

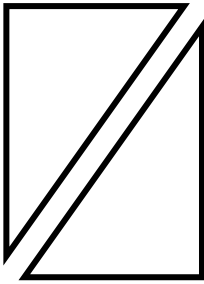
Technical Notes on Good Nazir Governance

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Core Principles for Effective Waqf
Operation and Supervision

Good Nazir Governance

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TECHNICAL NOTES ON GOOD NAZIR GOVERNANCE

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GOOD NAZIR GOVERNANCE (GNG)¹

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¹ The term nazir (waqf manager) is also known as mutawalli in some countries. However, for consistency with the WCP document, the rest of the document will use the term nazir.

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A. INTRODUCTION

Background

- 1) A technical note is a short article giving a brief description of a specific development, technique or procedure, or it may describe a modification of an existing technique or procedure applicable to waqf. The technique or procedure described should have practical value and should contribute to waqf management. A technical note is variously referred to as technical innovations or technical developments.
- 2) One of the most important aspects of waqf management is Good Nazir Governance (GNG). Corporate governance, including nazir governance, refers to “the exercise of ethical and effective leadership by the governing body towards the achievement of several outcomes including ethical culture, good performance, effective control, and legitimacy” (Governance Code for Islamic NPO’s, 2021). Given their reliance on public money or assets and obligations to manage their activities in line with Shari’ah principles and practices, Nazir should implement GNG.
- 3) As has been highlighted in Waqf Core Principles number 13, GNG is an element that affects the quality of the overall waqf system. The entire process of the waqf system started from the collection, management, development, and distribution until reporting process of waqf asset² will be determined by the soundness of GNG. As the result, GNG will lead to a higher and better public trust that will optimize the potential waqf for the betterment condition of the society. Hence, the presence of a technical document translating WCP number 13 is extremely needed.

² Waqf asset in this document covers all types of assets including fixed asset and cash waqf.

General Principles

- 4) The literal meaning of the word waqf is “hold, confinement or prohibition” (Kahf, 2002). In Islamic economics, the term waqf is defined as “holding certain property and preserving it for the specific benefit of philanthropy and prohibiting any use or disposition of it outside its specific objective”. Hence perpetuity and the permanence of the stipulations of the waqf founder are the two major features of waqf. Waqf management includes waqf asset/fund collection, investment, development, management, disbursement, financial management, and risk management. The ICFA resolution stated, “Waqf management ought to be subjected to good governance practices, through Shari’ah Advisory Councils, good management, financial reporting and auditing.” (WCP, 2018).
- 5) Good Nazir Governance (GNG) should reflect maqasid sharia values including sharia-compliant aspects such as God-Fearingness, Degrees of Taqwa, and amanah (trustworthy). Maqasid sharia aims at realizing genuine human well-being in this life and the hereafter. It covers five main objectives that include protection, preservation, and promotion of faith (*hifz al-din*), life (*hifz al-nafs*), intellect (*hifz al-’aql*), wealth (*hifz al-mal*), and posterity/dignity (*hifz al-nasl*). Therefore, GNG should be interpreted as one of the effective means to realize the objectives of sharia.
- 6) Based on Governance Code for Islamic NPO’s (2021), Islamic governance principles consist of 10 main principles. These include accountability, trust (*amanah*), consultation (*shura*), ethical conduct, justice, truthfulness (*sidq*), social justice (*al-adl wa al-Ihsan*), excellence (*ihsaan*), and maqasid sharia (higher objectives of the sharia). Specifically, ethical conduct comprises several aspects that include fulfilment of promises and obligations, honesty, prohibition of deriving income from cheating, price manipulation, dishonesty or fraud and prohibition of bribery to derive undue advantage.

7) To summarize, good governance must comprise five core elements (Indonesia National Committee of Governance, 2006) that should promote excellence (*ihsaan*) and realization of maqasid sharia. Those are:

7.1. Transparency

It is intended to preserve and maintain the objectivity of the waqf instrument, and hence, a Nazir institution must provide material and relevant information that is easily accessible and understandable by stakeholders. Transparency should reflect trust (*amanah*) and truthfulness (*sidq*).

7.2. Accountability

A Nazir institution must be accountable for its entire activities. Therefore, a Nazir institution must align itself with the sharia principles and the interest of stakeholders in a proper and measurable manner.

7.3. Responsibility

A Nazir institution shall abide by laws and regulations and fulfil its responsibility to the communities and environment for the purpose of maintaining the long-term sustainability of waqf and being recognized as a good Nazir institution.

7.4. Independency

A Nazir institution must be managed independently with an appropriate code of conduct without any harmful intervention from other parties. This should reflect consultation (*shura*).

7.5. Fairness

A Nazir institution must have a fair system that can improve the quality of waqf management. This should reflect justice and social justice (*al-adl wa al-lhsan*).

8) Tanjung *et al*/in 2021 attempted to formulate the implementation index for waqf core principles. Accordingly, it was found that of the three components assessed, the governance component contributed 34 percent of Nazir's management aspect, occupying the second position after the core activity component. While the third component, namely risk management, has a

contribution of 30 percent. Of the 30 percent, good Nazir governance contributed 25 percent. Moreover, GNG values are divided into four categories, namely less good, good enough, good, and very good. Scores on this dimension range from 0.35 to 0.92. The number of Nazir who is in the fairly good and balanced category is around 38 percent, followed by Nazir in the poor category, which is around 19 percent, and finally very good with a percentage of 6 percent.

- 9) This technical note is set to establish important factors that ensure the good management of waqf institutions or Good Nazir Governance (GNG). It is also designed as a benchmark for global waqf authorities and Nazir institutions in setting up a sound waqf management system, which is effective and efficient. In the long run, compliance with this standard will enhance credentials for international assessment.

Main Objectives

- 10) The Technical Note of the Waqf Core Principles on Good Nazir Governance (GNG) is set to address some specific objectives as follows:
 - 10.1 To act as a reference for Nazir institutions in carrying out governance in their respective waqf institutions.
 - 10.2 To provide indicators and measurement standards of Good Nazir Governance (GNG) that can be implemented in each waqf institution.

Scope of Application

- 11) This technical note is relevant to all waqf institutions. This standard should be comprehended together with other regulations such as waqf law and regulation, accounting standards, and their regulatory derivations. This standard shall complement the requirement of other relevant national and international regulations.

Methodology

- 12) This technical note employs a qualitative framework through intensive international working group meetings. It also is supported by a desk study collecting relevant references. The main reference for this technical note is the Waqf Core Principles (WCP) document. In addition, Focus Group Discussion (FGD) with experts, regulators, and practitioners, was carried out to strengthen the discussion on the substantive content of this technical note.
- 13) This technical note is also enriched with the formulation of an index called the Good Nazir Governance (GNG) Index. It is a multi-weighted index that is derived from the basic principles of governance comprising transparency, accountability, responsibility, independency, and fairness along with their indicators. These indicators are derived from essential and additional criteria of WCP number 13.

B. GOOD NAZIR GOVERNANCE

Definition

- 14) Good Governance refers to a set of organizational structures and mechanisms designed to promote and sustain transparency, integrity, accountability, independency, responsibility, and professionalism in decision-making and implementation processes. Nazir is a person or group of persons or an institution authorized to collect, mobilize, administer, develop, invest, manage, disburse and account for waqf, through state or other legally binding bodies.
- 15) Based on Waqf Core Principles number 13, the waqf supervisor determines that waqf institutions have robust and Good Nazir Governance (GNG) policies and processes that cover *shari'ah* and legal compliance, strategic tools, the control environment, waqf management knowledge, and the responsibilities of the Boards of waqf institutions. The essential and additional criteria are as follows:

15.1. Essential Criteria:

- 15.1.1. *Shari'ah* law, regulations, and the waqf supervisor determine that the concept and definition of the Nazir can still be applied in the current waqf institutions. Nazir deserves to receive a share of the profit as his remuneration derived from the waqf asset or fund management as a certain percentage of the total profit of waqf asset and fund investments. If the share of the profit from waqf investments is insufficient to support the management fee, then the amount can be paid from non-waqf wealth such as *shadaqah*, infaq, or a tax on a nationally agreed percentage.
- 15.1.2. The waqf supervisor provides guidance to waqf institutions on the expectations for sound Nazir governance.
- 15.1.3. The waqf supervisor regularly assesses a waqf institution's Nazir governance policies and practices commensurate with *shari'ah* regulations and systemic importance.
- 15.1.4. The waqf supervisor establishes the Nazir governance structures, requirements, integrity and characters that are appropriate for nominating and appointing manpower that is honest, trustworthy, upright, and virtuous.
- 15.1.5. The waqf supervisor determines that the Board of the waqf institution:
 - 15.1.5.1. Approves and actively oversees the implementation of the waqf supervisory direction and strategy;
 - 15.1.5.2. Establishes and communicates Islamic culture and values through a code of conduct;
 - 15.1.5.3. Establishes fit and proper standards in selecting Nazir officers who are of good character, integrity, and who have good basic knowledge in the required areas (waqf asset/fund collection; waqf investment, management, development, and disbursement; and financial management);
 - 15.1.5.4. Establishes policies to address conflicts of interest and a strong control environment; and
 - 15.1.5.5. Ensures the effectiveness of waqf governance over the entire management of the waqf institution.

- 15.1.6. The waqf supervisor has the power to recommend changes in the composition of the waqf institution Board if it is legally proved that any individuals are not fulfilling their duties.
- 15.1.7. Waqf management should develop competence in at least three basic elements that support an independently effective governance structure, namely risk management, audit, and business.
- 15.2. Additional Criteria:
 - 15.2.1. The waqf supervisor maintains a plan for succession to improve the quality of waqf officers through certification.
 - 15.2.2. Laws, regulations, or the supervisor require the waqf institution to notify the waqf supervisor as soon as they become aware of any material and bona fide information that may negatively affect the fitness and propriety of a waqf Board member or a member of the senior waqf management.

Dimensions and Indicators of Good Nazir Governance (GNG)

16) The dimensions and indicators of GNG based on WCP number 13 should reflect five important aspects of good governance namely, transparency, accountability, responsibility, independency, and fairness. The dimensions and indicators of Good Nazir Governance are exhibited in Table 1.

Table 1. Dimensions and Indicators of Good Nazir Governance (GNG)

Dimensions	Indicators
Transparency	<ol style="list-style-type: none"> 1. Nazir has a policy or standard operating procedure (SOP) of the fund sources' rights for Nazir. 2. These sources of funds as highlighted in point 1 should be in accordance with shariah and existing regulations and should comply with anti-money laundering and anti-terrorism policies. 3. The fund proportion for Nazir from the waqf fund management should comply with the percentage highlighted in the regulation. 4. Double counting of the right of Nazir that is yielded from the waqf project should be avoided. 5. The policy or SOP includes planning, implementing, controlling, and mitigating action if the target is not achieved.

Dimensions	Indicators
Accountability	<ol style="list-style-type: none"> 1. Nazir has a complete organizational structure and job description and is equipped with proper organizational planning. 2. A sound and complete organization consists of at least a chairman, a secretary, a treasurer, and the structures implementing the following functions: <ol style="list-style-type: none"> a) Waqf collection b) Assets and financial management c) Waqf development d) Distribution and empowerment of beneficiaries' right e) Internal audit and shariah supervision f) Risk management g) Reporting and communication 3. Nazir institution should have a sound and proper SOP and dedicated Good Nazir Governance structure or committee to ensure the efficiency and effectiveness of organizational functions implementation as highlighted in point 2. 4. The quality, integrity and character of Nazir should be honest, trustworthy, upright, and virtuous. 5. Nazir institution has certified professional Nazir. 6. The certification should be done by an independent waqf supervisor acknowledged by the professional certification body. 7. Nazir has a regular human development program to improve his competence in the area of risk management, audit, and business. 8. Nazir has a policy or SOP on the <i>Istibdal</i> (exchange of waqf asset) mechanism to ensure the sustainability of waqf assets for the benefit of the beneficiaries
Responsibility	<ol style="list-style-type: none"> 1. Nazir institution should have an annual audited financial report. 2. Nazir institution should have an annual audited shariah report. 3. Nazir institution should have an internal risk management report on a semester basis. 4. Nazir institution should comply with government/public information regulations.
Independency	<ol style="list-style-type: none"> 1. Nazir institution must have a sound and proper ethical code of conduct. 2. Nazir should not receive any gifts and other types of rewards that may affect its ability to perform its duties and programs. 3. Nazir should have an ethical committee that is responsible to ensure the soundness of the ethical code of conduct implementation. 4. Nazir should have a proper reward and punishment system. 5. Nazir officers should sign a declaration of ethical commitment to ensure the realization of ethical responsibility. 6. Any type of conflict of interest that may harm Nazir's reputation and performance should be avoided. 7. Nazir institution should have a proper standard operating procedure for the appointment of an independent external auditor.

Dimensions	Indicators
Fairness	<ol style="list-style-type: none"> 1. Nazir has a specific policy or SOP related to the human resources recruitment system to ensure fairness. 2. Nazir has a specific policy or SOP related to human resources development. 3. The policy includes planning, implementation, control, and reporting of the human resources recruitment and development. 4. Nazir institution should have sound and fair career path and remuneration systems for its human resources.

C. GOOD NAZIR GOVERNANCE (GNG) FRAMEWORK

- 17) The Good Nazir Governance (GNG) framework has an important role since it will determine the quality of waqf management that defines the optimization of waqf potential. The Good Nazir Governance (GNG) framework aims to improve the efficiency and effectiveness of waqf management so that the benefit of waqf can be significantly distributed to all elements in the country.
- 18) The quality of waqf management is crucial to optimize the role of waqf in the country's development, reduce the poverty gap and income inequality, increase social welfare, and achieve development sustainability.
- 19) The Good Nazir Governance (GNG) framework can be implemented at the micro level, as well as the macro level. At the micro level, Good Nazir Governance (GNG) framework is implemented consistently by the waqf institution. As for the macro level, this framework can be implemented as part of the waqf management system in which there is a clear division of roles between the regulator, supervisor, and operator of waqf management. This division shall be regulated in the statutory provision binding in the particular country.
- 20) This Good Nazir Governance (GNG) framework is designed as an instrument to ensure that the management of waqf is in accordance with the provisions of prevailing acts or regulations and *shariah* law. The public is expected to actively supervise and evaluate the implementation of Good Nazir Governance (GNG) in the waqf institutions.

Technical Assessment Methodology

21) In order to assess the implementation of this technical note, a weighted composite index is applied. All dimensions and indicators are derived from part B of this Technical Note. The detailed indicators of Good Nazir Governance (GNG) and its measurement can be found in Table 2.

Table 2. Technical Assessment of GNG Indicators

Dimension	Code	Indicators	1 Not Available/ Not comply	2 Incomplete / Partially Complied	3 Complete / Fully Complied
Transparency (T)	T1	Policy or standard operating procedure (SOP) of the fund sources rights for Nazir			
	T2	Implementation of policy or SOP (T1) is in accordance with shariah and existing regulations and anti-money laundering and anti-terrorism			
	T3	The implementation of the fund proportion for Nazir from waqf fund management that complies with the percentage highlighted in the regulation			
	T4	The absence of double counting of the right of Nazir that is yielded from waqf project			
	T5	The availability of policy or SOP that includes planning, implementing, controlling, and mitigating action in case the target is not achieved			
Accountability (A)	A1	The availability of complete organizational structure, job description, and proper organizational planning			
	A2	The availability of sound and complete organization that consists of at least a chairman, a secretary, a treasurer, and the structures			

Dimension	Code	Indicators	1 Not Available/ Not comply	2 Incomplete / Partially Complied	3 Complete / Fully Complied
		implementing following functions: <ol style="list-style-type: none"> 1. Waqf collection 2. Assets and financial management 3. Waqf development 4. Distribution and empowerment of beneficiaries' right 5. Internal audit and shariah supervision 6. Risk management 7. Reporting and communication 			
	A3	The availability of sound and proper SOP and dedicated Good Nazir Governance structure or committee to ensure the efficiency and effectiveness of organizational functions			
	A4	The availability of a program to ensure the quality, integrity and character of Nazir that is honest, trustworthy, upright, and virtuous			
	A5	The availability of certified Nazir professional from an independent waqf supervisor acknowledged by professional certification body	(< 20%)	(21% - 60%)	(> 60%)
	A6	The availability of regular human development program to improve Nazir competence in the area of risk management, audit, and business			
	A7	The availability of policy or SOP on <i>Istibdal</i> (exchange of waqf asset) mechanism to ensure the sustainability of waqf assets for the benefit of the beneficiaries			

Dimension	Code	Indicators	1 Not Available/ Not comply	2 Incomplete / Partially Complied	3 Complete / Fully Complied
Responsibility (R)	R1	The availability of annual audited financial report			
	R2	The availability of annual audited shariah report			
	R3	The availability of internal risk management report on semester basis			
	R4	The compliance with government/ public information regulation			
Independency (I)	I1	The availability of sound and proper ethical code of conduct			
	I2	The availability of internal regulation prohibiting Nazir to receive inappropriate gifts and other types of rewards that may affect its ability to perform its duties and programs			
	I3	The availability of ethical committee that is responsible to ensure the soundness of ethical code of conduct implementation			
	I4	The availability of proper reward and punishment system			
	I5	The availability of a signed document stating the commitment to realize ethical responsibility			
	I6	The availability of internal regulation prohibiting any types of conflict of interest that may harm Nazir's reputation and performance			
	I7	The availability of proper standard operating procedure of appointment of independent external auditor			

Dimension	Code	Indicators	1 Not Available/ Not comply	2 Incomplete / Partially Complied	3 Complete / Fully Complied
Fairness (F)	F1	The availability of policy or SOP related to human resources recruitment system to ensure the fairness			
	F2	The availability of specific policy or SOP related to human resources development.			
	F3	The availability of the policy that includes planning, implementation, control, and reporting of the human resources recruitment and development			
	F4	The availability of sound and fair career path and remuneration systems for its human resources			

22) The method of calculation is explained below:

- Put a tick to the appropriate column in each indicator. For instance, for indicator A1, if Nazir does not have any policies or standard operating procedure (SOP) of the fund sources rights for Nazir then tick 1 (not available).
- Fill all the assessment columns of Table 2.
- The calculation method is based on the following formula:

$$S_i = \frac{S_a - S_{min}}{S_{max} - S_{min}}$$

Where:

S_i = Indicator's score

S_a = Actual score ticked in indicator column

S_{max} = Maximum indicator score

S_{min} = Minimum indicator score

- Calculation of overall GNG index is based on the following formula:

$$\mathbf{GNG\ Index = 0.24T + 0.29A + 0.13R + 0.12I + 0.22F^3}$$

Where:

GNG Index = Good Nazir Governance Index

T = Transparency indicators' score

A = Accountability indicators' score

R = Responsibility indicators' score

I = Independency indicators' score

F = Fairness indicators' score

- The formula of transparency indicators' score:

$$\mathbf{T = 0.14T1 + 0.25T2 + 0.17T3 + 0.15T4 + 0.29T5}$$

Where:

T = Transparency indicators' score

T1, T2, T3, T4, and T5 = Indicators in Transparency dimension explained in Table 2.

³ The weighted score for each dimension is measured by using Analytical Hierarchy Process (AHP). The AHP questionnaires were fulfilled by some waqf experts and practitioners to determine the weight or importance level of the dimension of Good Nazir Governance Index. This AHP method applies to all mathematical formula in this document.

- The formula of Accountability indicators' score:

$$A = 0.10A1 + 0.19A2 + 0.13A3 + 0.17A4 + 0.14A5 + 0.18A6 + 0.09A7$$

Where:

A = Accountability indicators' score

$A1, A2, A3, A4, A5, A6$ and $A7$ = Indicators in Accountability dimension explained in Table 2.

- The formula of Responsibility indicators' score:

$$R = 0.30R1 + 0.29R2 + 0.21R3 + 0.20R4$$

Where:

R = Responsibility indicators' score

$R1, R2, R3,$ and $R4$ = Indicators in Responsibility dimension explained in Table 2.

- The formula of Independency indicators' score:

$$I = 0.14I1 + 0.10I2 + 0.15I3 + 0.22I4 + 0.12I5 + 0.17I6 + 0.10I7$$

Where:

I =Independency indicators' score

$I1, I2, I3, I4, I5, I6,$ and $I7$ = Indicators in Independency dimension explained in Table 2.

- The formula of Fairness indicators' score:

$$F = 0.20F1 + 0.22F2 + 0.36F3 + 0.22F4$$

Where:

F =Fairness indicators' score

$F1, F2, F3,$ and $F4$ = Indicators in Fairness dimension explained in Table 2.

Determination of Compliance Level

23) After the GNG index is measured, the result of the index will be categorized into four groups of compliance levels namely, less-compliant, materially non-compliant, largely compliant, and compliant. The explanation of each group can be found in Table 4

24) Table 4. Compliance Level of Good Nazir Governance (GNG)

Range of GNG Index	Interpretation	Explanation
0.00 – 0.25	Less-compliant	A Nazir institution will be considered less compliant with the technical note on Good Nazir Governance (GNG) whenever there are severe shortcomings, where, despite the existence of the GNG indicators, at most one-fourth of the indicators are met.
0.26 – 0.50	Materially non-compliant	A Nazir institution will be considered less compliant with the technical Note on Good Nazir Governance (GNG) whenever there are severe shortcomings, where, despite the existence of the GNG indicators, at most half of the indicators are met.
0.51 – 0.75	Largely compliant	A Nazir institution will be considered largely compliant with the technical Note on Good Nazir Governance (GNG) whenever there are minor shortcomings, where, at most three-fourths of the GNG indicators are met.
0.76 – 1.00	Compliant	A Nazir institution will be considered compliant with the technical Note on Good Nazir Governance (GNG) whenever there are insignificant shortcomings, where more than three-fourths of the GNG indicators are met.

D. VALIDATION AND RATIFICATION

- 25) The technical note on Good Nazir Governance (GNG) is validated in the World Zakat and Waqf Forum Annual Meeting 2022, which was held in Leeds, the United Kingdom on 30th September 2022.
- 26) The World Zakat and Waqf Forum member countries and member institutions are committed to implement the technical note on Good Nazir Governance (GNG) gradually based on existing laws and conditions in each member country and member institution.

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This document does not represent the stance of Badan Wakaf Indonesia (BWI), Bank Indonesia (BI) or the World Zakat and Waqf Forum (WZWF). All opinions and any mistakes found are the authors' responsibility.

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