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ISLAMIC WEALTH MANAGEMENT AND ISSUES IN WAQF MANAGEMENT IN MALAYSIA

1. Policy Blindness and People's Welfare

After 250 years of unbridled pursuit of laissez faire, cross-border free trade via open economy theories and unbridled capitalism over the last four decades, a watershed appears to have been reached at the start of the 21-st century. Mercantilism of the 18-19th centuries gave way to an open economy model of freer trade in goods and services. The last 40 years saw the dismantling of barriers to financial trades as well. These moves have led to unbridled private pursuit of wealth creation supposedly meant to lead to greater human welfare. Despite the creation of wealth, the dismantling of laws since the Reagan-Thatcher brand of capitalism took root, the wealth inequality has gone to the level existing some 180 years ago: see The Economist (October, 2012). Wealth

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inequality has started to widen since the 1980s to a level which is reversing a fair degree of prosperity of the middle-class as once shared in all countries that had worked to reduce inequality.

There is a worldwide movement to prevent the so-called naked pursuit of wealth to arrest the proliferation of ideas that focus on merely wealth maximisation and the belief that there will be trickle-down effect. The idea of wealth maximisation itself was propagated by Coase (1960), and it was Kenneth Arrow (1964) who built this as part of the Theory of the Firm in the 1950s, when the idea got the attention of the regulators and politicians ever since. Wealth maximisation has become a mantra for managing the resources of the world in favour of the ones who hold power. Simultaneously the power of the workers started to wane with the active pursuit of globalisation, which enabled job displacement to low-wage locations. Labour unions often placed reasonable demands for the welfare of the working classes through living wage demands. Once the active pursuit of wealth maximisation idea on the part of the people lent the power took regulatory weight, it used the globalisation mechanism to move firms around the world in pursuit of wealth, and the power of the labour movements waned. It is documented in the annual digest of economics data that membership of the labour movement has declined from the highs of nearly 40% of employed workforce to a mere 17% in 2010.

Naked capitalism now becomes entrenched with no counterbalancing power groups so that wealth holders could demand dismantling of barriers to creating more wealth. For a time, the unbridled borrowing power of governments kept some level of welfare support by more borrowing until the debt burden has now become so great that the working classes are asked to retire later, sacrifice part of the pension, take wage cuts (Greece, Malta, Spain and Portugal) harming the glue that hold societies together. Hence the idea of using the borrowing power of the state to get some level of balancing of the welfare deficit will soon disappear. The result is further widening of income of the wealthy and the poor.

Given this background to the current state of affairs, we examine some ideas from Islamic wealth management and waqf concepts to see if there are some ways in which human welfare is better managed on a community-action level without the visible hands of the government. To do this, we first examine the concept of Islamic wealth management, and then provide some discussion on how waqf assets already in place in all Islamic countries could be mobilised to meet the needs of communities for sustainable economic development as well as fairer ways of looking after the needs of the lower class of societies.

2. Faith-Based Policy for Human Welfare

Let us turn our attention to an Islamic practice on welfare for over 1400 years. Education, health and old-age care have been taken care of by the simple principle of each believer voluntarily giving each year an amount equal to 2.5% of income earned in working periods as alms (zakat) to finance the welfare burden. This is a useful concept to bring back in the management of fiscal policy.

Finally, the role of personal bequest by wealthy people to serve the future generational needs has been the waqf concept of endowing part of the wealth of a person or organisation to be used in perpetuity for education, training, religious and welfare acts in Islamic societies for centuries. Waqf has been propagated as a voluntary religious act for management of one's wealth before leaving this earth. Waqf has been the main instrument in funding the management of prayer places in Islam without having to ask the rulers for funds for fear the rulers would want deviations of Islamic practices to be introduced. Waqf assets endowed to the mosques are used over centuries to gain income to support the community activities (feeding the poor, paying and housing the prayer leader, meeting food needs at times of famines and wars, etc,) all of which are centred around the mosque. The government is not involved except in regulating the proper control of the waqf assets for the intended purposes as trusts.

3. Wealth and its Manifold Features in Islam

Wealth, though earned by efforts, is believed to be owned by as well as come from Almighty Allah SWT. Humans are provided with wealth to serve the family and community

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needs. Wealth is owned by the Omnipresent, and is given to humans for the purpose of establishing good deeds to be done on earth. Humans are just the vicegerents entrusted with the responsibility to manage the given wealth and account as to how the humans used the wealth. On the Day of Judgment, one needs to account as to how much good the wealth was able to do for family and community. This is clearly explained in the Quran:

"To Allah belongs the heritage of the heavens and the earth; and Allah is well-acquainted with all that ye do" (Qur'an 3:180)",

"And He has subjected to you, as from Him, all that is in the heavens and on earth: behold, in that are signs indeed for those who reflect" (Qur'an 45:13).

The wealth management in Islam is strictly guided by the dictates of Shariah (Quran and the Sunnah), and comprises the (i) process of wealth generation, (ii) accumulation, (iii) protection, (iv) purification and (v) distribution. Islamic wealth creation has a broader meaning starting from venture capital to working capital finance to diminishing musharaka (ownership-based assets) lending. Even debt forgiveness is encouraged as an act of devotion to God, etc. Since resources have already been created by the Creator, man only uses the resources to generate products of value that are transformed as wealth.

Thus, wealth generation is related to the production process, the act of recovering the capital asset, and then receiving a reward as profits. Production is encouraged as long as the production has society-promoting aspects and avoid aspects that are harmful to society (gambling, prostitution, intoxicants, consumption of unclean food, etc.). Thus, in both real and financial assets, the process of wealth creation is from the use of assets (land, labour and accumulated wealth as capital) that are owned by God in order to create the wealth for the benefit of family and the community in which the family is a component. This is true of real and capital assets.

The wealth accumulation involves the placement of wealth in investment objects (such as equity securities, debt securities, private equity, banking products, takaful products, etc.) as long as such use of wealth help avoid harmful economic/financial products. A hallmark of all these activities is that the process of wealth creation must not involve non-permissible investments (the no-go zones of gambling, drugs and harmful products such as pork meat for consumption). Such wealth so created is not tainted as it is compliant with the Shariah guidelines. By compliance is meant that all aspects of the process and the final output of the process avoids explicit and implicit harm to man and society via major violations of legal prohibitions.

4. Human Welfare Depends on Investment, Zakat, and Waqf

Wealth protection relates to efforts towards preserving the value of the wealth owned through productive and useful investments. The process of generating wealth may involve non-Shariah compliant elements knowingly or unknowingly. For this reason there is a need to purify wealth that is done through

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compulsory alms (Zakat) at 2.5% of wealth created in a year and voluntary contribution (Waqf) if a person wishes to benefit generations to come. Compulsory purification (zakat) is the third of the five pillars of Islam: it is compulsory for all Muslims irrespective of age or gender, except those who are classified as beneficiaries (prophets and their families are forbidden to benefit from such alms). As for the voluntary purification (waqf), the Quran explains that:

"By no means shall ye attain righteousness unless ye give (freely) of that which ye love; and whatever ye give, of a truth God knoweth it well" (Qur'an 3:92).

Wealth distribution requires the concept of egalitarianism and society-focused income distribution which has strong inroads into fiscal policy planning as per Islamic principles. The wealth distribution includes the use of private wealth for faraidh (law of inheritance), expenditures for the collective benefit of society (education, health and economic needs of the poor), voluntary bequests (waqf) and helping the needy (sadaqah) starting with the family members in need first. The Quran clearly states that the accumulated wealth must be spent or distributed for the benefit of others:

"They who accumulate gold and silver and spend it not in the way of God, unto them give tidings of a painful doom. On the day when it will (all) be heated in the fire of hell, and their foreheads and their flanks and their backs will be branded therewith (and it will be said unto them): Here is that which ye accumulated for yourselves. Now taste of what ye used to accumulate" (Qur'an 9:35).

The distribution of wealth is necessary to ensure that the wealth will circulate in the economy for the benefit of society. If 2.5% is compulsorily distributed, then if one neglects to increase the wealth without investing in community-benefitting investments, the wealth will be gone in 40 years. That is the reason why there are exhortations to invest the wealth to benefit community, to produce useful goods and services to benefit man and society. Investing the capital to create more wealth leads to more charity (zakat) and more employment of the community of humans so that no one needs to be unemployed if all wealth is recirculated. Modern economic concept of output-to-input ratio clearly extolls the multiplier effect of money as capital put to work as production.

Modern economic studies of production has established a norm that money capital accounts for about two-thirds of income produced, while adding additional labour accounts for some 30% of wealth. The remaining 3% gain is due to economic efficiency, meaning smarter ways of doing things with technological innovations: there is a whole body of economic idea of production efficiency (starting from the Cobb-Douglas's Nobel prize winning idea) that has shown the power of production to create wealth. Fuller employment is the result of reinvestment or spending of the people who do not have capital. Wages that are earned from creation of employment through reinvestment enables families to spend, which in turn spurs more production, more employment leading to more wealth creation.

Thus, Zakat and Waqf are two instruments that are people based so that governments need not bloat its fiscal burden through welfare demanding debt taking. The obedience of moral man to a clearly-society friendly exhortation to give alms creates conditions that take care of common demands for basic welfare without resorting to government. The purpose of the government then becomes law and order (meaning regulating) how peace and prosperity could co-exist.

5. Waqf as a Tool for Capital Management

Waqf is a voluntary bequest in Malaysia. It is an endowment created in the form of property or usufruct of a cash investment for charitable purpose in perpetuity to benefit the society as a whole or for specific segment of society in need. Waqf, if managed and administered properly, will not only contribute to economic growth (i.e. reducing government expenditure on education, health and other social services and increasing employment) but also help in better distribution of wealth. Though waqf is not specifically mentioned in the Qur'an, the concept of wealth redistribution is amply mentioned (2:215, 264, 270, 280). There is also the authentic Prophet's statement on the good of the institution of waqf:

" Abu Hurairah reported Allah's messenger as saying: When a man dies, all his acts come to an end, but three: recurring charity, or knowledge (by which people benefit), or a pious offspring, who prays for him" (Sahih Muslim).

The combination of the deeds mentioned in this hadith explains the very essence of Islamic waqfs: the recurring charity that will last beyond the founder will benefit society, and the management to be entrusted to a pious offspring that will ensure proper management and prayers from the offspring (Cizakca, 2000).

Waqf, a form of continuous charity (sadaqah jariyah), is created by donating an asset (property or cash) that produces benefits/revenues for a targeted objective on an infinite basis. Ahmed (2004) categorised waqfs as religious and philanthropic. Waqfs may be for general purpose to benefit the society at large (usually for socio-economic relief to the needy and the poor, as it is dicouraged for rich people) such as schools, hospitals, mosques, to provide utilities, or could be very specific in objective like a scientific project, or building an irrigation infrastructure for designated farms in specific places or for taking care of the needs of specified individuals till their death.

Through a deed, the founder (waqif) determines the objectives for which the waqf can be used and the modes of distributing its fruits, services and revenues. The founder determines the waqf management and process of succession of managers allowed to impose any restrictions or qualifications he/she likes on his/her waqf. Most waqfs are perpetual and very often so emphasised in the waqf deeds. While the cash waqf dates back to as early as the turn of first century of Hijrah, (i.e. 671 AD) most waqfs established are real estate based.

In Malaysia, there are property based (both movable and immovable) waqfs and cash waqfs though the former has a longer history. Cash waqfs currently exist in Johor and the Federal Territory in the form of cash funds and bank accounts (Nuraini, 1991). The revenues of the state Religious Departments are partially from waqf revenues from investments (25%) in the Islamic Bank Malaysia and the Takaful Co. The returns generated by the Islamic bank belongs to the religious department and used for the benefit of the Muslim community.

There is no federal law subjecting all waqfs to the same rules and regulations and therefore each state has its own laws on this institution. The lack of a coherent system to manage waqfs is the direct consequence of the British colonisers, who introduced laws that fragmented the private land holdings (so the colonisers could purchase the land later to form plantations). The Malays responded by forming family waqfs that inhibited the British attempts to purchase the land and created great hostility to the waqfs leading to introduction of new laws that made the family waqfs null and void. Alhabshi (1998) explains the colonial rule reduced the role of Islam from a way of life to just a religious belief and took charge of everything except matters pertaining to religion and culture that were given to the sultans.

The Malay Muslims responded by building and maintaining mosques through the waqfs and making these mosques as centres of resistance, and consequently most waqfs were established for building mosques and cemeteries and rarely for economically productive purposes (i.e. education or plantations). However, at the end of their rule, the British initiated a process of massive centralisation that resulted in transfer of ownership of all waqf properties by making the Council of Islamic Religion (or the Majlis) as the sole trustee of all waqf properties (irrespective whether it is a family waqf or charitable waqfs). The Majlis has its own set of problems to properly administer the waqf properties.

Kamaruddin Ngah (1992) explains that the states had a common set of problems; there were no clear objectives and functions of the administrators, the organisational structure is inefficient, waqf officers are not properly trained, there is a lack of concrete plans and actions to develop waqf properties and lack of financial support to implement waqf projects. Mohd Zain (1997) explains further that there are also other problems relating to procedures as in some states waqf, which cannot encompass more than one-third of the property, and whenever there are illegal settlements in the waqf lands, there is little cooperation between the trustee, the Majlis and the authorities and this hinders the development of the properties.

One potential use of waqfs in Malaysia is to

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" **One potential** use of waqfs in Malaysia is to facilitate the development of the Small and Medium Enterprise sector. "

facilitate the development of the Small and Medium Enterprise sector. Small and medium enterprises (SME) are vital for economic growth, employment and social stability. SMEs currently contribute to more than 30% of GDP. Despite their economic importance, they face financing constraints from conventional collateral-based financing. Conventional financial institutions perceive small and medium enterprises as risky and they usually demand either collateral or some form of guarantee before they provide the required financing, which in most cases the SMEs lack.

As an alternative, it is proposed that they could be financed based on profit and loss sharing mode that will help to share the risk. However, conventional financial institutions are reluctant to adopt this alternative financing mode for reasons of costs and lack of transparency. Cash waqfs could be utilized either directly as a form of group financing or indirectly where the returns from investment from the cash are used to finance SMEs. For example, waqf funds could be used to extend credit of small amounts at a reasonable rate of profit sharing ratio.

The other alternative is to provide on lease (so perpetuity aspect is preserved) waqf land for development by small and medium enterprises with financing provided in terms of loans without any physical collateral. The social collateral is introduced by forming groups and loan repayment by the group is the collective responsibility of all the members in the group. Members in the group monitor the activities of each other and peer pressure induces the repayment of the loan. This format of peer monitoring resolves the problem of asymmetric information and reduces transaction costs of monitoring (Morduch 1999).

The type of financing provided for SMEs will depend on the type of economic activities they are engaged in such as production, trading, or services such as transportation or supplying equipment, seeds and fertilisers. For example, in trading, the murabaha (profit-and fee-based shared loan) or ijarah (leasing) types of financing could be suitable. Profit sharing mode of financing could also be used but this mode has the disadvantage of entrepreneurs under reporting the profits and it is difficult to get assessment on financial information for verification. Any form of monitoring will incur extra costs. Qard Hasan loans to operators of waqf lands (where only the service charges are imposed and the original principal to be repaid during a stipulated time) could also help to mitigate the issue of developing waqf lands in a productive manner.

The federal and state governments need to oversee the proper development and management of waqfs properties by, among others, having a proper governance structure accountable to the beneficiaries. Even if the waqfs properties are managed by the private sector, it is the role of the government's relevant agencies to ensure the protection of the endowment and the operations are conducted in compliance with the deed (Alexander, 2006).

6. Conclusion

Globalisation and unbridled pursuit of profits under today's capitalism has brought so much wealth creation in modern societies. But the lack of mechanism to ensure a fairer distribution of wealth in the face of unbridled acquisition of wealth has led to some degree of inequality of wealth distribution, making few very rich people at the expense of the vast majority. Statistics suggest that the top 5% of the households in most wealthy countries (there are few exceptions such as France, Germany, etc) hold nearly 50% of the wealth created.

The current financial, economic debt crises, political and economic instability on a global scale are partly due to the consequences of this inequality and the widening gap between the rich and the poor. This paper brings forth in brief the possibility of bringing order to this chaos through the active pursuit by the rulers of the two important concepts of Islamic wealth management and waqf with proper guidelines and enforcement. The current state of leaving these matters as self-managed ideas would not lead to amelioration of the conditions. In fact 70% of the poor are found in the 56 majority Muslim countries, which means that these twin ideas that could have been grasped by the rulers to meliorate such poverty is not being seized upon as acceptable reforms.

There are many aspects to Islamic wealth management, which includes the generation, the accumulation, the protection, purification and distribution of wealth to circulate it in the economy for the benefit of society in general. After a brief on the first four aspects, the paper presented how the issue of distribution of wealth could address the inequality of wealth distribution. The potential users of the waqf system should be seized upon to develop a plan to use the dormant assets to expand economic activities at the local level, beyond the mosque management.

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