

THE LEGITIMIZATION PROCESS OF CASH FOUNDATIONS: AN ANALYSIS OF THE APPLICATION OF ISLAMIC LAW OF WAQF IN THE OTTOMAN SOCIETY¹

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PARA VAKIFLARININ MEŞRULAŞTIRILMASI SÜRECİ: İSLAM VAKIF HUKUKUNUN OSMANLI TOPLUMUNDA UYGULANMASINA DAİR BİR ANALİZ

Osmanlı toplumu tarihçilerin “Vakıf Medeniyeti” olarak adlandırmasına yol açacak derecede gelişmiş bir vakıf sistemine sahipti. Bu sistem içinde para vakıfları Osmanlılara özgü bir uygulama olarak karşımıza çıkmaktadır. İlk olarak ne zaman uygulandığı bilinmemekle birlikte 15. Yüzyılın ilk yarısından itibaren kayıtlarda para vakfı örneklerine tesadüf edilmektedir. Para vakıflarının vakıf sistemi içinde önem kazanmasıyla birlikte 16. Yüzyılın ortalarında önemli bir tartışmanın konusu olduğu görülmektedir. Bu tartışmalar esnasında para vakıflarının meşruiyeti konusu sorgulanmış, konu üzerinde şiddetli tartışmalar yaşanmıştır. Bir süre yasaklandıktan sonra yeniden serbest bırakılarak meşru bir uygulama olduğu kabul edilen para vakıfları Osmanlı Devleti’nin yıkılışına kadar varlıklarını sürdürmüşlerdir. Bu makalede, 16. Yüzyılın ortalarında Osmanlı uleması ve devlet adamları arasında para vakfının meşruiyeti konusundaki tartışmanın nasıl yürütüldüğü ve hangi süreçlerden sonra muhalif görüşlerin bertaraf edilerek para vakıflarına hukuki meşruiyet sağlandığı konusu ayrıntılı bir şekilde ele alınmaktadır.

Anahtar Kelimeler: Osmanlı Toplumuna, İslam Hukuku, Vakıf Hukuku, Para Vakfı, Vakıf.

ABSTRACT

Cash foundations played an important role in Ottoman society and economy. They were a major part of the Ottoman foundations and the only legal credit

institution lending to individuals. Legitimization of the cash foundations was very controversial and it was one of the most debated legal institutions by the Ottoman scholars during the mid-sixteenth century. Legitimization of cash foundations is, as an institution, generally accepted as the contribution of the Ottomans to the Islamic civilization. On the other hand, it was also observed as contradicting to the Islamic law. During the Ottoman era, cash foundations were generally accepted as valid and legal institutions, except for a short prohibition period in the mid-sixteenth century. Depending on its increasing importance, it became the subject of a fevered discussion in the mid 16th century among the Ottoman scholars. The discussion process took a few decades to conclude, and as a result of the discussion, cash foundations were banned for a few years. But finally, the issue was re-examined by a group of scholars and it was declared that cash foundations are legal and void according to the Islamic Law (Hanafite School). In this paper, the process of the legitimization of the cash foundations is analyzed and discussed in detail.

Keywords: Ottoman Society, Islamic Law, Law of Waqf, Cash Foundation, Foundation.

Ottoman society had a developed and unique waqf system, which led some historians calling the Ottoman era “a Waqf Civilization”. Ottomans did not invent the waqf system and its law, but inherited them from previous muslim societies. Their contribution was expanding the waqf system to the whole social and economic fields, and inventing some new forms of waqfs which did not exist before them, such as cash foundations, double lease of waqf properties (icareteyn), and the gedik system as a bundle of rights and obligations for the artisans and traders. They also developed the law of waqf in detail which was mainly based on Hanafite School together with applying it in different fields of social, philanthropic, religious and cultural services including education, health, infrastructure of cities, well being of the poor people and so on.

Waqf system was based on the charities for the sake of God with an altruistic way of behaving. In the Islamic societies, waqf properties constituted a third sector together with the public and the private sectors. In the Ottoman

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society, the size of waqfs were between 12% -50% of the total financial system² and they played an important role in the Ottoman society and economy. Accordingly, different subjects related with the foundational law became the subjects of the controversies during the Ottoman times, including cash foundations.

What is a unique application about the Ottoman experience and the subject of this paper is cash foundations. Cash foundations were the institutions which were based and developed on the general idea of Islamic foundation/waqf. A cash foundation was a foundation established with the cash (dirhem and dinar). Cash foundations generally accepted as the contribution of the Ottomans to the waqf system and the Islamic civilization.³ On the other hand, they were also considered as contradicting to the Islamic law.⁴ In this paper, the process of the legitimization of cash foundations will be analyzed and discussed through the literature. Legitimization process of cash foundations was very controversial and it was one of the most debated legal institutions by the Ottoman scholars.⁵

² The figures related to the size of the foundations in the Ottoman economy differs with time and the region. For some sample figures see: Tahsin Özcan, *Osmanlı Para Vakıfları: Kanuni Dönemi Üsküdar Örneği [Ottoman Cash Foundations: The Case of Üsküdar by the time of the Sulaiman I The Lawgiver]*, Turkish Historical Association (TTK), Ankara 2003, p. 4-6.

³ See: Jon E. Mandaville, "Usurious Piety: The Cash Waqf Controversy in the Ottoman Empire", *IJMES*, X (1979), pp. 289-308, p. 289.

⁴ Kafadar mentions that: "It was also in the sixteenth century that people began to realize, or began to deal with an earlier realization, that some of the ways of earlier Ottomans did not exactly conform the norms of orthodox Islam as understood by its learned representatives serving the Sunni state. Two glaring transgressions among institutionalized practices were the establishment of pious endowment with cash (cash waqf) and the recruitment of the children of non-Muslim subjects for service as kuls of the Sublime Porte (devshirme). The former implied regular returns for money, or in other words interest. Cash waqfs, on the other hand, turned out to be subject of intense controversy and divisiveness among the religious and legal scholars, as the Ottoman state was trying to find the right dose of flexibility without stopping orthodoxy. Even those who allowed cash endowment to continue were aware that it was not practiced elsewhere in the Muslim world but was burn under the peculiar circumstances of a frontier environment." See: Cemal Kafadar, *Between Two Worlds: The Construction of the Ottoman State*, University of California Press, Berkeley, 1995, p. 153-154.

⁵ For the details of the discussion see: Özcan, *Osmanlı Para Vakıfları*, p. 28-50.

Cash foundations were an important part of the waqf system which provided necessary funds to finance infrastructure of Ottoman cities including roads, bridges, trade centers, housing, water lines and fountains together with social services such as education, health, well being of poor people and religious and cultural activities. In addition, they were unique and legal credit institutions lending to individuals. After the sixteenth century, they also acted as a social security organization or insurance institution among the members of certain groups such as soldiers, craft members, orphans, or a local community of a quarter or a village.

Even though studies on cash foundations are in early stages, they are promising due to their wide applications and the immense amount of archival sources related to their daily transactions and operations. The court records of Ottoman cities and other Ottoman archives have enormous amounts of records of their deeds and daily transactions of all kinds.⁶

We do not have much information on how cash foundations were initially established, however we have some examples by the times of Sultan Murad II (1421-1451) and Mehmet II, the Conqueror (1451-1481). The first known example of cash foundations dated back to 1423.⁷ Early examples of cash foundations were related to real estate. During the 15th and early 16th centuries, cash foundations were only a tiny percentage of the general waqfs (foundations). By the 16th century and during the reign of Sulaiman I, The Lawgiver (1520-1566), cash foundations gained an important role in the waqf system, as well as in the Ottoman economy, and became the dominant mode of endowment. They became common and customary in the Anatolian and Eastern

⁶ For the studies on cash foundations see: Murat Çizakça, *Risk Sermayesi, Özel Finans Kurumları ve Para Vakıfları (Venture Capital, Special Finance Houses and Cash Foundations)*, İlimi Neşriyat, İstanbul 1993; İsmail Kurt, *Para Vakıfları: Nazariyat ve Tatbikat (Cash Foundations: Theory and Application)*, Ensar Neşriyat, İstanbul 1996; Tahsin Özcan, *ibid*. Özcan has also studied treatises related to cash foundations. Some of them are published and others are forthcoming. There are some articles on the subject written in Turkish. Additionally the article written by Mandaville deserves to be mentioned here. See: Mandaville, *ibid*.

⁷ See: M. Tayyip Gökbilgin, *XV.-XVI. Asırlarda Edirne ve Paşa Livası: Vakıflar-Mülkler-Mukataalar*, İstanbul Üniversitesi Edebiyat Fakültesi Yayınları, İstanbul 1952, p. 272-273.

European provinces of the Ottoman State, but few cash foundations were established in the Arab provinces.

During the Ottoman era, cash foundations were generally accepted as valid and legal institutions, except for a short prohibition period in the mid-sixteenth century based on an argument that cash foundations were illegal from the Islamic law (sharia) point of view. In their early stages cash foundations were ignorad since they were not a big portion of the foundations, and did not play an important role until the 16th century. The size and amount of cash foundations gradually increased and they became an important part of the waqf system by the mid-16th century. As a result, cash foundations became the subject of a fevered discussion in the mid-16th century among the Ottoman scholars. The discussions took a few decades to conclude, and during these discussions, cash foundations were banned for a few years. Finally, the issue was re-examined by a group of scholars who declared that cash foundations were legal and void according to the Islamic Law (Hanafite School).

Until 1530s, the Ottoman scholars or muftis neither questioned cash foundations, nor were against them. Furthermore, many Ottoman scholars founded cash foundations themselves or certified the ones founded by others which implies silent and indirect approval of cash foundations.⁸ But the increase in importance led to a discussion on the legality of cash foundations and their legitimization process became a very controversial issue among the Ottoman scholars. The debate over cash foundations among the religious authorities and rulers give us a general idea of how a legal institution emerged and was legalized in the Ottoman society. This paper traces the debate and the processes of how cash foundations were legalized and finally how Ottomans invented and developed some credit and social security institutions in the form of cash foundations.

The debate over cash foundations is a good example about how the Islamic law in general and the law of waqf in particular were applied by the Ottomans. The discussions among the Ottoman scholars and religious

⁸ For some examples see: Ömer Lütfi Barkan, Ekrem Hakkı Ayverdi, *İstanbul Vakıfları Tahrir Defteri 953 (1546) Tarihi*, İstanbul Fetih Cemiyeti İstanbul Enstitüsü, İstanbul, 1970.

authorities over cash foundations shed a light on how an institution, which previously didn't exist is legalized. The Ottoman Sultan also played an important role in concluding the discussion based on the authority given to him as the head of the State. The manuscripts of treatises and letters written on the subject are available, and are used to trace the discussion. They also give us the legal and social/practical arguments raised/given in support of cash foundations. The arguments of the opposing party are also available.

Ottoman court records contain many examples of deeds of cash foundations, and many records on daily operations of such foundations are available. It gives us an opportunity to analyse the practical application of the theoretical justification. Ottoman fetwas (legal opinions of religious authorities) stand in a position just between the theoretical explanations and the practical applications. This paper investigates the subject through the theoretical discussions addressing the treatises and letters together with referring to the fetwas given by religious authorities and transactional registries and records in the Ottoman courts.

We can trace the legitimization process of cash foundations through treatises and refutations written by the scholars who took part in the debate, legal opinions (fetvas) given by the grandmuftis, and some letters related with the subject. The famous grandmuftis of Ottomans, İbn Kemal and Ebüssuud Efendi, were pro-legitimization while ex-grandmufti and kazasker (military justice) of Rumelia then, Çivizade Muhyiddin Mehmed Efendi⁹ and the famous populer advisor Birgivi Mehmed Efendi were against cash foundations. We have treatises of İbn Kemal¹⁰ and Ebüssuud Efendi¹¹ in support of cash

⁹ Çivizade was appointed as grandmufti (şeyhülislâm) in 945 H. and was dismissed and transferred to Rumeli Kazaskerliği in 949 H. and Ebüssuud Efendi was appointed as grandmufti instead. He was the first grandmufti who was dismissed from the office because of his rigidity and incongruity. For detailed information see: Mehmet İpşirli, "Çivizade Muhyiddin Mehmed Efendi" Turkish Encyclopedia of Islam (DİA), VIII, p. 348-349.

¹⁰ See: Tahsin Ozcan, "İbn Kemal'in Para Vakıflarına Dair Risalesi" [A Treatise by İbn Kemal on Cash Foundations], *İslâm Araştırmaları Dergisi (Turkish Journal of Islamic Studies)*, v. IV (2000), pp. 31-41.

¹¹ See: Ebüssuud Efendi, "Risale fi Vakfi'l-Menkûl" (in Birgivi, Takıyuddîn Mehmed, *Cilâu'l-Kulûb*, İstanbul 1280), pp. 162-181. A new and detailed analysis by Özcan is forthcoming.

foundations, and a refutation to Ebussuud Efendi written by Çivizade¹². Also, Bâli Efendi of Sofia and Mehmed Fenari wrote letters¹³ addressing the Sultan and Çivizade against the prohibition. Following the discussion, an Imperial Decree (Ferman) explained how the issue was handled¹⁴. There are some other treatises for and against cash foundations. One of the opponents of cash foundations was Mehmet Efendi of Birgi, but his arguments had no effect on final decision made by the Imperial Decree.¹⁵

We find the first text related to cash foundations belonged to grandmufti İbn Kemal, the famous scholar and first Mufti (Seyhülislâm) of the time of the Sulaiman I. In his short treatise, he argued that cash foundations are void and legal from the sharia (Islamic law) point of view. He based his arguments on the views of Hanafita imams, especially Imam Zufar (d.775) who was an important student and companion of Abu Hanifa. Imam Zufar argued that cash waqf is permissible if the money is used through mudaraba¹⁶ and the income used for the benefit of people. İbn Kemal also gives us a brief summary of how a cash foundation should be recorded by the kadi (court). He based his arguments on the opinions of leading Hanafite Imams.¹⁷

Mufti Ebussuud Efendi detailed and narrated İbn Kemal's treatise and pointed out to the legal sources supporting his arguments, and wrote a treatise

¹² It is not published yet and a study by Özcan on this refutation will be available together with Ebussuud's treatise.

¹³ For the full texts of the letters of Bali Efendi of Sofia, see: Özcan, "Sofyalı Bali Efendi'nin Para Vakıflarıyla İlgili Mektupları" [Letters of Bâli Efendi of Sofia on Cash Foundations], *İslâm Araştırmaları Dergisi (Turkish Journal of Islamic Studies)*, v. III (1999), pp. 125-155.

¹⁴ For the full text of this Sultan Decree see: Özcan, "Para Vakıflarıyla İlgili Önemli Bir Belge" [An Important Document Related to Cash Foundations], *İslam Araştırma Dergisi*, v. III/2 (July-December 1998) pp. 107-112.

¹⁵ He wrote a very provokative treatise in the name: "Sharp sword in the illegality of cash foundations." See: Takiyuddin Mehmed Birgivi, "Risale li İbtâl-i Vakfi'n-Nukûd (Seyfun Sârimun fi Adem-i Cevâz-ı Vakfi'd-Derâhim ve'd-Denânîr) (in *Cilâu'l-Kulûb*, İstanbul 1280). He wrote on the subject in his several studies. See for the details: Ozcan, *Osmanlı Para Vakıfları*, p. 47-50.

¹⁶ Mudaraba is a form of investment which one party provides the capital while the other actively takes responsibility of the business venture and the profit is shared in a pre-determined rate between the parties. It was known as commenda or sleeping partnership. Any loss in the venture must be borne by the sleeping (capital providing) partner.

¹⁷ See Ozcan, "İbn Kemal'in Para Vakıflarına Dair Risalesi".

on the legality of cash foundations. In his enlarged treatise, he based his thesis on the opinion of İmam Zufar and argued that cash foundations were legal according to the Hanafite school of law. He also benefited from the views of leading Hanafita imams after Abu Hanifa, Imam Muhammad and Abu Yusuf, on the legality of moveable properties on the basis of taamul (a generally accepted practice) and taaruf (a practice that became tradition in a certain society). Additionally, Ebussuud Efendi designed the way how a cash foundation should be founded and registered by the courts, and gave the general guidelines which should be followed by the founders as well as rulers of cash foundations. He also presented examples of how a founded cash should be given out as credit without violating the Islamic ban on interest.¹⁸

Civizade Muhyiddin Mehmed Efendi, when he was the Kazasker (highest military judge) of Rumelia, wrote a refutation to Ebussuud Efendi. Commenting on Ebussuud Efendi's narratives, Civizade refused the legality of cash foundations, and argued that cash foundations should be banned. He presented his refutation together with Ebussuud's treatise to Sultan Sulaiman I. The Sultan approved and certified his opinions and Civizade, as the highest military judge of Rumelia (Rumeli Kazaskeri), issued declarations that cash foundations were banned since they were illegitimate according to the Islamic rules. At the same time, Grand Mufti (Seyhülislam) Ebussuud Efendi sent his fetvas (legal opinions) that cash foundations are legal and valid to the provinces. These controversial declarations were issued between 1545-1547 and led people to confusion on whether or not initiating a cash foundation. The confusion ended with the death of Civizade in September 19, 1547 (Shaban 4, 954).¹⁹

By the time cash foundations were banned, Bali Efendi of Sofia²⁰ wrote some letters to the Sultan, Civizade and some other rulers, stating that cash foundations can not be banned from the sharia point of view, and he

¹⁸ For details see: Ebüssuûd Efendi, "Risale fi Vakfi'l-Menkül"

¹⁹ For the text of Refutation by Çivizade see: [Reddiye (Refutation)], Suleymaniye Library, Laleli, nr. 3720, 112a-116a.

²⁰ He was a very important popular figure in the East European provinces of the Ottoman State and his reports were very influential among the Ottoman rulers. See: Mustafa Kara, "Bâli Efendi, Sofyalı" *Turkish Encyclopedia of Islam (DİA)*, V, p. 20-21.

explained/showed the social, political and economic consequences of the banishment in detail. He gave some examples and explained the role of cash foundations played in the social and economic life of the people of Rumelia. According to Bali Efendi, the Islamization of Rumelia was financed by cash foundations. In addition, religious and social services along with the infrastructure of cities and villages depended on the waqf system more specifically on cash foundations. He observed that, banishment of cash foundations may result in catastrophe in the social fabric of the Rumelian provinces and the collapse of the infrastructure of cities, which may result in a decrease in the State authority and may lead to missing the Rumelian provinces of the State. Bali Efendi was worried by some, because of his discourteous addressing to Civizade, but he insisted on blaming Civizade with illiteracy, since Civizade was responsible for the banishment.²¹

Following the death of Civizade, and as a result of increasing opposition a high committee was organised by the Sultan. This committee became a turning point about the ban on cash foundations. The leading scholars of the time, including the Mufti, kazaskers (together with the retired ones), the Mufti of Istanbul and some others discussed the issue and concluded that cash foundations were legal and valid according to the Islamic law (regarding the Hanafita school). Sultan Sulaiman I accepted this conclusion and issued a Sultanlic decree by the date Evâhir-i Rabiulavval, 955 (May, 1548) saying that although cash foundations were banished earlier, the issue was analysed and discussed again by a committee of top religious authorities and figures of the time, and now cash foundations are accepted as legal and valid on the basis of the agreed conclusion of the commission. People who wish to found a cash foundation were free to do so.²²

After the Sultanlic Decree, cash foundations were accepted as legal and valid by the authorities, and the courts accepted and certified their deeds and

²¹ For the full texts of the letters see: Ozcan, - "Sofyalı Bali Efendi'nin Para Vakıflarıyla İlgili Mektupları".

²² For an analysis and full text of the Sultanlic Decree, see: Tahsin Özcan, "Para Vakıflarıyla İlgili Önemli Bir Belge [An Important Document Related to Cash Foundations]" *İslam Araştırma Dergisi*, III/2 (Temmuz-Aralık 1998), pp. 107-112.

other transactions. However, some regulations were made related with the forms of lending and the rates of returns out of these transactions. Therefore, we can say that, except a short prohibition period in the mid 16th century, cash foundations were active in the Ottoman society until the end of the state.

But theoretical discussion was not over with the Sultanlic decree. Mehmed Efendi of Birgi, following Çivizade's arguments, discussed the issue in his writings and wrote a treatise against cash foundations. The name of the treatise was very provocative: "Sharp sword on illegality of cash foundations" He took the arguments raised by Ebussuud Efendi one by one and pointed out weaknesses related to each of them. Additionally, he argued that there were several devils in founding the cash. One was the payment of zakat (a compulsory religious payment/tax out of wealth to be given to the poor and needy), and the other devil was violating the rights of the heirs of the founders. And for the first time in the discussions, he mentioned that interest was charged by the illiterate (cahil) rulers (mutevellis) of cash foundations even though it was strictly banned by the sharia. According to Mehmed Efendi of Birgi, the mutevellis did not know the true forms of transactions and gained interest through the false operations. It is very important that he did not make a connection between cash foundations and violation of Islamic ban on interest; however he observed a relation between the illiteracy of the rulers (mutevellis) of cash foundations. But he was very late, and had no effect on the application. Ebussuud Efendi, the powerful mufti, who was in the position of the grandmufti, and was backed by other scholars of the time. As a result, Mehmed Efendi of Birgi was worn several times for his opposition to the Mufti (Ebussuud Efendi). Nevertheless, he didn't give up and insisted in his thesis, but had no effect on the policy and daily transactions of cash foundations.

After Mehmed Efendi of Birgi, the discussion was down. Some other treatises were written in the following decades. But they were not as controversial as in the mid 16th century. They only followed the views of İbn Kemal and Ebussuud Efendi or Civizade and Birgivi for and against cash foundations, and in some cases they only partially or fully repeated previous texts of their treatises. These discussions made neither a theoretical nor a concrete contribution on cash foundations.

The main points of discussions on cash foundations can be summarized as follows. First point discussed was whether founding immovables is legitimate or not. The discussion was based on the condition of perpetuity needed for the legality of the waqfs. It was concluded that founding immovables is valid according to Hanafita imams. After resolving waqf of immovables, the second point was about cash being a special category in the immovables whether it provides perpetuity or not. It was concluded that, if the similar is kept, it means the original is kept and perpetuity is provided. Ebussuud Efendi was the main figure who dominated and managed the discussions and designated the results. The application was shaped according to his fetwas. Later arguments raised by Mehmed Efendi of Birgi were about legal affects of legitimizing cash foundations. He argued that, accepting cash foundations violated the rights of the heirs of the founders and lead people not to pay zakat out of so-called founded assets. He also mentioned that through the transactions by cash foundations Islamic prohibition of interest was violated by illeterate rulers (mutevellis) of the foundations.

The most important fetwas on cash foundations were given by Ibn Kemal and Ebussuud Efendi and they maintained that founding cash is legitimate. According to their fetwas, cash foundations should be registered by the court, as it needed for real estate foundations and the transactions made by cash foundations also needs to be registered by the court in order to get a legitimate return. Unregistered returns were regarded as illegitimate and people were prevented to get any return without any registered transaction and official consent of the court.²³

Generally looking to the discussions and the legitimization process of cash foundations, we can see that Ottoman scholars followed the Hanafite school of law and cared not to exceed its borders. They referred only to the Hanafita imams. During the discussions there was no mention of any other Islamic sects but Hanafites. While doing so, the Ottoman scholars chose the views that fits best to their special circumstances among views of Hanafites.

²³ For the fetwas given by Ibn Kemal and Ebussuud Efendi see: Ozcan, *Osmanlı Para Vakıfları*, p. 51 and the following pages. A compilation of fetwas related to cash foundations by Ozcan is forthcoming.

Whenever any discussion reached to a dead end, Sultan intervened to the situation based on the authority given to the head of the state and his preference became the rule. But he made his final choice according to the views of a commission constituted by the scholars of the time.

After having a legal basis, cash foundations were developed as the credit supplying institutions in a way that, founded cash was given as credit with a rate of return which is called 'rihb' or 'faide'. We can see the so called "true forms of transactions" in the fetwas of Ebussuud Efendi and in the registered transactions in the court records. These true forms of transactions were called 'muamele-i şer'iyye' and were legal devices aiming not to violate the letter of the law i.e. the ban on interest even though they violated its spirit. This method was the most used transaction in the operations of cash foundations by a rate above 90% together with other forms less than 10% such as bay' (selling), bay' bât (certain selling), bay' bi'l-vefa (selling on the condition to buy back) and bay' li'l-istiglal (selling on the condition to rent) which were primitive forms of mortgage sells. There is no known record of any mudaraba transaction with cash foundations as argued by some economic historians. And there were a few karz (interest free lending) transactions made by cash foundations.

The founded cashes were given as credit with a predetermined rate for a period of time (mostly one year or shorter) providing a guarantor or a surety. They were given out as credit on eleven to ten basis, i.e. for a 10% return. We can also observe other rates such as 12,5%, 15% and 20%. But the rates were limited by fetwas and Sultan Decrees time by time and the highest recorded rate of return was 20%. The return from cash foundations was deemed to be different from interest by the Ottoman scholars. Ignoring the legal debate on whether the return on it was interest or not, it can be said that cash foundations were the main credit suppliers for people for various purposes. They were an important instrument for the stability of credit markets and the rate of ribh was an alternative for the higher rates of interest applied by the users. Keeping the principal capital of the foundation, the income was spent for the purposes which the foundation was founded for. Through cash foundations an important amount of finance was provided and injected to the waqf system for the religious and social services, infrastructure of the cities, well-being of the people and so on.

From the sixteenth century onwards, new forms of cash foundations emerged as social security organizations or insurance institutions among the members of certain groups such as soldiers, craft members, or a local community of a quarter or a village. The different types are as follows:

1. Avariz foundations: Avariz means the unusual or unexpected circumstances or extraordinary situations. Avariz foundations were the foundations established mostly for unexpected or unusual needs of a certain village or a quarter such as extraordinary taxes, fires, floods, accidental deaths or injuries of the members. Their income was also used for the common needs of the related community such as building a mosque, a bridge or a fountain; or for the well being of the needy in the community.
2. Crafts Chests (Boxes): They were founded by the members of a certain craft and the income was used for financing their daily activities and for the needs of the needy members or their children. It was also used as an urgency guarantee fund for unexpected losses of the members, or for the levies issued for battles and similar reasons.
3. Janissary Chests (Boxes): They were founded for the janissary corps in order to help when the members of the corps or their families have hard times. These funds operated with the same principles as in cash foundations.

We can see some resembling funds to cash foundations such as orphans chests and country chests. Although both were not cash foundations, they were operated with the same principals as cash foundations and had similar functions for the members:

1. Orphans Chests (Boxes): Selling the properties of orphans whenever possible, cash was provided and transacted like cash foundations. The income provided out of it was used for the needs and well being of the orphans. When the orphan grew to his/her maturity, the principal money was given back to him/her. Through this system, the properties of the orphans were preserved against the destruction of time and

misuse of others in addition to providing an income for his/her needs until the maturity. And he/she received his belongings without a loss, which provided him/her a better start to life.

2. Country (Memleket or Menafi) Chests/Boxes: They were compulsory funds collected from the farmers in order to give them cheaper credit against the higher rates of interest. These chests were founded in the second half of the 19th century, operated for some time, and then became a modern bank which is still in operation in Turkey under the name of Ziraat Bankası (The Agricultural Bank).

Nearly with the same form, cash foundations lived through the centuries until the decline of the Ottoman State and in the early years of the Republic of Turkey. It is known that through cash foundations an important amount of capital accumulated and this capital was put in 1954 as the principle capital of the Vakıflar Bankası (The Bank of Foundations) which is still in operation and one of the important public banks of Turkey.

As can be seen through the examples, cash foundations were a model used for the cooperation and mutual solidarity among the members of the society, or among the members of certain groups. At this point I argue that, this model can be developed as an applicable security or/and insurance system. Historical data demonstrate its applicability. It is obvious that, further studies on the subject will provide us detailed data on the amount and size of cash foundations and open us some other alternative ways.

And finally, a modern implication of cash foundations needs to be mentioned. Islamic banking and finance is a new field of study and need to be developed. It is suggested that cash foundations can be taken as an example for the Islamic banking. At this point, cash foundations need to be studied and analysed in detail on whether they constitute a feasible model for Islamic banks or not. I argue that, it can also be modelled as a social security and insurance organization which is based on volunteer contributions of individuals rather than pre-paid compulsory/obligatory premiums.