

Legal Certainty, Institutional Capacity, And Social Utility: Reassessing Indonesia's *Waqf* Law in Advancing Productive *Waqf* Incubation

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Abstract:

Waqf is an Islamic philanthropic institution that has historically played an important role in supporting social welfare and economic development in Muslim societies. In Indonesia, the increasing demand for productive and sustainable *waqf* management has encouraged the modernization of the legal framework and governance of *waqf*. This study aims to analyze the progressiveness of the national *waqf* legal framework in supporting the development of productive *waqf*, particularly through the *nazhir* incubation program. The focus of the study is directed at Law Number 41 of 2004 concerning *Waqf* and Government Regulation Number 42 of 2006 as the primary legal foundations governing *waqf* management in Indonesia. To date, there remain limited studies that specifically assess whether these regulations adequately provide a legal framework for institutionalizing *nazhir* incubation programs as a mechanism to enhance the professionalism of *waqf* managers. This research employs a normative juridical method using statutory and conceptual approaches. The findings indicate that although *waqf* regulations have provided a legal basis for the development of productive *waqf*, their effectiveness still faces several challenges. These include a normative gap reflected in the absence of explicit regulation concerning *nazhir* incubation, an institutional gap caused by weak coordination among *waqf*-related institutions, and a human resource gap related to limited professionalism and managerial capacity of *nazhirs*. Therefore, strengthening regulatory frameworks and institutionalizing *nazhir* incubation programs are strategic steps to enhance the effectiveness of productive *waqf* management in Indonesia.

Keywords: *Waqf* Law, Productive *Waqf*, *Nazhir* Incubation Program, Legal Effectiveness, Islamic Philanthropy

Abstrak:

Wakaf merupakan institusi filantropi Islam yang secara historis berperan penting dalam mendukung kesejahteraan sosial dan pembangunan ekonomi masyarakat Muslim. Di Indonesia, meningkatnya kebutuhan pengelolaan wakaf yang produktif dan berkelanjutan telah mendorong modernisasi kerangka hukum dan tata kelola wakaf. Penelitian ini bertujuan menganalisis progresivitas kerangka hukum wakaf nasional dalam mendukung pengembangan wakaf produktif, khususnya melalui program inkubasi *nazhir*. Fokus kajian diarahkan pada Undang-Undang Nomor 41 Tahun 2004 tentang Wakaf dan Peraturan Pemerintah Nomor 42 Tahun 2006 sebagai dasar hukum utama pengelolaan wakaf di Indonesia. Hingga saat ini masih terbatas kajian yang menilai apakah kedua regulasi tersebut telah memadai dalam menyediakan kerangka hukum bagi pelebagaan program inkubasi *nazhir* sebagai mekanisme peningkatan profesionalitas pengelola wakaf. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan peraturan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa meskipun regulasi wakaf telah memberikan landasan hukum bagi pengembangan wakaf produktif, efektivitasnya masih menghadapi kesenjangan normatif berupa belum adanya pengaturan eksplisit mengenai inkubasi *nazhir*, kesenjangan kelembagaan akibat lemahnya koordinasi antar lembaga wakaf, serta kesenjangan sumber daya manusia yang berkaitan dengan keterbatasan profesionalitas dan kapasitas manajerial *nazhir*. Oleh karena itu, penguatan regulasi dan pelebagaan program inkubasi *nazhir* menjadi langkah strategis dalam meningkatkan efektivitas pengelolaan wakaf produktif di Indonesia.

Kata Kunci: Hukum Wakaf, Wakaf Produktif, Program Inkubasi *Nazhir*, Efektivitas Hukum, Filantropi Islam



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Introduction

Waqf, as an Islamic philanthropic institution, has historically played a central role in promoting social welfare and economic development within Muslim societies. Rooted in Islamic law, *waqf* reflects a form of perpetual charity that ensures continuous benefits for the public. Through this mechanism, private assets are transformed into long-term social capital that supports education, health, and social services. The concept of *waqf* demonstrates how Islamic teachings encourage sustainable social responsibility by allocating resources for the welfare of the wider community.

Historically, *waqf* institutions have contributed significantly to the development of public infrastructure and social institutions in various Muslim civilizations. During the classical Islamic period, *waqf* funds were widely used to establish mosques, schools, hospitals, libraries, and public facilities such as roads and water systems. These institutions not only served religious purposes but also played an essential role

in supporting community development and improving the quality of life. As a result, *waqf* became one of the most important instruments for maintaining social stability and strengthening the economic resilience of Muslim societies.

In contemporary times, the role of *waqf* has evolved to address modern socio-economic challenges. Many Muslim countries have begun to revitalize *waqf* management through institutional reforms, professional governance, and integration with modern financial systems. This transformation aims to enhance the productivity of *waqf* assets so that they can generate sustainable economic benefits for society. By optimizing asset management, *waqf* has the potential to support poverty alleviation programs, educational scholarships, healthcare services, and community empowerment initiatives.

Furthermore, the development of innovative *waqf* models, such as cash *waqf* and productive *waqf*, has expanded the scope of *waqf* participation in society. Cash *waqf* allows individuals to contribute financial resources that can be invested in productive sectors, generating returns that are continuously distributed for social purposes. This innovation has made *waqf* more accessible and flexible, enabling broader participation from various segments of society. Consequently, *waqf* can function not only as a charitable act but also as a strategic instrument for sustainable socio-economic development.

Therefore, strengthening the governance and public awareness of *waqf* is essential to maximize its potential in modern society. Effective management, transparency, and accountability are key factors in ensuring that *waqf* institutions can operate efficiently and gain public trust. At the same time, increasing public understanding of the importance of *waqf* will encourage greater participation and support from the community. By integrating traditional Islamic values with modern management practices, *waqf* can continue to play a significant role in promoting inclusive welfare and long-term economic development.

Conceptually, *waqf* refers to the act of withholding ownership of an asset while dedicating its usufruct for charitable purposes under the pleasure and blessing of Allah. This religious foundation distinguishes *waqf* from other forms of philanthropy, as its benefits are intended to be sustainable and enduring. As a result, *waqf* contributes not only to spiritual merit but also to socio-economic stability. Historically, *waqf* institutions financed public infrastructure such as mosques, schools, hospitals, and roads. These institutions functioned independently of state budgets and demonstrated the capacity of civil society to support public welfare. This historical experience confirms that *waqf* has long been a powerful economic instrument in Islamic civilization.

The sustainability of *waqf* assets depends heavily on effective governance and management. The individual or institution entrusted with managing *waqf* assets, known as the *nazhir*, bears a crucial responsibility. *Nazhirs* are required to preserve the principal assets while ensuring that their benefits are distributed according to the *waqif's* intentions.

According to Masrhadi, *waqf* management must adopt professional standards comparable to modern nonprofit organizations in order to remain relevant and productive.¹ He emphasizes that traditional approaches to *waqf* management are no

¹ Anang Rikza Masyhadi, 'Optimalisasi Sumber Daya Manusia Dalam Pengelolaan Wakaf Di Pesantren Tazakka', *Ziswaf Asfa Journal*, 2.2 (2024), 148–62.

longer sufficient in responding to contemporary economic challenges. This highlights the need for reform-oriented governance structures. In recent decades, the concept of *productive waqf* has emerged as an innovative approach to optimizing *waqf* assets. Productive *waqf* focuses on generating income through investment and commercial activities while maintaining compliance with *sharia* principles. This model allows *waqf* to actively contribute to economic growth rather than remaining idle.

Azizah argues that productive *waqf* can serve as an alternative financing mechanism for social development in Muslim-majority countries.² He notes that when managed properly, *waqf* can reduce dependence on state funding and foreign aid. This perspective reinforces the strategic importance of *waqf* in development economics. The shift toward productive *waqf* requires *nazhirs* to possess not only religious knowledge but also managerial and entrepreneurial competencies. Skills in finance, investment, risk management, and legal compliance are increasingly necessary. Consequently, capacity building for *nazhirs* has become a critical issue in contemporary *waqf* management.

Febriyanti highlights that institutional reform is essential for Islamic social finance instruments, including *waqf*, to achieve socio-economic justice.³ He asserts that without strong institutions and human resources, *waqf* will fail to reach its developmental objectives. This underscores the importance of systematic training programs.

One strategic initiative designed to address this challenge is the *waqf* incubation program. This program aims to develop professional *nazhirs* through structured training, mentoring, and practical exposure. By integrating theory and practice, *waqf* incubation seeks to enhance the effectiveness of *waqf* asset management. The *waqf* incubation program also serves as a platform for innovation and collaboration, encouraging *nazhirs* to explore new business models while remaining within *sharia* and legal boundaries so that *waqf* assets can be transformed into productive resources capable of generating sustainable income for social purposes. However, from a normative legal perspective, an important question arises regarding whether the existing *waqf* legal framework in Indonesia sufficiently recognizes and regulates incubation as a formal institutional mechanism within *waqf* governance. While current regulations emphasize the responsibilities of *nazhirs* and the management of *waqf* assets, they do not explicitly provide legal provisions governing structured capacity-building programs such as *waqf* incubation. This condition suggests a potential regulatory gap between the practical development of incubation initiatives and their formal legal recognition. Consequently, examining the extent to which the law legitimizes and supports *waqf* incubation becomes essential in assessing the effectiveness of the current legal framework and identifying the regulatory reforms necessary to strengthen institutional capacity and governance in productive *waqf* management.

² Siti Nur Azizah, Rofika Febriani, And Sirajul Arifin, 'Implementasi Zakat Sebagai Islamic Social Security Menurut Pandangan Muhammad Nejatullah Siddiqi', *Al-Mustashfa: Jurnal Penelitian Hukum Ekonomi Syariah*, 7.1 (2022), 26–40.

³ Rachma Febriyanti And Nasrullah Bin Sapa, 'Keadilan Distributif Dan Peran Negara Menurut M. Umer Chapra: Analisis Terhadap Konsep Dan Implementasinya', *Jse: Jurnal Sharia Economica*, 4.2 (2025), 63–75.

According to Ismail, productive *waqf* has the potential to alleviate poverty and promote equitable income distribution.⁴ He emphasizes that *waqf* institutions should prioritize projects that directly impact marginalized communities. This aligns *waqf* management with broader development goals. Despite its promising framework, the success of *waqf* incubation programs largely depends on the surrounding legal and regulatory environment. Clear regulations are needed to ensure accountability, transparency, and legal certainty for *nazhirs*. Weak legal frameworks often hinder innovation and discourage investment in *waqf* projects.

In the Indonesian context, *waqf* governance is regulated through national legislation and supervised by relevant authorities. These regulations aim to harmonize traditional Islamic principles with modern legal systems. However, implementation challenges remain, particularly in translating legal norms into effective practice.

Sulistiani observes that legal rigidity can sometimes limit the economic potential of *waqf* institutions.⁵ He argues that adaptive legal frameworks are necessary to allow *waqf* to respond to changing economic conditions. This insight is relevant in evaluating Indonesia's *waqf* regulatory system. Another important aspect is institutional coordination among *waqf* stakeholders, including government agencies, *waqf* boards, and financial institutions. Effective collaboration can enhance supervision and resource mobilization. Without coordination, *waqf* incubation initiatives risk becoming fragmented and ineffective.

Nasrullah emphasizes that good governance and risk management are key determinants of success in Islamic social finance institutions.⁶ He stresses that *waqf* managers must adopt transparent reporting and performance evaluation mechanisms. Such practices build public trust and encourage greater participation. Furthermore, community awareness and participation play a significant role in supporting productive *waqf* initiatives. Educating the public about the socio-economic benefits of *waqf* can increase contributions and stakeholder engagement. Public support strengthens the sustainability of *waqf* institutions. Hilmi points out that integrating *waqf* with other Islamic financial instruments can enhance its developmental impact.⁷ Synergy between *waqf*, zakat, and Islamic banking creates a comprehensive framework for social finance. This integration requires competent *nazhirs* and supportive regulations.

In conclusion, *waqf* remains a significant Islamic philanthropic institution with substantial potential to contribute to social welfare and economic development. However, the transition toward productive *waqf* requires not only professional and competent *nazhirs* but also a supportive legal and institutional framework that can ensure accountability, transparency, and sustainability in *waqf* management. Although Indonesia has established a relatively comprehensive legal structure regulating *waqf* governance, challenges persist in translating these regulations into

⁴ Ismail Ismail And Syarifudin Syarifudin, 'Relevansi Distribusi Pendapatan Di Indonesia Menurut Perspektif Muhammad Abdul Mannan', *Kabillah: Journal Of Social Community*, 8.1 (2023), 559–71.

⁵ siska lis sulistiani, *wakaf uang: pengelolaan dalam hukum islam dan hukum positif di indonesia* (sinar grafika, 2022).

⁶ mohammad rizal nasrullah, 'implementasi kepemimpinan islami dalam penerapan prinsip good corporate governance di lembaga keuangan mikro syariah' (universitas islam indonesia, 2018).

⁷ hasbullah hilmi, 'pengelolaan wakaf uang berkeadilan sosial: pengelolaan investasi dan manfaat wakaf uang melalui pembiayaan mikro oleh bmt', *al-rasikh: jurnal hukum islam*, 13.2 (2024), 256–69.

effective institutional practices, particularly in supporting structured capacity-building initiatives such as *waqf* incubation programs. Therefore, strengthening regulatory frameworks, improving institutional coordination, and enhancing managerial professionalism are essential steps to ensure that productive *waqf* can function as a sustainable instrument for socio-economic development and public welfare.

Method

This research employs a normative juridical method that emphasizes statutory and conceptual approaches to examine the legal framework governing *waqf* in Indonesia. The primary legal materials consist of Law No. 41 of 2004 on *Waqf* and Government Regulation No. 42 of 2006 concerning its implementation, which serve as the core references for analyzing *waqf* governance. Secondary legal materials include scholarly books, peer-reviewed journals, and official publications issued by the Indonesian *Waqf* Board (BWI) and the Indonesian Ulema Council (MUI). According to Widiarty, normative juridical research focuses on law as a set of norms and principles, making it particularly suitable for assessing the consistency and coherence of statutory regulations within a legal system.⁸

This study employs a normative juridical approach that focuses on analyzing legal norms governing marriage registration within the framework of public administrative order. This approach is used to examine legal principles, statutory regulations, and doctrinal interpretations related to the obligation of marriage registration and its role in strengthening legal awareness in society. The legal sources used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutory regulations that serve as the legal basis for marriage registration, such as Law Number 1 of 1974 concerning Marriage and its amendments, Government Regulation Number 9 of 1975 concerning the Implementation of the Marriage Law, as well as other regulations related to population administration and marriage registration. Secondary legal materials include academic books, reputable scholarly journal articles, and previous studies relevant to the issues of legal awareness and public administrative order. Meanwhile, tertiary legal materials such as legal dictionaries, encyclopedias, and official government documents are used to clarify legal terminology and support the interpretation of legal concepts applied in this study.

The selection of legal materials was conducted purposively by considering the relevance of the sources to the issues of marriage registration and public administrative order. The validity and reliability of the sources were ensured by prioritizing authoritative legal documents, peer-reviewed academic publications, and official regulations issued by state institutions. The analytical framework of this study is based on the theory of legal awareness and the concept of administrative order in public governance. The theory of legal awareness explains the level of public understanding, attitudes, and compliance with legal norms, particularly those related to the obligation of marriage registration. Meanwhile, the concept of administrative order emphasizes the importance of systematic record-keeping and legal certainty in the implementation of public administration. The analysis of legal materials was

⁸ Wiwik Sri Widiarty, 'Buku Ajar Metode Penelitian Hukum' (Publika Global Media, 2024).

conducted using qualitative descriptive analysis through systematic examination of legal norms, interpretation of statutory provisions, and synthesis of relevant theoretical perspectives to explain the relationship between marriage registration and the strengthening of public administrative order. Through this analytical process, the study seeks to provide a comprehensive understanding of the importance of marriage registration in ensuring legal certainty and strengthening administrative governance in society.

Result and Discussion

Legal Framework of Productive *Waqf*

The modernization of *waqf* law in Indonesia has been driven by the increasing need to ensure legal certainty, transparency, and accountability in *waqf* management. As *waqf* assets grow in number and complexity, a clear legal framework becomes essential to safeguard their sustainability and public purpose. Legal reform in this area reflects the state's commitment to transforming *waqf* into a more productive and development-oriented institution. Law No. 41 of 2004 on *Waqf* represents a fundamental milestone in Indonesia's *waqf* legal reform. This law formally recognizes both immovable and movable *waqf* assets, including cash *waqf*, securities, and other financial instruments. Such recognition expands the scope of *waqf* beyond traditional assets and enables the development of innovative models such as corporate *waqf* and productive investment-based *waqf*. Government Regulation No. 42 of 2006 further operationalizes the *waqf* legal framework by detailing procedures for registration, management, development, and utilization of *waqf* assets. These provisions aim to strengthen administrative order and enhance accountability among *waqf* managers. According to Budiarto legal certainty is achieved when regulations are clear, systematic, and consistently implemented, allowing legal subjects to act without ambiguity.⁹

Despite the comprehensive nature of these regulations, challenges persist in their practical implementation. Limited public understanding of productive *waqf* concepts and insufficient managerial competence among *nazhirs* hinder optimal utilization of *waqf* assets. Wibisono emphasizes that professional management is a prerequisite for transforming *waqf* into a productive economic institution, noting that traditional administrative approaches are no longer adequate in modern contexts.¹⁰ Another significant challenge lies in the limited coordination among regulatory and supervisory bodies involved in *waqf* governance. Overlapping authorities and unclear institutional roles can weaken supervision and policy effectiveness. Purnomo argues

⁹ Rio Budiarto, 'Kepastian Hukum Atas Pelaksanaan Hibah Akta Tanah Terhadap Cucu (Studi Terhadap Putusan Nomor: 357/Pdt/2023/Pt Bdg.)' (Universitas Islam Sultan Agung Semarang, 2024).

¹⁰ Yusuf Wibisono, *Mengelola Zakat Indonesia* (Kencana, 2015).

that strong institutional coordination is essential for Islamic economic instruments to contribute effectively to socio-economic development and social justice.¹¹

Furthermore, the absence of specific regulations governing *waqf* incubation programs constrains efforts to systematically enhance *nazhir* professionalism. Without clear legal guidance, training and capacity-building initiatives lack uniform standards and sustainability. Therefore, the development of targeted regulations on *waqf* incubation programs is crucial to complement existing *waqf* laws and to ensure the long-term effectiveness of productive *waqf* management in Indonesia.

The development of productive *waqf* in Indonesia must be understood through the analytical lens of legal certainty and regulatory effectiveness. Law No. 41 of 2004 on *Waqf* represents a significant regulatory reform intended to modernize *waqf* governance by expanding the legal recognition of *waqf* assets. The law recognizes both immovable and movable *waqf* assets, including cash *waqf*, securities, and other financial instruments. From the perspective of legal certainty, this provision demonstrates the state's intention to transform *waqf* from a purely charitable religious practice into a legally structured socio-economic instrument capable of supporting sustainable development.

Government Regulation No. 42 of 2006 further operationalizes this legal framework by establishing procedures for registration, management, development, and supervision of *waqf* assets. Normatively, these provisions aim to create an accountable governance system and ensure that *waqf* assets are managed transparently and productively. However, a critical examination reveals a normative gap between regulatory intent and practical implementation. While the regulatory framework emphasizes professionalism and accountability, many *waqf* institutions continue to operate using traditional management patterns that lack financial planning, performance evaluation, and investment strategies.

This tension indicates that legal certainty alone does not automatically translate into regulatory effectiveness. Although a legal framework may clearly define rights, responsibilities, and institutional mandates, the practical implementation of such regulations often encounters various institutional and administrative constraints. In the context of *waqf* governance, the existence of formal laws does not necessarily guarantee that the objectives of *waqf* management can be achieved efficiently. The gap between legal provisions and their implementation highlights the importance of regulatory mechanisms that are not only legally sound but also operationally effective.

One of the primary challenges lies in the absence of detailed operational standards for professional *waqf* management. While existing regulations may outline general principles and legal requirements, they often lack specific technical guidelines that can assist *nazhirs* in managing *waqf* assets in a productive and accountable

¹¹ Rudi Purnomo, 'Konsep Dan Implementasi Prinsip Ekonomi Syariah Dalam Mewujudkan Keadilan Sosial (Tinjauan Teoritis)', *El-Wasathiya: Jurnal Studi Agama*, 13.1 (2025), 37–56.

manner. Without clear operational frameworks, many *nazhirs* face difficulties in translating legal norms into practical management strategies. This situation limits the ability of *waqf* institutions to develop their assets in ways that generate sustainable economic and social benefits.

The limited professional capacity of *nazhirs* further complicates the implementation of *waqf* regulations. Many *waqf* managers continue to rely on traditional management practices that prioritize asset preservation rather than productive development. Although these practices may safeguard the original purpose of *waqf* assets, they often fail to maximize the economic potential of those assets. As a result, the broader objective of transforming *waqf* into a productive economic instrument that contributes to social welfare remains only partially realized.

Furthermore, overlapping institutional roles among *waqf* authorities and related regulatory bodies create fragmentation in supervision and policy coordination. Various institutions are involved in regulating, supervising, and facilitating *waqf* activities, each with its own mandate and administrative procedures. While such institutional diversity can provide broader support for *waqf* development, it may also generate confusion regarding authority and responsibility. In practice, this overlap can weaken coordination mechanisms and slow down decision-making processes.

From the perspective of institutional governance, this fragmentation significantly reduces regulatory effectiveness. The lack of integrated supervision and coordinated policy implementation may create inconsistencies in governance practices across different *waqf* institutions. Without clear institutional alignment, efforts to strengthen *waqf* governance may become less efficient and less impactful. Consequently, *waqf* institutions may struggle to operate as productive economic entities capable of contributing to broader development goals.

In addition, fragmented governance structures may also undermine public trust in *waqf* institutions. When regulatory authority is dispersed among multiple bodies without strong coordination, accountability mechanisms may become less transparent and more difficult to enforce. This situation can reduce public confidence in the management of *waqf* assets and discourage broader community participation in *waqf* initiatives. Strengthening governance coherence is therefore essential not only for regulatory efficiency but also for maintaining public trust.

Therefore, the existing legal framework requires further regulatory harmonization and institutional strengthening to ensure that the normative objectives of productive *waqf* are effectively realized in practice. Regulatory reforms should focus on clarifying institutional roles, establishing detailed operational standards for professional *waqf* management, and improving coordination among relevant authorities. By integrating legal certainty with effective governance mechanisms, *waqf* institutions can be better positioned to function as productive economic entities that contribute to sustainable social and economic development.

The Role of the *Nazhir* Incubation Program

The *nazhir* incubation program represents an innovative and strategic initiative aimed at strengthening the managerial, financial, and technological capacities of *waqf* administrators. As *waqf* assets increasingly shift toward productive and investment-oriented models, the role of *nazhir* requires a higher level of professionalism. Accordingly, the incubation program is designed to bridge the gap between traditional *waqf* management and modern organizational practices. According to Miftakhul Rohman, the contribution of religious leaders within the *nazhir* incubation program plays a crucial role, not only in providing normative and religious legitimacy but also as agents of social transformation who are capable of encouraging changes in the mindset of both *nazhir* and the wider community toward productive *waqf*.¹² Religious leaders contribute by instilling values of trustworthiness (*amanah*), professionalism, and an orientation toward public benefit (*maslahah*), ensuring that *waqf* management is not only compliant with *sharia* principles but also effective in addressing the social and economic needs of the community.

The primary objective of the *nazhir* incubation program is to produce professional *nazhirs* who are capable of managing *waqf* assets in a transparent, accountable, and sustainable manner. The program emphasizes good governance principles, including transparency, efficiency, and compliance with *sharia* and statutory regulations. Through systematic capacity building, *nazhirs* are expected to enhance public trust and improve the performance of *waqf* institutions. The incubation program typically consists of structured training, mentorship, and operational support. Training modules focus on strategic planning, *sharia*-compliant investment management, financial reporting, and risk mitigation, while mentorship provides practical guidance from experienced professionals. According to Mubarok, effective *waqf* development requires managers who combine *sharia* knowledge with modern financial and managerial expertise, making structured capacity-building programs essential.¹³

Through a structured incubation process, *nazhirs* are encouraged to develop productive *waqf* models that generate sustainable income. These models include *waqf*-based small and medium enterprises (SMEs), social enterprises, and digital fundraising platforms that leverage technology to expand donor participation. Iskandar asserts that productive *waqf* has the potential to become a sustainable financing instrument for social development when managed through innovative and income-generating mechanisms.¹⁴ Ultimately, the *nazhir* incubation program plays a

¹² Miftakhul Rohman And Laela Lutfiana Rachmah, 'Kontribusi Tokoh Agama Sebagai Figur Teladan Dalam Pendidikan Karakter Di Lingkungan Sekolah', *Jurnal Ilmu Pendidikan*, 4.1 (2025), 145–56 <<https://doi.org/10.58222/Jurip.V4i1.1272>>.

¹³ Ahmad Zaki Mubarok And Others, *Ekonomi Islam* (Minhaj Pustaka, 2025).

¹⁴ Iskandar Iskandar, 'Penguatan Ekonomi Syariah Melalui Keuangan Sosial Islam', *Al-Haramain*, 2025.

crucial role in transforming *waqf* into an effective instrument for socio-economic empowerment. By equipping *nazhirs* with the necessary skills and institutional support, the program enhances the long-term sustainability and impact of *waqf* assets. This approach aligns *waqf* management with contemporary development goals while preserving its core philanthropic and religious values.

Within the context of institutional governance, the *nazhir* incubation program emerges as a strategic response to the structural weaknesses in *waqf* management. The transformation of *waqf* into a productive socio-economic instrument requires *nazhirs* who possess not only religious legitimacy but also managerial, financial, and technological competencies. The incubation program therefore aims to bridge the gap between the regulatory expectations embedded in *waqf* law and the actual capacity of *waqf* managers.

The program provides structured training, mentorship, and institutional support designed to strengthen professional standards in *waqf* management. According to Miftakhul Rohman, the involvement of religious leaders in the incubation process plays a critical role in legitimizing institutional reforms and promoting a shift in societal perceptions of *waqf*. Their role extends beyond religious guidance; they function as agents of social transformation who encourage both *nazhirs* and the wider community to adopt a productive orientation toward *waqf* management. This perspective highlights that effective *waqf* governance requires the integration of normative religious values and modern managerial practices.

Despite its potential, the incubation program also reveals a regulatory gap within the existing legal framework. Current *waqf* regulations do not explicitly regulate institutional capacity-building mechanisms such as *nazhir* incubation. As a result, the implementation of such programs depends largely on policy initiatives rather than a structured legal mandate. From a regulatory effectiveness perspective, this condition may limit the sustainability and uniformity of professional development programs across different *waqf* institutions. Consequently, formal regulatory recognition of *nazhir* incubation mechanisms would strengthen institutional governance and ensure that professionalization efforts become an integral component of national *waqf* policy.

Digitalization and Innovation in *Waqf* Management

Technological advancement plays a crucial role in optimizing *waqf* governance in the contemporary era. The integration of digital technology enables *waqf* institutions to respond to increasing demands for transparency, efficiency, and accountability. As *waqf* management becomes more complex, technology serves as an essential tool to enhance institutional performance and public trust.

Digital platforms facilitate greater accessibility and transparency for both *waqif* (donors) and *nazhir* (*waqf* managers). Through online systems, donors can contribute to *waqf* easily and monitor the utilization of their funds in real time. According to Misdatok, the adoption of digital governance mechanisms in Islamic social finance

significantly reduces information asymmetry and strengthens accountability, which are key factors in building stakeholder confidence.¹⁵

The integration of advanced digital tools such as mobile applications, blockchain technology, and big data analytics further enhances the efficiency of *waqf* transactions. Blockchain systems ensure secure and immutable records of *waqf* assets, while data analytics supports informed decision-making and performance evaluation. Saifudin emphasizes that modern *waqf* management must adopt technological innovation to maximize productivity and ensure sustainability without compromising *sharia* principles.¹⁶

The integration of digital technology in *waqf* management reflects an emerging dimension of institutional modernization and governance innovation. Digital platforms enable *waqf* institutions to improve transparency, efficiency, and accessibility in the management of *waqf* assets. Through online systems, donors are able to monitor *waqf* transactions and utilization in real time, thereby reducing information asymmetry between *waqf* managers and stakeholders. From the perspective of institutional governance, such transparency mechanisms are essential for strengthening public trust and accountability.

Technological innovations such as blockchain systems, mobile applications, and big data analytics also provide opportunities to enhance the productivity of *waqf* assets. Blockchain technology can ensure secure and immutable records of *waqf* ownership and transactions, while data analytics supports strategic decision-making in *waqf* investment and asset management. In this sense, digitalization supports the regulatory objective of transforming *waqf* into a sustainable socio-economic financing instrument.

However, the effectiveness of digital transformation is constrained by institutional readiness and regulatory support. Many *waqf* institutions still face limitations in digital literacy, technological infrastructure, and financial resources. These limitations make it difficult for institutions to fully adopt digital systems in managing *waqf* assets and services. As a result, the potential benefits of digital transformation such as efficiency, transparency, and wider public participation cannot yet be realized optimally.

In many cases, *waqf* institutions still rely on conventional administrative systems that involve manual documentation and limited data integration. Such practices can lead to inefficiencies in asset management, reporting, and monitoring processes. Moreover, the absence of integrated digital databases often makes it difficult to track the development and productivity of *waqf* assets across different regions. This condition highlights the need for a more systematic transition toward digital-based governance within *waqf* institutions.

¹⁵ H Tokit Masditok And Others, *Membangun Keberlanjutan Untuk Meningkatkan Kinerja Perusahaan Asean* (Eko Aziz Apriadi, 2025).

¹⁶ Wanto Ahmad Saifuddin And Others, *Manajemen Halal Dan Keberlanjutan Bisnis* (Minhaj Pustaka, 2024).

Another important challenge relates to the limited technological infrastructure available to many *waqf* managers, particularly at the local level. Smaller *waqf* institutions often lack access to reliable digital platforms, professional IT support, and sufficient funding to implement technological innovations. Consequently, digital transformation tends to occur unevenly, with some institutions advancing more rapidly than others. This disparity may create gaps in governance standards and hinder the development of a unified national *waqf* management system.

This situation reveals a policy gap between technological innovation and regulatory adaptation, as existing *waqf* regulations do not fully address digital governance mechanisms. While several initiatives promoting digital *waqf* platforms have emerged in recent years, regulatory frameworks have not yet provided comprehensive guidelines regarding digital asset management, data protection, and accountability mechanisms. Without clear regulatory direction, institutions may face uncertainty when implementing digital systems in their governance practices.

Furthermore, the absence of adequate regulatory guidance may lead to the development of digital innovation in an uncoordinated manner. Different institutions may adopt varying technological systems, operational standards, and reporting mechanisms without sufficient integration. Such fragmentation could potentially create inconsistencies in governance standards and reduce the effectiveness of national *waqf* management policies. Therefore, coordination between policymakers, regulators, and *waqf* institutions becomes increasingly important in guiding the digital transformation process.

Therefore, strengthening the legal framework to accommodate digital *waqf* governance is essential to ensure that technological advancement contributes to sustainable and accountable *waqf* management. Regulatory reforms should aim to provide clear guidelines on digital governance practices, encourage innovation while maintaining accountability, and support institutional capacity building in digital literacy and infrastructure. By aligning technological development with appropriate legal and institutional frameworks, digital transformation can become a powerful instrument for enhancing transparency, efficiency, and public trust in *waqf* management.

4. Legal and Institutional Challenges

Despite the existence of a relatively comprehensive legal framework, the governance of *waqf* in Indonesia continues to face structural challenges related to institutional capacity, regulatory coherence, and public awareness. One major issue concerns the fragmentation of authority among institutions responsible for *waqf* supervision and development. Overlapping mandates can create ambiguity in regulatory responsibilities and weaken the effectiveness of supervision mechanisms. As a result, coordination among stakeholders often becomes less effective, which can hinder the optimal management and development of *waqf* assets.

In addition to institutional fragmentation, limited administrative and managerial capacity within many *waqf* institutions also presents a significant

challenge. Many *nazhir*, or *waqf* managers, still rely on traditional management approaches that focus primarily on maintaining *waqf* assets rather than developing them productively. This situation often leads to underutilized *waqf* resources that could otherwise generate broader socio-economic benefits. Strengthening the professional capacity of *nazhir* through training, certification, and institutional support is therefore crucial for improving *waqf* governance.

Another issue relates to regulatory coherence and the implementation of existing policies. Although Indonesia has established several regulations governing *waqf*, inconsistencies between national policies and their practical implementation at the regional level may arise. Differences in interpretation, administrative procedures, and reporting systems can create inefficiencies and delays in the management process. Consequently, improving regulatory integration and ensuring consistent policy implementation are necessary to enhance the effectiveness of *waqf* governance.

Public awareness and participation in *waqf* activities also remain relatively limited compared to the potential that exists in Indonesian society. Many people still perceive *waqf* primarily in its traditional form, such as land donations for mosques or cemeteries, without fully understanding the broader concept of productive *waqf*. This limited understanding reduces the potential for expanding *waqf* contributions, particularly in innovative forms such as cash *waqf* or investment-based *waqf*. Increasing public literacy and promoting education about the socio-economic benefits of *waqf* can encourage greater community participation.

Therefore, addressing these structural challenges requires comprehensive efforts involving regulatory reform, institutional strengthening, and public education. Improving coordination among responsible institutions, enhancing the professional capacity of *waqf* managers, and promoting transparency in governance are essential steps toward more effective *waqf* management. With stronger institutional frameworks and greater public engagement, *waqf* in Indonesia has the potential to become a powerful instrument for sustainable social welfare and economic development. Limited institutional capacity also poses a major obstacle to effective *waqf* management. Many *waqf* institutions lack adequate human resources, technical expertise, and financial infrastructure to manage *waqf* assets productively. According to Rikha, Islamic economic institutions can only function effectively when supported by strong organizational capacity and competent management, making institutional strengthening a critical priority.¹⁷

From the perspective of regulatory harmonization, such fragmentation indicates that the *waqf* governance system still lacks a fully integrated institutional structure. Effective governance requires clear coordination between *waqf* authorities, financial regulators, and Islamic financial institutions, particularly as productive *waqf* increasingly intersects with broader Islamic economic activities. Without such

¹⁷ Dahlia Arikha, 'The Strategy Of Islamic Economic Development In Perspective Of M. Umer Chapra', *Mpra Paper*, 112257 (2022).

coordination, the regulatory framework risks becoming administratively complex while remaining practically ineffective. Another critical issue concerns the limited public understanding of productive *waqf*. Many communities continue to associate *waqf* primarily with traditional religious infrastructure such as mosques or cemeteries. This perception restricts the mobilization of *waqf* resources for broader socio-economic development. From a legal policy perspective, this situation demonstrates that regulatory reform must be accompanied by socialization and educational strategies to ensure that legal norms are internalized within society. Sarumpaet emphasizes that law should function as a tool for social transformation, meaning that legal frameworks must actively facilitate development and respond to societal needs.¹⁸

Evaluatively, the challenges described above suggest that the development of productive *waqf* cannot rely solely on statutory reform. Instead, it requires a multidimensional approach that integrates regulatory harmonization, institutional capacity building, and public awareness programs. Strengthening these elements will enable *waqf* law to function not merely as a normative framework but as an effective instrument for socio-economic transformation and sustainable development.

Conclusion

This study concludes that the progressivity of Indonesia's *waqf* legal framework demonstrates partial effectiveness in supporting the development of productive *waqf*. Several indicators of legal progressivity have been fulfilled, including the establishment of a comprehensive regulatory foundation through Law No. 41 of 2004 on *Waqf* and its implementing regulations, the institutional role of the Indonesian *Waqf* Board in strengthening governance, and the growing policy orientation toward productive *waqf* management. These developments indicate that the legal framework has begun to accommodate modernization in *waqf* governance and to encourage its contribution to socio-economic development. Nevertheless, the effectiveness of this framework remains limited in practice, particularly in strengthening institutional capacity, improving the professional management of *waqf* assets, and implementing policies that systematically enhance the competence and sustainability of *nazhir* institutions.

The most crucial legal gap identified in this study is the absence of explicit regulatory provisions governing the incubation of *nazhir* institutions. Although existing regulations recognize the strategic role of *nazhir* as the central actor in *waqf* management, there is still no specific legal framework that regulates structured mentoring, competency development, and institutional incubation mechanisms. This condition leads to uneven managerial capacity among *nazhir* institutions and reduces the overall effectiveness of productive *waqf* governance. Therefore, regulatory strengthening is required through the issuance of more specific implementing or derivative rules that regulate *nazhir* incubation, the establishment of standardized guidelines for capacity development and professional certification, and the strengthening of coordination mechanisms among the government, the Indonesian

¹⁸ Muhammad Idris Sarumpaet, Hilal Haitami Harahap, And Fauziah Lubis, 'Peran Politik Hukum Dalam Pembangunan Hukum Progresif Di Indonesia', *Innovative: Journal Of Social Science Research*, 4.4 (2024), 3991–4003.

Waqf Board, Islamic financial institutions, and community-based organizations. Future research may further examine empirical models of *nazhir* capacity development and comparative *waqf* governance frameworks in other Muslim-majority countries in order to support more effective regulatory innovation in the management of productive *waqf*.

Bibliography:

- Arikha, dahlia, 'the strategy of islamic economic development in perspective of m. Umer chapra', *mpa paper*, 112257 (2022), https://mpa.ub.uni-muenchen.de/112257/1/MPRA_paper_112257.pdf/1000
- Azizah, siti nur, rofika febriani, and sirajul arifin, 'implementasi zakat sebagai islamic social security menurut pandangan muhammad nejatullah siddiqi', *al-mustashfa: jurnal penelitian hukum ekonomi syariah*, 7 (2022), 26-40, doi:<https://doi.org/10.24235/jm.v7i1.9892>
- Budiarto, r i o, 'kepastian hukum atas pelaksanaan hibah akta tanah terhadap cucu (studi terhadap putusan nomor: 357/pdt/2023/pt bdg.)' (Universitas islam sultan agung semarang, 2024), https://repository.unissula.ac.id/37106/1/Magister%20Kenotariatan_21302200076_fullpdf.pdf
- Febriyanti, rachma, and nasrullah bin sapa, 'keadilan distributif dan peran negara menurut m. Umer chapra: analisis terhadap konsep dan implementasinya', *jse: jurnal sharia economica*, 4 (2025), 63-75, doi:<https://doi.org/10.46773/jse.v4i2.1883>
- Hilmi, hasbullah, 'pengelolaan wakaf uang berkeadilan sosial: pengelolaan investasi dan manfaat wakaf uang melalui pembiayaan mikro oleh bmt', *al-rasikh: jurnal hukum islam*, 13 (2024), 256-69, doi:<https://doi.org/10.38073/rasikh.v13i2.1947>
- Iskandar, iskandar, 'penguatan ekonomi syariah melalui keuangan sosial islam', *al-haramain*, 2025, doi: <https://doi.org/10.35127/kabillah.v8i1.276>
- Ismail, ismail, and syarifudin syarifudin, 'relevansi distribusi pendapatan di indonesia menurut perspektif muhammad abdul mannan', *kabillah: journal of social community*, 8 (2023), 559-71, doi: <https://doi.org/10.35127/kabillah.v8i1.276>
- Istiqomah, arini nova, yasmine amira uzhma, and syifa fadilah, 'peranan hukum dalam mewujudkan kesejahteraan masyarakat indonesia', *jaksa: jurnal kajian ilmu hukum dan politik*, 2 (2024), 287-94, doi:<https://doi.org/10.51903/jaksa.v2i1.1596>
- Masditok, H Tokit, m m se, s e tri gunarsih, csra mm, ira geraldina, s e ake wihadanto, and others, *membangun keberlanjutan untuk meningkatkan kinerja perusahaan asean* (eko aziz apriadi, 2025), [https://books.google.co.id/books?hl=id&lr=&id=IIuMEQAAQBAJ&oi=fnd&pg=PA1&dq=membangun+keberlanjutan+untuk+meningkatkan+kinerja+p+erusahaan+asean+\(eko+aziz+apriadi,+2025\)&ots=J7KAcy6tyS&sig=7JPxdpMu3Yjgd-skFrkz8aAq3E&redir_esc=y#v=onepage&q&f=false](https://books.google.co.id/books?hl=id&lr=&id=IIuMEQAAQBAJ&oi=fnd&pg=PA1&dq=membangun+keberlanjutan+untuk+meningkatkan+kinerja+p+erusahaan+asean+(eko+aziz+apriadi,+2025)&ots=J7KAcy6tyS&sig=7JPxdpMu3Yjgd-skFrkz8aAq3E&redir_esc=y#v=onepage&q&f=false)
- Masyhadi, anang rikza, 'optimalisasi sumber daya manusia dalam pengelolaan wakaf di pesantren tazakka', *ziswaf asfa journal*, 2 (2024), 148-62, doi:<https://doi.org/10.69948/ziswaf.30>

- Miftakhul rohman, and laela lutfiana rachmah, 'kontribusi tokoh agama sebagai figur teladan dalam pendidikan karakter di lingkungan sekolah', *jurnal ilmu pendidikan*, 4 (2025), 145–56 <<https://doi.org/10.58222/jurip.v4i1.1272>>, Doi, <https://doi.org/10.58222/jurip.v4i1.1272>
- Nasrullah, mochammad rizal, 'implementasi kepemimpinan islami dalam penerapan prinsip good corporate governance di lembaga keuangan mikro syariah' (universitas islam indonesia, 2018)doi. <https://dspace.uii.ac.id/handle/123456789/10625>
- Purnomo, rudi, 'konsep dan implementasi prinsip ekonomi syariah dalam mewujudkan keadilan sosial (tinjauan teoritis)', *el-wasathiya: jurnal studi agama*, 13 (2025), 37–56, <https://ejournal.stainumadiun.ac.id/index.php/macrovia/article/view/198>
- Saifuddin, wardo ahmad, eko sudarmanjto, ahmad yani, and yunus mustaqim, *manajemen halal dan keberlanjutan bisnis* (minhaj pustaka, 2024), [https://books.google.co.id/books?hl=id&lr=&id=IHKREQAAQBAJ&oi=fnd&pg=PP1&dq=Saifuddin,+wardo+ahmad,+eko+sudarmanto,+ahmad+yani,+and+yunus+mustaqim,+manajemen+halal+dan+keberlanjutan+bisnis+\(minhaj+pustaka,+2024\)&ots=1lMjgX1nFN&sig=701M4t24L-EbHwQV9Q5awzdupvg&redir_esc=y#v=onepage&q=Saifuddin%2C%20warto%20ahmad%2C%20eko%20sudarmanto%2C%20ahmad%20yani%2C%20and%20yunus%20mustaqim%2C%20manajemen%20halal%20dan%20keberlanjutan%20bisnis%20\(minhaj%20pustaka%2C%202024\)&f=false](https://books.google.co.id/books?hl=id&lr=&id=IHKREQAAQBAJ&oi=fnd&pg=PP1&dq=Saifuddin,+wardo+ahmad,+eko+sudarmanto,+ahmad+yani,+and+yunus+mustaqim,+manajemen+halal+dan+keberlanjutan+bisnis+(minhaj+pustaka,+2024)&ots=1lMjgX1nFN&sig=701M4t24L-EbHwQV9Q5awzdupvg&redir_esc=y#v=onepage&q=Saifuddin%2C%20warto%20ahmad%2C%20eko%20sudarmanto%2C%20ahmad%20yani%2C%20and%20yunus%20mustaqim%2C%20manajemen%20halal%20dan%20keberlanjutan%20bisnis%20(minhaj%20pustaka%2C%202024)&f=false)
- Sarumpaet, Muhammad Idris, Hilal Haitami Harahap, and Fauziah Lubis, 'peran politik hukum dalam pembangunan hukum progresif di indonesia', *innovative: journal of social science research*, 4 (2024), 3991–4003,doi. <https://doi.org/10.31004/innovative.v4i4.12848>
- Sulistiani, Siska Lis, *wakaf uang: pengelolaan dalam hukum islam dan hukum positif di indonesia* (sinar grafika, 2022), [https://books.google.co.id/books?hl=id&lr=&id=nTlwEAAAQBAJ&oi=fnd&pg=PP1&dq=Sulistiani,+siska+lis,+wakaf+uang:+pengelolaan+dalam+hukum+islam+dan+hukum+positif+di+indonesia+\(sinar+grafika,+2022\)&ots=Bp2aQn-9kl&sig=kdL4kqyikvTcXnVU37gf8T90e5k&redir_esc=y#v=onepage&q=Sulistiani%2C%20siska%20lis%2C%20wakaf%20uang%3A%20pengelolaan%20dalam%20hukum%20islam%20dan%20hukum%20positif%20di%20indonesia%20\(sinar%20grafika%2C%202022\)&f=false](https://books.google.co.id/books?hl=id&lr=&id=nTlwEAAAQBAJ&oi=fnd&pg=PP1&dq=Sulistiani,+siska+lis,+wakaf+uang:+pengelolaan+dalam+hukum+islam+dan+hukum+positif+di+indonesia+(sinar+grafika,+2022)&ots=Bp2aQn-9kl&sig=kdL4kqyikvTcXnVU37gf8T90e5k&redir_esc=y#v=onepage&q=Sulistiani%2C%20siska%20lis%2C%20wakaf%20uang%3A%20pengelolaan%20dalam%20hukum%20islam%20dan%20hukum%20positif%20di%20indonesia%20(sinar%20grafika%2C%202022)&f=false)
- Wibisono, yusuf, *mengelola zakat indonesia* (kencana, 2015), [https://books.google.co.id/books?hl=id&lr=&id=uBVNDwAAQBAJ&oi=fnd&pg=PA1&dq=Wibisono,+yusuf,+mengelola+zakat+indonesia+\(kencana,+2015\)&ots=1ogg3Vittx&sig=k2rAqYDwA-b807KqD2u_2sMCo0U&redir_esc=y#v=onepage&q=Wibisono%2C%20yusuf%2C%20mengelola%20zakat%20indonesia%20\(kencana%2C%202015\)&f=false](https://books.google.co.id/books?hl=id&lr=&id=uBVNDwAAQBAJ&oi=fnd&pg=PA1&dq=Wibisono,+yusuf,+mengelola+zakat+indonesia+(kencana,+2015)&ots=1ogg3Vittx&sig=k2rAqYDwA-b807KqD2u_2sMCo0U&redir_esc=y#v=onepage&q=Wibisono%2C%20yusuf%2C%20mengelola%20zakat%20indonesia%20(kencana%2C%202015)&f=false)
- Widiarty, wiwik sri, 'buku ajar metode penelitian hukum' (publika global media, 2024), doi.<http://repository.uki.ac.id/id/eprint/14688>