

The Implementation of Waqf Policy in Improving the Prosperity of Community in Jember, East Java, Indonesia

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Abstract

Waqf has a potential contribution to overcome the socio-economic problems of the community. However, the potential of waqf land in Jember which was about 141.06 hectares spreaded over 1,495 areas was traditionally managed. This research focused on the implementation of waqf policy in improving community welfare. It was intended to find out the inhibiting factors, and alternative solutions to overcome them. This study used descriptive qualitative method. The result of this research was that the management of waqf in Jember has not been done well. It was caused by the lack of BWI function; the egoistic problems of the wakif who wanted to control the land of waqf against nazhir; unprofessional system of nazhir; lack of socialization of waqf policy; and it was exacerbated by the non-compliance of some people to the waqf policy. Therefore, every nazhir needs to realize Good Waqf Governance by applying the principles of Good Corporate Governance (GCG) based on Islam, since the conventional GCG was not efficient without the existence of honest and trustful actors.

Keywords: Policy Implementation, Management, Waqf, Community Welfare.

1. Introduction

Waqf is a kind of worship in Islam by scarifying some property. It is quite identical with zakat. However, it is actually different in some aspects. Setiawan stated that waqf was considered legal at the time of the pronouncement and the fulfillment of the pledge which transformed private ownership into public ownership expected to give benefit for the ummah. Waqf functions as an alternative solution for socioeconomic problems of the society by comprehensively shifting 'private benefit' to 'social benefit' (Setiawan, 2004). It was one of social development instruments to prosper the society. Waqf was also regarded as a peculiar instrument and it was oriented to the principles of virtue (birr), goodness, (ihsan), and brotherhood (ukhuwah). So fulfilling waqf did not only worshiping Allah, but also helping others.

In Indonesia, waqf has been known by Muslims since Islam came into Indonesia in the mid-13th century. Waqf has contributed greatly to the development of the country, both in terms of human resource empowerment and natural resources. It can not be denied that the majority of mosques, mushala, pesantren, and Islamic institutions were built on waqf land. The asset of the national waqf management was very promising, reaching 590 trillion based on the average number of assets managed by waqf institutions and multiplied by the number of waqf locations in Indonesia (<https://bwi.or.id/index.php/>).

According to data released by the Ministry of Religious Affairs of the Republic of Indonesia in 2017, the total number of waqf land locations in Indonesia as much as 336,466 locations covering area of 49,608.72 hectares. 19,099.59 hectares have already been certified and 30,509.13 hectares were uncertified. 44.96% of those entire waqf land were used as mosques; 28.79% as mushola; 10.41% as school/madrasah; 4.62% as a tomb; 2.98% as pesantren; and 8.24% as other means of social infrastructure. Meanwhile, the total assets of waqf land in Jember, East Java were 141.06 hectares spread over 1,495 locations covering certified 24.12 hectares and uncertified 116.93 hectares. However, it indicated that most of them was managed traditionally due to their usage as mosques, mushala, madrasah, and tombs.

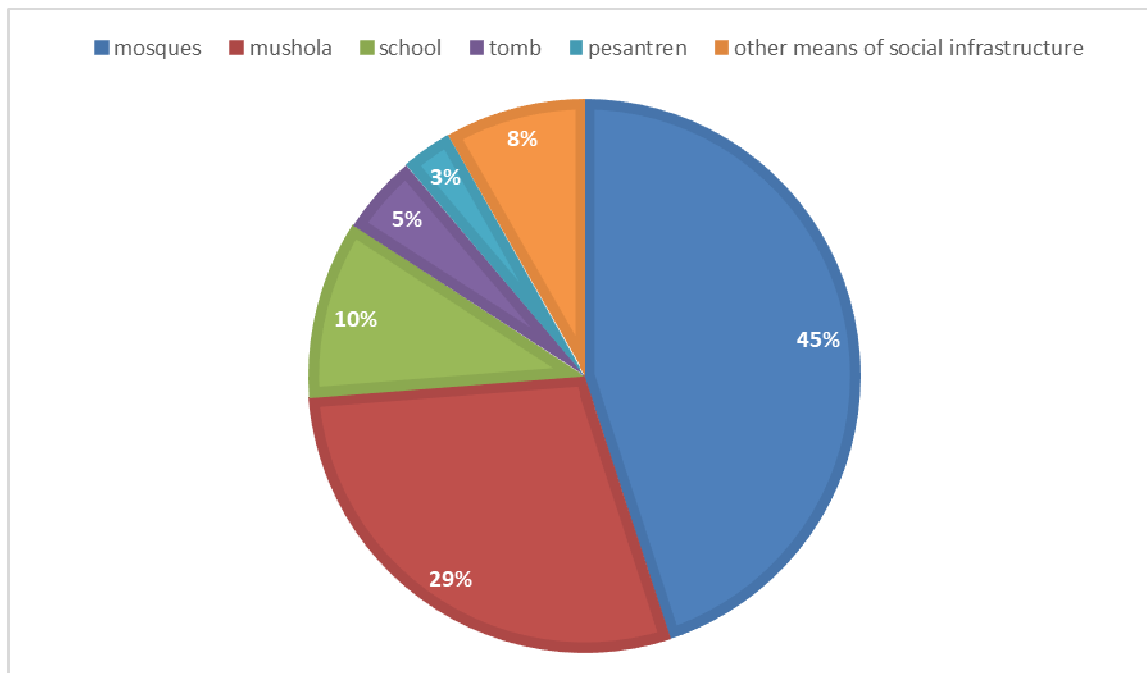


Chart 1. The Percentage of Waqf Land Utilization in Indonesia

(<http://siwak.kemenag.go.id/index.php>, 04/08/2017)

Those assets ideally can be transformed to finance community empowerment through various solvent programs, starting from simple programs such as meeting basic needs, empowering the skills of the poor, increasing public participation, and creating beneficial policies for the poor. Unfortunately the applied management was traditional. This management has been effective in the social and religious framework. However, it did not have significant impact for the improvement of the community since those assets were directed to consumptive spending.

Furthermore, the Law No. 41 of 2004 on Waqf and Government Regulation Number 42 of 2006 on waqf implementation actually has given a strict sanction for the person who abused the waqf land. But ironically there was no case of waqfland dispute admitted to the Religious Courts or the Indonesian Waqf Board (BWI) as the mediator.

The transfer of waqf land to be a public asset must be in accordance with the procedure regulated by the law to get legal protection. The land should be registered in KUA to obtain AIW and certification. However, it has not been implemented since it was constrained by several factors such as that wakif and nazhir did not understand the regulation. Wakif and nazhir considered waqf limited to the transfer of assets on the basis of religious motivation. This fact indicated a gap between the legislation and the real practices.

Bakar and Bamualim (2006) research on the relationships and utilization of Islamic philanthropic institutions involving 1500 Muslim families from various regions of Indonesia, hinted the importance of civil society's role in realizing social justice. Further many members of the society denied the role of the state. However, in practice, the majority of respondents had a charitable motive due to their religious obligations, spiritual foundation and the idea of poverty alleviation. It made them not to trust the management of their waqf lands to the waqf institutions. Instead, they entrusted to mosques and majelis taklim. However these traditional institutions have not done their administrative function well, including the absence of sanctions and rewards despite the laws that have stated their legal position. Further the people felt difficult to trust them and their efforts have not yet directed to address contemporary social issues. Therefore, the management of waqf institutions must be accompanied by awareness of the wakif and the community in channeling their assets balanced by the recipients to be more productive.

Those real problems made us difficult to expect an increase in the endowment management practices such as in Egypt, Bangladesh, Singapore, Malaysia, Saudi Arabia, Kuwait, and Turkey, which had a better tradition of waqf governance. However, the promising potential of waqf in Indonesia should be developed into a potential asset, which did not only support the religious-social services, but also various initiatives and objectives of social justice.

According to Azam Al-Hadi (2009), the parties involving the management of waqf should pay their attention to the following aspects. First, the commitment of the government and related institutions should be directed to the empowerment of unproductive waqfs, mosque-based management, the educational institutions, and the abandoned waqf land. Second, the improvement of human resources management and professionalism as

well as skills to optimize the economic potential of waqf as the priority. Third, the synergy between national and international institutions was very important in the development and empowerment of waqf land by opening potential investment channels on waqf. Fourth, public trust must be rebuilt by improving the standard of accountability and transparency of the institutions. Fifth, the formulation of the regulation on waqf empowerment should be directed to support the development of productive waqf and social justice equally. Therefore, the effort of development of waqf should be done synergistically between the government, the waqf management, and society through integrative, planned, professional, transparent, productive and accountable model. So it could be managed optimally and provided greater benefit for the community.

Thus, it can be understood that waqf was able to contribute to overcome social problems, especially the socio-economic problems. In other words, as one of the financial instruments in Islam, waqf could not be separated from the economic system. The improvement competence of the professional nazhir is an important thing to consider in the management of waqf. Nazhir must be able to manage the waqf funds in order to have added value as capital to develop waqf asset productively. Community empowerment, especially in the field of economy can be done through its management, so that the community can be independent and responsible for the given capital. Therefore, this study was intended to review the management of waqf assets.

2. Theoretical Review

This research applied the theory of Public Policy Implementation, The Ownership Rights theory, and Good Corporate Governance (GCG) theory. Grindle (1980) stated that "implementation is a common process of administrative action that can be investigated at a given level of program." He also noted that the implementation phase began when the objectives goals and the objectives has been implemented, the action programs have been prepared, and the budget has been prepared and reached the target. Friedrich (1963) defined "policy as a set of actions proposed by a person, group or government in a particular environment by showing obstacles and opportunities for the application of the policy formulation in order to achieve a predetermined objective."

The policy implementation closely linked to the policy objectives, the objectives formulation and their realization to the outcomes of government programs. It was in line with the opinion of Grindle (1980) that, "the role of public implementation is to build a network that allows public policy objectives to be realized through the activity of every government agency involving various stakeholders." It indicated that the emphasize of the implementation did not only involve the behavior of the administrative bodies responsible for carrying out the formulated actions and leading to compliance with the target group, but also the created synergy among the network of political, economic and social forces that could influence the behavior of the involved parties. Finally it could have a positive impact.

According to Grindle (1980) there were influential variables for the policy implementation. They were the content and the context of the implementation. These policy content variables included: (1) the extent to which the distribution of the interests of the target groups; (2) the level of benefit received by the target group; (3) the extent to which the expected outcomes of the policy were formulated; (4) the accuracy of the location of a program; (5) the accuracy of the detail policy implementor; (6) the adequacy of the supporting resources of a program. While the policy environment variables included: (1) the degree of the power, interests, and strategies applied by actors involved in policy implementation; (2) the characteristics of the institutions and regimes in power; (3) the level of compliance and responsiveness of the community.

Public policy can be interpreted as a concept to explain specific program and specific action options, such as: the transport sector, education, health, housing, public facilities, and welfare. One of the examples was the realization of a public policy governing welfare matters in the economic sector. It concerned with the property rights. The right of ownership becomes an important discussion in microeconomic theories, both in the Islamic and capitalist economic system because it did not only related to mere economic aspects, but also social, spiritual and political aspects.

Bromley (1989) noted four types of ownership: state property, common property, private property, and no property. Of those four types, only private ownership can be consumed exclusively and transferred to others. While the resources of state property and joint property, can not be consumed exclusively. Waqf is one example of common property rights or public good, ie when waqf property is fulfilled for a particular purpose or for the general public, there is an obligation that the waqf property should be used in accordance with its intent. However, Ibn Taymiyya quoted at-Tariqi (2004) stated that waqf property can be used for other purposes if it gave greater benefit.

The analysis of this research applied the perspective of Good Corporate Governance (GCG) theory. The ideal management of an endowment institution should be resemble to company management. Therefore, the pattern of corporate management (GCG) can be applied in the management of waqf. The key to successful management and development of endowments lied in a solid working team to maximize the expected wealth. If the waqf property was professionally managed, then it would become a very potential Islamic philanthropy (Hashmi, 1987). GCG was a system that set of guidelines governing the relationship between various

stakeholders especially between the holder of capital and the council organizers for the achievement of organizational goals (Zarkasyi, 2008). It consisted principles of transparency, accountability, responsibility, independency, and fairness. Transparency means an openness in the implementation of decision-making process, in management and in the delivery of relevant information. Accountability is the clarity of roles and responsibilities so that the management run effectively. Responsibility is the conformity of management with the policies and existed regulations. Independency is the professionally applied management without any pressing from any parties. Meanwhile, fairness deals with cohesion, justice, and equality in the fulfillment of every right and obligation of every stakeholder (National Committee on Governance Policy, 2006).

Thus, the waqf institution (nazhir) in managing waqf land should be based on the mandate of the person who gave waqf (wakif). The factor of trust and sincerity were built in order to improve the contribution given to the institution. The accountability and transparency were very influential in fostering the trust of the society. The achievement of this objective depended on the extensive knowledge and experience were fundamental to improve the quality of work in managing the waqf. Therefore, it was necessary to provide professional guidance and empowerment of the nazhir

3. Research Method

This study applied descriptive qualitative method. It is a research method that aims to describe social phenomena or events systematically, factually and accurately (Miles and Huberman, 1992). This research was located in Jombang, Tempurejo, and Gumukmas of Jember, East Java. This selection was based on several reasons: the first was that these three locations had the greatest potential of waqf among other districts. Waqf land area in Jombang covered 26.21 hectares. 31.92 hectares were in Gumukmas, 12.40 hectares were located in (<http://siwak.kemenag.go.id/>). Secondly, in the aspect of management and utilization, waqf managed productively by Al-Ikhwaniyah Gumukmas Foundation was in the form of rice field consisting of 11 hectares with profit sharing system. Waqf at Baitul Hikmah Tempurejo Foundation was the only productive endowment in the form of shops. While the waqf managed by Darul Falah Jombang, although the majority managed land, was traditionally managed, but there are some who have been productive in the form of rice fields with a rental system that results for the benefit of the mosque.

The informants of this research were determined by the usage of purposive sampling techniques. It is a technique of taking informants by considering their involvement in the waqf management (Sugiyono, 2008). The selected informants were those who understood and implemented the management of waqf in Jember. This technique was intended to define suitable and relevant informants to the research focus, so that the data obtained can be used to develop the theory. The selected informants were: the Head of Religious Ministry of Jember, the Head of KUA, nazhir, wakif, and community in Tempurejo, Gumukmas, and Jombang. Data collection techniques conducted in this study were interviews, observation, and documentary study.

The data analysis was qualitative analysis consisting of three activities performed simultaneously, namely: data reduction, data display or data presentation, and drawing conclusion / verifications (Miles, Huberman, and Saldana, 2014). This study also applied several criterias to check the validity of the data: prolonged observation, peer debriefing, triangulation, and member checking (Sugiyono, 2008).

4. Research Results and Discussion

4.1. The Implementation of Waqf Policy in Jember

Prior to the enactment of Law no. 41 of 2004 on waqf, other regulations were passed to regulate the existence of the waqf. It was the enactment of Government Regulation no. 28 in 1977, which provided the meaning of waqf mentioned in Article 1 paragraph (1): "Waqf is a legal act of a person or legal entity that separates some of his wealth in the form of land property and institutionalized forever to the interests of worship or other public purposes in accordance with the teachings of Islam."

However, the provision of PP. 28 of 1977 was not optimum, especially due to the needs of the community of waqf candidates who wanted to do waqf in a limited number of nominal. It was so since this regulation limited the objects of waqf to the property rights. It did not include other treasures owned by the wakif.

The academics and political elites continued discussion to formulate waqf Act as the legal foundation. Finally, the Law no. 41 of 2004 was passed on Waqf and the Government Regulation no. 42 of 2006 as its implementation were passed on 27 October 2004. It regulated the management of waqfs in various forms of waqf property more detail: the endowment of fixed goods, non-permanent goods, and money. This can be observed in Articles 28 to 31 of the Law and Article 22 s / d 27 PP. 42 of 2006.

The management of property waqf in Jember has been adopted the prevailing regulations, although most of them were uncertified or unregistered in National Land Agency (BPN). Most of them were in forms of verbal pledge of waqf and Deed of Pledge of Waqf (AIW) only. The role of the Ministry of Religious Affairs representative in Jember to represent them was very complex. It played as a government institution that administratively handled and authorized to change or transfer the land of waqf into certified ones. However this

certification could not be utilized in accordance to the initial pledge. In this case, the Ministry of Religious Affairs had the authority to approve their transfer, whereas nazhir functioned merely as a manager. Thus, the Ministry of Religious Affairs authorized authority to record the inventory of those lands. The authority of National Land Agency (BPN) was to make their certificates as the proof of ownership.

In terms of utilization, waqf can be categorized into two: the consumptive / traditional and productive. Consumptive / traditional waqf was used only for the sake of worship and their benefit should be directly for the ummah. In general, this waqf was used for mosques, mushalla, orphanages, and tombs. So far, the utilization of this waqf is quite effective. However, the impact was not significant for the economic empowerment of the community. Without innovation by adding waqf management productively, the expected economic prosperity of society from waqf institution was difficult to be realized optimally.

Most waqf land in Jember was utilized traditionally, such as: pesantren, mosque, mushala, and madrasah, and only a small portion was utilized productively, such as: rice fields and supermarkets. Although some of them have been managed productively for rice fields and supermarkets, but their management was not handled by Waqf Assembly. It could be seen in the case of supermarkets and cooperatives institution in Tempurejo managed by Yayasan Baitul Hikmah, and 11 hectares rice fields managed by Yayasan Al-Ikhwaniyah Gumukmas. Meanwhile madrasah in Jombang was handled by individuals.

Unfortunately the potentiawaqf assets were generally managed traditionally. So it has not been beneficial to improve the welfare of the community. The amount of productive waqf land was very little.

Those waqf should be managed productively, although they were oriented to the interests of the mosque. Munawir (2007) proposed a comprehensive model of mosques management: First, restoring the function of mosques referring to the early age of Islam; Secondly, maintaining the role of the mosque by strengthening their role and function in a dichotomous and separate form; and Third, accommodating and reviving the worship aspect and their socio-economic functions.

Similarly, the results of Huda's research (2017), which investigated self-reliance mosque management based on waqf in Imam Ulomo Mosque, Sampung Ponorogo, found that this model was able to collect independent assets by developing its waqf assets productively way through fishery, agriculture, and other sectors. However, the capacity building of the nazhir has not been developed since it was done individually. Meanwhile, their independent beneficiary was oriented not only for the mosque but also the community.

Waqf management differs from the management of zakat or alms in general. Waqf management is preferred to preserve the waqf property reduction and developed them to be more beneficial for mauquf alaih. While the management of zakat, the manager of zakat (amil) could directly distribute the collected zakat property to the recipient of zakat (mustahiq) (Dahlan, 2016).

Waqf is more advantageous than zakat in some aspect including: (1) it can bring sustained reward to the wakif even if the owners has moved or has died; (2) it is a form of self-reliance asset for Islamic society in improving its social welfare and solidarity; (3) it may be used as a means of preserving waqf property from damage or extinction; (4) the results of the management of waqf property can be felt by future generations, and (5) it is useful for the entitled people to meet their needs. If zakat is fulfilled in order to meet the basic needs of the 'eight groups' of recipients, then the waqf is more than that. The results of waqf management can be utilized by all members of the society without any boundaries and limitation (Ekawaty, Marlina, and Muda, 2015).

Therefore, Law no. 41 of 2004 on Waqf was formulated to mobilize all national potential of waqf productively along with the process of modernization and globalization in the economic and industrial sectors. Productive waqfs need to be maximally and professionally developed to achieve tangible results. So that the potential of waqf did not cease to be the wealth of Muslims with all its complicated matters. The endowments of waqf land can be initiated by managing waqf land productively and optimally, especially those located in strategic and high commercial places, and the results can be utilized for the benefit of the community.

Nowdays, the management of waqf land for productive purposes has not been fully implemented. There are still many abandoned waqf land that has not been fully worked out by nazhir in Jember. For example, the waqf land located in strategic areas can be made shops, creating parking lots around public service areas, and planting teak trees or creating rice fields in rural areas, and so forth as it has been done by Baitul Hikmah Tempurejo Foundation which managed them to be mini market and cooperative funded and assisted by the Ministry of Religious Affairs. However, it was the one and only in Jember. The other sub-districts were in the forms of rice fields and plantations. It was due to the incapability of the nazhir to raise aid from the government, especially the Ministry of Religious Affairs.

The potential of waqf land in Jember was remarkable and spread throughout the district, so it is sometimes inevitable to lead some conflicts or disputes among the parties involved. It was relatively small in number. Most of the disputes involved the wakif heirs and nazhir after the wakif died, or and the community members claiming to be the rightful owners of the waqf land. For example, the disputed form, the wakif had 1,000 meters certified land, then he dedicated 300 meters of the land. After the death of wakif, his heirs demanded the return of the possessed land on the pretext that he had the certificate.

Although there were frequent waqf land disputes, they have not been settled and brought to the Religious Courts. It could usually be settled peacefully by the the involved parties. However, if they were unresolved in this context, the nazhir usually would give them to the voluntarily. This was done because the nazhir usually did not have the certificate or pledge of waqf stating that they were theirs. These dispute waqf should be solved through Indonesian Waqf Board (BWI) as mediator among the conflicting parties. However, there were many areas in Jember that have not yet formed the board which made the conflicts unresolved. It was ironic that the permanent land endowments changed back to the heirs.

Thus, the establishment of the board was a necessity. It would create synergy between waqf institutions. So that the management of waqf could be implemented maximally. The synergy involved nazhir, the Ministry of Religious Affairs, BWI, wakif, and other waqf enforcers, such as: Official Pledge Officer of Waqf (PPAIW). As an authoritative institution, BWI played an important role to manage waqf in Indonesia and it should initiate strategies and patterns of productive representation. It has a central role as a mediator between waqf, government and community managers. BWI could undertake necessary measures such as: providing guidance, training, and understanding to nazhir or the community, as well as assisting the financing required by nazhir to support the management of waqf. It should supervise all management activities from planning, organizing, up to monitoring and evaluation.

4.2. The inhibiting factors of the Implementation of Waqf Policy

The inhibiting factors of the Implementation of Waqf Policy in Jember included: In term of of wakif: First, generally after the death of the wakif, their heirs did not directly submit the files about the representation of land owned to the Official Waqf from Board of Trustee (PPAIW) stated that the land was for the place of worship and was intended only for Allah. So it was impossible to transfer its usage that made the written evidence of such representation was deemed unnecessary; Second, it due to the different interest of wakif and nazhir. Therefore, the wakif then kept control of the written evidence of the land's representation; Third, the replacement of death nazhir ownership of the land by his heirs did not immediately change the certification of waqf to be as hereditary waqf land.

There were two hindrances concerning with the status of waqf land: first, of 141.06 hectares waqf land in Jember, 116.93 hectares have not been certified. This was even reluctant to transferred into the Pledge of Waqf (AIW) to the Official Waqf from (PPAIW) freely. Secondly, there was inconsistent procedures in KUA, Ministry of Religious Affairs, and BPN, causing the nazhir confused and despair about the mechanism which made the land remained dormant and uncertified.

Concerning with the nazhir, the obstacles were: first, nazhir was not optimum in managing the waqf land, since most of them thought the function of waqf was for the places of worship. It was understandable since it has been regulated in Law no. 41 Year 2004 which stated that waqf did not only intended as a place of worship, but also the place to initiate the empowerment of productive waqf for the economic development of people; Secondly, the nazhir were occupied by their own respective jobs and it made the management of productive waqf land neglected. The third was the lack of capital to manage the land productively. The initial earned capital was small to be managed optimally. In addition, there was still a debate about the concept of the profit distribution of productive waqf.

In the terms of policy and bureaucracy, the obstacles were the socialization of the law not Law no. 41 years 2014 and PP no. 42 of 2006 done by Ministry of Religious Affairs in Jember was not optimum. It did not underline the importance of the management of productive endowments to waqf and community institutions. Secondly, the Land Affairs Office did not tolerate to the uncertified by considering it like regular land without considering its AIW; the third was the unfamiliarity of the parties in carrying out the waqf land certification procedure. Whereas the role of PPAIW was crucial to issue a certificate of waqf. PPAIW did not only prepare the complete administrative documents for the registration of certificates but also they acted as the competent officials who gave the legal guarantee; Fourth, not all nazhir understand waqf procedures well. They did not understand the stated rights and obligations, the conditions and the prohibition prohibited.

The other obstacles were resulted from the public awareness. They were firstly the lack of public awareness to perform transparent management of the activities that can bring input from the community. The Ministry of Religious Affairs did not have sufficient extension workers as their representative. Secondly, the existence of non-compliance to the prevailing policies. UU no. 41 of 2004 and Government Regulation no. 42/2006 was considered problematic because many waqf and community managers have misconceived it. They mostly assumed that waqf was only concerned with worship services and it should not be used outside the initial pledge. If it was so then this productive endowments contradicted to traditional shari'a law. It led non-compliance and less responsiveness of the community which developed into conflicts. Among the factors influencing non-compliance were due to the lack of understanding of the community towards waqf policies and the lack of socialization. On the contrary, people were more obedient to the policies of local leaders or community leaders than government policies.

The lack of local leaders involvement in making the regulation created the impediment of the implementation of waqf governance policies. The community's trust and compliance with local leaders was the evidence of the effectiveness of local wisdom owned by the people of Jember. Local wisdom was usually reflected in the form of life habits and beliefs of society that has lasted for a long time. The sustainability of local wisdom will be preserved in the values and norms prevailing within a particular community. These values and norms will become the guidance of the society and it would become an inseparable life guidance in their everyday life (Judge, 2014).

It was obvious that the variables greatly affecting the success of waqf governance were the role of kiai, local leaders as trustworthy, creative, and professional waqf managers. In terms of Grindle contextual implementation of the policy (1980), then there is a weakness of Grindle Theory because it does not mention explicitly about the role of the local leader as one of the factors in the policy implementation. This factors has evidently made the donor the donor want to give his land .They believed in those local leaders concerning with the concepts of barokah and salvation. So, the government should consider this factor, as well as provide a growing space that can be used as part of waqf governance.

4.3. Alternative Solutions to Overcome Barriers to Governance Endowments

Although the model used in the management of waqf land in Jember, East Java, indeed began to develop in various fields, but its management still has not succeeded in making the results of the development of waqf land financially. The most obstructing obstacle was the lack of the ability and understanding of the nazhir about the function of worship. Nazhir did not do his jobs comprehensively. They had limited understanding of endowments, their supervision wasnot intensive. Theydid not report their routine activities.Nazhir performances merely depended on trust of the community.

Waqf institution management becomes the most crucial part in understanding waqf issues. Waqf management is related to recruitment and dismissal of waqf managers, the management system of waqf used, and transparency and accountability of their management. Results of the research conducted by Kasdi (2014), found that the majority of waqf institutions were managed individually (66%) and the rest were managed by organizations and legal entities. Compared to individual nazhir, in many aspects, it was found that the management of endowments based on organizations and legal entities was generally more likely to be pursued towards the development of waqfs. This was due to the fact that the majority of waqf managers who incidentally nazhir worked part time (84%) and they did not get any rewards. In addition, the dominant pattern of nazhir designation was based on kinship elements.

Therefore, the waqf institution would be very difficult to develop professionally, transparently, and accountably. At the present time, the management of waqf was still based on kinship like the one applied in pesantren. It worked based on the top leader or the 'elder', so it would be difficult to separate the pesantren leader and the public asset.

This failure was due to the poor management implementation of Good Corporate Governance (GCG) principles consisting of: Transparency, Accountability, Responsibility, Independence, and Fairness. Similar findings were also expressed by Mardian (2011) that the fulfillment of sharia principles makes the concept of GCG wider than conventional GCG. In Islam, the overriding main interest is the guarding of Islam itself. In other words, the concept of GCG in Islam is more comprehensive than the Franco German Model.

Therefore, the application of conventional GCG principles was not sufficient if it was not supported by responsible and responsible actors. The GCG theory was oriented towards the overly rational Western situation, built on Western experience, only concerned with rational performance measurement. In addition, the approach used is too materialistic. This theory paid less attention to the spiritual and cultural context of the application. This study considered the importance of spirituality in the management of waqf as well as other institutions, such as the importance of emotional and spiritual intelligence to the manager to support his good managerial performance.

The stakeholders high expectations to waqf institutions can be understood concerning with the waqf assets owned. However, the poor management could undermine these expectations, causing turmoil and controversy. Therefore, waqf institutions need to realize the importance of good waqf governance in order to meet the demands of society. The result of this study showed that the amount of waqf assets did not necessarily make the waqf institution succeeded in realizing its mission as the empowering institution. This study proved the managerial factor to bring people's expectation closer to the results obtained by waqf institutions was important. If the gap continued to occur, it was predicted that the agency would miss the trust of stakeholders, resulting the public apathy.

Therefore, in term of accountability to the public, the management of waqf should be aware of the importance of maintaining transparency by giving opportunity to the wider community to access information about the use of waqf funds managed by nazhir. It is intended to build trust since this institution is established from, by and for society.

Every nazhir (either individual, organization, or legal entity) must be audited periodically by public accountants and supervised by an independent oversight body and by community. Internal oversight is imperative, along with the awareness of the community to oversee the performance of nazhir. These internal control aspects include: value estimators, organizational management, financial management, management of distribution of results and reporting management to higher authorities. While external supervision includes supervision from the government, mass media and the community.

Egypt could be used as a model of a country with good waqf governance. Egypt was a successful country in the management of its waqf (Basa, 2006). The Egyptian government initial effort was to selectively invent waqf land through preserving and nurturing directed towards the welfare of the wider community. In addition, they also provided protection to the mustahiq. Their next step was to form a diwan al-waqf which became the forerunner of the Ministry of Endowments (Hasanah, 1997).

Waqf management in Egypt has led to economic empowerment. The synergy between government, waqf agencies, companies, banks, colleges, and other related institutions was really well implemented. Egyptian Waqf Board has made several policies such as entrusting waqf treasures in Islamic banks, cooperating with bona fide companies, managing vacant lands productively and even buying solid stocks and corporate bonds (Hasanah, 1997). In fact, with his waqf possessions, al-Azhar Cairo, Egypt did not earn a penny of contributions from his students. Every year al-Azhar provides scholarships for thousands of students. In addition, it also publishes religious books and other books for free. Al-Azhar as nazhir or waqf managers only take the results for educational purposes (Chairul Hadi, 2009).

Meanwhile, the management of waqf in Indonesia was left behind by the other Muslim-majority countries, such as Egypt, Singapore, Saudi Arabia, Turkey, Malaysia, and Kuwait. They have been managing waqf in the productive direction. In fact, in a country with a minor Muslim population, such as Singapore, its waqf asset was estimated to be around S \$ 250m. To manage it, the Islamic Council of Singapore (MUIS) established a subsidiary named Waqf Real Estate Singapore (WAREES) (Kholis, 2012). Likewise, Malaysia has involved companies in the management of endowments called Waqaf An-Nur Berhad Collection, IIUM Endowment Fund. The corporation has adopted a more structured approach in financing the development of their waqf properties and experimenting with new ways of managing and investing in endowment assets (Saad, Kassim and Hamid, 2013). The success of al-Azhar Cairo, Egypt, Singapore and Malaysia in managing the waqf property has been proven and recognized by many experts, because it can also be used as a model for the management of waqf in Indonesia, and especially in Jember, East Java.

5. Endnote

Waqf management in Jember, East Java has been adjusted to the Law no. 41 of 2004 and the existing guidelines, but it has not implemented properly. The inhibiting factors of this included: the disfunction of BWI in Jember; the heirs of the wakif ego to control the land of waqf; the lack of procedural appointment and substitution system; the inconsistent inter-agency procedures related to the handling of waqf land certificates; unprofessional nazhir; lack of socialization of waqf policies to nazhir and community; and it was aggravated by the absence of trust of the people to the waqf policies formulated by the government.

The empowerment of waqf institutions to become professional, transparent and accountable institutions was necessary since it was not only a 'shock breaker' to provide the immediate needs, but also sub-systems of other financial institutions. The professional, transparent and accountable Waqf land management would make it to be a potential source of funds for the country's development. Therefore, every nazhir needed to realize Good Waqf Governance by applying the principles of Good Corporate Governance (GCG) based on Islam.

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