

Resolution of Errors in Issuing Waqf Land Certificates in the PTSL Program (Case Study in Paninggaran Village)

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Abstract

This study aims to analyze the form of errors in issuing waqf land certificates in the Complete Systematic Land Registration Program (PTSL) and examine the Legal Implications and the role of Wakif, Nadzir, KUA, and BPN in resolving these errors, with a Case study in Paninggaran Village, Pekalongan Regency. The main problem identified is the discrepancy between social facts (land that has been orally endowed and used for public interest) with administrative facts (certified land does not belong to individuals because there is no Deed of Waqf Pledge/AIW). This study uses the Empirical Juridical method with a Case Study approach. Primary data was obtained through Semi-structured interviews with Wakif, Hadir, and BPN Officers, while secondary data was obtained from laws and regulations, books, and scientific articles. Data analysis was carried out interactively with descriptive juridical techniques. The research findings indicate that errors in issuing certificates occurred because waqf was carried out orally



without AIW, even though AIW is an absolute requirement based on Article 6 paragraph (2) of the Minister of ATR/BPN Regulation No. 2017. As a result, the National Land Agency (BPN) procedurally issued a land ownership certificate based on the available documents. This error created legal uncertainty and potentially transferred the waqf land to a third party. The resolution requires the preparation of an AIW by the KUA, coordination by the Nadzir, active participation of the Wakif, and verification and issuance of the certificate by the BPN. This study concludes that orderly administration from the beginning of the waqf is very important, and strengthening multistakeholder coordination can prevent similar errors in the future.

KEYWORDS

Waqf Land Certificate, PTSL, Legal Uncertainty, AIW, Mustafa Stakeholder Coordination

Introduction

Waqf land is an asset voluntarily donated by its owner. According to Boedi Harsono, the process of delegating land ownership is a sacred and commendable legal act, whereby an individual separates a portion of the wealth derived from their land and distributes it for social purposes in perpetuity. In Islamic law, waqf plays a significant role, linking religious, social, and economic aspects. Therefore, the existence of waqf land must be safeguarded, managed with trust, and protected by law to ensure the waqf's objectives are maintained as intended by the waqif.

In terms of positive law applicable in Indonesia, the rules regarding Waqf are contained in Article 1 number 1 of Law Number 41 of 2004 concerning Waqf "which states that Waqf is an act of the waqif separating or handing over part of the property for the benefit of worship or community welfare according to sharia for a certain period of time which is then

strengthened by government regulation Number 42 of 2006. Although the law opens up the possibility of waqf for a certain period of time, in practice land waqf is generally permanent so that it cannot be sold, inherited, or transferred to another party.

Waqf land registration is the main tool to provide legal certainty and protection for Waqf assets, preventing potential disputes. This is in line with the agrarian perspective, where Waqf land is included in land rights that must be registered in accordance with Law Number 5 of 1960 concerning Agrarian Principles (UUPA). UUPA regulates land Waqf in Article 49 paragraph (3) which emphasizes that the waqf of land ownership is protected by government regulations. The Waqf land registration process is carried out by the National Land Agency (BPN) after the Waqf pledge is recorded by the Office of Religious Affairs (KUA) and is under the supervision of the Indonesian Waqf Board (BWI) as the authorized institution in the development and supervision of Waqf.¹

Strengthening regulations on waqf land registration are also emphasized in the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 2 of 2017 concerning Procedures for Waqf Land Registration, which requires every waqf land to have a certificate so that it can be used according to the waqf's intentions and receive legal protection. Article 1, number 7 of the regulation states that a Waqf Land Certificate is a document proving the waqf land.² These provisions were then integrated into the Complete Systematic Land Registration Program (PTSL) through the Regulation of the Minister of ATR/BPN Number 6 of 2018. This program was initiated as a national strategic policy to accelerate the registration of all land plots in Indonesia with the aim of realizing legal certainty, justice, and comprehensive protection of land rights.

¹ Asis Harianto, Resti Riancana, and Riniarty Djamal, 'Pendaftaran Tanah Wakaf: Urgensi Dan Prosedurnya', *Jurnal Yustisiabel*, 9.1 (2025): 52–67, doi:10.32529/yustisiabel.v9i1.3928.

² John Gunung Hutapea, Fransiska Riana S, D. N. (2024). Bagaimana Pendaftaran Tanah Wakaf Di Indonesia. *Jurnal Prisma Hukum*, 8(10), 1–6.

However, in its implementation, PTSL is based on the physical and legal data available at the time of data collection. In the context of waqf land, clarity of administrative status is crucial because the land that has been donated should have been stated in a Waqf Pledge Deed and officially registered. If this registration has not been carried out, then administratively the land is still listed as individual property, even though it is socially viewed as waqf land.

This problem is reflected in a case that occurred in Paninggaran Village, Pekalongan Regency. According to information from the beneficiary, Mrs. Nur Azizah, it is known that the late Mr. H. Muhammad Nawawi owned a plot of land measuring approximately 6,000 m² during his lifetime. Of the total land area, 258 m² of land containing a water source has been donated and can be used for public purposes, especially for the needs of the local community. Meanwhile, the remaining 5,742 m² of land was then registered through the PTSL program and certified as seven plots of freehold land. However, in the process of issuing the certificates, there was an inaccuracy in the land administration data, resulting in the Certificate of Freehold being issued in the name of Mrs. Nur Azizah for one of the plots of land that should have been recognized as waqf land.

This case also shows that the role of the nadzir in the management and supervision of waqf land is not yet good, especially in ensuring the verification of land status during the implementation of PTSL in accordance with the mandate of Law No. 41 of 2004 concerning Waqf. Nadzir is the party who receives waqf assets from the waqif to be managed and developed in accordance with its designated obligations, including ensuring that the waqf land has been registered in the name of the nadzir and has been certified in accordance with existing provisions. In addition, this problem also highlights the ineffective coordination between the nadzir, the Waqif Heirs as the party that provides clarification of land status, the KUA as an organization that actively monitors and upholds waqf pledges, and the BPN as the organization responsible for the registration and issuance of land

certificates. This error arises due to the failure to implement waqf administration from the beginning, thus giving rise to a difference between the social fact that the land is waqf and the administrative fact that still records the land as ownership. This error cannot necessarily be seen as a unilateral error but is related to the lack of order in waqf administration from the beginning. This situation has the potential to give rise to legal conflicts and reduce legal certainty regarding waqf land.

Various previous studies have addressed topics related to the registration and certification of Waqf land in general, inter-agency collaboration, and administrative and technical barriers within the PTSL work program. Therefore, the previous studies used as references in this study include:

- a) Thesis by Ushi Aulia, 2025 from IAIAN University Ponorogo with the title "Collaboration between the land office and nadzir in the certification of Waqf Land Through the PTSL Program from a Collaborative Governance Perspective". that this research emphasizes the collaboration model in the certification process. However, the collaboration has not been optimal due to decreasing public awareness, weak communication, and the absence of a structured cooperation mechanism.
- b) A 2022 journal by Dakum et al., published in the Cendekia Hukum Journal, entitled "Policy for Accelerating Waqf Land Certification in Indonesia." This study analyzes government policies to accelerate waqf land certification in Indonesia and their general implications. However, it does not address the resolution of errors in waqf land certificate issuance in the field.
- c) Journal by Selli Andriani and Andri Pranata Year 2024 International Journal of Politics, Public Policy And Environment with the title Problems of Land Title Certificates Through Complete Systematic Land Registration at the West Kutai Regency Land Office. This study identifies challenges or problems in the certification process and the

role of the land office in overcoming them and this study only discusses general administrative and technical obstacles to PTSL.

- d) Journal by Pramudiansyah et al. Year 2025 AL-HUKMU Journal with the title Review of Islamic Law Compilation on the Settlement of Waqf Land Certificates (Nogosari, Boyolali, 2022-2023). This study focuses on the process of implementing and completing waqf land certificates based on the Compilation of Islamic Law in the Nogosari KUA area and in collaboration with the Boyolali BPN by looking at the stages of the waqf pledge until the issuance of the waqf certificate.
- e) Daffa cahya pratama and Baidhowi 2025 Journal of Legal Science Research with the title The Process of Waqf Land Ruislag in Land Acquisition for Borobudur Art Village. This journal research focuses on the waqf land ruislag process in land acquisition for the construction of Borobudur Art Village and finds that weak coordination between institutions and administrative disorder are often the main factors in the occurrence of legal problems. In addition, it describes the ideal ruislag procedure and its obstacles but does not discuss errors in issuing waqf land certificates and finds that weak coordination between institutions and administrative disorder are often the main factors in the occurrence of waqf legal problems.

Based on the review of previous research, it can be concluded that many studies have been conducted on waqf land registration and PTSL. These studies generally discuss the acceleration of waqf land certification, collaboration patterns between agencies, administrative and technical obstacles in the implementation of PTSL, as well as the ideal procedures for waqf land registration and management based on Islamic law and positive law. However, these previous studies still have limitations because they have not specifically examined errors in the issuance of waqf land certificates in the implementation of the PTSL Program, especially administrative errors that result in waqf land being issued as Freehold

Certificates. In addition, there are not many studies that analyze the resolution of errors in the issuance of waqf land certificates in the PTSL program by involving the role of nadzir, the waqif heirs as parties who provide clarification of land history, the Office of Religious Affairs (KUA), and the National Land Agency (BPN) simultaneously in one concrete case. Therefore, this study was conducted to fill this research gap through a case study in Paninggaran Village, Pekalongan Regency.

The selection of the research location in Paninggaran Village, Pekalongan Regency is based on several reasons, namely first, Paninggaran Village is a village area that is directly targeted by the PTSL program. So, it can describe concretely how national policies are implemented at the local level, especially regarding the registration of waqf land, second, there are cases of errors in issuing waqf land certificates into individual ownership certificates which indicate a gap between legal norms that guarantee legal certainty and protection of waqf land with land administration practices in the field, and third, the involvement of several parties such as nadzir, wakif heirs as supporters of land status clarification, KUA officers, BPN in this case provides an opportunity to comprehensively analyze the role of the parties in creating or hindering legal certainty for waqf land through the PTSL Program.

Based on the explanation above, this study aims to analyze how errors in the issuance of waqf land certificates occur in the Complete Systematic Land Registration Program and the legal implications and roles of all parties in correcting them through a case study in Paninggaran Village, Pekalongan Regency. The urgency of this research is very important to provide maximum legal protection for waqf land so that its functions in religious and social aspects are not lost due to errors in land administration. It is hoped that this research can provide theoretical contributions to the development of waqf law and land law, especially in understanding the relationship between waqf law and land administration law in the Complete Systematic Land Registration Program (PTSL). Specifically related to errors

in the issuance of waqf land certificates and how to resolve them. Practically, this study suggests that the function of nadzir be strengthened by increasing legal awareness and fulfilling administrative obligations. In addition, it is necessary to encourage the National Land Agency (BPN) to be more thorough in verifying physical and legal data when implementing PTSL, involving the Office of Religious Affairs (KUA) and the heirs of the waqif as parties who assist in clarifying the land status and waqf status, in order to prevent the recurrence of errors in issuing certificates in the future.

Based on the above background, the author is interested in researching "Resolving Errors in Issuing Waqf Land Certificates in the Complete Systematic Land Registration Program (PTSL) (Case Study in Paninggaran Village)." The following is the formulation of the problem to be examined in this research: 1) What are the forms of errors in issuance of waqf land certificates in the Complete Systematic Land Registration Program (PTSL) in Paninggaran Village, Pekalongan Regency?; 2) What are the legal implications and roles of the Nadzir, Waqf Heirs, the Office of Religious Affairs (KUA), and the National Land Agency (BPN) in resolving errors in issuance of waqf land certificates in the PTSL program in Paninggaran Village, Pekalongan Regency?

Methods

This research is an empirical juridical legal study that aims to examine the forms of errors in the issuance of waqf land certificates in the Complete Systematic Land Registration Program (PTSL), as well as the legal implications and roles of the parties in resolving them. This study examines the conformity between the provisions of waqf and land law with the practice of certificate issuance in the field. The research approach used is a case study, because this research focuses on a single problem of errors in the

issuance of waqf land certificates in Paninggaran Village, Pekalongan Regency.

The data used in this study consists of two types: primary and secondary data. Primary data was obtained through semi-structured interviews with informants selected using purposive sampling, including parties considered to be aware of and directly involved in the error in issuing Waqf land certificates, namely, Nadzir, Waqf Heirs, Religious Affairs Office (KUA) officials, and local National Land Agency (BPN) officials. Secondary data was taken from relevant laws and regulations, books, scientific articles, and official documents.

The data collection techniques used included interviews, observation, and documentation. To ensure data validity, triangulation was used from various sources and techniques. The collected data was then analyzed using legal descriptive analysis, with data processing steps ranging from data reduction, data presentation, and conclusion drawing. This process was carried out by describing the legal facts found in the field and connecting them with applicable law to answer the research questions.

Result and Discussion

1. Forms of Errors in Issuing Waqf Land Certificates in the Complete Systematic Land Registration Program (PTSL) in Paninggaran Village, Pekalongan Regency

The form of error in issuing waqf land certificates in the Complete Systematic Land Registration Program (PTSL) in Paninggaran Village, Pekalongan Regency, is a legal phenomenon that reflects a fundamental lack of synchronization between the sharia principles of waqf, the national legal

regulatory framework on land, and field implementation practices carried out by the National Land Agency (BPN).³

Based on the testimony of the waqf heirs obtained through interviews, the legal facts of this case center on 6,000 m² of land belonging to the late H. Muhammad Nawawi, which has historically been divided into two different legal statuses. A portion of the land, 258 m² equipped with a water source, was orally waqf for the public interest of the local community, specifically for clean water needs and religious activities. Meanwhile, the remaining 5,742 m² of land legally belongs to the heirs. However, in the implementation of the PTSL program, which aims to provide legal certainty for agrarian law on a mass scale, all seven plots of land from the remaining area were processed and certified as Freehold Certificates (SHM). Even more problematic, one of the plots of land that should have waqf status was issued with a SHM in the name of Mrs. Nur Azizah as an individual, even though legally the waqf should be registered in the name of the nazhir with the special status of waqf land.

This administrative and substantive inaccuracy in land administration occurs because there is no clear separation between waqf objects and private property rights at the stage of physical data collection and legal verification by PTSL officers. This condition directly violates Article 4 paragraph (1) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 2 of 2017 concerning Procedures for Waqf Land Registration which states: "In the case of Waqf Land in the form of Ownership Rights or Building Use Rights to be donated only part of the total area, measurements must first be carried out to separate the certificate." This provision explicitly requires the physical and legal separation of waqf assets before the land registration process is carried

³ Yatini, S. H. (2017). Pelaksanaan Sertifikasi Tanah Wakaf Di Kalimantan Timur. *Yuriska Jurnal Ilmiah Hukum*, 4(2), 126–141. <https://doi.org/10.24903/yrs.v4i2.184>

out, especially in the context of mass programs such as PTSL which are vulnerable to data errors due to high workload.⁴

In principle, waqf is a legal act of ta'bid or imposition of permanence on the ushul or principal of the property, where only the benefits or advantages of the property may be utilized eternally for the benefit of worship and public welfare or *maslahah mursalah*, as stated in Article 213 of the Compilation of Islamic Law which states: "Waqf is a voluntary legal act of a Muslim or Islamic legal entity to separate part of his legitimate property to be utilized for the benefit of worship or public welfare for a long time or forever in accordance with Islamic law." The most fundamental principle of sharia in this case is the principle of irrevocability of waqf after the pledge is made, as narrated in the hadith of the Prophet Muhammad SAW regarding the waqf of Umar bin Khattab recorded in Sahih Bukhari number 2760, where the Prophet SAW emphasized that after the waqf is made, the property can no longer be returned to private property and its benefits must be given to Muslims continuously.⁵

The principle of asset separation or *tahlis nishab* agreed upon by the *ijma'* of the Hanafi, Maliki, Syafi'i, and Hanbali schools of thought is also visibly violated, because the waqf land that has been separated from the waqif's personal assets is mixed back with the assets belonging to the heirs in one certification process. Furthermore, the principle of public *maslahah* or collective welfare is seriously disturbed, considering that the water source that is the object of the waqf should serve the *mustahik* or beneficiaries of the wider community, not be the exclusive right of an individual as indicated by the issuance of SHM in a personal name. Violations of the pillars of waqf consisting of a waqif who is pure of mind and mature, a trustworthy *nazhir*,

⁴ Kasanah, N. (2022). The Ministry of Religion of Ponorogo Regency Efforts for Accelerating Waqf Land Certification Program. *Journal of Islamic Philanthropy and Disaster (Joipad)*, 2(1). <https://doi.org/10.21154/joipad.v2i1.4237>

⁵ Amrullah, H. A. S., Sulistiani, S. L., & Mujahid, I. (2024). Analisis Sertifikasi Wakaf Masjid Al-Ihsaan Di Kecamatan Cisurupan Kabupaten Garut Menurut Undang-Undang Wakaf No. 42/2004. *Bandung Conference Series Islamic Family Law*, 4(2), 201–206. <https://doi.org/10.29313/bcsifl.v4i2.15464>

productive and legally owned waqf assets, a clear pledge both verbally and in writing, and siwak or witnesses also occurred because the oral waqf pledge of the late H. Muhammad Nawawi was not formalized through a Waqf Pledge Deed by the Waqf Pledge Deed Making Officer or PPAIW as it should be. From the perspective of national legislation, violations of Law Number 41 of 2004 concerning Waqf are very real and multidimensional. Article 1 number 1 of the law defines waqf as "a legal act of a waqif to separate and/or hand over part of his/her property to be used forever or for a certain period of time according to his/her interests for the purposes of worship and/or general welfare according to sharia." Article 11 paragraph (1) expressly requires: "The Nadhir is obliged to manage and develop waqf assets productively in accordance with the designation, function, and purpose of the waqf." This norm emphasizes that since the waqf pledge, legal responsibility for waqf assets shifts from the private domain of the waqif to the public-religious domain managed by the nazhir (Amrullah et al., 2024).

In the case of Paninggaran Village, this provision did not function as intended because the nazhir did not optimally carry out the function of legal security of waqf assets, particularly in ensuring that waqf land was recorded, registered, and clearly separated from freehold land before the implementation of PTSL. This failure cannot be separated from the weak literacy of waqf law at the local level, both on the part of the nazhir, the waqif heirs, and the village community, who still view waqf as sufficiently socially and religiously valid without requiring state administrative legitimacy.⁶

Furthermore, Article 32 of Law Number 41 of 2004 states that waqf assets in the form of land must be registered with the authorized agency in accordance with statutory provisions. This provision is reinforced by Government Regulation Number 42 of 2006 concerning the

⁶ Nursari, E. (2025). *Kajian Yuridis Pelaksanaan Pendaftaran Percepatan Sertipikat Tanah Wakaf Di Kecamatan Jogorogo Kabupaten Ngawi*. *Transparansi Hukum*, 8(2), 296–318. <https://doi.org/10.30737/transparansi.v8i2.6766>

Implementation of the Waqf Law, which places registration as the primary instrument for waqf legal protection. Therefore, failure to register waqf land separately and in a timely manner is not merely an ordinary administrative omission, but rather a violation of legal obligations that could potentially eliminate the waqf's status within the national legal system. In the Paninggaran case, the delay and unclear registration of waqf land resulted in the waqf object being "unreadable" as waqf land in the BPN land administration system, resulting in it being systematically processed as ordinary freehold land under the PTSL scheme.

From a national agrarian law perspective, this issue also demonstrates the weak integration between the waqf legal regime and the land legal regime. Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) does recognize the existence of land waqf as stipulated in Article 49 paragraph (3), which states that "The waqf of land ownership is protected and regulated by Government Regulation." However, this normative recognition does not automatically guarantee factual protection if it is not supported by an effective administrative mechanism. In PTSL practice, the approach used by the BPN tends to be technocratic and quantitative, with a focus on accelerating registration and achieving numerical targets for registered land plots. This approach, while legitimate within the framework of public policy, becomes problematic when applied to land objects with special legal status such as waqf, which require extra caution and verification across legal regimes.⁷

The error in issuing the Land Ownership Certificate for waqf land in this case can also be classified as a form of maladministration from the perspective of state administrative law. Maladministration includes not only intentional unlawful acts, but also negligence, carelessness, and abuse of procedures by administrative officials that result in legal losses for the community. In this context, PTSL officers and local BPN officials have failed

⁷ Santoso, U. (2012). *Hukum agrarian kajian komprehensif*. Kencana.

to implement the prudential principle and the principle of accuracy (*zorgvuldigheidsbeginsel*), which are part of the General Principles of Good Governance (AUPB). The failure to conduct an in-depth investigation of the land's history, the absence of active clarification with the KUA regarding the waqf status, and the failure to involve the nazhir substantially in the legal data verification process are strong indicators of maladministration.

The legal implications of this error do not stop at merely administrative defects in the certificate, but extend to aspects of legal certainty, justice, and legal utility. Ownership certificates issued for waqf land create a dual legal status: on the one hand, the land has been normatively waqfed and cannot be transferred; on the other hand, administratively, the state recognizes individual ownership rights to the same land. This dualism creates legal uncertainty (*rechtsonzekerheid*) that has the potential to give rise to prolonged agrarian disputes, both between the nazhir and the certificate holder, between the waqif heirs and the waqf beneficiary community, and between the community and the state as the certificate issuer.⁸

From the perspective of the theory of legal objectives, particularly Gustav Radbruch's theory, law should integrate three basic values: justice, legal certainty, and utility. In the Paninggaran case, all three were simultaneously violated. Legal certainty failed to be achieved because the land status became ambiguous; substantive justice was disrupted because the community lost access to a water source endowed for the public interest; and legal utility was not realized because the PTSL policy, which should have provided protection, instead gave rise to new conflicts. This demonstrates that legal success is measured not only by the existence of comprehensive regulations, but also by the quality of implementation and the sensitivity of officials to the socio-religious context of the objects of law being regulated.

⁸ Mufti, M. A. K., & Nurhasanah, N. (2023). Analisis Problematika Dan Dampak Hukum Sertifikasi Tanah Wakaf Berdasarkan Peraturan Pemerintah. *Jurnal Riset Hukum Keluarga Islam*, 57–64. <https://doi.org/10.29313/jrhki.v3i2.2687>

The roles of the parties involved in the occurrence and resolution of these errors also require critical analysis. The nazhir, as the primary legal subject in waqf management, occupies a central yet vulnerable position. In practice, the nazhir is often selected based on social trust and closeness to the waqif, rather than on administrative capacity and legal understanding. As a result, the nazhir's function is primarily carried out in moral and social terms, while the legal-administrative aspects are neglected. In this case, the nazhir failed to promptly initiate the issuance of the Waqf Pledge Deed (AIW) and the registration of the waqf land, thus opening up room for errors in the PTSL program. This situation demonstrates the need to redefine the nazhir's role from merely managing waqf benefits to becoming an active legal actor in maintaining the legality of waqf assets (Nursari, 2025).

The heirs of the waqf also have an ambivalent role in this case. On the one hand, they are the legal owners of the remaining land and have an interest in obtaining legal certainty through the PTSL (Complete Land Management System). On the other hand, they also have a moral and legal obligation to respect the wishes of the waqf owner who has donated part of his land. When the heirs fail to clearly separate and inform the PTSL officers about the status of the waqf land, either due to ignorance or negligence, their contribution to the error in the issuance of the certificate is inevitable. This demonstrates that resolving waqf issues cannot be solely the responsibility of the state, but requires the active participation of the waqf family as guardians of the legal and historical memory of the land.

The Office of Religious Affairs (KUA), as the state institution authorized to register waqf pledges, should be a crucial node in preventing such errors. However, in practice, the KUA's function is often passive and administrative, limited to recording waqf pledges upon submission, without a proactive mechanism to ensure that pledged waqf land is properly registered and legally protected. The absence of a nationally integrated waqf database system between the KUA, the Indonesian Waqf Board (BWI), and the National Land Agency (BPN) exacerbates information fragmentation

and increases the risk of errors in mass land registration programs such as PTSL (Complete Land Registration System). (Kholifah & Parmono, 2024).

The National Land Agency (BPN), as the primary actor in land administration, bears the greatest responsibility in this context of certificate issuance errors. Although PTSL is a national-scale program with high target pressure, this cannot be used as justification for ignoring the principle of prudence and the protection of special rights, such as waqf. The BPN should develop special treatment mechanisms within PTSL for waqf land, for example, through mandatory coordination with the Office of Religious Affairs (KUA) and the Indonesian Institute of Wisdom (BWI) prior to certificate issuance, as well as special training for field officers on waqf law. Without these measures, PTSL risks continuing to reproduce structural errors that harm the interests of waqf and the wider community.⁹

Conceptually, the Paninggaran case also reveals the weaknesses of an overly legalistic-formalistic legal approach to managing socio-religious realities. Waqf, as a living Islamic legal institution, often existed and was socially recognized long before the state arrived with its administrative apparatus. When the state, through PTSL (Completely Integrated Land Management System), enters this space without sensitivity to this living law, normative clashes become inevitable. Therefore, resolving errors in the issuance of waqf land certificates cannot be done through administrative corrections alone but requires a socio-legal approach that integrates state law, Islamic law, and community social practices (Mufti & Nurhasanah, 2023).

In the context of resolution, available legal mechanisms include certificate cancellation through administrative procedures at the National Land Agency (BPN), or through legal remedies in the state administrative court if administrative resolution cannot be achieved. However, litigation is

⁹ Dewi, N. P., & Wisnaeni, F. (2022). Tingkat Keberhasilan Terhadap Pelaksanaan Pendaftaran Tanah Sistematis Lengkap (PTSL) Di Kota Cirebon. *Notarius*, 16(2), 1070–1081. <https://doi.org/10.14710/nts.v16i2.42375>

often time-consuming, expensive, and energy-intensive, and has the potential to exacerbate social conflict at the local level. Therefore, a non-litigation approach based on deliberation, involving all relevant parties, is an option that is more in line with the values of restorative justice and the principle of benefit in Islamic law. However, this approach must still be accompanied by firm administrative reforms to ensure the waqf's legal status is restored and prevents it from becoming vulnerable again in the future.

Overall, the error in issuing waqf land certificates under the PTSL Program in Paninggaran Village is not an isolated incident, but rather a reflection of structural issues in waqf governance and land administration in Indonesia. This case emphasizes that legal protection for waqf land requires a strong synergy between sharia principles, national regulations, and sensitive, careful, and responsible administrative practices. Without such synergy, the noble purpose of waqf as an instrument of social justice and the welfare of the people will continue to be threatened by preventable administrative errors.¹⁰

2. Legal Implications and Roles of Nadzir, Wakif Heirs, KUA, and BPN in Resolving Errors in Issuing Waqf Land Certificates in the PTSL Program in Paninggaran Village, Pekalongan Regency

The legal implications of the error in issuing waqf land certificates in the Complete Systematic Land Registration Program (PTSL) in Paninggaran Village, Pekalongan Regency, must essentially be read within the framework of the theory of legal certainty as one of the main pillars of the rule of law. In the tradition of legal positivism, legal certainty is defined as a condition in which legal norms are clearly formulated, consistently

¹⁰ Sujastiawan, A. (2018). Studi Pelayanan Publik Terhadap Sertifikasi Tanah Di Badan Pertanahan Nasional Kabupaten Sumbawa. <https://doi.org/10.31227/osf.io/kz69j>

applied, and their legal consequences can be predicted by legal subjects. Land certificates in the Indonesian agrarian legal system are positioned as the main instrument for creating legal certainty because they function as strong evidence of land rights. However, the Paninggaran case actually demonstrates the paradox of legal certainty: an instrument intended to create certainty actually creates uncertainty when issued without adequate legal verification of the special status of waqf land objects (Kholifah & Parmono, 2024; Sudika, 2020).

From the perspective of the theory of legal certainty as proposed by Gustav Radbruch, law cannot be reduced solely to normative certainty but must always be weighed against the values of justice and utility. When a land ownership certificate is issued for waqf land, formal legal certainty is created for the certificate holder, but this certainty is built on a flawed foundation and sacrifices substantive justice for the waqf beneficiaries. Thus, the resulting legal certainty is illusory, as it does not reflect the normative reality of waqf and instead has the potential to perpetuate injustice. In this context, the error in the issuance of waqf land certificates demonstrates the failure of land administration law to balance three basic legal values, resulting in legal certainty becoming a tool of administrative domination over religiously based collective rights.¹¹

From the perspective of the theory of the rule of law (*rechtsstaat*), this issue indicates a deviation from the principles of rights protection and the supremacy of law. A rule of law not only demands the existence of laws and regulations, but also requires that every government action be based on law, implemented carefully, and directed towards protecting the rights of citizens. Waqf, as a legal institution explicitly recognized in Law Number 41 of 2004, is part of citizens' constitutional rights to practice religious teachings and manage property for socio-religious interests. Therefore, the failure of the state, through land officials, to protect waqf land is not only an

¹¹ Harsono, B. (2003). *Hukum Agraria*. Djambatan.

administrative error, but can also be seen as a failure of the rule of law to fulfill its obligation to protect the basic rights of citizens.

Within the framework of a modern state based on the rule of law, state administrative actions must adhere to the General Principles of Good Governance (AUPB), including the principles of accuracy, legal certainty, and the protection of legitimate rights. The error in issuing waqf land certificates under the PTSL program demonstrates that the principle of accuracy is not being optimally implemented, particularly in the context of legal data verification and identification of the land's special status. In fact, in a state based on the rule of law, the greater the social impact of an administrative decision, the higher the standard of care that should be applied. Waqf land, which has religious dimensions and public interests, should be treated as an object that demands a higher standard of care than ordinary land ownership. Therefore, the failure of the National Land Agency (BPN) to implement these standards reflects the weak internalization of the principles of the rule of law in land bureaucratic practices.

Theoretical analysis becomes more comprehensive when this issue is placed within the framework of legal pluralism. Indonesia is a country with a pluralistic legal system, where state law, religious law, and customary law exist and interact simultaneously. Waqf is a concrete example of Islamic law that has long existed as social law (living law) before being adopted and institutionalized in state law. In the practice of the Paninggaran Village community, waqf of land with water sources has been recognized and implemented socially and religiously long before the state entered the land registration mechanism. However, when the state entered through the PTSL program with its modern, uniform and technocratic administrative legal logic, a clash arose between the living law of the community and the positivistic state law.

The theory of legal pluralism emphasizes that state law never works in a vacuum, but always has a dialectic with non-state norms that have social

legitimacy (Atmadja, I Dewa, 2018).¹² In this case, the failure of the PTSL system to identify and respect the status of waqf land demonstrates the tendency of state law to dominate, ignoring religious law as a coherent normative system. Consequently, state law serves not as a tool for integration, but rather as a source of normative disintegration. The state-issued land ownership certificate directly contradicts the legitimacy of waqf recognized by the community, giving rise to a legal conflict that is not only juridical but also social and moral.

Legal pluralism demands an institutional mechanism capable of bridging various existing legal systems. In the context of waqf and land, this mechanism should be realized through substantive coordination between the National Land Agency (BPN), the Office of Religious Affairs (KUA), and waqf institutions. The lack of integration between these institutions indicates that legal pluralism in Indonesia is still managed sectorally, rather than integratively. The state does recognize waqf in positive law, but this recognition has not been fully translated into the design of land administration policies and procedures, particularly in large-scale programs like PTSL. Thus, the Paninggaran case demonstrates the gap between normative recognition of legal pluralism and its practical implementation.

From the perspective of legal certainty theory combined with legal pluralism, legal certainty should not be interpreted narrowly as merely administrative certainty, but rather as normative certainty that respects and accommodates the existence of various legitimate legal systems. Legal certainty regarding waqf land is not simply achieved through the issuance of certificates but must be established through a verification process that is sensitive to sharia norms, social practices, and the history of land ownership. Without this approach, the legal certainty created by the state

¹² Atmadja, I Dewa, dan I. N. B. (2018). *Teori-Teori Hukum*. In Setara Press (Vol. 1).

has the potential to undermine the long-standing legal order recognized by society (Azzahra et al., 2025).¹³

The roles of the parties in resolving errors in the issuance of waqf land certificates can also be analyzed through the lens of these theories. Nazhir, for example, functions not only as an administrative waqf administrator but also as a key actor in the legal pluralism system that bridges religious and state law. When a nazhir lacks the capacity or institutional support to carry out this role, waqf will always be subordinate to state administrative law. Similarly, the Office of Religious Affairs (KUA) should function as a bridging institution, ensuring that living waqf norms can be translated into the language of state administration. When this function is not functioning optimally, legal pluralism loses its integrative instrument.

The National Land Agency (BPN), within the framework of a state governed by law and legal pluralism, should not be positioned solely as a technical land registration institution, but as a state actor with a constitutional responsibility to protect the special rights of citizens, including the right to waqf. Therefore, resolving errors in the issuance of waqf land certificates should not stop at administrative corrections, but must be followed by institutional reflection on how land registration policies are designed to align with the principles of a state governed by law and legal pluralism (Harsono, 2015).¹⁴

The error in issuing waqf land certificates under the PTSL Program in Paninggaran Village reflects a fundamental problem in managing legal certainty in a pluralistic state governed by the rule of law. Legal certainty that is insensitive to normative pluralism will give rise to injustice, while a state governed by the rule of law that fails to internalize the laws that exist within society will lose its social legitimacy. Therefore, the resolution of this

¹³ Azzahra, S. N., Saragih, Y. M., Yusuf, M., & Pasaribu, U. R. (2025). Analisis Yuridis Tindak Pidana Korupsi Suap Berdasarkan Teori Kepastian Hukum. *Jurnal Multidisiplin Dehasen (MUDE)*, 4(3), 593–598. <https://doi.org/10.37676/mude.v4i3.8533>

¹⁴ Harsono, B. (2015). *Hukum Agraria Indonesia, Sejarah Pembentukan Undang-Undang Pokok Agraria, Asas dan pelaksanaannya*. Universitas Tri Sakti.

case must be understood not only as a means of restoring the status of waqf land individually, but also as a momentum to reconstruct the relationship between state law, religious law, and administrative practice so that the goals of justice, certainty, and legal benefits can be realized in a balanced and sustainable manner.

Conclusion

The error in issuing waqf land certificates under the Complete Systematic Land Registration Program (PTSL) in Paninggaran Village, Pekalongan Regency, occurred due to the lack of integration of waqf legal principles into land administration practices. During the physical and legal data collection and verification stages, the waqf land was not clearly separated from the land owned by the heirs, resulting in the waqf object being treated as ordinary land ownership and issuing a Land Ownership Certificate. This situation reflects a lack of synchronization between sharia norms for waqf, provisions of laws and regulations on waqf and land, and the implementation of the PTSL, which focuses on administrative acceleration. Consequently, the goal of legal certainty has become a source of uncertainty and conflict over the legal status of the land.

The legal implications of the error in issuing waqf land certificates have created a dual legal status that undermines waqf protection and threatens the continuity of waqf's socio-religious function. Resolving these errors cannot be solely the responsibility of one party, but rather requires an active and coordinated role between the nazhir, the waqf heirs, the Office of Religious Affairs (KUA), and the National Land Agency (BPN). However, the weak role of the nazhir in securing waqf administration, the limited participation of heirs in clarifying land status, the suboptimal function of the KUA as a liaison between waqf law and state administration, and the

BPN's technocratic approach to implementing PTSL are the main factors hampering the restoration of legal certainty for waqf land.

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