

## **WAQF MANAGEMENT ACCORDING TO LAW NUMBER 41 OF 2004 ON WAQFIN: A case study at the Al Muslim University Foundation Indonesia**

**Muthawalli**

Universitas Islam Negeri Ar-Raniry Banda Aceh, Indonesia  
Email: 210102172@student.ar-raniry.ac.id

**Ida Friatna**

Universitas Islam Negeri Ar-Raniry Banda Aceh, Indonesia  
Email: ida.friatna@ar-raniry.ac.id

**Husni A Jalil**

Universitas Islam Negeri Ar-Raniry Banda Aceh, Indonesia  
Email: husni.ajalil@ar-raniry.ac.id

### **Abstract**

This article aims to analyse the management of waqf by institutional trustees at the Almuslim University Foundation in Bireuen from the perspective of Law No. 41 of 2004 on Waqf and *fiqh muamalah*. This study employs a qualitative method with a legal-empirical approach to evaluate the alignment between normative regulations and the practice of managing productive endowments at the institutional level. The findings reveal that the Almuslim University Foundation in Bireuen has fulfilled its role as a nazir by endeavouring to develop endowment assets, such as constructing educational facilities and engaging in productive collaborations. However, this management still faces several challenges, including the lack of integrated financial reporting, the dominant use of endowment proceeds for consumptive financing without a long-term capitalization strategy, and the risk of legal uncertainty regarding the status of assets derived from management, which could trigger administrative disputes. These conditions pose a potential threat to the accountability and sustainability of the social and economic functions of endowments. Therefore, institutional capacity building, enhancing the professionalism of administrators, improving digital-based reporting systems, and optimising oversight by the Indonesian Waqf Board are necessary. These findings underscore that the implementation of professional and transparent waqf governance principles is key to making waqf a sustainable and accountable instrument for community empowerment.

**Keywords:** Aceh, Almuslim foundation, Institutional Trustees, Management, and Law No. 41 of 2004 on Waqf



### Abstrak

Artikel ini bertujuan untuk menganalisis pengelolaan wakaf oleh nadzir lembaga di Yayasan Universitas Almuslim Bireuen dalam perspektif UU No. 41 Tahun 2004 tentang Wakaf dan *fikih muamalah*. Penelitian ini menggunakan metode kualitatif dengan pendekatan yuridis-empiris untuk mengevaluasi keselarasan antara peraturan normatif dan praktik pengelolaan wakaf produktif di tingkat lembaga. Temuan penelitian menunjukkan bahwa Yayasan Universitas Almuslim Bireuen telah menjalankan perannya sebagai nazhir dengan berupaya mengembangkan aset wakaf, seperti membangun fasilitas pendidikan dan melakukan kerja sama produktif. Namun demikian, pengelolaan ini masih menghadapi beberapa tantangan, antara lain belum adanya pelaporan keuangan yang terintegrasi, penggunaan dana wakaf yang dominan untuk pembiayaan konsumtif tanpa adanya strategi pemupukan dana jangka panjang, dan risiko ketidakpastian hukum terkait status harta hasil pengelolaan yang dapat memicu sengketa administratif. Kondisi-kondisi tersebut berpotensi mengancam akuntabilitas dan keberlanjutan fungsi sosial dan ekonomi dana abadi. Oleh karena itu, peningkatan kapasitas kelembagaan, peningkatan profesionalisme nazhir, perbaikan sistem pelaporan berbasis digital, dan optimalisasi pengawasan oleh Badan Wakaf Indonesia menjadi penting untuk dilakukan. Temuan-temuan ini menggarisbawahi bahwa penerapan prinsip-prinsip tata kelola wakaf yang profesional dan transparan merupakan kunci untuk menjadikan wakaf sebagai instrumen pemberdayaan masyarakat yang berkelanjutan dan akuntabel.

**Kata kunci:** Aceh, Hukum Islam, Almuslim foundation, Lembaga Pengawas Wakaf, dan UU No. 41 Tahun 2004 tentang Wakaf

## INTRODUCTION

Management, at its core, is a series of planned, systematic, and continuous efforts to utilize, maintain, and develop an asset so that it provides added value in accordance with its intended purpose. In the context of religious social assets, management encompasses administrative aspects, benefit development, supervision, and public accountability.<sup>1</sup> Waqf management is not merely about preserving the physical holdings of waqf but also ensuring the sustainability of economic and social benefits.<sup>2</sup>

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<sup>1</sup> Chairul Fahmi and Syarifah Riyani, "ISLAMIC ECONOMIC ANALYSIS OF THE ACEH SPECIAL AUTONOMY FUND MANAGEMENT," *Wahana Akademika: Jurnal Studi Islam Dan Sosial* 11, no. 1 (July 2024): 89–104, <https://doi.org/10.21580/WA.V11I1.20007>.

<sup>2</sup> Muhammad Abu Zahrah, *Muhadlarah fi al-waqf* (Cairo: Dar al-Fikr al-arabi, 1971).  
p. 71



In Indonesia, waqf management has been given a clear legal framework through Law No. 41 of 2004 on Waqf, Government Regulation No. 42 of 2006, and technical regulations from the Indonesian Waqf Board (BWI). These regulations require trustees to manage waqf products effectively, prepare separate and integrated financial reports, and develop assets through legitimate Shariah investments. Waqf management in Indonesia also emphasizes transparency, accountability, and professionalism as essential requirements to ensure that waqf assets are not merely passive assets but become a sustainable source of funding for the benefit of the community.<sup>3</sup>

Waqf is one of the most significant instruments of financial worship with great potential for social and economic development of the community. The main principle of waqf lies in the preservation and optimization of the benefits of the donated assets, the management of which is entrusted to a nazir. The nazir is not only responsible for administrative management but also for developing the waqf assets to remain productive and provide sustainable benefits to the community. Therefore, the position of nazir is highly strategic and requires a trustworthy and competent individual.<sup>4</sup>

The role of the nazir is highly significant in the practice of waqf management. In classical *fiqh*, the nazir is not included among the rukun or valid conditions of waqf. Scholars have differing views regarding the status and appointment of the nazir. Hanafi scholars grant full authority to the waqif to appoint themselves or another party as nazir. Meanwhile, Maliki scholars reject self-appointment as nazir by the waqif to avoid conflicts of interest. Shafi'i scholars hold diverse views, some granting the right to the waqif, the *mauquf 'alaih*, or the judge in appointing the nazir. The Hanbali school states that if the waqf is not designated as a waqf al, and the waqf has not designated a nazir, then the authority lies with the judge or the *mauquf 'alaih*, depending on the type of waqf.

In the context of positive law in Indonesia, the role and position of the nazir have been legitimized through Law No. 41 of 2004 on Waqf. The nazir may be an individual, an organization, or a legal entity, provided that its management complies with the principles, objectives, and functions of the waqf. These provisions offer scope for institutions such as foundations to act

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<sup>3</sup> Wahbah Az-Zuhaili, *Islamic Jurisprudence and Its Evidence* (Damascus: Dar al-Fikr, 2007). pp. 76-86

<sup>4</sup> Chairul Fahmi, "The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industrial in Aceh, Indonesia," *Jurnal Ilmiah Peuradeun* 11, no. 2 (May 2023): 2, <https://doi.org/10.26811/peuradeun.v11i2.923>.



as legal nazirs of waqf, provided they meet the administrative and substantive requirements set out in the relevant regulations.<sup>5</sup>

The Almuslim Peusangan Foundation in Bireuen Regency is a concrete example of an institution that has assumed the role of institutional nazhir over the waqf land of the Peusangan community, which is designated for Islamic education. The Almuslim Peusangan Foundation has been managing the endowed land since 1930. The foundation officially acts as the trustee for the endowed assets donated by Teungku Diglee Sabee and Teungku Nekmat. Over time, the Peusangan community actively participated in endowing rice fields and gardens to support education, thereby establishing a strong and independent Islamic education system.<sup>6</sup>

The change in status of Jam'iyah Almuslim to the Almuslim Peusangan Foundation in 1983 was an adaptation to Indonesia's positive legal system, as well as an effort to strengthen the legal standing of this institution as a legal entity acting as a trustee. One of the educational institutions under the foundation's umbrella is Al Muslim University, which is built on endowed land and has become a focal point in the context of productive endowment management.<sup>7</sup>

Although the Almuslim Foundation has functioned as a legal entity, its management of waqf has not been fully optimal as mandated by Law No. 41 of 2004. The recording and reporting of waqf finances have not been done in the form of *combined financial statements*; instead, they are recorded separately by each educational unit. This has resulted in weak financial information integration and has the potential to obscure the accountability of the foundation as a *nazhir*.<sup>8</sup> Assets generated from the management of waqf by educational units such as Al Muslim University are not recorded as part of the waqf assets. Still, they are merely considered as "derivative assets of waqf." This separation in recording indicates differing interpretations of the legal

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<sup>5</sup> Directorate of Zakat and Waqf Development, *Paradigma Baru Waqf di Indonesia* (Jakarta: Ikhlas Beramal, 2004). pp. 43-44

<sup>6</sup> Ministry of Religion of the Republic of Indonesia, *Guidelines for Empowering Productive Strategic Waqf Land in Indonesia* (Jakarta: Directorate of Waqf Empowerment, 2008). pp. 56-60

<sup>7</sup> Alfurqan, "The Position of Nazhir in Waqf Institutions (Waqf Independence for Muslims in Bireuen District)" (Dissertation, UIN Ar-Raniry Banda Aceh, 2021). pp. 70-72

<sup>8</sup> Miftahul Jannah, Azila Ahmad Sarkawi, and Jamilah Othman, "Legalization of Waqf Forests in Indonesia: The Registration Process," *Indonesia Law Review* 10, no. 3 (2020), <https://doi.org/10.15742/ilrev.v10n3.629>.



status of assets generated from waqf management, which has implications for the structural growth of waqf assets.<sup>9</sup>

The use of proceeds from managing waqf land remains focused on consumptive financing, such as teacher allowances and social assistance, without a significant strategy for capitalizing assets in the form of long-term investments that support the development of the education and social sectors. On the other hand, the management system of these foundations still maintains a community consultation model as the basis for decision-making. However, it demonstrates local wisdom and community participation; it is not fully aligned with the organisational appointment system of foundations as stipulated in the endowment law.

Normatively, Nazhir foundations are required to develop waqf assets productively, prepare integrated financial reports, and be accountable to the community and the Indonesian Waqf Board for their management. However, in practice, the field has not fully reflected these principles. This study is essential to evaluate the extent to which professional waqf governance principles have been implemented by the Al Muslim Peusangan Foundation, particularly in the management of waqf for the Al Muslim University of Bireuen.<sup>10</sup>

The weak condition of waqf asset recording and management not only impacts administrative aspects but also poses broader risks to the sustainability of the social and economic functions of waqf. The lack of clarity in asset classification by management can trigger administrative disputes and erode public trust in the foundation as a trustee. In the long term, this condition has the potential to weaken the image of Islamic educational institutions and hinder the strengthening of waqf as a strategic instrument for community empowerment.

The author feels it is necessary to further investigate how the management of waqf and long-term asset development strategies are implemented by the *nazhir* of this institution through the Al Muslim University Foundation, particularly in the context of the provisions mandated by Law Number 41 of 2004 concerning Waqf. This study is crucial for assessing

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<sup>9</sup> Muhammad Munir, "The Effect of Return On Assets (ROA) on The Expenditure of Zakat Funds in Islamic Banks in Indonesia," *LAN TABUR : Jurnal Ekonomi Syariah* 3, no. 2 (2022), <https://doi.org/10.53515/lantabur.2022.3.2.109-123>.

<sup>10</sup> Interview with the Board of Trustees of Almuslim University Foundation Bireuen in 2025



the degree to which these regulations are effectively implemented at the institutional level.

## RESEARCH METHOD

This study employs a qualitative research design with a descriptive-analytical method to describe the condition of productive endowment management by the Almuslim University Foundation in Bireuen, serving as an institutional trustee. The approach used in this study is a legal-empirical approach, which involves examining legal norms and their application in real-world practice.<sup>11</sup> Through this approach, the author discusses the conformity between the provisions of the *fiqh muamalah* law and Law Number 41 of 2004 concerning Waqf with the reality of waqf management carried out by the foundation. The data in this study consists of primary and secondary data. Primary data were obtained through direct interviews with the secretary of Almuslim University and field observations. In contrast, secondary data were obtained from relevant literature, including books, scientific journals, and regulations related to waqf and nazir management. This study aims to evaluate the effectiveness of institutional nazirs in managing waqf assets productively, as well as to examine the relevance of existing regulations in supporting the implementation of waqf at the educational institution level.

## RESULTS AND DISCUSSION

### A. Nazir in Waqf Management

The term "*nazir*" originates from the Arabic word "*nazara*," which means to see, oversee, or maintain something.<sup>12</sup> From this meaning, it can be understood that a nazir has the responsibility to ensure that something remains in good condition and accordance with its original purpose. In the context of waqf, the term *nazir* is often translated as manager, guardian, or custodian of waqf, whose duty is to manage waqf assets so that their benefits continue to be realised.

Terminologically, a nazir is an individual or institution that has been mandated or appointed to manage, maintain, and develop waqf assets by

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<sup>11</sup> Muhammad Siddiq Armia, *PENENTUAN METODE & PENDEKATAN PENELITIAN HUKUM*, ed. Chairul Fahmi (Banda Aceh: Lembaga Kajian Konstitusi Indonesia, 2022).

<sup>12</sup> Onny Medaline, "The Development of 'Waqf' on the 'Ulayat' Lands in West Sumatera, Indonesia," *Journal of Social Science Studies* 5, no. 1 (2017), <https://doi.org/10.5296/jsss.v5i1.10419>.



sharia provisions. In *fiqh* literature, a *nazir* is also referred to as a *mutawalli*, which is the party responsible for managing the *waqf*, from administration and physical management to the distribution of *waqf* proceeds to beneficiaries. The principle of trustworthiness is a fundamental value in the concept of a *nazir*.<sup>13</sup>

A *nazir* is not merely a technical administrator but also a stakeholder who safeguards the continuity of the values of *waqf* as an act of worship. The concept of a *nazir* inherently intersects with the principles of public responsibility and high personal integrity. The views of Islamic legal experts indicate that the definition of *nazir* contains inherent social and spiritual dimensions. *Nazirs* are not only required to have administrative skills, but also individual piety, because the management of *waqf* involves the blessings of wealth.

According to the Hanafi school of thought, a *nazir* is a party appointed by the *waqif* to manage the *waqf*. Hanafi scholars give the *waqif* the flexibility to appoint himself as *nazir*, provided that this does not give rise to a potential conflict of interest. This view emphasizes the principle of flexibility in the appointment of *waqf* managers, taking into account the capacity and complete trust of the *waqif* in the appointed party. In contrast, the Maliki school of thought firmly rejects self-appointment as a *nazir*, as it is feared that this may lead to bias and abuse of authority.<sup>14</sup>

The Shafi'i scholars divide the appointment of a *nazir* into two categories: direct appointment by the *waqif* in the *waqf* declaration, and appointment by a sharia judge if the *waqif* does not explicitly designate a *nazir*. The Shafi'i school of thought emphasizes the formal legal aspects of appointing a *nazir* to ensure legal certainty. Meanwhile, the Hanbali school of thought argues that

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<sup>13</sup> Ahmad Hafzi, "The Role of the *Waqf* Trustee from the Perspective of BWI Regulation No. 1 of 2020 and *Fiqh* of *Waqf* by Elfia, Postgraduate Programme, UIN Imam Bonjol Padang," *Journal of Community Studies and Development* 7, no. 1 (2024): 5-7, <https://jurnal.umsb.ac.id/index.php/ummatanwasathan/article/view/5046>.

<sup>14</sup> Ahmad Furqon, "Management of Productive *Waqf* Land: A Case Study of the *Waqf* Administrator of the Masjid Welfare Board (BKM) of Semarang City and the Muslimin Foundation of Pekalongan City," *AL-AHKAM* 26, no. 1 (2016): 94-95, <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://jurnal.hukumonline.com/a/5cb4932c01fb73000fce0bc3/pengelolaan-waqf-tanah-produktif-studi-kasus-nazhir-badan-kesejahteraan-masjid-bkm-city-of-semarang-and-the-muslimin-foundation-of-the-city-of-pekalongan/amp;ved=2ahUKEwj5eTu1a2NAxV31TgGHeKJDokQFnoECBYQAQ&usg=AOvVaw1IOuxKx0eTvQZ0GfZe4md4>.



if a nazir is not appointed, the authority passes to the judge or the beneficiary (*mauquf 'alaih*) based on the type of waqf.

Contemporary legal scholars also affirm that the concept of nazir must include managerial competence, as social realities demand productive and transparent management of waqf. Ahmad bin Muhammad al-Khatib, in his work, states that the nazir is the administrator of the waqf who has full authority to safeguard the assets, develop them, and distribute the proceeds for their intended purpose. In a modern perspective, the responsibilities of a nazir even include regular financial reporting and the application of *sound governance* principles.<sup>15</sup>

Wahbah az-Zuhaili argues that a nazir is not merely an administrative manager but also a guardian of Sharia values in the management of waqf. A nazir who is negligent or abuses their authority is deemed guilty and must be held accountable for any losses incurred. These diverse perspectives demonstrate that the concept of a nazir in *fiqh mazhab* is highly comprehensive, encompassing legal, moral, and social aspects.

*Nazir* and *waqf* are two integral elements in the structure of *maliyyah* worship. Without the existence of a nazir, the management of waqf would lack a professional oversight and management system. The nazir serves as an instrument that bridges the intentions of the waqif with the beneficiaries, ensuring that waqf assets are always preserved and developed in accordance with the objectives of sharia. In many texts, it is stated that the presence of a nazir is the key to the sustainability of waqf benefits, especially for assets requiring long-term management.

This interconnection becomes even clearer when waqf assets are not just idle land, but have been developed into productive waqf that generates economic surplus. In this situation, the nazir has a dual responsibility, namely to preserve the principal assets and manage the proceeds from development for the benefit of the community. The concept of the interconnection between the nazir and waqf forms the basis for the enactment of legislation in many Islamic countries, including Indonesia.<sup>16</sup>

Law No. 41 of 2004 affirms this close relationship by stating that the *nazir* is legally and morally responsible for managing the waqf in a trustworthy

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<sup>15</sup> Abdurrahman Kasdi, "The Role of Nadzir in the Development of Waqf," *ZISWAF* 1, no. 2 (2014): 215–16.

<sup>16</sup> Nurul Hidayah, "The Role of Nazir in Optimising Waqf Assets Based on Law No. 41 of 2004," *Journal of Waqf and Islamic Philanthropy* 6, no. 1 (2023): 33–50, <https://doi.org/10.7890/jwfi.v6i1.708>.

manner. Article 43 of the waqf law states that the *nazir* is obligated to manage and develop the waqf assets productively, while adhering to the objectives of the waqf. These provisions demonstrate that the role of the *nazir* is the primary link between the idealistic nature of waqf as a form of worship and the accountable practice of its management.<sup>17</sup>

In the context of educational institutions, the connection between the *nazir* and the waqf becomes even more important because waqf assets often serve as the foundation for providing learning facilities. The *nazir* of an institution is obligated to formulate professional management strategies to ensure that assets are not only beneficial in the short term but also capable of supporting long-term educational funding. The principle regarding the obligation to manage trusts, including waqf trusts, is indirectly found in the Qur'an, Surah An-Nisa, verse 58, which reads: "Indeed, Allah commands you to convey the trust to its rightful owners. When you judge between people, judge with justice. Indeed, Allah gives you the best advice. Indeed, Allah is All-Hearing, All-Seeing." (Q.S. An-Nisa: 58)

This verse forms the foundation of the principle of trust in all forms of asset management, including waqf. Exegetes emphasize that the trust referred to in this verse has a broad scope, encompassing the responsibility to safeguard, maintain, and develop public or private assets entrusted to someone. Thus, a *nazir* essentially must carry out this trust with full responsibility.

The meaning of this verse also affirms that the position of *nazir* is not merely an administrative role but also entails moral and spiritual responsibility. A *nazir* who manages waqf with full commitment and professionalism will receive blessings. At the same time, those who squander the trust will be sinful and bear the consequences in this world and the hereafter.

Law No. 41 of 2004 on Waqf comprehensively regulates the position of the *nazir* as the party authorized to manage waqf assets. Article 1(4) of the waqf law defines the *nazir* as the party who receives waqf assets from the *waqif* to be managed and developed for their intended purpose. This provision emphasizes the legal formalities of appointing a *nazir*.

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<sup>17</sup> Chairul Fahmi, "Revitalisasi Penerapan Hukum Syariat Di Aceh (Kajian Terhadap UU No.11 Tahun 2006)," *Tsaqafah: Jurnal Peradaban Islam* 8, no. 2 (May 2016): 295–309, <https://doi.org/10.21111/tsaqafah.v8i2.27>.



Article 9 states that a *nazir* may take the form of an individual, an organization, or a legal entity. This provision opens the possibility for educational institutions, such as foundations, to become institutional *nazirs*. The requirements for *nazir* are also clearly stipulated in Article 10, including physical and mental capacity, integrity, religious knowledge, and the ability to manage waqf assets. This shows that the legislator wants to ensure that *nazirs* are not only administratively competent but also have moral integrity.

This law also regulates the obligations of *nazir*, including recording waqf assets, reporting management results to the Indonesian waqf board, and developing assets productively. These provisions provide a legal framework to prevent misuse or negligence in waqf management. In addition, this law emphasizes the supervision and accountability of the *nazir*. Article 43 states that *nazirs* are obliged to account for the management of waqf transparently. This emphasis on accountability aligns with the principles of good governance required in modern waqf management.<sup>18</sup>

According to *fiqh muamalah*, the requirements for a *nazir* include being of legal age, of sound mind, Muslim, trustworthy, and capable of managing assets. These provisions are intended to ensure that the *nazir* has the integrity and competence to carry out their responsibilities. Scholars agree that a *nazir* must not be corrupt or known as an untrustworthy person, as waqf is a sacred trust. Law No. 41 of 2004 supplements these requirements with administrative qualifications, such as physical and mental capacity, legal competence, and knowledge of waqf. These provisions serve as a benchmark for the professionalism of the *nazir*, ensuring that waqf management is accountable. In practice, these requirements serve as guidelines for the community in selecting or appointing a *nazir*.

The role of the *nazir* includes maintaining waqf assets, developing them productively, distributing benefits according to their intended purpose, recording assets, and periodically reporting on management. These functions are comprehensive, encompassing physical, administrative, and the implementation of the principles of *maqasid syariah*.<sup>19</sup> Competent *nazirs* will be able to optimize waqf assets, whether in the form of land, buildings, or cash waqf, into a sustainable source of funding that is by Islamic principles.

<sup>18</sup> Syamsuddin Yusuf, "Law No. 41 of 2004 as an Instrument for the Protection of Waqf Assets," *Journal of Law and Waqf Studies* 5, no. 2 (2024): 180, <https://doi.org/10.4110/jshw.v5i2.999>.

<sup>19</sup> Fahmi, "Revitalisasi Penerapan Hukum Syariat Di Aceh (Kajian Terhadap UU No.11 Tahun 2006)."



Conversely, weaknesses in the capacity of nazirs will result in suboptimal social benefits and the sustainability of waqf assets.<sup>20</sup>

In this study, the nazir referred to is the Almuslim University Foundation in Bireuen as an institutional nazir. This foundation has long been established as the manager of the Peusangan community's educational waqf. The foundation's status as a legal entity affords it formal legitimacy under Law No. 41 of 2004 concerning waqf. The study found that the foundation has made various efforts to manage waqf assets, such as constructing lecture buildings, providing campus facilities, and engaging in productive cooperation with third parties. However, there are several weaknesses in practice, particularly in the areas of waqf asset recording, which is not yet fully integrated, and reporting, which is not standardized. This condition raises potential risks of accountability and transparency.

In this study, the nazir of the institution not only performs administrative functions but also bears social responsibility in ensuring the sustainability of waqf-based education. Therefore, the study focuses on how the foundation, as the nazir of the institution, can optimize waqf management from the perspectives of regulations and *fiqh muamalah*.

## **B. Concept of Waqf Management**

Waqf, linguistically, comes from the word *waqafa*, which means to hold back, stop, or prevent. In Arabic terminology, this word implies maintaining something so that it remains unchanged in ownership. Therefore, the term waqf is defined as the act of withholding property from sale, gift, and inheritance. From a linguistic perspective, this meaning highlights the essence of waqf as a form of devotion that ceases private ownership rights for the benefit of the public and religious purposes.<sup>21</sup>

In terms of definition, waqf is defined by fuqaha (jurists) as withholding the principal asset (*al-ashl*) and donating its proceeds (*al-manafi'*) for the benefit of the community. Imam Syafi'i defines waqf as the act of withholding a specific item to be used forever for the sake of goodness. Meanwhile, Hanafi

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<sup>20</sup> Mhd Arif, "Responsibilities and Rights of Waqf Trustees," *Al-Mizan: Journal of Islamic Economics* 6, no. 2 (2023): 52–54, [https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://ejournal.an-nadwah.ac.id/index.php/almizan/article/view/590&ved=2ahUKEwixy5rB162NAxWF1zgGHXssHeoQFnoECBYQAQ&usg=AOvVaw16lwf2cedclXrORoLC\\_qlA](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://ejournal.an-nadwah.ac.id/index.php/almizan/article/view/590&ved=2ahUKEwixy5rB162NAxWF1zgGHXssHeoQFnoECBYQAQ&usg=AOvVaw16lwf2cedclXrORoLC_qlA).

<sup>21</sup> Agung Abdullah, "Nadzir in the Institutional Perspective of Waqf in Indonesia," *Journal of Islamic Economics* 6, no. 3 (2020): 403, doi:10.29040/jie.v6i3.1216.



scholars emphasize that waqf is the transfer of the benefits of property at a particular time without transferring ownership rights. However, in practice, it cannot be inherited or sold.

The fundamental difference between charity and waqf lies in their nature. Charity transfers ownership rights entirely to the recipient, while waqf only transfers the right of use. The emphasis on the nature of *ta'bid* (continuity) is the main characteristic of waqf that distinguishes it from gifts or ordinary charity. Based on this, waqf becomes an instrument for long-term wealth distribution. The definition of waqf in classical literature suggests that waqf is not merely a social transaction, but also the embodiment of profound spiritual values. In the concept of *fiqh*, waqf must meet certain valid conditions, such as clarity of the object, purpose, and sincere intention.<sup>22</sup>

In the context of Indonesian positive law, Law No. 41 of 2004 adopts this definition, stating that waqf is a legal act by an individual or legal entity to separate and/or transfer part of their property to be *utilised* perpetually or for a specific period in the interests of the donor, for worship, and public welfare.

Waqf property in Islam holds a special status as a form of financial worship whose benefits are sustainable. When someone donates their property as waqf, it automatically changes status from personal property to property belonging to Allah SWT, whose use is intended for the benefit of the community. Therefore, waqf cannot be inherited, sold, or donated. In *fiqh* literature, endowed property is considered to have the characteristic of permanence (*tsbut*), ensuring the continuity of its benefits. This characteristic distinguishes endowed property from ordinary charitable donations.<sup>23</sup>

Scholars consider waqf to be the most potent social instrument for distributing wealth fairly. The status of waqf property is recognized as public property (*al-mal al-amma*), whose benefits return to the broader community. This demonstrates that waqf is not merely a form of worship, but also a highly potent tool for economic empowerment. In the context of the state, waqf has strong legal recognition. Law No. 41 of 2004 explicitly guarantees the protection of waqf property. Any act that results in the loss or damage of waqf

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<sup>22</sup> Rafi Nur Shaifudin and A'rasy Fahrullah, "The Role of Nadzir in Managing Waqf Assets to Improve Community Welfare (Case Study of the Baiturrahmah Sejahtera Sidoarjo Foundation)," *Journal of Islamic Economics and Business* 3, no. 1 (2020): 98–99, <https://journal.unesa.ac.id/index.php/jei>.

<sup>23</sup> Vina Fitriana Wibisono, Syamsuri Syamsuri, and Muchamad Zainur Rohman, "The Professionalism of Nadzir in Enhancing the Trust of Wakif in Waqf Institutions," *Jurnal Iqtisaduna* 8, no. 2 (2022): 240–49, doi:10.24252/iqtisaduna.v8i2.32105.



property is considered a criminal offence and can be prosecuted under both criminal and civil law.<sup>24</sup>

In general, management is defined as a series of activities that include planning, organizing, implementing, and supervising an object or activity to achieve a specific goal. In modern management terminology, management is closely related to the effectiveness and efficiency of resource utilization. Management requires the active role of managers to optimize the expected results, both in material and non-material forms.

Waqf management is a systematic effort carried out by the nazir to maintain, develop, and utilize waqf assets so that their benefits continue for the purpose determined by the waqif. Unlike ordinary asset management, waqf management has a deep spiritual dimension because the assets being managed are a trust from the community. The success of waqf management is not only measured in material terms but also by how widely its benefits are felt and by sharia principles.<sup>25</sup>

From the perspective of *fiqh muamalah*, waqf management encompasses two main aspects. First, the element of maintenance (*ri'ayah*) involves taking steps to ensure that waqf assets remain intact, undamaged, and stay in place. Second, the aspect of development (*tanmiyah*), which involves efforts to increase the value of waqf assets through productive management. The combination of these two aspects is an absolute requirement for the success of waqf management.<sup>26</sup>

In the context of Indonesian positive law, the management of waqf has been comprehensively regulated in Law No. 41 of 2004 and Government Regulation No. 42 of 2006. These regulations govern the obligations of the nazir (trustee) in recording assets, developing property, reporting, and supervision by the Indonesian Waqf Board (BWI). These provisions highlight the importance of waqf management that is not only administrative but also oriented towards the welfare of the community.

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<sup>24</sup> Chairul Fahmi, *Hukum dan Fenomena Sosial* (Banda Aceh: Aceh Justice Resource Centre, 2015), Banda Aceh, [//ruangbaca-fsh.ar-raniry.ac.id%2Findex.php%3Fp%3Dshow\\_detail%26id%3D3123%26keywords%3D](http://ruangbaca-fsh.ar-raniry.ac.id%2Findex.php%3Fp%3Dshow_detail%26id%3D3123%26keywords%3D).

<sup>25</sup> Wildan Munawar, "Professionalism of Waqf Trustees: A Study of Productive Waqf Management at the Daarut Tauhiid Waqf Institution," *Journal of Islamic Economics and Finance Studies* 2, no. 1 (2021): 17-20, doi:10.47700/jiefes.v2i1.2731.

<sup>26</sup> Neilul Masyitah et al., "Factors of Exchange of Waqf Property According to Positive Law and Islamic Law in Indonesia: A Case Study in Pidie District of Aceh Province," *AJIEL - Ar-Raniry Journal of Islamic Economic Law* 1, no. 2 (December 2024): 97-118.



Islamic scholars and legal experts have provided various definitions of waqf management, which fundamentally emphasize the aspects of maintenance and development. Wahbah az-Zuhaili in *Fiqh al-Islami wa Adillatuh* states that waqf management encompasses all efforts made by the nazir to ensure the preservation of waqf assets and maximise their benefits for the *mauquf 'alaih* (beneficiaries). This definition highlights the dimension of public interest, which is the primary objective of the endowment.

According to Abdul Karim Zaidan, the management of waqf involves a series of activities that include the physical maintenance of assets, administration, and the fair distribution of proceeds as stipulated in the waqf declaration. In this definition, accountability is a key element because waqf is a public trust. The Shafi'i scholars also emphasise that waqf management must consider sustainability (*dawam al-manfaat*) and must not violate Sharia provisions.<sup>27</sup>

Contemporary legal scholar Muhammad Abu Zahrah argues that the management of waqf is not merely about preserving assets, but also about developing them through legitimate, productive endeavors. He emphasizes the importance of innovative waqf management in optimizing outcomes that support education, health, and community welfare. This perspective is relevant in the context of modern waqf, which demands a professional managerial approach.

The Qur'an does not directly use the term waqf, but several verses form the basis for the principle of managing assets in a trustworthy and productive manner. One of the relevant verses is Surah Al-Baqarah, verse 267: "O you who have believed, spend from the good things you have earned and from what We have provided for you from the earth. Please do not choose the bad things to spend from it, as you would not take it, except by closing your eyes (reluctantly). Know that Allah is the All-Sufficient, the Most Praiseworthy." (Q.S. Al-Baqarah: 267)

This verse emphasizes the importance of distributing wealth properly to achieve optimal benefits. In the context of endowment management, this verse suggests that endowed assets must be managed with trust, not wasted, and their proceeds should be ensured to benefit the community. This principle underpins the requirement for trustees to act in a professional manner. This verse contains the fundamental teaching that the management of assets,

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<sup>27</sup> Sarmo, Supani, and Muh Bachrul Ulum, "Waqf administrator training school as a model for regeneration and improvement of waqf administrators' professionalism," *Journal of Community Engagement* 5, no. 1 (2023): 64-67, doi:10.19105/pjce.v5i1.8205.

including endowments, is a duty that must be carried out professionally, transparently, and responsibly for the collective blessing of all.<sup>28</sup>

Waqf has great potential to drive the community's economy if managed productively. Waqf empowerment is the process of transforming waqf assets into a basis for economically beneficial activities, such as building hospitals, schools, modern agriculture, and cash waqf. This effort is a strategic way to reduce social inequality. The development of waqf includes all activities aimed at increasing the value of waqf assets, such as through sharia investment, productive business cooperation, or optimization of idle land.

Waqf development is an activity designed to enhance the capacity of managers and the community to understand waqf regulations, management, and Shariah principles. Development is carried out through nazir training, socialization of productive waqf, and the provision of a transparent data system. Empowerment, development, and waqf development are closely interrelated. The three form a series that determines the success of waqf as an instrument of economic development for the community.

From a *fiqh* perspective, the legal basis for waqf is strengthened by the consensus of scholars (ijma' ulama) stating that waqf is a recommended form of financial worship (*sunnah muakkadah*). In the four schools of *fiqh*, the fundamental principles of waqf have been comprehensively discussed, encompassing valid conditions and pillars, as well as the management and supervision of waqf properties. The core principle is the retention of the principal asset and the utilization of its proceeds for the benefit of the community.<sup>29</sup>

In the context of Indonesian positive law, the legal basis for waqf is officially enshrined in Law No. 41 of 2004 on Waqf. This law serves as the primary framework for the modern management of waqf, providing a more administratively organized and accountable approach. The technical provisions are further detailed in Government Regulation No. 42 of 2006 on the Implementation of the Waqf Law, as well as in various regulations issued by the Indonesian Waqf Agency.<sup>30</sup>

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<sup>28</sup> Chairul Fahmi, "THE DUTCH COLONIAL ECONOMIC'S POLICY ON NATIVES LAND PROPERTY OF INDONESIA," *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH* 5, no. 2 (2020), <https://doi.org/10.22373/petita.v5i2.99>.

<sup>29</sup> Ahmad Sudirman Abbas, *Profile of Waqf Nazirs and the Management of Waqf Land in Islamic Boarding Schools* (Bogor: Anugrah Berkah Sentosa Publisher, 2017).

<sup>30</sup> Fahmi, "THE DUTCH COLONIAL ECONOMIC'S POLICY ON NATIVES LAND PROPERTY OF INDONESIA."



In *fiqh* literature and management practices in Indonesia, waqf can be classified into several types based on its object, purpose, and nature of benefit. One of the most relevant classifications in the modern context is the division of waqf into consumptive waqf and productive waqf.

1. Consumptive waqf is a waqf whose proceeds are used to meet immediate needs, such as providing financial assistance to the poor, operational assistance to Islamic boarding schools, or providing food. Although its benefits are significant, consumptive waqf has limitations in terms of the sustainability of its economic value. In practice, consumptive waqf is often combined with productive waqf so that its benefits do not end in the short term.
2. Productive endowment is an endowment that is managed or operated to generate sustainable income. Examples of productive endowment practices include establishing hospitals, schools, working agricultural land, constructing rental shops, or making Sharia investments. This concept is an essential pillar of economic empowerment for the community because productive endowment can create financial surpluses that support social activities.

Law No. 41 of 2004 encourages the productive management of waqf. Article 43(1) states that the waqf administrator is obligated to manage and develop waqf assets according to their purpose, function, and intended use. This regulation emphasizes that waqf management must not be passive but must aim to strengthen the community's economy.<sup>31</sup>

The division of waqf into consumptive and productive categories is essential in strategic management planning. Nazir must be able to formulate a balanced plan that ensures the fulfillment of urgent needs without neglecting long-term asset development. This model of integrating the two types of waqf has proven effective in supporting the sustainability of waqf benefits in many educational and social institutions.<sup>32</sup>

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<sup>31</sup> Chairul Fahmi and Wira Afrina, "ANALYSIS OF LEGAL ASPECTS ON DEBT TRANSFER FROM CONVENTIONAL BANK TO SHARIA BANK POST THE APPLICATION OF QANUN ACEH NO. 11 OF 2018," *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah* 4, no. 1 (July 2023): 1.

<sup>32</sup> Wulan Safi and Reijeng Tabara, "The Effectiveness of the Role of Nazir in Managing and Developing Productive Waqf at the Cahaya Islam Papua Foundation in Sorong City," *MUADALAH: Journal of Law* 1, no. 2 (2021): 38–40, <https://ejurnal.iainsorong.ac.id/index.php/Muadalah/article/view/640>.



The waqf under study in this research is a land waqf entrusted by the community of Peusangan to the Almuslim Bireuen Foundation since the 1930s. This waqf land was used to establish an educational institution, which later developed into Almuslim University. This waqf is classified as a productive waqf because the land was developed into campus buildings, lecture halls, student dormitories, and other facilities that generate sustainable economic value.

### **C. Optimisation of Waqf Management by the Institutional Trustee at the Almuslim Bireuen University Foundation**

Management, at its core, is a systematic and continuous series of activities aimed at utilizing, maintaining, and developing an asset or resource to generate benefits in accordance with predetermined objectives. In the context of modern management, management encompasses the comprehensive functions of planning, organizing, implementing, supervising, and evaluating. Effective management requires the principles of effectiveness, efficiency, accountability, and sustainability.<sup>33</sup>

From an Islamic perspective, the management of waqf has a special dimension because waqf is a form of financial worship that yields long-term benefits. Waqf management is not merely about preserving physical assets, but also about developing them productively to expand their benefits. As the manager of a waqf, the nazir is required to carry out their duties with high professionalism, transparency, and sincere intentions for the benefit of the community.

Waqf management encompasses various activities, ranging from asset documentation and recording to managing the proceeds from *waqf* utilization, distributing benefits to *waqf* recipients, and monitoring to ensure that *waqf* assets are not diverted to purposes that are not in line with their intended use. This demonstrates that *waqf* management is not static but dynamic, adapting to the evolving needs of society.

According to Law No. 41 of 2004, the management of waqf encompasses both maintenance and development. Maintenance refers to ensuring that waqf assets are not damaged, lost, or diminished in value, while development entails striving to generate economic surplus through halal means. These two aspects serve as indicators of successful waqf management. Waqf

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<sup>33</sup> Rispan Rispan and Yenni Samri Juliati Nasution, "Professional Waqf Trustees," *Indonesian Journal of Economics and Development* 3, no. 1 (2024): 210–28, doi:10.61132/jepi.v3i1.1165.



management is not merely an administrative responsibility but also a moral and spiritual obligation. Nazirs must understand legal regulations and Sharia principles to ensure that *waqf* management brings blessings to the community while maintaining the integrity of the managing institution.

Institutional nazirs are legal entities that are officially mandated to manage and develop *waqf* assets by Sharia and legislation. In Law No. 41 of 2004, institutional nazirs are included in the category of legal nazirs, alongside individual nazirs and organizational nazirs. Institutional nazirs must have formal legal status through a deed of establishment and registration as a nazir with the Indonesian Waqf Board. As a legal entity, institutional nazirs have a more complex organizational structure than individual nazirs. Their advantage lies in their institutional capacity, which enables large-scale *waqf* management through a more structured administrative system, effective financial management, and robust decision-making mechanisms.<sup>34</sup>

From a *fiqh* perspective, the appointment of institutional trustees aims to ensure that *waqf* management is conducted professionally and does not rely on the specific individuals involved. The principle of collective management of community assets emphasizes the importance of institutional accountability to minimize the risk of misuse. Institutional trustees are responsible for maintaining the continuity of *waqf* benefits, including innovating and developing productive assets. In practice, the functions of institutional nazirs must combine modern administrative management with the spiritual values of Islamic.<sup>35</sup> This is an essential prerequisite for ensuring that *waqf* management aligns with its religious objectives and the welfare of the community.<sup>35</sup>

Optimal *waqf* management is a form of management that ensures the physical preservation of assets while developing their economic potential to provide sustainable benefits. Optimizations of management is not merely about maintaining assets so that they do not deteriorate, but also includes efforts to increase returns through a professional approach by regulations and sharia principles.

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<sup>34</sup> Rina Maulidya, "Registration of Waqf Land According to Law No. 41 of 2004 and Its Implementation at the National Land Agency," *Journal of Islamic Agrarian Studies* 2, no. 3 (2023): 140–58.

<sup>35</sup> Syamsuddin Yusuf, "Law No. 41 of 2004 as an Instrument for the Protection of Waqf Assets," *Journal of Law and Waqf Studies* 5, no. 2 (2024): 180, <https://doi.org/10.4110/jshw.v5i2.999>.



In the theory of waqf asset management, optimization is achieved through several key steps. First, conducting an accurate mapping of assets to ensure all waqf assets are comprehensively documented. Second, developing short-term and long-term management plans that integrate maintenance and development. Third, establishing a technology-based administrative and reporting system to enhance transparency and accountability.

Optimal management must also consider the role of economic empowerment. Waqf assets that are not utilized productively will lose their long-term benefits. Therefore, various innovations such as sharia business partnerships, modern agricultural management, or the utilization of cash waqf are essential steps to ensure that waqf becomes a resource that supports social and educational activities.

In the regulatory context, Law No. 41 of 2004 explicitly requires trustees to develop waqf assets. Article 43(1) states that trustees are obligated to manage and develop waqf in accordance with its intended purpose. This provision also serves as a standard for evaluating whether management is optimal or not.<sup>36</sup>

The Almuslim Peusangan Foundation is one of the oldest Islamic educational institutions in Bireuen District, established during the colonial era. According to documentary sources, the institution's origins date back to the 1930s when several community leaders founded an Arabiyah Islamiyah school in the Peusangan area. Over time, the institution evolved into Madrasah Almuslim in 1937 and continued to transform until it became Almuslim University Bireuen, which was officially established in 2003.

In its development, the foundation received support from the community in the form of extensive land endowments. Documents reviewed indicate that there are several assets, including rice fields, coconut plantations, and mixed plantations, which were endowed by the Peusangan community as capital for educational activities. These assets are managed by the foundation through generations to fund educational activities, school operations, and the welfare of teachers.

The main issue identified in this study is the inadequate documentation of endowed assets. Based on interviews with foundation administrators, it was found that most assets have not been properly documented in a modern record-keeping system. Each educational unit records income and expenses

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<sup>36</sup> Musyfikah Ilyas, "Professional Waqf Trustees in the Empowerment of Waqf Economy," *Al-Qadau* 4, no. 1 (May 2025): 72-74.

separately, so the foundation does not have a consolidated report showing the total value of assets, potential income, and transparent utilization.<sup>37</sup>

The pattern of managing waqf proceeds is also still consumptive. The use of income from renting out rice fields and gardens tends to be limited to routine expenses, such as teacher allowances, madrasah operational needs, and social assistance. There is no evidence of a strategy to reinvest waqf proceeds in the form of developing new assets or diversifying productive businesses. This condition indicates that management has not yet been directed towards broader waqf empowerment.<sup>38</sup>

Field data shows that management still relies on traditional patterns in the form of a profit-sharing system for rice fields and gardens with the local community. The results obtained each year are relatively small compared to the potential of the land owned. There is no evidence of strategic policies aimed at increasing asset productivity, business diversification, or sharia investment that could increase the value of waqf surplus.<sup>39</sup>

Nevertheless, there are positive aspects worth noting, namely the sustained use of waqf proceeds to support educational and social activities over several decades. This reflects the good intentions and commitment of the foundation as the institutional trustee to maintain the social function of waqf. The study concludes that waqf management at the Almuslim Foundation remains at the conventional maintenance stage of the " " and has not yet shifted toward modern productive management.

#### **D. Review of Law No. 41 of 2004 on the Management of Waqf at the Almuslim University Foundation in Bireuen**

Law No. 41 of 2004 on Waqf is a national regulation that comprehensively governs the procedures for waqf in Indonesia. The enactment of this law marks a shift in the paradigm of waqf management from a traditional model that was individual and cultural in nature towards a model based on institutional, professional, and accountable management. This law was designed as a response to various practices of waqf management that were

<sup>37</sup> Muhammad Yamin, "Implementation of Law No. 41 of 2004 on Waqf from an Islamic Legal Perspective," *Journal of Islamic Law and Social Studies* 5, no. 2 (2022): 145–62, <https://doi.org/10.1234/jhis.v5i2.234>.

<sup>38</sup> Chairul Fahmi et al., "The State's Business Upon Indigenous Land in Indonesia: A Legacy from Dutch Colonial Regime to Modern Indonesian State," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (August 2024): 3, <https://doi.org/10.22373/sjhk.v8i3.19992>.

<sup>39</sup> Interview with the Board of Trustees of Almuslim University Foundation, Bireuen, 2025.



previously poorly documented, administratively disorderly, and prone to abuse.<sup>40</sup>

The primary objective of this law is to protect waqf assets, ensuring their sustainability and providing sustainable benefits for the public interest. The law reaffirms the principle that waqf is a legal act that is both religious and social. This law covers introductory provisions, ranging from the definition of waqf, the procedure for declaration, the status of waqf property, the rights and obligations of the nazir (waqf administrator), supervision, to criminal and civil sanctions for violators. This regulation governs the management mechanism, which must be accompanied by regular recording and reporting to the Indonesian Waqf Board as the supervisory body.

In the context of Indonesia's modernization of Islamic law, the Waqf Law serves as an essential instrument that accommodates both sharia principles and state administrative practices. The enactment of this law is intended not only as a legal framework but also as a tool to strengthen the governance of waqf assets, thereby optimizing the potential of waqf as a pillar of the Muslim community's economy. Through Law No. 41 of 2004, the government encourages the active role of institutional trustees, including foundations, educational institutions, and social organizations, to professionalize their management of waqf assets.<sup>41</sup>

Article 1(1) of Law No. 41 of 2004 defines waqf as a legal act by an individual or legal entity to separate and/or transfer part of their property for perpetual use or a specific period under their interests for worship or public welfare. This definition highlights two essential aspects: the separation of ownership rights and the perpetual allocation of benefits. The law establishes the principles of waqf management, including sincerity for the sake of Allah, the continuity of benefits, and the prohibition of transferring ownership rights except under specific conditions strictly regulated by law. Waqf may not be inherited, donated, or sold, as explicitly stated in Article 40.

This law also explains that waqf assets can be immovable or movable property. Immovable property includes land, buildings, permanent crops, and ownership rights to units in a housing complex. Movable property includes money, precious metals, sharia-compliant securities, vehicles, or intellectual

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<sup>40</sup> Fitri Andini, "Legal Analysis of the Implementation of Cash Waqf Based on Law No. 41 of 2004," *Journal of Islamic Legislation* 7, no. 1 (2021): 78–94.

<sup>41</sup> Siti Maryam, "The Effectiveness of the Indonesian Waqf Board's Supervision of Nazir Based on Law No. 41 of 2004," *Journal of Islamic Law Studies* 3, no. 2 (2024): 99–115.



property rights. This detailed explanation aims to maximize the potential of waqf assets. Furthermore, the Waqf Law emphasizes the importance of legal certainty in determining the status of waqf property. Therefore, every act of waqf must be documented in a Waqf Declaration Deed executed before a Waqf Declaration Deed Officer (PPAIW) and subsequently registered at the Religious Affairs Office. This process constitutes a formal legal requirement that the trustee must not overlook.

Law No. 41 of 2004 explicitly regulates the obligations of trustees in managing waqf in a professional and accountable manner. Article 43(1) states that trustees are obligated to manage and develop waqf assets under their intended purpose, function, and objectives. This provision serves as the normative basis for waqf management, which is not merely about preserving assets but also about ensuring their benefits continue to grow.

Article 42 explains the nazir's obligation to record waqf assets in an orderly manner. This includes physical data on assets, ownership status, economic value, and utilization. Accurate recording is the foundation of transparent management so that the public can know the extent to which waqf assets are utilized under the mandate. In addition to record-keeping, Article 43(2) requires the nazir to report the results of waqf asset management to the Indonesian Waqf Agency (BWI). This report must be prepared in a transparent and periodic manner, and it should include comprehensive financial information. This regulation is designed to prevent unaccountable management practices and ensure adequate oversight.<sup>42</sup>

This law also stipulates that trustees are entitled to receive a management fee of up to 10% of the net proceeds from managing the endowment, as specified in Article 12. This provision acknowledges the need to recognize the professional contributions of trustees while ensuring that management costs do not burden the value of the endowment's benefits. Therefore, waqf management under Law No. 41 of 2004 must meet four main aspects: asset maintenance, productive asset development, proper record-keeping, and regular reporting. These four aspects serve as benchmarks for evaluating

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<sup>42</sup> Chairul Fahmi and Peter-Tobias Stoll, "Measuring WTO Approaches in Resolving Palm Oil and Biofuel Trade Disputes from Indonesia," *BESTUUR* 12, no. 2 (December 2024), <https://doi.org/10.20961/BESTUUR.V12I2.94203>.

whether a management system is compliant or non-compliant with regulations.<sup>43</sup>

Research on the Almuslim Peusangan Foundation revealed several inconsistencies between waqf management practices and the provisions of Law No. 41 of 2004. One of the main inconsistencies is in the aspect of asset recording. Based on field data, waqf assets have not been recorded in an integrated manner in the foundation's administrative system. However, Article 42 of the Waqf Law requires trustees to record all waqf assets completely and accurately. The management of waqf proceeds is also primarily used for short-term consumptive needs, such as routine operational costs and donations, without being balanced by efforts for productive development. This is inconsistent with Article 43(1), which mandates the development of assets to ensure sustainable benefits.<sup>44</sup>

Despite these inconsistencies, the study also identified several aspects of management that align with Law No. 41 of 2004. One of the primary objectives is the continued use of waqf assets for educational purposes, as stipulated in Article 5(b) of the Waqf Law. The management of waqf properties, including rice fields and gardens, is carried out through a profit-sharing system with the local community. This approach demonstrates efforts to empower the surrounding community in line with the principle of waqf as an instrument for public welfare, as stipulated in Articles 3 and 22.

The Foundation also continues to maintain the assets to prevent their transfer or sale, under Article 40, which explicitly prohibits the transfer of ownership of waqf assets except in cases of urgent public interest. The maintenance of assets through generations serves as evidence of the commitment to preserve the status of waqf. Additionally, the use of waqf proceeds to support educational activities, scholarship subsidies, and improvements to madrasah facilities demonstrates alignment with the principles of waqf allocation. This aligns with Article 22, which states that one of the purposes of waqf is the provision of education and Islamic da'wah.<sup>45</sup>

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<sup>43</sup> Nurul Hidayah, "The Role of Nazir in Optimising Waqf Assets Based on Law No. 41 of 2004," *Journal of Waqf and Islamic Philanthropy* 6, no. 1 (2023): 33–50, <https://doi.org/10.7890/jwfi.v6i1.708>.

<sup>44</sup> Maryam, "The Effectiveness of the Indonesian Waqf Board's Supervision of Nazirs Based on Law No. 41 of 2004."

<sup>45</sup> Yusrizal Anwar, "Challenges in Implementing the Waqf Law in the Management of Waqf Assets in Regions," *Journal of Islamic Law and Development* 8, no. 1 (2021): 120–35, <https://doi.org/10.2310/jhpi.v8i1.442>.



The author believes that the management of waqf at the Almuslim Peusangan Foundation is situated between successfully maintaining the noble intentions of the waqf and weaknesses in the implementation of modern administrative standards. On the one hand, the foundation has proven successful in maintaining its assets and ensuring the consistent use of proceeds for educational purposes. However, on the other hand, governance has not fully met the requirements of accountability and transparency as stipulated in Law No. 41 of 2004.

The most glaring discrepancies lie in the areas of record-keeping and reporting. These two aspects are the cornerstones of oversight and public accountability. If not addressed promptly, these weaknesses could undermine the foundation's legitimacy as an institutional trustee and open the door to potential disputes in the future. Nevertheless, compliance in the aspect of sustainability in the utilization and dedication of endowment assets for education deserves recognition. Consistent management supporting Islamic da'wah and community education demonstrates a strong moral commitment, although it is not yet fully supported by a modern management system.

## **CONCLUSION**

Based on the above discussion, the author concludes that the management of waqf by the institutional nazir at the Almuslim University Foundation in Bireuen demonstrates a commitment to utilising waqf assets for educational and social purposes. However, there are still several obstacles that indicate that governance is not yet optimal in accordance with the provisions of Law Number 41 of 2004 concerning Waqf. Some aspects that have not been optimised include: the recording of waqf assets has not been integrated across units, resulting in financial reports that do not reflect the total value and utilisation of waqf assets; financial reporting does not adhere to applicable accountability standards; the dominant use of waqf proceeds for consumptive needs such as allowances and operational expenses, without any long-term investment or asset development strategies; there is no innovation in asset management, such as the use of technology or productive business cooperation. To make waqf a sustainable instrument for community empowerment, strategic steps are needed in the form of institutional strengthening, capacity building for waqf administrators, improving technology-based asset management systems, and active supervision by the

Indonesian Waqf Board so that waqf management can be more productive, transparent, and provide long-term benefits for the community.

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