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## LAW & SOCIAL POLICY | RESEARCH ARTICLE

# The Role of *Nadzir* in Resolving *Waqf* Land Disputes

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**Abstract:** This study aims to determine and analyze the factors that cause waqf land disputes and to know and analyze the role of nadzir in defending the land, in the event of a waqf land dispute. This study uses the empirical method or directly down to the field. The location of the research was carried out at the Luwu Grand Mosque, Palopo City and North Wara KUA. The types and sources of data used are primary data and secondary data with data collection techniques obtained through interviews and literature study. The number of samples as many as 3 people, namely a Nadzir, community leaders and the Head of KUA. The data obtained were processed by qualitative analysis with a deductive approach. The results showed that Nadzir's role in defending the land, in the event of a waqf land dispute, was to protect and supervise what was entrusted to him by representing the waqf land object when sued both inside and outside the court, showing evidence of land waqf, and seeking to resolve the dispute. by deliberation. The factors that cause waqf land disputes include the lack of good communication, the absence of a waqf pledge deed, the heirs suing the waqf land, the increasingly strategic location of the land, the land object does not have legal certainty, and the endowment with a deed below. hand. The research recommendation is nadzir in an effort to defend the land, if there is a dispute over waqf land, that is, play an active role in trying to make the problem resolved by deliberation. It is resolved by deliberation will be much more effective and the disputing parties do not feel disadvantaged but the parties will feel mutually won. There are also people in general who want to endow their land, they should educate themselves or seek information related to land waqf procedures to the authorized official before waqf of land. As well as in implementing the transfer of waqf from wakif to nadzir, the legal position of the nadzir when receiving the waqf land object must be clear.

**Keywords:** Role; Nadzir; Dispute; Waqf;

## 1. INTRODUCTION

Islam is a religion that carries out the mission of salvation in this world and the hereafter, welfare and inner and outer prosperity for all mankind by showing obedience, submission and submission to God, by carrying out all His commands and avoiding all His prohibitions. This kind of Islamic mission was carried by previous prophets, even though the name of the religion brought by the prophets before the Prophet Muhammad SAW was not Islam. The Islam brought by the Prophet Muhammad was broader than that brought by previous prophets. Moreover, previous prophets were only sent to their own people. The Prophet Muhammad was sent to all mankind. Therefore, the Islam he brought was broader and more comprehensive, it is not surprising that the Qur'an explains and shows everything to humans. "And We have sent down to you the Book as an explanation of everything." (An- Nahl: 89)

Islam has principles, vision, mission and goals in its teachings. The principles of Islamic teachings are values that are a view of life, guidelines and main guidelines in carrying out various activities that have a straight direction, meaning and goal, and at the same time have a different character from other activities that are not based on these principles. According to Anwar Harjono, as a universal religion, Islam has teachings that are able to face time, ethical and social problems, regardless of the existing situation and conditions (Zainuddin and Ilham Abbas, 2018).

In the matter of social rules and order, Islam has concrete, accommodative and applicable social rules and order, in order to regulate dynamic and prosperous human life. Among the social problems that are rife is the land issue. It seems that in the early days of Islam, the land tenure system had gone beyond the era where there was no permanent ownership or control of land. As Marx describes,



in the early era of civilization history there was no form of control or individual ownership, but everything became "common property" which could only be used for primary life needs. Only in the following eras, be it the era of feudalism or capitalism. Land becomes one of the "means of production", and therefore land begins to be "owned".

In the early days of Islamic history, land was generally controlled or owned by individuals or communities (tribes). Transfer of control or ownership of land can occur, among other things, due to war. This kind of tendency appears in the land distribution system as a consequence of the tradition of conquest in war. The tradition of dividing land as war compensation, called "khums" (QS. Al-Anfal/8:41), actually still adopts the tradition of tribal warfare. During the time of the prophet, this tradition was in effect, for example in the case of the division of the land of Khaibar. However, the provisions regarding special affairs contain provisions for the use of the public interest. Eventually, this tradition was slowly changed and even abolished altogether.

Caliph Umar ibn Khattab is a reformer figure in this context. Umar initially pioneered land "waqf" for public purposes. The land donated came from the division of the Khaibar land which then became his. He is noted to be the first person to carry out waqf in the Islamic tradition. When he later served as the top leader of the Islamic *Ummah* (*Amirul Mu'minin*). Umar issued a policy not to subdivide the lands controlled by Muslims from the war using a khums scheme, but the land was completely controlled by the "state" and managed by Baitul Mal. From Umar's two actions, we can see the direction of real change in terms of land control and management which is progressive in the Islamic tradition, and is still relevant to apply today. On the other hand, although Islam recognizes private ownership rights to land, in Umar's view land also has a social function. Waqfing his land to be used for public purposes is a strong and real precedent in implementing the view that land has a social function. Why waqf? Waqf is a form of a person's commitment as stated in a contract, to hand over assets, in this case land, to be used for public purposes. With a waqf agreement, control and use of land can no longer be transferred, either through sale and purchase, gift or inheritance. The waqf giver can determine what form the waqf land will be allocated to. In this case, the waqf made by Umar was intended to be used for the public interest. This can be in the form of building bases for religious and educational purposes or used for productive things, for example for agricultural production. Utilization of agricultural products on waqf land is permitted (Mohammad Shohibuddin, 2019).

Waqf is a form of worship that has a social function. However, the Qur'an does not clearly and unequivocally mention waqf, but experts are of the opinion that several verses are used as the basis for the practice of waqf (Muhammad David Ali, 1988). One way to spend things you like for good is through waqf. Because the rewards from waqf will continue to flow as long as the items donated are still being used by living people. This has been explained by the Prophet Muhammad that if shodaqoh is continuous (not finished with one use), then the reward will continue continuously even if the shodiq (the person who is committed to shodaqoh) has died (Depag RI. 2005).

In carrying out waqf, you must fulfill the elements of waqf as contained in Law Article 6 Number 41 of 2004 concerning Waqf (hereinafter referred to as the Waqf Law) as follows:

- Wakif;
- Nadzir;
- Waqf Assets;
- Waqf Pledge;
- Allocation of waqf assets;
- Waqf period.

As one of the elements of waqf is a nadzir, therefore nadzir occupies a very important position in the management and development of waqf assets. In waqf, the nadzir is the party who receives waqf assets from the wakif to be managed and developed according to their intended use. Law No. 41 of 2004 concerning waqf has regulated the issue of nadzir in very detail. This shows that nadzir has a significant position in the law. Apart from that, there is a strong impression that the existence of waqf and its empowerment is very dependent on the nadzir. Nadzir is also obliged to do everything appropriate to maintain and manage waqf assets. In Article 11 of Law no. 41 of 2004 Nadzir also has the following duties (Law no. 41 of 2004.):

- Administering waqf assets;

- Manage and develop waqf assets in accordance with their objectives, functions and designation;
- Supervise and protect waqf assets;
- Report the implementation of tasks to the Indonesian Waqf Board.

Even though Nadzir's duties and responsibilities have been regulated in such a way by the government, sometimes the assets that have been donated can cause problems in the future. Such as reducing the size of waqf land, changing the function of waqf not in accordance with its pledge, changing the status of waqf land to private, related to certification issues, as well as controlling the benefits of waqf land. One of the many waqf cases that occurred in Indonesia can also be observed in South Sulawesi, as is the case in Palopo City. The dispute over waqf land located around the Luwu Grand Mosque, Palopo City, began when the land owner donated the land to the Palopo City Government, but it became a dispute because the owner then donated the land and then appointed a nadzir who also witnessed the handover of the land as a grant to the Palopo City Government. Related to this, the author is interested in analyzing the problem of waqf land disputes, and understanding Nadzir's role in dealing with problems and the resolution process further in the form of a thesis.

The formulation of the problem of this research is what is the role of nadzir in defending land, if a waqf land dispute occurs? The aim of this research is to determine and analyze the factors that cause waqf land disputes. And the benefit of this research is that it is hoped that it will be useful for law enforcers and government officials, by contributing ideas and data or steps that can be used to resolve waqf land disputes.

## 2. Research Method and Materials

The author employs a unique empirical research method, often referred to as non-doctrinal legal research. This approach focuses on the reality of law in society, examining how law operates in real terms and investigating the practical application and function of law within the community—essentially, law in action. Unlike traditional doctrinal research, which primarily analyzes legal texts, cases, and statutes, empirical legal research is concerned with gathering data from the real world to understand how legal rules are applied and perceived in various social contexts. In this study, the author has selected research locations that are pertinent to the issues under investigation. Specifically, the research was conducted at the Grand Mosque of Luwu Palopo and the Office of Religious Affairs (KUA) in North Wara. These locations were chosen because they are directly relevant to the research problem. The Grand Mosque of Luwu Palopo is a significant religious site, and the KUA North Wara is a key institution in administering marriage and family law, both of which are central to the study's focus.

The data for this research is categorized into primary and secondary sources. Primary data is original data obtained directly from the source by the researcher. This type of data is collected through direct interactions, such as interviews, surveys, or observations within the community and from relevant legal entities. In this context, primary data may include firsthand accounts from individuals who interact with the law at these locations, insights from officials at the KUA, and observations of legal processes and practices at the Grand Mosque. Secondary data, on the other hand, is data that has already been collected by other researchers or institutions and is available from various sources. This can include books, journal articles, reports, legal documents, and other publications that provide context or background information relevant to the research topic. In this study, secondary data helps to supplement and support the primary data by offering a broader understanding of the legal framework and societal context.

Once collected, the data is analyzed qualitatively. This means that the data is examined in-depth, with the researcher looking for patterns, themes, and insights that help to answer the research questions. The qualitative analysis involves connecting the data to relevant legal theories and concepts, providing a comprehensive understanding of how law functions in practice within the studied locations. By doing so, the research aims to describe and illustrate the identified problems in a detailed and systematic manner.

The ultimate goal of this empirical legal research is to produce an integrated and systematic scientific work that not only explores the practical realities of law in the studied contexts but also contributes to the broader field of legal scholarship. By grounding the research in real-world data and connecting it to theoretical frameworks, the study provides valuable insights into the functioning and impact of law in

society, highlighting both the strengths and potential areas for improvement in legal practice and administration. This approach ensures that the findings are not only academically rigorous but also practically relevant, offering concrete recommendations for policymakers, legal practitioners, and scholars interested in the intersection of law and society.

### 3. Results and Discussion

Nadzir, as a person who is entrusted and entrusted by the wakif to manage the wakaf land, of course has more roles and responsibilities towards the wakaf land. This also includes when there is a dispute over the donated land. In Indonesia, there have been many cases of waqf land disputes with various causes. The resolution of waqf land dispute cases is regulated in Law No. 41 of 2004, which in essence is not much different from Government Regulation No. 28 of 1977, only that this Law provides alternative dispute resolution through deliberation, mediation, arbitration, and the final path through the courts (Abdul Rahman. 2017). In efforts to resolve it, the parties to the dispute mostly use non-litigation channels, namely deliberation and mediation. Nadzir, as the individual entrusted by the wakif to manage waqf land, carries significant roles and responsibilities, particularly in cases of disputes. In Indonesia, numerous cases of waqf land disputes arise from various causes. The resolution of such disputes is governed by Law No. 41 of 2004, which builds upon the principles set forth in Government Regulation No. 28 of 1977. This law introduces alternative dispute resolution mechanisms, including deliberation, mediation, and arbitration, providing a comprehensive framework for addressing conflicts. As a last resort, disputes can be taken to court. This legal structure ensures that nadzirs are equipped with multiple avenues to resolve disputes effectively, thereby safeguarding the integrity and intended use of waqf land. This is caused by (Dewi Hendrawari, 2018):

- The process is faster.
- Cheaper costs.
- It is informal and final.
- Confidentiality is guaranteed.
- Can maintain good relationships.
- There is freedom to choose a third party.
- Definite face-to-face implementation.
- Easier to make repairs
- Procedures for resolving disputes are regulated by the parties to the dispute.

The process of resolving disputes through alternative dispute resolution (ADR) methods offers numerous advantages over traditional litigation. These benefits are particularly relevant in the context of waqf land disputes, where maintaining relationships and achieving efficient resolutions are crucial. One of the primary advantages of ADR is the speed of the process. Traditional litigation can be lengthy, often taking years to reach a final decision due to court backlogs, procedural complexities, and the possibility of appeals. In contrast, ADR methods such as mediation and arbitration can be conducted relatively quickly. This expedited process is beneficial for all parties involved, as it reduces the period of uncertainty and allows them to move forward without prolonged legal battles. Cost is another significant factor where ADR holds an advantage. Litigation involves various expenses, including attorney fees, court costs, and other administrative charges that can accumulate over time. ADR, on the other hand, is generally less expensive. The streamlined nature of ADR procedures, combined with the reduced need for prolonged legal representation and court fees, makes it a more cost-effective option for dispute resolution. The informality and finality of ADR also contribute to its appeal. ADR processes are less formal than court proceedings, which can be intimidating and rigid. This informality allows parties to communicate more openly and comfortably, facilitating better understanding and cooperation. Furthermore, decisions reached through ADR, especially in arbitration, are typically final and binding, providing a definitive resolution without the lengthy appeal processes often associated with court judgments.

Confidentiality is another critical advantage of ADR. Court cases are public records, and the details of a dispute can become publicly accessible. ADR proceedings, however, are private and

confidential, ensuring that sensitive information remains undisclosed. This aspect is particularly important in business and personal disputes where confidentiality is paramount. Maintaining good relationships is often a key consideration in choosing ADR. Traditional litigation is adversarial by nature, which can strain or even sever relationships between parties. In contrast, ADR methods like mediation focus on collaboration and mutual agreement, helping to preserve and sometimes even improve relationships. This is particularly relevant in waqf land disputes, where ongoing relationships between parties can be crucial for future cooperation and community harmony. ADR also offers the freedom to choose a third party to facilitate the resolution process. Parties can select a mediator or arbitrator with specific expertise relevant to their dispute, ensuring that the third party is well-versed in the subject matter. This tailored selection can lead to more informed and effective resolutions.

The face-to-face implementation of ADR procedures allows for direct interaction between the parties. This direct engagement can foster better communication, reduce misunderstandings, and promote a more personal and empathetic approach to resolving the dispute. It contrasts with the often-impersonal nature of court proceedings, where interactions are more formal and indirect. Another advantage of ADR is the ease with which corrections or modifications can be made during the process. In mediation, for instance, parties can revisit and revise their agreements as needed until a mutually acceptable resolution is reached. This flexibility is less available in court proceedings, where decisions are more rigid and harder to alter once made. Finally, the procedures for resolving disputes through ADR are regulated by the parties themselves. This self-regulation allows for greater control and customization of the process to suit the specific needs and preferences of the disputing parties. They can agree on the rules, timelines, and other procedural aspects, creating a dispute resolution framework that is uniquely tailored to their situation. In conclusion, the advantages of ADR—speed, cost-effectiveness, informality, confidentiality, relationship preservation, freedom of choice in third-party selection, face-to-face implementation, procedural flexibility, and self-regulation—make it an attractive alternative to traditional litigation. These benefits are particularly pronounced in waqf land disputes, where maintaining relationships and achieving efficient, mutually agreeable resolutions are critical. By choosing ADR, parties can resolve their disputes in a manner that is both effective and conducive to ongoing cooperation and harmony.

In Indonesia, waqf land disputes are not uncommon, and one illustrative case can be found in South Sulawesi, specifically in Palopo City. This particular dispute involves waqf land located around the Luwu Grand Mosque in Palopo City. The controversy began when the original landowner donated the land to the Palopo City Government. Subsequently, the same landowner appointed a nadzir to manage the land and witnessed the handover of the land as a grant to the Palopo City Government (Sigit, 2016). This dual action—donating the land and then appointing a nadzir—became the source of contention.

However, when researchers conducted fieldwork, they uncovered additional facts that complicated the narrative. The Mayor of Palopo asserted that the Luwu Grand Mosque and the surrounding land were assets of the Palopo City Government. This claim was significant because the land in question also hosted an Integrated Islamic Elementary School. The history of this land adds layers to the dispute. Initially, the land was granted by the late Dr. Yahya to Andi Tendri Ajeng, who was a former Mayor of Palopo. Following this, Andi Tendri Ajeng handed over the land to Kyai H. Syarifuddin Daud MA, who served as the Chairman of the Luwu Grand Mosque Foundation in Palopo City.

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This case illustrates the complexity of waqf land disputes, where multiple stakeholders and historical transfers create a web of claims and counterclaims. The involvement of various parties, including the original landowner, the city government, and religious leaders, highlights the intricate nature of managing waqf properties. (Ishak, 2017) The nadzir's role becomes particularly pivotal in such scenarios, as they are responsible for overseeing the waqf land and ensuring it serves its intended purpose. In resolving such disputes, it is essential to refer to the legal framework provided by Indonesian law. Law No. 41 of 2004, which governs waqf, offers mechanisms for dispute resolution that are aimed at avoiding protracted conflicts. This law builds on principles set forth in Government Regulation No. 28 of 1977, providing structured avenues such as deliberation, mediation, and arbitration, before resorting to court proceedings. These mechanisms are designed to facilitate amicable resolutions and uphold the sanctity of waqf land (Mahrus, 2022). In the context of Palopo City, applying these legal mechanisms would involve bringing all parties to the table for deliberation. The goal would be to clarify the sequence of events, understand the intentions behind each transfer, and reach a consensus on the rightful management and use of the land. Mediation could play a crucial role in bridging the gap between the city government's claims and the historical grants and appointments made by previous owners and officials. If deliberation and mediation fail, arbitration could provide a binding resolution based on a thorough examination of all claims and legal precedents (Dunuraen, 2016).

The nadzir appointed by the original landowner would also have a significant voice in this process, as their responsibilities include ensuring that the waqf land is managed according to Islamic principles and the stipulations of the waqf. Their insights and records could provide valuable evidence in understanding the true nature of the land's intended use and the legitimacy of each party's claims (Abdullah, 2016). In court, if the dispute reaches that stage, judges would rely on the comprehensive legal framework provided by Law No. 41 of 2004. They would examine the validity of each claim, the legality of the transfers, and the compliance with waqf regulations. The court's decision would ultimately aim to resolve the dispute in a manner that honors the original intent of the waqf and serves the public interest. This case from Palopo City underscores the importance of clear documentation and adherence to legal procedures in managing waqf properties. It also highlights the critical role of the nadzir in navigating disputes and ensuring that waqf land fulfills its intended charitable purposes. Through careful application of legal principles and effective dispute resolution mechanisms (Haryanto, 2023), it is possible to resolve such conflicts in a manner that respects both the spiritual and legal dimensions of waqf in Indonesia.

On this basis, Kyai H. Syarifuddin Daud MA requested the Palopo City National Land Agency to have the land certified as a Waqf Land certificate. Because the land is waqf land, it is necessary to fulfill the waqf requirements, namely the existence of a wakif and nadzir, where the wakif is the deceased. Dr Yahya, and three people were appointed as nadzir, namely Syarifuddin Daud, Nawir Kaso and Baharuddin (Syarifuddin Daud, 2021). From this dispute, Nadzir, as the entrusted person, still maintains the land. The following are some of the roles of the Nadzir of the Grand Mosque, Palopo City, to defend waqf land when a dispute occurs located at the Luwu Grand Mosque, Palopo City:

- Play a role in straightening out problems that occur.
- Play a role in carrying out legal defense efforts if the plaintiff wants to take legal action.
- Carrying out resistance by collecting strong evidence about the validity of the waqf land.
- Play a role in showing the documents and certification of waqf land in order to maintain the waqf land.
- Play a role in proving historically what actually happened.

Apart from the case that occurred at the Grand Mosque in the city of Palopo, researchers also conducted literature research from various sources regarding the role of nadzir in defending land in the event of a waqf land dispute and found several of these roles:

- Ensure that waqf disputes can be resolved amicably.

- If the plaintiff wants to take legal action, the nadzir plays a full role in overseeing the legal process to defend the waqf land entrusted to him.
- Play a role in supervising and protecting the assets entrusted to him.

Nadzir, as the custodian of waqf land, holds a critical role in ensuring the proper management and protection of these assets, especially in the face of disputes. Their responsibilities extend across various dimensions, each vital to maintaining the integrity and purpose of the waqf land. One of the fundamental roles of nadzir is to address and resolve issues that arise concerning waqf land. This involves playing an active role in identifying problems, understanding their origins, and working towards their resolution. Nadzir must be adept at navigating both social and legal landscapes to ensure that disputes are handled efficiently and effectively. This proactive involvement helps prevent minor issues from escalating into significant conflicts, thereby preserving the waqf's intended benefits for the community. When legal actions are initiated by plaintiffs, nadzir's role becomes even more critical. They must engage in legal defense efforts to protect the waqf land. This requires a thorough understanding of the legal framework governing waqf properties and the ability to represent the waqf effectively in legal proceedings. Nadzir must be prepared to collect and present strong evidence to substantiate the validity of the waqf, thereby countering any claims made by plaintiffs. This legal defense is essential in safeguarding the waqf property from unlawful claims and ensuring its continued use for charitable purposes (Mohsin, et al, 2016).

A significant aspect of nadzir's responsibilities is the collection and presentation of strong evidence regarding the waqf land's validity. This involves gathering historical documents, certifications, and other relevant records that prove the legitimacy of the waqf. By maintaining comprehensive documentation and being prepared to present this evidence in court or other dispute resolution settings, nadzir can robustly defend the waqf property. This not only helps in resolving current disputes but also acts as a deterrent against future claims. In addition to legal and evidentiary duties, nadzir must also demonstrate the historical context of the waqf land. Understanding and proving the historical events and intentions behind the waqf can be crucial in legal disputes. This historical narrative helps establish the continuity and legitimacy of the waqf, reinforcing its rightful status and purpose. By effectively communicating this history, nadzir can provide a compelling argument that supports the maintenance of the waqf property according to its original charitable intentions. Beyond specific cases like the one at the Grand Mosque in Palopo, literature research indicates several broader roles for nadzir in defending waqf land. One key role is ensuring that waqf disputes are resolved amicably (Budiman & Arif, 2011). Nadzir should facilitate negotiations and mediations aimed at finding mutually agreeable solutions. This approach not only resolves disputes more quickly and less contentiously but also helps maintain harmonious relationships between all parties involved. If amicable resolution is not possible and legal action is pursued, nadzir must oversee the legal process thoroughly.

This involves not only defending the waqf land in court but also managing all procedural aspects of the legal case. Nadzir's active involvement in legal proceedings is crucial to ensuring that the waqf property is defended with the highest level of diligence and expertise. Supervising and protecting the assets entrusted to them is another crucial role of nadzir. This includes regular monitoring of the waqf property to prevent encroachments, misuse, or other actions that could jeopardize its status (Latif, et al, 2018). Nadzir must be vigilant in their oversight to ensure that the waqf land remains dedicated to its intended charitable purposes and that its benefits continue to serve the community. In conclusion, nadzir plays a multifaceted role in defending waqf land, encompassing problem resolution, legal defense, evidence collection, historical proof, and ongoing supervision. Their proactive involvement in these areas is essential to maintaining the integrity and purpose of waqf properties. By ensuring that disputes are resolved amicably where possible and rigorously defending the waqf in legal settings, nadzir helps uphold the charitable intentions behind waqf land, thereby contributing to the broader social and religious goals of waqf in Indonesia. The effectiveness of nadzir in these roles is critical to preserving the waqf's value and ensuring its continued benefit to the community.

#### 4. Conclusion



The research highlights the critical role of Nadzir in managing and defending waqf land, especially in the event of disputes. Nadzir, as the trustee of the waqf property, is responsible for the protection and supervision of the land entrusted to him. This role extends to representing the waqf land in legal matters, whether the dispute is settled inside or outside the courtroom. Nadzir's responsibilities include presenting evidence of the waqf status of the land and making efforts to resolve disputes through deliberation. A key finding of the research is that resolving waqf land disputes through deliberation is highly effective. Deliberation allows for an amicable resolution where the disputing parties can feel mutually satisfied, reducing the sense of loss or injustice. This approach not only preserves the integrity of the waqf but also fosters a cooperative and respectful resolution process. It underscores the importance of Nadzir's proactive involvement in facilitating discussions and negotiations aimed at settling disputes amicably. The suggestion put forth by the research is that Nadzir should actively engage in defending the waqf land by prioritizing deliberation. Nadzir's active role in mediation can significantly enhance the effectiveness of dispute resolution, ensuring that outcomes are fair and agreeable to all parties involved. This proactive approach helps in maintaining the intended charitable purpose of the waqf and upholding the spirit of cooperation and mutual benefit. Additionally, the research emphasizes the importance of educating the general public about the procedures and legal implications of donating land for waqf. It is suggested that individuals who intend to donate land should seek information and guidance from authorized officials, such as the Waqf Pledge Deed Making Officer (PPAIW) or the National Land Agency (BPN). Proper education and awareness can prevent misunderstandings and disputes by ensuring that donors are fully informed about the legal requirements and processes involved in creating a waqf. The research also underscores the necessity of clearly defining the legal position of Nadzir at the time of receiving the waqf property. Clarity in the legal status of Nadzir is crucial to avoid ambiguities that could lead to disputes. A well-defined legal framework for Nadzir's role and responsibilities helps in safeguarding the waqf property and ensures that the waqf's objectives are met without legal hindrances. The novelty of this research lies in its comprehensive approach to understanding and addressing waqf land disputes. By emphasizing the importance of Nadzir's role in both legal and social contexts, the research provides a nuanced perspective on managing waqf properties. It integrates legal analysis with practical recommendations, highlighting the dual necessity of legal clarity and proactive dispute resolution. Furthermore, the research contributes to the broader discourse on waqf management by proposing practical steps for improving the administration of waqf properties. It suggests that better education and awareness among potential donors, coupled with a clear legal framework for Nadzir, can significantly enhance the management and protection of waqf land. These recommendations are aimed at reducing the incidence of disputes and ensuring that waqf properties are used effectively for their intended charitable purposes. In conclusion, the research provides a detailed analysis of Nadzir's role in managing and defending waqf land, particularly in the face of disputes. It underscores the importance of resolving conflicts through deliberation and suggests practical measures for improving the administration of waqf properties. By focusing on both legal and practical aspects, the research offers a comprehensive guide for enhancing the management of waqf land and ensuring its effective use for charitable purposes. The findings and suggestions presented in this research contribute significantly to the field of waqf management and provide valuable insights for policymakers, legal practitioners, and the general public involved in waqf activities.

## References

- Abdullah, J., & Qodin, N. (2016). Penyelesaian Sengketa Wakaf Dalam Hukum Positif. *ZISWAF: Jurnal Zakat Dan Wakaf*, 1(1), 1-18. <http://dx.doi.org/10.21043/ziswaf.v1i1.1524>
- Ali, Muhammad Daud. 1988. *Islamic Economic System. Zakat and Waqf*. (Jakarta: UI-Press).
- Budiman, Mochammad Arif, The Role of Waqf for Environmental Protection in Indonesia (May 16, 2011). Aceh Development International Conference (ADIC), Kuala Lumpur, March 26-28, 2011, Available at SSRN: <https://ssrn.com/abstract=1843391>
- Daud, Kyai H. Syarifuddin. Chairman of the Great Mosque Foundation and Chairman of Nadzir. Interview. Palopo, 27 May 2021.
- Dunuraen, M. A. (2019). Waqf Management In Indonesia: Between Ideality And Reality. *Journal of Islamic Studies*, 1(1). <https://doi.org/10.32506/jois.v1i1.474>
- Hendrawari, Goddess. Settlement of Uncertified Waqf Land Disputes in the North Coastal Region of Central Java. *Journal of Legal Issues*. Diponegoro University Semarang. Vol. 4. No. 1. 2018.





- Haryanto, R., Maufiroh, L., & Sulaiman, S. H. (2023). Waqf Land in Madura; Its Management and Typical Dispute Resolution. *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 18(2), 496-518. <https://doi.org/10.19105/al-lhkam.v18i2.7570>
- Latif, S. A., Din, N. M. N., & Mustapha, Z. (2018). The Role of Good Waqf Governance in Achieving Sustainable Development. *Environment-Behaviour Proceedings Journal*, 3(7), 113-118. <https://doi.org/10.21834/e-bpj.v3i7.1292>
- Mahrus, M.L. (2022). Settlement of Waqf Disputes and its Asset Protection in East Java, Indonesia. *Mazahib*. <https://doi.org/10.21093/mj.v20i2.3833>
- Muhammad Taufan Djafri, Askar Patahuddin, Azwar Iskandar, & Ambarwati, A. (2021). Permasalahan dan Penyelesaian Sengketa Wakaf Menurut UU No. 41 Tahun 2004 dan Hukum Islam (Studi Sengketa Wakaf Tanah Wahdah Islamiyah). *BUSTANUL FUQAH: Jurnal Bidang Hukum Islam*, 2(3), 396-412. <https://doi.org/10.36701/bustanul.v2i3.402>
- Mohsin, M.I.A. et al. (2016). Legal Framework of the Institution of Waqf. In: Financing the Development of Old Waqf Properties. Palgrave Studies in Islamic Banking, Finance, and Economics. Palgrave Macmillan, New York. [https://doi.org/10.1057/978-1-137-58128-0\\_1](https://doi.org/10.1057/978-1-137-58128-0_1)
- Rahman, Abdul. 2017. 'Resolving Waqf Land Disputes'. Thesis. Faculty of Sharia Economic Law. Metro Negri Islamic Institute. Lampung.
- RI, Ministry of Religion. 2005. Cash waqf from the perspective of Islamic law. (Jakarta: Director General of Islamic Guidance and Hajj Organizers Directorate of Zakat and Waqf Development).
- Shohibuddin, Mohamad. 2019. Agrarian Waqf: The Significance of Waqf for the Agrarian Reform Agenda. (Yogyakarta Special Region: Baitul Hikmah).
- Sigit. (2016, June 30). Discuss the Waqf Dispute and the Management of the Great Mosque. Mayor of Palopo Meets Secretary General of Islamic Guidance. Islamic Guidance. Accessed June 15, 2021.
- Zainuddin and Ilham Abbas. 2018. Islamic Banking Law: Theoretical and Practical Perspectives. (Ciputat: Indonesian Rabbani Library)
- Zainuddin, Z., Aan Aswari, & Salle. (2023). Voluntary System: The Legal Problems of Zakat Management For The Fulfillment of Socio-Economic Justice. *Yuridika*, 38(3), 685–704. <https://doi.org/10.20473/ydk.v38i3.43885>