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Examining the Authority of the Ruler in Public Endowment under the Iranian Legal System

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Public endowment (*waqf ʿāmm*)—as one of the significant juridical and jurisprudential institutions within the Iranian legal system—plays a pivotal role in promoting public welfare and achieving social justice. The distinguishing feature of public endowment is the absence of a specific custodian (*mutawalli*) and its dependence on public interests, which necessitates governmental supervision and intervention. In Imami jurisprudence, the religious ruler (*ḥākim al-sharʿ*)—as the guardian of the Muslim community (*wali al-amr al-muslimin*)—possesses general authority over the administration and protection of public endowments, including the appointment and dismissal of custodians, supervision over the execution of the donor's intent, prevention of deviation, and adjudication of disputes concerning endowment. These jurisprudential foundations are reflected in Iran's positive law, particularly in the *Law on the Organization and Authority of the Endowments and Charity Affairs Organization* enacted in 1984, which entrusts the management of public endowments without a custodian to the Supreme Jurist (*vali-ye faqih*) and his representatives. This study, employing a descriptive-analytical method, investigates the dimensions and scope of the ruler's authority in public endowment and demonstrates that, within the Iranian legal system, such authority not only serves a supervisory and protective function but also acts as the primary mechanism for realizing the donor's objectives and preventing the dissipation of endowed property. Consequently, the effectiveness of this authority is considered a fundamental condition for ensuring the continued influence of the endowment institution in the social and economic development of society.

Keywords: *authority, ruler, endowment, public endowment, law, Iran.*

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1. Introduction

Public endowment (*waqf ʿāmm*), as one of the essential legal institutions within the Iranian legal system, plays a significant role in fulfilling the social and economic needs of society (Rostami, 2021). This institution allows individuals to dedicate part of their property to charitable and public welfare purposes, thereby contributing to the improvement of the community's social and cultural conditions (Ayatollahi, 2004). In the Iranian legal system, the ruler (*ḥākim*)—as the representative of the state and society—bears multiple responsibilities in relation to public endowment. These responsibilities include approving *waqf deeds*, supervising the proper execution of the endowment, resolving disputes concerning endowments, and ensuring compliance with relevant laws and regulations (Andalīb & Esfandiari, 2015; Emami, 2017).

The importance of these authorities is such that they profoundly influence the administration and utilization of endowed properties. Given that public endowment, as a socio-economic institution, has far-reaching effects on society, examining the ruler's powers in this regard can lead to a better understanding of his role in safeguarding the rights of beneficiaries and preventing the misuse of endowed assets. Therefore, this article provides a detailed analysis of the ruler's authority in public endowment and its impact on achieving philanthropic and social objectives.

2. Terminological Meanings of Waqf

Lexical Meaning of Waqf: The term *waqf* in Arabic literally means "to stand," "to remain stationary," or "to stop and refrain" (Dehkhoda, 1966). In legal terminology, *waqf* refers to retaining the original property—such as a house or land—and prohibiting its sale, gift, inheritance, or any form of transfer except in cases explicitly exempted by law, so that the property remains intact while its benefits are utilized in the path of God, according to the donor's intention, for the public good or a specific group of people (Allameh, 2019; Shahid Thani, 2007). Because *waqf* embodies the notion of charity with permanence and continuity, it has been described in Islamic hadiths and jurisprudential texts as *ṣadaqah jāriyah* (continuous charity) (Shahid Thani, 2007).

Usufruct (Intifāʿ): The term *intifāʿ* literally means "to benefit" or "to make use of" (Bandar Rigi, 1995). Juridically, it denotes a right that allows a person to use another's property without transferring ownership to a third party. Usufruct represents a non-material form of benefit; in cases of *manfaʿah* (benefit), ownership may be transferred, but in *intifāʿ*, it is not (Ansari, 2001; Emami, 2017). The holder of the right of usufruct may use the property but cannot transfer this right to others. In endowments such as mosques and schools, beneficiaries hold only the right of usufruct, not ownership of the benefit itself. The term "benefit" in *waqf* refers to the use or profit derived from the property—whether material, such as milk from a cow, or immaterial, such as rental income from a shop. Ownership transfer of benefits is permissible only under specific legal conditions (Ja'fari Langaroudi, 2015).

Raqbah (Corpus of the Property): The term *raqbah* refers to land or property assigned to a person for personal use during their lifetime. In Persian usage since the Safavid era, *raqbah* has meant "a set of villages within one area," particularly those forming part of endowed estates. In *waqf* terminology, *raqbah* signifies an immovable property unit that belongs to a religious or charitable institution. Commercial spaces attached to mosques, for example, are considered part of the *raqbah*, and the Endowments and Charity Affairs Organization is responsible for their administration (Rostami, 2021; Shaybani, 2001). Therefore, any immovable unit belonging to an endowed property constitutes a *raqbah*.

Custodian (Mutawallī): The custodian is the person designated by the endower (*wāqif*) in the *waqf deed* to manage the endowed property according to specific qualifications and within a defined period, consistent with the donor's intentions (Andalīb & Esfandiari, 2015; Shahābi, 1964). The custodian's authority is fiduciary and limited to the terms stipulated in the *waqf* document and related statutory provisions.

Beneficiary (Mawqūf ʿalayh): The beneficiary is the person or entity entitled to the benefits of the endowment. This may include natural persons, such as the residents of a village for whom land is endowed, or legal persons, such as a clinic or educational institution (Emami, 2017; Kashif al-Ghita Najafi, 2001). Beneficiaries possess the right of usufruct but not ownership over the endowed property.

Endower (Wāqif): The endower is the individual who dedicates a portion of their assets for the sake of God, seeking divine proximity and satisfaction, so that others may benefit from the endowment according to their intent (Mousavi Khomeini, 1999; Rostami, 2021). The act of *waqf* requires genuine intent (*niyyah qurbatīyah*) and the irrevocable transfer of property rights from private to charitable ownership under the supervision of religious or legal authorities (Khamenei, 2025; Tusi, 1990).

3. Public Endowment (Waqf ʿĀmm)

A public endowment refers to the dedication of the corpus of a property—such as land, a house, or a garden—for the benefit of the general public or a group whose individual members are not specifically identified. For instance, when a person endows property for the benefit of the poor or students, this constitutes a public endowment. Endowments established for public welfare purposes—such as mosques, hospitals, or water reservoirs—are considered forms of public endowment (Ayatollahi, 2004).

According to many jurists, in a public endowment, the ownership of the endowed property is fully divested from the donor and ceases to belong to him (Tusi, 1990). Some scholars maintain that ownership of such an endowment is transferred to God (Shahid Thani, 2007), while others argue that the endowed property becomes *res nullius* (ownerless property), requiring no specific ownership designation (Yazdi, 1996). In any case, the transfer or alienation of endowed property is strictly prohibited (Ayatollahi, 2004).

According to the majority of jurists, the administration (*tawliyah*) of such an endowment rests with the custodian (*mutawallī*) appointed by the endower (*wāqif*). However, if no custodian has been designated, the administration and supervision of the endowment fall under the authority of the religious ruler (*ḥākim al-sharʿ*) (Khamenei, 2025; Mousavi Khomeini, 1999). Moreover, if it becomes evident that the appointed custodian lacks the competence or integrity required for managing the endowment, the religious ruler, in accordance with the interests of the Muslim community and the beneficiaries of the public endowment, has the authority to dismiss and replace the custodian (Adibimehr & Rahmani, 2014).

4. Types of Public Endowment

The Iranian Civil Code does not explicitly define *waqf ʿāmm* (public endowment), but Article 58 implicitly classifies an endowment made for non-limited persons or for public interests as a public endowment (Rostami, 2021). Furthermore, according to the *Instruction on Definitions and Terminology* adopted by the Endowments and Charity Affairs Organization on June 17, 1996, "a public endowment is one established for general welfare or public benefit, such as endowments for mosques, schools, mourning ceremonies (*taʿziyah*), charity meals, medical treatment, and aid to the poor and orphans." Both definitions, drawing upon Islamic jurisprudence, recognize endowments made for public welfare as public endowments (Khamenei, 2025).

From another doctrinal perspective, two interpretive criteria have been proposed: one emphasizes non-limited beneficiaries (*ashkhās ghayr maḥṣūr*) (Kashif al-Ghita Najafi, 2001), while the other focuses on general categories or collective descriptions (*ʿanāwīn kulliyyah*), both leading to the same outcome. To refer to non-limited individuals, one must use general terms, and these general terms in turn denote indefinite groups. Thus, public endowment manifests in two principal forms: endowment on general categories and endowment on public interests.

A. Endowment on General Categories

General categories refer to expressions denoting collective groups, such as "the poor," "the scholars," "the orphans," "the pilgrims," "the mourners," "the worshippers," "the students," or "the travelers." These expressions refer to unspecified individuals and indicate an endowment that benefits non-designated persons (Allameh, 2019). The endower, therefore, does not have particular individuals in mind, but rather characteristics such as poverty or knowledge. Even if the endower happens to know some of these individuals, they are not the direct objects of the endowment's intent; the endowment is established for those who embody a certain quality or condition.

Hence, no jurist has ever maintained that only those specifically known to the endower should benefit from such property, as the defining feature of this kind of *waqf* is its indeterminate scope. Accordingly, the number of beneficiaries (*mawqūf ʿalayhim*) in an endowment on general categories is considered unlimited, and their identification is left to the representative of the endowment organization or trustee (Adibimehr & Rahmani, 2014; Andalīb & Esfandiari, 2015).

B. Endowment on Public Interests

Public interests (*maṣāliḥ ʿāmmah*) are general objectives aimed at meeting spiritual needs—such as mourning ceremonies, Qur'an recitation, and congregational prayer—or material needs, such as medical care, feeding the poor, or providing education for unspecified individuals. Although these individuals are not explicitly mentioned, they are implicitly encompassed within the concept of public interest. For instance, in an endowment dedicated to mourning for Imam Husayn (peace be upon him), the beneficiaries are the unspecified participants in those ceremonies.

So long as no specific persons are designated, such purposes remain of a public nature. In other words, meeting others' legitimate needs constitutes a public interest unless limited to specific individuals. If, however, the endower intends to limit the beneficiaries to certain individuals, these individuals must be explicitly identified—for example, an endowment "for the poor descendants of the endower."

Some jurists contend that a "purpose" or "cause" (*jihah*) cannot serve as a beneficiary (*mawqūf ʿalayh*); rather, it is the actual persons who benefit from the endowment, such as patients in the case of medical endowments, students in educational ones, or participants in religious ceremonies (Kashif al-Ghita Najafi, 2001; Mohaqqeq, 1997). They argue that the existence of beneficiaries constitutes one of the essential pillars of an endowment, and its absence renders the endowment void. Conversely, others maintain that in an endowment for a purpose (*waqf ʿalā al-jihah*), the purpose itself constitutes the beneficiary rather than specific individuals (Tabatabaei Yazdi, 1993).

Both perspectives reflect aspects of the truth. While actual persons ultimately benefit from the endowed property and must be identified at the implementation stage, the donor's intent at the moment of establishing the endowment is directed toward fulfilling certain social or religious needs rather than toward any specific person. Thus, during the act of endowment, no concrete beneficiaries are present, but following its creation, individuals emerge as beneficiaries through their participation in or relation to that purpose (Ja'fari Langaroudi, 2015; Shahid, 1996).

Furthermore, the endower may express the intended purpose of the endowment through generic or categorical terms that implicitly convey public interest. For example, endowing property "for one of the Infallible Imams," particularly Imam Husayn (peace be upon him), as often stated in endowment deeds, may have a specific referent but essentially signifies the public purpose of supporting mourning ceremonies (Wahid Khorasani, 2007).

In conclusion, a public endowment is one established for unspecified beneficiaries—conceptually definite but practically indeterminate. After the endowment is constituted, in the case of general categories, the specific beneficiaries are identified by the endowment's representative, and in endowments for purposes such as mourning, the beneficiaries become evident through participation in the activity or fulfillment of the endowed objective (Khamenei, 2025; Rostami, 2021).

5. Jurisprudential–Legal Examination of the Duties and Authorities of the Custodian in Public Endowments

According to jurisprudential and legal principles, the right to appoint a custodian (*mutawallī*) primarily and originally belongs to the endower (*wāqif*). In cases of public endowments (*awqāf ʿāmmah*) where the endower has not appointed a custodian, it becomes the duty of the Islamic ruler (*ḥākim al-sharʿ*) to designate an individual, group, or institution as custodian (Khamenei, 2025; Mousavi Khomeini, 1999). When an endowment has a specific custodian, no one has the right to interfere or obstruct the custodian's administration, and even the Endowments and Charity Affairs Organization (*Sāzmān-e Awqāf wa Omur-e Khayriyyah*) does not have the authority to audit or demand financial reports from him (Andalīb & Esfandiari, 2015).

If corruption or betrayal of trust by the custodian is established, the ruler must appoint a trustworthy person to oversee his activities (Adibimehr & Rahmani, 2014). A custodian, even in cases of incapacity, does not have the right to delegate his custodianship to another individual; he may only appoint an attorney (*wakīl*) to assist him, provided the endower has not expressly prohibited such delegation.

In general, three principal duties rest upon the custodian of public endowments:

A. Preservation and Maintenance of the Endowment's Corpus and Appurtenances:

The custodian's foremost responsibility is to preserve and safeguard the endowed property and to undertake maintenance or renovation as necessary. Thereafter, he must collect the revenues generated by the endowment and allocate them according to the purposes specified by the endower, including covering expenses required for maintaining the property and its attachments (Emami, 2017).

B. Leasing of Endowed Properties:

When leasing endowed properties such as lands, houses, or shops whose rents are intended to finance mosques or other public facilities, the primary criterion is adherence to fairness and market valuation. Two main methods exist for determining rent:

- Consulting certified judicial experts for official rent appraisal;
- Investigating the rent rates of similar nearby non-endowed properties.

Based on the principle of *iḥtiyāṭ* (precaution), the custodian should consider both expert valuation and comparable market prices and select the higher rate to prevent loss to the endowment. The custodian is prohibited from leasing endowed property for less than its appraised or customary market value (Andalīb & Esfandiari, 2015; Ja'fari Langaroudi, 2015).

C. Sale of Worn-Out or Obsolete Objects and Equipment Belonging to the Endowment:

The custodian may sell consumable or depreciated movable items belonging to the endowment when necessary, ensuring that proceeds are utilized in accordance with the endower's intentions (Andalīb & Esfandiari, 2015).

6. The Authority of the Ruler in Public Endowments within the Iranian Legal System

The ruler's authority in matters of public endowment has been recognized both in Islamic jurisprudence and in Iran's statutory law. Because public endowments lack specific custodians and concern public welfare, they inherently require the supervision and intervention of the ruler—the *Vali-ye Faqih* (Supreme Jurist) or his representative—to ensure that the endowment does not deviate from the donor's intent (Khamenei, 2025; Mousavi Khomeini, 1999).

Under statutory law, Article 5 of the *Law on the Organization and Authority of the Endowments and Charity Affairs Organization* (enacted in 1984) assigns the administration of public endowments without custodians to the *Vali-ye Faqih*, to be exercised through the Endowments Organization. This authority includes appointing and dismissing endowment managers, supervising the use of revenues, adjudicating disputes related to endowments, and preventing any dissipation of endowment rights (Emami, 2017). Article 6 of the same law further specifies that the responsibility for preserving, reviving, and administering public endowments without custodians lies with the Endowments and Charity Affairs Organization.

From a jurisprudential perspective, jurists of the Imami school unanimously hold that, since a public endowment serves the general community, its administration (*tawliyah*) falls within the jurisdiction of the religious ruler (*ḥākim al-sharʿ*) (Mohaqqeq, 1997; Tabatabaei Yazdi, 1993). As Imam Khomeini explained, the religious ruler has guardianship authority (*wilāyah*) to safeguard endowments and to ensure that the donor's intentions are fulfilled by appointing competent individuals or institutions as custodians (Mousavi Khomeini, 1999).

Therefore, the ruler's powers in public endowment include the appointment of custodians, their dismissal in case of violation or incapacity, supervision over the execution of the donor's will, and undertaking necessary actions to protect the interests of the endowment (Andalīb & Esfandiari, 2015; Ja'fari Langaroudi, 2015).

In summary, both under Iranian statutory law and Imami jurisprudence, the ruler plays a central role in managing, supervising, and safeguarding public endowments, and these authorities are institutionally exercised through the Endowments and Charity Affairs Organization as the official representative of the *Vali-ye Faqih* (Khamenei, 2025; Rostami, 2021).

7. Conclusion

The study of public endowments (*awqāf ʿāmmah*) and the role of the ruler and custodian within their framework reveals the intricate relationship between jurisprudence, governance, and social welfare in the Iranian legal system. Public endowments are among the most enduring instruments of charitable contribution, embodying a balance between private generosity and public interest. Their legal and administrative structure is not merely a matter of property regulation but a reflection of the moral and social philosophy that underpins Islamic law: that wealth, while individually possessed, ultimately carries a collective obligation toward the community.

The concept of *waqf ʿāmm* embodies the idea that property can transcend individual ownership to become a permanent source of benefit for society. In this regard, the divestment of ownership by the donor (*wāqif*) and the irrevocability of the act of endowment symbolize the transformation of personal property into a trust for the public good. The stability of this system depends on two essential pillars: the integrity of the custodian (*mutawallī*), who directly manages the endowed assets, and the overarching authority of the ruler (*ḥākim al-sharʿ*), who ensures compliance with legal and ethical norms and protects the endowment's purposes from deviation or misuse.

The role of the custodian is both fiduciary and managerial. As a fiduciary, the custodian must act with absolute honesty, prudence, and loyalty to the intentions of the endower. As a manager, he must employ the endowed property in ways that ensure its preservation, productivity, and conformity with the donor's specified objectives. The three primary duties assigned to him—preservation of the endowment's corpus, appropriate leasing of endowed assets, and the management or sale of obsolete property—are manifestations of these responsibilities. Each duty demands a balance between the spiritual intent of the endower and the practical realities of economic and legal management. The custodian serves not as the owner of the property but as a trustee of a perpetual social asset.

At the same time, the ruler's authority acts as the ultimate safeguard of the system. The ruler's oversight guarantees that the altruistic and social objectives of the endowment are not compromised by individual negligence or corruption. His power to appoint or dismiss custodians, to supervise the implementation of the endower's will, and to intervene in the administration of endowments when necessary ensures continuity of purpose and institutional integrity. This hierarchical structure of authority, in which the ruler occupies the highest supervisory position, reflects the Islamic legal vision of harmonizing divine law with organized governance.

The need for governmental oversight in public endowments arises from their inherently collective nature. Because the beneficiaries of such endowments are indeterminate, and their purpose is directed toward the general welfare, they cannot depend solely on private administration. Without supervision, the risk of mismanagement, conflict of interest, or the erosion of the endowment's value would threaten both its sustainability and its social utility. Thus, the legal framework that entrusts the *Vali-ye Faqih* (the Supreme Jurist) and his representatives with the power to manage and protect public endowments ensures that the system operates within ethical and legal boundaries while maintaining fidelity to the endower's original intention.

This dual structure—comprising the custodian as executor and the ruler as overseer—creates a dynamic balance between decentralization and central oversight. The custodian provides localized, operational control, ensuring that the property remains productive and aligned with community needs. The ruler, meanwhile, represents institutional continuity and moral legitimacy, offering a higher level of accountability that transcends individual or temporal interests. This symbiosis strengthens the resilience of the *waqf* system, allowing it to adapt to changing social and economic contexts while preserving its foundational principles.

Furthermore, the legal treatment of public endowments highlights a distinctive feature of Islamic law: the merging of moral responsibility with juridical authority. The custodian's duties are not defined solely by administrative regulations but are grounded in ethical and spiritual accountability. Likewise, the ruler's role is not merely bureaucratic; it carries the dimension of guardianship (*wilāyah*), which implies stewardship in accordance with divine law and the common good. This dual emphasis ensures that the management of endowments is not reduced to a technical exercise but remains an expression of social justice and piety.

In the modern context, the effective administration of public endowments requires not only adherence to traditional principles but also adaptation to new social and economic realities. The increasing complexity of property management, urban development, and social welfare demands that custodians possess both ethical integrity and professional competence. The legal system, therefore, must continue to evolve in ways that reinforce transparency, accountability, and efficiency without compromising the sanctity of the institution. Clear mechanisms for financial reporting, judicial oversight, and public participation can strengthen confidence in the *waqf* system and prevent its exploitation for non-charitable purposes.

At the same time, the authority of the ruler, as articulated in both jurisprudence and statute, must be exercised judiciously to balance oversight with autonomy. Excessive centralization could stifle the organic, community-based nature of endowments, while insufficient supervision could lead to fragmentation and misuse. The optimal approach lies in maintaining a framework where the state, through the Endowments and Charity Affairs Organization, provides guidance, support, and regulation, while allowing custodians the flexibility to manage endowed assets in ways best suited to local circumstances.

In essence, the role of the ruler in public endowments extends beyond mere administrative control; it embodies the principle of *wilāyat al-ḥākim*—the moral and legal guardianship over communal interests. This guardianship ensures that endowments continue to serve as instruments of equity, compassion, and sustainable development. When exercised effectively, it not only safeguards endowed properties but also enhances public trust in the justice and efficacy of the legal system.

The interdependence between jurisprudential doctrine and statutory regulation in Iran's treatment of public endowments demonstrates the successful integration of classical Islamic principles into a modern legal framework. This synthesis has preserved the spiritual essence of the *waqf* while ensuring its continued relevance in addressing contemporary social needs. Through proper supervision, transparent administration, and legal adaptability, public endowments can continue to contribute to the welfare of the nation—funding education, healthcare, infrastructure, and community development projects.

Ultimately, the vitality of the *waqf* institution rests on the moral commitment of both individuals and governing bodies. The endower must act with sincerity and foresight; the custodian must execute his duties with diligence and honesty; and the ruler must exercise his authority with wisdom and fairness. When these elements converge harmoniously, the institution of public endowment becomes a living embodiment of social solidarity—a bridge between private faith and public good, between individual virtue and collective welfare.

In conclusion, the ruler's authority in public endowments serves as the cornerstone of the legal and moral architecture of *waqf* in Iran. It ensures that endowments remain faithful to their founding intentions, shielded from corruption, and directed toward the continuous realization of justice, equity, and community prosperity. As a result, the endurance and effectiveness of the *waqf* system depend on the continued vigilance, integrity, and cooperation of all actors involved—ruler, custodian, and society alike. The strength of this institution lies not only in its legal structure but in its embodiment of a higher ethical vision: that wealth, when consecrated to the common good, becomes an everlasting source of human benefit.

Authors' Contributions

Authors contributed equally to this article.

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In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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