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Indexing



Waqf in Algeria: Its Historical Exploration from Ottoman to Post-Independence Era

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Abstract

This study provides a critical discussion on the history of *waqf* in Algeria throughout three main different eras namely, the Ottoman rule era, the French colonisation period and after independence era, to raise awareness and enrich researchers' thoughts regarding the practice of *waqf* in Algeria. Also, it highlights the practice of many *waqf* institutions existed therein and addresses their developments and impacts on the community life. Subsequently, it highlights the development of the *waqf* legal system in Algeria, which provides a platform that facilitates understanding its status in the Algerian community, which offers lessons to be learnt from and considered for the development of *waqf* institutions. The authors reviewed a significant body of relevant studies written on various aspects of the *waqf* history in Algeria, to provide readers and researchers with lessons from *waqf* institutions in Algeria throughout three different phases in history, as few studies have addressed this issue in the context of Algeria. The study reveals that the Ottoman rule era in Algeria was marked by the spread of different *waqf* institutions which played a vital role in all aspects in the community life. However, these institutions experienced a huge retreat during the colonial era, where the French colonisers aimed at confiscating *awqāf* and belittling its effective role in the community. After independence in 1962, there have been modest initiatives to upgrade *waqf* properties, and attempts to recover the lost ones, but all these efforts were considered weak as compared with the size of the *waqf* properties in Algeria during the Ottoman period.

Keywords: *waqf* history, *waqf* institutions; islamic economy; islamic social finance; algeria

Introduction

Waqf is an Islamic endowment, devoted to the benefit of the community, or individuals, family members, or any other beneficiary that is not disapproved by the *Sharī'ah*. Throughout Islamic history, places of religious worship, for example, mosques, but also schools, universities, hospitals, public wells and even infrastructures such as roads, have

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been supplied by private individuals through *waqf*.¹ A famous example for such a private *waqf* is the *Hejaz* (Saudi Arabia nowadays) railway and there is also a historic case of a private provision of a lighthouse, the prototype of a public good, through *waqf*.² More importantly, *waqf* assets have been instrumental in providing social and economic safety valves through their role in promoting religion, education, shelter, health, food security and rural-urban transformation. In the tenth century, *waqf* was an effective vehicle for financing social economic development in Muslim societies, such as the Middle East and North Africa.³

Today, the role of *waqf* in some Muslim countries is limited to purely religious institutions, such as mosques, graveyards, and some religious schools. These *waqf* assets are typically administered by a *waqf* Ministry, which was created for this purpose. However, in other countries such as Kuwait, Singapore and South Africa, *waqf* plays a significant role in diverse kinds of social services.⁴ There are several initiatives, also promoted by independent entities such as the Islamic Development Bank (IDB), to revive *waqf* as a tool for poverty alleviation and to include *waqf* in the development strategies such as poverty reduction strategy papers.⁵

In the context of the Algerian *waqf* system, most questions revolve around the roles that could be played by *waqf* institutions in the economic development and social life of Algeria. However, looking at the current situation, it can be seen that *waqf* institutions in Algeria have not played the designated role which was hoped by the endowers when giving

¹Mazrul Shahir Md Zuki, "Waqf and its Role in Socio-Economic Development," *ISRA International Journal of Islamic Finance* 4, no. 2 (2012): 173-178. doi: <https://pdfs.semanticscholar.org/5755/ec25c5924bb1fa2ac49a874e713f646d4ad4.pdf>

²William Ochsenwald, "A Modern Waqf: The Hijaz Railway 1900-48," *Arabian Studies* 03 (1976): 1-12.

³Amy Singer, *Charity in Islamic Societies* (Cambridge: Cambridge University Press, 2008). doi: <https://www.bookdepository.com/Charity-Islamic-Societies-Amy-Singer/9780521529129>; Magda Ismail Abdel Mohsin, Hisham Dafterdar, Murat Cizakca, Syed Othman Alhabshi, Shaikh Hamzah Abdul Razak, Seyed Kazem Sadr, Thamina Anwar, and Mohammed Obaidullah, "The Role of Waqf in Modern Economic Development," in *Financing the Development of Old Waqf Properties*, ed. Magda Ismail Abdel Mohsin (Palgrave Macmillan, 2016), 21-35. doi: https://link.springer.com/chapter/10.1057/978-1-137-58128-0_3

⁴Abdelkader Laallam, Salina Kassim, Engku Rabiah Adawiah, and Buerhan Saiti, "Towards Knowledge-Based Waqf Organizations," in *Challenges and Impacts of Religious Endowments on Global Economics and Finance*, ed. Buerhan Saiti and Adel Sarea (IGI Global, 2020), 107. doi: <https://www.igi-global.com/chapter/towards-knowledge-based-waqf-organizations/244766>

⁵Nasim Shah Shirazi, "Integrating Zakat and Waqf into the Poverty Reduction Strategy of the IDB Member Countries," *Islamic Economic Studies* 22, no. 1: 1-30. doi: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.884.6922&rep=rep1&type=pdf>; Magda Ismail Abdel Mohsin, et.al, "Waqf Development: The Islamic Development Bank Experience," in *Financing the Development of Old Waqf Properties*, ed. Magda Ismail Abdel Mohsin (Palgrave Macmillan, 2016), 221-236. doi: https://link.springer.com/chapter/10.1057/978-1-137-58128-0_5.

their money, except the religious role with all its aspects, educational and preaching, according to traditional methods that have not kept pace with development of the Algerian society. When researching the history of Algerian *awqāf*, before the colonial era particularly, during the Ottoman period, it is found that the *waqf* system in general, and *waqf* institutions in particular, have played an important role in the community life, where the *awqāf* provide important positions and jobs, even outside the religious sphere.⁶ This in addition to its contribution in helping the poor and needy and in alleviating their burden inside as well as outside the state, such as the *awqāf* of the two holy mosques, promotion of education, the provision of public service, repairing roads, spending on forts, and so on.⁷ However, the Algerian *waqf* institutions experienced a huge retreat during the colonial era, where the French colonisers aimed at confiscating *awqāf* and belittling its effective role in the community, especially when they realized deeply the essence behind the *waqf* system which granted the community the power of independence, thus enabling them to become independent relying on the *awqāf* to take care of themselves.⁸

Since independence in 1962, there have been modest initiatives to upgrade *waqf* properties, and attempts to recover the lost ones, but all these efforts were considered weak as compared with the size of the *waqf* properties in Algeria during the Ottoman period. Added to this was the complexity of their retrieval after independence, due to the loss of documents which the coloniser had seized and taken to his home of origin and the slow process of archive recovery by the Algerian authority.⁹ The French coloniser has worked hard on the destruction of the private *waqf* structure and has succeeded to some extent. Many Algerian *awqāf* went missing during this dark period of Algerian history, making the search for these properties and the reallocation of the purpose that was endowed for, almost impossible without the Algerian state's efforts in the legislative and financial area, and even the international efforts that contributed to the recovery of many *awqāf* in the period from the mid-nineties until today, such as the one funded by the Islamic Development Bank (IDB).¹⁰

⁶Sabrina Joseph, "Waqf in Historical Perspective: Online Fatawa and Contemporary Discourses by Muslim Scholars," *Journal of Muslim Minority Affairs* 34, no. 4 (2014): 425-437.

⁷Mohamed El-Bashir El-Hashmi Mughli, "Al-Takwīn Al-Iqtisadi Linidham Al-Waqf Al-Jaza'iri wa Dawruh Al-Muqawem lil Ihtelal Al-Feransi," [The Economic Formation of the Algerian Waqf System and its Role in Resisting the French Occupation], *Majalat Al-Masader* 4, no. 6 (2002): 162-163. doi: <https://www.asjp.cerist.dz/en/downArticle/29/4/6/14624>

⁸Fares Masdur, and Kamel Mansuri, "Al-Tadribah Al-Jaza'ria fi Idarat Al-Waqf: Al-Arikh wa Al-hader wa Al-Mustaqbal," [The Algerian Experience in Waqf Management: History, Present and Future], *Majalat Awqāf* 15, (2008): 8. doi: <https://dawa.center/file/4703>

⁹Fares Masdur, "Al-Awqāf Al-Jaza'iria Bayn Al-Indithar wal Istithmar," [Algerian Awqāf between Extinction and Investment], *Majalat Ma'had Al-u'lum Al-Iqtisadia* 12, no. 3 (2008): 187. doi: <https://www.asjp.cerist.dz/en/article/75167>

¹⁰Kamel Mansuri, "Al-Islah Al-Idari Li Mou'asat Qita'a Al-Awqāf - Dirasat Halat Al-Djaza'ir," [Administrative Reform of the Waqf Sector Institutions - a Case Study of Algeria], (PhD diss., University of Biskra, 2013); Fares Masdur, and Kamel Mansuri, "Al-Tadribah Al-Jaza'ria fi

In the 1st period of independence, not much attention was given to *awqāf*. However, at the end of the 1980 and the beginning of the 1990, the legal frameworks and legislation of *waqf* have been reformulated again, but at a modest pace, until the beginning of 21st century, when such legislation started experiencing a real application, and it was in particular in the field of investment with an increasing trend up to date, represented in some *waqf* investment projects sponsored by state and private entities at the same time. Some of these projects are; the neighborhood of *kiram* (generous people) that is considered to be the first contemporary *waqf* investment funded by the Algerian state, followed by *awqāf* complexes such as “the Grand Mosque,” which is a quantum leap in complexes in the Arab and Muslim world, as well as mini-complexes, which began spreading in every province in Algeria.¹¹

Even though the trend of the Algerian *waqf* sector is promising, but there is still much room for improvement in order to restore the effective role of *waqf* in the development of the nation. Thus, this study aims to provide a historical review of *waqf* institutions in Algeria, as few studies have discussed this issue. Consequently, this study hopes to contribute to literature by exposing readers and researchers to *waqf* experience and history in Algeria based on three main different phases in time. Therefore, the other parts of this paper are organised as follows: The second section provides a critical discussion on the topic, under which the body of study is covered; the Algerian *waqf* system during the Ottoman rule, the Algerian *waqf* system during the French colonialism, and the Algerian *waqf* system after independence, 1962 up to date. The last section represents the conclusion which provides a summary of the study’s main points and draws some lessons to be learnt from.

Literature Review

2.1 The Algerian *Waqf* System during the Ottoman Rule

This section focuses on the later period of Ottoman rule, due to the absence of authentication available for the period that preceded the presence of the Turks in Algeria. Static data has been documented and utilised in a number of specialised studies into the history of Algerian *waqf*, before and during the colonial era. Given what the French colonisers had done when they entered Algeria, such as taking possession of the *waqf* properties and documenting the acquisition, this is generally referred to it as a new documenting of the original stolen *waqf* properties, and this is what has helped researchers in their analysis and research.¹²

Idarat Al-waqf: Al-Tarikh wa Al-Hader wa Al-Mustaqbal,” [The Algerian Experience in Waqf Management: History, Present and Future]. 11-12; Magda Ismail Abdel Mohsin, et.al, “Waqf Development: The Islamic Development Bank Experience,” 221-236.

¹¹Fares Masdur, “Al-Awqāf Al-Jaza’iria Bayn Al-Indithar wal Istithmar,” [Algerian Awqāf between Extinction and Investment], 195.

¹²Ibid., 181.

2.1.1 The Impact of *Mālikī* and *Hanaḥī* Doctrines on *Waqf* Development in Algeria

Before starting on the analysis of the institutional composition and development of *waqf* sector in Algeria at that time, reference should be made to the importance of sectarian coexistence between the *Hanaḥī* conception of Islam, adopted by the central authority which took the responsibility for policy issues of legitimacy and doctrine, and the *Maliki* conception, which took over local affairs. This confirms the doctrinal coexistence, according to studies and documents of *awqāf* in archives (The seized archive in Aix en Provence Foundation in France), which states that much of Algerians placed their *awqāf* based on the *Hanaḥī* conception because of its dynamism and flexibility.¹³

This doctrinal and legislative disparity had implications on the establishment of the foundations and management; one of the most important issues of difference in *waqf*-based on the *Hanaḥī* school and *Hubus* according to the *Maliki* school, is the conditions of *waqf*, also the issues of substitution (*Istibdal*) and so on. Within the framework of coexistence between the two schools' doctrines, the task of judicial *awqāf* was assigned to the scientific council, which organised a meeting each Thursday in order to study the conditions of *awqāf*, since it included scholars from the two doctrines schools, and the function of this administrative body can be summarised as follows:

- Raising revenues of *waqf* property and distribution to beneficiaries based on the *waqif* (endower's) conditions.
- Issuance of the legitimate provisions in various transactions related to *waqf* property.¹⁴

2.1.2 The Administration of *Waqf*

The *waqf* properties were managed by staff, called trustees, appointed by the public authorities represented in *Al-basha* or a judicial authority represented in *Mufti*, and the selection of these staff was according to social reputation of the person, in terms of his piety or descent. It should be noted that this appointment was not permanent since it could be countermanded in the case of mismanagement or negligence.¹⁵ The trustees differed in their responsibilities according to the importance of the *waqf* institution entrusted to them, in terms of the number of properties. For instance, the *awqāf* foundation of the two holy mosques was the largest one in Algeria at that time, therefore its *Naẓir* (trustee) was considered to be the highest administrative staff in the city of Algeria. The function of these

¹³A'qil Namir, "Al-Muasassat Al-khayriah fi Madinat Al-jaza'ir: Dirasat Muqaranh Lilwaqf," [Charitable Institutions in the City of Algiers: a Comparative Study of the Waqf], (PhD diss., University of Dimasqus, 2004).

¹⁴Mustafa Ahmed Bin Hamush, "Al-Waqf wa Tanmyat Al-Mudun min Al-Thurat ila Al-Tahdīth," [Waqf and the Development of Cities from Heritage to Modernization], in *Nadwat Al-waqf Al-Islami fi Al-Emarat Al-'Rabia Al-Mutahdah, Al-'ayn: Jami'at Al-Emarat Al-arabia Al-Mutahedah*, 1997.

¹⁵Fares Masdur, and Kamel Mansuri, "Al-Tadjrubah Al-jaza'ria fi Idarat Al-Waqf: Al-Tarikh wa Al-Hader wa Al-Mustaqbal," [The Algerian Experience in Waqf Management: History, Present and Future], 3-4.

trustees included repair and maintenance of *waqf* properties, paying the wages of workers and collecting revenues of these properties.¹⁶

2.1.3 *Waqf* Institutions in Algeria in the late Ottoman Era

The period of Ottoman Empire rule in Algeria was marked by the spread and rapid growth of *awqāf* in different parts of the country, from the end of the 15th century until the beginning of the 19th century. The agricultural properties in urban areas have constituted a large proportion of the *awqāf* since the late 18th century.¹⁷ In the year 1750, the *awqāf* contracts increased twelve times compared to 1600, which makes this period one of the most important periods in terms of the large number of *awqāf* in Algeria. In addition, during this period the *awqāf* economic bowl was developed and expanded to include properties, agricultural lands, shops, hotels, baking ovens and so on.¹⁸ The *awqāf* in Algeria under the Ottoman Empire, spread to several charities, which were religious in nature, legal in personality and privately administrated. The following are the most important institutions which were governing *awqāf* in the Algerian Ottoman Empire:

2.1.3.1 *Awqāf* Foundation of the Two Holy Mosques

In terms of its inception, this is considered as the oldest *waqf* foundation in Algeria. It was initiated before the Ottoman rule, and its *awqāf* revenues were devolved to the Meccan and Medinan poor, sometimes overland with a convoy of pilgrims and sometimes by sea in Muslim or Christian ships, at the beginning of every two years, where it would reach the Algerian agency in Alexandria, and from there to the two holy mosques.¹⁹ The foundation of the two holy mosques has gained the most *awqāf* in Algeria, because of the high status of the two holy mosques in the hearts of Algerians, who endowed many of their properties for this. This placed it in the forefront of charitable institutions in terms of the number of *awqāf* belonging to it, and the charitable works it provided as subsidies to people of the two holy mosques living in Algeria or passing through the country. At the same time, this foundation was responsible for spending on three other mosques in the city of Algiers, where it was supervising and governing about three quarters of all religious *awqāf*, as stated

¹⁶Mustafa Ahmed Bin Hamush, "Al-Waqf wa Tanmyat Al-Mudun min Al-Thurat ila Al-Tahdīth," [Waqf and the Development of Cities from Heritage to Modernization].

¹⁷Fares Masdur, "Al-Awqāf Al-Jaza'iria Bayn Al-Indithar wal Istithmar," [Algerian Awqāf between Extinction and Investment], 178.

¹⁸Al-Awqāf, *Al-Awqāf Al-Jaza'iria* (Al-Jaza'ir: Wezarat Al-Shu'un Al-Diniyah wa Al-Awqāf, 1998).

¹⁹Mohamed El-Bashir El-Hashmi Mughli, "Al-Takwīn Al-Iqtisadi Linidham Al-waqf Al-Jaza'iri wa Dawruh Al-Muqawem lil Ihtelal Al-Feransi," [The Economic Formation of the Algerian Waqf System and its Role in Resisting the French Occupation], *Majalat Al-Masader* 4, no. 6 (2002): 164. doi: <https://www.asjp.cerist.dz/en/downArticle/29/4/6/146241>; Brahim Ben Daoud, and Ahmed Ta'iba, "Idarat al-Amlak Al-waqfia bi Al-Jaza'ir wa Subul Istithmariha," [The Management of Waqf Properties in Algeria and Methods of its Investment], *Majalat Al-Dirassat Al-Qanunia wa Al-Siasiat* 2, no. 2 (2016): 6. doi: <https://www.asjp.cerist.dz/en/article/37584>

by some French reports dating back to the first years of the occupation. For instance, the “Genty de Bussy” report declared that the *awqāf* of the two holy mosques were estimated to be around 1373 properties and 70 lands.²⁰ Furthermore, the French consul “Valiard” stated that all the homes of Algeria and the surrounding territory belonged to the foundation of the two holy mosques.²¹ Therefore, it confirmed that *waqf* of the two holy mosques gained the bulk of *awqāf* outside the city of Algiers.

2.1.3.2 *Awqāf* Foundation of the Great Mosque

This mosque was known for its important role in the Ottoman era judicially, religiously, educationally, socially, and politically, to the extent that it covered the activities of all the other mosques which were built by the Ottoman governors, which exceeded more than 100 mosques in the late 16th century.²² It should be mentioned that the great mosque administration was independent, and the rental incomes of its *awqāf* helped a lot in performing and financing multiple functions and activities. It was reported in French reports that the *awqāf* of the great mosque contained: 125 houses, 39 shops, 3 furnaces, 19 orchards and 107 other incomes from different sources.²³ These *awqāf* revenues were benefiting and assisting a large group of people consisting mostly of 19 *Imams*, 18 teachers, 08 *Mua’din* (caller of prayer) and so on. Furthermore, the revenues were spent on maintenance and the functioning of the services, while the surplus was directed to create Islamic schools, mosques, and others.²⁴

2.1.3.3 *Hanafi Awqāf* Foundation of *Subul Al-khayrat*

This *waqf* foundation, with a charitable purpose, was related to the *Hanafi* population in Algeria. It was founded by *Shaban khujah* in 1590. It was designed to finance public projects such as reforming roads, irrigation canals, assisting victims and people with disabilities, the construction of mosques, scientific institutes and purchasing books and endowing them for the seekers of knowledge. At the same time, this foundation was charged with the management and maintenance of 8 mosque properties including the most reputable mosque called “The New Mosque.”²⁵ Moreover, the organization consisted of 11

²⁰Naser El-Din Saiduni, *Derajat fi Al-Melkya Al-Aqarya* [Studies in Real Estate], (Al-Jaza’ir: Al-mu’sasah Al-watanya Lilketab, 1986), 84. doi: <https://top4top.io/process/5d7de7f38e80e8dee4bd4b8dbcd2e5f46ca8bd5>

²¹Mustafa Ahmed Bin hamush, “Al-Waqf wa Tanmyat Al-mudun min Al-Thurat ila Al-Tahdit,” [Waqf and the Development of Cities from Heritage to Modernization].

²²Devolux, “les édifices religieux de l’ancien Alger,” [The Religious Buildings of Old Algiers], *Revue Africaine* (R.A), (1862): 370-382. doi: http://revueafricaine.mms.h.univ-aix.fr/n/Pages/1862_035_005.aspx

²³Overseas Archives at Aix (AOM) F.80 No. 1632.

²⁴Table of the situation of French establishments in the year of 1837.

²⁵Souriah Hadadou, and Slimane Al-Nahwi, “Tatawer Al-Sulūk Al-Waqfi fi Al-Jazair,” [The Evolution of Waqf Behavior in Algeria], *Majalat Al-fikr Al-Qanoni wa Al-Siasi* 3, no. 1 (2019): 102. doi: <https://www.asjp.cerist.dz/en/article/99400>; Fares Masdur, and Kamel Mansuri, “Al-Tadjudubah Al-jaza’ria fi Idarat Al-Waqf,” [The Algerian Experience in Waqf Management: History,

members, including 8 elected management advisers, and *Nazir* (trustee) of the *waqf* foundation and the underwriter who regulated the institution contracts. In addition, the trustees, and writers all of whom were often among the scholars, as well as *shawysh* (maintenance worker) who oversaw protecting the buildings of this institution and facilitated the work of knowledge seekers.²⁶ The properties of *Subul Al-khayrat* foundation were estimated to be 3 quarters of public *awqāf*, which included around 92 grocery shops, 8 of which were exploited by the Jews, and this is a reference to the tolerance of Islam and fairness among its citizens. The total revenue of this foundation was estimated at around 4455 *riyal* annually. In addition to other incomes from stores, hotels and bathrooms, constituting around 320 *riyal* annually.²⁷

2.1.3.4 *Awqāf* Foundation of Treasury (*Baytul-Māl*)

This institution oversaw supporting the wayfarers, orphans, the poor and prisoners. Furthermore, it was responsible for the valuables that belonged to the state. In addition to this, it had undertaken the task of establishing public facilities such as roads, bridges, and the construction of places of worship such as mosques and *Zawiya* (Islamic schools). The foundation of *Baytul-Māl* was entrusted with vacant properties, which did not have heirs, so they were placed under the public treasury as a property of the Muslim community, and it took over the settling of estates and preserving the wealth of the dead among the poor and wayfarers and gave some alms to the needy. These tasks became the main role of this foundation specifically in the late Ottoman period. It should be noted that this institution was autonomous from *Al-baylk* (the general administration), and it concerned itself with paying an estimated monthly contribution of 700 francs to the state treasury, and to cover the expenditures of the poor, and to ensure the payment of the judge's salary and some scholars of *Baytul-Māl*.²⁸

2.1.3.5 *Awqāf* Foundation of Andalusia People

The foundation of Andalusia people was founded after the plight of the Andalusians who fled to north Africa and settled in the coastal cities and joined the war against the

Present and Future], 5.

²⁶Ibid., 5.

²⁷A'qil Namir, "Al-Muasassat Al-khayriah fi Madinat Al-Jaza'ir: Dirasat Muqaranh lil Waqf" [Charitable Institutions in the city of Algiers: a Comparative Study of the Waqf], (PhD diss., University of Dimasqus, 2004); A'qil Namir, "Al-Muasassat Al-Waqfia Al-Jaza'iria fi Al-Asr Al-Othmani wa Dhawruha fi Al-Hayat Al-Ijtima'ia wa Al-Iqtisadia," [Algerian Waqf Institutions in the Ottoman era and their Role in Social and Economic Life], *Majalat Dirasat Tarikhiah* 115-116, (July 2011): 260. doi: [http://www.damascusuniversity.edu.sy/mag/history/FCKBIH/%D8%A7%D9%84%D8%A8%D8%AD%D8%AB%20%D8%A7%D9%84%D8%AB%D8%A7%D9%85%D9%86\(4\).pdf](http://www.damascusuniversity.edu.sy/mag/history/FCKBIH/%D8%A7%D9%84%D8%A8%D8%AD%D8%AB%20%D8%A7%D9%84%D8%AB%D8%A7%D9%85%D9%86(4).pdf)

²⁸Naser El-Din Saiduni, "Tarikh Al-waqf wa Dawru Al-Ijtima'i wa Al-Iqtisadi," [The History of the Waqf and its Social and Economic Role]. in *Dawrat Idaret Al-awqaf Al-islamiya bil Jaza'ir*, (1999): 2-3.

Spaniards. The new arrivals from Andalusia possessed much land in Algeria, and they established a mosque for themselves in 1033 AH and endowed numerous *awqāf* inside and outside the city. These *awqāf* were allocated to spend on worship and helping the poor among the Andalusians arrivals. The *awqāf* were overseen by trustee called “Trustee of Andalusia.” Studies mention that Andalusia *awqāf* exceeded 40 properties, in addition to the allocation of the equivalent of 61 different incomes, but it faded after the demolition of the school of Andalusia in 1841. The *awqāf* were estimated to be equivalent to 408,072 golden francs in 1837.²⁹

2.1.3.6 *Awqāf* of Islamic Schools, Righteous People, and Ashraf

These different independent foundations are related to people who founded them during their lives. The mission of these foundations was represented in the payment of current educational institution or religious costs, and any surplus was distributed among the poor of *Ashraf*³⁰ and *Baytul-Māl*. The most famous of these institutions, those that refer to the tomb of *Sidi Abdulrahmān ta'alibi* which has around 72 properties that generated estimated revenues of around 6,000 French francs in 1937.³¹

2.1.3.7 *Awqāf* of Public Utilities (Roads, Canals, and Tunnels)

Several properties were endowed inside the city and outside Algeria to spend on public facilities such as roads, streams, and canals, and these facilities had many *awqāf* and assigned trustees (*Shawish*) known as the trustees of roads, streams, and springs.³²

2.1.3.8 *Awjāq* Foundation (The *Awqāf* of Soldiers and Barracks)

These *awqāf* were allocated to each of the seven barracks in the city, so that their incomes benefited directly the military residing in those *waqf* houses and properties. The *waqf* properties were represented in small houses or shelters accommodating between 200 to 300 men, and big houses accommodating between 400 to 600 soldiers. The funds were originally allocated for those soldiers who had received promotion, where the promotion at work was associated with the importance of the *waqf* property. However, soldiers got their salaries directly from the ruler (*Basha*) and *waqf* revenues were spent on something else such as gifts. It should be noted that *awqāf* trustees were appointed by residents of

²⁹Abu El-Qasem Saad Allah, *Tarikh Al-Jaza'ir Al-Thaqafi, Al-Juz' Al-Awal* [Algeria's Cultural History, part 1] (Bairut: Dar Al-gharb Al-islami, 1998). doi: <https://books-library.online/files/download-pdf-ebooks.org-wq-11116.pdf>

³⁰*Ashraf* are people from the descendants of the prophet SAW.

³¹Mustafa Ahmed Bin Hamush, “Al-Waqf wa Tanmyat Al-Mudun min Al-thurat ila Al-Taḥdīt,” [Waqf and the Development of Cities from Heritage to Modernization]. in *Nadwat Al-Waqf Al-islami fi Al-Emarat Al- 'Rabia Al-Mutahdah, Al- 'Ayn: Jami' at Al-Emarat Al-Arabia Al-Mutahdah*, (1997).

³²Naser El-Din Saiduni, *Derasat fi Al-Melkya Al-Aqarya* [Studies in Real Estate], (Al-Jaza'ir: Al-Mu'sasah Al-watanya Lilketab, 1986), 100. doi: <https://top4top.io/process/5d7de7f38e80e8dee4bd4b8dbdcd2e5f46ca8bd5>

waqf houses and shelters (soldiers) without the intervention of local authorities, reflecting the democracy of decision in the *awjāq awqāf* foundation and its independence from the local authority.³³ Table 1 illustrates the expenditures of some *waqf* institutions during the Ottoman rule, according to financial report of the French administration on 30th September 1842. These expenditures were estimated in French francs at that time.

Table 1. The Expenditures of Some *Waqf* Institutions during the Ottoman Rule

Year	<i>Awqāf</i> of the Two Holy Mosques	<i>Awqāf</i> of <i>Subul Al-khayrat</i>	<i>Awqāf</i> Foundation of Andalusia People
1836	105701.15	9750.40	
1837	109895.99	13341.27	3870.80
1838	109937.25	13903.70	3978
1839	143068.62	12192.709	4141.24
1840	166495.25	12712	3384.20
1841	177268.91	10615.55	2775.20
Total	812367.17	72515.61	18734.20

Source: *El-assalah* magazine, Ministry of Religious Affairs, 90/89, Jan-Feb 1981.

2.2 The Algerian *Waqf* System During the French Colonialism

Since the beginning of the French colonial period in Algeria, the French administration considered *awqāf* as one of the major problems that ran counter to its colonial policy on the one hand, and its incompatibility with their colonial economic principles on the other. This was because *awqāf* gave some sort of independence from the colonial administration, so it was faced with confiscation by the French administration and looting in various ways, which caused it to become weak and ineffective. Furthermore, the French army leaders worked hard to impose severe control over religious institutions, through filtering and seizing its *awqāf*, as well as issuing decisions and decrees for stripping immunity and protection of *waqf* properties by states. It was this immunity which constituted one of the many obstacles faced by the reforms (alleged) of colonialism.³⁴

In December 1830, the French marshal “Clauzel” issued a decree stipulating the dissolution of the *awqāf* of the two holy mosques (*ḥaramain*), claiming that their income was spent on foreigners. This decision ensured seizing the *awqāf* of the great mosque too, and it was stated in its sixth article that anyone who did not disclose his *waqf* would be fined. Furthermore, an issued report by the military French minister on 23rd March 1843,

³³Ibid., 101.

³⁴Fares Masdur, and Kamel Mansuri, “Al-Tadribah Al-jaza’ria fi Idarat Al-Waqf: Al-Tarikh wa Al-Hader wa Al-Mustaqbal,” [The Algerian Experience in Waqf Management: History, Present and Future, 8; Souriah Hadadou, and Slimane Al-Nahwi, “Tatawer Al-Sulūk Al-Waqfi fi Al-Jazair,” [The Evolution of Waqf Behavior in Algeria], 103. doi: <https://www.asjp.cerist.dz/en/article/99400>

stated that, “the expenses and income of religious institutions shall be joined to French government’s budget.”³⁵ After the French army took over Algiers, during the first 5 years of the occupation, the French administration issued decrees aimed at changing gradually *waqf* provisions by introducing business to its scope and exchanging *waqf* properties, in order to facilitate its possession for European’s newcomers. At the same time, it took control of 27 mosques and 11 Islamic schools and places of worship (*Musalla*).³⁶

As stated in Masdur and Mansuri (2008), the first French decision meant for the *waqf* distraction was issued on 8th September 1830, and included provisions stating that French authorities had the right to seize and occupy properties of the previous Ottoman administrators and staff, and part of the *awqāf* of the two holy mosques foundation. This sparked outrage and condemnation among the clerics, scholars and dignitaries of Algiers who considered this decision a clear violation of the 5th article of “the delivery statement of the Algiers Treaty (4th July 1830).” There was at the forefront of the protesters, the *Mufti ibn Al-anabi* who prevented the confiscation of the two holy mosques *awqāf* at that time. Then a series of decrees, decisions and plans were instated, that were intended mainly to tighten the control of the colonial administration on the *waqf* properties in Algeria, including the following:

- i. 7th December 1830 decree authorized the Europeans’ (invaders) possession of the *awqāf*, which showed an explicit exploitation of *waqf* properties.
- ii. 25th October 1832, the application for control of *waqf* properties plan was launched and within 5 years from that date, *waqf* was totally controlled and put at the disposal of the French marshal “Savin,” who was supervising and controlling 2000 *awqāf* spread over 200 institutions and charity foundations.³⁷
- iii. 1st October 1844 decision stipulated for lifting the immunity of *waqf*. Therefore, subjecting *awqāf* to provisions of real estate transactions, and this decree enabled Europeans to possess and control over half of the agricultural land on the outskirts of major cities in Algeria, thereby reducing the number of public *awqāf* to 293 after being estimated to be around 550 before the occupation.
- iv. 30th October 1858 decree expanded the previous resolution, where *awqāf* became subject to laws of property ownership implemented in France and allowed the Jews and some Muslims to possess it.
- v. Another decision was called the “1873 Act,” which aimed at the liquidation of the *awqāf* and thus eliminated them gradually in the Algerian society.

³⁵Mohamed El-Bashir El-Hashmi Mughli, “Al-Takwin Al-Iqtisadi Linidham Al-Waqf Al-Jaza’iri wa Dawruh Al-Muqawem lil Ihtelal Al-Feransi,” [The Economic Formation of the Algerian Waqf System and its Role in Resisting the French Occupation], *Majalat Al-Masader* 4, no. 6 (2002): 161. doi: <https://www.asjp.cerist.dz/en/downArticle/29/4/6/146241>

³⁶Naser El-Din Saiduni, *Derasat fi Al-Melkya Al-Aqarya* [Studies in Real Estate], 105-106.

³⁷According to Secretary-General report on the *awqāf* on 10th Dec 1835.

2.3 The Algerian *Waqf* System after Independence, 1962

After Algeria's independence and because of the great legal vacuum faced by the country at that time, the decree of December 1962 was issued and extended the validity of French laws in the country, excluding those affecting national sovereignty. Therefore, *waqf* was not among the concerns of the State, which negatively affected their situation (particularly in terms of care and maintenance for whatever was left). Worse than that, French law was applied in dealing with *waqf* properties, restricting its role to deal with religious affairs only, such as houses of worship and *Qur'ānic* schools.

2.3.1 Status of Algerian *Awqāf* after the Decree 64/283

To remedy the situation, Decree 64/283 was issued on 17th September 1964 consisting of *waqf* properties system as a result of the proposal of the minister of religious *awqāf*. However, this decree was never applied and *awqāf* remained as it was in the era of colonialism.³⁸ In November 1971, the decree of the agricultural revolution was released, and although this decree excluded *waqf* properties from nationalization, nevertheless its application was not as stipulated, but included most of *waqf* lands within the agricultural revolution, which worsened the situation of *waqf* properties, even those that were known after independence and survived from being lost and looted during the colonial period.³⁹

The status of *waqf* properties in Algeria continued to get worse with the passage of time, despite the issuance of Family Law in June 1984, which did not break new ground with regard to the organization of the *waqf* property but pointed to general concepts about *awqāf* in the 5th article.⁴⁰ Therefore, it can be clearly observed that *waqf* properties were neglected even after the independence, which had a negative impact on their continuity and caused them to be systematically destroyed, especially fully established properties, due to natural effects and the lack of maintenance, and above all this the loss of *waqf* documents and contracts (*waqf* archives), which complicated the process of its retrieval.

2.3.2 Status of Algerian *Awqāf* after the Constitution of 1989

Issuing the constitution of 1989 was the first step in fact to protect the *waqf* properties, where article 49 thereof stated that “the *waqf* properties and properties of charities are recognized and protected by the law.” Therefore, *waqf* properties gained constitutional

³⁸Al-Awqāf, “Al-Amlāk Al-waqfiya fi Al-Jaza'ir” [Waqf Properties in Algeria], in *Nadwat Tatwir Al-Awqāf Al-Islamiya wa Tanmyatuha* (Nwakshut: Manshura Al-bank Al-islami Liltanmya Bita'awn ma'a Al-Amanah Al-'amah Lilawqaf, 2000); Brahim Ben Daoud, and Ahmed Ta'iba, “Idarat Al-Amlāk Al-Waqfia bi Al-Jaza'ir wa Subul Istithmaraha,” [The Management of Waqf Properties in Algeria and Methods of its Investment], *Majalat Al-Dirassat Al-Qanunia wa Al-Siasat* 2, no. 2 (2016): 7. doi: <https://www.asjp.cerist.dz/en/article/37584>

³⁹Fares Masdur, and Kamel Mansuri, “Al-Tadjrubah Al-Jaza'ria fi Idarat Al-Waqf: Al-Tarikh wa Al-Hader wa Al-Mustaqbal,” [The Algerian Experience in Waqf Management: History, Present and Future], 21-22.

⁴⁰Ibid., 22.

protection for the first time since independence.⁴¹ After that, laws and decrees were successively issued, reinforcing the status of *waqf* properties in Algeria, which made retrieving the status of *waqf* gradually possible in the Algerian society, and the following are some of those issued laws and decrees:

- i- Law No. 91/10 dated on 12 *Shawwal* 1411H corresponding to 27th April 1991, related to *waqf* properties, which included 50 regulatory laws.
- ii- Executive Decree No. 98/381 dated on 12 *Sha'ban* 1419H corresponding to 1st December 1998, which defined the terms of *waqf* property management and its governance and protection. It included 5 chapters and 40 items in the various provisions.
- iii- Ministerial Decree No. 29 dated on 31st February 1999, that ordered for the establishment of *awqāf* commission and defined its task and function under the authority of the Minister of Religious Affairs and *Awqāf*.
- iv- Ministerial Joint Resolution No. 31 dated on 14 *Dulqi'da* 1419H corresponding to 2nd March 1999, which ordered for the establishment of an *awqāf* central fund under the supervision of the ministry of finance and the Ministry of Religious Affairs and *Awqāf*.
- v- Ministerial Decree dated on 10th April 2000, defined the modes of *awqāf* revenues and its expenditures.
- vi- Law 01/07 dated on 22nd May 2001, that modified and complemented the Law 91/10, it addressed the development of *awqāf* and its investments.

Through these laws, resolutions and other legislation and regulations, it is noticeable that legislative activity in the field of *waqf* took a quantum leap, especially after the constitution of 1989 which boosted the prestige of *awqāf* in Algerian law, after a long time of looking for a law that guaranteed and encouraged the development of *awqāf* in order to serve the community.⁴² It should be noted that the Algerian *waqf* sector has suffered from the ravages of another dark phase in Algerian history, which began in 1991. It could be called the stage of political instability which lasted 10 years. This phase was marked by violence, murder, and a great state of chaos, which resulted in the loss of *awqāf* even more, as well as the encroachments of public *waqf* by individuals.

2.3.3 The Investments of Real Estate *Awqāf* in Algeria in the Light of *Waqf* 91/10 and 01/07 Law Act

The *waqf* real estate investment in Algeria until today, has not witnessed strong field application. This is because, the pace of different *waqf* investment projects is very weak, even though they are promising projects and reflect the paradigm shift in this field, and among these projects are the following:

⁴¹Ibid., 22-23.

⁴²Fares Masdur, "Al-Awqāf Al-Jaza'iria Bayn Al-Indithar wal Istithmar," [Algerian Awqāf between Extinction and Investment], 192.

- i- The project of *Kiram* city, which is the first of its kind in the Arab and Muslim world in terms of its composition; it contains apartments, shops, business center, bank, mosque, and an orphanage.
- ii- The *waqf* Complex *Al-bashir Al-ibrahimi* - Municipality project of *Bufarik* Blida city, which contains offices, traditional and electronic library, lecture hall, school that specializes in *Quranic* teaching, specialized schools (in various sciences), and a house of hospitality.
- iii- The Grand Mosque project (Algiers Mosque), a *waqf* complex that contains the third largest mosque in the Arab and Muslim world after the two holy mosques, hotel, specialist health center, High Institute of Islamic Studies, shopping mall, restaurants, traditional craft workshops, Islamic cultural center, parking, and wide green spaces (70% of the project area),

Through the review of these pilot projects, it is evident that there is a quantum leap in the investment of *awqāf* in Algeria. However, this would not have been possible without legal provisions allowing such investments, beginning with the introduction of the 91/10 Act dated 12 *Shawwal* 1411H corresponding to 27th April 1991, amended later by the law 01/07.⁴³ It should be noted that all the above-mentioned *waqf* projects have been established and invested at governmental or state level. The legal system of the *awqāf* in Algeria is still lacking modernization and development, which allows individuals to carry out huge investment projects that benefit individuals and society at large.

Article 45 of the law 91/10 has allowed investing *waqf* properties as stipulated that: “develop the waqf property and invest according to the will of the endower (*wāqif*), and in accordance with the purposes of Islamic law in the field of *awqāf* (*Maqāsid Al-sharī‘ah*) and according to methods determined by regulations.” It appears from the review of Algerian laws that this decree is the only one addressing openly the investment of *waqf* properties, according to *wāqif* (endower) conditions, and should be identical to Islamic law in the field of *awqāf*, but the modes of implementing it were not explained yet by the regulation and were restricted on rent which always remains weak compared to market prices.

The situation remained unchanged (despite the issuance of Executive Decree No. 98-381 dated on 12 *Sha‘ban* 1419H corresponding to 1st December 1998, which defined the terms of *waqf* property management, governance, and protection etc.), until the issuance of 01/07 law which amended and complemented 91/10 law, that illustrated *waqf* investment

⁴³Ibid., 194.

methods more clearly.⁴⁴ The most important *waqf* investment modes that came under the law 07/01 were as follows⁴⁵:

- i. Sources of *waqf* investment funding: The fourth Article explained these sources as:
 - a. Self-financing: the money generated from *awqāf* (*waqf* Fund).
 - b. National Finance: financing from various sources of government funding, institutions, local communities and so on.
 - c. External funding: from international financial institutions or even private funds.
- ii. Financing modes of *waqf* agricultural properties: if the *awqāf* are in the form of land or trees they shall be invested as follows:
 - a. Farming contract (عقد المزارعة): this is represented in giving the land to farmer who is willing to invest it based on a share of the crop, to be agreed upon signing the contract.
 - b. Watering contract (عقد المساقاة): this is represented in giving *waqf* trees to a person who is expert in watering fruitful trees based on a share of the fruits to be agreed upon signing the contract.
- iii. Financing Modes of *waqf* Idle Properties: this can be invested as follows:
 - a. *Hukr* contract (عقد الحكر): this is the allocation of part of the idle land for construction or implantation for a certain period in exchange for payment of an amount close to the value of the *waqf* land at the time of signing the contract. Furthermore, the investor is obliged to pay an annual rent, specified in the contract, in exchange for the right to use the land. The investor can bequeath his right during the contract period.
 - c. *Mursad* contract (عقد المرصد): This is the agreement between the department of *waqf* (*Nazir*) and the tenant who reforms the land and constructs it, and its expenses are considered as an observatory debt to be settled from *waqf* revenues for an agreed period upon condition of giving back the property to the *waqf* department at the end of the contract.⁴⁶
 - d. *Istibdal* contract (عقد الإستبدال): this is a contract whereby the *waqf* department replaces a part of the building with a part of the land.
 - e. Restoration contract (reconstruction) (عقد الترميم وإعادة الإعمار): this is for the *awqāf* which are prone to devastation and extinction, where the tenant pays under this

⁴⁴Fares Masdur, and Kamel Mansuri, “Al-Tadribah Al-Jaza’ria fi Idarat al-Waqf: Al-Tarikh wa Al-Hader wa Al-Mustaqbal,” [The Algerian Experience in Waqf Management: History, Present and Future], 24.

⁴⁵Article No. 26 which are complementary to the provisions of chapter IV of the Act 91/10 of articles 26 bis and 26 bis 11.

⁴⁶*Hashiyat Ibn-Abedin (4/402); Bidayatu Al-Mudjtahid (2/236); Majmu‘ Fatawa Ibn-Taimiya (31/224).*

contract approximately the reconstruction amount with the condition to be deducted from the amount of rent in the future.

- f. The *awqāf* deposits: These enable the owner of accumulated money to hand it over to the authority in charge of *waqf* in the form of a deposit for the sake of investing it. And the fund provider can retrieve it back whenever he wants.

It should be mentioned that there are other types of *waqf* investments mentioned in the Law 07/01 such as, construction contract (عقود البناء), *Qardul-ḥasan* contract (عقد القرض الحسن) and speculative contract (عقود المضاربة).⁴⁷ However, it is evident from the review of *waqf* legislations in Algeria the lack of discussion on private *waqf*, family *waqf* and cash *waqf* which entails further research and development.⁴⁸ Although all the aforementioned investment methods of the *awqāf* are related to the development and investment aspects, the lack modern methods in developing this sector is evident such as *sukuk waqf*, *waqf* funds, *Istisna'* contract, *Murabaha* financing, the use cash *waqf* and so on.⁴⁹ This raises a big question about the necessity to updating the Algerian *waqf* legal system.

2.3.4 The Investments of Real Estate *Awqāf* in Algeria in the light of Executive Decree 18/213

In response to requests calling for the modernization and development of the *waqf* legal system, the Algerian government granted its approval to individuals and private investors to invest in *waqf* properties under the executive decree No. 52 issued on the 20th of August 2018. The decree specifies the terms and conditions of utilizing *waqf* properties directed to the completion of investment projects. This decree also includes various public *waqf* properties regardless of being built or non-built, on condition of being directed towards the completion of investment projects, excluding public *waqf* properties of a peasant nature. The objective behind the issuance of this decree is to expose the *waqf* field to giant investments and projects within the framework of valuing *waqf* properties and developing them according to the will of *wāqif* (endower) and *Sharī'ah* objectives.⁵⁰

⁴⁷Brahim Ben Daoud, and Ahmed Ta'iba, "Idarat Al-Amlāk Al-waqfīa bi Al-Jaza'ir wa Subul Istithmariha," [The Management of Waqf Properties in Algeria and Methods of its Investment], 18-19.

⁴⁸Abdelkader Laallam, Salina Kassim, Engku Rabiah Adawiah Engku Ali, and Buerhan Saiti, "Intellectual Capital in Non-Profit Organisations: Lessons Learnt for Waqf Institutions," *ISRA International Journal of Islamic Finance* 12, no. 1 (2000): 37-40. doi: <https://www.emerald.com/insight/content/doi/10.1108/IJIF-10-2018-0111/full/html>

⁴⁹Malek Berah, "Istithmar Al-Amwal Al-Waqfīa: Al-Aliat wa Al-Dhawabet Al-Sharī'ah," [Investing Waqf Funds: Mechanisms and Sharī'ah Controls], *Majalat Madjami' Al-m'Refah* 3, no. 2 (2017): 188-189. doi: <https://www.asjp.cerist.dz/en/article/74950>; Soufian Debih, "Istithmar Al-Waqf Al-Naqdi fi Al-Tashri' Al-Jaza'iri: Al-Dhawabet wa Al-Aliat," [Investing Cash Waqf in Algerian Legislation: Controls and Mechanisms], *Majalat Al-Dirassat wa Al-buhoth Al-Qanunia* 4, no. 1 (2019): 98-99. doi: <https://www.asjp.cerist.dz/en/article/95890>

⁵⁰Abdelkader Laallam, "An Investigation of Knowledge Management and Intellectual Capital

In the same context, the decree touches on most of the *waqf* properties, for example, non-built lands, built-up properties for receiving investment projects, as well as built-up properties that need to be reworked, expanded, or improved, and even demolished in case they need to be rebuilt and restored to their initial use, while the beneficiary remains obliged to establish investment projects and in all cases the investment project facilities are integrated into public *waqf* properties. Although the decree 52, has addressed and opened the door for *waqf* investments by individuals in the hope of developing the *waqf* field in Algeria, nevertheless any aspects and specifications remain vague with regard to the application of law investment for different *waqf* projects such as hospitals, schools, hotels and so on.⁵¹

2.4 Organisational Structure of the Waqf Institutions in Algeria

In Algeria, *waqf* properties and all related matters are under the supervision of the ministry of religious affairs and *awqāf* or specifically, the central administration in the ministry of religious affairs and *awqāf*, which is under the direct control of the minister religious affairs and *awqāf*. The central administration in the ministry of religious affairs and *awqāf* is located in the capital Algiers. It consists of: (1) General Secretariat which is in charge of assisting and preparing the work of the minister, (2) General Inspectorate that all its operations are determined by the executive decrees. The later contains: (1) Directorate of Religious Guidance and *Qur'ānic* Teaching, (2) Directorate of *Awqāf*, *Hajj* and *Umrah*, (3) Directorate of Islamic Culture, (4) Directorate of Training and Improvement, (5) Directorate of means management, (6) Directorate of Legal Studies and Cooperation. Each up-mentioned directorate oversee specific tasks and have several sub-directorates that deal with specific issues and operations.⁵²

As this study deals with the case of Algerian *waqf* institutions. The focus will be placed more on the tasks and operations of directorate of *awqāf*, *Hajj* and *Umrah*. Based on Article 3 of Executive Decree No. 2000-146 issued on the 28th of June 2000. The Directorate of *Awqāf*, *Zakat*, *Hajj* and *Umrah* shall be responsible for the following: (1) Searching, registering and counting *waqf* properties, (2) Supervising the collection and distribution of *zakat* resources and determining their disbursement methods, (3) Preparing programs for the management, investment and development of *awqāf*, (4) Follow-up the collection of the resources of *waqf* properties and determining the means of disbursement, (5) Improving the financial and accounting management of *awqāf*, (6) Preparation of programs to raise

on Organizational Performance in Non-Profit Organizations: The Context of Algerian Waqf Institutions.” (PhD diss., International Islamic University Malaysia, 2020), 38-39.

⁵¹Sounia Qasmi, “Al-Waqf Al-Islami fi Al-jaza'ir bayna Madaher Al-Jomud wa Aliyat Al-Taf'il,” [The Islamic Endowment in Algeria Between the Manifestations of Stagnation and Activation Mechanisms], *Majalat Dirassat Iqtisadiyah* 13, no. 38 (2019): 167. doi: <https://www.asjp.cerist.dz/en/article/98231>; Abdelkader Laallam, “An Investigation of Knowledge Management and Intellectual Capital on Organizational Performance in Non-Profit Organizations: The Context of Algerian Waqf Institutions,” 38-39.

⁵²Ibid., 39.

awareness and encourage the giving of *zakat* duty, (7) Preparing transactions and agreements related to *waqf* properties and ensuring the follow-up of their implementation, (8) Ensuring the integrity and honesty of the secretariat committee of *waqf* properties, (9) Supervising the preparation and organization of the *Hajj* season, (10) Ensuring the integrity and honesty of the national secretariat committee for *Hajj*, (11) Ensuring the follow-up work of tourist agencies operating in the field of *Hajj* and *Umrah* and evaluating them⁵³. Directorate of *awqāf*, *Hajj* and *Umrah* under the ministry of religious affairs and *awqāf* has four sub-directorates, namely: (1) Sub-Directorate of the enumeration and registration of the *waqf* properties, (2) Sub-directorate of *waqf* properties investment, (3) Sub-directorate of *Zakat*, (4) Sub-directorate of *Hajj* and *Umrah* (see figure 1).

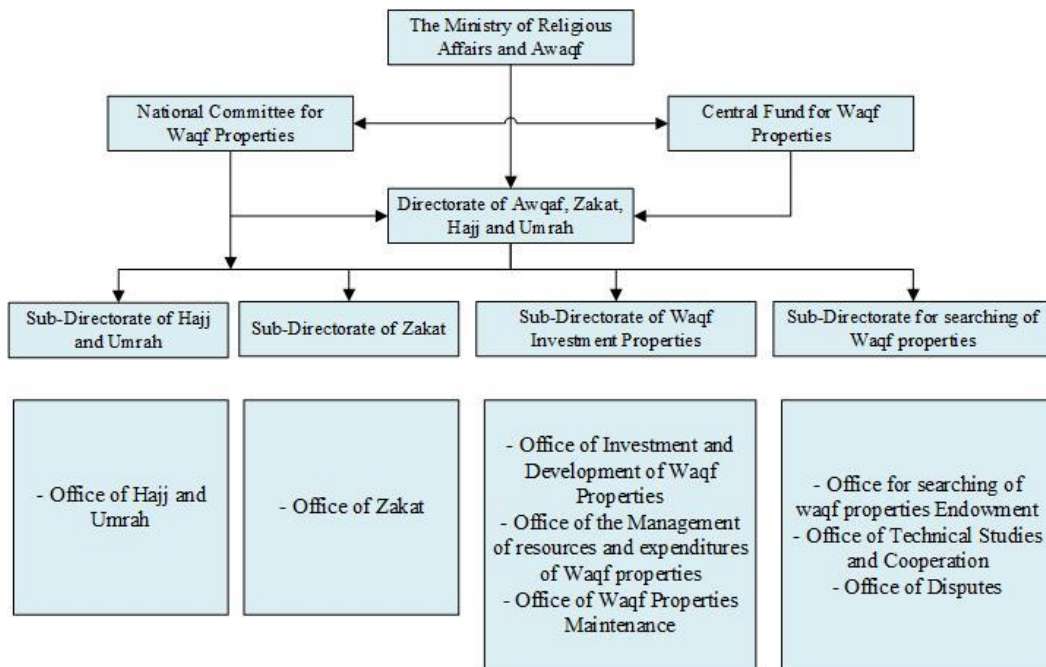


Figure 1. Central Structure of the Algerian *Awqāf*

In Algeria, there are 48 directorates of religious affairs and *awqāf* (DRAA) located in every one of the 48 provinces of the country. They are regarded as a small version of the ministry of religious affairs and *awqāf*, in which they have small offices and departments representing specific tasks devoted by the ministry. They oversee managing *zakat* funds, *waqf* properties, *Hajj* and *Umrah* matters and other religious matters in each of the 48 provinces of the country. At every DRAA, there is a separate department dedicated to the collection, disputes, management, and investment of *waqf* properties. All those DRAAs are directly linked with the main directorates located in the capital and ministry of religious

⁵³Ibid., 40.

affairs and *awqāf*.⁵⁴ It is evident from the above, that the Ministry of Religious Affairs and *Awqāf* has multiple departments and many tasks that are complex and overlapping. This will inevitably affect the management of *awqāf* negatively. The fact that *awqāf* are large entities which require specialized, efficient, and dedicated management standards, has led many experts and researchers to request the establishment of an independent, institutionalized body to take care of all *waqf* related matters.⁵⁵

3. Observation on the Impacts of the *Waqf* on the Community Life after Independence

Awqāf have been known in Algeria as a long-standing institution since the inception of Islam in north Africa, which preceded the Ottoman rule by centuries. The *waqf* activity at that period was directed at building mosques and endowing real estate for scientific and education purposes, as well as providing shelter and assistance for the poor, wayfarer, sponsoring orphans and so on. We mention, for example, but not limited to, the *awqāf* of Sidi Median Chouaib, which exceeded 23 properties in the city of Tlemcen, as they date back to the year 906 AH - 1500 AD. Also, the *awqāf* of Abdullah Saffar Mosque in Algeria, which were estimated at 100 hectares in the year 640 AH - 1534 AD.⁵⁶ It is worth noting that this research did not deal with the history of the *waqf* in Algeria before the Ottoman rule due to the lack of references in this regard, and due to the absence of the archive containing the ruling data in that period due to the French colonialism. As mentioned previously, the French colonialist worked to extend his control over all *awqāf* in Algeria, disrupt them and lift their immunity, considering them a major obstacle to colonial expansion.

After independence, the *waqf* institutions were the same as all other economic institutions in the country, due to the remnants of colonialism which worked hard at eliminating them, especially those concerned with education. Algeria was alerted to the

⁵⁴Ibid., 42.

⁵⁵Fares Masdur, and Kamel Mansuri, "Al-Tadjudub Al-Jaza'ria fi Idarat Al-waqf: Al-Tarikh wa Al-Hader wa Al-Mustaqbal," [The Algerian Experience in Waqf Management: History, Present and Future], 24-26; Abdelwahab Ben Hamadi, "Al-Idarat Al-Mubashera li Al-Waqf fi Al-Tashri' Al-Jaza'iri (Al-Nazara)," [Direct Administration of the Waqf in Algerian Legislation (Nazra)]. *Majalat Al-Ustad Al-Baheth li Al-Dirassat Al-Qanunia wa Al-Siasiat* 2, no. 4 (2017): 592-595. doi: <https://www.asjp.cerist.dz/en/article/80494>; Malek Berah, "Istithmar Al-Amwal Al-Waqfia: Al-Aliat wa Al-Dhawabet Al-Shar'iah," [Investing Waqf Funds: Mechanisms and *Sharī'ah* Controls]. *Majalat Madjami' Al-M'refah* 3, no. 2 (2017): 190. doi: <https://www.asjp.cerist.dz/en/article/74950>; Abdelkader Laallam, Salina Kassim, Engku Rabiah Adawiah, and Buerhan Saiti, "Towards Knowledge-Based Waqf Organizations," in *Challenges and Impacts of Religious Endowments on Global Economics and Finance*, ed. Buerhan Saiti and Adel Sarea (IGI Global, 2020), 107. doi: <https://www.igi-global.com/chapter/towards-knowledge-based-waqf-organizations/244766>

⁵⁶Abdelrahman Bousaid, "Al-Awqāf wa Al-Tanmia Al-Iqtisadia wa Al-Ijtimai'a fi Al-Jaza'ir," [Al-Awqaf and Economic and Social Development in Algeria]. (MS diss., University of Oran, 2012).

need to reorganize the *waqf* sector for its important role in social solidarity and the economic construction of the state, so efforts were directed to inventory what was left, and recover what was lost, then manage it under the sovereignty of the state represented by the Ministry of Religious Affairs and *Awqāf*.⁵⁷ More than 10,000 *awqāf* have been counted in Algeria today, represented by shops, offices, car parks, bathrooms, functional housing for workers, *waqf* housing, agricultural lands, idle lands, built lands, forests, oases and orchards, etc.⁵⁸ See Table 2 below.

Table 2. Statistics of *Waqf* Properties in Algeria 2011 - 2017

Years	Statistics of <i>waqf</i> properties
2011	8749
2012	8851
2013	9196
2014	10104
2015	10401
2016	10467
2017	10615

Source: Ministry of Religious Affairs and *Awqāf*

Regardless of the efforts exerted, the *waqf* sector in Algeria today, according to many researchers and experts, suffers from many problems and forms of stagnation that limited its impacts on building society today. Among of which are:

- Direct intervention of the state in the affairs of *waqf*: subjecting all *waqf* properties in Algeria to the centralization of the Ministry of Religious Affairs and *Awqāf* undermines the development of this sector.⁵⁹ This intervention has reflected a static stereotype of the *waqf* among the public, as well as contributed towards weakening the trust factor, reducing the contribution to the *waqf* sector, thus reducing Its impacts in the community. Moreover, direct intervention of the state in the affairs of *waqf*

⁵⁷Sounia Qasmi, “Al-Waqf Al-Islami fi Al-Jaza’ir Bayna Madaher Al-Jomud wa Aliyat Al-Taf’īl,” [The Islamic Endowment in Algeria Between the Manifestations of Stagnation and Activation Mechanisms], *Majalat Dirassat Iqtisadiyah* 13, no. 38 (2019): 166. doi: <https://www.asjp.cerist.dz/en/article/98231>

⁵⁸Abdelwahab Bertima, and Hamza Abdeli, “Tadjudbat Al-Jazai’r fi Al-Tamwīl ghair Al-Ribhi: Al-Zakat wa Al-Awqāf” [Algeria’s Experience in Nonprofit Financing: Zakat and Awqāf]. (paper presented at conference of Innovation and Financial Engineering Products and Application: Between the Conventional and Islamic Finance Industrie, Universty of Setif, 2014. doi: <http://dspace.univ-setif.dz:8888/jspui/bitstream/123456789/948/1/m3..pdf>

⁵⁹Sounia Qasmi, “Al-Waqf Al-Islami fi Al-jaza’ir Bayna Madaher Al-jomud wa Aliyat Al-Taf’īl,” [The Islamic Endowment in Algeria Between the Manifestations of Stagnation and Activation Mechanisms], *Majalat Dirassat Iqtisadiyah* 13, no. 38 (2019): 166. doi: <https://www.asjp.cerist.dz/en/article/98231>

affect in a way or other the pace of projects completion and follow-up processes. Numerous studies have indicated the consequences of direct state supervision over *awqāf* by virtue of the complexity of the ministries' tasks and the dispersion of the waqf sector's efforts in the administrative rather than the developmental matter.⁶⁰ It is more appropriate to follow the examples of some successful countries in managing this flexible and sensitive sector and accompany it constructively by introducing independent entities concerned with the *waqf* issues and its development.⁶¹ It is worth noting that Algeria has a number of modern *waqf* investment projects, which represent a qualitative leap in the Algerian *waqf* sector, such as the *kiram* neighborhood complex and the Great Mosque project. However, liberating the *waqf* sector from centralization of ministries would maximize the *waqf* impacts further in society and accelerate the pace of achievement and uplift performance, as well as opening the door for contribution by the public.

- High unemployment rates, poverty rates and social problems: Algeria, as the largest country in Africa, has great capabilities and many wealth that should reflect the diversity of the *waqf* sector in the country. However, the complexity of the social situation, the high rates of poverty, the emergence of societal stratification and the lack of opportunities for young people, raises many questions about the role that the waqf sector plays as an effective tool for sustainable development goals, in bridging the growing rift between the segments of Algerian society.⁶²
- The lack of clarity and ambiguity of the *waqf* related laws in Algeria: a careful reading and in-depth research in the legal system in Algeria shows that most of the *waqf* related laws are characterized by ambiguity and lack of clarity. In addition, most *waqf* related laws are outdated and fail to keep pace with modern management and investments *awqāf* methods. It is also noticeable that the *waqf* system in Algeria focused on the formulas of leases in a very large way, which cast negative impacts

⁶⁰Kamel Mansuri, "Al-Islah Al-Idari Li Moua'sasat Qita'a Al-Awqāf - Dirasat Halat Al-Djaza'ir," [Administrative Reform of the Waqf Sector Institutions - a Case Study of Algeria] (PhD diss., University of Biskra, 2013); Abdelkader Laallam, Salina Kassim, Engku Rabiah Adawiah Engku Ali, and Buerhan Saiti, "Intellectual Capital in Non-Profit Organisations: Lessons Learnt for Waqf Institutions," *ISRA International Journal of Islamic Finance* 12, no. 1 (2000): 35-39. doi: <https://www.emerald.com/insight/content/doi/10.1108/IJIF-10-2018-0111/full/html>

⁶¹Abdelkader Laallam, Salina Kassim, Engku Rabiah Adawiah, and Buerhan Saiti, "Towards Knowledge-Based Waqf Organizations," in *Challenges and Impacts of Religious Endowments on Global Economics and Finance*, ed. Buerhan Saiti and Adel Sarea (IGI Global, 2020), 107. doi: <https://www.igi-global.com/chapter/towards-knowledge-based-waqf-organizations/244766>

⁶²Sounia Qasmi, "Al-Waqf Al-Islami fi Al-Jaza'ir bayna Madaher Al-Jomud wa Aliyat Al-Taf'il," 166-170. doi: <https://www.asjp.cerist.dz/en/article/98231>

on the development and investment of *waqf* properties, in addition to exposing them to depreciation and then extinction.⁶³

- Lack of coordination between civil society institutions and *waqf* institutions: It is clearly observed the emergence of many civil institutions and associations in Algeria, in order to heal the rift resulting from the decline of the *waqf* role in society. However, it is also evident the estrangement and lack of coordination between charities and *waqf* institutions in Algeria to achieve common societal and development goals. This resulted in dispersal of efforts and reduced societal impact. This point raises several questions about the effectiveness of the *waqf* institution in Algeria in light of the current direct ministerial supervision based on the centrality of the decision.⁶⁴

4. Conclusion

This study critically reviews the historical aspects of *waqf* in Algeria in three different eras namely, the Ottoman rule era, the French colonisation period and after independence. Also, it highlights the practice of many *waqf* institutions existed therein and addresses their developments and impacts on the community life. During the Ottoman period, particularly before the colonial era, the *waqf* system in Algeria was playing an important role in community life, where the *awqāf* provided important positions and jobs even outside the religious sphere. In addition to this was its contribution towards helping the poor and needy and, in alleviating their burden inside and outside the state; for example, the *awqāf* of the two holy mosques, the *Hanafī awqāf* foundation, Andalusian *awqāf* foundation, and so on. However, the Algerian *awqāf* began to experience a huge decline during the colonial era, when the French colonisers started to confiscate the *awqāf* and attempted to belittle its effective role in the community, once they realized how these *awqāf* helped to deeply instill in the community a spirit of independence within the people, to look after themselves. After independence in 1962, there were modest initiatives to upgrade *awqāf* properties, and attempts to recover the lost ones, but all these efforts were weak compared with the size of the *waqf* properties in Algeria during the Ottoman period, and with the complexity of retrieving them after independence, due both to the loss of documents which the coloniser had seized and taken to his home of origin and the slow process of archive recovery by the Algerian authorities, along with the slow process of *waqf* legal system development that has not kept pace with the development of the Algerian society. The researcher

⁶³Fares Masdur, and Kamel Mansuri, “Al-Tadjrubah Al-Jaza’ria fi Idarat Al-Waqf: Al-Tarīkh wa Al-Hader wa Al-Mustaqbal,” [The Algerian Experience in Waqf Management: History, Present and Future], 96-124.

⁶⁴Kamel Mansuri, “Al-Islah Al-Idari Li Moua’sasat Qita’a Al-Awqāf - Dirasat Halat Al-Djaza’ir,” [Administrative Reform of the Waqf Sector Institutions - a Case Study of Algeria]. (PhD diss., University of Biskra, 2013); Abdelkader Laallam, Salina Kassim, Engku Rabiah Adawiah Engku Ali, and Buerhan Saiti, “Intellectual Capital in Non-Profit Organisations: Lessons Learnt for Waqf Institutions,” 40.

contemplating the reality of the *awqāf* in Algeria finds a great gap between legislation and applications in the field, which raises many questions centered around the reasons that prevent the *waqf* industry in Algeria in performing its intended role in developing societies.

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