

**The Benefit Principles of *Istibdāl* on Wakaf Objects**  
**(Analysis of Dhawābith al-Mashlahah Sa'id Ramadhān al-Būthi)**

**Moh. Mujibur Rohman**

Institut Agama Islam Negeri Madura Jawa Timur, Indonesia  
mujibur.rohman6568@gmail.com

Received: 20-01-2021	Revised: 14-04-2021	Accepted: 10-06-2021
----------------------	---------------------	----------------------

**Abstract**

The concept of waqf in fiqh is Islamic philanthropy in the form of amal Jariyah which requires the eternal characteristics of the object given. However, with the development of the era of waqf objects, it will be reduced mainly in property waqf. So that in order to keep the waqf objects productive, *istibdāl* is carried out in order to remain productive on the basis of *mashlahah*. To find the *mashlahah* principles in *istibdāl*, the author conducted a research of the boundaries of the *mashlahah* by al-Būthi. This research would not be far from the formulation of the problem that the author intended to find the answer; 1) what is the concept of *istibdāl* in fiqh and Indonesian representation? 2) What is the procedure for *istibdāl* waqf in the context of Indonesian waqf fiqh?; 3) How is the construction of *mashlahah* principles in *istibdāl* waqf practice based on *dhawābith al-mashlahah* al-Būthi? The research conducted was a normative research (*doctrina*), where the data used were secondary sources (not in the field) in the form of books of fiqh and legislation. From the data obtained, the authors conducted a descriptive analysis. The results showed that the permissibility of *istibdāl* waqf based on the *mashlahah* principle that must be fulfilled, that is, it must be in a state of *dharurah*, for urgent religious purposes, for the general public, there is an inadequacy, through the agreement of *wāqif* and *nazhir*, replaced at least with the same, the object of waqf is examined with involving figures and several elements of society as well as following the provisions of the Shari'ah and applicable laws.

Keywords: Waqf, Waqf Objects, *Istibdāl*, Dhawābith al-Mashlahah

© 2021 Moh. Mujibur Rohman



This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License.

**Introduction**

The word waqf is a form of masdar which comes from the word waqafa (وقف) which means to stop (Munawwir, 1997). However, the etymology (lughat) in fiqh is quite different, the word waqafa (وقف) itself means al-habsu (الحبس) which means to hold or donate. While the syara' definition of waqf is:

حبس مال يمكن الانتفاع به مع بقاء عينه بقطع التصرف في رقبته على مصرف مباح و جهة.

*"The meaning of waqf from the perspective of the Shari'a is holding back the assets that can be used as well as the permanence of the waqf objects by preventing them from transferring (tasharruf) their guardians"* (Al-Malībārī, tt).

Indonesia has recognized and implemented the mechanism of waqf since the entry of Islam to this country. Waqf is considered to have supported the development of the Islamic community, most places of worship for Muslims, educational spaces and other Islamic religious institutions are built on waqf land (Qahaf, 2005). Although waqf has existed since the entry of Islam to Indonesia,

the system of waqf being organized is still relatively new. Anshori argues that the rules regarding the source of waqf law in Indonesia, related to the procedures, and practices of waqf, can be said to be new (Anshori, 2004).

The definition of waqf based on the Islamic Law Compilation (KHI) is “the legal act of an individual or group of people or legal entities that separates part of their property and institutionalizes it for all eternity for the purpose of worship or other public purposes in accordance with Islamic teachings” (Tim Redaksi Nuansa Aulia, 2015). Another definition of waqf is in Law No. 41 of 2004 concerning Waqf. “The act of wakif to separate and/or hand over part of his property to be used forever or for a certain period of time in accordance with his interests for the purposes of worship and/or general welfare according to shari’ah (Undang-Undang Republik Indonesia Nomor 41 Tahun 2004, t.t.).

Waqf is a work of worship and Islamic philanthropy, the substance of waqf itself is more dominant in social worship. This shows that waqf is one of the many similar acts of worship, such as good deeds, shadaqah, donations and others, all of which are a form of charity (charity table endowment) (Kementerian Agama Republik Indonesia, 2017). In principle, waqf contains a mashlahat objective, where people who donate their assets (read; wāqif) will receive a reward from Allah SWT. as an investment in the afterlife. Apart from this, implicitly the spirit of the existence of waqf is to build the economy for the welfare of the people. As in Article 5 of Law no. 41 of 2004 concerning Waqf, “waqf functions to realize the potential and economic benefits of waqf property for the benefit of worship and to advance public welfare” (Undang-Undang Republik Indonesia Nomor 41 Tahun 2004, t.t.).

As with the terms and conditions of waqf in general, it is waqīf (person who waqf), mauqūf bih (object of waqf), mauqūf alaih (recipient of waqf), shighat (statement or pledge of waqf) (Al-Zuhaili, 1985). While in Article 6 of the Waqf Law no. 41 of 2004 concerning Waqf, it is explained that the elements of waqf include; Wakif, Nazhir, waqf property, waqf pledge, the allocation of the waqf object and the period of the waqf. Basically, the room for the discussion of waqf lies in the objects that are waqf, so that from this waqf object, it gives rise to different legal interpretations among scholars, ranging from definitions to other complex issues such as exchange or status of waqf objects known as istibdāl. Istibdāl under the pretext of benefit as part of the dynamics of waqf law, it still causes polemic. In the concept of fiqh, the object of waqf must be eternal (baqāu 'ainihi). This is contradictory (there is a gap) if the object of waqf will be done istibdāl, where the material or the concrete form of the waqf object will change (impermanent) so that it is out of the path of fiqh stipulation. The existence of istibdāl is carried out as already explained as a form of

mashlahah, because as the age of waqf objects develops, it will certainly experience changes or decline in value so that the way to remain productive is with istibdāl.

The need for the principle of benefit that is built not to injure the law of waqf itself. The use of mashlahah that seems free to be used as an excuse in sparking religious law tends to be an opportunity or misuse that is no longer mashlahah. Therefore, the practice of istibdāl which is considered legal in Indonesia with the laws and regulations that govern it, it is necessary to study the principle of benefit istibdāl using the analysis of dhawābith al-mashlahah al-Būthi, by presenting the research focus as follows; 1) what is the concept of istibdāl in fiqh and Indonesian representation ?; 2) What is the procedure for istibdāl waqf in the context of Indonesian waqf fiqh ?; 3) How is the construction of mashlahah principles in istibdāl waqf practice based on dhawābithal-mashlahah al-Būthi?

### **Research Method**

Method is a very essential thing (Suryabrata, 1998). Even with a method, science will be accurate and measurable (Arfa & Marpaung, 2016). This research used a descriptive qualitative approach with the type of normative (doctrinal) research that positions the law as a norm system building (M, 2017). The data analysis conducted by the author was in the form of content analysis by drawing valid conclusions from several literature books or documents (Satori & Komariyah, 2017). The analysis procedure used Milles and Huberman's flow model with stages; 1. Reduction, reducing data related to istibdāl both in the concept of fiqh and Indonesian waqf with the analysis of dhawābithal-mashlahah al-Būthi; 2. Data display, the author will describe the data obtained regarding istibdāl waqf in the form of tables, charts and others with the aim of making it easy to understand. Furthermore, 3. Conclusion drawing/verification, from the results obtained in the last step analysis was to draw conclusions (Satori & Komariyah, 2017). With the data analysis, research will be more focused and organized than other methods that were often used by many researchers.

### **Conceptualization of Ibdal-Istibdāl of Waqf Objects**

Waqf is a charitable investment whose rewards will continue to flow (amal Jariyah) to wāqif as long as the waqf object is still there. Therefore, the immutability of waqf objects (baqāu 'ainihi) is always a consideration in waqf. So that changing waqf objects sometimes becomes a complicated issue, because preserving the sustainability and existence of waqf objects is a necessity for anyone and rewards will always flow to waqif (Rahman & Amanullah, 2016). Waqf assets may not be traded, cannot be inherited, cannot be granted and so on. However, in order to maintain the lasting benefits of the waqf objects, the waqf assets can be transferred on the grounds that they are no longer productive, damaged, neglected, obsolete and so on which can reduce the

benefits of these waqf objects. So that the objects that have been donated do not function as they should. The transfer of status of waqf property is known as the exchange of waqf property.

Exchanging in the Civil Code is known as *Ruislagh*, which means a change based on government approval (Tim Redaksi Kamus Besar Bahasa Indonesia, 2005). In the Big Indonesian Dictionary (KBBI) exchanging over means exchanging goods without adding money (Tim Redaksi Kamus Besar Bahasa Indonesia, 2005). While in the study of Islamic law (Fiqh) the exchange of waqf property is known as *ibdal* and *Istibdāl*.

Etymologically (lughat) *kataibdāl* (إبدال) is taken from the root word بدل - يبدل - بدلا which means to change or replace something (Anis, 1987). Whereas the word *istibdāl* (إستبدال) is a mash-form with the same root word, it's just that there are additional hamzah washal (أ), *sīn* (س) and *ta* (ت), so that initially بدل becomes إستبدل by following wazan إستقل (*istaf'ala*), one of the *faidah* meanings of the wazan is *al-tahawwul* (to move) (Bin Ali, t.t.). So etymologically (lughat) the word *istibdāl* itself means to divert or replace something.

Al-Kabisi revealed that *ibdal* is the sale of waqf objects to buy other goods to replace them (exchange), while *Istibdāl* is more about the practice of replacing other goods in exchange for sold waqf objects (Al-Kubaisi, 1977). Ahmad Sidiq as quoted by Furqan, the meaning of *istibdāl* is implemented into two meanings; first, in a broad sense, it is the purchase, sale and exchange of waqf objects; second, in a narrow sense, it is a cash purchase as a waqf object (Furqon, 2017).

From the above statement, it can be understood that the exchange of waqf objects (*istibdāl*) in classical fiqh is closely related to practice or an example not an independent textual definition. al-Sayyid Sābiq emphasized that the *istibdāl* in question is the exchange of waqf objects that are already deemed inappropriate (the benefits) by selling or exchanging them, with the proceeds from the sale the money is bought for similar goods (form and benefits), but more feasible with previous waqf objects. . This is intended for the benefit. Even in this case, Imam Ahmad argued on the incident of Umar bin Khattab who moved the old Kufah mosque to another place, by making its original place a market (Sābiq, 2004).

The dynamism of waqf always creates problems, various problems in the problem of waqf continue to develop, including the problem of *istibdāl*. The existence of an exchange (*istibdāl*) of waqf objects between whether or not it is still a problem, so that the management of the waqf object becomes more comprehensive. *Istibdāl* itself is a form of *maslahah* in preserving or the existence of waqf objects as charity. In Indonesia, the waqf regulation itself is progressive, starting from Government Regulation (PP) Number 28 of 1977 concerning Ownership of Land and BUKU III of the Compilation of Islamic Law (KHI) regarding Waqf Law as a result of Presidential Instruction No. 1 year 1991 dated 10 June 1991. In addition to that, there is Law no. 41 of 2004

concerning Waqf is also the color of the urgency of empowering waqf assets in Indonesia. In order for the rule of law to be more binding, the government makes regulations through PP. 42 of 2006 concerning the Implementation of Law no. 41 regarding Waqf. Then, in 2018 there were improvements to PP No. 42 of 2006 became Government Regulation (PP) Number 25 of 2018.

In the provisions, assets that have been donated under Article 40 of Law Number 41 of 2004 concerning Waqf, the prohibition of making waqf objects as collateral, confiscation, besides that waqf objects are also prevented from being gifted, sold, inherited, exchanged and transferred in the form of other rights transfer (Undang-Undang Republik Indonesia Nomor 41 Tahun 2004, t.t.). Based on the provisions of Article 40, exchanging or transferring waqf objects is not permitted, because basically the things that are donated must be eternal (baqāu 'ainihi).

This shows that in donating goods or objects, an immortality principle is required as in the terms of waqf itself. al-Anshārī stated that there are about six conditions in the implementation of iru waqf itself, including: 1) the existence of shighat or contract; 2) Wāqif (person who donates) is an expert in worship (expert al-Tabarru'W); 3) the thing that is waqf (mauqūf bih) is in the implementation of waqf (obviously); 4) not intended for things that are forbidden or immoral; 5) recipients of waqf (mauqūf 'alaih) must have a sense of belonging (ahlan li al-milk); and 6) objects that are donated to be beneficial and eternal (baqāu 'ainihi) (Al-Anshārī, t.t.). As with objects in general, waqf items will also experience an increase in value and decrease over time. Therefore, the provisions of article 40 letter f can be exempted through article 41 paragraph (1): ... if the waqf assets that have been donated are used for the public interest in accordance with the general spatial planning (RUTR) based on the provisions of the applicable laws and regulations does not conflict with shari'ah (Undang-Undang Republik Indonesia Nomor 41 Tahun 2004, t.t.).

Article 41 paragraph (3) states: "waqf assets whose status has been changed due to the exemption provisions as referred to in paragraph (1) must be exchanged for assets whose benefits and exchange rates are at least the same as the original waqf assets". Based on this article, it shows that it is permissible to exchange waqf objects whose designation is no longer the same as the will of wāqif (unproductive) for proper use (according to the RUTR). In carrying out the exchange of the waqf object or what is known as istibdāl as explained earlier. Written permission is needed from the minister with the approval of the Indonesian waqf agency (BWI) As stated in Article 41 Paragraph (2) of the Waqf Law No. 41 of 2004.

The existence of waqf regulations through Law No. 41 of 2004 is expected to be able to solve the socio-economic problems of the people, because actually waqf itself is closely related to the economy of the people. In the waqf law, new fiqh concepts have been introduced into Indonesia, such as the existence of waqf objects in the form of moving objects and immovable

objects as mentioned in Article 16 paragraph (1). From some of the explanations above, it can be understood that the state provides an opportunity for the exchange of waqf assets (istibdāl) as mentioned, namely when the waqf objects are not the same as wāqif's will. Not only that, istibdāl can be done if it has received written permission from the minister with the approval of the Indonesian Waqf Agency (BWI).

The Principles of Compilation of Islamic Law (KHI) article 225 paragraph (2) regarding the implementation of changes to waqf objects received written approval from the Head of the District Religious Affairs Office based on suggestions from the District Ulama Council and the local Camat for the following reasons:

- a. Because it is no longer in accordance with the purpose of waqf as promised by wakif;
- b. Because of the public interest (Tim Redaksi Nuansa Aulia, 2015).

This shows that in the implementation of istibdāl itself, several parties' approval is required as mentioned above, in order to determine the feasibility result, both technically, economically and financially. So that it can be determined between maintaining waqf objects or doing istibdāl. So, it can be understood that the existence of istibdāl itself is essentially aimed at perpetuating waqf objects and making waqf objects more productive (more useful) in accordance with the demands of the times with several provisions that have been explained.

### **The View of Ulama on Waqf Objects in Istibdāl Practices**

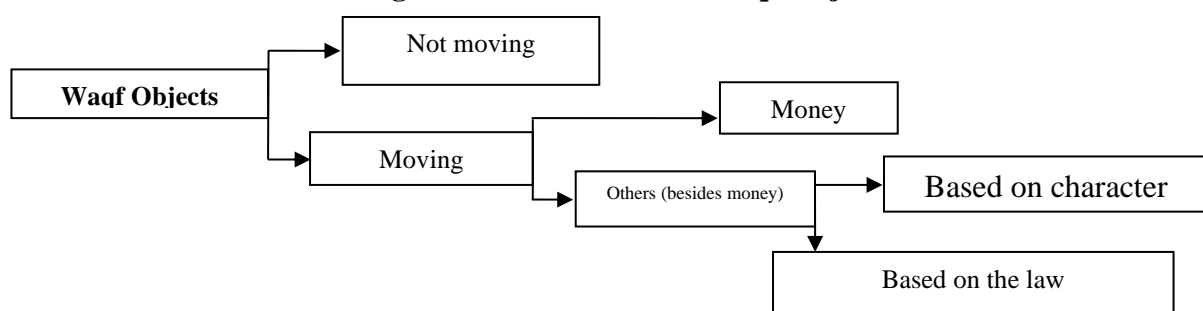
Regarding the reduced use of waqf objects, damaged or not in accordance with the previous function, a way out must be found so that the assets do not decrease and continue to function. Even selling or exchanging these waqf objects for other objects that can fulfill their original purpose is not prohibited (Suhendi, 2002). The substance of the value of the waqf itself lies in the object that is waqf or mauquf bih. The scholars agree that mauquf bih (waqf objects) must be in the form of assets (valuable items), have a nominal value or can be sold (mutaqawwam), visible (not majhul) or present when waqif is given and the property of wāqif is perfect (Al-Zuhaili, 1985).

Based on these criteria, comply with the provisions of Article 16 paragraph (1) of Law Number 41 Year 2004 concerning Waqf, that waqf objects consist of two kinds, including, immovable objects and movable objects. Immovable objects in accordance with Article 16 paragraph (2): a) Land rights in accordance with the provisions of the prevailing laws and regulations, whether registered or not; b) Buildings or parts of buildings standing on the land as referred to in letter a; c) Plants and other objects related to land; d) ownership rights to apartment units in accordance with the provisions of the prevailing laws and regulations; e) Other immovable objects in accordance with the provisions of sharia and applicable laws and regulations. While the category of movable objects, as stated in Article 16 paragraph (3), are assets that cannot be used

up due to consumption, including: money, precious metals, letters valuable, vehicles, intellectual property rights, lease rights and other movable objects in accordance with the provisions of sharia and applicable laws and regulations.

In addition, based on Government Regulation (PP) no. 42 of 2006 concerning the Implementation of Law no. 41 regarding Waqf. Article 15 states that movable objects are divided into two parts, including: movable objects other than money and movable objects in the form of money. Furthermore, Articles 19 and 20 explain moving objects other than money by considering two aspects; first, based on its waqable nature. Such as ships, aircraft, motorized vehicles, industrial machinery or equipment that are not embedded in buildings, metals and precious stones or other objects classified as movable objects because of their nature and have long-term benefits. Second, based on statutory regulations as long as it does not conflict with sharia principles. Such as securities (shares, Government Securities, bonds and other securities that can be valued in money), intellectual property rights (copyright, brand rights, patent rights, industrial design rights, trade secret rights, integrated circuit rights, protection rights plant varieties and others), and other movable property rights (*Peraturan Pemerintah (PP) No. 42 Tahun 2006 tentang Pelaksanaan Undang-undang Nomor 41 Tahun 2004 tentang Wakaf, t.t.*).

**Figure 1. Distribution of Waqf Objects**



There was a mistake or a difference in opinion among the scholars regarding the transfer of status of waqf or istibdāl objects. The following are the opinions of several schools regarding whether or not it is permissible in istibdāl practice:

### 1. Hanafi School of Thought

Imam Abu Hanifah confirmed the existence of istibdāl in immovable objects other than mosques (Al-Zuhaili, 1985). In fact, he stated, even though the mosque was deemed no longer functioning properly, such as the absence of people praying at the mosque (unproductive), istibdāl still not allowed (Al-Zuhaili, 1985). However, for waqf other than mosques, there were differences of opinion among the Hanafi schools. Like the mosque lights that were not used, according to Muhammad bin al-Hasan, they were returned to their owners (wāqif) or their heirs,

while according to Abi Yusuf they were moved to another mosque (Al-Zuhaili, 1985). There are several things to consider whether it is permissible to do istibdāl for waqf objects other than mosques:

- a. Waqf objects (*mauqūf bih*) as a whole are no longer useful;
- b. There is no addition or development to waqf objects;
- c. Sales practice does not hide ugliness (defects);
- d. The person who replaces (*mustabdil*) or *qadhī* must be someone who has knowledge so that in istibdāl practice there is no falsehood.
- e. The object that is replaced is an immovable object (it cannot be money);
- f. Waqf objects may not be sold to people who are not accepted by the audience and have no religion (Al-Zuhaili, 1985).

This shows that the Hanfi school of thought does not allow istibdāl to moving objects such as dirhams and *dīnār* (rupiah in the Indonesian context). However, according to some scholars (*ba'dhum*) it is permissible to do istibdāl with money on the condition that a *mustabdil* is *qadhī al-jannah* (Al-Zuhaili, 1985).

## 2. Maliki School of Thought

The measuring point of the waqf object in the Maliki school of thought is that it is of benefit not the eternal nature of the item. In a broad sense, the priority of waqf in the Maliki school of thought is eternal benefits (Al-Zuhaili, 1985). Therefore, it is permissible to donate money because it is eternal, it is not eternal. There are three conditions for doing istibdāl or transferring waqf objects in the Maliki school of thought: First, this is not a mosque based on *ijma'*. Second, immovable objects must not be istibdāl except *udzur*. Even selling immovable objects is allowed by observing need or need, for example for road widening. Third, it is permissible to do istibdāl for moving objects or animals whose benefits or functions are no longer felt or are not productive (Al-Zuhaili, 1985).

Based on this condition, it is not permissible to perform istibdāl only for mosques, while movable and immovable objects other than mosques may be sold or transferred (*istibdāl*) provided that they are no longer in accordance with their function or benefit (not productive).

## 3. Syafi'i School of Thought

The Syafi'i school of thought is a school that is very careful, and even tends to complicate the practice of istibdāl. Regarding immovable objects such as the Syafi'i madzhab mosque, it does not allow istibdāl, even though it is felt that the mosque cannot be occupied even though it collapsed. This is because the mosque whose ownership has been donated has



moved to Allah SWT, and those who are allowed to only maintain or care for the mosque (Al-Zuhaili, 1985).

The concept of waqf for the Syafi'i school is the eternal value of the waqf itself, in contrast to the Maliki school of thought (Al-Malibāri, t.t.). It meant that the Syafi'i school prioritizes the permanence of waqf objects, so it is not permissible to do money waqf, because *dzahir* the things will disappear when they are spent as well as not allowed to do *istibdāl*. Therefore, if the waqf object is replaced or sold, the *wāqif* will no longer receive the reward from the waqf object. In connection with the immovable waqf object other than the mosque, according to the opinion that is permissible. Such as selling mosque fences that are worn or not suitable (damaged), which with the proceeds from the seller is intended for the benefit of the mosque (Al-Zuhaili, 1985).

#### 4. Hambali School of Thought

The Hambali school of thought allows the *istibdāl* of waqf objects - even the impression of making it easier - by considering the benefit by not distinguishing between heavy objects or not (Sābiq, 2004). Apart from that, the Hambali school of thought does not require that the *istibdāl* instrument be of the same type. In that sense, it is permissible to replace waqf objects with other types. Because what is meant by the existence of waqf itself is the benefit, not the type. *Istibdāl* ability itself only occurs in a state of *dharurah* (Al-Zuhaili, 1985). An emergency can change the law to permitted (originally prohibited). Allowing waqf objects to malfunction indicates that the goals of *muwāqif* and *mauqūf alaiḥ* are not achieved and this is a damage that Allah does not like (Waluya, 2018). *Dharurah* is referred to as burning, collapsing, and the existence of waqf objects that are not productive again (Erden, 2018).

**Table 1. Istibdāl of Waqf Objects According to Islamic Schools Ulama**

No	Schools	Objects			
		Not Moving		Moving	
		Mosque	Non-Mosque	Money	Besides Money
1	Hanafi	Not allowed	Allowed (with requirements)	Not allowed ( <i>Khilaf</i> )	Allowed ( <i>Khilaf</i> )
2	Maliki	Not allowed (Ijma')	Not allowed (except having <i>Udzur</i> )	Allowed	Allowed
3	Syafi'i	Not allowed ( <i>Muthlaq</i> )	Allowed ( <i>Maslahah</i> )	Not allowed	Allowed (Does not run out quickly)
4	Hambali	Allowed	Allowed	Allowed	Allowed

The practice of waqf in Indonesia, as in the prevailing laws and regulations, is more inclined to an opinion that allows *istibdāl*. In addition, so that the implementation of *istibdāl* is effective

and seems more productive, in article 41 paragraph (3) of Law no. 41 of 2004 concerning Waqf states: ... must be exchanged for assets whose benefits and exchange rates are at least the same as the original waqf assets". Meanwhile, the istibdāl instrument itself can be classified; 1) Istibdāl with similar objects (more importantly); 2) istibdāl with dissimilar objects; 3) partial, it is selling part of the waqf property, with the proceeds from the sale being used to finance the development of the remaining part of the waqf land that was not sold; 4) collective, the overthrow of unproductive waqf assets with productive assets (Abdoeh, 2020).

Based on the above discussion, it can be understood from all four schools of thought, all of which allow istibdāl, only khilfiyah occurs between istibdāl which is applied to immovable objects such as mosques or non-mosques and is different between money and non-money. On this basis, it can be seen that the existence of istibdāl itself is an empowerment of waqf objects by observing the benefit and maintaining the appropriateness of the waqf object itself so that it remains productive as wāqif wants in its pledge.

### **Istibdāl Procedure for Waqf Objects in Pancasila Fiqh**

Regarding the technicality of istibdāl itself, as in the applicable laws, that there are several stages that must be passed in carrying out istibdāl itself. The following are the procedural stages in accordance with the applicable laws:

#### **1. Submission of Written Permits**

The implementation of istibdāl itself must have written permission from the related parties as in the previous discussion. The license referred to is based on Article 49 PP No. 25 of 2018 amendments to PP No. 25/2006 is a written permit from the minister based on the approval from BWI. To obtain this permit, First, Nazhir applied for a written permission directly to the Minister (the minister in charge of government affairs in the religious sector). Second, Nazhir applied for written permission to the Head of the Regional Office. As stated in Article 51PP No. 25 of 2018.

In applying for the permit, Nazhir must attach several documents: a) The document of waqf property includes the Waqf Pledge Deed, the replacement deed for the Waqf Pledge Deed, a certificate of waqf, a certificate of assets, or other proof of legal ownership of assets in accordance with the provisions of laws and regulations; b) documents of the exchanged assets in the form of certificates or other proof of legal ownership of the assets in accordance with the provisions of statutory regulations; c) the results of the valuation of waqf assets to be exchanged and exchanged by Appraisers or Public Appraisers; and d) Nazir identity cards.

#### **2. Assessment of the Exchanging of Waqf Assets**

Based on Article 50 paragraph (4) PP. 25 of 2018, valuation of exchange of assets or public appraisal is provided by agencies or parties that will use the donated land in accordance with the provisions of laws and regulations (*Peraturan Pemerintah (PP) Nomor 25 Tahun 2018 Tentang Perubahan Atas Peraturan Pemerintah Nomor 42 Tahun 2006 Tentang Pelaksanaan Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf, t.t., t.t.*). In accordance with the contents of Article 49 paragraph (3) PP. 25 of 2018 that the exchange of waqf objects (istibdāl) has an area of up to 5,000 m<sup>2</sup> (five thousand square meters). The valuation of the exchange of waqf assets also focuses on the value and benefits of the exchanged assets, so that the exchange rate is at least the same as the original waqf property.

### **3. Establishment of the Determination Team**

As stated in Article 50 paragraph (2) PP No. 25 of 2018 the determination team in question is a team consisting of: a) District/city government; b) district/city defense office; c) District/city Indonesian Ulama Council; d) district/city office of the ministry of religion; d) Nazhir; and e) sub-district religious affairs office. The function of the determination team in this case is in accordance with Article 50 paragraph (1) to determine the value and benefits of the exchange assets based on the provisions of laws and regulations. Based on Article 51 paragraph (1) PP No. 25 of 2018 The establishment of this determination team is carried out 5 (five) working days after receiving a request from Nazhir, besides that the determination team will submit a recommendation for the exchange of waqf assets no later than 5 (five) working days after the appraiser or public appraiser submits the results assessment to the head of the office and a copy to the appointment team.

### **4. Approval**

After the determination team has received the results of the assessment of the exchange of waqf assets, the results of the assessment will be sent to the Minister or Head of the Regional Office (according to the path of permit application from the start) and to BWI within 4 (four) working days. After that, BWI gives approval to the Minister or Head of Regional Office no later than 5 (five) working days after receiving the results of the valuation of the exchange of assets for waqf assets. As stated in Article 51 paragraph (1) and (2) PP No. 25 of 2018.

### **5. Written Permission**

After all channels and procedures are carried out and fulfilled, the Minister or Head of Regional Office on behalf of the Minister (according to the path of the permit application from the start) issues a written permit to exchange waqf assets no later than 10 (ten) working days after receiving approval from BWI provention.

That is the flow of the process of the practice of rolling over or istibdāl for waqf objects based on the provisions of the applicable legislation.

### **Mashlahah and Its Boundaries According to al-Būthi**

Allah SWT is shari' (lawmaker), where every law is Allah SWT determine whether an order (amr) or prohibition (nāhi) contains mashlahah in it. The purpose of the syari'at itself is to realize what is called benefit or in other words the laws are made for the benefit of humans both in the world and in the hereafter (Syarifuddin, 2011). More explicitly, Abu Zahrah said that essentially the goal of Islamic law itself is benefit, he even revealed that the law is Allah SWT stipulate what is contained in the Qur'an and Sunnah all for the purpose of mashlahah (Abu Zahrah, 1958).

Etymologically or the language meaning (lughat) the word mashlahah (مصلحة) is a masdar form of the word shaluha-yashluhu- Shulāhan (صلاح - يصلح - يصلح) which means eliminating ugliness or something useful, is the opposite of fasada (فسد) which means bad (Anis, 1987). In that sense, the word mashlahah itself always connotes good deeds. In terms of al-Ghazali defines mashlahah with things that bring benefits and keep away from harm (damage), and maintains the goals of syara' (Syarifuddin, 2011). Mashlahah is part of the discussion of ushul fiqh which is included in mashādir al-ahkām al-syar'iyah. The mashlahah was so incessant that it disturbed several Muslim scholars and academic practitioners to develop this mashlahah in the development of Islamic law methodology, one of which is Sa'īd Ramadhān al-Būthi.

Muhammad Sa'īd Ramadhān al-Būthi was born in Jeilka Village, Buthan Island in 1347 AH or to coincide with 1929 AD. Shaykh Hasan al-Jabnakah al-Maidani. Two years after that, he completed his undergraduate education at the Faculty of Syari'ah al-Azhar University with the degree Lc. The following year he attended lectures at the Faculty of Arabic at the same University and successfully earned a Diploma. Then he continued his career as a student at the Syari'ah Faculty of Damascus University (1960). At the end of his study, he continued at al-Azhar University again to hold a Doctor of Islamic Law (1965). Furthermore, his life was continued for a career as an academic as Deputy Dean of the Faculty of Syari'ah Damascus University (1965 after graduating from the Doctoral program), lecturer at the Faculty of Syari'ah Damascus University (1970), and in 1975 he won the title of professor, became Dean (1977) and in 2002 he served as Chair of the Department of Aqidah and Religion at the same University. He mastered four languages, including Arabic, Turkish, Kurdish and English. He died Thursday night Friday March 21, 2013 at the Jamik al-Iman mosque in a suicide bomb explosion while filling out a routine study of the book "al-Hikām" by Ibn Athaillah al-Askandari (Fauzi, 2016).

al-Būthi concerned seeing that mashlahah freely became material for study which was felt to be no longer in accordance with maqāshid al-syarī'ah. In that sense, mashlahah will later be made as an analytical knife that deviates from Islamic studies, as it is known that mashlahah is the essence of the implementation of sharia. For his concern he then composed a book as a result of his dissertation entitled "Dhawābith al-Mashlahah fī al-Syarī. 'ah al-Islamiyyah". This book is divided into three discussion chapters. First; specifically, to discuss the arguments that complement benefit, and their rejection of scholars who classify mashlahah into mashlahah in the world and the hereafter. Second; discuss the limitations of the mashlahah al-Syar'iyah in detail into five things. 1) not allowed to support maqāshid al-syarī'ah; 2) do not disguise the al-Qur'an; 3) not covering al-sunnah; 4) do not support qiyās shahīh; 5) does not eliminate the mashlahah which is stronger or equivalent. This chapter also discusses the rules of al-musyaqqah tajlib al-taisir, tabaddul al-ahkām bi tabaddul al-azmān and the concept of hīlah law. Third; discusses mashlahah al-mursalah (Al-Būthi, 1982).

al-Būthi itself defines al-mashlahah etymologically as something that contains benefits, whether the benefits are obtained by bringing benefits or even by rejecting evil. Therefore he equated al-mashlahah with al-manfa'ah both in terms of measure (wazan) and meaning (Al-Būthi, 1982). While mashlahah in terms is defined as:

"المنفعة التي قصدها الشارع الحكيم لعباده، من حفظ دينهم، ونفوسهم، وعقولهم، ونسلهم، وأموالهم، طبق ترتيب معين فيما بينها".

"Al-mashlahah is a benefit which is the goal of syāri' (Allah and His Messenger) to his servants with the aim of preserving religion, soul, intellect, descent and property according to the level of its usefulness" (Al-Būthi, 1982).

In accordance with the purpose of this book being written, the concept of mashlahah al-Būthi broke the opinion of those who divided mashlahah into two levels, including mashlahah dunyawiyah and mashlahah ukhrawiyah. According to him, the essence of syari'ah al-Islamiyah (akidah, ibdah and mu'amalah) is all aimed at realizing the benefit of my servants, both for the purposes of the world and the hereafter. He also emphasized that the work of the world as in terms of mu'amalah if it is intended for worship, then the world will come to benefit, and in the hereafter will get the pleasure of Allah SWT and heaven. Likewise, people who hold on to worship work such as increasing dhikr and obey, then in the afterlife he will get His reward and pleasure. While in the world he will find it easy because he maintains the syari'at (Al-Būthi, 1982). Therefore, there is no advantage in dividing mashlahah into mashlahah dunyawiyah and mashlahah ukhrawiyah.

In addition, al-Būthi also rejected the concept of mashlahah al-Thūfī. In his concept, al-Thūfī prioritizes reason in the concept of benefit, so he insists that if maslahah and text are in conflict, then the mashlahah will be won. This is certainly not a good thing for al-Būthi. If mashlahah must be won over the text, then there are likely times when lust becomes a priority in sparking laws on behalf of mashlahah. To stem this, al-Būthi rejected the concept of mashlahah al-Thūfī for four basic reasons: First, it is impossible to prioritize mashlahah over texts because the text itself was revealed to contain benefits for beings. Second, the text is *al-dalīl al-kullī* (standing alone) while mashlahah is part or juz of it. Third, al-Thūfī thinks that *mungkar al-ijma'* (people who deny *ijma'*) still use maslahah, in the sense that mashlahah is superior to *ijma'*. However, if we examine more deeply, al-Thūfī himself makes *ijma'* a strong argument among the nineteen arguments that he admits to exist. Fourth, al-Thūfī argues that the texts contradict one another, as is the difference between *fiqh* scholars. al-Būthi denied that the differences among the schools of thought were only in the interpretation of the texts. After all, if the text is different, it shows the text does not come from Allah SWT. but they are not (Al-Būthi, 1982).

So that mashlahah is not used freely, in the book “*Dhawābith al-Mashlahah fī al-Syarī'ah al-Islamiyyah*”, al-Būthi limits the use of mashlahah to five principles. First, it is included in the scope of *maqāshid al-syarī'ah* based on the measurement of the needs of *darūrī*, *hājī* and *tahsinī*. Second, it does not contradict the Qur'an. Third, it does not conflict with al-Sunnah. Fourth, it does not conflict with *qiyās* and the fifth does not conflict with other benefits which are stronger and/or higher or equal (Al-Būthi, 1982).

Based on this discussion, al-Būthi seems to have narrowed the space for using mashlahah. The construction he carried out was intended so that the mashlahah was not freely used as the basis for legal *istimbath*. By not ruling out any misuse of use, it will lead to the freedom of legal products that are not in accordance with the concept of mashlahah itself.

### **Istibdāl in Dhawābith al-Mashlahah al-Būthi Analysis**

Istibdāl in Indonesia gets space or legality from the government. This is justified by the existence of laws regulating it. All scholars agree that there is no *istibdāl*, but if the things being donated are deemed no longer productive or not in accordance with what the *wāqif* wants in their vows, then the scholars allow *istibdāl* on the pretext of benefit. Ibn Taymiyyah, as quoted by al-Sayyid Sābiq, emphasized that *istibdāl* can be carried out based on the consideration that there is a desire and that there is a superior benefit (Sābiq, 2004).

Like the previous discussion, that mashlahah is the estuary of the *syari'* at that Allah applies to his servants. This includes *istibdāl* practices. In this research, the author will further examine the existence of *istibdāl* practices in Indonesia as legal and justified by the state from the point of

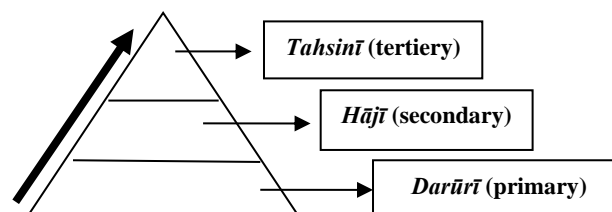
view of dhawabit al-maslahah al-Būthi. In the previous explanation al-Būthi limited the use of mashlahah to five principles (dhawābith al-mashlahah) (Al-Būthi, 1982):

### 1. Entering the Coverage of Maqāshid al-Syarī'ah

Maqāshid al-Syarī'ah or what is known as al-kulliat al-khams is the purpose of implementing the syarī'at, in this case there are five objectives of the syarī'at, including guarding religion (حفظ الدين), guarding the soul (حفظ النفس), maintaining reason (حفظ العقل), guarding offspring (حفظ النسل), guarding property (حفظ المال). Al-Būthi emphasized that a thing that aims to realize maqāshid al-syarī'ah either collectively or partially it is said to be mashlahah (Al-Būthi, 1982). In the practice of overthrowing or transferring the status of waqf property (istibdāl), it is the scope of maqāshid al-syarī'ah which is included in the part of maintaining property (حفظ المال) to remain productive. Safeguarding these assets is also included in istibdāl objectives based on the principle of benefit (Iqlima *et.al.*, 2017).

The benchmarks in maintaining the benefit, to determine the benefits and not of a thing to be in accordance with the objectives of the Shari'ah, is to review the basic needs of humans. Human needs are stratified and sequential. The needs rating includes; darūrī (primary) is an absolute and fundamental need that must exist for human life. Hājī (secondary) is a need that if not fulfilled does not damage human life itself (not to the primary level) and tahsinī (tertiary) needs that only beautify life (Syarifuddin, 2011).

Figure 2. The Pyramid of Mashlahah



The need to do istibdāl can be justified on the grounds that in accordance with the maqāshid al-syarī'ah in the form of safeguarding property (حفظ المال). However, to measure the level of benefit it is necessary to consider the existence of waqf objects (mauqūf bih). that is, not moving and moving. Including immovable objects is a mosque. Doing istibdāl in a mosque can be justified if it is not productive, besides that the mosque is also a place of worship (the needs of many people) so doing istibdāl includes benefits at the dharūriyah level. While doing istibdāl at other than the mosque (whether moving or not) with religious purposes can be justified if it reaches the dharūriyah level. If it is still in the level of need for hājī (secondary) and tahsinī (tertiary) then what is enforced is the maintenance of non-istibdāl waqf objects.

## 2. Not being in conflict with the Qur'an

The meaning of not being in conflict with the Qur'an is that benefit does not contradict the text either dzahir or implicitly (Al-Būthi, 1982). In literature there is no text of the al-Qur'an which prohibits or orders the existence of istibdāl. In the sense that istibdāl is a legal formulation that has developed among scholars by interpreting texts in the form of hadith. However, in the context of donations from Allah SWT. openly recommending the existence of infak with things loved (mimmā tuhibbūn):

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ.

*By no means shall you attain Al-Birr until you spend out (for Allah) of what you love; and whatever you spend (from what Allah provides you, what you spend for Allah), Allah surely knows it (Al-Qur'an, Ali 'Imran (3): 92, t.t.).*

The above verse according to the ulama's view is a general verse explaining the existence of infak with good things, while waqf is an act of giving wealth in goodness (Al-Zuhaili, 1985). Based on this verse Allah SWT. ordered to donate something that is loved or the best. If it is returned to the definition of waqf, it is clear that the benefits and permanence of waqf objects are the highest priority. So that the existence of istibdāl with the aim of benefit is justified, because it maintains the usefulness and immutability of the object being donated (principle of benefit).

## 3. Not being in conflict with al-Sunnah

The Sunnah referred to the words, deeds and decrees which are continuous with the Prophet Muhammad, both in the form of hadith mutawatir and Hadith Ahad (Al-Būthi, 1982, hlm. 161). There are several traditions on which the basis for the prohibition of istibdāl. However, on the other hand there is a hadith which explains the existence of the istibdāl commandment. This is what is the pros and cons of the ulama in istibdāl practice. Examples of hadith on which to base istibdāl:

... أنه لا يباع أصلها ولا يورث ولا يوهب.

This hadith tells that during the khaibar war Umar bin Khattab got booty in the form of land, then he asked the Prophet Muhammad's opinion on the land. Rasulullah Saw ordered to donate the land or donate the land. Umar chose to donate, then the Prophet said: "... the things that are donated basically cannot be sold, cannot be inherited and cannot be given" (Al-'Asqalāni, t.t.). Based on this hadith, it is clear that the practice of istibdāl waqf objects is not justified.

Another hadith as the basis for the existence of istibdāl is:



أن النبي صلى الله عليه و سلم قال لعائشة: لو لا أن قومك حديثو عهد بجاهلية، لنقضت الكعبة و لأصقتها بالأرض و لجعلت لها بابين، بابا يدخل الناس منه، و بابا يخرج منه الناس.

*Prophet SAW. said to 'Aisyah: "if it wasn't for the existence of your people who were still attached to ignorance, of course I would have ordered that the Ka'bah be torn down. And I will wake up with two doors from it, one entrance being the other as the exit" (Sābiq, 2004.).*

This hadith is used as the basis that the Prophet had wanted to change the ka'bah because the ka'bah that existed at that time was not that stood exactly like in the time of Prophet Ibrahim As. but because the Arabs at that time were still adhering to the era of ignorance, he did not do it.

The two traditions above are equally strong, narrated by Bukhari. However, if we examine it in depth, there are differences between the two traditions. The first hadith prohibits the sale, inheritance and gift of waqf objects. Meanwhile, the second hadith shows that it is permissible to change the waqf object because there are things that have changed from the waqf object. Mafhum Mukhalafah, the reverse pradikma of the second hadith is that if there was no change in the ka'bah from the time of Prophet Ibrahim to the time of Prophet Muhammad, surely the Prophet would not have changed the ka'bah. However, the desire to change is there because there is a change. Likewise, with istibdāl, it will be carried out if the waqf object which was previously no longer productive.

#### **4. Not being in Conflict with Qiyās**

Istibdāl in this case is in line with qiyās, as the two traditions above contradict. The existence of istibdāl is qiyās against the actions of the Prophet who wanted to change the ka'bah building because there is the same illat, it is the waqf object has undergone a change - not the same as what wāqif has promised - then the law is permissible to do istibdāl. al-Būthi emphasized that qiyās is the keeper of mashlahah in branch matters (furu'iyah), qiyās also has a law of origin which is based on the naqli argument (Al-Būthi, 1982). Therefore, making the above hadith as the basis for the existence of istibdāl is a practice of using qiyās itself.

#### **5. Not being in conflict with other benefits that are stronger or higher or equivalent**

It is common sense that the law enacted by Syāri' contains benefits, to measure the level of benefit it is necessary to consider the level of benefit, consider the scope of the mashlahah and consider the strength of the conclusion (natījah) (Al-Būthi, 1982). Maintaining waqf objects as they should be a benefit, but if the waqf objects have been assessed for their reduced benefits and are not in accordance with what the wāqif wants in their pledge, then doing istibdāl is certainly more mashlahah than leaving it malfunctioning or unproductive. This is in accordance with the rule:

المصلحة العامة مقدم على المصلحة الخاصة.

This rule emphasizes that if there is a conflict between two mashlahah, it is the general mashlahah and the special mashlahah, then what is favored is the benefit in general (Al-Syathibi, 1973).

From the author's analysis on istibdāl practice which is reviewed with the dhawābith al-mashlahah (limitation of benefit), the perspective of al-Būthi mainly in fiqh Pancasila shows that the argument of benefit as a istibdāl consideration can be justified and in accordance with the principle of al-Būthi's dhawābith al-mashlahah. Departing from this, the need for special principles that are built into istibdāl practices, especially in Indonesian fiqh. The istibdāl principles that the author built are:

- a. There is benefit at the dharūriyah level;
- b. For urgent religious purposes;
- c. Waqf objects are intended for the general public;
- d. There is an inadequacy or not in accordance with the will of the wāqif in the vow;
- e. There is agreement of wāqif and nazhir;
- f. Replaced at least with the same from the rest with better.
- g. The existence of research on the exchange of waqf objects in a thorough manner involving figures and several elements of society;
- h. Follow the provisions of the syari'at and applicable laws.

Based on these principles, it is hoped that istibdāl practice in Indonesia, which has obtained legality with the existence of several laws, will not be in the interests of the parties concerned to carry out their intention. In that sense, the use of benefit as an excuse in istibdāl is really for mashlahah purposes.

## Conclusion

Istibdāl is an exchange of waqf objects to ensure that waqf objects become more lasting so that they are more productive based on the demands of the times. The results of the research showed that based on the concept of fiqh, the existence of istibdāl is legal with the aim of mashlahah. The mashlahah scale based on dhawābith al-mashlahah al-Būthi shows that: First, the practice of exchanging waqf objects is in accordance with the maqashid sharia concept in the form of hifz al-mal (safeguarding property) with mashlahah levels at the dharurah level; Second, in accordance with the demands of the Qur'an, it is the existence of istibdāl can make waqf objects even more useful (productive); Third, in line with al-Sunnah where the Prophet had intended to do istibdāl to Ka'bah building; Fourth, do not violate the qiyās, even the practice of istibdāl can be

equated with the wishes of the Prophet in changing the Ka'bah; Fifth, the existence of istibdāl is a form of mashlahah that is favored because it can make waqf objects more productive. Therefore, the mashlahah principle that must be achieved is; It must be in a state of dharurah, for urgent religious purposes, for the general public, there is an inadequacy, through the agreement of wāqif and nazhir, replaced at least with the same, the object of waqf is examined by involving figures and several elements of society and following the provisions of the Shari'ah and applicable law.

### References

- Abdoeh, N. M. (2020). Tinjauan Maqāshid Syari'ah Terhadap Pandangan Ulama Mengenai Ruislagh. *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam*, 3(1), Article 1. <https://doi.org/10.30659/jua.v3i1.7345>
- Abu Zahrah, M. (1958). *Ushul Fiqh*. Dār al-Fikr al-‘Arabi.
- Al-Anshārī, Z. (t.t.). *Tahrīr Tanqīh al-Lubāb*. al-Haramain, t.t.
- Al-‘Asqalāni, I. H. (t.t.). *Bulūgh al-Marām min Adillah al-Ahkām*. Nurul Huda, t.t.
- Al-Būthi, M. S. R. (1982). *Dhawabit al-Mashlahah fī al-syari'ah al-Islamiyyah*. Mu'asasah al-Risalah.
- Al-Kubaisi, M. ‘Ubaid. (1977). *Ahkām al-Waqf fī al-Syarī'ah al-Islāmiyyah*, II. Mathba'at al-Irsyād.
- Al-Malībārī, Z. al-D. bin A. al-‘Azīz. (t.t.). *Fath al-Mu'īn bi Syarh Qurratu al-‘Aīn bi Muhimmat al-Dīn*. Gerbang Andalus.
- Al-Qur'an, Ali 'Imran (3): 92*. (t.t.). Diambil 17 Februari 2021, dari <https://tafsirq.com/3-ali-imran/ayat-92>
- Al-Syathibi, A. I. I. (1973). *Al-Muwāfaqāt fī Ushul al-Syarī'ah*. Maktabah al-Tijāriyah al-Kubro.
- Al-Zuhaili, W. (1985). *Fiqih Islam Wa Adillatuh*, VIII. Darul Fikr.
- Anis, I. (1987). *Al-Mu'jam al-Wasīth*, I. Dar al-Ilmiyah.
- Anshori, A. G. (2004). *Hukum dan praktik perwakafan*. Pilar Indonesia.
- Arfa, F. A., & Marpaung, W. (2016). *Metodologi Penelitian Hukum Islam*. Prenada Media Group.
- Bin Ali, M. M. (t.t.). *Al-Amtsilatu al-Tashrifiyah*. Maktab al-Syaikh Salim bin Sa'ad Nabhān, t.t.
- Fauzi, A. (2016). Al-Maslahah al-Syar'iyah Sebagai Sumber Hukum Islam (Kajian Kitab Dawabith al-Mashlahah Syeh Said Ramadan Buti). *Tribakti: Jurnal Pemikiran Keislaman*, 27(2), Article 2. <https://doi.org/10.33367/tribakti.v27i2.271>
- Erden, Y. (2018). Tahqiq; Takhrij al-Aqwal fi Masalati al-Istibdal li Ibn Qathlubagha. *Islām Araştırmaları Dergisi*, 39, Article. <https://dergipark.org.tr/en/pub/isad/issue/36297/409850>.
- Furqon, A. (2017). Penukaran tanah wakaf masjid agung Semarang dalam perspektif fikih istibdal. *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan*, 17(1), Article 1. <https://doi.org/10.18326/ijtihad.v17i1.39-60>
- Iqlima, I. I., Syahrizal, & Ilyas. (2017). Penukaran Harta Wakaf Menurut Hukum Islam dan Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf. *Syiah Kuala Law Journal*, 1(1), Article 1. <https://doi.org/10.24815/sklj.v1i1.12271>

- Kementerian Agama Republik Indonesia. (2017). *Dinamika Perwakafan di Indonesia dan Berbagai Belahan Dunia*. Kementerian Agama Republik Indonesia.
- M, H. (2017). *Model—Model Pendekatan dalam Penelitian Hukum dan Fiqh*. Kalimedia.
- Munawwir, A. W. (1997). *Kamus al-Munawwir: Arab-Indonesia* (hlm. 1576). Pustaka Progressif.
- Peraturan Pemerintah (PP) No. 42 Tahun 2006 tentang Pelaksanaan Undang-undang Nomor 41 Tahun 2004 tentang Wakaf, t.t. (t.t.). Diambil 17 Februari 2021, dari <https://peraturan.bpk.go.id/Home/Details/49182/pp-no-42-tahun-2006>
- Peraturan Pemerintah (PP) Nomor 25 Tahun 2018 tentang Perubahan Atas Peraturan Pemerintah Nomor 42 Tahun 2006 Tentang Pelaksanaan Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf, t.t. (t.t.). Diambil 17 Februari 2021, dari <https://jdih.bssn.go.id/arsip-hukum/pp-nomor-25-tahun-2018-tentang-perubahan-atas-peraturan-pemerintah-nomor-42-tahun-2006-tentang-pelaksanaan-undang-undang-nomor-41-tahun-2004-tentang-wakaf>
- Qahaf, M. (2005). *Manajemen Wakaf Produktif*. Khalifah.
- Rahman, M. F. A., & Amanullah, M. (2016). The Implementation of Temporary Endowment in Kuwait. *Al-Jami'ah: Journal of Islamic Studies*, 54 (2), Article 2. <https://doi.org/10.14421/ajis.2016.542.477-503>
- Sābiq, A.-S. (2004). *Fiqh al-Sunnah*. Dar al-Hadist.
- Satori, Djam'an & Komariah, Aan. (2017). *Metodologi Penelitian Kualitatif*. Bandung: Alfabeta.
- Suhendi, H. (2002). *Fiqh muamalah*. Raja Grafindo Persada.
- Suryabrata, S. (1998). *Metodologi penelitian*. Raja Grafindo Persada.
- Syarifuddin, A. (2011). *Ushul Fiqh, II*. Kencana Prenada Media Group.
- Tim Redaksi Kamus Besar Bahasa Indonesia. (2005). *Kamus Besar Bahasa Indonesia* (hlm. 1386). Balai Pustaka.
- Tim Redaksi Nuansa Aulia. (2015). *Kompilasi hukum islam*. Nuansa Aulia.
- Undang-Undang Republik Indonesia Nomor 41 Tahun 2004. (t.t.). *Tentang Wakaf, t.t.*
- Waluya, A. H. (2018). Istibdal Wakaf dalam Pandangan Fukaha dan Klasik dan Kontemporer. *Misykat Al-Anwar Jurnal Kajian Islam Dan Masyarakat*, 29(2), Article 2. <https://doi.org/10.31904/ma.v29i2.2854>