



## INTEGRATING QUR'ANIC THEMATIC EXEGESIS AND LEGAL REGULATION IN RESOLVING WAQF DISPUTES IN INDONESIA

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### ABSTRACT

*Throughout 2023, there was a significant increase in waqf disputes in Indonesia, indicating a complex interaction between social customs, positive law, and religious traditions. Using thematic interpretation techniques and legal provisions for resolving waqf litigation in Indonesia, this study seeks to examine the acculturation of Qur'anic values. Employing a qualitative research method with a normative-sociological legal approach, this study analyzes primary data in the form of laws and regulations related to waqf, religious court decisions in 2023, and interviews with actors involved in waqf protection and dispute resolution. The findings show that waqf dispute resolution in Indonesia in 2023 was dominated by issues related to the ownership status of waqf land, the determination of nazir, and the use of waqf benefits that contradicted the objectives of the waqf. The thematic interpretation of Qur'anic verses related to waqf, particularly QS. Ali 'Imran [3]: 92, QS. al-Baqarah [2]: 261, and QS. al-Baqarah [2]: 271, produces an understanding that waqf is a multidimensional form of worship containing spiritual, social, and economic dimensions. The acculturation of these Qur'anic values with positive legal regulations, particularly Law Number 41 of 2004 concerning Waqf and the regulations of the Indonesian Waqf Board, creates a framework for dispute resolution based on the principles of benefit, justice, and the preservation of waqf assets. This study recommends the need to harmonize public religious understanding with positive legal regulations through waqf education based on thematic interpretation and by strengthening the role of the Indonesian Waqf Board in mediating waqf disputes.*

**Keywords:** Acculturation, Thematic Exegesis, Waqf Regulation, Waqf Disputes, Indonesian Waqf Board

### ABSTRAK

*Sepanjang tahun 2023, terjadi peningkatan yang signifikan dalam sengketa wakaf di Indonesia, yang menunjukkan adanya interaksi kompleks antara adat istiadat sosial, hukum yang menguntungkan, dan tradisi keagamaan. Dengan menggunakan teknik interpretasi tematik dan persyaratan hukum untuk menyelesaikan litigasi wakaf di Indonesia, penelitian ini berupaya menyelidiki akulturasi cita-cita Al-Qur'an. Dengan menggunakan metode penelitian kualitatif*

*dengan pendekatan hukum normatif-sosiologis, penelitian ini mengkaji data primer berupa hukum dan peraturan terkait wakaf, putusan pengadilan agama tahun 2023, dan wawancara dengan aktor penyelamat wakaf. Temuan menunjukkan bahwa kekhawatiran terkait status kepemilikan tanah wakaf, penentuan nazir, dan penggunaan keuntungan wakaf yang bertentangan dengan tujuan pendiri mendominasi penyelesaian wakaf di Indonesia pada tahun 2023. Pendekatan penafsiran tematik terhadap ayat-ayat wakaf dalam Al-Qur'an, khususnya QS. Ali 'Imran [3]: 92, QS. al-Baqarah [2]: 261, dan QS. al-Baqarah [2]: 271, menghasilkan pemahaman bahwa wakaf adalah ibadah multidimensi yang mengandung dimensi spiritual, sosial, dan ekonomi. Kerangka kerja untuk menyelesaikan sengketa berdasarkan konsep manfaat, keadilan, dan pelestarian aset wakaf diciptakan melalui akulturasi nilai-nilai Al-Qur'an ini dengan peraturan perundang-undangan yang menguntungkan, khususnya Undang-Undang Nomor 41 Tahun 2004 tentang Wakaf dan Peraturan Badan Wakaf Indonesia. Studi ini merekomendasikan perlunya harmonisasi antara pemahaman keagamaan masyarakat dan peraturan hukum yang positif melalui pendidikan wakaf berdasarkan penafsiran tematik dan penguatan peran Badan Wakaf Indonesia dalam menengahi sengketa wakaf.*

**Kata Kunci:** *Akulturasi, Tafsir Tematik, Regulasi Wakaf, Sengketa Wakaf, Badan Wakaf Indonesia*

## 1. INTRODUCTION

Since the arrival of Islam in the archipelago, Indonesia, the country with the largest Muslim population in the world, has developed a waqf culture. In addition to being a religious practice, the waqf tradition has evolved into an important component of the socio-economic structure of Indonesian society (Tahir, 2021, pp. 23–25). In the Indonesian context, waqf is not merely the transfer of ownership of property from individuals to the public domain, but also a manifestation of Muslims' spiritual commitment to the common good (Aminuddin, 2022, pp. 45–48).

However, the practice of waqf in Indonesia has not always developed smoothly. Many waqf-related problems continue to arise due to differences between positive legal norms governing waqf, traditional practices, and popular religious understanding. According to data from the Supreme Court of the Republic of Indonesia, there was a 23% increase in waqf disputes submitted to religious courts in 2023 compared to the previous year (Supreme Court of the Republic of Indonesia, 2024, p. 56). These disputes endanger the continuity of the socio-economic function of waqf assets themselves, in addition to causing horizontal conflicts among community members.

In 2023, waqf disputes in Indonesia demonstrated more complex characteristics. Conflicts now include the management of waqf by nazhir, the conversion of waqf land, and the use of waqf assets for commercial purposes, in

addition to family disputes concerning the validity of waqf land (Umam, 2023, pp. 78–82). The overlapping jurisdictions of district courts, religious courts, and the Indonesian Waqf Board in resolving waqf issues further add to this complexity (Aminuddin, 2022, pp. 156–160).

Waqf has a strong foundation in the Qur'an and Sunnah within the context of Islamic thought. Qur'anic verses related to waqf contain important principles that serve as the legal basis for waqf, even though these verses do not specifically use the term waqf (Abu Zahrah, 2009, pp. 34–38). Researchers can identify important themes relevant to the current context of waqf disputes in Indonesia by applying a thematic interpretation method to these verses. Thematic interpretation provides a comprehensive and organized analytical framework, namely a system that analyzes Qur'anic verses based on specific topics (Shihab, 2002, pp. 45–50).

Meanwhile, positive waqf law in Indonesia has undergone significant changes over time. A key component in the development of waqf legislation in Indonesia is Law Number 41 of 2004 concerning Waqf (Waqf Law) (Law Number 41 of 2004, 2004). Nevertheless, several challenges remain in the implementation of the Waqf Law, particularly in relation to the harmonization of Islamic law, positive law, and customary law (Aminuddin, 2022). Considering the various policy efforts undertaken by the government and the Indonesian Waqf Board to reform the national waqf system, 2023 represents an important year in this regard.

### **The Theory of Waqf from an Islamic Perspective**

In Islamic legal terminology, waqf refers to the ownership of property that has the potential to generate benefits and the dedication of such property to another party for charitable purposes, while preserving the substance of the property and distributing its benefits equitably (Al-Zuhayli, 2009, p. 678). Islamic jurists generally regard waqf as a highly recommended practice (sunnah mu'akkadah), while some even argue that it may become obligatory under certain circumstances (Abu Zahrah, 2009).

From an Islamic perspective, the concept of waqf is based on several legal principles. First, it is grounded in Qur'anic texts. Although no Qur'anic verse explicitly mentions the term waqf, exegetes have identified several verses as the legal foundation for waqf, including QS. Ali 'Imran [3]: 92:

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

Translation:

“You will never attain true righteousness until you spend from what you love. And whatever you spend, indeed Allah is All-Knowing of it” (Ministry of Religious Affairs of the Republic of Indonesia, 2012).

This verse encourages Muslims to donate part of the wealth they love for the sake of goodness (Shihab, 2002, pp. 312–315). Second, waqf is grounded in the hadith tradition, including the hadith narrated by Muslim from Umar ibn al-

Khattab concerning the waqf of land in Khaybar (Muslim ibn Al-Hajjaj, 2000, p. 1234). Third, its legitimacy is also based on scholarly consensus regarding the validity of waqf as an Islamic legal institution (Al-Zuhayli, 2009, p. 680).

In Islamic jurisprudence, waqf is classified into several categories according to specific criteria. Based on its object, waqf is divided into waqf al-manfa'ah (waqf of benefits) and waqf al-'ayn (waqf of property or assets). Based on the purpose of its use, waqf is divided into waqf ahli (family waqf) and waqf khayri (charitable waqf) (Abu Zahrah, 2009, pp. 89–95). This classification is significant in resolving waqf disputes because each type of waqf possesses distinct legal characteristics.

In the modern context, waqf theory has also undergone development. More responsive theories of waqf, particularly in relation to socio-economic change, have been formulated by contemporary Islamic legal scholars such as Muhammad Abu Zahrah, Yusuf al-Qaradawi, and Wahbah al-Zuhayli (Al-Qaradawi, 1997, pp. 456–460). For instance, Al-Qaradawi developed the concept of productive waqf, which allows waqf assets to be managed commercially in order to increase their utility and social benefit (Al-Qaradawi, 1997, pp. 478–482). In Indonesia, waqf dispute resolution often involves waqf assets with significant economic value, making these contemporary theories highly relevant.

## 2. RESEARCH METHOD

This study constitutes normative-sociological legal research using a qualitative approach (Marzuki, 2014, pp. 56–60). The normative legal approach was used to analyze positive legal regulations concerning waqf in Indonesia, particularly the Waqf Law and its implementing regulations. The sociological legal approach was used to analyze the practice of waqf disputes in society and the social implications of these regulations.

Normative-sociological legal research was chosen because waqf disputes are not merely formal legal issues, but also social problems involving various actors and interests (Marzuki, 2014, pp. 78–82). The combination of these two approaches enables the researcher to obtain a comprehensive understanding of waqf disputes in Indonesia.

The data sources in this study consisted of primary and secondary data. Primary data sources included positive legal regulations, namely the Waqf Law, Government Regulation Number 42 of 2006 concerning the Implementation of the Waqf Law, regulations issued by the Indonesian Waqf Board, and other relevant laws and regulations. Primary data also included religious court decisions related to waqf disputes adjudicated in 2023, as well as interviews with parties involved in waqf disputes, including waqif, nazhir, beneficiaries, and officials of the Indonesian Waqf Board. Secondary data sources included Islamic literature, particularly classical and modern works of Qur'anic exegesis that discuss verses related to waqf; legal literature, including books on Islamic law, customary law,

and Indonesian positive law; scholarly journals and previous research relevant to the theme of this study; and official documents issued by the Indonesian Waqf Board, the Supreme Court, and other related institutions.

The data collection techniques in this study included document study, in-depth interviews, and participant observation. Document study was conducted by collecting data through an in-depth review of legal documents, court decisions, and scholarly literature. In-depth interviews were conducted with key informants selected purposively. The informants included religious court judges who handled waqf dispute cases, officials of the Indonesian Waqf Board, nazhir, and parties involved in waqf disputes. Participant observation was conducted on mediation and dispute resolution processes involving waqf cases at the Indonesian Waqf Board and religious courts.

Data analysis in this study employed content analysis using an inductive-deductive approach (Moleong, 2017, pp. 245–250). The deductive approach was used to analyze positive legal regulations based on the theoretical framework of Islamic waqf law. The inductive approach was used to identify key themes emerging from empirical data on waqf disputes. The thematic exegesis analysis was carried out through the following steps: (1) collecting all Qur'anic verses related to waqf and associated concepts; (2) analyzing the literal and contextual meanings of each verse; (3) identifying key themes emerging from these verses; (4) correlating these themes with the context of waqf disputes in Indonesia; and (5) drawing conclusions regarding Qur'anic values relevant to the resolution of waqf disputes.

The validity of the data in this study was ensured through source triangulation and technique triangulation (Moleong, 2017, pp. 256–260). Source triangulation was conducted by comparing data obtained from various sources, such as court decisions, interviews, and official documents. Technique triangulation was carried out by comparing data obtained through document study, interviews, and observation.

### 3. RESULT AND ANALYSIS

#### **Characteristics of Waqf Disputes in Indonesia in 2023**

Based on an analysis of religious court decisions in 2023 and data from the Indonesian Waqf Board, waqf disputes in Indonesia in 2023 showed the following characteristics. First, there was a dominance of disputes related to the ownership status of waqf land. The majority of waqf disputes in 2023, approximately 45% of total cases, were related to the ownership status of waqf land (Supreme Court of the Republic of Indonesia, 2024, pp. 58–60). These disputes generally arose when the waqif had passed away and there was no clear waqf documentation, causing heirs to claim the land as inherited property. Such cases often involved waqf land that had been passed down for several generations without official registration.

A representative case was a waqf land dispute in Village X, Regency Y, East Java, where two hectares of land that had been endowed by the waqif's grandfather in the 1950s became the object of dispute between the waqif's family and the beneficiary community (Judge of the Religious Court of Regency Y, personal communication, March 15, 2023). The waqif's family claimed that there was no written evidence of the waqf, while the beneficiary community stated that the land had been used as a public cemetery for more than 70 years.

Second, there were disputes related to the appointment of nazhir. Approximately 25% of waqf disputes in 2023 were related to the appointment of nazhir (Supreme Court of the Republic of Indonesia, 2024, p. 62). These disputes arose when the waqif did not appoint a nazhir in the waqf deed, or when the appointed nazhir was no longer able to carry out his duties. In several cases, nazhir disputes also emerged due to disagreements over who had the right to serve as nazhir, particularly in family waqf. A prominent case in 2023 involved a dispute over the nazhir of Mosque Z in City W, where two groups claimed the right to become nazhir (Chairperson of the Indonesian Waqf Board of City W, personal communication, April 20, 2023). The first group was supported by the waqif's family, while the second group was supported by the mosque congregation. This dispute lasted for more than two years and involved complex local political processes.

Third, there were disputes related to the use of waqf benefits. Approximately 20% of waqf disputes in 2023 were related to the use of waqf benefits that did not conform to the founder's objectives (Supreme Court of the Republic of Indonesia, 2024). These disputes generally arose when the nazhir used waqf assets for personal purposes or for purposes different from those determined by the waqif. In several cases, disputes also emerged due to changes in social conditions that made the original purpose of the waqf no longer relevant. One case that attracted public attention in 2023 was the dispute over the waqf land of Islamic Boarding School A in Province B, where the nazhir converted part of the waqf land for commercial purposes without the approval of the religious court (Nazhir of Islamic Boarding School A, personal communication, May 10, 2023). This conversion was justified on the grounds that the commercial proceeds would be used to improve the quality of education at the pesantren; however, alumni and local residents rejected it on the basis that the change in waqf function violated the original intention of the waqif.

Fourth, there were disputes involving third parties. A new characteristic that emerged in 2023 was the increase in waqf disputes involving third parties, such as property developers and investors (Umam, 2023, pp. 145–148). Approximately 10% of waqf disputes in 2023 involved third parties who claimed rights over waqf land based on agreements with the nazhir or the heirs of the waqif. This characteristic indicates that waqf disputes have expanded into the economic sphere and have become increasingly complex issues.

### The Acculturation of Qur'anic Values through a Thematic Exegesis Approach

A thematic exegesis approach to Qur'anic verses related to waqf and associated concepts resulted in the identification of several key themes relevant to the resolution of waqf disputes in Indonesia. The first theme is worship and obedience to Allah. Qur'anic verses that command Muslims to spend their wealth contain a fundamental theme regarding waqf as an act of worship. QS. Ali 'Imran [3]: 92 states:

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

Translation:

“You will never attain righteousness until you spend from what you love.” (Ministry of Religious Affairs of the Republic of Indonesia, 2012)

In thematic exegesis, this verse does not only refer to zakat or charity, but also encompasses the concept of waqf as a form of sacrificing wealth for the public good (Shihab, 2002, pp. 312–315). This theme of worship serves as an important foundation in resolving waqf disputes because it reminds the parties that waqf is not merely a transfer of property ownership, but an act of worship with a spiritual dimension.

In the context of waqf disputes in Indonesia, this theme of worship implies that the resolution of waqf disputes must consider the spiritual dimension of waqf (Ustadz H., Religious Figure of Village X, personal communication, March 25, 2023). The disputing parties must not only consider legal and economic aspects, but also the religious intention of the waqif and the religious values attached to the waqf asset.

The second theme is public benefit and the common interest. QS. al-Baqarah [2]: 261 states:

مَثَلُ الَّذِينَ يُنْفِقُونَ أَمْوَالَهُمْ فِي سَبِيلِ اللَّهِ كَمَثَلِ حَبَّةٍ أَنْبَتَتْ سَبْعَ سَنَابِلٍ فِي كُلِّ سُنْبُلَةٍ مِائَةٌ حَبَّةٌ وَاللَّهُ يُضَاعِفُ لِمَنْ يَشَاءُ وَاللَّهُ وَاسِعٌ عَلِيمٌ

Translation:

“The example of those who spend their wealth in the way of Allah is like a seed that grows seven ears, in each ear there are one hundred grains.” (Ministry of Religious Affairs of the Republic of Indonesia, 2012)

In thematic exegesis, this verse contains the theme of the multiplication of benefits resulting from the spending of wealth (Al-Qaradawi, 1997, pp. 234–238). This theme serves as a conceptual foundation for waqf, because waqf is essentially an effort to multiply the benefits of wealth for the public good. The principle of public benefit thus becomes an important criterion in resolving waqf disputes. In the Indonesian context, this theme of public benefit means that the resolution of waqf disputes must prioritize the common interest over individual interests (Prof.

Dr. A., Islamic Law Expert, personal communication, June 5, 2023). When disputes arise between the waqif's family and the beneficiary community, the resolution must consider which outcome provides greater benefit to the wider community.

The third theme is honesty and transparency. QS. al-Baqarah [2]: 271 states:

إِنْ تُبْدُوا الصَّدَقَاتِ فَنِعِمَّا هِيَ وَإِنْ تُخْفُوهَا وَتُؤْتُوهَا الْفُقَرَاءَ فَهِيَ خَيْرٌ لَكُمْ وَيَكْفُرُ عَنْكُمْ مِنْ سَيِّئَاتِكُمْ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ

Translation:

“If you disclose your charitable giving, it is good; but if you conceal it and give it to the poor, that is better for you.” (Ministry of Religious Affairs of the Republic of Indonesia, 2012)

In thematic exegesis, this verse contains the theme of honesty and transparency in the management of wealth (Hamka, 1982, p. 456). Although the verse refers to charity, the themes of honesty and transparency are relevant in the context of waqf because nazhir have an obligation to manage waqf assets honestly and transparently. In the context of waqf disputes in Indonesia, this theme provides a foundation for the need for transparency in waqf management (Dr. B., Waqf Observer, personal communication, July 12, 2023). Many waqf disputes arise due to a lack of transparency in the management of waqf assets by nazhir. Therefore, the resolution of waqf disputes must include mechanisms to improve transparency and accountability in waqf management.

The fourth theme is justice and the protection of rights. QS. an-Nisa' [4]: 58 states:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا ۝ بَصِيرًا

Translation:

“Indeed, Allah commands you to deliver trusts to those entitled to them, and when you judge between people, to judge with justice.” (Ministry of Religious Affairs of the Republic of Indonesia, 2012)

In thematic exegesis, this verse contains the theme of justice and the protection of rights (Al-Qurtubi, 2006, p. 312). This theme serves as a foundation for the need for legal protection of waqf assets and the rights of parties associated with waqf. In the Indonesian context, the theme of justice means that waqf regulations must be able to protect the rights of waqif, nazhir, and beneficiaries (Judge C., Jakarta Religious Court, personal communication, August 18, 2023). The resolution of waqf disputes must be based on the principle of justice, which does not favor one party over another, but prioritizes the protection of waqf assets as a public trust.

### **Positive Legal Regulation and Its Implementation**

Waqf regulation in Indonesia is built upon a legal framework consisting of several levels. At the highest level, the Waqf Law provides the fundamental legal basis for regulating waqf. This law governs the definition of waqf, the requirements of waqf, waqf registration, nazhir, waqf management, and waqf supervision (Law Number 41 of 2004, 2004, Articles 1–10). At the subordinate level, Government Regulation Number 42 of 2006 provides more detailed provisions for the implementation of the Waqf Law. This regulation governs the procedures for waqf registration, criteria for nazhir, and mechanisms for waqf supervision (Government Regulation Number 42 of 2006, 2006). In addition, the Indonesian Waqf Board has issued several regulations governing the management of productive waqf, cash waqf, and the mediation of waqf disputes.

The implementation of waqf regulation in Indonesia faces various challenges that contribute to the increasing number of waqf disputes. First, there are challenges related to waqf registration. Although the Waqf Law requires waqf registration, its implementation remains hindered by various factors, including high registration costs, limited public awareness of the importance of waqf registration, and the complexity of administrative procedures (Indonesian Waqf Board, 2024, pp. 56–60). Second, there are challenges related to the supervision of nazhir. The Waqf Law stipulates that the Indonesian Waqf Board is responsible for supervising nazhir; however, in practice, the Board's capacity to carry out such supervision remains limited (Director of Supervision of the Indonesian Waqf Board, personal communication, September 22, 2023). The Indonesian Waqf Board has the authority to impose administrative sanctions on nazhir who violate legal provisions, yet these sanctions are often ineffective in preventing the misuse of waqf assets. Third, there are challenges related to dispute resolution. The Waqf Law provides that waqf disputes may be resolved through religious courts, but judicial proceedings often take considerable time and involve high costs (Tahir, 2021, pp. 178–182). In addition, the Indonesian Waqf Board also has the authority to mediate waqf disputes; however, this mediation is non-litigious and does not have binding legal force.

The year 2023 witnessed several significant regulatory issues in the context of waqf. First, there was an initiative to revise the Waqf Law. The government and the House of Representatives began discussing the revision of the Waqf Law, focusing on strengthening the authority of the Indonesian Waqf Board, increasing transparency in waqf management, and regulating digital waqf (Member of Commission VIII of the House of Representatives of the Republic of Indonesia, personal communication, October 15, 2023). Second, there was a policy concerning productive waqf. The Indonesian Waqf Board launched a productive waqf program aimed at increasing the economic value of waqf assets through professional management (Indonesian Waqf Board, 2024, pp. 78–82). This program received a positive response from the public, but also raised concerns

about the potential commercialization of waqf, which could obscure its social and religious functions. Third, there was an initiative to develop digital waqf. The Indonesian Waqf Board began developing digital platforms for waqf registration, waqf management, and waqf reporting (Indonesian Waqf Board, 2024, pp. 89–92). This initiative is expected to improve transparency and efficiency in waqf management, although it also faces challenges related to public digital literacy and data security.

### **Acculturation of Qur'anic Values with Positive Legal Regulation**

The acculturation of Qur'anic values with positive legal regulation can be carried out through the harmonization of the principle of worship with formal regulation. The Waqf Law recognizes waqf as an act of worship by stipulating that waqf must be performed with sincere intention for the sake of Allah (Law Number 41 of 2004, 2004, Article 1 paragraph (1)). However, the implementation of this principle still needs to be strengthened through waqf education based on Qur'anic understanding. In the context of waqf disputes, this harmonization means that dispute resolution should not only be based on formal legal aspects, but should also consider the spiritual dimension of waqf (Kiai D., Pesantren Caretaker, personal communication, November 10, 2023). For example, the mediation mechanism for waqf disputes can be strengthened by involving ulama or religious figures who are able to provide religious advice to the disputing parties.

The acculturation of Qur'anic values can also be carried out through the harmonization of the principle of public benefit with regulations on the use of waqf. The Waqf Law stipulates that the use of waqf must be in accordance with the founder's objectives and provide benefit to society (Law Number 41 of 2004, 2004, Article 15). However, in practice, this regulation is often ineffective in preventing the misuse of waqf assets. This harmonization requires strengthening mechanisms for supervision and control over the use of waqf (Prof. Dr. E., Constitutional Law Expert, personal communication, December 5, 2023). The Indonesian Waqf Board needs to strengthen its role in ensuring that waqf assets are used in accordance with the founder's objectives and provide maximum benefit to society. In addition, a mechanism for community participation in supervising the use of waqf also needs to be developed.

The acculturation of Qur'anic values can further be carried out through the harmonization of the principle of transparency with regulations on waqf management. The Waqf Law stipulates that nazhir are required to prepare annual reports on waqf management (Law Number 41 of 2004, 2004, Article 28). However, in practice, this obligation is often not fulfilled by nazhir. This harmonization requires strengthening mechanisms for information disclosure in waqf management (Activist F., Indonesian Transparency NGO, personal communication, December 20, 2023). The digital platform developed by the Indonesian Waqf Board can be utilized to improve transparency in waqf

management. In addition, an independent audit mechanism for waqf management by nazhir also needs to be developed.

The acculturation of Qur'anic values can also be carried out through the harmonization of the principle of justice with regulations on dispute resolution. The Waqf Law stipulates that waqf disputes may be resolved through religious courts or mediation (Law Number 41 of 2004, 2004, Article 45). However, in practice, these two mechanisms are often ineffective in resolving waqf disputes fairly and promptly. This harmonization requires the development of alternative mechanisms for resolving waqf disputes based on the principle of restorative justice (Mediator G., Indonesian Waqf Board, personal communication, January 15, 2024). Such mechanisms should not only focus on determining which party is right or wrong, but also on restoring relationships between the parties and recovering the social function of waqf assets.

### **Discussion**

The year 2023 marked a crucial period in the dynamics of waqf disputes in Indonesia, as the complexity of such disputes was no longer confined to the realm of formal law, but had expanded into social, economic, and political domains (Umam, 2023, pp. 78–82). A socio-legal analysis of waqf disputes in 2023 reveals a structural transformation in dispute patterns that requires a more comprehensive approach to resolution. The pattern of waqf disputes in Indonesia has undergone a significant transformation, shifting from vertical disputes between generations within a waqif's family to horizontal disputes between community groups or disputes involving third parties (Umam, 2023, pp. 89–95). This transformation reflects changes in the social structure of Indonesian society, where waqf land, which was originally regarded as a communal asset, has increasingly become an economically valuable object in the context of urbanization and development. Empirical data from religious courts in West Java show that in 2023, 60 percent of waqf disputes involved third parties such as property developers or investors. These cases indicate that waqf disputes have become an arena of competing economic interests involving actors with unequal legal and financial capacities (Supreme Court of the Republic of Indonesia, 2024, pp. 58–60).

The commodification of waqf land became a central issue in 2023, as waqf land that was originally managed for the public good was increasingly converted into commercial assets through various mechanisms, including build-operate-transfer schemes, management cooperation agreements, and even illegal sales (Umam, 2023, pp. 112–118). This commodification has created a crisis of social legitimacy for the institution of waqf, in which beneficiary communities that originally had access rights to waqf assets have become marginalized in decision-making processes concerning the use of waqf. This legitimacy crisis has been further exacerbated by the lack of transparency in waqf management by nazhir, both individual nazhir and institutional nazhir (Activist F., Indonesian Transparency

NGO, personal communication, December 20, 2023). The year 2023 also witnessed ambivalence in the role of the state in waqf regulation. On the one hand, the government, through the Indonesian Waqf Board, sought to strengthen waqf supervision and regulation; on the other hand, the limited authority of the Indonesian Waqf Board and its overlapping jurisdiction with local governments created regulatory gaps that were exploited by certain parties (Aminuddin, 2022, pp. 245–250). This ambivalence was reflected in cases where the Indonesian Waqf Board lacked authority to intervene in waqf management by individual nazhir who had not violated administrative provisions, even when there were indications of misuse of waqf assets. This limitation demonstrates the need for regulatory revision that grants broader authority to the Indonesian Waqf Board (Director of Supervision of the Indonesian Waqf Board, personal communication, September 22, 2023).

A thematic exegesis approach to Qur'anic verses related to waqf requires a reconstruction of meaning that is based not only on linguistic analysis, but also on contextual analysis and contemporary relevance analysis (Shihab, 2002, pp. 312–315). QS. Ali 'Imran [3]: 92 states:

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

Translation:

“You will never attain righteousness until you spend from what you love” (Ministry of Religious Affairs of the Republic of Indonesia, 2012).

This verse contains a deeper meaning than merely a command to give charity. In thematic exegesis, it contains the fundamental themes of sacrifice (īthār) and sincerity (ikhlās), in which the key phrase mā tuḥibbūn (“what you love”) indicates that true worship requires sacrificing something most beloved (Hamka, 1982, pp. 234–238). In the context of waqf, this means that true waqf is the sacrifice of one’s most valuable property for a higher purpose, namely the public good and the pleasure of Allah. The reconstruction of the meaning of this verse in the context of waqf disputes produces an understanding that waqf is an act of worship requiring sincere intention; therefore, disputes arising from economic motives contradict the essence of waqf. It also suggests that sacrifice in waqf is permanent, so efforts to return waqf assets to the hands of heirs constitute a violation of the principle of sacrifice. Furthermore, the righteousness promised in this verse is collective in nature, meaning that the resolution of waqf disputes must prioritize the public interest (Kiai D., Pesantren Caretaker, personal communication, November 10, 2023).

QS. al-Baqarah [2]: 261 states:

مَثَلُ الَّذِينَ يُنْفِقُونَ أَمْوَالَهُمْ فِي سَبِيلِ اللَّهِ كَمَثَلِ حَبَّةٍ أَنْبَتَتْ سَبْعَ سَنَابِلَ فِي كُلِّ سُنبُلَةٍ مِائَةٌ حَبَّةٌ وَاللَّهُ يُضَاعِفُ لِمَنْ يَشَاءُ وَاللَّهُ وَاسِعٌ عَلِيمٌ

Translation:

“The example of those who spend their wealth in the way of Allah is like a seed that grows seven ears, in each ear there are one hundred grains” (Ministry of Religious Affairs of the Republic of Indonesia, 2012).

This verse contains the theme of the multiplication of benefits (ta'addud al-manāfi'). In thematic exegesis, this theme serves as the conceptual foundation for productive waqf, in which waqf assets must be managed in such a way that their benefits continue to grow and multiply. The reconstruction of the meaning of this verse produces the understanding that waqf is not the freezing of assets, but rather the development of assets for the multiplication of benefits. It also affirms that nazhir have an obligation to manage waqf assets professionally so that their benefits may expand, and that rejecting the development of productive waqf without a valid religious justification constitutes a rejection of the theme of benefit multiplication (Al-Qaradawi, 1997, pp. 234–238). Nevertheless, this reconstruction also emphasizes that the multiplication of benefits must remain within the framework of the original purpose of the waqf. Therefore, the conversion of waqf functions that obscures the waqif's original intention, even if it generates financial profit, is not consistent with the theme of controlled benefit multiplication (Prof. Dr. A., Islamic Law Expert, personal communication, June 5, 2023).

Based on the analysis above, this study proposes an acculturation-based model for resolving waqf disputes consisting of five components. The first component is waqf education based on the thematic exegesis of Qur'anic verses, which aims to increase public awareness of the essence of waqf as a multidimensional act of worship (Ustadz H., Religious Figure of Village X, personal communication, March 25, 2023). This educational initiative can be implemented through the integration of waqf materials into the Islamic religious education curriculum, the organization of waqf workshops and seminars in mosques and pesantren, and the development of digital-based waqf learning media. The second component is strengthening the role of the Indonesian Waqf Board in mediating waqf disputes. The Indonesian Waqf Board needs to be granted stronger authority, including the authority to issue mediation decisions with binding legal force (Indonesian Waqf Board Regulation Number 1 of 2023, 2023). This implementation requires the revision of Law Number 41 of 2004 concerning Waqf to provide stronger mediation authority to the Indonesian Waqf Board, improve the human resource capacity of the Board in mediation and negotiation, and develop standard procedures for waqf dispute mediation.

The third component is accelerating the registration of waqf land as a preventive measure against disputes, as complete and accurate waqf land registration constitutes the foundation for legal protection of waqf assets (Head of the Land Office, personal communication, January 25, 2024). This implementation

requires a national program to accelerate waqf land registration with the target of achieving 100 percent registration by 2030, simplification of waqf registration procedures, reduction or exemption of waqf registration fees, and technical assistance for nazhir in the registration process. The fourth component is the development of a participatory supervision mechanism for waqf management, in which supervision is not only carried out by the Indonesian Waqf Board but also involves the participation of beneficiary communities (Activist F., Indonesian Transparency NGO, personal communication, December 20, 2023). This implementation requires the development of a waqf management reporting system that is accessible to the public, the establishment of local waqf beneficiary forums, and a public complaint mechanism for reporting the misuse of waqf assets. The fifth component is the development of a public-benefit-oriented judicial paradigm in handling waqf disputes in religious courts. This paradigm requires judges to focus not only on formal legal aspects, but also on public benefit and substantive justice (Judge C., Jakarta Religious Court, personal communication, August 18, 2023). Its implementation requires the development of judicial guidelines for religious court judges in handling waqf disputes, training for judges in waqf jurisprudence and thematic exegesis, and the development of a database of religious court decisions related to waqf as a judicial reference.

Theoretically, this study contributes to the development of several fields of knowledge. First, in the field of Qur'anic exegesis, this study develops the application of thematic exegesis in the context of contemporary issues, particularly waqf disputes. This contribution expands the scope of thematic exegesis from the theological domain to the socio-juridical domain (Hasan, 2020, pp. 45–62). Second, in the field of Islamic law, this study develops a theory of acculturation between Islamic law and positive law in the context of waqf. This theory serves as an alternative to legal dualism, which separates Islamic law from positive law (Marzuki, 2014, pp. 78–72). Third, in the field of sociology of law, this study provides an empirical analysis of the dynamics of the relationship between law, religion, and society in the context of waqf in Indonesia (Moleong, 2017, pp. 245–250). Practically, this study offers implications for various actors. For the Indonesian Waqf Board, this study provides recommendations for strengthening its role in waqf dispute mediation and waqf management supervision (Director of Supervision of the Indonesian Waqf Board, personal communication, September 22, 2023). For religious courts, this study provides a foundation for developing a public-benefit-oriented judicial paradigm in handling waqf disputes (Judge C., Jakarta Religious Court, personal communication, August 18, 2023). For the government, this study offers recommendations for revising Law Number 41 of 2004 concerning Waqf and accelerating waqf land registration (Member of the Waqf Law Revision Team, personal communication, February 5, 2024). For society, this study provides a better understanding of the essence of waqf and the

importance of preserving waqf assets (Ustadz H., Religious Figure of Village X, personal communication, March 25, 2023).

#### 4. CONCLUSION

Waqf disputes in Indonesia in 2023 demonstrated increasingly complex characteristics, including disputes related to the ownership status of waqf land, the appointment of nazhir, the use of waqf benefits, and the involvement of third parties. This complexity reflects a gap between public religious understanding, traditional practices, and positive legal regulation. A thematic exegesis approach to Qur'anic verses related to waqf led to the identification of several key themes, namely worship and obedience to Allah, public benefit and the common interest, honesty and transparency, as well as justice and the protection of rights. These themes provide a strong theological foundation for the resolution of waqf disputes.

The acculturation of Qur'anic values with positive legal regulation requires harmonization at various levels, including the harmonization of the principle of worship with formal regulation, the harmonization of the principle of public benefit with regulations on the use of waqf, the harmonization of the principle of transparency with regulations on waqf management, and the harmonization of the principle of justice with regulations on dispute resolution. This harmonization is key to addressing waqf disputes comprehensively. This study recommends strengthening waqf education based on thematic exegesis, reinforcing the role of the Indonesian Waqf Board in mediating waqf disputes, accelerating the registration of waqf land, developing sustainable productive waqf, and revising the Waqf Law. These recommendations are expected to contribute to the development of a more effective and sustainable national waqf system.

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