

The Implementation of Productive Waqf in Pesantren: A Study of Unique Management Practices

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ARTICLE INFO

Article History:

Received August 26, 2021

1st Received in revised form May 13, 2022

 2^{nd} Received in revised form 21 Juni 2023

Acceptance on June 22, 2023 Available online on June 30, 2023

Keywords:

Pesantren; Gontor; Productive Waqf

ABSTRACT

This paper discusses productive Waqf and the uniqueness of the application of productive waqf management in a pesantren (Islamic boarding school). Furthermore, the standardization of the law used in the implementation of the productive Wagf, which includes al-Qur'an, Hadits, figh rules, and aqwâl al-'ulamâ, must be examined in order to conclude the implementation status. There are unique things to analyze in implementation, such as the use of the institution fund, which is oriented to develop cash waqf, and the existence of the waqf board, which becomes the highest decision maker. Because all of the pesantren's assets become waqf property, the highest leader is no longer on the foundation but on the waqf board.

1. Introduction

Pesantren is a unique educational institution in Indonesia. Also known as Islamic boarding schools, Pesantren has roots in the Islamic educational system, developed by the Ulama' (Islamic scholars) in 1062 and served as Indonesia's indigenous educational system. Pesantren, formed from the term "Santri" and ending in the prefix "-pe" and the suffix "-an," refers to a residence for students or sentries who are studying (Zulfiqar, 2015). As a Pesantren, Gontor has built Islamic boarding schools by investing in and managing Waqf assets through modern management-based business units. Expanding the definition of Waqf to include not just fixed but also moveable objects. Waqf is not confined to religious purposes but also economic development and social welfare (Ahmad, 2015; Mukhitdinova & Khadzhaev, 2020;

Zarkasyi, H.F. 2020). Waqf Pesantren's assets have grown dynamically through time. In 1958, the Pesantren Gontor possessed approximately 18.59 hectares of land; by 2009, the land asset had grown to approximately 825,184 hectares (Daniar, 2019; Uluyol. B, 2021; Osman, A.Z, 2020). Endowments, donations, trades, and purchases provide the land assets. Additionally, Pesantren Gontor owns around 50 company units invested as Waqf assets. This Pesantren has spent over 20 of its Waqf holdings in productive business units (Huda & Santoso, 2020; Syamsuri et al., 2020). Pesantren is responsible for managing the institutions' assets, most of which are Waqf endowments. As a result, Pesantren has developed into an institution capable of assisting society's socio-economic development through community development programs (Medias & Pratiwi, 2019; Iman, A, 2017).

Waqf has two distinct dimensions: vertical and horizontal. The vertical dimension underscores that Waqf is a way for a Muslim to honor his god by bestowing upon humanity his best property (Triyawan A. et al. 2021; Triyawan A. et al. 2022). At the same time, a horizontal dimension is an act of goodwill performed by Muslims toward their fellow human being because humans must assist one another in order to purify the soul (Surah at Taubah [9]: 103). In reality, he expects nothing but Allah SWT's benevolence (Surah Al-Hajj [22]: 77; Qur'an al Baqarah [2]: 265,272; Qur'an Al Qashash [28]: 77).

Pesantren, which is an educational institution in Indonesia, has its uniqueness. Gontor, as a pesantren, has developed Islamic boarding school waqf assets by investing waqf assets and managing in the form of modern management-based business units. Expanding the form of Waqf that is not only limited to fixed objects but also movable objects. A large number of Waqf are not limited only to the aspects of worship but also penetrate to the improvement of the economy and welfare of the people (Afif, M. 2021). The Assets of Waqf Pesantren experienced dynamism; for instance, in 1958, the Pesantren Gontor had a land asset of around 18.59 hectares, then in 2009, the land assets developed to about 825,184 hectares. The land assets are obtained through endowments, grants, exchanges, and purchases.

Furthermore, More than 50 business units owned by Pesantren Gontor were invested as the assets of Waqf. This pesantren has invested its waqf assets in more than 27 productive business units. Pesantren are required to manage the assets of the institutions, which is the majority of it are waqf endowment. Therefore, pesantren are expected to be able to become institutions that can contribute to the socio-economic aid of the society through community development programs.

Literature Review

This study used the legal basis of Waqf from Al Qur'an and Sunnah Rasulullah SAW. This section explains some verses of the Qur'an and Ahaditsu Annabawiyah that relate to Waqf. The term *Waqf* is not written in the Qur'an explicitly. Islamic scholars use the general verses related to the command of Shodaqah, such as in Al Baqarah verses 261–262, Allah SWT gives information about rewards and multiple goodness for those who spend their wealth in the way of Allah.

(2:261) "The example of those who spend their wealth in the Way of Allah is like that of a grain of corn that sprouts seven branches, and in every branch there are a hundred grains. Thus, Allah increases the deeds of everyone He pleases. Allah is Magnificent and All-Wise."

(2:262) "Those who spend their riches in accordance with Allah's will and refrain from emphasizing their goodness and creating harm will find their compensation safe with their Lord. They do not need to worry or grieve.x"

QS. Ali Imran: 92 is used by the scholars of Syafi'iyah as the legal basis of Waqf.

لَن تَنَالُواْ ٱلَّبِرَّ حَتَّىٰ تُنفِقُواْ مِمَّا تُحِبُّونَ ۗ وَمَا تُنفِقُواْ مِن شَيِّ ۽ فَإِنَّ ٱللَّهَ بِهَ عَلِيمٌ ٩٢ (3:92) "You shall not attain righteousness until you spend out of what you love (in the way of Allah). Allah knows whatever you spend."

In addition, scholars of Malikiyah and Hanabilah refer to Q.S Al-Hajj: 77 as the basis of Waqf.

(22:77) ".... and do Good that you may prosper."

Once, after the revelation of this verse, Abu Talhah, one of the companions of the Prophet Muhammad, donated his beloved Bairaha garden.

Among the hadiths that form the basis and arguments for Waqf is a hadith that tells the story of Umar bin al-Khattab when he acquired land in Khaibar (Munandar, E, & Nopianti, N, 2022). After he asked the Prophet for guidance about the land, the Prophet advised him to withhold the origin of the land and give alms as a result.

"Umar acquired land in Khaibar and then addressed the Prophet, saying, "O Messenger of Allah, I have gained land in Khaibar that is of great value and that I have never acquired." What was he directing me to do? "If you wish, keep the source and give alms or benefits," the Prophet added. Then Umar donated it as a charitable act; he should not be sold, given, or made an heir. Umar distributed alms to impoverished families, formerly enslaved people, those fighting for Allah's cause, travelers, and guests. However, individuals who care for it may use it appropriately, such as eating or feeding others, without making it a source of money."

Another hadith that discusses Waqf is the hadith related to Abu Hurairah by the Muslim imam (Mustafa, M, 2020). The hadith texts read as follows: "When a person dies, his acts are cut off except from three sources: alms (Waqf), exploitable knowledge, and pious children who pray for him."

Hadith narrated by Ibn Mājah (Al-Mundziri, 2003: 110; Al-Būshīri, 2004: 224) explains;

"From Abu Hurairah said, Rasulullah SAW said: Indeed, among the deeds and goodness of a believer who will meet him after his death is the useful knowledge he taught and spread, the pious children he left behind, the *mushaf* he inherited, the mosque built, the house for Ibn Sabil built, the river (water) drained to the public or the alms took out of his wealth when was healthy and during his life, all of these will meet him after he dies."

2.1. Rukun Waqf

a. Waqif (who gives the Waqf)

There are four criteria for waqif: independent, sensible, mature (*baligh*), not under care (not a debtor and not a person who is seriously ill or has a disease that tends to be deadly) (Hakim, A, 2020).

b. Mauquf 'Alaih (the purpose/place of the Waqf property is the recipient of the Waqf).

Waqf must be utilized within appropriate limits and permitted by Islamic Law. The condition for mauquf alaih is a self-approach to Allah. Therefore, the object of Waqf must be the object of virtue, which is included in the self-approach to Allah. Mauquf alaih should not conflict with the values of Sharia in accordance with the practice of Waqf as a part of worship.

c. Mauquf (Waqf Assets)

In general, *Ulama*' has the same opinion in requiring *Waqf* assets. The assets should be permanent, known in form, and fully owned by the waqif, and there is no choice of *khiyar* (have certain conditions)

- 1. Hanafia's scholars divide Mauquf into four conditions:
 - a) The object of the *Waqf* must be permanent.
 - b) The object of the *Waqf* is known clearly or concretely.
 - c) The Waqf object is the property of the wakif at the time the Waqf process occurs.
 - d) The Waqf object is not mixed with other entities.

- 2. The Malikiyah's scholars group requires that the *Waqf* property is in full ownership of the wakif, does not mix with other people's property rights, does not become collateral for pawnshops or is being rented out.
- 3. The Hanabilah and Syafi'iyah scholars groups required that the *Waqf* object be clear and concrete, not guaranteed debt, become the full property of the wakif that can be transacted in buying and selling, and provide benefits for a long period. In Article 16 of Law Number 41 of 2004, *Waqf* assets consist of:

1. Immovable Objects

The criteria for immovable things: (i) land rights must be in line with applicable laws and regulations, both registered and unregistered; (ii) buildings or portions of buildings that stand on the ground; and last, plants and other items associated with the land, (iii) ownership rights to the residential unit in accordance with applicable laws and rules, as well as other immovable property in accordance with applicable sharia provisions and laws and regulations.

2. Movable Properties

However, seven examples of movable properties are in line with Sharia principles and applicable laws and regulations, including money, precious metals, securities, cars, intellectual property rights, leasing rights, and other movable properties.

d. Sighat (Waqf Declaration)

Shighat is a statement or pledge uttered by people who have property to endow their assets. Two parts of Shighat are Ijab and Qabul. Ijab is a statement from the property owner to surrender his property as *Waqf*. Kabul is an acceptance speech from the party to whom the *Waqf* property was handed over (Sarwat, 2018: 24). Shighat *Waqf* can be expressed in writing, verbally, or with a sign that can be understood. Statements in writing or verbally can be used to declare *Waqf* by anyone, while the sign method is only for people who cannot use it in written or oral ways. Of course, statements with these signals must be fully understood by the Waqf recipient to avoid future disputes (Sari, 2007, 62). In chapter 21 of Law number 41, the year 2004, the declaration of *Waqf* in the *Waqf* Act contains:

- 1. The identity of Waqif.
- 2. The identity of Nazhir.
- 3. Data and description of Wagf property.
- 4. The allocation of Wagf property.
- 5. Waaf period.

3. Research Method

This research used the qualitative method by descriptive analysis. Qualitative research is a research procedure that produces descriptive data in the form of speech or writing from people and observed behavior (Suryanto and Sutinah, 2008). Qualitative research, in terms of other definitions, states that research uses open interviews to examine and understand the

attitudes, views, feelings and behavior of individuals or groups of people (Moleong, 2007). By using descriptive methods and qualitative approaches in this study, the researcher intends to describe the conditions that occur in the field regarding Productive Waqf at the Gontor Islamic Boarding School.

4. Result

Gontor has implemented Productive Waqf in all activities. The practice of the Productive Waqf needs to be examined, whether it includes the category of a particular Waqf or it is just a waqf process in general (which is usually done by other pesantren, namely Waqf of land and gifts or donations from others as an ordinary shadaqah).

The practice of Waqf in the pesantren Gontor utilizes the existing institution funds, both from sympathizers and parents of students, to be developed and managed in such a way as to meet the needs of the pesantren without reducing the institution funds. In addition, the pesantren does not solely put all of the funds to be managed but always allocates the funds in accordance with what is planned, for example, for the construction of dormitories. Based on the data in the field, the practice of Waqf in the pesantren Gontor is one of the implementations of productive waqf management in the form of cash waqf.

Pesantren Gontor is one of the biggest pesantren in Indonesia, in which the highest leadership position is the waqf Board. All the structural body in the pesantren of Gontor is under the auspices of the waqf board as nazhir. As a consequence, all development of the pesantren is conducted by the nazhir. In principle, the requirement of Waqf, especially Productive Waqf, is that the mauquf should not be reduced, but it is to be developed only. This principle is to keep dawam al-intifa" ma" a baqa" "ayniha (sustainability of benefits that can be used from the Waqf without reducing the waqf property or mauquf 'alaih). This stipulation was implemented in the pesantren Gontor, and it can be seen from the utilization of the Waqf. Pesantren Gontor does not use the funds but develops them first, and the results are used for construction and the operational costs of the pesantren, including the salaries of teachers and administrators.

The material wholeness (baqa "ayniha") of Waqf lies in its internal value. It is clear that in the pesantren Gontor, the mauquf alaih is maintained and developed. The results are utilized for the benefit of the pesantren, which is generally allocated for da wah (religious mission) and education (li al-da wa wa li al-tarbiyah).

Three basic principles should be emphasized when trying to apply the principle of productive Waqf. First, the allocation of funds must be seen in the frame of an "integrated project" instead of a separate fee. This regulation is to dispel the assumption that the waqf

fund will be depleted when used, for example, for salaries and wages of construction workers, whereas waqf property should be everlasting. The Second is the principle of nazhir welfare. This principle is because the nazhir is not positioned as a professional; they do not manage waqf property with good management, and so they tend to be unprofessional. Therefore, it is the time to make nazhir a profession that gives hope of prosperity, not only in the hereafter but also in this world. The third is the principles of transparency and accountability in which the waqf board and the institutions it helped must report the fund management process to the people annually (Mahendra, M, 2022). The pesantren Gontor has already implemented the principles, except the one that makes Nazhir a profession that gives hope of prosperity. It is associated with the basic principles of the attitude of the pesantren stakeholders, namely ikhlas al-"amal, without ulterior motives. From the description of the legal basis as referred to in the preceding discussion, it can be concluded that the pesantren Gontor relies heavily on the waqf implementation system, one of which uses productive Waqf or cash waqf. This conclusion is based on several reasons, namely:

First, the highest leadership in the pesantren Gontor is the waqf board, which the Assembly of Kiai fully carries out, assisted by other teachers Syamsuri S et al. (2021). So, the system used in the pesantren management is the management of Waqf with a capital development system.

Secondly, the pesantren Gontor has fulfilled the requirement of the Productive waqf implementation system, which does not eliminate the initial capital but continues to develop and use the proceeds for the benefit of the pesantren. In this case, dawam al-intifa*, as one of the requirements, has been fulfilled. This state is out of the debate of Islamic scholars.

Third, the waqf board that manages Waqf as well as supervises the implementation of Waqf, at the level of practice (in the management of waqf property) is fully carried out by the Bureau of Economics, has several business units that are ready to develop (Arroisi, J, & Syamsuri, S, 2020). This regulation is continuously developed coupled with the goal of expanding the network economy so that the pesantren are no longer dependent on external funds. The positive impact of the effort is the construction of facilities and infrastructure, which are not delayed when the needed funds are not obtained (Ihsan, H, & Ibrahim, SHHM, 2011)

Fourth, capital raised by the pesantren Gontor is derived from the ummah, which is collected through a variety of ways, either compulsory or voluntary contribution or requested funds. Indeed, in the implementation of Waqf, there is no contract that is explicitly mentioned at the time when the money is given that the money will be used as capital by the pesantren to run a business from which the results would be used for the benefit of the pesantren, or

specifically, there is no a specific contract of cash waqf. Normatively, it does not go through the proper principle.

5. Conclusion

There are many unit businesses of Productive waqf practice in the pesantren Gontor: Waqf of land and cash waqf with the development of productive waqf system. In terms of land waqf, the pesantren Gontor manages to raise funds to buy land, which is then donated as Waqf or shared with the community to make the land productive. With regard to the Productive Waqf, the pesantren Gontor collects funds from both donations from sympathizers and the parents of students - even mandatory contributions of students - to be managed and developed through a productive waqf system and management. Most importantly, in the implementation of Waqf, the pesantren Gontor does not use the collected funds for the purposes of financing the pesantren's needs, but rather, it uses the profit.

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