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WAQF ACCOUNTABILITY IN THE REPUBLIC OF YEMEN: AN EMPIRICAL ANALYSIS

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Abstract

The purpose of the study is to investigate how the Yemeni Mutawallis (awqaf managers) perceive their accountability and how they discharge it. Accordingly, a survey was conducted covering 156 respondents from most of the Yemeni regions, and data analysis was based on descriptive statistics. The findings revealed that the Mutawallis are mostly perceived to be accountable to the government awqaf institutions, followed by the accountability to the waqif (donor). These perceptions were influenced by the organizational values and rules governing the waqf. Finally, the most significant mechanism used in discharging waqf accountability is the regular issuance of financial annual reports followed by

the fulfilment of government auditing requirements, waqf requirements, as well as the customers' satisfaction. These findings have significant implications for the Islamic economics and waqf theory, for the practitioners as well as for the policy makers in waqf and related areas.

Keywords: *Waqf accountability, Mutawalli, Republic of Yemen, Middle East.*

A. Introduction

Throughout the history of Muslim society, *waqf* has taken place in welfares of the community as one of the means to fight poverty, illiteracy and other society's issues. *Waqf* in nature is a flexible and autonomic institution especially in terms of management. In other words, there are no much restrictions, for instance; clauses that determine the waqf property management, how it shall be managed, to whom waqf management is accountable, etc. Having said that, the optimal use of *waqf* as a tool to alleviate poverty and enhance the living standard of the Muslim communities is depending on the *waqf* management accountability. However, to find evidence regarding the practice of waqf accountability in the history is very challenging.

In addition, there is a grey area in waqf history where the property of waqf been under major intentional corruption practices after the collapse of Ottoman Empire (i.e. *Al-Khilafa Al-Othmania*) by the governments and individuals as well (Abu Zuhra, 1971; Rashid, 2008). The colonization had also caused moral degradation of the waqf management which led to the mismanagement of waqf. It is not surprising to know that waqf properties were misused or even lost. Rashid (2008) reported that there are many cases in Muslim countries where waqf properties were occupied illegally. This raises a serious question regarding the accountability and proper management of the waqf institutions.

It is noteworthy that there is no recent study about the current practices of the *Mutawalli* management in *waqf* in Yemen. The fact that Yemen is one of the highest corrupted countries in

the world (Transparency International Corruption Perceptions Index, 2015) is a threat to the waqf management. Data shows that the average corruption index in Yemeni public sector is 22.54 points from 2003 to 2015. This reveals extreme corruption, and the rank of Yemen in terms of corruption worldwide is 154 from 157 countries. Indeed, *awqaf* management in Yemen is not isolated from the issue of rampant corruption in Yemen, where the Ministry of *awqaf* in Yemen also acts as the *Mutawalli* of the *waqf*. As a consequence, the founders (waqif) in Yemen are more likely to endow their assets to private charity organizations that manage waqf instead of to the Ministry of *awqaf*. These *Mutawallis* discharge their accountability based on the Yemeni law and based on the benchmark practice of impact measurement of the transparency. Therefore, this study attempts to explore waqf accountability issues in Yemen by investigating how the *Mutawallis* perceive accountability and how they discharge it. More specifically, this study aims to investigate the waqf accountability practices in Republic of Yemen in terms of the driving forces of holistic accountability in managing waqf, the parties that *Mutawalli* are accountable to, and the instruments applied to discharge the *Mutawalli* accountability.

The remainder of this paper is organised as follows: Section two briefly presents the history of accountability of waqf in general, and section three reviews the history of waqf in Yemen. Section four reviews the Waqf accountability in the history. Section four reviews the related literature. Section five and six present the conceptual lens and methodology applied in the study. Next, section seven discusses the main findings and their implications. The final section provides a detailed discussion of the findings and corresponding limitations, as well as some recommendations for future studies.

B. Discussion

1. Waqf Accountability in History

By looking to the literatures related to *waqf* history in the Islamic civilization, from the starting of first *waqf* practices in the time of Prophet Mohammed (May peace and blessings be upon him), up to the present of all the current attempts to revive and restore the *waqf* role (Abu Zuhra, 1971; Rashid, 2008; Ayedh and Ihsan, 2013; Ihsan and Ayedh, 2015, Ihsan *et al.*, 2016; Ridhwan, 2018; Ayedh and Aimi, 2018).

By observing the *waqf* accountability along the Islamic history of *waqf*, it could be concluded that there are four main historical stages of *awqaf* accountability development. First stage can be called “*waqf* introduction and emergence”. This period started in the era of Prophet Mohammed (May peace and blessings be upon him), although there is no consensus among the historians with regard to the origin of charitable endowments *waqf*. In terms of accountability of the *Mutawalli* in this stage, it was ad-hoc in nature mainly relying on the individual piousness and honesty of the *Mutawalli*. This is due to sample structure of Islamic state in this stage.

The second stage of *waqf* history can be called the “growth and development”. In this stage *waqf* grew rapidly with the fast expansion of the Islamic state and the significant increase in Muslim’s wealth. This stage witnessed a huge contribution of *waqf* in many aspects to the community such as religious, education, health, economic aids to the needy, etc. With this enormous expansion, the issue of accountability of the *Mutawalli* surfaced and it required mechanisms and rules to discharge the *Mutawalli*’s accountability. In this stage the accountability of the *Mutawalli* witnessed three main developments earlier in this stage (the time of Omar Ibn Alkhattab) by establishing *Diwan alhisbah* involving recording all transactions for Muslim state (e.g. *Zakat*, *Sadaqah*, *Waqf*). Then the development of a separate entity for a *waqf* called “*Diwan Alahbas*” in the Fatimid period. Thirdly, the appointment of

the qadi (judge) to supervise directly the *Mutawalli* and to ensure the waqf is been used and managed in the right manner.

The third stage of waqf history is basically the “declining and collapse”. This stage starts when the Muslim countries were occupied and ruled by non-Muslim countries. Most if not all *waqf* properties were mismanaged due to the invisible waqf accountability. The waqf role and contribution to the community shrunk to only worship places. The *waqf Mutawalli* lost the trust of the Muslim community, therefore the waqf in this stage was minimized. In the fourth stage started thirty years ago, and can be called “the revival of waqf”. One of the main features of this stage is the *Mutawalli*'s accountability.

2. Awqaf in Yemen

In the history of Yemen, there is no specific date for the emergence of *awqaf*. However, some argued that the *awqaf* started in Yemen since the beginnings of Islamic era at the time of the Prophet Muhammad (peace and blessings be upon him) by sending Muath bin Jabal to Yemen, to build Aljaand mosque in Taiz city (Majali, 2002). Throughout the Muslim history, waqf properties have flourished enormously, as in the rest of the territory of the Muslim state. The waqf contribution in welfare of Yemeni's society was remarkable. The waqf and its development in Yemen were affected by the political status, and the level of strength or weakness of the Yemeni state (Majali, 2002). It is worth mentioning that under the control of the Ayyubid state (1229-1173/ 626-569) and Alrrasulia state (1397- 1229/ 800- 626), Yemen has witnessed stability and development in all aspects of life (e.g. political, social, and economic). The waqf received significant support by the Sultans in these two states, which allowed a notable growth of the waqf properties and waqf contribution particularly in the social and educational aspect (Majali, 2002; Hudail, 2012; Alarashi, 2013).

Furthermore, it should be noted that the first record of waqf law was in Adan¹ by the English government in 1939, called (Mohammedi Waqf Law). Meanwhile, the major remaining Yemeni territory was under the rule of the Ottoman Empire and governed by the Ottoman waqf laws. In 1911, Yemen was ruled by Imam Yahya Muhammad Hamid ed-Din² (Majali, 2002; Hudail, 2011; Alarashi, 2014). After the independence of North Yemen (1962) and South Yemen (1963), there was no major change in the legislation of waqf in the Southern part of Yemen, whereas in Northern Yemen (Yemen Arab Republic) in 1976 the law (78) related to *awqaf* was issued and amended in 1987. In 1992, upon Yemen unity, law (23) was issued governing all waqf aspects. In this law, there is a separate section for the accountability of the *Mutawalli* involving eight clauses regulating the recording of *awqaf* properties, the mechanisms of discharging and satisfying the accountability of the *Mutawalli*, the punishment and penalty in case of any violations of the waqf accountability. In 2008, there was an amendment. This amendment came to enhance the waqf accountability (Yemeni Laws, 2014).

3. Waqf accountability-related studies

The extant literature concerning waqf accountability in today's context is still very rare. This is probably due to the fact that waqf studies had received little attention from the researchers in the last few decades (Hoexter, 1998). In fact, majority of the existing literature on accountability in nonprofit organizations are quite abundant in the charitable organization in the Western society. There were few attempts, however, tried to address the accountability-related issues in waqf institutions which mainly focus on the accounting and reporting of *waqf*. These attempts could be categorized in two general themes. The first theme of studies discussed the accountability on waqf institutions from the

1 Aden is a city in the South of Yemen was occupied by British.

2 Imam Yahya was the spiritual and temporal leader of the Zaydi branch of Shi'a Islam in Yemen.

perspective of accounting and reporting practices (Abdul Rahim, 1998; Siti Rokyah, 2005; Hisham, 2006; Maliah *et al.*, 2009; Ihsan and Shahul, 2011; Ayedh and Ihsan, 2013). On the other hand, the second theme of studies focused on the accountability and governance of waqf institutions (Ihsan and Ayedh, 2015, Ihsan *et al.*, 2016).

In the first theme, most of the researchers found that there was diversity in accounting practices among *waqf* institutions. There was also no specific guideline in preparing and maintaining the *waqf* report. These phenomena were due to the absence of accounting standards for *waqf* (Abdul Rahim, 1998; Siti Rokyah, 2005; Hisham, 2006; Maliah *et al.*, 2009 and Ihsan and Shahul, 2011). Therefore, they agreed that accounting for *waqf* is important to improve accountability of *waqf* institutions. In this sense, the need for setting up accounting and auditing standards for *awqaf* is undisputable.

The second theme of waqf accountability-related studies discusses how good governance can improve waqf accountability. Although theoretical in nature, a study by Ihsan and Ayedh (2015) provides a basis to explain the relationship between governance structure and accountability. Meanwhile, another study by Ihsan *et al.* (2016) tried to portray the historical dimension of waqf accountability through examining the existing waqf literatures.

There are few recent studies by Osman (2012), Ihsan (2014), Ihsan *et al.* (2016) and Ihsan *et al.* (2017) which investigate the perception of the waqf management on accountability and its mechanisms. These studies were conducted in waqf institutions in Malaysia and Indonesia respectively. However, due to the fact these studies were based on single case, the whole picture of how waqf accountability in practice has not been captured. It is worth mentioning that there is a room for another research to expand the existing studies on waqf accountability.

4. Holistic *waqf* accountability

This study uses holistic *waqf* accountability as conceptual lens. The term holistic *waqf* accountability was introduced by Ihsan (2014) in his study on accountability practice in a *waqf* institution in Indonesia. He developed a model of holistic *waqf* accountability based on studies by O'Dwyer and Unerman (2008) and Ebrahim (2003). According to O'Dwyer and Unerman (2008), holistic accountability encompasses upward and downward accountabilities. While upward accountability refers to accountability to those who are in the higher position (such as government and donors), downward accountability is related to accountability to those who are in the lower position (for example beneficiaries and public at large). However, Ihsan's study found that different results suggested that holistic accountability not only encompasses fulfilling upward and downward accountabilities, but also involves the commitment to preserve its organizational values. The current study, therefore uses the definition of holistic accountability from Ihsan (2014).

5. Methodology

The current study focuses on the Yemeni context. Particularly, the target population is the *waqf* employees in the Yemeni *waqf* organizations' population, from different levels and backgrounds. The questionnaire was distributed to 300 employees in the main regions of the country. Out of the distributed questionnaires, 156 were returned and usable, making a response rate of 52%, which is an acceptable rate as suggested by Dusuki and Abdullah (2007).

The questionnaire was constructed of four main parts. The first part was meant to examine the driving forces of the holistic *waqf* accountability. The second part collected information on the perceptions of *waqf* management to whom they are accountable. The third part was meant to collect information on the *waqf* accountability mechanisms. The measurement for these three sections was made on a five points likert scale (1 = Strongly

Disagree and 5 = Strongly Agree). The last section gathered the demographic information of the respondents for subsequent comparative analysis. The elements in the questionnaire were adapted from Ihsan (2014) where he conducted a case study to investigate accountability practice at one waqf institution in Indonesia. In addition, the questionnaire was made in English and was subsequently translated into Arabic and distributed as such. The collected data was analysed using basic descriptive analysis tools.

6. Findings

a. Respondents' Profile

The respondents' demographic data in Table 1 below indicate that roughly 98 per cent of the respondents are male while 2 per cent are female. This significant difference in cross gender distribution of respondents is due to the nature and culture of the country, where most of the female active population are permanent housewives, and do not have any direct business dealings.

In terms of age distribution, about 39 per cent are aged between 31 and 40 years, about 27 per cent are aged between 41 and 50 years, about 23 per cent are between 20 and 30 years, while 10 per cent of the respondents are above 50 years old.

Regarding the education level, nearly 40 per cent of the respondents are holding a bachelor's degree, nearly 18 per cent are holding a diploma, about 14 per cent have an education level below high school, while the remaining 9 per cent are holding a high school certificate.

Concerning the position inside the waqf institution, about 34 per cent of the respondents are accountants, 33 per cent are operational directors, 11 per cent are financial directors, about 9 per cent are presidents of waqf institutions, and 9 per cent are executive directors, while 4 per cent are members of the board of directors.

Table 1: Respondents' profile

Variable	Categories	Percentage
Gender	Male	97.9
	Female	2.3
Age	20-30	23.4
	31-40	38.9
	41-50	27.4
	Above 50	10.3
Education level	Below high school	13.7
	High school	9.1
	Diploma	18.3
	Bachelors	49.7
	Masters or above	9.1
Position	President	8.8
	Executive director	8.8
	Member of the BOD	4.4
	Operational director	32.9
	Financial manager	11.0
	Accountant	34.1

b. Driving Factors of *waqf* Accountability

The results in Table 2 below reveal that the most important factor of *waqf* accountability is the organizational values (e.g. trust, courage, networking team) and rules (i.e. financial control, disciplinary rules) governing the *waqf*. This includes dimensions like. This is followed by the fear of Allah *swt*, then the transparency and integrity that are related to a great extent. These are followed by another related factor which is the shariah aspect of the *waqf* operations. It is noteworthy that the least factor considered by the *Mutawalli* is the aspect of the *waqf* as assets as belonging to the ummah. Hence, it can be observed that *waqif* accountability is mostly driven by written rules and regulation within the *waqf* institution itself, rather than general ethical and Islamic values and norms. This indicates that the *Mutawalli* considers direct physical accountability motives (organizational values and rules), that could carry retribution for *Mutawalli* more than other

spiritual (Islamic and general) motives that might not lead to worldly consequences.

Table 2: Driving factors of waqf accountability

Elements	1	2	3	4	5	Mean	Std. Dev	Mean Rank
Organizational values and rules	8	4.6	2.9	34.9	49.7	4.14	1.190	1
Transparency and integrity	10.3	6.3	20.6	33.1	29.7	3.66	1.253	3
The responsibility of <i>Mutwalli</i> due to the nature of the assets as belonging to the ummah (society)	5.7	10.3	37.7	30.3	16.0	3.41	1.056	6
The <i>Shari'ah</i> aspect of the waqf operations	6.9	10.9	26.9	28.6	26.9	3.58	1.190	4
The fear of Allah <i>swt</i>	10.9	13.4	16.0	28.0	41.7	3.86	1.297	2
Sincerity and <i>amanah</i> of the <i>Mutawalli</i>	5.7	13.7	29.1	24.0	27.4	3.54	1.192	5
Work definition as part of <i>'ibadah</i>	13.1	19.4	18.9	26.9	21.7	3.25	1.344	7

c. Parties that the *Mutawalli* accountable to

Table 3 below shows that the *Mutawalli* is mostly perceived to be accountable to the government *awqaf* institutions, followed by the accountability to the waqif (donor). These are considered administrative or organizational in nature. The *Mutawalli* is then perceived to be motivated by his/her accountability to Allah *swt* which reflects a religious and ethical commitment of the *Mutawalli*. This is followed by the *Mutawalli's* accountability to the society as a whole, and specifically to the related non-government organizations (NGO) and waqf beneficiaries, while the *Mutawalli* perceives to be least accountable to similar waqf organisations. This result is in line with the result in table 2 with regards of accountability motives of *Mutawalli* in *waqf* institutions.

Table 3: Parties that the *Mutawalli* is accountable to

Elements	1	2	3	4	5	Mean	Std. Dev	Mean Rank
<i>Mutawalli</i> is accountable to the waqif (donor).	9.7	9.1	7.4	31.4	42.3	3.87	1.315	2
<i>Mutawalli</i> is accountable to the government <i>awqaf</i> institutions.	5.1	8.6	12.0	27.4	46.9	4.02	1.183	1
<i>Mutawalli</i> is accountable to the waqf beneficiaries.	6.3	12.0	23.4	38.3	20.0	3.54	1.128	6
<i>Mutawalli</i> is accountable to the related non-government organizations (NGO).	4.0	9.7	26.9	37.7	21.7	3.63	1.052	5
<i>Mutawalli</i> is accountable to the similar waqf organizations.	5.1	15.4	32.0	30.9	16.6	3.38	1.091	7
<i>Mutawalli</i> is accountable to the society as a whole.	4.0	2.3	28.6	42.9	22.3	3.77	0.955	4
<i>Mutawalli</i> is accountable to Allah.	13.7	1.1	16.0	25.1	44.0	3.85	1.366	3

d. Mechanisms of discharging the *waqf*'s Accountability

The mechanisms and tools by which the waqf accountability is demonstrated, is practically one of the most important aspects of the waqf management process. It basically ensures that the waqf is managed in an ethical and efficient manner. Table 4 below indicates that the most significant mechanism used in discharging waqf accountability is through regular issuance of financial annual reports. This classic tool has been referred to financial transactions' management and has been proven to be a viable tool for auditing business transactions.

This was followed by the fulfilment of government auditing requirements, waqif requirements, as well as the customers' satisfaction. It is noteworthy that these three parties are the main stakeholders of *awqaf*, hence, the *waqf* management needs

to continuously account for and update. This is ensured through periodic visits of the waqif (donor) to inform him/her about the progress of waqf programs. Furthermore, the waqf organizational staffs are often involved in trainings and workshops to increase the individual piety and awareness of their dual accountability to Allah swt in this world and hereafter. Similarly, the beneficiaries are usually involved in the waqf programs to be constantly updated about the latest development and major decisions in the waqf management.

Table 4: Mechanisms of discharging the waqf's accountability

Elements	1	2	3	4	5	Mean	Std. Dev	Mean Rank
Financial annual report	8.6	10.3	1.7	28.6	50.9	4.03	1.310	1
Non-financial report	7.4	14.9	35.4	25.1	17.1	3.30	1.141	11
Fulfilment of government auditing requirements	9.1	1.7	15.4	43.3	30.3	3.84	1.153	2
Appointing external auditor	9.1	6.9	40.6	25.1	18.3	3.37	1.136	10
Self-development of performance measurement indicators	3.4	17.7	38.3	26.9	13.7	3.30	1.024	11
Appointment of board of director from the representative of waqf stakeholders	10.3	17.7	39.4	19.4	13.1	3.07	1.144	13
Visit to the waqif (donor) to inform the progress of waqf program	9.7	5.1	20.0	40.0	25.1	3.66	1.192	5
Fulfilment of waqif (donor) requirements	6.9	9.1	16.6	29.7	37.7	3.82	1.225	3
Arrangement of events and ceremonies to gather public to ask their feedback on waqf	3.4	5.1	36.6	36.6	18.3	3.61	0.957	7
Involving beneficiaries in the waqf programs	2.9	9.1	39.4	36.0	12.6	3.46	0.926	8

Conducting customer satisfaction survey	4.0	9.7	18.3	42.3	25.7	3.76	1.066	4
Involving waqf organizational staff in training to increase the individual piety and awareness of their dual accountability in this world and hereafter to Allah	5.1	7.4	25.7	42.3	19.4	3.63	1.041	6
Periodical Magazine	4.6	6.3	44.0	29.1	16.0	3.46	0.986	8

It is noteworthy that the least regarded mechanisms perceived by the *Mutawalli* were the appointment of an external auditor, the self-development of performance measurement indicators, the periodic issuance of non-financial reports, and finally the appointment of board of directors from the representatives of the waqf stakeholders. These are considered ordinary operating requirements, and not specific mechanisms for accountability discharge of the waqf management.

This finding indicates that there is a substantial need to improve the waqf governance as it shows that board of directors' appointment of the external auditor is considered a governance mechanism. This shows that waqf institutions in Yemen follow the government requirement in terms of preparation of annual financial statement and appointment of external auditor. Hence, the awareness of the *Mutawalli* in *waqf* institutions in Yemen of accountability and to whom *Mutawalli* is perceived to be accountable, tend to fulfil the expectations and requirements of the regulators.

C. Conclusions

The objective of the study was to first explore the driving forces of the *Mutawalli's* accountability, then to identify the parties that the *Mutawalli* is perceived to be accountable to, and finally to determine the mechanisms that the *Mutawalli* applies to discharge his/her accountability. Through a comprehensive survey conducted in the context of Yemen, the findings showed that most

important factor of waqf accountability is the organizational values and rules governing the waqf. This finding is consistent with Ihsan (2014) where he also found the organizational values are crucial in determining the way accountability is shown by the *Mutawalli*. By looking at the demographical profile of the respondents (Yemeni *Mutawalli*) in terms of gender (majority male), age (majority between 30-50), education level (majority diploma and Degree), and position (majority top management) supporting the selection of organizational value as the most important driving force of the *Mutawalli's* accountability in Yemen. Thus, the *Mutawalli* develops an organizational value that accommodates the accountability. In addition, most of the NGOs as well as schools, hospitals, etc. based waqf in Yemen receive huge funding from international organizations (some of these organizations are affiliated with the United Nations) which they require to meet advanced management and established organizational culture.

Moreover, the results show that the *Mutawalli* is mostly perceived to be accountable to the government *awqaf* institutions, followed by the accountability to the waqif (donor). Prioritizing the government in discharging waqf accountability might not be surprising. As founded by Ihsan, Maliah, *et al.* (2016) in their study, the phenomenon of stakeholder salient could exist in waqf setting. In many cases, the government possesses power to enforce any regulations to *Mutawallis*. Therefore, waqf management would tend to show accountability to those who are in the authority. This finding somewhat indicates that the *Mutawallis* tend to prioritize upward accountability instead of downward accountability. This can be explained by looking to the position of the respondents (*Mutawalli*) up to (65%) were from the top management which is expected to have direct responsibility to the government and have direct relationship with donors, so they are giving more attention to the government and donors.

Finally, the most significant mechanism used in discharging waqf accountability is the regular issuance of financial annual

reports followed by the fulfilment of government auditing requirements, waqf requirements, as well as the customers' (beneficiaries) satisfaction. These findings are in line with Ihsan (2014) as he indicated that financial reporting is the most widely used mechanism to show accountability. This can be explained by looking at the Yemeni *waqf* law requirements for renewal approval of the license. Furthermore, the donors especially the international organizational donors usually require financial annual reports for continuous support.

The findings of this study may help the improvement of *waqf* management. As this study focuses on accountability, which, among other things, encompasses accounting and performance, the *Mutawallis* are expected to improve their accountability and transparency in administering *waqf*. This is crucial as the demand for public accountability and transparency has increased tremendously. Moreover, the results of this study may assist regulators in monitoring *awqaf* institutions. The government should give more concern on the accountability of the *Mutawalli*, as there is rampant corruption across the country. Thus, the *waqf* regulator might come together with country authorities to improve *waqf* accountability.

Though the current study laid the ground for further empirical studies and contributed significantly to the area of waqf, it is still subject to a number of limitations. Firstly, the survey was limited to waqf institutions in Yemen. Hence, findings from this study cannot be generalized to waqf institutions outside Yemen. Further studies are recommended to cover other contexts to reach comprehensive findings. Secondly, the study presented important driving factors of *Mutawalli's* accountability, the important parties that the *Mutawalli* is accountable to, and the mechanisms that the *Mutawalli* uses to discharge waqf accountability. The findings of this study indicate that the *Mutawallis* tend to show upward accountability instead of downward accountability. However, it does not mean that all *Mutawalli* in Yemen do not practice holistic accountability. Somehow, the choice provided in

the questionnaires might lead the respondents to choose which ones are considered to be priority. Thus, in-depth case studies in selected waqf institutions could provide more detailed pictures as to how *Mutawalli* perceives and practices holistic accountability. Furthermore, future studies are highly recommended to use advanced statistical techniques in a comprehensive framework to come up with some more robust results.

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