

## UNCERTIFIED WAQF LAND CONFLICTS: CASE STUDIES FROM EAST ACEH

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**ABSTRACT** - This study examines the legal and administrative challenges of uncertified waqf land in Gampong Tampur Paloh, East Aceh, where traditional trust-based management systems persist despite modern legal requirements. The study employs a qualitative approach, conducting interviews with local nadzir (waqf administrators), community leaders, and legal experts to explore the factors contributing to the absence of certification. Findings reveal that reliance on oral agreements, bureaucratic complexity, and financial constraints hinder formal registration, leading to disputes over ownership and land use. Generational shifts in attitudes toward legal documentation further complicate waqf management, as younger stakeholders increasingly demand formal proof of ownership. Although deliberation serves as an effective dispute resolution mechanism, the lack of legal enforcement renders waqf land vulnerable to claims. The study highlights the limitations of Law No. 41 of 2004 in rural contexts, where accessibility to certification procedures remains a significant barrier. To address these challenges, integrated interventions such as legal education, simplification of procedures, and financial assistance are recommended to bridge the gap between customary practices and the formal legal framework. This study contributes to the discourse on legal pluralism by illustrating the complexities of integrating customary land management with national regulations and emphasizes the need for policy adaptation that considers local socio-cultural dynamics.

**Keywords:** Waqf Land, Legal Challenges, Certification, Customary Law, Land Disputes.

**ABSTRAK – Problematika Tanah Wakaf tanpa Sertifikat di Aceh Timur.** Penelitian ini mengkaji tantangan hukum dan administrasi tanah wakaf yang belum bersertifikat di Gampong Tampur Paloh, di mana sistem pengelolaan tradisional berbasis kepercayaan masih bertahan meskipun ada persyaratan hukum modern. Penelitian ini menggunakan pendekatan kualitatif, dengan melakukan wawancara dengan nadzir (pengelola wakaf) setempat, tokoh masyarakat, dan ahli hukum untuk mengeksplorasi faktor-faktor yang menyebabkan tidak adanya sertifikasi wakaf. Temuan menunjukkan bahwa ketergantungan pada perjanjian lisan, kerumitan birokrasi, dan kendala keuangan menghambat pendaftaran formal, sehingga menimbulkan sengketa kepemilikan dan penggunaan tanah. Pergeseran generasi dalam sikap terhadap dokumentasi hukum semakin memperumit pengelolaan wakaf, karena pemangku kepentingan yang lebih muda semakin menuntut bukti kepemilikan formal. Selain itu, meskipun musyawarah berfungsi sebagai mekanisme penyelesaian sengketa yang efektif, kurangnya penegakan hukum membuat tanah wakaf rentan terhadap klaim. Studi ini menyoroti keterbatasan UU No. 41 Tahun 2004 dalam konteks pedesaan, di mana aksesibilitas terhadap prosedur sertifikasi masih menjadi hambatan yang signifikan. Untuk mengatasi tantangan ini, intervensi terpadu seperti pendidikan hukum, penyederhanaan prosedur, dan bantuan keuangan direkomendasikan untuk menjembatani kesenjangan antara praktik-praktik adat dan kerangka kerja hukum formal. Studi ini berkontribusi pada wacana pluralisme hukum dengan menggambarkan kompleksitas dalam mengintegrasikan pengelolaan tanah adat dengan peraturan nasional, dan menekankan perlunya adaptasi kebijakan yang mempertimbangkan dinamika sosial-budaya setempat.

**Kata Kunci:** Tanah Wakaf, Tantangan Hukum, Sertifikasi, Hukum Adat, Sengketa Tanah.



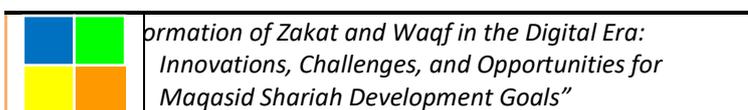
## INTRODUCTION

Islam is not only a religion that regulates worship but also a comprehensive way of life that provides guidance in social, economic, and political interactions (Sulaiman et al., 2022). Its teachings emphasize the balance between spiritual and worldly aspects, ensuring that human interactions and societal development are based on the principles of justice, equality, and collective welfare (Fakhrurrazi et al., 2024). Among the various Islamic institutions that contribute to this holistic approach, the concept of waqf emerges as an instrument of social stability (Arif et al., 2024). Waqf, defined as the dedication of property or assets for charitable or public purposes, has historically functioned as a means of gaining religious merit while simultaneously promoting socio-economic development (Syarief, 2021).

In many Muslim societies, waqf has been utilized to finance the construction of mosques, schools, hospitals, and other public facilities. Such utilization has not only supported community development but also strengthened social cohesion. In Indonesia, various regulations have been implemented over time, ranging from the Basic Agrarian Law of the 1960s to more comprehensive legislation such as Law No. 41 of 2004 on Waqf. These regulatory frameworks aim to ensure that endowed assets are managed effectively and continue to generate long-term benefits for society (Amaliah & Mulya Syamsul, 2022). Nevertheless, gaps remain within the administrative and legal framework, particularly when waqf properties are transferred or established without official certification.

This journal article examines the issue of uncertified waqf land in Gampong Tampur Paloh, Simpang Jernih Subdistrict, East Aceh Regency. The Tampur Paloh case reflects broader challenges found across various regions in Indonesia, where the absence of formal certification poses significant problems. Without adequate documentation, such as a waqf deed or an official certificate, the legal status of these lands becomes ambiguous. This ambiguity may give rise to future disputes, particularly when heirs or other interested parties question the communal use of the land, or when practical issues arise, such as the distribution of agricultural yields from waqf assets, which could potentially hinder the intended benefits for the community.

A review of existing literature indicates that several studies have examined similar issues in various regions of Indonesia. For example, Aini (2019) in



Enrekang and Titi (2023) in Mataram highlight the legal and administrative challenges associated with uncertified waqf property. Similarly, Zuhad (2022) and other scholars have explored the socio-religious implications of uncertified waqf land, emphasizing the need for stronger regulatory enforcement and greater public awareness. While these contributions are valuable, a gap remains in the literature concerning the specific dynamics of waqf land management in Gampong Tampur Paloh, a community characterized by unique geographical features and distinct historical practices.

In Tampur Paloh, waqf practices are closely intertwined with the local tradition of mutual cooperation (*gotong royong*), reflected in the communal donation of land for the construction of public facilities such as mosques and schools. Observations reveal that several waqf properties in the area remain uncertified, which undermines the legal certainty required for optimal asset management and threatens the sustainability of their intended benefits. Addressing this issue has become increasingly urgent, given the potential for legal disputes and administrative inefficiencies that may impede both social and economic welfare.

The table below illustrates the current condition of uncertified waqf land in Gampong Tampur Paloh:

**Tabel 1.** Data on the uncertified waqf lands in Gampong Tampur Paloh

No	Location	Width (m <sup>2</sup> )	Usage	Wakif	Nadzir	Certificate No
1	Tampur Paloh	40x40	Mosque	Saimah	Armia	-
2	Tampur Paloh	20x20	Pre-school	Society	Abdullah	-
3	Tampur Paloh	100x250	Denflod Junior High	Omur	Ali	-
4	Tampur Paloh	100x100	Cemetery	Rahmat	Society	-



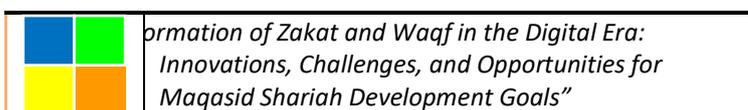
This table summarizes the central issues examined in this study. Although these waqf lands provide tangible benefits for the community, the absence of formal certification renders their legal status and management vulnerable. The study therefore aims to analyze the factors contributing to the uncertified status of waqf land, assess the implications of gaps in legal documentation, and propose possible solutions within the existing legal framework. In doing so, this research seeks to provide new insights into the practical challenges of waqf administration while underscoring the importance of strengthening both regulation and community-based interventions.

The novelty of this research lies in its focus on examining waqf phenomena within the specific socio-cultural and geographical context of Gampong Tampur Paloh. By filling this gap in the literature, the study offers practical recommendations for policymakers, community leaders, and legal practitioners to ensure that waqf assets are managed effectively and remain aligned with their original purpose of serving the collective good.

## LITERATURE REVIEW

The concept of waqf is understood as the permanent dedication of property or wealth for charitable purposes, wherein the donor (waqif) irrevocably relinquishes control over the asset in pursuit of spiritual reward and long-term social benefit (Laluddin et al., 2021). This notion is deeply rooted in classical Islamic legal theory, which emphasizes both the ethical obligation of benevolence and the practical objective of ensuring social welfare. The theoretical foundation of waqf reflects a sustained commitment to justice and equitable resource distribution, thereby serving as a mechanism to support the underprivileged and enhance community development (Ramadhan & Hayatullah, 2025).

Beyond its ethical dimension, waqf is reinforced by a strong theoretical framework that links religious obligation with socio-economic progress (Candra et al., 2024). Islamic teachings encourage the use of personal wealth for collective benefit. This dual emphasis on spiritual fulfillment and social responsibility has positioned waqf as a sustainable model of public financing. Scholars have noted that the allocation of resources for communal needs such as the construction of mosques, schools, and healthcare facilities constitutes an integral expression of social justice within Islam (Siregar, 2024). The interaction between doctrinal ideals and their practical applications underscores



the enduring importance of waqf in addressing both historical and contemporary challenges of resource management and community development.

The legal validity of waqf under Islamic law is contingent upon the fulfillment of several key conditions: the presence of a competent donor (*waqif*), a clearly defined and lawful asset (*mauquf*), an identifiable beneficiary (*mauquf 'alaih*), and an explicit declaration of intent (*sighat*) made voluntarily and permanently. These elements ensure that the waqf is established in accordance with Islamic principles and remains beneficial to the community.

Contemporary analyses suggest that, despite its strong theoretical foundation, the practical implementation of waqf continues to face multiple challenges. Modern legal and administrative systems often fail to adequately accommodate the distinctive characteristics of waqf, leading to problems such as insufficient documentation and uncertified waqf assets. Such administrative weaknesses may undermine the stability and sustainability of waqf, ultimately giving rise to disputes over ownership and utilization rights (Sulistiani et al., 2024). Accordingly, a comprehensive understanding of the theoretical foundations of waqf is essential, as it provides the basis for developing legal frameworks and administrative practices that can preserve the integrity of waqf institutions while ensuring their relevance in contemporary socio-economic contexts.

## METHODOLOGY

This study employs a qualitative approach to explore the complex issues surrounding uncertified waqf assets in Gampong Tampur Paloh. Consistent with the nature of qualitative inquiry, the primary focus is on understanding the socio-cultural and administrative dimensions of waqf management rather than conducting quantitative measurements. Accordingly, no mathematical models or statistical analyses were applied in this research.

The data utilized in this study are qualitative in nature and derived from multiple sources to ensure a comprehensive understanding of the phenomenon under investigation. Primary data were collected through in-depth interviews with key informants, including religious leaders, community administrators, and individuals directly involved in waqf management. Additional insights were obtained through direct observation of community practices and administrative meetings. Secondary data were drawn from archival records,



official documents, and previous scholarly works on waqf management and related legal frameworks. The use of diverse data sources enabled triangulation, thereby enhancing the credibility and validity of the study's findings (Creswell, 2014).

The target population of this study consists of community leaders, religious figures, and local administrators in Gampong Tampur Paloh who possess knowledge or direct involvement in waqf management. A purposive sampling technique was employed to select participants capable of providing rich, relevant, and varied perspectives on the issue at hand. Inclusion criteria required participants to have direct experience or significant engagement with uncertified waqf land, while individuals lacking such experience were excluded.

Data collection was conducted through semi-structured interviews, direct observation, and document analysis. Face-to-face interviews were carried out over several weeks, allowing for deeper discussion and richer insights into the underlying challenges of waqf administration in the community.

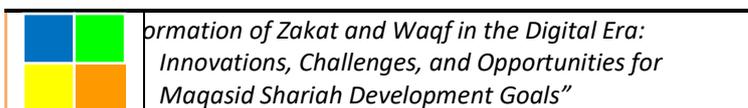
Data analysis was conducted using an inductive approach. Collected data were systematically coded to identify recurring themes and patterns. This process involved reducing the data into essential components, categorizing information into meaningful themes, and constructing narratives that captured the fundamental issues surrounding uncertified waqf assets. The analysis followed several stages: data collection, data reduction, data presentation, and conclusion drawing. Triangulation was achieved by cross-examining interview findings, observational data, and document reviews to strengthen the reliability of conclusions.

This method was chosen over quantitative techniques as it allows for deeper exploration of subjective experiences and contextual factors influencing waqf management. The decision to employ thematic analysis is supported by its widespread use in qualitative research and its effectiveness in generating nuanced insights into complex social phenomena (Braun & Clarke, 2022).

## RESULT AND DISCUSSION

### Results

#### *Challenges of Waqf Land in Gampong Tampur Paloh*



The findings reveal that waqf land in Gampong Tampur Paloh faces considerable legal and administrative challenges, particularly due to the absence of official certification. Many waqf lands in this area are managed on the basis of oral agreements and customary understandings rather than formal legal documentation. Consequently, legal ambiguities arise concerning ownership and utilization rights. This situation is particularly problematic when disputes emerge over management, usage rights, or even claims of ownership. Without official certification, it is exceedingly difficult to prove the waqf status of land in legal proceedings, which can lead to prolonged conflicts and undermine the intended religious and social functions of waqf.

Interviews with local *nadzir* (waqf administrators) emphasized that land has traditionally been managed based on community trust and oral declarations. As one *nadzir* noted:

*"For generations, we have managed waqf land based on trust and oral agreements. Our elders never felt the need for formal certification because everyone in the village knew which land was designated for the mosque or the religious school. However, in recent years, problems have begun to arise as the younger generation demands written proof, particularly when some families claim ownership of certain waqf lands."*

This statement highlights a generational shift in attitudes toward land ownership and legal documentation. While older generations relied on oral agreements as a form of social contract, younger community members who are more influenced by modern legal requirements are increasingly aware of the risks posed by the lack of formal recognition.

Interviews with community leaders further revealed that misunderstandings about the status of waqf land have triggered disputes between the heirs of *waqif* (donors) and the *nadzir*. As one community elder explained: *"Some heirs believe that because the land was never formally recorded as waqf, they still have the right to reclaim or sell it. This has caused tension in the village, and we have had to intervene several times to prevent conflicts from escalating."*

These accounts illustrate the vulnerability of uncertified waqf land, which remains susceptible to legal challenges, whether due to genuine ignorance or deliberate attempts to reclaim the land for personal interests.



### *Factors Contributing to the Lack of Certification*

Several interrelated factors contribute to the absence of waqf land certification in Gampong Tampur Paloh, including socio-cultural traditions, bureaucratic barriers, and financial constraints. A major factor is the strong reliance on customary practices in the donation and management of waqf land. Many donors believe that openly declaring their intention in the presence of community elders and religious leaders is sufficient to establish the land's waqf status. As one village elder explained:

*"In our time, a person's word was enough. If someone declared their land as waqf before the community and religious leaders, it was binding. We never thought about legal documents because our society respected such commitments."*

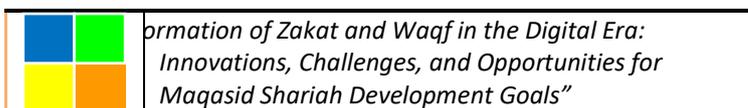
While this reliance on oral declarations reflects local traditions, it poses challenges in legal contexts where oral agreements hold little weight under national land law. Another critical factor is the bureaucratic complexity involved in obtaining waqf certification. Many local *nadzir* lack knowledge of the legal requirements and perceive the process as overly burdensome. One *nadzir* stated:

*"We once tried to register the waqf land officially, but the process required so many documents and costs that we eventually gave up. We simply did not have the resources or knowledge to handle it."*

This account underscores the difficulties faced by local administrators in navigating formal legal procedures, which often require multiple stages, approvals, and financial obligations. Economic limitations further exacerbate the issue. Many *nadzir* and donors come from lower-income backgrounds and are reluctant to allocate scarce financial resources to what they perceive as a non-urgent administrative process. The combined effect of traditional reliance on oral agreements, bureaucratic hurdles, and financial constraints has left many waqf lands uncertified.

### *Settlement of the Status of Uncertified Waqf Land under Waqf Law*

Waqf is regulated under Indonesian law, most notably through Law No. 41 of 2004 on Waqf. This legislation provides a comprehensive framework for the administration and management of waqf assets, ensuring their alignment with



Islamic principles while serving the broader welfare of society. The scheme of waqf legal provisions as stipulated in the law can be seen below:

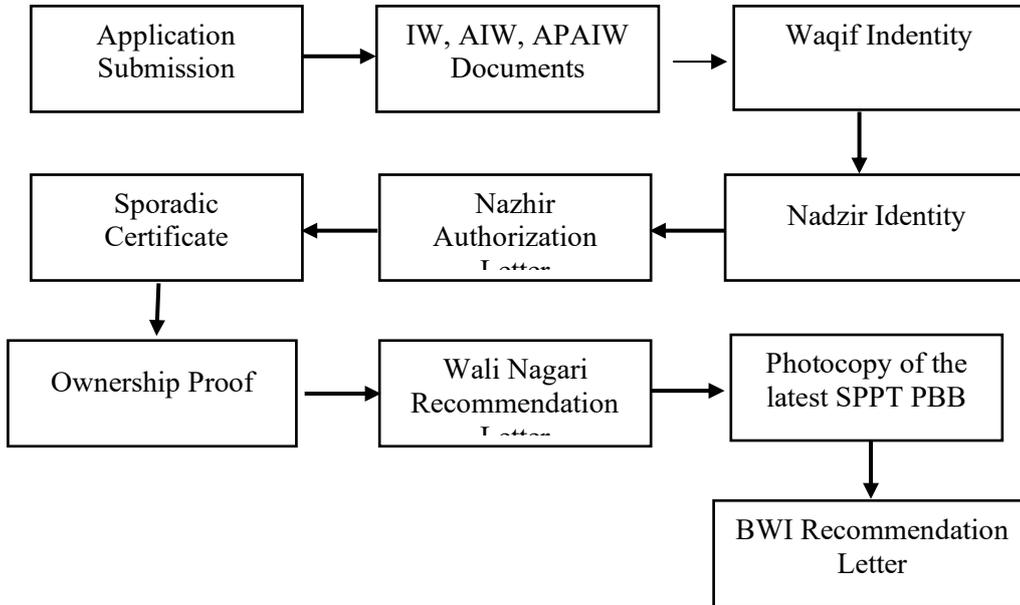


Figure 1. Legal Framework of Waqf Provisions in Indonesian Law

The settlement of uncertified waqf land status in Gampong Tampur Paloh involves both non-litigation approaches, particularly through musyawarah (deliberation), and formal legal mechanisms. In practice, community-based solutions have played a crucial role in preserving social harmony while simultaneously addressing land disputes.

In Gampong Tampur Paloh, the community applies specific rules in waqf ownership that follow a structured process:

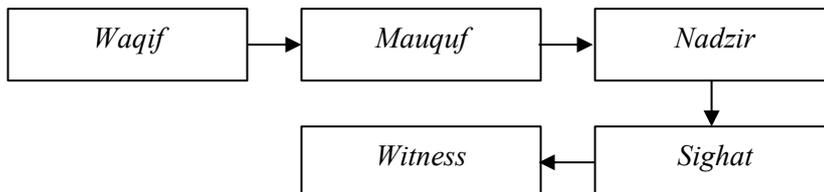


Figure 2. Waqf Ownership Scheme in Tampur Paloh

This structure ensures that waqf contributions are recognized through a formal declaration (*sighat*) and witnessed by trusted individuals, thereby reinforcing the legitimacy of waqf within the community. However, while this system may be socially effective, it does not hold formal legal recognition unless it is properly documented through national land registration procedures.

The *musyawarah* (deliberation) approach, deeply rooted in local tradition, has played a vital role in resolving disputes over waqf land. This process involves discussions among all relevant stakeholders, including heirs, *nadzir* (administrators), religious leaders, and village authorities, to reach a mutually acceptable agreement. As one community mediator explained:

*"We always try to resolve waqf disputes in the village first. We bring all parties together, listen to their concerns, and seek solutions that respect both the religious nature of waqf and the rights of the individuals involved."*

This approach is effective in maintaining social cohesion and preventing disagreements from escalating into legal conflicts. However, it does not provide long-term legal certainty, since informal agreements lack binding legal authority.

From the perspective of formal law, the resolution of uncertified waqf land status is governed by Law No. 41 of 2004 on Waqf, which emphasizes the necessity of an official *Akta Ikrar Wakaf* (Waqf Pledge Deed) to establish the legal status of waqf assets. The law mandates that waqf must be documented through an official declaration, witnessed by an authorized official, in order to ensure that the waqf land is legally protected. Although the legal framework provides clear guidelines, its implementation remains challenging in rural areas such as Gampong Tampur Paloh due to the socio-economic and bureaucratic obstacles previously mentioned. As one legal expert interviewed for this study stated:

*"The law provides a strong foundation for waqf management, but in many villages, including Tampur Paloh, the challenge is not only legal knowledge but also accessibility. Many community members do not know how to initiate the certification process, and there is insufficient support from authorities to facilitate it."*

Overcoming these challenges requires a combination of legal education, procedural simplification, and financial support. Raising awareness among

local *nadzir* and *waqif* about the importance of legal documentation may encourage more waqf assets to be formally registered. Furthermore, collaboration between religious institutions and local governments can help simplify the certification process and provide financial assistance to less affluent donors.

## Discussion

The findings of this study confirm the persistent tension between customary practices and formal legal frameworks in the management of waqf land in Gampong Tampur Paloh. The absence of certification, reliance on oral agreements, and generational shifts in legal awareness exemplify broader issues of legal pluralism in Indonesia, where customary norms and national legislation frequently coexist in complex and sometimes contradictory ways (Nordin et al., 2025).

Similar to Suhendra et al. (2023), who analyzed waqf governance in Aceh, this study identifies gaps between community-based management and the bureaucratic requirements of Law No. 41 of 2004 on Waqf. While oral declarations remain socially binding within the community, they lack legal enforceability in formal dispute resolution, especially as younger generations increasingly demand official documentation. This reflects a wider global trend toward legal modernization, in which formalized land rights and written contracts are viewed as indispensable to ensuring transparency and accountability.

The generational divide in attitudes toward land documentation observed in Tampur Paloh resonates with Sebastian's (2022) findings in West Sumatra, where younger community members challenged customary practices of land ownership and pressed for formal certification to secure economic benefits and legal protection. Such shifts demonstrate a gradual transformation in rural Indonesia, where exposure to education and national legal systems has begun to erode reliance on traditional trust-based systems. At the same time, resistance to certification, as noted in Tampur Paloh, also mirrors structural constraints such as financial hardship and bureaucratic inefficiencies, some constraints that are not unique to Indonesia but have been documented in other Muslim-majority countries. For instance, Hassan et al. (2022) reported that many waqf institutions in Malaysia lacked sufficient resources to comply with legal requirements, thereby perpetuating informal management practices.



From a religious perspective, the tension between oral commitments and formal legal documentation may be understood through the Qur'anic emphasis on justice, trust, and clear testimony in all transactions:

وَلَا تَكْتُمُوا الشَّهَادَةَ ۚ وَمَنْ يَكْتُمْهَا فَإِنَّهُ آتَمٌ قَلْبُهُ ۗ وَاللَّهُ بِمَا تَعْمَلُونَ عَلِيمٌ

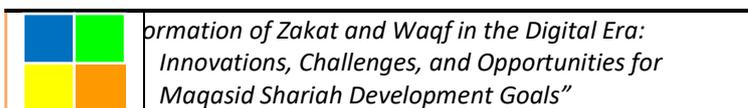
"Do not conceal testimony, for whoever conceals it, his heart is indeed sinful; and Allah is All-Knowing of what you do" (Qur'an, Al-Baqarah 2:283).

This verse underscores the importance of documentation and testimony, supporting the argument that formal certification of waqf aligns not only with state law but also with Islamic ethical principles. The reliance on oral agreements, while historically meaningful, may therefore be seen as insufficient in light of both religious guidance and contemporary socio-legal realities.

Community-based mechanisms, particularly *musyawarah* (deliberation), have proven effective in mediating disputes and maintaining social harmony. This finding aligns with Garebo (2024), who highlights the role of community-led conflict resolution in fostering social cohesion in conflict-prone areas. In Tampur Paloh, *musyawarah* has successfully prevented disputes from escalating, reflecting the resilience of local traditions in sustaining communal trust. However, as Ashadi et al. (2022) argue in their study of communal land conflicts in Jambi, such mechanisms, while effective in the short term, lack enforceability in the formal judicial system. This limitation leaves communities vulnerable to external claims, particularly from heirs or outsiders who do not recognize informal agreements.

In principle, Law No. 41 of 2004 provides a clear regulatory framework for waqf certification through the issuance of *Akta Ikrar Wakaf* (Waqf Pledge Deed). Yet, as Anggraini and Rohim (2024) observe, rural communities often struggle with fragmented bureaucratic coordination and limited policy outreach, leaving them disproportionately disadvantaged. The testimonies of *nadzir* in Tampur Paloh, who abandoned certification efforts due to procedural complexity and financial costs, illustrate how well-intentioned laws may fail in practice without adequate grassroots support.

A comparative perspective reveals alternative models. In India and Singapore, centralized administration of waqf has streamlined certification and enhanced accountability (Owais & Manaf, 2023). By contrast, Indonesia's decentralized approach places the burden on local communities, who may lack the



knowledge, resources, or institutional backing to complete the certification process. This contrast suggests the need for adaptive policies that account for local realities while upholding national standards.

Taken together, these findings highlight the dual challenge of reconciling local traditions with formal law and addressing structural barriers to certification. Any attempt to improve waqf governance in rural areas such as Tampur Paloh must therefore adopt a dual strategy: first, by respecting and incorporating community-based practices into the regulatory framework, and second, by simplifying procedures and providing financial or technical support to make certification accessible. Without such measures, the risk remains that uncertified waqf land will continue to generate disputes, weaken community trust, and fail to realize its full potential as a vehicle for social welfare and sustainable development.

## CONCLUSIONS

This study highlights the legal and administrative challenges associated with uncertified waqf land in Gampong Tampur Paloh. The reliance on oral agreements and traditional trust-based systems, while historically effective in sustaining communal harmony, has given rise to disputes concerning ownership and usage rights. Findings indicate that generational shifts in attitudes toward legal documentation, coupled with bureaucratic complexity and financial constraints, are significant factors contributing to the persistence of uncertified waqf land.

Although *musyawarah* (community deliberation) remains an effective conflict-resolution mechanism, its lack of formal legal force underscores the necessity of integrating such practices within the framework of national law. Law No. 41 of 2004 provides a clear legal basis for waqf certification; however, its implementation remains hindered by limited accessibility, administrative burdens, and a lack of community awareness. Addressing these gaps requires not only legal enforcement but also culturally sensitive approaches that bridge traditional practices and formal procedures.

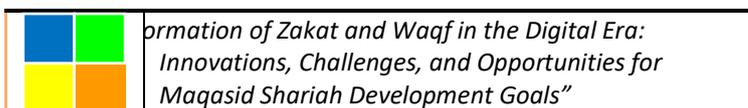
Future studies should examine the socio-economic impacts of waqf land certification on local communities, particularly in rural and post-conflict settings. Comparative research on successful waqf governance models in other



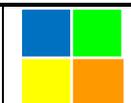
Muslim-majority countries may also provide valuable insights for policy adaptation in Indonesia. Furthermore, exploring the potential role of digital solutions in waqf registration could offer innovative pathways to overcoming bureaucratic and financial barriers.

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