

REALIZE NAZHIR PROFESSIONALITY IN MANAGING MORE PRODUCTIVE WAKAF ASSETS

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ABSTRACT

The development of waqf assets cannot be separated from the role of the Waqf Nazhir . Although the Nazhir is not the only party who can determine the success or failure of waqf asset management, the role of the Nazhir is very central in the development of waqf assets. The legality of Nazhir as a party that manages and develops waqf assets has been clearly regulated in Law Number 41 of 2004, Government Regulation Number 42 of 2006 which has been amended to PP No. 25 of 2018, as well as various regulations of the Indonesian Waqf Board / BWI . Although various regulations governing the nazhir (trustee), the expertise of the nazhir remains a crucial issue in waqf management in Indonesia. The professionalism of the nazhir is key to ensuring that waqf assets do not simply languish but grow productively for the benefit of the community.

Keyword : Nazhir; Management Of Wakaf Assets.

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INTRODUCTION

Waqf, as a form of voluntary worship, can be classified as both wealth worship (malayah) and social worship (ijtimaiyyah). Waqf, as collectively owned by Muslims, contributes to the community's economic activities, thereby improving community welfare and alleviating poverty. ¹

¹ Mohsin, M. I. Abdel (). *The Institution of Waqf: A Non-Profit Institution to Financing the Needy Sectors*.

Several unique Indonesian terms for this form of waqf exist. In Banten, the term "Huma Serang" refers to collectively managed fields whose yields are used for the common good. In Lombok, the term "Tanah Pareman" refers to state land exempt from "Landrette" taxes. The yields are handed over to villages, subaks, and temples for public use. Furthermore, in East Java, the term "Perdikan" refers to land granted by the king to a deserving individual or group. This land bears similarities to the waqf ahli (family waqf) in terms of its function and utilization. Perdikan land may not be sold or purchased.² From this, it can be concluded that waqf in Indonesia has unique characteristics depending on the region.

Waqf, which in its position holds great benefits for the community, therefore, when viewed from its management method, the Nazir, as the waqf manager, can manage waqf in three types: 1) traditional waqf management, meaning waqf funds are managed and allocated solely for pure religious purposes, such as for the construction of mosques, prayer rooms, cemeteries, and madrasas. 2) semi-traditional waqf management, in this type, waqf assets are managed traditionally, but waqf managers have begun to understand how to develop waqf assets more productively despite their limited skills and managerial skills. 3) professional waqf management, in which the Nazir is required to maximize waqf assets for more productive purposes and manage them professionally and independently.³

Legally, waqf management in Indonesia is regulated by Law No. 41 of 2004 concerning Waqf, which serves as the primary legal basis for the management and development of waqf in Indonesia. Article 4 of Law No. 41/2004 concerning Waqf states that the purpose of waqf is to utilize waqf assets in accordance with their function. Article 5 of Law No. 41/2004 states that the function of waqf is to realize the potential and economic benefits of waqf assets for the purposes of worship and to advance public welfare.⁴

The duties of the nazhir, as stipulated in Article 11 of Law No. 41 of 2004 concerning Waqf, namely:⁵

1. Administering waqf assets
2. Managing and developing waqf assets in accordance with their purpose, function, and designation
3. Supervising and protecting waqf assets
4. Reporting on the implementation of duties to the Indonesian Waqf Board

² Achmad Djunaidi, dkk., *Perkembangan Pengelolaan Wakaf di Indonesia*, (Jakarta: Direktorat Pemberdayaan Wakaf, 2006), p 13.

³ A. Syathir Sofyan (2020). *Model Pengelolaan Aset Wakaf Berbasis Profesionalisme Nadzir di Kecamatan Mamajang Kota Makassar*. Vol. 2 no. 1 sep 2020, hal. 78-79

⁴ Jubaedah.(2017). *Dasar Hukum Wakaf*. TAZKIYA: Jurnal Keislaman, Kemasyarakatan dan Kebudayaan. 18(2), 256-261

⁵ Pasal 11 UU No. 41 Tahun 2004 Tentang Wakaf

From the provisions above, developing waqf assets to be more productive is an obligation that must be carried out by the Nazhir as the controller of waqf asset development, whether an individual, an organization, or a legal entity. And in essence, the essence of waqf implementation lies in ensuring that the waqf assets that have been endowed by the waqif are not left without clear productivity. This is because, the more productive the waqf assets, the more people who will enjoy the benefits of waqf, the greater the rewards flowing to the waqif.

However, in practice, the implementation of waqf regulations in Indonesia still faces various challenges. One major issue is the low capacity and professionalism of nazhir (Islamic administrators) in managing waqf assets productively. Many nazhir lack the managerial and business skills to manage waqf effectively. Furthermore, the lack of transparency and accountability in waqf management often leads to public distrust. Another contributing factor is the lack of concrete policy support to encourage innovation and more modern waqf management. This results in many waqf assets remaining underutilized and serving as idle assets, providing no economic benefit to the community.

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METHOD

The research to be used is normative-empirical legal research. This approach aims to understand law in terms of norms (rules) and the implementation of legal rules in actual behavior as a result of the enactment of legal norms. This behavior can be observed in real life and serves as evidence of whether citizens have behaved in accordance with or not with normative legal provisions (statutory regulations and other written documents). Abdul Kadir Muhammad stated that normative-empirical (applied) legal research examines the implementation of positive legal provisions (legislation) and written documents in action (factual) in specific legal events occurring in society.⁷

The approach used in this research is the statute approach. This statute approach examines all laws and regulations related to the legal issue at hand.⁸ The conceptual approach, on the other hand, is based on the perspectives and doctrines developed within legal science. By studying the views of doctrines in legal science, researchers will find ideas that give rise to legal definitions, legal concepts and legal principles that are relevant to the issues at hand.⁹

DISCUSSION

⁶ R. Dahlan, Faktor-Faktor Yang Mempengaruhi Persepsi Nazhir Terhadap Wakaf Uang. ZISWAF : *Jurnal Zakat Dan Wakaf*, Vol .4 No.1, (2018), p. 1

⁷ Eka NAM Sihombing dan Cynthia Hadita, *Penelitian Hukum* (Malang: Setara Press, 2022).p. 49.

⁸ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Penerbit Kencana, 2007), p. 35.

⁹ Ibid

Challenges for Waqf Nazir in Managing Waqf Assets to Ensure Productivity

In the context of national law, Article 9 of Law Number 41 of 2004 concerning Waqf establishes three forms of nazir, namely:

1. Individual Nazir: Consisting of at least three individuals acting on behalf of a group, who are entrusted with managing the waqf and must be registered with the Office of Religious Affairs (KUA) and/or the Indonesian Waqf Board (BWI).
2. Organizational Nazir: An organizational Nazir is a religious or social institution with a legal entity structure to carry out the functions of nazir.
3. Legal Entity Nazir: A legal entity Nazir is an official institution such as a foundation, cooperative, or Islamic financial institution that has a legal basis and permits to manage waqf assets.

These three forms are legally valid under national law and have equal standing in carrying out their primary duties, namely safeguarding, managing, and developing waqf assets in accordance with applicable regulations and the waqif's objectives.

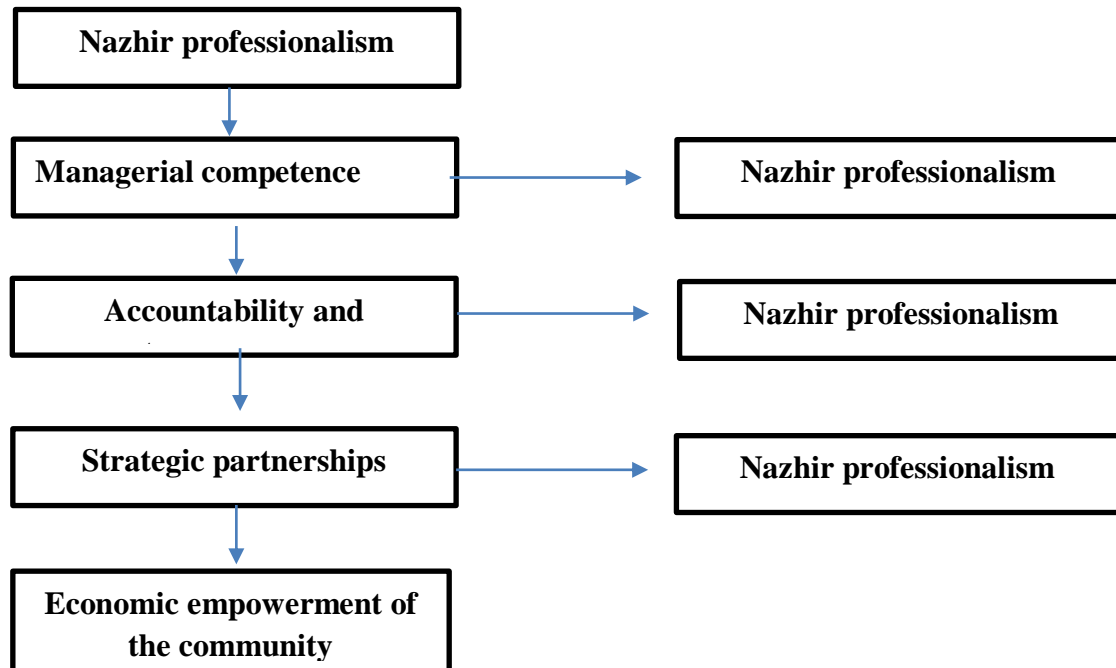
In managing waqf assets, the role of the nazir is crucial to ensure optimal management of the waqf assets. A professional nazhir in managing waqf assets must adhere to modern management principles. The word "professional" comes from the word "profession," meaning a job where a person earns a living, relying on expertise and high skill, and involving strong commitment.¹⁰

In managing waqf assets, a nazir faces many obstacles and challenges, including:

1. Many nazirs lack managerial, financial, or entrepreneurial competencies.
2. Furthermore, Mubarok (2008) stated that the main weakness in waqf management in Indonesia lies in the nazhir's lack of managerial, financial, and entrepreneurial competencies.
3. "Nazhir often lacks adequate capacity in management, administration, and entrepreneurship, so waqf is only managed in a traditional and consumptive manner." (Jaih Mubarok, *Productive Waqf*, 2008).
4. Djunaidi & Thobieb (2007) emphasized that nazhir professionalism is an absolute requirement for productive waqf, because without managerial and financial capabilities, waqf assets will simply be neglected.

¹⁰ Musyifikah, Ilyas, "Profesional Nazhir Wakaf dalam Pemberdayaan Ekonomi" *Jurnal Al-Qadau Peradilan dan Hukum Islam*, Vol. 4, No. 1, Juni 2017, p. 76-77.

So, if it can be described, the challenges and problems that often occur in managing waqf assets are as follows: ¹¹



The diagram above systematically illustrates how the professionalism of the nazhir serves as the primary foundation for driving productive waqf governance and directly impacting the economic empowerment of the community. This professionalism is reflected in several key indicators, starting with managerial competency. A nazhir with competency in administration, planning, and asset management is capable of developing a productive waqf planning program in a focused and sustainable manner. Good planning is a crucial foundation for optimizing the economic potential of waqf assets, whether in the form of land, buildings, or cash waqf. The next step is accountability and transparency, which are essential elements in the management of waqf funds and assets. When the nazhir is able to submit reports openly and responsibly, public trust will increase. This trust is crucial because it serves as social capital that enables the community to continue participating and entrusting their waqf assets to the nazhir. With this capital of trust, the nazhir can build strategic partnerships with various parties such as Islamic financial institutions, cooperatives, zakat institutions, or even business actors. ¹²

¹¹ Wiwik Dwi Haryono dan Hapifah, Penguatan Profesionalisme Nadzir Sebagai Strategi Tata Kelola Wakaf Produktif Untuk Kemandirian Ekonomi Umat, *J-ESA Juranl Ekonomi Syariah*, Vol. 8 No.1 2025, p.83-84

¹² Ibid

Thus, the impact of a lack of competence on the part of a trustee is that many waqf assets are unproductive or even neglected. Furthermore, low public trust due to a lack of transparency and accountability in management. Furthermore, limited innovation in developing waqf into economic assets (modern agriculture, property, sharia-compliant businesses, etc.) has resulted in suboptimal management of waqf assets.

Reconstruction of the Professionalism of Waqf Nazhir in Managing Waqf Assets More Productively and Independently in Indonesia

The waqf nazhir has a central role in managing and developing waqf assets, so that nazhir in the view of Hanafiah scholars is called " *Qayyim al-Waqf* " or *Mutawalli* ¹³, which is "a person who regulates and supervises waqf affairs" ¹⁴. So the word nazhir is also called *al-nazhr* which is interpreted as *al-hâfiz* (guardian) ¹⁵, *al-musyrif* (manager), *al-qayyîm* (director), *al-mutawallî* (administrator), or *al-mudîr* (director) ¹⁶. So the waqf nazhir can be said to be a person or legal entity who holds the mandate to maintain and manage waqf assets in accordance with the form and purpose of the waqf itself.

The activities of waqf nazhir are based on the Waqf Law, PP No. 42 of 2006, Regulation of the Minister of Religious Affairs No. 4 of 2009, and Regulation of the Minister of Religious Affairs of the Republic of Indonesia No. 73 of 2013. Specifically in the Waqf Law, nazhir is mentioned as the party who receives waqf assets from the Wakif. to be managed and developed in accordance with its intended use (Article 1), also known as nazhir for individuals, organizations and legal entities (Article 9), and has the task of administering waqf assets; managing and developing waqf assets in accordance with their objectives, functions and intended use; supervising and protecting waqf assets; and reporting on the implementation of tasks to the Indonesian Waqf Board (Article 11).

The important position of nazhir in the development of waqf assets certainly requires professionalism and good and extensive knowledge, so that the managed waqf assets can grow and provide a positive contribution to improving welfare, especially for Muslims. However, the problem that arises is that the independence of nazhir in managing waqf assets for development is often limited. Because the duties and authorities of nazhir are limited by the current waqf regulations and laws. The limitations that cause nazhir to be independent can be seen in the waqf law , including: regarding the management and

¹³Fakruddin bin Manzur al-Ausjundi. (1982). *Fatawa al-Qadikhan* , Dar Ihya Turats al-Araby, Hal. 297

¹⁴Muhammad Rawas Qal'aji (1985). *Mu'jam al-Lughah al-Fuqaha'*, Dar al-Nafais, Hal. 404.

¹⁵Khalîd Abdullâh al-Syu'aib (2006). *al-Nazhârah 'Alâ al-Waqf*. Kuwait: al-'Amânah al-'Ammah li al-Awqâf.Hal. 57. See also Ibn Manzur (n.d.). *Lisân al-'Arab*, Juz. 5th. Dâr al-Ma'arif. Page 218; Al-Munawwir, Ahmad Warson (1997). *The Most Complete Al-Munawwir Arabic-Indonesian Dictionary* , Yogyakarta: Pustaka Progressif. P. 1533.

¹⁶Khalîd Abdullâh al-Syu'aib (2006). *al-Nazhârah 'Alâ al-Waqf*. Kuwait: al-'Amânah al-'Ammah li al-Awqâf.Hal. 58.

development of waqf assets (Article 44), guidance is not only carried out by BWI but also by the minister (Article 13), registration of nazhir is not only at BWI but also by the minister (Article 14 paragraph 1), changes in the allocation of waqf assets must be permitted by the Indonesian Waqf Board (Article 44 paragraph 1), the Minister provides guidance and supervision of the implementation of waqf to realize the goals and functions of waqf (Article 63 paragraph 1). The limitations that cause nazhir to be less independent are also stated in PP No. 42 of 2006, including regarding the management and development of waqf assets, which must be guided by BWI regulations (Article 48), changes in the status of waqf assets in the form of exchange are prohibited, except with written permission from the Minister based on BWI considerations (Article 49 paragraph 1), the status of waqf asset exchange must have written permission from the minister (Article 49 paragraph 2), the exchange of waqf assets managed by nazhir has a very long procedure (Article 51), the obligation of nazhir to make periodic reports not only to BWI but also to the minister (Article 13 paragraph 2)

The various limitations mentioned above have led to the development of waqf in Indonesia being slower than in other countries such as Singapore, Malaysia, Brunei Darussalam, Turkey, Egypt, and so on. This is due to the unclear status and position of individual nazhir, organizations, and legal entities in managing waqf assets. They must comply with other regulations and laws, such as the Law on Mass Organizations, the Law on Foundations, the Law on Cooperatives, the Law on Limited Liability Companies, the Waqf Law, Government Regulation No. 42 of 2006, the Regulation of the Minister of Religious Affairs No. 4 of 2009, and the Regulation of the Minister of Religious Affairs of the Republic of Indonesia No. 73 of 2013. One of the overlapping regulations between the Waqf Law and Government Regulation No. 42 of 2006 with the Law on Mass Organizations, Foundations, Limited Liability Companies and Cooperatives, namely regarding the dissolution of nazhir, it is stated that the nazhir of an organization is dissolved or dissolved in accordance with the provisions of the Articles of Association of the organization concerned (PP No. 42 of 2006 Article 8), the nazhir of an organization must be the administrator of the organization (Article 10 paragraph 2 of the Waqf Law), the nazhir of a legal entity is the administrator of a legal entity (Article 10 paragraph 3 of the Waqf Law).

In an effort to optimize the management of waqf assets so that they can develop rapidly and contribute to improving the welfare of the Muslim community in terms of social, economic, and religious aspects, it is necessary to reconstruct the waqf nazhir (individual waqf nazhir, organizations, and legal entities) into independent waqf nazhir. The independence of the waqf nazhir is inseparable from and synchronized with the reconstruction of individual waqf institutions, organizations, and legal entities as independent legal entities as previously discussed. Because the reconstruction carried out on individual waqf nazhir, organizations, and legal entities into independent waqf nazhir

is certainly based on the structure of waqf asset management, where independent waqf nazhir will indirectly have independent status and position because they are within the waqf institution as an independent legal entity.

The professionalism of a Waqf Nazhir is a key pillar for professional waqf asset management. Therefore, a Nazhir must possess:

- a. Managerial Competence: the ability to develop a waqf business plan, asset management, and performance evaluation.
- b. Integrity and Accountability: open reporting, regular audits, and the use of transparent information systems.
- c. Technical Expertise: mastery of waqf legal aspects, sharia investment, land management, and business development.
- d. Socio-Economic Orientation: not solely pursuing profit, but ensuring the benefits of the waqf are returned to the community.

The reconstruction carried out on individual waqf nazhirs, organizations and legal entities to become independent waqf nazhirs, includes:

1. The waqf nazhir for individuals, organizations and legal entities is a part of the management of waqf institutions for individuals, organizations and legal entities as independent legal entities.
2. The individual waqf nazhir is in the individual waqf institution organ as an independent legal entity.
3. The Nazhir of the organizational waqf is within the organizational waqf institution organ as an independent legal entity.
4. The legal entity waqf nazhir is within the legal entity waqf institution organ as an independent legal entity.
5. The appointment of waqf nazhir is carried out by the Indonesian Waqf Board without government interference/intervention (the Indonesian Ministry of Religion), based on the proposal of waqf institutions (individual waqf institutions, organizations and legal entities which are independent legal entities).
6. The exchange of waqf assets for the purpose of development and empowerment can be carried out by the waqf nazhir in accordance with the provisions of sharia and the decisions of the respective waqf institutions, by referring to and harmonizing the regulations set by the respective waqf institutions with the regulations set by BWI, without the approval and permission of BWI or the government (Ministry of Religion of the Republic of Indonesia).
7. The development of waqf assets is the proprietary right of the waqf nazhir, as long as the management and allocation do not violate Islamic law and the rules set by BWI.
8. The reporting and accountability system for activities carried out by the waqf nazhir is carried out to each waqf institution itself, with a copy to the Indonesian Waqf Agency.

9. Supervision of waqf administrators' activities is carried out by each waqf institution, the Indonesian Waqf Board, and the community. However, a structured oversight system is the sole responsibility of the waqf institution itself. The Indonesian Waqf Board and the community can report any irregularities or errors committed by waqf administrators to their respective waqf institutions.

In addition, there are strategies that need to be implemented to realize productive waqf management, including:

- a. Nazhir Training and Certification: a capacity building program conducted by the Indonesian Waqf Board (BWI), universities, and Islamic financial institutions.
- b. Digital Technology Integration: waqf information systems, waqf crowdfunding, and digitalized reporting.
- c. Multi-Party Collaboration: synergy with the government, Islamic banking, the private sector, and Islamic organizations.
- d. Productive Waqf Business Models: modern agricultural waqf, property waqf (hospitals, schools, housing), stock waqf, and MSME-based waqf.
- e. Fiscal Incentives & Supporting Regulations: tax support, financing, and regulations that provide space for innovation.

CONCLUSION

The management of waqf assets by a nazhir presents numerous challenges. Lack of managerial competence, accountability and transparency, strategic partnerships, community economic empowerment, and nazhir professionalism present unique obstacles to waqf asset management. Consequently, these factors prevent waqf assets from being optimally utilized for the welfare of the community.

The professionalism of a nazhir is not merely a requirement, but an urgent need for waqf to truly become an instrument for the economic empowerment of the community. With a competent, trustworthy, and innovative nazhir, waqf assets will not only be safeguarded but also grow into a source of blessings and community welfare.

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