

Implementation of Waqf Pledge Act (AIW) Arrangements in the Indonesian Waqf Law (Case in Palembang City)

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Abstract: *Implementation of Waqf Pledge Act (AIW) Arrangements in the Indonesian Waqf Law (Case in Palembang City).* This research examines the provision of Land Endowment (Waqf) in Indonesia and its implementation in Palembang City. The aim is to identify obstacles in its implementation while finding solutions to manage the waqf of land to be more productive following the desires of the waqif (waqf Doer). The results of the study find out that the Regulation made by the Directorate General of Islamic Community Guidance Number 75/1978, which regulates the Format and Content of Endowments Pledge, contains weaknesses that may hinder the productivity of waqf of land. This is indicated by the format of the W2 and W3 form models which limit the uses of the waqf of land, giving an interpretation that the nazir (waqf manager) may not add the *waqf* object to other uses. In the future, the format and the substance of AIW, which become the basis for Nazir in managing the waqf, must be made in such a way that Nazir has the freedom to develop the use of waqf of land more productively by the wishes of the waqif and the Waqf Act. Apart from the weaknesses above, the implementation of the Land endowment (Waqf) Act in Palembang, especially for the *waqf* of Mosque, has been running well and productively.

Keywords: the pledge of endowments act (AIW), waqf in Palembang city, waqf

Abstrak: *Implementasi Pengaturan Akta Ikrar Wakaf Tanah dalam Hukum Wakaf Indonesia (Studi Kasus di Kota Palembang).* Penelitian ini mengkaji tentang pengaturan wakaf tanah di Indonesia dan implementasinya di Kota Palembang. Tujuannya untuk mengidentifikasi hambatan-hambatan dalam implementasi sekaligus mencari solusi agar pengelolaan tanah wakaf dapat produktif sesuai dengan peruntukan dan keinginan wakif. Hasil penelitian menemukan fakta bahwa Peraturan Direktorat Jenderal Bimbingan Masyarakat Islam Nomor 75/1978, yang mengatur tentang Format dan Isi Akta Ikrar Wakaf, mengandung kelemahan yang dapat menghambat pengelolaan tanah wakaf secara produktif. Hal ini ditunjukkan dengan format formulir model W2 dan W3 yang membatasi pengembangan objek wakaf sehingga nazhir (pengelola wakaf) memahami peruntukan yang tertera dalam AIW tidak dapat ditambah dengan peruntukan yang lain. Ke depan format dan substansi AIW yang merupakan dasar bagi nazir dalam mengelola wakaf harus dibuat sedemikian rupa agar nazir memiliki keleluasaan untuk mengembangkan penggunaan tanah wakaf secara lebih produktif sesuai dengan keinginan wakif dan Undang-Undang Wakaf. Terlepas dari kelemahan peraturan Nomor 75/1978 di atas, implementasi Akta Ikrar Tanah Wakaf di Palembang khususnya untuk tanah wakaf masjid dapat dikatakan telah berjalan dengan baik dan produktif.

Kata Kunci: Peraturan tentang Akta Ikrar Wakaf (AIW), wakaf di Kota Palembang, wakaf

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Introduction

Article 43 of Law Number 41 of 2004 concerning Endowments contains two principles in the management and development of assets/waqf land, namely: 1. Based on sharia principles; and 2. Managed productively.¹ The results of waqf research by the Center for Language and Culture (PBB) Syarif Hidayatullah State Islamic University Jakarta in 2006, of 500 *Nazirs* (curators) in 11 Provinces showed that only 23% of waqf property was managed productively while the rest (77%) was unproductive. Endowments should not be a burden on the community, therefore, it is necessary to do more productive management efforts.²

The waqf law has regulated the mechanism of waqf, which starts from the implementation of the endowment pledge by Waqif to Nazir both verbally and in writing, as confirmed in article 17 through article 22 of Law Number 41 of 2004 concerning Waqf. Furthermore, the Endowment Pledge, by the Acting Makers of the Endowment Pledge (PPAIW), was outlined in Waqf Pledge Deed (abbreviated as AIW).

The current model of AIW format is regulated in the Regulation of the Directorate General of Islamic Community Guidance Number Kep / D / 75/1978, which refers to the old regulation namely Government Regulation Number 28 of 1977 concerning Land Ownership Representation. The regulation still has various problems that may become obstacles in the implementation of productive management and development of waqf land. These obstacles, among several other obstacles that need to be overcome, lie in the Format and Substance of AIW, In fact, the Waqf Act requires productive management and development of waqf property.

For a Nazir, AIW becomes the basis in carrying out the tasks of managing waqf land following the designation and wishes of the Waqif (Waqaf doer). A Nazir, in carrying out the task of managing waqf land, must refer to the designation contained in AIW. He is also

¹ Wakaf Al-Azhar, *Kebanyakan Nazhir Wakaf Hanya Kerja Sampingan*, Oktober 2018 <<http://www.wakafalazhar.com/blog/post/view/id/36/title/+Hasil+Penelitian%3A,>>.

² Uswatun Hasanah, 'Peranan Wakaf dalam Mewujudkan Kesejahteraan Sosial (Studi Kasus Pengelolaan Wakaf di Jakarta Selatan)' (unpublished Disertasi, PPS UIN Syarif Hidayatullah, 1997), 294.

bound to the contents of AIW. If A Nazhir conducts management by a designation other than those stated in AIW, he is considered violating the provisions of Article 45 PP No. 42 of 2006 concerning Regulations for Implementing the Law No. 41 of 2004 concerning Endowments. Here lies the importance of the format and the content of AIW as a guideline in the management of waqf property. Therefore, to manage the assets/zakat land productively, the AIW format must be able to accommodate the allotment of waqf land, so that the waqf land can be managed productively while still referring to what is contained in AIW. With the tendency to encourage productive management of waqf, the format and substance of AIW must be adjusted so that it is easier to apply and not deviate from the provisions in the waqf law.

In Indonesian Waqf Law, AIW is a form of agreement between Nazir and Waqif in the management and development of waqf land. It is a contract (written agreement) between two parties to carry out an act³. Seen from the perspective of Islamic law, the formulation of the substance of AIW is a contract between Waqif and Nazir which is based on the values and principles determined by Shara'.

This research was conducted to obtain clarity about three things: 1. How is the Waqf Pledge Act (AIW) of waqf land regulated in Indonesian Waqf Law? 2. How is the implementation of the regulations amid Indonesian Muslim communities? 3. What are the obstacles in the realization of productive waqf land and what solutions can be taken?

This research is a descriptive normative legal research based on social facts.⁴ The location of the study was set in Palembang due to the consideration of technical and financial aspects. Data obtained through interview and documentation techniques are then analyzed descriptively and qualitatively.

³ Muhammad Jayus, 'Menggagas Arah Baru Studi Hukum Islam di Indonesia', *AL-ADALAH*, 11.2 (2013), 257-264 <<https://doi.org/10.24042/adalah.v11i2.274>>.

⁴ Muhammad Syaifuddin, 'Struktur dan Prosedur Penelitian Hukum Hermeneutik' (Program Doktor Ilmu Hukum Pascasarjana Universitas Sriwijaya, 2008), p. 49.

Regulations on Waqf Pledge Deed (AIW) of Waqf Land in Indonesian Waqf Law

Law Number 41 of 2004 concerning Endowments along with Government Regulation Number 42 of 2006 which is in force at present has explained the endowment pledge, which subsequently by PPAIW was outlined in AIW. The position of AIW is very important and serves as evidence in the resolution of waqf disputes in court. AIW has an authentic legal force and becomes the basis of the judge's judgment in assessing whether or not a legal event is based on the evidence presented by the disputing party in the trial process.

Act no. 41 of 2004 concerning Endowments. emphasized that AIW was obliged to contain several things that had to be in place and had to be fulfilled in the Deed of Endowment Pledge. But unfortunately, this Waqf Law has not been equipped with regulations regarding the format and substance of the Waqf Pledge Deed Form. Therefore, the regulation regarding the Waqf Pledge Act Form still refers to the old regulation, namely the Minister of Religion Regulation Number 1 of 1978 concerning the Regulation of the Implementation of Government Regulation Number 28 of 1977 concerning the Representation of Land Ownership, which is further described in more detail in the Regulation of the Directorate General of Islamic Community Guidance Number 75 of 1978.

The contents and form of the Deed of Endowment Pledge as stipulated in the Regulation of the Directorate General of Islamic Community Guidance on April 18, 1978, No. Kep / D / 75/1978 contains the following matters:

1. Types of land waqf forms;
2. Procedure for representation;
3. The letters needed to make AIW;
4. PPAIW;
5. Duties of PPAIW;
6. Nazir's Obligations and Rights;
7. Calculation of administrative costs for the membership;

8. Procedure for the registration of waqf land;
9. List of stamped / duty-free forms.

The contents of the provisions concerning the endowments of the above land indicate that administratively the implementation of the endowment has been completed and is very good so that it can be expected that administrative order in the land representation can be achieved. However, the provisions of PMA Number 1 of 1978 and Regulation of the Director-General of Islamic Community Guidance Number 75 of 1978, which is an implementing regulation of PP Number 28 of 1977 concerning Land Ownership Representation, needs to be revised again with the issuance of Law Number 41 of 2004 concerning Waqf. This is because PMA and the Director-General of Islamic Community Guidance are old regulations whose substance only concerns the administration of waqf land and has not touched on productive management of waqf land, as required by the Waqf Law.⁵

PMA Number 1 of 1978 and Regulation of the Director-General of Islamic Community Guidance Number 75 of 1978, which is the implementing regulation of PP Number 28 of 1977, contains details about the various types of land waqf forms as presented in the following table:

Table 1. Types of Land Waqf Forms

NO	MODEL	DESCRIPTION
1.	Model W1	Pledge of Endowments
2.	Model W2	Pledge of Endowment Certificate (AIW)
3.	Model W2.a	A copy of the Waqf Pledge Deed
4.	Model W3	Substitution Certificate for Pledge of Endowment Certificate (APAIW)
5.	Model W3.a	A Copy of Substitution Certificate for Pledge of Endowment Certificate (APAIW)
6.	Model W4	List of Endowments Pledges
7.	Model W5	Validation Letter of Individual Nazir

⁵ Muhammad Alfin Syauqi, 'Optimalisasi Pengelolaan Wakaf Uang untuk Kesejahteraan Umum', *Kanun: Jurnal Ilmu Hukum*, 16.2 (2014), 369–383.

8.	Model W5.a	Validation Letter of institutional Nazir
9.	Model W6	The Book on the State of the Waqf Land
10.	Model W7	Letter of Introduction to Request for Waqf Land to BPN from KUA
11.	Model WD	Certificate of Registration of the old Land Waqf (before 1977).
12.	Model WK	Certificate of Ownership of Property (Land Certificate, seal/ statement of Physical Mastery of Land Sector) as well as the statement of Land / Goods not in dispute from the Kelurahan / Head of Village known by the Sub-District Head.

Among the twelve model forms set out in the Waqf Law above, the focus of this study will be on the Model W2 Form on the Endowment Pledge Deed (AIW) and the model W3 Form on the Substitute Deed Pledge Act Deed (APAIW).

The form model W2 (AIW) contains the following items:

1. Title: Deed of Pledge of Endowment
2. The deed number, which in this case is filled by the Head of KUA as PPAIW, who has occupied the waqf land. In general, this deed number shows when the pledge was made, such as the month and year of the endowment pledge.
3. The opening part of the deed outlined in one paragraph which covers when the endowment pledges are made such as day, date and year and where the endowment pledges are signed.
4. The identities of the parties, namely party I is called Wakif and party II is called Nazhir, this identity includes a. Full name; b. Place and date of birth; c. Religion; d. Occupation; e. Position f. Nationality; and g. Residence.
5. Nazir's statement explained that the waqf had pledged waqf to Nazir over a plot of his property.
6. Description of the land represented, in the form of yards, rice fields, gardens or ponds. This state of land includes the length of the land, the width of the land and the width of the land. The land is located in a clear location with boundaries: East, West, North, South.

7. Further description of the allotment of waqf land, that is, for what purpose is the waqf land. In this case, there are two choices, viz
 - a. Construction of worship including mosques, langgar or musholla;
 - b. General needs include education from the level of childhood, elementary to high levels as well as the shelter of orphans, neutral tuna, homelessness, or other public needs under Islamic teachings.
8. The description of witnesses who attended the endowment pledge were two people, including Full Name; Date of Birth/age; Religion; Occupation; Position Citizenship; Residence. The description of the witness's identity is the same as the description of the waqf and Nazir identity, which consists of seven items.
9. A statement that the endowment pledge is made in triplicate namely:
 - The first sheet is kept by PPAIW;
 - The second sheet is attached to the letter of application for registration to the Regent / Mayor of the Regional Head cq the Head of the Agrarian subdit;
 - The third sheet was sent to the Religious Courts which occupied the waqf land.
10. The part where the signature is placed, located to the right of the KUA Chief's signature, to the left of the parties 'signatures namely wakif and Nazir, continued at the bottom of the witnesses' signatures.
11. The last part is the information that consists of:
 - a. Cross the unnecessary ones;
 - b. Fill in one of the fields, yards, gardens or ponds;
 - c. To be completed one of the objectives of the endowments:
 - 1) Construction of worship including mosques, langgar, or musholla;
 - 2) General needs include education from childhood, elementary to high levels, as well as the shelter of orphans, the blind, the homeless, and other public needs following the teachings of Islam.

Concerning the format and substance of the Form model W3 (APAIW), the format of this form is not much different from the format

and substance of the model W2 (AIW). There is only a slight difference, namely in the Deed of Endowment Pledge (AIW) replaced with Deed of Submitting Deed of Endowment Pledge (APAIW). This APAIW is issued if the waqf land does not yet have AIW, but the making of AIW is no longer possible because the waqf has died or its whereabouts are unknown, while the act of waqf has been known based on various instructions (qarinah) and 2 witnesses.⁶

Noting the substance of AIW model W2 namely for the Endowment Pledge Deed above, especially in the description of the parties involved in implementing the endowment pledge, (Waqif, Nazir, PPAIW, and the presence of two witnesses) it can be said that the Waqf Law has accommodated the basic elements that must be available for the Endowment Pledge to be implemented.

In addition to accommodating the basic elements, the law also provides space to contain statements of waqif or *Sighat Waqf*, including a description of the state of the land that is the object of waqf. The elements in AIW are still referring to the old regulations, namely PP Number 28 of 1977, PMA Number 1 of 1978 and Regulation of the Director-General of Islamic Community Guidance Number 75 of 1978.

Apart from the elements mentioned above, there are still other elements contained in article 6 letter f of the Waqf Law namely regarding "the period of waqf". The waqf term is an element of waqf contained in the Waqf Law and has not been accommodated in the current AIW form. The inclusion of the element of "waqf period" is an attempt by the government to accommodate the wishes of the waqf who want to endow their land for a certain amount of time, not forever. For a certain period Waqf among Hanafiyah Ulema is permissible, but among Syafi'iyah Ulemas it is not permitted.⁷

⁶ Pasal 31 Peraturan Pemerintah Nomor 42 Tahun 2006 Tentang Pelaksanaan Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf.

⁷ Muhammad Abid Abdullah Al-Kabisi, *Hukum Wakaf, Kajian Kontemporer Pertama dan Terlengkap Tentang Fungsi dan Pengelolaan Wakaf Serta Penyelesaian Atas Sengketa Wakaf* (Jakarta: Dompot Dhuafa Republika dan IIMaN, 2004), pp. 160–61.

Implementation of Regulations on Waqf Pledge Deed (AIW) of Waqf Land in Indonesian Waqf Law, and the Forms of Obstacles

Provisions governing the Waqf Pledge Act (AIW) are scattered in several rules, both regulations before the issuance of the Waqf Law and regulations that appeared after the Waqf Law was issued. Regulations that existed before the Waqf Law are: Government Regulation Number 28 of 1977 Concerning Residential Ownership; Regulation of the Minister of Religion Number 1 of 1978 Concerning Implementing Regulations Government Regulation Number 28 of 1977 Concerning Residential Ownership; Regulation of the Directorate General of Islamic Community Guidance Number 75 of 1978 which regulates the contents and form of Deed of Pledge of Endowment.

After the issuance of the Waqf Law, the Waqf Pledge Deed is regulated in Law Number 41 of 2004 concerning Waqf, detailed in Government Regulation Number 42 of 2006 concerning the Implementation Regulations of Law Number 41 of 2004 concerning Waqf. However, specifically for regulations concerning Waqf Pledge Deed, even though the Waqf Law and Government Regulation No. 42/2006 have been in force for quite a long time, which is around 14 years, but until now the regulation regarding Waqf Pledge Deed is still referring to the old regulation namely Regulation of the Directorate General Guidance of Islamic Society Number 75 of 1978.

The enactment of the Directorate General of Islamic Community Guidance Regulation Number 75 of 1978, according to L.M. Friedman in the “Legal System” theory,⁸ is influenced by three things, namely:

1. Legal Substance

The substance of the Regulation of the Directorate General of Islamic Community Guidance Number 75 of 1978, which regulates the format and content of the Pledge of Endowment Act, in general, has contained most of the minimum requirements which include:

⁸ Lawrence M. Friedman, *The Legal System A Social Science Perspective, Terjemahan Oleh M. Khozim*, (Bandung: Nusa Media, 2011), p. 17.

- a. Name and identity of the Wakif;
- b. Nazir's name and identity;
- c. Description of waqf property;
- d. Duration of waqf.

However, from the minimum requirements that must be met, it turns out that there is one point, namely in the last point, namely the issue of the "waqf period" which is not included in the regulation. As explained in the Waqf Act, the inclusion of the "Waqf period: is to make room for someone Waqif who wants to conserve property, including land for a certain period, not forever."⁹ Clause The period of this endowment is excluded for endowments of property/endowment land intended to establish a means of worship, for example, a mosque, because the endowment land for a mosque is automatically valid forever.

So when viewed from the format of the substance of the Waqf Pledge Deed in the W2 and W3 models, there is potential that impedes the implementation of the Waqf Law. This is because if there is a waqf who wants to endow the land for a certain period, this desire cannot be accommodated by the model forms W2 and W3 because separate columns containing the waqf period are not available.

Apart from the element of "period", the format of the Waqf Pledge Act of W2 and W3 models also has not accommodated the management of waqf property (land) productively and following Islamic principles. So if the waqif has a desire to endow his land with more productive management, it cannot be stated explicitly in AIW because there is no room for it.

Apart from the 2 items above, the Director-General Regulation also contains the editorial formulation whose sentence may lead to different interpretations, as set out in the "Remarks" section in number 3 as follows:

⁹ Nurhidayani Nurhidayani, Muaidy Yasin, and Busaini Busaini, 'Pengelolaan dan Pemanfaatan Wakaf Tanah dan Bangunan', *Maqdis: Jurnal Kajian Ekonomi Islam*, 2.2 (2017), 163–175.

Fill in one of the goals of the endowment,

- a. Construction of places of worship, including mosques, langgar, and mushalla.
- b. general needs, including education from the level of childhood, elementary to high levels, as well as the shelter of orphans, the blind, the homeless, or other public needs following Islamic teachings.

Noting the substance of the Waqf Pledge Deed above, which only lists one designation, then this can create difficulties for waqf nazir to develop the productivity of mosque waqf lands that have enormous economic potentials, such as large tracts of land or strategic location. The formulation of waqf land designation as mentioned above, at the implementation stage, can hamper efforts to manage/develop productively. This is because the Nazis are reluctant to add to the designation other than what is stated in AIW because according to their interpretation the addition of this designation will violate the waqf law because it is not following the designation stated in AIW.

Apart from what has been stated above, the phrase “Filled one of the goals of waqf,” and even then can bring a different perception. Because the sound of the sentence “one of the goals of waqf” can mean “can be filled in one of the points a or b”, but it can also be an option that is intended at each point, for example in the letter a select a place of worship, namely a mosque, langgar or mushalla. Whereas in the letter b. general use can choose one including the education field from the level of childhood, elementary level to high level, as well as a place of donation for orphans, the blind, homeless, or other public needs according to Islamic teachings.¹⁰

The format of the AIW substance can influence the implementation of these regulations. This means that to determine the allotment of the endowment it is necessary to direct the PPAIW, and even then it will also depend on the understanding of PPAIW in interpreting the

¹⁰ PPAIW dan Staf di Lingkungan Kantor Kementerian Agama Kota Palembang, ‘Tentang Implementasi Pengaturan Akta Ikrar Wakaf (Aiw) Tanah Wakaf dalam Hukum Wakaf Indonesia Sebagai Upaya Mewujudkan Tanah Wakaf Produktif (Studi Kasus AIW Tanah Wakaf di Kota Palembang)’, 2018.

“Information” section in number 3 which reads “Filled in one of the endowments objectives.”

Starting from the discussion above it is evident that the format and substance of AIW which is set out in the Regulation of the Directorate General of Islamic Community Guidance Number 75 of 1978, contains several weaknesses, namely:

1. The Law has not provided a column for the endowment period that is certain or forever, following article 6 letter f and article 21 paragraph (2) of the Waqf Law;
2. The Law has not provided a column for the management of productive waqf land and following sharia principles, following article 43 paragraph (2) and (3) of the Waqf Law;
3. The Law has not provided a column about the various designations, following article 22 of the Waqf Law.

Starting from the description above it can be explained that the Regulation of the Directorate General of Islamic Community Guidance Number 75 of 1978 has not been able to accommodate all the new changes in the Waqf Law, which in the previous rules was not regulated at all. So that the implementation of the Directorate General of Islamic Community Guidance Regulation Number 75 of 1978 regulates the format and substance of the Waqf Pledge Deed that has not been able to optimally support the things to be realized by the Waqf Law namely the existence of productive waqf management

2. Legal Structure, namely law enforcement

The term “legal structure” refers to the party carrying out the Waqf Act regulations and their derivatives, including the old regulations that reduce the Directorate General of Islamic Community Guidance Regulation Number 75 of 1978. The intended parties include Acting Officials of Endowment Pledge (PPAIW), Waqif, Nazir. The parties’ understanding of the substance of the Waqf Deed Pledge Act Model W2 and W3 Model is very influential in the implementation phase of the regulation.

The following table illustrates how mosque managers / Nazirs differ in their opinions in responding to the contents of AIW, which in turn will also affect the actions taken by them in the management of waqf objects.

Table 2. The understanding Nazhir/Mosque management of the allotment Waqf land other than those stated in AIW

NO	Nazhir / Management of Mosque Names	Mosque Names	Designation	
			Can	Can not
1	M. Nur Hamid	Masjid Nurul Amal	√	
2	HM. Yamin	Masjid Al Ihsan		√
3	Ust Fatonah	Masjid Nurul Iman		√
4	M. Arif	Masjid Baitullah	√	
5	Fattah Hidayat	Masjid Jami'al-Sudays	√	
6	Aroni	Masjid Jami' Plaju	√	
7	Mahban	Masjid Darussa'adah	√	
8	Arman	Masjid Al-Fattah		√
9	Sakinah	Yayasan Jamiatul Khoiriyah	√	
T O T A L			6	3

Source: Interview with Mosque and Nazhir Managers, 3 September-22 October 2018

The table above shows that in terms of carrying out management by adding a designation to the object of waqf, the opinion of the mosque management and Nazir is divided into 2: Some argue that Nazir or the mosque manager can add to the designation other than those stated in AIW, while some others think that it should not be done.

The fact that the understanding of mosque and Nazaz managers regarding the management of waqf assets outside of the designation contained in AIW still varies, this means that some Nazirs or mosque managers understand that the function of the mosque is merely a place of worship so that it should not be developed outside of that designation. Mosques aside from being a place of worship can also

function socially, economically, propaganda education, politics, and health.¹¹

Alternative Solutions to Encourage Productive Management of Waqf Land

Obstacles in implementing the wishes of the Waqaf Law, as described above, can be overcome in the following way:

A. From the aspect of legal substance;

For the implementation of the law to run effectively, the rules of law created must be able to accommodate the dynamics of development that occurs in society. Regulations that apply but are incomplete or have weaknesses, need to be changed/revised, both in whole or in part, or even made new rules to replace the old rules.

Related to the issue of management of assets/waqf land, the Waqf Act has specified the mandatory content that must be met for AIW to be issued. As a form of contract between Waqif and Nazir as well as an authentic document that contains agreements that must be realized by the parties, AIW can be an instrument of control for Waqif on Nazir's performance.¹² For this reason, AIW must accommodate the new things that are needed, including the rights and obligations of Waqif and Nazir, so that the parties can carry out their duties and obligations under their respective achievements.

Apart from that, to encourage the productive management of waqf land, the formulation of the allotment of waqf objects in AIW must refer to the contents of article 22 of the Waqf Law and need not be limited to only one designation. By not limiting the designation of the object of waqf, the utilization of Waqaf property/land can be developed towards a more dynamic direction according to the development of the

¹¹ Hanafie, Syahrudin, *Mimbar Masjid, Pedoman Untuk Para Khatib dan Pengurus Masjid* (Jakarta: Haji Masgung, 1988), p. 348.

¹² Achmad Muchaddam Fahham, 'Pengelolaan Wakaf Tunai di Lembaga Pengelola Wakaf dan Pertanahan Pengurus Wilayah Nahdlatul Ulama Daerah Istimewa Yogyakarta', *Jurnal Aspirasi*, 6.1 (2015), 27-36-36 <<https://doi.org/10.22212/aspirasi.v6i1.461>>.

situation, conditions, and needs of the community in the future. This solution is in line with the opinion of Abdurrahman Haqqi who stated that the allocation of property (land) endowments may be more than one designation.¹³

Therefore, in the future AIW must at least contain the following matters:

1. Accommodating the wishes of the Waqf Act as stated in article 21 paragraph (2) by including the following matters:
 - Name and identity of the Wakif;
 - Name and identity of Nazir;
 - Data and description of waqf property;
 - Allotment of waqf property; \
 - The period of an endowment.
2. Accommodating the wishes of the Waqf Act as stated in article 43 paragraph (2) and (3) by providing a column for managing productive waqf land and following sharia principles.
3. Provide various types of designations following the sound of article 22 paragraph (2) of the Waqf Law with a single or cumulative formulation designation model, following the will of the endowment, which includes:
 - 1) religious facilities and activities;
 - 2) education and health facilities and activities;
 - 3) assistance to the poor, neglected children, orphans, scholarships;
 - 4) progress and improvement of the people's economy; and / or;
 - 5) advances in other public welfare that is not in conflict with the Shari'a and the laws and regulations.
4. Providing space for the formulation of the rights and obligations of the parties, Waqif and Nazar, both directly within AIW or in the form of additional provisions/addendums.

¹³ Abdurrahman Haqqi, *The Allocation of Property (Land) Endowments*, 2018.

With the model format and substance of the Waqf Pledge Act as above, it can be expected that, besides becoming a reference for Nazir in carrying out the task of managing waqf land, in addition to AIW while also making the regulation as an instrument to provide socialization and advocacy for Waqif and Nazir. Through regulations on the format and substance of the Waqf Pledge Deed, the legal function as a tool to manipulate, to influence Waqif and Nazhir behavior and society, in general, can be enforced. With the legal reform / change, the performance of waqf property / land managers can be encouraged to be more optimal so that the management of waqf property / land can develop dynamically and provide maximum benefits for the interests of the wider community.

B. From the aspect of legal structure;

One of the functions of law is as a means to change people's behavior, "law as a tool of social engineering."¹⁴ Through laws or regulations, the public and related parties can be affected by their behavior so that they are expected to act following the will of the law. The law even has a force so that the provisions that have been regulated must be implemented so that the legal ideals can be achieved.¹⁵

To realize such conditions, officials and related parties who carry out the regulations, in this case are Acting Makers of Pledge of Waqf Pledge (PPAIW), Nazir, Waqif, Waqf Board, Office of the Ministry of Religion, need to be enlightened about the contents and purpose of the Act Invite Waqaf so that the confusion of understanding can be prevented while creating the same steps in realizing the management of Waqaf assets productively.

¹⁴ Mochtar Kusumaatmadja, *Konsep-Konsep Hukum dalam Pembangunan* (Bandung: Alumni, 2002), p. v.

¹⁵ Imam Suhadi, *Wakaf Untuk Kesejahteraan Umat* (Yogyakarta: Dana Bhakti Prima Yasa, 2002), p. 77.

C. From the Socio-Cultural aspect;

Society, the place where the Waqf Law is effective, in fact still has a low level of legal culture. This is indicated by the low understanding of the community about the substance of the Waqf Pledge Deed, including their understanding of the productive management of waqf land and the function of the mosque. Therefore, related parties such as PPAIW, BWI, the Office of the Ministry of Religion, must provide socialization and advocacy to the community members, especially to Nazir or mosque managers, continuously and extensively, using a variety of media, printed or electronic media.

Conclusion

Starting from the discussion that has been described in the previous section, it can be concluded that Arrangements regarding Deed of Endowment Pledge as regulated both in Act Number 41 of 2004 concerning Endowments and Government Regulation Number 42 of 2006 concerning Regulations for Implementing Act Number 41 of 2004 concerning Endowments have not been able to be implemented perfectly. This is because the Law, particularly regarding the format and substance of the Pledge of Endowment Pledge, still refers to the old regulation, namely Government Regulation Number 28 of 1977 Concerning Residential Land Ownership; Regulation of the Minister of Religion Number 1 of 1978 Concerning Implementing Regulations Government Regulation Number 28 of 1977 Concerning Residential Ownership; and Regulation of the Directorate General of Islamic Community Guidance Number Kep / D / 75/1978, which regulates the Format and Content of the Pledge of Endowment Pledge. The regulation regarding the format and content of the Waqf Pledge Deed, in particular, the W2 and W3 model forms, has not fully accommodated the wishes of the Waqf Law while inhibiting the realization of productive waqf land management.

Implementation of regulations concerning Waqf Pledge Deed (AIW) as contained in Regulation of the Directorate General of Islamic Community Guidance Number 75 of 1978 concerning the format and

content of Waqf Pledge Deed in Palembang, in general, can be properly implemented. However, there are some obstacles, especially in the mosque waqf land which has the potential to be managed productively, because Nazir/mosque manager understands the designation contained in AIW cannot be added to other designations.

To overcome obstacles in implementing regulations concerning Waqf Deed Pledge (AIW) as well as to realize productive waqf land in Palembang, several solutions can be adopted, among others as follows: a) To revise the Regulation of the Directorate General of Islamic Community Guidance Number 75 of 1978 concerning the format and content of the Pledge of Endowment Pledge, either in whole or in part; b) BWI, PPAIW, the Office of the Ministry of Religion continuously and broadly provide socialization and advocacy to the wider community, especially waqf nazirs or mosque managers, to increase public understanding of the management of productive waqf land through printed media, electronic media, internet, etc.

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