

Optimizing Nazhir's Role in Managing Waqf to Realize Economic and Social Development in Bekasi City

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Abstract

Waqf is a form of worship that is recommended to be carried out by every Muslim. This is because the rewards continue to flow even though the wakif has died as long as the items donated can be used by people who need them. Waqf can include movable or immovable objects. Although various narrations/hadith say that the issue of waqf is about land, various scholars understand that non-land waqf is also fine as long as the objects are not immediately destroyed/exhausted when the benefits are taken. Waqf significantly contributes to growth. culturally and intellectually, waqf also plays a positive role in upholding social justice, because it encourages those who are rich to establish waqf that will guarantee the poor. In Indonesia, waqf is regulated in Republic of Indonesia Law Number 41 of 2004 concerning WAKAF. Article 5 of the Waqf Law explains that the function of waqf is to realize the potential and economic benefits of waqf property for the purposes of worship and to advance public welfare. In its development, Muslims have become aware of implementing waqf for their assets, especially in Indonesia, where the majority of the population is Muslim. The benefits of waqf institutions have been felt by Muslims, especially in economic and social development. The role of waqf nadzir is very important in order to improve and manage waqf objects. However, in practice there are many waqf objects that cannot be optimized and are even neglected, due to the inability of nadzir, especially in cities. Bekasi in managing waqf objects. For this reason, researchers will conduct research related to optimizing Nazir's skills in managing waqf assets in realizing economic and social development. In Article 9 of Law Number 41 of 2004 concerning WAKAF, Nazirwakaf can include: a. individual; b. organization; or c. legal entity. In carrying out his duties, Nazir received guidance from the Minister and the Indonesian Waqf Board (BWI). The problems that will be examined in this research are: 1) what is Nazhir's role in managing Waqf assets, 2) what is the form of optimizing Nazhir's skills in managing Waqaf to realize economic and social development in Bekasi City. The aim to be achieved is to research and study Nazhir's role in managing Waqaf in Bekasi City and looking for forms of optimizing Nazhir's skills in managing Waqaf to realize economic and social development.

The method used in this research is normative juridical, namely by examining secondary data and empirical juridical, namely examining primary data. The planned activities in this research are to conduct research on Waqf regulations, examine Nazhir's skills in managing

Waqf assets in Bekasi City, conduct interviews with the Indonesian Waqf Board, which is an independent institution for developing waqf in Indonesia, conduct interviews with Waqifs, Nazhir and the City community. Bekasi. The research stage begins by examining the legal basis of Waqf in Indonesia, followed by examining the duties and authority of the Nazhir as the party authorized to receive waqf assets from the Wakif to be managed and developed according to their intended use. The next stage is to examine Nazir's skills in managing waqf assets and formulate a form of optimizing Nazir's skills in managing waqf assets to realize economic and social development. The resulting output is a recommendation for optimizing Nazir's skills in managing waqf assets.

Keywords: *Waqf, Nazir, Economic and Social*

I. INTRODUCTION

Islam is a universal and comprehensive teaching. Universal means that Islam is intended for all mankind and can be applied in every time and place until the end of time. Comprehensive means that Islam has complete and perfect teachings. This perfection is because as a religion, Islam regulates all aspects of human life, both from the spiritual aspect (worship) and mu`amalah. As a comprehensive teaching, Islam includes 3 (three) main teachings, namely Aqidah, Morals and Sharia. Aqidah is a teaching related to Muslim beliefs vertically, namely a person's belief and belief in God, Angels, the Book and other articles of faith. Morals are Islamic teachings about good and bad behavior, ethics and morality.

Waqf is one of the Islamic institutions that has a social and social character and is valued at worship and as a service to Allah SWT. From the perspective of Islamic law (fiqh) waqf is an institution of social worship that does not have an explicit reference in the Koran and al-Sunnah. Ulama are of the opinion that the waqf order is part of the order to do good (al-Khayr).

Basically, waqf is a form of worship to get closer (taqarrub) to God Almighty. The purpose of the waqf (mauquf 'alaih) is the authority of the waqif. whether the assets donated are to help one's own family as a family waqf (Waqf Ahli), or for the poor and others, or for public purposes (Waqf Khairi). The terms and objectives of waqf are for good and to seek Allah's pleasure and to draw closer to Him. Therefore, the purpose of waqf cannot be used for immoral purposes or to help support and/or for immoral purposes.

One of the important elements in waqf is the existence of the waqf nadzir, namely the party who manages the waqf assets. Nazir's duties and authorities are regulated in

Government Regulation Number 25 of 2018 concerning amendments to Government Regulation No. 42 of 2006 concerning Implementation of Law No. 41 of 2004 concerning Waqf. Waqf assets must be registered in Nazhir's name for the benefit of the parties referred to in the Waqf Pledge Deed in accordance with their designation. Nazhir must be registered with the Minister and BWI through the local Religious Affairs Office. Nazir is obliged to administer, manage, develop, supervise and protect waqf assets. Nazir is obliged to make regular reports to the Minister and BWI regarding waqf activities.

As regulated in Law Number 41 of 2004 concerning Waqf, Article 11 explains the 4 roles of nazhir, namely: 1) administering waqf assets; 2) manage and develop waqf assets in accordance with their objectives, functions and designation; 3) supervise and protect waqf assets; and 4) report the implementation of duties to the Indonesian Waqf Board (BWI). The article above is a form of Nadzir's obligations and responsibilities. However, in reality, not all of these roles operate as mandated by law.

A professional Nadzir makes waqf management his main profession, not a side job, because being a waqf Nadzir is a mandate. For this reason, it is necessary to optimize Nazir's skills in managing waqf assets in order to achieve the waqf objectives, namely realizing the potential and economic benefits of waqf assets for the purposes of worship and to advance general welfare.

II. LITERATURE REVIEW

A. Definition of Waqf

Waqf comes from the Arabic word "Waqafa - yaqifu - waqfan" which means to hold, stop, remain, stand or stay in place. The linguistic description of waqf is وقف – وقفا and وقوفا which means to stop, with the form masdar الوقف which means donated assets (al-maalu al-mauqufu) or waqf assets. The word وقف is a synonym for the word حبس which comes from the verb habasa – yahbasu – habsan, namely to keep someone away from something or to imprison. Then this word developed into habbasa which means: donating wealth for the sake of Allah. The definition of waqf according to the Compilation of Islamic Law (KHI) contained in book III Chapter I Article 215 paragraph (1) is:

"a legal act of a person or group of people or a legal entity that separates part of its property and institutionalizes it forever for the purposes of worship or other public purposes in accordance with Islamic teachings."

Meanwhile, in the Islamic Encyclopedia, waqf is defined:

"Transfer of ownership rights to a useful and long-lasting property by handing over the property to the manager, whether family, individual or institution to be used for public purposes in the way of Allah".

The definition of waqf according to madzhab scholars is as follows:

1. According to scholars of the Syafi'i school of thought, waqf is: retaining existing assets that can be benefited from while the goods remain intact and the wakif loses ownership of the goods, and uses them for something that is permissible.
2. According to Hanafi madzhab scholars, waqf is: carrying out actions on an object, which has permanent status as property, by donating its benefits to another party for the sake of goodness both now and in the future.
3. According to Maliki madzhab scholars, they argue: that in waqf a person does not release his property from ownership. However, waqf can prevent the wakif from carrying out actions that could release his ownership of the property to other parties. The Wakif is also obliged to donate the benefits, and cannot withdraw his waqf.
4. According to Hambali madzhab scholars, waqf means: absolutely restraining the freedom of property owners in running their assets in a beneficial way by keeping the assets intact and deciding all control rights over the assets, while the benefits of the assets are for good in getting closer to Allah.

According to Law Number 41 of 2004 concerning Waqf, what is meant by waqf is:

"Wakif's legal action to separate and/or hand over part of his property to be used forever or for a certain period of time in accordance with his interests for the purposes of worship and/or general welfare according to sharia."

From the several definitions of waqf above, conclusions can be drawn:

1. Some scholars are of the opinion that with the creation of waqf, waqf assets leave or are separated from the property rights of the person who donated them and become the property of Allah or become public property. Some scholars are of the opinion that waqf assets still belong to the person who donated them.
2. What is given in charity is only the benefit but also the goods (the other must remain).
3. You can donate the benefits of an object.

B. Legal Basis of Waqf

There are several texts (al-Qur'an and hadith) which form the legal basis or legitimacy of waqf, namely verses from the Koran and hadiths of the Prophet which command all humans to always do good. Meanwhile, waqf is a good and praiseworthy act. Verses that can be used as a legal basis include:

Surah Al-Baqarah verse 267, which means:

Meaning: "O you who believe, spend (in the way of Allah) a portion of the results of your good efforts and a portion of what We have brought out from the earth for you. and don't choose the bad things and then spend on them, even though you yourself don't want to take them but by narrowing your eyes towards them. and know that Allah is Rich, Most Praiseworthy." The meaning of spending wealth in the way of Allah in the sentence above includes spending for the purposes of jihad, building universities, hospitals, scientific research efforts and so on.

Surah Ali 'Imran (3): 92, which means:

Meaning: "You will never reach (perfect) virtue until you spend part of the wealth you love. and whatever you earn, Allah knows."

Surah Al-Hajj (22): 77 which reads:

Meaning: "O you who believe, bow down, prostrate yourself, worship your Lord and do good deeds so that you may win."

Hadith of the Prophet SAW:

Meaning: "It was narrated from Ibn Umar ra that Umar bin al-Khattab obtained land (garden) in Khaibar then he came to the Prophet SAW to ask for instructions regarding the land. He said: "O Messenger of Allah! I obtained land in Khaibar which I have never obtained better property for me than that land, what are your orders (to me) regarding it?". The Prophet SAW answered: "If you want, you keep the principal and you donate (the proceeds)." Ibn Umar said: "So, Umar gave the land in charity, (on condition) that the land be not sold, not given away, and not inherited. He gave alms (the proceeds) to fuqara, riqab (servants, oppressed people), sabilillah, ibn sabil, relatives and guests. There is no sin on the person who manages it to feed (others) without making it property."

Rawi said, "I told the hadith to Ibn Sirin, then he said without keeping it as property." (HR.al-Bukhari, Muslim, Tirmidhi, and al-Nasa`i).

This is the beginning of (Wakf) which is famous in Islam. Imam Syafii said, "After that 80 friends in Medina continued to sacrifice their wealth as waqf." Waqf has superior value compared to other charities, as stated by Rasullullah Saw which means:

From Abu Hurairah, "Indeed the Prophet SAW has said, When a person dies, his deeds are cut off (no further increase in the goodness of his deeds), except for three things: (1) alms (waqaf), (2) useful knowledge (either through teaching or by making up things and so on), (3) a pious child who prays for his mother and father" (History of the Jama'ah of hadith experts, apart from Bukhari and Ibn Majah).

From this hadith, it is clear to us that giving waqaf is not just like ordinary alms, but the rewards and benefits are greater for those who make waqaf themselves, because the rewards of waqaf continue to flow as long as the waqaf items are still useful. Also, for society, it can be a way for the widest possible progress and can stop the flow of damage. In Islamic countries in the past, because of the waqf, Muslims were able to progress, even now hundreds - even thousands - of years later, the results of their waqf are still eternal and beneficial to the people.

Waqf is declared valid if the terms and conditions have been fulfilled. The pillars of waqf are as follows:

- a. Wakif is someone who wants to make waqf.
- b. Nazir
- c. Mauquf bih (endowed assets). The conditions for mauquf bih include:
 - 1) The assets donated must be mutaqawwam, that is, according to the Hanafi madzhab, everything that can be kept and is halal for use under normal circumstances.
 - 2) The assets to be donated must be known with certainty so that there will be no disputes.
 - 3) The wakif's assets belong to the wakif.
 - 4) Separate, meaning that it is not joint ownership (Rozalinda, 2015).
- d. Mauquh 'Alaih is the recipient of the waqf.
- e. Shighat is a wakif's statement or pledge as an intention to donate part of his assets.

C. Nadzir Waqf

That apart from the pillars of waqf which have been mentioned above, what is no less important in the matter of waqf is the existence of Nadzir waqf. Even though nadzir is not one of the pillars of waqf, nadzir waqf is a very important element in waqf. Because whether or not the waqf assets develop depends on the status of the waqf. The word nadzir comes from the Arabic nadzara - yandzuru - nadzran which means guarding, nurturing, managing and supervising. The nadzir is a person who is given the task of managing waqf, which is then developed into a group of people or legal entities who are entrusted with the task of maintaining and managing waqf objects.

Fiqh scholars agree that the waqf provider (wakif) must appoint a waqf nadzir, the nadzir can be an individual, organization or legal entity as stated in Article 9 of Law No.41 of 2004 concerning Waqf. However, if the wakif does not appoint a nadzir then there are several opinions of the ulama. According to Maliki and Syafi'i madzhab scholars, those who act as nadzir are those in power. Because they are the ones responsible for serving the public interest. Meanwhile, according to Hanbali madzhab

scholars, the nadzir is the person who receives the waqf. According to Hanafi school scholars, the management of waqf can be carried out by the wakif himself. If no one is appointed or willed, then the nadzir is the ruler.

The duties of the nadzir as stated in Article 11 of Law No. 41 of 2004 concerning Waqf are:

- a. Administering waqf assets;
- b. Manage and develop waqf assets in accordance with their objectives, functions and designation;
- c. Supervise and protect waqf assets;
- d. Reporting the implementation of tasks to the Indonesian Waqf Board (BWI).

However, the nadzir's duties are not only focused on the matters above, fiqh experts provide expansion to new tasks according to needs. And in an effort to develop waqf assets so that they are productive, a nadzir has the right to receive a reasonable wage. According to the Hanafiyyah group, the nadzir is entitled to receive a salary as long as he carries out everything requested when the waqf occurs. The salary can be 1/10 or 1/8 and so on according to the wakif provisions. Some Malikiyyah groups are of the opinion that if the wakif does not determine the nadzir's wages, then the judge can take the wages from the baitul maal. Meanwhile, the Shafi`iyyah group believes that the wakif is the one who determines the nadzir's salary. According to the Hanabilah group, if the wakif does not determine the wages of the nadzir, then there are 2 (two) opinions: first, stating that it is not halal for the nadzir to get wages except for eating properly, second, nadzir is obliged to get wages according to his work. Meanwhile, according to Article 12 of Law No. 41 of 2004 concerning Waqf, it is stated that nadzir can receive compensation from the net proceeds from the management and development of waqf assets whose amount does not exceed 10% (ten percent). From the opinions above, Nadzir may receive wages.

Nazir waqf has the right to receive guidance from the Minister and BWI. Coaching includes:

- a. preparation of facilities and infrastructure to support Nazir waqf operations for individuals, organizations and legal entities;
- b. preparing regulations, providing motivation, providing facilities, coordinating, empowering and developing waqf assets;
- c. provision of Waqf certification process facilities;
- d. preparation and procurement of blank waqf pledge deeds, both immovable and/or movable object waqf;
- e. preparation of information extension workers in the regions to provide guidance and development of waqf to Nazirs in accordance with their scope; And

- f. providing facilities for the entry of waqf funds from within and outside the country in the development and empowerment of waqf.

In carrying out coaching, the government pays attention to the suggestions and considerations of the Indonesian Ulema Council according to its level. Guidance for Nazirs must be carried out at least once a year. Collaboration with third parties, in the context of fostering waqf activities in Indonesia, can be carried out in the form of research, training, seminars and other activities. The aim of coaching is to improve ethics and morality in waqf management as well as to increase the professionalism of waqf fund management.

III. METHODOLOGY

The method used in this research is normative juridical, namely library legal research by researching and reviewing library materials or secondary data obtained from primary, secondary and tertiary legal materials. This normative juridical method will be complemented by interviews with resource persons (in this case the waqf nadzir and administrators), experts or academics. This research also uses empirical juridical methods, namely sociological legal research or field research which examines applicable legal provisions and what has occurred in people's lives by examining primary data. Primary data is data obtained from objects studied by research, namely data from direct interviews, survey results and questionnaires to respondents obtained directly from the field. This legal research is carried out through a series of systematic and measurable scientific steps.

This legal research is a type of descriptive research, namely research that attempts to describe an event or events that are occurring at the moment using a qualitative approach. The qualitative approach itself is a method that focuses on in-depth observation, so that it can produce a more comprehensive study of a phenomenon. In the sense that the method used to understand the problem studied in this legal research, does not carry out statistical measurements, but is the result of a clear and detailed study of the problem being researched so as to provide a deep understanding of the problem being researched.

IV. RESULT AND DISCUSSION

A. Research Results

Based on analysis of statutory regulations and several other references in the form of literature studies, as well as interviews and discussions with Nadzir and the administrators of the Islamic and Arabic Study Institute (LSIA) located in Bekasi

which was held on September 14 2023 at the office of the Islamic Study Institute and In Arabic (LSIA) we obtain the following information:

1. That the Islamic and Arabic Language Study Institute (LSIA) was established on waqf land based on Waqf Land Certificate No.13, Jatikramat Village, Kec. Jatiasih Bekasi covers an area of 2,265 m² (two thousand two hundred and sixty-five square meters).
2. The waqf land was given by the Wakif based on the Waqf Pledge Deed No.KK10.21.6/BA.03.2/133/VI/2004 dated January 12 2004.
3. The waqf nadzir for the waqf land has undergone changes, with the latest change of management based on the Letter of Change of Nadzir Management Name No.KK.10.21.06/BA.01/1462/2014 dated 08 December 2014 from H. Madinah HL, S.Ag., MM as Head of the Religious Affairs Office, Jatiasih District, Bekasi City, Jo. Decree of the Indonesian Waqf Agency Implementing Agency for West Java Province No.026/BWI/NZ 11/2014 dated 29 December 2014. The composition of the Nadzir management of the Islamic and Arabic Language Study Institute (LSIA) is as follows:
M. Yusuf Harun = Chairman
Drs. H. Syaefurrakhman = Deputy Chairman
Teguh, SH., MH. = Secretary
Moh. Syuaeab Al-Faiz = Deputy Secretary
Abd. Rohman = Treasurer
Syariful Mahya Lubis = Deputy Treasurer
4. The Islamic and Arabic Language Study Institute (LSIA) has been established for 8 (eight) years. Where it accepts both male and female students. Apart from that, LSIA also provides dormitories for men and women for students who live far from campus.
5. The existence of LSIA has had many positive impacts on the surrounding community, including:
 - a. Opening of new business opportunities such as restaurants, food stalls, laundry etc.
 - b. Recruiting out-of-school children to be given scholarships, especially from the surrounding area, and even given pocket money.
 - c. Alumni from LSIA can provide benefits to the public.
6. Nadzir is entitled to a fee of 10% outside of salary.
7. Nadzir's ability to manage waqf assets is still weak, so he is unable to optimize waqf assets. This is due to a lack of training and guidance from the government, in this case the Indonesian Waqf Board (BWI).BWI is an

independent institution formed in order to carry out its duties to promote and develop national waqf as regulated in Article 49 of the Waqf Law.

8. The duties of BWI according to the provisions of article 49 of the Waqf Law Number 41 of 2004 are:

The Indonesian Waqf Board has duties and authority. provide guidance to Nazir in managing and developing waqf assets;

- a. carry out scale management and development of waqf assets national and international;
- b. provide approval and/or permission for changes to the designation and status of waqf assets;
- c. dismiss and replace Nazir;
- d. give approval for the exchange of waqf assets;
- e. provide suggestions and considerations to the Government in formulating policies in the field of waqf.

B. Nadzir Optimization Form

Nadzir as the trustee of waqf assets, of course has a big responsibility in optimizing waqf assets. Nadzir's abilities and creativity are very necessary so that waqf assets can be useful and develop. Beneficial in the sense of how the waqf assets provide social benefits or goodness to the community, and developing means that the waqf assets can ideally "finance themselves". For this reason, nadzir are required to have skills and networks in order to develop waqf assets.

Apart from that, Nadzir must also equip himself with managerial skills, one of which is by attending training. This should be BWI's responsibility to provide guidance to nadzir, as mandated by Government Regulation Number 42 of 2006 concerning the Implementation of the Waqf Law Number 41 of 2004, which states that Article 52 paragraph (1) of the waqf Nazir has the right to receive guidance from the Minister and BWI. (2) Guidance as intended in paragraph (1) includes: a. preparation of facilities and infrastructure to support Nazir waqf operations for individuals, organizations and legal entities; b. preparing regulations, providing motivation, providing facilities, coordinating, empowering and developing waqf assets; c. provision of Waqf certification process facilities; d. preparation and procurement of blank waqf pledge deeds, both immovable and/or movable object waqf; e. preparation of information extension workers in the regions to provide guidance and development of waqf to Nazirs in accordance with their scope; and f. providing facilities for the entry of waqf funds from within and outside the country in the development and empowerment of waqf.

C. Obstacles

Based on the description above, Nadzir has problems and/or obstacles in optimizing waqf assets. One of them is that there is no facilitation provided by the government for nadzir to take part in training that can improve nadzir's abilities and/or skills. Where the training in question is useful for increasing the value of waqf assets. Even if there is training for nadzir, the training is paid, and it is very burdensome for nadzir, especially if it costs quite a lot of money. This is of course very burdensome for Nadzir. So becoming a nadzir is a side profession, because nadzir has a main profession to fulfill his life needs. In this way, the nadzir cannot devote his time, thoughts and energy to holding the mandate as nadzir.

V. CONCLUSION

Based on the research results as described above, related to the problems studied, the following conclusions can be conveyed:

1. The role of nadzir is very important and strategic in optimizing waqf assets. For this reason, nadzir need to upgrade their skills so that waqf assets can develop further and ultimately have a positive socio-economic impact on society.
2. For this reason, the role of the Indonesian Waqf Board (BWI) is very important in fostering, empowering, and providing facilities to nadzir so that nadzir's skills in managing waqf can increase. Ideally, BWI's role should not only be limited to an "administrative agency".
3. In fact, Nadzir is required to independently increase his potential by participating in expensively paid training activities without any interference from the government. This is of course very burdensome for nadzir, especially waqf nadzir who manage waqf objects in rural areas.
4. LSIA is an example of productive waqf management. Where Nadzir succeeded in developing and increasing waqf assets so that it provided benefits and positive impacts on the social community around him.

Based on the matters above, the researchers conveyed the following suggestions/recommendations:

1. There is a need to provide training to waqf nadzir to improve the nadzir's skills in managing waqf assets provided by related agencies/government.
2. The training in question is carried out periodically and in stages and is facilitated by stakeholders without charging fees to the nadzir.

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