

A Comparison Between Ottoman Cash Waqfs (CWs) and Modern Interest-Free Financial Institutions

Mehmet Bulut* - Cem Korkut**

Abstract

The Ottoman State is accepted as the civilization of waqfs so that the borrowing by 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 *ulemas* under the effects of interest ban in Islamic states. These waqfs can be thought of as the pioneers of modern Islamic financial institutions. The cash waqfs (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 fulfill the function of interest-free financial institutions. The participation banks that bring together the people who want to borrow money without interest and the people who want to operate his capital in accordance with Islamic rules (with *halal* ways) differ from cash waqfs in some respects. Even though they follow similar financial methods, the difference in their purposes and other characteristics as interest-free financial institutions and the pioneering role of CWs will be examined in this study.

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

Osmanlı Para Vakıfları ve Çağdaş Faizsiz Finans Kurumlarının Karşılaştırılması

Öz

Vakıf medeniyeti olarak tanımlanan Osmanlı Devleti'nde nakit ihtiyacı olanların borçlanması da sermayesi nakit paradan oluşan vakıflar ile karşılanmıştır. İslam devletlerinde olan faiz yasağının etkisiyle bu vakıflar Osmanlı ulehasının çizmiş olduğu sınırlar çerçevesinde sermayelerini işletmiştir. Bu vakıfları günümüz faizsiz finans kurumlarının öncüleri olarak düşünebiliriz. Dönemlerinde piyasa dışı yüksek borçlanma oranlarını kontrol eden ve bir nevi piyasa faizini belirleyen bir işlev gören para vakıfları aynı zamanda uzun yıllar Osmanlı finans sisteminde istikrar unsuru olmuşlardır.

Günümüzde ise bu işlevi faizsiz finans kurumları olarak tanımlayabileceğimiz Katılım bankaları yerine getirmektedir. Faizden kaçınarak borçlanmak isteyen kişiler ile olan sermayesini helâl yollar ile değerlendirmeyi düşünen kişileri bir araya getiren katılım bankaları belirli yönlerden para vakıflarından ayrılmaktadır. Bu çalışmada, her ne kadar benzer finansal metotlar izleseler de, faizsiz finans kurumları ile onların öncüsü para vakıflarının amaçları ve diğer özellikleri arasındaki farklılıklar incelenecektir.

Anahtar Kelimeler: Osmanlı Devleti, para vakıfları, faizsiz finans kurumları, Katılım Bankaları, İslami finans

* Professor, Istanbul Sabahattin Zaim University, Department of Economics; mehmet.bulut@izu.edu.tr

** Research Assistant, PhD Candidate, Ankara Yıldırım Beyazıt University, Department of Economics; cemkorkut44@gmail.com

Introduction

Waqfs have a function of not only cooperation and solidarity in society but also of economic and financial terms. Waqfs ensure solidarity within the frame of an institutional body. Islam pays particular attention to the establishment of waqf. Muslims who want to obey the commandment of Allah¹ have established a lot of waqfs for this purpose. A Waqf is the allocation of a private property or an economic entity to a particular social need in the community. The goods that are donated, lose their feature of private ownership. Thereafter, they are allocated to the benefit and service of humanity (Özcan, 2008:144). It is possible to take the waqf applications to the Prophet's period in Islamic history. The hadith quoted in the collection of 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 the main motivation for establishing a waqf. The term *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 *waqafa*. The other well-known meanings of waqf are pious and charity institutions (Çizakça, 1998: 43).

The institutionalized fully in the Ottoman period, Ottoman State can be defined as the civilization of waqfs. Waqfs were generally organized by public and they were the organizations that were kept outside the state mechanism. Especially, these civil society organizations lightened the state's burden on the educational, religious and infrastructure services. 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 regulations of waqfs (*Evkaf Nizamnamesi*).

- 1 Surah Ali İmran, 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.
- 3 A *mujtahid* is a scholar who is qualified and authorized to make *ijtihad*.
- 4 *Ulema* is the plural form of *âlim* who can be defined as a scholar in Islamic aspects.
- 5 *Qadi* is a judge who applies the Islamic law in court.

Waqfs had many missions in the Ottoman society. They prevented the powerful state from interfering with the 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 by functioning as an insurance system and paying their taxes during depression times. In addition, due to the provision of waqf irrevocability, they prevented the disintegration of fertile agricultural lands that would otherwise be permissible in accordance with the Islamic inheritance law. Furthermore, they functioned as a kind of social security system by giving pensions to the elderly or disabled people. They provided financial support to artisans etc. for damages due to fire, disaster etc. Activities such as these show that waqfs formed a primitive social security system within the society (Korkut, 2014).

In this study, cash waqfs (CWs) being just one particular type of many different waqfs, will be examined especially in the economic context. It is thought that some of the methods used in CWs are the pioneering applications for modern Islamic (interest-free) financial instruments. In the first part, CWs will be discussed with regard to establishment process, operations and their effects on the economic and social life of the society. Moreover, three CWs will be investigated in detail from the primary sources, *waqfiyah*⁷s. A short comparison between these three CWs will also be made. 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 will also be summarized in this part. In addition, the social and economic effects of these institutions are examined and summarized in a figure. Various comparisons will be made considering 26 issues in the third part of the study. In the final section, the requirements for both of these institutions will be questioned. Moreover, the contributions and effects of CWs to the financial system will be highlighted, whether there are any legal barriers, especially in Turkey, for the establishment of CWs today.

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

7 Charter of endowment.

I. Cash Waqfs (CWs)

CWs are the waqfs that their entire capital or a portion of it consisted of 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 rent of real estate waqfs. The methods of operating the cash money in CWs are the basis for the applications implemented by contemporary interest-free financial institutions. The methods of *istirbah*, *istiğlal*, *irbah* etc. in waqfiyahs and *mudarabah*, *murabahah*, *bida'a* etc. –the definitions of them will be explained later- are mentioned in jurisprudence registers and have been adapted to present conditions by Islamic financial institutions.

Döndüren (1998: 64) said that the CWs had started to develop in the 13th century. On the other hand, in registers, we can see that the first CW was founded by Yağcı Hacı Muslihiddin in 1423 in Edirne Province (Mandaville, 1979: 290). He donated some shops and 10.000 *akçe*(*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 *akçes* for one year. Again, one of the first examples of CW was Balaban Pasha Waqf founded in 1442 in Edirne Province. This waqf was relatively big and established for the purpose of constructing a school. He donated four shops, a *hammam*⁹ and 30.000 *akçes* for the wages of *muderris*/lecturers and other expenditures of school and its lending 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 *Sultâni*¹⁰ for meeting the meat needs of Janissaries. The second example was founded by Suleiman the Magnificent in 1566. He donated some amount of money and combined the CWs that are founded for the same purpose. This CW had 698.000 *akçes* capital for the meat needs of butchers in Istanbul (Döndüren, 1998: 64).

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.

These institutions are 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 the European mercantilist economic view. The CWs are so unique that they 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 criticize these institutions. The following chapter will examine the discussions on CWs.

I.I Discussions on CWs

Ottomans gave the CWs to Islamic civilization, in this respect 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, the 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.

Since the founder of Hanafi sect, Imam Abu Hanifa was a merchant, there is a huge literature of economic affairs in the Hanafi sources. According to Abu Hanifa, the movable assets cannot be used as capital for establishment of waqf. However, he had views on fair trade and other Islamic trade methods like *mudarabah*, forward sale etc. (Siddiki, 1982:5-6). These had been some of the main operations of CWs. Imam Abu Yusuf and Imam Muhammad al-Shaybani known as *Imameyn*, the two *imams*, in the Islamic literature were the students of Imam Abu Hanifa. 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 related to CWs. However, Imam Muhammad 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 and therefore suggested solutions for that. One of them was to donate both movable and immovable goods together at the 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. Thus, the legal ground for establishing CWs in Ottomans was based on this opinion of Imam Zufer.

Ottoman scholars were found themselves to enter an inevitable debate on CWs, despite the differences in 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 that of the CWs (Özcan, 2000: 34). Ibn Kemal was one of the pioneers of ulema who were supporting the CWs. On the other hand, some scholars who strongly opposed to CWs. A former *Şeyhülislam* and Rumelia Province *Kazasker* Çivizade Muhittin Efendi played a role in forbidding CWs by Sultan between the years 1545-1548 (Gel, 2010: 185). He claimed that the objection of over a hundred scholars about CWs were obvious and therefore it was not permissible (Özcan, 2003: 37). Perhaps the most famous of all Ottoman *Şeyhülislam*s was Ebussuud Efendi. He undertook this post for nearly thirty years. He had provided a good consonance 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 that the lending rate of CWs cannot be more than the legal *rihb*¹¹ rate. This posture of Ebussuud Efendi and his influence in administration provided a financial market that was easy to control and prevented usury (Akdağ, 1979: 256). Contrary to Ebussuud Efendi, Imam Birgivi, another important Ottoman scholar, thought that there was a serious risk of interest in operations of CWs. He also claimed that the people who believed to fulfill their *zakat* worship by means of CWs were at risk because the CWs were

not *sahih*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 Efendi when the CWs was banned (Şimşek, 1985: 211). He emphasized the need for and importance of CWs in a society. He also reported the negative effects of the ban on social and economic life (Özcan, 1999).

The views of mujtahid imams and Ottoman ulema are important in understanding the place and importance of CWs for the Muslim society. Because, without the approval of respected prominent *imams* and ulema, despite the conflicting views of some, CWs could not be so 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 by going through some stages.

The process had begun with the donation of cash as capital according to the views of Imam Zufer. Otherwise, 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 was taken to the 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

11 *Ribh* means profit.

12 *Sahih* means trustworthy and authentic in Islam

13 *Fiqh* means Islamic jurisprudence.

14 Trustee refers to the *mütevelli* in documents.

that the CWs were quite widespread even to 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 major world religions such as 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 *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 obvious that this rate dec-

reased 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 (or *karz*), people who used the loan from CW should only give the same amount of money on due date. 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 beforehand. The artisan, farmer, merchant or entrepreneur, gave the waqf the borrowed money and all the 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. The process of mudarabah is indicated in several waqfiyahs¹⁸. Istiglal was the other common method for CWs. The entrepreneur who needs cash sells his property such as his house to the CW. The CW buys it in cash and sells it again to the entrepreneur with a maturity date or the entrepreneur can be the tenant in this house until he will buy it again. A discussion of interest can arise 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 mudarabah, bida'a, murabahah and bey'i istiglal. The second method was qard (*karz*). In qard (*karz*), the borrower was the only recipient of the benefit. The last method was used for the benefits of waqf only. These methods can be described as buying

15 *Surah Al-Baqarah, 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, 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, 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.

16 These rates are taken from almost 800 waqf 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 1887 G./1303H. which restricted the maximum profit rate with 9%.

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

for renting, operations at Awqaf Ministry and *istirbah* at Military Court.

I.IV The Effects of CWs on Economy and Society

The CWs played a crucial role in social life like other types of 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 period. 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 system. They also reduced negative effects of users in the market for the people who needed cash. In addition, CWs also provided financial stability with their predetermined operation rates and due to the spread of them throughout the whole state.

The CWs also provided participation of people who have the smallest savings into the charity services¹⁹. Moreover, according to Islam²⁰ and other social and economic factors, the collection of the wealth in certain persons was prevented by the state in Ottomans as in the previous Islamic civilizations (IA, v32: 65-68). Thus, large amount of 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 human is for the economy* as in the view of capitalist economic system. (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*^{27,28} etc. as religious services, the caravanserais²⁹, inns³⁰ as security and trade services, the sidewalks³¹, fountains³² waterways³³ etc. as infrastructure services, hospices, hospitals³⁴, almshouses, soup houses³⁵ etc. as social services were funded by the waqf system.

- 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, 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 Abdulkaki 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
- 33 Waqf of Mustafa Effendi b. Hadji Kasım 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. Abdülhay- The Archive of T.R. Prime Ministry Directorate General of Foundations, Register No: 629, Page No: 422-429, Serial No: 332

I.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 recorded 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. The second type, on the other hand, is more risk-averse and generally tried to give consumption credits to the rich. It is another issue to investigate on which motivations caused different purposes for the CWs founded in different parts of Ottomans?

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 donated 100.000 *akçes* and this amount was equal to 833,33 *kuruş* (qurush) 1 *kuruş* was equal to 120 *akçes*. 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%³⁹. The method of operation is called as Islamic transactions⁴⁰. There are also some conditions about giving and using money as a loan. These conditions can be listed as follows; (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 which 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 hus-

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'iyye* 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 *keffl-i melî* in the waqfiyah.

44 *rehn-i kavî* in the waqfiyah.

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.

Map 1. *The Political Map of Balkans in 1877, Ottoman Period*



band 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 *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 donated 80.000 *ağşes* and this amount was equal to 666,66.⁴⁶ The operation rate was the 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 such as Qadis, *müderriş* 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.

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 to help to revive the economy by financing initiatives.

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

⁴⁶ 1 *kuruş* was equal to 120 *ağşes*.

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 equal to 833,33 qurushes	80.000 akches equal to 666,66 qurushes	55.000 qurushes, 2 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'iyeye	istirbah and istiglal	Istirbah and istiglal
Purpose	funding educational services	funding educational and religious services	funding various kind of services.

I.V.III. The Waqf of Haseki Mustafa Agha b. Mehmed Agha b. Hadji Ahmed Agha⁴⁷

This waqf was founded in Misivri Town at 1 May 1720 Gregorian and 22 Jumada II 1132. The founder donated 55.000 *kuruş*, 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 CW⁴⁸. The risk of interest and insolvency is especially emphasized in the waqfiyah⁴⁹. The purposes of the waqf are as follows; 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*⁵⁰.

47 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

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

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

50 *Îmâmeyn-i Hümâmeyn mezhepleri üzere amel olunub hilâfından ihtirâz ideler* in the waqfiyah

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 Companies	and Asset Management Companies, Intermediaries	and E-Banking
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

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 restricted to give loan to the state officers. The operation methods are also mentioned in the waqfiyah. The condition about region gave the benefit to the waqf to follow its loans. Moreover, this condition has also a positive effect on regional development.

II. Modern Interest-Free Financial Institutions and Their 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 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 in time. Despite all these 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 the gains and the other has nothing, as in the case of 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 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.

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 referred to *participation banks*, because they are called with this name in Turkey. The participation banks may also be referred to Islamic banks, starting their activities to value savings of people who cannot otherwise deposit money because of interest in Turkey during 1985. At first, they were 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 institutions had the task of introducing 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 concerns. 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 administration of 2001 crisis caused 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 Vakıf 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 in accordance with the views of Islamic scholars, *fuqaha*. The main methods that are generally used by interest-free institutions can be the followings; *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 the cash money as capital for an investment and the customer gives labor. The profit is shared between the institution and client based on the rate that they agreed initially. The capital owner meets all cost if a loss occurs. This system is usually adopted 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 based on the initially agreed rates. This rate does not have to be equal to the capital share. Because the client does not contribute the capital only 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 rates. 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 involves a spot contract sale and calculation 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 customer 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 capital 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.

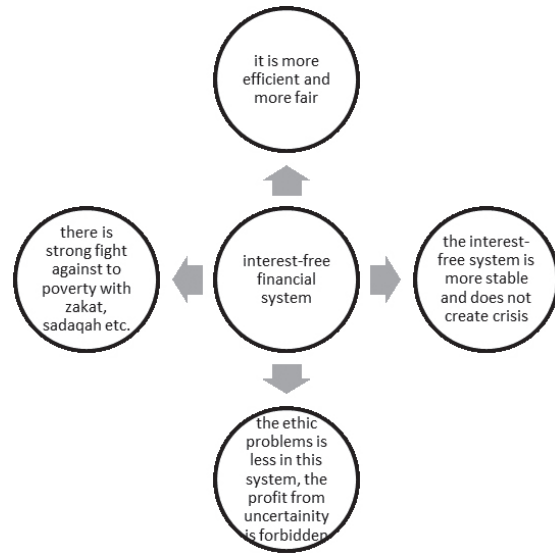
II.II. The Effects of Modern Interest-Free Financial Institutions on Economy and Society

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. However, there was 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 keep the oil revenues inside their countries. 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 wants it back without interest, *Qard-ı Hassan (Karz-ı hasen)* (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 kind of a gap cause financial instability. In the interest-free system, there is no free money that causes such 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 accumulation⁵¹. It can be used for a 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 referred to as *istiglal* in CWs⁵².

51 Surah Al-Humazah, 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].

52 "... Zikr olunan mâl-ı mevşûf-ı mezkûr ve meblağ-ı mevkûf-ı mezbûr senede onu on bir buçuk ziyâde olmak üzere reyb ve riyâdan âri ve sıhhat ve şerâti câri alâ-vechi'l-helâl ve **tari-ki'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

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 (karz), (2) Mudarabah, (3) Bidaa, (4) Murabahah, (5) Bey'i istiglal, (6) Buy for renting, (7) Operations at Awqaf Ministry, (8) Istirbah at Military Court.	(1) Murabahah (42.4%), (2) Commodity Murabahah / Tawwaruq (15.6%), (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 ⁵³
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>nazır</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, 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.

53 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

Conclusion

CWs and modern interest-free financial institutions are generally similar to each other in terms of operating the cash money. But, the purposes are absolutely different. Because the intention of the founders of CWs is to take benefits of this action at Hereafter⁵⁴. However, the main motivation 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 key factors of regional development. Their secondary objective, providing cash, helped to finance 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 obvious, 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 to the making money from money, as well as interest-based borrowing. In this way, they prevent unjust wealth accumulation and provide real-sector based growth in the economy by financing production and trade activities. The instruments of interest-free financial institutions have varied in accordance with 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 should be assessed by considering the conditions of their periods. They are similar in terms of operations, but they differ 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 found Islamic solutions to the problems of the era from the past to present.

In conclusion, it can be said that, 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. The CWs, if they are allowed to be established, will be solution for problems created by the interest-based financial system. They will become a complement of modern interest-free institutions. They will also contribute more to the institutionalization of charity works. 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 separated funds, the share of participation banks in the whole sector will increase, hence the volume of transactions becomes larger. Furthermore, the spread of CWs will increase the flexibility. The establishment of Vakıf Participation Bank is a great opportunity to start these activities. The conjuncture and current developments refer to the bright future of the Islamic finance industry.

⁵⁴ Hereafter (Aakhirah) means *Ahiret* in Turkish and refers to afterlife.

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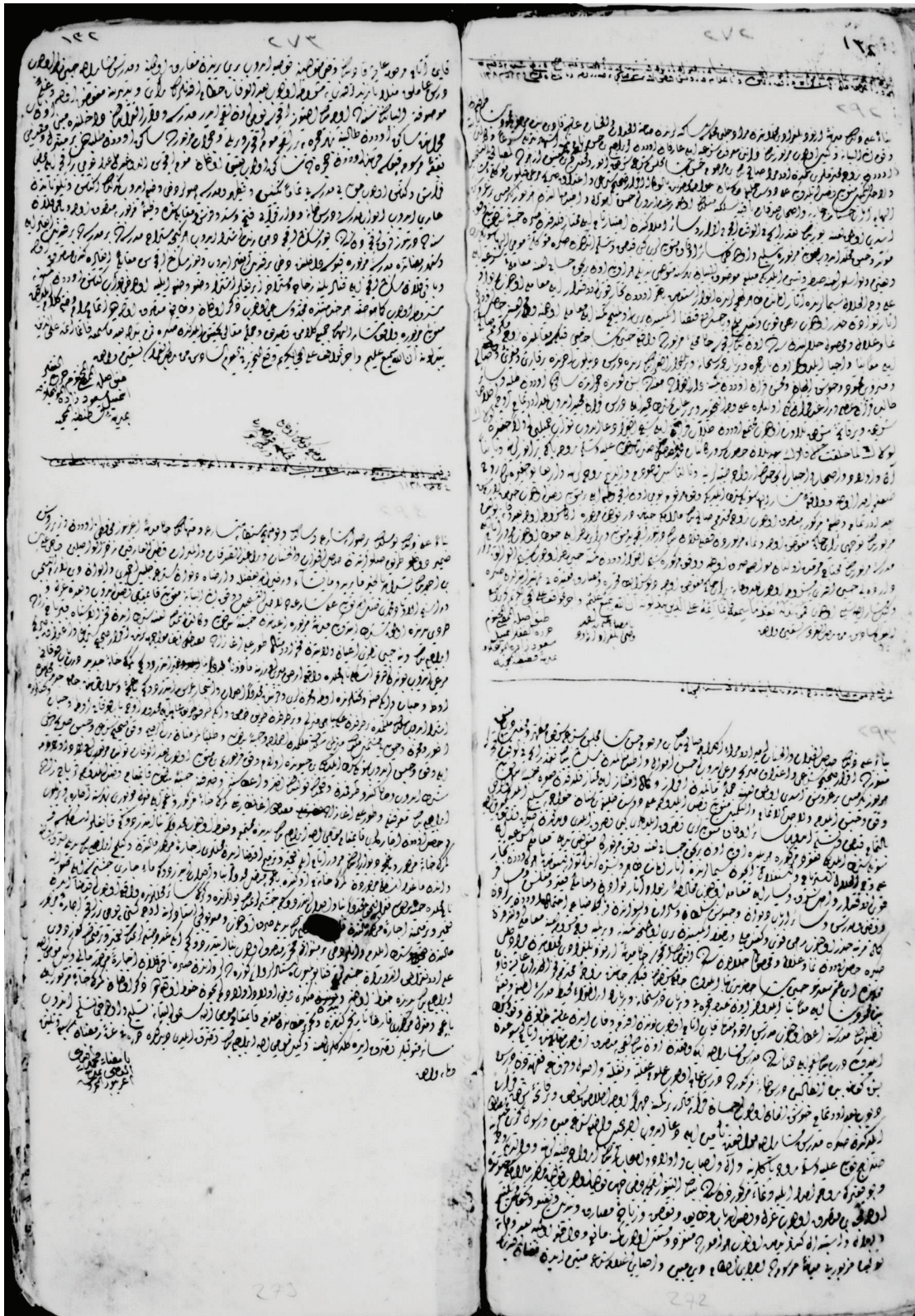
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Appendix

1- Waqf of Ayşe Kadın bt. Mahmud Pasha and Waqf of Salih Bey b. Hasan Pasha



2- Waqf of Haseki Mustafa Agha b. Mehmed Agha b. Hadji Ahmed Agha

