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## CORPORATE GOVERNANCE IN AFRICA CASE STUDY SERIES: NO 2

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

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This technical note serves to inform of the Islamic charitable endowments. Historical aspects as well as modern ones are outlined. Awqaf South Africa is brought to the fore as an organisation managing charitable endowments. The administration and corporate structure are analysed in order to fully understand the corporate governance of the institution. This has become critical in the management of modern charitable endowments due to the historic ones failing in their mismanagement.

#### 1. Background to Waqf

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*, which are underground aqueducts. (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). The *waqfs* are aligned with Islamic principles, in every aspect, and therefore interest is in no way allowed. Furthermore the public funds have to be carefully managed as the trustees are accountable for every cent.

#### 2. Background to AWQAF SA

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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.

AWQAF South Africa has a asset base of approximately 2 million rands(Appendix A). This is tiny in comparison to other waqf institutions on a global scale, but relatively good due to its age. Other income streams are currently being examined and will hopefully lead to an increase in cashflow.

### 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.<sup>2</sup> 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.

In this modern age we also find that besides property, Shariah compliant investments can also be used for waqf purposes. The principles remain the same, whereby the returns on the investments are utilised and the investment itself remains intact. IOSCO(2004) explain in depth the financial instruments used in shariah compliant investments.

#### 3.2 Corporate structure

<sup>2</sup> 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.

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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 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.

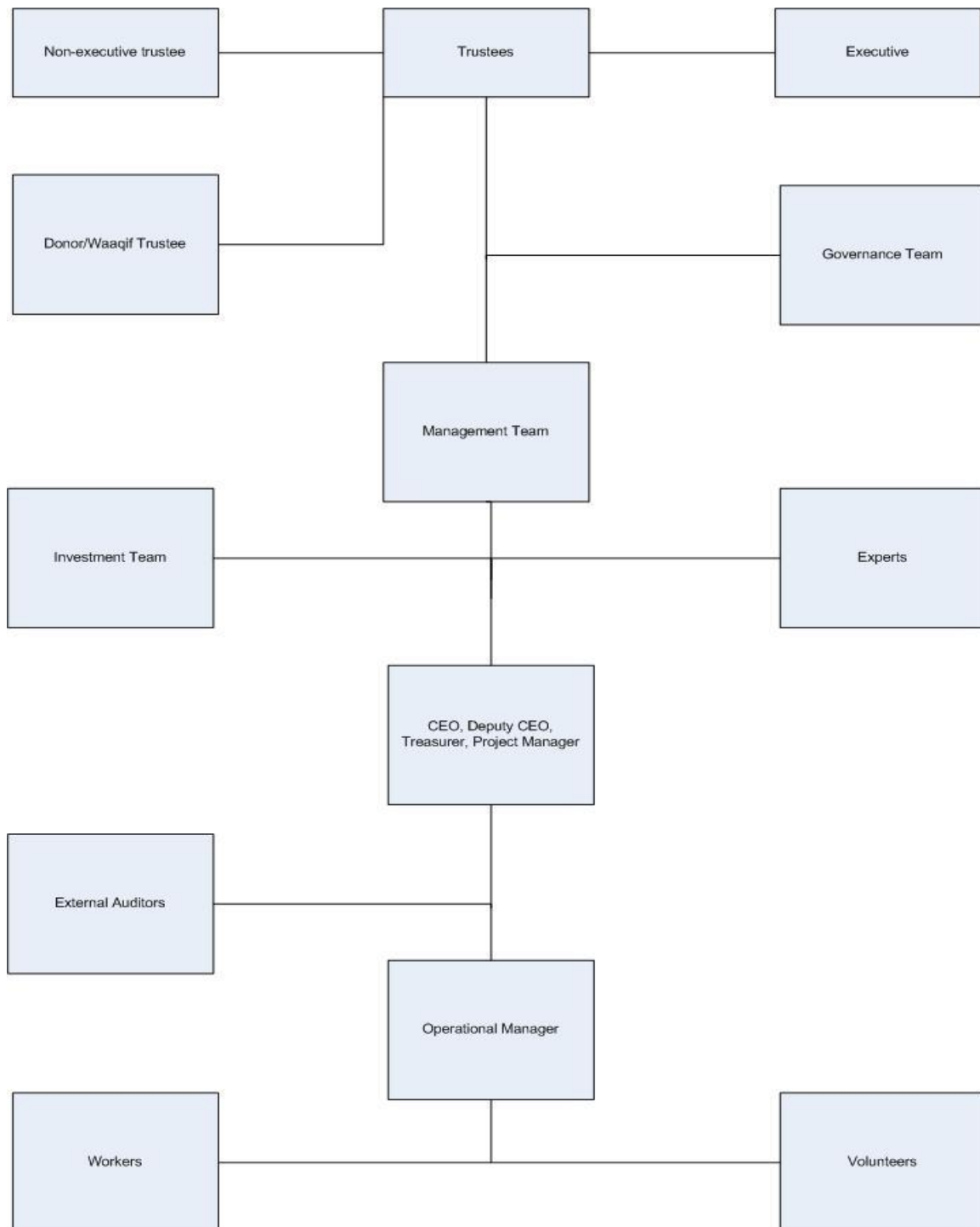
The NGO is strongly supported by volunteers at a grassroots level. Both volunteers and employees report to the operational manager. The management team reigns over the operational manager in terms of hierarchy and consults with the committees mentioned above.

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. The problem lies in retaining the valuable skills of the executive trustees after their mandate has been fulfilled. Also the retention of volunteers and their skills should be examined.

**Appendix A:**

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

**Appendix B:**

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