



CORPORATE GOVERNANCE IN AFRICA CASE STUDY SERIES: NO 2

The corporate governance of an organisation managing Islamic charitable endowments (*waqfs*)

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1. Introduction

Charitable endowments (known in Arabic as *waqfs*) or pious endowments (Behrens-Abouseif, 1994) have their roots in the charitable donation of assets. This Islamically-based financial tool has been utilised to fund large-scale projects. The underlying principle of the charitable endowment is that the donated asset can never be sold, and the returns arising from the asset are for the use of the community. An excellent early example of the practice is the Well of Rumah, which was given to the Muslims of Madinah by Sayyidah Othman at the time of the Prophet (SAW) (Khan, 1971). Other examples of small-scale charitable endowments abound in the literature. It is interesting to note that smaller *waqfs*, mainly donated by women, have best stood the test of time (Baer, 1984).

The *waqf* infrastructure and the principle of *shura* (mutual consensus) perfectly complement each other. This can be seen from the construction and management of the *qanats* (Faruqui et al, 2001). The strength of this financial tool was so great at one time that the infrastructure and maintenance of many major cities was due to these charitable endowments (Behrens-Abouseif, 1994).

Indeed, Raaghieb Najjaar, Deputy CEO of the National AWQAF Foundation of South Africa (AWQAF SA) -- the organisation that forms the basis for this case study -- has pointed out that 'the flourishing *waqf* institutions during the Ottoman empire made it quite possible for a person to have been born in a house built by the *waqf* system, slept in a *waqf* cradle, eaten and drunk from [the fruits of] *waqf* properties, read *waqf* books, attended a *waqf* school, worked in a *waqf* hospital, received a salary from a *waqf* administration, retired to a *waqf* home for the elderly, and when he or she died, to have been wrapped in *waqf* cloth and buried in a *waqf* cemetery.'

In the past, *waqfs* were mainly administered by the ruling government (Behrens-Abouseif, 1994), which had the unfortunate consequence of leading to mismanagement and corruption within the ranks. *Waqf* properties were often transferred or stolen, particularly during the downfall of the Mamluk Empire as

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well as during the rule of the Ottomans (Behrens-Abouseif, 1994). Baer (1984) has also shown that numerous larger *waqfs* were earmarked for takeover when colonial powers dissipated the Islamic empire.

Today many organisations – usually NGOs -- still have their own *waqf* funds. On the whole, these organisations are involved with poverty alleviation and social upliftment. *Waqf* administration and management is not their core business. Therefore, the need for *waqf* fund managers and highly skilled individuals with knowledge of the subject matter is critical. This is one of the reasons for the establishment of AWQAF SA.

2. Background to AWQAF SA

AWQAF SA has been functioning as an NGO since its inception in 2000. This entirely volunteer driven organisation co-operates with other NGOs working in poverty alleviation and community development. The organisation does not duplicate work in the community: this has placed it in good stead for fostering relationships with partners. The organisation has signed various Memorandums of Understanding with other NGOs and undertakes projects to create awareness of the concept of *waqf*, as well as to market itself. These ventures include conferences and workshops on *waqfs*, public talks at mosques, and publications. In general, the organisation is run according to basic Islamic principles, such as honesty, which reflect the integrity and image of AWQAF.

3. Aspects of corporate governance in AWQAF SA

3.1 Administration of *waqf* funds

There are various ways of making a *waqf* through AWQAF SA including:

| | |
|-----------------------------|--|
| A 1% contribution per month | An individual can contribute a percentage of their earnings on a monthly basis. |
| Lump sum | This can be any amount (large or small), a once-off amount, or regular or occasional amounts. |
| Al maal | This refers to tangible goods such as jewellery, coins, property and real estate. |
| Al Wasiyyah | An individual may bequeath up to 1/3 of their estate in an Islamic will. |
| Al Tijarah | This is a percentage of profits or equity in a business or on a specific business transaction. |

The administration of *waqfs* has remained unchanged over time.² A trust deed known as a *waqfiyyah* describes: the properties to be transferred; how they are to be managed; how the returns are to be utilised; and the general governance of the *waqf*. With the advancement of modern accounting systems as well as other financial instruments, the management of *waqf* funds has been streamlined. Debit orders, direct transfers and investments are the order of the day. Deputy CEO Najjaar has stated that 'every single cent is traceable and the system rivals that of major investment houses.' AWQAF SA is externally audited and their financial reports are available for public scrutiny (see Appendix A). This ties in with one of their key operational policies -- effective corporate governance.

3.2 Corporate structure

The founders of the organisation have stated their intentions as being: 'To ensure that governing organs are representative of the demographics of the country and diversity of our communities, and further, to

² The individual who has made the *waqf* is referred to as the *waqif*, in the case of a male, or *waqifa*, in the case of the female. The *waqif* usually appoints a custodian (*mutawallee*), who acts as a trustee of the *waqf* on behalf of the *waqif*. The duties of the *mutawallee* are stipulated in a trust deed known as a *waqfiyyah* document. An excellent example of this system is one of the first *waqfs* donated by Omar, the Second Khalifa of Islam. Omar donated a large piece of his best agricultural land for the upliftment of the society at the time.

incorporate significant roleplayers from the mainstream of the *ummah* (Muslim community)... We are committed to clean, transparent and effective corporate governance.'

Awqaf SA is governed by a board of trustees, who are both executive and non-executive (see Appendix B), and who may serve for no longer than 9 years. There are also donor (*waqif*) trustees who ensure that the returns stemming from the *waqfs* are spent correctly. Various committees, which include investment professionals, clergy, and individuals with knowledge of governance, play a major role in advising the management team and its board of directors. International players from various prominent institutions serve on the consultative committees.

The NGO is strongly supported by volunteers at a grassroots level. Both volunteers and employees report to the operational manager. The management team reigns over the operational manager in terms of hierarchy and consults with the committees mentioned above.

The organisation has numerous internal controls that dictate its functioning and contribute to effective governance. These controls include multiple signatories for bank accounts, monthly management meetings, an asset register, and the identification and management of risks. According to Najjaar: 'An asset cannot be sold unless the trustees approve and the asset is replaced with a better one.' Another integral form of internal control is the published audited annual financial statements, which are available on the website.

Lastly the organisation is governed by a constitution, a code of ethics and a volunteer's manual for those who join. Thus one can see that AWQAF SA functions in a similar fashion to a major corporation.

3.3 Microfinance

Microfinance has had major implications for rural entrepreneurial activity worldwide. A prime example is the Grameem Bank mode of operation in Bangladesh. Najjaar's statistics show the reach of the Grameem Bank: 'By May 2007, Grameem Bank had 7,16 million borrowers, 97% of whom were women, with 2,422 branches, providing services in 78,101 villages, covering more than 93% of the total villages in Bangladesh.'

In Najjaar's opinion, the MOU signed by the South African National Zakah Fund (SANZAF) and AWQAF SA 'is groundbreaking in the NGO world in South Africa' and that 'the organisations would share resources and capacities in order to enhance their respective activities.' This means that wherever SANZAF has reach, AWQAF SA will also have a presence and therefore a greater impact.

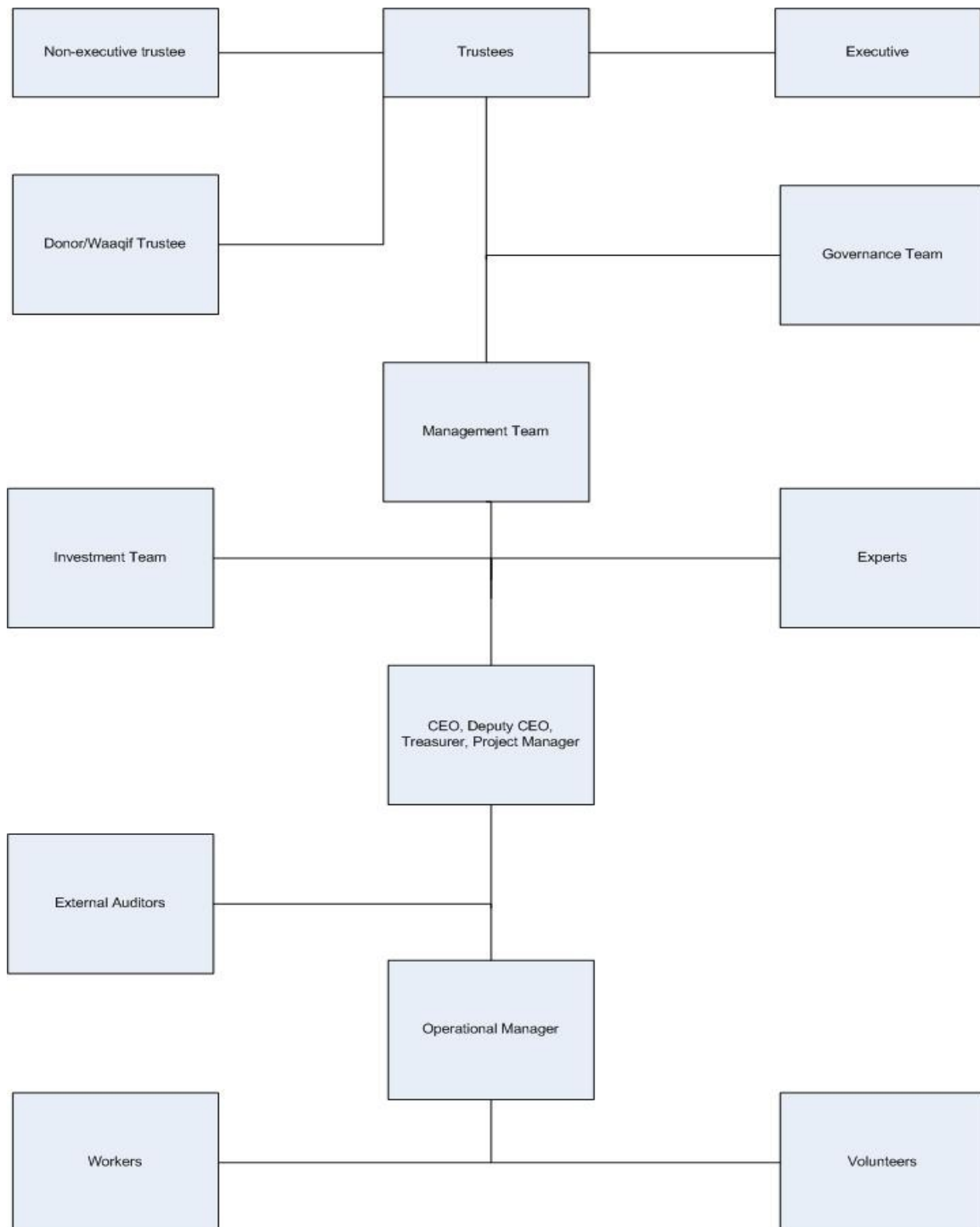
Najjaar has proposed a microfinance model that takes cognisance of the MOU mentioned above. His rationale is: 'By providing *zakah*³ (in the form of microfinance start-up capital) to the individual who qualifies, he will not have to pay back the monies because *zakah* is not re-payable by those who qualify to receive it. This is unlike upfront business debt that must be repaid with interest, placing a cash flow burden on the new business.

'AWQAF can provide further funding via its returns on investments to the new business and at the same time act as a mentor and professional assistant to the entrepreneur. This can further contribute to the process of ensuring successful repayment of the non-*zakah* element of the funding provided. The combination of non-*zakah* micro financing and *zakah* funds can make it easier for the poor to move out of the poverty cycle. Repayment of business debt provided by AWQAF can again be used as seed capital for another upcoming business, enhancing the enrichment process of the poor on an ongoing basis.'

³ *Zakah* is a compulsory due that has to be paid by every Muslim who has an excess over a certain minimum amount (*nisaab*) of wealth calculated in terms of a formula. (Source: http://www.awqafsa.org.za/faq_&_a.htm).

Appendix A:

| | | | | Difference |
|--|------------------|------------------|-----------|------------|
| National Awqaf Foundation of South Africa | | | | |
| Registered Trust No. T1269/03 | | | | |
| Balance sheet | | | | |
| at December 31 2006 | | | | |
| | 2006 | 2005 | | |
| | R | R | | |
| Assets | | | | |
| Non-current assets | 2,388,254 | 1,051,559 | | |
| Plant and equipment | 1 | 1 | 17 | -16 |
| Investments | 2,080,941 | 744,246 | 2,080,958 | 17 |
| Investment in jointly controlled asset | 307,312 | 307,312 | 307,312 | |
| Current assets | 77,152 | 39,370 | 77,152 | |
| Trade and other receivables | 3,407 | - | | |
| Cash and cash equivalents | 73,745 | 39,370 | | |
| Total assets | 2,465,406 | 1,090,929 | 2,465,439 | |
| Capital and liabilities | | | | |
| Capital | | | | |
| <i>Waqf funds</i> | 1,596,183 | 620,101 | 1,596,182 | 1 |
| Reserves | | | | |
| General reserve | 77,693 | 50,485 | 77,708 | -15 |
| Revaluation reserve | 577,824 | 235,129 | 577,838 | -14 |
| Current liabilities | | | | |
| Trade and other payables | 193,826 | 185,091 | 193,831 | -5 |
| Other designated funds | 19,880 | 123 | 19,880 | |
| Total capital and liabilities | 2,465,406 | 1,090,929 | 2,465,439 | |

Appendix B:

References

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