

RISK MANAGEMENT IN WAQF INSTITUTIONS: A PRELIMINARY STUDY

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Abstract

Modern management practice has put greater emphasize on the principles of accountability and transparency. Along with the revival of Islamic institutions, there are call by the stakeholder for management of waqf institutions to adopt modern management practice to improve their efficiency in managing waqf asset. As part of good governance and best practices of waqf institutions, management of risk is fundamental to the proper functioning of any institution including waqf to ensure the accountability of mutawalli (waqf manager) and transparency of the management. Studies on risk management practices on Islamic institution indicate that risk come across in many different ways; financial, personnel, program and capital expenditure decisions due to interactions with economic, political and social environments. However, the dissimilarity of management practices of waqf asset could be due to the absence of risk management function for waqf institutions. This paper aims at exploring the major themes that constitute the basis of the discussion on accountability in waqf institutions. In doing this, the theoretical underpinnings and the existing research relating to waqf investment and its risk management practice are examined.

Keywords: *Accountability, Audit, Investment, Risk, Waqf*

INTRODUCTION

Over the last decade, Islamic institution like zakat (tithe) and waqf (endowment) has grown substantively in term of operation and management practice. In the last few years, the revitalization of waqf institution has been on agenda of Muslim communities around the world. Plenty of international waqf

programs and initiative have been undertaken by numbers of institution indicates a growing interest and awareness in waqf as one of the tools for community development (Cajee, 2008). In terms of principles and management styles, waqf institutions are operates in similar way as the Non-Profit Organisation (NPO). Operational structures of waqf institutions are rather simple which essentially in the hands of the manager known as mutawalli, who can shape to the best interest of the beneficiaries. Mutawalli play a very important role in operation and management of waqf institutions, other than decision-making process involving development and investment of waqf asset. Waqf has been playing a significant role in the development and improvement of various religious, educational, economic, social initiatives in Islam. As such, waqf institutions are facing risk in many different ways due to its changing and uncertain environment in managing waqf asset.

As part of good governance and best practices of modern management, effective management of risk is fundamental to the proper functioning of any institution including waqf institutions to ensure accountability and transparency especially to the stakeholders. Management of waqf institutions are facing risk due to interactions with changing, complex, volatile or multifaceted economic, political and social atmospheres and hence affecting financial, personnel, program and capital expenditure. In general, motivation for Islamic institutions to adopt a risk management framework often stems from the perception that it is required or that exposure to public claims is too great without sound risk management. Risk management practice of Islamic institutions are different resulting from special characteristics of its operational structures. As such, waqf institutions may be able to demonstrate compliance with a “process” or standard while overall efforts to comply with their legal and fiduciary responsibilities fail. To ensure harmonized executions across different laws and jurisdictions, many regulations are designed to build upon the existing framework by incorporating the unique shariah (Islamic legislation) features that are relevant to this institution.

Risk management of Islamic institutions are particularly complex and unique because of special characteristics of operational and institutional structures. Islamic institutions like zakat and waqf institutions are facing shariah non-compliance risk associated with failure to comply with shariah rulings on the matter of policy and ruling on investment and financial decision, collection and placement of asset, management and administration of waqf, and others. Study by Ab Rahman et.al (2012) discover that although the administration of zakat has undergone many improvements, there are still issues that need to be tackled to ensure that the administration of zakat is moving on the right track, henceforth to eradicate poverty and to upgrade people’s standard of living nationally and internationally. Therefore, management of Islamic institutions need to carefully weigh all options and

elect a systematic, strategic approach that supports their mission without being irresponsible. The ambiguity of who bears the risk, and what levels of risk taking are appropriate, affects directly on institution's decision-making. Many uncertainties still exist in risk management in waqf institutions, for which the answers are not yet necessarily clear, but which will play a part in shaping the institution's policy. Therefore, this paper aims at exploring the major themes that constitute the basis of the discussion on risk management practice in waqf institutions. In doing this, the theoretical underpinnings and the existing literature relating to waqf institutions and investment are examined. To begin the discussion, the discussion on waqf concept in general will be highlighted. It will be followed by the review of on waqf investment and role of mutawalli in waqf institutions. The discourse about risk management of waqf investment is presented before the conclusion.

THEORETICAL OVERVIEW: MANAGEMENT OF WAQF INSTITUTIONS

Waqf

From the literature, the literal definition of waqf means to hold (al-habs). Waqf and al-habs are two Arabic words that commonly used in literature to denote endowment in Islam. The word "waqf" originally derives from the Arabic root verb "waqafa" which means to hold, confinement or prohibition. Shariah Board of Accounting and Auditing Organization for Islamic Financial Institute (AAOIFI) suggests that the comprehensive definition of waqf is as "making a property invulnerable to any disposition that leads to transfer of ownership and donating the usufruct of that property to beneficiaries". Rashid (2011) define waqf as a perpetual dedication of a property for any object recognized by the Islamic law as religious, pious and charitable. Kahf (1998) define waqf from shariah and economic perspective as holding an asset (mal) and preventing its consumption for the purpose of repeatedly extracting its usufruct for the benefit of an objective, representing righteousness". From the latter standpoint, he defined it as; Waqf is an act of diverting funds and other resources, from consumption and investing them in productive assets that promise either usufruct or revenues for future consumption by individuals or group of individuals. Waqf is one of the mechanisms in Islam to promote equitable and just distribution of wealth.

Even though there is no legal provision from the Qur'an regarding waqf, majority of scholars agreed that waqf has started during the lifetime of Prophet Muhammad SAW with the concept of continuous charity (sadaqatan jariyah), where properties such as mosques, wells, land and horses were made waqf for charitable purposes. (Sabiq, S. 1997). The legal provision of waqf are derived from hadith of Prophet Mohammad SAW:

The Messenger of Allah SAW says " When a person dies, all his deeds come to an end except three: sadaqah jaariyah (ongoing charity, e.g. a waqf or endowment), beneficial knowledge (which he has left behind), or a righteous child who will pray for him." (Narrated by al-Tirmidhi, no 1376; he said this is a sahih hasan hadith, Sahih Muslim 1631).

Umar bin Khattab got some land in Khaibar and he went to the Prophet to consult him about it saying, "O Allah' Apostle got some land in Khaibar better than which I have never had, what do you suggest that I do with it?" The Prophet said, "If you like you can give the land as endowment and give its fruits in charity." So Umar gave it in charity as an endowment on the condition that would not be sold nor given to anybody as a present and not to be inherited, but its yield would be given in charity to the poor people, to the Kith and kin, for freeing slaves, for Allah's Cause, to the travelers and guests; and that there would be no harm if the guardian of the endowment ate from it according to his need with good intention, and fed others without storing it for the future." (Narrated by Ibn 'Umar - Sahih Bukhari Volume 3, Book 50, Number 895).

Over the centuries, Islamic institutions has been playing a significant role in the development and improvement of various religious, educational, economic, social initiatives in Islam. For instance, role of zakat institution is very significant in complementing the government's poverty eradication effort among the poor and needy Muslims, which also serve as a safety-net purpose especially in an economic downturn (Ab Rahman et.al, 2012). An important characteristic of waqf relates to its objective in performing charity out of good intention for society at large, including maintaining various Islamic and social organizations as well as assisting poor individuals of the society leading to a significant reduction of poverty. From economic point of view, waqf is diverting funds (and other resources) from consumption and investing them in productive assets that provide either usufruct or revenues for future consumption by individuals or groups of individuals. This definition of waqf allows inclusions of all kinds of assets under waqf, so that land and construction can be made waqf. The objective of waqf may be characterized either for religious purposes, such as a mosque for prayers, or for philanthropic or public purposes and all activities that are of interest to people at large such as such as public utilities, libraries, scientific research, education, health services, care of animals and environment, parks, roads, bridges, dams etc.

Waqf Investment

As waqf continue to gain more economic benefit from its asset, there is need to structure a suitable economic development plan for perpetuity that signifies the sense of waqf in giving preference to capital preservation. Economic development in Islam referred to a balanced and sustained improvement in the material and non-material well-being of man, and development as a multi-

dimensional process, which involves improvement of human welfare through advancement, reorganization and reorientation of entire economic and social systems in accordance with the norms and values of Islam. In that sense, waqf from socio economic perspective can be used as a catalyst to improve standard of living of public, reduce poverty and difficulties among the poor and maintaining the good living. This is done through fair wealth distribution among the society (Salarzahi et. al 2010).

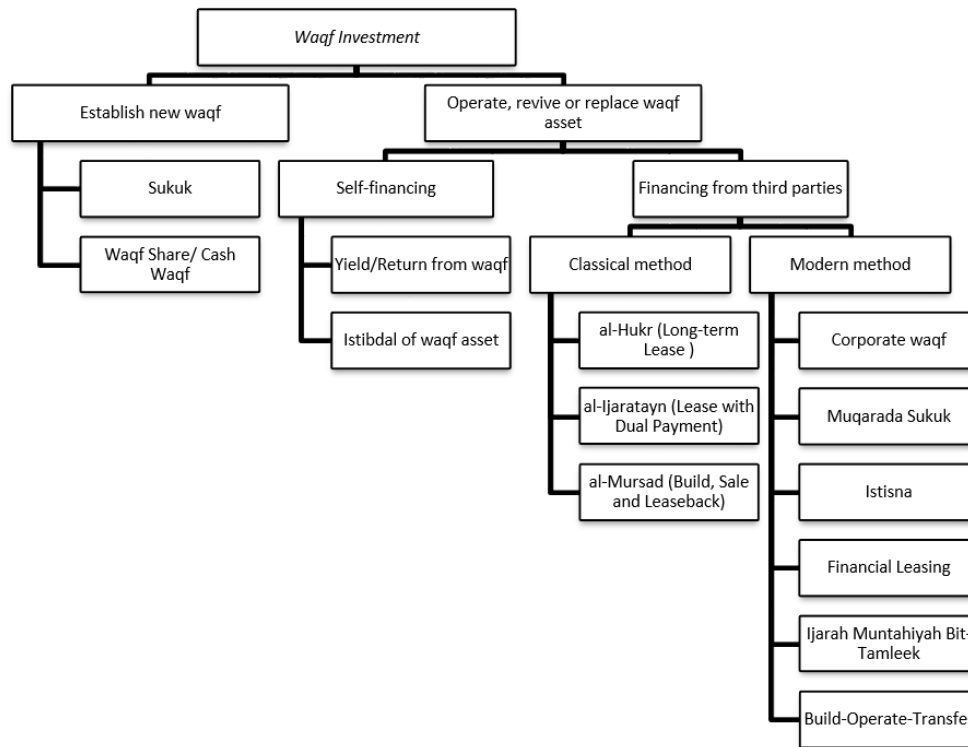
The economic development of waqf asset are either for establishment of waqf asset or for revivification of waqf asset. In fulfilling these objectives demands waqf institutions to have adequate funds to serve that purpose. The nature of waqf investment is hinge on the future and requires a certain period of time to achieve returns. Within that period, some changes may happen that will affect the projection of returns, and for that reason two considerations need to be take into account; First, the selection of projects for investment in waqf where it needs to be studied in detail since the nature of investments is for long term and cannot be changed in a short period without having significant losses (Umar, 2004). Second, the selection of waqf investments that are flexible and can be availed easily without incurring substantial losses or it can be revised if there is changes in conditions or contract. The main issue in economic development of waqf asset is on the protection and security of the waqf assets. The problem in selection of the most suitable shariah method to develop the waqf properties could be overcome with the involvement of Fatwa and Mufti department. There are several criteria for investment of waqf assets that should be adhere as follows:

- i. In term of legitimacy, the waqf investment need to be shariah-compliance and adhere to legal provisions related to the establishment and investment of Islamic Endowments.
- ii. The objectives of waqf investment should fulfil waqf objectives; namely the retention of waqf assets and to yield maximum return from investment.
- iii. Diversification of investment activities in accordance with waqf assets and diversification of investment portfolios that maintain waqf assets.
- iv. Economic activities that reduce risk to the minimum extend and appropriate risk management framework for waqf institutions.

According to Umar (2004), in the course of discussing the waqf investment, there are two features that need to be noted; capital formation and use of capital, which both are important for something beneficial for the future. Investment of waqf asset is vital for several reasons; (i) to develop and establish new waqf asset, (ii) to maximise usage of waqf asset (iii) to revive and to maintain existing waqf asset, (iv) to replace or substitute (istبدال) existing waqf asset with another. It should be noted that moratorium on development of waqf asset may be impose for generating funds for future development.

Investment of waqf asset is financed by various method of capital formation depending on type of waqf asset, which is illustrated as follows:

Figure 1: Ways and methods of waqf investment



(Source: amended from Umar, 2004)

Role of al-Mutawalli and the Practice of Accountability in Waqf Investment

In modern management context, waqf institutions operates in similar way as the Non-Profit Organisation (NPO), which shared common goal in creating social values. Operational structures of NPO are rather simple which involves donors and volunteers that responsible to evaluate their contribution and services to the organizations. As for the waqf institutions, the operational structure is essentially in the hands of the manager known as mutawalli, who can shape it the way it pleases her/him. Mutawalli or also known as nazir or qayyim are responsible to ensure continuous charity of the waqf property that could generate perpetual income flow to the best interest of the beneficiaries. In performing his job to the best interest in preserving waqf asset and revenues, mutawalli should be very creative in generation of income or profit from waqf assets. Mutawalli is not the owner or even a trustee of the property as he only has a limited control over the waqf assets whose job is the see that the usufructs of the property are being utilized for valid purpose as desired by the waqif. For instance, mutawalli should ensure that any revivification or investment of waqf assets comply with shariah ruling and related legal requirement. Besides, mutawalli has to ensure that waqf will contribute to the betterment of Muslim society (Ihsan and Adnan, 2009).

As waqf is a religious deed meant for public benefit, mutawalli need to instil good governance and quality management practices in waqf institutions. Furthermore, the implementation Islamic quality management system not only derive a job satisfaction, but also elevate the true success (al-falah), which aimed at the pleasure of Allah (Mohamed et.al, 2013). A proper and modern management practice is believed to improve fiduciary, accountability and transparency of waqf institutions to the stakeholders and public in large. Defining stakeholders for NPO might be elusive as they involve many audiences. Ihsan and Adnan (2009) identify the stakeholders of waqf as waqif (endower), waqf board, regulator, beneficiaries, and public in large. Therefore, in this sense a clear monitoring from mutawalli will enable the stakeholders to see how compliant he is to the trust and rules in managing waqf assets.

A fiduciary is someone acting on the behalf of another based on an expectation of trust. As a person who is responsible to manage waqf, a mutawalli has ultimate responsibility and accountability for the institution's actions. Cutt and Murray (2000) as stated by Ihsan and Adnan (2009) are in view that accountability manifests itself as information through management information systems and associated methods of analysis and evaluation. With regard to the waqf institutions, accountability of mutawalli to stakeholders could be discharged by providing relevance report and information regarding management of waqf to waqif, waqf board, beneficiaries and community. Study by Mohamed et.al (2013) on financial management suggests that recording of financial transactions, accountability of stakeholders is required in order to improve the productivity and performance of a mosque. Growing interest in professionalization of NPO has placed the staff in the centre of accountability equation (Keating and Frumklin, 2003). Hence, mutawalli and the staff will need all relevance information pertaining to waqf administration such as operational, risk, program and priorities that will give a visibility to the resources, activities and achievements of the waqf institutions, thus enabling informed discussions and decisions by the mutawalli.

Management of waqf institutions may need to provide comprehensive report and information to the stakeholders that will help them in monitoring the performance of mutawalli in managing waqf. Moreover, mutawalli need to inform waqif whether he/she has fulfilled the objective of waqf as the waqif wishes which in turn, sourced from his report. There is occasionally where daring, demanding and discretionary stakeholders who are represented by politician, press, NGOs and potential waqif respectively, might claim the information about program i.e. how effective waqf in achieving the result intended. Keating and Frumklin (2003) note that the stakeholders of NPO normally need such program reporting to make decision about their support and participation on the organizations in the future.

RISK MANAGEMENT OF WAQF INSTITUTION

According to shariah, gharar (ambiguity) denotes any elements of chance involving asymmetric information, uncertainty, risk or even speculation leading to illicit profits, such as is excluded by the religious and consequently by the mortal percept of Islam. Islam offers full freedom of contracts to economic agents as long as the resulting contract is within the boundaries defined by shariah, which mainly exclude riba (usury) and gharar. Given the freedom of contracts and the understanding of gharar, Islam fully recognizes risk generated by financial and commercial factors and elements extrinsic to the formation of the business. America Institute of Certified Public Accountants (AICPA) states, "Greater risk awareness is becoming an expected best practice in overall governance of an organization. Knowing that organizations, including not-for-profits, must assume risks if they want to further their mission, executives are now seeing the strategic value of being more informed about those risks that might positively or negatively affect their mission goals and objectives." It is obvious that the any organization including waqf institutions are as prone to the dangers posed by potential risks as they work to achieve their goals, as is the Muslim community. However, the concept of risk and risk management is seen through a unique "lens" when applied to NPO like waqf institutions because, unlike the conventional framework where business owners and CEOs determine policy, in the waqf institutions, so many of these critical decisions are left to the management and administration of the institutions. It is this group of institution's decision maker who will be ultimately held responsible for deciding how conservative or adventurous the institutions should be, what approach to take regarding managing risk, and how the risk can be shared by the stakeholders.

According to the International Risk Management Principles and Guidelines standard (AS/NZS) ISO 31000:2018, risk management is defined as "coordinated activities to direct and control an organisation with regard to risk". In this article, risk management is defined as the process that is adopted to plan for the possibility that events may cause harm to Islamic institutions, focusing specifically on risk associated with board members, staff, programs and events, services offered, operations, technology and financial management. By analysing the weakness of the Islamic institutions, the management is able to link the related risks portfolio to the institution's goals and by doing so, can improved and efficiently mitigate the impact of risk within each situation.

ASSESSING AREAS VULNERABLE TO RISK IN WAQF INSTITUTIONS

The ability of waqf institutions to meet their mission and achieve their vision depends on the strategies to integrate both corporate and shariah governance, strategic planning and risk management and at the same time put a balance

between pursuing their growth and focusing the risks related to those initiatives. The process of identifying and planning institution’s strategic planning should be part of waqf institutions governance framework which include the quality of programs, the institution’s physical capacity, the success with which the institutions achieves its mission, the demographics of stakeholders especially waqif and prospect waqif, transparency of the group, and the management of the changing expectations of Muslim community, clients and staff, especially when stakeholders are seeking quantitative measurements as proof of impact and different outcomes succeed rather than as initially projected. Waqf institution can analyse the areas that are likely to have risks associated with them based on institution’s strategic planning that can illustrated as follows:

Table 1. Areas and activities vulnerable to risk in the waqf institutions.

| Areas | Activities |
|---------------------------|--|
| 1. Financial activities | Use of funds and financial allocation, personnel, deferred capital maintenance, cost of programs and services, management of waqf assets and property, cost of new technologies and the use of all resources |
| 2. Operational activities | Systems related to finance, technology and administration along with internal controls, security, internet access, electronic records (ex., waqif and NGOs databases), human resources and succession |
| 3. Compliance concerns | Legal and regulatory accountability, implementation of processes that can affect institutions legal and fiduciary images, and contracts |
| 4. Reputational concerns | Mistakes in any of the above areas, leading to damaging or diminishing Islamic institution’s reputation and perhaps future activities. |

ANALYSIS ON RISK PROFILE OF WAQF INSTITUTIONS

Developing risk management framework for waqf institutions becomes more significant recently. Risk management processes and techniques enable mutawalli to control undesirable risks and to take benefit of related opportunities in improving benefit of waqf asset. These processes are of important concern for mutawalli as these determine the overall efficiency and effectiveness of respected institutions. Identifying and assessing areas of risk is a key to managing the process for waqf institutions, especially as conventional risk assessments are proving to be important for decision making. Management

of waqf institutions must focus on conventional areas of risk while also learning to link mission critical strategies with key risks. Reviewing the institution's top strategic initiatives (programme, events, and service offerings) is one way to begin identifying those areas of greatest exposure for the group. Here are some of the most common areas that have a high potential for risk:

Financial Risk

Managing and protecting financial resources is important for any institution including waqf institutions. Without adequate financial resources to develop waqf assets, such institution is unable to achieve its mission and may not survive. Waqf assets can be categorised into three categories – money, goods and properties, and services. Money consists of cash, checking and savings accounts, and securities and other investments. Goods and properties involve merchandise or stock, land, buildings, supplies, and equipment. Services are the programs and activities offered to the public. The risks in financial management are any actions that contribute to the reduction in value or loss of any of the institution's financial assets. Every institution should be aware of the possibility of a financial loss and take the appropriate protective actions. A financial loss can have a tremendous impact on waqf institutions and force the organization to reduce its spending and fund distribution. Costly and inefficient programs can also put the institution in a dangerous financial situation as institution's activities that are not carefully managed and measured.

Operational Risk

Operational risks are related to waqf institutions' organization and functioning, including compliance with management standard, practice and procedures, and measures against mismanagement and fraud. To produce an estimate of operational risk, reference can be made to institution annual report or statements. Operational risk is the risk of loss resulting from inadequate or failed internal processes, people, and systems or from external events. This definition includes legal risk but does not include reputational risk or the risk resulting from strategic decisions. Some operational risks result in increases in the institution operating cost or decreases in its revenue. Other operational risks interact with credit and market risk.

Shariah Non-Compliance Risk

The Islamic Financial Service Board (IFSB) define shariah non-compliance risk as the risk, which arises from institutions failure to comply with the shariah rules and principles, determined by the Shariah board or the relevant body in the jurisdiction. Shariah compliance is considered by the IFSB as a higher priority category in relation to the other identified risks, since violation of

shariah principles will result in the transactions being cancelled or income generated from them considered as illegitimate. In this regard, shariah non-compliance risk fall within a higher-priority category compared to other identified risks. A study done by DeLorenzo (2007) discussed on management of shariah risk and highlighted two important elements of shariah compliance risk; the role of Shariah Supervisory Board (SSB) and role of fatwas. A study by Mohd Ariffin, N. and Kassim, S. (2009) show that Islamic banks are not fully using the shariah compliant risk mitigation methods which are different from the ones used by conventional banks. This is due to these methods are still subject to several objections by fiqh scholars, which according to them, may lead to speculation.

Fiduciary Risk

Waqf institutions are liable for losses arising from their negligence, misconduct or breach of trust; the risk of losses which arises from such events is characterized as a fiduciary risk. In other words, fiduciary risk is an indication of failure to “perform in accordance with explicit and implicit standards applicable to their fiduciary responsibilities” (IFSB, 2005). Fiduciary risk in the waqf institutions can bring a loss of confidence in the institution, resulting in a decline in demand for its services, diminishing zakat payer and endower support, fewer volunteers, or even a withdrawal of strategic alliances and collaboration partners. Waqf institution may not even be aware that its reputation is being tarnished until some of the situations described above occur repeatedly. Most assume that they are protecting their good reputation and keeping it from risk by providing good services for the public and following established policies. Ineffective waqf asset management system, missing information on waqif, inadequate information on waqf investment, unhappy public who take to complaining on social media or even a special event gone awry can all bring reputation risk to even the most well-regarded institution.

CONCLUSION

The purpose of this paper is to identify how waqf institutions need to manage their risks, to review current approach in risk management, and to offer a conceptual framework that Islamic institution can use to develop a more sophisticated and effective way to manage related risk in the future. The hope is that this will inspire fuller attention to risk management in the Islamic institution management literature and studies. The increasing use of modern management standard and policies by the institutions could expose the Islamic institutions to additional unique risks. In addition, failure to comply with shariah is also a form of operational risk and if Islamic institutions fail to do so, they will betray the trust of investors and therefore should be responsible for the lost income.

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Penafian

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