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Jurisprudential Analysis of Maqasid al-Shariah in Managing Mosques Funds:

A Case Study of *Tabung Masjid* (TM) in Malaysia
Luqman Zakariyah (PhD, Wale, Lampeter, UK)

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Luqman Zakariyah (PhD, Wale, Lampeter, UK)

Assistant Professor,

Department of Fiqh and Usul al-Fiqh,
KIRKHS, International Islamic University,
Malaysia,

Tel. +601126993068

Email: luqzak@iium.edu.my

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Mosques funds in part of Muslim countries where *Tabarruaat* (voluntary donation) is in operation ought to have huge impact on Muslim youth empowerment and poverty alleviation. However, managing these funds in these Muslim countries to bring about the foreseen impact remains untapped. In Malaysia, the setup of *Tabung Masjid* (TM) has not been effective to serve the purpose of Islam. This is either partly due to unawareness of the Islamic jurisprudential perspectives on TM funds or partly due to the uninformed ways to manage these funds.

This paper aims to assess way of which funds generated from TM in Malaysia is being managed. Access to the TM management will be sought to evaluate the effectiveness of the impact of these funds. The assessments of the way TM is managed at present will be analyzed on the jurisprudential perspective of Muslim classical and contemporary scholars. The central question of this paper will be how mosques funds can be effectively used for Muslim youth empowerment. The author will suggest, through the analysis of available data of mosques' funds in Terengganu, Malaysia, productive methods of managing the TM which is more in tandem to the objectives of Islamic Law (*Maqasid al-Shariah*).

1. INTRODUCTION:

Mosque, which is conventionally known as *Masjid* in Arabic language, is one of the most symbolic places of worship and spiritual enhancement arena in Islam. In some places in the Qur'an, (Surat al-Tawbah 9:17-18, Surat al-Noor 24:36 and Surat al-Jinn 72:18) God mentions its significances and attributes sacredness to it. It is a central point of Muslim congregational meetings and a house that binds the souls of Muslims together. In medieval time, especially during the first time of Islam, Mosques had played vital roles in enhancing Muslim's spirituality, disseminating religious knowledge, delivering religious verdicts and settling disputes among Muslims. (Adil, Mohamed Azam, et al, 2013, 24).

The early interpretation of the significance of Mosque could have affected the understanding of wide scope of the purpose of mosques in Islam. During the time of the prophet mosque had served as places for training Muslims, settling disputes and community spiritual recreation. Since then, mosque has been given wider meaning beyond just place of spiritual exercises. Today, Mosque has gone beyond its normative functions to include any societal welfare which includes youth orientation, Muslim education, financial assistant providers etc. In some Muslim countries such as Malaysia, mosques have been transformed to serve as outlets for implementing "government Islamic-related polities within the society" (Adil, *et al*, ibid.).

Not only that, mosques today has served the purpose of moral instilment where "Islamic programs and activities are carried out in mosques to instill and strengthen Islamic values among community members." (quoted in Adeil, *et al*. ibid, 24). The activities of mosques in Malaysia have dictated serious attentions to the financial management of the mosques without which the mosques cannot sustainably continue to perform those duties. Thus, skillfully managing mosques funds becomes indispensable. This management requires professional skills ranging from vast religious trained scholars who will be in position of giving Islamic verdicts (Fatawa) on how to manage those funds according to Shariah. It also requires financial professionals who can guide the mosques on how to spend the funds and where to invest them.

One of the most obvious challenges facing our administration of modern mosques today is management of funds generated from the public. This could be partly because of the authority is unaware of the Islamic jurisprudential opinions on TM or partly due to the uninformed ways to manage these funds.

Mosque Funds (Tabung Masjid, TM) in Malaysia

The funds generated from the mosques are not the same nature and not for the same purpose. Classically, mosque generates funds from public in term of general donation (sadaqaat), Zakat (religious mandatory alms) and Waqaf (bequests). These are the main sources of funds for the running of the mosque. In modern, days where the government is Islamic or the country is

Muslims predominate, the government takes the financial responsibility of the mosques, where chunk amount of money is assigned in the government budget as the case in Saudi Arabia, UAE, Qatar, Bahrain, Oman, and some other Muslim countries. In this case, donations are not allowed or not essentially needed because all the funds including zakat and waqf are administered by the ministry of endowment. (Marican, 2003)

Hamdan, et al have observed that TM in Malaysia can be categorized into two, one is the traditional fund which include public contributions on every Friday and Muslim festival congregations and the other one is general fund which includes fund raising activities organized by mosques (Hamdan, et al. 2013, p. 2). Funds generated from public contribution have no specific intention of donors in spending them. Generally in Islamic law, intention of donor has bearing upon how the funds generated from donors should be used. Like waqf, the intention of the contributor may be general or specific. In this case, funds dedicated for general purpose can be diversified and used for consumption or investment. However, the specific waqf may not be used for other than the intended purpose. In this case, funds generated from specific purpose, from strict Islamic jurisprudence cannot be used for investment. Thus, Hamdan, et al observes lack of separation of these funds in Malaysia mosques management and suggest a systematic accounting system that will adequately distinguishes one type of fund from others with proper “financial reporting”. (Hamdan, et al. *ibid.*, p. 2)

According to official portal of Malaysian government, Malaysia consists of 13 states and 3 Federal Territories. The 13 Sates are Negri Sembilan, Pahang, Perak, Selangor, Perlis, Kedah, Johore, Kelantan, Terengganu, Malacca, Penang, Sabah and Sarawak. The 3 Federal Territories are Kuala Lumpur, Putrajaya and Labuan. The Federal Territories do not have State assemblies. (<http://mygov.malaysia.gov.my>). Malaysia’s Federal Constitution defines the power of the Federal government and the State governments with regards to the administration of Islamic affairs. The power given to each State includes the administration of Shariah Law which subsumes administration of Islamic Affairs such as its laws and social activities (Mosques,) State Mosques are “under the purview of the State governments.” In other words, each state has autonomy to enact law that is suitable for running the Islamic affairs and the conduct of Malay custom. (Sulaiman, 2007, p. 103).

Management of Mosques funds in Malaysia

Adil *et al* (2013) examine financial management practices of mosques in Malaysia. They realize that there is lack of systematic financial managements of TM in Malaysia. They suggest some other ways that which “internal control system and performance” of mosques can be enhanced “to achieve mission and goals of this crucial institutions of societal development” (Adil. *et al.*, p.23). Mohamed Azam et al work focuses on the examination of “budget participation, internal control system, fund usage and accountability on financial management practices in the mosque” (Adil, et al.,*ibid.*, p.24). While the research is broad in nature, the segment on “accountability on financial management practices” contributes to our present research. It shields lights on ways and

manners in which mosques diversify and maximize the benefit of their funds. The research also pave way for further research on how those funds should be managed by influencing the financial institutions in which the funds are kept.

Traditionally, funds generated by the non-profit organizations like mosques are not exposed to profit earning but rather for spending. Mosque is considered as non-profit oriented organization (Hamdan et al. P. 4). This nature has for decades close the mindset of the administrators to how the funds of the mosques can be effectively used.

Going beyond conservative dictate of mosques funds expenditure, mosques today are facing challenges in different angles. One angle that Mosques need to evaluate and improve on is the way their funds are managed. This improvement will earn mosques opportunity to develop and “ease the delivery of related services to the community” (Adil, et al., 2013, p. 23).

Improving on managing Mosque funds will specifically assist in presenting mosques in modern attraction as well as community responsibility where mosques will play roles of government agencies in taking care of youth orientation and rehabilitation where your delinquency is rampant. It will also play vital role of charitable platform for the needy among the community members. According to Adil *et al.* modern roles of mosques have gone wider beyond places of worships to include “center for political and economic orientation camp where information of Muslim status in a society is disseminated and accurate objective information are rendered to the community” (p. 24). For mosques to be able to carry out these functions accurately and effectively, they need committees who are professions in areas of managing funds. Not only have those mosques needed those who are skillful to bring creativities in to the establishment. This invites professionals on related issues to mosques development and enhancement. One of the criticisms levied against mosques today is lack of innovation sources for generating funds. Rather, some mosques are still relying on old version of soliciting for *Sadaqat*, *Zakats* and other religious charitable means (Adil, *et al.*, 24).

Yahaya (2014) proposes “a prototype (E-Mas) mosque accounting information system (AIS) that intended to network or link all the states mosques in Malaysia”. (p. 47). This effort aims to facilitate effective management of mosques financial activities. The strength of the research is garnered to make all the participating mosques in Malaysia who use the software to have access to financial data and good governance of the mosques. This idea is very useful in informing mosques of the growth of their funds and to think of where to invest those funds.

To realize this vision, Yahaya (2014) suggests that mosques committees have role to play. One of their roles is to generate funds for the mosques including investing these funds in halal ways. This would ultimately “generate social and human capital that can be used by the mosque to render assistance to the needy and at the same time take care of the expenses of the mosque” (Yahaya,, 49). Another pertinent suggestion of Lawan is to centralize mosque accounting system in Malaysia for transparency and accountability in running the affairs of the mosques. This

suggestion, perhaps, could also help in collective investment of the TM for the betterment and empowerment of allied Muslim communities. (Yahaya, 50)

Hamdan, *et al* work on financial reporting practices of mosques in Malaysia lies on differentiating between profit-oriented and non-profit organization. In accounting system, profit-oriented organization must use “the financial reporting standards for businesses” while non-profit entity just needs “fund accounting model that focuses more on how effective and efficient the NPO managers are using the public donations to achieve the mission of the organization” (Hamdan, *et al*, 2013).

The accounting practices of Mosques in Malaysia focuses on “providing information about the sources of funding and how the funds are being used to achieve its mission” (Hamdan, et. al., p. 4). Effective and efficient use of the mosque funds will definitely create many opportunities for the members of the mosque and also for the community at large. Hamdan, *et al* also touch the issue of segregation between restricted and unrestricted funds. The restricted funds mentioned above is the funds specified for specific purpose for which the mangers of the funds cannot divert them to another way. The unrestricted funds are funds that the managers have liberty in utilizing them as well as investing them. (Hamdan, *et. al.*, p. 6)

The relevance of this issue lies on the fact that if the funds are restricted, using them for other purpose or investing them could lead to Shariah non-compliance. (Hamdan, *et. al. ibid*). However, from maqasid shariah perspective, mosques funds today cannot sit in the banks without making use of them. Banks ultimately will invest them and for mosques not to take advantage of this will tantamount to waste of Muslim / Public funds.

Maqasid Development

Maqāṣid al-Sharī‘ah is defined as the goals and objectives of Shariah rules and the wisdom behind each rules for the benefits of humanity. (Raysuni, p. 7, Fasi, p. 7.). Maqāṣid al-Sharī‘ah in terms of derivatives are divided into two, the Maqāṣid al-Shari’ (the purpose of the Lawgiver in legislating particular law and the Maqāṣid al-Mukallah (the Purpose of the legal person to act upon God’s law). The scholars agreed that the purpose of Allah in enact laws is to incur benefit and ward off evils from humans. They also agreed that the the legal ..purpose of acting upon each law could be for servicing God or others and it could be valid and invalid. Other classification of Maqāṣid al-Sharī‘ah is in terms of the resource to these Maqāṣid. The classification is divided into four. Daruriya (essential), Hajiyat (needs, (tahsinaat (embellishment) and Mukammillat (complement). (Qahtani, 2014, 43)

Maqāṣid al-Sharī‘ah is one of the newly developed science extracted from the science of Usul al-Fiqh. (Larbani and Mustafa 2011/1432). The scholars who have written on Maqāṣid al-Sharī‘ah initially focused on the legal aspect of the science. This trend can be found in works of Al-Juwaini, (d.), Al-Ghazali (d.), Al-Shatibi (d.), IbnTaymiyyah, (d.) IbnQayyim, (d.), Ibn ‘Ashur (1998) and IbnTaymiyyah.(Larbani and Mustafa, *ibid*. p. 51). It is equally essential to mention that the science of

Maqāṣid al-Sharī‘ah. IbnAshur is considered to be one of the scholars who call for independency of the science of Maqāṣid al-Sharī‘ah . Since the theory of Maqāṣid al-Sharī‘ah has been discussed in a legal capacity, Ibn Ashur has taken the science further to the stage of comprehensiveness. He developed idea of application of the theory to all aspect of Islamic law including the financial transactions. From this openness and unrestricted application of Maqāṣid al-Sharī‘ah, scholars of different disciplines have seen Maqāṣid al-Sharī‘ah as a way out from restrictive nature of Islamic law as presented in classical literatures. Mustafa Omar (2006) has critically question nonchalant attitude and a slow moving of IB in maximizing the theory of Maqāṣid al-Sharī‘ah in improving the industry and achieving the purposes of the industry. He observes that IB can use Maqāṣid al-Sharī‘ah in promoting the welfare of the ummah. In discussing the role of Maqāṣid al-Sharī‘ah in promoting welfare, Mustafa alludes to the fact that Muslim wealth must be fairly distributed and invested in order to serve the very purpose of Shariah. (2006, p. 216).

2. ASSESSMENT OF MANAGEMENT OF MOSQUE FUNDS IN MALAYSIA: TERRANGANU MOSQUES: DATA ANALYSIS:

Terengganu

Terengganu is one of the states in Malaysia which situated in north-eastern Peninsular Malaysia. As of 2010, the population of Terengganu was 1,015,776, which is 94.7% of Malays. Terengganu is divided into seven administrative districts namely, Besut, Dungun, Hulu Terengganu, Kemaman, Kuala Terengganu, Marang and Setiu. Majority of the Terengganu are Muslims. According to the 2010 census, the population of Muslims in Terengganu was 96.9% making other religion non-visible in the State. Generally, Malaysia State governments fund the States Mosques except the “for the state mosque of the Federal Territory and Terengganu”. The State mosque of Terengganu unlike other state mosques, is funded solely by “public donations” By law, funds of all state mosques funded by the state government are managed by “the State Treasury Department with the assistance of the respective IRD”. As the state government funded mosques have to follow the regulations stated laid out in the law, Treasury Instructions (Arahan Perbendaharaan) in terms of their financial control, budgetary, control on receipts and disbursements, bank operations, stocks, tenders and quotation and fixed assets and document management.” (Maliah 2007, p. 106), Terengganu’s mosques are not subjected to this tight scrutiny and screen. This allows them the liberty to diversify the funds and manage them according to the public interest which emanates from maqasid alshariah.

In Terengganu, according to our recent survey there are 171 mosques which consist regional and government state established ones. The distributions of these numbers are as follow:

District*	Number of Mosques	Regional	State	Unknown
Besut	11	10	1	
Hulu Terengganu	76	68	4	4
Kemaman	10	5	5	
Kuala Terengganu	9	6	3	

Marang	50	47	2	1
Setiu	15	15	0	
Total	171	151	15	5

Dungun district survey could be done due to a logistic reason

The administration of the funds of mosques in Terengganu is not different from other mosques in other states of the country. Apart from unique features the Terengganu's mosques enjoy in term of being financed by public donations, the way of managing those funds needs to be addressed. This section will dedicated to the assessment of strategic planning in banking and investing the funds of those mosques in Terengganu.

a. BANKING

According to the data collected from the mosques in Terengganu there is no strategy in place for choosing financial institution in which the funds of mosques should be deposited. Thus, this is tantamount to lack of collective wealth investment among the mosques in Malaysia in general and in Terengganu in particular. Mosques are not united in banking their TM. According to the data collected in Terengganu mosques, the funds generated from public donations in those mosques are banked in staccato manner. The 171 mosques used 10 different banks in their regions. In total, it is observed that AGRO bank is being used by majority of the Mosques for which the total of mosques using AGRO amount to 81 out of 171 mosques, though the total amount of TM banked together in AGRO bank is lesser than BIMB. In some region, one bank is more popular and the reason is unknown. One can guess that it could be that other banks are not available in that region. For example, in Setiu out of 15 mosques, 12 mosques use AGRO bank. The same high proportion is recorded in Hulu Terengganu which is the capital of the State, 45 mosques bank their TM with AGRO bank. However, in some states such as Kuala Terengganu, none of the 9 mosques use AGRO but the TM are banked in 3 different banks. This has raised the issues of strategic management of TM in term of collective banking among the mosques in the same region.

Distribution of banking of TM in Terengganu

BANKS	NO OF MASJID
AGRO	81
AM BANK	5
AFFIN BANK	1
BIMB	28
BSN	26
CIMB	4
MAYBANK	13
MUAMALAT	6
RAKYAT	2
RHB	4
UNKNOWN	1

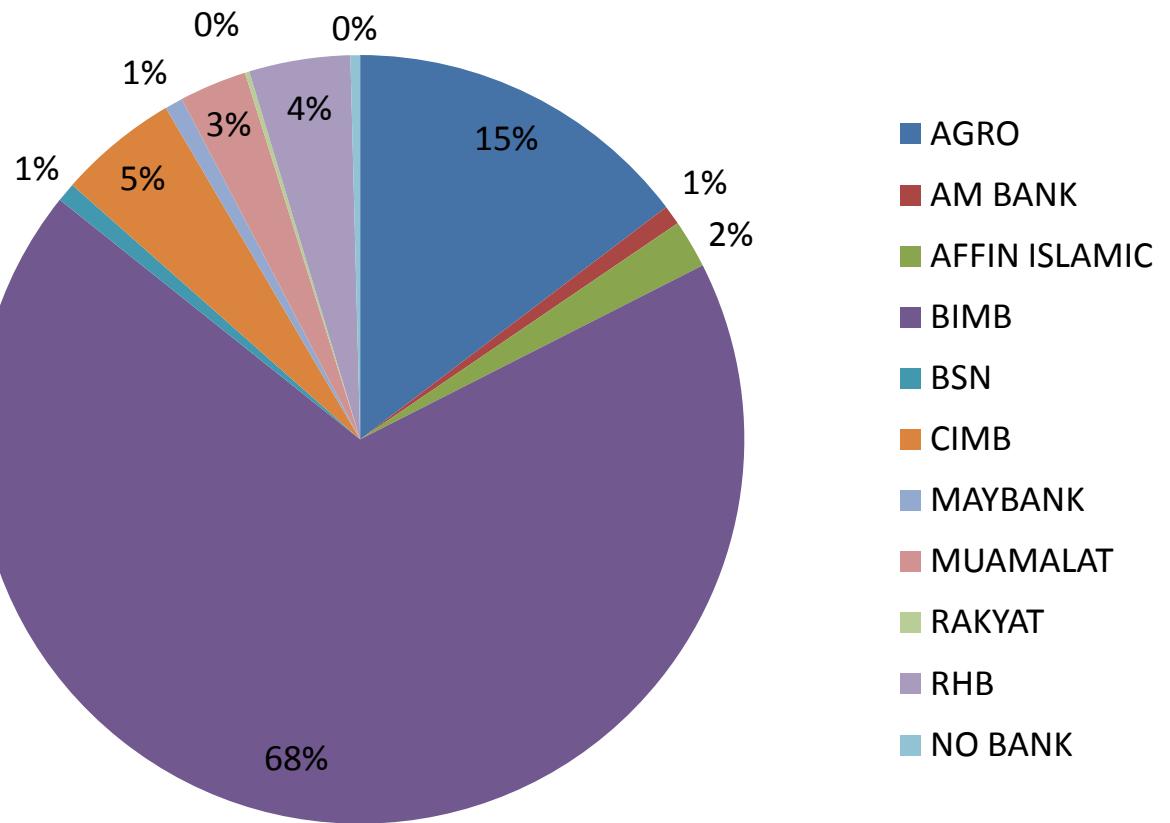
TOTAL	171
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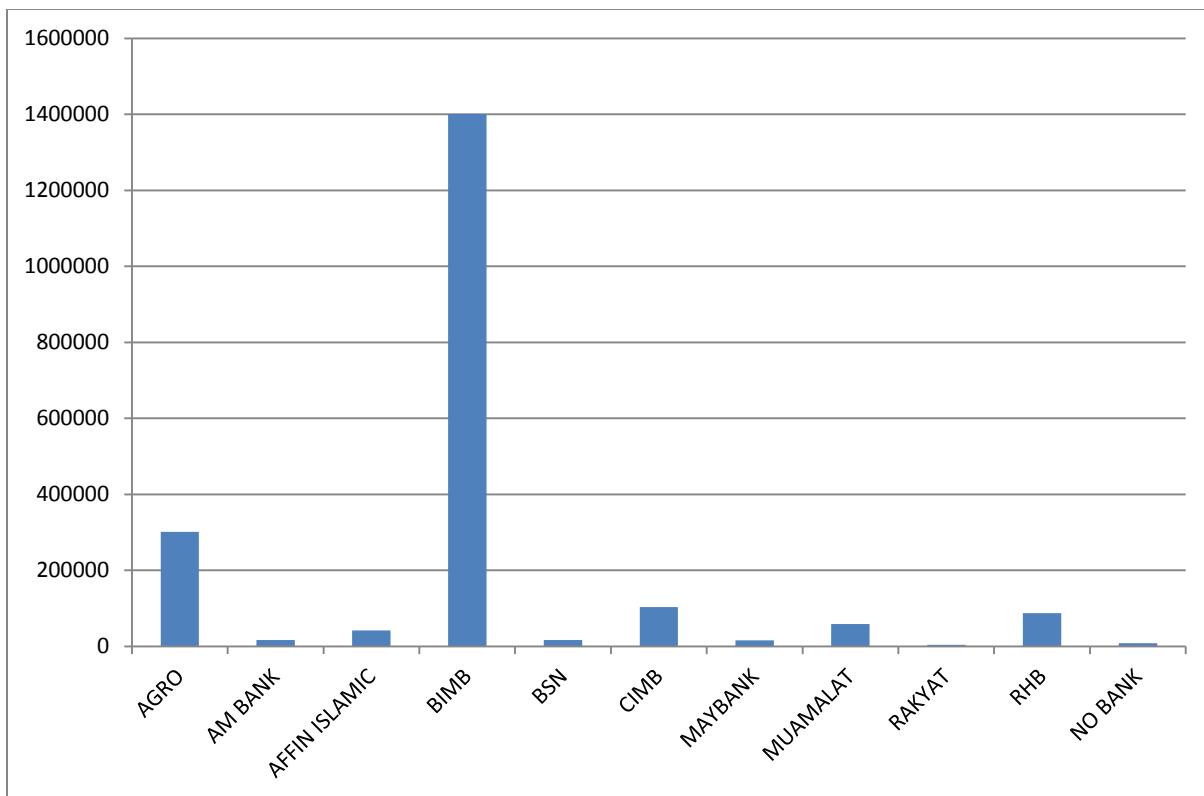
Distribution of TM in Terengganu

As mentioned above, Terengganu Mosques funds are not banked in the same banks. The reason cannot be fished out simply because, the authority of the mosques cannot explain. Though, it could be understood that some districts are in remote areas, nevertheless, their funds can be banked in a single financial institution. Before analyzing the generated capital of TM in Terengganu, it is worth mentioning that not all the mosques divulged their balance/funds in the banks. Out of 171, 82 mosques gave the balances of the funds and 1 out of these 82 did not give the name of its bank. The total funds of Terengganu mosques triggered to 2million Ringgits. According to the chart below, BIMB retains 68% of the fund followed by AGRO bank, though the numbers of mosques who are using AGRO are more than those who are using BIMB.

BANKS	AMOUNT	NO OF MOSQUES
AGRO	301381.65	35
AM BANK	16856.28	2
AFFIN BANK	41759.00	1
BIMB	1401308.15	22
BSN	16469.25	6
CIMB	103591.59	4
MAYBANK	15530.44	3
MUAMALAT	58299.17	4
RAKYAT	3893.00	1
RHB	87358.63	3
NO BANK	8356.9	1
TOTAL	2,054,804.06	82

TABUNG MOSQUES, TERRENGANU





Even within a region of Terengganu, in some region one bank is custodian of almost more than half of funds of the mosques in that region. In Marang for examples where there are 22 mosques, half of the mosques uses the AGRO bank, Agro bank has forty percent of the total amount of money owned. In Besut, 51 percent of the total amount owned by 11 masjids is saved in the BIMB bank of which 5 of these masjids use the bank. AGRO BANK has 85 percent of the total amount of money owned by 15 masjids in the Setiu region, 12 of these masjids uses the AGRO bank. In Kemaman region, 5 Of 10 masjids use the BIMB bank which gives them about 74 percent of the total money owned by the masjids in the region. In Hulu Terengganu, 9 of 15 masjids use the Agro bank and the possess 74 percent of money owned by the masjids and lastly, the BIMB bank has 98 percent share of money owned by 9 masjids in Kuala Terengganu of which 6 of these 9 masjids uses the bank. These masjids could have greater impact in Islamizing the banks if they could jointly resolve in using one bank instead of using different banks. Or preferably, the total money generated on donation which is over 2million ringgits is a sufficient capital to establish a share holding firm which would be more profitable and could be used for the development of the masjids in the region.

b. INVESTING

As mentioned above, Terengganu's TM has not been collectively invested to yield the maxims purpose of the contribution. Rather, each mosque has chosen its desired bank without any proper strategy. This could be partly because of lack of Islamic jurisprudential discourse on the use of TM for various things. During the time of Umar ibn al-Khattab, his two sons visited Basra where Abu Musa al-Ash'ari was the governor of the region. During their visit, the governor gave them the TM in his possession to be used for business and to return the capital back to the Khalifat Umar once they returned back to Madinah. Upon their return, they remit the capital to the treasury of Muslims but Umar was not satisfied and requested from them to return both capital and the profit. The two sons disagreed on the basis that they had taken the risk of investing the money at the end the two contending parties agreed on the terms of "mudarabah" where Umar accept the capital and half of the profit. This event indicates juristically that Muslim Funds which is unrestricted and unidentifiable can be used for investment. The action of Abu Musa shows that using the TM for investment does not breach the trust vested on him, though, he did not suggest to the sons of Umar to make the deal a mudarabah model. However, for Umar to have accepted the model and no ban is posted on Abu Musa, signifies the importance of protection of wealth in general and validity on investing and trading with such funds.

Since the funds generated in the mosques are strictly for God's sake and individual interest is vested in it, the funds can be properly managed by dividing the funds into administrative expenditure, social expenditure and investment. Hamdan et al in their efforts to classified mosques funds have identified the importance of investing mosques funds. They assert that unrestricted funds can be classified into three among these categories is the "tijari (investment and business purposes" (Hamdan et al. p. 9).

Investing Muslim public funds will go very long way in contributing to the welfare of the Ummah in this contemporary age. As mentioned about, mosques have been transformed beyond being a place for spirituality alone. Mosques have become places for social, economic, political and strategic points for Muslims to meet the demands for services that mosques need to provide, there must be a stable and sustainable ways of generating funds. To collectively invest TM will be a genus way of achieving this goal.

3. MAQASID AL-SHARIAH PARADIM IN MANAGING TM

Management of Muslim funds in general has be the focus of many Muslim economists in contemporary Islamic Banking and Finance discourses. This is because of huge capital of Muslims that could be used to finance many Islamic projects but resides in financial institutions without any financial gains for the Muslims.(Benaouda and Aouidad (2013, p121) However, discussion on whether Muslim funds can be invested or not starts from the issues of zakat. Zakat which is one of the five mandatory pillars of Islam is considered today as a vibrant and huge capital of Muslims in Muslim world. Management of this capital cannot be confined to classical

explanation as new methods disbursements and regulations are emerging. Thus, debates on whether Zakat can be invested or not have been recently debated. According to Benaouda and Aouidad, there is no disagreement among the scholars that the original capital of zakat must be immediately disbursed for the legal recipients as they are also agreed on the fact that the ruler/imam has right to delay its disbursement if there is need for that. (121).

It is also true that Zakat must be disbursed once it is due, however, the legality of investing zakat has not been unequivocally mentioned which has led to division among the contemporary Muslim scholars. The Fiqh Assembly of IOC in its 3rd assembly, Kuwait Zakat House, Kuwaiti Finance House, Fatwa Committees of Kuwiat Ministry of Endowments has all approved investing Zakat funds (Benaouda and Aouidad p. 133). This view is also upheld by Shaykh Yusuf al-Qaradawi, Mustafa al-Zarqa, Abdul Fattah Abu Ghadda, Wahbah al-Zuhayli and host of others. (Benaouda and Aouidad (2013, p. 133). Those who approve the investing Zakat funds rest their case on many hadith which are not obvious in supporting the issues, though there is allusion to legality of investment. However, Benaouda and Aouidad indicate that the reasons behind procrastinating disbursement of Zakat during the time of the Prophet and the companions was that “it is allowed for the Imam to manage the money/properties according to the benefit” (Benaouda and Aouidad , 2013, p 134).

On the other hand, host of scholars have rejected investing Zakat funds. Among are the Islamic World leagues in its 15th session, (Benaouda and Aouidad, 137). Those who have disapproved investing Zakat have rested their arguments on the bases that the Qur’anic verse (Tawbah 9:60) in which Allah has sanctioned distribution of Zakat does not mention investment and doing so will lead to violation of the Quranic provision. Benaouda and Aouidad comment on this argument that the logic is not consisted because investment of the funds does not exclude the purpose mentioned in the Quran but rather it is an effort on who to dispense not for whom to dispense (Benaouda and Aouidad , p. 137, al-Fawzan, 2005, p136)

It is allowed to invest Zakat for *maslah* purpose. Imam al-Nawaw says: “It is not allowed for the Imam and al-Sa’ to sell any zakat property without darar” This darar could be if there is a need to protect the money from destruction or to raise funds for transportation charges , for these reasons, it is allowed to invest zakat money. (al-Nawawi, 1997, 2:223, cf Ibn Qudamah, 1992, 2:274)

If proving investing TM is hard convincing by analogy on Zakat, considering investing of waqf will be more appealing. Waqf is one of the donations in Islamic law which could be general or specific. Muslim Jurists have debated on legality of investing waqf based on analogy with investing orphans property. It is reported that Umar ibn Khattab said” Invest the orphans money so that it won’t be exhausted by zakat. This is very germane to the maqasid al-shariah in protecting orphans properties. By extension, if the purpose of allowing waqf to be invested

which is also a donation, investing TM is much more needed to cater for many challenges facing Muslim community.

It has been realized in the Heads of States at the Third Extraordinary Session of the Islamic Summit Conference in Makkah-Mukarramah on December 2005, that “transforming the tremendous collective wealth of Muslim world” will enhance comprehensive human development. (Salih, 1999, p. 44) This decisive vision can be interpreted as managing any kind of Muslim Public Funds including TM.

While seeking proof to justify managing TM by investing it to yield more from jurisprudential opinions of Muslim scholars may be hard-proving, resorting to maqasid al-shariah is most likely relaxing the ruling and gives a go for any way in which TM can be managed to serve the very purpose of Islamic law.

Existing researches have suggested that maqasid al-shariah is much more applicable in enhancing human development. The research of Ahmad (2011) on the use of maqasid al-shariah to enhance human development stresses on the importance of financial capacity. “Human development at this level should primarily focus on alleviation of poverty and potentially on the entire removal of poverty at the end” (Ahmad, 2011/1433, p. 11)

In his article, he relates the three elements of daruruyat together in the sense that to protect religion, human’s mind and life must be in good order and to realize that, their financial needs must be targeted without which protection of religion may not be achieved.

Protection of human life is an original maqad of shariah. It neither comes second nor first to protection of religion. The two stands equal in relation to worshipping of Allah SW. Protection of human life has to be supported by provision of “economic needs” which are essential for living. Production of these needs and all activities which are necessary to support the production sector can be viewed as complementary maqasid (Ahmad, 2011/1433, p. 4-5).

Ahmad asserts that both natural wealth and man-made wealth serve together the maqasid al-shariah. The complementary and essential categories of maqasid shariah can be realized by considering the creation of wealth and human labor together.

For the Muslim society to be potentially equipped to face the global challenges, all lawful ways of public welfare must be taken into consideration. As the Islamic banking and Finance are growing and academicians are pushing the industry to play their role in CSR, the untapped areas of Muslim wealth must also be taken seriously. To have holistic Islamic environment needs holistic approach. While we are calling for absolute halal products, we need to produce halal

means. The TM is also one of the halal means to produce halal products when TM is fully managed through halal investments that will lead to poverty eradication and Muslim youth empowerments. This can be easily done through “Mobilization of Financial Resources from halal sources” (Ahmad, 2011/1433, p. 9)

Maqasid al-shariah theory has stressed on five daruriyat which include protection of religion din, life nafs, progeny nasl, intellect and property mal. These five essentials are pretty subsume in managing TM through investment. Some of the responsibility of Muslim leaders is to cater for the welfare of the subjects. Catering for the wellbeing of the society will guarantee preservation of Religion. It is when the society at large can achieve at least minimum level of their essentials than the religion can be properly upheld. To achieve this, Muslim society needs financial backbone. Ahmad, 2011/1433 writes

Protection of Religion and Maintenance of Human Life in the long run calls for extending financial facilities to support the family institution. Provision of lodging at suitable cost for new families, supporting new mothers, free vaccinations and medicine for infants etc are all very important items in the list (p. 10).

As mentioned above, if some scholars could have suggested that Muslim funds such as zakat and waqf could be invested to generate more funds for the improvement of Muslim societies such as education, health, and other social amenities, the use of TM should for the same reason be included but not only for spending but also for financial mobilization (Salih, 1999, Ahmad 2004).

The management of mosques funds for generating more money requires putting business planning in place. More than that, State mosques need to work together by pooling their funds together to maximize the profits and to collectively develop their respective states. This mindset is missing in most Muslim countries which Terengganu is not an exception.

Hamdan et al observe that “The extended roles and functions of mosques that include the demanding tasks of managing funds and becoming an economic agent for Muslim community requires the appointment of eligible candidates to hold important positions in the mosque committee.” (4)

The estimated balance of Terengganu mosques indicate “that a huge amount of funds amounting to hundreds thousands ringgits, which necessitating a sound and prudent fund management” (Hamdan, et al. p. 4). Ibn Ashur refers to this important aspect of Maqasid al-Shariah saying:

“Accordingly, it is the duty of the community’s rulers and those in charge of its public interests to pay special attention to the protection of its public wealth, whether this wealth

is exchanged with other nations or kept in the hands of the community” (Ibn Ashur, trans El-Mensawi, 2006/1427, p. 296).

This also includes the efficient management of the different zakah accounts (*maṣārif*) and public endowments.

The spirit that gave birth to Tabung Hajj (TH) in Malaysia in 1969 still replicates its self in the way TM is being managed in Malaysia. According to Mohammad Abdul Mannan Tabung Hajj was established due to what Royal Professor Ungku Abdul Aziz observed during his research in the 1950’s that “Muslim saved money in pillows, under mattresses and floors, in cupboards, in earthen jars, etc” for the purpose of Hajj, though, they did that to make their money free of riba. However, today, Muslim funds/wealth generated through generous donations for the mosques, are kept in various banks as Money was kept in various places in those days. The benefits of money in the banks are not being fully utilized. The submission of Tunkgu then was that the Government should provide institutional cover for the pilgrims “under which they can invest in diverse lawful activities out of which dividends can be paid, and this would assist them financially in meeting their expenses for the Hajj in an efficient way (Abdul Mannan, 1996/1417, p. 22). The TH assets have raised to RM45.6 billion as at February 2013 and the Group managing director of TH and the chief executive Datuk Ismee Ismail envisages that growth could reach RM50 billion before the end of 2014. (<http://www.malaysiachronicle.com/>) The secret behind this growth and the huge opportunity of job creation and preservation of Muslim wealth credited to the forth sight of Tungku in the 1969.Indeed, looking from maqasid al-shariah in managing Muslim funds, there could be no jurisprudential difference between TH and TM in the sense that both are wealth that needs to be protected and preserved for growth through investment.

However, TH is pool of individual money that explicitly got the approval of stakeholders for investing it, whereas, the TM is a public money that may have slight distinctive jurisprudential sanctions. This distinctive feature can be responded to by the action of Abu Musa Al-Ash’ari who gave both sons of Umar the Muslim treasures to trade with and return the capital back to Umar upon their return to Madinah. The Muslim scholars have agreed upon investing wealth of orphans so that it would not be exhausted by zakat. Taking this into consideration, it can be concluded that investing TM to generate more wealth for the Muslim communities is not invalid.

4. CONCLUSION

TM is still underutilized in the Muslim world. Despite the long experience of Malaysia in management Muslim fund especially the TH, the TM has not been given attention. The survey of Mosques in Terengganu which is one of the statue that enjoy autonomy of freedom of expedition of TM, the TM collected in each mosque is no been strategically manage. Each mosque banks its funds in a bank that pleases it without any concern for how it can be used for investment. The total amount of TM in Terengganu regions is worth RM 2million. This amount, if it was banked in one bank might have generated more profits which can be collectively used for youth development. Not only that, the mosques can also influence the banks to have 100% Islamic compliant products. Beside, jobs can be created from the TM Holdings if this strategy is being put in place.

The reason why this idea could be that one would expect that donation in the mosque is very small and it is meant for petty and day-day running of the mosque. Yes, indeed, but today's donations have gone far and the accumulation threshold of the balance in a particular mosque shows that the wealth is residue in the banks and it does not depict the maqasid al-shariah under the darauriyah.

There is no jurisprudential breach in strategizing for TM. In fact, TM investment is more open to Shariah flexibility since the intention of donors is not specified. Besides, putting TM in different banks without proper plan render the purpose of Shariah in preserving and protecting properly (especially Public funds) ineffective. However, pooling all the TM in all the Muslim mosques could go far in benefiting the Muslim Ummah. It will create more employment for the youth, improving the standard of mosques in term of amenities and recreations for adults and disables among the Muslim communities. On top of that, collective investment of TM will influence banks be it conventional or Islamic to be Shariah compliant.

Thus, the paper would suggest to the government to establish the prototype of Tabung Hajj for Tabung Masjdis so that the purpose of Shariah in protecting wealth in Islam could be realized.

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