



**Application of Waqf in Modern Islamic Boarding School Darussalam Gontor,
Ponorogo Regency in the Perspective of Sharia Economic Law and Law
Number 41 of 2004 concerning Waqf**

¹Fikfik Taufik, ²Yusi Nur Iman Aprillillah

Universitas Muhammadiyah Bandung

E-mail: fik2taufik@umbandung.ac.id

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Abstract

Pondok Modern Darussalam Gontor is an example of an educational institution that is successful in managing waqf by Nazir organizations. Because individual nazirs tend to be lay and they are afraid that waqf assets will not be managed properly. However, PMDG carries out waqf activities with the concept of fundraising, one of which is not regulated in Law No. 41 of 2004 concerning waqf, namely self waqf which is still used today. The research method used is a normative juridical approach. This research was conducted by examining library materials as the basic material for research, and by conducting a search on legislation and literature related to the problem under study. The basis of the implementation of this self-waqf is maqashid sharia, namely realizing benefit and avoiding harm. This is in accordance with the thinking of the Maliki School and the Hanafi School, with the background of its implementation being Law No. 41 of 2004 article 16 no. 3 point g. Therefore, self-waqf is still carried out because there is a noble goal, namely: to continue the leadership relay and PMDG ideals if the leader dies.

Keywords:

*Fund Rising; Wakaf;
Darussalam Gontor.*

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INTRODUCTION

One of the Islamic economic activities is waqf. Waqf is one of the many kinds of *tabarru* contracts, namely agreements with transactions that are not shown to make a profit. In the history of waqf, it is known to help the welfare of mankind, revive the economy, develop science, provide services both in the fields of social, cultural, health and alleviate poverty, which can improve human civilization. With the increase of time, objects that can be used as waqf objects also develop. Property in the form of money and shares can be used as a waqf object. Therefore, waqf has the condition "eternal" or "will not run out" of the substance, but there is also another alternative, namely "eternal" or will not run out" of its principal value.¹

The subject of waqf consists of wakif, nazir, and third party (PPAIW), meaning nazir, which is the party who receives waqf property from the wakif to be managed and developed by him, of which there are several types of nazirs including individuals, organizations, and legal entities. However, individual nazirs are not so recommended because they tend to be laymen, which can result in the abandonment of waqf property, cannot be used, and are evicted if the waqf land is not certified. Therefore, it is necessary to change the management of waqf land in order to minimize abandoned waqf land and become productive so that it becomes beneficial for waqf later. One way is to avoid individual nazirs and turn to organizational nazirs. The organization taken from this study is Pondok Modern Darussalam Gontor (PMDG). Where this PMDG has been recognized as a pesantren that is able to manage productive waqf land because they can manage well, namely as a waqf-based educational institution.²

YPPWPM as the institution that manages waqf in PMDG has succeeded in obtaining unlimited waqf funds or *fund rising* such as waqf buildings and property. The waqf of the *aghniya* and the guardians of the students, as well as the waqf of teachers and lecturers to the PMDG. In other words, the teachers and lecturers have surrendered themselves to the lodge as cadres and devoted themselves entirely to the lodge with the aim of life and death for the cottage. It can be seen here that PMDG obtains waqf which covers all objects and benefits so that all transactions have been aimed at the institution. One form of PMDG's success is marked by its productive waqf, which has produced aspects of material contribution, which in the future will become an independent institution with its educational, economic, and social systems. That way, it is necessary to know how the waqf is managed very well so that it produces broad benefits for all circles and will continue to be a productive waqf that can support the independence of PMDG.³

RESEARCH METHODS

The data used in this study is qualitative. The qualitative data included in this study is an overview of the research object, including the concept of waqf management by nazir, and the form of waqf utilization managed by YPPWPM. A data source is anything that can provide information about data, the author uses one data source: Secondary data is data that has been collected for purposes other than solving the problem at hand. This data can be found quickly. In this study, secondary data sources are literature, articles, journals, and sites on the internet related to the research carried out. The first data collection technique from the results of literature studies. This research

¹Jaih Mubarak and Hasanudin, *Fikih Mu'amalah Malyyah Akad Tabarru'*, Cetakan ketiga (Bandung: Simbiosis Rekatam Media, 2018).

²Law No. 41 of 2004 concerning Waqf

³Departemen Agama, *Perkembangan Pengelolaan Wakaf Di Indonesia* (Jakarta: Direktorat Pemberdayaan Wakaf, 2006).

uses a variety of materials contained in the literature room, such as studies of previous theses, and studies of related fatwas. Secondly from the results of the study of documentation, from the origin of which it is said to be a document, it means written goods. In carrying out the documentation method, researchers obtain written data such as school documents, for example Vision and Mission, organizational structure, state of YPPWPM staff, state of waqf management, and state of waqf land utilization. The data analysis technique in this study is a qualitative data analysis technique based on statutory data on several ha that are not regulated in the Law and ha which is the reason for its implementation if it is not regulated in the Law. The initial validation for qualitative researchers is how far the researcher's ability to describe theories, and laws related to the field and social context under study. In the foundation of this theory, it is necessary to put forward the definition of each focus to be studied, its scope, breadth, and depth. Furthermore, in qualitative research, the theory is only temporary and the theory can develop after the researcher is in the field.⁴⁵

RESULTS AND DISCUSSION

PMDG and YPPWPM

PMDG was established on Monday 12 Rabiul Awal 1345 Hijri or 20 September 1926 AD by three brothers called Trimurti, these three people were none other than K.H. Ahmad Sahal (1910-1977), K.H. Zainuddin Fannani (1905-1967) and K.H. Imam Zarkasyi (1910-1985). On October 12, 1958, Pondok recorded an important event that largely determined his future journey, an event that had never happened in the history of pesantren in general. At the four-year ceremony, the founders of Pondok presented their Pondok to Muslims represented by 15 IKPM members who were alumni of PMDG itself, who then formed a waqf body institution. The Waqf Board is an institution that is generally tasked with carrying out the vision and mission of the cottage.

The Waqf Board in carrying out its duties and functions forms technical institutions, namely cottage leadership institutions, student care institutions, KMI, ISID (now UNIDA), and YPPWPM. The waqf property handed over at that time consisted of wetland or rice fields (1.74 ha), dry land (16.85 ha), and 12 buildings and equipment. Some of the waqf property came from the relics of Trimurti's parents, while the other part was obtained from the help of people who were sympathetic to the Lodge. Yayasan Maintenance and Expansion of Pondok Modern Waqf (YPPWPM) is an institution engaged in extracting funds, maintaining, expanding, and developing Pondok waqf, as well as various kinds of productive economic efforts to support the independence of the Cottage.

The Chairman of the Pondok Modern Waqf Maintenance and Development Foundation is K.H. Imam Shobari, S.Ag. The Gontor waqf financial management system is statistical, namely a financial system that is centered on the Head of the Lodge. The money coming in from various sources claimed to be waqf is received by the treasurer of the Lodge (head of the financial administration section). The money that has been collected is then channeled to business units to be empowered. Furthermore, the waqf proceeds are used to finance cottage operations, institutional operations, building maintenance, construction of dormitories and infrastructure as

⁴Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif dan R&D* (Bandung: Alfabeta, 2012).

⁵J. Lexy Moeleong, *Metodologi Penelitian Kualitatif* (Bandung: PT Remaja Rosda Karya, 2002).

well as the development of new business units.⁶

Agricultural Waqf

There are three cooperation systems carried out by YPPWPM Gontor in the effort to develop waqf land in the agricultural sector. First, the land lease system. Second, it is planted by the manager of YPPWPM Gontor himself, but the results are felt to be less than optimal, and third, the profit-sharing system with rice field cultivators.⁷

1. Land lease

YPPWPM cooperates with farmers in managing the waqf land under a lease contract. The rental price is offered after seeing the market price of the land, then taking the cheapest price but still does not damage the market, because based on its purpose, it is to help the underprivileged surrounding communities. It is known that the rental price is around Rp. 2,000,000 per plot with an area of 1,400 m². The agreement was made by both parties and the party received the proceeds of the lease of the contract with a lease period of 1 year, if it is to continue it can be extended after 1 year, and the proceeds of the lease are used for the welfare of the people as well as the development and expansion of the PMDG.⁸

a. Manage Yourself

The land around the hut is planted with rice, and in each area, there is a person in charge who controls and supervises the management of the land and trees planted, who must then report to the center to provide the financial results and needs needed during the operation. Regarding its management, nazir employs experts in managing waqf land, planting, caring for, and harvesting the land. Meanwhile, the need for land operational materials has been facilitated and provided by the nazir party for the development and expansion of PMDG.

b. Revenue Share

YPPWPM collaborates with communities around the waqf land area. By collaborating with the community, it means that PMDG refers to its orientation, namely community. The profit-sharing system is carried out between two parties with a *muzara'ah* contract. Through this contract, it can be found that the nazir acts as the owner of the waqf land and provides all the needs for the cultivation of rice fields such as seeds, plows or tractors, irrigation to medicines. Likewise, the community plays the role of managing rice fields. The net yield after harvest 50% is intended for paddy cultivators and 50% is intended for PMDG interests for the expansion of cottage learning development from net results after harvest.⁹

Waqf of Money

One of the waqf money received by PMDG is in the form of infak given by the guardians of students, in this case the guardians of students provide infak which is claimed to be waqf for PMDG with the aim of participating in the welfare of PMDG. The funds inflicted by the student

⁶Nice Durroh, "Wakaf Diri Di Pondok Modern Darussalam Gontor Dalam Perspektif Fiqh Dan UU No. 41 Tahun 2004," *Ejournal INSKLUSIF* 1 (2016): 41.

⁷Eko Nur Cahyo and Ahmad Muqorobin, "Strategi Pengembangan Wakaf Berkelanjutan Dalam Sektor Pertanian: Studi Kasus Di Yayasan Pemeliharaan Dan Perluasan Wakaf Pondok Modern (YPPWPM) Gontor Ponorogo," *Falab: Jurnal Ekonomi Syariah* 4, no. 2 (2019): 144–58.

⁸Cahyo and Muqorobin.

⁹Cahyo and Muqorobin.

trustees have a large nominal, the details in it are in the form of base money, money for adding new buildings, money for the construction of a new campus, health, administration, and committee. PMDG strives to build educational institutions and strives not to die and collapse by developing a regeneration process to continue pmdg's ideals in the future if the leaders of the lodge will one day pass away. With this, the entire PMDG community is instilled with a spirit of cadreization whose life and death are really willing to the cottage, where the cadres here are not only intended for the descendants of kyai but all the successors of the cottage. Based on its implementation, there are 2 self-waqf methods, namely: a) assignment method, self-waqf cadres are ready 24 hours to be assigned anywhere such as lectures, seminars or representing leaders at home and abroad. b) placement method, these self-waqf cadres are ready to be placed anywhere by the leadership, both central and branch PMDG and must be willing and sincere for the placement.¹⁰

Waqf Analysis with Law No. 41 of 2004 concerning Waqf

As one of the backbones of the cottage, this *fund rising* concept is not only limited to raising funds for just anyone and any object, not limited to targeting targets but also must be able to evaluate the ability of institutions to mobilize waqf resources. The following is an explanation of the stages carried out before the implementation of *fund raising*. First, it is the determination of who and how to profile the prospective wakif. To know this, it is enough to introduce the wakif carried out by the nazir to approach the alumni and *stakeholders* of the cottage. Second, setting the target on the prospective wakif, there are many paths that can be done, such as involving the prospective wakif in certain activities such as seminars, sermons, exams, or just as a guest who wants to see the contents of the cottage and others.

As times progressed, the objects of waqf that occurred in the field did not always stick to what had been included in the law, increasingly unique and different. Self-waqf as a type of waqf that is used in the form of self or soul form and is clearly not listed in the applicable law, but is still enforced and continues to this day. The reason is that PMDG races on one of the *sharia maqashid*, namely realizing benefits and avoiding emergencies by presenting self-waqf in the form of devotion of teachers and lecturers who advance the benefit and welfare of the cottage and advance the cottage. The basis for this implementation is because it is based on the Maliki and Hanafi schools which assess and allow all waqf property in any form of economic value to be waqf. According to Law No. 41 of 2004 concerning waqf article 16 no 3 point g that "other movable objects in accordance with sharia provisions and applicable laws and regulations". It is seen from this point that the use of the Maliki and Hanafi schools is considered to be still in accordance with sharia and does not deviate or leave Islamic law.

CONCLUSION

The form of waqf implementation carried out by PMDG is *fund rising*, waqf funds obtained from movable objects, or immovable objects such as land, vehicles, money, and self-waqf. The process behind it is 3 stages: land lease, self-management, and profit sharing. All this is managed by YPPWPM. One of the forms of waqf applied in PMDG is not listed in the provisions and rules in Law

¹⁰Tim Penyusun, *Pengelolaan Yayasan: Pengalaman Yayasan Pemeliharaan Dan Perluasan Wakaf Pondok Modern Darussalam Gontor*, 2007.

No. 41 of 2004 concerning waqf, namely self-waqf. The basis of its implementation is *maqashid sharia*, namely realizing benefits and avoiding emergencies, this is in accordance with the thinking of the Maliki and Hanafi schools against the background of Law No.41 of 2004 concerning waqf article 16 no.3 point g. Development of waqf land seen from the data of the last 5 years since 2016 amounted to 11,081,968 m², in 2017 amounted to 12,620,269 m², in 2018 amounted to 12,643,712 m², in 2019 it amounted to 15,640,612 m², and in 2020 it amounted to 15,774,799 m².

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