

Waqf Regulation in Indonesia: Implementation of The Waqf Phenomenon in Indonesia Viewed from Legal, Tax, and Supervision Aspects

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Abstract

The phenomenon of waqf in Indonesia is quite common. This is because most of Indonesia's population is Muslim, so a lot of wealth is given for the benefit of the community. In its implementation, waqf must be seen from an administrative perspective, including legal laws, taxation, and supervision. This study then aims to see how tax implementation is viewed from these three sides. This research will be carried out using a normative juridical approach. The data used in this study comes from various laws and previous studies which still have relevance to the research discussion. The results of this study then found that the formation of regulations regarding waqf had begun to be implemented before the independence era. Law Number 41 of 2004 concerning waqf forms the basis for waqf law in Indonesia. In general, assets that are part of waqf are not taxed. Meanwhile, the Indonesian Waqf Board (BWI) is generally the supervisor of various affairs regarding waqf in Indonesia.

Keywords: Waqf, Law, Tax, Indonesian Waqf Board (BWI).

Introduction

Waqf is a form of charity highly valued in Islam, in which property or assets owned by the wakif (waqf giver) are handed over to be used forever or for a certain period, and the income is used for the good of the people and society. In practice, the management of waqf assets is often carried out by certain parties, such as Islamic organizations, Nazhir mosques, and educational institutions (Iman et al., 2021).

However, waqf is also a phenomenon that is increasingly attracting the interest of financial managers and investors. This relates to waqf asset management's attractive profit potential and portfolio diversification strategy. Along with the increasing popularity of investment in waqf assets, the shift in the meaning of waqf towards a looser, more flexible, and profitable direction for waqifs is also increasingly felt. In the end, this impacts the waqif's legal actions to separate or surrender part of his assets to be used forever or for a specific purpose. This development also raises complex legal, taxation, and supervisory challenges and requires serious attention from the government and waqf managers (Khan & Badjie, 2022).

To maintain the integrity and religious values in waqf practices, the government must implement adequate regulations. In Indonesia, positive laws relating to waqf already exist, but problems still arise due to the shift in the meaning of waqf to a more relaxed and flexible direction. This requires tighter supervision, so that waqf assets are not misused and continue to benefit Muslims (Nasrullah et al., 2023).

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The government has paid attention to waqf to protect and develop waqf in the future. To best empower religious institutions to improve society's welfare, the government is still trying to enforce regulations related to this issue. Although the government's efforts still require seriousness, synergistic support, and cooperation from all parties so that waqf truly has a constructive and beneficial impact on society (Gwadabe & Ab Rahman, 2020).

Waqf asset management must be carried out in a transparent, accountable, and high-integrity manner to be able to provide benefits to society fairly and sustainably. Therefore, implementing waqf from a legal, taxation, and supervisory point of view is an important topic to be discussed and understood more deeply. Through correctly understanding and implementing these three aspects, waqf can contribute maximum to the public interest (Usman & Ab Rahman, 2021). In the legal context, the implementation of waqf requires clarity and certainty regarding related legal aspects. The link between positive law and waqf is evidence that the government is very concerned about waqf as a step to protect and develop waqf in the future. The government seeks to provide legal protection for waqf assets and public interests so that waqf assets can be managed safely and securely (Hamzani et al., 2019).

However, several legal problems are often encountered in implementing waqfs, such as ownership issues, changes in waqf designation, and uncertainty regarding waqf management laws. Therefore, a clear and firm legal arrangement and consistent law enforcement are needed to overcome this problem (Ali Azizan et al., 2022). In addition, the implementation of waqf also has an impact on taxation. Waqf is included in the tax object, and the waqf manager must pay taxes on income derived from waqf assets. However, there are often obstacles in collecting taxes from waqf assets, especially if the waqf manager does not understand the applicable tax collection procedures. Therefore, there is a need for better socialization and education for waqf managers regarding tax obligations and procedures for collecting taxes from waqf assets (Sukmana, 2020).

Finally, the implementation of waqf also requires strict supervision so that it can be implemented in a transparent and accountable manner. Supervision is carried out to prevent the misappropriation and misuse of waqf assets and ensure that parties conduct the supervision with credibility and high trust. This needs to be implemented so that there are no irregularities in the implementation of waqf (Faisal, 2020).

In the context of empowering religious institutions as well as possible for the benefit of improving the welfare of society in general, the implementation of waqf from a legal, taxation, and supervisory point of view is an important topic to be discussed and understood more deeply. Through correct understanding and proper implementation, waqf can have a constructive and beneficial impact on society and strengthen the position of religious institutions as one of the essential actors in national development.

Methods

This study uses a normative juridical approach, a research method that examines statutory regulations and legal doctrine as a data source and analysis. This approach aims to understand and analyze applicable legal principles related to issues regarding the

implementation of waqf in Indonesia. This study's data sources are statutory regulations, namely laws, government regulations, and some previous research related to the problem under study. This analysis is carried out by identifying and collecting data from data sources have been collected. Then, the data is analyzed by comparing laws and regulations, legal doctrine, and court decisions relevant to the problem under study. Furthermore, this study uses the data to form arguments and conclusions (Jonaedi Efendi et al., 2018).

Result And Discussion

Definition of Waqf and Tax

Linguists describe waqf with the terms al-waqf (waqf), al-habs (holding), and at-tasbil (donation for sabiilillah). Al-waqf is the masdar version of the verb waqfu ash-syai, which means to hold back. Al-Kabisi quoted Imam Antara, who said, "My camel is stuck somewhere." Jurists say that waqf comes from the word waqf or the Arabic word waqafa. The word "Waqafa" originally meant to stop, to hold, or to remain standing. Habasa-Yahbisu-Ordination and waqafa-yuqifu-waqfan have the same meaning. In particular, those following the Maliki school of thought in North Africa often refer to themselves as habs or ahbas (Al-Ayubi & Halawatuddu'a, 2021).

So, waqf, in general, when viewed from the actions of the waqf person, waqf is a legal act of someone who deliberately separates or removes his property which benefits it for Allah and can be understood from some of the definitions above that property belongs to a person or group, the property is not used up when it is used, the property is released from its ownership by the owner, then the property cannot be donated, inherited or traded and the benefits of the property are for the public interest following Islamic law (Rhoads, 2023).

The Al-Quran does not directly mention the provisions and orders regarding waqf, but there are several verses in the Al-Quran which according to scholars form the basis of waqf law, including:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَنْفِقُوا مِنْ طَيِّبَاتِ مَا كَسَبْتُمْ وَمِمَّا أَخْرَجْنَا لَكُمْ مِنَ الْأَرْضِ ۖ وَلَا تَيَمَّمُوا الْخَبِيثَ مِنْهُ تُنْفِقُونَ وَلَسْتُمْ بِأَخِيذِهِ إِلَّا أَنْ تُعْمِضُوا فِيهِ ۗ وَعَلِمُوا أَنَّ اللَّهَ عَنِّي حَمِيدٌ

It means: "O believers! Donate from the best of what you have earned and what We have produced for you from the earth. Do not pick out worthless things for donation, which you yourselves would only accept with closed eyes. And know that Allah is Self-Sufficient, Praiseworthy" (Al Baqarah:267).

Hadith History of Muslim no. 1631 From Abu Hurairah ra., he said that the Messenger of Allah said something: "If someone dies, then his deeds are cut off except for three things (namely): charity, the knowledge that is used, or the prayer of a pious child".

The pillars of waqf, namely: 1) Waqif or charity giver. He must be able to give money; 2) Mauquf, namely property donated by wakif; 3) Mauquf' alaih, or person in charge of waqf, including a particular individual, team, or party; and 4) Sighat (promise of waqf). The six

components (pillars) of waqf are as follows as stated in Law Number 41 of 2004 concerning Waqf: 1) Waqif people who endow their assets specifically; 2) Nadzir is a person or institution that is given waqf property by the wakif to manage and develop it according to its designation; 3) Waqf Assets Specifically, assets that have lasting power, long-term benefits, or economic value. Only assets legally owned and controlled by the wakif are entitled to donate; 4) Waqf In particular, the statement of the waqif's intention to inherit his property is made verbally, in writing, or both to the nazir. Suppose the waqif cannot personally make the waqf commitment or cannot attend its implementation for legally permissible reasons. In that case, he can show his power of attorney by showing a power of attorney signed by two witnesses (Al-Qosimi et al., 2022).

The distribution of Waqf Assets can be allocated to 1) Religious institutions and activities; 2) Institutions and activities related to education and health; 3) Financial assistance for the poor, abandoned children, orphans, and scholarships; 4). Economic progress and improvement; 5) Progress and other general welfare that do not conflict with the Shari'a, rules, and regulations. The benefits of waqf, such as Realizing the potential and financial benefits of waqf assets for the advancement of worship and welfare of the community and following Islamic law, institutionalizing waqf assets for all time for prayer and other public interests (Kasdi et al., 2022).

The term taxation has been known since the days of kingdoms in Indonesia. In the past, taxes or tribute could be interpreted as a voluntary gift from the people to the king. Furthermore, taxes have changed and have a 'mandatory' nature. This means taxes are no longer voluntary gifts but have shifted into gifts with solid coercion. As described above, the change in the meaning of tax does not mean a change in purpose. The objective remains in the framework of maintaining the state's interests, namely defending the state, protecting the people, and carrying out development (Lenggu & Kristanto, 2022).

Experts in the field of taxation provide different understandings or definitions of taxes. However, the various definitions have the same fundamental nature and purpose. Some of the definitions put forward include:

- a. Soemitro argues that taxes are people's contributions to the state treasury based on the law (which can be forced) without receiving direct services (counter-performance) that can be shown and used to pay public expenses (Sari, 2022).
- b. Adriani argues that taxes are contributions to the state (which can be forced) owed by those who are obliged to pay them according to regulations, with no return of achievement, which can be directly appointed, and whose purpose is to finance public expenditures related to the state's duty to administer government (Yasni & Erlanda, 2020).
- c. Seligman defines a tax as a mandatory contribution made by the public to their country without any unique benefits explicitly aimed at a person or individual. Because the tax benefits themselves are intended for the benefit of society (De Simone & Liberati, 2020).

While in Law no. 28 of 2007 concerning the third amendment to Law no. 6 of 1983 concerning General Provisions and Tax Procedures (KUP) defines that “taxes are mandatory contributions to the state owed by individuals or entities that are coercive based on the law, by not getting compensation directly and used for the needs of the state for the greatest prosperity of the people” (Pramudya, 2022). Whereas Law Number 28 of 2009 concerning Taxes and Levies explains that “taxes are mandatory contributions to regions owed by individuals or entities that are coercive based on the law, by not getting compensation directly and used for regional needs for the greatest prosperity of the people” (Inayah & Wicaksono, 2022).

Waqf in the Trajectory of Indonesian History

Since the founding of Islam in Indonesia, waqf has become widely known, especially with the spread of Islamic da'wah throughout the archipelago, which has contributed to strengthening these Islamic regulations there. Scholars and religious leaders introduce Islamic teachings in general, including endowments and Islamic da'wah. The many historical mosques built on waqf land are proof of this. During the pre-colonial, colonial, and post-colonial days of Indonesian independence, this waqf developed rapidly in this archipelago (Mualimin et al., 2022).

Another element can be seen from the fact that the Indonesian nation accepts this waqf institution, which originates from the Islamic religion. During the colonial era, waqf operations were common. Even then, constructing religious institutions such as mosques, schools, madrasas, and Islamic boarding schools was a non-governmental effort on waqf land. However, the development of waqf in Indonesia has undergone significant changes. Waqf activities are now only carried out for religious purposes, including the construction of mosques, prayer rooms, mosques, madrasas, cemeteries, etc.

Waqf legislation, however, is positive law and legislation that aims to improve Islamic society's social and economic structure while providing access and comfort for Muslims. For the Indonesian people to realize a national legal system that refers to legal principles based on laws that live in society, where Islamic law is part of the legal system, waqf law is fundamental in guaranteeing the freedom and liberties of Muslims. National laws must be created based on existing national laws (Berakon et al., 2022).

Indonesian legal issues, which are currently centered on the rule of law and human rights, are very serious. It is based on objective justice and truth, which are very different from what society and law expect and consider ideal. The absence of community-based belief, whether based on custom or religion, in developing and maintaining legal products is an influential element. Although waqf bodies are undoubtedly not mentioned in the Qur'an, at least they are recognized in Muslim societies.

Indonesian Society's Understanding of Waqf

Indonesian people understand waqf in a way that cannot be separated from the history of Islamic development. They belong to the Shafi'i school of thought and have a fiqh orientation more aligned with waqf law. This can be seen from the large number of Indonesian Muslims attending Salafiyah Islamic boarding schools, including those attending Islamic

boarding schools in Lirboyo, Sarang, Kudus, and Islamic boarding schools affiliated with Shafi'i in the Java region (Usman et al., 2022).

The Indonesian Muslim community understands waqf, which influences their attitudes and behavior in measuring waqf through barometer-oriented fiqh and Syafiiyyah style. They firmly believe that ibdal al waqaf is prohibited, so their behavior tends to be traditionalist and conventional. The Indonesian Muslim community created waqf in various ways and under various names. Some donated land, gardens, houses, buildings, and other inanimate objects such as prayer mats, mushafs of the Qur'an, and so on. Their reasons for practicing waqf vary. There are at least two reasons for the Indonesian people to realize waqf (Rimanto et al., 2021).

The Indonesian Muslim community regards waqf as a form of worship encouraged by the religion and serves as a public expression of one's beliefs. Therefore, according to Islamic belief, one's ability to interpret one's property according to religious law will determine whether or not the such property can be managed. Zakat is used to meet urgent needs and fundamental needs. However, the role of waqf is needed for further development, where it acts as a growth catalyst and solution to social and economic problems the wider community faces, especially the people of Indonesia. The Syafiiyyah school has had a significant influence on how the majority of Indonesian Muslims view waqf.

Waqf, which is simply a monetary commitment, requires simple considerations. The Indonesian people's trust, honesty, and innocence significantly impact their waqf awarding practices, which could create problems in the future. They also recognize that waqf must comply with the following standards: 1) Be of value. The granting of waqf other than tangible objects, such as usufructuary rights, irrigation rights, etc., is prohibited; 2) As goods or movable or immovable objects with a lasting or consistent purpose and profit; 3) Products or goods must be visible (definitely when the contract occurs); 4) The object or object has the status of al-milku at-tam and is a waqif object; 5) Property that has been given a domicile changes its ownership to become the property of Allah and is intended for the general public; consequently, they cannot be sold, passed down from generation to generation, mortgaged, or used in any other way; and 6) The majority of Indonesian Muslim communities entrust certain families or individuals (waqf experts) the legality to exchange or sell their waqf assets. These people are elected by the wakif, religion, or society (wakaf khairi). Most Indonesian Muslims support Imam Syafii's view that prohibits the exchange of waqf property for any purpose.

Waqf in the Perspective of Law in Indonesia

The development of waqf in Indonesia began before the independence era. The endowment of land was known to the Muslim community in the XVth century in East Java with the existence of the Raden Rahmat Mosque and Islamic boarding schools in Ampel Denta Surabaya, and then there were also findings of the term waqf, which developed in 1922 throughout the regions of Aceh, Gayo, Tapanuli, Jambi, Palembang, Bengkulu, Banten, Central Java, East Java, Minahasa, Gorontalo and even Lombok with different terms with the same essence starting from the waqf objects in the form of rice fields, dry land, mosques, surau, plantations, bricks and even the Qur'an and prayer mats (Ahmad, 2019).

At the beginning of independence, the waqf law did not change and still used circular rules produced by the Dutch colonial government. After eight years, precisely on 22 December 1953, the government issued instructions regarding waqf through the Ministry of Religion, which subsequently became the authority of section D (Social Worship) of the Bureau of Religious Affairs.

Then issued, a circular letter on 8 October 1956, No. 3/D/1956, concerning waqf that does not belong to mosques and circular letter No. 5/D/1956 regarding land endowment procedures. This circular letter is a follow-up of regulations that do not quite hit the mark on waqf regulations promulgated on 24 September 1960, giving the state authority to protect waqf assets.

After more than seventeen years, the mandate of Article 49 paragraph (3) of Law No. 5 of 1960, which assigned the government to regulate waqf in government regulation; finally came the Government Regulation Number 28 of 1977 concerning Waqf of Owned Land which published in the State Gazette of the Republic of Indonesia Number 38 of 1977, Supplement to the State Gazette Number 3107 which was promulgated on 17 May 1977. So far, waqf arrangements are still related to fixed objects (*baqa' ainuhu*) and have not yet touched on movable object waqf (*al-manqul*). This is understandable; because the birth of this PP is a mandate from Law No. 5 of 1960, which still discusses the Basic Basic Agrarian Regulations.

As a follow-up to the PP, the Ministry of Religion, the Ministry of Home Affairs, and several related agencies made several agreements regarding implementing the PP. During this phase, Presidential Instruction No. 1 of 1991 was also issued concerning the Compilation of Islamic Law (KHI). This Presidential Instruction brought several reforms in the management of waqf, which was an elaboration of PP No. 28 of 1977. These reforms led to the unification of Islamic schools of thought and law in force in Indonesia. Thus, there has been a policy of permissibility of waqf with movable objects and giving a broader role to the sub-district MUI and its sub-district head.

There is a discussion about the permissibility of waqf on movable objects in KHI, and it turns out that it has not yet been discussed in detail what kinds of movable objects are allowed to be used as waqf items, as well as how many property items are allowed to be donated. Likewise, there are no details regarding the specific rights and obligations of the Nazir. On 28 Shafar 1423H/11 May 2002, an MUI fatwa was issued regarding cash waqf with the contents of the fatwa, among others, that the legal cash waqf is *Jawaz* (permissible) provided that it can only be channeled and used for things that are permitted by *syar'i* and the principal value of cash waqf must be guaranteed for its sustainability, may not be sold, donated, and inherited.

Directly, this MUI fatwa has legitimized the development of waqf, especially cash waqf, so that the Directorate of zakat and waqf development of the Ministry of Religion of the Republic of Indonesia, proposed the establishment of the Indonesian Waqf Board (BWI), through letter No. MA/320/2002, on 5 September 2002, sent a permit for the initiative to draft a bill on waqf.

The drafting of this bill went through a long process and was handled by several waqf experts and several Islamic organizations involved. Finally, on 9 July 2004, the bill on waqf was heard at a DPR meeting and passed within four months, and on 27 October 2004, one week after President Susilo Bambang Yudhoyono took office as the sixth President of the Republic of Indonesia. This bill on waqf was promulgated into RI Law Number 41 of 2004 concerning waqf, which was promulgated by the Minister of State Secretary, Prof. Dr. Yusril Ihza Mahendra, and recorded in the 2004 State Gazette of the Republic of Indonesia Number 159, Supplement to the State Gazette of the Republic of Indonesia number 4459.

This law then becomes the basis for future waqf legislation in Indonesia. This is because it is explained in Article 2 of Law Number 41 of 2004 concerning waqf, which states: “Waqf is legal if implemented according to sharia”. The list of laws and regulations regarding waqf that apply in Indonesia are as follows:

- a. Law Number 41 of 2004 concerning waqf.
- b. Government Regulation 42 of 2006 concerning Implementation of Law Number 41 of 2004 concerning waqf.
- c. Government Regulation Number 25 of 2008 concerning Amendments to Regulation 42 of 2006 concerning Implementation of Law Number 41 of 2004 concerning waqf.
- d. Regulation of the Minister of Religion Number 73 of 2013 concerning Procedures for Waqf of Immovable Objects and Movable Objects Other Than Money.
- e. Regulation of the Minister of Religion Number 4 of 2009 concerning Administration of Cash Waqf Registration.
- f. Indonesian Waqf Board Regulation Number 1 of 2008 concerning Procedures for Preparing Recommendations for Requests for Exchange/Change of Status of Waqf Assets.
- g. Indonesian Waqf Board Regulation Number 3 of 2008 concerning Procedures for Registration and Replacement of Nadzir Immovable Waqf Assets in the Form of Land.
- h. Indonesian Waqf Agency Regulation Number 1 of 2009 concerning Guidelines for the Management and Development of Waqf Object Prices in the Form of Money.

Implementation of Waqf in Tax Review

Law Number 16 of 2000 regulates general provisions and procedures for taxation. Before the formation of this law, there was a law with the same objective and the rule of law, namely Law Number 6 of 1983. The presence of Law No.16 of 2000 was a substitute for Law Number 6 of 1983. Amendments to this law are based on several matters relating to improvements in the implementation of this law, namely providing greater equality in justice and increasing the quality of service to the public or taxpayers, and, more importantly, creating firmer legal certainty.

Law No. 16 of 2000 explains some general information, such as who has tax obligations and the scope that covers the whole of taxation. In addition, this law also regulates the function and mechanism for using the NPWP (Taxpayer Identification Number), factors regarding the confirmation of a taxable entrepreneur, functions, and procedures in notification letters, and procedurally correct tax payment procedures.

An object that is waqf in nature is generally not subject to tax. This is based on Law Number 12 of 1985 concerning Land and Building Tax, Article 3 Paragraph 1 states that tax objects that are not subject to Land and Building Tax are tax objects which, among other things, are used solely to serve the public interest in the fields of worship, social, health, education and national culture that are not intended to gain profit.

Generally, objects often subject to tax is a property in the form of land. Meanwhile, waqf land is freehold land that has been donated, after waqf, the property rights are transferred from wakif (person who is waqf) according to its designation. For example, someone wants to donate a plot of land to build a mosque or school or manage it to remain productive. However, in order not to be taxed, the condition is that waqf land must have a waqf certificate. To get it, waqf land must be registered at the KUA (Office of Religious Affairs) and BPN (National Land Agency). If the waqf land does not have a waqf title certificate, then the waqf land can still be taxable.

Waqf Supervision in Indonesia

The waqf supervision policy contained in Law Number 41 of 2004 concerning waqf, Article 63 paragraph (1), states that the Minister shall provide guidance and supervision of the administration of waqf to realize the objectives and functions of waqf. Then in paragraph (3) of the same article, it is stated that the guidance and supervision referred to in paragraph (1) and paragraph (2) are carried out by taking into account the suggestions and considerations of the Indonesian Ulema Council (MUI). Article 65 states that the Minister can use a public accountant in implementing supervision.

In general, the legal umbrella has assigned the Minister of Religion, assisted by the MUI and BWI, to threaten those who commit fraud and disputes related to waqf management, the active participation of the community and the government can also assist these efforts. In their supervisory duties, the Minister and BWI can invite community organizations, experts, international bodies, and parties as necessary. Likewise, using a public accountant to examine financial transactions by Nadzir. With broad bureaucratic access and authority in law enforcement, it is hoped that it will be able to assist in law enforcement which is an essential aspect of developing waqf.

Law Number 41 of 2004 concerning waqf mandates the Indonesian Waqf Board (BWI) to carry out waqf management and development activities in Indonesia. The existence of BWI is not to take over waqf assets that waqf institutions or nadzirs have managed, but BWI is an institution that has an essential role in fostering waqf nazirs in the form of social services, economic empowerment, and infrastructure development. This aims to make waqf management more focused and productive and provide greater benefits to the community. Based on Article 49 paragraph (1) Law no. 41 of 2004, the duties and authorities of BWI include the following:

- a. Provide guidance to nadzirs in managing and developing waqf assets;
- b. Managing and developing waqf assets on a national and international scale;

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- c. Give approval and or permission for changes in the designation and status of waqf assets;
 - d. Dismissing and replacing nadzir;
 - e. Approve the exchange of waqf assets;
 - f. Provide advice and considerations to the government in formulating policies in the field of waqf.

In addition to the above duties and authorities, BWI also has additional duties and authorities which are detailed in BWI Regulation Number 1 of 2007 as follows:

- a. Provide guidance to nadzirs in managing and developing waqf assets;
- b. Create guidelines for the management and development of waqf assets;
- c. Managing and developing waqf assets on a national and international scale as well as abandoned waqf assets;
- d. Provide consideration, approval, and permission for changes to the designation and status of waqf assets;
- e. Give consideration and approval for the exchange of waqf assets;
- f. Provide advice and considerations to the government in formulating policies in the field of waqf;
- g. Receiving, evaluating, issuing proof of nadzir registration, and reappointing nadzir whose term of office has expired;
- h. Dismissing and replacing nadzir if deemed necessary;
- i. Provide advice and considerations to the Minister of Religion in appointing Islamic Financial Institutions Receiving Cash Waqf (LKS-PWU);
- j. Receive the registration of the Waqf Pledge Deed (AIW) for movable objects, other than money, from the Waqf Pledge Deed Making Officer (PPAIW).

From the description of the duties and authorities above, BWI's functions and duties are to create a professional waqf institution, be trusted by the community, and have high integrity in managing and developing waqf assets to empower the people. Therefore BWI should be the center for making national waqf policies from pledges and management to waqf supervision.

In addition, BWI, in carrying out its duties, can cooperate with several other institutions such as the Directorate of Waqf Empowerment at the Ministry of Religion, the Indonesian Ulema Council (MUI), the National Defense Agency (BPN), Bank Indonesia (BI), the National Development Planning Agency (IBRA), Islamic Development Bank (IDB) and several investors and entrepreneurs if needed. All coordination is carried out to develop waqf assets to be more productive.

Matters related to the appointment of BWI management members need to be a significant consideration, namely having a vision and mission and a high commitment to developing waqf in Indonesia, especially in supervising nadzirs. Seeing the development of waqf in Indonesia and other countries in the last few years, BWI needs to make continuous efforts and breakthroughs to develop waqf in Indonesia, especially the supervision of nadzirs.

The waqf monitoring mechanism is carried out following Law no. 41 of 2004 Article (56) regarding nadzir supervision mentions several things as follows:

- a. Supervision of waqf is carried out by the government and the community, both active and passive
- b. Active supervision is carried out by conducting direct inspections of nadzirs on waqf management at least once a year.
- c. Passive supervision is carried out by observing various reports submitted by nadzirs relating to waqf management.
- d. In carrying out the supervision referred to in paragraph (1), the government and the public can request the services of an independent public accountant.
- e. Further provisions regarding procedures for supervising waqf, as referred to in paragraph (1), are regulated by a Ministerial Regulation.

Then, there is a technical explanation regarding the supervision procedures contained in Ministerial Regulation Number 73 of 2013 Article 28, which reads:

- a. Nadzir must periodically submit reports on the management of immovable waqf assets and movable waqf assets other than money to the Regional Office of the Provincial Ministry of Religion and BWI per
- b. The report on the management of waqf assets, as referred to in paragraph (1), includes implementing management, developing, and using management results.

From this, one of nadzir's obligations is to report on waqf assets regularly managed to BWI at least once every six months. This reporting is a form of BWI's supervision of waqf management carried out by the nadzir. Nadzir, in carrying out his duties and obligations, namely administering and managing the proceeds of waqf assets, must comply with the provisions stipulated by regulations in Indonesia. One of the nadzir's duties is to make periodic reports containing all matters related to his responsibilities as nadzir, these reports are submitted to the head of the local KUA and a copy to BWI.

The problem that occurs is that there is no such report that goes to either the KUA or BWI regularly. So there is no comprehensive data regarding the development of waqf in Indonesia. Likewise, it cannot be known how the nadzir manages his waqf assets and whether they follow applicable law. In the end, it is not known whether irregularities, conflicts, and problems occurred in the field except for reports made by the community who actively came to report. Suppose we observe further related to the factors why the potential for waqf in Indonesia is not yet productive. In that case, the main cause lies in the hands of the nadzir, as the mandate holder of the waqif (person who is waqf) so that the nadzir manages and develops waqf assets properly. It can be said that the management and development of waqf have not been carried out professionally. Therein lies the importance of BWI's supervision of nadzirs.

Conclusion

The purpose of the waqf law in force in this country is to provide access and convenience for Muslims while at the same time improving the social and economic institutions of Muslims through positive law and statutory law. For the Indonesian people to realize a national legal system that refers to legal principles based on laws that live in society, where Islamic law is part of the legal system, waqf law is vital in guaranteeing the freedom and

liberties of Muslims. From an administrative point of view, legislation regarding waqf has existed since before the independence era. Then the formation of Law Number 41 of 2004 concerning waqf became the basis for future waqf laws in Indonesia. In its implementation, the property included in waqf generally will not be taxed, including waqf land. However, it is necessary to change the land certificate into a waqf certificate so that the land is no longer subject to tax. Meanwhile, in the supervision process, the Minister of Religion, assisted by MUI and BWI, has a role in supervising taxation in Indonesia. Then through Law Number 41 of 2004 concerning waqf, BWI was mandated to carry out waqf management and development activities in Indonesia.

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