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An analysis of nazir, ulama and scholars' understanding of waqf istibdal in Aceh Tengah

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ABSTRACT

This research aims to analyze the understanding of nazir, ulama and scholars towards istibdal waqf in Aceh Tengah. This research uses a qualitative approach with descriptive method. Data collection was conducted by interviewing five samples/informants, namely three nazir, one ulama and one scholar in Aceh Tengah using accidental sampling technique. The understanding of nazir, ulama and scholars is measured using five indicators of understanding, namely understanding the definition, usefulness, use, role of waqf agencies, and implementation of waqf istibdal. based on the results of this study, the majority of nazir, ulama and scholars in Aceh Tengah understand about waqf istibdal and other general issues and the positive influence of government policies related to waqf istibdal by paying attention to several provisions in accordance with Islamic law.

1. Introduction

Waqf is one of the Islamic teachings that can be categorized as `Ibadah Maliyah. It is an act of worship that has great value, as stated in a hadith narration by Muslim from Abu Hurairah that waqf is one of the three acts whose rewards are uninterrupted even if the person who endowed it dies. Shaykh `Abdullah al-Fauzan said. "This hadith is proof of the validity of waqf and its great reward in the sight of Allah. The waqf continues to be beneficial and its reward is eternal. For example, if there is a waqf in the form of land or a Mushaf that continues to be used, so that the reward can continue to flow for a servant.

The history of the beginning of the practice of waqf has been told in the Qur'an Q.S Al-Imran (3): 96 which reads: "Verily, the first house built for mankind is the House of Allah in Bakkah (Mecca), which is blessed and a guide for all mankind". From the verse there is an opinion that says that the Ka`bah was built during the time of Prophet Adam, and continued its construction during the time of Prophet Abraham and Prophet Ismail, and was inherited by Prophet Muhammad SAW. Thus, the Ka`bah was built during the time of Prophet Abraham which coincided with the teaching of monotheism. Therefore it can be said that waqf property has existed since the time of Prophet Abraham. The practice of waqf became more widespread during the Umayah dynasty and the Abbasid dynasty, everyone flocked to implement waqf, and waqf was not only for the poor, but waqf became capital to build educational institutions, build libraries and pay salaries for staff, salaries for teachers and scholarships for students. The enthusiasm of the community for the implementation of waqf has attracted the attention of the state to regulate the management of waqf as a sector to build social and economic solidarity of the community. (Ministry of Religious Affairs of the RI. 2017).

The history of waqf in Turkey is also said to be very old. In this country, waqf is known as vakvive, which means public service to promote morality, virtue, respect, and love in society. Since the time of the Ottoman Turks, waqf has supported various public services and sustained the financing of various artistic and cultural buildings. The popular types of waqf at that time were various types of immovable property and cash waqf, which had been practiced since the early 15th century CE. This tradition continued extensively throughout the 16th century CE while during the Ottoman rule in Turkey, waqf funds managed to alleviate state expenditures. Especially to provide educational facilities, urban facilities and other public facilities. The political power gained by the Ottoman dynasty automatically facilitated the implementation of Islamic law, including waqf regulations. Among the laws enacted under the Ottoman dynasty was the Accounting Regulation for the Implementation of Waqf, promulgated on 19 Jumadil final 1280 AH. The law regulates waqf registration, efforts to achieve the objectives of waqf, and the institutionalization of waqf with the aim of realizing waqf from an administrative and regulatory perspective. Then during the colonial period, a government under Dutch rule was established, so every act of land waqf must be known by the state. As for the waqf assets that were regulated, they were only limited to immovable objects in the form of land, not regulating movable waqf assets even though at that time there were already those who donated Qur'ans, prayer mats, and bricks.

After Indonesia's independence, waqf regulations developed in a positive direction. Exactly five months after Indonesia's independence, on January 3, 1946, the Ministry of Religious Affairs was established based on the decree of the President of the Republic of Indonesia. The main task of the Ministry of Religion is to accommodate religious affairs and organize activities based on its teachings, so since then waqf has become the authority of the Ministry of Religion. With this government regulation, the waqf of property began to enter a new phase. Perwakafan of land owned began to be orderly and maintained. With the enactment of government regulations regarding waqf has a strong legal basis. Because during that time, the regulations governing waqf were inadequate, many problems arose in the community, such as many land disputes, unclear land status, unknown circumstances, misuse of waqf assets, etc.

Furthermore, waqf in Aceh province is regulated in Aceh Qanun No. 10/2018 which explains that Baitul Mal Aceh (BMA) is an independent and special institution that has the authority to maintain, safeguard, develop and manage zakat, infaq, waqf and other religious assets. The district or city waqf agency in Aceh province is called Baitul Mal Kota/Kabupaten (BMK), and Baitul Mal Gampong (BMG) at the village level. According to Maulana and Ibrahim (2022), there has been significant development in the form of land waqf in the province of Aceh. Information obtained from the Waqf Information System shows that the total area of waqf land in Aceh is up to 8,746.70 hectares and distributed in 16,122 location points. In Aceh Tengah alone, the area of waqf land is around 67.58 hectares and 369 location points. Aceh has such vast waqf land assets, yet it is unable to contribute positively to the social and economic aspects of the community in its efforts to reduce poverty and create prosperity. It can be seen from the data information contained in the Central Bureau of Statistics (BPS) Aceh in 2022 about the poor population in Aceh, reaching 806.82 people (14.64%) of the total population of Aceh which is 5,407,855 people.In the Aceh region, especially in Aceh Tengah, waqf assets are collected and managed by waqf managers in each KUA (Office of Religious Affairs) located in all sub-districts in Aceh province. The Nazir is in charge of receiving waqf property from the waqif so that it can be managed and expanded according to its original purpose. The waqf Nazir is an individual who has been registered with the Indonesian Waqf Board (BWI) Aceh branch office, responsible for the management of waqf assets. BWI only serves as a guide and supervisor of the waqf assets. All reports and accountability related to waqf assets will be reported at the Ministry of Religious Affairs Office in Aceh Tengah and forwarded to the Aceh Provincial Ministry of Religious Affairs Office.

Waqf management in Aceh Tengah is divided into fourteen sub-districts. All sub-districts in Aceh Tengah have waqf assets and waqf nazirs. The majority of waqf assets in Aceh tengah are located in mosques, mushala, cemeteries and schools. Ironically, from so many potential waqf lands in Aceh, according to statistical data, the poverty rate in Aceh is still in the first position in Sumatra (Hidayatullah.com, launched on May 13, 2024). Data related to waqf management is still very limited. According to the Waqf Information System, the waqf-related data collected in Aceh Tengah is still focused on the list of waqf properties, land size, nazir, waqif, and other factors. However, specific information needed to evaluate the performance of waqf land is not yet available. The lack of relevant data obtained makes it difficult to record the performance of the nazir. Waqf assets that are basically unable to produce anything or the absence of potential contained so that the benefits cannot be felt, this is a major obstacle in empowering waqf assets to be more productive.

In Islam, there is a term called istibdal waqf. Istibdal waqf is the exchange of waqf property for something, whether the waqf property is sold first and then replaced with another item or moved. The validity of this practice is controversial among the fuqaha', some of whom support it with various considerations, but many others oppose its implementation. According to the scholars of the madhhabs, basically, a property that has been endowed may not be changed, whether it concerns the issue of designation or other uses. However, the Mazhabs of Hambali and Hanafi allow the practice, considering that the nature and purpose of waqf is to provide benefits to society. If the waqf asset is damaged and can no longer benefit the community, it may be sold or exchanged for other assets that are more useful. The Shafi`i and Maliki schools, on the other hand, are very cautious on this issue, and they even tend to prohibit the practice. Selling and exchanging waqf assets is permissible provided that there is an emergency or urgent need, such as a mosque that is about to collapse. On the issue of istibdal, the Malikiyah scholars differentiate the law of istibdal of movable waqf assets, immovable waqf assets and waqf assets in the form of mosques. Especially for waqf assets in the form of mosques, they agree that istibdal mosques are absolutely prohibited. For movable waqf, Malikiyah scholars allow istibdal to be done by considering the benefit. The Shafi'i school has a very firm stance compared to the other schools so that it seems they prohibit the istibdal of waqf property absolutely. This can be understood because they strongly emphasize the preservation of waqf property so as to avoid abuse in its implementation.

In its implementation, Malaysia and Brunei Darussalam do not use the Syafi`i school of thought but use the Hanafi school of thought, because it is considered capable of providing greater benefits. According to Ridha quoted by Darmawan (2020), seeing greater maslahah, the Aceh government in 2008 implemented a project, namely the widening of Imum Lueng Bata road and the addition of the Green Zone area. The land used is waqf land owned by the Jami` Lueng Bata Mosque. The benefits provided by the change in land status were the ease of transportation and also creating a green area for the people of Aceh. Based on the description above, the author is interested in examining the Analysis of the Understanding of Nazir, Ulama and Scholars Towards Waqf Istibdal in Aceh Tengah. This research is the latest so that the data in this study are new and in accordance with existing conditions in the field.

2. Methods

This research uses a qualitative approach with descriptive methods. Data collection was conducted by interviewing five samples/informants, namely three nazir, one ulama and one scholar in Aceh Tengah using Accidental sampling technique.

3. Result and Discussion

a. Understanding of the definition of istibdal

Basic knowledge gives birth to understanding and also awareness, someone who wants to practice waqf istibdal must first understand what is meant by waqf istibdal. From the five informants, it is clear that istibdal waqf can be practiced but with consideration of the nature and purpose of the waqf for the benefit of the people and the ain waqf should not be eliminated.

b. Understanding of the usefulness of waqf istibdal

In interpreting a potential, it is necessary to first know whether it can be applied in the cultural order and behavior of society. The role of istibdal waqf in neighboring countries such as Malaysia and Singapore results in positive economic empowerment. The overall property values from the proceeds of istibdal waqf in Singapore increase every year, supported by the acceptance of the practice from the nazir and also the community of course. The result is that two nazirs, ulama and scholars agree that the practice of waqf istibdal is implemented but with a deliberation mechanism and greater benefits, but one of the nazirs refuses to implement the practice of waqf istibdal because it adheres to the prohibitions of the Imam Syafi'i school of thought.

c. Understanding of the use of istibdal waqf

In changing the value of a waqf according to fiqh law, there should be no use of the value of the waqf being replaced. At the very least, the waqf asset to be replaced must be of the same or fixed value, preferably if the waqf asset to be replaced increases in value continuously as well as suitable geographical conditions and of course also the support of adequate Islamic Resource management. In changing the value of a waqf according to fiqh law, there should be no use of the value of the waqf being replaced. At least the waqf asset to be replaced must be of the same or fixed value, it is even better if the replaced waqf asset increases in value continuously as well as suitable geographical conditions and of course also the support of adequate Islamic Resource management. The five informants said that the suitable sectors as a replacement for the waqf assets to be endowed in Aceh Tengah are the agriculture and education sectors, because in Aceh Tengah which is geographically a rural area, the productive waqf sectors that are considered suitable are the agriculture and education sectors.

d. An understanding of the role of the waqf board in the istibdal of waqf

In carrying out its duties as a state waqf institution, the Indonesian waqf board has a procedure for how to process a waqf asset. Nazir as the holder of the mandate must understand how the right procedure so that the purpose and value of the waqf property is not lost or reduced. Based on the opinions of the 3 Nazirs and the MPU of Aceh Tengah above, they obey and agree if the waqf istibdal procedure follows government regulations, as well as scholars agree, but there is a more suitable opinion, namely the establishment of clear regulations from the government which assets can be changed and which ones cannot.

e. Understanding of the implementation of istibdal waqf

The implementation of a policy must be accompanied by Qanun and the Law, Qanun and the Law function as a legal basis in a country and as an appeal to fellow citizens in responding to a policy, as well as having knowledge and skills in their fields so that all the objectives of a policy can be achieved. The results showed that the nazir, ulama and scholars agreed with the existence of government regulation No. 42 of 2006 regarding istibdal waqf being a positive thing designed by the government to be a solution to the problem of waqf and for nazir training, the informants strongly agreed because nazir training in Central Aceh was still very minimal.

4. Conclusion

Based on the results of the research discussed in the previous chapter, the authors draw the following conclusions:

1. On the indicator of understanding the definition of istibdal waqf, 3 nazir, ulama and scholars in Aceh Tengah fully understand what is meant by the term istibdal waqf both in terms and also legally.
2. In the indicator of understanding the usefulness of waqf istibdal in Aceh Tengah, if waqf istibdal is implemented, the benefits can be felt socially and economically. The social benefit that occurs is the ease of community mobility due to the acquisition of waqf land for road expansion and other uses. Economically, it encourages the development of productive waqf from the funds obtained through the proceeds of waqf istibdal. Istibdal waqf practice can be implemented when there is a greater harm if it is not replaced by the interests of other people. Most

importantly, this practice must be accompanied by sufficient understanding from the nazir and also the community so that there are no mistakes in practicing it.

3. On the indicator of understanding the use of waqf istibdal, all nazir, ulama and scholars agree that waqf that is istibdalkanized can be transferred to productive waqf in the education and agriculture sectors such as foundations and coffee plants whose proceeds are channeled if the foundation is for underprivileged students, the poor. Likewise, with coffee, if the harvest has been harvested, the results are channeled for village needs. This sector is considered effective because Aceh tengah is a village area and also easy to maintain.
4. On the indicator of understanding the role of the Waqf Board, nazirs, ulama and scholars consider it important because they believe and comply with the procedures set by the Indonesian Waqf Board. However, the important thing to note is that the process must not reduce the value of the waqf property being replaced. However, there is an addition from the scholars according to which a clear regulation from the government should be established as to which assets can be reallocated and which cannot. The established procedures should follow the advice and direction of the scholars, and require mediation with community leaders to prevent misunderstandings.
5. On the indicator of the implementation of waqf istibdal from a legal perspective, the views of nazir, ulama and scholars on the established law are considered effective in dealing with the problem of waqf istibdal in Indonesia, so as to prevent defects and misuse of waqf assets in the process. In establishing policies related to religious assets, the government needs to pay attention to the provisions of sharia and the needs of the community. In the context of training to improve the professionalism of nazirs in the productive management of waqf assets, nazirs, ulama and scholars emphasize the need for training so that nazirs are able to effectively develop waqf assets.

5. References

Adila. (2023). Analisis Kinerja Nazhir Pada Pemanfaatan Dan Pengelolaan Wakaf Untuk Operasional Dayah Di Kecamatan Pidie. Fakultas Syariah dan Hukum, Universitas Islam Negeri Ar-Raniry. Banda Aceh

Arifin & Abdurrahman. (2018). Perubahan Peruntukan Tanah Wakaf Di Luar Yang Diikrarkan: Suatu Penelitian Penggunaan Tanah Wakaf Mesjid Gampong Barat Kecamatan Simpang Tiga Kabupaten Pidie.

Azzahro, F, S. (2022). Jurnal. *Istibdal Waqf: Sentiment Analysis.*

Darmawan, R. & Nurdin, R. (2020). Jurnal: *Analisis Pemahaman Nazhir Terhadap Istibdal Wakaf Di Kota Banda Aceh.*

Hassan, T. (2021). Ketua Badan Wakaf Indonesia. *Istibdal Harta Benda Wakaf.* http://www.bwi.or.id.

Huda, S. (2021). Jurnal: *Ulama Pewaris Para Nabi. Kajian Awal Tipologi Ulama Kontemporer.*

Kementrian Agama RI. (2017). *Dinamika Perwakafan di Indonesia dan Berbagai Belahan Dunia.*

Kementrian Agama RI. (2018). *Himpunan Peraturan Perundang-Undangan tentang wakaf.* Kementrian Agama RI.

Lirboyo, Kediri. (2018). *"Fikih Wakaf Lengkap".* Lajnah Bahtsul Masail Pondok Pesantren: Lirboyo Press.

Mahasna, A,.S, & Almuin, N. (2019). *Analisis Hukum Tukar Guling Tanah Wakaf (Studi Kasus Tanah Wakaf di Indonesia.*

Maulana, W, & Ibrahim, R. (2022). *Analisis Determinan Kenerja Nazhir Wakaf di Kota Banda Aceh. Jurnal Ilmiah Mahasiswa Ekonomi Islam.* Vol.2, No. 1, hlm. 18-39.

Mediani. (2019). Pemahaman Keabsahan Tukar Guling Tanah Wakaf Di Kalangan Nazhir: Studi Kasus Tukar Guling Tanah Wakaf Milik Masjid Al-Hikmah Kelurahan Dekoro. Fakultas Syariah, Institute Agama Islam Negeri. Pekalongan.

Nisa & Choirun. (2017). *Sejarah, Dasar Hukum dan Macam-Macam Wakaf.* hlm. 205-219.

Noor, F, M. Asni, F. Rani, A,.M, M. & Ramle, M,R. (2022). *Jurnal: Analysis Of Isues and Solution on the Implementation of Istibdal Waqf Property in States Of Peninsular Malaysia.*

Nur Aini & Rifzaldi Nasri. (2018). Determinan Persepsi Nazhir Serta Implikasinya Terhadap Pengelolaan Wakaf Tunai (Badan Wakaf Indonesia_Banten).

Putri. (2019). Implementasi Wakaf *Istibdal* Perspektif Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf. Fakultas Syariah, Universitas Islam Negeri Maulana Malik Ibrahim. Malang.

Putrianti. (2018). Analisis Ruislag Tanah Wakaf Menurut Peraturan Perundang-Undangan: Studi Pada. Perumahan Kota Kembang (Grand Depok City). Fakultas Syariah dan Hukum, Universitas Islam Negeri Syarif Hidayatullah. Jakarta.

Sarwat, A. (2018). *FIQIH WAQAF. Mengelola Pahala Yang Tidak Berhenti Mengalir.* https://rumahfiqih.com/pdf/x.php?id=3&fiqih-waqaf.htm

Seli. (2019). *Pemahaman Masyarakat Kota Bengkulu Terhadap Fungsi Dan Tugas Otoritas Jasa Keuangan (OJK) Dalam Pengawasan Dan Perlindungan Konsumen.*

Setyorini, S, & R.R. Kurniawan. (2022). *Sejarah Wakaf Dalam Islam Dan Perkembangannya.*

Siddiq, A. (2023). Jurnal. *Analisis Kritis Terhadap Pengaturan Istibdal (Penukran) Wakaf Dalam Peraturan Perundangan Perwakafan Indonesia.*

Syaripudin, E, L. & Furkony, D, K. (2021). Jurnal: *Kualitas Dan Kiprah Dosen PTKIS Sebagai Cendekiawan Ekoonomi Islam.*

Tholhah Hasan. (2017). *Istilah Harta Benda Wakaf*