# Mechanisms for Enhancing Waqf Governance in the Context of Digital Transformation and the Transition towards Smart Administration

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## Abstract:

Amid increasing national and regional interest in revitalizing the waqf (endowment) sector, this paper presents a strategic vision to strengthen its role in sustainable development. It highlights the need to reform waqf management by mobilizing dormant assets, enhancing investment efficiency, and integrating waqf into the broader economic system. The study examines the applicability of institutional governance principles such as transparency, accountability, and justice to improve waqf administration and ensure resource sustainability. With a focus on Algeria, it analyzes current sectoral classifications and the administrative and financial structures governing waqf institutions. The paper aims to propose practical mechanisms for improving governance and restructuring the sector, including the institutionalization of the nāẓir (trustee) role and the shift toward an investment-oriented management model that aligns with Sharia objectives and contemporary development demands.

## Keywords:

Governance, Waqf Sector, Waqf Resources, Investment Management, Economic Development.

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# آليات تطوير إدارة الوقف في ظل التحول الرقمي ورهانات الانتقال نحو الإدارة الذكية

**الملخص:**

في سياق توجه الدول نحو القطاع الوقفي واستعادة دوره الحضاري والتنموي، وفي ظل إستراتيجيات وطنية وإقليمية تهدف إلى الاستفادة من كافة موارد الأمة؛ تأتي هذه الورقة البحثية في إطار رؤية شاملة ومتكاملة حول تعزيز رهانات التنمية المستدامة، وتحديات الراهن الاقتصادي والاجتماعي، والحاجة إلى تطوير أساليب إدارة الأوقاف وتعبئة مواردها وزيادة كفاءتها التنظيمية والاستثمارية وإدخالها الدائرة الاقتصادية.

وستكون هذه الورقة البحثية مساحة لدراسة مدى إمكان تطبيق مبادئ الحوكمة المؤسسية في إدارة الأوقاف لاستدامة مواردها، وضبط العلاقات بين مختلف الشركاء وأصحاب المصالح في إطار من العدالة والمسؤولية والشفافية، بالإضافة إلى تقييم مستوى الأداء المؤسسي لإدارة الأوقاف الجزائرية في ظل التصنيف القطاعي الحديث، والأشكال والبنى المؤسسية التي يقوم عليها تسيير الأوقاف إداريا وماليا.

وتهدف هذه الدراسة إلى الإجابة عن مشكلة بحثية تتمحور حول السبل الكفيلة بتطوير حوكمة التسيير الإداري والمالي، والبناء المؤسسي للقطاع الوقفي من خلال مَأْسَسَة النظارة والانتقال بها إلى نمط الإدارة الاستثمارية للموارد الوقفية.

**الكلمات المفتاحية:**

الحوكمة، القطاع الوقفي، الموارد الوقفية، الإدارة الاستثمارية، التنمية الاقتصادية.

## Introduction

Waqf, with its rich intellectual heritage and deep historical roots in the socio-economic fabric of the Islamic world, continues to demonstrate its resilience and relevance in the face of modern legal, administrative, and institutional systems. This resilience stems from its remarkable ability to adapt to contemporary administrative thought and current investment trends, while remaining in harmony with the foundational objectives of waqf, the stipulations of donors, and evolving endowment purposes. The waqf system is still capable of fulfilling its historic roles of charitable giving and public service, addressing various societal needs across multiple domains. Therefore, waqf remains a vital mechanism for societal development, institutional enhancement, and economic contribution through the adoption of modern tools and mechanisms that strengthen its administrative and investment efficiency. These tools also enable all stakeholders to track waqf funds, understand their management and investment, and ensure their utilization aligns with Sharia principles and donor conditions, all while safeguarding the interests of the waqf itself.

Although governance as a concept did not explicitly exist in classical Islamic waqf literature being a product of modern administrative thought it now represents the optimal approach for overseeing waqf institutions. It regulates the behavior of administrators, rationalizes expenditures, and promotes transparency and accountability through modern auditing, financial oversight, and performance assessment tools. This facilitates the identification of efficient and economically viable investment models. Historically, the Islamic economic system incorporated monitoring mechanisms over zakat, public funds, and endowments to mitigate the risk of corruption, akin to contemporary internal controls over public financial management. Today, corporate governance serves as a comprehensive framework ensuring asset preservation, expenditure clarity, and informed participation by all stakeholders in the investment and growth of waqf revenues. Notably, effective governance in waqf investment management requires institutionalizing the role of the *nazir* (waqf overseer) and monetizing waqf assets—an integrated and complex process necessitating advanced financial and accounting systems within waqf institutions.

**Significance of the Study:**

The importance of this study lies in the fact that waqf governance has become a cornerstone in the development of waqf institutions, enhancing their administrative and economic efficiency, safeguarding stakeholders' rights, and reinforcing public trust through transparency and disclosure. By proposing innovative and practical solutions for institutional reform, this study seeks to foster economic foundations for waqf management, free from institutional bureaucracy. This is particularly relevant given the current challenges facing the waqf sector, such as outdated or insufficient legal frameworks, low public

engagement due to excessive state control, and the lack of effective legislation that promotes economic efficiency. These issues underscore the need to modernize the waqf sector, institutionalize its management, and transition away from traditional models toward ones informed by contemporary administrative and investment theories.

**Literature Review:**

This research draws on a selection of significant scholarly works directly relevant to the topic, including but not limited to:

- *"Governance of Waqf and Its Role in Institutional Development"* by Dr. Ali Said Ismail, published by Hemethra Publishing, Cairo, 2019. The author addresses the need to regulate relationships among waqf stakeholders through governance principles, transparency, and financial efficiency.
- *"Waqf Governance and Management of Core Operations Standards of Transparency and Rational Policies in Enhancing Institutional Performance and Investments"* by Dr. Sami Mohammed Al-Salahat, published in 2018 by the Saa'i Center for Waqf Development in Saudi Arabia. The study showcases waqf institutions that have integrated governance systems based on financial and accounting transparency.
- *"Waqf Governance (A Foundational and Comparative Study)"* by Abdulmohsen bin Mohammed bin Othman Al-Muharraj, a doctoral thesis defended at Naif Arab University for Security Sciences (Saudi Arabia, 2016). It presents a comparative approach to waqf governance aligned with Islamic jurisprudence and the regulatory frameworks of Saudi Arabia and Jordan.
- A study by Dr. Mohammed Boujellal presented at the 3rd World Islamic Economics Conference (Umm Al-Qura University, 2003), which discusses institutionalizing the role of *nazir* and monetizing waqf assets as a strategy for developing investment management in the waqf sector.
- *"Developing the Waqf Sector in Algeria and Enhancing Its Resources"* by Dr. Djelali Djilali, a doctoral dissertation submitted to the Faculty of Law, University of Algiers, 2015. This work explores methods for improving management practices in Algeria's waqf sector, drawing on both Islamic and Western experiences.

This study, by contrast, focuses on exploring the theoretical foundations of corporate governance and its applicability to waqf management. It leverages Islamic waqf heritage while evaluating current administrative practices with the aim of transitioning toward a sustainable economic governance model.

**Objectives of the Study:**

- To outline the general framework for waqf governance based on modern corporate governance theories, while accounting for the specific nature of waqf and its socio-economic significance in the Muslim world and its developmental potential.

- To identify the internal and external determinants of waqf governance and highlight its standards as a modern approach to institutional management.
- To establish Sharia-based guidelines for waqf governance and clarify their role in institutional development and enhancing waqf's contribution to economic and social progress.
- To propose an evaluative framework for the guarantees necessary to enable intelligent governance mechanisms that promote transparency, sound management, and strategic investment coordination, aligning with donor intentions and Sharia-compliant waqf objectives.
- To demonstrate how digital waqf governance can enable the sector to participate meaningfully in comprehensive development and contribute to economic diversification through integration into the formal economy.

**Research Problem:**

To achieve the above objectives, the central research question is as follows: To what extent is it necessary to apply smart governance principles in waqf management amid the evolution of financial and accounting systems and the shift toward digital transformation?

Moreover, what is the potential for leveraging these principles to enhance waqf administration using modern technologies and e-governance solutions? And what are the viable pathways for transitioning from a centralized or government controlled institutional oversight model to an investment driven economic management model?

**Structure of the Study:**

**Chapter I:** General Principles of Governance in the Waqf Sector – A Theoretical Approach and Knowledge Foundation

**Section I:** The Concept of Waqf Governance and Its Importance

**Section II:** Historical Foundations and Methodological Principles of Waqf Administrative Thought in the Islamic Tradition

**Chapter II:** Foundations for Mobilizing Waqf Resources in Light of Islamic Historical Experience and Secular Administrative and Economic Thought

**Section I:** Core Principles of Digital Governance in Business Organizations and Its Potential in Smart Waqf Management

**Section II:** The Form of the Supervisory Administration of Waqf and Its Impact on Economic Efficiency

## Chapter I: General Principles of Governance in the Waqf Sector – A Theoretical Approach and Knowledge Foundation

There is no doubt that developing the waqf institution and positioning it as a key factor in the equation of economic advancement and development necessarily requires freeing it from the residues of corruption, the administrative mindset centered on individual decision-making, strategic ambiguity, and the absence of oversight and accountability. These safeguards are provided by contemporary

institutional governance, which is considered the most effective means to enhance the investment management of waqf funds and integrate them into development. These are fundamental principles and concepts that must first be thoroughly understood, alongside the historical foundations and advantages offered by the waqf administrative thought, which make waqf governance the best bet in this endeavor.

## Section I: The Concept of Waqf Governance and Its Importance

Waqf governance is a compound term that needs to be deconstructed and its components defined, as we will explain below.

### Subsection 1: Waqf Governance in Light of Its Economic Substance and the Advantages of Institutional Governance

### A -Definition of Waqf Governance:

Governance is a modern legal and administrative term concerned with the sound management of financial institutions in order to achieve interests, protect the rights of all stakeholders connected to the institutions, and ensure disclosure and transparency. This is aimed at achieving financial stability and economic growth of the institution in particular, and ensuring the stability of the economic and financial system in society in general[1]. Governance represents a methodology that seeks to strike a balance between economic and social objectives on the one hand, and between individual and collective interests on the other[2].

Thus, it contributes to establishing regulatory frameworks that organize the relationship between key goals that affect institutional performance. It also includes mechanisms to support long-term sustainability by clearly allocating powers and responsibilities[3], reinforcing the contractual relationship that defines the rights and duties of shareholders, stakeholders, and managers.

From a social and ethical perspective, this term is viewed in light of defining social responsibility and achieving economic development[4], with the aim of ensuring transparency, justice, combating corruption, and granting the right to hold the institution's management accountable, ensuring it operates toward achieving its long-term goals and strategies.

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[1] Muhammad Farhan and Muhammad Amin Qa'id Abdul Qadir, “Governance in Islamic Banks in Yemen”, *Journal of Islamic Economic Studies*, Islamic Development Bank / Islamic Research and Training Institute, Saudi Arabia, Vol. 20, No. 02, 2014, p. 4.

[2] Cadbury, A, *Report of the Committee on the Financial Aspects of Corporate Governance*, Gee and Co Ltd, London, December 1992.

[3] Mourad Kouachi, “The Importance of Governance in Improving the Overall Performance of Business Organizations”, *University of Babylon Journal*, Iraq, Vol. 25, No. 01, 2017, p. 174.

[4] Yassin Maysar Fathi Al-Mashhadani and Muhammad Maysar Fathi Al-Mashhadani, “Governance and Its Role in Enhancing Sustainable Development Strategies: Iraq as a Model”, *University of Anbar Journal for Economic and Administrative Sciences*, Iraq, Vol. 12, No. 28, 2020, p. 184.

In the long run, economists view governance as a mechanism that contributes to securing funding, increasing the value of a company's shares, and ensuring its long-term sustainability.

This term gained practical significance following the Asian financial crisis in 1997, which drew the attention of the Organization for Economic Co-operation and Development (OECD) in Paris. The OECD issued a set of principles and standards to strengthen institutional commitment to governance requirements. These principles were later adopted by the World Bank and the International Monetary Fund in 1999 under the term "Good Governance"[5].

Good governance has since become a framework for setting management objectives and directing efforts toward achieving them, while ensuring performance and results are systematically monitored. This contributes to consolidating effective practices in the exercise of administrative authority. It is also used to assess and determine appropriate incentives for board members, aligning with strategic goals and serving the interests of the company and its shareholders.

Moreover, this approach helps establish modern control mechanisms that enhance the efficient use of available resources and support the principles of transparency and accountability within the administrative system[6]. It must be emphasized that a weak governance environment in any country inevitably leads to increased corruption and negatively affects economic activity and the public interest.

## B – The Economic Substance of Waqf:

It is important here to focus on the economic substance of the waqf concept and its link to financial sustainability, especially considering that waqf today has been institutionalized, its assets monetized, and it has come under state control. The state now relies on waqf as one of the channels that stimulates development across its various dimensions.

It is well known that waqf constitutes an economic phenomenon, as the decision to establish a waqf is fundamentally an economic decision related to the method of using the wealth and determining who the beneficiaries are[7]. It entails transforming funds from consumption purposes into investment in productive

[5] Ghadir Muhammad Yassin, "Determinants and Standards of Governance", paper presented at the International Scientific Conference on "Globalization of Management in the Age of Knowledge", Al-Jinan University, Tripoli, Lebanon, December 15–17, 2012, pp. 12–13.

[6] Iman Jalil Yashkh Al-Maliki and Hammadi Al-Fakhfakh, "The Role of the Integrity Commission in Activating Governance to Limit Administrative and Financial Corruption", *Al-Kut Journal for Economics and Administrative Sciences*, Iraq, Vol. 15, No. 49, December 2023, p. 230.

[7] Muhammad Al-Fateh Mahmoud Bashir Al-Maghribi, *Economics of Waqf*, Hamithra Publishing, Cairo, 2019, p. 29.

capital, which generates revenues or benefits that return value to society at large, or are allocated to specific groups according to defined criteria[8].

This also highlights that waqf has a value beyond its traditional dimensions. Its importance is not limited to humanitarian, social, cultural, and political aspects, but extends to its developmental and economic role, through its contribution to the financial sustainability of institutions, promotion of social justice, and achievement of community solidarity within a comprehensive system that combines ethical and institutional dimensions extending to its economic value as well[9].

Waqf is considered one of the fundamental tools -alongside other mechanisms- that contribute to the formation of:

- Human capital, through support of education and healthcare,
- Social capital, by reinforcing values of cooperation and mutual support,
- And material capital, by investing waqf resources and directing them toward sustainable development projects.

This makes waqf a vital tributary for comprehensive development[10]. Indeed, waqf constitutes a strategic tool for developing human wealth by supporting education and training of qualified personnel, as well as leveraging and employing them in ways that serve private interests and economic benefits.

## C – The Nature of Waqf Governance:

Waqf governance can be defined as a set of rules, principles, and procedures that regulate the relationships between the stakeholders influencing the performance of the waqf institution. It enables oversight of the Board of Trustees and monitoring of the executive management, ensuring transparency and efficiency in managing waqf resources, and assessing the effectiveness of resource utilization in line with the donors' conditions, while benefiting all relevant stakeholders. It also contributes to supporting economic and social development in the community within a framework of transparency, justice, accountability, and responsibility[11].

Particularly in the presence of administrative and financial corruption now embedded in the management systems of some waqf institutions waqf governance has become the most effective means of confronting this challenge. To combat or

[8] Imad Hamdi Muhammad Mahmoud, *Investment of Waqf Funds and Its Contemporary Applications in Light of Islamic Sharia Rulings*, Legal Books House, Cairo, 2012, p. 30.
[9] Hussein Abdul-Muttalib Al-Asraj, *Economics of Waqf*, Center for Research on Islamic Transactions Jurisprudence, KAI University, Malaysia, 2018, p. 82.
[10] Muhammad Al-Fateh Mahmoud Bashir Al-Maghribi, "The Financial and Economic Role of Islamic Charitable Waqf", *Sudan Open University Journal*, Sudan, Issue 03, 2010, p. 155.
[11] Fouad Abdullah Al-Omar & Basma Abdulaziz Al-Muawd, "Internal and External Oversight of Public Waqf Institutions", *Awqaf Journal*, General Secretariat of Awqaf, Kuwait, Special Issue on the 4th International Conference on Waqf Governance, Kuala Lumpur, Malaysia, Issue 31, March 2015, p. 20.

at least reduce the phenomenon, it has become necessary to adopt standards of justice, transparency, and accountability in modern waqf institutions, which in turn encourages investors and partners who seek optimal interests and greater legal protection. Conversely, the absence of these standards discourages investment in or engagement with waqf institutions[12].

Accordingly, governance is a comprehensive administrative framework aimed at streamlining financial and managerial operations in institutions, enhancing the principles of transparency, accountability, justice, oversight, and the rule of law, to ensure sound decision-making that strengthens the sustainability and effectiveness of waqf institutions[13].

Upon reflecting on the concept of governance its core principles and objectives it becomes clear that it aligns with the Islamic perspective on management, which may be defined as follows: "Management based on doctrinal foundations derived from Islamic faith, which imposes ethical constraints and outlines a framework that governs the behavior of administrative leaders, boards, and employees in their dealings with one another and with society at large. Thus, Islamic management becomes a holistic message encompassing all aspects of worship, transactions, and ethics within an integrated system where no part is separate from the other"[14].

## Subsection 2: The Importance, Objectives, and Justifications of Waqf Governance

In light of the growing interest in business organizations and companies, their social responsibility, and the systems of management, oversight, and financial and administrative accounting, and considering the increasing role of the third sector and the expansion of charitable and waqf institutions to meet various societal needs along with their accumulation of both financial and real estate assets, and the need for those managing them to attract qualified, capable, and ethical human resources the importance of applying institutional governance principles to waqf becomes apparent. These principles are aligned with the goals and justifications that underscore the social, economic, and legal necessity of adopting this approach to sound governance, which will be elaborated on in the following points:

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[12] Thamer Al-Baker, *The Role of Disclosure in Corporate Governance: A Critical Appraisal and Comparison Between the Kingdom of Saudi Arabia and the United Kingdom*, University of East London, UK, 2001, p. 9.

[13] Khalifa Mohammed Khalifa Al-Hamdi, "Governance of Waqf Institutions and Their Role in Supporting Entrepreneurship Projects in the Sultanate of Oman – A Comparative Analytical Study", *Journal of Economic, Administrative and Legal Sciences*, National Research Center – Gaza, Palestine, Vol. 8, No. 04, 2024, p. 58.

[14] Abdulmohsen bin Mohammed bin Othman Al-Moharij, Governance of Awqaf – A Comparative Foundational Study, PhD Dissertation, Naif Arab University for Security Sciences, College of Criminal Justice, Saudi Arabia, 2016, p. 126.

## A – The Importance of Waqf Governance:

The concept of waqf combines many of the same governance principles and administrative foundations that only emerged centuries later. It marks a fundamental shift in the concept of control and oversight over waqf assets, framed through supervision and individual leadership, which contributes to its development into a comprehensive and advanced institutional system based on stable foundations. It significantly resembles modern political systems of governance[15].

Accordingly, applying governance principles to waqf institutions is expected to result in wiser financial and administrative decision-making, aimed at maximizing the waqf's benefits and avoiding potential risks or harms. This would positively enhance transparency and accountability within waqf entities. It may even lead to the creation of subsidiary companies under waqf institutions to oversee the investment management of their projects[16].

## B – Justifications for Waqf Governance:

Modern administrative thinking in the waqf field clearly needs to benefit from the advantages of institutional and smart governance techniques. This requires waqf authorities in various countries to adopt a system that ensures the highest degree of transparency and clarity in managing legal, financial, accounting, and technical affairs within waqf entities, as well as between these entities and the state and stakeholders.

This need is further emphasized by a regional and global trend toward the globalization of charitable giving and voluntary activities, and support for the integration of waqf entities and the establishment of joint endowments. These trends justify the application of corporate governance systems in the waqf sector due to their structural similarities. The justifications can be summarized as follows:

- Instilling confidence among investors in the waqf sector, especially regarding the clarity and transparency of financial reports related to waqf investment management[17]. Disclosure and transparency are essential to ensure the effectiveness, sustainability, and relevance of waqf investments to the genuine needs of the community.

[15] Hussein Abdulmutallib Al-Asraj, Waqf Fund Governance Between Theory and Practice, [Available at MEDIU Repository – Accessed: 24/07/2024, 18:30], p. 43.

[16] Fouad Abdullah Al-Omar & Basma Abdulaziz Al-Muawd, “Rules of Waqf Governance: The Waqf Board of Trustees as a Model”, Research Project, Imam Muhammad bin Saud Islamic University, Riyadh, Saudi Arabia, pp. 60–61.

[17] Abu Dhabi Governance Center, “Governance Basics: Terms and Concepts”, *Awareness Bulletins Series*, p. 7.

- Shared features between waqf institutions and business organizations; as noted by Dr. Ezz El-Din Fikri Tohamy[18], the waqf institution may encounter some of the same challenges as economic entities. Although there is no "owner" in charitable endowments, the waqf administrator acts as a representative of the donor in implementing the waqf's terms and as an agent of the beneficiaries.
- The need to guarantee integrity, neutrality, and uprightness in all waqf projects, while avoiding both intentional and unintentional errors or deviations, and working to prevent their recurrence through advanced control systems[19].
- The dominance of individual trusteeship in many private waqf institutions, often marked by limited expertise and weak specialization in asset management, leading to a lack of institutional traditions and strategic planning, which inevitably results in a lack of vision and a negative impact on achieving the waqf's core objectives[20].
- One of the merits and justifications for applying governance in waqf institutions is also the inclusion of stakeholders and beneficiaries in the evaluation of services and benefits, providing an ideal measure of service quality and identifying areas for improvement[21].
- Governance helps optimize the use of waqf resources, achieve sustainable growth, and enhance productivity. It reduces capital costs and facilitates oversight and supervision through the establishment of internal control frameworks, specialized committees, and the implementation of transparent practices[22].
- Governance also enhances the competitiveness of waqf institutions, helping them to expand and grow, making it a suitable institutional framework for fulfilling donor intentions and maximizing the benefit for the beneficiaries. Thus, it ensures greater fairness and responsibility across all levels of administrative and investment activities[23].

## Section II: Historical Foundations and Methodological Principles of Waqf Administrative Thought in the Islamic Tradition

Modern studies on waqf emphasize the necessity of institutionalizing waqf administration by integrating it into the structure of contemporary governance systems, while preserving its Islamic identity, originality, and historical-functional merits. This has made the governance (or *nazarah*) of waqf institutions

[18] Ezz El-Din Fikri Tohamy, "Waqf Institutions Governance", presented at the 1st International Symposium on Islamic Finance, Al-Azhar University, Cairo, 23–24 April 2012, pp. 28–29.
[19] Hussein Abdulmutallib Al-Asraj, previously cited work, p. 43.
[20] Hassan Muhammad Al-Rifai, "Towards a Contemporary Shari'ah Auditor for Waqf Institutions", *Awqaf Journal*, General Secretariat of Awqaf, Kuwait, Vol. 11, Issue 21, Nov 2011, p. 10.
[21] Al-Omar & Al-Muawd, previously cited work, p. 144.
[22] Abu Dhabi Governance Center, previously cited, p. 16.
[23] Mohamed Ramadan, op. cit., p. 52.

more imperative than ever. In this section, we examine how waqf administration transitioned to state control and the factors that contributed to this shift.

## Subsection 1: Transition of Waqf Supervision from Judiciary to State Authority

Maliki jurists considered the administration of waqf, supervision of endowments (*ahbas*), and oversight of *nuzzar* (waqf administrators) as duties incumbent upon the state. Since waqf assets are often allocated to public charitable purposes, their management naturally falls within the purview of state responsibility. In such cases, it is the public treasury -not the waqf itself- that should bear the operational costs. This view is reinforced particularly when waqf properties are allocated to public utilities and community services[24], where state oversight is seen as foundational even before judicial authority. Accordingly, the state may delegate waqf administration to a non-judicial body, such as a ministry or department, endowed with powers similar to those of a judge[25], except for adjudicating waqf disputes, which remains a judicial function.

Under this model, waqf administration is subjected to direct state supervision, ensuring accountability and continuous monitoring. Frequently, waqf institutions are attached to central ministries such as those for Islamic or religious affairs a practice widespread in many Muslim countries today[26]. This does not contradict classical juristic views assigning oversight to the judiciary, as judges are deputies of the ruler and may delegate responsibilities. The emphasis lies in how the *nazarah* is executed, not who performs it[27].

Accordingly, state authority in overseeing waqf is essential, driven by several legal and practical considerations:

- The ruler possesses general authority (*wilayah 'amma*), and a *waqif* (endower) may stipulate that the ruler act as the *nazar*. Jurists have acknowledged the state's right to intervene in waqf affairs and hold administrators accountable. Waqf protection, akin to safeguarding public funds, is among the primary duties of the state in preserving the five necessities (*al-daruriyyat al-khams*) prioritized in Islamic law[28].
- Many states have extended their authority over waqf, not only by abolishing private and charitable endowments or assuming their control, but in some cases,

[24] Muhammad bin Abdulaziz Abdullah, Al-Waqf fi al-Fikr al-Islami, Ministry of Awqaf and Islamic Affairs, Morocco, 1996, p. 43.
[25] Dalli Djilali & Tayeb Ammour Mohamed, op. cit., p. 4.
[26] Dalli Djilali & Amina A'bichat, "Institutionalization of Waqf Supervision in Algerian Law", Conference on Institutional Nazirah, Faculty of Law, Tissemsilt University, Algeria, April 12, 2022, p. 2.
[27] Issam Khalaf Al-Enezi, "State Authority in Waqf Oversight", Fifth Forum on Waqf Jurisprudence, Secretariat General of Awqaf, Istanbul, Turkey, May 13-15, 2011, p. 10.
[28] Kamal Mansouri, "State Supervision and Sharia Oversight of Waqf Institutions", Fifth Forum on Waqf Jurisprudence, Secretariat General of Awqaf, Istanbul, Turkey, 2011, p. 8.

by seizing them entirely and absorbing them into public assets, thereby neglecting their original purposes[29].

- Another justification is the ethical decline among some *nuzzar*, whose negligence, mismanagement, or failure to adhere to waqf conditions led to the deterioration or loss of endowments, and to their entanglement with private or state properties[30].

- Further, waqf institutions require stringent oversight and accountability. When a *waqif* does not designate a *nazar* or fails to allocate an appropriate remuneration, the state through a competent ministry assumes the role, including the determination of stipends and oversight over key transactions such as substitution or borrowing, which require state authorization.

## Subsection 2: Factors Behind the Decline of Endowments and the Shift from Individual to Institutional Management

The diminishing role of endowments (*awqaf*) in contemporary times and the shift in their modes of administration -from individual and community-based management to governmental and institutional oversight- can be attributed to a number of interrelated factors, chief among them the following:

- The tendency of some states to abolish endowments altogether, while others have opted to nationalize them. What remains has often suffered from weakness, neglect, and administrative shortcomings, exposing endowments to loss and misappropriation.

- The state assuming responsibilities traditionally held by the waqf, coupled with the absence of genuinely independent administrative bodies dedicated to the management of endowments free from official pressure and bureaucratic constraints has hindered the ability to direct endowment funds toward productive investment ventures, leading to the dissipation and squandering of waqf assets[31].

- Colonial authorities played a critical role in dismantling the waqf system, drying up its sources under the pretense of it being chaotic, disorganized, and incompatible with modern development and urbanization[32].

- The vast size and scale of endowments complicated their documentation and oversight, particularly when entrusted to under-resourced agencies with limited powers. In addition, the disregard for the will of the founders regarding the

[29] Muhammad Sayyid Al-Dusuqi, "State Authority over Waqf", Second Waqf Conference, Umm Al-Qura University, Mecca, 2006, p. 13.

[30] Abdulaziz bin Muhammad Al-Hujaylan, "Waqf Guardianship and Its Impact on Preservation", Symposium on Waqf in Islamic Law, Riyadh, 2002, p. 705.

[31] Maliha Muhammad Rizq, "The Institutional Development of the Waqf Sector in Islamic Societies", *Series of Award-Winning Studies in the Kuwait International Waqf Research Competition*, General Secretariat of Awqaf, Kuwait, 2006, p. 31.

[32] Kamal Mansouri and Faris Masdour, "Towards an Advanced Institutional Model for Waqf Management", *Journal of Human Sciences*, University of Mohamed Khider, Issue 09, March 2006, p. 5.

specific purposes of their endowments has undermined the principle of autonomy one of the defining features of the waqf institution as a legal entity recognized in both Islamic jurisprudence and Western legal systems[33].

- For over a century, the state's relationship with the waqf sector has transcended mere supervision and moved into the realm of direct guardianship, justified by the deteriorating state of both private and public charitable endowments a reflection of broader societal decline, particularly in the intellectual and social spheres[34].
- The prevalence of centralization in modern Arab states and their desire to dominate all forms of civil activity -including endowments- has been driven by the belief that keeping such institutions outside state control obstructs the implementation of social and economic reforms[35].
- The necessity of holding waqf administrators (nuzzar) accountable particularly in terms of disclosing the revenues generated and expenditures made for maintenance, restoration, or development has arisen from widespread administrative incompetence, corruption, and a backlog of complaints and legal disputes among beneficiaries, compounded by the administrators' inability to resist pressure from influential elites[36].
- The post-independence economic policies of many Islamic states had a profound impact on the retreat of endowments, particularly with the rise of the "nation-state" model, in which the state assumed responsibility for meeting citizens' needs. This approach entailed comprehensive governmental management of economic and social resources via centralized planning, within which the endowment sector was absorbed into state administration[37].

In light of these factors, it seems appropriate to reconsider the traditional model of individual trusteeship (*nadhiriyya shakhsiyya*). Given that perpetuity is a condition for the validity of a waqf in Hanafi jurisprudence, the most suitable form of administration is undoubtedly institutional entities characterized by continuity and permanence, unlike individuals whose authority ends with their lives. Ours is an era of institutions: that which is institutionalized thrives and endures, while that which remains bound to individuals is liable to disappear and perish.

[33] Osama Omar Al-Ashqar, "Developing the Islamic Waqf Institution in Light of the Western Charitable Experience", *Series of Award-Winning Studies in the Kuwait International Waqf Research Competition*, General Secretariat of Awqaf, Kuwait, 2007, p. 46.
[34] Tarek Abdullah, "The State and the Waqf Sector in the 21st Century: From Guardianship to Partnership", Proceedings of the Dubai International Conference on Waqf Investments, Awqaf and Minors Affairs Foundation, Dubai, UAE, 4–6 February 2008, p. 328.
[35] Kamal Mansouri and Faris Masdour, ibid., p. 6.
[36] Khaled Abdullah Al-Shuaib, *Trusteeship over Waqf*, University Theses Series (2), 2nd ed., General Secretariat of Awqaf, Kuwait, 2019, p. 268.
[37] Tarek Abdullah, op. cit., p. 330.

Countless endowments have ceased to function due to the death of their trustees or beneficiaries[38].

In this regard, Dr. Mohamed Boujlal emphasizes the necessity of institutionalizing waqf trusteeship (*institutionalisation of nazara*) to prevent endowments from being tied to individuals whose absence could mean their loss and disintegration. An institutional form of trusteeship allows for the effective management of waqf properties and their proceeds in a manner that aligns with the developmental needs of each country. For instance, it may be prudent to allocate a significant portion of waqf resources to education in cases where literacy rates are low and the state is unable to provide adequate educational infrastructure. Conversely, if the education sector is well-served, waqf funds can be redirected to other sectors. This implies that the "Trusteeship Institution" can serve as a rational mechanism in the hands of public authorities to deploy waqf assets in a way that is compatible with state fiscal policies. However, this must not result in granting the institutional trustee unchecked discretion; rather, oversight bodies should be established, involving founders or wise and qualified members of the community.

Institutional trusteeship acquires even greater significance in the case of productive or developmental endowments, which require a separate analysis to clarify the institutional relationships between waqf founders, the waqf institution itself, and the productive enterprises that receive waqf investment for the purpose of achieving profitability and broader developmental goals.

## Subsection 3: The Importance of Smart Governance in Enhancing Waqf Management and Increasing Its Economic Efficiency

Waqf has historically established itself as a third economic sector, rooted in the civilizational framework of the Islamic state since its inception. Within this framework, waqf received special care and protection that allowed it to flourish as a key pillar of social and economic solidarity, without the state possessing any authority to impose it or intervene in its direction[39].

From the perspective of modern economic classification, waqf clearly falls within the third sector, as it is fundamentally a charitable endeavor in the form of a perpetual endowment where the founder withholds the capital and dedicates the

[38] Mohamed Boujlal, “The Need to Modernize the Waqf Institution to Serve Economic Development Goals”, Paper presented at the 3rd World Conference on Islamic Economics, College of Sharia and Islamic Studies, Umm Al-Qura University, Saudi Arabia, Muharram 1424 AH / March 2003, p. 5.

[39] Munther Kahf, “The Economic Role of the Islamic Waqf System in the Development of Civil Society, with a Special Focus on the Arab Countries of the Eastern Mediterranean”, in: Proceedings of the Symposium on "The Waqf System and Civil Society in the Arab World", organized by the Center for Arab Unity Studies and the General Secretariat of Awqaf in the State of Kuwait, held in Beirut, 2001, p. 13.

yield for public benefit. Accordingly, it is crucial to recognize and develop the waqf sector as an institution serving the Muslim community. It helps to alleviate the burden on the state by supporting large segments of society, and contributes to redistributing income in ways that promote the social justice goals sought by the community[40].

In the context of international and Islamic coordination among states, the *International Institute of Islamic Waqf* published a strategic report on February 13, 2022 the first of its kind to approach the waqf sector using foresight methodology and future studies tools. The report covered the status of waqf in 54 countries, providing a documented survey of current realities and strategic approaches in the waqf field. It addressed the legal frameworks and legislation governing waqf, stages of development of waqf administrations, and revealed the estimated assets and returns generated by endowments[41].

The findings of this report confirmed the urgent need in Islamic societies to adopt comprehensive and qualitative strategies aimed at fostering community engagement with waqf and strengthening its social and economic role. It also stressed the importance of nurturing a new generation capable of modernizing the waqf infrastructure and ensuring alignment between legislative frameworks and the actual dynamism and impact of the waqf sector.

## Chapter II: Foundations for Mobilizing Waqf Resources in Light of Islamic Historical Experience and Secular Administrative and Economic Thought

The Islamic experience in waqf management retains pioneering models that contributed to preserving the waqf phenomenon within the collective consciousness of Muslim societies. In earlier periods, the judiciary supervised the conduct of *nuzzar* (waqf administrators) and the disbursement of waqf revenues. However, today, awqaf have come under the control and authority of the state, becoming part of its governmental apparatus, which has in turn affected their autonomy. In the modern state, waqf occupies a central place within the sectoral classification, creating a pressing need to liberate it from traditional management practices and transition it toward an investment-oriented governance model. This should be achieved by leveraging the principles and tools of institutional governance.

Below is a discussion of the transformations experienced in waqf management both within the Islamic methodology and the contemporary economic model.

[40] Mohamed Boujlal, “The Role of Islamic Financial Institutions in Advancing the Waqf Institution in the Modern Era”, previously cited reference, p. 113.

[41] International Institute of Islamic Waqf, Strategic Report on the State of Waqf (February 13, 2022), covering data from 54 countries and including legislative, institutional, and financial insights into global waqf systems.

## Section I: Core Principles of Digital Governance in Business Organizations and Its Potential in Smart Waqf Management

It is indisputable that the sound administration of waqf institutions, in light of contemporary administrative theory, must be grounded in the principles of corporate governance as applied in modern business organizations. This ensures the quality and effectiveness of waqf investments, and promotes a high level of transparency and clarity both internally and externally, based on several guiding principles and standards outlined below:

### Subsection 1: Principles and Determinants of Waqf Governance in Contemporary Practice

Today's business environment, along with the expansion of the economic base of awqaf, investment firms, banks, and private sector institutions, and the separation between ownership and management, presents real challenges that justify the need for effective governance. These considerations all point to the necessity of adopting sound governance practices proven effective in other economic sectors, in terms of transparency, trust, quality, and value. The key principles and determinants are as follows:

### A -Principles of Waqf Governance:

The principles of Islamic Sharia align with those of modern secular thought, particularly with those of the Organization for Economic Co-operation and Development (OECD), which recognizes that corporate governance principles can be effectively applied to the management of waqf investments with the required efficiency and effectiveness. These principles can be summarized as follows:

- The Existence of an Effective Governance Framework[42]; waqf institutions are characterized by a regulatory structure that promotes the application of governance practices and activates the role of stakeholders. The Sharia rules governing waqf remain the primary reference, clearly defined in classical jurisprudence and Islamic legal heritage. These sources detail the necessary conditions for establishing waqf, its essential pillars, and core rules for preserving the endowed asset, securing beneficiaries' rights, and defining the responsibilities of the *nazir* (trustee). All of this ensures continuity and integrity in waqf administration, and necessarily involves external oversight mechanisms such as regulatory bodies and internal systems including the waqf deed (*ḥujjat al-waqf*), stipulations of the founder, and decisions of the waqf's board or trusteeship.

[42] Omar Mohammed Farhan, Hani Haza'a, and Aznan Hassan, "Developing Waqf Governance Principles Guided by Corporate Governance Models", *Islam in Asia Journal*, International Islamic University Malaysia, Vol. 17, No. 02, 2020, p. 12.

- Protection of Stakeholder Rights[43]; this includes rights such as ownership transferability, participation in the election of the board, access to financial statements, and receiving a share of profits, as well as the right to participate in general assemblies. Furthermore, a clear separation of conflicting authorities and functions is essential for accountability and responsibility, ensuring justice between all parties, including the administrators, donors, beneficiaries, clients, employees, and external auditors[44].

-Transparency and Financial Disclosure[45]; governance must enhance transparency and efficiency within the institutional and administrative framework of waqf, consistent with legal provisions, and clearly define roles and responsibilities among supervisory, regulatory, and executive bodies. For example, Harvard University, which manages a substantial endowment, publishes annual financial disclosure reports to promote transparency an approach followed by many institutions in the United States and the United Kingdom[46].

- Defining the Powers and Responsibilities of the Board of Trustees[47]: Dr. Sami Al-Salihat emphasizes that defining the responsibilities of the board of trustees is a foundational principle in waqf management, as the board represents the founder and bears full responsibility for managing, maintaining, and developing the waqf in accordance with both legal and Sharia objectives. The board is entrusted with balancing the interests of the waqf and its beneficiaries, and its performance is a key determinant in the success and sustainability of waqf assets.

- Observing Fundamental Requirements in Establishing Waqf Institutions[48]: this includes attention to the waqf formula especially the conditions stipulated by the founder and accurate identification of beneficiaries, while adhering to Sharia principles in defining eligible recipients and investment directions. Also essential

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[43] Hussein Abdel-Muttalib Al-Asraj, *Waqf Governance*, previously cited, p. 18.

[44] Amr Al-Omari and Othman Alam, "The Role and Importance of Governance in Developing Waqf Institutions", *Arab Journal for Research and Studies in Humanities and Social Sciences*, Ziane Achour University, Djelfa, Algeria, Vol. 12, No. 04, October 2020, p. 214.

[45] Hakima Bouslama, "The Importance of Applying Governance Principles in Developing Waqf Institutions and Enhancing Their Role in Achieving Economic and Social Development", Paper presented at the 2nd International Forum on Islamic Finance, Sfax University, Tunisia, in cooperation with the Islamic Development Bank, Jeddah, Arabia Saudia, June 27–29, 2013, p. 5.

[46] Robert A. Ettl, Annual Endowment Report, Harvard Management Company, Inc., September 2016.

[47] Sami Al-Salihat, quoted in literature on governance in Islamic endowments (precise reference available upon request), p.65.

[48] Omar Farhan, Fundamentals and Principles of Waqf Institutional Governance (adapted), pp. 59–67.
Available at: file:///C:/Users/admin/Downloads/أساسيات%20ومبادئ%20حوكمة%20المؤسسات%20الوقفية-2.pdf
Date of access: 03/08/2024, at 19:30.

is clarifying the mechanisms of profit distribution, and delineating the strategic, financial, and investment roles of the board, its relationship with stakeholders, and the importance of official registration and the definition of regulatory and organizational frameworks, while upholding the financial independence of the waqf entity.

## B -Determinants of Waqf Governance:

The determinants of governance in waqf administration can be classified into external and internal factors:

### 1- External Factors:

These represent regulatory mechanisms designed to ensure that waqf institutions comply with laws and regulations, thereby enhancing the efficiency of their management and minimizing conflicts between social and private returns, in alignment with the objectives and maqāṣid (purposes) of waqf[49]. They define the overall climate for regulated investment within the state's economic activities and aim to prevent unethical practices that could harm the waqf or hinder it from achieving its goals.

Additionally, these factors enable the recruitment of qualified managerial talent that can enhance the effectiveness of financial operations, ensuring the continuity and growth of waqf investments. They also equip oversight bodies with the necessary tools to monitor waqf institutions of all types[50].

Moreover, self-regulating organizations and professional bodies contribute to improving the efficiency of markets and regulating professional practices, which supports the waqf environment and maintains a balance between social and economic dimensions[51]. This, in turn, strengthens the rule of law, which can only be achieved through external legislative or regulatory frameworks that mandate the establishment and practical application of appropriate institutional and legal structures within the waqf sector[52]. These conditions ultimately lead to maximum levels of organizational, operational, and investment efficiency, within the broader economic climate and business environment of the state.

### 2- Internal Factors:

These refer to the rules and mechanisms that govern decision-making processes and the distribution of authority within the waqf institution particularly among the general assembly, board of directors, and executive management which help to reduce conflicts of interest and ensure balance among stakeholders[53].

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[49] Bouthayna Al Abdelghani, Previously cited reference, p. 35.
[50] Ali Sayed Ismail, Previously cited reference, p. 64.
[51] Hussein Abdel-Muttalib Al-Asraj, Waqf Governance, previously cited, p. 27.
[52] Makhnath Fatoum, The Role of Governance in Developing Waqf Administration – Case of Algeria, PhD Thesis, Ziane Achour University, Djelfa, Algeria, 2020, p. 149.
[53] Hussein Abdel-Muttalib Al-Asraj, Previously cited reference, p. 28.

These factors are primarily centered around board governance, ownership structures, internal controls, and incentive mechanisms[54]. Their advantages can be summarized in the following points[55]:

- The rules, instructions, and foundations that define the manner and form of decision-making within the waqf institution.
- The presence of specialized committees under the board of directors, especially within the framework of collective trusteeship, enhances monitoring and supervision of waqf projects, thereby improving performance efficiency and achieving waqf objectives with transparency.
- Task allocation among individuals involved in managing the waqf institution helps reduce conflicts of interest.
- Clarity of authority and responsibility within the organizational structure of waqf projects.
- Ensuring the rights of waqf beneficiaries, thereby increasing trust in the waqf institution.
- The existence of multiple oversight bodies to monitor the performance of waqf projects, supported by an effective reporting system that promotes transparency and accurate information flow.
- Supporting the growth of the waqf institution by helping it access funding sources for investment projects, generate profits, and create employment opportunities.

## Subsection 2: The Necessity of Institutionalizing Waqf Supervision and the Need for Robust Waqf Governance

Recent waqf studies emphasize that the expanding economic, administrative, and financial scope of endowments necessitates a transition to an institutional system. Given the unique nature of waqf and its need for high levels of integrity, efficiency, justice, responsibility, and transparency, the institutionalization of waqf supervision (naẓārah) is essential, governed by Sharī‘ah principles and aligned with modern corporate governance standards.

There can be no definitive claim that Islamic civilization lacked its own administrative thought. The foundations of what is now referred to as the Islamic administrative system were firmly established from the outset and evolved progressively over the early Islamic centuries, in which waqf institutions played a significant role, as waqf extended across nearly all aspects of life.

The Islamic administrative thought may be viewed as a collection of concepts, principles, and theories that dominated the field of management across different eras. It is considered "Islamic" insofar as it stems from Qur’anic and Prophetic

[54] Ismail Moumni & Amin Owais, Previously cited reference, p. 44.
[55] Ali Sayed Ismail, Previously cited reference, p. 66; Ismail Moumni, Previously cited reference, p. 45.

guidance, and it is this foundation that modern Muslim states ought to rely upon to reclaim a leadership role in global civilization[56].

Thus, it is critical to bridge the rich heritage of Islamic administrative excellence attested to even by its detractors during the Islamic Golden Age with contemporary advancements in management sciences, which are, in fact, a cumulative result of earlier knowledge, to which Islamic civilization was a major contributor[57].

This underscores the role of Islamic methodology in implementing corporate governance within business organizations. However, applying governance principles to waqf institutions carries unique significance due to their distinctive structure and nonprofit nature. The Islamic paradigm is rooted in high ethical standards, providing an integrated framework conducive to governance. Many scholars in modern accounting theory have endeavored to translate these ethical values into practical governance mechanisms to promote transparency, accountability, and operational efficiency in managing waqf assets[58].

Historically, Islamic waqfs administered healthcare, education, and environmental services for centuries even under individual trusteeship and nevertheless became icons of Islamic civilization, producing remarkable societal contributions. However, evolving realities now necessitate transitioning to a more rational, accountable, and institutionalized system of waqf management, especially given the complex challenges faced by waqf sectors in modern states.

This requires a functional institutional model for waqf oversight characterized by transparency, supervision, and collective trusteeship instead of individual supervision. This model should possess legal personality and decision-making independence, allowing it to overcome prior inefficiencies[59]. As Dr. Mohammed Boujellal stated: "The best model for managing waqf affairs is the institution, due to its permanent and sustainable nature unlike individuals whose roles end with their lives. Thus, institutionalizing waqf supervision is key to ensuring its continuity and protection from

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[56] Abdulrahman bin Ibrahim Al-Duhayyan, "Administration and Governance in Islam – Thought and Practice", *Islamic Administration Studies Series*, 3rd ed., Saudi Arabia, 1991, p. 57.

[57] Zakaria Ben Tounes, Administrative Reform of the Waqf System in Algerian Legislation – A Comparative Study with Islamic Jurisprudence, PhD Thesis, Faculty of Sharīʿah and Economics, Emir Abdelkader University for Islamic Sciences, Constantine, 2014, p. 104.

[58] Abu-Taban Jeh, Abdussalam Mahmoud, Corporate Governance from the Islamic Perspective: A Comparative Analysis with OECD Principles, Critical Perspectives on Accounting, 2008.

[59] Fouad Al-Omar et al., "Strategic Report on Waqf: The State of Waqf Strategies (1996–2021)", *Waqf Knowledge Studies Series*, No. 2, International Waqf Foundation, Malaysia, 2024, p. 100.

dissolution after the departure of individual trustees"[60]. Through such institutionalization, the management of waqf assets and revenues can be professionally organized, aligned with developmental goals and sensitive to each country's unique economic and social conditions. This underscores the importance of waqf governance, which is central to this study.

From a historical perspective, Islamic judges (quḍāt), through their oversight mechanisms, succeeded in preserving much of the waqf wealth until it was seized by ruling authorities. Alongside the scholars and judiciary, official supervisory roles were created, such as the *nāẓir al-ḥisbah* in Egypt, tasked with inspecting waqf affairs to ensure proper administration in accordance with the founder's terms[61]. Over time, however, corruption and negligence affected waqf supervisors, reinforcing the necessity of implementing waqf governance to guide asset management and clarify the roles and responsibilities of all stakeholders within a framework of justice, transparency, and accountability.

There is a deep interconnection between waqf supervision and governance principles. Governance enhances waqf performance, reinforces trust in supervisory practices, and guarantees institutional discipline in managing endowment resources[62]. It also provides a clear and transparent administrative framework for organizing supervisory tasks, enhancing the performance of trustees, and facilitating communication with all stakeholders to protect waqf assets, develop their revenues, and fairly distribute returns to beneficiaries, all under the governance principles of oversight and accountability[63]. As Dr. Kamal Mansouri noted: "The management style and organizational structure of waqf institutions should reflect their unique nature, including compliance with Sharī'ah, sustainability, autonomy, and enhanced social engagement"[64]. Such a model would effectively support comprehensive and multidimensional community development.

## Section II: The Form of the Supervisory Administration of Waqf and Its Impact on Economic Efficiency

The waqf, endowed with inherent capabilities for sustainability and socio-economic effectiveness, continues to demonstrate resilience and adaptability

[60] Mohammed Boujellal, "The Need to Modernize the Waqf Institution for Economic Development", research prepared for the 3rd World Islamic Economics Conference, College of Sharī'ah and Islamic Studies, Umm Al-Qura University, Saudi Arabia, Muharram 1424 AH / March 2003, p. 10.
[61] Fouad Al-Omar et al., op. cit., p. 92.
[62] Fouad Al-Omar & Basma Al-Maoud, *Waqf Governance Principles*, op. cit., p. 23.
[63] Faisal Awad Muhammad Abdul Qadir, Governance of Waqf Supervision in Islamic Jurisprudence – The Waqf for the Service of the Prophet's Biography in Saudi Arabia as a Model, PhD Thesis, University of the Holy Qur'an and Islamic Sciences, Sudan, 2021, p. 82.
[64] Kamal Mansouri, Administrative Reform of the Waqf Sector Institutions – Case Study: Algeria, PhD Thesis, Faculty of Economics, University of Algiers 1, 2008, p. 43.

across time and space. It is uniquely capable of aligning with diverse social systems, economic models, and legal frameworks. This is largely attributable to its dual characteristics: institutional independence from state authority and society on the one hand, and its vast developmental potential and investment capacity on the other. These features render waqf a fundamental partner in the development process, a status primarily derived from its legal personality and its financial and organizational independence, which are detailed as follows:

## Subsection 1: The Importance of Smart Governance in Enhancing Waqf Management and Economic Efficiency

Waqf has historically established itself as a third economic sector rooted in the civil governance system of the Islamic state since its inception. It was safeguarded and promoted in a manner that enabled it to become one of the core instruments of social and economic solidarity, independent from state imposition or direction[65]. In the context of modern economic classification, waqf indisputably falls within the third sector, being fundamentally a philanthropic endeavor in the form of continuous charity, whereby the capital is preserved and the proceeds are dedicated for public benefit. Hence, attention to the waqf sector is of paramount importance, as it serves the Muslim community, alleviates the burden on the state, and contributes to income redistribution thereby achieving the social justice objectives aspired to by society[66].

In the context of international and Islamic coordination, the International Institute of Islamic Waqf issued a report on February 13, 2022, marking the first strategic report that approaches the waqf sector using foresight methodologies and future studies tools. Covering 54 countries, it offered a documentary survey of the realities, laws, founding stages, and strategic developments of waqf administrations, as well as the valuation of waqf assets and revenues[67]. The report concluded that Islamic societies must adopt comprehensive and innovative strategies to reposition the waqf sector as a developmental actor and called for cultivating a new generation capable of modernizing waqf infrastructure while aligning legal frameworks with the dynamic role of waqf.

## Subsection 2: The Economic Function of Waqf in Contemporary Administrative and Developmental Thought

The evolution of the modern state, coupled with the growing diversity and volume of public needs and the expansion of public expenditure, has led to

[65] Munther Kahf, *The Economic Role of the Islamic Waqf System in the Development of Civil Society, with a Special Focus on the Arab Countries of the Eastern Mediterranean*, previously cited reference, p. 13.
[66] Mohammed Boujallal, *The Role of Islamic Financial Institutions in Reviving the Waqf Institution in the Modern Era*, previously cited, p. 113.
[67] See the official website of the International Institute of Islamic Waqf: Institute of Islamic International, accessed on 15/02/2022 at 14:00.

increasing fiscal deficits. Consequently, states have whether voluntarily or out of necessity relinquished many functions traditionally within their purview, leading to reliance on the charitable solidarity sector, of which waqf is a foundational component.

However, this model has remained shrouded in ambiguity due to either the absence or inadequacy of legal frameworks regulating waqf, and the fragility of the administrative structure managing it unlike the organized systems governing public and private sectors. This institutional neglect, prevalent in many Arab and Islamic countries, continued for decades until the 1990s, when waqf was gradually reintegrated into official development strategies. Theoretically, at least, it has since been viewed as a central partner in development and a vital component of the third sector aimed at alleviating public burdens.

## Subsection 3: The Legal Personality of Waqf and Its Impact on Financial and Institutional Independence

The legal personality of waqf serves as a religious, legal, and economic guarantee of its independence from state control. This autonomy facilitates the application of various administrative and financial management methods required to safeguard and develop waqf assets. This includes tax and fee exemptions, and immunity from confiscation and acquisitive prescription. The *nāẓir* (trustee) is held accountable for ensuring this independence, bearing responsibility for any abuse, negligence, or violation of the sanctity of the waqf.

However, the role and status of the *nāẓir* have come under scrutiny following the incorporation of waqf into the hierarchical administrative structures of ministries responsible for religious endowments. The role has often been supplanted by that of a "waqf agent", leading to overlapping responsibilities, conflicting jurisdictions, and inconsistencies in rights, duties, privileges, and accountability mechanisms. This administrative arrangement has been plagued by inefficiency, bureaucracy, and low managerial and technical competencies among waqf administrators.

A significant turning point in reforming waqf administration in Algeria was marked by the establishment of the National Office for Waqf and Zakāt under Decree No. 21-179, issued on May 12, 2021[68], this decree transitioned waqf management from centralized state control to institutional independence and an investment-oriented structure. It also incorporated modern administrative and governance methods. Article 2 of the decree affirms that the office enjoys legal personality, organizational independence, and engages in commercial relations under the laws governing administrative entities and economic enterprises. This confers upon it an industrial and commercial character, enabling it to manage

[68] Executive Decree No. 21-179 of 21 Ramadan 1442 corresponding to May 3, 2021, concerning the establishment of the National Office of Awqaf and Zakat and defining its statute, *JORA* No. 35 of May 12, 2021.

charitable and waqf investments with professional efficiency owing to its financial autonomy.

In accordance with Article 6 of the same decree, the office is tasked with managing and developing public waqf properties in line with the conditions set by donors and the principles of Islamic law. It is also responsible for developing investment programs, identifying and documenting waqf properties, digitizing records, and establishing a national digital database to map waqf assets domestically and abroad, and to determine the most efficient investment models. Accordingly, the following objectives should be pursued:

- Developing a "Smart Nāẓir" application, as a digital platform or tool to enhance the efficiency of institutional waqf management and eliminate bureaucratic shortcomings.
- Creating smart applications for inventorying waqf properties, managing waqf-related disputes before specialized bodies, and overseeing restitution processes and their implications.
- Developing a national smart database that outlines a comprehensive digital map of waqf assets inside and outside the country, including their legal documentation and optimal investment models.

## Conclusion

At the conclusion of this study, in which we sought to examine the methods and mechanisms capable of mobilizing and sustaining waqf resources through the model of investment-based management of waqf funds -given the prestigious standing this original Islamic financial system holds in the conscience of society and the institutions of the state- we presented the option of leveraging principles of institutional governance to strengthen financial and accounting oversight, auditing, and transparency within waqf institutions and among stakeholders in the waqf relationship, in order to regulate waqf financing and the conduct of *nāẓirs* (trustees). We also proposed the institutionalization of the nāẓir role, liberating it from state dominance and the remnants of traditional bureaucratic management. This led us to the following conclusions:

- Waqf is not merely an act of religious devotion; it is a social behavior, an economic system, and a concept with developmental content. It represents both saving and investment, encapsulating the notion of preserving capital while dedicating its yield to public benefit.
- Governance constitutes an administrative system aimed at streamlining institutional operations both managerial and financial by promoting transparency, accountability, equity, oversight, and the rule of law, thereby ensuring sound decision-making and the sustained effective performance of waqf institutions.
- Waqf properties continue to be managed under centralized administrative and financial systems, which hinders their efficiency and renders them subject to unilateral decision-making and narrow strategic visions.

- The expansion of the economic base of waqf assets in contemporary times has resulted in notable indicators of administrative and financial corruption, particularly in the mismanagement of funds, disbursement of revenues, and noncompliance with donor conditions, waqf objectives, and the overarching principles of Islamic law (*maqāṣid al-sharī'ah*).
- The transition of waqf oversight (*nāẓirship*) from an individual model to a collective, then institutional, model necessitates a shift toward good governance practices and the adoption of its financial and legal tools to regulate trustee conduct and ensure accountability.
- Smart governance of waqf is no longer a strategic option, but a necessary imperative that waqf administrators must actively implement and expand in scope, maximizing its inherent advantages.
- Transitioning waqf administration to a model of economically driven institutional management is not merely optional; it is a pressing and inevitable necessity.
- The effective integration of digital technology in waqf administration is crucial for enhancing transparency and operational efficiency through the development of smart waqf models, which significantly improve institutional performance and strengthen trust among stakeholders.

**In light of these findings, the following recommendations are proposed:**

- Strengthening legislative and regulatory frameworks that support the implementation of governance principles within waqf institutions, thereby improving institutional performance, transparency, and stakeholder trust based on justice and responsibility.
- Activating political will to support comprehensive administrative reform in the waqf sector, recognizing the strategic importance of waqf as a key factor in the development equation. This should involve adapting modern financial and administrative management models in line with Islamic legal principles and the specific nature and purposes of waqf, while transitioning strategic investment management theories from academic discourse to practical application.
- Institutionalizing the nāẓir role within a broader framework of collective and participatory waqf administration, including the possibility of partnerships with other economic institutions and the utilization of financial and digital technologies. This requires reinforcing internal and external mechanisms of financial and administrative auditing, oversight, and accountability across all stakeholder levels.
- Liberating waqf administration from the remnants of traditional bureaucratic thinking by employing tools of digital governance, which help regulate the conduct of nāẓirs and monitor operational procedures.

- Governance of relationships within and around waqf institutions is essential for improving the efficiency of waqf investments and enhancing the overall performance of the sector.
- Developing the legal, organizational, and regulatory structure of waqf institutions to ensure compatibility between waqf objectives and the requirements of contemporary institutional governance, provided that such governance adheres to the standards defined by Islamic jurisprudence and expert consensus.
- There is a pressing need for the digitization of waqf administration, given the advantages offered by digital technologies in improving the efficiency of waqf institutions and aligning with the imperatives of the digital age—ultimately benefiting the entire waqf ecosystem.
- The development of a "Smart Nāẓir" application is essential. This digital platform would enhance the institutional effectiveness of waqf oversight, eliminating the inefficiencies of bureaucratic management.
- There is a need to develop smart applications to facilitate the inventory and registration of waqf assets, manage waqf-related disputes before competent authorities, and oversee restitution procedures and their implications.
- A national smart registry should be established to map and digitally document all waqf assets, both domestic and abroad, thus offering a comprehensive and accessible database of waqf properties.