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Preface

Praise and gratitude always we pray to the Lord of Universe, GOD Almighty (ALLAH SWT), who always gives a mercy and blessing for mankind. Thus, we can attend the international conference in healthy and halcyon conditions without any obstacles.

First of all, on behalf of Rector of Muhammadiyah University of Metro warmly welcomes for the presence of keynote speakers and the participants of international conference in various colleges, either domestic or overseas. Especially for a chairman of Indonesian's People Consultative Assembly or MPR-RI, Mr. Zulkifli Hasan; and a chairman of Higher Education Assembly of the Central Board of Muhammadiyah, Prof. Lincoln Arsyad.

Secondly, we do apologize if in providing services to the keynote speakers and the participants of the international conference are below of your expectations, all of those are caused by our capability limitation.

Thirdly, through this international conference, intended as a reflection of our commitment consistently improve the quality of education and accommodate more opportunities in academic collaboration.

Therefore, I believe that this international conference will be able to present an interesting discussion on the topics, by prominent speakers from Malaysia, Indonesia, Brunei and Thailand, which contribute to the development of knowledge and hopefully will encourage more research on this region.

In this beautiful occasion, I would like to congratulate to the organizers of international conference who have organized this event, hence, the event can be held most efficiently. Perhaps, it will support Muhammadiyah University of Metro to actualize its mission to become one of *international standard universities* in the near future.

Finally, once again I would like to say, welcome to all the distinguished guests and participants of the international conference.

Muhammadiyah University of Metro will give the best to help you recognize this Lampung land. Please enjoy our hospitality and have a pleasant experience in the international conference. Thank you.

Metro, November 7th, 2016

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Law and Human Rights in ASEAN Countries: Challenges and Prospects

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Abstract

Traditionally, the rule of law has not been viewed as a unifying concept amongst ASEAN countries. ASEAN was established principally as a political organisation. It did not set out to be an organisation focused on human rights. Its formative instrument- the 'Bangkok Declaration' 1967- did not mention the term 'human rights', and the term itself was viewed with many hesitation by various governments in the region. They viewed the idea incompatible with their principles for social unity and stability, effective economic development and sovereignty. However, the position has changed with the establishment of the ASEAN Inter-governmental Commission on Human Rights (AICHR). The paper aims to examine the relationship between law and human rights in ASEAN countries addressing the challenges and prospects in promoting and protecting human rights. This paper adopts a legal library research methodology focusing mainly on primary and secondary legal sources. The paper argues that unlike the European Union (EU), ASEAN is a strictly inter-governmental organisation. This means that the enforcement of citizen's rights and rule of law are entirely a prerogative of the member states. The paper also argues that the ASEAN Charter framed human rights as goals of the organisation but did not specify the concrete means by which those goals would be achieved or the sanctions that would follow non-compliance. The paper concludes that to secure human rights in ASEAN, consensus on human rights issues among member states is urgently needed.

Keywords: ASEAN, EU, Human Rights, Rule of Law

1. INTRODUCTION

The Association of South-East Asian Nations (ASEAN) was formed as a regional inter-governmental organisation in 1967 through the Bangkok Declaration. The ASEAN was established principally as a political organisation. Its formative instrument- the Bangkok Declaration 1967- did not mention the term 'human rights', and the term itself was viewed with hesitation by various governments in the region [1, 2]. Regardless of what has been said here, the idea for an ASEAN human rights body was not particularly new. It emerged in 1993, after the UN World Conference on Human Rights adopted the Vienna Declaration and Programme of Action and called on member states to establish regional human rights where they did not already exist [3]. ASEAN Foreign Ministers convened soon afterward and agreed that "ASEAN should also consider the establishment of an appropriate regional mechanism on human rights [4]". Hence, it is important to note that a regional human rights body took 16 years to come to fruition in Southeast Asia. On the other hand, looking at law per se in ASEAN, it is vital to note that the degree of application of the rule of law in individual ASEAN countries varies according to their specific contexts and capacities. These variations do not reflect 'competing conceptions' as much they are different notes on the same normative register for the rule of law in ASEAN [5]. Bearing all this in mind, developing an institution dedicated to human rights was challenging in an institution with a long-standing commitment to strong state sovereignty and a weak record of human rights enforcement.

The paper aims to examine the relationship between law and human rights in ASEAN countries focussing on the challenges and prospects in promoting and protecting human rights in the region. The paper is divided into four parts excluding the introduction. The first part addresses the relationship between law and human rights in ASEAN. This part of the discussion is important in order to understand the role that law can play in terms of promoting and protecting human rights. The second part deals with the challenges faced by ASEAN in the context of promoting and protecting human rights in the region. The third part addresses the future prospects in promoting and protecting human rights in ASEAN. Under this part, the discussion will revolve on the issue of future prospects despite the availability of the challenges faced by ASEAN in its quest to promote and protect human rights in the region. The fourth part shall focus on the conclusion. This part will embrace some recommendations bearing in mind that from the very beginning ASEAN developed a set of diplomatic norms and practices designed to discourage political interference.

2. RELATIONSHIP BETWEEN LAW AND HUMAN RIGHTS IN ASEAN

Unlike the European Union (EU), ASEAN is a strictly inter-governmental organisation. This means that the enforcement of citizen's rights and rule of law are entirely a prerogative of the member states. Given the great diversity of political systems in the region, rights granted to citizens and the enforcement of citizens' rights vary markedly. Limited space allows only for exemplary evidence as far as the rule of law in individual member

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countries is concerned. Traditionally, the rule of law has not been viewed as a unifying concept amongst ASEAN countries, but as a “protean” one. As mentioned earlier, while the degree of the application of the rule of law in individual ASEAN countries varies according to their specific contexts and capacities, recent global and regional developments have helped to crystallise a growing but firm consensus about the basic elements of the rule of law [6]. These developments include broad global acceptance for a UN definition of the rule of law linking the concept to human rights and democracy; the incorporation of the rule of law (and this linkage) in the ASEAN Charter; and the entrenchment of the rule of law and human rights as part and parcel of ASEAN’s move toward becoming a rule-based and integrated community with shared values [7].

Regardless of the approach taken by the ASEAN countries in terms of the relationship between law and human rights, there is no doubt that there appears to be a growing consensus on the constitutive elements or central principles of the rule of law as a principle of good governance; and acceptance that the rule of law is compatible with strengthening democracy and promoting and protecting fundamental human rights. Thus, the advent of the ASEAN Charter opened the door to integrating human rights into ASEAN framework. For example, in the national context, certain ASEAN countries have made human rights a part of their national agendas by setting up human rights commissions. At the international level, individual ASEAN member states have displayed a greater openness to acceding to human rights conventions and have participated vigorously in human rights debates within United Nations fora [8]. This may be seen as an unequivocal acceptance that human rights are a matter of legitimate international concern; how this concern should be expressed, however, is still open to question. At the sub-regional level, ASEAN states have departed from previous practice by discussing the issue of human rights in formal meetings, albeit stressing that human rights are contingent upon distinct economic and cultural conditions of the region [9]. Though all these may sound to be good news in promoting and protecting human rights in the region, it is sad to note that Article 1(7) of the ASEAN Charter identifies human rights as an explicit goal of the Association but again places that objective in dynamic tension with the rights of sovereign member states. The espoused goal is: “to strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN”. The provision treats human rights as norms to be reconciled with sometimes balanced against norms of sovereignty and non-interference [10].

From the foregoing discussion above, it is undeniable fact that although the legal systems in the region seem to be different and to a certain extent maybe a hindrance in promoting and protecting human rights, the ASEAN Charter marked a significant step in the establishment of a formal ASEAN human rights system, which may help to form a solid foundation for the development of those legal instruments and independent mechanisms required to strengthen human rights protection in the region.

3. CHALLENGES FACED BY ASEAN IN PROMOTING AND PROTECTING HUMAN RIGHTS

As stated earlier that ASEAN was established principally as a political organisation, there is no doubt that it did not set out to be an organisation focused on human rights. However, the advent of the ASEAN Charter in 2007 has raised hopes in the region for the promotion and protection of human rights. Regardless of the ASEAN Charter, the following are some of the challenges faced by ASEAN countries in promoting and protecting human rights in the region:

3.1 Non-Interference and Sovereignty in Southeast Asia

The non-interference principle seems to remain a permanent fixture of ASEAN as it made its way into the ASEAN Charter, and constrains the ASEAN Inter-governmental Commission on Human Rights (AICHR’s) mandate. Although used interchangeably, non-interference seems to suggest a wider application than non-intervention as described in the United Nations Charter’s Article 2(4). The Article stipulates that all UN member states shall refrain from the threat or use of force against the territorial integrity or political independence of any state. Hence, it would suffice to note that non-interference is a core component of sovereignty. Sovereignty is an institutionalised legal or juridical status, not a viable or sociological condition [11]. In the context of this paper, it is important to note that criticisms of traditional understandings of sovereignty commonly point to globalization as having eroded or fragmented state sovereignty practically and judicially [12]. In this paper, the author will use the term non-interference since this is the preferred term of ASEAN.

Having said all that, it is important to make reference to Article 2 of the ASEAN Charter. The Article provides that the Commission will promote and protect human rights in a manner consistent with the norm of non-interference, with deference to the primary responsibility of states and “avoidance of double standards and politicisation”. Instead ASEAN will pursue a “constructive and non-confrontational approach,” stress “cooperation,” and take an evolutionary approach [13]. Based on the principle of non-interference, we are bound to face some pertinent questions. How shall for example the AICHR “contribute to the realisation of the purposes of ASEAN as set out in the ASEAN Charter in order to promote stability and harmony in the region, friendship and cooperation among ASEAN [14]” when the purposes, on the one hand, is “to promote and protect human rights and fundamental freedoms of peoples of ASEAN [15]”, and on the other, “to respect the principles

of ASEAN as embodied in Article 2 of the ASEAN Charter, in particular: (a) respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States”?

In addition to the above, it is important to note that the principle of non-interference is hardly something unique to ASEAN, but finds prominent places in other organisational structures as well, most notably other regional human rights regimes organisations such as the Organisation of American States by virtue of Article 3(e) and the African Union as a result of Article 4(g). Despite the principle of non-interference remains strong in other regional human rights regimes, they have been able to consolidate it, at least to some extent, with the abilities of human rights organs to scrutinise and render binding decisions [16]. So in principle at least there does not have to be a complete contradiction between accepting, by the political will of a state, the decisions of an international body and the principle of non-interference. However, when it comes to ASEAN, it is obvious that the principle is interpreted and applied quite rigidly, especially when it comes to human rights. This is one of the major reasons why pushing human rights under ASEAN has been a very difficult process [17].

Still on the principle of non-interference as one of the challenges faced by ASEAN countries in promoting and protecting human rights in the region, Eberhard Ronald pointed out that the ASEAN Human Rights Declaration would have run counter to the ASEAN Charter had it adopted the universality principle in accordance to the Vienna Declaration [18]. Furthermore, Lee Jones argued that the non-interference principle in ASEAN is not as static as it seems. ASEAN’s history of interference and intervention, and its current process of integration, point to a more dynamic and flexible approach to non-interference and sovereignty than what is commonly perceived [19]. Jones argued that ASEAN has undergone a diverse range of sovereignty regimes, and that when ASEAN states intervene militarily it was primarily to protect domestic order [20].

In discussing the principle of non-interference, reference must be made to Article 1(7) of the ASEAN Charter as well. This Article is also seen as a hindrance in promoting and protecting human rights in the region. The Article treats human rights as norms to be reconciled with and sometimes balanced against norms of sovereignty and non-interference. Thus, the ASEAN Charter appears to be inadequate to bring about any real changes in terms of promoting and protecting human rights in the region.

3.2 The Consensus Requirement

The principle of consensus-based decision making is hardly controversial in the operation of ASEAN. The officials who comprise the commission are government appointees (normally from foreign ministries) and accountable to their host governments [21]. They are called “Representatives” rather than “commissioners,” which puts emphasis on their loyalty to home capitals [22]. With this kind of atmosphere in place, it makes it difficult to reach a conclusive decision bearing in mind that the problem lies in the fact that within ASEAN, no lower standard exists- no two-thirds majority or simple majority is prescribed in cases where consensus cannot be reached [23]. In short, the Southeast Asian ‘culture’ of dealing with one another- the ASEAN WAY- will make it very difficult to move forward in sensitive issues such as human rights. The ASEAN Charter procedurally provides that decision-making in ASEAN shall be based on consultation and consensus without any real dispute settling mechanism. Perhaps, it is important here to make reference to Article 20 of the ASEAN Charter [24], which provides that the Commissions decisions shall be based consultation and consensus. The problem with this provision is that, such an arrangement means that each state would be able to reject any criticism of its own human rights record by veto. Clearly, this could either lead to hampered progress or to adoption of weak positions based on the lowest common denominator [25].

3.3 The ASEAN Values Debate

This debate has been used in ASEAN as a blanket means not to codify core human rights norms (or the first-generation civil and political rights) in its constitutive instruments, the Treat of Amity and Cooperation (TAC) and the Bangkok Declaration. Its declarations, treaties, and protocols across its forty-year history have likewise denied express codification of these norms. Instead, ASEAN has focused much of its effort towards codification and enforcement of “second-generation” human rights norms on economic and social rights throughout the region [26]. This lack of codification of “first-generation” rights fuelled the “Asian values” debate in the 1990s, led by some Southeast Asian heads of state who decried “Western imperialism” through “Western imposition of rights” deemed antithetical to “Asian values” [27]. Because of this approach, accession of ASEAN countries to international human rights treaties is still unsatisfactory. Several ASEAN states, including Brunei Darussalam, Malaysia, Singapore and Thailand, have entered substantial reservations on certain provisions of the international human rights treaties. Singapore, for instance, has made all its international obligations subject to the city state’s law and constitution, while Malaysia and Brunei Darussalam have subjected obligations to Islamic and domestic law [28]. Spokesmen from some ASEAN states, particularly Singapore and Malaysia, buoyed atop a wave of impressive economic development and growth rates, have challenged the Universalist pretensions of human rights law. Under the relativistic banner of “Asian values,” they champion an alternative model of domestic governance and development [29]. It could be argued that the “right to culture” has been invoked as a competing right that qualifies, if not exempts, observance of core human rights norms on civil and

political rights as far as some ASEAN countries are concerned. This has indeed hampered the promotion and protection of human rights in the region.

3.4 Lack of Enforcement Mechanism

The AICHR does not possess any compliance or enforcement mechanism, which means that there is no mechanism for submitting complaints and receiving binding judgments and remedies. For example, ASEAN declarations putatively strengthening citizens' rights suffer from a key problem member states sought to remedy with the Charter. They are of a non-binding nature and without any legal mechanisms to enforce them. The call of ASEAN reformists to establish an ASEAN Court of Justice has not made it into the Charter. Neither have proposals to impose sanctions on member countries failing to comply with the obligations the Charter entails. As mentioned earlier, the AICHR does not install mechanisms for human rights victims to complain. Neither does the ASEAN Commission for Women and Children (ACWC). It is indeed sad to note that the Charter framed human rights as goals of the Association, but did not specify the concrete means by which those goals would be achieved or the sanctions that would follow non-compliance [30].

3.5 Weak Independent Authority

This point is closely related to the lack of enforcement mechanisms addressed above. There is no doubt that regional human rights bodies can serve as an independent adjudicators and enforcement agencies when they are given sufficient autonomy and backed by enough political muscle [31]. For example, they can serve as "norm incubators" that provide fertile institutional ground for the development and dissemination of human rights principles. Perhaps it is important to point out that the European Court of Human Rights and Inter-American Commission and Court of Human Rights are the best regional examples of courts that can indeed promote and protect human rights. Both courts can investigate cases brought by private citizens and issues judgments against states. Some have argued that Southeast Asia merits a similar regional court that could offer Southeast Asian citizens fairer hearings than many could get at home [32]. However, as mentioned earlier, the AICHR is far from that model, both in terms of political independence and institutional power.

4. PROSPECTS FOR ASEAN IN PROMOTING AND PROTECTING HUMAN RIGHTS

Regardless of the challenges discussed in this paper, it is pertinent to note that we cannot totally deny the fact that there are some positive prospects for the future in terms of promoting and protecting human rights in the region. Change will not happen overnight; regional institutions cannot soar too far above the plane of relevant political will without getting their wings clipped [33]. Those that have developed real teeth- such as the European Union (EU) earned its influence gradually. If ASEAN is to build influence, it will have to do the same. The following are some of the future prospects for ASEAN in promoting and protecting human rights in the region:

4.1 Impact of the Asian Charter in The Region

With the signing of the ASEAN Charter in 2008, the Charter added democracy, respect for human rights, rule of law and good governance to the sovereignty norms dominating the ASEAN Way, the grouping's established repository of cooperation norms. The subsequent formation of a human rights body and the enactment of an ASEAN Human Rights Declaration (AHRD) created new avenues for strengthening citizen's rights in the region. In other words, the adoption of the Declaration represents a significant milestone in the development of the ASEAN human rights system and underlines both its current significance and future possibilities [34]. Despite the criticisms levelled against the Charter, it is important to note that regional human rights systems are not fixed products, established at particular points in history, but rather are works-in-progress, evolving over time. The European Convention on Human Rights (ECHR), for instance, was adopted in 1950 and came into force in 1953, but it evolved slowly over the next sixty years with the cumulative addition of substantive protocols [35]. It reached an important milestone in 1998, for instance when Protocol 11 abolished the European Commission on Human Rights, eliminating its filtering of cases sent to the European Court of Human Rights and subjecting national parties to the compulsory jurisdiction of the Court by eliminating optional derogations [36]. What began as a political construct, therefore, evolved gradually to become a powerful judicial mechanism. It would suffice to note that the ASEAN human rights system is on a similar road, in many respects, starting out as a political project, but evolving along the path to becoming, potentially, an authoritative law-making and law-enforcing body.

4.2 Application of International Human Rights Conventions in the Region

All ASEAN states have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), the provisions of which ASEAN states pledge to uphold in the Terms of Reference of the ASEAN Commission on Women and Children (ACWC). Among other rights, CEDAW guarantees equal rights for women [37], including rights to property

and rights regarding marriage and family planning [38]. CEDAW also prohibits trafficking in women [39] and grants women equal rights to participate in government [40]. The CRC guarantees children the right to life, a broad range of rights relating to legal processes, freedom of association and assembly, freedom to practice religion and culture, and rights to asylum, expression and information, health, education, and privacy. Both conventions guarantee the right to nationality [41]. Although the two conventions have been signed by all the ASEAN states and even making some reservations to certain provisions as mentioned earlier, this should not be used as a ground to deny the impact of these two conventions which can clearly be seen in several ASEAN State's national constitutions. For instance, the right to life can be seen in Article 5(1) of the Malaysian Federal Constitution, Articles 32 and 38 of the Cambodian Constitution, Article 353 of the Myanmar Constitution, and Article 9(1) of the Singapore Constitution etc.

4.3 Parliamentary Role

One of the longstanding features of the ASEAN is that it is basically an inter-governmental, inter-State organisation. Despite the many references to people's participation in its various instruments, there is still no people's organ in the structure of ASEAN itself [42]. There is no ASEAN Parliament or Assembly. This invites reflection on how to 'popularise' ASEAN in the more people-centred sense both structurally and substantively. The ASEAN Inter-Parliamentary Assembly (AIPA) now has representation from parliamentarians from all ten ASEAN countries, and it may, one day, sow the seeds and open the door to the much needed presence of a regional parliament in the ASEAN structure. On a forward-looking note, the dynamic which could be propelled as the next crucial step for ASEAN is to take the quantum leap to set up formally in the ASEAN structure a regional Parliament or Assembly, and the AIPA could be a platform for this. This would help to respond to the need for checks and balances at the ASEAN level in regard to human rights protection and be a possible voice of the peoples of the region in this regard [43].

4.4 Better Implementation of Existing Domestic Laws

The future looks bright in terms of narrowing the gap between legislation and implementation in the region. As the Association moves forward, we are likely to witness some positive developments in the area of promoting and protecting human rights. In order to promote and protect human rights in the region, apart from focusing mainly on the ASEAN Charter, the best protection for ordinary people will be better implementation of existing domestic laws, strengthening of legal bodies and improvements in legal education, which, in turn, will facilitate effective implementation of ASEAN mechanisms. In this regard, the region to a certain extent is moving towards that direction with the establishment of Human Rights Commissions at national level or into their domestic laws and they are tasked with promoting and protecting human rights. Interesting, four ASEAN countries (namely, Indonesia, Malaysia, Thailand and the Philippines) now have national human rights commissions which are accepted internationally as independent, and they act as promoters and protectors of human rights in the most direct sense [44]. Furthermore, every ASEAN member state has existing domestic laws if routinely and robustly implemented could be strong tools to promote and protect human rights, even if not couched in specific human rights language. In almost all ASEAN countries, the grounds and procedure for arrest, trial and detention are prescribed by law. Employing right-based language, their criminal procedure codes expressly provide for, at least in theory, the fair and equal enforcement of due process protections.

4.5 Presence of Civil Society Actors and Networks in the Region

The number of civil society actors, such as NGOs, working on the issue of ASEAN and human rights has grown considerably throughout the years [45]. While some take a low-key approach, others adopt a more assertive role. While some are linked with academic institutions, others are more grassroots-oriented. While some are more local in inputs and networking, others are more from the international field [46]. A key message concerning the role of civil society is that in their plurality, they act as an important check-and-balance for the promotion and protection of human rights in the region and they deserve to be well supported as part of the building of a comprehensive human rights system for the region. Generally, civil society groups are in a position of applying pressure on the government to succumb to the will of the citizens or members of the public. Hence, civil society groups and other citizens or collectives could change the cost-benefit calculation of their national leaders even if reshaping their leaders' normative beliefs proves too formidable a task.

5. CONCLUSION

The discussion in this paper shows that the challenges of promoting and protecting human rights in ASEAN do not end with the adoption of the ASEAN Human Rights Declaration. Ensuring the effective implementation of the Declaration and mainstreaming the values contained therein remains a crucial challenge, particularly for the AICHR and all relevant mechanisms in ASEAN. The commitment to promote and protect human rights in ASEAN is high. ASEAN and its member states have striven to bring their constitution and rights legislation in consonance with international standards and long term improvements of citizens' rights can be identified.

Noteworthy in this respect are the more recent political reforms in Myanmar. Of recent, we have witnessed some positive developments in the area of human rights. In Malaysia, the Internal Security Act 1960 has been abolished as the law allows for detention without trial. In Singapore, a relaxation of security-related limitations of citizens' rights can be observed. It cannot be denied that loopholes and weak enforcement still account for serious gaps between norm and reality even in more democratic countries. However, most constitutions of the region provide for essential citizens' rights. They guarantee a broad range of fundamental freedoms, political and civic rights as well as economic and social rights [47]. Most ASEAN countries grant rights of political participation, press freedom, freedoms of association, assembly, speech and information, freedoms of thought and conscience, the protection of privacy, habeas corpus rights, and protection from arbitrary treatment by state authorities, due process and equality before the law.

In addition to the above, at the international level, individual ASEAN member states have displayed a greater openness to acceding to human rights conventions and have participated vigorously in human rights debates within the United Nations. However, there is no doubt altogether that the process of the enhancement and protection of human rights has started slowly with the formation of the AICHR. The future looks bright, but concerted effort is needed from the regional body. Hence, to secure human rights in ASEAN, some initiatives have to be taken such as: a process of community building; awareness enhancement through various channels of communication, consensus on human rights issue among member states; adopting compliance and enforcement mechanisms; establishing ASEAN Parliament or Assembly; introduction of a review process for monitoring member states to see their performance in the promotion and protection of human rights; support from the international community in the development of civil society; focusing attention on establishing the groundwork for an institutionalised human rights culture at the grassroots level, line by line, precept by precept and government action must be called to account first through the internal check of an active civil society, and then through the external check of the international community.

As a concluding remark, it is inevitable to point out that the expectations facing ASEAN are thus high, especially as a consequence of the Charter and the birth of the various bodies mentioned in this paper. The challenge now is to progress beyond the legitimisation of human rights through those entry points to the actualisation of human rights in terms of genuine protection and implementation of human rights in the region.

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Challenges and Solutions of Higher Education Institutions in Asia in the Face of the ASEAN Economic Community (AEC)

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Abstract

This paper identifies challenges and solutions of higher education in the ASEAN economic community. The discussion is divided into human index development followed by the development of higher education in ASEAN. The article then discusses the challenges faced by ASEAN countries concerning ASEAN economic community. The final part of the discussion focuses on several solutions for a higher education institution. The most important aspect is to develop a real framework of cooperation among ASEAN countries. This comprises four important aspects, namely the establishment of an ASEAN Research and Development (R&D) Centre; improvement of the quality of publication and university ranking; reformation of educators and researchers; and standardisation of academic programmes among ASEAN higher education institutions.

Keywords: Solutions of Higher Education Institutions, ASEAN Economic Community, Human Index Development

1. INTRODUCTION

The Association of Southeast Asian Nations (ASEAN) was established on August 8, 1967, in Bangkok. It consists of five original member countries, namely Indonesia, Malaysia, Philippines, Singapore and Thailand. The membership has expanded and currently includes five additional member countries, namely Brunei, Myanmar, Cambodia, Laos, and Vietnam. The total population in the ASEAN region is more than 600 million people with a cumulative gross domestic product (GDP) of US\$1.8 trillion and total trade valued at \$2 trillion [1]. The main emphasis of ASEAN has been regional cooperation for the benefit of all member countries. To obtain this regional cooperation, in January 2007, the ASEAN leaders affirmed their strong commitment to accelerate the establishment of an ASEAN Economic Community (AEC) by 2015. The main objective of AEC is to transform ASEAN into a region with free movement of goods, services, investment, skilled labour and the free flow of capital [2]. In addition, it is hoped that the close cooperation through the AEC will decrease economic and development gaps between ASEAN countries. Disparities exist in term of national income levels and access to technology, urban and rural inequalities, and gender gaps in some countries and regions within countries. Poverty in rural areas, where the majority of ASEAN members live, has been difficult to address and has a significant impact on the educational and economic opportunities available to the populations in these areas.

Even though ASEAN countries are diverse in size, the level of development, language and religion, they share the goal to be united as one. Regardless of their differences, these ten countries share a similar emphasis on human resource development. Human resource development is the important key in developing ASEAN to enter the knowledge-based economy and global environment. Education, as a fundamental human right, is considered critical and strategic for developing their human resources to increase integration and competitiveness [3]. Governments play a role by providing high-quality education and learning to all people. However, opening access to quality education and learning the opportunity to all people is not always easy as there are a number of challenges. Therefore, the main objective of this paper to identify challenges and solutions for higher education in the ASEAN economic community.

2. HUMAN DEVELOPMENT INDEX

Human development is a development of expanding an individual's options. It places importance on three essentials; for individuals to lead a lengthy and good life, to obtain knowledge, and to have rights to use resources required for a respectable living standard. The Human Development Index (HDI) has become a standard for measuring human development. Its element indices assess life expectancy, literacy and education, as well as GDP per capita. The HDI is a statistical tool used to measure a country's overall achievement in its social and economic dimensions. The social and economic dimensions of a country are based on the health of people, their level of education and their standard of living. The 2015 Human Development Report (HDR) keeps the same cut-off points for the four categories of human development achievements that were introduced in the 2014 HDR: 1) very high human development (0.8 and above); 2) high human development (0.700–0.799); 3) medium human development (0.550–0.699) and 4) low human development (below 0.550). Table 1 shows

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the education index for ASEAN countries from 1990-2014. Column one revealed the HDI rank by country. Singapore is the highest ranking for HDI followed by Brunei. On average, both Singapore and Brunei are categorised under very high human development. Meanwhile, Malaysia and Thailand are categorised under high human development. Indonesia, Philippines and Vietnam are categorised under medium human development. Laos and Cambodia are under low human development. Overall, the indices showed an increasing pattern throughout the period.

Table 1 Education Index: ASEAN Countries

HDI Rank	Country	1990	1995	2000	2005	2010	2011	2012	2013	2014
31	Brunei Darussalam	0.78	0.80	0.82	0.84	0.84	0.85	0.85	0.85	0.856
143	Cambodia	0.36	0.38	0.42	0.49	0.54	0.54	0.55	0.55	0.555
110	Indonesia	0.53	0.56	0.60	0.64	0.67	0.67	0.68	0.68	0.684
141	Laos People's Democratic Republic	0.39	0.42	0.46	0.50	0.54	0.55	0.56	0.57	0.575
62	Malaysia	0.64	0.68	0.72	0.73	0.77	0.77	0.77	0.78	0.779
148	Myanmar	0.35	0.39	0.43	0.48	0.52	0.52	0.53	0.53	0.536
115	Philippines	0.58	0.59	0.62	0.64	0.65	0.65	0.66	0.66	0.668
11	Singapore	0.71	0.77	0.82	0.84	0.89	0.90	0.91	0.91	0.912
93	Thailand	0.57	0.61	0.65	0.68	0.72	0.72	0.72	0.72	0.726
116	Viet Nam	0.47	0.53	0.58	0.62	0.65	0.66	0.66	0.66	0.666

(Source: UNDP, International Human Development Indicators, 2015).

Download the data: <http://hdrstats.undp.org/en/indicators/default>.

3. DEVELOPMENT OF HIGHER EDUCATION IN ASEAN

Education plays a vital role in creating a knowledge-based society and contributing to the enhancement of ASEAN competitiveness [4]. The main objectives of education in the ASEAN community are to advance and prioritise education and focus on creating knowledge-based society; achieving access to primary education; promoting early child care development and enhancing awareness of ASEAN to youth through education [5]. The government of each member country has taken key steps in the development of their higher educational policies. Table 2 shows the policies and objectives of higher education for each country in ASEAN. Most of the ASEAN countries like Brunei, Cambodia, Indonesia, Laos, Myanmar, Vietnam and Philippines focus on improving the quality of higher education. Singapore plans to mould its human capital with cross-cultural skills, critical and inventive thinking and communication skill. Meanwhile, Malaysia and Thailand focus on becoming regional hubs for higher education in ASEAN. ASEAN countries face several challenges in achieving these objectives.

Table 2 Development of Higher Education Policies in ASEAN

Countries	Policies	Objectives
Brunei	The 21st Century National Education System (SPN 21) - 2012	1. Equip students with necessary skills and knowledge that is necessary for them to compete in both local and international job market. 2. Gear nation towards quality education and better economic performance.
Cambodia	Educational Strategic Plan (2006 -2010)	1. Increase opportunities for higher education among prioritised students (poor students, female students, students from remote areas). 2. Improve quality and efficiency of education service and institutional development and capacity building.
Indonesia	Higher Education Long Term Strategy (2003 – 2010)	1. Integrate internal and external quality assurance by developing the HEI database. 2. Implement new paradigm in education management and quality improvement.
Laos	Higher Education and Skills for Growth in Lao PDR -2012	1. Improve the quality of higher education. 2. Improve functional skills among students that are required to be employable in the future. 3. Prioritise underfunded fields such as science and engineering.
Malaysia	National Education Strategic Plan (NHESP - 2020)	1. Make Malaysia a hub of higher education excellence. 2. Develop human capital with first class mentality. 3. Reposition country's higher education to meet current and future challenges.
Myanmar	Long Term	1. Generate a learning society capable of facing the challenges of the

	Education Development Plan (2001 – 2030)	knowledge-based society. 2. Development of human resource, expansion of research, promotion of quality education, and preservation of national identity and values.
Philippines	Long Term Development Plan (2010 – 2020)	1. Broaden the access of disadvantaged groups to higher education. 2. Improve the quality of HEIs, programmes and graduates to match the demands of domestic and global markets. 3. Strengthen research activities in HEIs. 4. Expand alternative learning systems/modality in higher education.
Singapore	21st Century competencies in academic curriculum (2012 – 2014)	1. Prepare students to thrive in a fast-changing and highly connected world. 2. Develop civic literacy, global awareness, cross-cultural skills, critical and inventive thinking and communication skills. 3. Refine teaching approaches and assessment methods. 4. Develop tools for holistic feedback and assessment.
Thailand	Long Term Higher Education Plan – Phase 2 (2008 – 2022)	1. Focus on education ethics. 2. Focus on linking education with employability. 3. Development of Thailand as a regional hub for higher education. 4. Innovation to improve national competitiveness. 5. Liberalisation of trade in education services and the future employment in AEC. 6. Encourage educational institutions to produce graduates who are equipped with professional skills, language skills and inter – cultural skills
Vietnam	Education Development Strategy (2008 – 2020)	1. Develop high-quality human resource to match the socio-economic structure and modernisation of country. 2. Enhance national competitiveness in the regional economic integration. 3. Focus on linking educational training with job placement and demands of employability.

4. CHALLENGES IN HIGHER EDUCATION FOR ASEAN COMMUNITY

The following discussion will focus on challenges by ASEAN countries:

4.1 Brunei Darussalam

The Ministry of Education continues to work hard to develop and prepare the nation's youth for employment in realising its vision 2035. Every citizen and residence are given opportunities to equip themselves with knowledge and skills required by the industry. Various departments within the Ministry of Education have been coordinating and collaborating with relevant stakeholders in addressing the needs and implementation of inclusive education in Brunei. Ensuring support for the different at-risk groups poses a challenge in terms of manpower, resources, information, understanding and acceptance [6].

4.2 Cambodia

Higher education in Cambodia still faces significant challenges in term of access, equality, quality, relevance, funding and management and administration. A drastic increase in enrolment for higher education in Cambodia caused triple challenges to build a mature core system in order to assure the minimum levels of quality [7].

4.3 Indonesia

One of the key challenges faced by the Indonesian higher education institution is the inability to support the number of enrolments due to the small size of the institutions [8]. Besides, [9] Indonesia also faces challenges in term of financing, quality of teaching and research, difficulties of access and equity and limited accreditation. Comparing with neighbouring countries, the relatively low research outputs are correlated with the insufficient budgets allocated for research. The majority of institutions do not have the financial and academic basis to conduct research; thus, they should concentrate their efforts on developing high-quality, relevant teaching. Furthermore, Indonesia only allocated 0.08 % of its GDP for research in 2013. An accreditation system is necessary to access the progress and quality of Indonesian higher education. The biggest challenge is that approximately 20% of institutions or study programmes are unaccredited.

4.4 Laos PDR

In the case of Laos, the major challenges faced in higher education are to produce and provide good quality human resources to meet the needs of the country's socio-economic development. Currently, higher education in

Laos is described as lacking a clear vision, appropriate policy, strategy, and master plan to meet regional and international quality and competitiveness [10].

4.5 Malaysia

To become a regional hub of educational excellence, Malaysia must first and foremost address the challenges within Malaysian universities. The fall in the position of premier Malaysian universities like Universiti Malaya and Universiti Sains Malaysia in the Times Higher Education (THES) 2005 and later in THES 2007 signifies a crisis within Malaysian universities. If higher education in Malaysia is to reach its aspirations laid out in the National Higher Education Strategic Plan (NHESP), then these rankings must be viewed as an important wake-up call for the country to tackle the fundamental problems within institutions of higher education in Malaysia. It is hoped that with the rating system for Malaysian higher education institutions in place for all local universities, both public and private, it will work towards achieving a Band 6 (outstanding) on the ranking. HE in Malaysia needs to reposition the country's higher education to meet current and future challenges through the internalisation policies. The NHESP has outlined a number of strategies that will be adopted to transform Malaysia's higher education in order to provide a solid foundation for the future.

4.6 Myanmar

One of the key challenges of higher education in Myanmar is to create strong research activities by expanding activities of research to international collaborations [11].

4.7 Philippines

As for higher education in the Philippines, local, regional and international stakeholders collaborate toward improving the country's higher education sector by implementing reforms that enable the acquisition of knowledge, development of skills, values and attitudes which will enhance productivity, globalisation and competitiveness of graduates [12] and address the challenges arising from unanticipated environmental, social, and economic change [13].

4.8 Singapore

To become an educational hub for the ASEAN region, the government of Singapore has broadly promoted the internationalisation of national policy and recruited prestigious foreign universities to establish local campuses. This strategy is important to expand access for the local students to develop their potential.

4.9 Thailand

To become the regional education hub in South-East Asia, one of the key challenges of the Royal Thai Government is to upgrade the quality of Thai universities while upholding their academic freedom and social responsibility [14]. Ultimately, Thailand aims to attract more foreign students to continue their study in Thailand. In addition, to ensure their students stay competitive in the international market place, the Kingdom of Thailand aim to accelerate the development of university research activities nationwide to enhance national competitiveness.

4.10 Vietnam

The main concern in Vietnam's higher education is the lack of quality. Most university graduates do not have the adequate capacity to cope with rapid industrial and technological changes [15]. In order to improve the quality of higher education, Vietnam underwent structural adjustments including improvement of higher education programmes and teaching and learning methods, development of lecturing staff and higher education managers, increase in research, etc [16].

5. SOLUTIONS HIGHER EDUCATION FOR ASEAN COMMUNITY

Research education is central to any education system since it will provide significant data for the success of the process of teaching and learning. Today, there are a lot of issues regarding education which need to be explored or studied especially in higher education. Several important aspects of higher education should be reviewed together or reformed collectively by the educational experts and authorities. This issue can be seen from several perspectives such as research, publication, consultation, curriculum design, teaching and learning as well as evaluation and assessment. A significant number of books, journals, reports and documents should also be published.

There is a pressing need to promote a platform in which researchers in ASEAN countries should work together in terms of research. Given its shared community and interest, ASEAN members should work together to enhance the quality of education in their countries. All best education practices should be based on research, and this aspect could be distributed and conducted by universities and other higher education institutions across ASEAN. Cultivating research through various fields of research of education and developing international networking are some of the steps that can be promoted by all scholars, experts and academicians in higher education institutions.

Globalisation has created unprecedented challenges. In terms of higher education, [17] emphasised that most of the Southeast Asia countries lack qualified faculty staff, declining academic community, limited experience of quality assurance processes, lack equitable access for all students, lack infrastructures, geographic spread and diversity of universities, have poor use of English, and limited research expertise. AEC poses similar challenges to the higher educational institutions in ASEAN. The education system in ASEAN countries is diverse; therefore, students involved in the intra-regional movement may face many problems in terms of cultural diversity, language and communication barriers, instructional practices and curriculum incomparability.

A real framework of cooperation should be established by ASEAN countries, particularly among their higher educational institutions. In facing the ASEAN economic community, it is hoped that this framework will enable all higher educational institutions to work together to achieve these objectives:

- a. To encourage and carry out joint research and studies among ASEAN experts and academicians.
- b. To disseminate findings of research, knowledge, skill and experience.
- c. To publish journals, books and materials among academicians and researchers.
- d. To support the development of the educational system and policy of every ASEAN member especially the less developed countries.
- e. To promote cooperation and create greater networking and smart partnership among researchers in various fields of education.

Several aspects should be taken seriously into consideration by scholars, experts and academicians to develop the ASEAN regional framework of educational networking and collaboration. Firstly, it is very important to establish an ASEAN Research and Development (R&D) Centre to raise funds and coordinate research and publication for scholars, experts and academicians for ASEAN higher education institutions. This R&D centre will mainly organise research and publish material based on niche areas needed by ASEAN countries. Therefore, teachers, educators or lecturers will be involved in active debates, forums, discussions, seminars and workshops which are frequently organised. They could be able to freely give their ideas, opinions and suggestions to improve and strengthen their research, training, modules and courses based on the research conducted. A research-based institution at the ASEAN level should be jointly established by the governments, universities as well as non-governmental organisations. Every ASEAN country should actively play their roles and financially assist the development of this research institution. They should invite other researchers from ASEAN higher education institutions to participate in research. They could receive research funds from governments, private sectors and NGOs to do joint research regarding important aspects of ASEAN such as the economy, politics, society and education. It is imperative that the philosophy of research education is based on the ASEAN context to improve the quality of education. For example, religion and religious values should be considered seriously in the ASEAN educational system and to eliminate negativities that may influence ASEAN youth.

Secondly, improvement of the quality of publication and university ranking. Today, only a few numbers universities in ASEAN were included in the world's highly ranked universities. In the context of Malaysia, from nearly 500 higher education institutions in 2016, there were less than ten universities included in the top best universities such as UM, UPM, UTM, UKM and UTP. Several factors influence the rankings such as the lack of research funds, indexed journals and books, English language barriers as well as the number of academicians and researchers. Publishing in SCOPUS and ISI indexed journals requires a high level of English writing proficiency. There are thousands of higher education institutions in ASEAN producing a large number of academicians and graduates. This indicates that these higher educational institutions have their quality standards despite not having been included in the world top universities. Thus, there is a need to develop an ASEAN ranking system and criteria as well the ASEAN publications index to promote academic writing and ensure quality standards. Many academicians and researcher are trapped by the current trend of writing in ISI and SCOPUS journals or publications. This issue has become more serious since there are irresponsible people who have manipulated the academicians' eagerness to be published in ISI and SCOPUS publications. Unfortunately, the fee rates of some of the journals are exorbitant and fake journals have emerged. These journals have been blacklisted by the authorities. One solution is that all ASEAN higher education institutions should engage more actively in regional journals and book publications. There should be more MOUs and MOAs among these institutions to increase the number of quality journals and books. A series of discourses and seminars should be organised by ASEAN higher educational institutions to form and produce the ASEAN University Index and the ASEAN Index for Publication and Research.

Thirdly, reformation of educators and researchers. To improve abilities to face challenges as well to provide solutions to higher education institutions, all scholars, experts and academicians should actively carry out research regarding in planning and implementing the integration of knowledge. The development of technology and ICT provide new approaches to developing the education system. Cultivating research among academicians should be one of the main agenda in the higher education system. Research lends support to theories and provides data for interpretation. A correct understanding among educators is essential to ensure that they are able to fulfil their duties based on facts and not based on personal perception or assumption.

In educating the 21st century generation, academicians should use the latest pedagogy and approaches in the process of teaching and learning. Besides research and publication, every academician should become effective educators in and outside the classroom. In a borderless world, access to information is critical. *E-learning*, *blended learning*, *MOOC*, *mobile learning*, *modular*, *workplace*, etc. are some of the current approaches used in many higher educational institutions. Strong networking among higher educational institutions within ASEAN countries will provide wider educational opportunities to their students. Students will be able to share and obtain knowledge from other universities in ASEAN as well as from other countries via the internet and open sources information. As a result, it will enhance the students' knowledge and information. Students' mobility is another effective mechanism to improve students' knowledge, social skills, experience and international networking.

Fourth, standardisation of academic programmes among ASEAN higher education institutions. Thousands of higher educational institutions exist in ASEAN offering various levels and types of programmes. A standard quality assurance should be developed and recognised by every ASEAN country. This standard will give a new way for student exchange, joint awarding programmes, guidelines for transfer credits and degree recognition by all ASEAN countries. This standard will directly improve the quality of academic programmes offered in these higher educational institutions, and it becomes the benchmark academic standard of ASEAN. It will also be very helpful for the stakeholders, educational authorities and industries to evaluate and improve the quality of the programmes offered by these higher educational institutions.

6. CONCLUSION

In ASEAN countries, education is a critical and strategic approach to developing human resources. The government plays a role by providing high-quality education and learning to all people. However, providing access to quality education and learning the opportunity to all people is not always easy and every ASEAN country has different levels and quality of education. Each country has its challenges, and there is an urgent need to develop practical solutions. To achieve the goals of the ASEAN economic community, a real framework of cooperation should be established by ASEAN countries. It is hoped that the framework will encourage joint research among ASEAN experts and academicians. This will promote disseminating the research findings, knowledge, skill and experience as well as to publish journals, books and materials among academicians and researchers. This framework will also support the development of the educational system and policy of every country of ASEAN especially the less developed countries and to promote cooperation and create greater networking and smart partnership among researchers in various fields of education.

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توريث الوراثة النبوية أهم أعمال علماء الإسلام

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Abstract

This paper is to study the bequeathing inheritance of the Prophet, which is considered the most important mission of all the Muslim scholars. The Lordship of Almighty Allah on His servants is sending down His Messengers to mankind and the most prestigious status is the status of the message and the prophet hood that He hath chosen the messengers and the prophets from among His creations to preach Islam as the way of life, the best of them is the Prophet Muhammad Peace Be Upon Him. This paper discuss the status of the Muslim scholars in the Islamic point of view to whom Almighty Allah has made them honors upon others who follows the ways of the prophets of those who have sacrificed in bringing the followers to the right path, helping them from injustice, encouraging them to do good deeds and forbidding wrong and calling them to Allah in most peaceful ways and wisdom. These constitute the solicitation of the prophet hood inherited by the followers of the Messengers in the past until the present day and will be continuing to the Day of Judgment. The findings of the study are as the following; the blessing and the Lordship of Allah on His servants is that He has given them the life and other living factors and He has honored his servants with the Quran sent down to them as the guidance of life to Islam, the true religion of Almighty Allah. Almighty Allah has honored the servants with the true religion and the revelation of the holy scriptures and the holy scripture of Al Qur'an is considered the final revelation and the most sublime law and Almighty Allah has sent down the messengers and the prophets from the first prophet, Adam Alaihis salam to the last prophet Muhammad Peace Be Upon Him where the last prophet, Muhammad Peace Be Upon Him is considered the most sublime among them. Inheritance from the prophet and religious heritage are the two laws of almighty Allah where we need to pay full attention in the persistence of religion in human life. The most importance of inheriting the messengers is bequeathing inheritance of the Prophet through Al-Quran and the Tradition of the prophet.

Keywords: the bequeathing inheritance of the Prophet, the status of the Muslim scholars

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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الْحَمْدُ لِلَّهِ تَحْمَدُهُ وَتَسْتَغْفِرُهُ وَتَسْتَغِيثُهُ وَتَتُوبُ إِلَيْهِ، وَتَعُوذُ بِاللَّهِ مِنْ شُرُورِ أَنْفُسِنَا وَمِنْ سَيِّئَاتِ أَعْمَالِنَا، مَنْ يَهْدِهِ اللَّهُ فَلَا مُضِلَّ لَهُ، وَمَنْ يَضِلَّهُ فَلَا هَادِيَ لَهُ. أَشْهَدُ
وَسَلَّمَ وَبَارَكَ عَلَى نَبِيِّنَا الْمُصْطَفَى مُحَمَّدٍ، وَعَلَى آلِهِ وَصَحْبِهِ أَجْمَعِينَ لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ، وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ. اللَّهُمَّ صَلِّ

ثُمَّ جَاءَ الَّذِينَ آمَنُوا مِنْ بَنِي إِسْرَائِيلَ أَنَّا مَعَهُ زُبُورٌ مُؤْتَاةٌ وَأَنَّهُ يَنْزِلُ فِيهَا الذِّكْرُ وَالْحِكْمَةُ لَمْ يَقُولُوا قَوْلًا سَوِيًّا أَلَيْسَ اللَّهُ بِكَاشِفِ السُّعَىٰ أَلَيْسَ اللَّهُ بِأَعْلَمَ الْغُيُوبِ أَفَرَأَيْنَا تَحْمِلُ الصَّلَاحَ وَمِنَعِ الْفَسَادَ إِنَّا هُمْ يُضِلُّونَ

إِنْ مِنْ رَبِّيهِ إِلَّا الْبُعْدُ هُوَ إِرْسَالُ الرِّسْلِ إِلَيْهِمْ مِنَ الْمَلَائِكَةِ وَالنَّاسِ، وَأَفْضَلُ مَنْزِلِ الْخُلُقِ عِنْدَ اللَّهِ وَعِنْدَ عِبَادِهِ الصَّالِحِينَ مَنْزِلَةُ الرِّسَالَةِ وَالنَّبُوءَةِ حَيْثُ اصْطَفَى اللَّهُ مِنْ بَيْنِ خَلْقِهِ رُسُلًا وَأَنْبِيَاءَ لِإِبْلَاجِ دِينِ اللَّهِ الْإِسْلَامَ لَهُمْ، فَهِيَ بِذَلِكَ لَا شَكَّ أَفْضَلُ خُلُقٍ لِلَّهِ أَجْمَعِينَ، لِأَنَّهُمْ هُمُ الْوَسَائِلُ بَيْنَ اللَّهِ وَبَيْنَ عِبَادِهِ فِي تَبْلِغِ رِسَالَاتِهِ وَتَعْرِيفِ دِينِهِ نِظَامًا لِلْحَيَاةِ الطَّيْبَةِ. وَإِنْ أَفْضَلُهُمْ وَسَيِّدُهُمُ النَّبِيُّ الْأُمِّيُّ مُحَمَّدٌ بْنُ عَبْدِ اللَّهِ ﷺ، فَجَعَلَهُ أَرْكَى الْعَالَمِينَ نَفُوسًا وَأَكْمَلَهُمْ رُوحًا وَعُلُومًا وَأَعْمَالًا وَأَعْظَمَهُمْ مُحَبَّةً وَقَبُولًا فِي قُلُوبِ النَّاسِ.

1 - مكانة العلماء عند الإسلام

[illegible]

المقرّد بالإلهية لجميع الخلاق وأنّ الجميع عبّيده وخلقه والفقراء إليه و[ه]والغني ثَمّا [ق]شهد الله وكفى به شهيداً وهو صدّق الشاهدين وأعلمهم وأصدق القائلين: وهذه خصوصية عظيمة للعلماء في هذا المقام [عَدَدُ اللَّهِ ث ث ث ف ث] سوفه، ثَمّ قرن شهادة ملائكته وأولي العلم بشهادته إنه تعالى جعل أشرف مراتب الناس بعدهم مرتبة خلافتهم ونيابتهم في أمهم فإنهم يخلفونهم على مناهجهم وطريقاتهم من توضيحتهم اللازمة وإرشادهم الضال وتعليمهم الجاهل ونصرهم المظلوم وأخذهم على يد الظالم وأمرهم بالمعروف ونهيهم عن المنكر والدعوة إلى الله بالحكمة للمستجيبين والموعظة الحسنة للمعرضين والغافلين، والجدل بالتي هي أحسن للمعاندين المعارضين. فهذه أحوال اتباع المرسلين و[و]ورثة النبيين

۲۔ چ پ ت ٹ ڈ ظ ط ژ ک ی گچ

أن هذه سبيله أي طريقته ومسلكه **﴿٦﴾** يدعون هذه الآية يقول ابن كثير رحمه الله: يقول تعالى **﴿٦﴾** إلى الثقلين الإنس والجن، أمراً له أن يخبر الناس وسنته وهي الدعوة إلى شهادة أن لا إله إلا الله وحده لا شريك له، يدعو إلى الله بها على بصيرة من ذلك ويقين وبرهان، هو وكل من تبعه وأمن به يدعو إلى ما ثم أمر أن ينزله تنزيهاً عن الشرك (وأعلن ذلك **﴿٧﴾** **﴿٨﴾** **﴿٩﴾** **﴿١٠﴾** **﴿١١﴾** **﴿١٢﴾** **﴿١٣﴾** **﴿١٤﴾** **﴿١٥﴾** **﴿١٦﴾** **﴿١٧﴾** **﴿١٨﴾** **﴿١٩﴾** **﴿٢٠﴾** **﴿٢١﴾** **﴿٢٢﴾** **﴿٢٣﴾** **﴿٢٤﴾** **﴿٢٥﴾** **﴿٢٦﴾** **﴿٢٧﴾** **﴿٢٨﴾** **﴿٢٩﴾** **﴿٣٠﴾** **﴿٣١﴾** **﴿٣٢﴾** **﴿٣٣﴾** **﴿٣٤﴾** **﴿٣٥﴾** **﴿٣٦﴾** **﴿٣٧﴾** **﴿٣٨﴾** **﴿٣٩﴾** **﴿٤٠﴾** **﴿٤١﴾** **﴿٤٢﴾** **﴿٤٣﴾** **﴿٤٤﴾** **﴿٤٥﴾** **﴿٤٦﴾** **﴿٤٧﴾** **﴿٤٨﴾** **﴿٤٩﴾** **﴿٥٠﴾** **﴿٥١﴾** **﴿٥٢﴾** **﴿٥٣﴾** **﴿٥٤﴾** **﴿٥٥﴾** **﴿٥٦﴾** **﴿٥٧﴾** **﴿٥٨﴾** **﴿٥٩﴾** **﴿٦٠﴾** **﴿٦١﴾** **﴿٦٢﴾** **﴿٦٣﴾** **﴿٦٤﴾** **﴿٦٥﴾** **﴿٦٦﴾** **﴿٦٧﴾** **﴿٦٨﴾** **﴿٦٩﴾** **﴿٧٠﴾** **﴿٧١﴾** **﴿٧٢﴾** **﴿٧٣﴾** **﴿٧٤﴾** **﴿٧٥﴾** **﴿٧٦﴾** **﴿٧٧﴾** **﴿٧٨﴾** **﴿٧٩﴾** **﴿٨٠﴾** **﴿٨١﴾** **﴿٨٢﴾** **﴿٨٣﴾** **﴿٨٤﴾** **﴿٨٥﴾** **﴿٨٦﴾** **﴿٨٧﴾** **﴿٨٨﴾** **﴿٨٩﴾** **﴿٩٠﴾** **﴿٩١﴾** **﴿٩٢﴾** **﴿٩٣﴾** **﴿٩٤﴾** **﴿٩٥﴾** **﴿٩٦﴾** **﴿٩٧﴾** **﴿٩٨﴾** **﴿٩٩﴾** **﴿١٠٠﴾** **﴿١٠١﴾** **﴿١٠٢﴾** **﴿١٠٣﴾** **﴿١٠٤﴾** **﴿١٠٥﴾** **﴿١٠٦﴾** **﴿١٠٧﴾** **﴿١٠٨﴾** **﴿١٠٩﴾** **﴿١١٠﴾** **﴿١١١﴾** **﴿١١٢﴾** **﴿١١٣﴾** **﴿١١٤﴾** **﴿١١٥﴾** **﴿١١٦﴾** **﴿١١٧﴾** **﴿١١٨﴾** **﴿١١٩﴾** **﴿١٢٠﴾** **﴿١٢١﴾** **﴿١٢٢﴾** **﴿١٢٣﴾** **﴿١٢٤﴾** **﴿١٢٥﴾** **﴿١٢٦﴾** **﴿١٢٧﴾** **﴿١٢٨﴾** **﴿١٢٩﴾** **﴿١٣٠﴾** **﴿١٣١﴾** **﴿١٣٢﴾** **﴿١٣٣﴾** **﴿١٣٤﴾** **﴿١٣٥﴾** **﴿١٣٦﴾** **﴿١٣٧﴾** **﴿١٣٨﴾** **﴿١٣٩﴾** **﴿١٤٠﴾** **﴿١٤١﴾** **﴿١٤٢﴾** **﴿١٤٣﴾** **﴿١٤٤﴾** **﴿١٤٥﴾** **﴿١٤٦﴾** **﴿١٤٧﴾** **﴿١٤٨﴾** **﴿١٤٩﴾** **﴿١٥٠﴾** **﴿١٥١﴾** **﴿١٥٢﴾** **﴿١٥٣﴾** **﴿١٥٤﴾** **﴿١٥٥﴾** **﴿١٥٦﴾** **﴿١٥٧﴾** **﴿١٥٨﴾** **﴿١٥٩﴾** **﴿١٦٠﴾** **﴿١٦١﴾** **﴿١٦٢﴾** **﴿١٦٣﴾** **﴿١٦٤﴾** **﴿١٦٥﴾** **﴿١٦٦﴾** **﴿١٦٧﴾** **﴿١٦٨﴾** **﴿١٦٩﴾** **﴿١٧٠﴾** **﴿١٧١﴾** **﴿١٧٢﴾** **﴿١٧٣﴾** **﴿١٧٤﴾** **﴿١٧٥﴾** **﴿١٧٦﴾** **﴿١٧٧﴾** **﴿١٧٨﴾** **﴿١٧٩﴾** **﴿١٨٠﴾** **﴿١٨١﴾** **﴿١٨٢﴾** **﴿١٨٣﴾** **﴿١٨٤﴾** **﴿١٨٥﴾** **﴿١٨٦﴾** **﴿١٨٧﴾** **﴿١٨٨﴾** **﴿١٨٩﴾** **﴿١٩٠﴾** **﴿١٩١﴾** **﴿١٩٢﴾** **﴿١٩٣﴾** **﴿١٩٤﴾** **﴿١٩٥﴾** **﴿١٩٦﴾** **﴿١٩٧﴾** **﴿١٩٨﴾** **﴿١٩٩﴾** **﴿٢٠٠﴾** **﴿٢٠١﴾** **﴿٢٠٢﴾** **﴿٢٠٣﴾** **﴿٢٠٤﴾** **﴿٢٠٥﴾** **﴿٢٠٦﴾** **﴿٢٠٧﴾** **﴿٢٠٨﴾** **﴿٢٠٩﴾** **﴿٢١٠﴾** **﴿٢١١﴾** **﴿٢١٢﴾** **﴿٢١٣﴾** **﴿٢١٤﴾** **﴿٢١٥﴾** **﴿٢١٦﴾** **﴿٢١٧﴾** **﴿٢١٨﴾** **﴿٢١٩﴾** **﴿٢٢٠﴾** **﴿٢٢١﴾** **﴿٢٢٢﴾** **﴿٢٢٣﴾** **﴿٢٢٤﴾** **﴿٢٢٥﴾** **﴿٢٢٦﴾** **﴿٢٢٧﴾** **﴿٢٢٨﴾** **﴿٢٢٩﴾** **﴿٢٣٠﴾** **﴿٢٣١﴾** **﴿٢٣٢﴾** **﴿٢٣٣﴾** **﴿٢٣٤﴾** **﴿٢٣٥﴾** **﴿٢٣٦﴾** **﴿٢٣٧﴾** **﴿٢٣٨﴾** **﴿٢٣٩﴾** **﴿٢٤٠﴾** **﴿٢٤١﴾** **﴿٢٤٢﴾** **﴿٢٤٣﴾** **﴿٢٤٤﴾** **﴿٢٤٥﴾** **﴿٢٤٦﴾** **﴿٢٤٧﴾** **﴿٢٤٨﴾** **﴿٢٤٩﴾** **﴿٢٥٠﴾** **﴿٢٥١﴾** **﴿٢٥٢﴾** **﴿٢٥٣﴾** **﴿٢٥٤﴾** **﴿٢٥٥﴾** **﴿٢٥٦﴾** **﴿٢٥٧﴾** **﴿٢٥٨﴾** **﴿٢٥٩﴾** **﴿٢٦٠﴾** **﴿٢٦١﴾** **﴿٢٦٢﴾** **﴿٢٦٣﴾** **﴿٢٦٤﴾** **﴿٢٦٥﴾** **﴿٢٦٦﴾** **﴿٢٦٧﴾** **﴿٢٦٨﴾** **﴿٢٦٩﴾** **﴿٢٧٠﴾** **﴿٢٧١﴾** **﴿٢٧٢﴾** **﴿٢٧٣﴾** **﴿٢٧٤﴾** **﴿٢٧٥﴾** **﴿٢٧٦﴾** **﴿٢٧٧﴾** **﴿٢٧٨﴾** **﴿٢٧٩﴾** **﴿٢٨٠﴾** **﴿٢٨١﴾** **﴿٢٨٢﴾** **﴿٢٨٣﴾** **﴿٢٨٤﴾** **﴿٢٨٥﴾** **﴿٢٨٦﴾** **﴿٢٨٧﴾** **﴿٢٨٨﴾** **﴿٢٨٩﴾** **﴿٢٩٠﴾** **﴿٢٩١﴾** **﴿٢٩٢﴾** **﴿٢٩٣﴾** **﴿٢٩٤﴾** **﴿٢٩٥﴾** **﴿٢٩٦﴾** **﴿٢٩٧﴾** **﴿٢٩٨﴾** **﴿٢٩٩﴾** **﴿٣٠٠﴾** **﴿٣٠١﴾** **﴿٣٠٢﴾** **﴿٣٠٣﴾** **﴿٣٠**

* بحث يقدم إلى المؤتمر العالمي الذي عقد، بمشيئة الله، بجامعة المحمدية ميترو، لمفونج، 12-14 يونيو 1438 هـ الموافق 2016/11/12م

1 هو رئيس جامعة فطاني جنوب تايلاند، ورئيس مشترك لمجلس التعاون بين الأديان للسلام (IRCA) والمنتدى الإسلامي العالمي بمكة المكرمة

2 القرآن الكريم سورة الحج 22: 75

3 القرآن الكريم سورة الحج 75: 22

4 انظر: ابن القيم، فضل العلم والعلماء، ص 63

5 القرآن الكريم سورة ق فوسف 12: 108

6 تفسير القرآن العظيم لابن كثير 4/422

2 - وريثة النبوة: القرآن والسنة

ذ ذ ذ ذ ذ ر ر ر ك [عند الله وعند خلقه بعده. وهذه الولاية ولاية الدين وميراث النبوة والعلم والعمل. فرحمه ربه واستجاب دعاءه فقال:

 $\mathcal{L}[\cdot]^1$

3- چٹ ٹٹ ٹٹ ٹٹ

- ۱۲۳ -

91 -

ط ف ف

ق ق ق ق ج ج².

هذه المنة التي امتن الله بها على عباده أعظم المنن وأكبر النعم بل أصلها وهي الامتنان عليهم بهذا الرسول الكريم الذين أنفذهم الله به من الضلالة والهلكة إذ كانوا في ضلال ومن أهم مهمات الرسول هو توريث ورثتهم إلى أمته من خلال ثلاث طرق:

سواء كانت تلاوته في الصلاة أم في خارجها **ط** [أولاً:

يعني تصفية أفكارهم ونفوسهم وخلقهم من الشرك والدنس والخبث وسائر مساوئ الأخلاق والحياة التي كانوا متلبسين بها في [الإنجيل] كما جاهدوا جاهليتهم.

يعني تعليم الناس معاني القرآن وحقيقة السنة التي هي ترجمان لفقران وثبائيل لمعانيه.

تلك عملية نبوية لتوريث الكتاب والحكمة وهما ورثة الأنبياء وذلك بالوسائل والطرق الأساسية التالية:

1 - التلاوة على الأمة

2 - والتزكية أو التربية

3- والتعليم لمعاني القرآن والسنة المشتملة على جميع احتياجات الناس على مستويات الفرد والأسرة والمجتمع والدولة والدنيا كلها.

وبذلك يتمكن الناس من الوصول إلى الطريق المؤدي إلى السعادة في الدنيا والآخرة والخروج من الظلمات إلى النور ومن الضلال إلى الهدى.

فبدلوه و غيروه و قلبوه و خالفوه و استبدلوا بالتوحيد شركا و اليقين شكاً و ابتدعوا أشياء لم يأذن بها **الله** و **أركان** **اللعرب** كانوا قديماً متمسكين بدين إبراهيم الخليل أهل الكتاب قد بدلوا كتبهم و حرفوها و غيروها و أولوها محرقين الكلم عن مواضعه فبعث الله محمد صلوات الله و سلامه عليه بشرع عظيم كامل شامل لجميع الخلق فيه هدايتهم لجميع ما يحتاجون إليه من أمر معاشهم و معادهم و الدعوة لهم إلى رضوان الله و جنته و النهي عن سخط الله و ناره.

4 - ختاماً

من خلال هذا البحث العاجل توصلت إلى عدد من الحقائق التالية:

أولاً: إن من رحمة الله وربوبيته لخلقه أن خلق لهم الحياة وأنزل لهم الرزق وأكرمهم بالقرآن كمنهج حياة طيبة الذي هو دين الله الحق وهو الإسلام.

ثانياً: إن إكرام الله لعباده بالدين القويم بإنزال الكتب، وآخر كتبه وأفضل شرائعه هو القرآن الكريم. وإرسال الأنبياء والمرسلين من أولهم آدم ونوح إلى آخرهم وأفضلهم النبي الخاتم محمد بن عبد الله ﷺ.

الخاتم محمد بن عبد الله ×.

ثالثاً: الورثة والتوريث في الدين سنتان من سنن الله يجب أن نعتني بهما في أمر إقامة الدين في حياة البشر.

رَابِعَاهُمْ أَعْمَالُ وَرَثَةِ الْأَنْبِيَاءِ هُوَ تَوْرِيثُ وَرَاثَةِ النَّبِيِّ وَهِيَ الْفَرَانُ وَالسَّيِّدَةُ لِمَنْ بَعْدَهُمْ بِالطَّرِيقَةِ النَّبَوِيَّةِ الصَّحِيحَةِ، وَهِيَ التَّلَاوَةُ وَالتَّزْكِيَةُ وَالنَّاسُ وَصَلَّى اللَّهُ عَلَى نَبِيِّنَا مُحَمَّدٍ وَعَلَى آلِهِ وَصَحْبِهِ أَجْمَعِينَ. وَسُبْحَانَ رَبِّكَ رَبِّ الْعَزَّةِ عَمَّا يَصِفُونَ، وَسَلَامٌ عَلَى الْمُرْسَلِينَ، وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ

¹ القرآن الكريم سورة مريم 7:12 انظر: السعدي في تفسيره

2 القرآن الكريم سورة الجمعة 2:62



E-Waqf as an Alternative Solution for Infrastructure Development Based on Crowdfunding

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Abstract

Infrastructure is the driving wheels of an economic growth which played as a locomotive development of a country. Infrastructure as Indonesia's competitiveness still weak in the international level. Until now, Indonesia's infrastructure rank still in 85 of the 155 the state. While for ASEAN, is under Singapore, Malaysia, Thailand, the Philippines and Vietnam. Based on the research Bank Indonesia, the infrastructure conditions have any significant impact on the income growth per capita. But, this situation was not supported with adequate financing. For the period of 2015-2020, Indonesia needed about 5.519 trillion for infrastructure, but the available budget only Rp 1,178 trillion or 21.34 % of the total needs of. Waqf is one of Islamic law as instrument of distribution wealth which effectively increasing the welfare. Waqf, during is identical with immovable asset, according to the UU no. 41 article 16 year 2004 that the not limited by immovable asset, but movable property as money can become the waqf object. By the largest muslim population in the world and the potential cash waqf very great but is not ideal yet, then waqf is the alternative solution to increasing infrastructure development. E-waqf is a solution digital crowdfunding based which improving potential waqf with seeing the opportunity users smartphone that rises significant every year. With e-waqaf, waqaf can do with the online transactions, anytime and anywhere. In addition to facilitating transactions, e-waqaf provides option to the allocation of funds in accordance waqif will, based on the location and allocations infrastructures selected. There were also collected update with detail as a form of transparency funds to society. Waqf digitalisation considered crucial given that the potential very large for upgrading the development infrastructure and then to improve economic conditions. Is an effective and efficient step to realize because e-waqaf facilitating for distribute the public's wealth and make more integrated systems.

Keywords: Crowdfund E-Waqf, Infrastructure, Economic Growth, Cash Waqf.

1. INTRODUCTION

Waqf is the instrument of Islamic philanthropy since early the arrival of Islam. Waqf have proven been social security instruments, not only for help basic needs but also played a part in the empowerment more productive in all sectors such as education, social, economic and cultural.

Didin hafidhuddin stated that the potential of waqf can be wider than zakat, because waqf have not limited on 8 ashnaf like zakat [1]. Besides, waqf is not limited to social welfare for the poor, but all levels of society get benefit from waqf

The potential of waqf in Indonesia is the largest number in the world. Based on Departemen Agama, until 2014 Indonesia get the revenues of waqf amount 4.142.464.287,906 m2. This is a challenge for Islamic society in Indonesia to maximize their waqf, so that the land can productive and able to Indonesia's Muslim prosper.

Besides assets motionless of waqf, there are also cash waqf which more productive use. Cash waqf which very potential not popular causing the role of waqf not optimal yet to be instruments public welfare. Indonesia with the largest number of muslim in the world, supposed to be ground for waqf optimalize.

BWI stated that the asset of cash waqf had associated till December 2013 was only Rp 145,8 M. While, the potential of waqf in Indonesia can reach Rp 60 trillion. That assumed if 50 million Indonesia's Muslim collects Rp 100,000 every month for waqf. Or, can get Rp 24 trillion every year if 20 million people who collects waqf by the same nominal. Or if there is only 1 million Muslim give Rp 100,000 every month, so to be obtained the fundraising waqf Rp 1.2 trillion per year [2].

With this potential and realization, there is so far of difference. While in January 2013, there are 50 million Indonesians who income is Rp 20 million per month [3].

Another potential that Indonesia have is a potential technology. The technology integrated with a financial or known with the term *fintech*. Is an innovation in financial sector aimed at increasing performance financial sector to be more efficient, inclusive and increase financial sector competitiveness?

Simultaneously, funding online model or "crowdfunding" who has been trend to increase funds for business and social sector. Crowdfunding have developed in Indonesia since 2012. The proof by the acquisition money worth us \$ 747.359 of 2.338 supporter [4].

The funds waqf system with the crowdfunding method really potential done. The opportunity are the big population muslims in Indonesia, the high spirit of Indonesians mutual cooperation, and the high users of digital

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technology. To solve this problem, the government have strategic position to alleviate poverty. There is waqf instrument, not only as Islamic law but also act of distribution instrument that very effective for public welfare.

2. CURRENT ISSUE

Waqf in arabic language interpreted by *al-habs* namely hold, and *al-ma'un* which means blocking [5]. That means, holding the someone treasure to be taken benefit or their profits for properous society.

The definition of cash waqf on the context of regulations in the country is movable treasure [6] with rupiah's currency [7] through sharia financial institutions [8] which determined by the government that secrete certificates of cash waqf [9]. There are the legal basis of waqf

1. QS Ali Imran: 92

"you have not reached a perfect good before you spend of what you cherish, and whatever of something that you spend, god is aware of."

2. QS Al-Maidah : 2

"...and cooperate in virtue and righteousness ..."

So far, the society just know that waqf from unmovable treasure only, but the law of 41 article 16 about waqf stated that the object of waqf not limited by unmovable treasure only. Movable treasure like the money, precious metals, a valuable letter, vehicles and others. That provisions supported by Majelis Ulama Indonesia set the legalize about cash waqf.

Infrastructure is the driving wheels of an economic growth which played as a locomotive development of a country. Infrastructure as indonesia's competitiv still weak in the international level. Economists of Standard Chartered Bank said that indonesia get ranked in 92 or two lowest in Asia [10].

Based on the research Bank of Indonesia, the infrastructure conditions have any significant impact on the income growth per capita. But, this situation was not supported with adequate financing. For the period of 2015-2020, Indonesia needed about 5.519 trillion for infrastucture, but the available budget only Rp 1,178 trillion or 21.34 % of the total needs of.

The government had worked to minimize of indonesia's infrastructure problem, but the development just at the position to reduce traffic on economic growth (debottlenecking). Indonesia's position as fire fighter make infrastructure development be partial, uncoordinated, often without strategy and long-term definitive direction [11].

So, there must be support from the society to improve infrastructure development. One of all with waqf instrument.Indonesia with the largest number of muslim population in the world, supposed to be ground for waqf optimisation. But, cash waqf management in indonesia still not optimum yet, based on data from Waqf Institution of Indonesia, that waqf assets has been collected per December 2013 was reached Rp 145,8 M, while the potential cash waqf amo can reach to Rp 60 T for a year. This potential assumed that around 50 million citizens willing give their treasure for waqf as much Rp.100.000 per month.

3. RESEARCH METHOD

Waqf is one of funds formula with rely on the trust of society.To maximize the big potential cash waqf in indonesia, there needs to be strategy in digital form that can be accessed everyone. Supported by the big Smartphone users, the population of the Muslim and the high Indonesian spirit cooperation make these steps as a solutiffor optimisation waqf funds.

Smartphone penetration in Indonesia has become the big factor for online transaction. E-marketer projected that on 2016 to 2019 smartphone users in Indonesia will fantastic increase. There is 65,2 million users in 2016, then raised from 74,9 million in to 83,5 million till 92 from 2017 to 2019 (Jose, 2015). Besides, research of Growth for Knowledge indicates that Indonesia is the largest market smartphone in southeast Asia [12]. It means, the online system of waqf have the big potential for realized.

E-wakaf is a solution for optimization potential waqf in Indonesia.Some cause ineffective waqf in Indonesia, there are:

1. Society know that waqf just from unmovable treasure like land and building.This is causes the society have limited views about waqf. Whereas if we observe about the potential cash waqf, it can be an instrument of sharia financial for economic development in Indonesia
2. Waqf management still weak, and it was waqf assets are not well-managed and be lost [13].So there is not trust between *muwaq if* and *nadzir* and eventually *muwaq if* unwilling to spend their wealth.
3. *Nadzir* not professional yet.In the fact, many of nazhir who have not managerial capabilities on the management of land or buildings. Sowaqf not benefits for the many people. Patterns of management based figure instinct such as *ustadz or kyai* , not based on empowerment vision adequate. While a guardian not necessarily able to manage this waqf

So, assessment of the waqf management is very important. No optimal waqf role to empower economy in Indonesia, because waqf not manage yet professionally. Because, on the shoulders' snazhir is responsibilities and duties guard, in controlling, developing and distributing the benefits of waqf from muwaqif to target waqf. To manage waqf productively, there are somethings to be done before. Nadzir must understand the law professionally, conception and regulations waqf. Professional *nazhir* must develop their center, especially cash waqf. In addition, to develop nationally waqf, it takes a special agency that coordinates and provide *nazhir*. In Indonesia, the institutions which specifically manage and operate of waqf funds is Badan wakaf Indonesia (BWI). The job of this institution are coordinating nadzhir and or manage independently asset of waqf which entrusted to him. While, waqf who already in the society on immovable asset form, needs to be done security [14].

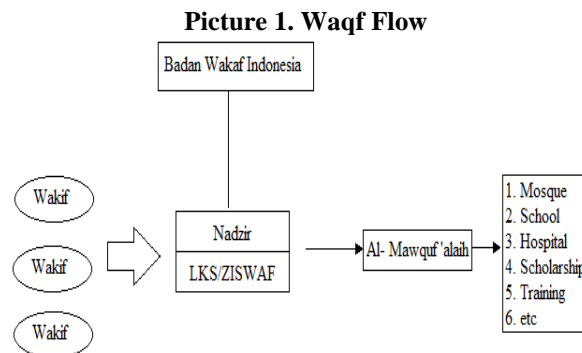
The results of this management then be used optimally for the social purpose, such as for the building of bridge, highway, hospital, and the others public facility. It can increase the development infrastructure and economic nation. For the reason, BWI as holders of authority expected can help for developing and supervision of the nadzhir to be able into waqf management productively.

To solve this problem, waqf must be managed using modern management. Crowd funding which is happening used today, this method successfully raised funds in large numbers. Crowd funding proven have been successful for the social purpose even though business. With the high spirit of Indonesian cooperative, waqf is likely more successful, remember waqf is a Islamic command. The integrate crowd funding system can be adopted to optimize potential waqf in Indonesia. In this digitalization era, transactions of muamalah can be done with digitally. All forms of transactions with online Media assumed impossible firstly. But now, appear of the market and move the old way.

3.1 Model E-waqf

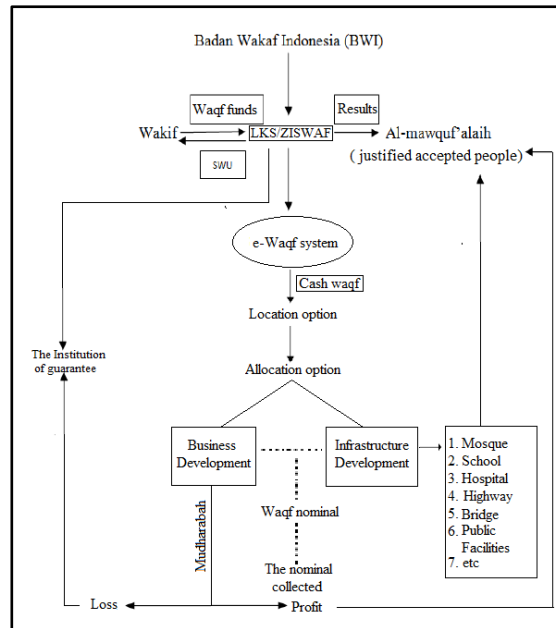
Is a digital funds waqf system not only easing way which not only to distribute fund waqf, but also the principles of transparency in the system of distributing the funds waqf which to be reached by *muwaqif*. As we know that funds, management, and distribution of waqf doing by ziswaf institutions in Indonesia. But, there are found the waqf directly on personal too, which are not sure informed about management waqf. This which causes an-optimal waqf in Indonesia.

Based on law no 41 years 2004 that cash waqf could be done through sharia financial institutions as funders which determined by minister and involving by BWI as the part that of manage and develop, and nadzir as fund management cash waqf.



The sharia financial institutions was below BWI which have full authority become nadzir certainly with intensive training become to professional nadzir. This institution responsible fully to BWI in receives, manage, and distribute cash waqf funds from muwaqif. So, management authority fully given to the sharia financial institutions that have trusted. While the authority of BWI is in terms of supervision on performance the sharia financial institutions.

Picture 2. BWI Flow Diagram



Muwaqif received certificates and published by BWI through the sharia financial institutions. The management of funds will be accompanied by institution of guarantee cooperation for make certain that value of cash waqf not reflexively.

Distribution of funds will be do with centralize map digital. So, waqf asset not accumulate in a local area and one type of asset. E-wakaf is an integrated system into optimization waqf in startup transaction online program. It is can be use by anyone who will to donate. Users can transact online waqf with their Smartphone, anytime and anywhere. E-wakaf not only give easier facilitate to waqf, but also provide option funds accordance with location and allocations *muwaqif*'s will.

There are collected waqf updates with detail, that's aimed for transparency of funds to *muwaqif* and society access. In E-wakaf system, the public can choose the desired waqf funds allocation, such as for development of mosque, school, hospital, highway, bridge, etc.

One cause of ineffective waqf in indonesia is management of funds less distribute greatly. It is need a central mapping through digital system. About obtained objects and allocation purpose of waqf when *muwaqif* will give their treasure.

The purpose is for give information to *muwaqif* and society that collected funds have been useful for society. Finally, *muwaqif* and society can trust for donate their wealth.

3.2 Model of Cash Waqf Through e-Waqf

In Indonesia, management and development of cash waqf just can be achieved through investments at the products sharia financial institutions and/or sharia financial instrument¹. Cash waqf give much great opportunity, not only allocated to infrastructure development but also provide opportunities to others development, there is for education, health, sanitation and social services. There is some advantages e-waqf system can get the significant increase of funds.

1. Easier mobilization funds from communities. The scope of target waqf could be wider.
2. Cash waqf more flexible and become booster to immovable waqf asset, to be more productive.
3. Easier transactions, because an application form that can be owned by the user smartphone in the world.
4. There are distribution mapping of waqf wealth and not accumulate in a local area. It is also purpose to distribute wealth and eliminate gaps.
5. Transparency wealth of waqf, so can adding *muwaqif* trust.

3.3 A strategic of e-Waqf Implementation

Considering the increasing user smartphone in Indonesia, the waqf potential can be maximized through e-waqf. To implement a new model in the management of cash waqf, it was needed step strategy, including:

- a. Make a special platform for legalizing cash waqf through digital system.
- b. Socialization, either social media or mass media.
- c. Strengthen the institution of waqf. Increase credibility in the society, and controlled by tight regulations. Softskill training for nadzir for the best management of waqf and born trust from society.
- d. Allocation of waqf funds used greatly.

Waqf digitalization system is important because there is many potential in economy and Indonesia's welfare. It is an efficient step to do. E-waqf help anyone in waqf more easier and more integrated. In the next, can improve economic in line with the infrastructure improvement.

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