want to be ethical but others like our clients they refused…but if [I] don't comply with the tax law, I'll feel guilty"

(Participant 15, tax executive, small size public accounting firm)

4.3 Important referent others and tax compliance

In addition to attitudes, the discussion during the interviews also centred on the influence of social pressure imposed by referent or important others in the decision making of tax professionals. The interview participants unanimously agreed that important referent others affect their decision making to a degree. The influence of important referent others comes from peers, superiors and friends who are in the same profession, in the form of exchanging different experiences and opinions especially in complicated tax cases. This could be due to the different level of expertise in interpreting tax laws. Interestingly, perceptions of people around them and clients can also influence their decision making. For example:

"Yes, my colleagues. Their influence may come from their experience and knowledge".

(Participant 1, tax consultant, sole practitioner)

"I share with my friends who are in the same profession to get their opinion. Yes, I consider the opinions of my friends who are in the same profession. Normally, I refer to senior partners about the final decision. If it is a simple case, I don't refer. It's only for complicated or big companies".

(Participant 9, tax director, medium size public accounting firm)

"If there are cases that require high level of technical knowledge I will ensure that I discuss first with my colleagues, we do our own research, especially in isolated cases. Not for all issues, only certain issues".

(Participant 12, partner, small tax consulting firm)

"For me the perceptions of others around me are important in complying with the tax law…influence by colleagues is an important factor for me".

(Participant 13, tax executive, small size public accounting firm)

"Influence from peers. We will ask around among ourselves, if we still cannot find the answer, then we will ask our supervisor".

(Participant 14, tax executive, small size public accounting firm)

4.4 Perceived behavioural control and tax compliance

It is also postulated that compliance behaviour with tax laws is influenced by the perceived behavioural control that tax professionals possessed, which is the ability of an individual to have control and the perceived ease or difficulty in performing a behaviour. This can be influenced by personal and environmental factors such as having the skills and opportunities to engage in a particular behaviour (Fishbein & Ajzen, 2010).

When asked to comment on the influence of perceived behavioural control in complying with the tax laws, there are mixed opinions provided by the interview participants. Some interview participants agree that they have control in their decision making of whether or not to comply with the tax law, yet some interview participants disagreed, stating that they only have control at the initial stage of preparing documents for tax compliance purposes. One possible reason for the mixed of opinion is because tax professionals perceived themselves as advocates who assist their clients, and eventually it is the clients who decide themselves. This could possibly lessen the influence of perceived behavioural control in complying with the tax laws. Some of the comments are presented here.

"Yes, I always have full control. Maybe because I understand how the tax laws work. My clients typically have little knowledge. Rather than arguing the amount of tax payable, they normally need my advice".

(Participant 1, tax consultant, sole practitioner)

"Not necessarily, let's say I am preparing a file for my client then finally there is something that I am not sure, so I refer to my superior. Things that I am sure, I will make my own decision".

(Participant 5, senior tax executive, medium size public accounting firm)

"…I'll ask the client. We will prepare the tax computation then we will see what the Act says, we discuss any other transactions, so the decision of how much tax the clients have to pay is not only based on me, it depends on the client as well".

(Participant 9, tax director, medium size public accounting firm)

"Normally, it's the client who makes the decision, we advise the client. We only advise about their tax needs, what is compulsory for those with income reaching the tax limit.

(Participant 10, tax director, small size public accounting firm)

"At the end of the day, the superior made the final decision. At the beginning, yes I have control but eventually I do not have the control. Sometimes, I do not have the confidence to support my argument. Maybe because I think, my superior has more experience than me, more expert".

(Participant 14, tax executive, small size public accounting)

"My boss will make the decision. Initially, yes I'll make the decision but final decision is always my boss".

(Participant 16, tax executive, small size public accounting firm)

11. 5. CONCLUSIONS

Basically, the interview participants understand tax compliance as complying with the tax law, rules, regulations and requirement by the tax authorities which is consistent with the definitions of tax compliance as suggested by prior studies such as by Roth et al., (1989) and Singh (2003). Interestingly, there is agreement by some participants that complying with the tax law to a certain extent is situation specific which perhaps indicate that complying with the tax law depends also on the intensity of the moral issue. The interview participants also concur that their attitude could influence their tax compliance behaviour which support findings from prior studies such as Buchan (2005) and Langham et al., (2012). There is agreement by some interview participants that as tax professionals they perceived themselves as professionals who are obligated to abide by the professional ethical rules. In addition, some interview participants addressed their fear that if they as tax professionals do not comply with the tax laws in assisting their clients, the repercussions will be felt by their clients, such as becoming the subject of tax audit or being penalised by the tax authority. As a result, they will lose their credibility or will be perceived as being dishonest by their clients, which could damage their reputation as tax professionals. The influence of attitude in complying with the tax law is also translated by the feeling of guilt for non-compliance, as commented by an interview participant.

The interview participants also unanimously agree that to an extent, that there is influence from referent or important others (subjective norms) in their decision making which is similar to the findings by Smart (2012). Peers, superiors and friends in the same profession, could influence the decision making of the tax professionals in this interview study. The influence could come from exchanging opinions and experiences especially in complicated tax situations. As commented by some interview participants, in many cases the complexity of the tax law and the level of knowledge that they possess will determine whether or not this influence exists. The discussion in the interviews also delved into the importance of perceived control in the decision making of tax professionals. Some interview participants believe that they have control, whilst some disagree. Some interview participants suggest that they only have control at the initial stage of decision making. This is most likely because they may not have reached a certain level of expertise that is required in the decision making process. When probed further, those tax professionals who believe that they have control, explained that they have the control in providing the type of advice to their clients, but not necessarily in the final decision making. This is because their role is to assist their clients and the final decision making is made by the clients based on the recommendations of tax professionals.

Since this is a qualitative study, therefore the findings are not meant to be generalized. In addition, the interview participants in this study came from small and medium sized public accounting firms, tax consulting firms as well as sole practitioners. The sample may not represent tax professionals in public practice as a whole. None of the tax professionals participated in this study came from the 'Big Four' public accounting firms which may have different point of views, since as suggested by Pierce and Sweeney (2009), different firm size may have different environment for decision making of accountants. Future studies perhaps could involve tax professionals from "Big Four" public accounting firms to understand further the tax compliance behaviour of tax professionals. It is also interesting for future studies to examine the antecedents of attitude in tax professionals' decision making. The interview participants for instance revealed that their attitudes are associated with economic factors such as penalty and probability of being audited as well as behavioural factors such as reputation among peers and the public. Combining both economic and non-economic factors could perhaps reveal more interesting findings.

REFERENCES

Al Quran

Ajzen, I. (1991). The Theory of Planned Behaviour. *Organizational Behaviour and Human Decision, 50*, 179-221.

Ajzen, I., & Fishbein, M. (1980). *Understanding attitudes and predicting social behavior*. Englewood Cliffs, NJ: Prentice-Hall.

Alley, C., & James, S. (2006). Research into economic and behavioural approaches in tax compliance. In A. Sawyer (Ed.), Taxation Issues in Twenty-First Century (pp. 3-14). Christchurch: The Centre for Commercial and Corporate Law, School of Law.

Andreoni, J., Erard, B., & Feinstein, J. (1998). Tax Compliance. *Journal of Economic Literature, 36*(2), 818-860.

Blanthorne, C., & Kaplan, S. (2008). An egocentric model of the relations among the opportunity to underreport, social norms, ethical beliefs and underreporting behavior. *Accounting, Organizations and Society, 33*(1), 684-703.

Bobek, D. D., & Hatfield, R. C. (2003). An investigation of the Theory of Planned Behavior and the role of moral obligation in tax compliance. *Behavioral Research In Accounting, 15*, 13-38.

Bryman, A., & Bell, E. (2011). *Business Research Methods*. New York: Oxford University Press.

Buchan, H. F. (2005). Ethical decision making in the public accounting profession: an extension of Ajzen's Theory of Planned Behavior. *Journal of Business Ethics, 61*, 165-181.

Crane, A., & Matten, D. (2007). *Business Ethics*. New York: Oxford University Press.

Creswell, J. W. (2009). *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*. Thousand Oaks: Sage Publications Inc.

Devos, K. (2012). The impact of tax professionals upon the compliance behavior of Australian individual taxpayers. *Revenue Law Journal, 22*(1), 1-26.

Elliffe, C. (2011). The thickness of a prison wall-when does tax avoidance become a criminal offence? *New Zealand Business Law Quarterly, 17*(4), 441-446.

Fishbein, M., & Ajzen, I. (2010). *Predicting and changing behavior*. New York: Taylor and Francis Group.

Hite, P., Hasseldine, J., Al-Khoury, A., James, S., Toms, S., & Toumi, M. (2003). Tax practitioners and tax compliance. In A. Lymer & D. Salter (Eds.), *Contemporary Issues in Taxation Research* (pp. 17-43). England: Ashgate Publishing Limited.

Jackson, B. R., & Milliron, V. C. (1986). Tax compliance research: findings, problems and prospects. *Journal of Accounting Literature, 5*, 125-161.

Kirchler, E. (2007). *The Economic Psychology of Tax Behaviour*. Cambridge: Cambridge University Press.

Klepper, S., & Nagin, D. (1989). The Role of Tax Preparers in Tax Compliance. *Policy*

Langham, J. A., Paulsen, N., & Hartel, E. J. (2012). Improving tax compliance strategies: Can the Theory of Planned Behaviour predict business compliance? *eJournal of Tax Research, 10*(2), 364-402.

Lincoln, Y. S., & Guba, E. G. (1985). *Naturalistic Inquiry*. Beverly Hills, California: Sage Publications Inc.

Malaysian Association of Tax Accountants. (2013). Profiles. Retrieved 8 January 2013 http://www.mata.org.my.

Mohd Isa, K. (2012). *Corporate tax payers' compliance variables under the self-assessment system in Malaysia: A mixed method approach.* Doctor of Philosophy. Curtin University, Perth.

Oats, L. (2012). Tax Research Going Forward. In L. Oats (Ed.), *Taxation: A Fieldwork Research Handbook*. Oxon: Routledge.

Patton, M. Q. (1990). *Qualitative Evaluation and Research Methods*. California: SAGE Publications Inc.

Pierce, B., & Sweeney, B. (2009). The relationship between demographic variables and ethical decision making of trainee accountants. *International Journal of Auditing, 10*, 1099-1123.

Roth, J. A., Scholz, J. T., & Witte, A. D. (Eds.). (1989). *Taxpayer Compliance Volume I: An Agenda for Research*. United States of America University of Pennsylvannia.

Saad, N. (2011). *Fairness Perceptions and Compliance Behaviour: Taxpayers' Judgments in Self-Assessment Environments.* Doctor of Philosophy, University of Canterbury, Christchurch.

Saunders, M., Lewis, P., & Thornhill, A. (2003). *Research methods for business students*. England: Pearson Education Limited.

Singh, V. (2003). *Tax compliance and ethical decision making: a Malaysian perspective*. Petaling Jaya: Pearson Malaysia Sdn Bhd.

Smart, M. (2012). *The Application of the Theory of Planned Behaviour and Structural Equation Modelling in tax compliance behaviour: A New Zealand Study.* Doctor of Philosophy, University of Canterbury, Christchurch.

Tan, L. M. (2006). Research on the role of tax practitioners in taxpayer compliance: identifying some of the gaps In A. Sawyer (Ed.), *Taxation Issues in the Twenty-First Century* (pp. 15-28). Christchurch: The Centre for Commercial and Corporate Law, School of Law, University of Canterbury.

Tan, L. M., & Sawyer, A. J. (2003). A synopsis of taxpayer compliance studies: Overseas vis-a-vis New Zealand. *New Zealand Journal of Taxation Law and Policy*, *9*(4), 431-454.

RELATIONSHIP BETWEEN AUDITOR CHARACTERISTICS AND AUDIT QUALITY IN LIBYA: A CONCEPTUAL FRAMEWORK

Mariam Moftah Ammar[1]
Izlawanie Muhammad
Kalsom Abd. Wahab

ABSTRACT

Since the collapse of Enron in 2001, external parties have pressured large corporations to improve audit quality. The Enron scandal and other instances of corporate fraud have resulted in changes to regulatory arrangements, which reflect the considerable public dissatisfaction with the effectiveness of audit quality and the roles of auditors. Thus, research on factors associated with audit quality has continued. To date, the definition and factors associated with audit quality remain controversial. This study proposes a conceptual framework to investigate the relationship between auditor characteristics and audit quality in Libya. The agency theory serves as a guide in creating the framework to improve audit quality. Evidence from previous studies suggested that factors related to auditor characteristics (including auditor experience, specialization, independence, and tenure) could significantly affect audit quality. However, these studies have not reached a consensus on how these factors influence audit quality.

Keywords: audit quality, auditor characteristics, Libya

1. INTRODUCTION

In recent years, several discussions about the auditing profession have arisen, particularly after the highly publicized collapse of Enron, which was followed by other major accounting scandals, such as those involving WorldCom and Parmalat (Li, 2007). These events and the ensuing investigations have resulted in changes to regulatory arrangements such as the Sarbanes-Oxley Act of 2002 in the US, which reflect the considerable public dissatisfaction with the effectiveness of audit quality and the roles of auditors. Thus, regulators and accountants have formulated a number of policy measures to improve audit quality in both fact and appearance. These policy decisions have been made despite the inconclusiveness of the empirical evidence regarding factors that can enhance or impair audit quality.

Therefore, improving adit quality by analyzing its influencing factors is important. By conducting a review of previous studies, we found significant research interest both at the local and international levels to investigate the relationship between factors associated with the audit firm and audit quality. However, less attention has been given to the factors associated with the auditor characteristics at the individual level despite the significant effect of these factors on audit quality.

[1] The authors are from the Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia, Malaysia . Corresponding author: maryam.amar2012@yahoo.com

As a result, the characteristics related to the auditors in determining the audit quality has received increasing attention from policymakers, practitioners, researchers, and academics. In a review, DeFond and Francis (2005) suggested that the audit quality analysis should be tested from the audit firm or office level down to the individual auditor level. Similarly, Church et al. (2008) proposed that researchers should investigate whether or not a systematic relationship exists between individual characteristics and quality audit reporting. In the same context, Carcello et al. (1992), Schroeder et al. (1986), and Wooten and Colson (2003) stated that the characteristics related to the audit team are more important in determining audit quality than those related to the audit firm. In addition, Ismail and Berisha (2011) indicated that auditors have the ability to improve the quality of financial statements because of their specialization, experience, and independence, which enable them to detect material errors in a financial report. Gul et al. (2013) analyzed almost 800 individual auditors and found that these auditors exhibited significant variations in audit quality. They also found that individual auditor effects on audit quality could be partially explained by auditor characteristics. Moreover, their findings highlighted the importance of scrutinizing and understanding audit quality at the individual auditor level.

Service quality is a measure of how well a particular service matches customer expectations. In the audit function, service quality is best determined by the audit clients because they can provide unbiased opinions on the audit quality level (Ismail et al., 2006). Thus, the views of auditor clients who have access to auditor review reports and are involved in decisions on the selection of auditors are necessary.

Accordingly, this paper presents a brief overview of the factors that influence audit quality; in particular, the factors related to auditor characteristics as perceived by auditors and clients in Libya. Studying the relationship between the factors related to auditor characteristics and audit quality to identify the limitation and problems that constitute an obstacle to the development and improvement of these characteristics is important. However, interest in developing the competencies of Libyan auditors compared with those in other countries is lacking, thereby leading to the loss of community confidence in the service quality provided by auditors. This study is expected to benefit regulators and professional bodies in their efforts to improve audit quality. Thus, this study proposes a conceptual framework to investigate the relationship between auditor characteristics and audit quality in Libya.

2. BACKGROUND

Located in the middle of North Africa, Libya covers a land area of approximately 1,775,500 sq. km. (685,524 sq. m.). This expanse of territory makes Libya the fourth largest country in Africa. However, over 90% of the country is desert or semi-desert, and only 1.5% is fertile. Given the climatic conditions of Libya, 86% of the population lives in urban areas, indicating that the country has one of the highest urbanization rates in the world. Islam and the Arabic languages characterize Libyan culture. Libyans, all of whom are Sunni Muslims, are influenced in all aspects of life by their emotional attachment to their Islamic faith.

The discovery of hydrocarbons in 1959 transformed Libya from an agricultural to a modern oil-based economy, and made it one of the most prosperous in Africa. The country now ranks 12th among petroleum producers and has been the second largest oil producer in Africa since 1991. The economy largely depends on oil as the main natural source of wealth, and this

commodity accounts for 99% of the country's exports (Al-Mabrouk and Soar, 2009). As a result, the Libyan oil industry has been a significant and attractive area for foreign investment.

The discovery of oil provided the country with financial resources to develop business activities, leading to significant economic growth. Accordingly, the need of investors, creditors, business managers, and government agencies for financial information and accounting services also increased. Subsequently, many foreign accounting firms from Egypt, the United States, and the United Kingdom opened branches in Libya, predominantly providing audit services. These agencies were managed by non-Libyans. Therefore, laws that currently regulate the accounting and auditing profession in Libya are derived from British and American accounting and auditing standards.

The Libyan Accountants and Auditors Association (LAAA) was established in 1973 by Law No. 116 as the regulatory body tasked to organize and improve the conditions of the accounting profession; raise the standards for accountants and auditors professionally, academically, culturally, and politically; and participate in conferences and seminars related to accounting. However, the LAAA has not succeeded in fulfilling its duties as a regulatory body and is not operating in the public interest.

3. LITERATURE REVIEW

Although the auditing profession has gained significant interest from organizations and institutions in developed and developing countries, audit quality is not fully understood. Duff (2009) noted that studies do not provide an inclusive definition of audit quality that covers all types of audits and auditors. De Angelo (1981) defined audit quality as "the market-assessed joint probability where a given auditor will both (a) discover a breach in the client's accounting system and (b) report the breach." This definition is often interpreted into two components: one is linked to the competence of an auditor and another is related to the independence of an auditor. Both elements of audit quality, namely, independence and competence, are related to auditor's characteristics.

Audit quality has never been more important after the collapse of Enron in 2001 and the resulting turmoil in the auditing profession. Thereafter, the global financial crisis has prompted policymakers to focus on the significance of an effective audit function as a key component in effective capital markets and attempted to identify key drivers of audit quality. For example, the UK Financial Reporting Council released The Audit Quality Framework (2008), which attracted the attention of researchers, especially those in developed countries, to audit quality and the factors that influence it.

Arguably, users of audit services have difficulty in directly assessing the traditional concepts of audit quality (i.e., competence and independence) because of the complexity of the techniques and standardized methods used by auditors. The perception of audit quality depends on the perspectives of users, auditors, regulators, and society in the financial reporting process. These groups may have different ideas as to what constitutes audit quality, which influence the type of indicators used to assess audit quality. The auditor may define high audit quality as a condition in which the work can be defended against challenges during an inspection or in a court of law. For regulators, a high-quality audit may be characterized by compliance with professional standards. Finally, the society may consider a high-quality audit as one that

prevents economic problems for a company or the market in general. Ultimately, different views suggest the use of different metrics (Knechel et al., 2012).

4. THEORETICAL FOUNDATION: THE AGENCY THEORY

The separation of ownership from management in modern corporations provides the context for the agency theory. This distinction between ownership and control creates the potential for conflicts of interest between agents and principals, which result in costs associated with resolving these conflicts (Eisenhardt, 1989). Principals appoint agents that have decision-making authority, trusting the latter to act in the best interests of the former.

According to the agency theory, the demand for auditing can be understood based on the need for accountability when business owners (principals) hire others (agents) to manage their business. Auditors have a role in the agency relationship between shareholders and management because auditors are agents appointed by the board of directors and exercise serve as intermediaries between shareholders and management to validate financial statements prepared by the management. In addition, to reduce agency costs by cutting information asymmetry in financial reporting, principals hire external auditors independent from the agents who manage their company (Piot, 2001).

Agency costs are the main reason for demanding high audit quality (Chung et al., 2005). High levels of audit quality are required when the result of evaluation shows high value agency costs. Meanwhile, an inherent moral hazard problem is a type of agency problem. High audit quality can decrease opportunities for managers to pursue self-interest at the expense of owners; thus, principals obtain more favorable returns.

5. CONCEPTUAL FRAMEWORK AND HYPOTHESIS DEVELOPMENT

The theoretical framework of this study is based on the relevant literature and the agency theory discussed previously. Factors related to auditor characteristics and their relationships with audit quality are integrated into one conceptual framework. The figure (1) illustrates the proposed framework in which auditor characteristics are independent variables and audit quality is a dependent variable. The current study attempts to bridge the gap by providing a basis for discerning the effect of auditor characteristics on audit quality. Section 5.1 discusses the hypotheses developed from the conceptual framework.

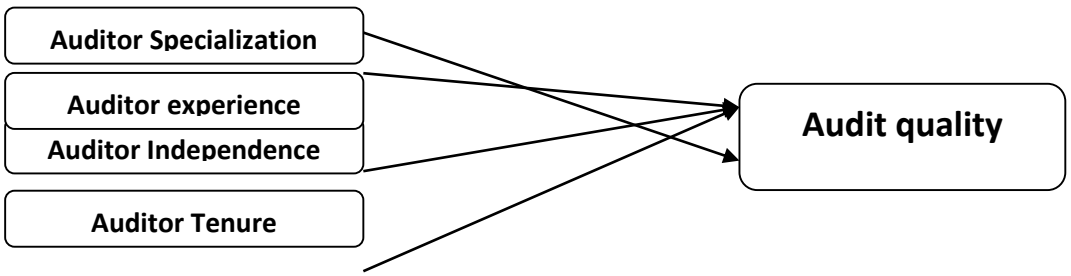


Figure (1): Auditor Characteristics and Audit Quality

5.1 Auditor Specialization and Audit Quality

Industry-specialist auditors have greater opportunities to develop in-depth knowledge of their field of specialization. Working with multiple clients in the same industry allows the staff of accounting firms to become experts in the processes and procedures unique to that industry. An auditor can be more confident and persistent when assessing the evidence presented by the client by understanding the common weaknesses, risks, and issues faced by a particular industry (Wooten and Colson, 2003).

Accounting firms recognize the importance of industry expertise in providing high-quality audits and organize their assurance practices along industry lines. In large firms, individual auditors specialize by auditing clients in the same industry. For example, a report on the US audit market issued by the US General Accounting Office (GAO) in 2008 acknowledges the significance of industry expertise, noting that "a firm with industry expertise may exploit its specialization by developing and marketing audit-related services specific to clients in the industry and [providing] a higher level of assurance (GAO 2008; p. 111)."

The association between industry specialization and audit quality, however, had not received considerable academic interest at the time when the study conducted by Gramling and Stone (2001) was published. Thus, the authors expressed concern about the limited studies on this important area by stating that "no research [has] examined whether or not industry specialization is associated with audit quality. This dearth of research is particularly surprising given the large audit firm emphasis on developing industry expertise and the importance placed on industry expertise by audit clients and auditing standard setters" (p. 22). However, a substantial volume of academic literature that assesses the effect of auditor industry specialization on audit quality is now available.

The industry specialization literature suggests that performance is optimal when industry specialists spend most, if not all, of their time auditing clients in one industry setting (Low, 2004; Hammersley, 2006). Schauer (2002) contended that one of the most important factors that influence the level of audit quality is industry specialization, providing evidence that audit quality increases as the level of auditor specialization increases. In the same context, the findings of Robkob et al. (2011) indicated that a higher degree of audit specialization may help achieve higher audit quality. Interestingly, the results also demonstrate that tax auditors with two dimensions of audit specialization, namely, particular capability and special experience, have a positive effect on audit quality.

In addition, researchers have examined the effect of industry specialist expertise on audit quality (Balsam et al., 2003; Ferguson et al., 2003; Reichelt and Wang, 2010). The results showed that larger audit firms (Big Four) and local audit firms that are industry leaders can constrain client opportunistic use of discretion over accruals, and therefore differentiate themselves from competitors through higher-quality audits (Francis, 2011). In addition, studies have reported that audit firms can achieve differentiation and generate fee premiums through industry specialization (Fung et al., 2012; Zerni et al., 2012). Furthermore, a recent study by Butcher et al. (2013) found support for the extensive audit quality literature advocating the importance of auditor specialization in providing quality audits. Therefore, the following hypothesis is suggested:

H1: A positive relationship exists between the level of auditor specialization and audit quality.

5.2 Auditor Experience and Audit Quality

Professional experience refers to the power that can be obtained through practice over a certain period and the general knowledge that enables a task to be accomplished with high quality. In terms of auditing, knowledge focuses on standards required by regulation and determines audit practice. Moreover, the skills obtained from accumulated audit tasks allows the auditors who have more experience to perform better in audit reports because they have the judgment to choose the appropriate methods to use in practice (Prachsriphum et al., 2010). Thus, experienced auditors have a more complete knowledge base and engage in more complex cognitive processing.

Arguably, special audit experience is defined as the specialized knowledge, know-how, and expertise accumulated by the auditor through work experience in various environments. The moderating effects of experience may interact with attitudes and behavior or performance. Moreover, individual experience is concerned with threats of independence from self-interest, self-review, and overfamiliarity in dealing with intimidation (Molyneaux, 2004).

Prior literature has suggested that experienced auditors and partners are better at detecting audit problems, can identify a greater number of plausible reasons to explain audit findings, and use more cost-effective approaches to solve problems (Bedard and Biggs, 1991). Audit firms also assign more experienced staff to work with clients who have an increased fraud and error risk, as well as clients with higher perceived business risk (Johnstone and Bedard, 2003).

Audit experience is related to how long the auditor has worked and how many auditing duties have been accomplished. Technically, audit expertise increases with more experiences in fulfilling such duties. More experience results in better audit quality, particularly in making judgments. The use of experience as an independent variable is based on the assumption that repeated tasks over a long period improve work quality. Experience enables seasoned auditors to perform tasks superior to those performed by auditors with limited experience, a finding that is consistent with the results of previous studies on auditor experience (e.g., Libby and Frederick, 1990; Shoommuaangpak, 2007).

Shoommuaangpak (2007) found that auditor experience has a crucial role that affects the reliability and credibility of financial reports, and that auditor experience has a significant effect on audit quality. Furthermore, according to Libby and Frederick (1990), experience and knowledge can influence auditor opinion. Good judgments and opinions are also parameters that affect auditor performance.

Arguably, auditors with more professional experience are likely to produce a higher quality of work. In this respect, Januarti and Ghozali (2013) discovered that auditor experience is associated with performance improvement, impression management, and feedback seeking. They also found that developing skills in various assignments may improve audit quality. By contrast, Suyono (2012) showed that experience does not affect audit quality partially. Johnstone et al. (2012) found that auditor supply chain expertise at the city level is associated with higher audit quality and lower audit fees for supplier companies than for firms that employ auditors without supply chain expertise. These findings were consistent with the idea that auditor experience increases both actual and perceived audit quality. Therefore, the following hypothesis is suggested:

H2: A positive relationship exists between auditor experience and audit quality.

5.3 Auditor Independence and Audit Quality

Auditor independence is becoming increasingly important because of its effect on audit quality. When the auditor does not remain independent, the auditor is less likely to report the irregularities; thus, the audit quality is impaired. With respect to the importance of audit independence, definitions of audit quality emphasize auditor competence and independence (De Angelo, 1981a). Furthermore, audit independence is defined as a judicial impartiality that recognizes an obligation for fairness to the management and owners of a business as well as to the creditors and those who may otherwise rely on the reports of independent auditors (Roberts, 2010). Auditor independence is a necessary element for the trustworthiness of financial statements. Independent auditors increase the reliability of financial statements because they are more likely to prevent, detect, and correct material errors and omissions.

Independence is addressed in the conceptual discussions on independence, whereas empirical analysis attempts to measure independence through analysis of user perceptions. The factors that can affect perceived independence are the size of the audit firm, competition, tenure, provision of advisory services, threat of professional sanctions and legal liability, fear of losing clientele, and fear of loss of reputation (Schilder, 1994).

However, non-independent auditors may present financial interests, business relationships, employment with the audit client, managerial and supervisory roles with the audit client, and personal relationships (Quick and Warming-Rasmussen, 2005).

Given that the independence of the auditor is a critical issue for the auditing profession, numerous studies have been conducted in this area. Moore et al. (2004) argued that if it were not for the claim of independence, there would be no cause for external auditors to exist. Furthermore, according to Li (2007), the lack of independence and the weak quality of auditing are among the major elements that have influenced the recent bankruptcy of large companies such as Enron and WorldCom.

Research related to quality audits conducted by Carcello and Nagy (2004) indicated that auditor independence affects audit quality. Similarly, a study conducted by Duff (2004) showed that audit quality is affected by four dimensions, one of which is the independence of the auditor. Samelson et al. (2006) also discovered that independence is one of the factors that influence the audit quality. Alim (2007) found empirical evidence that auditor independence has a significant effect on audit quality.

Furthermore, Mansouri et al. (2009) argued that audit quality is highly dependent on the independence of the auditor and a positive relationship exists among audit independence, competence, and audit quality. Carolina (2013) found that audit independence significantly affects audit quality. In addition, a study conducted by Suyono (2012) showed that independence influences audit quality partially. Arguably, few studies have been conducted on direct measures of perceived auditor independence and audit quality. Therefore, the preceding discussion leads to the following hypothesis:

H3: A positive relationship exists between auditor independence and audit quality.

5.4 Auditor Tenure and Audit Quality

Auditor tenure is the length of the audit–firm–client relationship as of the fiscal yearend covered by the audited financial statements. According to Jenkins and Velury (2008), auditor tenure refers to the period during which an auditor had a contract with the same audit clients to audit their financial statements. Using the definition of short- and long-term tenure, Adeyemi et al. (2012) defined auditor tenure as medium when the same auditor has audited the financial statements for four to eight years.

Auditor tenure is among the factors that affect audit quality, and this issue seems to be pertinent in international recurring debates among regulators, auditors, and academics (Geiger and Raghunandan, 2002). However, the literature does not provide a clear consensus on how auditor tenure affects audit quality. Long-term audit tenures increase audit quality because of the auditee-specific knowledge gained by the auditors over time (Simon and Francis, 1988). However, the long-term association of auditors with auditees threatens auditor independence, thereby leading to a lower level of audit quality (IFAC, 2005).

Knechel and Vanstraelen (2007) showed that longer auditor tenure does not diminish audit quality. Jackson et al. (2008) examined the effect of mandatory audit rotation on audit quality and concluded that audit quality is not improved by mandatory audit firm rotation. Few studies suggested that tenure improves audit quality to a certain extent, with the quality declining when tenure becomes extremely long (Bell et al., 2012). Carolina (2013) found that audit tenure has a significant effect on audit quality. Similarly, by examining whether or not a relationship exists between audit quality measured by estimated discretionary accruals and audit partner tenure, Hsieh (2011) found that discretionary accruals are significantly and negatively associated with the audit partner's tenure.

In contrast to the studies described, other studies on the relationship between audit firm tenure and audit quality indicated that audit quality is lower given a longer auditor tenure. A number of recent studies provided evidence that long tenure has a negative effect on audit quality (Davis et al., 2009; Chi and Huang, 2005). Similarly, Mgbame et al. (2012) observed a negative relationship between auditor tenure and audit quality in the Nigerian context. Amake and Okafor (2012) also found that auditor tenure is negatively but not significantly associated with auditor independence and audit quality. They recommended that tenure should not exceed five years to ensure that the independence of an auditor is not compromised and to improve audit quality. Examining the relationship between the mandatory rotation of the auditors and the audit quality in Australia, Jackson et al. (2008) found that auditor tenure has no negative effect on audit quality.

Collectively, empirical evidence on the effects of auditor tenure on audit quality is mixed; some studies reported that audit quality decreases with auditor tenure, whereas others reported that audit quality increases with auditor tenure. The preceding discussion of prior literature constitutes the grounds for formulating the following hypothesis in the alternative form.

H4: A positive relationship exists between auditor tenure and audit quality.

6. SUMMARY

Audit quality is important to users of audited financial statements because of the role of auditing in enhancing the credibility and reliability of financial statements. The highly publicized collapse of Enron as well as the accounting scandals involving WorldCom and Parmalat have diminished public trust in the financial reports of companies and cast doubts on audit quality, thereby motivating continued research on the factors associated with audit quality.

By conducting a review of previous studies, we observed that researchers have a substantial interest, both at the local and international levels, to investigate the relationship between factors associated with the audit firm and audit quality. However, less attention has been given to factors associated with auditor characteristics at the individual level despite the strong effect of these factors on audit quality.

For several decades, audit quality has been a subject of interest and research in economically advanced countries, such as the UK and the US, because of the role of auditor reports in the decision-making process of investors. Emerging markets, including Libya, do not benefit from the same level of audit quality as developed markets do. This situation poses a challenge to both investors and businesses that aim to attract investors.

REFERENCES

Adeyemi, S. B., Dabor, E. L., & Okpala, O. (2012). Factors affecting audit quality in Nigeria. International Journal of Business and Management, 3(20), 198-209.

Alim, MN, Trisni, H & Lilik, P. (2007). The effect of competence and independence to the audit quality. Procedeeng of national accounting symposium x, Indonesian Accounting Association, Makassar, Indonesia, 31-48.

Al-Mabrouk, K., & Soar, J. (2009). A delphi examination of emerging issues for successful information technology transfer in North Africa a case of Libya. African Journal of Business Management, 3(3), 107-114.

Amake, C. C., & Okafor, C. (2012). Auditors Independence, Auditors' Tenure and Audit Firm Size In Nigeria. Research Journal of Finance and Accounting, 3(10), 137-142.

Balsam, S., Krishnan, J., & Yang, J. S. (2003). Auditor industry specialization and earnings quality. Auditing: A Journal of Practice & Theory, 22(2), 71-97.

Bedard, J. C., & Biggs, S. F. (1991). Pattern recognition, hypotheses generation, and auditor performance in an analytical task. Accounting Review, 622-642.

Bell, T., Causholli, M., & Knechel, W. R. (2012). AUDIT FIRM TENURE, NON-AUDIT SERVICES AND INTERNAL ASSESSMENTS OF AUDIT QUALITY.

Butcher, K., Harrison, G., & Ross, P. (2013). Perceptions of Audit Service Quality and Auditor Retention. International Journal of Auditing, 17(1), 54-74.

Carcello, J. V., Hermanson, R. H., & McGrath, N. T. (1992). Audit quality attributes: The perceptions of partners, preparers, and financial statement users. Auditing: A Journal of Practice & Theory, 1-15.

Carcello, J. V., & Nagy, A. L. (2004). Client size, auditor specialization and fraudulent financial reporting. Managerial Auditing Journal, 19(5), 651-668.

Carolina, Y. (2013). An Empirical Study of Auditor Independence, Competence and Audit Tenure on Audit Quality - Evidence from North Jakarta, Indonesia. The 2nd IBSM, International Conference on Business and Management.

Chung, R., Firth, M., & Kim, J. B. (2005). FCF agency costs, earnings management, and investor monitoring. Corporate Ownership and Control, 2(4), 51-61.

Church, B. K., Davis, S. M., & McCracken, S. A. (2008). The auditor's reporting model: A literature overview and research synthesis. Accounting Horizons, 22(1), 69-90.

Davis, L.R., Soo, B., & Trompeter, G. (2009). Auditor Tenure and the Ability to Meet or Beat Earnings Forecasts. Contemporary Accounting Research, 26(2), 517 – 548.

De Angelo, L. E. (1981). Auditor size and audit quality. Journal of accounting and economics, 3(3), 183-199.

DeFond, M. L., & Francis, J. R. (2005). Audit Research After Sarbanes-Oxley. Auditing: A Journal of Practice & Theory, 24(s-1), 5-30.

Duff, A. (2009). Measuring audit quality in an era of change: An empirical investigation of UK audit market stakeholders in 2002 and 2005. Managerial Auditing Journal, 24(5), 400-422.

Duff, A. (2004). Auditqual: Dimensions of audit quality. Institute of Chartered Accountants of Scotland.

Eisenhardt, K. M. (1989). Agency Theory: An Assessment and Review. Academy of Management Review, 14(1), 57-74.

Ferguson, A., Francis, J. R., & Stokes, D. J. (2003). The effects of firm-wide and office-level industry expertise on audit pricing. The Accounting Review, 78(2), 429-448.

Financial Reporting Council (2008). The Audit Quality Framework. Available at: http://www.frc.org.uk/documents/pagemanager/frc/promoting_audit_quality_resposes/audit%20quality%20framework%20for%20web.pdf.

Francis, J. R. (2011). A framework for understanding and researching audit quality. Auditing: A Journal of Practice & Theory, 30(2), 125-152.

Fung, S. Y. K., Gul, F. A., & Krishnan, J. (2012). City-level auditor industry specialization, economies of scale, and audit pricing. The accounting review, 87(4), 1281-1307.

Geiger, M. A., & Raghunandan, K. (2002). Going-concern opinions in the “new” legal environment. Accounting Horizons, 16(1), 17-26.

Government Accountability Office (GAO). 2008. Audits of public companies. Continued concentration in audit market for large public companies does not call for immediate action. Washington, DC: GAO.

Gramling, A. A., & Stone, D. N. (2001). Audit firm industry expertise: A review and synthesis of the archival literature. Journal of Accounting Literature, 20, 1-29.

Gul, F. A., Wu, D., & Yang, Z. (2013). Do individual auditors affect audit quality? Evidence from archival data. The Accounting Review, 88(6), 1993-2023.

Hammersley, J. S. (2006). Pattern identification and industry-specialist auditors. The Accounting Review, 81(2), 309-336.

Hsieh, M. T. (2011). Does audit partner tenure influence on audit quality. Asian Journal of Management 123, 8(2), 11-26.

IFAC (2005). IFAC Code of Ethics for Professional Accountants [online]. International Federation of Accountants [cited 18.10. 2002]. Available from World Wide Web: <URL:http://www.ifac.org/>.

Ismail, Y., & Berisha, H. (2011). Perception of Future Marketers and Accountants Towards the Need for Marketing of Public Accounting Services. International Journal of Economics, Management and Accounting, 19(3).

Ismail, I., Haron, H., Ibrahim, D. N., & Isa, S. M. (2006). Service quality, client satisfaction and loyalty towards audit firms: Perceptions of Malaysian public listed companies. Managerial Auditing Journal, 21(7), 738-756.

Jackson, A. B, Moldrich, M & Roebuck, P. (2008). Mandatory Audit Firm Rotation and Audit Quality. Managerial Auditing Journal, 23(5), 420-437. http://dx.doi.org/10.1108/02686900810875271.

Januarti, I., & Ghozali, I. (2013). Supervisor Power and Auditor Experience Influencing Auditor's Response. Research Journal of Finance and Accounting, 4(2), 8-18.

Jenkins, D. S., & Velury, U. (2008). Does auditor tenure influence the reporting of conservative earnings?. Journal of Accounting and Public Policy, 27(2), 115-132.

Johnstone, K. M., & Bedard, J. C. (2003). Risk management in client acceptance decisions. The Accounting Review, 78(4), 1003-1025.

Johnstone, K. M., Li, C., & Luo, S. (2012). Client-Auditor Supply Chain Relationships, Audit Quality, and Audit Pricing. Available at SSRN 1984897.

Knechel, W. R., & Sharma, D. S. (2012). Auditor-provided non audit services and audit effectiveness and efficiency: Evidence from pre-and post-SOX audit report lags. Auditing: A Journal of Practice & Theory, 31(4), 85-114.

Knechel, W.R., & Vanstraelen, A. (2007). The Relationship between Auditor Tenure and Audit Quality Implied By Going Concern Opinions. Auditing: A Journal of Practice and Theory, 26(1), 113 – 131.

Li, D. (2007). Auditor Tenure and Accounting Conservation. PhD thesis, Georgia Institute of Technology.

Libby, R., & Frederick, D. M. (1990). Experience and the ability to explain audit findings. Journal of Accounting Research, 348-367.

Low, K. Y. (2004). The effects of industry specialization on audit risk assessments and audit-planning decisions. The Accounting Review, 79(1), 201-219.

Mansouri, A., Pirayesh, R., & Salehi, M. (2009). Audit competence and audit quality: Case in emerging economy. International Journal of Business and Management, 4(2).

Molyneaux, D. (2004). After Anderson: an experience of integrating ethic into undergraduate accountancy education, Journal of Business Ethics, 54, 385-398.

Moore, D.A, Tetlock, P. E, Tanlu, L & Bazerman, M.H, (2004).Conflicts of Interest and the Case of Auditor Independence: Moral seduction and Strategic Issue Ccycling. Woking Paper, 103-115.

Mgbame, C., Eragbhe, E., & Osazuwa, N. P. (2012). Audit Partner Tenure and Audit Quality: An Empirical Analysis. European Journal of Business & Management, 4(7).

Piot, C. (2001). Agency costs and audit quality: Evidence from France. European Accounting Review, 10(3), 461-499.

Prachsriphum, Suttinee, Jantarajaturapath,& Napat (2010). Audit-technique innovation capability of auditors in Thailand: effects on audit efficiency and customer satisfaction. International Academy of Business and Economics, 10 (4).

Quick, R., & Rasmussen, W. (2005). The Impact of MAS on Perceived Auditor Independence-Some Evidence from Denmark. Accounting Forum, 29(2), 137-168. http://dx.doi.org/10.1016/j.accfor.2004.09.001.

Reichelt, K. J., & Wang, D. (2010). National and Office-Specific Measures of Auditor Industry Expertise and Effects on Audit Quality. Journal of Accounting Research, 48(3), 647-686.

Roberts, M. L. (2010). Independence, impartiality, and advocacy in client conflicts. Research in Accounting Regulation, 22(1), 29-39.

Robkob, Sangboon,P. Leemanonwarachai,K. & Teerapron.(2011). The effect of audit specialization on audit quality: an empirical study of tax auditors in Thailand. International Academy of Business and Economics Audience, 11 (4).

Samelson, D., Lowensohn, S., & Johnson, L. E. (2006). The Determinants of Perceived Audit Quality and Auditee Satisfaction in Local Government. Journal of Public Budgeting, Accounting & Financial Management, 18(2).

Schilder, A. (1994) `Auditor independence: an exploratory study on some core issues of accountants' ethics' , Ph.D. dissertation, University of Groningen.

Schroeder, M. S., Solomon, I., & Vickrey, D. (1986). Audit Quality- The Perceptions of Audit Committee Chairpersons and Audit Partners. Auditing - A Journal of Practices & Theory, 5(2), 86-94.

Shoommuangpak, P. (2007). Auditor Expertise, Audit Quality and Client Acceptance. International Journal of Business Research, 7(1), 1-15.

Simon, D. & J. Francis (1988). The effect of auditor change on audit fees: Tests of price cutting and price recovery. The Accounting Review 63:2, 255– 269.

Suyono, E. (2012). Determinant Factors Affecting The Audit Quality: An Indonesian Perspective. Global Review of Accounting and Finance,3(2), 42-57.

Wooten, T. C., & Colson, R. H. (2003). Research about Audit Quality. CPA Journal, 73(1), 48.

Zerni, M. (2012). Audit Partner Specialization and Audit Fees: Some Evidence from Sweden*. Contemporary Accounting Research, 29(1), 312-340.

SHARIAH COMPLIANCE IN MALAYSIAN ISLAMIC BANKING: ANTECEDENTS OF SHARIAH REVIEW FUNCTION EFFECTIVENESS

Sabri Embi[1]
Zurina Shafii[2]

ABSTRACT

Staying Shariah compliant for Islamic financial institutions (IFIs) is very critical as non-Shariah compliance has serious financial and non-financial implications. It is therefore crucial for the IFIs to carry out their Shariah review function effectively. The purpose of this conceptual paper is to explore and examine the antecedents of Shariah review function effectiveness in Malaysian Islamic banking. This qualitative library search found seven factors that may influence or impact Shariah review function effectiveness. They are; i) Independence, ii) Competence, iii) Effective Communication, iv) Scope of Shariah Review Function v) Culture, vi) Auditees' Attributes, and vii) Management Support. The findings will add to the body of knowledge on Shariah compliance and may benefit the industry practitioners. Future research can look into the antecedents of other Shariah compliance function such as Shariah risk management control function and Shariah research function. This paper is an ongoing PhD thesis of the researcher.

Keywords: Shariah compliance, Shariah review

1. INTRODUCTION

Islamic banking and finance refers to a banking and finance system that has to comply with the Shariah principles. Complying with the Shariah principles refer to the act of observing the permissibles (halal) and refraining from the prohibited (haram) as commanded by Allah (SaifulAzhar, 2010). For instance, a Muslim is prohibited from indulging in riba based activities such as borrowing with interest but at the same time, it is permissible for him to perform trading. The prohibition of riba and the permissibility of trading are explicitly stated in the Quran: "Trade is like usury. Whereas Allah has permitted trading and forbidden usury…" (Al-Quran.Al-Baqarah 2:275)[3]and Allah labels those whoever returns to (dealing in interest or usury) are the companions of the Fire and they will abide eternally therein. As a Muslim, one has no choice but to follow the rules of the religion and not those who are ignorant of the rules (Al-Quran. Al-Jathiyah 45: 18)[4]. Above all, a Muslim must remember that the very reason for

[1]Sabri Embi, Ph.D student, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia, 71800, Nilai, Negeri Sembilan, Malaysia.
[2]Assoc. Prof. Dr.Zurina Shafii,senior lecturer, Faculty of Economics and Muamalat, and Research Fellow, Islamic Finance and Wealth Management Institute,Universiti Sains Islam Malaysia, 71800, Nilai, Negeri Sembilan, Malaysia.Corresponding author: sabri_embi@yahoo.com
[3]All Quranic translations in this writing are based on Sheikh Abdullah Besmeih. 2007. *Tafsir Pimpinan Ar-Rahman.* Putrajaya: Department of Islamic Development Malaysia. Translations from other sources will be cited accordingly.
[4] Al- Quran. Al-Jathiyah 45:18.

his existence is to worship Allah as stated in the Quran: "And (remember), I created the jinn andmankind that they might worship and pay their devotions to Me"[1].

In the case of Islamic banking and finance, non-Shariah compliance incidence will not only expose IFIs to the risk of breaking the trust and confidence of investors and depositors but will also affect the integrity of the affected IFIs. In view of this, Bank Negara Malaysia (BNM) had on 1 January 2011, issued the Shariah Governance Framework (SGF) for IFIs with the main aim to enforce and strengthen the IFIs' Shariah governance structures and processes in order to ensure that all the operations and business activities of the IFIs comply with the Shariah principles at all times (Zurina et al., 2013). As far as Malaysia is concerned, a Shariah non-compliance incidence in Islamic banking and finance is a serious offence. According to section 28 (5) of Islamic Financial Services Act, 2013, any person who commits the offence will be liable to imprisonment for a term not exceeding eight years or to a fine not exceeding twenty-five million ringgit or to both.

As Shariah compliance is so critical, all IFIs in Malaysia are required by BNM to have a robust Shariah compliance function including but not limited to Shariah review functionto ensure that the activities and operations carried out by the IFI do not contravene with the Shariah (Bank Negara Malaysia, 2010). In this respect, the role of the IFI'sShariah Committee (SC) has been enhanced among others to include carrying out Shariah review function in order to achieve a Shariah-based operating environment.Prior to the issuance of the SGF, the role of the SC is only advisory in nature.

According to Zurina et al (2013), the issuance of the SGF is very crucial in increasing the public's confidence towards Islamic finance industry and in order to enhance the industry. In view of this and as indicated in the SGF, all IFIs are responsible in ensuring that the SGF is implemented effectively through an effective board and management together with an independent SC (Bank Negara Malaysia, 2010). Thus it is incumbent upon all IFIs to carry out the Shariah review function effectively involving both ex-ante and ex-post assurance processes. Under the 'three lines of defence' concept, the Shariahreview function forms an important second line of defence to check for any incidence of Shariah non-compliance.

As Shariah compliance is critical to the operations and business of the IFIs, it is crucial for the IFIs to be aware of the factors that affect or influence the effectiveness of the Shariah review function. Paying attention to all these factors would place the IFIs in a better position to create a Shariah based environment as envisioned in the SGF.

Therefore it is timely and relevant to embark on research to examine the antecedents of the effectiveness of the implementation of the Shariah review function. At the moment it is difficult to find specific studies conducted on Shariah review function. Even studies on Shariah audit are not easy to find (Zurina et al., 2013 and Hisham&NorKhadijah,2012). As such the present study is conducted to fill the gap. Specifically, the study aims to identify and examine the antecedents or factors that influence and impact the effectiveness of Shariah review function in Malaysian Islamic banking.

[1]Al-Quran.Adh-Dhariyat 51:56.

The study is hoped to contribute to increasing the body of knowledge relating to Shariah review and audit functions especially the antecedents of the effective implementation of Shariah review function in Malaysian Islamic banking. The present study is significant as any incidence of non-Shariah compliance exposes the IFIs to operational risks resulting in financial loss and also affects the integrity of the IFIs. For the Muslims, non-Shariah compliance is a clear violation of the Quran and will result in loss of blessing from Allah.

2. LITERATURE REVIEW

2.1 Shariah Compliance

Bank Negara Malaysia (BNM) had in January 2011 issued the Shariah Governance Framework (SGF) in order to enhance the Islamic finance industry and to preserve the public's confidence on the Shariah compliance of the operations and activities of the IFIs (Zurina et al., 2013). Adhering to Shariah principles or staying "Shariah compliant" means observing strictly to the permissibles (halal) and abstaining from the prohibited (haram) as commanded by Allah SWT (SaifulAzhar, 2010). Some of the prohibited elements in Islamic banking and finance include interest (riba), ambiguities (gharar), gambling (maisir) and impure commodities such as intoxicants and pork. Likewise, transactions that do not fulfil the essential elements and conditions are also prohibited in Islamic banking and finance such as buying and selling without obtaining the express consent of the contracting parties.

Under the SGF, IFIs are required to institute clear internal controls and a process for holistically addressing the issue of Shariah non-compliance and the controls and process should not only focus on product structuring and issuing Shariah pronouncements but must also cover the whole spectrum of IFI operations, both ex-ante and ex-post aspects of Islamic financial transactions (Asyraf et al., 2012).

2.2 Shariah Review Function

Shariah review function refers to regular assessment on Shariah compliance in the activities and operations of the IFI by qualified Shariah officer(s) with the objective of ensuring that the activities and operations carried out by the IFI are Shariah compliant at all times (Bank Negara Malaysia, 2010). The review function involves the continuous examination and evaluation of the IFI's level of compliance to the Shariah, remedial rectification measures to resolve non-compliances and control mechanism to avoid recurrences. The Shariah review function shall cover the IFI's overall business operations, including the end-to-end product development process, which start from product structuring to product offering. According to the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI),the Shariah review function include the planning review procedures, executing review procedures, preparation and review of working paper as well as procedures in documenting conclusions and preparation of the Shariah review report (MohdHairulAzrin et al., 2009).

2.3 Shariah Review Function Effectiveness

In order for Shariah review function to achieve its goal, the Shariah review procedures have to be properly developed and effectively executed. In addition to that, all IFIs are expected to ensure that all the policies relating to Shariah matters are implemented effectively (Bank Negara

Malaysia, 2010). An effective execution of Shariah review procedures will lead to the awareness and creation of Shariah compliant environment in the IFIs.

In the conventional audit, various definitions have been put forward on internal audit effectiveness but the definition by Mihret andYismaw (2007) seems appropriate for the present study. According to the authors, internal audit is effective if it meets the intended outcome it is supposed to bring about and internal auditor's work is considered done or completed once the audit findings are corrected and remain corrected. Thus, it can be said that an effective Shariah review function is one in which the reviewer meets the objective of the Shariah review function within the IFI.

2.4 Antecedents of Shariah Review Function Effectiveness

Base on the literature, various factors that contribute to the effectiveness of internal audit are identified and these factors will be adopted and adapted for the present study. In addition to that, the author also relies on the SGF as one of the main sources in deriving the antecedents of Shariah review function effectiveness.

Seven factors are identified as potential drivers or antecedentsof Shariah review function effectiveness. They are; 1) Independence, 2) Competence, 3) Effective Communication, 4) Scope of Shariah Review Function, 5) Culture, 6) Auditees Attributes, and 7) Management Support.

2.4.1 Independence

In carrying out the Shariah review function, independence of the Shariah officers and the Shariah Committee (SC) members is very important. This requirement is clearly stated under principle three (3) of the SGF issued by BNM where the board of directors (BoD) of an IFI is required to recognise the independence of the SC. The BoD has to ensure that the SC is free from any undue influence that would hamper the SC from exercising objective judgment in deliberating issues brought before them.

Independence is an important factor as indicated in the study by Al-Twaijry et al., (2003). In their study using a mixed method based on seventy eight usable questionnaires included internal audit independence as one of the four independent variables. They discovered that internal auditing in the Saudi Arabian corporate sector is not well developed and there exist restrictions on the degree of independence.

2.4.2 Competence

It is indicated in the SGF that any person involved in Shariah review function or bearing related responsibilities shall possess the necessary competency and continuously enhance their knowledge and understanding on the Shariah as well as keep abreast on the latest developments in Islamic finance (Bank Negara Malaysia, 2010).

Endaya and Mustafa (2013) in their study refer competency as "proficiency and due professional care". This competency or proficiency is one of the dimensions of the "internal auditors' characteristics" variable in their study. Several previous studies cited by them consider proficiency and due professional care (competence) as a significant element of internal auditing.

In the context of Malaysia, Ahmad et al., (2009) in their study of the Malaysian public sector found that lack of knowledge of the internal auditors on effective audit approaches have significant negative impact on internal audit performance.

2.4.3 Effective Communication

Communication can be another possible driver of Shariah review function effectiveness. In this respect, BNM indicates in the SGF that the board of directors (BoD) of IFIs have to develop an effective communication policy among the key functions of the IFI to facilitate smooth escalation of Shariah related matters to the BoD. For instance, the board has to include in the communication policy the need for the staff to observe the Shariah requirements at all times.

Mihret and Yismaw (2007) in their study consider the effective communication as part of the "internal audit quality" which is a strong variable influencing the effectiveness of internal auditing. The existence of effective communication between internal auditors themselves, internal auditors and other stakeholders such as organization members is required to strengthen the internal audit effectiveness (Endaya& Mustafa, 2013). Due to its importance, effective communication is proposed as one of the independent variables for the present study that affects Shariah review function effectiveness, which is the dependent variable.

2.4.4 Scope of Shariah Review Function

In general, audit work should cover all systems and activities in all departments and locations throughout the organization. In the case of Shariah review function, BNM states in the SGF that the scope of the function shall cover the IFI's overall business operations, including the end-to-end product development process starting from product structuring to product offering.
According to Al-Twaijry et al. (2003), the scope of internal audit work is a significant indicator of internal audit effectiveness. Thus, it is proposed that the scope of Shariah review function be selected as one of the variables that influence or impact Shariah review function effectiveness.

2.4.5 Culture

Culture is another important factor identified in the SGF. Under 2.15 of the SGF, the management of the IFI is required to develop and adopt a holistic culture. A holistic culture of Shariah compliance refers to the way in which the IFI complies with Shariah principles in its overall Islamic financial business operations. For instance, the staff should always be reminded of the importance of Shariah and the implications if Shariah principles and practices are not observed. The staff should also be conversant on Islamic products offered by the IFI, as well as the underlying Shariah concepts and contracts and similarities and differences with conventional products and concepts. Thus culture of the IFI is considered as a potential variable for the present study.

2.4.6 Attributes of the Auditee

Mihretand Yismaw(2007) in their study use a model consisting of four factors which have impact on internal audit (IA) effectiveness, namely, IA quality, management support, organization setting and auditee attributes. According to them, auditee attributes include the auditees' proficiency to efficiently and effectively meet organizational sub-goals; their attitude towards internal audit; and the level of cooperation provided to the auditor and these attributes have impact on IA effectiveness.

In the case of Shariah review function, 'auditee' should refer to the stakeholders such as the staff of branches and the business units of IFI, the staff in the IFI head office including the management members, the board members and those internal parties that come in contact with the Shariah review officers, either directly or indirectly. The auditees in this case should be cooperative, open minded, rationale and professional and more importantly be willing to share information that can help in the effective implementation of Shariah review function. As such auditee attributes can be an important factor influencing the effectiveness of Shariah review function.

2.4.7 Management Support

In order for the Shariah review function to be effective, the support of top management is absolutely critical. In this respect BNM has outlined in the SGF the role and responsibility of the management. It is the management's responsibility to allocate the infrastructure, adequate resources and manpower including, budget allocation, reference and research materials, trainings and development. The management has to provide continuous learning to the board, the Shariah Committee, and to the staff to ensure that everyone concerned is sufficiently exposed to current developments in Shariah related matters.

Mihret and Yismaw (2007) in their study in Ethiopia found that management support is not only considered as a determinant but strongly affects internal audit effectiveness. In another related study by Ahmad et al. (2009), the authors point out that inadequate support from top management and the lack of training of the internal auditors in the Malaysian public sector has a significant negative impact on internal audit performance. Thus it can be hypothesize that management support is a critical factor that may enhance Shariah review function effectiveness. In both studies by Arena and Azzone (2009) and Ahmad et al. (2009), the management support is considered as an independent variable.

3. CONCLUSION

Shariah compliant is the heart of Islamic banking and finance. Staying Shariah compliant at all times is not only the requirement of the regulator as per the SGF, but is commanded in the Quran and every Muslim has no option but to abide to the command. Thus every Islamic IFI has to ensure that all its operations and activities are in compliance to the Shariah through effective execution of Shariah review function. Thus, for those IFIs that are aware of the factors that affect or influence the effectiveness of Shariah review function are in better position to execute the review function effectively thereby achieving the aim of the SGF.

This study is therefore timely as it is able to contribute to expanding the body of knowledgein the field of Shariah complianceby identifying the antecedents of Shariah review function effectiveness. More significantly, knowing the antecedents may help the IFIs to strategise in minimising and eventually preventing non-Shariahcompliance incidence that have serious financial and non-financial implications.

This paper is based on library qualitative research and is an ongoing PhD thesis of the researcher.

REFERENCES

Ahmad, H. N., Othman, R. & Jusoff, K. (2009). The Effectiveness of Internal Audit in Malaysian Public Sector. *Journal of Modern Accounting and Auditing, 5, 9,* 53- 62.

Al-Twaijry, A. A. M., Brierley, J. A. & Gwilliam, D. R. (2003). The Development of Internal Audit in Saudi Arabia: An Institutional Theory Perspective, *Critical Perspectives on Accounting, 14,5,* 507-531.

Arena, M & Azzone, G. (2009). Identifying Organizational Drivers of Internal Audit Effectiveness. *International Journal of Auditing, 13, 1,* 43-60.

Asyraf Wajdi Dusuki, Mohammad Mahbubi Ali & Lokmanulhakim Hussain (2012). A Framework for Islamic Financial Institutions to Deal with Shariah Non-Compliant Transactions.*ISRA Researc Paper, 42,* 1-37.

Bank Negara Malaysia (2010). Shariah Governance Framework for Islamic Financial Institutions. Kuala Lumpur.

Endaya, K. A & Mustafa Mohd Hanefah. (2013). Internal Audit Effectiveness : An Approach Proposition to Develop the Theoretical Framework. *Research Journal of Finance and Accounting,* 4, 10, 92-102.

HishamYaacob & Nor Khadijah Donglah. (2012). Issues and Challenges of Shari'ah Audit in Islamic Financial Institutions : A Contemporary View. *In 3rd International Conference on Business and Economic Research (3rd ICBER 2012) Proceeding* (pp. 2669–2679).

Mihret, D. G., & Yismaw, A. W. (2007). Internal Audit Effectiveness: An Ethiopian Public Sector Case Study. *Managerial Auditing Journal, 22, 5,* 470-484.

Mohd Hairul Azrin Haji Besar, Mohd Edil Abd Sukor, Nuraishah Abdul Muthalib & Gunawa, (2009). The Practice of Shariah Review as Undertaken by Islamic Banking Sector in Malaysia. *International Review of Business Research Papers, 5, 1,* 294-306.

Saiful Azhar Rosly. (2010). Shariah Parameters Reconsidered. *International Journal of Islamic and Middle Eastern Finance and Management, 3, 2,* 132-146.

Zurina Shafii, Ahmad Zainal Abidin, Supiah Salleh, Kamaruzaman Jusoff & Nawal Kasim. (2013). Post Implementation of Shariah Governance Framework : The Impact of Shariah Audit Function Towards the Role of Shariah Committee. *Middle-East Journal of Scientific Research 13 (Research In Contemporary Islamic Finance And Wealth Management*), 13, 7-11.

IASB'S NEW PROPOSALS FOR LEASE ACCOUNTING AND ITS IMPLICATIONS ON IJARAH CONTRACTS

Gulsum Cinar Dolgun[1]
Muhammed Habib Dolgun[2]

ABSTRACT

After 2008 financial crisis, the International Accounting Standards Board (IASB) and the Financial Accounting Standards Board (FASB) have started to revise some standards or introduce new standards for Western style banking and financial sectors' needs. In this sense, IASB and FASB published a revised Exposure Draft for leases outlining proposed change to the accounting for public comments in 13 May 2013. The proposal objects to progress the quality and comparability of financial reporting by providing greater transparency about lease transactions, the assets an organization uses in its operations and the risks to which it is exposed from entering into leasing transactions.

In addition to the Western style banks, this proposal would also affect Islamic Financial Institutions which are applying International Financial Reporting Standards (IFRS) as well as Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) Shari'a Standards for financial reporting of Islamic financial transactions especially for Ijarah contracts.

In this study, this new Exposure Draft for accounting of the leasing contracts is investigated in terms of Ijarah contracts and its ability in satisfying the Shari'a compliant financial reporting standards. Regarding the new proposal, concise information is given and main proposals explained briefly. Findings showed that, when the transperancy increases about the lease transactions, also risks increase, especially the risks that associated with using interest in all levels of transactions. Besides, standardisation starts as a good attitude but later it can be transformed to a dominant enforcement towards 'others' in the area.

Keywords: Ijarah, Lease, Proposal, IFRS

INTRODUCTION

The International Accounting Standards Board (IASB) and the Financial Accounting Standards Board (FASB) have published for public comment revised Exposure Draft outlining proposed changes to the accounting for leases in 13 May 2013. The proposal aims to improve the quality

[1] Ph.D. Student at INCEIF, Kuala Lumpur, Malaysia
[2] Ph.D. Student at INCEIF, Kuala Lumpur, Malaysia

and comparability of financial reporting by providing greater transparency about the assets, leverage, the accounting of the assets and the risks of leasing transactions.

Although leasing is an important activity for many organizations, under existing accounting standards, a majority of lease transactions are not reported on a lessee's balance sheet. Moreover, the existing accounting models for leases require lessees and lessors to classify their leases as either finance leases or operating leases and to account for those leases differently. For finance leases, a lessee recognises lease assets and liabilities on the balance sheet. On the other hand, a lessee does not differentiate lease assets or liabilities on the balance sheet in operating leases. This draft will change this classification and introduce two different lease types, Type A and Type B.

The existing standards have been criticized for failing to meet the needs of users of financial statements because they are not enough transparent and may not always provide an accurate representation of leasing transactions. In response to this criticism, in 2006 the IASB and the FASB originated a joint project to improve the financial reporting of leasing activities under International Financial Reporting Standards (IFRS) and US Generally Accepted Accounting Principles (U.S. GAAP). As a result of this joint project, we have seen that IFRS has been converged to U.S. GAAP for leasing standards.

The Boards (the IASB and the FASB boards) have developed an approach requiring a lessee to recognise assets and liabilities for the rights and obligations created by leases of more than 12 months. Since there are a wide variety of lease transactions with different markets, the revised Exposure Draft (the Draft) proposes a dual approach to the recognition, measurement and presentation of expenses and cash flows. Although for most real estate leases, a lessee would report a straight-line lease expense in its income statement, for most other leases, such as equipment or vehicles, a lessee would report amortisation of the asset separately from interest on the lease liability. The Boards are also proposing disclosures that should enable investors and other users of financial statements to understand the amount, timing, and uncertainty of cash flows arising from leases.

The Draft was opened to reviewing and providing feedback by September 13, 2013. The AOSSG Islamic Finance Working Group published its views on issues specific to Islamic finance. The AOSSG Islamic Finance Working Group has declared that there are some issues where more clarification would be needed from the viewpoint of Islamic accounting.

In this paper, we will evaluate this new Exposure Draft for Ijarah contracts according to the Islamic Accounting perspective in order to investigate if it can satisfy Shari'a compliant financial reporting standards. First of all, we will give concise information regarding new proposal and then try to mention the main proposals. After that, we will focus on the implications of this proposal on Ijarah contracts.

2. LITERATURE REVIEW

Since accounting as the language of business and financial information is serving for the benefit of the investors and credit providers, it is important to ensure its usefulness and comparability. In globalizing world, the idea of standardization is unavoidable especially in the area of finance. For instance, there is a need to present financial positions in unique accounting procedures to

be understood by the entire business community. Due to the fact that this process followed the global trends, and the globalization is first of all a political process; the starting point in creation of a unique accounting system needed to pass a difficult process where the main accounting systems will impose their accounting policies.

Despite the difficult process, Anderson (1993) said "a set of international accounting standards will allow new horizons of evolution". The comparison, as the basic form of economical judgment can be realized only if the accounting system is unique for all the companies involved in the analysis. Also harmonization is absolutely necessary because national standards of financial statements are virtually useless.

On the background of getting a single set of international accounting standards, since October 2002, the IASB and FASB have been working systematically toward convergence of IFRS and U.S. GAAP. IFRS is rapidly gaining acceptance as over 100 countries have recently moved to IFRS. Flower (2010), argues in "Accounting and Distributive Justice" that current paradigm of the financial reporting that is developed by IASB and FASB is based on capitalism and the function of the accounting is to provide the information needs of the capital providers. Moreover, according to Flower's (2010) point of view, the primary aim of the economic activity should be to assure a just and fair distribution of the output and it is not possible with this accounting system though there are some efforts in that sense.

Also Shahul (2009) claims that while conventional accounting focuses on identifying economic events and transactions of capitalists, Islamic accounting must recognize socio-economic events and transactions. Furthermore, some basic requirements of Islamic Accounting are to report accurate income determination, promote efficiency and leadership, comply with the Shariah principles, commit justice, report good things, adapt to positive social change (Shahul, 2009).

In Mashhour (1996), Islamic Banks are described as having 'a social face' and in Maali and others (2006), a benchmark for social disclosures that Islamic Banks are expected to provide from the perspective of accountability, social justice and ownership. Besides the economic and social aspects, Shari'a point of view is another crucial element of Islamic Banking accounting.

In a special report published by Price Water Coopers (PWC, 2009), it was suggested that it would be better to have the same financial reporting standards for conventional and Islamic financial institutions and advised to use IFRS for most Shari'a-compliant products and transactions. PWC perspective is a typical conventional perspective. According to our humble view, it would be naive to expect from a "clearing accounting firm of conventional banks" to appreciate the different characteristics of Islamic Banks, because international advising audit firms are concentrating only on profits and assets of banks.

3. IFRS

In June 1973, the International Accounting Standards Committee (IASC) has been established, with the vision that the new international standards it launched must "be capable of rapid acceptable and implementation world-wide" through an agreement made by professional accountancy bodies from Australia, Canada, France, Germany, Japan, Mexico, the Netherlands, the United Kingdom and Ireland, and the United States of America.

The IASC's rules were described as "International Accounting Standards" (IAS) up to 2001. IASC restructured itself in 2001 and had replaced name of the organization as the IASB.[1] The IASB is better funded, better-staffed and more independent than its predecessor. IFRS are the accounting principles-based standards as they establish broad rules as well as dictate specific accounting treatments which have been adopted by the IASB. Many of the standards forming part of IFRS are known by the older name of IAS.

On February 2000, US Securities and Exchange Commission (SEC) had announced acceptability of IAS. On July 2002, the EU regulation made it mandatory to use IAS by listed companies in the European Union.

Now, IFRS have being applied by more than 110 countries in the world through increasing integration in finance and trade networks. With multinational trade and finance companies in borderless world, IFRS has important responsibilities of raising transparency and international comparability of financial reporting and hence, enhancing investments and developments in wide range of sectors.

4. THE ACCOUNTING AND AUDITING ORGANIZATION FOR ISLAMIC FINANCIAL INSTITUTIONS

The Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) was established in March 1991 as an Islamic autonomous body for preparing accounting, auditing, governance, ethics and Shari'a standards for Islamic financial institutions (IFIs) and the industry.[2] Although it is mostly being applied in Gulf Cooperation Council (GCC) Countries with the extension of Islamic finance industry, it is becoming more and more common financial reporting standards for Islamic finance industry. Unlike IFRS which have many problems for reporting Islamic financial transactions, AAOIFI is designed for meeting unique requirements of those transactions.

As it is stated in Shahul (2006), "Islam has not only things to say on how financing should be undertaken but also how to account for it". Therefore, although they are not enough to capture all financial transactions, standards of accountability, social responsibility and disclosures and others provided by AAOIFI are very essential for Islamic financial industry.

5. IS IT POSSIBLE TO USE THE SAME ACCOUNTING STANDARDS?

As we mentioned earlier that some researchers and audit companies claim that it is better to use IFRS instead of Islamic accounting standards. They support this argument by stating that a globally recognized accounting system would make financial transactions easier for IFIs. Moreover, it is suggested that common financial reporting will relieve the mutual investments

[1] IFRS,History and Development, http://www.icaew.com/en/library/subject-gateways/accounting-standards/knowledge-guide-to-international-accounting-standards

[2] AAOIFI,Overciew, http://www.aaoifi.com/aaoifi/TheOrganization/Overview/tabid/62/language/en-US/Default.aspx

between conventional institutions and IFI and boost the growth of both. Lastly, it is argued that IFRS can be applicable to record Shari'a-compliant transactions regardless of the opposite claims against it.[1]

Despite any observable similarities between Islamic and conventional financial transactions, Islamic finance by definition is distinct from conventional finance (Shahul, 2007). Unlike lending system in conventional finance which guarantee interest revenue from loans to depositors and transferring risk to lender, Islamic financial transactions relies on partnership agreements on sharing risk, profit and loss by tangible and sometimes intangible asset's purchase and rent (Shahul, 2007, Napier, 2007, Nazim, 2011). Also, all Islamic finance products are expected to be in compliance with Shari'a principles. Because of the IFRS' lack of ability in special aspects of Islamic transactions and avoiding structure of partial adoption, well-written separate financial reporting principles for Islamic financial transactions are needed. But, these standards should be applied in all Muslim and non-Muslim Countries that have IFIs. However, today there is a resistance within Muslim Countries and if this resistance continues, it would be very hard to have unique and pure IFI that are now in some parts mimicking western financial institutions (Khan, 2010, in some parts Aysan and others, 2013).

6. NEW PROPOSALS OF IASB

The aim of the new proposals is to ensure that assets and liabilities arising under leases are recognised in the statement of the financial position. By introducing changes in recognition, measurement, and presentation of leases, the proposals would suggestively affect the accounting for lease contracts by both lessees and lessors (KPMG, 2013).

If these proposals will be accepted, then operating lease or off balance sheet treatment would be eliminated for virtually all leases except for short-term leases. The lease expense recognised each period could be significantly impacted depending on the nature of the underlying asset as property or non-property. In order to have classification and measurement to increase the transparency and accountability of firms, detailed analysis of lease payments should be done.

After the approval of these proposals, the lessors would concentrate on the nature of the underlying leased asset for whether the asset is derecognised or not. Some leases previously were treated as operating leases may require the underlying asset to be derecognised and be replaced with a lease receivable and a residual asset. Comparing to existing practice, the proposals would require management to exercise significant judgement in areas including identifying a lease, determining the lease term, and measuring lease assets and liabilities.

There are many reasons for IASB to revise this Exposure Draft. First of all, it is not possible to understand a true picture of an entity's leasing activities in current treatment, because the current conventional accounting models for leases require lessees and lessors to classify their leases. Secondly, those current models have been criticised for failing to meet the needs of users of financial statements because they do not require lessees to recognise assets and liabilities arising from operating leases. For this reason, the IASB wanted to cover the demand of many users of financial statements and others to change the accounting requirements.

[1] Azmi (2009), *Open To Comparison : Islamic Finance and IFRS*.

The proposed requirements would affect any conventional entity that enters into a lease, with some specified scope exemptions. The proposed requirements would take the place of IAS 17 Leases in IFRS and the requirements in Topic 840, Leases, of the FASB Accounting Standards Codification.

6.1. Main Proposals

The core principle of the proposed requirements is that an entity should recognise assets and liabilities arising from a lease. Thus, a lessee would recognise assets and liabilities for leases with a maximum possible term of more than 12 months. A lessee would recognise a liability to make lease payments and a right-of-use asset representing its right to use the leased asset for the lease term.

The recognition, measurement and presentation of expenses and cash flows would depend on whether the lessee is expected to consume more than an insignificant portion of the economic benefits embedded in the underlying asset. For practical purposes, this assessment would often depend on the nature of the underlying asset. In this sense, classification criteria are different for leases of property and assets other than property to reflect the different natures of property (a land element) and assets other than property.

On the other hand, for some leases, the application of the classification criteria might result in different outcomes than if the consumption principle were to be applied without additional requirements. Nonetheless, the Draft would require an entity to classify leases by applying the classification criteria.

6.1.1. Lessee accounting

A lessee would classify the lease as a Type A lease for assets such as, equipment, aircraft, cars, trucks and would recognise a right-of-use (ROU) asset and a lease liability. A lease liability would be measured at the present value of lease payments. A lessee measures the lease liability on an amortised cost basis. The ROU asset would be amortised on a systematic basis that reflects the pattern in which the lessee expects to consume the ROU asset’s future economic benefits. The lessee would present the unwinding of the discount on the lease liability as interest separately from the amortisation of the ROU asset. In this case, a lessee would have difficulty to measure asset in IFI in which present value can not be measured by fair value that is based on interest.

Moreover, a lessee would classify the lease as a Type B lease for such as, land, a building or part of a building and would recognise a ROU asset and a lease liability, initially measured at the present value of lease payments. Also, a lessee would measure the lease liability on an amortised cost basis and amortise the ROU asset in each period to recognise the total lease cost on a straight-line basis over the lease term. In this sense, amortisation would be calculated on interest rate which cannot be used by IFIs.

When measuring assets and liabilities arising from a lease, a lessee and a lessor would exclude most variable lease payments. For leases with a maximum possible term of 12 months or less, a lessee and a lessor would be permitted to make an accounting policy election to apply simplified requirements that would be similar to existing operating lease accounting.

An entity would provide disclosures to meet the objective of enabling users of financial statements to understand the amount, timing and uncertainty of cash flows arising from leases. On transition, a lessee and a lessor would recognise and measure leases at the beginning of the earliest period presented using either a modified or full retrospective approach.

6.1.2. Lessor accounting

The Draft proposed a more complex model for lessor accounting in which 'receivable and residual' accounting model will be applied for leases with a significant consumption of the underlying asset, and for other agreements, a model similar to current accounting model will be used. Due to the practical purposes, this assessment would often depend on the nature of the underlying asset.

For most leases of assets, except property, a lessor would classify the lease as a Type A and would derecognise the underlying asset and recognise a right to receive lease payments and a residual asset and recognise the unwinding of the discount on both the lease receivable and the residual asset as interest income over the lease term. And also a lessor would recognise any profit relating to the lease at the commencement date.

Mostly in property leases, a lessor would classify the lease as a Type B and would apply a similar approach to existing operating lease accounting. A lessee would reassess the measurement of the lease liability and a lessor would reassess the measurement of the lease receivable, if either there is a change in relevant factors that would result in a change in the lease term or there is a change in an index or a rate used to determine lease payments.

6.2. Assessment of the Lease

It is believed that the right-of-use model applied to the right population of leases has the potential to bring useful information to users about lease arrangements. Some are not agree with dual measurement model for lessees and believed that the proposals are far from reaching an appropriate cost-benefit balance.

The user of a leased asset would recognize an asset and a liability at the beginning of a lease. Subsequently, the asset would be reduced by amortizing it (similar to depreciation) over the term of the lease. The liability would be reduced as periodic rent payments are made. But, the problem is that in every level of transactions, calculations based on interest rate would be done.

Under the Draft determining whether the amount reported in the income statement should be straight-lined (property) or front-loaded (equipment) introduces a bias for one approach or the other based solely on the nature of the underlying asset, which may not reflect the economics of the transaction. For instance, assets such as aircraft, rail cars, and ships generally have economic lives comparable to property and the leases of these types of equipment are often priced in a manner similar to property leases. However, under the proposals the accounting for leases of most of these assets will result in an income statement impact that is front-loaded. This is in contrast to the straight-line result for a lease of property with similar terms.

The proposal would have a significant impact on all companies, including private companies. However, it would be more easier for private companies in measuring the lease liability and

they would be required to make fewer disclosures. Lessees would be prohibited from separately accounting for leases of multiple underlying assets in a contract when there is not an observable impartial price for the use of at least one underlying asset.

The pattern of non-contingent lease income and expense would be accelerated under one model and generally straight-line under the other. Lessees and lessors would apply the same classification tests. The classification of a lease would be performed at lease commencement and would not be reassessed subsequently unless there is a substantive modification of the contractual terms and conditions of the lease.

To perform the lease classification tests, lessees and lessors would need to determine the following items: lease term and an entity which is considered as contract-based, asset-based, entity-based, and market-based factors and lease payments.

6.3. The Right-of-Use Model

Lessees would recognize an asset for the right to use the underlying asset and a liability for the obligation to make lease payments. The ROU asset and lease liability would be recognized in the same way that lessees would recognize a single ROU asset and a single liability to make estimated future lease payments for each lease component. The problem is that this future payments estimation has to be based on interest rate.

If a lease component contains the right to use more than one underlying asset, the nature of the underlying asset for purposes of determining the applicable lease classification test would be based on the primary asset within the lease component. The primary asset in a lease of land and a building would be the building. Otherwise, the primary asset would be the predominant asset. The other assets included in the component generally would facilitate the lessee obtaining benefits from the use of the primary asset.

Lessees would apply a dual-model approach to account for rights of use in lease contracts, in which only the subsequent measurement of the ROU asset and the income statement presentation of total noncontingent lease expense would differ between Type A leases and Type B leases. A lessee would initially measure and recognize a ROU asset and a lease liability at the date on which the lessor makes the underlying asset available.

A lessee would initially measure the right-of-use asset as, the amount of the initial measurement of the lease liability, plus any initial direct costs incurred by the lessee plus any lease payments made to the lessor at or before the lease commencement date, minus any lease incentives received from the lessor.

Succeeding to lease commencement, a lessee would measure the lease liability on an amortized cost basis. The lease liability carrying amount would be increased to reflect the interest on the unamortized balance of the liability and decreased by lease payments made during the lease period which would be a big problem in Ijarah contracts.

6.4. Amortization of Type A Right-of-Use Assets

For Type A leases, a lessee would amortize the right-of-use asset on a straight-line basis. Amortization would be recognized over the period from the lease commencement date to the the end of the lease term. However, if the lessee has a significant economic incentive to exercise a purchase option to acquire the underlying asset, the lessee would amortize the right-of-use

asset over the period to the end of the underlying asset's useful life, which causes gharar in the transactions.

On the other hand, for Type B leases, a lessee would be required to calculate the periodic amortization of the right-of-use asset as an amount equal to or the greater of zero. A lessee would be required to remeasure the lease liability to reflect any change to the lease payments and discount rate. In this sense, there should be some alternative methods for IFIs or the companies that follow Islamic Financial Accounting Standards for calculations of the discount rate.

A change in the assessment of whether the lessee has a significant economic incentive to exercise a lease term or purchase option would require a remeasurement of the lease payments. It would be required upon a change in contract-based, asset-based, or entity-based factors. Conversely, a change in market-based factors would not trigger a reassessment of assets.

Lessees would be required to revise the estimated lease payments to reflect changes in amounts expected to be payable under residual value guarantees. These changes may arise from an increase or a decrease in the expected value of the underlying asset at the end of the lease term.

Changes to the lease term and a reference interest rate and relevant factors would require a reassessment of the discount rate. The revised discount rate would be determined at the date of reassessment in the same manner as at the lease commencement date.

7. IJARAH AND IJARAH ACCOUNTING

The origin of the word ijarah is coming from Arabic word "ajr" which has the meaning of reward or wages for word done or services rendered. Literally it means to give something for rent. Technically, an ijarah contract is a contract of sale of the usufruct (the right to use the object) for a specified period of time (Mirakhor and Iqbal, 2011). According to the AOIFI (1431 H-2010), some fuqaha defined Ijarah in a narrow term as the "ownership of the right to the benefit of using an asset (usufruct) in return for consideration". Besides this definition some of the fuqaha includes the duration of the benefit. Ijarah is considered as a permissible contract and it is based on Qur'an, Sunnah and ijma.

Although the ijarah contract looks like that of the conventional lease agreement, there are some differences between the two. With the ijarah, the leasing agency must own the leased object for the duration of the lease. Moreover, there is the absence of compound interest that may be charged under conventional leases in the event of default or delay in the instalment payments (Mirakhor and Iqbal, 2011).

There are basically two types of ijarah. The first one is permissible contract for providing services in which the employer in this case is called 'musta'jir' while the employee is called 'ajir'. The second one is related with the usufructs of assests and properties, which is technically the same with the leasing, in which the lessor is called mu'jir and the lessee is called 'musta'jir' (Lahsasna, 2010). Therefore, ijarah is broader than leasing. However, in the ijarah, the lessor must be the absolute owner of the rented item or the agent of the owner or his natural or legal guardian and the considerations given for rent and the amount of rent should be fully

and precisely known to both parties. Also, in all kinds of ijarah, the period of lease should be fixed and the purpose should be specified in order to eliminate the gharar (Saleem, 2012).

All terms of the ijarah contract should be stipulated in detail including the asset being leased, the amount of the rental, the payment schedule and the purposes of ijarah. The leased asset should be treated as a trust in the hands of the lessee (Mirakhor and Iqbal, 2011). The lessor is obliged to enable the lessee to benefit from the leased asset by making it available throughout the duration of the lease. If anything happens during the period of the lease that prevents the lessee from enjoying the benefit of the leased asset, for a reason not attributable to the lessee, then the lessor is obliged to repair (Lahsasna, 2010). It is not permissible to stipulate in the contract that the maintenance of the leased asset is to be carried out by the lessee because of the gharar.

The contract of ijara can be effected at a future date on the condition that the rent will be payable only after the leased asset is delivered to the lessee. In this sense the lessee's liability starts after delivery (Lahsasna, 2010). If the supplier has delayed the delivery after receiving the full price, the lessee should not be liable for the rent of the period of delay.

Ijarah muntahia bittamlik can be categorised into major and secondary types. In the case of the Ijarah Muntahia Bittamlik through Gift (Transfer of Legal Title for No Consideration), the legal title is transferred to the lessee for no consideration by entering into a gift contract in fulfilment of a prior promise upon the settlement of the last lease instalment or by means of issuing a gift. The legal title is then automatically transferred without the need to enter into a new contract and without any extra payment other than the amounts paid by the lessee in the settlement of ijara instalments (Lahsasna, 2010).

However, in the ijara Muntahia Bittamlik through Transfer of Legal Title (Sale at the End of Lease Period for a Token Consideration), this agreement includes an executable ijara contract whereby the rent and ijara period are determined and a promise to enter into a sale contract to be concluded at the end of the ijara period. This type of ijara is permitted as there is no limit to the consideration to be paid in a bargained sale. The consideration may be equal to the value of the asset or otherwise and off course mutual agreement is needed (Lahsasna, 2010).

Further more, in the case of 'the Ijarah Muntahia Bittamlik through Transfer of Legal Title' (Sale at the End of Lease Period for an Amount Specified in the Lease) which is a contract that includes an ijara contract and a promise to enter into a sale contract, upon the lessee's paying the agreed consideration, the leased asset becomes sold and its title transferred to the lessee. The sale contract will become effective only after the expiry of the Ijarah contract due to the consideration paid by the lessee to the lessor to own the leased asset (Lahsasna, 2010).

On the other hand in the case of 'the Ijarah Muntahia Bittamlik through Transfer of Legal Title' (Sale) prior to end of lease term for a price equivalent to remaining Ijarah installments, the agreement includes a promise made by the lessor that he will transfer the title of the leased asset to the lessee at any time the lessee wishes to do so during the Ijarah period and at a price equivalent to the remaining instalment of Ijarah, when there is a desire to purchase. When the agreement becomes effective it is treated as an Ijarah contract and remains so until the legal title is transferred to the lessee (Lahsasna, 2010).

The last one but not the least is 'the Ijarah Muntahia Bittamlik through Gradual Transfer of Legal Title of Leased Asset' in which an Ijarah contract includes a promise made by the lessor

that he will gradually transfer the legal title of the leased asset to the lessee until the lessee has full legal title of the leased asset and they determine the price and installments of the leased asset over the period of the Ijarah contract so that the lessee is able to acquire a share of the leased asset for a proportionate consideration of the total price until the full title of the leased asset is transferred to the lessee at the end of the ijara contract period. In this arrangement, there should be a sale contract for each share sold to the lessee. In addition, the amount of rent should decrease as the lessee acquires a greater share of the leased asset (Lahsasna, 2010).

If, for any reason, the Ijarah contract is revoked prior to the transfer of title to the lessee, then the title of the leased asset will be shared by both the lessor and the lessee to whom partial title of the leased asset has been transferred. One of the common forms of ijara is the case where an individual sells his own asset to another party and then leases it back from him. It is a juristic rule that the execution of the sale transaction must not be made conditional on the execution of the lease transaction in order not to violate the juristic rule that the execution of a contract must not be made contingent on the execution of another contract. It is permissible for the parties to the contract to reach an understanding between them. It is also permissible that one party promises the other party to lease to/from him the asset. In this arrangement the lessor and lessee have to abide by all the conditions and obligations stipulated in the ijara contract. This type of Ijarah is commonly used in securitisation which is known as sukuk al-Ijarah (Lahsasna, 2010).

Majority of the fuqaha agree that there are three general elements of Ijarah[1]. The first and according to Hanafis School the crucial element is the wording, including offer and acceptance. The second one is the contracting parties, lessor and lessee. The last one is the subject matter (substance) of the contract that is the rent and the benefit of the usufruct of the asset. Besides, there are detailed rules for both the lessor and lessee.

The issue that arises is whether to record Ijarah ending in the transfer of ownership (Ijarah wa Iqtina) as two separate transactions of operating lease and sale or to treat it as one transaction as in the case of a finance lease. Furthermore, "ijarah waaqtina" or "hire - purchase agreement" is similar to the conventional lease - purchase agreements which includes a promise by the lessor/owner to sell the leased asset to the lessee at the end of the original lease agreement. The price for the residual value of the asset is predetermined. The second contract thus gives the lessee the option to purchase the asset at the conclusion of the ijarah contract or simply return it. One of the reasons why Islamic banks do not increase their lease portfolio is that by becoming the lessor/owner of the asset, they take on additional responsibilities for administering the lease, which is not their main business (Mirakhor and Iqbal, 2011).

Also measurement of fair value and residual value in Ijarah transactions is very crucial, because interest rate or discount rate can not be used according to Shariah principles. AAOIFI defines fair value of the leased assets as "the amount for which an asset could be exchanged between well informed, willing parties (seller and buyer) in an arm's length transaction". Also, residual value of the leased assets is defined as the amount that is expected to be obtained for these assets at the end of their useful (service) life, which is either the serving duration or expected number of outputs from the assets, net of the expected cost of disposal. This value is estimated at the beginning of the lease. In IFRS, these two values are calculated and amortised with methods that are based on interest rates.

[1] Accounting, Auditing and Governance Standards for Islamic Financial Institutions 1431 H-2010 p.264.

8. PROPOSALS IMPLICATIONS FOR IJARAH ACCOUNTING

There are many important factors that should be discussed regarding Ijarah accounting. The Draft was disseminated for further comments. However, in the Draft there is no huge room for discussing the Islamic Accounting principles. In this sense, the AOSSG Islamic Finance Working Group provided its comments on the Exposure Draft. They declared that they support the proposals but points at issues where more clarification would be needed from the viewpoint of Islamic accounting.

However, they suggest that the 2010 Exposure Draft Leases contained some guidance which was important for *ijarah muntahia bittamleek* and resulted in many *ijarah muntahia bittamleek* being treated as a sale. The abolition of that guidance is leading to confusion and may result in disparate reporting of *ijarah muntahia bittamleek* that are economically similar.

The working group also points out that superseding 'SIC-27 Evaluating the Substance of Transactions in the Legal Form of a Lease' is problematic from an Islamic viewpoint in connection with *sukuk ijarah* where an entity transfers an asset to a special purpose entity which will 'sell' proportionate ownership of the asset to investors/financiers. The investors/financiers then lease the asset to the original transferor entity, which will purchase the asset from the investors/financiers at the end of the lease period.

The principles in SIC 27 are currently crucial in assessing whether a *sukuk ijarah* should be accounted as a financial instrument under IAS 39/IFRS 9 or as a sale and leaseback under IAS 17. The loss of SIC 27 may have negative repercussions, especially since *sukuk ijarah* structures form a substantial portion of the Islamic capital market in many jurisdictions. If SIC 27 is to be superseded, it is recommended that the IASB incorporate guidance in distinguishing between a lease and collaterised borrowing that is in the legal form a lease.

On the other hand, IASB, IFRS, in one side is converging with US GAAP but on the other side is diverging from other global accounting applications. When trying to achieve this goal, they do not give any chance to alternative financial accounting standards to survive. This attitude has two implications on global world. First, not having any alternatives is a big risk for global financial world, which all would be based on interest rate that can not be stabilized and inevitably causes financial risks. Secondly, there are many different people and groups that have different beliefs in all around the world. Using the same accounting method would harm to these people's beliefs and would make impossible to survive their economic life according to their religions. Consequently, IFRS have very clear "crowding out" effects on other alternative accounting standards as well as Islamic accounting standards.

It is believed that Type A lease classification is acceptable as long as the lease contract is not cancellable. The acceptability is based on the fact that the contract is enforceable. Some Type A leases conclude with the transfer of the underlying asset to the lessee, which makes these leases an alternative to sale. In this sense we need a clarification for distinguishing between a lease and a sale.

It is highly suggested that the concepts in the current "risks and rewards" model are a more appropriate basis to determine the income statement recognition method used. The user must bear the cost of any losses incurred by the lessor that are caused by the user cancelling the

lease. The user benefits or is impacted by gains or losses from fluctuation in the fair value of the leased asset. The user has the ability to renew the lease at rates that are below market.

Operational expenses should be born by the lessee not the lessor and should be written off as incurred in the Lessee's books. A list of expenses such as property insurance, property taxes such as assessment or quit rent are related to ownership. These expenses should not be passed on to the lessee. These expenses should be recognized when incurred and expensed by the lessor. If the lessee pays on behalf of the lessor then this amount becomes a payable in the books of the lessor. Also, daily operational costs should be borne by the lessee.

On the other hand, it may be difficult to ascertain "minimum lease payments" for ijarah and to measure the lease liability in some jurisdictions, because the rate the lessor charges the lessee is not clearly stated. Moreover, it is unclear whether a lessor needs to include late payment penalties in its measurement of lease payments because there may be a requirement to give away such penalties to charity. Moreover, it seems that introducing the detailed rules for both parties and assuring lessee doing its responsibility is a reasonable direction. But IFRS introduces interest rate in the lessee accounting in many transactions. After these draft proposals, interest rate would be calculated in every step of lease contract.

Furthermore, having two standards, one for Type A one for Type B may contradict the Shariah objective of riba elimination. The rental form of the Ijarah is in line with the maqasid of the Shariah, and should reflect the economic reality (Shahul and Karbhari, 2006). Having different standards and complex rules would increase the difficulty to assess the riba effects.

It is better to written off indirect initial costs because there is no guarantee that the ijarah may be materialized. Although, the Draft would differentiate the substance from the form, both the substance and form should be the same in an Ijarah contract (Shahul and Karbhari, 2006). Even in the case of Ijarah muntahi bitamleek or ITB, the future value of rental receipts cannot be capitalised. The rental would already contain an element of financing cost. As the asset account is maintained and depreciated or amortised, there is no need to separate the finance portion of rental receipts.

In this case, the total of future ijarah payments should be shown as a contingent liability. This should include any fines or penalties for early termination. In case the ijarah is terminated prior to the end of the ijarah period, in the books of the lessor, the amount due shall be shown as a receivable in the balance sheet and accrued as income. If the lessor terminates the contact without a valid reason, expenses incurred by the lessor in searching for an alternative party including indirect costs of negotiating a new ijarah contract and any expenses in relocation should be charged to the previous lessee and be shown as a receivable.

If the Net Book value of the ijarah assets is below the market value or ijarable value then the difference should be written off immediately and the ijarah assets written down to market value. Items described as receivables may incur additional Zakat for a lessor. Zakat is a wealth imposed on eligible assets of an entity by a jurisdiction's zakat authority. In some jurisdictions, receivables are subject to Zakat. Some items that a lessor currently describes investment property under current accounting requirements may be recognised as receivables if the proposals are adopted. This change in recognition may result in the lessor incurring additional zakat.

9. CONCLUSION

In globalizing world, the idea of standardization is unavoidable especially in the area of finance. Therefore, the efforts of IASB in the reporting of financial transactions have crucial importance. With the new Exposure Draft, IASB declared that they are trying to enhance lease accounting by providing more transparency for users of financial statements. However, the important thing is whether the lease, in effect, transfers the risks and rewards of ownership such that the user has, in substance, purchased the asset. In this sense, new draft increases transparency but inreases interest risks in all level of transactions.

Bringing substantially all leases onto the balance sheet and the proposed changes to income statement recognition may have many impacts both on conventional and Islamic companies' balance sheet. Companies will want to understand the extent to which their organization uses leases and the nature of those leases. Ultimately a new standard may impact how they make strategic decisions about whether to lease or buy property and equipment. Once a final standard is issued, communication may be needed with investors, lenders, regulators, rating agencies, and others to explain its impact.

On the other hand, IASB try to unifi the global application in accounting. When trying to achieve this goal they do not give any chance to alternative financial accounting to survive. This attitude has two implications on global world. First, not having any alternative is a big risk for global applications. Secondly, there are many different people and groups that have different beliefs. Using the same accounting method would harm to these people's beliefs and would make impossible to survive their economic life according to their religion. Consequently, IFRS have very clear "crowding out" effects on other alternative accounting standards as well as Islamic accounting standards.

REFERENCES

Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) (1999). *Accounting, Auditing and Governance Standards for Islamic Financial Institutions".*

AAOIFI. Overview, http://www.aaoifi.com/aaoifi/TheOrganization/Overview.

Amged, A.R. (2009). Challenges of international financial reporting standards (IFRS) in the Islamic accounting world, case of middle eastern countries. *Scientific Bulletin – Economic Sciences, Vol. 8 (14),* Retrieved Nov 20, 2011.

Anderson, A. (1993). The globalization GAAP. *Management Accounting, August,* 52-54.

AOSSG Islamic Finance Working Group (2013). *Comments on IASB Exposure Draft Lease Contracts*.

AOSSG Research Paper (2010). *Financial Reporting Issues Related to Islamic Finance.*

Asfadillah, I.N.L.C. (2012). *History and Development of IFRS and AAOIFI and Their Future Challenge.*

Aysan, A.F., Dolgun, M.H., Turhan, M.I (2013). Participation banks in Turkey. *Emerging Markets Finance and Trade, Vol. 90, November-December 2013*.

Azmi, M.F. (2009). *Open to Comparison: Islamic Finance and IFRS*. PWC.

Flower, J. (2010). *Accounting and Distributive Justice*. Taylor and Francis, New York and London.

IFRS. *History and Development*. http://www.icaew.com/en/library/subject-gateways/accounting-standards/knowledge-guide-to-international-accounting-standards

Islamic Finance News (2011). *How Prepared Are We, 8. 49*.

Khan, F.(2010). How 'Islamic' is Islamic Banking. *Journal of Economic Behavior & Organization, 76*, 805–820.

KPMG, (2013). *Defining Issues, May 2013, No: 13-14*.

Lahsasna, A., (2010). *Q&A in Islamic Finance-Second Edition*. Centre for Research and Training, Malaysia

Maali, B., Casson, P. and Napier, C. (2006). Social reporting by Islamic banks. *Abacus, 42, 2*.

Mashhour, N. (1996). *Social and Solidarity Activity in Islamic Banks*. International Institute of Islamic Thoughts [in Arabic].

Mirakhor, A. and Iqbal, Z., (2011). *An Introduction to Islamic Finance, Theory and Practice*. John Wiley & Sons (Asia) Pte. Ltd., Singapore.

Hijazi, S. and Tayyebi, A. (2010). *Harmonising Financial Reporting Of Islamic Finance*.

Shahul H. (2007). IFRS vs AAOIFI: The Clash of Standards?, *International Accountant*.

Shahul H. & Karbhari. Y. (2006). Allah's Bottom line: Reorienting accounting for Islamic Finance. *Symposium on Legal and Regulatory Environments for Islamic Finance, London Middle East Institute*, School of Oriental and African Studies, University of London. May 15, 2006.

Saleem, M. (2012). *Islamic Commercial Law*. John Wiley & Sons (Asia) Pte. Ltd., Singapore.

ENVIRONMENTAL RESPONSIBILITY AMONG SHARIAH COMPLIANT COMPANIES IN MALAYSIA

Thahirah Hadir[1]
Sofri Yahya[2]
Harashid Haron[3]
Ahmad Takiuddin Bin Shuaib[4]

ABSTRACT

The aim of this research is to investigate the disclosures of corporate environment responsibility in annual report of Shariah compliant companies listed in main board, Bursa Malaysia. A total of 217 annual reports for the year ended have been analyzed. Content analysis was used to identify the level of corporate environment responsibility in the annual report. Correlation analysis was used in examining the relationship between percentage of corporate environment responsibility and the independent variables which are chairman of the board, ownership structure, independent non-executive directors, capital structure and type of business or sectors. Multiple regressions is further used to analyze the significant of the relationships. The study revealed that Muslim chairman of the board and types of business have significant relationships with corporate environment responsibility disclosures. The empirical evidence of this study revealed that Muslim chairman of the board of Shariah compliant company has influence over corporate environment disclosures. This is consistent with Islamic school of taught. Furthermore, the study confirms that the level of corporate environment responsibility disclosures is different across sectors and it is relatively low. This research provides evidence for regulatory body such as Securities Commissions of Malaysia to further look at the Shariah compliant guidelines.

Keywords: Corporate Responsibility, Environment Responsibility, CSR, Capital Structure, Shariah Companies.

[2] Assoc Prof. Dr. Sofri Yahya is Assoc Proffesor, Universiti Sains Malaysia (USM).
[1, 3] Lecturers, Universiti Sains Malaysia (USM).
[4] Student, Universiti Sains Malaysia (USM). Corresponding author: takiuddinsp@yahoo.com

1. INTRODUCTION

Environment issue has been a major discussion throughout the world especially in developing country like Malaysia. Global warming, air and water pollution, deforestation, solid waste are some of the example of environment issues being discussed. There are many factors that contribute to these issues. Researchers blamed, among other thing, the population growth,

pollution from industrial activities, over-exploitation of animals through hunting, trapping and fishing, conversion of forest land for agriculture, settlements and industry and unsustainable development (Buniamin, Alrazi, Johari, & Rahman, 2008).

It is a fact that every business entity wants to maximize their profit, but on the other hand they also have a responsibility to preserve the environment. This philosophy must be uphold by every entity including all corporate organizations in Malaysia.

Malaysia is an Islamic country. As an Islamic country the government of Malaysia has introduced many rules and regulations on business activities that conform to the Islamic law of Shariah. One of them is the introduction of Islamic financial market in Malaysia in 1993. The introduction of Islamic Capital Market (ICM) is to show that government of Malaysia is keen in implementing Shariah law, and most of the corporate entities realize on the potential and the competitiveness of Islamic finance.

Islamic principles of economics and finance focus on clarity and lack of ambiguity, just and fair treatment for all and care for the rights of others. The fundamental feature of Islamic economics and finance is socio-economic and distributive justice (Ayub, 2008). Shariah is a code of law or divine injunction that regulate the conduct of human beings in their individual and collective lives (Ayub, 2008).

According to Ayub, 2008, the primary objectives that Shariah tends to realize are the protection and preservation of religion, life, progeny, property, intellect and honour. The primary objectives have lead to a number of secondary objectives which are: the establishment of justice and equity in society, the promotion of social security, mutual help and solidarity, particularly to help the poor and the needy in meeting their basic needs, the maintenance of peace and security, the promotion of supreme universal moral values and all actions necessary for the preservation and authority of nature.

Corporate social and environment responsibility (CSER) reporting in annual report for Malaysian companies is not yet being set as mandatory. Many researches in their study have explored corporate expenditures on social and environmental improvements as the duty of good corporate citizen. Social responsibility positively impacts communities and long run corporate profitability. The stock price of firms in industries perceived to have irresponsible environmental or labor practices were particularly hard hit. The research concludes that being socially and environmentally responsible is not only good for society, but can also be very good for increasing and preserving shareholder value.

2. REVIEW OF LITERATURE AND HYPOTHESES DEVELOPMENT

Corporate environmental responsibility includes minimizing the ecological impact of organizational activities (reduced use of nonrenewable resources, preventing environmental degradation caused by pollution and the depletion of natural resources), voluntarily exceeding government environmental regulations, and devoting resources to environmental protection.

Corporate social responsibility can be defined as the obligation toward society assumed by business. The socially responsible business maximizes its positive effects on society and minimizes its negative effects (Bateman & Snell, 2002).

Ayub (2008) in his book stated that the Shariah attaches great importance to the role of information in the market. One must give ample opportunity to the client to see and check the commodity that he is going to buy. Inaccurate or deceptive information is forbidden and considered a sin.

In the context of Malaysia, Ibrahim (2001) studied the attitude of managers and executives towards social responsibility. The extent of socially responsible activities involved, corporate disclosure and the factors determining the attitudes towards social responsibility were examined. The results also showed that the most influential factor determining the attitude towards social responsibility was family upbringing, traditional beliefs and customs, and common practices in the industry.

Pertaining to reporting aspects, attempts were made by (Douglas, et al., 2004) to understand the motivations of the managers for CSD through the extension of organizational legitimacy theory. He interpreted the Irish managerial perceptions of corporate social disclosure (CSD) presence and absence and found that CSD was perceived as being incapable of supporting the achievement of a legitimacy state although occasionally it forms part of a legitimacy process.

Size of the company based on market capitalization, sales and total asset, corporate profitability and industry type are identify as independent variables. The result reported that 23 percent of companies make disclosure on aspects of environment, 79 percent on human resources, 40 percent on products, 6 percent on energy, 30 percent on community and other general information cover 19 percent.

Yusuf, Lehman and Nasir (2006) study on environment engagements through the lens of disclosure practices in Malaysia. The study explore on the corporate practice in Malaysia through their annual report. 50 annual report have been analyzed using content analysis. The study found that environment engagement by Malaysian companies were based on five motivations: stakeholders' concern, self-environmental concern, regulatory compliance, stakeholders value, and operational improvement.

The fundamental requirement of Islamic finance is that it is confines its activities to that which is supported by underlying economic transaction thereby avoiding emphasis on speculative purpose. This provide for a high level of disclosure and transparency (Malaysian ICM Report, 2007). Islamic capital market in Malaysia is monitor by SAC. Shariah Advisory Council (SAC) of SC is a committee established by the Securities Commission in 1996 under section 18 of the Securities Commission Act 1993. The SAC was given the mandate to ensure that the running of Islamic Capital Market complies with Shariah principles.

Ownership Structures is reflected in common stock certificates, each designating the number of shares owned by its holder. The number of shares owned relative to the total number of shares outstanding determines the stockholder's proportionate ownership in the business (Keown, John, Martin and Petty, 2008). The corporate ownership structure is important in shaping out the organization. Ownership structures play an important role in determining a firm's objectives, shareholders' wealth and how managers of a firm are disciplined. Companies that are controlled mainly by founding sponsor / directors who are family members, leading to a very high degree of ownership concentration and control, as such the degree of disclosure is relatively low. Ghazal & Weetman (2006) studied found that family controlled companies continue to be more secretive about their activities.

Hypothesis 1: *There is significant relationship between Muslim ownership structures and corporate environment responsibility disclosure.*

Chairman of the Board plays an important role in determining corporate environment responsibility in an organization. Chairman of an organization hold a power and responsibility in ensuring their companies comply with the environmental requirement. The chairman of the board has greater power and influence than other board member this may include the disclosure practices of the firm (Haniffa & Cooke, 2005). Haniffa & Cooke (2005) analyzed 139 non-financial companies listed on the Kuala Lumpur Stock Exchange (KLSE) between 1996 and 2002 annual report. They adopted legitimacy theory in their paper. This is defined as a generalized perception or assumption that the actions of any entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions. Study on voluntary disclosure in Malaysia corporate annual reports, on view of stakeholders has been conducted by Ghazali, N.A.M. (2008). Interview has been conducted using semi-structured interview questionnaire. Stakeholders involve are represented by financial controllers, auditors, regulators, investment analyst and bankers. One of the finding from the interview is; quality of the management is importance in influencing the corporate disclosure. The companies which are professionally run are expected to disclose more information.

Hypothesis 2: *There is significant relationship between the Muslim chairmanship and corporate environment responsibility disclosure.*

Independent Non-Executive Directors are seen as the check and balance mechanism, not only in ensuring that companies act in the best interest of owners, but also other stakeholders; advising on the public presentation of the company's activities and performance (Haniffa & Cooke, 2005). Furthermore they stated that non-executive directors are likely to respond to concerns about honor and obligations and would generally be more interested in satisfying the social responsibilities of the firm as this may enhance their prestige and honor in society.

Hypothesis 3: *There is significant relationship between Muslim independent non-executive directors and corporate environment responsibility disclosure.*

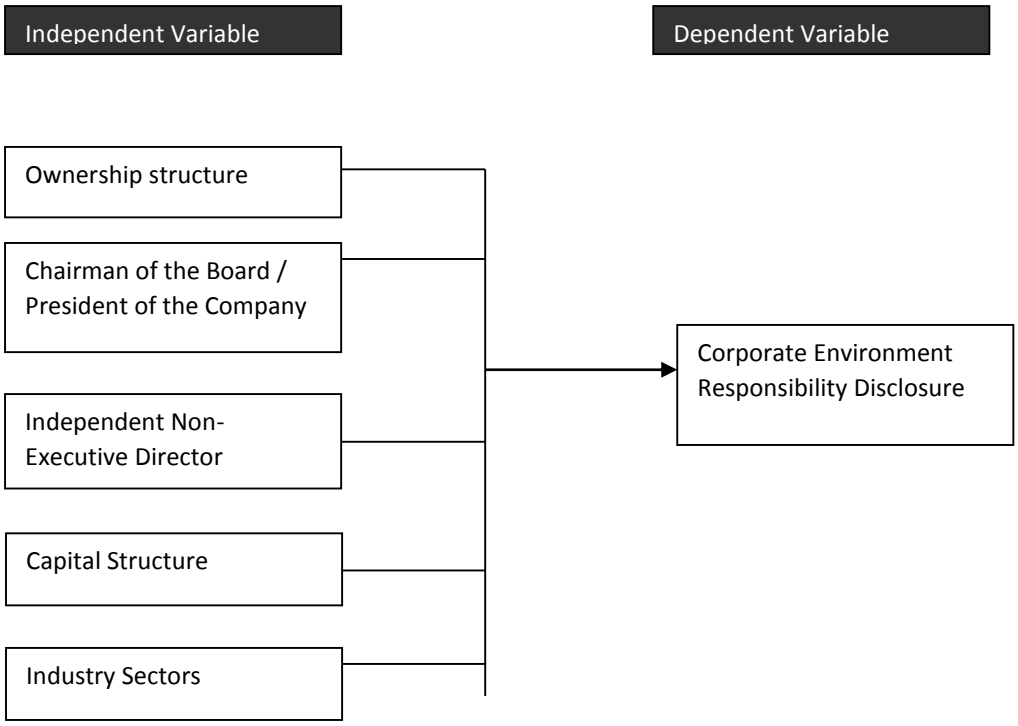
Capital Structure is the proposition of each source of financing used by the firm. It is the mix of long term sources of funds used by the firm. This is also called the firm's capitalization. The relative total (percentage) of each type of funds is emphasize (Keown, et al., 2008). It is important for the company to have a proper capital structure. It makes economic sense for the firm to strive to minimize the cost of using financial capital. If the capital cost can be kept at a

minimum, the dividend stream flowing to the common stockholders will be maximized. Thus it will maximize the firm's common stock price (Keown, et al., 2008).

Hypothesis 4: *The companies that following Islamic capital structure will disclosure their corporate environment responsibility.*

Company's Sectors: The level of corporate social and environmental responsibility disclosure is varying from industry to industry. Companies may increase social or environmental disclosures in response to societal pressure, and the extend of the disclosure is influenced by various corporate characteristic such as industry and size. The scale, or extent of corporate environmental reporting is closely associated with firm-specific factors such as firm size, industry membership, ownership, legal context and media exposure (Aerts, W., Cormier, D., & Magnan, M. 2006).

Hypothesis 5: *There is as positive relationship between level of disclosure and company sector.*

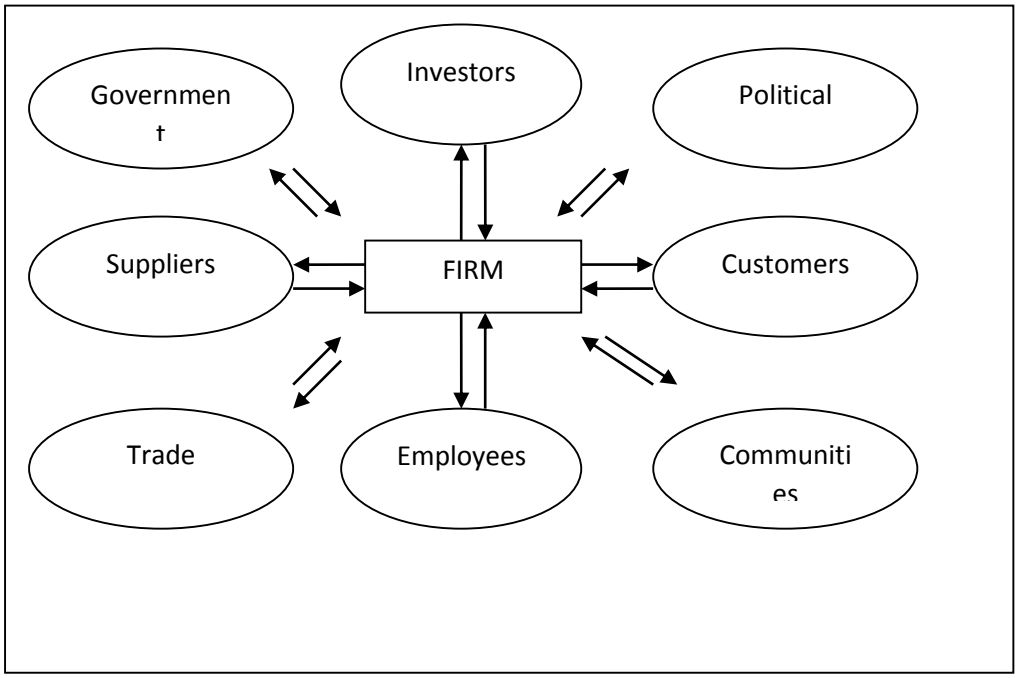


Theoretical Framework

Environment: Islam is the religion that care and promote the important of environment protection. There are many verses in Qur'an and Hadith that explain on the environment protection. According to Khalid (2002), the Qur'anic view hold that everything on the earth was created for humankind. It was God's gift (ni'mah) to us, but a gift with conditions nevertheless and it is decidedly not something that one runs and plays with.

Stakeholder Theory has been used as a foundation for this study. According to Wikipedia Encyclopedia (http://www.wikipedia.org/wiki), the stakeholder theory is a theory of

organizational management and that addresses morals and values in managing an organization. The central claim of the stakeholder approach is that corporations are operated or ought to be operated for the benefit of all those who have a stake in the enterprise, including employees, customers, suppliers, and the local community (Boatright, 2007). Boatright (2007) explain, the concept of a stakeholder highlights the fact that corporate activity is not solely a series of market transactions but also a cooperative (and competitive) endeavor involving large numbers of people organized in various ways. Below figure shows the diagram of the stakeholder model.



Stakeholder Model

Agency Theory is a set of ideas on organizational control based on the belief that the separation of the ownership from management creates the potential for the wishes of owners to be ignored (Pearce & Robinson, 2007). An agency relation arises whenever one person (the principal) delegates decision-making authority or control over resources to another (the agent) (Jones, 2007). Shareholders are the principals; top management is their agents, appointed by shareholders to utilize organizational resources most effectively. Therefore as a principals, shareholders need the information either financial or non financial in order to monitor the activities of agents. In this study, it is assumed that companies that have Muslim Chairman or President, majority Muslim shareholders, and majority Muslim independent non-executive directors will disclose more information to their shareholders especially on corporate environment responsibility. It is expected that the disclosures on corporate environment responsibility are higher in their companies.

3. RESEARCH METHODOLOGY

The population for this study is the Shariah compliant companies listed in Bursa Malaysia. For the purpose of this study 217 companies were selected as sample using a stratified random

sampling. In stratified random sampling, the elements in the population are first divided into groups called strata such as department, location, industry type and so on. In this study the population divided into industry type, one industry is one stratum. After the strata are formed, a simple random sample is taken from each stratum (William, Sweney, & Anderson, 2007). For the purpose of this study, company's annual report will be used. A total of 217 annual reports have been downloaded from Bursa Malaysia website as well as the company's website. Annual report has been consistently viewed as an important source of information in decision making.

Number of samples collected includes the following industries,

Industry	**Total No. Listed**	**No. Sample Selected**
Consumer Products	78	34
Industrial Products	144	62
Trading and Services	115	49
Plantations	35	15
Properties	69	30
Constructions	41	18
Infrastructure	6	2
Technology	18	8
Total	506	217

* *(Source: List of Shariah compliant Securities by the Shariah Advisory Council of Securities Commission)*

Content analyses method was the basic design for this study. Content analysis has been described as "a research technique for the objective, systematic, and quantitative description of manifest content of a communication" (Cooper & Schindler, 2006; Haron & Yahya 2005),

The statistical package for social science (SPSS) version 16.0 was used for the data analysis. The data collection was processed through different statistical techniques such as Descriptive Statistics, Regression Analysis and Correlation Analysis.

4. ANALYSIS AND RESULTS

A total of 217 companies are randomly selected from the list of Shariah Compliance Securities listed in Bursa Malaysia. Table 4.1.1 shows that the sample consists of companies from various sectors. The sectors selected are industrial products sectors (28.6%), trading and services sector (22%), consumer products sector (15.2%), properties sector (13.8%), construction sector (8.3%), plantation sector (6.9%), technology sector (3.7%) and infrastructure sector (0.9%). Out of 217 companies selected, 140 companies or 64.5 percent have Muslim Chairman or Muslim Presidents and 77 companies or 35.5 percent have Non-Muslim Chairman or Non-Muslim Presidents. The majority of shareholders in the companies selected are Non-Muslim, which consist of 65.4% and only 34.6% of companies selected have majority of Muslim shareholders in their companies. Furthermore independent non-executive directors in the companies. 57.6% of the companies have majority Non-Muslim independent non-executive

directors and only 92 companies or 42.4% have majority Muslim independent non-executive directors.

Type of Business

Sector	Frequency	Percent
Consumer products	33	15.2
Industrial products	62	28.6
Construction	18	8.3
Trading/services	49	22.6
Properties	30	13.8
Plantation	15	6.9
Technology	8	3.7
Infrastructure	2	.9
Total	**217**	**100.0**

President of Company

President of Company	Frequency	Percent
Muslim	140	64.5
Non-Muslim	77	35.5
Total	**217**	**100.0**

Muslim Shareholders in a Company

Shareholders	Frequency	Percent
Majority Muslim	75	34.6
Majority Non-Muslim	142	65.4
Total	**217**	**100.0**

Muslim Independent Non-Executive Directors

Non-Executive Directors	Frequency	Percent
Majority Muslim	92	42.4
Majority Non Muslim	125	57.6
Total	**217**	**100.0**

The cross tabulation analysis has been used to analyse the CER disclosures in the companies. Table 1 reports on the CER disclosures from different type of companies or sectors. Industrial products and trading & services sectors show the higher numbers of companies disclosed on CER which are 32 and 23 companies respectively. However, Technology sector shows only 25 percent or 2 companies disclosed on CER. Table 2 shows that companies that disclosed their CER are the companies that have majority Muslim Chairman or Muslim Presidents in their companies.

Table 1

Corporate Environment Disclosures by Sectors

Sectors	Corporate Environment Responsibility Disclosures		
	Yes	No	Total
Consumer products	14	19	33
Industrial products	32	30	62
Construction	9	9	18
Trading/services	23	26	49
Properties	15	15	30
Plantation	9	6	15
Technology	2	6	8
Infrastructure	2	0	2
Total	106	111	217

Table 2

Corporate Environment Responsibility Disclosures by President of the Company

President of the Company	Corporate Environment Responsibility Disclosures		
	Yes	No	Total
Muslim	69	71	140
Non-Muslim	37	40	77
Total	106	111	217

Contradictory, as reported in the Table 3 CER disclosure is high in companies that have Majority Non-Muslim Shareholders. As for Independent Non-Executive Directors, the CER

disclosure is high in companies that have majority Non-Muslim, independent non-executive directors.

Table 3

Corporate Environment Responsibility Disclosures by Majority Shareholders

Shareholders	Corporate Environment Responsibility Disclosures		
	Yes	No	Total
Majority Muslim	40	35	75
Non-Muslim	66	76	142
Total	106	111	217

Corporate Environment Responsibility Disclosures by Independent Non- Executive Directors

Non-Executive Directors	Corporate Environment Responsibility Disclosures		
	Yes	No	Total
Majority Muslim	51	41	92
Majority Non Muslim	55	70	125
Total	106	111	217

Level of Disclosures

The level of CER disclosures in annual report for all sectors is show in below tab1e. The higher level of disclosure is reported in Infrastructure sector with the average of 0.438 percent, followed by Plantation sector with 0.338 percent and Trading & Services sector of 0.2014 percent.

Level of Corporate Environment Responsibility Disclosure by Sectors

Sectors	Total Disclosure (%)	Minimum	Maximum	Mean
Consumer products	1.26	0	.20	.0382
Industrial products	6.27	0	.65	.1011
Construction	2.94	0	1.18	.1633
Trading/services	9.87	0	4.32	.2014
Properties	2.49	0	.54	.0830
Plantations	5.07	0	1.62	.3380
Technology	.35	0	.24	.0438
Infrastructure	.86	.05	.81	.4300

Correlation analysis is applied to determine the degree to which the variables are related. It tells us how well the estimated equation actually describes the relationship (Levin & Rubin, 2007).

Correlations Analysis for All Variables (Corporate Environment Responsibility)

		Percentage of CER Disclosure	Type of Business	Capital Structure	Chairman	Percentage of Muslim Shareholders	Percentage of Muslim Non Independent Directors
Percentage of CER Disclosure	Pearson Correlation	1.000	.131	.077	.147*	.060	-.008
	Sig. (2-tailed)		.053	.260	.030	.377	.903
	N	217.000	217	217	217	217	217
Type of Business	Pearson Correlation	.131	1.000	.050	-.101	.247**	.232**
	Sig. (2-tailed)	.053		.466	.140	.000	.001
	N	217	217.000	217	217	217	217
Capital Structure	Pearson Correlation	.077	.050	1.000	-.066	.113	.165*
	Sig. (2-tailed)	.260	.466		.335	.098	.015
	N	217	217	217.000	217	217	217
Chairman	Pearson Correlation	.147*	-.101	-.066	1.000	-.247**	-.264**
	Sig. (2-tailed)	.030	.140	.335		.000	.000
	N	217	217	217	217.000	217	217
Percentage of Muslim Shareholders	Pearson Correlation	.060	.247**	.113	-.247**	1.000	.752**
	Sig. (2-tailed)	.377	.000	.098	.000		.000
	N	217	217	217	217	217.000	217
Percentage of Muslim Non Independent Directors	Pearson Correlation	-.008	.232**	.165*	-.264**	.752**	1.000
	Sig. (2-tailed)	.903	.001	.015	.000	.000	
	N	217	217	217	217	217	217.000

*. Correlation is significant at the 0.05 level (2-tailed).

**. Correlation is significant at the 0.01 level (2-tailed).

Below is the regression analysis table signifying the Beta, t-value and the significance level.

Regression Analysis: Corporate Environmental Responsibility Disclosure

Variables	Beta	t-value	Sig.
Type of Business	.135	1.957	0.52
Capital structure	.084	1.247	.214
President of the companies	.172	2.472	.014
Muslim shareholders	.152	1.483	.139
Muslim Independent Non-Executive Director	-.122	-1.187	.236

Summary of the Findings

	Hypotheses	Accepted or Rejected
Hypothesis 1:	There is a significant relationship between Muslim ownership structures (Muslim majority shareholders) and corporate environment responsibility disclosure.	Reject
Hypothesis 2:	There is a significant relationship between the Muslim chairmanship or President and corporate environment responsibility disclosure.	Accept
Hypothesis 3:	There is a significant relationship between Muslim non-executive directors and corporate environment responsibility disclosure.	Reject
Hypothesis 4:	The companies that following Islamic capital structure will disclose their corporate environment responsibility.	Reject
Hypothesis 5:	There is significant relationship between level of disclosure and company sector.	Accept

5. DISCUSSION AND CONCLUSION

The findings highlighted on the level of disclosure of corporate environment responsibility of Shariah compliant companies listed on Bursa Malaysia Berhad and it is influenced by factors

which are discussed below. Most of the factors that are taken into considerations in this study are found to be insignificant with the dependent variables (CER disclosure).

It shows that the awareness on environment responsibility among Shariah compliant companies is reasonably good. In addition, CER disclosure in Malaysia during this study is conducted still on voluntary basis. Study conducted by (Buniamin, et al., 2008) found that environmental reporting in Malaysia is still low. Only 28 percent of the companies reported environmental information in their year 2005 annual report. It is believe that the disclosure on social and environment responsibility is growing among business communities worldwide. As a developing country, businesses in Malaysia may involve in activities that will affect the environment. Therefore the business entity should be more concern on environment preservation in their operations and informed their stakeholders about their roles towards the environment protections. Additionally, the consciousness among Malaysian on environment protections was enhanced through campaign conducted by the government and non government organization. The campaign such as recycle campaign believed to have significant impact on public as well as businesses.

The findings show that the maximum level of disclosure for CER disclosures is 4.32 percent and the minimum of 0 percent. Therefore we can summarized that there are Shariah compliant companies that do not disclose their corporate environment responsibility, and for companies that disclosed the level of disclosures are up to the level of 4.32 percent from the entire annual report. The level of CER disclosure in company annual report in Malaysia is reasonably low. The descriptive analysis shows that 40 out of 75 companies (53%) which have Muslim majority shareholders disclosed CER in their annual report. And 66 out of 142 (46%) which have majority Non Muslim shareholders disclosed CER in their annual report. However, the descriptive statistic shows that most of the Shariah compliant companies listed in Bursa Malaysia have majority non-Muslim shareholders (non-Muslim ownership structure). Result from multiple regression analysis shows that there is insignificant relationship between CER disclosure and ownership structures in Shariah compliant companies listed in Bursa Malaysia.

This insignificant relationship is resulted from the nature of Public Listed Companies (PLC's) in Malaysia which is operated by the family members (family owned business) and it is majority owned by non-Muslim. The study found that there are significant relationships between CER disclosures and the Muslim chairman of the board or Muslim president. This proves that companies that have Muslim chairman or presidents will have the influence power to ensure that their companies disclosure on environment responsibility.

The present study found that there are insignificant relationships between capital structure and both CSR and CER disclosures. This shows that there are no relationship between capital structure and the corporate social and environment responsibility disclosure. This indicates that even though the Shariah compliant companies followed Islamic capital structure, they may not involve in environment responsibility. Therefore capital structure is not a good benchmark for the company's environment disclosure.

It is found that Infrastructure sector has reported the highest mean for CER disclosure. The mean for Infrastructure sector is 0.43 percent, follow by Plantation sectors (0.3380 percent), Trading and Services sector (0.2014 percent), Construction sector (0.1633 percent) and Industrial products sector (0.1011 percent). Furthermore, this study discovers that Consumer

Products sector is the most significant to CER disclosure with significant value of 0.005, follow by Industrial Products sectors.

Muslim independent non-executive directors found to have insignificant relationships with CER disclosure when multiple regression analysis is use. It is because most of the companies selected found to have majority non Muslim independent non-executive directors.

The study shows that the level of disclosures by the Shariah compliant companies listed in Bursa Malaysia are still at the lower level as compared to the western countries. This is mainly because CER disclosures in Malaysia are on voluntary basis. Therefore the regulatory bodies must put an effort to promote and make the CER disclosures compulsory to all public listed companies especially Shariah compliant companies. This is not for the benefits of the company but also for the public and environment as a whole. The disclosure of corporate environment responsibility will also act as guideline for the companies in their business activities. The companies that disclosed their CER will know their limit in conducting their business activities that should not harm the environment and affect the public.

Due to time constraint, the study is limited only to a few variables that may have significant relationship with the CER disclosures. The study captured low R^2 value. There might be some other factors that should be considered in the study. The study is limited only to the CER disclosure in annual report. There are companies that disclosures their CER in the company website, unfortunately this is not taken into consideration. The study on CER disclosures among Shariah compliant companies is considered an exploratory study. Therefore, it is recommended for future study to extend to the companies listed on second board of Bursa Malaysia.

REFERENCES

Aerts, W., Cormier, D., & Magnan, M. (2006), "Intra-Industry Imitation In Corporate Environment Reporting: An International Perspective", *Journal of Accounting and Public Policy, 25*, 299-331.

Ayub, M. (2008). *Understanding Islamic Finance*. England: John Wiley & Sons Ltd.

Bateman, T. S., & Snell, S. A. (2002), "*Management: Competing In The New Era"* (Fifth ed.). New York: Mc Graw Hill.

Boatright, J. R. (2007). *Ethics And The Conduct Of Business* (5th ed. ed.). Upper Saddle River, New Jersey: Pearson Prentice Hall.

Buniamin, S., Alrazi, B., Johari, N. H., & Rahman, N. R. A. (2008), "Searching For Link Between The Practice Of Environmental Reporting And The Corporate Governance Structure- Recent Evidence From Malaysia", Retrieved 21 January 2009.

Cooper, D. R., & Schindler, P. S. (2006), "*Business Research Method"* (Ninth ed.), New York: Mc Graw Hill.

Douglas, A., Doris, J., & Johnson, B. (2004), "Corporate Social Reporting In Irish Financial Institutions", *The TQM Magazine, 16*(6), 387-395.

Ghazali, N. A. M., & Weetman, P. (2006), "Perpetuating Traditional Influences: Voluntary Disclosure In Malaysia Following The Economic Crisis", *Journal of International Accounting, Auditing and Taxation, 15*, 226-248.

Haniffa, R. M., & Cooke, T. E. (2005), "The Impact Of Culture And Governance On Corporate Social Reporting", *Journal of Accounting and Public Policy, 24*, 391-430.

Haron, H and Yahya, Sofri (2005), Level of Disclosure Social Disclosure in Malaysia, *Malaysian Accounting Review, Vol 2. No. 4, Dec.*

Ibrahim, S. H. M. (2001), "*Islamic Accounting- Acounting for the New Millennium?"* Paper presented at the Asia Pacific Conference 1- Accounting in the New Millennium.

Jones, R.G. (2007), "*Organizational Theory, Design and Change"* (Fifth ed.), Upper Saddle River, New Jersey: Pearson Prentice Hall.

Keown, A. J., D.John, Martin, J., & Petty, W. (2008), "*Foundation of Finance: The Logic and Practice of Financial Management"* (Sixth ed.), New Jersey: Pearson International Edition.

Khalid, F. M. (2002), "Social And Economic Dimensions Of Global Environmental Change", *Encyclopedia of Global Environmental Change, 5*.

Levin, R. I., & Rubin, D. S. (2007), "*Statistics For Management"* (Seventh ed.), New Delhi: Prentice Hall Of India Private Limited.

Malaysia Environment Quality Report 2007 (2007). Ministry Of Natural Resources & Environment.

Pearce, J. A., & Robinson, R. B. (2007), "*Strategic Management : Formulation, Implementation, and Control"* (Tenth ed.), New York: Mc Graw Hill

William, T. A., Sweney, D. J., & Anderson, D. R. (2007), "*Contemporary Business Statistic"* (Third ed.): South Western Cengage Learning.

Yusoff, H., Lehman, G., & Nasir, N. M. (2006), "Environmental Engagements Through The Lens Of Disclosure Practices: A Malaysian Story", *Asian Review Of Accounting, 14*(1/2), 122-148.

AN EXPLORATORY STUDY ON VOLUNTARY DISCLOSURE AND INTERIM FINANCIAL REPORTING IN JORDANIAN LISTED COMPANIES

Ala' Hussein Albawwat
Mohamad Yazis Ali Basah
Khairil Faizal Khairi

ABSTRACT

This study focuses voluntary disclosure in interim financial reports of Jordanian listed companies. The preparation of interim financial reports is mandatory for listed companies. In addition, the interim financial reports are used, useful, and the second most important source of information for investors, after annual reports. Because of this, investors express their desire for improved interim financial report in terms of disclosure, particularly voluntary disclosure. Furthermore, voluntary disclosure has become one of the vital issues and effective way to illustrate the competitiveness, communicate with relevant organizations and persons and describe the future of the company, because the mandatory disclosure is no more fulfilling for the corporation's stakeholders, indicating that some individuals, institutions, and governments are not contented with the information provided by the corporations mandatorily. Also, this study discusses the motivations for voluntary disclosure, objectives and uses of interim financial report, and the benefits of interim financial reporting.

Keywords: Voluntary disclosure, interim financial reporting

1. INTRODUCTION

The annual financial reports published by companies are perceived as one of the most significant sources of information as these reports carry a lot of information (Nandi and Ghosh, 2012). In spite of the fact that generally the annual financial reports are able to supply important information, sometimes the data may not be helpful enough to the beneficiaries (for example investors and creditors) who need updated information on a continuous basis regarding the companies' activities in the financial year.

Interim financial reports continuously provide them with updated information on how well the respective companies are doing. Therefore, today, there is proof that a diversity of stock exchanges across the globe necessitates companies to issue interim financial reports, in order to provide relevant stakeholders (employees, shareholders, investors, the public, etc.) timely and high quality financial information to further assist them in making decisions related to financing and investing (Saravanakumar et al. 2012).

In no time, the interim reporting has become one significant medium for management to communicate with investors. This importance mirrors in the actions taken by various national stock exchanges and securities regulators as they introduce interim financial reporting as their listing requirement. Financial analysts all over the world have been in unison to state that

interim financial reporting is a vital source of information in making decisions (Qabajeh et al. 2012).

Simultaneously, the importance of interim reports to stock market investors when it comes to decision-making has been well documented in the literature (Mangena & Tauringana, 2007). These reports are believed to provide investors with ample material information on the financial condition of publicly listed companies to assist investors in making informed investment decisions, particularly, in producing correct prediction on earnings and share prices (Allen et al., 1999; Alias et al., 2009).

The growing demand for more wide-ranging interim accounting information disclosures by investors resulted in more attention being given to interim reports (Alias et al., 2009). Furthermore, voluntary disclosure has become one of the vital issues and effective way to illustrate the competitiveness, communicate with relevant organizations and persons and describe the future of the company, because the mandatory disclosure is no more fulfilling for the corporation's stakeholders, indicating that some individuals, institutions, and governments are not contented with the information provided by the corporations mandatorily (Binh, 2012). Moreover, corporations have begun to supply some extra information in order to fill the gap that is represented by the dissatisfaction over the typical mandatory disclosure (Schuster and Q' Connell, 2006; Li and Qi, 2008). However, Jordanian companies still have a great deal of discretion on how much and what kind of information they disclose in the interim reports. Generally, companies only tended to satisfy merely the minimum disclosure requirements.

In Jordan, the preparation of interim financial reports is mandatory for its listed companies. Based on the previous argument, we will attempt in this paper to identify the extent of voluntary disclosure and interim financial reporting in Jordanian listed companies.

2. VOLUNTARY DISCLOSURE

Disclosure is the process by which accounting measurements are informed or relayed to their intended users (Choi and Meek, 2008). However questions like what information is to be reported and to what extent, when, how and to whom must the company share the information with, need some answers. Disclosure can be classified into two types: mandatory disclosure and voluntary disclosure. The former is dictated by the disclosure requirements that companies should adhere to, while the latter is open to managerial decision.

Corporate voluntary disclosure denotes the information made available at the discretion of the corporation. The extent of voluntary disclosure is determined by changes in the attitudes in the society, economic factors and behavioral factors such as the particulars corporate culture, voluntary disclosure items may be classified into historical, current and predictive items, depending on the past, present or what is anticipated to be the potential performance of the company in the future (AbdurRouf, 2010).
It is argued that the dependence on the disclosure requirements or rules has led to the limitations and unfairness in reporting and disclosure (Riahi-Belkaoui, 2002). Therefore, theorists and practitioners have started to recognize the innate shortcomings of traditional reporting and have constructed some models for additional voluntary disclosure (Schuster and O'Connell, 2006). To eradicate this unfairness, the accounting profession now is paying more attention to the issue of financial reporting. One attempt made by the American Institute of Certified Public Accountants (AICPA) to improve financial reporting is the establishment of the Jenkins

Committee in 1991. In its report published in 1995, there are five categories of information recommended by the committee to be disclosed. These categories include financial and non-financial data, management's analysis of the financial and non- financial data, forward-looking information, information about management and shareholders and background about the company.

However, the Jenkins committee report lends focus only on specific groups of users, investors and creditors, able to be deduced from the title of the report: The Information Needs of Investors and Creditors. This may be in line with the notion of the agency theory that shareholders are the leading principal. However, there are many users or stakeholders who have the interest in the firm and have information needs about the firm and its performance that should be fulfilled, such as employees, government, and society. Therefore, there is a call for expanded disclosures which also include other information such as human resource and social responsibility (Riahi-Belkaoui, 2002).

One more example of the attention given to the issue of voluntary disclosure is the establishment of the Steering Committee in 1998, by the Financial Accounting Standard Board (FASB). One of the three reports of this committee was given the title Improving Business reporting: insights into enhancing voluntary disclosure. The primary conclusion of the committee is to let the investors and other financial statement users to see the company "through the eyes of the management" (Boesso, 2002).

Riahi-Belkaoui (2002) indicates that "The principle of fairness in disclosure calls for an expansion of the conventional accounting disclosures to accommodate all the other interest groups, in addition to investors and creditors that have a vested interest in the affairs of the firm". As a supplier of the information desired, corporate management is conscious of the demand for information and has the effort to satisfy such a demand. In this regard, Schuster and O'Connell (2006) indicate that disseminating additional information voluntarily depicts one method that the management can use to enhance managerial credibility and to re-establish a relationship of trust with their stakeholders.

The expression of ‘voluntary disclosure’ indicates that this disclosure is discretionary by nature and is susceptible to the management decision. There is no official obligation for the company to share more information voluntarily. In other words, no legal or formal action will be taken if a company does not disclose information more than it is required. Meek et al (1995) indicate that voluntary disclosures - disclosures in excess of the requirements-depict the management’s free choices to relay information deemed relevant to the users of financial reports.

2.1 Motivations for Voluntary Disclosure

It is depicted by the agency perspective that detaching the corporate managers from outside investors entails an inherent conflict (Fama and Jensen, 1983; Bushman and Smith, 2001). Being the inside officers, managers have the information about the firm that is not known to the outsiders. When the modern firms’ owners are not the managers that run the business on the daily basis, information asymmetry will surface. The disclosure of such information by the corporate people is crucial for the functioning of a successful capital market. Therefore, the demand for information, both surrounded by regulations and released by insiders voluntarily,

arises from this information asymmetry and agency conflicts occurring between managers and outside investors (Healy and Palepu, 2001).

Previous studies have sought to understand the relationship between mandatory disclosure, voluntary disclosure and their relationship with a firm's value. Disclosure is seen as an epitome of firm value (Hughes, 1986). Better disclosure can increase investor's awareness of the firm, hence lowering the cost of capital and increasing equity valuation (Berglof and Pajuste, 2005). If any disclosure beyond the mandated minimum is defined as voluntary disclosure, the study of voluntary disclosure literature appears to offer the greatest opportunity for any relevant party to increase their comprehension on the role of accounting information in firm valuation and corporate finance (Core, 2001).

Putting aside the motives and incentives from the insiders in making disclosures, it can be concluded from empirical research findings that voluntary disclosure does have an impact on firms surrounding three areas: (1) improved stock liquidity (Welker, 1995; Healy et al. 1999; Leuz and Verrecchia, 2000); (2) reduced cost of capital (Botosan, 1997; Botosan and Plumlee, 2002) and (3) increased information intermediation (Lang and Lundholm, 2000; Francis et al. 1998).

Verrecchia (2001) maintains that a truly comprehensive theory of disclosure should recognise the roles of efficiency, incentives, and the endogeneity of the market process because there are various interactions among diverse investor agents involved. Information asymmetry impedes investment, making it more expensive for a firm to dwell into business activities. Through the reduction in the information asymmetry component of the cost of capital, disclosure makes its link with efficiency, incentives, and the endogeneity of the market process. A commitment to greater disclosure will further negate information asymmetry.

3. INTERIM FINANCIAL REPORTS

Interim financial reports are considered one of the methods of preparing and displaying financial reports to fulfill the requirements of the decision makers. To understand the full meaning of the interim financial report, the definition of the IFR must first be established. It is possible that the best definition of IFR is stated in the International Accounting Standard No. 34 as follows:
The interim period is a financial reporting period that is briefer than a full financial year. An interim financial report can be defined as a financial report, containing either a complete set of financial statements, or a set of condensed financial statements for an interim period (Qabajeh et al. 2012)
Relatively speaking, an interim financial report is prepared and published by an enterprise, and it is for a period of less than a year. Its purpose is to relay valuable information that can enhance business decision-making. An interim financial report contains ample financial information which is communicated to the stakeholders, those who are perceived to be the same as the stakeholders of annual financial reports. The most important groups who benefit from the interim financial report are the investors, creditors and the advisers (Saravanakumar et al. 2012).

3.1 Objectives and Uses of Interim Financial Report

McEwen and Schwartz (1992), state that the Accounting Principles Board No. 28 has ruled out that the objective of interim financial reporting is to provide timely information on the development of an enterprise. In addition to the set of general objectives for financial reporting, interim financial reports look forward to achieving some of the objectives as cited by Ku Ismail and Chandler, (2004) to communicate timely, reliable, relevant and understandable information on an entity's operating, financing and investing activities, to report on management's stewardship and financial performance in achieving the primary goals of the entity, to facilitate the comparisons with past performance, with other entities, with the industry also with the economy all in all.

Disclosure of interim reports is a way of communicating the results of operations on a periodic yet regular, basis. Fundamentally speaking, it is an extension of the annual reporting exercise on a more frequent basis. Interim reports are very helpful to the investing community. Investors consider interim financial reports to be more useful than financial information which enables them to look into actual performances and also improve their projections. It is also important to remember that interim financial reports provide price-sensitive data to investors (Saravanakumar et al. 2012).

Timely and reliable interim financial reporting improves the ability of the stakeholders to have a grasp on an enterprise's capacity to generate earnings, cash flows, liquidity and its financial condition (Ku Ismail and Chandler, 2004). It is a channel for continuous communication by the management with the investors and further enables efficient investment decision making. Interim reporting allows for better price discovery and reduces chances of the financial information to leak elsewhere. Investors are updated on the financial performance and financial status at recurring time, and within a short time from the end of the financial period. This avoids surprises that may overwhelm at the end of financial year and facilitates efficient resource allocation (Saravanakumar et al. 2012).

Yee (2004) presents four reasons serving to justify interim reporting. He believes that first of all, improving the timeliness of disclosure helps investors observe the performance of management and consequently cushion the agency's frictions. Secondly, if news about prices is disseminated more often, this will lead to more efficient capital allocation. Thirdly, spreading news across interim earnings announcements reduces information asymmetry among traders, which may contribute to a better market liquidity on the earnings announcement dates. Next, by reducing the interim information asymmetry between insiders and the public, more frequent interim reporting may impede the rent-seeking efforts by analysts who try to tap into undisclosed information. More specifically, by indicating how the firm is progressing during the yearly reporting cycle, interim reports can help the financial analysts in predicting the probable outcome for the year. In providing an update on firms' activities to financial analysts in this way, interim reporting can contribute to a reduction in insider trading by putting into the public domain timely information which would otherwise be withheld until the year ends (Opong, 1995;Darjezi andKhansalar, 2013).

Mensah and Werner, (2008) argue that the choice of interim reporting intervals could be important to achieve greater capital market efficiency, and this is based on two reasons. Firstly, more frequent interim reports can signal that security prices illustrate the latest firm-specific information, leading to more competitive security pricing. Secondly, more frequent interim

reports can motivate the firms to make more estimates. Therefore, better established estimates are only available through time.

However, some criticisms regarding the interim report have also been discussed. Many have regarded the interim report as the forgotten report (Taylor, 1965; Mensah and Werner, 2008), as it has never been subjected to auditing, the way the annual reports have. To the eyes of the investors, it reduces its usefulness. Furthermore, it can be expensive to audit an interim report, since it needs to be produced either quarterly or semi-annually. The administration costs like compiling and distributing will increase with the increased frequency of reporting, (Yee, 2004). Yee further explains that companies require more time and human resources to issue these interim reports, since they have to be produced every three or six months. This will be burdensome to companies, especially on management, since they are accountable for both the annual report and the interim report. As such, this will lead to greater estimation issues (Reilly et al., 1972) and worsens the short-term focus of the typical investor (Rahman et al., 2007). The integrity of the interim report is also debatable when a country does not require any auditing for the interim reports, as in Jordan. Moreover, the result of the fourth quarter will not be able to be included as well into the annual report. However, despite these problems being natural in preparing the interim financial reports, they are useful too as a decision-making tool for businesses and corporations.

3.2 Historical Development of Interim Financial Reports in Jordan

In Jordan, the requirement for interim financial reporting was contained in the Securities law No. 23 of the year 1997. The law was made effective on 15 May 1997, which required every issuer company to provide financial reports with this checklist of must-have items: the balance sheet, the profit and loss account, the cash flow statement, and the required explanatory notes.

Details regarding the interim financial reports came in the Disclosure Instructions for Issuing Companies, Accounting Standards and Auditing Standards No. 1 of the Year 1998 issued by the Jordanian Securities Commission. Paragraph (A) of this article mention that companies should prepare interim financial reports on a semi-annual basis. Applicable as of 1 September 1998, this report is to include:

the balance sheet, the profit and loss account, changes in shareholders' equity, the cash flow statement, the required explanatory notes, the Company auditor's report which shall include an affirmation that the records and financial statements have been consistently audited with the audit standards prescribed by these Instructions and a brief summary of the comparison of the results of the company's activities for the period with the preceding set plans.

In 2004 the Amman Stock Exchange issued the Directives for Listing Securities on the Amman Stock Exchange for the Year 2004 Regulations by virtue of the provisions of Article 72 of the Securities Law No. 76 of 2002. In paragraph 15 of these regulations, it rules out specifically the type of information that the companies listed in the ASE must provide, the periods of providing this information, and the deadlines of the provision. A notable change that these regulation states lies in the requirement for the companies to provide quarterly financial reports additional to the annual and semi-annual financial reports, as required for all companies. These regulations were applied since 1 July 2004. Article (15a) states that "a company listed on the ASE shall undertake to provide the ASE with the reports, statements and information stated hereunder: (1) The company's annual financial report which includes the board report, the

financial statements and the auditors' report, within three months at the most of the end of its fiscal year, (2) semi-annual financial report with a comparison with the same period of the previous fiscal year, including the financial statements reviewed by the Company auditors, within one month of the end of its bi-annual fiscal year." Article 15(b) further specifies that "a company must provide the ASE with a quarterly financial report reviewed by its auditors and compared with the same period of the previous fiscal year, within one month of the end of the relevant quarter" (ASE,2013).

The preparation of interim financial reports is obligatory for Jordanian listed companies. Companies that do not publish their interim financial reports would face a penalty imposed on violators of the Securities Law No.76 of 2002. Article (110) states that "Any person who violates the provisions of this Law or the regulations, instructions or decisions issued pursuant thereto shall be subject to a fine of not more than one hundred thousand (100,000) Dinars, in addition to a fine of not less than twice the amount, and not more than five times the amount, of profit made or loss avoided by the person committing the violation" (JSC, 2013).

4. CONCLUSIONS

This study has described the voluntary disclosure and interim financial reporting in Jordan, including professional instructions to prepare the interim reports, and related accounting standards for interim reporting. Also presented is a discussion of the motivations for voluntary disclosure, objectives and uses of interim financial report, and the benefits of interim financial reporting.

This paper finding shows there are different arguments about interim financial reporting. The argument that making companies aware of the fact that increasing the voluntary disclosure of information in the interim financial reports may can make financial reports more confidence to investors and the other users. However, companies need to also evaluate the cost and the benefit of disclosure.

Our study also found that organize the mechanism of the audit of interim financial statements by the auditor, where he can express his opinion on financial statements to increase confidence in the disclosed information. Interim financial reports are perceived by users to be useful in making their investment decisions, despite the fact that they are ranked as the second most useful source of information. Annual financial reports appear to be more useful than interim financial reports. One reason have been put forward to explain this finding is that the interim financial reports are not audited and thus perceived to be less reliable and susceptible to income manipulation.

It is also hoped that this study will open up avenues for more studies on interim financial reporting not only in Jordan, but also in other countries where this area of study is lacking. Furthermore, it opens up opportunities and provides avenues for more in-depth research related to interim financial reporting.

REFERENCES

Abdur Rouf. (2010). Corporate Characteristics, Governance attributes and the extent of Voluntary disclosure in Bangladesh. *Asian Journal of Management Research.* ISSN 2229 – 3795.

Allen, A., Cho, J. Y., & Jung, K. (1999). Cross country examination of characteristics and determinants of analyst's forecast errors. *The Mid-Atlantic Journal of Business*, 35, 2/3, 119-133.

Alias, N., Clark,M. & Roudaki.J. (2009). The Current Disclosure Status of Interim Reporting by Malaysian Companies. Available at SSRN: http://ssrn.com/abstract=1464465

ASE. (2013). *Amman Stock Exchange*. http:// www.ase.com.jo/ar.

Berglof, E. & Pajuste, A. (2005). What do firms disclose and why? Enforcing corporate governance and transparency in Central and Eastern Europe. *Oxford Review of Economic Policy*, 21, 2, 178-197.

Boesso, G. (2002). Forms of Voluntary Disclosure: Recommendations and Business Practices in Europe and US. *The Critical perspectives on Accounting Conference*, 25-27 April, 2002, New York.

Botosan, C. A. (1997). Disclosure level and the cost of equity capital. *The Accounting Review*. 72, 3, 323-349.

Botosan, C. A. & Plumlee, M. A. (2002). A re-examination of disclosure level and the expected cost of equity capital. *Journal of Accounting Research*, 40, 1, 21-40.

Bushman, R.M. & Smith, A.J. (2001). Financial accounting information and corporate governance. *Journal of Accounting and Economics*, 32, 237-333.

Choi, F. & Meek, G. (2008). International Accounting. *Sixth Edition*, Pearson Education, Inc.: New Jersey.

Core, J. E. (2001). A review of the empirical disclosure literature: discussion. *Journal of Accounting and Economics*, 31, 441-456.

Darjezi, J. & Khansalar, E. (2013). Frequency of Financial Reports. *International Journal of Business and Management*, 8, 17, 1833-3850

Fama, E.F. & Jensen, M.C. (1983). Separation of Ownership and Control. *Journal of Law and Economics*, 26, 2, 301-325.

Francis, J., Hanna, J., & Philbrick, D. (1998). Management communications with securities analysts. *Journal of Accounting and Economics*,24, 363-394.

Healy, P.M., Hutton, A. P., & Palepu, K. G. (1999). Stock performance and intermediation changes surrounding sustained increases in disclosure. *Contemporary Accounting Research,* 16, 485-520.

Healy, P. M. & Palepu, K. G. (2001). Information asymmetry, corporate disclosure, and the capital markets: a review of the empirical disclosure literature. *Journal of Accounting and Economics,* 31, 405-440.

Hughes, P. J. (1986). Signaling by direct disclosure under asymmetric information. *Journal of Accounting and Economics,* 8, 119-142.

JSC. (2013). *Jordan Securities Commission*. http://www.jsc.gov.jo.

Ku Ismail, K. & Chandler, R. (2004). The timeliness of quarterly financial reports of companies in Malaysia. *Asian Review of Accounting.* Vol. 12, 1, 1-18.

Li, H. & Qi, A. (2008). Impact of corporate governance on voluntary disclosure in Chinese listed companies". *Corporate Ownership & Control,* Vol. 5, Issue 2.

Leuz, C. & Verrecchia, R. (2000). The economic consequences of increased disclosure. *Journal of Accounting Research,* 38, 91-124.

Lang, M. H. & Lundholm, R. J. (2000). Voluntary disclosure during equity offerings: reducing information asymmetry or hyping the stock?. *Contemporary Accounting Research*, 17 ,4, 623-662.

Mensah, Y. M. & Werner, R. H. (2008). The Capital Market Implications of the Frequency of Interim Financial Reporting: an International Analysis. *Review of Quantitative Finance and Accounting,* 31, 1, 71-104.

Mangena, M & Tauringana, V. (2007). Corporate compliance with non-mandatory statements of best practice: the case of the ASB statement on interim reports. *European Accounting Review,* 16, 2, 399–427.

Meek, G., Roberts, C. & Gray, S. (1995). Factors Influencing Voluntary Annual Report Disclosures by U.S., U.K. and Continental European Multinational Corporations. *Journal of International Business Studies*, 26, 3, 555-572.

Nandi, S. & Ghosh, S. (2012). Corporate governance attributes, firm characteristics and the level of corporate disclosure: Evidence from the Indian listed firms. *Decision Science Letters 2, 45–58*

Opong, K .(1995). The Information Content of Interim Financial Reports: UK Evidence. *Journal of Business Finance & Accounting*, 22, 2, 306-68.

Qabajeh,M., Hameedat,M., Al Shanti,A. & Dahmash,F. (2012). The Effect of Interim Financial Reports announcement on Stock Returns: Empirical Study on Jordanian Industrial Companies. *Interdisciplinary Journal of Contemporary Research in Business,* 3, 11.

Rahman, A. R., Tay, T. M., Ong, B. T., & Cai, S. (2007). Quarterly reporting in a voluntary disclosure environment: Its benefits, drawbacks and determinants. *The International Journal of Accounting,* 42, 4, 416-442.

Reilly, F. K., Morgenson, D. L. & West, M. (1972). The predictive ability of alternative parts of interim financial statements. *Journal of Accounting Research,* 10, 105-124

Riahi-Belkaoui, A. (2002). Accounting Theory. *Fourth Edition, Thomson, London*.

Saravanakumar, S., Mahadevan, A, Sairam Subramaniam, B. & Aarthy, A. (2012). An Empirical Investigation on the Announcement of Corporate Quarterly Results. *International Journal of Multidisciplinary Research,* 2. ISSN 2231 5780.

Schuster, P. & O'connell, V. (2006). The Trend toward Corporate Voluntary Disclosures. Management Accounting Quarterly, 7, 2, 1-9.

Taylor, R. G. (1965). A look at published interim reports. *Accounting Review,* 40, 1, 89-96.

Verrecchia, R. E. (2001). Essays on disclosure. *Journal of Accounting and Economic,* 32, 97-180.

Welker, M. (1995). Disclosure policy, information asymmetry and liquidity in equity markets. *Contemporary Accounting Research,* 11, 801-828.

Yee, K. K. (2004). Interim reporting frequency and financial analysts‟ expenditures". *Journal of Business, Finance and Accounting,* 31, 41-72.

"إسهام الزكاة في إعادة توزيع رأس المال وزيادة الإنتاج– السودان نموذجا"

د. الصادق ضوالنور عبد القادر

محاضر بكلية الشريعة والقانون–

جامعة العلوم الإسلامية الماليزية (USIM)

ملخص البحث

- الزكاة قدر مفروض من المال يؤخذ من الأغنياء ويرد على الفقراء، وهي تساعد في إعادة توزيع رأس الأموال، وقد دل على فرضيتها قوله تعالى: (إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسَاكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ). سورة التوبة الآية رقم (60).
- لا تتوقف فلسفة الزكاة في إطعام الجائع وإعطاء السائل فقط، وإنما تتعداها لإعانة الفقير المتعفف وسد حاجته من المال ليتمكن من الإنتاج والدخول في دائرة العمل ليستغني بعمله عن السؤال، يستنبط ذلك من حديث أبي هريرة: (أنَّ رسولَ اللهِ صلَّى اللهُ عليهِ وسلَّمَ قال : ليس المسكينُ الذي يطوفُ على الناسِ، تَرُدُّهُ اللُّقمةُ واللقمتانِ، والتمرةُ والتمرتانِ، ولكنَّ المسكينَ: الذي لا يجدُ غِنًى يُغْنِيهِ، ولا يُفْطَنُ بِهِ فيُتَصَدَّقْ عليهِ، ولا يقومُ فيسألَ الناسَ).صحيح أخرجه البخاري.
- أسهمت تجربة ديوان الزكاة في السودان في تمليك الشرائح الفقيرة والضعيفة في المجتمع وسائل الإنتاج (كل في مجاله) أسهمت في زيادة الناتج القومي وتحويل كثير من أفراد تلك الشرائح إلى منتجين، معتمدون على أنفسهم فاعلون في دعم الإقتصاد، إذ لا شك أن ذلك التمليك حق مشروع دل عليه خبر ابن عباس: (أن رسول الله صلي الله عليه وسلم لما بعث معاذاً إلي اليمن قال له فيما قال: (... فإن هم أطاعوك لذلك فأعلمهم أن الله افترض عليهم صدقة تؤخذ من أغنيائهم وترد علي فقرائهم، ...إلخ الحديث) صحيح متفق عليه.
- وخلاصة القول أن الزكاة عموما واحدة من أهم دعامات الأمن الإجتماعي للمسلمين وركن متين في تقوية الإقتصاد الإسلامي. والله من وراء القصد.

مقدمة:

الحمد لله، والصلاة والسلام على رسول الله، وعلى آله وصحبه ومن اتبع هداه، ثم أما بعد،،،

أهمية الموضوع:

تتمثل أهمية هذا الموضوع في النقاط التالية:

- في كونه متعلق بفريضة من فرائض الإسلام وهي الزكاة.

- في بيان أن الزكاة أحد أهم وسائل الضمان الاجتماعي التي تساهم في فك إحتكار الأموال وإعادة توزيعها.

- في التنبية للدور الكبير الذي لعبته الزكاة في السودان بإسهامها في تحويل شريحة معتبرة من الفقراء والمساكين لمنتجين من خلال تمليكهم وسائل الإنتاج.

أهداف البحث:

يهدف الباحث من خلال هذه الورقة إلى تحقيق الأهداف التالية:

1. بيان أن الزكاة داعم أساسي للإقتصاد الإسلامي بتنظيمها لتوزيع الأموال حيث تأخذ بعضها من الأغنياء وترده على الفقراء.
2. إبراز أن الزكاة تهدف لمحاربة الفقر بتمليكها الفقراء وسائل الإنتاج فيتحولون لقوة منتجة.
3. عكس صورة مشرقة من التطبيق العملي للزكاة بالسودان.

هيكل البحث:

وقد اشتمل البحث على مقدمة ومجموعة عناوين على النحو التالي:

بيان معنى الزكاة في اللغة وفي الاصطلاح، فلسفة صرف الزكاة، سبب استحقاق الزكاة، تمليك وسائل الانتاج في تجربة الزكاة بالسودان ، ثم ذيلت البحث بالخلاصة والتوصيات وقائمة المراجع والمصادر.

وبالله التوفيق والهداية،،،

بيان معنى الزكاة:

الزكاة ركن من أركان الإسلام الخمسة، وفرض من فروضه، فرضت في المدينة المنورة في السنة الثانية من الهجرة بعد فرض رمضان وكان ذلك في شهر شوال وقرنت الزكاة مع الصلاة في اثنين وثلاثين موضعاً[1] في القرآن الكريم مما يدل علي أنها مثل الصلاة في الأهمية والمرتبة، والزكاة واجبة بالكتاب والسنة والإجماع نفصل ذلك على النحو التالي:

أولاً : الكتاب :

لقوله تعالي: (وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ)2، وقوله تعالي: (خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِم بِهَا وَصَلِّ عَلَيْهِمْ إِنَّ صَلاَتَكَ سَكَنٌ لَّهُمْ وَاللّهُ سَمِيعٌ عَلِيمٌ)3، وقوله تعالي: (وَآتُواْ حَقَّهُ يَوْمَ حَصَادِهِ وَلاَ تُسْرِفُواْ إِنَّهُ لاَ يُحِبُّ الْمُسْرِفِينَ)4، وقوله تعالي: (يَا أَيُّهَا الَّذِينَ آمَنُواْ أَنفِقُواْ مِن طَيِّبَاتِ مَا كَسَبْتُمْ وَمِمَّا أَخْرَجْنَا لَكُم مِّنَ الأَرْضِ وَلاَ تَيَمَّمُواْ الْخَبِيثَ مِنْهُ تُنفِقُونَ وَلَسْتُم بِآخِذِيهِ إِلاَّ أَن تُغْمِضُواْ فِيهِ وَاعْلَمُواْ أَنَّ اللّهَ غَنِيٌّ حَمِيدٌ)5، وآيات أخري سوي هذه الآيات يخاطبنا فيها الله عز جل بإخراج الزكاة من الأموال.

ثانياً: السنة:

وأما السنة المطهرة فقد بينت وجوب هذه الفريضة في عدة أحاديث منها ما ورد في حديث بن عمر –رضي الله عنهما– قال: قال رسول الله صلى الله عليه وسلم: (بني الإسلام علي خمس، شهادة ألا إله إلاّ الله وأن محمداً رسول الله، وإقام الصلاة، وإيتاء الزكاة، وصوم رمضان، وحج البيت لمن استطاع إليه سبيلاً)6، وقوله صلي الله عليه وسلم (...الإسلام أن تشهد ألاّ إله إلاّ الله وأن محمداً رسول الله وتقيم الصلاة وتؤتي الزكاة وتصوم رمضان)7، وحديث ابن عباس (أن رسول الله صلي الله عليه وسلم لما بعث معاذاً إلي اليمن قال: إنك تأتي قوماً من أهل الكتاب فادعهم إلي شهادة ألا إله إلاّ الله وأني رسول الله، فإن هم أطاعوك لذلك فأعلمهم أن الله افترض عليهم خمس صلوات في اليوم والليلة، فإن هم أطاعوك لذلك فأعلمهم أن الله افترض عليهم صدقة تؤخذ

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1 ابن عابدين 1399هـ - 1979م، حاشية رد المختار 256/2 ط/دار الفكر.

2- سورة المزمل الآية رقم (20)

3- سورة التوبة الآية رقم (103)

4- سورة الأنعام الآية رقم (141)

5- سورة البقرة الآية رقم (267)

6- البخاري، محمد بن إسماعيل(بدون) ، صحيح البخاري 1/ 9ط/دار الجيل بيروت ، مسلم، 1403هـ - 1983م ، صحيح مسلم بشرح النووي ج45/1 باب بين أركان الإسلام ط/دار الفكر ، (بيروت) .

7- البخاري ، صحيح البخاري 19/1 وما بعدها ، مصدر سابق، مسلم، (بدون)، الجامع الصحيح 30/1 ط/دار الفكر بيروت.

من أغنيائهم وترد علي فقرائهم، فإن هم أطاعوك لذلك فإياك وكرائم أموالهم واتق دعوة المظلوم فإنه ليس بينها وبين الله حجاب)1 وهنالك أخبار أخري سوي هذه الأحاديث تبين فرضية الزكاة وأنها ركن من أركان الإسلام الخمسة.

ثالثاً: الإجماع:

وأما الإجماع فقد أجمع المسلمون في جميع العصور علي وجوب الزكاة، و أجمع العلماء على فرضية هذه الزكاة وأن من جحد فرضيتها فهو كافر إن كان مسلماً ناشئاً في بلاد الإسلام بين أهل العلم، وتجرى عليه أحكام المرتدين ويستتاب ثلاثاً فإن تاب ترك وإلا قتل حداً ويرثه أبنائه عند جمهور الفقهاء من الحنفية المالكية والشافعة أما عند الحنابلة لا يورث حيث روي عن الإمام أحمد قال يقتل مانع الزكاة بقتاله عليها، فروى الميمون عنه: (إذا منعوا الزكاة كما منعوا أبا بكر وقاتلوا عليها لم يورثوا ولم يصل عليهم، قال عبد الله بن مسعود: ما تارك الزكاة بمسلم)؛ وأما منكر وجوب الزكاة جهلاً بها أما لحداثة عهده بالإسلام أو لأنه نشأ ببادية نائية عن الأمصار، عرف وجوبها ولا يحكم بكفره لأنه معذور[2].

الزكاة في اللغة:

جاءت كلمة (الزكاة) في القرآن بعدة معاني لغوية مثل: الطهارة وذلك كقوله تعالى: (قَدْ أَفْلَحَ مَن تَزَكَّى)[3]، (قَدْ أَفْلَحَ مَن زَكَّاهَا)[4]، والمدح مثل قوله تعالى: (فَلَا تُزَكُّوا أَنفُسَكُمْ هُوَ أَعْلَمُ بِمَنِ اتَّقَى)[5]، والنمو والزيادة كقوله تعالى: (وَمَا آتَيْتُم مِّن رِّبًا لِّيَرْبُوَ فِي أَمْوَالِ النَّاسِ فَلَا يَرْبُو عِندَ اللَّهِ وَمَا آتَيْتُم مِّن زَكَاةٍ تُرِيدُونَ وَجْهَ اللَّهِ فَأُوْلَئِكَ هُمُ الْمُضْعِفُونَ[6])، يقال زكا الزرع إذا نما وزاد، وزكت النفقة إذا بورك فيها[7]، وهذا المعنى الأخير هو المقصود في فريضة الزكاة، وسمي المال المخرج في الشرع زكاة لأن الزكاة تزيد في المخرج منه وتقيه من الآفات، وتطهر صاحبها من الآثام،

1- ابن حجر، حمد بن علي، (بدون)، فتح البارئ 357/3 الحديث رقم 1496 ط/دار المعرفة بيروت، الإمام أحمد، (بدون)، المسند، شرحه ووضع فهارسه أحمد محمد شاكر، مسلم، صحيح مسلم شرح النووي 50/1 مصدر سابق.

2 ابن رشد، أحمد بن محمد، 1406هـ-1986م ، المدونة الكبرى مع مقدمات بن رشد213/1 ط/دار الفكر ، النووي، يحي بن شرف الدين، 1404هـ-1984م، المجموع 231/5 ط/دار الفكر الأولى، ابن مفلح، محمد بن أحمد، 1394هـ-1974م، المبدع 398/2 وما بعدها ط/المكتب الإسلامي (بيروت).

3 سورة الأعلى الآية رقم (14) .

4 سورة الشمس الآية رقم (9) .

5 سورة النجم الآية رقم (32)

6 سورة الروم الآية رقم (39)

7 المقري، (بدون)، المصباح المنير ج/1 ص24 ط/ المكتبة العلمية (بيروت)، الرازي،(بدون)، مختار الصحاح ص273 ط/دار الحديث (القاهرة).

وكل هذه المعاني اللغوية للزكاة يضمها قوله تعالى: (خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِم بِهَا وَصَلِّ عَلَيْهِمْ إِنَّ صَلاَتَكَ سَكَنٌ لَّهُمْ وَاللّهُ سَمِيعٌ عَلِيمٌ[1]) ؛ فالزكاة تطهر مؤديها من الإثم وتطهر ماله من الشوائب وتنمى ماله وأجره[2].

الزكاة في اصطلاح الفقهاء:

جاءت تعريفات المذاهب الأربعة للزكاة متقاربة في المعنى وجميعها تؤكد أنها إخراج مال واجب لجهات معينة، فعرفها الحنفية بقولهم: (هي تمليك جزء مال عينه الشارع من مسلم فقير غير هاشمي ولا مولاه مع قطع المنفعة عن المملك من كل وجه لله تعالى[3])، وعرفها المالكية بقولهم: (هي إخراج جزء مال مخصوص من مال مخصوص لشخص مخصوص إذا بلغ نصاباً ويعطى لمستحقه إن تم ذلك الملك وحال عليه الحول غير المعدن والحرث[4])، وذهب الشافعية والحنابلة إلى أن الزكاة هي: (اسم لحق واجب في مال مخصوص يعطى لطائفة مخصوصة في وقت مخصوص على أوصاف مخصوصة[5])

فلسفة صرف الزكاة

معلوم أن مصارف الزكاة هي الأصناف الثمانية الذين تصرف إليهم الزكاة وهم المنصوص عليهم في قوله تعالى: (إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاء وَالْمَسَاكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللّهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللّهِ وَاللّهُ عَلِيمٌ حَكِيمٌ6)، وقول النبي صلى الله عليه وسلم في الحديث الذي يرويه زياد بن الحارث الصدائى قال: (أتيت النبي صلى الله عليه وسلم فبايعته، قال فأتاه رجل فقال: أعطني من الصدقة، فقال له رسول

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[1] سورة التوبة الآية رقم (103)

[2] السرخسى، 1406هـ-1986م، المبسوط 149/2 ،150 ط/ دار المعرفة (بيروت)، الزحيلى، وهبة، 1404هـ -1986م، الفقه الإسلامي وأدلته ج2 ص730 ط/ دار الفكر الأولى.

[3] العيني، 1411 هـ-1990م، البناية على الهداية 339/3 وما بعدها ط/ دار الفكر الثانية، وابن عابدين، حاشية رد المحتار 256/2 وما بعدها ط/دار الفكر مصدر سابق.

[4] الصاوي، (بدون)، بلغة السالك ج3 ص205 ط/ الدار السودانية للكتب، والدسوقي، محمد عرفة، (بدون)، حاشية الدسوقي، ج1 ص430 ط/ دار إحياء الكتب العربية.

[5] النووي، المجموع 325/5 ط/ دار الفكر مصدر سابق، و البيجورى، إبراهيم، (بدون)، حاشية البيجورى 270/1 ط/ احمد بن نبهان وأولاده، و البهوتى، يونس بن إدريس، 1394هـ 1974م،كشاف القناع، 165/2 وما بعدها، ط/عالم الكتب (بيروت)، و ابن مفلح، المبدع 288/2 ط/ المكتب الإسلامي الأولى، مصدر سابق.

[6] سورة التوبة الآية رقم (60) .

الله صلى الله عليه وسلم، إن الله لم يرض بحكم نبي ولا غيره في الصدقات حتى حكم فيها فجزاها ثمانية أجزاء فإن كنت من تلك الأجزاء أعطيتك حقك[1]).

فالسؤال هو ما سبب استحقاق الزكاة؟

لا شك أن الزكاة حق المال، بما يعني أنها حق في الما، أو حق على صاحب المال (المزكِّي) وهذا لا خلاف فيه بين علماء الأمة، ولكن بالنسبة لمستحق الزكاة، هل الزكاة حق له يجب أن يعطاها بأي حال طالما كان من الأصناف المذكورين في آية المصارف؟ أم أنه يعطى فقط لسد خلته وحاجته؟.

للإجابة على هذا السؤال نقول: إن جمهور الفقهاء يرون أن الزكاة تستحق بالحاجة، وهو قول جماهير الحنفية والمالكية والحنابلة ومعظم الشافعية، فالحنفية يجعلون سبب الاستحقاق واحدًا وهو الحاجة إلا العاملين عليها فيقولون: (إن آية الصدقات خرجت لبيان موضع الصدقات ومصارفها ومستحقيها، وهم وإ ن اختلفت أساميهم فسبب الاستحقاق في الكل واحد وهو الحاجة إلا العاملين عليها فإنهم مع غناهم يستحقون للعمالة لأن السبب في حقهم العمالة[2]).

وينص الإمام مالك على أن الحاجة هي معيار التقسيم وسبب الاستحقاق، فيقول في الموطأ:

(...أي الأصناف كانت فيه الحاجة والعدد أوثر ذلك الصنف بقدر ما يرى الوالي ... فيؤثر أهل الحاجة والعدد حيث كان ذلك، وعلى هذا أدركت من أرضى من أهل العلم[3]).

ويرى الحنابلة أن من ملك نصابًا وتعرف حاجته يعطى من الزكاة، لأن الحاجة قائمة فيعطى ما تندفع به حاجته، وفسروا الفقر بالحاجة مستدلين بقوله تعالى: (يَا أَيُّهَا النَّاسُ أَنتُمُ الْفُقَرَاء إِلَى اللَّهِ وَاللَّهُ هُوَ الْغَنِيُّ الْحَمِيدُ[4]). أي المحتاجون إليه، ولهذا يرون أن الغني إن كان محتاجًا حلت له الصدقة[5].

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[1] العظيم أبادي،1968، 1979م، محمد شمس الحق، عون المعبود شرح سنن أبي داوود، ضبط وتحقيق عبد الرحمن محمد عثمان، 37/5 الحديث رقم 1614 ط/دار الفكر الثانية والثالثة.

[2] الكاساني، علاء الدين بن أبي بكر بن مسعود، 1406هـ-1986م، بدائع الصنائع في ترتيب الشرائع، ج ٢ ص ٤٣، ط/دار الكتب العلمية الثانية، بيروت.

[3] الزرقاني، (بدون)، شرح الزرقاني على الموطأ، ج٢ ص١٢٥، باب آخذ الصدقة ومن يجوز له أخذها، ط/دار الجيل للملايين، بيروت، ابن عبد البر، (بدون)، الاستذكار ج٩ ص٢٠٣ ٢٠٤.

4 سورة فاطر، آية 15.

5 ابنقدامة، محمد بن أحمد، 1404هـ- 1984م المغني، ج٢ ص٥٢٠-٥٢٤، ط/ دار الكتاب العربي للنشر والتوزيع بيروت، والبهوتي، يونس بن إدريس، 1394هـ 1974م،كشاف القناع، ج٢ ص٢٧٠ وما بعدها، مصدر سابق.

وقال الإمام الشافعي في كتابه الأم: (أهل السهمان يجمعهم أنهم أهل حاجة إلى مالهم منها كلهم وأسباب حاجاتهم مختلفة وكذلك أسباب استحقاقهم بمعان مختلفة يجمعها الحاجة ويفرق بينها صفاتها[1])، وذكر الحافظ ابن حجر رحمه الله في الفتح أن الإمام الشافعي ممن توسع في إعطاء الغني إن كان محتاجًا وأنه ممن قالوا : (إذا كان عنده خمسون درهمًا أو أكثر وهو محتاج فله أن يأخذ من الزكاة[2]) ، فواضح أن اعتبار الحاجة كسبب للاستحقاق وارد لدى الإمام الشافعي والشافعية، ويذكر الإمام الغزالي أن الإمام الشافعي يجعل مقصود الزكاة ذلك، وأن تحقيق مقصودها يكون بسد خلّة الفقراء وأصحاب الحاجة[3].)

إذن اتفقت أقوال الفقهاء أن هدف إعطاء الزكاة هو سد الحاجة والخلة للفقير، ولو استصحبنا كلام الإمام الشافعي أعلاه الذي نقله عنه ابن حجر في قوله بالتوسع في الإعطاء، حتى الغني المحتاج للزيادة وأنه ممن قالوا: إذا كان عنده خمسون درهمًا أو أكثر وهو محتاج فله أن يأخذ من الزكاة، وهذا القول منسجم تماما مع قوله عليه الصلاة والسلام: (ليس المسكين الذي ترده اللقمة واللقمتان والتمرة والتمرتان، ولكن المسكين لا يعرف ولا يفطن له فيعطى ولا يقوم فيسأل الناس[4]).

وعلى ضوء هذا فعندما تتوسع الزكاة في إعطاء المستحق وتخرجة من دائرة الحاجة إلى دائرة الغنى- يعني الاستغناء عن الغير- بتمليكة وسيلة للإنتاج تناسبة، فيصبح منتجا ومساهما في الدخل القومي معتمدا على نفسه ولا يلتفت لما في يد الغير؛ نكون حققنا المقصد الشرعي للزكاة وساهمنا في حل معضلة الفقر في المجتمع الإسلامي.

تمليك وسائل الانتاج في تجربة الزكاة بالسودان:

من المعلوم أن شريحة الفقراء والمساكين هي الشريحة الأضعف في المجتمع الإسلامي، ولو تجاوزنا الخلاف الفقهي في القول إن الفقير له شيء وهو أحسن حالاً من المسكين، وممن قال بذلك الحنفية والمالكية، أو القول إن الفقير لا شيء له وهو أشد حاجة من المسكين وهو قول الشافعية والحنابلة؛ فإننا نجد أن ديوان الزكاة بالسودان أولى مصرفي

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1 الشافعي، محمد بن إدريس،1393هـ-1973، الأم مع مختصر المزني، قسم الصدقات الثاني، ج ٢ ص ٨٣ ط/دار المعرفة الثانية، بيروت.

2 ابن حجر، أحمد بن علي، فتح البارئ بشرح صحيح البخاري، مصدر سابق.

3 الغزالي، (بدون)، إحياء علوم الدين، ج ١ ص ٢١٢.

4 حديث صحيح متفق عليه، انظر فتح البارئ 256/8 الحديث رقم (4539) باب (لا يسالون الناس ألحافا) ط/ دار الكتب العلمية الثانية 1418هـ- 1997م (بيروت)، وصحيح مسلم بشرح النووي 129/7 الحديث رقم (1039) (باب النهى عن المسالة) ط/ مؤسسة مناهل العرفان (بيروت) بدون تاريخ، والمسند 314/7 الحديث رقم (7530) ط/دار الحديث الأولى 1416هـ-1995م (القاهرة).

الفقراء والمساكين أهمية خاصة وفضلهما على بقية مصارف الزكاة لأن الحاجة متجلية فيهم دائما وهم الأغلب في المجتمعات الإسلامية[1]، بل يلزم تقديمهم على غيرهم لتحقيق المقصد الشرعي من الزكاة في سد خلة المحتاج ودفع حاجته، وقد رأينا في صدر الورقة أن غالب اتجاه الفقهاء إلى اعتبار الحاجة سببًا وعّلة لاستحقاق الزكاة وأخذها وتصريفها، ولذلك تتم المفاضلة بين مصارف الزكاة لهذه العلة، ولما كان الفقراء والمساكين من أكثر الأصناف حاجة جاز تقديمهم على غيرهم، وتمليكهم وسائل الانتاج لتمكينهم من العمل ورفع مستواهم، وفي هذا عامل مهم من عوامل الضمان الاجتماعي في المجتمع المسلم، فتمليك الفقير والمسكين يخلص المجتمع من آفة الحسد والحقد، فالحسد أحد الأمراض الخطيرة التي قد تصيب الفرد فيتمنى معه الحاسد زوال النعمة من الغني، وقد يتعدى الأمر حد الحسد إلى الحقد بالعمل على إزالة النعمة من الغني، فالحقد يحول الشعور إلى سلوك، والفقير إذا استشعر أن له نصيبا وحقا في مال الغني وأنه لن يبخل عليه بهذا الحق فإنه لن يتمنى زوال تلك النعمة عنه بل يتمنى دوامها و زيادتها لأن فى ذلك زيادة لحقه، أما إذا شعر بأن مال الغني يزداد وأنه في المقابل يزداد فقراً وحاجة فإن الحسد سوف يجد طريقه إلى قلبه، ومن هنا كانت الحكمة من عدم اشتراط الحول في زكاة الزروع والثمار وإيجاب الزكاة يوم الحصاد، وما ذلك إلا لتعلق أعين الفقراء بالمال، وقد حرص الإسلام على تخليص نفوس أفراده من هذا الداء الخطير الذي لا يجتمع مع الإيمان في قلب واحد، ولذا فقد حذر رسول الله صلى الله عليه وسلم من الحسد والبغضاء في قوله: (دَبَّ إِلَيْكُمْ دَاءُ الْأُمَمِ قَبْلَكُمْ الْحَسَدُ وَالْبَغْضَاءُ هِيَ الْحَالِقَةُ، لَا أَقُولُ تَحْلِقُ الشَّعَرَ وَلَكِنْ تَحْلِقُ الدِّينَ...[2]).

وفي التطبيق العملي قد راعى ديوان الزكاة بالسودان إعطاء المحتاج وسد خلته، إذ أنه يقوم بتوزيع الزكاة على مصارفها الثمانية مع التركيز على أصحاب الحاجات (الفقراء والمساكين) حيث يخصص لهم الديوان 50% من الأموال التي تصرف في المصارف، وذلك لأن كل الأصناف يدفع إليهم للحاجة، فوجب اعتبار أمسهم حاجة"؛ وقد درجت العديد من مؤسسات الزكاة المعاصرة (منها ديوان الزكاة بالسودان) على إعطاء مصرفي الفقراء والمساكين نصف حصيلة الزكاة تحقيقا لهذا الهدف.

فنص قانون الزكاة[3] لسنة 2001م على مصارف الزكاة كما يلي:

(1) تصرف الزكاة بصورة فورية ما لم تقتض الضرورة غير ذلك على المصارف الشرعية الثمانية.

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[1] تشير الاحصائات الدولية أن معظم سكان الدول النامية تحت خط الفقر، ومعلوم أن سكان هذه الدول 4.3 مليار يعني أكثر من ثلثي العالم، ومعلوم أيضا أن جميع الدول الإسلامية واقعة في خارطة الدول النامية مما يؤكد أن غالب المسلمين فقراء.

[2] الترمذي، سنن الترمزي، حديث رقم 2510، اختلفوا في روايته وقال الألباني: حسن لغيره، انظر صحيح الترغيب بالرقم 2827.

3 انظر قانون الزكاة لسنة 2001م المادة 38 ص25.

(2) على الرغم مما ورد في البند (1) لا يجوز المساس بنصيب الفقراء والمساكين وتحويله إلى مصرف آخر ويقوم الديوان أو ديوان الزكاة بالولاية بحسب الحال بتوزيعها محلياً لمصارفها الشرعية.

ونصت لائحة[1] الزكاة لسنة 2004 م على صرف الزكاة كما يلي:

ف(1) تصرف الزكاة على المصارف الشرعية وفقاً للترتيب المنصوص عليه في المادة 38-1 من القانون وفقاً للنصوص الواردة في القرآن الكريم والسنة الصحيحة وآراء الفقهاء.

ف(3) توزع الأموال على المصارف وفقاً لما حدده المجلس (مجلس أمناء الزكاة) وذلك بأحد الخيارين الآتيين:

أ/ نسبه مئوية وهي 12,5 % للمصرف الواحد.

ب/ المفاضلة إذا اقتضت المصلحة العامة ذلك وفقاً للحاجة وأولويات الصرف مع عدم المساس بحقوق الفقراء والمساكين.

ف(6) ...يجوز للأمين العام بموافقة المجلس (مجلس أمناء الزكاة) أن يوظف الزكاة وفقاً للحاجة.

فمن هذا التقنين الذي تضمنته نصوص قانون ولائحة الزكاة كان نصيب الفقراء والمساكين فوق الخمسين بالمائة من جملة الزكاة في غالب السنوات، وعلى هذا الأساس انطلق ديوان الزكاة بالسودان في تمليك الفقراء والمساكين وسائل الإنتاج ومشاريع إعاشة -تتنوع حسب طبيعة وبيئة كل منطقة وحسب ظروف الأسرة- بهدف إخراج الأسر الفقيرة من ذلة السؤال والتواكل إلى رحابة العطاء والإنتاج -علما أن ذلك يعادل نسبة20% فقط من نصيبهم ويصرف الباقي على حوائجهم الأخرى-، نبينها على النحو التالي[2]:

المشاريع الفردية:

مثل ماكينات الخياطة والشعيرية وأكشاك بيع الخضار وعربات الكارو[3] والنفايات ونقل المياه ومشاريع تربية الدواجن والأنعام ومحاريث بلدية وبنشر لساتك وطواحين غلال ومصانع الصابون الصغيرة ومصانع الأحذية .... الخ .

المشاريع الجماعية:

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1 انظر لائحة الزكاة لسنة 2004م المادة 28 ص 24 .

2 المصدر الموقع الرسمي لديوان الزكاة السوداني.

3 الكارو عربة مشهورة في السودان تستخدم في النقل وتجرها الدواب كالخيل والحمير.

وتطورت التجربة لتنتقل إلى المشـــاريع الجماعية التي تحتاج إلى رأس المال الكبير ويســـتنفع الفقراء من إيرادها وانتاجهم فيها ويشرف عليها ديوان الزكاة، فكانت مزارع الشاي بجنوب كردفان، مشروع الركشات (عربات التُكتُك)، قوارب الصيد بالبحر الأحمر، مصنع عطبرة للملابس الجاهزة ومشروع طق صمغ الهشاب بكردفان وتمليك عدد 50 عربة ميني بص ببعض الولايات ومشـــروع كمائن الطوب بشـــمال دارفور ومصـــائد الأسمال بالشمالية وغيرها.

المشاريع الزراعية:

يعمل ديوان الزكاة فى هذا المجال على اســـتصـــلاح الأراضـــى الزراعية وتوفير البذور المحســـنة وحراثة أراضي الفقراء والمساكين من المشاريع الزراعية فى الولايات كالآتي:

1- توطين العرب الرحل بمشـــاريع زراعية بولاية نهر النيل فى محافظة الدامر التكلفة 7.500.000 دينارا (سبعة مليون وخمسمائة ألف دينار- 28.500 دولار[1] تقريبا - عدد المستفيدين(5) ألف مزارع.

2- مشروع الأمن الغذائى بعطبرة ولاية نهر النيل التكلفة (15) مليون دينار

3- مشروع تشجير همشكوريب بولاية كسلا التكلفة2.5مليون دينار 3000 نخلة

4- مشروع التراكتورات لحراثة أراضي الفقراء والمساكين التكلفة 28 مليون دينار بولاية كسلا.

5 - تمليك 10 ألف محراث بلدي للزراعة بولاية جنوب دارفور بتكلفة قدرها 10 مليون دينار

6- شـــراء 15 تراكتور لحراثة الأراضـــي الزراعية للفقراء والمســـاكين بتكلفة قدرها 84 مليون دينار بولاية القضارف.

7- حفر ثلاث ترع زراعية بمحافظات ولاية الجزيرة بتكلفة قدرها 26 مليون دينار يستفيد منها أكثر من (2) ألف مزارع فقير.

8- مشاريع زراعية بمحافظة دنقلا بتكلفة 4.019.250 فقط أربعة مليون وتسعة عشر ألف ومئتان وخمسون دينار.

[1] كان سعر الصرف للدولار الأمريكي مقابل الدينار حسب السعر الرسمي لبنك السودان المركزي حتى 31 ديسمبر من العام الذي نشر فيه هذا التقرير في العام 2002م هو 263 دينار.

9 – مشـروع حراثة أراضـي الفقراء والمسـاكين بالتركتورات بولاية سـنار بتكلفة قدرها 12.250 مليون دينار.

10– مشروع الشهيد ملولحة الزراعي بولاية سنار بتكلفة 5 مليون دينار.

11– تمليك سبعة مشاريع زراعية بولاية سنار بتكلفة 4.900.000 دينار.

12– الزراعة لصالح الفقراء والمساكين بولاية النيل الأزرق بتكلفة 24.100مليون دينار.

13– محاريث بلدية وتقاوى بولاية شمال دارفور بتكلفة 7.100 مليون دينار.

14– مشاريع زراعية وتوفير البذور بولاية جنوب كردفان بتكلفة 25 مليون دينار.

تقرير الزكاة عن المشروعات الخدمية والإنتاجية للعام 2012م[1]:

بلغ إجمالي الصرف على المشروعات الخدمية والإنتاجية) الصرف الرأسي 104,778,867جنيهًا، أي 23,8 مليون دولا تقريبا[2]، استفاد منه 306,483 أسرة وفق التفاصيل التالية:

المشروعات الزراعية:

شق نباتي بتكلفة بلغت 10,313,934 جنيهًا

شق حيواني بتكلفة بلغت 10,402,374 جنيهًا

عدد المستفيدين 71,667 أسرة

المشروعات الخدمية:

بلغ الصرف على المشروعات الخدمية 17,855,218 جنيهًا أستفاد منه عدد 151,053 أسرة

في مجال الصحة 2,898,245جنيهًا

وفي مجال التعليم 2,933,389 جنيهًا.

في مجال المياه 5,843,742 جنيهًا.

خدمية أخرى 6,179,842 جنيهًا .

المشروعات الفردية:

[1] المصدر الموقع الرسمي لديوان الزكاة السوداني، تقرير الأداء للعام 2012م، المشروعات الخدمية والإنتاجية المنفذة في العام 2012م ص32 وما بعدها.

[2] علما أن سعر الدولار لغاية 2012/12/30م حسب السعر الرسمي لبنك السودان بلغ 4.4 جنيه.

مشروعات فردية بتكلفة بلغت 10,821,760 جنيهًا استفاد منه عدد 1,722 أسرة .
تدريب المستفيدين بتكلفة بلغت 229,288جنيهًا استفاد منه عدد 808 متدرب.
مشروعات متناهية الصغر بتكلفة بلغت 2,511,007 جنيهًا استفاد منه عدد 172 أسرة .
تمويل أصغر 3,285,783 جنيهًا استفاد منه عدد 6,252 أسرة .
القطاع المهني بتكلفة بلغت 6,370,089 جنيها للمرأة المنتجة والمعاشين .
قطاع الحرفين بلغت التكلفة 4,137,438 جنيهًا استفاد منه عدد 996 أسرة .
القطاع التجاري بلغت التكلفة 4,229,009 جنيهًا استفاد منه عدد 1,404أسرة.
قطاع النقل بلغت التكلفة 2,801,442 جنيهًا استفاد منه عدد 600 أسرة .
القطاع الصناعي بلغت التكلفة 87,000 جنيهًا استفاد منه عدد 300 أسرة .
مشروعات أخرى بتكلفة بلغت 4,037,318 جنيهًا استفاد منه عدد 1,530 أسرة.

تحليل المشروعات الخدمية والإنتاجية للعام 2012م:

إذا استثنينا المشروعات الخدمية من التقرير –على الرغم من أنها دعم يذهب لصالح الفقراء والمساكين وتهيء البيئة المساعدة والبنية التحتية للمشروعات الإنتاجية– نجد أن ديوان الزكاة السوداني قدم في العام 2012م وحده ما يلي:

1 مشروعات زراعية بشقيها النباتي والحيواني جماعية –أي يشترك في المشروع عدد من الفقراء والمساكين وتموله الزكاة– وقد بلغ عدد الأسر المستفيدة 71,667 بتمويل قدره 20,716,308 جنيهاً.

2 مشروعات فردية شملت الآتي: مشروعات متناهية الصغر، تمويل أصغر، القطاع المهني للمرأة المنتجة والمعاشين، قطاع الحرفين، القطاع التجاري وقطاع النقل، زائدا تدريب المستفيدين حيث استفاد منه عدد 808 متدرب، استفادت منه 12,976 أسرة بتمويل قدره 38,510,134 جنيهاً.

إذن جملة المستفيدين من المشروعات الإنتاجية للعام 2012م حسب تقرير ديوان الزكاة للعام 2012م هم 84,643 أسرة بتمويل قدره 59,226,442 جنيهاً، أي 13,460,555 دولار أمريكي وهذا يمثل 20% فقط من الصرف على الفقراء والمساكين حيث يذهب الباقي كدعم عيني لهم لمواجهة تكاليف المعيشة وجزء منه يذهب للمشروعات الخدمية التي تهيء البيئة المساعدة والبنية التحتية للمشروعات الإنتاجية.

جدول توضيحي:

الرقم	المشروع	المستفيدون	المبلغ
1	مشروعات زراعية	71,667 أسرة	
	1. شق نباتي		10,313,934 جنيهاً
	2. شق حيواني		10,402,374 جنيهاً
2	مشروعات فردية	12,976 أسرة	38,510,134 جنيهاً
	الجملة	84,643 أسرة	59,226,442 جنيهاً

جدير بالذكر أن نقول أن كل ماذكر أعلاه متعلق بالعام 2012م فقط، وأن ديوان الزكاة بالسودان درج على تمليك المشروعات الإنتاجية للفقراء والمساكين منذ تأسيسه كمؤسسة مستقلة في العام 1406هـ الموافق 1985م وأصبحت تكبر يوما بعد يوم إلى يومنا هذا، وشملت تلك الوسائل تمليك الأنعام (إبل وبقر وغنم)، وتمليك معدات وتقاوي زراعية مختلفة، وتمليك ماكينات صناعات حرفية مختلفة، وتمليك قوارب صيد تعمل بالماكينات، وتمليك محلات تجارية مختلفة في شكل أكشاك صغيرة، وتمليك وسائل الإنتاج المختلفة الخاصة بالمرأة كماكنات الخياطة والصناعات الحرفية، فضلا عن المشروعات ذات التمليك الجماعي –لمجموعة من الفقراء والمساكين– الكبيرة مثل المشروعات الزراعية والصناعية وغيرها كما رأينا في التقرير أعلاه.

كما يجدر بالذكر أني لم أقف على دراسة شاملة لا من الديوان ولا من غيرة لتقييم هذه المشروعات تقييم علمي وقياس أثرها على المجتمع السوداني والدخل والناتج القومي، وأتمنى أن يتم ذلك في القريب العاجل وإني على قناعة تامة أن هذه المشروعات التي قدمها ديوان الزكاة لها أثر إيجابي على هذه الشريحة خصوصا وعلى السودان عموما، وقد وقفت على دراستين محدودتين تؤيد ما ذهبنا إليه، الأولى: للدكتور أحمد مجذوب بعنوان: الأثر الاقتصادي للزكاة، وقد خلصت إلى أن للزكاة آثار واضحة فى إعادة توزيع الدخل والثروة لبعض أفراد المجتمع وأن الزكاة تعمل بصورة مباشرة وغير مباشرة على إعادة تخصيص الموارد الاقتصادية بين الاستخدامات المختلفة وأن للزكاة آثار واضحة فى الاستقرار الاقتصادي من خلال تأثيرها على عنصرية الأساسيين وهما استقرار الأسعار والتشغيل التام للموارد الاقتصادية، وأن هنالك أثر بين للزكاة فى التنمية الاقتصادية، والثانية: للدكتور مصطفى محمد مسند بعنوان دور الزكاة في تحقيق العدل الاجتماعي تجربة ديوان الزكاة – السودان، قدمت في المؤتمر العالمى التاسع للاقتصاد والتمويل الإسلامى (I C I E F)، النمو والعدالة والاستقرار من منظور إسلامى، 9-10 سبتمبر 2013م، استنبول ،تركيا، وتوصل البحث إلى عدد من النتائج ذات العلاقة بدور الزكاة في تحقيق العدل الاجتماعي من أهمها:

1- تعتبر الزكاة أداة هامة للضمان الاجتماعي بصورة تلقائية ودون اشتراط مساهمة مسبقة من المستفيد، وهذا مايميزها من حيث العدالة عن أنظمة الضمان الوضعية، 2- تساهم الزكاة في حل المشكلات الاقتصادية والاجتماعية المعاصرة والتي فشلت النظم الاقتصادية الوضعية في علاجها ومن بين هذه المشكلات مشكلة تكدس الأموال في أيدي فئة قليلة من المجتمع مما يؤدي إلى زيادة الفوارق الاقتصادية والاجتماعية بين الطبقات.

وبالله التوفيق والهداية.

النتائج والتوصيات:

توصل البحث إلى النتائج والتوصيات التالية:

1 إن الزكاة ركن عظيم من أركان الإسلام الخمسة، وهي واجبة بالكتاب والسنة والإجماع.

2 اتفق جمهور الفقهاء على أن الزكاة تستحق بالحاجة، وهو قول جماهير الحنفية والمالكية والحنابلة ومعظم الشافعية، واستنبطنا من ذلك جواز التوسع في إعطائها بتمليك الفقير وسيلة للإنتاج ليعف نفسه كي يتحقق هدف الزكاة في سد خلته.

3 قام ديوان الزكاة بالسودان بتمليك الفقراء والمساكين وسائل إنتاج ومشاريع إعاشة بما يعادل نسبة20% فقط من نصيبهم شملت المشاريع الفردية، و المشاريع الجماعية التي تحتاج إلى رأس مال الكبير.

4 جملة المستفيدين من المشروعات الإنتاجية للعام 2012م والتي قدمها ديوان الزكاة في السودان هم 84,643 أسرة بتمويل قدره 59,226,442 جنيهاً، أي 13,460,555 دولار أمريكي.

5 أسهمت الزكاة في السودان في إعادة توزيع رأس المال حيث صرفت كما رأينا في عام 2012م فقط أكثر من 67 مليون دولار على شريحة الفقراء والمساكين لوحدها فضلا عن بقية المصارف الثمانية، كما ساهمت في زيادة الإنتاج بتوزيعها وسائل الإنتاج وإنشاء المشروعات التي استفاد منها في عام واحد عدد 84,643 أسرة

6 أثبتت بعض الدراسات أن للزكاة في السودان آثار واضحة فى إعادة توزيع الدخل والثروة لبعض أفراد المجتمع، وآثار واضحة فى الاستقرار الاقتصادي من خلال تأثيرها على عنصرية الأساسيين وهما استقرار الأسعار والتشغيل التام للموارد الاقتصادية، وأن هنالك أثر بين للزكاة فى التنمية الاقتصادية، كما تعتبر الزكاة أداة هامة للضمان الاجتماعي، وتساهم الزكاة في حل المشكلات الاقتصادية والاجتماعية المعاصرة مثل تكدس الأموال في أيدي فئة قليلة من الناس.

7 نوصي ديوان الزكاة والجهات الحكومية ذات الصلة بإعداد دراسة علمية شاملة تقيِّم مدى أثر إسهام الزكاة في إعادة توزيع رأس المال وزيادة الإنتاج في السودان.

وبالله التوفيق والهداية.

قائمة المصادر والمراجع:

- السرخسي، 1406هـ-1986م، المبسوط، ط/ دار المعرفة (بيروت).
- الزحيلى، وهبة، 1404هـ -1986م، الفقه الإسلامي وأدلته، ط/ دار الفكر الأولى.
- العيني، 1411 هـــــ-1990م، البناية على الهداية 339/3 وما بعدها ط/ دار الفكر الثانية.
- ابن حنبل، أحمد، 1416هـــــ-1995م، المسند، شرحه ووضع فهارسه أحمد محمد شاكر، ط/دار الحديث الأولى القاهرة.
- ابن حجر، أحمد بن علي، 1418هـــــ- 1997م، فتح البارئ بشرح صحيح البخاري، ط/ دار الكتب العلمية الثانية (بيروت).
- الشافعي، محمد بن إدريس،1393هـ-1973، الأم مع مختصر المزني ط/دار المعرفة الثانية، بيروت.
- البخاري، محمد بن إسماعيل، (بدون)، صحيح البخاري، تقديم فضيلة الشيخ أحمد محمد شاكر، ط/دار الجيل، بيروت.
- العظيم أبادي، محمد شمس الحق، 1968، 1979م، عون المعبود شرح سنن أبي داوود مع شرح، ابن قيم الجوزية، ضبط وتحقيق عبد الرحمن محمد عثمان، ط/دار الفكر الثانية والثالثة.
- الترمذي، محمد بن عيسي بن سورة، (بدون)، الجامع الصحيح المعروف بسنن الترمذي، تحقيق وشرح أحمد محمد شاكر ط/دار الكتب العلمية، بيروت.
- النووي، يحيى بن شرف الدين، 1403هـــــ-1983م، صحيح مسلم بشرح النووي، ط/دار الفكر، بيروت، و ط/ مؤسسة مناهل العرفان بيروت.
- الكاساني، علاء الدين بن أبي بكر بن مسعود، 1406هـــــ-1986م، بدائع الصنائع في ترتيب الشرائع، ط/دار الكتب العلمية الثانية، بيروت.
- ابن عابدين، محمد أمين، 1399هـ - 1979م، ، حاشية رد المحتار علي الدر المختار شرح تنوير الأبصار، ، ط/دار الفكر.
- الدسوقي، محمد عرفه، (بدون)، حاشية الدسوقي علي الشرح الكبير للشيخ الدردير، ط/دار إحياء الكتب العربية لعيسي ألبابي الحلبي وشركاؤه، القاهرة.
- الزرقانى، (بدون)، شرح الزرقانى على الموطأ ط/دار الجيل للملايين، بيروت.

- ابن عبد البر، الاستذكار، بدون.
- النووي، محي الدين بن شرف الدين،1417هـــ 1997م. المجموع شرح المهذب، ط/دار الفكر.
- البهوتي، يونس بن إدريس، 1394هـ 1974م،كشاف القناع، ط/عالم الكتب، بيروت.
- ابن مُفلِح، إبراهيم بن محمد، (بدون)، المبدع، ط/المكتب الإسلامي الأولي، بيروت.
- ابن قدامة، عبد الله بن أحمد، 1404هـ 1984م، المغني، ط/دار الكتاب العربي للنشر والتوزيع (بيروت).
- الغزالي، (بدون)، إحياء علوم الدين، بدون.
- الصاوي، (بدون)، بلغة السالك، ط/ الدار السودانية للكتب.
- البيجورى، إبراهيم، (بدون)، حاشية البيجورى، ط/ احمد بن نبهان وأولاده.
- الألباني، محمد ناصر الدين، (بدون)، صحيح الترغيب.
- دكتور أحمد مجذوب، (بدون)، الأثر الاقتصادي للزكاة.
- دكتور مصطفى محمد مسند، دور الزكاة في تحقيق العدل الاجتماعي تجربة ديوان الزكاة – السودان، ورقة قدمت في المؤتمر العالمى التاسع للاقتصاد والتمويل الإسلامى (**I C I E F**)، النمو والعدالة والاستقرار من منظور إسلامى، 9-10 سبتمبر 2013م، استنبول ،تركيا.
- قانون الزكاة السوداني لسنة 2001م، ط/ صن ست، الخرطوم.
- لائحة الزكاة لسنة 2004م، ط/ المركز الطباعى للمعهد العالي لعلوم الزكاة (الخرطوم) بدون تاريخ.
- تقرير الأداء للعام 2012م لديوان الزكاة السوداني، الموقع الرسمي لديوان الزكاة السوداني على الأنترنت.
- الموقع الرسمي لديوان الزكاة السوداني على الأنترنت: ***www.zakat- / chamber.gov.sd***
- الموقع الرسمي لبنك السودان المركزي على الأنترنت: ***www.cbos.gov.sd/***

مصادر القوة التنظيمية وعلاقتها بتدريب الموارد البشرية

علـــي رمضـــان مصبـــاح ، د.ناصر حبتور ، د.أحمد عبدالمالك

جامعة العلوم الإسلامية الماليزية.

الملخص

هدفـــت هذه الدراسة إلى التعرف على العلاقـــة بين مصادر قوة القيـــادة التنظيمية وتدريب الموارد البشريـــة من وجهة نظـــر العملاء الاكاديميين الليبيين والمقيمـــين بماليزيا ، وهنا تم الاعتمـــاد على مصـــادر قـــوة القيـــادة الإداريـــة التى تضم مجموعة من العوامل (الهيكلية والخـــبرة والشخصيـــة والمـــكافأة والاكـــراه أو العقاب) ، ومـــن جهـــة تدريب المـــوارد البشريـــة تم الاعتماد على كيفيـــة (تنمية المعارف والقدرات) للعـــاملين بالمصـــارف التجاريـــة والـــتي بدورها تؤهلهم في تسويق الخدمـــة المصرفيـــة بجودة عالية للعملاء ومـــن ثم المساهمـــة في تحقيق رضاهم ، حيث توصلت الدراســـة إلى وجود أثار فعالة لمصادر قوة القيادة الإدارية على تدريب الموارد البشرية .

الكلمات المفتاحية ... القيادة الإدارية ، التدريب ، الجودة ، العملاء .

SOURCES OF ORGANIZATIONAL STRENGTH AND ITS RELATION TO THE TRAINING OF HUMAN RESOURCES

Abstract

This study aimed to identify the relationship between the sources strength of organizational leadership and training of human resources from the perspective of the customer academics Libyans who are resident of Malaysia. This study dependent on sources strength of administrative leadership: structural, experience and personal reward and coercion or punishment. However, this study also dependents on the training of human resources from development of knowledge and capacities for commercial banks' employees which qualifies them in the marketing of high quality banking service for customers, thus the contribution in the investigated of satisfaction. The results of the study found that there are impact traces for the sources of strength of the administrative leadership on training of human resources.

Keywords: Administrative leadership, Training, Quality, Customer.

المقدمة ..

. بالنظر إلى إن التغيرات والتطورات السريعة التي تحصل في بيئة الاعمال نتيجةً إلى الانفجار المـــعرفي لثورة المعلومات والاتصالات يمكن أن تؤدي إلى تقادم المعارف والمهارات والقدرات التي يمتلكها العـــاملين والتي تم اكتسابها في السابق ، الآمر الذي يزيد مـــن حاجة العاملين إلى تحديث مهاراتهم ومعارفهم وقدراتهـــــم بأستمرار وذلك عن طريق التدريب ، كما أن طرق الانتاج الجـــــديدة تتطلب أكثر من أي وقت مضى إلى العنصر البشري المدرب تدريباً جيداً والقادر على تأدية دوره الانتاجي على أحسن وجه ، مـــــن خلال تنمية قدراته ومهاراته [1] ، وخاصةً في قطاع الخدمات باعتبار الخدمة تنتج وتستهلك في نفس الوقت الآمر الذي يتطلب من منتج أو مقدم الخـــــدمة أن يكون ذو كفاءه ومهاره عالية عند تقديمه لمـــن يطلبها ، هـــــذا وبالإضـــافة إلى ماسبق فإن التغيرات والتطورات وثورة المعلومات والاتصالات زادت من قدرة ومـــــعرفة العميل اليوم من إنتقاء المنتجات الـــــتي تتصف بالجودة العالية ، وذلك باعتماده على الجودة كمعيار رئيسي للاختيار والتفضيل [2] .

ومـــن منطلق كلما زادت قوة القيادة الإدارية داخل التنظيم كلما زادت احتمالية نجاحها في تحقيق اهـــدافها سواء كانت تنظيمية أو شخصية [3] ، كا تطوير المنظمة ومواردها البشرية ، ومن هنا يأتي دور القيادة الإدارية في التأثير على موظفيها ، ويمكن ممارسة هذا التأثير بالاستناد على مصادر قوتها كالملكية والمكافأه والعقاب والخبره وكذلك السلطة المشروعة [4].

وبما ان يُعد الجهاز المصرفي احد الاركان التي يقوم عليها النظام الإقتصادي ، ولـــذلك فأن تطـــويره يعتـــبر مطـــلباً تنموياً هاماً هذا من جه ، ومن جهةً أُخرى معاناة المصارف التجارية الليبية جملة من التشوهات والقصور وخاصةً من حيثُ الجوانب التي تم تغطيتها بهذه الدراسة بحيث يوجد قصور في تأهيل وتدريب العناصر البشرية ، بحـــيث لم تتاح للعناصر البشرية العاملة في القطاع المصرفي ولمدة طويلة إلى فرص حقيقية للتدريب ولفترة زمنية كافية على التقنية المصرفية الحديثة ، وإن كانت هناك بعض المجهودات إلا انها لم يتم الاستفادة منها بالشكل الامثل[5] .

و على افتراض من طرف الباحث بأن هناك علاقة تأثير بين القيادة الإدارية من خلال مصادر قوتها وبين تدريب الموارد البشرية ، فإنه لايتم هذا التطـــوير إلا من خلال وجـــود قيادة إدارية قوية ، لان التحـــدي الذي يواجه أي منظمة مـــن المنظمات في إجراء أي تحـــول أو تغيير وتطوير نحو الافضل هو إكتشاف وتطوير قادة يتسمون بالقوة والكفاءة[6] ، وكذلك اتباعها للنهج التسويقي الحديث وفقـاً لمفهوم إدارة الجودة الشاملة ، اي الاستعانه وادخال الوسائل التقنية الحديثة وتدريب الموارد البشرية عليها ، بالإضافه إلى ذلك تدريبهم على

المفاهيم التسويقية الحديثة لتسويق الخدمة المصرفية وبأستمرار وخاصةً العاملين بالصفوف الامامية والتى لذيها اتصال مباشر مع العملاء .

ومن هنا على القيادات الإدارية بهذه المصارف زيادة جهودها لتطوير مواردها البشرية الآمر الذي يؤدي إلى تنمية قـدراتها ومهارتها عند تقديم الخـدمات المطلوبة من طرف العميل بالجـــودة عالية وبما يقابل إحتياجاته ورغباته الآمر الذي يؤدي إلى الاحتفاظ بهم نظراً لزيادة درجة رضاهم هذا من جه ، والمساهمة في جذب عملاء جدد من جهةً أُخرى ، كما المساهمة في رفاهية العملاء وتحقيق فرص النمو والتطوير لهذا القطاع .

تعريف لمتغيرات الدراسة

اولاً : مصادر القوة التنظيمية (قوة القيادة الإدرية)

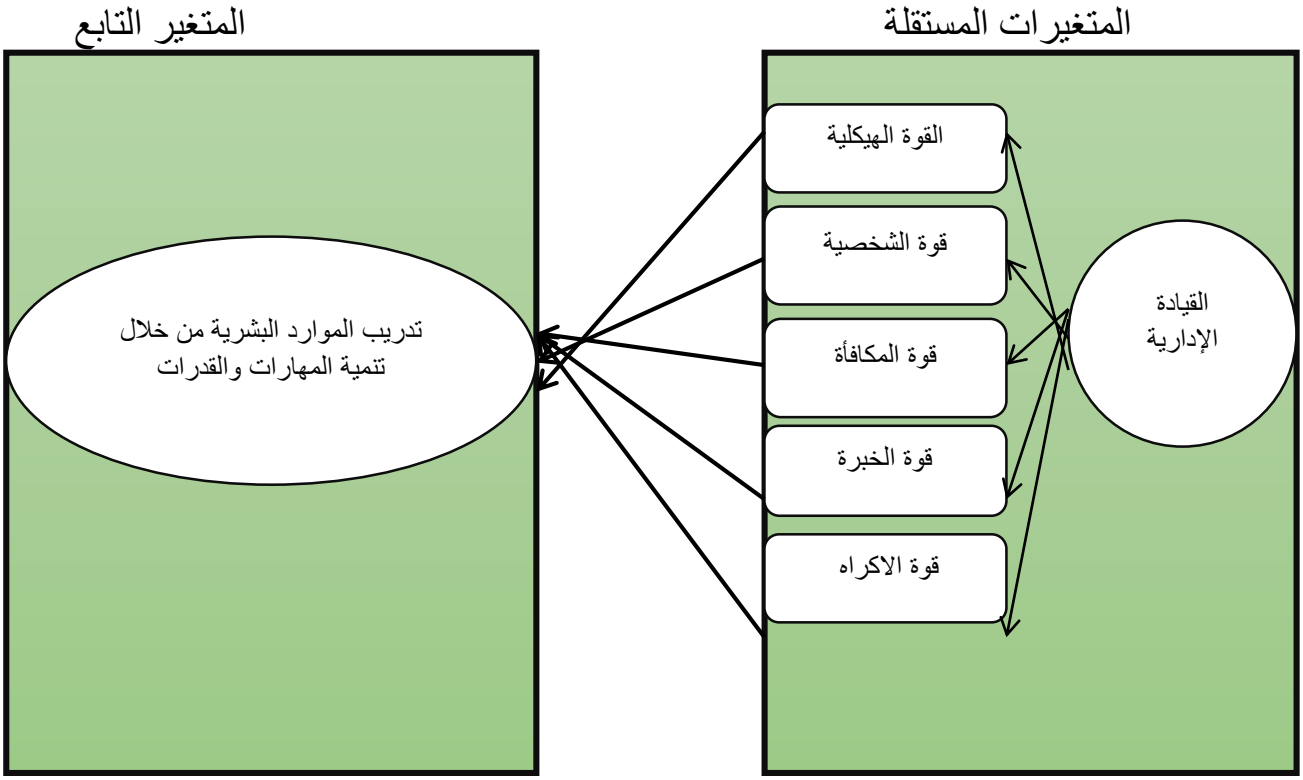
هنا سيتم التعامل مع مصادر قوة القيادة الإدارية بالمصارف المبحوثة تتمثل في (القوة الهيكلية – قوة **الخبرة** – القوة الشخصية – قوة المكافأة – قوة العقاب أو الاكراه) كما هو واضح بالنموذج رقـــــم (1) ، وذلك بناءاً على تصنيف (French and Raven ,1959) بأعتبارها مجموعة من القواعد والابعاد التي تقيس القـــــــوة الـــــتي تمتلكها القيادة الإدارية في اية منظمة بحيث كان رائداً في هذا المجال ، وهنا صنف قوة القـــــائد نابعـــــة مـــــن (الشرعية ، المكافأة ، الإكراه ، المرجعية ، الكارزمية ، الخبرة) [7] ، بالإضافة إلى ذلك تشير الأدبيات في هذا المجال إلى أن من أهم مصادر القوة وأكثرها تكراراً الواردة في دراسة (Kenny and Wilson ,1984) (Rahim ,1989) وهي(قوة الشرعية- وقوة المعلومات–وقوة الخبرة–وقوة الارتباط–وقوة المرجعية) [8] .

ثانياً : تدريب الموارد البشرية

وهـــو المتغير والذي يتمثل في تدريب وتأهيل الموارد البشرية داخل المنظمة مـــن خلال تنمية المهارات والقدرات وخاصةً منها التي تعمل في الصفوف الامامية والتي لذيها اتصال مباشر بالعملاء ، والذي قد يكون متأثراً على اساس اعتباره متغير تابع بهذه الدراسة بالمتغيرات المستقلة ، المتمثله في مصادر قوة القيادة الإدارية بالمصارف التجارية الليبية ، باعتبار ان تحقيق مستويات الجودة المطلوبة لخدماتها وضمان استمرارها في دنيا الاعمال يتوقف على عمليات التحسين الانظمة الإدارية وتطوير العمل وكذلك تدريب الموارد البشرية ، هذا يكون على المستوى الداخلي للمنظمة ، وعلى المستوى الخارجي عن طريق البحث والتميز في بناء العلاقات مع العملاء [9] .

أنموذج الدراسة :

الشكل رقم (1) يوضح أنموذج الدراسة والذي يحتوي على المتغيرات المستقلة إضافةً إلى المتغير التابع للدراسة وذلك على النحو التالي



مفهوم وتعريف القيادة الإدارية ....

إن الكم الهائل من الدراسات وكذلك النمادج والنظريات التي تفسر موضوع القيادة الإدارية راجع إلى الإهتمام الكبير في الفكر الإداري بمفهوم القيادة الإدارية والذي يعتبر من أكثر الموضوعات التي حضت باهتمام في عصرنا الحالي ، ولهذا من الصعب ايجاد تعريف موحد ومتفق علية للقيادة الإدارية .

فمن جهة مفهوم القيادة فانها كلمة ترجع إلى الفكر اليوناني وأيضاً الفكر اللاتيني حيث اشتقت الكلمة الانجليزية Leadership من (الفعل) ، اما في اللغة العربية فإن (القيادة) مشتقة من القود بعكس السوق ويقال يقود الدابة من امامها ويسوق الدابة من خلفها ، وهنا القيادة مشتقة من فعل (قاد) أي قام بعمل ما للوصول إلى هدف معين ، اي بمعنى عبارةً عن علاقات بين قائد ومقودين ، فالقائد هو الذي يصدر الاوامر و المرؤوسين هم الذين يقومون بتنفيذ الاوامر التي تصدر من القائد بالعمل الذي يوصلهم إلى تحقيق الاهداف .

اما فيما يتعلق بتعريف القيادة الإدارية "بأنها اطارات المنظمة والذين يشتغلون مناصب عليا ذات مسئولية ، ويعملون في اطار تفاعلي على تعزيز وتطوير النسق الثقافي للمنظمة من خلال دمج مختلف الدهنيات الفردية في عقلية جماعية تحقق قدرة جماعية للفعل " [10]، وهناك من عرفها " بأنها النشاط الايجابي الذي يباشرهُ شخص معين في مجال الإشراف الإداري على الآخرين لتحقيق غرض معين بوسيلة الاستمالة والتأثير ، أو باستعمال السلطة الرسمية عند الاقتضاء والضرورة " [11]، كما عرفت القيادة الإدارية أيضاً " بأنها عملية تأثير متبادل

لتوجيه السلوك الانساني في سبيل تحقيق هدف مشترك يتفقون عليه ويقتنعون بأهميته ، فيتفاعلون معاً بطريقة تضمن تماسك الجماعة وسيرها في اتجاه تحقيق الهدف " [12] .

ومن خلال التعريفات السابقة ولخدمة أهداف هذه الدراسة يمكن إيجاز تعريف للقيادة الإدارية بأنها عبارة عن عملية تأثير في سلوك المرؤوسين وتحفيزهم من خلال مصادر قوتها المختلفة نحو الاهداف المخطط لها بكفاءة وفاعلية .

قوة القيادة الإدارية :

لقد شغف الانسان بالقوة مند فجر السلالات الانسانية ، فدرسها فلاسفة الإغريق ، ويعود الآمر إلى أبعد من ذلك ليشمل العصور البابلية والمصرية بهذف تحليلها ووصفها وكذلك تفسيرها وتقيمها والحقيقة هي أن المنظمات توجد من أجل ممارسة القوة لتحقيق أهدافها التي نشأت من أجلها ، وفي كل منظمة نظام متوازن للقوة مستقر أو غير مستقر ، ولكن المهم دائماً أن هناك قوة [13] .

ومن هنا فالقوة تعد سمة مميزة للمنظمات المعاصرة ، ومن هنا توالت الدراسات النظرية والتطبيقية في تقديم مفاهيم متنوعة للقوة بوصفها عاملاً مؤثراً في تفسير أداء المنظمات لأعمالها ، فقد عرفها (جودس وآخرون) بأنها " القدرة في التأثير على الآخرين بحكم موقع العمل " [14] .

بالأضافة إلى ماسبق فأن القوة تعني " مقدرة الفرد في التأثير على القرارات " [15] ، بحيث يرى أن السلطة هي في الواقع جزء من المفهوم الواسع للقوة ، أي أن المقدرة على التأثير استناداً إلى الوظيفة المشروعة للفرد بحيث يستطيع أن يؤثر في القرارات من خلالها ، ولكن ليس بالضرورة أن الفرد يجب أن يمتلك السلطة المشروعة ليمتلك مثل هذا التأثير [16] ، لأننا أحياناً نجد في بعض المنظمات أفراد لايشتغلون وظائف تخولهم سلطة رسمية ومع ذلك يتمتعون بالقوة والقدرة على التأثير في الغير وفي سلوكهم وكذلك تصرفاتهم ، وتستند قدراتهم هذه على مصادر أخرى غير رسمية مثل قوة الشخصية التي يتمتعون بها وكذلك الخبرة في العمل .

تدريب الموارد البشرية

توجد العديد من التعريفات للتدريب وتختلف باختلاف المفاهيم لذى قائلها كما تختلف بنوع التدريب واهدافه ، فمنهم من عُرف التدريب بأنه "مجموعة من الانشطة التي تهدف إلى تحسين المعارف والقدرات المهنية مع الاخذ في الاعتبار الامكانيات اللازمة لتطبيقه في العمل " [17]، كما عرف أيضاً " نشاط مخطط له يهدف إلى إحداث تغييرات في المتدربين من ناحية معلوماتهم ومعارفهم وأدائهم ومهاراتهم وسلوكياتهم واتجاهاتهم " [18] ، ويعرف أيضاً بأنه " النشاط الخاص بإكتساب وزيادة معرفة ومهارة الفرد لاداء عمل معين " [19] ، ويعرف " وهو الجهد المنظم والمخطط له لتزويد الموارد البشرية في المنظمة بمعارف معينة وتحسين

وتطوير مهاراتها وقدراتها وتغيير سلوكياتها واتجاهاتها بشكل ايجابي بناء مما ينعكس على تحسين الاداء في المنظمة " [20] .

ومن مما سبق ومما يخدم هذه الدراسة نجد أن التدريب التدريب عبارة عن اكساب الافراد مهارات والتي تتمثل في سرعة انجاز الخدمة المطلوبة من العميل ، وكذلك تنمية قدراتهم باستخدام التقنية الحديثة عند تقديم الخدمة المصرفية والتي تساهم في الرفع من جودتها ، كما توجيه سلوكياتهم واحساسهم بالمسؤلية والتي تساهم في تحسين مستوى أعمالهم والاعتماد عليهم في تقديم الخدمة من طرف العميل .

اهميةالتدريب ...

للتدريب اهمية كبيرة ترجع إلى المنظمة و العاملين معاً فمن جهة المنظمة ترجع أهميته في زيادة الإنتاجية والأداء التنظيمى إذ أن إكساب العاملين المهارات والمعارف اللازمة لأداء وظائفهم يساعدهم فى تنفيذ المهام الموكلة إليهم بكفاءة وتقليص الوقت الضائع [21] ، كما أن التدريب يساعد علي تنمية الإتجاهات الإيجابية لدى الأفراد العاملين نحو العمل والمنظمة ، و بذلك يرتفع أداء العاملين عن طريق معرفتهم لما تريد المنظمة منهم من أداء ونتائج ، كما أن التدريب يعمل على تحقيق الإستقرار الوظيفى فى المنظمة [22] .

أما من جهة العاملين فترجع أهميتة إلى تحسين فهمهم للمنظمة وتوضيح أدوارهم وإتجاهها ، ويعمل على تقليل التوتر الناجم عن النقص فى المعرفة وكذلك المهارة ، ويساهم فى تنمية قدراتهم الذاتية [23] ، كذلك يقلل التدريب الحاجة إلى التوجيه أو المراقبة المستمرة من الغير وبالتالى يوفر له الوقت للقيام بنشاطات أخرى فى خدمة أو لصالح المنظمة [24] ، كما يؤدى التدريب بالعامل إلى إكتساب الثقة بالنفس مما يؤهله إلى القيام بالأعمال المطلوبة منه دون الإعتماد على الغير ، وهذا نتيجة للمعلومات والخبرات التي يحصل عليها من التدريب [25] .

ومن هنا يتضح لنا بأن التدريب يقدم المعرفة الجديدة للعاملين والمعلومات المتنوعة ويعطيهم مهارات وقدرات ، وهذا الامر يعمل علي تطوير الفرد فيرفع من مستوي طموحه وينمي دوافعه ويجدد نظرته للدور الذي يلعبه داخل المنظمة ويحسن معدلات أدائه ، فتزيد انتاجيته وترفع كفاءته ، كما أن الفرد يستطيع أن يطور أنشطته فيضيف عليها ويعدل فيها ، وعلي هذا فإن التدريب يخدم كل من العامل والمنظمة .

جودة الخدمة ورضا العميل الخـدمة ....

هناك العديد من التعريفات للخدمة من قبل الكتاب والباحثين في مجال التسويق ، حيث عرفها (Kotler) بأنها " نشاط أو أداء يمكن لطرف أن يقدمه لطرف آخر ، ومن الضروري أن يكون غير ملموس ولا ينتج عنه أي نقل للملكية ، وإنتاجه قد يرتبط أو لايرتبط بالمنتج المادي " [26] .

الجـــــودة :عرفتها الرابطة الامريكية لمراقبة الجودة " بأنها مجموعة من الخواص والمواصفات التي تتمتع بها السلعة أو الخدمة والمتعلقة بقدرتها على تلبية المتطلبات الموجودة أو المفترض وجودها " [27] .

رضا العميل ...يعتبر العميل أحد أهم العناصر التي من أجلها وجدت اية منظمة خدمية كانت أم سلعية ، بحيث تقوم هذه الأخيرة بخلق وأكتشاف العملاء والمحافظة عليهم من خلال كسب رضاهم عن جودة منتجاتها ، ويأتي ذلك من خلال معرفة توقعاتهم والعوامل التي قد تؤثر فيها من أجل تقديم الخدمات التي تفوق أو تتفق مع تلك التوقعات ، لانهم يضعون توقعات معينة عن قدرة المنتج في اشباع حاجاتهم فإذا تحققت هذه التوقعات كانت النتائج رضا العميل .

ومن اجل الوصول وتحقيق رضا العملاء على القيادات الإدارية القيام بتحديد متطلباتهم والسعي لتحقيقها وكذلك ضمان التحسين المستمر لجودة الخدمة ، وتدريب الموارد البشرية على الاساليب والتقنية الحديثة التي تساعد في سرعة انجاز الخدمة وكذلك الابعاد التي يقيم من خلالها العميل مستوى جودة الخدمة ، بهدف تحقيق رضا عملائها باعتباره أفضل اسلوب للبقاء والمنافسة في بيئة الاعمال ، كما ان يعتمد نجاح المنظمة في تحقيق الجودة بخدماتها على رضا العملاء ، بحيث يعتبر المقياس الذي يجب ان تسترشد به لقياس مدى نجاحها في تحقيق الجودة عند تقديم خدماتها لعملائها .

منهجية الدراسة...

انطلاقاً من طبيعة الدراسة والمعلومات المراد الحصول عليها ، تم استخدام المنهج المسحي الوصفي والتحليلي والذي يعتمد على دراسة الواقع أو الظاهرة كما هي في الواقع ويهتم هذا المنهج بوصفها وصفاً دقيقاً ويعبر عنها تعبيراً كيفياً وكمياً ، والهدف من وراء استخدام هذا المنهج وهو ليس جمع المعلومات لوصف الظاهرة فقط وانما تحليلها وكشف العلاقات بين أبعادها أيضاً ، وذلك من أجل تفسيرها والوصول إلى النتائج التي تساهم في تحسين الواقع وتطويره ، ومن هنا قام الباحث بدراسة العلاقات فيما بين **المتغيرات المستقلة** والتي تتعلق بمصادر قوة القيادة الإدارية (القوة الهيكلية وقوة الخبرة و الشخصية والمكافأة والاكراه) ، وبين **المتغير التابع** والذي يتمثل في (تدريب الموارد البشرية) في مجال تنمية مهاراتهم وقدراتهم عند تسويق الخدمة المصرفية بالجودة التي تتفق أو تفوق توقعات العملاء من أجل المساهمة في تحقيق رضاهم والاحتفاظ بهم .

مجتمع وعينة البحث...

بما إن الهدف الرئيسي من الدراسة يتمثل في التعرف على دور مصادر قوة القيادة الإدارية وعلاقتها بتدريب الموارد البشرية وأثر ذلك على رضا عملاء المصارف التجارية الليبية من وجهة نظر الاكاديميين فإن مجتمع الدراسة تمثل في الاكاديميين والمقيمين بماليزية باعتبارهم عملاء المصارف التجارية الليبية ، وذلك نظراً لاقامة الباحث في ماليزية طيلة فترة انجاز هذه الدراسة ، وتمثلت عينة الدراسة في (103) مفردة .

أداة الدراسة...
في هذا الجانب تم الاعتماد وبشكل كبير على صحيفة الاستبيان ، كأداة لجمع البيانات اللازمة لهذه الدراسة باعتبارها من أنسب أدوات البحث العلمي التي تحقق أهداف الدراسة المسحية وللحصول على المعلومات والحقائق المرتبطة بواقع معين ، بالإضافة إلى الاعتماد على البرنامج الاحصائي (SPSS) في تحليل البيانات .

الصدق والثبات...
بعد ماتم تصميم وبناء الاستبيان وبالشكل المبدئي مستفيداً من الاطار النظري واستبانات الدراسات السابقة والتي لها علاقة بالدراسة الحالية ، تم عرضها على عدد من ذوي الخبرة والمتخصصين ، وذلك لتحديد مدى وضوح العبارات ومدى انتمائها لمحار الدراسة ، حتى تم استخراجها في صورتها النهائية .

الصدق و الاتساق الداخلي ...
بعد ماتم صياغة وبناء الاستبانة بشكلها النهائي ، تم اجراء على هذه الاداة التحليل العاملي بهذف تنقية الفقرات وكذلك لمعرفة جودتها الكلية من خلال اختبار كمو وبارتليت (Kmo and Bartlett) وجودة الفقرات من خلال اختبار انتي اميج (Anti-image) بالإضافة إلى ذلك من أجل تحديد درجة الارتباط بالمحاور الذي تنتمي إليها تلك الفقرات.
ثبات أداة القياس ... لقياس إلى اي مدى ثبات الاستبيان وللتاكد من ثبات البيانات واتساقها الداخلى ، اختبر الباحث ذلك بمعامل كرومباخ ألفا حيث تراوح درجة الثبات لكل لكل فقرة مابين (0.86-0.87) حيث تعتبر هذه القيم مؤشراً على قوة ثبات البيانات وأنها صالحة للاستخدام في هذه الدراسة .

المعالجة الاحصائية ...
التحليل العاملي ـــ من أجل قياس الصدق والاتساق الداخلي لبنود الاستبيان وكذلك تم استخدام معامل كرومباخ ألفا ـــ من أجل حساب ثبات محاور الاستبيان ومن ثم أختبار الانحدار الخطي المتعدد ، نظراً لإحتواء الدراسة على عدد من المتغيرات المستقلة ومتغير تابع واحد فقط.

التحليل الأولي للبيانات
يعتبر التحليل الأولي للبيانات المستخدمه لجمع الاستدلالى من المتطلبات الأساسية ، وهو عبارة عن اختبار مدى ملاءمة البيانات للطريقة الإحصائية التى يتبناها الباحث فى تحقيق أغراضه البحثية ، ويمكن اختبار مدى ملاءمة البيانات التى تستخدم فى أجراء التحليل الكمى من خلال الاتساق الداخلى للأداة المستخدمة وصلاحيتها ، إضافةً إلى ذلك فقد أكدت نتيجة التحليل إلى عدم وجود أى انحرافات تذكر فى البيانات حيث لم تصل درجة الالتواء والتفلطح إلى 2- و 2+ اى مساحة محددة للاختبار، وللتاكد من ثبات البيانات واتساقها الداخلى، اختبر الباحث ذلك بمعامل كرومباخ ألفا (Cronbanch Alpha)حيث تراوح درجة الثبات لكل فقرة

مابين (0.86-0.87) حيث تعتبر هذه القيم مؤشراً على قوة ثبات البيانات وأنها صالحة للاستخدام.

فروض تحليل الانحدار المتعدد

قبل البدء في عملية تحليل الإنحدار الخطي المتعدد لاختبار صحة الفرضية من عدمها و المتعلقة بالإرتباط بين المتغيرات المستقلة والتي تمثل مصادر قوة القيادة الإدارية من حيث (القوة الهيكلية و قوة الخبرة وقوة الشخصية والمكافأة والاكراه) والتي تتمتع بها القيادة الإدارية ، وبين المتغير التابع والمتمثل في (تدريب الموارد البشرية) قام الباحث باختبار الفروض الإحصائية والمتعلقة بالتحليل من أجل ضمان ملائمة البيانات لفروض تحليل الإنحدار الخطي المتعدد .

اولاً - اختبار التعدد الخطي (عدم وجود ارتباط عالي بين العوامل)

قام الباحث بالتأكد من عدم وجود التعدد الخطى بين المتغيرات المستقلة وذلك باستخدام اختبار معامل تضخم التباين (Variance Inflation Factory-VIF) واختبار التباين المسموح (Tolerance) لكل متغير من المتغيرات الدراسة مع ملاحظة معامل تضخم التباين للقيمة تكون أكبر من (1) وقيمة اختبار التباين المسموح لاتتجاوز (1) وتعتبر هذه القيم الركيزة لتفادى التعدد الخطى ، وبناءاً عـــلى التحليل واجراء اختبار معامل تضخم التبـــــاين (VIF) لجميع المتغيرات لاتقل عن (1) وتتراوح (1.032 – 1.307) كما أن قيم اختبار التباين المسموح تتراوح بين (0.765 – 0.969) وهى قيمة تقل عن (1) , ويعبر هذا المؤشر على عدم وجود ارتباط عالى بين المتغيرات المستقلة ، ويدل أيضاً على وجود استقلالية بين المتغيرات المستقلة كل منها على حده ، وبالتالى يؤكد على عدم انصهار المتغيرات المستقلة انصهاراً كاملاً فى التحليل ، وهذا مايوضحه الجدول رقم (1) .

الجدول رقم (1)

ت	المتغيرات المستقلة	تضخم التباين VIF	التباين المسموح Tolerance
1	قوة الشخصية	1.307	0.765
2	قوة الخبرة	1.032	0.969
3	قوة المكافأة	1.293	0.773
4	قوة الاكراه	1.090	0.918
5	القوة الهيكلية	1.103	0.909

ثانياً ـ التوزيع الطبيعي

بعد التأكد من عدم وجود مشكلة في الإرتباط المتعدد بين المتغيرات المستقلة ، قام الباحث باختبار التوزيع الطبيعي لها (Normal distribution) وذلك من خلال حساب المتوسطات الحسابية والانحرافات المعيارية ومعاملى الالتواء (skewness) والتفلطح (kurtosis)كما هو واضح بالجدول رقم (2) حيث كشفت نتيجة الدراسة إن المتوسطات الحسابية للعوامل الدراسة تراوحت مابين (1.702 – 2.224) ، يليه الانحرافات المعيارية والتى تراوحت هي أيضاً مابين (0.373 – 0.961) ، وبالنظر إلى نتيجة التحليل يتضح لنا بأن البيانات المستخدمة تتسم بالتوزيع الطبيعي وذلك من خلال احتساب معامل الإلتواء ومعامل التفلطح حيث القيم المتحصل عليها لم تتجاوز الحد المسموح والمقترح من قبل المختصين (+2-).

جدول رقم (2)

ت	العامل	المتوسط	الانحراف المعياري	الالتواء	التفرطح
1	قوة الشخصية	2.061	0.955	0.473	0.947
2	قوة الخبرة	1.837	0.373	1.119	1.612
3	قوة المكافأة	2.224	0.535	0.925	1.625
4	قوة الاكراه	1.940	0.961	1.407	1.503
5	القوة الهيكلية	1.702	0.719	0.779	0.078

ثالثاً ـ نتائج التحليل

يتبين لنا من الجدول رقم (4) نتائج تحليل الإنحدار الخطي المتعدد للقيادة الإدارية و أثرها على تدريب الموارد البشرية ، من خلال آراء العملاء بالمصارف التجارية الليبية والموجودين في الساحة الماليزية ، ومن خلال تحليل التباين بي (ANOVA[b]) أن هناك علاقة وذات دلالة احصائية ، لإن قيمة الدلالة الإحصائية (النسبة الفائية) تساوي (0.001) ، وهذا يعني وجود علاقة تأثير بين مصادر قوة القيادة الإدارية وتدريب الموارد البشرية .

جدول رقم (4)

النموذج	مجموع المربعات	درجة الحرية	متوسط المربعات	الفاء الإحصائي	النسبة الفائية
الخطي	27.904	5	5.581	12.350	0.001
الخطأ المعياري	43.833	97	0.452		
المجموع	71.737	102			

وبالنظر إلى نتائج التحليل نجد قوة الإرتباط (R) قد بلغت (0.624) ، والمرافق لقيمة (F) البالغة (12.350) مما يعني وجود الأثر ويمكن تحديد قيمة الأثر من خلال الاطلاع على (R) إذ تشير قيم (R) إلى نسبة التباين المفسر في دور مصادر قوة القيادة الإدارية والتى تُنسب إلى المتغيرات المستقلة بحيث إنه كلما زادت قيمة (R) فأن ذلك يدل على دور قوة القيادة الإدارية والاعتماد عليها في تفسير التباين والاختلاف الذي قد يظهر في متغير تدريب الموارد البشرية (التابع) والموضح ذلك في الجدول رقم (5) ، ومن هنا فأن معامل التحديد (R) بلغ (0.624) بالخطاء المعياري المقدر (0.43) من المتغيرات في مستوى تدريب الموارد البشرية ناتج عن التغير من قبل ادوار قوة القيادة الإدارية .

جدول(5)

النموذج	الارتباط	الارتباط التربيعي	الارتباط التربيعي المعدل
1	**0.624**	**0.389**	**0.357**

تحديد نسبة تفسير المتغيرات المستقلة للمتغير التابع

وبناءاً على التحليل وملخص النموذج يتبين أن نسبة الإرتباط بين العوامل المستقلة (مصادر قوة القيادة الإدارية) من جانب و تدريب الموارد البشرية من جانب اٰخر كمتغير تابع هى (0.624) ، وتربيع هذه القيمه يبين أن نسبة تأثير العوامل المستقلة تصل إلى (0.389) ويطلق على هذه النسبة الإرتباط التربيعى .

ومن ناحية أخرى يمكن أن نقول أن (0.357) من تدريب الموارد البشرية تعتمد على العوامل المستقلة , وتعتبر هذه النسبة أو القوة التفسيرية معقولة كما هو موضح فى الجدول رقم (5) ، أما عن نسبة الارتباط التربيعى المعدل والمستخدم للتعميم من العينة إلى المجتمع الكلى كانت أيضاً معقولة (0.357) ، كما تُعبر النتائج على ضعف تأثير المتغيرات المستقلة مجتمعة على المتغير التابع .

ولمعرفة المعاملات الانحدارية المقننة أو الغير مقننة حيث أن في جدول رقم (6) الذي يلخص مجموعة من المؤشرات الدالة على نوع العلاقة و مدى التأثير بين المتغيرات حيث يعطي دلالة النسبة الفائية و قيمة بيتا(التي تمثل مقدار التغير في المتغير التابع نتيجة التباين الحادث في المتغير المستقل) .

وحسب نتيجة التحليل والمبين في الجدول رقم (6) فإن عامل القوة الهيكلية للقيادة الإدارية أكبر مؤشر تأثير على تدريب الموارد البشرية (النسبة الفائية=001.) وبنسبة مساهمة (بيتا= 0.432) ، ويليه عامل قوة الشخصية للقيادة الإدارية حيث كانت (النسبة الفائية =0.005) وبنسبة مساهمة في المتغير التابع (بيتا= 0.262) ، ومن ثم عامل قوة الخبرة للقيادة الإدارية (النسبة الفائية=008.) وبنسبة مساهمة (بيتا= 0.218) ،كما أظهرت النتائج أيضا" بأن عامل قوة المكافأة يحتل المركز الاخير من حيث درجة التأثير (بنسبة فائية =020. وبنسبة

مساهمة في المتغير التابع بيتا= 0.214) ،كما أظهرت النتائج أيضاً إلى عدم وجود العلاقة بين (المحك) و قوة الاكراه للقيادة الإدارية (النسبة الفائية = 0.491 , و بيتا =0.057) .

جدول رقم (6)

ت	النموذج	معاملات غير مقننة		معاملات مقننة	تي	النسبة الفائية
		بي	الخطأ المعياري	بيتا		
1	المحك (تدريب الموارد البشرية)	2.233	0.474	ــــ	4.715	0.001
2	قوة الشخصية	0.230	0.080	0.262	2.886	0.005
3	قوة الخبرة	0.489	0.181	0.218	2.702	0.008
4	قوة المكافأة	0.336	0.141	0.214	2.373	0.020
5	قوة الاكراه	0.050	0.072	0.057	0.691	0.491
6	القوة الهيكلية	0.504	0.097	0.432	5.185	0.001

نتائج الدراسة

من خلال التحليل الإحصائي لآراء عينة الدراسة نستطيع القول **بأن توجد علاقة بين القيادة الإدارية من حيث مصادر قوتها وبين تدريب الموارد البشرية** ،وذلك بناءاً على تحليل التباين بي (ANOVA[b]) ، بحيث كانت هناك علاقة من الناحية الإحصائية ، لأن قيمة الدلالة الإحصائية (النسبة الفائية) تساوي (0.001) ، وهذا يعني وجود العلاقة بين مصادر قوة القيادة الإدارية والمحك (تدريب الموارد البشرية) ، وهذا مايوضحه الجدول رقم (4) والذي يعبر عن نتائج تحليل الإنحدار الخطي المتعدد لمصادر قوة القيادة الإدارية و أثرها على تدريب الموارد البشرية ، ومن هنا نستطيع قبول الفرضية والتي تنص على وجود علاقة تأثير وذات دلالة احصائية بين مصادر قوة القيادة الإدارية وتدريب الموارد البشرية.

وللتوضيح أكثر وبناءاً على نتائج التحليل فيما يخص علاقة مصادر قوة القيادة الإدارية تدريب الموارد البشرية ، فهناك علاقة بين القوة الهيكلية للقيادة الإدارية و تدريب الموارد البشرية بحيث كانت (النسبة الفائية=001.) وبنسبة مساهمة (0.432) ، وكذلك كشفت نتائج التحليل بأن قوة الشخصية للقيادة الإدارية لها علاقة بتدريب الموارد البشرية وذلك نظراً إلى (النسبة الفائية =0.005 ، و بيتا =0.262) ، بالإضافه إلى وجود العلاقة بين تدريب الموارد البشرية وعامل قوة الخبرة للقيادة الإدارية (النسبة الفائية=0.008 ، و بيتا =0.218) ، بالإضافة إلى ذلك تبين من التحليل بأن هناك علاقة تأثير بين قوة المكافأة وتدريب الموارد البشرية بحيث كانت (النسبة الفائية=0.020) وبنسبة مساهمة (0.214) .

وأما فيما يتعلق بقوة الاكره للقيادة الإدارية فنتائج التحليل كشفت بأن ليس لها علاقة تأثير وذات دلالة إحصائية بينها وبين تدريب الموارد البشرية ، بحيث كانت العلاقة بين العامل

التابع (المحك) و قوة الاكراه للقيادة الإدارية (النسبة الفائية = 0.491 ، و بيتا =0.057).

ومن خلال نتائج الدراسة يوصي الباحث القيادات الإدارية بالمصارف التجارية الليبية بزيادة الإهتمام أكثر بالقوة الهيكلية عند وضع استراتيجيات التدريب ، وكذلك الخبرة التي تحصلوا عليها من حصاد أعمالهم وقوة الشخصية التي يتمتعون بها عند اتصالهم بالمتدربين ، بالإضافة إلى قوة المكافأة عند تدريب الموارد البشرية والذي يرفع من مهاراتهم وقدراتهم والتي بدورها تساهم في الرفع من مستوى ادائهم عند تقديمهم للخدمة المصرفية بجودة عالية إلى العملاء ومن ثم المساهمة في تحقيق رضاهم .

المـــــــــراجع

1 -(بن عيشى) د عمار بن عيشى 2012 ، اتجاهات التدريب المعاصرة وتقييم أداء الافراد العاملين ، الاردن ، دار أسامة للنشر والتوزيع ، الطبعة الاولى ، ص 8 .

2 -(عايض) دعبداللطيف مصلح 2013 ، دور القيادة الادارية في مستشفى جامعة العـــــــــلوم والتكنولوجية في تطبيق ادارة الجودة الشاملة فيه ، المجلة العربية لضمان التعليم الجامعي ، العدد11 ، ص 98 .

3 -(الخضر) عثمان 2005 ، علم النفس التنظيمي ، الكويت : مكتبـــة الفلاح للنشر والتوزيع ، الطبعة الاولى ، ص 146.

4 -(حسين) حريم حسين 2003 ، السلوك التنظيمي : سلوك الافراد والجماعات في منظمات الاعمال ، عمان دار حامد للنشر والتوزيع ، ص 220 .

[5] -(بن قدارة) أ . فرحات عمر بن قدارة ، منشورات مصرف ليبيا المركزي ، ص 3 .

[6] -(غلبون) د محمد يوسف ، عقيل ابوبكر غلبون 2010 **القيادة الإدارية والتغيير بمنظمات الاعمال** ، المؤتمر الدولي حول الدعوة والإدارة الاسلامية ، الممارسات والافاق ، جامعة العلوم الاسلامية الماليزية ، كلية القيادة والإدارة ، ص 7 .

7 -Hodge , B & Anthony ,W (1991) Organization theory : A strategic Approach (4th ed) ,
Allyn and BaconP-485.

[8] -(الجميلي) د خميس طلب عباس 2004 **أثر التقانة والقوة التنظيمية في السلوك القيادي** ، دراسة تحليلية في القطاع المصرفي العام ، اطروحة دكتوراة ، الجامعة المستنصرية ، العراق ، ص 41 .

[9] -(بوعنان) نورالدين 2007 ، **جودة الخدمات وأرها على رضا العملاء** ، رسالة ماجستير ، كلية العلوم الاقتصادية وعلوم التسير والعلوم التجارية ، جامعة محمد بوضياف المسيلة ، ص 113 .

[10] -(جغلولي) يوسف 2009 **القيادة الإدارية وتطوير الثقافة التنظيمية كمؤشر لقياس أداء المنظمة** ، بحث غير منشور ، الملتقى العلمي الدولي حول أداء وفاعلية المنظمة في ظل التنمية المستدامة ، جامعة محمد بوظياف بالمسيلة، الجزائر ، ص8.

[1]1 -(بوكلتوم) نعيمة 2009 **أهمية القيادة الإدارية في تحسين الاداء الوظيفي** ، بحث غير منشور ، الملتقى العلمي الدولي حول أداء وفاعلية المنظمة في ظل التنمية المستدامة ، جامعة محمد بوظياف بالمسيلة، الجزائر ، ص2.

[2]2 -(مسعودان) أحمد 2007، **الإدارة المدرسية الرشيدة مجال من مجالات الحكم الراشد** ، مداخلة ضمن الملتقى الدولي حول الحكم الراشد وإستراتيجيات التغيير في العالم النامي ، جامعة فرحات عباس سطيف ، ص 284 .

[3]3 -(الصياح) عبدالستار مصطفى 1999 ، **تحليل علاقة القوة التنظيمية وأثرها في تحديد الاهداف الاستراتيجية** ، دراسة إختبارية في صناعة المصارف التجارية الاردنية ، المجلة العربية للادارة ، المجلد الحادي والعشرون ، العدد الثاني ،ص117 .

14 - Daft.R.L , (2003) , Management , (6TH ed) , United States : South – Western , P515.

15 – Robbins , S , (1990) , Organization theory: Structure , Designs and Applications , (3TH ed) , New Jersey : Prentice-Hall , P258.

16 - Robbins, S (2001) , Organizational behavior , (9th) , Prentice – Hall ,P 251.

[1]7 -(رضا) أكرم رضا 2003 ، برنامج تدريب المديرين ، القاهرة ، دار التوزيع والنشر الاسلامية ، ص 15 .

[1]8 -(العبد) جعفر محمد 1992 ، تعريف التدريب وتحديد الاحتياجات التدريبية ، القاهرة ، ادارة البحوث والدراسات بمركز "إبروماك" ، ص5 .

[1]9 -(ربايعة) علي محمد 2003 ، إدارة الموارد البشرية ، عمان ، دار صفاء ، ص 41 .

[2]0 -(درة) عبدالباري إبراهيم 2003 ، تكنولوجيا الأداء البشري في المنظمات ، الأسس النظرية ودلالاتها في البيئة العربية المعاصرة ، القاهرة ، المنظمة العربية للتنمية الإدارية ، ص 103 .

[2]1 -(عباس) د سهيلة محمد 2003 ، إدارة الموارد البشرية ، مدخل استراتيجي ، عمان ، دار وائل للنشر ، ص 187 .

[2]2 -(الاكلبي) د عايض شاطي 2012 ، دور التدريب في احداث التغيير في المنظمات العامة – الحكومية ، مجلة النهضة ، المجلد الثالث عشر ، العدد الثاني ، ص 119 .

[2]3 -(عباس) د سهيلة محمد 2003 ، مرجع سبق دكره ، ص 188 .

[2]4 -(صالح) د محمد فالح 2004 ، إدارة الموارد البشرية : عرض وتحليل ، عمان ، دار حامد للنشر والتوزيع ، ص 102 .

25 -(برعي) د محمد جمال 1980 ، فن التدريب الحديث في مجالات التنمية ، القاهرة ، مكتبة القاهرة الحديثة ، ص 166 .

26- Kotler, Philip & Keller, Kevin (2006) **Marketing Management (12th ed)** New Jersey: Prentice Hall P 401.

27 -(عقيلي) عمر وصفي 2004 ، المنهجية المتكاملة لإدارة الجودة الشاملة ، وجهة نظر ، الطبعة الاولى ، دار وائل للطباعة والنشر ، عمان ، ص 17 .

الزكاة

AHMAD ABUBAKAR TIJJANI
ARIF ALI ARIF

ملخص البحث:

الحمد لله رب العالمين الذي فرض الله الزكاة على الأغنياء وتعطى على فقرائهم تزكيتا لأموالهم وطهراً. وهي جزء لا يتجزأ من النظام المالي والاجتماعي في تأمين حياة المجتمع من الفقر، وهي تمثل البلسم الشافي لكثير من المشكلات الاقتصادية والاجتماعية الشائكة، مثل: الفقر، والبطالة، والتضخم، والاكتناز، والطبقية، والتسول، والسرقة؛ فبعلاج الفقر يحل كثير من مشاكل المجتمع".[1] وخير مثال على الضمان الإجتماعي في اخراج الزكاة، وتأسيس هيئة جمع الزكاة وتوزيعها على مستحقيها هي هيئة سلانغور للزكاة. حيث يذكر في ذلك عزمان عبد الرحمن في رسالته: إن أهم أهداف هيئة الزكاة في سلانغور، هي: رفع مستوى إدارة أموال الزكاة وتطويرها، وبلوغ أقصى حد ممكن في جباية الزكاة، ومعالجة الفقر، ورفع المستوى الاقتصادي لمجتمع المسلمين، وتهيئة خدمة ذات جودة عالية للمزكين. كما تهدف إلى تنظيم جباية الزكاة والاستفادة منها بأكبر قدر ممكن، وصرفها بشكل فعال ومؤثر في المجتمع الإسلامي داخل ولاية سلانغور بصفة تتلاءم مع مقاصد الشريعة.[2] وبهذا الصدد إن اخراج الزكاة تحسن علاقة اجتماعية بين الأغنياء والفقراء والمحتاجين، وإذا تحسنت العلاقات بين المجتمع فالدولة تتقدم وتتطور اقتصادياً واجتماعيا، ليس هناك دواعي للكراهية والبغضاء في المجتمع، وبذلك يستقر أمن الدولة وسلامة المجتمع.

1- إن اخراج الزكاة سبب في انعاش اقتصاد الدولة وانزال البركة والأمن والطمأنين على المجتمع
2- اخراج الزكاة تألف قلوب المجتمع وتحسن العلاقات بين الأغنياء والمحتاجين.

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[1]- محمد صالح، **النظام العالمي للزكاة رؤية مستقبلية لتفعيل الدور الاقتصادي والاجتماعي للزكاة** (الرياض: مكتبة الملك فهد الوطنية، ط،1 ، 2006م) ص46.

[2]- عزمان عبد الرحمن سليمان، رسالة دكتوراه بعنوان: **جباية أموال الزكاة وصرفها في ماليزيا: هيئة زكاة سلانغور نموذجاً** ص 35 – 36 الجامعة الإسلامية العالمية بماليزيا 2010م.

3- الزكاة تزيل العداوة والبغضاء وهي سبب في هطول الأمطار والعكس صحيح.

المقدمة

إن الزكاة له دور كبير في انعاش اقتصاد الدولة وهي مفتاح تأمين الفقراء والمساكين، ولذلك حث الإسلام الأغنياء باخراجها في وقت مبكر، حتى يصل إلى مستحقيها، وبذلك قد أدى المزكي فرضه الذي فرضه الله له. ومن خلال ذلك تحلُّ كثير من المشكلات الاقتصادية والاجتماعية الشائكة، مثل: الفقر، والبطالة، والتضخم، والاكتناز، والطبقية، والتسول، والسرقة؛ فبعلاج الفقر تنعش الاقتصاد والاستثمار في التجارة، وغيرها من الموارد التنموية، ولذلك تجب على المؤسسات والهيئات الزكوية أن تحث الأغنياء في اخراج الزكاة، والقيام أيضاً بمشاريع تنموية التي تعود الفائدة إلى الفقراء والمساكين، من أجل انعاش اقتصادهم وتجارتهم. ومن بين مقاصد الإسلام رفع مستوى الفقراء والمساكين وتحويلهم إلى طاقة إنتاجية في المجتمع, فلا يقتصر الأمر على إعطائهم إعانة وقتية، بل يمكن الهيئات واللجان الزكوية، أن توفر لهم وسائل الإنتاج، مثل: الآلات الحرفية، والأنعام، وغيرها مما ينَّمي قدراتهم الاقتصادية والاجتماعية التي تؤدي إلى حياة سعيدة.

المحور الأول: تعريفات أولية للزكاة

يعرف أبحاث وأعمال ندوة الكويت الثالث الزكاة لغةً: بأنها النماء والزيادة، وتطلق أيضاً على التطهير والمدح.

وفي الاصطلاح: إخراج جزء مخصوص من مال مخصوص بلغ نصاباً، إن تم الملك وحال عليه الحول. وهي تطلق شرعاً على إخراج الزكاة كما تطلق على المخْرَج من المال، ولذلك عرفها ابن قدامة بأنها: حق يجب في المال[1]. وقد عرف أيضا الزكاة وهبة الزحيلي:

الزكاة لغة: النمو والزيادة يقال: زكا الزرع: إذا نما وزاد، وزكت النفقة: إذا بورك فيها، وقد تطلق بمعنى الطهارة، قال تعالى: {قَدْ أَفْلَحَ مَن زَكَّاهَا}.[2] أي طهرها عن الأدناس، ومثله قوله سبحانه: {قَدْ أَفْلَحَ مَن تَزَكَّى}.[3] وتطلق أيضا على المدح، قال تعالى: {فَلا تُزَكُّو أَنْفُسَكُمْ}.[4] وعلى الصلاح، يقال: رجل زكي، أي زائد الخير، من قوم أزكياء، وزكى القاضي الشهود: إذا بين زيادتهم في الخير.

وسمي المال المخرج في الشرع زكاة؛ لأنه يزيد في المخرج منه، ويقيه الآفات، قال تعالى: {وَآتَوُاْ الزَّكواةَ}.[5] وتتمثل هذه المعاني اللغوية في قوله سبحانه: {خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا}[6] فهي تطهر مؤديها من الإثم وتنمي أجره وماله.

والزكاة شرعا: حق يجب في المال، وعرفها المالكية بأنها: إخراج جزء مخصوص من مال بلغ نصابا، لمستحقه، إن تم الملك، وحول، غير معدن وحرث. وعرفها الحنفية بأنها: تمليك جزء مال مخصوص من مال مخصوص لشخص مخصوص، عينه الشارع لوجه الله تعالى. فقولهم «تمليك» احترز به عن «الإباحة» فلو أطعم يتيما ناويا الزكاة، لا يجزيه، إلا إذا دفع إليه المطعوم، كما لو كساه، ولكن بشرط أن يعقل القبض، إلا إذا حكم عليه بنفقة الأيتام. وقولهم «جزء مال» خرج المنفعة، فلو أسكن فقيرا داره سنة، ناويا الزكاة، لا يجزيه. والجزء المخصوص: هو المقدار الواجب دفعه، والمال المخصوص: هو النصاب المقدر شرعا، والشخص المخصوص: هم مستحقو الزكاة. وقولهم «عينه الشارع» هو ربع

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[1]- هيئة حكومية مستقلة دولة الكويت، **أبحاث وأعمال الندوة الثالثة لقضايا الزكاة المعاصرة** (د.ط، د.ن ، 1413هـ /1992م) ص 20.

[2]- سورة الشمس الآية 9

[3]- سورة الأعلى الآية 14

[4]- سورة النجم الآية 32

[5]- سورة البقرة الآية 43

[6]- سورة التوبة الآية 103

عشر نصاب معين مضى عليه الحول، فأخرج صدقة النافلة والفطرة. وقولهم «لله تعالى» أي بقصد مرضاة الله تعالى.

وعرفها الشافعية بأنها اسم لما يخرج عن مال و بدن على وجه مخصوص.

و تعريفها عند الحنابلة هو أنها حق واجب في مال مخصوص لطائفة مخصوصة في وقت مخصوص.

و الطائفة: هم الأصناف الثمانية المشار إليهم بقوله تعالى: {إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسَاكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ}.[1] و الوقت المخصوص: هو تمام الحول في الماشية و النقود (الأثمان) و عروض التجارة، و عند اشتداد الحب في الحبوب، و عند بدو صلاح الثمرة التي تجب فيها الزكاة، و عند حصول ما تجب فيه الزكاة من العسل، و استخراج ما تجب فيه من المعادن، و عند غروب الشمس من ليلة الفطر، لوجوب زكاة الفطر.[2]

المحور الثاني: مدى فاعلية الزكاة في تحسين أحوال الفقراء والمساكين:

أما تحسين أحوال الفقراء و المساكين عن طريق الزكاة و لجان الزكاة يذكر في ذلك أحمد أبوبكر في رسالته:

أ. الزكاة تؤخذ من الأغنياء لترد على الفقراء، فيقضى بها الفقيرحاجاته الأساسية المادية، مثل: المأكل، و المشرب، و الملبس، و المسكن؛ و حاجاته النفسية و الحيوية، مثل: الزواج؛ و حاجاته المعنوية الفكرية، مثل: العلم.

ب. دور الزكاة في تحقيق التوازن والاستقرار الاقتصادي: إن من أهم أسباب الكوارث الاقتصادية والخلل في البنيان الاقتصادي هو نظام الاحتكار والفائدة الربوية والربح الفاحش. وفي مصارف الزكاة سهم الغارمين.

ج. دور الزكاة في علاج مشكلة البطالة و تنمية العنصر البشري: البطالة مشكلة متعددة الأطراف لها آثار عقدية و خلقية و اجتماعية و اقتصادية و سياسية، و هي كالسرطان يهدد كيان المجتمع بأسره، و تعاني منها كافة دول العالم المتقدمة منها و النامية. و الزكاة تسهم في علاج المشكلة من

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[1]- سورة التوبة الآية 60

[2]- أ.د وهبة الزحيلي، الفقه الإسلامي وأدلته الشامل للأدلة الشرعية والآراء المذهبية وأهم النظريات الفقهية وتحقيق الأحاديث النبوية وتخريجها (دمشق: دار الفكر، ط4، 1425-2004م) ص 1788-1789

خلال توفير مستلزمات العمل من آلات و معدات و خدمات للعمال حتى يتحولوا إلى طاقة إنتاجية. و كذلك الإنفاق على البرامج التدريبية للشباب العاطل لتأهله للعمل في ضوء احتياجات سوق العمالة .

د. دور الزكاة في علاج مشكلة اتساع الهوة بين الأغنياء و الفقراء: من بين مقاصد الإسلام رفع مستوى الفقراء و المساكين و تحويلهم إلى طاقة إنتاجية في المجتمع, فلا يقتصر الأمر على إعطائهم إعانة وقتية، بل يمكن أن نوفر لهم وسائل الإنتاج، مثل: الآلات الحرفية، و الأنعام.

هـ. دور الزكاة في علاج مشكلة الكوارث و التعثر و الإفلاس: يتعرض الإنسان في حياته لكثير من الحوادث و الكوارث و المصائب، و هذه تسبب له خوفاً وفزعاً. و لقد كفل الإسلام لهؤلاء التأمين الحقيقي؛ إذ خصص لهم سهماً في حصيلة الزكاة باعتبارهم من الغارمين، بقول الله تبارك وتعالى :{إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسَاكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ} التوبة:60.

عن مجاهد قال: (ثلاثة من الغارمين: رجل ذهب السيل بماله، و رجل أصابه حريق فذهب بماله, ورجل له عيال و ليس له مال ينفق على عياله).[1]

كما اهتم الإسلام بإصلاح ذات البين، أي: (ذاتُ البيْنِ: الحالُ الَّتى يُجمع بها المسلمون) و جعل لمن يغرمون في هذا الشأن حظ من حصيلة الزكاة.[2]

المحور الثالث: الطموح و الآمال المستقبلية في مدى إمكان القضاء على الفقر عن طريق الزكاة

بالإمكان القضاء على الفقر عن طريق الزكاة و التكافل الاجتماعي، حيث يتكاتف الأقارب و المجتمع للقضاء على الفقر، و لذلك شرع الإسلام الزكاة لسد حاجات الفقراء و المساكين والمعوزين .

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[1]- أبو الليث نصر بن محمد بن إبراهيم السمر قندي، **تفسير بحر العلوم السمرقندي**، تحقيق: الشيخ محمد معوض، الشيخ عادل أحمد الموجود، د. زكريا عبد المجيد النوتي (بيروت: دار الكتب العلمية، ط1، 1413هـ - 1993م) ص 56-57

[2]- أحمد أبو بكر تيجاني، رسالة ماجستير بعنوان: **تجربة لجنة الزكاة في ولاية يوبي بنيجيريا في مكافحة الفقر**: دراسة فقهية تحليلية ص 77 الجامعة الإسلامية العالمية بماليزيا سبتمبر 2011م.

يذكر أحمد الكردي: أن علاج الفقر في الإسلام يكون بالعمل، علاوة على نفقات الموسرين من الأقارب و الصدقات المستحبة و غيرها لأغراض التوازن الاجتماعي؛ بهدف رفع حاجة الفقير والمسكين. أيضاً الزكاة تسهم في علاج الجهل و المرض و الفقر، فمشكلة الجهل كثيراً ما يكون سببها الفقر؛ حيث لا يستطيع الفقير أن يتعلم أو يعلم أولاده، لهذا كان الهدف من الحاجات الأساسية التي يجب أن تتوافر للفقير من حصيلة الزكاة. وترتبط مشكلة المرض كذلك بمشكلة الفقر على أساس أنه إذا ارتفع مستوى المعيشة، و توافر لدى جمهور الأفراد حسن التغذية، والمسكن الصحي، و القدرة على العلاج؛ فإن المرض ينحصر مداه في أضيق نطاق.[1] من خلال هذه العبارات حققت الزكاة مهمتها الكبرى في القضاء على الفقر، و تحقيق التوازن بين الغني والفقير مراعاة لكل الجوانب التي تؤدي إلى التفاهم و وحدة الأمة و عدم الكراهية بين الفقراء والأغنياء، و من خلال التكافل و التعاون بين الأمة الإسلامية.

المحور الرابع: الزكاة بوصفها وسيلة للضمان الاجتماعي

و هذا الضمان الاجتماعي لا تجده في كثير من الأنظمة الأخرى، التي تراعي ظروف المعوزين والمحتاجين من الفقراء و المساكين، الا نظام الإسلامي السمح. و لذلك يذكر فخر الرازي في تفسيره عن تقديم الزكاة في الخفية أفضل، حيث يقول: " في كون الإخفاء أفضل أن تؤتوها الفقراء لأن عند الإخفاء الأقرب أن يعدل بالزكاة عن الفقراء ، إلى الأحباب و الأصدقاء الذين لا يكونون مستحقين للزكاة، و لذلك شرط في الإخفاء أن يحصل معه إيتاء الفقراء ، والمقصود بعث المتصدق على أن يتحرى موضع الصدقة ، فيصير عالماً بالفقراء ، فيميزهم عن غيرهم ، فإذا تقدم منه هذا الاستظهار ثم أخفاها حصلت الفضيلة"[2]. و يذكر أيضاً ناصح علوان في كتابه "التكافل الاجتماعي في الإسلام"، قائلا: "لا يخفى أن مبدأ الزكاة حين طبق في العصور الإسلامية السالفة نجح في محاربة الفقر، و أقام التكافل الاجتماعي، و نزع من القلوب حقد الفقراء على الأغنياء ... و عود المؤمنين على البذل و السخاء، و هيأ سبل العمل لمن لا يجد المال". و يتضح من هذا أن الزكاة لم تكن فقط مجرد إعطاء بعض من المال لإطعام الفقراء، إنما كانت و سيلة حقيقية للقضاء على الفقر و ذلك عن طريق توفير فرص، عمل مثل: أن يعطى الشاب الفقير رأس مال كي يبدأ تجارة، و أن

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[1]- أخذت هذه المعلومات بتاريخ 2014/7/29م **www.al-zatari.net**

[2]- محمد بن عمر بن الحسين الرازي الشافعي المعروف بالفخر الرازي، التفسير الكبير للإمام الفخر الرازى (بيروت: دار إحياء التراث العربي، ط2، 1417هـ - 1997م) ص 61

يشتري آلة حرفة يعلمها. و يقول عبد الله: نجد أن الزكاة أداة من أدوات التنمية و القضاء الفعلي على الفقر. إن للموارد الزكوية دوراً كبيراً في إحداث أثر إيجابي ملموس مما يتصل بتحقيق الرعاية الاجتماعية للفقراء ومكافحة الفقر. ويتفق معه محمد علي القحطاني بأن مشاريع التنمية تؤكد أن الزكاة فريضة إسلامية تكسب أهمية بالغة في مواجهة أخطر المشاكل الاجتماعية و الاقتصادية المتمثلة بالبطالة و الفقر كونها تأتي كأسلوب إسلامي في مجال التكافل الاجتماعي، و يقول: "الزكاة أداة فاعلة في محاربة الفقر.. ونتيجة لارتفاع نسبة البطالة و تفشي ظاهرة الفقر فمن الحكمة أن ندرس مختلف الوسائل لمواجهة البطالة و الفقر في المجتمع كهدف استراتيجي للتنمية الاقتصادية و الاجتماعية، و هو ما قامت به الدولة بالفعل، حيث يشكل نظام السلطة المحلية حجر الأساس للانطلاق نحو مشاركة المجتمع المحلي في إدارة شؤون حياته" .. منوهًا بأهمية إقناع رجال الأعمال والمكلفين الذين يتولون توزيع صدقات بصورة عشوائية، لدفعها للأجهزة المختصة، و توظيف هذه الإيرادات أو جزء منها في إنشاء دور للرعاية الاجتماعية للمسنين و اليتامى و المشردين من الأطفال و معالجة مشكلة التسول و أطفال الشوارع. و تلك الظواهر لا يمكن معالجتها من خلال الصدقات العابرة بل من خلال أطر مؤسسية تحقق حياة كريمة لهؤلاء الأفراد و تسهم في التطور الاجتماعي والحياة الإنسانية. و يجتمع علماء المسلمين على أن للزكاة فوائد اجتماعية كبيرة، و في الزكاة تقوية للمسلمين و أن فيها إزالة للأحقاد و الضغائن التي تكون في صدور الفقراء و المعوزين، فإن الفقراء إذا رأوا تمتع الأغنياء بالأموال و عدم انتفاعهم بشيء منها، لا بقليل و لا بكثير، فربما يحملون عداوة و حقداً على الأغنياء حيث لم يراعوا لهم حقوقاً، و لم يدفعوا لهم حاجة، فإذا صرف الأغنياء لهم شيئاً من أموالهم على رأس كل حول زالت هذه الأمور و حصلت المودة والوئام، كما أن فيها تنمية للأموال و تكثيراً لبركتها، فما نقصت صدقة المال عددياً فهي بركة وزيادة في المستقبل، بل يخلف الله بدلها ويبارك له في ماله، وفيها توسعة وبسطاً للأموال. فإن الأموال إذا صرف منها شيء اتسعت دائرتها و انتفع بها كثير من هذه الفوائد كلها.[1]

[1]- www.insanonline.net 2011/7/35م

المحور الخامس: النظام الإسلامي يزيد الإنتاج و يقلل عدد الفقراء

النظام الإسلامي تنمي الإنتاج و تحفظه من الضياء، و من خلال ذلك تقل عدد الفقراء في الأمة، وفي هذا يقول دكتور يوسف القرضاوي: إن طبيعة النظام الإسلامي، توجب زيادة الإنتاج في الأمة، وصيانة ثروتها من التبدد و الضياع فيما لا ينفع. فالإسلام يحفظ طاقاتها وثرواتها، وجهود أبنائها، حتى لا تستهلك في شرب الخمر و المسكرات، و في اللهو والمجون، والسهر والعابث الحرام، و في الفواحش ما ظهر منها و ما بطن. إن ما يبدِّد الطاقات والأموال في ذلك العبث و الفساد لدى بعض الأمم، يصونه الإسلام بقوانينه الملزمة، ووصاياه الهادية، وتربيته العميقة، ويجعله سليما قويا ليتجه إلى العمل و التنمية و الإنتاج. إن الإنسان الذي يستقبل يومه من الصباح الباكر متوضئاً مصلياً، طيب النفس، نشيط الجسم، مستقيم الخلق، متعبداً لله بعلمه، سيفوق إنتاجه إنتاج الإنسان الذي يقضي نصف ليله، أو أكثره في الخلاعة والفجور، أو العبث والمجون فإذا أدركه الصباح لم يقم من نومه إلا مكرهاً، وإذا توجه إلى عمله توجه خبيث النفس، كسلان، مهدود القوى. إن النظام الإسلامي إذا طبق بحذافيره يزيد من ثروة المجتمع، ويقلل نسبة البطالة، وعدد الفقراء فيه. فكلما قل عدد الفقراء في أمة، و زادت ثروتها باطراد، و التزم أغنياؤها الطريق المستقيم في الإنفاق و الاستهلاك، كانت مشكلة الفقر و الفقراء فيها سهلة الحل، ميسورة العلاج، بل لا تكاد هذه المشكلة تبرز قط، و لا تشكل خطراً يهدد المجتمع.[1] ويذكر في ذلك أيضاً حسين حسين شحاتة: أن الإسلام عقيدة و شريعة، و هو عبادات ومعاملات ، و هو ماديات و روحانيات، و هو دين و دولة؛ إنه منهج شامل لكل نواحي الحياة، وصدق الله القائل :{وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ تِبْيَاناً لِكُلِّ شَيْءٍ وَهُدىً وَرَحْمَةً وَبُشْرَى لِلْمُسْلِمِينَ...}[2] وصدق رسول الله عليه السلام القائل : "تركت فيكم ما إن تمسكتم بهما لن تضلوا بعدي، كتاب الله وسنتي" [رواه البخاري و مسلم].[3]

و جاء الإسلام لإصلاح الدنيا بالدين، لقد أخرج الله به الناس من الظلمات إلى النور، ومن الضلالة إلى الهدى، و من الظلم إلى العدل، و من الفقر إلى الغنى، و من الرق إلى الحرية، ومن الغش إلى الحق، و من الربا إلى المشاركة، و من السرقة و الحرابة إلى الأمن و الاستقرار؛ وشتان بين

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[1]– **يوسف القرضاوي، الزكاة دورها في علاج المشكلات الاقتصادية وشروط نجاحها (القاهرة: دار الشروق، ط1، 1422هـ، 2001م) ص 96 97.**

[2]– سورة النحل الآية 84

[3]– مسلم بن الحجاج أبو الحسن القشيري النيسابوري، **صحيح مسلم تحقيق:** محمد فؤاد عبد الباقي (بيروت: دار الكتب العلمية، ط2، 1424هـ، 2003م) ج8، ص413.

حال العرب قبل الإسلام و بعد الإسلام، و شتان بين حال الأمة قبل الإسلام وحالها في صدر الإسلام، و حالها في الماضي، و حالها اليوم في ظل الوهن و الظلم و الفساد المستشري في كافة نواحي الحياة. فلقد انتشر الفساد فى الأرض و البر و من أسباب ذلك البعد عن تطبيق شرع الله .

وكان من جرّاء ذلك معاناة الأمة من مشكلات شتى، منها : انتشار الأخلاق الفاسدة، والفقر، والجوع، و البطالة، و العنوسة، و تسلط الغني على الفقير، و الاعتداء على المال بكل صوره؛ ولا مخرج من هذه الأزمات و علاج هذه المشكلات إلا بالإسلام و بنظامه الاقتصادي الذي يقوم على القيم الإيمانية و المثل الأخلاقية و الضوابط الشرعية التي تحقق الحياة الكريمة الرغدة لجميع الناس، عن طريق دور الاقتصاد الإسلامي و نظامه الزكوي في المساهمة في علاج الفساد الاجتماعي و الاقتصادي، و تحقيق التنمية الاجتماعية و الاقتصادية، ليكون ذلك مرشداً أمام الحكومات و أمام الاقتصاديين ليهتدوا به في علاج مشكلاتنا الاقتصادية المعاصرة.

إذا أُدِيت فريضة الزكاة بالحق و وزعت حصيلتها بالحق و فقاً لنظامها الدقيق الذي شرعه الله وطبقه سيدنا محمد عليه السلام و التابعين من بعده ... شفيت النفوس من الحقد و الكراهية ، وطهرت من الشح و البخل و الطمع، و تربت على الصدق و الأمانة و الإخلاص و الإنفاق والبذل و التضحية و القناعة و الإيثار و التراحم .. و بذلك فإنها تقضي على الرذائل الاقتصادية، و منها: الغش، و الغرر، و التدليس، و الربا، و القمار، و أكل أموال الناس بالباطل. و بذلك تعالج النفوس الأمارة بالسوء، و يأمن المجتمع من الخوف، و يحيا الناس حياة طيبة رغدة في الدنيا ... أخوة في الله متحابين ، و يفوزوا برضاء الله في الآخرة راضين مرضيين.

لقد غرست فريضة الزكاة الأخلاق الفاضلة في المسلمين في الصدر الأول من الإسلام و قومت سلوكهم، و لقد أشار القرآن الكريم إلى ذلك في كتابه الكريم فقال: {خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ إِنَّ صَلاتَكَ سَكَنٌ لَهُمْ وَاللَّهُ سَمِيعٌ عَلِيمٌ}.[1]

[1]- سورة التوبة، الآية 103

ولقد نادى علماء الاقتصاد بصفة عامة بضرورة أن يقوم الاقتصاد على الأخلاق الفاضلة، و أن هناك مشكلات اقتصادية لا تعالج إلا من خلال القيم الإيمانية و الأخلاق الفاضلة و السلوك الاقتصادي السليم ، عندما أنشىء للمسلمين سوقاً في المدينة بعد الهجرة.[1]

المحور السادس: برنامج دعم الفقراء في ماليزيا عن طريق دفع الزكاة من الأفراد و الشركات

رأيت في هذا البرنامج خيراً كثيراً وتقدماً حديثا في دعم وتسهيل اخراج الزكاة من الأغنياء إلى الفقراء بشكل منظم حيث يصل الصدقات إلى مستحقيها بدون مشقة و لا مماطلة، و هذا هو المطلوب في الصدقات، اصال الزكاة في أسرع وقت إلى أصحابها. و يذكر فوزي منصور في مقالته: أن الدولة الماليزية شجعت المواطنين المسلمين (أفرادا و شركات) على دفع الزكاة لصالح صندوق جمع الزكاة القومي الذي يدار بواسطة إدارة الشؤون الإسلامية في مقابل تخفيض نسبة ما يؤخذ في ضريبة الدخل. و نفذت الحكومة في إطار فلسفتها و سياساتها المواجهة للفقر برامج محددة، أبرزها:

1 .برنامج التنمية للأسر الأشد فقراً: و يقدم فرصاً جديدة للعمل المولد للدخل بالنسبة للفقراء، وزيادة الخدمات الموجهة للمناطق الفقيرة ذات الأولوية بهدف تحسين نوعية الحياة. و قام البرنامج بإنشاء العديد من المساكن للفقراء بتكلفة قليلة و ترميم و تأهيل المساكن القائمة و تحسين بنائها وظروف السكن فيها بتوفير خدمات المياه النقية و الكهرباء و الصرف الصحي.

2.برنامج أمانة أسهم البوميبترا: و هو برنامج تمويلي يقدم قروضاً بدون فوائد للفقراء من السكان الأصليين (البوميبترا)، و بفترات سماح تصل إلى أربع سنوات، و يمكن للفقراء أن يستثمروا بعضاً من هذه القروض في شراء أسهم بواسطة المؤسسة نفسها.

إضافة إلى ذلك يذكر منصور: إن معدل التعليم في ماليزيا بلغ 94% و قوة العمل 45%، وأدى التعليم بذلك الدور الأساس في بناء التنمية، و نما رأس المال، و تطور دخل الفرد من 500 دولار إلى 4000 دولار, كما بلغت القوة الشرائية للشخص الواحد 5500 دولاراً امريكياً؛ مما يدل على ارتفاع معدل النمو في ذلك البلد الآسيوى. لا توجد بطالة بالنسبة للعمالة الماهرة و المتعلمة، بل تقوم ماليزيا باستيراد عمالة من الخارج؛ فهناك 2,5 مليون عامل أجنبي يعملون في الخدمات و البناء

[1]- أخذت هذه المعلومات بتاريخ 2014/8/6م **aleslam.alafdal.net**

والإنشاء.[1] من نتائج تجربة ماليزيا في القضاء على الفقر عن طريق الزكاة و غيرها من الأساليب التي تؤدي إلى نمو اقتصاد الدولة، نرى ضرورة الأخذ منها و تطبيقه في دولنا، و في نظام الزكاة والمشاريع التنموية التي تقضي على الفقر، عن طريق صندوق جمع الزكاة القومي الذي يدار بواسطة إدارة الشؤون الإسلامية في مقابل تخفيض نسبة ما يؤخذ في ضريبة الدخل. إلى برنامج التنمية للأسر الأشد فقراً، و برنامج تمويلي يقدم قروضاً بدون فوائد للفقراء و السكان وبفترات سماح تصل إلى أربع سنوات، و يمكن للفقراء أن يستثمروا بعضاً من هذه القروض في شراء أسهم بواسطة المؤسسة نفسها. مثل هذا البرنامج إذا طبقت بحظافيرها في دولنا سوف تقل نسبة الفقر بشكل ملموس.

الخاتمة

أهم النتائج التي خلص إليها البحث، هي:

مدى فاعلية الزكاة في تحسين أحوال الفقراء و المساكين، من حيث تنمية الأفراد و المجتمع و استثمار ما عطيت لهم في شتى أنواع المجالات التجارية و الزراعية، و الصناعية، التي تنمي قدراة أموالهم، وهذا بوصفها و سيلة للضمان الاجتماعي، و هي أيضاً طموحات و آمال مستقبلية في مدى إمكان القضاء على الفقر عن طريق الزكاة. و من ذلك أيضاً، النظام الإسلامي يزيد الإنتاج و يقلل عدد الفقراء، و هي نظام شامل لتنظيم الحياة السعيدة.

المقترحات و التوصيات

يقترح الباحث جملة من المقترحات، تتمثل فيما يأتي:

1-الزكاة الركن الثالث من أركان الإسلام، لذا يرى الباحث ضرورة سن قانون خاص يلزم الناس بدفع زكاة أموالهم، ويعاقب كل ممتنع عن دفعها؛ حتى تزداد حصيلة الزكاة.

2-لا بد من وجود المؤسسات الزكوية في كل دول الإسلامية؛ حتى تتولى تلك المؤسسات جباية أموال الزكاة من المسلمين، و صرفها للمحتاجين بصورة منتظمة، كمثل صندوق جمع الزكاة القومي الذي يدار بواسطة إدارة الشؤون الإسلامية في ماليزيا.

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[1]- 2014/8/4م **http://ar-ar.facebook.com/topic.php?uid**

3-يجب الحرص على توزيع أموال الزكاة بأمانة و عدالة لزرع الثقة لدى المزكين، و كذلك يجب التحقق من أن المستحقين فقط هم الذين يحصلون على أموال الزكاة.

4-ينبغي استخدام الوسائل الحديثة المتوافرة في جباية أموال الزكاة بصورة واسعة؛ لأنها تسهم في زيادة مقدار أموال الزكاة و عدد المزكين، كما يمكن الجمع بين الوسائل التقليدية و الحديثة في جباية أموال الزكاة، مع توفير خدمات ذات جودة عالية للمزكين.

5-إذاعة كل ما يتعلق بتوزيع أموال الزكاة من مستجدات و معلومات و برامج و مقادير، و ذلك في وسائل الإعلام المختلفة.

وآخر دعوانا أن الحمد لله رب العالمين.

قائمة المراجع والمصادر

القرآن الكريم

إبراهيم، أبو الليث نصر بن محمد السمر قندي. (1413هـ-1993م). **تفسير بحر العلوم السمرقندي**، تحقيق: الشيخ محمد معوض، الشيخ عادل أحمد الموجود، د. زكريا عبد المجيد النوتي (بيروت: دار الكتب العلمية، ط1.

أبو الحسن، مسلم بن الحجاج القشيري النيسابوري. (1424هـ، 2003م). **صحيح مسلم** تحقيق: محمد فؤاد عبد الباقي. بيروت: دار الكتب العلمية، ط2.

تيجاني، أحمد أبو بكر. (2011م). رسالة ماجستير بعنوان: **تجربة لجنة الزكاة في ولاية يوبي بنيجيريا في مكافحة الفقر: دراسة فقهية تحليلية.** 2011م الجامعة الإسلامية العالمية بماليزيا.

دولة الكويت، هيئة حكومية مستقلة. (1413هـ-1992م). **أبحاث وأعمال الندوة الثالثة لقضايا الزكاة المعاصرة** (د.ط، د.ن.

الزحيلي، أ.د وهبة. (1425هـ-2004م). **الفقه الإسلامي وأدلته الشامل للأدلة الشرعية والآراء المذهبية وأهم النظريات الفقهية وتحقيق الأحاديث النبوية وتخريجها** دمشق: دار الفكر، ط4.

صالح، محمد. (2006م). **النظام العالمي للزكاة رؤية مستقبلية لتفعيل الدور الاقتصادي والاجتماعي للزكاة**. الرياض: مكتبة الملك فهد الوطنية، ط1.

عبد الرحمن، سليمان عزمان. (2010م). **جباية أموال الزكاة وصرفها في ماليزيا: هيئة زكاة سلانغور نموذجاً**. 2010م رسالة دكتوراه. كوالالمبور: كلية معارف الوحي والعلوم الإنسانية، الجامعة الإسلامية العالمية ماليزيا.

القرضاوي، يوسف. (1422هـ، 2001م). **الزكاة دورها في علاج المشكلات الاقتصادية وشروط نجاحها** (القاهرة: دار الشروق، ط1.

المواقع الإلكترونية

Al-Takaful al-igtimai Retrieved 25 July 2014 from www.insanonline.net

www.al-zatari.net 29/July/2014

Fouzy Mansour Retrieved 4th August 2014 from http://ar-ar.facebook.com

Oulama o al-iqtisad Retrieved 6 August 2014from aleslam.alfdal.net

مبادئ وأسس نظم معلومات الموارد البشرية

محمد معاوية خليفة

ناصر حبثور

الملخص

إن إدارة الموارد البشرية تعد اليوم من أهم الوظائف الإدارية في أي مؤسسة حكومية أو خاصة وتعتبر أحد أهم عناصر التنمية الشاملة والمستدامة التي تخصص لها الدول جزءاً كبيراً من ميزانياتها العامة، و لقد تعددت الدراسات العربية والأجنبية المتعلقة بدور و فعالية إدارة الموارد البشرية بشكل عام واستخدام نظم معلومات الموارد البشرية بصور خاصة من أجل تطوير الأداء الوظيفي وعملية صنع القرار. هدفت هذه الدراسة إلى إبراز أهمية نظم معلومات الموارد البشرية وتطور هذه النظم من خلال أستعراض أهم الدراسات التي تطرقت الى دور نظم معلومات الموارد البشرية في المؤسسات الحديثة والتعرف على وظائف ومكونات هذه النظم. وتقدم هذه الدراسة نبذة عن الدراسات العربية و العالمية التي تطرقت الى هذا المفهوم. وتوصلت الدراسة الى العديد من الأستنتاجات التي تسهم في رفع أداء الموظفين من خلال تحقيق أداء متميز و كفائة عالية لإدارة الموارد البشرية ياستخدام نظم المعلومات.

مفاتيح الكلمات: نظم معلومات الموارد البشرية، الأداء الوظيفي، عملية صنع القرار، تقييم الأداء

12. المقدمة

أن الموارد البشرية هي رأسمال أستثماري يجب تنميته وتطويره لأنه ذو بعد ستراتيجي لنجاح المنظمة أو العمل ، فتظهر إدارة الموارد البشرية بالشكل الذي يعمل على توجيه الرعاية والعناية التامة بالأفراد ومساعدتهم على أداء أعمالهم بأحسن صورة وبما يبرز نشاطهم المتميز والأفكار والطاقات الإبداعية ، ومحصلة ذلك هو تحقيق مصلحة وأهداف المنظمة بما يوفر لها قدرة تنافسية في عالم العمل والأنتاج والبقاء بقوة وثبات في المسار المتخصص لعملها.[1]

لدى كل المنشآت الكبيرة وظيفة موارد بشرية تتناول الكثير من التشغيل المتخصص الخاص بأفراد المنشأة.

ويسمى النظم المفاهيمي المستخدم في إدارة الأفراد، نظام معلومات الموارد البشرية. وللعديد من السنوات، لم يوجه إلا القليل من التركيز على نظام معلومات الموارد البشرية. ولكن في الفترة الأخيرة ونتيجة للتشريعات الهادفة للمساواة بين الأفراد، بدأ نظام معلومات الموارد البشرية بأخذ دوره.

ويطابق نظام معلومات الموارد البشرية نفس الشكل الأساسي لنظم المعلومات الوظيفية الأخرى. وتكمل قاعدة بيانات نظام معلومات الموارد البشرية ببيانات تصف كلا من المنظمات والأفراد في بيئة المنشأة الذين يؤثرون على تدفق الأفراد. وقد قطع نظام معلومات الموارد البشرية شوطا طويلا في العقد الماضي، ويشير العديد من منفذي الإدارة العليا له بأنه أصبح مرتفع القيمة مثل نظم المعلومات الوظيفية الأخرى. إلا أنه لازالت هناك حاجة لنمو

[1] إسماعيل، عبدالقادر إسحق. 2009. إدارة الموارد البشرية. الأكاديمية العربية بالدنمارك. كلية الأدارة والأقتصاد. ص 2

نظام معلومات الموارد البشرية مع مواجهته بعض المشاكل الإدارية الأكثر صعوبة.[1] وتلعب نظم المعلومات دوراً مهما في قسم توضيف الموارد البشرية، ووهو القسم الذي يقع على عاتقه مسؤولية مهمات أستقطاب وأختيار وتعيين العاملين الأكفاء في المؤسسة ، وهذا لا يعني إن هذا القسم هو الذي يتخذ قرار التوظيف وإنما مهمته عبارة عن إيضاح كل المعطيات والمطاليب ثم إجراء عملية تنسيق الجهود مع الإدارة العليا للموارد البشرية، وتحتاج لإدارة الموارد البشرية الى نظم المعلومات التي بدورها تساعد الإدارة العليا للمؤسسة لأتخاذ القرار المناسب حول تعيين المرشحين للوظائف الشاغرة والتحقق من كفائتهم وكذلك مراجعة أداء الموظفين الحاليين بدقة عالية وتحديد بقاء الاصلح بسبب مؤهلاتهم وتخصصاتهم وخبرتهم المناسبة ، وكذلك يتم تجميع المعلومات وتحديد إجراءات ومستلزمات التوظيف.[2]

13. تعريف نظم معلومات الوارد البشرية

تكتسب إدارة الموارد البشرية أهمية بالغة في المؤسسات الحكومية والخاصة.نظرا لأنها تقوم بعدد كبير من الوظائف الأساسية وتعلقها المباشر بالافراد العاملين في المؤسسةو كذلك الأنشطة المهمة والحساسة.والتي تضمن للمؤسسة تحقيق أهدافها القريبة والعيدة.وبسبب ارتباطها المباشر بالعنصر البشري الذي يعذ الركيزة الأساسية للنجاح في أي

[1] مرجانة محمد الطاهر، بولحبال نور الاسلام، مزياني عبد الجليل. 2014. نظم معلومات إدارة الموارد البشرية، الجمهورية الجزائرية الديمقراطية الشعبيةن كلية العلوم الاقتصادية والتسيير والتجارة. ص4

[2] د محمد الصيرفي , الإدارة الإلكترونية للموارد البشرية , دار المكتب الجامعي الحديث , الإسكندرية , 2008 , ص 467- 550

مؤسسة.لذلك تحتاج إدارة الموارد البشرية إلى وجود نظام معلومات ذو فاعلية عالية يوفر لها كافة المعلومات الضرروية والبيانات اللازمة لاتخاذ القرارات المناسبة وخاصة فيما يتعلق بتعيين الافراد الجدد وتقييم الافراد الحاليين وكذلك المجالات الوظيفية الأخرى للمؤسسة.

يعرف نظام معلومات تسيير الموارد البشرية بأنه :"نظام يعمل على اكتساب.تخزين.استرجاع.معالجة.تحليل وتوزيع معلومات مفيدة تتعلق أساسا بتسيير الموارد البشرية". كما يعرف على انه : "احد التطبيقات الخاصة لقواعد المعلومات الالكترونية والبرامج الجاهزة.التي تستهدف تحقيق الكفاءة والفعالية". [1]

كما تعرف نظم معلومات الموارد البشرية بأنها :" النظم التي يتم تصميمها للقيام بوظيفة إدارة الموارد البشرية.والسعي بصفة أساسية إلى توفير المعلومات المطلوبة والتي يحتاجها مدراء الافراد لاتخاذ القرارات المتعلقة بأداء الموظفين ومراجعة أدائهم بفاعلية والرفع من مستوى أداء الافراد العاملين في المؤسسة. وهي بذلك تشهم في تحقيق الأهداف التنظيمية".

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[1]الأستاذة زاوي صورية/تومي ميلود"دور نظام معلومات الموارد البشرية في تقييم أداء الموارد البشرية في المؤسسة.جامعة محمد

[2]مرمي مراد."اهمية نظم المعلومات الإدارية كأداة للتحليل البيئي في المؤسسات الصغيرة والمتوسطة الجزائرية دراسة حالة CHIALIجامعة سطيف 2010 "..مذكرة ماجستير في العلوم الاقتصادية » بسطيف

إذن فالوظيفة الأساسية لنظم معلومات الموارد البشرية هو تلبية احتياجات إدارة الموارد البشرية من المعلومات الضرورية التي تحتاجها حول جميع الأفراد العاملين ولإغراض التخطيط، التقييم، المراجعة،التوضيف وتنظيم الموارد البشرية في المنظمة.[1]

فضلا عن ذلك يتولى هذا النظام بتجهيز إدارة النظام بمعلومات شاملة ومتكاملة ودقيقة عن إدارة وتوجيه الموارد البشرية وكذلك تحليل العلاقات الضرورية بين العاملين والإدارة وفق قاعدة معرفة سابقاً في النظام لتقييم كفاءة هذه الإدارة [2] ويعرفها الباحث في هذه الدراسة بأنها تمثل النظم الالكترونية المسؤولة عن تنظيم كافة الأنشطة المتعلقة بوظيفة إدارة الموارد البشرية بصورة الكترونية تمتاز بالدقة العالية وتقوم باختصار الوقت والكلفة في استخدام العنصر البشري بصورة مباشرة في إدارة الموارد البشرية بصفة كلية أو جزئية، وهو ما يسهم في تحقيق فعالية الإدارة وتطوير الأداء المؤسسي. ويحدد الباحث الأنشطة التي ويمكن تلخيص أهم فوائد نظم معالومات الموارد البشرية:

1. نظام الأجور والحوافز
2. عمليات التوظيف
3. تقييم الأداء الوظيفي

[1] Chwelos P, Benasat L, Dexter A S. Research Report Empirical Test of an EDI Adoption Model[J]. Information Systems research, 2001,16(1),pp61-64.

[2] ا.د.سعد غالب ياسين."تحليل وتصميم نظم المعلومات".عمان.دار المناهج للنشر والتوزيع.2009.ص74

4. تحديد الكفاءات المهنية

5. استرجاع المعلومات المتعلقة بالموظفين

6. تحديث الملفات الشخصية للموظفين عن طريق الشبكة الداخلية.

14. مكونات نظام معلومات الموارد البشرية

نظام معلومات الموارد البشرية مصمم للقيام بوظيفة إدارة الموارد البشرية والسعي إلى توفير المعلومات الاساسية للمديرين لاتخاذ القرارات ذات العلاقات بالعنصر البشري بصورة خاصة وبفعالية واستخدام الافراد في رفع مستوى أداءهم من أجل تحقيق أهداف المنظمة. وأن الأساس في هذه النظم هو بناء (قاعدة بيانات) لكون الوظيفة الاساسية المطلوبة منها هو تظيم البيانات التي تتعلق بالإفراد والوظائف والبرامج.ولا يتخلف نظام معلومات الموارد البشرية اختلافاً كبيراً عن نظم المعلومات الإدارية الأخرى لكونه يعتمد بالدجة الاساسية على مكونات الحاسوب برامج وتطبيقات الحاسوب، إذ أنه يتكون من الأبعاد الرئيسة لأي نظام معلومات حديث والتي تتمثل في المدخلات والعمليات التشغيلية، لذلك يمكن تلخيص أهم مكونات نظم معلومات الموارد البشرية على العناصر التالية[1]:

[1] مرجانة محمد الطاهر، بولحبال نور الاسلام، مزياني عبد الجليل. 2014. نظم معلومات إدارة الموارد البشرية، الجمهورية الجزائرية الديمقراطية الشعبيةن كلية العلوم الاقتصادية والتسيير والتجارة. ص7

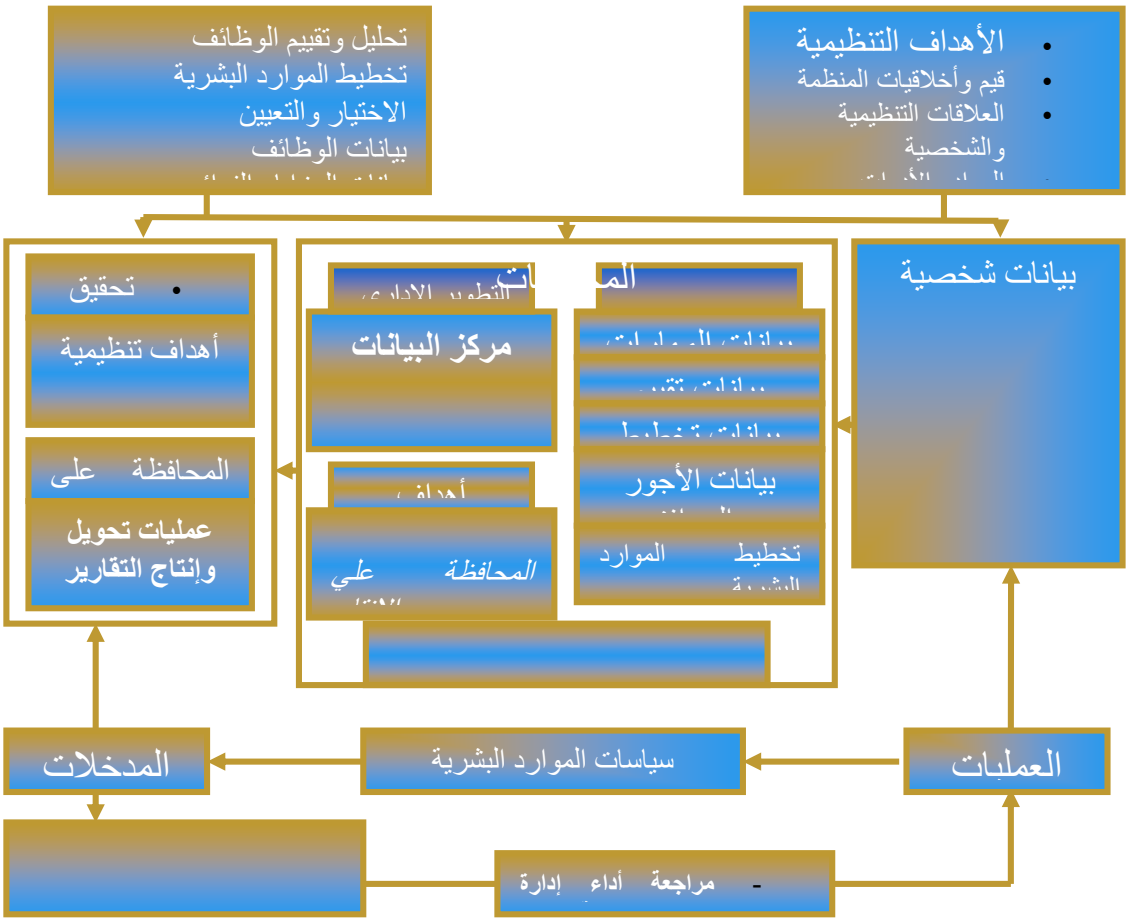
- **قاعدة البيانات :** وهي تمثل المكان المخصص للاحتفاظ بالمعلومات الأساسية المتعلقة بالنظام و المؤسسة والعاملين فيها، وتعتبر من أهم المرتكزات الأساسية للنظام
- **جمع وتخزين المعلومات:** بعد جمع المعلومات ومعالجتها يتم إدخال المعلومات إلى قاعدة البيانات بصورة صحيحة وتجنب التكرار.
- **استرجاع المعلومات:** هي عملية استرجاع المعلومات المعالجة والمخزنة في الوقت المناسب لاستخدامه في عملية المساعدة على اتخاذ القرار، بالإضافة إلى توفيرها للمستخدمين لها.
- **مصلحة تسيير نظام المعلومات الموارد البشرية:** هو عبارة عن مجموعة من الأفراد المكلفين بتسيير شؤون النظام من جمع إلى إدخال ومعالجة واسترجاع المعلومات.
- **جودة وسلامة البيانات:** وهي عملية حماية المعلومات ضمان سلامتها بالإضافة إلى صيانة النظام
- **المخرجات** مع وجود عنصر التغذية المرتدة، إلا أن نظام معلومات الموارد البشرية يتميز بتعدد الأنشطة التي يشملها ويعمل على خدمتها.
- **المدخلات :** وهي العملية التي يتم فيها استقبال مختلف البيانات المتعّلقة بالموارد البشرية وإدخالها إلى النظام والتي يتم الحصول عليها من مصادر متعددة سواء كانت داخلية (محاسبة، إنتاج، تكوين.تقييم...الخ)أو خارجية(سوق العمل.الجامعات والمعاهد.مراكز التكوين.الجهات الحكومية).

- **العمليات :** بعد الحصول على مختلف البيانات، يقوم النظام بمعالجتها، حيث يعمل على تحليلها وترتيبها
- وتصنيفها وفق نمط معين حسب الاحتياجات. وذلك بالاستعانة بالبرامج المعلوماتية المتوّفرة ثم تخزينها والحفاظ عليها لاستدعائها عند الحاجة،

المخرجات: بعد عملية المعالجة يتم الحصول على معلومات مفيدة يستقبلها مستخدمو النظام تقارير دورية، سواء على حوامل تقليدية (أوراق، سجلات) أو حوامل إلكترونية (شاشة، أسطوانة) بهدف استخدامها في القيام بمختلف أنشطة الموارد البشرية، أو تقديمها لأطراف التعامل في البيئة الخارجية.

- **عمليات المراجعة**: حيث يتم مراجعة أداء إدارة الموارد البشرية وتقييم نظام معلوماتها، أو مايمثل التغذية العكسية للنظام؛ ويبين الشكل أدناه شكل عناصر ومكونات نظام معلومات الموارد البشرية [1]

[1] www.dr-al-adakee.com/OldSite/.../4357bb1ad4.ppt



شكل رقم –1 : ومكونات نظام معلومات الموارد البشرية

15. وظائف نظام معلومات الموارد البشرية

تقوم نظام معلومات الموارد البشرية بوظائف عديدة في خدمة المؤسسة ومعظمها لها نتائج إيجابية على الأداء المؤسسي بصورة عامة من خلال تقييم وبقاء الكفاءات التي تخدم أهداف المؤسسة، ويرى الباحث أنه بفضل نظم معلومات الموارد البشرية استطاعت المؤسسات الكبيرة في الدول المتقدمة من تطوير الأداء الوظيفي بصورة شمولية من خلال اعتمادها على الأنظمة المحوسبة في جمع وتقييم المعلومات المتعلقة بكل موظف ومن ثم صياغتها بصورة

منظمة في قاعدة بيانات كبيرة وتلخيص المعلومات الى صانعي القرار في المؤسسة من أجل اتخاذ ما يلزم في تطوير القوى العاملة والحصول على انتاجية أكبر.

ويمكن تلخيص أهم وضائف نظم معلومات الموارد البشرية بما يلي:

1. تزويد الإدارة العليا بالمعلومات:

وهي أهم وأبرز وظيفة يؤديها النظام ،حيث تحتاج الإدارة في جميع أعمالها إلى المزيد من المعلومات ولا سيّما أنّها تعيش في عالم تعقدت وتشعبت تخصصاته ،فالتعرف على الكفاءات البشرية يساعد المنظمة على التخطيط لتوسعات مطلوبة في المستقبل ،وله دور أيضاً في صنع القرارات الإستراتيجية بعيدة المدى.[1]

2. تحديد المسؤولية:

لهذا النظام دور في تحديد أدوار الأفراد والأقسام بالمنظمة وبالتالي تحديد مسؤولية هؤلاء حتى لا يكلف الفرد بأكثر من طاقته فتضطرب الأمور عند عجزه عن القيام بمهمته ،وبتحديد المسؤولية أيضاً يمكن محاسبة المقصرين والتعرف على المهملين.[2]

3. السيطرة والاستفادة من الموارد المتاحة:

[1] يوسف الطائي، د.مؤيد الفضل.2006. إدارة الموارد البشرية مدخل استراتيجي متكامل، دار الوراق، عمان ,2006 ,ص541-543
[2] مالك المحمد. 2009. نظم معلومات الموارد البشرية، كلية الإقتصاد، جامعة دمشق، ص 10

والموارد المتاحة قد تكون مادية كأجهزة ومعدات وبضائع وأموال ،أو بشرية كعاملين وعملاء ،وعالم اليوم مليء بمثل هذه الموارد والتي قد تكون السيطرة عليها عمل في منتهى الأهمية للاستفادة منها استفادة قصوى فمثلاً يمكن للنظام حصر عدد وتخصصات العاملين في المنظمة ليعيد توزيع أدوارهم ووظائفهم بما يكفل الاستفادة منهم في زيادة الإنتاج دونما الحاجة لتعيين أي عامل إضافي وزيادة التكاليف على المنظمة.[1]

4. تقييم الأداء

تتمثل عملية تقييم أداء العاملين في قياس أو الحكم على القيمة النسبية لمساهمة العامل في تحقيق أهداف المؤسسة أو المساهمة في رفع أدائها فهي من الأدوات الضرورية للرقابة على أداء العاملين، ومن خلال استخدام نظم المعلومات تتم الرقابة على أداء الأفراد بصفة دورية ثم يتم مقارنة الأداء الفعلي مع ما هو مخطط له وفق معايير وضعت مسبقا بناءا على معلومات تخص الوظيفة و الأهداف، لهذا ظهر حاجة إدارة الموارد البشرية إلى معلومات تتعلق بأداء العاملين وهو ما يوفره نظام معلومات موارد بشرية. [2]

[1] Dessler, Gary (2009), "Human Resource Management", 12th edition, USA: Printice hall

[2] Liu Junwei Li Xueru. 2010. The Role of Human Resource Information System Among Township Enterprises in the West China, Business School, Xi'an International Studies University, Xi'an China

5. الإجراءات الإدارية

لقد أدى استخدام الحاسوب في مجال السجلات إلى توفير الوقت و المكان المناسبين وان سرعة توفيرها للمعلومات ودقتها تجعل القرارات الإدارية المتخذة أكثر فاعلية في معالجة المشاكل الحاصلة مما ينعكس على أداء العاملين بمصلحة الموارد البشرية برفع كفاءة الأداء و زيادة الإنتاجية.[1]

ولذلك يؤكد الباحث أن وظائفق نظم معلومات الموارد البشرية تصب مباشرة في مصلحة المؤسسة وكذلك تسهم مباشر في تطوير إدارة الموارد البشرية بصورة آالية وقلة الاعتماد على خبرة العنصر البشري في الإدراة والاعتماد أكثر على الخبرة في إدارة التكنلوجية.

[1] مرجانة محمد الطاهر، بولحبال نور الاسلام، مزياني عبد الجليل. 2014. نظم معلومات إدارة الموارد البشرية، الجمهورية الجزائرية الديمقراطية الشعبيةن كلية العلوم الاقتصادية والتسيير والتجارة

16. النتائج

1) نلاحظ من خلال عرض أهم وظائف ومكونات نظم المعلومات البشرية أهميتها على تطوير الأداء المؤسسي من خلال تقييم الأداء الوظيفي بدقة وكذلك المساهمة في عملية صنع القرار بدقة .

2) أظهرت هذه الدراسة أن المعلومات تلعب دوراً أساسياً في سلوك الأفراد والمنظمات.

3) بفضل تطور نظم المعلومات يستطيع العاملين والمدراء في المؤسسة القيام بوظائفهم التفاعلية بدقة عالية في العمل والإداء بفضل الية جمع المعلومات و التقييم الالكترونية.

4) لكي تنجز إدارة الموارد البشرية أنشطتها ومهامها العديدة بشكل يحقق للمنظمة ميزة تنافسية لا بد أن يهيئ لها نظم معلومات بشرية فاعلة تتجسد فيها الدقة والسرعة والشمول والموضوعية والتوقيت السليم.

5) نظام معلومات الموارد البشرية مهمته أساساً القيام بوظائف إدارة الموارد البشرية والسعي أساساً إلى توفير المعلومات إلى مراكز اتخاذ القرارات ذات العلاقة بفاعلية وكفاءة استخدام العنصر البشري ورفع مستويات أدائه في تحقيق أهداف المؤسسة.

17. المصادر

إسماعيل، عبدالقادر إسحق. 2009. إدارة الموارد البشرية. الأكاديمية العربية بالدنمارك. كلية الأدارة والأقتصاد. ص

2

مرجانة محمد الطاهر، بولحبال نور الاسلام، مزياني عبد الجليل. 2014. نظم معلومات إدارة الموارد البشرية،

الجمهورية الجزائرية الديمقراطية الشعبيةن كلية العلوم الاقتصادية والتسيير والتجارة. ص4

د محمد الصيرفي , الإدارة الإلكترونية للموارد البشرية , دار المكتب الجامعي الحديث , الإسكندرية , 2008 ,

ص 467- 550

الأستاذة زاوي صورية/تومي ميلود"دور نظام معلومات الموارد البشرية في تقييم أداء الموارد البشرية في المؤسسة.جامعة

محمد

مرمي مراد."اهمية نظم المعلومات الإدارية كأداة للتحليل البيئي في المؤسسات الصغيرة والمتوسطة الجزائرية دراسة حالة

CHIALI جامعة سطيف 2010 "..مذكرة ماجستير في العلوم الاقتصادية « بسطيف

سعد غالب ياسين."تحليل وتصميم نظم المعلومات".عمان.دار المناهج للنشر والتوزيع.2009.ص74

يوسف الطائي، د.مؤيد الفضل.2006. إدارة الموارد البشرية مدخل استراتيجي متكامل، دار الوراق، عمان

,2006 ,ص541-543

مالك المحمد. 2009. نظم معلومات الموارد البشرية، كلية الإقتصاد، جامعة دمشق، ص 10

المصادر الأجنبية

Dessler, Gary (2009), "Human Resource Management", 12th edition, USA: Printice hall

Liu Junwei Li Xueru. 2010. The Role of Human Resource Information System Among Township Enterprises in the West China, Business School, Xi'an International Studies University, Xi'an China

Chwelos P, Benasat L, Dexter A S. Research Report Empirical Test of an EDI Adoption Mode.Information Systems research, 2001,16(1),pp61-64

www.dr-al-adakee.com/OldSite/.../4357bb1ad4.ppt

مخاطر الائتمان المصرفي ودور الرهن في إدارتها في المصارف الإسلامية

THE ROLE OF MORTGAGING IN CREDIT RISK MANAGEMENT IN THE ISLAMIC BANKS

Othman Ibrahim Gurgudoo[1]
Mohamad Sabri Bin Zakaria

الملخص:
إنه بالرغم مما تقوم به المصارف الإسلامية من الدور الهامّ في النشاط الاقتصادي؛ وما تحققه من الأهداف السامية، وتشهده من التطور المذهل؛ إلا أن هناك مخاطر كثيرة تواجها وتتعرض لَها، ممّا يؤدي إلى التأثير سلبًا في إنتاج هذه المصارف وعطائها، الأمر الذي يدعو الباحثين بإلحاح إلى تضافر الجهود لبلورة الطرق المناسبة لإدارة هذه المخاطر؛ لتجنبها، أو التقليص من حدتها، فجاء هذا البحث المتواضع للإسهام في بناء هذا الصرح العظيم. وقد انتهج البحث منهج الاستقراء والوصف والتحليل في إبراز مفهوم المخاطر المصرفية عمومًا، ومخاطر الائتمان على وجه الخصوص، والكشف عن مفهوم إدارة المخاطر المصرفية، وموقف الإسلام من نظرية إدارة المخاطر. ثمّ انتقلت الدراسة للتركيز على إبراز دور الرهن في إدارة مخاطر الائتمان المتولّدة عن أهمَّ صيغ التمويل التي تقدمها المصارف الإسلامية، من المرابحة، والإجارة، والاستصناع، والسلم، والمشاركة، والمضاربة، والتورق. وخلُصت الدراسة إلى ما للرهن من الدور المهمّ في تخفيف هذه المخاطر في الصيرفة الإسلامية.

الكلمات الدليلية:
المصارف، المصارف الإسلامية، المخاطر، مخاطر الائتمان، إدارة المخاطر، الرهن.

المقدّمة:
الحمد لله رب العالمين، والصلاة والسلام على نبينا محمد، أشرف الأنبياء والمرسلين، المبعوث رحمة للعالمين، وعلى آله وأصحابه، ومن تبعهم بإحسان إلى يوم الدين.

أما بعد: فإن من أجَلِّ نعم الله تعالى على الأمة الإسلامية اليوم أن بدأت تتدارك الأخطاء التي حصلت لها في عصورها المتأخِّرة، وسبَّبت لها ألوانًا من الضعف والهوان، فعاد

[1] Department of Fiqh and Usul al Fiqh IIUM gurgu6@gmail.com.

المسلمون ليستيقنوا من جديد أن الحل الوحيد لجميع مشكلاتهم إنما يكمن في تطبيق الدين الإسلامي في جميع مجالات الحياة، بما فيها المجال المالي والاقتصادي، الأمر الذي كان من عوائده ظهور هذه المصارف الإسلامية في بلدان المسلمين، والتي أعطت وما زالت تعطي الكثيرَ من ثمرها اليانع، وأكلها الطيِّب، حتى طَمِعَت في مثلها دول غير مسلمة، لِيمْتدَّ نطاقها اليوم على مستوى العالم. ومع ما تؤدّيه هذه المؤسسات المالية الإسلامية من الدور الهام في النشاط الاقتصادي والمجال المالي؛ وما تحقِّقه من الأهداف السامية، وتشهده من التطور المذهل؛ إلا أن هناك كثيراً من التحديات التي تتعرض لها وتهدد كيانها، ومن أهم تلك التحديات؛ ما يعرف بـ "المخاطر" بشتى أنواعها، بل إن المخاطر تشكل تحدياً ليس أمام المؤسسات المالية الإسلامية فحسب؛ بل والتقليدية منها أيضاً[1]، فيأتي هذا البحث للمساهمة في هذا الموضوع الخطير، عسى أن يكون لبنة في صرح هذا البناء العظيم. وقد تمّ عرض فقرات البحث تحت ثلاثة مباحث أساسية: **الأول:** في مفهوم المخاطر المصرفية ومخاطر الائتمان المصرفي، **والثاني:** في مفهوم إدارة المخاطر المصرفية وموقف الإسلام منها، **والثالث:** في دور الرهن في إدارة المخاطر الائتمانية في الصيرفة الإسلامية، ثم الخاتمة.

المبحث الأول: مفهوم المخاطر المصرفية ومخاطر الائتمان المصرفي

المطلب الأول: مفهوم المخاطر المصرفية

أ. المخاطر في اللغة: جمع مخاطرة، وهي تطلق ويراد بها عدة معان، منها:

- الإشراف على الهلاك وخوف التلَف، يقال: خاطر بنفسه يخاطر، وخاطر بقومه كذلك، إذا أشفاها وأشفى بها وبهم على خطر[2].
- الغرر والجهالة عن عاقبة الأمر. ومن ذلك قول الليث في سبب النهي عن الكِراء: "لما فيه من المخاطرة"، أي: الغرر والجهالة[3].
- المراهنة، يقال: خاطرته على مال: أي راهنته عليه، لما فيها من احتمال الفوز والخسارة[4].

ب. وللمخاطرة في لغة الفقهاء إطلاقان:

الأول: إطلاق المخاطرة مرادا بها الغرر والجهالة والمقامرة، وهذا الإطلاق هو أكثر ما يراد به لفظة المخاطرة إذا وردت في كلام الفقهاء، بل هو الذي تنطلق إليه الكلمة إذا أطلقت في باب المعاملات، فإذا وصِفت معاملة معيَّنة بأنها مخاطرة، أو أن فيها مخاطرة فإن ذلك يعني أن تلك المعاملة محرمة غير جائزة شرعًا؛ لما فيها من الغرر أو الجهالة أو المقامرة[5].

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[1] السويلم، **التحوط في التمويل الإسلامي**، ص13.

[2] **ابن منظور**، لسان العرب، **ج4**، **ص249**؛ **الزبيدي**، تاج العروس، **ج11**، **ص200**.

[3] **الزبيدي**، تاج العروس، **ج13**، **ص233**؛ **ابن حجر العسقلاني**، فتح الباري، **ج5**، **ص26**.

[4] **ابن منظور**، لسان العرب، **ج4**، **ص249**؛ **الفيومي**، المصباح المنير، **ج1**، **ص173**.

[5] **انظر: السعدي**، النتف في الفتاوى، **ج1**، **ص465**؛ **ابن عبد البر**، الاستذكار، **ج6**، **ص454**؛ **الماوردي**، الحاوي الكبير، **ج6**، **ص451**؛ **ابن تيمية**، مجموع الفتاوى، **ج19**، **ص283**.

الثاني: إطلاق المخاطرة مراداً بها احتمال وقوع الربح أو الخسارة في معاملة معيَّنة، وهذه مخاطرة جائزة شرعًا، بل هي التي لا تكاد تنفكُّ عن أيّة عملية تجارية[1].

يقول ابن القيم: "والمخاطرة مخاطرتان: مخاطرة التجارة، وهو أن يشتريَ السلعة بقصد أن يبيعَها ويربحَ، ويتوكَّل على اللهِ في ذلك، والخطر الثاني: الميسر الذي يتضمن أكلَ المال بالباطل، فهذا الذي حرَّمه الله تعالى ورسوله، مثل بيعِ الملامسة والمنابذة، وحَبَلِ الحَبَلَة..."[2].

ج. وتعرّف المخاطرة في الاصطلاح الاقتصادي بتعريفات، منها:

"احتمالية الخسارة من قبل المستثمر"[3]. وقيل: هي "حالة عدم التأكد من حتمية الحصول على العائد، أو من حجمه، أو من زمنه، أو من انتظامه، أو من جميع هذه الأمور مجتمعة"[4]. وقيل: هي "كل عملية يتم تنفيذها في إطار عدم التأكد، وينتج عنها ربح باحتمال معين، أو خسارة باحتمال معين"[5].

د. أما المخاطر المصرفية فيعرِّفها الباحثون في المجال المالي بعدة تعريفات، منها:

1. "احتمالية مستقبلية قد تُعرِّض المصرف إلى خسائر غير متوقعة، وغير مخطط لها، بما قد يؤثر على تحقيق أهداف المصرف، وعلى تنفيذها بنجاح، وقد تؤدي في حالة عدم التمكن من السيطرة عليها وعلى آثارها إلى القضاء على المصرف وإفلاسه"[6].

2. "ظواهر وأحداث تهدد إنجاز أهداف المصرف وتؤثر سلباً على استمراريته الهادفة إلى تحقيق رسالته"[7].

3. "حالة عدم التأكد في استرجاع المصرف رؤوس أمواله المقرضة، أو تحصيله أرباحاً مستقبلية متوقعة"[8].

فهذه التعريفات بمجموعها تُبَيِّن أن مفهوم المخاطر المصرفية هي تلك الأمور المحتملة الوقوع، والتي تجعل المصرف متخوفاً من حصول المكروه (الخسارة) فيما يقوم به من النشاطات المصرفية، سواء منها ما يتعلق بأمواله المقرضة، أو المستثمرة، مما يكون له تأثيره السلبي في تحقيق أهداف المصرف المرجوة.

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[1] **انظر: جماعة من العلماء**، فقه المعاملات، **ج4**، **ص138**.

[2] **ابن القيم**، زاد المعاد، **ج5**، **ص816**.

[3] **السامرائي**، القاموس الاقتصادي، **ص244**.

[4] **حماد**، مخاطر الاستثمار في المصارف الإسلامية، **ص31**.

[5] **علاء الرفاتي**، "إدارة مخاطر الاستثمار"، **http://kenanaonline.com/users/ahmedk (14/09/2010)**

[6] **محمد سهيل الدروبي**، "إدارة المخاطر في المصارف الإسلامية": **http://www.jame3a.com (05/09/2009)**

[7] **وهبة، محمد سليم**، "إدارة المخاطر في المصارف الإسلامية": **http://www.badlah.com (17/11/2008)**

[8] **حماد، مخاطر الاستثمار**، ص 41.

المطلب الثاني: مفهوم مخاطر الائتمان المصرفي

مخاطر الائتمان المصرفي هي التي تنشأ عن عجز العميل عن الوفاء بما عليه من الالتزامات تجاه المصرف، أو عدم رغبته في الوفاء بهذه الالتزامات، وهذه الالتزامات قد تكون ناتجة عن قرض، وقد تكون ناتجة عن تمويل المصرف الإسلامي بإحدى أدوات التمويل الإسلامي، فهي في صورة مخاطر تسوية أو مدفوعات، بحيث يكون على أحد أطراف الصفقة أن يدفع نقوداً، أو عليه أن يسلم أصلاً[1]. وقد يأتي ذلك أيضاً من عدم قيام الشريك بتسليم نصيب المصرف من رأس المال أو الربح، كما هو الحال في المشاركة والمضاربة[2].

أهمية مخاطر الائتمان وخطورتها في الصيرفة الإسلامية

وتعتبر مخاطر الائتمان المصرفي أهمّ أنواع المخاطر التي تواجهها البنوك في عملياتها، وهي أكثر المخاطر انتشاراً في الصيرفة الإسلامية، حيث يذكر بعض الباحثين أن مخاطر الائتمان تمثل60% من مجموع المخاطر التي تواجهها هذه المصارف؛ لأن العلاقة التي تربط بين المصرف وبين عملائه هي علاقة بائع ومشتري، ومضارب ورب مال، وليست علاقة دائن بمدين فحسب كما هو الحال في البنوك التقليدية[3].

ويرى الدكتور علي القري أن المخاطر التي تواجهها المصارف عموماً في عملها كثيرة، "إلا أن القدرات والخبرات المصرفية في إدارة المخاطر هي أكثر ما تكون في المخاطر الائتمانية، وذلك لأهميتها من جهة، ولقِدم خبرة البنوك معها من جهة أخرى، ولذلك تتضمن الإدارة المصرفية الحازمة إجراءات صارمة ومفصّلة خاصّة بالائتمان"[4].

وإن الديون في المصارف الإسلامية مختلفة عنها في البنوك التقليدية؛ لأنه يلزم المقترض في البنوك التقليدية أن يسدِّد ما عليه مع الفوائد، وإذا تأخر عن موعد السداد لسبب أو لآخر زاد الدَّين في ذمته بمقدار ما زاد من الأجل، ولكن المصارف الإسلامية لا تعامل المَدين بمثل هذه المعاملة؛ لأن هذه الفوائد هي من الربا الذي جاء الشرع بتحريمه، فإذا ماطل المدين لدى المصرف الإسلامي لم يكن للمصرف أن يزيد عليه في الدَّين شيئاً[5].

ومن هنا يتبيّن ما تتمتع به مخاطر الائتمان من الخطورة والأهمية لدى المصارف الإسلامية، مما يوجب التيقُّظ لها، والوقوف لها بالمرصاد، لتجنبها، أو التخفيف من حِدّة تأثيرها السلبي على هذه المصارف.

المبحث الثاني: مفهوم إدارة المخاطر المصرفية وموقف الإسلام منها

المطلب الأول: مفهوم إدارة المخاطر المصرفية

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[1] Erik Banks and Richard Dunn. *Practical Risk Management.* Sussex, England. (2003), p19.

[2] انظر: القري، محمد بن علي، **المخاطر الائتمانية في العمل المصرفي الإسلامي: دراسة فقهية اقتصادية**: http://www.kantakji.com/fiqh/Files/Banks/3346.htm **(21/02/2010).**

[3] انظر: هندي، **إدارة الأسواق والمنشآت المالية**، ص250.

[4] القري، **المخاطر الائتمانية في العمل المصرفي الإسلامي**، ص11.

[5] المرجع نفسه، ص22 - 23.

هناك عدة تعريفات لإدارة المخاطر المصرفية يذكرها الباحثون في هذا المجال، ومن أحسنها في نظر الباحث ما يلي:

1. "تلك العملية التي يتم من خلالها رصد المخاطر، وتحديدها، وقياسها، ومراقبتها، والرقابة عليها، وذلك بِهدف ضمان فهم كامل لها، والاطمئنان بأنها ضمن الحدود المقبولة, والإطار الموافق عليهما من قبل مجلس إدارة المصرف للمخاطر"[1].

2. نظام متكامل وشامل لتهيئة البيئة المناسبة، والأدوات اللازمة، لتوقع المخاطر المحتملة على المصرف، ودراستها وتحديدها وقياسها، وتحديد مقدار آثارها المحتملة على أعمال المصرف وأصوله وإيراداته، ووضع الخطط المناسبة لما يلزم، ولما يمكن القيام به، لتجنُّب هذه المخاطر، أو لكبحها والسيطرة عليها وضبطها للتخفيف من آثارها[2].

3. "تنظيم متكامل يهدف إلى التوصُّل إلى وسائل محدَّدة للتحكم في الخطر، والحد من تكرار تحقق حدوثه، والتقليل من حجم الخسائر بأفضل الوسائل وأقلَّ التكاليف، عن طريق اكتشاف المخاطر وتحليلها، وقياسها وتحديد وسائل مجابهتها، مع اختيار أنسبها لتحقيق الهدف المطلوب"[3].

فهذه التعريفات –مجتمعةً- تدل على أن إدارة المخاطر المصرفية تهدف إلى المحافظة على أصول المصرف، وحمايته من الخسائر التي يمكن أن تعرض له جراء خدماته المصرفية لعملائه، أو نتيجة لتعرض موجوداته الثابتة للتلف، لذلك فإن نجاح المصارف يرتبط -بالدرجة الأولى- بقدرتها الإدارية على التعامل مع المخاطر ومعالجتها، وعليه؛ فلا يمكن إلغاء المخاطر، وإنما يمكن تخفيف احتمالات وقوعها بوضع البدائل المناسبة[4].

المطلب الثاني: موقف الإسلام من نظرية إدارة المخاطر

إن توقي المخاطر وإدارتها حال وقوعها -في الجملة- مما تدعو إليه الشريعة الإسلامية، وتحثُّ عليه، وليس هذا بغريب على هذه الشريعة السمحاء الحكيمة؛ فإنّها دائماً لا تستهدف التعرض للمخاطر، أو مواطن الهلاك والخسارة المتيقَّنة، بل إن الشريعة تأمر دائماً باجتناب المخاطر والمهالك في كل شيء، لذلك ترى أن حفظ المال من أهم مقاصد الشريعة، بل إن المال من الضروريات الخمس التي وضعت الشريعة الإسلامية -بل الشرائع كلها- للحفاظ عليها[5]. فالكسب الحلال، والذبِّ عن المال، والوقوف في وجه من يحاول التعدي عليه مطلب شرعي[6].

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[1] "إدارة مخاطر التشغيل بالمصارف الإسلامية في ظل بازل2": **http://islamfin.go-forum.net/montada-f29 (23/04/209)**

[2] **الدروبي**، "إدارة المخاطر في المصارف الإسلامية"، ص1.

[3] **فضل عبد الكريم محمد**، "إدارة المخاطر في المصارف الإسلامية": **http://islamiccenter.kau.edu.sa/arabic/Hewar.../243.pdf (22/05/2011).**

[4] **المرجع السابق، ص13.**

[5] **الشاطبي**، الموافقات، **ج1، ص31.**

[6] **انظر: السويلم**، التحوط في التمويل الإسلامي، **ص62 – 63.**

بل إن الموت في سبيل الدفاع عن المال يعتبر في الإسلام نوعاً من الشهادة، حيث قال رسول الله ε: "من قُتِل دون ماله فهو شهيد"[1].

وقد يقول قائل: لماذا الدعوة لإدارة المخاطر، ومحاولة تجنبها في عملية الاكتساب وطلب الربح، مع أن القاعدة تقول: "الخراج بالضَّمان"[2] و"الغُرْم بالغُنْم"[3]؟ فلماذا نتوقع الربح دون تحمل الخسائر؟!

والجواب: أن هاتين القاعدتين أصلهما حديث النبي ε الذي روته أم المؤمنين عائشة رضي الله عنها، أن رجلاً ابتاع غلاماً فأقام عنده ما شاء الله أن يُقيم، ثم وجد به عيباً، فخاصمه إلى النبي ε فرَدّه عليه، فقال الرجل: يا رسول الله، قد استغَلّ غلامي! فقال رسول الله ε: "الخَراج بالضّمان"[4]. أي أن "الغَلّة بإزاء الضمان، أي مستحقة بسببه، فمن كان ضمان المبيع عليه كان خراجه له، وكما أن المبيع لو تلِف أو نقَص في يد المشتري فهو في عُهدَته؛ فكذا لو زاد وحصل منه على غَلّة فهو له لا للبائع، إذا فسخ بنحو عيب"[5]. نحو هذا يقال في قاعدة "الغُرم بالغُنم"، أي أن من يتحمل الخسارة في مبيع معين؛ فهو الذي يملك ربحه[6].

فالغرض من القاعدتين: أنه كما أن المستثمِر هو الذي ينتفع بالربح والعائد في تجارة معيّنة، فكذلك هو المتحمل للخسارة التي قد تصيب هذه التجارة. إلا أن ذلك لا يعني أن التاجر يقف مكتوف اليدين، مستسلماً لما يحتمل وقوعه من الخسائر والمهالك، بل يُطلب منه شرعًا أن يعمل جاهدًا لمنع هذه الخسائر حتى لا تقع، فهذا هو المراد بإدارة المخاطر في العملية التجارية[7]. والله أعلم.

المبحث الثالث: دور الرهن في إدارة المخاطر الائتمانية في الصيرفة الإسلامية

تمهيد: في التعريف بالرهن ومشروعيته وحِكمته

أ. يطلق الرهن في اللغة ويراد به معان متعددة، من أهمها ما يلي:

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[1] **البخاري**، الجامع الصحيح، **كتاب اللقطة، باب من قاتل دون ماله، ج2، ص877، رقم: 2384**؛ **القشيري**، صحيح مسلم، **كتاب الإيمان، باب وعيد من اقتطع حق مسلم بيمين فاجرة بالنار، ج1، ص124، رقم: 141**.

[2] **السيوطي**، الأشباه والنظائر، **ج1، ص135**.

[3] **المجددي**، قواعد الفقه، **ص94**. **القاعدة: 195**.

[4] **أبو داود**، سنن أبي داود، **كتاب البيوع، باب فيمن اشترى عبداً فاستعمله ثم وجد به عيباً، ج2، ص307، رقم: 3510**. **وقال الألباني: حسن. انظر: الألباني**، صحيح سنن أبي داود، **ج8، ص10، رقم: 3510**.

[5] **المناوي**، فيض القدير، **ج3، ص503، رقم:4130**.

[6] **انظر: الزركشي**، المنثور في القواعد، **ج2، ص119**؛ **السندي**، حاشية السندي على النسائي، **ج7، ص255**.

[7] **انظر: البدني**، "دور العربون في تخفيف المخاطر في المصارف الإسلامية"، **ص120 – 124**.

1. الثبوت والدوام، يقال: ماء راهن، أي: راكد، ونعمة راهنة، أي ثابتة دائمة. قال الجوهري: "ورهن الشيءُ رهناً، أي: دام، وأرهنت لهم الطعامَ والشرابَ: أدمته لهم، والراهن: الثابت"[1].

2. الحبس واللزوم، ومنه قول الله تعالى: (كُلُّ نَفْسٍ بِمَا كَسَبَتْ رَهِينَةٌ) (المدثر: 38). أي: مرهونة محبوسة عند الله تعالى بكسبها وعملها[2].

3. الكفيل أو الضامن: يقال: أنا لك رَهْنٌ بالرِّيّ وغيره؛ أي: كَفيل، ويقولون: يدي لك رَهْنٌ: يريدون به الكفالة[3].

4. العين المرهونة، وهذا على سبيل إطلاق المصدر مراداً به اسم المفعول. قال ابن سيده: "الرهن: ما وضِع عند الإنسان مما ينوب مناب ما أُخذ منه"[4].

ب. أما الرهن في الاصطلاح، فهناك تعريفات عدة يذكرها الفقهاء للرهن، فمن تعريفات الحنفية، أنه: "حبس شيء مالي بحق يمكن استيفاؤه منه كالدين والأعيان المضمونة بالمثل والقيمة"[5]. ومن تعريفات المالكية: "بذل من له البيع ما يباع أو غرراً -ولو اشترط في العقد- وثيقة بحق"[6]. ومما يعرفه به الشافعية، أنه: "جعل عين مال وثيقة بدين يستوفى منها عند تعذر وفائه"[7]. ومما قاله الحنابلة في تعريفه: "توثقة دين بعين يمكن أخذه أو بعضه منها أو من ثمنها إن تعذر الوفاء من غيرها"[8]. وهذه التعريفات الاصطلاحية -وإن اختلفت في ألفاظها- إلا أنّها جميعًا تعني شيئًا واحدًا، وهو أن الرهن هو: عملية جعل شيء مالي من قبل المدين وثيقة للدَّين الذي في ذمته للدائن، لكي يُستوفى هذا الدينُ كلُّه أو بعضُه منه أو من ثمنه عند تعذر استيفائه من غيره.

ج. والرهن مشروع بالكتاب والسنة والإجماع:

أما الكتاب، فقول الله تعالى: **(وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَانٌ مَقْبُوضَةٌ)** (البقرة: 283). ووجه الدلالة من الآية: أن الله سبحانه وتعالى أمر في الآية التي قبل هذه بكتابة الدين والإشهاد عليه، فقال: **(يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَى أَجَلٍ مُسَمًّى فَاكْتُبُوهُ)**

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[1] **انظر: ابن منظور**، لسان العرب، ج**13**، ص**188**.

[2] **ابن عجيبة**، البحر المديد، ج**6**، ص**455**.

[3] **ابن المنظور**، لسان العرب، ج**13**، ص**188**؛ **ابن سيده**، المحكم والمحيط الأعظم، ج**4**، ص**301**.

[4] **ابن سيده**، المحكم والمحيط الأعظم، ج**4**، ص**300**.

[5] **ابن عابدين**، رد المحتار، ج**4**، ص**352**.

[6] **الجندي**، مختصر خليل، ج**1**، ص**166**.

[7] **الأنصاري**، أسنى المطالب، ج**9**، ص**120**.

[8] **المرداوي**، الإنصاف، ج**5**، ض**105**.

(البقرة: 282)، ثم قال: **(وَاسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ)** (البقرة: 282)، ثم قال: **(وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَانٌ مَقْبُوضَةٌ)** (البقرة: 283)، أي وإن كان لكم عذر في عدم الكتابة والاشهاد -بأن كنتم في سفر- فاستوثقوا الدَّين بالرهن[1].

وأما السنة، فأحاديث عدة، منها ما ثبت في الصحيحين، عن عائشة رضي الله عنها، قالت: "اشترى رسول الله ε طعامًا من يهودي بنسيئة ورهنه دِرعاً له من حديد"[2]. ووجه الدلالة: أن النبي ε تعامل بالرهن، مما يدل على مشروعيته في هذا الدِّين؛ لأن أفعاله ε دائماً في مقام التشريع، مالم يوجد دليل بتخصيصه، ولم يوجد هنا[3].

وأما الإجماع، فقد أجمع المسلمون سلفاً وخلفاً على مشروعية الرهن في الجملة، كما قال ابن قدامة: "فقد أجمع المسلمون على جواز الرهن في الجملة"[4].

د. والحكمة من مشروعية الرهن: أن فيه مصالح كثيرة للمدين، والدائن والمجتمع:

1. فالرهن يسهّل للمدين سبل الحصول على ما يحتاج إليه من الدين، فليس كل إنسان يجد من المال ما يحقق به ما يحتاج إليه، في الوقت الذي يحتاج إليه، فقد يضطرّ إلى بيع ما هو عليه غال وثمين، وهذا التصرف قد لا يكون في صالحه، فقد تكون سلعته ممّا لا يُرغَب فيها في ذلك الوقت، فيبيعها بثمن بخس، ففي مثل هذا الظرف يترجح عنده أن الاستدانة هي أحسن له، ولكن قد لا يجد من يقرضه مالَه، أو يبيعه سلعته دينًا، إلا إذا قدم رهنًا[5]. كما أن الرهن يفيد المدين في حفظ ماء وجهه، ويمكنه من الوصول إلى بغيته وحاجته بالدين بعزٍّ وكرامة[6].

2. أما من جانب الدائن: فإن الرهن يُدخِل في نفسه الطمأنينةَ على ماله، فالإنسان قد يكون مِمَّن يحب الخير ومساعدة المحتاجين، إلا أنه لا يجد تجاوبًا من بعض المدينين عند السداد، مما يدفعه إلى قبض يده عن الإعطاء، والامتناع عن مداينة الناس، فمن هنا دعت الحاجة إلى الاستيثاق على ماله، ليتمكن على المضي في عمله الطيب، وفي هذا مصلحة له في الدنيا بمحبة الناس له، وثنائهم عليه، وإقبالهم على التعامل معه، وفي الآخرة بنيل الثواب العظيم[7]. وإذا كان الدين ناتجًا عن بيع وشراء، فإنه بإمكان الدائن (البائع) أن ينتفع من حيث

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[1] **انظر: إلكِيا الهرَّاسي**، أحكام القرآن، **ج1، ص188**. **والصحيح الذي عليه جماهير الفقهاء: جواز الرهن في السفر والحضر، سواء في حال وجود الكاتب أو عدمه، وأن الآية إنما تقيدت بذكر السفر على سبيل الغالب. انظر: الرازي**، مفاتيح الغيب، **ج7، ص105**.

[2] **البخاري**، الجامع الصحيح، **كتاب السلم، باب الكفيل في السلم، رقم: 2133، ج2، ص783**؛ **القشيري**، صحيح مسلم، **كتاب الرهن، باب الرهن وجوازه في الحضر والسفر، رقم: 1603، ج3، ص1226**.

[3] **الدعيلج**، الرهن في الفقه الإسلامي، **ص31**.

[4] **ابن قدامة**، المغني، **ج9، ص117**؛ **حيدر**، درر الحكام شرح مجلة الأحكام، **ج2، ص52**.

[5] **الدعيلج**، الرهن في الفقه الإسلامي، **ص70**؛ أبحاث هيئة كبار العلماء، **العدد5، ج5، ص102**.

[6] **الشنقيطي**، شرح زاد المستقنع، **4/174**.

[7] **الدعيلج**، الرهن في الفقه الإسلامي، **ص71**.

الحصول على زيادة في الثمن لأجل التأجيل، فقد يبيع السلعة مؤجلة لمدة سنة، وقيمتها -مثلاً- نقداً بمائة، ولكن يبيعها بمائة وعشرة؛ لأجل التأجيل، وحينئذٍ ينتفع بزيادة الثمن ويتوثق دَينه بالرهن، فيحفظ ماله من التلف والضياع[1]، حيث إن دينه "على عرضة التوى[2] والتلف، لما عسى أن يذهب الراهن ماله بالتبذير والسرف، أو يقوم له غرماء يستوفون له، أو يجحد وليس للمرتهن بينة، أو يموت مفلسًا بغير كفالة متعينة، فنظر الشارع للمرتهن فشرع الرهن، ليصل إلى دينه بآكد الأمور، وأوثق الأشياء"[3].

3. أما من مصالح الرهن العائدة على المجتمع: فإنّ الرهن يساعد على توسيع التعامل التجاري، وتبادل المحبة والمودة بين الناس، فهو تعاون على البر والتقوى، وفيه نوع من التكافل الاجتماعي، والتراحم والتعاطف بين أفراد المجتمع؛ لأن المسلم إذا وجد من يقرضه ماله في ساعة الحاجة، فإنه يشكره ويحبه ويذكره بالخير[4]. كما أن في الرهن منعاً للأذية والإضرار بالمجتمع؛ لأن المديون إذا عجز عن السداد مع عدم الرهن، فإن الخصومة والأذية تقعان بين الناس. ففي الرهن قطع أسباب الخصومة والنزاع المؤدي إلى الفتن في المجتمع[5].

المطلب الأول: الرهن أداةً لإدارة مخاطر الائتمان الناتجة عن المرابحة

المرابحة في الفقه الإسلامي؛ هي البيع برأس المال مع زيادة ربح معلوم[6]. والمرابحة المصرفية اليوم هي "المرابحة للآمر بالشراء" وهي أن "يتوسط المصرف لشراء سلعة معيّنة بناءً على طلب العميل، ثم يبيعها عليه بالتقسيط أو الآجل بثمن يساوي التكلفة الكلية للشراء، مع زيادة ربح معلوم متفق عليه بينهما"[7].

وللمرابحة المصرفية صورتان:

الصورة الأولى: أن يتلقى المصرف طلباً من عميله بشراء سلعة معينة مشفوعاً بوعد منه بشراء هذه السلعة، فإذا استجاب المصرف للعميل واشترى له ما يريد بمواصفاته، يتم عندئذ إبرام عقد بيع المرابحة بينهما، وذلك حتى لا يكون المصرف قد باع ما ليس عنده، أو يربح ما لم يضمن؛ لأنه قد اشترى السلعة وأصبح مالكاً لها يتحمل تبعة هلاكها. فتكون هذه الصورة جائزة شرعاً بلا نزاع[8].

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[1] **ابن جبرين**، شرح عمدة الأحكام، **3/50**.

[2] **قال محمد البابرتي**: "**توى المال: إذا تلف**". البابرتي، العناية شرح الهداية، **ج7، ص246**.

[3] **الحدادي**، الجوهرة النيرة، **ج2، ص364**.

[4] **الشنقيطي**، شرح زاد المستقنع، **4/174**.

[5] **ابن عابدين**، رد المحتار، **ج5، ص317**؛ أبحاث هيئة كبار العلماء، **العدد5، ص112**.

[6] ابن قدامة، **المغني**، ج4، ص280.

[7] السالوس، **مخاطر التمويل الإسلامي**، ص7.

[8] أحمد، جمعة حمدان، "أحكام وصيغ العقود المصرفية"، **موسوعة الاقتصاد والتمويل الإسلامي: http://iefpedia.com/arab/?p=9172 (04/09/2011).**

الصورة الثانية: أن يتم العقد بين المصرف والعميل الذي يأمر بالشراء قبل أن يمتلك المصرف السلعة. والراجح من قول العلماء أن هذه الصورة لكي تكون جائزة شرعاً، لا بد أن يكون الوعد فيها غير ملزم لأي واحد من الطرفين، فيكون لكل واحد منهما الخيار بالرجوع عن العقد[1]. وبهذا الرأي قرر مجمع الفقه الإسلامي التابع لمنظمة المؤتمر الإسلامي، وذلك في دورة مؤتمره الخامس، المنعقد بالكويت سنة 1409هـ/1988م[2].

وبيع المرابحة هو الصِّيغة التي يعتمدها أكثر المصارف الإسلامية للوساطة المالية، حتى إن بعض المصارف تكاد تقصر عملياتها التمويلية عليه، وذلك لما تتميَّز به هذه الصِّيغة من سرعة التسييل، ووضوح التدفُّق النقدي والعائد[3].

ومع ما يتمتع به بيع المرابحة من هذه المكانة لدى المصارف الإسلامية، فإنها تشتمل على نوعين من المخاطر الائتمانية، أحدهما يكون قَبل أن يتِمّ العقد (بعد الوعد بالشراء)، وهو مخاطر عدم الوفاء بالوعد، وثانيهما يكون بعد العقد وتمام البيع، وهو مخاطر عدم التزام العميل بدفع ما عليه من الأثمان في مواعيدها، لأن المصرف –كما سبق- يبيع السلعة على العميل بيعاً آجلاً مع التقسيط، أو آجلاً فقط[4].

أما ما يتعلق بمخاطر نكول العميل عن وعده، فيمكن إداراتها بأدوات أخرى (غير الرهن)، مثل العربون (عند من يرى جوازه)[5]. وأما مخاطر عدم التزام العميل بالدفع في حينه؛ فيصلح للرهن أن يكون أداةً من أدوات إدارته، وتخفيف آثاره، حيث يأخذ المصرف رهناً من العميل توثيقاً لدينه عليه، يستوفي منه هذا الدَّين عند تعذر ذلك عن العميل، كما يحرز به المصرف حق التقدّم على بقية الغرماء[6]. ويجوز في هذه المسألة أن يُجعل المبيع نفسه رهناً على ثمنه[7]. ومن هذا القبيل ما تقوم به بعض المصارف من تجميد بعض الودائع المصرفية؛ لضمان أداء العميل الأقساط التي عليه في مواعيدها[8]. وبهذا تبيّن دور الرهن في إدارة مخاطر الائتمان الناجمة عن المرابحة المصرفية الإسلامية. والله أعلم.

المطلب الثاني: الرهن أداةً لإدارة مخاطر الائتمان الناتجة عن الإجارة

الإجارة في اصطلاح الفقهاء هي "تمليك منفعة بعوض. وقيل: بيع منفعة معلومة بأجر معلوم"[9]. وهي مشروعة بالكتاب والسنة والإجماع:

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[1] انظر: المصري، "بيع المرابحة للآمر بالشراء"، **مجلة مجمع الفقه الإسلامي**، العدد الخامس، 1409هـ/1988م، ص848 وما بعدها.

[2] **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الاسلامي، العدد 5، ص715.

[3] المصري، "بيع المرابحة للآمر بالشراء" **مجلة مجمع الفقه الإسلامي**، العدد 5، ص837، و864؛ السالوس، **مخاطر التمويل الإسلامي**، ص7.

[4] المصري، "بيع المرابحة للآمر بالشراء" **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الاسلامي، العدد 5، ص1114.

[5] انظر: البدني، **دور العربون في تخفيف المخاطر**، ص148 – 151.

[6] السالوس، **مخاطر التمويل الإسلامي**، ص34.

[7] وقد جاء بيان ذلك مع الأمثلة في عدد من الفتاوى المصرفية المعاصرة. انظر: عفانة، حسام الدين، **شبكة يسألونك الإسلامية:** http://yasaloonak.net/2008-09-18-11-36-26/2009-07-07-12-25-03/1195-2009-09-26-05-51-47.html (22/02/2010).

[8] انظر: **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الاسلامي، العدد 9، ص701.

[9] الجرجاني، **التعريفات**، ج1، ص23؛ العيني، **عمدة القاري**، ج18، ص251.

أما الكتاب، فمثل قول الله تعالى -حكاية عن ابنتي الرجل الصالح-: **(قَالَتْ إِحْدَاهُمَا يَاأَبَتِ اسْتَأْجِرْهُ)** (القصص: 26). قال أبو حيان: "وفي قولها: **(اسْتَأْجِرْهُ)** دليل على مشروعية الإجارة عندهم، وكذا كانت في كل ملة، وهي ضرورة الناس ومصلحة الخلطة، خلافاً لابن علية والأصم، حيث كانا لا يجيزانها، وهذا مما انعقد عليه الإجماع، وخلافهما خرق"[1].

وأما السنة، فمثل قول النبي ε: "قال الله: ثلاثة أنا خَصْمُهم يوم القيامة: رجل أعطى بي ثم غدر، ورجل باع حُراً فأكل ثمنه، ورجل استأجر أجيراً فاستوفى منه ولم يعطه أجره"[2].

وأما الإجماع، فقد حكى غير واحد إجماع العلماء على مشروعية الإجارة، منه قول أبي حيان السابق. وقول ابن رشد: "إن الإجارة جائزة عند جميع فقهاء الأمصار"[3].

والإجارة المعمول بها اليوم في المصارف على نوعين:

النوع الأول: "الإجارة التشغيلية"، وصورتها أن يقوم المصرف بتأجير أصل من الأصول لعميله لمدة معيّنة، على أن تبقى ملكيَّة العين للمصرف أثناء الإجارة وبعدها. وهذا النوع لا إشكال في جوازه شرعاً؛ لأنه على صورة الإجارة المعروفة في الفقه الإسلامي، والمُجمَع على جوازها[4].

النوع الثاني: "الإجارة المنتهية بالتمليك"، وفيه يعطى للمستأجر خيار امتلاك الأصل عند نهاية مدة الإجارة[5]. وهناك صور متعددة لهذه الإجارة، إلا أن أكثرها شيوعاً اليوم هو أن يقوم المصرف بتأجير سيارة مثلاً مدةً معيَّنة بأجرة معلومة، على أن السيارة بعد هذه المدة تكون ملكاً للمستأجر، وإذا لم يكمل المدة المتفق عليها تعود السيارة ملكاً للمصرف، وليس من حق المستأجر أن يسترد ما دفعه من أقساط[6].

وهذا النوع من الإجارة -بكل صوره- لا يخلو من الأخذ والردّ بين العلماء المعاصرين. وبعد للاطلاع على عدد من صوره، وما قال العلماء فيها، تبين أن السبب الأساسي الذي لأجله تلجَأ المؤسساتُ المالية إلى هذه المعاملة هو تجنب مخاطر الائتمان التي تكتنفها، فالأصل أن المصرف مثلاً يريد أن يبيع عميله أصلاً معيّناً بالتقسيط، إلا أنه يخشى أن لا يلتزم العميل بدفع ما عليه في أوقاته أو لا يدفعه كلّياً، فيدخل معه في هذه العملية، باسم "الإجارة"[7]. لذلك يرى كثير من العلماء أن البديل الذي لا غبار على شرعيته لهذه المعاملة هو أن يبيع المصرف لعميله السلعة بالتقسيط، ثم يقوم العميل برهنها على دَينه، وبذلك يكون المصرف آمناً على ماله[8].

ومثل هذا الحل هو الذي انتهى إليه مجلس هيئة كبار العلماء في المملكة العربية السعودية، وذلك في دورته الثانية والخمسين، المنعقدة في مدينة الرياض سنة 1420هـ[9].

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[1] أبو حيان، **البحر المحيط**، ج9، ص15.

[2] البخاري، **الجامع الصحيح**، كتاب البيوع، باب إثم من باع حُراً، ج2، ص776، رقم: 2114.

[3] ابن رشد، **بداية المجتهد**، ج2، ص220.

[4] فضل عبد الكريم، **إدارة المخاطر**، ص25؛ البدني، **دور العربون في تخفيف المخاطر**، ص130.

[5] مجلس الخدمات المالية الإسلامية، **المبادئ الإرشادية لإدارة المخاطر**، ص53.

[6] السبر، **التأجير المنتهي بالتمليك**، ص14؛ المنجد، محمد صالح، **حكم الإجارة المنتهية بالتمليك**: **http://www.islamqa.com/ar/ref/14304 (23/02/2010).**

[7] عبد الله، أحمد، **المرابحة: أصولها وأحكامها وتطبيقاتها في المصارف الإسلامية**، ص268.

[8] المصري، "بيع المرابحة للآمر بالشراء"، **مجلة مجمع الفقه الإسلامي**، العدد5، ص836.

[9] انظر: السبر، **التأجير المنتهي بالتمليك**، ص38.

وكذلك مجلس مجمع الفقه الإسلامي، التابع لمنظمة المؤتمر الإسلامي في دورة مؤتمره الخامس بالكويت سنة 1409هـ/1988م[1].

وعلى كل حال قد تبين في هذا الموضوع أن هناك مخاطر ائتمانية، تنجم عن الإجارة، سواء التشغيلية منها أو المنتهية بالتمليك، وهي مخاطر عدم وفاء العميل بالتزامه بدفع الأجرة أو الثمن إلى المأجر، ولتفادي هذه المخاطر، أو التخفيف من وطأتها، يمكن للمصرف أن يضمن حقَّه بتوقيع الرهن مع العميل، كما تبيّن لنا أن الرهن هو الحل لإشكالية الإجارة المنتهية بالتمليك، حيث يُجعل العقد بيعاً بالتقسيط، وتكون العين المبيعة رهناً رسمياً في يد البائع[2]. والله أعلم.

المطلب الثالث: الرهن أداةً لإدارة مخاطر الائتمان الناتجة عن السَّلَم

السَّلَم أو السَّلَف هو بيع موصوف في الذمة ببدل يعطى عاجلاً[3]. وهو مشروع بالكتاب والسنة والإجماع:

أما الكتاب، فقول الله تعالى: **(يَاأَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَى أَجَلٍ مُسَمًّى فَاكْتُبُوهُ)** (البقرة: 282). كان ابن عباس رضي الله عنهما، يقول: "أَشهَد أن السلف المضمون إلى أجل مسمى أن الله عز وجل قد أحله وأذن فيه، ويتلو هذه الآية"[4].

وأما السنة، فما روى ابن عباس رضي الله عنهما، أن رسول الله ε قدم المدينة، وهم يسلفون في الثمار السنَةَ والسنَتين فقال: "من أسلف في تمر فليسلف في كيل معلوم، ووزن معلوم إلى أجل معلوم"[5].

وأما الإجماع، فقد قال ابن المنذر: "أجمع كل من نحفظ عنه من أهل العلم على أن السلم جائز"[6].

والسلم مستثنى من قاعدة عدم جواز بيع المعدوم، لما فيه من تحقيق مصلحة اقتصادية، ترخيصاً للناس، وتيسيراً عليهم؛ لأن الناس بحاجة إليه، حيث إن أرباب الزروع والثمار والتجارات والصناعات يحتاجون إلى النفقة على أنفسهم أو على زروعهم ونحوها حتى تنضج، فجُوِّز لهم السَّلم دفعاً للحاجة[7]. ويجوز السلَم في كل ما يمكن ضبط أوصافه من السلع والبضائع، والمنتجات الزراعية والحيوانية والصناعية والخدمية[8].

والسلم المصرفي على نوعين:

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1 **مجلة مجمع الفقه الإسلامي،** التابع لمنظمة المؤتمر الاسلامي بجدة، العدد الرابع، ص2593.

2 عبد الله، أحمد، **المرابحة: أصولها وأحكامها وتطبيقاتها في المصارف الإسلامية،** ص268.

3 وقيل: السَّلف لغة أهل العراق، والسَّلم لغة أهل الحجاز. انظر: النووي، **المنهاج،** ج11، ص41؛ العيني، **عمدة القاري،** ج18، ص214.

4 الطبري، **جامع البيان عن تأويل آي القرآن،** ج3، ص115؛ البيهقي، **السنن الكبرى،** ج6، ص19، رقم: 10870، وصححه الألباني. انظر: الألباني، **إرواء الغليل،** ج5، ص213، رقم: 1369.

5 البخاري، **الجامع الصحيح،** كتاب السلم، باب السلم في كيل معلوم، ج2، ص784، رقم: 2135؛ القشيري، **صحيح مسلم،** كتاب المساقاة، باب السلم، ج3، ص1226، رقم: 1604. وهذا لفظ مسلم.

6 ابن قدامة، **المغني،** ج4، ص304، وانظر: النووي، **المنهاج،** ج11، ص41.

7 الزحيلي، **الفقه الإسلامي،** ج5، ص268.

8 حطاب، **نحو سوق مالية إسلامية،** ص23.

النوع الأول: "السلم العادي"، أو "السلم الثنائي"، وهو الذي يكون فيه العقد بين طرفين فقط، وهما هنا المصرف وربُّ السلَم.

النوع الثاني: "السلم الموازي"، أو "السلم الثلاثي"، وهو أن يبرم المصرف صفقة شراء بالسلم مع صاحب السلم، ثم يبرم صفقة بيع بالسلم مع العميل، دون ربط بينهما، ويعزم المصرف على أن ينفذ الصفقة الثانية مما يتسلمه من الصفقة الأولى[1].

ويعتبر عقد السلم باباً من أبواب التطوير المناسب لإنشاء الأدوات المالية الإسلامية[2]، ويعتبر في الوقت نفسه من أكثر أنواع التمويل المصرفي تعرضاً للمخاطر، وذلك أن السلم يرتبط غالباً بظروف الزراعة، فتأتي مخاطره مرتبطة بمخاطر النشاط الزراعي، ومنها مخاطر الائتمان، التي تتمثل في عدم التزام العميل بتسليم ما عليه في صفته وفي وقته، أو عدم تسليمه مطلقاً، أو عدم رده الثمن عند فسخ العقد، أو يرده بعد المماطلة، مما يؤثر سلباً في استثمار المصرف[3]. والصحيح من قولي العلماء جواز أخذ الرهن في المسلَّم فيه[4]، فلتفادي هذه المخاطر يمكن للمصرف أن يلجأ إلى توقيع عقد الرهن مع عميله توثيقاً لدينه المسلّم فيه[5]. والله أعلم.

المطلب الرابع: الرهن أداةً لإدارة مخاطر الائتمان الناتجة عن الاستصناع

الاستصناع في الفقه الإسلامي هو طلب العمل من الصانع في شيء مخصوص على وجه مخصوص مادته من الصانع، فإن كانت من المستصنع فإن العقد يكون إجارة لا استصناعاً[6]. وهو من العقود التي جُوِّزت استحساناً، حيث إنه يخالف القياس، وهو عدم جواز بيع المعدوم، أو بيع ما ليس عند الإنسان[7].

والمبيع في الاستصناع يكون دَينا ثابتا في الذمّة، وعليه يجوز أن يكون المبيع فيه من الأموال القيمية التي تصنع بمواصفات خاصّة لا مثيل لها، لكن لابد أن يكون مما ينضبط بالوصف، فيختلف عن السلَم الذي لا يجوز إلا في الأموال المثلية[8].

والاستصناع المصرفي هو: "توسُّط البنك لتمويل صناعة سلعة معيَّنة، أو إنشاء أصل معيَّن يطلبه العميل بمواصفات محدّدة، على أجر يسمى ريع البنك"[9]. وهذا النوع من

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[1] انظر: السالوس، علي، "التطبيقات الشرعية لإقامة السوق الإسلامية"، **مجلة مجمع الفقه الإسلامي**، العدد الثامن 1413هـ/1993م، ص966؛ جماعة من العلماء،**فقه المعاملات**، ج1، ص849.

[2] سامي، "الأدوات المالية الإسلامية"، **مجلة مجمع الفقه الإسلامي**، العدد السادس، 1410هـ/1990م، ص1044.

[3] السالوس، **مخاطر التمويل الإسلامي**، ص41؛ فضل عبد الكريم، **إدارة المخاطر في المصارف الإسلامية**، ص23.

[4] بل قال ابن رشد: "وقال قوم من أهل الظاهر: لا يجوز أخذ الرهن إلاّ في السلَم خاصة، أعني في المسلّم فيه. وهؤلاء ذهبوا إلى ذلك لكون آية الرهن واردة في الدّين في المبيعات وهو السلَم عندهم". ابن رشد، **بداية المجتهد**، ج2، ص273.

[5] السالوس، **مخاطر التمويل الإسلامي**، ص41.

[6] مثاله أن يطلب شخص من النجار أو الحداد أو الحذّاء أونحوهم أن يصنع له شيئاً معيناً بأوصاف محددة، على ثمن معلوم معجَّل أو مؤجَّل، إذا جرى فيه التعامل عُرفاً. ابن عابدين، **رد المحتار**، ج4، ص221؛ الزحيلي، **الفقه الإسلامي**، ج5، ص302.

[7] انظر: الكاساني، **بدائع الصنائع**، ج5، ص3.

[8] **الفقه الإسلامي**، الزحيلي، ج5، ص314.

[9] إسلامي إف إن، **السلم**، http://islamifn.com/maaeer/salim.htm) 14/09/2009 .)

الاستصناع هو المسمى بـ "الاستصناع الموازي"، وصورته: أن يبرم المصرف عقد استصناع -بصفته صانعاً- مع عميل يريد صنعة معينة بأوصاف معينة، فيجري العقد على ذلك، ثم يتعاقد المصرف -بصفته مستصنعاً- مع عميل آخر، فيطلب منه صناعة المطلوب بالأوصاف نفسها[1].

إذن، فالخطوات المتبعة في بيع الاستصناع المصرفي كالتالي[2]:

أ. تبدأ عملية الاستصناع بإفصاح العميل للمصرف عن رغبته في شراء شيء يحتاج أن يُصنع أو يُبنى أو يُركَّب له، بمواصفات معيّنة، وثمن محدّد.

ب. يبرم البنك مع العميل عقداً يلتزم بموجبه بصناعة المطلوب وتسليمه للعميل خلال مدة زمنية محددة، مقابل ثمن محدّد، يسدَّد حالاً أو على أقساط متعددة، أو بدفعة واحدة مؤجلة.

ج. يقوم البنك بعد ذلك بتوقيع عقد استصناع موازٍ (مع طرفٍ ثالثٍ) لصناعة ما طلبه العميل.

وتتولد المخاطر الائتمانية من الاستصناع المصرفي من جانبين:

الأول: جانب الصانع، وتتمثل في عدم تسليمه السلعة في حينه، أو عدم تسليمه في المواصفات التي تم عليها العقد، أو عدم تسليمه مطلقاً بعد تسلُّمه الثمنَ كله أو بعضه من المصرف.

الثاني: جانب المستصنع، وتتمثل في عدم التزامه بأخذ السلعة بعد صنعه، أو عدم التزامه بسداد ما عليه من الدين الناتج عن شراء السلعة المصنوعة، بعد تسلُّمه السلعة[3].

أما المخاطر الائتمانية الناجمة عن تخلف الصانع عن الوفاء بالتزاماته بعد العقد، أو المستصنع الأول بعد تسلُّم السلعة؛ فيمكن للمصرف -لإدارتها والتخفيف من آثارها السلبية- أن يوقع عقد رهن مع العميل (الصانع أو المستصنع الأول)؛ لأن الاستصناع لازم للطرفين بعد انعقاده على الأرجح الذي عليه أكثر العلماء المعاصرين، لكونه -كما يقول العبادي- هو المناسب والمحقق للمصلحة الشرعية المعتبرة[4].

وأما المخاطر الائتمانية التي تنجم عن عدم التزام المستصنع الأول من استلام السلعة من المصرف بعد صنعها فيمكن تخفيفها عن طريق أدواة أخرى، مثل العربون عند من يرى جوازه[5]. والله أعلم.

المطلب الخامس: الرهن أداةً لإدارة مخاطر الائتمان الناتجة عن المضاربة

المضاربة في الفقه الإسلامي هي عقد شركة في الربح بمال من جانب وعمل من جانب[6]. وصورتها: أن يُقدِّم المالَ طرف، ويقوم بالعمل والاستثمار له طرف آخر، ويكون الربح بينهما

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[1] التارزي، "الاستصناع والمقاولات في العصر الحاضر"، **مجلة مجمع الفقه الإسلامي**، العدد الثالث عشر، 1422هـ/2002م، ص487.

[2] جماعة من العلماء، **فقه المعاملات**، ج2، ص64.

[3] حيدر، **درر الحكام**، ج1، ص361؛ الجواهري، "المناقصات: عقد الاحتياط ودفع التهمة"، **مجلة مجمع الفقه الإسلامي**، العدد التاسع، 1417هـ/1996م، ص892.

[4] انظر: حيدر، **درر الحكام**، ج1، ص361؛ العبادي، "الاستصناع ودوره في العمليات التمويلية المعاصرة"، **مجلة مجمع الفقه الإسلامي**، العدد السابع، 1412هـ/1992م، ص869.

[5] انظر: البدني، **دور العربون في تخفيف المخاطر**، ص159 - 160.

[6] ابن عابدين، **رد المحتار**، ج23، ص342؛ ابن قدامة، **المغني**، ج5، ص136.

حسب النسبة التي يتفقان عليها. ويسمى صاحب رأس المال: "ربّ المال"، والعامل: "مضارباً"، والعقد: "مضاربة"، و"قراضاً"[1]. ومن شرط صحتها: أن يكون الربح جزءاً مُشاعاً من الجملة، أما إذا عيّن بأن يقول: على أنّ لك من الربح مائة درهم أو نحوها فلا يصح، لاحتمال أن الربح لا يكون إلا هذا القدر[2]. والخسارة في المضاربة يتحملها رب المال، وليس المضارب، إلا في حالات التعدّي والتقصير ومخالفة شروط العقد[3]. وكان القياس أن لا تجوز المضاربة؛ لأنه استئجار بأجر مجهول بل بأجر معدوم، ولعمل مجهول، لكن تُرك القياس بالكتاب والسنة والإجماع:

أما الكتاب، فمثل قول الله تعالى: **(وَآخَرُونَ يَضْرِبُونَ فِي الْأَرْضِ يَبْتَغُونَ مِنْ فَضْلِ اللَّهِ)** (المزمل 20). والمضارب يضرب في الأرض يبتغي من فضل الله عز وجل[4].

وأما السنة، فما رواه الطبراني وغيره، عن بن عباس رضي الله عنهما، قال: كان العباس بن عبد المطلب إذا دفع مالاً مضاربة اشترط على صاحبه أن لا يسلك به بحراً، ولا ينزل به وادياً، ولا يشتري به ذات كبد رطبة، فإن فعل فهو ضامن، فرُفع شرطه إلى رسول الله ε فأجازه"[5].

وأما الإجماع، فإنه روي عن جماعة من الصحابة ψ أنهم دفعوا مال اليتيم، مضاربة منهم الخلفاء الثلاثة: عمر وعثمان وعلي رضي الله عنهم، ولم ينقل الإنكار عليهم، ومثل هذا يكون إجماعاً[6].

والمضاربة تحقق مصلحة كل من ربّ المال والمضارِب، فقد لا يجد ربّ المال من الوقت أو الخبرة ما يمكنه من الاتجار بماله، كما أن العامل قد لايجد من المال مايكفيه لممارسة خبراته في مجالات عدة، فتأتي صيغة المضاربة لتكون وسيلة مناسبة للاستفادة من المال والخبرة معاً، لذلك تُعدّ المضاربة من أهمِّ صيغ استثمار الأموال في الفقه الإسلامي[7].

وعندما يكون المصرف ربَّ المال، يمكن أن تستفيد من عملية المضاربة القطاعات التجارية والعقارية والزراعية عن طريق تمويل مشروعاتها وتطويرها (المصرف بالمال، والعميل بالخبرة)[8]. أما إذا كان المصرف مضارباً، فسيرى العملاء ملجأ ملائماً لإيداع أموالهم، واستثمارها، فيُعتبر ذلك بديلاً صالحاً عن الإيداع في البنوك التقليدية التي تعطي الفوائد الربوية على الودائع[9].

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1 الزرقاني، **شرح موطأ الإمام مالك**، ج3، ص437.

2 السمرقندي، **تحفة الفقهاء**، ج3، ص20؛ الزحيلي، **الفقه الإسلامي**، ج5، ص582.

3 الزيلعي، **تبيين الحقائق**، ج5، ص53؛ جماعة من العلماء، **فقه المعاملات**، ج3، ص182.

4 انظر: الكاساني، **بدائع الصنائع**، ج6، ص79.

5 الطبراني، **المعجم الأوسط**، ج1، ص231، رقم: 760. ورواه البيهقي وقال: "تفرد به أبو الجارود زياد بن المنذر، وهو كوفي ضعيف، كذبه يحيى بن معين وضعفه الباقون". البيهقي، **السنن الكبرى**، ج6، ص111، رقم: 11392.

6 الكاساني، **بدائع الصنائع**، ج6، ص79.

7 الزرقا، أحمد، **شرح القواعد الفقهية**، ج1، ص153؛ الشنقيطي، **شرح زاد المشتقنع**، 4/104.

8 انظر: الاقتصادية الالكترونية، **صيغ التمويل الإسلامية المضاربة:** **http://www.aleqt.com/2006/08/05/article_51171.html (23/02/2010)**

9 أبو غدة، "القراض أو المضاربة المشتركة"، **مجلة مجمع الفقه الإسلامي**، العدد الثالث عشر، 1422هـ/2002م، ص1124.

ومع ما تتمتع به المضاربة من تحقيق المصالح في المجال التجاري، وما تحظى به من القبول الفقهي الواسع، إلا أن المصارف الإسلامية -كما يرى الدكتور فضل عبد الكريم- تتعامل بها في حدود ضيِّقة، وبحذر شديد، ويرجع سبب ذلك إلى ما تكتنفه هذه المعاملة من المخاطر"[1]. ومن تلك المخاطر التي تتضمنها المضاربة المصرفية مخاطر الائتمان، حيث تقوم هذه الصيغة -أساساً- على عنصر الثقة، وتوفر الأمانة في العامل (المضارب)، فإذا لم تكن الثقة متوفِّرة، وكان العامل سيئ الأخلاق، ولا يحسن التصرف في المال، فرُبما تعرض بالمال للخسارة والهلاك.

فمن هنا يأتي دور الرهن، حيث يجوز لرب المال (المصرف) أن يأخذ الضمانات اللازمة (من رهن ونحوه)، حيث قرّر الفقهاء أن يد المضارب يد أمانة، فلا يضمن هلاك مال المضاربة إلا في حال التعدي أو التقصير[2]. والله أعلم.

المطلب السادس: الرهن أداةً لإدارة مخاطر الائتمان الناتجة عن المشاركة

المراد بالمشاركة في العمل المصرفي اليوم هو ما يعرف في الفقه الإسلامي بشركة عنان، وهي كل عقد ينشأ بين اثنين فأكثر في رأس مال وعمل بغرض الربح[3]. حيث تعرّف المشاركة بأنها "صيغة تمويلية مصرفية، يشترك فيها المصرف مع عميل أو أكثر في مشروع معيَّن بقصد الربح"[4]. وهي مشروعة بالكتاب والسنة والإجماع:

أما الكتاب، فقول الله تعالى: **(وَإِنَّ كَثِيرًا مِنَ الْخُلَطَاءِ لَيَبْغِي بَعْضُهُمْ عَلَى بَعْضٍ إِلَّا الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ)** (ص: 24). والخلطاء هم الشركاء[5].

وأما السنة، فأحاديث عدة، منها: حديث أبي المنهال، أن زيد بن أرقم، والبراء بن عازب، رضي الله عنهم، كانا شريكين، فاشتريا فضة بنقد ونسيئة، فبلغ ذلك النبيَّ صلى الله عليه وسلم، فأمرهما أن ما كان بنَقْد فأجيزوه، وما كان بنسيئة فرُدوه"[6].

وأما الإجماع، فقد حكى الإجماع على الشركة غير واحد من العلماء، ومن ذلك قول ابن قدامة: "وأجمع المسلمون على جواز الشركة في الجملة"[7].

وهناك نوعان من المشاركة في المصارف الإسلامية:

1. المشاركة الثابتة، وفيها يسهم البنك في التمويل بجزء من رأس مال المشروع، وبذلك يكون شريكاً في ملكية هذا المشروع، وفي إدارته والإشراف عليه، وكذا في الربح والخسارة حسب النسب المتفق عليها، وفي هذا النوع يكون لكل طرف من طرفي المشاركة

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[1] فضل، **إدارة المخاطر**، ص26؛ السويلم، **التحوط في التمويل الإسلامي**، ص143 - 144.

[2] انظر: السرخسي، **المبسوط**، ج22، ص138؛ أبو غدة، "القراض أو المضاربة المشتركة" **مجلة مجمع الفقه الإسلامي**، العدد 13، ص1134؛ صديقي، "مشكلات البنوك الإسلامية" **مجلة مجمع الفقه الإسلامي**، العدد 7، ص1711؛ جماعة من العلماء، **فقه المعاملات**، ج2، ص36.

[3] انظر: ابن قدامة، **المغني**، ج5، ص140.

[4] الشامسي، جاسم، "المشاركة المنتهية بالتمليك"، **مجلة مجمع الفقه الإسلامي**، العدد الثالث عشر، 1422هـ/2002م، ص992.

[5] الشنقيطي، **أضواء البيان**، ج3، ص323؛ الزحيلي، **الفقه الإسلامي**، ج5، ص522.

[6] ابن حنبل، **المسند**، ج4، ص371، رقم: 19326. قال الأرناؤوط: "إسناده صحيح على شرط الشيخين".

[7] ابن قدامة، **المغني**، ج5، ص109.

حصة ثابتة في المشروع حتى انتهاء مدة المشروع أوالشراكة، أو انتهاء المدة المتفق عليها في العقد[1].

2. المشاركة المتناقصة أو المنتهية بالتمليك، وفيها يتم تخصيص جزء من الدخل العام للمشروع، يدفعه الشريك للمصرف، ليسترد به المصرف حصته في المشروع، إما دفعة واحدة، أو على دفعات حسب ما يتفق عليه وطبيعة المشروع نفسه. وبهذا يتناقص نصيب المصرف تدريجياً إلى أن ينتهي بتملك الشريك المشروع كله[2].

وتعتبر المشاركة المتناقصة بديلاً شرعياً عن القرض الربوي؛ لأنه عندما يحتاج المرء إلى التمويل لشراء أصل من الأصول الكبيرة مثلاً، فإنه ربما يقترض الثمن من البنك التقليدي الذي يعمل بالفائدة، ثم يشتري ما يريد بذلك المبلغ نقداً، ويسدد إلى المصرف القرض وفوائده، ونظراً لأن ذلك محرم شرعاً، فله يحصل على التمويل من المصرف الإسلامي للغرض ذاته، ولكن على أساس المشاركة المتناقصة[3].

ومع ما تحتويه المشاركة من المنافع للمصرف وللعملاء، وما تغطيه من المجال الواسع في الساحة الاقتصادية والتنموية؛ إلا أن هناك مخاطر الائتمان تتعلق بالشريك، من حيث إخلاله بالعقد، وعدم التزامه بشروط المشاركة، أو سوء إدارته للمشروع، أو تعديه أو تقصيره في القيام بمتطلباته بصورة سليمة.

والرهن أداة صالح للمساهمة في إدارة مثل هذه المخاطر والتخفيف من وطأتها، حيث إنه يجوز للمصرف أن يأخذ الرهن من الشريك، توثيقاً لما قد ينجم من الخسائر من الشركة بسبب تعدّي الشريك أو تقصيره. لأن يد الشريك في المشاركة يد أمانة، لا تَضْمَن إلا ما نتج عن تقصير أو تعدي[4]. والله أعلم.

المطلب السابع: الرهن أداةً لإدارة مخاطر الائتمان الناتجة عن التورق

التورق في الاصطلاح الفقهي هو شراء سلعة بثمن مؤجل، ثم بيعها لآخر بثمن نقدي للحصول على النقد[5]. فالداعي لعملية التورق هو الحاجة إلى النقود، فيلجأ المحتاج إلى من يبيعه السلعة بثمن آجل في ذمته، ليبيعها على آخر بثمن عاجل، فيحصل على النقود. وجمهور العلماء من الأئمة الأربعة وغيرهم على القول بإباحة التورق[6].

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[1] الشامسي، "المشاركة المنتهية بالتمليك"، **مجلة مجمع الفقه الإسلامي**، العدد 13، ص990.

[2] المرجع نفسه، ج13، ص991 - 992.

[3] القري، "العقود المستجدة ضوابطها ونماذج منها"، **مجلة مجمع الفقه الإسلامي**، العدد العاشر، 1418هـ/1998م، ص984.

[4] **وهناك فتاوى معاصرة تصرح بمثل ما قرره الباحث هنا. انظر: جماعة من العلماء، فقه المعاملات، ج3، ص358؛ فضل، إدارة المخاطر، ص27.**

[5] قال ابن مفلح: "ولو احتاج إلى نقد، فاشترى ما يساوي مائة بمائتين فلا بأس, نص عليه, وهي التورق". ابن مفلح، **الفروع**، ج6، ص316.

[6] لعامله على خيبر: "بع الجَمْع ε وذلك لعموم قول الله تعالى: **(وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا)** (البقرة: 275). وقول النبي (صنف من التمر) بالدراهم، ثم ابتع بالدراهم جَنِيباً (تمراً جيداً)". البخاري، **الجامع الصحيح**، كتاب البيوع، باب إذا أراد بيع تمر بتمر خير منه، ج2، ص767، رقم: 2089؛ القشيري، **الجامع الصحيح**، المساقاة، باب بيع الطعام مثلا بمثل، ج5، ص47، رقم: 4166. ولأنه لم يظهر فيه قصد الربا ولا صورته. وفيه فرق بينه وبين العينة المحرمّة على الصحيح؛ لأن العينة فيها بيع السلعة على البائع الأول نفسه، بخلاف التورق، فإن السلعة فيه تُباع على شخص آخر. انظر: **الموسوعة الفقهية الكويتية**، ج14، ص147 - 148.

والتورق المصرفي هو أن يشتري شخص من المصرف بضاعة بالتقسيط، ثم يذهب بها إلى السوق، فيبيعها نقداً بأرخص من الثمن الذي اشتراها به ليستفيد بالثمن[1]. وقد أفتى المجمع الفقهي التابع لرابطة العالم الإسلامي بجواز هذا النوع من التورق، وذلك في دورته الخامسة عشرة المنعقدة بمكة المكرمة سنة 1419هـ/1998م[2].

والتورق المصرفي هو أن يذهب شخص إلى البنك ليشتري البضاعة بالتقسيط، مع أنه لا يريد البضاعة وإنما يريد ثمنها؛ فإذا اشتراها بالتقسيط ذهب بها إلى السوق، فباعها نقدا بأرخص من الثمن الذي اشتراها به ليستفيد بالثمن[3]. وقد أفتى المجمع الفقهي التابع لرابطة العالم الإسلامي بجواز هذا النوع من التورق الفردي، وذلك في دورته الخامسة عشرة المنعقدة بمكة المكرمة سنة 1419هـ/1998م[4]. إلا أن هذا الأسلوب توسعت فيه البنوك الإسلامية ليصبح "تورُّقاً مصرفياً أو منظماً"، وهو أن يقوم البنك بشراء كمية من السلع لنفسه، ثم يبيعها إلى عملائه. فإذا تقدم العميل إلى البنك فإنه يطلب شراء كمية محددة من السلع، فيبيعها عليه البنك بيعاً مؤجلاً مقسَّطاً، فتصبح السلعة ملكاً لذلك العميل، ويجوز له التصرف فيها بالبيع إلى طرف ثالث، ثم يبيعها البنك بالوكالة على طرف ثالث بالسعر الجاري في السوق، ويودع الثمن للعميل في حسابه الخاص[5].

وهذه الصورة من التورق هي التي حصل فيها الأخذ والرد بين العلماء المعاصرين، فمنهم من يرى جوازها، ومنهم من يقول بحرمتها[6]. وممن أفتى بالحرمة: مجلس المجمع الفقهي الإسلامي التابع لرابطة العالم الإسلامي، وذلك في دورته السابعة عشرة المنعقدة بمكة المكرمة، سنة 1424هـ/2003م[7]. وعلى كل حال فإن التورق المصرفي أياّ كانت صورته فإنه يعتبر صيغة تمويلية تحيط بها مخاطر الائتمان، المتمثلة في عدم التزام العميل بدفع ما عليه من الدين الناجم عن التورق في وقته، أو عدم دفعه مطلقاً، ومن هنا يأتي دور الرهن، حيث يجوز للمصرف أن يوثق دينه الذي على عميله بتوقيع الرهن معه، حتى يستوفي منه حقه عند تعذر الوفاء من العميل، ويستحق به -أيضاً- التقدم على بقية الغرماء[8]. والله أعلم.

هذا ما تيسر استعراضه من الصور التي يمكن أن يكون الرهن فيها صالحًا لإدارة مخاطر الائتمان وتخفيفها في المصارف الإسلامية. وبالله التوفيق.

الخاتمة

في ختام هذا العرض يمكن إيجاز ما يتضمنه البحث من النتائج في النقاط التالية:

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1). 02/01/2010 (http://islamifn.com/maaeer/tawrug.htm) **التورق**، انظر: إسلامي إف إن، **التورق**،

2 انظر: المنيع، **التأصيل الفقهي للتورق**، مجلة البحوث الإسلامية، العدد الثاني والسبعون. (1425هـ)، ص358.

3). 02/01/2010 (http://islamifn.com/maaeer/tawrug.htm انظر: إسلامي إف إن، **التورق**،

4 انظر: المنيع، **التأصيل الفقهي للتورق**، مجلة البحوث الإسلامية، العدد 72، ص358.

5 انظر: السعيدي، **التورق كما تجريه المصارف**، ص2- 3.

6 **المنيع**، التأصيل الفقهي للتورق، **مجلة البحوث الإسلامية**، **العدد 72**، ص**374– 375**، والشخ المنيع ممن يرى جوازها.

7 انظر: **فتاوى الشبكة الإسلامية** المضافة إلى المكتبة الشاملة، 4795/6، رقم الفتوى: (46179).

8 مجموعة دلة البركة، "مشاكل البنوك الإسلامية"، **مجلة مجمع الفقه الإسلامي**، العدد الثامن 1413هـ/1993م، ص1661.

الأولى: إن المخاطر المصرفية هي تلك الأمور المحتملة الوقوع، والتي تجعل المصرف متخوفاً من حصول الخسارة فيما يقوم به من النشاطات، سواء منها ما يتعلق بأمواله المقرضة، أو المستثمرة، مما يكون له تأثيره السلبي في تحقيق أهداف المصرف المرجوة.

الثانية: إن مخاطر الائتمان المصرفي هي المخاطر التي تنشأ عن عجز العميل عن الوفاء بما عليه من الالتزامات تجاه المصرف، أو عدم رغبته في الوفاء بهذه الالتزامات، وهي أخطر أنواع المخاطر التي تواجه الصيرفة الإسلامية، وهي موجودة في بجميع عمليات التّمويل التي تقوم بها هذه المصارف.

الثالثة: إن إدارة المخاطر المصرفية، هي عملية تهيئة البيئة المناسبة لتوقع المخاطر المحتملة على المصرف، ودراستها وتحديدها وقياسها، وتحديد مقدار آثارها المحتملة على أعمال المصرف وأصوله وإيراداته، ووضع الخطط المناسبة لتجنُّب هذه المخاطر، أو التخفيف من أثرها السلبي على المصرف.

الرابعة: إن توقي المخاطر، وتجنبها قبل وقوعها، وإدارتها حال وقوعها؛ يُعد كل ذلك مما تدعو إليه الشريعة الإسلامية، وتحثُّ عليه، وهذا لا يتعارض مع قاعدتي: "الخراج بالضَّمان" و"الغُرْم بالغُنْم".

الخامسة: إن الرهن أداة مهمٌّ لإدارة مخاطر الائتمان المصرفي الناتجة عن أهمّ صيغ التمويل لدى المصارف الإسلامية، لِكون هذه الصيغ متضمنةً لمخاطر عدم التزام العميل بسداد أو تسليم حقوق المصرف المالية أو السلعية في أوقاتها أو على أوصافها، أو عدم السداد مطلقاً، والرهن يدفع بالعميل للقيام بالتزاماته تجاه المصرف، كما أن الرهن يخوِّل المصرفَ فرصة استيفاء حقوقه أو بعضها منه عند تعذُّر السداد، وفي الوقت نفسه يعطي المصرفَ حقَّ التقدُّم على الدائنين الآخَرين.

وبهذا يأتي البحث إلى تمامه. فما كان منه من صواب فبمَنٍّ من الله وفضله، وأستغفر الله من كل زلة وهفوة، إنه هو الغفور الرحيم. والحمد الله أولا وآخرا. وصلَّى الله وسلَّمَ وبارك على نبينا محمد وعلى آله وصحبه أجمعين.

المصادر والمراجع

القرآن الكريم

أبحاث هيئة كبار العلماء بالمملكة العربية السعودية، العدد الخامس، (1422هـ/2002).

ابن تيمية، أحمد بن عبد الحليم، **مجموع الفتاوى**، جمع وترتيب عبد الرحمن بن محمد بن قاسم، (القاهرة: مطبعة الساحة العسكرية، 1404هـ).

ابن جبرين، عبد الله بن عبد الرحمن، **شرح عمدة الأحكام**، دروس صوتية مفرغة، (المكتبة الشاملة، الإصدار الثالث، 2007م).

ابن رشد، محمد بن أحمد، **بداية المجتهد ونهاية المقتصد**، (بيروت: دار الفكر، ط1، 1403هـ/1982م).

ابن سيده، أبو الحسن علي بن إسماعيل، **المحكم والمحيط الأعظم**، تحقيق: عبد الحميد هنداوي، (بيروت: دار الكتب العلمية، د. ط، 1421هـ/2000م).

ابن عابدين، محمد أمين، **رد المحتار على الدر المختار شرح تنوير الأبصار**، (بيروت: دار الفكر، د.ط، 1421هـ/2000م).
ابن عبد البر، أبو عمر يوسف بن عبد الله، **الاستذكار الجامع لمذاهب فقهاء الأمصار**، تحقيق سالم محمد عطا ومحمد علي معوض، (بيروت: دار الكتب العلمية، ط1، 1421هـ/2000م).
ابن عجيبة، أحمد بن محمد، **البحر المديد في تفسير القرآن المجيد**، (بيروت: دار الكتب العلمية، ط2، 1423هـ/2003م).
ابن قدامة، عبد الله بن أحمد المقدسي، **المغني في فقه الإمام أحمد بن حنبل**، (بيروت: دار الفكر، ط1، 1408هـ/1987م).
ابن القيم، محمد بن أبي بكر، **زاد المعاد في هدي خير العباد**، (بيروت: مؤسسة الرسالة، ط27، 1415هـ/1994م).
ابن مفلح، محمد بن مفرج، **الفروع**، تحقيق: عبد الله بن عبد المحسن التركي، (بيروت: مؤسسة الرسالة، 1424هـ/2003م).
ابن منظور، محمد بن مكرم، **لسان العرب**، (بيروت: دار الصادر،ط1، د.ت.).
أبو حيان، محمد بن يوسف، **البحر المحيط في التفسير**، تحقيق: عادل أحمد عبد الموجود، (بيروت: دار الكتب العلمية، ط1، 1422هـ/2001م).
أبو داود، سليمان بن الأشعث، **سنن أبي داود**، تحقيق: محمد محيي الدين عبد الحميد، (بيروت: دار الفكر، د.ت.).
أبو غدة، عبد الستار، "القراض أو المضاربة المشتركة"، **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الإسلامي بجدة، العدد الثالث عشر، 1422هـ/2002م.
الألباني، محمد ناصر الدين، **إرواء الغليل في تخريج أحاديث منار السبيل**، (بيروت: المكتب الإسلامي، ط2، 1405هـ/1985م).
الألباني، محمد ناصر الدين، **صحيح سنن أبي داود**، (الكويت: مؤسسة غراس، ط1، 1423هـ/2002م).
إلكِيا الهرَّاسي، علي بن محمد بن علي، **أحكام القرآن**، تحقيق: موسى محمد علي وعزة عبد عطية، (بيروت: دار الكتب العلمية، ط2، 145هـ).
الأنصاري، زكريا بن محمد، **أسنى المطالب في شرح روض الطالب**، (بيروت: دار الكتب العلمية، 1421هـ/2000م).
البابرتي، أكمل الدين، محمد بن محمد، **العناية شرح الهداية**، (بيروت: دار الفكر، د.ت).
البخاري، محمد بن إسماعيل، الجامع المختصر الصحيح، تحقيق: مصطفى ديب البغا، (اليمامة: دار بن كثير، ط3، 1407هـ/1987م).
البدني، يوسف آدم، **دور العربون في تخفيف المخاطر في المصارف الإسلامية وتطبيقاته المعاصرة**، رسالة مقدمة لنيل درجة الماجستير في الفقه وأصوله بالجامعة الإسلامية العالمية ـ ماليزيا، عام 2009م (غير منشورة).
البيهقي، أحمد بن الحسين، **السنن الكبرى**، تحقيق: محمد عبد القادر عطا، (مكة المكرمة: مكتبة دار الباز، د.ت.).
التارزي، مصطفى كمال، "الاستصناع والمقاولات في العصر الحاضر"، **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الاسلامي بجدة، العدد الثالث عشر، 1422هـ/2002م.

الجرجاني، علي بن محمد، **التعريفات**، تحقيق: إبراهيم الأبياري، (بيروت: دار الكتاب العربي، ط1، 1405هـ).
جماعة من العلماء، **فقه المعاملات**، (المكتبة الشاملة، الإصدار الثالث، 2007م).
الجندي، خليل بن إسحاق، **مختصر خليل**، تحقيق: أحمد جاد، (القاهرة: دار الحديث، ط1، 1426هـ/2005م).
الجواهري، حسن، "المناقصات: عقد الاحتياط ودفع التهمة"، **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الإسلامي بجدة، العدد التاسع، 1417هـ/1996م.
حطاب، كمال توفيق، **نحو سوق مالية إسلامية**، (إربد: جامعة اليرموك، طبعة تمهيدية).
حماد، حمزة عبد الكريم، **مخاطر الاستثمار في المصارف الإسلامية**، (عمان: دار النفائس، ط1، 1428هـ/2008م).
حيدر، علي، **درر الحكام شرح مجلة الأحكام**، (بيروت: دار الكتب العلمية، د. ت).
الدعيلج، مبارك بن محمد، **الرهن في الفقه الإسلامي**، (الرياض: مكتبة الملك فهد الوطنية، ط1، 1420هـ/2000م).
الرازي، محمد بن عمر، **مفاتيح الغيب**، (بيروت: دار الكتب العلمية، ط1، 1421هـ/2000م).
الزبيدي، محمد مرتضى بن محمد، **تاج العروس من جواهر القاموس**، (الكويت: المجلس الوطني للثقافة والفنون والآداب، 1422هـ/2005م).
الزحيلي، وهبة بن مصطفى، **الفقه الإسلامي وأدلته**، (بيروت: دار الفكر المعاصر، ط4، 2004م).
الزرقا، أحمد بن الشيخ محمد، **شرح القواعد الفقهية**، (دمشق: دار القلم، د.ت).
الزرقاني، محمد بن عبد الباقي، **شرح موطأ الإمام مالك**، (بيروت، دار الكتب العلمية، 1411هـ).
الزركشي، محمد بن عبد الله، **المنثور في القواعد**، تحقيق: تيسير فائق، (الكويت: وزارة الأوقاف والشؤون الإسلامية، ط2، 1305هـ).
الزيلعي، فخر الدين عثمان بن علي، **تبيين الحقائق شرح كنز الدقائق**، (القاهرة: دار الكتاب الإسلامي، 1313هـ).
السالوس، علي، "التطبيقات الشرعية لإقامة السوق الإسلامية"، **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الإسلامي بجدة، العدد الثامن، 1413هـ/1993م.
السالوس، علي بن أحمد، **مخاطر التمويل الإسلامي**، طبعة تمهيدية، (المكتبة الشاملة، الإصدار الثالث، 2007م).
السامرائي، سعيد عبود، **القاموس الاقتصادي**، (بغداد: مطبعة المعارف، ط1، 1980م).
سامي، حسن حمود، "الأدوات المالية الإسلامية"، **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الإسلامي بجدة، العدد السادس، 1410هـ/1990م.
السبر، سعد بن عبد الله، **التأجير المنتهي بالتمليك**، (المكتبة الشاملة، الإصدار الثالث، 2007م).
السرخسي، أبو بكر محمد بن أبي سهل، **المبسوط في شرح الكافي**، تحقيق: محمد حسن محمد، (بيروت: دار الكتب العلمية، 1421هـ/2001م).

السُّغْدي، أبو الحسن علي بن الحسين، **النتف في الفتاوى**، تحقيق: صلاح الدين الناهي، (عَمّان: دار الفرقان، بيروت: مؤسسة الرسالة، ط2، 1404هـ/1984م).
السمرقندي، علاء الدين محمد بن أحمد، **تحفة الفقهاء**، (بيروت: دار الكتب العلمية، ط2، 1414هـ/1994م).
السندي، محمد بن عبد الهادي، **حاشية السندي على سنن النسائي**، (حلب: مكتب المطبوعات الإسلامية، ط2، 1406هـ/1986م).
السويلم، سامي بن إبراهيم، **التحوط في التمويل الإسلامي**، (جدة: البنك الإسلامي للتنمية، المعهد الإسلامي للبحوث والتدريب، ط1، 1428هـ/2007م).
السيوطي، عبد الرحمن بن أبي بكر، **الأشباه والنظائر**، (بيروت: دار الكتب العلمية، 1403هـ).
الشاطبي، إبراهيم بن موسى، **الموافقات**، تحقيق: مشهور بن حسن آل سلمان، (القاهرة: دار ابن عفان، ط1، 1417هـ/1997م).
الشامسي، جاسم، "المشاركة المنتهية بالتمليك"، **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الإسلامي بجدة، العدد الثالث عشر، 1422هـ/2002م.
الشنقيطي، محمد الأمين بن محمد المختار، **أضواء البيان في إيضاح القرآن بالقرآن**، (بيروت: دار الفكر، 1415هـ/1995م).
الشنقيطي، محمد بن محمد المختار، **شرح زاد المستقنع**، دروس صوتية مفرغة، (المكتبة الشاملة. الإصدار الثالث، 2007م).
صديقي، محمد نجاة الله، "مشكلات البنوك الإسلامية" **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الإسلامي بجدة، العدد السابع، 1412هـ/1992م.
الطبراني، سليمان بن أحمد، **المعجم الكبير**، تحقيق: حمدي بن عبد المجيد السلفي، (الموصل: مكتبة العلوم والحكم، ط2، 1404هـ/1983م).
الطبري، أبو جعفر، محمد بن جرير، **جامع البيان عن تأويل آي القرآن**، (بيروت: مؤسسة الرسالة، ط1، 1420هـ/2000م).
العبادي، أبو بكر بن علي بن محمد الحداد، **الجوهرة النيرة على مختصر القدوري**، (باكستان: مكتبة حقانية، د.ط، د.ت).
العبادي، "الاستصناع ودوره في العمليات التمويلية المعاصرة"، **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الإسلامي بجدة، العدد السابع، 1412هـ/1992م.
عبد الله، أحمد علي، **المرابحة: أصولها وأحكامها وتطبيقاتها في المصارف الإسلامية**، (الخرطوم: الدار السودانية، 1407هـ).
العيني، محمود بن أحمد، **عمدة القاري شرح صحيح البخاري**، (بيروت: دار الكتب العلمية، 1404هـ/1983م).
فتاوى الشبكة الإسلامية المضافة إلى المكتبة الشاملة، 4795/6، رقم الفتوى: (46179).
الفيومي، أحمد بن محمد، **المصباح المنير في غريب الشرح الكبير**، (بيروت: المكتبة العلمية، د.ت).
القري، محمد علي، "العقود المستجدة ضوابطها ونماذج منها"، **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الإسلامي بجدة، العدد العاشر، 1418هـ/1998م.

القشيري، مسلم بن الحجاج، **صحيح مسلم**، تحقيق: محمد فؤاد عبد الباقي، (بيروت: دار إحياء التراث العربي، د.ت.).
الكاساني، أبو بكر بن مسعود، **بدائع الصنائع في ترتيب الشرائع**، تحقيق: محمد خير طمعة، (بيروت: دار الكتب العلمية، ط1، 1420هـ/2000م).
الماوردي، علي بن الحسن، **الحاوي الكبير**، (بيروت: دار الفكر، د.ت.).
المجددي، محمد عميم الإحسان، **قواعد الفقه**، (كراتشي: ببلشرز، 1407هـ/1986م).
مجلة مجمع الفقه الإسلامي، التابع لمنظمة المؤتمر الإسلامي بجدة، العدد الرابع، 1408هـ/1988م).
مجلس الخدمات المالية الإسلامية، **المبادئ الإرشادية لإدارة المخاطر لمؤسسات خدمات المالية الإسلامية**، (كوالالمبور: بنك نيغارا، 2005م).
مجموعة دلة البركة، "مشاكل البنوك الإسلامية"، **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الإسلامي بجدة، العدد الثامن 1413هـ/1993م.
المرداوي، علي بن سليمان، **الإنصاف في معرفة الراجح من الخلاف**، (بيروت: دار إحياء التراث العربي، ط1، 1419هـ).
المصري، "بيع المرابحة للآمر بالشراء"، **مجلة مجمع الفقه الإسلامي**، التابع لمنظمة المؤتمر الاسلامي بجدة، العدد الخامس، 1409هـ/1988م.
المناوي، محمد عبد الرؤوف، **فيض القدير شرح الجامع الصغير**، (بيروت: دار الكتب العلمية، ط1، 1415هـ/1994م).
المنيع، عبد الله بن سليمان، "التأصيل الفقهي للتورق في ضوء الاحتياجات التمويلية المعاصرة"، **مجلة البحوث الإسلامية**، الرئاسة العامة لإدارات البحوث العلمية والإفتاء والدعوة والإرشاد، العدد الثاني والسبعون. (1425هـ).
الموسوعة الفقهية الكويتية، (الكويت: وزرة الأوقاف والشؤون الإسلامية، 1404هـ - 1427هـ).
النووي، يحيى بن شرف، **المنهاج شرح صحيح مسلم بن الحجاج**، (بيروت: دار إحياء التراث العربي، ط2، 1392هـ).
هندي، منير إبراهيم، **إدارة الأسواق والمنشآت المالية**، (الإسكندرية: منشأة المعارف، 1997م).

Erik Banks and Richard Dunn. Practical Risk Management. Sussex, England. (2003), p19.

مواقع الشبكة العنكبوتية (الإنترنت)
إدارة مخاطر التشغيل بالمصارف الإسلامية في ظل بازل2:
http://islamfin.go-forum.net/montada-f29 (23/4/2009).
أحمد، جمعة حمدان، أحكام وصيغ العقود المصرفية الشائعة فى السودان، موسوعة الاقتصاد والتمويل الإسلامي:
http://iefpedia.com/arab/?p=9172 (04/09/2011).

إسلامي إف إن، التورق:
http://islamifn.com/maaeer/tawrug.htm (02/01/2010).
إسلامي إف إن، السلم:
http://islamifn.com/maaeer/salim.htm (14/09/2009).
الاقتصادية الالكترونية، صيغ التمويل الإسلامية المضاربة:
http://www.aleqt.com/2006/08/05/article_51171.html (23/02/2010).
الدروبي، محمد سهيل، "إدارة المخاطر في المصارف الإسلامية":
http://www.jame3a.com (05/09/2009).
الرفاتي، علاء، "إدارة مخاطر الاستثمار":
http://kenanaonline.com/users/ahmedk (14/09/2010).
السعيدي، عبد الله بن حسن، التورق كما تجريه المصارف في الوقت الحاضر:
http://www.almoslim.net/node/83419 (03/05/2012).
عفانة، حسام الدين، شبكة يسألونك الإسلامية:
http://yasaloonak.net/2008-09-18-11-36-26/2009-07-07-12-25-03/1195-2009-09-26-05-51-47.html (22/02/2010).
فضل عبد الكريم محمد، "إدارة المخاطر في المصارف الإسلامية":
http://islamiccenter.kau.edu.sa/arabic/Hewar.../243.pdf (22/05/2011).
القري، محمد بن علي، المخاطر الائتمانية في العمل المصرفي الإسلامي: دراسة فقهية اقتصادية:
http://www.kantakji.com/fiqh/Files/Banks/3346.htm (21/02/2010).
المنجد، محمد صالح، حكم الإجارة المنتهية بالتمليك:
http://www.islamqa.com/ar/ref/14304 (23/02/2010).
وهبة، محمد سليم، "إدارة المخاطر في المصارف الإسلامية":
http://www.badlah.com (17/11/2008).

دور الإعلام الإسلامي في محاربة الفساد المالي

Ahmed Abdul Malik

مقدمة

تهدد المشاكل التي يطرحها الفساد المالي والعقلية المادية استقرار وأمن المجتمع البشري والكون، وتقوّض قيم الأخلاق، وتعرِّض التنمية الاجتماعية والاقتصادية والسياسية للخطر والدمار. ويبرز القلق من الصلات القائمة بين الفساد وسائر أشكال الجريمة النكراء، وخاصة الجريمة المنظمة والجريمة الاقتصادية، بما فيها غسل الأموال ونمو ألوان مختلفة من الحركات الإرهابية الهدامة وأوكار مافيا الاغتيال والاختطاف والقرصنة.

وفي سياق حركية العولمة، يعبر المجتمع الدولي باستمرار عن قلقه الكبير من اكتساب كبار الموظفين العموميين ثروات شخصية بصورة غير مشروعة، ما من شأنه أن يلحق ضرراً بالغاً بالمؤسسات والاقتصادات الوطنية وسيادة القانون، وكذلك بالجهود الرامية إلى تعزيز التنمية الاقتصادية في العالم(عواد، دت).

وليقضي الله أمرا كان مفعولا يجب على الإعلام بصفة عامة أن يلعب دوراً هاما وأساسياً في محاربة الاختلاس ومكافحة الفساد المالي في كل وظيفة من الوظائف الموجودة سواء كانت على الساحة الحكومية أو الأهلية، وسواء كانت على حدود القطاع العام أو على مستوى القطاع الخاص، ولا شك أن الإعلام بفنونه قادر على التصدي لهذه الكارثة المصطنعة التي صارت فنا من فنون الحياة الاجتماعية رغم خطورتها على تقدم ومستقبل أي فرد أو مجتمع يحلم الخير والسعادة لنفسه وللأجيال القادمة. والإعلام الإسلامي من جانبه يستطيع أن يؤدي ضعف ما يمكن أن يؤديه الإعلام العام بتناول الموضوع ومعالجته من منظور شرعي وعقيدي وأخلاقي، وحينما يجلد المفسدين وهو قائم على هذه الأسس يؤلم ويؤثر أكثر ممن يجلد وهو قائم على أرض جرداء، وذلك إن كان في قلب المستهدفين مثقال ذرة من الإيمان والإسلام. ومما لا يتجادل فيه إثنان هو أن الإعلام يملك أداة البحث والكشف والنشر، والمفسد يملك الكيد والكذب والتستر وراء ما هو أوهن من بيت العنكبوت في عين الإعلامي البصير الخبير.

فالمفسد بطبيعة الحال لا يستطيع ارتكاب جرائمه على الملأ ومهمة الإعلام هي إظهار الحقيقة وكشف ما يحدث بالخفاء ، من هنا ينشأ الصراع بين الإعلام والفساد والصدام بين الحق والباطل. فالمفسدون غالباً

بارعون في ارتكاب جرائم الفســـاد وعلى اطلاع واســـع بالقوانين وعلى معرفة ودراية تامة بما يقومون به وكيف يقومون به ولديهم قدرة كبيرة على التمويه وإخفاء جرائمه.

وهذا الداء العضال الذي يجرف قوام الفرد والمجتمع والدولة يمكن التغلب عليه وإزالته ، لأنه مرض ومن فضل الله تعالى ورحمته أن جعل لكل داء دوائه، ومما يدل على أنه داء ترى المفسدين يتبجحون ويترفون ويظنون أنهم يحسنون صنعا وفي ذلك قال الله تعالى:(وَإِذَا قِيلَ لَهُمْ لا تُفْسِدُوا فِي الْأَرْضِ قَالُوا إِنَّمَا نَحْنُ مُصْلِحُونَ) (القرآن. البقرة2:11) ، فلم يكتفوا بأن ينفوا عن أنفسهم الإفساد، بل تجاوزوه إلى التبجح والتبرير، والذين يفسدون أشنع الفساد ويقولون: إنهم مصلحون كثيرون جدا في كل زمان، يقولونها لأن الموازين مختلة في أيديهم، ومتى اختل ميزان الإخلاص والتجرد في النفس اختلت سائر الموازين والقيم، والذين لا يخلصون سريرتهم لله يتعذر أن يشعروا بفساد أعمالهم، لأن ميزان الخير والشر، والصلاح والفساد يتأرجح مع الأهواء الذاتية، ولا يؤوب إلى قاعدة ربانية" (قطب،1992). وأما دور الإعلام في هذا الأمر فهو الكشف والنشر ليكون الناس على علم به وبخطورته، وهذه العملية تعتبر حربا بين الإعلاميين وبين المجرمين، ونصر الإعلاميين في هذه الحرب أكيد إذا وجدت الجدية وصدقت النية وخططت تخطيطا ثقيفا نحو الهدف، ذلك لأن الحرب أية حرب تحتاج إلي المبادىء المذكورة وإلا فالخسارة والهزيمة مهما كثرت الأسلحة وتألفت العساكر وقويت العضلات.

وستدرس هذه المقالة مفهوم الفساد المالي أنواعه وأسبابه وكيفية محاربته بنشاط الإعلام الإسلامي وفنونه، كما ستقدم بعض الاقتراحات والتوصيات في نهاية المطاف إن شاء الله.

مفهوم الفساد المالي لغة واصطلاحا

إن الحديث عن الفساد المالي يتحتم تناول الحديث عن الحركات الإجرائية التي تحيط بالمال ذاته واليد التي تحاكم وتوصف، وهي الوسيلة التي يجب أن تكون المحركة للمال، وتلك الحركات الإجرائية هي نزيهة ونظيفة وإلا فالمواد المحصولة منها توصف بالفساد. تعتبر ظاهرة الفساد والفساد المالي بصورة خاصة ظاهرة عالمية شديدة الانتشار ذات جذور عميقة تأخذ أبعاداً واسعة تتداخل فيها عوامل مختلفة يصعب التمييز بينها، وتختلف درجة شموليتها من مجتمع إلى آخر. إذ حظيت ظاهرة الفساد في الآونة الأخيرة باهتمام الباحثين في مختلف الاختصاصات كالاقتصاد والقانون وعلم السياسة والاجتماع، كذلك تم تعريفه وفقاً لبعض المنظمات العالمية حتى أضحت ظاهرة لا يكاد يخلو مجتمع أو نظام سياسي منها.

لاقت مشكلة الفساد اهتمام الكثير من الباحثين والمهتمين واتفقت الآراء على ضرورة وضع وتأسيس إطار عمل مؤسسي الغرض، منه تطويق المشكلة وعلاجها من خلال خطوات جدية ومحددة ومكافحة الفساد بكل صوره ومظاهره وفي كافة مجالات الحياة لتعجيل عملية التنمية الاقتصادية (http://www.e-moh.com). وفيما يأتي بيان مفهوم الفساد لغة وإصطلاحا.

الفساد لغةً:- الفساد في معاجم اللغة من (فسد) ضد صَلُحَ (والفساد) لغة البطلان(مصطفى، د. ت) فيقال فسد الشيء أي بطُلَ واضمحل (إبن منظور، د. ت). ويأتي التعبير على معانٍ عدة بحسب موقعه. فهو (الجدب أو القحط) كما في قوله تعالى (ظهر الفساد في البر والبحر بما كسبت أيدي الناس ليذيقهم بعض الذي عملوا لعلهم يرجعون) (القرآن. الروم30: 41) أو (الطغيان والتجبر) كما في قوله تعالى (للذين لا يريدون علواً في الأرض ولا فساداً) (القرآن. القصص28: 83) أو (عصيان لطاعة الله) كما في قوله تعالى (إنما جزاء الذين يحاربون الله ورسوله ويسعون في الأرض فساداً إن يقتلوا أو يصلبوا أو تقطع أيديهم وأرجلهم من خلاف أو ينفوا من الأرض ذلك لهم خزي في الدنيا ولهم عذاب عظيم) (القرآن. المائدة5: 33) ونرى في الآية الكريمة السابقة تشديد القرآن الكريم على تحريم الفساد على نحو كلي، وأن لمرتكبيه الخزي في الحياة الدنيا والعذاب الشديد في الآخرة. ولا يفوتنا أن نشير إلى أن ارتباط الإنسان بالفساد هو ارتباط تاريخي ويكاد يكون بيولوجيا .

فقد سجّل لنا النص الديني ومثاله النص القرآني هذه العلاقة منذ بداية الخلق بل ومنذ أن كان الإنسان مجرّد مشروع لم يتجسد بعد في شكل ماديّ، إذ ورد في سورة البقرة ما يلي " وإذ قال ربّك للملائكة إنّي جاعل في الأرض خليفة قالوا أتجعل فيها من يفسد فيها ويسفك الدماء ونحن نسبح بحمدك ونقدّس لك. قال إني أعلم ما لا تعلمون " .(القرآن. البقرة2: 30). إن هذه الآية تكشف لنا أمرين أساسيين :

- أن الفساد يتعارض مع منطق الاستخلاف ومقتضياته وهو أمر اهتدت إليه الملائكة .

- أن تركيبة الإنسان النفسية والذهنية تهيؤه إلى ارتكاب أعمال فساد . وأن مقاومة هذه الأعمال يتم من خلال نشر وعي الاستخلاف وثقافته.

ومهما تكن خلفية موقف الملائكة من الإنسان الخليفة قبل خلقه فإن ذلك يكشف لنا حقيقة تاريخية وهي أن الإنسان دائم التمرّد على قيم الضبط السلوكي

الفساد اصطلاحاً:- ليس هناك تعريف محدد للفساد بالمعنى الذي يستخدم فيه هذا المصطلح اليوم، لكن هناك اتجاهات مختلفة تتفق في كون الفساد هو إساءة استعمال السلطة العامة أو الوظيفة العامة للكسب الخاص.

ويحدث الفساد عادة عندما يقوم موظف بقبول أو طلب ابتزاز رشوة لتسهيل عقد أو إجراء طرح لمناقصة عامة. كما يمكن للفساد أن يحدث عن طريق استغلال الوظيفة العامة من دون اللجوء إلى الرشوة وذلك بتعيين الأقارب ضمن منطق المحسوبية والمنسوبية أو سرقة أموال الدولة مباشرةً(الوانلي،2006). فيمكننا تعريفه بأنه: استغلال أو إهمال للقانون للحصول على مكاسب مادية أو معنوية على حساب الأفراد أو المجتمع.

مصطلح يتضمن معاني عديدة في طياته. والفساد موجود في كافة القطاعات الحكومية منها إن الفساد والخاصة فهو موجود في أي تنظيم يكون فيه للشخص قوة مسيطرة أو قوة احتكار على سلعة أو خدمة أو صاحب قرار وتكون هناك حرية في تحديد الأفراد الذين يستلمون الخدمة أو السلعة أو تمرير القرار لفئة دون الأخرى. وأما إذا نسبنا المال إلي الفساد، وقلنا مثلا الفساد المالي إنما نقصد به كافة المعاملات المالية والاقتصادية المخالفة لأحكام ومبادئ الشريعة الإسلامية، وتؤدي إلى أكل أموال الناس بالباطل وإلى عدم استقرار المجتمع وإلى الحياة الضنك لطبقة الفقراء والمعوزين ومن في حكمهم(شحاتة، 2011). والفساد المالي كما قال البشير"هو مخالفة القانون بانتهاج طرق ملتوية غير قانونية لتحقيق مكاسب مالية، وفي الوقت نفسه هو جلب الأموال من طرق غير مشروعة، أو إنفاقها في طرق غير مشروعة بما لا يحقق العدالة والمساواة(2012).

والواقع أن الفساد هو كل اعتداء على حق المواطن الذي يضمنه الدين والقانون الطبيعي والقانون الوضعي والقانون الإنساني، و لا ينحصر الفساد بتراكم ثروة بطريقة غير شرعية أو قانونية و إنما يتجاوز ذلك بكثير؛ لذا وجب نشر الثقافة البديلة بين المواطنين لتعرية مفهوم الفساد وفضح ضرره الاقتصادي والاجتماعي والسياسي والأخلاقي ، وثقافة تعزيز الأخلاق النبيلة.

أنواع الفساد المالي

والفساد المالي يمكن تقسيمه من حيث النظر إلى حجمه إلى الفساد الصغير والفساد الكبير، ومن حيث مهارة المفسد إلى الفساد الجلي والفساد الخفي، ومن حيث انتشاره إلى: فساد دولي، وفساد محلي، وفي الشئون الاقتصادية قسمه الباحثون إلى فساد القطاع العام، وفساد القطاع الخاص، ومن حيث نوعه

فهناك الفساد المالي، والفساد الإداري، والفساد القضائي، والفساد السياسي، والفساد الأخلاقي،والفساد العقيدي والفساد الاجتماعي...الخ. وفيما يأتي بيان ذلك:

الفساد باعتبار حجمه

أما الفساد بالنظر إلى حجمه إذا وضع في المقياس الأخلاقي أو نظر إليه بالعدثة القانونية وعلى حسب آثاره السيئة في المجتمع، فإنه كما قالت سعاد(2014) ينقسم إلى ما يأتي:

1 . الفساد الصغير (Minor Corruption) هو فساد الدرجات الوظيفية الدنيا، وهو الفساد الذي يمارس من فرد واحد دون تنسيق مع الآخرين لذا نراه ينتشر بين صغار الموظفين عن طريق استلام رشاوى من الآخرين .

2 . الفساد الكبير (Gross Corruption) هو فساد الدرجات الوظيفية العليا من الموظفين، والذي يقوم به كبار المسؤولين والموظفين لتحقيق مصالح مادية أو اجتماعية كبيرة وهو أهم واشمل واخطر لتكليفه الدولة مبالغ ضخمة .

وأما باعتبار مدى المهارة الإجرامية لمرتكبي الفساد وقدره على التزييف والتلبيس حتى يتعرق المحققون أو يفشلوا فإننا نرى أن هناك نوعان:

1. الفساد الخفي (Hidden Corruption) وخطورة هذا النوع من الفساد أنه "خفي".. نعم، الفساد دائما خفي، لأنه ما من فاسد إلا ولديه مبررات متنوعة لما يأخذه من مال، بل إن بعض الفاسدين يهاجمون الفساد، يأتي الخفاء بسبب تشعّب طرق إنفاق المال وضعف الرقابة عليه وتحوّل بعض المؤسسات الحكومية إلى بقرة حلوب لدى بعض مسؤوليها، ولكن نصف هذا النوع بالخفاء لأنه في الواقع أخفى من دبيب النمل لأن مرتكبه لسبب أو لآخر يستطيع أن يغطي إجرامه حتى لايعرفه أحد. خفاء الفساد يعود إلى ثغرات في الأنظمة والرقابة، حين تكون الأنظمة مساعدة أو مهيئة لأن يُقْتصّ من المال، وحين تكون المؤسسات الرقابية شبعت من النوم والتثاؤب حينها تنشط الأيدي الخفيفة، وفي المثل: "المال السائب يعلّم السرقة". مشكلة الفساد ليست مادية فقط وإنما ترتبط ارتباطا وثيقا بجرائم شعبية واجتماعية.
2. الفساد الجلي (Plain Corruption) وهذا النوع من الفساد يتميز بالوضوح لدى العام والخاص، بحيث تكون صور الفساد موجودة وتتجسد للجمهور بالصورة والصوت على أرض الواقع فهم يرونها بصور ثلاثية الأبعاد ورباعية الأبعاد ومن كل جانب. وأمثل لهذا النوع ما شاهدته بعيني في بلدي الحميم نيجيريا من طريق جديد يفسد بعد أسبوع فقط من بنائه، ومستشفى يخر سقفه مع

أول رشة مطر، وجسر يهوي بعد عدة أسابيع من بنائه وقد كلف ملايين دولار، ومبنى مدرسي يسقط سقفه وهو حديث البناء والتلاميذ يرون في مدارسهم أن الأرضيات تهوي، الناس يرون الفساد في مشاريع تتعثر وأخرى تتوقف، يعايشونه في حياتهم ويرون أناسا من أصحاب المناصب تحولوا إلى أثرياء خلال شهر فقط من توليتهم في منصب حكومي معين، يبنون هنا وهناك وكل بيت من بيوتهم مزين بالسيّارات الفاخرة. فلعل الحل لمثل هذا النوع من الفساد أن يقوم الجمهور بطلب هيئة مكافحة الفساد أن تبدأ بالأهم وهو محاربة الفساد الواضح ومسح صوره المتكررة التي ذكرناها صورة تلو الأخرى وتنظيف المجتمع منه بحزم وقوة وشفافية.

أنواع الفساد من ناحية الانتشار

1. فساد دولي (International corruption)

وهذا النوع من الفساد يأخذ مدى واسعاً عالميا يعبر حدود الدول وحتى القارات ضمن ما يطلق عليها بالعولمة، بفتح الحدود والمعابر بين البلاد وتحت مظلة ونظام الاقتصاد الحر .

ترتبط المؤسسات الاقتصادية للدولة داخل وخارج البلد بالكيان السياسي أو قيادته لتمرير منافع اقتصادية نفعية يصعب الفصل بينهما لهذا يكون هذا الفساد أخطبوطياً يلف كيانات واقتصادات على مدى واسع ويعتبر الأخطر نوعاً .

2. فساد محلي (Local Corruption)

وهو الذي ينتشر داخل البلد الواحد في منشأته الاقتصادية وضمن المناصب الصغيرة ومن الذين لا ارتباط لهم خارج الحدود مع شركات أو كيانات كبرى أو عالمية (محمد،2014) .

الفساد في القطاع الخاص (Private Sector)

ويقصد بالقطاع الخاص جميع المؤسسات والشركات التي ليست تحت سيطرة الحكومة وغالبا ما تكون خاضعة لرأسمال الأفراد أو الشّركات أو المنظمات.

ان طبيعة الحركات الاقتصادية تتيح للقطاع الخاص القيام بدور المحرك الاساسي للتنمية الامر الذي يرتب على هذا القطاع حقوقا وواجبات توءهله لأن يشارك في صنع القرار الاقتصادي والاجتماعي ومن واجبه ان يسهم بالاستثمار في المجتمع.

الفساد في القطاع العام (Public Sector)

إن القطاع العام ليس مبتكراً في العصر الحديث، فقد ظهر مع ظهور الدولة، وتعبير القطاع العام يستخدم للدلالة على النشاطات الاقتصادية القائمة على أساس ملكية الدولة لرأس المال والمنتجات.

ويقول (عبد العليم) إن القطاع العام هو ملكية الدولة، وملكية الدولة من حيث النطاق المادي تشمل قطاع الأعمال العام من شركات ومؤسسات تعمل بالنشاط الاقتصادي الهادف إلى الربح، وكذلك الثروة الطبيعية المملوكة للأمة مثل النفط والمعادن والغابات والمياه، وأيضاً المرافق العامة والخدمات سواء في مجال البنية الأساسية الإنتاجية من طرق وموانئ ومواصلات، أو البنية الأساسية الاجتماعية مثل المدارس والمستشفيات، وقد تصبح أقسام منها إذا هدفت إلى الربح جزء من قطاع الأعمال العام (54 :1990).

من جهة النوع يشمل مجموعة كبيرة من مختلف ألوان الفساد إلا أنها فقد رأى أكثر الباحثين أن الفساد جميعا تندرج تحت سوء الإدارة وناشئ منه، ولذا قال الأقرع (2013)"يتضمن مصطلح الفساد الإداري محاور عديدة، ومنها:

1 . الفساد السياسي ويتمثل بالانحراف عن النهج المحدد لأدبيات التكتل أو الحزب أو المنظمة السياسية نتيجة الشعور بالأزلية أو كونه الأوحد أو الأعظم أو المنظر ، أو بيع المبادئ الموضوعة في أدبيات المنظمة للكتل الدولية أو الإقليمية القومية لسبب أو أكثر كالخيانة والتواطؤ والتغافل والإذعان والجهل والضغط وغيرها .

2 . الفساد الإداري ويتعلق بمظاهر الفساد والانحراف الإداري أو الوظيفي من خلال المنظمة والتي تصدر من الموظف العام أثناء تأدية العمل بمخالفة التشريع القانوني وضوابط القيم الفردية ، أي استغلال موظفي الدولة لمواقعهم وصلاحياتهم للحصول على مكاسب ومنافع بطرق غير مشروعة .

3 . الفساد المالي ومظاهره، الانحرافات المالية ومخالفة الأحكام والقواعد المعتمدة حالياً في تنظيمات الدولة (إدارياً) ومؤسساتها مع مخالفة ضوابط وتعليمات الرقابة المالية

4 . الفساد الأخلاقي ويتمثل بالانحرافات الأخلاقية وسلوك الفرد وتصرفاته غير المنضبطة بدين أو تقاليد أو عرف اجتماعي مقبول

(www.aman-palestine.org).

ورغم أن الفساد القضائي والاجتماعي يدخل في الفساد الإداري إلا أنه لم يذكرهما في مقالته، ولذا نأتي بالتعريف الخاص بهما، فنقول:

الفساد القضائي هوكما عرفته منظمة الشفافية الدولية "إساءة استعمال السلطة الموكلة لتحقيق مكاسب خاصة" وهذا لا يتضمن فقط المكاسب المالية لكن أيضاً المكاسب غير مادية، مثل تعزيز السلطة السياسية.

يمثل الفساد القضائي أي تأثير غير سليم على العملية القضائية من أي شخص وفي وضع يمكنه من قيام بذلك. ويأخذ شكلين رئيسين: التدخل السياسي من خلال تخويف القضاة، والتلاعب في التعيينات القضائية أو غيرها من الوسائل والتي تهدد استقلال القضاء، وثانيا الرشوة. وقد يحصل المحامي على أجر نظير القضية، أو يقبل القاضي الرشاوى للإسراع في الحكم في القضية.

باختصار، إن الفساد يؤثر في استقلال السلطة القضائية في العمل دون أي تأثير من أصحاب المصالح، ويؤثر في مسئوليتها ومسائلتها، وفعالية القواعد والرقابة(www.nscoyemen.com.)

"ليس جديدا ان نقول بان الفساد القضائي هو المنبع الاساس للظلم والتخلف الاقتصادي وهو المؤسس لجميع الويلات الانسانية في العالم وان أي نظام او دين انما انتبذ نفسه لمعالجة هذه المشكلة بالذات وخصها بالجانب الكبير من تنظيراته، فمن دون عدالة تنفرط جميع الامور ولا يبقى في الساحة غير حكم القوة ومنطقها المتعسف"(شبكة النبأ المعلوماتية، 2007).

كل التصرفات المخالفة لثقافة المجتمع وآدابه وقوانينه. ولا يمكن بأي حال اما الفساد الاجتماعي فهو من الأحوال أن نصنف مجتمع ما على انه مجتمع فاسد وآخر على أنه صالح أو نزيه بعيداً عن الظروف والأسباب التي أدت بهذا المجتمع أن يوصف بهذا الوصف، فكثرة الحروب والجهل والفقر والاستبداد هي عوامل تتضافر بمجملها لتشكل ثقافة عامة لدى المجتمع، ويقصد

بثقافة المجتمع في هذا الصدد، مجموعة القيم والأفكار والخبرات والتجارب المتراكمة في مجتمع ما، والتي تمثل هوية أجياله، وتتحكم في تصرفاتهم ومسيرتهم، وتميزهم عن غيرهم من المجتمعات الأخرى؛ في التصورات والاعتقادات، والمبادئ والأخلاقيات، والعادات والتقاليد، والأذواق والأحاسيس، والمعاملات الحياتية اليومية، وهي التي بها تحتفظ الأمة بهويتها الثقافية، وخصائصها التاريخية، وسماتها الحضارية التي تتباهى بها أمام الأمم الأخرى.

الفساد الأخلاقي ويقصد به ارتكاب واحدة أو أكثر من جرائم الكذب والخيانة والتزوير والسرقة والقتل وانتهاك حقوق الناس وأعراضهم، وتوجيه المجتمع باتجاه الفساد والإنحلال الأخلاقي وغيره، إن من أهم المبادئ السامية التي دعا إليها الإسلام وشدد عليها بقوة، التحلي بمكارم الأخلاق التي تكسب للإنسان المهابة والاحترام.وما بعث الرسول الكريم إلى البشرية كلها إلا ليتمم مكارم الأخلاق كما قال صلى الله عليه وسلم " إنما بعثت لأتمم مكارم الأخلاق"(الحديث: البخاري. كتاب الأدب المفرد# 273) .

ويكادالفساد الأخلاقي يكون أكثر وضوحا في المجتمعات لكونه يرتبط بالحريات الخاصة وتصرفات الافراد ويتمثَّل بمجمل الانحرافات الأخلاقية المتعلقة بالسلوك الفردي في إطار المعاملات وانتهاكه للقوانين الشرعية والأخلاقية التي يدين بها المجتمع، يتجلى ذلك في القيام بإعمال مخلة بالآداب ومخجلة أوالتعرض للحريات العامة وانتهاك الحرمات، وكثيرا ما ينتشر في الأوساط التي تعاني من ضعف الوازع الديني ، مما يؤثر إجتماعيا وسياسيا.

أسباب الفساد المالي

وأول مسؤول عن الفساد المالي هو الأخلاق أعني الفساد الأخلاقي كما تحدثنا عنه سابقا، كما أن المسؤول عن الفساد الأخلاقي هو الأسرة باعتبارها الحجر الأساس والدعامة القوية والمدرسة الأم التي يتلقى فيها الإنسان التربية الحسنة ويتعرف من خلالها على الجيد والسيء والصالح والطالح والواجب والممنوع والمسموح والمرفوض وغير ذلك من الأمور، لكنها قد تصبح سببا رئيسيا في ضياع هذا الإنسان عندما يغيب عنها الوازع الديني وتنعدم فيها شروط الإحساس بالمسؤولية والأمن والسلام داخل الأسرة والمجتمع ، باعتبار الأسرة مجتمع صغير يهيؤنا للتعامل والتعايش في المجتمع الكبير.

ثم هناك معاشرة أصدقاء السوء ، والتي قد يلجأ إليها الإنسان اليائس أو الذي يشعر بنقص داخل الأسرة أو اضطهاد أو خلل تربوي ، وذلك إما بحثا عن الدفء والأمان اللذين افتقدهما أو هروبا من المشاكل التي يعجز عن حلها ، فيحاول نسيانها رفقة أصدقاء اختارهم بمحض إرادته ودون تفكير في العواقب ، إذ يتم استغلاله وإغراءه بوسائل شتى قد تكون لها نتائج خطيرة عليه وعلى الأخرين من حوله كالتدخين وشرب الخمر والتعاطي للمخدرات، وغيرها من الأعمال السيئة فيغيب العقل ويشيع الفساد وتكثر الجرائم

، لأنه يصبح مضطرا للكذب والسرقة والإجرام من أجل تحقيق رغباته الدنيئة والشنيعة والحصول على ما ابتلي به.

ولا ننس مشاهدة القنوات الفضائية الماجنة التي أغلبها مشاهد ومغريات تخل بالمبادئ والأخلاق الفاضلة وتنسي الإنسان تعاليم الدين الإسلامي ، وتفقده احترامه وكرامته ، وتبعده عن طريق الحق والفضيلة،

كما أن التشبه بالغرب في عاداتهم وفي طريقة عيشهم ولباسهم وكلامهم وتعاملهم وتصرفاتهم اللامشروطة ، باسم الحضارة والتقدم ، من الأخطاء الكبيرة جدا التي تفسد الأخلاق والمجتمعات وتفقدنا المصداقية وكرامة الانتماء.

هذه الأسباب وغيرها ، تساهم في تفشي الفساد الأخلاقي والرذيلة في المجتمع ويكون لها أثر كبير على الأفراد والجماعات، كيف تريد الأمة أو شعب أن يتقدم وهو يعاني من الانحلال الأخلاقي وعدم استشعار أبنائه المسؤولية اتجاه أنفسهم ووطنهم .. !؟ إنه لمن المؤكد أن فساد الأخلاق يؤدي إلى الفساد المالي وإلي شيوع الفاحشة والزنا والظلم والسرقة والإجرام والابتزاز والتحايل الإقتصادي والسياسي بكل أنواعه. الفساد الأخلاقي هو أساس فساد الحكم والإدارة في المجتمعات هو أساس كل المتناقضات في كل المجالات، وهو أساس تفشي الفقر والمجاعة.

وقد ساهمت التكنولوجيا مساهمة كبيرة في تفشي الفساد الاخلاقي وآلياته، وتطور سبله، فالشبكة العنكبوتية أصبحت دارا للدعارة لارقابة عليها، حرية بشعة تنتهك حرمات البيوت دون إحساس بالذنب أو شعور بجسامة الخطإ والخطيئة، ونستنتج مما سبق أن الفساد المالي لايخلو عن الفساد السياسي والاجتماعي والأخلاقي(شحاتة، 2011) والفساد بذاته ينبت في أي مجتمع من المجتمعات لأسباب، منها يأتي:

- ضعف القيم الإيمانية وعدم الخشية من الله.
- انتشار الأخلاق السيئة ومنها: الظلم، والكذب، والنفاق، والرياء، والأنانية، وعدم الولاء والانتماء للوطن، والجشع، والمادية, والانتهازية وما في حكم ذلك.
- انتشار الفساد السياسي ومنه الدكتاتورية وسلب الإرادة والطغيان والاحتكار السياسي والظلم والاستبداد.
- انتشار الفساد الاجتماعي، ومنه زيادة الفوارق بين الطبقات بسبب سوء توزيع الثروة والفاحشة والفسوق.

ورغم أن الفساد ظاهرة معروفة لدى الكبير والصغير والعالم والجاهل لايجهلها أحد، إلا أن طبيعة البحث توجب علينا أن نذكر نماذج الفساد المالي المعاصر(شحاتة، 2011) ومنها ما يأتي:

- الاختلاس: وهو سلب وابتزاز مال الغير خلسة بدون حق مشروع.
- السرقة والغصب: وهو الاعتداء على مال الغير عمدًا وقهرًا
- الغش: وهو تقديم معلومات كاذبة عن السلع والخدمات مخالفة للحقيقة والواقع.
- التدليس والغرر والجهالة: ويقصد به تقديم معلومات وإيضاحات إلى الغير لتحفيزه على الشراء مخالفة للواقع.
- الرشوة: وهو الحصول على مال أو منعه نظير تسهيل الغبن وأمر معين بدون حقه
- بخس الحقوق: وهو عدم الوفاء بما اتفق عليه وإعطاء الغير دون حقه.
- التكسب (التربح) من الوظيفة.. استغلال الوظيفة أو الجاه للتكسب بدون حق.
- الاعتداء على المال العام بطرق مختلفة مثل السرقة والاختلاس والتكسب من الوظيفة.
- الاحتكار: وهو حبس السلعة عن التداول لإغلاء الأسعار.
- العمولات الوهمية: وهي نوع من أنواع الرشوة.
- المماطلة في أداء الحقوق مع المقدرة على أدائها.
- شهادة الزور للمساعدة على أكل أموال الناس بالباطل

فمن الصعب إذن معالجة الفساد المالي دون الخلط بينه وبين الفساد الإداري، فلا فساد للمال إن لم تفسد الإدارة فلا فساد للإدارة إن لم يفسد الشعب فلا فساد للشعب إن لم تفسد عقلية الشعب فالفساد أفيون الشعوب. فظاهرة الفساد الإداري والمالي من الظواهر الخطيرة التي تواجه البلدان وعلى الأخص الدول النامية حيث أخذت تنخر في جسم مجتمعاتها بدأت بالأمن وما تبعه من شلل في عملية البناء والتنمية الاقتصادية والتي تنطوي على تدمير الاقتصاد والقدرة المالية والإدارية وبالتالي عجز الدولة على مواجهة تحديات أعمار أو إعادة أعمار وبناء البنى التحتيه اللازمة لنموها،على أن الفساد مصدره النفس البشرية التي تتوق للتفوق والحصول على الأفضل، وهو ما استوجب سن القوانين التي تكبح جماح تلك النفس وتعاقب حاملها عند تجاوزه حدود تحقيق الكسب الحلال والمنصب العادل الذي يوازي استحقاقه وتعطي الجميع الفرصة التي يستحقونها للتقدم والوصول لمراكز القرار.

الإعلام الفعال في محاربة الفساد المالي

إن أسباب تفشي الفساد المالي كثيرة جدا، منها ما ترجع إلى السياسة ومنها ما ترجع إلى الاقتصاد ومنها ما ترجع إلى المجتمع، وطرق علاجه توازيها بالكثرة لأن الحكومة والشعب والمؤسسة الدينية والمنظمات والأحزاب والمؤسسات الثقافية التي تحمل مشاريع ريادية كالإعلام مثلا، كلها ممكن أن تساهم في محاربته ومكافحته. والإعلام أحد أهم الجهات بسبب الميزات العظيمة التي يملكها ومنها أنه يستطيع التحرك في أشد مناطق اللاوعي الجماعي للجماهير والتأثير فيها.

لكن دور الإعلام كان لا زال دون الطموح حيث لا زالت هنالك ثغرة واسعة بينه من جهة وبين الحكومة والمواطنين والتنظيمات من جهة أخرى وهذا يستوجب منه أن يبادر لردم هذه الهوة لأنه أكثر من غيره قدرة على توجيه تصرفات الآخرين.

والمطلوب من الإعلاميين كما قال الطائي (2014) أن يكون لهم دور أكبر وأشد تأثيرا مما هو عليه وان يطوروا الأساليب الإعلامية وطرق أداء النشاطات التي لا يؤديها غيرهم ولا يجيدها من سواهم، وأن يعتمدوا سياسات جديدة لا تبغي ايصال الخبر للمتلقي فقط بل تعمل على تثقيفه ومده بالمعلومات الوافرة عن الموضوع المراد معالجته. وأسلم طريقة لذلك هي اعتماد ما يعرف بنظرية الأخبار التفسيري التي تقول أن الخبر يحتاج لإضافات كما يحتاج للربط بأحداث أخرى مشابهة Interpretative News في محاولة استخراج النتيجة المطلوبة. أيضا على الإعلامي أن لا يركز على الجانب الروحي فقط في علاج الظاهرة لأن ما يحدث اليوم سببه التضاد بين أيديولوجيات الحضارة المادية من جهة والعقيدة الإسلامية من جهة أخرى. وتجاوز هذا التضاد لا يتم عن طريق الدعوات الروحية والأخلاقية كما يقول محمد أركون.

فلعل من ضمن الأدوار الإعلامية ما سماه عواد (2014) بالتوعية الإعلامية، التي أرى شخصيا أنها تستطيع أن توقظ الهمم وتحرك الغافلين عن الواقع المرير. تكتسب التوعية الإعلامية بمضار الفساد أهميتها الاستراتيجية في الدول المتقدمة، ويجب أن تتضاعف هذه الأهمية في الدول النامية التي تعتمد شعوبها على ما تقدمه لها حكوماتها من معلومات وحقائق لتكوين سلوكها وردود فعلها.

وتتركز جهود أجهزة الإعلام على إقناع الموظفين العامّين والمواطنين بالتخلي عن السلوك والتصرفات المرتبطة بظاهرة الفساد، مستندة في تأثيرها بالدرجة الأولى على:

– مصلحة الوطن العليا والانتماء إلى هذا الوطن.

– وحدانية الولاء إلى الوطن.

– المواطنية الصالحة.

– الفضائل الإنسانية.

– الثواب والعقاب.

وأرى أن الإعلام لن يفلح ولن يحقق أي شيء في الدول النامية حتى تتمتع بنوع ما من الحرية ولن تنفعه الحرية حتى تتمتع بما لا بأس به من الإرشادات الدينية التي تكون له بمثابة الرائد الأمين الذي لايكذب أهله.

ومن المعلوم أن الأعمال الإعلامية من أصعب الأعمال، وذلك لما تتعرض له من الويلات والتحديات لم تكن في الحسبان، فلعل الإعلاميون إذا أصلحوا نيتهم وابتغوا مرضات الله في سعيهم، يكون لهم من الشرف والمكانة ما للعلماء والمجاهدين لأن هدفهم سواء وهو الإصلاح الاجتماعي. ويقول عواد (2014) إن الجهد الإقناعي لأجهزة الإعلام هو جهد شاق وصعب بسبب العقبات التي تواجهه وفي مقدمها:

أ – عدم إكتراث الجمهور المستهدف.

ب – اصطدام النظريات بالوقائع من جانب بعض المرجعيات الحكومية إذ يصطدم هذا الجهد الإقناعي بتصرفات كبار الموظفين المدنيين والأمنيين الهادفة الى "أكل المال العام" .

ج – عدم التنسيق بين المراجع الرسمية وأجهزة الإعلام ويكون متعمداً في غالب الأحيان من قبل المفسدين.

د – عدم التنسيق بين أجهزة الإعلام.

هـ –. سوء اختيار نوعية وسائل الإعلام.

المتطلبات الأساسية في حرب الإعلام على الفساد المالي

إن العقبات والصعوبات التي يتعرض لها الإعلام في سبيل محاربة الفساد المالي أثقل وأخطر مما ذكره عواد سابقا، فالقوات السياسية والهيئات التشريعية والمحامون المرتزقون والحركات الاجرامية الهدامة وذوالنفوذ من رجال الأعمال وغيرها تحدد نشاطات الإعلامية أحيانا وتهددها حينا آخر، وهذه القوات الإرهابية هي ما سماه الجابري (دت) بالأشواك المتعددة، ورأى أنها هي العراقيل الحقيقية في سبيل تقدم

الدول النامية وأن الحرب ضدها لا بد أن تقوم عل مجموعة من الجهود الجبارة وفقا لمدخل الأشواك المتعددة على مجموعة من الإصلاحات السياسية والتشريعية والمؤسسية. وأما السياسية فكتقوية آليات إمكانية المحاسبة والرقابة على استخدام الموارد، وتحسين شروط تشغيل المستخدمين، وعدم محاباة الأقارب في التعيين ونحو ذلك. وأما التشريعية فكإصلاح النظام القانوني، بحيث يتضمن عقوبات وكذا صلاحيات كافية لردع الفساد ومن ذلك الحقوق الإجبارية للملكية والحقوق التعاقدية الإجبارية وكذا إجراءات تحسين الهيئة القضائية وجعلها أكثر مصداقية ونزاهة. وأما المؤسسية فكإنشاء وكالة لمقاومة الفساد ، وكذلك محاكم خاصة لمراجعة حالات الفساد، وإعلان ملكية الأصول لكل السياسيين والمستخدمين المدنيين. ولكن نجاح هذه الوكالات المتخصصة في مكافحة الفساد يتوقف على مجموعة واسعة من العوامل الاجتماعية والاقتصادية وأشكال أوسع يفرضها الفساد في دول معينة، فعندما يكون الفساد ممتداً فإن تلك الوكالات يمكن أن تلعب دوراً محدوداً، يتوقف على قوتها في البحث والاستقصاء والإجبار والذي يحد منه نفوذ السياسيين المؤثرين والمستخدمين المدنيين المتلبسين بالفساد. فكما يرى (Little, 1996) أن نجاح مقاومة الفساد يعتمد على الإرادة السياسية، وهذا غير متوفر في أفريقيا وأمريكا اللاتينية بسبب التهديد المحتمل الذي تواجهه المؤسسة السياسية والبيروقراطية.

ويرى عواد (2014) أن نجاح الجهد الإقناعي لأجهزة الإعلام يرتبط بالمتطلبات الآتية:

1 – ربط أهداف هذا الجهد بالمصلحة الوطنية العليا في التنمية الاجتماعية ومستقبل الوطن.

2– توضيح هذه الأهداف للموظفين وللمواطنين في آن واحد.

3– إثبات موضوعية هذا الجهد وتطابقه مع الوقائع.

4 – استخدام هذا الجهد لعنصر التحفيز المرتبط بالدوافع الفيزيولوجية والنفسانية مثل: تحسين وضع العملة، رفع مستوى التقديمات الاجتماعية، تحقيق العدالة الاجتماعية، رفع قيم المجتمع وفضائله... إلخ...

5– تسليط الضوء الإعلامي على دور الرقابة الإدارية في ضبط أعمال الفساد والتصدي لها.

6 . عرض آراء قادة الرأي والنخبة في المجتمع في أجهزة الإعلام توخياً لتعزيز الصدقية وعمق التأثير في الجمهور.

7– استخدام الوسائل الإعلامية الموثوقة والأشخاص الذي يتمتعون بصدقية مؤكَّدة، وإلاَّ جاء التأثير سلبياً إنطلاقاً من قاعدة "التبرع بالدم الفاسد" الإعلامية.

8 –. استخدام الوسائل الإعلامية بطريقة "التوارد" في اتجاه المسألة الواحدة.

9 –. الترويج للدعوة إلى تطبيق صور الإصلاح الإداري بأنه عمل تحرري من رواسب اجتماعية كالمحسوبية والأنانية، هو عمل تنظيمي بنيوي مستمر، هو وحدة كاملة لا تتجزأ في ابعادها السياسية والاجتماعية والإدارية والاقتصادية.

10 –. تجنب المبالغة في الترغيب بالثواب والتلويح بالعقاب المترتب على سلوك الفرد دون تطبيقهما ، وهذا ما يؤدي إلى "تسهيل نفساني" لاستفحال الفساد .

11 – الترويج لدعم حتمية فصل السياسة عن الإدارة وأن الوظيفة العامة هي صورة اجتماعية وطنية سليمة أولاً ثم وسيلة ارتزاق ثانيا.

12 –. مواكبة تنفيذ الجهد الإعلامي بعملية تقويم دورية تسمح بتعديل الأسلوب والمضمون والوسيلة في الوقت المناسب وتكثيف الجرعات أو تخفيفها.

إستراتيجية الإعلام في مكافحة الفساد المالي

إن الحرب الإعلامية ضد الفساد المالي رغم صعوبتها، إلا أنها تحتاج إلى شيء هام وأساسي وهو الحرية، وهي القطب الرحى الذي يدور حوله كل شيء. ويعتبر علي (2012) الحرية شرطا أساسيا ومن دونه لا يستطيع الاعلام أن يضطلع بأي دور على هذا الصعيد بل إنه يصبح وسيلة للتستر على الفساد، وقال هذا الشرط هو حرية الإعلام في الحصول على المعلومات وحرية الإعلام في بث ونشر هذه المعلومات , فالدول الأقل فساداً في العالم هي الأكثر حرية على صعيد الإعلام , والسبب أن حرية الإعلام تحقق الشفافية والشفافية هي العدو الأول للفساد الإداري والمالي .

ولضمان فعالية ونجاح وسائل الإعلام في مكافحة الفساد هناك العديد من المقترحات التي يجب مراعاتها في تحقيق تلك الفعالية .

1– التخلص من جميع القيود التي تعرقل دور الإعلام في مكافحة الفساد سواء في النواحي القانونية أو معوقات تداول المعلومات التي يتسبب بها التوجهات الإدارية الذي يقيد عمل وسائل الإعلام.

2– مراعاة الدور المهم لوسائل الإعلام في الدفاع الاجتماعي ضد الفساد , ولفت نظر السلطات إلى مدى خطورتها على المجتمع , وأساليب مواجهتها وعلاجها.

3- الأهتمام بالاستغلال المهني لوسائل الإعلام , وهذا يؤدي إلى حرية التعبير ومراعاة حق الرأي العام في المعرفة بالإضافة إلى مرعاة الموضوعية في تناول قضايا الفساد في المجتمع.

وقد قيل فيما غبر من الزمان أن الحديد بالحديد يقرع. إن الفساد المالي العارم الذي يجرف كيان المجتمع لا يمكن أن يكون حله بأسلوب واحد أو استراتيجية فزة ولكن باستراتجيات متلونة ومتعددة تجرب وادة تلوى أخرى، وعلى أن الإعلام هدم وبناء، ولا بدّ من أن يسعى ويجاهد بكل ما أودع الله فيه من قوة وسلطان لهدم كل نشاطات مافيا المالية التي تهدف التلف في المجتمع وبناء المجتمع الفاضل على جثتها، وهكذا ينبغي أن يقوم الإعلام بدور رئيسي في الكشف عن الأزمات و إدارة الحوار حولها، لذا ظهرت أهمية دراسة الاستراتيجيات الإعلامية التي يمكن أن يتم استخدامها في حالات الأزمة، و التي تم تحديدها في مجموعة من الاستراتيجيات الأساسية هي إستراتيجية الهجوم Attack و تعتمد علي مهاجمة من يتهم المؤسسة بوجود أزمة و قد يصل هذا الهجوم إلي التهديد أو الملاحقة القضائية . إستراتيجية الإنكار Denial، و ذلك حينما يتم إنكار الاتهامات الموجهة إلي الطرف المسبب في الأزمة إستراتيجية التحويل Diversion و ذلك حينما تعمل أطراف الأزمة علي تحويل الانتباه عن الاتهامات إستراتيجية تقديم الأعذار Excuse، وذلك حينما يسعى أطراف الأزمة إلي إيجاد أعذار لسبب تورطهم في الأزمة ، إستراتيجية تقديم تبريرات Justification حين تسعى الأطراف المشاركة في الأزمة إلي تبرير المواقف التي اتخذتها، و إستراتيجية امتصاص الأزمة Concession و ذلك حينما تحاول الأطراف المسئولة عن الأزمة امتصاص الموقف و ذلك من خلال الإقرار بمسئوليتها في دراسته إستراتيجية التملق Ihlen عن الأزمة و طرح تصورها لعلاج هذه الأزمة. و قد أضاف إليها Ingratiate وذلك حينما تحاول الجهة المتسببة في الأزمة استمالة بعض الفئات لكسب تأيدهم لها، و إستراتيجية التصحيح Correction، حيث يتم تبني سياسة إصلاحية لتلافي الخسائر الناتجة عن الأزمة، و إستراتيجية الاعتذار Apologize و ذلك بتقديم اعتذار كامل للجمهور أو المجتمع عن ما تسببت فيه المؤسسة من أضرار (علي،2012).

المنهج الإسلامي لعلاج الفساد المالي

إن أكثر المجتمعات الإنسانية متكونة من أشتات الشعوب وقبائل ومن أديان مختلفة ومتنوعة فلا عجب، وقد قال الله تعالى " يآ أيها الناس إنا خلقناكم من ذكر وأنثى وجعلناكم شعوبا وقبائل لتعارفوا إن أكرمكم عند الله أتقاكم إن الله عليم خبير" (القرآن. الحجرات 49: 13). فلا بد إذن من وجود أساليب مختلفة في مكافحة الفساد المالي، فلعل الخطاب العادي مهما كان شديدا قد لا يؤثر في المسلم الذي أسرف

وارتكب إجرام الفساد المالي، فيخاطب بلسان ديني لعله يذكر أو يخشى. ذلك لأن الدين الإسلامي بجانبيه العقيدة والعبادة له تأثير كبير على حياة الإنسان، إذ أنه يؤثر في سلوكه وطباعه وتفكيره، والعقيدة الإسلامية تحقق السعادة البشرية والاستقامة والانضباط، وأما العبادة فقد جعلها الله تعالى غاية الوجود الإنساني (العريضي، 2002) والمنهج الإسلامي لمكافحة أزمة الفساد المالي (شحاتة، 2011) يقوم على المبادئ والسياسات الآتية:

- الاهتمام بالتربية الروحية والأخلاقية على مستوى البيت والمجتمع والدولة.
- الاهتمام بتوعية الناس بما أحل الله وحرم في المعاملات: معرفة الحلال للاتباع، ومعرفة الحرام للاجتناب في المعاملات.
- حسن اختيار العاملين على أساس القيم الإيمانية والأخلاقية والكفاءة الفنية.
- تفعيل أجهزة الرقابة المختلفة على مستوى البيت والمجتمع والدولة لتقوم بدورها في التصدي لكافة سبل الفساد والحد منه.
- تغليظ العقوبات على المفسدين بالعدل ليرتدع من تحدثه نفسه بالفساد.
- القدوة الصالحة على مستوى البيت والمجتمع والدولة.

دور التربية الصالحة في الأسرة للتصدي للفساد المالى:

يبدأ تطبيق برنامج الإصلاح الإسلامي للفساد المالي من الأسرة(علي،2011) على النحو التالي:

- بيان مسؤولية الوالدين في تربية النشء على الصلاح: وفقا لوصية رسول الله ص: «كلكم راع ومسؤول عن رعيته» ومن محاور تربية الأولاد على مستوى الأسرة ما يلي:
- التربية الروحية.
- التربية الأخلاقية والسلوكية
- التربية الاقتصادية الإسلامية.
- تطبيق مبدأ المساءلة والحوكمة على الأولاد في مجال الإنفاق وتقويم أي فساد مالي أولًا بأول.
- تطبيق مبدأ العقاب على الأولاد في حالة وجود انحراف مالي.
- أن يكون الوالدان قدوة حسنة في كل شيء وفي المعاملات المالية.

ويلي دور الأسرة في الإصلاح المالي دور التعليم في مراحله المختلفة، ثم الدعاة والمصلحين، ثم دور أجهزة الإعلام المختلفة، ثم دور الحكومة،
بمعنى تكون محاور الإصلاح الإسلامي للفساد المالي الفرد ثــم مؤسسات وهيئات المجتمع ثم الحكومة.

إن على الإعلام الإسلامي أن يحسن ممارسة تلك المبادىء والسياسات المذكورة نحو من كان في قلبه مثقال ذرة من الإيمان بناءا على ثقتنا في أن النصائح الدينية وأداء العبادات المفروضة كما قال آل غصاب (2008) لها أثر إيجابي في البناء الاجتماعي والاصلاح الشعبي إذا ودي على أكمل وجه كانت مانعا للإنسان المسلم من الوقوع أو حتى التفكير في الإضرار بنفسه أو بأهله أوبمجتمعه من خلال مخالفات وعمليات فساد مالية أوإدارية وما شابهها.

الخلاصة

الفساد حالة مرضية تصيب المجتمع عندما تضعف أجهزة المناعة لديه، ولعلَّ أهم هذه الأجهزة هو الرقابة بشقيها الحكومية والشعبية بيدَ أن الشق الأول يكتسب أهمية خاصة كونه يمتلك أدوات المحاسبة التي من المفترض أن تكون في أحسن حالاتها وعلى يقظة تامة، بحيث لا يفلت من قبضتها مرتشٍ ولا يغيب عن عينها مختلس ولا ينجو من عقابها مهمل أو عابث بالأملاك العامة التي يعدُّ الحفاظ عليها مسؤولية أخلاقية ووطنية تحدد هوية المرء وتعكس تربيته البيتية وثقافته السياسية والاجتماعية والدينية..وترسم شكله في عيون الناس وقلوبهم.

ويعتبر الإعلام من حيث الدور الذي يلعبه في مراقب اعمال الحكومة في الدول الديمقراطية السلطة الرابعة بعد السلطات الثلاثة (التنفيذية ، التشريعية ، القضائية) لذلك تكون وسائل اعلام المقروءة والمسموعة والمرئية مسؤولة مسؤولية تاريخية في مكافحة ظاهر الفساد بكافة اشكاله لانه تشكل السلطة الشعبية التي تعبر عن ضمير المجتمع وتحافظ على مصالحه الوطنية في ظل وجود مجالس تشريعية محدودة الاداء والحركة. يستطيع وسائل الإعلام بمختلف انواعها مساءلة المفسدين و فضح حالات الفساد التي تهدد مصير ابناء المجتمع ومستقبلهم وتنمية بلادهم ،لكن الحكومة وحدها لا تستطيع محاربة الفساد إلا بمساعد من وسائل الإعلام ومجتمع المدني وإلأ ستكون مجرد شعارات لا وجود لها في الواقع وينبغي ان نذكرهنا أنه ولا يمكن تصور الوصول إلى إعلام حر من دون دعم من قوى المجتمع المدني . ، لذا ينبغي تحفيز هذه القوى على خوض معركة الإعلام لما فيه من خير لصالح الجميع ، فالمجتمع المدني القائم على أسس ديمقراطية نزيهة وفاعلة لتطوير المجتمع هو الحليف الأول للإعلام الحر،وهو

الذي يجب أن يزرع الجرأة عند الصحفيين للمواجهة ، وأن يقوم بدور الدفاع عن هؤلاء الذين يتعرضون للقمع ، وأن يتبنى حملات لتغيير القوانين المقيدة للحريات الصحافية،وهو أقدر ،بحكم مصلحته واتساعه،على توظيف وسائل الإعلام في معركة مواجهة الفساد. ومن الخطأ الاعتماد التام على الحكومة في محاربة الفساد، بل لا بد أن يكون الرجل الإعلامي قادرا على الوقوف ضد هذه المشاريع التخريبية وأن يكون عمله مكملا لعمل الحكومة وموازيا له لأن عمل الحكومة مرتبط بقوة القانون غالبا مما يجعل كفتي الفشل والنجاح فيه متساويتان. وهذا العمل الإعلامي ضد الفساد يدخل في معنى الأمر بالمعروف والنهي عن المنكر، والرجل الإعلامي المخلص في عمله مجاهد في سبيل الله إن شاء الله تعالى.

الاقتراحات والتوصيات

- تضافر جهود المنظمات المهنية والجهات المعنية لتنمية الوعى لدى المساهمين والمستثمرين بإبراز دور لجان المراجعة فى مكافحة ظاهرة الفساد المالى داخل المؤسسات المالية.
- إعلاء القيم الأخلاقية والفضائل وحرية الفكر والتعبيرعن الرأي ، والعمل على نشر ثقافة المعرفة والتعليم والقيم العليا والأخلاق في المجتمع من خلال وحداتها المتصلة بالمجتمع وتنمية البيئة للعمل على خلق رأي عام رافض للفساد لأنه خطأ أخلاقي بما يعمل على تنمية الاحساس بالمسئولية الاجتماعية والأخلاقية تجاه المجتمع.
- وضع مناهج علمية لتدريس " كشف ومعالجة طرق الفساد المالي والإداري وعمليات غسيل الأموال " بتضمين حالات عملية في مجال المراجعة والكشف عن الغش والفساد من الواقع الحالي . وتوسيع مفهوم الفساد ليشمل القائمين على الرقابة والمراجعة والمساءلة المحاسبية
- ايقاف تدخلات الأحزاب والمنظمات والمتنفذين في شؤون العمل الإداري الرسمي لمؤسسات الدولة
- مطالبة المسؤولين بكل درجاتهم الوظيفية مهما علت بتقديم كشوفات الملكية الشخصية الدورية ومتابعة دقة هذه الكشوفات وتدقيقها.
- إن وسائل الإعلام عليها أن تعمل في صناعة الوعي العام والمجتمعي للتخفيف ومحاربة الفساد والفاسدين.
- دعم الإعلام من قبل السلطات المختلفة وجميع المؤسسات العاملة حيث أن المعركة ضد الفساد معركة قاسية وطويلة فهي تحتاج إلى أن تتكامل الأدوار.

- تخصيص جوائز سنوية لأحسن موضوعات عن محاربة الفساد في الوسائل الإعلامية، أو لأشخاص يحاربون الفساد، ويتفرغون لمواجهة هذا الوباء الذي يفكك المجتمع ويسبب نتائج مريعة لكافة مجالاته وقطاعاته.
- اعتماد إستراتيجية شاملة ودقيقة تتضمن إجراءات رادعة ووقائية وتربوية واضحة، وضمن سقف زمني محدد، توجه من خلاله ضربات قاصمة للمؤسسات والإفراد الفاسدين والداعمين للفساد في جميع المستويات الإدارية وبدون استثناء، وتعتمد الخبرات والكفاءات الوطنية وتأخذ بنظر الاعتبار مبدأ وضع الشخص المناسب في المكان المناسب ووضع آليات موضوعية للتوصيف الوظيفي في اختيار المسؤول.

المراجع والمصادر

آل غصاب، عبد الله بن ناصر. 2008. *منهج الشريعة الإسلامية في حماية المجتمع من الفساد المالي والإداري*. جامعة نايف العربية للعلوم الأمنية: د.ن.

الاعرجي، عاصم. 1988. *نظريات التطوير والتنمية الإدارية*. بغداد:مطبعة التعليم العالي.

أبو شيخه، نادر احمد.1994. *الفساد في الحكومة المنظمة العربية للتنمية الإدارية* .د.م: د.ن.

إبن منظور، د. ت. محمد بن مكرم. *لسان العرب*. مصر: مؤسسة المصرية.

الأقرع، نور طاهر.د.ت. *استراتيجيات مواجهة الفساد المالي والإداري*. المركز الإعلامي. www.aman-palestine.org

البخاري، محمد بن إسماعيل. 1988. *صحيح البخاري*. القاهرة: الشعب

داوود، عماد الشيخ. 2003. *الفساد والإصلاح* . دمشق: اتحاد الكتب العربية.

الدليمي، باسم فيصل. 1999. *الفساد الإداري وبعض أشكاله من وجهة نظر عينة من المديرين*. جامعة بغداد: د.ن.

الطائي صالح. 2009. *دور الإعلام في مكافحة الفساد المالي والإداري*. جريدة المؤتمر ،العدد 2983. نشرة المؤتمر الوطني العراقيwww.inciraq.com

شحاتة، حسين حسين. 2011. *الفساد المالي.. أسبابه وصوره وعلاجه*. مجلة الوعي الإسلامي، وزارة الأوقاف والشئون الإسلامية، العدد 552، يوليو.

علي، مجاشع محمد. 2012. شبكة أخبار الناصرية. العدد مايو 24. القاهرة.

عبد المنعم، سعيد. د.ت. *الرقابة على أعمال الإدارة في الشريعة الإسلامية والنظم المعاصرة*. د.م: د.ن.

العيسوي، عبد الرحمن. 2011. *دور الوعي الإسلامي في مكافحة الفساد*.مجلة الوعي الإسلامي، وزارة الأوقاف والشئون الإسلامية، العدد 552، يوليو

عواد، علي نجيب. د.ت. *دراسة عن دور الإعلام في مكافحة الفساد* .http://www.mokarabat.com

العريضي، سعد بن عبد الله. 2002. *الحسبة والسياسة الجنائية في المملكة السعودية*.الرياض: مكتبة الرشد.ج1، ص 184

الفراية، عاطف. 2008. *محاربة الفساد هبات وفزعات أم مأسسة وثقافة ؟*. صحيفة آخر خبر. www.akherkhabr.com

قطب، سيد.1992. *في ظلال القرآن*.القاهرة: دار الشروق

كيتجارد، روبرت.د.ت. *السيطرة على الفساد*. ترجمة ،علي حسين حجاج. الأردن – عمان: دار البشير. ص19

كوفمان ، دانيال وآخرون. 1998. *الفساد والتنمية* . التمويل والتنمية. ص7

اللامي، مازن زاير. 2007. *الفساد بين الشفافية والاستبداد*. بغداد: مطبعة دانية .

مصطفى، إبراهيم وآخرون. د.ت. *المعجم الوسيط*. طهران: المكتبة العلمية.

مورو ،باولو. 1998. *الفساد ، الأسباب والنتائج . التمويل والتنمية*. د.م: د.ن.

الموسوي، محمد عبد النبي. *دراسة حول وسائل الإعلام في المجتمعات الحديثة –تأثيراتها وظائفها واستخداماتها* .www.al-mousawi.org

THE ROLE OF ISLAMIC LAW FOR PROMOTING ENVIRONMENTAL GOVERNANCE: A WAY FORWARD FOR SUSTAINABLE DEVELOPMENT

Noor Mohammad[1]

ABSTRACT

Shariah Law is one of the fundamental doctrines of Islam and the Islam is founded on the Shariah law and bears enormous impacts on the world human civilization. It stands for complete code of life and justice for all. Shari' ah is an 'Arabic word' meaning the Path to be followed. Islamic law is more accurate and structured as compared to manmade common law principles created by the direct command of the Almighty Allah. Islamic law also believes the ''Desire the same thing for others which you desire for yourself. Islam provides not only legal safeguards but also a very effective moral system. Islamic law includes the rule of law, obedience to God, truthfulness, generosity, forgivingness, love, brotherhood, equality, human rights etc. With regard to this research theme, the Holy Quran itself is the greatest evidence as to the modes of the environmental governance in the world (Al-Quran 2010). The Quran assets that everything belongs to God: He to whom the kingdom of the heaven and the earth belongs… ''He created everything and determined it most exactly'' (25-2). The real owner of the natural word is the Creator and He has ''showered His blessings upon you both outwardly and inwardly'' (31-19). He appointed us as His 'Khalif' (stewards) on the earth…….. So He could test you regarding what He has given you (6-167). This study, however, intends to explore Islamic governance on the environment for achieving sustainable environment and development for mankind including Malaysia based on primary and secondary sources consisting of at least 25 respondents in the different criteria in Bangi, Malaysia.

Keywords: Islamic Law, Environmental Governance, Sustainable Development

1. INTRODUCTION

From the very beginning of the human civilization until today, it is admitted that Islamic law is a universal law that may have an impact on the global environment. Muslim jurists held that Islamic law has been working in harmony with the human nature as promised by our prophet Muhammad (S.W.T) as it brings peace and welfare to the human beings. The primary objective of the Islamic law is to maintain peace and happiness and salvation in the next world. The only aim of Islamic Law is to gain satisfaction of Almighty Allah. It means that everybody must satisfy the creatures of this earth. The sources of Islamic law also support the prosperity of the mankind. The fear of punishment in Islamic law compels a man to become law abiding citizens

[1] Dr. Noor Mohammad is an associate professor, Faculty of Law, Universiti Kebangsaan Malaysia (UKM), Bangi 43600, Malaysia, Tel: 06-03-89216354, Fax: 06-03-8925 3217, H/P: 0162504687 & Chairman, Humanity Research Foundation Jhenidah (HRFJ), registered NGO via *Jheni-914/14 Serial No: 122749 on 06-03-2014*, The Ministry of Social Welfare, The People's Republic of Bangladesh, Email: noormmu2011@gmail.com

and the formal teaching of fasting, Zakat etc.; may have impact on the global environment. Islam believes transparency and accountability that can ensure obedience to law and everybody shall be accountable for his own deeds to Allah who is all knowing. The Quran says, ‘‘no bearer of burdens can bear the burden of another.’’

Islamic law is universal and uniform for all ages to come. There are some laws like hudud and Qisas, as stated above, which are universally applicable. The punishment for theft, for example, is the amputation of hand prescribed by the Quran, which says, as to the thief, male or female, cult off his or her hand, a punishment by way of example from Allah for their crime, and Allah is exalted in power. But other laws are not universally applicable. Different States follow different types of punishment for the commission of the same offence.

Islamic law encourages morality and the moral education may one of the weapons to facilitate the global peace and harmony. Islam always hates immoral activities throughout the ages.

2. BACKGROUND

The role of shariah law is enormous on the human development and it is argued that there is a relationship between human rights and Islamic human rights. The overall founding stone of human rights is Islam and there are many versus dealing with these rights. For example, the Magna Carta, 1215; the Petition of Rights, 1628 and the Bill of Rights, 1689; the Act of Settlement, 1701, French Declaration of rights of Man and of the Citizen, 1789; the Universal Declaration of Human Rights, 1948; the International Covenant on Civil and Political Rights, 1966; the International Covenant on Economic, Social and Cultural Rights, 1966 etc.; may be considered the basis of the Islamic law.

3. THE ROLE OF ISLAMIC LAW

The Holy Quran itself is the greatest evidence as to the modes of the environmental governance in the world (Al-Quran 2010 & Quranic versus) as underlined in the Quranic versus at the end of this work. The Quran assets that everything belongs to Allah or God: He to whom the kingdom of the heaven and the earth belongs… ‘‘He created everything and determined it most exactly’’ (25-2). The real owner of the natural word is the Creator and He has ‘‘showered His blessings upon you both outwardly and inwardly’’ (31-19). He appointed us as His ‘Khalif’ (stewards) on the earth…….. So, He could test you regarding what He has given you (6-167).

The Islamic sources defined elements that compose the natural world are common property. It is also held that the right to benefit from natural resources is a right held in common and there shall be no damage or infliction of damage bearing in mind future users.

Over the century, some principles have already been developed. For example, a person invalidates his rights over a particular natural resource if he causes detriment to another without correspondents benefit to the other and if it causes general detriment to the society at large. Every member of society is entitled to benefit from a common resource to the extent of his needs so long as he does not violate, infringe or obstruct the equal rights of other members of society.

In return for benefits derived from a renewable resource the user is obliged to maintain its value. If the user causes destruction or degradation to the environment, in that case, he is held

liable to the extent of putting right the damage caused. In Islam, there are some other Islamic principles such as Allah is the sole owner of the earth and everything in it. People hold land on usufruct- that is for its utility value only, abuse of natural rights are prohibited and penalized, scare resource utilization is controlled, the common welfare is protected and the benefits are protected and detriments are either reduced or eliminated.

Some Quranic versus directly or indirectly relevant to the environment as follows:

- It is He who hath produced you from the earth and settled you therein… (11:61)
- It is He who had made the earth manageable for you, so traverse ye through its tracts and enjoy of the sustenance, which He furnishes: but unto Him the resurrection… (67:15).
- All things including the Earth and all its resources are owned by the Lord, as stated earlier in the following verse:
- To Him belongs what is in the heavens and on earth and all between them, and all beneath the soil (20:6)
- It is we who have placed you with authority on the earth, and provided you therein with means for the fulfillment of your life.
- He merges night into day, and He merges day into night; and he has full knowledge of the secrets of (all) hearts. (57:6)
- And we send the fecundating winds, then caused the rain to descend the sky, therewith providing you with water (in abundance) through ye are not the guardians of its store. (15:22).
- And the Earth we have spread out (like a carpet); set thereon mountains firm and immovable, and produced therein all kinds of things in due balance (15:19)
- We created not the heaven, the earth, and all between them, but for just ends… (15:85)
- Not without purpose did we create heaven earth and all between… (38:27) etc.

4. PHILOSOPHICAL VIEWS ON THE ENVIRONMENTAL DEVELOPMENT

Under these principles, several issues have been discussed from the sources of the Islamic law context that may have directly or indirectly impact on the environment as per the definition of the environment as a whole as follows:

People who reclaimed or revived land (ihya'al mawat) have a right to its ownership. Land grants (iqta') may be made by the state for reclamation and development. Land may be released (ijara) for its usufruct by the State for its reclamation and development. Special reserves (hima) may be established by a community or the state for use as conservation zones. The State may establish inviolable zones (al-harim) where use is prohibited or restricted. Makkah and Madina are known as the two inviolable Sanctuaries (al-haramain) where trees cannot be cut down and animals are protected from harm within their boundaries. They served as examples of best practice
Charitable endowments (awqaf) may be established with specific conservation objectives.

"Don't evil or mischief on the face of the earth." (2:60). "Let there arise out of you a band of people inviting to all that is good, enjoining what is right and forbidding what is wrong." (3:104). "Do good to parents, kinsfolk, orphans, those in need, neighbors who are of kin, neighbors who are strangers, the companion by your side, the wayfarer (ye meet), and what

your right hands possess." (4:36). "God forbids all indecent deeds, and evil and rebellion: He instructs you, that ye may receive admonition." (16:90) "Verily the most honored of you in the sight of God is (he who is) the most righteous of you." (49:13). "Give of the good things which ye have (honorably) earned, and of the fruits of the earth which we have produced for you." (2:267). "If ye disclose (acts of) charity, even so it is well, but if ye conceal them, and make them reach those (really) in need, that is best for you." (2:271).

The following messages indicate the development of our surroundings environment:

- "By no means shall ye attain righteousness unless ye give (freely) of that which ye love." (3:92)
- "Those saved from the covetousness of their own souls, they are the ones that achieve prosperity." (59:9)
- "Do not expect in giving any increase (for thyself).'' (74:6).
- "Eat of the good things that we have provided for you and be grateful to God if it is Him ye worship." (2:172)
- "Show gratitude to me and to thy parents: to Me is (thy final) Goal." (31:14).
- "God like not ingratitude from His servants: if ye are grateful, He is pleased with you." (39:7).
- "In no wise covet those things in which God hath bestowed His gifts more freely on some of you than on others:
- To men is allotted what they earn, and to women what they earn: but ask God of His bounty." (4:32).
- "Call on your Lord with humility and in private: for God loveth not those who trespass beyond bounds." (7:55)
- "Celebrate the praises of thy Lord, and be of those who prostrate themselves in adoration." (15:98)
- "The servants of (God) Most Gracious are those who walk on the earth in humility, and when the ignorant address them, they say, 'Peace!'' (25:63).
- "Exult not, for God loveth not those who exult (in riches)." (28:76).
- "Swell not thy cheek (for pride) at men, nor walk in insolence through the earth; for God loveth not any arrogant boaster." (31:18).
- "God loveth those who are kind." (5:13)

- "Be kind to parents. Whether one or both of them attain old age in thy life say not to them a word of contempt, nor repel them, but address them in terms of honor. And, out of kindness, lower to them the wing of humility, and say: 'My Lord! bestow on them Thy Mercy even as they cherished me in childhood.'" (17:23-24).

- "We have enjoined on man (to be good) to his parents: in travail upon travail did his mother bear him and in years twain was his weaning." (31:14).

- "Treat not the orphan with harshness, nor repulse him who asks." (93:9-10).

- "When a (courteous) greeting is offered you, meet it with a greeting still more courteous or (at least) of equal courtesy. God takes careful account of all things." (4:86).

- "Let not some men among you laugh at others: it may be that the (latter) are better than the (former): nor let some women laugh at others: it may be that the (latter) are better than the (former): nor defame nor be sarcastic to each other, nor call each other by (offensive) nicknames." (49:11).

- "Eat of what is on earth, lawful and good; and do not follow the footsteps of the Satan, for he is to you an avowed enemy." (2:168).
- "God loves those who keep themselves pure and clean." (2:222).

- "When ye prepare for prayer, wash your faces, and your hands (and arms) to the elbows; Rub your heads (with water); and (wash) your feet to the ankles. If ye are in a state of ceremonial impurity, bathe your whole body... God doth not wish to place you in a difficulty, but to make you clean." (5:6).

- "Say to My servants that they should (only) say those things that are best: for Satan doth sow dissensions among them." (17:53).

- "[The believers] have been guided... to the purest of speeches." (22:24)

- "Woe to every (kind of) scandal-monger and backbiter." (104:1)

- "Say to the People of the Book and to those who are unlearned: 'Do ye (also) submit yourselves?' If they do, they are in right guidance, but if they turn back, thy duty is to convey the Message." (3:20).

- "Enter not houses other than your own, until ye have asked permission and saluted those in them: that is best for you, in order that ye may heed (what is seemly). If ye find no one in the house, enter not until permission is given to you: if ye are asked to go back, go back: that makes for greater purity for yourselves." (24:27-28).

- "Avoid suspicion as much (as possible): for suspicion in some cases is a sin: and spy not on each other, nor speak ill of each other behind their backs. Would any of you like to eat the flesh of his dead brother?" (49:12)
- "Invite (all) to the Way of thy Lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious." (16:125).

- "Say: 'O People of the Book! come to common terms as between us and you: That we worship none but God; that we associate no partners with Him; that we erect not, from among ourselves, lords and patrons other than God.' If then they turn back, say ye: 'Bear witness that we (at least) are Muslims (bowing to God's Will).'" (3:64)
- "If it had been thy Lord's Will, they would all have believed, all who are on earth! Wilt thou then compel mankind, against their will, to believe!" (10:99).

- "Stand out firmly for justice, as witnesses to God, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor: for God can best protect both. Follow not the lusts (of your hearts), lest ye swerve." (4:135).

- "God loveth those who judge in equity." (5:42)
- "Take not life, which God hath made sacred, except by way of justice and law." (6:151)
- Mercy
- "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." (2:280)

- "We ordained therein for them: 'Life for life, eye for eye, nose or nose, ear for ear, tooth for tooth, and wounds equal for equal.' But if any one remits the retaliation by way of charity, it is an act of atonement for himself." (5:45)

- "Overlook (any human faults) with gracious forgiveness." (15:85)

- "Repel (Evil) with what is better: then will he between whom and thee was hatred become as it were thy friend and intimate!" (41:34)

- "(It is) for those who believe and put their trust in their Lord... when they are angry even then forgive." (42:36-37)

- "The recompense for an injury is an injury equal thereto (in degree): but if a person forgives and makes reconciliation, his reward is due from God: for (God) loveth not those who do wrong." (42:40)
- Dignity

- "To those against whom war is made, permission is given (to fight), because they are wronged." (22:39)

- "If any do help and defend themselves after a wrong (done) to them, against such there is no cause of blame." (42:41)

- "(It is) for those who believe... when an oppressive wrong is inflicted on them, (are not cowed but) help and defend themselves." (42:36-39)

- "How many of the Prophets fought (in God's way), and with them (fought) large bands of godly men? But they never lost heart if they met with disaster in God's way, nor did they weaken (in will) nor give in. And God loves those who are firm and steadfast." (3:146)

- "Bear with patient constancy whatever betide thee; for this is firmness (of purpose) in (the conduct of) affairs." (31:17)

- "Fear God, and make your utterance straight forward: That He may make your conduct whole and sound." (33:70-71)

- "Here is a plain statement to men, a guidance and instruction to those who fear God. So lose not heart, nor fall into despair: For ye must gain mastery if ye are true in Faith." (3:138-139).

- "What is with you must vanish: what is with God will endure. And We will certainly bestow, on those who patiently persevere, their reward according to the best of their actions." (16:96)

- "Seek (God's) help with patient perseverance and prayer: It is indeed hard, except to those who are humble, who bear in mind the certainty that they are to meet their Lord, and that they are to return to Him." (2:45-46)''

- "Be sure we shall test you with something of fear and hunger, some loss in goods or lives or the fruits (of your toil), but give glad tidings to those who patiently persevere, who say, when afflicted with calamity: 'To God We belong, and to Him is our return'. They are those on whom (descend) blessings from their Lord, and Mercy." (2:155-157).

- "Pray for help from God, and (wait) in patience and constancy: for the earth is God's, to give as a heritage to such of His servants as He pleaseth; and the end is (best) for the righteous." (7:128)

- "On no soul doth God place a burden greater than it can bear. It gets every good that it earns, and it suffers every ill that it earns." (2:286).

- "Ye shall certainly be tried and tested in your possessions and in your personal selves; and ye shall certainly hear much that will grieve you, from those who received the Book before you and from those who worship partners besides God. But if ye persevere patiently, and guard against evil, then that will be of great resolution." (3:186).

- "Bow down, prostrate yourselves, and adore your Lord; and do good; that ye may prosper. And strive in His cause as ye ought to strive, (with sincerity and under discipline)." (22:77-78)

- "Fasting is prescribed to you as it was prescribed to those before you, that ye may (learn) self-restraint." (2:183)
- "[Do not follow] the lust (of thy heart), for it will mislead thee from the Path of God." (38:26).

- "For such as had entertained the fear of standing before their Lord's (tribunal) and had restrained (their) soul from lower desires, their abode will be the Garden." (79:40-41) Balance Moderation.

- "Fight in the cause of God those who fight you, but do not transgress limits; for God loveth not transgressors." (2:190).

- "Commit no excess: for God loveth not those given to excess." (5:87)."And the servants of (God) Most Gracious are those who... when they spend, are not extravagant and not niggardly, but hold a just (balance) between those (extremes)." (25:63-67).

- "Seek, with the (wealth) which God has not bestowed on thee, the Home of the Hereafter, nor forget thy portion in this world: but do thou good, as God has been good to thee." (28:77)

- "When ye deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing... whether it be small or big; it is juster in the sight of God, more suitable as evidence, and more convenient to prevent doubts among yourselves." (2:282)

- "If a wicked person comes to you with any news, ascertain the truth, lest ye harm people unwittingly, and afterwards become full of repentance for what ye have done." (49:6)
- Unity

- "Hold fast, all together, by the Rope which God (stretches out for you), and be not divided among yourselves; and remember with gratitude God's favor on you; for ye were enemies and He joined your hearts in love, so that by His Grace, ye became brethren." (3:103)

- "Eat not up your property among yourselves in vanities." (4:29)
- "Waste not by excess: for God loveth not the wasters." (6:141)

- "God will never change the grace which He hath bestowed on a people until they change what is in their (own) souls." (8:53).

- "Woe to the worshippers... who (want but) to be seen." (107:4-6)

- "Whoever recommends and helps a good cause becomes a partner therein: And whoever recommends and helps an evil cause, shares in its burden." (4:85)

- "Fulfill (every) engagement, for (every) engagement will be inquired into (on the Day of Reckoning)." (17:34)

- "If one of you deposits a thing on trust with another, let the trustee (faithfully) discharge his trust, and let him fear God." (2:283)
- "God doth command you to render back your trusts to those to whom they are due."
- (4:58)

- "Cover not Truth with falsehood, nor conceal the Truth when ye know (what it is)." (2:42)
- "Take not your oaths, to practice deception between yourselves." (16:94)

- "Truly many are the partners (in business) who wrong each other: Not so do those who believe and work deeds of righteousness, and how few are they?" (38:24)
- "Woe to those that deal in fraud, - Those who, when they have to receive by measure from men, exact full measure, but when they have to give by measure or weight to men, give less than due." (83:1-3)
- "Seek ye the forgiveness of your Lord, and turn to Him in repentance; that He may grant you enjoyment, good (and true), for a term appointed." (11:3)
- "Your Lord knoweth best what is in your hearts: If ye do deeds of righteousness, verily He is Most Forgiving to those who turn to Him again and again (in true penitence)." (17:25).

- "Behold! In the creation of the heavens and the earth, and the alternation of night and day, - there are indeed Signs for men of understanding, - Men who celebrate the praises of God, standing, sitting, and lying down on their sides, and contemplate the (wonders of) creation in the heavens and the earth, (with the thought): 'Our Lord! not for naught hast Thou created (all) this! Glory to Thee!'" (3:190-191)
- "Establish regular prayer: for prayer restrains from shameful and evil deeds; and remembrance of God is the greatest (thing in life) without doubt." (29:45)

- "True, there is for thee by day prolonged occupation with ordinary duties: But keep in remembrance the name of thy Lord and devote thyself to Him whole-heartedly. (He is) Lord of the East and the West: there is no god but He: take Him therefore for (thy) Disposer of Affairs." (73:7-9)

- "The strong one is not he who knocks out his adversary; the strong one is he who keeps control over his temper." Reported by Abu Hurairah and recorded by Imam Bukhari and Muslim (versus 45).

- "It does not befit a Siddiq (a true man) that he should opt to cursing." Reported by Abu Hurairah and recorded by Imam Muslim (Versus1552).

- "God the Dignified has no mercy for one who has no mercy for others." Reported by Jarir Ibn Abdullah and recorded by Imam Bukhari and Muslim (Versus 227).

- "None of you is a perfect Muslim until he desires for his brother Muslim that which he desires for himself." Reported by Anas Bin Malik and recorded by Imam Bukhari and Muslim (Versus183).

- "Help your brother whether he is an oppressor or an oppressed person. A companion asked: 'Messenger of God (it is true) I will help him if he is an oppressed person, but please tell me how I am to help him if he happens to be an oppressor.' The Holy Prophet (P) answered: check him from doing injustice. Because preventing him from committing aggression is a help to him." Reported by Anas Bin Malik and recorded by Imam Bukhari (Versus 237).

- "Look at the person who is inferior to you; and do not look at one who is superior to you. Thereby you would be able to appreciate better the benevolences of God bestowed upon you." Reported by Abu Hurairah and recorded by Imam Muslim (Versus 467).

- Abdullah bin 'Amr bin Al-'Aas says that by nature the Holy Prophet (P) neither talked indecently nor did he listen to indecent talk. He used to say: "The best of you are those who have the best manners." Reported by Abdullah bin 'Amr bin Al-'Aas and recorded by Imam Bukhari and Muslim. (Versus 625).

- "A person who gives surety to (safeguard) the thing between the jaws (tongue) and the thing between his two legs (private organs), I guarantee his entrance into Paradise." Reported by Sahl bin Sa'd and recorded by Imam Bukhari and Muslim (Versus1513).

- "Among the Muslims most perfect, as regards his faith, is one whose character is excellent, and the best among you are those who treat their wives well." Reported by Abu Hurairah and recorded by Imam Tirmidhi (Versus 278).

- "Do not consider even the smallest good deed as insignificant; even meeting your brother with a cheerful face (is a good deed)." Reported by Abu Zarr and recorded by Imam Muslim. (Versus 121).

- "Make things easy and convenient and don't make them harsh and difficult. Give cheers and glad tidings and do not create hatred." Reported by Anas Bin Malik and recorded by Imam Muslim. (Versus 637).

- "God, the Most Exalted, has revealed to me that you should show courtesy and be cordial with each other, so that nobody should consider himself superior to another nor harm him." Reported by Ayaz bin Himar and recorded by Imam Muslim.

- "Do not reproach or abuse dead persons for they are facing the consequences of what they had done in this world." Reported by Hazrat Ayesha and recorded by Imam Bukhari.

- "Avoid jealousy for this destroys good deeds as fire destroys wood." Reported by Abu Hurairah and recorded by Imam Abu Daud (Versus1569).

- "Do not rejoice over the troubles of your brother lest God the Most High might have mercy on him and involve you in this trouble." Reported by Wasila bin Al-As-qa'a and recorded by Imam Tirmidhi (Versus1577).

- Prophet Muhammad (P) once asked, "Who is that person among you who loves the property of his successor more than his own property? The Companions submitted: 'O Messenger of God (P) there is none among us who loves his successor's property more than his own.' He said: Then his property is which he has sent ahead; and that which he retains belongs to his successor." Reported by Ibn Mas'ud and recorded by Imam Bukhari (Versus 545).

- "God the Most High has revealed to me that you should adopt humility, so that nobody oppresses another, nor one should hold himself above another." Reported by Ayaz bin Himar and recorded by Imam Muslim (Versus 602).

- "A Muslim never taunts or curses or abuses nor resorts to vulgar talking." Reported by Abdullah bin Mas'ud and recorded by Imam Tirmidhi. (Versus 734).

- "Let no Muslim male entertain any malice against a Muslim female. He may dislike one habit in her, but may find another in her which is pleasing." Reported by Abu Hurairah and recorded by Imam Muslim. (Versus 275).

- "Plenty of provision or abundance do not make a person rich and wealthy; real richness is the benevolence of heart." Reported by Abu Hurairah and recorded by Imam Bukhari and Muslim. Versus 522).

- "Part of someone's being a good Muslim is his leaving alone that which does not concern him." Reported by Abu Hurairah and recorded by Imam Tirmidhi. (Versus12).

- "Let him who believes in God and the Last Day either speak good or keep silent, and let him who believes in God and the Last Day be generous to his neighbour, and let him who believes in God and the Last Day be generous to his guest." Reported by Abu Hurairah and recorded by Imam Bukhari and Muslim. (Versus 15).

- "...Prayer is light; charity is a proof; patience is illumination; and the Qur'an is an argument for or against you. Everyone starts his day and is a vendor of his soul, either freeing it or bringing about its ruin." Reported by Abu Malik al-Harith ibn Asim al-Ash'ari and recorded by Imam Muslim. (Versus 3).

- "Each person's every joint must perform a charity every day the sun comes up: to act justly between two people is a charity; to help a man with his mount, lifting him onto it or hoisting up his belongings onto it is a charity; every step you take to prayers is a charity; and removing a harmful thing from the road is a charity." Reported by Abu Hurairah and recorded by Imam Bukhari and Muslim. (Versus 26)

- "Righteousness is good morality, and wrongdoing is that which wavers in your soul and which ydislike people finding out about." Reported by an-Nawwas ibn Sam'an and recorded by Imam Muslim. (Versus 27) etc.

- "Do they not ponder on the Qur'an? Had it been from other than God, they would surely have found therein much discrepancy." 4:82

- "(This is) the revelation of the Book in which there is no doubt - from the Lord of the Worlds. Or do they say, 'He has forged it?' Nay, it is the Truth from thy Lord." 32:2-3

- "Whatever is in the heavens and on earth, doth declare the Praises and Glory of God - the Sovereign, the Holy One, the Exalted in Might, the Wise. It is He Who has sent amongst the Unlettered a messenger from among themselves, to rehearse to them His Signs, to purify them, and to instruct them in The Book and Wisdom,- although they had been, before, in manifest error." 62:1-2.

- "To God do belong the unseen (secrets) of the heavens and the earth, and to Him goeth back every affair (for decision): so worship Him, and put thy trust in Him: and thy Lord is not unmindful of aught that ye do." 11:123.

- "God! There is no god but He - the Living, the Self-subsisting, Supporter of all. No slumber can seize Him nor sleep. His are all things in the heavens and on earth. Who is thee can intercede in His presence except as He permitted?" 2:255

- "Put thy trust in God. For God loves those who put their trust (in Him). If God helps you, none can overcome you: if He forsakes you, who is there, after that, that can help you? In God, then, let Believers put their trust." 3:159-160.

- "God is He, than Whom there is no other god - the Sovereign, the Holy One, the Source of Peace (and Perfection), the Guardian of Faith, the Preserver of Safety, the Exalted in Might, the Irresistible, the justly Proud. Glory to God! (High is He) above the partners they attribute to Him." 59:23.

- "Say: He is God, the One and Only; God, the Eternal, Absolute; He begetteth not, nor is He begotten; and there is none like unto Him." 112:1-4.

- "And dispute ye not with the People of the Book [Jews and Christians], except with means better (than mere disputation), unless it be with those of them who inflict wrong (and injury); but say, 'We believe in the Revelation which has come down to us and in that which came down to you; our God and your God is One; and it is to Him we submit (in Islam).'" 29:46.

- "O People of the Book! Exceed not in your religion the bounds (of what is proper), trespassing beyond the truth, nor follow the vain desires of people who went wrong in times gone by - who misled many, and strayed (themselves) from the even Way." 5:77.

- "Muhammad is no more than a messenger; many were the messengers that passed away before him. If he died or were slain, will ye then turn back on your heels? If any did turn back on his heels, not the least harm will he do to God; but God (on the other hand) will swiftly reward those who (serve him) with gratitude." 3:144.

- "Behold! the angels said: 'O Mary! God giveth thee glad tidings of a Word from Him: his name will be Christ Jesus, the son of Mary, held in honour in this world and the Hereafter and of (the company of) those nearest to God; he shall speak to the people in childhood and in maturity. And he shall be (of the company) of the righteous.' She said: 'O my Lord! How shall I have a son when no man hath touched me?' He said: 'Even so; God created what He willeth: when He hath decreed a matter, He but saith to it, 'Be', and it is! And God will teach him the Book and Wisdom, The Torah and the Gospel." 3:45-48.

- "O Moses! I have chosen thee above (other) men, by the messages I (have given thee) and the words I (have spoken to thee); take then the (revelation) which I give thee, and be of those who give thanks." 7:144.

- "Abraham: he was a man of Truth, a prophet. Behold, he said to his father: 'O my father! why worship that which hearth not and seeth not, and can profit thee nothing? O my father! to me hath come knowledge which hath not reached thee: So follow me: I will guide thee to a way that is even and straight. O my father! serve not Satan: for Satan is a rebel against (God) Most Gracious.'" 19:41-44.

- "Say, the Holy Spirit has brought the revelation from thy Lord in Truth, in order to strengthen those who believe, and as a Guide and Glad Tidings to Muslims." 16:102.

- "...Gabriel - for he brings down the (revelation) to thy heart by God's will, a confirmation of what went before, and guidance and glad tidings for those who believe." 2:97.

- Behold! We said to the angels, 'Bow down to Adam': they bowed down except Iblis [Satan]. He was one of the Jinns [spirits with a free-will], and he broke the Command of his Lord. Will ye then take him and his progeny as protectors rather than Me? And they are enemies to you! Evil would be the exchange for the wrongdoers!" 18:50.

- "Satan's plan is (but) to excite enmity and hatred between you, with intoxicants and gambling, and hinder you from the remembrance of God, and from prayer: will ye not then abstain?" 5:91.

- "And Satan will say when the matter is decided: 'It was God Who gave you a promise of Truth: I too promised, but failed in my promise to you. I had no authority over you except to call you, but ye listened to me: then reproach not me, but reproach your own souls. I cannot listen to your cries, nor can ye listen to mine. I reject your former act in associating me with God. For wrongdoers there must be a Grievous Penalty.'" 14:22
- "It is He Who sends down rain from the sky. From it ye drink, and out of it (grows) the vegetation on which ye feed your cattle. With it He produces for you corn, olives, date-palms, grapes, and every kind of fruit: verily in this is a Sign for those who give thought. He has made subject to you the Night and the Day; the Sun and the Moon; and the Stars are in subjection by His Command: verily in this are Signs for those who are wise. And the things on this earth which He has multiplied in varying colours (and qualities); verily in this is a Sign for those who are mindful. It is He Who has made the sea subject, that ye may eat thereof flesh that is fresh and tender, and that ye may extract therefrom ornaments to wear; and thou seest the ships therein that plough the waves, that ye may seek (thus) of the bounty of God and that ye may be grateful. And He has set up on the earth mountains standing firm, lest it should shake with you; and rivers and ways: that ye may guide yourselves; and marks and sign-posts; and by the stars (humans) guide themselves. Is then He Who creates like one that creates not? Will ye not receive admonition? If ye would count up the favours of God, never would ye be able to number them: for God is Oft-Forgiving, Most Merciful. And God doth know what ye conceal, and what ye reveal. Those whom they invoke besides God create nothing and are themselves created. (They are things) dead, lifeless: nor do they know when they will be raised up." 16:10-21.

- "Seest thou not that God sends down rain from the sky, and leads it through springs in the earth? Then He causes to grow, therewith, produce of various colours: then it

withers; thou wilt see it grow yellow; then He makes it dry up and crumble away. Truly, in this, is a Message of remembrance to Men of understanding." 39:21.

- "Do they not reflect in their own minds? Not but for just ends and for a term appointed, did God create the heavens and the earth, and all between them: yet are there truly many among men who deny their meeting with their Lord (at the Resurrection)! Do they not travel through the earth, and see what was the End of those before them? They were superior to them in strength: they tilled the soil and populated it in greater numbers than these have done: there came to them their messengers with Clear (Signs), (which they rejected, to their own destruction): it was not God who wronged them, but they wronged their own souls. In the long run Evil in the extreme will be the End of those who do evil; for that they rejected the Signs of God, and held them up to ridicule". 30:8-10.

- "Among His Signs is this, that He created you from dust; and then - behold, ye are men scattered (far and wide)! And among His Signs is this that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect. And among His Signs is the creation of the heavens and the earth, and the variations in your languages and your colours: verily in that are Signs for those who know. And among His Signs is the sleep that ye take by night and by day, and the quest that ye (make for livelihood) out of His Bounty: verily in that are Signs for those who hearken. And among His Signs, He shows you the lightning, by way both of fear and of hope, and He sends down rain from the sky and with it gives life to the earth after it is dead: verily in that are Signs for those who are wise." 30:20-24.

- "Man says: 'What! When I am dead, shall I then be raised up alive?' But does not man call to mind that We created him before out of nothing?" 19:66-67.

- "And ye devour Inheritance - all with greed, and ye love wealth with inordinate love! Nay! When the earth is pounded to powder, and thy Lord cometh, and His angels, rank upon rank, and Hell, that Day, is brought (face to face)- on that Day will man remember, but how will that remembrance profit him? He will say: 'Ah! Would that I had sent forth (Good Deeds) for (this) my (Future) Life!' For, that Day, his Chastisement will be such as none (else) can inflict, and His bonds will be such as none (other) can bind. (To the righteous soul will be said :) 'O (thou) soul, in (complete) rest and satisfaction! Come back thou to thy Lord - well pleased (thyself), and well-pleasing unto Him! Enter thou, then, among my Devotees! Yea, enter thou My Heaven!'" 89:19-30.

- "God hath promised to Believers - men and women - Gardens under which rivers flow, to dwell therein, and beautiful mansions in Gardens of everlasting bliss. But the greatest bliss is the Good Pleasure of God: that is the supreme felicity." 9:72 etc.

5. LITERATURE REVIEW

In order to draw a conceptual frameworks of this research, the relevant literature are discussed below:

Abdulbar Al-Gain (1993) discusses many issues such as water, forestry, agriculture; minerals pertaining to the environment his book entitled 'Environmental Protection in Islam' (IUCN Environmental Policy and Law paper No. 20 Review. He pointed out that Islam emphasizes all measures for the survival and perpetuation of these creatures so that they can fully perform the functions assigned to them. Absolute destructions of any species of animals or plants by man can in no way be justified nor should any be can vested of a rate in excess of its natural regenerations. This applies to hunting and fishing, forestry and wood-cutting for timber and fuel, grazing and all other utilization of living resources.

Richard C. Foltz discusses in his edited book entitled 'Islam and Ecology- A Bestowed Trust' Islam is the religion of over one billion people and is practiced in virtually every country on earth. The articulation of an Islamic environmental ethic in contemporary terms is all the more urgent because Western-style conservation efforts do not fit all cultural and philosophical traditions. This volume outlines the Islamic view of the cosmic order and reviews the ways an Islamic world view can be interpreted, reassessed, and applied to such environmental problems as pollution and water scarcity. Sections on social justice and on issues of sustainability and development look at the history and roots of the current environmental crisis; at the broader context of women's rights of equal access to both natural and social resources; and at the interconnectedness of environmental protection and the alleviation of human poverty.

E. Kula in his book entitled 'Islam and Environmental Conservation' discusses the role of holy Quran as well as the Hadith as to the protection of the environment. His opinions are as follows: ''Over thirty years ago a debate began as to whether religion in general, or the Judaeo-Christian faith in particular, was in some sense responsible for the present environmental predicament. Islam, as a major world religion which shares the same Abrahamic roots as the Judeo-Christian tradition, has been largely absent from this debate. Most conservationists now believe that it is essential that there be comprehensive discussion not only of environmental policies, but also of the ethics underlying environmental protection. This paper looks at the importance of the environment in the main sources of Islamic instruction, namely the Koran and Prophet's Hadiths (teachings). These texts turn out to be on the side of conservation, the emphasis being on respect for creation, the protection of the natural order and avoidance of all wasteful activities which may cause injury to the environment. These positions are contrasted with views expressed by political Islam, which has become influential in a large part of the Muslim world and rejects the conservation measures advocated by Western writers.''

Ibrahim, Ozdemir (2002) discussed the term environment under the Islam entitled ''An Islamic Approach to the Environment.'' He pointed the details of the Islamic point of environment citing many references from the Quran as well as the Hadith. He mentioned that everything belongs to Allah and nobody has the right to destroy it.

The Role of Islamic Relief is enormous in protecting the environment. They have been working how to protect the global environment via Islamic approach. In Islam, Muslims are encouraged to reflect on the relationship between living organisms and their environment and to maintain the balance created by God. Mankind is the guardian of the earth and as such has a duty to protect it and also to ensure its posterity for future generations in the spirit of inter-generational equity. Islamic Relief has been advocating for global change to protect the environment. Islamic Relief conducts meaningful environmental impact assessments as a standard part of every project preparation process. It implements many projects aimed at creating sustainable

livelihoods through environmental protection and regeneration and promoting environmentally sound practices. There is a strong link between environmental degradation and the frequency of natural and man-made disasters.

Sheila Musaji (2012) discussed that Muslims are instructed to look after the environment and not to damage it. There is no altering the creation of Allah. (Qur'an 30:30). "And we created from water every living thing." Qur'an 21:30. "Make not mischief on the earth" Qur'an 2:11. Islam and Environmental Conservation discuss the role of Islam as to the conservation of Islam. Islam, undoubtedly, takes care of environment by banning any form of harm to it as well as ordering people to protect it. It is reported that decree against spoiling things on earth. Allah Says (what means): And do not do mischief on the earth, after it has been set in order,[Quran 7:56]. It is also reported that banning making mischief on earth and destroying crops and progeny, and dispraising those who do such actions. Allaah Says (what means): And when he turns away (from you "O Muhammad"), his effort in the land is to make mischief therein and to destroy the crops and the cattle, and Allah likes not mischief. [Quran 2:205].

The Role of Islamic Environmental Organizations

Around the world, there are numerous Islamic environmental organizations that have been playing critical role in protecting the global environment. For example, Islam teaches that Muslims have a responsibility to protect the environment, as stewards of the Earth that God created. Several Muslim organizations throughout the world are taking that responsibility to an active level, dedicating themselves to environmental protection. Islam teaches that God created all things in perfect balance and measurement. There is a purpose behind all living and non-living things and each species has an important role to play in the balance. God gave human beings certain knowledge, which allows us to use the natural world to meet our needs, but we are not given free license to exploit it. Muslims believe that all living things, including human beings, are subservient to God Alone. Thus, we are not masters who rule over the earth, but servants of God with a responsibility to maintain the balance which He has created.

The Quran says: "It is He who has appointed you viceroys in the earth … that He may try you in what He has given you." (Surah 6:165) and "O children of Adam! ... eat and drink: but waste not by excess, for Allah loves not the wasters." (Surah 7:31).

6. CASE STUDIES

The author discussed around 25 respondents in the different criteria such as students, lecturers, educated people, and employees etc.; through some unstructured questionnaire pertaining to the role of Islamic law for promoting environmental conservation and they replied that there is a significant role in protecting the environment. Islam never destroys any kinds of the environment but preserves its significance applies to all.

7. CONCLUSION AND RECOMMENDATIONS

From the above study, it is observed that the role of Islam in protecting the environment is enormous. There are many guidelines in protecting the environment. Islam likes to preserve all heritages, culture and traditions of the environment. Islamic law includes the rule of law, obedience to God, truthfulness, generosity, forgivingness, love, brotherhood, equality, human rights etc. With regard to this research theme, the Holy Quran itself is the greatest evidence as to the modes of the environmental governance in the world (Al-Quran 2010). The Quran assets that everything belongs to God: He to whom the kingdom of the heaven and the earth belongs…

‘‘He created everything and determined it most exactly’’ (25-2). The real owner of the natural word is the Creator and He has ‘‘showered His blessings upon you both outwardly and inwardly’’ (31-19). He appointed us as His ‘Khalif’ (stewards) on the earth…….. So He could test you regarding what He has given you (6-167).
We need to implement the guidelines of the Islamic laws as to the protection of the environment. Islamic likes social security via different modes such as zakat, sadaqah, hibah, poverty alleviation programs and the social capital that may have an impact on the environment. We need to encourage the Islamic principles in our practical life.

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REFERENCES

Al-Quran

Al-Gain, Abdulbar. (1993). ‘Environmental Protection in Islam’, available at http://books.google.com.my/books, accessed on 29.06.2014.

Al-Munawi, Fayd al-Qadir, vi, 39; Haythami, Majmau al-Zawaaid, iv, 67-8.

Islam and Environmental Conservation, available at http://www.islamweb.net/emainpage, accessed on 29.06.2014.

Islamic environmental organizations, available at https://www.google.com.my/web, accessed on 29.06.2014.

Bukhari, Tajrid al-Sahih, vii, 122; Muslim, Musaqat, 2 No> 2

Islamic Relief Worldwide, available at http://www.islamic-relief.com/InDepth/2-12-environment.aspx; accessed on 29.06.2014.

Izz ad-Din ibn ‘Abd as-Salam, Qavaid al-Ahmak fi Masalih al-Anam, (Beirut: Daru'l- Ceyl, 1980), vol.1, p. 167; Fazlun Khalid and Joanne O’Brien. (ed.), Islam and Ecology, (New York: Cassell Publishers Limited, 1992).

Kula, E. (2002). Environmental Conservation / Volume / Issue 01 / March 2001, pp. 1-9 DOI: http://dx.doi.org/10.1017/S0376892901000017 (About DOI), Published online: 10 May.

Majma' al-Zawaid, v, 480.

Mevlana, Fihi Mafih [Turkish trans. Meliha Ambarcıoğlu], Istanbul, MEB Yayınları 1989, 61.

Musaji, Sheila (2012). Environment & Ecology in Islam - TAM article collection - updated 4/19/12**;** available at http://theamericanmuslim.org/tam.php/features/articles/environment_ecology/, accessed on 29.06.2014

Muslim, Musafirun, 139; Musnad, vi, 91, 111, 163, 188, 216.

Muslim Environmentalists, available at http://islam.about.com/od/activism/a/Muslim-Environmentalists.htm on 29.06.2014

Ozdemir, Ibrahim (2002). An Islamic Approach to the Environment, available at http://www.islamawareness.net/Nature/environment_approach.html, accessed on 29.06.2014.

Richard, C. Foltz. 'Islam and Ecology: A Bestowed Trust', available at http://www.environment.gen, accessed on 29.06.2014.

HALAL INFORMATION TO THE AWARENESS AND PERCEPTION OF MUSLIM CONSUMERS ON NON-FOOD HALAL PRODUCT

Norafni @ Farlina binti Rahim[1]
Zurina Shafii
Syahidawati Shahwan

ABSTRACT

The non-food Halal product is the new market in the Muslim world, especially for cosmetics, personal care and pharmaceutical industry. This has been proved by the newly-introduced Malaysian Halal Standard on on-food product, such as MS 2200:2008 for Islamic Consumer Goods and MS 2424:2010 for Halal pharmaceuticals. The purpose of this study is to investigate the role Halal information to the awareness and perception of Muslim consumers on non-food Halal product. The sample of the research consisted of 236 government servants in the state of Selangor. The data are collected through questionnaire and analysed with SPSS 16.0. The result revealed that there is high level of information on Halal product with application of non-food product and also high degree of awareness of Muslim consumers on non-food Halal product with due to that.

Keywords: Halal, halal product, awareness

1. INTRODUCTION

The populations of Muslim all over the world are rising rapidly. It is estimated that the Muslim population is 1.7 billion and will growing in the future years (Kettani, 2010). Esfahani and Shahnazari (2013) states that Muslim population taking up 30 per cent from the total population and it is forecasted that in 2025 the Muslim population will be increasing up to 35 per cent. This has creates a huge market for demand and consumption of Halal goods and services in the three main areas of Halal; food, non-food and services. It has become a culture, identity and lifestyle to the Muslim consumers since there is very high awareness on Halal food product and the growing awareness on Halal non-food product. Not to mention, there are great demand of Halal services such as banking, tourism, hospitality, logistic, supply chain and many more. This positive culture and high awareness on seeking Halal also has initiate the manufacturer and supplier to produce the Halal goods and services due to high demand not only from Muslim, but also from non-Muslim consumers (Rezai et al., 2010 and Nik Muhammad et al., 2009).

The non-food Halal goods and products is the least discussed area academically compared to other fields i.e. food and services. It can be considered new and developing area (Ahmad et al., 2011) but in these recent years, it getting more attention by consumers, manufacturers, government and researchers. The non-food product generates huge amount of sales that also contribute to the plan of Malaysia to become a Global Halal Hub. A research done by World Halal Forum Secretariat estimating that global Halal products is amounting USD 2.3 trillion

[1] Universiti Sains Islam Malaysia (USIM)

(excluding banking), and 67 percent (USD 1.4 trillion) of this market is comprised of food and beverages. USD 506 billion are from pharmaceuticals and USD 230 billion are made from cosmetics and pharmaceuticals. (The Halal Journal, July & August 2010, also cited by Shafii & Wan Siti Kadijah, 2012). Prime Minister Datuk Seri Mohd Najib Tun Razak said at the 5th World Halal Forum 2010 that the cosmetics and personal care is amounting up to USD 230 billion while pharmaceuticals compose sales up to USD 506 billion (The Borneo Post, June 22, 2010). International Trade and Industry Deputy Minister, Datuk Mukhriz Mahathir had quoted the figure from the Institute of Personal Care Science of Australia in his speech at International conference on Halal Cosmetics and Toiletries 2010 and said that "The global cosmetics market is worth USD 334 billion and the global Halal cosmetic market estimated at USD 13 billion." (The Star Online, April 13, 2010). This has confirmed by Hunter (2012) stated that half of the Halal cosmetics sales which totalling up to the estimation USD 5-14 billion are in the Middle East countries, and USD 2.1 billion of sales are in Saudi Arabia. Datuk Seri Liow Tiong Lai, Health Minister of Malaysia, stated that the Malaysia's pharmaceutical industry exports expected to grow 8% in 2012 to RM 610 million from RM 564 million in 2011 (Ramli, Salleh & Nizam Azmi, 2012).

The investment in Halal non-food area also showing good potential. The approved investments for food and non-food industries (medical devices, pharmaceuticals, cosmetics and toiletries) had doubled from RM 3 billion to RM 7.2 billion from 1996 to 2005 (Talib, Zailani & Zainuddin, 2010). Malaysian Industrial Development Authority (MIDA) has reported that between 1996-2006, total approved investment for food and selected non-food industries is up to RM 10.2 billion and the export of medical devices and pharmaceuticals shows that the growth rate of both products averagely up to 8 per cent and 10.6 per cent in the year 1996 and year 2005 respectively (Husain et al., 2012).

2. LITERATURE REVIEW

Halaalan Thoyyiban

In Holy Quran, Allah said, "O ye who believe! Eat of the good things that We have provided for you, and be grateful to God, if it is Him you worship." (Al-Baqarah: 172). Allah also said in another verse, "O ye people! Eat of what is on earth, lawful and good, and do not follow the footsteps of the evil one, for he is to you an avowed enemy." (Al-Baqarah: 168).

Halal is from the Arabic word which means permissible. Halal is the terms that has been used extensively in Holy Quran and Sunnah. Halal in Islamic Jurisprudence (fiqh) means something allowed by Shari'ah (Yunus, Wan Chik and Muhammad, 2010). The antonym of Halal is *Haraam* which is forbidden or prohibited according to Islamic Jurisprudence (fiqh). Anything that fall neither of these categories will fall under *Syubhah* (questionable or dubious). Reported from Bukhari, Muslim, Abu Daud, Ibnu Majah and Darimi, "What is Halal is clear. And what is Haram is also clear. And in between those two is a dubious area in which many people do not know about. So whoever distanced himself from it, he has acquitted himself (from blame). And those who fall into it, he has fallen into a state of Haram" (HDC, 2014)

Halal basically is something permissible based on Shari'ah in aspect of religious, faith and spiritual while Thoyyib is good or wholesome in terms of quality, safety, hygienic, clean, nutritious, quality, and authenticity in aspect of scientific (Che Man and Mustafa, 2010).

According to Hunter (2012), Thoyyiban also influence management style, human resource policies, business ethics, raw materials selection and manufacturing methods. Halal in Islam is *Halaalan Thoyyiban* which gives the literary, technical and practical meaning of Halal, hygienic, clean, pure, nutritious, high quality, and healthy (Husain et al., 2012 and HDC, 2014).

The guidelines for non-food product are derived from various sources i.e. Quran, Sunnah (the reported sayings, actions, silent approval and attributes of Prophet Muhammad PBUH), Ijma' (consensus of Muslim scholars or ulama'), Qiyas (analogy derived from Quran), Ijtihad (the personal opinion or judgement from ulama' based on Quran, Sunnah and Ijma')(R&D JAKIM, Sinar Rohani, March-April 2009). The rulings (hukm) and fatwas are formulated according to *Maqasid al-Shariah*. *Maqasid al-Shariah* or the objectives of Shariah is designed to invite benefits and prevent harm (Al-Mubarak and Osmani, 2009) . The concept of Halal in Islam is closely associated with the concept of Maqasid al-Shariah (Ridwan Shah et al., 2008 and Talib, Zailani and Zainuddin, 2010). The concept of *Maqasid al-Shariah* is to preserve the followings:

i) To preserve the purity of religion
ii) To preserve life
iii) To preserve Islamic mentality
iv) To preserve property
v) To preserve future generations
vi) To maintain self-respect and integrity

Malaysia Halal Standards on Non-food Halal Product

So far, there are three non-food product industries that have Malaysian Halal Standard as guidelines. Malaysian Standard MS 2200: Part 1: 2008 is the general guidelines of cosmetic and personal care (Malaysian Standard Online, 2014). This serves as guidelines for Halal cosmetic and personal care industry. It should be used together with Guidelines for Control of Cosmetics Products in Malaysia and Guidelines on Cosmetic Good Manufacturing Practice, by National Pharmaceutical Control Bureau, Ministry of Health (MOH) (HDC, 2014).

For pharmaceutical products, the Malaysian Halal Standard is MS 2424: 2012 (P) (Ramli, Salleh and Nizam Azmi, 2012). It serves as guidelines for the preparation and handling of Halal pharmaceutical products including health supplements and also for pharmaceutical trade and business in Malaysia. (HDC, 2014).

MS 2200-2: 2012 (BM) is for Islamic Consumer Goods on the usage of animal bones, skins and hairs in related industries that met the Shari'ah consumption requirements. (Malaysian Standard Online, 2014).

Awareness and Perception on Non-food Halal Product

According to a survey by Kaseh Dia Consultation, there is a low of awareness on Halal cosmetics. However the awareness to get the Halal cosmetic is importantly increasing gradually and the consumer are ready to purchase the Halal cosmetics if they are available in the market. The survey found that approximately 57.6 per cent Muslims in Singapore and 37.7 per cent Muslims in Indonesia are aware on getting Halal cosmetics, and more than half are finding difficulties in searching for Halal cosmetics. The Head of Kaseh Dia Consultation claimed that, "the current level of awareness on Halal cosmetics is still low, but it is definitely increasing."

The main problem of low awareness on getting Halal cosmetics is due to the availability of Halal cosmetics in the market, contributed by the difficulties to get access to the raw materials and ingredients that are Halal certified to preserve the Halal integrity (Kamaruzaman, 2008, also cited by Rahim, Shafii and Shahwan, 2013, Teng and Wan Jusoh, 2013 and Abdullah Swidi et al., 2010).

Rahim, Shafii and Shahwan (2013) have identified the four factors that influence the awareness and perception of non-food Halal product. The factors are Halal information, availability, Halal on media and Halal programs. All factors are found significant except Halal programs.

Halal Information

Information can be a source of awareness and perception. Schmitt (2012) argues that consumers identify information relevant to them in associating themselves with brand, which the information can be brand attributes, benefits, and images that encountered by consumers. Information in expectation can affect the quality perception of a product (Napolitano et al., 2010). Teng and Wan Jusoh (2013) found that 89.1 per cent from 578 respondents are aware/know about Halal cosmetics and personal care, while 74.6 per cent of the same respondents are using the Halal cosmetics and personal care. For awareness and knowledge sources, matters like 'heard about that', 'used to heard', 'used to read', 'discuss and tell' comes from personal and impersonal source of information (Teng and Wan Jusoh, 2013, also cited by Rahim, Shafii and Shahwan 2013). The study found that 52.9% of the respondents get their source of Halal cosmetics and personal care information from friends. Internet and television is the highest percentage of impersonal source of information, 43.4 per cent and 37.2 per cent respectively 98 per cent of the 50 consumers in Klang Valley confirmed that it is very important of getting Halal updates from authorities on each Halal status of a manufacturer (Anir et al., 2008).

Study by Rezai (2008) has found that the item 'I am more confident with Halalness of those food product which carry Halal logo compared to those without the Halal logo" bring 41.83 per cent and 40.48 per cent from the 1860 respondents are strongly agreed and agreed respectively with the statement. The same study also found that more than of the respondents perceive religious obligation is a major concern on purchasing food product while 47 per cent agree that Halal products make their mind at peace. Consumers are getting more Halal-conscious and thus they searching for products that not only satisfy their needs but also "peace of mind" (Abdul Aziz and Vui, 2012). The perception of using non-food Halal product is getting stronger because nowadays consumers have a high degree of knowledge about harmful and dangerous chemical substance in certain product (Kamaruzaman, 2008).

The emergence of Halal cosmetics and Halal pharmaceuticals are based on the increasing knowledge about Halal in those products, rather than the knowledge about Halal ingredients in those products (Swidi et al., 2010). This can be a signal that the awareness and perception of non-food Halal products can be derived by the rise of Islamic and Halal knowledge by the consumers to search for Halal products. This has link with the concept of *Halaalan Thoyyiban* as stated above. A study by Mohd Ali and Mat Said (2012) found that 80.8 per cent from 400 consumers in Klang Valley used natural cosmetic products because of health reason (81.1 per cent), safety reason (60.7 per cent) and quality reason (60.1 per cent).

Most of the 113 consumer in Klang Valley has also showed understanding of Halal concept with dimensions like 'I understand what Halal is' (mean = 3.91) and 'I know what it means by Halaalan Thoiyyiban' (mean = 3.37) (Nor Ardayanti et al., 2013). The other issue is familiarity as source of knowledge and information. It is well-known that familiarity and brand choice is highly correlated (Baker et al., 1986). Baker et al., 1986 stated that brand familiarity is "a unidimensional construct that is directly related to the amount of time that has been spent processing information about the brand, regardless of the type or content of the processing that was involved."

Halal information as derived from factor analysis (Rahim, Shafii and Shahwan, 2013) found that items of Halal information in identifying factors of awareness and perception of Muslim consumers on non-food Halal product are as follows; I always bought Halal product (HI 1), I know and familiar with Halal product (HI 2), I used to read about Halal product (HI 3), I satisfied when buying Halal product (HI 4), I used to heard about Halal product (HI 5), Halal issues is interesting to me (HI 6), I believe Malaysia is able to become Global Halal Hub (HI 7), Halal product is safe and have a good quality (HI 8), Halal product make me feel secure and confidence when performing my prayer and performing Hajj (HI 9), Halal product is allowed by Shariah for consumption (HI 10) and I know about Halal product (HI 11).

3. METHODOLOGY

Data for this study is collected through questionnaire. The sampling for this study is 236 government servants in the state of Selangor, Malaysia. The response of the questionnaire was measured by Likert-type Scale from 1 (strongly disagree) to 5 (strongly agree) (Vagias and Wade, 2006). The data is analyzed through Statistical software SPSS 16.0 into descriptive analysis. Descriptive analysis is divided into two; the measures of central tendency and the measures of dispersion (variability) (Fah and Hoon, 2009). Mean is the average value of a data and the value will be categorized into the standard as proposed by Nunnally (1978)

Table 1: Mean interpretation

Mean score range	Interpretation
1.00 – 2.33	Low
2.34 – 3.66	Moderate
3.67 – 5.00	High

Source: Nunnally (1978)

4. RESULTS AND DISCUSSION

The respondents comprised mainly of female, which is 67.4% and male 32.6%. In terms of marital status, 70.8% are from married respondents, which are the majority group, while the single respondent and divorcee/single parent is 27.1% and 2.1% respectively. In the perspective of age, the majority of the respondents are between the age of 25 to 31 years old (51.3 %), with 45.8% having Bachelor Degree as their educational background, followed by Diploma/Matriculation/STPM/Foundation/A-Level holder which comprised of 34.7% and PMR/SPM holder comprised of 10.6%. The analysis also demonstrates that most of the

respondents earn RM 2100 – RM 2800 per month (28.4%) and RM 2801 – RM 3500 per month (22.5%). The government servants in this study consisted from Kementerian Pelajaran Malaysia (KPM) as the majority group which is 21.6%, followed by 11.4% respondents from Jabatan Kehakiman dan Syariah Selangor (JAKESS) and 8.9% respondents from Jabatan Pembangunan dan Perusahaan Negeri Selangor (JPPS).

Table 2: Socio-demographic features of the respondents

	Levels	**Frequency**	**Percentage**
Gender	Male	77	32.6
	Female	159	67.4
Marital status	Single	64	27.1
	Married	167	70.8
	Divorcee/Single parent	5	2.1
Age	18-24	16	6.8
	25-31	121	51.3
	32-38	48	20.3
	39-45	22	9.3
	46-52	20	8.5
	53-59	9	3.8
Educational background	PMR/SPM	25	10.6
	Diploma/STPM/Al-Level	82	34.7
	Bachelor	108	45.8
	Postgraduate	18	7.6
	Professional certificate	2	0.8
	Others	1	0.4
Income per month	RM 701- RM 1400	29	12.3
	RM 1401 – RM 2100	40	16.9
	RM 2101 – RM 2800	67	28.4
	RM 2801 – RM 3500	53	22.5
	RM 3501 – RM 4200	19	8.1
	RM 4201 – RM 4900	11	4.7
	RM 4901 – RM 5600	5	2.1
	RM 5600 – RM 6300	4	1.7
	RM 6301 – RM 7000	4	1.7
	RM 7001 – RM 7700	2	0.8
	RM 7001 – RM 8400	1	0.4
	> RM 8400	1	0.4
Department	AADK	3	1.3
	FAMA	6	2.5
	FORESTRY	4	1.7
	JAKESS	27	11.4
	JANM	7	3.0
	JAS	13	5.5
	JKUB	2	0.8
	JMG	1	0.4
	JPBD	8	3.4
	JPK	12	5.1
	JPM	9	3.8

JPPS	21	8.9
KASTAM	7	3.0
KDN	2	0.8
KEMAS	4	1.7
KKM	1	0.4
KPKK	2	0.8
KPM	51	21.6
KPT	6	2.5
LPHS	7	3.0
PADAT	13	5.5
PENERANGAN	12	5.1
PTG	8	3.4
RISDA	2	0.8
SKM	5	2.1
SPA	3	1.3

Source: Survey (2011)

Table 3 shows the item on Halal information to the awareness and perception of Muslim consumers on non-food Halal product. The respondents are in average agree that they bought Halal product with mean score 4.33. They also know and familiar with Halal non-food product with mean score 4.24. The item 'I used to read about Halal product' has average score of 4.14. The item 'I satisfied when buying Halal product' and 'I used to heard about Halal product have mean score 4.33 and 4.22 respectively. Halal issues is interesting to me have mean score of 4.27. Averagely, respondents agree that Malaysia is able to become Global Halal Hub with mean score 4.00. In terms of safety and quality, the item 'Halal product is safe and have a good quality' and 'Halal product make me feel secure and confident when performing my prayer and Hajj' have mean score of 4.24 and 4.56 respectively. Respondents understood the concept of Halal that 'Halal product is allowed by Shari'ah for consumption with mean score 4.18. Last but not least, respondents 'know about Halal product' with mean score 4.00.

Averagely, all of the items have high mean score according to the standard by Nunnally (1978).

Table 3: Descriptive analysis on Halal Information items

Item		SD	D	N	A	SA	Mean	Standard Deviation	Interpretation
HI 1	I always bought Halal product	0	0	20	188	98	4.33	0.626	High
HI 2	I know and familiar with Halal product	0	3	2	123	86	4.24	0.680	High
HI 3	I used to read about Halal product	1	3	22	147	63	4.14	0.658	High
HI 4	I satisfied when buying Halal product	2	3	21	98	111	4.33	0.763	High
HI 5	I used to heard about Halal product	1	1	17	143	63	4.22	0.628	High

HI 6	Halal issues is interesting to me	0	0	31	110	94	4.27	0.680	High
HI 7	I believe Malaysia is able to become Global Halal Hub	9	11	28	110	76	4.00	0.991	High
HI 8	Halal product is safe and have a good quality	4	11	26	79	116	4.24	0.942	High
HI 9	Halal product make feel secure and confident on performing my prayer and Hajj	1	0	12	75	146	4.56	0.634	High
HI 10	Halal product is allowed by Shari'ah for consumption	3	7	34	98	95	4.18	0.849	High
HI 11	I know about Halal product	3	9	27	142	55	4.00	0.785	High

SD= Strongly disagree
D = Disagree
N = Neutral
A = Agree
SA = Strongly agree

5. CONCLUSION

From the above table showing the mean score of the items Halal Information, it indicates that the respondents have high degree of Halal product information in the application of non-food Halal product. It also shows that all of the items are positive statement thus the pattern of agreement among respondents are unanimously agreed. Furthermore, the result also shows the similarities with the studies and findings as stated in literature review. It implicates that knowledge and information is the source of awareness and perception of Muslim consumers on non-food Halal product. This is because with information, consumer will aware the existence and image of the certain product, associated with perception and affect their purchasing decision. Non-food Halal products like cosmetics, toiletries, personal care products, pharmaceutical products and so on is very close with our daily life and seeking Halal is obligation of a Muslim.

REFERENCES

Abdul Aziz, Y. & Vui, C.N. (2012). The role of Halal awareness and Halal certification in influencing non-Muslims' purchasing intention. Paper presented at *3rd International Conference on Business and Economic Research (3rd ICBER 2012) Proceeding*, 1819-1830.

Ahmad, H., Fazullah, A., Borham, A.J., Hashim, H., & Razak, M. (2011). Halal Studies in universities: A way forward to manage Halal business. Paper presented at *International Journal of Arts and Sciences Conference*, Austria.

Al-Mubarak, T. & Osmani,N.M. (2009). Application of Maqasid al-Shariah and Maslahah in Islamic banking practices: An analysis. Retrieved from *ResearchGate*, http://www.researchgate.net/publication/235988767_Applications_of_Maqasid_al-Shariah_and_Maslahah_in_the_Islamic_Banking_Practices_An_Analysis/file/60b7d51754b8ebeecb.pdf

Anir, N.A., Md Nasir, M.H.N. & Masliyana., A. (2008). RFID Tag for Halal food tracking in Malaysia: User perceptions and opportunities. Paper presented at *7th WSEAS International Conference on Telecommunications and Informatics* (TELE-INFO '08), Turkey: Istanbul.

Bahagian Penyelidikan JAKIM (2009, March-April). Barang gunaan dari perspektif Islam. *Sinar Rohani*, JAKIM, 11-13.

Baker, J., William, H., Moore, D., & Nedungadi P. (1986), Brand familiarity and advertising: Effects on the evoked set and brand preference. *Association for Consumer Research*, 637-642.

Che Man, Y. & Mustafa, S. (2010). Updates of Halal Products Authentication. Presentation slides at *World Halal Research Summit 2010*, Malaysia: Kuala Lumpur.

Esfahani, A. N. & Shahnazari, A. (2013). Designing Halal and pure food model by emphasizing consumer behaviour management. *Journal of Basic and Applied Scientific Research*, 3(2), 574-578

Fah, L.Y. & Hoon, K.C. (2009). *Introduction to Computer Data Analysis with SPSS 16.0 for Windows*. Selangor: Venton Publishing.

Halal Industry Development Corporation (HDC) website: http://www.hdcglobal.com

Hunter, M. (2012, March). The emerging Halal cosmetic and personal care market. *Personal Care*, 37-41. Retrieved from http://works.bepress.com/cgi/viewcontent.cgi?article=1021&context=murray_huntesi-redir=1&referer=http%3A%2F%2Fscholar.google.com.my%2Fscholar%3Fstart%3D30%26q%3DHalal%2Bawareness%26hl%3Den%26as_sdt%3D0%2C5#search=%22Halal%20awareness%22

Husain, R., Abd Ghani, I., Mohammad, A. & Mehad, S. (2012). Current practices among halal cosmetics manufacturer in Malaysia. *Journal of Statistical Modelling and Analytic*, 3(1), 46-51.

Kamaruzzaman, K.A. (2008, March and April). Halal cosmetics: Between real concerns and plain ignorance. *The Halal Journal*, 26-28.

Kettani, H. (2010, January). 2010 World Muslim Population. *Proceedings of the 8th Hawaii International Conference on Arts and Humanities*, Honolulu Hawaii.

Malaysia, potential hub for Halal cosmetics. (2010, April 13). *The Star Online*. Retrieved from http://biz.thestar.com.my

Mohd Ali, A., & Mat Said, A. (2012). Socio-economic background and purchasing pattern of natural cosmetic products. Paper presented at *UMT 11th International Annual Symposium on Sustainability Science and Management*. Malaysia: Terengganu.

Mohd Yunus, A., Wan Chik., M.Y., & Mohamad, M. (2010). The concept of Halaalan Thoyyiba and its application in product marketing: A case study at Sabasun Hyperruncit Kuala Terengganu, Malaysia. *International Journal of Business and Social Science,* 1(3), 239-248.

Nik Muhammad, N. M., Md Isa, F., & Chee Kifli, B. (2009). Positioning Malaysia as Halal Hub: Integration Role of Supply Chain Strategy and Halal Assurance System. *Asian Social Science*, 5(7), 44-52.

Nor Ardayanti, A., Tunku Nashril, T.A., & Mohd Helmi, A.Y. (2013). A study on Halal food awareness among Muslim customers in Klang Valley. Paper presented at *4th International Coference on Business and Economic Research (4th ICBER 2013).* Indonesia: Bandung.

Nunnally,J.C. (1978). *Psychometric theory*. Ed.2.New York: Mc-Graw Hill Book Company.

Rahim, N.F., Shafii, Z., & Shahwan, S. (2013). Awareness and Perception of Muslim Consumers on Non-food Halal Product. *Journal of Social and Development Sciences.* 4(10), 478-487.

Ramli, N., Salleh, F. & Azmi, S.M.N. (2012).Halal Pharmaceuticals: A Review on Malaysian Standard MS 2424:2012 (P), *Journal of Arts and Humanities (JAH),* 1(1), 137-142.

Rezai, G. (2008). *Consumers' confidence in Halal labelled manufactured food in Malaysia.* Phd Thesis, Serdang: Universiti Putra Malaysia.

Rezai, G., Muhammad., Z., Mad Nasir, S. & Eddie Chew, F.C. (2010). Non-Muslims' awareness of Halal principles and related food products in Malaysia. *International Food Research Journal*, 17, 667-674.

Ridwan Shah, N., Nooh, M. N., Nawai, N., & Muhammad, H. (2008). Is Halal product are more expensive as perceived by the consumers? Muslimpreneurs challenges and opportunities in establishing a blue ocean playing field. Paper presented at *4th International Conference on Business*, Bangi: UNITEN. Retrived from http://www.internationalconference.com.my/proceeding/ice2008_proceeding/PAPER_065_HalalProducts.pdf

Schmitt, B. (2012). The consumer psychology of brands. *Journal of Consumer Psychology*, 22(2012), 7-17.

Shafii, Z. & Wan Siti Khadijah, W.M.N. (2012). Halal traceability Framework for Halal Food Production, World Applied Sciences Journal 17 (Towards the Traceability of Halal and Thoyyiban Application), 1-5.

Swidi, A., Wie, C., Hassan M. G., Al-Hosam, A., & Mohd Kassim, A. W. (2010). The mainstream cosmetics industry in Malaysia and the emergence, growth and prospects of Halal cosmetics. *The Third International Conference on International Studies (ICIS 2010),* Sintok: Universiti Utara Malaysia.

Talib, Z., Zailani, S., and Zainuddin., Y. (2010). Conceptualization on the dimensions for Halal orientation for food manufatcurers: A study in the context of Malaysia. *Pakistan Journal of Social Sciences,* 7(2), 56-61. doi: http://dx.doi.org/10.3923/ pjssci.2010.56.61

Teng, P.K. & Wan Jamaliah, W.J. (2013). Investigating student awareness and usage intention towards Halal labelled cosmetics and personal care products in Malaysia. Paper presented at *4th International Conference on Business and Economic Research (4th ICBER 2013),* Indonesia: Bandung.

Vagias, Wade M. (2006). *Likert-type scale response anchors*. Clemson International Institute for Tourism & Research Development, Department of Parks, Recreation and Tourism Management. Clemson University.

Yunus, A. , Wan Chik, W.M.Y and Muhamad, M. (2010). The case of Halaalan Tayyiba and its application in products marketing: A case study at Sabasun Hyperuncit Kuala Terengganu, Malaysia. International Journal of Business and Social Science, 1(3), 239-248.

Yusuf ‘Ali, A.(1994). *The Holy Qur’an: Text and translation*. Kuala Lumpur: Islamic Book Trust.

CRAWLING TOWARDS SUCCESS: A LESSON FROM A BUMIPUTERA CONTRACTOR

Intan Fatimah Anwar[1]
Suzana Samsudi[2]
Sumaiyah Abd Aziz[3]

ABSTRACT

This case study is part of preliminary findings on the study of critical success factor of Bumiputera contractors in Malaysia. The writing process of this case study is based on interview sessions with the company owner and secondary data obtained from the company as well as the websites. The data was analyzed by using the case study methodology. This case revolved around the issue of critical success factors in determining the success of Bumiputera contractors in Malaysia. This case was highlighted based on actual story. The findings revealed that there are a number of factors contributing to the company success such as effective management of human resource, well monitoring of project operations and incorporation of corporate social responsibility (CSR) activities. As for the conclusion, the Bumiputera contractors have the ability to be competitive in the industry provided that they have correct skills and adequate experiences in managing the company. Hopefully, this case can inspire and be referred by other Bumiputera contractors in being competitive in construction industry specifically in Malaysian market and generally at global market.

Keywords: Case study, Bumiputera contractors, construction industry, critical success factor.

1. INTRODUCTION: CONSTRUCTION INDUSTRY IN MALAYSIA

The Economic Transformation Programme (ETP) was introduced in 2010 in line with Malaysia's vision to become a high-income nation. The program is aiming to increase the Gross National Income (GNI) from RM660 billion in 2009 to RM1.7 trillion in the year of 2020. Throughout this program, 131 projects and 60 areas of various business divisions including the infrastructure and 'Greater Kuala Lumpur' projects provide the opportunity for the local contractors to grow their businesses and increase their revenues in the construction field. In addition, the 1Malaysia Housing Programme (PR1MA) which was introduced to provide the housing facilities for the middle class citizens can be considered another opportunity for the market players in the local construction industry.

[1] Intan Fatimah Anwar, Faculty oEconomics and Muamalat, Universiti Sains Islam Malaysia (USIM).
[2, 3] Lecturers, Universiti Sains Islam Malaysia. Corresponding author: intan.anwar@usim.edu.my

As a multi-racial country aiming to be an inclusive high income nation, Malaysia has introduced a number of economic policies to reduce the level of economic gap between the Bumiputeras, the indigineous people that made up about two-third of the people and the other Malaysians or foreigners. To ensure the equitable distribution of economic wealth among all races, the New Economic Policy (NEP), for example, was enacted with the target to achieve 30 percent of Bumiputera owned equity. Within the construction sector, the government has provided special incentives for Bumiputera contractors through a quota system. For example, the construction projects labelled as G1 grade were only allocated to Bumiputera contractors.

Furthermore, the Contractor Service Centre (PKK) was set up with the mission to help develop the quality of Bumiputera contractors and to ensure greater Bumiputera participation as the country moves towards achieveing Vision 2020. In line with this mission, PKK focuses on the development of quality and competitive Bumiputera contractors. Consistent with the religious beliefs of Muslim Bumiputeras that state nine out of tenth incomes is earned throughout business activities, the PKK thus encourages more Bumiputeras to venture into construction businesses.

On October 2012, there was a change in the registration system for the purpose of licensing issuance which seen that the task previously held under the supervision of the PKK has been cancelled and replaced by the Industrial Development Board Construction of Malaysia (CIDB), who took over to issue the Work Government Procurement Certificate (GCMS). As CIDB was established to assist the supervision and coordination of construction activities, the contractors who wish to bid tenders and construction projects have to register with CIDB according to their job classifications, such as engineering or mechanical and electrical works. As a result, the divisions which previously had been identified with seven groups have now been reclassified in seven grades. PKK however, still controls the issuance of the Bumiputera Status Certificate.

Despite various government efforts and policies to facilitate and enhance the Bumiputera contractors' competencies, Bumiputera contractors were still perceived as less capable to survive in the construction industry. Among the problems identified were lack of expertise and experience, the awarded tender was too optimistic, price fluctuation of construction materials, poor financial management, supplier networks problem, skilled labour constraints, shortage of building materials and machinery equipment, inefficient management and communication problems (Othman, 2010). Therefore, continues studies need to be done in order to identify the main cause and problems that may surround Bumiputera contractors. This is to ensure that the existing or relevant policies can be improved or develop not only to overcome any weaknesses identified among Bumiputera contractors but also to exploit their strengths as to remain competitive in the industry.

Malaysia has one research institute, Construction Research Institute of Malaysia (CREAM) that was incorporated on the 26th March, 2004. CREAM is initiated by CIDB in order to function as a corporate vehicle for carrying out CIDB's research function as to enable CIDB to concentrate on the performance of its core function. The role and function of CREAM is in line with the Strategic Thrust 5 (ST 5) as stipulated in Construction Industry Master Plan (CIMP 2005-2015): Innovate through research and development (R&D) and adopt new construction methods (http://www.cream.my/).

This paper represents a case study of one of the Bumiputera contractors in Malaysia. Based on the interview session with one of the executive directors of the company, several points were

highlighted on how the company drove their successes and challenges to be resilient in the competitive industry. Finally the key findings shed light on a number of several critical success factors for the Bumiputera contractors, which include the human resource issues, operational management and corporate social responsibilities.

2. COMPANY BACKGROUND

The CJ Services (CJS) was formed in 2006 by Abdul Aziz Ahmad with his partner Norzaleha Ismail with hundred percent of Bumiputra ownership, located in Ulu Kelang, Selangor. The CJS started up in 2006 focusing in construction, engineering, mechanical and electrical development. Besides that, it also involves in renovating, supplying and servicing for instance building cleaning service, assets supply of furniture, office machines, telecommunication equipment and building materials.

Among its line of services includes design and build, open plan partitions and work station, trading house supply, maintenance works and sewerage. Since 2006 until 2012, it has operated in Selangor and Wilayah Persekutuan which involved thirty three organizations and mostly from government sector.

The objective of establishment is to grab the opportunity and take challenge in increasing the number of Bumiputera businesses in Malaysia. It is committed to reach customer satisfaction by offering the best services, high quality products and competitive price to capture ongoing business relationship.

CJS also pursue continuous improvement in all aspects of business in spite of preserving welfare of employees is vital towards company performance. Besides, it feels responsible to create the competitive environment so that it helps to result of good impact on the country's economy.

3. LITERATURE REVIEW: CRITICAL SUCCESS FACTORS

The term "critical success factors" or CSF was first used by Rockart (1982). He defines CSF as those relatively small numbers of truly important matters where a particular industry should focus her attention in order to achieve success. CSF implies certain element which significantly contributes to and is vital for the success of a project. Moreover, as construction is a risky business and the possibility of business failure always exists, companies have to consider the factors that can have a direct effect to their success in business. (Arslan & Kivrak, 2009). Previous researchers associated CSFs with eight elements that are used as benchmarking parameters: structure of industry, competitive strategy, market conditions, political environment, organizational structure, technical applications, employee enhancements and process benchmarking (Rockart, 1982; Sanvido 1982; Abraham, 2004).

Based on a literature review in the study of Turkey construction industry, Arslan & Kivrak (2009) identified a total of seven possible factors that were felt to have an effect on the construction business success of companies in Turkey. These main factors are business

management, financial conditions, quality of work and workmanship, sales and marketing, use of technology, market selection and owner-manager characteristics (Arslan & Kivrak, 2009).

On top of that, literature discovers a number of 28 CSFs from several authors. The factors are being tabulated in Table 1.

Table 1. Critical success factors (CSF) summarization refining from literature survey

(Chan A.P.C., 2004)	(Iyer, 2005)	(Li, 2005)	(Abraham, 2004)	(Muhammad Saqib, 2008)
1. project related factors 2. project procedures 3. project management actions 4. human related factors 5. external environment	6. project managers' competence 7. supportive owners 8. top management 9. monitoring 10. feedbacks 11. coordination	12. effective procurement 13. project implement ability 14. government guarantee 15. favorable economic conditions 16. available financial market	17. competitive strategy 18. market analysis 19. political environment 20. economic environment 21. technical application 22. employee/organizational enhancement 23. process benchmarking	24. contractor-related factors 25. project management factors 26. procurement related factors 27. design-team related factors 28. Project management factors.

Source: Norizam Ayob & M. A. Malek (2013)

A study conducted by Norizam Ayob and M. A. Malek (2013) found that there are 26 factors that had been grouped in seven categories were identified as a critical for construction management in construction project in Malaysia. The seven categories are as follows:

1) Construction integration management
2) Construction scope management
3) Construction time management
4) Construction cost management
5) Construction quality management
6) Construction human resource management
7) Construction risk management

4. RESEARCH METHODOLOGY

This research has been conducted using case study method in order to gain in-depth information on the critical success factor of Bumiputera contractor in Malaysia (Yin, 2009). In the process of writing this case study, the researchers focused are on the main research question: what are the critical success factors in determining the success of Bumiputera contractors in Malaysia. Primary data were gathered from the interview sessions conducted with the owner of the company. Apart from that, secondary data such as company's records and several related agencies' websites were also used in constructing this case study.

Then, the researchers applied five-phased cycle by Yin (2011) in analyzing qualitative data, namely: (1) compiling; (2) disassembling; (3) reassembling (and arraying); (4) interpreting and (5) concluding. This is being done to the output from the interview session and available supported documents given by the company.

5. CRITICAL SUCCESS FACTORS 1: HUMAN RESOURCE MANAGEMENT

> *"Customer satisfaction results from the realization of high levels of value, compared to competitiors…Value is created by satisfied, committed, loyal and productive employees"*
>
> James L. Heskett, W. Earl Sasser, Jr., and Leonarnd L. Schlesinger

It is clearly stated above that the employee is one of the most important contributor in providing value and resemble the image of the company. Besides that, in correlation to the value, the employees as an internal marketing which is a part of holistic marketing to embrace appropriate marketing principles so that they would be able to serve customers well (Kotler, Keller, Ang, Leong & Tan, 2009).

In this case, CJS has put a priority to the staff in terms of salary, employees' benefits, leave and safety just to ensure that they will stay and loyal to the organization. Some of them have been working since earlier of the establishment and some has been absorbed from their internship study program from higher learning institutions. Each of the employees are be given equally treat and welcome to discuss their problem with the director or assistant Director of CJS and this can be seen when at every week they will have a meeting to discuss any dissatisfaction and difficulties that might arise in each task or responsibility given to them.

In ensuring the employers' safety, the management has taken an insurance policy for each of the site supervisors and managers. They also were paid first compared to the Director at every month. CJS without failed will provide bonus as a reward at the end of every year and will be brought their employees to any interesting place locally or oversea to enjoy their hard-earned.

In every society it is hard to train young people or the Y generation, however CJS managed to managed its employees who are under this category of generation. The question is how they do? During the interviewed session with the Company's Director, he mentioned that to success they do not only have a great team but they must work as a family. Thus any difficulties faced by employees will be resolved so that they will enjoy the success together. Caring, unselfish, tolerate, responsible, trust are among the characters that they built in each employees. Besides that CJS acquired a highly disciplined person with ability to manage time appropriately. Since they involved more on operation sites, they must minimize the error as possible and work according to time frame planned.

Working in the construction environment always gives stress to the employees and the CJS management. Customers also have high expectation and refused to understand their entire operation in case any mistake or problem occurs. CJS realized on this, and provide motivation in terms of monetary and non-monetary incentives to encourage and motivate their employees. The money incentives are the salary increment based on their performances and allowances to cover their high expenditures if the employees have to responsible for the hard and high risk

projects. The non-monetary incentives such as sponsored training program to enhance their skills and knowledge.

To keep the employees loyal, discipline and working with right ethics will always be a challenge for CJS since employees are human capital who always subject to emotional and cognitive reaction. Therefore, CJS always prepared a back-up plan such as taking few numbers of internship students from any local institutions with the hope that both will gain benefits which are knowledge and technical experience provided by CJS to the students and at the same time CJS earn knowledgeable employees that can be replaced anytime during contingency phase.

6. CRITICAL SUCCESS FACTORS 2: OPERATIONS MANAGEMENT

In the construction industry, operations management field or area especially project management, quality management and supply-chain management are very important to focus on in order to make sure that the company can sustain with the stiff competition of the industry itself. This section will be discussing the critical success factors by looking at the operations management perspectives.

In term of supply-chain management, CJS normally sticks to the common suppliers that have been giving cooperation for the previous projects. However, sometimes they also searching for the low cost materials so any suppliers that can give the best offer will be chosen. For the raw materials, Bumiputera construction companies still have high dependencies to non-Bumiputera suppliers. Thus, not much can be saved from the cost of materials itself and accuracy in determining the price of every material is very crucial for small construction companies.

Another important issue in running of a project is the capital. Capital is very crucial when it comes to so many projects at the same time. It means more capital or money is needed at this point of time. Normally, in starting up the business, bootstrapping is being used – since there is no company profile yet, in order to have the capital, one need to use own money or loan from others. Others in this case is from families, relatives and friends. After the company built its own reputation and has strong profile, then they will consider taking up loan from various banks, if necessary.

In completing all projects, there are many risks involved. Not everything runs smoothly as what have been planned and expected. There are still bad days such as projects that have been carried out turns to not getting any profit at all. However, the projects still need to be completed so that the company's reputation is not tarnished due to the problem. Some of the projects may have certain changes in the middle of completing it such as shorter time period requested by the clients and also price reduction – not as what have been agreed before. More or less, these will impact the company's earnings, as well as their planning.

In managing projects, project manager must always monitor the progress of each individual project. In this company, site manager or project manager will pass the supervision of the site to site supervisor. This company employs five site supervisors. Site supervisor (a.k.a. project manager) is the one who is taking care of the expedition, expenses and any related things regarding the project that he is handling. Site supervisor of one particular project will do the monitoring part using the common software, Microsoft Project. They need to manually key-in any progress for the monitoring process. This is important to determine if crashing is needed

and how much it will cost to crash any activity in the project. The project manager also has some knowledge of using Primavera, well-known software for managing project.

CJS also put emphasis on the role of inspection in their daily operations, especially in handling any types of projects. According to Heizer and Render (2014), inspection is a means of ensuring that an operation is producing at the quality level expected. Thus, deciding on where and when to inspect is crucial. Heizer and Render (2014) listed several points where inspections can be conducted:

1) At your supplier's plant while the supplier is producing.
2) At your facility upon receipt of goods from your supplier.
3) Before costly or irreversible processes.
4) During the step-by-step production process.
5) When production or service is complete.
6) Before delivery to your customer.
7) At the point of customer contacts.

At CJS, inspection is being conducted frequently, at any stages of the project development process. That is why for CJS, selection of suppliers is very important especially to make sure that raw materials being used in any project is in good quality and meeting the requirements set by the project owner. Thus, trust on the chosen suppliers is also very significant for a successful project. By having good and trusted suppliers, it means less hassle in monitoring the quality of the materials used because suppliers also have their own expertise in what they are doing. If the project does not need special materials or level of expertise in handling certain things, CJS would go for trying a new supplier. So, they might know more suppliers to collaborate in the future.

Besides that, CJS also conducted inspections at a few stages of the project progress, such as during the materials selection, when the materials are fixed to the place and after the work completed, before delivery to the intended department of owner. Site supervisor needs to prepare a report on how many percentage of the project is completed together with the pictures taken during the process, for example when the carpet is fixed at certain point in the progress. Progress meetings also being held frequently to check on every projects that they worked on, so that any progress, problems and improvements can be done immediately.

Delivering any project within the stipulated timeline and expected quality is very important for any contractors. CJS did not have a specific or hired a quality control (QC) person. Thus, the project manager is also the project supervisor; the same person is wearing a different cap for each of the task being done. This is also a common practice in small companies. It is a constraint for every small company to hire more people, so every employee knows their roles and normally deliver their works very well although it is quite challenging.

Thus, in order to be able to stay in the industry, the company relies on recognition received from the previous completed projects. This is important to make sure that previous customers will become their prospects or future clients. The company makes sure that they would be able to negotiate with clients on what the clients' wants and maintain the relationship with them so that the clients will perceived that CJS is "comfortable to work with" again and again. In construction industry, it is essential for the clients to have contractors that you can talk over and work with together in a very good way.

CJS also has not thinking of going global yet (at the current time). One of the owner of CJS stressed the point of "setting goals that are realistic and achievable", which is very important to move the company at this moment. The reason behind this is the level of resources had by the company itself would not permit them to venture internationally although the owners would love to challenge themselves up to that level.

7. CRITICAL SUCCESS FACTORS 3: CORPORATE SOCIAL RESPONSIBILITY

With the multinational corporations play significant roles in the world economy as well as issues concerning the corporate scandals, environmental degradation and unfair labor practices, there is a growing interest for companies to engage with corporate social responsibility (CSR) as part of their business activities in order to deliver clean brand image and corporate identities (Larsson, 2003). It is also argued that companies may focus on the core values of CSR as part of their marketing strategies and customer retention management program (Enquist et al., 2005). For this reason, a number of tools were developed for CSR measurement, such as Social Accountability 8000, ISO 9000, ISO 26000, Global Reporting Initiative (GRI), UN Global Compact (Enquist et al., 2005; SIS Handbok 40, 2005).

Studies have shown that the companies' CSR initiatives employed through their internal Code of Conduct had helped them to maintain good cooperation with their suppliers, led to higher product quality and delivery accuracy as well as increased attendance rate to their factories which in turn led to satisfied and loyal customers and enhance their profitability. In addition, companies who stand with their core values that "not everything is about money" and in a way that their customers, investors, associates and other stakeholders acknowledged as credible have also helped them to improve their bottom lines. Some companies had even gone beyond product quality, which is by ensuring that the customers were satisfied with their overall companies' image. In this context, the companies considered ethical responsibility as doing more than the minimum legal requirements. These companies believed that philanthropy is at the top of the pyramid and both legal and ethical responsibilities were prerequisite for effective CSR. To some extent, there were companies who are willing to support boycotts in situations where the legal or justice were violated (Classon & Dahlstrom, 2006).

In an emerging country like Malaysia, the CSR development is also taking place. The call for the adoption of good CSR leadership and practices for example, were evident in the Ninth Malaysian Plan (9MP) and the Capital Market Master plan. CSR development also received a significant boost when the Prime Minister of Malaysia, who was also the Finance Minister back then, made an announcement in the Budget 2007/2008 speech that the public listed companies are required to report on their CSR initiatives. Despite the government initiatives in promoting CSR practices, there were still lack of knowledge and awareness towards CSR practice especially on the environmental dimension. A study on the CSR initiatives among listed property and construction companies in Malaysia found that very few of them were making efforts to carry out CSR practices in their businesses. The highest CSR disclosure was the community involvement followed by environment, marketplace and workplace. On top of that, the study had also revealed that a significant number of the big corporations had suffered losses during the period under study, partly due to higher audit fees payment (Senawi, 2010).

It is important for companies that involve in the construction activities to consider integrating CSR into their business activities. Some of the reasons would be concerning the way these

companies addressed their strategy and risk assessment on the environmental and social impacts. Other concern includes the sustainability issues in which the current generation enjoys their material life at the expense of future generation (Senawi, 2010). To gain a better understanding of how Bumiputera construction companies view and subsequently implement the CSR activities, this study had identified some relevant points based on the interview session with CJS as to gauge their stand on CSR commitment. According to CJS, they believed that construction companies play important role in the physical development of a country and this belief itself became their CSR philosophy in delivering their works. For this reason, CJS ensured that their work quality remains the utmost important aspect in their key performance indicator. For example, the Director of CJS stated that:

> *"When we build, the quality must be there, especially when it comes to the road building works. Some contractors did not follow the exact measurement, thus it quickly created potholes. Even when we did the road surface marking, we will make sure we did it in the right way."*

Quality and market fairness goes hand in hand in the construction industry. Globally the construction industry has been criticized for many years as the corruption is likely to occur within the industry due to its nature of business where the procurement of works by the government or other public entities involve a large amount of money and its difficulty of monitoring the processes of financial expenditures. Corruption in the construction industry is initiated by project participants at every level and every phase of the process, and the professional advisers and consultants are among the first line of attack. As speculation, profiteering and bribery became accepted norms for doing the construction business, it become uncommon too that newly built bridges and dams collapsed or the highways cracked soon after its completion. Bribe raises the cost of doing business and the quality of goods or services may affect adversely. To overcome this problem, some governments have implemented procedural guidelines on procurement of services, goods and works to ensure the contracting of government funded works or services are transparent and fair, in order to achieve value for money and to prevent corruption risks (Zou, 2006). In Malaysia, the result of the Corruption Perception Index from the Transparency International Malaysia suggests that petty corruption has been more effectively addressed but the grand corruption remains prevalent (Devi, 2012). The Malaysian government is aware about the issue and the fight against corruption is among the key elements of the CSR effort and Government Transformation Program. However, the effectiveness of such initiatives remains uncertain. Highlighting this issue to CJS, the Director shared her personal view that:

> *"Our experience told us that there were still plenty out there getting their jobs through backdoors. For example, they got the projects because they know the insiders… Other than that, we also know that some deceive in different way, such as by using different road mix products."*

When asked CJS's on how she would rate the ethics of Malaysian contractors:

> *"I think it's seven (from a range of one to ten, with ten being the most ethical)… because not many can directly get their jobs through the insiders unless if they really know each other very well. Even that, the insider has to sit on the meetings. Thus things are still under control."*

Other than quality and work ethics, corporate philanthropy lies at top of CSR framework. Directors can no longer treat charitable giving as a peripheral activity or a distribution of profits, instead they have to integrate giving with other business activities and develop procedures to measure and evaluate its financial and social outcomes. In US alone, corporations gave approximately $14.1 billion to a wide array of nonprofits in 2009 (Giving USA, 2010). Despite the fact that almost all companies contribute some money to charity, corporate philanthropy remains controversial. The proponents believe that companies have a moral obligation to assist the communities in which they do business, whereas the critics contend that corporate giving programs consume company resources. The common ground between the opposing camps arrived at a point when corporate giving improves shareholder value as well as social welfare (Tonello, 2011). For CJS, the Director stands for the importance of philanthropy as part of doing business:

> *"We contribute to both zakat and donations. Zakat is compulsory and we can see its importance. But we care more on the donation part because the voluntary shows the additional value."*

Considering that CJS has various options to channel their resources ranging from social, environmental or faith-based organizations, the Director mentioned that:

> *"We have one registered society in Malacca. Every year we'll organize events for Raya celebration and school opening and also for the poor and needy. We also contribute to three religious schools, with some financial contribution to the teaching staffs and infrastructure. It's case to case basis. We give whatever they need."*

While companies may have different ways to formulate their ideal figure of corporate giving, CJS made it tied to the company's earnings:

> *"It will be based on the percentage from the profit. And sometimes it is beyond the pre-set percentage figure."*

8. CONCLUSION

To survive in the industry, CJS should be able to gain some competitive advantage in what they have been doing all this while. Based on our analysis, the success of CJS is mainly contributed by three factors: the ability to manage employees, the operational efficiency in project management and their philanthropy work through their CSR initiatives. These factors can be a good example to other Bumiputera construction companies in Malaysia.

CJS director had mentioned, "We believed that by contributing more to the society, the company will be rewarded more in this world and hereafter". This shows an obligation made by this company is in line with the Islamic perspectives that encourage the true spirit of Muamalat that do not solely emphasize on profit maximization.

In term of humanity aspect, CJS has shown that they have taken responsibility in providing appropriate benefits and rewards of the employees so that the employees will give their full commitment and loyalty. The satisfaction of employees will results to good output, increase productivity and indirectly will create satisfaction to the CJS's clients.

REFERENCES

Abraham, G. L. (2004). Critical success factors for the construction industry. *Construction Research Congress* (pp. 1-9). ACSE 2004.

Arslan, G., Kıvrak S. (2009). Critical factors to company success in the construction industry, International Journal of Human and Social Sciences, 4(8), 561-564.

Classon, J. & Dahlstrom, J. (2006). *How can CSR affect company performance? A qualitative study of CSR and its effects.* Unpublished masters thesis, Karlstads University, Karlstads, Sweeden.

Construction Research Institute of Malaysia (CREAM) Website, http://www.cream.my/, accessed on 15th May 2014.

Devi, R. (2012). Corporate social responsibilities in Malaysia. http://www.standardsusers.org

Enquist, B., Johnson, M., & Skålén, P. (2005). *A stakeholders view for a successful corporate social responsibility adoption*. Service research center, Karlstads university, Karlstad Sweden.

Giving USA Foundation. (2010). The Annual Report on Philanthropy.

Heizer, J. and Render, B. (2014) *Principles of Operations Management – Sustainability and Supply Chain Management*, 9th Edition (Global Edition), Pearson.

Kotler, P., Keller, K.L., Ang S.H., Leong, S.M. & Tan C.T. (2009) *Marketing Management: An Asian Perspective*, 5th Edition, Pearson.

Larsson, L-O. (2003). ”Ansvarsfullt företagande har avgörande betydelse för ett företags värde”. In Magnusson, Å. (ed.) *Det Globala Ansvaret – Sjutton röster om internationellt företagande och etik*. Ekerlid, Stockholm.

Lovelock, C. & Wirtz, J. (2011). *Services Marketing: People, Technology, Strategy*, 7th Edition (Global Edition), Pearson.

Norizam Ayob & M. A. Malek (2013). Developing Critical Success Factors (CSFs) for effective construction management in Malaysia industry, Asian Social Science, 9 (9), 211-218.
Othman, M.H. (2010). A *study on problems of Bumiputera contractor in construction industry*. Unpublished bachelor thesis, Universiti Malaysia Pahang, Pahang, Malaysia.

Rockart, J.F. (1982). The changing role of the information systems executive: a critical success factors perspective, Sloan Management Review, 24 (1), 3-13.

Sanvido V, G. F. (1992). Critical success factors for construction projects. *Construction Engineering Management*, 94-111. http://dx.doi.org/10.1061/(ASCE)0733-9364(1992)118:1(94)

Senawi, A. (2010). *Corporate social responsibility (CSR) of Malaysian listed property companies.* Unpublished master dissertation, Universiti Teknologi MARA, Shah Alam, Malaysia.

Shamas-ur-Rehman Toor, Stephen O. Ogunlana (2009). Construction professionals' perception of critical success factors for large-scale construction projects. Construction Innovation, 9 (2), 149-167.

SIS Handbok 40. (2005). *CSR - socialt ansvarstagande för företag : CSR - corporate social responsibility.* SIS Förlag, Stockholm.

Tonello, M. (2011). Making the business case for corporate philanthropy. Retrieved January 10, 2014, from https://blogs.law.harvard.edu

Yin, R.K. (2009). *Case study research – Design and methods, applied social research methods series* (4th Ed., Vol.5). Thousand Oaks, CA: Sage.

Yin, R.K. (2011). *Qualitative research from start to finish*. New York: The Guilford Press.

Zou, P.X.W. (2006). *Strategies for minimizing corruption in the construction industry in China*. Journal of Construction in Developing Countries, 11(2), 15-29.

REASONS OF ISSUING NON-COMPLIANCE REPORT FOR HALAL PREMISES APPLICANTS

Nor Asiah Yaakub[1]
Nathasa Mazna Ramli[2]
Sumaiyah Abd Aziz[3]
Nurul Aini Muhamed[4]
Norhaizam Md Sani[5]

ABSTRACT

Halal premises covers all permanent eating places including restaurant, franchise outlet/food court and hotel kitchen. The process of granting halal certified to the premises' applicants is strictly govern by JAKIM, the only authorized body in Malaysia regarding halal maters. However, not all applicants are guaranteed to be rewarded Halal certificate. In some cases JAKIM issued anon-compliance report (NCR) to the applicants for various reasons that can be simply said did not fulfill Halal requirements. For halal premises, in year 2012, 29 applicants were receiving NCR with 51 reasons. Some of the applicants disqualified because of multiple NCRs received according to several categories, some of them only received one NCR, and either it is a major or a minor NCR. Thus this study aims to determine the audit requirement for halal premises and analyse the reasons of issuing NCR status to the applicants. Finding of the study is hope to provide a significant input to the recipients of NCR status to make corrective action and also give better directions to the others applicants in future. Besides, it is also hoped this study will contributed to the knowledge enrichment particularly in halal premise sector.

Keywords : Non-compliance report (NCR), halal premises, audit.

1. INTRODUCTION

Malaysia is widely recognized as the leading authority on matters relating to halal certification and auditing standards, halal research and for its efforts in halal training. As example, Codex Alimentarius Commission has cited The Malaysian Standard Halal Food (MS1500:2004) as the best example in the world in terms of justification of Halal food (Nurulhuda et al, 2009). In fact, there are many other standards set up by the government such as MS 1500:2009, Halal Food - Production, preparation, handling and storage - General guidelines (Second revision), MS 2200: Part 1: 2008, Islamic Consumer Goods - Part 1: Cosmetic and personal care - General guidelines, MS 1900:2005, Quality management systems - Requirements from Islamic perspectives and MS 2424: 2012 Halal Pharmaceuticals as a guideline in halal management (just to name a few). Besides meet these Halal standards, the applicant for halal status are strongly advises to comply with Good Manufacturing Practices (GMP) and Hazard Analysis and Critical Control Points (HACCP) requirements. In further, this success also contributed

[1 2 3 4] Lecturers, Universiti Sains Islam Malaysia. Corresponding author: norasiah@usim.edu.my
[5] Training Manager, Halal Development Center Malaysia

by having sound halal management system including appointment of the Malaysian Islamic Development Department (JAKIM) as the ultimate power in governing halal maters in Malaysia.

Most of halal certificates granted by JAKIM goes to products (foods and non-foods) category while premises, companies and abattoirs represent 6.3 percent from total certificates (HDC, 2014). When discussing on halal maters, it can't be deny that halal food is still being a major concerns among publics while other fields such as halal finance, logistic, tourism becoming more popular in nowadays. While halal premises is closely related with the halal food, since halal premises covers all permanent eating places including restaurant, franchise outlet/food court and hotel kitchen.

Halal industry evolve tremendously. Nowadays, halal is not only provides an assurance to all Muslim consumers because it fulfils the Syariah law, which is a must for Muslims but more than that. From commercial perspective, halal is a new weapon for a business to compete and strengthen their position globally as non-muslims also aware with the benefits of using halal products.

By refereeing to the market trend from abroad in the past few years, growth global even Muslim minority countries such as Singapore and South Africa showed that the Halal food business is very promising. As an example, in Singapore for the year 2011 even though muslim populations only represent 16% of the Singapore population, but the Halal food industry has play a significant roles. There, an established and world brands company such as McDonald's, A & W, Kentucky Fried Chicken, and Taco Bell have moved towards 100% Halal compliance (daganghalal.com, 2012).

For that reasons, the numbers of applications for halal certificate has increasing tremendously from year to year. Until June 2014, JAKIM has rewarded halal certificates to the 14,778 applicants from various type of applications including food and beverage, food premises, consumer product, cosmetics, abattoirs, pharmaceutical and others. While the other 1,706 applications still in processing (Mohd Farhan Darwis, 2014)

However, these applicants should be ready if their applications were received a NCR status and asked to make corrective actions. In previous year, it was reported that almost 31% from more than 4,000 applications were rejected due to the reason they are not understand the wider concepts of halal. In general, most of them just know halal in terms of raw materials aspect only (free from alcohol and pork) (Fadzil, 2013). In particular, 12% of applications for halal premises were rejected by JAKIM with the main reason, raw materials were not certified halal (Utusan Melayu, 2014).
This paper focuses on non-compliance report issued by JAKIM to the halal premises applicants. The objective of the study are: 1) to determine the audit requirement for halal premises and 2) analyse the reasons of issuing NCR status to the applicants. The analysis is made from data from the available data hold by Halal Industry Development Corporation (HDC) in year 2012.

This paper is hope to give a significant input to the recipients of NCR status to make corrective action and also give better directions to the others applicants in future. Besides, it is also hoped this study will contribute in academic literature particularly in halal premise.

2. LITERATUR REVIEW

A word of Halal normally follows with Toyyiban. Halal is an Arabic word, designating any object or an action which is permissible to use or engage in, according to Islamic law. While *Toyyiban* means good quality, safety, cleanliness, nutritious and authentic.

Consuming Halal is an order of Allah and an essential part of the Islamic faith. Allah has repeatedly emphasized the consumption of Halal in Quran such as verse 168, Al Baqarah:

> *"O mankind, eat from whatever is on earth that is lawful and good and do not follow the footsteps of evil. Indeed, he is to you a clear enemy."*

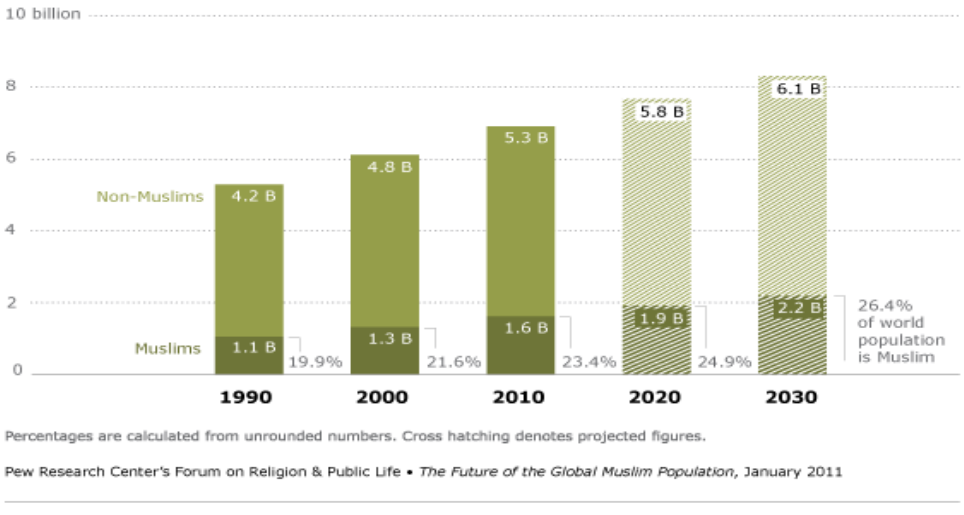
Refer to that verse, it is mandatory for Muslims to consume halal food and use halal products solely. They do not eat and use goods for the sake of pleasure only but also for performing their duties, responsibilities and mission in this world. To make it clear, food permitted under the Shari'ah law must fulfil the following conditions:

- An animal must be slaughtered according to Muslim rites
- Free from *Najs* ingredients (filthy or unclean)
- The produce secure and not harmful to consume

Halal Industry in Progress

The increasing of awareness among muslims to consume products which only fulfill shariah law coupled with the increasing awareness among global populations to use a safe, clean, nutritious and quality (Halalan Toyyiban) products has burst up the halal industry globally. In addition, a growing muslims world population has create higher demand towards halal products. According to population projections by the Pew Research Center's Forum on Religion & Public Life, the world's Muslims population expected to increase about 35% in the next 20 years, raised from 1.6 billion in 2010 to 2.2 billion by 2030 (Refer figure 1). They also forecasted the Muslims population to grow at about twice the rate of the non-Muslims population over the next two decades – an average annual growth rate of 1.5% for Muslims, compared with 0.7% for non-Muslims.

Figure 1.: Muslim as a Share of World Population, 1990-2030



Source : PEW Reserch Center (2011)

The boosts on Muslims populations only not enough, if their buying power or income still low. In Malaysia, this is consistence. Cited The Minister of International Trade and Industry, YB Dato' Sri Mustapa Mohamed in news release title Malaysia Records RM35.4 Billion Total Export Value For Halal Products for 2011, "Our GDP per Muslim capita has grown faster annually than its global counterparts during the period from 1990 to 2010. For the same period, GDP per capita for Muslims worldwide has grown at CAGR of 6.8% (Global CAGR : 5.0%)." (HDC, 2012a)

Furthermore, based on the figure 2, the businesses no need to worry to be in the Halal market since demands always exist and belived to continuely growth.

Figure 2: Top 15 Countries with Largest Muslim Population, Largest Percentage Muslim Population and Highest.

Largest Muslim population	Largest Muslim % of total population	Highest purchasing power of Muslim Population*
Indonesia	Bahrain	Saudi Arabia
Pakitstan	Kuwait	Turkey
India	Saudi Arabia	Iran
Bangladesh	Algeria	Malaysia
Turkey	Iran	Qatar
Egyst	Oman	Russia
Iran	Turkey	France
Nigeria	Yemen	Libya
China	Tunisia	UAE
Ethopia	Iraq	United States
Algeria	Libya	Algeria
Morocco	Pakistan	Singapore
Sudan	UAE	Indonesia
Afganistan	Qatar	Egypt
Iraq	Egypt	The Netherlands

Source adapted from Economist Intelligent Unit in A. T. Kearney (2010)

Malaysian Halal Certificate

Halal Certification functions as assurance for Shariah compliance in products and services (HDC 2013). Efforts on certification of halal products especially the consumer goods started in 1970s under the Bahagian Hal Ehwal Islam (BAHEIS), Jabatan Perdana Menteri. The involvement of JAKIM in halal industries started in 1974. In 1994, the Halal Certificate and logo has been issued by BAHEIS. From 1998, activities of halal-related inspection have been outsourced to a private company. In 2002, JAKIM has been given full authority to be responsible for halal certification and the related matters. To robust the development of Halal industry, JAKIM and State Religious Department (JAINs) collaborate to provide the certification. JAINs are responsible for Halal certification in different states.

The focuses of halal certification issued by JAKIM are food and beverages, consumer goods, food premises and abattoir. JAKIM is very strict in granted with halal certificate and logo to

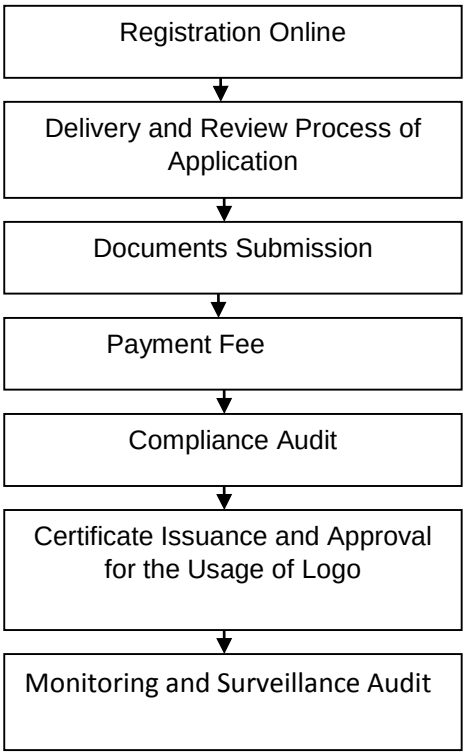
the applicants. Only suppliers or producers who meet the standards and procedure will be reward. As at 1st August 2010, 104,539 of applicant represent 2,527 companies in Malaysia are granted Halal certification from JAKIM. Most of them applied for products (97%) and the rest for abattoirs and premises (HDC, 2012b)

To assure that the quality of Halal is protected throughout the production chain, Malaysia has appointed HDC to establish a framework. This will involve the development of policies and comprehensive standards, efficient Halal Certification processes, Halal awareness activities and training of Halal industry professionals.

There are sort of different practices on the approaches to granting the halal compliance approval for each products and services. The main regulator for halal products in Malaysia is JAKIM with JAINs. The standards for this industry (based on different sectors) are provided by Department of Standards Malaysia (SIRIM).

In the process of certification (Refer Figure 3), the interested applicants will apply for halal certification to JAKIM through online with support documents. The application then will be accepted and evaluated. Once the payment has been made by applicants, JAKIM will conduct the compliance audit to evaluate the companies' conformity with the guidelines. Certification will be awarded to applicants once JAKIM satisfies with the audit result. Surveillance audit will be conducted from time to time to monitor the conformity of the companies.

Figure 3: Halal Certification Process



(Source: JAKIM 2013)

During the process, the main guidelines that are used is the Manual Persijilan Halal (Manual of Halal Certification Procedure), which is read together with other standards such as MS1500: 2009 (produced by SIRIM). The certification is given to the specific application on product/ food premises and abattoir, not to the whole assets under the mother company.

The Manual Persijilan Halal (Manual of Halal Certification Procedure) divided requirements for halal certification that should be fulfilled by the applicants to two types, which are the general requirement and the specific requirements. The general requirement touch on several aspects including halal ingredient, staffing, process of preparation good, equipment, transportation, area of the premises/factory/abattoir; and staff cleanliness and attitude. While specific requirement focuses for specific applications including goods and beverages, consumer goods, food premises and abattoir. All the applicants must fulfil the general requirements that are similar among the sectors and specific requirements are catered for different sectors.

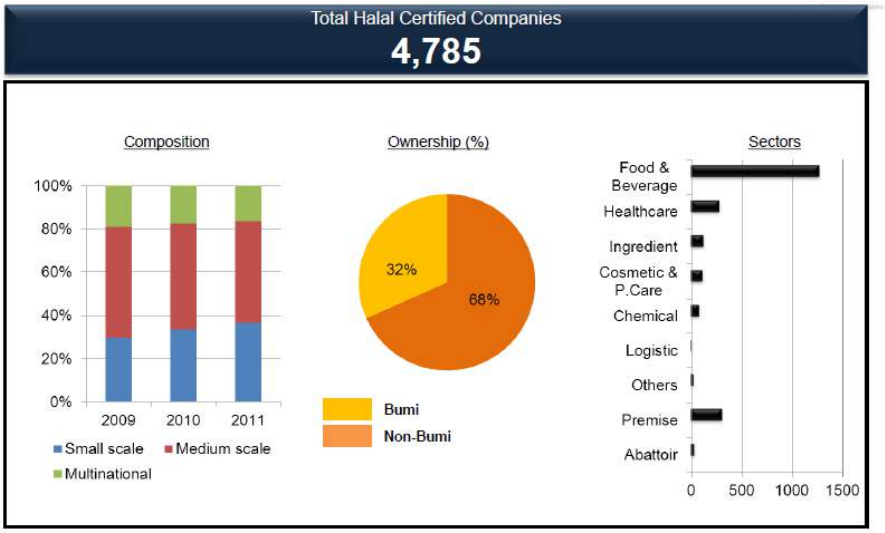
Halal Food Premises

Food premises includes buildings and premises where food and beverage business is conducted including restaurants, food courts, commercial kitchens, cafeterias, bakeries, fast food restaurants, canteens, club/hotel restaurants, kiosks, caterers and others. (Halal Malaysia, 2011).

Halal Development Corporation divides applications for halal certificate for premises under to categories, premises and hotel. This is due to the reason where hotel normally has several type of kitchens including Malay, Chinese, Indian, Western and etc. and in real practices applications for halal certificate were made on certain kitchens only. In addition, JAKIM processes halal applications based on applications (kitchen), not hotel for the whole. It is different with others premises application such as restaurant, where it applications for entire premise treats as a single premise.

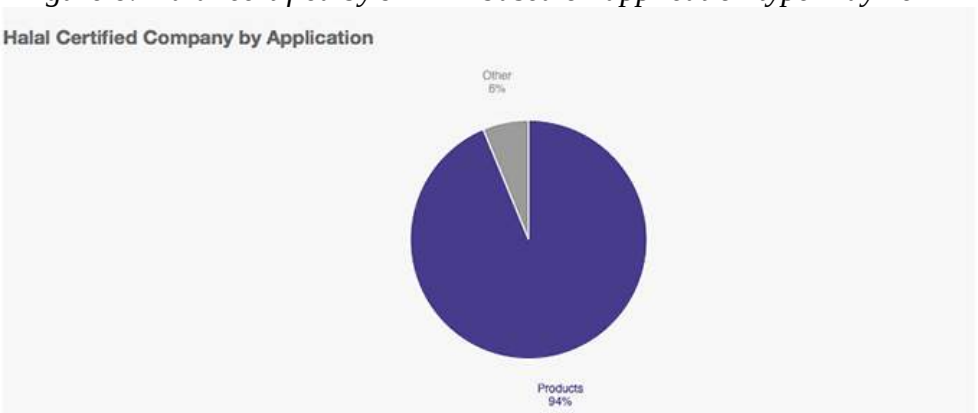
In year 2011, 4,785 companies are granted Malaysia's Halal certified for various types of application, including products, premises and abattoirs (refer figure 5). The numbers of company granted halal certificates increasing tremendously. Until May 2014, the numbers of successfully applications obtained recognition from JAKIM were increased 490% to 2,353,108 (refer figure 6). In detail, the numbers of successful applicants for halal premises were also increased significantly from the period of 2011 till May, 2014.

*Figure 5: Halal **Certified Companies*** 2011



Source : HDC(2012)

Figure 6: Halal certified by JAKIM based on application type May 2014



Application Type	Value
Products	93.7% (2,205,333)
Premises	6.0% (142,290)
Companies	0.2% (4,081)
Abattoirs	0.0% (520)
Hotels	0.0% (884)

Source: HDC(2014)

General guideline For Halal Certificate

HDC has setup a general framework as guideline in rewarding halal certificate to the applicants in all sectors as follow:

1. Food manufacturer/ food premise / abattoir must only produce/manufacture/ sell / distribute halal products only.
2. Applicant must ensure that sources of ingredients are halal and deal with suppliers which supply halal materials or the suppliers are halal certification certificate holders.
3. Company must abide to the procedures in all aspects as spelt out in the Manual Procedures.
4. Those companies which are classified under Multinational and Small and Medium industry must form an internal Halal Audit Committee and appoint one Islamic

Affairs executive (Islamic studies) to handle and ensure the compliance of halal certification procedures.

5. There must be at least two full time Muslim workers who are also Malaysian citizens being employed in kitchen section / handling / processing of food.
6. During the preparation, handling, processing, packaging or transporting of product, the product must be clean and free from any non-halal ingredient.
7. Apparatus and facilities in the premise must be clean and free from being contaminated by substance considered as najis (filthy) or harmful to health.
8. The transportation is only used for halal products.
9. The company must stress on the cleanliness of tools, transportation, production area and surrounding area in line with Good Manufacturing Practice or GMP.
10. All workers are required to practice code of ethics and good hygiene practices as follows:
    - All workers to obtain medical injection (TY2) from any medical centre recognised by the Government before being employed.
    - All workers are required to practice good health care and personal hygiene especially those who work as production operators.
    - Any worker who is sick or injured and may affect the product quality must not be allowed to work until he/she recovers.
    - Workers are not allowed to touch bare-handedly any raw material or semi-finished product.
    - Activities which may affect the production quality like smoking, eating, drinking and others must be done in a special area and away from the production area.
    - All parties who want to enter the production area must wear special attire for factory or decent and clean (if without special attire) which follows healthcare procedures and personal healthcare. This is applicable to permanent workers, temporary workers, management staff, visitors and others.
    - A worker must always take care of his/her health and wear suitable attire, head and mouth cover, suitable gloves and shoes.
11. A worker must always wash his/her hands with soap as follows;
    - Before starting any activity of food handling
    - After using the toilet
    - After handling raw materials or contaminated substances.
12. Workers are not allowed to wear any jewelery or accessories, watch and others in the food processing area which may cause contamination to the food product.
13. Workers must always be working and functioning at the designated place like "check point".
14. Workers must be committed and responsible with the stipulated halal policy.
15. Religious worshipping items are strictly forbidden in the premise/ food processing area.

Halal Audit and Non Compliance Report.

As a procedures, an audit (field audit) by JAKIM will be conducted within 30 days after the processing fee is paid by the applicants to verify the information given by applicants true and they are eligible to receive halal certificate.

However, not all the applicants were success. JAKIM Halal Portal also listed several reasons for the unsuccessful applications, as listed below:

- The company is producing and distributing halal and non halal products;

- Product is not halal;
- Natural substances that do not involve any processing;
- Drugs or products that are categorized as pharmaceutical products by the Ministry of Health Malaysia;
- Hair colorant / hair dye;
- Processed products manufactured overseas;
- Products that are labeled with names synonymous with confusing terminology such as 'bak kut the' and so on;
- Fertilizer and animal feed

In a meantime, JAKIM will issue a noncompliance report (NCR) to the applicants if there is found the applicant not satisfy the halal requirement during site visit. In general, NCRs were issued as an applicants were failed to comply of specified requirements from JAKIM, either unable to meet specified clauses and standard, not meeting a part of procedure or not meeting other recognized specification and regulation (Ahmad Shahir, 2012). Beside, JAKIM has highlighted most common reasons for getting NCRs either for products, food premises and logistics and the lists is being presented in Table 1.

Table 1: NCR lists for products, food premises and logistic

1.	Mixing of Halal and non-Halal ingredients in the same storage area – there is no physical separation.
2.	Packaging and labeling do not conform to Shariah.
3.	Use of the term which is synonymous with the term that is misleading. E.g. Bacon, hot dog, bak kut the, beer, ham, etc.
4.	Processing of Halal and non-Halal products.
5.	Ingredients / raw materials do not have halal certification.
6.	No Internal Halal Audit Committee.
7.	Malaysian Muslim employee is not sufficient.
8.	The products contains ingredients that are not halal.
9.	Use brush that made from bristle.
10.	There is a tool of religious worship in the food processing area / premises.
11.	Ingredients are not declared in the application.
12.	There are animals in the area of the premises.
13.	Dubious ingredients – Halal certificates are not recognized.
14.	The use of mixed non-Halal equipment at the premises.
15.	Halal and non-Halal kitchen have the same accessibility.
16.	Wine and Halal kitchen shared the same route (access).
17.	There is wine and wine based ingredients in the Halal kitchen area.
18.	The misuse of the logo in the kitchen / restaurant that is not certified Halal.
19.	The misuse of the Halal logo on products that do not have Halal certification.
20.	The floor in the processing areas are broken and hollow.
21.	Processing area is not clean.
22.	The light in the processing area is not being covered.
23.	There are holes in the ceiling in the processing area.
24.	Walls in the processing area is not cleaned.
25.	Drains are not cleaned and properly maintained.
26.	There are workers' hostels in the area of the premises.
27.	Employees are not vaccinated with Anti-Typhoid.

	Employees' Anti-Typhoid vaccination records has expired.
28.	Cigarette butt found at the premises. There is workers' drinking water in the processing area.
29.	Workers wear unsuitable clothing (wear shorts when processing food).
30.	Employees did not wear head coverings. Workers wearing slipper in the processing area.
31.	Employees wear rings and watches during handling / processing food.
32.	Layout of equipment in storage and processing areas are not in order.
33.	Carry out processing contracts that are not Halal (OEM).
34.	Premises area is not fenced.
35.	Pest control is not implemented on schedule.
36.	Employees do not pursue food handling course
37.	Finished products and raw materials are not segregated and stored in the same place.
38.	No segregation for storage of wet and dry raw materials.

There are three categories of NCR, which are minor, major and serious. A minor NCR is considered as good or only minor deficiencies (no non halal risk) which normally involve cleanliness and hygienic aspect. While Major NCR issued when there are major or serious deficiencies which if not controlled could lead to a non halal risk. Examples reasons for major NCRs such utensils used for non-halal be *samak* more than one time or ne segregation between halal and non-halal products in the storage are. And serious NCR is an unacceptable or critical conditions which may bring to non halal risk, such as the use of any ingredients which contain either pig's derivatives or product which alcoholic beverages (Ahmad Shahir, 2012). Applicants have maximum of two weeks (for minor NCR) while maximum six months (for major and serious) to fulfil all the corrective actions needed. If they were not able to follow the instructions and take the corrective actions during time given, the applications will be considered unsuccessful and no halal confirmation certification will be granted to the particular company.

3. RESEARCH METHOD

Data of this study is collected from available data hold by HDC. The available data is for the year 2012, which reveals some more informative data on the NCRs received by the companies that failed to get the intended certificate. Generally, the companies have been categorized into four main industries, which are: food premises, pharmaceuticals, consumables products and food and beverages products. This study focuses on applicants which are categorized as food premises only.

The available data was a complete lists on the NCR reasons received by the companies for the year of 2012 and of course these companies were not granted halal confirmation certification. These long lists then were summarized into a simple group of reasons on why their halal applications failed along the process. Then, a descriptive analysis was conducted to the available data. Frequency of reasons were recorded, calculated and presented in a simple table so that the counts on popular NCRs received by food premises applicants can be highlighted.

4. FINDING AND DISCUSSION

There are nine general reasons for applicants that received NCRs status. Table 2 shows the reasons based on the applicants' types. For applicants in food premises' category, there are none application that has been rejected. However, there are three and one application that has been rejection for pharmaceutical and food and beverages categories, respectively. This indicates that, in year 2012, case of rejected application is very minimal (none) for food premises, as compared to other categories.

Table 2: Reasons for NCRs According to the Application Types

	Application types			
Reason for NCR	**Premises**	**Pharmaceutical**	**Food and beverages product**	**Consumables products**
Licensing / approval – documentation	18	19	33	3
Not eligible to apply	3	0	0	0
Halal ingredients certificate / product specifications	18	21	41	2
No response / commitment	1	8	2	0
Menu	4	0	0	0
Workers	1	0	0	0
Original Equipment Manufacturer (OEM) / halal certificates of suppliers	2	7	15	1
Product / product name	2	4	4	2
Application is rejected	0	3	1	0
Label	0	3	1	0
Outlet / premise	2	0	0	0

In 2012, there are 29 companies under food premises category which were not granted halal confirmation certification. Each company might be given more than one reason for their NCRs status. The highest reasons for given to these companies are 1) relating to licensing/approval documentation, and 2) relating to halal ingredients certification/product specification. In 2012, there are 18 cases were reported that these reasons were given to applicants' categorized under food premises. Thus, these two reasons should be the focus of future applicants in food premises' category. Table 3 presents the frequency of cases based on the nine reasons.

Table 3: NCRs reasons for food premises

Reasons	**Frequency**
Licensing / approval - documentation	18
Not eligible to apply	3
Halal ingredients certificate / product specifications	18
No response / commitment	1
Menu	4

Workers	1
Original Equipment Manufacturer (OEM) / halal certificates of suppliers	2
Product / product name	2
Outlet / premise	2

Further content analysis of documents of HDC, this study could categorize details on reasons for an applicant to be given an NCR status. Reasons relating to licensing / approval of documentation can be further detailed up into 11 sub-reasons. The details reasons were as below.

1) Business license from the local authority is not attached;
2) Do not make online corrections needed;
3) Location map is not complete and clear for each outlet;
4) No company registration with Companies Commission of Malaysia (Suruhanjaya Syarikat Malaysia or SSM);
5) No copy of identity card and appointment letter of Muslim employees;
6) The process flow chart is not available or complete;
7) Full address is incomplete;
8) Incomplete information provided;
9) Do not attach the proper halal certificate;
10) Do not specified the actual manufacturer name; and
11) Name of the plant is not the same as a local authority license.

There three cases where the applicants are given NCRs due to their ineligibility to apply a halal status. This study observes that there is only one reason given, which are the applicant's premises are offering foods that have been prepared using pork. The use of pork is clearly violates the Shariah law, where it is clearly a non-halal ingredients. Thus, the companies are actually not eligible to apply for halal confirmation certification from JAKIM.

Reasons relating to halal ingredients certificate / product specifications are also recorded with high frequency of cases. This study finds that detail reasons of NCRs relating to this item can be listed into five, as follows:

1) No halal certification for the ingredients used;
2) The companies have been using Tabasco Sauce before (the sauce has been identified positive for containing pigs DNA), the companies should apply "samak" confirmation from Jabatan Agama Islam Wilayah (JAWI);
3) The companies do not change the products or suppliers that have non-recognized halal certification;
4) Halal certification is not recognized and not attached to the applications; and
5) Using HP Sauce that contains pigs DNA.

There is one case where the applicant is given NCRs based on none response / commitment. This indicates that the company has no commitment regarding corrective action to be taken. In addition, in 2012, there is also only one case an applicant is given NCRs based on its workers. This reason is due to none Muslim supervisors who are Malaysian citizen.

Table 3 also shows that there are four cases that menu related is the reason for NCRs. This reason related to none changes in the name of the menu. For example, some foods in the

applicant's menu is using the name XO Sauce. Besides that, the menu indicates confusing and suspicious ingredients. Another reason for menu-related NCRs is that applicants were not disclosing the ingredients and do not isolate the different type of menu.

In 2012, there are two cases that NCR are given based on OEM / halal certificates of suppliers. NCR also given to applicants who were using suppliers that have non-recognized halal certification and did not change to suppliers that have halal certification (two cases related to product/product name). Applicants are also given NCR status based on their outlet / premise. There are two cases where companies did not specify the level of each kitchen and did not name the two Malaysian Muslim cook.

5. CONCLUSION

In this paper, halal premise is regards as important since it is directly relates with halal foods and beverages. Muslims and non-muslim in globe demanding for halal products which is deemed as quality, safety, cleanliness, nutritious and authentic where foods is being as heart of halal matters. In line with this, JAKIM is receiving many applications for halal premises including from restaurants, food court and hotel kitchens. Reports by Utusan Malaysia, from year 2010 till Jun 2014, there are 351 (12%) out of 2860 of halal premises' applicants were rejected. Even the numbers of failures is still small, but we have to understand that Islam can't tolerate with halal issues. Thus halal certified by JAKIM is guaranteed the products is perfectly conform to the halalness requirements.

Through audit performed by JAKIM, 23% applicants of NCR goes to the applicants for halal premises in year 2012. In further, the 29 halal premises' applications received NCR due to many reasons mainly because of licensing / approval – documentation and Halal ingredients certificate / product specifications. It also can be concluded, there are possibilities of one applicants received more than one reasons for NCR.

This reasons of issuing NCR for halal premises as highlighted in this paper is hoped to benefits the receivers of NCRs for corrective action. While for the applicants who are still waiting approval or in planning to apply halal certificate, they should study on these common NCRs so that it can be avoided and the application process will run smoothly without any issuance of NCR or any other thing that can prolong or pending the process. Lastly, the finding of this study would enrich the body of knowledge in halal industry.

REFERENCES

Ahmad Sahir Jais (2012), Halal Practices in FoodService Operation, Standard Malaysia 2012. http://www.academia.edu/5435963/Halal_compendium.

Dagang Halal Portal. http://www.daganghalal.com/

Economist Intelligent Unit Economist Intelligent Unit in A. T. Kearney (2010)

Fadzil Zainol (2013), Laporan halal akan dikeluarkan. Retrieved from http://www.utusan.com.my/utusan

Halal Development Corporation (2014), Halal Certified Statistic. Retrieved from http://www.hdcglobal.com

Halal Malaysia (2011). Halal Definition. Retrieved from http://www.halal.gov.my

HDC (2012a) Malaysia Records RM35.4 Billion Total Export Value for Halal Products for 2011. Retrieved from www.hdc.com.my)

HDC (2012b) Halal Development Center (www.hdc.com.my)

Mohd Farhan Darwis (2014), Sijil 'halal' kini penarik utama pasaran perniagaan, kata Jakim, The Malaysian Insider. Retrieved from http://www.themalaysianinsider.com

Nurulhuda Noordin, Nor Laila Md Noor, Mardziah Hashim & Zainal Samicho (2009), Value Chain of Halal Certification System: A Case of the Malaysia Halal Industry, European and Mediterranean Conference on Information Systems, Turkey.

The future of the muslim global population, projection for 2010-2030, PEW Research Center, Forum on religion and public life. (www.pewforum.org)

Utusan Melayu (M) Bhd (28 Jun 2014), Premis tiada sijil halal dilarang guna logo. Retrieved from http://www.utusan.com.my

ISLAMIC PERSPECTIVE IN REBUILDING CORPORATE IMAGE

Taher Abdusalam. A. Ehbara[1]

ABSTRACT

Crisis is an unstable or critical time or state of affairs in which a decisive change is pending; a paroxysmal attack of pain, distress, or disordered function (Webster's Dictionary). As consumers around the world nowadays have greater access to a brand's lineage, the influence of the brand or company behind the brand matters even more, and consumers make purchase decisions based on corporate reputation, not just on the goods or services they buy. This paper examines the construct of corporate reputation and rebuilding corporate reputation after crisis using Islamic ethical principles like (Honesty, Transparency, and Trust). The construct of corporate reputation and crisis management using ethical ways to rebuild corporate image and reputation will be reviewed. The study will discuss some of the issues that can be assessed from the basis of a clearer conceptualization of rebuilding corporate reputation and its measurement.

Keywords: Corporate Reputation, Islamic Ethical, Crisis Management.

1. INTRODUCTION

Crisis is an unstable or critical time or state of affairs in which a decisive change is pending; a paroxysmal attack of pain, distress, or disordered function (Webster's Dictionary). While events triggering a corporate crisis cannot be predicted with absolute certainty, they always bring about change—often for the worse, and always involving the company's reputation, management, brand or market share (Tortorella, 2008). There are two primary types of organizational crisis (Bernstein and Rakowitz, 2012). Organizational crisis is as "any emotionally charged situation that, once it becomes public, invites negative stakeholder reaction and thereby has the potential to threaten the financial well-being, reputation, or survival of the firm or some portion thereof (James, 2008)

As consumers around the world nowadays have greater access to a brand's lineage, the influence of the brand or company behind the brand matters even more, and consumers make purchase decisions based on corporate reputation, not just on the goods or services they buy. Corporate reputation affects the way in which various stakeholders behave towards an organization, influencing, for example, employee retention, customer satisfaction and customer loyalty (Chun, 2005) and corporate reputation has become a "hot" topic in the past few years given the evidence linking a favorable corporate reputation and various intangible and tangible benefits, the high profile corporate scandals that have come to dominate the media, and the generally low opinion the general public has of corporations and business (Backhaus and

[1] Phone no: , 01121035131Email: taher_abushnaf@hotmail.co.uk

Tikoo, 2004; Balmer and Greyser, 2003; Davies and Miles, 1997; Davies et al., 2003; Dowling, 2001)

There are different views on the nature of corporate reputation in various literatures. Thus reputation was seen as an intangible assed having financial worth, as traits or signals that influence perceptions of the organization by external stakeholders, as perceived by customers and clients, as perceptions of the organization held by internal stakeholders (employees), and as an overall perception of an organization's performance relative to societal expectations and norms.

The financial crisis has underscored just how ill-equipped companies can be to deal with two important changes in the reputation environment (Sims, 2009). Ethics play a major role in the stage of rebuilding corporate reputation after crises, and there are Islamic ethical principles such as honesty, transparency that could very helpful for crises management team to rebuild trust about the company reputation. This study will investigate the impact of applying these ethical principles in crisis management after the reputation and the corporate image hit by different kind of crises and scandals.

2. RESEARCH BACKGROUND

Corporate reputation has attracted interest from a wide range of academic disciplines. It is also a growing focus for business and media attention. This paper examines the construct of corporate reputation and rebuilding corporate reputation after crisis using Islamic ethical principles like (Honesty, Transparency, and Trust). The construct of corporate reputation and crisis management using ethical ways to rebuild corporate image and reputation will be reviewed. The study will discuss some of the issues that can be assessed from the basis of a clearer conceptualization of rebuilding corporate reputation and its measurement.

Furthermore, the study will analyze the impact of using Islamic ethics such as; Honesty, Transparency, and Trust on successful crisis management and retaining a good reputation of big corporation after ethical scandals or financial crisis.

3. RESEARCH PROBLEM

The first priority in any crisis is to protect stakeholders from harm, not to protect the reputation. Instructing information tells stakeholders what they must do to protect themselves from the threat of a crisis (Sims, 2009). Following the end of the crisis the corporate start to rebuild its reputation using all possible ways and in some case these ways may not be ethical.

However, it would be unethical to begin crisis communication by focusing on the organization's reputation only without being honest, transparent, and show trust to the public and corporate customers. Therefore, to be ethical, crisis managers must begin their efforts by using communication to address the physical and psychological concerns of the victims (Burke, 2011). It is only after this foundation is established that crisis managers should turn their attentions to reputational assets, and provides guidance when crisis managers have met their initial obligations and are prepared to address reputational assets.

This study discusses the following two problems:

1. Crises manager and corporate associated team for rebuilding corporate reputation after crisis do not follow ethical principles like (Honesty, Transparency, and Trust) which increase the harm of crisis on corporate reputation after the crisis end.

2. There are certain organizational obstacles that hinder the adoption of ethical strategy for rebuilding corporate reputation.

4. RESEARCH QUESTIONS

1. What are the strategic decisions that a corporate has to make for rebuilding its reputation?
2. Why ethics is an integral part of any plan for rebuilding corporate reputation?
3. What are the main obstacles that hinder rebuilding of corporate reputation after crisis?
4. How Islamic ethics principles (Honesty, Transparency, and Trust) support the rebuilding plan of corporate reputation?

5. RESEARCH OBJECTIVES

1. To identify the strategic decisions that a corporate has to make for rebuilding its reputation.
2. To understand the role of ethics in rebuilding corporate reputation after crisis?
3. To investigate the main obstacles that hinder rebuilding of corporate reputation after crisis.
4. To determine the role of Islamic ethics principles (Honesty, Transparency, and Trust) in rebuilding corporate reputation.

6. THE SIGNIFICANCE OF THE STUDY

The main contribution of this study through in-depth evaluation to the main factors that affect the corporate image and reputation after crises and scandals, and this is the first study that discussed the Islamic ethics (Honesty, Transparency, and Trust) and their association with restoring corporate image and managing corporate crises.

7. THE SCOPE OF THE STUDY

The study will be conducted in Malaysia with two companies the first company is IKEA Malaysia and the Halal Food Crisis, the second company is Tesco and horse meat scandal. The interview will be conducted with crisis management teams and manager who were involved in the crisis as well as people in charge of the happening of the scandals.

8. LITERATURE REVIEW

Corporate reputation has attracted interest from a wide range of academic disciplines. It is also a growing focus for business and media attention. Many studies discussed thousands of cases and the ways adopted by corporate who faced scandals and different kinds of crises that hit the corporate image and reputation locally and internationally. The construct of reputation and the allied constructs of image and identity are each reviewed in different ways by scholars in crises management. Researchers are now well placed to test the relationships widely claimed by practitioners between corporate reputation and other variables such as commercial performance and employee and customer satisfaction.

In the marketing literature, the terms image and reputation are used interchangeably without making clear any relationship between what can be usefully seen as two distinct concepts. Clow

and Baack (2007) emphasized that one the most critical ingredients in the successful development of an integrated marketing communications plan is effective management of an organization's image. A firm's image is based on the feelings consumers and businesses have about the overall organization and its individual brands. Advertising, consumer promotions, trade promotions, personal selling, and other marketing activities all affect consumer perceptions of the firm. When the image of an organization or one of its brands is somehow tarnished, sales revenues and profits often plummet. Rebuilding or revitalizing an image is a momentous task. Chun (2005) found a mixed signals will have larger negative effects on reputation and credibility if spaced closer together than further apart.

Barnett et al., (2006) have differentiated between "Identity", "Image" & "Reputation", and they linked between the three concepts, and summarizes previous definitions: Very easy to identify differences and similarities among them, and proposes a new one, clarifies connections between key concepts, while Fernández (2012) in his thesis explore the actions that companies carry out for recovering the trust of their stakeholders after a mistake, failure, controversial or deceiving decision has been taken, and he uses of case studies that will lead to the identification of some patterns of strategies and compare them with what scholars state.

Sims (2003) found that the main structure of a reputation rebuilding process (Public breach, crisis, aggressive action, reintegration). In addition to that he found relevance of the leader's role and actions to be implemented, and differentiation between Single loop(Short term) and Double loop (long term) actions, while Herbig (1994) concluded a link between "Reputation-Credibility", therefore he proposed the: "Competitive credibility model" to connect both of them.

Fombrun (2005) observed that organizations doing a good job managing their corporate reputations stressed the following factors:
1. Distinctiveness—firms occupied a distinct place in the views of stakeholders.
2. Focus—firms emphasized a core them.
3. Consistency—firms were consistent in their communications with all stakeholders.
4. Identity—firms were seen as genuine by stakeholders.
5. Transparency—firms were seen as open and forthright in going about their business.

Davies (2008) concluded that a corporate reputation differentiates an organization from its competitors while still remaining legitimate in its sector and the wider market place. He added that a favorable corporate reputation gives significant advantages in industries predicated on intangible assets such as innovation, creativity, intellectual capital, and high levels of service to customers. Where do corporate reputations come from? On what are they based? and he found there three schools of thought on these questions:
1. There is a corporate character explanation. People value organizational personality traits such as trustworthiness and reliability.
2. Firms become similar over time, termed institutional isomorphism by organizational theorists. People value behaviors and actions that fit the cultural norms of an industry or society.
3. Firms develop reputations—favorable or unfavorable—based on benefits that the organization has recently provided to the individual.

Fischer and Reuber (2007) in their study tackle the intriguing question of how firms redevelop a reputation. Most of the research and writing on corporate reputation deals with established

firms. How can a firm redevelop an initial reputation when its history is short and information about it may be/is mixed? Useful information is provided by the founder's track record, quality of partners, certifications achieved or obtained, quality of members of the boards of directors, logos, stories in the popular press, focused communications to stakeholders, ratio of "good" to "bad" information, and comparisons with and differentiation from, other firms.

The precise nature of corporate crises varies dramatically among different companies and industries. However, Tortorella (2008) has distinguished eight characteristics that underlie virtually all of them. The eight characteristics are:

1. Surprise that is always driven by media exposure.
2. Insufficient Information about the relevant facts and the emerging public perception of the issue.
3. Escalating Flow of Events that hampers the ability of management to understand quickly that, like it or not, they "own" the problem and must quickly articulate a persuasive response.
4. Loss of Control over the way the growing crisis is perceived and the impact it is beginning to have on the company.
5. Intense Scrutiny from Outsiders/Insiders including media, government, regulatory agencies, activist groups, key stakeholders, and most importantly, the management team itself.
6. The Beginning of the Siege Mentality that causes company leadership to attempt to "hide" behind the legal aspects of the crisis, rather than confront the central issues, and thereby allows the crisis to inflict more damage on the organization.
7. Panic that perverts and/or paralyzes the decision-making process.
8. Issue Solved by Public Arena in a manner designed to satisfy the interests of outsiders—including the media, government, regulatory agencies and activist groups—but never the interests of the company itself.

Johnson (2011) stated that "corporate after scandal should not alienate the press; they should speak openly and honestly. And lastly, in order to eventually effectively rebuild their public image; they must prove their promises true through their actions over time a more successful path to rebuild athletes' reputations after a scandal"

Bonini et al (2009) pointed that many companies, though, rely primarily on small, central corporate-affairs departments that can't monitor or examine diverse reputational threats with sufficient sophistication. Moreover, traditional PR spin can't deal with many NGO concerns, which must often be addressed by changing business operations and conducting two-way conversations. Managers of business units have a better position for spotting potential challenges but often fail to recognize their reputational significance.

Haigh and Dardis (2012) The results of their study indicate the reducing the offensiveness strategy led to higher perceptions of the organization – public relationship and corporate social responsibility. This study provides a guide for how corporate communicators should develop messages in times of crisis. The study provides clearer evidence of how the messages communicated during a crisis impacts corporate social responsibility and the organization – public relationship.

Nizar Souiden, Frank Pons, (2009) stated that recalls contested by manufacturers have a significant negative impact on manufacturers' image, as well as on consumers' loyalty and purchase intentions. On the other hand, voluntary recalls or improvement campaigns have a

significant positive impact on the manufacturer's image, as well as consumers' loyalty and purchase intentions.

REFERENCES

Amoroso, R., & Mills, H. (2009). Insurers Need To rebuild Credibility with stakeholders. National Underwriter Property & Casualty. Retrieved from property-casualty.com

Alan B. Bernstein and Cindy Rakowitz (2012). Emergency Public Relations: Crisis Management In a 3.0 World. p. 5. ISBN 978-1469159546

Argenti, P., & Forman, J. (2002). The Power of Corporate Communication : Crafting the Voice and Image of Your Business (Vol. 7, p. 256pp). New York: Higher Education, McGraw-Hill.

Ashley Johnson (2011). Rebuilding a Professional Athlete's Reputation After a Scandal: Refining Public Relations Techniques. California Polytechnic State University, USA

Al Tortorella (2008). Rebuilding Corporate Reputation. Ogilvy Public Relations Worldwide, retrieved: http://www.ogilvypr.com/en/expert-view/what-corporate-crisis.

Babić-Hodović, V., Mehić, E., & Arslanagić, M. (2011). Influence of Banks' Corporate Reputation on Organizational Buyers Perceived Value. Procedia - Social and Behavioral Sciences, 24, 351–360. doi:10.1016/j.sbspro.2011.09.063

Barnett, M. L., Jermier, J. M., & Lafferty, B. A. (2006). Corporate Reputation: The Definitional Landscape. Corporate Reputation Review, 9(1), 26–38. doi:10.1057/palgrave.crr.1550012

Claeys, A.-S., Cauberghe, V., & Vyncke, P. (2010). Restoring reputations in times of crisis: An experimental study of the Situational Crisis Communication Theory and the Rebuilding a Brand's Reputation: Strategic Decisions To Overcome Past Mistakes

Clegg, S. R., Rhodes, C., and Kornberger, M. (2007) Desperately seeking legitimacy: Organizational identity and emerging industries. Organizational Studies, 28, 495–513.

Coombs, W. T. (2007). Protecting Organization Reputations During a Crisis: The Development and Application of Situational Crisis Communication Theory. Corporate Reputation Review, 10(3), 163–176. doi:10.1057/palgrave.crr.1550049

Davies, G. (2008) Employer branding and its influence on managers. European Journal of Marketing, 42, 667–81.

Fischer, E., and Reuber, R. (2007) The good, the bad, and the unfamiliar: The challenges of reputation formation facing new firms. Entrepreneurship: Theory and Practice, 32, 53–75.

Fombrun, C. J. (2005) Building corporate reputation through CSR initiatives: Evolving standards. *Corporate Reputation Review*, 8, 7–11.

Guillermo Fernández (2012). Rebuilding a Brand's Reputation: Strategic Decisions To Overcome Past Mistakes, European Master in Business Studies

Rosa Chun (2005). Rebuilding corporate reputation: Meaning and measurement, International Journal of Management Reviews Volume 7 Issue 2 pp. 91–109 Blackwell Publishing Ltd, USA

James, E.; James, E. H. (Vol. 10, No. 3, 2008). "Linking Crisis Management and Leadership Competencies: The Role of Human Resource Development". Advances in Developing Human Resources 10 (3): 352. doi:10.1177/1523422308316450. Retrieved 2010-06-22.

Herbig, P., Milewicz, J., & Golden, J. (1994). A model of reputation building and destruction. Journal of Business Research, 31(1), 23–31. doi:10.1016/0148- 2963(94)90042-6

Michel M. Haigh, Ph.D. and Frank Dardis, Ph.D. (2009).The Impact of Apology on Organization – Public Relationships and Perceptions of Corporate Social Responsibility. Public Relations Journal Vol. 6, No. 1

Kenneth E. Clow and Donald Baack.(2007). Integrated Advertising, Promotion, and Marketing Communications, Third Edition, Pearson Education, Inc. Published by Prentice Hall.

Sheila Bonini, David Court, and Alberto Marchi (2009). Rebuilding corporate reputations http://www.mckinsey.com/insights/corporate_social_responsibility/rebuilding_corporate_reputations.

Sims, RR, & Brinkmann, J. (2003). Enron ethics (or: culture matters more than codes). Journal of Business ethics, 243–256. Retrieved from http://www.springerlink.com/index/P712J1555807774R.pdf

Nizar Souiden, Frank Pons, (2009) "Product recall crisis management: the impact on manufacturer's image, consumer loyalty and purchase intention", Journal of Product & Brand Management, Vol. 18 Iss: 2, pp.106 – 114

THEORETICAL FRAMEWORK AND THE ESSENCE OF PROPER AND EFFECTIVE REGULATION AND SUPERVISION OF ISLAMIC BANKING AND FINANCIAL SYSTEM

Muhibat Ayoni Oladimeji[1]
Muhammad Ridhwan Ab. Aziz[2]
Khairil Faizal Khairi[3]

ABSTRACT

Banks in distress present a threat to orderliness and stability in financial markets due to the risk of "contagion" whereby if one financial institution fails; the sustainability of others is also threatened. In order to reduce bank failure to minimum bearable level the attention of the regulatory authority to effective regulation and supervision is being called for. Therefore, this paper tries to examine the theoretical framework and the essence of proper and effective regulation and supervision of Islamic financial system. The paper is both descriptive and explorative in nature employs qualitative research methodology. The study will have policy implication to Central Banks around the world in formulating and implementing effective legal, regulation and supervision for Islamic financial system. This will not only help in preventing distress or failure in banking industry but also serve as a developmental vehicle to push Islamic financial system to a higher level. It will also serve as a source of reference for the academicians, students and practitioners.

Keywords: Theoretical framework, Regulation and supervision, Islamic banking and financial system, Distress/failure.

1. INTRODUCTION

The most features that distinguish the Islamic banking system from the conventional system are the regulations that govern them and the adopted governance mechanisms. Although Islamic banking system is expected to conform to the same existing man-made laws and regulations as their conventional counterparts, but most important is that they must also adhere to the divine rules and principles known as the *Shariah*. The relevance of regulation and legal framework is essential to provide certainty and predictability to the financial transactions and to the innovative products, thus promoting public confidence in the financial system. Indeed, a robust legal framework in Islamic finance instills public confidence in the Islamic financial

[1] Lecturer, Crescent University Abeokuta, Ogun State. Nigeria and currently Phd. Student, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM). Corresponding author: muhibat@yahoo.com
[2]Senior Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM).
[3] Senior Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM).

system, provides an enabling platform for practitioners to develop more innovative and complex financial products to meet the increasingly multifaceted consumer demands. Therefore, this paper will try to examine the theoretical framework and the essence of proper and effective regulation and supervision of Islamic banking and financial system.

The paper which is both descriptive and explorative in nature employs qualitative research methodology. Its presentation based on documents review. The study will have policy implication to Central Banks around the world in formulating and implementing effective legal, regulation and supervision for Islamic financial system. This will not only help in preventing distress or failure in banking industry but also serve as a developmental vehicle to push Islamic financial system to a higher level. The academicians, students and practitioners will also benefit as this study will serve as a source of reference.

This paper is structured as follows: section two employs stakeholder theory and principal-agent theory to describe the relationship between central banks (CBs) and Islamic banks (IBs). While section one which appears before section two introduces and shed light on rationale for the study. Section three discusses the essence of proper and effective legal, regulation, and supervision of Islamic banking system. Causes of financial distress in Islamic banks and the regulatory authority are dealt with in section four. And the last section concludes.

2. THE THEORETICAL FRAMEWORK OF ISLAMIC BANKING AND FINANCIAL SYSTEM

Stakeholder Theory and Principal-Agent Theory: Central Bank (CB) and Islamic Banks (IBs)

For the proper grasp and understanding of the relationship between the Central Bank (CB) and Islamic Banks (IBs), theoretical framework is necessary. In an influential study by Mustafa Daud *et. al*. (2011), the authors examine the role of CB in Islamic banking system in the context of two theories, namely: stakeholder theory and principal-agent theory. According to the authors, in order to better appreciate the direct and positive link between both institutions i.e. the CB and IBs, the Stakeholder theory and the Principal-Agent theory have been adopted for the study. The stakeholder theory is often considered as a type of approach that deals with the way stakeholders perceive the establishment and the on-going operations of a business.

Hence, a stakeholder is described as anyone who has a stake or interest in the existence of a thing. As a matter of fact, all stakeholders are identified by their interests, which are intrinsically regarded as valuable, even though not self-evident. In this vein, Freeman (1984, p. 25) defined stakeholders as: "any group or individual who can affect or is affected by the achievement of the firm's objectives". Also, Freeman (2004) regarded those groups who are vital to the survival of an organization as the stakeholders. Similarly, Donaldson and Preston (1995) noted that the stakeholder theory implies that every legitimate person/group participating in the activities of a firm is majorly concern about the benefits to be derived. (Mustafa Daud *et. al.*, 2011).

In the same token, the principal-agent theory also deals with the issue of interest and the desire to protect it. Hence, the theory means a situation when one person acts in the interest of another e.g. the relationship between the shareholders and managers or between the managers and

employees in a corporation are good examples of principal-agent relationship. However, this relationship ranges from the simple to the complex/advanced type as the case between the CB and IBs in some countries today.

The CB is the principal who must ensure that other banks like the commercial banks and IBs conduct their affairs in line with the rule of the game and particularly to protect the interests of the customers and the economy as a whole. According to Ali (2007), there are four important economic agents that take part in shaping the banking environment, namely: i. the CB; ii. the regulators; iii. the banks; and iv. the bank customers. All these four agents are also regarded as the most important stakeholders. However, the CB by virtue of its role of control, regulation and supervision is considered as the *principal stakeholder* who ensures that the financial system remains healthy and vibrant at all times, so as to avoid systemic collapse of the economy. The figure below depicts these important stakeholders identified by Ali (2007).

Figure 1: Economic Agents-Shapers of the Banking Environment

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Source: Adapted from Ali (2007); Mustafa Daud *et. al.* (2011).

The foregoing discussions have made it cleared that the relationship between the CB and IBs is very important to the financial system and the economy as a whole. This is because both are stakeholders, especially the CB who is assumed as the Principal stakeholder and must ensure that the IBs perform to expectation in view of the bank customers deposits at their disposal and which the CB must necessarily ensure they are adequately protected. The attempt by the Central Bank of Nigeria (CBN) providing a direct rescue package of N620 billion to 8 banks in Nigeria and even changing the management teams of the affected banks is a good case of the CB as a Principal stakeholder in the financial system, Mustafa Daud *et. al.* (2011). Therefore, it could safely be argued that the role of the CB is very crucial and of enormous importance to the survival of the financial system, especially the banking industry, which Usman (2003, p. 41) described as: "at the heart of every robust economy is a sound banking system".

3. THE ESSENCE OF PROPER AND EFFECTIVE LEGAL, REGULATION, AND SUPERVISION OF ISLAMIC BANKING SYSTEM

Banking Supervision and Monitoring in an Islamic Framework

Banking supervision can be defined as the assessment and permanent monitoring of banks' financial performance and position. Banking supervision is carried out through an effective regulatory framework aimed at reinforcing banks' operating environment, internal governance, and market discipline. An appropriate regulatory framework governing Islamic banks needs to place greater emphasis on the management of operational risks and information disclosure issues than is normally the case in conventional banking. To help develop such a regulatory framework, a CAMEL rating system adapted to an Islamic environment, legal foundations, information disclosure requirements, taxation and *zakat* requirements, *Shariah* and corporate governance, and licensing procedures should be emphasized, Barth *et. al.* (2004); ISRA (2012).

The Structure, Scope, and Independence of Banking Supervision

Several issues that must be addressed in establishing and maintaining effective supervision are: (a.) the structure in terms of bank supervisory authority, single supervisor or multiple supervisors, and role of Central bank; (b.) scope of supervisory authority; and (c.) degree of supervisory independence. Policies that failed to provide for an appropriate bank supervisory framework may undermine bank performance and even lead to full-scale banking crises, Barth *et. al.* (2004).

Implementation of Banking Supervision

Banking supervision is the assessment and permanent monitoring of banks' financial performance and position. The most crucial important of this exercise is implementation of an effective regulatory framework. Appropriate and effective regulation without proper implementation is like efforts that are fruitless. Proper implementation of banking supervision can be assessed on these three factors, (1.) frequency of on-site exams at large and mid-size banks, (2.) number of professional bank supervisors per institution, and (3.) banking asset per professional supervisory staff.

Distress or Failure Tests of Islamic Banks and Regulatory Authorities

Banks in distress present a threat to orderliness and stability in financial markets, and this is due to the risk of "contagion" whereby if one financial institution fails, the sustainability of others is also threatened. In recent decades, bank failures around the world have been common, large and expensive, ISRA (2012). The real costs of banking crisis are: (i). the deadweight loss and (ii). the consequence of any diversion in macroeconomic policy forced by the crisis. But the reputation damage to the nascent industry; a slowdown in new developments towards interest free alternatives for the people; and consequently a drag on realization of potential benefits for the society from Islamic finance, are other costs in the context of Islamic banking, Ali (2007). Therefore, banking crisis are particularly harmful for the economy and detrimental for the health of financial sector, thus called for the urgent, effective, and appropriate measure actions to be taken by the relevant stakeholders.

In order to reduce bank failure to minimum bearable level (if total elimination is not possible) the attention of the regulatory authority to effective regulation and supervision is being called for by Drage et al (1998). Mahmood Nathie (2010) developed a framework for Islamic banks distress and failure measurement/ test. This can be employed by the regulatory authority as well as the management of the Islamic banks to measure or test from time to time the distress and failure level of the individual banks. Nathie's framework combined the followings:

1. An easier measure of bank failures which is the so-called "Texas" ratio proposed by Jesswein (2009). This ratio is expressed as:

non-performing loans: equity + reserves. The closer this ratio approaches 1:1, the greater the likelihood of bank failure. 2. A "listing and transactional" approach suggested by Ali (2007). 3. Financial ratio analysis by Sharma (1999) and 4. A "compliance" approach suggested by Mahmood Nathie himself, his compliance assumes a two-fold approach: the first relates to actions taken by regulators and the second, by the actions of *Shariah* advisory boards. This compliance approach incorporates changes in socio-economic behavior; civil actions; press

coverage and adverse publicity.

Furthermore, according to Luca Errico and Mitra Farahbaksh (1998) " Regulatory authorities in conventional systems ought to approach Islamic banking with an open mind realizing the potential gains that this already sizable and growing market could bring to the global economy in general and to selected counterparties in particular." INCEIF chair of Islamic finance, Professor Dr. Abbas Mirakhor (2012)," The authorities must have a strong commitment in a way that appeals to pluralistic society to ensure progress for Islamic banking and finance". ISRA (2012, pp. 634 - 637), discuss various theories that suggesting the rationale for the regulation of Islamic banking system as follows:

Chapra-Khan Theory

According to Chapra-Khan Theory, there are four major reasons for the need of proper and effective regulation of Islamic banking and financial system:

i. Systemic objective: the risk of "*contagion"* is the key consideration, because if one Islamic bank fails, the sustainability of others is also threatened. In order to maintain an efficient payment system, mitigate the risks of disruption of payment, manage a delicate balance between promoting economic development (this may require a more aggressive risk-taking environment) and to ensure the stability of the financial system (a more conservative approach towards risk-taking may be required), effective and proper regulation is needed.

ii. The protection of depositors: current account holders in Islamic banks are capital-guaranteed, they are protected like any conventional depositors, but this is not the case for the Investment Account Holders (IHAs) in Islamic banks, this type of account holders contractually are supposed to bear their own risks. Since they are not enjoying any capital guarantee they should have rights for additional investor protection from the regulators.

iii. Compliance with *Shariah:* the public would have stronger confidence in the role of financial regulators and the courts in the jurisdictions where the legal system manages to harmoniously accommodate man-made laws with the divine *Shariah* rules and principles. For example, in Malaysia, the establishment of a *Shariah* Supervisory body that can provide assurance that the strategic direction, formulation of policies and conduct of financial transactions of Islamic banks and financial institutions are in compliance with the *Shariah* rules and principles that has become an important element for instilling public confidence.

iv. The integration of Islamic banking and finance in the international financial system: the prospects of the potential role and relevance of Islamic banking and finance in contributing to global financial stability and overall economic growth has been recognized after the 2007 global financial crisis. But the increasing exposure of Islamic financial institutions to the international financial system and the increasing exposure of international financial system to the Islamic banking and finance will bring along its own challenges that need to be properly addressed by the regulators.

Drage et. al.'s theory is another theory in the context of Islamic banking system, Drage *et. al.* (1998) argued that *"the 1997 Asian banking crisis have in part, been a product of "the poorly regulated and often distorted financial sectors in these countries".* As evidenced in a survey

conducted by Deloitte Islamic Financial Knowledge Centre in 2010, there is a strong perception that in many countries, Islamic financial institutions are still under-regulated and such a perception may hamper the acceptance of Islamic finance as a welcomed and integral component of the global financial system.

Llewellyn's Theory is in support of the two theories above, according to this theory, there are seven components of the economic rationale for regulation and supervision in banking and financial services, Llewellyn (1999), and they are:

i. Potential systemic problems associated with externalities (a particular form of market failure).
ii. The correction of other market imperfections and failures.
iii. The need for monitoring of financial firms and the economies of scale that exist in this activity.
iv. The need for consumer confidence, which also has a positive externality.
v. The potential for gridlock, with associated adverse selection and moral hazard problems.
vi. Moral hazard associated with the revealed preference of governments to create safety net arrangements: lender of last resort, deposit insurance, and compensation schemes.
vii. Consumer demand for regulation in order to gain a degree of assurance and lower transaction costs.

In setting prudential framework for Islamic banking and financial services, the above seven economic rationales should be applied among others. The unique characteristics and risks entailed in Islamic banking and its products and services need to be carefully examined when regulating the Islamic banking system.

Furthermore, on this same issue of effective regulation in 1982, Uzair, proposes that the central bank should acquire an equity stake in commercial banks. The rationale behind this proposal was that it would give the central bank access to a permanent source of income so that it could effectively act as lender of last resort.(Uzair, 1982).

While Chapra (1982) in his early study on Islamic banking proposes a scheme for loss-compensating reserves and loss-absorbing insurance facilities, this scheme has been applied in the operations of Islamic banking by many Islamic banks around the world. He also spoke of non-bank financial institutions, which specialize in bringing financiers and entrepreneurs together and act as investment trusts.

In addition, Zeti Akhtar Aziz (2009) contented that the current international financial crisis has demonstrated the importance of recognizing that the rapid transformation of the functioning of the international financial system had to be accompanied by the need to ensure that regulatory and legal framework was aligned with these developments. The relevance of regulation and legal framework is essential to provide certainty and predictability to the financial transactions and to the innovative products, thus promoting public confidence in the financial system. This is equally important for the Islamic financial services industry in which this recent decade has seen a rapid evolution in terms of the innovation and in terms of its expansion. According to Zeti Aziz, indeed, a robust legal framework in Islamic finance instills public confidence in the Islamic financial system, provides an enabling platform for practitioners to develop more

innovative and complex financial products to meet the increasingly multifaceted consumer demands. In addition, it provides the mechanism for dispute settlement that takes into account the distinct features of Islamic financial transactions. This is where the legal services industry has a vital role in providing sound legal solutions in Islamic finance. It therefore provides an important "bridge" between *Shariah* and legal parameters, thus enabling the operationalization of *Shariah* principles into legally enforceable Islamic finance practices. In addition, by ensuring that the legal parameters are in compliance with *Shariah* parameters and the regulations, it also becomes a risk mitigator. In another occasion, Bank Negara governor Tan Sri Dr Zeti (2012) at the Islamic Development Bank Regional Lecture Series on Islamic Economics, Finance and Banking in Jakarta 2012, says: Innovation is a key factor to push Islamic banking to a higher level." Meanwhile, the new legal framework for Islamic banking and *takaful*, which is now at the final stages of the enactment process, would be one of the key drivers for the industry movement. It would be effective next year 2013, would bring certainty to the legal and regulatory treatment of Islamic financial transactions by providing legal recognition to the contractual requirements in accordance with the *Shariah*. "This provides a comprehensive legal environment under which effective risk and profit sharing activities can take place, encompassing all aspects of Islamic financial transactions."

In analyzing the implications of Islamic precepts on bank's structure activities, Luca Errico and Mitra Farahbaksh (1998) focus on banking supervision issues. The authors argue that the effective prudential supervision on banks is just as necessary and desirable in Islamic banking as it is in conventional banking. In order to reach this goal, a number of standards and best practices established by the Basle Committee on Banking Supervision are useful and provide a valuable reference, but some of these standards are not applicable. An appropriate regulatory framework governing Islamic banks needs to place greater emphasis on the management of operational risks and information disclosure issues than is normally the case in conventional banking. In order to develop such a regulatory framework, a CAMEL rating system adapted to an Islamic environment is discussed, along with issues such as legal foundations, information disclosure requirements, and licensing procedures.

18. An influential work by Abdul Karim Aldohni (2011) provides a discussion of the principles, theories, and mechanism of Islamic banking as they developed in Muslim countries and in the context of British and international regulatory frameworks. He takes a much-needed and comprehensive look at the legal and regulatory aspects which affect Islamic finance law, and examines the current United Kingdom (UK) and international banking regulatory frameworks which impact on this sector. He also examines the historical genesis of Islamic banking, looking at how it has developed in Muslim countries before going on to consider the development of Islamic banking in the UK and the legal position of Islamic banks within English law. He explores company, contract, and tax law and traces the impact it has had on the development of Islamic banking in the UK, before going on to argue that the current

legal and regulatory framework which affects the Islamic banking sector has often had a negative impact on Islamic banking in the UK. He also offers a comparative discussion of legal and regulatory issues of Islamic Banking and finance in Malaysia.

4. CAUSES OF FINANCIAL DISTRESS IN ISLAMIC BANKS AND THE REGULATORY AUTHORITY

The causes of financial distress in Islamic banks with the purpose to serve as background to further deeper study of individual banks cases was an influential work by Ali (2007) probably is the first such systematic study. In this study Ali enumerates the various causes of bank failure that have been identified for the conventional banks in the theoretical as well as policy oriented literature. These causes range from macro to micro as well as factors that are intrinsic or extrinsic to the bank. Evaluation of the extent to which each of these factors are relevant for financial distress in Islamic banks reveal that while some causes affect Islamic banks equally as they affect conventional banks, there are some others that are not of concern. This is due to particular sharing structure of Islamic banks with their clients and/or depositors which positively contribute to more stability of these banks. The small size and narrow ownership of Islamic banks, however, pose its own problems as a source for financial distress. Moral hazard is another problem which is at two levels in the two tier *mudarabah* structure of Islamic banks which leads them to prefer *murababah* financing and hence generates credit and liquidity risk. Owing to non-saleability of debt or its discounting, the *murabahah* contract during recession, does not contribute to the poor credit assessment and the associated pro-cyclical movements in credit extension and business cycle which is well known in conventional banking literature. Financial distress in Islamic banks can also stem from the current structure of Islamic banks, regulatory environment that restricts them from owning or equity participation in businesses and trading, and from lack of support infrastructure institutions. Islamic banks are also affected if a crisis occurs in the conventional banking sector which erodes confidence of depositors in the banking sector general.

The reasons behind the failure of the Islamic Bank Ltd of South Africa (IBL) which happened in 1997, was investigated by Mahmood Nathie (2010). The study shows that the collapse of this bank commenced relatively early since inception. It shows that IBL was in breach of its *Shariah* obligations in terms of its financing activities and its offering of Islamic financial services. *Shariah* compliance is found to be ineffectual without substantive legal support. Its failure also exposed the cost of bad credit risk management, operational dysfunctions and regulatory breaches. Despite regulatory breaches, the authority held back on remedial action knowing the inherent problems within the bank for reasons other than prudential regulation. The study finds early regulatory intervention may have addressed major liquidity shortcomings and perhaps even forestalled the bank's collapse. Despites effective intervention measures, the evidence reveals a run on funds fuelled by noise and loss of confidence is difficult to reverse without direct and significant central bank liquidity infusion and deposit guarantees. Evidence of poor management and dereliction of duty by external auditors to report on material irregularities reinforces the need for a new whole-of-regulatory approach.

5. **CONCLUSION**

Stakeholder theory and principal –Agent theory has been employed by this study as a theoretical framework to describe the relationship between Central banks (CBs) and Islamic banks (IBs). The central bank (CB) by virtue of its role of control, regulation and supervision is considered as the *principal stakeholder* who ensures that the financial system remains healthy and vibrant at all times, so as to avoid systemic collapse of the economy. Banks in distress present a threat to orderliness and stability in financial markets, and this is due to the risk of "contagion" whereby if one financial institution fails, the sustainability of others is also threatened. In recent decades, bank failures around the world have been common, large and expensive, ISRA (2012).

Thus, this study has established the fact that in order to reduce bank failure to minimum bearable level (if total elimination is not possible) the attention of the regulatory authority to effective regulation and supervision is being called for. The study has also established the fact that the relevance of regulation and legal framework is essential to provide certainty and predictability to the financial transactions and to the innovative products, thus promoting public confidence in the financial system. This is equally important for the Islamic financial services industry in which this recent decade has seen a rapid evolution in terms of the innovation and in terms of its expansion. In fact a robust legal framework in Islamic finance instills public confidence in the Islamic financial system, provides an enabling platform for practitioners to develop more innovative and complex financial products to meet the increasingly multifaceted consumer demands. In addition, it provides the mechanism for dispute settlement that takes into account the distinct features of Islamic financial transactions. Therefore, regulatory authorities in conventional systems ought to approach Islamic banking with an open mind realizing the potential gains that this already sizable and growing market could bring to the global economy in general and to selected counterparties in particular.

REFERENCES

Abdul Malek M. (2012). Keynote Speech By En Musa Abdul Malek, Deputy Chief Executive Officer Bank Muamalat Malaysia Berhad , *Islamic Banking And Finance Conference 2012*. Innovation And Transformation In Islamic Banking And Finance : Issues, Opportunities And Challenges, at Islamic Science University of Malaysia (USIM), 2nd October 2012.

Azam Ahamed. K.H. (2008). Benefits of Islamic Banking. Sri Lanka: *The Sunday Times Online*.

Abdul Karim Aldohni. (2011). *Legal and Regulatory Aspects of Islamic Banking: A Comparative Look at the United Kingdom and Malaysia.* United Kingdom: Routledge-Cavendish.

Al-Jarhi, Mabid Ali. (2003). "Islamic Banks & Universal Banks: Need for Levelled Playing Field ", A paper presented to the International Seminar on Islamic Banking: Risk Management, Regulation and Supervision, organized by the Ministry of Finance Indonesia, the Centrak Bank Indonesia, September 30.

Ali, S.S. (2007). Financial Distress and Bank Failure: Relevance for Islamic Banks. In S.S. Ali & A. Ahmad (Eds.), *Islamic Banking and Finance: Fundamentals and Contemporary Issues* (pp. 99-120). Jeddah: Islamic Development Bank.

Al-Jarhi, A.M. & Iqbal, M. (2001). *Islamic Banking: Answer to Some Frequently Asked Questions, Occasional.* Paper No. 4, Islamic Development Bank, Islamic Research and Training Institute.

Bank Negara Malaysia (BNM), MIFC. (2012). *Future Finance: Malaysia, Your Business Connection to Global Islamic Finance*.

Bank Negara Malaysia (BNM), (2010). *Shariah Resolutions in Islamic Finance*. Second Edition.

Bank Negara Malaysia (BNM), (2012). *Overview of Development Financial Institutions (DFIs) in Malaysia.*

Bank Negara Malaysia (BNM), MIFC. (2011). *Malaysia's Value Propositions & Pioneering Achievements*.

Bank Negara Malaysia, HYPERLINK http://www.bnm.gov.my, 28th October 2012.

Bank Negara Malaysia, HYPERLINK http://www.bnm.gov.my, 3rd July 2013.

Barth, J. R., Caprio, G., Nolle. D. E. (2004). "Comparative International Characteristics of Banking. Economic and Policy Analysis". *Working Paper* 2004-1.January 2004

Daud, M., Yussof, I. M. and Adewale, A. (2011). "The Establishment and Operation of Islamic Banks In Nigeria: Perception Study On The Role Of The Central Bank Of Nigeria". *Australian Journal of Business and Management Research* Vol.1 (No.2): | May-2011.

Calomiris, Charles W. (2000). "Universal Banking and the Financing of Industrial Development" in Gerard Caprio, Jr. and Dimitri Vittas, Eds, *Reforming Finance: Some Lessons from History.*

Chapra, M.U. (1985). *Towards A Just Monetary System*, Leicester: The Islamic Foundation.

Chapra, M. Umer. (1982). *Money and Banking in an Islamic Economy*. n.pl.: n.pb.

Dusuki, A. W., & Abdullah, N. I. (2006). "Why do Malaysian customers patronize Islamic banks?" *International Journal of Bank Marketing*, 25(3), 142-160.

Dogarawa, A. B. (2011a). "Global Financial Crisis and the Search for New Financial Architecture: Can Islamic Finance Provide Alternative?" *Paper Presented at the 1st African Accounting and Finance Conference,* Accra, Ghana, September 7 – 9.

Dogarawa, A. B. (2011b). "Economic Potentials of Islamic Banking in Nigeria and the Challenges of Introducing it into the Conventional Financial System", *Paper Presented at the 5th Brainstorming Session on Islamic Banking in Nigeria and International Relations",*Nigerian Institute of International Affairs, Lagos, October 6.

Dogarawa, A. B. (2011c). "Financial Inclusion in Nigeria and the Prospects and Challenges of Islamic Microfinance Banks", *Paper Presented at the 2nd International Conference on Inclusive Islamic Financial Sector Development,* Khartoum, Sudan, October 9– 11.

Errico, L. and Farahbaksh, M. (1998). Islamic Baking: Issues in Prudential Regulations and Supervision. International Monetary Fund (IMF), *Working Paper* WP/98/30. Monetary and Exchange Affairs Department. March 1998.

Friedman, M. 1969. *The Optimum Quantity of Money, the Optimum Quantity Money and Other Essays*, Chicago: Aldine, pp. 1-50.

HYPERLINK "http://en.wikipedia.org/wiki/R._Edward_Freeman" \o "R. Edward Freeman" Freeman, R. Edward. 1984. *Strategic Management: A stakeholder approach*. Boston: Pitman.

Iqbal, Z., Askari, H. & Mirakhor, A. (2009). *Globalization and Islamic Finance:Convergence, Prospects and Challenges*, New York: John Wiley and Sons.

Iqbal, M., & Molyneux, P. (2005). *Thirty Years of Islamic Banking: History, Performance, and Prospects.* n.pl.: n.pb.

Iqbal, Z. (1997). Islamic Financial System. *Finance and Development*, 34(2), 42-45. *Islamic Banking in Malaysia*. (n.d.). Retrieved June 20, 2008, from Islamic World: http://www.islamic-world.net/islamic-state/malay_islambank.htm

Imam, P. & Kpodar, K. (2010). "Islamic Banking: How Has it Diffused? IMF Working Paper, WP/10/195, HYPERLINK "http://www.imf.org/external/pubs/ft/wp/2010/wp10195.pdf" http://www.imf.org/external/pubs/ft/wp/2010/wp10195.pdf. Retrieved on January 27, 2013.

19. Islamic banking and finance to continue to grow in 2013. BorneoPost Online / Borneo, Malaysia, Sarawak Daily News. Posted on December 27, 2012, Thursday. **HYPERLINK "http://www.theborneopost.com/2012/12/27/islamic-banking-and-finance-to-continue-to-grow-in2013/" http://www.theborneopost.com/2012/12/27/islamic-banking-and-finance-to-continue-to-grow-in2013/**. Retrieved on 20th February, 2013.

ISRA. (2012), *Islamic Financial System, Principles & Operations*. International Shariah Research Academy for Islamic Finance (ISRA). Kuala Lumpur: ISRA.HYPERLINK "http://www.investopedia.com/terms/a/agencycosts.asp" \l "ixzz1zbYtzjNh" *Investopedia explains 'Agency Costs' (http//www.investopedia.com/terms/a/agencycosts.asp#ixzz1zbYtz jNh).* Retrieved on 27th February, 2013.

Lucian Bebchuk and Jesse Fried. (2004). *Pay Without Performance.* Harvard University Press. *(* HYPERLINK "http://www.pay-without-performance.com/Preface%20and%20Introduction.pdf" *preface and introduction*). Available at HYPERLINK "http://www.pay-without-performance.com/Preface%20and%20Introduction.pdf" http://www.pay-without-performance.com/Preface%20and%20Introduction.pdf. Retrieved on 27th February, 2013.

Muhibat, A.O., A.M. Ridhwan & K. F. Khairil. (2013a). *Celebrating 30 Years of Islamic Banking and Financial Institutions in Malaysia 1983 – 2013*. Muhammad Ridhwan, A. Nilai Negeri Sembilan: Universiti Sains Islam Malaysia. Pp.19 – 43.

Muhibat, A.O., A.M. Ridhwan & K. F. Khairil. (2013b). *Developments Of Islamic Banking System In Malaysia And Nigeria: An Analytical Review*. Paper presented at the 5th Islamic Economic Conference (iECONS 2013) Kuala Lumpur, Malaysia.

Muhibat, A.O., A.M. Ridhwan & K. F. Khairil. (2013c). *Regulatory and Prudential Supervision Framework of Islamic Banking System in Nigeria: Lessons From Malaysian Experience* .Paper presented at the 2nd Applied International Business Conference (AIBC) Sabah, Malaysia.

Malaysia International Islamic Financial Centre (MIFC). (2012). *The MIFC Community Directory (2012). Connecting Business with Islamic Finance.* Kuala Lumpur: MIFC.

Malaysia International Islamic Financial Centre (MIFC). (2010). *The MIFC Community Directory. Connecting Business with Islamic Finance.* Volume 2. Kuala Lumpur: MIFC.

Malaysia: Financial Sector Stability Assessment by IMF, February 2013, BNM Annual Report 2012

Monzer Kahf. (n.d). Islamic Banks at the Threshold of the Third Millennium. n.pl.: n.pb.

Monzer Kahf. (2007). "Success Factors of Islamic Banks: An Empirical Study. Islamic Banking and Finance: Fundamentals and Contemporary Issues". *Seminar Proceedings* No. 47, 121-167. Islamic Research and Training Institute.

Miles, Samantha. (2012). "Stakeholders: essentially contested or just confused?". *Journal of Business Ethics* 108 (3): 285–298.

Miles, Samantha. (2011). "Stakeholder Definitions: Profusion and Confusion". *EIASM 1st interdisciplinary conference on stakeholder, resources and value creation,* IESE Business School, University of Navarra, Barcelona.

Muhammad Ridhwan Ab. Aziz. (2012). *Introduction to Islamic Institutions in Economics and Finance.* Bandar Baru Nilai: USIM Publisher.

Mahmood Nathie. (2010). "Islamic Bank Failure: A Case Study". *International Shariah Research Academy for Islamic Finance (ISRA) International Journal of Islamic Finance,* Volume 2. Issue 1. June 2010. pp. 7-34.

Patrick Imam and Kangni Kpodar. (2010). Islamic Banking: How Has it Diffused? International Monetary Fund WP/10/195. IMF Working Paper. African Department

Ryu, K. P., Piao, S. Z. and Nami, D. (2012)." A Comparative Study between the Islamic and Conventional Banking Systems and Its Implications". *Scholarly Journal of Business Administration,* Vol. 2(5) pp.48-54 May, 2012.Available online at http:// HYPERLINK "http://www.scholarly-journals.com/SJBA" www.scholarly-journals.com/SJBA. ISSN 2276-7126 ©2012 Scholarly-Journals

Shariah Fortune. HYPERLINK "http://www.shariah-fortune.com/islamic-finance-directory/islamic-banks/" www.shariah-fortune.com/islamic-finance-directory/islamic-banks/ Retreived on 14 December, 2012. 5:30 pm.

Sharma, D. S. (1999). Forecasting Financial Distress, Information Fidelity and Cash Flows. *Journal of Accounting, Accountability and Performance*, 5(3), 63-87.

Task Force on Islamic Finance and Global Financial Stability. (2010). Islamic Financial Service Board (IFSB), Islamic Development Bank (IDB) and Islamic Research and Training Institute(IRTI). April 2010.

Uzair, Mohammad. 1955. *An Outline of Interestless Banking.* Karachi: Raihan Publications.

Zeti Akhtar Aziz: Legal issues in the Islamic financial services industry. Speech by Dr Zeti Akhtar Aziz, Governor of the Central Bank of Malaysia, at the 4th IFSB Seminar on Legal Issues in the Islamic Financial Services Industry, Kuala Lumpur, 28 September 2009.

AL-QABD (PEMILIKAN) DAN PELAKSANAANYA DALAM SURAT KREDIT-I MURABAHAH

Ahmad Khilmy b Abdul Rahim[1]
Mohd Shahril b. Ahmad Razimi
Mohd Murshidi bin Mohd Noor

ABSTRAK

Perkhidmatan pembiayaan perdagangan antarabangsa mula diperkenalkan dalam sistem perbankan Islam di Malaysia pada awal 1990an apabila terdapat keperluan terhadap instrumen-instrumen Islam dalam bentuk perdagangan terutamanya di peringkat antarabangsa. Surat Kredit-i merupakan salah satu metod pembayaran yang diamalkan dalam perdagangan antarabangsa. Surat kredit-i *murabahah* merupakan antara metod utama yang diamalkan oleh sistem perbankan Islam di Malaysia. Antara isu syariah yang seringkali dibangkitkan ketika perlaksanaan surat kredit ini adalah berkaitan pemilikan barangan (*al-qabd*). Kertas kerja ini mengupas dan menganalisis tentang konsep *al-qabd*, pandangan fuqaha silam dan kontemporari serta isu-isu syariah yang berbangkit khususnya ketika perlaksanaan surat kredit-i *murabahah* dalam transaksi perdagangan antarabangsa Islam.

Katakunci : Al-Qabd, Surat Kredit-i, Murabahah

1. PENDAHULUAN

Surat Kredit merupakan salah satu instrumen pembayaran dalam transaksi perdagangan antarabangsa. Surat Kredit dikenali juga dengan pelbagai nama yang lain seperti Kredit Berdokumen, Surat Kredit Berdokumen, Surat Kredit Komersial dan Komersial Kredit Bank. Ia merupakan instrumen pembayaran yang paling diterima penggunaannya dalam urusniaga antarabangsa kerana menyediakan perlindungan kepada kedua-dua pengeksport dan pengimport (Hill, 1999). Surat Kredit didefinisikan satu dokumen yang dikeluarkan oleh bank bagi pihak pelanggannya (pengimport) dan ditujukan kepada benefisiari (pengeksport). Surat Kredit akan mengesahkan jaminan bahawa bank akan membayar sejumlah tertentu kepada benefisiari atau pengeksport berdasarkan bil pertukaran yang disertakan bersama-sama dokumen yang lain dengan syarat Surat Kredit itu dikeluarkan mengikut peraturan-peraturan Surat Kredit (Lee dan Detta, 2007, Hinkelman, 2002, Sauud, 1992).

Dalam sistem perbankan Islam, operasi Surat Kredit adalah sama dengan operasi yang dipraktikkan dalam sistem konvensional. Elemen utama yang membezakan antara kedua-duanya adalah aplikasi kontrak-kontrak muamalat dalam Surat Kredit yang ditawarkan oleh sistem perbankan Islam. Kontrak-kontrak yang digunakan dalam operasi Surat Kredit secara Islam dalam sistem perbankan Islam di Malaysia kebanyakannya ialah *wakalah* dan *murabahah*. Ada bank Islam yang menawarkan Surat Kredit berdasarkan *wakalah* atau

[1] Semua penulis adalah dari Pusat Pengajian Perniagaan Islam, Kolej PerniagaanUniversiti Utara Malaysia (UUM), Sintok, Kedah. Emel: khilmy@uum.edu.my

murabahah sahaja dan ada juga bank Islam yang menawarkan kedua-duanya. Namun begitu, terdapat juga bank Islam yang menggunakan kontrak yang lain seperti Bank Muamalat Malaysia yang menggunakan kontrak *musyarakah* dalam transaksi Surat Kredit-i selain *wakalah* dan *murabahah*. Surat Kredit *musyarakah* digunakan secara meluas dalam perbankan Islam di negara-negara Timur Tengah (Ahmad Azam *et al.*, 2009).

Kertas kerja ini membincangkan berkaitan surat kredit-i *murabahah* dengan memberikan penumpuan yang khusus kepada isu *al-Qabdh* (pemilikan barangan) yang menjadi antara syarat sahnya transaksi jual beli yang berteraskan kontrak *murabahah*.

2. METODOLOGI

Kajian ini sepenuhnya menggunakan metodologi kualitatif yang menekankan pembinaan makna, pemahaman konsep atau simbol dan istilah atau penerangan terperinci tentang sesuatu kejadian, objek atau proses (Tuckman,B.W.,1999). Sesuai dengan metode yang digunakan, kajian ini mengaplikasikan dua teknik pengumpulan data iaitu metode kepustakaan dan juga penyelidikan lapangan yang berdasarkan metode temubual dan metode dokumentasi. Metode kepustakaan digunakan oleh penyelidik untuk mengumpul sebanyak mungkin data dan maklumat dalam bentuk tesis, buku, artikel, jurnal, majalah dan kajian ilmiah yang lain berkaitan bidang kajian. Kaedah Metode temu bual separa struktur digunakan oleh penyelidik untuk menemubual pihak-pihak yang terlibat secara langsung dengan proses penyediaan dan operasi surat kredit-i di bank-bank Islam yang terlibat, eksekutif-eksekutif Syariah dan pakar-pakar kewangan dan perbankan Islam.

3. KONSEP SURAT KREDIT SECARA ISLAM

Terdapat berbagai-bagai definisi yang diberikan terhadap Surat Kredit secara Islam (Surat Kredit-i). AAOIFI (2008) mendefinisikannya sebagai :

> *"a written undertaking by a bank (known as the issuer) given to the seller (the benefisiary) as per the buyer's (applicant's or orderer's) instruction or is issued by the bank for its own use, undertaking to pay up to a specified amount (in cash or through acceptance or discounting of a bill of exchange), within a certain peroid of time, on condition that the seller present documents for the goods conforming to the instructions".*

Selain itu terdapat juga definisi yang diberikan oleh bank-bank komersil di Malaysia tentang Surat Kredit secara Islam. Pihak Bank Muamalat Malaysia Berhad (2008) mendefinisikan surat Kredit-i sebagai :

> *"a written undertaking by the Bank, given to a seller (the beneficiary) at the request and the instructions of the buyer (the applicant), to pay at sight or at a determinable future date up to a stated sum of money within a prescribed time limit and against stipulated documents which must comply with terms and conditions"*

Definisi-definisi di atas memberikan indikasi bahawa Surat Kredit yang dilaksanakan dalam sistem perbankan konvensional dan sistem perbankan Islam memainkan peranan dan fungsi yang sama iaitu untuk memudahkan urusan perdagangan khususnya dalam di peringkat antarabangsa. Penggunaan kontrak-kontrak tersebut secara umumnya tidak merubah sifat-sifat yang sedia ada atau fungsi utama Surat Kredit. Fungsi kontrak-kontrak muamalat adalah untuk menghapuskan elemen-elemen *riba* dan *gharar* yang terdapat dalam operasi Surat Kredit. Ia tidak mengubah suai peraturan-peraturan asas Surat Kredit, UCP[1] atau mana-mana undang-undang antarabangsa yang dikeluarkan oleh International Chamber of Commerce (ICC). Menurut Ahmad Azam *et al.,* (2009), apabila terdapat peruntukan-peruntukan UCP yang bertentangan dengan kontrak-kontrak tersebut maka terma-terma tambahan akan diwujudkan untuk mengelakkan peruntukan-peruntukan tersebut dapat dilaksanakan.

Secara ringkasnya pihak-pihak yang terlibat dalam operasi surat kredit ialah :

i. Pemohon kepada kredit **:** Pemohon kepada kredit bermaksud pihak yang mana kredit telah dikeluarkan atas permintaannya (Artikel 2, UCP600).
ii. Benefisiari : Pengeksport merupakan pihak yang akan menerima bayaran dalam Surat Kredit dan dikenali juga sebagai benefisiari. Benefisari ditakrifkan sebagai pihak yang mana kredit telah dikeluarkan untuknya (Artikel 2,UCP600).
iii. Bank penerbit (bank pengimport) : Bank penerbit ialah bank yang mengeluarkan Surat Kredit atas permintaan pemohon (Artikel 2, UCP 600). Ia merupakan bank yang mewakili pengimport.
iv. Bank koresponden – bank penasihat atau bank peraku : Bank yang akan mewakili pengeksport dikenali sebagai bank koreponden dan ia juga boleh bertindak sebagai bank koresponden penasihat atau bank koresponden peraku

3.1. Pengertian *murabahah*

Murabahah berasal daripada perkataan (ربح) (*ribh*) yang membawa maksud pertambahan dan keuntungan (al-Razi, 1987). Para ulama fiqh memberikan definisi *murabahah* dari sudut istilah dalam pelbagai bentuk, namun kesemuanya menjurus kepada maksud yang sama iaitu seperti mana yang disimpulkan dalam pengertian yang diberikan oleh AAOIFI (2007) :

> **"بيع سلعة بثمن الذي اشتراها به البائع مع زيادة ربح معلوم متفق عليه"**
> *"Menjual suatu barangan dengan harga asal yang dibeli (modal) oleh penjual beserta keuntungan yang diketahui serta dipersetujui oleh kedua-dua penjual dan pembeli"*

Bentuk jual beli *murabahah* ialah penjual menyatakan kepada pembeli harga kos barangan itu dan menjualkannya dengan dicampurkan jumlah keuntungan yang akan diperolehinya sama ada dalam bentuk keseluruhan (*lump sum*) ataupun dalam bentuk peratusan tertentu (Isa, 2007, Nabil, 1986). *Murabahah* termasuk dalam jual beli amanah (*buyu' al-amanah*) kerana

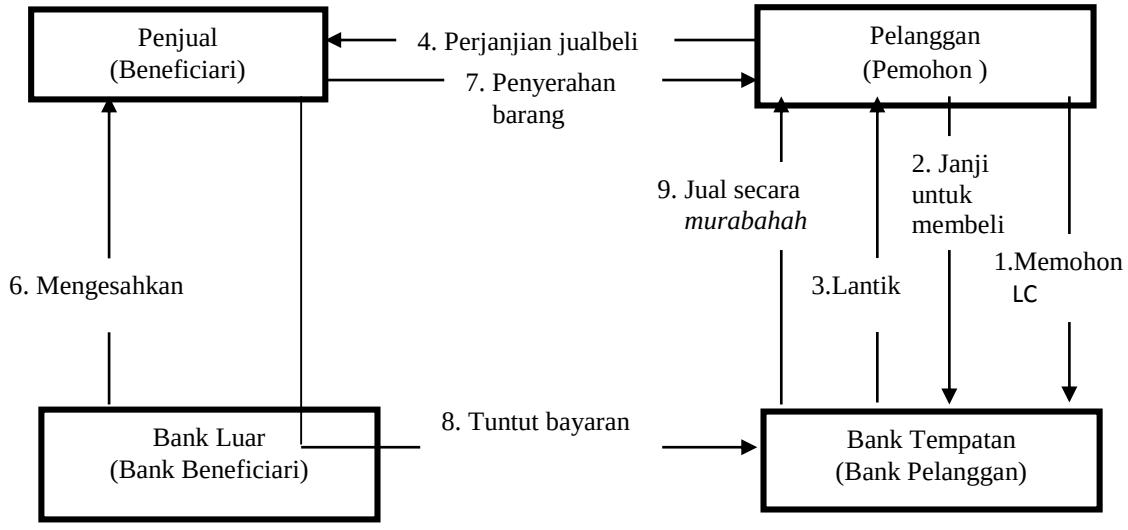
[1] Ia merupakan satu kompilasi amalan-amalan komersil yang diamalkan diperingkat antarabangsa dan pertama kali dikeluarkan pada tahun 1930 oleh Dewan Perniagaan Antarabangsa.Ia sentiasa dikemaskinikan setiap 10 tahun dan versi yang terkini ialah yang dikuatkuasakan pada satu 1 Julai 2007 yang dikenali sebagai UCP 600. Sebelum lahirnya UCP 600,UCP versi 500 telah digunakan. Kewujudan UCP 600 telah mengubah peruntukan tertentu yang selama ini terkandung dalam UCP 500, Rosmawani Che Hashim (2009).

transaksinya terbina atas dasar amanah dan amat berkehendakkan kepada kejujuran dan menjauhi segala bentuk keraguan dan kesamaran (Al-Marghinani, t.t).

Dalam konteks sistem kewangan Islam kontemporari, konsep *murabahah* telah diaplikasikan dalam pelbagai bentuk dan jenis. Idea ini lahir daripada inovasi ahli perbankan dan dipandu oleh para ulama syariah. Konsep *murabahah* dalam institusi perbankan Islam semasa dikenali sebagai *bay' al-murabahah lil-amir bi al-syira'*. Ia ditakrifkan sebagai satu bentuk permintaan dari satu pihak (pelanggan) kepada satu pihak yang lain (biasanya bank) untuk membeli suatu aset yang diingini pelanggan (dinyatakan sifat-sifatnya) dengan cara pihak pelanggan berjanji akan membelinya daripada pembeli awal (bank) secara jualan *murabahah* yang dipersetujui kadar keuntungan oleh kedua-dua pihak dan bayarannya adalah secara sekaligus atau beransur-ansur bergantung kepada kemampuan kewangan pihak pelanggan (Syubair, 2001).

3.2 Surat Kredit-i Murabahah

Surat Kredit *murabahah* bermaksud pihak bank bertindak sebagai peniaga iaitu pihak bank akan membeli barangan terlebih dahulu daripada pengeluar atau pembekal dan kemudiannya menjual semula kepada pelanggan dengan harga yang lebih tinggi (*mark up cost plus*) yang dipersetujui bersama tanpa sebarang bayaran pendahuluan yang diminta daripada pelanggan (Saleem, 1998). Pihak bank akan menawarkan kemudahan Surat Kredit *murabahah* kepada pelanggan yang tidak mempunyai tunai yang mencukupi untuk menjelaskan bayaran kepada pihak benefisiari dan pelanggan diberi kemudahan untuk menyelesaikan pembayaran penuh dalam tempoh-tempoh yang tertentu. Perincian bagi operasi Surat Kredit *murabahah* dan keterangannya adalah seperti berikut (Zaharuddin, 2009) :



Rajah 1
Operasi Surat Kredit-i Murabahah
Sumber : Zaharuddin, 2009

1. Pelanggan memohon persetujuan pihak bank untuk mengeluarkan Surat Kredit bagi membiayai pembeliannya dari luar negara.

2. Setelah pihak bank bersetuju, pelanggan akan memberikan janji sebelah pihak (*unilateral promise/ al-wa'ad*) untuk membeli barang dagangan dengan spesifikasi tertentu dari bank.

3. Bank akan melantik pelanggan sebagai ejennya untuk berurusan jual beli dengan penjual yang telah dikenal pasti.

4. Pelanggan menandatangani perjanjian jual beli dengan penjual bagi pihak bank.

5. Bank mengeluarkan Surat Kredit (LC) kepada bank penjual membuktikan bayaran dibuat (dikira sebagai pembayar secara *hukmi* kerana fizikal wang masih belum sampai ke tangan penjual).

6. Bank penjual memaklumkan kepada penjual (sebagai pengesahan) bahawa Surat Kredit sudah diterima.

7. Penjual mula menghantar barang dagangan sama ada melalui laut atau udara kepada pelanggan.

8. Setelah barangan dihantar (dieksport), penjual menuntut bayaran kepada pembeli melalui banknya (bank penjual) yang seterusnya menuntut bayaran tersebut dari bank pembeli (bank tempatan).

9. Bank pembeli akan membayar secara penuh dengan menggunakan dananya dahulu. Seterusnya bank menjual barang tersebut secara *murabahah* dan menyerahkan semua dokumen untuk tuntutan barangan di pelabuhan atau lapangan terbang kepada pelanggan. Bank akan mendapat bayarannya secara bertangguh dalam tempoh yang telah dipersetujui dengan pelanggan. Pihak bank mengenakan bayaran komisen kepada pelanggan berdasarkan hukum *al-ujr* dan perbelanjaan mengurus berkaitan penyediaan dan perkhidmatan Surat Kredit.

Berbeza dengan Surat Kredit *wakalah*, Surat Kredit *murabahah* merupakan satu pembiayaan pihak bank terhadap pelanggannya dan pelanggan diberikan terma pembayaran tertunda untuk menyelesaikannya. Selain itu, perkara utama yang perlu diberi perhatian dalam operasi Surat Kredit *murabahah* ialah bank perlu memastikan barangan tersebut adalah miliknya (*al-qabdh*) sebelum menjualkannya semula kepada pelanggan.

4. KONSEP *AL-QABD* DAN PERBINCANGAN FUQAHA

Akad jual beli termasuk dalam akad yang membawa kepada perpindahan hak milik daripada penjual kepada pembeli berkuatkuasa selepas berlakunya akad (al-Sanhuri, 1954). Menurut mazhab Maliki, perpindahan hak milik berlaku apabila pembeli memiliki hak untuk mendapat dan menggunakan barangan walaupun sebelum berlaku *qabd* sama ada barangan itu bersifat *'aqar* (tak boleh dipindahkan seperti tanah atau rumah) atau *manqul* (boleh dipindahkan seperti haiwan, kenderaan), berbeza dengan mazhab Syafii dan Hanbali yang mensyaratkan *qabd* terlebih dahulu sebelum pembeli boleh menggunakan barangan yang dibeli (al-Sanhuri, 1954).

Qabd (قبض) adalah kata terbitan daripada perkataan Bahasa Arab *qabada – yaqbidu* yang bermaksud dengan mengambil, menggenggam, memegang, menguasai dan yang seumpamanya (Ibn Manzur, 2003). Dari segi istilah pula bermaksud penerimaan yang

membenarkan berurusan atau bertasarruf dengan harta yang diterima (Qal'ahji,1985). Al-Kasani (1998) pula mentakrifkan qabd sebagai keupayaan untuk berurusan dengan harta yang diterima. *Qabd* bolehlah disimpulkansebagai penguasaan dan pemilikan terhadap sesuatu perkara yang kebiasaannya merujuk kepada sesuatu *uqud mu'awadat* (akad pertukaran). Ia boleh dilakukan secara zahir seperti pengambilan barangan selepas jual beli atau secara tidak zahir seperti pengiktirafan bahawa akibat sesuatu tindakan tertentu, menunjukkan *qabd* telah berlaku. Kebiasaannya, *qabd* bergantung kepada tanggapan uruf atau pemakaian kebiasaan masyarakat setempat tentang kaedah-kaedah sesuatu penguasaan dan pemilikan telah sempurna berlaku (Hammad, 1993). Fuqaha juga menggunakan beberapa istilah lain yang membawa pengertian yang sama dengan *qabd* seperti *naqd*, *munajazah*, *hiyazah*, *yadd*, *yadd bi yadd*, *ha' wa ha'*, *qada' wa iqtida'* (Majallah Majma' al-Fiqh, bil 6, j.1).

Kepentingan Qabd (pemilikan) ini dinyatakan dengan jelas baginda Rasulullah s.a.w dalam hadis-hadis berikut :

لا تبع ما ليس عندك

"Jangan sesekali kamu menjual sesuatu yang bukan berada di sisimu (hakmu)"

(Al-Baihaqi, 2003, j5, no.82)

Dalam satu hadis yang lain Rasulullah s.a.w pernah menyatakan:

من ابتاع طعاما فلا يبعه حتى يقبضه

"Barangsiapa menjual makanan, maka janganlah menjualkannya sebelum ia memilikinya"

(Bukhari, 1422H, j3, no 2133)

Walaupun hadis di atas merujuk kepada makanan sebagai objek jualan, tetapi ianya juga merangkumi objek-objek jualan yang lain berdasarkan keterangan-keterangan yang berikut :

i. Ibn Abbas yang meriwayatkan hadis tersebut menafsirkan dengan kata-katanya (Za'tary, 2010):

وأحسب كل شيء بمنزلة الطعام

"Dan aku menganggap semua perkara adalah sama seperti makanan"

Berdasarkan kaedah periwayatan hadis yang masyhur, perawi dikira lebih arif tentang hadis yang diriwayatkannya.

ii. Item-item selain makanan diqiyaskan dengan makanan dalam hukum tersebut kerana terdapat sebab (*illah*) yang sama iaitu penjualan sebelum terlaksana *qabd* (al-Khattabi, 1351H).

iii. Sebab (*illah*) larangan juga boleh dikaitkan dengan larangan mengambil keuntungan daripada jual beli sesuatu yang tidak berada dalam *daman*nya (al-Khattabi, 1351H).

Jual beli yang menggunakan kontrak *murabahah* berkehendakkan penjual (pihak bank) untuk membeli barangan terlebih dahulu, memilikinya secara sah dan menjualkannya kepada pelanggan dengan tambahan untung yang dipersetujui antara kedua-duanya. Persoalan yang timbul ialah pihak bank Islam perlu memiliki sesuatu barangan secara sah sebelum menjualkannya kepada pelanggan. Sekiranya pemilikan yang sah tidak berlaku, maka kontrak jual beli secara *murabahah* antara bank dan pelanggan dikira tidak sah berdasarkan nas hadis Rasulullah s.a.w yang dinyatakan di atas kerana penjual belum memiliki barangan tersebut secara sah.

5. QABD DAN ISU-ISU SYARIAH

Para fuqaha semasa membahagikan qabd kepada dua iaitu qabd hakiki (pemilikan penuh) dan qabd hukmi /maknawi (pemilikan manfaat). Pemilikan penuh/sah (*al-qabd al-haqiqi/legal ownership*) bermaksud pemilikan secara perundangan yang melibatkan pertukaran nama secara rasmi di atas geran hak milik.. Fuqaha semasa mencadangkan penggunaan *al- qabd al-hukmi* atau *beneficial ownership* yang dianggap boleh mengambil peranan *al- qabd al-haqiqi* walaupun ia dari segi realiti dan hakikatnya tidak sama. Kesulitan dan kemudaratan yang timbul membawa kepada harusnya penggunaan *beneficial ownership* dalam transaksi *murabahah* khususnya, yang berfungsi dan berstatus seumpama hukum *legal ownership* (Hammad, 2001).

Al- qabd al-hukmi (**القبض الحكمي**) didefinisikan seperti berikut (al-Zuhaily, 2009) :

> **هو كل ما تتحقق به الحيازة والتمكن من التصرف بحسب العرف السائد من غير تناول باليد أو قبض حسي**
>
> *"Setiap perkara yang membawa kepada pemilikan barangan dan membenarkan penggunaannya yang berdasarkan uruf setempat tanpa perlu memegangnya (asset) di tangan atau memegang secara fizikal (legal ownership)"*

Menurut Hammad (2001), walaupun *al- qabd al-hukmi* ini tidak dibahaskan oleh fuqaha silam dalam penulisan mereka, namun konsep ini diterima dan dikenali berdasarkan bentuk-bentuk dan gambaran yang dinukilkan oleh mereka. Majma' al-Fiqh al-Islami dalam resolusinya bernombor 53 (4/6), mengharuskan beberapa transaksi untuk menggunakan *beneficial ownership*. Kumpulan penyelidik Instrumen Islam (KPII) dalam mesyuarat kelapan pada 25 Januari 1996 juga memutuskan bahawa urf setempat menjadi asas dan garis panduan untuk menentukan status *qabd* dalam sesuatu urus niaga. Oleh itu mereka berpendapat apa-apa sahaja yang diterima pakai oleh *uruf* sebagai *qabd* dapat dijadikan garis panduan untuk urus niaga dalam kewangan Islam di Malaysia.

Walaupun kebanyakan fuqaha mengharuskan penggunaan *beneficial ownership* ini, namun terdapat juga ulama semasa yang mengkritik kaedah ini seperti Hussin Hamid Hassan yang menganggap hak milik sebegini bukanlah hak milik sebenar (Zaharuddin, 2009). Engku Rabiah (2008) berpendapat sekiranya dibuat ujian pemilikan dan penguasaan penuh (*haq milkiyyah*) ke atas produk-produk perbankan Islam semasa seperti pembiayaan yang

berteraskan *murabahah* dan pelbagai jenis sukuk, didapati masih tidak jelas status pemilikan yang dimiliki oleh pihak bank kerana mereka masih belum boleh bertransaksi dan menguasai secara bebas aset tersebut walaupun mereka sudah memperolehi status *qabd hukmi*.

Dalam amalan perbankan Islam semasa di Malaysia, bank-bank Islam akan mendapatkan status *qabd hukmi* terlebih dahulu sebelum menjualkannya kepada pelanggan dalam jual beli yang menggunakan kontrak *murabahah*[1]. Oleh itu, persoalan menjual barangan sebelum menjadi hak milik tidak timbul melainkan isu perlaksanaan adakah bank-bank Islam benar-benar mendapatkan status tersebut.

Walaupun isu *qabd* hukmi ini masih menimbulkan persoalan di kalangan fuqaha semasa iaitu sama ada ia boleh dianggap seumpama pemilikan sebenar atau tidak, penyelidik berpandangan ia sudah memadai buat masa ini untuk memenuhi status *qabd hakiki*. Ini memandangkan beberapa halangan dan kekangan sama ada dari segi perundangan negara atau faktor-faktor lain yang menghalang penjual perlu memperolehi status *qabd hakiki* (pemilikan sebenar) terlebih dahulu sebelum menjualkannya kepada pembeli dalam jual beli *murabahah* khususnya dan juga jual beli yang lain. Zaharuddin (2009) menyenaraikan beberapa faktor mengapa qabd hakiki (*legal ownership*) tidak dapat dilaksanakan pada masa sekarang :

i. Aspek perundangan :

Menurut undang-undang Malaysia, hanya setelah pembayaran asset dibuat secara penuh, barulah urusan penukaran legal ownership boleh ditukar kepada pembeli. Dalam konteks ini, hakikat sebenarnya adalah pelanggan yang ingin membeli asset dan bukannya bank yang hanya sekadar menjadi orang tengah. Pada hakikatnya bank telah membayar penuh tetapi tidak mahu memasukkan namanya sebagai legal owner kerana ia akan dimasukkan sebagai asset dan tanggungan bank sekaligus menambah risiko yang bakal dihadapi oleh pihak bank.

ii. Birokrasi

Sekiranya pihak bank bersetuju memasukkan namanaya sebagai pemilik sebenar, prosedur dan birokrasi menjadikan urusan mengambil masa yang panjang, sedangkan bank mahu menjual asset kepada pelanggan secepat mungkin.

iii. Jatuh nilai

Satu lagi faktor ialah kebarangkalian berlakunya jatuh nilai atau depreciation terhadap nilai sesuatu aset (terutamnya automobil) hasil bertambahnya pemilik.

Oleh itu, sebagai satu alternatif yang berkesan, cepat dan pantas dalam konteks dan suasana Malaysia, pihak penasihat Syariah mencadangkan penggunaan hak milik manfaat (beneficial ownership/ qabd maknawi) sebagai jalan keluar untuk membolehkan berlakunya jual dan beli antara pihak bank dan pelanggan (Zaharuddin, 2009).

[1]Temu bual dengan Ahmad Suhaimi b Yahya, Regional Head Shariah, KFHM pada 25/3/2011di KFHM, Jalan Pinang , KL , Temu bual dengan En Mohd Ramadhan Fitri b Ellias, Vice President/ Head Syariah Management ,Maybank Islamic pada 5.12.2011, Temu bual dengan Mohd Hafiz b Yusof, Eksekutif Senior, Penasihat Shariah, RHB Islamic Bank Berhad, KL

Selain itu, uruf setempat juga perlu diberi perhatian dalam menentukan status *qabd* sesuatu barangan. Sebagai contoh uruf setempat menerima sebagai *qabd* apabila penjual menyerahkan barangan jualan kepada seseorang yang diarahkan oleh pembeli untuk menerima sebagai wakil bagi pihaknya (pembeli). Contoh yang lain ialah apabila seorang penjual membuka kunci gudang berasnya, ia membawa maksud penjual tersebut menyerahkan beras yang dijual didalamnya. Ibn Taimiyyah (2005) menjelaskan isu ini dengan menyatakan :

> **"وما لم يكن له حد في اللغة ولا في الشرع فالمرجع فيه إلى عرف الناس كالقبض المذكور في قوله صلى الله عليه وسلم : من ابتاع طعاما فلا يبعه حتى يقبضه"**
>
> *"Setiap perkara yang tidak mempunyai had sempadan sama ada dari segi bahasa ataupun syarak, maka ia hendaklah dirujuk kepada 'uruf (kebiasaan) manusia seperti persoalan qabadh yang disebut dalam hadis Nabi saw : Barang siapa yang menjual makanan, hendaklah ia menjualkannya setelah ia memilikinya"*

Uruf merujuk kepada kebiasaan yang diamalkan oleh sebahagian besar sesuatu masyarakat sama ada dalam bentuk percakapan atau perbuatan (al-Zarqa', 1968). Uruf merupakan *'adat jama'iyyah* (amalan kebiasaan yang diterima secara kolektif) dan boleh diterima pakai sebagai asas hukum selagi ia tidak bercanggah dengan syarak (al-Zuhaily, 1989). Oleh itu, dalam persoalan menentukan *qabd* ini, *uruf tijari* iaitu perkara yang menjadi amalan kebiasaan dalam perniagaan dan perdagangan boleh menjadi panduan asas dan hukum dalam menentukan status *qabd* sesuatu barangan.

6. PENUTUP

Qabd merupakan elemen yang amat penting dalam transaksi *murabahah*. Pihak-pihak yang terlibat dalam urusniaga ini perlu memastikan *qabd* berlaku walaupun secara *qabd maknawi* (*benefial ownership*) sebelum proses jual beli dilaksanakan. Pengabaian kepada aspek ini boleh mencacatkan proses transaksi *murabahah* yang berlaku.

RUJUKAN

Accounting and Auditing Organisaton for Islamic Financial Institutions (AAOIFI). (2008). Shari'a Standards For Islamic Financial Institutions. Bahrain.

Ahmad Azam Othman, Rosmawani Che Hashim & Akhtarzaite Abdul Aziz. (2009, June). *An Overview of Shariah Issues Regarding The Application of The Islamic Letter of Credit Practice in Malaysia*. Kertas kerja yang dibentangkan di International Conference on Corporate Law 2009, " Contemporary Issues and Challenges," Universitas of Airlangga, Surabaya.

Baihaqi, Abu Bakr Ahmad b al-Husayn b Ali al-. (2003). *al-Sunan al-Kubra*. Beirut: Dar al-Kutub al-Ilmiyyah.

Bukhari, Muhammad b Ismail al-. (1987). *Sahih al-Bukhari*. Beirut: Dar Ibn Katsir.

Engku Rabiah Engku Ali. (2008). *Essential Readings in Islamic Finance: Issues in Islamic Debt Securutization.* CERT Publications Sdn.Bhd.

Hammad, Nazih. (1993). *Mukjam al-Mustalahat al-Iqtisadiyyah fi Lughah al-Fuqaha.* Herndon: The International Institut of islamic Thought.

Hammad, Nazih. (2001). *Qadaya Fiqhiyyah Mu'asirah fi al-Mal wa al-Iqtisad*. Damsyiq : Dar al-Qalam.

Hill, Charles W.L. (1999). *International Business: Competing in the Global Marketplace*. Irwin: Mc Graw-Hill.

Hinkelman, Edward G *et al*. (2002). *Dictionary of International Trade*. US: World Time Press.

Ibn Manzur, Abu al-Fadhl Jamal al-Din Muhammad b Mukarram al-Ansari. (2003). *Lisan al-Arab*. Beirut: Dar Sadir.

Ibn Taimiyyah. (2005). *Majmu'ah al-Fatawa*. Al-Mansourah: Dar al-Wafa'.

Kasani, Alauddin Abi Bakr b Mas'ud. (1998). *Badai' al-Sanai' fi Tartib al-Syarai'*. Beirut: Dar al-Kutub al-Ilmiyyah.

Khattabi, al-. (1351H). *Ma'alim al-Sunan*. Halab: Matbaah al-Ilmiyyah.

Lee, Mei Pheng & Detta, Ivan Jeron. (2007). *Islamic Banking and Finance Law*. Petaling Jaya: Pearson Malaysia Sdn Bhd.

Mansur, Isa Daifullah. (2007). *Nazariyyat al Arbah fi al Masarif al Islamiyyah*. Jordan: Dar al Nafais.

Marghinani, Burhanuddin Abu al-Hassan Ali b Abi Bakr b Abd Jalil al-. (t.t). *Al-Hidayah Syarh Bidayah al-Mubtadi*. Kaherah: Maktabah wa Matbaah Mustafa al-Babi al-Halabi wa Awladuhu.

Nabil A.Saleh. (1986). *Unlawful Gain and Legitimate Profit in Islamic Law*. Cambridge Najhoft.

Qal'ahji, Muhammad Rawwas. (1985). *Al-Mu'amalat al Maliyah al Mu'asirah fi Daw'i al fiqh wa alSyariah*. Beirut: Dar al-Nafais.

Razi, Muhammad bin Abi Bakr bin Abd al-Qadir al-. (1987). *Mukhtar al-Sihah*. Lubnan : Maktabah Lubnan.

Rosmawani Che Hashim. (2009). *Pengenalan Undang-undang Perdagangan Antarabangsa*, KL : Dewan Bahasa dan Pustaka

Sanhuri, Abd al-Razzaq. (1954). *Masadir al-Haq fi al-Fiqh al-Islami*. Kaherah: Jami'ah al-Dual al-Arabiyyah.

Sauud Muhammad al-Rabiah. (1992). *Tahawwul al-Masraf al-Ribawi ila Masraf Islami*. Kuwait: Markaz al-Makhtutat wa al-Turath wa al-Wathaiq

Syubair, Muhammad Usman. (2001). *Al Muamalat al Maliyyah al Muasirah fi al Fiqh al Islami*. Jordan: Dar al-Nafais.

Tuckman, B.W.(1999). *Conducting Educational Research*.USA: Harcourt

Za'tary, Alauddin. (2010). *Fiqh al-Muamalat al-Maliyyah al-Muqaran*. Damsyiq: Dar al-Asma'.

Zaharuddin Abd Rahman. (2009). *Murabahah, Teori Aplikasi dan Isu Dalam Perbankan Islam Semasa*. Selangor: True Wealth Sdn Bhd.

Zarqa', Mustafa Ahmad al-. (1968). *al-Madkhal al-Fiqhi al-'Am*. Beirut: Dar al-Fikr.

Zuhaily, Wahbah. (1989). *Al-Fiqh al-Islami wa Adillatuhu*. Damsyiq: Dar al-Fikr.

APPLICATION OF *ʿURF* IN ISLAMIC DEPOSIT PRODUCTS

Shafi'i Abdul Azeez Bello[1]
Tijani Fatai Abdul [2]
Rusni Bt Hassan[3]
Norhashimah Mohd. Yasin[4]

ABSTRACT

Over the last decade Islamic banking has clear taken root. What began as novelty has made major strides. The main purpose of this paper was to explain the application of *'urf* in Islamic deposit products. This study set about the application of *'urf* in Islamic law briefly, moreover, the concept of deposit products in conventional bank just analysed while it in Islamic bank effectively analysed. The types of deposit products in both banks are chiefly current, saving and investment accounts. In addition, it mentioned the model of deposit products in Islamic banking that represented as *wadi'ah*, *qard Hassan* and *mudarabah* that are replicate of conventional banking. Furthermore, it highlights the relationship between the depositor and depositee, as well as the obligations of both. The discussion explains the issues of *'urf* and fatwa in each product.

Keywords: *ʿUrf*, Deposits Products, *Wadiʿah, Qard Hassan, Mudarabah*

1. INTRODUCTION

'Urf or Customary law is one of the most important supporting sources in Islamic law. This can be seen through many legal rulings (*ahkam*) in Islamic law, which was based on *'urf* in which most of these *ahkam* will change according to the change of circumstances, place and time. As for basis of *'urf* or custom, it is the product of the nature of the people and their culture, it grows in strength and popularity by means of imitation that transfers and implants it in the lives of people. Normally these *'urf* or customs will be inherited by generations until the come of other customs that can overrule the earlier ones.

'Urf has played a significant role in the formation of Islamic law. Many cases indicate the change of law when the *'urf* of people has changed. For instance, Malik bin Anas (d.179AH/1795CH) the founder of the Maliki School, has considered the practice of al-Madinah people (*'Amal ahl al- Madinah*) as a source in making law. This indicates the

[1,2] Ph.D. candidate at Ahmad Ibrahim Kulliyyah of Laws IIUM: shafihyajadi@hotmail.com, lawyertijani@yahoo.com
[3] Associate Professor. Institute of Islamic Banking and Finance, Department of Islamic Law, IIUM: hrusni@gamil.com
[4] Professor. Ahmad Ibrahim Kulliyyah of Laws, Department of Private Law, IIUM: norhashimah_iiu@yahoo.com.au

importance of the *'urf* of *al*-Madinah people to him. Similarly, *Al-Shafi'i* (d.204 AH/ 820CE) has made *ijtihad* on many problems that arose when he was in Iraq, but when he moved to Egypt he changes some of his earlier opinions because of the different circumstances and custom in Egypt.[1] Indeed, the Qur'an considers *'urf* of the early *'Arab* community has sources of law. As an example, the doctrine of *qisas*, which was practiced in the early community, has been approved by the Qur'an, although with some modification in terms of evidence and amicable settlement.

'Urf played a crucial role in business development in Islam during the period of the Prophet *(p.b.u.h)*. The history of *Salam*[2] contract is enough to illustrate this point. In the Islamic law of transactions, the general rule is that parties are not allowed to contract with each other where subject matter is non-existent to avoid anything that can lead to *gharar*, or uncertainty, which can result in one party benefiting at the expense of the other unfairly. This rule is based on a *Sunnah* of the Prophet *(p.b.u.h)* that states, "Do not sell things that you do not own".

Therefore, this study argues that under the principle of *'urf* which is a source of Islamic law, the adoption of the template practices of the conventional banking by the Islamic banking. As opposed to the underlying contracts is not contrary to the intent of Islamic law, since this does not contradict any of the fundamental *Shari'ah* principles. For instance, the availability of current account, savings account and investments account in the process of (*'urf*) in the both banking system is not contrary to *Shari'ah*, since the underlying principle are different. The practices are adoptable under *'urf* in Islamic law. The project is important because it aims to solve the problem of whether the adoption of the conventional banking structural practices by the Islamic banking is valid or not especially area of deposit and investment. It argues that it is valid.

2. STATEMENT OF PROBLEM

There are many aspect of conventional banking that has been applied in Islamic banking particularly in the area of deposit and investment, as there are a lot of criticisms against the practices of Islamic banking in term of its modeling operation that replicate the practices of conventional banking. Like conventional banks, Islamic banks rely on depositors' funds as well as their own capital as major sources of funds. Deposits are mainly in the form of demand deposits (current accounts), saving and time deposits. The hypotheses of the research are as follows:

1) The practices of banking are tantamount to *'urf* under Islamic law.
2) The practice is lawful so far it does not contradict any fundamental principle of *Shari'ah.*
3) The application of conventional banking products may be adopted in Islamic banking, particularly in the area of deposit and investment products on the basis of *'urf tijari* since it does not violet any fundamental principle of Islamic law.

For instance, in Malaysia, some commercial banks provide current account facilities that pay interest. There are, however, certain conditions to be fulfilled before account holders are

[1]Abu Zahrah M. (1997). *Usul al-Fiqh*, Cairo: Dar al-Fikri al-'Arabi, , at 128. See also, Kamal M.H. (2006). *Principle of Islamic Jurisprudence*, UK: Islamic Text Society of Cambridge, at 361.
[2] Means (Sale with deferred delivery of exchanged goods but with advance price payment).

entitled to receive interest. Since this account can be devoid of the interest element, Islamic banks are permitted by *Shari'ah* to offer similar facilities.[1]

The study will conduct with the following objectives:

(1) To examine and identify the *'urf* and its application in Islamic law of banking as the operational structure of the conventional banking system in term of the mobilization of the deposit and investment products, which is function of banks as financial intermediary.
(2) To determine ways in which the *'urf* can solve the problem of the permissibility or non-permissibility Islamic banking replicate conventional banking.

3. ISLAMIC DEPOSIT ACCOUNTS

Islamic banks offer products for current, savings accounts and investment deposits, structure to comply with *Shari'ah* principles. There are two dominant views based on the *Shari'ah* principles that applied for the current accounts. One is to treat it as '*wadi'ah-yad-damanah'*[2] (trust). The other view is to treat current accounts as '*qard hassan'*[3] (interest-free loan). The system of *qard hassan* also adopted for savings account. However, for investment accounts *mudarabah* product as agreed to managed the account.

3.1 *WADI'AH DEPOSITS*

Al-Wadi'ah comes from the root-word *wada'a,* which literally means 'leave'. *al-Wadi'ah* literally means, "the thing left with a person who is not its real owner for the purpose of safe-keeping". The act of leaving the thing is termed as *al-Ida'*.[4] In legal terminology, it means "the authorisation of a person to keep the property of another in his safe custody by explicit or implicit terms".[5] The owner of the property who gives the property to another for safe-keeping is termed as *al-Muwaddi'* and the person who receives the property is termed as *al-Muwadda'*or *al-Wadi'*. *Wadi'ah* is considered as a form of contract or *'aqd*. In a *wadi'ah* deposits, the bank safekeeps money and pays it back to the customer on demand. Unlike a conventional deposit, a *wadi'ah* account does not promise a fixed return, although the bank has the discretion to provide customer with *hibah* (gift). Because the bank has discretion, you may theory get no returns at all.[6]

3.1.1 The Basis of *al-Wadi'ah*

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[1] Lee, M.P., & Detta I.J. (2007) *Islamic Banking &Finance Law*. Selangor, Malaysia: Pearson Longman, at 59-60.

[2] Savings with guarantee. Refers to goods or deposits, which have been deposited with another person, who is not the owner, for safekeeping. As *wadi'ah* is a trust, the depository becomes the guarantor and therefore guarantees repayment of the whole amount of the deposits, or any part thereof, outstanding in the account of the depositors when demanded. The depositors are not entitling to any share of the profits but the depository may provide returns to the depositors as a token of appreciation.

[3] Benevolent loan. An interest-free loan given mainly for welfare purposes. The borrower is only required to repay the principal amount borrowed, but he may pay an extra amount at his absolute discretion as a token of appreciation.

[4] Al-Zuhaili Wahabah. (1985). *Al-Fiqh al-Islami wa Adillatuhu*. Damascus: Dar al-Fikri 2nd edn., vol. 5, at 37.

[5] Sabiq, S. (1987). *Fiqh as-Sunnah*. Beirut: Dar al-Kitab al-'Arabi, vol. 3, at 223.

[6] Abdullah, D.V., & Chee, K.. (2010). *Islamic Finance why it makes sense,* at 121

Al-Wadi'ah is authorised and encouraged by the *Shari'ah*. The Qur'an says:

> "*Allah does command you to render back your trusts to those whom they are due*".[1]
>
> In the Sunnah, it was reported that the Prophet *(p.b.u.h)*.says:
>
> *Discharge the trust to the person who entrusts it to you, and do not betray the one who betrays you.*[2]

It is also agreed upon by all jurists of all ages by *ijma'*that the placing of deposits as *wadi'ah* is permissible, especially because of the need and necessity of the people for making such deposits.[3] There are four essential elements of *al-wadi'ah,* which are: i) the goods. ii) Owner of goods. iii) Custodian of goods. iv) Contract- Offer and acceptance *(ijab & qabul)*.[4] However, the jurists have laid down certain condition for the two contracting parties and the property that is being deposited. Concerning the parties, namely, the depositor and the depositee. The *Jumhur* require that the depositor and depositee must be of age of majority, have sound mind and attain the capacity of maturity. About the deposited property, all the jurists require that the property must be capable of being subjected to physical possession.[5] There are two types of *wadi'ah* accounts:

i. *Wadi'ah yad amanah*; and
ii. *Wadi'ah yad damanah.*

3.1.1.1 *Wadi'ah Yad Amanah (WYA)*

With such an account, the bank performs a pure safekeeping function for deposits. For example, if depositor deposited $10, 000 in cash, the bank has to keep the money in its vaults. As a safekeeper, the bank:

i. Is not allowed to utilise the funds for profit generation or any other purpose; and
ii. Does not charge any fees for safekeeping

As a result, no returns in any form can be expected. Client as depositor also face the risk that the bank does not guarantee the return of client money, in the event of a loss such as theft, fire or some unforeseen mishap. The bank is not obligated to make it up to him, unless it was due to the bank's negligence or fault.[6]

3.1.1.2 *Wadi'ah Yad Damanah (WYD)*

The main characteristics of this contract are as follows. Firstly, the custodian is trustee and guarantor to safeguard deposited asset. Secondly, the deposited asset need not be separated or

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[1] Qur'an 4:58.
[2] Narrated by Abu Daud and Trimizi
[3] Id., 12, at 38.
[4] Saat, M.K., Ramli, R., & Aminuddin, H. (2011). *Islamic Banking Practices from the practitioner's Perspective.* Kuala Lumpur: IBFIM, at 47.
[5] Id., 18, at 39.
[6] Abdullah D.V., & Chee, K.. (2010). *Islamic Finance why it makes sense*. Singapore: Marshall Cavendish Business, at 121

segregated. Thirdly, the deposited asset can be used for trading and other purposes. Fourthly, the custodian has the right to any income derived from utilisation of deposited asset. Lastly, the depositor can take back the asset at any time. It is like qard (loan), that is, it cannot generate any pre-agreed benefit or income to depositor, over and above principal amount of deposit (if not, it is *ribā*).[1] In this case, the bank guarantees the return of the money, even if the money is stolen. In return, the bank:

- is allowed to utilise the funds; and
- enjoys all profits and absorbs all losses.

This *wadi'ah yad aamanah* is adopted by the Jordan Islamic Bank, which operates as "Trust Account" instead of a current account. A trust deposit is defined by the Jordan Islamic Bank as cash deposits received by the bank where the bank is authorised to use the deposits at its own risk and responsibility in respect to profit or loss and which are not subject to any conditions for withdrawals or depositing.[2] Thus, depositors hand over these deposits to the bank as a Trust and the bank does not have the authority to use them without first obtaining the specific permission of the owner of the funds. Notwithstanding the above aforesaid is based on the legal maxim that decrees of transaction goes around based on custom of a particular state and environment of a place, *(Al-mu'amalah tajri 'ala 'adah ah'alu al-balad wa 'urfiu).*[3] However, the other view is to treat demand deposits as '*qard hassan'* (interest-free loan). This shows that the practice and viable of Islamic and conventional bank are synonyms.

3.2 *QARD HASSAN* (LENDING AND BORROWING) DEPOSIT

Lending and borrowing were highly important factors in business transactions in pre-Islamic times. Borrowing played a risky role in the general lives of pre-Islamic Arabs, due to the needs of traders or merchants and consumers or buyers in transaction of loans. In such obligations, the lenders gained a multitude of profits out of each contract of loan.[4] During these periods, loans were highly usurious[5] and without any proper procedure, i.e. without fixing time of payment and without written agreement and witnesses or security. In this situation, many injustices occurred which Islam endeavoured to eradicate.[6]

Qard terminologically means giving of property by one person to another with something subjected to the liability of the debtor in form of property with the same value *(mumathil)* of the property that was loaned to him. It is means to be benefited by the recipient (debtor).[7] According to Ibn Hazm, *al-qard*, which also implies future obligation *(al-Dayn)*, is a good deed, involving the lending of a fungible object, such as money, by someone to another person,

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[1] Lee, M.P., & Detta, I.J. (2007). *Islamic banking & Finance Law*, at 73.
[2] The Jordan Islamic Bank for Finance and Investment Law. (2nd edn.,) *Amman*: The Jordan Islamic Bank, at 4.
[3] Ali Ahmad al-Nadwi. (2000). *Jamharah al-Qawa'id al-Fiqhiyyah fi al-Mu'amalat al-Maliyyah,*. Sharikah al-Rajhi al-Masrafiyyah l- al-Istithmar, v. 2, at 951.
[4] 'Ali Jawad. (1993). *Al-Mufassal fi Ta'rikh al- 'Arab qabl al-Islam*. Baghdad: Jami'at Baghdad vol.7, at 404.
[5] Al-Tabari Ibn Jarir. (1999). *Jami' al-Bayan 'an Ta'wil ayah al-Qur'an*. Beirut: Dar al-Kutub al-'Ilmiyah, vol.4, at. 90. Ibn Kathir, (1969) *Tafsir al-Qur'anal-Azim*, (Beirut: vol. 1, at 331 & 404.
[6] Qur'an, 2: 282-283.
[7] Al-Zuhaili, Wahabah. (1985). *Al-Fiqh Islami wa Adillatuh*, (2nd edn., vol. 4, at. 720-730.

on condition that the borrower is responsible to return the same object either immediately or at a specified time.[1] It was also known as *al-salaf*.[2]

3.2.1 The Basis of *Qard Hassan*

The scholars have unanimously agreed that *qard* is permissible based on Qur'an, Sunnah and *Ijma'*.[3] The following Qur'anic verse is regarded as a basis for permissibility of *qard*:

> *Who is that will grant Allah a goodly (sincere) loan so that He will repay him many times over? And (remember) it is Allah who decreases and increases (sustenance), and to Him you shall all return*.[4]

The legality of *qard* was in accordance with the tradition of the Prophet, *(p.b.u.h)* as it was recorded by Ahmad bin Hanbal in which the Prophet is reported to have said:

> *God will place a servant of him under His shade on the day when there will be no shade except His shade, who waits (patiently) (any debt) from a borrower who lives in straitened circumstances (poor or impoverished) or relinquishes (the debt altogether) for the debtor*.[5]

The view that regards current deposit as *qard hassan* has been adopted by Iranian Islamic banks, which call the current account *qard hasan.*[6] According to this view, money deposited in these accounts is a benevolent (or interest free) loan *(qard hassan)* from the depositor to the bank. The bank is free to utilise these funds at its own risk without any return to the depositor and without any authorisation because in the case of *qard hassan*, the debtor does not need the specific permission of the creditor to use the borrowed funds. The debtor owes the creditor only the principal amount borrowed. This condition is fulfiled as the amount deposited in these accounts is fully underwritten by the bank.[7]

In contrast to this, the Bahrain Islamic Bank calls these accounts "Savings Accounts with Authorisation to Invest". Depositors provide the bank with an authorisation to invest their money. Depositors have the right of withdrawal, but profits are calculated based on the minimum balance maintained for a month.[8]

The Iranian Islamic banks include saving accounts in *"Qard Hassan Accounts"* and call them *"Qard Hassan"* deposits. The operation of these accounts is similar to that of savings accounts in the conventional system as far as the deposit and withdrawal of money by means of a savings account passbook is concerned. Although no dividends are due in the case of *qard hassan* depositors, Iranian banks use different promotional methods in order to attract and mobilise deposits. These include giving the following incentives to depositors:

i) Non-fixed bonus either in cash or in kind.

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[1] Ibn Hazm 'Ali bin Aĺmad bin Saeed al-Andalus. (2001). *kitab al-Muhalla Shar al-Majala*. Beirut: Dar al-Ihya' al-Turath al-'Arabi, vol. 8, at 77.
[2] Ibn al-Athir Majdu Deen al-Mubarak bin Muhammad. (2002). *kitab al-Nihayah fi Gharib al-Hadith wa al-Athar*. Beirut: Dar al-Kutub al-'Ilmiyah, vol. 2, at 390.
[3] Abdullah, D.V., & Chee, K. (2010). *Islamic Finance why it makes sense,* at 121
[4] Qur'an, 2: 245.
[5] Ahmad ibn Hanbal. (2005). *Al-Musnad.* Cairo: Dar al-Hadith, vol. 2, at 5. Hadith No. 532.
[6] State Bank of Iran. (1984). *Annual Report*, (Tehran: State Bank of Iran,
[7] Ahamd, A. (1993). *Contemporary Practices of Islamic Financing Techniques*, at 4-5.
[8] Bahrain Islamic Bank, Goals and Functions (Arabic).

ii) Exempting depositors from or granting discount thereto, in the payment of commissions and/or fees.
iii) According to priority of customers in the use of banking facilities.[1]

The Jordan Islamic Bank has adopted yet another way to operate savings accounts. It includes the savings deposits into an investment pool called joint investment accounts.[2] The foregoing discussion makes it clear that Islamic banks adopt one of the following practices in operating savings accounts:

a) Accepting savings deposits on the principle of *al wadi'ah* (trust) requesting depositors to give permission to the bank to use these funds at its own risk, but guaranteeing full return of deposits and sharing any profits voluntarily.
b) Accepting savings deposits with an authorisation to invest and share profits in an agreed manner for the period in which a required balance is maintained.
c) Treating savings deposits as *qard hassan* from depositors to the bank and granting pecuniary or non-pecuniary benefits to depositors.
d) Accepting savings deposits as part of an investment pool and treating them as investment deposits.[3]

In this regard, what common and known to the people of those countries based on the *'urf* as mentioned by *Badran* which is what is established and common in a group of people *(jumhur*) from their saying and doing, and is consistently repeated until it influences them and is therefore accepted by their reasons.[4] Similarly, as mentioned above that decrees of transaction goes around based on custom of a particular state and environment of a place, *(Al-mu'amalah tajri 'ala 'adah ah'alu al-balad wa 'urfiuh).*[5]

3.3 *MUDARABAH* DEPOSIT

The *Mudarabah* contract can be defined as a *'aqad* between two persons that consists of the asset from someone to another for doing business by sharing the profit and loss according to certain conditions. The main purpose of *mudarabah* contract is cooperation between the owner of the asset that can be used as a capital but does not have the skills to do the business, with someone who has the skills but does not have the capital. Through *mudarabah* contract, the skills and the wealth can be benefited. From the finance perspectives, those with capital are known as surplus units and those with skills are as dearth units. This surplus unit and dearth unit can work together to make full use of these funds.[6]

When the principle of *mudarabah* is applied, the bank becomes an entrepreneur or '*mudarib'* and the savings account customers becomes investors or *'sahib al-mal*', or '*rabbul al-mal'* banks then employ the deposited funds into various business activities and share any profit which based on a pre-agreed ratio. In the case of loss, the entire loss will be borne by

[1] State Bank of Iran. (1984). *Annual Report*. Tehran: State Bank of Iran,.
[2] Jordan Islamic Bank. (1981). *Annual Report,* at 25.
[3] Id., 30, at 8
[4] Badran. (1984). *Usul al-Fiqh al-Islami.* Alexandri: Muasasa Shabab al-Jami'ah, at 224.
[5] Ali Ahmad al-Nadwi. (2000). *Jamharah al-Qawa'id al-Fiqhiyyah fi al-Mu'amalat al-Maliyyah*,. Sharikah al-Rajhi al-Masrafiyyah l- al-Istithmar, v. 2, at 951.
[6] *Husniyati Bte 'A.*, Jaizah *bt* O., & Hasbullah Bin O. (2008). *Islamic Financial Services.* Shah Alam: Upena, Malaysia, at 71-2.

depositors.[1] Like current accounts, various elements of contracts are applied between the bank and the savings account holders. These elements include specification on the type of contract between the bank and the customer, procedures relating to deposits and withdrawals and regarding rewards distributed to customers.

Similarly, some of the features imposed upon current account facilities are applicable to savings accounts. For example, the bank is entitled to establish a minimum balance of deposit required to open an account, the types of customers acceptable and other operational procedures. A minor sometimes is allowed to open a savings account with the bank but account is opened in the name of his or her parent or guardian.[2] This contract can be traced back as early as the time of the Prophet *(p.b.u.h)* and it could be observed through the recognition of certain pre Islamic practice of transaction by the Prophet.

Moreover, in that period the *Quraysh* sent caravans to *Syria* and *Yemen* and on this trip, those who had money would give it to the traders to do business in order to share the profit and Islam approved this kind of practice as it's become *'urf* (custom) that "The behavior of a group of people in their saying or doings", or recurring practices that are acceptable to people of sound nature,[3] and not contradict *Sharīʿah* principle. Also, legal maxims under *'urf* referred to it which are effect is only given to custom where it is of regular occurrence of when universally prevailing *(Inamah- tu'tabar al-'adah idah taradat aw aglabat),*[4] in addition, effect is given to what is of common occurrence, not to what happens infrequently *(Al-'Ibrah Lil-galib al-shi' la lil nadir).*[5]

3.3.1 Categories of *Mudarabah*

In term of the powers or authority given to the entrepreneur: *Mudarabah* may be categorised into two types:

1. *Mudarabah Mutlaqah* (Unrestricted *Mudarabah*). The bank has the freedom to utilize the funds without restrictions. (Without restrictions means the restrictions of *mudarabah muqayyadah* are not in force, not that the bank can invest in anything it likes).

2. *Mudarabah Muqayyadah* (Restricted *Mudarabah*). The bank is limited by how it can deploy the funds. Such limitations could be on the period of time, the type of business location or the kinds or service.[6] Nevertheless, these are the essential elements of *Mudarabah,* i) The capital. ii) Capital provider. iii) Entrepreneur. iv) Utilisation of funds. v) Profit. vi) Contract – Offer and acceptance *(ijab & qabul).*[7]

3.3.2 Condition of *Mudarabah* Contracts

[1] Lee M.P., & Detta I.J. (2007). *Islamic banking & Finance Law,* at 65.
[2] Ibid.
[3] Al-Zarqa. (1967). *Al-Madkhal al-Fiqh al-'Amm.* Damascus: Matbai 'Alif Ba', vol.1, at 131.
[4] Majallah Al-Ahkam: Article: 41.
[5] Majallah Al-Ahkam: Article: 42.
[6] Abdullah D.V. & Chee K. (2010). *Islamic Finance why it makes sense,* at 124.
[7] Saat M.K., Ramli R. & Aminuddin H. (2011). *Islamic Banking Practices from the practitioner's Perspective,* at 48.

The investment account normally operates under the contract of *mudarabah* (Trustee Profit Sharing). The bank will accept deposits from its customers who look for investment opportunities. It acts as the 'entrepreneur'. Both parties need to agree with the profit distribution or the sharing ratio. The customer does not participate in the management of the funds. In the event of a loss, the customer bears all the losses. Profits generated form the use of the customers' funds will be distributed according to the predetermined ratio. Only the distribution ration is predetermined and not the actual amount of return. The return will only be known upon maturity or the agreed ratio and not less. If the *mudarabah* venture results in a loss, the owner of capital bears the loss entirely, namely the amount invested or the principal amount. On the other hand, the entrepreneur does not get anything from the venture.[1]

3.3.3 The Basis of *Mudarabah*

Majority of *'Ulam'* unanimously agree that *mudarabah* contract is permissible in Islamic law based on evidences form Qur'an, Hadith, and *Ijma'* as follows:

Qur'an

i. "*…and others travelling in the earth in quest of Allah's bounty*".[2]

Based on the first verse cited above, the word *(يَضْرِبُونَ)* means permissibility to travel in managing wealth to seek the bounty of Allah *(SWT).*

Hadith* of Prophet *(p.b.u.h)

> *Reported by Solih bin Shu'ayb from his father, he said: Rasulullah (p.b.u.h) once said: there are three blessed things; deferred sale, muqâradah and mixing barley and wheat (for household consumption) and not for sale.*[3]

The above *hadith* states three things, which are deemed as, blessed and one of them is *muqaraaah*.[4] The term *muqaradah* originates from the word *qiradh* that is commonly used by scholars in Hijaz while 'Iraqi scholars termed it as *mudarabah*. Thus, *muqaradah* and *mudarabah* are two synonymous terms having the same meaning. The word *al- mudarabah* is synonymous with two other *'Arabic* terms, which are used to designate this contract: *al-Qirad* and *al-Muqaradah*. These three terms are interchangeable, there being no essential difference in meaning or connotation between them.[5] The divergence in terminology was probably originally due to geographical factors.

The terms *al-Qirad* and *al-muqaradah* apparently originated in the 'Arabian Peninsula, especially al-Hijaz,[6] while the term *al- mudarabah* was of 'Iraqi provenance.[7] According to as-Sarakhsi, the term *al- mudarabah* is derived from the expression *al-Darb fi al-Ard* (making a journey). This term is used because the agent-manager *(al-Mudarib)* has the right to claim the

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[1] Ibid.

[2] 'Abdullah Yusuf 'Ali, English Qur'an Translation, 73:20.

[3] Ibu Majah Muhammad Bin Yazid. (2003). *Sunan ibnu Majah*. Beirut: Dar al-Fikr, vol. 2, at 768, Hadith No. 2289.

[4] Refers to *Mudarabah.*

[5] Udovitch, A.L. (1980). *The Encyclopaedia of Islam* (2nd edn., vol. 5, at 130.

[6] Al-Qurtubi Abu 'Umar Yusuf Bin 'Abdullah Bin Muhammad. (1978). *Kitab al-Kafi fi Fiqh Ahl al-Madinah al-Maliki,* (Murtani Ahid Walid Madik, Mohammad Mohammad Ed). Riyadh: Maktabah Al-Riyadh al- Hdithah, at 771.

[7] Al-Zurqani Muhammad Bin 'Abdul al-Baki Bin Yusuf. (1997). *Sharh al-Zurqani 'ala Muwatta' al-Imam Malik*. Beirut: Dar- Ihya' al-Turath al-'Arabi, vol. 3, at 345.

profit by virtue of his effort and work. Indeed, he is regarded as the investor's partner in matters relating to the profit and capital used on the journey and for arrangements or ancillary expenses.[1]

4. *Ijma'* (Consensus of Jurists)

It was reported that some of the companions of Rasulullah *(p.b.u.h)* invested property of the orphans based on *mudarabah*.[2] There was no dissenting view among them and it is considered as *ijma'*.[3]

5. CONCLUSION

From the forgoing discussion, it can be decided that only three deposit products accepted under Islamic bank, which are *wadi'ah*, *qard hassan* and *mudarabah*. The *wadi'ah* is a contract between the owner of a property and the person responsible to safeguard the said product. The contract is established order to safeguard the owner's property from being stolen, destroyed or any other reasons by imposing certain terms and conditions. The *qard hassan* is the contract based on loan in developing economy, having to secure loan is very important for existence or growing a business. Islamic bank acknowledges the need to borrow but the debtor needs to pay back the same amount of the similar property that he/she has borrowed. Any additional amount imposed on the debtor that is predetermined in the contract is considered *ribā*. The *mudarabah* is a contract that is based on partnership between two parties. one part acts as a provider (*rabbul-mal*), giving specific amount of capital to another person, worked as *mudarib* (entrepreneur) to make use of the capital given for the benefit of the business. Any profit from the business will be divided accordingly to the terms and conditions of the contract. However, any losses will be only borne by the capital provider, while the entrepreneur *(mudarib)* suffers disappointment due to pointless effort. If there are evidences that the losses are due to negligence of the *mudarib*, he will be then responsible to pay for the loss. Moreover, Islamic bank forbids ribā, unjustness and earning a return without taking risk, but encourages profit and risk sharing at the end.

REFERENCES

Abdullah, D.V., & Chee, K. (2010). *Islamic Finance why it makes sense*. Singapore: Marshall Cavendish Business.

Abu Zahrah Mohammad. (1997). *Usul al-Fiqh*. Cairo: Dar al-Fikri al-'Arabi.

Ahamd, A. (1993). *Contemporary Practices of Islamic Financing Techniques*.

Ahmad ibn Hanbal. (2005). *Al-Musnad.* Cairo: Dar al-Hadith, vol. 2, at 5. Hadith No. 532.

Ali Ahmad al-Nadwi. (2000). *Jamharah al-Qawa'id al-Fiqhiyyah fi al-Mu'amalat al-Maliyyah*. Sharikah al-Rajhi al-Masrafiyyah l- al-Istithmar, v. 2.

Al-Kasani, Abu Bakri Bin Mas'udi. (1986). *Kitab Bada'i' al-Sana'i' fi Tartib al-Shar'i'*. Beirut: Dar al-Kutub al-iIlmiyah, vol. 6.

[1] Al-Sarakhsi Shamsu Deen, (1993) *al-Mabsut*, (Beirut: Dar al-Ma'rifah, vol. 20, at 18-19.
[2] Al-Zuhaili, Wahabah, (1985) *Al-Fiqh Islami wa Adillatuh*, (2nd Ed, vol. 4, at 838.
[3] Bank Negara Malaysia, (2010) *Shari'ah Resolutions in Islamic Finance*, (Malaysia: CBNM, 2nd Ed., at 25-26.

Al-San'ani 'Abdu ar-Razaq Bin Hmam. (1983). *al-Musannaf.* Beirut: Maktab Islami, vol. 8.

Al-Qurtubi Abu 'Umar Yusuf Bin 'Abdullah Bin Muhammad. (1978). *Kitab al-Kafi fi Fiqh Ahl al-Madinah al-Maliki,* (Murtani Ahid Walid Madik, Mohammad Mohammad Ed.,) (Riyadh: Maktabah Al-Riyadh al- Hdithah.

Al-Sarakhsi Shamsu Deen. (1993). *Al-Mabsūţ*. Beirut: Dar al-Ma'rifah, vol. 20.

Al-Shawkani Muhammad Bin 'Ali Bin Muhammad, (2007). *Fath al-Qadir*. Beirut: Dar al-Ma'rifah.

Al-Tabari Ibn Jarir. (1999). *Jami' al-Bayan 'an Ta'wil Ayah al-Qur'an*. Beirut: Dar al-Kutub al-'Ilmiyah, vol.4.

Al-Waqidi Muhammad Bin 'Umar. (2004). *kitab al-Maghazi*. Beirut: Dar al-Kutub al-'Ilmiyah, vol. 3.

Al-Zarqa. (1967). *Al-Madkhal al-Fiqh al-'Amm.* Damascus: Matbai 'Alif Ba', vol.1.

Al-Zuhaili Wahabah. (1985). *Al-Fiqh al-Islami wa Adillatuhu*. Damascus: Dar al-Fikri 2nd edn, vol. 5.

Al-Zuhaili, Wahabah. (1985). *Al-Fiqh Islami wa Adillatuh,* (2nd edn, vol. 4.

Al-Zurqani Muhammad Bin 'Abdul al-Baki Bin Yusuf. (1997). *Sharh al-Zurqana 'ala*

Badran. (1984). *Usul al-Fiqh al-Islami.* Alexandri: Muasasa Shabab al-Jamiʿah.

Bahrain Islamic Bank, Goals and Functions (Arabic).

Bank Negara Malaysia. (2010). *Shari'ah Resolutions in Islamic Finance*. Malaysia: CBNM, 2nd edn.

Dubai Islamic Bank. *A General Introduction to the Objectives and Investment*, Dubai: Dubai Islamic Bank.

Husniyati Bte 'Ali, Jaizah bt Othman & Hasbullah Bin Othman. (2008). *Islamic Financial Services.* Shah Alam: Upena, Malaysia.

Ibn Hazm 'Ali bin Aĺmadbin Saeed al-Andalus. (2001). *kitab al-Muhalla Shar al-Majala*. Beirut: Dar al-Ihya' al-Turath al-'Arabi, vol. 8.

Ibn Hazm, 'Ali Bin Ahmad Bin Saeed (2005). *al-Ihkam fi Usul al-Ahkam.* Cairo: Dar al-Hadith, vol. 2.

Ibn al-Athir Majdu Deen al-Mubarak bin Muhammad (2002). *kitab al-Nihayah fi Gharib al-Hadith wa al- Athar*. Beirut: Dar al-Kutub al-'Ilmiyah, vol. 2.

Ibn Kathir. (1969). *Tafsir al-Qur'anal-Azim.* Beirut: vol. 1.

Ibu Majah Muhammad Bin Yazid. (2003). *Sunan ibnu Majah*. Beirut: Dar al-Fikr, vol. 2, at 768, Hadith No. 2289.

Jordan Islamic Bank. (1981). *Annual Report.*

Kamal M.H. (2006). *Principle of Islamic Jurisprudence*. UK: Islamic Text Society of Cambridge.

Kuwait Ministry of Waqf and Islamic Affairs. (1993). vol. 33, *al-Mawsu'ah al-Fiqhiyyah al-Kuwaitiyyah*.

Lee, M.P., & Detta, I.J. (2007). *Islamic Banking &Finance Law*. Selangor, Malaysia: Pearson Longman.

Majallah Al-Ahkam: Article: 41.

Majallah Al-Ahkam: Article: 42.

Malik Bin Anas. (1991). *Al-Muwatta*, (Version Al-Shaybani, M.H). India: al-Jami'ah al-Islamiyah.

Mohammed, O. (2005). *Islamic Financial Services*.

Muwatta' al-Imam Malik, (Beirut: Dar- Ihya' al-Turath al-'Arabi, vol. 3.

'Abdullah Yusuf 'Ali, English Qur'an Translation, 73:20.

'Ali Jawad. (1993). *al-Mufassal fi Ta'rikh al- 'Arab qabl al-Islam*. Baghdad: Jami'at Baghdad vol.7.

Saat, M.K., Ramli, R., & Aminuddin H. (2011). *Islamic Banking Practices from the practitioner's Perspective.* Kuala Lumpur: IBFIM.

Sabiq, S. (1987). *Fiqh as-Sunnah*. Beirut: Dar al-Kitab al-'Arabi, vol. 3.

State Bank of Iran. (1984). *Annual Report.* Tehran: State Bank of Iran.

The Islamic Banking Forum, What is Ribā. From <http://validator.w3.org/check?uri=http://karbigac.org> Retrieved on May/7/2012.

The Jordan Islamic Bank for Finance and Investment Law (2nd edn.) *Amman*: The Jordan Islamic Bank.

Udovitch, A.L. (1980). *The Encyclopaedia of Islam* (2nd edn., vol. 5.

IMPACT OF PRODUCTS DIVERSIFICATION ON FINANCIAL STABILITY OF ISLAMIC BANKS LONGITUDE STUDY (2001 TO 2013)

Bakhita Hamdow Gad Elkteem[1]

ABSTRACT

Remarkably, during the 2008-2009 .financial crisis, when a large number of conventional banks have announced bankruptcy, no single Islamic bank failure has been reported. Therefore this study tries to investigate the impact of product diversification and unrestricted investment account on financial stability of Islamic banks to get perfect result the study follows multi level model which based on quantitative and qualitative analysis. the model used is based on a longitude case study .the result showed that product diversification and retained earnings reduce withdrawals risk, There is a negative &weak relationship between Z Score and long term investments, unrestricted with 93% confidence.

Keywords: Z score, long-term investment, unrestricted deposits accounts

1. INTRODUCTION

Islamic banks are characterized by the compliance to Islamic laws and practices, the main ones being the prohibition of interest and loans trading. Remarkably, during the 2008-2009 .financial crisis, when a large number of conventional banks have announced bankruptcy, no single Islamic bank failure has been reported. However, there is no clear consensus in the literature on question how Islamic banks save their stability. So this study tries to analyze Islamic bank performance to discover factors which are affecting positively on financial stability in Islamic Banks, specially the study focuses on product diversification and unrestricted deposits to investigate their effect on financial stability of investigated banks.

2. LITERATURE REVIEW

2.1 Financial stability background:

The purpose of the study is to review research in the area of financial stability in the Islamic banks. The segment of FS literature that looked into how the term can be defined come the conclusion that the term is very complex to have it defined clearly and comprehensively and it is even harder to measure (Allen and Wood 2005, Schinasi 2007, and Gadanecz and Jayaram 2009). As a result, three main approaches have been followed to overcome this stalemate: (i) to ignore the definition altogether, (ii) to define FS through its antithesis (i.e. financial instability) and finally (iii) some sort of a definition that follows certain route and fulfills special purpose.

[1] Assistant professor, Kordofan University –Sudan
Email: bgadkreem @yahoo.com

Following the latter approach there is a general consensus that FS should reflect 'the smooth functioning of a complex nexus of relationships among financial markets, infrastructures and institutions operating within the given legal, fiscal and accounting frameworks.'3, (Čihák, 2006; Oosterlooa and Haan, 2004 and Gadanecz and Jayaram, 2009). However, when it comes to putting such a general consent into a well-defined and policy useful definition, the views differ considerably. This difference in views has been translated into the emergence of at least three main approaches: the broad, the narrow, and what I may call the 'listing' exposition. The broad definition of the FS term concentrates on the system-wide assessment. The attempt, in this regard, is to capture the stability aspects of the entire system rather than singling out an individual component of it**.** In planning for the aforementioned 1985 conference the organizers defined FS as: "the soundness of depository institutions involved in the provision of monetary assets". According to this view, 'the important criterion was not the numbers of bank failures *per se*, but the degree to which liquidity and solvency crises would reverberate beyond individual institutions' (FRBSF, 1985). It should be noted here that the very long historical record of financial crises reveal an established fact about banks and the banking industry. This type of financial intermediaries has been at the heart of almost all financial turbulences that the conventional system has suffered from. therefore, not surprising that most of the policy and empirical literature have devoted much of their efforts to the stability fixing and testing of the banking industry.

- As for the broad definition, the Reserve Bank of Australia (the Australian Central Bank), for instance, defines FS as a situation in which "financial intermediaries, markets and market infrastructure of the financial system facilitate the smooth flow of funds between savers and investors and by doing so, helps promote growth in economic activity", (Alawode and Al Sadek 2008).
- The 'listing' approach can be viewed as an extension or an elaboration of the broad way of defining FS. The main rationale behind such an elaboration has been to overcome some of the shortcomings of the narrow approach and the difficulties that surround the development of a broad definition. The authors who have followed this route identified a number of elements and/or desired features which they consider as important 'raw materials' for the make-up of a 'good' FS definition. Among the aspects pointed out (Allen and Wood 2006, and Schinasi 2004) are the following:

    - The definition should be broad in nature. Thus, it should encompass the different aspects of the financial system: infrastructure (including the legal system and official frameworks for financial regulation, supervision, and surveillance), institutions, and markets. Some advocates of this view went beyond the financial system to emphasize the importance of encompassing shocks that hit the real sector, but have dire consequences on the functioning of the financial system.
    - The definition should not limit the FS scope of the financial system to resources and risks allocation, mobilizing savings, and facilitating wealth accumulation, development, and growth; it should also imply that the systems of payment throughout the economy functions smoothly.
    - The FS concept should relate not only to the absence of actual financial crises but also to the ability of the financial system to limit, contain, and deal with the emergence of imbalances before they constitute a threat to itself or economic processes. In a well-functioning and stable financial system, this occurs in part

through self-corrective, market-disciplining mechanisms that create resilience and prevent problems from festering and growing into system-wide risks

Financial stability measurement:

The Z score model had developed to measure financial strength which indicates the stability of institutions .This model first developed in 1968 ,Altman's primary improvement over prior methods was to apply discriminates analysis which simultaneously took into account multiple variables to ascertain financial strength .as an open system users enjoy the benefits without the additional cost incurred with the proprietary black box system . No hidden magic –only solid financial analysis.

The Z score has continued to evolve over time with new version developed specifically for private companies. It gained wide acceptance from auditors, management accountants courts, and data base systems used for loan evaluation. The formula's approach has been used in a variety of contexts and countries. Forty years of public scrutiny speaks to its validity.

The method examines liquidity, profitability, reinvested earnings and leverage which are integrated into a single composite score. It can be used with past, current or project data as it requires no external inputs such as GDP or market price.

Z score = **6.56 (x1) + 3.26(x2) +6.72(x3) + 1.05(x4). Where:-** Altman, Edward I. (May, 2002)
Z = a proxy variable of insolvency risk
X1= working capital /total assets
X2= retained earnings /total assets
X3 = earnings before interest &tax /total assets
X4= total book equity / total liabilities.
A higher score indicates greater financial strength with a lower probability of default and vice versa.

The method examines liquidity, profitability, reinvested earnings and leverage which are integrated into a single composite score. It can be used with past, current or project data as it requires no external inputs such as GDP or market price.

Zones of discriminations:
Z > 2.6 -“Safe” Zone
1.1 < Z < 2. 6 -“Grey” Zone
Z < 1.1 -“Distress” Zone .

2-2- Last studies:

There are several workers had outlined the financial stability in Islamic banks. Most of them search about the stability of Islamic banking and its comparison with conventional banking such as :Vasleios Pappas,Marwan izzeldin,Ana Maria Fueles(dec,2012)

They defined failure risk (credit risk, deposit withdrawal risk, operational risk),they compared Islamic and conventional banks regarding the sensitivity of failure risk . they demonstrated that: Islamic banks well capitalized ,characterized by large liquidity levels, and lower leverage ,have large operational risk, failure risk of Islamic banks is significantly lower than that of conventional banks ,Islamic banks have lower insolvency risk and loan default risk, this result is complements recent findings (Cihk and Hesse,2010) ,also they demonstrated that expansion in loan portfolio is not associated with a larger probability of failure Martin Cihak,Heiko Hesse(Dec,2010) they found that small Islamic banks tend to be financially stronger than small commercial banks ,large commercial banks tend to be financial stronger than large Islamic banks, small Islamic banks tend to be financially stronger than large Islamic banks which may reflect challenges of credit risk management in large Islamic banks .Pejman Abedifar,Philip Molyneux,Amine Tarazi,(3 april ,2011) demonstrated that : Islamic banks have low credit risk as compare to their conventional counterparts .also They had showed that Islamic banks in general have lower degree of stability compared to the conventional counterparts. Hassan B.Ghassan,Stefano Fachin,abdelkarim A.Gundoz, (2013) they used Z score stationary around some long-run desired level determined by total asset, credit to assets ratio concentration of the banking sector and share of Islamic banking their findings : individual heterogeneity matter more than the conventional or Islamic nature of the bank regarding financial stability .Pejman Abedifar,Philip Molyneux,Amine Tarazi,(may 2012). They had demonstrated that small Islamic banks appear more stable; loan quality of Islamic banks is less responsive to domestic interest rates compared to conventional banks.

Elzahi Abd Elrhman,2010, have investigated the impact of banks 'structure on financial stability ,he found that : positive relationship between bank market power and financing portfolio risk; equity capital was positively related to stability ;Islamic banks might take more risks in connection with the more variations in economic development .

3. METHODOLOGY

The study follows multi level model (mixed) which include quantitative by employing data content analysis after collecting secondary data from published annual reports for the period 2000—to 2013 .so that to measure financial stability for studied banks by using Z score model for each year, it allow for time series test . Also this model includes qualitative analysis to analyze primary data which is collected from employees (risk management, credit& investment departments) by using Structure questionnaire form consisting of two parts constructed to collect the necessary data from employees, which was distributed to respondents. The first part focuses on Demographic information of the respondents which include: age, occupation, experience, number of workshops and training course and education. The second part focuses on employees believe about the effects of depositors types, raising of retained earnings on financial stability of the banks. Moreover , this model includes observation survey from security market reports to determine the lowest share price of the Sudanese Islamic banks (

Elneel bank) ,then compare it to Fisal Islamic bank as the highest bank 'share price (the most financial stable bank).Then the case study(investigated banks)was chosen.

The study uses Z-Score model to explain quantitative data .then examine the relation between proposed factors as independent variables and Z score as dependent variable . To undertake analysis the study uses statistical tools such as : Chi-Square,

Organization:

This study will consist of four parts : part one will show general frame work(research design) of the study ,part two will show financial stability background (definition, measurement) and literature review related to financial stability, part three will explain data analysis ,and the last part will present preliminary findings to stimulate discussion and elicit comments.

4. RESULT AND DISCUSSION :

The study uses Z-Score model to explain quantitative data .then examine the relation between proposed factors including long term investment, retained earnings, unrestricted investments account as independent variables and Z score as dependent variable . To undertake analysis the study uses statistical tools.

Hypothesis one: product diversification affect on financial stability of Islamic banks.
This hypothesis answered by using nonparametric test for original data which is collected from high level of management in two Islamic banks (Fisal bank and Elneel bank) .table (1) and (2) shows the result

Table 1: shows the answer of question: services diversification increases financial stability for the banks
table 1 shows a descriptive features of the answers

Cumulative Percent	Valid Percent	Percent	Frequency		
7.7	7.7	7.7	3	neutral	Valid
38.5	30.8	30.8	12	agree	
100.0	61.5	61.5	24	strongly agree	
	100.0	100.0	39	Total	

source: researcher from analytical data

table (2)shows goodness of fit test

services diversification increases financial stability for the banks	
17.077	Chi-Square(a)
2	df
.000	Asymp. Sig.

a =0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 13.0. (there is no literature focused on this issue) gap

hypothesis2:
Raising retained earnings ratio increases financial stability of Islamic banks.
This hypothesis also answered by using nonparametric test . Tables (3) and (4) show the result.

Table 3: shows the answers of question whether raising retained earnings ratio increases financial stability for the bank

Valid Percent	Percent	Frequency		
2.6	2.6	1	strongly disagree	Valid
10.3	10.3	4	disagree	
23.1	23.1	9	neutral	
35.9	35.9	14	agree	
28.2	28.2	11	strongly agree	
100.0	100.0	39	Total	

Source: researcher from analytical data

Table 4 shows goodness of fit test

raising retained earnings ratio increases financial stability for the bank	
14.205	Chi-Square(a)
4	df
.007	Asymp. Sig.

a 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 7.8.

Source: researcher from analytical data

*raising retained earning lead to financial stability , consistent with Elzahi 2010, who said that equity capital had positively related stability .

Hypothesis 3: opening account for institution increase financial stability of Islamic banks. This hypothesis is answered by using nonparametric test. tables 5 ,6and 7 show the results:

Table 5: shows the answers of question: whether opening current A/c for company decreases withdrawals

Valid Percent	Percent	Frequency		
2.6	2.6	1	strongly dis agree	Valid
10.3	10.3	4	disagree	
2.6	2.6	1	neutral	
53.8	53.8	21	agree	
30.8	30.8	12	strongly agree	
100.0	100.0	39	Total	

Source: researcher from analytical data

because Vasleios Pappas,Marwan izzeldin,Ana Maria Fueles(dec,2012) had defined failure risk (credit risk, deposit withdrawal risk, operational risk)

Table 6:shows the answers of question whether opening current A/C for government institutions decreases withdrawals

Valid Percent	Percent	Frequency		
2.6	2.6	1	strongly dis agree	Valid
17.9	17.9	7	dis agree	
48.7	48.7	19	agree	
30.8	30.8	12	strongly agree	
100.0	100.0	39	Total	

Source: researcher from analytical data

Table 7: shows the answers of question opening A/C for big organizations increases financial stability for the bank

Valid Percent	Percent	Frequency		
5.3	5.1	2	strongly disagree	
5.3	5.1	2	disagree	
10.5	10.3	4	neutral	
52.6	51.3	20	agree	
26.3	25.6	10	strongly agree	
100.0	97.4	38	Total	
	2.6	1	System	
	100.0	39	Total	

Source: researcher from analytical data

Table 8: shows the goodness of fit test

openning A/C for big organizations increasesfinancial stability for the bank	openning current A/C for government institutions decreases withdrwals	openning curent A/c for company decreases withdrwals	
30.947	17.923	38.308	Chi-Square(a,b,c)
4	3	4	df
.000	.000	.000	Asymp. Sig.

a 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 7.8.
b 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 9.8c 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 7.6.
Source: researcher from analytical data

Hypothesis 4: there is a relation between Z score and long term investment, unrestricted investment account of Islamic banks.
This hypothesis answered by using the time series test curve estimation table: 9 shows the result:

MOD_5	Model Name
Z Score	1 Dependent Variable
Linear	1 Equation
Case sequence	Independent Variable
Included	Constant
bank name	Variable Whose Values Label Observations in Plots

Table 9: Model Summary and Parameter Estimates

Dependent Variable: Z Score
The independent variable is long term investments .
Source: researcher from analytical data

Table 10: Model Description

Parameter Estimates		Model Summary					Equation
b1	Constant	Sig.	df2	df1	F	R Square	
-.642	7.673	.074	24	1	3.491	.127	Linear

Dependent Variable: Z Score
The independent variable is long term investments

Figure 1: shows curve fit between long term investment as independent variable and Z score as dependent variable

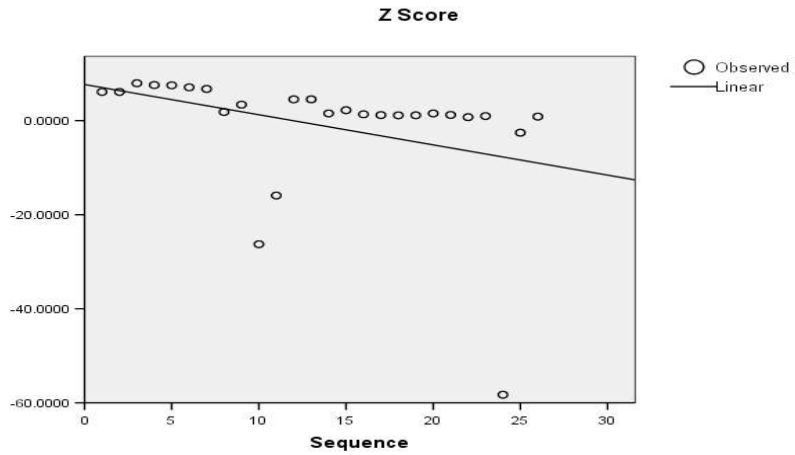


Table 11: shows Model Description

MOD_6	Model Name	
Z Score	1	Dependent Variable
Linear	1	Equation
Case sequence	Independent Variable	
Included	Constant	
bank name	Variable Whose Values Label Observations in Plots	

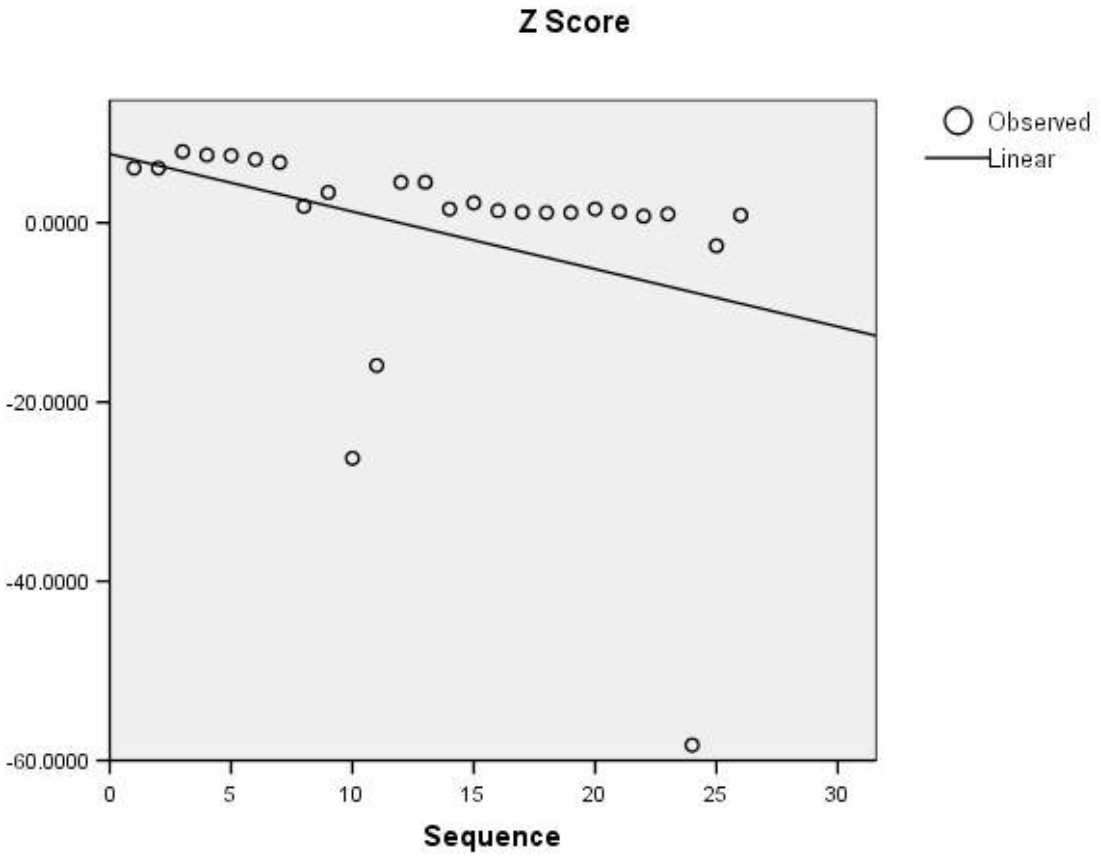
Unrestricted investment as independent accounts variable

Table 12: shows Model Summary and Parameter Estimates

Dependent Variable: Z Score

Parameter Estimates		Model Summary					Equation
b1	Constant	Sig.	df2	df1	F	R Square	
-.642	7.673	.074	24	1	3.491	.127	Linear

Figure 2 : shows curve fit between unrestricted investment accounts as independent variable and Z Score as dependent variable



5. CONCLUSIONS

1- Product diversification increase financial stability of Islamic banks
2- Raising retained earnings ratio increase financial stability of Islamic banks
3- Opening account for different institutions reduce withdrawals 'risk and increase financial stability of Islamic banks at the same time.
4- There is a negative relationship between Z Score and long term investments with 93% confidence.
5- There is a negative relation between Z Score and unrestricted investment accounts with 93% confidence.

6. RECOMMENDATIONS

Regarding to above results, this study recommend:
1-Islamic banks diversify their services as the sense that each client need special service to satisfy his /her needs.
2- Islamic banks should make marketing strategy to mobilize fund through encouraging different institutions to open current accounts.

3- Islamic banks should invest their fund heavily in banking services, not in long term investment (own share on the other company who does not provide banking services).

REFERENCES

AbdElrahman ElzahiSaaid. (2010). *Islamic Banking structures :implications for Risk and Financial Stability*. Discussion paper series. Islamic Research and Training institute .

Ahmed Beloufi. (15,Dec-2012). *Islamic finance and financial stability*. A working paper formonthly video conferencing series,university of paris 1. Sorbonne,Islamic Economocs institute, King Abdulaziz university.

Alawode, A. A. and Al Sadek, M. (2008). *What is Financial Stability?*. Financial Stability Paper Series No. 1/March 2008. Central Bank of Bahrain.

Allen, W.A. and Wood, G. (2006). Defining and achieving financial stability. *Journal of Financial Stability*, 2, 2006, 152–172,

Čihák. M. (2006). Central Banks and Financial Stability: A Survey of Financial Stability Reports. *Seminar on Current Developments in Monetary and Financial Law Washington, D.C.* October 23-27, 2006. The IMF.

Gadanecz, B. & Jayaram, K. (2009). Measures of financial stability –a review . *IFC Bulletin* No 31, pp. 365-380.

Oosterlooa, S. & Haanb, J. D. (2004). Central banks and financial stability: a survey. *Journal of Financial Stability, 1, 2004*, 257–273.

Schinasi, G. J. (2007). Understanding Financial Stability: Towards a Practical Framework 1. February 2007, the IMF, Washington D C.

Hassan B.Ghassan,Stefano Fachin,Abdelkarim A.Gunoz. (2013). *Financial stability of Islamic and conventional banks in Soudia Arabia*. WP series ISSN: 2279—7491. Sapienza university, Roma. Italia, available at: http:www.dss.uniromal.it

Martin Cihak,Heiko Hesse(Dec,2010). Islamic banks and financial stability an empirical analysis. *Journal of Financial Services Research*, 38, issue 2-3, 95-113

Pejman Abedifar,Philip Molyneux,Amine Tarazi,(3 April , 2011). *Risk and stability in Islamic banking*. Bangor Business school, Bangor university,Wales,LL572DG,Uk

Vasleios Pappas,Marwan izzeldin,Ana Maria Fueles(Dec 2012). *A survival analysis of Islamic banks failure risk*. Cass Business School, City university ,London ,UK

EVALUATING THE PERFORMANCE OF TAKAFUL MODELS: A CASE STUDY OF TWO TAKAFUL OPERATORS IN MALAYSIA

Nor Haziah Hashim[1]
Nursilah Ahmad[2]
Hanim Misbah[3]

ABSTRACT

Takaful has proven to be a viable alternative in providing insurance coverage to the Muslim community. Even though all takaful operators are set up along similar line of objectives, there are distinctive different models adopted by these operators in their business operation. The typical dilemma faced by the operators is to provide the most holistic operational model and at the same time having to protect the profit interest of the shareholders. This paper adopts a descriptive case study method to examine the impact of takaful models adopted by two Malaysian takaful operators, Syarikat Takaful Malaysia Bhd (STMB) and Etiqa Takaful, specifically from the operation and the accounting perspectives. Comparative tests are done to measure the benefits gained by the participants and the degree of remuneration obtained by the operators. The finding revealed that STMB which adopts the mudharabah model rewards the participants the most as compared to Etiqa Takaful, which applied the wakalah model. The operators, on the hand, are better remunerated when the wakalah contract is applied, as evident in Etiqa Takaful.

Keywords: Takaful models, performance measure, mudharabah, wakalah

1. INTRODUCTION

The birth of takaful in Malaysia was in 1984, which resulted from a proclamation by the Fatwa Committee, that the practice of conventional insurance contradicts the Shari'ah principle. Today, after almost 25 years in the market, takaful has emerged as a fast growing industry within the insurance industry. It has also proven to be a viable alternative in providing insurance coverage to the Muslim community. The industry now has eight players, offering a wide range of insurance schemes, matching those available in conventional insurance.

Although the eight takaful players were set up along similar line of objectives, that is to fulfil the insurance needs among the Muslim community, there is a very distinctive difference in models adopted by these operators in their business operation. A pioneer in Malaysia's takaful industry, Syarikat Takaful Malaysia Berhad (STMB) is the only takaful company that adopted the Mudharabah model and does not employ any agents to sell and market their takaful products. STMB utilizes the direct marketing channel to market its products and rely on walk

[1] Nor Haziah Hashim is a lecturer at the Faculty oEconomics and Muamalat, Universiti Sains Islam Malaysia (USIM). Corresponding author: nursilah@usim.edu.my
[2,3] Lecturers, Universiti Sains Islam Malaysia.

in customers[1]. The other takaful operators mostly adopted either wakalah or wakalah mudharabah model (combination model), hence, utilizes the agency force to attract and service their customers.

This paper seeks to address issues of adopting various models by two Malaysian takaful operators, namely Etiqa Takaful Berhad and Syarikat Takaful Malaysia Berhad (STMB). The comparison will be made specifically from the operations and accounting perspectives. In addition to that, the paper will also determine as to which of the models adopted by the two takaful operators is more beneficial to the operators and the participants. After the introductory section, section two will provide a brief discussion on the concept of takaful and the explanation on the models used by Etiqa Takaful and STMB. Section three will describe the comparative analysis of the two companies from the operation and accounting perspectives, followed by section four which explains the comparative tests on the models adopted, to answer as to which is more beneficial to the operators as well as the participants. Section five will discuss the key strategic issues for Malaysia's takaful industry, followed by the last section that will conclude the paper.

2. TAKAFUL: CONCEPT AND MODELS OF OPERATION

2.1 Takaful Concept

Takaful is derived from the Arabic root-word, kafala', a verb which means guarantee, bail, warrant or an act of securing one's need. Therefore, takaful, in its reciprocal form means joint guarantee, whereby a group of participants agree to mutually guarantee each other against a defined loss. In the context of Islamic insurance, takaful refers to an arrangement for mutual indemnity in providing protection and compensation to the participants who suffered from perils or hazards (E.Rabiah and H.Scott, 2008). Below are two definitions of takaful as prescribed by the Malaysian Takaful Act 1984 and The Accounting, Auditing and Governance Standards for Islamic Financial Institutions (AAOIFI).

Section 2 of the Malaysian Takaful Act 1984:

"*Takaful is a scheme based on brotherhood, solidarity and mutual assistance which provides for mutual financial aid and assistance to the participants, in case of need whereby, the participants mutually agree to contribute for that purpose."*

The Accounting, Auditing and Governance Standards for Islamic Financial Institutions:

"Islamic insurance is a system through which the participants donate part or all of their contributions which are used to pay claims for damages suffered by some of the participants. The company's role is restricted to managing the insurance operations and investing the insurance contributions."

Islamic insurance or takaful differs from conventional insurance contract because it is based on the concept of al-mudharabah, a profit sharing scheme and is free from the elements which are considered unlawful by shariah. Takaful is based on the divine principles of mutual co-operation and solidarity. In this scheme, the nominee is not an absolute beneficiary, but a mere

[11] Since 2009 STMB uses the wakalah contract for its new family takaful business, hence, utilizes the agency force to sell its family takaful products.

trustee who is under the obligation to receive the benefits from the policy and distribute them accordingly among the legal heirs.

Generally takaful business is divided into two broad products, which are general takaful and family takaful. General takaful is basically the equivalent to general insurance, which is a contract of joint guarantee on a short term basis among the participants in relation to material losses resulting from catastrophe inflicted upon properties belonging to the participants. For this type of policy, it is mutually understood by both the operator and the participant that the participant‟s payments will be given out as contributions based on the principle of al-musahamah. The participant should hold the right to claim the paid contributions after deducting the charges due to the operator according to al-mudharabah financing techniques. If there is no loss, the operator is unilaterally bound to pay the agreed compensation to the participant for the particular loss. Examples of general takaful products include fire takaful, motor takaful, marine takaful etc.

Family takaful on the other hand is similar to the coverage provided by life insurance. It is a long term saving and investment program with a fixed maturity period that provides assistance among the participants in time of need due to untimely death and other mishaps resulting in personal injury or disablement. For this type of policy, if the participant dies at any time before the policy matures, the beneficiary is expected to claim the total paid contributions, the share of profits, bonus proceeding from the paid contribution, which all based on al-mudharabah financing. If however, the participant is alive when the policy matures, he/she is entitled to claim from the operator the total paid contribution and also the share of profits, bonus accordingly. Examples include takaful endowment plans for education, retirement or specific purposes. To summed up, general takaful is protection for property damages, whereas, family takaful protects life and limb. Both plans can be catered for individual or group basis.

2.2 Takaful Models

A takaful model depicts the relationship between the company and the participants, which reflects the main different between takaful and its conventional counterpart. There are many takaful models adopted by takaful operators worldwide, but to achieve the paper's objective which is to compare the operational model between Etiqa Takaful and STMB, model, the paper will discuss two models, namely Mudharabah and Wakalah models.

2.2.1 Mudharabah Model

Mudharabah model is one of the earliest models of takaful operation in Malaysia especially during the introduction of takaful in the industry in 1985. It is also known as the 'profit sharing model' that forms a partnership contract, in which the takaful operator provide his skill and work (as a Mudarib) and the takaful participant is the capital provider (as Rab al mal). In the context of a takaful operation, the contribution money paid by the participants on the basis of tabarru', is for their mutual benefit and protection. Therefore, the takaful fund can be considered as belonging to the takaful participant collectively. The participants then appoint the operator to manage by way of mudharabah contract to undertake the underwriting tasks and to invest available funds before and after payments of claims and other expenses. Both share the profits of the joint venture on a pre-agreed ratio.

It is an essential feature of a mudharabah contract that the underwriting and investment profits shared between the participants and the operator must be detailed out. Any losses are to be fully borne by the participants, unless in cases of negligence or misconduct by the operator. It should be noted that the abarru‟ element still exist in the mudharabah model, as the participants do not pay the contributions for the purpose of mudarabah capital, but rather they are principally donating their money for the purpose of mutual indemnity. Therefore, the mudharabah investment is not the main objective of the contribution, but a side activity to optimize the fund until claims are made (E. Rabiah and H. Scott, 2008)

There are two versions of mudharabah models generally developed, *Pure Mudharabah* and *Modified Mudharabah*. The variation between these two models lies in the different definition and treatment of the net underwriting surplus.

a) Pure Mudharabah – Participants and the operator only share in the investment profits based on pre-agreed ratio. The net underwriting surplus belongs solely to the participants.

b) Modified Mudharabah – Participants and the operator not only share in the investment profits but also share in the net underwriting surplus.

2.2.2 Wakalah Model

Wakalah means agency contract. In the context of takaful operation, the participants as a group, appoint and authorize the takaful operator to be their agent (wakeel) to manage the takaful fund, for both underwriting and investment activities, that has been principally contributed by the takaful participants as tabarru‟. This service will be rewarded in terms of a fixed fee (wakalah fee). The wakalah fee is typically a fixed percentage of the contribution. All rights and liabilities remain with the principal, however, the agent is required to act with prudence and in good faith and is responsible for losses incurred due to his negligence. The issue on how to treat the underwriting surplus remains in wakalah model.

There have been instances that the takaful operator take specified & agreed portions of the underwriting surplus on the basis of „performance fee‟ (Ju‟alah Model). The reason being is the good and expert management of the takaful operator contributed to the availability of the surplus in the first place; hence, they should be rewarded for the good performance (E. Rabiah and H. Scott, 2008).

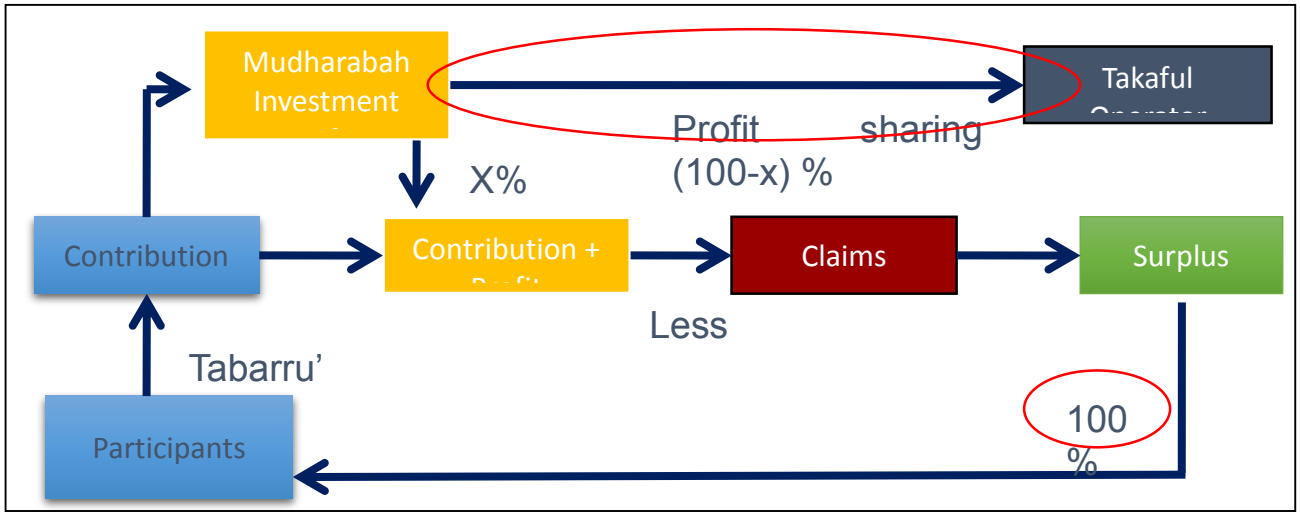
There are two versions of wakalah models developed, namely *Pure Wakalah and Modified Wakalah.*

a) Pure Wakalah – Takaful operator only takes the wakalah fee as its source of income. This model does not allow sharing of net underwriting surplus between the two parties.

b) Modified Wakalah – Participants and the operator share in the underwriting surplus (in the form of performance fee or Ju‟alah) in addition to the up- front wakalah fee.

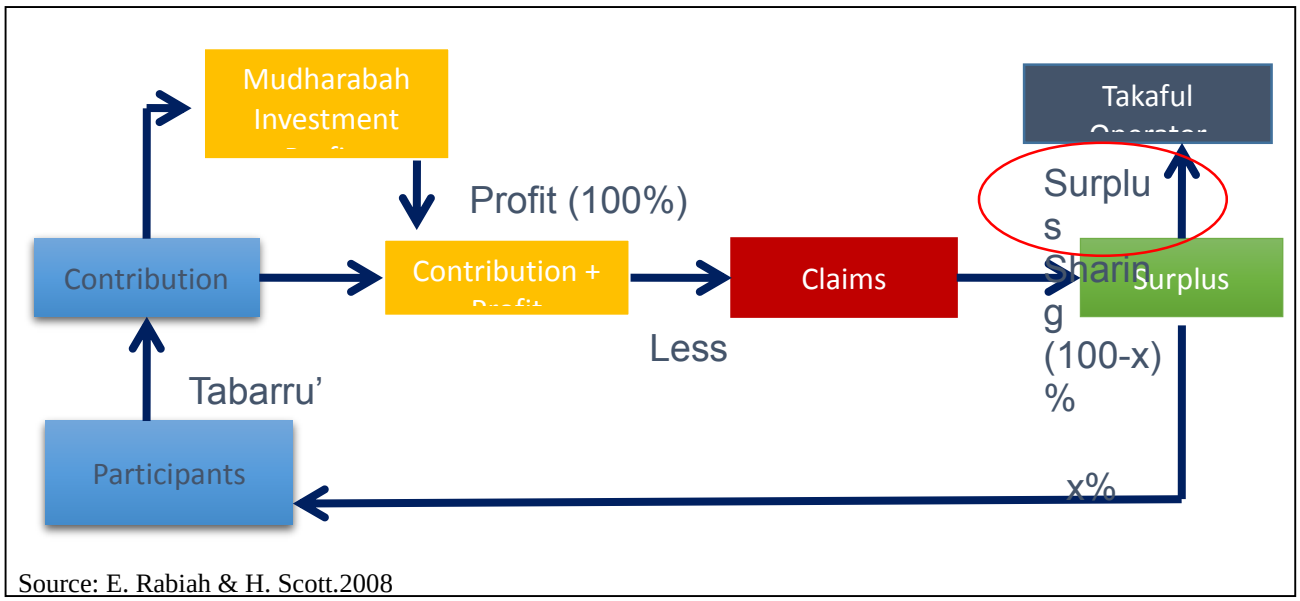
Refer Diagram 2.1 to 2.4 for the illustration of the four models.

Diagram 2.1: Pure Mudharabah Model



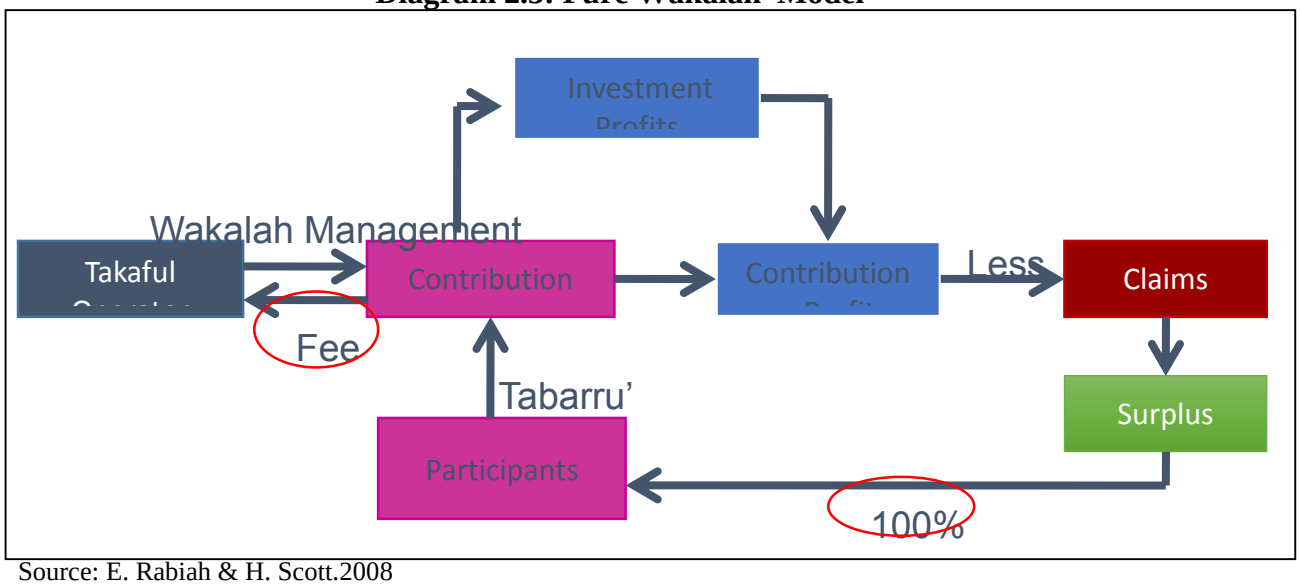
Source: E. Rabiah & H. Scott.2008

Diagram 2.2: Modified Mudharabah Model



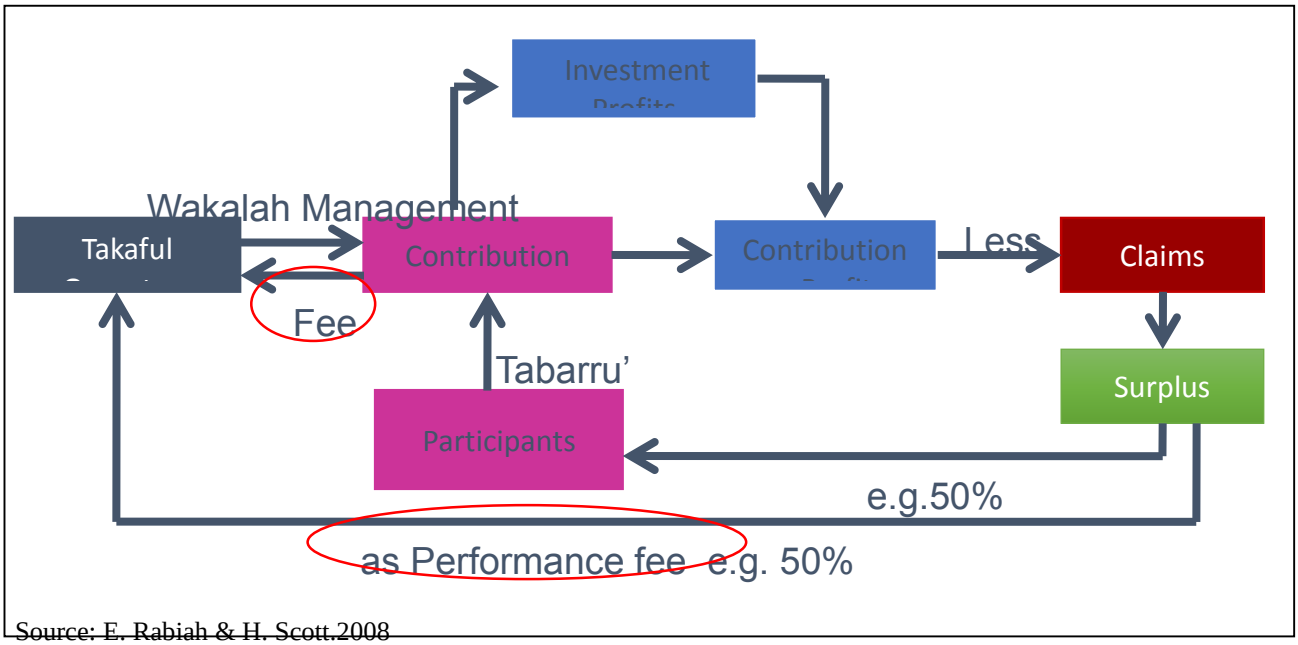
Source: E. Rabiah & H. Scott.2008

Diagram 2.3: Pure Wakalah Model



Source: E. Rabiah & H. Scott.2008

Diagram 2.4: Modified Wakalah Model



Source: E. Rabiah & H. Scott.2008

3. COMPARATIVE ANALYSIS

3.1 Takaful Operators' Background

Syarikat Takaful Malaysia Berhad (STMB) is the first takaful operator in Malaysia. The company commenced its operation in 1985. STMB is a public listed company and a subsidiary o BIMB Holdings Berhad group of companies. BIMB Holdings also owns Bank Islam Malaysia Berhad (BIMB), the first Islamic Bank in Malaysia to be given the license to operate

in accordance to Shari'ah. STMB offers both family and general takaful products to its individual and corporate customers.

Etiqa Takaful was originally a subsidiary of Malaysia National Insurance (MNI) Berhad. It began its takaful operation in 1993, with the birth of MNI Takaful Sdn Bhd, which changed its name to Takaful National Sdn Bhd in 1998. The company later rebranded its corporate image under the new name of Etiqa Takaful Bhd. Etiqa Takaful offers both family and general takaful products to its customers.

3.2 Analysis on Operational Perspective

The paper identifies five areas of similarities and differences between the two takaful operators based on the operational perspectives. The five areas are as the followings:

3.2.1 Model(s) Adopted

Initially, STMB adopted modified mudharabah contract for its general takaful and pure mudharabah for its family takaful business. However, since 2009, the company changes to modified wakalah contrat for only its new family takaful business. The company's general takaful business on the other hand, remained with its modified mudharabah contract up until 2011. However, starting from 2012, the general business also changed to modified wakalah contract. As for Etiqa Takaful, the company uses modified wakalah contract for both its general and family takaful business.

3.2.2 Sources of Income

The sources of income for both Etiqa and STMB are the same since the models chosen by both operators are similar (modified mudharabah and modified wakalah). There are three sources of income, namely: profits from investment of its shareholders' fund, share of profits/surplus from the management of family and general takaful business and wakalah fees.

3.2.3 Distribution Channels

STMB utilizes its full time marketing personnel to promote its products, and at the same time persuading potential participants to walk in into any of the STMB's branches located throughout the country in order to buy the takaul plans. However, as mentioned earlier, since 2009, STMB has adopted the modified wakalah contract for its new family takaful business, enabling the company to utilize sales agents in soliciting new business. Etiqa Takaful, on the other hand, uses multitutde number of distribution channels to solicit and procure the contributions. Being a member of the Malayan Banking Group, Etiqa Takaful is able to utilize not only the agency force, but also strategic alliances and the Banctakaful channels in selling its products. It is reported in the company's 2009 Annual Report that, one of the most important reason why Etiqa is able to penetrate 44 percent of the takaful market share in Malaysia is due to the use of multitude channels of distribution.

3.2.4 Product Focus

Both companies focus on the retail side of the takaful businss by providing only the general and family takaful schemes. Retail business refers to plans or schemes with

similar risks and good and reliable underwriting guidelines. Due to this, the retention premiums are lower.

3.2.5 Family Takaful Product Benefits

For family takaful plan, the contribution paid by the participant is generally divided into two accounts, which is participant's special account (PSA) and participant's account (PA). Using a fix percentage, a portion of the contribution is placed into PSA, which represents the amount which will be paid for claims made. This amount cannot be reimbursed upon maturity. The balance of the contribution is placed into PA, which represents the amount for savings and investment and will be paid out to the participants upon maturity (Hairul A and Nur Barizah, 2010).

3.3 Analysis on Accounting Perspective

In Malaysia particularly, there are currently no specific takaful accounting and reporting standards. Instead, takaful operators are required to abide by circulars and guidelines issued by the central bank. It is only after 20 years of takaful existence in Malaysia that operators are having its owned standardized guideline on accounting and reporting through the introduction of GPT6 in July 2004 by Bank Negara Malaysia. Nonetheless, operators are also presented with Shari'ah based accounting and reporting standards on Islamic insurance which were produced by The Accounting, Auditing and Governance Standards for Islamic Financial Institutions (AAOIFI). These standards however, have never been enforced by the Malaysian regulatory body on takaful operators, but could consider adopting it on a voluntary basis.

Nevertheless, according to Shahul et. al (2007), in principle, accounting and reporting for takaful should be able to reflect the main difference between takaful and conventional insurance in terms of the following:

- Pre-specified relationship between the operator and participants
- Fair calculation and allocation of profit (if using mudharabah contract), surplus and wakalah fee (if using wakalah contract)
- The separation of funds between the takaful operator and the participants
- A more comprehensive disclosure compared to insurance reporting that focuses on both Shari'ah adherence and financial strength

When analysing both takaful operators' Annual Report from the year 2008 until 2011, both companies' financial statements reflected the pre-specified relationship between the operators and the participants. For Etiqa Takaful, from the income statements, it is clearly shown that there is a wakalah fees for both general and family takaful fund being transferred from each of the business revenue accounts to the operator's (company) income statement. This is because the company adopted the modified wakalah contract for both businesses. Also recorded is the transferred amount of surplus and investment income to the operator's income statement.

As for STMB, up until 2011, there is no wakalah fee being transferred from the general business revenue account, as the company uses the modified mudharabah contract. Instead, there is only the transfer of surplus and investment income from the general takaful revenue account to the company's income statement. However, from 2012 onwards, the wakalah fee is recorded, in tandem with the changed in the business contract.

On the other hand, for family business since 2009, there was a transfer of wakalah fee, surplus and investment income from the family takaful revenue account to the company's income statement. This is because, since 2009 onwards, the company has changed its policy to adopt modified wakalah for its new family takaful business. There was no wakalah fee recorded prior to 2009.

4. COMPARATIVE TESTS ON TAKAFUL MODELS

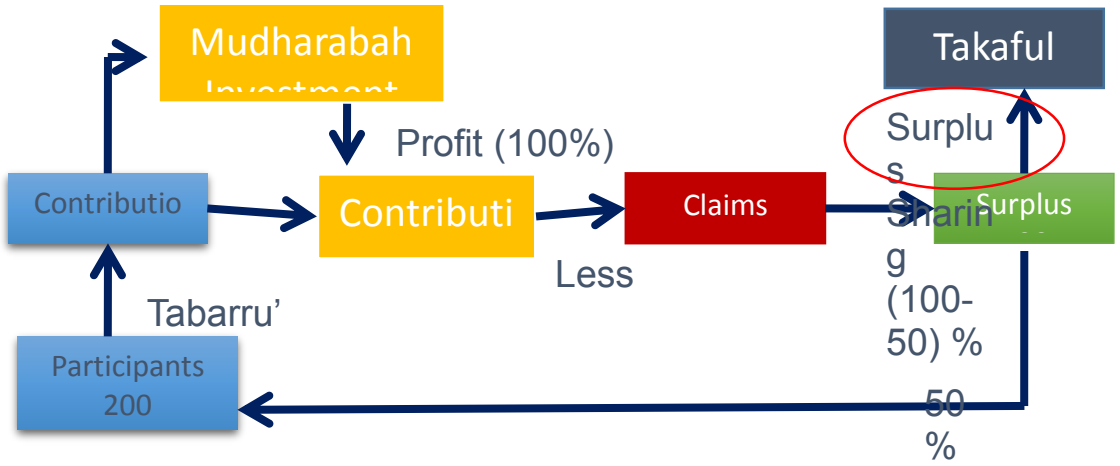
In order to see which of the two models bring in financial benefit to the participants and the operators, this study shall conduct a comparative test using different models employed by STMB and Etiqa Takaful. Under STMB, for general takaful, the model used is the modified mudharabah model (until 2011) and for the family takaful, pure mudharabah and modified wakalah (2009 onwards) are used. For Etiqa, the company applied the modified wakalah for both general and family takaful businesses.

The test will be made with the assumptions that the participant from the two models contribute RM1,000 to the takaful funds and with that we will see how much will come back to the participant and how much goes to the operator. And on the second test, an actual amount derived from the financial statement from the takaful companies will be used to prove the validity of the first test result.

Test 1: Returns from a RM1,000 gross contribution

For this test, please refer to the diagrams below, for general and family takaful operations respectively. Figures were entered into the earlier diagrams of the various model (discussed earlier), to illustrate how much comes back to the participant for a standard contribution of RM1000 and how much goes to the Takaful Operator. Standard assumptions are applied to all models:

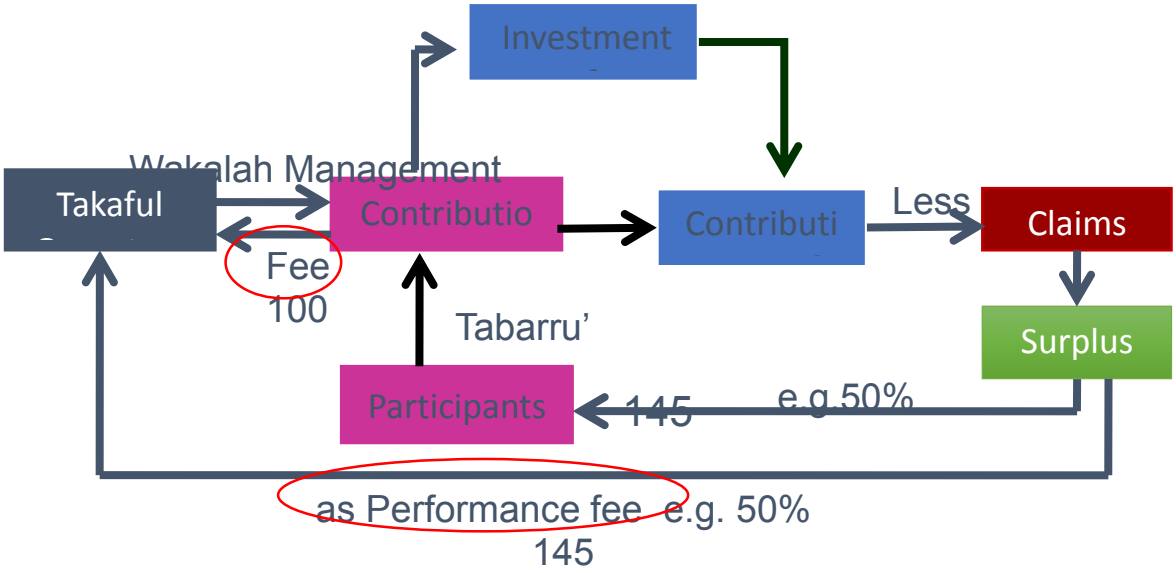
Diagram 4.1: STMB's General Takaful Business



For STMB's General Takaful Business – Modified Mudharabah Model

The participant makes a contribution of RM1000, a 10 % profit is achieved from investment activities which is ploughed back into the PSA; an amount of RM700 is deducted for expenses (claims, retakaful and reserves), and the resulting surplus is distributed. Any sharing of surplus is pre-agreed on a 50:50 basis. With that, participant will receive RM200 and the operator will also receive RM200.

Diagram 4.2: Etiqa Takaful's General Takaful Business



For Etiqa's General Takaful Business – Modified Wakalah Model

The same assumption as above applies with an addition to the wakalah fee of RM100 (assuming the fee is 10% of gross contribution) deducted upfront before investments are made. Any sharing of surplus is pre-agreed on a 50:50 basis. With that, participant will receive RM145 and the operator will receive RM245.

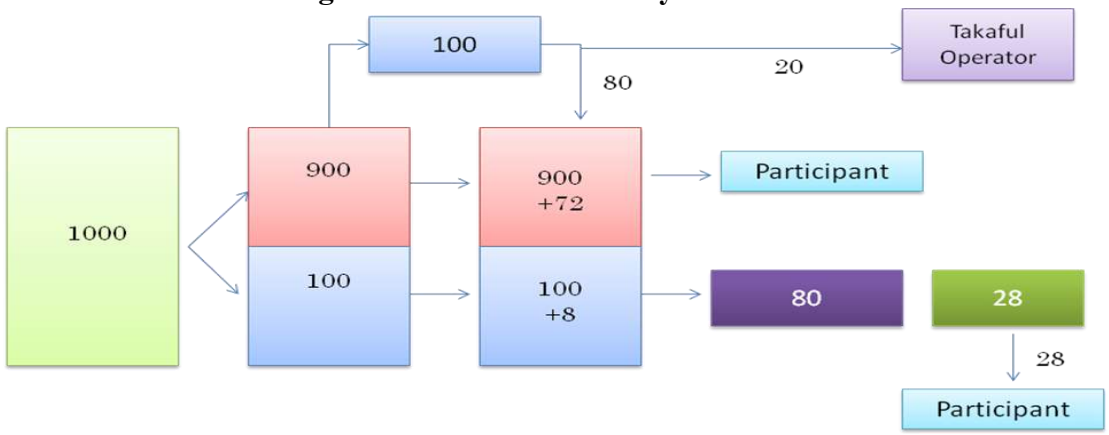
MODELS	Amount to Participant (RM)	Ranking for Participant	Amount to Operator (RM)	Ranking for Operator
MODIFIED MUDHARABAH (STMB)	**200**	**1**	200	2
MODIFIED WAKALAH (ETIQA)	145	2	**245**	**1**

Comparing the variations of the modified mudharabah (STMB) and modified wakalah (Etiqa), it can be seen from the above table that modified mudharabah model rewards the participant the most, while modified wakalah model rewards the operator the most.

If a ranking is made based on this simple analysis, prioritizing benefits to the participant above the operator, we would have the following result (best to worst):

1. Modified Mudharabah – STMB
2. Modified Wakalah – Etiqa Takaful

Diagram 4.3: STMB's Family Takaful Business



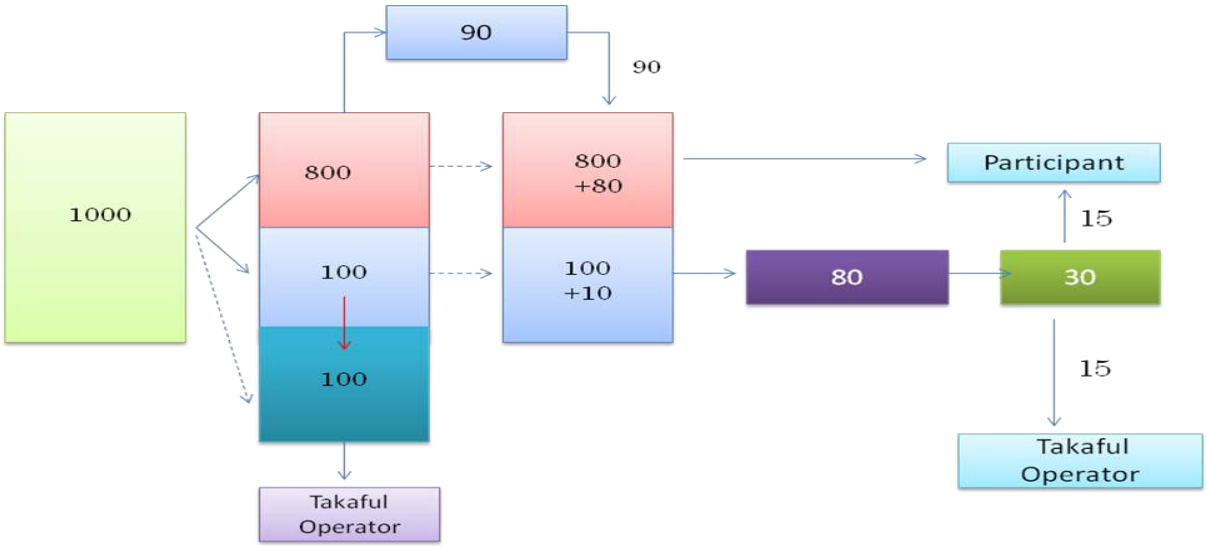
For STMB's Family Takaful Business – Pure Mudharabah Model (adopted prior to 2009)

The participant contribute RM1,000 which is split into two, i.e. 90% into the PA and a 10% into the PSA. Both funds are invested and achieve a 10% profit, which are ploughed back in the same proportions. The PA belongs to the participant and the PSA will deduct RM80 expenses (claims, retakaful, reserves) to get the underwriting surplus. The surplus is then distributed on a 50:50 if shared. Since this is a pure mudharabah, there is no sharing of surplus, only on the investment profit, which is shared on the 80:20 ratios for participant and operator respectively. With that assumption, the participant will receive RM1,000, while the operator receives a meagre RM20.

For Etiqa's Family Takaful Business – Modified Wakalah Model

Under wakalah model, a fixed wakalah fee of RM100 (assuming the fee is 10% of gross contribution) is charged up front while the rest of the assumptions are the same as the above illustrations. With that, the participant receives RM895, while the operator receives RM115.

Diagram 4.4: Etiqa Takaful & STMB (2009 onwards) Family Takaful Business



MODELS	Amount to Participant (RM)	Ranking for Participant	Amount to Operator (RM)	Ranking for Operator
PURE MUDHARABAH (STMB) - Prior to 2009 -	**1,000**	**1**	20	2
MODIFIED WAKALAH (ETIQA)	895	2	**115**	**1**

Summarizing the family takaful, it also reveals the same pattern as the general takaful, whereby the amounts returning to the participant is more under the mudharabah model and operator receives more under the modified wakalah model. Hence, the ranking for family takaful based on prioritizing benefits to the participant above the operator, we would have the following result (best to worst):

1. Pure Mudharabah – STMB
2. Modified Wakalah (Wakalah Ju'alah) – Etiqa Takaful

Overall, the results show that the mudharabah models rank above the wakalah models for the benefit of the participant, and of course the pure models are better than the modified versions, by virtue of them not taking any share of surplus. In practise, the wakalah fee is the deciding factor for what comes back to the participants and it is much preferable to the operator as these fees can cover the operating costs.

Test 2: Validating Test 1Result using Amount from the Financial Statements – STMB & Etiqa

The financial reports of the two companies were compared (data sampling) to see how much fees the Takaful Operator collects from the gross contribution, the results of which are shown in the table below. Because there is no specific disclosure in the financial statements as to the actual Wakalah fee percentage or Mudharib share from profits, estimates had to be calculated from the figures extracted from the revenue accounts of both funds, General Takaful Fund (GTF) and Family Takaful Fund (FTF).

- **Wakalah fee** is calculated in the wakalah fee in the year in proportion to gross contribution for the year.

- **Mudharib share** is calculated by dividing the amount transferred to the shareholders fund over the underwriting surplus for the year.

For the general takaful business, it can be seen that STM practices the Modified Mudharabah model – as there was no wakalah fees charged while Etiqa practices the Modified Wakalah where it charges 24% wakalah fees for year the year 2011. However, from the annual reports, the models used are not clearly mentioned. It is also not clearly stipulated how much of the fee taken is from the investment income and how much is from the gross contribution.

Table 8: General Takaful Revenue – Annual Report 2011

Operator	Year	Gross Contribution ('000)	Wakalah Fees (%)	UWS/ UWD	Transfer to SHF	% Mudarib	% P'cpant Share
Modified Mudharabah (STMB)	2011	334,768	-	141,777	84,816	60%	40%
Modified Wakalah (Etiqa)	2011	369,683	88,029 (24%)	25,881	12,941	50%	50%

With the above information, we construct a Simulation Takaful Model in Excel where we calculate the return to participant as well as operator and give ranking to the model used. The result for general takaful shows the following:

Table 9: Result for General Takaful

MODIFIED MUDHARABAH (STMB)			**Participant**	**Mudarib**		**MODIFIED WAKALAH (ETIQA)**			**Participant**	**Mudarib**
Contribution		1,000				Contribution		1,000		
Wakalah %	-					Wakalah %	24%			
Wakalah Fees						Wakalah Fees		240		240
Investment	10%					Bal. after wakalah		760		
Invst Value		100				Investment	10%			
Profit Ratio						Invst Value		76		
Participant	100%	100				Profit Ratio				
Mudarib	0					Participant	100%	76		
Part Risk Fund		1,100				Mudarib	0			
Expenses		700				Part Risk Fund		836		
Surplus		400				Expenses		700		
Sharing Ratio						Surplus		136		
Participant	40%		160			Sharing Ratio				
Mudarib	**60%**			**240**		Participant	50%		68	
TOTAL			**160**	**240**		Mudarib	50%			68
						TOTAL			**68**	**308**

SUMMARY IN RANKING	P	M
Modified Mudharabah	**160**	240
Modified Wakalah	68	**308**

The above table shows that the STM‟s model brings more reward to the participant while Etiqa‟s model rewarded the operator. This test validates the result done in test 1. The findings based on the actual figures (financial statement) confirm the earlier findings that Mudarabah model is beneficial to participant while wakalah model is beneficial to the operator.

Table 10: Family Takaful Revenue – Annual Report 2011

Operator	**Year**	**Gross Contribution („000)**	**Wakalah Fees (%)**	**UWS/ UWD**	**Transfer to SHF**	**% Mudarib**	**% P'cpant Share**
Modified Wakalah (STMB)	2011	563,342	84,490 (15%)	284,200	92,761	32.70%	67.30%
Modified Wakalah (Etiqa)	2011	726,054	108,123 (15%)	149,019	46,851	31%	69%

The test result shows that STM reward more to the participant as the wakalah fees charged is very small compared to Etiqa. Obviously, operator is well rewarded under the wakalah model. However, all these ranking are subjected to other factors as well for example product offering, services by agents/personnel, company background, investment acumen, sharing ratios and many more. All these contributed to the generation of investment profit and surplus which later to be transferred to the participant.

5. CONCLUSION

From the paper it is shown that pure models are no longer acceptable as the models may not be commercially viable in the long run. Combined models are the way forward, where wakalah fee is charged on the underwriting function, whilst a mudharabah contract is applied on the investment profit as well as surpluses. However, the right choice of any takaful model is determined not only by the performance of the underwriting activities of the takaful operators, but also the acceptance by the participants and Shari'ah scholars, as well as product design, marketing and pricing policy of the takaful products.

What is important is to realize that each takaful model offers a different set of opportunities that need to be better understood to drive sustainable growth. It is recommended that the takaful operators clearly understand the revenue impact of each model and its practical implementation across the business lines as well as clear understandin of Shari'ah requirements and regulations. Takaful operators are required to adopt strong corporate governance practices as to effectively implement and communicate uniqueness of takaful model with respects to risks, rights and responsibilities of each stakeholder.

REFERENCES:

Shahul, H.M.I and Hairul S. 2007. A Review of Takaful Accounting Regulations and Practices in Malaysia, Pravartak

E. Rabiah A.E.A and H. Scott. 2008. Essential Guide to Takaful (Islamic Insurance). CERT Publication

Ayub, Muhammad (2007). Understanding Islamic Finance, John Wiley & Sons, Ltd. Page 421-428.

Al-Zuhaili, Wahba (2003), Financial transaction in Islamic jurisprudence, Beirut: Dar al-Fikr al-Mouaser, First Edition, Vol.2: page 44

Archer, Simon, Rifaat A.A.Karim and Nienhouse, Volker. 2009. Takaful: Islamic Insurance Concepts and Regulatory Issues. John

AAOIFI (2004). *Financial Accounting Standard No. 12: General Presentation and Disclosure in the Financial Statements of Islamic Insurance Companies, AAOIFI,* Bahrain.

AAOIFI (2004). *Financial Accounting Standard No. 13: Disclosure of Bases for Determining and Allocating Surplus or Deficit in Islamic Insurance Companies*, AAOIFI, Bahrain.

Hairul A. A and Nur Barizah A. B. 2010. Issues on Takaful Affecting the Choice of Accounting Policies: A Case Study of Two Takaful Companies in Malaysia. www.ccsenet.org/ibr

Annual Report 2009, Syarikat Takaful Malaysia Berhad

Annual Report 2009, Etiqa Takaful Berhad

BNM Concept Paper – Guidelines on Takaful Operational Framework

VALUATION MODEL OF SOCIALLY RESPONSIBLE COMPANIES FROM AN ISLAMIC POINT OF VIEW

Ilham Boularhmane[1]
Rajae Aboulaich[2]

ABSTRACT

Even though companies' valuation techniques have evolved and have been developed into more sophisticated methods, there is still a big dilemma in the business world about finding the price of a company. Our research focus on finding the price for a company's stock by using Islamic principles. A presentation and definition of the socially responsible companies followed by a discussion of the common points between SRC and Islam values, is within the first part of the article. This paper also covers some sharia principles' included in the model and resulting in an adjusted discount cash flow (ADCF) method. A brief presentation of the model results were discussed to compare the ADCF stock price to the actual market price. This paper concludes with an inference showing that incorporating Islamic principles in a valuation model proved to give a good rate of return with a minimum investment risk.

Keywords: Valuation method, socially responsible companies, stock selection, and discounted cash flow method.

1. INTRODUCTION

There has been many debates lately over the true value of a business or an investment because of the large price fluctuations of companies stocks, the continuous cycle of international financial bubbles crisis, and lately the global financial and economic crisis where many large financial institutions had gone bankrupt, and even some states and countries (Greece) almost declared bankruptcy.

We believe many factors affected the unrealistic assumptions of investors, like some of the principles used in conventional finance to value investment or companies. In our research paper, we will try to focus on parameters affecting the real value of a company. In fact, we will base our valuation model on Islamic finance principles, more specifically on the Sariah based values. Also and in accordance to Islamic finance, our model will be applied on companies following Islamic values and sharia principles.
In the first part of this paper, we cover the importance, definition, and objectives of socially responsible companies, and how they are related to Islamic principles. Our focus is mostly on the importance of stakeholder's intake on the company versus the famous shareholders

[1] PHD Student, Islamic Finance Engineering Laboratory (IFE Lab.), Laboratory of Applied Mathematical Studies and Research (LERMA), Mohammedia School of Engineers (EMI), University Mohammed V Rabat Morocco
[2] Dr. Rajae Aboulaich, Director of Laboratory of Applied Mathematical Studies and Research (LERMA), Director of Islamic Finance Engineering Laboratory (IFE Lab.), Mohammedia School of Engineers (EMI), University Mohammed V Rabat Morocco

maximization theory. Secondly, we will present the valuation model that is inspired from discounted cash flow model. Our research findings will be then presented and analyzed so that finally we will end this paper with a conclusion of our study.

I. Socially Responsible Companies:

Many scholars, professionals and businessmen believe that shareholders do not constitute the only main principles agents of a company but rather other stakeholders play a great importance in the sustainability of a business. It's true that shareholders provide their financial resources, but so are employees that offer their human capital; planet that offers its natural resources, government that protect the rights and transaction of the company; and the society that provide the market for the company to sell its products and services.

In addition to that, many corporate scandals and their effects on the society, the environment, and on the economic development showed the importance to analyze the role of corporation and businesses in the sustainability of a society. According to John Mackey, Founder and President of Whole Foods "In contrast to [Milton] Friedman, I do not believe maximizing profits for the investors is the only acceptable justification for all corporate actions. The investors are not the only people who matter. Corporations can exist for purposes other than simply maximizing profits"[3].

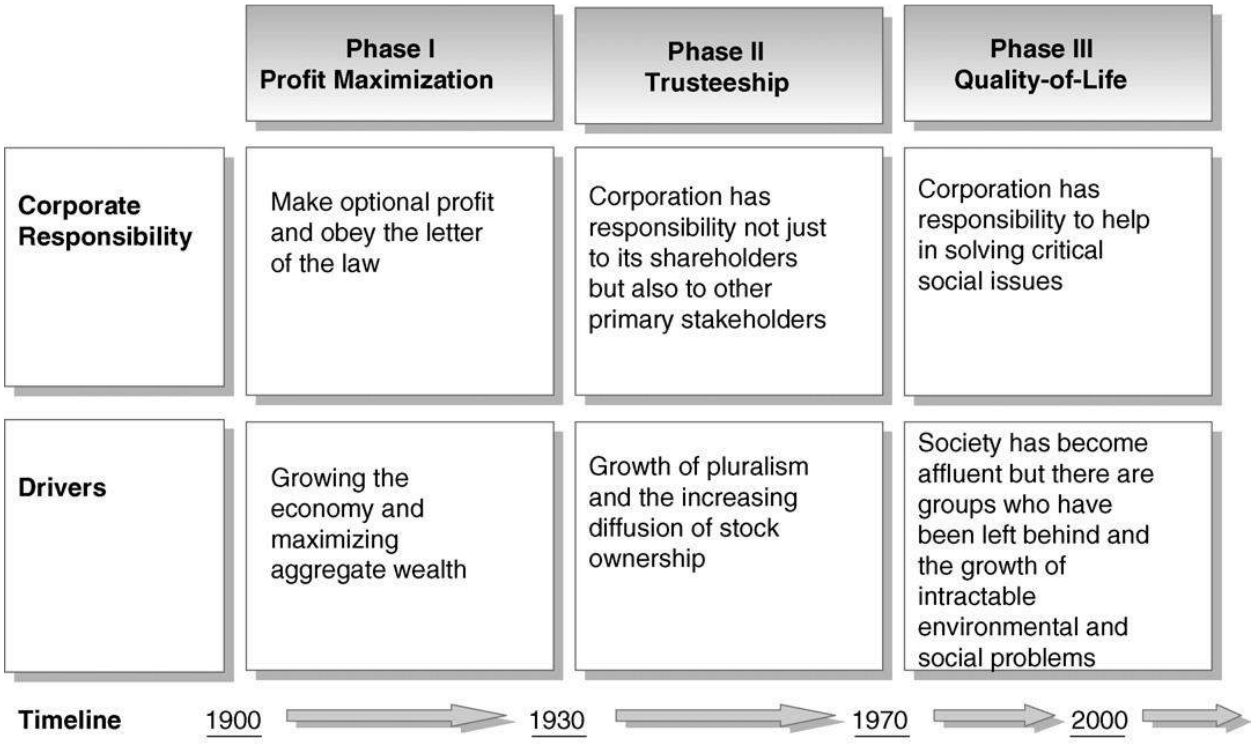
For the last years, corporate social responsibility theory has met with widespread enthusiasm. Today Around 6000 companies all over the world are engaged in CSR. According to IFC "In September 2010, the ISO 26000 standard on social responsibility was adopted, with 93 percent of the participating standardization organizations, from 90 states, voting in favor. The United Nations Human Rights Council is currently adopting guidelines for human rights and companies expects the guidelines to be accepted by a unanimous vote".[4]

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[3] Reason. (2005). Rethinking the social responsibility of business: A Reason debate featuring Milton Friedman, Whole Foods' John Mackey, and Cypress Semiconductor's T.J. Rodgers. http://www.reason. com/news/show/32239.html

[4] IFC. (2011). Corporate Social Responsibility: Private Self-Regulation is not enough. http://www.ifc.org

Figure 1: **SCR Development over Time**



Source: Derived from Hay and Gray (1974)

More than 35 years ago, the late Milton Friedman wrote: 'the social responsibility of business is to increase its profits''. According to Friedman "the main purpose of a business is to maximize the value of shareholder and by doing so it will also improve the values of all the other stakeholders".[5]

However, the scandals blown by companies throughout the previous decades showed that Friedman's theory not only felt short of protecting the society but it increased the risk for shareholders as well; who were also victims of the famous value maximization theory. Even more in some cases shareholders maximization as an objective especially in the short-term time proved to have counter results on the financial performance of a company. "We are helping to create a new mind-set, those responsible practices and profitable practices are one and the same. It is more difficult to manage responsibly and profitably but it is within our human means. It just takes being intentional about being good as well as being successful".[6]

To provide a clear idea on how maximizing shareholders values had failed, we will list a set of examples from companies that followed some unsocial responsible strategies to make profits and/or to maximize shareholders wealth, but had conducted to big disasters for employees' safety, consumers' health, public corruption scandals, environmental catastrophes, and even lower stocks values for shareholders. Examples:

- ***Labor Abuse***: Overseas sweatshops of Nike, Adidas, and Puma

[5] Friedman, M. (1970). The social responsibility of business is to increase its profits. The New York Times Magazine, 33(30), p.122—127

[6] Tom Chappell. (1993). The soul of a business: Managing for profit and the common good. New York: Bantam Books p.35

- ***Consumer Health:*** Nestle was also one of the companies that caused severe health problems to its customers

- ***Supplier abuse:*** In 2003, Mexico's antitrust agency, the Federal Competition Commission, investigated Walmart for "monopolistic practices" prompted by charges that the retailer pressured suppliers to sell goods below cost and to used monopoly power to force its suppliers into self-defeating practices

- ***Accounting scandal and misleading of investors:*** The Enron scandal. "Even the audited accounts, it now seems, often made things appear better than they really were". [7]

Figure 2: **Facts about WorldCom Scandal**



[7] Charles Handy. (December 2002). What is a Business for? Harvard's business review

Definition of Socially Responsible Companies:

As far as the SRC is concerned, Howard R. Bowen is said to have come up with this theory and published it in 1953 in a very popular book entitled Social Responsibilities of the Businessman. Since then and based on the worldwide economic and social changes, SRC concept had evolved into different schools depending on the objectives and the process followed by these companies, and also because of the difference in the concept perception by different cultures.

The SRC definition has being well discussed and many other authors tried to bring their own viewpoints of SRC. According to World Bank "Corporate Social Responsibility (CSR) is often defined as corporate responsibility, corporate citizenship, social enterprise, sustainable development, triple-bottom line, corporate ethics, and in some cases, corporate governance. "What binds these terms together is the expectation that corporates (private and public enterprises alike) behave ethically vis-à-vis a broad group of stakeholders - workers and their families, communities and the wider society".[8]

For the European Commission CSR is an approach by which "companies integrate social and environmental concerns in their business operations and in their interaction with stakeholders on a voluntary basis". CSR are business companies undertaking voluntary short term or long-term actions that benefit some of its stakeholders excluding shareholders like employees, management, customers, suppliers, community, environment, society…

"CSR …is an integral component of the operations of a company whereby it voluntarily contributes to society in terms of economic, environmental, ethical and social investment corporate social responsibility in a global economy". [9]

Analyzing CSR had also driven many academics into proposing sub-theories in trying to explain better the principle. Among these are:

1. The Stakeholder theory that was first introduced by R. Edward Freeman as the "father of Stakeholder Theory" in his book *Strategic Management: A Stakeholder Approach*
2. The Sustainable development theory insist that companies should forgo strategies that keep their performance sustainable for long term. So in fact, the reason behind being responsible is not to care about other stakeholders but just to protect the future value of shareholders. Their concern is about the rising risk coming from stakeholders, so by being social they try to minimize any counter actions against their operations. We will show that our model will also include that perspective along with other stakeholders' interests
3. The Triple bottom Line theory: PPP (profit, people, and plane), with this theory we have a closer view to the essence of our model, which is to

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[8] World Bank. (2013). India: Corporate Social Responsibility, http://www.worldbank.org

[9] Goal K. Kanjia_ and Parvesh K. Chopra. (February 2010). Corporate social responsibility in a global economy, Total Quality Management Vol. 21, No. 2, 119–143

focus company's strategy and objectives towards optimizing values for players other than shareholders'. In this school, businesses have the obligation to provide positive results for different stakeholders. In addition, beside the ordinary bottom line theory, which is the profits, a business need to perform also in other results like enhancing the employee minimum life style, helping in saving nature and environmental resources, and helping community and society improve its living conditions

4. The corporate governance: that is the assurance that boards of directors have enough control to guide management toward the interest of the shareholders,

and to minimize any conflicts of interests between management and owners of the business.

II. SRC and Principles of Islam:

In the conventional world of business is it very rare to find a shareholder involved in the goodwill of other stakeholders just because he care about their needs. Actually, most of the strategies including social responsible actions are achieved based on an expected payback to shareholders. "Many corporations use CSR methodologies as a strategic tactic to gain public support for their presence in global markets, helping them sustain a competitive advantage by using their social contributions to provide a subconscious level of advertising". [10] Moreover "Critics of CSR also point out that those organizations pay taxes to government to ensure that society and the environment are not adversely affected by business activities. Corporate social responsibility in a global economy" [11]. Tata -India's oldest and largest private sector business group- was proud to have avoided nationalization in the 1950s, because his workers, afraid of losing the social benefits they had gained, went on strike.

However, in Islam Allah asked his believers to be just, fair, and honest in all their transactions and businesses, first to ensure sustainable financial profits, and secondly and most important to earn Jazaa in the after world. Therefore, from an Islamic point of view any businessperson who cares about earning a FALLAH with Allah should follow two goals, first a purely material goal that is making profit; and second to gain HASSANAT to be accepted by Allah. Consequently, companies from an Islamic point of view should generate halal profits and help society improve through the incorporation of actions that follow the rules of Quran, Hadith, and Sharia. Our Principle is that goal, means, and the way to do business should all be halal.

As a result, in Islam produced and sold goods and services should be safe and have no harmful substances or poisonous chemical ingredients that could hurt a follow brother or sister. Business should also not use bribery or any form of extortion to

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[10] Fry, L.W., Keim, G.D., & Meiners, R.E. (1982). Corporate contributions: Altruistic or for profit? Academy of Management Journal, 25, 94–106

[11] Goal K. Kanjia_ and Parvesh K. Chopra. (February 2010). Corporate social responsibility in a global economy, Total Quality Management Vol. 21, No. 2, 119–143

conclude a transaction. They should also pay fairly their employees and not underprice their efforts, as the price of their work constitute a "THAMAN" in Islamic sharia that is the price of a certain effort made by the employee. The THAMAN of the job called wage or salary should be equal or greater to the value of the employee's efforts. Anything less is haram. In addition, working environment out to be safe and convenient for the workers to complete their job. Moreover, businesses need to be transparent and truthful in providing information that is crucial to customers, suppliers, financing institutions, NGOs, government…

"The purpose of a business, in other words, is not to make a profit, full stop. It is to make a profit so that the business can do something more or better. That 'something' becomes the real justification for the business. Owners know this. Investors need not care". [12]

2. METHODOLOGY

As we discussed before, our model will rely on combined concept based on sharia principles and financial logical inferences:

- Ownership: Based on Quran, hadith, and sharia principles, holders of wealth or investors with financial resources (i.e. in the form of companies) do not really own their wealth, which is the property of Allah. Instead they are regarded as the intermediary of Allah to grow their wealth, use it as a mean to fulfill their needs and the need of their families, but also to distribute some of these profits to society. That is why other SRC models assume conflicting interests between stakeholders, while our model present a redistribution of the company's wealth. We consider SRC as a business-society contracts where we connect the stakeholder's interests with the company's performance, as they become profits claimants; dividend holders; or residual owners
- Brotherhood: responding to the needs and priorities of the society. In Islam, Muslims are related by religion and requested to care about fellow Muslim in every single action they undertake. In fact, it is encouraged to put the need of his brother in Islam ahead of its own need
- Rharar: Transparency, good and reliable information are minimum requirements for a company to keep its value in the balance, anything less will reduce its value
- Islamic Economy: SRC is a model by what we can have some kind of a social capitalism. The concept of Corporate Social Responsibility (CSR) demand both private and public solutions. Saying that businesses actions in the micro level is related to the macro level: WHOLE IS NOT THE SUM OF PARTS; means we need to care about the whole picture starting in a micro level. "This means that, when agents behave ethically, they are able to gain, as a group, invariances absent from individuals"[13]

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[12] Charles Handy. (December 2002). What is a Business for? Harvard's business review
[13] Sami Al-Suwailem. (January 2012). Complexity and Endogenous Instability, 30

- Zakat: Is one form of taxes in Islam where we are supposed to give up some of our wealth to society and more precisely to poor and underprivileged people
- Usury: It is forbidden in Islam to borrow money against payments of interests. Although debt constitute an important financial strategy in conventional finance, companies from an Islamic point of view can use all other alternatives of financing except to borrow and pay interests
- Difference in the investment strategy: In Islam we differentiate between Long-term investors who are the real long-term owners of a stock looking for fundamental value of the company; and short-term investors who are not real owners but just trader looking for short-term profit margins. "One result of the obsession with share price is an inevitable shortening of horizons. Paul Kennedy is not alone in believing that companies are mortgaging their futures in return for a higher stock price in the present, but he may be optimistic in sensing the end of the obsession with shareholder value" [14]

- Profit Margin: Moujamaa Al Foukaha agreed that profit margin better not to exceed a 33% maximum of gain from any transaction
- Cash vs. Accrual: Inspired by the way zakat is computed, cash flow analysis is used instead of net income or operating income.

Discounted Cash Flow Method:

It is sure that finding the right price is not an easy task but many methods were developed to compute the price of a company like The DCF, P/E, Enterprise value, Dividend discount model…. All these methods try to grasp the financial strength and the promised value of a company. In our research, we worked on an adjusted discounted cash flow method to compute the value of socially responsible companies. In fact, the purpose was to first analyze DCF valuation method and based on Islamic principles adjust the method so that we can incorporate other values and factors in the components of the valuation process.

In our research, we believe that we should focus first on finding the value of the company then try to price it. As matter of fact market price reflect three components: the value itself which is directly related to the past, present and future fundamental output of the company, second the normal premium/discount margin related to the effect of the supply-demand forces, and finally a third components which is the speculating effect of investors. In Islamic principles, the price should be close and reflect more or less the true value of the underlying asset.

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[14] Charles Handy. (December 2002). What is a Business for? Harvard's business review

Modified Discounted Cash Flow Model:

Price = Intrinsic Value + Trading margin + Speculation effect

Intrinsic Value = f (Economic factors, Industry factors, Company factors)
Trading margin = f (Supply, Demand)
Speculation effect = f (Excessive increase/decrease of prices)

3. RESULTS AND DISCUSSION:

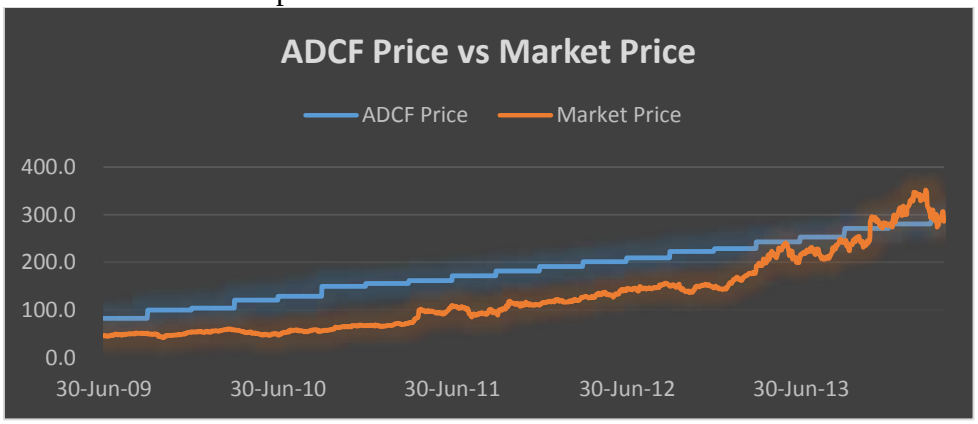
Our model was applied on American companies that passed all the conditions presented previously. We collected economic data, industry data, and companies' data using a historical of 5 years. Then data was included in the model to provide first an intrinsic value of the company, and then we computed the price of the stock. In table 1, we compared price to earnings and price to book value ratios for the model and the actual market price. We can conclude that the P/E for ADCF ranged around an interval of 13 to 19 while the P/E from the market price ranged from 8 to 28, this show that impact of speculation effect in the market

prices. In addition, P/Book value for our model has increased steadily with small changes while the P/Book value of market price improved with larger margin than our model. Such results can also be included from Graph 1, which demonstrate that the model price fluctuate, less than the market price all due to the exclusion of the speculation effect from the price.

Table 1: Comparing Adjusted Discount Cash Flow Price to Actual Market Price

	ADCF Price		Market Price	
	P/E	P/Book value	P/E	P/Book value
Dec-09	16.74	2.10	13.42	1.69
Mar-10	16.97	2.29	13.79	1.86
Jun-10	15.24	2.66	8.76	1.53
Sep-10	13.98	2.78	9.08	1.81
Dec-10	13.32	2.67	9.94	2.00
Mar-11	14.80	2.75	11.52	2.14
Jun-11	15.52	2.78	16.81	3.01
Sep-11	14.95	2.86	13.43	2.57
Dec-11	15.13	2.89	15.21	2.90
Mar-12	16.44	3.01	18.09	3.31
Jun-12	15.51	3.17	18.20	3.72
Sep-12	16.21	3.11	19.12	3.67
Dec-12	16.83	3.12	18.40	3.41
Mar-13	17.81	3.27	24.53	4.50
Jun-13	19.26	3.29	27.59	4.72
Sep-13	18.48	3.26	28.66	5.06
Dec-13	16.30	3.22	28.18	5.57

Graph 1: **ADCF Price vs. Market Price**



In table 2, we notice that the risk in term of coefficient of variation is more controlled in the ADCF price model than the market price. Moreover, based on the model we recommended a selling, buying, and holding of stocks for an investment of $ 1,000,000.00 and ended up with $ 1,435,851.00 after 3 months period reflecting a rate of return of 41.14% (Table 3).

Table 2: Comparing Risk Between ADCF ROR and Market ROR

Date	ADCF Quarterly ROR	Market Quarterly ROR
Mar-09	3.53%	10.06%
Jun-09	3.42%	-13.87%
Sep-09	3.44%	11.89%
Dec-09	3.47%	5.90%
Mar-10	3.47%	7.27%
Jun-10	3.37%	-17.32%
Sep-10	3.46%	18.27%
Dec-10	3.42%	19.48%
Mar-11	3.42%	9.57%
Jun-11	3.41%	45.53%
Sep-11	3.34%	-12.88%
Dec-11	3.39%	18.14%
Mar-12	3.44%	14.49%
Jun-12	3.32%	14.59%
Sep-12	3.43%	3.35%
Dec-12	3.37%	-1.90%
Mar-13	3.43%	31.60%
Jun-13	3.24%	11.72%
Sep-13	3.35%	11.88%
Dec-13	3.34%	16.12%
Median	**3.42%**	**11.80%**
Average	**3.40%**	**10.19%**
Std. Dev.	**0.06%**	**14.67%**
Coefficient of Variation	**0.02**	**1.44**

Table 3: Investment Return over a 3 Months Period

Date	ADCF Price	Recommendation	Starting Investment 1,000,000
1-Oct-13	244.9	Buy	975,508
2-Oct-13	246.2	Buy	950,885
3-Oct-13	233.8	Buy	927,501
.	.	.	.
.	.	.	.
6-Dec-13	290.9	Sell	1,098,589
9-Dec-13	286.2	Sell	1,213,061
10-Dec-13	285.2	Sell	1,327,153
11-Dec-13	278.0	Sell	1,438,369
12-Dec-13	277.9	Buy	1,410,582

13-Dec-13	275.3	Buy	1,383,050
16-Dec-13	273.6	Buy	1,355,690
17-Dec-13	271.5	Buy	1,328,539
18-Dec-13	280.6	Buy	1,300,475
19-Dec-13	277.2	Sell	1,411,359

4. CONCLUSION

We conclude that by applying Islamic principles in the valuation model we reached many interesting investment advantage. First, we eliminated the effect of speculation, which is known to increase the risk in stock market. Second, we used the model to make a simulated investment and ended up with a 41.14% ROR. Some of the Islamic principles already exist and are used in conventional finance but separately. In our research, we combined all of them to come up with a model that not only help in stock selection but also help earn a decent return rate with a minimum risk.

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REFERENCES

Charles Handy. (December 2002). What is a Business for? *Harvard's Business Review*

Friedman, M. (1970). The social responsibility of business is to increase its profits. *The New York Times Magazine, 33, 30,* 122—127.

Fry, L.W., Keim, G.D., & Meiners, R.E. (1982). Corporate contributions: Altruistic or for profit? *Academy of Management Journal, 25,* 94–106.

Goal K. Kanjia_ and Parvesh K. Chopra. (February 2010). Corporate social responsibility in a global economy. *Total Quality Management, 21, 2,* 119–143

IFC. (2011). Corporate Social Responsibility: Private Self-Regulation is not enough-p2-h*ttp://www.ifc.org*

Reason. (2005). Rethinking the social responsibility of business: A Reason debate featuring Milton Friedman, Whole Foods' John Mackey, and Cypress Semiconductor's T.J. Rodgers. *http://www.reason. com/news/show/32239.html*

Sami Al-Suwailem. (January 2012). Complexity and Endogenous Instability, *Algorithmic Social Sciences Research Unit (ASSRU) Department of Economics University of Trento, Italy -30-*

Tom Chappell. (1993). The soul of a business: Managing for profit and the common good. *New York: Bantam Books*

World Bank. (2013). India: Corporate Social Responsibility, *http://www.worldbank.org*

APPENDICES

Figure 1: **SCR Development over Time**

Figure 2: **Facts about WorldCom Scandal**

Table 1: **Comparing Adjusted Discount Cash Flow Price to Actual Market Price**

Table 2: **Comparing Risk between ADCF ROR and Market ROR**

Table 3: **Investment Return over a 3 Months Period**

Graph 1: **ADCF Price vs. Market Price**

ISLAMIC FINANCE: AN ALTERNATIVE INTEREST FREE POTENTIAL SOURCE OF FINANCE FOR WOMEN ENTREPRENEURS IN SOKOTO STATE, NIGERIA

Usman Olakunle Balogun[1]
Ummi Salwa Binti Ahmad Bustamam[2]
Fuadah Binti Johari[3]

ABSTRACT

The paper examines the potential of Islamic finance as an alternative source of funding for women entrepreneurs in Sokoto State of Nigeria. A brief introduction of women entrepreneurs and their role in economic development was highlighted in the first part of the article. This paper covered literature review from relevant articles on the current source of funding for women entrepreneurs and Islamic microfinance products. This reviews shows that women entrepreneurs in Sokoto are underfund, which is due to the financing strategies they employed. This in turns affect their business performances. The paper concludes that Islamic Banks has an important role to play in providing capital access to the women entrepreneurs in Sokoto in order to enhance their business performance. This can be achieved by initiating a special purpose vehicle (SPV) which can be specifically targeted toward this segment of entrepreneurs.

1. INTRODUCTION

Women entrepreneurship development has become important for any economy which strives to realize growth and development. For this purpose, financing for this niche sector has become relatively important as well. However, as literatures on women entrepreneurship become more popular in the field of entrepreneurship, the concept of woman entrepreneur has been defined in various terms. This depends on the context of activity or role they play, Wendy and siong (2007). Notable literatures in these niche area include Sue, *etal* (1987), Holly and Benson (1989) John and Samia (2010), Tatiana *etal*(2010), Syed (2011), Daphne *etal*(2012), There is no distinct difference found in the above literatures on definition of women entrepreneurs, they unanimously see women as an agent of economic development, willing to accept entrepreneurial risk Sana'a and lhaamie (2010).Women's active participation in productive activities in the industries has empowered them economically and enables them to contribute significantly to overall economic development. Be it their involvement in small or medium scale production activities, or in the informal or formal sectors, women's entrepreneurial activities is no longer only a means for economic survival but rather has positive social impacts for the women themselves and their social environment (UNIDO, 2001).Societies that has open doors for women in education, and health has witness tremendous progress in their economies even though economic opportunities for female still remains limited, there by efforts are required to enable female entrepreneurs to make better economic choices in order to transform

[1] Faculty of Economics and Muamalat, University Sains Islam Malaysia
[2] Faculty of Economics and Muamalat, University Sains Islam Malaysia
[3] Faculty of Economics and Muamalat, University Sains Islam Malaysia

their businesses into competitive enterprises and thereby generating income and employment through improved production (OECD, 1997).

However, In the bid to actualize their entrepreneurship dreams, finance remains one of the major impediments that these women entrepreneurs have to overcome, Maryam (2013).she further noted that new business venture find it un-easy to access startup capital while the existing ones find it difficult to access capital for their business expansion. Source of funding for women entrepreneur's in Sokoto mostly come from, personal savings, family and friends , equity and government. This source of funding seems not to be producing positive outcome for the entrepreneurs in the struggle to actualize their entrepreneurship dreams. This coupled with restriction faced by women in their bid to access finance from other sources such as commercial banks innocent *etal* (2013). This paper therefore attempts to examine the potential of Islamic finance as an alternative source of funding for women entrepreneurs in Sokoto. The paper argues that Islamic finance has an important role to play in providing capital access to the women entrepreneurs in Sokoto in order to enhancing their socio-economic development. More so Islamic financing which is free from interest (riba) can effectively motivate the women entrepreneurs to thrive due to its moral and ethical attributes.

2. RESEARCH METHOD

This paper is conceptual in nature, in which analytical method was employed to support women entrepreneurs need for Islamic financing. Previous literatures and studies on women entrepreneurs are used in this study. Information and Data are collected via libraries, recognized journals both local and international. This simple indicates that secondary sources are predominantly used in the methodology of this research.

This paper will analyze previous research done by authors or researchers regarding the topic of women entrepreneurs and factors affecting their performances as well as literature on Islamic finance. These to enable us understand women entrepreneurs need for finance and as well as the potentials of Islamic finance to fill up the gap.

3. LITERATURE REVIEW

The study of women entrepreneurship and factors affecting their performances has been done in a large number of studies and across various countries worldwide. Various researchers have explored different angles on factors that could have effect on women entrepreneur's performances. This has solicited various recommendations on how their performances could be enhanced. However, in respect to finance being an impediment to women entrepreneurs performances. literatures on women entrepreneurship has explicitly indicated finance as one of the main barrier to women entrepreneurs success, for instance, Gerard &Rahma(2003) found out that in Oman business women mostly depend on internal source of finance to start up business . The study suggests the need for future quantitative research on factors hindering female entrepreneur's success.

In Sokoto state of Nigeria, Maryam (2013) investigate Capital Access Strategies and Enterprise Growth among selected women Entrepreneurs in Sokoto Metropolis, her findings indicates that there is a positive correlation between capital access and business growth.

Women entrepreneurs source of capital are mainly from personal savings which is one of the reason for their business Growth failure. Government financing has the strongest influence in achieving business growth. Enterprise with more access to capital experience higher business growth and shows high tendency of survival in the long run. The study recommends that Women entrepreneurs in Sokoto should explore more sources of capital in order to achieve enterprise growth. Financial institutions should introduce a micro credit programme specially targeting women within these societies so as to explore the niche area and tap the opportunity yet to be tap. The study examine variables such as Enterprise Growth, capital Access, Bank loan, Personal savings, Relatives and friends, Equity financing, Government financing, Non government financing.

Syed (2011) investigate the characteristics of women entrepreneurs in the Kingdom of Saudi Arabia, finding in the study reveals that Start-up capital mostly comes from personal savings, friends and family and also Motivation to start business is based on past experience of the entrepreneurs among other.

In Bahrain, John & Samia (2010) investigate The Influence of Islam on Female Entrepreneurship in a Conservative Muslim Context. They found that Female entrepreneurs with higher levels of human capital such as education, business experience are more likely to secure funding from Islamic banks.

Kamal et al (2009) study Factors that affect women entrepreneurs in United Arab Emirate (UAE). The study finding shows that financial support from government during the start-up is an important factor that motivates women to venture into their own businesses. Their studies examine variables such as Education and experience, Self-fulfillment, social norms, Financial resources, networking, government policies. In Malaysia, Wendy & siong (2007) investigate the factors influencing women entrepreneurs' performance in Malaysia. The study findings shows that There is need for more financial support to attract women into business, Parental motivation for young women to venture into business is also important.

Leyla and Nezameddin (2011) in her studies on Women's Entrepreneurship in Iran finds out that the government of Iran plays an important role in financing women entrepreneurs in the country. Gender discrimination in respect of social as well as economic aspects is major drawback for women entrepreneurs in Iran. Educated youths do not perceive social factors as drawback for women entrepreneurs.

Tatiana et al (2005),in their study on Predictors of External Financing Usage Among Men and Women Entrepreneurs, reveals that relationship with other entrepreneurs, accountants, bankers, Consultants, business people, in addition to the circle of family and friends, appear to serve as a source of valuable information, advice and access to resources in Bulgaria. Holly & Benson (1989), in their study on funding new business, found out that there is no significant difference in the likelihood of loan approval, or the amount of the loan based on the gender of the entrepreneur in their bid to secure finance for business start up in the USA.

However, as the concern for finance for women entrepreneurs continue elicit numerous research ,comment and policy options. One of these options is through microfinance by Islamic banks as a way to enhance women entreprenuers performance.for example Abdulrahim (2007) in his studies on Islamic Microfinance: A Missing Component in Islamic Banking, conclude that Conventional microfinance which is based on interest (*riba'*) are prohibited in Islam and

therefore cannot be used by Muslims. Hence, Islamic financing scheme such as mudarabah, musharakah, murabahah, ijarah etc. have the salient features that can contribute towards a more ethical economic and financial development of the micro entrepreneurs. variables examine in this study includes mudarabah, musharakah, murabahah, Ijarah, Qardhul Hasan.

Asyraf Wajdi (2008) in his studies The Role of Islamic Banking in Microfinance Initiatives reveals that Microfinance requires innovative approaches beyond the Traditional financial intermediary role. Social intermediation is an important tool that can be used to reduce transaction costs and lower exposure to numerous financial risks in relation to providing credit to the rural poor. The study suggested the use of special vehicle purpose (special vehicle purpose) SPV as one of the possible alternatives for Islamic banks to channel funds to the poor and micro entrepreneurs. Islamic finance has an important role to play in socio-economic development of the poor and small (micro) entrepreneurs without necessarily charging interest (Riba) Abdul Rahim (2010). He concluded in his work that qardhul hasan, Murabahah and ijarah schemes can be easily manage which will equally ensure the capital needs for potential micro entrepreneurs and the poor.

Source of finance for women entrepreneurs

Government

The federal government of Nigeria in its bid to enhance women entrepreneurs' is a cornerstone to the development of women's entrepreneurs. This can be seen from the establishment of the Federal Ministry of women affairs. The aim was to promote the development of women with equal right and responsibilities with the view to enhance social, civic and economic participation of women, coordinate and monitor women activities and also to provide financial and technical support to women. In terms of financial support, ways the government has tried to finance women entrepreneurs in Nigeria include, The Better Life Program (BLP) which was initially launched in 1987 by then the first lady (late Mrs. Maryam Banbangida).The aim was to mobilize women resource productivity, with its main objective being to "educate" the government as well as private companies /organizations on the important role that women Could play in national development (Dionco-Adetayo *etal*,2005).
The Family Economic Advancement Program is a microcredit scheme, which was established by Nigeria's Government in 1988 as a reaction to the increasing level poverty which was brought about by the implementation of structural adjustment policies. The aim of the program was to provide investment opportunities that will lead to economic growth, and create avenues for Nigerians to earn higher incomes and therefore raise their standard of living. Women were not the main target of this program, but however it is assumed that by extending its services to rural areas, women would directly or indirectly benefit from it (Iheduru, 2002). Family Support Program (FSP), was also subsequently introduced with the aim to better family cohesion by promoting social and economic well-being of women (Dionco-Adetayo *etal* 2005).

The Country Women Association of Nigeria (COWAN) has also made notable contributions. It basically targets rural and urban poor women through cooperative rather than individual memberships with aim of enhancing the welfare of women in agricultural and economic decision making so as to incorporate self-reliance and sustainable development (Iheduru, 2002).The millennium development goal (MDGS) and National Economic Empowerment and Development Strategy (NEEDS) were later additions to a myriad of development strategies

instituted by the Nigerian government. The aim of NEEDS is to further see to the achievement of the millennium development goals. These goals include wealth creation, employment generation, value re-orientation, poverty reduction which is especially predominant among the women. In assessing the performance of effort of Nigerian government to empower women entrepreneurs and eradicate poverty in Nigeria, one can say without fear of contradiction that performance is below the expectations of Nigerians as a result of high level Corruption and embezzlement (Barnes 2010). Other government effort include Small and Medium Enterprises Development Agency of Nigeria (SMEDAN), Small and Medium Industries Equity Investment Scheme (SMIEIS) and Development Finance Institutions (DFls), National Directorate of Employment (NDE) etc. These agencies are programmed to help remove constraints on entrepreneurs and expand the opportunities available to them by providing information and needed training, financial assistance, which are considered impediments to entrepreneurial development (Monday 2012).However the failure of the government initiatives to finance these segment of entrepreneurs who are desperately in need of funding has necessitated the need to search for another mode of financing that will reach them in due time and with less hazel.

Traditional source of finance for Women Entrepreneurs

Women entrepreneurs, who do not have access to the conventional banks credit, traditionally source their funding from parents, husbands and family members. Fathers, husbands and other family members remain the traditional sources of funding for women entrepreneurs in conservative societies (Mc Elwee & Al-Riyami 2003). These sources typically provide start-up capital sufficient for small scale business, such as retail establishments, restaurants, and day care facilities which are common business engaged by women entrepreneurs. This trend is also apparent in Sokoto. In Saudi Arabia fathers, husbands, or other family members are typically the traditional sources of funding for Saudi women entrepreneurs who normally provide sufficient capital for small-scale business ventures,(Syed 2011).

However these traditional sources of funding are unlikely to provide adequate capital as women's business dreams rise and thereby strive to create large scale or high growth enterprises. In the case where this traditional mode of financing is no longer sufficient for business expansion of the women entrepreneurs, it is expected that funding becomes inaccessible to women unless there is an intervention from financing institution as an alternative to the above stated means to funding women entrepreneurs. Miri etal (1997) fund out that majority of women entrepreneurs at about 76.4 percent in Israel used only their personal savings as sources of financing their ventures, while 30 percent needed little financing for launching their ventures. Majority of women entrepreneurs has to rely to a significant extent on self-generated finance during the start-up period of their business,(Badulescu, 2005).

Commercial banks

Access Bank of Nigeria is the first Nigerian bank to be admitted to the Global Banking Alliance for Women which aims to leverage the women's market for profit as well as social good, disbursed US$4.5 million to 33 female-owned enterprises (Oluwakeyede, 2007; Elena etal., 2007).However with the availability of such fund, access to finance for women entrepreneur still remain limited. Enterprise integration into the formal credit system still remains limited, as a result of which most entrepreneurs could not obtain loans from financial institutions (Tatiana etal 2005). Credit is a basic right to all human beings, as such every individual should have a fair chance to improve his/her economic condition Abdulrahim (2007).banks, the most important and powerful lending supplier, have became reluctant to involve in SMEs financing,

which is due to asymmetrical information ,adverse selection and moral hazard, Badulescu (2005).Banks should put into consideration providing finance to entrepreneurs with little security but who has shown success potentials in their business prospects, Cecile & jaap (2003).

History of Islamic banking system in Nigeria

The purpose of Islamic banking is of no exception to that of conventional banking system as agents of financial intermediation except for that(Islamic banks) operates under the guideline of Sharia, known as Fiqh Al-Muamalat (Islamic rules on transactions) and as such achieving (Alfalah) the pleasure of Almighty ALLAH SWT here and thereafter.

The fundamental basis of Islamic banking is the sharing of profit and loss and the avoidance of riba´ (interest), Maysir (Gambling) and Gharar (uncertainty) in business transactions which are strictly prohibited by the Qur'an and the Hadith. Amongst the common Islamic concepts used in Islamic banking are profit sharing (Mudharabah), partnership (Musharakah), Diminishing partnership (Musharaka Mutanakisah) cost plus (Murabahah), and leasing (Ijarah). Safekeeping (Wadiah),Istisna (manufacturing sale. This mode of transaction has long been in existence as a way of carrying out business transaction in Sakkwato, under the rule of sheikh Uthman Danfodio since 1804 Abdulkabir (2009).

It is in the light of this that it is believe that the history of Islamic Banking in Nigeria will not be complete without a trace back to Sakkwatto town now known as Sokoto state, located in the north west part of Nigeria. This was during the period of Sheikh Uthman Danfodio who conquered Sakkwato town and establish the Islamic kingdom known as the Sokoto caliphate (Hausa states) and ruled under the Islamic system of government.
During his period of rule all business transactions where done according to the laid down rules of Sharia, business capital were sourced trough money lending, credit facility was also given in form of goods which are sold to traders who later pay the principal and certain amount in addition to the principal as pre-agreed or share profit after goods are sold out, individuals also with common business interest brought their resources together to form partnership at an pre-agreed profit and loss sharing ratio.

The caliphate which however lasted for a decade (1804-1903) but has so much impact on the people that the system of Sharia way of business has become part of their daily way of life even after the colonial invasion in the 1860s.By 1903, the colonialists has taken over Sokoto caliphate by the defeat of the Uthman Danfodio's army, and all through the nations independence in 1960, most elements of Islam found in the Sokoto caliphate system had been removed or transformed.

Fortunately, what they were able to transform were the legal, political and economic systems Abdulkabir (2009). The traditional Sharia compliance way of saving surplus and advance to the needy was still dominant even after the colonial rule such as zakat which also serve as a financial intermediary itself and it is well administered till date.

Guidelines for operation of Islamic bank in Nigeria

Islamic banks in Nigeria operate as Non-Interest Financial Institutions, under the purview of the Central bank of Nigeria (CBN). In order to ensure compliance with the Sharia framework, the following are some guidelines for operations of Islamic banks in Nigeria as required by the CBN

- Non-Interest Financial Institutions (NIFIs) in Nigeria are required to establish a Shariah advisory body as part of their governance structure to be known as "Shariah Advisory Committee" (SAC).
- NIFI shall ensure that its Memorandum and Articles of Association (MEMART) state that its business operations will be conducted in accordance with Shariah principles and practices.
- A NIFI may transact business using any of the following instruments or financing modes: Murabahah, Mudarabah, Musharakah, Ijarah, Salam, Istisna, Wadia, Wakalah, Sukuk and other financing mode or structure that is Shariah-compliant and approved by the CBN. However instruments and contracts involving Interest, Uncertainty or ambiguity, Gambling, Speculation, Unjust enrichment, Exploitation/unfair trade practices; Dealings in pork, alcohol, arms and ammunition, pornography are not permissible.
- All NIFIs shall maintain a minimum Capital Adequacy Ratio (CAR) as may be prescribed by the CBN from time to time.
- Applications for the grant of licence to carry on the business of noninterest financial services shall be accompanied by evidence of a technical agreement executed by the promoters of the NIFI with an established and reputable non-interest bank or financial institution. The agreement shall explicitly specify the role of the two parties and shall subsist for a period of not less than 3 years from the date of commencement of operations of the licensed NIFI.
- All NIFIs are required to have a dedicated Internal Shariah Compliance Unit comprising officer(s) with appropriate qualifications and experience in Shariah and conventional finance to serve as the first point of reference for Shariah compliance issues.
- The legal framework is issued pursuant to Section 33 (1) (b) of the CBN Act 2007 and Sections 23(1); 32(1); 52; 55(2); 59(1)(a); 61 of Banks and Other Financial Institutions Act (BOFIA) 1991 (as amended). It shall be read together with the provisions of other relevant sections of BOFIA 1991 (as amended), the CBN Act 2007, Companies and Allied Matters Act (CAMA) 1990 (as amended) and circulars/guidelines issued by the CBN from time to time (Central Bank of Nigeria, 2010).

Principles of Islamic financing system

Some principles of Islamic finance include the followings:

I. Islam totally forbids making money from money.
II. Payment that are predetermine above actual amount of money lend out is considered interest and forbidding in Islam
III. All Investments and products should be strictly Islamic compliant. E.g. No investment should be made in alcohol, gambling, construction of casino, lending money to other banks at interest.
IV. In the Mudarabah contract, the capital provider must share in the profits or losses arising from business for which the money was invested.
V. Uncertainty, Speculation is also prohibited on any transaction engaged into. Contracting parties should have full knowledge (expertise) of the counter values intended to be exchanged as a result of their transactions.

Islamic financing for women entrepreneurs (the role of Islamic banks)

Islamic banks as financial intermediaries also obtain savings from individuals with surplus and distribute them to entrepreneurs or consumers who need them to finance their business, goods and services base on three Islamic principles of sharing, sale and lease, Monzer (2005). This glamorous gesture of the Islamic banks should be extended to niche area of women in Sokoto with good business skills and intensions but limited by inadequate finance, which will also reflect a way of product diversification for Islamic banking investors. The inability of commercial banks to provide financial services to the poor has necessitated the need for an alternative means of acquiring finance by the women entrepreneurs Asyraf (2008).Considering the dominance of Islamic faith in northern part of Nigeria that confine their women and at the same time is sensitive to conventional interest based micro-financing the potential of Islamic version of micro financing needs to be explored for possible adoption in the region with high concentration of Muslim women with entrepreneurship potentials, Anayo (2013).

Abu Umar and Rafique (2009), analyze how Islamic banking system can be combined with micro financing using the Islamic finance products of Mudarabah, Musharaka and Mubaraha as a means to alleviate poverty. This process would be more viable if channeled towards development of women entrepreneurs, as some women still possess asset such as gold, silver and other commodities with monetary value, which they may have obtain during their matrimonial ceremony and still can be converted to cash which will serve as a contribution in the process of Mudarabah or Musharakah thereby, improving their business performances and economic wellbeing.

Muhammad, Aliyu and Zubair (2008) investigate the prospect of Islamic micro finance in Nigeria with reference to achievement in some Muslim countries including Malaysia. They opine that the concept of Ar-Rahnu, where Muslim women who possess gold as a valuable commodity can use it as an investment instrument or collateral in the case where cash is needed to pursue business activities. Furthermore, Widiyanto and Abdulgafar (2010) state that poverty alleviation, development of medium enterprises will be achieved through the establishment of Islamic micro finance system as well as liberating the Muslim society from the conventional riba based system. The availability of Sharia compliant finance such as Wakalah and Mudarabah and their effective management will enhance creativity among the poor Muslims, Wilson, (2007).

The Special Purpose Vehicle (SPV)

The Islamic Banking system as a financial intermediary between the surplus and the deficit is fully based on interest free mode of transactions .This is is to ensure that wealth is equally distributed in the society. This transactions are based on the Qur'an and the hadith of the holy prophet (SAW). However ,one of the major concerns for islamic banks invloved in microfinance activieties to the poor and small entreprenuers is the inherent risk (asyraf2008). He further noted that issue of risk is vital especially in banking business that requires efficient and effective mechanisms in managing asset and liability on banks' balance sheet in order to ensure their viability and sustainability. With regards to this , a possible alternatives for Islamic banks in Nigeria and Sokoto state in particular to get involved in financing the women entrepreneurs is through a special purpose vehicle or generally known as SPV.
Special purpose Vehicle is a legal entity created solely by a firm or bank (known as the sponsor) to serve a particular function or restricted activity (Gorton & Souleles, 2005). These activities

include the creation of financial instrument or facilitation of financial arrangement. The SPV has the power to carry out specific microfinance activities to help certain beneficiaries.

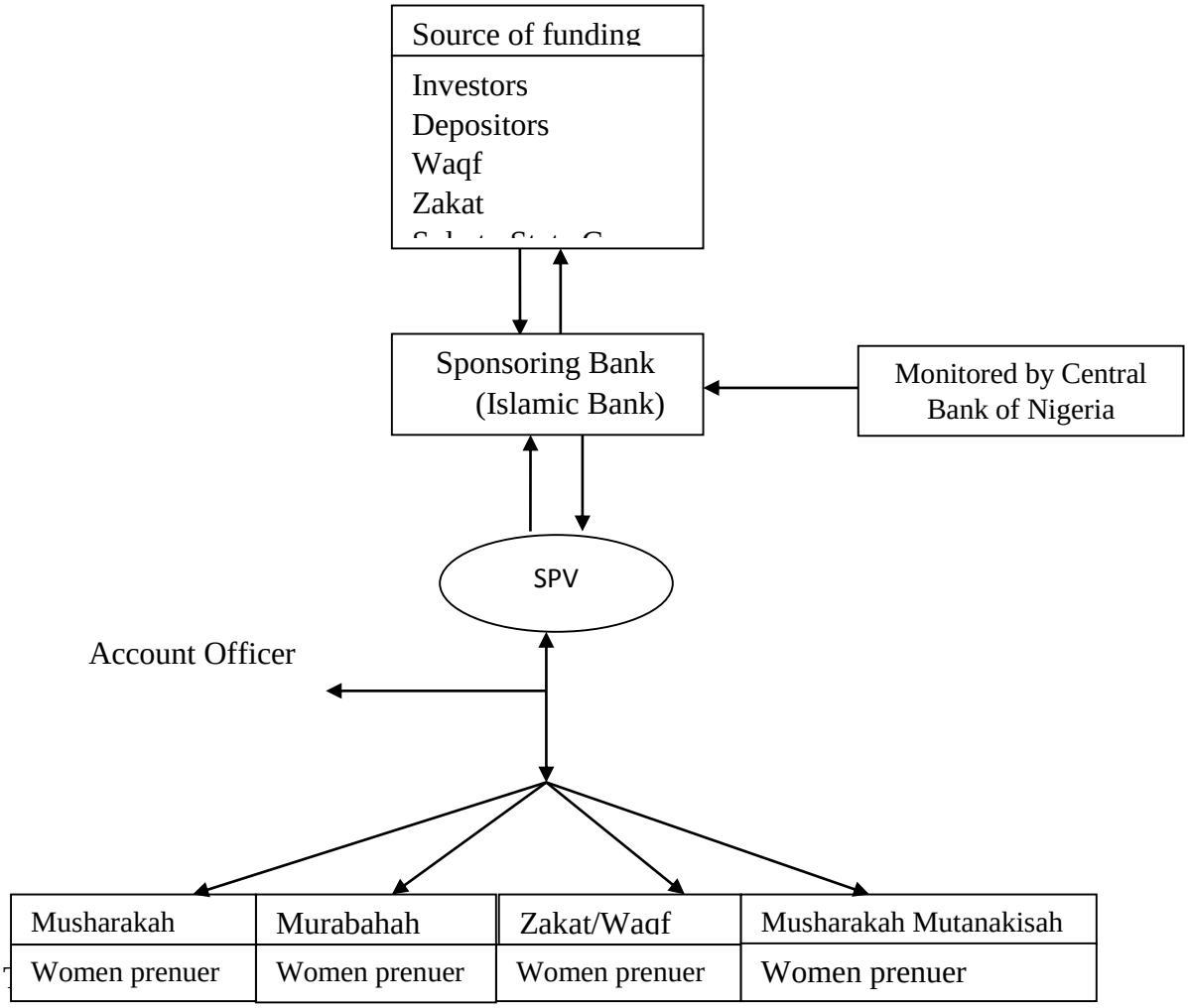
SPV can be subsidiary under the sponsoring firm or independent, in which it is not consolidated with the sponsoring firm for legal, tax and accounting purposes, also having an element of bankruptcy remote entity. Bankruptcy remote means that, in the event where the sponsoring firm or Islamic bank enters a bankruptcy procedure, the bank's creditors will not be able seize the assets of the SPV. For instance, to ensure that SPV is as bankruptcy remote as possible, its activities can be restricted. i e from issuing debt beyond a stated limit(Gorton & Souleles, 2005; Standard and Poor, 2002)

The legal form for an SPV may be a limited liability company, a corporation, limited partnership, or a trust. For instance in Malaysia, SPV usually takes the legal form of a trust which is governed by Trustee Act (asyraf 2008). The sponsoring bank appoints Trustee whom is to make sure that the designated funds allocated by the bank as a form of trust are only used for the prescribed objectives. Trust deed or constitutional documents most clearly state that the sponsoring bank has no right to control the affairs of the SPV. In these instances, the shares are being held by a charitable trust established for that purpose.

The following are list of characteristics for a bankruptcy remote SPV (Standard and Poor 2002).

- ✓ Limitations on ability to incur indebtedness
- ✓ Incorporation of separateness covenants restricting dealings with parents and affiliates
- ✓ Security interests over assets
- ✓ Restrictions on objects, powers and purposes
- ✓ An independent director (or functional equivalent) whose consent is required for the filing of a voluntary bankruptcy petition
- ✓ Restrictions or prohibitions on merger, consolidation, dissolution, liquidation, winding
- ✓ up, asset sales, transfers of equity interests, and amendments to the organisational
- ✓ documents relating to "separateness"
- ✓ "Non-petition" language (i.e., a covenant not to file the SPV into involuntary bankruptcy)

Figure 1: proposed model of financing women entrepreneurs via SPV



Capital providers: The Islamic bank mobilizes funds from various sources with specific microfinance objectives.

Islamic Banks: The Islamic bank creates a bankruptcy-remote SPV and allocates certain amount of funds to the SPV for the purpose financing women entrepreneurs.

Special Purpose Vehicle (SPV): The SPV make funds accessible to women entrepreneurs by engaging in various Islamic micro finance contracts depending on their needs and demands. Example, zakah and waqf funds can be allocated to poor women for consumption purpose and capacity building initiatives while musharakah, musharakah mutanakisah can be used to finance their productive economic activities.

Account officer: contracts will be signed through an agent or account officer of the bank. The account officer will act on behalf of the SPV to ensure that funds are channeled toward agreed

purposes and business is in accordance with Islamic law. The account officer is also tied with the responsibilities of visiting business location and reviewing contract deeds on time to time bases. This is to further ensure profit/lost sharing or finance repayment are met accordingly.

Central Bank of Nigeria (CBN): The central Bank overseas the activities of all the banks in Nigeria including Islamic banks. The central banks ensure that all Islamic banks products are halal and also ensure that all transactions are in accordance with sharia law which is guided by the Qur'an and the Hadith.

4. CONCLUSION AND RECOMMENDATION

The study shows that finance remain a major impediment to women entrepreneurs in starting-up and sustaining their business. Startup capital mostly came from personal saving, family and friends. Women who aspire to improve their business will need to source their finance elsewhere, due to the fact that the current mode of finance has not been able to improve their business performance. In regards to this, Islamic finance has a role to play in financing women entrepreneurs in Sokoto through its micro finance products such as Mudarabah, Musharakah, Murabahah, Ijarah, Wakalah etc. this can be achieved by initiating a special purpose vehicle (SPV) which can be specifically targeted toward this segment of entrepreneurs.

However, in the light of the above, the study recommends that Islamic banks in Nigeria should take advantage of this Niche area of women entrepreneurs and explore the opportunities untapped by making finance accessible to them through the special purpose vehicle. Sokoto state government should provide more financial support to women entrepreneurs in the state.

REFERENCES

Abdulqadir.A. (2009). *Constitutionality of Islamic Banking in Nigeria,Contemporary Issues in Islamic Jurisprudence.* Benin: Rawel Fortune Resources.

Abdul Rahim, A. (2007). Islamic Banking and Finance: Between Ideals And Realities. *Journal of Economics and Management* , pp 123-141.

Abdul Rahim.A. (2007). Islamic Microfinance: A Missing Component in Islamic Banking. *Kyoto Bulletin of Islamic Area Studies, 1-2* , pp 38-53.

Abdulsalam, O.I., Fuadah, J & Alias, M. H (2013). Why women are being poor in Kwara State, Nigeria: An Explanation from the Generic Theory. 5th *Islamic Economic System Conference 2013* (5th iECONS 2013). 4th -5th, September.

Abu Umar & Rafique Ahmad. (2009). Islamic Micro Finance. *The Evidence from Australia,Vol. 25 No. 3* , pp 217-235.

Academy for International Modern Studiesm(AIMS). (2013). *AIMS-UK Islamic Banking & Finance*. Retrieved April 20th , 2013, from learnislamicfinance.com: www.learnislamicfinance.com.

Anayo, N. (n.d.). *Women and Micro Credit Financing in Nigeria: Implications for Poverty Alleviation and Fight Against Vulnerability.* Retrieved 05/04/ 2012, from www.africa-platform.org/download/file/fid/27: www.africa- platform.org.

Asyraf.W. (2008). Banking for the Poor: The Role of Islamic Banking in Microfinance Initiatives. *Humanomics:International Journal of Systems and Ethics, Vol. 24, Issue 1* .

Badulescu.A. (2005). *Start-up financing sources: Does Gender Matter ? Some evidence From Eu and Romania.* Romania: University of Oradea Faculty of Economic Sciences.

Benson.R & Holly.E. (2008). Funding new Business Ventures: are Decison makers Biased Against Women Entrprenuers. *Journal of Business Venturing 4* , 249-261.

Cecile.N & Jaap.K. (2003). The relationship between financing criteria and the success factors of entrepreneurs in small and medium enterprises. *Development Southern Africa Vol. 20, No. 1* .

Central Bank of Nigeria (2010). Guidelines on Shariah Governance for Non-Interest Financial Institutions in Nigeria, *Financial Policy and Regulation Department Central Bank of Nigeria, Abuja december 31, 2010.*

Central Bank of Nigeria (2010). Framework for the Regulation and Supervision of institutions offering Non-Interest Financial Services in Nigeria, *Financial Policy and Regulation Department Central Bank of Nigeria, Abuja december 31, 2010.*

Daphne.H, Chinedum.N, Nicholas.H & Sylva.C. (2011). Challenges facing women entrepreneurs in Nigeria. *Management Research Review ,Vol. 34 No. 2* , pp. 221-235.

Dionco.A, Makinde.T, & Adetayo.O. (2005). *Evaluation of Policy Implementation in Women Entrepreneurship.* Retrieved 06 12, 2013

Elena.B, shwetlena.Sl & katherinr.T. (2011). how do female entreprenuers perform, evidence from three developing region. *small business economics,37* , pp.417-441.

Gaffar.A. (2008). The implication of using profit and loss sharing modes of finance in the banking system, with a particular reference to equity participation (partnership) method in Sudan. *Humanomics Vol. 24 No. 3, ,* pp. 182-206.

Gerard,Mc & Rahma,A. (2003). Women Entrepreneurs in Oman: Some barriers to success. *career development international* , pp. 339-346.

Giuseppe.L & George.C. (2011). Women Entrepreneurs, WomenWorkers: Opportunities and Constraints. *An Assessment of the Investment Climate in 26 States* of nigeria(p. chapter 5).

Gorton, G., & Souleles, N. S. (2005). Special Purpose Vehicles and Securitization, *NBER Working Paper No.11190*: National Bureau of Economic Research.

Iheduru, N. (2012). Women entrepreneurship and development: The gendering of microfinance in Nigeria. *8th International Interdisplinary Congress on Women.* Kampala: Makerere University.

Ismail.C. (2012). Integrating the social maslaha into Islamic finance. *Accounting Research Journal Vol. 25 No. 3* , pp. 166-184.

John C. & Samia. I. (2010). Beyond the Veil:The Influence of Islam on Female Entrepreneurship in a Conservative Muslim Context. *International Management Review, Vol 6,NO 1* .

Kamal.N, Wojou.R & Rana.N. (2009). Factors that affect women entrepreneurs: evidence from an emerging economy. *International Journal of Organizational Analysis Vol. 17 No. 3,* , pp. 225-247.

Kilian.B. (2004). A murabaha Transaction in an English Court. *Islamic Law and Society 11, 1* .

Koko.M.A. (2013). Capital Access Strategies and Enterprise Growth: A Study of Selected Indigenous Women Entrepreneurs in Sokoto Metropolis, Nigeria. *Journal of Management Studies* , 1-38.

Leyla.S & Nezameddin.F. (2011). Women's Entrepreneurship in Iran: A GEM Based Data Evidence. *Journal of Global Entrepreneurship Research Winter & Spring, Vol.1, No.1* , pp.45-57.

Mc Elwee, G. & Al-Riyami, R. (2003). Women entrepreneurs in Oman: Some barriers to success. *carrer business international* , 339- 346.

Miri L, Candida .B & Robert.H. (1997). Isreali women entrepreneurs: An examinantion of factors affecting performance. *Journal of business venturing 12* , 315-339.

Monday.O. (2012). Entrepreneurial Development and Interventionist Agencies in Nigeria. *International Journal of Business and Social Science, Vol. 3 No. 8 Special Issue* .

Monzer.K. (2005). Islamic Banking and Development : An alternative Banking Concept ?

Muhammed .A. D & zuabir.H. (2008). Microfinance in Nigeria and the Prospects of Introducing its Islamic Version There in the Light of Selected Muslim Countries 'Experience. *Munich Personal RePEc Archiv* , MPRA Paper No. 8127.

muhammad.I. (2002). islamic mode of financing. *meezan,s bank guide to islamic Banking* , 80-107.

Muhammad. Y.S. (2009). *An Introduction to the Theoretical Foundations Of Islamic Transactions.* Selangor Darul Ehsan: Ilmiah.

Muhammad.Y.S. (2012). *fiqh Mu'amalah in Banking and Finance.* kuala lumpur: Graduate School of Management, IIUM.

Muhammad.Z. (2008). the concept of Musharakah. *AlHuda CIBE Workshop at NIBAF – State Bank of Pakistan.* karachi: Jamia Darul Uloom Karachi.

Oluwakeyede, B. (2007, july 18). *Financing women-owned enterprises in Africa.* Retrieved 06 04, 2013, from The Nigerian tribune.

Organisation For Economic Co-operation And Development, OECD(2004). Women Entreprenuership: Issues and policies. *2nd OECD CONFERENCE OF MINISTERS RESPONSIBLE FOR SMALL AND MEDIUM-SIZED ENTERPRISES (SMEs)* (p. 74). istanbul: www.oecd.org.

Rasem.K. (2012). The entrepreneurial role of profit-and-loss sharing modes of finance: theory and practice. *Middle Eastern Finance and Management Vol. 5 No. 3* , pp. 203-228.

Sana'a. A & Ilhaamie.A. (2010). *Muslim Women Entrepreneurs : A Study on Success Factors,*. kuala lumpur: Department of Syariah and Management, Academy of Islamic Studies,University of Malaya.

Shirley.C,Robin.N & Anna.P. (2005). *Islamic Finance in the United State.* USA: sss Society.

Standard and Poor. (2002). *U.S. Legal Criteria for "Recycled" Special Purpose Entities*. Unpublished manuscript.

Sue.B, Caroline.M, & Peter.S. (1987). *Do Women Entrepreneurs Require Different Training ?*

Syed.Z. (2011). Evidence of Characteristics of Women Entrepreneurs in the Kingdom of Saudi Arabia. *International Journal of Entrepreneurial Behaviour & Research, Vol. 17 No. 5* , pp. 534-560.

Tatiana.M, Ivan.M, Nancy.C & Bojidar.G. (2006). Breaking the Family and Friends' Circle: Predictors of External Financing Usage Among Men and Women Entrepreneurs in a Transitional Economy. *Venture Capital, Vol. 8, No. 2* , pp.109 – 132.

ummi salwa,A.S. shahbudin & kamaruzaman jusoff. (2013). religion and business values for muslimpreneurs. *Middle-East Journal of Scientific Research 13 (Research in Contemporary Islamic Finance and Wealth Management)* , 61-68.

UNDP. (2007). *Human Development Report.* Washington D.C: United Nations.

Wendy.M,Yen.T & Siong-.C. (2007). Theorising a framework of factors influencing performance of women entrepreneurs in Malaysia. *Journal of Asia Entrepreneurship and Sustainability, Vol.111, Issue 2.*

Widiyanto & AbdulGafar. (2010). Improving the Effectiveness of Islamic Micro-financing:Learning from BMT Experience. *Humanomics Vol. 26 No.1,* , pp. 65-75.

wilson, R. (2007). Making Development Assistance Sustainable Through Islamic. *IIUM Journal of Economics and Management, 15(2)* , 197-217.

Zahra.A, Sima. O,Behrooz.Z & shirin.M. (2012). A Qualitative Study on Environmental Factors Affecting Iranian Women Entrepreneurs' Growth Orientation. *Journal of Management and Strategy, Vol. 3, No. 2.*

KESAN KEPERCAYAAN KEPADA WANG TERHADAP AMALAN PENGURUSAN KEWANGAN DALAM KALANGAN PENJAWAT AWAM

Mohamad Ali Roshidi Ahmad[1]
Nurul Shahrini Binti Kasian[2]

ABSTRAK

Kajian ini dijalankan bertujuan untuk melihat bagaimana pandangan penjawat awam khususnya para guru memegang kepercayaan dan sikap kepada wang sebagai suatu simbol yang simbolik dalam menguruskan kewangan mereka. Seramai 314 orang responden terlibat dalam kajian ini. Kajian ini adalah berbentuk deskriptif yang menggunakan soal selidik sebagai instrumen kajian. Data yang diperolehi dianalisis dengan menggunakan perisian komputer *Statistical Package For Social Science version 17.0* (SPSS 17.0). Dapatan kajian yang diperolehi menunjukkan tidak terdapat perbezaan yang signifikan antara kepercayaan kepada wang berdasarkan faktor jantina dan bidang pengajian melalui faktor keselamatan dan kesederhanaan wang berbeza dengan faktor kuasa dan prestij wang yang menunjukkan terdapat hubungan yang signifikan antara kepercayaan kepada wang dengan faktor jantina dan bidang pengajian. Selain itu, dapatan turut menjelaskan tidak terdapat perbezaan yang signifikan antara kepercayaan kepada wang berdasarkan faktor umur. Kajian juga menunjukkan bahawa terdapat perbezaan yang signifikan antara amalan pengurusan kewangan berdasarkan faktor jantina, umur dan bidang pengajian. Di samping itu, hasil kajian turut menunjukkan bahawa terdapat hubungan antara kepercayaan kepada wang berdasarkan faktor kuasa dan prestij wang dengan faktor kesederhanaan wang terhadap amalan pengurusan kewangan. Namun begitu, tidak terdapat hubungan antara kepercayaan kepada wang berdasarkan faktor keselamatan wang terhadap amalan pengurusan kewangan para guru. Sehubungan dengan itu, melalui dapatan kajian yang diperolehi menjelaskan bahawa setiap individu mempunyai pandangan kepercayaan kepada wang yang berbeza-beza dan sedikit sebanyak mempengaruhi amalan pengurusan kewangan mereka. Justeru itu, peningkatan pengetahuan individu tentang kepentingan kepercayaan kepada wang perlu dititikberatkan.

Kata Kunci: Kepercayaan kepada wang, amalan pengurusan kewangan.

Abstract

This study was conducted to see how the view of civil servants especially teachers hold beliefs and attitudes to money as a symbolic symbol in managing their finances. A total of 314 respondents participated in this study. This is a descriptive study using a questionnaire as a research instrument. Data were analyzed by using the computer software Statistical Package for Social Sciences version 17.0 (SPSS 17.0). The findings of the research showed that there was no significant difference between belief money based on gender and field of study through

[1] Pensyarah, Fakulti Pengurusan dan Ekonomi, UPSI. Boleh dihubungi melalui roshidi@fpe.upsi.edu.my
[2] Guru, SMK Bandar T6, Kluang

security and modesty factors differ by a factor of money power and prestige of money shows a significant relationship between belief money with gender and field of study. In addition, the findings also explain there is no significant difference between the beliefs in money based on the age factor. Studies have also shown that there are significant differences between the financial management practices based on gender, age and area of study. In addition, the study also shows that there is a relationship between the belief in the power of money and prestige on the money factor by a factor of modesty money on financial management practices. However, there is no relationship between the beliefs in money based on a security factor of money on financial management practices of the teachers. Accordingly, through the findings explained that each individual has a view of belief in different currencies and to some extent affect their financial management practices. Therefore, increasing individual knowledge about the importance of belief to the money should be emphasized.

Keywords: Beliefs in money, financial management practices.

1. PENGENALAN

Matlamat negara Malaysia adalah untuk memperoleh ekonomi yang maju dan berpendapatan tinggi menjelang Wawasan 2020 (Pengurusan dan Prospek Ekonomi 2012). Oleh yang demikian, dalam usaha memperkukuh kedudukan kewangan rakyat yang berbilang kaum, masyarakat memperoleh banyak manfaat daripada pembangunan ekonomi dan tidak terkecuali juga bagi penjawat awam. Mereka mendapat perhatian melalui pembangunan ekonomi negara seperti penambahbaikan struktur gaji penjawat awam, kenaikan pangkat mengikut skim *time-based* bagi para guru, kenaikan pencen tahunan pesara dan kemudahan pinjaman.

Sehubungan dengan itu, golongan penjawat awam hendaklah menguruskan sumbangan dan bantuan kewangan yang diperolehi dengan baik untuk menanggung kos sara hidup yang tinggi demi kesejahteraan kehidupan pada masa akan datang. Oleh yang demikian, menurut Furnham, 1984 dalam Roberts dan Jones (2001) kepercayaan terhadap wang berdasarkan tiga faktor utama yang dibentuk iaitu kuasa dan prestij wang, keselamatan wang dan kesederhanaan wang perlu dinilai dalam golongan tersebut kerana ianya dikatakan mampu mempengaruhi amalan pengurusan kewangan individu dan masyarakat. Wang boleh mempengaruhi kehidupan manusia sehingga terdapat sesetengah individu terlupa batasan ketika berbelanja dan menyebabkan seseorang itu gagal merancang kewangan mereka dengan baik.

2. PERNYATAAN MASALAH

Wang menjadi topik bicara yang berkait rapat dalam kehidupan seseorang terutama sekali bagi individu yang telah menempuhi alam pekerjaan. Walau bagaimanapun, bukan semua orang mengetahui akan kuasa wang tersebut. Keadaan ini merujuk kepada kajian Sadli Osman dan Englimen Roslan (2010) di mana dapatan menunjukkan permasalahan kewangan penjawat awam seperti perbelanjaan yang tinggi, bebanan hutang, tanggungan yang banyak, dan tiada simpanan berada pada tahap yang serius. Tambahan lagi, seseorang yang mempunyai perasaan kuat terhadap wang akan menyebabkan mereka sukar untuk membuat keputusan dan mewujudkan hubungan yang harmoni berkaitan dengan wang yang dimiliki (Mohamad Fazli, Hayhoe, dan Lay Ai, 2006).

Masalah ini berlaku kerana mereka tidak sedar akan perlunya mempunyai sikap dan kepercayaan terhadap wang. Keadaan ini selari dengan pernyataan Presiden CUEPACS, Datuk

Omar Osman (2011) di mana sebanyak 80 peratus daripada penjawat awam mempunyai pelbagai hutang termasuk hutang dari bank mahupun koperasi. Keadaan ini dipercayai didorong oleh kebolehan mendapatkan pinjaman dengan mudah melalui status sebagai penjawat awam. Masalah yang berlaku dapat dikaitkan dengan kepercayaan pekerja terhadap kuasa dan prestij wang yang kuat yang menjadikan mereka banyak berbelanja dan dikategori sebagai pembeli kompulsif (Durvasula dan Lysonski, 2010).

Oleh yang demikian, bagi menangani pelbagai persoalan yang timbul tentang isu amalan pengurusan kewangan dalam kalangan penjawat awam, maka wajar satu tinjauan dijalankan untuk melihat kepercayaan kepada wang dalam kalangan penjawat awam dari sektor pendidikan terhadap amalan pengurusan kewangan dalam kehidupan mereka.

3. OBJEKTIF

Objektif kajian ini adalah seperti berikut:

i. Mengenalpasti perbezaan kepercayaan individu kepada wang berdasarkan faktor demografi.
ii. Mengenalpasti perbezaan amalan pengurusan kewangan individu berdasarkan faktor demografi.
iii. Mengkaji pengaruh kepercayaan individu kepada wang terhadap amalan pengurusan kewangan.

4. METODOLOGI

Kajian dijalankan dengan menggunakan kaedah tinjauan. Kajian telah dilakukan ke atas penjawat awam yang berkhidmat sebagai guru di 23 buah sekolah menengah harian di daerah Kluang. Merujuk kepada data statistik yang dikeluarkan oleh Pejabat Pelajaran Daerah Kluang (PPD Kluang) sehingga Julai 2012, bilangan keseluruhan guru di Sekolah Menengah Kebangsaan (SMK) harian di daerah Kluang ialah seramai 1,780 orang. Maka, seramai 314 orang guru telah dipilih sebagai sampel (Krejcie dan Morgan, 1970).

Borang soal selidik telah digunakan sebagai instrumen utama dalam kajian ini. Menurut Mohamad Najib (2003), instrumen berbentuk soal selidik mudah ditadbir kerana data mudah diproses untuk dianalisis. Selain itu, kaedah soal selidik membolehkan penyelidik memberikan darjah kerahsiaan yang tinggi terhadap individu yang mengambil bahagian di dalam kajian ini. Keduanya, kaedah soal selidik yang digunakan membantu memudahkan penyelidik mendapatkan sejumlah data dan pendapat daripada bilangan responden yang besar (Diana dan Steve, 2009).

Borang soal selidik yang dibentuk mengandungi tiga bahagian utama iaitu bahagian A, B dan C. Bahagian A merupakan bahagian demografi responden dan terdapat 10 item di bawah bahagian ini. Bahagian B pula mengandungi 11 soalan berkaitan amalan pengurusan kewangan individu. Amalan pengurusan kewangan merangkumi aspek perbelanjaan, perancangan kewangan dan simpanan.

Sementara itu, bahagian C mengandungi tiga item utama yang berkaitan faktor-faktor kepercayaan terhadap wang. Tiga faktor tersebut ialah faktor kuasa dan prestij wang, keselamatan wang dan kesederhanaan wang. Terdapat 36 soalan yang digunakan di dalam

bahagian ini. Soalan yang dikaitkan dengan item kepercayaan kepada wang merupakan adaptasi dan pengubahsuaian soalan daripada Skala Sikap terhadap Wang (MAS) oleh Yamauchi dan Templer (1982) dan Skala Kepercayaan dan Tingkah laku terhadap Wang (MBBS) oleh Furnham (1984).

5. DAPATAN KAJIAN

Bahagian ini akan membincangkan dapatan kajian hasil penganalisaan data daripada 314 orang responden kajian. Dapatan kajian akan dibincangkan mengikut semua hipotesis yang telah dibentuk berdasarkan objektif dan persoalan kajian berkaitan kesan kepercayaan kepada wang terhadap amalan pengurusan kewangan dalam kalangan penjawat awam. Faktor kepercayaan kepada wang dibahagikan kepada tiga iaitu kuasa dan prestij wang, keselamatan wang dan kesederhanaan wang.

Ho_1 : Tidak terdapat perbezaan yang signifikan terhadap kepercayaan kepada wang berdasarkan faktor jantina.

Jadual 1: Ringkasan Ujian-t – Perbandingan faktor jantina terhadap kepercayaan kepada wang.

	Jantina	**N**	**Min**	**Sig. (p)**
(F1) Kuasa dan Prestij Wang	Lelaki	111	23.92	0.011
	Perempuan	203	25.96	
	Jumlah	314	25.24	
(F2) Keselamatan Wang	Lelaki	111	33.50	0.935
	Perempuan	203	33.55	
	Jumlah	314	33.54	
(F3) Kesederhanaan Wang	Lelaki	111	33.80	0.273
	Perempuan	203	34.54	
	Jumlah	314	34.28	

Jadual 1 menunjukkan keputusan ujian-t berkaitan kepercayaan kepada wang terhadap faktor jantina. Kesemua faktor kepercayaan kepada wang iaitu faktor kuasa dan prestij wang, keselamatan wang dan kesederhanaan wang diuji terhadap faktor jantina.

Keputusan ujian-t di atas menunjukkan terdapat perbezaan yang signifikan antara lelaki dan perempuan terhadap kepercayaan kepada wang berdasarkan faktor kuasa dan prestij wang di mana nilai $p=0.011$ ($p < 0.05$). Tambahan lagi, perbezaan yang signifikan antara lelaki dan perempuan di mana skor min guru perempuan terhadap kepercayaan kepada wang berdasarkan faktor kuasa dan prestij wang adalah 25.96 dan guru lelaki adalah 23.92. Perbezaan skor min antara kumpulan jantina ini adalah sebanyak 2.04. Oleh yang demikian, dapat dijelaskan bahawa Ho_1 gagal diterima.
Selain itu, dapatan ujian menjelaskan tidak terdapat perbezaan yang signifikan antara lelaki dan perempuan terhadap kepercayaan kepada wang berdasarkan faktor keselamatan wang apabila dapatan ujian menunjukkan nilai $p=0.935$ ($p > 0.005$). Justeru itu, dapatan menunjukkan bahawa Ho_1 gagal ditolak.

Tambahan lagi, merujuk kepada pengujian kepercayaan kepada wang berdasarkan faktor kesederhanaan wang dengan jantina, dapatan menunjukkan keputusan yang sama dengan

dapatan terhadap faktor keselamatan wang. Melalui analisis data yang dibuat, hasil ujian F menyatakan bahawa tidak terdapat perbezaan yang signifikan kepercayaan kepada wang berdasarkan faktor kesederhanaan wang antara lelaki dan perempuan di mana nilai p=0.273 (p > 0.05). Dapatan tersebut sekaligus menyatakan bahawa Ho_1 gagal ditolak.

Sehubungan dengan itu, dapat disimpulkan bahawa merujuk kepada faktor kuasa dan prestij wang, Ho_1 gagal diterima kerana terdapat perbezaan yang signifikan antara kepercayaan kepada wang terhadap faktor jantina. Berbeza pula dengan dapatan bagi faktor keselamatan dan kesederhanaan wang apabila Ho_1 gagal ditolak kerana tidak terdapat perbezaan yang signifikan antara kepercayaan kepada wang dengan jantina.

Ho_2 : Tidak terdapat perbezaan yang signifikan terhadap kepercayaan kepada wang berdasarkan faktor umur.

Jadual 2: Ringkasan Ujian ANOVA – Perbandingan perbezaan umur terhadap kepercayaan kepada wang.

Faktor	**Umur**	**N**	**Min**	**F**	**Sig. (p)**
(F1) Kuasa dan Prestij Wang	30 Tahun dan Ke Bawah	107	25.47	0.823	0.482
	31 Tahun – 40 Tahun	122	25.23		
	41 Tahun – 50 Tahun	71	25.20		
	50 Tahun ke Atas	14	23.71		
	Jumlah	314	25.24		
(F2) Keselamatan Wang	30 Tahun dan Ke Bawah	107	34.18	1.057	0.368
	31 Tahun – 40 Tahun	122	33.13		
	41 Tahun – 50 Tahun	71	33.17		
	50 Tahun ke Atas	14	34.00		
	Jumlah	314	33.54		
(F3) Kesederhanaan Wang	30 Tahun dan Ke Bawah	107	34.88	0.758	0.519
	31 Tahun – 40 Tahun	122	34.03		
	41 Tahun – 50 Tahun	71	34.07		
	50 Tahun ke Atas	14	32.93		
	Jumlah	314	34.28		

Jadual 2 menunjukkan keputusan ujian ANOVA sehala (ujian F) antara kepercayaan kepada wang terhadap faktor umur responden. Ketiga-tiga faktor kepercayaan kepada wang iaitu faktor kuasa dan prestij wang, keselamatan wang dan kesederhanaan wang setiap satunya diuji dengan faktor umur responden. Keputusan ujian F di atas menunjukkan tidak terdapat perbezaan yang signifikan kepercayaan kepada wang berdasarkan faktor kuasa dan prestij wang dengan faktor umur di mana nilai F=0.275 dan p=0.843 (p > 0.05). Oleh yang demikian, dapatlah dinyatakan bahawa Ho_2 gagal ditolak.

Di samping itu, merujuk kepada pengujian kepercayaan kepada wang berdasarkan faktor keselamatan wang dengan umur, dapatan memberikan keputusan yang sama dengan ujian terhadap faktor kuasa dan prestij wang di mana melalui analisis yang dibuat, dapatan ujian F menunjukkan tidak terdapat perbezaan yang signifikan kepercayaan kepada wang berdasarkan

faktor keselamatan wang dengan umur responden di mana nilai F=1.057 dan p=0.368 (p > 0.05). Dapatan tersebut telah menjelaskan bahawa Ho_2 ini gagal ditolak.

Tambahan lagi, melihat kepada faktor kepercayaan kepada wang yang ketiga iaitu kesederhanaan wang dengan umur, dapatan turut memberikan hasil ujian yang sama dengan dapatan sebelum ini. Ini bermaksud keputusan yang diperolehi melalui ujian F menunjukkan tidak terdapat perbezaan yang signifikan antara kepercayaan kepada wang berdasarkan faktor kesederhanaan wang dengan umur apabila nilai F=0.758 dan p=0.519 (p > 0.05). Oleh itu, dapatan tersebut menjelaskan bahawa Ho_2 gagal ditolak. Kesimpulannya, melalui ketiga-tiga ujian yang dibuat ke atas setiap faktor kepercayaan kepada wang iaitu kuasa dan prestij wang, keselamatan wang dan kesederhanaan wang, keseluruhan dapatan menunjukkan $H0_2$ gagal ditolak.

Ho_3 : Tidak terdapat perbezaan yang signifikan terhadap kepercayaan kepada wang berdasarkan bidang pengajian.

Jadual 3: Ringkasan Ujian ANOVA – Perbandingan perbezaan bidang pengajian terhadap kepercayaan kepada wang.

Faktor	**Bidang Pengajian**	**N**	**Min**	**F**	**Sig. (p)**
(F1) Kuasa dan Prestij wang	Aliran Ikhtisas dan Perdagangan	44	25.30	4.035	0.008
	Aliran Sains Kemanusiaan	96	26.91		
	Aliran Sains Tulen	99	23.58		
	Aliran Bahasa, Sastera dan Kesenian	75	25.25		
	Jumlah	314	25.24		
(F2) Keselamatan Wang	Aliran Ikhtisas dan Perdagangan	44	33.32	0.550	0.648
	Aliran Sains Kemanusiaan	96	33.94		
	Aliran Sains Tulen	99	33.09		
	Aliran Bahasa, Sastera dan Kesenian	75	33.73		
	Jumlah	314	33.54		
(F3) Kesederhanaan Wang	Aliran Ikhtisas dan Perdagangan	44	35.00	1.228	0.300
	Aliran Sains Kemanusiaan	96	34.36		
	Aliran Sains Tulen	99	33.43		
	Aliran Bahasa, Sastera dan Kesenian	75	34.87		
	Jumlah	314	34.28		

Jadual 3 menunjukkan keputusan ujian ANOVA sehala antara kepercayaan kepada wang terhadap perbezaan bidang pengajian responden. Sementara itu, ketiga-tiga faktor kepercayaan kepada wang iaitu kuasa dan prestij wang, keselamatan wang dan kesederhanaan wang turut diuji dengan faktor bidang pengajian responden. Oleh yang demikian, keputusan ujian F di atas menunjukkan dapatan bagi setiap ujian yang telah dibuat terhadap faktor kepercayaan kepada wang dengan bidang pengajian responden.

Berdasarkan jadual di atas, keputusan ujian F menunjukkan terdapat perbezaan yang signifikan antara bidang pengajian responden terhadap kepercayaan kepada wang berdasarkan faktor kuasa dan prestij wang di mana nilai F=4.035 dan p=0.008 (p < 0.05). Perbezaan skor min yang signifikan antara bidang pengajian menunjukkan skor min bagi aliran Ikhtisas dan Perdagangan adalah M=25.30, aliran Sains Kemanusiaan adalah M=26.91, aliran Sains Tulen adalah M=23.58 dan aliran Bahasa, Sastera dan Kesenian adalah M=25.25. Sehubungan dengan itu,

jika merujuk kepada faktor kuasa dan prestij wang, hasil kajian menjelaskan bahawa Ho_3 gagal diterima.

Selain itu, merujuk kepada faktor keselamatan wang, keputusan ujian F menunjukkan dapatan bahawa tidak terdapat perbezaan yang signifikan antara kepercayaan kepada wang dengan bidang pengajian di mana nilai F=0.550 dan p=0.648 (p > 0.05). Ini menyatakan bahawa berdasarkan faktor keselamatan wang, $H0_3$ adalah gagal ditolak.

Di samping itu, dapatan yang diperolehi melalui analisis terhadap faktor keselamatan wang turut memberikan hasil yang serupa kepada faktor kesederhanaan wang apabila keputusan ujian F menunjukkan tidak terdapat perbezaan yang signifikan antara kepercayaan kepada wang dengan bidang pengajian di mana nilai F=1.228 dan p=0.300 (p > 0.05). Sehubungan dengan itu, melalui faktor kesederhanaan wang, $H0_3$ adalah gagal ditolak.

Keseluruhannya, dapatan menjelaskan bahawa berdasarkan faktor kuasa dan prestij wang, Ho_3 gagal diterima kerana terdapat perbezaan yang signifikan antara kepercayaan kepada wang dengan bidang pengajian. Walau bagaimanapun, berdasarkan faktor keselamatan dan kesederhanaan wang, $H0_3$ gagal ditolak kerana tidak terdapat perbezaan yang signifikan antara kepercayaan kepada wang dengan bidang pengajian responden.

Ho_4 : Tidak terdapat perbezaan yang signifikan tentang amalan pengurusan kewangan berdasarkan faktor jantina.

Jadual 4: Ringkasan Ujian-t – Perbandingan faktor jantina terhadap amalan pengurusan kewangan.

	N	**Min**	**Sig. (p)**
Lelaki	111	26.11	0.041
Perempuan	203	27.46	
Jumlah	314	26.98	

*Signifikan pada aras keertian p < 0.05

Jadual 4 menunjukkan data keputusan ujian-t berkaitan amalan pengurusan kewangan berdasarkan faktor jantina. Justeru itu, keputusan ujian di atas menunjukkan terdapat perbezaan skor min yang signifikan terhadap amalan pengurusan kewangan pada nilai p=0.041 antara lelaki (M=26.11) dan perempuan (M=27.46). Oleh yang demikian, hasil tersebut menjelaskan bahawa Ho_4 gagal diterima.

Ho_5 : Tidak terdapat perbezaan yang signifikan tentang amalan pengurusan kewangan berdasarkan faktor umur.

Jadual 5: Ringkasan Ujian ANOVA – Perbandingan faktor umur terhadap amalan pengurusan kewangan

	N	**Min**	**F**	**Sig. (p)**
30 tahun dan ke bawah	107	25.45	9.182	0.000
31 tahun – 40 tahun	122	27.42		
41 tahun – 50 tahun	71	29.24		

50 tahun ke atas	14	23.50
Jumlah	314	26.9841

Jadual 5 pula menunjukkan data keputusan ujian ANOVA sehala berkaitan amalan pengurusan kewangan berdasarkan faktor umur. Justeru itu, keputusan ujian F di atas menunjukkan terdapat perbezaan skor min yang signifikan terhadap amalan pengurusan kewangan pada nilai F=9.182 dan p=0.000 ($p < 0.05$) antara umur para guru SMK daerah Kluang di mana umur "30 tahun dan ke bawah" (M=25.45), "umur 31 tahun sehingga 40 tahun" (M=27.42), "umur 41 tahun sehingga 50 tahun" (M=29.24), dan "umur 50 tahun ke atas" (M=23.50). Oleh yang demikian, keputusan menunjukkan bahawa Ho_4 gagal diterima.

Ho_6 : Tidak terdapat perbezaan yang signifikan tentang amalan pengurusan kewangan berdasarkan bidang pengajian.

Jadual 6: Ringkasan Ujian ANOVA – Perbandingan perbezaan bidang pengajian terhadap amalan pengurusan kewangan.

	N	**Min**	**F**	**Sig. (p)**
Aliran Ikhtisas dan Perdagangan	44	27.93	6.482	0.000
Aliran Sains Kemanusiaan	96	26.77		
Aliran Sains Tulen	99	25.33		
Aliran Bahasa, Sastera dan Kesenian	75	28.88		
Jumlah	314	26.98		

Jadual 6 menunjukkan data keputusan ujian ANOVA sehala berkaitan amalan pengurusan kewangan berdasarkan faktor bidang pengajian. Justeru itu, keputusan ujian F di atas menunjukkan terdapat perbezaan skor min yang signifikan terhadap amalan pengurusan kewangan pada nilai F=6.482 dan p=0.000 ($p < 0.05$) antara bidang pengajian para guru SMK daerah Kluang.

Perbezaan skor min para guru mengikut bidang pengajian adalah aliran Ikhtisas dan Perdagangan dengan nilai M=27.93, aliran Sains Kemanusiaan, M=26.77, aliran Sains Tulen dengan nilai M=25.33 dan aliran Bahasa, Sastera dan Kesenian pada M=28.88. Oleh yang demikian, hasil analisis menunjukkan bahawa Ho_4 gagal diterima.

Ho_7 : Tidak terdapat hubungan antara kepercayaan kepada wang berdasarkan faktor kuasa dan prestij wang terhadap amalan pengurusan kewangan.

Jadual 7: Ringkasan Ujian Korelasi – Hubungan kepercayaan kepada wang berdasarkan faktor kuasa dan prestij wang terhadap amalan pengurusan kewangan.

		Amalan Pengurusan Kewangan	Faktor Kuasa dan Prestij Wang
Amalan Pengurusan Kewangan	Korelasi Pearson	1	.239**
	Sig (2-hujung)/p		.000
	N	314	314

** Nilai Korelasi signifikan pada aras keertian 0.01 (2 hujung)

Jadual 7 menunjukkan hubungan antara kepercayaan kepada wang berdasarkan faktor kuasa dan prestij wang dengan amalan pengurusan kewangan para guru yang berada di SMK daerah Kluang. Berdasarkan analisis yang dibuat, keputusan ujian F menunjukkan terdapat hubungan positif yang sangat signifikan antara kepercayaan kepada wang melalui faktor kuasa dan prestij wang terhadap amalan pengurusan kewangan para guru.

Sementara itu, hubungan yang signifikan ini dapat ditunjukkan dengan nilai pekali Korelasi Pearson 0.239 dan nilai p=0.000 ($p < 0.05$). Oleh itu dapat disimpulkan bahawa keputusan ujian F secara keseluruhannya mendapati bahawa Ho_7 gagal diterima. Keputusan tersebut menunjukkan peningkatan amalan pengurusan kewangan adalah berhubungan dengan peningkatan dalam kepercayaan kepada wang mengikut faktor kuasa dan prestij wang.

Ho_8 : Tidak terdapat hubungan antara kepercayaan kepada wang berdasarkan faktor keselamatan wang terhadap amalan pengurusan kewangan.

Jadual 8: Ringkasan Ujian Korelasi – Hubungan kepercayaan kepada wang berdasarkan faktor keselamatan wang terhadap amalan pengurusan kewangan.

		Amalan Pengurusan Kewangan	Keselamatan Wang
Amalan Pengurusan Kewangan	Korelasi Pearson	1	.084
	Sig (2-hujung)/p		.136
	N	314	314

Jadual 8 menunjukkan hubungan antara kepercayaan kepada wang berdasarkan faktor keselamatan wang dengan amalan pengurusan kewangan para guru yang berada di SMK daerah Kluang. Berdasarkan analisis yang dibuat, keputusan ujian F menunjukkan tidak terdapat hubungan yang signifikan antara kepercayaan kepada wang melalui faktor keselamatan wang terhadap amalan pengurusan kewangan para guru.

Sementara itu, hubungan yang tidak signifikan ini dapat ditunjukkan dengan nilai pekali Korelasi Pearson 0.084 dan nilai p=0.136 ($p > 0.05$). Oleh itu dapat disimpulkan bahawa keputusan ujian F secara keseluruhannya mendapati bahawa Ho_8 gagal ditolak. Keputusan tersebut menunjukkan peningkatan amalan pengurusan kewangan adalah tidak berhubungan dengan peningkatan dalam kepercayaan kepada wang mengikut faktor keselamatan wang.

Ho_9 : Tidak terdapat hubungan antara kepercayaan kepada wang berdasarkan faktor kesederhanaan wang terhadap amalan pengurusan kewangan.

Jadual 9: Ringkasan Ujian Korelasi – Hubungan kepercayaan kepada wang berdasarkan faktor kesederhanaan wang terhadap amalan pengurusan kewangan.

		Amalan Pengurusan Kewangan	Kesederhanaan Wang
Amalan Pengurusan Kewangan	Korelasi Pearson	1	.176**
	Sig (2-hujung)/p		.002
	N	314	314

** Nilai Korelasi signifikan pada aras 0.01 (2 hujung)

Jadual 9 menunjukkan hubungan antara kepercayaan kepada wang berdasarkan faktor kesederhanaan wang dengan amalan pengurusan kewangan para guru yang berada di SMK daerah Kluang. Berdasarkan analisis yang dibuat, keputusan ujian F menunjukkan terdapat hubungan positif yang signifikan antara kepercayaan kepada wang melalui faktor kesederhanaan wang terhadap amalan pengurusan kewangan para guru.

Hubungan yang sangat beerti ini dapat ditunjukkan dengan nilai pekali korelasi pearson 0.176 dan nilai p=0.002 ($p < 0.05$). Oleh itu dapat disimpulkan bahawa keputusan ujian F secara keseluruhannya mendapati bahawa Ho_9 gagal diterima. Keputusan tersebut menunjukkan peningkatan amalan pengurusan kewangan adalah berhubungan dengan peningkatan dalam kepercayaan kepada wang mengikut faktor kesederhanaan wang.

6. KESIMPULAN

Hasil kajian yang diperolehi jelas menunjukkan bahawa kepercayaan kepada wang melalui tiga faktor kepercayaan yang berbeza iaitu kuasa dan prestij wang, keselamatan wang dan kesederhanaan wang telah mempengaruhi amalan para guru dalam menguruskan kewangan mereka dalam kehidupan seharian. Tambahan lagi, menurut kajian yang dilakukan oleh Mohamad Fazli (2006), beliau mencadangkan agar kepercayaan kepada wang perlu dititikberatkan dalam diri pekerja dalam usaha membantu pengurusan kewangan bagi pekerja sektor awam mahupun swasta kerana amalan pengurusan wang yang baik, sikap dan nilai positif terhadap wang membawa kepada kesejahteraan.

Di samping itu, dapatan kajian ini turut menunjukkan bahawa terdapat hubungan antara kepercayaan kepada wang berdasarkan faktor kuasa dan prestij wang serta faktor kesederhanaan wang terhadap amalan pengurusan kewangan yang menyebabkan hipotesis nul (Ho_7 dan Ho_9) gagal diterima berbanding tidak terdapat hubungan antara kepercayaan kepada wang berdasarkan faktor keselamatan wang dengan amalan pengurusan kewangan yang membolehkan hipotesis nul (Ho_8) gagal ditolak. Oleh yang demikian, jelaslah bahawa kepercayaan kepada wang boleh mempengaruhi amalan pengurusan kewangan para guru SMK di daerah Kluang.

RUJUKAN

Chua Yan Piaw (2008). *Asas Statistik Penyelidikan: Analisis Data Skala Ordinal dan Skala Nominal.* Kuala Lumpur: McGraw-Hill.

Diana dan Steve. (2009). *Key Issues for Education Researchers.* London: SAGE Publications Ltd.

Durvasula S., dan Lysonski S. (2010). Money, money, money - How Do Attitudes Towards Money Impact Vanity And Materialism? - the case of young Chinese consumers. *Journal of Consumer Marketing*, 169-179.

Furnham. (1984). Many Sides of The Coin: The Psychology of Money Usage . *Personality and Individual Differences*, 95-103.

Krejcie dan Morgan, R. V. (1970). Determining Sample Size For Research. *Educational and Psychological Measurement*, 607-610.

Laporan Ekonomi 2012/2013. (n.d.). Retrieved Jun 10, 2012, from Pengurusan dan Prospek Ekonomi: http://www.treasury.gov.my/pdf/ekonomi/le/1213/bab1.pdf

Mark Winterbottom. (2009). Taking A Quantitative Approach. In E. Wilson, *School-based Research; A Guide for Education Students* (pp. 137-153). City Road: SAGE Publications Ltd.

Mohamad Fazli Sabri, Hayhoe. C. R. dan Lay Ai. (2006). Attitudes, Values and Belief Towards Money: Gender and Working Sector Comparison. *Pertanika Journal Social Science & Human Vol. 14, No. 2*, 121-130.

Mohamad Najib Abdul Ghafar. (2003). *Penyelidikan Dalam Pendidikan.* Skudai: Universiti Teknologi Malaysia.

Muslimin, A. M. (2011, Julai 7). *Bilangan Guru*. Retrieved Mac 30, 2012, from Pejabat Pelajaran Daerah Kluang: http://ppdkluang.edu.my

Omar Osman. (2011, Mac 02). *Penjawat Awam Perlu Bijak Menguruskan Kewangan Elak Bankrap*. Retrieved Mei 04, 2012, from Blogspot CUEPACS: http://cuepacs.blogspot.com

Roberts dan Jones. A. (2001). Money Attitudes, Credit Card Use, and Compulsive Buying among American College Students. *The Journal of Consumer Affairs Vol. 35, No. 21*, 213-237.

Ros McLellan. (2009). Analysing Quantitative Data. In E. Wilson, *School-based Research: A Guide for Education Students* (pp. 154-168). City Road: SAGE Publications Ltd.

Sadli Osman. dan Englimen, R.(2010). Persepsi Penjawat Awam Terhadap Masalah Kewangan: Satu Kajian Kualitatif di Sektor. *Jurnal Psikologi* , 1-10.

Yamauchi , K.T., & Templer, D. I. (1982). The Development of a Money Attitude Scale. *Journal of Personality Assessment* , 522-528.

THE IMPACT OF THE FINANCIAL PERFORMANCE AND PROFITABILITY IN THE INTEREST RATE ON CONVENTIONAL BANKING SECTOR COMMERCIAL BANKS AND SYARIAH COMMERCIAL BANKS AT THE INDONESIA STOCK EXCHANGE

Marlina Widiyanti[3]
Abdul Ghafar Ismail[4]

ABSTRACT

This research aims to know the difference of financial performance and BI Interest rate between Conventional Banks and Islamic Banks. The research use fundamental factors of company: the influence of capital ratio (CAR), the asset quality ratio (NPL and NPF), the liquidity ratio (LDR and FDR), the efficiency ratio (BOPO), and BI rate to profitability ratio (ROA) on Conventional Banks and Islamic Banks. The population in this research consist of 120 Conventional Banks and 11 Islamic Banks in Indonesia. Samples consist of 3 Conventional Banks and 3 Islamic Banks in Indonesia which are taken by purposive sampling method. The result shows that there is a difference of financial performance and BI Interest rate between Conventional Banks and Islamic Banks, variables of CAR, NPL, LDR, BOPO, and BI Interest rate have a positive and significant influence to ROA on Conventional Banks and variables of CAR, NPF, FDR, BOPO, and BI Interest rate have a positive and significant influence to ROA on Islamic Banks.

Keywords: Capital, Asset Quality, Liquidity, Profitability, and BI Interest Rate

1. PENDAHULUAN

1.1. Latar Belakang

During the past four decades, however, Islamic banking has grown rapidly in terms of size and the number of players. Islamic banking is currently practiced in more than 50 countries worldwide. Islamic banking is practiced in, but not limited to, the following countries: Albania, Algeria, Australia, Bahamas, Bahrain, Bangladesh, British Virgin Islands, Brunei, Canada, Cayman Islands, North Cyprus, Djibouti, Egypt, France, Gambia, Germany, Guinea, India, Indonesia, Iran, Iraq, Italy, Ivory Coast, Jordan, Kazakhstan, Kuwait, Lebanon, Luxembourg, Malaysia, Mauritania, Morocco, Netherlands, Niger, Nigeria, Oman, Pakistan, Palestine, Philippines, Qatar, Russia, Saudi Arabia, Senegal, Singapore, South Africa, Sri Lanka, Sudan, Switzerland, Tunisia, Turkey, Trinidad & Tobago, United Arab Emirates, United Kingdom, United States and Yemen.

Menurut Undang-Undang No. 10 Tahun 1998 Indonesia , bank adalah badan usaha yang menghimpun dana dari masyarakat dalam bentuk simpanan dan menyalurkan dana kepada masyarakat dalam bentuk kredit dan atau bentuk-bentuk lainnya dalam rangka meningkatkan

[3] Universitas Sriwijaya
[4] Universiti Kebangsaan Malaysia

taraf hidup orang banyak. Bank umum adalah bank yang melaksanakan kegiatan usaha secara konvensional atau berdasarkan prinsip syariah yang dalam kegiatannya tidak memberikan jasa dalam lalu lintas pembayaran (Veithzal *et al,* 2007: 321). Menurut Yaya, dkk (2009:54), bank konvensional adalah bank yang menjalankan kegiatan usahanya secara konvensional yang terdiri atas Bank Umum Konvensional dan Bank Perkreditan Rakyat, sedangkan menurut Veithzal *et al* (2007:733), bank syariah adalah bank yang melaksanakan kegiatan usaha berdasarkan prinsip syariah, yaitu aturan perjanjian berdasarkan hukum Islam antara bank dari pihak lain untuk penyimpanan dana atau pembiayaan kegiatan usaha, atau kegiatan lainnya yang dinyatakan sesuai dengan syariah.

The rapid growth of Islamic banking raises a series of important questions: Is the growth in Islamic banking a result of the comparative advantages of the Islamic banking paradigm or is it largely attributable to the worldwide Islamic resurgence since the late 1960s? Should Islamic banks be regulated differently from their western counterparts? Thus, an important question in understanding the growth – as well as the regulation and supervision – of Islamic banking is how and to what extent it differs from conventional banking. To answer these questions, our study focuses on Malaysia, where a full-fledged Islamic banking system has developed alongside a conventional-banking system. The dual banking system in Malaysia, in particular, provides a unique setting for us to compare Islamic banking practices with those of conventional banking. In addition, Malaysia, which is reported to have the largest Islamic banking, capital, and insurance markets in the world (World Bank, 2006), is an ideal representative of Islamic banking practices in general.

From a theoretical perspective, Islamic banking is different from conventional banking because interest (riba) is prohibited in Islam, i.e., banks are not allowed to offer a fixed rate of return on deposits and are not allowed to charge interest on loans. A unique feature of Islamic banking is its profit-and-loss sharing (PLS) paradigm, which is predominantly based on the mudarabah (profit-sharing) and musyarakah (joint venture) concepts of Islamic contracting. Under the PLS paradigm, the assets and liabilities of Islamic banks are integrated in the sense that borrowers share profits and losses with the banks, which in turn share profits and losses with the depositors. Advocates of Islamic banking, thus, argue that Islamic banks are theoretically better poised than conventional banks to absorb external shocks because the banks' financing losses are partially absorbed by the depositors (Khan and Mirakhor, 1989; Iqbal, 1997). Similarly, the risksharing feature of the PLS paradigm, in theory, allows Islamic banks to lend on a longer-term basis to projects with higher risk-return profiles and, thus, to promote economic growth (Chapra,1992; Mills and Presley, 1999).

Dalam studi yang dilakukan oleh *Global Islamic Financial Report (GIFR)* tahun 2011, menunjukkan bahwa Indonesia memiliki peluang yang potensial dalam pengembangan industri perbankan syariah. Dimana Indonesia menempati peringkat ke 4 negara yang potensial dalam pengembangan industri perbankan syariah. Perkembangan perbankan syariah di Indonesia saat ini semakin dirasakan oleh masyarakat Indonesia dengan bertambahnya jumlah unit-unit lembaga keuangan syariah di Indonesia, baik itu yang beroperasi secara *single-system* (syariah), maupun secara *dual-system* (konvensional-syariah). Hingga saat ini di Indonesia tercatat ada 11 Bank umum syariah (Statistik Perbankan Syariah Bank Indonesia, 2012). Bank umum konvensional juga mencatat perolehan hampir 80% menguasasi pangsa pasar aset nasional, sehingga mempunyai peran dan berpengaruh terhadap perbankan di Indonesia. (www.infobanknews.com, 2013)

Pertumbuhan yang sangat pesat di tengah melambatnya perekonomian global yaitu sebesar 40%-45% pertahun yang tercermin dari pertumbuhan asset, peningkatan pembiayaan, dan ekspansi pelayanan, sedangkan pertumbuhan perbankan nasional yang hanya sebesar 16,7% pertahun, sehingga Perbankan Syariah dapat disebut sebagai "*The Fastest Growing*

Industry". Selain itu pertumbuhan yang pesat juga didukung oleh perekonomian Indonesia yang tetap stabil selama 5 tahun terakhir dan termasuk yang terstabil di dunia ("The Economist", 2012).

Tingkat efisiensi dapat dijadikan pengukur penyebab utama kegagalan, sehingga untuk regulator perbankan yang tepat dan berkelanjutan, serta dilakukan pengukuran kinerja bank akan memungkinkan alokasi sumber daya untuk menjadi lebih efektif, aset dalam penargetan, yang mengarah pada pemahaman yang lebih baik pada operasi bank (Barr, *et.al*, 1994 dalam Rozzani & Rahman, 2013). Mengukur tingkat efisiensi suatu perbankan dapat dilakukan dengan pengukuran kinerja keuangan bank tersebut.

Bank syariah atau biasa disebut dengan Islamic Banking di negara lain, berbeda dengan bank konvensional. Perbedaan utamanya terletak pada landasan operasi yang digunakan. Bank konvensional beroperasi berlandaskan bunga, bank syariah beroperasi berlandaskan bagi hasil, ditambah dengan jual beli dan prinsip agama Islam. Dilihat dari perspektif ekonomi, bank syariah dapat pula didefinisikan sebagai sebuah lembaga intermediasi yang mengalirkan investasi publik secara optimal (dengan kewajiban zakat dan larangan riba) yang bersifat produktif (dengan larangan judi), serta dijalankan sesuai nilai, etika, moral, dan prinsip Islam.

Secara filosofis bank syariah adalah bank yang aktivitasnya meninggalkan masalah riba. Dengan demikian penghindaran bunga yang dianggap riba merupakan salah satu tantangan yang dihadapi dunia Islam. Oleh karena itu, didirikan mekanisme perbankan yang bebas bunga. Tujuan utama dari pendirian lembaga keuangan berlandaskan etika ini adalah sebagai upaya kaum muslim untuk mendasari segenap aspek kehidupan ekonominya berdasarkan Al-Qur'an dan As-Sunnah. (Antonio, 2009:18). Hal ini sesuai dengan beberapa Dalil yang terdapat di dalam Al-Qur'an, diantaranya Surah Al-Baqarah ayat 275 dan Surah Al-Imron ayat 130 yang berbunyi:

"Orang-orang yang makan (mengambil) riba tidak dapat berdiri melainkan seperti berdirinya orang yang kemasukan syaitan lantaran (tekanan) penyakit gila Keadaan mereka yang demikian itu, adalah disebabkan mereka berkata (berpendapat), sesungguhnya jual beli itu sama dengan riba, padahal Allah telah menghalalkan jual beli dan mengharamkan riba. Orang-orang yang telah sampai kepadanya larangan dari Tuhannya, lalu terus berhenti (dari mengambil riba), maka baginya apa yang telah diambilnya dahulu (sebelum datang larangan); dan urusannya (terserah) kepada Allah. Orang yang kembali (mengambil riba), maka orang itu adalah penghuni-penghuni neraka; mereka kekal di dalamnya". (QS. Al-Baqarah, 2:275).

Profitabilitas dapat dikatakan sebagai salah satu indikator yang paling tepat untuk mengukur kinerja suatu perusahaan. Semakin tinggi profitabilitasnya, semakin baik pula kinerja keuangan perusahaan. Menurut Veithzal *et al* (2007:720), ROA digunakan untuk mengukur kemampuan bank dalam memperoleh keuntungan secara keseluruhan. Semakin besar ROA suatu bank, semakin besar pula tingkat keuntungan yang dicapai bank tersebut dan semakin baik pula posisi bank tersebut dari segi penggunaan asset (Dendawijaya, 2009:118).

Kinerja keuangan suatu bank juga mencerminkan tingkat kesehatan bank tersebut. Dalam Surat Edaran BI No. 9/24/DPbs disebutkan bahwa penilaian tingkat kesehatan bank dipengaruhi oleh beberapa faktor CAMELS (*Capital, Asset Quality, Management, Earnings, Liquidiy, Sensitivity to Market Risk*). Aspek *Capital* meliputi *Capital Adequacy Ratio* (CAR), aspek *Asset Quality* meliputi *Non Performing Loan* (NPL) pada bank umum konvensional dan *Non Performing Financing* (NPF) pada bank umum syariah, aspek *Earnings* meliputi *Return On Asset* dan *operational efficiency ratio* (BOPO), dan aspek *Liquidity* meliputi *Loan to Deposit Ratio* (LDR) pada bank umum konvensional dan *Financing to Deposit Ratio* (FDR) pada bank umum syariah.

Berdasarkan hal tersebut, penulis tertarik dalam untuk meneliti "Pengaruh Capital Adequacy Ratio (CAR), Non Performing Loan (NPL), Non Performing Financing (NPF), Loan to Deposit Ratio (LDR), Financing to Deposit Ratio (FDR), Beban Operasional Pendapatan Operasional (BOPO) dan Suku Bunga Bank Indonesia Terhadap Return On Assets (ROA) Pada Sektor Perbankan di Indonesia (Studi Kasus Bank Umum Konvensional dan Bank Umum Syariah)".

2. TINJAUAN PUSTAKA

2.1. Definisi Bank Konvensional dan Bank Syariah

Menurut Yaya, dkk (2009:54), bank konvensional adalah bank yang menjalankan kegiatan usahanya secara konvensional yang terdiri atas Bank Umum Konvensional dan Bank Perkreditan Rakyat. Menurut Kasmir (2008:30), bank konvensional adalah bank yang bertujuan untuk mencari keuntungan dan menentukan harga kepada para nasabahnya dengan menetapkan sistem bunga (*interest*).

Bank syariah adalah bank yang menjalankan kegiatan usahanya berdasarkan prinsip syariah yang terdiri atas Bank Umum syariah (BUS) dan Bank Pembiayaan Kredit Rakyat Syariah (BPRS). Prinsip syariah adalah prinsip hukum Islam dalam kegiatan perbankan berdasarkan fatwa yang dikeluarkan oleh lembaga yang memiliki kewenangan dalam penetapan fatwa di bidang syariah. (Yaya dkk, 2009:54). Menurut Undang-Undang Nomor 10 Tahun 1998 yang dimaksud dengan prinsip syariah adalah aturan perjanjian berdasarkan hukum Islam antara bank dan pihak lain untuk penyimpanan dana dan atau pembiayaan kegiatan usaha atau kegiatan lainnya yang dinyatakan sesuai dengan syariah, antara lain pembiayaan berdasarkan prinsip bagi hasil (*mudharabah*), pembiayaan berdasarkan prinsip penyertaan modal (*musyarakah*), prinsip jual beli barang dengan memperoleh keuntungan (*murabahah*), atau pembiayaan barang modal berdasarkan prinsip sewa murni tanpa pilihan (*ijarah*), atau dengan adanya pilihan pemindahan kepemilikan atas barang yang disewa dari pihak bank oleh pihak lain (*ijarah wa iqtina*).

2.2. Perbedaan Bank Konvensional dan Bank Syariah

Secara garis besar perbedaan bank syariah dengan bank konvensional dapat dilihat pada tabel 1 berikut:

Tabel 1. Perbedaan Bank Kovensional dan Bank Syariah

Bank Syariah	Bank Konvensional
Melakukan investasi-investasi yang halal saja	Investasi yang halal dan haram
Berdasarkan prinsip bagi hasil, jual beli, atau sewa	Memakai bunga
Berorientasi pada keuntungan (*profit oriented*)	*Profit Oriented*
Hubungan dengan nasabah dalam bentuk kemitraan	Hubungan dengan nasabah dalam bentuk kreditur debitur
Penghimpunan dan Penyaluran dana harus sesuai dengan fatwa Dewan Pengawas Syariah	Tidak terdapat dewan sejenis

Sumber: Muhammad, Manajemen Bank Syariah (2005)

2.3. Produk-Produk Bank Konvensional dan Bank Syariah

Pada dasarnya produk-produk yang ada di perbankan syariah tidak jauh berbeda dengan produk-produk yang ada di perbankan konvensional, yang membedakan diantara keduanya yaitu akad ataupun perjanjian yang digunakan untuk menentukan harga dan mencari keuntungan. Pada perbankan syariah segala perjanjian berdasarkan hukum Islam sedangkan perbankan konvensional berdasarkan hukum yang berlaku secara umum.

Tabel 2. Perbedaan Produk Bank Kovensional dan Bank Syariah

Indikator	**Bank Syariah**	**Bank Konvensional**
Prinsip Simpanan dan Titipan	*Al-Wadi'ah Yad Al-Amanah* *Al-Wadiah Yad Adh-Dhamanah*	Giro dan Tabungan
Prinsip Sewa	*Ijarah Murni* *Ijarah Al-Muntahiya*	*Operating Lease* *Capital Lease*
Prinsip Jasa (*Fee Based Service*)	*Al-Wakalah* *Al-Kafalah* *Al-Hawalah* *Al-Qardh*	Transfer, Kliring, Inkaso Bank Garansi dan Bank Referensi Anjak Piutang, dan *Post-date Check* *Letter of Credit*
Prinsip Penyaluran Dana (Pembiayaan)	Bagi Hasil/*Profit Sharing* *Al-Mudharabah* *Al-Murabahah* *Al-Musyarakah*	Bunga Kredit Investasi Kredit Perdagangan Kredit Modal Kerja, dll.

Sumber: Antonio, Muhammad Syafi'i, Bank Syariah Dari Teori ke Praktik (2009)

3. METODE PENELITIAN

3.1. Rancangan Penelitian

Penelitian ini bersifat kausalitas dan deskriptif, yaitu dengan melihat apakah ada pengaruh antara variabel independen terhadap variabel dependen serta menggambarkan secara deskriptif rasio-rasio keuangan (*indicators financial*) dan suku bunga BI antara bank umum konvensional dan bank umum syariah selama periode 2009-2012.

3.2. Populasi dan Sampel

Populasi yang digunakan dalam penelitian ini adalah seluruh Bank Umum Konvensional dan Bank Umum Syariah di Indonesia. Jumlah bank umum di Indonesia berjumlah 120 bank dan bank umum syariah berjumlah 11 bank. Populasi Bank Umum Konvensional yang memiliki modal inti diatas 1 sampai 5 triliun berjumlah 38 bank, sedangkan Bank Umum Syariah dengan modal inti diatas 1 sampai 5 triliun sebanyak 3 bank.

Pemilihan sampel dalam penelitian ini menggunakan metode *purposive sampling* atau *judgement sampling*, yaitu cara pengambilan sampel yang didasarkan pada pertimbangan-

pertimbangan tertentu (Sanusi, 2012:95). Adapun penilaian criteria sampel yaitu bank terdaftar sebagai bank *go public* dan menyampaikan laporan keuangan yang dipublikasikan selama periode tahun 2009-2012 (data triwulanan) dengan modal inti 1 sampai 5 triliun. Berdasarkan kriteria penilaian sampel di atas, maka diperoleh 3 (tiga) sampel Bank Umum Konvensional dan 3 (tiga) sampel Bank Umum Syariah di Indonesia, yaitu:

Tabel 3. Daftar Sampel Penelitian

No.	Bank Umum Konvensional	Bank Umum Syariah
1.	Bukopin, Tbk	Bank Syariah Mandiri, Tbk
3.	Victoria, Tbk	Muamalat, Tbk
4.	BPD Bali, Tbk	BRI Syariah, Tbk

Sumber: www.bi.go.id, 2013 (data diolah)

Definisi Operasional dan Pengukuran Variabel

Tabel 4. Indikator-Indikator Variabel

No	Variabel Penelitian	Definisi	Pengukuran Variabel	Skala
1.	*Return On Assets* (ROA)	Rasio kemampuan manajemen bank dalam memperoleh keuntungan (laba sebelum pajak) yang dihasilkan dari rata-rata total asset bank yang bersangkutan.	$ROA = \frac{\text{Laba Sebelum Pajak}}{\text{Total Asset}} \times 100\%$	Rasio
2.	*Capital Adequacy Ratio* (CAR)	Rasio kecukupan modal yang dimiliki bank untuk menunjang aktiva yang mengandung atau menghasilkan risiko, misalnya kredit yang diberikan.	$CAR = \frac{\text{Modal}}{\text{ATMR}} \times 100\%$	Rasio
3.	*Non Performing Loan* (NPL)	Rasio manajemen bank dalam mengelola kredit bermasalah yang diberikan oleh bank. NPL pada Bank Konvensional.	$NPL = \frac{\text{Total Kredit Bermasalah}}{\text{Total Kredit}} \times 100\%$	Rasio
4.	*Non Performing Financing* (NPF)	Rasio yang menggambarkan jumlah pembiayaan bermasalah terhadap	$NPF = \frac{\text{Jlh. Pembiayaan Yang Diberikan}}{\text{Total Pembiayaan}} \times 100\%$	Rasio

		total pembiayaan yang diberikan oleh bank.		
5.	*Loan to Deposit Ratio* (LDR)	Rasio kemampuan bank dalam membayar kembali kewajiban kepada para nasabah yang telah menanamkan dananya dengan kredit-kredit yang telah diberikan kepada para debiturnya	$LDR = \frac{\text{Jlh. Kredit Yang Diberikan}}{\text{Dana Pihak Ketiga}} \times 100\%$	Rasio
6.	*Financing to Deposit Ratio* (FDR)	Rasio yang menggambarkan tingkat kemampuan bank syariah dalam mengembalikan dana kepada pihak ketiga melalui keuntungan yang diperoleh dari pembiayaan mudharabah.	$FDR = \frac{\text{Jlh. Pembiayaan Yang Disalurkan}}{\text{Total Dana}} \times 100\%$	Rasio
7.	Biaya Operasional Pendapatan Operasional (BOPO)	Rasio tingkat efisiensi perbankan dalam menjalankan kegiatan operasionalnya	$BOPO = \frac{\text{Total Biaya Operasional}}{\text{Total Pendapatan Operasional}} \times 100\%$	Rasio
8.	Suku Bunga BI	Suku bunga BI merupakan suku bunga kebijakan Bank Indonesia yang menjadi acuan suku bunga di pasar uang (Laporan Bank Indonesia, 2012).	**Laporan Kebijakan Moneter Bank Indonesia**	Rasio

Sumber: Veithzel *et al* (2007:720-722), Siamat (2005)

3.3. Teknik Analisis Data

Teknik analisis data yang digunakan dalam penelitian ini adalah dengan menggunakan metode regresi linier berganda (*multiple linier regression*) dengan bantuan program SPSS 20 *for windows* untuk mempermudah dalam melakukan analisis dengan persamaa regresi sebagai berikut:

Bank Umum Konvensional

$$\mathbf{Y_1 = \alpha + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \beta_5 X_5 + e} \quad \textbf{(3.1)}$$

Dimana: Y_1 = ROA Bank Umum Konvensional; X_1 = CAR, X_2 = NPL, X_3 = LDR, X_4 = BOPO, X_5 = Suku Bunga BI, β_1, β_2, β_3, β_4, β_5 = Koefisien regresi, e = variabel pengganggu.

Bank Umum Syariah

$$\mathbf{Y_2 = \alpha + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \beta_5 X_5 + e} \quad \textbf{(3.2)}$$

Dimana: Y_2 = ROA Bank Umum Syariah; X_1 = CAR, X_2 = NPF, X_3 = FDR, X_4 = BOPO, X_5 = Suku Bunga BI, β_1, β_2, β_3, β_4, β_5 = Koefisien regresi, e = variabel pengganggu.

Pengujian Asumsi Klasik

Uji asumsi klasik digunakan untuk mengetahui apakah regresi bisa dilakukan atau tidak. Asumsi model liniear klasik adalah tidak terdapat multikoliniearitas, autokorelasi, dan heteroskedastisitas dan data yang dihasilkan berdistribusi normal.

Pengujian Hipotesis

Uji hipotesis dalam penelitian ini meliputi analisis koefisien determinasi (R2), pengujian secara simultasn (Uji F) dan pengujian secara parsial (Uji t).

4. HASIL PENELITIAN DAN PEMBAHASAN

4.1. Analisis Deskriptif

Statistik deskriptif untuk mengetahui karakteristik sampel yang digunakan di dalam penelitian. Berikut akan dijelaskan analisis deskriptif pada Bank Umum Konvensional dan Bank Umum Syariah dapat dilihat pada tabel dibawah ini.

Tabel 5. Deskriptif Rasio Keuangan dan Tingkat Suku Bunga BI Bank Umum Konvensional dan Bank Umum Syariah Periode 2009-2012 (Data Triwulanan)

Descriptive Statistics

	N	Minimum	Maximum	Mean	Std. Deviation
ROA	48	1.10	6.35	2.7931	1.42865
CAR	48	11.00	23.94	14.8723	2.51812
NPL	48	-3.39	3.81	.7950	1.56176
LDR	48	40.22	103.75	74.5167	15.25716
BOPO	48	53.73	92.05	76.8821	10.44553
Suku_Bunga_BI	48	5.75	8.25	6.5000	.62043
Valid N (listwise)	48				

Descriptive Statistics

	N	Minimum	Maximum	Mean	Std. Deviation
ROA	48	.17	3.11	1.5152	.75202
CAR	48	10.03	45.27	15.1469	6.41271
NPF	48	.66	5.83	2.2012	1.19270
FDR	48	82.54	183.25	97.8706	18.25532
BOPO	48	70.11	101.38	84.7321	9.70120
Suku_Bunga_BI	48	5.75	8.25	6.5000	.62043
Valid N (listwise)	48				

Sumber: Hasil Olahan Data SPSS

a. *Return On Assets* (ROA)

Berdasarkan tabel 5 di atas dapat dilihat pada Bank Umum Konvensional ROA memiliki nilai tertinggi sebesar 6,35 dan nilai terendah sebesar 1,10, sedangkan pada Bank Umum Syariah ROA memiliki nilai tertinggi sebesar 3,11 dan nilai terendah sebesar 0,17. Bank Umum Konvensional mempunyai nilai rata-rata (*mean*) rasio ROA sebesar 2,7931 lebih besar dibandingkan dengan nilai rata-rata (*mean*) pada Bank Umum Syariah yaitu sebesar 1,5152.

b. *Capital Adequacy Ratio* (CAR)

Berdasarkan tabel 5 di atas dapat dilihat pada Bank Umum Konvensional CAR memiliki nilai tertinggi sebesar 23,94 dan nilai terendah sebesar 11,00, sedangkan pada Bank Umum Syariah CAR memiliki nilai tertinggi sebesar 45,27 dan nilai terendah sebesar 10,03. Dapat dilihat juga bahwa Bank Umum Konvensional mempunyai nilai rata-rata (*mean*) rasio CAR sebesar 14.8723 lebih kecil dibandingkan dengan *mean* rasio CAR pada Bank Umum Syariah yaitu sebesar 15.1469.

c. *Non Performing Loan* (NPL) dan *Non Performing Financing* (NPF)

Berdasarkan tabel 5 di atas dapat dilihat pada Bank Umum Konvensional NPL memiliki nilai tertinggi sebesar 3,81 dan nilai terendah sebesar -3,39, sedangkan pada Bank Umum Syariah NPF memiliki nilai tertinggi sebesar 5,83 dan nilai terendah sebesar 0,66. Dapat dilihat juga bahwa Bank Umum Konvensional mempunyai nilai rata-rata (*mean*) rasio NPL sebesar 0,7950 lebih kecil dibandingkan dengan *mean* rasio NPF pada Bank Umum Syariah yaitu sebesar 2,2013.

d. *Loan to Deposit Ratio* (LDR) dan *Financing to Deposit Ratio* (FDR)

Berdasarkan tabel 5 di atas dapat dilihat pada Bank Umum Konvensional LDR memiliki nilai tertinggi sebesar 103,75 dan nilai terendah sebesar 40,22, sedangkan pada Bank Umum Syariah FDR memiliki nilai tertinggi sebesar 183,25 dan nilai terendah sebesar 82,54. Dapat dilihat juga bahwa Bank Umum Konvensional mempunyai rata-rata (*mean*) rasio LDR sebesar 74,5167% lebih kecil dibandingkan dengan Bank Umum Syariah yaitu sebesar 97,8706%.

e. Biaya Operasional Pendapatan Operasional (BOPO)

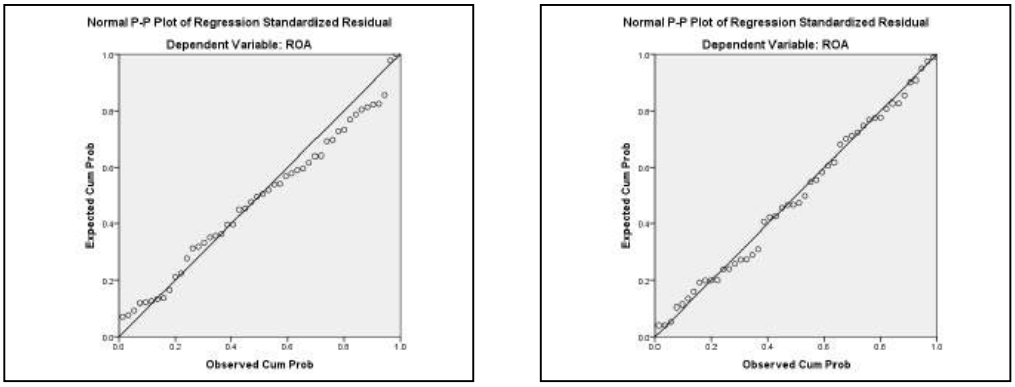
Berdasarkan tabel 5 di atas dapat dilihat pada Bank Umum Konvensional BOPO memiliki nilai tertinggi sebesar 92,05 dan nilai terendah sebesar 53,73, sedangkan pada Bank Umum Syariah BOPO memiliki nilai tertinggi sebesar 101,38 dan nilai terendah sebesar 70,11. Dapat dilihat juga bahwa Bank Umum Konvensional mempunyai rata-rata (*mean*) rasio BOPO sebesar 76,8821% lebih kecil dibandingkan dengan Bank Umum Syariah yaitu sebesar 84,7321%.

f. Suku Bunga BI

Berdasarkan tabel 5 di atas dapat dilihat nilai tertinggi yaitu sebesar 8,25 dan nilai terendah sebesar 5,75. Pergerakan (fluktuasi) dari tingkat suku bunga BI di Indonesia selama periode 2009-2012 menunjukkan nilai rata-rata (*mean*) sebesar 6,5000% baik pada Bank Umum Konvensional dan Bank Umum Syariah.

4.2. Uji Normalitas

Uji normalitas digunakan untuk menguji apakah nilai residual yang dihasilkan dari model regresi terdistribusi secara normal atau tidak. Model regresi yang baik adalah memiliki distribusi normal atau mendekati normal. Untuk mendeteksi model regresi normal atau tidak, dapat dilihat dari gambar Normal P-P Plot. Jika data menyebar disekitar garis diagonal dan mengikuti arah garis diagonal, maka model regresi memenuhi asumsi normalitas. Hasil dari uji normalitas pada Bank Umum Konvensional dan Bank Umum Syariah dapat dilihat dari gambar Normal P-P Plot dibawah ini.



Gambar 2. Normal P-Plot Bank Umum Konvensional dan Bank Umum Syariah
Sumber: Hasil Olahan Data SPSS

4.3. Pengujian Asumsi Klasik

4.3.1. Uji Multikoliniearitas

Pengujian Multikolinearitas bertujuan untuk menguji apakah pada model regresi di temukan adanya korelasi yang kuat antar variabel independen. Model regresi yang baik seharusnya tidak terjadi korelasi antar variabel independen. Untuk mendeteksi adanya Multikolinearitas, maka dapat dilihat dengan Besaran nilai VIF (*Variance Inflation Factor*) dan *Tolerance*. Persamaan regresi yang bebas multikolinieritas adalah : Mempunyai nilai VIF mempunyai angka kurang dari 10 (VIF < 10) dan mempunyai angka *tolerance* lebih dari 0,10 (TOL > 0,10). Dari hasil pengujian diperoleh bahwa dari kelima variabel independen pada Bank Umum Konvensional dan Bank Umum Syariah memberikan nilai VIF kurang dari 10 dan nilai *tolerance* di atas 0,10. Dengan demikian dapat disimpulkan model regresi tersebut terbeas dari masalah multikoliniearitas.

Tabel 6. Hasil Uji Multikoliniearitas

Model		Collinearity Statistics	
		Tolerance	VIF
1	(Constant)		
	CAR	.790	1.265
	NPL	.519	1.928
	LDR	.323	3.100
	BOPO	.416	2.402
	Suku_Bunga_BI	.970	1.030

Model		Collinearity Statistics	
		Tolerance	VIF
1	(Constant)		
	CAR	.232	4.301
	NPF	.511	1.958
	FDR	.347	2.880
	BOPO	.583	1.715
	Suku_Bunga_BI	.544	1.837

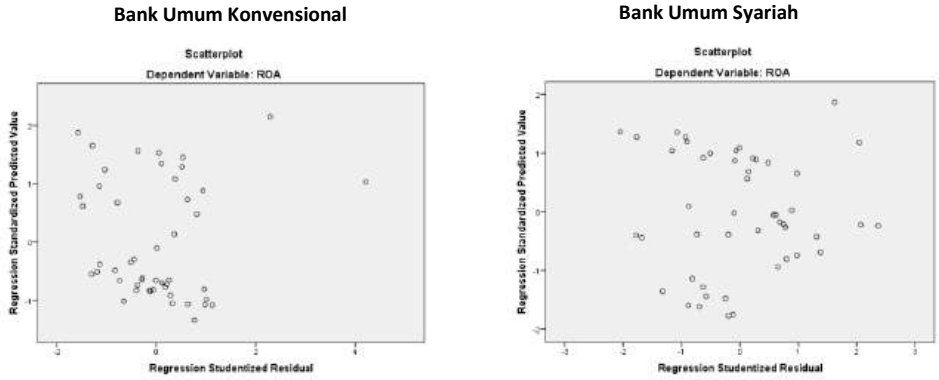
a. Dependent Variable: ROA (Bank Umum Konvensional)

a. Dependent Variable: ROA (Bank Umum Syariah)

Sumber: Hasil Olahan Data SPSS

4.3.2. Uji Heteroskedastisitas

Uji *Heteroskedastisitas* bertujuan untuk menguji apakah dalam model regresi terjadi ketidaksamaan varians dari residual satu pengamatan ke pengamatan atau yang lain. Dari hasil pengujian diperoleh bahwa diagram *scatter plot* berada di atas dan di bawah angka nol pada sumbu Y dengan titik-titik menyebar. Hal ini menunjukkan model regresi bebas dari masalah heteroskedastisitas.



Gambar 3. Hasil Uji Heteroskedastisitas *Scatterplot*
Sumber: Hasil Olahan Data SPSS

3.3.3. Uji Autokorelasi

Uji autokorelasi bertujuan untuk menguji apakah dalam suatu model regresi linear terdapat korelasi antara residual pada periode t dengan residual periode t-1 (sebelumnya). Dari hasil pengujian, diperoleh nilai DW hitung pada Bank Umum Konvensional sebesar 1,315 dan nilai DW hitung pada Bank Umum Syariah sebesar 1,725. Berdasarkan kriteria tersebut nilai DW yang dihasilkan berada di antara -2 sampa +2. Menurut Santoso (2005), angka Durbin Watson di antara -2 sampai +2, berarti tidak ada autokorelasi. Dengan demikian dapat disimpulkan bahwa dalam penelitian ini tidak terjadi autokorelasi.

3.3.4. Analisis Koefisien Determinasi (R^2)

Analisis koefisien determinasi bertujuan untuk mengetahui persentase sumbangan pengaruh variabel independen trehadap variabel dependen. Hasil analisis determinasi akan ditunjukkan dalam tabel hasil uji model (*Model Summary*) sebagai berikut:

Tabel 7. Hasil Uji Model

Model Summaryb

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate	Durbin-Watson
1	.985a	.969	.966	.26446	1.315

a. Predictors: (Constant), Suku_Bunga_BI, CAR, NPL, BOPO, LDR

b. Dependent Variable: ROA (Bank Umum Konvensional)

Model Summaryb

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate	Durbin-Watson
1	.953a	.909	.898	.23982	1.725

a. Predictors: (Constant), Suku_Bunga_BI, BOPO, FDR, NPF, CAR
b. Dependent Variable: ROA (Bank Umum Syariah)

Sumber: Hasil Olahan Data SPSS

Berdasarkan tabel 7 diatas diperoleh nilai *R Square* sebesar 0,969 atau 96,9% yang yang menunjukkan besarnya kontribusi CAR, NPL, LDR, BOPO, dan Suku Bunga BI terhadap ROA pada Bank Umum Konvensional. Hal ini menunjukkan bahwa masih ada faktor lain di luar variabel independen tersebut yang dapat mempengaruhi ROA yaitu sebesar 3,1% yang tidak dimasukkan dalam model penelitian ini. Sedangkan pada Bank Umum Syariah, nilai *R Square* sebesar 0,909 atau 90,9% yang yang menunjukkan besarnya kontribusi CAR, NPF, FDR, BOPO, dan Suku Bunga BI terhadap ROA pada Bank Umum Syariah. Hal ini menunjukkan bahwa masih ada faktor lain di luar variabel independen tersebut yang dapat mempengaruhi ROA yaitu sebesar 9,1% yang tidak dimasukkan dalam model penelitian ini.

3.3.5. Uji Koefisien Regresi Secara Bersama-sama (Uji F)

Uji ini digunakan untuk mengetahui apakah dalam model regresi variabel independen secara simultan berpengaruh signifikan terhadap variabel dependen. Hasil output uji F dapat dilihat pada tabel 8 di bawah ini.

Tabel 8. Hasil Perhitungan Uji F

ANOVA[a]

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	92.991	5	18.598	265.924	.000[b]
	Residual	2.937	42	.070		
	Total	95.928	47			

a. Dependent Variable: ROA (Bank Umum Konvensional)
b. Predictors: (Constant), Suku_Bunga_BI, CAR, NPL, BOPO, LDR

ANOVA[a]

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	24.164	5	4.833	84.031	.000[b]
	Residual	2.416	42	.058		
	Total	26.580	47			

a. Dependent Variable: ROA (Bank Umum Syariah)
b. Predictors: (Constant), Suku_Bunga_BI, BOPO, FDR, NPF, CAR

Sumber: Hasil Olahan Data SPSS 20, 2013

Dari hasi uji F pada tabel 8 di atas dapat dilihat bahwa pada Bank Umum Konvensional diperoleh nilai F sebesar 265,924 dengan tingkat signifikansi sebesar 0,000 dan pada Bank Umum Syariah diperoleh nilai F sebesar 84,031 dengan tingkat signifikansi sebesar 0,000. Oleh karena sig < α (0,05) maka H0 ditolak artinya ada pengaruh signifikan secara bersama-sama antara CAR, NPL, LDR. BOPO dan Suku Bunga BI pada Bank Umum Konvensional dan juga ada pengaruh signifikan secara bersama-sama antara CAR, NPF, FDR. BOPO dan Suku Bunga BI pada Bank Syariah.

4.3.6. Uji Koefisien Regresi Secara Parsial (Uji t)

Tabel 9. Hasil Perhitungan Uji t

Model		Unstandardized Coefficients		Standardized Coefficients	T	Sig.
		B	Std.Error	Beta		
1	(Constant)	12.966	.862		15.036	.000
	CAR	-.019	.017	-.033	-1.075	.288
	NPL	-.070	.034	-.076	-2.040	.048
	LDR	-.008	.004	-.085	-1.784	.082
	BOPO	-.138	.006	-1.010	-24.124	.000
	Suku_Bunga_BI	.210	.063	.091	3.329	.002

Model		Unstandardized Coefficients		Standardized Coefficients	T	Sig.
		B	Std.Error	Beta		
1	(Constant)	6.384	.687		9.295	.000
	CAR	.015	.011	.130	1.343	.187
	NPF	.075	.041	.119	1.824	.075
	FDR	.011	.003	.271	3.433	.001
	BOPO	-.080	.005	-1.028	-16.870	.000
	Suku_Bunga_BI	.060	.076	.050	.791	.433

Sumber: Hasil Olahan Data SPSS 20, 2013

1. Bank Umum Konvensional

***Capital Adequacy Ratio* (CAR)**

Hasil penelitian menunjukkan bahwa nilai t hitung dari CAR sebesar -1,075 dengan nilai sig = 0,288 > 0,05. Hal ini berarti bahwa variabel CAR berpengaruh positif dan tidak signifikan terhadap ROA pada Bank Umum Konvensional. Hipotesis pertama dapat diterima.

***Non Performing Loan* (NPL)**

Hasil penelitian menunjukkan bahwa nilai t hitung dari NPL sebesar -2,040 dengan nilai sig = 0,048 < 0,05. Hal ini berarti bahwa variabel NPL berpengaruh negatif dan signifikan terhadap ROA pada Bank Umum Konvensional. Hipotesis kedua dapat diterima.

***Loan to Deposit Ratio* (LDR)**

Hasil penelitian menunjukkan bahwa nilai t hitung dari LDR sebesar -1,784 dengan nilai sig = 0,082 > 0,05. Hal ini berarti bahwa variabel LDR tidak berpengaruh signifikan terhadap ROA pada Bank Umum Konvensional. Hipotesis ketiga tidak dapat diterima atau ditolak.

Biaya Operasional Pendapatan Operasional (BOPO)

Hasil penelitian menunjukkan bahwa nilai t hitung dari BOPO sebesar -24,124 dengan nilai sig = 0,000 < 0,05. Hal ini berarti bahwa variabel BOPO berpengaruh negatif dan signifikan terhadap ROA pada Bank Umum Konvensional. Hipotesis keempat dapat diterima.

Suku Bunga BI

Hasil penelitian menunjukkan bahwa nilai t hitung dari Suku Bunga BI sebesar 3,329 dengan nilai sig = 0,002 < 0,05. Hal ini berarti bahwa variabel Suku Bunga berpengaruh positif dan signifikan terhadap ROA pada Bank Umum Konvensional. Hipotesis kelima dapat diterima.

2. Bank Umum Syariah

***Capital Adequacy Ratio* (CAR)**

Hasil penelitian menunjukkan bahwa nilai t hitung dari CAR sebesar 1,343 dengan nilai sig = 0,187 > 0,05. Hal ini berarti bahwa variabel CAR tidak berpengaruh signifikan terhadap ROA pada Bank Umum Syariah. Hipotesis pertama tidak dapat diterima atau ditolak.

***Non Performing Financing* (NPF)**

Hasil penelitian menunjukkan bahwa nilai t hitung dari NPF sebesar 1,824 dengan nilai sig = 0,075 > 0,05. Hal ini berarti bahwa variabel NPF tidak berpengaruh signifikan terhadap ROA pada Bank Umum Syariah. Hipotesis kedua dapat diterima.

***Financing to Deposit Ratio* (FDR)**

Hasil penelitian menunjukkan bahwa nilai t hitung dari FDR sebesar 3,433 dengan nilai sig = 0,001 < 0,05. Hal ini berarti bahwa variabel FDR berpengaruh positif dan signifikan terhadap ROA pada Bank Umum Syariah. Hipotesis ketiga dapat diterima.

Biaya Operasional Pendapatan Operasional (BOPO)

Hasil penelitian menunjukkan bahwa nilai t hitung dari BOPO sebesar -16,870 dengan nilai sig = 0,000 < 0,05. Hal ini berarti bahwa variabel BOPO berpengaruh negatif dan signifikan terhadap ROA pada Bank Umum Syariah. Hipotesis keempat dapat diterima.

Suku Bunga BI

Hasil penelitian menunjukkan bahwa nilai t hitung dari Suku Bunga BI sebesar 0,791 dengan nilai sig = 0,433 < 0,05. Hal ini berarti bahwa variabel Suku Bunga BI tidak berpengaruh signifikan terhadap ROA pada Bank Umum Syariah. Hipotesis kelima tidak dapat diterima atau ditolak.

4.4. Pembahasan

Dari hasil pengujian hipotesis di atas pada Bank Umum Konvensional dan Bank Umum Syariah, maka dilakukan pembahsan sehubungan dengan hasil pengujian hipotesis tersebut sebagai berikut.

1. Bank Umum Konvensional

***Capital Adequacy Ratio* (CAR)**

Berdasarkan uji t diperoleh koefisien pengaruh variabel CAR sebesar -1,075 dengan nilai sig = 0,288 > 0,05. Hal ini berarti bahwa variabel CAR berpengaruh positif dan tidak signifikan terhadap ROA pada Bank Umum Konvensional. CAR mempunyai hubungan positif terhadap ROA. Semakin besar CAR, maka keuntungan bank juga semakin besar atau semakin kecil resiko bank maka keuntungannya semakin besar (Veithzel *et al*, 2007:712).

***Non Performing Loan* (NPL)**

Berdasarkan uji t diperoleh koefisien pengaruh variabel NPL sebesar -2,040 dengan nilai sig = 0,048 < 0,05. Hal ini berarti bahwa variabel NPL berpengaruh negatif dan signifikan terhadap ROA pada Bank Umum Konvensional. semakin besar *Non Performing Loan* (NPL) maka *Return On Assets* (ROA) yang diperoleh akan semakin kecil. Semakin tinggi rasio ini maka akan semakin buruk kualitas kredit bank yang menyebabkan jumlah kredit bermasalah semakin besar, dan oleh karena itu bank harus menanggung kerugian dalam kegiatan operasionalnya sehingga berpengaruh terhadap penurunan laba (ROA) yang diperoleh bank (Kasmir, 2004).

***Loan to Deposit Ratio* (LDR)**

Berdasarkan uji t diperoleh koefisien pengaruh variabel LDR sebesar -1,784 dengan nilai sig = 0,082 > 0,05. Hal ini berarti bahwa variabel LDR tidak berpengaruh signifikan terhadap ROA pada Bank Umum Konvensional. Semakin tinggi rasionya memberikan rendahnya likuiditas bank, dimana kredit akan membesar (Veithzel *et al*, 2007:722). Semakin tinggi

LDR maka laba perusahaan semakin meningkat dengan asumsi bank tersebut mampu menyalurkan kredit dengan efektif sehingga jumlah kredit macetnya akan kecil.

Biaya Operasional Pendapatan Operasional (BOPO)

Berdasarkan uji t diperoleh koefisien pengaruh variabel BOPO sebesar -24,124 dengan nilai sig = 0,000 < 0,05. Hal ini berarti bahwa variabel BOPO berpengaruh negatif dan signifikan terhadap ROA pada Bank Umum Konvensional.). Semakin kecil rasio biaya operasional akan lebih baik, karena mampu menutupi biaya operasional dengan pendapatan operasional. (Veithzel *et al*, 2007:722). Jika BOPO meningkat berarti efisiensi menurun, maka nilai *Return On Assets* (ROA) yang diperoleh bank akan menurun.

Suku Bunga BI

Berdasarkan uji t diperoleh koefisien pengaruh variabel Suku Bunga BI sebesar 3,329 dengan nilai sig = 0,002 < 0,05. Hal ini berarti bahwa variabel Suku Bunga berpengaruh positif dan signifikan terhadap ROA pada Bank Umum Konvensional. Kenaikan Suku Bunga BI akan meningkatkan *Return on Assets* (ROA) dengan asumsi kenaikan Suku Bunga BI diikuti oleh kenaikan suku bunga kredit sehingga biaya bunga ikut naik dan pendapatan bunga yang diterima bank akan semakin besar. Dengan demikian tingkat profitabilitas (keuntungan) juga akan semakin meningkat.

Bank Umum Syariah

***Capital Adequacy Ratio* (CAR)**

Berdasarkan uji t diperoleh koefisien pengaruh variabel CAR sebesar 1,343 dengan nilai sig = 0,187 > 0,05. Hal ini berarti bahwa variabel CAR tidak berpengaruh signifikan terhadap ROA pada Bank Umum Syariah. Tidak berpengaruhnya *Capital Adequacy Ratio* (CAR) terhadap *Return On Assets* (ROA) karena bank-bank yang beroperasi tidak mengotimalkan modal yang ada. Hal ini terjadi karena peraturan Bank Indonesia yang mensyaratkan CAR menilai sebesar 8% sehingga mengakibatkan bank-bank selalu berusaha menjaga agar CAR yang dimilikinya sesuai dengan ketentuan.

***Non Performing Financing* (NPF)**

Hasil penelitian menunjukkan bahwa nilai t hitung dari NPF sebesar 1,824 dengan nilai sig = 0,075 > 0,05. Hal ini berarti bahwa variabel NPF tidak berpengaruh signifikan terhadap ROA pada Bank Umum Syariah. NPF merupakan proksi dari harga input perusahaan. Hal ini berarti bahwa tingkat NPF yang tinggi dapat mengurangi jumlah modal yang digunakan oleh bank sehingga harga input akan semakin tinggi. *Non Performing Financing* (NPF) tidak dapat secara langsung mempengaruhi laba bank umum syariah pada saat yang bersamaan karena NPF membutuhkan waktu satu perioode untuk dapat mempengaruhinya.

***Financing to Deposit Ratio* (FDR)**

Hasil penelitian menunjukkan bahwa nilai t hitung dari FDR sebesar 3,433 dengan nilai sig = 0,001 < 0,05. Hal ini berarti bahwa variabel FDR berpengaruh positif dan signifikan terhadap ROA pada Bank Umum Syariah. *Financing to Deposit Ratio* (FDR) adalah rasio yang menggambarkan tingkat kemampuan bank syariah dalam mengembalikan dana kepada pihak ketiga melalui keuntungan yang diperoleh dari pembiayaan mudharabah. Dengan demikian semakin tinggi nilai *Financing to Deposit Ratio (*FDR) maka laba perusahaan semakin meningkat. Pembiayaan kepada calon nnsabah dilakukan dengan memperhatikan prinsip 5C yang terdiri atas *Character* (karakter) , *Capacity* (kapasitas), *Collateral* (jaminan), *Capital* (modal), dan *Condition* (situasi dan kondisi).

Biaya Operasional Pendapatan Operasional (BOPO)

Hasil penelitian menunjukkan bahwa nilai t hitung dari BOPO sebesar -16,870 dengan nilai sig = 0,000 < 0,05. Hal ini berarti bahwa variabel BOPO berpengaruh negatif dan signifikan terhadap ROA pada Bank Umum Syariah. Nilai negatif yang ditunjukkan BOPO menunjukkan bahwa semakin efisien bank dalam menjelankan aktivitas usahanya. Semakin

kecil rasio biaya operasional akan lebih baik, karena mampu menutupi biaya operasional dengan pendapatan operasional. (Veithzel *et al*, 2007:722).

Suku Bunga BI

Hasil penelitian menunjukkan bahwa nilai t hitung dari Suku Bunga BI sebesar 0,791 dengan nilai sig = 0,433 < 0,05. Hal ini berarti bahwa variabel Suku Bunga BI tidak berpengaruh signifikan terhadap ROA pada Bank Umum Syariah. Tidak berpengaruhnya Suku Bunga BI disebabkan karena adanya fluktuasi (pergerakan) yang berubah-ubah setiap bulannya. Hal inilah yang menyebabkan Suku Bunga BI tidak berpengaruh signifikan terhadap ROA.

5. KESIMPULAN DAN SARAN

Berdasarkan analisis dan pembahasan yang telah dilakukan maka diperoleh hasil uji t pada Bank Umum Konvensional dapat disimpulkan bahwa CAR berpengaruh positif dan tidak signifikan terhadap ROA, NPL berpengaruh negatif dan signifikan terhadap ROA, LDR tidak berpengaruh signifikan terhadap ROA, BOPO berpengaruh negatif dan signifikan terhadap ROA, dan Suku Bunga BI berpengaruh positif dan signifikan terhadap ROA.

Sementara itu hasil uji t pada Bank Umum Syariah yaitu CAR tidak berpengaruh signifikan terhadap ROA, NPF tidak berpengaruh signifikan terhadap ROA, FDR berpengaruh positif dan signifikan terhadap ROA, BOPO berpengaruh negatif dan signifikan terhadap ROA, Suku Bunga BI tidak berpengaruh signifikan terhadap ROA.

Berdasarkan hasil uji koefisien regresi secara bersama-sama atau simultan (Uji F) pada Bank Umum Konvensional dapat disimpulkan bahwa nilai *R Square* yang dihasilkan sebesar 0,969. Hal ini berarti 96,9% variabel dependen ROA dapat dipengaruhi oleh variabel independen CAR, NPL, LDR, BOPO, dan Suku Bunga BI secara simultan, sedangkan sisanya 3,1% dijelaskan oleh faktor-faktor lain di luar variabel independen.

Sedangkan hasil uji koefisien regresi secara bersama-sama atau simultan (Uji F) pada Bank Umum Syariah dapat disimpulkan bahwa nilai *R Square* yang dihasilkan sebesar 0,969. Hal ini berarti 90,9% variabel dependen ROA dapat dipengaruhi oleh variabel independen CAR, NPF, FDR, BOPO, dan Suku Bunga BI secara simultan, sedangkan sisanya 9,1% dijelaskan oleh faktor-faktor lain di luar variabel independen.

Adapun saran untuk penelitian selanjutnya adalah diharapkan sebaiknya menggunakan data bulanan dan waktu pengamatan diperpanjang dengan menambah sampel dan menambah variabel-variabel independen lainnya yang berpengaruh terhadap *Return On Assets* (ROA) pada Bank Umum Konvensional dan Bank Umum Syariah.

DAFTAR PUSTAKA

Anton & M. Ghofur. Faktor-Faktor Penentu Tingkat Profitabilitas Bank Umum Syariah di Indonesia. Jurnal. UIN Sunan Kalijaga. Yogyakarta. Diambil pada tanggal 20 September 2013 dari http://journal.uii.ac.id/index.php/JEI/article/view/2982/2757

Antonio, Muhammad Syafi'i. 2009. *Bank Syariah dari Teori ke Praktik.* Jakarta: Gema Insani

Anwaruddin, Ibnu. 2011. Memahami Perbedaan Prinsip Antara Bank Syariah dengan Bank Konvensional. Artikel. Diambil pada tanggal 20 September 2013 dari http://3ayat.blogspot.com/2010/02/beda-bank-syariah-dengan-bank.html

Bank Indonesia. 2012. Statistik Perbankan Bank Syariah Indonesia dari http://www.bi.go.id/web/id/

Chapra, M. Umer, 1992. Towards a Just Monetary System. The Islamic Foundation, Liecester.

Dendawijaya, Lukman. 2009. *Manajemen Perbankan*. Edisi Kedua. Cetakan Pertama. Bogor: Penerbit Ghalia Indonesia_____, 2005. *Manajemen Perbankan*. Jakarta: Penerbit Ghalia Indonesia

Dwijayanthy, Febrina & Prima Naomi. 2009. *Analysis of Effect of Inflation, BI Rate, and Exchange Rate on Bank Profitability*. Jurnal Vol 3(2): 87-98. Universitas Paramadina. Jakarta. Diambil pada tanggal 20 September 2012 dari http://repository.upnyk.ac.id/1827/1/FEBRINA%5B2%5D.pdf

Iqbal, Zamir, 1997. Islamic financial systems. Finance & Development 43, 42–45.

Kasmir. 2008. *Manajemen Perbankan*. Edisi Revisi. Jakarta: Rajawali Press

Khan, Mohsin S., Mirakhor, Abbas, 1989. Islamic banking: experiences in the Islamic Republic of Iran and Pakistan. IMF Working Paper No. WP/89/12. International Monetary Fund, Washington DC.

Mishra, Seema & Kirti Argawal. 2013. "Measuring Performance of Banks Using CAMELS Model: A Comparative Study of CBI and IB". *Journal*. IJJMR/May 2013/Volume 3/Isuued 5/Article No.11. Pasific Univerity India. Diambil pada tanggal 20 September 2013 dari http://search.proquest.com/docview/1417475688/fulltext/140B863BE456A6E4633/1?accountid=31434

Muhammad. 2005. *Manajemen Bank Syariah*. Yogyakarta: UPP AMP YKPN

Nasser, Etty M., 2003, *Perbandingan Kinerja Bank Pemerintah dan Bank Swasta Dengan Rasio CAMEL Serta Pengaruhnya Terhadap Harga Saham*. Media Riset Akuntansi. Auditing dan Informasi. Vol. 3, No. 3.

Rozzani, Nabilah & Rashidah Abdul Rahman. 2013. "Determinant of Bank Efficiency: Conventional Versus Islamic Bank". *International Journal of Business and Management*, Vol. 8, No. 14. Universitas Teknologi MARA Malaysia. Diambil Pada Tanggal 20 September 2013 dari http://search.proquest.com/docview/1419019606/fulltext/140B861DFEE4D9024D1/1?accountid=31434.

Sabir, Muh, M. Muhammad Ali & Abd. Hamid Habbe. 2012. Pengaruh Rasio Kesehatan Bank Terhadap Kinerja Keuangan Bank Umum Syariah dan Konvensional di Indonesia. Jurnal Analisis, Vol.1 No.1: 79-86 Universitas Hasanuddin. Makassar. Diambil pada tanggal 12 Maret 2013 dari http://pasca.unhas.ac.id/jurnal/files/870a91eb9495ed13bfe071e5bf00154a.pdf

Sanusi, Anwar. 2012. *Metodologi Penelitian Bisnis*. Jakarta: Salemba Empat

Siamat, Dahlan. 2005. *Manajemen Lembaga Keuangan : Kebijakan Moneter dan Perbankan*. Edisi Kelima. Jakarta: Lembaga Penerbit Fakultas Ekonomi Universitas Indonesia

Surat Edaran Bank Indonesia No. 3/30/DPNP tanggal 14 Desember 2001.

Veithzal Rivai, Andria P Veithzal & Ferry N Idroes. 2007. Bank and Financial Institutional Management (Conventional and Shariah System). Jakarta: PT. Raja Grafindo

Wibowo, Anto. 2012. Faktor-Faktor Penentu Tingkat Profitabilitas Bank Umum Syariah di Indonesia. Jurnal Ekonomi Islam La_Riba.Vol. VI, Nomor 2. UIN Sunan Kalijaga. Yogyakarta. Diambil pada tanggal 20 September 2013 dari http://journal.uii.ac.id/index.php/JEI/article/view/2982/2757

Widiyanti, Marlina, Muhammad Adam & Abdul Ghafar Ismail. 2013. Evaluation of Syariah Mutual Fund Performance: Empirical Study in The Indonesia Stock Exchange. Prosiding Perkem VIII, Jilid I (2013) 531-541. ISSN: 2231-962X.

Yanita Sahara, Ayu. 2013. Analisis Pengaruh Inflasi, Suku Bunga BI, dan Produk Domestik Bruto Terhadap Return On Assets (ROA) Bank Syariah di Indonesia. Jurnal Ilmu Manajemen. Vol 1 Nomor 1. Universitas Negeri Surabaya. Surabaya. Diambil pada

tanggal 20 September 2013 dari http://www.academia.edu/4460669/1_JURNAL_ROA_1

Yaya, Rizal dkk. 2009. *Akuntansi Perbankan Syariah: Teori dan Praktek Kontemporer*. Jakarta: Salemba Empat

Official website Bank Syariah Mandiri, Tbk, diakses pada tanggal 25 Agustus 2013 dari http://www.banksyariahmandiri.co.id

Official website Bank Muamalat, Tbk, diakses pada tanggal 25 Agustus 2013 dari http://www.muamalat.co.id

Official website BRI Syariah, Tbk, diakses pada tanggal 25 Agustus 2013 dari http://www.brisyariah.co.id

World Bank, 2006. Country brief report: Malaysia. (http://siteresources.worldbank.org/INTEAPHALFYEARLYUPDATE/Resources/550192-1143237132157/malaysia-March06.pdf).

www.bi.go.id diakses pada tanggal 10 September 2013

www.infobanknews.com diakses pada tanggal 20 September 2013

http://3ayat.blogspot.com/2010/02/beda-bank-syariah-dengan-bank.html diakses pada tanggal 20 September 2013