

The Institution of Waqf : A Non-Profit Institution to Financing the Needy Sectors

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ABSTRACT

The institution of waqf has played a significant role throughout Islamic history, from the time of the Prophet (pbuh) to the beginning of the 19th century. Although this institution existed before the coming of Islam, yet, Islam was the first religion to develop its legal framework and to regulate it. Thus, it became one of the devices created by the Muslims to fulfil many crucial services in various sectors that are today financed by the state or the government, such as education, health care, national security, commercial business, transportation facilities shelter and food for the poor and needy, creating jobs for many people, besides supporting the agricultural and industrial sectors without inflicting any cost on the government. The beauty of this institution is that, it is a non-profit and a redistribution institution, its primary objective being not for the sake of profit but to support an issue or matter of private interest or public concern for the welfare of society. The main objective of this paper is to emphasize the importance of the role of the institution of waqf, a non-profit institution, and to draw attention to the fact that it can become one of the institutions to finance the needy sectors in the Islamic world. This can be done by dividing this paper into four sections in which the legal framework for the institution of waqf will be given, the historical role of the institution of waqf will be highlighted and the role of the non-profit institution in the developed countries will be presented. Lastly expansion of the role of the institution of waqf will be elucidated.

1. The Legal Framework for the Institution of Waqf

The institution of waqf is as old as Islam. The history of Islam traces the date of this institution back to the time of the Prophet (pbuh) up to the present time. Although there is no clear legal reference to the waqf in the Qur'an, early Muslim jurists relied on the *Sunnah* of the Prophet (pbuh) and the actions of his companions to derive its laws. Being a deduced law, this allows a certain measure of flexibility in deriving its law by the different schools of fiqh. Besides, Islam encourages us to take the simplest way as long as it is in line with the Islamic Shari'ah as stated in the Holy Qur'an in the following verse;

God intends every facility for you; He does not want to put you in difficulties (*Surat al-Baqarah*, 2:185).

This draws to our attention the fact that the law of waqf gives flexibility to Muslims in the different countries to choose from any school of fiqh as far as there is a need to improve the situation of waqf properties and to increase the revenue generated from them in order to benefit more beneficiaries as long as it does not conflict with the Islamic rules. This section will be divided into three parts in which the definition of waqf will be given, the legitimacy for the creation of cash-waqf will be presented, and the types of waqf properties will be classified, and ways of investing waqf properties will be highlighted.

1.1 Definition of Waqf

The terms, waqf (plural *awqaf*) and *habs* (plural *ahbas*) mean 'to stop, to prevent, to restrain' i.e. *al-habs wa al-man'*. The word *tasbil* is also used in the same sense, i.e. devoting in the way of Allah (*fi sabil Allah*). Although the two terms, waqf and *habs*, have the same meaning, different countries prefer different usages. For example, the term waqf is used in Lebanon, Israel, Jordan, Iraq, and the United Arab Emirates, while the term *habs* is more commonly used in North Africa. In Turkey the term *vakif* (plural *evkaf*) is used, and in Malaysia the term waqf is spelt as wakaf (plural *awqaf*). All these terms have the same meaning, which is the holding and preservation of a certain philanthropy *sadaqah* (charity) with the intention of prohibiting any use or disposition of the property beyond the specific purposes to which the property is dedicated, and in a way that it cannot be bequeathed or sold. There is a consensus among the *fuqaha'* (Muslim jurists) regarding the definition of these terms. According to them all these terms mean the appropriation of the '*ayn* (property) from private ownership and the dedication of its usufruct to charitable purposes.

Following the same definition and proposing the inclusion of the creation of cash waqf in this paper our definition for the term waqf will be as follows:

“ The confinement of property, movable or immovable, from the ownership and the dedication of its usufruct in perpetuity to the welfare of society”

1.2 Classification of Waqf Property

Although the classification of waqf property did not take place during the time of the Prophet (pbuh), the various schools of fiqh classified it later in different ways. In this paper, waqf property will be classified from two perspectives: according to *al-mawquf 'alaihm* (the beneficiaries) and *al-mawquf* (endowment property).

1.2.1 Subject to *al-Mawquf 'Alaihim* (The Beneficiaries)

According to this type of classification, waqf is divided into three types, *waqf khayri* (public waqf), *waqf dhurri* (family waqf) and *al-waqf al-mushtarak* (combined public and family waqf).

Waqf *khayri* (public waqf) is an endowment made by the founder to support the general good and welfare of society, the poor and the needy. Usually the founders created such waqf in the form of buildings such as mosques, schools, hospitals, orphanages houses, guest houses, or dedicated books, surrounding lands such as cemeteries, and dedicated weapons.

Al-waqf al-dhurri, *al-waqf al-ahli* and *waqf 'al-awlad* are all the same and refer to family waqf. In this case, the founder endows his property to his children and grandchildren, relatives or to other persons he specifies. If the beneficiaries specified by the founder are no longer alive, then only in this case will the waqf property be given over for public welfare purposes.

Al-waqf al-mushtarak (combined public and family waqf) is a waqf created by a founder to support both the public and his family, i.e. the founder dedicates a part of his property to his family and another part to the public.

2.1.2 Subject to *al-Mawquf* (the Endowment Property)

According to this classification, waqf can be divided into six kinds, *waqf manqul* (movable waqf), *waqf ghair manqul* (immovable waqf), *waqf sahih* (sound or valid waqf), *waqf ghair sahih* (unsound or invalid waqf), and direct and indirect waqf.

Waqf ghair manqul (immovable waqfs), are waqfs that include immovable property such as; land, fields, farms, or buildings such as mosques, schools and hospitals, orphanages and agricultural lands. *Waqf manqul* (movable waqfs) are waqfs that include movable property such as; cattle and implements of animal husbandry, books, crops, weapons, medical instruments, cash-money.

Waqf sahih (sound or valid waqfs) are waqfs that are founded upon *mulk* land i.e. upon privately owned freehold property over which the owner held complete rights of alienation. In contrast, *waqf ghair sahih* (unsound or invalid waqfs) are waqfs that are founded upon lands that had originally been *meiri* i.e. state owned lands, and whose property therefore belonged to the public treasury.

The terms **Direct** and **Indirect waqfs** have been recently used according to which whereby direct waqf refers to waqf in its form to serve the people free of charge, for example, buildings in the form of mosques, schools, hospitals, libraries, in order to serve people for praying, providing free education for many people, and to treat patients free of charge. For the continuation of this type of waqf, the creation of indirect waqf is needed in order to provide the running expenses for those direct waqfs. For example, dedicating or creating waqfs in the forms of shops, houses, and agricultural lands and the revenue generated from these waqfs will be directed to support the direct waqf.

All the above-mentioned waqf benefit the people in particular and the welfare of their societies in general.

1.3 Legitimacy of Cash-Waqf

In this paper, the legitimacy of cash waqf will be highlighted in order to support the creation of cash waqf on one hand and in order to open the door for more people to create cash waqf on the other. In this case, the views of Muslim scholars from the different schools of fiqh will be highlighted below.

A disciple of Abu Hanifah, Imam Zufar (d.158A.H./ 774A.D.) approved all movable properties to be dedicated as waqf including the waqf of *dirham* and *dinnar* i.e. waqf *al-nuqud* (cash waqf). Along the same lines, Imam Zufar confirmed that jewellery could also be dedicated as waqf. He based his opinion on the act of Hafsa (may Allah be pleased with her), the wife of the Prophet (pbuh) and the daughter of ‘Umar b. al-Khattab, who dedicated her jewelry to her relative. In addition, both Imams Muhammad (d.189A.H./ 804A.D.) and al-Sarakhsi (d.490 A.H./ 1096A.D.) had approved all movable properties as the subject matter for waqf. Furthermore, Imam Malik b. Anas (93-179A.H./ 711-795A.D.), agreed on both immovable and movable properties as a subject matter of waqf even if it is cash-waqf. With respect to the other two schools of fiqh, both Imams al-Shafe‘i (150-204A.H./ 767-819A.D.) and Ibn.Hanbal (164-239A.H./ 780-853A.D.) also agreed on the validity of both immovable and movable properties as a subject matter of waqf

From the above and in general we can say that all schools of fiqh agreed upon movable properties as a subject matter of waqf including the creation of “cash waqf”. Hence, this can open the door for all Muslims irrespective of their being rich or from the middle class, to create cash waqf.

1.4 Modes of Investing and Financing Waqf Properties

From the above, we realize that the majority of Muslim jurists accept both types of waqf, movable and immovable, as a subject matter of waqf. Hence this will guide us to ask the following question. How could these immovable and movable waqf properties be invested in order to finance the specified beneficiaries?

1.4.1 Investing and Financing Immovable Waqf Properties

Regarding immovable waqf properties that are in the form of agricultural land or real estate, the investment is simple and it can be invested directly through direct rent. In the case of idle waqf properties, i.e. waqf properties that had been left unused for a long period and without generating any revenue, most of the Muslim jurists agree on four modes to finance such properties in order to change their state from unproductive waqf properties to productive ones.

The first one, is known as *al-hikr* (long lease right). This mode was developed by the Muslim jurists in the middle of the third century of *hijrah* in order to prevent the waqf property from being sold in case it came to any harm. In this case, the right is given to the trustee to lease the waqf property on a long lease at a nominal periodical rent. This right is sold for a large lump sum, which is approximately equal to the value of the waqf property in advance and with a nominal periodical rent paid to the trustee. However, this method has its advantages and disadvantages. The advantage is that a large lump sum of money can be obtained which can finance other waqf property and which can, in return, produce more

income than the previous situation. Its disadvantage is that the right to utilize the land has been given to the lessee for a very long period of time, in some countries up to 99 years, with a nominal periodical rent. Moreover, the long lease encourages the lessee to sell or to inherit the property which, in turn, will create another problem, i.e. usurped property right, as the heir of the lessee will claim ownership of the property in the long run.

The second mode is known as *al-ijaratain* (the lease with dual payment). This method emerged as a result of the destruction of most of the waqf properties by fire in Constantinople in 1020 A.H. At that time, most of the social services depended on waqf. To solve this, they had to initiate the dual method to finance and reconstruct these damaged waqf properties. This is also a long lease contract with a large lump sum to be paid in advance, which is approximately equal to the value of the waqf property for reconstruction and with a nominal periodical rent. The difference between this method and the long lease method is that the building and the land continue to be owned by the waqf as the large lump sum is used to reconstruct and to renovate the damaged waqf building. The only disadvantage in this case is that the large lump sum received by the waqf department has to be spent on reconstructing and renovating the waqf property for the benefit of the lessee with a nominal periodical rent. The only advantage is merely the name because the property is still in the owner's possession. However, it is also subject to the same conditions applied in the long lease contract, i.e. usurped property right.

The third mode is known as *al-istibdal* (substitution). This method is to exchange the waqf property for another property or for cash in order to renovate the old one. According to the majority of Muslim jurists if the waqf property becomes incapable of producing services or revenue either because of the location or because of the age of the building, such properties can be replaced with new ones by exchanging them. The advantage of this mode is that it provides liquidity, which is needed in order to renovate the old waqf property.

The fourth mode is known as *al-mursad* mode, in which an advance lump sum is paid by the lessee to be credited by the waqf department towards the agreed upon periodical rent applicable after reconstruction. The advantage of this mode is that the waqf land is developed but the disadvantage is that the lessee will claim his ownership of this land after a long time.

1.4.2 Investing and Financing Movable Waqf Properties

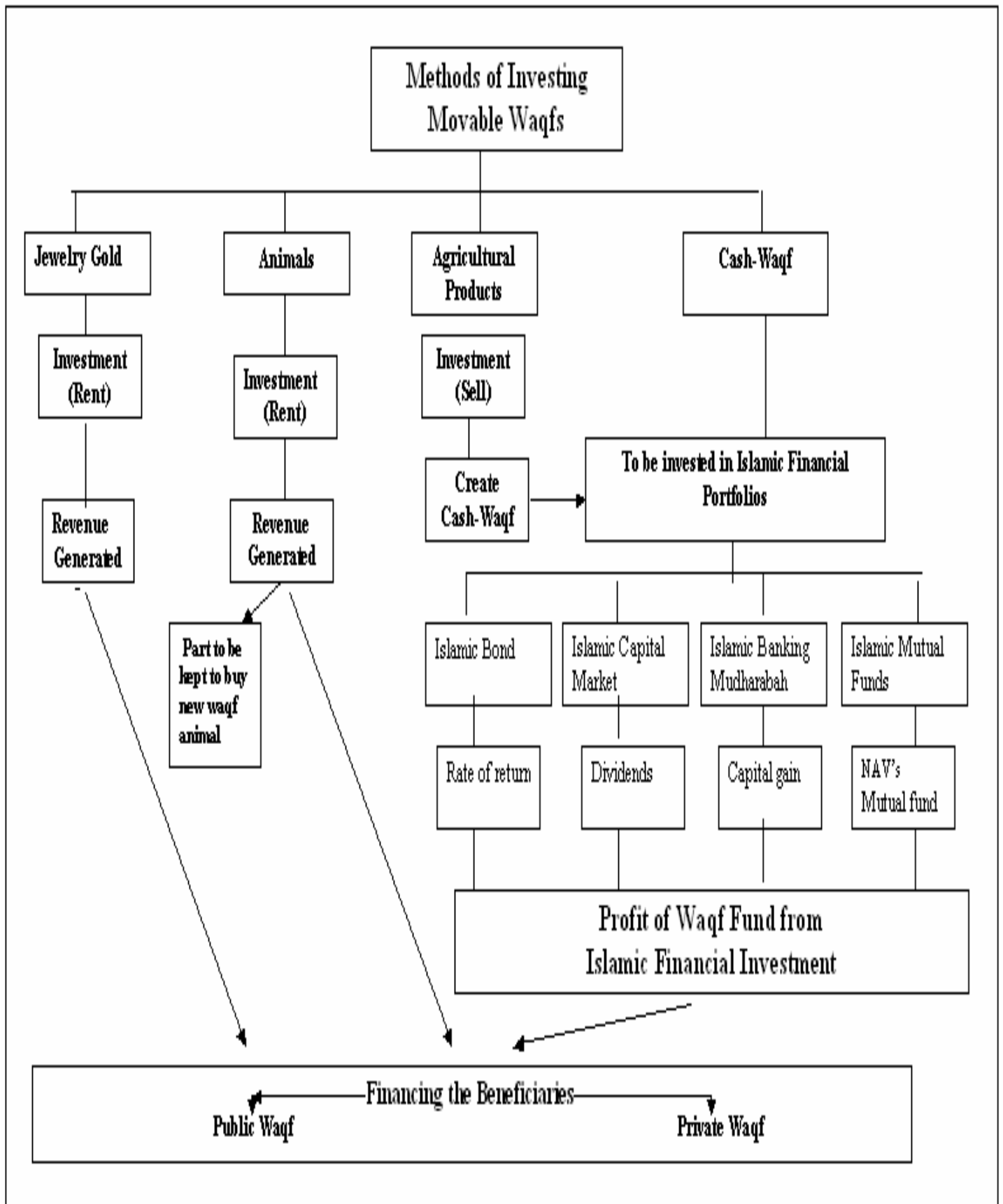
Regarding Movable Waqf Properties, people usually question how to invest and finance waqf in terms of jewellery, animals waqf, agricultural waqf products and lastly, cash-waqf which will face the risk of *riba* (interest). The majority of Muslim jurists who approved the validity and legality of these items, clarify how to invest them according to Islamic law.

As for investing women's jewellery, which is created as waqf, this was clearly explained by the action of one of the wives of the Prophet (pbuh) and the daughter of 'Umar Ibn al-Khattab who donated her jewellery as family waqf. She used to rent her waqf jewellery to finance her relatives, i.e. al-Khattab's family.

In case the waqf property is not in a liquid form, according to the views of Imam al-Shafei, Imam Malik and Imam Ahmad b. Hanbal, everything the sale of which is valid and which can be renewed from time to time by its usufruct, or otherwise, can be validly dedicated. For example, animal given in the way of Allah can be rented and some of this rent used to keep buying new animal or the animal can be sold and can be replaced by young ones to ensure

the perpetuity of the animal as a waqf. Moreover, according to the view of Muhammad b. ‘Abdulah al-Ansari, who was a follower of Imam Zufar, measurable and weighable waqf property could be sold and its proceeds invested in *mudarabah*, i.e. changing its status from an agriculture product to cash waqf. In the above cases, the principle of the perpetuity of the waqf will be clear.

In the case of the liquid form, i.e. cash waqf, the *mudarabah* (partnership) has been recommended by Muslim jurists. According to the view of Imam Zufar the money deposited as a waqf can be invested in *mudarabah* and the return to be used for pious purposes, i.e. to finance needy areas.



2. The Role of the Institution of Waqf: Past and Present

Waqf was frequently created during the lifetime of the Prophet (pbuh). Whenever the Prophet identified a need for any service, he either fulfilled it through the creation of waqf or he encouraged his companions to create waqf to satisfy that need. For example, when he felt the need for a regular place for Muslims to perform their daily prayers he built two mosques, the Qubah Mosque and al-Masjid al-Nabawy in Madinah. These two mosques were used for Muslim daily prayers and as educational centres in which they were taught about their religion. Furthermore, the Prophet dedicated his two lands, one in al-Madinah for the benefit of all Muslims and the other in Khaybar to support the newly converted Muslims.

The Prophet (pbuh) also encouraged his companions to create waqf whenever they felt the need. For example, he encouraged Muslims to dedicate their weapons for jihad; this was clearly stated in his *hadith*, which shows that Khalid b. al-Walid had given his weapons as *habs* in the way of Allah. He also encouraged his companions to buy wells for the benefit of Muslims, and this was also clearly mentioned in the Sunnah when the Prophet made a public announcement inviting volunteers to buy the well of 'Rumah' and make it a waqf in order to supply free drinking water for Muslims. The Prophet also encouraged his companions to dedicate waqfs for their relatives, children beside the poor and the needy.

As time passed the creation of waqf did not only cover the building of mosques, houses, weapons, lands and wells, but it expanded during the Ummayah and Abbasid times and covered almost all social services. As Islam spread, the demand for more Islamic knowledge increased. This encouraged believers to increase the number of places for teaching. So instead of using mosques as educational centres in which teaching circles usually existed, additional buildings attached to the mosques were added to provide more room for the additional students. These were called *katatib* which resembled today's primary schools. It has been reported that Ibn Hawqal in his book 'The Geography' mentioned that this type of primary schools reached 300 in number in the city of Baqaliah alone, and they accommodated thousands of students. Later on, due to the increase in the number of people who converted to Islam, the need for more schools to teach Islamic education emerged. This made rich people and rulers create waqfs in the form of separated schools, while others created waqf to finance students, teachers and scholars. Moreover, more libraries were created as waqf too. The benefit of waqf did not only cover the education sector, but it spread to benefit orphans and guests through creating waqf in the form of houses to shelter them. Furthermore, it had been highlighted that the wife of Harun al-Rashid created many waqfs to serve the service sector, such as the well in Makkah known as 'Zubaidah'. She constructed highways, bridges, agricultural lands, and water supply were also created by her in Makkah. Besides, many scholars and scientists achieved their scientific positions by using this waqf revenue. Scientific centres such as Dar Al-'Ilm, Dar al -Hekmah, and Jami' al-Azhar in Egypt in 400-405 A.H. were all built from waqf revenues.

In addition, the health sector benefited from the waqf revenues too, not only in the Muslim society but also worldwide where it covered the European countries too. Many waqf properties were established either to support hospitals or to build them, e.g. it has been estimated that there were 50 hospitals in Cordoba alone which were built as waqf hospitals. Waqfs revenue also financed famous medical publications such as the '*Kitab al-Kiliyat fi al-Tib*' of Ibn Rushd, which was translated into different languages and became the main medical book in Europe, besides the '*Kitab al-Hawi fi al-Tib*' of Ibn Sina. The institution of

waqf also showed a great concern for animals as many people created waqfs in order to provide food for animals and hospitals to cure them.

The creation of waqfs reached its peak from the 15th century up to the 19th century during the Ottoman period as many Sultans and rulers created numerous of waqfs in the form of schools, hospitals, mosques and agricultural land. The institution of waqf also provided food and jobs for the majority of the people. For example, it has been estimated that three-quarters of all the arable land during the time of the Ottoman Empire belonged to waqf; hence, most of this land was cultivated to provide food for the people and at the same time it created jobs for them. It has been estimated that the ratio of people employed by the institution of waqf to those employed directly by the state in Turkey in 1931 was 8.23% to 12.68%. This encouraged many ministers and princes to establish more waqfs, and this type of waqf was known as '*Al-Awqaf al-Sultanah*'.

From the above, we can realize that the role of the institution of waqf during the early period of Islam until the beginning of the 19 century was that of a network, which penetrated all needy sectors whenever it found a need to promote that sector. For example, it served the agricultural sector, the service sector, and the social sectors. And it even provided jobs, food for the hungry and animals, infrastructure, without any cost to the government. However, the centralization of the administration of this institution which took place towards the end of the 19th century led to its destruction in most of the Muslim countries, which were under Ottoman rule, till the present time. Hence, people were discouraged from creating any new ones. This forced the government to be responsible for providing all the services needed by the public, such as education, health care, infrastructure as well as the security of the country, which usually exhausted the budget of the government.

3. The Role of the Non-Profit Institution in the Developed Countries

During the last few decades, voluntary institutions in the developed countries have received more attention from the government and the media than ever before. The experience of the non-profit institutions in the United States, the United Kingdom, Sweden, France, Germany, and Australia has shown a significant role in different areas. Below are some examples of this role;

The nonprofit institutions in Sweden are among the largest in the world on a per capita basis, comprising some 200,000 institutions. This sector is heavily dependent on government subsidies and receives relatively little financial support from the private sector. The institutions that comprise it are engaged in three main activities, social reform, recreation and personal development, and the promotion and protection of institute's interests. In Sweden, most charitable and assistance efforts are directed to poor countries in Africa and Asia.

The voluntary sector is also very important in the United Kingdom. In 1979 the state realized that it could not cover all social services, so they started supporting any voluntary institutions through tax breaks, special mail rates and tax deductions for donors. Also, all private institutions and voluntary organizations have been encouraged to provide and partly finance the social services. In 1980 and 1981, the income of registered charities was £7.8 billion, approximately 3% of the Gross National Product (GNP). By 1985, that figure had topped £12.6 billion, or 4.1% of the GNP. These charities came from two sources, voluntary income such as legacies, other gifts, and voluntary fund raising, and from other income such

as trading, sales of good and services, local and central governments grants, rent, investment and general income. In 1988, the recipients of charities valued them at £996 million. The largest recipient groups of these charities were “Medicine and Health” with £343 million, direct services to needy people with £268 million, international aid with £193 million, religious and missionary work with £54 million, animal protection with £47 million, preservation of heritage and the environment with £70 million, youth and children with £12 million, arts with £7 million and education with £2 million. Most of the income of these charities came from grants, donations, commercial activities, rent and investment.

In the United States, volunteering is regarded as the responsibility of active citizenship. To encourage these nonprofit institutions, the government has granted them special privileges that give them significant advantages in the market place. They are exempt from Federal, state, and local taxation and from many regulations. They also receive preferential postal rates and other subsidies, and they often have preference in obtaining government grants and contracts. Moreover, to encourage donors the government grants them subsidies for giving money, goods or even time. The nonprofit institutions play a major competitive role in various areas. In 1987 the non-profit institutions represented 59% of the total social services provided by the government and the public sector. In 1989, nonprofit institutions contributed to the health sector with 56% of the total services provided to the country. They financed 3427 hospitals compared to the public sector, which financed 1142 hospitals during the same year.

In 1990 the income of non-profit institutions was \$315.9 billion, which increased to \$621.4 billion in 1996. In 1989, the number of people employed permanently in the philanthropic sector was estimated at 9.3 million that is 6.7% of the total number of people employed. Those employed in the philanthropic sector obtained an estimated income of \$169.9 billion which is equivalent to 5.2% of the total income earned by those employed in America. Non-profit institutions also represented 49% of institutes and universities at a cost of 34% of the total expenditure on higher education, and accounted for 20% of registered students. Moreover, they sponsored 24% of the elementary and secondary schools at a cost of 8% and a number of places for students, which represent 11% of the total places available.

In France, voluntary associations increased from 22,000 in 1974 to 47,000 in 1983. These associations play an important role in employment, whereas employment was in stagnation in the French public and private sectors in the early 1980’s, voluntary associations of all kinds had 770,000 full time–employees (i.e. 4% of the national employment work force).

In Germany, the German welfare associations run more than 60,000 units that provide health care and social services. This represents a share of 70% of all family services, 60% of all services for the elderly, 40% of all hospital beds, and 90% of all employment for the handicapped. It employs about 580,000 people, i.e. 2.7% of the employed national work force full time. Similar to France, these voluntary associations play an important role in employment. For example, while the general employment decreased slightly between 1982 and 1985, the nonprofit sector’s share of total employment increased from 1.62% in 1982 to 1.88% in 1985.

In Australia, nonprofit institutions receive some form of assistance from government. Most pay no tax on their income, donations to some will reduce the donors’ taxable income, many local bodies will pay no or a low rate of local taxes, and they receive other facilities such as rent-free premises from local governments. All this has resulted in the success of the role of

these institutions in Australian life today. For example, a quarter of primary and secondary schools pupils attend private nonprofit schools. 12% of all hospital beds are provided by nonprofit institution, and these institutions provide one-third of nursing home beds. Moreover, nonprofit institutions provide more than half of all welfare services. These include family support services, emergency accommodation, and hostel accommodation for elderly people, and services for people with disabilities. Besides, nonprofit institutions organize almost all sports.

To sum up, reviewing the role of the institution of waqf, during the early Islamic Civilization and the role of the non-profit institution in the developed countries at the present time, we realize that they both contribute to the welfare of their societies at large without inflicting any cost on the government. However, we also realize that the non-profit institutions in the developed countries have emerged recently within the last three decades and yet they play a remarkable role in terms of attracting donors, the huge amount of income collected by them, their efficiency in distributing the profits to needy areas, and their notable role in employment, while the institution of waqf emerged from the beginnings of Islam but at the present time the governments in Muslim countries are discouraging people from creating new waqfs since they have centralized their administration.

4. Expansion of the Role of the Institution of Waqf

The main objective of this section is to encourage people from all levels of society to create movable waqf especially cash waqf. This will improve the present situation of the institution of waqf, on one hand, and, on the other, it will enhance its role to become one of the financial institutions that can finance more services needed by Muslim societies. This brings us to ask the following question. How to create cash waqf? How to invest cash waqf? And, how to distribute its revenue to needed areas? All these questions will be answered in the following sub-section.

4.1 The Creation of Cash Waqf

Cash waqf consists of an amount of money deposited by the founder, as a waqf with the stipulation that the revenues be used for a pious purpose, leaving its principle intact. The aim of introducing cash waqf is to facilitate the process of creating waqf for people from all levels of society, regardless of whether they are rich or not, with the minimum amount of money they can afford to pay and at the same time it encourage them to participate in the welfare of their societies. Since this paper is addressing the creation of cash waqf, the establishment of a Financial Waqf Institution is proposed in order to accumulate the money collected as cash waqf and to invest it through Islamic modes as presented earlier. The revenue generated must then be distributed according to the founder's conditions besides financing the needed areas as explained below.

Looking at the amount of donations made to the non-profit institutions in the developed countries, one may think that these figures are unbelievable and unreachable for Muslim countries to achieve. However, if we look at the Muslim population in the whole world, we will realize that the Muslim populations in the different countries rang from 1million up to 195 millions, and the labour force are ranges from 50 thousand up to 60 millions.

Now, let us take a few examples from the different Muslim countries and try to find out how Muslims can create cash-waqf with the minimum amount of money they can donate and once in their lifetime. Our assumptions in this case are: the government in those countries is supporting the institution of waqf, as in the developed countries and they grant the founders many privileges. Rich people as well as middle class people are encouraged to create cash waqf even once in their life time.

Case One: Malaysia

For example, let us consider a country like Malaysia where the Muslim population is 14 million. If we assume that the Muslim labour force is about 5 million and that only one million Malaysians are wealthy and can afford to create cash waqf of \$1000 per year and that 4 million Malaysian from the middle class can afford to create cash waqf of \$100 per year this means that their creation of cash waqf will add up to \$1.4 billion for one year, as can be clearly seen from the following calculation.

Rich people	\$1000 x 1 million	= \$1.0 billion
Middle class people	\$ 100 x 4 millions	= <u>\$0.4 billion</u>
Total		<u>\$1.4 billion</u>

Case Two: Egypt

In Egypt, the Muslim population is 69 million. If we assume that the Egyptian labour force is about 20 million and that only 5 million are wealthy and can afford to create cash waqf of \$1000 per year and that 15 millions from the middle class can afford to create cash waqf of \$100 per year this means that their creation of cash-waqf will total \$6.5 billion for one year as can be clearly seen from the following calculation.

Rich people	\$1000 x 5 million	= \$5.0 billion
Middle class people	\$100 x 15 million	= <u>\$1.5 billion</u>
Total		<u>\$6.5 billion</u>

Case Three: Pakistan

In Pakistan, the Muslim population is 160 million. If we assume that the labour force is about 35 million and that only 5 million are wealthy and can afford to create cash-waqf of \$1000 per year and that 30 million from the middle class can afford to create cash waqf of \$100 per year this means that their creation of cash waqf will total \$8 billions for one year, as can be clearly seen from the following calculation

Rich people	\$1000 x 5 million	= \$ 5 billions
Middle class people	\$100 x 30 million	= <u>\$ 3 billions</u>
Total		<u>\$ 8 billions</u>

Case Four: Indonesia

In Indonesia, the Muslim population is 195 million. If we assume that the labour force is about 50 million and that only 10 million are wealthy and can afford to create cash waqf of \$1000 per year and that 40 millions from the middle class can afford to create cash waqf of

\$100 per year this means that their creation of cash-waqf will add up to \$14 billion for one year, as can be clearly seen from the following calculation.

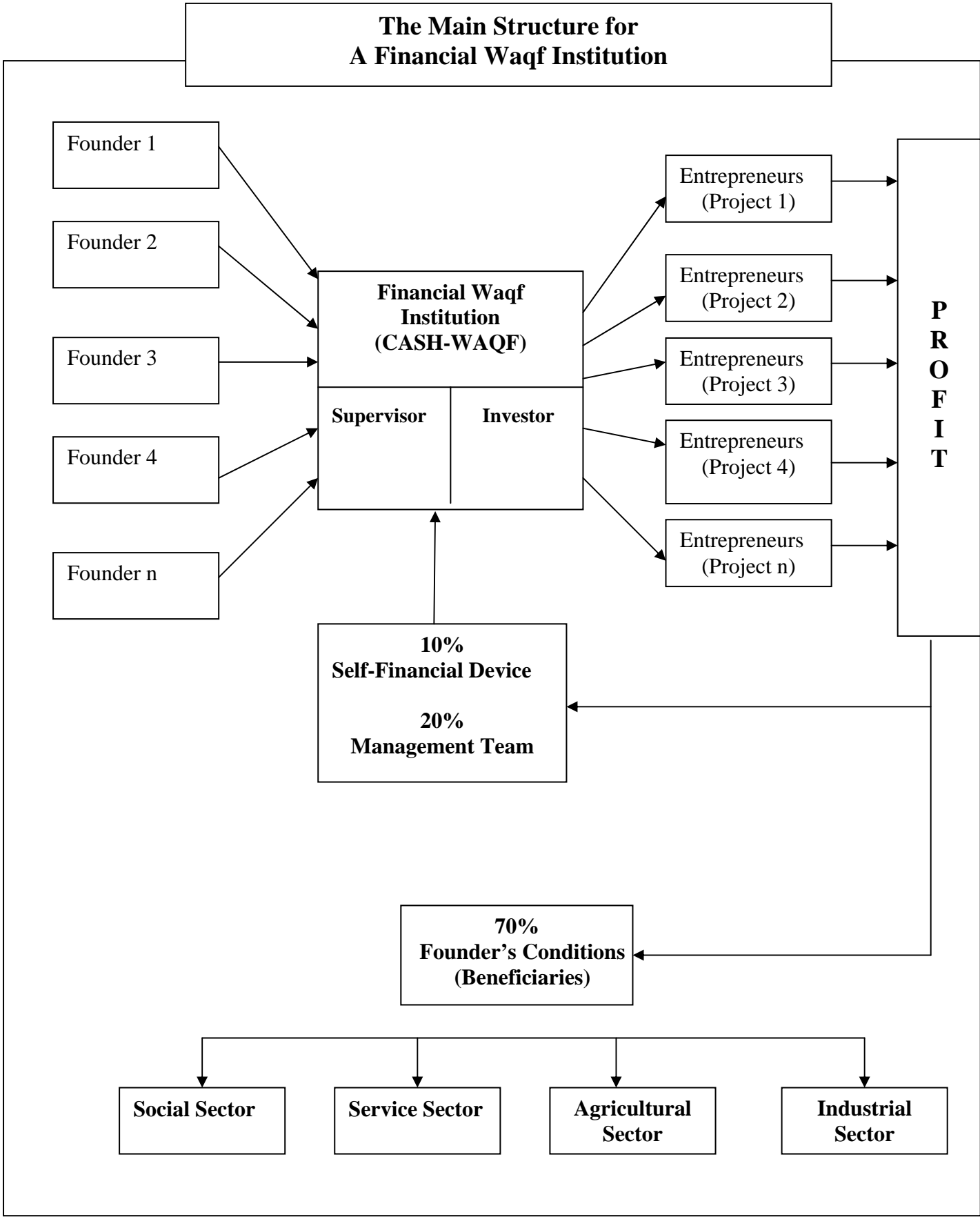
Rich people	\$1000 x 10 million = \$10 billions
Middle class people	\$100 x 40 million = <u>\$ 4 billions</u>
Total	<u>\$14 billions</u>

From the above we realized that a huge amount of cash waqf could be created in the Muslim countries even double the amount that has been created and donated to non-profit institutions in the developed countries. Moreover, we realize that our assumption in this case is to encourage people to create cash waqf using the minimum amount they can give and once a year. If we could encourage people to create more cash waqf and for many times especially the rich people, double or triple of these amount can be collected as cash-waqf which can really cover all the public services needed in the Islamic societies without inflicting any cost on the government and without forcing the government to borrow from Western countries to provide such services.

4.2 Establishment of a Financial Waqf Institution

From the above section, we are proposing to expand the role of the institution of waqf by encouraging people to create cash waqf. In this case the establishment of a financial waqf institution is much needed for the following reasons: to invest the newly created cash waqf according to Islamic financial modes, to finance needy areas specified by the founder of the waqf, to finance old waqf property instead of using the old mode of financing in which they will face the risk of losing the waqf property in the long run as highlighted earlier.

In line with the experience of the Islamic banks, the proposed Financial Waqf Institution can act as an Islamic bank in which all founders can deposit their cash waqf in the proposed Financial Waqf Institution. This financial waqf institution can then finance big projects that are needed in the country. In addition the profit generated from this investment can then be divided into 10% to be kept as a self financing device, 20% to be given to the management team, and 70% to be directed to the beneficiaries according to the founders' conditions. This can be explained clearly from the following structure.



a multitude of founders and entrepreneurs. Like the Islamic bank, this can also be called triple *mudarabah*, in which three main groups are involved; the founders, the financial waqf institution and the entrepreneurs (with whom the financial waqf institution signs a partnership contract and provides finance to finance big projects). The function of these institutions can be as follows: First, the financial waqf institution collects all the cash donated by the founders. Then these financial institutions can utilize this cash waqf by financing the big projects which are needed in the country. Here, it is also worth mentioning that this financial waqf institution has a double personality, just like the Islamic bank. In the first phase, it functions as a *nasir* (supervisor) to whom the founders entrust their cash waqf, and in the second phase, it assumes the role of a major investor financing a multitude of entrepreneurs. Hence, the character of the financial waqf institution changes from supervisor to investor once it has signed partnership contracts with those entrepreneurs. Whatever forms of Islamic partnership may be used, the profit of each entrepreneur is shared according to the stipulations of the contract signed between the financial waqf institution and the entrepreneurs. The institution's share of the profits from all the ventures is then pooled in a reserve. At the end of the financial year, this profit can be distributed as follows; 20% goes to the management staff and employees as remuneration for their efforts in running the cash waqf. This will motivate them to mobilize the funds efficiently as their remuneration is linked to their results at the end of the year. 10% can be kept within the institution as a self financing device or reserves. The third part, which is 70%, can be channeled according to the founder's conditions and to needy areas in society.

4.3 Distribution of Waqf Revenues to Needy Areas

Before the founder creates cash waqf, a detailed waqf deed has to be given to the founder, as in the case of Bangladesh. In this waqf deeds the founder has to specify into which Islamic mode he/she prefers to invest his/her cash waqf. He/she can also specify what percentage should be given to the management staff, self financing device and the beneficiaries. Since the aim of creating cash waqf is to benefit society, the beneficiaries in this case will be the different needy sectors, and the founder has to choose from the listed needs which area he/she prefers to support.

The following is the list of some of the needy sectors in the Islamic countries and in which it is believed that the institution of waqf can play a role to finance them.

Social Sector

- To provide shelter to needy families
- To support the rural poor to undertake economic ventures to enhance their living conditions.
- To feed hungry children, women and old people.
- To expand and develop education for skills development.
- To help to educate poor children and orphans in certain schools.
- To support children whose school fees must be paid.
- To support in building schools, colleges and universities.
- To buy medical instruments for a certain hospital, to support doctors' salaries in a certain clinic, or to help in building a hospital in a certain residential area.
- To support rural health care and sanitation.
- To pay for the hospital bills of those who cannot afford but need medical attention.

- To support the building of hospitals, clinics, health research centres, and laboratories.
- To support buying hospital furniture such as bedside tables.

Service Sector

- To supply pure drinking water to certain rural areas.
- To construct, install and develop public utility services.
- To help in building electrical power stations, constructing highways and bridges in certain areas.
- To provide transport in certain areas.
- To maintain specific infrastructure utilities.

Agricultural and Industrial Sectors

- To provide adequate irrigation facilities, agricultural and industrial machinery.
- To help in building storage to store agricultural and manufactured products.
- To help in building research centres for good quality production and marketing.

Conclusion

Two important facts are noted in this paper. First, the remarkable role that the institution of waqf played during the early period of Islam and, second, the notable role of the non-profit institution in the developed countries at the present time. In this paper, the legal framework for the institution of waqf has been given as guidelines to include the creation of movable property as a subject matter of waqf especially cash waqf and to encourage people to create cash waqf widely. For this purpose, a financial waqf institution has been proposed in order to accumulate all cash waqf and to invest it according to Islamic modes of investment with the revenue generated used to finance needy sectors.

We hope that by encouraging people to create cash waqf the role of the institution of waqf can be expanded and can become one of the instruments to finance the needy sectors in Islamic countries

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