

Prospects of Cash *Waqf* in Bangladesh: The Need for a Separate Legal and Regulatory Framework

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ABSTRACT

Cash *waqf* is recognized as one of the most effective mechanisms in achieving the socio-economic and welfare objectives of the institution of *Waqf*. This paper aims at examining and exploring the prospects of cash *waqf* in Bangladesh specially highlighting the huge potential of cash *waqf* in the welfare and benefits of unprivileged society. Hence, the purpose of this study is to analyse the benefits of cash *Waqf* and explore the legal and regulatory framework that govern cash *waqf* system in Bangladesh. The study uses a legal and doctrinal research methodology followed by an analytical approach. In identifying and interpreting data, both primary and secondary legal sources are considered. The study finds that under present legal and regulatory framework, it is not fully possible to get optimum benefit from cash *waqf*. It is also revealed that despite huge potential and prospects, there are diverse challenges in the administration and management of cash *waqf* in Bangladesh. Thus, the study suggests some policy recommendations in legal, institutional and functional sectors for the proper administration and management of cash *waqf* in Bangladesh in light of the lessons learned from some other countries.

Keywords: Cash *Waqf*, Poverty alleviation, Economic development, Islami Banks etc.

INTRODUCTION

During last few decades, the rapid growth of Islamic finance throughout the world is inspiring many countries investing in socioeconomics sector to enhance society's well-being (Aldeen et. al., 2020). Nowadays, Islamic economy is not limited to the material profits that could be attained from the current life rather than considering both the current world (*Dunia*) as well as the hereafter (*Akhira*) which is considered Muslim ummah's ultimate goal (Kahf, 1999). Today, social welfare, social security, management and distribution of wealth, consumption, taxation, debts, monetary policies, market exchange and investment are considered the main features of Islamic economics (Shinkafi & Ali, 2017). *Waqf* is regarded as an effective socio-economic tool that serves both Islam and society. The implementation of cash *Waqf* globally has attracted many scholars' attention to revisit the prospects and influences of this method of finance. However, there is a few researches in this area, specially in the context of Bangladesh. Cash *Waqf* is an efficient instrument that can be an alternative for poverty alleviation, since such an initiative require a tremendous amount of money that could not be attained totally by the government. Hence, seeking for a sustainable source if fund is inevitable. An indispensable part of Islamic socioeconomics, cash *Waqf* is a social fund politically and economically free of charge. Moreover, it more powerful, permanent and pervasive since it is cardinally voluntary activity characterized by perpetuity (Aldeen et. al., 2020). This paper aims at exploring the prospects of cash *Waqf* in Bangladesh highlighting the current legal and regulatory framework of cash *Waqf* in Bangladesh. It also emphasizes the role of cash *Waqf* in economic development and poverty alleviation in Bangladesh. Finally, the paper ended with some recommendations for the better management of cash *Waqf* in light of the lessons learned from some other countries.

METHODOLOGY

The study follows a qualitative and doctrinal research methodology supported by an analytical approach. It is based primarily on library and document based research aimed at examining the legal, regulatory and institutional aspects of cash *waqf* in Bangladesh. Both primary and secondary sources have been used. The primary sources include statutory laws, particularly the *Waqfs Ordinance, 1962 (Bangladesh)*, relevant government rules, and policy documents concerning *waqf* administration. The secondary sources comprise books, journal articles, research theses, and reports published by national and international institutions related to Islamic finance and *waqf* management.

The study also employs a comparative method by reviewing the legal and operational frameworks of cash *waqf* in selected Muslim countries such as Malaysia, Indonesia, Kuwait, Bahrain and Singapore to identify best practices that could be adapted in the Bangladeshi context. The collected data are critically analyzed to identify the strengths, weaknesses, and regulatory gaps in the existing system and to propose a more effective framework for managing cash *waqf* in Bangladesh.

Origin And Development Of Cash *Waqf*

In Islamic history, the *Waqf* system has witnessed tremendous development, since its early stages in the prophet Muhammed (Sm) era until the present moment. During the reign of the Khulafa' al-Rashidin and the subsequent period of Islamic ruling, *Waqf* activities were further extended (Aldeen et. al., 2020). Today, cash *waqf* is recognised in the whole Muslim world as one of the most effective mechanisms in apprehending the socio-economic and welfare objectives of the institution of *waqf*. For the first time in the history of Islam, cash *Waqf* was introduced by Imam Zufar in the eighth century on a condition that the cash endowed must be invested through *mudaraba* and the returns generated must be spent for charity (Cizakca, 2009). Similar practices like cash *Waqfs* are also traced in ancient Mesopotamia, Greece and the Roman Empire (Cizakca, 2009). At the beginning of fifteenth century, the Ottoman courts during the Ottoman Empire approved the practice of cash *waqf* and by the end of sixteenth century this practice became popular all over Anatolia and as far as the European territories of the Ottoman Empire (Cizakca, 2004) which correspondingly managed some parts of the Middle East, South-Eastern Europe and North Africa (Aldeen et. al., 2020). During that time, the collections in the cash *Waqf* were used to acquire and improve several models of fixed assets (Cizakca, 2004). At that time cash *waqf* accounted for more than half of the newly created *awqāf* in the Ottoman Empire (Cizakca, 2004).

In present days, a renewed interest towards cash *waqf* can be seen in many parts of the Muslim world, including Bangladesh. Compared to the standard traditional concept of dedicating immovable properties as *waqf*, cash *waqf* is a favourite to many Muslims, affluent or otherwise. In countries like Bangladesh where land properties are becoming scarce day by day due to density of population, cash *waqf* can be considered advanced alternative. As a result, cash *Waqf* is gaining popularity and acceptance to a wider range of the population who are willing to participate in welfare-oriented activities (Karim, 2016).

Understanding The Meaning Of Cash *Waqf*

Generally, the subject matter of a *Waqf* is a building or land or any other immovable property. However, there are persons who cannot afford immovable property to participate in *Waqf*. Thus, cash *Waqf* is a great option for them who do not have a fixed asset but rather have movable assets i.e. cash for donating. As a result, everyone in the society are able to perform sustainable charity activities through cash *Waqf* as long as they are keen on doing it voluntarily only for the sake of Allah's (SWT) blessings (Mohsin, 2008).

Cash *waqf* has been defined by many scholars. Al-Tasuli from Maliki School defined cash *waqf* as 'the process of dedicating cash as *waqf* for the purpose of lending it to designated beneficiaries without interest'. Similarly, Zufar from Hanafi School defines cash *waqf* as the process of dedicating cash as *waqf* and then upon investing it the profit would be used for the specific charitable purpose. Despite slight variations in the definitions there is a unanimous fatwa among classical scholars that cash *waqf* is permissible (Ahmad, 2015). Most of the definitions come to a common point that cash *waqf* is a charitable endowment established with cash capital

permanently dedicated and privately (Cizakca, 2009) owned by a Muslim, or a group of Muslims or a corporate body governed according to shariah with perpetual dedication (Mohsin, 2009) of its usufruct to be spent on any purpose recognised by shariah. In Bangladesh, the definition of *Waqf* in section 2 of the *Waqfs Ordinance 1962* includes ‘movable properties’ and ‘any other endowment or grant’ to be within the ambit of *waqf* for the purposes mentioned in the Ordinance (*Waqf Ordinance, 1962*), as such cash *waqf* is deemed to be covered by the definition (Karim, 2016).

Cash *Waqf* practices could be categorized into two; the first one is the direct one, for instance, investing *waqf* money to redevelop an old *waqf* property and the indirect form of cash *Waqf* where the fund is invested in a specific project permitted by shariah and the profit is used for fulfilling the purposes (Mohsin, 2013).

The basic features of cash *Waqf* include the following (Karim, 2016):

- a) Liquid Fund as the subject of the *Waqf*. In a ‘Cash *Waqf*’ the main *corpus* is a ‘cash capital’ as opposed to immovable property *waqfs* where the *corpus* is usually a ‘real estate, land or a building’.
- b) Immediate *Usufruct*. Unlike immovable properties, benefit from cash *Waqf* follows almost immediately after creating it.
- c) Affordability and Convenience. Buying or owning immovable property and dedicating it as *waqf* can only be afforded by a certain class of people. On the other hand, cash *Waqf* it is much easy and affordable compared to real estate. As a result, everybody can participate.
- d) Remarkable mobility of cash *waqf*. It enables transfer of *waqf* capital across economic sectors simply by redirecting loans from one set of borrowers to another.
- e) Benefits from cash *waqf* can be provided to varied types of activities such as education, food, social and religious service. When the *waqf* is in the form of cash-capital and it is invested in order to grow, a regular usufruct can be earned and has the flexibility to be spent for any welfare purposes.

Cash *Waqf* And Economic Development: Bangladesh In Context

The *Waqf system* in general and the cash *Waqf* in particular has brought multi-dimensional economic benefits to many Muslim nations over the years (Karim, 2016). Through cash *Waqf* many essential services were introduced to the citizens without any cost borne by the State which otherwise would have been an economic responsibility and burden on the state (Cizakca, 1998). These are all easily possible because of cash *Waqf* system which can be created by voluntary donations made not only by the rich but also by the poor as per their ability, even in small amount of cash. Thus, privately collected capital may be voluntarily endowed to finance all sorts of social services to the society. This way cash *Waqf* may help reduce government expenditure and contribute toward the economic development of the country (Karim, 2016).

Islami Bank Bangladesh Limited (IBBL), the leading bank in Islamic Banking sector in Bangladesh has introduced a “*Mudaraba Waqf Cash Deposit Account*” with specified options of purposes. This list of purposes is made available to the *waqif* who can choose any of the listed purposes or any other purpose permitted by the *Shariah*. The list includes the following purposes:

- a) Family Rehabilitation;
- b) Education and Culture;
- c) Health and Sanitation;
- d) Social Utility Service.

Thus, it is clear that the IBBL is reducing the economic burden of the Government through its cash *Waqf* program because these services would otherwise have been the responsibility of the government in absence of

any such *Waqf*. So, other banks, financial institutions, social welfare and charitable institutions may also come up with similar kind of ideas that may contribute towards the economic development of the country.

Cash Waqf And Poverty Alleviation: Bangladesh In Context

Cash *Waqf* has been well recognised for its ability to alleviate poverty. Poverty alleviation programs require considerable funds, and governments are often unable to provide such financing. The cash *Waqf* fund trustees or *Mutawallis* will gather the funds from the waqf *Waqifs* and invest the money in any Islamic-based investment fund or other sectors permitted by Islam. The profit obtained from this investment can be used to finance enterprises or activities that would assist the ordinary people as a means of poverty alleviation (Beik & Arsyianti, 2013).

Although most established *Waqf* Institutions are based on real estate, there have been examples in history during the Ottoman Empire where *Waqf* institutions were established for the specific purpose of giving out interest-free loans to the beneficiaries of the *Waqf*, who were actually living in poverty. These loans were considered to be self-sustaining and were based on the Islamic finance concept of diminishing *Musharaka*. In this framework, borrowers are provided loans against their houses, although they continue to stay in them by paying a fixed rental. Borrowers pay back the principal through a series of transactions, leading to eventual ownership. So, it can be argued that a cash *waqf* fund could be tailored to provide the poorest communities an easy access to finance and help them to come out of poverty and impoverishment. This has been an interesting model, which was implemented in Bangladesh by a private bank, named Social Islami Bank Limited (SIBL), the pioneer of cash *Waqf* in Bangladesh (Karim, 2016).

Current Status Of Cash Waqf In Bangladesh

Cash *Waqf* was first introduced in Bangladesh by the Social Investment Bank Ltd. (SIBL) in 1995. SIBL initiated the Cash *Waqf* Certificate which was considered as a brand-new product in the banking history of Bangladesh. This product has been well accepted by the people for its exceptional features. The Social Investment Bank Ltd. received both local and international endorsement as the sole architect of this revolutionary monetary product of social capital mobilisation (Saiti et al., 2019). Under this system when a person opens a Cash *Waqf* Deposit account, he can provide welfare services. People are encouraged to volunteer to gather cash *Waqf* deposit with the intention of generating profit, which may be used for the benefit of the people (Thoarlim, 2017). The development of cash *Waqf* in Bangladesh is still a growing trend, and many people are aware of cash *Waqf* in Bangladesh. Cash *Waqf* finances many private universities in Bangladesh. The cash *Waqf* funds are reserved in the investment fund of an Islamic bank which functions on the foundation of *Mudarabah*. The profits of these funds are used for fulfilling the purpose of the *Waqf*. The cash *Waqf* management bears a unique characteristic which makes it completely different from charities, donation or foundation funds (Ahmad & Shafiullah, 2012).

Although *Waqf* relating to immovable properties in Bangladesh are governed by the *Waqf* Ordinance 1962, cash *Waqf* pool and management are operated by numerous Islamic banks. Unlike real estate *Waqf*, there is no obligation of registration of cash *Waqf* to any government agency. There is no accountability of *Mutawallis* as well. The *Waqf* Ordinance 1962 though included cash *Waqf* within the scope of *Waqf*, the relevant provisions of this Ordinance only cover the *Waqfs* relating to immovable properties.

In Bangladesh, cash *Waqf* permits people to provide little contributions to waqf institutions. The contributors can open the *Waqf* cash account by putting a fixed amount or by paying a minimal amount every month which they are not permitted to withdraw (Aziz et. al., 2014). The banks usually invest those deposits in Shariah-compliant investment alternatives and distribute the incomes to recipients according to their needs or by *waqif's* intentions (Saiti et. al, 2019). The achievement of Social Islamic Bank in distributing and handling the cash *Waqf* has led other Islamic banks in Bangladesh to introduce related accounts of cash waqf for the benefit of Muslims and non-Muslims. Other banks that have joined this venture include Exim Bank Bangladesh, Prime Bank, Al-Arafah Islami Bank Limited, Shahjalal Islami Bank Limited and Islamic Bank Bangladesh Limited (Karim, 2010). It is a common practice in Bangladesh to use banks as agents for collecting cash *Waqf* (Saiti et. al. 2019).

Constraints of Cash Waqf in Bangladesh

There are some constraints that affects the effective operation of cash *Waqf* in Bangladesh. These include (Saiti et. al., 2019):

- a) Insufficient manpower.
- b) Lack of administrative and organisational experience.
- c) Unregistered cash waqf properties.
- d) Lack of provisions in the relevant laws.
- e) Lack of social consciousness.
- f) Unlawful misappropriation and occupation of cash waqf.
- g) Possibilities of power exploitation and ineffective supervision. All the decisions for both private and public waqf institutions are made by the headquarters which reduces the divisional employees' opportunities to take part in the decision-making.
- h) Lack of Shariah and advisory board.
- i) The aptitudes and qualification of Mutawallis in effectively managing cash waqf for the continued flow of funds for their sustainable future are questionable.

All these problems bring about serious apprehensions in Bangladesh about the governance structure of the cash waqf institutions. These problems persist because of absence of any specific legal and regulatory mechanism on part of the Government. To overcome these constraints, some recommendations are highlighted in the conclusion section.

Cash Waqf In Some Selected Countries

Due to its unlimited benefits, Cash *Waqf* practices have flourished in different parts of the world. In order to gather the learning points from those countries, it is necessary to evaluate their cash *Waqf* system. These countries include Bahrain, Indonesia, Kuwait, Malaysia and Singapore.

Bahrain

In Bahrain, a Cash Waqf Fund was created in November 2006 under the sponsorship of the Central Bank of Bahrain (CBB) in partnership with Islamic Financial Institutions (IFIs). The main purpose of this Cash *Waqf* Fund is to finance research, education and training in Islamic finance. Among the founders of IFI, the Arcapita Bank, Bahrain Islamic Bank, Kuwait Finance House (Bahrain), AlBaraka Banking Group, Unicorn Investment Bank, ABC Islamic Bank, Shamil Bank (now Ithmaar Bank) and Gulf Finance House were involved in this initiative. The member institutions made one-time contributions to the Waqf Fund's corpus which is invested in Islamic money market instruments and the return is used to finance the Fund's initiatives. These initiatives are executed through partner organisations. Ever since its establishment, the *Waqf* Fund has been active in sponsoring some important flagship initiatives that include Human Capital Development in Islamic Finance, Research and Collaboration with Other Nations, Curriculum Development etc (Karim, 2016). Like Bahrain, Bangladesh may also finance education, research and training through Cash *Waqf* as this will benefit the society incessantly.

Indonesia

In Indonesia, a non-profit organisation under the Ministry of Religious Affairs has turned the concept of Cash *Waqf* into a movement. A group of Indonesian journalists established the non-profit organisation named

Dompot Dhuafa Replubika (DDR) to raise a pool of fund for the welfare of the poor through *Zakat, Infaq, Sadaqah and Waqf* (ZISWAF). Though informally established in 1993, Dompot Dhuafa Republik (DDR) was registered in October 2001 with the government as National Zakat Institution (Lembaga Amil Zakat) under the auspices of the Ministry of Religious Affairs. DDR then created a *waqf* fund named Indonesian *Waqf* Fund (Tabung Wakaf Indonesia) with a fourfold network of welfare programs that includes Healthcare, Education, Economy and Social Development (Karim, 2016). This could be a valuable lesson for the Government of Bangladesh as there is no such *Waqf* fund in Bangladesh at Government level. It is the high time for the Government of Bangladesh to initiate plans for the establishment of a national *Waqf* fund where anybody can contribute and greater deeds can be done with that fund including healthcare, education, development works etc.

Kuwait

In Kuwait, the *Waqf*, whether cash or non-cash, is aimed at contributing to the efforts intended to serve the revitalization of the *Waqf* practice and tradition by putting forward developmental projects in Islamic forms in order to meet the needs and requirements of the society. This aim is usually achieved by requesting the people to donate cash funds or other norms of assets as *Waqf*. These *Waqf* funds are managed and overseen by Kuwait *Awqāf* Public Foundation (KAPF) in order to meet the social as well as developmental needs as addressed by various action programs. These action programs grant *Waqf* authority an allowance for achieving the highest developmental return and to help achieve the connection among the *Waqf* projects. In Kuwait, each Cash *Waqf* fund is managed by a Board of Directors consisting of a number of popular and eminent persons to be chosen by the President of *Waqfs* Affairs Council (Karim, 2016). Bangladesh may also follow the footsteps of Kuwait in this regard.

Malaysia

In Malaysia, cash *waqf* is progressively acknowledged and recognised. The implementation of cash *waqf* has increased its acceptance in Malaysia, partially due to the advertisements prepared by Bank Muamalat Malaysia Berhad (BMMB), which is the pioneer of Islamic banking organisation to manage cash *Waqf* alongside Perbadanan Wakaf Selangor (PWS). With the intention of improving its role as an Islamic bank, in 2012 Bank Muamalat Malaysia Berhad (BMMB) merged with Perbadanan Wakaf Selangor (PWS), a state *waqf* manager served as the major gatherer of cash *Waqf*. The bank established a shared deposit account for accumulating cash *Waqf*. Since its incorporation in 2012, many donors began to inquire about the bank's efficiency in handling the fund. This is because of the absence of disclosure on the utilisation of the fund. Since the bank acts as the accumulator of the fund, it should make its cash *waqf* operation more transparent (Karim, 2016). There are several issues pertaining to *Waqf* management in Malaysia in general and cash *Waqf* in particular. *Waqf* administration in Malaysia is regulated and managed under different laws and regulations within the purview of the States Islamic Religious Council (SIRC) consisting of thirteen states and federal territories (Mahamood, 2006). As *Waqf* institutions are governed by state laws, the nature of the administration of these institutions may differ from one state to another. Such dissimilarity could cause inefficiency in cash *Waqf* collection and management in Malaysia (Karim, 2016). However, Bangladesh has no such complexity like Malaysia as the country is run by one central government and all the laws are enforced centrally. What is really necessary for Bangladesh is just the involvement of the Government in Cash *Waqf* sector.

Singapore

In Singapore, the first known *Waqf* created in the country was the *Waqf* of the Omar Mosque of Kampung Melaka, which was endowed by the late Syed Omar Aljunied, who originally was a trader from Indonesia. The first *Waqf* legislation in the country was passed by the British legislation in 1905, which was provided under the Muhammedan and Hindu Endowments Ordinance and was enacted on 8th September 1905. In fact, philanthropists like Syed Omar Aljunied created or built not only mosques but also revenue stream to ensure that these mosques have income for their maintenance and religious activities. These philanthropists had actually developed a socio-religious enterprise model, which is now becoming a new trend in charity and non-profit enterprises. However, *Waqf* in the form of cash is unique in Singapore, and the cash *Waqf* fund there included mostly the Mosque Building Fund. Under this kind of cash *Waqf* philosophy, each Muslim employee

is required to contribute a stipulated amount to the fund on a monthly basis. As of 1 July 2005, there were about 175,000 Singaporean Muslim employees who contributed towards this fund which amounted to \$6 Million annually. Their contribution was deducted from their monthly salary by their employer and then channeled it through the Central Provident Fund (Karim, 2016). This fund has enabled Waqf authority to build 22 mosques with an accumulated amount of \$130 million (Thoarlim, 2017). Creating Cash *Waqf* fund to establish and maintain mosques could be a great initiative for Bangladesh as Bangladesh has millions of mosques but does not have a central management system to manage those mosques.

Governance And Practical Implications

While this study adopts a doctrinal and analytical approach to examining the legal and regulatory dimensions of cash *waqf* in Bangladesh, it is equally important to link these discussions to the practical realities of *waqf* administration. The effectiveness of cash *waqf* in achieving its socio-economic objectives largely depends on governance issues such as transparency, institutional capacity, and accountability.

At present, the absence of a uniform regulatory framework and the limited capacity of existing institutions hinder the efficient administration of cash *waqf*. Many Islamic banks and private *mutawallis* operate their cash *waqf* programs without adequate oversight or performance evaluation. A lack of transparency in fund management and insufficient disclosure mechanisms often erode public trust. Therefore, strengthening institutional capacity, improving reporting systems and ensuring accountability through independent audits and monitoring mechanisms are essential steps toward sustainable cash *waqf* governance.

Case studies from other jurisdictions offer valuable lessons. For instance, Malaysia’s State Islamic Religious Councils (SIRCs) have introduced transparent accounting practices and digital *waqf* registries, while Indonesia’s Dompot Dhuafa Republika (DDR) demonstrates effective integration of *waqf* with social welfare programs. In Kuwait, the Kuwait *Awqaf* Public Foundation (KAPF) exemplifies institutional efficiency through centralized governance and professional management of *waqf* portfolios. Learning from such models could guide the formulation of a more robust framework in Bangladesh that combines doctrinal soundness with operational excellence.

The diagram below illustrates the relationship between cash *waqf*, legal mechanisms, and socio-economic impact. It shows that a strong legal and regulatory mechanism mediates between cash *waqf* as an instrument of social finance and its resulting outcomes in areas such as poverty alleviation, education, healthcare, and community development.

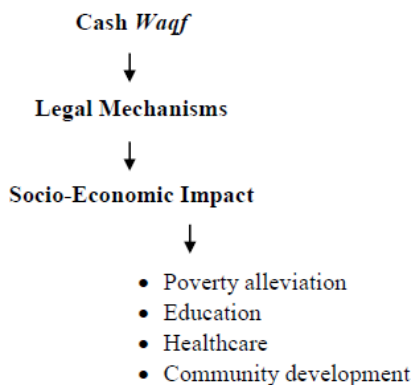


Figure 1: Diagram showing the relationship between cash waqf, legal mechanisms and socio-economic impact.

CONCLUSION AND RECOMMENDATIONS

The main objective of the study is to examine the importance of cash *Waqf* in poverty alleviation and economic development of Bangladesh. The research finds that cash *Waqf* could play a significant role in poverty alleviation and economic development of Bangladesh if the system is well organized, systematic and

properly managed. The research also finds that cash *Waqfs* are currently regulated by the Islamic Banks in Bangladesh because of absence of any legal instrument or regulatory body. From the above discussions and lessons learned from other countries, following recommendations are suggested for the proper administration of cash *Waqf* in Bangladesh:

- a) There must be a separate and specific legislation for regulating cash *Waqf* in Bangladesh;
- b) Under the legislation, a well-structured regulatory body needs to be established for proper administration, management and supervision of cash *Waqfs*;
- c) Cash *Waqf* administration should be decentralised to enhance proper communication;
- d) The government should employ sufficient experienced staff to monitor the activities of cash *Waqf*;
- e) There should be provision of mandatory registration of cash *Waqf* so that the *waqf* can be tracked easily;
- f) A Shariah advisory board should be established for cash *Waqf* for every institution;
- g) The government should employ qualified and experienced Mutawallis for effective management of cash *Waqf*.

In conclusion, cash *waqf* holds significant potential for supporting the socio-economic development of the poor. Drawing on the successful models adopted in several countries, this study suggests that similar initiatives can be effectively implemented in Bangladesh, provided that the recommended measures are carefully and systematically executed.

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