



# Reconstruction of the Management, Utilization and Sale of *Waqf* Property in Indonesia from the Perspective of *Maqāsid Shari'ah*

Herlina Kurniati<sup>1\*</sup>, Muslim<sup>2</sup>

<sup>12</sup>Raden Intan State Islamic University Lampung, Indonesia

Correspondence ✉ \*herlinakurniati@radenintan.ac.id

## Keywords:

Ijtihādiyyah;  
*Maqāsid Shari'ah*;  
Reconstruction;  
Productive Waqf

**Abstract:** This article is about the reconstruction of the management, empowerment and trading of waqf assets in Indonesia from the perspective of *Maqāsid Ash-Shari'ah*. The method used in this research is typologically, this research is a model of Islamic legal research categorized as qualitative research, besides that this research category is library research which aims to explore and search for *maqāsid ash-shari'ah* concepts from classical and contemporary uḥūl al-fiqh experts, whose data are obtained from searching for reading sources to obtain primary legal materials, secondary legal materials, and tertiary materials. The results of the research can be concluded that referring to historical facts, at least three periods can be distinguished, namely the period before independence, the period after independence, and the period after the enactment of Government Regulation (PP) No. 28 of 1977 concerning the Endowment of Owned Land, then promulgated Law No. 41 of 2004 concerning Waqf, which was signed by the President of the Republic of Indonesia (SBY) on October 2, 2004. A few years later, Government Regulation No. 42/2006 on the Implementation of the Law was issued. From the perspective of *maqāsid ash-shari'ah*, the management and utilization, including selling waqf assets that are no longer productive, badly damaged, and almost lost their usefulness, is basically the purpose of the waqf asset itself, which is to fulfill the needs and interests of the community.

Vol. 2, No. 1, (2025)

DOI: <https://doi.org/10.47352/3032-503x.67>

## INTRODUCTION

Before discussing further related issues in this study, it is necessary to first explain the meaning of *Maqasid Ash-Shari'ah* reconstruction, etymologically, reconstruction is rebuilding (Peter Salim, 1991 p. 1521). While terminologically, it is rearranging in an organized, sequential, logical manner so that it is easy to understand and interpret (Muhammad, 2004 p. 126). So, the reconstruction of *maqāsid ash-shari'ah* means reorganizing *maqāsid ash-shari'ah* as an approach or method of ijtihad with the principle of "preserving the old that is still good and taking the new that is better (*al-muhāfasah 'alā al-qadīm as-sālih wa al-akḥḥ bi al-jadīd al-aslāh*)."

(Munawar, 2005 p. 4). The emphasis is more on maintaining, updating, and completing the theoretical level that has been formulated by classical and contemporary usul fiqh scholars, including matters relating to the determination of the level and classification of *sarūriyyah al-khamsah*, the range of laws covered by *maqāsid*, the range of people covered by *maqāsid*, the level of generality of *maqāsid* in the context of

legal *istinbāt*, and the division of *maqāsid ash-shari'ah* into an independent discipline separate from the science of *usul fiqh*, so that its existence can answer and solve various cases of contemporary Islamic law, one of which is related to the management, empowerment and sale and purchase of waqf assets that arise in the modern era.

Throughout the search, it can be asserted that not a single verse was found that explicitly explains the doctrine of waqf. There is not even a single verse of the Quranic verses that alludes to the word '*waqf*' or '*anqāf*'. The basis of waqf doctrine is understood by scholars from the context of the Quranic verses that talk about good deeds (*wa if'alū al-khair*), both universal (*kullīyyah*) and specific (*juḥūdīyyah*), including Q.S. *al-Hāj* (22), among others. *al-Hāj* (22), verse 77, which instructs us to do good in order to gain victory; Surah *al-Imrān* (3), verse 92, which explains that one will not achieve perfect goodness until he gives away what he loves; and *al-Baqarah* (2), verse 261, which encourages believers to spend some of their wealth in the cause of Allah, so that He will reward them with multiple rewards.

In addition to these verses, the doctrine of waqf is also understood from the Prophet's traditions, among others: First, the Hadīth addressing the issue of *ṣadaqah jāriyah*, the Prophet said:

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: إِذَا مَاتَ ابْنُ آدَمَ انْقَطَعَ عَنْهُ عَمَلُهُ إِلَّا مِنْ ثَلَاثٍ. صَدَقَةٌ جَارِيَةٍ أَوْ عِلْمٌ يُنْتَفَعُ بِهِ أَوْ وَلٍ صَالِحٌ يَدْعُوهُ. (رواه مسلم)

It Means: "Abu Hurairah reported that the Prophet said: When the son of Adam dies, his deeds will cease, except for three things: *ṣadaqah jāriyah*, useful knowledge, and a righteous son who prays for his parents" (Muslim). (As-San'āni, 2006 p. 87).

This Hadīth is included in the chapter on *waqf* (*al-waqf*) by as-San'āni, because scholars understand and interpret *ṣadaqah jāriyah* as waqf. So one of the good deeds whose rewards continue to flow especially for the deceased is *ṣadaqah jāriyah*, or waqf.

The second hadith narrated by Imām an-Nasā'i illustrates the recommendation of endowment in the form of shares (land, gardens):

عَنْ ابْنِ عُمَرَ قَالَ: قَالَ عُمَرُ ابْنُ الْخَطَّابِ لِلنَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: إِنَّ مِائَةَ سَهْمٍ الَّتِي لِي بِخَيْبَرٍ لَمْ أَصِبْ مَالًا قَطُّ أَعْجَبَ إِلَيَّ مِنْهَا قَدْ أَرَدْتُ أَنْ تَصَدَّقَ بِهَا فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَحْبِسْ أَصْلَهَا وَسَبِّلْ ثَمَرَتَهَا. (رواه النسائي)

It Means: "From Ibn Umar r.a. he said: Umar ibn al-Khattab said to the Prophet, I have one hundred shares (land, gardens) in Khaybar, I have never acquired such a treasure that I admire the most, but I want to give it in charity. The Prophet said to Umar: Hold on to the principal (do not sell it, give it away, and bequeath it), and give the proceeds to charity" (HR. An-Nasā'i).

Based on the above, it can be understood that the doctrine of waqf has not been clearly established. Therefore, these verses and traditions cannot be used as legal arguments regarding the necessity of waqf. But it can be positioned as a guide for the mujtahids in legal reasoning when facing waqf problems. Therefore, the doctrine of waqf is a matter of *ijtihādiyyah*, not a matter of worship (*ta'abbūdi*). Because it belongs to the realm of *ijtihādiyyah*, it means that waqf assets can be managed and utilized productively and professionally to improve social welfare, including technically being able to be sold if conditions require. For example, a piece of land is affected by road widening, a highway construction project, a mosque is badly damaged and the road is blocked by a company's wall, and so on.

Research related to the study of waqf in Indonesia has previously been researched by several researchers, including by Abu Yusuf as quoted by Imbang J. Mangkuto, "waqf is to release individual ownership of an asset (property), hand it over permanently to Allah SWT, and dedicate its benefits to others (Anshori, 2006: 24). Another research by, (Anwar Nawawi, 2014), which explains that waqf property in principle belongs to the people. Thus, its benefits must also be felt by the people. Therefore, at an ideal level, waqf property is a collective responsibility, in order to maintain its existence. Thus, the existence of an institution that takes care of waqf assets is absolutely necessary, as has been done by some Islamic countries.

The research as above, the analysis is different from the analytical study of this article. This article focuses on the questions: how is the reconstruction of the management, empowerment and trading of waqf assets? how is the reconstruction of the management, empowerment and trading of waqf assets from the perspective of Maqāsid Ash-Shari'ah?

## METHODS

Typologically, this research is a model of Islamic legal research categorized as qualitative research. Lexy J Moleong argues that qualitative research has a number of characteristics that distinguish it from other types of research. Qualitative research is descriptive and applies qualitative methods (Lexy J Moleong, 1990 p. 46). According to Noeng Muhadjir, in qualitative research a reflective logic model is applied, in which the thought process of making abstractions and the thought process of elaboration takes place quickly. (Muhadjir, 1996 p. 6).. In terms of legal research in general, this type of Islamic legal research is normative juridical research. (Ibrahim, 2006 p. 97). According to Soejono Soekanto's term, normative-doctrinal legal research is a scientific investigation by examining library materials or secondary data only (Soejono Soekanto, 1986 p. 15). In terms of its nature, this research belongs to the category of *library research* that aims to explore and search for the concepts of *maqāṣid ash-sharī'ah* from classical and contemporary *uṣūl al-fiqh* scholars, whose data are obtained from searching reading sources to obtain primary legal materials, secondary legal materials, and tertiary materials.

The model used in data collection is *library research*, in the form of literature on the concept of *maqāṣid ash-sharī'ah* from Islamic legal theorists (*usūliyyin*), and legal thoughts. Data relating to the purposes of this research were obtained through various sources and types of data in the form of primary literature, and secondary sources to complement primary sources. Primary sources are works or manuscripts that contain original essays written by the author. For example, books in the form of *uṣūl al-fiqh*, *fiqh waqf*, laws on waqf and so on. This research focuses on *library research*, (Nawawī, 1990 p. 30) in accordance with the focus of the problem discussed. Library research is conducted with the aim of exploring, searching and finding concepts, theories, and thoughts of Islamic legal theorists (*usūliyyin*) about *maqāṣid ash-sharī'ah* and its application in legal *istinbāt*. In this context, there are several approaches applied in studying *maqāṣid ash-sharī'ah*: philosophical approach, historical approach, and interdisciplinary approach.

Data analysis is also called data processing and data interpretation (Imam Suprayogo, 2012 p. 191). The data that has been collected is classified and then analyzed using *qualitative content* analysis techniques, interpretation methods, and holistic methods.

## RESULT AND DISCUSSION

### Endowment in Indonesia

The terminology of waqf according to the maḏhab imams is different in terms of stress. The Hanafī Maḏhab emphasizes that the *waqif* may not take legal action on an object that remains as property, but may donate its benefits to others for the purpose of present and future good. So basically, the waqf asset still belongs to the *waqif*, what is waqf is only the principle of its benefits. If one day *manquf 'alaih* cannot utilize it properly, then the *waqif* is allowed to withdraw his waqf property (Yoki Pradikta et al., 2024). Meanwhile, the Māliki school of thought seems to emphasize that the *waqif* restrains the waqf property from being used by ownership (not free to use), but it is allowed to use the proceeds for good purposes reasonably.

Therefore, waqf is only valid for a certain period of time, and should not be stipulated as a waqf in perpetuity. In contrast to the emphasis of the two opinions, the Shāfi'i maḏhab and Ahmad ibn Hanbal assert that the *waqf* property transfers its ownership from the *waqif* to another party (*nāẓir*) as its manager whose status becomes the property of Allah, the waqf property cannot be taken back by the *waqif*, therefore, the *nāẓir* or *manquf 'alaih* has the obligation to manage it, and utilize the proceeds for good purposes (Irfan et al., 2021). If the *waqif* dies, his heirs cannot inherit, sell, and grant the waqf property he has endowed. From some of the terminology of waqf according to the scholars mentioned above, the author can emphasize that *waqf* is holding or perpetuating

something that is permanent in substance, cannot be used up, and the results can be taken for the benefit of others who really need it on a priority basis, not to be sold, not to be donated, and not to be damaged by the goods (objects) to anyone, while the ownership passes from the *waqif* to Allah.

In addition to the terminological definitions according to the scholars above, in Indonesia, based on waqf legislation, waqf is chronologically mentioned as follows:

Furthermore, in the Basic Agrarian Law (UUPA) Number 5 of 1960, the implementation of which was outlined in Government Regulation (PP) Number 28 of 1977 concerning the Endowment of Owned Land, it is stated that waqf is "a legal act of a person or legal entity that separates part of its assets in the form of property and institutionalizes it forever for the benefit of worship or other public purposes in accordance with Islamic teachings" (1977). Subsequent developments, followed by various other laws and regulations, then issued a Joint Instruction of the Minister of Religion and the Head of the National Land Agency Number 4 and 24 of 1990 concerning the Certification of Waqf Land. In the following year, the Compilation of Indonesian Islamic Law (abbreviated as KHI) was born on the basis of Presidential Instruction Number 1 of 1991. Book III on the Law of Endowment in KHI states that waqf is "a legal act of a person or group of people or legal entities that separates part of their property and institutionalizes it for the benefit of worship or other public purposes in accordance with Islamic teachings." (2000 p. 99).

The terminology of waqf according to the formulation of PP No. 28 of 1977 and KHI is almost the same redactionally, but substantially there are differences in stressing. The PP emphasizes the waqf of land, while the KHI emphasizes the general nature of waqf, meaning that it is in the form of certain objects that are eternal, long-lasting, and institutionalized forever. The stressing of KHI, if carefully criticized, seems to be the result of the reconstruction of article 1 (1) of PP No. 28 of 1977, because in terms of time the formulation of waqf in PP has existed earlier (13 years) compared to that in KHI.

Meanwhile, the terminology of waqf according to Law Number 41 of 2004 concerning Waqf, states that waqf is "the legal act of a waqif to separate and/or transfer part of his property to be utilized forever or for a certain period of time in accordance with his interests for the purposes of worship and/or public welfare according to sharia" (2007 p. 1).

Based on all the terminology of *waqf*, both according to the scholars and according to the legislation mentioned above, it is clear that in principle there is no fundamental difference, it only occurs in terms of determining the elements that must be fulfilled, and whether the waqf property is still in the hands of *the waqif*, or is in the power of *mauquf 'alaih*. In this case, Indonesian scholars generally choose the opinion that the waqf property that has been waqf becomes detached and moves to become the property of Allah, or the property of Muslims.

Starting from the definition of waqf, and the legal arguments (al-Qur'ān and hadith), Islamic jurists formulate and determine the elements of *waqf* (*arkān al-waqf*) as follows: (1) the existence of *waqif*, i.e. the person who endows the property. (2) *Mauquf 'alaih*, which is the recipient of waqf, namely certain people such as family, fakir, miskim, ibn sabil, and others. For public purposes such as mosques, madrasas/schools, social institutions, and others. (3) *Mauquf*, which is the property being *waqf*, and (4) *Sigat*, or *waqf* pledge, which is a statement of will from the *waqif* to endow his property (Salabi, 2007 p. 42). These four elements of waqf must fulfill certain requirements.

**First**, for the *waqif*, there are several requirements that must be met, namely a person who is free, has reached adulthood, is of sound mind, and is not under guardianship. From these four requirements, it can be understood that the *waqif* who will donate his property must be a person who is capable of acting legally (*kamāl al-abliyyah* or *legal competent*). **Second**, *mauquf 'alaih*, which is the recipient of waqf property, such as family, the poor and needy, ibn sabil and others. *The mauquf 'alaih* must be present when the *waqf* property is handed over by the *waqif*, be professional in owning and managing the waqf property, and must not be someone who disobeys Allah, and must be a trustworthy person whose credibility is not in doubt. In addition, *mauquf 'alaih* is a person who must be responsible for the maintenance and management of waqf property. (Mugniyah pp. 312-313).



**Third, *mauqūf*** (the property being waqfed). The waqf asset must be something that is useful for a long period of time, fixed in substance (*baqa' 'ainih*) or durable so that when it is used it will not be quickly damaged, diminished, or depleted, and has value according to Shara'. Then the form of the property is clear, such as mosques, madrasas, or other property, whether immovable objects (*al-'uqār*) or movable objects (*al-manqūl*) (Al-Khatib p. 81).

According to Sayyid Sābiq, it is valid to endow immovable and movable objects that can be separated (distinguished), such as the Quran (*al-muṣṣabafah*), books (*al-ḥutub*), weapons of war (*as-silāh*), and livestock (*al-hayawān*), and it is also valid to endow anything that can be sold and can benefit from it, and must remain (eternal) substance. This view of Sayyid Sābiq can be understood, if the item being endowed is not permanent in substance, such as drinks, food, and the like, even tends to spoil quickly, nor can it be taken advantage of, and it is prohibited to be sold, such as dogs, pigs, and other animals that are prohibited from consumption, then it is not allowed (invalid) to be endowed. Fourth, the waqf pledge (*igat*).

The *waqf* pledge made by the *wāqif* must be clear, not subject to any conditions, and must not contain any words that indicate that he will revoke the waqf property by unilateral action, whether the pledge is clear (*ṣarīḥ*) or unclear (*kināyah*). However, the *waqf* pledge uttered by the *wāqif* already indicates *ijāb*, and the *qabūl* statement for *mauqūf 'alaiḥ* according to fiqh under certain conditions is not required, but a gesture of acceptance is sufficient (Sābiq p. 382).

From the elements of waqf and its requirements mentioned above, the main problem arises, is it permissible to sell waqf property in the form of movable or immovable objects? To discuss this issue, it is necessary to first determine the status of *waqf* assets, look at the scholars' understanding of the legal arguments used as the basis for the law of *waqf*, and then determine the legal provisions using the *maqāsid ash-sharī'ah* approach.

### Scholars' Views on Selling *Waqf* Objects

As stated above, *waqf* assets are separated from their owners (*wāqif*) and managers (*nāẓir*), but belong to Allah, or to the Muslim community. Thus, although the benefits can be enjoyed by the *nāẓir* and the community in general where the property is endowed, the endowed property must remain and cannot be owned by anyone individually or institutionally. This statement indicates that no one has the competence to inherit, grant, and sell or exchange it. This is based on the Prophet's hadith narrated by Imām Bukhari and Muslim from Ibn Umar as mentioned above, which states that it is prohibited to sell waqf assets.

The prohibition was first uttered by the Prophet during the early days of the waqf doctrine, when Umar ibn al-Khattāb acquired a large plantation located in Khaibar. To utilize it, Umar asked the Prophet for advice. He then suggested that, if Umar wished, the land be donated to the people who really needed it. At that time the Prophet emphasized that "waqf land cannot be sold, donated and inherited". Umar then implemented his advice, and the proceeds were used for social purposes, such as helping the poor, freeing slaves, and other avenues of goodness.

Methodologically (*uṣūl al-fiqh*), the Hadīth narrated by Imām Bukhari and Muslim from Ibn 'Umar has different understandings among scholars. Some scholars understand the Hadīth literally (*al-lugawīyah*), while others understand it substantively (*al-ma'nawīyah*). Among the scholars who understand it literally are some of the followers of the Māliki and Shāfi'i schools of thought who argue that waqf property cannot be sold or exchanged (Qudāmah pp. 251-252). According to this opinion, a mosque or mosque equipment as a waqf even if it is unusable, severely damaged, or the people who live in it have moved to another place (mosque), and there are no more people passing by there, it can be known and strongly suspected that there are no more people praying in the mosque. Even under such conditions, the mosque cannot be sold, replaced or exchanged (*al-ibdāl wa al-istibdāl*). This is because selling or exchanging waqf assets means breaking the relationship between the mosque and the person who endowed it and others, except with Allah. The *Wāqif* only gets his waqf reward from the asset he endowed, not from other objects he exchanged. Therefore, if the demolished wall of the mosque cannot be reused as a wall, it can be used for other purposes for the benefit of the mosque, not sold.

Some scholars who understand the above Hadīth of Ibn Umar substantially are the Hanbali school. According to them, the prohibition of selling waqf assets (*la yubā'u*) in the Hadīth is only for waqf assets that can still be utilized. Meanwhile, waqf assets that have been damaged, or can hardly be utilized anymore may be sold, and the money bought back a replacement. Furthermore, according to this opinion, it is permissible to sell a mosque if the inhabitants of the mosque have moved away, so that no one prays in the mosque, or there are not enough people there, and it is impossible to expand the mosque or build part of it, except by building part of it. Also, if there is something in the mosque that cannot be used except by selling it, then it is permissible to sell it. As for exchanging or replacing waqf assets with other assets, Ibn Taimiyyah al-Hanbali (d. 728 AH) stated by stating the opinion of Ahmad bin Hanbal that waqf other than mosques may be exchanged for better ones to be waqfed. Likewise, exchanging a mosque that can still be utilized for a mosque that is of greater benefit to the *jama'ah*, there are two narrations from Ahmad ibn Hanbal, one that allows it and one that does not allow it.

Ibn 'Taymiyyah chose the first opinion that allows it. Ibn 'Taymiyyah's view is based on a narration by Abū Bakr 'Abd al-'Aziz in his book "*ash-Shāfi'*" which relates that, when a companion of 'Abdullāh ibn Mas'ūd went to see the Treasury in Kūfah, Baghdad, the Treasury inside the mosque was broken into by thieves. This incident was immediately reported to Caliph Umar ibn al-Khattāb in Medina. Umar ordered that the mosque be moved to a safer place, and the treasury be placed near the mihrāb of the mosque, because it would always be seen by the people who prayed in turn. The followers of the Hanbali school used this incident as a basis for the validity of exchanging or moving the mosque from one place to a place that is better and more beneficial for the *jama'ah*. Similarly, exchanging waqf land for land that is better and strategically located for the benefit of the congregation (Taimiyyah pp. 118-119).

Of the two patterns of scholars' understanding of Ibn 'Umar's hadith above, the author is more inclined to the second opinion, where the hadith is understood with a substantial approach. It should be emphasized here that history has recorded that the recommendation of waqf was prescribed during the Prophet's time, after he migrated to Medina, in the second year of hijriyah, and the first person to implement the shari'a of waqf was the Prophet, by donating a piece of land to build a mosque (Waqf, 2007 p. 4).

The purpose of waqf is none other than for the benefit of the *congregation*, which is to fulfill the needs and interests of the community, especially those of the *mustad'afin* (poor, needy, poor families, etc.). This waqf tradition was then followed by the Companions, such as 'Umar ibn al-Khaṭṭāb, Abu Bakr, Usmān ibn 'Affān, 'Ali ibn Abi Ṭalīb, Abū Talhah, Mu'āz ibn Jabal, Ānas ibn Mālik, 'Abdullah ibn 'Umar, Zubair ibn 'Awwām, and 'Āisyah, the Prophet's wife. (Abū Bakr Ahmad ibn al-Husain ibn 'Āli al-Baihaqi p. 161).

### **Reconstructing the Management, Empowerment and Sale of Waqf Property in Indonesia**

Historically, the enactment of Endowment legislation in Indonesia when traced further, and referring to historical facts can at least be distinguished in three periods, namely the period before independence, the period after independence, and the period after the enactment of Government Regulation (PP) No. 28 of 1977 concerning Endowment Land Ownership.

#### **a. Before the Independence of the Republic of Indonesia**

The institution of waqf in Indonesia has actually been implemented by Indonesian Muslims since Islam came and developed through kingdoms such as the Demak kingdom in Java, the Pasai kingdom in Banda Aceh, and others, because the doctrine of waqf is actually derived from Islamic teachings. However, in its practice in the community, it is justified in Indonesian customary law (A. Faishal Haq and Saeful Anam, 1994 pp. 30-31). This can be seen in the past when people built mosques, muşallās, surau, etc. by working together. For the orderly administration of waqf management, the Dutch Colonial Government issued various regulations governing waqf issues, including:

**First**, the Circular Letter of the Secretary of the First Government dated January 31, 1905 No. 435, as contained in Bijblad 1905 No. 6196 concerning *Toeziçt op den bouw van*

*Muhammedaansche bedehuizen*. Although this Circular Letter did not specifically regulate waqf, it stated that the government did not intend to prohibit Muslims from fulfilling their religious needs. For example, the government allowed the establishment of places of worship if they were really desired by the general public. The Circular Letter was addressed to the Heads of Regions in Java and Madura, except for the Swapraja areas, as long as there had been no registration of lands, or houses of worship for Muslims in their respective Regencies. In the list, the origin of the land, whether or not it has a yard, from whose waqf, and so on, should be proposed.

**Second, the** Circular Letter from the Secretary of the Government dated June 4, 1931 No. 1361/A, which was published in *Bijblad* 1931 No. 125/3 concerning *Toezicht van de Regeering op Muhammedaansche bedehuizen, Vrijdagdiensten en wakafs*. The Circular Letter basically stated that the *Bijblad* of 1905 No. 6169 should be taken into account, with the intention of obtaining a register that is useful for obtaining legal certainty of the existence of waqf land.

**Third, the** Circular Letter of the Secretary of the Government dated December 24, 1934 No. 3088/A as contained in *Bijblad* 1934 No. 13390 concerning *Toezicht van de Regeering op Muhammedaansche bedehuizen, Vrijdagdiensten en wakafs*. This Circular Letter only emphasized what was mentioned in the previous Circular Letter, which gave the Regent the authority to lead and settle cases, in the event of a land dispute as long as it was requested by the parties to the dispute.

**Fourth, the** Circular Letter of the Secretary of the Government dated 27 May 1935 No. 1273/A as contained in *Bijblad* 1935 No. 13480. This Circular Letter is also a confirmation of the previous circular letters, namely regarding the procedures for waqf, as a provision of *Bijblad* No. 6169/1905 which emphasizes that all waqf land be properly registered.

b. After the Independence of the Republic of Indonesia

Legislation on land trusts issued during the Dutch colonial rule, since the Proclamation of Independence of the Republic of Indonesia on August 17, 1945 is still in effect, based on the provisions of Article II of the Transitional Rules of the 1945 Constitution: "All existing State Bodies and Regulations are still in effect as long as a new one has not been made according to this Constitution." To adapt to the conditions of the independent Indonesian nation, several instructions regarding waqf were issued by the Ministry of Religious Affairs of the Republic of Indonesia dated December 22, 1953 concerning Instructions Regarding Waqf. Henceforth this **Endowment** is the authority of section D (social worship), *Jawatan Urusan Agama*. On October 8, 1956, Circular Letter No. 5/D/1959 was issued concerning Land Trust Procedures.

As the implementation of the aforementioned laws and regulations on land ownership was deemed inadequate, and there were still many weaknesses here and there, Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles (UUPA) was enacted. Article 49(3) of this Act states that "The perpetuation of the ownership of land is protected and regulated by Government Regulation."

c. Land Trust After the Enactment of Government Regulation No. 28 of 1977

As the author has alluded to above, the laws and regulations regarding this waqf still have weaknesses here and there, then finally promulgated Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles, article 49 (3) which emphasizes that the waqf of property land is protected and regulated by PP, then the government on May 17, 1977 stipulated PP No. 28 concerning the waqf of Property Land.

The *background* considerations for the issuance of this PP are stated as follows: (a) Waqf is a religious institution that can be used as a means for the development of religious life, especially for Muslims, in order to achieve spiritual and material welfare towards a just and prosperous society based on Pancasila. (b) The current laws and regulations governing the waqfing of property, apart from not fulfilling the need for ways of waqfing, also open up the possibility of unwanted things arising due to the absence of accurate and complete data on the lands being waqfed.

With the enactment of Government Regulation No. 28 of 1977, all previous laws and regulations concerning waqf, to the extent that they conflict with this Government Regulation,

are declared invalid. Meanwhile, matters that have not been regulated in this Government Regulation will be further regulated by the Minister of Religious Affairs and the Minister of Home Affairs in accordance with their respective fields.

From time to time until the enactment of UUPA and PP No. 28 of 1977, it turns out that the existence of Indonesian Muslims is still accustomed to using religious traditions in terms of waqf, such as their habit of doing land waqf legal acts orally on *the* basis of mutual trust in individuals, or institutions of waqf, believing that waqf property as a good deed in the sight of Allah, moves to belong to Allah without having to be represented procedurally administrative, and Allah will take care of it. In addition to these traditions and beliefs, Indonesian Muslims adhere to the Syāfi'iyyah school of thought in making *waqf* pledges, the assets that can be *waqfed* (*mauqūf bih*), the position of the assets after they are waqfed, who the assets are intended for, whether or not they can be exchanged, and/or sold.

This kind of waqf tradition then raises the problem of waqf in Indonesia which is not encouraging, because it does not develop, is not managed and utilized productively-professionally, has no economic value, *the* management institution (*nāẓir*) is not professional because the resources of *nāẓir* are relatively unqualified, waqf assets are generally in the form of immovable objects, such as land, many cases of waqf land and other waqf assets are lost. Starting from the "*moribund*" condition of waqf in Indonesia, the Indonesian government felt responsible, interested in fixing and perfecting the waqf regulations, so Law No. 41 of 2004 concerning Waqf was enacted, which was signed by the President of the Republic of Indonesia (SBY) on October 2, 2004. A few years later, PP No. 42 of 2006 was issued regarding its implementation.

With the enactment of Law No. 41 of 2004, and PP No. 42/2006, waqf in Indonesia began to find its identity, by making updates in various fields of management and utilization. This is certainly a significant reconstruction, because this law has regulated productive *waqf* products such as *cash waqf*, shares, or other securities, which technically the management mandated to the *nāẓir* institution can be optimized. The use value of this management and development can be utilized for the benefit of many people. Such management is envisioned to mobilize the entire potential of waqf for the welfare of Indonesian society in general.

The enactment of Law No. 41 of 2004, and Government Regulation No. 42 of 2006 when compared to other countries such as Saudi Arabia, Egypt, Malaysia, and the United States (JAUHAR, 2011 p. 2). It can be said that in Indonesia, based on these laws and regulations, the management and utilization of waqf assets are quite good, but not optimal. This can be seen in terms of land utilization that is still managed traditionally, such as mosques located on large waqf lands are only solely for worship, educational institutions (madrasah) are only limited to learning, and burial grounds are only limited to burying the dead. Such land utilization and allocation is clearly unproductive.

Future management should be more optimized to successfully meet the needs and welfare of the people. For example, waqf land is leased for per-pit graves with a certain time limit, building learning institutions, training places and training that have economic value. The mosque, in addition to being a place of worship, is also designed to be an adequate facility and infrastructure with high economic value, and is managed professionally. Aside from that, the institution of *nāẓir* as the trustee should ideally be qualified, have advanced and productive understanding so as to be able to manage, empower and develop waqf objects, but so far *nāẓir* is still entrusted to religious leaders who do not understand the business world and business. To make matters worse, many waqf lands are still not certified, and as a result, many waqf lands are not legally protected, and even become civil cases against the plaintiffs (heirs of the waqif) in court.

Indonesia, through the Indonesian Waqf Board (BWI), should learn and do much like countries in the Islamic world, such as establishing waqf hotels in 33 provinces, constructing apartment buildings, national and international conference halls. These ideas and thoughts have



actually been discussed by the Chairman of BWI (KH. Tolhah Hasan) by saying that the role and function of waqf as an instrument of people's economic development is very beneficial. But the development of productive waqf in Indonesia is not maximized properly. As a result, the development of waqf funds is still inferior compared to other countries in the Southeast Asian region.

In relation to the suboptimal management and empowerment of waqf in Indonesia, Muhammad Syafi'i Antonio said that we are now entering a period of total waqf empowerment involving all the potential of the community with full support, namely Law No. 41/2004 on Waqf, the role of the Regional Autonomy Law, the role of regional regulations, national monetary policy, tax laws and so on (Al-Asyhar). Indonesia inevitably has to learn from modern Muslim countries that have advanced their waqf management and empowerment, such as Egypt, Turkey, Saudi Arabia, Jordan, Qatar, Kuwait, Morocco, Bangladesh, Pakistan, and Malaysia. As a comparative example, Antonio pointed out that around the Grand Mosque and the Prophet's Mosque today, which were once waqf lands, there are several business places as powerful economic engines, such as hotels, restaurants, apartments, commercial centers, government centers, and so on.

Starting from the description of *waqf* management, empowerment, and development in Southeast Asia and the Middle East in general, I can emphasize that Indonesia is far behind in terms of *waqf* management, empowerment, and development, both *cash waqf* and productive waqf.

### **Reconstruction of the Management, Empowerment and Sale of *Waqf* Property from the Perspective of *Maqāsid Shari'ah***

Given that waqf is an *ijtihādīyah* issue, there are differences in the meaning of waqf in terms of stressing, for example, the Hanafi Maḏhab emphasizes that the *waqif* may not take legal action on an object that remains as property, but may donate its benefits to others for the purpose of goodness in the present and future (Mukri & Mahmudah, 2021). So basically, the waqf asset still belongs to the *wāqif*, what is waqfed is only the principle of its benefits. If one day *mauqūf 'alaih* cannot utilize it properly, then the *wāqif* is allowed to withdraw his waqf property. Meanwhile, the Māliki school of thought seems to emphasize that the *wāqif* restrains the waqf property from being used by ownership (not free to use), but it is allowed to use the proceeds for good purposes reasonably.

Therefore, waqf is only valid for a certain period of time, and should not be stipulated as a waqf in perpetuity (Hidayati, 2023). In contrast to the emphasis of the two opinions, the Shāfi'i maḏhab and Ahmad ibn Hanbal assert that the *waqf* property transfers its ownership from the *wāqif* to another party (*nāẓir*) as its manager whose status becomes the property of Allah, the waqf property cannot be taken back by the *wāqif*, therefore, the *nāẓir* or *mauqūf 'alaih* has the obligation to manage it, and utilize the proceeds for good purposes. If the *wāqif* dies, his heirs cannot inherit, sell, and grant the waqf property he has endowed. From some of the terminology of waqf according to the scholars mentioned above, the author can emphasize that *waqf* is holding or perpetuating something that is eternal in substance, cannot be used up, and the results can be taken for the benefit of others who really need it on a priority basis, not to be sold, not to be donated, and not to be damaged by the goods (objects) to anyone, while the ownership passes from the *wāqif* to Allah.

From the perspective of *maqāsid ash-shari'ah*, Ibn 'Umar's Hadīth, which informs us about the Apostle's instruction to 'Umar: "If 'Umar wants, he should endow the land to someone who needs it. But at that time, the Apostle emphasized that waqf land cannot be sold, donated, or inherited" indicates and can be understood that waqf assets can be managed professionally by individuals or entities, or an institution called *nāẓir*. The substance of the Prophet's order to Umar is not merely the maintenance of the waqf object, but far more important is the value of the benefits of the waqf property to meet the needs and interests (benefit) of the people.

The waqf assets, which are quite potential, have not been managed and utilized optimally in Indonesia, still far from the expectations of the people, because Indonesian Muslims in general,

there is a kind of claim to adhere to and take the opinion of the Māliki and Shāfi'i schools of thought that emphasize the importance of maintaining permanence, may pledge verbally, waqf property belongs to God, very high trust in the *nāẓir*, may not be sold, donated, inherited, and exchanged for other objects even if the object is damaged, and the value of its benefits is almost extinct. As a consequence of adhering to this opinion, it seems that it causes inflexibility, lack of context, and future prospectivity.

From the perspective of *maqāsid ash-shari'ah*, the management and utilization, including selling waqf assets that are no longer productive, severely damaged, and have almost lost their usefulness, is basically the purpose of the waqf asset itself, which is to fulfill the needs and interests of the community (Asnawi., 2024). The needs here are either consumptive or productive. This can certainly be fulfilled if the waqf assets can be managed and utilized professionally, in the sense of being appropriate, and right on target (Ardiansyah, 2023). Theoretically normative, the doctrine of classical waqf fiqh needs to be changed with a contextual, flexible, and *futuristic* (future-oriented) *mutasyabihat* understanding. Thus, the understanding that waqf assets cannot be sold, exchanged, and empowered is time to be abandoned. Waqf management, which has been done as it is, needs to be improved by using a modern management system, managed and developed in a professional productive manner. Likewise, the institution and management of *nāẓir*-an need to be changed and improved to be more professional, and the recruitment of human resources really meets the criteria and requirements that have been determined. Meanwhile, at the applicative level of implementation, waqf as an instrument of people's economy, as well as a considerable potential to be managed and utilized in line with the demands of the modern era. This is based on data owned by the Ministry of Religious Affairs, that the wealth of waqf in the form of land in Indonesia is very large in number (403,845 locations with an area of 1,566,672,406 M2), 75% have been certified, and around 10% have high economic potential (Ahmad Djunaidi and Thabieb Al-Asyhar, 2007 p. 76).

Data from 2011 recorded 426,003 locations with an area of 3,492,045,373,754 M2, or 349,204,537 Ha. Meanwhile, only 282,321 locations have been certified, and 132,396 locations have not been certified. This data shows that the amount of waqf assets, in this case especially land and buildings, is a huge opportunity for the economic development of the ummah in the present, medium and future. The vast potential of waqf land that may be strategically located, such as on the side of a highway, in a shopping area, etc., allows it to be managed and developed productively. For example, a mosque can be built on top of it, and a meeting hall, shop, office, etc. can be built underneath to be managed by the waqf owner, or rented out, and the proceeds can be used to pay for the maintenance of the waqf building, and/or for the cost of fostering the empowerment of the weak economy of the surrounding *mustad'afin* groups. For example, in Lampung, the Al-Furqān mosque in Lungsir has been able to economically finance the maintenance of the building, etc., from the rental proceeds (Pradikta et al., 2023). Other examples that the author is aware of that manage waqf land productively and well are the Foundation for the Maintenance and Expansion of Waqf of Pondok Modern Gontor, East Java, the Waqf Board of Universitas Islam Indonesia (UII) Yogyakarta, the Waqf Board of Universitas Muslim Indonesia (UMI) Makassar, the Paramadina Waqf Foundation, Jakarta, and others.

Thus, if the verses and traditions on which the doctrine of *waqf* is based are understood in a contextual *mutasyabihat* manner, then the *waqf* assets can be managed and utilized productively in a professional manner in the form of *cash waqf*, etc. All of these efforts are none other than the *maqāsid of waqf* (Asnawi, 2024). All of these efforts are none other than the *maqāsid* for the benefit of improving the welfare of the people.

## CONCLUSIONS

Based on the explanation above, this research can be concluded as follows; Historically, the enactment of Endowment legislation in Indonesia when traced further, and referring to historical facts can at least be distinguished in three periods, namely the period before independence, the period after independence, and the period after the enactment of Government Regulation (PP)

No. 28 of 1977 concerning Endowment of Owned Land. Starting from the condition of waqf in Indonesia which is "*moribund*", the Indonesian government feels responsible, has an interest in fixing, and perfecting the rules of waqf, so Law No. 41 of 2004 concerning Waqf was promulgated, which was signed by the President of the Republic of Indonesia (SBY) on October 2, 2004. A few years later, PP No. 42 of 2006 was issued regarding its implementation.

With the enactment of Law No. 41 of 2004, and PP No. 42/2006, waqf in Indonesia began to find its identity, by making updates in various fields of management and utilization. This is certainly a significant reconstruction, because this law has regulated productive *waqf* products such as *cash waqf*, shares, or other securities, which technically the management mandated to the *nāẓir* institution can be optimized. The use value of this management and development can be utilized for the benefit of many people. This kind of management is envisioned to mobilize the entire potential of waqf for the welfare of Indonesian society in general. From the perspective of *maqāsid ash-shari'ah*, the management and utilization, including selling waqf assets that are no longer productive, badly damaged, and have almost lost their usefulness, is basically the purpose of the waqf asset itself, which is to fulfill the needs and interests of the community. The needs here are either consumptive or productive. This can certainly be fulfilled if the waqf assets can be managed and utilized professionally, in the sense that they are appropriate and right on target.

## REFERENCES

- Abdulkadir Muhammad. (2004). Law and Legal Research, Bandung: PT CitraAditya Bakti,
- Abū Dāwud, Sulaiman ibn al-Ash'as as-Sajastāni al-Azdi, Sunan Abi Dāwud, Indonesia: Maktabah Dahlan, 2nd Juz, t.t.
- Abū Habib, Sa'di. (1408 AH/2000 ). Al-Qāmus al-Fiqhi Lugatan wa Istīlāhan, Damascus-Syria: Dār al-Fikr, CE.
- Abū Hayyān, Muhammad ibn Yūsuf. (1993.) Tafsir al-Bahr al-Muhiṭ, Bairut: Dār al-Kutub al-'Ilmiyyah, 1st Juz,
- Abū Zahrah, Muhammad. (1377 AH/1957). al-Ahwāl ash-Syakhṣiyyah, Cairo: Dār al-Fikr al-'Arabi, CE.
- Abū Zahrah, Muhammad. (1377 AH/1958 ). Uṣūl al-Fiqh, Cairo: Dār al-Fikr al-'Arabi, CE.
- Adijani Alabij, (1992). Perwakafan Tanah Di Indonesia, (Jakarta: Rajawali,
- Ahmad jumaidi et al, Fiqh of Waqf, (2007), Directorate of Waqf Empowerment
- Aradiansyah, M. N. J. (2023). Reconstruction of Marriage and Divorce Law for Civil Servants. *SMART: Journal of Sharia, Tradition, and Modernity*, 3(1), 55–68. <https://doi.org/10.24042/smart.v3i1.16979>
- Asnawi., H. S. (2024). Mental Rehabilitation of Divorce Prohibition Victim Wives Through the Balancing Institution of Megou Pak Customary Pepung and its Implications Against Household Harmony. *COUNS-EDU: The International Journal of Counseling and Education*, 8(3). <https://doi.org/10.23916/0020230842630>
- Asnawi, H. S. (2024). Sejarah, Urgensi dan Tipologi Pencatatan Perkawinan dalam Undang-undang Keluarga Islam di Negara Muslim. *Bulletin of Community Engagement*, 4(2). <https://attractivejournal.com/index.php/bce/article/view/1468>
- al-'Ālim, Yūsuf Hamid, al-Maqāṣid al-'Āmmah li ash-Shari'ah al-Islāmiyyah, Riyad: al-Ma'had al-'Ālami li al-Fikr al-Islāmi, 2nd edition, 1415 AH/1994 CE.
- al-Āmidī, Saifuddin Abū al-Hasan 'Alī ibn Abi 'Ālī ibn Muhammad. (1416 AH/1996 ), al-Ihkām fi Uṣūl al-Ahkām, Bairut: Dār al-Kutub al-'Ilmiyyah, 2nd edition, 3rd Juz, CE.

- Al-Asyhar, Thobieb and Ahmad Djunaidi, 'Toward the Era of Productive Waqf, introduction by Muhammad Syafi'i Antonio, Depok-Jakarta: Mumtaz Publishing, 4th c., 2007
- Ardiansyah, M. N. J. (2023). Reconstruction of Marriage and Divorce Law for Civil Servants. *SMART: Journal of Sharia, Tradition, and Modernity*, 3(1), 55–68. <https://doi.org/10.24042/smart.v3i1.16979>
- al-Badawi, Yūsuf Ahmad Muhammad, Maqāṣid ash-Shari'ah 'Ind Ibn Taymiyyah, Jordan: Dār an-Nafā'is, t.t.
- al-Khādimi, Nuruddin Mukhtār. (1428). al-Maqāṣid al-Istiqrā'iyah Haqiqatuhā Hujjiyatuhā Dawabituhā, Tunis: Jāmi'ah az-Zaitūnah, AH.
- al-Khuḍari Bik, Muhammad. (1409 AH/1988). Uṣūl al-Fiqh, Bairut: Dār al-Fikr, CE.
- Anam, Saeful and A. Faishal Haq. (1994). The Law of Waqf and Trusts in Indonesia, Surabaya: PT GBI, 4th c.
- Andi Ariani Hidayat. (2017)., The Concept of Treasure in the Perspective of Maqāṣid Ash-Shari'ah and its Implementation in Cash Waqf, UIN Alauddin Makassar, Journal: Bilancia, Vol. 11 No. 2, July-Dec.
- An-Nasā'i, Sunan an-Nasā'i. (1348H/1930). Bairut: Dār al-Fikr, 3rd edition, 5th Juz, CE.
- As-San'āni, Subūl al-Salām, Bandung-Indonesia: Dahlan Thab' 'alā Nafaqah, t.t., 2nd Volume, 3rd Juz.
- Compilation of Islamic Law in Indonesia, Jakarta: Ministry of Religious Affairs, Directorate General of Islamic Institutional Development
- Hadārī Nawawī. (1990)., Social Research Methods, Yogyakarta: Gadjah Mada University Press,
- Hasanah, Uswatun. (2012). "The Urgency of Supervision in Productive Waqf Management." Al-Ahkam 22.1 <https://www.republika.co.id/berita/dunia-islam/wakaf/18/01/26/p34v39396-ini-enam-tantangan-perwakafan-di-indonesia>, accessed on August 04, 2022
- Hidayati, R. (2023). The Jurimetri Formulation of Court Decisions in the Division of Joint Property. *SMART: Journal of Sharia, Tradition, and Modernity*, 3(1), 28–40. <http://ejournal.radenintan.ac.id/index.php/smart/article/view/16978>
- Hidayati, R. (2023). The Jurimetri Formulation of Court Decisions in the Division of Joint Property. *SMART: Journal of Sharia, Tradition, and Modernity*, 3(1), 28–40. <http://ejournal.radenintan.ac.id/index.php/smart/article/view/16978>
- Irfan, M., Khair, D., Asnawi, H. S., & Firdawaty, L. (2021). Reflection of a Decade of Pre-Marriage Guidance on Family Resilience in Indonesia. *SMART: Journal of Sharia, Tradition, and Modernity*, 1(2), 188. <https://doi.org/10.24042/smart.v1i2.11353>
- Irfan, M., Khair, D., Asnawi, H. S., & Firdawaty, L. (2021). Reflection of a Decade of Pre-Marriage Guidance on Family Resilience in Indonesia. *SMART: Journal of Sharia, Tradition, and Modernity*, 1(2), 188. <https://doi.org/10.24042/smart.v1i2.11353>
- Irfan, M., Khair, D., Asnawi, H. S., & Firdawaty, L. (2021). Reflection of a Decade of Pre-Marriage Guidance on Family Resilience in Indonesia. *SMART: Journal of Sharia, Tradition, and Modernity*, 1(2), 188. <https://doi.org/10.24042/smart.v1i2.11353>
- Ibn Manẓūr al-Afriki al-Miṣri. (1955)., Lisān al-'Arab, Bairūt: Dār al-Fikr li at-Ṭibā'ah wa an-Nasyr, 2nd Jld.
- Jalāluddin Abdurrahmān. (1403 AH/1983 CE)., al-Maṣālīh al-Mursalah wa Makānatuhā fi at-Tasyri' Egypt: Maṭba'ah as-Sa'ādah



- Johnny Ibrahim. (2006)., Theory and Methodology of Normative Legal Research, Malang: Bayu Media Publishing
- Jūdah Hilāl. (1330 AH)., "al-Istihsān wa al-Maṣlahah al-Mursalāh" in *Usbū' al-Fiqh al-Islāmī* Egypt: Majlis al-A'lā li ar-Ri'āyah al-Funūn al-Ijtīmā'iyah
- Law No. 41 of 2004, concerning Perwakafan
- Law No. 41/2004 on Waqf and Government Regulation No. 42/2006 on its Implementation Jakarta: Ministry of Religious Affairs Directorate General of Islamic Public Guidance.
- Lexy J Moleong. (2000)., Qualitative Research Methodology, Bandung: PT Remaja Rosdakarya, 1990)
- Muhammad Abū Zahrah. (1377 AH/1958 CE)., *Uṣūl al-Fiqh*, Egypt: Dār al-Fikr al-'Arabī
- Muhammad Ramli, The Position of Ruislagh in Waqf Land Investment from the Perspective of Maqasid Shari'ah, Journal: Jatijajar Law Review, University of Muhammadiyah Gombong, Vol. 1 No. 1, March
- Mukri, M., & Mahmudah, S. (2021). Reinterpretation of Livelihoods in Marriage Law and Its Implications of Family Resistance in the Time and Post Covid -19. *Smart*, 1(2), 113–127.
- Muhammad. (1306 AH)., Murtaḍā az-Zubaidi, Tāj al-'Arūs, Egypt: Maṭba'ah al-Khairiyyah al-Munsiyah Bijamāliyyah, 2nd ed.
- Mukri, M., & Mahmudah, S. (2021). Reinterpretation of Livelihoods in Marriage Law and Its Implications of Family Resistance in the Time and Post Covid -19. *Smart*, 1(2), 113–127.
- Navita Ajeng Setyo Hardini. (2022)., A Review of Islamic Law and Law No.41 of 2004 on the Sale and Purchase of Cemetery Land with the Status of Waqf Land in Lamper Tengah Village, South Semarang District, Semarang Regency
- Pradikta, H. Y. P., Sanjaya, P., Rica Dayani, T., & Shulton Asnawi, H. (2023). Efforts to Prevent Marriage at Child Age through Socialization and Education on the Risks of Early Marriage from the Perspective of Islamic Law. *J-Dinamika: Jurnal Pengabdian Masyarakat*, 8(1). <https://doi.org/10.25047/j-dinamika.v8i1.3852>
- Said Agil Husin Munawar. (2005)., Islamic Law and Social Plurality, Editor Hasan M. Noer and Musyafaullah, Jakarta: Penamadani Publisher.
- See, article 1 (1) of Government Regulation No. 28 of 1977 concerning Perwakafan Tanah Milik.
- Pradikta, H. Y. P., Sanjaya, P., Rica Dayani, T., & Shulton Asnawi, H. (2023). Efforts to Prevent Marriage at Child Age through Socialization and Education on the Risks of Early Marriage from the Perspective of Islamic Law. *J-Dinamika: Jurnal Pengabdian Masyarakat*, 8(1). <https://doi.org/10.25047/j-dinamika.v8i1.3852>
- Wael B. Hallaq, A., (2000). History of Islāmīc Legal Theories, Translated by E. Kusnadiningrat and Abdul Haris bin Wahid, Jakarta: PT Raja Grafindo Persada
- Winarno Surachmad. (1972)., Basic and Technical Research: An Introduction to Scientific Methodology, Bandung: Tarsito Publishers
- Yoki Pradikta, H., Budianto, A., & Asnawi, H. S. (2024). History of Development and Reform of Family Law in Indonesia and Malaysia. *KnE Social Sciences*, 2024(4). <https://doi.org/10.18502/kss.v9i12.15863>