

THE NOTARY AUTHORITIES TO ACT AS AN WAQF PLEDGE DEED OFFICIAL (*PPAIW*) BASED ON THE WAQF LAW

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ABSTRACT

Qf as one of the legal acts that has long lived and implemented in society, whose arrangements are incomplete and are still scattered in various laws and regulations. The role of the Notary in the waqf legal actions that have been running so far is related to the ratification of the nazhir legal entity. This study aims to determine the implementation of the making of the Waqf Pledge Deed carried out by a Notary who acts as the Official for Making Waqf Pledges (*PPAIW*), and to find out the Authority of a Notary to act as the Official for Making Waqf Pledges (*PPAIW*). This research is a descriptive research. Descriptive research aims to accurately describe the characteristics of an individual, condition, symptom or certain group, or to determine the spread of a symptom, or to determine whether there is a relationship between symptoms and other symptoms in society. Implementation of making the Deed of Waqf Pledge carried out by a Notary as *PPAIW* which is as stated in the explanation of the provisions of the Law on Notary Position Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position.

Keywords

parental support; learning motivation; self-regulated learning

INTRODUCTION

Waqf is a charitable institution originating from Islamic teachings (Nasution & Warjiyati, 1997). Given the importance of the issue of waqf land which has been regulated in the Basic Agrarian Law, it regulates special provisions regarding waqf as regulated in the Basic Agrarian Law Article 49 Paragraph (3) "which determines the Order of the Basic Agrarian Law the Government Number 28 of 1977 regarding Waqf of Owned Land". The development of waqf owned land is very dynamic, followed by the government by making various legal institutions that regulate it, and the peak was on October 27, 2004. The government promulgated Law Number 41 of 2004 concerning Waqf (Hasan, 2011). In the preamble to the Waqf Law it is stated 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 for the realization of general welfare. Waqf as one of the legal actions that has long lived and implemented in society, whose arrangements are incomplete and are still scattered in various laws and regulations (Hasan, 2011). In the preamble to the Waqf Law it is stated 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 for the realization of general welfare. Waqf as one of the legal actions that has long lived and implemented in society, whose arrangements are incomplete and are still scattered in various laws and regulations (Hasan, 2011). In the preamble to the Waqf Law it is stated 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 for the realization of general welfare. Waqf as one of the legal actions that has long lived and implemented in society, whose arrangements are incomplete and are still scattered in various laws and regulations (Hasan, 2011).

The Waqf Pledge Deed Making Officer (PPAIW), hereinafter referred to as PPAIW Muchlis explained the meaning of PPAIW was "an important pillar in national representation". PPAIW according to the general provisions of Law Number 41 of 2004 concerning Waqf is "An Authorized Official who has been appointed by the Minister of Religion to make the Deed of Waqf Pledge (AIW) hereinafter referred to as AIW". PPAIW has the status of a government official who is appointed and dismissed directly by the Minister of Religion. Waqf Pledge which contains a statement of the will of the waqif to endow his property (Usman, 2009). Before donating the property belonging to the wakif to be handed over to the nazhir and the wakif must pronounce the waqf pledge first. Pronunciation of this waqf pledge verbally. Then raised into writing, carried out before PPAIW which was attended by 2 (two) witnesses. The waqif statement will then be set forth in a Deed, which is called AIW. PPAIW contains Article 1 Number 6 of Law Number 41 of 2004 concerning Waqf and Officials authorized to make AIW. In Government Regulation Number 42 concerning Waqf in Article 37 Paragraphs (4) and (5) states that it is possible for Notaries to have the opportunity to make AIW (Pratama, 2018). This includes the Notary's new authority in making deeds related to waqf. In carrying out the position of Notary, guided by the Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the position of Notary (LN No. 3 of 2014, TLN No. 5491). Based on Article 37 Paragraph (4) and (5) of Government Regulation Number 42 of 2006 concerning Waqf "it has provided opportunities or opportunities for Indonesian Notaries to become AIW makers". The meaning of opportunity or opportunity here is that a Notary may provide services for making AIW as long as they meet the requirements set by the Minister of Religion of the Republic of Indonesia, thus not all Notaries can become PPAIW, but other Notaries who have fulfilled the conditions set by the Minister of Religion of the Republic of Indonesia which can be designated as PPAIW, actually the problem of developing waqf assets must be seen as a new problem because of the importance of waqf assets and their large number amid the current social and economic reality, even though the waqf is meant as an old waqf. According to Arif Latif Pratama, waqf is "holding property from the time it was issued in a condition that can be used for purposes according to the wishes of the wakif". It is difficult to say that waqf cannot be used when objects are issued as waqf to produce the benefits intended for its purpose, although this could only happen from a theoretical point of view. So apart from this theoretical possibility, it can be said that waqf assets have not been treated for production at the time of endowment, however, there is a consequence of this which is another obligation that as long as there is no explicit statement from the waqif to the contrary then to say that the waqif wants or orders a portion of his waqf profits to be used to increase waqf capital (Qahaf & Rido, 2005).

The role of the notary in the waqf legal actions that have been running so far is related to the ratification of the nazhir legal entity. In accordance with regulations, nazhir, legal entities must be registered with the Minister of Religion and the Indonesian Waqf Agency (BWI) through the Office of Religious Affairs (KUA). Nazhir legal entity carrying out the registration must meet the requirements, among others, have a copy of the Notary deed regarding the establishment and articles of association of the legal entity that has been legalized by the competent authority. Notary can be interpreted as a public official. However, the granting of qualifications as a public official is not only given to notaries, but is also given to officials making land pledges (PPAT), auction officials and does not rule out the possibility for notaries to become PPAIW.

The requirements for a Notary to become a PPAIW are explained in the Regulation of the Minister of Religion Number 73 of 2013 concerning Procedures for Waqf of Immovable Objects and Movable Objects Other Than Money.

In Article 27 of the Regulation of the Minister of Religion Number 73 of 2013 concerning Procedures for Representing Immovable Objects and Movable Objects other than money it can be said that "not all Notaries can become PPAIW". As explained in the article, only notaries who are Muslim can have the authority to make AIW (Hadisubroto, 2010). The authority to make AIW can be carried out by a Notary and the Head of the Office of Religious Affairs in their second position as PPAIW. In the Law governing the Office of a Notary, in the elucidation of Article 15 paragraph (3) it only explains that the other powers of a Notary are regulated in Legislation, such as (1) the authority to certify transactions carried out electronically (cyber notary), (2) make a Waqf Pledge Deed (AIW), and (3) aircraft mortgages.

Based on the data or description above, the writer is interested in examining this problem in the form of a thesis proposal with the title: Authority of a Notary to Act as an Official for Making Waqf Pledge Deeds (PPAIW) Based on the Waqf Law (Research Study at Medan Notary Office).

Based on the problems that have been formulated above, the research objective are; (1) to find out the implementation of the making of the Waqf Pledge Deed carried out by a Notary who acts as the Official for Making Waqf Pledges (PPAIW), and (2) to find out the Authority of a Notary to act as an Official Making the Waqf Pledge Deed (PPAIW).

METHODS

This research is a descriptive research. Descriptive research aims to accurately describe the characteristics of an individual, condition, symptom or certain group, or to determine the spread of a symptom, or to determine whether there is a relationship between symptoms and other symptoms in society (Sugiyono, 2018).

Descriptive research is research that merely describes objects or events without an intention to draw general conclusions (Creswell, 2010). In this study, it aims to describe the problem of "Notary Acting as an Official for Making Waqf Pledge Deeds (PPAIW) Based on the Waqf Law (Research Study at the Medan City Notary Office)".

This research is meant as a type of qualitative research, namely this research is to seek the truth, therefore qualitative research tries to find legal symptoms that develop in a community. Related to the problem of this research, the data to be presented in this study is about "Notaries Acting as Officials for Making Deeds of Waqf Pledges (PPAIW) Based on the Waqf Law (Research Study at the Medan City Notary Office)".

The type of research is Normative Research - Empirical. Normative research is research that refers to the norms contained in laws and regulations, legal norms that exist in society as well as empirical research that looks at a legal reality that occurs in society ((Ibrahim, 2006).

Data collection techniques

1) Library Research

The library method is used when research candidates are looking for answers to problem formulation in reading sources (references). Such as book literatures, magazines, journals, internet and other sources.

2) Field Research

The field method is used when prospective researchers visit research locations and get answers to the formulation of the problem by conducting: Interviews with people who are considered capable of answering questions related to the problem under study who function as informants and respondents.

Data Analysis

After the data is collected, it is then re-analyzed using qualitative analysis methods, as data analysis based on quality, quality and real nature in society. Qualitative analysis is the way of legislation, doctrine, legal principles, expert opinions or views of the researchers themselves.

RESULTS AND DISCUSSION

A. Implementation of Making Waqf Pledge Deeds Carried out by Notaries Acting as Officials for Waqf Pledge Deeds (PPAIW)

The notary has the authority to make authentic deeds regarding actions, agreements and provisions required by laws and regulations and/or what is desired by interested parties to be stated in an authentic deed (Budiono, 2007). Guarantee the certainty of the date of making the deed, keep the deed, provide copies and excerpts of the deed, all as long as the making of the deed is not also assigned or excluded from other officials or other people determined by law. In addition to the authenticity of a deed, legal certainty has the power of proof, that is, both formally and materially, including the ethics of a notary in carrying out his position. In carrying out their duties, Notaries not only carry out the work mandated by law, but at the same time carry out a very important social function, namely being responsible for carrying out the trust given by the general public they serve, a Notary must adhere to the Notary Code of Ethics (Liliana, 1995). Notaries act as community services as officials appointed by the government who obtain attributive authority from the State (Liliana, 1995). These services in law occur between parties that are used as evidence in the form of valid legal documents that have perfect evidentiary power. Notary as official

making authentic deed in matters of civil law for the purposes of proof or as the strongest and most complete written evidence, in the sense that what is stated in the notary deed must be accepted, unless the interested party can do otherwise satisfactorily before a court hearing, as stated in the general explanation of the Notary Office Law. These services in law occur between parties that are used as evidence in the form of valid legal documents that have perfect evidentiary power. Notary as official making authentic deed in matters of civil law for the purposes of proof or as the strongest and most complete written evidence, in the sense that what is stated in the notary deed must be accepted, unless the interested party can do otherwise satisfactorily before a court hearing, as stated in the general explanation of the Notary Office Law. These services in law occur between parties that are used as evidence in the form of valid legal documents that have perfect evidentiary power. Notary as official making authentic deed in matters of civil law for the purposes of proof or as the strongest and most complete written evidence, in the sense that what is stated in the notary deed must be accepted, unless the interested party can do otherwise satisfactorily before a court hearing, as stated in the general explanation of the Notary Office Law.

Based on the provisions of the Law on the Position of Notary Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (Mardiyah et al., 2017). Article 1 paragraph (1) Notary is a "public official authorized to make authentic deeds and other authorities". Article 3 of the Notary Office Law states that the conditions for being appointed as a Notary Public are:

- 1) "Indonesian citizens.
- 2) Have faith in God Almighty.
- 3) At least 27 (twenty seven) years old.
- 4) Physically and mentally healthy.
- 5) Graduated with a law degree and graduated from the notary degree level.
- 6) Has undergone an apprenticeship or has worked as a Notary's employee for 12 (twelve) consecutive months at a Notary's Office after graduating from notary strata, and.
- 7) Does not have the status of a civil servant, state official, advocate or is not currently holding another position which by law is prohibited from having concurrent positions with the position of notary public.

Regarding the obligations of a Notary is regulated in Article 16 of the Notary Office Law, which reads in full:

- 1) "Act honestly, thoroughly, independently, impartially and protect the interests of the parties involved in legal actions.
- 2) Make a deed in the form of a Deed and save it as part of the Notary Protocol.
- 3) Issuing Deed Grosse Copy of Deed or quotation of Deed based on Minutes of Deed.
- 4) Providing services in accordance with the provisions of this law, unless there is reason to refuse it
- 5) Keep secret everything regarding the deed he made and all information obtained in order to draw up the deed in accordance with the oath/pledge of office, unless the law stipulates otherwise.
- 6) Binding the deed made within 1 (one) month into a book containing no more than 50 (fifty) deed and if the number of deed cannot be contained in 1 (one)book, the deed can be bound into more than 1 (one) book, look for the number of minutes of the deed, month and year of manufacture on the cover of each book.
- 7) Make a list of the deed of protest against non-payment or non-receipt of letters.
- 8) Make a list of deeds that are in accordance with the testament according to the time the deed was drawn up every month.
- 9) Sending the list of deeds referred to in letter h or the list in favor of a will to the list of testament centers of the department whose duties and responsibilities are in the field of notary affairs within 5 (five) days in the first week of every following month.
- 10) Record in the Repertorium the date of sending the list of wills at the end of each month.
- 11) Has a seal/ stamp bearing the state symbol of the Republic of Indonesia and in the space surrounding it is written the name, position and place of domicile concerned.
- 12) Read the deed before the appearer in the presence of at least 2 (two) witnesses and a Notary.
- 13) Accepting the apprenticeship of prospective Notaries".

Waqf is one of worship in Islam. The definition of Waqf is the legal act of waqif to separate and/or surrender part of his property to be used forever or for a certain period of time in accordance with his interests for the purposes of worship and/or public welfare according to sharia, this is stated in Article 1 paragraph (1) of the Law Number 41 of 2004 concerning Waqf (LN No. 159 of 2004, TLN No.4459). Before donating the property belonging to the wakif to be handed over to the nazhir, the wakif must pronounce the waqf pledge first. This is pronounced orally. Then it is poured into writing, carried out in the presence PPAIW given with 2 (two) witnesses. The wakif statement will then be set forth in a form of deed, which is called the Waqf Pledge Deed (AIW). Explanation on "Article 15 Paragraph (3) of Law Number 2 of 2014 Regarding Amendments to Law Number 30 of 2004 Notary Office states what is meant by "Other authorities regulated in electronic regulations (cyber notary), making AIW and aircraft mortgages fly". The authority of a Notary that has been determined by the Law on the Position of a Notary, especially in making a deed, namely the act or legal action requested by (Adjie, 2015):

- 1) Constitution
- 2) The parties themselves who come before the notary are wanted in the form of a notarial deed.

Furthermore, in Article 38 of Government Regulation Number 41 of 2006 concerning the Implementation of Law Number 41 of 2004 concerning Waqf it is stated that "registration of immovable waqf assets in the form of land is carried out based on AIW or APAIW".

Followed by Article 39 namely; registration of waqf land certificates is carried out based on AIW or APAIW in the following manner:

- 1) For land that has been registered as waqf land in the name of Nazhir.
- 2) For freehold land that is donated only a part of the total area, a certificate of ownership rights must be split first, then registered as waqf land in the name of Nazhir.
- 3) For land that has not yet had the status of ownership rights originating from customary land, it is immediately registered as waqf land in the name of Nazhir.
- 4) With respect to building use rights, business rights or usufructuary rights on State land as referred to in Article 17 Paragraph (1) letter b that has obtained approval for release from the competent official in the field of land to be registered as waqf land on behalf of Nazhir.
- 5) On State land on which a mosque, prayer room, tomb is built and registered as waqf land on behalf of Nazhir.
- 6) The official in charge of the local Regency/Municipal land affairs records the endowment of the land in question in the land book and certificate (Law Number 41 Concerning Waqf).

The form and structure of the Deed in lieu of the Waqf Pledge Deed must contain the following: the day and date of the incident of reporting and land registration, the identity of the reporter/registrant, the condition of the land being donated, the purpose of the waqf in accordance with the wakif pledge, the identity of the witnesses, the identity of the Nazhir, wakif identity of the waqf land and the incident of land endowment. The next action that must be taken by PPAIW is to record the Waqf Pledge Deed in the register book of Deeds in lieu of Waqf Pledge Deeds. After the things mentioned above have been completed, then PPAIW within a grace period of not later than 3 (three) months after the Deed of Substitute Pledge of Waqf Deed is made, must register the waqf land in the name of the nazir concerned with the local District or Municipal National Land Office for registration in the land book and issuance of the certificate. Notary as a public official who has a general authority as long as it is not exempted from other officials. This kind of new authority needs to be seen in reality regarding the use of a Notary in carrying out his/her position as a public official as well as PPAIW. As for the procedure for making AIW on Article 34 Government Regulation Number 42 of 2006 concerning the Implementation of Law No. 41 of 2004 concerning Waqf Procedures for making AIW immovable objects as referred to in Article 16 and Article 17 and movable objects other than money as referred to in Article 19, Article 20 and Article 21 statutory implementation;

- 1) According to statutory regulations PPAIW examines the completeness of the waqf administrative requirements and the physical condition of the waqf object

- 2) In the event that the provisions referred to in letter b are met, then the implementation of the waqf pledge and the making of the waqf pledge deed are deemed valid if it is carried out in the waqf pledge assembly as referred to in Article 30 Paragraph (1)
- 3) AIW which has been signed by Wakif, Nazhir, 2 (two) witnesses, and/or Mauquf alaih ratified by PPAIW
- 4) AIW copies submitted to;
 - a) Waqif
 - b) Nazir
 - c) Mauquf alaih
 - d) Regency/City Land Office in terms of land waqf objects, and
 - e) Other authorized agencies in terms of waqf objects in the form of immovable objects other than land or movable objects other than money.

The position of a Notary as PPAIW is administratively very important and strategic, namely the interest of securing waqf assets from a legal standpoint, especially from disputes and irresponsible third-party actions. PPAIW according to the General Provisions of Law Number 41 of 2004 concerning Waqf is "the authorized official appointed by the Minister of Religion of the Republic of Indonesia to make AIW". Whereas in conclusion the Government Regulation regarding waqf can contain two (2) party rules that can become PPAIW, both the Head of the Office of Religious Affairs and the Notary. But in reality, many parties do not know about the new authority of a Notary as PPAIW Officer (Harysart, 2016). because currently the official who plays a role in AIW is the Medan City Office of Religious Affairs. In fact, so far the Medan City Land Office has only received AIW in the form of land endowments from the Head of the Medan City Office of Religious Affairs. The Medan City Land Office has never accepted the creation of an AIW in the form of land at the Office of Religious Affairs.

B. Duties and Obligations of a Notary as an Official Making the Waqf Pledge Deed (PPAIW)

PPAIW has the status of a government officer who is appointed and dismissed by the Minister of Religion. The Waqf Pledge contains a statement of the will of the wakif to endow his property. In Government Regulation Number 42 concerning Waqf in Article 37 Paragraphs (4) and (5) it states "that it is possible for Notaries to have the opportunity to make AIW". PPAIW's duties are more operational towards national endowment services. When referring to Law Number 41 of 2004 concerning Waqf, it is explained that the direct duties of PPAIW can be described as follows, PPAIW:

- 1) Prior to implementing the waqf pledge from the waqf candidate, PPAIW must be able to ensure the formation of the Waqf Pledge Council, and PPAIW itself.
- 2) Examining the completeness of the waqf administrative requirements and the physical condition of the waqf object.
- 3) Witnessing the implementation of the Waqf Pledge (Statement of the Wakif Will) before the Waqf Pledge Assembly.
- 4) Ratify AIW which has been signed by wakif, nazhir, 2 (two) witnesses, and/or Mauquf alaih.
- 5) Make minutes of the handover of waqf assets from the wakif to the nazhir, along with an explanation of the circumstances and details of the waqf assets signed by the wakif and nazhir.
- 6) Legalize nazhir, both individuals, legal entities, and organizations
- 7) Deliver a copy of AIW to: wakif, nazhir, mauquf alaih, Regency/City Land Office in the case of waqf objects in the form of land and other authorized agencies in the case of waqf objects in the form of movable objects other than land or movable objects other than money.
- 8) Make an application for a Deed of Substitute Deed of Pledge of Waqf (PPAIW) based on a request from the public or witnesses who know the existence of waqf objects, or parties that have been determined by laws and regulations.
- 9) On behalf of nazhir, PPAIW is obliged to submit APAIW along with other supporting documents to the head of the local Regency/City Land Office in the context of registering the waqf of the land concerned within a maximum period of 30 (thirty) days from the signing of the APAIW.

- 10) Submission of administrative completeness for the implementation of waqf to the Regency/Municipal Land Agency and agencies aims to arrange the issuance of waqf certificates for the said objects which become the authority of the Regency/City Land Agency and/or related agencies.
- 11) PPAIW on behalf of the Minister of Religion and the Indonesian Waqf Board (BWI) are required to register nazhir within their assigned area.
- 12) Proceed with the replacement of the old nazir who has resigned due to his position due to death, permanent absence, resignation, or termination by BWI.
- 13) Take an inventory of waqf land data, both those that have been certified and are still in process at the Regency BPN.
- 14) Participate in helping resolve problems related to waqf land certification (Ministry of Religion of the Republic of Indonesia, Waqf Service Standards for Officials Making Waqf Pledge Deeds (PPAIW), Director of Waqf Empowerment, Jakarta, 2013, page 16).

Waqf services, especially registration of waqf and creation of AIW by KUA officials as PPAIW, are part of the duties and functions of KUA services to the public which are carried out free of charge. The implementation of PPAIW tasks by KUA runs at all KUA throughout Indonesia. Along with the development and needs of the community in the field of notary services, the Ministry of Religion in principle accommodates the need for arrangements regarding the requirements of a Notary as PPAIW. Arrangements for a Notary as PPAIW need to be contained in a Minister of Religion Regulation. In terms of substance, ministerial regulations regarding Notaries as PPAIW, at least need to contain things that are normalized, namely:

- 1) Notary application procedure as PPAIW
- 2) Notary administrative requirements with PPAIW
- 3) Notary work area as PPAIW
- 4) Notary waqf competency training and certification
- 5) The scope of authority of the Notary as PPAIW
- 6) Basic tariff provisions for making AIW by a Notary (Nasar, 2018).

In the case of a sub-district where there is no KUA office, the Head of the Regional Office of the Ministry of Religion appoints the nearest KUA Head as PPAIW in that sub-district. This is found in Article 5 Paragraph 1 and Paragraph 3 of Government Regulation Number 28 of 1977 concerning Waqf of Owned Land. In the previous Article, namely Article 2 Paragraph 1 and Paragraph 2, it provides instructions that the waqf pledge is made in writing. In the event that the wakif does not appear before PPAIW, then the wakif can make a written pledge with the approval of the Office of Religious Affairs who administers the waqf land. The PPAIW concerned is obliged to first check the following matters concerning:

- 1) Background, intentions and will of the waqif candidate whether the waqif candidate's will and intentions are truly sincere (of his own volition) or there is no coercion from other people
- 2) The condition of the land to be donated, the land or objects to be donated are the property of the person concerned and regardless or free from legal obstacles or not. The purpose of the legal obstacle here is if it is in the form of land, then the land is not burdened with a Mortgage or is involved in a dispute. Examinations that must be done by waqif to him. PPAIW's other obligation is to examine the witnesses that have been submitted by the waqif candidates, whether they have met the testimony requirements or not. Witnesses in the pledge must meet the following requirements:
 - a) Mature
 - b) Islamic religion
 - c) Healthy Mind
 - d) Not hindered from carrying out legal actions (Nasar, 2018).

In addition, PPAIW must also examine the nazhir (waqf object manager) appointed or brought by the waqif candidate. If the nazhir has not been ratified, then after the nazhir is deemed to have met the requirements for his nazhir, the PPAIW must ratify it after considering suggestions from the District Ulema Council or the local Camat. The requirements to become nazir are as follows:

- a) Indonesian citizens
- b) Islamic religion
- c) Grown
- d) Physically and mentally healthy
- e) Not in custody, and
- f) Residing in the District where the land or object is donated

The above is a requirement for individual Nazhir. Whereas for nazhir in the form of a legal entity, the requirements are as follows:

- 1) Indonesian legal entity and domiciled in Indonesia
- 2) Have a representative in the district where land or objects are donated
- 3) Legal entities whose purpose, charity and activities or business are for the benefit of worship or other public interests, which are in accordance with Islamic teachings
- 4) Management must meet the requirements as individual nazhir requirements. Both individual nazirs and nazhirs in the form of legal entities must be registered and approved by the local sub-district Office of Religious Affairs (KUA).

C. The Role of Notaries as Officials Making Waqf Pledge Deeds (PPAIW)

In the waqf laws and regulations it is stated that PPAIW is a party that has a very significant role in the management, empowerment and development of waqf nationally. Because PPAIW is the key to the entire national waqf administration. The role of the notary in the waqf legal actions that have been running so far is related to the legalization of nazhir legal entities. According to regulations, nazhir, legal entities must be registered with the Minister of Religion and the Indonesian Waqf Agency (BWI) through the Office of Religious Affairs (KUA). The Nazhir legal entity carrying out the registration must meet the requirements, including having a copy of the Notary deed regarding the establishment and the statutes of the legal entity which have been legalized by the competent authority. There are 3 (three) main things inherent in a Notary as PPAIW, namely roles, duties and authorities.

- 1) As a party that provides legal certainty in and minimizes disputes, disputes and loss of waqf property from irresponsible parties.
- 2) As an information base and national waqf data that is accurate and complete at the sub-district level throughout Indonesia which can be used as a guide in mapping the empowerment and development of waqf
- 3) As a party that provides services, both administration and guidance for the benefit of community waqf in accordance with applicable legal corridors.

In legal terminology, the authority of an official such as PPAIW is attached to their roles and duties as a manifestation of carrying out and optimizing their functions. As with PPAIW's duties, waqf laws and regulations also do not specifically mention their authority directly. However, its authority can be explored from several clauses concerning the regulation of PPAIW. The KUA serving as PPAIW is described as follows:

- 1) Checking the legality of the administration as a requirement for implementing the Waqf Pledge and the issuer of the Waqf Pledge Deed, including ownership of the property to be donated, identity of the waqif candidate, nazhir and witnesses, as well as other matters deemed necessary.
- 2) Refuse the implementation of the waqf pledge to be carried out by the waqif if the administrative requirements and legal provisions have not been fulfilled according to the applicable laws and regulations, such as the property to be donated is still in dispute.
- 3) Provide input or attention to waqif candidates, nazir candidates and witnesses during the implementation of the Waqf Pledge in order to fulfill the requirements and improve waqf, both regarding the management plan and its designation (mauquf alaih) so that it is more beneficial for public good.
- 4) PPAIW has the right to propose a replacement nazhir, either on its own initiative or at the suggestion of the wakif or its heirs if the nazir within 1 (one) year since AIW was created does not carry out its duties properly.

- 5) Mediate if there is a conflict between nazhir and other nazhir members, between nazhir and wakif, between nazhir and the community or other related parties (Pratama, 2018).

In the present time where the price of land is relatively very expensive, a lot has happened and been carried out by the people of Indonesia. For example, in terms of building a mosque that requires a large enough land or land. In the event that the mosque construction committee does not have relatively sufficient funds to purchase the required land, the mosque construction committee will usually offer the community to provide waqf as much as they can. In the sense that the community collectively (works together) buys the remaining price of the land that has not been purchased (paid) by the mosque committee. This kind of waqf practice can be justified for waqf, in practice for the present, that is, after the waqf issue is regulated positively in National Law, an endowment issue is regulated positively in National Law, an endowment must take effect immediately, namely after the waqf pronounces the Waqf Pledge (Pratama, 2018). In the case of making a deed of exchange, the Notary as PPAIW also functions to provide counseling to the parties about the deed that will be made. It is intended that the deed made is in accordance with the applicable regulations. As with changes to the designation of waqf land, the Notary as PPAIW ensures whether it has received approval from the Minister of Religion and the Indonesian Waqf Agency (BWI) by showing the evidence, it has been in accordance with the mechanism for submitting changes to the designation of waqf land according to the law, and the position of the exchange is detrimental or profitable, because if it is detrimental then the waqf land cannot be made a deed of exchange. In the provisions of the new Waqf Law, namely Law Number 41 of 2004 Article 17 also states that: "(1) The Waqf Pledge is carried out by (two) witnesses (2) The Waqf Pledge as referred to in Paragraph (1) is stated orally and/or writing as well as stated in the Waqf Pledge Deed by PPAIW, what is meant by PPAIW is the Head of the KUA Subdistrict. After the exchange process occurs, the function of the Notary as the Official Making the Waqf Pledge Deed (PPAIW) is to re-create the Waqf Pledge Deed (AIW) from the newly replaced land by the second party (the party that disturbs the position of the waqf land) in accordance with the original AIW or in accordance with AIW originally or according to the wishes of the wakif (Anshor, 2011). After the denial of waqf and its pouring into AIW has been completed, the act of waqf is deemed to have materialized in a legal condition and has strong (authentic) evidence. So that in this way, the waqf land itself has guaranteed and protected its existence and existence from one generation to the next. The next action to further strengthen the authentic evidence that already exists, then what PPAIW has to do is register the endowment at the local District National Land Office. The registration was carried out by PPAIW on behalf of Nazhir in order to obtain a waqf land certificate.

CONCLUSION

The implementation of the making of the Waqf Pledge Deed was carried out by a Notary as PPAIW which is as stated in the explanation of the provisions of the Law on the Position of Notary Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. Prior to donating the property belonging to the Wakif to be handed over to Nazhir, the Wakif must pronounce the Waqf Pledge orally in front of PPAIW which was given with 2 (two) witnesses and written down in the form of a Deed called AIW.

In Government Regulation Number 42 Concerning Waqf in Article 3 Paragraph (4) and (5) states "that it is possible for a Notary to have the opportunity to make a Waqf Pledge Deed. This is included in the Notary's new authority in making deeds related to waqf. Factors that can become an obstacle to the Notary's Authority as PPAIW are as follows: (a) there has been no access given as a further reference regarding the Notary in making AIW, (b) in addition, to socialization to the Notary there has never been, so automatically there is no socialization to the public either.

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