

Administrative Challenges of WAQF Institution in the Contemporary World: Future Prospects

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Abstract

This paper aims at exploring the administrative challenges of waqf as a prominent mechanism of poverty alleviation and provision of social welfare services. Waqf is generally regarded to be one of the most effective ways of expressing philanthropy for sustaining the welfare of the needy, the poor, the family, and the society. Through this philanthropic institution, wealth is transferred from private ownership to public utility. Personal assets of useful value can be endowed in waqf for the all-round services of the society; religious, social, economic, and educational sectors, under certain conditions and regulations laid down by the Shari'ah. Right from the time of the Holy Prophet, waqf has been benefitting people and defraying public expenses as it served as an effective means of funding mosques, graveyards, orphanages, schools, hospitals, bakeries, warehouses, mills, and numerous humanitarian or religious foundations. Similarly, this institution was successfully financing agriculture, horticulture and water resources during the previous centuries, as it was used to cater for the aged, infirm, destitute, and even animals. However, with the advent of colonialism in the Islamic world and subsequent negative transformation of Islamic culture and tradition, this strategic financial institution eventually started to turn into a shadow of its former glorious status. By adopting the narrative approach of qualitative research method, this study analyses the current administrative problems facing waqf institution in a bid to finding their lasting solutions and resuscitating its humanitarian functions.

Keywords: Philanthropy; Shari'ah; Social service; WAQF.



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1. Introduction

During the early period of Islam, the arrangement of *waqf* management is relatively simple because the donor and manager constitute the same person (Rashid, 2011). Therefore, as Mahamood (2011) and Cizakca (2011) revealed, in this setting there is no great need for alignment of interest between donor and manager, since misalignment of interest logically implies at least two different persons. On this, (Rashid, 2011) noted that 'Umar bin al-Khattab appointed himself as a manager for *waqf* property he donated in Khaibar. After his demise, it was a person from his family not his successor in the Caliphate leadership that took over the management of his *waqf* property. Therefore, during this period, even the Caliph did not allow the government to interfere in the *waqf* administration (Karim, 2010; Rashid, 2011). With a descendent becoming manager (*mutawalli*) of *waqf* property, in many cases, the original intention of donor could be compromised because this descendent (manager) may have different interest regarding the *waqf* services (Ibrahim *et al.*, 2016; Mahamood, 2011; Rashid, 2011). This brought about the necessity of the institutionalization of *waqf* to ensure government surveillance on its activities.

According to Mahamood (2011) and Shirazi N. S *et al.* (2016), the responsibility of a *waqfmutawalli*, is to administer the *waqf* properties to the best interest of beneficiaries. Most importantly, the *mutawalli* has to preserve the properties and then find suitable ways of generating revenues from them to expand their utilities for the beneficiaries (Rashid, 2011). Similarly, the management board assigned with responsibility for making administrative policies gets a specific mandate, authority and power upon being appointed. Therefore, that board is in due course accountable to the constituted authority for its actions (Rizvi *et al.*, 2016); According to Pyeman *et al.* (2016), the *waqfmutawalli* is responsible for the day-to-day functions of *waqf* institution and is accountable to the *waqf* management board as regards to his assigned responsibility.

2. Current Condition of Waqf Management in Islamic World

Recent studies conducted by Rashid (2011), Shirazi N. S. (2011) and Iman and Sabit (2014) revealed that the present situation of *waqf* institutions in the Muslim world is undoubtedly unimpressive. It can be fairly said that in many areas there has been a calamitous collapse of *waqf* institution in some countries where Islam was once the dominant power (Cizakca, 2011). Rashid (2011), Ismail and Possumah (2014) and Mahamood and Ab (2016) lamented that *waqf* institutions in many parts of the Islamic World are not given proper attention and, therefore, vast *waqf* properties are subjected to ill-management. The inevitable consequence is much dilapidation and disrepair of

these sacred properties (Ali, 2014; Basir *et al.*, 2017). Even the best *waqf* buildings, with tremendous commercial potential, are not getting basic repairs and maintenance in some places (Karim, 2010; Rashid, 2011).

The on-the-site surveys conducted by some scholars (Ihsan *et al.*, 2011; Kassim *et al.*, 2014; Muhammad, 2016; Rashid, 2011) discovered many *waqf* properties, some of which were originally of the highest quality, are now turned into cheap commodities available in the commercial market. Consequently, the virtual collapse of *waqf* institution has resulted in a vacuum which still, in most Muslim countries, could not be easily filled in near future (Cizakca, 2011; Ismail and Possumah, 2014; Rashid, 2011). The causative factors that led to the decline of *waqf* glory include; legislative negligence, administrative failure, lack of political determination, persistent public ignorance of the significance of *waqf* and high rate of corruption (Ali, 2014; Iman and Sabit, 2014; Muhammad, 2016; Rashid, 2011).

Pyeman *et al.* (2016) opined that since the deteriorating situation of institutions of *waqf* needs urgent attention, there is need for comprehensive assessment and evaluation of the whole *waqf* administrative framework. Indeed, as Mahamood (2011), Ismail and Possumah (2014), Ali (2014), Shirazi N. S *et al.* (2016), Kassim *et al.* (2014) and Muhammad (2016) observed, the current reappraisal of the role of *waqf* institution in many countries offers opportunities to learn from the mistakes of the past and to move for managing the *waqf* assets in a professional way within a modern administrative framework.

In their scholastic analysis on the current administration of *waqf* institution in the Muslim world, Iman and Sabit (2014) and Habidin *et al.* (2017) identified two essential measures to be devised for meaningful improvement. First, existing *waqf* properties must be better managed and used for enhancing security of tenure, and for the interest of the beneficiaries. Second, in-coming *waqf* properties must be used to help resource redistribution and strengthen civil society.

2.1. Ideal Waqf Administration

The literature on *waqf* management quite strongly supports the application of principles of conventional corporate governance due to their compatibility with the relevant *Shari'ah* principles (Choudhury and Malik, 2016; Saleem, 2017; Shafiq *et al.*, 2014; Shah, 2015). The factors of ideal *waqf* management, such as a professionally committed *mutawalli* of *waqf*, religious awareness, and a society-oriented vision towards open and direct democratic consultation (*shura*), should exhibit a significant positive effect on the social responsibility (Bridoux and Stoelhorst, 2014; Hossain, 2016). Mahamood and Ab (2016) and Ibrahim *et al.* (2016) noted that one of the operational tasks needed to facilitate development of *waqf* is related to the challenge of adapting modern management techniques to the prevailing economic relations among societies where *waqf* exists.

According to Kuran (1986), Ahmad (1991), Mir (2010), El (2014), Chapra (2014), Shafiq *et al.* (2014) and the core of the Islamic management ethics are not in contradiction with the conventional principles of corporate governance. The normative function of ideal corporate governance is to internalize the concept of social responsibility into the definition of the company or organization and into the managerial practice (Donaldson and Preston, 1995; Harrison and Wicks, 2013; Jensen, 2001). However, a question may be asked as to why the approach of conventional business management should be introduced into the Islamic management of *waqf* which is essentially a non-profit sector, which, by its origin and mission, already has a strong socio-religious dimension? Indeed, many contemporary Muslim scholars have considered *waqf* as an NGO-type voluntary financial sub-sector (Kassim *et al.*, 2014; Mamun *et al.*, 2017; Mohsin *et al.*, 2016). Therefore, as Saad and Sarif (2017), Salawu and Aina (2017) and Miles (2017) opined, the *waqf* management structures can be made more efficient, transparent and responsive with the principles of conventional business organization.

In a study conducted by *Hawkamah*, a Dubai-based Institute for Corporate Governance, in conjunction with the Washington-based International Finance Corporation (IFC), five elements of ideal business organization are identified as follows:

- **Good Board Practices:** This requires clear expression of the roles and authority of board members as well as duties, responsibilities, rights and privileges of directors. All these must conform to international best practices standards.
- **Commitment to Duties:** By this, the Board of Directors must create a corporate governance committee to be committed to discussing, specifying and monitoring corporate governance issues. Policies and procedures must be formulized and explained to relevant staff; a code, or guidelines, must be developed and the organization must be recognized as a leader in corporate governance.
- **Disclosure and Transparency:** This requires the disclosure of both financial and non-financial information; financial statements prepared to international standards; the publication of a high quality annual report; and the existence of a web-based site for investors and for disclosures.
- **Shareholder Rights:** This requires formulizing the rights of minority shareholders; holding and properly organizing the general assembly; putting in place the policies concerning related party and extraordinary transactions; and clearly defining the dividend policy.
- **Control environment and Processes:** This requires establishment of an independent audit committee; a risk management framework; internal control procedures; independent external audits; management information systems (MIS); and compliance functions.

2.2. Accountability in WAQF Administration

Although, as Shafiq *et al.* (2014) and Bhatti *et al.* (2015) rightly observed, *waqf* is a religious institution, but it shares common accountability-related problems and challenges with conventional NGOs, especially what relates to mismanagement, maladministration and neglect of corporate responsibilities. Therefore, going by the opinions of some notable Muslim scholars, the principles and practice of NGO accountability could provide some useful insights as well as practicable framework in which *waqf* institution could gain some valuable pointers regarding the contemporary requirements of accountability for improving its administrative efficiency and effectiveness (Chapra, 2014; Khan K. *et al.*, 2015; Meutia and Febrianti, 2017; Salawu and Aina, 2017; Yusuf and Bin, 2015).

In this case, the works of Bovens *et al.* (2014) are very prominent in which they clarified the notion of *upward accountability* and *downward accountability*. Considering these conceptual elements, this study draws experience from diverse NGO literature on issues relating to accountability and explores the extent to which improved accountability relationship towards the poor may improve the effectiveness and efficiency of *waqf* management (Albassam and Ntim, 2017; Bovens *et al.*, 2014; Davis and Winn, 2017; Habidin *et al.*, 2017; Mir, 2010; Shah, 2015; Tricker and Tricker, 2015).

As the effort to improve the effectiveness of *waqf* management tends to focus on upward accountability to the concerned regulatory and supervisory agencies and Board of Trustees, there is also a downward accountability to beneficiaries (Ihsan *et al.*, 2011; Karim, 2010; Li *et al.*, 2014). Therefore, in order to improve the efficiency of *waqf* management, downward accountability to beneficiaries must be given due consideration (Grossi *et al.*, 2015; Sulaiman *et al.*, 2015). In this case, the beneficiaries of *waqf* are not merely placed at the receiving ends or as mere assistance receivers, but are taken on board in formulating policies and running the activities of *waqf* (Abdallah *et al.*, 2015; Ebrahim *et al.*, 2014; Saad and Sarif, 2017). In *waqf* management, therefore, accountability to Allah is practically manifested in the accountability to beneficiaries when they are taken on board in the management and utilization of *waqf* properties (Askari *et al.*, 2017; Basir *et al.*, 2017; Habidin *et al.*, 2017; Ibrahim *et al.*, 2016; Rizvi *et al.*, 2016; Tarik and Mirakhor, 2016).

2.3. Financial Management of WAQF Funds

In its observation on several *waqf* agencies, this study has discovered with dismay how *waqf* properties, especially cash *waqf*, are subjected to total consumption in violation of its legal feature of perpetuity. Ideally, these agencies should play the role of financial intermediation which, in this context, can take different forms, such as *ijārah*, *muḍārabah*, *salam*, *mushāarakah* and *muzāra'ah* (Khan S. R., 2012); (Mirakhor, 2014). Today, as Phelan (2016) and Honcharenko (2017) revealed, financial intermediation is the backbone of commercial and financial institutions whereby borrowers and lenders are brought together under certain contractual agreement to conduct businesses and investments.

According to Ziegler (2013) and Greenbaun *et al.* (2015), modern financial intermediation guarantees security and reliability in domestic and foreign financial transactions that involve services such as issuance of promissory notes and letters of credit. The noble *Sharī'ah* provides a bundle of formal intermediation contracts to facilitate efficient and transparent execution of entrepreneurial projects (Alpha *et al.*, 2016). These contracts are comprehensive enough to provide a wide range of various intermediation services such as custodial services, payment system, asset transformation and risk management (Dar and Presley, 2000; Rahman, 2017).

According to Khan S. R. (2012), Ali (2014), Borio (2017) and Céspedes *et al.* (2017), business contracts under Islamic financial intermediation are based on the *Sharī'ah*-compliant principles of partnership. This partnership, as Khan S. R. (2012) and Samad (2004) clarified, includes *salam*- and *ijārah*-type (debt-financing partnerships), *mushāarakah*-type (equity-financing partnerships) and *muḍārabah* (profit-sharing partnership).

Based on the works of Phelan (2016), Honcharenko (2017) and Céspedes *et al.* (2017), effective financial intermediation is indispensable for successful financial management of *waqf* funds. According to Ashrafzadeh *et al.* (2017) and Rahman (2017), business contracts brokered through effective financial intermediation are the catalysts of viable human resource development and sustainable social welfare services which enhance socio-economic development of society. Contracts offered under this arrangement are covered by comprehensive mechanisms for effective risk management and mitigation in entrepreneurial investments and business transactions (Abdul-Rahman *et al.*, 2014; Suandi, 2017).

3. Suggestions

Ultimately, the sustainable success of *waqf* administration relies entirely on its ability to adequately justify to the general public its capacity to not only preserve the *waqf* corpus but also to invest them profitably for sustainable social welfare services in the society. Although the theory of profit-and-loss-sharing (PLS) remains a major foundational frame-work of Islamic finance, but operational mechanism of an ideal *waqf* institution encompasses various *Sharī'ah*-compliant strategies of socio-economic services. These strategies include diverse capacity-building programs meant for developing the earning potentials of the active poor in addition to the provision of social services to the inactive poor.

Moreover, the management of *waqf* institution should demonstrate its ability to create its own investment opportunities by conducting effective internal and external market surveys. Its transactions should be such that will give tangible form to its religious ideology. This will prove that there is no contradiction between ethics and professionalism.

4. Conclusion

Success in the administration of *waqf* institution depends solely on the trustworthiness of its management team. In the context of improving management of *waqf*, this study does not view accountability as mere mechanistic tool concerned with audit, accounting, reporting and monitoring. Rather, accountability and transparency should also be seen as vital ingredients for the smooth running of *waqf* institution. The management should learn from *waqf* beneficiaries through their engagement and participation, which will, in turn, acquaint the concerned authorities on how to improve and better serve them.

Although there are many ways to improve *waqf* management, it is imperative that the relationship of *waqf* management with beneficiaries should be given due consideration. This consideration does not merely see participation of beneficiaries as passive participants sitting at the receiving ends of the relationship. Rather, they should be actively involved in formulating and implementing any policy that is meant to improve the efficiency of *waqf* management.

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