



## REGULATIONS FOR MANAGEMENT OF WAKF ASSETS BY *STAKEHOLDERS* IN TANJUNG JABUNG TIMUR REGENCY, JAMBI PROVINCE

Zainal Arifin[1], A. Husein Ritonga[2], Hadri Hasan[3]

[zainal7319@gmail.com](mailto:zainal7319@gmail.com)

UIN Sultan Thaha Saifuddin Jambi

### Abstract

In Law Number 41 of 2004 concerning waqf and Government Regulation Number 42 of 2006 concerning the implementation of Law Number 41 of 2004 concerning waqf which regulates immovable and movable waqf to provide opportunities for those whose lives are simple but want to do good. Of the eleven City Regencies in Jambi Province, one of them is Tanjung Jabung Timur Regency. Tanjung Jabung Timur Regency has 11 sub-districts, 20 sub-districts and 73 villages (out of a total of 141 sub-districts, 163 sub-districts and 1,399 villages throughout Jambi). In 2017, the population was 222,834 people with an area of 5,445.00 km<sup>2</sup> and a population distribution of 41 people/km<sup>2</sup>. The research methodology used is sociological/empirical research and uses a qualitative approach, referring to all regulations or laws and regulations relating to the legal issues under study, namely research on the norms contained in the Qur'an and Al-Hadith. The results of the study, namely the regulation of waqf property management, show that the current waqf property management regulatory system is a pattern of regulation of waqf property management which is still considered traditional-consumptive. This can be known through several aspects: Leadership, Recruitment of nazira human resources, Operationalization of empowerment, Patterns of utilization of results, and control and accountability systems.

**Keywords: Regulation, Waqf Assets, Stakeholders**

### Preliminary

Understanding of waqf is a form of philanthropy, in addition to zakat, infaq, and alms which are always expected to be practiced, as seen in the messages of Islamic teachings. So waqf is a good deed that is highly recommended by religion. Where in the waqf program, it is recommended that people who are able to help the less fortunate by donating managed funds, and the results are used to help the needs and foster those who need the help of people who care and those who are well off. According to Muhammad bin Al-Hasan,<sup>[4] a</sup> new waqf can be valid if the waqf is removed from his hand, that is by handing it over to the waqf administrator and making it as the administrator. The priests of the madhhab agree that the waqf is invalid if the waqf cannot be taken advantage of. The sense of justice is an abstract value, but it demands a real and positive action and deed. The implementation of waqf worship is a concrete example of a sense of social justice, because waqf is the gift of a number of loved ones given free of charge for public policy. Wakif is required with optimal sincerity so that the assets given as waqf assets can provide benefits to the general public, because of its breadth. Waqf is form of *muamalah maliyah* a very



old(property) and has been known by the public since time immemorial. This is none other than because Allah SWT created humans to love goodness and do it since he was born until he lived in the midst of society.[5]

Among the concepts of economic resources when linked to land, it can be understood that land is "*Natural Resources*" (natural resources), while humans are "*Human Resources*" (human resources). In historical experience, the economy of a nation and state will be able to grow and develop if these two factors can be managed as well as possible by using new discoveries in science and technology (science and technology).[6] Waqf is one of the urgent problems in the context of the relationship between Islamic law and national law. It is called urgent because waqf is a practice of religious activities both in the field of agrarian and physical facilities that can be used as the development of religious life, especially Muslims in order to achieve people's prosperity both spiritually and materially towards a prosperous society.[7]

In terms of *syara'* in general, waqf is a kind of gift whose implementation is carried out by holding back the origin (*tahbisul ashli*), then making the benefits generally accepted. What is meant by *tahbisul ashliwaqf property* is to hold the so that it is not inherited, sold, donated, pawned, rented and the like. While the way to use it is to use it according to the will of the waqf giver without reward.[8] As regulated by the National Agrarian Law, namely, Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles and Legislation. Regulation of the Minister of Home Affairs Number 6 of 1977 concerning Registration of Land Perwakafan Owned Land, Regulation of the Minister of Religion Number 1 of 1978 concerning Implementing Regulations of Government Regulation Number 28 of 1977 and the Laws and Regulations below, which are contained in the "Compilation of Islamic Law in Indonesia" on RI Presidential Instruction No. 1/1991 which serves as a guideline for Judges of Religious Courts throughout Indonesia. The Law of the Republic of Indonesia Number 25 of 2000 concerning the National Development Program of 2000-2004 and the Decree of the People's Consultative Assembly Number IV/MPR/1999 concerning the GBHN of 1999-2004 stipulates the direction of legal development policies, among others, carrying out a comprehensive and integrated national legal system arrangement by recognizing and respect religious and customary law.[9]

According to Nurul Huda et al, the issue of waqf shows the need for accountability in waqf management. Waqf management is not only from the government, but also from the community. The current waqf management institutions are mostly managed by the community, not the government. The solution to the problem of waqf management is to increase incentives for *nadzir* and intensive training for *nadzir*. The solutions offered show things related to increasing the accountability of waqf management, so that waqf management professionalism is formed that is able to increase public interest.[10]



In line with the above opinion, according to Agus Triyanta and Mukmin Zakie, that waqf institutions or institutions have a role in the history and civilization of Muslims. Various waqf institutions have functioned as places for disseminating knowledge and culture, and providing space for scholars, fiqh experts and humanists to develop their knowledge and expertise. In addition, the use of waqf land in Indonesia is dominated for the purposes of places of worship, school infrastructure, other social endowments, burial grounds and pesantren education.[11] In Law Number 41 of 2004 concerning waqf and Government Regulation Number 42 of 2006 concerning the implementation of Law Number 41 of 2004 concerning waqf which regulates immovable and movable waqf to provide opportunities for those whose lives are simple but want to do good. The law regulates movable and immovable waqf, although it is not in line with the waqf principle which adheres to the principle of eternity.[12]

Government regulations that are useful for increasing security. Effectiveness, efficiency, and accountability of waqf property management as well as to comply with the laws and regulations governing land acquisition for development for the public interest, it is necessary to improve the Government Regulation of the Republic of Indonesia Number 25 of 2018 concerning Amendments to Government Regulation Number 42 of 2006 concerning the implementation Law No. 41 concerning waqf.[13] Of the eleven City Regencies in Jambi Province, one of them is Tanjung Jabung Timur Regency. Tanjung Jabung Timur Regency has 11 sub-districts, 20 sub-districts and 73 villages (out of a total of 141 sub-districts, 163 sub-districts and 1,399 villages throughout Jambi). In 2017, the population was 222,834 people with an area of 5,445.00 km<sup>2</sup> and a population distribution of 41 people/km<sup>2</sup>. [14] List of waqf property located in East Tanjung Jabung above shows that the total number is as many as 532 locations with an area of 1,042,685 m<sup>2</sup>. the highest waqf property is located in Muara Sabak West as much as 90 locations with an area of 234 798 m<sup>2</sup> whereas The least waqf assets are in Geragai as many as 8 locations with an area of 8,685 m<sup>2</sup>.

Tanjung Jabung Timur Regency is a common phenomenon that can be found in various areas in Jambi Province, where most waqf assets are used for ritual worship purposes. There is nothing wrong with this designation, because it does not open the possibility for economic and social development that is modified from this designation. Even though land is available in the area of worship, it can be ascertained that land use projections are only for the expansion of places of worship, not for social, educational or productive economic purposes for the community. The amount of waqf land used for productive activities is very small.

## Research Methodology

This discussion views law as a reality that includes social and cultural realities. This discussion is descriptive.[15] A legal regulation has a sociological basis, if its provisions are relevant to the



general belief or legal awareness of the community. This is important so that the laws (laws) that are compiled are obeyed by the community, not becoming meaningless letters.[16] Researchers use a sociological approach, because with it the law will be able to show its social base, namely society. This type of research is included in sociological/empirical research and uses a qualitative approach. The reason for the title that is appointed refers to all regulations or laws and regulations relating to the legal issues under study, namely research on the norms contained in the Qur'an and Al-hadith.

Data analysis used in empirical legal research can be carried out quantitatively or qualitatively. In this dissertation, the researcher uses qualitative research which is a research procedure that produces descriptive data in the form of words, pictures, and not numbers.[17] According to Ronni Hanitijo Soemitro, Legal science is divided into 2 (two) specialization branches, namely the Study of *Law in Books* and the Study of *Law in Actions*. *Law in books* is mentioned for the study of law as stated in the legislation, or the study of law as a norm or rule. Law as a norm or rule is autonomous, meaning that the law stands alone and is free from all influences. Meanwhile, *law in action* is mentioned for the study of law as a social phenomenon/process.[18] Based on the opinion of Ronni Hanitijo Soemitro above, this research is a study of *Law in Actions*, because the law is a social symptom/process that is found in everyday life and is often faced by individuals as facts and social realities that are formed in the audience. derived from social reality.

## Results and Discussion

The Ministry of Religion, which was first formed in Syahrir II's cabinet which was stipulated by Government Regulation number I/SD, on January 3, 1946 which coincided with the 29th of Muharram 1365 H which reads: "President of the Republic of Indonesia. In view of the proposal of the Prime Minister and the Working Body of the Central National Committee, decided to: Hold a Ministry of Religion. The first time the proposal for the establishment of the Ministry of Religion was submitted by Mr. Muhammad Yamin in the trial or large meeting of the Indonesian Independence Preparatory Agency (BPUPKI) on July 11, 1945, where in the meeting Muhammad Yamin proposed that a special Ministry should be held, namely the Ministry related to religion.[19]

The first Minister of Religion, HM Rasyidi, was appointed by President Sukarno at the Conference of Religions throughout Java and Madura in Surakarta on 17-18 March 1946. 1945 which states that "The State is based on the One Godhead" and "The State guarantees the independence of every citizen to embrace their own religion and to worship according to their religion and beliefs".



The Ministry of Religion has survived until now with the task of helping the president organize state government in religious affairs with the vision of referring to the vision of the president and vice president for 2020-2024, namely "the realization of an advanced Indonesia that is sovereign, independent and has a personality based on mutual cooperation", then the vision of the Ministry of Religion in 2020 -2024 is: "Ministry of Religion who is professional and reliable in building a pious, moderate, intelligent and superior society to realize an advanced, sovereign, independent, and personal Indonesia based on mutual cooperation". Meanwhile, the mission of the Ministry of Religion for 2020-2024 is: Improving the quality of religious piety; Strengthening religious moderation and religious harmony; Improving religious services that are fair, easy and equitable; Improving equitable and quality education services; Increase the productivity and competitiveness of Education; Establish good governance.[20]

Tanjung Jabung Timur Regency was formed based on Law No. 54 of 1999 dated October 4, 1999 concerning the Establishment of the Regencies of Sarolangun, Tebo, Muaro Jambi and Tanjung Jabung Timur in conjunction with Law No. 14 of 2000 with an area of 5,445 Km or 10.2% of the total area. Jambi Province, but in line with the enactment of Law no. 27 of 2007 concerning Management of Coastal Areas and Small Islands and Regional Regulation no. 11 of 2012 concerning the Spatial Planning of the East Tanjung Jabung Regency in 2011-2031, the area of the East Tanjung Jabung Regency includes waters and 27 small islands (11 of which are not yet named) to 9,005 Km consisting of a land area of 5,445 Km and an ocean/water area of 3,560 km. [21] In addition, it has a beach length of about 191 Km or 90.5% of the length of the coast of Jambi Province. Located on the east coast of Sumatra Island, it is directly adjacent to the Riau Islands Province and is the area *Hinterland* of the Singapore-Batam-Johor (Sibajo) economic growth triangle.[22]

The establishment of East Tanjung Jabung Regency is certainly closely related to the establishment of the Office of the Ministry of Religion of East Tanjung Jabung Regency through KMA 381 of 2001. On July 23, 2001 regarding the establishment of the Ministry of Religion of Sarolangun Regency, Tebo Regency, Muaro Jambi Regency and East Tanjung Jabung Regency. The Office of the Ministry of Religion of the East Tanjung Jabung Regency started its activities in 2001 in the East Tanjung Jabung Regency as a division of the Office of the Ministry of Religion of the Tanjung Jabung Regency, established based on the Decree of the Minister of Religion of the Republic of Indonesia Number: 381 of 2001 concerning the Establishment of the Office of the Ministry of Religion of the Regency of Sarolangun, Tebo, Muara Jambi and Tanjung Jabung Timur with the first Head of Office held by Acting Drs. H. Sayuti Badar, who served from 2001 to 2002, then was held by Drs. H. Umar Mahmud, M.Pd from 2002 to 2011. [23]



Based on the Regulation of the Minister of Religion of the Republic of Indonesia Number: 1 of 2010 concerning Changes in the Designation of the Ministry of Religion to the Ministry of Religion, following the change, the Office of the Ministry of Religion of East Tanjung Jabung Regency, hereinafter referred to as the Office of the Ministry of Religion of East Tanjung Jabung Regency, is currently held by Dr. H. Jamrizal, M.Pd.[24] The Office of the Ministry of Religion of East Tanjung Jabung Regency as a Government Agency is expected to unite all religious life, carry out monitoring activities for people with different religions, ethnicities, cultures and social classes, improve performance in providing excellent services, especially in the religious field to the community, and strive to in improving the quality of religious education and quality religious education. With the heterogeneity of the people of East Tanjung Jabung Regency, the religions adopted are also diverse, but with this heterogeneity, harmonious and harmonious religious life is still created.

The Indonesian Waqf Board (BWI) is a Non-Structural Government Institution established based on Law Number 41 of 2004 concerning waqf whose implementation is regulated in Government Regulation Number 42 of 2006 concerning the Implementation of Law Number 41 of 2004 concerning waqf. BWI has a strategic role, namely managing waqf land to realize justice and community welfare.[25] Advancing the general welfare and the intellectual life of the nation is a constitutional mandate that must be realized by the state and government. However, after more than half a century of Indonesia's independence, the problem of the welfare and quality of the Indonesian nation's human resources is still a social problem that is difficult to solve. The relatively fast rate of population growth in the last three decades, which cannot be matched by adequate economic growth, has created problems of its own. The large number of poor people, the high unemployment rate and the low quality of human resources are increasingly becoming a social burden for this nation.

The regulatory system for the management of waqf property is one of the important aspects in the development of a new paradigm of waqf in Indonesia, especially in Tanjung Jabung Timur Regency, Jambi Province. If the old waqf paradigm has emphasized the importance of preservation and immortality of waqf objects, in the development of the new waqf paradigm, more emphasis is placed on aspects of utilization that are more tangible without losing the existence of the waqf object itself. To improve and develop aspects of its usefulness, of course, a very important role is the regulatory system for managing waqf assets that is applied. There is a thought to move the wheels of the economy through the addition of funds from outside the state system through productive development of waqf. Implementing waqf is part of empowering the community's economic assets in waqf assets. Therefore, waqf assets must be managed productively in order to generate opportunities for the opening of profitable strategic sectors, such as opening new jobs and managing public services that ease the economic burden of the community.



By waqf, it means that someone has transferred assets from consumption efforts to reproduction and investment in the form of productive capital that can produce and produce something that can be consumed in the future, both by individuals and groups. Thus waqf is an activity of saving and investing simultaneously. This activity includes activities to hold assets that may be used by the wakif either directly or after turning into consumer goods, so that they are not consumed at this time, and at the same time he has changed the management of assets into investments aimed at increasing the amount of productive assets.

Waqf produces services and benefits, such as a place for prayer in the form of a mosque, the benefit of a sick bed in a hospital or a seat for student learning activities at school. This waqf can also produce other goods or services that can be sold to users and the net proceeds are distributed according to the purpose of the waqf. The formation of waqf is similar to the formation of an economic foundation that has an eternal form if it is an eternal waqf, or has a temporary form if it is a temporary waqf. Therefore, waqf is an activity that contains elements of future investment and developing productive assets for future generations in accordance with the purpose of waqf, in the form of benefits, services and utilization of the results. The waqf becomes shares, and parts or units of investment funds. The System *wadiah* for the purpose of investing in Islamic banks is the most important form of modern waqf, because waqf like this can give an idea of the truth of the economic dimension of Islamic waqf.

Thus economically, through waqf will build productive assets through investment and production activities at this time, to be utilized for the results for future generations. Waqf also sacrifices current interests for consumption in order to achieve the development of socially oriented productive assets, and the results will also be shared by the community. It must be acknowledged that the current regulatory system for managing waqf assets is a pattern of regulation of waqf property management which is still considered traditional-consumptive. This can be known through several aspects: Leadership. The style of leadership in institutions is *Nazir* still centralistic-authoritarian (paternalistic) and there is no adequate control system. Recruitment of human resources (HR) *tonadzir's*.

Many *nadzira* waqfare only based on: First, officers from the local Religious Affairs Office, namely Assistant Marriage Registration officers (P3N) so that one *nadzir* is appointed as *nadzir* in several waqf lands, two aspects of character such as ulama, kyai, *ustadz* and others, not aspects professionalism or management ability. So many waqf objects are not well managed or managed. Operationalization of empowerment. The pattern used is more of a system that is not clear (does not have operational standards) due to weak human resources, vision and mission of empowerment, government support that has not been maximized. Result utilization pattern. In carrying out efforts to utilize the results of waqf there are still many that are consumptive-static



so that the benefits are not felt by many people. Control and accountability system. As a risk from a centralized leadership pattern and weak operationalization of empowerment, this results in a weak control system, both institutional, business development and financial. In Law No. 41 of 2004 concerning waqf and PP. 42 of 2006 concerning the implementation of Law no. 41 of 2004 concerning waqf, and PP. No. 25 of 2018 concerning changes to PP. No. 42 of 2006 made waqf as an instrument for the welfare of the Muslim community. The word "prosperity", can be interpreted as the efforts of the parties (especially waqf managers) to improve the quality of life of Muslims through the utilization of waqf objects. Therefore, the approach used is not only an economic approach but also a business approach. A business can be firmly established if it is supported by strong human resources and good management.

Law Number 41 of 2004 concerning Waqf was established, there are several reasons as explained in the explanation section of the following law:[26] First, to promote public welfare. To achieve that goal. The potential contained in religious institutions that have economic benefits needs to be explored and developed. Among the steps that are considered strategic to improve public welfare are increasing the role of waqf as a religious institution which initially only functioned as a means of worship and social, to become an institution that has economic power which is believed to be able to advance public welfare. Therefore, exploring the potential of waqf and developing its utilization in accordance with sharia principles is a necessity.

Second, the current practice of waqf in the community has not been fully and efficiently run. One of the proofs is that among the waqf assets are not well maintained, neglected, and even turned into the hands of third parties in a way that is against the law. Abandonment and transfer of waqf objects to third parties occur due to: 1) negligence or inability *nadzir* to manage and develop waqf assets; 2) the attitude of the people who do not care or do not understand the status of waqf property which should be protected as a medium to achieve general welfare in accordance with the purpose, function and designation of waqf.

## Conclusion

The regulation on the management of waqf assets shows that the regulatory system for managing waqf assets that has been running so far is a pattern of regulation of waqf property management which is still considered traditional-consumptive. This can be known through several aspects: a). Leadership, b). Recruitment of human resources (HR) to *Nadzir* , c) Operationalization of empowerment, d) Patterns of utilization of results, and e). Control and accountability system. Constraints faced in the regulation of waqf property in Tanjung Jabung Timur Regency include: Management and utilization of land or waqf assets are not regulated completely, as a result the ongoing waqf practice is due to lack of knowledge and understanding of Stakeholders on Waqf Regulations, Changes in waqf land that are not in accordance with waqf regulations,



management and administration of waqf assets are not yet orderly, there are still many *nadzir* unprofessional, changes in waqf land that are not in accordance with waqf regulations and waqf disputes. Efforts *Stakeholder* in implementing regulations on waqf property management in Tanjung Jabung Timur Regency include: Efforts to improve knowledge, understanding, implementation of duties and responsibilities in accordance with their duties and responsibilities in accordance with the authority of *stakeholders*, it is necessary to socialize waqf regulations, Guidance and supervision of the Government against Nazir and Wakif, Building synergy between *stakeholders* Waqf, and Supervision involving the government and the community.

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[1] Postgraduate student at UIN Sultan Thaha Saifuddin Jambi

[2] Lecturer at UIN Sultan Thaha Saifuddin Jambi

[3] Lecturer at UIN Sultan Thaha Saifuddin Jambi

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