

Cash Waqf in Morocco: Opportunities and Challenges

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ABSTRACT

This paper attempted to investigate different aspects of cash waqf in Morocco including shari'ah background, legal legislation and its modern applications. An online survey questionnaire was designed and distributed among 100 participants representing different educational and professional backgrounds. Secondary data was obtained from literature study based on books, articles, reports besides e-books and web sites. The findings indicate that cash waqf, if applied properly in Morocco, will help in reducing unemployment and alleviating poverty and therefore increase confidence among more Moroccans to contribute to the economic growth and to the welfare of their society. A number of recommendations and suggestions was proposed to the Moroccan Government to reform the current structure of waqf to be more inclusive.

Keywords: Cash waqf, financing.

الملخص

تسعى هذه الورقة إلى البحث في جوانب مختلفة من الوقف النقدي في المغرب بما في ذلك الخلفية الدينية، التشريعات القانونية وكذا أشكال تطبيقاته الحديثة. لقد تم تصميم استبيان لاستطلاع الرأي العام حول الموضوع وتوزيعه عبر الأنترنت على مئة من المشاركين يمثلون خلفيات تعليمية ومهنية مختلفة. وقد تم الحصول أيضا على بيانات ثانوية من خلال متن البحث المرتكز على الكتب و المقالات و التقارير و كذلك المواقع الإلكترونية. و تشير النتائج إلى أن الوقف النقدي، إذا تم تطبيقه في المغرب بالشكل الصحيح، سيساعد بشكل فعال على الحد من البطالة و التخفيف من حدة الفقر و بالتالي زيادة الثقة بين المزيد من المغاربة للمساهمة في النمو الإقتصادي و في رفاهية مجتمعهم. كما تم اقتراح عدد من التوصيات للحكومة المغربية لإصلاح الهيكل الحالي للوقف حتى يصبح أكثر شمولاً.

الكلمات المفتاحية: الوقف النقدي، التمويل.

INTRODUCTION

According to Islamic historians, waqf was promoted by the Prophet Mohammed (pbuh) in early times of Islamic existence, encouraging his Sahaba to donate lands in Allah's cause. In Morocco, the centralization of Habous acts in the Idrisid dynasty began while enlarging and reconstructing the Quaraouiyine mosque by Fatima Al Fihriya. During the French and Spanish colonization, a General directorate of Habous was established and transfigured into the Ministry of Habous in 1915. Today, the Ministry of Habous and Islamic Affairs remains the principal organ and catalyst in the process of controlling the religious dimensions in Morocco.

Our country embodies a rich heritage of Waqf that can provide lucrative opportunities for Islamic financial institutions and help to cope with socio-economic issues. Nevertheless, awqaf are still allocated for typical traditional use (leasing and real estate investments). From an Islamic perspective, Moroccan Waqf system is reflecting neither the essence nor the utility of Awqaf. Economically and socially speaking, awqaf are supposed to enhance social revolutionary changes and improve the possible derived benefits. Indeed, the lack of a strong strategic vision for Waqf's assets has led to mismanagement and corruption; hence, they have been left un-maintained and purposeless.

Therefore, the revival of the institution of waqf is a must; Morocco, along with other Muslim communities needs to revise the classical waqffiqh and develop a solid modern business plan for waqf resources. In this context, King Mohammed VI urges the ministry of religious affairs to consider a reconstruction¹ of the Waqf system by vitalizing related activities and making them profitable socially and economically.

This research aims mainly to prove how potentially a Cash Waqf Financial Institution (CWFI) can develop different aspects of social and economic sustainable improvements in Morocco. We suggest it as a reliable instrument to revive all the un-maintained and idle waqf properties to be productive and to provide the goods and services needed on one hand, and to employ more people, thus solving the problem of unemployment. On the other hand, it can also enhance the different sectors in our country (Education, Health, Welfare, Housing...) contributing to poverty alleviation and concluding to a massive impact on socio-economic growth overall, without exhausting the government budget.

¹King's speech of the 30th April 2004

Problem Statement:

In the 4th trimester of 2017, the rate of unemployment reaches 10.6% while poverty rate is estimated at 4.8% on 2014 according to the World Bank.

In fact, we have realized that Morocco is facing many societal challenges, such as poverty, lack of quality shelter and employment, lack of education and good health care, whilst the government budget is exhausted (302.91 Billions of Dirhams of Government expenditures on 2018) and is unable to completely cover all service sectors. Moreover, The Moroccan government is forced to borrow from western countries under interest rates.

On the other hand, we have noticed that the Moroccan Micro-Finance Institutions' role is limited to offering access to micro-credits to some of the poor and needy people using interest rates that may exceed 50%, without any contribution to poverty alleviation. The only outcome of such institutions is poor households being indebted.

What's more, we judge the governmental policies and programs towards unemployment reduction to be unsuccessful since the results achieved are unsatisfactory and disappointing.

Therefore, in order to tackle all the above highlighted issues, we recommend reviving and modernizing the institution of waqf so that it can be a contributory factor towards solving many of these problems. We suggest to implement a Cash Waqf Financial Institution In Morocco in which citizens can create cash waqf with any amount of money they can afford to give, and in consequence of that, can engage in enhancing the Moroccan society without depending on the government.

Research objective:

The objective of this research is to find out the main challenges and potential opportunities of cash Waqf implementation in Morocco. This paper also aims to explore the possible impact of cash waqf on the Moroccan society and its economic dimension.

Research questions:

- Does the Shari'ah aspect constitute the challenge of introducing and implementing cash waqf in Morocco?
- Does the legal system constitute the challenge of introducing and implementing cash waqf in Morocco?
- Does the level of awareness of cash waqf among Moroccan citizens constitute the challenge of its introduction and implementation in Morocco?

- What impact would cash waqf have on poverty and unemployment in Morocco?

Hypotheses:

H1: Shari'ah legitimacy issue is the challenge of introducing and implementing cash waqf in Morocco.

H2: Limitations of the current legal system is the challenge of introducing and implementing cash waqf in Morocco.

H3: Poor awareness of cash waqf among Moroccan citizens is the challenge of its introduction and implementation in Morocco.

H4: Cash Waqf would have a great impact on poverty alleviation and unemployment reduction in Morocco.

methodology/approach– This research uses data collected from primary sources acquired through questionnaire survey, where the targeted audience was around 100 Moroccan people from different backgrounds and the participants were briefed on the objectives of the research. On the other hand, secondary data was obtained from literature study based on books, articles, reports besides e-books and web sites.

1) Review of literature:**1.1 Definition of cash waqf**

When a waqf is established with cash capital (liquid money), it is called a cash waqf. Such a waqf is managed by investing its corpus and channeling the returns to charity (Murat çizakça, 2011). Only its usufruct and profits are dedicated in perpetuity to the welfare of the society by promoting services to mankind in the name of Allah (S.W.T), while the corpus of the waqf is not consumed and must be preserved.

Some of the agreed-upon definitions of cash waqf are as follows:

- "The confinement of an amount of money by a founder(s), (individuals, companies, institutions, corporations or organisations private or public), and the dedication of its usufruct in perpetuity to the welfare of the society." (Abdel Mohsin, 2009)
- "The devotion of an amount of money by a founder and the dedication of its usufruct in perpetuity to the prescript purposes." (Abdel Mohsin, 2008)

1.2 Cash waqf controversy

The period between 1545 and 1586 had known a fierce debate among the jurists about the legitimacy of Cash Waqf especially after its popularity in the ottomans. According to Murat çizakça, one of the basic arguments of those who opposed the cash waqf was based on a seemingly powerful point: once endowed, the capital of a waqf belongs to God. But while investing this capital, whether in the form of a *mudaraba* or simple loaning, the cash endowed is inevitably distributed to the borrowers or entrepreneurs. But what belongs to God, the opposition argued, cannot be distributed to third persons (Murat çizakça, 2011). Moreover, cash Awqaf delivered a return on capital by lending at interest, which itself was a controversial topic (Syed Khalid Rashid, 2017).

It should be noted, however, that a consensus among the majority of Muslim jurists could be reached and cash waqf was definitively legalized. This could be justified by the approval of all movable properties to be dedicated as Waqf including the endowment of *dirham* and *dinar* (*Waqfal-nuqud*) under the condition of not consuming and preserving the corpus of the waqf.

Thus, Imam Shafi'i's ruling that the waqf of anything is valid from which profit can be derived while its original endures (Murat çizakça, 2011), has been accepted by Abu Yusuf, Muhammad al-Shaybani, Imam Ahmad ibn Hanbal and the Malikites as well.

In addition the recent fatwa issued by the World Fiqh Council (*Majmaa' al-Fiqf*) on this issue had also approved the creation of Cash Waqf (Magda Ismail Abdel Mohsin, 2009).

1.3 cash waqf legislation of Morocco:

On 2010, Morocco had published a code of waqf (*Mudawanah of Awqaf*) that combines the jurisprudential provisions of the waqf, resolving conflicts in various matters, and reorganizing its legal provisions in form and content, in order to ensure compliance with the provisions of Islamic jurisprudence, and giving it a distinctive modern character².

Indeed, after reviewing the Moroccan *Mudawanah of Awqaf*, it turns out that only two articles implicitly make reference to cash waqf.

- Article 16: Real estate, Movables and other rights could be subject to waqf.

²Dahir Sharif No. 1.09.236 Issued on 8 RabieAwal 1431 (23 February 2010) related to the Code of Awqaf

- Article 140: The government authority in charge of endowments may seek public charity automatically and without prior authorization, for the benefit of the public Habous by collecting cash or in-kind donations or by issuing specific subscription bonds, called "waqf bonds", for the purpose of establishing religious, scientific or social projects.

From a legal point of view, Cash waqfis allowed in Morocco. Yet, it is clearly indicated in the article 140 that it is the government authority in charge of endowments who can seek public charity through collecting cash donations and issuing waqf bonds, without referring to any other institution or body, which gives it the exclusive right of establishing cash waqf.

It is also important to emphasize the absence of any further information about general regulations of cash waqf and its administration neither in the *Mudawanah of Awqaf* nor in the legislation of the Islamic financial institutions.

1.4 Origins of cash waqf and some contemporary experiences:

1.4.1 Origins of cash waqf:

It is commonly believed that the earliest origins of cash waqf are traditionally traced back to the eighth century, when Imam Zufar, a disciple of Abu Hanifaf, was asked a question about the permissibility of making cash endowment. Through his *fatwa* he approved all movable properties as waqf including the waqf of cash and jewelry.

Thereafter, the Ottomans began establishing Cash Waqfs from the fourteenth century on (Murat çizakça, 2011).

1.4.2 Contemporary Cash Waqf experiences:

Application of Cash Waqf has been practiced in Muslim and Muslim minority countries such as Malaysia, Singapore, Indonesia, Turkey, Bangladesh, United Kingdom, Sudan, Kuwait, Bahrain, UAE, Pakistan, India, USA, South Africa and even Algeria.

We realized that nine models had been applied which are; waqf shares model, waqftakaful model, direct model, mobile model, semi-compulsory model, corporate cash-waqf model, deposit product model, co-operative model and waqf mutual fund model (Magda Ismail Abdel Mohsin, 2009).

In this sense, it is worth highlighting the Algerian experience of Cash Waqf; SPA TRANS WAKF, which is a Wakf joint - stock company, created on 2009 and whose shareholders are the wakf fund managed by the Ministry of Religious Affairs (88.25%), a monetary Wakf constituted by Al Baraka Bank of Algeria (8.825%) and five other small wakfs (2.925%). With a capital of 339,940 euros. TRANS WAKF is a Radio-taxi company with a start-up investment of 30 vehicles, providing job opportunities for unemployed young people and training on the basics of the job. Dividends earned are partially allocated to strengthen equity and partly to fund charitable organizations. The uniqueness of this experience is reflected in the combination of a profitable economic activity and a charitable role.

In a second step, TRANS WAKF was supposed to increase its capital to one million euros through a public call for voluntary savings through the issue of 10,000 wakf shares with a face value of 100 euros.

We should like to quote one more example of Cash Waqf applications, especially the case of India, where Cash Waqf schemes are based on “the direct contributions” model which are implemented by various non-governmental bodies. By using this model a contributor can endow whatever amount that he/she is capable of endowing by depositing money straight into the waqf institution bank account or issuing cheques in the name of the said Waqf institution and giving them to a representative of the institution. One such waqf institution that practices this simple and direct methodology is Sakhi Saeeda Waqf, which was recently established on 30th August 2007 (Magda Ismail Abdel Mohsin, 2009). Among the salient features of the waqf deed of this cash waqf fund are the following:

- The three founders that contributed a total of Rs 1,000,000 (approximately US\$ 25,000) shall be the first generation of *Mutawallis*;
- Upon their death, their descendants shall be appointed as *Mutawallis*;
- The *Mutawallis* shall be entitled to receive 25% of the revenue generated from the Cash Waqf scheme;
- The *Mutawallis* shall extend any benefits to any other needy descendants of their family;
- The *Mutawallis* have the liberty to sell and mortgage and property of the waqf. The proceeds shall form part of waqf estate;

- The money collected is used for many charity projects and purposes benefitting the Muslim community in India.

2) CWFI Model:

2.1 Structure of the CWFI (the process flow):

The establishment of a CWFI can open the door wider for everyone to create cash waqf regardless of whether they are rich or not, Muslim or Non-Muslim.

- ✓ CWFI can be established independently under any institution that can act as a mother with any amount deposited as a starting point for the establishment of the CWFI.
- ✓ The CWFI will act as the trustee to manage the cash-waqf.
- ✓ Founders such as individuals, companies, corporations, NGOs, financial institutions or the Government can create Cash Waqf and deposit it in the CWFI.
- ✓ Founders will have the right to create Cash-Waqf for specific purposes or for public purposes.
- ✓ The CWFI, which acts as the trustee, will manage the accumulated cash waqf and will invest it according to *Shari'ah*. (Abdel Mohsin, 2009).

2.2 Investment of Cash Waqf:

The collected amount of cash waqf from the different founders should be initially invested in low risk investments such as *murabahah*, *bai' bithamanajil* (BBA financing), *ijarah*, *salam* and *istisna'*.

Once the accumulated cash waqf is invested in the above-mentioned low risk investments mode, the next step is to channel the revenue generated according to “founders’ condition” – 20% to the management team and 80% to the beneficiaries.

The beneficiaries must include the following, - 10% as building reserve or self-finance device to be added to the capital, 70% of the beneficiaries and 20% to finance the second phase of investment of high-risk investment, which includes *qardhasan*, *mudarabah* and *musharakah* (Abdel Mohsin, 2009).

3) Description and Analysis of data:

100 questionnaires were distributed randomly to all respondents from Morocco. A survey method has been used through an online questionnaire. The profile database was developed based on Gender, Age, Occupation, Income and academic background. The analysis showed that 56% of respondents are females and most of the participants are employed (73.3%) and are between 20 to 30 years old. Around 72% of them have an income ranged between below 3,000 to above 15,000 MAD.

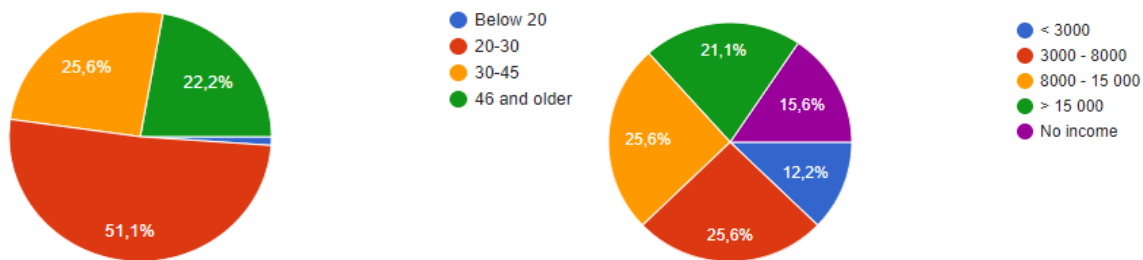


Figure 1: Age of the participants Figure 2: Income per month of the participants in MAD

In what concerns their academic background, around 54% of them have already obtained their masters.

66% of respondents have no knowledge or only basic information about waqf and 71% have never heard of cash waqf before participating in this survey. What's more, around 90% of them have never donated based on waqf while the corpus of waqf of the remaining 10% is mainly real estate or land.

65.6% have declared their commitment and willingness to contribute in cash for waqf if their money is going to be invested first before reaching the end beneficiaries, whereas the remaining 34.4% have refused particularly because of their lack of trust and confidence in waqf managers and their poor awareness of cash waqf.

For the question "What are your preferences regarding endowment methods?" 43.3% have answered:

"I need to know the trustee first, regardless of whether it is a person or a cash waqf financial institution, and get a clear idea about how my cash waqf is going to be invested and what beneficiaries will be priority target, and then I may continue to donate online through their platform."

On the other hand, 30% preferred to contribute in cash directly, while 26.7% showed their preference for donating through online platforms because they are used to technology and they believe that it is much easier, faster and traceable.

The study has also shown that the three key reasons that motivate the respondents to participate in cash waqf are:

- Getting reward from Allah (SWT)
- Because Cash waqf can enhance the different Sectors in my country (Education, health, welfare...) and contribute to alleviate poverty
- Because Cash waqf can solve the problem of unemployment

Only 36.7% of participants think that If the government of Morocco provides a tax incentive for Cash Waqf, this would encourage them to donate more, while the rest are indifferent or disagree with this idea.

The three key factors that affect respondents trust in cash waqf financial institutions are:

- Lack of transparency & complete information
- Corruption
- State intervention and lack of democratization in waqf administration.

4) Estimation of potential collected Cash Waqf in Morocco:

The Moroccan population is 36 191 805. Based on the statistics published by the High Commission of Planning (HCP), the upper and the middle class represents respectively 13% and 53%. If we assume that 60% of each class can contribute to Cash Waqf, and that wealthy people can afford to create cash waqf of \$1000 per year while the middle class can contribute to only \$100 per year, this means that the total collection of cash Waqf will add up to \$3.9 billion per year as can be clearly seen from the following table.

Category	Population	Amount (\$)	Total (\$)
Rich People	2 822 961	1000	2 822 960 790
Middle class people	11 508 994	100	1 150 899 399
UniversityStudents	7383 128	10	73 831 282.2
Total			4 047 691 471

Figure 3: Estimation of potential collected Cash Waqf in Morocco

In addition, if we assume that the population of university students is 7 million and that each student can contribute only \$10 per year, this will add another \$73.8 million per year.

5) Findings:

We found out that problems relating to waqf in Morocco include in particular:

- Centralization of waqf
- Unproductivity of most of waqf properties,
- Lack of transparency and complete information of waqf properties in the country,
- Infirmities in the laws governing waqf administration,
- Illegal occupation of waqf properties,
- Long leasing of waqf properties on nominal rent,
- Lack of exclusive and well-qualified staff to handle waqf matters, including the specialist position of development of waqf properties,
- No long-term planning of waqf development,
- Loss of confidence among Moroccans in creating new waqf and loss of trust in the Ministry of Habous and Religious Affairs.

This situation raises the need for a restructure of the waqf administration and a modernization of its functioning method. It is for this reason that we have suggested the implementation of a CWFI.

It turns out that from the *shari'ah* prospective; cash waqf is legal in morocco since it has been approved by the *Maliki'* School of *fikh*. Therefore, Shari'ah legitimacy issue does not preclude the introduction and implementation of cash waqf in Morocco.

Nevertheless, the fact that only government has the validity and power to create cash waqf and total lack of information on the laws governing its administration constitute a challenge for the implementation of cash waqf in Morocco.

Furthermore, notwithstanding the poor awareness of waqf and cash waqf in particular among Moroccan citizens - which may lessen the chances of having an important number of contributors- Moroccan citizens have shown willingness to give charitable endowments in the name of Allah seeking out rewards in life and in the hereafter.

We noticed that it is widely believed that Cash Waqf can enhance the different Sectors in Morocco (Education, health, welfare...) and contribute to alleviate poverty. It can also help in

solving the problem of unemployment and the problem of under supply of public goods and service sector, besides reducing the Government Expenditure.

Cash waqf can be a good Interest-free financial instrument for Small and Medium Sized Enterprises in Morocco and will solve the problem of limited access to micro-finance and afford Quardhassan.

It can also help in creating more commercial activities and in providing mutual aid and social security services.

CONCLUSION

To sum up, if Moroccans really demand a better living standard and a better society, they have to return to their Islamic teachings and to the institution of waqf, and after all, they have to change themselves first and contribute to the welfare of the society before depending on the government.

In fact, by adopting the CWFIs model we can contribute to the financial empowerment of poor individuals by offering them the access to opportunities of investment and allowing them to take advantage of the wealth of the country.

Thus, it is recommended that the administration of the CWFIs must be a non-government institution in which the government or any religious council can act only as a supervisory body to monitor all the waqfs within the country and to intervene only in cases where mismanagement occurred to the waqf properties.

We also recommend joining cash waqf contributors who share the same interests; in this way, many specialized CWFIs could be created (Cash Waqf for education, CW for trade and investment, CW for health...).

On the other hand, in order to form a qualified and skillful workforce who would implement a new effective approach and develop a solid modern business plan for Cash waqf resources, it is recommended:

- To integrate the economics of waqf in educational programs for economical, juridical and financial fields in universities and high institutes,
- In addition, to provide training for cash waqf managers in order to develop their strategic skills (project management, investment analysis, accounting...).

This can bring about a return of confidence to people who are considering becoming founders in the creation of a cash waqf.

Finally, Spreading awareness and knowledge of cash waqf among a broad range of society, and providing a tax incentive for cash waqf is supposed to encourage people to donate more.

Despite this research results, further study need to be made to fine-tune the CWFI Model so that it can be implemented by Morocco and therefore, the estimated amount of \$4 billion of potential cash endowments can be invested and its returns can be channeled to charity besides socio-economic projects.

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