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REVIEW OF MAQĀṢID AL-SHARĪ'AH ON THE PERFORMANCE AND PROFESSIONALISM OF PRODUCTIVE WAQF NADZIR IN INDONESIA

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ABSTRACT

Waqf is one of the instruments of Islamic philanthropy that has great potential in improving the welfare of the people. Nadzir holds a central role as the party responsible for the management and development of waqf assets. This article aims to examine the professionalism and ethics of waqf nadzir from the perspective of Islamic law, using the theory and analysis of maqāṣid al-shari'ah on the practice of productive waqf in Indonesia. This research uses a qualitative-descriptive approach through the method of literature study, referring to classical and contemporary Islamic law sources as well as national waqf regulations. The results of the study show that efforts to improve the professionalism of a waqf nadzir are to prioritize the principles of Islamic law. Commitment to justice and transparency is a moral-legal responsibility in the management of waqf property. Therefore, strengthening the capacity and integrity of a nadzir is essential to make waqf an instrument for sustainable economic development of the ummah.

Keywords: Nadzir, Waqf, Islamic Law

ABSTRAK

Wakaf merupakan salah satu instrumen filantropi Islam yang memiliki potensi besar dalam meningkatkan kesejahteraan umat. Nadzir memegang peran sentral sebagai pihak yang bertanggung jawab dalam pengelolaan dan pengembangan aset wakaf. Artikel ini bertujuan untuk mengkaji profesionalisme dan etika nadzir wakaf dalam perspektif hukum Islam, dengan menggunakan teori dan anaslisis maqaṣid al-shari'ah terhadap praktik wakaf produktif di Indonesia. Penelitian ini menggunakan pendekatan kualitatif-deskriptif melalui metode studi pustaka, mengacu pada sumber-sumber hukum Islam klasik dan kontemporer serta regulasi perwakafan nasional. Hasil kajian menunjukkan bahwa upaya dalam meningkatkan profesionalisme seorang nadzir wakaf adalah dengan mengedepankan prinsip-prinsip hukum Islam. Komitmen tentang keadilan dan transparansi menjadi tanggung jawab moral-hukum dalam pengelolaan harta benda wakaf. Oleh karena itu, penguatan kapasitas, integritas seorang nadzir sangat esensial untuk menjadikan wakaf sebagai instrumen pembangunan ekonomi keummatan secara berkelanjutan.

Kata kunci: Nadzir, Wakaf, Hukum Islam

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Introduction

In the face of today's global economic challenges, productive waqf has emerged as a strategic instrument that not only has spiritual value but also significant economic potential. As part of Islamic teachings, waqf is not only a practice that has the value of worship, but also as a means to create social and economic welfare for the people. Productive waqf allows waqf assets, such as land and buildings, to be managed professionally to generate sustainable economic benefits. For example, the management of waqf land for agriculture or micro businesses can improve the welfare of the surrounding community. Research by Sundana (2023) shows that productive waqf management in the agricultural sector can empower rural communities through increased income and job skills. However, the implementation of productive waqf in Indonesia still faces various challenges, including low public literacy about waqf and lack of supportive regulations. Syaripudin and Nurhuda (2025) emphasized the importance of strengthening regulations and increasing public understanding in order to optimize the potential of productive waqf in Indonesia.

Waqf regulations in Indonesia have been regulated through Law Number 41 of 2004 concerning Waqf and Government Regulation Number 42 of 2006 as its implementation rules. However, this regulation needs to continue to be refined to accommodate the development of productive waqf, including money waqf and digital assets. The government and related institutions need to encourage innovation in waqf management, such as the use of digital technology for transparency and efficiency. Kholim et al. (2024) suggest the use of digital platforms to make it easier for the community to do waqf and monitor the management of waqf assets. With professional management and adequate regulatory support, productive waqf has great potential to be a solution in overcoming economic and social problems in Indonesia, as well as realizing a just and prosperous society.

Nazhir comes from the Arabic language, which is from the fi'il (verb) *form nadzara-yandzuru-nadzaran* which has a basic meaning: to maintain, manage, maintain, and supervise. In the form of isim fā'il, the word becomes nazhir, which in Indonesian can simply be translated as "supervisor" or "guard." In the context of waqf, nazhir is a party who is given a mandate by the wakif (the person who endows the property) to manage, maintain, and distribute the benefits of the waqf property in accordance with the provisions and objectives that have been set by the waqf.

Nazhir can be an individual, a group of people, or a legal entity. The position of nazhir is very strategic in the waqf system, because although in the view of classical scholars

it is not used as a pillar in waqf, almost all jurists agree that the appointment of nazhir is very necessary so that waqf assets can be managed sustainably and on target. Therefore, in practice, the existence of nazhir is an important condition in maintaining the continuity of the benefits of a waqf property (Ministry of Religion of the Republic of Indonesia, 2022).

Nazhir has the main responsibility in the management of waqf assets which includes aspects of physical management of waqf objects, maintenance so that they are not damaged or lost, and development to provide wider and sustainable benefits. This role is crucial considering that the challenge of waqf management in Indonesia is not only an administrative matter, but also involves strategic management that must be carried out professionally and accountably.

Normatively, the legal basis that regulates nazhir in Indonesia is contained in Law Number 41 of 2004 concerning Waqf, and strengthened by Government Regulation Number 42 of 2006. In the regulation, it is explained that nazhir is an individual, organization, or legal entity that is in charge of managing and developing waqf property in accordance with its purpose, function, and designation. In its implementation, nazhir is not allowed to carry out actions that are contrary to the intention of the waqf, including pawning or making waqf assets as debt collateral (Law No. 41 of 2004 Article 12).

It should be understood that the success of waqf management is highly dependent on the quality of human resources who play the role of nazhir. In many cases, weaknesses in waqf management are often rooted in low professional capacity, weak productive waqf literacy, and lack of innovation from the nazhir. As a result, many waqf lands are abandoned, not well managed, or even become a cost burden for the institutions that manage them (Supriyadi, 2023).

This phenomenon can be seen from the fact that most waqf in Indonesia is still dominated by waqf for mosques, prayer rooms, madrasas, orphanages, and cemeteries. Although in terms of religion, this has important value, but in the context of economic empowerment of the people, its influence has not been significant. In fact, if the waqf land is managed productively and innovatively, the potential contribution to the social, educational, and economic welfare of the community will be very large (Nurhidayat, 2022).

Therefore, efforts are needed to revitalize the role of nazhir with a professionalism approach, strengthening managerial capacity, and increasing accountability in waqf management. This is in line with the idea of productive waqf that has begun to be encouraged by many modern Islamic economic experts. With this approach, waqf property is not only

an instrument of worship that is purely spiritual, but also a real socio-economic instrument in improving the standard of living of the people (Hasanah, 2023).

Since the time of the Prophet Muhammad SAW, the practice of waqf has been part of the economic system of Muslims. During the time of the Prophet, the form of waqf developed more in the realm of worship, such as land for mosques and public facilities. However, with the development of the times, the orientation of waqf began to shift, from a ritual one to a more social and productive direction. This transformation certainly requires adaptation of regulations and management to remain in accordance with maqashid alshari'ah, namely maintaining the benefit of the ummah (Aziz, 2022).

Nazhir does not have absolute power over the waqf assets he manages. The power given is limited, which is limited to the management so that the waqf remains in accordance with the intention of the waqf and brings benefits to the mauquf 'alaih (beneficiaries). In practice, supervision of nazhir actions also needs to be strengthened, both through a transparent reporting system, the involvement of the Sharia Supervisory Board, and periodic audits from local waqf authorities (Khasanah, 2024).

Differences of opinion on who has the right to be a nazhir does exist in the jurisprudence literature, but the substance of all opinions remains the same: that the nazhir is a party that is trusted to maintain the mandate of waqf as best as possible. In the context of positive Indonesian law, this is accommodated through regulations that allow individuals, socio-religious organizations, and legal entities such as foundations or Islamic financial institutions, to act as nazhir (Anwar, 2023).

Therefore, assessing and strengthening the performance of nazhir is very important in order to answer the challenges of waqf modernization. Periodic training, professional incentives, and digital system integration are needed to support transparency and accountability in waqf management. If waqf management is carried out optimally, then the potential of waqf as an instrument for the welfare of the people can be realized in real terms, not only as a symbol of spirituality, but also as a strong and sustainable economic foundation of the community (Rahman, 2023).

Research Methods

This research uses a qualitative approach with the library *research* method, which aims to explore and analyze the role of waqf nadzir in the perspective of Islamic law. This approach was chosen because the research is normative-conceptual, focusing on the study

of Islamic legal norms and laws and regulations governing waqf, especially related to the position and responsibilities of nadzir. (Rivera-Aguilera, A. B., et al., 2025)

The main sources studied in this study include classical and contemporary literature in the field of waqf jurisprudence from various major schools in Islam, as well as primary documents such as the Qur'an, Hadith, and scholarly works that discuss waqf specifically. In addition, secondary literature in the form of academic books, scientific journal articles, and dissertations is also used to enrich perspectives and analysis.

This research also examines waqf regulations that apply in Indonesia, such as Law Number 41 of 2004 concerning Waqf, Government Regulation Number 42 of 2006, and fatwas from the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). The study of this regulation aims to identify the extent to which sharia principles are accommodated in the national legal system, especially in terms of the role and function of nadzir (Republic of Indonesia, 2004; DSN-MUI, 2011). The analysis technique used is descriptive-analytical, namely by explaining and interpreting the content of Islamic legal texts and positive regulations systematically, then critically analyzing them to see the level of conformity between sharia normative principles and empirical practices of waqf management. (Sahroni, M. 2022) This analysis is also carried out comparatively on various views of fiqh, so that it can be known that there are variations in interpretations of the role of nadzir and how sharia values can be used as a basis in building a strong, trustworthy, and professional nadzir institution.

The Urgency of Nadzir's Role in the Waqf Law

In Law No. 41 of 2004 concerning Waqf, it is explained that a nadzir is a party who receives waqf property from the waqf to be managed and developed in accordance with its purpose and designation (Law No. 41 of 2004, Article 1 paragraph 4). A similar affirmation can be found in Government Regulation No. 42 of 2006, which emphasizes that nadzir has the responsibility of managing the benefits of waqf to be sustainable (Government Regulation No. 42 of 2006, Article 1 paragraph 4). Meanwhile, in the Compilation of Islamic Law (KHI) Article 215 paragraph (5), nadzir is described as a group of people or a legal entity that is mandated to maintain and manage waqf assets (KHI, 1991).

In order for its function to be optimal, nadzir is required to meet a number of conditions, including being Muslim, having legal skills (mukallaf), trustworthy, physically and spiritually healthy, and not being prevented from doing legal acts (Law No. 41 of 2004,

Article 10 paragraph 1). In addition to the legal-formal aspect, nadzir in the modern era also needs to have the ability to innovate and think strategically. In the history of Islam, Umar bin Khattab once appointed Hafshah bint Umar as the nadzir over his waqf property—showing that considerations of competence and integrity have been part of the practice of waqf since the early days of Islam (Abu Ubaid, Kitab al-Amwāl, p. 608; Anwar, 2021, p. 92).

The requirements to become a nadzir as explained in the KHI that a nadzir must meet the following requirements: 1) be an Indonesian citizen; 2) Muslims; 3) adulthood; 4) have a trustworthy nature; 5) physically and spiritually healthy; and 6) have no obstacles in carrying out legal acts. In Article 219 paragraph (4) of the KHI, it is explained that the nadzir before officially carrying out his duties is obliged to take an oath in front of the Head of the District Religious Affairs Office (KUA) witnessed by at least two witnesses. This provision emphasizes that the management and development of waqf assets is not only a spiritual mandate, but also a legal responsibility that requires professionalism. Unfortunately, the reality on the ground often shows that the duties of nadzir are carried out on a part-time basis, not as the main job, so that many waqf assets become abandoned and not used optimally.

The requirements to become a nadzir as explained in the Compilation of Islamic Law (KHI) include several important aspects, namely: 1) Indonesian citizenship; 2) Muslims; 3) adulthood; 4) have a trustworthy nature; 5) physically and spiritually healthy; and 6) have no obstacles in carrying out legal acts (KHI, Article 219 paragraph [3]). This provision shows that the position of nadzir is not an arbitrary position, but a mandate that requires integrity, legal skills, and physical and mental readiness. Furthermore, in Article 219 paragraph (4) it is emphasized that before officially carrying out his duties, nadzir is obliged to take an oath before the Head of the District Religious Affairs Office (KUA) witnessed by at least two witnesses (KHI, 1991). This oath-taking procedure is a symbol of the legal and spiritual responsibilities inherent in the position of nadzir.

The provision underlines that the management and development of waqf assets is not only related to aspects of worship or spirituality, but is also a legal responsibility that demands professionalism and public accountability. However, the reality on the ground shows that the role of nadzir is still often carried out unprofessionally. Many nadzir only manage waqf as a part-time task, not as the main job, resulting in stagnation, even the abandonment of waqf assets that should be productive and provide socio-economic benefits for the ummah (Indonesian Waqf Agency, 2022)

In the Compilation of Islamic Law (KHI) Article 219 paragraph (5) also regulates the number of individual nadzir members, namely a minimum of three people and a maximum of ten people, who must receive a recommendation from the District Ulema Council and the local sub-district head. In Law No. 41 of 2004 in conjunction with Government Regulation No. 42 of 2006, it is stated that nadzir can be in the form of individuals, organizations, or legal entities.

a. Nadzir Singles

Individual nadzir is defined as a group consisting of a minimum of three people. They must meet the requirements: Indonesian citizens, Muslims, adults, trustworthy, physically and spiritually healthy, and not legally hindered. Government Regulation No. 42 of 2006 stipulates that individual nadzir is appointed directly by the wakif and must be registered with the Minister and BWI through the local KUA. One of the members of the nadzir must be domiciled in the sub-district where the waqf assets are located.

b. Nadzir Organization

Nadzir in the form of an organization is an institution engaged in the social, educational, religious, and social fields of Islam. The requirements include: The organization's management must meet the criteria for individual nadzir; One of the administrators is domiciled in the district/city area where the waqf property is located. Must have complete documents such as a notary deed of establishment, management structure, AD/ART, work programs, a list of waqf assets separate from the institution's assets, and a statement of willingness to be audited. Just like individual nadzir, nadzir organizations must be registered with the Minister and BWI through KUA.

c. Legal Entity Nadzir

A legal entity as a nadzir is a legal entity formed based on the provisions of the law and has an orientation of activities in the social, educational, community, or religious fields of Islam (Law No. 41 of 2004, Article 9 paragraph 3). In this case, the status of a legal entity guarantees better sustainability, institutional accountability, and administrative capabilities than an individual. The requirements that must be met by a legal entity as a nadzir are basically identical to other nadzir organizations, including the need to register and obtain legality through the registration mechanism at the

Indonesian Waqf Agency (BWI) or the local Religious Affairs Office (PP No. 42 of 2006, Article 14).

In the practice of waqf management, there are provisions regarding obligations and prohibitions that must be complied with by nadzir. These provisions are classified into two groups, namely general provisions and special provisions. General provisions include requiring that all waqf property must be registered in the name of the nadzir in accordance with the content of the Waqf Pledge Deed (AIW), but does not make the nadzir the owner of the property (Law No. 41 of 2004, Article 15). The status of ownership remains in the power of Allah SWT and waqf is tamlik mu'abbad (eternal ownership) for the benefit of the ummah. Therefore, from the perspective of fiqh, the nadzir only acts as the manager (mutawalli) and not the owner (mālik) of the waqf property, so he is obliged to maintain, develop, and allocate the benefits of the property according to the purpose of the shari'i and the content of the waqf pledge (Al-Kasani, Bada'i al-Shana'i, juz 6; Al-Sarakhsi, Al-Mabsuth, juz 12).

d. Nadzir's Devotional Period

According to Government Regulation Number 42 of 2006 Article 14 paragraphs 1 and 2, the term of office of an individual nadzir is set for five years and can be extended, provided that in the previous term of office the person concerned has carried out his mandate properly, in accordance with sharia principles and applicable legal provisions (Government Regulation No. 42 of 2006, Article 14). This provision means that the responsibility of the nadzir is not only administrative, but also ethical and spiritual. A nadzir is not enough to only understand the legal-formal aspects, but also to internalize the values of sincerity (ikhlāṣ), responsibility (mas'ūliyyah), and professionalism in managing waqf assets.

In the perspective of fiqh al-awqāf, nadzir is positioned as a representative of shar'i (legal representative) of the purpose of shari'i waqf, which is to maintain the continuity of the use of waqf property for the public benefit. Therefore, it is not an exaggeration to say that nadzir is a central actor in the waqf system, which determines the success or not of waqf in answering the socio-economic challenges of the ummah (Al-Zuhayli, 2007). The existence of nadzir should not be underestimated or just a formality. Quite the opposite, it must be filled by a trustworthy, competent, and well-managerial figure or institution.

Challenges in Maximizing the Role of Waqf Nadzir

Although it has a strong legal basis, both in the form of Law No. 41 of 2004 concerning Waqf and Government Regulation No. 42 of 2006 concerning the Implementation of the Waqf Law, the practice of waqf management in Indonesia still faces various structural and functional challenges, especially in the context of the role of nadzir. Structurally, many nadzir in Indonesia do not have adequate institutional capacity, both in terms of human resources, access to technology, and a professional managerial system. This causes potential waqf assets to become unproductive or abandoned. Data from the Indonesian Waqf Agency (BWI) notes that of the thousands of registered nadzir, only a small number are able to manage waqf productively and accountably.

Functionally, challenges also arise in the form of low waqf literacy among the community and weak coordination between nadzir, the government, and Islamic financial institutions. Many individual or traditional nadzir carry out their duties voluntarily without adequate training, so they do not have a sufficient understanding of the principles of asset management, waqf business planning, and financial accountability. This is exacerbated by the weak monitoring and evaluation system for the performance of nadzir, thus causing an imbalance between the huge potential of waqf and the realization of its benefits in the field. As emphasized by Suhrawardi K. Lubis, "One of the main problems in waqf management in Indonesia is the lack of an effective coaching and supervision system for nadzir, both in terms of morality and professionalism" (Lubis, 2024).

Some of the key challenges identified in various studies and institutional reports include:

- a. Limited human resource (HR) capacity. Many nadzir do not have an educational background in the field of sharia economics, asset management, or waqf law, so their ability to manage and develop waqf assets is not optimal.
- b. Lack of institutional support. Most of the nadzir operate individually or in small groups that have not been members of professional institutions or are not formally integrated with the coordination system of the Indonesian Waqf Agency (BWI), which is supposed to be the center of strengthening the national waqf institutional system.
- c. Lack of access to technology and financing. Nadzir often faces obstacles in obtaining funding for productive waqf projects, especially from Islamic financial

- institutions. In addition, the use of digital technology to support transparency, financial reporting, and monitoring of waqf management is still very low.
- d. Lack of oversight and accountability. Not all nadzir compile periodic financial statements or account for the results of management to the public and the wakif. This has an impact on declining public trust in waqf institutions, and hinders public participation in productive waqf.

Nadzir in the Perspective of Maqashid Shariah

In managing waqf property, a nadzir must understand the principles of maṣlaḥah (utility), istihsān (preference for the best solution), and sadd al-dharī'ah, which is the prevention of potential damage. These three principles are part of the ijtihad approach in uṣūl al-fiqh which allows for the flexibility and adaptability of Islamic law to social dynamics. In the context of waqf management, maṣlaḥah is the main orientation that directs that all policies and programs carried out by nadzir must provide real benefits for the ummah, both in social, economic, educational, and health aspects (Muchlis, 2023; Ma'arif, 2023).

Waqf should not only be a symbol of religiosity, but should be a means of empowerment that raises the dignity and welfare of the community at large. By making these three principles as normative and operational foundations, the management of waqf will be more directed towards achieving maqāṣid al-sharī'ah, namely realizing benefits and preventing damage. These principles also affirm that waqf is not just a worship of property, but a social instrument that requires professional governance and is oriented towards the long-term welfare of the people. (Fajri et al., 2022; Sahidin, 2022).

By upholding professionalism, integrity, and strong managerial capacity in nadzir, the potential of waqf can be maximized as a strategic instrument in alleviating poverty, encouraging the economic independence of the people, and strengthening social infrastructure in a sustainable manner. Nadzir's task is not only as a guardian of waqf property, but also has a responsibility in developing waqf assets through productive business ventures, of course this requires courage and analysis in reading every potential that can be developed. Therefore, a nadzir is also encouraged to try to understand the concept of maqāṣid al-sharī ah, especially in the aspects of hifz al-māl and hifz al-nafs. Therefore, coaching, certification, and increasing the capacity of nadzir is an important agenda in order to strengthen the role of waqf as an instrument for sustainable development of the people (Nurul Huda, 2022; BWI, 2025; Anam et al., 2024).

Ethics and Morality of Nadzir Waqf in Islam

In classical figh studies, the manager of waqf property is known as nadzir, which means someone who manages, maintains, and is responsible for waqf assets. Although in various jurisprudence books there is no mention of nadzir as the pillars of waqf, scholars agree that the waqf must appoint a nadzir, either himself, the recipient of the waqf, or others. Most scholars are of the opinion that the wakif is responsible for managing waqf assets during his lifetime, including building, renting, repairing, and distributing them to those who are entitled. (Ed. Supriyadi. 2023)

The wakif can act as a nadzir or appoint someone else to replace his duties. If the wakif does not appoint a nadzir, then the government as the ruler of the law has the right to become a nadzir for the benefit and preservation of waqf property. This shows that nadzir plays an important role in waqf. For example, Umar bin Khattab when he endowed his land, he himself became a nadzir during his lifetime. After his death, the management of waqf was handed over to his daughter Hafsah, then to Abdullah bin Umar, and so on based on Umar's will. This proves that the existence of nadzir is very necessary to achieve the purpose of waqf. Nadzir is in charge of managing, maintaining, and developing waqf assets. In fiqh terms, waqf managers are known as nadzir waqf or mutawalli waqf. Because waqf assets are the mandate of Allah in the hands of the nadzir, the nadzir is responsible for the waqf property and the results of its development. Every nadzir activity must consider the continuity of waqf assets so that the benefits can be distributed to mauquf alaih. Thus, the sustainability of waqf assets is guaranteed in the hands of the nadzir. (B Syafuri - Al Ahkam, 2018)

Waqf assets as an asset of the ummah must be managed properly and trusted so that their potential can be explored and distributed according to the purpose of waqf. In addition to the form of the waqf property, its management and designation, as well as the selection of nadzir by the waqf are an important part in optimizing the role of waqf for the welfare of the people. Nadzir is the central party in the management of waqf because the success of management is highly dependent on the capacity and integrity of nadzir. Therefore, as an important instrument in waqf management, nadzir must meet the criteria that allow waqf assets to be managed properly. In order to carry out his duties properly and professionally, the nadzir must meet the following criteria and requirements: First, honest and fair ('adālah), that is, carrying out religious commands and staying away from its prohibitions. The majority of scholars, except Hanabilah, require this. Second, having expertise (al-kifāyah), namely personal abilities such as puberty and reason, as well as the ability to maintain, manage, and

develop waqf assets to achieve optimal results. Third, they must be Muslim. However, Hanafiyah scholars do not require Islam for nadzir, on the grounds that professionalism and trust can be possessed by anyone. (K Kamariah, N Nirwana - Ats-Tsarwah: Legal Journal, 2021)

Conclusion

Nazhir is a party that receives waqf property from the waqf to be managed and developed in accordance with its designation. Nazhir's position as the party in charge of preserving and managing waqf property has an important position in waqf. So important is the position of Nazhir in waqf, that the functioning of waqf for mauquf alaih is highly dependent on Nazhir waqf. The role of nadzir in the management of waqf is not only limited to administrative and managerial aspects, but also includes a deep ethical and spiritual dimension, which must be based on the principles of maqāṣid al-sharī'ah. In Islamic law, nadzir bears a great mandate in managing the property of the people who are waqf as the property of Allah SWT for the common good. Therefore, every action and policy taken by the nadzir must be judged not only in terms of the efficiency and success of the program, but also in terms of sincerity of intention, honesty, and conformity with the principles of Islamic law.

Within the framework of maqāṣid al-sharī'ah, nadzir plays an important role in maintaining and developing waqf assets so that they not only provide worldly benefits but also bring ukhrawi rewards. Thus, nadzir is not only an asset manager, but a guardian of the sacred values of waqf that bridges the interests of this world and the hereafter. Therefore, increasing professionalism and understanding of nadzir ethics based on the principles of maqāṣid al-sharī'ah is very important so that the management of waqf in Indonesia can run optimally, transparently, and provide sustainable benefits for the ummah.

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