



The Politics of Waqf Practice in Pesantren Kyai Families in Bangkalan Madura, Indonesia

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Abstract

The Waqf Law mandates that waqf management is expected to sustain and improve the ummah's economy, but many waqf practices are not carried out according to procedures, such as changing Nazirs without coordinating with the Indonesian Waqf Board, which is done by many Kyai in Bangkalan Regency. Waqf Core Principles is an initiative effort that aims to provide a description of the position and role of waqf management and supervision systems in economic development programs and as a methodology on the core principles of management and supervision. This research uses a qualitative approach. Data were obtained from waqf managers in Islamic boarding schools in Bangkalan Regency, targeting effective waqf management in Waqf Core Principals, using componential analysis with Atlas.ti. The research findings show that the practice of waqf in Islamic boarding schools in Bangkalan Regency is more of a formal practice as a requirement for obtaining assistance and the like, including the waqf management structure revolving around close family circles, while in terms of supervision, the government is passive in waiting if there are problems and adjusting the budget in socialization and supervision activities. Building awareness of the utilization of waqf assets can be done through structured counseling through existing instructors in each sub-district by building synergies with pesantren, as educational, religious and social institutions that are trusted to be at the forefront and pilot of waqf development.

Keywords: Kyai, Madura, politic, waqf, pesantren

Abstrak

Undang-undang wakaf mengamanatkan bahwa pengelolaan wakaf diharapkan mampu menopang dan meningkatkan perekonomian umat. Namun banyak praktik wakaf yang tidak dilakukan sesuai prosedur, seperti pergantian Nazir tanpa koordinasi dengan Badan Wakaf Indonesia yang banyak dilakukan Kyai di Kabupaten Bangkalan. Prinsip pokok Wakaf merupakan upaya inisiatif yang bertujuan untuk memberikan gambaran kedudukan dan peran sistem pengelolaan dan pengawasan wakaf dalam program pembangunan ekonomi, serta sebagai metodologi terhadap prinsip pokok pengelolaan dan pengawasan. Penelitian ini menggunakan pendekatan kualitatif. Data diperoleh dari pengelola wakaf pada pondok pesantren di Kabupaten Bangkalan, dengan sasaran pengelolaan wakaf yang efektif pada Kepala Sekolah Inti Wakaf, menggunakan analisis komponensial dengan Atlas.ti. Hasil penelitian menunjukkan bahwa praktik wakaf di pondok pesantren di Kabupaten Bangkalan lebih bersifat formalitas sebagai syarat untuk memperoleh bantuan dan sejenisnya, termasuk struktur pengelolaan wakaf yang berada di lingkungan keluarga dekat, sedangkan dari segi pengawasan, hal ini tidak terlepas dari struktur pengelolaan wakaf yang ada di lingkungan keluarga dekat. pemerintah bersikap pasif menunggu bila ada permasalahan dan melakukan penyesuaian anggaran dalam kegiatan sosialisasi dan pengawasan. Membangun kesadaran pemanfaatan harta wakaf dapat dilakukan melalui penyuluhan terstruktur melalui penyuluh yang ada di setiap kecamatan dengan membangun sinergi dengan pesantren, sebagai lembaga pendidikan, keagamaan, dan sosial yang dipercaya menjadi garda terdepan dan percontohan pengembangan wakaf.

Kata Kunci: *Kyai, madura, politik, wakaf, pesantren*

Introduction

The law politics of waqf in Indonesia from the Dutch colonial era to the new order era was limited to the management and provisions of waqf in the field of land, this changed with the enactment of Law Number 41 of 2004 concerning Waqf, followed by Government Regulation Number 42 of 2006 jo Government Regulation Number 25 of 2018 concerning Amendments to PP Number 42 of 2006 concerning Implementation of Law Number 41 of 2004 concerning Waqf which indirectly provides a new direction and view on waqf management with an ideological and socio-economic paradigm.¹ The paradigm provides a picture, first, the concept of

¹ Syaikh Syaikh, et.al., "The Empowerment of Infaq and Waqf Evaluation in light of Maqasid al-Sharia Perspective in Mosques in Palangka Raya, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 5, No. 2 (2021). Kementerian Agama, *Paradigma Baru Wakaf* (Jakarta: Kementerian Agama, 2013), p. 45.

waqf as an investment based on ideological religious values in assessing waqf property provides benefits and humanistic content, while the second paradigm is socio-economic, that waqf property has an economic contribution in overcoming the economic problems of the ummah.

The problem of developing the economic utilization of waqf assets in several regions in Indonesia is still a constraint, besides being due to waqf assets that are silent or unproductive, also on the capacity of *nazhir* who are not professional,² including also from the side of utilization initiation and increasing waqf productivity³ Data from the Waqf Information System (SIWAK) of the Ministry of Religion of the Republic of Indonesia shows the allocation of waqf allocations, namely Mosques (44.20%), Musholla (28.26%), Schools (10.67%), Graves (4.44%), Islamic Boarding Schools (3.65%) and other Social (8.78%).

From the data, waqf assets are still mostly allocated to worship interests, such as mosques and *musholla*, which are more in the interests of human relations with their God, still far smaller than assets used for schools/madrasas and Islamic boarding schools which in addition to being used in the form of buildings, are also used as a means of forming character, personality, and improving abilities in religious science and other sciences. Pesantren positions itself as an object that tries to build a more meaningful relationship between humans and their God, in creating the beauty and grandeur of a relationship. As mentioned by Zamakhsyari Dhofier, in addition to being a means of forming students who delve into religious knowledge, pesantren are also used in the formation of morals, a means of developing Islamic beliefs by the community, which at least consists of certain elements, such as cottages, mosques, students, *kyai* and teaching.⁴ Meanwhile, along with the development and modernization of the culture of education in Indonesia,⁵ it presents two pessimistic and optimistic⁶ responses to the development of pesantren, the direction of pesantren development in maintaining the demands of modernity in maintaining optimism among others through the existence and role of *kyai* who have independence in the field of economic ethos and moral vision,⁷ economic strength for *kyai* pesantren will at least be able to deal with all aspects of needs, both from a

² Abdurrahman Kasdi, "Peran Nadzir Dalam Pengembangan Wakaf," *Jurnal Zakat dan Wakaf* 1, no. 2 (2014), p. 213–26.

³ Tata Fathurrohman, et. al., "Analisis Deskriptif Tentang Kinerja Nadzir Wakaf," *Mimbar* 30, no. 2 (2014), p. 233–42.

⁴ Zamakhsyari Dhofier, *Tradisi Pesantren, Studi tentang Pandangan Hidup Kyai* (Jakarta: LP3SS, 1993).

⁵ Siska Lis Sulistiani, "The Legal Position of Waqf for Non-Muslims in Efforts to Increase Waqf Assets in Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 5, No. 1 (2021).

⁶ Abdul Basyit, "Pembaharuan Model Pesantren: Respon terhadap Modernitas," *Kordinat* XVI, no. 2 (2017), p. 293.

⁷ Ach Fatchan and Basrowi, *Pembelotan Kaum Pesantren dan Petani Jawa* (Jakarta: Darma Bakti, 2004).

psychological point of view, self-actualization and able to sideline intervention from other parties,⁸ not only in the economic field but also in the academic pesantren, theology, and intellectualism as exemplified by Gontor Pesantren and Tebuireng Jombang Pesantren which are able to build a waqf development model, while developing the pillars of the waqf institution.⁹

Based on statistical data on the number of Islamic boarding schools in East Java, as many as 20% are located on Madura Island out of 4452 registered pesantren.

Table 1: The amount of Islamic boarding schools on Madura island

No	District	The amount of boarding school
1	Sampang	352
2	Bangkalan	114
3	Pamekasan	218
4	Sumenep	177

Source: <https://ditpdpontren.kemenag.go.id/pdpp/statistik?id=35>

Bangkalan occupies the last position of the four regencies with the largest number of pesantren on the island of Madura, with the amount of waqf land allocated for pesantren totaling 13.7 Ha out of 92.8 Ha, or 14.7%.¹⁰ Muttaqin Choiri and Ahamd Makhtum's research states that many waqf assets managed by Kyai in Bangkalan Regency have experienced changes in nadzir based on descent without going through the process of changing the registered Nadzir, which is not accompanied by efforts to properly utilize waqf capital assets by nadzir in terms of knowledge, recruitment, compensation, competence and supervision.¹¹

Concept of Waqf

Waqf according to Imam Syafi'i is defined as the process of releasing property that was originally owned by the Waqif (the person who gives the waqf) to be handed over to *mauquf alaih* (the person who receives the waqf),¹² the transfer of ownership can be done when the conditions, pillars and the pledge of the utilization of the property to be transferred to "Allah's property" and maximally utilized for the

⁸ Zainal Abidin, "The Jihad of Economic: the Spirit of Islamic Economic Movement By Kyai in Madura," *Share: Jurnal Ekonomi dan Keuangan Islam* 4, no. 2 (2015), p. 185.

⁹ Miftahul Huda, "Wakaf dan Kemandirian Pesantren dari Tebuireng Hingga Gontor," *Islamica* 7, no. 1 (2012), p. 211–31.

¹⁰ "Data Tanah Wakaf," n.d., <http://siwak.kemenag.go.id/index.php>.

¹¹ Muttaqin Choiri and Ahmad Makhtum, "Traditionalism Nazhir Kyai On Waqf Asset Development In Bangkalan Madura," *Ziswaf: Jurnal Zakat Dan Wakaf* 8, no. 1 (2021), p. 72.

¹² Masdar, "Penerapan Hukum Wakaf Uang di Indonesia Perspektif Legal System Theory," *Al-Manahij: Jurnal Kajian Hukum Islam* 11, No. 1 (2017), p. 79-92.

benefit and social good.¹³ The utilization of waqf assets is carried out by maintaining the principal assets of waqf by not reducing the principal assets,¹⁴ so the process of utilizing waqf assets is carried out by maintaining the principal assets so that they survive, but can provide benefits and even the value of waqf assets is expected to increase over time, in contrast to the concept of managing zakat assets which are distributed to *mustahiq* zakat more consumptive and targeted at the recipient group, while the utilization of waqf assets can be used by anyone regardless of social status.

The utilization of waqf assets has a very big impact even until the death of the waqf donor, such as being elevated and increasing goodness,¹⁵ some of the benefits of waqf (1) are used in social life, such as helping the poor faqir, building hospitals, (2) as da'wah in order to uphold the sentence of Allah, such as financing da'wah and education.¹⁶ Islam teaches the distribution of wealth in the form of philanthropic institutions as an effort so that wealth does not only rotate among the rich, which causes social instability¹⁷ through philanthropic institutions such as this can be used as a bridge and generate economic power for Muslim communities.¹⁸ The development of waqf in several countries has experienced significant developments. In Indonesia, waqf regulations are confirmed in Law Number 41 of 2004 concerning Waqf, with the enactment of waqf regulations, it is hoped that waqf management in Indonesia will be able to maximize its potential utilization in the fields of economy and worship.¹⁹

Law Number 41 of 2004, the elements of waqf are stated as follows; Waqf, Nazhir, Waqf Property, Waqf Pledge, Designation of waqf property, and Waqf Period. In addition to the fulfillment of these six elements in waqf administration, the objectives mandated by the waqf law in articles 4 and 5 state the utilization of waqf assets in accordance with their functions and in order to realize the potential and economic benefits used to advance public welfare.

The spirit of the Indonesian government in maximizing the potential and benefits of waqf in this regulation is emphasized by the establishment of the

¹³ Wahbah Az-Zuhaili, *Al-Fiqh al-Islam Wa Adillatuhu* (Beirut: Dar al-Fikr, 1985), p. 154.

¹⁴ Taqiuddin Abi Bakr, *Kifayah Al-Akhyaar* (Mesir: Dar al-Kitab al-'Arabiyy, n.d.), p. 319.

¹⁵ Ahmad bin Abdul Azis Al-Haddad, *Min Fiqh al-Waqf* (Dubai: Dairah As-Su'un al-Islamiyah wa Al-'Amal Khoiri, 2009), p. 17.

¹⁶ Khalid bin Harun bin Fauzan, *Atsar al-Waqf* (Riyadh: Wizarah Su'un al-Islamiyah wa Al-Awqaf Ad-Da'wah wa Al-Irsyad, 2005), 79.

¹⁷ Siah Khosyi'ah, *Wakaf dan Hibah* (Bandung: Pustaka Setia, 2010), p. 12.

¹⁸ Ram Al Jaffri Saad, et.al., "Islamic Accountability Framework in the zakat funds management," in *International Conference on Accounting Studies* (Kuala Lumpur: Elsevier, 2014), p. 508.

¹⁹ N. Oneng Nurul Bariyah, "Dinamika Aspek Hukum Zakat dan Wakaf di Indonesia," *Ahkam: Jurnal Ilmu Syariah* 16, No. 2 (2016), p. 197-212. Fauzan Samad, et.al., "Strategy of Community Economy Empowerment Through the Management of Waqf Assets at The Baitussalihin Mosque in Ulee Kareng, Banda Aceh City," *Jurnal Sosioologi Dialektika Sosial* 10, No. 1 (2024).

Indonesian Waqf Board, which functions as an independent institution,²⁰ three years after the Waqf Law was passed through Presidential Decree No. 75/M of 2007, which functions as a nazir coach in the context of fostering the management of waqf assets to be better and productive in order to produce greater benefits, for social services, economic empowerment, or as public infrastructure development. The original purpose of waqf, which was originally described by the Prophet's hadith as part of an individual investment that will last forever, with an eternal stream of rewards as long as the waqf assets provide benefits as part of the benefits of *shodaqoh jariyah*, began to be used as part of worship that not only serves to maintain *hablun min Allah* but has evolved towards *hablun min an-naas*, by *waqf* in a person will get two benefits at once.

Waqf Core Principals in Developing Waqf Asset

The management of waqf assets is carried out in order to protect the assets from damage and be able to increase the value of the assets,²¹ in order to increase the benefits for the future for both the community and individuals.²² In this regard, the Ulama agree that the *Waqif* must appoint a *Nazhir* who is able to carry out his duties well.²³ *Nazhir* is a party, whether individual, group, or organization that is entrusted to manage waqf property and managed and developed according to the allocation in the waqf pledge.²⁴ Meanwhile, in the view of the Hanafi Ulama, the *nazhir* is usually called *Qayyim al-Waqf* or *Mutawalli*,²⁵ who is given the authority to manage, and supervise activities on waqf property, such as maintaining, protecting, empowering (investment), and collecting profits to be distributed to waqf beneficiaries, as well as various efforts in carrying out the management of waqf property.

Among the requirements for the management of waqf property, which the *nazhir* needs to have, are the ability to act as, *First*, a general leader in morals, having noble morals, trustworthiness, good behavior, experience, mastering administrative and financial knowledge deemed necessary to carry out his duties in accordance with the type of waqf and its purpose.²⁶ *Second*, able to work in accordance with the

²⁰ Miftahul Huda, et.al., "Development The Governance of Corporate-Based Waqf in South East Asia," *De jure: Jurnal Hukum dan Syar'iah* 12, No. 2, (2020), p. 120-139.

²¹ Awwaluddin Marza, et.al., "The Role of The Indonesian Waqf Agency in The Implementation of Nazir Supervision of Land Waqf (Study At Badan Wakaf Indonesia of Lhokseumawe City)," *Syariah: Jurnal Hukum dan Pemikiran* 22, No. 2 (2022), p. 183-193.

²² Munzir Qahaf, *Al-Waqf Al-Islaami* (Damaskus: Dar al-Fikr, 2000), 66.

²³ Kementerian Agama, *Wakaf of Beginner* (Jakrta: Kementerian Agama, 2013), p. 36.

²⁴ Direktorat Pemberdayaan Wakaf, *Fiqih Wakaf* (Jakarta: Direktorat Pemberdayaan Wakaf Kementerian Agama, 2006), p. 69.

²⁵ Muhammad Rawas Qal'aji, *Mu'jam al-Lughah al-Fuqaha'* (Beirut: Dar al-Nafa'is, 1985), 44.

²⁶ Fahrudin Ali Sabri, "WAKAF UANG (Sebuah Alternatif dalam Upaya Menyejahterakan Masyarakat)," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 8, No. 1 (2013), p. 40-54.

provisions of the waqf law in accordance with the decisions of the organization and the board of waqf administrators. In carrying out his daily duties, he always maintains the integrity of waqf property, increases the selling power of waqf property, and distributes its benefits.²⁷ *Third*, subject to supervision from both the Ministry of Religion and the Indonesian Waqf Board, and reports his activities at least every three months. *Fourth*, personally responsible for losses or debts that arise and conflict with the Waqf Law. These four qualification requirements need to be owned by Nazhir in order to carry out the guarding and development of waqf capital assets,²⁸ among the initiation of a good waqf management model, as released by the Indonesian Waqf Board, through Waqf Core Principals. The Waqf Core Principals themselves are based on the basic principles of waqf, concerning the principle of the importance of maintaining to increase the high trust of the community,²⁹ the waqf system also depends entirely on the desire of the community to participate,³⁰ where the implementation standards in these Waqf Core Principals aim to ensure conformity and mutual recognition with prudential standards in the financial sector³¹ and governance aspects, the performance of waqf management which aims to provide a brief description of the position and role of the waqf management and supervision system in the economic development program, and provides a methodology for establishing basic principles in the waqf management and supervision system, the basic principles of waqf, include 5 dimensions; (1) Legal Foundation, (2) Waqf Supervision, (3) Good Governance for Nazhir, (4) Risk Management, (5) Sharia Governance.³²

Islamic Boarding School in Madura Island

The institution is one of the religious social institutions active in the field of Islamic education and religious sciences, the cottage has its own brand in the context of social life in the society, which is based on the characteristic social characteristics, among them (1) Kyai integrity, (2) *santri*, (3) independence and independence, as

²⁷ Firman Muntaqo, "Problematika dan Prospek Wakaf Produktif di Indonesia," *Al-Ahkam* 25, No. 1 (2015), p. 83-108.

²⁸ Kasdi, "Peran Nadzir Dalam Pengembangan Wakaf," 218.

²⁹ Ahmad Wira, Nurul Huda, Ahmad Sunawari Long, Wahyuni Lely Augustina, Meirison Meirison, Yenti Afrida, "Legal Study of Dzurri Waqf and its Implementation towards Strengthening High Heritage Assets in Minangkabau, West Sumatra, Indonesia", *Juris: Jurnal Ilmiah Syariah* 22, No. 2 (2023).

³⁰ Mohammed Obaidullah, et.al., *Core Principles for Effective Waqf Operation and Supervision* (Jakarta: Badan Wakaf Indonesia, 2018).

³¹ Harrieti, N., & Mulyati, E., "Perspektif Hukum: Peranan Perbankan Syariah Dalam Pengelolaan Wakaf Uang di Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 17, No. (2018), p. 137-146.

³² Mohammed Obaidullah, et.al., *Core Principles for Effective Waqf*.

well as (4) a strong social network between the alumni of the boarding school,³³ which embryologically its existence can be traced since the Walisongo period,³⁴ who genealogically Kyai / scholar leader of Indonesia, has connections and has been the santri of Shaikhona Kholil Bangkalan Madura, who indirectly, the student in Madura (read: Bangkalan) has a strong culture and has become one of Ulama references in his time.

With the development of the model and management of Islamic education as well as Islamic educational policy in Indonesia, the students in Bangkalan also experienced interference among others through the modernization of the managed education system, which initially did not have formal educational institutions, then established formal education institutions such as MI, MTs, and MA, even some founded colleges, including also giving life skills to the centers in raising the spirit of entrepreneurship of the centers, as the supply of centers and improving the economy of the students,³⁵ one of the efforts of the transformation of students in order to maintain the uniqueness and specificity of the education of students, among them through, *first*, the renewal of the substance of education by incorporating general subjects and vocations; *second*, the reform of methodology, a change from the classical system, to the system of appointment; *third*, the institutional renewal, such as the leadership of students; and fourth, the revision of functions, which covers far wider social and economic functions.

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³³ Hamdan Farchan dan Syarifuddin, *Titik Tengkar Pesantren; Resolusi Konflik Masyarakat Pesantren* (Yogyakarta: Pilar Media, 2005).

³⁴ Abdurrahman Mas'ud, *Intelektual Pesantren: Perhelatan Agama dan Tradisi* (Yogyakarta: LKiS, 2004), p. 77.

³⁵ Zainal Alim, "Pergeseran Orientasi Kelembagaan Pesantren Di Madura Dalam Perspektif Kiai Bangkalan," *Jurnal Pendidikan Agama Islam (Journal of Islamic Education Studies)* 4, no. 2 (2016), p. 268.

³⁶ Zainal Alim, "Pergeseran Orientasi Kelembagaan Pesantren, p. 268.

such as the leadership of students; and *fourth*, the revision of functions, which covers far wider social and economic functions.³⁷

Among the efforts undertaken in the development and modernization of the institutions is to increase the role of institutions in economic empowerment,³⁸ such as increasing the economic support power managed by: *first*; institutions have a fanatic captive market, from santri, teachers and pesantren community, *second*; institutional payments that may involve a third party role, including the saving of institutional funds, *third*; the institutional networks, communities, alumni and parents of santri who have certain enterprises, can be used as a marketing network for institutions; *fourthly*, the waqf potential of the society, which can be allocated as productive waqfs,³⁹ this is also based on the argument that, basically, the institution has the ability to be independent and becomes an institutional economic centre for its citizens both inside and outside the institute,⁴⁰ pesantren for the Madura society becomes one of the means and symbolisms of adherence depicted in the terms of *bhuppa' bhabhu ghuru rato*,⁴¹ where the role and the institution becomes a more alternative option in economic development, specifically for the policy formulation of society. Institutionally, the residents in the district of Bangkalan have obtained management permits for 114 residents and consist of 13.7 ha of waqf land allocated for residence, which is scattered in various resorts. Trainees with excess networking, *kyai*, centri, alumni, and communities are genealogically expected to have a significant role in *waqf* development.

Family Relationship of *Waqif* and *Nazhir*

The attempt to map the application of the Waqf Core Principals to the management of the holiday home in Bangkalan district is an effort to optimize, and exploit the assets carried out by *Nazhir* on the holiday, it is not independent of the development of the model of management of holiday assets on some of the island of Java, such as the Modern Gontor Pondok, the Tebuireng Jombang Guest House in exploiting the Waqf assets owned by the holiday house, either in the form of waqf of the land acquired, Waqf assets through purchase, or waqf in the shape of money

³⁷ Basyit, "Pembaharuan Model Pesantren : Respon terhadap Modernitas," 323.

³⁸ Liza Diniarizky Putri, et.al., "Developing ecological piety in pesantren: the Kyai's cognition and the practice of living fiqh al-bī'ah in Banten," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 23, No. 2 (2023), p. 235-259.

³⁹ Ahmad Syakur, "Optimalisasi Peran Pesantren Dalam Pengembangan Ekonomi Syari'Ah," *Iqtishoduna* 5, no. 3 (2009).

⁴⁰ Ahmad Faozan, "Pondok Pesantren dan Kemandirian Ekonomi," *Ibda'* 4, no. 1 (2006): 88.

⁴¹ A. Latief Wiyata, *Carok : Konflik Kekerasan dan Harga Diri Orang Madura* (Yogyakarta: LKiS, 2002), p. 1.

and livestock, which was accommodated by the committee “*khizannah*” that was established by the Guest House since 1931.⁴²

The Waqf practice in the management of the Islamic boarding in Bangkalan district is based on the pattern of family relations, that is, the people who are waqf (*waqif*) still have bonds and blood ties, between several practices of the family, *first waqif* and *Nazhir* are the same people, as said H. Mahrus (Head of the Geger district) "the majority that is often found is the *waqif* and the *nazhir* is the same people, as in the village of Dabung Geger."⁴³

Second, *waqif* and *nazhir* have close relations, such as uncle with son, brother and sister or father with son. Waqf land in the Ash-Shomadiyah Islamic Boarding School Burneh, as Waqifs KH. Abdul Muhaimin and KH. Abdullah Muad is his brother who acts as *Nazhir waqf*.⁴⁴ It also happened on the waqf land at the Darussalam Islamic Boarding School Langkap Burneh where the *Waqif* manager consists of nephews, siblings, and husband of cousins who act as the chairman, secretary, and treasurer of the lawful foundation *nazhir*.⁴⁵

Waqf for a family-run Islamic boarding school is carried out for a number of purposes, as H. Mahrus said “so that the waqf assets are not managed by others”, besides the family’s *Nazhir* as Nur Laily said: "It is made as a witness if there is a dispute later in the day, and it is easier to advise when there are disputes at times." While other purposes of obtaining help from the government; “Most people who do the waqf confess to KUA only as a condition of getting assistance from the Government”

The domination of the Waqf land on Islamic Boarding Schools in Bangkalan district, its use is still limited to religious educational institutions administered by both the Kyai and their descendants, which are partly managed professionally, but most still use traditional patterns. The use of Waqf's land for economic independence has not been implemented, except because of the professionalism of the waqf, it is also very fruitful to practice *waqf* experts or waqfs over the descendants (*al-waqfu 'ala an-nasl*). Wahbah Zuhaily mentions, that a family waqf (*waqf ahli*) is a waqf that was originally allocated to himself or to certain people, which in the end its use is also destined for the public. It's like a father who works for himself, or for his children.⁴⁶ Meanwhile, according to Government Regulation No. 42 of 2006 concerning Waqf, waqf experts are admitted through sections 4-5 which state the capacity of waqfs to discharge either *waqf khairi* or *waqf* experts, which are allocated

⁴² Departemen Ekonomi Syariah Fakultas Ekonomi dan Bisnis - Universitas Airlangga, *Waqaf: Pengaturan dan Tata Kelola yang Efektif Seri Ekonomi dan Keuangan Syariah*, 1 ed. (Indonesia: Indonesia, Departemen Ekonomi dan Keuangan Syariah - Bank, 2016).

⁴³ Interview with H. Mahrus, Head of the Geger district, September 20, 2022.

⁴⁴ Interview, Key informant, Bangkalan, Madura, September 28, 2022.

⁴⁵ Interview, Key informant, Bangkalan, Madura, September 29, 2022.

⁴⁶ Az-Zuhaili, *Al-Fiqh al-Islam Wa Adillatuhu*.

for the general welfare of fellow relatives based on the blood relationship (*nasab*) with the *waqif*.

The Existence of Waqf Property in Bangkalan Islamic Boarding School

The development of waqf land is one of the objectives of waqf, which is to develop and benefit the ummah, both material and non-material utilization. The management of waqf land intended for Islamic boarding schools in Bangkalan Regency has at least two types, namely the type of developed pesantren, and the type of pesantren that has not developed well, meaning that waqf land that has not (yet) developed is only limited to the management of Islamic boarding school education, not yet expanded to certain businesses or businesses in supporting the usefulness of waqf land.

In addition to being utilized for pesantren activities, worship activities, and formal education activities, the development of waqf land of Islamic boarding schools is supported by *shahriyah* (education donations) of students, pesantren businesses such as sound system rental, pesantren cooperatives, and only a small portion of pesantren businesses by opening tour travel and umrah in supporting pesantren businesses.

Meanwhile, pesantren that have not yet developed, rely more on donations from outside the pesantren to cover the needs of pesantren development that come from alumni or from residents living in Jakarta (read: Madurese who work in Jakarta, both formal and informal sectors) to provide assistance through certain proposals, which are *infaq* or *shodaqoh*, even *waqf* in cash.⁴⁷ As stated by the Chairman of POKJALUH Bangkalan, this practice of *infaq* or *shodaqoh* can be categorized as cash waqf, but is not recorded as waqf; "There should be such a practice found because most Kyai receive money transfers for the needs of the boarding school, it can be called cash waqf but there are no receipts."⁴⁸

In Bangkalan Regency, waqf land is managed and intended for Islamic boarding schools, madrasas and the like are most obtained from families and intended for families as recipients of waqf. It can be found that the activities of the boarding school (worship, recitation, teaching and learning) have been established first, and then for formal legal purposes the land occupied is used as waqf land, registered to obtain an Akta Ikrar Wakaf (AIW) certificate and its "management" is given to the family in the boarding school (family circle).

⁴⁷ Rasiyam, et.al. "Integration of New Media and Prophetic Communication Enhanced for *Zakah, Infaq, Sadaqah*, and *Waqf* Fundraising: A Case Study of Baitulmaal Munzalan Indonesia," *Journal of Islamic Law* 4, No. 1 (2023), p. 28-46. Mahdi Syahbandir, et.al., *Infaq and Shadaqah as A Source of Original Regional Income in Aceh (Case Study in Bireuen Regency, Pidie and Lhokseumawe City)*, *Journal of Governance and Social Policy* 4, No. 2 (2023).

⁴⁸ Interview, Key informant Chairman of POKJALUH Bangkalan, September 23, 2022.

Meanwhile, in order to maintain the existence of waqf land as mandated by Law 41 of 2004 article 3 which states that waqf that has been pledged cannot be canceled, but in the community, it has the potential to change status or threaten the existence of waqf land. Administratively, the safeguarding of waqf assets of Islamic boarding schools is carried out by physical development of waqf land, either building mosques, formal - informal educational institutions, and other facilities and business units that support the development of Islamic boarding schools, this was revealed by Ghurrotul Muhajjalah (Daughter of Nazhir Wakaf Pondok Pesantren Al-Asror): "In the beginning, it was not a boarding school, but a musholla used as a place to study, and many people studied and wanted to study with him, so a boarding school was established called PP Tahfidz Al-Qur'an Al-Asror. The development of waqf assets has established male and female huts, prayer rooms, halls, offices, cooperatives, and mosques."⁴⁹

Same case with the development of waqf at Ash-Shomadiyah Islamic boarding school in Bangkalan, as told by KH. Muhammad Biyuzar; "The development of waqf assets has not yet taken place, while only supporting developments for education, such as the construction of female dormitories, male dormitories, classrooms, madrasah offices, and cooperatives that only operate for the needs of students boarding schools, which in the future are expected to be able to operate the cooperative for residents of the surrounding community."⁵⁰

In addition to development, no less important than the practice of waqf is sustainability. What is meant by preservation here is that waqf assets are far from the potential for the transfer of waqf management or the takeover of waqf institutions and assets, which leads to the blurring of the status of waqf assets, whether it is done intentionally or unintentionally. The goodwill of waqf holders to preserve their assets needs to be supported by various policies in order to realize this, including waqf assets in the form of land endowed for Islamic boarding schools. Among those that occur in waqf dispute cases, such as in the Supreme Court Decision Number 85K/AG/2012, including "Waqf" that is not Waqf, which occurs in the case of land in the National Land Agency written waqf, but in practice there is no waqf pledge, nazir appointment, and waqf registration. According to the Supreme Court's decision, this practice is not justified as in Law No. 41 of 2004.

Waqf dispute cases can occur anytime and anywhere, with various kinds of underlying disputes, this is the potential for waqf disputes in Islamic boarding schools in Bangkalan, which can be caused; first, data discrepancies, which means data discrepancies between the *Waqf* Information System (SIWAK) and data in the field. For example, in the *Waqf* Information System of the Darul Falah al-Haqiqiyah Foundation, the name of the *wakif* is written on behalf of Mas'ud Ahmad, while the

⁴⁹ Interview with Ghurrotul Muhajjalah, Daughter of Nazhir Wakaf Pondok Pesantren Al-Asror, September 30, 2022.

⁵⁰ Interview with KH. Muhammad Biyuzar, Bangkalan, Madura, September 2022.

wakif field data should be on behalf of KH. Abdurrahman who is the father of H. Faisol Ahmad is the *Nazir* of *waqf*, although the practice of pledging *waqf* seems to be a formality from father to son, but this data mismatch can cause problems in the future.

In addition to errors in the *waqif* data, discrepancies also occur in the land area between the actual data and the data in the field. Second, the status of *waqf* land. The status of land ownership in rural areas has not been the focus of the community regarding the validity of land status. Several problems were found by the Religious Affairs Office in the *waqf* pledge process, as expressed by Mustangin, the Head of the KUA of Galis Subdistrict: "The general obstacle is the lack of administrative awareness of the Madurese community and obstacles in the *waqf* pledge process, most people find it difficult to provide proof of land ownership".⁵¹ This kind of obstacle was also conveyed by Muhammad Sus, Head of the Arosbaya KUA: "Arosbaya people sometimes find it difficult to prove land ownership, they think that land ownership is only in the form of SPPT (Tax). Whereas there should be at least a Kohir and it is better to have a Certificate of Ownership".⁵²

In practice, *waqf* land management is basically no different from governance and management management in general, such as POAC management (*Planning, Organizing, Actuating and Controlling*) in managing *waqf*, how *nazir* is required to be able to plan, and organize development strategies through appropriate and robust concepts and designs to the process of monitoring, observing and measuring the course of the process and planning that has been determined. The demand for transparency and openness that leads to accountability is part of the mandated responsibility.⁵³ In realizing POAC management towards modern philanthropic management, it is necessary to involve elements of stakeholders and the general public, which is not easy to implement if *waqf* is done in a family manner. The demand to adopt in the management of modern philanthropy needs to be applied by *pesantren* through several aspects, namely: the high ability to adapt to the outside world, broad achievement of goals, integrative ability to unite the unique aspects of *pesantren* as a sub-culture, and the ability to preserve *pesantren* traditions, through the rule of "maintaining good old traditions and getting new traditions that are much better",⁵⁴ for the independence of *pesantren* through *waqf*.

Islamic boarding schools in Bangkalan, most of which have madrasas as formal education centers, in terms of management in principle should be able to manage assets well, this is in line with the rapid alignment of education politics on

⁵¹Interview, Mustangin, the Head of the KUA of Galis Subdistrict, September 28, 2022.

⁵²Interview with Muhammad Sus, Head of the Arosbaya KUA, September 30, 2022.

⁵³ Andi Faisal Bakti, *Good Governance Dalam Islam* (Jakarta: Paramadina, 2005).

⁵⁴ Hanun Asrohah, "The Dynamics of *Pesantren*: Responses Toward Modernity and Mechanism in Organizing Transformation," *Journal of Indonesian Islam* 5, no. 1 (2011).

madrasas both in terms of budget, technology, and policies⁵⁵ as an effort to develop pesantren that cannot be separated from professional aspects. As a result of the research, ⁵⁶ the system aspect is the key to waqf development which includes three main components, such as research management, investment management, and property management that can be managed by pesantren effectively and able to play a social role in developing the interests of the ummah, through proper education for students in waqf designated for pesantren.

The social role of waqf institutions can support Islamic boarding schools in Madura, Islamic boarding schools themselves in Madura are explicitly placed as one of the important points in the development of Madura through the preparation of Madurese Human Resources,⁵⁷ meaning that through the efforts of developing pesantren businesses, pesantren businesses through waqf institutions make the process of modernization of society in sustainable development, will be faster and better.

Reporting on Waqf Management at Islamic Boarding Schools in Bangkalan Regency

The permanence of waqf assets is the point of difference between *shadaqah jariyah* (waqf) and ordinary *shadaqah*. In Fiqh Wakaf, it is mentioned that among the duties of the nazir are developing, renting, generating profits, and distributing these profits. Imam Bahuty added that among other things, in protecting waqf property, it is allowed to prosecute people who seize waqf property or waqf profits. Article 11 of Law Number 41 of 2004 is strengthened by the obligation to carry out duties to the Indonesian Waqf Board.

Nazir in managing waqf, besides being given the authority to exercise *ijtihad* in developing waqf assets, is also directly proportional to the obligation to report the waqf assets it manages. Basically, waqf reporting efforts by the Ministry of Religious Affairs are emphasized at the time of registration or waqf pledge statement in the form of readiness to be audited in the management of waqf land. "The reporting system must be given a statement letter of readiness to be audited by the Nazir, while for the Nazir supervision system, the KUA provides a Nazir supervision letter in accordance with the minister of religion regulation".⁵⁸

⁵⁵ M. Fahim Tharaba, "Pesantren Dan Madrasah Dalam Lintasan Politik Pendidikan Di Indonesia," *MANAGERE : Indonesian Journal of Educational Management* 2, no. 2 (2020), p. 136–48.

⁵⁶ Z. Hassan, N., et.al., "Developing a New Framework of Waqf Management," *International Journal of Academic Research in Business and Social Sciences* 8, no. 2 (2018), p. 287–305.

⁵⁷ M Fajar Shodiq Ramadhan, "Revitalisasi Dimensi Budaya Dalam Pembangunan Berkelanjutan Di Madura Melalui Peran Kiai Dan Pesantren," *KARSA: Journal of Social and Islamic Culture* 21, no. 1 (2013).

⁵⁸ Interview with Fathorrozi, Head of Modung KUA, September 22, 2022.

In practice, the reporting of waqf assets in Bangkalan Regency is not carried out or even never reported by the manager to the Office of Religious Affairs or the Indonesian Waqf Board, this is stated as follows: "There doesn't seem to be any progress reporting from the Foundation at any time, only data collection at the KUA and Sharia Guidance".⁵⁹ "Because the average waqf in Bangkalan is in the form of immovable objects, namely land. So, there is no reporting on these waqf assets, except for cash waqf (productive) but it has never been found in Bangkalan".⁶⁰

Reporting of land waqf is only done when there is a change in land use, or if there is a certain event. Reporting activities for waqf land for Islamic boarding schools are carried out tentatively rather than periodically. "There is but not periodic reporting unless there is a change in the designation of waqf. For reporting from the KUA, it is in accordance with the waqf land in the Akta Ikrar Wakaf (AIW) and then entered into SIWAK".⁶¹

Some asset managers also have the assumption that waqf land no longer needs to be reported. Reporting on pesantren land management is only related to formal and non-formal education activities based on pesantren, which is the domain of the Education Office or the Ministry of Religious Affairs that handles the Section of Pondok Pesantren, not in the context of reporting the sustainability or activeness of waqf land management. "For the reporting of waqf assets, it has never been reported to the Ministry of Religious Affairs, for me that the schools (kindergarten and junior high school) are included in the realm of the Education Office, while the Islamic boarding school is still managing the proposal to the Ministry of Religious Affairs".⁶² This statement is corroborated by the Religious Affairs Office, as long as there is no dispute, and no conflict on the waqf land, the waqf manager is not required to report to the Ministry of Religious Affairs. "There is no reporting from the Nazir and if the waqf asset is not prone to conflict, it is okay not to report it."⁶³

The reporting of waqf land of boarding schools in Bangkalan can be shown in two forms, in terms of audit readiness as evidenced by a statement letter at the time of registering the waqf pledge, and the activeness of conducting periodic reports. However, in practice, nazir in Bangkalan Regency never reports the continuation of the waqf pledge process that has been submitted before the Waqf Pledge Official, this is based on the understanding of pesantren managers in Bangkalan that reporting is not an obligation.

Waqf reporting in the Waqf Core Principals (WCP) is an effort made by regulators to oversee the management of waqf and to ensure compliance with shari'ah, financial transparency, and economic efficiency, a Shari'ah supervisory

⁵⁹ Interview, Key Informant, Madura, September 23, 2022.

⁶⁰ Interview, Key Informant, Madura, September 30, 2022.

⁶¹ Interview, Key Informant, Madura, September 28, 2022.

⁶² Interview, Key Informant, Madura, September 20, 2022.

⁶³ Interview, Key Informant, Madura, September 28, 2022.

body is needed that is able to build a foundation for supervision of waqf assets, standardization of accounting systems and reporting of waqf finances and assets, including the economic and social impacts that can be obtained by waqf recipients.

In Indonesia, the waqf reporting system, as stated by the Indonesian Institute of Accountants, uses the preparation and presentation of shari'ah financial statements that are conceptually different from conventional transactions, which are based on the principles of a). Brotherhood (Ukhuwah), b). Justice ('is), c). Benefit (maslahah), d). Balance (*tawazun*), and e). Universalism (*syumuliyah*), through the Statement of Shari'ah Financial Accounting Standards (PSAK) 109.⁶⁴ The basic foundation of waqf reporting principles as emphasized in Al-Qur'an Surah An-Nisa' verse 58; "Indeed, Allah commands you to render trust to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing"

Al-Qurtubi in his tafsir states that the obligation in the verse is not only limited to Ali Bin Abi Talib, Zaid bin Aslam, Shahr bin Ausab, and Ibn Zaid but also applies to the leadership of Muslims as a whole.⁶⁵ The obligation to be accountable in managing the wealth of the ummah (waqf) and all its devices is part of carrying out the mandate of the waqf donor for the benefit of the waqf recipient, this is what Iwan Triyuwono calls Shari'a Enterprise Theory which is oriented towards the delivery of information to stakeholders and the natural environment as proof of accountability to God, humans and nature.⁶⁶ Recognition efforts in *waqf* management accountability are used in order to carry the spiritual spirit that Allah is the source of trust and the absolute owner of the whole world and its contents so that the reporting of waqf property management by Islamic boarding schools is not only in order to fulfill administrative obligations, and worldly interests alone.

Socialization and Supervision of Waqf Assets

The effectiveness of waqf management supervision is a goal setting of good governance, this also applies to the waqf management of Islamic boarding schools in Bangkalan. As the implementer of supervision, both the Ministry of Religious Affairs and the Indonesian *Waqf* Board still prioritize formal and pragmatic aspects. The implementation of socialization and supervision by the Ministry of Religious Affairs and the Indonesian Waqf Board of Bangkalan, based on the exposure can be shown as follows: Waqf socialization and supervision activities are carried out

⁶⁴ Ikatan Akuntan Indonesia, "Kerangka Dasar Penyusunan Dan Penyajian Laporan Keuangan Syariah," <http://iaiglobal.or.id/>, n.d., <http://iaiglobal.or.id/v03/standar-akuntansi-keuangan/tentang-6-kerangka-dasar-sak-syariah>.

⁶⁵ Abi Abdillah Muhammad bin Ahmad Bin Abi Bakr Al-Qurtubi, *Al-Jami' Li Ahkam Al-Qur'an* (Mu'assasah Ar-Risalah, n.d.), p. 423.

⁶⁶ Iwan Triyuwono, "Metafora Zakat Dan Shari'ah Enterprise Theory Sebagai Konsep Dasar Dalam Membentuk Akuntansi Syari'ah," *Akuntansi Dan Auditing Indonesia* 5, no. 2 (2001), p. 131–45.

through several models, delivered at the time of the waqf pledge or delivered when the waqf pledge will be made in the presence of the waqif, nadzir, and witnesses present at the time of the waqf pledge, "Formal socialization by gathering or inviting many audiences has never been done, but if non-formal socialization has been done during the issuance of AIW".⁶⁷

Because the implementation of socialization activities pays attention to the budget in the DIPA of the Ministry of Religious Affairs of Bangkalan. "There is, this is the realm of Binsyar Kemenag Bangkalan which is budget-based, if there is DIPA then it is implemented, if there is no then it is not implemented".⁶⁸

Meanwhile, supervision and monitoring of waqf assets are not carried out either by the Ministry of Religious Affairs itself, or by waqf managers who do not report the progress of waqf assets, either administrative fulfillment or other supervision activities in order to review the development of waqf assets in Bangkalan Regency. For wakif and nazir, the Ministry of Religious Affairs does not supervise the process of waqf land certificate, and for nazir, the fulfillment of administrative requirements is considered sufficient for the desired needs. As stated by H. Faisol Ahmad: "Not yet certified, I do not know that the waqf assets must be certified waqf because, after the Waqf Pledge process and getting a pledge certificate, that requirement is enough to take care of the requirements for organizing education at the education office". This also creates confusion for waqf managers, as the *nadzir* considers that waqf supervision is carried out by the Education Office, no longer the Ministry of Religious Affairs. "Supervision has been carried out by the Education Office every year 1-2 times, while there has been no socialization or training from the KUA or the Ministry of Religious Affairs."⁶⁹

Strict supervision on the operation of waqf assets is absolutely necessary, in order to fill the missing part in the usefulness of waqf assets for managers with the benefit of waqf. According to Munzir Qahaf, the supervision model of waqf assets can be carried out through local community supervision and supervision by the government.⁷⁰ Community participation can be done through community organizations that are adjusted to the administrative and financial feasibility standards that apply in the market.

The community can participate in the supervision process that cannot be reached by the government due to limitations because supervision by the community is more local and closely related to the acceptance of waqf benefits by the local community, this is different if only relying on the government, which has limitations both in terms of budget, resources in the field of supervision to the final chain of

⁶⁷Interview, KUA Modung, Madura, September 22, 2022.

⁶⁸Interview, Chairman of POKJALUH Bangkalan, September 23, 2022.

⁶⁹ Interview with H. Faisol Ahmad, Darul Falah Al-Haqiqiyah Foundation, Madura, September 20, 2022.

⁷⁰ Qahaf, *Al-Waqf Al-Islaami*.

waqf property allocation. Supervision of the surrounding community in order to maintain and fulfill the rights of *mauquf 'alaih*, can be used as an effort to improve the welfare of the people in the surrounding community, students, and managers at the boarding school.

Pesantren is a religious and educational institution, which has a very important role in terms of the sustainability of waqf assets. The position of pesantren that have legal entities in the form of foundations, as confirmed in article 53 of Law Number 16 of 2001 concerning Foundations in order to realize transparency, public supervision of the management of foundations that are suspected of violating and contradicting the Law, or harming the public interest, can be carried out audits carried out by experts based on court decisions at the written request of a third party or prosecutor's request related to the public interest.

However, the majority of waqf management managed by Islamic boarding schools in Bangkalan Regency is received individually (people as legal subjects) and not received by the Foundation that houses the Islamic Boarding School (Legal Entity Subject), this is a separate weakness in the management, utilization of waqf assets in Islamic Boarding Schools in the context of the welfare of the community in the context of providing financial resources and development for Islamic boarding schools.

Conclusion

Waqf assets of land used for educational institutions and Islamic boarding schools in Bangkalan Regency, in practice, are carried out as an effort to legalize the status of land ownership by the Foundation, to access permits for Islamic boarding schools and institutions/madrasah established. Waqf land ownership, by government agencies, is used as one of the requirements for accessing funding assistance. Many waqf land statuses are found, originating from parents to children, from brothers to sisters, and so on within the family. The management of waqf land managed by Islamic boarding schools is still limited to utilization in the fields of education, teaching, and religious activities. Management is still carried out traditionally, based on family principles so development has not been carried out productively, and the reporting system, supervision, and socialization have not been carried out in maintaining the existence of waqf assets in Islamic boarding schools in Bangkalan Regency.

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Interviews

Interview with Fathorrozi, Head of Modung KUA, September 22, 2022.

Interview with Ghurrotul Muhajjalah, Daughter of Nazhir Wakaf Pondok Pesantren Al-Asror, September 30, 2022.

Interview with H. Faisol Ahmad, Darul Falah Al-Haqiqiyah Foundation, Madura, September 20, 2022.

Interview with KH. Muhammad Biyuzar, Bangkalan, Madura, September 2022.

Interview with Muhammad Sus, Head of the Arosbaya KUA, September 30, 2022.

Interview, Chairman of POKJALUH Bangkalan, September 23, 2022.

Interview, Key informant Chairman of POKJALUH Bangkalan, September 23, 2022.

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Interview, Mustangin, the Head of the KUA of Galis Subdistrict, September 28, 2022.