

EXPERIENCES AND LESSONS OF CASH *Waqf* IN BANGLADESH AND OTHER COUNTRIES¹

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ABSTRACT

Islam guides us in poverty alleviation based on the principles of justice and equitable distribution of wealth. Islam provides practical guidelines for economic problems through both market and non-market mechanisms. Islamic finance provides a model that identifies individual differences among people not only from the perspective of equitable opportunities for all but also from providing other means for addressing economic problems. This presentation takes a deep dive into “Waqf” as a rewarding economic system. I present an alternative view of Waqf integrating it as a component of the traditional economic system. I explain how Waqf increases aggregate consumption, expenditure, and expand national income. A cross-country review of current state of Waqf practices is included for comparative analysis. It helps to grasp a complete understanding of challenges and issues in Waqf globally. Lack of trust in Waqf managers and institutions is the key factor why, despite being the best social capital model, the practice of Waqf is relatively low in Muslim majority countries. Evidence is there that in many cases financial greed takes over the financial objective creating a fear of permanent loss among the endowers. Moreover, investments of Waqf fund are not well diversified and not invested properly to generate income to support waqf assets. To get the most out of Waqf asset, strategic alignments of Waqf funds and stakeholders are necessary at the institutional level. In the final section of this presentation, I suggest a comprehensive legal framework that adequately addresses major financial, agency, and governance issues pertaining to Waqf. A Waqf friendly legal environment coupled with preferential tax treatment for the endowed funds is crucial in achieving the intended goal of Islamic finance through Waqf as its vehicle.

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1. INTRODUCTION

Today, cash *Waqf* is recognized in the whole Muslim world as one of the most effective mechanisms in realizing the socio-economic and welfare objectives of the institution of *Waqf*. Imam Zufar first introduced the concept of cash *Waqfs* in the eighth century. He formulated the concept of cash *Waqf* based on two key principles; a) *mudaraba* should be the investment vehicle for pooled cash endowment; b) investment returns should be spent for social welfare and charity (Cizakca, 2009). If we look beyond Muslim era, we see the existence of Cash *Waqf* in some of the primitive civilizations such as Mesopotamia, Roma, and Greece. For example, the Ottoman Empire approved the practice of cash *Waqf* in the early fifteenth century. The concept of cash *Waqf* gained huge popularity among the people of Anatolia and rapidly spread all over its European provinces (Ottoman Cash *Waqf* Revisited: The Case of Bursa, 2004). By the end of sixteen century, cash *Waqf* accounted for more than half of all the newly created waqf in the Ottoman Empire.

A renewed enthusiasm towards cash *Waqf* is now visible in many Muslim majority countries including Bangladesh, which is 4th largest Muslim population in the world (Stencel, Useem, Miller, & Tisdale, 2009). Compared to the standard traditional concept of dedicating immovable properties as *Waqf*, cash *Waqf* is a favorite to many Muslims, affluent or otherwise for its built-in value propositions that meet Shariah objectives with mobility and liquidity. Bangladesh is one of the densely populated countries where land and similar tangible properties are becoming increasingly scarce every day even for agriculture and housing sector. Therefore, cash *Waqf* is a futuristic alternative that is gaining popularity and acceptance to the people who are willing to get involved in welfare-oriented activities within the framework of Islam.

2. DEFINITION OF CASH WAQF

Cash *Waqf* has been defined by many scholars. Al-Tasuli from Maliki School defines cash *Waqf* as “the process of dedicating cash as *Waqf* for lending it to identified borrowers without interest”. Similarly, Zufar from Hanafi School defines cash *Waqf* as investing money endowed as *Waqf* and distributing the profit earned from investments to the specific charitable works. Despite slight variations in the definitions, there is a unanimous fatwa among classical scholars that cash *Waqf* is permissible. With minor variations, however, their definitions come to a common point that cash *Waqf* is a benevolent endowment fund formed with cash corpus, which is permanently dedicated to charitable activities and privately (Cizaka, 2009) owned by a Muslim, or a group of Muslims, or a corporate body governed according to shariah with perpetual dedication (Magda, 2009) of its usufruct to be spent on any purpose recognized by shariah. The definition of *Waqf* in section 2 of the Waqfs Ordinance 1962 defines cash *Waqf* as an endowment or grant fund that falls under the broader definition of *Waqf* for the purposes mentioned in the

Ordinance, as such cash *Waqf* is deemed to be covered by the definition of *Waqf*. Section 2(10) of the *Waqfs* Ordinance 1962 defines *Waqf* as both movable and immovable assets dedicated for any purpose that fall within the Islamic jurisdictions. This definition includes any kind of benevolent endowment and/or grant provided by Muslim or non-Muslim and the endowment can be used for the creation of a *Waqf*.

3. MAIN FEATURES OF CASH WAQF

The distinguishing features of Cash *Waqfs* are as follows:

Liquid Fund as Corpus: In a ‘Cash *Waqf*’ the main corpus is a ‘cash capital’ as opposed to standard immovable *Waqfs* in which the corpus is usually a ‘real estate’. Cizakca argues that irrespective of the debate on the legality of the cash *Waqf* that started as early as 16th Century, the fact remains that “Cash *Waqfs*’ are being endowed worldwide and it is gaining acceptance and popularity to a wider audience. Any *corpus* should be *Waqfable*, as long as it gives some usufruct for others to benefit from it. In Bangladesh, many *Waqf* lands have perished and disappeared by river erosion -nothing is non-perishable -an argument supports the propositions of cash *Waqf*. Everything on the face of the earth is perishable (The Holy Quran, Surah Ar-Rahman:25). Simply by being perishable, a corpus does not lose its eligibility of being *Waqfable* so long shariah approves it.

Immediate Usufruct : Unlike real estate, benefit from cash *Waqf* follows almost immediately after creating it. An immovable property such as a piece of land may be worth millions but unless it is developed into an income generating project, it is unable to give any consistent benefit. Even a small amount of cash *Waqf* may start generating income through investment right from its inception.

Affordability and Convenience : Buying real property and dedicating it as *Waqf* is only affordable to the rich people. With cash *Waqf*, it is much easy and affordable compared to real estate due to high expense and scarcity of immovable properties. Many Muslims who wish to contribute to the society through waqf cannot afford to buy an immovable property, i.e. land or real estate property because such properties are both expensive and scarce. Cash *Waqf* brings that opportunity even to not-so-rich people who are willing to donate but have resource constrains.

Remarkable mobility of cash *Waqf* : It enables transfer of *Waqf* capital across economic sectors simply by redirecting investments from one set of borrowers to another. This makes a huge difference in how we see *Waqf* as a source of welfare for the poor. The core objective of creating a *Waqf*, cash or otherwise, is to do a good deed by helping others. This objective is better achievable by cash *Waqf*.

Benefits from cash : *Waqf* can be delivered to various activities such as education, food, social and religious services. When the *Waqf* is in the form of cash corpus and such corpus is invested to grow, a regular usufruct can be earned and be spent for any welfare purposes. Such flexibility is not available when the *Waqf* property is an immovable property such as land; particularly if the land is not being utilized and not producing regular harvests or otherwise earning a steady income from rentals etc. If a land based *Waqf* is not at its best in terms of its location, size, and productivity, it is unable to be a steady source of regular usufruct and the land, despite its current value, lies worthless.

4. ECONOMIC VALUES OF CASH *WAQF*

The institution of a *Waqf* in general and the cash *Waqf*, in particular, has brought multidimensional economic benefits to many Muslim nations throughout the Islamic history. Many essential services, which otherwise would have been an economic responsibility and burden on the state, were provided to the citizens at no cost to the state. The cash *Waqf* makes charitable donations convenient for not only the affluent class of the society but also the middle and lower middle class who can only afford to donate a small amount of cash. As more people can contribute in cash *Waqf* easily to build collective fund corpus or single fund, the objective of social welfare can be achieved faster with cash *Waqf* than general *Waqf*. This aspect of cash *Waqf* acts as a helping hand by sharing some of the expenses of Government that directly links to social safety net programs for the poor. In other words, cash *Waqf* reduces both government expenditures and interest rate by taking care of some of the expenditures that government would have to spend under social safety program in absence of cash *Waqf*. Thereby, a cash *Waqf* based system can reduce and even eliminate *riba* by providing services. Cross-country experiences show that cash *Waqf* significantly assists the government in economic development (Sanusi & Shafiai, 2015).

In Bangladesh, one of the pioneers in Islamic banking is Islami Bank Bangladesh Limited (IBBL). IBBL introduced “Mudaraba *Waqf* Cash Deposit Account (MWCD)” with special features that fulfil the specific purpose of a cash *Waqf* without compromising Shariah values. This list of purposes is made readily available to the *wāqif* who can choose any specific purpose from the list or may request the bank to include a Shariah permitted specific purpose missing in the list. The list of purposes includes the following areas: (IBBL Circular No. BCD/836, 2004)

Family Rehabilitation : Individuals and institutions can create a cash *Waqf* fund corpus for rehabilitating poor, homeless, and physically handicapped people who are ignored and hardly get any kind of support from the government.

Education and Culture : The purpose of this cash Waqf is to provide formal and informal education for orphans and poor, development of proper education for skill development, support physical and vocational trainings, provide scholarship to the deserving students, conduct *da'wah* activities, patronage religious education and research, and establish educational chair.

Health and Sanitation : Health and sanitation purposes provide supports to improve sanitation conditions among the rural and urban slum dwellers. Health care services extend to underprivileged segment who do not have ability or access to standard health care services. Acute shortage of pure drinking water is one of the main causes of more than 200 diseases in Bangladesh. In the rural areas, the government has taken very limited initiatives that provide pure drinking water to the poor people; cash Waqf has identified this purpose and allows to establish fund corpus that would support people to get drinking water. Cash Waqf fund also provides support to conduct research of any contagious disease, establish rural community clinic, provide free medical services, and distribute free medicines among the disadvantaged people.

Social Welfare Service : This includes providing legal aid for the deserving people in dispute settlement and assisting the marriage of poor girls. Newly converted Muslims can get support to cope with the transition process. Social welfare is not confined to the Muslim community; there are many projects to help non-Muslims who need financial, legal, and any other permissible assistance. Some cash Waqf corpus such as tree plantation, urban beautification, developing public utility services, and discouraging anti-social activities have overall social welfare impact. The services mentioned above provided by IBBL through its cash Waqf programs would have been otherwise the government's responsibility. These services through *aWqāf* would reduce the economic burden on the government.

5. CURRENT PRACTICES OF CASH WAQF IN BANGLADESH

The emergence of Cash *Waqf* in Bangladesh is an encouraging trend and the degree of awareness on cash *Waqf* in recent years in Bangladesh has been remarkable. Few Islamic banks in Bangladesh lead cash *Waqf* practices. After the government of Bangladesh enacted the Private University Act of 1992, many private universities and higher learning institutions have been established in the country, a few of which are financed by cash *Waqf*. One such institution is the Social Science Institute (SSI). SSI has an endowment fund which is a cash *Waqf*. The cash *Waqf* fund is kept in the investment fund of an Islamic Bank, which operates based on *mudarabah*. Profits from *mudarabah* are spent for fulfilling some Islamic objectives laid down in the constitution of SSI. This is an encouraging trend for the rich segment of Muslims who may come forward and pool their fund to create cash *Waqf* to help the disadvantageous population of the country. In this way, cash *Waqf* may add a new dimension to the charity activities in the country.

5.1 Cash *Waqf*- an Alternative Islamic Financing Model in Bangladesh

Islamic banks are the key providers of cash *Waqf* services in Bangladesh. Many Islamic banks offer both conventional finance and microfinance services to people as per the Shariah laws. For instance, Social Islamic Bank Limited, in addition to its conventional Islamic banking activities, has developed special programs to manage the *Waqf* and other religious institutions. SIBL started its operation in 1995 with clearly defined corporate objectives to operate in three different sectors – formal, non-formal and voluntary. While formal sector deals with general commercial activities as a scheduled bank, non-formal sector aims at ‘Empowering Family’ by creating investment opportunities for micro and SME clients. Its voluntary sector offers Cash *Waqf* Certificate Scheme which is an innovative financial product aimed at social welfare. The *Waqf* properties are converted into income generating units and the income so derived is utilized as per instruction of the *Wāqif* or in the absence of such instructions, based on Islamic Shariah.

“*Mudaraba Waqf* Cash Deposit Account” (MWCDA) system is one of the key schemes of IBBL that directly promotes cash *Waqf* services in the country. In this scheme, the deposited money is invested and the profit is spent in accordance with the will and wishes of the *wāqif*. (IBBL Circular No. BCD/836, 2004). The main objectives of the MWCDA scheme are as follows:

- to design and implement banking services that facilitate management of cash *Waqf*;
- to create a platform that allows to pool savings from people and deposit it in a cash *Waqf* with a defined successor planning. This helps to augment the family bonding, especially among the family members of the well-off class of the society.
- to create sustainable social capital is one of the objectives of cash *Waqf*. Cash *Waqf* encourages people in social investments without expecting any monetary return from their investments except social wellbeing.
- to develop a resource distribution system that only cascades down to the poor benefiting them financially and socially.
- to make the rich segment of the society aware of its responsibilities and liabilities to the poor.
- to channel alternative sources of fund to the capital market through new investment vehicles;
- to support the macro level development initiatives of the government and integrate among different efforts that aim to bring together social security and social justice.

5.2 Operational Guidelines of Cash *Waqf* Based Products Adopted by Some Islamic Banks in Bangladesh

Cash *Waqf* deposit accounts have long been introduced by many Islamic Banks in the country. All these banks have guidelines for operating these types of accounts that are convenient, customer-friendly, and motivational in promoting good deeds.

5.2.1 Cash *Waqf* based ‘Mudaraba Deposit Account’

Islami Bank Bangladesh (IBBL), Exim Bank, Shahjalal Islami Bank and Social Islami Bank - all have introduced ‘Mudaraba Cash *Waqf* Deposit’ as a product that creates an opportunity for the wealthy people to invest in socially beneficial projects such as establishing educational institutions to increase literacy rate, arranging training programs to increase workforce skills, providing free medical facilities to poor people. Income generated from the Cash *Waqf* fund is spent for different purposes chosen by the *Wāqif*.

5.2.2 The Objectives of Cash *Waqf* Mudaraba Deposit Accounts (CWMDA)

The followings are the objectives for the Cash *Waqf* based mudaraba deposit accounts:

- To assist the government in its overall development initiatives by establishing linkages among different parts and phases of development programs that would be otherwise difficult for the government to integrate due to resources constraint.
- To help people contributing to benevolent cash corpus by sharing expertise and developing knowledge. The ultimate objective is to establish a sustainable social capital platform that is transparent to all and dedicated to social capital stronger.
- To create a social investment eco-system to alleviate poverty from the society;
- To motivate and remind the affluent group of the society about its responsibility and importance of its proactive engagement for overall social wellbeing.
- To establish links among different social initiatives so that social security does not become separated from social welfare.
- To give people necessary financial support to organize different religious events that increase morality of the participants.

5.2.3 Cash *Waqf* in Perpetuity and Mutawalli’s Discretions

These Cash *Waqf* Mudaraba Deposit Accounts are created in Perpetuity where cash is received from the *Wāqif* as an endowment fund and deposited same in a Mudaraba account. Banks get the authority to manage the cash *Waqf* for the *Wāqif*. The *Wāqif* or the bank are not allowed to withdraw the principal deposit from the Mudaraba

account -principal deposit withdrawal is restricted. The *Wāqif* has the discretion to transfer the account or may nominate another bank to manage the cash *Waqf* fund without compromising Shariah norms.

In his/her life time, the *Wāqif* is the Mutawalli of cash *Waqf*. A Mutawalli has the authority and privilege to select the nominees and request the bank in writing about his/her decision. Mutawalli is not allowed to withdraw *Waqf* deposit amount after the death of *Waqif*.

5.2.4 CWMDA Created with Lump Sum Amount or by Instalments

Wāqif has a choice to create cash *Waqf* with a lump sum amount given at once or on an instalment basis. If the *Waqif* decides to deposit in cash *Waqf* in multiple instalments, he may initiate the *Mudaraba* account by depositing the initial amount and thereafter may make the deposits in equal regular instalments. If a *Waqif* decides to make all or part of the committed amount through advance instalment, he may request the bank to accept such amount. If the *wāqif* fails to deposit one or more instalments, under normal circumstances, he can deposit the past due instalments. For calculating profit, banks use the total deposit received in the account till date. If a *Wāqif* fails to deposit for more than five times, the bank will not accept further deposit from him.

5.2.5 Issuance of CWMDA Certificate and Receipt

Wāqif deposits Cash *Waqf* amount using a specific endowment form. Once the bank receives the full amount of cash corpus from the *Wāqif*, it issues a certificate for the full amount. If a *Wāqif* decides to reduce the size of committed cash *Waqf* corpus, or unable to deposit future instalments, he may inform the bank about his pacific situation and declare his final size of the fund. The bank upon reviewing his application may decide to issue a certificate for the total amount credited to his *mudaraba* account till date.

5.2.6 How CWMDA Operates

Cash *Waqf* *Mudaraba* Deposit Account (CWMDA) is a *Mudaraba* account established under the legal contract between the depositor and the bank. The depositor is known as *Wāqif*/owner of the fund and the Bank is known as the business organizer or agent.

5.2.7 Investment in Conformity with Shariah

The bank is empowered to make all investment decisions of the Cash *Waqf* corpus at its own discretion ensuring Shariah compliance. The *waqif* has no rights to dictate or influence any investment decisions of the bank.

5.2.8 High Rate of Investment Income

The *Wāqif* gets up to 65% of the investment profits. Normally, profit sharing varies among cash *Waqf* accounts. Bank decides the percentage of allocation based on weightage allocation of the deposit.

5.2.9 Distribution of Usufruct to the Beneficiaries

Banks use provisional profit rate to calculate and credit monthly profits into Mudaraba accounts. Once the banks declare annual final profit rates, adjustments may be made to previous monthly profits to reflect actual annual profit percentage. Profit amounts can be withdrawn and spent for the purposes mentioned in the cash *Waqf* contract. Only the designated persons can withdraw profits from the accounts and utilization of the profit amount must be per Shariah compliance. If any amount of profit remains unspent or unutilized such amount will be accumulated with principal *Waqf* amount. The *Wāqif* can give standing instruction to the bank to transfer specified installment from his/her account maintained with the branch. In such cases, the bank charges a minimal service charge from the *wāqif's* account.

5.2.10 Profit Loss Sharing

Mudaraba account does not guarantee the protection of principal. As the account runs on profit-loss sharing basis, profit increases principal deposit amounts, and loss decreases the principal deposit amount.

5.2.11 Cash *Waqf* Management Committee

A special *Waqf* Management Committee comprising of the officials of the bank manages the cash *Waqf* fund. The *Waqf* management committee addresses all concerns, complaints, suggestions regarding the *Waqfs* received from *Waqif* and or any other persons. The decision of the Committee is final.

5.2.12 Readily Available List of Purposes

The *Wāqif* can select any purpose from the list of purposes or may request the bank to create a new purpose which is Shariah permitted.

5.2.12.1 Family Rehabilitation

This includes providing lifesaving stuff to the people who are in a displaced situation and who need rehabilitation most. Lifesaving stuff includes food, water, shelter, medicine, restoration of handicapped people etc.

5.2.12.2 Education, Sports, Da'wa & Culture

Providing Education facilities to the orphans; such as supplying books, development of technical education for skill development and vocational education in general, providing scholarships to deserving students and descendants, financing research and establishing educational chairs. Conducting Dawah activities by promoting Islamic culture and heritage. Celebrating different Islamic Festivals.

5.2.12.3 Health & Sanitation:

Providing low-cost or free medical supports to the poor people who cannot afford to pay medical bills. The medical assistance to the poor is provided through specialized hospitals and community clinics established with cash *Waqf*. Sanitation is a key concern for spreading many life-threatening diseases in rural areas and urban slums. Cash *Waqf* fund provides financial support for proper sanitation and for the research in sanitation-related diseases.

5.2.12.4 Social Service

This includes providing legal aid to the poor and deserving people. Providing assistance to dowry-free marriage(s) to poor girls and their families, planting and preserving trees on street sides. Helping converted reverted Muslims with rehabilitation during their transition periods. Giving legal, financial, and social supports to people from other religions and races. Initiating participatory social awareness programs to make people aware of the bad impacts of drugs, gambling, child abuse, woman rights. Assist the government in the smooth delivery of social welfare services.

5.2.13 Arrangement after Serving the specific purpose or Death of *Wāqif*.

When a *Waqf* achieves its goal, the Mudaraba account profit may be distributed as per the purpose mentioned in the *Waqf* account. In absence of any clearly defined profit allocation instruction, the matter may be taken to *Waqf* Management Committee for further guidance and final decision. If *Wāqif* dies, profit of the *Waqf* Account will be distributed as per the instructions of *Waqif*. If there is any doubt about how to spend the profit amount or in case there is any opaqueness, *Waqf* Management Committee will make the final decision. If there is any shortfall of the declared *Waqf* amount, the family members and successors may deposit the gap amount.

5.2.14 Liabilities and Rights of the Bank

The banks carry limited liability in *Waqf* management. The bank does not bear any loss arises due to any reason that is uncontrollable and cannot be resolved with proper due

diligence and reasonable care. The examples of such events are electrical problems, mechanical issues, riots, acts of God, natural calamities, cybercrimes, civil wars etc. The operation of *Waqf* accounts is subject to the compliance of the Money Laundering Prevention Act, 2012, Anti-Terrorism Act, 2009 (including amendments in 2013), Shariah guidelines, and other rules and regulations as presided by the regulatory authorities from time to time. All account related charges such as VAT, Tax, excise duties, and other charges and fees are deducted as per the published schedule of charges of the banks.

Banks maintain the privacy and confidentiality of all accounts. Banks do not disclose any *Waqf* account information, transaction profile to the third party unless asking third party is one of the following entities:

- a. Regulatory agencies with authority to seek account related information from banks.
- b. Court orders the banks to disclose information to an authorized person.

6. CROSS-COUNTRY REVIEW OF CASH *WAQF*

Cash *Waqf* practice has been flourished in different parts of the world. To highlight the learning points from those countries, some of the countries are being briefly evaluated in this paper that includes Bahrain, India, Indonesia, Kuwait, Malaysia, Singapore, South Africa, Sudan, Turkey, and United Kingdom. Besides, World *Waqf* Fund under IDB and OPEC *Waqf* Fund will also be discussed briefly.

6.1 Bahrain

The Central Bank of Bahrain in collaboration with the Islamic Financial Institutions (IFIs) of Bahrain, established the first cash *Waqf* fund in 2006.

6.1.1 Objectives of the *Waqf* Fund

The main objectives of this Cash *Waqf* Fund are to provide supports in the field of financial research, increase the quality of finance education, train people in Islamic finance, and create Islamic scholars. The fund has been actively contributing to industrial development and shaping the ways the markets should perform

6.1.2 Contributors of *Waqf* Fund

The major banks and financial institutions of Bahrain contributed in establishing the *Waqf* fund. The *Waqf* corpus was collected from the participating institutions. The fund is invested through Shariah permitted money market instruments and profits earned on investments are distributed to meet the purposes of the Fund.

6.1.3 a Waqf Fund Sponsored Programs

Ever since its establishment, the *Waqf* Fund has been active in sponsoring some important flagship initiatives that include:

6.1.3.1 Human Capital Development in Islamic Finance

There is an acute global shortage of Islamic scholars who have a profound understanding of both the conventional and Islamic finance. To take the movement of Islamic finance forward, a clear understanding of Islamic principles and different Shariah laws are crucial. To address these issues, *Waqf* fund of Bahrain distribute its profit in Islamic scholar development programs which train people to lead the way of Islamic finance. The Accounting and Auditing Organization for Islamic Financial Institutions is one such organization that operates Certified Islamic Professional Accountant (CIPA) and have been successful in its endeavor to create some quality Islamic scholars who are now very respected both in the field of Islamic finance and conventional finance.

Besides, the Fund has also been instrumental in organizing various other human capital development programs that include launching a training program for the senior management officials to qualify them as Islamic finance leaders. *Waqf* Fund also holds Corporate Governance Workshop for CEOs and Directors.

6.1.3.2 Research and Collaboration with Other Nations

As part of its support for Islamic finance training, education and research, the *Waqf* Fund hosts and sponsors regular dialogue, monthly conferences and special sessions with leading Shari'a and Islamic finance Scholars. The *Waqf* Fund sponsors government collaboration with other Muslim and non-Muslim nations in the field of Islamic Finance.

6.1.3.3 Curriculum Development

The *Waqf* Fund is playing a crucial role in developing the curriculum for Islamic financial services sector. The Fund in collaboration with the University of Bahrain has launched a Shariah based bachelor degree program in banking and finance and providing financial assistance to the students. To the create skilled personnel for the Shariah internal revenue department, the fund working on to launch a diploma program.

6.2 Indonesia

A non-profit organization under the Ministry of Religious Affairs in Indonesia has turned the concept of Cash *Waqf* into a movement. A group of Indonesian journalists established the non-profit organization named Dompot Dhuafa Replubilka (DDR) to raise a pool of

fund for the welfare of the poor through *Zakat, Infaq, Sadaqah and Waqf* (ZISWAF). Though informally established in 1993, Dompot Dhuafa Republika (DDR) was registered in October 2001 with the government as National Zakat Institution (Lembaga Amil Zakat) under the auspices of the Ministry of Religious Affairs.

6.2.1 DDR Cash *Waqf* Fund

DDR then created a *Waqf* fund named Indonesian *Waqf* Fund (Tabung Wakaf Indonesia) with a four-layer network of welfare program, that include Healthcare, Education, Economy, and Social Development.

6.2.1.1 Healthcare

DDR has established several healthcare institutions to serve the poor patients. Under this program, they have a hospital named Rumah Sehat Terpadu (RST) equipped with inpatient and outpatient services including surgery and intensive care units. Located in Bogor, West Java this hospital provides healthcare services free of charge for the poor who are unable to afford adequate health care. This hospital serves more than 50,000 patients a year.

They have also established a Free Clinic named ‘Layanan Kesehatan Cuma Cuma’ that provides medical services to the poor patients who do not need to be admitted to hospital. Many Muslim doctors give voluntary services to this clinic.

6.2.1.2 Education

DDR helps deserving Indonesian children to pursue their education and provide them regular stipend under scholarship programs. Under this division, several training schools and business schools are run, such as ‘Sekolah SMART Ekselensia Indonesia’ and ‘Umar Usman Business School’ which has a campus named Prophetic Entrepreneur Campus where they introduced a special entrepreneurship program. Their training schools also offer ‘Character Building Trainings’.

6.2.1.3 Economic Empowerment and Social Welfare

DDR has various empowerment programs to reduce poverty in Indonesia and create entrepreneurs who are otherwise less privileged. In return, these entrepreneurs are gaining the ability to contribute to the social development later by themselves. DDR works on disaster management migrant workers welfare, da’wah activities, free funeral services, and many other voluntary services.

6.3 Kuwait

In Kuwait, the *Waqf*, whether cash or non-cash, is aimed at contributing to the efforts intended to serve the revitalization of the *Waqf* practice and tradition by putting forward developmental projects in Islamic forms to fulfil the needs of the society. This aim is usually achieved by requesting the people to donate cash funds or to other norms of assets as *Waqf*. These *Waqf* funds are managed and overseen by Kuwait *AWqāf* Public Foundation (KAPF) to meet the social as well as developmental needs as addressed by various action programs. These action programs grant *Waqf* authority an allowance for achieving the highest developmental return and to help achieve the connection among the *Waqf* projects. In addition to the projects run by the *AWqāf* Public Foundation (KAPF), there are many other *Waqf* projects undertaken by the Government Agencies and the Associations of Public Benefit.

6.3.1 Objectives of Kuwait *AWqāf* Public Foundation (KAPF)

The Kuwait *AWqāf* Public Foundation has set several objectives of *Waqf* funds, which are outlined below:

- to restore and revitalize the practice and tradition of *Waqf* by calling for projects which are closer to the hearts of the people and more responsive to their needs,
- to renew and modernize the developmental role of the *Waqf*,
- to advance the Charity Work by introducing a new model to be followed as an example,
- to meet the needs of the society and the citizens in the domains, which are not properly subsidized,
- to create a balance between external charity work and the internal one,
- to bring into effect the popular participation in the call for *Waqf* and managing its projects, and
- to start off the *Waqf* work through an "Organization" that fulfils flexibility as well as disciplinary requirements at the same time.

6.3.2 *Waqf* Fund Board of Directors

Cash *Waqf* funds in Kuwait are governed by Board of Directors consisting of several popular and eminent persons chosen by the President of *Waqfs* Affairs Council. This council is permitted to add representatives of some Government Agencies interested in the areas of work of the fund. The Board is appointed for two years with the possibility of further renewal of term. The Board shall choose a Chairman and two Vice-Chairmen from the Members. The Board of Directors is assisted by a Fund Manager, who is

appointed by the Secretary General. The Secretary General is chosen from the general staff of the Kuwait Public *AWqāf* Foundation. He must be an ex-officio Member of the Board of Directors and would act as the Secretary of the Board. An assistant to the Director may be appointed, according to the needs of the project.

6.4 Malaysia

Malaysia practices both general *Waqf* and cash *Waqf*. The *Waqf* management process in Malaysia is to some extent different from other countries. *Waqf* fund in Malaysia is controlled by several regulations. The States Islamic Religious Council, which consists of 13 states as well as several federal territories, mainly control the *Waqf* and cash *Waqf* funds. (Mahamood & Mashitoh, *Waqf* in Malaysia: Legal and Administrative Perspective, 2006). Due to differences in state laws, fund management regulations vary from fund to fund, which creates the standardization, uniformity, and comparability issues.

6.4.1 Public Response to cash *Waqf* in Malaysia

Studies reveal that cash *Waqf* is not yet a popular financial vehicle in Malaysia (Mohsin, 2009). Study of Mohsin shows that people are not fully aware and responsive of cash *Waqf* even though the size of cash *Waqf* is quite big. That means a small group of people and institutions are aware of cash *Waqf* in Malaysia. Many people believe that cash *Waqf* fund managers engage the fund in leverage activities and to buy immovable property. Through both the acceptability and public response to cash *Waqf* concept and its management have increased in recent years, still, considerable efforts are required to further strengthen practices of *Waqf* in the Islamic economic system. On the other hand, the study of Arshad (2011) on Malaysian *Waqf* and perception of people about the concept finds that most of the people still believe cash *Waqf* is a way of collecting fund for construction of mosque and donation of land for graveyard. The concept of cash *Waqf* is narrowly understood by most of the Malaysian. The study of Laldin (2005) was quite similar to the study of Arshad. Laldin also finds that donors of Malaysia hardly understand any differences among *Waqf*, *zakat*, and *sadaqah*. However, subsequent developments, as discussed in the following paragraph, suggest otherwise and this author is of the view that the future of cash *Waqf* in Malaysia looks very promising.

6.4.2 Potential for Cash *Waqf* in Malaysia

Some studies find the future of cash *Waqf* in Malaysia very promising. For example, Salleh & Muhammad (Salleh & Muhammad, 2008) found that the amount of cash *Waqf* in a given year would be RM4.3 billion, if each Malaysian muslim donates only RM1 a day for consecutive 30 days. They further revealed that the Penang state is most likely to do better in cash *Waqf* in the long run because it has developed the strategic goals and integrated the value propositions with the goals.

Another research (Sayyin & Suyurno, 2006) stated that shares schemes of Selangor *Waqf* can significantly contribute to the development of cash *Waqf* system in Malaysia. The study of Siti Mashitoh Mahamood presents the cash *Waqf* scenario in Malaysia from popularity aspects. He concludes that it is not yet a very popular concept in the country (Mahamood & Mashitoh, 2007).

6.4.3 Cash *Waqf* Shares and the State Islamic Religious Council (SIRC)

Most of the State Islamic Religious Council support cash *Waqf* concept in Malaysia. Out of the nine councils, only two have reservations about the practice of cash *Waqf*. (Mohsin, 2009) Shares and stocks are the most popular instruments through which majority of the cash *Waqf* transactions happen in Malaysia. Buyers of the Cash *Waqf* shares buy the shares and give those shares to councils as *Waqf*. If the council wants, it may sell cash *Waqf* shares of existing assets or potential assets to the interested buyers who will then endow purchased shares to the council (Mahamood & Mashitoh, 2006).

6.5 Singapore

Syed Omar Aljunied who came to Singapore from Indonesia established the first cash *Waqf* fund in the country. In 1905, the first *Waqf* legislation was enacted in Singapore under both the Muslim and Hindu endowments rules. In fact, philanthropists like Syed Omar Aljunied created not only mosques but also revenue stream to ensure that these mosques have income generating sources for their maintenance and religious activities. These philanthropists had developed a socio-religious enterprise model, which is now becoming a new trend in charity and non-profit enterprises.

6.5.1 Cash *Waqf* by Salary Deduction

However, *Waqf* in the form of cash is found to be unique here in Singapore, and the cash *Waqf* fund there included mostly the Mosque Building Fund. Under this kind of cash *Waqf* philosophy, every Muslim employee donates a fixed amount to the fund on a regular interval. As of 1 July 2005, cash *Waqf* funds received a donation from around 175,000 Muslim. Their contribution was deducted from their monthly salary by their employer and then channeled it through the Central Provident Fund.

As of the same date as mentioned earlier, the fund received an estimated \$6 million contribution annually from those Muslim employees. This fund has enabled *Waqf* authority to build 22 mosques with an accumulated amount of \$130 million. In fact, the act of creating a *Waqf* from a pool of fund to build mosques is proven to be excellent instruments. These instruments have been used to generate income streams to meet the mosques related operational costs.

6.6 Turkey

The concept of *Waqf* has always been widely diversified in Turkey. During the 15th and 16th Centuries, the Ottoman Courts first approved a special type of cash endowment fund dedicated to fulfilling social purposes (Cizakça, 2004). Most of the *Waqf* funds in Turkey is backed by land property, which ensures continuous charity of the *Waqf* and reduces uncertainty. Later, many movable properties backed *Waqf* funds were created.

6.6.1 Public Facilities Supported by Cash *Waqf*

It was the Ottoman period when Turkey had its golden period in *Waqf* and cash *Waqf*. Most of the public services including education, social welfare, public utility, religious activities were supported by cash *Waqf*. As a result, the government could concentrate on other areas for development knowing that many of the public works would be taken care of by the *Waqf* funds. To make a comparison between the current situation of *Waqf* with that of Ottoman period, we can say that most of the educational expenses of modern Turkey is directly supported by the government whereas in Ottoman period educational services were met from *Waqf* funds.

6.6.2 Financial Services Provided by Cash *Waqf*

Cash *Waqf* acted as a reliable source of fund that kept the credit flow alive and eased many of the intricate financial services. The study conducted by Cizakça estimated that around 10% of the population of Bursa city took financial services or borrowed money from cash *Waqf* funds. Every cash *Waqf* had defined purposes which directly contributed to the greater social wellbeing as well as had a lasting impact on the society. Some of the most recognized purposes of cash *Waqf* were spending money to support education, supplying food and water to the poor, providing medical services to the disadvantaged people, giving legal assistance, making payments to bail someone from jail.

6.6.3 Revenue Earned by Cash *Waqf*

The way cash *Waqf* practiced in Turkey raised many questions regarding cash *Waqf*'s validity under the jurisdiction of Shariah law. Many scholars argued that profit earning scheme of cash *Waqf* is very much like usurious piety -activity that support usury in the name of Shariah (Islahi, 2007)! For example, in Turkey earning profit from cash *Waqf* money became primary and social wellbeing became a secondary objective of cash *Waqf*.

6.6.4 Cash *Waqf* and the Debate on Interest

There are many arguments that cash *Waqf* is against the law of Islamic Shariah as it's directly involved in money making business. There are many instances of Cash *Waqf*

being used an instrument for earning usury under the veil of Islam. Proponents of cash *Waqf* did not deny the allegation of *riba* business opportunity in cash *Waqf*, but defended that as per Shariah law there is nothing harmful in cash *Waqf* and if we properly follow the Shariah law, it should not conflict with Islamic economic system -it's all about how someone manage the cash *Waqf* and the purpose he wants to achieve with cash *Waqf*.

7. ROLE OF CASH *WAQF* IN POVERTY ALLEVIATION

Since the concept of *Waqf* is similar to trust and endowments of cash resources, Cash *Waqf* has widespread usability. Unfortunately, like most people of Malaysia, the concept of cash *Waqf* has been narrowly understood in Bangladesh. At present, most of the *Waqfs* are real estate backed, which gives people the sense of tangible permanence. There were instances in history when cash *Waqf* concept had widespread acceptability. The example of Ottoman empire provides sufficient evidences about the considerable impact of cash *Waqf* on the social systems. Cash *Waqf* is very liquid and can quickly fulfil the needs of the target group. Cash *Waqf* can be tailored to meet many types of needs including addressing of the special situations which are not possible to address by real estate backed *Waqf* due to time constraint. The cash *Waqf* concept is very interesting but requires specified purposes and strict compliance to avoid any deviation from Islamic Shariah. Arguably, there is a slim distance between business profit from cash *Waqf* and *riba* from loans. Therefore, the controller and manager of cash *Waqf* must apply proper care to ensure full of the compliance with Shariah laws.

8. RECOMMENDED CASH *WAQF* MODEL FOR BANGLADESH

The cash *Waqf* concept can be applied to achieve numerous social objectives that are Shariah allowed and that fall within the jurisdiction of Islamic economic systems. The aspect of liquidity is the main strength and weakness of cash *Waqf*. As we mentioned earlier about the sensitivity of cash *Waqf*, which can be turned into *riba* business or speculation if profit motive gets priority over social welfare. Though cash *Waqf* fund does not belong to the *Waqif* or to the person who manages it, sometimes financial greed overtakes our moral values and transgressions happen. *Waqif* assets should be preserved in a way that maximizes social welfare. To avoid conflicts of interest, we recommend the presence of an independent line of authority between *Waqif* and *Waqf* manager for capital market and private investment to make the entire process more transparent. As of today, we have not seen any dedicated cash *Waqf* for the capital market, private equity and venture capital investment in Bangladesh. Although different countries have already applied cash *Waqf* in several areas including micro credit, SME (Thaker, Mohammed, Duasa, & Abdullah, 2016) Cash *Waqf* in Bangladesh is mainly a banking product and a money market instrument limited within few Islamic banks and the conventional banks

with their Islamic banking wings. To get most out of the cash *Waqf* fund, we recommend inclusion of other institutions in the management of the *Waqf*. One study in Jordan finds that developing cash *Waqf* into a financial instrument for micro finance is more effective to finance small projects, which play important role in alleviation of unemployment (Alani, Algodah, & Alshwaiyat, 2016). The following two charts presented in recommendation sections show the existing and proposed channels of cash *Waqf* flow.

Recommendation 1: We recommend creation of additional paths for more diversified flow of cast *Waqf* to fulfil its purposes. Mobilizing cash *Waqf* fund using different investment vehicles will increase the acceptability of cash *Waqf*. To create more cash *Waqf* investment channels, it is important that reputed institutions should come forward and regulatory authorities should develop a legal framework that addresses the trust issue of the prospective *Waqifs* (Johari, *et al.*, 2015).



Fig1: Existing path of Cash Waqf



Fig 2: Recommended path of Cash Waqf

Recommendation 2 : Governance Model of cash *Waqf* recommend monitoring of the fund through Trustee/Independent third party. Implementation of efficient collection method and distribution strategies of *Waqf* determine the success of cash *Waqf* management (Sanusi & Shafiai, 2015). We recommend this step especially for Capital market and alternative investments. Banks use mudaraba deposit accounts to accept cash *Waqf* fund from different sources, make their own investment decisions, and mobilize fund from pooled deposits to the selected sectors. The process of making investment decision of a bank is widely accepted unless there are any special circumstances that make the presence of trustee inevitable, there is generally no need of a trustee for a cash *Waqf* if the fund flows through banks and financial institutions. The following figure shows the governance mechanism of capital market and alternative investment cash *Waqf* funds;

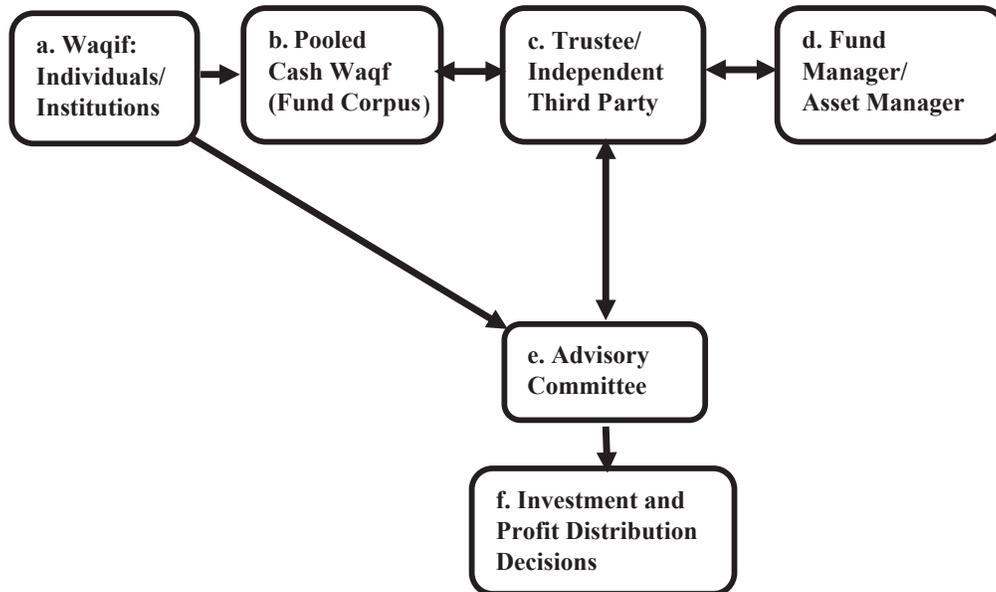


Fig 3: Cash Waqf Governance Model

a. Waqif : Individuals/ Institutions – At the invitation of Fund Manager/Asset manager who is authorized by the Securities and Exchange Commission of Bangladesh to collect cash Waqf fund from eligible persons/entities capital market/alternative, Waqif commits to give money in cash waqf corpus. Fund manager clearly prescribes the purposes of the fund, portfolio selection process, and provide other relevant information in the information memorandum (IM) of cash waqf fund.

b. Fund Corpus – The realized individual subscriptions and commitment together form the fund corpus. Whether a cash Waqf fund is open ended or closed ended must be declared in the information memorandum.

c. Trustee/Independent Third Party– The subscription money will be collected through a Trustee/Independent third party who is also the custodian of the fund corpus. The trustee will maintain the fund in a dedicated bank account and only disburse fund to the purposes that meet the terms of the contract between Waqifs and Fund Manager.

d. Fund Manager/Asset Manager– The fund manager will select and analyze the portfolio companies and forward their selection decisions to the advisory committee for approvals. Depending on the nature of investments, the committee may give blanket approval to fund manager. For example, for mutual fund operations, obtaining decisions on a daily basis is hardly possible. In such case, the committee may review their blanket approval at a regular interval.

e. Advisory committee– Advisory committee will be acting like a Shariah committee who will not only approve the portfolio proposals of Fund manager but also make full compliance with Islamic laws. An advisory committee can be formed with a combination of the Waqifs, Islamic scholars, and capital market experts.

f. Investments and Profit Distribution Decisions – Once investment portfolios generate profits, fund manager distributes the realized profits to the cash Waqf and advisory committee make the allocation of the profits to the intended purposes.

9. CONCLUSION

It has been regrettably observed that there is no initiative at all from the Office of the *Waqf* Administration in Bangladesh to introduce and nurture cash *Waqf* practices in the country. As such this research has focused on private and non-government initiatives for cash *Waqf* developments in the country. Some of the private Islamic Banks have come up with some products on cash *Waqf*. However, these products are not enough to bring this practice to the door steps of the greater audiences who are willing to donate are not aware of cash *Waqf* concept at all. This paper has discussed the current situations of cash *Waqf* in Bangladesh and argued for the need of modern and innovative approach towards *aWqāf* in general and cash *Waqf* in particular reviewing lessons from selected countries including Bahrain, Indonesia, Kuwait, Malaysia, Singapore, and Turkey. A brief discussion of the role of cash *Waqf* in poverty alleviation is also provided in the later section of this paper.

The purpose of this paper was by no means to deal with cash *Waqf* comprehensively because the scope of this research does not warrant that. This research attempts to show where does the country stand in terms of cash *Waqf* practices and to draw lessons from those countries as cash *Waqf* holds a lot of potential for an overpopulated country like Bangladesh where the prospects for creating land based *Waqf* has been narrowed down substantially.

Our cross-country review of cash *Waqf* practices represents a combination of countries with different demographics; such as an overpopulated country like Indonesia; Muslim-minority countries like Singapore; and affluent Muslim nations like Bahrain, Kuwait, Malaysia, and Turkey. Our finding shows that cash *Waqf* practices in these countries address different welfare needs of the deserving sections of population and sectors of these countries. We also find the examples of cash *Waqf* based projects from these nations that irrespective of a country's economic and demographic standing; cash *Waqf* can play its role of welfare not only for the poor and unprivileged population segment but also for the affluent segment of the population.

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