

# Management of *Waqf* Land in Tanjung Morawa District According to Law No. 41 of 2004 (Analysis of *Nazir* Performance in Productive *Waqf* Development)

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**Abstract.** *The purpose of the research is to find out how the performance of Nazir in the management of waqf land in Tanjung Morawa Subdistrict, to find out what are the steps taken by Nazir in Tanjung Morawa Subdistrict in productive waqf management, and to find out what are the inhibiting factors for productive waqf management in Tanjung Morawa Subdistrict. The research conducted is social research. The research method used in this discussion is qualitative research method. The approach that the author uses in discussing this research is an empirical or sociological approach. The method of data collection carried out by the author is by means of field observation and examining the data sources that the author mentions, namely primary, secondary, and tertiary. The management of waqf land carried out by Nazir in Tanjung Morawa District has not led to productive waqf, only limited to maintenance and utilization, In general, the management of waqf land in Tanjung Morawa District is still in the traditional and consumptive period, which is only effective in terms of social religion. The steps taken by Nazir in developing waqf productively in Tanjung Morawa District are: The making of the baitul maal box carried out by the Nazir of the Shalatul falah mosque and the management of rice fields as a baitul maal carried out by Mr. Masduki in Punden Rejo Village, where the proceeds from the rice fields are used as a source of KAS income for the mosque and are also distributed to underprivileged people. factors that hinder the development of productive waqf in Tanjung Morawa District, including: The strength of the old understanding of Muslims regarding waqf management, Lack of socialization to Nazir and Nazirs who are not professional in carrying out productive waqf management.*

**Keywords:** Land; Management; Waqf.

## 1. INTRODUCTION

*Waqf* is a classic problem that is still very actual today. *Waqf* has led to broader thinking, especially as an alternative to solving the economic problems of the people

and at the same time as a hope for prosperity in the midst of economic downturn. As a religious institution, *waqf* can have multiple functions, both *ubudiyah*, social and even economic functions that can be developed.

*Waqf* played a very important economic and social role in Islamic history, serving as a source of financing for mosques, schools, studies and research, hospitals, social services and defense. In Indonesia, *waqf* has been around for a long time, before Indonesia's independence, because there were Islamic kingdoms in Indonesia. *Waqf* must be managed productively so that it can contribute to improving the welfare of the community and assist the government in improving the welfare and standard of living of the community.<sup>1</sup>

Thus, it is necessary to study, analyze and implement management strategies in order to develop *waqf* on an ongoing basis so that *waqf* assets are useful in empowering the people's economy. However, to optimize the function of *waqf* and its development, it is necessary to be guided by the legal aspects of *waqf* as practiced in Islamic history.<sup>2</sup> Therefore, we need to think more and optimize how to manage existing *waqf* so that it can bring benefits to all parties, both for the waqif and mauquf 'alaih (the community). Thus, in this context, *waqf* management should use a business and management approach, because so far the tradition of Indonesian society, especially in rural areas, in managing *waqf* still tends to be consumptive and productive management expected by the government has not been maximized. In addition, people's perceptions in understanding *waqf* are still bound and limited by the understanding of classical fiqh, which almost dominates the thinking of Indonesian Muslims.

The case study in this research is Tanjung Morawa Sub-district. Tanjung Morawa Sub-district is a densely populated sub-district and the majority are Muslims, because of the large number of Muslims, many *waqf* lands are found in this area. Almost every village has *waqf* land such as cemeteries, places of worship, madrasas and *baitul maal*. The total amount of *Waqf* land in Tanjung Morawa District is 1,583.12 M<sup>2</sup>. The amount of *Waqf* land that has been managed productively in Tanjung Morawa District is 10%.

From the many *waqf* lands found, each *waqf* property has a *Nazir* whose duty is to manage the *waqf* land, if the *waqf* land is managed properly, the purpose of the *waqf* property is achieved. If viewed from the point of view of the *Nazir*'s performance, the *Nazir* in Tanjung Morawa District is only limited to maintaining and taking advantage of the *waqf* land (consumptive) there has been no change made by the *Nazir* towards the *waqf* land towards Productive.

So far, *waqf* land that is productively empowered is only centered in urban areas, while *waqf* land in the regions is still less productively empowered. Thus, it can be said that the implementation and management of *waqf* productively is still less than optimal. So

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<sup>1</sup> Syamsul Anwar, (2007), *Studi Hukum Islam Kontemporer, cet ke-1, Jakarta: RM Books, p. 75.*

<sup>2</sup> *Ibid.*, p. 76.

from the background of the above problems it can be concluded that there has been a conflict between the performance of *Nazirs* in Tanjung Morawa District with the performance of *Nazirs* regulated in Law No. 41 of 2004 concerning productive *waqf* management still needs to be studied further.

## 2. RESEARCH METHODS

The research conducted is social research. It is said so because the research is carried out to see social symptoms or social facts that occur in society. The research method used in this discussion is a qualitative research method, namely an approach whose discovery procedures do not use statistical or quantification procedures. The approach that the author uses in discussing this research is an empirical or sociological approach, namely an approach that is focused on the practice and behavior of Muslims related to shari'ahan in this case the processing of *waqf* property by *Nazir*. the method of data collection carried out by the author is by means of field observation and examining the data sources that the author mentions, namely primary, secondary, and tertiary. In analyzing the data, the author uses deduction and induction methods.

## 3. RESULT AND DISCUSSION

### 3.1 *Nazir* Performance in the Management and Development of *Waqf* Assets in Tanjung Morawa District

In the management and development of *waqf* objects productively, a *Nazir* has a very fundamental role and function. Therefore, a *Nazir* must have integrity and be professional in managing and developing *waqf* objects. Thus, a *Nazir* is required to have expertise in various scientific fields, including a *Nazir* who is an expert in the field of positive law and Islamic law regarding *waqf*, an expert in the field of sharia business and economics, and has good management skills in addition to having to fulfill several conditions stipulated in the Law. If the author pays attention to the *Nazirs* in the regions or rural areas, there are still many who do not have the ability as above, therefore the *Nazirs* in rural areas still need continuous guidance and training in areas related to the management and development of *waqf* objects productively.

*Waqf* managers, known as *Nazirs*, must make maximum efforts to manage as well as possible in accordance with Islamic teachings. Such is the case in Tanjung Morawa Subdistrict, where *Nazir* manages *waqf* land for mosques, cemeteries and educational institutions. In order for the *waqf* land to be productive, its management must be carried out properly and it is necessary to strive for the *waqf* land to become an economic resource, then the existence of a professional *Nazir* is needed, even occupying a central role, because it is on the shoulders of the *Nazir* that the responsibility and obligation to maintain, maintain and develop *waqf* and distribute the results or benefits of *waqf* to the target of *waqf*.

Regarding the performance of *Nazir* in the management and development of *waqf* assets in Tanjung Morawa District, the author has conducted direct interviews with several *Nazirs* in Tanjung Morawa District, including: Mr. M. Nurhasan AB *Nazir waqf* Al - Muhajirin Mosque located in Dalu Ten B Village, he said that he as *Nazir* was only limited to caring for and maintaining the Al - Muhajrin Mosque both in terms of cleanliness, managing mosque finances, and also carrying out routine activities every week such as determining the schedule for Friday preachers, implementing routine recitation which is carried out once a week, that's the extent of the management carried out by Mr. M. Nurhasan AB as *Nazir*. M. Nurhasan AB as *Nazir* Al-Muhajirin Mosque. When the author asked about productive *waqf*, he said he did not know anything about productive *waqf*.<sup>3</sup> Mr. H. Ali *Nazir waqf* Madrasah as well as concurrently as the Head of Madrasah in Dagang Kelambir Village, he said that the Madrasah he managed was the same as the other *Nazirs* limited to maintenance and utilization only, be it providing teachers, making education syllabus etc. during his time as *Nazir*, he did not know about productive *waqf* that he knew as *Nazir* only limited to maintaining and utilizing it.<sup>4</sup> Mr. H. OK Syaharuddin *Nazir* of the grave *waqf* in Lengau Seprang Village, he said that the management he did was the same as the management of other graves, namely maintaining the cleanliness of the grave, maintaining the boundaries of the grave land, managing the layout of the grave, and supervising every use of the burial ground. When the author asked about productive *waqf*, he said he never knew about productive *waqf* and did not know how the productive *waqf* system works.<sup>5</sup> Mr. M. Sulaiman *Nazir* whose *waqf* land is designated for a sports field, he explained that in the management and development of *waqf* property in this case the sports field he carried out maintenance and guarding both in terms of cleanliness, existing sports facilities etc., he also explained that in managing the sports field he charged a fee every time there was a match on the field, where the money was allocated to the maintenance of the field. He also explained that he did not know about productive *waqf*.<sup>6</sup> Mr. M. Ali bin Zulham *Nazir* as well as the Principal of Arrahman Education Foundation in Bandar Labuhan Village. Regarding the management and development of *waqf* assets, he explained that in his management he did the same as other *Nazirs* who managed a school, but according to the statement of Mr. M. Ali bin Zulham at the Arrahman Education Foundation there is assistance in the form of student fees for underprivileged students, only to that extent is the management and development of *waqf* assets carried out by Mr. M. Ali bin Zulham as *Nazir*.<sup>7</sup>

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<sup>3</sup> M. Nurhasan AB, *Nazir Masjid Al-Muhajirin*, Interview in Dalu Sepeuluh B Village, October 9, 2023.

<sup>4</sup> H. Ali, *Nazir Madrasah*, Interview in Dagang Kelambir Village, October 9, 2023.

<sup>5</sup> H. OK Syaharuddin, *Nazir Wakaf Kuburan*, Interview in Lengau Seprang Village, October 9, 2023.

<sup>6</sup> M. Sulaiman, *Nazir Lapangan Olah Raga*, Interview in Lengau Seprang Village, October 9, 2023.

<sup>7</sup> M. Ali bin Zulham, *Nazir Yayasan Pendidikan Arrahman*, Interview at Arrahman Education Foundation, Bandar Labuhan Village, October 10, 2023.

From the results of interviews that the author has conducted with several *Nazirs* in Tanjung Morawa District, it can be concluded that the performance of *Nazirs* in Tanjung Morawa District in the management and development of *waqf* assets is in accordance with the duties of *Nazirs* regulated in article 11 paragraph 1,2 and 3 of Law No. 41 of 2004 and also those regulated in the Compilation of Islamic Law (KHI) in book III concerning *Waqf* Law in article 220 paragraphs 1, 2 and 3, it's just that the *Nazir's* duties in Tanjung Morawa District in the management and development of productive *waqf* are not in accordance with article 43 paragraph 2 of Law No. 41 of 2004 because all *Nazirs* the author interviewed did not know about productive *waqf*.

In general, the management and development of land *waqf* assets carried out by *Nazir* in Tanjung Morawa District is still in the traditional and consumptive period, which is only effective in terms of social religion. In Tanjung Morawa Subdistrict until now, the majority of *waqf* land allocation is only intended for the benefit of places of worship such as mosques and mushallahs, educational interests such as madrasas and social interests such as cemeteries and *baitul maals*. Meanwhile, the allocation of *waqf* land for the help of the poor, abandoned children, orphans, scholarships, progress and improvement of the people's economy has not been carried out. So it can be concluded that the allotment of *waqf* land in Tanjung Morawa District is only limited to the interests of *madrasa* worship only.

In Tanjung Morawa Subdistrict, the *Nazir* is tasked only with managing *waqf* land in accordance with its designation. In accordance with the observations made by the author in the field with the object of research of the *Nazir* of *waqf* land in Tanjung Morawa District, the *Nazir* manages *waqf* property in accordance with the will of the waqif after the *waqf* land is handed over to the *Nazir* to manage it, namely:

a. Mosque

The *Nazirs* of *waqf* land that is made into a mosque are in charge of: maintaining the cleanliness of the environment around the mosque, managing the mosque's finances according to their allocation for example (water, electricity, and mosque adventitious), checking damage to the mosque building (both monthly and annually), determining the khatib every Friday and reporting the implementation of their duties to the Indonesian *Waqf* Board, holding weekly recitations and carrying out celebrations of Islamic holidays.

b. Cemetery

The *Nazirs* who manage the cemetery maintain the boundaries of the cemetery *waqf* land by fencing it, maintaining the cleanliness of the environment around the cemetery, managing the layout of the grave, supervising each use of the cemetery land.

c. Madrasah

From research with observations made by the author of madrasas in Tanjung Morawa sub-district originating from *waqf* land in the form of Al qur'an education parks, kindergartens with Islamic nuances, while the *Nazir's* job is to manage the madrasa, because most of the *Nazir* doubles as the head of the madrasa, the *Nazir*

in addition to leading the madrasa also determines teachers as teaching staff, supervises the madrasa building, determines the syllabus for learning targets, provides direction to teachers, maintains the quality of madrasa education, manages *madrasah* finances.

d. *Baitul maal*

What is meant by *baitul maal* here are two views according to the *Nazirs* that the author examines in the field, the first:

- 1) *Baitul maal* in the form of land or rice fields which are managed by the *Nazir* of the *waqf* land then the proceeds from the rice fields are put into the mosque treasury for the maintenance of the mosque and also the proceeds from the rice fields are distributed to underprivileged people.
- 2) *Baitul Mall* in the form of Infak or Charity boxes, where there are several mosques where the *Nazir* of the mosque specifically provides a charity box "*Baitul maal*" intended for the benefit of the people, where the proceeds from the charity box are collected for one year and then distributed to the less fortunate.

*Nazir* as the manager of *waqf* property has not led to the utilization of *waqf* land in a productive direction, because the use of *waqf* land is only based on the will of the *waqf* giver (*wakif*). In Tanjung Morawa Subdistrict, *waqf* land managed by *Nazir* is less directed towards empowering the people's economy and tends to be only for religious purposes, from a social point of view it is effective, but the impact is less influential in the economic life of the community.

If the allocation of *waqf* is only limited to the things above without being balanced with *waqf* land that is managed productively, the expected social welfare of the community will not be optimally realized, as well as the role of the *Nazir* is not very visible, but if the *waqf* land has been productive, this is where the *Nazir's* role is quite large, and the competence of a *Nazir* is required.

In addition, the preparation of human resources to serve as *Nazirs* who have certain qualifications as mentioned above needs to be pursued immediately. It could be started with the recruitment of *Nazir* candidates to then be educated and trained specifically before being deployed in real *Nazir* work. The development of *Waqf* property, especially in the form of land, especially those that are productive, is not enough with a good will and program, but more than that, it requires sufficient financial support. This requires cleverness, intelligence, and good relationships with several institutions that are expected to provide such funding support.

From the observations made by the author, the performance of the *Nazir* in Tanjung Morawa Subdistrict in the management and development of *waqf* assets is in accordance with the duties of the *Nazir* which are regulated in article 11 paragraphs 1, 2 and 3 of Law No. 41 of 2004 and also those regulated in the Compilation of Islamic Law (KHI) in book III concerning the Law of *Waqf* in article 220 paragraphs 1,2 and 3, it's just that the *Nazir's* duties in Tanjung Morawa District in the management and development of productive *waqf* are not in accordance with article 43 paragraph 2 of

Law - Law No. 41 of 2004 because all *Nazirs* the author interviews do not know about productive *waqf*.

### **3.2 Steps Taken by *Nazirs* in Tanjung Morawa District in Productive *Waqf* Management**

Management or management occupies the most urgent position in the world of *waqf*, because the most determining thing (land) *waqf* is more useful or not depends on the pattern of management, so in the management of *waqf* must emphasize the professional system so that the existence of *waqf* land can be taken advantage of for the wider community. According to the author, the *Nazir* in Tanjung Morawa Subdistrict has not carried out their professionalism as *Nazir*.

Based on the results of interviews conducted by the author to the *Nazirs* in Tanjung Morawa District regarding the productive development of *waqf*, most of the *Nazirs* said that the *waqf* land they manage is only limited to protecting and maintaining the *waqf* land.

Like the results of the author's interview with Mr.. M. Yusuf *Nazir waqf* Al - Ikhlas mosque in Dagang Kelambir Village, he said that he as *Nazir* was only limited to caring for and maintaining the Al - Ikhlas mosque both in terms of cleanliness, managing mosque finances. The management and development of *waqf* assets carried out by Mr. M. Yusuf is the same as other mosques, there has been no management and development of *waqf* assets that lead to productive *waqf* by Mr. M. Yusuf as *Nazir* of the Al-Ikhlas mosque. When the author asked about productive *waqf*, he said he did not know anything about productive *waqf*.<sup>8</sup>

Furthermore, the author interviewed Mr.. Sudarman *Waqf* Madrasah as well as concurrently as the Head of Madrasah in Buntu Bedimbar he said that the Madrasah he managed was the same as the other *Nazirs* limited to maintenance and utilization only, as long as he became *Nazir*, he did not know about productive *waqf* that he knew as *Nazir* was only limited to maintaining and utilizing it.<sup>9</sup>

And also the author interviewed Mr.. Zulfikar *Nazir waqf* grave in Medan Sinembah Village, he said that the management he did was the same as other grave management, namely maintaining the cleanliness of the grave, maintaining the boundaries of the grave land, managing the layout of the grave, and supervising every use of burial land. When the author asked about productive *waqf*, he said he never

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<sup>8</sup> M. Yusuf, *Nazir Masjid Al-Ikhlas*, Interview at Al Ikhlas Mosque, Dagang Kerawang Village, October 9, 2023.

<sup>9</sup> Sudarman, *Nazir Madrasah*, Interview at Madrasah of Buntu Bedimbar Village, October 9, 2023.

knew about productive *waqf* and did not know how the productive *waqf* system works.<sup>10</sup>

But there are some *Nazirs* who manage *waqf* land towards productive *waqf*. Like the author's interview with Mr. Zufri Hasibuan *Nazir waqf* mosque Shalatul Falah Tanjung Morawa Subdistrict, he said that as *Nazir* he managed and cared for the Shalatul Falah mosque as well as *Nazir - Nazir* other mosques, but in the management and development of *waqf* conducted by Mr. Zufri Hasibuan, he ran a program at the Shalatul Falah Mosque, namely making a special charity box that is different from other mosques. Zufri Hasibuan, he ran a program at the Shalatul Falah Mosque, namely making a special charity box that was different from ordinary charity boxes, he said that the box was the Shalatul Falah mosque *baitul mal* where the proceeds from the *baitul mal* box were collected for one year and then distributed to underprivileged people in Tanjung Morawa District, the *baitul mal* box had been running for 2 years.<sup>11</sup> And also the author interviewed the *Nazir* of the *Waqf* intended for the *baitul mal* in Punden Rejo Village, namely Mr. Masduki, he said that the *baitul mal* he managed was in the form of rice fields covering 2 chains, where the proceeds from the sale of rice were partly given to the treasury / KAS Mosque and partly also given to the underprivileged. this *baitul maal* has been established since 1989 until now, and the proceeds from the rice fields have become a permanent input for the KAS Mosque and are distributed to underprivileged people once a year.<sup>12</sup> The author also interviewed Mr. M. Sulaiman *Nazir* whose *waqf* land was designated for a sports field, he explained that in the management and development of *waqf* property in this case the sports field he carried out maintenance and guarding both in terms of cleanliness, existing sports facilities etc., he also explained that in managing the sports field he charged a fee every time there was a match on the field, where the money was allocated to the maintenance of the field. He also explained that he did not know about productive *waqf*.<sup>13</sup>

From the above statement, the author can analyze that there are several *Nazirs* in Tanjung Morawa District who manage *waqf* land that has led to productive *waqf*, as for the steps taken by *Nazir* in developing *waqf* productively in Tanjung Morawa District, namely:

- a. The making of *baitul mall* boxes carried out by *Nazir* Shalatul falah mosque which has been running for 2 years, the results of the *baitul mall* box are distributed to underprivileged people, Scholarship programs for Mts & Aliyah children around Tanjung Morawa B. The shortcomings of the *baitul maal* are that the *baitul mall* has not been registered at the KUA of Tanjung Morawa District, which if the *baitul maal* has been registered at the KUA it will have permanent management, and also the

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<sup>10</sup> Zufikar, *Nazir Kuburan*, Interview at Mr. Zufikar's House, Medan Sinembah Village, October 10, 2023.

<sup>11</sup> Zufri Hasibuan, *Nazir Masjid Shalatul Falah*, Interview in Tanjung Morawa B Village, October 9, 2023.

<sup>12</sup> Masduki, *Nazir Baitul Mall*, Interview in Punden Rejo Village, October 10, 2023.

<sup>13</sup> Sulaiman, *Nazir Lapangan Olah Raga*, Interview in Lengau Seprang Village, October 9, 2023.



*baitul maal* which has only been in the form of a charity box can turn into an independent institution and will continue to grow so that the results of the *baitul maal* can be felt by a wider community.

- b. The management of rice fields as a *baitul maal* carried out by Mr. Masduki in Punden Rejo Village, the management of these rice fields should have led to productive *waqf* where the results of the rice fields are made as a source of KAS income for the mosque and also distributed to underprivileged people, this *Baitul maal* has been registered with the KUA of Tanjung Morawa District since 1989 but there are shortcomings from the *baitul maal*, namely the absence of permanent management to manage the *baitul maal*.
- c. The management of the sports field is carried out by Mr. M. Sulaiman, where every competition that uses the field is charged a fee and the results are allocated to the field.

There are 4 main factors in empowering *waqf* productively, namely: the economic potential of *waqf*, qualified human resources, modern management and also the application of control and supervision systems. The steps that must be taken by the *Nazir* according to the order of priority can be described as follows:

- a. Mapping the economic potential of *waqf* land.  
Before the empowerment of *waqf* land is carried out, a mapping of the potential of *waqf* land must first be made, to what extent and how possible the *waqf* land can be empowered and developed productively. Factors to consider in mapping economic potential are geographical location, such as location, community support and leaders, technological support.
- b. Quality human resources  
Recruitment and readiness of Human Resources (HR) in productive endeavors is an absolute matter. Professional and trustworthy human resources must be the main concern of *Nazir* who will empower *waqf* land. If the *Nazir* does not have a good ability in development efforts, then the *Nazir* can entrust human resources who have good quality and high morality from various disciplines and skills.
- c. Modern and professional management  
In developing and managing *waqf* land productively, a modern, transparent, professional and accountable managerial pattern is required.
- d. Implementation of control and supervision system  
In order for the empowerment and development of productive *waqf* to run well, control and supervision can be applied in the internal management environment as well as from external groups such as the community, NGOs, academics, public accountants and so on. The application of control and supervision is expected to prevent misuse and misuse of *waqf* land.<sup>14</sup>

Responding to the management system or *waqf* management in Tanjung Morawa District, the author argues that the pattern of land management and *Nazir* management is not professional. According to the author, in order for *Nazirs* in

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<sup>14</sup> Departemen Agama RI, (2007), *Pemberdayaan Tanah Wakaf Secara Produktif: (Upaya pengembangan Potensi Ekonomi Umat)*, Jakarta: Dirjen Bimas Islam Direktorat Pemberdayaan Wakaf, p. 53-55

Tanjung Morawa Subdistrict to become professional *Nazirs*, *Nazirs* should be provided with coaching or *Nazirs* have special expertise in their fields, so that *Nazirs* can carry out their duties more productively and with quality, such as:

a. Formal education.

*Nazirs* in Tanjung Morawa Sub-district should be college graduates majoring in architecture, marketing or Islamic law who can productively manage *waqf* land in Tanjung Morawa Sub-district. Or also school and college graduates majoring in economics, such as accounting, who can be directed to improve the development of *waqf* land.

b. Non-formal education.

*Nazir* in Tanjung Morawa Sub-district, in order to have more potential, should hold courses or trainings on human resources (HR) ke *Naziran* both related to organizational managerial or improving skills in professional fields, such as administration, land management techniques and so on.

c. Mental development

To improve the work spirit of *Nazir* in Tanjung Morawa Sub-district, it would be nice if there is a mental development of noble character (morals) fostered through various opportunities, such as religious lectures, self-development simulations and organizations to maintain and improve mental resilience so that *Nazir* human resources (HR) can carry out the mandate for the welfare of many people. Even though the *Nazir* has reliability in the management of *waqf* land, but because his mentality is very weak, it results in deviant actions, such as corruption. If the mental condition of the *Nazir* is weak or bad, then the management of *waqf* will not produce maximum results.

As mentioned above, *Nazir* is a person who is entrusted with the task of managing and maintaining *waqf* land, where he is obliged to maintain, develop, cultivate the potential of *waqf* and preserve the benefits and land that is *waqf*ed for those who are entitled to receive it. Likewise, the role of the *Nazir* in Tanjung Morawa Subdistrict is to manage and develop *waqf* land so that it functions as intended by the waqif, then the *Nazir* tries to develop, empower the *waqf* land by managing, building, completing the required infrastructure.

In addition to its role as a *waqf* land manager, *Nazir* also acts as a supervisor of *waqf* land. This also happens in Tanjung Morawa Subdistrict, in addition to being a supervisor in charge of overseeing the utilization of *waqf* land and keeping archives of *waqf* land deeds so as not to change the function of the *waqf* purpose. In connection with the role of *Nazir* in supervising *waqf* land that occurs in Tanjung Morawa Subdistrict, the author argues that what *Nazir* has done in Tanjung Morawa Subdistrict is in accordance with the provisions of applicable law in Indonesia and fiqh law, if we look at the definition of *Nazir* in the previous chapter that *Nazir* is a person who is

responsible for managing, utilizing, supervising, repairing and defending *waqf* land from claims by people or other parties who want to obscure, eliminate *waqf* objects.

The *waqf* management system is one of the important aspects in developing *waqf* to be productive. The existing management is still considered traditional - consumptive both in terms of leadership, le *nazir*annya, operations, utilization and control systems and accountability. So in order for the *waqf* assets to be more useful, the management that has been must be changed with professional and modern management by looking at the following aspects:

a. Institutional

To manage *waqf* assets productively, institutions must be formed that specifically manage *waqf* and are national in nature. The national *waqf* institution in Indonesia is the Indonesian *Waqf* Board (BWI) which is tasked with developing *waqf* in order to improve the standard of living of the community together with the *nazir*. *Nazir* who is the pioneer should not be controlled by one person, but a new, more modern structure must be created with *nazir* who have competent human resources. But the most important thing in an organization is the running of the management system as it relates to decision making through deliberation, operational standards of the institution, business accounting standards (profit management), accountability, and institutional supervision.

b. Operational Management

The operational standard of *waqf* management is a limitation or policy line in managing *waqf* in order to produce something more beneficial for the benefit of many people. This operation is the determinant of the success or failure of the *waqf* management. *Nazir* operational standards are the main theme aimed at managing productive *waqf*.

c. Public Relations (Marketing)

Public relations has an important role in managing *waqf*. the function is intended to:

- 1) Strengthening the image that *waqf* managed by the *Nazir* can really be developed and the results are for public welfare.
- 2) Convincing waqifs that their *waqf* assets will be managed properly and convincing people who were previously reluctant to carry out *waqf* to want to carry out *waqf*.
- 3) Introducing *waqf*, that *waqf* is not only oriented towards reward but also for the welfare of humanity, especially the underprivileged.<sup>15</sup>

Seeing that, the author argues that what has been done by the *Nazir* in Tanjung Morawa Subdistrict in its role of managing and utilizing *waqf* land is in accordance with what the waqif wants and the *Nazir*'s duties in the Law, but not in accordance with article 43 paragraph 2 of Law No. 41 of 2004 because the *nazir* has not carried out productive *waqf* management.

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<sup>15</sup> Departemen Agama RI, (2007), *Panduan Pemberdayaan Tanah Wakaf Produktif Strategis di Indonesia*, Jakarta: Pemberdayaan Wakaf. p. 84.

### 3.3 Factors Hindering Productive *Waqf* Development in Tanjung Morawa District.

Based on research conducted by the author through interviews with the Head of the KUA of Tanjung Morawa District: According to the statement of the Head of the Tanjung Morawa District Religious Affairs Office (KUA), he said that almost most of the *waqf* land in Tanjung Morawa District has not been managed productively, according to him that the *waqf* land in Tanjung Morawa District is only limited to maintenance. And he also said that the performance of the *Nazir* in Tanjung Morawa District was not in accordance with what was regulated in Law No. 41 of 2004 due to the lack of socialization regarding productive *waqf* to the *Nazirs*. So almost most of the *waqf* land in Tanjung Morawa District has not been productive.<sup>16</sup>

The author also interviews several *Nazirs* who disagree with the term productive *waqf*. According to the statement of Mr. H. Abdurrahman Srg *Nazir* in Naga Timbul Village, he said he did not agree with the existence of productive *waqf*, because according to him that in fiqh terms productive *waqf* is not known, as far as he knew, *waqf* was only for eternal use, it could not be productive.<sup>17</sup> According to Mr. H. Heri Sugondo *Nazir* in Pekan Tanjung Moawa Village, he does not agree with the term productive *waqf*, because according to him *waqf* cannot be productive *Waqf* can only be used forever there is no term *waqf* can be productive.<sup>18</sup> Among the *Nazirs* who do not agree with the term productive *waqf* there are also *Nazirs* who agree with productive *waqf* but they do not know how to manage productive *waqf*. According to Mr. Kukuh Wiyonoh, S.Pd.I *Nazir* in Aek Pancur Village he said that he did not know the term productive *waqf*, but with the explanation that the author explained to Mr. Kukuh Wiyonoh S.Pd.I he agreed with the management of productive *waqf*, it's just that the way productive *waqf* is managed that he doesn't know how to do productive *waqf* management.<sup>19</sup> In line with the statement of Mr. Kukuh Wiyonoh, S.Pd.I, the researcher also interviewed Mr. Jamaluddin BA *Nazir* in Medan Sinembah Village and Mr. Jamaluddin BA's response said that the lack of socialization to *Nazirs* regarding productive *waqf*, as long as he served as *Nazir* there was never any information or socialization conducted on how to manage productive *waqf*.<sup>20</sup>

So it can be concluded that according to the statement of the KUA of Tanjung Morawa Subdistrict that the factor that causes the non-implementation of productive *waqf* in

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<sup>16</sup> H. Ismail, *Kepala KUA Kecamatan Tanjung Morawa*, Interview at the Tanjung Morawa KUA Office, October 16, 2023.

<sup>17</sup> H. Abdurrahman Srg, *Nazir Masjid Nurul Iman*, Interview at Masjdi Nurul Iman, Lengau Seprang Village, October 10, 2023.

<sup>18</sup> H. Heri Sugondo, *Nazir Masjid Jami'*, Interview at Masjdi Nurul Jami' Kelurahan Pekan Tanjung Morawa, October 10, 2023.

<sup>19</sup> Kukuh Wiyonoh, *Nazir Madrasah An-nur*, Interview at the House of Mr. Kukuh Wiyono, S.Pd.I Aek Pancur Village, October 11, 2023.

<sup>20</sup> Jamaluddin, *Nazir Madrasah Khadijah*, Interview at Madrasah Khadijah Desa medan Sinembah, October 11, 2023.

Tanjung Morawa Subdistrict is that almost all *Nazirs* in Tanjung Morawa Subdistrict do not know about productive *waqf* management due to the lack of socialization to *Nazirs* about productive *waqf* management, and also *Nazirs* in Tanjung Morawa Subdistrict have the opinion that they do not agree with productive *waqf* management because the term productive *waqf* is not mentioned in Islamic Fiqh and also some *Nazirs* who agree with productive *waqf* management but do not know how to manage productive *waqf*.

So from the explanation above, there are several factors that hinder the development of productive *waqf* in Tanjung Morawa District, including the following:

- a. The strength of the old understanding of Muslims in *waqf* management, such as the assumption that *waqf* belongs to Allah SWT alone which cannot be changed / contested. Based on this understanding, *Nazirs* in Tanjung Morawa Subdistrict do not develop *waqf* productively. In addition, there is a lack of understanding that *waqf* has a broader social function and is not limited to madha worship.
- b. The lack of socialization about productive *waqf* and also Law No. 41 of 2004 carried out by related parties such as the Indonesian *Waqf* Board (BWI) to *Nazirs* in Tanjung Morawa District, the *Nazirs* said that there had never been any socialization about productive *waqf* and also Law No. 41 of 2004 which regulates the obligation of *Nazirs* to develop *waqf* productively.
- c. Not yet having the same perception, role and synergy between technical officials in this case the Indonesian *Waqf* Board (BWI) and related parties in this case the *Nazirs* in Tanjung Morawa District regarding productive *waqf* in rural areas. BWI is considered to pay less attention to the condition of *waqf* in Tanjung Morawa District and also one of the factors for BWI's lack of attention is because there is no BWI representative office in Deli Serdang Regency which makes there less closeness between BWI and *Nazirs* in Tanjung Morawa District which makes information about *waqf* not reach the *Nazirs*.
- d. *Nazirs* who are not professional so that *waqf* has not been managed productively. The position of *Nazir* occupies a very important role in realizing the purpose of *waqf* which is to preserve the benefits of *waqf*. The professionalism of *Nazirs* in Indonesia, especially in Tanjung Morawa District, is still relatively weak due to the trust factor of the community, while competence as a productive *waqf* manager has not been widely owned by *Nazirs* so that until now there is still no productive *waqf* development in Tanjung Morawa District.

From the explanation above, it can be concluded that the productive *waqf* management carried out by *Nazir* in Tanjung Morawa District has not reached the maximum and is not in accordance with what is expected by Law No. 41 of 2004, in accordance with article 43 paragraph 2, it is stated that "The management and development of *waqf* assets as referred to in paragraph (1) is carried out productively". In fact, it can be seen from the large amount of *waqf* land in Tanjung Morawa District that only a small part leads to productive *waqf*. But there are some *Nazirs* who have carried out *waqf* management that leads to productive *waqf*.

Actually, there are many *waqf* lands in Tanjung Morawa District that have the potential to be managed productively, but back to the performance of the *Nazirs* who are not

professional in managing *waqf* productively and also the lack of role of the Indonesian *Waqf* Board (BWI) in fostering *Nazirs* in Tanjung Morawa District, so that the management of *waqf* land in Tanjung Morawa District has not led to productive *waqf*.

To change the pattern of *waqf* land management from unproductive to more productive in Indonesia is not as easy as turning the palm of the hand but there are many obstacles that hinder it, including:

a. The problem of public understanding of *waqf* law.

So far, many Muslims in Indonesia, especially those in rural areas, still think that *waqf* assets can only be used for worship purposes. For example, the construction of mosques, cemeteries, orphanages, and education. In fact, the value of worship does not have to be directly tangible like that. It is possible to build a shopping center on *waqf* land, whose profits will be allocated for scholarships for underprivileged children, free health services, or scientific research. This is also part of worship. In addition, the understanding of *waqf* objects is still narrow. The assets that can be *waqf*ed are still understood to be limited to immovable objects, such as land. Whereas *waqf* can also be in the form of movable objects, including money, precious metals, securities, vehicles, intellectual property rights, and lease rights. This is reflected in Chapter II, Article 16, of Law No. 41 of 2004, and is also in line with the MUI's fatwa on the permissibility of cash *waqf*. *waqf* has been implemented based on the understanding adopted by most Indonesians, namely the Syafi'iyah understanding as they follow the madzhab, such as regarding: the *pledge*, the *assets that can be waqf*ed, and *whether or not it is permissible to exchange waqf assets*.

b. *Waqf* pledge.

The customary practice of Indonesian Muslims is to perform legal acts of land *waqf* orally on the basis of mutual trust in a certain person or institution, without going through administrative procedures, *waqf* property is considered to belong to God, which no party will ever dare to interfere with. Although in the end, it can lead to disputes due to the absence of evidence that can show that the relevant objects have been *waqf*ed.

c. Assets that may be donated:

- 1) It must have use value, i.e. it is not legal to donate something that is not a thing, such as : Irrigation rights, usage rights, intellectual rights, and others.
- 2) Fixed or movable objects that are allowed to be donated. The habits of Indonesian society in its history and also until now generally endow property in the form of immovable objects, such as land, mosque buildings, madrassas, messageatren, hospitals, orphanages and so on, and this view has coincidentally been agreed upon by all four madzhab. the general line that is used as a basis for the shafi'iyah group in endowing their property is seen from the permanence of the function or benefits of the property, whether in the form of movable, immovable or joint property (joint ownership).

d. whether or not it is permissible to exchange *waqf* assets. On this issue, the majority of Indonesian waqifs adhere to Shafi'i's conservative view that *waqf* assets cannot be exchanged for any reason. In the case of mosques, for example, Imam Shafi'i

emphasized that it is absolutely not permissible to sell a *waqf* mosque, even if it collapses.

- e. There is a habit in our society of wanting to endow some of their property by entrusting someone who is considered a figure in the surrounding community, such as kyai, ulama, ustadz and others to manage *waqf* property as *Nazir*. The person who donates the *waqf* does not know exactly the ability of the *Nazir*. In reality, many *waqf Nazirs* do not have managerial skills in managing land or buildings so that *waqf* assets do not benefit the surrounding community much.<sup>21</sup>

- f. *Waqf* management and management.

Until now, the management and management of *waqf* in Indonesia is still not optimal. As a result, quite a lot of *waqf* assets are neglected in their management, and some *waqf* assets are even lost. One of the causes is that Muslims generally only endow land and school buildings, in which case the *waqif* does not think about the operational costs of the school, and the *nazir* is not professional. Therefore, the study of *waqf* management is very important. The lack of role of *waqf* in empowering the people's economy in Indonesia is because *waqf* is not managed productively. To overcome this problem, *waqf* must be managed productively using modern management. To manage *waqf* productively, there are several things that need to be done beforehand. In addition to understanding the conception of *waqf* jurisprudence and legislation, the *nazir* must be professional in developing the assets he manages, especially if the *waqf* assets are in the form of money. In addition, to develop *waqf* nationally, a special body is needed to coordinate and provide guidance to *nazir*. In Indonesia, the Indonesian *Waqf* Board has been established. Related to productive *Waqf* management, there are 3 (three) aspects that must be considered, the three aspects will be explained as follows:

1) Institutional Aspects of *Waqf*

The birth of the Indonesian *Waqf* Board (BWI) is the realization of the mandate outlined in Law No. 41 of 2004 concerning *waqf*. The presence of BWI, as stated in Article 47, is to promote and develop *waqf* in Indonesia. Here BWI is an independent institution to develop *waqf* in Indonesia which in carrying out its duties is free from the influence of any power, and is responsible to the community. BWI is domiciled in the capital city and can establish representatives in provinces or regencies as needed, this institution in addition to having constitutional duties BWI must work on the following task areas:

- a) Reformulate a new *waqf* fiqh in Indonesia, so that *waqf* can be managed more practically, flexibly and modernly without losing its character as an eternal Islamic institution.
- b) Create productive *waqf* management policies and strategies, socialize the permissibility of *waqf* of movable objects and cash certificates to the public.
- c) Develop and propose to the government regulations in the field of *waqf*.

2) Accounting Aspects.

In the simplest sense, accounting can be understood as the activity of recording business activities, whether commercial or not, for a specific purpose. Based on the

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<sup>21</sup> Depag RI, *Panduan Pemberdayaan Tanah Wakaf Produktif Strategis di Indonesia*, p. 62.

basic purpose and operating pattern of an entity, accounting can be sorted into three, namely;

- a) Accounting for *profit-oriented organizations*, this is usually represented by commercial companies, whether they are selling services, trading, and manufacturing companies.
  - b) Accounting for *non-profit oriented* organizations is represented by government organizations at all levels (central, provincial, district, and so on), educational institutions, mass and social organizations, including organizations and legal entities that manage *waqf* assets. Therefore, this accounting aspect is very much needed in the productive management of *waqf* so that the purpose of empowering *waqf* objects is achieved as expected. In addition, it must pay attention to what is the demand for accounting which is seen as closer to sharia principles both in terms of objectives and technical methods.
- 3) Aspects of Auditing.

Auditing in Indonesian is usually interpreted as an examination and literally means that a certain party reports publicly on the task or mandate given to him, and the party who gives the mandate listens. So, this is a manifestation of the accountability of a certain party who is given responsibility to the party who gives the mandate. In the context of *waqf* institutions in general, they are formed and established to manage one or more *waqf* assets, so that the maximum benefits can be achieved for the welfare of the people in general, and to help those who are less fortunate. The auditing process must not violate sharia principles, although in the meantime, conventional auditing objectives and procedures can be used. However, there is an immediate need to make improvements so that the un-Islamic parts can be reduced.<sup>22</sup>

- g. The object being *waqf*ed and the *Nazir* (*waqf* manager).

In general, the land donated by Muslims in Indonesia is only enough to build a mosque or mushalla, making it difficult to develop. There are some *waqf* lands that are quite large, but the *nazir* is not professional. In Indonesia, there are still few people who endow assets other than land (immovable objects), even though in fiqh, assets that can be endowed are very diverse, including securities and money. In *waqf*, one of the most important elements is the *nazir*. Whether a *waqf* functions or not is highly dependent on the ability of the *nazir*. In various countries where *waqf* can develop and function to empower the economy of the people, *waqf* is managed by professional *nazir*. In Indonesia, there are still few professional *nazirs*, and there are even some *nazirs* who do not understand the law of *waqf*, including not understanding their rights and obligations. Thus, *waqf* is expected to provide welfare to the people, but on the contrary, its management costs are constantly dependent on zakat, infaq and shadaqah from the community.<sup>23</sup>

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<sup>22</sup> Depag RI, (2006), *Pedoman Pengelolaan dan Pengembangan Wakaf*, Jakarta: Direktorat Jenderal Bimbingan Masyarakat Islam Direktorat Pemberdayaan Wakaf, p. 105 – 108.

<sup>23</sup> *Ibid.*, 109



There are several things that must be done in an effort to overcome the problems faced in productive *waqf* management so that it is maximized in terms of its benefits, including:

- a. *The need to promote the socialization of waqf based on Law No. 41 of 2004 concerning waqf and the Compilation of Islamic Law (KHI);* which is a unification of various Madzhab in the country with the hope that there will be a broader, flexible understanding of national *waqf* so that the essence of the purpose of *waqf* for the benefit of the people can be realized and utilized more effectively and successfully.
- b. *There is cooperation between related agencies regarding the waqf land certification process;* this cooperation must be carried out seeing that the obstacles to the *waqf* land certification process are not only related to one agency. There should be an MOU between the Ministry of Religious Affairs and BPN both at the center and implemented in the regions. Regarding funding, so far the funding assistance through DIPA in the Ministry of Religion for certification is still not enough so that the nominal needs to be increased, it can also be done through an approach to the Regional Government by the Ministry of Religion so that the Regional Government includes the cost of *waqf* land certification in the RAPBD.<sup>24</sup>
- c. *Development and training of waqf Nazirs;* for the management of *waqf* assets to increase their productivity, it requires the development of *waqf* experts such as *waqf* legal experts and *waqf Nazirs*. The *Nazir* must meet the conditions that make it possible for *waqf* to be empowered and more widely utilized. If the *Nazir* is unable to carry out his duties (obligations), then the government, in this case BWI, is obliged to replace him while still explaining the reasons. The Indonesian *Waqf* Board is tasked with developing *waqf* productively by fostering *Nazir waqf* (*waqf* managers) nationally, so that *waqf* can function to improve people's lives. Article 47 paragraph 2 states that the Indonesian *Waqf* Board is independent, with the government acting as a facilitator. The main task of this body is to empower *waqf* through the coaching function, both *waqf* of movable and immovable objects in Indonesia so that it can empower the people's economy. The duties of BWI are regulated in article 49 paragraph 1 of Law No. 41 of 2004, namely:
  - 1) Conducting guidance to *Nazirs* in managing and developing *waqf* assets.
  - 2) To manage and develop *waqf* assets on a national and international scale.
  - 3) Providing approval and/or permission for changes in the designation and status of *waqf* assets.
  - 4) Terminate and replace the *Nazir*.
  - 5) Approve the exchange of *waqf* assets, and
  - 6) Providing advice and considerations to the government in the formulation of policies in the field of *Waqf*.

In addition to its constitutional duties, BWI must work on its area of responsibility:

- a. Reformulate a new *fiqh Waqf* in Indonesia, so that *waqf* can be managed more practically, flexibly and modernly without losing its character as an eternal Islamic institution.
- b. Create productive *waqf* management policies and strategies, socialize the permissibility of *waqf* of movable objects and cash certificates to the public.
- c. Prepare and propose to the government regulations in the field of *Waqf*.<sup>25</sup>

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<sup>24</sup> Depag RI, *Panduan Pemberdayaan Tanah Wakaf Produktif Strategis di Indonesia*, p. 79.

<sup>25</sup> Depag RI, *Pedoman Pengelolaan dan Pengembangan Wakaf*, p. 110.

So, from the explanation above that there are several factors that cause why the management of *waqf* land in Tanjung Morawa District has not been managed productively, there should be improvements made by the Indonesian *Waqf* Board (BWI) regarding the management of *waqf* land that has been carried out so far. And also the Indonesian *Waqf* Board (BWI) should be more active in socializing to *Nazirs* about productive *waqf* management either through trainings, seminars or workshops or the Indonesian *Waqf* Board (BWI) goes directly to the field to socialize it, so that *Nazirs* can carry out their duties properly, then in accordance with article 43 paragraph 2 of Law No. 41 of 2004 concerning productive *waqf* management.

#### 4. CONCLUSION

The management of *waqf* land carried out by *Nazir* in Tanjung Morawa District has not led to productive *waqf*, only limited to maintenance and utilization. In Tanjung Morawa Subdistrict until now, the majority of *waqf* land designations are only intended for the benefit of places of worship such as mosques and *mushallahs*, educational interests such as Madrasahs and social interests such as cemeteries and *baitul maals*. In general, the management of *waqf* land in Tanjung Morawa District is still in the traditional and consumptive period, which is only effective in terms of social religion. *Nazirs* who are not professional so that *waqf* has not been managed productively. The position of *Nazir* occupies a very important role in realizing the purpose of *waqf* which is to preserve the benefits of *waqf*. The professionalism of *Nazirs* in Indonesia, especially in Tanjung Morawa District, is still relatively weak due to the trust factor of the community, while competence as a productive *waqf* manager has not been widely owned by *Nazirs* so that until now there has not been productive *waqf* development in Tanjung Morawa District.

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