

**BESSH-16****Sustainable Development of the Community via Business Entity; Special Reference to the Community Interest Corporation**Zuhairah Ariff Abd Ghadas<sup>1\*</sup>, Mohd Shahril Nizam<sup>2</sup>, Murshamsul Kamariah Musa<sup>3</sup>, Asiah Bidin<sup>4</sup>*<sup>1, 2, 3, 4</sup>Universiti Sultan Zainal Abidin, Malaysia*

## Abstract

Social entrepreneurship is one of the mechanisms to overcome social or community's economic issues and to achieve sustainable development of a country. In the Southeast region, the use of business entities is mainly focus on private commercial gains. Only charitable based business entities and foundations are used to cater the economic issues of the community. In the United Kingdom, an interesting business entity known as community interest company (CIC) was introduced in 2005 to inculcate and promote social entrepreneurship among the people. CIC was introduced to address lack of vehicle to carry out non-charitable social enterprises. Generally, CICs are normal limited companies. However, different from the objectives of commercial companies, the objective of CIC is to benefit the community rather than private shareholders. In CIC, the company's assets are "locked" and could only be used for its social objectives. It is apparent that as people in all Southeast Asia's countries are mainly family-knit and close-community, having a business entity which is established for the purpose of the community interest would be a good and appropriate alternative business vehicle. The objective of this paper is to explore the possibility of introducing a business entity in Malaysia which could be used by the people to carry out business activities and gain profit but with a clear purpose that profits of the business shall be used for the public interest. This paper adopted the statutory analysis methodology to see how the UK's CIC model could be applied in Malaysia.

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## Introduction

A rapid growth of global economy has given a significant impact to the society. Such implications does not only bring wealth but also invite to the economic unbalance among the society which lead to many social problem, such as poverty, unemployment, inequalities in the access to health care and social services (Catford, 1998), poverty, crime and social exclusion (Blackburn & Ram, 2006). Social enterprise was actually introduced as an alternative way to combat these social problems.

This paper is divided into four parts. The first part will discuss briefly on the concept of social entrepreneurship. The second part explains the role of social entrepreneurship to combat social problem: experiences from various countries. This followed by a brief concept of Community Interest Company (CIC) in United Kingdom and social entrepreneurship in Malaysia. Final section proposes possibility of introducing Public Interest Entity as business vehicle for social entrepreneur in Malaysia.

## Social Entrepreneurship

According to Dees (1998), Alvord, Brown and Lett (2002), Barendsen & Gardner (2004), Okpara and Halkias (2011), social entrepreneurship generally refers to practices that employ entrepreneurial capacities to relieve social problems. William (2007), highlighted that social entrepreneurship is a community enterprise which is founded by local people with the purpose to overcome the economic problems of the people. According to Paton (2003), social

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enterprise as a generic term, encompasses many and different sorts of organization where people conduct business but do not partake the money. Defourny and Nyssens (2006), explained the concept of social enterprises as a democratically controlled organization with explicit aim to benefit the community and profit distribution to external investor is limited. and such definition has been supported by.

Social entrepreneurship is also describe as an innovative approaches to solve social problems as well as an entrepreneurial activity that serves a social objective (Austin, Stevenson & Wei-Skillern, 2006; Roberts & Woods, 2005; Peredo & McLean, 2006; Peredo & Chrisman, 2006) and a consequence of a pressure to relieve modern societies from social illnesses (Thompson, Alvy & Lees, 2000) such as unemployment, inequalities in the access to health care and social services ((Thompson, Alvy and Lees, 2000, Catford, 1998).

The unique characteristics of social enterprise has received special attentions from many jurisdictions by conferring statutory definition on it. In United Kingdom, social enterprise is defined as businesses with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in community (Community Interest Company Act 2005) and in Thailand, the Regulation of National Promotion of Social Enterprise 2011 defines social enterprise as an act of private sector, which is a person, group of person or community ,operating or carrying out businesses with initially express purpose of addressing problem and developing community , society or environment, and generating revenue by selling good or providing service not with primary object of maximizing profit for its shareholders. It is observed that the statutory definitions have given significant impact to social enterprise as it entails it a valid entity with rights and legal attributes.

#### Roles of Social Entrepreneurship

For many years, social entrepreneurship has been contributing significantly to the sustainability of economy and social well-being (Christie & Honig, 2006; Dees, 1998; Harding, 2004; Nicholls & Young, 2008). Many studies show that to a certain extent some of the social entrepreneurship practices have succeeded in transforming the lives of thousands of people around the world (Alvord et al., 2002). In United Kingdom, social entrepreneurs have played major contributions in transforming the society, as for instances, it was reported that, almost a million people have been employed by social enterprise and been contributing more than 5% to UK's GDP (MaGic 2015). Social enterprises had succeeded to assist the Finland's Government to cater unemployment rate during economic crisis in 1999. It also was reported that, the social enterprise in Thailand has succeed contributing to reverse migration (urban – rural) and not only that, it also succeeded to transfer a number of farmers to become financially self-sustainable and debt free (Courtney & Jirathanapiwat, 2014).

#### Social Entrepreneurship in Malaysia

In Malaysia, the concept of social entrepreneurship is commonly associated to voluntary based business activities taken by some government agencies and non-governmental organization (NGOs) to overcome social problem, especially related to poverty (Farok, 2011). Some of these organizations are registered and governed by various legislations, such as the Companies Act 1965, Trustees (Incorporation) Act 1952 and Society Act 1966.

In promoting social entrepreneurship, the Malaysian Government introduced several incentives to promote the business activities such as tax exemption and initial funds for the operation ( MaGic, 2015). Nonetheless, this kind of organizations faced several challenges such as lack of regulatory agencies to support and coordinate their activities, lack of legal recognition, and awareness as well as negative perception and recognition by public (MaGic,2015).

The situation became worse when the funds substantially finished and this raised the issue of the sustainability of the social entrepreneurship (Kadir, M. A. B. A., Sarif, S. M. 2013). Accordingly, to continue their objectives, many of these organizations shifted to become a social entrepreneur as to ensure their sustainability. However, in the absence of suitable business entity such as CICs in the United Kingdom, the Malaysian 's social entrepreneurs have difficulties of running their business to generate income and at the same time providing benefits to the community/public.

#### UK Community Interest Company CIC)

In the United Kingdom, an interesting business entity known as Community Interest Company (CIC) was introduced in 2005 to inculcate and promote social entrepreneurship among the people. CIC was introduced to address lack of vehicle to carry out non-charitable social enterprises, Defourny, J., & Nyssens, M. (2008). CIC is used as a business solution to achieve public good and to create sustainable and socially inclusive economy. The range of businesses conducted by CICs is diverse. They include community enterprises, social firms, co-operatives, and large-scale organizations operating locally or internationally.

There is no single legal model for social enterprise. CICs could be carried on via companies limited by guarantee or companies limited by shares and as registered charities, either industrial or provident societies. A charity may own a CIC, in which case the CIC would be permitted to pass assets to the charity. CICs are more lightly regulated than charities but do not have the benefit of charitable status, even if their objects are entirely charitable in nature.

When a CIC is registered, the CIC regulator considers whether applications meet the criteria to become a CIC. If satisfied, the regulator advises the registrar in Companies House who, providing all the documents are in order, will issue a certificate of incorporation as a CIC (CIC, Regulator 2006). People who set up a CIC are expected to be philanthropic entrepreneurs who want to do good in a form other than charity. This is because the CICs are specifically identified with social enterprises and members of the board of a charity may only be paid where the constitution contains such a power and it can be considered to be in the best interests of the charity. It means that, in general, the founder of a social enterprise who wishes to be paid cannot be on the board and must give up strategic control of the organization to a volunteer board, which is often unacceptable. This limitation does not apply to CICs. CICs allow the businessmen to work for community benefit with the relative freedom of the non-charitable company. Not only that, CICs are allowed to pay the dividends to their shareholders under capped conditions of maximum dividend per share 5% above the Bank of England base rate up to a maximum of 35% of their distribution profit. Besides that, as part of corporate governance practice, CICs are also required to make a community interest statement for public record (CIC, Regulator, 2009).

**Proposal for Malaysia Public Interest Entity(PIE)**

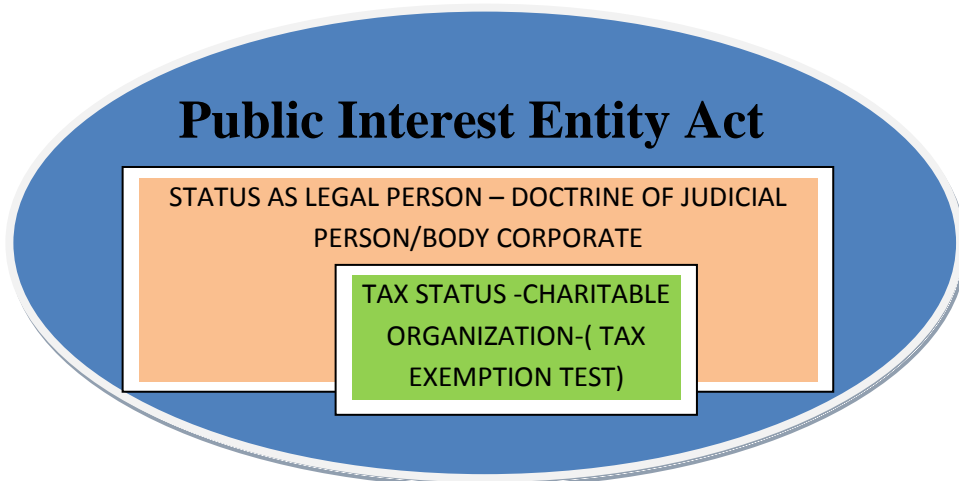
In Malaysia, social entrepreneurships exist in all kinds of business entities and governed by various legal frameworks. Accordingly, the Malaysian legal framework for social enterprise shall cross the boundaries of legal and organizations, enabling all foundations, corporations and organizations obtain a legal brand of social enterprise. However, Kelly (2009) suggested that social entrepreneurs need an appropriate business entity and legal framework to promote their development and sustainability. He further explained that, an out-of-date law, and in appropriate legal entities become a major obstacle to transformative plan.

Looking at the practices of social entrepreneurship in Malaysia, it would be good if there is a specific legislation which legalizes the social entrepreneurship entity. Similar to UK CIC, Malaysia, PIE could be conducted in any forms of business vehicles; sole proprietorships, partnerships or companies but as PIE; it shall have its own legal entity and attributes similar to companies which enables it to conduct business activities with least restrictions.

The tax status of PIE must also be clear as a charitable entity which entitles it to be tax exempted. Specific provisions must be drafted in the tax legislations/regulations for PIE to ensure that it fulfilled all the requirement of charitable entity for the purpose of tax exemption. In these ways, PIE would be able to conduct business activities in a bigger scope, minimize operating cost and produces maximum benefit to the community/public.

Such entity could be legally introduced by invoking the doctrine of juridical person and legal principles of separate legal entity. In addition the principle of fiduciary relationship must also be emphasized in PIE as to impose prioritization of social good rather than for profit maximization .

**Legal Framework of PIE**



With the recent economic downturn, it is high time for the Malaysian government to focus on social entrepreneurs as one of the measures to assist the public. By introducing PIE, not only the Government spent less on the public spending but enable the community to create and sustain its own revenue generating entity. With the suggested legal framework, PIE could exist independently and perpetually, as to ensure sustainability of the structure. PIE would also strengthen the spirit of community- hood as the running of PIE requires teamwork and cooperation within the community itself and substantially independent from the Government. PIE is indeed a business entity of the people by the people and for the people.

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