



The Concept of Professional Waqf in Indonesian Positive Law

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Article	Abstract
Keywords: Professional Waqf; Contemporary; Indonesian Waqf Board	<i>Waqf has great potential to improve the welfare of Indonesian society. Waqf itself is ijtibadi in nature, so waqf always develops along with the changing times. The Indonesian Waqf Board (BWI) as an institution that oversees waqf in Indonesia formulates several contemporary waqf, one of which is profession waqf. Profession waqf is waqf in the form of human expertise, both physical and non-physical expertise. The problem that arises is the formulation of the concept of profession waqf in Indonesia and the subject of profession waqf practices. The purpose of this research is to find out the concept of profession waqf and the subject of profession waqf practices. This type of research uses normative research methods. The author uses statutory and conceptual approaches and uses primary and secondary legal materials. The legal material is collected based on the problem under study and classified to answer the problem formulation. In the analysis technique, the author uses the prescriptive method. The result of the research is the concept of profession waqf, namely waqf in the form of a person's work or expertise, both physical and non-physical expertise given by the endower for the purpose of goodness and the benefits of the endower's work that can be utilized for public welfare and carried out according to sharia. Then the subject of profession waqf is divided into 3, namely the Profession Wakif, namely the party who endows his expertise or work, the nazhir as the party who develops and manages the endowed assets and mauquf alaih as the party who receives the benefits of waqf work or expertise, the mauquf alaih itself can come from the party directly mentioned in the waqf pledge or the party not specifically mentioned in the waqf pledge.</i>

INTRODUCTION

The development of waqf practices today is inseparable from the presence of Islam in Indonesia. This is because Indonesia is one of the countries with the largest Muslim population in the world (Najmi and Padjadjaran 2020). Therefore, waqf is one of the worship activities carried out by many Muslims, so the potential for waqf in Indonesia is so great as one of the worship activities carried out by Muslims and is one of the means of worship in Islam which has many virtues. People in Indonesia are

competing to give their best assets to be waqf based on religious and social motivations to realize a prosperous and prosperous society.

During society, there are various types of waqf practices, ranging from the waqf of land, buildings, Al Quran, which is one of the popular types of waqf, to the emergence of stock waqf which is one of the unpopular types of waqf. The various types of waqf that exist in society do not rule out the possibility of the emergence of new types of waqf that have the benefit of contributing to the development, progress and welfare of society. In the Qur'an, there is no specific explanation about waqf so that the establishment of new types of waqf is very open. The law of waqf itself is not something that is Qoth'i but waqf is Ijtihadi, meaning that all kinds of waqf elements both in terms, pillars, and laws are the result of the outpouring of thought of the scholars (ijtihadi) so that waqf always develops along with the changing times (Setiadi 2019).

The word waqf itself has the meaning of holding and not transferring an asset with the aim of being waqfed. In terms of terms, waqf is the act of a person who separates part of his property or wealth that is used for the benefit of worship and public welfare (Al-Hadi 2009). In simple terms, waqf is holding something that is eternal and allows its benefits to be taken to be given in the way of goodness. (Siska 2019). There are several elements in the practice of waqf which are regulated in Article 6 of Law Number 41 of 2004 concerning waqf (hereinafter referred to as the Waqf Law), namely "Wakif, Nazhir, Waqf Property, Waqf Pledge, Allocation of waqf property and Waqf period". There are 4 elements that make waqf objects have a lasting beneficial value, namely the benefits of the waqf object can be used by many people, the waqf object provides more tangible value to the waqf object itself, the immaterial benefits of the waqf object.

In addition, the purpose of waqf itself can be seen in Article 4 of the Waqf Law, which reads "Waqf aims to utilize waqf property according to its function". In addition, the purpose of waqf itself can be seen in Article 4 of the Waqf Law which reads "Waqf aims to utilize waqf property in accordance with its function". Meanwhile, the function of waqf is regulated in Article 5 of the Waqf Law which reads "Waqf functions to realize the I potential and economic benefits of waqf property for the benefit of worship and to advance public welfare". Based on this article, it can be understood that waqf provides welfare for the community by making a very significant contribution to the economic and social development of the people. The real role given by waqf is its function and role in financing Islamic religious activities, Islamic education, and health.

Waqf is utilized by being developed and practiced as a means of helping various community activities and overcoming problems in society such as poverty, the practice of waqf is widely practiced by Muslim countries such as Saudi Arabia, Turkey, Egypt, Jordan, Bangladesh, Malaysia and the United States (Hazami 2016).

Based on waqf data accessed by the Ministry of Religious Affairs' Waqf Information System (SIWAK) on September 29, 2021, waqf in Indonesia in the land sector reached a total of 414,829 locations with an area of 55,259.87 hectares. Meanwhile, the potential for cash waqf according to the Indonesian Waqf Board (BWI) reaches 180 trillion per year (Budiarto 2021). This shows that the public interest in waqf in Indonesia is so great. Based on this, the potential of waqf in Indonesia must be well optimized by the government, because if the growth of waqf is well managed, then this will be an important component that contributes to reducing social inequality, alleviating poverty and improving people's welfare so that it contributes more to the development of national economic resilience.

In addition to the types of waqf mentioned above, the development of waqf has also occurred in movable objects such as cash waqf, stocks and other securities as regulated by the Waqf Law (Sam'ani 2004). In Indonesia itself, regulations regarding various waqf are regulated in several regulations on waqf such as regulated in the form of Laws, Presidential Instruction of the Republic of Indonesia Number 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law, Government Regulations, Rules and Regulations.

Decree of the Minister of Religious Affairs and Regulations of the Indonesian Waqf Board (BWI) (Fakhruddin 2020). As waqf in a form of support government to Indonesia, Law Number 41 of 2004 concerning waqf was born. This is the government's effort to make waqf grow rapidly and be accessible to all levels of society. The dynamics and paradigms that developed in society regarding waqf became one of the factors in the birth of Law No. 41 of 2004 concerning waqf as a stronger legal basis on a national scale (Zaidah 2015). To strengthen the law, the government then formed Government Regulation Number 42 of 2006 concerning the Implementation of Law Number 41 of 2004 concerning Waqf. There is an expansion of the object of waqf (*mauquf bih*) before the birth of Law Number 41 of 2004 concerning Waqf, while the existing waqf regulations only regulate the waqf of immovable objects which are mostly used for consumptive purposes such as mosques, schools, cemeteries and others. After the birth of the Waqf Law, waqf assets developed as stipulated in Article 16 paragraphs (1) explains that "waqf assets consist of immovable and movable objects". Article 16 paragraph (2) of the Waqf Law states that "waqf assets consist of immovable and movable objects. Immovable objects include land rights, buildings or parts of buildings standing on land plants and other objects related to land, ownership rights to apartment units, other immovable objects in accordance with the provisions of sharia and laws and regulations". Meanwhile, Article 16 paragraph (3) of the Waqf Law explains that "movable objects include money, precious metals, securities, vehicles, intellectual property rights, lease rights, and other movable objects in accordance with sharia provisions and applicable laws and regulations".

Even now, the Indonesian Waqf Board (BWI) as an institution that facilitates the progress and development of waqf both nationally and internationally (Rohayati and Garadian 2016), has summarized several new types of waqf in the contemporary waqf book such as, cash waqf, sukuk- linked cash waqf, stock waqf, intellectual property rights waqf and professional waqf (Fahrurroji 2019). Along with the emergence of new types of waqf issued by BWI, it is not followed by the creation of procedures and rules made in detail and systematically related to the waqf, while waqf regulations that follow the development of waqf practices in Indonesia are needed for more productive waqf empowerment. One of the new types of waqf issued by the Indonesian Waqf Board (BWI) is professional waqf, which is waqf in the form of work.

BWI itself defines professional waqf as endowing the work of the endorser, which includes physical work that relies on energy and non-physical work that relies on intellect that produces services or services in accordance with sharia, such as doctors, teachers or lecturers, whether done independently or through institutions and companies for good purposes. Besides Indonesia, the country that first implemented professional waqf is Kuwait.

Through the Kawait Awqaf Public Foundation, which is a waqf institution in the country of Kuwait, this institution has a variety of waqf development programs, one of which is professional waqf or work, also known as time waqf, which is doing work or services performed by individuals, institutions or companies by allocating a certain amount of time voluntarily or without expecting compensation (Dr. H. Fachrurroji, LC 2019). The development of waqf management as mentioned above, of course, is an effort to bring out the great potential of the community towards waqf worship activities and invite all levels of society, whether they have assets or not, to actively participate and play an important role in advancing the ummah.

As an example of professional waqf, a notary can donate his expertise by making a waqf land certificate either partially or wholly without payment. Government officials can also endow by providing policies or decisions within the scope of their authority in accordance with applicable laws and regulations by facilitating development in their neighborhood. Then there is a doctor who endows his medical profession in an Islamic boarding school to serve the health of students, teachers and people in need. However, in providing their expertise, the donor focuses on the intended interests without getting material rewards as usual (Setiadi 2019). In addition to the above professions, at present there are many kinds of professions carried out by endowers such as realtor services, consultants in various fields and others.

There are already several institutions that run professional waqf such as the Hidayatullah Pesantren Waqf House Surabaya, tazakka batang waqf institution, paramadina waqf institution and darut tauhid waqf institution (Roumah Wakaf 2022). Although professional waqf in Indonesia is not widely known by the public, waqf done

by professional waqf endowers has the potential to contribute to the realization of community development in various sectors of life.

When viewed from the economic benefits of waqf assets, they can be useful for worship and to promote public welfare. Departing from the benefits of professional waqf, professional waqf as one of the new emerging waqf has great potential in society. By raising the legal issue that the practice of professional waqf in Indonesia does not have written regulations and clear rules, professional waqf needs legal certainty so that there is no vacuum in the system its regulation. In general, in its current application, professional waqf is always based on the provisions in Law Number 41 of 2004 concerning waqf. However, the provisions related to professional waqf are not listed at all in the law. Due to the absence of governing regulations, there are several obstacles in the practice of professional waqf such as the absence of mechanisms related to the operation of professional waqf which causes the absence of a written waqf pledge deed.

The regulation in Article 21 paragraph (1) of the Waqf Law reads that "The pledge of waqf is stated in a waqf pledge deed". Many professional waqfs do not get a waqf pledge deed because the waqf pledge deed is fixed in terms of time and not all professional waqfs can carry out their professional waqf according to a predetermined time because professional waqfs sometimes experience an urgent situation, so they are unable to attend. So, this causes professional waqfs to be untimely so that they do not carry out waqf according to the planned time so that there are problems regarding the time in the practice of professional waqf so that it is necessary to regulate the mechanism regarding time in the practice of professional waqf. As well as there are no further provisions regarding the types of professions that can be waqfed and there is no explanation regarding what type of waqf is the professional waqf. If in the future the practice of professional waqf spreads widely and is widely practiced by the community but is not limited and there are no rules about the types of professions that are allowed, it will allow deviations in practice. If there is a deviation, the practice will have no worship value, become invalid and inappropriate.

The existence of clear regulations related to professional waqf can bring benefits to the parties who practice professional waqf, for example for the endowers themselves such as related to legal protection and risk management of professional waqf, as well as professional waqf nazirs to carry out management management more clearly, systematically and effectively.

On the other hand, with the establishment of professional waqf regulations, there is the potential for more people, institutions, or institutions to be involved in the practice of professional waqf potential for more people, institutions, or companies to take an active role in the practice of professional waqf so that it can contribute to improving the welfare and prosperity of society.

Based on the legal issues above, the author is interested in knowing and analyzing how the juridical review related to Professional Waqf regarding the absence of laws

and regulations that regulate and explain the concept of professional waqf as a contemporary waqf program issued by the Indonesian Waqf Board (BWI). Therefore, the author wants to discuss more deeply with a theme entitled "The Concept of Professional Waqf in Positive Law in Indonesia".

METHOD

This research uses normative legal research. Indirectly, without special rules for professional waqf, there is no protection and legal certainty for parties who practice professional waqf. Thus, this research will examine the concept of professional waqf and identify subjects related to professional waqf practices.

In legal research, the approach is in the form of a statutory approach and conceptual approach. The statutory approach is an approach that is carried out by examining all regulations related to the legal issues to be studied (Marzuki 2016). Meanwhile, the conceptual approach is an approach that can be used in legal research based on a point of view to analyze problem solving by referring to the concepts behind and based on the values contained in the laws and regulations used (Diantha, 2016).

The legal material analysis technique used in the research is the prescriptive method, which is carried out by providing prescriptions (solutions) regarding what should be done to solve the problems that occur.

RESULTS AND DISCUSSION

1. The Concept of Professional Waqf in Indonesia

The purpose of the Unitary State of the Republic of Indonesia as mandated in the Preamble of the 1945 Constitution includes promoting general welfare. To achieve this goal, one of the steps that can be taken is to develop potential in the religious field that has economic value. waqf itself can play a role as one of the strategic steps that can be taken to improve the general welfare. This is done by increasing the role of waqf as a religious institution that is not only useful as a means of worship and social, but also a driver of economic development.

Waqf is one of the recommended worships in Islam because of its benefits as a good deed that will not be interrupted as long as the donated goods can be utilized by others (Jubaedah 2017). Waqf is a legal act of a person or legal entity by separating part of their wealth to be used as intended. Waqf has a difference with other worship activities, this can be seen when the waqf worship is carried out, there is a transfer from the private ownership of the object being waqfed to the ownership of God which is expected to be eternal, providing continuous benefits to the community.

Waqf must be managed productively in the hope that it can open up opportunities for profitable strategic sectors, such as creating new jobs and managing public services that ease the economic burden on the community (Rizal 2016). One of the important factors that determine the development of waqf is when the state regulates waqf policy

through positive law, with the enactment of waqf legislation. The Waqf Law is a driving force for effective and productive waqf empowerment because it contains a comprehensive understanding and management model that empowers the potential of waqf in a modern way.

Related to this, the Indonesian Waqf Board (BWI) as a state institution that manages and develops waqf assets both nationally and internationally, formulates several contemporary waqf programs, one of which is professional waqf. Simply put, professional waqf is waqf in the form of human expertise. The purpose of BWI to formulate professional waqf as one of the contemporary waqf is in the hope of multiplying the types of waqf and as part of the effort to increase the role and contribution of waqf to realize the welfare of society so that new types of waqf based on *ijtihadi*, one of which is professional waqf.

Professional waqf itself is the endowment of the work of the endower (*Pewakaf*) which includes physical work that relies on labor and non-physical work that relies on intellect that produces services or services in accordance with sharia such as doctors, teachers or lecturers, whether carried out independently or through institutions and companies to provide services (*Fahrurroji* 2019). The purpose of professional occupational waqf is to provide benefits resulting from human work in the form of services or services as waqf property and is carried out for good purposes so that the benefits can be felt by the community.

The type of profession or work in the practice of professional waqf, at this time the work that can be waqfed is still undetermined. The term profession itself relates to a person's work or expertise in a particular field that is carried out with the aim of earning a living. There are several criteria that measure a job can be said to be a profession, such as the existence of high expertise obtained through education or technical training, then the expertise is developed through reasoning so that the expertise is mastered professionally or there are certain standards of expertise so that the profession is needed by the community to be served and there is a professional group that develops institutions and institutions to control so that the skills possessed are carried out professionally and responsibly (*Suparman* 2015). These criteria become the benchmark for a job to be called a profession.

To clarify the description of professional waqf, here are some examples of professional waqf that has been practiced at Pondok Modern Tazakka. Like the doctor profession who donates his profession and time to Tazakka through the Tazakka Medical Center (TMC) to treat patients of santri, teachers and the general public. Likewise, architects and building structure experts who donate through building drawings and product designs. Then there are also education personnel, namely *kiai* and some teachers who also do professional waqf by providing services in the form of teaching activities at the Tazakka Islamic Boarding School (*Hudaya* 2018). They do this without expecting anything in return or for free.

Based on this definition and purpose, professional waqf has several elements, namely:

1. The waqif generates benefits from the work he waqfed.
2. The work that is endowed must be valuable according to sharia.
3. The work that is Waqf of being handed over or performed. must be capable
4. Work or known which the work to be waqf must be clear
5. The work to be waqfed must be fixed in time if it is a temporary waqf.
6. The work that is waqfed is work that is permissible in sharia.
7. The waqf performs the work that he has endowed without receiving any reward or it is done gratuitously.

When viewed from the Waqf Law, it provides an explanation that "Waqf is a legal act of wakif to separate and / or submit part of his property to be utilized forever or for a certain period of time in accordance with his interests for the purposes of worship and / or public welfare according to Sharia". While in practice, as practiced by the Tazzaka waqf institution, professional waqf itself is to provide the benefits of work for public purposes in accordance with Islamic teachings. If this explanation is summarized, the meaning of professional waqf is a person or legal entity that gives its ability for the benefit of worship. The interests of worship are related to providing the benefits of work such as the doctor's profession, the teaching profession. So based on this, the concept of professional waqf in Indonesia is the transfer of property in the form of benefits from work or expertise whether carried out by individuals, institutions or companies that provide their abilities for the benefit of worship.

Currently, professional waqf does not yet have regulations in the legislation. However, professional waqf itself in practice is currently contained in Law No. 41 of 2004 concerning waqf. When viewed from the values of the definition of waqf as explained in Article 1 paragraph 1 of the Waqf Law which reads "Waqf is a wakif's legal action to separate and/or submit part of his property to be utilized forever or for a certain period of time in accordance with his interests for the purposes of worship and / or public welfare according to Sharia". There is conformity between the practice of professional waqf and the elements in the Article, such as the existence of legal actions carried out by professional waqifs by handing over their assets in the form of benefits from the wakif's work and carried out for the benefit of worship and for public welfare. The interests of worship are related to providing the benefits of the wakif's own work in order to provide benefits for public welfare. The purpose of waqf itself can be seen in Article 4 of the Waqf Law which reads "Waqf aims to utilize waqf assets in accordance with their functions". Meanwhile, the function of waqf is regulated in Article 5 of the Waqf Law which reads "Waqf functions to realize the potential and economic benefits of waqf property for the benefit of worship and to promote public welfare".

Professional waqf can be said to fulfill the provisions in Article 4 of the Waqf Law, waqf assets that are utilized in professional waqf itself in the form of benefits from the work or expertise of the waqif itself which function to provide benefits to the community. Professional waqf also has the potential and economic benefits as explained in Article 5 of the Waqf Law, by utilizing a person's work or expertise, it has the potential to be used for the purposes of worship, namely providing the benefits of waqf assets in the form of their work for public purposes and in accordance with Islamic teachings and used to promote public welfare. Therefore, based on this, professional waqf can be a wasilah in realizing that goal.

Meanwhile, about the waqf pledge as stipulated in Article 1 paragraph (3) of the Waqf Law which reads "The Waqf Pledge is a statement of the wakif's will spoke orally and / or in writing to the Nazhir to endow his property". In waqf regulations, a waqf pledge is a statement of the wakifs will made orally or in writing to the nazir. Meanwhile, in the practice of professional waqf, the waqf pledge made by the waqif varies in nature, such as some are oral, some are written or there are even waqifs who choose not to give a statement of will.

The waqf pledge is one of the important elements in waqf, because the pledge is proof of the Wakif's willingness to endow his property to Nazhir in accordance with the allocation of waqf property desired by the wakif. The position of waqf that does not have a waqf pledge certificate according to Islamic law is valid if the conditions and pillars of waqf are fulfilled, but according to Indonesian positive law without a waqf pledge, the waqf is automatically said to have never existed. In addition, the waqf pledge is also stated in the Waqf Pledge Deed as stated in Article 21 of the Waqf Law.

Given that waqf regulations in general already exist in the law, and professional waqf can be categorized as benefit waqf. However, professional waqf still does not have a written regulation that regulates its mechanism specifically and completely. Meanwhile, cash waqf, immovable object waqf and various other forms of waqf already have special regulations that regulate up to the implementation, risk management and dispute resolution. Judging from this comparison, the legal certainty of professional waqf in Indonesia is very weak, there is no clarity of norms and no guidelines for people who are and/or will be implementing professional waqf.

The possibility of multiple interpretations, misunderstandings of the values, concepts, principles and practices of professional waqf in the future is very high. The advantages of written law over unwritten law are as follows (Rahardjo 1991):

1. Regulations are easily known to the public
2. Everyone, except those who cannot read, has equal access to the law
3. Public knowledge of the law can be matched with what has been written down, thus reducing uncertainty
4. Written law makes it easier to develop new legal provisions.

The advantages of written law can be a logical reason for the need for special rules or regulations governing the practice of professional waqf. These regulations can be in the form of the most basic rules of procedure up to the level of dispute management and risk prevention.

If we look at the history of the establishment of Cash Waqf in Indonesia, which was not initially regulated in national law. The Indonesian Ulema Council first issued a fatwa in 2002 that allowed waqf with money. The impact of the MUI fatwa received a positive response in the community and proved to be able to build community welfare. To provide a positive impact and clear rules regarding cash waqf, it is supported by the establishment of Law Number 42 of 2004 concerning Waqf and regulations issued by the Indonesian Waqf Board (BWI).

The legal basis for cash waqf itself is also regulated in the Regulation of the Minister of Religious Affairs of the Republic of Indonesia Number 4 of 2009 concerning Cash Waqf Registration Administration, which clearly regulates the procedures for registering cash waqf. The Indonesian Waqf Board Regulation Number 1 of 2020 concerning Guidelines for the Management and Development of Waqf Property, the BWI regulation regulates how the management and development of waqf property is regulated again about cash waqf to provide maximum benefits for the economy from Article 5 to Article 19. With the existence of regulations governing cash waqf, this is one of the factors that cause cash waqf to grow rapidly in the community.

Seeing this, professional waqf should also receive attention from related institutions that function to develop waqf in Indonesia.

One of these institutions is the Indonesian Waqf Board (BWI). In the Indonesian Waqf Board Regulation Number 1 of 2007 concerning the Organization and Work Procedures of the Indonesian Waqf Board, BWI's duties and authorities are explained, one of which is in Article 8 which states that:

1. Make guidelines for the management and development of waqf assets.
2. Providing advice and considerations to the Government in formulating policies in the field of waqf.

The existence of these duties and authorities is key to the formation of new waqf regulations that can be handled by BWI. This institution is authorized to make guidelines for the management and development of waqf assets, which in this case includes professional waqf. In addition, in performing its duties and authorities, BWI cooperates with the Ministry of Religious Affairs (c.q. Directorate of Waqf Empowerment) and the Indonesian Ulema Council (MUI). So that these institutions can make the concept of Professional Waqf more practical. Institutions that can realize the legal concept of professional waqf include BWI, MUI, and the Ministry of Religious Affairs (Kemenag).

Legal discovery or legal construction can be done by using interpretation or interpretation of laws and regulations. According to Sudikno Mertokusumo, the types

of legal interpretation or interpretation are grammatical interpretation, authentic interpretation, systematic interpretation, historical interpretation, futuristic interpretation, extensive interpretation, restrictive interpretation, argumentum per analogiam (analogy), a contrario, and argumentum (Mertokusumo 1999). legal refinement

In this case, professions and immovable objects by using the law by argumentum per analogiam, if seen in Article 507 of the Civil Code, for example factories and goods produced, mills, and so on. Also housing and objects attached to the board or wall such as mirrors, paintings, jewelry, etc.; then related to land ownership such as tinder, honey in trees and fish in ponds, etc.; as well as building materials derived from the ruins of buildings that will be used again to build the building, and others.

One of the elements of the type of immovable objects based on the Article is the important element is the economic result, such as a factory with objects produced from the factory. So that it has similarities with the elements of a profession that has the economic value of services or services resulting from the work or expertise of a person. Therefore, by argumentum per analogiam the profession has the same similarity/essential elements as immovable objects because of its designation, so that waqf of immovable objects can be a construction in building the concept of Professional Waqf.

The concept of immovable object waqf is that the waqif states a waqf pledge to the nazir in front of the Waqf Pledge Deed Official (PPAIW) in the Waqf Pledge Assembly then the Waqf Pledge is accepted by mauquf alaih and the waqf property is received by the nazir for the benefit of mauquf alaih, The waqf pledge carried out by the Waqif is accepted by the Nazir and stated in the Waqf Pledge Deed by the PPAIW, in Article 37 of Law Number 42 of 2006 it is stated that the PPAIW for immovable objects is the Head of the KUA and/or officials who organize waqf affairs, but it does not rule out the opportunity for the Waqif to make a Waqf Pledge Deed before a Notary. The Waqf pledge deed contains at least: a. name and identity of the Wakif, b. name and identity of the Nazir, c. name and identity of the Witness, d. data and description of the waqf property, e. designation of waqf property (mauquf alaih) and, f waqf period.

So that there are several concepts in the waqf of immovable objects that can be done in Professional Waqf, namely the statement of the waqif to endow his waqf property in the form of his expertise or work to the nazhir by doing through a waqf pledge and stated in the waqf pledge deed so that people who do professional waqf get legal certainty, after the nazhir receives the waqf property in the form of work or expertise. Then the nazir develops and manages the waqf assets for the benefit of mauquf alaih or the beneficiaries of waqf.

2. Subjects in Professional Waqf Practice

As a party that can act in law, legal subjects have legal authority that is not owned by other parties, there are two kinds of legal subjects, namely humans and legal entities (Prananingrum 2014). According to Sudikno Mertokusumo "the subject of law is everything that can obtain rights and obligations from the law" (Mertokusumo 1999). The definition of legal subject or rechtssubject according to Algra is "everyone has rights and obligations, which give rise to legal authority (rechtsbevoegheid). Legal authority is the authority to be the subject of rights."

The legal subject in the practice of professional waqf is the Professional Wakif, namely the person who gives his waqf property in the form of expertise or work by providing benefits from his expertise for the general public.

Article 1 paragraph (2) of the Waqf Law explains "Wakif is a party who endows his property". In the practice of professional waqf, professional waqifs endow their property in the form of their professional expertise. Article 7 of the Waqf Law divides wakif into 3, namely "Individuals, institutions and legal entities". The article corresponds to the parties in professional waqf, which can be individuals, institutions and/or legal entities. When viewed in the Compilation of Islamic Law (KHI) Article 215 paragraph (2) which reads "Wakif is a person or persons or legal entities who endow their property". So that based on this Article KHI divides wakif into 3 namely individuals, groups of people or legal entities.

Individual professional waqifs are carried out by someone who does work independently or personally. For example, in the Tazakka Waqf Institution there is a doctor who donates his expertise in the health sector to carry out health checks for students, teachers and the surrounding community in need. On the other hand, there is also a teacher who donates his expertise to teach to provide knowledge to students for free. And there are architects who donate their expertise in describing physical buildings, to do the work of drawing mosques, Islamic boarding or other social activities without expecting schools' compensation.

Professional waqf is not only carried out by individuals or independently but can be carried out by institutions and / or legal entities. An institution that does work that relies on both physical and non-physical labor can provide benefits from its work to be endowed. one example of a profession that is endowed as is done at the Tazakka Waqf institution. At this institution there is a lawyer and notary office that provides legal services in the form of legal consultations conducted by lawyers. As well as notaries who provide consulting services and assist in the procurement of several land deeds.

Based on the explanation above, it can be understood that the subject in the practice of professional waqf is individuals, institutions and / or legal entities that have expertise or work both physically and non-physically that has the benefit of their expertise to be waqfed and the benefits are felt for public welfare.

The waqif himself as a subject in the practice of professional waqf has obligations that must be carried out. As stipulated in Article 1 paragraph (2) which reads "Wakif is a party who endows his property".

Then in practice found at the Tazzaka Waqf Institution, waqifs endow their professional expertise such as doctors and teachers. So if the Waqf Rule Article 1 paragraph (2) is applied to the concept in the practice of professional waqf, then the conclusion is that the obligation that must be carried out by the waqif is to provide assistance for his expertise for general welfare in the sense that what is done by professional waqifs who have a job as a doctor is to provide treatment for the community and then teach for the teaching profession.

After carrying out his obligations, a waqif also has rights related to the practice of professional waqf. Regarding rights, the waqf regulations have not clearly stated the rules relating to the rights received by the waqif. Likewise, when looking at the practice related to professional waqf. Like a doctor who endows his expertise at a certain time, the doctor also needs to get his rights, for example, if the doctor cannot attend or is no longer able to practice professional waqf, the endowment that was pledged can be canceled. So that the concept in Article 3 of the Waqf Law, which reads "Waqf that has been pledged cannot be canceled", cannot be applied in the practice of professional waqf. Because after all, professional waqf is related to a person spending his time and expertise for service and welfare. So that there needs to be rules governing the concept of professional waqf due to the difference in the time of implementation of waqf related to professional waqf with other waqf.

In addition to the Professional Wakif, the Nazir is also one of the subjects in the practice of professional waqf. The definition of nazhir according to the Waqf Law Article 1 paragraph (4) "Nazhir is a party who receives waqf property from the Waqif to be managed and developed in accordance with its designation". Article 9 of the Waqf Law divides nazir into 3 "Nazhir includes: a. individual; b. organization; or c. legal entity." Nazir is a party that has the duty to administer waqf assets, as well as manage and develop waqf assets. The Nazir is also obliged to supervise and protect waqf assets.

An example of a Nazir in professional waqf practice is the Tazakka Waqf Institution. As a waqf Nazir, the Tazakka Waqf Institution is tasked with collecting funds, maintaining and developing the waqf assets of the Tazakka hut. One of the waqf provided by this institution is Professional Waqf, namely waqf in the form of one's expertise and profession to the nadzir. This waqf is actually included in the benefit waqf, namely *manafi'ul abdan* or physical benefits. The Waqf Institution Tazakka develops professional waqf as intended by the waqf property, such as a doctor who donates his work in the form of health care expertise, the institution directs this expertise to be developed by the Tazakka Medical Center (TMC) to serve the health of students, teachers and the community in the Tazakka hut environment and its

surroundings. Then there are teachers who endow their work in the form of teaching expertise, the institution develops the waqf assets in the Tazakka Islamic Boarding School educational institution which is under the same auspices as the institution.

Another subject in the practice of professional waqf is the party who receives benefits from waqf worship activities called Mauquf Alaih. In Government Regulation Number 42 of 2006 Article 1 paragraph (5), it is explained that "Mauquf alaih is the party designated to benefit from the allocation of waqf property in accordance with the statement of the Wakif's will as be stated in the Waqf Pledge Deed". If we look back at the definition of waqf in the Waqf Law in Article 1 paragraph (1) there is a narrative that says that waqf aims for the purposes of worship and public welfare according to sharia. So based on this article, the object of professional waqf itself includes the general public so that the benefits of professional waqf can be felt by all groups. However, in practice, as is done in Tazakka, the group that benefits from the wakif's work expertise is only limited to certain groups or those within the Tazakka environment, as well as the community around the tazakka environment.

The benefits of waqf should be felt by the public as stipulated in Article 1 paragraph (1) of the Waqf Law. So that if this concept can be applied in the practice of professional waqf, people outside certain institutions should be able to benefit in accordance with the concept outlined in the Waqf regulation. Therefore, it is necessary to confirm the rules on what objects are entitled to these benefits. So that the benefits provided can be more widespread or in accordance with the concept of the Waqf Law, namely general welfare.

When viewed in Article 22 of the Waqf Law, the allocation of waqf assets is used for worship facilities and activities, education and health. As well as providing assistance for the poor, abandoned children, orphans, scholarships. In addition, it is also used to advance and improve the economy and welfare of the people. So that the beneficiaries of waqf (Mauquf Alaih) can include the categories in the Article. besides that, mauquf alaih is divided into 2, namely (Dompot Dhuafa 2022):

- a. Mauquf alaih Muayyan, which is a person who receives waqf directly and specifically occurs at the time of the waqf pledge. For example, someone who donates his land for the construction of a mosque.
- b. Mauquf 'Alaih Ghairu Muayyan, this group is a group of waqf recipients who are not specifically mentioned in the waqf pledge. For example, this group is generally those who have difficult economic conditions, such as the poor, the poor, and the poor. In addition, waqf recipients can also come from those who are jihad or fighting in the way of Allah SWT.

In addition, non-Muslims can also receive the benefits of waqf, as long as the waqf is really intended for good and beneficial purposes. For example, waqf assets in the form of a well to facilitate access to clean water. However, the waqf asset becomes invalid if the purpose of the waqf is to build a place of worship.

CONCLUSION

Conclusion contains a description that should answer the problem(s) raised and answer the objectives of research. Provide a clear and concise conclusion. Do not repeat the Abstract or simply describe the results of the research. Give a clear explanation regarding the possible application and/or suggestions related to the research findings.

Based on the research results and discussion of the existing problem formulations, the following conclusions can be drawn:

1. The concept of professional waqf practice based on the existing discussion can be formulated that professional waqf is waqf in the form of a person's work or expertise, both physical and non-physical expertise given by the endower for the purpose of goodness and the benefits of the endower's work that can be utilized for public welfare and carried out according to sharia. At this time there is no provision regarding professions that can be donated. The profession or work that is endowed should be expertise based on high education and training so that the endowed profession can be accounted for and carried out professionally and the endowed profession or work must not be contrary to Sharia.
2. The subject in the practice of professional waqf consists of 3 (parties) namely Professional Wakif, Nazir and Mauquf Alaih. Professional Wakif is a person who gives his waqf property in the form of expertise or work by providing benefits from his expertise for the general public. Meanwhile, nazhir is the party that manages and develops waqf assets. As the nazir of professional waqf, namely the Tazakka Waqf Institution, which develops professional waqf assets as intended and Mauquf alf. Mauquf alaih receives the benefits of the expertise or work that is endowed, mauquf alaih can come from parties directly mentioned in the waqf pledge or parties not specifically mentioned in the waqf pledge.

Suggestions

In addition to the conclusions, some suggestions and recommendations from the research conducted by this author can be presented as follows:

1. To the Legislature (Lawmakers), with this research, it is expected to establish a regulation that regulates in detail the procedures and mechanisms of Professional Waqf so that the parties who practice professional waqf get legal certainty.
2. To Nazir waqf, based on the importance of the role and the magnitude of the Nazir's responsibility, Professional Waqf as a new type of waqf in Indonesia. Nazirs are expected to increase their knowledge and insight related to professional waqf so that they can manage and develop the waqf properly.

3. To the waqif, based on the many benefits of a job or expertise that can be endowed, it is hoped that more parties will participate in the practice of professional waqf.
4. To mauquf alaih, it is hoped that mauquf alaih or beneficiaries of waqf can use the benefits of the work or expertise that is donated wisely and in accordance with sharia.

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