

Optimizing the Role of the Waqf Deed Official in Preventing Disputes Over Wakaf Land in Tambelangan District, Sampang Regency

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ABSTRACT

The Waqf Deed Official (WDO) is a government-appointed officer authorized to manage the administrative and legal processes of Islamic waqf (endowments). In the context of Tambelangan District, Sampang Regency, the role of WDO is crucial in preventing waqf land disputes, which often arise due to weak administrative procedures and the community's limited understanding of waqf regulations. As an Islamic social institution, waqf involves withholding an asset for public benefit, thus requiring legal certainty to prevent potential conflicts in the future. This study aims to examine: (1) the role of WDO in preventing wakaf land disputes, and (2) the challenges faced by WDO in carrying out this mandate. The research employs an empirical juridical approach by collecting primary field data and validating the information using triangulation techniques. The findings indicate that WDO performs several essential functions, particularly in providing guidance and assistance to the community regarding waqf procedures, although the implementation is not yet optimal. The study also identifies several challenges, including the community's low level of legal awareness regarding waqf and negligence in processing land certificates for waqf or private land intended for endowment. These factors contribute significantly to the potential emergence of wakaf land disputes in Tambelangan District.

Keywords: WPDO, Waqf, Land Disputes, Waqf Administration

INTRODUCTION

Land is very important for human life, including social, economic, and cultural aspects. However, land also causes problems for humans, mainly due to the increasing population and limited land area. For most Indonesians, land occupies an important place in their daily lives.¹

Waqf is a legal act by a waqf to separate or transfer part of his property to be used forever or for a certain period of time in accordance with his interests for the purposes of worship and/or public welfare according to sharia law.² A wakif is a party who donates his property. Meanwhile, a wakaf declaration is a statement

¹ Zahran R, Hardianti Yusuf, "Peranan Pejabat Pembuat Akta Ikrar Waqaf Dalam Mencegah Terjadinya Sengketa Tanah Waqaf." *Jurnal Hukum Keluarga Islam dan Kemanusiaan*, Vol. 2, No. 2, (December, 2020)

² Waqf Law No. 41 of 2004.

of the wakif's intention, made verbally and/or in writing to the nadzir, to donate his property.

The implementation of waqf according to Government Regulation No. 28 of 1977 and Minister of Religious Affairs Regulation No. 1 of 1987 provides more detailed guidelines. According to Article 9 paragraph (1) of Government Regulation No. 28 of 1977, parties who wish to waqf their land are required to appear before the Waqf Deed Official to carry out the Waqf Deed. In this case, the Waqf Deed Official is the Head of the Sub-District Office of Religious Affairs. In the event that a sub-district does not have an office of Religious Affairs, the Head of the Regional Office of the Ministry of Religious Affairs shall appoint the Head of the nearest Office of Religious Affairs as the Deed Official in that sub-district. This is stipulated in Article 5 paragraphs (1) and (3) of Minister of Religious Affairs Regulation No. 1 of 1978.³

According to most scholars, there are four pillars of waqf: the person who endows (*waqif*), the object being endowed (*mauquf*), the recipient of the waqf (*mauquf alaih*), and the wording (*shighat*).⁴

The Tambelangan subdistrict is a subdistrict that is marginalized in terms of education, especially knowledge of law. Often, waqf practices in the community are not fully orderly and efficient, because the people of Tambelangan still adhere strongly to customary law (based on kinship). Waqf land that has not been certified may lead to disputes due to the lack of written evidence from the past, which was based solely on mutual trust, ultimately leaving many problems that cause land disputes between heirs and other parties. as a result, in many cases, waqf assets are not properly maintained, are neglected or transferred to third parties, or are resold by one of the family members in an unlawful manner.⁵

³ Regulation of the Minister of Religious Affairs No. 1 of 1978 concerning Waqf, Article 5 paragraphs (1) and (3).

⁴ Muhammad Jawad Mughniyah, "*Fiqih Lima mazhab*", (Jakarta: Lentera, 2013).p. 645.

⁵ Samsul Arif, Interview with the Deputy Head of the Tambelangan Subdistrict Religious Affairs Office, on March 20, 2025

Land holds a vital position in human life, not only in supporting social, economic, and cultural activities but also as a fundamental source of livelihood and identity. However, land frequently becomes a source of conflict, particularly in regions experiencing rapid population growth and limited land availability. For most Indonesians, land constitutes an essential asset that influences daily activities, economic security, and familial relationships. Within this context, the practice of waqf plays a significant role as a religious and social institution that contributes to public welfare.

Waqf is a legal act carried out by a waqif to separate or transfer part of their property to be utilized permanently or for a specific period in accordance with sharia principles for worship or public benefit. The waqf declaration, expressed verbally or in writing, conveys the intention of the waqif to the appointed nadzir. Provisions regarding the administration of waqf have been more clearly regulated through Government Regulation No. 28 of 1977 and the Minister of Religious Affairs Regulation No. 1 of 1987. Article 9 paragraph (1) of the Regulation stipulates that individuals wishing to donate their land must appear before the Waqf Deed Official (WDO). In practice, the Head of the Sub-District Religious Affairs Office (KUA) serves as the WDO, and in the absence of a local Office of Religious Affairs, the official is appointed by the Regional Office of the Ministry of Religious Affairs as outlined in Articles 5 (1) and 5 (3) of Ministerial Regulation No. 1 of 1978.

Classical Islamic scholars generally agree on four essential pillars of waqf: the donor (*waqif*), the endowed property (*mauquf*), the beneficiary (*mauquf alaih*), and the declaration (*shighat*). These pillars must be fulfilled to ensure the validity of a waqf transaction and to provide legal certainty regarding the management of waqf assets. Nevertheless, the implementation of waqf at the community level often encounters challenges due to inadequate administrative practices and limited legal literacy.

Tambelangan Subdistrict represents an area characterized by limited access to education, particularly in legal matters. Waqf practices within the community frequently remain informal and are heavily influenced by customary norms rooted in kinship relations. As a result, many waqf lands are not formally certified, creating vulnerabilities to disputes due to the absence of written documentation and reliance on oral traditions. Such conditions often lead to conflicts among heirs or between families and third parties. In many cases, waqf assets become neglected, mismanaged, unlawfully transferred, or even sold by individuals who claim authority based on customary rights. These problems highlight the urgent need for effective intervention by the Waqf Deed Official (WDO) to ensure proper administration, legal protection, and dispute prevention in waqf land management in Tambelangan.

METHODS

In this study, the researcher used a sociological-legal approach by collecting primary data obtained directly in the field for the purpose of law enforcement. The type of research used by the author is empirical legal research.⁶ The choice of this type of empirical legal research is inseparable from the empirical legal case that is the focus of the study, namely the issue of the role of the Official Making the Waqf Deed (WDO) in preventing waqf land disputes in Tambelangan Subdistrict, Sampang Regency. Meanwhile, the primary data sources in this study are the KUA Office of Religious Affaris, WDO, and what happens in the field of waqf land disputes. In addition to primary data, the researcher also uses secondary data to support the research. Secondary data is usually compiled in the form of official documents, such as books, journals, research reports, data on the demographics of an area, and studies of literature related to the research theme.⁷

⁶ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Grup, 2011), p. 96.

⁷ Sugiyono, *Metode Penelitian Kuantitatif Kualitatif dan R&D*, (Bandung: Alfabeta, 2008), p. 225

RESULTS AND DISCUSSION

PPAIW plays a very important role in preventing disputes over waqf land for the community in today's era, especially in the Tambelangan sub-district of Sampang district. This is because it is possible that someone who has donated their land as waqf may later die without leaving any evidence of the waqf donation, which could lead to disputes. It is possible that the heirs may object and want to take back the property that has been donated by the waqf donor, or the waqf donor may change their mind and want to withdraw the land that has been donated.⁸

According to the researchers' findings in the field and the results of interviews conducted by the institution, in the village of Mambulu Barat, Tambelangan sub-district, there was a dispute over waqf land because the waqf donor died before making a waqf deed, so that later the heirs did not believe it. Fortunately, the heirs and the nadzir submitted the matter to the Office of Religious Affairs to be followed up by the PPAIW in order to prevent disputes between the nadzir and the heirs.

To avoid and prevent disputes or problems in the future, the WDO invited waqf donors, trustees, and members of the community who wanted to donate land to come to the office of Religious Affairs to register their land. A Waqf Deed of Declaration will then be drawn up. With the Waqf Deed of Declaration and the waqf land certificate issued by the WDO, it will be easier to present and obtain evidence in the event of disputes or undesirable situations in the future. The Waqf Deed Official (WDO) is required to examine the intention of the prospective waqif and the land to be endowed, verify the appointed nazhir, examine the witnesses to the waqf pledge, witness the execution of the waqf pledge, and subsequently prepare the waqf pledge deed

⁸ Zahran R, Hardianti Yusuf, "Peranan Pejabat Pembuat Akta Ikrar Waqaf Dalam Mencegah Terjadinya Sengketa Tanah Waqaf." *Jurnal Hukum Keluarga Islam dan Kemanusiaan*, Vol. 2, No. 2, (December, 2020).

The Head of the Office of Religious Affairs) or the Official in Charge of Deed of Waqf (WDO) must first examine the intentions of the prospective waqif and the land to be donated in this case. the waqf donor is the full owner of the property being donated, and willingly donates their property, and the land being donated is not currently in dispute.

Furthermore, the WDO examines the nazhir, who must be intelligent, creative, and professional in managing and developing waqf property. It also examines the witnesses, consisting of two (2) or more people. After the WDO has examined everything, it then witnesses the execution of the waqf pledge and draws up the waqf pledge deed.

After the waqf pledges his property or land in front of the WDO and later on a dispute arises or an undesirable problem occurs, then as the WDO who had previously drawn up the Waqf Pledge Deed and waqf land certificate, they summon or bring the two disputing parties together to resolve and reconcile the two disputing parties amicably or through deliberation. In this case, the WDO explains and provides an understanding of the land endowment that is the subject of the dispute and shows evidence or written documents that have been prepared by the WDO itself. The existence of written evidence will make it easier for the WDO to resolve disputes or problems that arise. Pengajuan pensertifikatan tanah wakaf di Badan Pertanahan Nasional dapat dilakukan dengan dua cara, yaitu melalui PPAIW dan melalui pribadi (nazhir). Pensertifikatan tanah wakaf melalui WDO terkendala kuota program yang bertahap, serta usulan dana operasional yang terbatas dan lambat.

Based on Law Number 41 of 2004 concerning Waqf, it is explained that the duties of WDO are as follows:

- a. Prior to the execution of the waqf pledge by the prospective waqif, the WDO must ensure the formation of a Waqf Pledge Council consisting of the waqif, nadzir, mauquf alaih, two witnesses, and the WDO itself.
- b. Examine the completeness of the administrative requirements for waqf and the physical condition of the waqf property.
- c. Witness the implementation of the Waqf pledge (statement of the waqif's intention) before the Waqf Pledge Council

- d. Certify the Waqf Deed that has been signed by the waqif, nadzir, two witnesses, and/or Mauquf alaih
- e. Preparing a handover report of the waqf property from the waqif to the nadzir along with an explanation of the condition and details of the waqf property signed by the waqif and nadzir
- f. Approving the nadzir, whether an individual, legal entity, or organization
- g. Submitting a copy of the Waqf Deed to: the waqf founder, the trustee, the beneficiary, and the District/City Defense Office in the case of waqf property in the form of land
- h. Preparing a Substitute Copy of Waqf Deed (WD) based on a request from the community or witnesses who are aware of the existence of the waqf property, or parties specified by laws and regulations.⁹
- i. On behalf of the nazhir, the PPAIW is required to submit the WD along with other supporting documents to the Head of the District/City Land Office for the registration of the relevant land waqf within a maximum period of 30 (thirty) days from the signing of the WDO.
- j. Submit the administrative requirements for the implementation of the waqf to the District/City Land Agency and related agencies for the issuance of a waqf land certificate.
- k. The WDO, on behalf of the Minister of Religious Affairs and the Indonesian Waqf Board (BWI), is required to register or record the nazhir within its area of responsibility.
- l. Process the replacement of old nadzir who have resigned, due to death, permanent incapacity, resignation, or dismissal by BWI
- m. Invest in waqf land data, both certified and still in process
- n. Assist in resolving any issues related to waqf land certification.

⁹ Aisyah Ayu Musyafah, "Optimalisasi Kinerja Pegawai Pembuat Akta Ikrar Wakaf (PPAIW) Dalam Pelaksanaan Hukum Wakaf Tanah Di Indonesia." Jurnal Pembangunan Hukum Indonesia, Vol. 5, No. 1, (Tahun 2023).

Based on the function of waqf according to KHI Article 216 and Article 5 of Law No. 41 of 2004 concerning Waqf, waqf is intended to create facilities and infrastructure so that mutual prosperity can be achieved in terms of worship and muamalah.¹⁰

As described in the previous case, it can be seen that the steps taken by WDO to prevent disputes over waqf land, apart from socialization, are to draw up a Waqf Deed and waqf land certificate and to keep all files or documents as evidence in case of future disputes. The Waqf Deed and certificates prepared by WDO will provide peace of mind to the waqif and nazhir because the waqf land they manage has legal force and can further narrow or reduce the possibility of disputes because there is strong evidence that can be presented in the event of a dispute or undesirable circumstances.

Then, the obstacles to waqf land certification in Tambelangan Subdistrict are the lack of knowledge of the nazhir regarding waqf land documents, lack of socialization, lack of WDO members, and the weak control system of Tambelangan Subdistrict,¹¹ which manages waqf at the KUA (Office of Religious Affairs) where only the head of the Office of Religious Affairs or WDO manages waqf land certification. During this research process, the researcher obtained some information related to the obstacles faced by the WDO, namely:

1. Lack of Knowledge of Nadzir and Wakif Regarding Waqf Land Deeds: The lack of understanding of the procedures for waqf on the part of the nadzir and wakif meant that when the waqf was established, neither of them immediately registered it or drew up a deed of waqf, and eventually the wakif passed away. This leaves open the possibility of disputes over the waqf land between the nadzir and the heirs.
2. Lack of Socialization: In general, the public does not yet have a good and proper understanding of waqf law, both in terms of the pillars and requirements of waqf, as well as the purpose of waqf. Understanding the pillars of waqf is very important for the public, because by understanding the

¹⁰ Abdul Nasir Khoerudin, "Tujuan Dan Fungsi Wakaf Menurut Para Ulama dan Undang-Undang Indonesia." *Jurnal Keislaman Kemasyarakatan dan Kebudayaan*, Vol. 19, No. 2, (Juli-Desember 2018).

¹¹ Burhanuddin, Interview with the Head of the Tambelangan Religious Affairs Office, on February 20, 2025.

pillars of waqf, the public can know who is allowed to give waqf, what can be given as waqf, what the waqf is intended for and to whom, how to give waqf, and who is allowed to become a nadzir.

3. Lack of WDO members: The lack of members at the office of Religious Affairs has disrupted the functions and roles of the WDO, causing problems to pile up and slowing down the resolution of existing issues.
4. WDO has not yet succeeded in raising public awareness of land waqf to WDO: WDO has not been successful in raising public awareness about donating land to PPAIW. Based on the results of the study, it appears that to date, there are still some people who donate land to organizations other than WDO. People do this for several reasons, including the belief that donating land to WDO will reduce the sincerity of their worship.
5. Weak Control System: Supervision is absolutely essential. For decades, waqf in Indonesia has not been seriously supervised. As a result, quite a lot of waqf assets have been neglected and some have even been lost.

CONCLUSION

This study concludes that the Waqf Deed Official (WDO) has carried out its role in preventing waqf land disputes in Tambelangan District by performing key duties such as issuing the Waqf Deed, administering waqf land records, assisting nadzir with registration, and providing legal guidance to the community. These actions contribute to strengthening legal certainty and reducing potential conflicts. However, WDO still faces several challenges, including the limited legal knowledge of nadzir, insufficient socialization from the Office of Religious Affairs regarding waqf procedures, and weak administrative control over waqf assets. These obstacles hinder the optimal management of waqf land. Overall, WDO's efforts align with its mandate, but further improvement is needed to enhance the effectiveness of waqf dispute prevention.



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