

Jurisprudential Analysis of Religious Court Decisions in Settling Waqf Property Disputes

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ABSTRACT

This study aims to analyze the judge's legal considerations in resolving waqf property disputes through Decision Number 3023/Pdt.G/2023/PA.Jr and Decision Number 60/Pdt.G/2021/PA.Sub. This study uses a normative legal research method with a descriptive analytical approach. Primary data sources were obtained from court decisions, while secondary data came from laws and regulations, books, journals, and other literature related to waqf and religious court law. Data collection techniques were carried out through library studies and documentation of relevant legal materials. The results of the study indicate that the judge's considerations in waqf dispute cases not only emphasize aspects of legal substance, but also pay attention to procedural legal procedures, particularly the implementation of mediation as regulated in PERMA Number 1 of 2016. In Decision Number 3023/Pdt.G/2023/PA.Jr, the panel of judges declared the lawsuit inadmissible because the plaintiffs were deemed not to have acted in good faith during the mediation process. Meanwhile, in Decision Number 60/Pdt.G/2021/PA.Sub, the judge emphasized that waqf disputes fall within the absolute jurisdiction of the Religious Courts, as stipulated in Law Number 3 of 2006 concerning Religious Courts. This research demonstrates that jurisprudence plays a crucial role in providing legal certainty, maintaining orderly waqf administration, and protecting the social function of waqf assets for the benefit of the community.

Keywords: Waqf Disputes; Jurisprudence; Religious Courts; Judge's Considerations; Waqf Assets.

INTRODUCTION

Waqf is an Islamic legal instrument that holds a crucial place in the lives of Muslims. From a sharia perspective, waqf is understood not only as a form of individual worship to Allah SWT, but also as a social tool aimed at creating sustainable societal welfare. Through waqf, individuals can donate a portion of their wealth for the public good, whether in education, religion, health, or other social activities. Therefore, waqf has interconnected spiritual and humanitarian dimensions. Waqf not only connects humans with God but also connects them with the social life of their surrounding communities (Mubarok, 2008).

Throughout the history of Islam, waqf has been a crucial foundation for building human civilization. Many educational institutions, mosques, hospitals, and even public facilities were built and maintained through waqf management. The existence of waqf demonstrates Islam's strong emphasis on balancing worship and social welfare. Therefore, proper waqf management reflects not only religious devotion but also social responsibility in safeguarding the benefits of assets for the benefit of the wider community (Qahaf, 2005).

In Indonesia, regulations regarding waqf have undergone significant development. Prior to the enactment of Law Number 41 of 2004 concerning Waqf, waqf practices in society were still largely carried out traditionally, based on mutual trust between the waqif and the nazhir. The transfer of waqf assets was often done verbally without clear administrative records. As a result, many waqf assets lacked legal force, leading to problems later on. This situation led to various waqf disputes within the community, whether related to land ownership status, changes in nazhir, or the use of waqf assets that were not in accordance with the original purpose of waqf (Anshori, 2005).

The enactment of Law Number 41 of 2004 concerning Waqf is an important step by the government in providing legal certainty for the management and protection of waqf assets in Indonesia. The law emphasizes that waqf is a legal act by a waqif to separate and/or hand over a portion of his/her assets to be used forever or for a certain period of time according to his/her interests for the benefit of worship and general welfare according to sharia (Law Number 41 of 2004). With this regulation, waqf is no longer viewed merely as a religious practice, but also as part of the national legal system with legal consequences.

Despite this, various waqf issues continue to arise in everyday life. One of the main factors contributing to waqf disputes is the weak administration and legality of waqf assets. Many waqf lands lack a Waqf Pledge Deed (AIW), waqf certificate, or official registration with the Office of Religious Affairs or the National Land Agency. Consequently, when conflicts arise between heirs, foundation administrators, or the surrounding community, the legal status of waqf land becomes difficult to prove. In some cases, waqf assets have even changed function and changed hands illegally due to weak oversight of waqf management (Directorate of Waqf Empowerment, 2015).

In addition to administrative issues, waqf management conflicts are often influenced by internal issues within the nazhir board. Changes in management that are not carried out transparently and do not comply with legal provisions often give rise to disputes within the community. In certain circumstances, these disputes escalate into prolonged social conflicts and disrupt relationships between communities and families. In fact, waqf is essentially a trust entrusted to the community that should be safeguarded collectively for social and religious purposes. Therefore, resolving waqf disputes requires not only a formal legal approach but also a social and humanitarian approach to ensure the optimal realization of the waqf's objectives.

In the Indonesian legal system, the resolution of waqf disputes falls under the absolute authority of the Religious Courts, as stipulated in Article 49 of Law Number 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning Religious Courts. Religious Courts have the authority to examine, adjudicate, and decide cases in the areas of marriage, inheritance, wills, gifts, zakat, infaq, sedekah, sharia economics, and waqf. Therefore, any disputes related to the management or legal status of waqf assets are resolved through religious court mechanisms in accordance with applicable law.

Before entering the main case examination, the parties in a waqf dispute are required to first undergo a mediation process as stipulated in Supreme Court Regulation of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court. This provision indicates that the resolution of civil cases, including waqf disputes, is not only oriented towards court decisions but also prioritizes peace efforts. Mediation is seen as a means to maintain

social relations between the parties while minimizing prolonged conflict within the community. In the context of waqf disputes, mediation is particularly important because waqf cases often relate to family relationships, community interests, and religious values.

Judges in waqf disputes play a crucial role in maintaining a balance between legal certainty, justice, and social benefit. In deciding cases, judges are tasked not only with applying legal rules textually but also with considering social values and the purpose of the waqf itself. The judge's legal considerations are crucial because they determine the direction of dispute resolution and provide protection for the continued social function of waqf assets. Therefore, judges' decisions in waqf cases not only have legal implications for the parties but also have social impacts on the wider community.

In religious court practice, judges often use jurisprudence as a basis for legal considerations in resolving waqf disputes. Jurisprudence is understood as previous judicial decisions that serve as guidelines in deciding similar cases, ensuring consistent legal application. The use of jurisprudence is crucial, especially when there is a legal vacuum or unclear provisions in legislation. With jurisprudence, judges can construct stronger legal arguments and create legal certainty in judicial practice (Ibrahim, 2006).

This research focuses on two Religious Court decisions: Decision Number 3023/Pdt.G/2023/PA.Jr and Decision Number 60/Pdt.G/2021/PA.Sub. These two decisions were chosen because they differ in the characteristics of waqf disputes, yet both demonstrate the importance of judges' legal considerations in resolving waqf property management conflicts. The first decision concerns an internal conflict over the nazhir (Islamic trustee) and the parties' absence from mediation, while the second concerns the legality of waqf management and the nazhir's authority in managing a mushalla (prayer room).

Through an analysis of these two decisions, this study seeks to understand how judges apply procedural law, waqf law, and principles of justice in resolving waqf property disputes in the Religious Courts. This research is also important in providing an overview of how jurisprudence plays a role in maintaining legal certainty and protecting the social function of waqf property in Indonesia. Therefore, the results of this study are expected to provide academic contributions to the development of waqf law studies and the practice of waqf dispute resolution within the Religious Courts.

RESEARCH METHODS

This research is a normative legal research or library research that focuses on the study of legal norms, laws and regulations, and court decisions related to waqf property disputes. Normative legal research is used because the main object of this research is the legal considerations of judges in deciding waqf disputes in Religious Courts. Normative legal research essentially aims to examine law as a system of norms that regulates the life of society, both in the form of laws and court decisions that have legal force (Ibrahim, 2006). The approach used in this research is a normative juridical approach with a descriptive analytical research nature. The normative juridical approach is used to analyze legal provisions related to waqf, the authority of the Religious Courts, and dispute resolution procedures through mediation. Meanwhile, the descriptive analytical nature is used to systematically describe the legal facts contained in court decisions, then analyzed based on positive legal provisions and Islamic legal principles related

to waqf. With this approach, this research not only describes the content of the decision, but also analyzes the legal considerations of judges in resolving waqf disputes.

This study uses several legal research approaches, namely the statute approach and the case approach. The statutory approach is carried out by examining various regulations related to waqf, such as Law Number 41 of 2004 concerning Waqf, Government Regulation Number 42 of 2006 concerning the Implementation of the Waqf Law, the Compilation of Islamic Law, and Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court. The case approach is carried out by examining Decision Number 3023/Pdt.G/2023/PA.Jr and Decision Number 60/Pdt.G/2021/PA.Sub as the main research objects to understand the application of law in religious court practice. The data sources in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are legal materials that are authoritative and have binding force, such as laws and court decisions. In this study, the primary legal materials used include Law Number 41 of 2004 concerning Waqf, Law Number 3 of 2006 concerning Religious Courts, Government Regulation Number 42 of 2006, Compilation of Islamic Law, and Religious Court Decision Number 3023/Pdt.G/2023/PA.Jr and Decision Number 60/Pdt.G/2021/PA.Sub.

Secondary legal materials provide explanations to primary legal materials, such as books, scientific journals, articles, theses, and research findings related to waqf law and dispute resolution in Religious Courts. Secondary legal materials are used to strengthen the analysis and provide theoretical understanding of the research object. Tertiary legal materials are supporting legal materials that help explain primary and secondary legal materials, such as legal dictionaries, Islamic law encyclopedias, and other reference sources relevant to this research. Data collection techniques are carried out through library research and documentation studies. The literature study is conducted by collecting and reviewing various literature related to waqf law, jurisprudence, and the authority of Religious Courts in resolving waqf disputes. Meanwhile, the documentation study is conducted by examining the contents of court decisions that are the object of research, especially those related to the judge's legal considerations, the legal basis used, and the application of mediation procedures in waqf dispute cases.

The collected data were then analyzed using qualitative analysis methods. Qualitative analysis was conducted by interpreting the data based on the relationship between legal facts, statutory regulations, legal theory, and the judges' considerations in court decisions. Furthermore, the results of the analysis were systematically compiled to obtain a comprehensive understanding of the judges' legal considerations in resolving waqf property disputes in the Religious Courts. Through this research method, the author attempts to provide a comprehensive overview of the practice of waqf dispute resolution within the Religious Courts while analyzing how judges apply waqf law and Islamic civil procedure law in deciding cases. Thus, this research is expected to provide an academic contribution to the development of waqf law studies and religious court practices in Indonesia.

RESULTS AND DISCUSSION

Legal Analysis of Decision Number 3023/Pdt.G/2023/PA.Jr in the Dispute over Management of Waqf Assets

The waqf dispute examined in Decision Number 3023/Pdt.G/2023/PA.Jr essentially demonstrates the complexity of waqf asset management issues within society. The dispute relates not only to the formal legal aspects of the nazhir's position, but also to social legitimacy, familial relationships, and the religious interests that develop within the community. In the social practices of Muslims in Indonesia, waqf is often viewed as a family and community trust that must be maintained from generation to generation. However, when waqf management is not accompanied by orderly administration and clear legal certainty, the potential for conflict increases (Anshori, 2005).

This case began with a lawsuit filed by the extended family of Habib Abdullah bin Habib Sholeh Al Hamid against the management of the Riyadus Sholihin Foundation of the Habib Sholeh Tanggul Mosque regarding the management of waqf land located in the Tanggul Kulon area, Jember Regency. The plaintiffs argued that their family was the legitimate party as nazhir based on the waqf pledge dated October 24, 1976. The waqf land was used for the benefit of the mosque and family cemetery which had been managed from generation to generation by the Habib Abdullah family.

According to the plaintiffs, the foundation's management unilaterally took over the management of the waqf without the consent of the waqif's family or heirs. This action was deemed contrary to the waqif's mandate and the history of waqf management that had been in place for many years. On the other hand, the foundation felt it had a certain legitimacy in managing the waqf assets. This difference of opinion later developed into a legal dispute in the Jember Religious Court. When analyzed sociologically, this case shows that waqf conflicts are often influenced by the difference between social legitimacy and administrative legitimacy. Social legitimacy arises from the community's recognition of a particular party as the waqf manager based on history, trust, and long-standing emotional relationships. Meanwhile, administrative legitimacy arises from formal legal recognition based on documents and statutory provisions. In practice, these two forms of legitimacy do not always operate in balance, often giving rise to conflict within the community (Qahaf, 2005).

During the trial, the panel of judges first attempts to resolve the dispute through mediation, as stipulated in Supreme Court Regulation of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court. Mediation is a mandatory stage in resolving civil cases, aimed at creating peace and maintaining good relations between the parties. In waqf cases, mediation plays a crucial role because waqf disputes generally involve family relationships, social interests, and religious values (Harahap, 2017).

However, in this case the mediation process did not run optimally because several plaintiffs did not appear without valid reasons even though they had been officially summoned by the court. Based on the mediator's report, the plaintiffs were deemed not to have shown good faith in the mediation process. In fact, some plaintiffs were unwilling to sign the mediation summons release that had been submitted by the court. This condition became one of the important considerations for the panel of judges in issuing a decision. The panel of judges then referred to Article 6 paragraph (1) of PERMA Number 1 of 2016 which stipulates that the parties must be present in person in the mediation process, either with or without legal counsel. In addition, Article 7 and Article 22 paragraph (1) of PERMA Number 1 of 2016 give the judge the authority to declare a lawsuit inadmissible if the plaintiff does not act in good faith in

mediation. Based on these provisions, the panel of judges declared the plaintiffs' lawsuit inadmissible (*Niet Ontvankelijke Verklaard*).

From a legal perspective, the decision demonstrates the judge's efforts to uphold legal certainty and orderly procedural law in the resolution of civil cases. The judge views mediation as not merely an administrative formality, but rather a crucial part of the dispute resolution process. Therefore, the plaintiff's failure to attend mediation is considered a form of non-compliance with legal obligations clearly stipulated in statutory regulations. From a legal certainty perspective, the judge's firm stance is necessary to ensure the judicial process runs in accordance with applicable regulations (Radbruch, 1973). However, when analyzed from the perspective of legal expediency, the decision can also be viewed as overly formalistic. Waqf disputes are fundamentally different from ordinary civil disputes because the disputed objects are social and religious assets of the community. Therefore, the resolution of waqf disputes should not only be oriented towards procedural compliance but also consider the social benefits and impact on public relations after the decision is rendered (Bentham, 1996).

In this case, the judge could have encouraged a more persuasive and substantive mediation approach, given that the dispute concerned the management of a mosque and a family grave, which hold religious significance for the surrounding community. An overly formal approach to mediation is feared to exacerbate social conflict and prolong tensions between the disputing parties. Therefore, a more humane approach is needed in waqf cases, prioritizing the principles of deliberation and the welfare of the community. Furthermore, this case demonstrates that weak waqf administration is a key factor in the emergence of waqf management disputes. Law Number 41 of 2004 concerning Waqf emphasizes that waqf management must be conducted professionally and administratively recorded. The existence of a Waqf Pledge Deed, approval of the *nazhir*, and certification of waqf land play a crucial role in providing legal certainty for waqf assets (Directorate of Waqf Empowerment, 2015).

If waqf administration is carried out in an orderly manner from the outset, conflicts over the replacement and management of the *nazhir* can be minimized. Many waqf disputes in Indonesia arise from traditional waqf practices based solely on trust relationships without clear legal documentation. This situation makes waqf management vulnerable to disputes by various parties, especially when there is a change in the waqf management generation. From an Islamic legal perspective, the *nazhir* has a significant responsibility to safeguard the waqf trust and ensure that the waqf assets are used according to the waqif's intended purpose. Therefore, waqf management should not be carried out for the benefit of individuals or specific groups. Waqf must be understood as a social asset of the community whose benefits are intended for the benefit of the wider community (Mubarok, 2008).

This case also demonstrates that waqf has a powerful social and emotional dimension in the lives of Muslim communities. Disputes over the management of mosques and family cemeteries concern not only ownership or legal administration, but also respect for family history, religious figures, and the social identity of the surrounding community. Therefore, resolving waqf disputes requires a more comprehensive approach that takes legal, social, and religious aspects into account in a balanced manner.

Thus, Decision Number 3023/Pdt.G/2023/PA.Jr demonstrates that judges in waqf cases are not only tasked with enforcing formal law but also have a moral responsibility to safeguard

the social benefits and sustainability of waqf functions for the community. The decision also emphasizes the importance of compliance with legal procedures, optimizing mediation, and orderly waqf administration as an effort to create legal protection for waqf assets in Indonesia.

Legal Analysis of Decision Number 60/Pdt.G/2021/PA.Sub in the Legality Dispute of Waqf Management

Decision Number 60/Pdt.G/2021/PA.Sub is one of the waqf dispute cases that demonstrates the importance of administrative legality in the management of waqf assets in Indonesia. The dispute relates to the management of the waqf land of the Al-Mujahiddin Mosque in Sumbawa Regency. This case not only demonstrates a conflict regarding the position of nazhir (the trustee) but also demonstrates how waqf administration is a crucial instrument in creating legal certainty for waqf assets. Essentially, waqf is a form of transfer of assets from the waqif to be used for religious purposes and public welfare. Therefore, waqf management must be carried out in a trustworthy, professional manner, and in accordance with the waqf objectives determined by the waqif. In practice, waqf management often involves the community collectively, resulting in differing opinions regarding who has the most authority to manage the waqf assets (Anshori, 2005).

The case in Decision Number 60/Pdt.G/2021/PA.Sub stems from the waqf land belonging to Siti Aisyah Usman, which was donated for the construction of the Al-Mujahiddin prayer room in 1987. The land was then used as a place of worship and religious activities for the surrounding community. From the beginning, the prayer room was managed jointly by community leaders and local administrators based on a sense of social and religious responsibility. Problems began to arise when another party claimed to have the right to manage the prayer room based on a Deed in Lieu of the Waqf Pledge Deed and a letter of approval for the nazhir issued in 2015. The plaintiff believes that the issuance of these documents was carried out without the consent of the community or the previous administrators of the prayer room. As a result, a conflict arose regarding the legality of the management and the legitimate position of the party as the nazhir of the waqf.

When analyzed legally, this case demonstrates the crucial role of administrative legality in waqf management. Law No. 41 of 2004 concerning Waqf stipulates that every waqf implementation must be recorded and outlined in a Waqf Pledge Deed drawn up by the Waqf Pledge Deed Making Official (PPAIW). This provision aims to provide legal certainty regarding the status of waqf assets while protecting them from misuse and future disputes (Law No. 41 of 2004). The panel of judges in this case first emphasized that waqf disputes fall under the absolute authority of the Religious Courts, as stipulated in Article 49 of Law No. 3 of 2006 concerning Amendments to Law No. 7 of 1989 concerning Religious Courts. Therefore, the resolution of waqf management disputes falls within the jurisdiction of the Religious Courts, the judicial institution authorized to resolve Islamic matters in Indonesia. During the trial, the judge also attempted mediation as stipulated in Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Court. However, the mediation failed to reach an amicable agreement, so the case proceeded to the evidentiary stage. Unlike the previous case, which focused more on the procedural aspects of mediation, in this case, the judge focused more on examining the legality of the documents and the legal standing of the parties as waqf nazhir.

The judge then assessed the various pieces of evidence presented by the parties, including the Deed in Lieu of the Deed of Waqf Pledge, the nazhir's letter of approval, and other administrative documents related to the management of the prayer room. From a legal perspective, administrative documents are crucial because they serve as the legal basis for the management of waqf assets. Therefore, the judge sought to ensure that each document used as the basis for a claim had valid legal force and was issued in accordance with applicable procedures (Mertokusumo, 2010). The judge's considerations in this case demonstrate that orderly waqf administration is a crucial element in creating legal certainty. The existence of the Waqf Deed of Pledge and the nazhir's approval serve not only as administrative formalities but also as instruments of legal protection for waqf assets. With clear administration, waqf management can be carried out more professionally and transparently, thereby reducing the potential for future conflict.

However, upon closer analysis, this case also demonstrates that resolving waqf disputes cannot be solely oriented toward formal legality. The mushalla, as a waqf object, holds significant social and spiritual value for the surrounding community. The mushalla serves not only as a physical place of worship but also as a center for social and religious activities. Therefore, conflicts over the management of the mushalla have a significant social impact on community harmony. From the perspective of the theory of legal utility, resolving waqf disputes should be able to provide broader social benefits to the community. The judge's decision must not only determine who is legally entitled but also consider how to ensure the continued functioning of the waqf's social function (Bentham, 1996). Therefore, the judge has a moral responsibility to ensure that waqf management disputes do not disrupt religious activities and social relations within the surrounding community.

Furthermore, this case also demonstrates the conflict between social legitimacy and administrative legitimacy in waqf management. In practice, mushalla (prayer rooms) are often managed collectively, based on community trust in religious figures or specific administrators. However, when new administrative documents emerge that change the management structure, social conflict becomes difficult to avoid. In this context, judges are required not only to understand the normative aspects of waqf law but also to understand the social conditions of the community in which the waqf is established. An overly formalistic legal approach has the potential to ignore the social values inherent in the community. Therefore, judges in waqf cases need to adopt a more responsive approach, taking into account the welfare of the community and social harmony.

From an Islamic legal perspective, a nazhir is responsible for safeguarding, managing, and developing waqf assets in accordance with the waqif's objectives. A nazhir is not only responsible for administratively safeguarding waqf assets, but also has a moral and spiritual responsibility for ensuring the continued benefits of waqf for the community (Qahaf, 2005). Therefore, waqf management should be based on the principles of trustworthiness, professionalism, and the interests of the community, rather than solely for the benefit of individuals or groups. This case also provides an important lesson that professional waqf management is an urgent need in the modern era. Many waqf disputes arise from weak administration, a lack of understanding of waqf law, and the absence of a transparent management system. Therefore, guidance for nazhir and strengthening of the waqf

administration system are necessary so that waqf asset management can run optimally and in accordance with sharia objectives. Furthermore, current technological developments can also be utilized to strengthen legal protection for waqf assets through the digitization of waqf data. Digitally recording waqf assets can help create transparency, facilitate oversight, and prevent future waqf management disputes. With a modern and professional administration system, waqf asset protection can be more effective and sustainable.

Thus, Decision Number 60/Pdt.G/2021/PA.Sub demonstrates the crucial role of administrative legality in resolving waqf disputes. However, resolving waqf disputes cannot be done solely through a formalistic approach. Judges must also consider the social aspects, benefits, and sustainability of the waqf's function for the community to ensure that the primary purpose of waqf as an instrument for the welfare of the community can be optimally realized.

Comparison of Judges' Considerations in Decision Number 3023/Pdt.G/2023/PA.Jr and Decision Number 60/Pdt.G/2021/PA.Sub

The two decisions analyzed in this study both relate to waqf asset management disputes within the Religious Courts. However, upon closer examination, fundamental differences are evident in the judges' legal reasoning in each case. These differences demonstrate that waqf disputes are complex, involving not only material legal issues but also procedural law, waqf administration, social relations, and the religious interests of Muslims.

In Decision Number 3023/Pdt.G/2023/PA.Jr, the panel of judges placed greater emphasis on procedural aspects, particularly regarding the parties' obligation to participate in the mediation process in good faith. The judges considered that the plaintiffs' absence from the mediation process without a valid reason constituted a violation of the provisions of PERMA Number 1 of 2016 concerning Mediation Procedures in Court. Therefore, the lawsuit was declared inadmissible (*Niet Ontvankelijke Verklaard*). This consideration indicates that the judges view compliance with procedural law as an important part of creating orderly justice and legal certainty (Harahap, 2017). Meanwhile, in Decision Number 60/Pdt.G/2021/PA.Sub, the panel of judges placed greater emphasis on the legality of waqf administration and the legal standing of the *nazhir*. The focus of the case examination was directed at proving the Waqf Pledge Deed, the *nazhir*'s approval, and other administrative documents related to the management of the Al-Mujahiddin Mosque. In this case, the judge not only considered the social relationships of the parties, but also examined the validity of the legal documents used as the basis for the waqf management claim.

These differences in approach indicate that judges in waqf cases have different consideration patterns according to the characteristics of the disputes faced. In the first case, the judges were more oriented towards procedural compliance and the effectiveness of mediation as part of civil dispute resolution. Meanwhile, in the second case, the judges were more oriented towards protecting the legal administration of waqf in order to create legal certainty in the management of waqf assets. Despite their different focus of consideration, both decisions share a fundamental similarity, namely, both place legal certainty as the primary goal in resolving waqf disputes. From the perspective of the theory of legal certainty, the law must be able to provide clear, firm, and consistently applicable rules to create order in society (Radbruch, 1973). In the

context of both cases, the judges sought to create legal certainty through the application of procedural law and the protection of waqf administration.

Beyond legal certainty, these two decisions also demonstrate the judges' efforts to safeguard the social function of waqf assets. Waqf is not merely a material asset with economic value, but also has a strong social and spiritual dimension in the lives of Muslim communities. Mosques, prayer rooms (mushallas), family cemeteries, and various social facilities built on waqf land are an essential part of the community's religious life. Therefore, any waqf dispute fundamentally concerns not only individual interests but also the broader social interests of the community (Mubarok, 2008).

In Decision Number 3023/Pdt.G/2023/PA.Jr, the dispute concerned the management of a mosque and family grave, which hold historical and emotional value for the surrounding community. Meanwhile, in Decision Number 60/Pdt.G/2021/PA.Sub, the dispute concerned the management of a prayer room (mushalla), a center of community worship. Both cases demonstrate that waqf disputes have significant social impacts on community relations and the religious life of Muslims. Further analysis reveals a conflict between social legitimacy and formal legal legitimacy in waqf management. Social legitimacy stems from public recognition of a particular party as the waqf administrator based on history, family trust, and prevailing social trust. Meanwhile, formal legal legitimacy is based on administrative recognition and prevailing positive legal provisions. In practice, these two forms of legitimacy are not always balanced, giving rise to conflict over who has the most authority to manage waqf (Qahaf, 2005). In the first case, the plaintiff's family felt they had social legitimacy as nazhir because they had managed the waqf for generations since 1976. However, a dispute arose when a certain foundation took over the management of the waqf based on certain legal grounds. In the second case, the conflict arose due to the Deed of Replacement for the Deed of Waqf Pledge and the ratification of the new nazhir, which were deemed to have excluded the community and the previous management of the mushalla. This situation indicates that weak waqf administration is a major factor in the emergence of waqf disputes in Indonesia. Many waqf practices are still carried out traditionally without clear legal registration. As a result, when there is a change of generation or a change in management structure, conflicts regarding the nazhir's position are difficult to avoid. Therefore, orderly waqf administration is a crucial requirement in creating legal protection for waqf assets. Furthermore, both decisions demonstrate that Religious Court judges are not only tasked with normatively applying the law but also have a moral responsibility to safeguard the welfare of the community. Judges must be able to balance legal certainty, justice, and social benefit in every decision they make. In the theory of the purpose of law, these three elements must work harmoniously so that the law can truly provide protection for society (Rahardjo, 2006).

In the context of waqf disputes, justice is not only interpreted as the textual application of legal rules, but also relates to the protection of the waqf trust and the continued benefits of the waqf for society. Judges must ensure that waqf assets continue to be used according to the waqf's purpose and are not misused for personal or group interests. Therefore, resolving waqf disputes requires a more humanistic legal approach that is responsive to the social conditions of the community. When viewed from the perspective of legal utility, both decisions also aim to maintain the continued social function of waqf. In Jeremy Bentham's utilitarian theory, the law

should provide the greatest possible benefit to society (Bentham, 1996). In waqf cases, this benefit is realized through protecting the continued function of mosques, prayer rooms, and other social facilities built on waqf land. Therefore, resolving waqf disputes should not be oriented solely to individual interests, but must also consider the interests of the wider community.

From these two decisions, it can be understood that waqf disputes are inherently complex legal issues, involving legal, social, cultural, and religious aspects. Therefore, resolving waqf disputes cannot be approached solely through a formalistic approach. Judges must be able to understand the social conditions of the community, the history of waqf management, and the primary purpose of waqf as an instrument for the welfare of the community.

Thus, these two decisions illustrate the crucial role of Religious Courts in maintaining legal protection for waqf assets in Indonesia. Judges' decisions not only determine the validity of a legal action but also determine the continued social and religious function of waqf for the wider community. Therefore, judges' legal considerations in waqf cases must be conducted wisely, proportionally, and oriented toward the welfare of the community.

Analysis of Legal Certainty, Justice, and Benefit in Settling Waqf Disputes

The resolution of waqf disputes is fundamentally inseparable from the objectives of the law itself, namely to create legal certainty, justice, and benefit society. These three elements are essential components of the legal system and must operate in balance so that the law can provide optimal protection. In the context of waqf disputes, these three aspects are clearly visible in the judges' considerations in Decisions Number 3023/Pdt.G/2023/PA.Jr and Decision Number 60/Pdt.G/2021/PA.Sub. The aspect of legal certainty in both decisions is evident in how the judges strive to consistently enforce the rule of law in accordance with applicable laws and regulations. In the theory of legal certainty, the law must be able to provide clear and enforceable rules to create order in society (Radbruch, 1973). Legal certainty is crucial in waqf management because waqf assets are social assets of the community whose existence must be protected to prevent misuse or disputes by certain parties.

In Decision Number 3023/Pdt.G/2023/PA.Jr, the aspect of legal certainty is evident in the judge's attitude in upholding the provisions of PERMA Number 1 of 2016 concerning Mediation Procedures in Court. The judge considered that the plaintiffs did not show good faith in the mediation process because they did not appear without a valid reason despite having been officially summoned by the court. Based on this provision, the judge then issued a decision of *Niet Ontvankelijke Verklaard* or the lawsuit cannot be accepted. This consideration shows that the judge is trying to maintain orderly legal procedures and ensure that each party to the case complies with established legal procedures. From the perspective of civil procedural law, mediation is not merely an administrative formality, but an important part of the dispute resolution process aimed at creating peace and reducing prolonged conflict between the parties (Harahap, 2017). Therefore, non-compliance with mediation procedures is considered a form of violation of legal obligations stipulated by statutory regulations.

Meanwhile, in Decision Number 60/Pdt.G/2021/PA.Sub, legal certainty is evident in the judge's emphasis on the importance of the legality of waqf administration. The judge examined various documents related to waqf management, such as the Deed in Lieu of the Waqf Pledge

Deed, the nazhir's approval letter, and other administrative documents. The existence of these documents is considered crucial because it serves as the legal basis for determining the legitimate party managing waqf assets. Law Number 41 of 2004 concerning Waqf stipulates that waqf implementation must be outlined in a Waqf Pledge Deed drawn up by the Waqf Pledge Deed Making Officer (PPAIW). This provision aims to provide legal protection for waqf assets and prevent future management conflicts. With orderly administration, the legal status of waqf becomes clearer and has strong evidentiary power before the law (Directorate of Waqf Empowerment, 2015).

In addition to legal certainty, these two decisions also demonstrate the judges' efforts to create justice for the parties. From a legal perspective, justice is one of the primary objectives of law, relating to the granting of proportional rights and equal treatment to all parties. However, the concept of justice in waqf disputes has a broader dimension because it concerns not only individual interests but also the waqf mandate and the social interests of the community. In waqf cases, judges are not only tasked with determining who is legally right but also must ensure that the waqf assets continue to be used according to the waqif's intended purpose. Waqf is essentially a trust intended for the interests of worship and the welfare of the community. Therefore, justice in waqf cases must be interpreted as an effort to maintain the continued benefits of waqf for the wider community (Mubarok, 2008).

In Decision Number 3023/Pdt.G/2023/PA.Jr, justice is realized through the equal application of procedural law to all parties. The judge gave the parties the opportunity to resolve the dispute through mediation before entering the main case examination. However, because the plaintiffs were deemed to have acted in good faith during the mediation, the judge rendered the decision in accordance with applicable law. From a formal legal perspective, the decision reflects the principle of procedural justice because all parties were treated according to the same rules. However, when viewed from the perspective of substantive justice, the decision can be seen as still leaving social issues in the community. Disputes over the management of mosques and family cemeteries relate not only to administrative aspects but also to emotional relationships and the social history of the surrounding community. Therefore, the resolution of waqf disputes should not only be oriented towards procedural certainty but also consider the social impact of the decision. Meanwhile, in Decision Number 60/Pdt.G/2021/PA.Sub, justice is evident in the judge's efforts to objectively examine the legality of waqf management based on evidence presented by the parties. Judges not only consider the social claims of the community but also examine the validity of the legal documents that serve as the basis for waqf management. In this context, judges strive to maintain a balance between social legitimacy and formal legal legitimacy so that the decisions rendered can provide a sense of justice for all parties. A third, crucial aspect in both decisions is legal utility. In Jeremy Bentham's utilitarian theory, the law should provide the greatest possible benefit to society (Bentham, 1996). In the context of waqf, legal utility relates to how dispute resolution can maintain the continued social and religious function of waqf assets for the community.

The mosques, prayer rooms, and family graves that were the subject of dispute in both cases serve a crucial social function for the surrounding communities. In addition to being used as places of worship, these waqf assets also serve as centers for social, educational, and religious activities. Therefore, any dispute over waqf management has the potential to impact social

harmony and the religious life of the community if not resolved wisely. In this context, judges have a significant moral responsibility to ensure that their decisions do not diminish the social function of waqf for the community. The resolution of waqf disputes should not solely focus on the victory of one party but should also consider the continued benefits of the waqf as a social asset for the community. Therefore, a deliberation and mediation approach based on religious values needs to be optimized in resolving waqf disputes.

Furthermore, these two decisions also demonstrate that waqf management in Indonesia still faces various issues, particularly in terms of administration and the professionalism of the nazhir (Islamic trustee). Many waqf disputes arise from weak administrative record-keeping, a lack of understanding of waqf law, and the absence of a transparent management system. These conditions leave waqf assets vulnerable to disputes and misuse by certain parties. From an Islamic legal perspective, the nazhir has a significant responsibility to safeguard, manage, and develop waqf assets in accordance with the waqif's objectives. Therefore, waqf management must be carried out in a trustworthy, professional manner, and oriented towards the welfare of the community (Qahaf, 2005). Therefore, legal protection of waqf assets is not only the responsibility of the state and the courts, but also the responsibility of all elements of society. These two decisions demonstrate that resolving waqf disputes requires a more comprehensive and humane legal approach. Judges are not only required to enforce the rule of law but also to maintain a balance between legal certainty, justice, and social benefit. These three elements must work harmoniously so that the goal of waqf as an instrument for the welfare of the people can still be realized optimally.

Academic Critique of Judges' Considerations in Settling Waqf Disputes

Judges' decisions in waqf disputes are essentially a form of law application to conflicts that occur within society. However, in academic legal studies, a decision is not only understood as a product of the application of legal norms but can also be analyzed critically to determine the extent to which the decision is able to create justice, benefit, and legal protection for society. Therefore, academic criticism of court decisions is important as part of the development of legal science and evaluation of judicial practice in Indonesia. In Decision Number 3023/Pdt.G/2023/PA.Jr, the panel of judges ruled that the lawsuit was inadmissible because the plaintiffs were deemed to have failed to act in good faith in participating in the mediation process. Normatively, this consideration is in accordance with the provisions of PERMA Number 1 of 2016 concerning Mediation Procedures in Court, which requires the parties to be present in person during the mediation process. Judges also have a strong legal basis to declare a lawsuit inadmissible if the plaintiffs do not demonstrate good faith in mediation.

However, when analyzed from a progressive legal perspective, the decision can be considered too formalistic. Progressive law, as proposed by Satjipto Rahardjo, emphasizes that law should not be understood solely as written rules, but rather as a means to achieve justice and the public good (Rahardjo, 2006). In the context of waqf cases, the object of the dispute concerns not only the personal interests of the parties but also the social and religious interests of the wider community. The dispute over the management of the mosque and family graves in this case has a significant social impact on relations in the surrounding community. Therefore, the resolution of the case should not only be oriented towards procedural compliance but also consider

substantive efforts to create peace and maintain the social benefits of waqf. An overly formal approach to the plaintiff's absence from mediation is feared to prolong the conflict and increase social tensions within the community.

In this case, the judge could have used a more persuasive approach by optimizing the function of mediation as a means of social reconciliation. Mediation in waqf disputes aims not only to resolve legal conflicts but also to maintain social relations, family harmony, and societal stability. Therefore, successful mediation in waqf disputes has a broader meaning than in ordinary civil disputes (Harahap, 2017). Furthermore, this decision also shows that the waqf dispute resolution system in Religious Courts still relies heavily on procedural compliance by the parties. However, in practice, many parties do not fully understand the importance of mediation or the legal consequences of not attending the mediation process. This situation demonstrates the need for an educational and communicative approach from judicial officials so that the mediation process is not merely understood as a legal formality, but as a means of conflict resolution that prioritizes deliberation and peace.

Meanwhile, in Decision Number 60/Pdt.G/2021/PA.Sub, academic criticism can be directed at the dominant legal-formal approach in determining the legitimacy of waqf management. Judges place greater emphasis on examining administrative documents, such as the Deed in Lieu of the Deed of Waqf Pledge and the nazhir's approval letter, as the basis for determining the legality of waqf management. While this approach is crucial for creating legal certainty, it potentially ignores the social realities of communities involved in collective waqf management. In Indonesian practice, waqf management often does not fully operate according to modern administrative systems. Many waqf assets are managed traditionally, based on the mandate of religious leaders, community leaders, or specific families who have been entrusted for generations. This situation often results in the community's social legitimacy for waqf managers being stronger than their formal administrative legitimacy (Qahaf, 2005).

If judges place too much emphasis on administrative legality without considering the history of management and social recognition within the community, there is a potential for social dissatisfaction with court decisions. In the context of waqf disputes, social legitimacy plays a crucial role because the disputed object is directly related to religious activities and the community's social life. Therefore, judges should not only consider the normative legal aspects but also the prevailing social values within the community. Another academic criticism concerns the weakness of the restorative approach to resolving waqf disputes. In some waqf cases, court decisions often merely determine the winners and losers without providing long-term solutions to the social conflicts that arise within the community. In fact, the primary goal of resolving waqf disputes should not only resolve legal conflicts but also maintain the continuity of the waqf's social function and maintain social harmony. A restorative approach to waqf disputes is crucial because waqf is essentially a social and religious instrument intended for the benefit of the community. Therefore, resolving waqf disputes should prioritize the principles of deliberation, reconciliation, and the common good. In this context, judges can play a role not only as law enforcers but also as social mediators, helping to foster peace within the community. Furthermore, these two decisions demonstrate the continued weakness of the waqf administration and oversight system in Indonesia. Many waqf disputes arise from the lack of clear records regarding the status of waqf land, the replacement of nazhir (manager), and the

management of waqf assets. This situation demonstrates that legal protection for waqf is not sufficient through dispute resolution in court; it also requires improvements to the waqf administration and governance system nationally.

Law Number 41 of 2004 concerning Waqf actually emphasizes the importance of professionalism of the nazhir and orderly waqf administration. However, implementation in the field still faces various obstacles, such as low public understanding of waqf law, minimal guidance for nazhir, and weak oversight of waqf asset management. As a result, many waqf assets are vulnerable to future conflict (Directorate of Waqf Empowerment, 2015). From an Islamic legal perspective, waqf management should be carried out based on the principles of trust, justice, and the welfare of the community. The nazhir is not only responsible for administrative matters but also has a moral and spiritual responsibility for the continued benefits of the waqf for the community. Therefore, any form of waqf management that gives rise to conflict and social division is fundamentally contrary to the primary purpose of waqf in Islam. From this description, it can be understood that resolving waqf disputes requires a more progressive, responsive, and humane legal approach. Judges are not only required to apply legal rules textually, but also to understand the social realities of society and the primary purpose of waqf as an instrument of public welfare. Therefore, judges' decisions in waqf disputes not only provide legal certainty but also foster social justice and safeguard the benefits of waqf for the wider community.

Jurisprudential Implications for Waqf Dispute Resolution Practices in Indonesia

Court decisions in waqf cases not only have legal consequences for the disputing parties but also have a broader influence on the development of waqf legal practices in Indonesia. In a legal context, judges' decisions can become jurisprudence if they are used as references in resolving similar cases in the future. Therefore, judges' legal considerations in waqf disputes play a crucial role in shaping the direction of legal protection for waqf assets and their management within the community. Decisions No. 3023/Pdt.G/2023/PA.Jr and No. 60/Pdt.G/2021/PA.Sub illustrate that waqf disputes in Indonesia are generally still influenced by weak administration, conflicts over nazhir management, and a lack of public understanding of waqf law. Both decisions simultaneously demonstrate that waqf dispute resolution cannot be carried out solely through a formalistic approach but must also consider social aspects and the benefits of waqf for the community.

One important implication of these two decisions is the strengthened emphasis on the importance of orderly waqf administration. In practice, many waqf disputes arise due to the lack of a clear Waqf Pledge Deed, waqf land certificate, or nazhir approval. This situation makes the legal status of waqf vulnerable to dispute, especially when there is a change in the waqf management generation or when another party claims to have management rights to the waqf assets. Decision Number 60/Pdt.G/2021/PA.Sub demonstrates that judges pay significant attention to administrative legality in determining the legal standing of waqf managers. This demonstrates the crucial role of administrative documents in providing legal certainty for waqf assets. Thus, this decision indirectly encourages the public to pay greater attention to the recording and legalization of waqf assets in accordance with Law Number 41 of 2004 concerning Waqf.

Furthermore, these two decisions also have implications for the importance of professionalism of the nazhir (manager) in waqf management. In practice, waqf management is often carried out traditionally based on social trust and family trusts. While this pattern has strong social value, the development of modern society requires a more professional, transparent, and accountable management system.

The nazhir is not only tasked with maintaining the physical existence of waqf assets, but is also responsible for managing and developing waqf so that its benefits can be widely felt by the community. Therefore, the nazhir's administrative skills, understanding of waqf law, and moral integrity are crucial factors in maintaining the sustainability of waqf's social function (Qahaf, 2005). These decisions demonstrate that conflicts in waqf management often arise due to weak coordination and unclear authority in waqf management. Another implication is the importance of optimizing mediation in resolving waqf disputes. In Decision Number 3023/Pdt.G/2023/PA.Jr, the judge emphasized that mediation is a mandatory part of the civil dispute resolution process. However, this case also demonstrates that mediation has not been fully effective in resolving waqf conflicts in the community. Many still view mediation as merely a legal formality before entering the trial process.

In fact, mediation in waqf disputes plays a very strategic role because waqf disputes generally relate to family relationships, social interests, and religious activities. Therefore, a mediation approach based on deliberation and religious values needs to be further developed in resolving waqf disputes. Mediation aims not only to reach a legal agreement but also to maintain social relations and community harmony after the dispute is resolved (Harahap, 2017). In this context, Religious Court judges play a crucial role as social mediators capable of fostering peace between the parties. Judges are not only tasked with applying the law textually but must also be able to understand the social conditions of the community and the characteristics of waqf disputes, which differ from ordinary civil disputes. A more humanistic and communicative approach is essential to ensure that waqf dispute resolution does not lead to social divisions within the community.

These two decisions also have implications for the need to reform the waqf administration system in Indonesia. To date, many waqf assets remain unregistered and lack waqf certificates. This situation indicates that the waqf data collection and supervision system is still not functioning optimally. As a result, many waqf assets are vulnerable to disputes and mismanagement. In today's modern era, digitizing waqf administration is a crucial step that needs to be developed to strengthen legal protection for waqf assets. A digital-based waqf data system can help create transparency, facilitate oversight, and reduce the potential for conflict regarding the status and management of waqf assets. With a more modern and integrated administration system, waqf management can be carried out more effectively and professionally. Furthermore, these two decisions also highlight the need to improve legal education for the public regarding the importance of waqf administration and the position of nazhir (the trustee) under Islamic law and Indonesian positive law. Many people still understand waqf solely as a religious service without considering its legality and legal administration. As a result, waqf implementation is often carried out informally without clear records, which is prone to future conflicts. From an Islamic legal perspective, waqf is a social

act of worship aimed at creating sustainable public welfare. Therefore, waqf management must be carried out with full trust and responsibility. Conflicts over waqf management that lead to social divisions fundamentally contradict the primary purpose of waqf in Islam, which is to create welfare and benefit for the community (Mubarok, 2008).

These two decisions demonstrate that jurisprudence in waqf disputes plays a crucial role in building a legal culture of waqf in Indonesia. Judges' decisions not only resolve concrete conflicts within society but also serve as guidelines for establishing legal protection for waqf assets in the future. Therefore, judges' legal considerations in waqf cases must reflect a balance between legal certainty, justice, and social benefit. Therefore, these two decisions provide an important lesson: waqf management in Indonesia requires strengthened administration, professionalism of the nazhir (manager), optimized mediation, and a more humanistic legal approach. All of these elements must be integrated so that waqf can truly function as an instrument for the welfare of the community and not become a source of conflict within society. This research contributes academically to the development of waqf law studies in Indonesia, particularly through a comparative analysis of judges' considerations in waqf disputes related to mediation, administrative legality, and the social function of waqf. While most waqf research has focused solely on the normative or administrative aspects of waqf, this research attempts to connect procedural law, waqf administrative protection, and the social realities of society in resolving waqf disputes in the Religious Courts. The novelty of this research lies in its analysis of the relationship between social legitimacy and formal legal legitimacy in waqf management. This research demonstrates that many waqf disputes in Indonesia arise from an imbalance between social recognition of waqf administrators and the administrative legality recognized by positive law. Therefore, resolving waqf disputes cannot be done solely through a formalistic approach, but must also consider the social aspects, benefits, and the primary purpose of waqf as an instrument of public welfare. Furthermore, this research also emphasizes the importance of a more progressive, restorative, and humanistic legal approach in resolving waqf disputes. Judges not only serve as enforcers of the law but also have a moral responsibility to maintain social harmony and the continued function of waqf in society. Therefore, this research is expected to contribute to the development of waqf dispute resolution practices that are more responsive to community needs and values of the welfare of the people in Indonesia.

CONCLUSION

Based on the results of the research and discussion, it can be concluded that the waqf dispute in Decision Number 3023/Pdt.G/2023/PA.Jr and Decision Number 60/Pdt.G/2021/PA.Sub shows that waqf problems in Indonesia are not only related to normative legal aspects, but also related to waqf administration, social legitimacy, and the religious interests of the community. In Decision Number 3023/Pdt.G/2023/PA.Jr, the panel of judges emphasized compliance with procedural law, especially the obligation to act in good faith in the mediation process as regulated in PERMA Number 1 of 2016. Meanwhile, in Decision Number 60/Pdt.G/2021/PA.Sub, the judges emphasized the importance of the legality of waqf administration and the legal status of nazhir as the basis for legal protection of waqf assets. This study found that waqf disputes often arise from an imbalance between social legitimacy and formal legal legitimacy in waqf management. Many waqf assets are managed through

generations based on social trust, but are not supported by orderly legal administration. This condition makes waqf management vulnerable to conflict, especially when there is a change in management or new claims to waqf assets. Therefore, orderly waqf administration, professionalism of the nazhir (Islamic administrator), and legal certainty are crucial elements in preventing waqf disputes in Indonesia. Furthermore, this study emphasizes that resolving waqf disputes cannot be done solely through a formalistic approach. Religious Court judges not only act as enforcers of the law but also have a responsibility to maintain the social benefits and the continued function of waqf for the community. Therefore, resolving waqf disputes requires a more humanistic, progressive, and restorative legal approach that prioritizes deliberation, mediation, and the value of the welfare of the community.

This research also provides an academic contribution through an analysis of the relationship between procedural law, the legality of waqf administration, and the social realities of society in resolving waqf disputes in Religious Courts. Therefore, legal protection for waqf in Indonesia requires strengthening waqf administration, optimizing mediation, enhancing the professionalism of nazhir (managers), and developing a more modern and integrated waqf management system so that waqf can function optimally as an instrument of public welfare.

BIBLIOGRAPHY

- Abdurrahman. (1994). *The Problem of Endowment of Land Ownership and the Position of Waqf Land in Our Country*. Bandung: Citra Aditya Bakti.
- Ali, Zainuddin. (2016). *Legal Research Methods*. Jakarta: Sinar Grafika.
- Anshori, Abdul Ghofur. (2005). *Law and Practice of Endowments in Indonesia*. Yogyakarta: Pilar Media.
- Bentham, Jeremy. (1996). *An Introduction to the Principles of Morals and Legislation*. Oxford: Clarendon Press.
- Ministry of Religious Affairs of the Republic of Indonesia. (2007). *Guidelines for the Empowerment of Strategic Productive Waqf Land in Indonesia*. Jakarta: Directorate of Islamic Community Empowerment and Directorate General of Islamic Community Guidance.
- Directorate General of Islamic Community Guidance, Directorate of Waqf Empowerment. (2015). *Waqf Jurisprudence*. Jakarta: Ministry of Religious Affairs of the Republic of Indonesia.
- Directorate of Waqf Empowerment. (2015). *New Paradigm of Waqf in Indonesia*. Jakarta: Ministry of Religious Affairs of the Republic of Indonesia.
- Harahap, M. Yahya. (2017). *Civil Procedure Law*. Jakarta: Sinar Grafika.
- Ibrahim, Johnny. (2006). *Theory and Methodology of Normative Legal Research*. Malang: Bayumedia Publishing.
- Ichtiar Baru Van Hoeve. (2001). *Encyclopedia of Islamic Law*. 6th edition. Jakarta: Ichtiar Baru Van Hoeve.
- Mertokusumo, Sudikno. (2010). *Indonesian Civil Procedure Law*. Yogyakarta: Cahaya Atma Pustaka.
- Mubarok, Jaih. (2008). *Productive Waqf*. Bandung: Simbiosis Rekatama Media.

- Government Regulation Number 28 of 1977 concerning Endowment of Land Ownership.
Government Regulation Number 42 of 2006 concerning the Implementation of Law Number 41 of 2004 concerning Waqf.
- Qahaf, Munzir. (2005). Productive Waqf Management. Jakarta: Pustaka al-Kautsar Group.
- Rahardjo, Satjipto. (2006). Progressive Law: Law that Liberates. Jakarta: Kompas.
- Radbruch, Gustav. (1973). Legal Philosophy. Massachusetts: Harvard University Press.
- Republic of Indonesia. (1991). Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law. Jakarta: State Secretariat.
- Republic of Indonesia. (2004). Law Number 41 of 2004 concerning Waqf. Jakarta: State Secretariat.
- Republic of Indonesia. (2006). Law Number 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning Religious Courts. Jakarta: State Secretariat.
- Republic of Indonesia. (2016). Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court. Jakarta: Supreme Court of the Republic of Indonesia.
- Sugiyono. (2019). Qualitative Research Methods and R&D. Bandung: Alfabeta.
- Sunggono, Bambang. (2013). Legal Research Methodology. Jakarta: Rajawali Pers.
- Sutami. (2012). "The Development of Productive Waqf in Indonesia." *Al-Awqaf Journal*, Vol. 2, No. 2.
- Reality Team. (2008). The Latest Indonesian Dictionary Complete with Enhanced Spelling (EYD). Surabaya: Reality Publisher.
- Usman, Suparman. (1999). Waqf Law in Indonesia. Jakarta: Darul Ulum Press.
- Zuhaili, Wahbah. (1985). *Al-Fiqh al-Islami wa Adillatuhu*. Damascus: Dar al-Fikr.