MY WISHFUL THOUGHT ON THE DEVELOPMENT OF ISLAMIC BANKING AND FINANCE PRODUCTS FOR THE SOCIAL WELFARE SECTOR

THE THREE SECTOR ISLAMIC ECONOMY

The Islamic economy may be conceived of as being made of three sectors.

The first sector is the Siasi Sector. This is the Government Sector or Public Sector. In this sector, the Government deals with the Private Sector in the areas of economic activities, administration, maintenance of law and order and the like.

The second sector is the Tijari Sector. This is the Private Sector. In this sector, people deal among themselves largely in the areas of economic and social activities. This is the nerve centre of the economy.

The third sector is the Ijtimaai sector. This sector may be referred to as social welfare sector. In essence, funds are raised in the Government Sector and Private Sector and distributed to the poor and the needy in this sector.

THE DEVELOPMENT OF ISLAMIC BANKING AND FINANCE PRODUCTS SO FAR ONLY FOR GOVERNMENT SECTOR AND PRIVATE SECTOR

We have thus far developed Islamic banking and finance products to serve the Government sector in its relationships with the people in its economic and financial dealings. There is now a flow of funds from the
Government Sector to the Private Sector and vice versa through various instruments of Islamic banking and finance. There are various types of Government Certificates, various types of Sukuk and various types of investment management instruments and so on and so forth.

The development of Islamic banking and finance is even more impressive within the private sector for the people to conduct economic activities and financial dealings among themselves. Here an array of institutions have been set up. These include Islamic commercial banks, Islamic leasing companies, Takaful companies, stock-broking companies, investment management services and the like. The contractual arrangements or Uqud are also varied centering on Uqud al-Ishtirak (i.e. profit-sharing), Uqud al-Mudayanat (i.e. debt financing) and so on and so forth.

Another dimension of development in this area has been the increasingly cross-border dealings in the international arena.

In short, the development of Islamic banking and finance services for the Government Sector and the Private Sector thus far has been comprehensive and impressive.

**THERE IS A VOID IN THE SOCIAL WELFARE SECTOR**

However, the situation is in stark contrast in the Ijtimaai or social welfare sector, the third sector in the Islamic economy.

Both the Government Sector and the private sector have a role to play in the social welfare sector. The duties here as we have said earlier, are almost solely to raise funds from the two sectors and distribute these funds to the poor and the needy in the social welfare sector. And the function of Islamic banking and finance is to develop products and services to facilitate the flow of these funds.

But what has Islamic banking and finance done so far along this line of its duty? The answer is almost nothing. It is true that there is now the collection and distribution of zakat and, to some extent, of Waqf. But this is done by the Government Sector, not the Private Sector, and largely not through banking and finance services.

Clearly, there is a void here.
ISLAMIC BANKING AND FINANCE TO BE IN LINE WITH ISLAMIC TEACHING

This is not, in my humble view, in line with what Islam stands for. Islam teaches a wholistic approach. Any development should encompass all the three sectors. That is the whole *Ummah*.

I would like to quote in particular, the following verses from the Al-Quran:

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فِي بُيُوتِ أَذْنَ اللَّهُ أَن تُرَفَّعَ وَتُنْفَرْ فِيهَا أَسْمَعُ لَهُ فيًّا
بِالْعُدُوْنِ وَالأَصَالِ
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*Sahih International*

[Such niches are] in mosques which Allah has ordered to be raised and that His name be mentioned therein; exalting Him within them in the morning and the evenings

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ِيُجَالِلَّ لاَ تُنَزِّهُمْ يَحْضِرُونَ وَلاَ يَبْتَغُونَ عَنَّ ذُكُورِ اللَّهِ إِقَامَ الصَّلَاةِ وَإِنَّ اللَّهَ بِالْرَّكْوَةِ الْبَصِيرَ
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*Sahih International*

[Are] men whom neither commerce nor sale distracts from the remembrance of Allah and performance of prayer and giving of zakah. They fear a Day in which the hearts and eyes will [fearfully] turn about-

In these verses, in short, Allah SWT praises men and women who, while they daily conduct *Tijarah* and *Bai‘*, this however does not cause them to ignore and neglect Zakat.

Now, the term *Tijarah* means trade in general. In detail, it includes all contractual activities of *al-Mudharabah* and *al-Musharakah* and all other *Uqud al-Ishtirak* (i.e. profit sharing contract).

The term *Bai‘* means sale and purchase in general. In detail, it includes
all contractual activities of *Uqud al-Muawadhat* (i.e. contract of exchange), in cash of deferred such as *al-Bai’, al-Murabahah, al-Ijarah, al-Istisna’* and the like.

Now we may ask: who are these people referred to in these verses as daily dealing in *Tijarah* and *Bai’*? The answer is: a group of them are officers in Islamic banking and finance. They develop the facilities and services of *Tijarah* and *Bai’* in their institutions, they offer them, and they operate them.

And, more, the verses continue to state while these men and women routinely do that, this does not cause them to ignore the remembrance of Allah, performance of prayers, and significantly the giving of *Zakat*.

The term *Zakat* or tithe is sometimes used interchangeably in Al-Quran with *Sadaqah* or charity. Hence *Zakat* here may be taken to mean all form of *Uqud al-Tabarru’at* (i.e. contract of charity) which includes *al-Sadaqah, al-Waqf, and al-Hibah*.

Clearly, therefore, these verses of Al-Quran are referring to the Islamic banking and financial dealings, amongst others, of *Tijarah* and *Bai’* which take place in the Government Sector and Private Sector, and *Zakat* and *Sadaqah* which are supposed to take place in the Social Welfare Sector. This then is the wholistic development of Islamic banking and finance in the three-sector Islamic economy.

It is therefore my wishful thought that from now on the Islamic banking and finance will embark on efforts to develop products and services for the social welfare sector. This is to be just one new line of development. Other lines of development may continue as usual. Go on innovating but take on this line as a new line of development.

**INSTITUTIONAL FRAMEWORK**

The service which we wish to develop revolves around *Sadaqah*. To make things easy, let us take the existing *Takaful* Service as a model. And let us call the equivalent of a *Takaful* Company a *Sadaqah* House (*Bait as-Sadaqah*). Therefore the *Sadaqah* house would be in the business of providing products and services to collect various types of *Sadaqah, Waqf, Hibah* and etc. mainly from the private sector and distribute these to the poor and the needy in the social welfare sector.
The form of organisation of a *Sadaqah* House might be a foundation formed by the owner or a subsidiary company of the owner. An important requirement here is that the *Sadaqah* House is owned and controlled by the banking group or any other organisation which is given the license.

Like a *Takaful* Company, a *Sadaqah* House would be a financial institution. It would operate in the Islamic banking system and the Islamic Capital Market. It is therefore under the supervision of Bank Negara Malaysia and the Securities Commission of Malaysia as appropriate.

There should be a need for such an Act of Parliament and various Bank Negara Malaysia Guidelines which specifically spell out important matters such as licensing of *Sadaqah* Houses, financial requirements and duties of *Sadaqah* Houses; ownership, control and management of *Sadaqah* Houses; powers of supervision and control over *Sadaqah* Houses; and the like because *Sadaqah* Houses will be financial institutions operating in the financial system.

Finally, in this area, if I may, I thought that in the initial 5 to 10 years, 3 to 5 licenses may be given to the organisations which are preferably Islamic banking group.

**PRODUCTS AND SERVICES: A SPECIAL PRODUCT OF SADAQAH JARIAH**

We shall now turn to the possible products and services that a *Sadaqah* House might offer. It might device a range of products and services through varying the nature of the related charities. For example, it might offer charities for specific or general purposes. Likewise, it might offer one-off charities, medium-term or long-term charities.

But I want to turn to a product which I consider to be very crucial in many ways at this stage of the development of the Islamic economy in Malaysia. The product is crucial to the giver, with a view to his life in the Hereafter (*Akhirah*); crucial to the receiver, with a view to his long term sustenance and climbing out of poverty; and a challenge to the expertise and skills of Islamic banking and finance. The product is
called, in the terminology of the related hadith, *Sadaqah Jariah*. *Sadaqah Jariah* means, approximately, charity in perpetuity. Charity, once given, is ongoing.

There is a famous Hadith on the substance of *Sadaqah Jariah*:-

*Abu Hurayrah Rahimahullah reported that Allah’s Messenger Sallallaahu‘alayhi wa Sallam said: “When a human being dies, all of his deeds are terminated except for three types: an ongoing Sadaqah, a knowledge (of Islam) from which others benefit, and a righteous child who makes Du’aa for him.” (Muslim and others).*

The Hadith, in a liberal translation, says that when a person dies, all his channels of good deeds from which the reward flows will be stopped, except from three channels: (1) *Sadaqah Jariah* (2) beneficial knowledge which he has imparted and which people continue to practice, and (3) a pious son or daughter who continuously pray for him.

Now, let us strategically look at these three sources. Not many of us would have the beneficial knowledge and the opportunity to impart this knowledge, except perhaps for those who work in the teaching profession or in *Dakwah* fields. Similarly, the pious son or daughter may not be reliable. A person may not have a son or daughter; or he has but the son and daughter may not be pious; or they are pious but unfortunately they may die before his die. Thus the best channel of the three is Sadaqah Jariah. This channel you can do it yourself here and now. You can plan and implement it how you want it to be.

As *Sadaqah Jariah* is Charity in Perpetuity, in essence in the category of charity, the principal charity amount is to be preserved intact forever, and only the profits are distributed regularly.

As mentioned earlier, the *Sadaqah* House might accept this *Sadaqah* in the form of the many Shariah Contracts of *Sadaqah*, *Waqf*, *Hibah*, etc. but it must make sure that it follows the variants of those contracts which transfer the ownership of the charity to the *Sadaqah* House in perpetuity. This is in order to maintain the perpetual nature of the Sadaqah.
In my view, it is highly advisable for the Sadaqah House to accept Sadaqah only in cash, but it may also wish to extend this to other Islamic banking and financial instruments such as shares and sukuk which may be converted to cash. The Sadaqah House may accept Sadaqah at a minimum of, say, RM10 at one time at any time through deposit, bank transfers, salary deduction, etc.

I would like to pause a moment here and point out the significance of this event. You would notice that through the Sadaqah House, the Islamic banking and financial system would be able to offer to the Muslims the services of creating Sadaqah Jariah for themselves to everybody, at anytime and anywhere. This is a totally new phenomenon. Up to now, Sadaqah Jariah is only available through donating big-ticket item, such as land and buildings, only by the wealthy.

The mechanism for implementing Sadaqah Jariah would be for the Sadaqah House to treat the principal amount of Sadaqah as capital to be carefully preserved and prudently investing it to generate profits which will be regularly distributed. I would suggest that the investment should generally be confined to Islamic banking and financial instruments within the banking and financial institutions such as various types of deposit, investment accounts, Sukuk and various investment management products.

In Malaysia, we need only to look at Tabung Haji and Permodalan Nasional Berhad (PNB) to be convinced that this method of investment will work and attain its objective. Tabung Haji has been successfully managing the deposit of its investors for the last 50 years, while PNB has done the same for its unit-holders for the last 40 years.

My view is that the Sadaqah House should provide this and other similar services at no loss to itself, but at a profit like any other financial institutions, although it might intentionally moderate its profit motive. Subject to the decision of the relevant Religious Supervisory Council, Sadaqah House should be allowed to charge the initial fee and annual fees on the amounts that it manages. Further, it is also my view that a Sadaqah House should be allowed to keep all or a large part of the businesses that it generates within its respective banking groups, at arm’s length.
We come now to a question which is perhaps on everyone’s minds that is; will there be demand for this product? Will Muslims in the Private Sector give *Sadaqah Jariah*? Allow me to offer my views on this subject.

1. Regardless of the outcome, we in Malaysia have come to the stage where it has become our duty to organize our Islamic economy which integrally incorporates the Social Welfare sector.

2. There is healthy growth of population of Muslims in Malaysia. Their standard of living is continuously improving. Their level of education is also improving. Consequently there is evidence now that their savings are increasing. *Sadaqah* is in a way a function of the level of income and savings.

3. In general, Muslims in Malaysia have become more conscious of the religious requirements placed on them. I am amazed at the term they use to describe this type of *Sadaqah*. They say “*Saham Akhirat*”, i.e. stock of The Hereafter or investment for the “Hereafter”.

4. Perhaps we could be guided by what has happened in the collection of Zakat in the Government Sector. In Malaysia, the collection of Zakat is nearly always undertaken by a body under the Religious Departments of the various states. The amounts collected appear to be continuously rising over the years. In some states, the collection is now in excess of RM100 million per state per year.

5. A large part of the success of the introduction of *Sadaqah Jariah* would hinge on how the *Sadaqah* House managed the information flow, the publicity and the advertisement of the Sadaqah Jariah. For example, many Muslims would be touched if they are correctly and clearly explained the meaning of the Verse of Al-Quran:
This verse says that “Oh you who believe, fear Allah, and everyone should look closely and carefully at what he has done to prepare for his future”, i.e. his days in the Hereafter. And then, gently inform him the *Sadaqah Jariah* is precisely one form of preparation that has been designed for his requirement.

Finally the *Sadaqah* House will need a clear and concise plan for the periodic distribution of the profits. Perhaps the individual Sadaqah House may prefer to specialize in one or two specific areas such as the livelihood of the poor and the needy, health services, education services, and so on and so forth.

In the initial years, however, the *Sadaqah* House may want to concentrate on getting the Sadaqah and may opt to use the existing channels for distribution such as the State Religious Department, Dakwah bodies and the Government Social Welfare Department to do the distribution on its behalf.

**THE DIFFERENCE**

People often ask me; what is the difference between Islamic banking and conventional banking? Now, if this movement catches on and becomes a reality, I shall tell the people; Islamic banking and finance is based on a three-sector Islamic economy, and it integrally incorporates the Social Welfare Sector, whereas the conventional banking and finance does not.