



Maladministration of the Determination of State Property Derived from Waqf Land

Reza Fahlevi¹; Yanis Rinaldi²; Sulaiman²

¹ Master of Notary, Law Faculty, Syiah Kuala University, Aceh, Indonesia

² Law Faculty, Syiah Kuala University, Aceh, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v8i2.2534>

Abstract

Government Regulation No. 6 of 2006 concerning The Management of State and Regional Property states that, state-owned goods are all goods purchased or obtained at the expense of the State Budget or derived from other legitimate acquisitions. But in reality the legal problems that occur, waqf land is made BMN (State Property) as a state asset, which this land is clearly under the control of the Ministry of Religion that has been inventoried. The results of the research showed, The process of administrating waqf land into state-owned goods/assets that, to be used as BMN on waqf land can be seen from administrative requirements, administrative requirements to apply for permission to change one waqf land to the Ministry of Religious Affairs that has been fulfilled to kua among others.

Keywords: *Maladministration; Determination of State Property; Waqf Land*

Introduction

The Government of Indonesia has provided extensive support for the development of waqf in the country. As one of the tangible manifestations of efforts to manage waqf land is to have drafted and passed Law No. 41 of 2004 on Waqf (hereinafter referred to as the Waqf Law) and Government Regulation of the Republic of Indonesia Number 42 of 2006 concerning the Implementation of Law No. 41 of 2004 on Waqf (PP Wakaf).¹ This is in accordance with the philosophy of waqf contained in the Waqf Law, namely:

1. "That waqf institutions as religious institutions that have potential and economic benefits need to be managed effectively and efficiently for the benefit of worship and to advance the general welfare,
2. That waqf is a long-lived legal act and implemented in the community, whose arrangements are incomplete and still spread in various laws and regulations".²

¹ Muhammad Alfin Syauqi, "Optimalisasi Pengelolaan Wakaf Uang Untuk Kesejahteraan Umum", *Kanun Jurnal Ilmu Hukum*, No. 63, Th. XVI, Agustus 2014, hlm. 370.

² Konsiderans menimbang a dan b Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf

Waqf land assets have enormous potential and are very important to meet various needs of community interests, such as religious, social and economic interests, so that the issue of waqf ownership and buildings on it needs to be regulated and managed.³

Basically waqf goods can not be sold or given to others for free, thus eliminating the benefits of waqf and can not be inherited when the waqf dies. However, if the goods are damaged and the benefits cannot be returned, then the waqf goods are replaced with the same waqf goods as the original waqf goods. It is based on the maintenance of mashlahat (keeping the meaning of syara', i.e. benefiting and avoiding things that are detrimental).⁴ It has been affirmed in Article 40 of the Waqf Law which states that waqf objects are prohibited to be used as collateral, confiscated, given, sold, bequeathed, exchanged, or transferred in the form of transfer of other rights.

Waqf has the potential to play a role in the socioeconomic life of today and in the future. If handled well and professionally. This phenomenon raises some legal problems related to the use of waqf that are not in line with the government's efforts in improving religious life. The existence of waqf is proven to have a great influence on the development of Islamic da'wah, both in Indonesia and in other countries.⁵

Based on this, the central government and local government must be able to manage the country's wealth optimally and professionally, so as to support the best implementation of government tasks in the country. public services, namely the rules governing the management of state wealth is Law No. 1 of 2004 on state maintenance and Government Regulation No. 6 of 2006 and has been amended by Government Regulation No. 7 of 2014 on The Management of State Property.⁶

Various facilities and infrastructures including those in the form of State Property (BMN) are provided through the mechanism of procurement of goods and services and other mechanisms in accordance with Chapter (1) Of General Provisions Article (1) PP No. 6 of 2006 concerning Management of State and Regional Property which reads as follows:

- a) "State property is all goods purchased or obtained at the expense of the State Budget or derived from other legitimate acquisitions;
- b) Regional property is all goods purchased or obtained at the expense of APBD or derived from other legitimate acquisitions".

Regional heritage management is part of regional financial management. In addition, regional ownership is an important element in the administration and public services to the community. Thus, good management of regional assets will reflect good regional financial management. Of course, the management of regional heritage must be done correctly.

BMN in a juridical sense is all goods obtained on the burden of state budget or other legitimate acquisitions such as grants, provisions of agreements / contracts, laws and regulations, as well as court rulings that have a permanent legal force. State Property is reported by the central government in the balance sheet of the Central Government Financial Report. State Property can be in the form of land, buildings and buildings, equipment and machinery, roads, irrigation and networks, construction in workmanship (KDP), and other assets.⁷

³ Agus Triyanta dan Mukmin Zakie, "Problematika Pengelolaan Tanah Wakaf: Konsep Klasik dan Keterbatasan Inovasi Pemanfaatannya di Indonesia", *Jurnal Hukum IUS QUIA IUSTUM*, Vol. 21, No. 4 Oktober 2014, hlm. 5.

⁴ Akhmad Sirojudin Munir, "Optimalisasi Pemberdayaan Wakaf Secara Produktif", *Jurnal Ummul Qura*, Vol. VI, No. 2, September 2015, hlm. 100.

⁵ Mukharomah, *Analisis Hukum Terhadap Perubahan Peruntukan Harta Benda Wakaf*, pada Fakultas Syari'ah Dan Hukum Universitas Islam Negeri Walisongo Semarang 2017, diakses pada <http://eprints.walisongo.ac.id/7700/1/122111099.pdf>, tanggal 3 Maret 2020

⁶ Rozalinda, *Manajemen Wakaf Produktif*, Rajawali Pers, Jakarta, 2015, hlm. 17

⁷ Teguh alkhawarizmi, Tanah Wakaf dalam Perspektif Akutansi BMN :Tinjauan Yuridis di internet pada tanggal 5 maret 2018 dari situs : www.teguhalkhawarizmi.wordpress.com

The legal issue, waqf land handed over to the ministry of religion, was taken over by the central government from its benefits and legal status. The legal basis above has explained that the BMN assets are purchases of land, but not making waqf land into BMN land by means of administration and acquisition that is not fundamental.

In the practice of organizing waqf land, before it is regulated by the National Agrarian Law, the implementation is very simple, which is more colored by a sense of trust and fulfillment of certain elements and conditions according to one teaching. Islamic law. . This was promised ahead of nadzir and witnessed by some witnesses that it was considered the completion of the waqf implementation. As a result there is often no administrative effort or only up to the recording of the village, not up to the authority in the field of land.

As for the implementation of the central and local governments still make mistakes in administrating and inventorying assets of State Property whose rights are still owned by individuals, legal entities. Related to the above discussion, there are several cases that occur in the implementation of waqf land administration:

First, the case in 1991 of the Bireuen District Islamic Education Foundation lent waqf land and buildings belonging to the foundation and buildings to the Office of the Ministry of Religious Affairs of Bireuen Regency to be used as a place for school learning/teaching activities as evidenced by the certificate of loan agreement No. 43/YPI/1991 dated March 4, 1991 and signed by the parties (Tgk. H. Affan and H. Muhammad Ali Ishak) as well as witnesses Drs. Mahyiddin Usman and Jusuf Bin Buleun and Camat Jeumpa (Drs. Ridwan AR) proof of the loan.

Reinforced again by the news of the handover of Land / Building by Tgk.M. Asyek Syam representing YPI (Yayasan Pendidikan Islam) Bireuen to H. Muhammad Ali Ishak as Head of The Office of the Ministry of Religious Affairs Of North Aceh dated November 1, 1993, but in 2008 it was known that the waqf land was inventoried into State Property by the Office of the Ministry of Religious Affairs of Bireuen Regency and registered and verified by the Office of State Wealth Services and Auctions (KPKNL) A letter from the Director General of State Wealth (DJKN) of Aceh Province stated that based on the Circular Letter of DJKN No. 10 of 2009 number 3 mentioned that waqf land is not a State Property.

In this case, the YPI is constrained in the management of the waqf land certificate and the absence of good faith from the Office of the Ministry of Religious Affairs Kab. Bireuen to release the waqf land from the inventory of State Property, then in 2016 the Islamic Education Foundation sued the court to the cassation level with a decision number 46 K / Ag / 2018 amar the decision rejected the application for cassation from the applicants of cassation, namely:

1. Ministry of Religious Affairs of Aceh Province. Head of the Bireuen District Ministry of Religious Affairs.
2. Head of Bireuen State Tsanawiyah Madrasah in Bireuen Islamic Education School Foundation Building Complex.

Second, another waqf land dispute, 24,000 m² in Adisana Village, Bumiayu Subdistrict, Brebes Regency, was finally handled by the police. The land dispute between Yayasan Al Kautzar Bumiayu and Muhammadiyah Cabang Bumiayu began in 2001 and then to tika Muhammadiyah Bumiayu Branch received a letter of waqf pledge from doctor Lisa Maulida (25), a citizen from Bumiayu who lives in Bekasi. In the letter, Lisa entrusted the land of Property No. 229 covering an area of 12,000 m² in Adisana Village to Muhammadiyah Bumiayu Branch. Efforts to certify the division of land turned out to be obstacles in the National Land Agency (BPN) Brebes. In a grand lecture in Bumiayu which was attended by the central manager of Muhammadiyah Dien Syamsudin in mid-2002, Lisa then gave the entire waqf land to Muhammadiyah. After a few months, berdilah Pondok Pesantren Al Kautzar belonged to Muhammadiyah on the land.

Through the organization meeting, the Chairman of Muhammadiyah Branch then authorized H Abdul Khodir to manage the cottage. In further developments, muhammadiyah management assessed, Khodir has exceeded the authority. He who founded Al Kautsar Foundation claims to be the owner of pesantren. For this, Muhammadiyah issued a warning letter. In the last six months, Muhammadiyah has issued three warning letters. However, until the third time Abdul Khodir did not respond to the warning. You know, Abdul Khodir has reported the case to the police.

Third, the case that occurred in DKI Jakarta in 2012, in this dispute the Government of DKI Jakarta claimed the land waqf H. Murthada area of 158 m² which was for the funeral of the family and heirs of Alm. H. Murthada has been diinventarisir become state property by the Government of DKI Jakarta and now on the land has been covered pasebeban village office while the ownership of waqf land has been recognized by the Ministry of Religion through Letter No. WJ/2F/BA.03.2/6731/1991 dated November 4, 1991 and also recorded in the Regional Office of BPN DKI Jakarta No. 1242/11-31.300/V/2012 on May 2, 2012 which is recorded as waqf land.

As a result of this maladministration is the management of the waqf land certificate and the absence of good faith from the Ministry of Religious Affairs office to release the waqf land from bmn inventory, because from the beginning of this waqf land is included in the government inventory in this case is the Minister of Religious Affairs as a user of goods, which is basically waqf land and this building is only borrowed and evidenced by a letter of agreement between nadzhir YPI (Islamic Education Foundation) and Kemenag Kab. Bireuen so that there is maladministration abuse authority over the use of waqf land.

Legal problems that occur, waqf land made BMN (State Property) as their asset, which this land is clearly under the control of the ministry of religion as a user of goods to be allocated such as, places of worship, schools, etc. However, based on the utilization of waqafnya land it has become BMN as a whole. Therefore, it is clear that the problem described is contrary to the provisions of Article 40 of the Waqaf Law which is prohibited to be transferred functionally, and BMN assets are also obtained from the State Budget or APBD not from waqaf.

The issue of this norm is clearly stipulated in the legislation, but the practice of applying this norm is still an aberration related to maladministration of waqaf land. So, this deviation is done by the government in the management of waqaf land assets that are used as BMN.

From the explanation of the above case has triggered conflict and maladministration of public services on administrative arrangements and management of waqf land between local governments / government agencies and the central government with the community because it will have an impact on material and immaterial losses for holders of legal rights and waqf management of land and buildings that are made state property. Based on this description can be formulated the main problem, namely, how is the process of administrating waqf land into state-owned goods / assets.

Research Method

The type of approach method of juridical approach is normative and empirical. This study uses primary and secondary legal materials by conducting literature studies, interviews and discussions conducted related to this study. Data is collected through field research and literature research. Data analyzed by qualitative analysis.⁸

⁸ Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, Kencana Pranada Media Group: Jakarta, 2008, hlm. 158.

Result and Discussion

1. Waqf Land Process So State-Owned Goods/Assets

Administrative waqf arrangements were initiated by the Dutch Colonial government in 1905. Furthermore, several times there were improvements and changes due to objections raised by Muslims. After Indonesia's independence accompanied by the establishment of the Ministry of Religion in 1946, waqf became the authority of the Ministry of Religion based on Government Regulation No. 9 of 1949 jo. Government Regulation No. 9 and 10 of 1952.⁹

Nadzir waqf in Bireun Regency is generally an institution or legal entity. There are some nazhir who consider that the waqf property has become his, because it has been handed over by wakif. They do not understand that nazhir waqf is only as the manager of waqf, not as the owner, and its ownership is public/public in general. This understanding also has the potential to turn waqf property into grants. Although there is a difference between waqf and grants, waqf recipients are not the owners of waqf, but only as managers. The granting of waqf is a freezing of assets belonging to Allah Almighty, who is out of ownership from wakif, nazhir and other parties. As for grants, the grantee is the owner of the grant. Not a few waqf property, especially managed by the group has switched its ownership to the heirs nazhir.

The management of waqf by nazhir is also unprofessional, so many waqf property that can actually be developed such as vacant land around mosques / mosques, madrasas, are not utilized. If used properly, waqf property can be developed and can be empowered economically for the construction of mosques, mosques and educational institutions. Precisely what happens is that the nazhir burden the surrounding community to participate in financing virgin mosques / mosques or educational institutions. No matter how small the waqf land is left empty, and some are even used as illegal landfills.

The low administration of waqf property because the public does not understand the regulation of clairvoyance. Including religious figures who are the managers of waqf also do not understand the provisions of waqf as stipulated in the law. Waqf is considered the reason for the religious advice that will be the charity jariyah (goodness flows continuously), without understanding how the provision for the waqf is really a charity jariyah. Waqf is synonymous with charity jariyah. Waqf property issued, as long as the object is used for the benefit of good, so long as the waqf is rewarded continuously even though he has died. Waqf will not be valid as a charity unless the owner declares the assets he owns to be a public asset and he freezes them. Waqf will also not be worth jariyah charity until it is actually utilized productively so that it develops or is useful without depleting the principal assets of waqf.

According to the Head of Kua Bireun Regency and Officials of the Office of the Ministry of Religious Affairs of Pekalongan Regency, socialization programs, coaching of nazhir and sertifikasi waqf actually exist in the Office of the Ministry of Religion and KUA, but because of budget and human resources limitations, can not reach all nazhir waqf let alone the general public. Even according to MB, head of Bireun District Kua, KUA has difficulty auditing waqf property in Bireun Regency due to the limited number of human resources in KUA as well as the absence of reports on the state of waqf property by nazhir.¹⁰

Obstacles in the administration of waqf property due to the socialization of waqf regulation that is very lacking and the small budget sertifikasi owned by kua and kemenag. Socialization of waqf regulation that still has less impact on the accountability of waqf management, and makes nazhir do not understand waqf procedures, ranging from registration, management of certificates to the development of

⁹ Achmad Irwan Hamzani, Kontekstualitas Hukum Islam di Indonesia (Studi terhadap Hukum Wakaf), *Jurnal Masalah-masalah Hukum*, Jilid 43, No. 3, Juli 2014, hlm. 342.

¹⁰ The results of the interview with Ombudman Aceh, the results of the interview, on October 19, 2020.

waqf property. The lack of state budget costs for waqf sertipikasi makes nazhir less interested in legalizing waqf property that it manages. In fact, the sertipikasi waqf is very important. There is still a lot of waqf land that has not been identified, showing that the accountability of regulators in improving waqf sertipikasi is still lacking. It also shows that the performance of regulators in helping the community to sertipikasi waqf is still not optimal. Meanwhile, the main work program of the regulator is that all waqf assets have been identified, so that the problems of transfer of waqf assets by wakif heirs can be reduced.

In order for waqf property to be administrated accountable, it is necessary to hold socialization, sertipikasi financing, coaching and even mentoring to wakif and nazhir. The implementation of waqf is also in accordance with the provisions of sharia and legislation, so that the concept of jariyah charity (goodness flows continuously) attached to the waqf is fulfilled because as a legally protected public asset. If the waqf property has switched from ownership or benefit, then jariyah charity in waqf is also not achieved.

2. The Process of Administrating Waqf Land into State-Owned Goods/Assets

The activity of waqf land has actually been valid shortly after the person who mewakafkan (wakif) finishes saying the waqf pledge to the person in charge of managing waqf land (nadzir) in front of the Waqf Pledge Deed Official (PPAIW) at the Office of Religious Affairs and witnessed by two witnesses. So with the fulfillment of the pillars of waqf, the granting of waqf has been valid according to Islamic law, but for administrative affairs and land law its validity is not perfect, meaning it can not get certainty and legal protection if the waqf is not until the issuance of the Waqf Pledge Act by the Office of the Waqf Pledge Deed (PPAIW) at the local Religious Affairs Office and the waqf land certificate by the Land Office.¹¹

According to the results of the interview, the implementation of the land in Bireun District at that time was only done orally witnessed by community leaders and village devices, wakif itself mewakafkan land owned with the sole purpose of worship because of Allah SWT, where the land iswakafkan for the benefit of the community, especially being a place of learning and teaching process.¹²

The submission of waqf land conducted by waqf givers (wakif) to waqf recipients (nadzir) by oral means causes the absence of legal recognition of the status of waqf as stipulated in Article 69 paragraph (2) of Law No. 41 of 2004 concerning Waqf, that waqf property is not only sufficient by oral, but must be registered with the Waqf Pledge Deed Official (PPAIW). Nadzir as the party in charge of maintaining and managing waqf has an important position in the waqf. So important is the position of nadzir in the waqf, so that the functioning of waqf objects depends on the nadzir itself. Therefore, as an important instrument inwakafkan, nadzir must meet the possible conditions, so that waqf can be empowered as it should be.

Nadzir has the main obligation to manage and maintain the goods that arewakafkan. Because, neglecting the management and maintenance will result in damage and destruction of waqf objects. The fuqoha agree on this, because it is a responsibility of a nadzir to God covering the whole tanggung responsibility, whether he as a person who gives waqf objects (wakif) that must be carried out with sincerity alone because of God, as nadzir what is his responsibility must be carried out in earnest, qualified professionals and based on honesty and sincere intentions.

The transfer of waqf land into state property Kab. Bireun is backgrounded, the lack of supervision and management of waqf land from nadzir, witnesses and YPI so that the land in waqfkan is fully controlled and inventoried into BMN.

¹¹ The results of the interview with Ombudsmen Aceh, the results of the interview, on October 19, 2020.

¹² The results of an interview with the Ministry of Religious Affairs of Banda Aceh, dated October 20, 2020.

Land that has been waqfkan resulted in the land is institutionalized forever and can not be changed provisions to other parties, either through means of buying and selling, grants, exchanges, and others unless there are legal reasons that allow it. In Islamic law waqf that deviates from the purpose of waqf the act is not allowed.

According to the results of the interview, there are 3 (three) reasons for banning the transfer of waqf land, namely: First, once the land is converted then it cannot be changed, can not be sold, can not be done, can not be inherited or transferred in any way. Second, waqf land and property are donated forever. Third, waqf sumbagan can not be canceled. When a property is waqf then wâqif or its descendants should not exchange ideas to withdraw the waqf.¹³

In Islamic Law basically the change in waqf status is not allowed, unless the waqf cannot be re-utilized in accordance with the purpose of waqf, then the change can be made to the waqf in question. If the management is contrary to the functions and objectives of waqf, then it is not allowed.

In the legislation on waqf in Indonesia against objects that have been wakafkan can not be done transition, change, both the allocation and status. Article 225 of Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law states that objects that have been waqf cannot be changed or other uses than those referred to in the waqf pledge. Deviations from the provisions can only be done on certain matters after first obtaining written approval from the Head of the Office of Religious Affairs of the Sub-District based on the advice of the District Ulema Council and the local sub-district on the grounds of:

- a. Because it is no longer in accordance with the purpose of waqf as pledged by wakif.
- b. Because it's in the public interest.

Thus, the change or transfer of waqf objects in the legislation in Indonesia is prohibited, but as long as it meets certain conditions and by submitting the reasons as determined by the applicable legislation still provides the opportunity to allow changes and or transfer of waqf property, even though lengthy procedures and processes.

The problem of waqf property in general is a complicated thing, in addition to waqf property that can sometimes cause problems in the community. Therefore the validity of a waqf should be based on:¹⁴

- a. The object that is wakafkan can be traded and allows its use in a lasting manner without experiencing damage to the object. Waqf can be in the form of fixed or moving objects.
- b. Waqf should be intended for good such as places of worship, public interest, poor people, bridges and so on.
- c. Waqf should be handed over to the person who has the right to own something or so-called haqq al-tamalluk.
Waqf should be done directly without being suspended to a condition such as a statement, if I have died.

3. Analysis of Administration of Waqf Land into State-Owned Goods/Assets

According to the results of the interview, the waqf land in Bireun Regency has been a gift from local residents to the Bireuen District Islamic Education Foundation to be managed. Then this waqf land is loaned to the Ministry of Religion to use for the process of learning and teaching in masdrasah.¹⁵ This

¹³ The results of an interview with the Ministry of Religious Affairs of Banda Aceh, dated October 20, 2020.

¹⁴ The results of an interview with the Ministry of Religious Affairs of Banda Aceh, dated October 20, 2020.

¹⁵ The results of an interview with the Ministry of Religious Affairs of Banda Aceh, dated October 20, 2020.

agreement was implemented with a certificate of loan agreement No. 43/YPI/1991 dated March 4, 1991 and signed by the parties (Tgk. H. Affan and H. Muhammad Ali Ishak) as well as witnesses Drs. Mahyiddin Usman and Jusuf Bin Buleun and Camat Jeumpa (Drs. Ridwan AR) proof of the loan.¹⁶

This agreement is also strengthened by the evidence of the news of the handover of Land / Buildings by Tgk.M. Asyek Syam represented YPI (Yayasan Pendidikan Islam) Bireuen to H. Muhammad Ali Ishak as head of the Office of the Ministry of Religious Affairs of North Aceh District dated November 1, 1993, but in 2008 it was known that the waqf land was inventoried into State Property by the Office of the Ministry of Religious Affairs of Bireuen Regency and registered and verified by the Office of The Ministry of State Wealth and Auctions (KPKNL) Lhokseumawe. A letter from the Director General of State Wealth (DJKN) of Aceh Province stated that based on the Circular Letter of DJKN No. 10 of 2009 number 3 mentioned that waqf land is not a State Property.¹⁷

In the content of this agreement, the Ministry of Religious Affairs only has the right to use with a certain time limit, along with the passage of time the management of this land is off the supervision of the YPI to manage the land as a legal body as a waqf recipient.

After running for 17 years, the ministry of religion consolidated this waqf land on the basis that, this waqf land was obtained from the agreement of granting use by YPI forever. Therefore, it becomes a BMN asset.

Thus, BMN assets obtained have violated the administration stipulated in the legislation. On this basis, the YPI has reported this matter to Ombudsman to follow up the maladministration of bmn asset inventory of the Ministry of Religious Affairs for the return of the asset to the waqf land rights back to YPI.¹⁸

According to the theory of supervision, this administrative process should serve to supervise the implementation of waqf land in Biereun District, namely,¹⁹

- a. Knowing the process of granting waqf land to YPI to have run in accordance with the benefits plan at the time of its pledge.
- b. Knowing the process of waqf land administration in accordance with the instructions.
- c. Knowing the process of waqf land administration has been running efficiently.
- d. Know the difficulties and weaknesses in the process of waqf land administration.
- e. find a way out if there are difficulties, weaknesses or failures towards the improvement of the waqf land administration process.

From the explanation above, it has been explained that the process of waqf land administration must have supervision to avoid the occurrence of maladministration either in the form of providing benefits to institutions or other entities with agreements without claiming that it becomes a BMN asset.²⁰

To make changes to waqf land in Bireun District, the author argues that there are aspects that must be considered, namely productive aspects and legal aspects. Productive aspects include economic, beneficial and social value. While the legal aspects include administrative terms and applicable provisions.

¹⁶ The results of an interview with the Ministry of Religious Affairs of Banda Aceh, dated October 20, 2020.

¹⁷ The results of the interview with Ombudsman Aceh, the results of the interview, on October 19, 2020.

¹⁸ The results of an interview with the Ministry of Religious Affairs of Banda Aceh, dated October 20, 2020.

¹⁹ The results of an interview with the Ministry of Religious Affairs of Banda Aceh, dated October 20, 2020.

²⁰ The results of an interview with the Ministry of Religious Affairs of Banda Aceh, dated October 20, 2020.

To be used as BMN on waqf land can be seen from administrative requirements, administrative requirements to apply for permission to change one waqf land to the Ministry of Religion that has been fulfilled to kua including:²¹

- a. Certificate and/or deed of Waqf Pledge (AIW) of waqf land.
- b. Letter of submission nadzir to exchange waqf property that has been signed by all members of nadzir and two witnesses.

The method of settlement of waqf disputes used is, deliberation with the settlement of disputes from the parties involved in the dispute, which begins with listening to the complaints of the parties who feel harmed, then answered by the other party that causes the waqf dispute to occur.²² After the parties heard from each other and responded to the complaints, they did not find a resolution by agreement until the YPI made a report to Ombudsman.

Conclusion

The process of administrating waqf land into state-owned goods/assets obtained has violated the administration stipulated in the laws and regulations. On this basis, the YPI has reported this matter to Ombudsman to follow up the maladministration of bmn asset inventory of the Ministry of Religious Affairs for the return of the asset to the waqf land rights back to YPI. It is expected to the Ministry of Religious Affairs in inventorying State Property (BMN) obtained from waqf land can avoid or see the provisions of the prevailing laws and regulations related to objects that become BMN assets, so that the waqf land provided by the wakifnya in accordance with what has been intended at the time of the waqf pledge.

References

Books

- M. Yusuf, *Langkah Pengelolaan Aset Daerah Menuju Pengelolaan Keuangan Daerah Terbaik*, Salemba Empa: Jakarta, 2010.
- Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, Kencana Pranada Media Group: Jakarta, 2008.
- Rozalinda, *Manajemen Wakaf Produktif*, Rajawali Pers: Jakarta, 2015.

Journals

- Achmad Irwan Hamzani, Kontekstualitas Hukum Islam di Indonesia (Studi terhadap Hukum Wakaf), *Jurnal Masalah-masalah Hukum*, Jilid 43, No. 3, Juli 2014.
- Islamiyati, Ahmad Rofiq, Ro'fah Setyowati, Dewi Hendrawati, Implementasi Uu Wakaf Dalam Penyelesaian Sengketa Wakaf Di Wilayah Pesisir Jawa Tengah, *Masalah-Masalah Hukum*, Jilid 48, No. 4, Oktober 2019, hlm. 337.
- Muhammad Alfin Syauqi, "Optimalisasi Pengelolaan Wakaf Uang Untuk Kesejahteraan Umum", *Kanun Jurnal Ilmu Hukum*, No. 63, Th. XVI, Agustus 2014.
- Agus Triyanta dan Mukmin Zakie, "Problematika Pengelolaan Tanah Wakaf: Konsep Klasik dan Keterbatasan Inovasi Pemanfaatannya di Indonesia", *Jurnal Hukum IUS QUIA IUSTUM*, Vol. 21, No. 4, Oktober 2014.

²¹ The results of an interview with the Ministry of Religious Affairs of Banda Aceh, dated October 20, 2020.

²² Islamiyati, Ahmad Rofiq, Ro'fah Setyowati, Dewi Hendrawati, Implementasi Uu Wakaf Dalam Penyelesaian Sengketa Wakaf Di Wilayah Pesisir Jawa Tengah, *Jurnal Masalah-Masalah Hukum*, Jilid 48, No.4, Oktober 2019, hlm. 337.

Akhmad Sirojudin Munir, "Optimalisasi Pemberdayaan Wakaf Secara Produktif", *Jurnal Ummul Qura*, Vol. VI, No. 2, September 2015.

Interview

The results of the interview with Ombudsman Aceh, the results of the interview, on October 19, 2020.
The results of an interview with the Ministry of Religious Affairs of Banda Aceh, dated October 20, 2020.

Legislation

Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf
Undang-Undang Nomor 1 Tahun 2004 Tentang Perbendaharaan Negara
Undang-Undang Nomor 25 Tentang Pelayanan Publik
Undang-Undang Nomor 37 Tahun 2008 tentang Ombudsman Republik Indonesia
Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah
Peraturan Pemerintah Nomor 6 Tahun 2006 selanjutnya diubah menjadi Peraturan Pemerintah Nomor 7 Tahun 2014 Tentang Pengelolaan Barang Milik Negara
Peraturan Pemerintah Nomor 42 Tahun 2006 Tentang Wakaf
Peraturan Pemerintah Nomor 27 Tahun 2014 Tentang Pengelolaan Barang Milik Negara/Daerah Sekretariat Negara RI
Peraturan Menteri Keuangan RI Nomor 83/PMK.06/2016 Tentang Tata Cara Pelaksanaan Pemusnahan dan Penghapusan Barang Milik Negara
Surat Edaran Direktur Jenderal Kekayaan Negara Nomor :QE-IO/KN/2009 Tentang Petunjuk Pelaksanaan Inventarisasi Dan Penilaian Tanah Wakaf.

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).