

Implementation of Perwakafan Law in Persyarikatan Muhammadiyah Sleman Regency

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Abstract

This study aims to determine: (1) Waqf legal products that have been issued within the Muhammadiyah Persyarikatan Muhammadiyah Sleman Regency, (2) Strategies/methods carried out by the Sleman Regency Muhammadiyah Association as Nadzir Waqf Legal Entities in administering and utilizing waqf land, (3) Management of waqf land in Persyarikatan Muhammadiyah Sleman Regency according to Islamic Shari'a and the applicable legislation in Indonesia. The type of research used is qualitative research, descriptive-analytic with an empirical-sociological approach. The research location is in Sleman Regency according to the work area of the Muhammadiyah Association of Sleman Regency. Data collection techniques using observation, interviews, and documentation. Based on the results of the research, the authors can conclude: (1) Persyarikatan Muhammadiyah Sleman Regency has carried out various innovations in the management and utilization of waqf land in Sleman Regency according to Islamic Shari'a and legislation in Indonesia, but what has been done is more a modification of the way in implementing Waqf Law, in this case the author has not found a specific or distinctive waqf legal product in Sleman Regency (2) Persyarikatan Muhammadiyah Sleman Regency as Nadzir Waqf performs its functions by planning, administering waqf assets, steps taken by certifying Muhammadiyah waqf land, securing it physically and physically social responsibility towards waqf assets, (3) Muhammadiyah Association of Sleman Regency in general has managed and utilized Muhammadiyah waqf land in accordance with Islamic Shari'a law and applicable laws and regulations in Indonesia, however, continuous efforts are still needed in in terms of improving the quality of human resources in the field of waqf, especially nadzir so that waqf is not only a vehicle for Muslims to worship but also can function for the welfare of Muslims.

Keywords

law of waqf; persyarikatan Muhammadiyah; Sleman Regency; nadzir waqf



I. Introduction

One of the social institutions or institutions in Islam that contains both social and economic values is the endowment institution (Praja, 1995) . Historically, the practice of waqf has been going on for a long time in the Arabian Peninsula long before the advent of Islam. Al-habs or waqf was known and practiced by them before Islam came, and it continued until the arrival of Islam (Abdullah, 2003). This can mean that waqf is an absorption of Islamic teachings from local Arab culture as the birthplace and growth of Islam.

In general, waqf in Indonesia is managed by two forms of nadzir waqf, namely nadzir waqf for individual groups and nadzir waqf for legal entities. However, in reality both individual nadzir and legal entity nadzir have not been able to develop waqf objects under their responsibility. As one example is the legal entity nadzir waqf, in this case the Muhammadiyah Association of Sleman Regency, in reality there are still many obstacles in developing waqf in Sleman productively. The main obstacle faced is usually the problem of funding and the creativity of Nadzir himself in developing waqf land.

Muhammadiyah Sleman Regency currently has no less than 873 waqf land parcels which are located in 17 sub-districts in the Sleman Regency area. To be able to manage that much waqf land, of course Muhammadiyah of Sleman Regency needs funds and creative thinking so that the waqf under the responsibility of the Muhammadiyah Association can develop properly and can actually improve the social and economic welfare of the community.

Waqf in Muhammadiyah Regency is interesting to study in addition because the number is quite significant, the reality on the ground shows that Muhammadiyah's charities are largely supported by the existence of these waqfs. Another interesting thing is that in terms of innovation and how to obtain waqf objects, there are methods/methods in which waqf land is procured by being purchased jointly or collectively by community members, then in the pledge it is processed by waqf. The problems that still arise in waqf, especially in the Sleman Regency Regional Leadership, are the existence of waqf land that has not been used optimally, even there is waqf land which is actually a Muhammadiyah legal entity but in reality it is controlled and utilized by institutions outside Muhammadiyah.

1.1 Problem Formulation

From the background of the problem, the researchers conducted a study of several problems as follows:

- a. What are the legal products of waqf that have been issued related to the implementation of waqf in Muhammadiyah, Sleman Regency?
- b. How is the administration and utilization of waqf carried out by Nadzir waqf in this case the Muhammadiyah Association in Sleman Regency?
- c. Is the management of waqf that has been carried out by the Muhammadiyah Persyarikatan of Sleman Regency in accordance with the provisions of the Shari'ah and the Perwaqf Law in force in Indonesia?

1.2 Research Objectives

In accordance with the background of the problem and the formulation of the problem, the researcher aims to find answers to the questions as formulated. In detail, the researcher aims:

- a. To find out what are the legal products of waqf that have been issued related to the implementation of waqf in Muhammadiyah, Sleman Regency?
- b. Do you know how Nazir waqf in this case the Muhammadiyah Association in Sleman Regency in administering and utilizing waqf?
- c. Knowing whether the management of waqf carried out in Persyarikatan Muhammadiyah Sleman Regency is in accordance with Islamic Shari'ah and waqf laws that apply in Indonesia?

II. Research Methods

This research is a qualitative research based on a discussion of data in the field in the form of documents, reports and literature related to the object of research, both background, articles of association, deed of pledge, ratification of nadzir, decrees, instructions, agreement text, and others as the main data. According to Azwar in Siregar (2020), descriptive research analyzes only at the level of description, namely analyzing and presenting facts systematically so that they are easier to understand and conclude. Based on the explanation Moleong in Amrizal (2018) qualitative research is research that intends to understand the phenomenon of what is experienced by the subject of research such as behavior, perception, motivation, action, etc., holistically, and by way of description in the form of words and language, in a special context that is natural and by utilizing various natural methods.

Basically, the researcher looks at the problem using the inductive method, by digging up data in the field and then matching it with existing references, namely the Islamic legal framework and legislation in force in Indonesia, especially in the field of waqf.

As a qualitative research, researchers collect data in the form of decisions and policies of the Muhammadiyah Association as the manager/nadzir of waqf. Furthermore, the data and decisions are analyzed from the point of view of the norms and laws of waqf. The Muhammadiyah Persyarikatan data in this case are all waqf administrative documents, in the form of reports, decrees, letters / manuscripts of cooperation in the field of waqf, and other documents related to Muhammadiyah waqf.

To complete the required data, the researcher also took various provisions and or regulations from the government, either in the form of applicable laws and regulations regarding waqf, the Waqf Law, or regulations related to land. Besides that, it also uses secondary sources such as papers on waqf, data exposure by waqf management institutions other than Muhammadiyah as additional data.

In order to complete the data, the researchers conducted interviews with the leaders of the Regional Muhammadiyah Association of Sleman Regency and the Muhammadiyah Branch Managers in Sleman Regency as waqf managers. This is for the purpose of clarifying and confirming the data and information.

III. Discussion

The Waqf and Assets Council was formed in Persyarikatan Muhammadiyah from the Central Level to the Regency/Regional and District/Branch levels. This is to support the da'wah movement '*Amar ma'ruf nahi munkar*' which was pioneered by Muhammadiyah.

Muhammadiyah as a social and religious movement requires the support of both infrastructure and property management in a modern and professional manner. The establishment of the Waqf and Property Council is intended to collect waqf and use it for da'wah movements. Various facilities were built by Muhammadiyah, mosques as places of worship, school and college buildings as a means of educating the nation's children, orphanages as social facilities, physical hospital buildings as health facilities, da'wah buildings and community activity centers all of which can be built on waqf land and the benefits can be felt directly by the community.

In organizational structure, the Waqf and Property Council has the task of assisting Muhammadiyah leaders in developing and securing waqf assets and assets belonging to the Muhammadiyah Association as well as guiding the community in carrying out waqf worship.

In Sleman Regency, the Muhammadiyah Regional Leadership of Sleman Regency currently owns 873 waqf lands spread over 17 branches throughout Sleman Regency.

Persyarikatan Muhammadiyah Sleman Regency in an effort to secure waqf lands in its territory does the following:

3.1 Physical Security

Provision of clear boundaries at each corner with boundary markers (pegs) in the form of angled iron or concrete embedded in each corner in accordance with applicable standards at the National Land Agency (BPN) the Safeguards are trying to immediately utilize the waqf land according to the planned use, if it cannot be realized according to the plan, it can be utilized with a short/temporary term plan, so that the waqf land does not seem neglected. Steps to secure it is to set up a safety fence.

1. Social Security Social

Security efforts are carried out by notifying and socializing the existence of Muhammadiyah waqf land in an area to the local RT, RW, Hamlet and Lurah. With the hope that the community in the environment closest to the waqf land can participate in monitoring and maintaining the existence of the waqf land.

2. Legal Security

Waqf land can be said to be quite safe when the land has a definite legal position, namely by issuing a waqf certificate. The legal security carried out by Muhammadiyah is to immediately take care of the certificate of Muhammadiyah waqf land according to the applicable provisions. The effort to certify waqf land is something that is urgent to be carried out by Persyarikatan Muhammadiyah, because in various cases that have emerged recently, waqf land is taken/withdrawn back by the heirs of the wakif. And this becomes a complicated problem when the waqf has not been certified with the nadzir of the Muhammadiyah Persyarikatan Legal Entity. Even in Sleman Regency, there has been a case of waqf that has been certified with the Muhammadiyah Law Madan Nadzir, but until now the land is under control and used by other institutions. This problem will be discussed in more depth by the author in another part of this research.

The legitimacy of the Persyarikatan Muhammadiyah as a Legal Entity obtained legalization with the issuance of the Decree of the Minister of Home Affairs Number 14/DDA/1972 dated February 10, 1972, containing the appointment of Persyarikatan Muhammadiyah as a Legal Entity that could own land with Hak Milik. This is also confirmed by the issuance of a letter from the Ministry of Justice and Human Rights Number 02.HT.01.03.A.165. Regarding the Legal Entity Status of the Muhammadiyah Association. The Waqf and Assets Council was formed by Muhammadiyah from the center to the regional level as in the Muhammadiyah Regional Leadership in Sleman Regency, as an effort to support the da'wah movement amar ma'ruf nahi munkar.

The establishment of the Waqf Council is of course intended to be able to collect and utilize waqf for the benefit of da'wah in Persyarikatan Muhammadiyah. Moreover, in Muhammadiyah, there are many Charities that require adequate infrastructure support such as schools, orphanages, hospitals which generally stand on Muhammadiyah waqf land. The waqf and treasury council is tasked with assisting the leadership in developing and securing waqf assets and assets belonging to the association as well as guiding the community in implementing waqf. As of 2017, the Muhammadiyah Regional Leadership of Sleman Regency has 873 plots of waqf land. Of these, there are 17 branches throughout Sleman Regency. The number of Muhammadiyah Waqf developments from 2013 to 2017 is as follows:

2017	: 873 Locations
in 2016	: 833 Locations
in 2015	: 799 Locations
in 2014	: 760 Locations
in 2013	: 721 Locations

The distribution of Muhammadiyah Waqf locations in every sub-district throughout Sleman Regency is as follows:

Sleman Branches	: 67
Tempel Branch	: 43
Turi Branch	: 64
Ngaglik Branch	: 5
Mlati Branch	: 18
Pakem Branch	: 23
Cangkringan Branch	: 15
Ngemplak Branch	: 8
Depok Branch	: 21
Kalasan Branch	: 86
Prambanan Branch	: 49
Berbah Branch	: 80
Seyegan Branch	: 42
Godean Branch	: 52
Gamping Branch	: 95
Minggir Branch	: 96
Moyudan Branch	: 119 Location

Seeing the number of Muhammadiyah waqf lands which is increasing from year to year and growing rapidly, strategies and various innovations are needed both in securing and utilizing the waqf land. Most of the Muhammadiyah waqf land in Sleman Regency is intended for places of worship, both mosques and prayer rooms. The rest is also used for educational facilities, orphanages, and other public facilities such as Muslim cemeteries and da'wah buildings.

The management of Waqf in the Muhammadiyah Regional Leadership of Sleman Regency, is carried out in accordance with the provisions of the PP Muhammadiyah Waqf Council, which contains several main points as follows:

- a. Every Persyarikatan land ownership, whether obtained from grants, buying and selling, relinquishing rights, waqf, must be requested for rights (certified) by Muhammadiyah Central Leadership (according to the level where the land is located) for and on behalf of Persyarikatan Muhammadiyah
- b. Land ownership of Persyarikatan Muhammadiyah which is still in the name of an individual or legal entity other than Muhammadiyah or due to technical administrative errors, must be immediately reprocessed on behalf of Persyarikatan Muhammadiyah whose implementation is in accordance with applicable regulations.
- c. In accordance with Article 34 paragraph (1) of the Muhammadiyah Bylaws: All finances and assets of Muhammadiyah, including the finances and assets of the Assistant Leaders, Business Charities, and Autonomous Organizations at all levels are legally owned by the Central Executive".
- d. The making of the Waqf Pledge Deed (AIW) and the Ratification of Nadzir by the Official Making the Waqf Pledge Deed/PPAIW must be in the name of the Muhammadiyah Association.
- e. Application for land rights and issuance of land rights certificates must be in the name of Persyarikatan Muhammadiyah.
- f. The Muhammadiyah Waqf Certificate which is still in the name of an individual Nadzir must immediately be submitted for a change to become a Legal Entity Nadzir, in this case the Persyarikatan Muhammadiyah. After obtaining the new Nadzir Endorsement, Nadzir Persyarikatan Muhammadiyah makes an application to the Regency BPN for

recording on the Waqf certificate with Nadzir Persyarikatan Muhammadiyah in accordance with the updated Nadzir Endorsement.

Changes in the use of waqf land, especially in Muhammadiyah, Sleman Regency, are almost never found. What is still natural is the change in the use of Muhammadiyah waqf land, which is the development of the function of waqf land. For example, waqf land which was originally designated for the prayer room of a hamlet/village or branch of Muhammadiyah, then along with the development of the number of local congregations, its utilization was developed into a mosque.

Changes in the use of waqf land in the scope of development also occur when waqf which was originally intended specifically for mosques, is later developed for educational institutions such as the Al-Qur'an Education Park and the Meeting Building/Dakwah Building. As long as it does not deviate from the function and purpose of the main waqf for places of worship/mosques, according to the author, this does not conflict with the purpose of the waqf itself.

As for the change in land status, there are some interesting notes in the waqf process at Muhammadiyah, Sleman Regency:

1. Property Rights to Waqf

The process of changing the status of individual property rights to Waqf Land status with the nadzir of Muhammadiyah legal entities, this is mostly done by the community. This means that a person willingly relinquishes his right to a piece of land to be handed over to the Persyarikatan Muhammadiyah as a legal entity Nadzir, while the designation is quite varied, ranging from places of worship to mosques/mushalla, educational/social facilities, or health services/hospitals.

2. Buying and Selling Processed into Waqf

In the community, it is often found that a plot of land is actually purchased by several people or community groups/congregations, then in the certification process it is made like a waqf process from the land owner/seller to Persyarikatan Muhammadiyah as Nadzir Legal Entity. And as long as the community voluntarily provides funds for the procurement/purchase of their land, the waqf process can run smoothly.

3. Partial Buying and Selling is Processed

By waqf. A slightly different process, when the waqf land purchased by the institution or the community does not cover the entire existing area. This means that there is some land that is valued by the buying and selling process, but there is some land which is voluntarily waqf by the land owner. This is also found in the waqf process at the Persyarikatan Muhammadiyah Sleman Regency. The designation includes several fields, places of worship, educational and social facilities, health services/clinics/hospitals, orphanages.

4. Buying and Selling by Third Parties is Processed

By waqf. The process of purchasing land assets by business institutions/charities through the treasurer, then the next process after the assets are successfully purchased, the waqf is processed with the administratively written wakif being the treasurer of the business charity. This is done to anticipate things that are not desirable in the future regarding the ownership rights of the land assets. Indeed, there are special considerations when the asset is purely a 100 percent purchase, there is an option to make the asset the property of the Persyarikatan Muhammadiyah. However, in reality there is still a process that is being taken, namely waqf from the treasurer's name to the Persyarikatan Muhammadiyah.

Along with the enactment of Law Number 41 of 2004 concerning Waqf and Government Regulation Number 42 of 2006, the implementation of the Law of Waqf in Indonesia, especially in Persyarikatan Muhammadiyah, is getting better and more regular. However, there are still some factors that hinder the success of the waqf program.

3.2 Supporting Factors for Success

1. The existence of government support, in this case the fulfillment of the legality and regulatory aspects of waqf, is getting better. The government issued Law Number 41 of 2004, further perfecting waqf regulations with various development innovations including movable object waqf and cash waqf.
2. The existence of the Ministry of Religion of the Republic of Indonesia, which directly participates in fostering and overseeing the process of implementing Waqf, including within the Muhammadiyah Association. The existence of PPAIW which is domiciled at the District Level, with special services even outside working hours, receiving and checking Waqf registrations as well as supervising the Waqf Pledge process is quite easy for people who want to do waqf.
3. Assistance and cooperation with Non-Governmental Institutions/Foundations in the dissemination of waqf. Recently, the Waqf Socialization Movement has been increasingly promoted with new approaches and strategies. The campaign that carries the Waqf Theme as a Solution as well as a form of Charity Investment in the Hereafter is called Passive Charity.
4. In Persyarikatan Muhammadiyah itself has many business charities in the form of schools, hospitals, orphanages, places of worship, and Islamic boarding schools that always need infrastructure support, so there is a wide field for virtuous charity in the form of waqf. In Sleman Regency, especially in Prambanan, there is a Muhammadiyah Boarding School (MBS) where large asset support is needed for future development. The more fertile and growing charities business in the Muhammadiyah Persyarikatan environment, the development of waqf is also more advanced and useful.

3.3 Inhibiting Factors

1. Limited information about waqf to the public. Even though the Law on Waqf has existed along with other sets of regulations, at the community level, knowledge and literacy of waqf is very minimal. Even the preachers, da'wah interpreters and motivators still convey very little material about this waqf. If ZIS has received enough attention from the community and social activists, it is time for the Waqf Awareness Movement to be carried out on a massive scale.
2. Management and Bureaucracy perceived by the community are still less effective and efficient. Because waqf in practice in the field does not only involve one institution, but also cross-sectoral from the Village and District Governments, District PPAIW, the National Land Agency and even the Notary. The completion of the waqf procedure is sometimes still quite difficult for the community.
3. In Persyarikatan Muhammadiyah itself, there are still very limited competent human resources in the development of waqf. Waqf assets in the Muhammadiyah Persyarikatan are so large, they cannot be functioned and empowered, especially for productive and economically valuable waqf activities.
4. The accuracy of data and recording of waqf/property at Persyarikatan Muhammadiyah is also still lacking, so that there are still unresolved waqf lands, or even abandoned and not handled properly. If the data is presented properly and neatly, then the preparation of programs and development of waqf empowerment in Muhammadiyah will also be more targeted and efficient.

3.4 Solutions to Inhibiting Factors in Waqf Management and Prospects of Waqf in Muhammadiyah in the Future

1. Adequate literacy on Waqf Law, both in lectures, recitations, sermons and even at weddings, needs to be explained about waqf worship with methods that are attractive to the general public.
2. Efficient and effective bureaucracy for waqf settlement, with integrated services, such as PTSP (One Stop Integrated Service). Integrated cooperation between the Regional Government, the Regency National Land Agency (BPN), the Regency/City Ministry of Religion, and the District PPAIW in an effort to create fast and accurate services in the waqf sector.
3. The leadership of the Muhammadiyah Association, from the central level to the regional and branch leaders, needs to prepare trained and professional human resources in the field of waqf development. This is in line with the development of the number of waqf lands managed by Nadzir, the Muhammadiyah Persyarikatan Legal Entity, which is getting bigger in number of locations and land area. Serious and thorough handling is needed so that there is no longer the impression that Persyarikatan Muhammadiyah seems to have abandoned the waqf land that has been accepted.
4. Modern Information Technology support in processing data and presenting Muhammadiyah Waqf data is very much needed in the future. Such a large potential of Waqf can be mapped accurately, managed with careful planning, so that the Muhammadiyah program in the Waqf sector is truly supported by valid and comprehensive data.
5. The National Land Agency (BPN) as a government institution that has authority in the land sector, is expected to play a greater role in helping the smooth waqf certification. Especially after the issuance of the Joint Agreement between the Regional Office of the BPN DI Yogyakarta Province and the PWM DI Yogyakarta concerning the Acceleration of Rights Management and Issuance of Land Certificates for Persyarikatan Muhammadiyah Number: 0322/130-SKB/BPN/2007 and Number: 040/II.0/B/2007 dated 16 March 2007.

IV. Conclusion

After describing/explaining the activities of waqf land management in the Muhammadiyah Regional Leadership of Sleman Regency as well as analyzing and discussing the steps for solving the waqf problem in Sleman Regency, the writer came to the following conclusion:

1. Waqf as one of the Shari'a Islam can be effective when implemented according to the conditions and demands of the people's needs. Rules and provisions regarding waqf are already in the Shari'a which are described in the Book of Jurisprudence and the opinions of scholars. However, formal rules are still needed, such as the Waqf Law and Legislation in the field of waqf. The presence of Law Number 41 of 2004 can be a breath of fresh air and new strength in efforts to manage waqf in Indonesia, including those carried out by the Muhammadiyah Regional Leadership in Sleman Regency. The author found a strategy / method of waqf in the Regional Leadership Environment of Sleman Regency with the method of buying and selling waqf land but in the completion of the certification it was completed in the form of waqf. These steps can be called as one of the modifications of the way of waqf, where not only people who have quite a lot of property in the form of land can be waqf. However, in a collective/collective way, every citizen has the opportunity to take part in waqf according to their abilities. In terms of waqf law, the Muhammadiyah Regional Leadership of Sleman Regency has

also tried to socialize this waqf and it is included in the 2015-2020 Muhammadiyah Regional Leadership Work Program of Sleman Regency. As for the specific/typical waqf legal products applied in Persyarikatan Muhammadiyah, the authors have not found this study.

2. The main function of nadzir in waqf management is to administer and make best use of waqf objects for the benefit of the people. Therefore, nadzir needs to have the skills to carry out legal actions so that they can manage waqf assets properly. Including planning, administering, as well as empowering waqf properly. This is where it is necessary to prepare a professional and highly creative nadzir. The things that are done by Persyarikatan Muhammadiyah Sleman Regency are by registering a Muhammadiyah waqf certificate, physically and socially securing the waqf property in its territory.
3. The purpose of waqf land management at the Muhammadiyah Regional Leadership in Sleman Regency in addition to supporting the Muhammadiyah da'wah movement which is no less important is to help Muslims in Sleman Regency in implementing Islamic law, namely waqf worship. Therefore, the management of waqf in the Muhammadiyah Regional Leadership must be carried out properly in accordance with religious/sharia rules and the prevailing laws and regulations in Indonesia. In general, the Muhammadiyah Association of Sleman Regency through the Waqf and Property Council has managed and utilized Muhammadiyah waqf land in accordance with Shari'a law and legislation regarding waqf in Indonesia, however, the authors still find obstacles, namely the existence of Muhammadiyah waqf land that has not been fully utilized. by Persyarikatan Muhammadiyah Sleman Regency because the waqf land is controlled or utilized by other institutions/parties. Improving the quality of human resources, especially Nadzir waqf, becomes very important in the development and management of waqf in the future so that it really provides benefits for the people.

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