

## Efforts to Overcome Social Prejudice against Waqf Land Certification in Padang Pariaman Regency Viewed from Fiqh and Its Practice

Yusnita Eva<sup>a</sup>\*

<sup>a</sup>Universitas Islam Negeri Imam Bonjol Padang, Indonesia

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### ABSTRACT

This research on waqf land certification seeks to identify the root causes of people's reluctance to accept the government's declaration to certify land throughout Indonesia, particularly in the V Koto Timur community of Padang Pariaman Regency. The community's preconception has resulted in many uncertified waqf lands. Indeed, certifying waqf land is free, as the government stated during a visit to Padang, West Sumatra, on February 9, 2018. According to data obtained from the head of the Padang Pariaman Regency's National Land Agency (BPN), only 6% of waqf lands in V Koto Timur, Padang Pariaman Regency, have been certified. Data collected between 2015 and 2020 showed there are approximately 156 prayer rooms (*musalla*) and 24 mosques that have not been certified. Furthermore, waqf land disputes are common in the region, including the withdrawal of waqf land by heirs and the creation of agricultural land on waqf lands whose management is neglected. Religious factors influence the reluctance to certify waqf land, particularly among the people of Padang Pariaman who still follow the *Syattariyah* order and have strong faith in the *Nagari* leaders, particularly the *penghulu*, who find it difficult to accept their waqf land for certification. The community stereotype holds that waqf lands can be taken over by the government if they are certified. Other factors contributing to the ignorance include the fact that the person who made the waqf or his heir no longer resides in the area.

**Keywords:** Social prejudice; waqf; stereotype; fiqh; Padang Pariaman

### Introduction

Indonesia, as a Muslim-majority country, has a lot of potential wealth. Waqf is a potential source of wealth for Muslims. According to article 1 paragraph 1 of Law Number 41 of 2004, waqf is a legal act of *wakif* (person who gives waqf) to separate and/or surrender part of his property to be used forever or for a specific period of time in accordance with his interests for the purposes of worship and/or public welfare following the Shari'ah. Waqf is prioritized worship in Islam as a *taqorrob* (approach) to Allah SWT as well as capital in the development and progress of Islam. Waqf property will benefit more than charity because it is eternal and the proceeds can be used indefinitely for the benefit of the community. Surah Al-Hajj verse 77 of the Qur'an mentions,

يَا أَيُّهَا الَّذِينَ آمَنُوا ارْكَعُوا وَاسْجُدُوا وَاعْبُدُوا رَبَّكُمْ وَافْعَلُوا الْخَيْرَ لَعَلَّكُمْ تُفْلِحُونَ

"O you who have believed, bow and prostrate and worship your Lord and do good – that you may succeed".

\*Corresponding authoh: yusnitaeva\_75@yahoo.co.id

It means that Allah commands those who believe in Allah SWT and His Messenger to submit to Allah by prostrating and worshiping Him with whatever they have available to them. Furthermore, they are commanded to always do good in order to gain profit and receive His reward and pleasure. One of the good deeds commanded in the verse can be carried out through waqf because donating one's property implies that one has carried out the good and the reward continues to flow as long as the waqf property is in use. Islam has regulated waqf matters in terms of terms, pillars, and implementation to help realize social welfare whose benefits can be felt by the community. In fact, many of our people are unaware of this and perform waqf according to their own interpretation, implying that waqf implementation is still not orderly and efficient. This research is useful for presenting several aspects of waqf, particularly the case found in V Koto Timur Subdistrict.

To manage and develop waqf in Indonesia, the government, ulama, and the community must all work together. Furthermore, it must be reformulated in regard to various waqf-related issues, such as waqf property, waqf and nadzir designation, and professional waqf management. Furthermore, waqf must be delegated to individuals or a special body with sufficient expertise to manage it professionally. This is critical to be implemented in its development; waqf management gains momentum by implementing a number of policy changes. In this case, the government places a high value on the empowerment of waqf as part of improving welfare, recognizing that waqf is an alternative for the development of people's welfare.

Waqf is distinguished by its purpose, duration, and use. Waqf, according to its purpose, consists of:

1. Social waqf is for the benefit of the community (*khairi*), i.e. if the purpose of the waqf is for the public interest.
2. Family waqf (*dzurri*), that is, waqf for the benefit of the waqif, his family, and descendants.
3. Combined waqf (*musytarak*), means that the waqf serves both the public and the family.

Based on its duration, waqf is classified into:

1. Perpetual waqf, which is defined as waqf in the form of eternal goods such as land and buildings or movable goods determined by the wakif.
2. Temporary waqf, i.e. if the waqf is in the form of goods that are easily damaged when used and no conditions are provided to replace the damaged part.

Based on its use, waqf is divided into two categories:

1. Direct waqf, or waqf whose main assets are used to achieve its objectives, such as mosques for prayer, schools for teaching and learning activities, and so on.
2. Productive waqf, waqf whose main goods are used for production activities, and the results are distributed in accordance with the waqf's purpose.

To be considered valid, a waqf must meet the following criteria (Hazami, 2016, 182–184):

- a. The waqf property has a value (there is a price). In practice, the property can be valuable if it has been owned by someone and can be used under any circumstances.
- b. Waqf assets are clear in their form. This means that it is known with certainty when the object is donated, so it will not cause a dispute.
- c. The waqf property is the waqif's property.
- d. The waqf property takes the form of immovable objects, such as land, or objects that have been modified to fit the existing waqf.

Among the existing waqf regulations are Law No. 41 of 2004 on Waqf and Government Regulation No. 42 of 2006 on the Implementation of Law No. 41 of 2004 on Waqf. The presence of Waqf Law No. 41 of 2004 provides a firm legal foundation, public trust, and protection for waqf assets. The ratification of this law is a strategic step toward improving public welfare by

expanding the role of the waqf, which is not only a religious institution but also has the potential economic power to advance public welfare.

Land registration is a continuous and regular series of activities carried out by the government, which covers the collection, processing, bookkeeping, presentation, and maintenance of physical and juridical data in the form of maps and lists, concerning land parcels and flats, including the issuance of certificates of registration or proof of rights for parcels of land and ownership rights to the apartment unit, as well as certain rights that burden it. Land registration is carried out in accordance with the principles of simplicity, safety, affordability, up-to-dateness, and transparency. Land registration serves 3 (three) functions (Alfaruqi, 2016, pp. 15–16):

1. To provide legal certainty and legal protection to landowners so that they can easily demonstrate their ownership of the land in question.
2. To make information available to interested parties, including the government, so that they can easily obtain the data required to pursue legal action against registered land parcels.
3. To implement orderly land administration.

Specifically for the purpose of land registration, which ensures legal certainty, include:

1. Certainty in the legal subject of land rights (person or legal entity).
2. Certainty about the location, boundaries, size/area of land, or so-called certainty regarding the object of rights.
3. Certainty of land rights, namely the type of land rights that form the legal basis between land and a person or legal entity.

Land registration serves a dual purpose, which means that it is beneficial to both the right holder and the government. Its uses for rights holders include:

1. Obtaining a certificate of land rights can provide a sense of security because of the legal certainty of land rights;
2. If there is a transfer of land rights, it can be carried out easily;
3. The estimated price of land with a certificate is usually higher than the estimated price of land without a certificate;
4. Certificates can be used as collateral;
5. The payment of Land and Building Tax (PBB) will not be incorrectly determined.

Furthermore, the holding of land registration means that the government will create an orderly administration in the land sector, and the realization of orderly land administration will facilitate every activity related to land in Indonesian development. Given the importance of waqf, Law Number 5 of 1960 included a special provision, referred to in Article 49 paragraph 3, stating that waqf of the owned land is protected and regulated by a Government Regulation.

The term “certificate” is an English word, which means a diploma or certificate issued by a particular official. A certificate indicates that the official in question has provided the status of a person's condition. In Indonesian, a “land certificate” is defined as a certificate of proof of the holder of land rights that serves as strong evidence. Issuance of a land rights certificate stating that a person has rights to a plot of land or that someone's land is under dependent authority, such as a mortgage certificate or a credit card. The definition of a land certificate can be found in its foundation, specifically in Article 19 of the Basic Agrarian Law (UUPA), which states that: paragraph (1) to ensure legal certainty by the government, land registration is carried out throughout the Republic of Indonesia in accordance with the provisions stipulated by government regulations. Paragraph (2) the registration in paragraph (1) of this article includes:

1. Land measurement, mapping, and bookkeeping.
2. The registration and transfer of land rights.
3. Provision of rights proof, which serves as a powerful means of proof.

Whereas the government's acceleration program for making free land certificates for waqf land aims to anticipate land disputes in Indonesia because many people do not have proof of land ownership, particularly those who surrender their land for waqf and are not certified. During his visit to West Sumatra on February 9, 2018, the President stated that the government has given a two-year deadline for all land certificates in Indonesia to be ready (certified). According to the information obtained, there are still disputes on waqf lands that are not certified. The ownership of this certificate can serve as a guide for management in order to avoid disputes (kominfo.go.id, 2016). As explained by the Ministry of ATR/BPN, it has issued two (2) regulations that make it easier for waqf land to obtain certification. The Ministry of ATR/BPN has released the Ministerial Regulation Number 2 of 2017 concerning Procedures for Registration of Waqf Land at the Ministry of ATR/BPN. Furthermore, it has also issued Circular Letter Number 1/SE/III/2018 concerning Instructions for Accelerating the Registration of Land for Places of Worship throughout Indonesia. The two regulations have 3 (three) key points. First, the Regency/City level BPN must work with the Ministry of Religion to collect data on waqf land that will be submitted for certification. This is clearly a trigger for the Ministry of Religion to respond quickly. Second, the requirements for waqf land certification are simplified and distinct from those for SHM (Freehold Title) land certificates. Third, the entire waqf land certification process is provided "free of charge". In response to this policy, the Directorate General of Islamic Guidance acted swiftly to establish technical cooperation with the Ministry of ATR/BPN. As a result, a policy for the Acceleration of Waqf Land Certification was created. This policy is a collaborative effort between the two ministries that will encourage waqf lands to obtain legal status from the National Land Agency as soon as possible.

Although the free waqf land certification program is a breath of fresh air in the fight to preserve land access in Indonesian territory, particularly in the Nagari (term for the village in Minangkabau) area of West Sumatra, it has had little impact. The community's inability to participate in the success of the free waqf land certificate program is inextricably linked to social prejudice (interview with Arlis, the head of V Koto Timur Subdistrict, 25 October 2020), which exists in some areas, particularly in the region where this research is conducted. Based on the research findings, many waqf lands in V Koto Timur Subdistrict, Padang Pariaman Regency have not been certified. Data from the head of the Padang Pariaman National Land Agency, only 6% of waqf lands are certified. Furthermore, many disputes arise as a result of unilateral recognition of land ownership that has been granted as waqf by one of their families. Nazhir (a party that receives waqf property from waqif) was unable to make these waqf lands more productive and efficient because they had been neglected and left unmanaged. As an example, several cases of waqf land in the V Koto Timur Subdistrict that was used for a prayer room collapsed after the September 2009 earthquake.

This is evidenced by the data gathered in West Sumatra, specifically the V Koto Timur Subdistrict, which consists of four *Nagari*, namely Nagari Limo Purut, Nagari Kudugantiang, Nagari Kudu Ganting Barat, and Nagari Padang Alai. Many people do not certify the land they have donated to the village. Based on data from Statistics Indonesia for Padang Pariaman Regency in 2017, the population of the four Nagari in the V Koto Timur Subdistrict is 14,726 people. The community's religious life is entirely Muslim, and the community has a strong belief in the *Syattariyah* understanding, which has been practiced since the arrival of Islam in Minangkabau. The community has more economic activities in agriculture in general, such as plantations, rice fields, crop planting, and so on. Every tribe/clan in the subdistrict owns a large area of inheritance land, both high and low inheritance. Many tribes commonly donate their land as waqf for the benefit of the people. According to KUA data, the total amount of land donated as waqf between 2005 and 2020 is approximately 156 prayer rooms and 24 mosques that do not yet have a certificate.

**Table 1:**  
*Number of Uncertified Waqf Land in 2005-2020*

No	Nagari	Total Mosque	Total Prayer Room (Musalla)
1	Limo Purut	2	32
2	Kudu Ganting	11	23
3	Padang Alai	11	85
4	Kudu Ganting Barat	-	16

*Source: Data from the Religious Counselors of KUA V Koto Timur Subdistrict.*

So far, the study of waqf land empowerment has primarily focused on three aspects. The first is research into the management of waqf land, specifically waqf land as an Islamic economic asset (Fuadi, 2018; Refda & Fitri, 2018). The second study focuses on the legal protection of waqf land based on statutory regulations, customary law, and local regulations in areas where waqf land is located (Hamzani & Mukhidin, 2017; Setiadi et al., 2019; Wibawa, 2019). There are also studies on the process of resolving waqf land disputes in particular areas (Islamiyati, 2018; Kamasarudin, 2019). Based on these three factors, it appears that the educational aspect of waqf land certification has received little attention, despite the fact that providing education about waqf land certification facilitates the process of public understanding of the importance of land certification and is capable of providing legal protection for waqf land, allowing waqf land to be managed without disputes.

The purpose of this research is to explain the background of social prejudice regarding waqf land certification in the V Koto Timur Subdistrict of Padang Pariaman, which is frequently misunderstood by most people, whether as wakif or heirs. Another objective is to find out the government's efforts, particularly the KUA, to raise public legal awareness about the importance of certifying waqf land for their survival. According to several religious instructors, inviting the community to certify the land they have donated is extremely difficult. This prompted researchers to conduct research on this prejudice issue as well as the government's challenges to invite the community to certify waqf land in V Koto Timur Subdistrict, Padang Pariaman Regency.

Previous research that has addressed the issues associated with empowering and certifying waqf land is the research by Tinuk Dwi Cahyani and Muhammad Luthfi, 2020. This research is titled "Assistance in the Management of Waqf Land Certification Managed by the Regional Leadership of Muhammadiyah Malang Regency". According to the findings of this study, the process of certifying waqf land in practice is divided into two structures. The first one is the process of certifying waqf land on assets that have already had rights, and the second is the process of certifying waqf land on non-rights land assets, where the requirements for documents that must be prepared differ. The applicant for certification in this case acts on behalf of Muhammadiyah in the registration process for waqf land certification originating from Muhammadiyah (Budiman, 2020).

In 2015, Akhmad Sirojudin Munir conducted a study on optimizing productive waqf empowerment. The findings of this study showed the impediment to empowering productive waqf, namely a lack of public understanding of waqf law, resulting in non-productive waqf assets (Munir, 2015).

Another study on the effectiveness of waqf land certification in Pasuruan Regency was conducted by M. Mahbib Junaidi et al, 2015. The findings revealed that the process of certifying waqf land was ineffective due to a large number of uncertified waqf lands. Then, because the phenomenon of Nazhir is still traditional and solely based on religious law, there is a need for institutional assistance to educate the importance of waqf land certification (Junaidi, 2015).

Dewi Hendrawati and Islamiyati (2018) conducted a study titled Dispute Resolution of Uncertified Waqf Land in Central Java's North Coastal Region. According to the findings of this study, efforts to resolve waqf disputes are generally carried out through a non-litigation process, namely deliberation and mediation, on the grounds that settlement is faster and less expensive, and it can also maintain good relations. The factor that prevents it from being certified as waqf land is that wakif is still based on the old waqf paradigm, which holds that when a wakif donates his wealth to waqf, the intention is to sincerely seek the pleasure of Allah, so it does not need to be known by others. Furthermore, Nazhir does not understand the process of certifying waqf land, and there is no counseling provided to Nazhir regarding waqf land, resulting in a conflict between people's understanding of religious law and government regulations (Islamiyati, 2018).

Junaidi (2019) conducted a study entitled Waqf Land Dispute Resolution: A Case Study of Nusantara Jaya Village, Keritang Subdistrict. According to the findings of this study, the implementation of waqf has met the requirements and pillars of waqf, but it is not in accordance with Islamic law administratively. Waqf disputes are settled through deliberation at the mosque; if they are not resolved, they are settled according to law based on Waqf Law 41 of 2004. No study examines social prejudice against waqf land certification in V Koto Timur Subdistrict, Padang Pariaman Regency, as can be seen from the several studies on certified waqf land above.

This research is field research with a social juridical approach. It describes and explains the problem of community social prejudice in certifying waqf land in the V Koto Timur Subdistrict, which is related to the Indonesian government's declaration to free all waqf land in 2018. This research began with participant observation, followed by meetings with non-believers to certify waqf land and structured interviews using a question guide that is organized systematically. Interviews were conducted with several heirs, nazhir, and *wali korong*. Sources of data in this research include primary data and heirs. The secondary data of this research are the laws and regulations relating to the certification of waqf land, such as Law Number 41 of 2004 concerning Waqf, PP No. 28 of 1977 concerning Land Ownership Waqf, PP No. 42 of 2006 concerning the implementation of Law 41 of 2004 concerning Waqf, PP No. 25 of 2018 concerning amendments to government regulation No. 42 of 2006 concerning the implementation of Law 41 of 2004 on Waqf. Books on waqf, as well as journals related to waqf land and certification.

The researchers also collected data by holding focus group discussions (FGDs) with community leaders (Ulama and Ninik Mamak), Wali Nagari, KUA, BPN, and Islamic Law experts from UIN Imam Bonjol Padang to determine the reasons for the rejection of waqf land certification in the people of V Koto Timur Subdistrict. The snowball sampling technique was used to collect data so that the answers from the interviews could be collected and classified according to the research problem. The data were analyzed using domain analysis. This research was carried out to provide a complete and clear picture of the causes of prejudice for the people of V Koto Timur Subdistrict, Padang Pariaman, in order for them to certify their waqf land. Even though the government provides free waqf land certificates, they are ignored. Furthermore, the purpose of this research is to explain the efforts made to provide legal awareness to the community in order for them to have good prejudice and want to certify their waqf lands.

### **Background of Social Prejudice Against Waqf Land Certification in V Koto Timur Subdistrict**

Prejudice is a negative assessment of different individuals or groups so that when people interact within a specific group or society, people with prejudices against other individuals or groups of people can be found. People's perceptions of a person or group, as well as their attitudes and behavior toward others, can all be linked to prejudice (Mulyana, 2002). According to Mulyana (2019), perception is culturally bound. The value system used determines how a message, object, or environment is interpreted. Social prejudice is a negative attitude displayed by other people or groups. One of the factors that frequently influences the occurrence of social prejudice is the

presence of competition for a particular power or resource.

According to Mar'at (1981:113), "prejudice is an assumption that has a negative value; even so, this assumption can also be positive." However, it usually results in negative judgments colored by that fleeting emotion. Prejudice is defined as general statements based on a superficial experience that has not been tested. As a result, prejudice is an emotional judgment that tends to negatively judge others. Thus, prejudice against other people or other groups is a tendency to avoid and keep a distance from other people or other groups, as well as a tendency to harm and not help other people or other groups. Prejudice has the effect of subjecting others to particular behaviors, such as scapegoating them through stereotypes, discrimination, and the creation of social distance (Mar'at, 1982, p. 113).

The social prejudice that arises as a result of the people of Koto V Subdistrict, Padang Pariaman Regency's refusal to certify their waqf land has its own set of reasons. Furthermore, these programs have never been done or recommended previously, and they have heard a lot of negative information about land certificates, which are government programs. Although the government has made certifying waqf land widely available for free, so that waqf lands can be maintained and protected and can be used for public interest and worship purposes, however, the program is never implemented and is sometimes viewed negatively, which they consider harming the local community while benefiting the country.

Prejudice causes them to react negatively to everything that comes their way, setting a bad precedent that will bring bad results to their lives while benefiting others. The people of the V Koto Timur Subdistrict of Padang Pariaman have convinced themselves to reject anything that contradicts their life principles, let alone goes against their religion. This is related to their attitude of rejecting the government's invitation to certify their land for free.

Waqf land certificates are free of charge, and the free waqf land certification program is also an instruction of the President of the Republic of Indonesia, so it is a waste if people do not take advantage of this government's program for certifying their waqf land. Concerning the number of certified waqf lands, the head of KUA stated that the number of certified lands in the V Koto Timur Subdistrict is very low, ranking last among all subdistricts in Padang Pariaman Regency. The head of KUA is determined that this situation will improve (interview with Alfitra, Head of KUA V Koto Timur Subdistrict of Padang Pariaman Regency. 25 October 2020).

Prejudice, as mentioned by Dion (2003), is biased and usually negative attitudes toward social groups and their members (Dion, Kenneth L, 2003). Matsumoto (2003), on the other hand, defined prejudice as the desire to pass judgment on others based on one's social group membership. The term prejudice is frequently used to describe a tendency to think negatively about other people based on negative stereotypes (Matsumoto, 2003).

However, because stereotypes can be interpreted in negative and positive ways, prejudice can be both positive and negative. Only in everyday usage is prejudice viewed negatively (Matsumoto, 2003). According to Matsumoto (2003), prejudice has two components: a cognitive component (thinking) and an affective component (feeling). Stereotypes are the foundation of prejudice's cognitive component—the stereotypic beliefs, assumptions, and attitudes that people have toward others. The affective component is made up of a person's feelings toward people from other groups. Anger, disgust, resentment, belittling, or, on the other hand, pity, sympathy, and closeness are examples of these emotions. These two elements work together to create prejudice. People can feel resentment before they believe someone is rude.

The concept of prejudice is not new to the society. Everyone must have used the term to express their thoughts and feelings toward others. Prejudice is defined as making a decision before knowing all of the facts about an object. Brigham (1991) argued the tendency of individuals to create social categories is one of the characteristics of social prejudice. Social category is the tendency to divide the social world into two groups, namely "our group" (in-group) and "their

group” (out-group). In group is a social group to which individuals feel they belong (“our group”). Meanwhile, the out-group is a group that exists outside of the group itself. The emergence of social prejudice can be seen in the strengthened feelings of the in-group and out-group. The following are the characteristics of social prejudice based on the strengthening of feelings within and outside of groups:

1. When an individual from the outside group acts negatively, the process of generalizing to the actions of other group members occurs. Meanwhile, if an individual from his own group acts negatively, the negative action will not be generalized to other members of his own group.
2. Social competition is a technique used by group members to boost their self-esteem by comparing their group to other groups and believing that their own group is superior to other groups.
3. Extremely harsh judgment of other members of the group. Individuals give excessive evaluations toward other members of the group; both positive and negative. Typically, the assessment given is a negative one.
4. The influence of selective perception and memory of the past. Stereotypes are commonly associated with the influence of selective perception and memory of the past. Stereotypes are beliefs that associate a group of people with certain characteristics or assumptions about the characteristics of members of another group. So, stereotypes are preconceptions of ideas about groups, an image that is typically very simple, rigid, cliché, and inaccurate, and which arises as a result of the generalization process. So, if someone has a stereotype that is relevant to the person who perceives it, it will be immediately perceived negatively.

Referring to the findings of interviews, several informants stated:

*The wakif or their heirs do not want to be preoccupied with time-consuming routines and administrative procedures. Furthermore, waqf does not need to be announced with their understanding of Islamic teachings that the right hand provides, so the left hand must be unaware. If the waqf land is certified, the management, particularly the nazhir or the head of the KUA, can mortgage it to a bank. Furthermore, they believe that the waqf land certificate is a project that will benefit both the KUA and the Nagari government (interview with Afrinaldi, et al. Religious Counselor at KUA Kecamatan V Koto Timur Padang Pariaman. 30 September 2020).*

According to Tuanku Muhammad Sayuthi, the public’s reluctance to certify waqf land stems from public concerns about the waqf land’s certificate, which will be subject to Land and Building Tax (interview with Wali Nagari Kudu Gantiang, Tuanku Muhammad Sayuthi. (discussion) 25 October 2020.) Jhoni Arifnel also stated that one of the reasons for public prejudice against waqf land certification in V Koto Timur Subdistrict, Padang Pariaman is the public’s ignorance of the rules and technicalities in waqf land certification. This occurs in the community in which the land where the MAS stands (Private Madrasah Aliyah) is a land swap with the old land, the land where the MAS stands is already certified but still uses the name of the old owner, the certificate has been split but the community questions why it still uses the name of the old owner (interview with The principal of Madrasah Aliyah Swasta, Jhoni Arifnel. (discussion) 25 October 2020). Abu Hani also brought up another case involving land waqf for the construction of an elementary school. Initially, the land was donated for SD (Elementary School) and in its development, because there was still vacant land, SMP (Junior High School) and Mosque were built, and there was still land left. This causes management to be perplexed about how to certify the land, whether it is just a building, and what to do about the remaining vacant land (interview with The administrator of Mesjid Raya, Abu Hani, (discussion) 25 October 2020).

Based on the findings of the preceding interviews, it is possible to conclude that the source of social prejudice against waqf land certification is motivated by:

1. People's perceptions of the concept of giving in Islam, where it is preferable to do it secretly.
2. Community concerns about the difficulty of administering waqf land certificates.
3. The community's ignorance of how to certify waqf land.
4. People are concerned about paying taxes once the waqf land has been certified.
5. Concerns in the community about the misappropriation of waqf land certificates for the benefit of particular parties.
6. The heirs' desire to reclaim the waqf land and their distrust of the nazhir.

In fact, based on data from field interviews, there are numerous consequences of their refusal to certify waqf land, including cases narrated by Agusriadi: (1) land was donated as waqf for mosques and, coincidentally, there was an excess of land, so a public elementary school was built. It turned out that after the elementary school started, the principal acted as if he had more power over the school and the mosque that was built. So anyone wishing to use the mosque must first seek permission from him. (2) The land was donated for graves by the wakif, then, when he died, the vacant waqf land was used by the heirs to plant crops such as coconut and others. Finally, the amount of waqf land that should be used for graves was reduced. (3) Wakif donated land to build an orphanage, when the wakif died Nadzir managed the waqf land into productive waqf. The heirs were enraged and filed a lawsuit because the waqf land was not managed in accordance with the deceased wakif's intentions. (4) There was a lawsuit for waqf land that was filed in the 1970s. As time passed, the number of descendants of the wakif who were the heirs increased. Because waqf land was not certified, the heirs of the wakif sued, and they won (discussion with Wali Nagari Agusriadi 25 October 2020).

### **Government Efforts, Particularly KUA, to Reduce Prejudice in the Land Certification Process in V Koto Timur Subdistrict, Padang Pariaman Regency**

Islam is a religion that governs not only the relationship between humans and Allah SWT but also human relations with other humans and human relations with the natural environment. In the waqf case, it regulates the relationship between humans and the land (nature), and the creator, namely Allah. Waqf means releasing one's property to be used for the public benefit, this means those who donate for waqf are no longer entitled to the property. Waqf assets cannot also be inherited, donated, withdrawn, or sold. If the waqf land is not used properly, that is, in accordance with the rules outlined in the Nash and Indonesian laws, conflicts will arise. The conflict has existed in humans since their first creation. According to Islamic teachings, the first step in resolving a conflict is for a Muslim to gather information about the current conflict. The conflicting party should not assume that he understands all aspects of the conflict (Wirawan, 2016, p. 26). Allah SWT explains this in Surah al-Isra'verse 36, which reads:

وَلَا تَقْفُ مَا لَيْسَ لَكَ بِهِ عِلْمٌ إِنَّ السَّمْعَ وَالْبَصَرَ وَالْفُؤَادَ كُلُّ أُولَئِكَ كَانَ عَنْهُ مَسْئُولٌ

*And do not pursue that of which you have no knowledge. Indeed, the hearing, the sight, and the heart – all those will be questioned.*

The above verse explains that the parties involved in the conflict may not use conjectures or prejudices because prejudice cannot describe the truth. A compromise is required at this point. Conformity is a shift in an individual's attitudes and behavior as a result of group pressure, in which the individual attempts to conform to the group's norms. Conformity is the proclivity to alter one's beliefs or behavior in order to conform to the actions of others or to new circumstances. This is known as the beginning of *islah* in religious terminology. Both parties must approach and negotiate to resolve the conflict. To reach a satisfactory solution, the parties involved in the conflict engage in deliberation, negotiations, information exchange, listening to each other's

explanations, and a give-and-take attitude (Wirawan, 2016).

In his famous 1960 literary work, *Crowds and Power*, Canetti, a German philosopher, stated that “the fear of contact” is essential that social order is born not out of necessity or a social contract alone, but because citizens are afraid to touch each other. This fear creates distance between them (Rusdiana, 2015: 7). Canetti’s statement above is justified by the prejudices that exist in the community of V Koto Timur Subdistrict, Padang Pariaman Regency, which make it difficult to accept new things. They appear to distance themselves by viewing all reforms that seek to change the long-established customary order, such as waqf land, with suspicion.

According to Worchel, these efforts will be more effective if they are accompanied by government policies that uphold equal rights and impose sanctions on acts of discrimination based on race, ethnicity, religion, gender, age, and other factors. The reasons why the law can reduce prejudice are as follows (William G. Austin & Worchel, 2000):

1. The law makes discrimination illegal, so it will reduce actions that endanger the lives of minority members.
2. The law helps to establish or strengthen social norms by defining the types of behavior that are acceptable or unacceptable in society.
3. The law encourages non-discriminatory behavior, which may eventually result in the internalization of non-prejudiced attitudes through self-perception or dissonance reduction processes.

When the facts that occurred in the V Koto Timur Subdistrict, Padang Pariaman to receive waqf land certification and the impact on it are considered, a strategy is required to be able to resolve community conflicts. The term used is ‘constructive conflict’, which refers to the conflict whose process leads to the resolution of the conflict’s substance. The conflict referred to in this discussion is a disagreement over differing perceptions and interests (Rusdiana, 2015, p. 130). This does not have a negative connotation in terms of hostility. Conflict is easy to occur if prejudice has existed for a long time; this occurs due to a lack of knowledge and understanding about something, the existence of individual or group interests, and ignorance of the losses caused by prejudice (Rusdiana, 2015).

Land disputes are not uncommon in Padang Pariaman, particularly relevant to waqf land. Furthermore, it is linked to a government program for certifying waqf land, which clearly requires the participation of all clan members, both those in the village and those living out of the village. The majority of waqf land is derived from customary land. Following up on the preceding, it is necessary to resolve existing conflicts caused by a lack of knowledge, understanding, and social prejudice regarding the significance of waqf land certificates.

The Head of the KUA collaborated with several important figures including the Head of the Ministry of Religion of Padang Pariaman, the Head of the Indonesian Waqf Board of West Sumatra, the Head of the National Land Agency of Padang Pariaman Regency and the Islamic Law Expert from UIN Imam Bonjol Padang conducted legal consultations by inviting all relevant elements of the community of V Koto Timur Subdistrict community to discuss the issue of waqf land and its certification.

According to the Head of the Padang Pariaman Regency BPN, the procedures and certification of waqf land are not difficult, and the process will be aided to make it simple and inexpensive. Regarding the customary land that is donated as waqf and is controlled by traditional leaders, he explained that several conditions must be met in order to certify the land:

1. Land ownership certificate from Wali Nagari.
2. Letter of Statement from the Village Head/Lurah/Wali Nagari, acknowledged by Camat (the head of the subdistrict).
3. Lists of Nadzir Waqf.

4. Waqf Pledge Deed (AIW) from Wakif, pledged in the presence of the Head of the Office of Religious Affairs (KUA) as the official making the Waqf Pledge Deed.

He continued that socio-religious land is exempt from the Land Building Tax (PBB). The certificate of waqf land should not be problematic, if there is a problem, it will not be worth the reward. Since the previous wakif no longer exists, if the waqf pledge deed is made by the heirs, a new problem will arise, and cancellation may occur because the land is customary land. Law 41 of 2004 and PP 42 of 2006 emphasize that land owned by a group can be donated as waqf depending on who owns it. It is preferable if the waqf lands do not cause future problems. Making certificates must be based on the principle of land ownership, despite the fact that the problem of waqf land in Padang Pariaman is quite severe in comparison to other regions (interview with Almarjan, the head of BPN Padang Pariaman, 21 November 2020).

Islamic Law expert from UIN Imam Bonjol Padang (Firdaus, Islamic Law expert, (discussion) 21 November 2020), in a deliberation meeting, explained waqf and its virtues, which are related to fiqh law and can be applied in Indonesia if it becomes law. This is in contrast to Saudi Arabia, which has made Islam the foundation of the state. As a result, fiqh does not need to be made into law in order to be accepted by the nation and the state. Due to the existence of the Waqf Law, Waqf land certification is now possible in Indonesia. The following Hadith of the Prophet Muhammad provides evidence for waqf worship:

عن ابن عمر رضى الله عنهما أن عمر بن الخطاب أصاب أرضاً بخيبر، فأتى النبي صلى الله عليه وسلم يستأمره فيها، فقال: أن شيئت حبست أصلها فتصدق بها عمرانه لا يباع ولا يوهب ولا يورث، عمرانه لا يباع أصلها ولا يوهب ولا يورث وتصدق بها في الفقراء وفي الرقاب وفي سبيل الله، ابن السبيل والضيف لا جناح على من وليها أن يأكل منها بالمعروف أو يطعم غير صديقاً

*Ibn Umar RA. said that Umar RA. received a plot of land in Khaibar, then he went to the Messenger of Allah for guidance. Umar said: O Messenger of Allah, I got such good wealth, so what do you want me to do? Rasulullah PBUH replied: If you like, hold the land, and give alms (from the results). Then Umar performed sadaqah, it was not sold, inherited, or given away. Ibn Umar said: Umar distributed it to the poor, relatives, slaves, ibn sabil, sabilillah, and guests. It is also not prohibited for those who manage waqf land to eat from the results in a good (proper) way or to eat without the intention of accumulating wealth. (HR. Muslim)*

Then he continued by mentioning the views of fiqh scholars on waqf land. The followings are the viewpoints of fiqh scholars on waqf land:

1. According to Abu Hanifah, waqf is holding something that is legally the wakif's property in order to use its benefits for virtue. From this definition, the wakif retains ownership of the waqf object, and in that sense, wakif only provides benefits to the waqf recipient.
2. Imam Maliki argued waqf does not release the waqf property from the wakif's ownership, but it does prevent the wakif from taking actions that could release his ownership of other assets, and the wakif is obligated to donate the benefits and may not withdraw the waqf.
3. Waqf, according to Syafi'i and Ahmad bin Hambal, is the release of waqf property from the ownership of the wakif after the waqf procedure is completed. Wakif is not permitted to do anything with the property donated for waqf, including selling, donating, or bequeathing it to anyone.

The basic law of certifying waqf land is permissible in Islamic law. No argument commands it and no argument prohibits it. Currently, certifying waqf land is critical for legal certainty, protecting waqf land assets from future lawsuits, and meeting the growing demand for land. Wakif has the authority to appoint the waqf's Nadzir (Firdaus, Islamic Law expert, (discussion)

21 November 2020).

The chairman of the Indonesian Waqf Board (BWI) of West Sumatra stated that the pattern of productive waqf investment is divided into four categories: Mudharabah, Muzara'ah, Ijarah, and Istibdal. Then he gave an example of a productive waqf's success at the Islamic Teacher Education Foundation (PGAI) Abdullah Ahmad. The foundation's productive waqf is well managed and continues to this day. Thus, providing benefits to the general public.

To encourage the community to certify waqf land, the government provides assistance for places of worship that stand on waqf land, provided that the waqf land is certified and registered in the Mosque Information System of the Ministry of Religion of the Republic of Indonesia. Many government aids cannot currently be distributed because the waqf land on which many mosques stand is not certified (interview with Rozalinda, Head of Indonesia Waqf Board of Sumatera Barat, 21 November 2020).

According to Baron and Byrne (2005), there are two basic forms of conformity:

1. Normative influence. It is an adjustment to the wishes or expectations of others to gain acceptance. Baron and Byrne (2005) added that in this influence, the individual tries to conform to the norms that exist within the group. If the norm is violated, the individual faces rejection or alienation from the group.
2. Informational influence. It is an individual adjustment or individual desire to have the same thoughts as a result of the influence of accepting the opinions and assumptions of group thinking and assuming that group information is richer than private information.

In this research, the community's prejudice against the waqf land certification project is primarily due to informational factors. In this regard, the Head of the Padang Pariaman Ministry of Religion Office invited wakif and waqf nadzir to certify waqf land by conveying wisdom, *mau'izah hasanah*, and good *jidat* to the public (interview with Helmi, Head of the Office of the Ministry of Religion, 2020). The Head of BPN Padang Pariaman Regency also advised that all land be registered in order to have strong legal certainty. Furthermore, if government assistance is provided, one of the conditions for the waqf land must be certified. The customary land ownership principle in Minangkabau is divided into three categories: customary land of the people, tribe, and Nagari. The customary land of the people is controlled by the *Mamak* and the customary land of the tribe is controlled by the tribal chief, while the customary land of the Nagari is controlled by KAN. Wali Nagari signed the land ownership certificate to confirm what the *Mamak*, tribal chiefs and KAN had agreed upon. Wakif who refuse to certify waqf land must be approached from a religious standpoint (Almarjan, National Land Agency, 21 November 2020.)

A legal expert from UIN Imam Bonjol Padang also emphasized the importance of waqf land certification for legal certainty. So that future lawsuits against waqf land assets are avoided. If the heirs file a lawsuit, it means that the reward for the previous ancestor's worship (wakif) will be revoked. There are differences in fiqh, but we can reap the benefits from these differences (Firdaus, Islamic Law expert, 21 November 2020).

Based on the discussion above, it can be concluded that examples of the government's efforts, especially KUA, to raise legal awareness in certifying waqf land in order to reduce dissonance are:

1. Describing how to certify waqf land derived from customary land.
2. Explaining that it is permissible to certify waqf land.
3. Explaining productive waqf through investment and how it benefits people.
4. Providing evidence of strong legal certainty when waqf land is certified.
5. Defining the significance of preventing future disturbances to waqf land assets.
6. Providing the recommendation not to decide the reward for ancestor worship deeds who had donated to waqf.

## Conclusion

Based on the preceding statements and descriptions, it can be concluded that the causes of social prejudice against waqf land certification are motivated by people's understanding of the concept of giving in Islam, which is best done in secret, as well as community concerns about the difficulty of administering waqf land certification. Then, this is also supported by public ignorance regarding how to certify waqf land, people's concerns about paying taxes after the waqf land is certified, people's worries over misappropriation of waqf land certificates for the benefit of the management, as well as the desire of the heirs to reclaim the waqf land and their distrust of nazhir.

Furthermore, the government's efforts, particularly those of KUA, to raise legal awareness about waqf land and the importance of its certification are carried out by providing knowledge and understanding about waqf land and the benefits of certification. The government also explains the procedures for certifying waqf land originating from customary land, the law of waqf, and how productive waqf can provide benefits to people through investment. This is then strengthened by the existence of legal certainty if the waqf land is certified, which can protect the assets of the waqf land from future disruption. Finally, the general public is advised not to decide on the reward for their ancestors' waqf.

This research agrees with Worchel (2003) on the legal ability to reach compromises. When all prejudiced parties reach an agreement before the law to communicate openly and fairly about protection and its consequences in the future, the V Koto Timur community will begin to reduce dissonance caused by information overload.

This compromising attitude is essentially the result of reduced information dissonance as the basis of an *islah*, a basic principle in Islamic law, namely communication and or correct information to form the legal basis. To create compromises due to social prejudice, it is necessary to establish valid information channels, as well as good coordination and cooperation between community, government, and academic leaders to complement each other's knowledge and understanding, in order to avoid prolonged conflicts.

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