



Poverty, Hunger and Inequality in the Context of Zakat and Waqf

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Abstract

The purpose of this paper is to clarify the differing roles of *zakat* and *waqf* in poverty alleviation, hunger, and inequality. It aims to provide a blueprint for harnessing *zakat* and *waqf* as alternatives to remedy these social ills. The paper is a qualitative research project, performed through analysis of literature regarding current confusion points pertaining to the areas of *infaq*, *sadaqah*, *zakat*, *cash waqf*, corporate *waqf*, and traditional *waqf*. An ideal social safety net is attainable by focusing on poverty, giving special attention to economic empowerment programs. *Zakat* should play a supporting role in abating hunger for people in the transition while counterbalancing inequalities created by market imperfections. Since *zakat* funds cannot be used for social infrastructure development, traditional *waqf* should fulfil these needs among vulnerable people. Additionally, contemporary forms of cash *waqf* and corporate *waqf* are essential in mobilizing resources for social infrastructure development. In contrast to existing literature, this paper provides an alternative blueprint for Islamic social investment and transfer, clearly delineating the roles of *infaq*, *sadaqah*, *zakat*, and *waqf*. Different Islamic social investment and transfer tools should function like prongs, each acting in a separate sphere, working to serve the same ultimate purpose.

Keywords

Infaq • *Sadaqah* • *Zakat* • *Waqf* • Cash *Waqf* • Corporate *Waqf* • Islamic Microfinance • Economic Empowerment

Zekât ve Vakıf Bağlamında Yoksulluk, Açlık ve Eşitsizlik

Öz

Bu çalışmanın amacı, yoksullukla mücadele, açlık ve eşitsizlik konularında Zekat ve Vakıf kurumlarının üstlendiği farklı rolleri değerlendirmektir. Bu çalışma ile Zekat ve Vakfın söz konusu sosyal yaraları sarmak maksadı ile alternatif olarak kullanıldığı bir plan sunulması amaçlanmıştır. Makale; infak, Sadaka, Zekat, Para Vakfı, Kurumsal Vakıf ve Geleneksel Vakıf alanlarına ilişkin mevcut literatürde bulunan çelişkili noktaları da açıklığa kavuşturan nitel bir araştırma projesidir. İdeal bir sosyal güvenlik ağına; yoksulluğa odaklanılarak ve ekonomik olanak sağlama programlarına özel önem gösterilerek ulaşılabilir. Zekat, piyasa mükemmeliyetsizliklerinin yarattığı eşitsizlikleri dengelerken geçiş sürecindeki insanların açlık sorununu hafifletmede destekleyici bir rol oynamalıdır. Zekat fonları İslami açıdan sosyal altyapı projeleri için kullanılmadığından, geleneksel vakıf, ekonomik olarak savunmasız insanlar için sosyal altyapı ihtiyaçlarının karşılanmasında kullanılmalıdır. Buna ek olarak, çağdaş Para Vakfı ve Kurumsal Vakıf formları sosyal altyapı projeleri için kaynak mobilizasyonu için önem arz etmektedir. Mevcut literatürden farklı olarak, bu makale İslami sosyal yatırım ve sosyal transfer için alternatif bir taslak sunmakta olup infak, sadaka, zekat ve vakf'ın bu bağlamdaki farklı rollerini açıkça ortaya koymaktadır. Farklı İslami sosyal yatırım ve sosyal transfer araçları, her biri ayrı bir alanda hareket eden ve aynı nihai amaca hizmet eden çatal dişleri gibi işlev görmelidir.

Anahtar Kelimeler

infak • *Sadaka* • *Zekat* • *Vakıf* • *Para Vakfı* • *Kurumsal Vakıf* • İslami Mikrofinans • Ekonomik Olanak Sağlama

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Introduction

As a religion, Islam encourages entrepreneurship and wealth creation while obliging believers to allocate some part of their wealth for good causes, as clearly indicated in the Qur'an.¹ Indeed, many verses in the Qur'an clearly indicate the unacceptability of continuing to accumulate wealth without allocating some amount to those in need of support.² Hence, the issue of spending in the interest of good causes is an important topic in Islamic economics and finance. This topic has been discussed throughout Islamic history, as poverty is viewed as a matter to be handled similarly to struggles against disbelief (*kufir*) in Islam. Muhammad (PBUH) said: "O Allah! I seek refuge from disbelief (*kufir*) and poverty".³ Hence, the realities of the contemporary world require a systematic elaboration of how best to structure spending for the cause of Allah (*fisabilillah*).

However, there is often confusion concerning several pertinent terms, namely, *infaq*, *sadaqah*, *zakat*, and *waqf*.⁴ These terms are intended to represent different types of spending and should not be mingled or used interchangeably. The Islamic view suggests beginning with your community first: start with your family (*infaq*) and then expand your giving to relatives and the neighborhood in which you live. The word *infaq* relates to *nafaqa*. It is obligatory for every Muslim to work for and spend money on family members who are not eligible to receive *zakat*. Particularly, it is essential for parents to assure that their children have the relevant education and basic assets necessary to fulfill their obligations in adulthood toward their children and parents. Thus, they should be well-versed in the contemporary skills required to create value, and subsequently allocate some part of their wealth to those closest to them in need of support. Hence, allocation of resources for *zakat* and *waqf* should come only after obligation towards family members has been met. The exception to this principle is *sadaqah*, which is a voluntary act performed by the giver in cases of urgent need and, unlike *zakat*, is not obligatory.⁵ Members of a community should address emergency issues with *sadaqah*.

- 1 You can never have extended virtue and righteousness unless you spend part of what you dearly love for the cause of God. God knows very well whatever you spend for His cause (3:92)
- 2 And let not those who [greedily] withhold what Allah has given them of His bounty ever think that it is better for them. Rather, it is worse for them. Their necks will be encircled by what they withheld on the Day of Resurrection. And to Allah belongs the heritage of the heavens and the earth. And Allah, with what you do, is [fully] Acquainted (3:180)
- 3 Sunan an-Nasa'i 5485.
- 4 Abdur Rashid Siddiqui, *Qur'anic Key Words* (Markfield: The Islamic Foundation, 2008).
- 5 Paul Heck, *Taxation in Encyclopaedia of the Qur'an* (Washington, DC: Georgetown University Press, 2018).

On the other hand, if the problem is not sporadic but persistent, the issue should be addressed with tools other than *sadaqah*. The intractable issues of poverty, hunger, and inequality should be addressed by enabling a business environment capable of economically empowering people (Islamic microfinance) with the support of *zakat* and *waqf*. Gundogdu systematized the role of Islamic social transfer in the context of sustainable development goals (SDGs) related to economic empowerment (Islamic microfinance), *zakat* and *waqf*.⁶ Unfortunately, *zakat* is assumed to be a major mechanism to address the issue of poverty, yet guidance of Muhammad (PBUH) suggests economic empowerment by means other than *zakat*. Indeed, there is substantial confusion regarding the different facets of *zakat* itself. The distinction between hunger and poverty is key to understanding the role of *zakat* in this context. Although there are different definitions of poverty and hunger, perhaps the best categorization lies in the context of local purchasing power: “National Poverty Line” and “National Hunger Line.”⁷

The main purpose of this paper is to provide a viewpoint for Islamic social transfer while elaborating on confusion regarding *zakat* and *waqf*. The way *zakat* and *waqf* presented in the literature as a panacea is not reasonable. Different tools should have different scope of work to justify their presence. The principles of Islamic social transfer effectuate people-to-people platforms. The Islamic social safety net is formed by the intersection of *infaq*, *sadaqah*, *zakat* and *waqf*. The tax-based, government-centric social security system is not typically embraced. For example, *sadaqah* resources might be mobilized by crowdfunding. In principle, the piling up of resources by governments or institutions, religious or not, is not considered laudable. Resources should be collected and summarily distributed from account to account, not withheld to invest for return, so as to avoid misappropriation and corruption by those running charitable institutions. Only in this regard is government’s supervisory role welcomed and needed. The role of institutions, religious community leaders, and governments as distributors

6 Ahmet Suayb Gundogdu, “An Inquiry into Islamic Finance from the Perspective of Sustainable Development Goals,” *European Journal of Sustainable Development* 7, no.4 (2018): 381-390, <https://doi.org/10.14207/ejsd.2018.v7n4p381>.

7 A comprehensive elaboration is provided in the World Bank document on the definition of poverty (siteresources.worldbank.org 2018). World Bank “The definition of poverty,” accessed December 12, 2018, <http://siteresources.worldbank.org/INTPOVERTY/Resources/335642-1124115102975/1555199-1124115187705/ch2.pdf>.

of charity for the sake of political agendas is not acceptable in Islam.⁸ It is clear that there exist moral hazard, adverse selection and incentive concerns in the delivery of Islamic social transfer services.

It is the aim of this paper to shed light on these issues; propose institutional structure to mitigate these problems and ensure sustainability, outreach and efficiency; and resolve the confusion in the literature on the role *zakat* and *waqf* for poverty alleviation, hunger and inequality. Following, the section two present the case of *zakat* and the section three present the case of *waqf*. The last section provides an evaluation of the viewpoints presented and concludes.

Zakat

The issue of *zakat* is very often confused, and in practice the use of *zakat* funds often defeats the intended purpose of *zakat*. In Islam, *zakat* is not meant as a tool for direct poverty alleviation of individuals. Rather, *zakat* is a means of addressing the societal issues of hunger in transition, and wealth inequality that may result from market imperfections. The effects of *zakat* and *waqf* on poverty alleviation are indirect, and their goal is to support systemic poverty alleviation efforts. The historical account supports this proposition, since despite reports of continued surpluses in *zakat* collection (beyond the amount of *zakat* that could be distributed); the issue of poverty has been prevalent in Muslim societies.⁹ Sporadic periods of plentitude notwithstanding, eradication of visible poverty could not be sustained in the long-run. The belief in Islam is that poverty should be directly targeted by entrepreneurship and trade, and doing so requires the economic empowerment of vulnerable people. *Zakat* and *waqf* mechanisms are needed to grapple with hunger, poverty, and inequality; yet, when it comes to poverty, the focus should be on economic empowerment. Creating dependency on charity is not encouraged in Islam, as indicated in the hadith in Table 1.

8 O you who have believed, do not invalidate your charities with reminders or injury as does one who spends his wealth [only] to be seen by the people and does not believe in Allah and the Last Day. His example is like that of a [large] smooth stone upon which is dust and is hit by a downpour that leaves it bare. They are unable [to keep] anything of what they have earned. And Allah does not guide the disbelieving people (2:264).

9 Didin Hafidhuddin and Syauqi Beik, "Zakat Development: Indonesia's Experience," *Jurnal Ekonomi Islam Al-Infah* 1, no.1 (2010): 40-52.

Table 1: Economic Empowerment showcase of Muhammad (PBUH)

A man of the Ansar community came to the Prophet (PBUH) and begged from him. (#1) He (the Prophet) asked: Have you nothing in your house? He (the man) replied: Yes, a piece of cloth, which we wear, or which we spread (on the ground), and a wooden bowl from which we drink water. (#2) He (the Prophet) said: Bring them to me. He (the man) then brought these articles to him and he (the Prophet) took them in his hands and asked to the assembly of people: Who will buy these? A man said: I shall buy them for one dirham. He (the Prophet) asked twice or thrice: Who will offer more than one dirham? Another man said: I shall buy them for two dirhams. (#3) He (the Prophet) gave these to him and took the two dirhams and, giving them to the man of the Ansar, he said: Buy food with one of them and take it to your family, and buy an axe and bring it to me. (#4) He then brought it to him. The Prophet (peace be upon him) fixed a small branch of wood (as a handle) on it with his own hands (#5) and said: Go, cut and gather firewood and sell it, and do not let me see you for a fortnight. (#6) The man went away, cut and gathered firewood and sold it. When he had earned ten dirhams, he came to him and bought a garment with some of them and food with the others. (#7) The Prophet (PBUH) then said: This is beer for you than begging which should come as a spot on your face on the Day of Judgment.

Source: Al-Baihaqi, Abu Bakr Ahmad Ibn Husain, Kitab Shu'ab al-Iman, Bab al-Hathth (ala) Tark al-Ghill was al-Hasad/ Mishkat, Kitab al-Adab, Hadith No 505 as cited by Obaidullah (2016)

This example of Muhammad (PBUH) suggests that the Islamic approach to poverty alleviation is entrepreneurship and trade. Indeed, what is illustrated in the hadith is very similar to contemporary Islamic microfinance practices with economic empowerment approaches.¹⁰

Ideally, the economic system should be designed to enable people to take care of themselves while creating a surplus. This requires measures which can ring-fence vulnerable people against exploitation occurring in the form of *riba*, or high input prices followed by low off-take prices. A phrase common among Indonesian rural populations summarizes this phenomenon: “*tuku larang, adol murah*- too high a price when you buy, too low a price when you sell”.¹¹ Vulnerable people need protection from exploiters and economies of scale in their business transactions, that is, economic empowerment. Hence, Islam forbids *riba* and assures fair price formation in markets by disallowing monopolies and the taking advantage of financially strained people by offering them prices below market worth. The economic empowerment approach of Islamic microfinance aims at balancing economies of scale for vulnerable people by aggregating demands and supply in

10 Gündoğdu, “An Inquiry,” 381-390.

11 Dani Muhtada, “The Role of Zakat Organization in Empowering the Peasantry: A Case Study of the Rumah Zakat Yogyakarta Indonesia,” in *The Islamic Finance for Micro and Medium Enterprises*, ed. Mohammed Obaidullah and Salma Abdullateef (Jeddah: IRTI, Islamic Development Bank, 2008).

order to obtain the best prices for them. This approach also introduces a profit-loss sharing financing mechanism, thus ring-fencing them against loan sharks. The Islamic approach indicates that not *zakat* but entrepreneurship and trade are ultimately the key to poverty alleviation and prosperity. However, while *zakat* does have a role to play in support for poverty alleviation, there remain certain confusions concerning the principle.¹²

The traditional understanding of *nisab* to determine which people are liable to pay *zakat* (*muzakki*) may not be relevant in the contemporary world. However, the essence of *nisab* is still valid: one must have some assets after fulfilling *infaq* obligations and making voluntary *sadaqah* payments. In the same fashion, *zakat* should be allocated based on purchasing power parity in a community. Hence, *zakat* should be distributed to *mustahiqeen*—those who are below the hunger line and wish to engage in economic activities.¹³ Continuing to allocate *zakat* to those who do not want to help themselves might in fact be seen as a kind of oppression (*zulm*). This is because such a practice would put generations of offspring into a poverty trap. In this regard, Gundogdu indicated the use of *zakat* to address hunger only in the case of Islamic microfinance.¹⁴ However, microfinance institutions should operate based on market dynamics without *zakat* or *waqf* equity contributions, so as to assure value-addition and profit making and avoid creating zombie microfinance intuitions. In cases where Islamic microfinance beneficiaries are also afflicted with hunger, *zakat* support directly to individuals is advised only as a transition mechanism. The use of *zakat*, *sadaqah*, and *waqf* as buffers against non-performing loans (NPLs), guarantee funds, or equity in Islamic microfinance (as proposed by Hassan; Obaidullah and Abdullateef) is not acceptable, since *zakat* is meant to be a people-to-people direct

12 Yusuf Qaradhawi, *Fiqh Al-Zakah*, trans. Monzer Kahf (Jeddah: Center for Research in Islamic Economics, King Abdulaziz University, 1995). The confusion relates to the following major aspects of *zakat*:

- a) Who should give *zakat* (*Muzakki*)?
- b) Who should be beneficiaries of *Zakat* (*Mustahiq*)?
- c) Who should distribute *zakat*?
- d) Where should *zakat* be distributed?
- e) Cash vs. in-cash-kinds of *zakat* allocation
- f) Calculation of *zakat* based on market value net-worth vs. income generated from assets
- g) Can we accumulate *zakat* funds and use return from investments as proceeds for distribution?

13 *Mustahiqeen* are clearly identified in Qur'an at verse 9:60.

14 Gundogdu, "An Inquiry," 381-390.

wealth re-distribution mechanism.¹⁵ However, their proposal for a profit-loss sharing mechanism between microfinance institutions (MFIs) and microfinance beneficiaries (MFBs) is accurate, as fixed return contracts in microfinance may allow MFIs to put all the burden on MFBs without providing conducive business opportunities, that is, economic empowerment.¹⁶

Once the issue of hunger is addressed in a community, *zakat* should continue its role as a wealth re-distribution mechanism to correct market imperfections. However, it is important to note that *zakat* is a measure of wealth, not GDP. Comparing *zakat* collection as a percentage of GDP as indicated by Kahf and Ahmad suggests that *zakat* is assumed to be a kind of tax based on annual income streams such as GDP, not wealth stock re-distribution.¹⁷ *Zakat* funds cannot be used to create return on investment so as to use their proceeds for charitable purposes. The wealth accumulation in *zakat* funds hints at a major issue, as *zakat* funds should be distributed and not withheld for any reason. There already exist issues concerning *zakat* distribution mechanisms. The contemporary *zakat* collection mechanisms used by institutions might not be proper, as many concerned Muslims have doubts about the integrity of those running these institutions.

Although Obaidullah observed cynicism as a major impediment to performance of *zakat* collection by institutions, perhaps Muslims with generations of experience have justification for their skepticism.¹⁸ Indeed, the doubts of Muslims are justified since *zakat* funds keep increasing; yet these institutions have accommodated the needy only with the returns on their investments.¹⁹ This practice is against the spirit of *zakat*: wealth re-distribution. We are not ready to suspect any Muslim preferring to give his/her *zakat* directly to real people, known to them, but not to institutions. Due to political economy constraints, it is not a straightforward process to audit integrity of institutions in investments so as to

15 M.K. Hassan, "An Integrated Poverty Alleviation Model Combining Zakat, Awqaf and Micro-Finance," *Seventh International Conference: The Tawhidi Epistemology: Zakat and Waqf Economy*, 6-7 January 2010, Bangi, Malaysia; Mohammed Obaidullah and Abdullateef Salma, *Islamic Finance for Micro and Medium Enterprises* (Jeddah: IRTI, 2011).

16 Gundogdu, "An Inquiry," 381-390.

17 Monzer Kahf, "Zakat: Unresolved Issues in the Contemporary Fiqh," *IIUM Journal of Economics and Management* 2, no. 1 (1989): 1-23; Habib Ahmed, *Role of Zakat and Awqaf in Poverty Alleviation* (Jeddah: Islamic Research and Training Institute, Islamic Development Bank Group, 2004).

18 Mohammed Obaidullah, "Revisiting Estimation Methods of Business Zakat and Related Tax Incentives," *Journal of Islamic Accounting and Business Research*, no.7 (2016): 349-364.

19 Mohammed Obaidullah, *Zakat Management for Poverty Alleviation* (Jeddah: Islamic Research and Training Institute, 2016).

prevent misappropriation via complicated financial mechanisms. With his full authority, Prophet Muhammad (PBUH) audited *zakat* employees. Today, no one has such authority. Hence, people-to-people *zakat* platforms under government supervision are necessary to gain the trust of devoted Muslims. None, including religious clergy and government officials, should enjoy the power to distribute money collected from people for charitable purposes to society.

The spirit of *zakat* also impedes the payment of *zakat* to any institution, but directs it to people alone. People-to-people platforms without any patronage and with transparent government supervision would increase formal *zakat* collection. The key is to have highly credible platforms, not institutions, because given the political economy, it is a big challenge for *zakat* institutions to be seen as trustworthy. The cost of people-to-people *zakat* platforms can be covered with some part of the *zakat* collected.²⁰ It is clear in Islamic tradition that *zakat* is meant to be distributed where collected. *Asabiyah* in the form of geographical origin is not acceptable. For example, a person living abroad is not allowed to send *zakat* to his neighbors in this home country while he has a needy neighbor nearby. However, it is acceptable for a person to give *zakat* to his needy relatives living in another area, and surplus *zakat* in one area can be distributed in another area.²¹

Zakat can be collected in the form of cash or cash-in-kind. However, it should not be in the form of food-stamps, and recipients should be able to liquidate the cash-in-kind for cash, as per the principles of *tamlik*. The principle of *tamlik* necessitates the transfer of ownership to a *zakat* beneficiary (*mustahiq*) with all the rights of ownership.²² In the contemporary world, there exists another concern regarding one type of cash-in-kind distribution: company shares. Unfortunately, given that there is no proper dividend distribution practice in many Muslim countries, the distribution of company shares is problematic. The practice is also problematic as it would negatively affect the sustainability of companies. Those who establish the companies should, and need to, maintain control over decision making by retaining voting power in the company. In this way, company share distribution methods were used in Iran. In due course, the Iranian company owners purchased back, at lower than market prices, the shares from *mustahiqeen* (*zakat* beneficiaries). Although there was some improvement in poverty, the issue

20 Qur'an at verse 9:60

21 Decree No. 3 on Transfer of *Zakat* Money to Other Areas, delivered by the First Symposium of *Zakat* Contemporary Issues, Cairo (1988).

22 Muhammad Anwar, "Financing Socio-Economic Development with Zakat Funds," *Journal of Islamic Economics* 4, no.1&2 (1995): 15-32.

of inequality persisted in Iran.²³ It is perhaps because of the lack of understanding the issues pertaining *zakat*. An alternative is proposed that companies should pay *zakat* based on their balance sheets and income statements. Obaidullah takes stock of the literature on company *zakat* payments, concluding that the orthodox position of having earnings as a *zakat* base is consistent and makes economic sense.²⁴ However, extensive literature on *zakat* bases, either orthodox or innovative, is not in line with the spirit of *zakat*.²⁵

1. Such practices only dilute fair price formation in the market as *zakat* payments would be factored as costs similar to taxes. It is clear that Islam does not favor tax-based, particularly transaction tax, systems.²⁶ Nevertheless, tax credits for *zakat* are a good way to phase out tax funded social transfer systems. The resulting direct wealth transfer systems would thereby abate the burden on the states.²⁷ *Zakat* should be collected based on market value net-worth, but not income generated from assets.
2. *Zakat* is an obligation of real persons, not legal entities. During judgement day, individuals, not legal entities, shall be accountable for having met *zakat* obligations. Hence, *zakat* should be collected based on the net worth of individuals.

Zakat collection based on company shares is more plausible, but the repercussions should be addressed. In this regard, people can transfer some of their company shares to a temporary corporate *waqf* that can use the cash receipt from the company shares dividends for social infrastructure development. However, there should be a fair dividend distribution mechanism in place to assure the *tamlık* right to the *waqf* while addressing the sustainability concerns for the company. Company shareholders can postpone their *zakat* obligation for a certain period of time, and at the end of the temporary corporate *waqf*, they can opt to pay their *zakat* obligation based on the market value of the shares or extend the duration of the temporary corporate *waqf*. Such a solution would allow growth and sustainability of profitable companies in the service economy while allowing

23 Djavad Salehi, "Poverty and income inequality in the Islamic Republic of Iran," *Revue Internationale des Etudes du Développement* 1, no. 229 (2017): 113-136, <https://doi.org/10.3917/ried.229.0113>.

24 Obaidullah, "Revisiting," 349-364.

25 For example, OIC Fiqh Academy Decree No.2 on *Zakat* on Building and Non-arable Land (2nd session) ruled out levying 2.5 percent of revenues of assets. However, such an approach would defeat the spirit of *zakat*: Wealth distribution. At the end, 2.5 percent would be factored in the rent and deteriorate the situation of people who do not have assets/wealth but have to pay higher rents with little hope for accumulating some sort of assets/wealth. The wealth and assets would stay and accumulate at the hands of very few with such an approach to *zakat* base.

26 Ahmet Suayb Gundogdu, *A Modern Perspective of Islamic Economics and Finance* (Bigley: Emerald Publishing, 2019).

27 The *zakat* Management Act of Indonesia No: 38/199 is a good example of tax-deduction.

social transfer obligations to be met through the *waqf* mechanism. Under such an approach, shareholders cannot keep deferring their *zakat* obligation forever, as *tamlík* principles would give substantial voting power to *waqf* beneficiaries.²⁸ In a similar fashion, people can also defer some part of their *zakat* payment obligation to a future time with temporary cash *waqf*. Such a practice would serve as a cushion should they have financial sustainability concerns for the future.

Waqf

Unlike *zakat*, which is a direct wealth transfer and resource mobilization method to address imbalances in a community, traditional *waqf* is a business model that serves as an alternative to public or private ownership. The *waqf* model works very well within social infrastructure asset management, such as health centers, educational institutions, and water and sanitation infrastructure management. The role of *waqf* should be understood vis-à-vis restriction on the use of *zakat* funds. The use of *zakat* funds for social and economic infrastructure such as hospitals, schools, libraries, bridges, and highways, (unlike proposed by Anwar), is not accepted.²⁹ Decree No. 1 on Investment of *zakat* funds by the Third Symposium of *Zakat* Contemporary Issues, Kuwait (1991) allows the use of *zakat* for social infrastructure development. However, again, such practices contradict the principle of *zakat* being an obligatory people-to-people wealth re-distribution mechanism. The issue of social infrastructure development is supposed to be addressed with *waqf*, a voluntary act, and this is how the *waqf* concept emerged as a separate charity tool in Islam, distinct from *zakat*. Indeed, the Islamic *waqf* model as a legal entity is believed to be inspiration for secular trusts, endowments, and foundations.³⁰ However, there are key differences between a trust and a *waqf*.³¹

Both public and private ownership in social infrastructure have repercussions that give rise to sustainability and fairness issues. *Waqf*, with its fundamental principles of perpetuity, inalienability, and irrevocability, assures proper

28 M.A. Hashim, “The Corporate Waqaf: A Malaysian Experience in Building Sustainable Business Capacity,” paper delivered at Dubai International Conference on Endowments, 16-17 February 2010, Dubai, United Arab Emirates.

29 Al Qaradawi, “Fiqh,” 1994.

30 Murat Cizakca, *History of Philanthropic Foundations* (Istanbul: Bogazici University Press, 2000).

31 For example, in a trust, the property ownership vests with the trustee; in case of Waqf ownership vests with Allah. A Waqif (Waqf endower) does not have power to revoke Waqf, while in case of trust settlor can revoke trust.

management of assets, and relies upon community engagement to meet basic human needs. In cases of private ownership, commoditization of basic human necessities gives rise to inequalities in society. In case of public ownership, the issues of corruption and maintenance emerge. *Waqf* is a viable business model to engage communities that are the beneficiaries of the services provided by these assets (*mawquf alaihi*). Hence, the issues of commoditization and maintenance are less likely to inflict inequities on people. Unfortunately, throughout history, the use of *waqf* was not fully related to social infrastructure development. Very often people used the *waqf* mechanism to avoid taxes, or the confiscation of inheritance by the state.³² The use of *waqf* to circumvent such adversities is a rational behavior:

1. Islamic economic principles eschew tax collection-based systems.³³
2. Inheritance rights are well-protected in Islamic jurisprudence, to the extent that one cannot allocate all his inheritable assets to a *waqf*.³⁴

Taxes imposed by the state and acting as a hindrance to rightful inheritance give rise to the second-best option for the people: the family *waqf*. The best option (having a tax-free economic system and allowing for wealth transfer to posterity via inheritance) has not been realized. Islam encourages wealth accumulation, as doing so supports the freedom of individuals to have a free say in society. In a case where mass numbers of people have no wealth attached to them, they might keep quiet even under heavy oppression. Hence, wealth attached to individuals is a kind of safeguard against the rise of oppression. However, uncontrolled wealth accumulated in the hands of a very few is not acceptable in Islam. Everyone should have some assets, and wealth should not be accumulated at the expense of *infaq*, *sadaqah*, or *waqf*. Furthermore, wealth should be re-distributed among the people by means of *zakat*, so that more individuals possess a certain amount of capital and can have a free say in matters concerning society.

The connection between *zakat* and *waqf* should be discerned: wealth allocated for *waqf* is not part of the *zakat* base. This was another reason for the development of the family *waqf*. Tax circumvention and protection against confiscation might

32 Timur Kuran provided detailed numbers in the case of Ottoman Awqaf in this context. See Timur Kuran, "The Provision of Public Goods under Islamic Law: Origins, Impact, and Limitations of the Waqf System," *Law & Society Review* 35, no. 4 (2001): 841-898, <https://doi.org/10.2307/3185418>.

33 This refers to prohibition of tax collection by Muhammad (PBUH) at the establishment of Medina Market as cited in Kister, "The Prophet," 272-276.

34 Mohammed Obaidullah, *Awqaf Development and Management* (Jeddah: Islamic Research and Training Institute, Islamic Development Bank, 2013).

appear as reasonable causes to create a family *waqf*, but *zakat* avoidance is not acceptable at all. “The charity begins at home” principle is not related to *waqf*, but rather to *infaq* and inheritance. The guiding purpose of *infaq* and inheritance in Islam is to prepare posterity for the future. They should obtain the best possible education to prepare themselves to adapt to upcoming technologies. By making use of a certain amount of inherited wealth, and generating enough of their own wealth to sustain their families, they will be well-positioned to contribute to society via *sadaqah*, *waqf* and *zakat*. While it is not acceptable to avoid *zakat* by means of family *waqf*, as it was funded by cash-in-kind *zakat* payments from company shares (corporate *waqf*), *zakat* payments can be postponed by means of temporary cash *waqf* model. Temporary cash *waqf* may not observe all three principles of traditional *waqf*: perpetuity, inalienability, and irrevocability. Nevertheless, these principles are not based on Qur’an and might be re-visited as long as the philosophy of *waqf* (to provide social infrastructure to vulnerable people) is observed. Perhaps, the perpetuity, inalienability, and irrevocability principles of traditional *waqf* were brought forth due to concerns about those who established a family *waqf* with circumventive intentions. The principles dictate that *waqf* assets (*mawquf*) cannot be sold. However, this principle is circumvented by *hukr* contracts, which in practice also allow for inheritance of *hukr*. Additionally, cases of *ibdal* (changing *waqf* assets (*mawquf*) with cash), and *istibdal* (changing *waqf* assets (*mawquf*) with new assets) have been often recorded in the history of *waqf*.³⁵ These types of practices had already rescinded the perpetuity, inalienability, and irrevocability principles of traditional *waqf*. Indeed, temporary cash *waqf* is perfectly acceptable, since it was justified as having similar economic benefits for social infrastructure development, and offered assurance to *muzakki* with financial sustainability concerns. In this regard, temporary cash *waqf* is similar to the corporate *waqf* approach. The approach, however, is different from social responsibility programs.

Unlike social responsibility programs and unacceptable *zakat* practice based on income statements (which are calculated like taxes by company management and create inefficiency), the company shares benefits from dividends, and cash *waqf* benefits from returns on investments. While the company focuses on profit-maximization, and a cash *waqf* focuses on maximizing return on investment, the dividend payments from profit-maximized companies and return on investments from a cash *waqf* can both be used on social infrastructure development.³⁶ A

35 Stephen Heyneman, *Islam and Social Policy* (Nashville: Vanderbilt University Press, 2004).

36 The cash Waqf seeking high-risk investment for profit maximization categorized as investment bank by some scholars. While cash Waqf categorized for Waqf administered based on zero-downside risk with moderate return approach.

mechanism to ensure that more resources for social infrastructure development are derived from corporate *waqf* and cash *waqf* is needed.³⁷ The company shareholders and individuals may opt to postpone some part of their *zakat* obligation by means of corporate *waqf* and temporary cash *waqf*. Such postponement should be fine, as it addresses the concerns of both *mustahiq* (one eligible to receive *zakat*) and *muzakki* (one liable to give *zakat*). *Muzakki* may have some wealth for now, but perhaps he is not sure of the future, as economic conditions five years from now may lead to a life under the poverty line. Hence, upon termination of temporary cash *waqf*, he may have access to the funds. If conditions improve or stay as is, s/he may continue to allocate the wealth to temporary cash *waqf*. The money collected in temporary cash *waqf* can be invested as *qard hasan*, in which the return on investment is spent for social infrastructure development (such as affordable housing, temporary health programs, etc.), while the principle is returned to the original owner.³⁸ This is a different understanding of *qard hasan*, and it is necessary, as it has been observed in many instances that vulnerable people are not even able to pay interest free loans for education, health, water, sanitation, and affordable housing projects. Hence, according to Gundogdu, using the return on investment from a temporary cash *waqf* is a needed solution to address social infrastructure development requirements.³⁹ Moreover, as cited by Obaidullah, another definition of *waqf* is “withholding an asset while releasing its usufruct.”⁴⁰

Accordingly, there is a need to adapt the traditional *waqf* business model into the realities of the contemporary world. In this regard, finite *waqf* as opposed to permanent *waqf* can fit the bill. Traditionally, *waqf* is a business model intended to deliver social goods, such as education, health services and water supply which are better off not being commoditized. Given the evolving needs of society, the temporary cash *waqf* model can better deliver these social goods, while addressing bottlenecks with traditional *waqf*. First, contemporary development programs need to operate temporary programs such as “fighting against avoidable blindness,” or development of relevant educational curricula. Thus, the current need is to have funds available for a certain period of time at a specific geographical site,

37 Mohammed Obaidullah (2013) provided permissibility of such Waqf in the context of legal comparison across countries.

38 Gundogdu, “An Inquiry,” 381-390.

39 Gundogdu, “An Inquiry,” 381-390.

Indeed, the men who practice charity and the women who practice charity and [they who] have loaned Allah a goodly loan - it will be multiplied for them, and they will have a noble reward (57:18).

40 Obaidullah, “Awqaf,” 2013.

eventually moving on to another location (rather than establishing permanent physical infrastructure in a specific place).⁴¹ Secondly, the issue of principle-agent is more acute in permanent *waqf* if there exists no mechanism to impede mismanagement or misappropriation by the *nazir/mutavalli* (Trustee/Manager), particularly after the death of *waqif* (*waqf* Endower).

Evaluation and Conclusion

In an Islamic economic system, rich and able people should focus on profit maximization with their companies and increase economic surplus. They should then allocate some part of their wealth after *infaq* and *sadaqah* to temporary cash *waqf*, corporate *waqf* and *zakat* in order to make more people rich and able. The concern might be that these individuals may attempt total avoidance of *zakat* with temporary cash *waqf* and corporate *waqf*. However, the very nature of the decrease in purchasing power of money in temporary cash *waqf* over a long period of time and the controlling power of company shares would tend to balance toward preference for *zakat*. Hence, both temporary cash *waqf*, corporate *waqf* and *zakat* are expected to work hand-in-hand for the benefit of the social safety net. On another note, like keeping accumulated *zakat* in funds without making distributions, having returns on investment of cash *waqf* and corporate *waqf* into the corpus of *Waqf* is not acceptable. Nevertheless, if needed, the return of temporary cash *waqf* and corporate *waqf* can be used for commercial return, for *awqaf* development, and to provide physical assets for schools, hospitals, water and sanitation social infrastructure.

It is of the utmost importance to note the fact that Islam does not accept masses of people staying idle and depending on social transfer of capital from governments or wealthy people, as this is against human dignity. Everyone should work toward attaining a certain amount of wealth, as economic empowerment contributes to individuals' willingness to participate in free speech in society. Ultimately, people dependent on government support or wealth transfer from the rich would be very obedient, even in the face of extreme oppression and malevolence in their society. Hence, the concept of economic empowerment within Islamic microfinance should be the central element of poverty alleviation in Islamic economies and financial systems. Economic empowerment programs should not use resources of *waqf* and *zakat*, but design programs based on economic viability to ensure value addition. *Zakat* has direct societal effects on hunger and inequality. *Waqf* is a business model intended to operate social infrastructure, but temporary cash *waqf* and corporate *waqf* models can both be used for resource mobilization to

41 Gundogdu, "An Inquiry," 381-390.

implement temporary social development programs. Both *zakat* and *waqf* have unique, indirect and valuable roles to play in poverty alleviation. However, for sustainable and long-term results, the focus of poverty alleviation efforts should be on economic empowerment.

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