

## Politics of Tax Collecting of The Earth And Building (PBB) of A Wakaf Land In A Perspective of Profit

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### Abstract

*Taxes are one of the most important sources of state revenue to implement and improve national development. No exception was the wakaf's land which was an unseparated part of the earth's tax object. The main problem of this research is that nazhir as the one who becomes the holder/manage/appointed over the land of wakaf must pay earth and building taxes every year while nazhir is not funded operating costs by wakif even nazhir accepts wakaf voluntarily. While it is included in the obligations of the five pancasila precepts and the constitution of the republic of Indonesia in 1945, it emphasizes that the principle of social justice mandates government responsibility for the development of social welfare is consistent with the principle of wakaf. Then article 34 verses (1) the poor and displaced children are maintained by the state. In this case wakif and nazhir are helping countries through voluntary land representatives for social welfare. The research method used was through the normative juridical approach with the literature approach using a secondary source of law. The study emphasized the regulatory regulations associated with the tax on the land and the building of the wakaf tax on the land of wakaf.*

Keywords: Politics of law, Earth and building taxes, expectiveness

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### I. INTRODUCTION

Taxes are one of the most important sources of state revenue to implement and improve national development. Thus the tax system continues to be established, tax revenues are intensified, and tax authorities must also become more capable and clean in order to realize a significant role in national development. The tax of the earth and the building (PBB) is the state tax levied on the earth and or building by the 12-year 1985 bill on earth and building taxes as it has been altered with the no. 12 year 1994 law. The role of the United Nations for regional governments has become increasingly important since both the 2004 autonomy law on both the regional government and the 2004 chapter 33 on the 2004 monetary reform of the central government as a result of the partial government's responsibility to the government. In support of implementing the policy, the central government resigns its share to the region, so outside the cost of voting, the local government will receive the full results of the United Nations<sup>1</sup>.

The definition of an object of the Earth Tax and the Building (PBB object) itself is a land or building that is compulsory to collect taxes. Earth Objects in Earth and Building Taxes include:

1. Sawah
2. Farm
3. Garden
4. Land

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<sup>1</sup> Wiwik Windiarti & Mohammad Sofyan, Analisis Efektivitas Penerimaan Pajak Bumi Dan Bangunan Kota Depok, Jurnal Ilmiah Ekbank, Volume 1 Nomor 2 Desember 2018, Institut Ilmu Sosial dan Manajemen STIAMI Jakarta. Hlm. 30

## 5. The compound

## 6. Mine

Of the six tax items on earth and the building above one is the land including the wakaf land which is an integral part of the earth's tax object, it is one of the islamic institutions estimated to have existed since hundreds of years ago, that is, since Islam entered Indonesia. Judging from its existence, the wakaf lands are derived from islamic law, which is enforced as national law. The country of Indonesia adheres to the pancasila principle that entitles its people to implement rules in accord with their religious beliefs.

Data of the wakaf information system (SIWAK) accessed on June 13, 2022, the number of land wakerships in Indonesia reached 432,191 locations to a total of 56,405.34 ha. Of those lands that are now listed as wakaf with 250,828 locations (21,100,87 ha), and the remaining 181,363 locations (53,304.46 ha) have not been registered (<http://siwak.ministry of go.go.id>).<sup>2</sup>

The land of wakaf we can see from an explanation of what wakaf is, it is one of worship that can include hablu minallah and hablu min annas, which is the worship that pertains to god and to our fellowmen. In the history of Islam, wakaf has been a crucial means and capital for the advancement of religion. According to rahmah djabatnika, the wakaf land has a multidimensional function that helps the welfare, development, and progress of society.<sup>3</sup>

Indonesia's development of social welfare actually refers to the concept of welfare countries. The fifth pancasila precepts and the constitution of the republic of Indonesia in 1945 emphasize that the principle of social justice mandates government responsibility for the development of social welfare. However, the constitutional commission has not been practised consistently, both in the time of the new order and in the era of the reformation, the development of new social welfare was new to the discourse and was not yet integrated into economic development strategies. Development in the social economy as one of the implementations of a national development policy that has received adequate attention from governments that from time-to-time development of socio-economic economies is progressing much that, in turn, is expected to promote the welfare of the people<sup>4</sup>.

Chapter 27 of verse (2) each citizen has the right to a work and livelihood worthy of humanity. 28h verses (3) everyone has the right to social security that makes possible his complete development as a dignified human. Article 34 verses (1) the poor and displaced children are maintained by the state, the verse (2) states develop a social security system for all peoples and empower communities that are weak and unable to live up to the dignity of humanity, the state (3) is in charge of providing adequate health and public services facilities, and the state (4) provisions for the administration of this chapter are governed under legislation. As a religious worship there are at least three important pillars in the first of the wakif (the body represents) the second nazhir (the recipient of wakaf) the third mauqub alaih (the beneficiary of the opportunity). As a general rule, it is possible for a wake-up of land without providing the cost of operation without the benefit of the heart, as is nazhir the beneficiary or in is generally accepting freely so that the wakf and nazhir are

<sup>2</sup> <https://jatengdaily.com/2022/berharap-peran-bwi-dalam-pemberdayaan-wakaf/> di akses 19 juli 2022 jam 07.13 wib.

<sup>3</sup> Rahmat Djabatnika, Tanah Wakaf, Surabaya: Al-Ikhlash, 1983, hal. 31

<sup>4</sup> Rudy Hendra Pakpahan, SH, M.Hum\* Dan Eka N. A. M. Sihombing, SH, M.Hum, Tanggung Jawab Negara Dalam Pelaksanaan Jaminan Sosial (Responsibility State In The Implementation Of Sosial Security), Jurnal Legislasi Indonesi Vol.9 No. 2 Juli 2012

merely based on the basis of trust (trust) because of what is a part of world worship and the afterlife so that the wakaf can produce results to the benefit and welfare of the people.

The main problem of this study is that nazhir as the one who becomes the holder/manager. / owner of the land of wakaf must pay earth and building taxes every year while nazhir is not funded operating costs by wakif and nazhir also accepts this wakaf voluntarily. While it is included in the obligations of the five pancasila precepts and the constitution of the republic of Indonesia in 1945 emphasizes that the principle of social justice mandates government responsibility for the development of social welfare. Then article 34 verses (1) the poor and displaced children are maintained by the state. In this case wakif and nazhir are helping countries to fulfill their obligations through voluntary land representatives for social welfare so that the writers are interested in researching **THE POLITICS OF THE PBB BURDEN LAW FOR THE WAKAF LAND IN A PERSPECTIVES ON PROFIT**

## II. LITERATURE REVIEW

State the objectives of the work and provide an adequate background, avoiding a detailed literature survey or a summary of the results. A Theory section should extend, not repeat, the background to the article already dealt with in the Introduction and lays the foundation for further work. A calculation section represents a practical development from a theoretical basis.

The definition once presented by some other scholars indicates that there is a substantive equation with that of the writer. Padmo wahjono said that political law was the basic policy that determined the direction, shape, and content of the law to be formed.<sup>5</sup>

- a. Satjipto rahardjo defines political law as choosing and the way it is used to describe a specific social purpose with a specific law within a society that covers the answers to a few basic questions:
- b. What goal is to be reached through the existing system;
- c. What methods and which ones felt best to use in achieving this goal;
- d. When and in what way the law needed to be changed; Can a solid and established pattern be set to help in deciding the selection process and ways to achieve that goal well.<sup>6</sup>

Earth and building taxes are based on 2009 law no. 28 on new land tax and retribution, that the United Nations has been a central tax, but almost all of its recipients are submitted to the region. The definition of UN by law is that fees imposed on owners, power holders, tenants and who benefit from the earth and or building. The understanding of the earth here includes the surface of the earth and the body of the earth below. A building is a technical construction that is planted or placed on solid soil and or in water and is used as a dwelling or an attempted place.

The wakaf understanding in the law is:

### A. compilation of islamic law section 215 verse 1

"Wakaf is the legal act of a person ora group of persons ora corporation that separates part of his own and institutionates it forever for the sake of worship or other common decency according to the teaching of Islam."

### B. UU No. 41 Tahun 2004 article 1 verse (1) of wakaf chapter 1

<sup>5</sup> Padmo Wahjono, Indonesia Negara Berdasarkan Atas Hukum. (Jakarta: Ghalia Indonesia, 1986), Cet.II, hal. 160

<sup>6</sup> Satjipto Rahardjo, Ilmu Hukum. (Bandung: Citra Aditya Bakti, 1991), Cet.III hal. 352-353

"The legal act w effkif to separate and/or turn over some of his property to be used forever or for a period of time in accordance with the interest for religious purposes and/general welfare according to sharia.

"The principle of wakaf land prosperity is what" the principle of proficiency "is that the land supply is able to benefit peoples, peoples, and nations widely. The principle of wakaf land prosperity is the basis that makes the wakaf's land move to continue giving benefits to its muqups.

### III. METHODOLOGY

This study USES normatif (doctrinal) type (doctrinal) research to analyze phenomena or symptoms (social) that occur ina society that deals with the legal reality ina society of different law laws in the land of wakaf (martono, 2010: 27). Research USES a qualitative approach to analyze the existence of the wakaf land and its use.

### IV. RESULTS AND DISCUSSION

#### A. It's nazhir's post to manage the wakaf lands

Nazhir is one of the key elements in the delegation. Whether or not time is functioning depends largely on what the nazhir is capable of. In various countries where wakaf have developed and function to empower people, wakaf is managed by the professional nazhir. The rupiah rose to rp9,100 per dollar in the Jakarta interbank spot market on Tuesday morning as investors bought the local unit on Wednesday. It is expected that, at times, the cost of management would depend on community community. A nazhir is required to be creative and to manage time productively to take a break.

As for nazhir's assignment in wakaf's invitation, it is clearly stated in chapter 11:

- a. Administer the boughs of the wakaf;
- b. Managing and developing the things of wakaf according to its purpose, function and purpose;
- c. Watching over and protecting the belongings of the wakaf;
- d. Report the performance of duty to Indonesia's wakf agency.

In addition to meeting the requirements of the law, for nazhir to be able to work professionally in managing wakaf, then nazhir, particularly nazhir of wakaf money must also have other skills such as:

Understanding the laws of wakaf and the regulations of legislation associated with the issue of delegate. A nazhir should have a good understanding of the laws of wakaf and the regulations of legislation related to the issue of delegate. Without understanding these things, a nazhir won't be able to manage wakaf properly;

1. Understanding a knowledge of the islamic economy and the islamic financial instruments. Wakaf is one of the most potential islamic economic institutions to develop. Therefore a nazhir, particularly a money wakhir, is required to understand the economics of sharia and the financial instruments of sharia;
2. Have insights into the practice of represents especially the practice of money wakaf in various countries. Thus one nazhir is expected to be able to innovate in developing a wakaf of money, as, for example, the practice of money wakaf, which is done in Bangladesh, Turkey, and so on;
3. Have access to the time frame. Ideally, the money wakf management is an institution that has the ability to make access to the wakf candidate, so nazhir was able to raise enough wakaf funds. Such a condition would obviously contribute to the large enough concentration of a wakaf to be expected to promote the welfare of the people;

4. To manage money legally and according to islamic principles, such as investment in the wakaf fund. These could be short -, medium - or long - term investments;
5. Doing clerical accounting accounts. This requirement requires high technology and reliable human resources;
6. Distribution of investment in the wakaf fund. In addition to being able to make investments, it is expected that a nazhir will also be able to distribute the wakaf fund's investment to mawqūf 'alayh. Hopefully PE

Article 47 verses (1) act number 41 in 2004 about the need for Indonesia's bwi (bwi) wakf. In chapter 49 of this verse (1) it states that the Indonesian wakf has a duty and authority:

- a) Practice coaching nazhir in managing and developing the wakaf;
- b) Managing and developing wakaf resources on a national and international scale;
- c) Giving approval and or permission for the change in the appropriation and status of the wakaf property;
- d) Lay off and replace nazhir;
- e) Gave consent to the exchange of the wakaf's belongings;
- f) Gives advice and consideration to governments in the arrangement of representatives.

#### **B. The political laws of the United Nations of wakaf land in a perspective of profit**

Padmo wahjono said that political law was the basic policy that determined the direction, shape, and content of the law to be formed. In another of his writings padmo wahjono clarified the definition by saying that political law is the law enforcement policy of the country as the criticio of which is the criticality of punishment for that which includes the formation, application, and enforcement of law. Teuku mohammad radhie defines legal politics as a declaration of the will of a state ruler concerning the laws that apply to his domain and the direction that the law is built on<sup>7</sup>.

Former chairman of the penal code (criminal law) book of law (criminal law) soedarto pointed out that politics is the state's policy through state agencies that are authorized to establish desired regulations that are expected to be used to express what is in society and to achieve what is citaka. In 1986, soedarto reiterated that politics is an effort to establish good rules according to circumstances and circumstances at a certain time<sup>8</sup>.

As land representatives in Indonesia move toward the establishment of the Indonesian government's wakaf system and its management to advocate for wakaf management, and act as a nadzir (manager) of wakaf. When it comes to advocating for wakaf management, bwi shares in supervising the management of the land of wakaf. In the first semester of 2008, the company's vice President director, lee of the house of representatives DPR, said here on Tuesday.<sup>9</sup>

The government regulation stipulated that the position of the ministry of religion and of the Indonesian wakaf was that regulators, motivators, facilitators, supervisors, supervisors, supervisors and coordinators in gifts and developments to the wakaf's wealth. Looking at the duties imposed on bwi, it has a highly strategic function primarily in the development and surveillance of nadzir to manage productive management, and it also oversees nadzir's behavior. So that no wakaf land is covered by nadzir. Therefore,

<sup>7</sup> Teuku Mohammad Radhie, "Pembaharuan dan Politik Hukum dalam Rangka Pembangunan Nasional", dalam majalah Prisma No.62 Tahun II, Desember 1973, hal. 3

<sup>8</sup> Soedarto, Hukum dan Hukum Pidana, (Bandung: Alumni, 1986), hal. 151

<sup>9</sup> Usman, Rachmadi, Hukum Perwakafan di Indonesia, Sinar Grafika, Jakarta, 2009. hal.133



bwi must be professional in carrying out his duties. Whereas governments in this regard should only be facilitators, motivators, and regulators.

To facilitate the development of bwi in nadzir development, bwi has the authority to build up a wakaf development program, to manage its assets, to establish productive wakaf measures and to announce the development of wakaf to the public. Take, for example, a nazhir may consult bwi via the Internet or by letter when finding the problem in developing the wakaf estate. Then the bwi helps correct the identification, making the development consistent with the land type and marketable results. This consultation and counseling is important, as there are still some nazhir who is not fully aware of her duties and duties. Bwi will have to be more active to open a network of cooperation with various agencies, both local and private organizations, community organizations, experts, international agencies, and others to achieve their goals. According to gustav radbruch, the law must contain 3 (three) identity value, which is as follows:

1. A certain principle of law (*rechtmatigheid*). This principle covers from a juridical standpoint.
2. The principle of law justice (*ecclesiastical justice*). This principle covers from a philosophical standpoint, where justice is the equal right to all men in front of the court
3. Law enforcement principles (*zwechmatigheid* or *doelmatigheid* or utility).

A law's approach to reality is legal certainty and judicial expediency. Positivism emphasizes more certainty of the law, whereas the functionaries place emphasis on legal expediency, and it may be argued that "*summum ius, nocet, lex summa, summa crux*" means a harsh law can harm, except justice can help it, and thus justice can be nothing more than the sole object of the law but the substantive purpose of the law.<sup>10</sup> In realizing the purpose of the law of gustav radbruch states the need to be used the priority principle of the three basic values that became the objective of the law. This is because in reality, legal justice is often in conflict with legal expediency and certainty and vice versa. Among the three basic points of the law's purpose, at the moment of impact, one must be sacrificed. To that end, the priority principle used by gustav radbruch must be carried out in the following order:

1. Legal justice;
2. Legal expediency;
3. Legal certainty.

In the above sequence of priorities, the legal system could avoid internal conflict.<sup>11</sup>

Gustav radbruch's theory suggests that the law should have a soul of justice, certainty and expediency, it is expected that wakaf can have a spirit of justice such as the rules guaranteeing general justice, the certainty and the expediency that all humans can feel especially in low-income communities can feel the full domain of wakaf.

## V. CONCLUSION

1. Nazhir's position as manager of the wakaf land has a crucial role even as the ultimate spear being the one who has the right to act on the property of wakaf, whether to take care of it, maintain, and distribute the wakaf results to the person who has the right to receive them, or to

<sup>10</sup> Dominikus Rato, *Filsafat Hukum Mencari, Memahami dan Memahami Hukum*, Laksbang Pressindo, Yogyakarta, 2010, Hlm.59.

<sup>11</sup> Tujuan Hukum. <http://statushukum.com/tujuan-hukum.html> diakses 05 maret 2020 jam 21.30

do everything that will enable them to grow successfully and eternally. Nazhir should have full support from the government.

2. He said the rupiah was expected to strengthen to rp9,100 per dollar in the Jakarta interbank spot market on Tuesday As the aim of the delegation to deliver all the world's greatest wealth to ummat.

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