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THE ROLE OF INDONESIAN WAQF BOARD IN PROMOTING AND DEVELOPING WAQF IN INDONESIA

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Abstract: Indonesia is a country that has quite a lot of waqf lands, amounting to 3.492.045.373m2, distributed in 420 003 locations. Unfortunately the waqf lands are not managed productively, so that they cannot be utilized to improve the public welfare. To promote and develop waqf in Indonesia, in the Law No. 41 year 2004 it is mandated to set up Indonesian Waqf Board. In 2007 President of the Republic of Indonesia, Dr. Susilo Bambang Yudhoyono signed a decree on the formation of Indonesian Waqf Board (BWI). Now BWI has reached it seventh year of age. The question arising is, how is the role of BWI in promoting and developing waqf in Indonesia? Despite very limited funds, BWI with its six divisions has been running its programs, and even to develop waqf in Indonesia, presently BWI has already established 24 representatives, and 9 representatives are still in the process. Hopefully with representatives in every province, Indonesian waqf can evolve in a productive manner so that the results can be used to improve the welfare of the people.

Keywords: waqf, productive, and wellfare.

1. Introduction

Waqf is one of the Islamic economic institutions which has a huge potential to be developed. In many countries having successfully developed the productive waqf, waqf has become one of economic pillars. This can be achieved because the countries manage waqf productively. In these countries waqf is generally ruled in adequate legislations and regulations, and they have special legal entities to run the tasks of developing waqf properties they have. The countries that have been quite successful in managing waqf, among others, are Egypt, Kuwait, Jordan, and Turkey. Actually, Indonesia is one country that has quite a lot of waqf properies. Based on the existing data in the Ministry of Religious Affairs, the number of waqf lands in Indonesia is amounted to 3.492.045.373 m2², distributed in 420.003 locations. Unfortunately, up to now waqf properties in Indonesia have not been developed optimally so that they cannot be utilized to improve the people welfare. Indonesian Muslims, however should be grateful, because at this time Indonesia has Law No. 41 Year 2004 on Waqf, and Government Regulation No. 42 Year 2006 on The Implementation of Law No. 41 Year 2004 on waqf. In the Law and the Government Regulation there are many provisions relating to the development of waqf, especially regarding the diversity of objects that may be endowed as waqf. The legislation also regulates warf Nazhir and its development, allocation and management of waqf objects. In the Law on Waqf, it is also mandated the need for an agency respoxible for promoting and developing waqf in Indonesia, namely Indonesian Waqf Board. In Article 47 paragraph (1) of Law on Waqf it is mentioned that in order to promote and develop national waqf, Indonesian Waqf Board was formed. Indonesian Waqf Board is located in the capital city of Indonesia and can establish representatives in the provinces and/or districts/cities if necessary (Article 48). In Article 51 paragraph (1) it is stated that the Indonesian Waqf Board consists of Executive Board and Advisory Council. The members of Indonesian Waqf Board were appointed for a term of three (3) years and may be reappointed for next one (1) term. In Article 57 paragraph (1) it is stated that the appointment of the membership of Indonesian Waqf Board for the first time was proposed to the President by the Minister (Minister of Religious Affairs). Alhamdulillah, after going through a long process, finally the Minister of Religious Affairs of the Republic of Indonesia succeeded in selecting candidates for the Indonesian Waqf Board to be proposed to the President. On July 13th, 2007, the Decree of the President of the Republic of Indonesia on the

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²The data from Directorate of Waqf Empowerment of the Ministry of Religious Affairs of RI 2012.

appointment of Indonesian Waqf Board member was signed by President Susilo Bambang Yudhoyono. At this time the Indonesian Waqf Board have been it 7th (seventh) year of age. The question of Muslims in general is, how is the role Indonesian Waqf Board in developing and promoting waqf in Indonesia? In this article the author wants to examine the role of Indonesian Waqf Board (BWI) period 2011-2014. According to the author, notwithstanding many limitations in including funding, in this period BWI has accomplished many things.

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2. Wagf and Cash Wagf

The Islamic scholars agreed that in the establishment of waqf some pillars are required. According to 'Abdul Wahhab Khallaf, there are four pillars of waqf: (1) The waqf endower or waqif, namely the property's owners who takes legal action; (2) the property which is endowed as waqf or mauquf bih as an object of the legal action; (3) The target of waqf or those are entitled to receive waqf, called mauguf'alaih; and (4) a pronouncement of waqf from waqif called sighat or pledge of waqf. In Law No. 41 Year 2004 on Waqf, the time period and Nazhir are added to pillars or elements or waqf.

- On the issue of waqf, the property to be endowed as waqf is very important. However, the property to be endowed as waqf is valid to be called as wanf, if the object meets the specified requirements. As for the terms, among others, are as follows:
- .: a....The objects to be endowed as waqf shall have economic value, fixed in substance and could be utilized according to the Islamic teachings under any circumstances 4. However, in Qanun which is existing in Egypt, the objects to be endowed should not be confined to the fixed objects, but also movable objects 5;
- b. The object to be endowed as waqf should be concrete in form and have definite boundaries. This requirement is intended to avoid disputes and problems that may occur later after the property is endowed as waqf. In other words, this requirement aims to ensure legal certainty and security of rights for mustahik to utilize these objects6;
- c. The property to be endowed as waqf should truly belong to waqif, meaning free from any burden 7;

Abdul Wahhab Khallaf, Ahkam al-Waaf, (Egypt: Mathba'ah al-Mishr, 1951), page 14

⁴ Muhammad Salam Madkur, Ahkam al-Usrat fi al-Islam, (Egypt: Dar al-Nahdat al-'Arabiyyat, 1970), page 304.

Wahbah az-Zuhaily, Figh al-Islamy wa Adillatuhu, Juz VIII, (Egypt: Dar al-Fikri, t.t.), 185.

^{&#}x27;Muhammad Ubaid 'Abdullah al-Kubaisyi, Ahkam al-Waqf fi Syari'at al-Islamiyyah, Vol. II, (Baghdad: Mathba'ah al-Irsyad, 1977), page 351.

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d. The property to be endowed as waqf should be eternal. In general, the Islamic scholars sugest that the object to be endowed as waqf must be eternal in subtances *. Hanafiyyah scholars require that the "ain" (substance) of the property to be endowed as waqf must be eternal and can be used continuously. They sugest that, basically the properties to be endowed as waqf should be fixed objects, but according to them (Ulama Hanafiyyah) the movable objects can be endowed as waqf in several respects: First, the state the moving objects follows the state of fixed object, there are two kinds: (1) the property has the state of stillness in place, such as buildings and trees. According to Hanafiyyah scholars the buildings and trees are among movable objects that depends on the fixed object; (2) movable objects that is used to help the fixed object like a tool for plowing, buffalo that used to work and others. Secondly, the permissibility of waqf of movable objects is based the atsar (tradition) that allows waqf of weapons and animals for fighting. It is narrated, that Khalid bin Walid had ever endowed his weapon for fighting in Allah Ta'ala; Thirdly, waqf of movable objects may generate knowledge like endowing books and manuscripts. According to Hanafiyyah scholars, knowledge is the source of understanding and not contrary to text. They stated that to replace waqf objects feared its eternality is allowed. According to them, endowing books and manuscripts as wanf from which knowledge is derived, is the same with endowing dirhams and dinars. Therefore Hanafiyyah scholars allow cash waqf. Hanafiyyah scholars also allow endowing items that are commonly endowed in the past as a place to heat water, shovel, axes as a tool of works?

From the opinions that have been presented it is clear that in principle, the scholars, including Hanafiyyah scholars sugested that the requirements of objects to be endowed as waqf are fixed objects, only certain movable objects are allowed to be endowed, ie the objects that have been put forward and types of objects that have been endowed by companions. In addition to Hanafiyyah scholars, Imam az-Zuhri also sugested that endowing dinar is permissible, by making the dinar as venture capital. The profit of these efforts is then provided to mauquf 'alaih. In addition to Imam az-Zuhri and Hanafiyyah scholars, some Shafi'i School's Scholars also allowed waqf of dinar and dirham. The permission of endowing movable objects such as money and stock is very important to

Muhammad Abu Zahrah, Muhadlarat fi al-Auqaf, (Cairo: Dar al-Fikri al-'Araby, 1971), page 103. Ibid., page 103-104.

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develop waqf of other movable objects. Therefore the formulation of objects that are allowed to be endowed as waqf is indispensable, especially in the country whose waqf is underdeveloped well like Indonesia. The formulation of the results should be disseminated to the Muslims, so the Muslims understand the problem of waqf correctly. Thus Muslims can develop the existing waqf productively, and the results can be used for social welfare.

Regarding cash waqf in Indonesia, at the moment there is no problem anymore, because since the date of May 11, 2002 the fatwa of Indonesian Ulama Council has set a fatwa on the permission of cash waqf, the contents of are as follows:

- Cash waqf (waqf al-nuqud) is a waqf performed by a person, group of people, institutions or legal entities in the form of cash money.
- 2. Included in the definition of money is a security.
- 3. Cash waqfis jawaz (permitted).
- 4. Cash waqf may only be distributed and used for things that are allowed in Islamic law.

Besides waqf of fixed assets, cash waqf is important to be developed. In the countries whose economic condition have not yet properly developed, there are many residents who live below the poverty line, cash waqf is very important to be developed because cash waqf can be used to address the social and economic problems occurring in the concerned country. As is already known, waqf initially, is only purposed for religious purposes. In the history of Islam, for example, the first religious waqf was waqf of Quba mosque in Madinah. This mosque was built at the time of the arrival of the Prophet Muhammad in Medina in 622 AD. The house of worship still stands majestically today in the same place, although it has undergone several expansions and improvements. This waqf for the place of worship was followed by the other waqf of mosques. In addition to a place of worship, in history, waqf were also used to improve public welfare. This was directly exemplified by Umar on the order of the Prophet as depicted in a hadith narrated by Ibn Umar that means ¹⁰:

"From Ibn Umar that actually Umar acquired a land at Khaibar, then Umar said: O Rasullulah, I have acquired a land in Khaibar, and I have never

¹⁷Muhammad bin Ali bin Muhammad asy-Syaukani, Nail al-Autar, (Mesir: Mustafa a-Babi al-Halabi, t.t.), Jilid VI, page 127. Lihat juga Wahbah az-Zuhaili, op.cit., page 155.

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acquired property more valuable for me than this, so what do you command me to do (O Rasullulah)? Then the Prophet said: "If you like, you may keep the corpus intact and give its products (the advantages) as Sadaqa. So 'Umar gave it as Sadaqa declaring that property must not be sold, or inherited or given away as gift. The sadaqa was devoted it to the poor, to the nearest kin, and to the emancipation of slaves, for those who run out of stock on a journey. There is no sin for one, who administers it (nazhir) if he eats something from it in a reasonable manner, or if he feeds his family on the condition that he may not occupy the property rights of land for himself (Hadith narrated by Jama'ah)."

From the Hadith above it is clear that the waqf is not only for places of worship and alike, but waqf property can also be made productive so that the results can be used to improve the welfare of mauguf 'alaih or those who deserve it. During its development, wanf in the form of land as exemplified by Umar was quite a lot. Waqf of this kind is purposed to help fulfilling the need of dlu'afa in a society and to build facility of public interest. In history, the results of the development of waqf of this type was used to facilitate the public interest in various fields. such as to fund certain institutions and activities, such as libraries, scientific research, education, health care, animal care and the environments. The results of the development of waqf at the time was also used to help small traders needing for capital, maintenance of parks, roads and dams. Waqf for the general welfare was also initiated at the time of the Prophet Muhammad, at which time there was a man named Mukhayriq who included in his will that if he died later. seven lands of plantation shall be given to the Prophet. In the year 626 AD Mukhayriq died and the Prophet Muhammad accept the land and set them as waqf the result which was purposed for the benefit of the poor. This practice was followed by the companions and followers, among others was 'Umar ibn Khattab whose hadith has been disclosed. At the time of companions, waqf grew and developed, especially after the release of the Arab regions, such as Mecca, Khaibar, Sham, Iraq, Egypt, and other Arab Countries. Since then waqf is growing very rapidly and reached its peak during the reign of the Abbasid, where many communities are rich and abundant with treasures. This development continues until subsequent periods at various Islamic Countries such as Egypt, Sham, Turkey, Andalusia and Morocco. Those included in waqf properties at the time are public housing and shopping centers in various capitals of Islamic countries stretching from Morocco in the western end to the eastern end of New Delhi and Lahore. A very important historic events and may be regarded as the greatest event in the history of human, both in terms of the

implementation and expansion of the understanding of waqf was waqf of land, which were liberated by 'Umar ibn Khattab in some countries, such as Sham, Bgypt, and Iraq. This was done by Umar after consultation with other companions, the results of which was not providing agricultural lands to the soldiers and fighters who participated in the liberation, but making them waqf for the Islamic Ummah and the generations to come ". The fast growing number of waqf lands made waqf assets abound. Sizeable number of waqf land came from different types of waqf, a variety of shapes and purpose, economic substance, and forms of management. If waqf is seen from the shape of its

- management, waqf can be categorized into four ¹²:

 1. Waqf managed by waqif himself or one of his descendants of waqif, the
- 2. Waqf which is managed by other person appointed by waqif to represent a specific position or institution, such as imam (manager) of mosque where the waqf results is for the benefit of the mosque;

category of which is determined by waqif himself;

- 3. Waqf that the documents of which have been lost, so that the judge appoint someone to manage the waqf;
- 4. Waqf which is managed by the government. This came later, especially after the establishment of the Ministry of Waqf during the Turkish Utsmany reign or in the middle of the nineteenth century.

If xiewed from its economic substance, waqf can be grouped into two groups, namely ":

- Direct waqf. Direct waqf is to provide direct services for people who are
 entitled, like mosque which is provided as a place of prayers; waqf of school
 which is provided as a place of learning; hospitals which is provided to treat
 the sicks for free. Theese direct services were actually benefitial for the
 community directly and become fixed capital which always increases from
 generation to generation.
- 2. Productive waqf. It is waqf of property used for production, in the fields of agriculture, industry, trade and as well as services that the benefits are not in waqf objects directly, but in the net results of the development of waqf which are given to people who are entitled in accordance with the waqf purposes. In this case, the productive waqf are processed to produce goods or services to be sold, and the results are used in accordance with the purpose of waqf.

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[&]quot;Mundzir Qahaf, Manajemen Wakaf Produktif, translated by Muhyiddin Mas Rida, (Jakarta: Kḥalifa, 2005), page 17-18.

¹³Ibid.,page 21. ¹³Ibid., page 22-23.

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The difference between direct waqf and productive waqf lies in the pattern of management and conservation way of waqf. Direct waqf need costs for maintenance which should be obtained from outside the object of waqf, because such waqf can not produce anything. While productive waqf, is waqf developed productively. Some of the results are used to maintain waqf objects, and the remainder are to be distributed to the appropriate persons specified in the pledge of waqf.

In history of waqf, Muslims have created various waqf goals. This has made waqf as social charity or public institution which has an important role in the economic empowerment of the people. The reality makes waqf a very big institution to help the government in realizing social agenda, both in urban and in rural areas. In history, based on the purpose, there are several kinds of waqf, among other:¹⁴

- 1. Waqf of drinking water. This types of waqf is among the waqf of the first purpose. In Islam it is reflected in the waqf of Uthman ibn Affan ra of Raumah wells; Waqf of wells and springs in streets passed by pilgrimages coming from Iraq, Sham, Egypt, and Yemen as well as caravan traveling to India and Africa. Since Uthman endowed the wells, waqf of water became a common phenomenon in almost all urban and rural areas in Muslim countries, so that no one sells drinking water as it happens lately.
- 2. Waqf of resting place for hajj pilgrims. At the time of Harun al-Rashid caliphate, his wife, Zubaidah also endowed well to serve drinks to the pilgrim of hajj. Zubaidah name was known in all the way from Baghdad to Hijaz. In addition, to provide services to hajj pilgrims, some resting places had also been built on the street of the area stretching from Samarkand to Vas. Some of the resorts were built during the first century of Hijriyyah, and experienced improvement during the reign of 'Umar ibn Abdul Aziz with facilities that includes resting points for animal ridden on.
- 3. Waqf of road, bridge, lighting on city streets, bathroom, bathroom and cleaning places, as well as a variety of other public interests.
- 4. Waqf for the poor and those who are on the trips. This Waqf has been existing since the beginning of Islam, ie since 'Umar ibn Khattab ra In history, this type of waqf is pretty many, even continuously develop until now.
- 5. Waqf used for social development. Those include in waqf used for social development are as follows: (a) waqf for the provision of milk and medicines for needy families, namely for their children; (b) the development of waqf for women, especially women of orphans, women

[&]quot;Tbid., page 25.

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- who are facing economic problems, and others; (c) waqf for women who are experiencing distress and stress, by way of soothing and healing them.
- 6. Wagf of school and university, and other scholarly institutions. This type of waqf is the waqf which get much attention of Muslims. In almost every major city whose inhabitants are predominantly Muslims, schools and universities as well as the Islamic Center are funded from wagf, such as in Damascus, Baghdad, Cairo, Asfahan, and others. There are also wagf for scientific activities such as libraries located in campus, but there is also want devoted only to scientific activities such as want for technology development research activities, so there is a waqf for Hadith scientists. medical scientists, for the development of medicines, jurisprudence. scientific and studies of al-Qur'an, and others.
- 7. Waqf for boarding school and college students, scholarship including for stationery purposes and reference books. In addition, wagf is also used for salaries of teachers and scholars.
- 8. Waqf for health care. This Waqf includes the construction of community health centers, hospitals, pharmacies, medical equipment, and the salaries of those working in hospitals.
- 9. Waqf for environmental preservation. This Waqf is to show that in Islam, waqf is not only for the benefit of the human community development, but also for the preservation of cultural heritage and the environment.

From the purpose of waqf applied at the time, it is clear that the waqf indeed has a very important roles to empower the community. Unfortunately, what has been implemented by Muslims in the past, has not been fully understood by today's people, including people of Indonesia. Therefore, quite a lot of Indonesian people that are still amazed when they heard about the several apartments and shopping centers are built from the waqf properties. That needs to be assessed at this point is how to reimplement the model of waqf that ever existed in the history of Islam.

In the Islamic world, the country which is well known with its waqf development is Egypt. Tradition of performing waqf started in Egypt since the expansion of Islam in Egypt. Waqf which first took place in Egypt was waqf of Mosque of Amr bin Ash which was also the first mosque in Egypt. This mosque was endowed by Qaisabah bin Kaltsum at-Tahbibi in the 21" Hijriyyah or in 641 AD. The waqf of property was then followed by the other Muslims. The objects to be endowed were also increasingly diverse, originally a mosque later buildings, farmland, orchards and other objects needed by public. So remarkable the number of waqf properties that the special management is

needed in managing, maintaining and developing waqf and allocating the results of waqf to mauquf alaih. Among the very large and well known waqf property in the Islamic world was the Mosque and University of Al-Azhar. The Mosque and the University were built during the Fatimids Caliphate. This tradition was also followed by the people and the Sultans, Sultan Qaitbay for example, he had ever endowed a number of buildings, such as warehouses, hall, Turkey dormitory township, factories and farms. The tradition continues to thrive up to this day. To note, many countries that have successfully developed waqf, cannot be separated from the existence of Nazhir, because Nazhir is one element that determines the success or failure of a waqf. In some countries which have successfully developed productive waqf, generally waqf were managed by professional Nazhir. This conditions occur for example in Egypt, Kuwait and Turkey. If Indonesia wants to develop productive waqf, waqf should be managed by a professional Nazhir.

3. The practice of waqfin Indonesia

As a organization growing in the community, especially the Muslim community, from the Dutch colonial era, waqf always gets attention from the government. The Government expects that the existing waqf are managed more orderly and does not generate any disputes within the community. The few rules ever issued by the Dutch government, among others, were:

- The first Gubernemen Secretary Circular Letter dated January 31, 1905, No. 435, as contained in Bijblad 1905 No. 6196, on Toezicht op Bouw van den Mohammedaansche bedehuizen.\
- The Gubernemen Secretary Circular Letter dated June 4, 1931 No. 1361/A, as contained in Bijblad. 1931 No. 125/3, about Toezich Van de Regeering op Mohammedaansche bedehuizen, Vrijdagdiensten en wakafs.
- Gubernemen Circular Letter dated December 24, 1934 No. 3088/A as contained in Bijblad 1934 No. 13390 on Toezicht Van de Regeering op Mohammedaansche bedehuizen, Verijdagdiensten en Wakaps.
- The Gubernemen Secretary Circular Letter dated May 27, 1935 No. 1273/A, as contained in Bijblad 1935. No. 13480 on Toezicht Van de Regeering op Mohammedaansche Bedehuizen en wakaps.
- 5. Etc..

Those regulations at the time of independence still continued to remained in

¹¹Amin, Hasan 'Abdullah, *Idarah wa Tatsmir Muntalakat al-Augaf*, (Jeddah: al-Ma'had al-Islamy li al-Buhus wa al-Tadrib al-Bank al-Islamy li Tanmiyyah, 1989), page 324-540.

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place, because there was no new waqf rules held. The Government of the Republic of Indonesia also continued to acknowledge the Islamic law on the matter of waqf, and the intervene with waqf was merely for investigation, determination, registration, and supervision of the maintenance of waqf assets in order to fit the purpose and intent of waqf. Absolutely, the government did not intend to interfere with, control, or acquire the waqf assets as state-owned land. The legal basis, competence, and task of taking care of wanf issues by the Ministry of Religious Affairs was based on Government Regulation No. 33 Year 1949 jo. Government Regulation No. 8 year 1980, and based on the Decree of Ministry of Relgious Affairs No. 9 and No. 10, year 1952. The Regulation of the Minister of Religious Affairs No. 9 and No. 10 year 1952 stated that the Bureau of Religious Affairs with its offices in the vertical channel in regions as KUAP. KUAK and KUA (Religious Affairs Office) of District has an obligation "to investigate, decide, register and supervise or hold an election on wagf". 16 Under the rule, the waqfland is under the authority of the Minister of Religious Affairs. the implementation of which is delegated to the Head of the Religious Affairs · Office of District. The duties of the Minister of Religion Affairs / the officials appointed is watching, investigating, and registering whether or not the wanf land is in accordance with the intent and the purpose of waqf according to Islam. For the purpose of waqf that had existed before the enactment of the Government regulation, new letters of evidence can be made based on the existing testimonies. As the step of regulating, the Head Office of Religious Affairs Bureau issued circular letter dated December 31, 1956, No. 5. The circular letter contained, among others, recommendation that the land waqf was made $\Box\Box$ in writing. In connection with the Joint Decree of the Minister of Interior and the Minister of Agrarian Affairs dated March 5, 1959 No. Pem.19/22/23/7; SK/62/Ka/59 P., that the ratification of waqf land which was originally under the authority of Regent was transferred to the Agrarian Supervisor Chief. The further implementation was regulated by the decree of the Agrarian Head Office of to the Central Bureau of Religious Affairs dated February 13, 1960. No. Pda. 2351/34/II, 17

From the regulations that had been issued by the Government of the Republic of Indonesia, there seemed an efforts to maintain and preserve the existing waqf land in Indonesia, even ordering effort was also shown by the Government of Indonesia. In addition to some of regulations having been put forward, the Ministry of Religious Affairs at the date of December 22, 1953 also

¹⁶Ibid., page 8 ¹⁷Ibid., page 10

issued instructions on waqf. The task of part D (social worship) of Religious Affairs Bureau, in Circular Letter of the Religious Affairs dated October 8. 1956, No. 3/D/1956 on waqf that do not belong to mosque. 18 Nevertheless the existing regulations are inadequate. Therefore, in order to reform Indonesian Agrarian Law in the country, the issue of waqfland was given special attention. as seen in the Basic Agrarian Law, the Law No. 5 Year 1960 on the Basic Regulation of Agrarian, Chapter II, section XI, Section 49. From Article 49 paragraph (3) of Law No. 5 year 1960 it was clearly stated that in order to protect the ongoing waqf of land in Indonesia, the government would provide regulation through Government Regulation on privately owned land. The government regulation is apparently has just issued after 17 years of the effectiveness of new Agrarian Law, Government Regulation No. 28 year 1977 on privately owned land. With Government Regulation on waqf of privately owned land, it was expected that waqfland in Indonesia remained existing more orderly and more maintainable. During the absence of government regulation of land waqf, there are, in Indonesia, a lot of waqf land problems that arise in the communities. This does not mean that the government does not care about waqf issues, but due to inadequacy of the rules that existed prior to the enactment of Government Reguilation on waqf, the government has difficulties to curb waqf land which is quite a lot. Waqf as one of the growing Islamic institutions in Indonesia, which is generally in the form of privately owned land, is closely related with the development. The increasingly growing of development in Indonesia, the need of ground both for individual housing needs and for public infrastructure such as roads, markets, schools, sports facilities, and industry also increase. Such conditions makes the people and the government began to think the efforts to utilize the existing land efficiently and prevent waste in the use of land. The land use data shows that there are still maps with the image of critical lands, especially in areas where the population is dense and the status of the land are not owned the people who work on it. 19

In addition to the above issues, there are complaints from public and agency that manage the land of waqf, that before the issuance of Government Regulation No. 28 Year 1977 on waqf of privately owned land, the maintenance and management of waqf lands are less organized and less controlled, so that the common misuse of waqf frequently happened.²⁰ It is the conditions that

¹¹Abdurrahman, *Masalah Perwakafan Tanah Milik dan Kedudukan Tanah Wakaf di Negara Kita*, (Bandung: Alumni, 1979), page 22.

¹⁵Soeprapto, "Perubahan Peruntukan/Penggunaan Tanah Wakaf dari Sudut Agraria", Mimeo, Paper presented in Discussion on Waqfof Privetely Owned Property, Ministry of Religious Affairs Republic of Indonesia, (Jakarta, September 19-20,1987), page 4.

[&]quot;Sutarmadi, Muhda Hadisaputra and Amidhan, Pedoman Praktis Perwakafan, (Jakarta: Badan Kesejahteraan Masjid, 1990), page 6.

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prompted the government to address the problems that arose from the practices of waqf in Indonesia. This was illustrated in the background of the issuance of Government Regulation No. 28 Year 1977. In Indonesia, government intervention in terms of waqfhas a strong legal basis. In the Law 1945 Article 29 paragraph (1) under Chapter of Religion, it is stated that the state (the Republic of Indonesia) is based upon belief in one supreme God allmighthy. According Hazarin, the basic norm mentioned in Article 29 paragraph (1) has the interpretation that "the Republic of Indonesia" shall help the implementation of Islamic Law for Muslims, Christians Law for Christians and Hindu Dharma Law for Hindus, if the implementation of the laws requires the mediation of state power.21 The state authority that obligates helping the implementation of the laws of religions recognized in this state of the Republic of Indonesia is the authority which is based on the Constitution of the Republic of Indonesia. This is because the Shari'ah which is derived from religion embraced by citizens of the Republic of Indonesia is a necessity of life of its adherents.22 In addition, Article 29 paragraph (2) of the 1945 Constitution also clearly states that the state guarantee the freedom of each citizen to profess their own religion and to worship according to the religion or belief.

From paragraph (1) and (2) Article 29 of the Law 1945 it is clear that the waqfis a form of worship to God, which is included as material worship namely the worship in the form of property submission (mal) owned by a person in accordance with the specified manner. Waqf is a worship that involves the rights and interests of others, orderly administration and other aspects of community life. In order that the rights and obligations as well as the interests of the community can run well, it is the obligation of the government to regulate the issue of waqf in the form of legislation. With the existence of the legislation the orderness of waqf practice can be materialized until its advantages can be felt by the public.

As we know, there are weaknesses during judicial technical developmet of the religious courts by the Supreme Court, among others, about Islamic law applied in the religious courts, which tend to be confusing. This is caused by a difference of opinion in almost every issue. To overcome this it is necessary to law book which collects all applicable laws effective to religious courts that can be used as guidelines by the judge in carrying out his duties, so that the unity and legal certainty can be guaranteed.²⁴

²¹Hazairin, Demokrasi Pancasila, (Jakarta: Bina Aksara, 1983), page 34

Bid., page 75.
 Muhammad Daud Ali, Sistem Ekonomi Islam Zakat dan Wakaf, (Jakarta: UI Press, 1988), page 98-99.

²⁶Departemen Agama, Kompilasi Hukum Islam Indonesia, Direktorat Pembinaan Badan Peradilan Agama, 1992), page 139.

To solve the problem above Prof. Dr. H. Busthanul Arifin, SH offered the idea of Compilation of Islamic Law. The draft of compilation of Islamic Law consists of three books; Book I on the Law of Marriage, Book II on Inheritance Law, and Book III on Law of waqf, in line with the major powers today's religious court, which has been well accepted by all Indonesian experts and scholars of Islamic law in the workshop held in Jakarta from February 2 to 5. 1988. The Compilation of Islamic Law through Presidential Decree No. 1 year 1991 dated June 10, 1991 has been determined as a guidance for government agencies and the public who need to resolve the problems in all the three areas of ihe law. The Minister of Religious Affairs, as helper of President, in his Decree number 154 year 1991 dated July 22, 1991, in order to carry out the instructions of President, it is required that all agencies of the Minitry of Religious Affairs, including the Religious Courts, and other relevant government agencies to disseminate the Compilation of Islamic Law concerned. In the second part of the decree of the Ministry of Religious Affairs on the Implementation of the Presidential Instruction it is also mentioned that the whole agencies shall implement the compilation of Islamic Law in addition to other legislation to resolve the problems in the sector of law of marriage, inheritance, and waqf. 25

Although the waqf has been regulated with a variety of regulations, the hope to functionate waqf as specified in Islamic law has not been met. There are many abandoned waqf lands, not helping people to achieve well-being, even sometimes become a burden on the society. Based on the conditions many experts expect that waqf is set in a law.

As already known, of the waqf that is regulated by the Government Regulation No. 28 Year 1977 was merely a social waqf (waqf general) on privately owned property land or legal entity. The land being endowed in accordance to Government Regulation were restricted to the privately owned land alone, whereas other rights on lands such as the the right to cultivate, right to build and use rights are not regulated. In addition, other objects such as money, stocks and others are also not regulated in Government Regulation. Therefore, the development of waqf in Indonesia is stilted.

After going through a long process in the end, on October 27, 2004 President Susilo Bambang Yudhoyono ratified the Law of the Republic of Indonesia Number 41 Year 2004 on Waqf. When compared with some of the legislation on waqf over the years, this law on waqf there are some new and important things. Some of these are the problems of Nazhir, the object being

Ibid., page 162-165.

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endowed (mauquf bih), and the designation of waqf property (mauquf 'alaih), as well as the need to establish Indonesian Waqf Board. With regard to Nazhir problem, because the law administers not only fixed assets that have not been commonly implemented in Indonesia, but also movable assets such as money, precious metals, securities, vehicles, intellectual property rights, lease rights and others, then the nazhir is required to be supposedly able to manage these objects.

In this law the waqf objects is not limited to the fixed assets, but also movable objects. Article 16 paragraph (1) states that the waqf property comprises: fixed objects; and movable objects. While in paragraph (2) it is stated that the fixed assets as referred to in paragraph (1) letter a should be:

- a. Land rights under the provisions of laws and regulations that either already registered or not;
- b. buildings or parts of buildings that stood on land referred to in paragraph a;
- c. plants and other objects relating to land;
- d. property rights over the apartment units in accordance with the provisions of the legislation in force;
- e. -other movable objects in accordance with the provisions of Shari'ah and the legislation in force.

As in paragraph (3) of the same article it is mentioned that the movable object as referred to in paragraph (1) letter b is a property that cannot be discharged due to consumption, they includes:

a. Money:

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- b. precious metals;
- c. sequrity; and
- D. other movable objects in accordance with the provisions of Shari'ah and the legislation in force.

In Law on Waqf, cash waqf is also regulated in a separate section. In Article 28 of Law, it is stated that waqif may endow movable objects in the form of money through Islamic financial institution designated by the Minister of Religious Affairs. Then in Article 29 paragraph (1) it is also mentioned that the movable objects in the form of cash waqf as referred to in Article 28, is conducted by waqif with statement of will which is made in writing. In paragraph (2) the same article it is stated that the waqf of movable objects in the form of money as referred to in paragraph (1) shall be issued in the form of cash waqf certificate. While in paragraph (3) of the same article it is regulated that cash waqf certificate as referred to in paragraph (2) shall be issued and delivered

by the Shariah Financial Institutions to waqif and nadzir as proof of delivery of the waqf objects. The provisions of doing waqf of movable objects in the form of cash waqf will be further regulated by Government Regulation.

In Indonesia, cash waqf has not been known and applied. In contrast to land waqf, the implementation of cash waqf is a little bit complicated because its performance process should involve Islamic financial institutions. The process of the implementation of cash waqf is clearly regulated in Article 22 paragraph (3) the Government Regulation No. 42 Year 2006 as follows: The waqif who will endow money as waqf is required to be present at the Islamic Financial Institution - Cash Waqf Receiver (LKS-PWU) to declare his will of doing cash waqf; explaining the ownership and origin of the money that will be endowed as waqf; depositing in cash a sum of money to LKS-PWU; Filling out a form of statement of will of waqif that serves as the AIW. In the case Waqif cannot present as specified in paragraph (3) letter a, Waqif may appoint a representative or attorney. This is clearly stated in Article 22 paragraph (4). In paragraph (5) the same article, it is mentioned that Waqif can declare a waqf pledge of movable object in the form of money to Nazhir before PPAIW and then Nazhir submits the AIW to LKS-PWU. In addition to the above articles, there are still quite a lot of articles relating to cash waqf and waqf of other movable objects as well as the regulations to develop them. The problem is, what is the best way to implement Law No. 41 Year 2004 on Waqfin the society? Based on the observations of the author, at the moment there are still quite a lot of people who do not understand and even do not know the existence of Law Number 41 Year 2004 on Waqf. Therefore, in order that the law can be implemented properly in society, then there are some things to do:

- The Law No. 41 Year 2004 on Waqf and Government Regulation No. 42 Year 2006 on the implementation of Law No. 41 Year 2004 on Waqf needs to be disseminated to the society;
- 2. Waqf nazhir must understand the content of the law properly. Thus they are able to perform nazhir tasks as expected.

Besides, in order that waqf may be promoted and developed in accordance with the prevailing laws and regulations, we need a special body which has task and is authorized to conduct training to the managers of waqf (Nazhir). In connection with it, the Law on Waqf also mentions the need to establish Indonesian Waqf Board.

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The Role of Indonesian Waqf Board in Promoting and Developing Waqf in Indonesia

4. The Role of Indonesian Waqf Board in Promoting and Developing waqf in Indonesia 2011-2014

With the enactment of Law No. 41 Year 2004 on Waqf and Government Regulation No. 42 Year 2006 on the implementation of Law No. 41 Year 2004 on Waqf, waqf in Indonesia is expected to develop properly so that it can improve the welfare of the community. In Article 47 paragraph (1) of Law on waqf, it is mentioned that in order to promote and develop national waqf, Indonesian Waqf Board is formed. Indonesian Waqf Board is located in the capital city of the Republic of Indonesia and can appoint representatives in provinces and/or districts / cities in accordance with the requirements (Article 48). In Article 51 paragraph (1) it is stated that the Indonesian Waqf Board consists of the Executive Board and Advisory Council. The membership of Indonesian Waqf Board was appointed for a term of three (3) years and may be reappointed for one (1) term.

In Article 57 paragraph (1) it is stated that the appointment of the membership of Indonesian Waqf Board for the first time was proposed to the President by the Minister (Minister of Religious Affairs). Alhamdulillah, after going through a long process, in the end the Minister of Religious Affairs of the Republic of Indonesia has succeeded in selecting candidates for the Indonesian Waqf Board to be proposed to the President. On July 13, 2007, the decree of the President of the Republic of Indonesia on appointment of member of Indonesian Waqf Board was signed by President Susilo Bambang Yudhoyono. At this time the Indonesian Waqf Board was aged 7 (seven) years. In this article the author would like to discuss things that have been achieved by the Indonesian Waqf Board for a period of three years or the second period of Indonesian Waqf Board.

Many countries whose waqf have well developed, they have Waqf Board or equivalent institution with the Waqf Board. For instance, Egypt, Saudi Arabia, Sudan, and others. In Egypt, the Waqf Board has been established since 1971. The Waqf Board in Egypt is under the Ministry of waqf or Wizaratul Auqaf. The main task of the Egyptian Waqf Board is to address the problems and develop productive waqf in accordance with the legislation in force. In addition, the Egyptian Waqf Board is also obliged to investigate the troubled waqf, to distribute the results of waqf and to carry out all the activities that have been set. As a country that is quite experienced in dealing with waqf, the people that they put in the Waqf Board are the professionals in their respective fields. To facilitate its activities, the Egyptian Waqf Board also invites professionals beyond those already become administrators. Egyptian Waqf Board has the authority to manage and distribute the results of the management to those who qualify, so that the waqf can serve for the welfare of mankind. Egyptian Waqf Board

activities are quite important in developing the productive waqf. In this case the Waqf Board in collaboration with companies, hospitals, banks, or the developer manages the assets of the waqf. In addition, the Waqf Board also buys stocks and bonds of large corporations. All activities in the Egyptian Waqf Board were governed by adequate laws and regulations.²⁶

In addition to Egypt, Saudi Arabia also has a kind of Waqf Board named the Supreme Council of Waqf. The Supreme Council is under the Ministry of Waqf and Hajji. The authority of the Supreme Council of Waqf, among others, are developing the productive waqf and distributing the results of the development of waqf to those who qualify. In this connection, the Supreme Council of Waqf also have the authority to make waqf development programs, the survey of waqf assets and think about how management, determine the measures of investment and development steps for more productive waqf, and to publish the results of the development of waqf to the public. ²⁷

In developing waqf, Sudan did experiments with a form of management of Islamic Waqf Board which works without any attachment to the Ministry. Authority granted to the Islamic Waqf Board, among others, to curb waqf lands and promote the tradition to do waqf for benefactors. Waqf awakening in Sudan has been more rampant since 1991 because the Ministry gives some privileges to the Waqf Board in the form of a reserve fund for the provision of waqf institutions that manage projects of productive land for agriculture; residential. and commercial centers. In performing its duties, Waqf Board has basically two main sectors, the first to promote new waqf, and the second to enhance the development of productive assets, wthewer it is a waqf property derived from the legacy of previous generations, or those given by the government to the Waqf Board. From the two sectors, the sectors interesting to be studied is the second sectors, namely the development of productive assets. In connection with its work to develop waqf assets, the task of Sudan Waqf Board are management and investment of old waqf which are located amid the community of people of Sudan. In this case the Waqf Board is based on two things. Under conditions that deed and documents waqf were found, or waqf terms and objectives of waqif were known, particularly with regard to the details of the appointment of Nazhir, the Waqf Board only provide assistants to Nazhir in developing waqf property. However, in the necessary condition, Waqf Board also provided financial assistance to the existing waqf. This is to increase the

³⁴Jumhuriyyah Mishr al-'Arabiyyah, Qawanin al-Waqf wa al-hikr aw al-qararat al-Tanfidziyyah (Cairo: Al-Haiah al-'Ammah li syuun al-Mathabi' al-Amiriyyah, 1993), pago 146.

⁷Hasan Abdullah al-Amin (Ed.), *Idarah wa Tatsmir Mumtalakat al-Auqaf* (Jeddah: Ma'had al-Islamy li al-Buhuts wa al-Tadrib al-Bank al-Islamy li al-Tanmiyyah, 1989), page. 324.

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income of the waqf for pre-defined purpose of waqf, while maintaining the presence of sspecial Nazhir to each waqf property independently under the terms specified in the waaf deed and documents, and with the direct supervision of the Waqf Board to Nazhir. Under conditions that waqf terms is unknown, the Waqf Board distributes for all for the good. In order that waqf become productive, the Waqf Board develops the waqf property by bringing together all wagfs without deeds. In this case, the Wagf Board acts as Nazhir of the wagf, productively manages and distributes the results to those who qualify.22

What about the development of Indonesian Waqf Board during the period of 2011-2014? In Article 47 paragraph (2) of Law No. 41 Year 2004 on Wagf it is mentioned that Indonesian Wagf Board is an independent institution in carrying out its duties. The duties and authority of the Indonesian Waqf Board is as referred to in Article 49 paragraph (1). In the article it is stated that the Indonesian Waqf Board has the duty and authority to:

- a. give supervision to Nazhir in managing and developing the waqf property;
- b.b. Fundertake the management and development of waqf properties nationwide and internationally;
- c. provide approval and / or permission for the change of designation and status of waqf property;
- de femove and replace Nazhir;
 - e. give approval for the exchange of waqf property;
- . If provide advice and judgment to the Government in policy making in the field of waqf.

In connection with its duties and responsibilities, the Indonesian Waqf Board has formulated the following vision: "The existence of credible independent institution which is trusted by society, which has the ability and integrity to develop national and international waqf'. The mission is: "To make Indonesia Waqf Board a professional institution that is able to realize the potential and economic benefits of property for the benefit and welfare of the public worship".29 To realize the vision and mission, BWI has formulated strategies namely: 30

- 1. Improving competence and networks of Indonesian Waqf Board, both nationally and internationally;
- 2. Creating regulations and policies in the field of waqf;

²Monzer Kahaf, *op.cit.*, page 309-310. ²Badan Wakaf Indonesia, Report of Indonesian Waqf Board, 2011-2014.

¹³Badan Wakaf Indonesia, Report of Indonesian Waqf Board, 2011-2014

- 3. Increasing public awareness and willingness to do waqf;
- 4. Increasing professionalism and truthworthiness of Nazhir in the management and development of waqf property;
- 5. Coordinating and developing the whole waqf Nazhir;
- 6. Regulating the administering the waqf property;
- 7. Overseeing and protecting waqf property;
- 8. Collecting, managing and developing waqf properties nationwide and internationally.

To embody the vision, mission, and strategies that have been put forward, BWI has 6 divisions, namely:31

- 1. Nazhir Development Division, the work program: to set standards of ethics and professionalism of Nazhir; recording and mapping Nazhir; and organizing training for Nazhir.
- Division of Management and Development of Waqf Property, the work program: mapping waqf land for productive purposes; setting and developing cash-waqf; Building waqf Center; and developing waqf property investment program.
- 3. Institutional Division, with the work program: setting up waqf regulations; preparing and developing guidelines for status changes and exchange of waqf property, as well as developing partnerships with other agencies.
- 4. Division of Public Relations, with a work program: dissemination and public education about waqf laws and regulations through seminars, publishing books, websites, and others.
- 5. Division of Research and Development, with a work program: inventory and mapping of waqf assets in Indonesia, mapping and analyszing the economic potential of the assets of waqf, scientific papers and popular publications about the waqf.
- Division cooperation abroad. The division of foreign cooperation was newly formed in 2011 or in the second period Indonesian Waqf Board management.

Although the duties and functions are still very limited they have been implemented by Indonesian Waqf Board (BWI), this is due to a variety of things. According to an analysis conducted by BWI period of 2011-2014, there are still

³⁴Badan Wakaf Indonesia, Report of Indonesian Waqf Board, 2011-2014

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some obstacles faced by BWI in carrying out its duties and functions. These constraints include: ³²

- 1. Insufficient budget support, especially for the work program;
- 2. BWI assistance of operating budget from the Ministry of Religious Affairs were late in liquidation;
- 3. Many administrators work part-time;
- 4. There is no strict description between the authority of the Ministry of Religious Affairs and Indonesian Waqf Board;
- 5. Weakness of synergy between government program and private agencies;
- 6. Database of waqf format existing in the Ministry of Religious Affairs and BWI are not uniform:
- 7. BWI institutional design, including the BWI Representative, is not clear;
- 8. Work program does not refer to a strategic plan that has been created;
- 9. Composition of the board with the number of staff is not balanced;
- 10. The role of LKS-PWU in the administration of cash waqf is not maximized, especially their HR readiness to provide service of cash waqf receipts;
- 11. Advocacy undertaken by BWI to resolve the dispute of waqf/Nazhir has not maximized;
- 12. Majority of Nazhir refuse to give a report to BWI about task execution of way. Nazhir:
- 13. Majority waqfassets have not been productive.

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From several obstacles that is frequently faced by BWI, its is fair if the programs have not been launched as planned. Therefore, according to the author, BWI can execute the task optimally, the various constraints faced by BWI in the coming period of management should gets serious attention. Funding problem, for example, according to the authors, in addition to relying on the financial support of the Government, BWI also have to make breakthroughs and activities that generate funds, so the results can be used to develop waqf in Indonesia. To develop waqf BWI can cooperate with various parties. As mentioned in Article 49 paragraph (2) of the Law On Waqf that in performing the tasks referred to in paragraph (1) Indonesian Waqf Board may cooperate with government agencies, both central and local, community organizations, experts, international agencies, and the another paty considered necessary. Based on verses that have been disclosed earlier, it can be concluded that to develop waqf, BWI can cooperate with various institutions, insofar as not inconsistent with the

³²Report of Indonesian Waqf Board, 2011-2014.

laws and regulations in force. As already mentioned, based on the Law on Waqf, Indonesian Waqf Board (BWI) has a responsibility to develop waqf in Indonesia towards productive era, ie waqf that can improve the economic and general welfare. At the first periode of BWI management, it is not much that can be done because as a newly established state agency, it still requires several meetings to formulate a variety of programs and ways to realize. Therefore, the authors deliberately commit a research or study on the role of BWI in promoting and developing waqf during the second period (2011-2014). Despite the obstacles, as already stated, Indonesian Waqf Board, however, has always tried to exercise the functions and powers in accordance with the existing conditions. Based on research conducted in Indonesian Waqf Board DDin promoting and developing waqf. As already stated that the Indonesian Waqf Board in running the functions and authority have 6 (six) divisions. Here the authors convey a work program that has been done by the divisions during the years 2011-2014: 3

- 1. Nazhir Development Division;
 - a. Serving a request of Nazhir replacement, with frequency 81 times;
 - b. Serving registration of Nazhir of land waqf, with the frequency of 118 times;
 - c. Serving registration of Nazhir of cash waqf with frequency 56 times;
 - d. Conducting Nazhir coaching with frequency 6 times;
 - (1) Workshop of Nazhir of productive waqf 2011;
 - (2) Training of Nazhir Trainer;
 - (3) Training of Financial Services Cooperative;
 - (4) Workshop of Productive waqf Nazhir 2013
 - (5) Workshop of productive waqf Nazhir late 2013;
 - (6) Workshop of Nazhir of cash waqf Islamic Financial Service Cooperative;

On the issue of waqf, the most important element is Nazhir, because the success or failure of a waqf is highly dependent on the ability of Nadhir to manage waqf. Some waqf institutions are quite successful because their waqf Nazhir are able to manage productively. For instance, Sultan Agung Foundation Waqf Board, Waqf Board Foundation of Islamic University of Indonesia. Waqf in Egypt and Turkey can develop properly because Nazhir can manage waqf professionaly so that results of management can be utilized to improve the welfare of the people. As revealed by A.A. Fyzee that Nazhir obligation is to do everything feasible to

[&]quot;Report of Indonesian Waqf Board, 2011-2014.

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and Developing

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maintain and manage the waqf property.34

- 2. Division of waqfmanagement and empowerment: 35
 - a. Fundraising and socialization of cash waqf;
 - b. Assistance of Training materials of cash waqf for frontliner employees of LKS PWU:
 - c. Coordination and monitoring of cash waqf management activities with LKS-PWU:
 - d. Training Workshop on Islamic financial services cooperative, BWI in cooperation with the Ministry of Cooperatives and MES;
 - e. Productive WaqfPilotProject of Jabon Red Tree Planting BWI;
 - f. Strategy Formulation of cash waqf collection of LKS-PWU Forum;
 - g. Drafting Handbook of Cash Waqf;
 - h. Productive Waqf Development Program of Maternal and Child Hospital of Achmad Wardi Waqfin Serang, Banten;
- waf land procurement, data collection and waqf of Rusunawa construction project;
- j. Distributing to productive waqf funds to mauquf'alaih;
 - k. Creating marketing tools brochure with 7 LKS-PWU for dissemination of cash waqfin the month of Ramadhan;
- Workshop of productive waqf Nazhir in Jakarta (Resource PT. Provera
 Development);

As already stated, that whether waqf is beneficial or not really depends on waqf Nazhir which manage. The cause that waqf in Indonesia does not grow productively is that Nazhir don't manage them productively. According to analysis by the author, it is due to several possibilities. Possibly Nazhir does not understand well his duties and obligations, or possibly Nazhir is not able to manage waqf trusted to him. It is not entirely the fault of Nazhir, but possibly the waqif don't understand properly his duties and obligations, so when he appointed Nazhir he did not consider the things revealed above by the author.

- 3. Division of Public Relations 36
 - a. Dissemination through BWI Official Web site: www.bwi.or.id;
 - b. Dissemination through print and online media;
 - c. Dissemination through radio;
 - d. Dissemination through television;

Asaf A.A. Fyzee, Outlines of Muhammadan Law, Edition IV (Delhi: Oxford University Press, 1974), page 312.

³⁵Report of Indonesian Waqf Board, 2011-2014

³⁶ Report of Indonesian Waqf Board, 2011-2014

- (1) Program of Successful Syariah on Metro TV:
- (2) Program of Study of Islam in MNC Muslim;
- e. Dissemination through the distibution of banners, brochures, and books on waqf;
- f. Working visit to mass media editors;

This division is very important because people knew BWI one of them depends on the public relations division.

- 4. Institutional Division:37
 - Establishing regulation of BWI. At this time BWI has issued 9 regulation of BWI;
 - b. Formulating recommendations in Swap Case (ruislag) of Land;
 - c. BWI Representative formation. At this time BWI has already formed 24 Representatives, 9 provinces is still in the process.
 - d. Holding coordination meeting with representatives of BWI Provincial and Regency/City;
 - e. Mediation and advocacy on the waqf dispute;
 - f. Processing change of waqfland use;
 - g. In collaboration with other agencies.
- 5. Division of Research and Development
 - a. Publishing al-Auqaf Journal (9 editions already published);
 - b. Doing research on waqf at Demak, Gresik, and Semarang;
 - c. Publishing Book of Waqf Foundation Profile in Indonesia;
 - d. Compiling waqf proceeding of the results of International Symposium of Waqf in Southeast Asia in collaboration between BWI IRTI, IDB and also the proceedings of results of Workshop of Productive Waqf Nazhir In Indonesia;
 - e. Research on waqfin Jakarta;
 - f. Research on mosques that is not in waqf status; productive waqf
 - g. Preparation of modules for Nazhir certification;
 - h. The research titled Review of Law on waqf;
 - i. Research of Productive and Strategic Waqf Land in Indonesia;
- 6. Division of International Cooperation
 - a. Implementing Workshop Training of Waqf Nazhir of Southeast Asia, the cooperation between IDB-IRTI and BWI with KAPF Kuwait:

[&]quot;Report of Indonesian Waqf Board, 2011-2014

- b. Follow up the Workshop Training of Nazhir Waqf of Southeast Asia by:
 - (1) Completing Secretariate General of Waqf Forum of Southeast Asia and New Zealand:
 - (2) Consolidating Waqf Forum members plus New Zealand Southeast Asia;
 - (3) Data Collection of potential and waqf projects in Southeast Asia and New Zealand:
- c. Productive Waqf Nazhir Training Abroad:
 - (1) Comparative study LKS-PWU to KAPF;
 - (2) Sending Nazhir to Qatar;
- d. Dissemination of BWI Programs to Institutions/Foreign Waqf Institution:
- e. Translating Waqf Literature to:
 - (a) From Arabic and English into Indonesian;
 - (b) Publishing Muntada Augaf KAPF translation;
- f. Comparative study and assessment of co-operation with the management of warf institutions abroad.

Indonesian Waqf Board for three years has showed a strong commitment from BWI administrators and staffs to promote and develop waqf in Indonesia. Even with limited funds, each division still work and try to execute tasks according to their functions and responsibilities.

5. Conclusion

Based on the discussions above it can be concluded that the presence of Indonesian Waqf Board is critical to advancing and developing waqf in Indonesia. Although the Indonesian Waqf Board is still young in age with very limited funds, the Indonesian Waqf Board through the existing divisions is capable of performing their duties and functions. Many programs are now widely realized, among others, a number of Indonesian Waqf Board regulations, the establishment of the Representatives of Indonesian Waqf Board in almost every province, and the publication of the Journal of Al-Augaf in regular basis. It is expected that the presence of the Indonesian Waqf Board may empower the waqf Nazhir so that they can develop a productive waqf and the results can be utilized to improve the welfare of mauguf'alaih.

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Bibliography

- Abdurrahman, Masalah Perwakafan Tanah Milik dan Kedudukan Tanah Wakaf di Negara Kita, Bandung: Alumni, 1979.
- Abu Zahrah, Muhammad, Muhadlarat fi al-Auqaf, Kairo: Dar al-Fikri al-Araby, 1971
- Ali, Muhammad Daud, Sistem Ekonomi Islam Zakat dan Wakaf, Jakarta: UI Press, 1988.
- Amin, Hasan 'Abdullah, Idarah wa Tatsmir Mumtalakat al-Auqaf, Jeddah: al-Ma'had al-Islamy li al-Buhus wa al-Tadrib al-Bank al-Islamy li Tanmiyyah, 1989
- Badan Wakaf Indonesia, Indonesian Waqf Board
- Badan Wakaf Indonesia, Report of Indonesian Waqf Board 2011-2014
- Departemen Agama, Kompilasi Hukum Islam Indonesia, Direktorat Pembinaan Badan Peradilan Agama, 1992
- Hazairin, Demokrasi Pancasila, Jakarta: Bina Aksara, 1983
- Fyzee, Asaf A.A., Outlines of Muhammadan Law, Edisi IV, Delhi: Oxford University Press, 1974.
- Jumhuriyyah Mishr al-'Arabiyyah, Qawanin al-Waqf wa al-hikr aw al-qararat al-Tanfidziyyah, Cayro: Al-Haiah al-'Ammah li syuun al-Mathabi' al-Amiriyyah, 1993.
- Khallaf, Abdul Wahhab, Ahkam al-Waqf, Egypt: Mathba'ah al-Mishr; 1951.
- Al-Kubaisyi, Muhammad 'Ubaid 'Abdullah, Ahkam al-Waqf fi Syari'at al-Islamiyyah, Vol II, Baghdad: Mathba'ah al-Irsyad, 1977.
- Madkur, Muhammad Salam, Ahkam al-Usrat fi al-Islam, Cairo: Dar al-Nahdat al-'Arabiyyat, 1970.
- Qahaf, Mundzir, Manajemen Wakaf Produktif, translated by Muhyiddin Mas Rida, Jakarta: Khalifa, 2005.
- Soeprapto, "Perubahan Peruntukan/Penggunaan Tanah Wakaf dari Sudut Agraria", mimeo, The paper wass presented in a discussion on waqf of privately owned land, Ministry of Religious Affairs RI, Jakarta, September 19-20, 987.
- As-Syaukani, Muhammad bin Ali bin Muhammad, Nail al-Author, Mesir: Mustafa al-Babi al-Halabi,t.t.
- Sutarmadi, Muhda Hadisaputra and Amidhan, Pedoman Praktis Perwakafan, (Practical Guidance on Waqf) Jakarta: Badan Kesejahteraan Masjid, 1990
- Az-Zuhaily, Wahbah, Fiqh al-Islamy wa Adillatuhu, vol. VIII, Egypt: Dar al-Fikri. t.t.

Laws and Legislation

25. 27.

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Law Number 41 Year 2004 on Waqf

Government Regulation Number 42 Year 2006 On the Implementation of Law

Number 41 Year 2004 on Waqf

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