

Problems In Managing Waqf Endowment Asset In Bogor Regency

By Ani Yumarni Endeh Suhartini, Anna Sardiana

Problems In Managing *Waqf* Endowment Asset In Bogor Regency

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Abstract: *Problems In Managing Waqf Endowment Asset In Bogor Regency.* Problems in Managing *Waqf* (Endowment) Assets in Bogor Regency. This article examines the problematics of empowering *waqf* objects in Bogor Regency. The aim is to increase the productivity of *waqf* property so that it can provide maximum benefits to the general public (*ummah*) in a sustainable manner. With such a large number of assets, if managed professionally, the *waqf* is believed to be able to become a pillar of the people's economy, especially in alleviating the problem of poverty in Bogor Regency. This study found the fact that among some key problems that could hinder the development of the *waqf* function in Bogor Regency was the less optimal role and function of *Nazhir* in developing *waqf* assets productively. Therefore, the involvement of the Indonesian *Waqf* Board (BWI) is urgently needed to improve *Nazhir's* competence in managing *waqf* assets in more productive ways.

Keywords: *Waqf* in Bogor Regency, *nazhir* role and function

Abstrak: *Problematika Pengelolaan Aset Waqf di Kabupaten Bogor.* Artikel ini menelaah tentang problematika pemberdayaan objek wakaf di Wilayah Hukum Kabupaten Bogor. Tujuannya adalah untuk meningkatkan produktivitas harta wakaf agar dapat memberi manfaat dan maslahat sebesar-besarnya kepada masyarakat umum (*ummah*) secara berkelanjutan Berdasarkan data yang diperoleh, di kabupaten Bogor terdapat aset wakaf berupa tanah sebanyak 5.686 lokasi dengan luas tanah 4.433.860 M². Dengan jumlah aset wakaf yang sedemikian banyak, jika dikelola secara profesional, dapat dipastikan bahwa wakaf akan mampu menjadi sokoguru perekonomian umat, khususnya dalam mengentaskan masalah kemiskinan di Kabupaten Bogor. Penelitian ini memperoleh fakta bahwa di antara sejumlah masalah pokok yang dapat menghambat pengembangan fungsi wakaf di Kabupaten Bogor adalah kurang optimalnya peran dan fungsi *Nazhir* dalam mengembangkan aset wakaf secara produktif. Oleh sebab itu keterlibatan Badan Wakaf Indonesia (BWI) sangat dibutuhkan untuk meningkatkan kompetensi *Nazhir* dalam mengelola aset waqf secara lebih produktif.

Kata Kunci: wakaf di Kabupaten Bogor, peran dan fungsi *Nazhir*

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Introduction

Socio-economic justice and equitable distribution of wealth and income are an inseparable part of Islamic moral philosophy. Both are essentially profiles of one face. Socio-economic justice cannot be realized without the distribution of income and wealth. For this reason, Islam emphasizes the principle of justice and brotherhood, the realization of which generates a spiritual commitment of the Muslim community to create a prosperous society under the auspices of the spirit of unity, humanity, and brotherhood.¹

According to Adiwarmman A. Karim, there are three pillars of the Islamic economy. First is the recognition of multi ownership. Islam recognizes the existence of private ownership, joint ownership (*syirkah*), and state ownership. This is very different from the classical capitalist concept which only recognizes private ownership or the classic social concept of shared ownership by communal or by the state. Second is freedom of economics as long as it does not violate the sharia guidelines or in the principles of fiqh *al-ashlu fi al-mu'amalah al-ibāhah* (the basic principle of human economic relationship is permissible). Economics is a human activity that always develops dynamically. Therefore, new thinking is always needed to solve economic problems. Referring to the time of the Prophet and his companions would be very useful, but *ijtihad* (law finding) in the economic field is certainly needed. the Messenger of Allah says, "You know better the affairs of your world," concerning the technique of pollinating plants. The Third is social justice. This is different from the concept of charity or donations in conventional economics. In the concept of Islamic economics, even the *halāl* sustenance earned with that effort is believed to have the rights of others. So, not because of the kindness of donating, but it is someone else's right. In Islam, it is not possible to carry out economic activities without involving others.²

¹ M. Umer Chapra, *Towards a Just Monetary System*, translate. Ikhwan Abidin Basri, (Jakarta: Gema Insani, 2000), p. 4.

² Adiwarmman A. Karim, *Ekonomi Islam: Suatu Kajian Kontemporer* (Jakarta: Gema Insani, 2018), p. 177.

The *Waqf* order is part of the order to do good in the form of giving away of property whose benefits are not only limited to Muslims but also all humans without distinguishing their religion and beliefs. The legal basis of *waqf* refers to a history of Umar bin Khattab who had his land in Khaibar dedicated. In a hadith narrated from Ibn Umar ra, Umar ra. Was told to obtain a plot of land in Khaibar. Then he went to the Messenger of Allah, asking for suggestions. He said: “O Messenger of Allah (PBUH), I got a piece of land in Khaibar, I have not got such a good treasure, so what would you order me?” Rasulullah SAW. said: “If you like, you could hold the land, and give its benefits”. Then Umar dedicated the land to be managed, not sold, not granted, and not bequeathed. Ibn Umar said: “Umar gave it (the benefits of the land) to the needy people, relatives, slaves, *sabilillah* (religious needs), *ibn sabil*, and guests. It is not prohibited for *Nazhir* to earn from the results in a good manner (as appropriate) or feed others without intending to accumulate wealth”. (HR Bukhari, 2565: Muslim HR, 3085).

The Story of ‘Umar is known to be very popular in the study of *waqf* that Ibn Hajar called it *aslun* (the origin/basis) for the prescription of *waqf*. Based on this hadith, Ibn Hajar claimed that ‘Umar’s *waqf* was the first *waqf* in Islamic history. In addition, he also made some conclusions about *waqf* that can be drawn from the hadith, including the presenting *waqf* in the form of land and rejecting opinions saying that *waqf* is not eternal or may be withdrawn by waqif (the *waqf* doer). Imam Al-Shafi’i asserted that endowment is characteristic of Muslims and it is not known whether endowments ever occurred in *jāhiliyah era* (the time of ignorance).³

History shows that *waqf* is proven to be able to play an effective role in building the economy of the people while at the same time becoming an instrument of social security for community development and empowerment. The scope of the contribution of *waqf* in the development of society in the past was so wide and large, not only in

³ Nurodin Usman, ‘Studi Hadis-Hadis Waqf dalam Kitab Sahih Al-Bukhari dan Fath Al-Bari’, *Cakrawala: Jurnal Studi Islam*, 10.2 (2015), 175–93.

the social field but also in the economy, politics, education, and defense.⁴ This is because, empirically, the form of *waqf* can be divided into two: general *waqf*, which is useful for all people (including non-Muslims) such as *waqf* land for roads; and specific *waqf*, which are specific only to Muslims, such as endowments for mosques, Muslim cemetery, educational institutions, etc.⁵ Rasulullah SAW said: “If the child of Adam (human) dies, his deeds will be terminated, except for three cases; *sadaqah jāriyah* (charity), useful knowledge and pious children who pray for their parents” (HR. Muslim: 1631).

Meanwhile, a large number of Muslims in Indonesia, even the largest in the world, is an important asset that can be utilized for the collection and development of *waqf*. Based on the assumption of Cholil Nafis, as quoted by M. Nur Rianto Al Arif, if 1 million Muslims donate their funds in the amount of Rp 100,000 per month, *waqf* funds will be collected in the amount of Rp 100 billion/month or Rp 1.2 trillion per year. If 20 million Indonesian Muslims collect endowments in the amount of Rp 100 thousand every month, the funds collected will reach the amount of Rp 24 Trillion/year. Likewise, if 50 million people are represented, each year a *waqf* fund of Rp 60 trillion will be collected.⁶

The big potential of *waqf*, as long as it is managed professionally and productively, will become such a great force that can be utilised to support the benefit and welfare of the people.⁷ Because of the large benefits arising from *waqf*, as Masykuri Abdillah asserted, the matter of organizing *waqf* is not enough to be understood only in terms of the law, but can also be understood from the standpoint of philosophy and wisdom, namely as (1) Social Worship, (2) means of channeling endless rewards, (3) endowments for worship facilities and infrastructure and

⁴ Mardani, *Hukum Islam: Zakat, Infak, Sedekah dan Waqf* (Bandung: Citra Aditya Bakri, 2016), p. 173.

⁵ Jaih Mubarak, “Waqf dan Pendidikan Islam,” *Jurnal Waqf dan Ekonomi Islam*, 6.1 (2013) accessed from <<https://drive.google.com/file/d/0B61irU-NYtRTSU1Da09IUHhSVXM/view>>.

⁶ Mardani, *Hukum Islam: Zakat, Infak, Sedekah dan Waqf*.

⁷ Mustofa Edwin Nasution dan Uswatun. Hasanah, ‘Waqf Tunai Inovasi Finansial Islam (Peluang dan Tantangan dalam Mewujudkan Kesejahteraan Umat)’ (Study Program of Islam and Middle East : University of Indonesia, 2006).

social activities, (4) endowments for improving human civilization, and (5) endowments for improving the public welfare.⁸

At present, the potential and utilization of *zakat* funds, both managed by the National Amil Zakat Agency (BAZNAS), the Amil Zakat Institution (LAZ), and other Ziswaf institutions, have received recognition from National Development Planning Authorities (BAPPENAS). This is reflected in the data of the Ministry of PPN/Bappenas appear in the Indonesian Sharia Finance Architecture which assumes 70 percent or Rp 509.6 trillion of sharia financial resources in Indonesia come from *zakat* funds and endowments. The concrete potential, based on BAZNAS research (2011), for *Zakat* is Rp 217 trillion, while the potential for endowments in particular money or cash endowments is Rp 377 trillion per year.⁹ Concerning the potential of *waqf* in the form of land, data presented by the Indonesian Waqf Board (BWI) shows the number of *waqf* land in Indonesia recorded as many as 435,768 locations with a land area of 4,359,443,170 m².¹⁰

Undeniably, the great potential of *Zakat* and *Waqf* requires good management and utilization of its managers (*Nazhir*). As one of the elements that must exist in the implementation of *waqf*, the existence of *Nazhir* is one of the uniqueness of the form of management of Islamic philanthropic funds. *Nazhir*'s role is to manage and empower *waqf* objects so that the existence of *waqf* can provide maximum and sustainable benefits for the general public (*ummah*).

This research was conducted to examine the problems of *waqf* in the Bogor Regency. The ultimate goal is to encourage the realization of professionalism and productivity in the development of *waqf* property as desired by Law Number 41 of 2004 concerning *Waqf*.

⁸ Masykuri Abdillah, 'Filosofi dan Hikmah Waqf' <<https://bwi.or.id/index.php/publikasi/artikel/356-filosofi-dan-hikmah-waqf.html>> [accessed 12 November 2019].

⁹ M. Fuad Nasar, 'Zakat dan Waqf Membangun Infrastruktur Sosial', *Bimasislam.Kemenag.Go.Id* accessed from <<https://bimasislam.kemenag.go.id/post/opini/zakat-dan-waqf-membangun-infrastruktur-sosial->> [accessed 15 October 2019].

¹⁰ 'Data Waqf – Badan Waqf Indonesia' <<https://www.data.bwi.go.id/>> [accessed on 16 October 2019].

Provisions of *Waqf* in Indonesia

Waqf, according to Article 1 of Law Number 41 the Year 2004, is a legal act of *wāqif* (the party that donates his property) to separate and/or give away a portion of his property to be used forever or for a certain period following his interests for worship and/or general welfare according to *sharia*.¹¹

To be declared valid, the *waqf* (endowments) must be carried out according to Sharia provisions. The pledge of *waqf* was carried out by the *wakif* to *nadzir* in the presence of PPAIW witnessed by 2 (two) witnesses. The pledge of *Waqf*, as referred to, is stated verbally and/or in writing and stated in the deed of endowment pledge by PPAIW. In the case of *wāqif* unable to declare the endowment pledge verbally or to attend the implementation of the endowment pledge for reasons justified by law, the *wāqif* can appoint his representative with a letter of designation and affirm by 2 (two) witnesses.¹² Endowments that have been pledged cannot be canceled.¹³

The pledge of the endowment is outlined in the deed of endowment pledge, at least includes a. the name and identity of the *Wākif*; b. *Nazhir*'s name and identity; c. data and description of *waqf* property; d. allotment of *waqf* property; e. endowment period. Further provisions regarding the endowment pledge deed as referred to in paragraphs are regulated by Government Regulation.¹⁴

The manager of a *waqf* in Islam is termed as *Nazhir*. In Government Regulation Number 28 of 1977 concerning Land Ownership Representation, the word *Nazhir* is defined as an individual or a group of people or legal entities entrusted with the task of maintaining and managing endowments.¹⁵

¹¹ *Waqf Act No. 41 of 2004 Article 1 Paragraph (1)*.

¹² *Waqf Act no. 41 of 2004 Article 17,18*

¹³ *Waqf Act no. 41 of 2004 Article 2, 3.*

¹⁴ *Waqf Act no. 41 of 2004 Article 22*

¹⁵ 'This Definition Was Adopted by the Compilation of Islamic Law (KHI) as Stated in Article 215 Paragraph'.

According to Article 9, and 10 paragraphs (1), (2) and (3) of Law Number 41 of 2004, *Nazhir* (endowment manager) can be in the form of (1) Individuals, (2) Organizations, and or (3) Legal Entities. If *Nazhir* is an individual he must meet the following requirements: (1) Indonesian citizens, (2) Muslim, (3) mature, (4) trustworthy, (5) physically and spiritually capable, and (6) not hindered from doing legal actions. If the *Nazhir* is an organization, the requirements that must be met include: (1) the management of the relevant organization meets the *Nazhir* individual requirements, and (2) the organization is engaged in the social, educational, or religious fields of Islam. Whereas if it is a Legal Entity, the requirements are (1) the management of the legal entity concerned fulfills the individual *Nazhir* requirements, (2) the legal entity is formed following the applicable laws and regulations, and (3) the legal entity concerned is engaged in social affairs, Islamic education, society and/or religion.

Nazhir was obliged to manage and develop *waqf* property following its purpose, function, and designation. The management and development of *waqf* property by *Nazhir* are carried out following the sharia principles and productively. In the case of the management and development of the endowments required a guarantor, an Islamic guarantor institution shall be used. *Nazhir* is prohibited from making changes to the designation of *waqf* property except based on written permission from the Indonesian Waqf Board (BWI). The permit can only be granted if the endowment property turns out to unusable following the allotment stated in the endowment pledge. *Nazhir's* duties and responsibilities include: (a). Administering *waqf* property; (b). Managing and developing *waqf* property following its purpose, function, and designation; (c). Supervising and protecting endowments property; (d). Reporting the implementation of his duties to the Indonesian Waqf Board.¹⁶ In carrying out his duties, *Nazhir* may receive a reward from the net proceeds of the management and development of *waqf* property which amount does not exceed 10% (ten percent).¹⁷

¹⁶ Waqf Act no. 41 of 2004 Article 11,

¹⁷ Waqf Act no. 41 of 2004 Article 12.

Furthermore, to make the management of *waqf* property run as expected, *Nazhir* obtained guidance from the Minister and the Indonesian Waqf Board.¹⁸ Apart from that, *Nazhir* was also supervised by a supervisory agency, which according to Article 56 of Government Regulation No. 42/2006 concerning the Implementation of Law No. 41/2004 concerning *Waqf*, was carried out by the government and the community, both actively and passively. Active supervision is carried out through direct examination of *Nazhir's* performance in *waqf* management, at least once a year; Whereas passive supervision is carried out by observing various reports submitted by *Nazhir* relating to the management of *waqf*.¹⁹

Nadzir resigns from his post and is replaced by another *Nazhir* if : (1) He dies (*Nazhir individual*); (2) was disbanded or dissolved following the provisions of the applicable laws and regulations (for *Nazhir* organizations or *Nazhir* legal entities); (3) at his request; (4) do not carry out their duties as *Nazhir* and/or violate the prohibition in the management and development of *waqf* property of the applicable laws and regulations; (5) convicted by a court that has permanent legal force. Dismissal and replacement of *Nazhir* are carried out by the Indonesian Waqf Board.²⁰

If a dispute arises about *waqf*, then a settlement is taken through deliberation to reach consensus. If it is unsuccessful, the dispute can be resolved through mediation, arbitration, or in the Religious Court.²¹ However, if the dispute concerns ownership rights, then the settlement is no longer examined in the Religious Courts, but rather becomes the authority of the General Courts. This is as regulated in Article 50 of Law Number 7/1989 concerning Religious Courts (as amended by Law Number 3 of 2006 in conjunction with Law Number 50 of 2009) which provides provisions that in matters relating to property and civil rights, it becomes the authority of the General Court and not the authority of the Religious Court.²² The granting of authority to the General Court may

¹⁸ Waqf Act no. 41 of 2004 Article 13

¹⁹ Waqf Act no. 41 of 2004 Article 12

²⁰ Waqf Act no. 41 of 2004 Article 45

²¹ Waqf Act no. 41 of 2004 Article 62

²² Sutedi, *Peralihan Hak Atas Tanah dan Pendaftarannya* (Jakarta: Sinar Grafika, 2006), p. 1.

be based on consideration/agreement among legal experts that the *waqf* institution arises as customary law of the Indonesian people. Therefore, even though this *waqf* institution is essentially derived from Islamic law, but in reality, it is considered as if it has entered the realm of Indonesian traditional law.

Some Problems around *Waqf* in the Bogor Regency Area

M. Fuad Nasar identifies six actual issues relating to the management of *waqf* property that needs attention and solutions from the government and the community. First, the lack of dynamic data accuracy of *waqf* assets, including cash *waqf* (cash *waqf*). Second, the low number of money *waqf* collection. Third, there is still a lot of *waqf* land that has not been certified and not been used optimally for the benefit of the people. Fourth, there are still many *waqf* land seized by property companies, taken back by the heirs, lost, or used illegally, including *ruislag* (swapping). Fifth, the lack of utilization of *waqf* assets for productive economic activities and the added value to the welfare of the people. Sixth, the capacity and sense of responsibility of *Nazhir* (*waqf* managers) which still need to be improved.²³

Of the six main problems above, if related to existing conditions in the Bogor Regency, three problems need to be prioritized to be resolved namely: (1) Problems with the status/legality of *waqf* land; (2) Role of *Nazhir* and Competencies; (3) Problems in developing *waqf* productivity

A. Problems with the legal status of *waqf* land

Based on data obtained from the Bogor Regency Ministry of Religion Office, the total number of *waqf* assets in the form of land in the Bogor Regency area was 4,433,860 m² spread over 5,686 locations. the details are as follows:

²³ M. Fuad Nasar, 'Zakat dan Waqf Membangun Infrastruktur Sosial' *Bimasislam. Kemenag.go.id* <<https://bimasislam.kemenag.go.id/post/opini/zakat-dan-waqf-membangun-infrastruktur-sosial->>.

Table 1. Number of Waqf Assets in the Form of Land in Bogor Regency²⁴

No	KUA District	WAQF LAND STATUS							
		AIW		BEING PROCESSED IN BPN		CERTIFIED		TOTAL	
		Location	Area (m2)	Location	Area (m2)	Location	Area (m2)	Location	Area (m2)
1.	Nanggung	6	14.988	0	0	170	68.680	176	83.668
2.	Leuwiliang	0	0	0	0	0	0	0	0
3.	Leuwisadeng	12	26.187	2	1.812	98	86.522	112	114.521
4.	Pamijahan	9	29.334	0	0	212	204.271	221	233.605
5.	Cibungbulang	16	14.627	0	0	221	118.120	237	132.747
6.	Ciampea	9	10.691	0	0	137	87.313	146	98.004
7.	Tenjolaya	17	8.995	0	0	40	33.578	57	42.573
8.	Dramaga	11	5.620	1	200	76	33.448	88	39.268
9.	Ciomas	10	7.160	8	2.584	107	52.782	125	62.526
10.	Tamansari	5	21.665	0	0	35	12.640	40	34.305
11.	Cijeruk	24	23.396	1	1.608	144	49.189	169	74.193
12.	Cigombong	17	37.615	0	0	128	84.190	145	121.805
13.	Caringin	16	23.743	0	0	131	79.119	147	102.862
14.	Ciawi	8	2.145	0	0	82	81.241	90	83.386
15.	Cisarua	2	2.605	0	0	116	110.618	118	113.223
16.	Megamendung	5	1.937	0	0	81	72.360	86	74.297
17.	Sukaraja	27	14.603	7	1.002	131	71.072	165	86.677
18.	Babakan Madang	22	18.254	2	1.332	101	58.798	125	78.384
19.	Suka makmur		2	3.372	0	0	78	25.070	828.442
20.	Cariu	6	8.432	3	881	92	56.449	101	65.762
21.	Tanjungsari	0	0	4	4.114	97	34.596	101	38.710
22.	Jonggol	22	61.829	0	0	159	90.979	181	152.808
23.	Cileungsi	68	53.866	2	600	166	67.587	236	122.053
24.	Klapanunggal	9	21.194	6	3.397	53	23.212	68	47.803
25.	Gunungputri	7	20.969	0	0	197	92.529	204	113.498
26.	Citeureup	29	12.340	0	0	158	67.433	187	79.773
27.	Cibinong	15	28.819	7	1.266	196	150.476	218	180.561
28.	Bojonggede	39	21.035	0	0	153	104.104	196	125.139
29.	Tajurhalang	11	13.149	0	0	78	85.537	89	98.686
30.	Kemang	29	34.073	4	6.573	81	64.184	114	104.830

²⁴ 'The Data Were Obtained from the Office of the Ministry of Religion of Bogor Regency, on 12 July 2019'.

No	KUA District	WAQF LAND STATUS							
		AIW		BEING PROCESSED IN BPN		CERTIFIED		T O T A L	
		Location	Area (m2)	Location	Area (m2)	Location	Area (m2)	Location	Area (m2)
31.	Rancabungur	4	2.775	0	0	47	40.430	51	43.205
32.	Parung	19	15.719	0	0	202	205.629	221	221.348
33.	Ciseeng	0	0	4	29.433	153	157.133	157	186.566
34.	Gunung sindur	24	18.160	0	0	110	110.991	134	129.151
35.	Rumpin	10	24.145	0	0	208	207.244	218	231.389
36.	Cigudeg	2	1.251	0	0	174	348.326	176	349.577
37.	Sukajaya	1	204	1	500	71	17.059	73	17.763
38.	Jasinga	0	0	2	1.568	191	200.571	193	202.139
39.	Tenjo	17	8.995	0	0	40	33.578	57	42.573
40.	Parung panjang	18	42.605	5	4.460	102	52.320	125	99.385
Total Assets		550	658.456	61	627.110	5.075	3.712.514	5.686	4.433.860

Most (70.07%) of the assets mentioned above are intended for houses of worship and taklim assemblies, with details: mosque 2,139 locations (37.61%); Musholla 1,478 locations (25.99%); taklim assembly 368 locations (6.47%). pesantren/madrasah 367 locations (6.45%), while the rest are intended for social purposes in the form of: Public cemeteries 248 locations (4.86%); school 146 locations (2.56%), government institutions 24 locations (0.42%), agriculture 8 locations (0.14%); social 3 locations (0.05%), and others 101 locations (1.77%).²⁵

Of the 5,686 *waqf* land locations in Bogor Regency, as many as 5,075 locations (89.23%) already have certificates, 61 locations (1.07%) are still in the process in BPN, 550 locations (9.67%) only have AIW.²⁶ These uncertified *waqfs*, even though they are few in number, are prone to cause conflicts. Because not a few lands that have been claimed as a *waqf*, in the end, become the object of the dispute. *Waqf* land that has been going on for decades ago, and the *wakif* has passed away, is being sued again by the heirs or other parties who deny the existence of legal

²⁵ 'Document the Office of the Ministry of Religion, Bogor Regency.'

²⁶ 'Document the Office of the Ministry of Religion, Bogor Regency.'

representation by submitting proof of ownership of the land. Indeed, before the enactment of Law Number 41 of 2004 concerning *Waqf*, the practice of *waqf* that occurred in community life was still conventional in nature. *Wakif*/landowner with full trust and *ta'dzim* (respect), just, verbally, give away his land to community leaders or people who are considered credible and able to manage *waqf* without the support of written documents. This kind of practice can later lead to conflicts between the community and certain parties as a result of not fulfilling the legal requirements of the transfer of land rights, from the status of ownership to the *waqf* land.

To overcome this problem, the Minister of Religion and the Minister of Agrarian Affairs and Spatial Planning/National Land Agency have made a Memorandum of Understanding outlined in a Joint Agreement Letter Number 9 of 2015 and Number 9/SKB/V/2015 dated May 25, 2015, concerning the Acceleration of Endowment Land Certification. With the existence of this MOU, the acceleration of the *waqf* land legalization process has become possible and inexpensive through the Complete Systematic Land Registration (PTSL) Ministry of ATR/BPN.²⁷

B. Problems with *waqf* productivity development

By looking at the area and the number of *waqf* assets in the Bogor Regency, it can be assumed that the potential of *waqf* in supporting the economic life of the people of this region is quite large. Unfortunately, such a large asset has not been managed professionally to support the economy of the people, especially in alleviating the problem of poverty in Bogor Regency. Many endowments are in a stagnant condition and have not been managed optimally. If the endowment is intended for some purposes, for example, a place of worship or educational facilities, then from year to year the function of *waqf* is solely for houses of worship or places of education. There is no effort to make other developments so that endowments can have added value. As a result, *waqf* assets become

²⁷ 'Kemenag Dorong Percepatan Sertifikasi Tanah Waqf — Nusakini' <<https://nusakini.com/news/kemenag-dorong-percepatan-sertifikasi-tanah-waqf>> [accessed 9 November 2019].

less productive and provide less economic benefits for the surrounding community. Indeed, in the public, there is still a belief that *waqf* assets should not be developed outside of the intended designation of *waqif*. So if the *waqif* gives its land for the building of a place of worship, then in that location it is enough to build a mosque or a prayer place, no other use may be made outside of its original designation.

The public perspective claiming that *waqf* assets should not be developed outside of their original designation needs to be reviewed and rectified. Herein lies the importance of the role and involvement of religious leaders to enlighten the community, as well as professionalism and productive thinking of a *Nazhir* so that *waqf* assets can contribute to ensuring the sustainability of the social interests of the community. The vast and untapped land can be strived to bring added value economically and sustainably or other interests needed by the community. For example the use of land for agricultural land, fish ponds, tourist areas, palawija plantations, home industry businesses, or other allotments that can bring value economically, in addition to the original allotment intended by the endowment.

An example of a model for developing *waqf* assets productively can be seen from what has been carried out by the *waqf* management agency Yayasan Al-Falah Social Fund (YDSF) in Surabaya. As reported by Miftahul Huda, YDSF, in developing *waqf* assets, has used *waqf* fundraising management by developing the resource fundraising model, in the form of raising conventional sources both directly and indirectly, and the grant fundraising model, in the form of strengthening empowerment programs in *waqf* distribution. This method was adopted because YSDF has not been able to develop an asset fundraising model and in-kind endowments.

Another example of a *waqf* management and development model can also be seen from what YBSA and YBW UII have done. Although basically, the two foundations have the same institutional model, in the form of a foundation/*Nazhir* legal entity, the two institutions have different concepts, both philosophical and technical development, and management. YBSA does not separate endowment property from assets obtained from the results of the endowment property development, both are made as endowments that are mandated to be managed responsibly. While YBW

UII separates *waqf* property from development assets, which are then used to manage the education institution independently based on the capital of *waqf* property. Apart from differences in the concept of implementation, the two models of management and development of *waqf* above are economic *ijtihad* and are proven capable of making *waqf* assets more efficient for the people and the advancement of education in Indonesia.²⁸

The examples above should be emulated by all *waqf* managers throughout the country. The nature and definition of *waqf* more loosely formulated by law show that *waqf* must produce and provide continuous benefits. Therefore, the need for independent and sustainable organizational management functions is an initial requirement that cannot be neglected. The pattern of *waqf* land management that still applies the conventional management needs to be changed to apply a modern management pattern that is more innovative and has more added value. For this reason, the Ministry of Religion of the Republic of Indonesia encourages *waqf* managers to establish business partnerships with other parties (business people or investors) to take advantage of strategic land positions and have high commercial value. The intended third parties include:

- 1) Business Investment Institutions in the form of non-financial service business institutions;
- 2) Individual investments that have sufficient capital;
- 3) Islamic banking institutions or other Islamic financial institutions as the owner of the loan funds;
- 4) International banking institutions concerned with the development of *waqf* land in Indonesia;
- 5) Financial institutions with a BOT (Build of Transfer) system;
- 6) Sharia guarantor institution as the party that will become *Nazhir* if the endowment empowerment effort suffers losses;
- 7) Non-Governmental Organizations (NGOs) that care about the economic empowerment of the people.²⁹

²⁸ Amir Mu'allim, 'Ijtihad Ekonomi dalam Pengelolaan Aset Waqf', *AL-'ADALAH*, 14.2 (2017), 291–310 <<https://doi.org/10.24042/adalah.v14i2.2212>>.

²⁹ Departemen Agama RI, 'Paradigma Baru Waqf di Indonesia', (Direktorat Jenderal

With the *waqf* development model that is managed professionally by *Nazhir* who is trusted under the guidance of the BWI Institute, *waqf* assets will be able to bring more useful results and support the benefit of the people, both in the form of developing mosque/musholla facilities, Islamic educational institutions, Islamic hospital development, or for the benefit of other people's economic empowerment assistance, which is not contrary to sharia and laws and regulations.

C. Problems with the Role and *Nazhir*' competency

The non-optimal development of the *waqf* land productivity above actually correlates with the low competency of *waqf* managers or *Nazhir*.³⁰ This study obtained the fact that among the main problems that could hinder the development of *waqf* function in Bogor Regency was the less optimal role and function of *Nazhir* in developing *waqf* assets productively. Many endowments do not develop as they should, because *Nazhirs* are reluctant to take the initiative, worrying that development will go against the *wākif's* intention when he gave his assets to be used as endowments. Apart from that, most *Nazhirs*, especially those in the form of individuals, do not familiar with modern management, especially in making financial reports, so that sometimes the public, or related parties, find it difficult to measure the extent of effectiveness of *waqf* asset development, including the results.

As stated earlier, the role of *Nazhir* in developing the potential of *waqf* is very important, if it cannot be said to be a major factor in ensuring the sustainability and empowerment of productive *waqf* assets. Therefore, in the future, in the appointment of *Nazhir*, the community must seriously consider the capabilities and competence of a *Nazhir* in the aspects of management and development of *waqf* objects. Related to that need, the parameters of professional *Nazhir* formulated by Achmad

Bimbingan Masyarakat Islam, Direktorat Pemberdayaan Waqf, 2003), p. 126.

³⁰ Nurul Huda, et al, "Prioritas Solusi Permasalahan Waqaf di Provinsi Jawa Barat dengan Metode ANP", *Al-Awqaf: Jurnal Waqf Dan Ekonomi Islam*, 8.1 (2015) <<https://drive.google.com/file/d/0B61irU-NYtRTZWJhV3ZPWThEbGs/view>>.

Junaidi, quoted by Jaih Mubarak,³¹ need to be used as guidelines, which include: *amanah* (trustworthy), *Shidiq* (honest), *fathānah* (intelligent), and *tabligh* (transparent). The character of trustworthy *Nazhir* resources are: (1) educated and high in morality, (2) having superior and competitive skills, (3) ability to divide labor, (4) ability to carry out obligations and obtain fair rights, and (5) having clear and directed operational work standards.

Apart from that, there is also a need for continuous coaching efforts from the Indonesian Waqf Board (BWI), in the form of (1) regular meetings (2) training activities, and (3) socialization related to the latest regulations on the management of *waqf* objects. Up to now, the working relationship between the Ministry of Religion of Bogor Regency, KUA as PPAIW, the Indonesian Waqf Agency Representative of Bogor Regency, and *Nazhir* has been running even though it has not been optimal. Therefore, in the future, the above institutions need to be more intensive in carrying out the fostering functions, formally and informally, especially in the field of administration and supervision of *waqf* objects in the area of Bogor Regency.

Conclusion

The three main problems related to existing *waqf* conditions in the Bogor Regency are: (1) Problems with the status/legality of *waqf* land; (2) Role of *Nazhir* and Competencies; (3) Problems in managing and developing *waqf* productivity

To overcome such problems, stakeholders in the Bogor Regency, in this case, the Ministry of Religion, BWI Representatives of Bogor Regency, and *Nazhir*, need to build integrated coordination and supervision in one system (integrated system) related to the overall management, development, and supervision of *waqf* assets. This is important because even though the laws and regulations have provided legal certainty if it is not followed by the efforts and hard work of the stakeholders in implementing the purpose of the law, the *waqf* assets will never be able to develop into one of the instruments social Security.

³¹ Jaih Mubarak, *Waqf Produktif* (Bandung: Simbiosis Rekatama Media, 2008), p. 161.

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