Proposal Framework of Waqf Institutions’ Governance and Its Economic and Social Implications

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Doi: 10.32957/ijisef.452576

ABSTRACT

In the name of Allah, the Most Compassionate, the Merciful. This paper seeks to accomplish several goals. First, it addresses in brief the Waqf as an effective Islamic financing institution to reduce poverty and improving human wellbeing. Second, it explains Waqf linguistically and terminology types of Waqf and their practicing throughout history: Third it proposes a framework of Waqf Governance. It contains a structure of several levels; Tawhid, the basic principles of good governance, shared vision and mission, strategy formation, strategy implementation and control, the level of monitoring, Shari’ah auditing, Shura Boardand the investment monitoring unit. It points out to the social and economic impacts of good governing. Social Then and economic implications of good governing make a crucial factor in the development of Waqf. Finally, this paper proposes a structure and function for Waqf funds investment called Waqf Investment Institutions (WIIs) that are setup, mainly as organizations of Waqf fund planners and managers. Each WII operates one or more funds. Each WII shall be obliged to invest fraction of its portfolio in its locality to assure regional growth and development. WII may issue Waqf shares, Istibdal (Substitution of Waqf Prosperities), lease with dual payment, Huker (long lease with large advanced lump sum, and Al Mursad (loan). This loan is offered to the Waqf management by a lender to develop a Waqf. This requires organizing WII in a corporate fashion. Current regulations on investment may need some adjustments to cater for such businesses. WIIs will be joined in a national association that promotes them in the market and help regulating such business.
1. Introduction

According to UNDP report 2014 "1.2 billion people live with $1.25 or less a day. However, the report stresses that, using UNDP multidimensional poverty index, almost 1.5 billion people in 91 developing countries live in poverty with overlapping deprivations in health, education and living standards. The report warns that persistent vulnerability threatens human development, and unless it is systematically tackled by universal provision of basic social services, stronger policies for social protection and full employment, progress will not be equitable nor sustainable"(UNDP report, 2014). It should be noted here that generally full employment cannot be realized, especially in such poor countries. Better opt for a high rate of employment, at least among the heads of families.

Islam looks at poverty from religious, social and ideological point of view. Allah says (Be sure we shall test you with some of fear, hunger, and loss in belongings, lives, and the fruits (of your toil …) Sura al-Bakara: 155.Muhammad, peace be upon Him, said "Poverty is almost like unbelief in God". HR Thabarani. Also, He, peace be upon Him, said "O Allah, I seek your refuge from poverty, insufficiency and lowliness" (HR Abu Dawud and Ahmad).

Poverty is widespread in Muslim countries. Waqf(Islamic Endowment) is considered as an effective Islamic institution to reduce poverty and improving human wellbeing in Muslim societies. Waqf institutions are expected to prioritize social and development objectives alongside financial objectives.

Definition of Waqf:

In Arabic, Waqf means: withholding, prevention, tranquility, or silence. As a technical term, it is any property that its proceedings are devoted, as long as it is existent, towards certain social services chosen for a particular purpose (Manh El-Jalil 4/34 and Gawager El-Eklee 2/205). In terminology, scholars have offered many definitions for Waqf according to their approaches towards its origins. Abu Hanifa defined it as "withholding property, according to the judgment of its owner, and providing charity from its revenues". The meaning implied here is that the property remains in perpetuity under the ownership of its custodian and cannot be disposed of in any way (Ibn Abedin, 1987). Shafi’ defined it as keeping of money that may be benefited from the remaining of its property confined as well as devoting of its profit for charitable purposes"(Khatib 1377 AH- 1958 AD). The Hanbali School says that "Waqf is the confinement of the property and the devoting of its profit for the charitable purposes for the sake of Allah’s mercy" (Bahooti 1414 AH- 1993 AD). Idiomatically, Maalikis say that Waqf is: "the devoting of profit of some property as long as it exists, provided that it shall be owned by the benefactor even if by name". The researcher considers that the most notable and comprehensive of these definitions is as follows: withholding property and not permitting it to be owned by any person and disposing of its benefits in a permissible manner. This is supported with the narration by Abdullah Ibn Umar, may Allah be pleased with Him, that Umar Ibnal-Khattab, may Allah be pleased with Him, had some land properties in Khaibar. Umar consulted the Prophet, peace be upon Him, regarding the status of that property and his intention to surrender it as a charity, indicating that it’s the most property he dearly owns. The Prophet advised him that he keeps the ownership of the property and surrenders its proceedings as a charity. (Bukhari, 1414 AhH-1993 AD).

Shari’ah law identifies three types of Waqf: charitable, family and common.

A- Charitable or Khiry Waqf which the founder dedicates to charity organizations at its founding (Yakan, 1388 AH). This includes the abstract religious Waqf. It allocates funds for worship in its narrow meaning such as for the construction and/or maintenance of places dedicated to prayer, worship and other similar religious activities. In true Islam, all activities that positively serve the needs of humanity in general and Muslims in particular are recognized as proper charities. In some detail, Charitable Waqf allocates properties and funds to the various charitable activities such as healthcare, education, cultural and social services. This type of fund is known to all nations since the beginning of history, but Muslims were those who expanded it in size and purpose and made it an effective and significant part of social activities. Unfortunately, as we look back to history in the latest few century, misuse of such Waqf became a major damaging force in the Muslim world as seen today.

B- Family or Ahli Waqf: It’s the type of Waqf that the Waqf founder dedicates for himself or his family or both, or for a certain person, himself or his family or both, or for the Waqf owner and his family and
other persons and their families as well. This type of Waqf exceeds that known to previous nations and exceeds most of the types which many Western nations have become accustomed to. It is a purely Islamic concept created by the Companions of our Prophet, Peace and blessings of Allah be upon Him, after al-Farouq Omar registered his own Waqf in Khaibar and appointed guardians to administer it. Consequently, many companions of the Profit dedicated many of their properties as Waqfs. Some of them stipulated that the benefits of these Waqfs should benefit the family in priority, after which they appointed guardians for the charitable cause.

C- Common or Mushtarak Waqf: which the founder dedicated for charity bodies and for individuals as well.

Historically, Waqf which is a nonprofit sector, has played an important role in the provision of social services, such as education, hospitals, and public facilities, such as roads, mosques, bridges, caring for the orphans, the poor, the needy, the widows, the handicapped, the old, etc. (Sadeq, 2002). It has been argued that the entire health, education and welfare budget during the Osman Caliphate, based in Istanbul, came from its charitable foundations (Gakca, 2000). Statistically speaking in many Muslim countries, Waqf forms a huge resource of land with high position for socio-economic development. Waqf land for agriculture constituted half the size of the land in Algeria in the middle of nineteenth century, whereas it amounted to one-third in Tunisia in 1883, and one-eighth in Egypt in 1949 (Hoeexter, 1988). In more recent development, it is recorded that in Malaysia there are over 35,000 acres of land as Waqf properties (Zukifi and Muhammad, 2008). Meanwhile in Indonesia it is recorded as of September 2002 that there are around 147,204.7 hectares of land as Waqf properties (Achmad, 2002). In Singapore, there are about 100 Waqf registered, with over 200 properties and assets worth around over US$350 Million (Shamisah, 2008). According to India Prime Minister’s High Level Committee on the Social, Economic and Educational status of Indian Muslims Community report, there are more than 49 Million Awqaf in the country, with a market value of Waqf properties reaching half trillion Egyptian pounds (abt. US$25 billion), but the annual income received is only estimated at US$750 million (Zahri, 2014). In Saudi Arabia, the value of Waqf properties reached 500 trillion Saudi Riyal (CNBC Arabia, 2017). However, Waqf institutions face many challenges such as, among others, lack of financing, of efficient management teams, of legal consultation, etc. Thus, in order to solve their financing problems, contemporary Muslims scholars should go back and revive their traditional modes of financing as well as innovating new methods of financing and development of Waqf properties and enhance Waqf management radically.

Given the urgent need in the Islamic World to revealing the Waqf system. The institution of Waqf (plural Awqaf) in Islam is one of poverty alleviation mechanisms in the society besides Zakat (compulsory charity) and Sadaqah (optional charity), as per Islamic Shari’ah (law). It is believed that Waqf can be an effective system of poverty-eradication by improving the non-income-generating aspects, such as health care, education, increasing access to physical facilities such as those of commercial transportation, agriculture, industrial activities, as well as many others (Abu Zuhra, 1971; Sadeq, 2002; Abdel-Mohsin, 2013). Thus, Kahf (2003) points out Waqf as holding certain property and preserving it for the confined benefit of philanthropy and prohibiting any use or disposition of it outside its specific objective.

In time with increasingly clamoring for the revival of Waqf, greater emphasis is placed on good governance and best practicing of Waqf. It is widely agreed that the best practice of good governance should be adopted due to its potential as a critical success factors for revitalizing Waqf (Khaf, 2007).

2. Objectives of the Paper:

As we began to envision the shape and scope of the paper we sought to accomplish specific objectives, as follows:

- Waqf and poverty alleviation.
- Waqf in Islam.
- The Islamic Moral Economy: Values are an Important Factors in Construction Waqf-governing body.
• The impact of an effective Waqf institutions’ governing on Waqf performance.

• Proposing a Framework for Waqf Investment Institutions (WIIs).

3. The Methodology:
A mainly theoretical research method, analyzing the ways to enhance Waqf institutions’ governing and the contribution of good governing in Waqf Investment Development.

4. The Structure of Good Governing:
The task of Waqf institution requires an innovative formwork for maximizing practice of good governing. The basic principle of good governing types such as Musalah, Amanah, Adala and Shura can be employed and fit into the basic building blocks of Islamic governance (Iqbal and Lewis, 2009). In addition to that, Ikhlas (sincerity) and competences important blocks that should be considered as well as other factors that play a major role in good management for Waqf institutions' governance.

Waqf institutions are expected to prioritize social and development objectives which contribute to Islamic moral economy. In principle, individuals as the vicegerent of Allah on the earth are expected to act according to Sharee’ah in all actions and utilization of the resources they are managing.

The concept of institutions’ governance in Islam refers to a set of organizational arrangements on how an institution is "directed, managed, governed and controlled". Hence, this provides the governance structure through which all stakeholders' interests are protected, the institution’s objectives are achieved and the principles of Shari'ah are complied with. The objectives of institution’s governance can be explained as: promoting institution’s fairness, transparency and accountability. "Good governance is crucial for the success of any institution as a means to address numerous types of risk, especially governance risk. Failure to institute appropriate institution’s governance measures for the purpose to mitigate risk may lead to institution’s collapse as per negligence in management and a failure to effect proper investment. Governance risk could lead to fiduciary risk, operation risk, transparency risk, and reputation and Shari'ah risk. Therefore, failure to provide efficient governance is essential to the credibility of Waqf."

There are various social institutions and structures in Islam that reflects both income and wealth redistribution for the fulfillment of the basic needs for all in the Muslim society. These institutions include, among others Waqf, which is more commonly known as Islamic endowment.

"From an economic perspective, Waqf can be regarded as a type of savings-investment mechanism where funds are diverted from consumption to be invested in productive assets that provide revenue. The proceeds can be used to achieve social objectives such as building hospitals, orphanages, universities and ... etc, thus unlocking both its economic potential and philanthropic objectives”. Waqf as a potential source of financing and a mechanism for wealth distribution.

"An encouraging development on Waqf in key Islamic finance jurisdictions is the realization on the importance of Waqf as a source of financing and a mechanism for wealth distribution. As seen in the recent past, Waqf funds have been established in various Islamic finance jurisdictions where the returns are used to achieve social objectives. Government, international and corporate bodies have been active in promoting and supporting Waqf. Such as Overall, through the development of Waqf, it will help to improve the socio-economics of Muslims by providing opportunities to participate in economic activities resulting from the Waqf development process". Good Governing of Waqf is a crucial factor in the development of Waqf.

Today, recognizing the importance of Waqf in realizing the social role of Islamic finance globally, various Islamic Finance Institutions have jointly collaborated with Waqf agencies/bodies, particularly to alleviate poverty and to support more equitable redistribution of wealth.

Overall, the recent revival of Waqf was spurred by the realization among the stakeholders that Waqf is an important resource mobilization mechanism that if properly developed, managed and utilized will be able to fund various economic activities for the benefit of the community. The perpetual nature of Waqf makes it a highly effective and strategic platform for sustainable economic growth, concurrently serving the social agenda of Islamic finance in general. Moving forward, it is imperative for the management of
Waqf to evolve with the latest developments in the financial sector, so there could be more potential exploration of future collaborations together to further add imminent value to the Waqf. With proper governing, guidance, management, information and knowledge (both in terms of legal and Shari‘ah), it is hoped that Waqf will be established in a proper and rightful manner to eventually allow for the creation of sustainable and perpetual benefits not only for the Muslim community, but also for the entire society. Overall, Waqf holds exciting potential, but one must be mindful that in the pursuit of Waqf value creation; one should never lose sight of Waqf as a social entity.

There is lack of good governance and Waqf managements such that, in most cases, are not transparent and accountable to Waqf stakeholders. Moreover, by encouraging the use of these traditional methods for developing Waqf properties, it will give them legal justification to further expropriating and abusing Waqf assets in the name of development. Nevertheless, with efficient management teams that practice good governance and effective legislations, cash Waqf, Waqf shares schemes and corporate Waqf can be easy, cheaper and convenient means to raise fund for social-economic development and therefore, expanding Islamic Moral Economy.

The first principle in the structure of good governance is trust (Amanah). To fulfill this concept, Amanah will determine the individual relationship with society. If an individual really understands the concept of Amanah, the issue regarding the rights and responsibilities can be resolved. The fulfillment of Amanah would bring to justice, i.e. Adalah (Ihasan, Ayedh, 2015:p122).
Figure 1: The Structure of Good Governance

According to Shahull (2001) Adalah in Islamic economy scheme aims towards achieving social welfare. Adalah principle leads Muslims to full objectivity. Therefore, Islam encourages those who are entrusted with Amanah to lead people within the concept of justice or Adalah (Ihasan, Ayedh, 2015: p122). However, sometimes it is difficult to achieve a just system due to subjective decision of human beings. Therefore, Qur’an provides quid lineon how to come up with decision making through Shura or mutual consultation (Ihasan, Ayedh, 2015: p122). Amanah, Adalah, and Shura leads to Maslaha (concern of public interest). All of these Islamic values require competent individuals, among other tools, to assure
their competence. These Islamic principal values are prerequisite for building the suitable products as such.

Based on the above-mentioned principles, an institution may form a strategy to set the direction of activities with effectiveness, efficiency, operational, excellence Islamic ethics with present and future strategic goals based on their management vision and their management mission.

The strategy addresses the following:

- The current state of the Waqf, with emphasis on size, quality, initial objectives and history, if applicable.
- The desired future state (i.e, goals, plans, .. etc).
- The motive(s) for achieving them.
- The urgency to achieve them.
- The payback or return they desire or expect.
- The means and/or resources they can make available.
- The Consequence(s) of not achieving any of them as panned.
- The Risk(s) they see in pursuing them.
- The Vision of the ideal situation.

The strategy have financial goals such as return on equity (ROE), risk (Variability of ROE), return on equity by specify return on assets (ROA) and equity multiplier or leverage (EM), the income growth rate, the profit growth rate. In short, what is required in a result-oriented Awqaf.

Good strategy success requires an effective leadership, highly qualified staff, high quality systems and responsive organizational structure. In today’s Awqaf, most Awqaf institutions require management reengineering after analyzing the strengths, weaknesses, opportunities and threats (SWOT) of each institution.

Strategy implementation and control requires several bodies, such as:

- Monitoring Mechanism: the basic monitoring mechanisms are the office of the Qadi (Judge), the board of trustees, audit committee …etc. According to Khan and Syed, qadi has the authority to appoint, monitor, or even replace the mutawalli if mismanaged Waqf property. However, qadi can not remove mutawalli merely based on the complaint of beneficiaries, unless there is a proof of breach of trust.
- Shari’ah Audit whose function is to give Shari’ah views on issues pertaining to religious affairs and work as an auditor to make sure there is a compliance with Shari’ah. Colt and Murray (2000) state that, in nature, accountability manifests itself as information through management information systems and associated methods of analysis and evolution. Therefore, a clear reporting from the institution management will be checked to see how compliance with Shari’ah rules in managing the assets. Auditing also is done to all management activities.
- Shura as a principle and institution aiming towards achieving Islamic moral values in the decision making process (Abdul Rahman (1998). Regarding Waqf, it can be referred to as the board of trustees. It is responsible to all stakeholders such as Waqf board, Regulators, beneficiaries and community at large. (Hishan and Ihsan (2007). The board of trustee should have representatives of the major stakeholders at least.
- The Investment Committee: The role of this Committee is to invest and develop Waqf resources and follow-up for the project under execution, strategic plans, policy formulation for the spending of the Waqf revenues in line with Maqasid of Shari’ah and to fulfill the conditions of the founders and conforming with the projects and Waqf program. (Ahmad, Rashid, Ibrahim and Dseni, 2015). All this shall be implemented in a professional manner.
Also, the investment committee shall pursue Waqf research and development to make operating and maintenance cost quite economic. This effort includes opportunity analyses, portfolio Waqf product innovation, optimization of return on investment capital, asset management, cash management, business planning, investment diversification risk management, building Waqf culture, infrastructure integration, and systems and data security.

Waqf shares, warrants (Waqf Sukuk), cash Waqf trust...etc. For instance, the following figure shows in detail the Waqf-shares structures which require an effective management body to be succeed, based on effective leadership with highly qualified staff and responsive organizational structure and high quality work systems. As an example of the demand of good management and on effective governance is cash Waqf management. See Figure (2)

Cash Waqf Investment:

![Cash Waqf Investment Diagram]

The success of Cash Waqf requires good governing.

6. Waqf Investment Institution (WII):

To manage Waqf investment effectively you have to be creative and innovative to engineer such a system. Good governing is a prerequisite for this system. The following remarks may help of or startup:

6.1- Placing the money belongs to Waqf in a well-designed investment fund. It is necessity for Waqf to arise as a main device to fulfill many economic and social objectives.

6.2- Waqf investment institutions (WII) are setup, mainly as Waqf's fund planners and managers. Each WII operates one or more funds. Ministry of Waqf oversees these (WIIs), both through certified public accountants and setting up an agency to regulate and assure their operations. Each WII shall be obliged to invest fraction of its portfolio in its locality. This shall assure adequate regional growth and development through dedicated investment.

6.3- Once these WIIs are regulated by Awqaf Ministry, they may issue Waqf shares, Sukuk, etc., to their respective WIIs locally and nationally. International organizations in the form of national WIIs Associations regulate international Sukuk, Waqf shares and cross-country investment. Once this rolls, even international Waqf banks will devise ways to exchange letter of credits (LCs), Sukkuk and other Islamic financial securities at WIIs.

Figure 2: Cash Waqf Proposed Structures and Operation
6.4 As a case, an LC is merely an obligation by the issuer (Waqf in this case) securing payment subject to certain conditions. This promise is based on firm knowledge of ability of the LC issuer ability to pay, either by liquidating some of his shares in the WII or merely based on Waqf foundation reputation. Ultimately, the WII will pay in many ways the LC issuer should be a well known and trusted by the Waqf financial firm. In any way, the LC user does not have to be an investor in the WII.

6.5 Quite often the LC user is requested to deposit an appropriate amount in the WII so that the latter can issue the LC. This way that amount shall be held at the LC till the WII is cleared. It shall not be invested in the WII. The WII can charge the LC user for the service, including holding the amount idle for the life of the LC, which can be years or ask the user to provide certain mortgage of which value secures payment. WII charges depend on the method of securing the LC by the LC user.

6.6 Notice that those WIIs are not investing only their funds, they also manage investing funds for others for which they make money through such management effort. They can invest by many other methods other than the LC. Waqf shares, Sukus, istibdal (substitution of Waqf Properties), lease with dual payment. One big lump sum advances for the construction of Waqf property and the second part is small periodic payment, say, annually for the period of lease. Also, Huker (long lease with large advance lump sum) is paid in advance. As per this method, instead of selling Waqf properties, the trustee can sell a right over Waqf property to the lessee for long lease at a nominal periodical rent. This right of property is sold for a large amount of money which is paid in advance. This lessee can then develop the property using his own resources and at his own risks as long as he/she pays periodical rent to the Waqf administration (Kahf, 1998).

This mode is similar to Ijaratain except that in Ijaratain, the advanced payment must be used for the construction of the leased property itself. Another investment method is Al Mursad (loan). This loan is given to the Waqf management by a lender to develop a Waqf asset after the legal approval is obtained. The asset is given on lease to a lender for a period deemed long enough to assure the lender of the definite possibility of the repayment of the loan (Obidullah, 2012). Other modes of financing are Istisnaa. Murabaha (purchasing and selling of existing buildings and properties), installment sale, diminishing participation, B.O.T, other appropriate Islamic modes of financing such as residential buildings (service and residential apartments high standings, office blocks, commercial centers and mixed-use development on land that are well located in city centers to maximize the return on the investment.

6.7 There is no problem in setting up this system of finance (WIIs), both theoretically and otherwise. However, things could go sour in the first few months of its deployment and as time goes on, the system will achieve reasonable success that can be further expanded both quantitatively and qualitatively. How to do it: Organize WII in a corporate fashion. Current regulations on investment may need some adjustments to cater for such businesses.

6.8 WIIs shall be joined in a national association that promote them in the market, assist in the development of this market, and help regulating such business either by this association or other government investment regulating agencies.

This WII system promotes a structured and organized approach that helps Waqf institutions maximize their performance.

This system may change radically the way we think about Waqf investment strategy, given that the system calls for collaboration between WIIs throughout the Islamic world. Collaboration is a key to building a harmonic and systematic investment system across Islamic countries, making Islamic Waqf internationally bigger, better and faster. Therefore, the WII system gives an extension for Islamic social and economic system.

7. The Findings:

- Understanding theoretical and practical key principles of Waqf good-governance.
- Describe the mechanism of Waqf institutions' governance complying with Shari’ah.
A proposed framework for Waqf investment institutions (WII) which manages Waqf Investment Portfolio and points out to investment policy guidelines.

The paper points out to the development of Waqf properties by looking to Maqasid al-Shari’ah, which guide our vision that should guide us in forming an alliance with seekers of a spiritually inspired, morally informed living style among humanity.

We need a fresh vision of the Waqf future based an Islam’s Universal morals and binding glue of Tawhid.

It is necessary to review Waqf policies and to increase the level of Cooperation and participation among workers in this field. The benefits of Waqf’s revenues and funds should be shared fairly by Muslims worldwide, to promote social justice and economic growth for all Muslim nations.

The WII stresses the importance of encouraging development in all finance agreements between Waqf institutions in bilateral or multilateral manners.

Serious attention should be paid to Waqf governing because it is a major block of Waqf development financing. This should be consistent with a major development strategy.

Conclusions:

1- Although, this sounds over optimistic, nevertheless, it has a significant degree of accuracy, which is unlikely to be ignored by the future research about the topic.

2- The first principle in the structure of good governance is trust (Amanah). To fulfill this concept, Amanah will determine the individual relationship with society. If an individual really understand the concept of Amanah, the issue regarding the rights and responsibilities can be resolved.

3- Waqf investment institutions (WII) are setup, mainly as Waqafs fund planners and managers. Each WII operates one or more funds. Ministry of Waqf oversees these (WII), both through certified public accountants and setting up an agency to regulate and assure their operations. Each WII shall be obliged to invest fraction of its portfolio in its locality. This shall assure adequate regional growth and development through dedicated investment.

4- Once these WII are regulated by Awqaf Ministry, they may issue Waqf shares, Sukuk, etc., to their respective WII locally and nationally. International organizations in the form of national WII Associations regulate international Sukuk, Waqf shares and cross country investment. Once this rolls, even international Waqf banks will devise ways to exchange letter of credits (LCs), Sukkuk and other Islamic financial securities at WII.

5- WIF represents an important contribution and development to the Waqf investment strategy by offering conceptualization and complementary perspective for neglected investment process.

6- WIF is a new version of Waqf investment style in an integrative work. This study constitutes a beginning in terms of filling this void in the literature.

7- WIF will play a major role in developing Waqf investment strategy. It will be an innovative investment product concept and an added value for market opportunities.

8- However, it may be noted that under certain circumstances WIF cannot be effective as one expected in certain countries, due to mismanagement by practitioners and it is due to economic variables beyond the control. Therefore, a sound economic climate is crucial element in getting the most out of this tool.

9- It is hoped that, WII will gain a wider acceptance in the Waqf investment strategy with time. It is also understood that once it is widely practiced then the process of “learning of it.”

10- Overall, it is hoped that the study findings and insights will be helpful to other researches in their efforts to design strategies for Waqf financing.
References


