



ISSN: 1979-4940  
E-ISSN: 2477-0124

Editorial Office: Faculty of Law, Islamic University Of Kalimantan,  
Jalan Adhyaksa No. 2 Kayutangi Banjarmasin, Kalimantan Selatan, Indonesia (70123)  
Email: [al\\_adl@uniska-bjm.ac.id](mailto:al_adl@uniska-bjm.ac.id)  
Web: <http://ojs.uniska-bjm.ac.id>

## *Accountability of Nazir in the Waqf Legal System of Indonesia*

<sup>[1]</sup> Ahmad 'Azam bin Mohd Syarif, <sup>[2]</sup> Nasrullah Nasrullah, <sup>[3]</sup> Muhammad Hatta,  
and <sup>[4]</sup> Hidayatullah Hidayatullah

<sup>[1]</sup> Faculty of Law, Universiti Kebangsaan Malaysia, Malaysia  
43600 UKM Bangi, Selangor<sup>1</sup>

<sup>[2]</sup> <sup>[4]</sup> Faculty of Law, Universitas Islam Kalimantan MAB Banjarmasin, Indonesia  
Jl. Adhyaksa No.2 Kayutangi, Banjarmasin<sup>2</sup>

<sup>[3]</sup> Faculty of Law, Universitas Malikussaleh, Aceh, Indonesia  
Komplek Kampus Bukit Indah (BI) Jalan Jawa, Padang Sakti, Lhokseumawe<sup>3</sup>  
55183

Email: <sup>[1]</sup> [aazam@ukm.edu.my](mailto:aazam@ukm.edu.my); <sup>[2]</sup> [nasrullah\\_nj82@uniska-bjm.ac.id](mailto:nasrullah_nj82@uniska-bjm.ac.id);  
<sup>[3]</sup> [muhhammad.hatta@unimal.ac.id](mailto:muhhammad.hatta@unimal.ac.id); <sup>[4]</sup> [hidayatullah250879@gmail.com](mailto:hidayatullah250879@gmail.com)

Submitted : 30 Desember 2022  
Revised : 5 Januari 2023  
Accepted : 16 Januari 2023  
Published : 28 Januari 2023

Jurnal Al Adl by Universitas Islam Kalimantan Muhammad Arsyad Al Banjari is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/). (CC-BY)

### Abstract

*Good waqf management will provide benefits and contribute to developing the people's economy and alleviating poverty. Nazir greatly influences this in his responsibilities as the manager of waqf assets. This study aims to provide an analysis of Nazir's responsibilities as the manager of waqf assets according to the waqf legal system in Indonesia and an overview of how to revitalize Nazir's status, roles and responsibilities in managing waqf in Indonesia. This research is normative legal research with a statutory regulation approach. The results of this research are that according to Waqf law in Indonesia, Nazir's responsibility in carrying out his roles, duties, functions and authority is one of the things that Nazir bears. Mistakes made by Nazir in managing waqf will have an impact on problems of administrative sanctions and even criminal. However, along with the weight of Nazir's responsibility, it has yet to be accompanied by the Indonesian waqf legal system favouring Nazir. One way to revitalize Nazir's status, roles and responsibilities are by revising or reconstructing the Law on Nazir in waqf law in Indonesia to include nazir in one of the pillars of waqf.*

**Keywords:** *Accountability; Nazir; Waqf.*

<sup>1</sup> Professor of Faculty of Law, Universiti Kebangsaan Malaysia

<sup>2</sup> Lectures of Faculty of Law, Universitas Islam Kalimantan MAB Banjarmasin

<sup>3</sup> Lecture of Faculty of Law, Universitas Malikussaleh Aceh

**Abstrak**

Pengelolaan wakaf yang baik akan memberikan keuntungan dan kontribusi terhadap perkembangan perekonomian umat dan pengentasan kemiskinan, hal tersebut sangat dipengaruhi oleh nazir dalam menjalankan tanggungjawabnya sebagai pengelola harta wakaf. Penelitian ini bertujuan memberikan analisis terhadap tanggung jawab Nazir sebagai pengelola harta benda wakaf menurut sistem hukum wakaf di Indonesia, dan gambaran bagaimana merevitalisasi status, peran dan tanggung jawab Nazir dalam pengelolaan wakaf di Indonesia. Penelitian ini merupakan penelitian hukum normatif dengan pendekatan peraturan perundang-undangan. Adapun hasil dari penelitian ini yaitu bahwa menurut hukum Wakaf di Indonesia pertanggungjawaban Nazir dalam menjalankan peran, tugas, fungsi dan kewenangannya merupakan salah satu hal yang dibebankan pada nazir, kesalahan yang dilakukan nazir dalam mengelola wakaf akan berdampak pada permasalahan sanksi administrasi bahkan pidana. Namun bersama beratnya tanggung jawabnya Nazir tersebut, belum dibarengi dengan Sistem hukum wakaf Indonesia yang berpihak kepada Nazir. Adapun salah satu cara merevitalisasi untuk merevitalisasi status, peran dan tanggung jawab Nazir salah satunya dengan merivisi atau merekonstruksi hukum tentang Nazir dalam hukum wakaf di Indonesia adalah dengan memasukkan nazir dalam salah satu unsur rukun wakaf.

**Kata Kunci:** *Tanggung jawab; Nazir; Wakaf.*

**INTRODUCTION**

In the current economic problems, waqf is expected emerging as a solutive instrument for effective and sustainable economic development of the people. It's caused that the waqf have meaning to hold property owned for the people benefit and religion. Taking the benefits of waqf here can be realized by empowering waqf assets that are managed productively. Even in Indonesia even in Indonesia until 2020 the waqf assets in the form of land alone have been recorded as being worth 2000 thousand billion rupiahs, then cash waqf assets are worth 180 billion rupiahs. With this potential, waqf management must be truly effective,<sup>4</sup> because management in waqf is needed as an effort in other to waqf management activities can run effectively and efficiently. In order for waqf management to work as expected, management needs to be explained based on its functions.<sup>5</sup> In the process of managing waqf assets, of course, many efforts are used as a form of empowering waqf assets that are efficient and productive, which in turn, waqf becomes an important aspect of the economy in Indonesia.

By making waqf as part of economic activity, of course, in accordance with its nature, namely to alleviate poverty, of course, the empowering waqf assets management will be carried out in an institutionalized manner. The productive management of waqf will certainly give birth to sustainable and sustainable benefits. if this has been realized, of course waqf is also one of the instruments in efforts to people's economic development and alleviate poverty

---

<sup>4</sup> Siti Nurhayati and Nurjamil, 'Tanggungjawab Nazir Koperasi Syariah Sebagai LKS PWU Dalam Pengelolaan Wakaf Uang Melalui Aplikasi Fintech', 2 (2020), 413. <<https://doi.org/http://ojs.unikom.ac.id/index.php/law>>.

<sup>5</sup> Putri Cahyani and Murtiadi Awaluddin, 'Pengelolaan Wakaf Dalam Meningkatkan Kesejahteraan Umat (Studi Pada LAZ Aksi Cepat Tanggap Sulsel)', *AT TAWAZUN Jurnal Ekonomi Islam*, 1.3 (2021), 134.

which cannot be underestimated, but on the contrary it must be a concern and must be empowered and its management developed. For example, in a productive waqf, the waqf manager can manage and operate the waqf assets as an investment vehicle that generates profits without reducing the value of the waqf assets. Waqf 's able to be managed through building a minimarket whose capital is obtained from cash waqf, and which in terms of waqf if this money is channeled through a financial institution, it is the one who is most responsible for fundraising the nazir of cash waqf which in this case is Indonesian Waqf Board (IWB).<sup>6</sup>

Waqf as an instrument for economic development and alleviation of people's poverty actually has many advantages compared to conventional fiscal instruments that currently was existing. The practice of waqf in Indonesia is actually synonymous with land waqf. Waqf in the form of land is then managed based on the purposes and designations of waqf, namely it is managed in the context of religious interests and there are also social interests.<sup>7</sup> The waqf implementation in Indonesia is generally still dominated by the use of places of worship such as mosques, Islamic boarding schools, prayer rooms.<sup>8</sup> Apart from those that are individuals, there are also waqf mutual cooperation in the form as mosques, Islamic schools, prayer rooms, hospitals, bridges, etc. With the mechanism of forming a committee whose task is to collect funds and after the funds are collected, community members work together to contribute their energy for the development of the waqf in question. In the construction of mosques or hospitals, material donations or in the form as money, it is used to buy building materials for building the mosques or the hospitals.<sup>9</sup>

In order to improve the empowerment of waqf assets, not wrong if Indonesia imitates several countries that have succeeded in empowering their waqf such as Egypt, India, Turkey which established a special waqf institution so that it achieves maximum results whose task is to make passive waqf productive by providing directions and solutions to Nazir to empower him, for Nazir who has not carried out his duties to the fullest.<sup>10</sup> In the history of waqf property management, many new innovations have been born in the waqf objects management which have been carried out by the countries like Malaysia, Bangladesh,

---

<sup>6</sup> Ahmad Furqon, 'Analisis Praktek Perwakafan Uang Pada Lembaga Keuangan Syariah', *http://www.Republika.Co.Id/Berita/36558/Peran\_LKS\_di\_Era\_Wakaf\_Produktif*, 19 (2011), 166.

<sup>7</sup> Achmad Muchaddam Fahham, 'Pengelolaan Wakaf Tunai Di Lembaga Pengelola Wakaf Dan Pertanahan Pengurus Wilayah Nahdlatul Ulama Daerah Istimewa Yogyakarta', *Aspirasi*, 6.1 (2015).

<sup>8</sup> Achmad Djunaidi, *Perkembangan Pengelolaan Wakaf Di Indonesia* (Jakarta: Kementerian Agama RI, 2006).

<sup>9</sup> Muhammad Daud Ali, *Sistem Ekonomi Islam, Zakat Dan Wakaf* (Jakarta: UI Press, 1988). 96.

<sup>10</sup> Cut Endang Puspa Sari, 'Kewenangan Nazir Dalam Pengelolaan Wakaf (Studi Komparative Dalam Fikih Dan Uu Ri Nomor 41 Tahun 2004)', *Shibghah: Journal of Muslim Societies*, 1.2 (2019), 19-33.

Singapore, Kuwait, Qatar, Emirates, Jordan, Saudi Arabia, Egypt, Turkey, even Europe and America. Each country has laws and regulations regarding waqf as well as management institutions that have Management boards. Then the services provided from the results of collecting waqf assets include health services, educational and social services.<sup>11</sup>

Then countries that are professional in managing and developing waqf, namely:<sup>12</sup> in Turkey, waqf is managed by the Directorate General of Waqf and Nazir appointed by the prime minister and is under the prime minister's office. In Saudi Arabia, To strengthen the position of waqf assets, the government of Saudi Arabia established the Ministry of Hajj and Waqf which has the task of developing and directing waqf in accordance with the conditions set by the waqif, then in Jordan, the management of waqf in this country is classified as very productive because the management is used for various projects for the people benefit, including for the education benefit, health, and for the underprivileged. In Pakistan, To develop waqf in collaboration with the philanthropic institution Hamdard Foundation which was formed to carry out philanthropic activities; and in United States, As a country whose Muslim population is still a minority, their Muslim population is able to develop waqf productively in collaboration with institutions to meet the needs of Muslims.

In Malaysia, the waqf management was carrying out based on Malaysia constitutions, it's showed that a pertinent point relating to the waqf property is one of the trust property's aspects that are listed under Schedule Nine, Federal Constitution in namely on the Legislative Lists, List I-Federal List, provision number 1 letter (c) and List II-State List, provision number 1.<sup>13</sup> therefore the utilization of Waqf assets, such as waqf land has been widely implemented in Malaysia, for example in Selangor, waqf lands were diversely utilized such as for various building purposes, various forested, various agricultural crops, cemetery, empty land, taken over or withdrawn and undetectable by MAIN,<sup>14</sup> and Registered waqf lands are under the authority of MAIN as the sole trustee of the waqf property.<sup>15</sup> In principle,

---

<sup>11</sup> Aulia Khairunnisa, 'Mekanisme Dan Tanggung Jawab Nazir Dalam Mengumpulkan Serta Menyalurkan Dana Wakaf (Studi Peraturan Badan Wakaf Indonesia Nomor 01 Tahun 2020 Tentang Pedoman Pengelolaan Dan Pengembangan Harta Benda Wakaf)', *UIN Syarif Hidayatullah*, 2022, 19.

<sup>12</sup> Khairunnisa, 'Mekanisme Dan Tanggung Jawab Nazir Dalam Mengumpulkan Serta Menyalurkan Dana Wakaf (Studi Peraturan Badan Wakaf Indonesia Nomor 01 Tahun 2020 Tentang Pedoman Pengelolaan Dan Pengembangan Harta Benda Wakaf)'. 20

<sup>13</sup> Malaysian Federal Constitutions, 'Federal Contitutions', *Government of Malaysia*, August 1957, 2009, 1-204.

<sup>14</sup> Nik Mohd Saiful W Mohd Sidik and Zaid Ahmad, 'Application of GIS (Geographical Information System) in The Management of Waqf Lands in Selangor', *International Journal of Academic Research in Business and Social Sciences*, 11.11 (2021) <<https://doi.org/10.6007/IJARBS/v11-i11/11651>>.

<sup>15</sup> Mohd Afendi Mat Rani, 'Waqf Management and Administration in Malaysia: Its Implementation From The Perspective of Islamic Law', *Malaysian Accounting Review*, 9.2 (2010).

management of waqf in Malaysia has been always perceived as a means of socio-economic development and the role of waqf in improving the people welfare.<sup>16</sup>

Meanwhile, waqf management productively in Indonesia, namely utilizing the main assets to be invested in obtaining profits, then these profits are used according to the waqf purpose, for example channeled for economic, educational and da'wah interests, is still very little. This fact is reflected in the results of research of Agung Abdullah shown that 68% of waqf land in Indonesia was used to build places of worship, 8.51% to build educational facilities, 8.40% for graves and 14.60% for others.<sup>17</sup> However Waqf in form as land in Indonesia has a huge potential although most of the land is still unproductive. This problem faced by the country should be overcome by continuous improvement of management quality of nazir and regulation adjustments that meet the need of current progress of waqf development. Further investigation on the issue of optimization for waqf land is highly needed as part of our endeavor to mainstreaming waqf in the national policy of economic.<sup>18</sup> Therefore the waqf needs a manager, just like zakat which recognizes amil as a manager. In waqf, the term nazir is known as a manager in order to empower waqf more optimally for the benefit and welfare of society.<sup>19</sup> Related to that, Waqf is also synonymous with social entrepreneurship because on the one hand waqf is a third sector or non-profit oriented institution, which is not profit-oriented but has a social purpose. On the other hand, waqf is doing investment or entrepreneurial business to achieve its social goals so that waqf can be synonymous with social entrepreneurship or social entrepreneurship.<sup>20</sup>

In the history of waqf management in Indonesia, the majority of waqf assets were managed by traditional Nazirs so that waqf assets were not productive. So that the history of waqf management in Indonesia is not repeated, a paradigm shift is needed. Namely, from consumptive management to productive management, from traditional Nazir to professional Nazir who are recruited based on expertise in their respective fields.<sup>21</sup>

---

<sup>16</sup> Rashedul Hasan, M. Kabir Hassan, and Mamunur Rashid, 'The Role of Waqf in Educational Development - Evidence from Malaysia', *Journal of Islamic Finance* 1, 8.1 (2019). 5.

<sup>17</sup> Achmad Djunaidi, *Pedoman Pengelolaan Dan Pengembangan Wakaf* (Jakarta: Ministry of The Religion of The Republic of Indonesia, 2013). 65.

<sup>18</sup> Mutiara, Irfan Syauqi Beik, and Aslam Mei Nur Widigdo, 'Nazir Management Improvement and Regulation Adjustments to Increase Waqf Land Productivity', *BWI Working Paper Series*, 2021. 6-7.

<sup>19</sup> Cut Endang Puspa Sari. 19.

<sup>20</sup> Ahmad Furqon, 'Nazir Wakaf Berbasis Wirausaha Sosial Di Yayasan Muslimin Kota Pekalongan', *MADANIA Jurnal Kajian Keislaman*, 20.1 (2016).

<sup>21</sup> Murtadho Ridwan, 'Nazhir Profesional Kunci Kesuksesan Wakaf Produktif', *Jurnal Muqtasid*, 3.1 (2012).

The existence of a Nazir in waqf is seen as important, but the Nazir itself is not a pillar or legal requirement for waqf itself, because waqf is tabarru' worship which is sunnah, but the need for Nazir waqf is more in order to fulfill the objectives of waqf management to be productive and provide more benefits.<sup>22</sup> The role of Nazir as a manager or party entrusted with managing waqf assets is very important. Even though the mujtahids don't make Nazir one of the pillars of waqf, the scholars agree that the waqif should appoint a waqf Nazir who is able managing waqf assets so that they are maintained and managed.<sup>23</sup> Nazir is accountable in management, to manage, to maintain and to develop waqf assets. Nazir can be held by the person who has waqf (Wakif) himself or another person appointed by the Wakif, or by mauquf 'alaih (a person or party who receives waqf benefits or its results), or by government if the Wakif does not appoint him.<sup>24</sup> In waqf institutions, Nazir has a role as the general leader of the institution.<sup>25</sup> The ideal waqf management resembles company management. A solid team is needed to maximize waqf results.<sup>26</sup>

In waqf legal system in Indonesia, it's stated that Nazir as a manager of waqf, individually, whether he is an individual nazir or a person as part of manager in a nazir institution, must meet the requirements of Indonesian citizen, be Muslim, mature, trustworthy, physically and spiritually capable and not hindered from taking legal action.<sup>27</sup> In addition, Nazir is also tasked with overseeing, protecting waqf assets and reporting on the implementation of his duties to Indonesian Waqf Board (IWB).<sup>28</sup> Given that the importance of nazir's duties and functions in empowering waqf assets, therefore it is necessary to study nazir's accountability, then to improve nazir's performance it is appropriate to revitalize his status, roles, functions and accountability.

## PROBLEM FORMULATION

The formulations of the problem in this research will be structured as follows:

---

<sup>22</sup> Agung Abdullah, 'Nadzir Dalam Perspektif Kelembagaan Wakaf Di Indonesia', *Jurnal Ilmiah Ekonomi Islam*, 06.3 (2020). 404.

<sup>23</sup> Djunaidi, *Perkembangan Pengelolaan Wakaf Di Indonesia*. 54.

<sup>24</sup> Ridwan. 99.

<sup>25</sup> Ridwan. 102.

<sup>26</sup> Andy Agung Prihatna, *Wakaf, Tuhan, Dan Agenda Kemanusiaan* (Jakarta: Center for the Study of Religion and Culture). 139.

<sup>27</sup> Ifa Hanifia Senjiati, Siska Lis Sulistiani, and Muhammad Fikri Rais Mubarak, 'Analisis Fikih Wakaf Dan Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf Terhadap Perolehan Hak Nadzir Pada Pengelolaan Wakaf Uang Nadzir Individu Dikampung Tapos Cikalong Wetan', *Tahkim (Jurnal Peradaban Dan Hukum Islam)*, 3.1 (2020), 77-88 <<https://doi.org/10.29313/tahkim.v3i1.5661>>.

<sup>28</sup> Government of The Republic of Indonesia, *Act Number 41 of 2004 on Waqf* (Indoensia, 2004).

1. What is Nazir accountability based on Waqf Legal System of Indonesia?
2. How to revitalize the status, roles and accountabilities of Nazir in managing waqf in Indonesia?

## METHOD

This research conducted with a normative legal research type in the form of library research using 3 (three) legal materials, namely primary legal materials, secondary and tertiary, and this research uses the statute approach. This research focuses on literature studies which means that it will examine more and study existing and applicable legal regulations, in this case namely Act Number 41 of 2004 on Waqf, and Regulation of the Indonesian Waqf Board Number 1 of 2007 on the Organization and Work Procedures of the Indonesian Waqf Board. This research requires legal materials because it will function to complement and support legal materials in library research.

Problems in this research related to nazir are investigated by using normative legal research methods because normative legal research is research on law conceptualized and developed on the basis of doctrine. This method is interpreted as legal research at the level of norms, rules, principles, theories, philosophies, and legal rules in order to find solutions or answers to problems, whether in the form of legal vacuum, conflict of norms, or blurring of norms.<sup>29</sup> Thus then the rules regarding nazir have been stipulated in several regulations regarding waqf so it is appropriate that this research uses normative legal research methods. in other words that it is more suitable to use normative legal research methods compared to other research methods, besides Indonesia is also a legal country that adheres to positivism even although waqf is one of the Islamic teaching instruments. With a positive legal review, of course, it is hoped that the results obtained from this research will benefit all Indonesian people in general, not only the Muslim community in Indonesia.

Next to answer the existing problems, the researcher collected legal materials through document study (library study) including primary legal materials, secondary and tertiary, namely by conducting inventory and identification of a number of statutory regulations, legal documents and records, results of scientific works and reading materials/literature originating from legal science in the form of books, articles, journals and results of researches related to

---

<sup>29</sup> Yati Nurhayati; Ifrani; M. Yasir Said, 'Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum', *Jurnal Penegakan Hukum Indonesia*, 2.1 (2021), hlm. 1-20. <<https://doi.org/10.51749/jphi.v2i1.14>>. 17.

this research. After the data is collected completely, the next step is to process and analyze the data. Method of data analysis will use the method of normative analysis, which is a way of interpreting and discussing research results based on legal understanding, legal norms, legal theories and doctrines related to the subject matter of the research.

## DISCUSSION

### Accountability of Nazir Based On Waqf Legal System of Indonesia

Nazir is an element of waqf and plays an important role in managing and developing waqf assets according to their designation. The word of “Nazir” comes from the Arabic verb *nazhara* which means to guard, maintain, manage and supervise. Nazir is *isim fa'il* from the word *nazhara* which is then interpreted in Indonesian with supervisors. Meanwhile, a waqf nazir or commonly called a nazir is a person whose job is to manage waqf.<sup>30</sup> Nazir in waqf means someone who manages and maintains waqf assets and their income and implements the conditions set by the waqif. Another term used by the jurists is *mutawalli* which etymologically means a person who takes care of something when it has been determined for him and he carries it out. Meanwhile, in terms of terminology, *mutawalli* means someone who has the mandate to act (*tasharruf*) on waqf assets and also handle matters related to it,<sup>31</sup> even the important thing in waqf is related to Nazir because it is related to the maintenance, productivity and distribution of waqf proceeds.<sup>32</sup> Because of the importance of Nazir's position in waqf, Nazir must have several requirements that must be met, namely: being mature/smart, having a trustworthy personality, and having the expertise and ability to maintain and manage waqf assets.<sup>33</sup>

As for the requirements for organizational nazirs and legal entity nazirs, they are able to comply with the provisions stipulated in the waqf law, namely as follows:<sup>34</sup>

1. Organizational nazir requirements, namely:
  - a. Organization management concerned meets the requirements of individual nazir; and

---

<sup>30</sup> Ni'matul Fauziyyah dan Khairil Umami, 'Efektivitas Nazir Organisasi Di Majelis Wakil Cabang Nahdlatul Ulama Kecamatan Siman Kabupaten Ponorogo', *Jurnal Antologi Hukum*, 1.1 (2021), 16–33.

<sup>31</sup> A Zamakhsyari Baharuddin and Rifqi Qowiyul Iman, 'Nazir Wakaf Profesional, Standarisasi Dan Problematikanya', *Li Falah: Jurnal Studi Ekonomi Dan Bisnis Islam*, 3.2 (2018), 62 <<https://doi.org/10.31332/lifalah.v3i2.1197>>.

<sup>32</sup> Muhammad Wicaksono Hasdyani Putra, Tika Widiastuti Widiastuti, and Effendie, 'Analisis Faktor-Faktor Yang Memengaruhi Kepuasan Wakif Terhadap Pelayanan Lembaga Wakaf', *Al-Awqaf: Jurnal Wakaf Dan Ekonomi Islam*, 13.1 (2020) <<https://doi.org/https://doi.org/10.47411/al-awqaf.v13i1.71>>.

<sup>33</sup> Nurodin Usman, 'Subjek-Subjek Wakaf: Kajian Fiqh Mengenai Wakifdan Nazhir', *Cakrawala*, XI.2 (2016), 145–66.

<sup>34</sup> Cut Endang Puspa Sari. 27.



- b. Organizations engaged in social, educational, social and/or Islamic religious fields
2. Requirements for nazir legal entity, namely:
    - a. Legal entity management concerned fulfills the requirements of being individual nazir;
    - b. Legal entity concerned is engaged in social, educational, community and/or Islamic religious affairs;
    - c. One of the administrators must be domiciled in the regency/city where the waqf object is located;
    - d. It has:
      - 1) Copy of the notarial deed regarding establishment and articles of association;
      - 2) List of the management composition;
      - 3) Household Budget;
      - 4) Work program in waqf development;
      - 5) List of the assets originating from waqf assets that are separate from other assets or constitute organizational assets; and
      - 6) Statement of willingness to be audited Not much different from Nazir.

Professional Nazirs are people who work full time for a living, rely on high skills and competence and have a high level of commitment to their work. Waqf Nazir is considered a professional in carrying out work because he is an expert in his field and has the time, enthusiasm and energy to do the work he is engaged in. Nazir has a role as a general leader of the Institution. Personal commitment has given rise to great responsibility at work. Nazir has heavy duties and obligations in managing waqf so that the assets are more optimally beneficial as expected.<sup>35</sup> Nazir is then either an individual, organization or legal entity that must be registered with the Minister through the Office of Religious Affairs or an IWB representative in the province or district/city, in order to obtain proof of registration Nazir. In addition to fulfilling the provisions regarding the requirements that must be met and procedures for registration, dismissal and revocation of status and duties Nazir and service period to ensure the existence and supervision of performance Nazir in maintaining and developing the waqf assets, so that in this case, it is in accordance with good governance.<sup>36</sup>

---

<sup>35</sup> Rafi Nur Shaifudin, 'Peran Nadzir Dalam Mengelola Harta Benda Wakaf Untuk Meningkatkan Kesejahteraan Umat', *Jurnal Ekonomika Dan Bisnis Islam*, 5.1 (2022) <<https://doi.org/https://doi.org/10.26740/jekobi.v5n1.p95-105>>.

<sup>36</sup> Government of The Republic of Indonesia, *Government Regulation Number 42 of 2006 on The Implementation of Act Number 41 of 2004 on Waqf* (Indonesia, 2006).

Waqf must be managed properly because waqf assets have enormous potential in developing the economy of people and alleviating poverty. Waqf is one of the instruments for developing the people economy and efforts to alleviate poverty in Indonesia, as its meaning that Waqf is a legal action of waqif to separate and/or give part of his property to be used forever or for a certain period of time in accordance with the interests for the worship purposes or for public welfare according to sharia.<sup>37</sup>

This understanding is then emphasized again in article 215 paragraph (1) of the Compilation of Islamic Law, that waqf means the legal act of a person or group of people or legal entity that separates part of his property and institutionalizes it forever for the benefit of worship or other public purposes in accordance with Islamic teachings. other than that, one of the fundamental considerations of the issuance of Waqf Law is that the practice of waqf in society has not been fully carried out in an orderly and efficient manner so that in various cases waqf assets are not properly maintained, and many cases of waqf have been abandoned and their ownership has changed to third parties by way of breaking the law. This situation is not only caused by Nazir negligence or incompetence, but also because of the attitude of the people who do not care about or do not yet understand the status of waqf assets that should be protected for the sake of public welfare in accordance with the purpose, function and designation of the waqf.<sup>38</sup>

Waqf management has more potential to be implemented by institutional administrators, both organizations and legal entities, compared to individual administrators based on traditional management. In addition, based on the number of administrators and staff, the number of organizational and legal entity administrators is greater than the number of individual administrators. However, the large number of management must be accompanied by measurable and systematic skills and responsibilities, as well as the consistency of the management to apply modern management principles. In determining management, it also prioritizes people who understand management and have competence in their fields.<sup>39</sup>

Actually to become a nazir is not easy because in the nazir profession there are responsibilities and accountabilities that must be borne, besides that Nazir status and position

---

<sup>37</sup> Government of The Republic of Indonesia, *Act Number 41 of 2004 on Waqf. Article 215 Paragraph (1)*

<sup>38</sup> Juhaya S. Praja and Mukhlisin Muzarie, *Pranata Ekonomi Islam Wakaf* (Cirebon: Dinamika, 2009). 137.

<sup>39</sup> Abdurrahman Kasdi, 'Peran Nadzir Dalam Pengembangan Wakaf', *ZISWAF: Jurnal Zakat Dan Wakaf*, 1.2 (2014). 219.

in the practice of waqf, especially waqf in the land sector, it seems so important in order to maintain the preservation of the waqf property itself. He functions as an administrator who is entrusted and entrusted with the mandate to manage and maintain it. In addition, he also functions as the power of attorney for waqf assets, he is not only obliged to look after, maintain and manage them, but he is also the power of attorney representing the waqf assets that are managed inside and outside the law.<sup>40</sup>

Given the importance of the duties and functions of a nazir, several requirements are determined to become a nazir, namely as follows:<sup>41</sup>

a. Moral Requirements

- 1) Understanding of waqf law and ZIS, both in shari'a terms and applicable laws;
- 2) Honest, trustworthy and fair so that they can be trusted in the management process for waqf targets;
- 3) Resist temptation, especially regarding business development;
- 4) Choice, serious and like a challenge;
- 5) Have intelligence, both emotional and spiritual

b. Management Terms

- 1) Good capacity in leadership;
- 2) Visionary;
- 3) Good intelligence intellectually, socially and empowerment;
- 4) Professional in the field of asset management;
- 5) Service period;
- 6) Clear work program

c. Business Terms

- 1) Have a desire;
- 2) Have experience and or ready to be apprenticed;
- 3) Have the sharpness of seeing business opportunities as befits an entrepreneur

The requirements show that Nazir occupies a very central post in the waqf asset management pattern. In terms of Nazir duties, where he is obliged to maintain, develop and

---

<sup>40</sup> Taufik Hamami, *Perwakafan Tanah Dalam Politik Hukum Agraria Nasional* (Jakarta: Tata Nusa, 2003). 98.

<sup>41</sup> Directorate of Zakat and Waqf Development, *Paradigma Baru Wakaf Di Indonesia* (Jakarta: The Ministry of Religion, 2008). 51.

preserve the benefits of the waqf property for those who are entitled to receive it, it is clear that the function and non-function of a waqf depends on the role of Nazir.<sup>42</sup>

Seeing the importance of the function carried out by Nazir, the status and position itself is governed by the politics of National Agrarian law as stipulated in the applicable statutory system, which initially, in the view of the fuqaha, was not taken into account as a legal requirement for a waqf, finally the status and position were increased. in the opposite place. It is elevated to a status as a condition that must always be included in the pronouncement of its waqf pledge.<sup>43</sup>

Whereas the duties of Nazir according to Act Number 41 of 2004 on waqf in article 11 include some rules, namely:

- a. carry out the administration of waqf assets;
- b. manage and develop waqf assets in accordance with the objectives, functions and its designation;
- c. supervise and protect waqf assets;
- d. report the implementation of tasks to the Indonesian Waqf Board.

Those rules then be reaffirmed in Government Regulation Number 42 of 2006 on The Implementation of Act Number 41 of 2004 on Waqf, namely a Nazir obligated to administer, manage, develop, supervise and protect assets waqf, then he also obligated to report his work to Indonesian Waqf Board.<sup>44</sup>

Briefly it can be seen there are several things regulated by Waqf law contained within Act Number 41 of 2004 on Waqf related to Nazir waqf, namely:

- (1) Act Number 41 of 2004 on Waqf explains that Nazir is the party receiving the waqf property from the Wakif to be managed and developed according to its designation;
- (2) Apart from individual Nazir, there is an emphasis on the existence of Organization Nazir and legal entity Nazir. By emphasizing the existence of a Nazir in the form of an organization or legal entity, it is hoped that it can increase the roles of the Nazir to better and more professionally manage waqf.
- (3) Requirements of Nazir are enhanced by reforming the management of kezhir in a professional manner, such as: being trustworthy, having knowledge of waqf, experience in the field of financial management, the abilities and skills needed to

---

<sup>42</sup> Directorate of Zakat and Waqf Development.

<sup>43</sup> Hamami. 99.

<sup>44</sup> Government of The Republic of Indonesia, *Government Regulation Number 42 of 2006 on The Implementation of Act Number 41 of 2004 on Waqf. Article 13 pharagraph (1) and (2).*

carry out Nazir duties. The addition of Nazir requirements is expected to maximize the development of the existing waqf potential.

- (4) Term office Limitation of Nazir. If the previous laws did not regulate Nazir working period, this Waqf Law is an important point so that Nazir performance can be monitored through periodic stages to avoid deviations and or neglect of Nazir duties.
- (5) Nazir can receive management rights of a maximum of 10% of the net proceeds from the management and development of waqf objects, so that Nazir waqf is not just used as a side job that is only carried out without seriousness which can develop the productivity of waqf assets. But it is hoped that Nazir will really be motivated to be able and ready to carry out his duties so that they deserve proper rights as they work in the professional world.

In carrying out the task of managing waqf assets, a nazir must adhere to the principle of accountability, which is a familiar concept among Muslim communities. Accountability is always related to the concept of trust. For Muslims, the issue of trust is the result of human transactions with the creator starting from the womb. Humans are burdened by God to carry out the functions of the caliphate on earth. The essence of the caliphate is to carry out or fulfill the mandate.<sup>45</sup> In more depth related to nazir accountability, based on waqf law, nazir must make a report on his performance in the form of:<sup>46</sup>

a. Maintenance and Management

The intended obligation is an obligation to maintain, manage and supervise waqf assets and their results. In carrying out this obligation, Nazir is required to:

- 1) Keep carefully the second sheet of a copy of the waqf pledge deed. This sheet is very important, because it is authentic evidence that can be used for various purposes;
- 2) Maintain, manage and utilize waqf assets and try to increase the productivity of the results; and
- 3) Using the proceeds of waqf assets as appropriate in accordance with the Wakif's pledge and will.

b. Annual Report

This annual report must be made at the end of December. This report contains the results of recording the condition of the waqf land that is maintained and managed as well

---

<sup>45</sup> Ezril, 'Akuntansi Pengelolaan Wakaf Produktif Pada Usaha Perkebunan Lembaga Nazir Wakaf (LNW) Ibadurrahman Duri', *IQTISHADUNA: Jurnal Ilmiah Ekonomi Kita*, 7.1 (2018). 115.

<sup>46</sup> Government of The Republic of Indonesia, *Government Regulation Number 28 of 1977 on Waqf of Owned Land* (Indonesia, 1977). Article 7 Paragraph 1 and Paragraph 2

as the use of the waqf proceeds themselves. In other words, this annual report is a recapitulation of waqf accounting.

c. Incidental Reports

This report is erratic in nature. This means that he is obliged to report it to the authorities if something happens at any time. The intended report is related to Nazir members. If one day it turns out that a Nazir dies, resigns, commits a crime related to his position as Nazir, no longer fulfills the requirements and can no longer carry out his obligations as Nazir. So the other Nazirs are required to report the change in Nazir. And if something like the above results in a reduction in Nazir members in accordance with the wishes of the applicable laws and regulations (minimum 3 person), then he also proposes a replacement.

In the context of movable object waqf in the form of money, Article 29 paragraph (3) stipulates that cash waqf certificates are issued and submitted by Islamic financial institutions to Wakif and Nazir as proof of delivery of waqf assets. Management and development of waqf assets, in the form of cash waqf is carried out by:<sup>47</sup>

- (1) Money waqf objects can only be made through investment in products of Islamic Financial Institutions or Islamic financial instruments;
- (2) Nazir can only manage and develop cash waqf assets at a Monetary of Sharia Financial Institutions-Cash Waqf Recipient (SFI-CWR) within a certain period of time if the LKS-PWU receives cash waqf for a certain period;
- (3) The management and development of cash waqf assets carried out at shari'ah banks must follow the program of the deposit insurance agency in accordance with the laws and regulations; and
- (4) The management and development of cash waqf assets carried out in the form of investments outside the bank must be insured by sharia insurance.

Then Nazir also has the obligation to submit a cash waqf management report every 6 (six) months to the IWB with a copy to the director general. The management report includes: implementation of management, development, use of cash waqf management results and development plans for the following year. Reports are submitted no later than 3 (three) months from the end of the financial year. In managing the cash waqf this, of course, Nazir has an important function namely developing, advancing, rent waqf assets, and search profit

---

<sup>47</sup> Government of The Republic of Indonesia, *Government Regulation Number 42 of 2006 on The Implementation of Act Number 41 of 2004 on Waqf. Article 48 Paragraph (2), (3), (4) and (5).*

to be able to share result.<sup>48</sup> In addition, Nazir must be able to access Waqif candidates. Ideally, the cash waqf manager is an institution that has access to waqif candidates, which allows Nazir to raise large amounts of funds. Such a situation would obviously help raise an endowment that could contribute to the well-being of society. Nazir must be able to manage his finances professionally and according to sharia principles, such as investing in waqf funds.<sup>49</sup>

In carrying out the tough tasks, a Nazir must have several abilities, including:<sup>50</sup>

1. Technical abilities or expertise, for example operating a computer, designing rooms and others;
2. Skills in communicating and interacting with the community, especially those who are directly related to waqf;
3. Conceptual skills in productive waqf assets;
4. Firm in making decisions, after deliberation and appropriate when making decisions;
5. Expertise in managing time; and
6. This includes having maximum energy, daring to take risks, enthusiasm, and self-confidence.

Technically, there are several actions of Nazir in managing waqf assets, namely:

1. Nazir may lease waqf assets;
2. Nazir may plant waqf assets in the form of land;
3. Nazir may build settlements on waqf land for lease;
4. Nazir may change the condition of waqf assets to be better and more beneficial for mustahik and the poor;<sup>51</sup> and
5. Nazir must be careful in preparing the budget so that the waqf institution's program runs optimally.<sup>52</sup>

Based on the description above, researchers can state that the existence of Nazir in the management of waqf in Indonesia is one of the vital elements, which without the existence of a Nazir, the implementation of the management and development of waqf would not have

---

<sup>48</sup> Siska Lis Sulistiani, 'Penghimpunan Dan Pengelolaan Wakaf Uang Melalui Perbankan Syariah Di Indonesia', *Jurnal Wawasan Yuridika*, 5.2 (2021), 258 <<https://doi.org/10.25072/jwy.v5i2.343>>. 252.

<sup>49</sup> Shaifudin. 99.

<sup>50</sup> Aulia Khairunnisa, 'Mekanisme Dan Tanggung Jawab Nazir Dalam Mengumpulkan Serta Menyalurkan Dana Wakaf (Studi Peraturan Badan Wakaf Indonesia Nomor 01 Tahun 2020 Tentang Pedoman Pengelolaan Dan Pengembangan Harta Benda Wakaf)' (UIN Syarif Hidayatullah, 2022). 22.

<sup>51</sup> Usman. 158.

<sup>52</sup> Ade Solahudin and others, 'Manajemen Amil Dan Nazir Indonesia', *Jurnal Manajemen Dakwah*, 8.1 (2021), 33–50 <<https://doi.org/10.15408/jmd.v8i1.19925>>. 49.

been possible. In addition to Nazir position as one of the pillars that must exist in waqf as waqf management is regulated in Act Number 41 of 2004 on Waqf, Nazir is also a door to the development of waqf in Indonesia.

In the context of waqf management and development in Indonesia, all the efforts that have been made by Nazir is to realize the goals and functions of waqf have been maximized, it's just that in practice there is still effective control and supervision from the authorized institutions or agencies regarding this matter because it cannot be denied that the quality currently possessed by the Nazirs is still far from what is expected of the Legislative Regulations regarding Waqf.

Regardless of the various efforts made by Nazir in carrying out his duties and accountabilities, for now it is urgently needed to improve Nazir quality and empowerment. Because in efforts to develop waqf in Indonesia, human resources from a Nazir are important factors, especially in the context of productive waqf which really needs a managing figure as Nazir who truly has integrity, credibility and managerial skills. It's qualified so as to be able to formulate productive waqf management in the form of economic-business programs or activities.

In addition to the problems of Human Resources of Nazir as stated above, the researcher also sees that with Nazir strong position in the Law but has not been accompanied and supported by other facilities that should have been provided by the State to Nazir as a waqf manager to develop waqf in Indonesia. The essence of waqf is that the principal of the waqf assets cannot be reduced. Assets that have been surrendered by the wakif or waqf giver to nazir or waqf manager must really cared for by nazir. Nazir is responsible to grow these assets. Nazir must be responsible responsible when the asset is reduced.<sup>53</sup>

In terms of such accountability, a Nazir have to be careful in managing waqf assets that are imposed on him because there are several criminal provisions stipulated in the Waqf Law regarding the misuse of waqf assets, this can be seen in article 67, it's stated that: Everyone who intentionally guarantees, grants, sells, bequeaths, transfer in the form of transfer of other rights to waqf assets that have been represented as waqf or without permission to exchange property waqf that has been donated, shall be punished with maximum imprisonment of 5 (five) years and/or a maximum fine of IDR 500,000,000.00 (five hundred

---

<sup>53</sup> Qurratul 'Aini Wara Hastuti, 'PERAN LEMBAGA KEUANGAN SYARIAH PENERIMA WAKAF UANG (LKS-PWU) BAGI OPTIMALISASI WAKAF UANG', *ZISWAF : Jurnal Zakat Dan Wakaf*, 4.1 (2018), 41 <<https://doi.org/10.21043/ziswaf.v4i1.3030>>. 44.



million rupiah), then Anyone who intentionally changes the designation of waqf assets without permission, shall be punished with imprisonment for a maximum of 4 (four) years and/or a maximum fine of IDR 400,000,000.00 (four hundred million rupiah). Then the last criminal provision is that everyone who intentionally uses or takes facilities for the proceeds management and development of waqf assets exceeding the specified amount, shall be punished with imprisonment for a maximum of 3 (three) years and/or a maximum fine of IDR 300,000,000.00 (three hundred million rupiah).<sup>54</sup>

In addition to the criminal provisions above, the waqf legal system of Indonesia also regulates administrative sanctions, namely as stated in Article 68, that is sanction in written warning; temporary suspension or revocation of activity permits in the waqf sector for institutions sharia finance; and temporary suspension from office or termination from Nazir position.<sup>55</sup> Technically there are several prohibited acts of Nazir, namely:<sup>56</sup>

1. Nazir may not dominate the waqf property;
2. Nazir may not owe in the name of waqf;
3. Nazir may not pawn waqf assets;
4. Nazir may not allow someone to use waqf assets without compensation, except for legal reasons; and
5. Nazir may not lend waqf assets.

Based on the description above, we can see that the problem of Nazir accountability lies in the performance of the Nazir in carrying out his main tasks, functions and authorities, then also in the Nazir's compliance with the waqf management and empowerment regulations that have been determined in the laws and regulations concerning waqf in Indonesia. If Nazir makes a mistake in carrying out his duties, in this context he will receive administrative sanctions up to the removal of his status as Nazir. But it doesn't stop here, if Nazir is proven to have misused his status as a waqf manager, for example misusing waqf assets, then of course this will receive criminal sanctions as determined by the Waqf Law in accordance with the type of mistake he has committed.

### **Revitalization of Nazir status, roles and accountabilities in managing waqf in Indonesia**

---

<sup>54</sup> Government of The Republic of Indonesia, *Act Number 41 of 2004 on Waqf. Article 67 Pharagraph (1), (2) and (3).*

<sup>55</sup> Government of The Republic of Indonesia, *Act Number 41 of 2004 on Waqf. Article 68 Pharagraph (2).*

<sup>56</sup> Usman. 158.

Waqf has an important role in increasing the economic development of a country as a whole, so that it can help improve the welfare of the people. Waqf can be utilized to increase the economic capacity of the people and can provide education, health, places of worship and even as a provision in infrastructure development.<sup>57</sup> Therefore standards of waqf management professional are the boundaries of a rule in the management of waqf funds or waqf goods so that they can provide useful output for the people and country. This professional management greatly impacts the success or failure of the management system in general. Standard operational decisions are an important part of Nazir's institutional operations.<sup>58</sup> In addition, Nazir's intelligence can be given standards, such as high education standards so that all processes carried out can produce good products and not harm others. Nazir must have more skills, so that he can provide quality products and have advantages compared to others.<sup>59</sup>

Nazir is the person who is most responsible for the waqf assets entrusted to him, both regarding the maintenance of waqf assets, as well as the results and efforts to develop them. Each of Nazir's activities towards waqf assets must be in consideration of the sustainability of the waqf assets by channeling the benefits for the benefit of mauqûf 'alaih. Therefore, the role of the Nazirs is not only to mobilize waqf funds and immediately spend them as alms, but to turn them into assets first, then manage them productively and then use the proceeds as alms.<sup>60</sup> The authority of Nazir in managing waqf is the power given to the Nazir to carry out the duties and obligations as well as supervise the use of waqf assets so that they can be optimally empowered.<sup>61</sup>

There are several very crucial problems related to the existence of Nazir in the management and development of waqf in Indonesia, namely the existence of problems regarding the status, roles and responsibilities of Nazir which researchers formulate as a concept of rules that should be facilitated and/or implemented in Act Number 41 Year 2004 on Waqf, namely: Nazir is a waqf element that must exist, therefore its existence must be confirmed by the Government through strengthening the status of Nazir so that this will automatically have an impact on the performance of the Nazir. Having a clear and strong

---

<sup>57</sup> M. Miftakhuddin and others, 'Pendayagunaan Wakaf Di Tengah Pandemi Covid-19 Dalam Perspektif Maqashid Al-Syariah', *IQTISHADUNA: Jurnal Ilmiah Ekonomi Kita*, 10.1 (2021), 76–90 <<https://doi.org/10.46367/iqtishaduna.v10i1.313>>.

<sup>58</sup> Shaifudin. 104.

<sup>59</sup> Ridwan. 103.

<sup>60</sup> Tiswarni, 'Peran Nazhir Dalam Pemberdayaan Wakaf (Tinjauan Terhadap Strategi Pemberdayaan Wakaf Badan Wakaf Alquran Dan Wakaf Center)', *Al-Adalah*, XII.2 (2014). 409.

<sup>61</sup> Endang and Sari, 'Kewenangan Nazir Dalam Pengelolaan Wakaf (Studi Komparative Dalam Fikih Dan UU RI Nomor 41 Tahun 2004)', 22.

Nazir status will also give birth to credible and integrity professionalism, even if necessary, the government's competence of Nazir must also be implemented in this case, the Indonesian Waqf Board, so that waqf management in Indonesia can be carried out properly, precisely, effectively and efficiently.

Therefore, one of the problems that must receive attention in waqf management is the problem inherent in the beneficiary, custodian, manager and developer of the waqf asset, namely Nazir. Even The failure to manage waqf assets by Nazir caused the waqf to not be developed and the results could not be felt on an ongoing basis, as well as to become a discontinuous wakif charity. Even though waqf is intended so that the wakif charity continues to flow by utilizing the waqf assets by the community.<sup>62</sup>

The researcher tries to show the imbalance between the burden borne by a Nazir and what is given by the State to Nazir, namely:

- 1) The status of the individual Nazir is still unclear. This ambiguity can be seen from the existing rules that Nazir was only registered by the IWB to the Ministry of Religion, but was not made part of IWB, in the sense that Nazir was not an employee or officer of IWB, let alone an employee/apparatus of the Ministry of Religion;
- 2) Nazir rights to the results of waqf management regulated by the Waqf Law still do not reflect legal certainty. This can be seen from the provisions of the Waqf Law that Nazir can get a maximum of 10% of the proceeds from waqf management. The word can gives rise to the option that first Nazir may receive the results of waqf management and secondly Nazir may also not receive results from waqf management. Of course, this according to the researcher must be emphasized again, by formulating a rule that has a clear formulation, which does not give birth to multiple interpretations because the editorial content of the material is ambiguous;
- 3) In waqf management, Nazir is only charged with reporting the implementation of waqf management but is not required to be responsible for the implementation of waqf management, so this is one of the stigmas in the management and development of waqf in Indonesia. The researcher says so, because if a Nazir is incidentally the manager of the waqf, but is not burdened with the obligation to be responsible for

---

<sup>62</sup> Mahroji, Shinta Melzatia, and Nurul Rachmaini, 'Kegagalan Nazir Dalam Tata Kelola Dan Akuntabilitas Pada Kebangkrutan Pondok Pesantren', *Fair Value : Jurnal Ilmiah Akuntansi Dan Keuangan*, 4.10 (2022). 4737.

what he does, then it is not impossible that the Nazir is "perfunctory" in managing the waqf entrusted to him.

In addition, Nazir must also develop a network of cooperation in order to develop and empower waqf assets. Networking can be built through cooperation with third parties. Collaboration can also take the form of partnerships that are built on the basis of mutual benefit, such as investing, opening business entities, mobilizing community self-help and other ways that can build a productive waqf empowerment network. To achieve this, it is necessary to build synergies and carry out coordination, cooperation and consultation with local governments, the Office of the Ministry of Religion, the Indonesian Waqf Board, religious organizations, land offices and related technical agencies, investors and Islamic banks, educational institutions, Islamic financial institutions and other parties. other parties related to the program or project. With this collaboration, it is hoped that cross-institutional and related agency synergies will be formed which can support the successful implementation of the productive waqf empowerment program.<sup>63</sup>

In this context, it can be seen that there is injustice towards Nazir, especially the individual Nazir. This injustice can be seen from the unclear status held by Nazir, the imbalance between Nazir rights and the duties and obligations imposed on him by the State (through this Waqf Law). From this it can be said that the provisions regarding Nazir formulated in the Waqf Law are still far from implementing the values of justice. There are legal norms that are violated in these provisions, a law must also be an embodiment of the value of justice, both to be fair for citizens and for the country itself. Conditions like this are contrary to the conditions expected in the formation of a regulation or legislation, where the law is made to fulfill a sense of justice for the community. The law must reflect the values of justice embodied in the philosophy of the Indonesian nation and state, namely Pancasila.

It is a very ironic thing, when Act Number 41 of 2004 on Waqf has the goal of general welfare, but for the welfare of Nazir, who is one of the elements of waqf, is no longer capable. The content contained in this Waqf Law should fulfill justice, both for social justice, namely for all Indonesian people, but also must be fair to the subjects contained in the Law itself, in this case, Nazir.

Based on the urgency contained in the description above, the status of an individual Nazir must be clarified and regulated in the Waqf Law. Therefore, Article 10 paragraph (1) regarding the requirements of an individual Nazir must be accompanied by conditions that

---

<sup>63</sup> Ridwan. 104.

contain the meaning of clarity on the status of Nazir. Regarding this, the editorial should be added, namely by adding the letter g with the sound: "appointed and determined by IWB with a decree". With the publication of these rules, the position and position of nazir becomes clear in the institution and management of waqf in Indonesia, apart from that the IWB as an institution that appoints and determines Nazir must be responsible for the rights of individual Nazir in addition to demanding obligations Nazir the company.

Regarding the addition of letter g above, Article 10 paragraph (2) and paragraph (3) must also be adjusted, the management requirements must also be adjusted to paragraph (1), so that it does not become a burden on Nazir organizations and Nazir legal entities, it is very wise if the provisions stipulated in paragraph (2) letter a and paragraph (3) letter b are given the additional editorial "at least 3 (three) people".

After the individual Nazir has been given clarity on the status and lightening of the burden on organizational Nazir and legal entity Nazir, the next step is to clarify Nazir duties. As Article 11, Nazir has the task of administering waqf assets, managing and developing waqf assets in accordance with their purpose, function and designation, as well as overseeing and protecting waqf assets and reporting on the implementation of their duties to IWB.

From several tasks that Nazir has above, there is one thing that is not regulated, namely the issue of Nazir responsibilities. Based on Article 11 letter d, Nazir is only charged with reporting the implementation of his duties to IWB. This cannot be maintained, because the success of a management is also influenced by the accountability of the manager. Therefore, Nazir must also be held responsible for managing and developing waqf assets.

Thus, to emphasize Nazir professionalism and accountability in the management and development of waqf, a regulation is required that requires Nazir to be responsible for his duties. Based on this also, it is suggested to change the editorial of Article d which originally read: "d. report the implementation of tasks to the Indonesian Waqf Board" to: "d. report on the implementation of tasks and be responsible to the Indonesian Waqf Agency.

With the additional rules contained in article 11 above, it is hoped that in the future there will be no more cases where Nazir is not serious in managing and developing waqf, in fact the most tragic is that the Nazir duties are considered by some Nazir to be only side job or in other words just nyambi job.

With the status as a IWB employee (for an individual Nazir) who has duties, and with obligations and responsibilities, it is only fitting that Nazir be given appreciation for the management and development of the waqf he is doing. This appreciation in the Waqf Law is

embodied in the form of compensation as stipulated in Article 11 of Act Number 41 of 2004 on Waqf, which reads: "In carrying out the tasks referred to in Article 11, Nazir can receive compensation from the net proceeds of managing and development of waqf assets which does not exceed 10% (ten percent)". Regarding this, the researcher considers that the rules contained in Article 11 above are still in a state of uncertainty. Therefore, from a textual point of view, it must be corrected in order to guarantee legal certainty obtained by Nazir. The improvement referred to is by removing the word "can", so that Article 12 reads: "In carrying out the tasks referred to in Article 11, Nazir receives compensation from the net proceeds for the management and development of waqf assets, the amount of which does not exceed 10% (ten percent)". In its application, editorials containing or not including the word "can" are not so influential, but in a legal view the word "can" is a word that can affect legal certainty as contained in Article 12.

With the reconstruction of the rules in several articles regarding Nazir above, it is hoped that it can help optimize the implementation of cash waqf in Indonesia, because basically Nazir based on Act Number 41 of 2004 on Waqf is one of the elements of waqf as emphasized in Article 6 letter b. Whether or not the waqf elements are strong either individually or as a whole will certainly affect the success of waqf management. Therefore, the reconstruction of the Nazir regulations above is deemed very necessary to be carried out in order to lead to the optimization and maximization of waqf management in Indonesia. The reconstruction of Nazir status, roles and responsibilities in order to revitalize Nazir status, roles and responsibilities in managing waqf in Indonesia is a necessity as one of the country's efforts to advance and develop the nation's economy in order to realize the birth of a prosperous Indonesia.

The authors also believe that according to Agung Abdullah's opinion that to improve the status, roles, responsibilities and duties of the nazir in the management of waqf resources in Indonesia can be carried out independently by Nazir without any intervention by the government. The role of the Government of Indonesia in managing private waqf is both as a protector and issuer of rules that support waqf productivity.<sup>64</sup> Then given the importance of the nazir in waqf management, the author dares to provide recommendations to policy makers for the future to include the existence of the nazir as a condition or pillar in waqf, this needs to be implemented according to Cut Endang Puspa Sari because conditions and pillars are two important elements and are the foundation of a implementation of worship. More than that,

---

<sup>64</sup> Abdullah. 408.

the perfection or even legitimacy of an act of worship is highly dependent on these two elements.<sup>65</sup>

## CONCLUSION

Based on the results of this research then can be drawn several conclusions, namely as follow:

1. Nazir has a burden of accountabilities for his profession that must be accounted for in waqf management based on waqf legal system in Indonesia that in Act Number 41 of 2004 on Waqf, namely carrying out the administration of waqf assets; managing and developing the waqf assets based on the objectives, functions and its designation; supervising and protecting the waqf assets; and reporting the tasks implementation to the Indonesian Waqf Board. But, it 's understood and has to be attention that a mistake in managing the waqf assets can lead to criminal problems, both mistakes caused by him ownself or by other people involved in managing the waqf assets.
2. In revitalizing Nazir status, roles and responsibilities in waqf management in Indonesia, clarification and strengthening of Nazir legal construction in Act Number 41 of 2004 on Waqf is required, which is manifested by revising several related articles regarding Nazir in the framework of clarifying and strengthening the status of Nazir in the institution and management of waqf, including completing Nazir requirements, giving the burden of accountability to Nazir in managing and developing waqf assets, and reinforcing Nazir rights in the management and development of waqf assets. One of the ways in revitalizing is by including the existence of the nazir as a condition or pillar in waqf.

## Suggestions

Beside that there are several suggestion which can be conveyed, namely as follow:

1. Government has to strengthen the legal construction regarding the status, roles and responsibilities of Nazir in Act Number 41 of 2004 on Waqf.
2. Government has to revitalize the status, roles and accountabilities of Nazir in Act Number 41 of 2004 on Waqf by revising several related articles regarding Nazir.

---

<sup>65</sup> Endang and Sari. 21.

**BIBLIOGRAPHY****Books**

- Ali, Muhammad Daud. *Sistem Ekonomi Islam, Zakat Dan Wakaf*. Jakarta: UI Press, 1988.
- Directorate of Zakat and Waqf Development. *Paradigma Baru Wakaf Di Indonesia*. Jakarta: The Ministry of Religion, 2008.
- Djunaidi, Achmad. *Pedoman Pengelolaan Dan Pengembangan Wakaf*. Jakarta: Ministry of The Religion of The Republic of Indonesia, 2013.
- . *Perkembangan Pengelolaan Wakaf Di Indonesia*. Jakarta: Kementerian Agama RI, 2006.
- Djunaidi, Achmad, and Thobieb Al-Asyhar. *Menuju Era Wakaf Produktif: Sebuah Upaya Progresif Untuk Kesejahteraan Umat*. Jakarta: Mitra Abadi Press, 2006.
- Hamami, Taufik. *Perwakafan Tanah Dalam Politik Hukum Agraria Nasional*. Jakarta: Tata Nusa, 2003.
- Praja, Juhaya S., and Mukhlisin Muzarie. *Pranata Ekonomi Islam Wakaf*. Cirebon: Dinamika, 2009.
- Prihatna, Andy Agung. *Wakaf, Tuhan, dan Agenda Kemanusiaan*. Jakarta: Center for the Study of Religion and Culture, n.d.

**Journal and Other Scientific Publications**

- Abdullah, Agung, 'Nadzir Dalam Perspektif Kelembagaan Wakaf Di Indonesia', *Jurnal Ilmiah Ekonomi Islam*, 06.3 (2020)
- Ali, Muhammad Daud, *Sistem Ekonomi Islam, Zakat Dan Wakaf* (Jakarta: UI Press, 1988)
- Awaluddin, Putri Cahyani and Murtiadi, 'Pengelolaan Wakaf Dalam Meningkatkan Kesejahteraan Umat (Studi Pada LAZ Aksi Cepat Tanggap Sulsel)', *AT TAWAZUN Jurnal Ekonomi Islam*, 1.3 (2021), 134.
- Baharuddin, A Zamakhsyari, and Rifqi Qowiyul Iman, 'Nazir Wakaf Profesional, Standarisasi Dan Problematikanya', *Li Falah: Jurnal Studi Ekonomi Dan Bisnis Islam*, 3.2 (2018), 62 <<https://doi.org/10.31332/lifalah.v3i2.1197>>
- Constitutions, Malaysian Federal, 'Federal Contitutions', *Government of Malaysia*, August 1957, 2009, 1–204
- Directorate of Zakat and Waqf Development, *Paradigma Baru Wakaf Di Indonesia* (Jakarta: The Ministry of Religion, 2008)
- Djunaidi, Achmad, *Pedoman Pengelolaan Dan Pengembangan Wakaf* (Jakarta: Ministry of The Religion of The Republic of Indonesia, 2013)
- , *Perkembangan Pengelolaan Wakaf Di Indonesia* (Jakarta: Kementerian Agama RI, 2006)
- Ezril, 'Akuntansi Pengelolaan Wakaf Produktif Pada Usaha Perkebunan Lembaga Nazir Wakaf (LNW) Ibadurrahman Duri', *IQTISHADUNA: Jurnal Ilmiah Ekonomi Kita*, 7.1 (2018)



- Fahham, Achmad Muchaddam, 'Pengelolaan Wakaf Tunai Di Lembaga Pengelola Wakaf Dan Pertanahan Pengurus Wilayah Nahdlatul Ulama Daerah Istimewa Yogyakarta', *Aspirasi*, 6.1 (2015)
- Furqon, Ahmad, 'Analisis Praktek Perwakafan Uang Pada Lembaga Keuangan Syariah', *'http://Www.Republika.Co.Id/Berita/36558/Peran\_LKS\_di\_Era\_Wakaf\_Produktif*, 19 (2011), 166.
- , 'Nazir Wakaf Berbasis Wirausaha Sosial Di Yayasan Muslimin Kota Pekalongan', *MADANIA Jurnal Kajian Keislaman*, 20.1 (2016)
- Government of The Republic of Indonesia, *Act Number 41 of 2004 on Waqf* (Indoensia, 2004)
- , *Government Regulation Number 28 of 1977 on Waqf of Owned Land* (Indonesia, 1977)
- , *Government Regulation Number 42 of 2006 on The Implementation of Act Number 41 of 2004 on Waqf* (Indonesia, 2006)
- Hamami, Taufik, *Perwakafan Tanah Dalam Politik Hukum Agraria Nasional* (Jakarta: Tata Nusa, 2003)
- Hasan, Rashedul, M. Kabir Hassan, and Mamunur Rashid, 'The Role of Waqf in Educational Development - Evidence from Malaysia', *Journal of Islamic Finance*1, 8.1 (2019)
- Hastuti, Qurratul 'Aini Wara, 'PERAN LEMBAGA KEUANGAN SYARIAH PENERIMA WAKAF UANG (LKS-PWU) BAGI OPTIMALISASI WAKAF UANG', *ZISWAF : Jurnal Zakat Dan Wakaf*, 4.1 (2018), 41 <<https://doi.org/10.21043/ziswaf.v4i1.3030>>
- Kasdi, Abdurrahman, 'Peran Nadzir Dalam Pengembangan Wakaf', *ZISWAF : Jurnal Zakat Dan Wakaf*, 1.2 (2014)
- Khairunnisa, Aulia, 'Mekanisme Dan Tanggung Jawab Nazir Dalam Mengumpulkan Serta Menyalurkan Dana Wakaf (Studi Peraturan Badan Wakaf Indonesia Nomor 01 Tahun 2020 Tentang Pedoman Pengelolaan Dan Pengembangan Harta Benda Wakaf)' (UIN Syarif Hidayatullah, 2022)
- , 'Mekanisme Dan Tanggung Jawab Nazir Dalam Mengumpulkan Serta Menyalurkan Dana Wakaf (Studi Peraturan Badan Wakaf Indonesia Nomor 01 Tahun 2020 Tentang Pedoman Pengelolaan Dan Pengembangan Harta Benda Wakaf)', *UIN Syarif Hidayatullah*, 2022, 19.
- Lis Sulistiani, Siska, 'Penghimpunan Dan Pengelolaan Wakaf Uang Melalui Perbankan Syariah Di Indonesia', *Jurnal Wawasan Yuridika*, 5.2 (2021), 258 <<https://doi.org/10.25072/jwy.v5i2.343>>
- Mahroji, Shinta Melzattia, and Nurul Rachmaini, 'Kegagalan Nazir Dalam Tata Kelola Dan Akuntabilitas Pada Kebangkrutan Pondok Pesantren', *Fair Value : Jurnal Ilmiah Akuntansi Dan Keuangan*, 4.10 (2022)
- Miftakhuddin, M., Khofifah Trisnah Lestari, Aniroh Aniroh, and Hendri Hermawan Adinugraha, 'Pendayagunaan Wakaf Di Tengah Pandemi Covid-19 Dalam Perspektif Maqashid Al-Syariah', *IQTISHADUNA: Jurnal Ilmiah Ekonomi Kita*, 10.1 (2021), 76–90 <<https://doi.org/10.46367/iqtishaduna.v10i1.313>>
- Mutiara, Irfan Syauqi Beik, and Aslam Mei Nur Widigdo, 'Nazir Management Improvement and Regulation Adjustments to Increase Waqf Land Productivity', *BWI Working Paper*

Series, 2021

- Nurjamil, Siti Nurhayati and, 'Tanggungjawab Nazir Koperasi Syariah Sebagai LKS PWU Dalam Pengelolaan Wakaf Uang Melalui Aplikasi Fintech', 2 (2020), 413.  
<<https://doi.org/http://ojs.unikom.ac.id/index.php/law>>
- Praja, Juhaya S., and Mukhlisin Muzarie, *Pranata Ekonomi Islam Wakaf* (Cirebon: Dinamika, 2009)
- Prihatna, Andy Agung, *Wakaf, Tuhan, Dan Agenda Kemanusiaan* (Jakarta: Center for the Study of Religion and Culture)
- Putra, Muhammad Wicaksono Hasdyani, Tika Widiastuti Widiastuti, and Effendie, 'Analisis Faktor-Faktor Yang Memengaruhi Kepuasan Wakif Terhadap Pelayanan Lembaga Wakaf', *Al-Awqaf: Jurnal Wakaf Dan Ekonomi Islam*, 13.1 (2020)  
<<https://doi.org/https://doi.org/10.47411/al-awqaf.v13i1.71>>
- Rani, Mohd Afendi Mat, 'Waqf Management and Administration in Malaysia: Its Implementation From The Perspective of Islamic Law', *Malaysian Accounting Review*, 9.2 (2010)
- Ridwan, Murtadho, 'Nazhir Profesional Kunci Kesuksesan Wakaf Produktif', *Jurnal Muqtasid*, 3.1 (2012)
- Said, Yati Nurhayati; Ifrani; M. Yasir, 'Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum', *Jurnal Penegakan Hukum Indonesia*, 2.1 (2021), hlm. 1-20.  
<<https://doi.org/10.51749/jphi.v2i1.14>>
- Sari, Cut Endang Puspa, 'Kewenangan Nazir Dalam Pengelolaan Wakaf (Studi Komparative Dalam Fikih Dan Uu Ri Nomor 41 Tahun 2004)', *Shibghah: Journal of Muslim Societies*, 1.2 (2019), 19–33
- Sari, Endang and, 'Kewenangan Nazir Dalam Pengelolaan Wakaf (Studi Komparative Dalam Fikih Dan UU RI Nomor 41 Tahun 2004)', 22.
- Senjiati, Ifa Hanifia, Siska Lis Sulistiani, and Muhammad Fikri Rais Mubarak, 'Analisis Fikih Wakaf Dan Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf Terhadap Perolehan Hak Nadzir Pada Pengelolaan Wakaf Uang Nadzir Individu Dikampung Tapos Cikalong Wetan', *Tahkim (Jurnal Peradaban Dan Hukum Islam)*, 3.1 (2020), 77–88  
<<https://doi.org/10.29313/tahkim.v3i1.5661>>
- Shaifudin, Rafi Nur, 'Peran Nadzir Dalam Mengelola Harta Benda Wakaf Untuk Meningkatkan Kesejahteraan Umat', *Jurnal Ekonomika Dan Bisnis Islam*, 5.1 (2022)  
<<https://doi.org/https://doi.org/10.26740/jekobi.v5n1.p95-105>>
- Sidik, Nik Mohd Saiful W Mohd, and Zaid Ahmad, 'Application of GIS (Geographical Information System) in The Management of Waqf Lands in Selangor', *International Journal of Academic Research in Business and Social Sciences*, 11.11 (2021)  
<<https://doi.org/10.6007/IJARBS/v11-i11/11651>>
- Solahudin, Ade, Asmiyatul Zumroh, Febrian Prihardiansyah, and Muhammad Taufik Hudaya, 'Manajemen Amil Dan Nazir Indonesia', *Jurnal Manajemen Dakwah*, 8.1 (2021), 33–50  
<<https://doi.org/10.15408/jmd.v8i1.19925>>
- Tiswarni, 'Peran Nazhir Dalam Pemberdayaan Wakaf (Tinjauan Terhadap Strategi Pemberdayaan Wakaf Badan Wakaf Alquran Dan Wakaf Center)', *Al-Adalah*, XII.2 (2014)

Umami, Ni'matul Fauziyyah dan Khairil, 'Efektivitas Nazir Organisasi Di Majelis Wakil Cabang Nahdlatul Ulama Kecamatan Siman Kabupaten Ponorogo', *Jurnal Antologi Hukum*, 1.1 (2021), 16–33

Usman, Nurodin, 'Subjek-Subjek Wakaf: Kajian Fiqh Mengenai Wakifdan Nazhir', *Cakrawala*, XI.2 (2016), 145–66

### Legislation

*Constitutions, Malaysian Federal. 'Federal Contitutions'. Government of Malaysia, no. August 1957 (2009): 1–204.*

*Government of The Republic of Indonesia. Act Number 41 of 2004 on Waqf, Pub. L. No. 4459 (2004).*

———. *Government Regulation Number 28 of 1977 on Waqf of Owned Land (1977).*

———. *Government Regulation Number 42 of 2006 on The Implementation of Act Number 41 of 2004 on Waqf, Pub. L. No. 4668 (2006).*