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A Comparison between Ottoman Cash Waqfs (CWs) and Participation Banks and Modern Interest-free Financial Institutions

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Abstract

The Ottoman State is accepted the civilization of waqf so that the borrowing of people who needed cash was provided by waqfs that had cash as capital. These waqfs operated their capitals within the limits that were drawn by Ottoman *ulema* under the effects of interest ban in Islamic states. These waqfs can be thought of as the pioneers of modern Islamic financial institutions. The CWs became the factor of stability in the Ottoman financial system with controlling high usury rates and determining the market interest rate.

Today, the participation banks as interest-free financial institutions fulfill this function. The participation banks that bring together the people who want to borrow money without interest and the people who want to operate his capital with *halal* ways are separated from cash waqfs in some respects. In this study, even though they follow similar financial methods, the difference in their purposes and other characteristics of interest-free financial institutions and their pioneer of CWs will be examined.

Keywords: Ottoman State, cash waqfs, interest-free financial institutions, participation banks, Islamic finance

JEL Codes: G20, G23, N20, N25

Introduction

Waqfs have a function of not only cooperation and solidarity in society but also of economic and financial aspects. Waqfs make the solidarity as an institutional form. Islam pays particular attention to the establishment of waqf. Muslims who want to fulfill the commandment of Allah¹ have established a lot of waqfs for this purpose. A Waqf is the allocation of an owned property or an economic value to a particular social need in the community. The goods that are devoted, lose their feature of private ownership. Thereafter, they are allocated to the benefit and service for people (Özcan, 2008:144). It is possible to take the waqf applications to the Prophet period in Islamic history. The hadith that was transmitted by Sahih Muslim (1631) *when someone dies, his deeds come to an end except for three: ongoing charity², beneficial knowledge, or a righteous child who prays for him* can be main motivation for establishing a waqf. The term of *ongoing charity* can be thought of as the source of waqfs in Islam (Furat, 2012:66). The first meaning of waqf and its plural form *awqaf* means to stop something or stand still in Arabic, which derived from the verb

¹ *Surah Ali İmran (Family of Imran) 3:92* - Never will you attain the good [reward] until you spend [in the way of Allah] from that which you love. And whatever you spend - indeed, Allah is Knowing of it.

² *sadaka-i cariye* in the Hadith.

waqafa. The other and well-known meanings of waqf are pious and charity institutions (Çizakça, 1998:43).

The waqfs that institutionalized fully in the Ottoman period, had been the occasion of knowing Ottoman as the civilization of waqfs. Waqfs were generally organized by public and they were the organizations that incurred outside the state mechanism. Especially, these civil society organizations lightened the state's burden on the educational, religious and infrastructure service. Although they were civil institutions, the organization, the functioning and the management of waqfs depended on religious factors such as views of *mujtahid*³ imams, *ulema*⁴, *qadi*⁵s etc. and written laws as regulations of waqfs (*Evkaf Nizamnamesi*).

Waqfs had many missions in the Ottoman society. They blocked the powerful state about the intervention of right to property. They were able to protect Islamic architectural heritage and other constructions such as mosques, *masjid*⁶s, waterways, fountains, sidewalks etc. by way of financing them. They also helped people as an insurance system by paying their taxes in the depression times. In addition, due to the provision of waqf irrevocability, they prevented the disintegration of fertile agricultural lands caused by the Islamic inheritance law. Furthermore, they made a kind of social security system function by giving pensions to the elderly or disabled people. They made insurance payments to artisans etc. for damages from fire, disaster etc. These functions show that waqfs formed a primitive social security system (Korkut, 2014).

In this study, a kind of waqfs, cash waqfs, will be examined especially in the economic context. It is thought that some of the methods used in CWs are the pioneers of modern Islamic (interest-free) financial instruments. In the first part, the CWs will be examined with discussions, establishment process, operations and effects of CWs on the economic and social life of society. Moreover, three CWs also will be investigated in detail from the primary sources, *waqfiyah*⁷s. A short comparison between these three CWs will also be made. The modern interest-free financial institutions will be the focus of the second part of the study. The history of these institutions and modern interest-free financial instruments also will be summarized in this part. In addition, the social and economic effects of these institutions are examined and summarized in a figure. A comparison will be made under 26 issues in third part of the study. In conclusion, the requirements of both these institutions will be questioned. Moreover, the contributions and effects of CWs to the system will be highlighted, whether there are any legal barriers, especially in Turkey, for the establishment of CWs today.

I. Cash Waqfs (CWs)

CWs are the waqfs that their entire or a portion of capital was formed with cash money. The cash money was operated under the Islamic rules and the income that came from the capital was used for the purposes of waqf like the rental income of real estate waqfs. The methods of operating the cash money in CWs are the basis of

³ A *mujtahid* is a scholar who is qualified and authorized to make *ijtihad*.

⁴ *Ulema* is the plural form of *alim* who can be defined as a scholar in Islamic aspects.

⁵ *Qadi* is a judge who applies the Islamic law in court.

⁶ *Masjid* can be defined as a small mosque.

⁷ Charter of endowment

the methods implemented by contemporary interest-free financial institutions. The methods, *istirbah*, *istiğlal*, *irbah* etc. in waqfiyahs and *mudarabah*, *murabahah*, *bida'a* etc. –the definitions of these methods will be explained later- are in jurisprudence registers have been used to adapt to present conditions by Islamic financial institutions.

Döndüren (1998:64) says that the CWs had started to develop since the 13th century. On the other hand, in registers, we can see that the first CW was founded by Yağcı Hacı Muslihiddin in 1423 at Edirne Province (Mandaville, 1979:290). He donated some shops and 10.0

00 *akche*⁸s for the expenditures of a mosque. The lending rate was 10 percent annually because the expected income from cash capital was equal to 1.000 akches for one year. Again, one of the first examples of CW was Balaban Pasha Waqf founded in 1442 at Edirne Province. This big waqf was established for a school construction. He devoted four shops, a *hammam*⁹ and 30.000 akches for the wages of *muderris*/lecturers and other expenditures of school. The operation rate was determined as 10 percent annually (Mandaville, 1979:290). Ottoman Sultans also founded CWs. One of them was established by Sultan Mehmed II the Conqueror in 1481. He devoted 24.000 gold Sultâni¹⁰ for meeting the meat needs of Janissaries. The second example was founded by Suleiman the Magnificent in 1566. He devoted some amount of money and combined the CWs that are founded for the same purpose. This CW had 698.000 akches capital for the meat needs of butchers in Istanbul (Döndüren, 1998:64).

These institutions are the indicative of the pragmatism of Ottoman economic mentality. The CWs were able to stay unaffected by the financial and economic developments in Europe for long years (Pamuk, 2004:233). Thus, they represented the Ottoman economic mentality against to the European mercantilist economic view. The CWs that both made charities and responded to the economic needs of society are so unique. Despite all the benefits and conveniences provided by CWs, Ottoman scholars did not hesitate to discuss these institutions. The following chapter will examine the discussions on CWs.

1.1 Discussions on CWs

Ottomans gave the CWs to the Islamic civilization, thus these are unique institutions. Because, the Ottomans were Hanafi, the views of major Hanafi scholars must be examined well to understand the religious grounds of CWs. Thus, opinions of Imam Abu Hanifa, his students Imam Muhammad al-Shaybani, Imam Abu Yusuf and Imam Zufer had been the basic premise of the Ottoman scholars.

The founder of Hanafi sect, Imam Abu Hanifa was a merchant, so that there is a huge literature of economic affairs in the Hanafi sect. According to Abu Hanifa, the movable assets cannot be used for establishment of waqf as capital. However, he had views on fair trade and other Islamic trade ways like *mudarabah*, forward sale etc. (Siddiki, 1982:5-6). These operations had been some of the main operations of CWs. The Imam Abu Yusuf and Imam Muhammed al-Shaybani, students of Imam

⁸ One of the main monetary unit of the Ottoman State.

⁹ *Hamam* can be defined as Turkish bath.

¹⁰ This classical Ottoman gold currency was first issued in Fatih Sultan Mehmed period and had a 3,45 g weight.

Abu Hanifa were called as Imameyn, two imams. The views of Imameyn are important, because if there is a difference of opinion between them and Imam Abu Hanifa, the opinion of Imameyn is valid. Abu Yusuf opposed to the donation of movable property as waqf. The horses, weapons etc. could be the property of waqfs only in case of necessity. On the other hand, the views of Imam Abu Yusuf about the binding situation of waqfs were used for the adoption and allowance issues for CWs. However, Imam Muhammed al-Shaybani thought that the movable assets and properties could be used as a capital for establishing a waqf, because, according to the Hanafi thought, the tradition and custom institution had become a known and legal injunction for society if there was no conflict with the basic precepts of Islam. All two imams had concerns about the donation of movable assets. They developed solutions for that. One of them was to donate both movable and immovable goods together at same time. On the other hand, Imam Zufer gave permission to using not only movable assets but also cash money as a capital for a waqf. So, the authorization of CWs in Ottomans depended on this opinion of Imam Zufer.

Ottoman scholars were inevitable to enter into the debate on CWs, even there were differences about the opinions of Hanafi mujtahid imams. The first scholar who wrote a short treatise about CWs was Shayk al-Islam Ibn Kemal. Ibn Kemal supported the establishment of CWs. He claimed that the destruction and dispersal of real estate waqfs were easier than the CWs (Özcan, 2000:34). Ibn Kemal was one of the pioneers of ulema who were supporting the allowance of CWs. On the other hand, there were also scholars who strongly opposed to found CWs. A former Shayk al-Islam and Rumelia Province *Kazasker* Çivizade Muhittin Effendi was instrumental in forbidding CWs by Sultan between the years 1545-1548 (Gel, 2010:185). He claimed that the views of over a hundred scholar's about CWs were obvious and it was not permissible (Özcan, 2003:37). Perhaps the most famous of Ottoman Shayk al-Islam was Ebussuud Effendi. He had made this task for nearly thirty years. He had provided a good accordance between Islamic law and the traditional law for Ottoman society (Okur, 2005:40). He thought the operations of cash money in CWs should be under the Islamic rules and far from the doubt of interest. He also claimed the lending rate of CWs cannot be more than the legal *ribh*¹¹ rate. This posture of Ebussuud Effendi and his efficiency in administration provided a financial market that was easy to control and prevented usury (Akdağ, 1979:256). Against to Ebussuud, Imam Birgivi, another important person in the Ottoman scholar class, thought that there was a serious interest risk in operations of CWs. He also claimed that the people who believed to fulfill their zakat worship by CWs were at risk because the CWs were not *saheeh*¹². He also thought that the transactions were also problematic from an Islamic perspective (Önder, 2006). A Khalwati Sheikh Bali Effendi was another scholar who believed in the benefits of CWs. He sent letters to Sultan and Çivizade Muhittin Effendi when the CWs was banned (Şimşek, 1985:211). He emphasized the requirement and importance of CWs for society. He also reported the negative effects of the ban on social and economic life (Özcan, 1999).

¹¹ *Ribh* means profit.

¹² *Saheeh* means trustworthy and authentic in Islam

The views of mujtahid imams and Ottoman ulema are important in understanding the place and importance of CWs for the Muslim society. Because, if there is no approval of them despite the conflicts, they cannot be widespread.

I.II The Establishment Process of CWs

The process of founding a CW was took place under the regulations of Islamic *fiqh*¹³. The Ulema had developed some methods for making CWs legal. The conditions of occurrence, validity, gaining force and cohesiveness have to be essential for the validity of acts (Kudat, 2015:63). Because of that, the waqfs were founded in some stages.

The process had begun with the donation of cash as capital according to the views of Imam Zufer. On the other hand, the process was corrupted because the conditions of validity and cohesiveness did not hold. Then, the founder of waqf gave up to establish the CW and the trustee¹⁴ opposed to founder and the case went to court. The trustee defended himself as follows. The Imameyn said that the conditions of validity and cohesiveness cannot be dissociated. Moreover, Imam Zufer also gave permission to CWs. The qadi accepted the arguments of the trustee and found the establishment of CW convenient (Kudat, 2015:67).

The Ottoman scholars and judges ruled by giving importance to public interest. So, the Ottoman law system was very flexible and pragmatist to take fast and efficient results. In this case, they knew that the CWs were quite widespread even the farthest villages and regions. The social and economic aspects of CWs also affected the decisions of judges.

I.III Operations of CWs

The interest was prohibited in divine religions with Buddhism, Hinduism etc. In Islam, *riba* and interest are used for same meanings. The *riba* is defined as one of the worst sins. On the other hand, there are some scholars who claim that interest can be used if and only if there is a serious obligation (Rahman, 2010:53-54). However, the ban on interest is obvious in Qur'an¹⁵. Thus, one of the main discussions about CWs had been the interest issue.

The trustees of CWs operated the cash capital in many methods by trying to avoid the interest risk. In waqfiyahs, these efforts can be seen in the terms of

¹³ *Fiqh* means Islamic jurisprudence.

¹⁴ Trustee refers to the *mütevelli* in documents.

¹⁵ *Surah Al-Baqarah (The Cow) 2:216* - Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, *Trade is [just] like interest. But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein.*

Surah Ali İmran (Family of Imran) 3:130 - O you who have believed, do not consume usury, doubled and multiplied, but fear Allah that you may be successful.

Surah An-Nisa (The Women) 4:160-161 - For wrongdoing on the part of the Jews, We made unlawful for them [certain] good foods which had been lawful to them, and for their averting from the way of Allah many [people]. And [for] their taking of usury while they had been forbidden from it, and their consuming of the people's wealth unjustly. And we have prepared for the disbelievers among them a painful punishment.

istirbah, istiglal, irbah, idane etc. Moreover, the lending rates are also written on some waqfiyahs. Çam (2014:40) extracted eight methods used for money operations at CWs in his study: (1) Qard, (2) Mudarabah, (3) Bida'a, (4) Murabahah, (5) Bey'i istiglal, (6) Buy for renting, (7) Operations at Awqaf Ministry, (8) Istirbah at Military Court.

The lending rate of CWs was generally between 10-15 percent¹⁶. It is seen obviously, this rate decreased in the last decades of the 20th century¹⁷. This decrease in lending rate could be explained by the increase in accessibility of credit by banks. The common methods were murabahah and bey'i istiglal.

In qard, people who used the loan from CW should only give the same amount of money when the maturity came. Mudarabah is the classical labor-capital partnership. The entrepreneur puts his labor and the CW gives the capital. The profit is shared with the rates that they have determined before. The artisan, farmer or merchant, the entrepreneur, gave the waqf the borrowed money and all profit in the method of bida'a. The entrepreneur could find the chance to improve the volume of his works with the money that was borrowed from the CW. He put his labor and he also contributed to the charity work in this way. The waqf buys the goods or services that are needed by the entrepreneurs and sells it to them with profit in murabahah. Mudarabah term is located in several waqfiyahs¹⁸. Istiglal was the other common method for CWs. The entrepreneur who needs cash sells his house or etc. to the CW. The CW buys it cash and sells it again to the entrepreneur with a maturity or the entrepreneur can be the tenant in this house until he will buy it again. The discussions about interest are welded from this method (Çizakça, 2004:10). The trustee sometimes bought real estate with the capital of CW and the rental income was used for the purposes of CW. However, the cash provided flexibility to the CWs. In addition, the income from the operations of money with the methods of CWs was generally higher than the rental income.

These methods can be divided into three parts. The first method provided gain for both the waqf and the borrower. These methods were mudabahah, bida'a, murabahah and bey'i istiglal. The other was qard. In qard, the borrower was the only recipient of the benefit. The last method was only used for obtaining benefits waqf. These can be summarized as buying for renting, operations at Awqaf Ministry and istirbah at Military Court.

1.IV The Effects of CWs on Economy and Society

The CWs played a crucial role in social life like other waqfs. Moreover, their economic impacts could be observed better. These waqfs had become financing sources of the Ottoman entrepreneurs, merchants and craftsmen for a long time. The borrowing cost of CW was determined by the waqfiyah. Thus, they determined the cost of borrowing with their applied profit and operation rates in the financial

¹⁶ These rates are taken from almost 800 waqfs documents that are investigated in the Project of Inspection and Analysis of Rumelia Cash Waqf, supported by the Central Bank of the Republic of Turkey and Yunus Emre Foundation conducted by Ankara Center of Thought and Research (ADAM).

¹⁷ The rates are taken from The Archive of T.R. Prime Ministry Directorate General of Foundations. The main cause of this decrease is the Murabaha Law issued in 1887G./1303H. which restricted the maximum profit rate with 9%.

¹⁸ Rodoscuk Sharia Court Registers: 08454.00051 v. 59/b

system. They also reduced negative effects of usurers in the market for people who needed cash. In addition, CWs also provided financial stability with their predetermined operation rates and due to the spread of them even the furthest villages and regions of the state.

The CWs also provided participation of people who have the smallest savings into the charity services¹⁹. Moreover, according to the Islam²⁰ and other social and economic factors, the collection of the great fortune in certain persons was prevented by the state in Ottomans as the previous Islamic civilizations (İA, v32:65-68). So, the large capitals were collected in waqfs²¹. However, the fundamental purpose of these waqfs was charity, they did not have an aim about taking more profit from borrowers or other material benefits. The economic mentality of CWs is Islamic and can be summarized as *the task of the economy is to improve the welfare of the people* not as the view of capitalist economic system *human is for the economy* (Tabakoğlu, 2012:192).

It is observed that the CWs ensured most of the public services that are currently funded by the state. The madrasas²², schools²³ etc. as the educational services, the mosques²⁴, masjids²⁵, lodges²⁶, *zawiya*s^{27,28} etc. as religious services, the caravanserais²⁹, inns³⁰ as security and trade services, the sidewalks³¹, fountains³²

¹⁹ Waqf of Hadji Ahmed Effendi b. Hüseyin Effendi and His Companions - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 987, Page No: 101-102, Serial No: 35-1

²⁰ Surah Al-Hashr (The Exile) 59:7 - And what Allah restored to His Messenger from the people of the towns - it is for Allah and for the Messenger and for [his] near relatives and orphans and the [stranded] traveler - so that it will not be a perpetual distribution among the rich from among you. And whatever the Messenger has given you - take; and what he has forbidden you - refrain from. And fear Allah; indeed, Allah is severe in penalty.

²¹ Waqf of Gazanfer Bey b. Abdullah - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 2105, Page No: 230-235, Serial No: 148

Waqf of Ahmed Bey Effendi b. Abdullah Bey - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 988, Page No: 5, Serial No: 6

Waqf of Mehmed Pasha - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 633, Page No: 21, Serial No:11

²² Waqf of Abdulbaki Pasha b. Ebulvefa - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 632, Page No: 102-108, Serial No: 43

²³ Waqf of Hadji Ali Effendi b. Mustafa - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 632, Page No: 82-83, Serial No: 36

²⁴ Waqf of Hadji Mehmed Effendi b. Ebubekir Effendi - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 627, Page No: 21, Serial No: 7

²⁵ Waqf of Kara Ahmed Agha b. Hadji Hasan - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 629, Page No: 270-271, Serial No:245

²⁶ Waqf of Rufai Sheikh Mustafa Kabuli b. Ömer – Edirne Sharia Court Registers, Register No: 4955 Page: 147 (74)

²⁷ *Zawiya* can be defined as the religious school in Islam. It also can be thought as monastery.

²⁸ Waqf of Fatma Hatun bt. Memi Bey - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 580, Page No: 384, Serial No: 213

²⁹ Waqf of Hüseyin Çelebi b. Hasan - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 570, Page No: 40-42, Serial No: 17

³⁰ Waqf of Zülfikar Agha - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 623, Page No: 183, Serial No: 189

³¹ Waqf of Mehmed Agha b. Hüseyin Effendi - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 627, Page No: 266, Serial No: 146

³² Waqf of İsmail Pasha b. Mahmud Pasha - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 738, Page No: 25-28, Serial No: 18

waterways³³ etc. as infrastructure services, hospices, hospitals³⁴, almshouses, soup houses³⁵ etc. as social services were funded by the waqf system.

1.V Samples of CW

In this study, we will look at the several examples of CWs from The Archive of T.R. Prime Ministry Directorate General of Foundations. Waqfiyahs are important documents to analyze the economic situation of that era. It can be learned from a sample CW waqfiyah that (1) the aims of the CWs, (2) name, title, gender and family of the founder, (3) the place of the waqf or the region of institution that will be funded, (4) the name, title, gender and family of trustee, (5) the amount of money that was donated and the goods if they existed, (6) the methods of donated money, (7) the operation rate of money (the borrowing cost for the users), (8) revenues that came from operations and the expenditures of relevant institutions, (9) heirs of waqf and management, (10) the views of Hanafi mujtahid imams, (11) The 181st verse³⁶ of Surah Al-Baqarah, (12) the date of registration, (13) the names of the jury.

The social and economic life of the society could be understood from the waqfiyahs. Because, the wages of various occupations, the price of some products, the operation rate etc. are located in the waqfiyahs. Moreover, the establishment process and the legal basis of the waqf are also learned from these documents. So, some samples of waqfiyahs are examined from its primary sources.

The region of waqfs examined are the Balkans (Rumelia) in the Ottoman period. The Albania-Belgrade region includes whole territories between Belgrade and Albania. The other waqf was founded in Misivri (Nesebar), a city located in Black Sea coast of Bulgaria.

All the samples of waqfs show that CWs had provided credits for merchants and entrepreneurs with a low profit-rate. The first sample of CWs supports the Faroqi's (2004) findings about the role of CWs in funding the entrepreneurs in Bosnia. Thus, the solution to be drawn is that there were CWs that supported the entrepreneurs in the other parts of the Balkans. Thus, there are two types of CWs with the results of Çizakça (2000). Çizakça claims in his study that the CWs preferred to give consumption credits rather than supporting the entrepreneurs or merchants in Bursa. The first one can be defined as risk-lover waqfs that provided the low profit-rate credit for merchants. On the other hand, the other type is more risk-averse and generally tried to give consumption credits to the rich. It is another issue to be investigated on which motivations caused different purposes for the CWs founded in different parts of Ottomans?

³³ Waqf of Mustafa Effendi b. Hadji Kasim Effendi b. Ali - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 623, Page No: 338, Serial No: 339

³⁴ Waqf of Sinan Pasha b. Ahmed Agha - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 734, Page No: 111-116, Serial No: 66

³⁵ Waqf of Yahya Pasha b. Abdulhay - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 629, Page No: 422-429, Serial No: 332

³⁶ Surah Al-Baqarah (The Cow) 3:181 - Then whoever alters the bequest after he has heard it - the sin is only upon those who have altered it. Indeed, Allah is Hearing and Knowing.

I.V.I The Waqf of Ayşe Kadın bt. Mahmud Pasha³⁷

This waqf was founded in Albania-Belgrade, Murad Çelebi Neighborhood at 13 August 1679 Gregorian and 6 Rajab 1090 Hijri³⁸. She devoted 100.000 akches and this amount was equal to 833,33 qurushes as 1 qurush was equal to 120 akches. Ayşe Kadın founded this waqf by proxy of her husband, Salih Bey b. Hasan Pasha. The operation rate of the money also can be called as the borrowing cost rate is 15% (eleven and a half to ten³⁹). The method of operation is called as Islamic transactions⁴⁰. There are also some conditions about giving and using money as the loan. These can be ordered as (1) the transactions must be halal, (2) the borrower must be an honest and honorable merchant⁴¹, (3) the money should not be given to insolvent or bankrupt person who are not able to pay his debt⁴², (4) a strong guarantor⁴³, (5) a valuable mortgage⁴⁴. The income of waqf was reserved for the staff wages and other expenses of a school were built by Ayşe Kadın and her husband in the same neighborhood. The school had ten rooms, a classroom, and a Qur'an learning course. She appointed her husband as a trustee for the management of the waqf. In the last part of the waqfiyah, the 181st verse of Surah Al-Baqarah, the registration date, and the name of the jury are written.

This waqf was founded in the 17th century. The founder and her husband were the children of the military class. This class is the ruling class of Ottomans. The intention of basing the monetary transactions to the halal ways is obvious. The continuity purpose of waqf is also evident. Moreover, this waqf was established to fund some educational services.

I.V.II The Waqf of Salih Bey b. Hasan Pasha⁴⁵

This waqf was founded by the husband of the founder of previous waqf, Salih Bey b. Hasan Pasha. This CW also was founded in Albania-Belgrade, Murad Çelebi Neighborhood at 13 August 1679 Gregorian and 6 Rajab 1090 Hijri. He devoted 80.000 akches and this amount was equal to 666,66 qurushes as 1 qurush was equal to 120 akches. The operation rate is same, 15% and methods are written as *istirbah* and *istiglal*. The other conditions of the loan are almost the same. But, there is an extra condition. The loan could not be used by state officials as Qadis, müderris etc. The purpose of this CW and the previous one overlaps. This purpose can be shown as an example of supply side capital pooling (Çizakça, 2000:35). This means both CWs were funding the same madrasah for the expenses of madrasah and wages. The last part carries also similarities with the previous one.

³⁷ Waqf of Ayşe Kadın bt. Mahmud Pasha - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 623, Page No: 272, Serial No:292

³⁸ *Hijri* calendar is the Islamic calendar and depends on the movements and phases of the Moon. It is also described as the lunar calendar. The start of the calendar is emigration of the Prophet from Mecca to Medina. This journey is defined as *Hijra*.

³⁹ *onu on bir buçuk* in the waqfiyah

⁴⁰ *mu'âmele-i şer'îyye* in the waqfiyah

⁴¹ *istinmâlarından asâr-ı emânet zâhir-i lehçelerinde envâr-ı istikâmet-i bâhire olan tüccar-ı kaviy ve'l-iktidâr* in the waqfiyah

⁴² *asâr-ı sivâdan hazer olunub* in waqfiyah

⁴³ *kefil-i melî* in the waqfiyah

⁴⁴ *rehn-i kavî* in the waqfiyah

⁴⁵ Waqf of Salih Bey b. Hasan Pasha - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 623, Page No: 272-273, Serial No:293

This waqf is important because the borrower is restricted with traders. We can define these traders as entrepreneurs. The state officials were not able to take loans from this CW. Thus, the secondary aim of this waqf was helping the reviving the economy by financing initiatives.

I.V.III The Waqf of Haseki Mustafa Agha b. Mehmed Agha b. Hadji Ahmed Agha⁴⁶

This waqf was founded in Misivri Town at 1 May 1720 Gregorian and 22 Jumada II 1132. The founder donated 55.000 qurushes, 2 houses, 4 mills, 1 warehouse and some other real estates. The main purpose of this CW was also to fund a madrasa that was built by the founder of CW containing ten rooms for scholars, one classroom, one kitchen, one guestroom and one bathroom. The income of waqf was formed by the rental incomes from real estates and the profit from the cash capital. The operation rate of this CW is also 15%. The methods of the operation are ordered as *istirbah* and *istiglal*. There are also some conditions of the loan in the waqfiyah. The first one is that the borrower must be from the same town or neighboring towns. The borrower can also be from İstanbul and Bursa. Moreover, the insolvent and bankrupt persons, the state officials were not able to use the loan from this CW⁴⁷. The risk of interest and sinking is especially emphasized in the waqfiyah⁴⁸. The purpose of waqf can be ordered as religious services, educational services, trade funding services and other social services for the society. The heirs of waqf were written in detail in waqfiyah. The establishment process of CW is based on *Imameyn*⁴⁹.

This CW was funding a lot of charity works. Moreover, it was able to give loans to the artisans, farmers and traders as entrepreneurs. It was also restricted to giving the loan to the state officers. The operation methods are also mentioned in the waqfiyah. The region condition gave the benefit to the waqf to follow its loans. Moreover, this condition has also a positive effect on regional development.

Table 1. A Comparison between Features of Samples of CW

	1st CW	2nd CW	3rd CW
The founder	Ayşe Kadın bt. Mahmud Pasha	Salih Bey b. Hasan Pasha	Haseki Mustafa Agha b. Mehmed Agha b. Hadji Ahmed Agha
gender of founder	female	male	male
date of establishment	13 August 1679	13 August 1679	1 May 1720
Location	Albania-Belgrade, Murad Çelebi Neighborhood	Albania-Belgrade, Murad Çelebi Neighborhood	Bulgaria, Misivri Town
Capital	100.000 akches	80.000 akches	55.000 qurushes, 2

⁴⁶ ⁴⁶ Waqf of Haseki Mustafa Agha b. Mehmed Agha b. Hadji Ahmed Agha - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 623, Page No: 321-325, Serial No:328

⁴⁷ *âmil ve mîrî mültezimîne ve medyûn müflise virilmeye* in the waqfiyah

⁴⁸ *ziyâ' ve tevâdan ve muhâlata-i ribâdan hazer oluna* in the waqfiyah

⁴⁹ *îmâmeyn-i Hümâmeyn mezhepleri üzere amel olunub hilâfından ihtirâz ideler* in the waqfiyah

	equal to 833,33 qurushes	equal to 666,66 qurushes	houses, 4 mills, 1 warehouse and some other real estates
rate of borrowing cost	15%	15%	15%
maturity of loan	1 year	1 year	1 year
lending region	local	local	local + İstanbul and Bursa
methods of money transactions	mu'âmele-i şer'iyye	istirbah and istiglal	istirbah, istiglal and mudarabah
Purpose	funding educational services	funding educational and religious services	funding various kind of services.

II. Modern Interest-Free Financial Institutions and Developments

The modern interest-free financial institutions can be considered as heir of CWs. Their operations look similar to CWs. However, there is a huge time interval between the expiration of CWs and the establishment of first Islamic financial institutions. The number of Islamic banks and financial institutions has started to increase since the 1970s and 1980s. These developments could be seen as a *back to religion* movements. These institutions were different from the institutions of both capitalist and socialist economies. Firstly, there were no interest-based operations in these institutions (Ahmad, 1989:23-24). Moreover, the Islamic economic perspective did not have a confrontational approach. It depended on parallel interests of people, the private sector, and the government.

The development process of modern interest-free institutions is evolutionary. The new products / instruments were discovered by virtue to the requirements of the time. Despite all the developments, Islamic concerns have always been at the forefront of operations, such as the ban on interest etc. The zero-sum games are also forbidden in Islamic financial system. In these games, one party takes all gains and the other has nothing like gambling. Moreover, taking profit from the uncertainty, gharar is also forbidden (Rethel, 2011:79). We can examine the principles of interest-free financial system under the six headlines (Tabash and Dhankar, 2014:51-52): (1) the interest ban, (2) the profit-loss (risk) sharing system, (3) the avoidance of uncertainty (gharar), (4) operations based on Shariah & Islamic rules, (5) the respect to contracts, (6) the money using as unit of account, (7) Zakat.

Table 2. Development Process of Modern Interest-Free Financial Institutions (Kalaycı, 2013:54)

	1960-1970	1970-1980	1980-1990	1990-2000	2000-
Institutions	Saving Banks	and Trade and Investment Banks	and Special Finance Institutions, Insurance	and Asset Management Companies, Intermediaries	and E-Banking

			Companies		
Products	Qard-ı Hassan (Beautiful Loan), Mudarabah, Musharakah	and Salam	and Commercial Banking Products, Participation Accounts, Islamic Insurance	and Mutual Funds, Islamic Bonds, Stocks	and Structured Financial Products
Regions	Gulf and Arab countries	and Middle East	and Asia and the Pacific countries, Turkey	Same regions, no change	and Europe, USA

Turkey, the heir of Ottomans and of course CWs, was too late to participate in the interest-free financial sector. In this study, the modern interest-free financial institutions are generally described by the term of *participation banks*, because they are known as this name in Turkey. The participation banks also may be referred to Islamic banks, started their activities due to evaluate savings of people who cannot reflect their deposits to the economy because of interest in Turkey, 1985. At first, they are established under the title of private financial institutions. They changed their name as participation banks because of identity and recognition problems in the world market and began to operate in the same market of other traditional bank market (Aras and Öztürk, 2011:170).

The development process of participation banking in Turkey can be divided into three periods. These founded institutions had the task of the introduction of Islamic banking in the first period. They gave discarded funds by collecting the deposits that were not evaluated in the market because of interest from people who have Islamic sensitivities. The participation banks had realized a rapid growth in this period. The second period started with the establishment of Special Finance Institutions Association in 2001. The good governing at 2001 crisis provided the rise of the participation banking in Turkey. The system took the name of *the participation banking* and the participation banks emphasized that this system is not an alternative to traditional banking, but it is complementary to the system in the third period. This means that the balance sheets of participation banks and deposit banks are asymmetric to each other (Bilir, 2010). However, the current financial developments are the indication of being a serious alternative to the interest-based financial system.

The first Islamic Finance Institutions in Turkey are Albaraka Türk Special Finance Institution (established in 1985), Faysal Finance Institution (established in 1985), Kuveyt Türk Awqaf Finance Institution (established in 1989), Anadolu Finans Finance Institution (established in 1991), İhlas Finance Institution (established in 1995) and Asya Finance Institution (established in 1996).

Now, there are five participation banks in Turkey. They are (1) Albaraka Türk, (2) Kuveyt Türk, (3) Türkiye Finans Participation Bank, (4), Ziraat Participation Bank and (5) Vakıf Participation Bank (tkbb.org.tr). Here, Vakıf Participation Bank,

established in 2016, is important, because the capital, 805.000.000 TL, of this bank formed by T.R. Prime Ministry Directorate General of Foundations, Waqf of Bayezid II, Waqf of Mahmut I, Waqf of Mahmut II and Waqf of Murat Pasha (vakifkatilim.com.tr). Thus, the expectation of social benefits is high from Vakif Participation Banks.

II.I The Operations and Products of Modern Interest-Free Financial Institutions

Modern interest-free financial institutions regulate and arrange the banking operations and transactions coincide with Islamic scholars, *fuqaha*. The main methods that are usually used by interest-free institutions can be ordered as mudarabah, musharakah, murabahah, ijarah. These methods do not generate profit or loss over the nominal operations. Thus, modern interest-free financial institutions, participation banks, finance the real economic activities such as production and trade or perform these activities directly. Then, they share the profit or loss with their costumers as a result of these activities (Tunç, 2010:113).

Mudarabah is a labor-capital partnership. In this method, the Islamic finance institutions give all cash money as capital for an investment and the customer gives labor. The profit is shared between the institution and client with the initial rate that they agreed before. The capital owner meets all cost if a loss occurs. This system is usually used in financing trade. In the musharakah method, the Islamic finance institutions cover required capital for a project. The client also contributes to this capital. The institution and the client share the profit according to the initially agreed rates. This rate does not have to be equal to the capital share. Because the client does not contribute only capital but also labor. Hence, the client can take more share from the profit. If a loss occurs, the partners share this according to the shareholding. The client can also make additional payments periodically for taking the entire project. Musharakah is generally used for funding industry sector. Murabahah is another Islamic finance method that is the most frequently used. This method is a spot contract sale and calculated by *cost plus profit margin* formula. The Islamic finance institution buys the goods that are demanded by the client and sell it to the client by adding a maturity rate. In this system, the costumers has knowledge about the cash price of goods and the profit share that will be paid to the bank. Murabahah plays an important role in financing micro and small-sized enterprises by giving the ability to use short-term and medium-term commercial loans to households and businesses. This is also well-known in history, because the application of murabahah is very easy. Ijara can be defined as leasing. The Islamic finance institutions provide resources to real estate, real assets (machinery etc.) for the customer with a hire-purchase method. The institution buys the real estate or real assets and gives permission to the customer using it for an agreed period and rent.

II.II The Effects of Modern Interest-Free Financial Institutions on Economy and Society

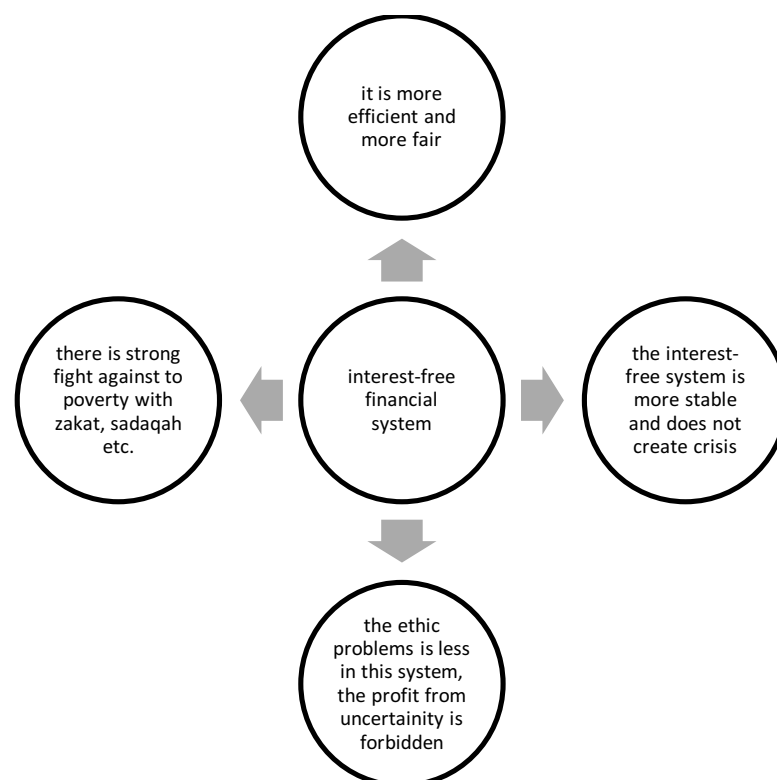
These interest-free institutions had the opportunity to collect the deposits of people who have high Islamic sensitivities and avoid from interest risk. Thanks to these institutions, the deposits that belong to Muslims that are not used in the market, could be operated under the Islamic rules. In a global perspective, interest-free

financial institutions also provided that the Muslim countries, especially whose economies depend on oil, obtained high oil revenues in the 1970s. However, there were not any Islamic financial institution to collect and operate. The Western countries took benefits of these revenues more than Muslims (Kalaycı, 2013:61). Thus, interest-free financial institutions ensured to stay oil revenues inside. In addition, high accumulation of revenues also provided economic development in these countries.

Interest-free financial institutions reduced the negative effects of the conventional financial system. For example, it changes all the relationship between borrower and lender. The risk is shared asymmetrically in the conventional system and the lender always enlarges its capital. In Islamic finance, if the money is given directly, the lender has to want it back without interest, *Qard-ı Hassan* (Rethel, 2011:80). Therefore, Islamic finance does not allow the unfair capital accumulation of the capital owners. Thus, it tries to equalize the distribution of the income.

The Islamic financial system will also prevent the large gap between the bank assets and liabilities. The gap causes the financial instability. In the interest-free system, there is no free money that causes the crisis. The nominal value of liabilities is equal to the assets in Islamic financial system. Thus, the banks and financial institutions must be more selective to fund the people or investments (Chapra, 1988:6-7). The self-control of the banks means a healthy financial system.

Figure 1. The Effects of Modern Interest-free Institutions on Economy



III. A Comparison Between CWs and Modern Interest-Free Financial Institutions

The fundamental principle of participation banks depends on profit-loss sharing without interest. According to Islamic economic view, money should not be used for

accumulation⁵⁰. It can be used for the medium of exchange and unit of account. In this regard, participation banks should operate with the aims of profit-loss sharing, financing production and trade activities and taking profit from them without interest-based operation. They do not only aim the economic development but also social development (Eskici, 2007:5). The aim of social development makes CWs and participation banks partner institutions.

The modern sale-and-lease back application is one of the most preferred methods due to the low transaction costs in both CWs and modern interest-free financial institutions. It was used with the *istiglal* term in CWs⁵¹.

The 26 basic features of CWs and modern interest-free institutions will be compared in the following table.

Table 3. Differences and Similarities between CWs and Modern Interest-free Institutions

	Cash Waqfs	Modern Interest-free Financial Institutions (for Turkey)
Guide	religious factors, Quran	religious and economic factors
emergence and spread	Ottoman State	Gulf and Arab Countries, Asia and the Pacific Countries
religious and legal basics	(1) Quran, Sunnah, Ijma, Qiyas, (2) Regulations of Waqfs (<i>Evkaf Nizamnamesi</i>)	(1) Islam, (2) The Banking rules
Founder	natural persons	natural or legal persons
founding document	Waqfiyah	company main agreement
The principle of operations	located in waqfiyah and the operations do not go beyond the waqfiyah	operations are regulated by the rules of banking and company main agreement
competition	there is no competition between CWs	there is competition with both participation banks and the conventional banks
most common operations	(1) Qard, (2) Mudarabah, (3) Bidaa,	(1) Murabahah (42.4%), (2) commodity Murabahah / Tawwaruq (15.6%),

⁵⁰ Surah Al-Humazah (The Traducer) 104:1-4 - Woe to every scorner and mocker. Who collects wealth and [continuously] counts it. He thinks that his wealth will make him immortal. No! He will surely be thrown into the Crusher [fire of Allah].

⁵¹ "... Zikr olunan mâl-ı mevsûf-ı mezkûr ve meblağ-ı mevkûf-ı mezbûr senede onu on bir buçuk ziyâde olmak üzere reyb ve riyâdan ârî ve sıhhat ve şerâiti cârî alâ-vechî'l-helâl ve **tarîki'l-istiğlâl** yed-i mütevellî-i vakf ile rehn-i kavî ve kefil-i melî veya ikisinden biriyle i'mâl ve istirbâhında ..." Waqf of Shoemaker Hadji Mehmed Effendi b. Ebubekir Effendi - The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 627, Page No: 21, Serial No:7

	(4) Murabahah, (5) Bey'i istiglal, (6) Buy for renting, (7) Operations at Awqaf Ministry, (8) Istirbah at Military Court.	(3) Ijarah / Ijarah Muntahia Bittamlik (14.8%), (4) Bay' Bithaman Ajil (13.6%), (5) Salam (7.9%) (IFSB, 2016)
Aim	generally, for financing mosques, masjids, madrasas, lodges and other charity works	taking profit from operations
profit distribution	according to the purpose of the waqf (1) expenses of mosques, madrasas etc. (2) giving salaries the staff of mosques, madrasas etc. (3) giving salaries the staff of waqf (4) helping poor	according to the company main agreement (1) investors (2) personnel (3) sometimes charity works
Priorities (in order)	(1) social development (2) economic development	(1) economic development (2) social development ⁵²
capital and its amount	cash money from direct or bequest, even the smallest savings	minimum 30.000.000 TL
approval authority	approval of Qadi based on religious principles	approval of Banking Regulation and Supervision Agency
ways of minimizing the risks	Islamic ethic, reliable guarantor or strong mortgage	Islamic ethic, mortgage for real estates, insurance, bail
The yield of capital	defined in waqfiyahs and generally between 10%-15%	determined by the operation of the bank and economic developments
impact on development	generally regional	generally national
Audit	the internal audit by the <i>nazir</i> (observers) declared in waqfiyah the external audit by Qadi	the internal audit by bank examiners the external audit by Banking Regulation and Supervision Agency,

- Social Responsibility Projects of Kuveyt Türk Participation Bank:
 - http://www.kuveytturk.com.tr/social_responsibility_projects.aspx
- Ethical Principles of Albaraka Türk Participation Bank:
 - http://en.albarakaturk.com.tr/investor_relations/detail.aspx?SectionID=3yxZnyldt7BhdmdvQL%2bLDg%3d%3d&ContentID=Gq550BfHYdLNp9Facz%2bB5w%3d%3d

		independent audit firms, The Central Bank of the Republic of Turkey and other institutions
management	(1) usually all the powers are concentrated in trustee for Mülhak and Müstesna waqfs, (2) Ministry of Waqfs / Foundations for Mazbut waqfs	(1) board of directors, (2) supreme councils, (3) audit committee, (4) advisory board
Liabilities	donation or bequest (Islamic-based)	external funds, savings of clients
Assets	Islamic financial Instruments	Islamic financial Instruments
funds transfer	cash and sometimes good	generally, cash given
debt maturity	generally, one year	the maturity varies according to the agreement with the borrowers
loan size	small amounts and depended on capital	can be varied by the status of the borrower and the assets of the bank
use of volunteers	varied	only salaried staff
government subsidies	none	actively, determined by regulations, the government also established 2 participation banks in 2015 and 2016
limit of profit	located in waqfiyah and also determined by the Qadi or other scholars, there are no excessive profits	The profit from murabahah, tawarruq and ijarah is determined by the regulations.

Conclusion

CWs and modern interest-free financial institutions are generally similar to each other at the operation ways of cash money. But, the purposes are absolutely different. Because the intention of the founders of CWs is to take benefits of this action at Hereafter⁵³. However, the main motive of interest-free financial institutions is profit.

CWs fulfilled the task of modern states such as religious, educational, infrastructural and municipal services by financing them. They were established for the needs of the region. In this context, they had become one of the determinants of regional development. Their secondary objective, providing cash, helped to finance

⁵³ Hereafter (Aakhirah) means *Ahiret* in Turkish and refers to afterlife.

the investments of artisans, entrepreneurs, farmers, merchants etc. Moreover, this secondary objective also protected them from usurious borrowing and loan sharks. Thanks to CWs, the lending rates was not very volatile and their effect on financial stability was too clear, because the operation rate were generally between 10%-15% in Rumelia Province from the first known CW in 1423 until the end of the Ottomans in 1922. Furthermore, they have been pioneers of the modern interest-free financial institutions.

The modern interest-free financial institutions, especially participation banks, were founded to respond to the needs of Muslims who did not want to participate in the current interest-based financial system. These institutions are against the making money on money, interest-based borrowing. In this way, they prevent unjust enrichment and provide real-sector based growth in the economy by financing production and trade activities. The instruments of interest-free financial institutions have varied according to the requirements of the era. But, if we explain it with a compass metaphor, the key pillar of this compass stands on the *sine qua non* (essentials) of Islam as the prohibition of interest, staying away from harams etc. These institutions can be assessed as evolving with the conditions of their periods. They are similar in terms of operations, but they decompose from CWs in terms of purpose.

Interest-free financial institutions emerge to meet the needs of the modern era as the CWs responded to the needs of society in their period. This situation actually is an indicator of the flexibility and pragmatism of Islamic economic, social and legal institutions. Common Muslim mind has always had Islamic solutions to problems of the era from the past to present.

In conclusion, it can be said that mentally, the modern interest-free financial institutions are a serious alternative and opponent of the interest-based financial system which aims capital accumulation and limitless profit even though the current shares do not show that. The solution of the problems created by the interest-based financial system and if the establishment of CWs is allowed, they will become a complement of modern interest-free institutions. They also will contribute to the institutionalization of charity works more. Due to the participation banks that have already technical infrastructure, the transaction costs will also be low. Although the collected money is held in the separates funds, the share of participation banks in the whole sector will increase, hence the volume of transactions is larger. Furthermore, the spread of CWs will help to stay liquid and increase the flexibility. The establishment of Vakıf Participation Bank in Turkey is a great opportunity to start these activities. The conjuncture and current developments refer to the bright future of the Islamic finance industry.

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