

# CASH-WAQF A NEW FINANCIAL INSTRUMENT FOR FINANCING ISSUES: AN ANALYSIS OF STRUCTURE AND ISLAMIC JUSTIFICATION OF ITS COMMERCIALIZATION

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## **Abstract:**

*Cash-Waqf* means the dedication of some money from one's possessions and establishing a *Waqf* based on that amount and offering it to the benefit of people generally or allocating it to make use of them by some segments of the community particularly. In this meaning and from theoretical and implemented point of view, some kinds of *Waqfs* have caused disputes.

In this study, we start with putting forward the definition and introducing different types of *Waqf* and then focus on *Waqf's* components and sources. Then, legal status of cash *Waqfs* will be evaluated. Also we focus on the development of *Cash-Waqf* management from theoretical perspective particularly in modeling the optimal cash *Waqf* management. The management of *Cash-Waqf* has a unique characteristic that conceptually is different from the management of foundation, charities or donation fund in Western perspective, i.e. Ford, Rockefeller, Carnegie, British Trust, etc. *Waqf* has a principle of perpetuity that makes it differ from a foundation, charity or ordinary donation fund as widely practiced in Western countries. Perpetuity principle means that the principal of *Waqf* should be preserved, but its benefit is available for repeating extraction whether for religious or philanthropic and righteousness purposes. Perpetuity in *Waqf* means that once a property is devoted as a *Waqf*, it remains so that until the Day of Judgment and no one can change it later on. So the property of *Waqf* can not be sold, transferred or liquidated. The ownership of *Waqf* property lies outside the *Waqif* (person who perform *Waqf*) or *Mutavalli* (person who entrusted to manage) but it belongs to Allah. So the *Waqf* property should be hold, maintained, preserved and prohibited from disposing. Finally, we will peruse Islamic (*Shia*) approach on models which we will depict.

**Keywords:** *Cash-Waqf*, *Waqif* (Founder), *Mawquf 'alaih* (Beneficiaries), *Mawquf* (Property or Cash), *Waqf Contract* (*Waqfieh*), *Mutavalli*.

## **Introduction:**

From historical point of view there is no precise history to identify "What time was the emersion of *Waqf* exactly?" However from some historical surveys we can deduce that *waqf* was originated at the same time of synagogues and shrines emersion which had some vows to consume in charity purposes

and restructuring of them (e.g. shrines). So not only *Waqf* was not created by Islam presence, but also it has been a rational deed (Hāshemi Nasab, 1999, P.109). Some inductions on this claim are such as:

- Imam Khomeini in his book said:  
"*Waqf* was common in other nations, even it probably have been common on impious nations" (Khomeini Mousavi, Vol.3, P.81).
- Dr Abouzohre in his book stated:  
"Before the emersion of Islam, *Waqf* was prevalent in other names. As far as we concerned there were shrines, synagogue and even some mosques (e.g. *Al-Aqsa mosque*) that so many lands and properties were allocated for their maintenance by beneficent people. Therefore we can't assume whose ownership was for some specific people; those lands and properties and the income which was made form them were consumed for people who worshiped in those buildings" (Hāeri Yazdi, 2002, P.44).

Consequently, although *Waqf* has played a considerable role before the emersion of Islam, Islam was the first religion that developed its legal and regulated form.

Islamic jurisprudents believe that initial building which consecrated for worshiping was *Ka'bah*. In addition, along the history, there were so many shrines, synagogues, churches and such these buildings which consecrated for doing religious deeds and ceremonies (Sāfi, 2006, P.62).

The history of Islam shows that *Quba* mosque in *Medina* was the first foundation which was endowed by *Prophet Mohammad (Peace be upon him)* in 622 A.C. It is stable nowadays but in extending structure (Shakoori, 2007, P.10 & 11).

As we mentioned in the topic, this paper is intent on discussing about *Cash-Waqf*. So in following the most of materials are about *Cash-Waqf*. Previously, *Waqf* of buildings and lands were the most popular forms of *Waqf*. Nowadays, *Cash-Waqf* has become increasingly well-known particularly because of its flexibility which allows distribution of the *Waqf's* potential benefit to the poor anywhere (Mannan, 1999, P.5).

Although, some historians believe that initial root of *Cash-Waqf* returns back to 8<sup>th</sup> century in Islamic era (Saādat Far; Dādgar, 2008, P.3) - while various questions about the usage of such *Waqf* were asked from "Zafar Ibn Hazil" and he answered that those amount of money have to be accomplished by *Mudzarabah Contract*- others believe that after emersion of *Cash-Waqf* in Rome, it was firstly introduced in Ottoman era in Egypt (Dian Masyita, P.2). Professor Mannan then socialized *Cash-Waqf* in Bangladesh through Social Investment Bank Limited (SIBL). SIBL issues *Cash-Waqf* Certificate to collect funds from the rich and to distribute gains of the managed funds between the poor (Mannan, 1998, P.10). Like those of Bangladesh, in other Islamic countries, most of people are poor. Therefore, effectiveness of cash *Waqf* certificate program to help reduce poverty in Bangladesh gives hope that a similar program can be successfully implemented in other countries. So, by the time, this *Waqf* model has developed day to day. These days this model is expanded through most of Islamic and even Western countries.

There are two ideas in *Shia* school about *Cash-Waqf*, some jurisprudents believe that it is not acceptable e.g. *Mohaqq Helli* (Mohaqq Helli, 1982, Vol.3, P.444), *Sheikh Tousi* (Tousi, Vol.3, P.288) and others are in contrast e.g. *Shahid Sāni* (Shahid Sāni, 2001, P.520) and *Māmaqāni* (Māmaqāni, 1983, P.322 & 323). The believers of later idea assume that the significant conditions of *Cash-Waqf* accuracy are based on two components 1) to make juridical profit from those cash, 2) and the origin of cash must be survival perpetually.

According to precede statements, firstly we focus on *Waqf* in general and then discuss on *Cash-Waqf* in details.

### **Necessity of *Cash-Waqf* Projects Construction and *Waqf* Institutions:**

*Cash-Waqf* a special charitable endowment fund, is expected to become one of the alternative instruments for the poverty alleviation programs in worldwide particularly in Islamic countries. These programs require huge amount of fund that can not be provided thoroughly by the government. Therefore, initiation of new sources of fund for such a program is inevitable. In the Islamic socio-economic concept, there is a source of social fund that is economically and politically free of charge, namely *Cash-Waqf*. In this concept, *Mutavalli* (*Cash-Waqf Fund* manager) collects the fund from *Waqif* and invest the money in the real sector (mainly Small & Medium-sized Ventures) and in any *Shariah* based investment opportunities.

*Mutavalli* will then allocate all profits and returns gained from the investment to any poverty alleviation program to enhance the quality of poor people's life, such as free education and health services, cheap basic food, etc. He (*Mutavalli*) is obliged to maintain the amount of fund in such a way that does not go below the initial amount. Therefore, *Mutavalli* not only should be highly capable but also needs a financial institution which has been proven to be experienced, highly capable and effective in helping SMEs development efforts. Then such a micro-financing program is considered as the most vital portfolio in the poverty alleviation program. Therefore, it's necessary to design an instrument which is able to control the endowment fund management especially *Cash-Waqf*.

### **Definition of *Cash-Waqf*:**

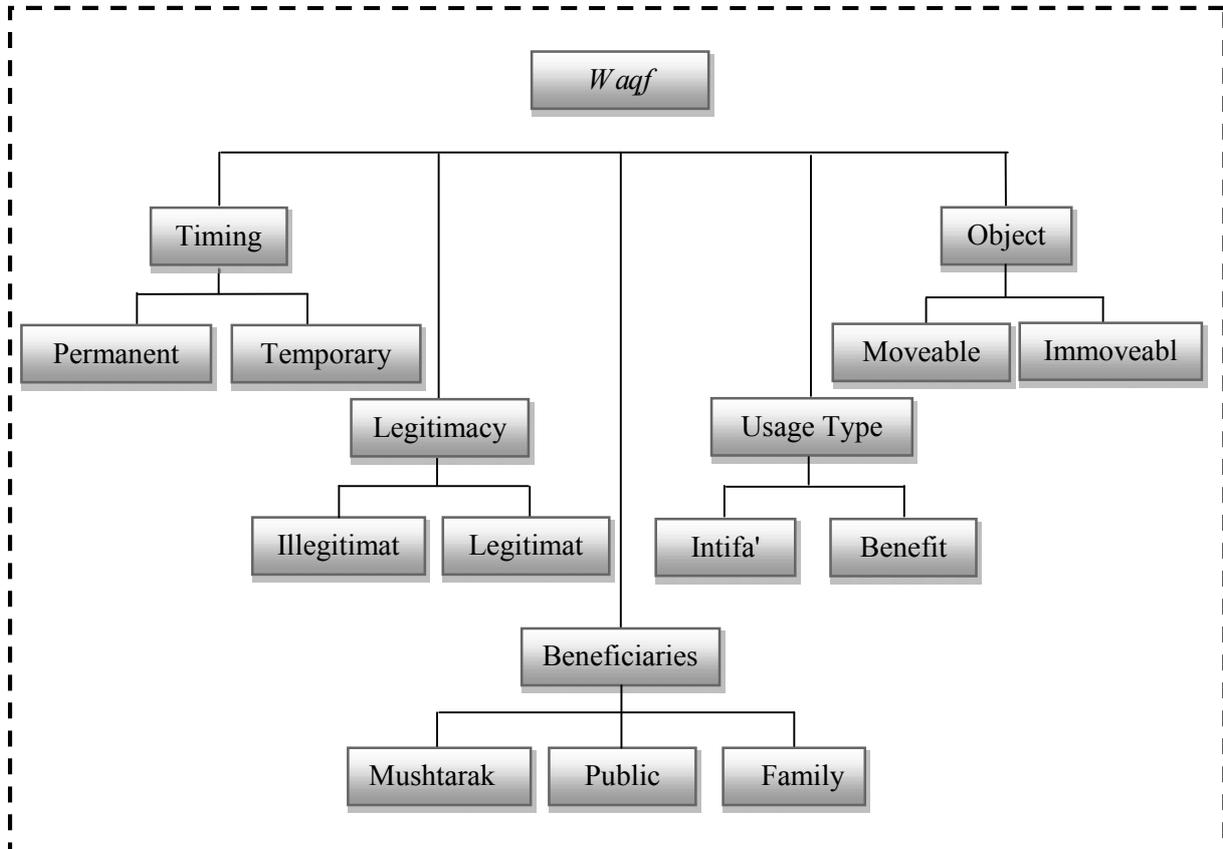
*Waqf* means appropriation of the *Mawquf* (property) with its separation from private ownership and dedication of its usufruct to charitable purpose. So *Cash-Waqf* according to upon definition means "the devotion of an amount of money by a founder and the dedication of its usufruct in perpetuity to the prescript purposes" (Magda Ismail Abdel Mohsin, 2008, P.4)

### **Types of *Waqf*:**

*Waqf* or endowment is a well-known issue in area of Islamic economic and finance .In general, *Waqf* could be categorized based on five aspects i.e. timing, legitimacy, Beneficiaries, usage area and object of *Waqf*

It is generally accepted that the timing of *Waqf* must be "Permanent". However some jurists believe that it could be "Temporary" in accordance to the *Waqif* view, which is called *Habs*. In terms of the legitimacy of *Waqf*, it could be "Legitimate"-adjusting with religious respect- or "Illegitimate". In terms of the *beneficiary* of *Waqf*, it could be divided into "Family" (specific purpose), "Public" (charitable purpose) and "Mushtarak"(consists of both purposes). However, from the managerial point of view, *Public Waqf* is better than the *Family* one, since it gives more flexibility. In terms of the usage type of *Waqf*, it could be categorized to "Intifa'" such as establishing a school on your personal land and "Benefit" whose purpose is making profit. In terms of the object of *Waqf*, generally it could be "Moveable" or "Immoveable"(Saiyāh, 2007, P.5 & 6). This categorization is illustrated in figure 1:

Figure1: The *Waqf's* Categorization in Islamic Jurisprudence



In above we argue about *Waqf* and its different types according to Islamic jurisprudence up to now. Whereas, from historical point of view, most of *Waqfs* has performed on real capital, "*Cash-Waqf*" don't has played a distinguished role in Islamic economic yet. Therefore, its name didn't come in *Waqf* categorization figures. But basically it is placed under "*Movable Waqf*". As mentioned before, this paper focuses on *Cash-Waqf* and its establishment. So we define it more exactly by introducing different models of *Cash-Waqf*, their functions, Islamic restrictions, legitimacy and so on.

### Components of *Waqf*:

Every *Waqf* has some components such as: *Waqif* (Founder), *Waqf Contract* (Waqfieh), *Mawquf 'alaih* (Beneficiaries), *Mawquf* (Property) and *Mutavalli* (Dian Masyiat & Erie Febrian, 2004, P.6) which are described in follow:

1. *Waqif*: A person who endows his property or cash to charitable purposes.
2. *Waqf Contract*: The way in which a *Waqif* states his/her asset or fund as *Waqf*.
3. *Mawquf 'alaih*: Persons who are or areas which are the purpose of *Waqf*. In other word, those people of areas entitled to benefit from return of *Waqf*.
4. *Mawquf*: Assets or fund which are endowed as *Waqf* in charitable purposes and so on. In this article regarding to our goal, we use "*Cash*" instead of "*Mawquf*" because we are going to

apply some *Cash-Waqf* methods.

5. *Mutavalli*: A person or institution who is assigned as legal custodianship over *Mawquf* which is not belonging to him in order to follow endowment same as *Waqf Contract*.

### **Legitimacy of *Cash-Waqf*:**

Although, the term "*Waqf*" doesn't appear in the "*Quran*" but Muslim jurists obviously deduced its legitimacy from some "*Hadith*" and "*Ayeh*"<sup>1</sup> which their interpretation imply *Waqf* (Abidolkabisi, 1986, P84). Because of our tight opportunity and despite there are so many "*Hadith*" on this regard; we only point to two *Hadith*:

The first that points to *Waqf* generally<sup>2</sup>:

From "*Abi Horeireh*" who quoted from Prophet Mohammad (peace be upon him): "When a person dies, his deeds will separate from him excepting in three cases: recurring charities, beneficial knowledge and righteous child who preys him/her" (Nāsif, 2003, Vol.2, P.243).

But the second that point to our goal, it signifies *Cash-Waqf* which was augmented under "*Waqf al-darahim & al-dananir*" in Islam school.

The words about this issue are in follow<sup>3</sup>:

*Waqf al-darahim* and *al-dananir* (dirham and dinar endowment) is reliable providing that we can make profit from it that is perpetual contemporary. But it can not be transferred, lent or mortgaged after endowing, because transferring is not possible, while it is reliable to be leased. (Àle Kāshif'u Al-Ghitae', 1984, Vol.2, P.78)

### **Sources of *Cash-Waqf*:**

The accumulated funds for the construction of *Cash-Waqf Project* could be realized through setting up of three instruments namely; *Cash and E-Waqf Fund*, *Per-square Feet Value Certificate* and the *Issuance of Sukuk* (Abdullaah Jalil & Asharaf Mohd Ramli Abdul, 2008, P.3). These instruments provide an opportunity for the donors to dedicate their wealth for *Waqf* purposes according to their preference as stated below:

#### **1. *Cash and E-Waqf Fund*:**

*Cash and E-Waqf Fund* is considered as the easiest means for the public to join *Waqf* scheme because they are only obliged to donate their money in cash or deducting from their bank account via *E-Waqf* facility. As shown in figure2 the accumulated fund will be managed by *Mutavalli* who is acted as an agent on behalf of the *Waqif* based on *Wakalah Contract*. Under *Wakalah Contract*, *Mutavalli* is responsible to channel the fund for project construction and the balance will be returned back to the

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<sup>1</sup> There are various *Ayeh* in *Quran* that imply on urgency of *Waqf*. Among them, "*Ale Emran-92*" is the most reputed which Allah, in that, advice us to donate extra partial of our wealth in charitable purposes when occasion serves.

<sup>2</sup> عن أبي هريرة عن النبي (صلى الله عليه وآله) قال: "إذامات الانسان إنقطع عنه عمله إلا من ثلاثة: صدقة جارية أو علم ينتفع به أو ولد صالح يدعو له"

<sup>3</sup> "يصح الوقف الدراهم والدنانير إذا امكن الانتفاع بها منفعه محلله مع بقاء عينها، ولكن لا يصح بعد وقفها الشراء بها ولا إقراضها ولا رهنها لأن الوقف لا يصح للنقل و الانتقال. نعم يصح إعارتها و اجارتها ونحو ذلك مما لا يوجب نقل عينها".

fund for future project. *Wakalah Contract* is deemed more practical due to the difficulty of getting permission to the *Waqif* to exchange (*Istibdal*) cash money into immovable property. Upon getting the approval by *Waqf Project* management, *Mutavalli* is allowed to use the fund and appoints contractor for the construction of *Waqf Project*.

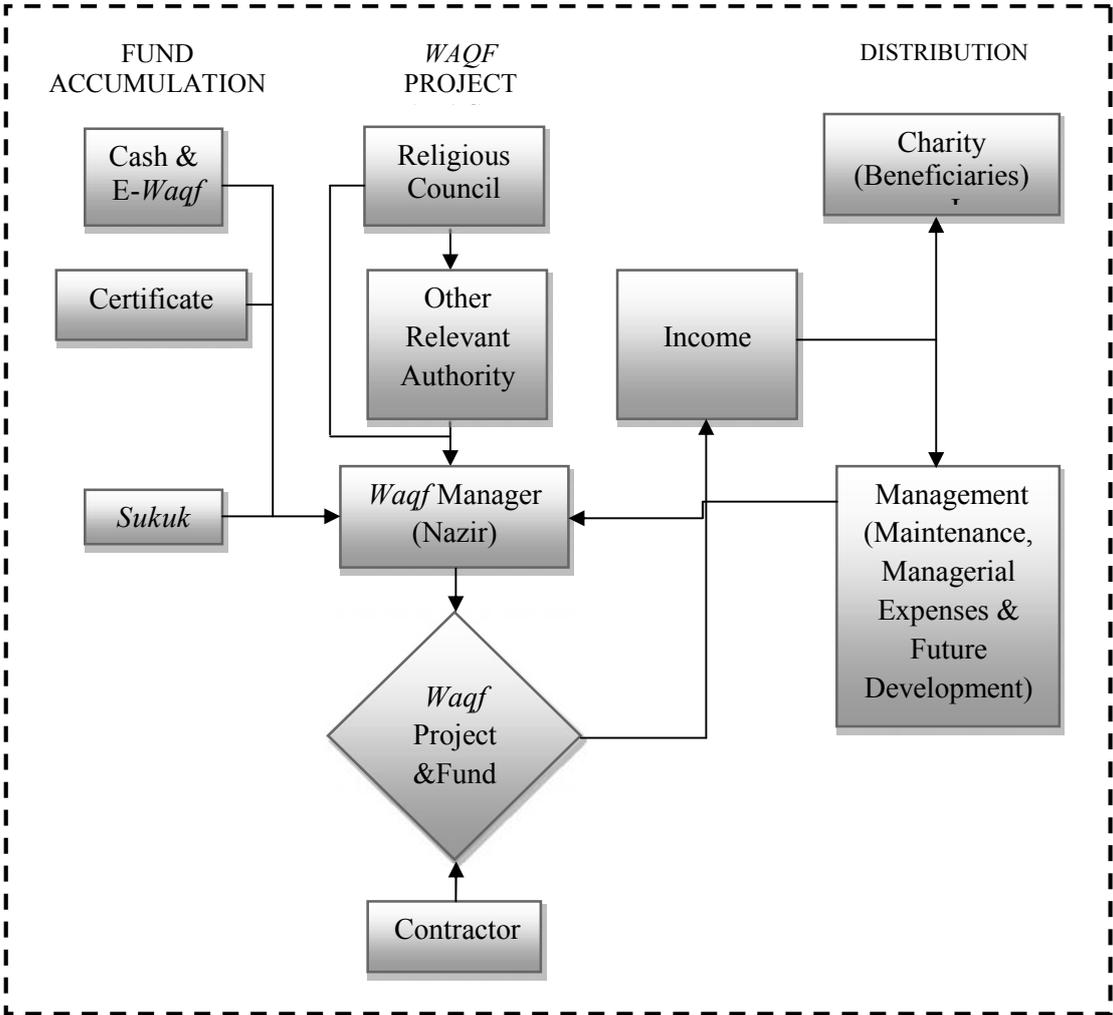
**2. Per-square Feet Value Certificate:**

The certificate of per square feet value for *Waqf Project* will be offered to the public once the details of the intended project are finalized. The essential elements of the project such as the type of construction project, the cost of the project, the price of each certificate and the duration of the project must be disclosed in details. Any individual or institutions must pay certain amount in order to get the certificate e.g. 30\$ per square feet. The pool of money accumulated will be directed to our purposes.

**3. The Issuance of Sukuk:**

Developing *Waqf* assets through the issuance of *sukuk* is another potential instrument to be applied by *Waqf* administrations. This instrument is still underdeveloped in Islamic countries although some countries are well known for pioneering the issuance of various *sukuk* at the domestic and global stages such as Malaysia.

**Figure 2: The Three Main Stages of the Cash Waqf Construction Project**



## **Legal conditions for *Cash-Waqf* creation:**

In this part, all conditions that are associated with *Cash-Waqf* (as same as *Waqf*) such as: *Waqf Contract*, *Waqif*, *Mawquf*, *Mawquf 'alaih* and *Mutavalli* will be provided .These conditions come as following:

### **1. Conditions associated with *Waqf Contract*:**

#### **1.1. *Ijab*(Exigency) & *Qaboul*(Acceptance):**

*Waqf* will be established by *Ijab* via *Waqif* in any terms that directly signify on its definition and *Qaboul* via *Mawquf 'alaih* or his trustee namely *Mutavalli* (Allameh Helli, 1990, P.161)

#### **1.2. *Ghorbat* (Intention):**

Undoubtedly, in *Waqf* like other actions, *Niyat* (Intention) as a will of act is an essential and inevitable component. Therefore, transferring won't be accomplished and *Waqf* won't be valid without it (Helli, 1990, Vol.3, P.155)

#### **1.3. *Iqbaz* (Receiving):**

The *Waqf Contract* will be a substantive contract while the *Waqif* delivers his property to *Mawquf 'alaih* or *Mutavalli* .We should consider in *Cash-Waqf* methods that *Waqif* has to deliver the cash to *Waqf Institution* or *Mutavalli* in base of *Wakalah contract* (Mohaqeq Sani, 1989, Vol.9, P.11)

#### **1.4. Not to Be Suspend:**

If we suspend our *Waqf* on a condition(s), it won't be valid. In loose speaking, the nature of *Waqf* is dependent to "Being unconditional" (Mohaqeq Helli, 1995, P.255)

#### **1.5. *Waqif* ejection:**

*Waqif* doesn't have to mention himself as a *Mawquf 'alaih* in *Waqf Contract* .Otherwise, the *Waqf* will be void (Najafi, 1998, Vol.28, P.67)

#### **1.6. Perpetuity:**

One of the basic conditions in *Waqf Contract* is perpetuity. It means that the nature of *Waqf* has to ensure regular and continual support from the *Waqf* property or *Cash-Waqf* towards financing charitable areas such as mosque (Hāshemi Nasab, 1999, P.49)

### **2. Conditions relating to *Waqif*:**

#### **2.1. *Bulugh* (Maturity), *Aql* (wisdom) & liberty:**

It is widely believed that the maturity, wisdom and liberty are the most important conditions about *Waqif*. No need to say that no person without these conditions can make decision based on productivity (Najafi, 1981, Vol.28, P.20)

#### **2.2. To be owner:**

The *Mawquf* (property or cash) has to be *Waqif's Property*. Otherwise, it would be invalid (Allameh Helli, 1997, Vol.2, P.393)

#### **2.3. Not to be Insolvent:**

Due to the fact that everyone is disregard about insane person and his actions, Jurisprudents have a consensus on this condition that his actions aren't valid (Hāeri Yazdi, 2002, P.126)

### 3. Conditions associated with *Mawquf* (property or Cash):

#### 3.1. Possibility to make profit from it and to be perpetual contemporary:

In *Cash-Waqf*, *Waqif* is obligated to deliver his money to the *Mutavalli* through *Wakalah contract* (Qorbāni, 1997, P.115)

#### 3.2. Possibility of *Qabz*:

If *Qabz* and *Iqbaz* aren't applicable for *Mawquf*, the *Waqf Contract (Waqfieh)* will be invalid. In other words, it's necessary that founder has enough power to deliver his property to *Mawquf 'alaih*. Notice that in *Cash-Waqf*, the *Waqif* has to deliver his cash to *Mutavalli* like *Waqf Institution* (Hāshemi Nasab, 1999, P.58)

#### 3.3. To Be in Dominance of Owner:

The property or cash doesn't be involved in other purposes or nobody has claim on it (Mohaqeq Helli, 1982, Vol.2, P.212)

### 4. Conditions associated with *Mawquf 'alaih*:

#### 4.1. Merit to own it:

The *Mawquf 'alaih* (if he is a human being) has to be *Aqil* (in full possession of his physical and mental faculties), *Baligh* (adult) and *Hurr* (a free man or women). In loose speaking, he has to be deserved to be owner. But in other cases like as *Waqf Institution*, it has to be adapted with Islamic rules (Sahid Avval, 1997, Vol.2, P.294)

#### 4.2. To Be Present:

In this case, *Waqif* just able to endow a property or *Cash* in charitable purpose, while *Mawquf 'alaih* are present. Otherwise endowment of one for absent *Mawquf 'alaih* is an inoperative *Waqf*. In other words, the original condition on this issue is "Presence". (Imami, 1957, P.76)

#### 4.3. *Waqf* Profit Be lawful For him:

In Islamic approach for *Waqf*, there are some restrictions that limit *Waqif* in practice. One of these for example is that *Mawquf 'alaih* must be a person who has general authority over his or others. If no, *Waqf* will be void (Mohaqeq Helli, 1982, Vol.2, P.214)

#### 4.4. To Be Specify:

In *Family Waqf*, We should notice that the *Mawquf 'alaih* has to be clear. But in *Public Waqf*, the *Waqif* can endow his property or cash to vast group (Imam Khomeini, 2002, Vol.3, P.310)

### 5. Conditions associated with *Mutavalli*:

#### 5.1. Be Aqil, Baligh, Rashid & Trusty :

The first three conditions mean *Mutavalli* must be able to manage all cash & properties without enormous loss. But the last means *Mutavalli* mustn't be traitorous and all revenue that acquired from Cash (or properties) must be used in fields that mentioned in *Waqf Contract* (Ryiāhi, 2000, P.97)

#### 5.2. Be Righteous:

Jurisprudents have different ideas either it is irresolvable component or not in this condition. Some of them like "Shahid Sani" (Sahid Sani, 1982, P.177) believed at first that mean *Mutavalli* has to be righteous; and others like "Imam Khomeini" believe on second (Imam Komeini, 1997, P.325)

**Current Application of Cash-Waqf:**

The witnesses of 21<sup>st</sup> century signify the revival of *Waqf Institution* in many Muslim countries and the creation of *Movable Waqf* especially *Cash-Waqf* in large extent. In this section, some models for the creation of *Cash-Waqf* which have been practiced in Muslim countries will be presented. They are known as *Waqf Shares Model*, *Corporate Cash-Waqf Model*, *Deposit Product Model*, *Cooperative Model*, *Waqf Mutual Fund Model* and *Wakalah with waqf fund Model*.

**1) Waqf Shares Model:**

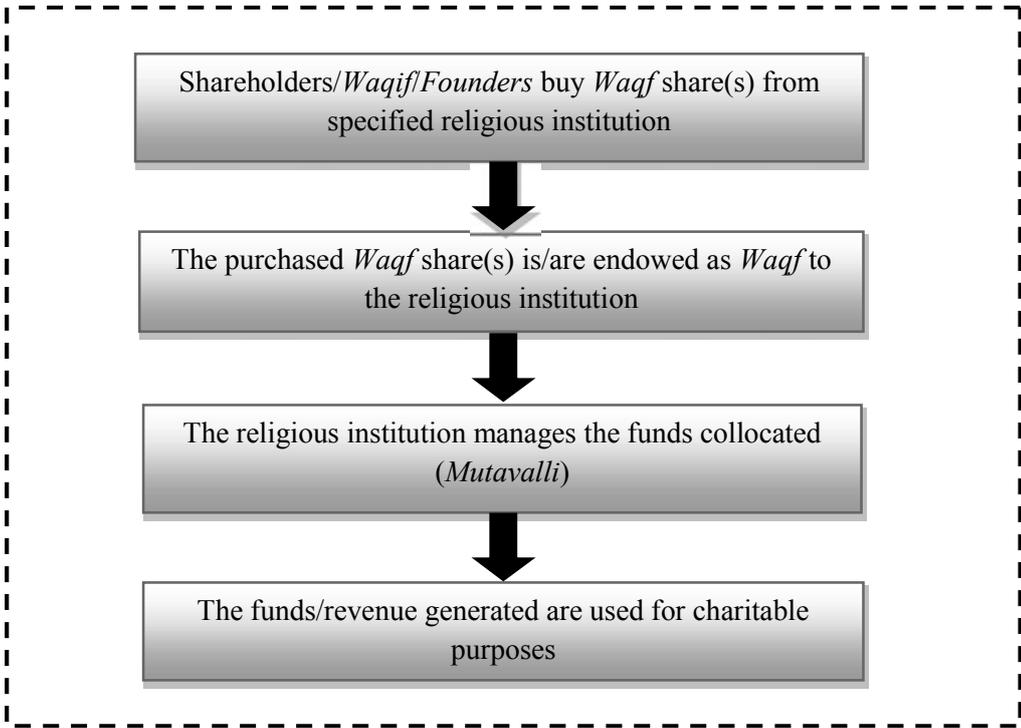
This model is a *Public Waqf* which has been practiced in Malaysia, Indonesia, Sudan, Kuwait and UK.

The procedure of this plan, in detail, is as follows (Magda Ismail Abdel Mohsin, 2008, P.9):

- *Founders* will buy *Waqf* shares from specified religious institution with prices ranging between \$1 to \$100 according to each country.
- *Founders* will receive *Cash-Waqf* certificates as evidence that they purchase *Waqf* shares with a specific amount.
- These *Waqf* shares will then be endowed to the issuing institution that will act as a *Mutawalli* to manage the collected fund.
- The collected fund will then be distributed to charitable purposes as specified by the institution itself e.g. building mosques, schools, training center, etc.

This model can be clearly seen in following figure:

**Figure 3: Waqf Shares Model (Public Waqf)**



## II) Corporate *Cash-Waqf* Model:

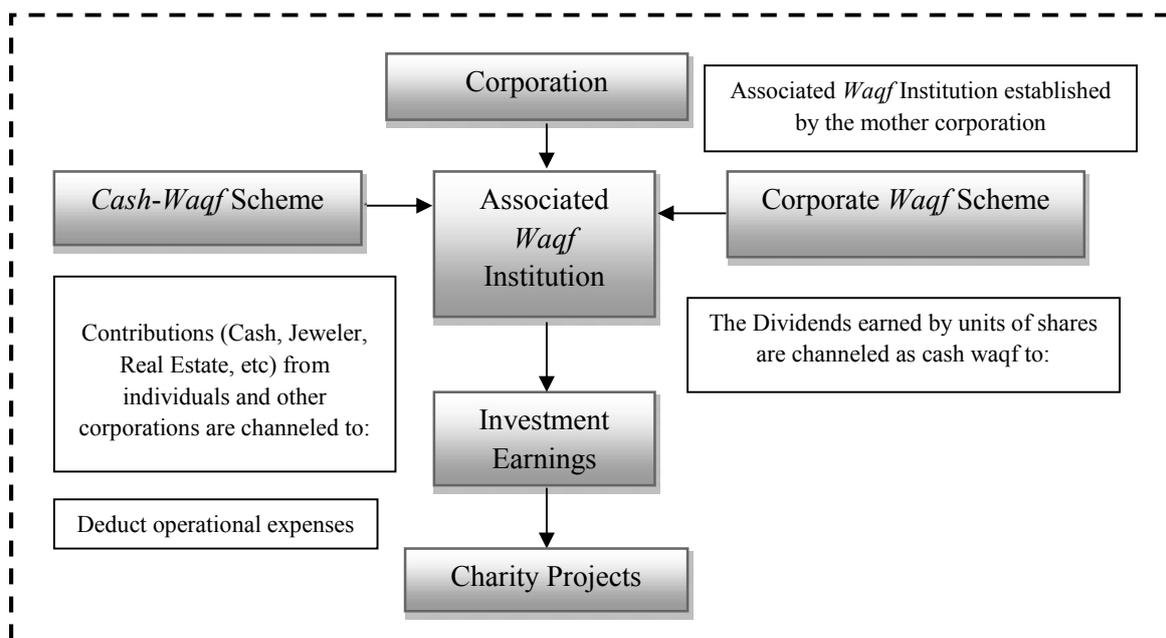
This model is a public *Waqf* which has been practiced in Malaysia specifically in *Kumpulan Waqf an-Nur* 1998, Turkey in Sabanci Foundation 1974, Pakistan in Hamdard Foundation 1953 and South Africa in the National *Awaqaf* Foundation 2000. The *Founder* in this model might be either an individual or a corporation.

The procedure of this plan, in detail, is as follows (Magda Ismail Abdel Mohsin, 2008, P.14):

- Dividends earned for example by individuals, corporations will convey to an Associated *Waqf* Institution as *Cash-Waqf*.
- The Associated *Waqf* Institution will act as a *Mutawalli* where manages and invests the accumulated *Cash-Waqf*.
- The revenue earned will then be directed to charitable projects after operational expenses have been deducted.

This model can be clearly seen in following figure:

**Figure 4: Corporate *Cash-Waqf* Model (*Public Waqf*)**



## III) Deposit Product Model:

This model is a *Public Waqf* which has been practiced in Bangladesh in two banks, the Social Investment Bank Limited (SIBL) and the Islamic Bank Bangladesh Limited (IBBL).

The procedure of this plan, in detail, is as follows (Magda Ismail Abdel Mohsin, 2008, P.14 & 15):

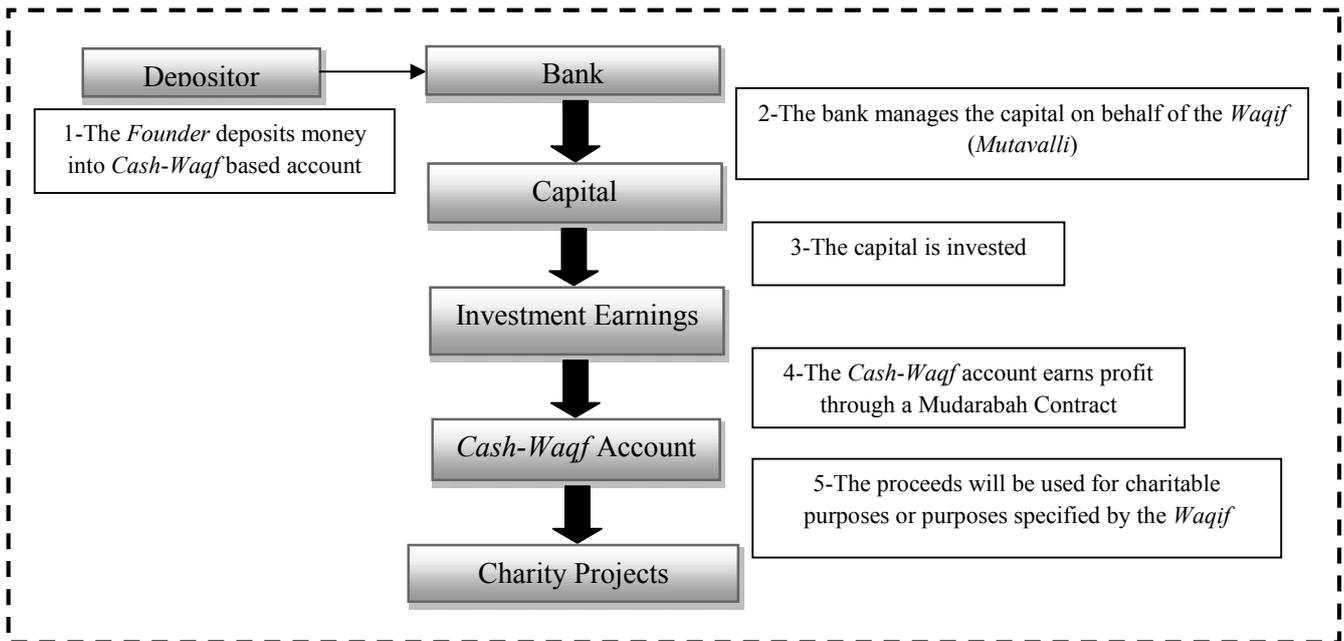
- The *founder* deposits money into *Cash-Waqf* based account in the bank.
- While depositing the money, the *founder* will be given a list of the *Beneficiaries* whereby he

can chose or specify his/her *Beneficiaries*.

- The bank will act as a *Mutawalli* and will invest the capital through *Mudzarabah Contract*.
- The revenue generated will be channeled to charitable purposes or purposes specified by the founder.

This model can be clearly seen in following figure:

**Figure5: Deposit Product Model (Public Waqf)**



It has been realized as a good model where *Mudzarabah* mode has been practice and at the same time the *Founder* has the right to choose his/her own *Beneficiaries*.

#### IV) *Waqf* Mutual Fund Model:

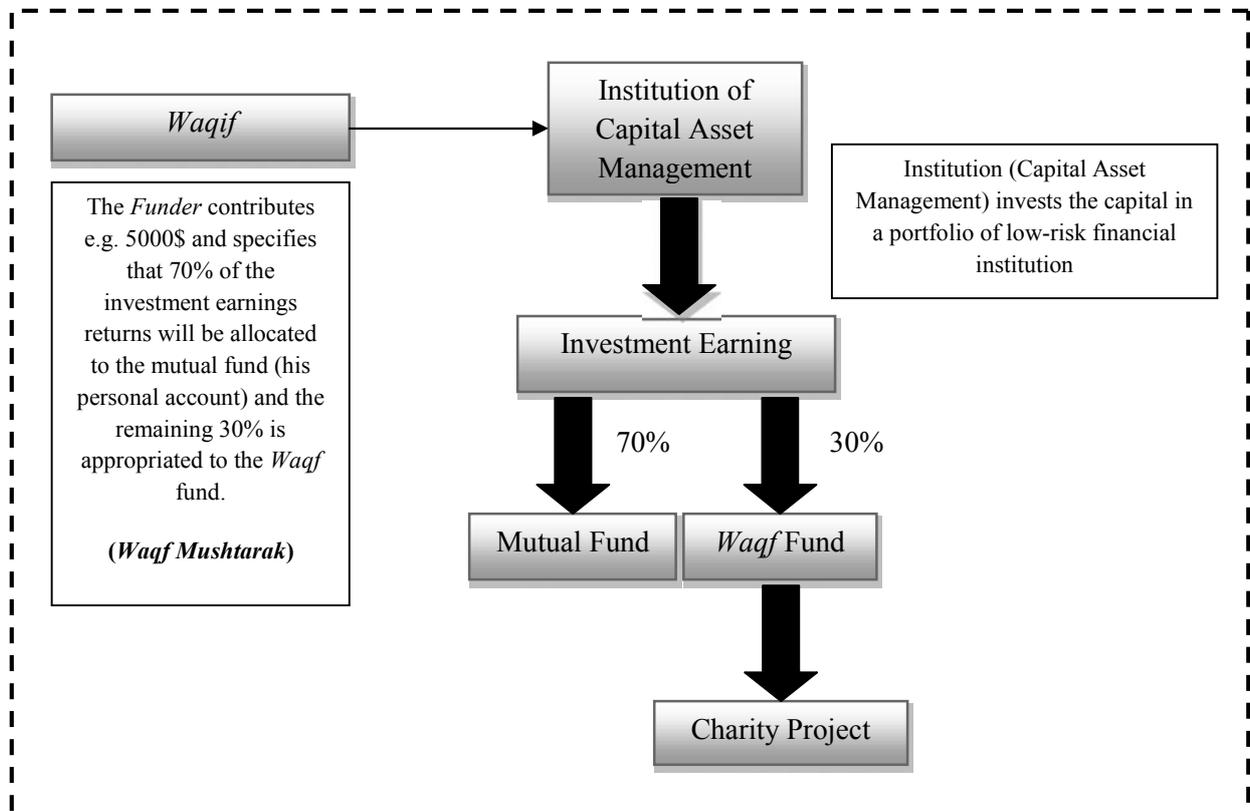
This model is a combined *Waqf* which has been practiced in Indonesia in the Dompot Dhuafa Batasa. This mutual fund is managed by the Batasa Capital Asset Management.

The procedure of this plan, in detail, is as follows (Magda Ismail Abdel Mohsin, 2008, P.16 & 17):

- The *Founder* will contribute to the mutual fund, and at the same time he/she can contribute to the *Waqf* fund. In this case the *Founder* will specify for example 70% of his investment earnings return to the mutual fund i.e. his personal account and the remaining 30% will be appropriated to the *Waqf* fund.
- The *Waqf* institution will act as the *Mutawalli* to manage and invest the capital.
- The investment earnings will then be distributed according to the *Founder* condition where 70% will go for his mutual fund and 30% will go to *Waqf* fund and distributed to charity projects, as highlighted below.

This model can be clearly seen in following figure:

**Figure 6: *Waqf* Mutual Fund Model**



From the above model it may be seen that it is *Waqf Mushtarak*, but in this case the capital of the 70% and the revenue generated from investing this portion will go back entirely to the *Founder* leaving the 30% as *Cash-Waqf*.

**V) *Wakalah* with *Waqf* Fund:**

This model is a *Public Waqf* which has been practiced in Pakistan and Malaysia.

The procedure of this plan, in detail, is as follows (Abdul Rahim Abdul Wahab, 2006, P.11)

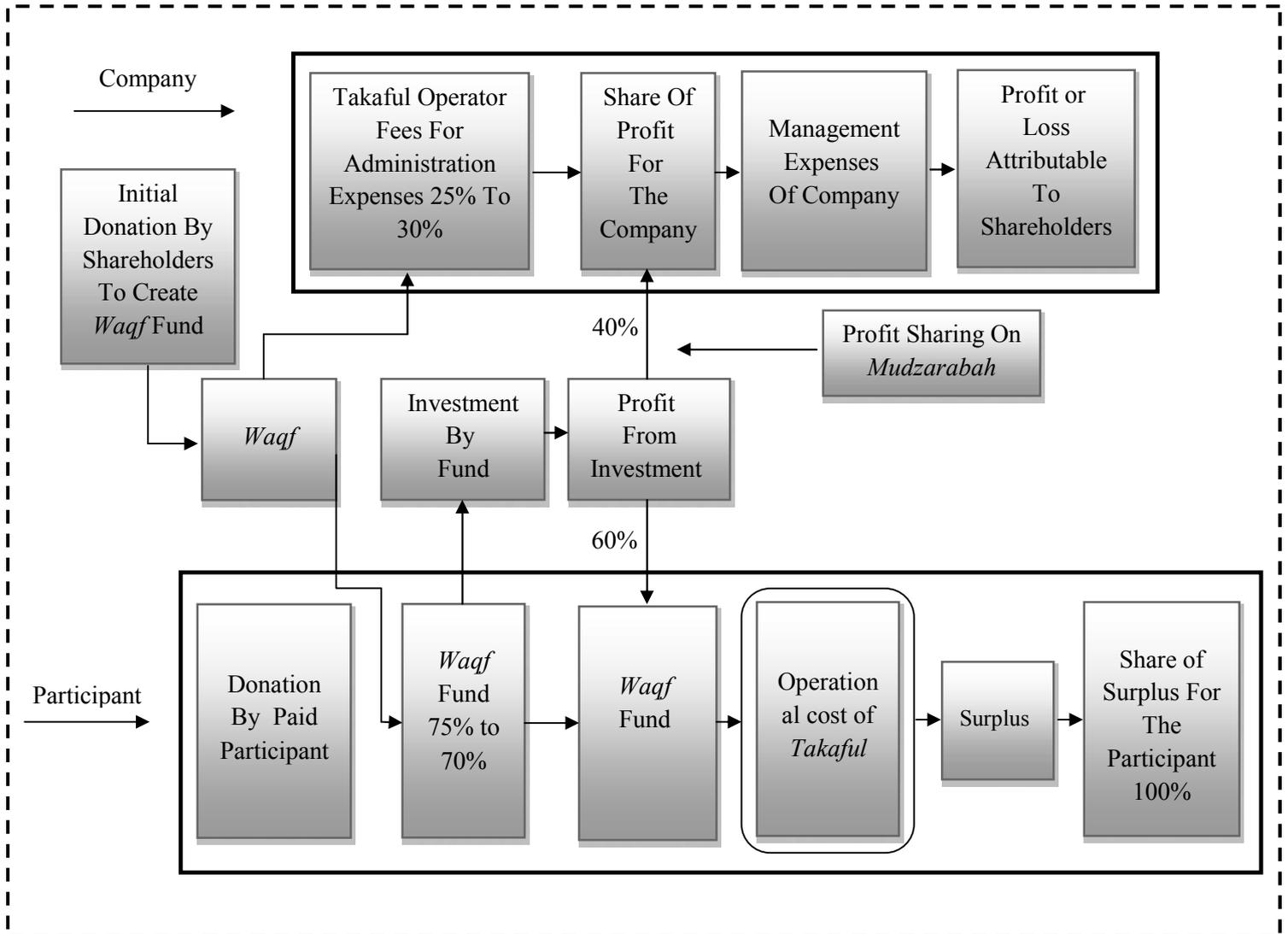
- The Shareholders would initially make a donation to establish the *Waqf* fund. The donation can be of any reasonable amount (Shariah scholars may specify such an amount). After the creation of the *Waqf* fund the Shareholders would lose their ownership rights on the *Waqf* fund and would become the property of the *Waqf* fund. However, they will have the right to administer and develop rules and regulations of the fund.
- The original donation of the *Waqf* fund needs to be invested in a very safe *Shariah* compliant investment and its returns would be used for the benefit of the participants. The idea being that the *Waqf* fund should remain intact with high likelihood.
- Company would take this donation on behalf of the *Waqf* fund as administrator of the fund

and deposit this in the fund.

- The donations received from the participants, seeking *Takaful* protection, would also be a part of this fund and the combined amount will be used for investment and the profits earned would again be deposited into the same fund. As per *Waqf* principles, a member (donor) can also benefit from the *Waqf* fund.

This model can be clearly seen in following figure:

**Figure 7: Wakalah Model**



**Establishment of a *Cash-Waqf* Financial Institution (CWFI):**

Inasmuch as the above models are just associated with some instrument to simplify poverty alleviation, one or several persons can not implement them in real. So we require to some institutions or corporations that have high capability, skill and enough experiences to implementing our goal (Poverty alleviating via *Cash-Waqf* models). *Cash-Waqf* management institution should manage the accumulated *Cash-Waqf* created by the different *Founders* in such a way that the collected fund

becomes more and more productive. The more the *Waqf* investment return, the more *Mawquf 'alaih* benefit from *Waqf* fund. Only gains of the invested *Waqf* fund will be delivered to *Mauquf 'alaih* and the principal of fund keep being invested in potential investment opportunities.

**Islamic (Shia) school's approach on these models:**

With reference to all models that are presented, we consider the Islamic approach about them in order to state which of them is acceptable.

Although, in regards with Islam School's approach, "*Waqf* Shares Model, Corporate *Cash-Waqf* Model, *Waqf* Mutual Fund Model and Cooperative Model" are admissible, but *Wakalah* Model is not admissible. In follow we will concern to each model for stating more points about them.

- ***Waqf* Shares Model, *Waqf* Mutual Fund Model & Cooperative Model:**

However, for these models, two important things are not clearly highlighted for the creation of *Cash-Waqf*:

1. The *Founder* of the *Waqf* has no choice in specifying his/her *Beneficiaries* as this might discourage more *Founder* to create *Cash-Waqf*.
2. It is very difficult to ensure the element of perpetuity of the *Cash-Waqf* as it is not clear how the *Cash-Waqf* is invested and how to ensure the capital is intact.

- **Corporate *Cash-Waqf* Model:**

According to this model, Associated *Waqf* Institution that established by the mother corporation, channel accumulated Cash to investment after deducting operational expenses. If *Waqif* mentions this condition in *Waqf Contract*, it will be valid. Otherwise it will be void and Associated *Waqf* Institution won't be allowable to deduct operational expenses from earned revenues.

- **Deposit Product Model:**

In this model we should consider that the *Founder* mustn't be allowable to withdrawal his contributions from deposit account after some times. Because one of most important conditions on *Waqf Contract* is "The *Mawquf* (i.e. cash) should be perpetual". This model will be admissible, if *Founders* follow this way.

- ***Wakalah* Model:**

One of most important conditions on *Waqf Contract* is "The *Founder* mustn't allocate any part of revenue from *Cash-Waqf* toward himself ". But in this model, as appeared, this condition isn't followed. So, according to Islam jurisprudence, it will be void

## Conclusion:

Based on historical literature, the *Waqf* plays an important role in socioeconomic life of Muslim societies. Recently, one of the types of *Waqf* is *Cash-Waqf*. Based on our study, we conclude following points:

1. *Cash-Waqf* is a type of *Waqf* that revived in recently century.
2. This paper reviewed the *Cash-Waqf* history and then its necessity to poverty alleviation.
3. *Cash-Waqf* is justified with Islamic jurisprudence providing that while it is making profit and earning income, it remains perpetual.
4. This article surveyed validity conditions of *Waqif* (Founder), *Mawquf 'alaih* (Beneficiaries), *Mawquf* (Cash as property), *Mutavalli* and *Waqf* contract. Then, this study introduced some contemporary practical models in *Cash-Waqf* and analyzed their validity according to Shia' jurisprudence. Based on this study, *Waqf* Shares Model, *Waqf* Mutual Fund Model and Cooperative Model are acceptable for running but establishing Corporate *Waqf* Model is conditional. On the other hand, Deposit Product Model and *Wakalah* Model can not justify with Islamic principal.

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