



Refereed Biannual Journal Specialized in Waqf and Charitable Activities

**Chief Editor**  
**Secretary General**

Mohammed Abdullah Al Jalahma

**Deputy Chief Editor**  
**Deputy Secretary General for Administrative and Supportive Services**

Saqer A. Al Sajari

**Managing Editor**  
**Director of Studies and External Relations Department**

Kawakeb A. R. AL-Melhem

**Editing Advisor**

Dr. Tarak Abdullah

**Editorial Board**

Dr. Issa Z. Shaqra

Dr. Wedad al Aidonni

Dr. Mohammed M. Ramadan

The views and opinions expressed in the journal are those of the authors and do not necessarily reflect the views and opinions of the journal or Kuwait Awqaf Public Foundation.

AWQAF journal is listed in EBSCO directory, in three languages.

Abu Hurairah (may Allah be pleased with him) reported: The Messenger of Allah (peace be upon him) said: «When a man dies, his deeds come to an end except for three things: Sadaqah Jariyah (ongoing charity); a knowledge which is beneficial, or a virtuous descendant who prays for him (for the deceased).»

[Narrated by Muslim]



## Project of AWQAF journal

AWQAF Project is based on a conviction that Waqf – as a concept and an experience – has a great developmental potential which entitles it to contribute effectively to the Muslim communities and cope with the challenges which confront the Muslim nation. The history of Islamic world countries also reflects on Waqf rich experience in devising a societal involvement which encompasses almost all diverse walks of life and helps primarily in developing solutions for emerging human difficulties. During the decline of the Muslim nation, Waqf provided shelter and support for a significant share of the innovations that Islamic civilization was famed for and assured them to pass from one generation to another.

Nowadays, the Islamic world is witnessing a governmental and popular orientation towards mobilizing its material competencies and investing its genuine perceptions that culture makers' cherish in a spirit of scholarly innovation to arrive at fully comprehensive developmental models deeply rooted into the values of righteousness, virtue and justice.

Based on this conviction, AWQAF Journal embarks upon achieving a mission that would enable Waqf to assume the real and befitting standing in the Arab and Islamic arena of thought. It therefore seeks to emphasize Waqf as a discipline and entice those remotely or greatly interested in Waqf, uphold a scientific trend towards developing Waqf literature and link it to comprehensive social development considerations.

Since Waqf originally relates to voluntary activity, such claims would require that AWQAF Journal attaches its contents to the social work lively activities closely related to private community issues and volunteer engagements, relevant intermingling concerns associated with state-society interaction while allowing balanced participation between the making of community future and NGOs role.

### AWQAF Journal Objectives

- Reviving the culture of Waqf through familiarizing the reader with its history, developmental role, jurisprudence, and achievements which Islamic civilization grew into until recent times.
- Intensifying the discussions on the scientific potentials of Waqf in modern societies through emphasis on its modern structures.
- Investing in current Waqf projects and transforming them into an intellectual and culture-based product to be deliberated among specialists. This is hopefully expected to induce interaction among researchers and establish a linkage between theory and practice of the tradition of Waqf.
- Promoting reliance on the civilizational repertoire in terms of social potential resulting from a deeply rooted and inherent tendency towards charitable deeds at the individuals and nation's behavior levels.
- Strengthening ties between the Waqf school of thought, voluntary work and NGOs.
- Linking Waqf to other areas of social activities within an integrated framework to create a well-balanced society.
- Enriching the Arab library on this newly emerging topic, i.e. Waqf and Charitable Activities.

## **An Invitation to All Researchers and Those Interested**

AWQAF Journal naturally would aspire to accommodate all the topics that have a direct or indirect relationship to Waqf such as charitable activities, volunteer work, community and development organizations, and reaches out to researchers and those interested in general to interact with it in order to meet the challenges that obstruct the march of our societies and peoples.

The journal is pleased to invite writers and researchers to contribute to one of the three languages (Arabic, English and French) to the material related to the objectives of the journal and Waqf horizons in the different sections such as studies, book reviews and academic dissertations abstracts and coverage of seminars and deliberations of the ideas published.

Materials intended for publication in AWQAF Journal should observe the following:

- The material should not have been published in any journal (electronic or printed)
- The material should abide by the rules of academic research conventions related to documenting the references and sources, together with conducting an academic handling.
- A research should fall in (4000 to 10,000) words, to which a summary of 150 words in both Arabic and a foreign language should be attached. Researches meant for publication shall undergo a secret academic refereeing.
- A researcher should attach the form of Work Originality to his research.
- An article should fall in 3000 - 4000 words.
- The Journal receives book's presentations and here priority is given to modern publications. The revision should fall in 5000 to 1000 words. The presentation should include the main points about the book, for example the author, publisher, year, version, along with laying stress on the presentation, analysis through scientific method, interest in the essence of the book and its chapters, and assessing it in the light of other relevant works.
- The Journal receives coverages of seminars and conferences, provided that a report should mention the organizing body, the subject of the seminar, place and date of the seminar, the major axes, survey of the researches submitted with their main ideas. There should be a stress on the recommendations of the seminar, together with indicating the activities conducted on the sidelines of the seminar( if any).
- Materials sent to the Journal are not returnable if published or not.
- The Journal is authorized to re-publish the material wholly or separately, either in the original language or translated. This is carried out without referring to the researcher for permission. The researcher is entitled to publish his work in a book or any other form after it appears in the Journal on condition that a note concerning its previous publication should be indicated.
- Material appearing in the Journal expresses the attitude of its author and does not necessarily reflect the attitude of the Journal.
- Researchers shall receive a financial remuneration for their researches, articles and other relevant works approved for publication according to the applicable rules in this regard, in addition to 20 offprints.
- Failure to comply with the academic ethics made deliberately through literal borrowing of sections and paragraphs from different sources on the Internet or otherwise without indicating this, the internal rules of the Journal will stop their contributions to the Journal in the future.
- The researcher is empowered to deal with his research after it appears in the Journal provided a note should be sent to the Journal to this effect
- The Journal reserves the right to publish the material as per its plan.
- Any material published in AWQAF Journal expresses the opinions of the authors and not necessarily those of journal publisher.
- All correspondence should be sent to:

**AWQAF Editor in Chief,  
P.O.BOX 482 Safat, 13005 Kuwait  
Tel: (00965) 22065756 Fax: (00965) 22542526  
E-mail: [awqafjournal@awqaf.org](mailto:awqafjournal@awqaf.org)  
[www.awqafjournal.net](http://www.awqafjournal.net)**

# Contents



- **Editorial: Muslims' Awqaf .....Non-Muslims' Awqaf: Historical Models and De Facto Institutions..... 7**
- **Final Statement Issued by The 6th International Seminar of Awqaf Journal..... 11**
- **A Survey of the 6<sup>th</sup> International Seminar on Awqaf Journal Researches and Discussions ..... 15**

## **Researches in Arabic**

- **Waqf and Western Charitable Systems: Codification and Obstacles**  
Dr. Mohammed Boudjelal..... 13
- **Waqf and Western Charitable Systems: Humanitarian Purposes and Prospects of Cooperation**  
Dr. Majida Ziani ..... 39
- **Islamic Waqf and Similar European Charitable Systems: Towards a Humanitarian Civilizational Partnership**  
Dr. Mohammed Othman Shubeir ..... 73
- **Waqf Administrative Systems and European Administrative Charitable Systems (A Descriptive Study)**  
Dr. Kamel Mansouri ..... 131
- **Financial Administrative Obstacles in the Waqf Institutional System Compared with its Counterpart in the European Charitable Institutions**  
Dr. Sadiq Hammad Mohamed Mohamedien ..... 183
- **Waqf and Charitable Institutions in the West: Unity of Concept and Difference in Results**  
Dr. Tarak Abdallah ..... 249

## EDITORIAL



### **Muslims' Awqaf .....Non-Muslims' Awqaf Historical Models and De Facto Institutions**

(1)

As Muslims, we have always been accustomed to having a recourse to our history whenever we mean to highlight the glory of the civilization to which we belong and constitute a part thereof. In doing this, we often refer to individuals or institutions which contributed at a certain time in the past to the success and prosperity of a society. In referring to waqf, we find that this technique was prevalent and remained within this scope. Consequently most of the modern waqf-related literature lay emphasis on the roles played by waqf during previous historical epochs at the various social levels, citing different examples of the history of educational, health and social awqaf. Such a literature reflects the state of the modern experience of awqaf which, unfortunately, seems ineffective in terms of the results and effect at the social level. This leads us to think that such an experience still stands in need of referring to historical models to substantiate the importance of waqf nowadays, in addition to creating more awareness of its roles at the social level.

Three decades of modern waqf work have passed, but still we feel that reacting with the history of waqf requires embarking on a different approach. This takes us to the concept established by the scholar Ibn Khaldoun who maintains that **«history, at the surface, does not exceed the fact that it is a process of communicating a piece of information, though essentially it is a process of consideration and investigation»**. This concept confirms the fact that considering the history of waqf guides us to a methodical approach which is still absent, but linked to exploring the social models through which the forms of waqf reacted, in addition to investigating the major and minor forms which created the favourable atmosphere for waqf institutions. The absence of **“consideration and investigation”** in the experience of Muslims in respect of waqf led to the conclusion that there has been a long list of

waqf institutions which came to existence in the Islamic societies which we cherish and for which we take credit in displaying them and highlighting the multiplicity of their objectives. Nevertheless, they remained short of analyzing the case which enabled waqf to assume that social, economic and cultural weight.

On the other side of the globe, we find a state governed by being associated with the status quo, in addition to covering a vast area of the individuals' and groups' movement. It is noteworthy here that western literature does not show an interest in waqf and its forms as much as its interest in the mechanisms adopted by its institutions and the means conducive to the sustainability of its proper favourable environment, and the possibility of developing them within the framework of the social mobility, all of which assist in drawing the future of waqf within their requirements. Now we are face to face with a practical case in which waqf is embodying it within the western community. This fact accounts for the success of waqf as a branch form in getting integrated in the entire social make up and occupies a unique place in the light of its peculiar activities and outcome. It does not sound strange therefore in this regard to see waqf occupying a unique place within the major social economic, legal and academic mechanisms through which it reacts by virtue of its being a social system acting in harmony with the various community systems. Awqaf in the western countries, though poor and short of overtaking the past Islamic experience in this domain, their outstanding role in their societies gives evidence that history, though acting as an inspirer and a catalyst for human experiences, cannot substitute the present, neither can it exempt the generations from the responsibility for 'consideration and investigation' prevalent at a specific time. In this case, they will surpass the process of communication and establish a community case, or rather a self experience in which waqf aligns with the requirements of the age.

## (2)

Awqaf 35 includes a set of researches which were submitted in the 6<sup>th</sup> seminar on Waqf Jurisprudential Issues which was organized in September 2018 under the motto '**Waqf and other Similar Charitable Systems : Towards A Humanitarian Partnership**'.

**Dr. Mohammed Boudjelal** in his research '*Waqf and European Charitable Systems : Codification and Obstacles*' approaches the issue of legal partnership between waqf and European charitable systems, taking into due consideration the good numbers of Muslims living in the West. He stresses the forms of feasible

cooperation between the two experiences. Moreover, the researcher deals with the main obstacles which confront this partnership, for example the ownership of waqf and the means of overcoming this point. The researcher believes that this partnership has multiple benefits, for example bridging the gap between the East and the West and displaying vivid and bright pictures of the Islamic teachings.

**Dr. Majida Ziani** in her research '**Waqf and Western Charitable Organizations : Humanitarian Purposes and Cooperation Prospects'** is based on the discrepancy which is apparent in displaying the historical bright repertoire on the one hand, and its current failure which is attributed to a flaw in managing its affairs, in addition to a failure in responding to the expectations of a society on the other hand. In this respect, the researcher strives to pinpoint the common elements between both the western experience and the Islamic experience, and to draw comparisons in terms of concepts and historical and legal contexts. Consequently, the possibility of exchanging benefits from such an effort are highlighted so that they will respond to the process of rejuvenating the potentials of the Islamic waqf if imbued with the rich western charitable experience as a result of a fruitful cooperation between the two systems.

**Dr. Mohammed Othman Shubeir** presents an analysis of the similarities and differences between the Islamic waqf and the western charitable systems and calls for a humanitarian partnership between them, citing the means of flexibility and liberality in both experiences. Such a partnership is expected to open a gate for a reaction of ideas and cultures which will probably lead to the exchange of benefits. Moreover, the researcher lays emphasis on the development in the western experience in terms of management, means of investment, relation with other sectors and calls for benefiting from such applications within the framework of the Islamic shari'a based on the fundamental principles which maintain the peculiarity of waqf, while opening the door for waqf to develop and enrich its modern experience.

**Dr. Kamel Mohammad Mansouri** in his research '**Waqf Administrative Systems and the Administrative Charitable Systems in the West (a Descriptive Study)'** deals with the waqf administrative systems and the European charitable systems through identifying the nature of both systems, then he indicates the areas of liberality and flexibility in both of them. This process is meant to test their efficiency and influence, besides analyzing the suitability of each system to realize the intents of the waqf and the western charitable systems.

**Dr. Sadiq Hammad Mohamed Mohamedien** submits a comparative study for managing waqf funds and other related issues such as the investment and accountancy questions in both the western and Islamic experiences. The researcher refers to a concourse of impediments which confront the Islamic waqf and charitable sector, for example the accountancy criteria of the charitable work and the weakness of the collective awqaf structure. On the other side, the researcher indicates the vastness of the western basis of the charitable work due to the discreet utilization of its resources and its being integrated in the social and economic environments of those societies.

**Dr. Tarak Abdallah** in his research ‘**Waqf and Charitable institutions in the West : Unity of Concept and Difference in Results**’ presents three major questions through which he draws a comparison between the Islamic and the western experiences in terms of donation in general and waqf in particular. He starts by examining the relation between the donation systems and the governmental agencies as a step for assessing the movement of those systems and the relevant legal rules and regulations. On the other hand, the researcher analyzes the level of integration between the various social attracting and distracting sectors. On another level, the researcher tries to bridge the gap in the relation between donation and the private sector in order to assess the possibility of benefiting from such resources in favour of community development projects. Finally, the research handles some of the conditions deemed necessary for reinstating waqf as a genuine part of the entire social system.

**Final Statement Issued by**  
The 6<sup>th</sup> International Seminar of *Awqaf Journal* on  
**“Waqf and Similar European Waqf Charitable Systems.....**  
**Towards a Humanitarian Civilizational Partnership”**

**In the Name of Allah, the Merciful , the Compassionate**

Praise belongs to Allah the Almighty and peace and blessings be upon His messenger, his companions and followers.

The seminar **“Waqf and Similar European Waqf Charitable Systems..... Towards a Humanitarian Civilizational Partnership”** organized by Kuwait Awqaf Public Foundation and the Islamic Development Bank in collaboration with the Muslim Community in Stratsburg , Alzace France” has come by the Grace of Allah to an end on 5-6 Muharram,1440 AH, corresponding to 15 – 16 September, 2018. The seminar dealt with two main axes, as follows:

1. The Shari’a and legal aspects underlying the comparison between waqf and European charitable organizations.
2. The administrative aspects of the comparison between waqf and the European charitable organizations (problems and solutions)

Within the framework of these two axes, six researches were submitted, all of which addressed the main objective of the seminar aiming to comparing the legislative, financial and administrative aspects of waqf and the European charitable organizations. Furthermore, the studies considered the consolidation and scientific origination of relations between both of them in favour of developing awqaf and serving the humanitarian and charitable work.

The main objectives which characterized these researches are as follows:

1. Waqf occupied a unique and distinctive place in the Islamic Civilization and this status requires giving due attention to its assets, in addition to removing all obstacles which could impinge on its activities and hinder the effective performance of its great message. It goes without saying that waqf is a charitable work which acts as an asset to strengthening social ties and narrowing the hiatuses created by the current economic systems which fail to redistribute equitably the wealth among the social categories.
2. Pinpointing the procedural and practical differences between the forms of

western donation and the Islamic waqf. This is expected to cast a light on a clear and academic method aiming to induce that reaction between them and combining their subsidiary resources in order to convert them into a motor which pushes the wheel of comprehensive development.

3. The concept of waqf and similar institutions and how it is connected with giving and good-doing stemming from the existing humanitarian values based on solidarity and the feelings towards others. Undoubtedly the Heavenly religions have consolidated those values and highlighted their merits due to their role in responding to major objectives touching all human groupings exemplified in the coexistence which ineludibly require the sharing of giving and good-doing.
4. The main objectives underlying many of the western charitable organizations are nearly the same as those of the Islamic waqf, though the West's attitude towards charitable work showed clearly its impact through integrating it in the development planning of many of those countries. It is known that reaching such a conclusion had its origin in the steady works which assisted in academically framing the charitable work which is not content with the haphazard charitable initiatives, but extended to follow the most successful and transparent modern methods and mechanisms.
5. Getting an access to the pioneering western charitable organizations has become a necessity which aims to attain a fruitful cooperation which maintains the particularity of Islamic waqf system, while seeking modernizing and promoting its ability in satisfying many social needs as inculcated in its historical background and noble humanitarian purposes.

# RECOMMENDATIONS



The lecturers and participants issued the following recommendations:

1. The necessity to benefit from the European modern waqf and charitable institutions in the area of organization, accountancy, management and finance touching waqf funds and the cash waqf.
2. The necessity to maximally benefit from the pioneering European experiences in managing European charitable institutions in a way that complies with the Islamic values, mainly the method of collective management through the specialized investment departments, which is considered one of the most successful models introduced by the western experience in the area of charitable work.
3. Benefiting from the effective elements of the western charitable systems in the area of governance and planning.
4. Developing the western collective charitable organizations in terms of the organizational, administrative, technical and legal aspects, in addition to establishing investment waqf and charitable aspects which align with the Islamic banks, while observing the delicate aspects of those funds by entering risk-free investments.
5. Developing the organizational forms and moulds which embrace the waqf purposes and realize the waqif's purposes.
6. Inviting the Islamic countries to activate the role of waqf in serving a society through creating legislations for waqf and its management and developing updating the existing legislations.
7. Diversifying the waqf channels of spending and directing them to the more delicate sectors in the society, for example education, health and scientific research.
8. Creating a partnership between waqf and similar European charitable organizations, together with getting help from legal consultations in each country targeted for building joint charitable projects.

9. Creating cooperation conduits in the area of higher educations through concluding cooperation agreements with some universities in Islamic and European countries , with the aim of exchanging experiences and initiating specialties concerned with the third economic and means of developing its role in inducing that integration with the private sector and the public sector in a way that enables the social capital to be activated and promoting its role in the community development and the spirit of cooperation between the present and the future generations. In this way the sustainable development, with its economic, social and environmental dimensions, may be realized.
10. Calling the Islamic countries to establish awqaf in the European countries in order to activate the civilizational connection and contribute to building constructive social, economic and financial dialogues able to serve the Muslims residing there so that this effort should not be limited to mosques but to include charitable investment projects.
11. Calling scientific centers and Islamic waqf institutions to translate the works which address the subjects related to managing western charitable institutions to utilize them in developing the legislations which organize waqf management.
12. Calling for the exchange of experiences between the waqf-related staffs and researchers in the area of waqf and to get those people familiarized with these experiences.

The participants called upon KAPF and the IDB to go ahead with holding such meetings in the European countries in view of their role in strengthening waqf institutions belonging to European Muslim citizens as a means conducive to serving their countries and communities.

PEACE AND BLESSINGS OF ALLAH BE AT THE MESSENGER, HIS COMPANIONS AND FOLLOWERS.

Issued in Strasbourg on Muharram 6, 1440 AH corresponding to September 16, 2018.

## **A Survey of the 6<sup>th</sup> International Seminar on Awqaf Journal Researches and Discussions**

The 6<sup>th</sup> International Seminar on Awqaf Journal purposed to draw a comparison between the Islamic Waqf system and the similar European charitable systems as a complement to the civilizational role of the Journal which aims to revive the waqf culture and define its developmental role, jurisprudence and achievements throughout the epoch of Islamic civilization. The aims extend also to urge researches to study the means of activating waqf nowadays, whether this effort be inside or outside the Islamic world, together with bridging the gaps between the waqf thought and the subject of charitable and voluntary work and the NGOs worldwide. This effort comes as a result of the fact that all civilizations converge finally on one humanitarian civilization, citing the limited distances that separate their population, but require establishing that cooperation between them in favour of the humanitarian and charitable work.

For all the above reasons, the 6<sup>th</sup> International Seminar on Awqaf Journal comes to highlight that fruitful 'Civilizational Interrelationship' between the Islamic waqf and the current European charitable systems. Assuredly, these European charitable systems have made great and outstanding achievements, especially in the legislative, administrative and organizational aspects of the charitable and voluntary activities. Thus it is logical to resort to these aspects if we are to develop and promote waqf. At the same time these European systems may benefit from the noble and honourable values of waqf and its sublime purposes, not to mention its lengthy experience which spanned about 1400 years. During that time, waqf managed to play a nonpareil and splendid civilizational role. Nowhere do we find a charitable system which managed to lead the academic, social, economic and health activities. Moreover, the waqf system played an important role in the military and political domains.

The 6<sup>th</sup> International Seminar on Awqaf Journal was held along two days ( 5-6 Muharram, 1440 AH, corresponding to 15-16 September, 2018 ) in Strasbourg, France, under the title **“Waqf and Similar Waqf European Systems.....Towards a Civilizational and Humanitarian Partnership”** organized by Kuwait Awqaf Public Foundation and the Islamic Development Bank in collaboration with the Alsace Islamic Association in France.

The seminar dealt with two major axes, each of which revolved round three researches which will be dealt with in brief here, but all of them appear in full in the same issue of Awqaf Journal, so it is not necessary to expatiate on them here. Afterwards, discussions will be carried out in which those researches will be reviewed either in the sessions or in the workshops which were held under the motto **“Developing the shari’a, legal, administrative aspects and experiences”**.

First: Main ideas submitted to the Seminar's Researches:

The ideas revolve round two major axes:

**1. Shari'a and legal aspects of the comparison between waqf and European charitable systems:**

It was logical for the Seminar to start by conducting a study based on comparing the Islamic waqf system with the European similar systems from the shari'a and legal perspectives, both of which determine the intents and purposes of the Islamic and European systems. The study will expand to what can be regarded as a project or no-project from the other's point of view. The aim here is to submit a clear vision which overcomes the obstacles that stand in the way of their cooperation in terms of shari'a or law.

In order to contribute to the achievement of that aim, the first research came under the motto '**Waqf and European Charitable Systems .....Codification and Obstacles**' by **Dr. Mohammed Boudjelal**. The researcher expressed his main idea which is summarized in the fact that partnership between waqf and European Charitable Systems is theoretically and practically feasible despite some legal obstacles which can be eliminated.

In order to substantiate his idea, **Dr. Mohammed Boudjelal** recounted a number of historical evidences which subscribe to his point of view, for example, the first **Trust** institutions which appeared in England in the 12<sup>th</sup> century and how they benefited from the waqf. These institutions borrowed the major characteristics of waqf and thereby they appeared in the Anglo-Saxon experience. Consequently, those institutions took the form of important social and economic sectors, as maintained by the researcher **Gaudiosi**, who claimed that the Trust documents related to Merton College, Oxford, the first to be codified in the European charitable system in 1264, were written in Arabic, not in Latin. This is an example which verifies the fact that they were hinted from one of the waqf deeds. Dr. BuJallal added that this fact opens ample vistas for cooperation between waqf and the western charitable systems, including the Trust system which had been developed through establishing the European Waqf Society in 1994 in England.

Recognizing this fact by Dr. Boudjelal did not stand against his doubts about the existence of legal and shari'a obstacles which stand in the way of this cooperation between waqf and European charitable organizations, for example the problems resulting from the differences over the naming and nature of waqf, the right of disposal, the transfer of waqf assets, perpetuation and otherwise.

Nowadays these obstacles, however, can be removed, says Dr. Boudjelal through shifting from the personalized fiqh to the institutional fiqh which serves the public good, or through what can be termed as 'institutionalized waqf'.

The major legal and shari'a impediments which confront partnership between waqf and European charitable organizations rest in the fact that 'Charitable organizations in the West operate through laws which convert waqf into an asset owned by a juridical personality exemplified in the institution, contrary to the waqf whose ownership remains in the hands of the waqif. In reaching this point, Dr. BuJallal worked out a solution by suggesting that a waqf should be the property of Allah the Almighty, without permitting either the waqf Nazir or the institution in charge thereof to claim that right.

Dr. Boudjelal ended his research indicated here by confirming the legality of a Muslim's partnership with a non-Muslim unless there is a shari'a violation such as usury, monopoly or producing or marketing anti-shari'a products. Based on such principles, a partnership between Islamic waqf and European charitable organizations is sanctioned or rather acceptable, as long as directed towards humanitarian purposes. The researcher suggested three ways for the type of such a partnership, as follows:

1. A partnership through setting up an institution: either a non-profit or a for-profit institution .
2. A partnership through initiating a project or projects such as digging water wells and public utilities.
3. A partnership through extending direct services, for example the activities of the Red Cross or the Red Crescent Societies based on helping the victims of wars and natural disasters.

The research of Dr. Majida Ziani entitled '**Waqf and the Western Charitable Organizations .....Humanitarian Purposes and Prospects of Cooperation**' was presented by Dr. Anis Qarqah because Dr. Majida apologized for not being able to be present. The research studied the humanitarian purposes of the Islamic waqf and the western charitable organizations and the prospects of cooperation between them, besides displaying the possibilities of exchanging benefits.

The main addition of this study is that it brought about several delicate and balanced remarks highlighting the points of agreement and difference between the Islamic waqf and the western charitable organizations. The study confirmed the fact that the Islamic waqf and the European charitable organizations share the concept of serving humanity, though they differ in some details connected with the difference

in the environment and culture of each one of them. The study also reviewed (while comparing the intents of both systems) the points of strength in the Islamic waqf embodied in some particularities which, if correctly activated, will restore the historical role of waqf, especially the possibility of ‘benefiting from the western experience in the charitable domain in view of its uniqueness, professionalism and reacting with the society’ as maintained by the researcher.

The third research is entitled **‘Islamic Waqf and European Similar Charitable Systems (Towards a Humanitarian and Civilizational Partnership) by Dr. Mohammed Othman Shubeir.**\* The research seems to have added to the first two researches. It is natural that the ability to overcome the shari’a and legal impediments which stand in the way of cooperation between the waqf system and the similar western charitable organizations, while spotting that agreement in the main intents, open the door for both systems to call for a real partnership which belong to two different civilizations, which in the end belongs to one humanitarian civilization.

In this research, Dr. Shubeir analyzes the points of difference and similarity between the waqf and the western charitable organizations and calls for a humanitarian civilizational partnership. This call lays emphasis on the means of flexibility and liberality in both experiences in which a reaction is expected between thought and culture. In this way, each nation is expected to benefit from the other. The research also lays stress on the development which is clear in the western experience either in the administrative system, means of investment or the relation with the other sectors. At the same time, there is a call to benefit from such applications, together with opening the door to what is likely to develop and benefit its current experience.

Dr. Shubeir consolidates his call by a strong argument, saying that ‘the management of waqf is a means to reach the purposes of waqf which expresses itself in seeking the achievement of the waqf purposes, and the means here belong to innovation rather than imitation. It is liable for developing with the progress of time and the change of place. Some awqaf, says Dr. Shubeir, were lost and disappeared due to the absence of a discreet and effective management. At the same time, we notice that the most successful awqaf worldwide are in the West, with the exception of some Islamic awqaf. Here the Kuwaiti example seems to be the most successful because it is disciplined an institutional in nature under the control of an independent authority.

---

\* Dr. Shubeir apologized for not being able to be present, so Mr. Redha Al Ajmi (Secretary General of The International Waqf Seminar) took over.

This research is characterized by suggesting a number of important and practical recommendations through which the Islamic countries are invited to form an independent institutional waqf entity to be charged with managing the awqaf. There is also an emphasis on the investmental management of awqaf assets which regularize and facilitate and hasten the waqf-related procedures, besides calling those countries to activate the role of existing waqf institutions through setting legislations and management procedures, besides updating the existing ones. Moreover, there is a call for establishing waqf banks in order to create suitable financing institutions for the Islamic waqf institutions.

**Second Axis: Administrative aspects of the comparison between waqf and the European charitable organizations: Problems and solutions**

The three previous researches agreed on the point of benefiting from the advancement of Europe in the management of the charitable systems similar to the waqf. Consequently, It was of paramount importance to dedicate the second axis of the seminar to concentrate on the administrative and organizational aspects. The first research by **Dr. Kamel Mansouri** came under the title ‘ **Waqf Administrative Systems and the European Administrative Charitable Systems – A Descriptive Study** ‘ to survey both the waqf administrative systems and the administrative systems of the western charitable organizations. This study was conducted through defining the nature of the administrative system of both institutions, with a stress on the aspects of flexibility and liberality to assess their impact and efficiency, in addition to the suitability of both systems to realize the waqf purposes and the European charitable systems.

The importance of the research rests in showing the fact that the administrative system of the waqf constituted one of the outstanding factors which contributed to the historical success of waqf by virtue of its being a developmental and civilizational entity which inspired the European civilization to develop charitable systems similar to the Islamic waqf. This is embodied in an accumulated knowledge and practical experience which opened the door for a humanitarian experience worthy of being studied and benefited from because its administrative system is one of those wins.

The next research in this axis, submitted by **Dr. Sadiq Mohammadien**, was more specific and came under the title ‘ **Obstacles of the Financial Management in the Waqf Institution in comparison with its counterpart in the European charitable system.** In this research, the obstacles impinging on managing funds and the accountancy and investment obstacles in awqaf were stressed and the researcher was keen on removing that confusion in the concept of the European waqf which is based on the western Trust system. Moreover, the obstacles of financial management

of both systems were handled, in addition to managing funds and the control thereof in both systems. The same applies also to the accountancy obstacles.

The researcher was not content with just interpreting the West's experiences in the area of institutional waqf and charitable systems, but he cited a list of the vocabulary items of the study, giving them reliable definitions from the western modern jurisprudence, mainly English. He also presented a definition from the technical and jurisprudential points of view through relevant resources and showed their delicate connotations, so that they may be resorted to by charitable work cadres.

The third research of this axis was presented by **Dr. Tarak Abdallah and came under the title ' Between Waqf and the European Charitable Systems – Unity of Concept and Difference of Results.** In this research, Dr. Tarak Abdallah pointed out the theoretical and practical differences between the donation systems in Europe and waqf system on the other hand. The comparison was drawn between both of them through numerous levels, with an aim to differentiate between what is procedural and what is methodical. The research took as a starting point the humanitarian and historical background which constituted the common basis for the donation systems in the both the Islamic world and the West. Thereafter, the researcher moved to the points of difference which popped up in the modern experience.

In this context of the comparison, the research stressed three major issues, as follows:

**First issue:** The relation between the donation systems and the governmental official agencies represents a measurement for the movement limits of those systems and the administrative and legal rules they deal with.

**Second issue:** This issue revolves round the role played by the integration between the different social sectors in creating an attracting or distracting atmosphere for the donation systems.

**Third issue:** This issue includes reconsidering the process of bridging the gap between the donation systems and the private sector (individuals and institutions alike) in the hope of unifying those resources in favour of the projects of community development. The research dealt also with some of the conditions deemed necessary for restoring waqf as a genuine part of the overall social system.

**Second: Discussions about the researches of the Seminar and its subjects :**

The discussions and comments which took place in the Seminar's workshop came to add new dimensions to the comparison between waqf and similar European charitable organizations. A light was shed in the second meeting on what has been known as

*'the problem of the appearance of waqf in France'*. The speaker made it clear that the appearance of waqf in France in its historical dimension came as a result of solving the problem which confronted the country in respect of the formula through which the copy of the Louvre Museum was to be carried to Abu Dhabi in 2008 and if it would be through sale or gift. As a result of this situation, France created the Gifts' Fund which took a legal form resulting from the law for updating the economy (Law #776/2008) issued on August 4, 2008. This law is designed to create an agreement between the popularity of the societies and the status of the institutions. The senate, while discussing the law for updating the economy, justified the establishment of the charitable fund at the national level by striving to boost and develop the initiatives in favour of the public good.

Some of the attendants raised the issue of what they termed as the 'problem of guiding waqf' in which they called for urging the Islamic awqaf to create new forms of waqf to be different from the traditional ones, for example the 'waqf of young people's experience, the waqf of thought and others.

Another participant called for activating the call for waqf culture and added that the Islamic society in general does not have the key of waqf culture, therefore it is necessary to reconsider drawing that geo-cultural map of the Muslim society in order to make it more aware of its role in constructing the earth for the benefit of the people without excepting the waqif himself from the investment.

One of the commentators called for the necessity for creating university awqaf in order for a university to take a pioneering role in academic research and investing the young men's capacities in this domain. Islamic universities, if compared to European universities, we find that big gap between them in connection with spending on scientific research in favour of the European universities, known for their great spending in favour of the state and the society and to encourage researchers who are expected to highly appreciate the initiatives of those universities.

Those points which are of great value, but the important discussions were carried out in the workshop which was organized during the seminar under the title **'Developing the Shari'a, Legal, Administrative and Experiences'**.

**Dr. Khaled Hanafi**, the moderator of the session, said that 'the Islamic presence in Europe was not in need of reviving the waqf culture and consolidating it more than it needs it nowadays, for the following reasons:

- a. The failure of those institutions existing in Europe to play the minimal role in fulfilling their basic needs due to the limited financial resources, not to mention the creation of new institutions.

- b. The international and European political developments which blocked the external financial resources which used to support the Islamic institutions in Europe.
- c. The attitude of Muslims in Europe who failed to institutionalize the Zakat and the attitude of the European Muslims towards shifting their Zakat outside Europe.
- d. The popularity of the principle of ‘Taking and not Giving’ i.e. getting all the benefits from the state and the delay in paying taxes.

The moderator of the session pointed out that the aim of this session is to provide answers for a lot of inquiries which did not appear in the researches due to the lack of time, for example : How do we practically introduce waqf to the European societies ? How can we display the humanitarian nature of Islam via waqf ? How do we deal with the European legal differences and restrictions imposed on awqaf?

Interpositions came first from the researchers who contributed to those researches which appeared in the seminar. The first interposition came from **Mohammed Boudjelal** who started his comments by quoting a statement made by Jean Molet, one of the theoreticians of the European Union, which maintains that *‘nothing can be achieved away from the will of men which is not enough unless embodied in an institutionalized work’*. On this statement, Dr. Boudjelal based what he asserted in his research (indicated above) that ‘ we have to uplift our fiqh from the personalized level to the institutional level, taking into consideration those major issues who encounter a Muslim in a multicultural society with multiple thoughts’. An example to clarify his intention, he cited ‘European Council for Fatwa’ which Dr. Boudjelal considered as a civilizational work which deserves support.

The moderator commented on the interposition made by Dr. Boudjelal, so that his comment suggests putting an important condition on the concept of ‘Waqf Institutionalization’, saying that such sought institutions should be independent of the governments which are likely to negatively affect them.

The second interposition was made by **Dr. Sadiq Hammad Mohamed Mohamedien** who, in turn, asserted the need for institutional work. He suggested that all awqaf should merge and establish an independent legal investment entity, able to generate profit in favour of waqf, in addition to establishing a college for human sciences and benefiting from the Islamic banks existing worldwide. In dealing with his interposition, Dr. Sadiq cited several examples for investing funds to develop awqaf, for example waqf funds, entering the stock market, waqf development fund which publishes bulletins on the profits and indicates the investments and murabahas it achieved.

The third interposition was made by **Mr. Redha al Ajmi** about the research submitted by **Dr. Majida Ziani**. In his interposition, he indicated the duplicity of a Muslim's identity living in the West, while he still belongs to his original country. Such a Muslim is regarded as a member in a Fifth Column. In Europe, such a Muslim develops into an extreme rightist who commits all acts prejudicial to order with nobody attending to this behaviour. Consequently financial support extended by Muslims' institutions in Europe is cut, citing the fact that those Muslims do not have the adequate funds needed for support. Mr. Redha maintains that limited financial support goes in tandem with the absence of awareness.

On the other side, **Mr. al Ajmi** laid stress on the need for a comprehensive electronic system to be financed by waqf agencies to make it able to control the administrative operation from the beginning to the end. This is meant to fight the lack of discipline and corruption and at the same time it is the technique being advocated by the major institutions worldwide, for example the American and British ones. This comprehensive electronic system will act as an effective cover for each European and non-European institution. At the same time, it will be profitable at the financial and marketing levels.

The fourth interposition was made by **Dr. Kamel Mansouri** who elaborated on the means of having a successful European waqf institution. In this framework, he called for shifting waqf from the stereotype form connected with mosques, libraries or cemeteries to the modern form connected with the details of the social, economic and urban life etc.... Added to this is encouraging innovation in the area of organization, administration and shifting 'from the good intents management' to the management based on goals and results, observing the local social needs, openness to others, benefiting from the European experiences, diversifying the waqf activities and paying attention to the needs of the local community. In addition to all these aspects, a waqf institution should act in harmony with the environment in which it acts, i.e. waqf should respect and act in harmony with the French laws, mindful of the idea that in case a medicine, in order to be palatable and effective, may be interlaced with some intoxicating elements is a waqf-based idea.

**Dr. Heba Rauf** pointed out that two things prevailed the discussions as a whole:

The first is that legal approval of the waqf role in Europe, together with showing the diverse and variable legislative frameworks among the European countries. Nevertheless, this phenomenon does not constitute a threat to awqaf, citing the growth of ultranationalism and extreme racial movements which can hamper the waqf activities or restrict them. Such a threat is not existing now, but it is likely to

crop up in an environment where terrorism accusations have been easily fabricated since 2001. The result is that a defendant is held as a criminal until his innocence is verified and not vice versa.

The codification of the activities of waqf should not constitute a stumbling block before a Muslim in the West and the daily spontaneous charitable work. Moreover the vast multitude of beneficiaries of the services should be a goal at the medium and long terms after fulfilling the current needs of the Muslims.

The second point is that most of papers touched on the management of waqf work through businesses, managing investments and managing the waqf institutions in a way almost similar to the management of companies. Such an institutional outlook which can be compared to waqf work from the perspectives of governance, discretion and transparency are of great importance to fight corruption and regulate performance. We should not take waqf work as an entrepreneurship, neither to consider waqf funds as monies which should be invested as capitalist investment which aims to augment the return and accepts taking risks with the withhold funds. It is also important for the waqf cadres to depend on specialized cadres provided that should go in line with the voluntary work and combining both of them in respect of the waqf work, mainly relief, educational work and other welfare and service works.

In a comment on the subject of digitalizing all the waqf work data, she cautioned against data base penetration. She called for exerting serious efforts for supporting and keeping secure the processes of assessment, documentation and management by modern advanced technological means, in addition to observing the privacy of both the waqf and the waqif.

Afterwards it was **Mr. John Locke Carlskind's** turn to talk and to indicate that the western legal framework in general tolerates the establishment of an Islamic waqf in the form familiar to us, nevertheless he maintained that there are doubts about the Islamic charitable organizations in general. Bank accounts of those organizations fall under surveillance, therefore the Islamic institutions are in need of more strict control in terms of management, terms and law.

**Dr. Ahmad Jaballah**, in his comment, said that waqf and the need for establishing it are beyond doubt, but what is important is the steady work for circulating the waqf culture among all Muslims suffering from remarkable weakness, calling for establishing practical projects and introducing the advantages of waqf and establishing waqf institutions whose fruits are made apparent and to the satisfaction

of Muslims, There should be more attention to the origination of waqf proceeds, mindful of the previous seminar which was organized in Bosnia in which there was a recommendation in favour of spending the surplus proceeds on other awqaf.

**Mr. Nasr al Damanhour**i called for initiating a dialogue about the strategy of calling for waqf in Europe reconsidering everything connected with it and any other thing in this regard falls within 'executive details'.

**Mr. Ala'a Maher** hinted to the limited number of lecturers who lived in Europe and those who established awqaf to talk about the status quo because every country has its own laws. He indicated many points which should be taken into consideration, for example dealing with waqf before institutionalization and confronting the process of randomization of those who profess themselves to be theoreticians without having the appropriate tools.

**Dr. Mostafa Barbush** said that we are in dire need for institutions which control the waqf work and safeguard the funds of Muslims. He also referred to the waqf fund which was created in France in 2008 and how it was effective in management, especially when provided that once the donations reach one million Euros, a consultative board must be formed to give advice on the means to invest such funds.

**Dr. Fuad al Alawi** confirmed the importance of dealing with the European laws and referred to the '**prepared financial balance**' whenever the fatawa do not allow for the practical solutions which pave the way before complying with the available practical solutions which establish investments generating proceeds. It is natural that such proceeds contribute to the success of waqf work. Afterwards, he talked about some agencies which classify the institutions according to extremism and terrorism. Those agencies are accredited by some banks and even governments. Once the name of a society is included in the list, the accounts are blocked and transactions are banned. He called for a full alert to address this oppression to which waqf institutions are subject to.

**Dr. Husain Al Dawoodi** called for enriching the awqaf and circulating their benefits worldwide so that they embrace territories, cities and citizens and to be put at the disposal of all. They should maintain their pioneering role based on reaction, innovation, distinction and observing citizenship and paying attention to education as a whole. He expressed his approval of the idea of the project for establishing small models of awqaf so that every citizen would be able to keep in touch with waqf while being at home, school or institution.

**Mr. Jawad Ahyoud** stressed the importance of teaching the subject of ‘waqf management’ at the Islamic European universities. This is expected to assist the dissemination of waqf culture among students and researchers, besides heightening the awareness of waqf and shifting it from the theoretical level to the scientific level.

Near to this was **Mr. Rasheed Mansouri** who called the European Islamic organizations to put a plan for disseminating the waqf culture.

**Mrs. Badi’a**, on the other hand, indicated the gap which separates the waqf institutions from the legal status quo of the country. She referred to that randomized technique in approaching the financial file of an institution or a society, besides the lack of awareness on the part of the societies in respect of management. Thus she called for adopting an institutional management in carrying out this task.

**Finally Fatima Gen** confirmed that the **Alsace Islamic Association** is building a strong relation based of mutual trust with the French authorities. There is an actual need to establish such a relation with non-Muslim European citizens before building that relation with the European authorities. She also maintained that there are sincere efforts to build this trust between the Muslim and non-Muslim citizens who share the activities of the daily life. Once this is achieved, it will assuredly create that favourable atmosphere through which Muslims are tolerated and treated on equal footing, especially during this critical epoch in the life of European Muslims.

From the above mentioned, it has been made clear that the researches and discussions suggested the possibility of establishing a constructive civilizational partnership between the Islamic waqf system and the European charitable systems, especially in the shari’a, administrative and financial aspects. The intents of both systems are to serve humanity and to boost the joint honourable values.

Viewing the main results which the researches and discussions came up with, there are other results which can be elicited from those researches and discussions. Mainly the following;

1. The necessity for institutionalizing waqf in order to overcome the shari’a and legal obstacles which disrupt the cooperation between the Islamic waqf and the European charitable work. This is expected to develop waqf and augment it in terms of management, finance and investment.
2. The importance of realizing the independence of waqf institutions in a way that enables them to optimally discharge their mission which aim to maintain the civilizational role of waqf, besides promoting the waqf assets, investment and diversifying its channels of spending.

3. Heightening coordination among the waqf institutions in the Islamic world so that this effort will assist the development of waqf and activate its social and economic role, etc... .
4. Creating new waqf formulas which contribute to the cooperation between the Islamic waqf institutions, for example establishing waqf banks and benefiting from the existing Islamic banks in supporting waqf work.
5. Conducting more studies on the laws of the European countries which organize the charitable work in Europe and to benefit therefrom in developing the waqf legislation in the Islamic world in a way that assists in developing the management of waqf, its funds and investments.
6. Assisting the Islamic waqf in Europe where unfriendly environments exist and cast doubts on Muslims in Europe and ignore their values and principles which if, given support, would uplift humanity and assist in developing charitable work in their countries of residence.
7. Disseminating the waqf culture in Europe through teaching the management of waqf at the Islamic universities, besides extending financial support to them.
8. Giving due attention to the small waqf projects, not only the big ones, because this is an accumulated activation of waqf which resists all agents of elimination.
9. The necessity for innovation in the waqf fiqh (jurisprudence) in order that waqf may keep abreast with the global developments in a world where distances are cut short to a great extent. This requires having a new look at the status quo and to utilize thought in the texts in favour of human beings.
10. Eventually, it should be said that the importance of such seminars, and the likes of them, are not confined to those results and discussions, but rather to their effect, including media repertoire accompanying them. This side will assuredly attract attention to the Islamic waqf and urges many European citizens to dig deep into the historical and civilizational role and to what it may add in the future. The meetings and the seminars achieve more civilizational acquaintances due to the diverse attendees exiting in the Arab world and others residing in Europe, all of whom share a common objective exemplified in boosting the humanitarian and charitable work.

May Allah the Almighty guide us in the way of righteousness



## **AWQAF Journal Waqf**

In recognition of the Waqf thought and philosophy in establishing the social projects and extending services in the framework of sustainable and self-supported system, KAPF established AWQAF Journal Waqf. Therefore, this periodical publication will not rely on the sales revenue of its issues; rather it seeks to realize the aims and objectives for which it was created. It will endeavour to provide the Journal free of charge to all those who are interested in Waqf as well as researchers, research centers and organizations related to Waqf.

On the other hand, KAPF will continue to develop the financing of AWQAF Journal Waqf through inviting contributions, whether in the form of subscriptions, deductions or any amounts for the account of the journal in an attempt towards supporting the journal and enabling it to assume a share of the society burdens in extending vital developmental services.

### **Deed Purposes:**

- Contributing to upgrading Waqf research effort so that the journal ranks with the prestigious refereed periodical journals.
- Emphasizing the typical dimension of Waqf, together with identifying its characteristics and the role entrusted to it.
- Addressing the related issues in a methodology that links vision to the reality and therefore encourage thought in practical findings.
- Linking the topics of Waqf to its concerns in the entire Islamic world.
- Delivering the largest number of issues of AWQAF Journal maximum audience of researches, universities and research centers free of charge.
- Encouraging efficient experts to consider specializing in Waqf related issues.
- Establishing a network for all those interested in Islamic and particularly Waqf thought, and facilitating communications and interaction among them.

### **AWQAF Journal Superintendent:**

- KAPF is the Superintendent of AWQAF Journal Waqf.
- KAPF strives to develop AWQAF Journal Waqf and invites contributions to participate in it.
- KAPF monitors the periodical journal works and entrusts specialist scientific experts with operating its affairs in line with the strategy to promoting the Waqf sector and as per the standards applicable for refereed journals.