

Analysis Of Law No. 41 of 2004 And Islamic Law on The Rights and Obligations of *Nazhir* on Productive Waqf in Rigangan Village Kelam Tengah Sub-District, Kaur District

Ariskan Hadi¹, Zurifah Nurdin², Miti Yarmunida³, Etin Anwar⁴

¹Universitas Islam Negeri Fatmawati Sukarno Bengkulu, Indonesia. E-mail: ariskannoah@gmail.com

²Universitas Islam Negeri Fatmawati Sukarno Bengkulu, Indonesia. E-mail: zurifa@mail.uinfasbengkulu.ac.id

³Universitas Islam Negeri Fatmawati Sukarno Bengkulu, Indonesia. E-mail: miti_yarmunida@mail.uinfasbengkulu.ac.id

⁴Hobart and William Smith Colleges New York, United States. E-mail: anwar@hws.edu

Abstrak

The purpose of this study are (1) To find out how the implementation of the rights and obligations of *Nazhir* productive waqf in Rigangan Village, Kelam Tengah District, Kaur Regency. (2) To find out how the review of Law No. 41 of 2004 on the implementation of the rights and obligations of *Nazhir* productive waqf in Rigangan Village, Kelam Tengah District, Kaur Regency. (3) To find out how the review of Islamic Law on the implementation of the rights and obligations of *Nazhir* productive waqf in Rigangan Village, Kelam Tengah District, Kaur Regency. The method used in this research is qualitative-based field research. The conclusions of this study are (1) The implementation of the rights and obligations of the *Nazhir* of productive waqf in Rigangan Village, Kelam Tengah District, Kaur Regency has not been carried out properly, it is proven that the management carried out is only limited to maintaining and preserving waqf assets so that they do not run out. (2) Based on the Review of Law Number 41 of 2004 on the implementation of the rights and obligations of *Nazhir* productive waqf in Rigangan Village, it has not been implemented in accordance with the provisions in Law Number 41 of 2004 concerning waqf. Because in the task of administrative order and reporting *Nazhir's* duties to the Indonesian Waqf Board have not been carried out. (3) Based on the Islamic Law Review, the implementation of the rights and obligations of the *Nazhir* of productive waqf in Rigangan Village is invalid. As explained in article 220 of the Compilation of Islamic Law, that *Nazhirs* are required to make periodic reports

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INTRODUCTION

Islam has taught the existence of socio-economic balance, in the concept of social economy known as the distribution of wealth. This concept works as an effort so that wealth does not only revolve among the rich, but there is equity by distributing wealth to people in need. So that it is not just a social obligation, but also a form of faith and brotherhood in religious communities.

Islam teaches its people models of Islamic economic instruments to ensure social justice and economic equity, namely obligations of *zakat*, *infaq*, and *waqf*.¹

In terminology, *waqf* means a type of gift whose implementation is carried out by withholding (ownership) of the original (*tahbisul ashli*), then making its benefits publicly available.² Aside from being one of the aspects of Islamic teachings with a spiritual dimension, *waqf* is also a teaching that emphasises the importance of economic welfare (social dimension). This is in accordance with the function of *waqf* as stated in article 5 of Law No. 41 of 2004 concerning *waqf*, namely "*Waqf functions to realise the potential and economic benefits of waqf property for the benefit of worship and to promote public welfare*".³

Waqf in Islamic Law is the most important part of *muamalah maliyah* (property) to maintain good relations with fellow humans, Allah SWT created humans to be able to love and give to those in need so that *waqf* can be used as a means of sharing the sustenance that Allah bestows on humans for the welfare of the people. While the positive law on *waqf* in a country is the rules applied to the management and development of *waqf* on an ongoing basis in order to achieve the goal of empowering the people's economy so that a prosperous, just and prosperous society is realised.⁴

Waqf is known as a community asset that can be utilised for all time. However, the management and productive utilisation of *waqf* assets in Indonesia is still behind when compared to other Islamic countries. Some *waqf* research results show that other than in Indonesia, many countries originally had *waqf* assets that did not function well for the people's economy because they were not managed properly. Only later, with government regulations based on the law, *waqf* was managed with good management. *Waqf* is expected to be one of the alternatives that can provide solutions in solving economic problems. Given that one of the objectives of *waqf* is to make it a productive source of funds, it certainly requires *Nazhirs* who are able to carry out their duties professionally and responsibly.⁵

For this reason, reliable *Nazhir* professionalism is needed and has expertise in managing *waqf* objects properly and correctly. The role of *the Nazhir* as a manager or party who is entrusted with managing *waqf* assets is very important. Although the *mujtahids* did not make the *Nazhir* as one of the pillars of *waqf*, the scholars agree that the *waqif* must appoint a *waqf Nazhir* who is able to manage *waqf* assets so that they are maintained and taken care of.⁶ Ideal *waqf* management resembles corporate management. It needs a solid work team to maximise *waqf* returns.⁷

Based on the researcher's initial observation with Mr Khairil as the heir of the *waqif*, in 1992 one of the residents of Rigangan Village named Derusin (*alm*) donated a plot of his land for the benefit of the people. The land is located in Rigangan Village, Kelam Tengah District, Kaur

¹ Muslihati, "Konsep Distribusi Islam Dalam Mewujudkan Kesejahteraan Pendapatan Ekonomi Masyarakat," *Jurnal Iqtisaduna* 5, no. 2 (2019), h. 251.

² Khairuddin, "Pergeseran Paradigma Pengaturan Wakaf Dalam Perspektif Hukum Progresif," *Al-Adalah* 8, no. 1 (2014), h. 139.

³ Undang-Undang Republik Indonesia Nomor 41 Tahun 2004 Tentang Wakaf, Pasal 5.

⁴ Zaldi and Dhiauddin Tanjung, "Wakaf Dalam Perspektif Hukum Positif Dan Hukum Islam," *Rayah Al-Islam* 7, no. 1 (2023), h. 449-450.

⁵ Suid and Abdur Rahim, "Analisis Pengelolaan Wakaf Produktif Menurut Undang Undang Nomor 41 Tahun 2004 Tentang Wakaf," *Metta: Jurnal Penelitian Multidisiplin Ilmu* 1, no. 3 (2022), h. 427.

⁶ Achamad Junaidi, *Menuju Era Wakaf Produktif : Sebuah Upaya Progresif Untuk Kesejahteraan Umat* (Jakarta: Mitra Abadi Press, 2006), h. 54.

⁷ Andi Agung Prihatna, *Wakaf, Tuhan, Dan Agenda Kemanusiaan* (Jakarta: Center for the Study of Religion and Culture, 2006), h. 139.

Regency. The land endowed by the late Derusin has an area of 1.2 ha (12,000 m²). The purpose of the waqf is to expand the existing public cemetery in Rigangan Village.⁸

Over time in 2012, the *Nazhir* as the manager of the waqf property and the village apparatus made plans to manage the waqf land into productive waqf by planting oil palm on the waqf land. This was done because there was still empty land that had not been filled for the cemetery. After an agreement and approval from all waqf administrators, village officials and the community, the management and utilisation of this waqf land began. The benefits of this productive waqf will be donated to mosques and the poor in *Rigangan* village, and the rest of the benefits of the waqf property are considered as compensation or wages for the *Nazhir* in managing and managing the waqf property.⁹

Waqf assets in Rigangan Village, Kelam Tengah Subdistrict, Kaur Regency, were originally intended for the village public cemetery (TPU). Then it turned into productive waqf for agricultural land, which has been running until now.

However, in practice, the implementation of the rights and obligations of waqf managers has not been implemented properly, as evidenced by the fact that the management carried out is only limited to maintaining and preserving waqf assets so that they do not run out. It has not yet led to productive waqf that can provide an overflow of benefits for the people. Likewise, waqf administration has not been as orderly as in the waqf guidelines. And waqf assets that do not yet have a waqf certificate / Waqf Pledge Certificate.

In order to make this study focused, the structure of the discussion in this study is intended to answer three problem formulations, namely: How is the implementation of the rights and obligations of *Nazhir* productive waqf in Rigangan Village, Kelam Tengah District, Kaur Regency? How is the review of Law No. 41 of 2004 on the implementation of the rights and obligations of *Nazhir* productive waqf in Rigangan Village, Kelam Tengah District, Kaur Regency? How is the review of Islamic Law on the *implementation* of the rights and obligations of productive waqf *Nazhirs* in Rigangan Village, Kelam Tengah District, Kaur Regency?

In general, the three research questions aim to reveal and find out the actual extent of the implementation of the rights and obligations of productive waqf *nazhirs* in Rigangan Village, Kelam Tengah Sub-district, Kaur Regency, especially based on the review of Law No. 41 of 2004 concerning waqf and the review of Islamic law. Through these three questions and objectives, the findings in this study are expected to produce strategic recommendations to all parties in order to strengthen the implementation system of *nazhir* rights and obligations in Indonesia, both theoretical and practical recommendations.

METHOD

The research method used in this research is sociological emperis. With data sources in the form of observation, interviews and documentation. The specification of this research is descriptive normative by describing and analysing precisely related issues discussed.

RESEARCH RESULTS

Implementation of the Rights and Obligations of *Nazhir* Productive Waqf in Rigangan Village, Kelam Tengah District, Kaur Regency

In this study, researchers analysed the implementation of the rights and obligations of *Nazhirs* with Islamic law and Law Number 41 of 2004 in force in Indonesia. In general, the implementation of the *Nazhir's* rights and obligations in managing productive waqf in Rigangan village refers to the procedures in the waqf regulations, namely Law Number 41 of 2004 concerning waqf.

⁸ Khairil, Ahli Waris Wakif, Wawancara, 14 September 2023.

⁹ Idiansyah, Ketua *Nazhir*, Wawancara, 16 September 2023.

1. Implementation of *Nazhir* Obligations

a. Administering waqf assets

Waqf administration plays a very important role and needs to be enforced and implemented in waqf law considering the naive understanding of Indonesia and their habit of performing waqf legal acts orally on the basis of mutual trust in a particular person or institution, resulting in disputes due to the absence of evidence that can show that these objects have been waqfied.

Based on the results of researchers' interviews with several waqf *nazhirs* in Rigangan Village related to the administration of productive waqf assets in Rigangan Village, it can be concluded that the administration of waqf assets has not been carried out, this is due to the lack of understanding and knowledge of *nazhirs* and the lack of socialisation from related parties such as KUA and BWI.

b. Manage and develop waqf assets according to their purpose and designation.

Managing and developing waqf assets is the responsibility of a *Nazhir* regulated in Articles 42 and 43 of Law Number 41 of 2004 concerning waqf, the management and development of waqf assets is carried out in accordance with sharia principles and managed productively by using a guarantor institution, namely a sharia guarantor institution.

Based on the results of research with several informants in Rigangan Village related to the management and development of waqf assets in Rigangan Village, that the management of waqf assets has been carried out, but has not developed waqf assets according to their functions and designations productively. It is evident that the management carried out is only limited to maintaining and preserving waqf assets so that they do not run out. It has not yet led to productive waqf that can provide an overflow of benefits for the people.

c. Supervising and protecting waqf assets

Forms of supervision and protection of productive waqf assets in Rigangan Village. Based on the data obtained, the form of supervision and protection of waqf assets has not been carried out properly because there is no management fee to make a barrier or fence, the second is that the Waqf Pledge Deed has not been made, this is due to a lack of understanding about waqf, which they know is only limited to managing waqf assets.

d. Reporting the implementation of tasks to the Indonesian Waqf Board

Based on the data obtained by researchers at the research location that the duties or obligations of *nazhir* point to (4), namely reporting the implementation of duties to the Indonesian Waqf Board, that none of them know about the Indonesian Waqf Board and even they have just heard it for the first time this is due to their lack of knowledge about waqf and due to the lack of guidance and socialisation to *Nazhir* from related parties such as the Indonesian Waqf Board and the Religious Affairs Office.

2. *Nazhir* Rights

A *nazhir* is entitled to a share of the proceeds of the productive waqf business that he manages and develops. This is based on the practice of Umar Bin Khatab and Ali Bin Abu Talib. According to the Hanafi, Maliki and Imam Ahmad madhabs, the *nazhir* is entitled to a wage from the proceeds of the waqf property that has been developed. The amount differs from one another according to the responsibilities and duties assigned. It remains in accordance with the provisions of the waqif, if the waqif does not stipulate, then it is

determined by the judge or the agreement of the existing waqf managers/management. Meanwhile, the Shafi'i madhhab states that the waqif is not entitled to a share.

Based on the data obtained, the *nazhir's* rights in productive waqf in Rigangan village, Kelam Tengah sub-district, Kaur district have been implemented and in accordance with the provisions in the Law on Waqf Number 41 of 2004 that the *nazhir* can receive compensation from the net proceeds from the management and development of waqf property which does not exceed 10% (ten percent). *Nazhir* waqf in rigangan village there are those who receive wages and there are also those who do not want to receive these wages.

DISCUSSION

Review of Law Number 41 of 2004 on the Implementation of the Rights and Obligations of *Nazhir* Productive Waqf in Rigangan Village, Kelam Tengah District, Kaur Regency

Basically, waqf has the aim of creating the welfare and prosperity of the people. Waqf management in Indonesia has been regulated in a regulation. The regulations are listed in law number 41 of 2004 concerning waqf, government regulation number 42 of 2006 concerning the implementation of law number 41 of 2004 concerning waqf, and the compilation of Islamic law.

The waqf regulations that have been made are a reference that must be used by *nazhir* in managing waqf. The manager, in this case the *nazhir*, must follow the procedures or procedures for managing waqf according to law number 41 of 2004. This aims for smoothness, suitability, and to maximise waqf management.

Overall in the waqf process, the most important role is held by the *nazhir*. This is because the *nazhir* is the party who gets the authority to manage the waqf property.¹⁰ *Nazhir* productive waqf in rigangan village as the main key holder of waqf property management plays an important role in order to maintain the waqf land and its contents. *Nazhir* is one of the important components in the implementation of a waqf. After the waqif makes a pledge in front of the waqf pledge deed recording officer (PPAIW), the full responsibility for the waqf property falls to the *nazhir*.¹¹

However, based on the results of the research, it was found that the implementation of the waqf pledge in Rigangan village, Kelam Tengah sub-district, Kaur district has not been carried out, this is known after being traced with several related parties that the waqf pledge deed is not recorded at the kua or the waqf pledge deed recording officer (PPAIW) in Kaur district. This is due to the lack of socialisation carried out by the kua or bwi, which causes a lack of understanding and knowledge of the *nazhir* of the importance of registering waqf to the waqf pledge deed recording officer (PPAIW).

From the results of the research, in terms of the obligations carried out by the *nazhir* of productive waqf in Rigangan Village, it is invalid because the implementation of the obligations carried out by the *nazhir* is not fully in accordance with those contained in law number 41 of 2004, it is proven that waqf has the aim of creating the welfare and prosperity of the people. As follows:

1. Administering waqf assets;

The *Nazhir* of productive waqf in Rigangan Village does not administer waqf assets at the Office of Religious Affairs, Kelam Tengah District, Kaur Regency due to the *Nazhir's* lack of knowledge and understanding of *rwakafan*.

2. Manage and develop waqf assets in accordance with their purpose, function, and designation; and its allocation;

¹⁰ Achmad Arief Budiman, *Hukum Wakaf* (Semarang: CV. Karya Abadi Jaya, 2015), h. 83.

¹¹ A Faishal Haq, *Hukum Perwakafan Indonesia* (Jakarta: PT RajaGrafindo Persada, 2017), h. 8.

Based on the results of research with several informants in Rigangan Village related to the management and development of waqf assets in Rigangan Village, that the management and development of waqf assets in Rigangan Village, that management of waqf assets has been carried out, but has not developed waqf assets according to their functions and uses productively. waqf assets according to their function and designation productively. This is evident that management is only limited to maintaining and preserving waqf assets so that they are not depleted. not run out. It has not yet led to productive waqf that can provide an overflow of benefits for the people. benefits for the people.

3. Supervise and protect waqf assets;

In supervising and protecting waqf assets, the *Nazhir's* form of supervision and protection of waqf assets has not been carried out properly because there is no management fee to make a barrier or fence, the second Waqf Pledge Deed has also not been made, according to him he does not understand about waqf he is only given the mandate to be a waqif while managing the waqf property.

4. Reporting the implementation of duties to the Indonesian Waqf Board.¹²

Furthermore, the task of reporting the *nazhir* to the head of the religious affairs office of the Kelam Tengah sub-district has not been carried out at all. The missed implementation of this reporting task is due to the lack of knowledge of *nazhir* in making periodic reports to the religious affairs office. The lack of knowledge of the *nazhir* in carrying out reporting duties as stated in law number 41 of 2004 due to the lack of guidance and training to *nazhir* by the Indonesian waqf agency in kaur district as the authorised party in fostering *nazhir*.

In terms of the rights obtained by the *Nazhir*, Law Number 41 Year 2004 Article 12 states that:

*In carrying out the duties as referred to in Article 11, the Nazhir may receive compensation from the net proceeds from the management and development of waqf assets which does not exceed 10% (ten per cent).*¹³

After fulfilling the obligations as *Nazhir* by carrying out the duties listed in Article 11 the *Nazhir* may take his share of the results of management. The result of the management is palm fruit. From the agricultural products are then sold to the community and then the money from the sale is put into the waqf treasury. From the proceeds of this sale, the *Nazhir* is allowed to take a maximum of 10% of the proceeds according to Article 12 of Law Number 41 of 2004. However, the *Nazhir* did not take this share for various reasons. Among them is due to the lack of knowledge of the surrounding community about the rights and obligations of a *Nazhir*. So that the community views the *Nazhir* as someone who is obliged to manage but is not entitled to take part for rights. This view arises because the concept of waqf is understood by the people of Rigangan Village, Kelam Tengah Subdistrict as a form of worship to Allah SWT for those who manage it. So if the one who manages it takes part for himself, it will trigger an unfavourable view of the community towards the *Nazhir*. In addition, the results of waqf management are not too large, making the *Nazhir* not calculate to take part. If the management results are taken by the *Nazhir*, then not much goes into the waqf treasury. The last reason is that the *Nazhir* performs its duties only hoping for a reward from Allah Swt without asking for a share of the management results. In the Compilation of Islamic Law, it is mentioned about the *Nazhir's* rights in Article 222 that:

¹² Undang-Undang Republik Indonesia Nomor 41 tahun 2004 Tentang Wakaf.

¹³ Undang-Undang Republik Indonesia Nomor 41 tahun 2004 Tentang Wakaf.

*The Nazhir is entitled to receive income and facilities, the type and amount of which are determined based on feasibility with the advice of the sub-district ulema council and the local sub-district Religious Affairs Office.*¹⁴

From the researcher's analysis above, the researcher considers that although the *nazhir* does not take his rights directly from the results of management, the government or the authorities in charge of waqf should think about the fate and welfare of the *nazhir*. In this case, appreciation for the *nazhir* for carrying out their obligations well as mandated by the *nazhir*. *Nazhir* can practice article 12 of law number 41 of 2004 about the rights he gets if the results of management get a large income so that the welfare of the *nazhir* and employees who take care of waqf is guaranteed. However, the practice will be different from the *nazhir* who takes care of the waqf and then the results are not more than enough to take care of the waqf assets to remain sustainable. Seeing the meagre results how the *nazhir* wants to take his rights. The impact that will occur if the *nazhir* does not take his rights will affect the administrative order in the *nazhir*'s duty that the *nazhir* must report the management and distribution of waqf results to BWI.

Islamic Law Review of the Implementation of the Rights and Obligations of *Nazhir* Productive Waqf in Rigangan Village, Kelam Tengah District, Kaur Regency

The implementation of the rights and obligations of the *nazhir* is told in the hadith of the Prophet Muhammad since the Prophet migrated to Medina. Companion Umar at that time was confused about what to do when he had land that he did not want then asked the apostle of Allah what to do. Then the apostle of Allah ordered Umar's best friend to manage and maintain the waqf property so that it could develop and benefit the people, which meant that Umar's best friend became the *nazhir* of the land that was waqfed.

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ أَخْبَرَنَا سُلَيْمُ بْنُ أَحْضَرَ عَنْ ابْنِ عَوْنٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ قَالَ أَصَابَ عُمَرُ أَرْضًا بِحَيْرٍ فَأَتَى النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَسْتَأْمِرُهُ فِيهَا فَقَالَ يَا رَسُولَ اللَّهِ إِنِّي أَصَبْتُ أَرْضًا بِحَيْرٍ لَمْ أَصِبْ مَالًا قَطُّ هُوَ أَنْفَسُ عِنْدِي مِنْهُ فَمَا تَأْمُرُنِي بِهِ قَالَ إِنْ شِئْتَ حَبَسْتَ أَصْلَهَا وَتَصَدَّقْتَ بِهَا قَالَ فَتَصَدَّقَ بِهَا عُمَرُ أَنَّهُ لَا يُبَاعُ أَصْلُهَا وَلَا يُبْتَاغُ وَلَا يُورَثُ وَلَا يُوهَبُ قَالَ فَتَصَدَّقْ عُمَرُ فِي الْفُقَرَاءِ وَفِي الْقُرْبَى وَفِي الرِّقَابِ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ وَالضَّيْفِ لَا جُنَاحَ عَلَيَّ مَنْ وَلِيَهَا أَنْ يَأْكُلَ مِنْهَا بِالْمَعْرُوفِ أَوْ يُطْعِمَ صَدِيقًا غَيْرَ مُتَمَوِّلٍ فِيهِ قَالَ فَحَدَّثْتُ بِهَذَا الْحَدِيثِ مُحَمَّدًا فَلَمَّا بَلَغْتُ هَذَا الْمَكَانَ غَيْرَ مُتَمَوِّلٍ فِيهِ قَالَ مُحَمَّدٌ غَيْرَ مُتَأَثِّلٍ مَالًا قَالَ ابْنُ عَوْنٍ وَأَنْبَأَنِي مَنْ قَرَأَ هَذَا الْكِتَابَ أَنَّ فِيهِ غَيْرَ مُتَأَثِّلٍ مَالًا

Meaning: "Yahya bin Yahya at Tamimi told us Sulaim bin Ahdlar told us from Ibnu 'aun told us from Nafi' told us from Ibnu Umar that he said: 'Umar got a share of a plantation in Khaybar, so he came to the Prophet (peace and blessings of Allaah be upon him) and asked him for advice about it. He said: "O Messenger of Allaah, I got a share of a plantation in Khaybar, and I have never had any property that I am so proud of as this plantation, so what do you say about it?" He replied: "if you wish, keep the trees and give the produce in charity." Ibnu Umar said, "then Umar gave it in charity, did not sell the trees and produce, did not inherit and did not give it in charity." Ibnu Umar continued, "Umar gave the produce in charity to the poor, relatives, freeing slaves, funds for fighting in the cause of Allah, for warriors and for entertaining guests. And he also allowed others to cultivate the garden and eat from its crops appropriately, or feed his friend and not keep it." Ibnu Umar said again, "and I narrated this hadith to Muhammad, when I came to the words; 'and not keep it', then Muhammad said, "and not accumulate his wealth." Ibnu

¹⁴ Kompilasi Hukum Islam, (Mahkamah Agung RI, 2011), h. 122

'aun said, "and has told me the one who has read this book, that in it is written, 'and not accumulate his wealth. (HR. Muslim)"¹⁵

From the hadith explains about the advice of the apostle of Allah to sayyidina Umar to hold the principal of the land he has and donate the proceeds, this is the essence of waqf that the results of waqf can benefit the people but the waqf property is not exhausted because what is given to the people is the result not the principal waqf property. It can be concluded that the *nazhir* has the right to get a share of the management results as a reward or a form of appreciation for managing the waqf property so that it has results. There is no doubt that the two provisions above are characteristics of waqf. But this hadith does not explain what happens if the *nazhir* does not take his rights. Does it affect the reduction of the *nazhir's* duties or does it have no effect at all.

The obligation to manage waqf in the hadith above is not explained directly but in the form of an implied message that the main thing is that waqf must be maintained so that it remains sustainable and does not run out. When applied to waqf management, namely by planting oil palm trees so that the land continues to function as the purpose of the waqf designation and the welfare of the people. There is no limit to how far the management can be carried out because the hadith does not explain in detail how to manage it as long as it does not conflict with shara' law.

The concept of waqf understood by the productive waqf *nazhir* in Rigangan village is very simple as found in the direct hadith. Only maintaining its existence so that it is not lost or damaged, has not yet reached the administration of waqf land to the Indonesian government. Although the hadith does not directly mention that the orderly administration of waqf is the duty and obligation of the *nazhir*. But it is very important to be implemented so that the purpose of maintaining the existence and preservation of waqf assets can be achieved. Curbing waqf administration is one of the efforts that must be made in Indonesia so that waqf assets can be preserved from the loss of waqf assets due to withdrawal by heirs.

According to the researcher's analysis, the wage provisions put forward by the scholars of the mazhab are in accordance with those stated in Law No. 41 of 2004, which is 10%, except that there is an additional amount depending on the provisions of the waqf on the condition that the *nazhir* carries out its obligations to manage waqf assets. Then if the waqf does not determine the amount of the *nazhir's* share, the judge can determine the amount. According to Islamic law, the waqf *nazhir* is entitled and may take part of the management results because he has performed his duties as *nazhir*. But in the practice of implementing the *nazhir* rights that exist in this productive waqf, it does not work as stated in the opinion of the fiqh imam who gives leeway to take part of the management results. This is because the waqf *nazhir* does not want to take his share at all. The rights that should belong to him, he delegates all to then be put into the waqf treasury. Then because of the views of the surrounding community who do not understand the right of the *nazhir's* share, it is possible that there will be misunderstanding if the waqf *nazhir* continues to take part.

According to researchers, the balance between rights and obligations is absolutely necessary, especially in waqf matters. The reason why the *nazhir* of productive waqf in Rigangan village does not take his share of rights is due to several things. Such as the results of the waqf are not much so that the *nazhir* took the initiative to put his share into the waqf treasury, the public view that the *nazhir* is profiting from the waqf, then because the *nazhir* does the work on the basis of sincerity. According to researchers, the *nazhir* has fulfilled his duties as contained in the hadith, namely maintaining and managing assets and then distributing according to the designation of waqf. So it is appropriate for the *nazhir* to take part of his rights from the results of management in order to achieve a balance of rights and obligations of the waqf *nazhir*. As

¹⁵ Abil Husain Muslim, *Shahih Muslim* (Beiru: Daar Ihya' atturoos al arobi, Juz 3 n.d.), h. 1255.

required by the four imams of the fiqh school of thought that the *nazhir* may take part when he carries out his duties. The biggest reason why the *nazhir* does not take part of his rights in the results of waqf management is because the *nazhir* does it with sincerity, but this right needs to be taken in order to remain balanced between the rights and obligations of the waqf manager. Although in the end the *nazhir's* share of the money will be distributed again to the mosques. This is in line with the opinion of Syafi'i Antonio that in waqf management there are three basic philosophies, namely: First, the management pattern must be in the frame of an integrated project. Second, the principle of *nazhir* welfare, which balances the obligations that must be performed and the rights received. Third, the principle of transparency and accountability, where the waqf board and the institutions it supports, must report annually on the process of fund management to the people in the form of an audited financial report. This includes the reasonableness of each cost item.¹⁶

This will certainly affect the management of the waqf entrusted to him. Waqf in Rigangan village should be able to create prosperity for the people around it. This includes the welfare of the *nazhir* who have devoted all their power and efforts to carry out their duties and obligations.

CONCLUSION

The implementation of the rights and obligations of *Nazhir* productive waqf in Rigangan Village, Kelam Tengah District, Kaur Regency has not been implemented properly, it is proven that the management carried out is only limited to maintaining and preserving waqf assets so that they do not run out. It has not yet led to productive waqf that can provide an overflow of benefits for the people. Likewise, waqf administration has not been as orderly as in the waqf guidelines. And waqf assets that do not yet have a waqf certificate / Waqf Pledge Certificate.

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Based on the Review of Law Number 41 of 2004 on the implementation of the rights and obligations of *Nazhir* productive waqf in Rigangan Village, it has not been implemented in accordance with the provisions in Law Number 41 of 2004 concerning waqf. Because in the task of administrative order and reporting *Nazhir* duties to the Indonesian Waqf Board has not been implemented.

Based on the Islamic Law Review that the implementation of the rights and obligations of *Nazhir* productive waqf in Rigangan Village is not valid. As explained in article 220 of the Compilation of Islamic Law, that the *Nazhir* is required to make periodic reports on all matters that are his responsibility as referred to in paragraph (1) to the Head of the local Religious Affairs Office.

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¹⁶ Achmad Arief Budiman, *Hukum Wakaf* (Semarang: CV. Karya Abadi Jaya, 2015), h. 91.

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