

PROSPECTS OF CASH *WAQF* IN BANGLADESH: THE NEED FOR A SEPARATE LEGAL AND REGULATORY FRAMEWORK

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INTRODUCTION

- One of the most effective mechanisms in achieving the socio-economic and welfare objectives of the institution of *Waqf*.
- To analyse the benefits of cash *Waqf* and explore the legal and regulatory framework that govern cash *waqf* system in Bangladesh.
- To examine and explore the prospects of cash *waqf* in Bangladesh specially highlighting the huge potential of cash *waqf* in the welfare and benefits of unprivileged society.
- To emphasize the role of cash *Waqf* in economic development and poverty alleviation in Bangladesh.
- Legal and doctrinal research followed by an analytical approach.

MEANING OF CASH WAQF

- The process of dedicating cash as *waqf* for the purpose of lending it to designated beneficiaries without interest. (*Al-Tasuli from Maliki School*)
- The process of dedicating cash as *waqf* and then upon investing it the profit would be used for the specific charitable purpose. (*Imam Zufar from Hanafi School*)
- Most of the definitions come to a common point that cash *waqf* is a charitable endowment established with cash capital permanently dedicated and privately owned by a Muslim, or a group of Muslims or a corporate body governed according to shariah with perpetual dedication of its *usufruct* to be spent on any purpose recognised by shariah.
- In Bangladesh, the *Waqfs Ordinance 1962* includes ‘movable properties’ and ‘any other endowment or grant’ to be within the ambit of *waqf* for the purposes mentioned in the Ordinance, as such cash *waqf* is deemed to be covered by the definition. [*Section 2(10)*]

ORIGIN AND DEVELOPMENT OF CASH WAQF

- Cash *Waqf* was first introduced by Imam Zufar in the eighth century.
- At the beginning of fifteenth century, the Ottoman courts during the Ottoman Empire approved the practice of cash *waqf*.
- By the end of sixteenth century, this practice became popular all over Anatolia and as far as the European territories of the Ottoman Empire and some parts of the Middle East, South-Eastern Europe and North Africa.
- In present days, a renewed interest towards cash *waqf* can be seen in many parts of the Muslim world, including Bangladesh.
- In countries like Bangladesh where land properties are becoming scarce day by day due to density of population, cash *waqf* can be considered advanced alternative.
- Cash *Waqf* is gaining popularity and acceptance to a wider range of the population who are willing to participate in welfare-oriented activities.

ROLE OF CASH WAQF (BANGLADESH)

- Family Rehabilitation;
- Education and Culture;
- Health and Sanitation;
- Social Utility Service;
- Poverty alleviation; etc.

CURRENT STATUS OF CASH WAQF (BANGLADESH)

- Cash *Waqf* was first introduced in Bangladesh by the Social Investment Bank Ltd. (SIBL) in 1995. SIBL initiated the Cash *Waqf* Certificate which was considered as a brand-new product in the banking history of Bangladesh. This product has been well accepted by the people for its exceptional features.
- The development of cash *Waqf* in Bangladesh is still a growing trend, and many people are aware of cash *Waqf* in Bangladesh. Cash *Waqf* also finances some private universities in Bangladesh.
- The cash *Waqf* funds are reserved in the investment fund of an Islamic bank which functions on the foundation of *Mudarabah*. The profits of these funds are used for fulfilling the purpose of the *Waqf*.

CURRENT STATUS OF CASH WAQF (Contd.)

- Although *Waqf* relating to immovable properties in Bangladesh are governed by the *Waqf* Ordinance 1962, cash *Waqf* pool and management are operated by numerous Islamic banks.
- The *Waqf* Ordinance 1962 though included cash *Waqf* within the scope of *Waqf*, the relevant provisions of this Ordinance only cover the *Waqfs* relating to immovable properties.
- The achievement of Social Islami Bank in distributing and handling the cash *Waqf* has led other Islamic banks in Bangladesh to introduce related accounts of cash waqf for the benefit of Muslims and non-Muslims, such as, Exim Bank Bangladesh, Prime Bank, Al-Arafah Islami Bank Limited, Shahjalal Islami Bank Limited and Islamic Bank Bangladesh Limited.

CONSTRAINTS OF CASH WAQF (BANGLADESH)

- Absence of relevant laws;
- Insufficient manpower;
- Lack of administrative and organisational experience;
- Unregistered cash waqf properties;
- Lack of social consciousness;
- Unlawful misappropriation and occupation of cash *waqf*;
- Possibilities of power exploitation and ineffective supervision;
- Lack of Shariah and advisory board;
- Lack of aptitudes and qualification of Mutawallis.

CONCLUDING REMARKS

- Findings:

- ❖ Cash *Waqf* is a relatively new concept in Bangladesh and is at primary stage;
- ❖ Cash *Waqfs* are currently regulated by most of the Islamic Banks only;
- ❖ There is no legal instrument or regulatory body to manage and control cash *waqf*;
- ❖ Cash *Waqf* could play a significant role in poverty alleviation and economic development of Bangladesh if the system is well organized, systematic and properly managed.

CONCLUDING REMARKS

- Recommendations:

- ❖ There must be a separate and specific legislation for regulating cash *Waqf* in Bangladesh;
- ❖ Under the legislation, a well-structured regulatory body needs to be established for proper administration, management and supervision of cash *Waqfs*;
- ❖ Cash *Waqf* administration should be decentralised to enhance proper communication;
- ❖ The government should employ sufficient experienced staff to monitor the activities of cash *Waqf*;

CONCLUDING REMARKS (*Contd.*)

- Recommendations (*Contd.*):

- ❖ There should be provision of mandatory registration of cash *waqf* so that the *waqf* can be tracked easily;
- ❖ A Shariah advisory board should be established for cash *waqf* for every institution;
- ❖ The government should employ qualified and experienced Mutawallis for effective management of cash *waqf*;
- ❖ There should be social awareness program to educate the mass population about the impacts and benefits of cash *waqf*.

THANK YOU