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Cash *Waqf* development through private banks in Bangladesh: Challenges and prospects toward building sustainable society

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Abstract

This paper mainly focuses on the cash *Waqf* management and its development through private Banks in Bangladesh. Bangladesh has transformed its global status from least developed to a developing country which was the ramification of nonstop contribution of public-private initiatives. In Addition, it is a Muslim majority country and with huge potentials for cash *Waqf* scheme. Despite the fact, private Banks are facing a number challenges in accelerating this product among the customer as whole. The study, therefore, addresses key challenges of cash *Waqf* from socio-legal context and looks for avenues to revitalize and utilize cash *Waqf* for bringing sustainability in social services, for instance, education and culture, family rehabilitation, social utility, health care and sanitation services. In these key sectors, cash *Waqf* has enormous prospective in fulfilling the needs of the disadvantaged people of the country. The objective of this study is to identify the passage for sustainable social development through cash *Waqf* and to draw the attention of concern public and private authorities and policymakers to formulate an effective strategy for cash *Waqf* and remove the major barriers. The outcome of this research is that it is possible to create a substantial impact on the society by intensifying cash *Waqf* in Bangladesh. The paper adopts doctrinal research approach wherein both primary and secondary sources of data have been analyzed. It further consults with relevant books, articles, and statute of the country.

Keywords: Cash *Waqf*, *Waqif*, management, shariah, rehabilitation, sustainable society, social welfare

1. Introduction

Bangladesh is the number eight largest country by demography in the world (Worldmeter, 2018) ^[48] with a Muslim majority and poverty-stricken nation (Ibrahim & Khan, 2017) ^[20]. It has also achieved considerable progress in poverty alleviation over the last few decades. Despite the improvement in poverty reduction, one in four, still living below poverty line. However, establishing sustainable society is a major concern of the government of Bangladesh through the elimination of poverty and providing social services (Finance, December 2017) ^[10]. It is quite impossible to establish a sustainable society without eradication of hanger and ensuring basic needs of the mass people. Therefore, the government has taken a 7th Five Year Plan 2016-2020 for establishing sustainable Bangladesh popularly known as “Sonar Bangla” (prosperous Bangladesh) free from hanger, poverty, and exploitation (7th Five Year Plan (FY2016-FY2020), 2015). This progressive scenario of the country is a combined effort of public-private initiatives and performances. However, in bringing a firm stability of a Muslim majority society like Bangladesh it is inevitable to incorporate Islamic Shariah instruments in the national development strategies for accelerating social services to the door of the mass people (Hasan & Siraj, 2016) ^[12]. In this regard, effective administration of Awqaf, especially, cash *Waqf* can be the best strategy for building sustainable Bangladesh which is now practicing by the few private Islamic banks and financial institution without adequate legal protection. In this study, researcher finds the significance, scope, and performance of cash *Waqf* introduced by the Islamic Banks on the one hand and major barriers to its management in Bangladesh. The paper first of all reviews a short literature on the area and explores the conceptual framework of cash *Waqf*. Following the first part, it moves to investigate the current cash *Waqf* management with a short backdrop and examines means and ways of cash *Waqf* to make a society stable and balance. Finally, the study assesses the problems and prospect of cash *Waqf* in Bangladesh along with possible suggestions for further development of the scheme.

2. Literature Review

Administration of *Waqf* is one of the fundamental financial instruments in providing basic services to the common people in Islamic Shariah often found during the Holy Prophet (s.a.w.) practiced by his companions. A large number of literary works have been done on *awqaf* administration in this continent because it has a glorious history over the centuries since dynastical regime. However, the literature on *Waqf* mostly divided into two categories, one of which focuses on various aspects of traditional *Waqf* estate and rest on other kinds of *Waqf* like cash *Waqf*, family *Waqf* etc. Nevertheless, the concept of cash *Waqf* is relatively new in Bangladesh; therefore, few works are available for review. In this study researcher only review of those studies conducted on cash *Waqf* in Bangladesh.

Ibrahim and Khan mainly explored traditional *awqaf* management and their challenges in line with Maqasid al-Shariah and introduced a little bit about cash *Waqf* in Bangladesh (Ibrahim & Khan, 2017) ^[20]. Karim, on the other hand, observed *awqaf* management in Bangladesh with legal perspective and pointed out the new dynamics of *awqaf* such as donation of intellectual property, copyright of Islamic books, cash *Waqf* etc. (Karim, 2010) ^[29, 30]. However, he did not explain adequately on those issues, therefore, current study becomes justified to explore the issue of cash *Waqf*. In another work, Karim with Murad explored the *Waqf* fund management, and beneficiaries of it along with other related issues (Karim & Murad, 2010) ^[29, 30]. However, the paper remained silent about cash *Waqf* and its prospects side by side traditional *awqaf* in building a balanced society in Bangladesh. Similarly, Ahmad and Saifullah in their work have investigated *Waqf* estate management reflecting legal and historical evaluation and without addressing contemporary trend of *Waqf* scheme such as cash *Waqf* (Ahmad & Saifullah, 2012) ^[2] whereas Hasan and Siraj drawn among others, a plain picture of *Waqf* administration including performance of cash *Waqf* in Bangladesh (Hasan & Siraj, 2016) ^[12].

Khan, in his study explored in detail on traditional *Waqf* estates as an effective alternative financial instrument for poverty alleviation in Bangladesh, however, cash *Waqf* has not addressed adequately in the paper (Khan, 2012) ^[31]. Islam conducted research on cash *Waqf* as a financial instrument for domestic economic growth by boosting small and medium-sized enterprises (Islam, 2015) ^[23]. Thoarlim and others have attempted to explore the essence of dynamic approaches for cash *Waqf* in Bangladesh with references to selected countries. They also addressed institutional capacity and mechanism of dealing with cash *Waqf*, especially by private Islamic banks. However, they have discussed cash *Waqf* management and its difficulties inadequately toward a sustainable society (Thoarlim, Rahman, & Yanya, 2017) ^[45]. Hassan and others similarly, studied cash *Waqf* on the comparative basis between Bangladesh and other Muslim countries (Hassan, Karim, & Karim, 2018) ^[14]. Mannan, on the other hand, highlighted the operation of cash *Waqf* certificates adopted by Social Investment Bank of Bangladesh and its implications. The paper also shortly addressed the effect of cash *Waqf* social and private life along with a guideline for the effective administration of this scheme (Mannan, 1999) ^[34]. All the literature reviewed here commonly introduced *Waqf* discourses in different perspectives, however, studies on cash *Waqf* made an inadequate focus on effective

management of cash *Waqf* by private Islamic banks in Bangladesh and how it can promote to establish a sustainable society. Therefore, this research tries to study in depth on the subject and brings some suggestions for further development of cash *Waqf* management in Bangladesh.

3. Methodology

This is a doctrinal research with mixed methodologies. Researcher mainly develops the study by consulting existing literatures on Cash *Waqf* in Bangladesh and beyond. In this regard, the published materials focusing on early concept of *Waqf* and its subsequent development in the form of Cash *Waqf*, Cash *Waqf* as a financial instrument for poverty reduction, economic growth, and social welfare. In addition, researchers pay attention especially the situation of Cash *Waqf* management and administration for building sustainable society in Bangladesh. Beside this, researchers adopt descriptive method of analysis on oral interview of the respondent from three banks designated for Cash *Waqf* department. The unstructured questioners for interview were mainly intends to know the growth ration of Cash *Waqf* in terms of number of account and deposited amount, problems in dealings cash *Waqf*, satisfaction of the existing *Waqifs*, regulatory framework for the protection of the interest of the *Waqif* and dispute settlement etc. Interviews are recorded and stated information has been incorporated as a descriptive manner. The study mainly intends to analyze the challenges and prospects with focusing overall management of the Cash *Waqf* accounts in Bangladesh. Therefore, researchers do not go for in-depth statistical analysis.

4. Theoretical Framework

The study reflects the theory of trust in building relationship between individual and organization to continue and develop charitable activities in the society. It has been observed that the trust is the center of emerging various kind of relationship because of its ability to build a cooperative relationship (Handfield and Bechtel, 2002; McQuiston, 1997) ^[15, 35]. Trust defined by Hosmer in the context of philosophical ethics that trust recognizes and protects the interest of other people in a given decision. (Hosmer, 1995). In Islam, the term *Amanah* is synonymous to trust and refers to the meaning of peace, safety, and security, reliability, trustworthiness, loyalty, faithfulness, integrity and honesty. Trust develops and influences certain moral behaviors inside a Muslim which are obligated by the text of *Quran* and *Sunnah* of the Prophet (s.a.w.) (Hasan, & Siraj, 2017) ^[13]. This trustworthiness is theorizing as social capital comprising trust, shared norms and network within a community that increase the efficiency of society (Putnam, 1993) ^[40]. Furthermore, trust viewed as an integral element of social capital (Fukuyama, 1995) ^[9] as well as a product and consequence (Field, 2003; Woolcock, 1998) ^[11, 47]. It has further argued that social capital is for creating long lasting capacity for dealing with issues faced by stakeholders (Miri, 2006) ^[36]. In this study researchers address the challenges in developing Cash *Waqf* in Bangladesh considering the agency theory intends to establish long-term relationship between *Waqif* and Bank as a *Mudarib*. It is assumed that Agency theory and classical contract law make similar assumptions about human behaviour and social institutions (Hunt and Hogler, 1990) ^[17]; Morgan & Hunt (1994) ^[37]; Seal & Vincent-Jones (1997) ^[44].

Theory of Agency is focusing and maintaining long-term relationship between individual and organizational level by considering two major aspects. Firstly, relationship commitment and secondly, trust because these aspects promote cooperative behaviors between relationship partners and encourage them to maintain long-term relationships. Morgan and Hunt advocates in the commitment-trust theory that tendency to engage in a high-risk situation relies on each party's belief toward the other party in acting for the long run best interest of both parties (Morgan & Hunt (1994) ^[37]). In building sustainable society through cash *Waqf* in Bangladesh trust is also playing a significant role in dealing with charitable activities with the Bank as an organization in a long-term basis. However, in this study researchers do not test the theory in-depth rather than draw a overall challenges reflecting the theory of trust and theory of agency.

5. The Concept of Cash *Waqf*

Waqf estate is well known benevolent opportunity of the poor people in Muslim societies. Muslim jurists from classical to the modern era are also acquainted with this issue. In addition, the significance of *Waqf* management at the same time increased rapidly in every Muslim society around the world. As a result, diversity in the definition of *Waqf* is common while objectives are same due to social, cultural and economic conditions of different territories. It is in fact, hardly possible to coin an appropriate English word to convey the theme or meaning of *Waqf* (Ahmed, n.d.). *Waqf* is an Arabic word derived from the root word *waqafa* and *awqaf* is the plural of *Waqf* which refers to stop movement, transfer or exchange something in a linguistic context while *Waqf* literally means "confinement and prohibition" or causing a thing to stop or stand still, to detain (Islam & Mia, 2017) ^[21]. Furthermore, it denotes stopping, cessation, leaving up, refraining, abstention etc. (Baalbaki, 1994) ^[4]. In other words, *Waqf* refers to the detention of specific thing in the ownership of *Waqf* and the devoting of its profit or benefits in the charity of poor or other good objects (Ali, 1986) ^[3]. In the dictionary of the legal term, *Waqf* is "Extinction of the proprietor's ownership in the property and the creation of trust of the property for religious purposes" (Agarwal, 1975) ^[1]. In the beginning, few other terms such as Sadaka, Habs, Ahbas are used to denote *Waqf* which later on contains wider meaning beyond the scope of Sadaka and those other terms (Wehr, 1980) ^[6]. Technically, it further signifies alienation of private properties to the public resources as Sadeq, pointed out that "*Waqf* assets cannot be disposed, its ownership cannot be transferred, only its benefits are to be used for the particular purposes, which are mainly charitable in nature and it is a voluntary charity characterized by perpetuity" (Sadeq A. H., 2002) ^[42]. However, jurists have defined *Waqf* with slight variation depending on the age, circumstance, and essence. Some of those definitions have presented here for assessment. According to the scholars of Fiqh, *Waqf* is a donation of property to a person from which he or she can enjoy the benefit from the property temporarily or perpetually (Kanduj, 2009) ^[27]. *Waqf* may also be defined in such a way that the property acquired in line with the conditions of *Waqf* which cannot be sold out or donate or enjoy it as an inheritance (Maidi, 2002) ^[32]. Under the scope of Shariah *Waqf* can be defined as to keeping and preventing a property from total consumption in order to

extract continuous benefit from the property for public good or charity (Kahf, 1999) ^[25]. In other sense, disbursement of usufructs extracted from the property withholding its perpetuity from any kind of alienation (Kala'zi, 2002) ^[26]. According to Imam Abu Yusuf and Muhammad *Waqf* signifies the extinction of the ownership of the *Waqif* in the thing dedicated and detention of all the thing in the implied ownership of Allah in such a manner that its profits may revert to or be applied for the benefit of Mankind (Islam & Mia, 2017) ^[21].

On the other hand, cash *Waqf* is a kind of *Waqf* created by the *Waqif* where the assets are only money other than traditional *Waqf* estate like land for the purposes of social good and public services in various Shariah approved area of charity. However, the nature of perpetuity is inherent for every *Waqf* whether movable or immovable property as the very term signifies that *Waqf* is "forbidden movement, transport or exchange of something" (Raissouni, 2001). Cash *Waqf* is cash based *Waqf* scheme in the bank created by depositing a certain amount of money for any specific purpose or purposes listed in the bank where the expected beneficiaries are mentioned (Mohsin, 2008) ^[34]. Al-Tasuli observed that cash *Waqf* is a "process of dedicating cash as *Waqf* lending it to identified borrowers without interest" whereas Zufar defines cash *Waqf* as a charitable investment in the form of *wqaf* and profit earned from the investment will be distributed to the identified beneficiaries (Hassan, Karim, & Karim, 2018) ^[14]. In other words, cash *Waqf* is a charitable endowment comes into existence by depositing a certain amount of cash capital in the form of perpetual dedication by a Muslim or a group of Muslim or a corporate body such as bank governed by it and distributed profit to the Shariah approved purposes (Cizacka, 2009). It is a property created by individual or institution separating from private ownership and dedicating the benefit to the common people. In a different angle, Cash *Waqf* is a particular charitable fund and financial instrument for the development of property in Muslim countries (Ahmad M., 2015) ^[28].

The *Waqfs* Ordinance 1962 of Bangladesh defines *Waqf* as: "*Waqf*" means the permanent dedication by a person professing Islam of any movable or immovable property for any purpose recognized by Muslim Law as pious, religious or charitable, and includes any other endowment or grant for the aforesaid purposes, a *Waqf* by user, and a *Waqf* created by a non-Muslim" (Section 2(10)). Although the law has not mentioned the term cash *Waqf* in its definition, however, it states that any kind of movable or immovable property can be dedicated for creating a *Waqf*. Therefore, the law impliedly covers the notion of cash *Waqf* within the legal framework. Moreover, the law recognized dedication from non-Muslim in order to create a *Waqf*.

6. Evolution of Cash *Waqf* in Bangladesh

Administration of *Waqf* estate in Bangladesh has its glorious past dating back to the Sultanate and Mughal Empire in this sub-continent. In contrast, Ottoman administration also approved such *Waqf* or endowments in the 16th century which became tremendously prominent throughout the empire (Islam, 2015) ^[23]. However, the nature of these *wqaf* is a mainly immovable property such as lands, ponds, graveyards, Dargah, etc. It is evident that the concept of cash *Waqf* explored by Imam Zufar in the eighth century based on the principle of *Mudarabah* that the *Waqf* property (cash endowment) should be an investment project and

profits should be used up for the social good covering every member of the society (Cizakca, 2009). However, on the ground of density of population and scarcity of land and resources, cash *Waqf* becoming popular among the Muslim citizen of Bangladesh interested in creative and constructive charity for social being.

In Bangladesh, Social Investment Bank Ltd. now Social Islamic Bank Ltd. (SIBL) was for the first time introduced cash *Waqf* as a financial instrument known as Cash *Waqf* Certificates in 1995. This innovative product was not only new for Bangladesh but also new for whole banking world and gained good recognition by the national and international accreditation for a better alternative of social investment mobilization. The new product enlarges the scope for building a sustainable society by investment in a wide range of about 32 areas under 4 major key sectors of the social need such as providing basic education and proper culture, protection of vulnerable family or family rehabilitation, supporting public health and establishing sanitation, and social utility services. However, the product was to open a *Mudaraba* cash *Waqf* deposit account and the return from such deposit amount shall be used for the benefit of people. In this regard, bank invites wealthy and religious people to invest their donation for public good both in terms of better management and services so to avoid any sort of mishap in receiving charity in Bangladesh (Khan, 2018) ^[28].

Islamic Bank Bangladesh (IBBL), after a decade-long observation regarding successful implementation of cash *Waqf* certificate by Social Islamic Bank (SIBL), introduced cash *Waqf* deposit scheme in 2007 commonly known as “*Mudaraba Waqf* Cash Deposit Account (MWCDA)”. IBBL also considers the scheme as a viable project for easy cash mobilization and instrumental to transfer benefits from rich to poor without lapsing perpetuity of the property on the one hand and financing in various social investment opportunities such as poverty alleviation, education, and other social services. In February 2018, IBBL inaugurates a month-long cash *Waqf* campaign in Bangladesh with the theme “Unlimited Welfare on Perpetual Deposit” in order to serve the underprivileged section of the society (IBBL, 2018). However, the objectives and formation of cash *Waqf* deposit and investment of the deposit into social services are quite similar to the SIBL. Following SIBL and IBBL, Al-Arafah Islami Bank Ltd. (AIBL) and First Security Islami Bank Ltd. initiated cash *Waqf* deposit scheme in 2008 and 2009 respectively. The Export and Import Bank Ltd. (EXIM) also bought this product into their operation in recent years. However, a positive trend is appearing in the banking sector in regard to cash *Waqf*. Therefore, banks practicing Islamic window also introduced such cash *Waqf* deposit such as prime bank Ltd., AB Bank Ltd. Bank Asia also started cash *Waqf* deposit scheme as a product of the bank in 2013 (Bank Asia, 2013). The overall growth of cash *Waqf* practice and public awareness has been remarkable in recent years. Beside private banks initiatives, a number of private universities and higher educational institutions are also funded by cash *Waqf* after the enactment of the private university Act 1992 (Hassan, Karim, & Karim, 2018) ^[14]. Furthermore, awareness among wealthy people is also found encouraging. The researcher elaborates in details about total management of cash *Waqf* by private banks in the last portion of this study.

7. Cash *Waqf* Management by Private Banks in Bangladesh

In Bangladesh, general *Waqf* properties governed by the Ministry of Religious Affairs (MORA) and its affiliated authority “*Waqf* Bangladesh” if the property is registered and the trustee, appointed by the *Waqif* under The *Waqf* Ordinance 1962 manage the unregistered estates in private *Waqf* institutions. According to the last census of *Waqf* estates the estimated value of such properties about 8853670 USD which is making significant impact on the society (Hasan & Siraj, 2016) ^[12]. However, lack of proper record, selling and leasing with nominal price, and mismanagement, of the traditional *Waqf* estates decreases the significance of such property in establishing the sustainable society in Bangladesh (Ahmad & Safiullah, 2012) ^[2]. In contrast, cash *Waqf* scheme mostly governed by the private banks and few private institutions while maintaining accounts in any private banks in Bangladesh. As the researcher mentioned earlier SIBL is the first private bank that introduced cash *Waqf* in banking realm and at present, there are 7 scheduled private banks such as Social Islami Bank Ltd. (SIBL), Islami Bank Bangladesh Ltd. (IBBL), Al-Arafah Islami Bank Ltd. (AIBL), First Security Islami Bank Ltd., The Export and Import Bank Ltd. (EXIM), Prime Bank Ltd., Bank Asia Ltd., and AB Bank are practicing “*Mudaraba* cash *Waqf* deposit scheme” in Bangladesh. In addition, Islamic Finance and Investment Ltd. also operating *Mudaraba* cash *Waqf* deposit scheme as a non banking financial institution. However, private banks are dealing with cash *Waqf* deposit scheme by their efficient manpower. In this section, the researcher elaborates at a glance at the cash *Waqf* and its management. It is pertinent to mention here that cash *Waqf* divided into two categories such as general cash *Waqf* where the name of beneficiary or beneficiaries are not mentioned and specific cash *Waqf* where beneficiaries are specified in the prescribed cash *Waqf* deposit form of the bank.

As regards the formation of the scheme, all banks are offering to open a *Mudaraba* cash *Waqf* deposit account by the *Waqif* by depositing a minimal amount of money. In case of general cash *Waqf* minimum Tk. 1000 (12 USD) is required and in case of specific cash *Waqf*, minimum Tk 5000 (60 USD) and above is required. (SIBL, 2018). The Prime Bank and EXIM bank are stipulating about Tk.10000 (125 USD) as a minimum deposit for opening a cash *Waqf* (Primebank, 2013) ^[38]. However, *Waqif* may deposit the expected amount at a time or by installment and after depositing the full amount Bank will provide cash *Waqf* certificate to the *Waqif*. In case of a *Waqif* residing in a foreign destination, foreign currency may be accepted for forming cash *Waqf* subject to the compliance of relevant rules of receiving foreign currency (EXIM bank, 2011) ^[8].

However, the dealings of cash *Waqf* scheme shall be based on *Shariah* principle of *Mudaraba* where the banks serve as *Mudarib* and *Waqif* serve as a *Sahib al-Mal*. However, the beneficiaries of cash *Waqf* shall be given minimum 65 percent of the investment income or any other rate decided by the banks from time to time. Since the scheme run under *Mudaraba* principle, therefore, and if any loss caused in the business *sahib al-mal* should be born the loss. Nevertheless, extracted profits of the scheme shall also be distributed on agreed percentage during formation of cash *Waqf* between bank and *Waqif*. It may be the monthly or annual basis which will be adjusted after the announcement of final rate.

Furthermore, in cash *Waqf* scheme there is no cheque book issued by the bank in order to maintain its perpetuity and unused profit shall automatically add to the original amount of *Waqf*.

As regards the objectives of the scheme, all banks are now almost integrated to focus on four basic areas of social services to establish a balance and sustainable society in Bangladesh. Nevertheless, *Waqifs* are given autonomy to choose any other area permitted by Shariah for cash *Waqf* charity. The major areas are, first of all, family rehabilitation which is basically highlighted in the serving poor section of the society especially those who are living below poverty line and striving with hunger and shelter. It also covers rehabilitation of beggars, destitute woman, slum dwellers and disadvantaged people of the country. Secondly, the scheme provided assistance in basic education for underprivileged boys and girls by allocating scholarships, supplying books, clothes, skill training, and promoting informal education for children such as mother's education program, childhood literacy, and vocational education and so on. It also promotes Islamic heritage and culture by initiating different projects. Thirdly, health and sanitation which covers a range of services such as providing health care and sanitation facilities for poor people especially in rural areas by building health care center such as hospitals, clinics. This area also covers supplying pure drinking water and promoting research on health issues and disease. Finally, social utility services are playing a significant role in establishing the peaceful society. The cash *Waqf* scheme provides financial assistance in various ways such as arranging the marriage of poor girls, legal aid for the poor woman; resolution of disputes, helping converted Muslims and other non-Muslim in their difficulties. It also covers establishing the mosque, graveyard, eidgahs, public toilets, tree plantation in different locations (IBBL, 2007), (EXIMbank, 2011) [8].

The study mentioned earlier that the traditional *Waqf* estates are governed by the "Waqf Bangladesh" under Ministry of Religious Affairs and other relevant laws, especially, *Waqf* Ordinance 1962. Three types of *Waqf* management practicing in Bangladesh such as management of the registered *Waqf* by the Office of Administrator of *Waqf* (OAW), by private trusts which are not listed in the Office of Administrator of *Waqf* (OAW), management through *Mutawallis* which are not registered in (OAW) (Sadeq, 2002) [42]. In contrast, cash *Waqf* totally governed by the private banks in Bangladesh. However, the definition of *Waqf* provided in the Ordinance has a scope of cash *Waqf* formation and management under the ordinance. Section 2(10) of the Ordinance clearly stated that "any movable or immovable property for any purpose recognized by Muslim Law as pious, religious or charitable, and includes any other endowment or grant for the aforesaid purposes"(Waqf Ordinance 1962). Therefore, it is clear that the law may cover on the management of the cash *Waqf* scheme, although up to now there is no cash *Waqf* scheme that governs by the above government authority or it is not required to register cash *Waqf* under the existing law.

In order to manage cash *Waqf* scheme, all concern banks have a specific guideline in this regard. As regards the total capital accumulated in these cash *Waqf* accounts, researcher did not collect the exact figure due to non availability of data and non-disclosure of the information by the respective Banks. Nevertheless, researcher tries to reach three Banks

and is able to interview an officer of SIBL and received significant information. According to the statement of the respondent, SIBL now is operating more than two hundred thousand Cash *Waqf* accounts with approximately BDT 300 million. Bank observed steady growth in terms of number of opening new account as well as the amount of deposit. In the beginning Bank open only onetime cash *Waqf* by depositing an amount whatsoever at a time but subsequently it provides opportunity to declare an amount to be paid through installment. As a result, existing account holders or *Waqifs* are increasing their declared amount by paying installments. Bank has taken several initiatives to increase the number of account of Cash *Waqf* throughout the country.

However, in regard to the ratio of profit between Banks and *Waqif* varies from Bank to Bank in Bangladesh. In SIBL scheme, Bank will invest deposits to the *Shariah* specified sectors and will earn profit at the highest rate offered by the Bank from time to time. There is no express guideline for ration of the profit to be shared by the Bank and client rather left to the parties to decide the ration and other terms and conditions. However, in practice SIBL shares maximum 95% profit with *Waqif* and keeps 5% for management cost. In addition it provides 1-2% weightage for the cash *Waqf* accounts. On the other hand, in Bank Asia, maximum profit sharing ration between Bank and *Waqif* is 10:90 which indicating that Bank Asia is providing maximum 90% profit to the cash *Waqf* depositors or *Waqif* (Bank Asia). The EXIM Bank and AB Bank provide maximum 65% to the *Waqif* or the beneficiary from the investment income or the percentage as the Bank decides from time to time to their proportion of deposit applying the weightage allocated there-against. The weightage against deposit of *Mudaraba* Cash *Waqf* Deposit (MCWD) account is 1.19 in this Bank. In addition, before declaration of final rate of profit, monthly profit amount will be credited to the account as per provisional rate of profit offered by the bank from time to time. Profit under this scheme shall be adjusted annually i.e. after declaration of final rate of profit of the bank (EXIM Bank)(AB Bank). In IBBL, a *Waqif* or beneficiary will get the share of minimum 65% of the investment income or the percentage the Bank decides from time to time derived from the deployment of all categories of *Mudaraba* fund in the investment during any accounting year according to their proportion applying the highest rate of Weightage 1.35. The *Waqf* amount may not remain intact as the fund is operated as per *Mudaraba* Principle. According to *Mudaraba* Principle if any loss is incurred in course of business the loss is to be realized through deduction of the *Waqf* deposit (IBBL). Furthermore, regarding unspent profit amount, all Banks provide same rule that unspent profit amount will automatically be added to *Waqf* amount and earn profit to be grown over the time and no cheque book will be issued in this account.

As far as inability to deposit the declared amount is concerned, all Banks are setting the same rules such as a cash *Waqf* scheme can be opened at a time by depositing certain amount or *Waqif* (he/she) may declare the amount he/she intends to build up and may start with a minimum deposit amount commonly one thousand taka in the account. Subsequent payment will be made through agreed installments and in case of default in depositing the installment(s), the amount accumulated so far throughout the period shall be counted for profit to be given to that

Account. However, the *Waqif* will get the opportunity to deposit remaining installments again in the following year. It is to be noted that one particular *Waqif* will not be entitled to repeat non-depositing of installment (s) more than five times. (Prime Bank) In contrast, if a *Waqif* is unable to deposit the installments any more to build up the declared amount for cash *Waqf*, he or she may apply to the authority for issuing a Cash *Waqf* Certificate upon the amount deposited. The appropriate authority of the Bank may consider his or her application and issue a cash *Waqf* certificate (EXIM Bank).

As regards the distribution of profit earned all Banks are giving the similar guidelines such as profit paid on these deposit schemes will be spent according to the instruction of the depositor and depositor may also instruct the Bank to spend the entire profit for the purpose specified by him/her. Benefit and beneficiaries to the profit gained from the Cash *Waqf* Deposit Scheme can be divided into two categories such as general cash *Waqf* benefit and beneficiaries and specific cash *Waqf* benefit and beneficiaries. In a cash *Waqf* scheme, where the field or fields for distribution of profit are mentioned without specifying the name of the beneficiary or beneficiaries whether individual or institution, those Cash *Waqf* will be treated as General Cash *Waqf* and the profit of those accounts will be spent for welfare of mankind in the fields declared by the Bank such as family rehabilitation, poverty alleviation, education, health care and other social welfare services etc.. In contrast, where depositor or *Waqif* mentioned any specific individual or individuals or institution or institutions to whom the profit is payable. Those schemes will be treated as Specific Cash *Waqf* and the profit of those accounts will be sent to the beneficiaries as specified by the *Waqif*. Furthermore, *Waqif* shall also have the right to give standing instruction to the bank for regular realization of cash *Waqf* at a rate specified by him/her from any other account maintained with the Bank. (SIBL) The *Waqif* may issue written standing instruction for yearly transfer of profit amount to MSA / AWCA maintained by the beneficiaries, institutions, projects, persons or the concerned Branch may pay the profit amount directly to the beneficiaries, institutions, projects, persons as determined by the *Waqif*. In the situation where *Waqif* dies, the profit of the *Waqf* scheme will be spent according to the option given by the *Waqif* and a certificate in this regard will be issued for the amount so far deposited by the *Waqif* and shall be handed over to the successor of the *Waqif*. Furthermore, if the successor of the *Waqif* is willing to pay the shortfall amount to cover the declared amount of *Waqf* then after getting such amount a Certificate for the full amount may be issued. Moreover, where the purpose of *Waqf* is achieved or destroyed, the profit will be spent to the sector mentioned at the time of opening the account and if not mentioned or arise any contradiction then decision of the *Waqf* management committee of the concerned Bank in this regard shall be final. (Prime Bank)

As regards the management of this cash *Waqf* scheme, all banks have their own management committee to regulate, monitor, and promote these accounts. Islami Bank Bangladesh (IBBL) formed an internal *Waqf* management committee containing five members where the chairman and two other members of the committee shall be appointed by the board of directors of the bank, one member shall be nominated by the *Waqif* and one member from Shariah

council of respective banks. The committee is empowered to give day to day directions and decision in handling cash *Waqf* including opening and operating accounts, maintaining incomes and expenditures, transferring and closing accounts (IBBL, 2018). However, if any objection rises to the committee regarding mismanagement of *Waqf* fund, the concerned committee will investigate the matter and give its decision and the decision of the committee shall be final. In the situation where the committee feels that the matter should be referred to the Shariah council for seeking opinion, in that case, a decision of Shariah council shall be final. Furthermore, where any contradiction rises between *Waqif* and bank, the decision of the committee shall be final. In addition, account of Cash *Waqfs* are maintained in a separate ledger and necessary charges as per rules may be deducted there from

8. Cash *Waqf* and Sustainable Society

The term “sustainable” refers ability to maintain or support at a certain level or able to uphold or defended something. Sustainable society further refers to a society which ensures health and strength of human life, culture, and safe nature for generations in today and tomorrow (Viederman, 1993). The purpose of sustainable society is to stop the activities that destroying human life, its nature, and culture and so on. In order to establish a sustainable society, certain elements must be achieved such as economic and political stability in the country, unity of the people, maintaining cultural values, promoting and protecting natural environment and resources and making a balance society where everyone can enjoy rights and perform their liabilities (Pena, 2014). Furthermore, sustainability contains the impression of desirable characteristics of a future society where human survival and well-being would not be threatened. Sustainability or sustainable society also intertwined with the ecological sustainability if human activities in environmental since on which much attention is paying today (Robinson, At. el., 1990). Moreover, establishing sustainable society varies from place to place depending on the level of understanding and capability to desire or imagine in future safe and habitable earth for upcoming generation. Therefore, sustainable society in the context of Bangladesh appears more complex which needs to identify our key issues and where should we go in 50 to 100 years, what would be the policy for strengthening our social relations, massive employment, zero poverty level, preservation of ecological balance, increasing forestry beside huge population. In this context, a collaborative step is a must and Cash *Waqf* may open immense opportunities to build our long lasting society.

Public and private sector of Bangladesh are continuously striving to achieve the criteria of a sustainable society. Since the poverty, basic education and malnourishment are the key challenges for building sustainable society in Bangladesh. Therefore, achieving the standard economic conditions and poverty reduction become the prime target of all activities of private and public sector. *Waqf* administration in Bangladesh is under the ministry of religious affairs also trying to contribute to those goals. However, due to various problems with traditional *Waqf* management, private banks brought a new dynamic financial instrument to contribute to the national economy in one hand and poverty alleviation on the other. The areas to which private banks are contributing through cash *Waqf* are highly relevant in making a balance

and sustainable society. Among the sectors four are highly focused which covers from family rehabilitation, education and culture, health and sanitation, and public utility services. There is a huge opportunity to invest benefits of cash *Waqf* to achieve target in terms of reducing poverty, increasing basic education for all, ensuring public health care facilities, protecting environmental safety, and establishing many public utility services. Thus, removing existing barriers in accelerating and popularizing cash *Waqf* should be given priority to formulate adequate and effective policy in this regard. Both public and private authority, therefore may taken consideration the management and dynamic products on cash *Waqf* practicing by the different Muslim countries such as Malaysia, Indonesia together means and methods of operation of these new products and apply to our financial market.

9. Challenges and Prospects of Cash *Waqf* Development in Bangladesh

There are a number of challenging factors in the development of traditional *Waqf* estates in Bangladesh such as inadequate skilled manpower, lack of institutional capacity in handling *Waqf* assets, lack of survey and updating information, mismanagement of the *Waqf* administration, delay in resolving *Waqf* property disputes, low quality of services, lack of practical and target oriented short and long term plan, misappropriation of *Waqf* property by the powerful section of the people, misunderstanding about the advantages of the *Waqf* estates and so on. However, the scope of this paper is to focus on cash *Waqf*, therefore, the researcher only addresses the challenges are facing Bangladesh in administration and development of cash *Waqf* and the room for moving forward. There are:

9.1 Inadequate Legal Protection

At present the administration and management of *Waqf* properties are controlled and regulated under several Acts such as *Waqf* validating Act 1913, Bengal *Waqf* Act 1934, *Waqf* Ordinance 1962, *Waqf* Administration Rules 1975, the *Waqfs* (Transfer and Development of Property) Special Provision Act, 2013. However, majority of these Acts are age old and inadequate to fulfill the need and demand of the present time. As regards the cash *Waqf*, these laws are remaining silent to address the modern dimensions of *Waqf* including cash *Waqf*. Nevertheless, the definition provided by the *Waqf* Ordinance 1962 has an implied scope for cash *Waqf* as the provision contained any kind of movable or immovable property which can be dedicated for creating a *Waqf*. The implied approval in the Act is not adequate to meet the demand of the people in terms of management and security of the deposited money for *Waqf*. It is quite impossible to enhance the opportunity of cash *Waqf* among the people without legislating updated and demand achieving strong Act covering all the dimensions of *Waqf* including cash *Waqf*.

As the researcher mentioned that cash *Waqf* scheme now regulated by the private banks where the bank applying their own rules which are not unique and under specific legal framework. The *Waqifs* have hardly scope to engage with the activities in terms of distribution of profits to the expected beneficiaries. Absence of legal protection, *Waqifs* will not be stimulated to form more cash *Waqf* for supporting public goods which is desirable to establish a poverty free balance society. Furthermore, the decision of

the *Waqf* management committee of the concern bank and Shariah council should come under the legal protection. Therefore, it is need of the hour to amend the existing laws and incorporate the cash *Waqf* scheme in the Act and provide necessary protection for the investors in charitable investment recognized by the *Shariah*.

9.2 Negligence to Make Cash *Waqf* as a Financial Instrument

Cash *Waqf* certificate was introduced in Bangladesh by SIBL in 1995 and the bank handled efficiently as a new banking product. This instrument was an invention not only in Bangladesh but also the banking realm of the world. However, the new product has not paid any attention by the concern government administration as well as financial market of the country. Few private Islamic banks introduced this product in different financial project such as SME financing etc. In contrast, Malaysia, Indonesia, Kuwait, Bahrain introduced this concept of cash *Waqf* later from Bangladesh and builds several new products based on cash *Waqf* such as cash *Waqf*, e-*Waqf* fund, per-square feet value certificate, issuance of *sukuk*, intellectual property *Waqf* etc. and developing their social capital mobilization (Jali & Abdull, 2008) ^[24]. Unfortunately, Bangladesh has not yet properly addressed to these dynamic financial tools for national economic development in order to build a sustainable society. Therefore, both public and private sector conduct a comprehensive research to identify the scope and possibilities in make cash *Waqf* scheme and its better management for serving disadvantaged section of the population.

9.3 Inadequate Management Team

The private Islami banks dealing with cash *Waqf* also facing difficulties with inadequate management division and efficient officer. Only few banks have own management committee while others operating cash *Waqf* without having proper skilled manpower. Although private banks are trying to adopt adequate management of mechanism for creating more cash *Waqf*, but due to small volume of *Waqfs* scheme or having less efficient manpower to handle cash *Waqf*, banks are not able to establish separate division to regulate the *Waqf*. Therefore, all banks should form a strong management team and provide necessary training on cash *Waqf* scheme for successful operation of the scheme. In contrast, the public *Waqf* management is operated by inadequate manpower. The real scenario of the management is about 100,000 *Waqf* estates of the country manage by only 98 officers which is quite small number to maintain such a huge number of *Waqf* properties in Bangladesh. Therefore, for public and private sector authorities should increase a number of skilled officers for further improvement of the *Waqf* administration including cash *Waqf* (Islam, n.d.).

9.4 Dissatisfaction of Public on *Waqf* benefits

Getting services from public *Waqf* estates are not satisfactory due to several reasons such as lack of proper plan for providing specific benefit to the specific group of people such as rehabilitation of the land less people or street beggars etc. Inadequate services with biasness and bribing to get the facilities continuously decreases the satisfaction of the disadvantaged people regarding the benefits of *Waqf* properties in Bangladesh. As a result, people have a

negative pre-mind setup regarding *Waqf* including cash *Waqf*. Nevertheless, now banks are performing as *Mudarib* and doing business by investing *Waqf* money. In this regard some time banks make huge profit and *Sahib-al-Mal* or *Waqif* will receive satisfactory amount of profit. However, some time banks make lowest profit or face loss in the project as a result *Waqif* receives comparatively smaller amount of profit or loss of the principle amount. This is a big risk with cash *Waqf* but comparatively safe from other *Waqf* estate in Bangladesh. Therefore, it is the high time to initiate number of activities that may improve the quality of the services from the government *Waqf* as well as private institution like bank also take programs with the participation of potential *Waqif* to see the implication of cash *Waqf* in the society. Both public and Private sector may improve their service quality through adopting online assistance such as access in cash *Waqf* account through online at anytime from anywhere. So that they can come forward to create more cash *Waqfs* scheme for serving the society.

9.5 Lack of Effective Rules for *Mutawallis*

Mutawallis are playing significant role in regulating traditional *Waqf* properties in Bangladesh. At the same time reports on the mismanagement of *Waqf* properties are also appeared in the electronic and printing media. Misappropriations of *Waqf* property whether registered or unregistered by the *Mutawallis* is common in Bangladesh. Due to corrupt practices of our society and negligence by the government; land developers, corrupt government officials and political leaders have illegally occupied and sold off the properties which were meant to be used for religious or educational purposes (Chandan, 2018) ^[7], (Ahmad and Safiullah, 2012) ^[2]. However, the *Waqf* Ordinance 1962 empowers the administrative authority to remove a *Mutawalli*. It is to be noted that *Waqf* administrator does not manage any *Waqf* property directly, but supervise the management of the estate and control the activities of the *Mutawallis*. Section 32 of the Ordinance states certain grounds for removal of a *Mutawalli* such as breach of trust, mismanagement, malfeasance or misappropriation; or for any act of the *Mutawalli* causing loss of *Waqf* property or affecting the proper administration, control or preservation of the *Waqf*; or if the *Mutawalli* has been convicted more than once under section 61 of this Ordinance; or if the existing *Mutawalli* is found unsuitable, incompetent, negligent or otherwise undesirable.

It has further provides detail provisions for *Mutawallis* along with penalties for certain wrongful activities such as fails to apply for enrolment of the property, maintaining proper accounts and return, any sort of incorporation regarding inspection of accounts, records and documents etc. he may be punished with twenty thousand taka or may liable for six month imprisonment unless satisfy the court. However, the law does not provide any qualifications and disqualifications to be a *Mutawalli*. As a result, quality of management by the *Mutawalli* becomes less effective and erroneous. Finally, lack of proper monitoring and strict application of the law affects the effectivity of the law as a whole. For both traditional *Waqf* properties and cash *Waqf* government should provide proper guideline or legal provisions for appointment of *Mutawallis* and his responsibilities and liabilities. In cash *Waqf* scheme

Mutawallis are not oblige to handle the investment due to its *Mudaraba* character, therefore, banks perform everything and send back the profit to the *Mutawallis* only.

9.6 Lack of Public Awareness

Bangladesh is one of the largest Muslim countries by population in the world. Majority of them are living in the rural area and in a less advantaged condition in terms of basic education, health care, social safety and security as a whole and Islamic teaching in particular. Therefore, mass people are unaware about commands and guidelines of religious obligations including rules of charity and charitable work. The people of Bangladesh whether educated or illiterate are commonly accustomed with charitable work. However, these charitable works mostly performed individually by considering a social and religious duty. The land uses for building *Masjid*, and *Madrassa* is generally understood as *Waqf* property in Bangladesh. However, majority of the people do not know the advantages of *Waqf* property including of cash *Waqf*. The Cash *Waqf* has certain unique features in comparison with traditional *Waqf* estates; firstly, from cash *Waqf* scheme, a *Waqif* can receive profit immediately and may distribute to the targeted beneficiaries which is hardly possible by the benefit of the land property due to time constrain and lack of proper process of distribution. Secondly, cash *Waqf* is an easy option for the *Waqif* to make it by simply depositing any amount of money or depositing through installment to achieve a declared amount of cash *Waqf* while it is very difficult to buy a land and make a *Waqf*. Thirdly, in cash *Waqf*, it is easy to mobilize the fund as well as benefits to the *mudarib* and beneficiaries. Fourthly, the common charity serves onetime benefit of the poor people and the amount of charity has been finished in the hand of beneficiaries. On the other hand charity in the form of cash *Waqf* become a perpetual property and may serve long time until the destruction of cash *Waqf* scheme. These benefits of cash *Waqf* should be spread out among the people to create interest in forming cash *Waqf* for serving social good.

9.7 Absence of Education and Research on Cash *Waqf*

One of the major challenges for development of cash *Waqf* in Bangladesh is inadequate education and training on *Waqf* management. Less attention has paid in *Waqf* development as a new financial product. A poor number of research works on the area is unable to guide properly to the government as well as private sector authorities. It is quite impossible to enhance this potential instrument without proper and adequate research and training. Traditional *Waqf* laws and management is a part of Muslim law courses in Bangladesh. Therefore, it is the responsibility of the university to explore the issue of cash *Waqf* to their students and conduct research, arranging seminar and symposium on cash *Waqf*. Private Banks should take extensive training programs for its officers and *Waqifs* to understand the cash *Waqf* properly. Government may guide the *Imams* of all *Masajid* to give lecture on *Waqf* including Cash *Waqf* and making it clear and understandable to the common people. In addition banks may provide research grant to the researchers on this area for identifying obstacles and possible way-out for removing difficulties in regulation and acceleration this concept of cash *Waqf* throughout the country.

10. Recommendations

The researcher comes up with some recommendations for further development of *Waqf* properties, especially for cash *Waqf* to establish a poverty-free and educated society. In order to enhance cash *Waqf* development and making this scheme popular among the people who want to make contribution in poverty alleviation, providing basic education, promoting health care services for disadvantaged section of the society, private banks of Bangladesh have a big corporate social responsibility by adopting several effective target oriented activities. The researcher suggests some of the possible ways, to which the respective banks and the government as a whole may give consideration.

Firstly, the government may amend the existing *Waqf* laws and incorporate adequate provisions in terms of formation and management of cash *Waqf*. As a result, the Act can cover both traditional immovable *Waqf* estates as well as movable deposited cash *Waqf* scheme.

Secondly, all concern private banks may establish an integrated cash *Waqf* research and management center through mutual co-operation. Thus, the *Mutawallis* can get the benefits of cash *Waqf* quickly and on time for the purpose of effective distribution of profits among the beneficiaries to establish a hunger-free society.

Thirdly, in order to collect fund (as a cash *Waqf*) from rich and send back to the needy people, all concern banks may take programs with elite and religious people of the society for explaining the best alternative way for poverty reduction, improving healthcare facilities, and increasing literacy among the disadvantaged section of the people.

Fourthly, both public and private authorities shall arrange activities such as notifications, publications, news, and drama concerning cash *Waqf* and its positive implication on the society. It may also take initiatives for removing misconception about *Waqf* benefits including cash *Waqf*.

Fifthly, private banks may promote public lectures in collaborations with local Muftis and Imams in giving the lecture on cash *Waqf* in *Jummah* prayer in a regular basis. Thus people will become more knowledgeable regarding cash *Waqf* scheme and attract to make more cash *Waqf*.

11. Conclusion

Bangladesh is a country of communal harmony, where most of the citizens are Muslim. People are generally used in various types of charitable activities. However, the expected results are not visibly materialized. In other words, due to lack of proper plan to remove certain difficulties from disadvantaged people, these donations or charitable works are often unable to remove the difficulties of life, rather than it seems to nourish those difficulties in life. Cash *Waqf* is possibly the best alternative way to accumulate those donations in the format of cash *Waqf* scheme by which an opportunity of getting perpetual benefits can be opened. Other than cash *Waqf* perpetual benefit cannot be sorted out one-time donations. Bangladesh is a developing country with huge potential for economic stability and scope for building poverty and hunger-free sustainable society. However, the government of Bangladesh is failed to take necessary initiatives to promote and introduce cash *Waqf* scheme as a financial instrument effective tools for poverty alleviation in Bangladesh. Traditional *Waqf* administration in Bangladesh is unable to impact on society in terms of providing social utility services and improving the standard of life by removing scarcity of food and shelter. In this

context, some of the private Islamic Banks have come up with cash *Waqf* as a financial instrument covering both financial and social good. However, these products are not enough to accommodate the greater audience which is reasonably required a great attention to this issue. This paper has discussed the current situations of cash *Waqf* in Bangladesh and argued for the need for modern and innovative approaches towards the development of this scheme for building a sustainable society in Bangladesh. The paper analyzes the cash *Waqf* management and its challenges facing by private Banks in Bangladesh and makes some recommendations for further improvement to build up a sustainable society for the future generations.

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