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THE VALIDITY AND MANAGEMENT OF FAMILY WAQF IN CONTEMPORARY FAMILY LAW: A COMPARATIVE STUDY OF INDONESIAN AND TUNISIAN REGULATIONS

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Abstract

Family endowment (*waqf ahlī/dzurrī*) is among the oldest institutions of Islamic family law, yet in the contemporary era it is one of the most polarised. Indonesia retains its validity through the normative construction of Law No. 41 of 2004 and the Compilation of Islamic Law (KHI), whereas Tunisia abolished it entirely through the decree of 18 July 1957. This study aims to describe the regulatory framework, analyse its underlying legal philosophy, and compare the social implications of both models. The method employed is comparative juridical-normative, using statutory, historical, and conceptual approaches. Primary data consists of statutory regulations from both countries and classical jurisprudential literature of the four Sunni schools, while secondary data is drawn from indexed journals of the last five years. The study yields three main findings. First, the difference between the two countries does not concern the canonical validity of family waqf but rather the state's policy choice in balancing private rights with public welfare. Second, Indonesia adopts a controlled-integration path while Tunisia took a structural-elimination path. Third, reconceptualising family waqf through the *maqāṣid al-syarīʻah* approach — particularly *ḥifẓ al-māl* and *ḥifẓ al-nasl* — may yield a conditional-integrative model that combines the strengths of both systems.

Wakaf keluarga (wakaf ahlī/dzurrī) merupakan salah satu institusi paling tua dalam tradisi hukum keluarga Islam, namun di era kontemporer ia menjadi salah satu institusi paling terpolarisasi. Indonesia mempertahankan keabsahannya melalui konstruksi normatif Undang-Undang Nomor 41 Tahun 2004 tentang Wakaf dan Kompilasi Hukum Islam (KHI), sedangkan Tunisia menghapuskannya secara total melalui dekrit 18 Juli 1957. Penelitian ini bertujuan mendeskripsikan kerangka regulasi, menganalisis filosofi hukum di baliknya, serta membandingkan implikasi sosial dari kedua model. Metode yang digunakan adalah yuridis-normatif komparatif dengan pendekatan statuta, sejarah, dan konseptual. Hasil penelitian menunjukkan tiga temuan utama. Pertama, perbedaan kedua negara bukan terletak pada keabsahan syarʻī wakaf keluarga melainkan pada pilihan kebijakan negara dalam menyeimbangkan hak privat dan kemaslahatan publik. Kedua, Indonesia menempuh jalan integrasi terkendali sedangkan Tunisia menempuh jalan eliminasi struktural. Ketiga, rekonseptualisasi wakaf keluarga melalui pendekatan maqāṣid al-syarīʻah — terutama ḥifẓ al-

māl dan ḥifẓ al-nasl — dapat menghasilkan model integratif kondisional yang memadukan kekuatan kedua sistem.

Keywords: *family waqf; waqf ahlī; ḥabūs; waqf regulation; Indonesia; Tunisia; maqāṣid al-syarī'ah.*

A. INTRODUCTION

Waqf is the most productive socio-religious institution in the Islamic legal tradition. For fourteen centuries it became the backbone of the financing of mosques, madrasas, hospitals, *zawiya*, *ribat*, and irrigation systems in almost all Muslim civilizations.[1] In the 19th century, almost half of Tunisia's farmland was classified as *ḥabūs*, and in Egypt the waqf even included sahaya servants who were tasked with maintaining mosques and madrasas.[2]

This scale shows that waqf is not just an instrument of personal virtue, but an economic-social architecture that is intertwined with family, government, and religious structures.[3] One of the most controversial variants of waqf is *ahlī waqf* or *dzurrī waqf* — waqf whose beneficiaries are the waqf's own family or descendants. In classical fiqh, the validity of this type is recognized by the four Sunni madhhabs with variations on the terms *of ta'bīd* (immortality) and its governance.[4]

But in practice in recent centuries, *ahlī waqf* has often been abused to avoid the division of inheritance according to faraid, to maintain wealth in patrilineal lines, or to hide wealth from fiscal liability. This criticism gave birth to two radically opposite regulatory responses: Indonesia chose to integrate *the ahlī waqf* into the positive legal system with signs, while Tunisia removed it completely from the legal realm.[5]

Indonesia constructs the validity of family waqf through two layers of regulations. The first layer is the Compilation of Islamic Law (KHI) Book III which was born from Presidential Instruction Number 1 of 1991 and includes Articles 215–228 concerning

[1]Muḥammad 'Ubayd al-Kubaisī, *Aḥkām al-Waqf fī al-Sharī'ah al-Islāmiyyah* (Baghdad: Maṭba'at al-Irshād, 1972), 17–22; lihat pula Wahbah al-Zuḥaylī, *al-Fiqh al-Islāmī wa Adillatuh*, jilid 10 (Damaskus: Dār al-Fikr, t.t.), 7599–7601.

[2]Salma Bouguerra, "The End of Islamic Family Law: Tunisia's 1956 Personal Status Code" (Honors Thesis, Bates College, 2019), 14–16, https://scarab.bates.edu/honorstheses/294.

[3]Sutarto Cipto, Zainul Arifin, Saiful Rizal Ahmad, dan Hari Restu Supriati, "Waqf Law in the Muslim World: A Study of the Organization and Administration of Waqf in Tunisia," Vol. 3, No. 1 (2025): 4–7, https://www.researchgate.net/publication/389029778.

[4]'Alā' al-Din al-Kāsanī, *Badā'i' al-Ṣanā'i' fī Tartīb al-Sharā'i'* (Beirut: Dār al-Kutub al-'Ilmiyyah, t.t.), 6:218–220; Muwaffaq al-Dīn Ibn Qudāmah, *al-Mughnī* (Riyaḍ: Dār 'Ālam al-Kutub, 1997), 8:184–190; Muḥammad b. Aḥmad al-Khaṭīb al-Syarbīnī, *Mughnī al-Muḥtāj ilā Ma'rifati Ma'ānī Alfāẓ al-Minhāj* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1994), 3:522–527; al-Zuḥaylī, *al-Fiqh al-Islamī*, 10:7610–7616.

[5]Achmad Bashori and Mohammad Romli, "Family Waqf Perspective Law No. 41 of 2004 and Maqāṣid al-Usrah Jamāl al-Dīn 'Aṭiyyah," *Mahakim: Journal of Islamic Family Law* 5, no. 2 (2021): 167–171, https://jurnalfasya.iainkediri.ac.id/index.php/mahakim/article/view/137.

waqf. The second layer, which is the culmination of the consolidation of national waqf law, is Law Number 41 of 2004 concerning Waqf and its implementing regulations, namely Government Regulation Number 42 of 2006 as amended by Government Regulation Number 25 of 2018. This construction allows *the ahlī waqf* to remain valid as long as it meets the principles and requirements of sharia, is registered with the Waqf Pledge Deed Making Officer (PPAIW), and does not violate the provisions of laws and regulations.[6]

Tunisia went in the opposite direction: in 1956, President Habib Bourguiba dissolved the Jam'iyyat al-Awqāf and transferred all public *ḥabūs* to the state, and on July 18, 1957 he abolished the family *and mixed ḥabūs*. Since then, Tunisia has become the only Arab country to abolish waqf, both public and private, in its entirety.[7]

Research gap. Much of the contemporary literature places family waqf within a single framework: studies of Indonesia generally limit themselves to the analysis of Law 41/2004 or KHI, while studies of Tunisia generally stop at Bourguiba's historical description of the abolition of *ḥabūs*. Comparative studies that explicitly confront two countries with diametrically opposed positions, and then evaluate them with an integrated *lens of maqāṣid al-shari'ah*, are still very rare. Especially for the Indonesian-Tunisian couple, most of the comparative research has only touched on the realm of marriage and inheritance, not yet specifically targeting family endowments.[8]

Research objectives. Departing from this gap, this study aims to: (1) comprehensively describe the regulatory framework of family waqf in Indonesia and Tunisia by describing the key articles of each; (2) analyze the legal philosophy and historical context that gave birth to the policy, including comparing it with the position of the four Sunni madhhabs; (3) evaluate the implementation and social impact of the two models in the community; and (4) offering conceptual recommendations based on *maqāṣid al-syarī'ah* as a middle ground between the two extremes.

B. LITERATURE REVIEW

1. Conceptual Framework of Family Waqf

Waqf, etymologically, is rooted in the word *waqafa* which means to hold or stop. Terminologically, jumhur fuqaha defines it as holding an object whose substance remains intact so that its benefits are channeled for certain virtue purposes.[9]

[6]Republic of Indonesia, Presidential Instruction No. 1 of 1991 concerning the Dissemination of Compilations of Islamic Law, Book III Articles 215–229; Republic of Indonesia, Law No. 41 of 2004 concerning Waqf, Statute Book of the Republic of Indonesia No. 159 of 2004, https://www.bwi.go.id/wp-content/uploads/2019/09/Undang-undang-No.-41-2004-Tentang-Wakaf.pdf; Government Regulation No. 42 of 2006 jo. Government Regulation No. 25 of 2018.

[7]Tunisia, *Decree of 31 May 1956 on the abolition of public ḥabūs*; *Decree of 18 July 1957 on the abolition of private (ahlī) and mixed (mukhtalaṭ) ḥabūs*; bandingkan Bouguerra, "The End of Islamic Family Law," 22–28.

[8]Bashori and Romli, "Family Waqf," 172–175; Bouguerra, "The End of Islamic Family Law," 30–36; Cipto et al., "Waqf Law in the Muslim World," 8–12; *Hunafa: Studia Islamika Journal*, "Family Law Reform: Wills for Heirs (Comparative Studies of Tunisia, Syria, Egypt, and Indonesia)," Vol. 20, No. 1 (2023): 45–50, https://jurnalhunafa.org/index.php/hunafa/article/view/364.

[9]Al-Zuḥaylī, *al-Fiqh al-Islamī*, 10:7599–7602; al-Kubaisī, *Aḥkām al-Waqf*, 25–28.

Its normative basis rests on Ibn Umar's hadith about the land of Khaibar, when the Prophet ordered *the ḥabbis aṣlahā wa sabbil thamratahā* — hold the tree and drain the fruit. From this hadith, scholars construct the classic pillars of waqf: *wāqif* (waqf), *mawqūf* (property that is waqf), *mawqūf 'alayh* (beneficiary), and *ṣīghah* (statement).[10]

From the point of view of designation, classical fiqh divides waqf into three: (1) *khayrī waqf* whose benefits are directly directed to the public interest (mosques, madrasas, the poor); (2) *ahlī or dzurrī waqf* whose benefits are directed to the waqf's family or descendants; and (3) *mushtarak waqf* which combines the two. The four Sunni madhhabs agree on the validity of the three, but differ in the terms of *ta'bīd*, the inheritance of benefits, and the governance of *nāẓir*.[11]

2. Previous Research

Several relevant studies contribute to the foundation of this research. First, Bashori and Romli (2021) in the journal *Mahakim* analyzed family waqf from the perspective of Law No. 41 of 2004 and *maqāṣid al-usrah* Jamāl al-Dīn 'Aṭiyyah. They concluded that *dzurrī waqf* is recognized in Law 41/2004 but the management arrangements are still vague and are vulnerable to conflict.[12]

Second, a historical study of Tunisia's waqf reform by Bouguerra (2019) which dismantles Bourguiba's ideological logic in removing *ḥabūs*, namely the country's modernization project based on the French Civil Code.[13]

Third, Cipto, Zainul Arifin, and team (2025) who map the administration of waqf in post-Bourguiba Tunisia and identify gaps in the post-2011 revolution revival.[14]

Fourth, a study on the reform of Tunisia-Syria-Egypt-Indonesia family law in the journal *Hunafa* which places Tunisia as the axis of radicalism in Sunni family law reform.[15]

None of these studies directly confronted Indonesia and Tunisia in the aspect of family waqf, complete with article-by-article analysis and conceptual recommendations based on *maqāṣid*. The position of this research is to fill this gap.

C. RESEARCH METHODS

This research is a *comparative legal research* with a descriptive-analytical type. Three approaches are used in layers. First, the *statute approach* is used to examine the laws and regulations of the two countries: Law No. 41 of 2004, Government Regulation No. 42 of 2006, Government Regulation No. 25 of 2018, Presidential Instruction No. 1 of 1991 (KHI Book III) for Indonesia; as well as *Decree du 31 May 1956*, *Décret du 18*

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[10]Hadis riwayat al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Shurūṭ, bāb al-Shurūṭ fī al-Waqf, hadis no. 2737, dan Muslim, *Ṣaḥīḥ Muslim*, Kitāb al-Waṣiyyah, bāb al-Waqf, hadis no. 1632. Lihat penjelasan rukun pada al-Kāsanī, *Badā'i' al-Ṣanā'i'*, 6:217–220; Ibn Qudāmah, *al-Mughnī*, 8:184–186.

[11]Al-Zuḥaylī, *al-Fiqh al-Islamī*, 10:7610–7616; al-Kubaisī, *Aḥkām al-Waqf*, 30–35; al-Khaṭīb al-Syarbīnī, *Mughnī al-Muḥtāj*, 3:522–528.

[12]Bashori and Romli, "Family Waqf from the Perspective of Law No. 41 of 2004," 170–180.

[13]Bouguerra, "The End of Islamic Family Law," 28–42.

[14]Cipto et al., "Waqf Law in the Muslim World," 10–18.

[15]Hunafa, "Family Law Renewal," 50–58.

Juillet 1957, *Code de Statute Personnel* of 13 August 1956, and Loi No. 24 of 2000 for Tunisia.[16]

Second, the *historical approach* is used to reconstruct the political, social, and ideological context behind the birth of the regulation. Third, **a** *conceptual approach* is used to examine the theoretical construction of family waqf in the four Sunni madhhabs and in the contemporary *maqāṣid al-syarī'ah* discourse al-Syāṭibī, al-Būṭī, and Jamāl al-Dīn 'Aṭiyyah.[17]

Primary data sources include the laws and regulations of the two countries and the main classical fiqh books, namely *al-Kāsānī' s* Badā'i' al-Ṣanā'i', *al-Khaṭīb al-Syarbīnī's* Mughnī, *Ibn Qudāmah*'s al-Mughnī, and *Wahbah al-Zuḥaylī's* al-Fiqh al-Islāmī wa Adillatuhu.[18]

Secondary sources include indexed journals of the last five years from the Sinta, DOAJ, Scopus, and ResearchGate databases. The data collection technique was carried out in a documentary manner through a literature study, while the analysis technique combined *content analysis* of regulatory articles with a comparative analysis that compared the two systems in a variable matrix: (i) the source of legitimacy, (ii) the scope of legitimacy, (iii) the management scheme, (iv) the dispute resolution mechanism, and (v) the socio-economic impact.

D. RESULTS AND DISCUSSION

1. Family Waqf in Classical Fiqh Discourse

Before entering the realm of modern regulations, it is important to place family waqf in the coordinates of classical fiqh. The hadith of the land of Khaibar, which is the starting point for the sharia of waqf, contains the insertion of *aṣ-ṣadaqah fī al-fuqarā' wa al-aqrabīn* — alms for the poor and relatives. This phrase becomes a textual backing for the sum of time to justify family waqf: the waqf can flow benefits to his own descendants as long as it is not for himself directly.[19]

The Ḥanafī madhhab through Abū Yūsuf and Muḥammad bin al-Ḥasan al-Syaibānī received the family waqf and established it as *an* irrevocable lāzim (binding). They demand the perpetuity of the allocation: waqf must eventually return to the public interest after the waqf's descendants are exhausted. Imam Abū Ḥanīfah himself was stricter, only binding waqf in three circumstances: court rulings, mosque waqf, and

[16]Republic of Indonesia, Law Number 41 of 2004 concerning Waqf; Government Regulation No. 42 of 2006 concerning the Implementation of Law No. 41/2004; Government Regulation Number 25 of 2018; Presidential Instruction No. 1 of 1991 (KHI Book III); Tunisia, *Decree of 31 May 1956*; *Decree of 18 July 1957*; *Personal Status Code (Majallat al-Aḥwāl al-Shakhṣiyyah),* 13 August 1956; Law No. 24 of 6 March 2000.

[17]Abu Isḥāq Ibrāhīm b. Musā al-Syāṭibī, *al-Muwāfaqāt fī Uṣūl al-Sharī'ah* (Cairo: Dār Ibn 'Affān, 1997), 2:17–25; Jamāl al-Dīn 'Aṭiyyah, *Naḥwa Taf'īl Maqāṣid al-Sharī'ah* (Damascus: Dār al-Fikr, 2003), 122–140.

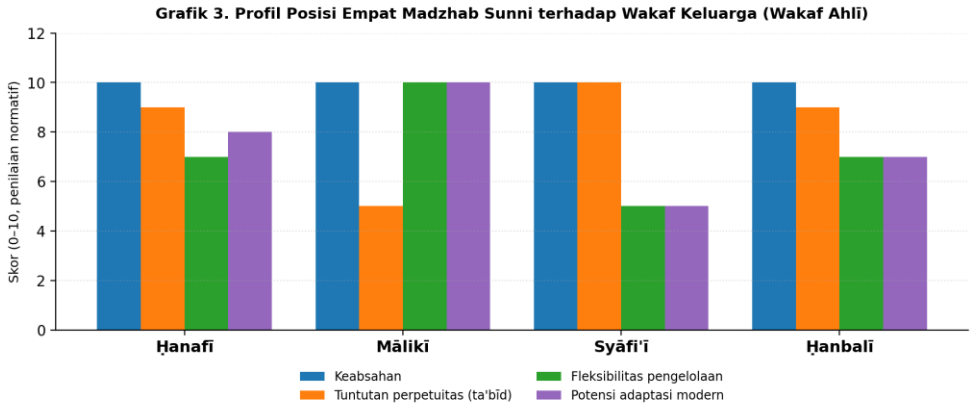
[18]Al-Kāsanī, *Badā'i' al-Ṣanā'i'*, 6:218–225; al-Khaṭīb al-Syarbīnī, *Mughnī al-Muḥtāj*, 3:522–530; Ibn Qudāmah, *al-Mughnī*, 8:184–200; al-Zuḥaylī, *al-Fiqh al-Islamī*, 10:7599–7625.

[19]Hadith of Ibn 'Umar about the land of Khaibar, al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, hadith no. 2737; al-Kubaisī, *Aḥkām al-Waqf*, 25–30.

waqf in the form of a will. The Mālikī madhhab appears to be the most flexible: waqf is seen *as lāzim* but the ownership remains *taqdīrī* and waqf can be *muqayyad* or limited in time, so that when the waqf's descendants are exhausted, the property can return to the original heirs. This is the most widely adopted in Moroccan traditions including *Tunisian ḥabūs* in the pre-1957 era.[20]

The Shafi'ī madhhab, the most widely practiced in the archipelago, accepts family waqf but requires absolute *ta'bīd*: there must be a final allocation to those who will not become extinct, such as the poor or sabilillah. Therefore, every *waqf of ahlī* Shafi'ī must have a transitional clause that guarantees its sustainability. The Ḥanbalī madhhab follows a similar pattern, but gives the wakif authority a little more leeway to determine the terms of its governance. This concise profile is visualized in Graph 3 below.[21]

Graph 3. Profile of the Position of the Four Sunni Madzhabs on Family Waqf



Source: the author's construction is based on al-Kāsānī, al-Khaṭīb al-Syarbīnī, Ibn Qudāmah, and al-Zuḥaylī.

Graph 3 shows that in the fourth dimension of validity the madhhab gives the maximum score — there is no fundamental dispute that family waqf is shari*'ī valid*. The main difference is in the dimensions *of ta'bīd* and flexibility: Mālikī is the most flexible and thus most compatible with modern reforms, while Shafi'ī is the most rigid because of the demands of *ta'bīd*. Consequently, Syāfi'ī-based legal systems (such as Indonesia) tend to require an additional layer of regulation to accommodate management flexibility, while Mālikī-based systems (such as pre-1957 Tunisia) are more susceptible to productivity criticism because they are too easy for waqifs to exploit for dynastic purposes.[22]

2. Regulation and Implementation of Family Waqf in Indonesia

a. Historical Trajectory and Sources of Legitimacy

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[20] Al-Kāsānī, *Badā'i' al-Ṣanā'i',* 6:218 (pendapat Abū Yūsuf dan Muḥammad bin al-Ḥasan al-Syaibānī mengenai kelaziman wakaf); al-Zuḥaylī, *al-Fiqh al-Islamī*, 10:7607–7613; al-Kubaisī, *Aḥkām al-Waqf*, 30–35.

[21] Al-Khaṭīb al-Syarbīnī, *Mughnī al-Muḥtāj*, 3:524–530; Ibn Qudāmah, *al-Mughnī*, 8:198–210; al-Zuḥaylī, *al-Fiqh al-Islamī*, 10:7616–7621.

[22] Konstruksi penulis berdasarkan al-Kāsanī, *Badā'i' al-Ṣanā'i',* 6:218–225; al-Khaṭīb al-Syarbīnī, *Mughnī al-Muḥtāj*, 3:522–530; Ibn Qudāmah, *al-Mughnī*, 8:184–210; dan al-Zuḥaylī, *al-Fiqh al-Islamī*, 10:7599–7625.

Waqf regulations in Indonesia have developed in layers since the colonial era. Bijblad No. 6196 of 1905, No. 12573 of 1931, No. 13390 of 1934, and No. 13480 of 1935 are administrative instruments of the Dutch East Indies government that touch more on the aspect of registration than on the substance of sharia. After independence, Law No. 5 of 1960 concerning the Basic Regulations of Agrarian Principles (UUPA) was born, then Government Regulation No. 28 of 1977 became the first milestone that specifically regulated the waqf of owned land nationally.[23]

The next milestone was Presidential Instruction No. 1 of 1991 which disseminated the Compilation of Islamic Law. Book III of the KHI regulates waqf in Articles 215 to 229. Article 215 paragraph (1) defines waqf as a legal act of a person or group or legal entity that separates part of his property and institutionalizes it forever for the benefit of worship or other public purposes according to Islamic teachings. The culmination was Law No. 41 of 2004 concerning Waqf which was contained in the Statute Book of 2004 Number 159, which was then supplemented by Government Regulation No. 42 of 2006 and amended by Government Regulation No. 25 of 2018.[24]

b. Key Articles on which Family Waqf Rests

In contrast to the common assumption, Law No. 41 of 2004 does not explicitly mention the term *ahlī waqf* or family waqf. Its validity is actually based on the joint construction of several articles that open up space for family designation. Article 1 number 1 defines waqf as a legal act of waqf to separate and/or hand over part of his property to be used forever or for a certain period of time according to his interests. The phrase *in accordance with its importance* is what gives substantive authority to the wakif to determine the allocation. Article 23 paragraph (1) emphasizes that the determination of the allocation of waqf assets is carried out by the waqf, as long as it is in accordance with the function of waqf as referred to in Article 5.[25]

The key to the interpretation of these articles lies in the combination of (i) the right of waqf to determine the designation, (ii) still including the dimension of the public interest, and (iii) it does not contradict sharia. Because in sharia family waqf is valid — as shown in Graph 3 — the allocation to the family, as long as there is a final clause for the public interest, does not violate the law. Table 1 below maps the key articles on which family waqf in Indonesia rests.[26]

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[23]Directorate of Waqf Empowerment, Directorate General of Islamic Community Guidance, Ministry of Religion of the Republic of Indonesia, *Final Report of the Study Team on the Legal Aspects of Money Waqf* (Jakarta: BPHN, 2009), 12–22, https://bphn.go.id/data/documents/pkj_aspek_hukum_wakaf_uang.pdf; Eti Sugiyanti, Komaruddin, and Aripin Ahmad Hakim, "An Analysis of the Concept and Regulation of Waqf in Indonesia," *Iqtishad Sharia: Journal of Sharia Economic Law and Islamic Finance* 3, no. 2 (2025): 88–94, https://journal.albadar.ac.id/index.php/iqtishadsharia/article/view/221.

[24]Republic of Indonesia, Presidential Instruction No. 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law, Book III Chapter I Article 215 paragraph (1); Republic of Indonesia, Law Number 41 of 2004 concerning Waqf, Article 1 number 1 and Article 22.

[25]Republic of Indonesia, Law Number 41 of 2004 concerning Waqf, Article 1 number 1, Article 5, Article 22, and Article 23 paragraph (1); see Bashori and Romli, "Family Waqf," 172–174.

[26]Republic of Indonesia, Law Number 41 of 2004, Articles 5, 22, and 23 paragraphs (1); Presidential Instruction Number 1 of 1991 (KHI) Article 215 paragraph (1); compare Bashori and Romli, "Family Waqf," 174–178.

Table 1. Map of Key Articles of Family Waqf in Indonesia

Article	Source	Substances Relevant to Family Waqf
Article 1 number 1	Law No. 41/2004	The definition of waqf that gives rights to the waqf stipulates the allocation according to its interests, as long as it is within the sharia corridor.
Article 5	Law No. 41/2004	The function of waqf is to realize the potential and economic benefits of waqf property for worship and general welfare.
Article 22	Law No. 41/2004	Five categories of waqf allocation (worship; education/health; social assistance; people's economy; other public benefits).
Article 23 paragraph (1)	Law No. 41/2004	The right to determine the allocation by the wakif as long as it is in accordance with the function of waqf — a key article that opens the family waqf space.
Article 40	Law No. 41/2004	The prohibition of making waqf property as collateral, confiscation, grant, sale, inheritance, or exchange — protection for the sustainability of family waqf.
Article 215 paragraph (1)	KHI (Presidential Inauguration 1/1991)	The definition of waqf for the purpose of worship or other public purposes — includes the designation of the family as a charitable cause.
Article 223 paragraphs (3–4)	KHI (Presidential Inauguration 1/1991)	The procedure for pledging waqf in front of PPAIW with two witnesses — mandatory for all types of waqf including family waqf.
Article 21 letter b	PP No. 42/2006	Expansion of the type of movable property (including IPR) — expanding the object of family waqf.

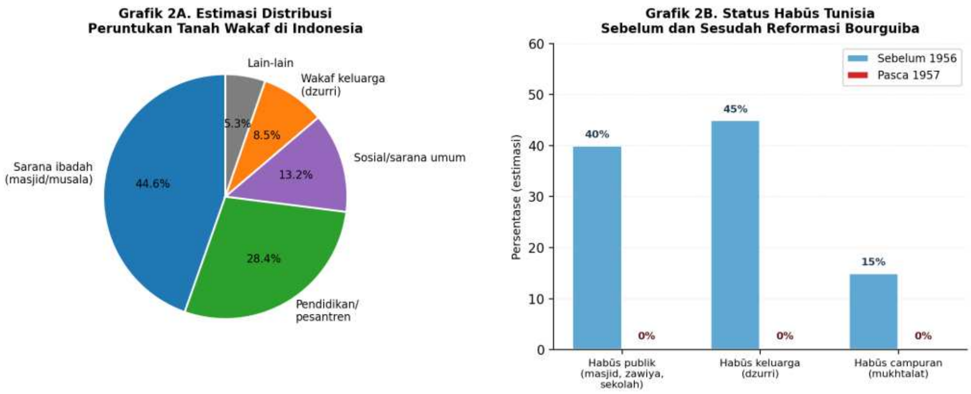
Source: the author's processed results from Law No. 41/2004, KHI, and Government Regulation No. 42/2006.

Table 1 shows one important fact: the validity of family waqf in Indonesia does not rely on a single article, but on the combined construction of several articles that complement each other. This is why many practitioners describe the position of Law 41/2004 as **permissive-implicit**: it does not prohibit family endowments, but it does not regulate them specifically.[27]

c. Implementation and Problems in the Community

In practice, family waqf in Indonesia is generally in the form of land, buildings, or pesantren which the waqf is intended first for children and grandchildren as administrators and beneficiaries. This pattern is very common among traditional cleric families and Islamic boarding schools, and in classical fiqh it is known as *waqf mushtarak*.[28]

Graphs 2A–2B. Distribution of Waqf Allocation in Indonesia and Tunisia's Ḥabūs Status



Source: author's estimate based on BWI Indonesia data patterns; Tunisian data from Bouguerra (2019) and ICEC (2025).

As read in Graph 2A, the majority of waqf in Indonesia is in the form of means of worship (around 44.6%) and education (28.4%), while pure family waqf only occupies a small portion (estimated 8.5%). This small number hides a larger significance: almost all traditional Islamic boarding school waqf in Java, Madura, and Nusa Tenggara structurally contain a layer of family waqf in it — the founding family serves as *a hereditary nāẓir* .[29]

The biggest implementation problem arises when the next generation of wakif questions the status of assets. The source of conflict is usually three things: (i) the

[27]Bashori and Romli, "Family Waqf," 178–185; Sugiyanti, Komaruddin, and Hakim, "An Analysis of the Concept and Regulation of Waqf," 90–96.

[28]Rifka Dwi Anggraini, Nurul Dini Dewi, and Muhammad Rofiq, "Optimizing the Potential of Waqf in Indonesia: The Challenges and Role of Digitalization in Strengthening the Benefits of Waqf for the Community," *Journal of Islamic Business Management Studies* 5, no. 1 (2024): 22–28, https://doi.org/10.51875/jibms.v5i1.292; Mahrus, Ida Ayu Musfiroh, and Gita Septi Rachmah, "Waqf Asset Management for the Development of Islamic Education," *Islamic Education: Journal of Islamic Education* 12, no. 4 (2024): 1–10, https://doi.org/10.30868/ei.v12i001.8148.

[29]Estimated data from the Indonesian Waqf Agency (BWI) and the Directorate of Waqf Empowerment, Ministry of Religion of the Republic of Indonesia; compare Bouguerra, "The End of Islamic Family Law," 38–44; Islamic Center for Economics and Culture, *The Tunisian Waqf Experience: A Historical-Legal Review* (ICEC, 2025), https://icec.my/tunisian-waqf/.

absence of a Waqf Pledge Deed because the pledge is made orally traditionally; (ii) the unclear formulation of provisions in the existing Act; and (iii) a shift in values between generations that make descendants no longer view waqf as a sacred trust. Article 40 of Law 41/2004 prohibiting diversion of any kind is supposed to be a shield, but its effectiveness depends on written evidence that is often absent.[30]

It is in this context that *the most sharp research gap in Indonesia's regulations is seen: Law 41/2004 has not provided technical arrangements for the management of family waqf, including a mechanism for the replacement of the family waqf,* the maximum limit of the descendants *of the beneficiaries, and a mandatory clause for the transition to the public interest when the descendants run out.*[31]

3. Regulation and Implementation of Family Waqf in Tunisia

a. The Political-Ideological Context of the Bourguiba Reform

To understand why Tunisia abolished waqf, the position of the article must be read in the context of the post-independence state modernization project. Tunisia gained independence from France on March 20, 1956. Habib Bourguiba — a graduate of the University of Paris and Sciences Po, an admirer of the secularism of the French Republic — immediately took over executive power and issued a series of decrees that shocked the Islamic world: the dissolution of religious courts (1956), the promulgation *of the Code de Statute Personnel* on August 13, 1956 abolishing polygamy and marriage guardians, the dissolution of Zaytuna University, and the abolition of *ḥabūs*.[32]

The logic of deletion is based on four arguments. First, the economic argument: in 1883 about half of Tunisia's agricultural land (about 570,000 hectares) had waqf status which according to Bourguiba froze the land from the circulation of the modern economy. Second, the social argument: *the family ḥabūs* are often used to exclude daughters from inheritance. Third, the administrative argument: the *pre-independence ḥabūs* were managed by Jam'iyyat al-Awqāf which was considered to be plagued by corruption. Fourth, the ideological-modernist argument: in the French vision of a secular state, welfare is the responsibility of the state, not *a religious* trust.[33]

b. Key Articles of Abolition of Ḥabūs

The removal was carried out in stages. **The decree of May 31, 1956** dissolved the Jam'iyyat al-Awqāf and transferred all public *ḥabūs* (mosques, madrasahs, *zawiya*) to state ownership. **The decree of July 18, 1957** then completed the agenda: all remaining *ḥabūs*—including *family (*ahlī*) and mixed (*mukhtalaṭ*)* *ḥabūs*—were liquidated.

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[30] Republic of Indonesia, Law Number 41 of 2004, Article 40 and Article 67 (criminal provisions); Bashori and Romli, "Family Waqf," 180–185.

[31] Sugiyanti, Komaruddin, and Hakim, "An Analysis of the Concept and Regulation of Waqf," 96–100; Anggraini, Dewi, and Rofiq, "Optimizing the Potential of Waqf," 30–35; Bashori and Romli, "Family Waqf," 186–190.

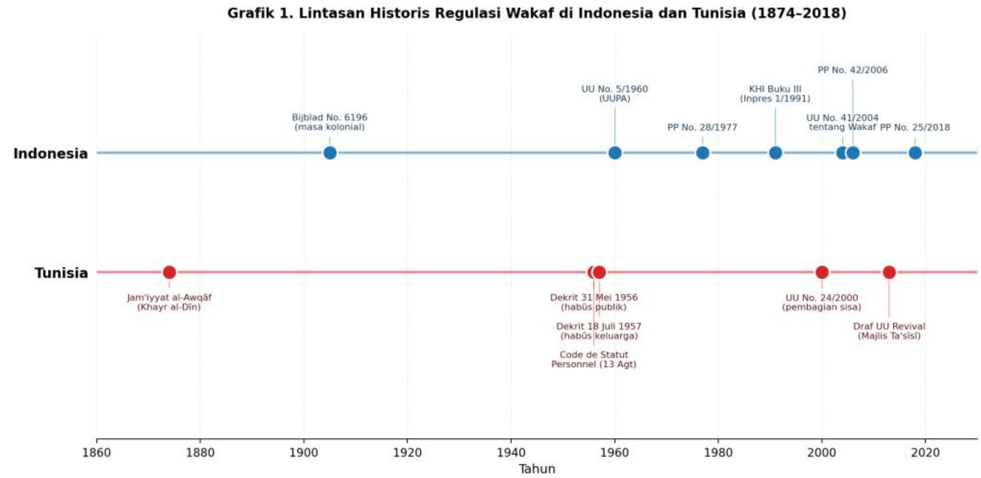
[32] Bouguerra, "The End of Islamic Family Law," 18–38; see also Hunafa, "Family Law Renewal," 52–60.

[33] Bouguerra, "The End of Islamic Family Law," 44–55; Aida Marzoughi, "Tunisia's Ancient Social Safety Net Is Seen as an Untapped Resource," *The Christian Science Monitor*, 7 April 2022, https://www.csmonitor.com/World/Middle-East/2022/0407/Giving-back-is-a-universal-form-of-faith.-Can-Tunisia-revive-unused-trusts.

The lands are returned to the original heirs or absorbed by the state. In 1959, the first Constitution of the Republic of Tunisia no longer contained *ḥabūs* as a protected institution.[34]

Four decades later, **Loi No. 24 of 2000** regulated the settlement of the remains of *ḥabūs* property whose status is still unclear. Post-revolution 2011, a wave of revival emerged: in 2013 a draft law that would revive the institution of waqf was submitted to the Ta'sīsī Council, but failed to be ratified. To this day, Tunisia remains the only Arab country to legally abolish waqf, both public and family, in total.[35]

Graph 1. The Historical Trajectory of Waqf Regulation in Indonesia and Tunisia (1874–2018)



Source: the author's construction results based on various historical documents.

Graph 1 shows a structural contrast: Indonesia experienced a cumulative accumulation of consolidative regulations (1905 → 1960 → 1977 → 1991 → 2004 → 2006 → 2018), while Tunisia experienced **a concentrated deregulatory boom** in the brief period of 1956–1957, followed by a long vacuum and unsuccessful revival efforts. The trajectory of both reflects two different philosophies of law: **continuity-reformative** versus **rupture-revolutionary**.[36]

c. Implementation and Social Impact in Tunisian Society

The impact of *the removal of ḥabūs* has two sides. On the positive side, land mobility has increased dramatically, allowing for the modernization of agriculture and property investment, as well as improving the status of women in inheritance. But on the downside, Tunisian cities today are littered with abandoned shops, bush-strewn farmland, and unmaintained ancient buildings— former *properties of ḥabūs* left in legal

[34]Tunisia, *Decree of 31 May 1956 on the abolition of public ḥabūs*; *Decree of 18 July 1957 on the abolition of private (ahlī) and mixed (mukhtalaṭ) ḥabūs*; Bouguerra, "The End of Islamic Family Law," 52–62.

[35]Tunisia, *Loi No. 24 du 6 mars 2000 portant régularisation des biens habūs*; Cipto et al., "Waqf Law in the Muslim World," 14–20; Marzoughi, "Tunisia's Ancient Social Safety Net."

[36]Bouguerra-based author's construction, "The End of Islamic Family Law," 14–62; Cipto et al., "Waqf Law in the Muslim World," 4–22; and a series of Indonesian regulations from Bijblad 1905 to Government Regulation No. 25 of 2018.

limbo. Madrasas, student housing, and historic *zawiyas* that were once independent now depend on a limited state budget.[37]

Macroeconomic indicators have also worsened: with an unemployment rate of around 14.9%, a national debt of 94% of GDP, and inflation and poverty rising post-2011, the country's social safety net is beginning to crack. Tunisian academics began to see waqf not as a relic but as a cultural asset that could be an alternative to institutional philanthropy. Tunisia thus faces a paradox: it abolished waqf on charges of unproductivity, but the loss of the instrument reduced its capacity to provide sustainable public services.[38]

4. Comparative Analysis: Two Philosophies of Law, Two Types of Problems

Confronting Indonesia and Tunisia directly dismantles the layers of analysis that are usually hidden in *single-country studies*. Table 2 below summarizes the comparative matrix of the five main variables.[39]

Table 2. Family Waqf Comparative Matrix: Indonesia vs Tunisia

Variabel	Indonesia	Tunisia
Validity status	Legal, implicitly recognized through Law 41/2004 and KHI; Combined construction of several articles.	Completely abolished since 1957; There is no legal institution of family waqf.
Source of legitimacy	Law No. 41/2004, KHI (Presidential Instruction 1/1991), PP 42/2006, PP 25/2018.	Deck ride 31 May 1956; Deck ride 18 July 1957; Code de Statut Personnel 1956.
Legal philosophy	Reform-integration: preserving institutions with state signs.	Revolutionary-elimination: modernization via total elimination.
Dominant maddhhab	Shafiʿī (majority), with the Hanafi-Maliki contribution in the KHI.	Maliki (pra-1957); kini Code Civil sekuler.
Pengelolaan	Nāẓir family or Indonesian Waqf Agency	Not applicable; The land is transferred to private or state owners.

[37]Marzoughi, "Tunisia's Ancient Social Safety Net"; Islamic Center for Economics and Culture, *The Tunisian Waqf Experience*; Cipto et al., "Waqf Law in the Muslim World," 16–22.

[38]Marzoughi, "Tunisia's Ancient Social Safety Net" (containing data on unemployment of 14.9%, national debt of 94% of GDP, and an interview with Dr. Chibani Ben Belghit); Cipto et al., "Waqf Law in the Muslim World," 18–22.

[39]Republic of Indonesia, Law No. 41 of 2004; Tunisia, *Décret 31 May 1956* and *Décret 18 July 1957*; compare Bashori and Romli, "Family Waqf," 176–185, and Cipto et al., "Waqf Law in the Muslim World," 12–22.

Variabel	Indonesia	Tunisia
	(BWI); PPAIW is mandatory.	
Dispute mechanism	the Religious Court; internal mediation; Article 40 of Law 41/2004 as protection.	Ordinary civil courts; Many cases are abandoned due to the loss of documents.
Main problems	Family disputes, productive stagnation, absence of technical arrangements.	The loss of philanthropic nets, abandoned properties, reduced public service capacity.
Current trends	Strengthening productive waqf (BWI, money waqf, sukuk).	Post-2011 revival discourse; The draft law of 2013 has not yet been passed.

Source: the author's work.

Table 2 shows that Indonesia and Tunisia are not only different in the content of the article, but also different in paradigm. Indonesia views family waqf as a *sharia institution* that must be preserved with administrative signs, while Tunisia views it as a pre-modern relic that must be removed for the sake of progress. The two paradigms produce two types of complementary problems: Indonesia has an excess of institutions but lacks technical regulation, Tunisia has an excess of secular regulation but lacks philanthropic institutions.[40]

a. Analysis of Each Article: What Is Really Being Debated?

A review of article by article reveals that the two legal systems actually agree on the same basic premise: waqf property must not be a tool of exploitation or social injustice. The difference is only in the method of prevention. Article 22 of Law 41/2004 resolves this by establishing a category of legal designation; Article 23 complements by handing over discretion to the waqf; Article 40 guarantees sustainability with a prohibition of diversion. Instead, the Decrees of May 31, 1956 and July 18, 1957 solved the problem by abolishing its institutions altogether—a radical approach that left a structural void.[41]

The critical question is: does Indonesia need to imitate Tunisia's path, or vice versa? The study argues that both are extreme and require moderation. Indonesia does not need to abolish family waqf, but it needs to add a technical article that regulates (i) the limit of the beneficiary's descendants, (ii) a mandatory clause for the transition to

[40]Republic of Indonesia, Law Number 41 of 2004, Articles 22, 23, and 40; Tunisia, *Decree of 31 May 1956* and *Decree of 18 July 1957*.

[41]Sugiyanti, Komaruddin, and Hakim, "An Analysis of the Concept and Regulation of Waqf," 95–100; Cipto et al., "Waqf Law in the Muslim World," 18–22; Marzoughi, "Tunisia's Ancient Social Safety Net."

the public interest when the descendants run out, (iii) *a transparent mechanism for the replacement of nāẓir*, and (iv) the standardization of the Waqf Pledge Deed. Tunisia on the other hand needs to consider the revival of waqf in a modern framework: corporate-based productive waqf and money waqf managed by Islamic financial institutions.

b. Maqāṣid-Based Solutions: Conditional Integrative Model

As a synthesis, this study proposes a **Conditional Integrative Model** — a policy framework that maintains the waqf family dimension as in Indonesia, while minimizing the economic distortions that prompted Tunisia to abolish it. This model stands on the three pillars of *maqāṣid al-syarī'ah*: (i) *ḥifẓ al-māl* — productive preservation of wealth; (ii) *ḥifẓ al-nasl* — protection of offspring from structural poverty; (iii) *Ḥifẓ al-Dīn* — the preservation of the institution of waqf as *māliyyah worship*. These three pillars are translated into four operational clauses in Table 3.[42]

Table 3. Maqāṣid Pillars and Operational Clauses of Conditional Integrative Model

Pilar Maqāṣid	Operational Clauses	Comparative Justification
Ḥẓ al-māl (protection of property)	Requiring each family waqf to be managed in a productive scheme for a maximum of 5 years from the time of the pledge; Otherwise, the status changes to general waqf.	Answering Bourguiba's main criticism that waqf freezes land from economic circulation.
Ḥifẓ al-nasl (protection of offspring)	Limiting the descendants of beneficiaries to three generations after the waqf, with an automatic transition clause to the public interest thereafter.	Accommodating the Mālikī principles of muqayyad and Shafi'ī of ta'bīd in a single design.
Ḥifẓ al-dīn (religious protection)	Maintaining the pledge before PPAIW or equivalent officials as a condition of validity, so that the religious dimension is maintained.	Guarantee the accountability lost when Tunisia's Jam'iyyat al-Awqāf was dissolved without a replacement.

[42]Al-Syāṭibī, *al-Muwāfaqāt*, 2:17–25; 'Aṭiyyah, *Naḥwa Taf'īl Maqāṣid al-Sharī'ah*, 130–145; al-Zuḥaylī, *al-Fiqh al-Islāmī*, 10:7625–7630.

Pilar Maqāṣid	Operational Clauses	Comparative Justification
Ḥifẓ al-'aql + al-'irḍ (accountability)	Require annual report of the family nāẓir to BWI or a successor institution; Criminal sanctions Article 67 of Law 41/2004 apply.	Prevent abuse to avoid faraid and maintain the honor of waqf institutions.

Source: authors' constructions based on al-Syāṭibī (al-Muwāfaqāt) and 'Aṭiyyah (Naḥwa Taf'īl Maqāṣid al-Syarī'ah).

The four operational clauses are not new engineering, but rather a reconceptualization that combines the strengths of the four classical schools with modern criticism. The first clause answers Tunisia's concerns about land stagnation; the second clause resolves the tension between *ta'bīd* Syāfi'ī and *the muqayyad* Mālikī; the third and fourth clauses provide administrative accountability that is absent in the pre-1957 Tunisian tradition and still weak in contemporary Indonesian practice.[43]

c. Key Insights and Research Contributions

Three main *insights* can be drawn. First, the debate on family waqf in the contemporary era is actually not a sharia debate but a public policy debate; Four classical Sunni schools agree on its validity. Second, these two extreme choices both have unintended consequences: Indonesia allows a technical vacuum that gives birth to family disputes, Tunisia creates an institutional vacuum that gives birth to philanthropic stagnation. Third, the Conditional Integrative Model shows that the middle ground is theoretically possible and practically testable—not by sacrificing one paradigm, but by reframing the elements of sharia in *modern regulatory* grammar.[44]

E. CONCLUSION

This research has answered four objectives proposed at the beginning. First, the regulatory framework for family waqf in Indonesia rests on the combined construction of Articles 1, 5, 22, 23, and 40 of Law No. 41 of 2004 plus KHI Articles 215–229 and PP No. 42/2006 jo. PP No. 25/2018 — an implicit permissive recognition but not accompanied by specific technical arrangements. Tunisia instead abolished it through the Decree of May 31, 1956 (for *public ḥabūs*) and the Decree of July 18, 1957 (for *family and mixed* ḥabūs), strengthened the *Code de Statute Personnel* 1956. Second, the legal philosophy of both reflects two different paradigms: continuity-reformative (Indonesia) versus rupture-revolutionary (Tunisia). Third, the implementation of both results in complementary problems: family disputes and productivity stagnation in Indonesia, the loss of social safety nets and abandoned property in Tunisia. Fourth, the Conditional Integrative Model based on the three pillars *of maqāṣid al-syarī'ah* —

[43]Al-Syāṭibī, *al-Muwāfaqāt*, 2:8–25; 'Aṭiyyah, *Naḥwa Taf'īl Maqāṣid al-Sharī'ah*, 120–150; bandingkan al-Kāsānī, *Badā'i' al-Ṣanā'i',* 6:218–225 dan al-Khaṭīb al-Syarbīnī, *Mughnī al-Muḥtāj*, 3:524–530.

[44]Bashori dan Romli, "Wakaf Keluarga," 185–190; Bouguerra, "The End of Islamic Family Law," 56–62; Cipto et al., "Waqf Law in the Muslim World," 20–22; al-Syāṭibī, *al-Muwāfaqāt*, 2:17–25.

ḥifẓ al-māl, *ḥifẓ al-nasl*, and *ḥifẓ al-dīn* — offers a middle ground that maintains the validity of family waqf while guaranteeing its productivity. Further research can test this model empirically in Indonesian Religious Courts and test Tunisian people's acceptance of revival proposals that are more compatible with the country's modernization goals.

DAFTAR PUSTAKA

Anggraini, Rifka Dwi, Nurul Dini Dewi, dan Muhammad Rofiq. "Optimalisasi Potensi Wakaf di Indonesia: Tantangan dan Peran Digitalisasi dalam Penguatan Manfaat Wakaf bagi Masyarakat." *Journal of Islamic Business Management Studies* 5, no. 1 (2024). https://doi.org/10.51875/jibms.v5i1.292.

'Aṭiyyah, Jamāl al-Dīn. *Naḥwa Taf'īl Maqāṣid al-Syarī'ah*. Damaskus: Dār al-Fikr, 2003.

Bashori, Achmad, dan Mohammad Romli. "Wakaf Keluarga Perspektif UU No. 41 Tahun 2004 dan Maqāṣid al-Usrah Jamāl al-Dīn 'Aṭiyyah." *Mahakim: Journal of Islamic Family Law* 5, no. 2 (2021). https://jurnalfasya.iainkediri.ac.id/index.php/mahakim/article/view/137.

Bouguerra, Salma. *The End of Islamic Family Law: Tunisia's 1956 Personal Status Code*. Honors Thesis, Bates College, 2019. https://scarab.bates.edu/honorstheses/294.

Cipto, Sutarto, Zainul Arifin, Saiful Rizal Ahmad, dan Hari Restu Supriati. "Waqf Law in the Muslim World: A Study of the Organization and Administration of Waqf in Tunisia," Vol. 3, No. 1 (2025). https://www.researchgate.net/publication/389029778.

Direktorat Pemberdayaan Wakaf, Direktorat Jenderal Bimbingan Masyarakat Islam, Kementerian Agama RI. *Laporan Akhir Tim Pengkajian tentang Aspek Hukum Wakaf Uang*. Jakarta: BPHN, 2009. https://bphn.go.id/data/documents/pkj_aspek_hukum_wakaf_uang.pdf .

Hunafa: Jurnal Studia Islamika. "Pembaruan Hukum Keluarga: Wasiat untuk Ahli Waris (Studi Komparatif Tunisia, Syria, Mesir, dan Indonesia)," Vol. 20, No. 1 (2023). https://jurnalhunafa.org/index.php/hunafa/article/view/364.

Ibn Qudāmah, Muwaffaq al-Dīn 'Abd Allāh b. Aḥmad. *Al-Mughnī*. Riyaḍ: Dār 'Ālam al-Kutub, 1997.

Indonesia. Instruksi Presiden Nomor 1 Tahun 1991 tentang Penyebarluasan Kompilasi Hukum Islam (Buku III: Hukum Perwakafan, Pasal 215–229).

Indonesia. Undang-Undang Nomor 41 Tahun 2004 tentang Wakaf. Lembaran Negara Republik Indonesia Tahun 2004 Nomor 159. https://www.bwi.go.id/wp-content/uploads/2019/09/Undang-undang-No.-41-2004-Tentang-Wakaf.pdf.

Indonesia. Peraturan Pemerintah Nomor 42 Tahun 2006 tentang Pelaksanaan Undang-Undang Nomor 41 Tahun 2004 tentang Wakaf.

Indonesia. Peraturan Pemerintah Nomor 25 Tahun 2018 tentang Perubahan atas Peraturan Pemerintah Nomor 42 Tahun 2006.

Islamic Center for Economics and Culture. *The Tunisian Waqf Experience: A Historical-Legal Review*. ICEC, 2025. https://icec.my/tunisian-waqf/.

Al-Kāsānī, 'Alā' al-Dīn. *Badā'i' al-Ṣanā'i' fī Tartīb al-Sharā'i'*. Beirut: Dār al-Kutub al-'Ilmiyyah, t.t.

Al-Khaṭīb al-Syarbīnī, Muḥammad b. Aḥmad. *Mughnī al-Muḥtāj ilā Ma'rifati Ma'ānī Alfāẓ al-Minhāj*. Beirut: Dār al-Kutub al-'Ilmiyyah, 1994.

Al-Kubaisī, Muḥammad 'Ubayd. *Aḥkām al-Waqf fī al-Sharī'ah al-Islāmiyyah*. Baghdad: Maṭba'at al-Irshād, 1972.

Mahrus, Ida Ayu Musfiroh, dan Gita Septi Rachmah. "Manajemen Aset Wakaf untuk Pengembangan Pendidikan Islam." *Edukasi Islami: Jurnal Pendidikan Islam* 12, no. 4 (2024). https://doi.org/10.30868/ei.v12i001.8148.

Marzoughi, Aida. "Tunisia's Ancient Social Safety Net Is Seen as an Untapped Resource." *The Christian Science Monitor*, 7 April 2022. https://www.csmonitor.com/World/Middle-East/2022/0407/Giving-back-is-a-universal-form-of-faith.-Can-Tunisia-revive-unused-trusts.

Sugiyanti, Eti, Komaruddin, dan Aripin Ahmad Hakim. "Analisis Mengenai Konsep dan Regulasi Wakaf di Indonesia." *Iqtishad Sharia: Journal of Sharia Economic Law and Islamic Finance* 3, no. 2 (2025). https://journal.albadar.ac.id/index.php/iqtishadsharia/article/view/221.

Al-Syāṭibī, Abū Isḥāq Ibrāhīm b. Mūsā. *Al-Muwāfaqāt fī Uṣūl al-Syarī'ah*. Kairo: Dār Ibn 'Affān, 1997.

Tunisia. *Décret du 31 mai 1956 portant suppression des ḥabūs publics*.

Tunisia. *Code du Statut Personnel (Majallat al-Aḥwāl al-Shakhṣiyyah)*, promulgué le 13 août 1956.

Tunisia. *Décret du 18 juillet 1957 portant suppression des ḥabūs privés (ahlī) et mixtes (mukhtalaṭ)*.

Tunisia. *Loi No. 24 du 6 mars 2000 portant régularisation des biens ḥabūs*.

Al-Zuḥaylī, Wahbah Muṣṭafā. *Al-Fiqh al-Islāmī wa Adillatuhu*. Vol. 10. Damaskus: Dār al-Fikr, t.t.