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## **The Diversity of Islamic Javanese Kings' Waqf Management: *Ruislag* and Various Social Conflicts**

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### **Abstract:**

The main benefit of *waqf* (endowment) assets is fundamentally for the welfare of the community. However, various conflicts often occur within *waqf* management, such as among *nāzir* (*waqf* managers) and bureaucrats, including that on *waqf ruislag* (*ibdal*) in Kendal, Semarang, and Demak affected by the national road project. Taking the cases as a sample, this research aims to explore various management and utilization of *waqf* assets, to examine diversity in land exchange involving *waqf* lands from Javanese kings, and to uncover various conflicts in management and exchange of *waqf* assets. This study employs a socio-anthropological approach with qualitative analysis. Data were collected through interviews with *nāzir*, officials from the Ministry of Religious Affairs, and engaging foundation's staff. Additionally, the research involved reviewing *waqf* asset

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records, examining documents, and conducting necessary observations. The findings of this study are: *First*, a wide variety of *waqf* assets are managed in different forms, serving various purposes such as education, healthcare, and other social benefits services. *Second*, as some *waqf* assets have been impacted by the national road project, *ibdāl waqf*, when considered for *maṣlahah 'āmmah* (public benefit), took place under consideration that a particular Islamic law school and Law No. 4 of 2004 allowed it. *Third*, the *ibdāl* has given rise to various conflicts involving *waqf* institutions, foundations, or legal entities. Therefore, conflict prevention is very important for *waqf* asset governance based on *nāẓir* collective awareness, regulations, and resolution.

### **Keywords:**

*Waqf* assets; *ruislag*; social conflict; *waqf* institutions; resolution.

### **Introduction**

In Indonesia, *waqf* is always a fascinating topic to talk about. It has been practiced from ancient times when the country was still a kingdom before Indonesia was even formed.<sup>1</sup> At that time, *waqf* assets came, among others, from Islamic kings dedicated to the prosperity of the community so that they could not be sold, inherited, or donated.<sup>2</sup> Accordingly, the main goal of Islamic philanthropy, including *waqf*, is to empower various aspects of life, including education, economics, and social aspects. *Waqf* has a relatively more lasting impact because its assets have a continuous function that can be developed and utilized for public welfare.<sup>3</sup> It is

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<sup>1</sup> Amelia Fauzia, *Filantropi Islam dan Keadilan Sosial* (Jakarta: UIN Syarif Hidayatullah, 2006).

<sup>2</sup> Elimartati Elimartati, Rizal Fahlefi, and Liza Erniyanti, "Strengthening Family Resilience through the Tradition of Agricultural Zakat Payment in Nagari Lima Kaum in Tanah Datar District of West Sumatera," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 5, no. 1 (2021): 496, <https://doi.org/10.22373/sjhk.v5i1.9147>; Bilal Ahmad Malik, "Philanthropy in Practice: Role of Zakat in the Realization of Justice and Economic Growth," *International Journal of Zakat* 1, no. 1 (2016): 64–77, <https://doi.org/10.37706/ijaz.v1i1.7>.

<sup>3</sup> Syaikhul et al., "The Empowerment of Infaq and Waqf Evaluation in Light of Maqasid Al-Sharia Perspective in Mosques in Palangka Raya, Indonesia," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 5, no. 2 (2021): 1003–20, <https://doi.org/10.22373/sjhk.v5i2.8997>.

supposed to contribute to the empowerment and well-being of the community by having horizontal functions on people and having vertical impacts of worshiping God. However, in reality, the management and utilization of *waqf* assets have not been sufficiently productive in contributing to the welfare of the community, at least in playing a role in alleviating economic disparities.

Indonesian measurement of *waqf* assets is based on SIWAK (Waqf Information System) under the management of the Ministry of Religious Affairs. In 2022, Indonesian *waqf* land had 440,5 thousand locations with a total area that reaches 57.2 ha. Additionally, there is a potential *waqf* of IDR 180 trillion a year. Emy Hamidiyah, the Deputy Secretary of the Indonesian Waqf Board (BWI), stated that as of February 2025, cash *waqf* totalling IDR 3.82 trillion has been collected. She elaborated on the vision, mission, and achievements of BWI throughout 2025.<sup>4</sup> On the other hand, the average poor household in Indonesia consisted of 4.71 in 2024, which requires allocation of *waqf* distribution.<sup>5</sup>

When traced from the succession of Islamic philanthropy in Indonesia, *waqf* emerged in the 12th century with the big dynamics of movement as well as its significant growth in the 19th Century.<sup>6</sup> During this Sultanate rule in Central Java, laws such as Staatblad No. 605, adapted to (Bijblad 7760) Besluit Government General van Ned Indie, were made in 1896. Among others, the law regulates that some mosques, namely the Semarang Grand Mosque, the Grand Kaliwungu Mosque, the Grand Kendal Mosque, and the Grand Demak Mosque, are authorized as *waqf* properties along with their respective other assets.<sup>7</sup>

Unfortunately, the *waqf* land itself is at risk of being lost due to unclear administrative documents. In fact, some of them have been affected by the national road project, leading to various

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<sup>4</sup> Badan Wakaf Indonesia, "Receiving Participants of the Ministry of Religion's Supervisory Leadership Training (PKP), BWI Announces That Cash Waqf Has Currently Reached 3.2 Trillion Rupiah," *Badan Wakaf Indonesia*, March 10, 2025, <https://www.bwi.go.id/11101/2025/03/10/terima-peserta-pelatihan-kepemimpinan-pengawas-pkp-kemenag-bwi-sampaikan-wakaf-uang-saat-ini-terkumpul-mencapai-32-triliun/>.

<sup>5</sup> Badan Pusat Statistik, "Persentase Penduduk Miskin September 2024 Turun Menjadi 8,57 Persen," *Badan Pusat Statistik*, January 15, 2025, <https://www.bps.go.id/id/pressrelease/2025/01/15/2401/persentase-penduduk-miskin-september-2024-turun-menjadi-8-57-persen-.html>.

<sup>6</sup> Fauzia, *Filantropi Islam dan Keadilan Sosial*.

<sup>7</sup> Agus Fathuddin Yusuf, *Melacak Bondo Masjid Yang Hilang* (Semarang: Aneka Ilmu, 2001).

patterns of disputes over the assets, such as the conflict between the mosque administrator and the Mosque Welfare Body (BKM) from the Indonesian Ministry of Religious Affairs. This dispute occurred because the responsible institution had excessive authority in managing the assets. In addition, the *waqf* replacement land used as a solution for the *ibdal* was deemed not better in terms of value and size. In fact, for the legal purposes of the National Strategic Projects (PSN), the government has established Presidential Regulation No. 52 of 2022, which outlines the mechanisms for addressing land status and the processes for resolving various disputes.

Some previous research has examined *waqf* management in general and *ibdal waqf* or *ruislag* (a term in the Civil Code (KUH Perdata) that means exchange or barter based on government approval) at the specific level. The former is well represented by Jarman Arroisi<sup>8</sup> who explored the management of professionalism among *nāzir* to ensure that *waqf* assets become legally protected and economically developed. It implies how legal protection becomes important for securing *waqf* assets, as Damayanti et al<sup>9</sup> and Saprida et al<sup>10</sup> also emphasized in their research, namely in order to prevent any possible disputes. Meanwhile, the latter theme was well explored by Ahmad Furqon, highlighting how land exchange becomes one of the methods used to optimize the *waqf* land by making it more productive<sup>11</sup> as well as Zulfikar Yusuf<sup>12</sup> and Azzahro<sup>13</sup> exploring the optimization of *waqf* land through *istibdal* (asking for

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<sup>8</sup> Jarman Arroisi and Syamsuri Syamsuri, "Manajemen Wakaf Pondok Modern Darussalam Gontor: Analisis Model Pemeliharaan, Pengembangan Wakaf dan Kesejahteraan Umat," *Ijtihad: Jurnal Hukum dan Ekonomi Islam* 14, no. 2 (2020): 153–76, <https://doi.org/10.21111/ijtihad.v14i2.4701>.

<sup>9</sup> Aulya Rachma Damayanti et al., "Konsep Wakaf dalam Ilmu Manajemen," *Journal of Creative Student Research* 1, no. 4 (2023): 01–21, <https://doi.org/10.55606/jcsrpolitama.v1i4.2211>.

<sup>10</sup> Saprida, Zuul Fitriani Umari, and Fitri Raya, "Sistem Pengelolaan Wakaf Saham di Indonesia dalam Perspektif Hukum Islam dan Perundang-Undangan Perwakafan," *Ekonomika Sharia: Jurnal Pemikiran dan Pengembangan Ekonomi Syariah* 9, no. 2 (2024): 221–34, <https://doi.org/10.36908/esha.v9i2.991>.

<sup>11</sup> Ahmad Furqon, "Penukaran Tanah Wakaf Masjid Agung Semarang dalam Perspektif Fikih Istibdal," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 17, no. 1 (2017): 39–60, <https://doi.org/10.18326/ijtihad.v17i1.39-60>.

<sup>12</sup> Muhammad Zulfikar Yusuf, "Optimalisasi Wakaf Tanah Perspektif Istibdal (Studi Pada Harta Wakaf Pimpinan Daerah Muhammadiyah Kota Yogyakarta)," *Jurnal Magister Ekonomi Syariah* 1, no. 1 (2022): 63–73, <https://doi.org/10.14421/jmes.2022.011-06>.

<sup>13</sup> Siti Fatimah Azzahro, "Istibdal Waqf: Sentiment Analysis," *The Economic Review of Pesantren* 1, no. 1 (2022): 1–8, <https://doi.org/10.58968/erp.v1i1.199>.

the change) in the midst of challenges in achieving social acceptance for the exchange.

Specifically about *waqf* land in relation to the national infrastructure project, some research had also been conducted. To mention some, there was found a study by Fikri Ariza<sup>14</sup> examined the practice of *ibdal waqf* in the national infrastructure project of Surabaya-Mojokerto toll road construction. Two others are respectively about challenges in infrastructure development beyond the toll road project, as indirectly causing the practice of *ibdal waqf* land, and the one explaining the disparity in changes to the status of waqf property affected by the land acquisition initiative.<sup>15</sup> Conflicts around *waqf* land exchange were, furthermore, particularly explored by Wahyu Nugroho,<sup>16</sup> highlighting *waqf* asset retraction and dispute resolution mechanisms for *waqf* land, including non-litigation methods such as deliberation and mediation without going to court.

This research takes the same topic as the previous, namely the conflicts following land exchange from Islamic Javanese kings within northern coastal areas of Central Java, particularly in Semarang, Kendal, and Demak, due to the national road project.<sup>17</sup> The conflicts have created a negative image of the institutions managing the assets and leading to disputes within the internal community.<sup>18</sup> However, this is different from those studies in terms

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<sup>14</sup> Fikri Ariza Achmad and Irham Zaki, "Implementasi Wakaf Istibdal dalam Pembebasan Lahan Pembangunan Jalan Tol (Studi Kasus Pembangunan Jalan Tol Surabaya-Mojokerto)," *Jurnal Ekonomi Syariah Teori dan Terapan* 6, no. 9 (2020): 1924–35, <https://doi.org/10.20473/vol6iss20199pp1924-1935>.

<sup>15</sup> Latif, "Kajian Yuridis Pengadaan Tanah Untuk Pembangunan Jalan Tol Batang-Semarang Ii Seksi V di Kota Semarang," *Jurnal Spektrum Hukum* 15, no. 1 (2018): 124–38, <https://jurnal.untagsmg.ac.id/index.php/SH/article/download/1113/960>.

<sup>16</sup> Muhammad Wahyu Nugroho, "Penarikan Kembali Asset Wakaf Oleh Ahli Waris Wakif (Studi di Kecamatan Mranggen Kabupaten Demak)," *Tesis* (Universitas Islam Sultan Agung Semarang, 2022), <http://repository.unissula.ac.id/id/eprint/27638>.

<sup>17</sup> Misbachudin, "Tukar Guling (Ruislag) Tanah Wakaf Pada Proyek Jalan Tol Pejagan-Pemalang di Kabupaten Tegal Perspektif Hukum Islam," *Tesis* (Institut Agama Islam Negeri Purwokerto, 2018), <https://repository.uinsaizu.ac.id/4242/>.

<sup>18</sup> Eka Srimulyani et al., "Diasporic Chinese Community in Post Conflict Aceh: Socio-Cultural Identities and Social Relations with the Acehnese Muslim Majority," *Al-Jami'ah: Journal of Islamic Studies* 56, no. 2 (2018): 395–420, <https://doi.org/10.14421/ajis.2018.562.395-420>.

of the focus and theoretical framework.<sup>19</sup> This research employs a multidisciplinary approach, combining a normative approach to examine the legal framework of *ibdāl waqf* from the perspective of Islamic legal schools of thought and a sociological approach to analyze the conflicts. Thus, this study has three main objectives, which are: to identify varieties of management and utilization of *waqf*; to examine legal diversity of land exchanges involving *waqf* lands affected by the national road, and to explore the conflicts that arise due to disputes over *ibdāl waqf*.

### Methods

Relying on qualitative analysis, the approach chosen in this research involves Islamic jurisprudence, namely various schools of law's thought on *waqf* management, *wāqif* and *naẓir*, as well as a legal approach integrated with a socio-anthropological perspective.<sup>20</sup> They are deemed compatible with the case of legal choice made by *naẓir* regarding the ownership status of *waqf* properties and the form of exchange (*ibdāl*).

The primary data sources come from those engaged in the process of redistributing *waqf* land, exchanging *waqf* properties (*ruislag*), and changing the status of *waqf* land and buildings.<sup>21</sup> It covers local government, community, and administrators of the *waqf* impacted by the road development.<sup>22</sup> Other than interviews with those mentioned, we also made observations on the *naẓir* performance in the process of managing and coping with *waqf* ownership disputes. Document studies, meanwhile, were targeted at scientific journals, books, historical records, and applicable laws.<sup>23</sup>

Analysis of data from the field, both theoretically and philosophically, consists of three steps. This means that data obtained from literature studies and field research were analyzed using descriptive-qualitative techniques aimed at reducing,

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<sup>19</sup> Didik G. Suharto and Aisyah Nur'ayni, "Pelaksanaan Tukar Guling Tanah Kas Desa Untuk Proyek Pembangunan," *Jurnal Ilmu Administrasi Negara (JUAN)* 9, no. 1 (2021): 13–25, <https://doi.org/10.31629/juan.v9i1.3121>.

<sup>20</sup> Mujahirin Thohir, *Memahami Kebudayaan: Teori Metodologi, dan Aplikasi* (Semarang: Fasindo Press, 2007).

<sup>21</sup> Harvey Russell Bernard, *Research Methods in Anthropology: Qualitative and Quantitative Approaches*, 2nd ed. (Thousand Oaks: SAGE Publications Inc, n.d.).

<sup>22</sup> Denzin and Lincoln, *The SAGE Handbook of Qualitative Research* (Thousand Oaks: SAGE Publications Inc, 2011).

<sup>23</sup> Dedy Mulyana, *Metodologi Penelitian Kualitatif* (Bandung: PT Remaja Rosda Karya, 2004).

presenting, and interpreting data with high-quality results.<sup>24</sup> In particular, the sociological perspective focused on the culture of habits and living values of Central Javanese society.<sup>25</sup>

## Result and Discussion

### Variety of King's *Waqf* Assets and Their Management Patterns

Many historic mosques in Indonesia are invested in as *waqfs* by kings.<sup>26</sup> To mention some, there was Raden Fatah as a *wāqif* (*waqf* givers) for Demak Mosque; Sunan Muria for Menara Kudus Mosque; Sultan Abdul Qodir for Jamik Basal Mosque; Sunan Pandanaran for the Semarang Grand Mosque, Sunan Gunung Jati for Kauman Cirebon Mosque, Raden Rochmat or Sunan Ampel for Ampel Mosque in Surabaya, and Sultan Agung for Yogyakarta's Kauman Grand Mosque.<sup>27</sup> Interestingly, each of those mosque *waqf* assets has other existing assets, mainly productive lands, so that although the name only reads mosques with specific names, it actually covers productive land assets as well.<sup>28</sup> The assets cover the yard around the mosques, buildings on *waqf* land, as well as productive rice fields.<sup>29</sup>

Specifically, to the *waqf* assets as a sample of this research, namely those experiencing land exchange due to the national road project, the majority of the *waqf* asset type is productive farming land. In the Demak Grand Mosque, the *waqf* asset covers productive farming land numbering 300 ha, the same as the *waqf* of Kendal Great Mosque, numbering 44 ha of productive farming land, Kaliwungu Kendal mosque with 23 ha, and 10 ha of *waqf* land from Sunan Kalijaga. Another one is the asset of Semarang Grand

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<sup>24</sup> Bernard, *Research Methods in Anthropology: Qualitative and Quantitative Approaches*.

<sup>25</sup> Mujahirin Thohir, *Islam Jawa Pesisiran* (Semarang: Fasindo, 2002).

<sup>26</sup> Furqon, "Penukaran Tanah Wakaf Masjid Agung Semarang dalam Perspektif Fikih Istibdal."

<sup>27</sup> Hidayatus Sholihah and A. Zaenurrosyid, "Islamic Philanthropy Development Model Based on Management of Waqf Treasure Improvement on the Mosques of the Northern Seaboard of Java," in *Proceedings of the 2nd Southeast Asian Academic Forum on Sustainable Development (SEA-AFSID 2018)*, vol. 168 (Atlantis Press, 2021), 63–70, <https://doi.org/10.2991/aebmr.k.210305.012>.

<sup>28</sup> Zahratul Faizah et al., "Pentingnya Legalitas dan Pemanfaatan Aset Waqaf (Wakaf Produktif)," *JKA - Jurnal Kolaboratif Akademika* 1, no. 2 (2024): 1–10, <https://doi.org/10.26811/hy5er402>.

<sup>29</sup> M. Iqbal et al., "Implementasi Good Corporate Governance Terhadap Pengelolaan Wakaf Produktif Pada RSUD Haji Medan," *MUQADDIMAH: Jurnal Ekonomi, Manajemen, Akuntansi dan Bisnis* 2, no. 2 (2024): 211–18, <https://doi.org/10.59246/muqaddimah.v2i2.746>.

Mosque with 112 ha. land.<sup>30</sup> Seemingly look the same, each of those samples has different dynamics within the management of assets.

A functionary of the Semarang Grand Mosque (MAS; Masjid Agung Semarang), Muhaimin, for instance, told us as follows:

“MAS originally managed 121 hectares of land granted by the first Regent of Semarang. Mostly, it is managed in the farming sector, while the rest is in rent, car wash, and grocery store.”

Accordingly, the management of *waqf* assets in Kaliwungu Mosque Foundation manages the same way as mentioned here;

“The 23 hectares of *waqf land* managed by the Kaliwungu Mosque Foundation were previously under the control of the Mosque Welfare Body (BKM) Kendal. It has been designated for the benefit of people of Kaliwungu since the colonial period”.<sup>31</sup>

The two excerpts might not well represent the dynamics of other mosques' management. However, it is found three patterns of into what sector the *waqf* asset is managed. *The first* is the agricultural management of *waqf* land in the form of rice fields by cooperating with farmer groups. For instance, the *waqf* land of the Demak Grand Mosque has yielded approximately IDR 4 billion annually from this sector using the auction mechanism among local farmers.<sup>32</sup> On a smaller scale, the *nāẓir* of Kaliwungu mosque manages productive farming lands with annual revenue ranging from 500-700 million.<sup>33</sup> *The second* is partly agriculture, with others for rent service, like the *waqf* land of the Kendal Grand Mosque.<sup>34</sup> *The third* is full allocation in business management at various sectors. In the Demak Grand Mosque, *waqf* assets are managed in productive sectors like market shops and hostels. Some are

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<sup>30</sup> Furqon, “Penukaran Tanah Wakaf Masjid Agung Semarang dalam Perspektif Fikih Istibdal.”

<sup>31</sup> Hafidzin, a some kyais as Nadhir Kaliwungu Mosque Foundation, *Interview*, 2023.

<sup>32</sup> Makmun, a Religious Leader Kendal Grand Mosque Foundation, *Interview*, 2023.

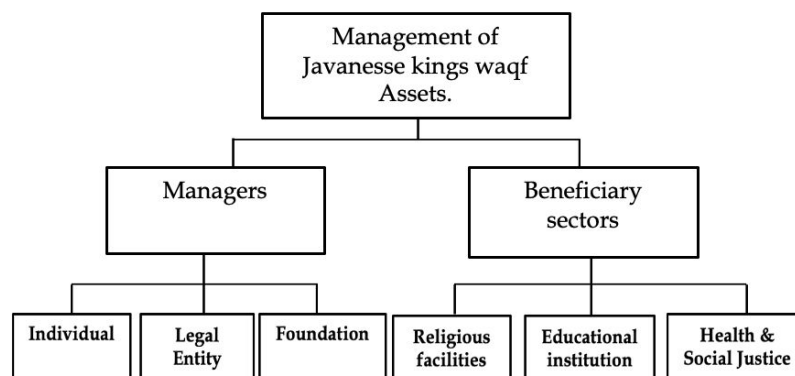
<sup>33</sup> Mujahirin, a Kyais as Nadhir Kaliwungu Mosque Foundation, *Interview*, 2023.

<sup>34</sup> Ubaidillah, a Religious Leader as as nazhir Kendal Grand Mosque Foundation in Kendal, *Interview*, 2023.



auctioned (reaching a value of IDR 5 billion per year), and others are used for market, training center, and office, with a productive area of 26,8 hectares.<sup>35</sup> Accordingly, productive land around the Kaliwungu mosque is used for a parking area as well as small shops for rent. Before, the Kaliwungu *waqf* asset management had run a public transportation business, yet it did not work well. In Kendal Grand Mosque, its side areas of national land *waqf* assets are made a business sector in 9 shophouses for rent with annual revenue numbering tens of millions IDR.

The diversity of *waqf* management implies that *nāẓir* try many ways so that the assets can result in a positive contribution to people through various sectors. Seemingly, this is also made in line with the type of *waqf*, where it is located, and on what profitable sector to choose in order to gain promising results. Therefore, it makes sense to find diverse sectors where *waqf* is managed. Meanwhile, who manages the *waqf* assets and to what sector it is aimed for can be well visualized in Figure 1.



**Figure 1.** Management of *waqf* assets from Javanese kings

Figure 1 makes it clear that there are at least three categories of who manage the *waqf* assets: individuals, legal entities, and foundations, although to some extent, the three are overlapping with one another. Additionally, one of those assets is managed by a combination of two, namely the Semarang Grand Mosque, managed by BKM Semarang, and the Semarang Grand Mosque Foundation. Meanwhile, the *nāẓir* for Sunan Kalijaga *waqf* asset comes from individuals within his descendants, which was later turned into a foundation called *Yayasan Sunan Kalijaga Kadilangu* (YSKK) Demak. Meanwhile, *nāẓir* in legal entities can be well

<sup>35</sup> A. Zaenurrosyid et al., "The Dynamics of Productive Waqf Management of Islamic Kingdom Property in Java," *Al-'Adalah* 21, no. 1 (2024): 149–74, <https://doi.org/10.24042/adalah.v21i1.16384>.

represented through BKM Semarang, BKM Kendal, and BKM Demak for organizing respectively Semarang Grand Mosque, Kendal Grand Mosque, and Demak Grand Mosque. As for the foundation as the *nāẓir* can be seen from Kaliwungu Mosque Foundation, Kendal Grand Mosque Foundation, and Semarang Grand Mosque Foundation.

Meanwhile, the results of *waqf* asset management are allocated for three aspects, namely the maintenance of religious facilities, the establishment of educational institution infrastructure, and the enforcement of health facilities and social justice. The first aspect is mostly found in the betterment of mosque, small mosque (*mushallā*), or Javanese king cemetery, such as those of Raden Fatah, Pangeran Benowo, Sunan Kalijaga, Mbah Joko, and Tuan Guru Asy'ari. The second is mainly in building libraries and reading center facilities, improving *madrassa*, *pesantren*, *majlis taklim* (Islamic learning mass for adults), Qur'anic learning forum (TPQ) for children, or other courses, as well as organizing Islamic mass learning (*pengajian*) and annual commemoration of Javanese kings and saints' death (*haul*). It seems that this second aspect becomes the priority program from *nāẓir* of Kendal, Kaliwungu, and Demak Mosques.<sup>36</sup> The last aspect is in the improvement of health facilities and enforcement of social justice, ranging from building clinics, shelters, traditional market relocation, purchase and care service of free ambulances, organizing mass circumcision events, as well as alms for the poor and orphans. This becomes a concern of the Demak Grand Mosque dan the Semarang Grand Mosque.<sup>37</sup>

### **The Process of *Ibdāl Waqf* for National Roads and the Perspective of Islamic Law**

Some of the *waqf* assets from the kings are impacted by the national road project construction requiring for exchange.<sup>38</sup> It is according to the Central Java Governor Decree No. 590/20 of 2018, which approved some locations to be land acquisition spots for additional national road sections in Java. The road construction project crosses 12.12 ha in Central Java province. It has been targeted to get finished within a few years. For *waqf* land, compensation can only be provided through exchanges as

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<sup>36</sup> Sugianto, as Staff of Mosque Welfare Agency (BKM) Demak, *Interview*, 2023.

<sup>37</sup> Asyiqin, Chairman of the Management of the Great Mosque of Demak, *Interview*, 2023.

<sup>38</sup> Mukhyar Fanani, *Berwakaf Tidak Harus Kaya*, *Dinamika Pengelolaan Wakaf Uang di Indonesia* (Semarang: Walisongo Press, 2010).

regulated in Government Regulation (PP) No. 25 of 2018 regarding Amendments to PP No. 42 of 2006 on the Implementation of Law No. 41 of 2004 on *Waqf*, and PP No. 19 of 2021 on Land Acquisition for Public Purposes.<sup>39</sup>

In Semarang, the exchange of 119,1270 hectares of land occurs with the objective of covering (deemed more profitable) farming and productive land numbering 250 ha.<sup>40</sup> The problem arose when it was found that the land certificate of the (new) land was fictitious, bringing to an end that the returned asset only covers 119 ha as the property of the Semarang Grand Mosque. Additionally, the *nāẓir* also got compensation money, amounting to 4.7 million IDR. The informant told us the story in brief as follows:

“However, over time, the (new) land became disputed and was found to be fictitiously claimed by Tjipto Siswoyo, a Chinese businessman from PT. Tensindo, which bought land from PT. Sambirejo. In other words, the replacement land certificate was fictitious (fake), thus triggering a dispute among relevant parties. On December 17, 1999, thousands of Muslims held a demonstration demanding the return of the land to Tjipto. After being returned to Semarang Grand Mosque, the land was controlled by the BKM Semarang.”

This first case makes it clear that the *ibdāl* was done for good, namely by taking more profitable assets, at least from the width of the land. The plot showed how the *ibdāl* aimed for more profitable *waqf* assets, implying that the original asset had a strategic position and big potential for benefits. Accordingly, a part of the Demak Grand Mosque assets covering approximately 350 ha, which a part of it, 39,401 m, was exchanged for approximately the same land in size. This inevitably triggers a small conflict among the congregation members of the mosque due to the assumption that the asset they would get was not as good as the asset they would have exchanged. However, it did not turn into a big conflict as the

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<sup>39</sup> Misbachudin, “Tukar Guling (Ruislag) Tanah Wakaf Pada Proyek Jalan Tol Pejagan-Pemalang di Kabupaten Tegal Perspektif Hukum Islam.”

<sup>40</sup> Achmad Irwan Hamzani and Mukhidin Mukhidin, “Perlindungan Hukum Terhadap Harta Benda Wakaf Sebagai Aset Publik di Kecamatan Wiradesa Kabupaten Pekalongan,” *Ijtihad: Jurnal Hukum dan Ekonomi Islam* *Jurnal Wacana Hukum Islam dan Kemanusiaan* 16, no. 2 (2017): 159–77, <https://doi.org/10.18326/ijtihad.v16i2.159-177>.

exchange immediately took place involving the relevant parties. Moreover, the exchange asset was found to be bigger, namely 77.066 m, scattered in 4 villages in the Demak area.

Accordingly, the exchange of Kaliwungu Mosque and Grand Kendal Mosque, with respective sizes numbering 23 ha and 44 ha, triggered a small conflict among their beneficiaries. This was caused by the assumption that the exchange was not apple-to-apple. The existing *waqf* land is deemed to have greater benefits, while the new one is not sufficient for exchange. Finally, it was agreed that the exchange took place with productive farming land. Meanwhile, the exchange of Sunan Kalijaga's *waqf* assets had been done through a 30 billion IDR payment as compensation for 10 ha of farming land scattered in three sub-districts, namely Sayung, Wonosalam, and Demak.

In addition to it, the process of *ibdal* also reveals another fact about the absence of some *waqf* asset official certificates. Specifically, some assets of the Kendal and Demak Grand Mosques were found to lack those documents, so that they once received special. In such cases, *waqf* managers are asked to submit a written submission to the Regional Office of the Ministry of Religion so that the assets can be claimed and the exchange process can be continued.<sup>41</sup> The absence of a *waqf* property certificate also happened in Sunan Kalijaga *waqf* assets, leading to a hard situation because the validity of the certificate is a reference for legal force. In fact, some *waqf* assets do not have authentic evidence adjudicating that the land is a *waqf* asset.<sup>42</sup> Therefore, it is a must for the *nāzir* who manages the *waqf* to keep the certificate of *waqf* assets while managing it for the benefit of the community by continuing the *waqf* in the form of empowerment.<sup>43</sup>

This is in one vein with the interview result with Gus Atan, the Chief of *Zawwa* at the Regional Office of the Ministry of Religious Affairs (Kanwil Kemenag) Central Java for the 2022–2023 period as follows;

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<sup>41</sup> G. Suharto and Aisyah Nur'ayni, "Pelaksanaan Tukar Guling Tanah Kas Desa Untuk Proyek Pembangunan."

<sup>42</sup> Islamiyati, "Penyelesaian Sengketa Tanah Wakaf Yang Tidak Tersertifikasi di Wilayah Pesisir Utara Jawa Tengah," *Masalah-Masalah Hukum* 47, no. 1 (2018): 71–80, <https://doi.org/10.14710/mmh.47.1.2018.71-80>.

<sup>43</sup> Mohammad Noviani Ardi, Dina Yustisi Yurista, and Suci Ramadhan, "Waqf Fundraising Strategy for Islamic Boarding's Independence," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 20, no. 1 (2020): 1–21, <https://doi.org/10.18326/ijtihad.v20i1.1-21>.

"The *waqf* lands affected by this project should have proof of ownership; however, in these cases, a few are still in the process of completing legal documents, which has led to *waqf* disputes. The Ministry has informed each of the administrators that part of the land must be converted into *waqf* land as a result of the National Road project in Java".<sup>44</sup>

In Islamic jurisprudence discourse, this exchange or *ruislag* term is called *ibdāl*, namely exchanging land with other land as a replacement. It is understood as the exchange of *waqf* property without using money as compensation, but by replacing it with another item of equivalent value.<sup>45</sup> Therefore, this occurs in the first four cases, because the fifth one is exchanged to money cash and there is no more updated data about how or to what sector the cash is managed. There were various views regarding the transferring functions of the *waqf* discussed in the various books of Islamic jurisprudence.<sup>46</sup> Some of them, mainly the Hanafi school of thought,<sup>47</sup> argued that the *waqf* can be replaced with other property, such as land, which cannot be moved.<sup>48</sup>

More or less, it is in line with the civil law article 1541, which states that the exchange demands agreement between two parties to give and receive certain goods in exchange for other goods.<sup>49</sup> *Ruislag*, which converts *waqf* assets into other types of assets, is permissible if the exchange corresponds to an object that can be more profitable or valuable, or at least of comparable worth.<sup>50</sup> In the context of replacing *waqf* land in Semarang, Demak, and Kendal, the *waqf* land was exchanged for larger replacement land. However, this did not happen in one shot because they found a sort of

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<sup>44</sup> Atan, as Chief Zawa of Kanwil Kemenag in Central Java, Interview, 2024.

<sup>45</sup> Lutfi El Falahy, "Alih Fungsi Tanah Wakaf Ditinjau dari Hukum Islam dan Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf," *Al Istinbath: Jurnal Hukum Islam* 1, no. 2 (2016): 121–40, <https://doi.org/10.29240/jhi.v1i2.117>.

<sup>46</sup> Al-Imām Yahya Ibnu Muhammad al-Khaṭṭab al-Malikī, *Ahkam Al Waqfi* (Beirut: Dār Ibnu Hazm, 2009).

<sup>47</sup> Muhammad Abid Abdullah Al-Kabisi, *Kajian Kontemporer Pertama dan Terlengkap Tentang Fungsi dan Pengelolaan Wakaf Serta Penyelesaian Atas Sengketa Wakaf Jakarta* (Jakarta: IIMaN Press, 2003).

<sup>48</sup> Mundzir Qahf, *Al-Waqf Al-Islami: Tatawuwuru, Idāratuhu, Tanmiyyatuhu* (Damascus: Dār Fikr, 2000).

<sup>49</sup> Jaih Mubarak, *Wakaf Produktif* (Bandung: Simbiosis Rekatama Media, 2008).

<sup>50</sup> Islamiyati, "Penyelesaian Sengketa Tanah Wakaf Yang Tidak Tersertifikasi di Wilayah Pesisir Utara Jawa Tengah."

rejection in receiving the new land to exchange. In other words, the firstly land offered for exchange was not well accepted, so there should be more searching to get better goods worthy of exchange and agreed upon by both parties.

Meanwhile, technically, the judge is permitted to decide the replacement of the *waqf* due to emergency circumstances.<sup>51</sup> This emergency is the main consideration as to whether or not the *waqf* can be replaced. Based on observations and interviews with several *waqf* property managers, the exchange of *waqf* land has indeed been carried out. While some assets have been successfully replaced, others remain problematic for respective *waqf* managers. It is also found that the *waqf* land from the kings in Java is mostly guided by the Imam Hanafi school of thought. This school thinks that the land of *waqf* may be exchanged with consideration of public interest, such as national roads.<sup>52</sup> The majority of the actors managing the *waqf* assets of the Grand Mosque in Kendal, Kaliwungu, Semarang, and Demak stated that in carrying out the *ibdāl waqf*, they were guided by the *waqf* law No. 4 of 2004, which mainly refers more to the Hanafi school of thought. It mentions that *waqf* assets are legally permissible to be exchanged (*ruislag*) with other assets if they meet the requirements determined by Sharia, such as for the sake of public interest. Accordingly, based on the General Spatial Planning Master Plan, the land endowments of the Javanese Islamic kings can be exchanged with other assets to construct the Trans-Java National Road.<sup>53</sup>

### **Conflict and Resolution around *Ibdāl Waqf***

In general, *waqf* assets have high economic values, inclining relevant parties to claim management over others, thus giving rise to social conflicts with various plots.<sup>54</sup> Along with the development of the *waqf* in various sectors, the dynamic of running it poses a challenge to deal with. Among others, the transportation sector's impact on the sustainability of *waqf* assets, as some of them lie in

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<sup>51</sup> Hamzani and Mukhidin, "Perlindungan Hukum Terhadap Harta Benda Wakaf Sebagai Aset Publik di Kecamatan Wiradesa Kabupaten Pekalongan."

<sup>52</sup> Syafi'i Antonio and Junaidi, *Pengelolaan Wakaf Secara Produktif dalam Menuju Era Wakaf Produktif* (Jakarta: Mumtaz Publishing, 2008).

<sup>53</sup> Syaikhul et al., "The Empowerment of Infaq and Waqf Evaluation in Light of Maqasid Al-Sharia Perspective in Mosques in Palangka Raya, Indonesia."

<sup>54</sup> Ani Yumarni et al., "The Meaning of 'Amānah' and 'Trust' in the Appointment of Nāzhir in Indonesian Endowment Regulations," *Al-'Adalah* 20, no. 1 (2023): 115–36, <https://doi.org/10.24042/adalah.v20i1.14517>.

designated areas for road building.<sup>55</sup> The great challenge is mainly in the acquisition of some *waqf* lands so that the construction of transportation lines could take place as planned. In exchanging the asset, the procedural process can be carried out by submitting a request for approval to the relevant agency (Toll Road Regulatory Agency/BPJT, under the Ministry of Public Works and Public Housing/PUPR) to obtain replacement land of equivalent value, including the value of the replacement building. Therefore, the process of exchanging *waqf* assets can actually be resolved peacefully and procedurally without triggering any conflict.

However, during the land acquisition process, some disputes have inevitably emerged.<sup>56</sup> This occurred in the case of Semarang Grand Mosque, Demak Grand Mosque, Kendal Grand Mosque, and the *waqf* land from Sunan Kalijaga. The exchanged new land of the Semarang Grand Mosque turned out to be manipulated with extensive fraud of fake land certificates.<sup>57</sup> At first, it was assumed that the exchange would bring in great revenue because the new land is much larger than the old one. Unfortunately, it turned out that a prolonged dispute occurred following the revealed truth that the new land's certificate on the coast of Demak was fictitious.

Meanwhile, the case of the Demak and Kendal Grand Mosques *waqf* assets exchange was initially caused by the size inequality of the new and old lands to be exchanged. The conflict was solved by providing approximately the same land in size for the exchange. Another plot came from the case of Sunan Kalijaga *waqf* assets land, in which the compensation money of 30 billion became up for grabs between Sunan Kalidjogo Foundation and Sunan Kalijaga Foundation. This clearly shows how *waqf* asset exchange is very prone to conflict.

In addition to the conflict with external parties, there are also conflicts among internal parties. This particularly happens in a struggle to obtain legal status to become the manager of the *waqf* assets or *nāẓir*.<sup>58</sup> It can be seen in the conflict between the *nāẓir* of

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<sup>55</sup> Khairul Anwar Mohd Nor et al., "Islamic Philanthropy Adaptation Towards Financial Social Exclusion Among Independent Oil Palm Smallholder," *Etikonomi* 21, no. 2 (2022): 369–82, <https://doi.org/10.15408/etk.v21i2.18677>.

<sup>56</sup> Misbachudin, "Tukar Guling (Ruislag) Tanah Wakaf Pada Proyek Jalan Tol Pejagan-Pemalang di Kabupaten Tegal Perspektif Hukum Islam."

<sup>57</sup> Ja'far Baehaqi, Nur Khoirin, and Rosman Pangestu, "Rekayasa Hukum dalam Penggantian Obyek Wakaf (Studi Kasus Tukar Guling Tanah Wakaf Untuk Proyek Jalan Tol Semarang-Demak)," *LP2M UIN Walisongo Semarang* (Semarang, 2022), <https://eprints.walisongo.ac.id/id/eprint/19626/>.

<sup>58</sup> Mohd Nor et al., "Islamic Philanthropy Adaptation Towards Financial Social Exclusion Among Independent Oil Palm Smallholder."

Semarang Grand Mosque and BKM under the Ministry of Religious Affairs (Kemenag) of Semarang City after the *ibdal* took place.<sup>59</sup> Likely, it was also found at Kaliwungu Mosque and Grand Kendal Mosque. They were both once managed by BKM of Religious Affairs Kendal before the management was returned to the Foundation of the Grand Kendal Mosque and the Grand Kaliwungu Mosque, respectively. A persistent and irreconcilable conflict becomes a situation in which the conflict rises to the surface and then becomes an institutional confrontation between the parties. Apart from who deserves more to manage the *waqf* assets, this indicates a pattern in which every time *waqf* assets were about to be exchanged, another dispute occurred.

The diversity of conflicts over the *waqf* assets with relevant information can be described in Table 1.

**Table 1.** Diversity of Conflict, Cause, Duration, and Resolution Methods.

No	Waqf Land	Cause of Conflict	Duration	Resolution Method
1.	Semarang Grand Mosque asset (Semarang, Central Java)	1) The conflict on (new) <i>waqf</i> asset with 200 ha which was found to be legally fictitious	More than 10 years	Court trial; Demonstration; mediation & government intervention
		2) Conflict over management right of <i>waqf</i> assets between Management of Semarang Grand Mosque and BKM Kemenag Semarang	More than 5 years	Peace settlement through mediation by the Central Java Provincial Government
2.	Kaliwungu Grand Mosque	1) Conflict over management right of <i>waqf</i>	Around 2 years	Demonstration and resolution at the Regional

<sup>59</sup> Yasin Arief S. and Tali Tulab, "Model Pengelolaan Tanah Wakaf di Kota Semarang," *Ullul Albab: Jurnal Studi dan Penelitian Hukum Islam* 2, no. 1 (2018): 63–80, <https://doi.org/10.30659/jua.v2i1.3570>; Mohd Nor et al., "Islamic Philantropy Adaptation Towards Financial Social Exclusion Among Independen Oil Palm Smallholder."



	(Kendal, Central Java)	assets between BKM Kemenag Kendal and Management of Kaliwungu Grand Mosque Foundation		Parliament (DPRD) level
3.	Kendal Grand Mosque (Kendal, Central Java)	2) Conflict over whether the exchange is worth doing  Minor disputes over the transfer of <i>waqf</i> land for national road projects and market expansion due to assumed inequality of both assets	Around 2 years	Demonstration and mediation at the Regional Parliament (DPR) level
4	Demak Grand Mosque (Demak Bintaro, Central Java)	1) Conflict over <i>Waqf</i> Land Management Rights 2) A minor dispute because of deemed inequality <i>waqf</i> land exchange	Around 1 year	Deliberation and mutual agreement among the parties
5	<i>Waqf</i> Land from <i>Kanjeng</i> Sunan Kalijaga (Demak, Central Java)	Conflict over the right to manage <i>waqf</i> land and compensation money between The Sunan Kalijaga Kadilangu Foundation and The Sunan	Around 2 years	Court trial

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Kalidjogo  
Kadilangu  
Foundation

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Table 1 shows how conflict over *waqf* assets can happen among both internal parties and with external parties. Mostly, it is about claimed authority among several parties in managing *waqf* assets, including whether it will be exchanged, whether it is worthy of exchange, who will manage it after the *ibdāl* takes place, and to what sector it will be managed. Therefore, frankly speaking, the conflict will likely remain to happen whether or not the exchange is impacted by the national road building project. For instance, conflict between some *kiais* from the Semarang Grand Mosque Foundation and the BKM of Religious Affairs in Semarang has led to the emergence of a situation that has brought about a prolonged conflict.<sup>60</sup> Several foundation members managing MAS have ignited conflicts, reflecting dissatisfaction with the working patterns of the officials at the Regional Office of the Ministry of Religious Affairs in Semarang. Witoyo, a functionary of MAS, testified like this;

“The *waqf* property of Ki Ageng Pandanaran is clearly for the Kauman Semarang Grand Mosque. Why was it confiscated and managed by BKM? It is because they see that this property has a lot of economic value. So, because I also know the bureaucracy, we are fighting for the ownership and proper use of this *waqf* property for the prosperity of the community”.<sup>61</sup>

The excerpt implied how intricate this case is. Moreover, the *waqf* land asset of MAS in Semarang City has long been managed and thus brings in economic advantages, although some consider it not to be in very good management and revenue distribution. The assumption closely relates to the fact that a few of the MAS *waqf* assets have been illegally inhabited for quite a long time.<sup>62</sup>

In a broader scope, there is a diversity of dispute typologies from the cases of the mentioned *waqf* assets. The conflict occurred between social actors of *waqf* asset management institutions, either in legal entities, foundations, or individuals. This seems relevant to

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<sup>60</sup> Attan Zavaron, Kabid Zakwa of the Religious Department on Central Java, *Interview*, 2023.

<sup>61</sup> Witoyo, as Functionary of MAS, *Interview*, 2016.

<sup>62</sup> Yusuf, *Melacak Bondo Masjid Yang Hilang*.

Robertson, who viewed that social change is sometimes damaged by tension and competition in society.<sup>63</sup> In the context of the mentioned *waqf* assets, this has turned into a conflicting relationship because of the emergence of various parties trying to control the profits of the assets. Theoretically, conflicts within a community are something normal.<sup>64</sup> The Waqf Law Number 41 of 2004 itself mentions that the best way to resolve a *waqf* dispute is to negotiate a mutual agreement.<sup>65</sup> In this talk, some typical forms of conflict among engaging parties have been observed.

The first type is *rough* conflict, a form of fight that appears on the social surface in colossal pattern, engaging a lot of people and a large amount of money or asset values. The former can be seen in the case of *waqf* land of Semarang, Kaliwungu, and Kendal Grand Mosques, going through a long process and mass demonstration, while the later is at Sunan Kalijaga *waqf* assets with a big compensation money, Semarang Grand Mosque with a hundred hectares of land asset and Kendal Grand Mosque with dozen hectares of land asset.

The second type of conflict is *semi-rough*, namely, a secret fight among engaging parties. In this context, the conflict occurs internally within individuals in a circle. This conflict has the potential to become violent when it is not managed by more authoritative authorities. This form of conflict is evident in the dispute between *Nāzir* over the authority to manage *waqf* assets in those five samples. Regarding the MAS *waqf* assets, for example, the *nāzir* from BKM MAS continues to disagree with BKM Semarang regarding the allocation of management authority and the outcomes of the MAS *waqf* assets management, even after PT Tesindo returned 119 ha of land *waqf*. Likewise, the impact of *ibdāl waqf* for the sake of the national road project at Kendal Grand Mosque and Demak Grand Mosque has resulted in a *semi-rough* dispute over the replacement land, which is still considered unsuitable.

The third is *subtle conflict*. Some conflicts result from clashing views of engaging parties, sometimes related to various interests. This conflict type exists but does not give rise to strong social unrest.

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<sup>63</sup> Roland Robertson, "Globalisation or Glocalisation?," *The Journal of International Communication* 1, no. 1 (1994): 33–52, <https://doi.org/10.1080/13216597.1994.9751780>.

<sup>64</sup> Robertson Roland, *Globalization: Social Theory and Global Culture*, 2nd ed. (New Delhi: SAGE Publications Inc, 1992).

<sup>65</sup> Imam Suhadi, *Wakaf Untuk Kesejahteraan Umat* (Yogyakarta: PT Dana Bhakti Prima Yasa, 2022).

Some are easy to overcome because the level of conflict is light, and the conflict management pattern is subtle. Mostly, it occurs due to the seniority level. Subtle conflicts occur because of the seniority within *nāzir* of *waqf* institutions. This conflict type is furthermore caused by the struggle for authority in determining various directions of *waqf* institution policies, including those related to the road-building project.<sup>66</sup> A clear example is from the Kaliwungu mosque case. Under normal circumstances, these conflicts are not very visible on the surface, but the conflict still actually exists, hidden in each individual who has different views, desires, and work programs within the internal management of the *waqf* institution. Observations on the ground also indicate that there is a possibility of a dispute among the *nāzir* and other related institutions because of the lack of a transparent accountability report of *waqf* property management and revenue.<sup>67</sup> Therefore, it is essential to have a highly integrated *nāzir* with good managerial skills to develop the *waqf* assets effectively.<sup>68</sup>

From the whole conflict case, it is clear that the conflict that emerges in this social sphere reflects a power struggle among management parties, religious figures, and bureaucratic administrative institutions.<sup>69</sup> These conflicts can actually be minimized if each institution effectively fulfills its designated functions. This is entirely feasible as the communal spirit of *waqf* administrators is rooted in the commitment to uphold the mandate of Allah's wealth for the benefit of the people.<sup>70</sup> Thus, a good management system and the sincerity of the *nāzir* human resources are needed so that *waqf* assets can be controlled and managed properly.

## Conclusion

*Waqf*, in its original epistemic context, is intended to promote the welfare of society (*ummah*) through assets entrusted by the *wāqif*, including when these assets originate from Islamic kings

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<sup>66</sup> Zaenurrosyid et al., "The Dynamics of Productive Waqf Management of Islamic Kingdom Property in Java."

<sup>67</sup> Tatan, as Chief Zawa of Kanwil Kemenag Central Java, *Interview*, 2023.

<sup>68</sup> Sudiyo and Fitriani, "Lembaga Ziswaf Sebagai Lembaga Filantropi Islam dan Pemberdayaan Masyarakat di Kota Bandar Lampung Ziswaf Institution as Islamic Philanthropy Institute and Community Empowerment in Bandar Lampung City," in *Prosiding Seminar Nasional Pengembangan Teknologi Pertanian*, 2019, 85–89, <https://doi.org/10.25181/prosemnas.v0i0.1591>.

<sup>69</sup> Sudiyo and Fitriani.

<sup>70</sup> George Ritzer and Douglas J. Goodman, *Teori Sosiologi Modern* (Jakarta: Prenada Media Group, 2003).

in Java. Ideally, *waqf* serves as a tool for empowerment. This study finds that various patterns of *waqf* management and utilization align with both Islamic law and positive law. However, a significant challenge arises from conflicts, such as the effort to claim power as the most entitled party to manage *waqf* assets or disputes over the validity of certificates and the allocation of *waqf* land management. Specifically, this happened because some *waqf* assets were affected by the national road project, necessitating an exchange (*ibdāl waqf*). The dispute does not stem from differing interpretations of *ibdāl waqf*, as it follows the Hanafi school of thought and Indonesia's waqf law (UUW), which permits such exchanges if they serve the greater good. Instead, the ongoing conflict primarily results from competing interests among management institutions and issues related to *waqf* certificates. These conflicts manifest in various forms, including public demonstrations, legal disputes between institutional leaders brought to court, and subtler tensions among *nazir*. A limitation of this study is its focus on tracing the nature of conflicts among *waqf* managers affected by the national road project, particularly those resolved through communal and traditional approaches. Future research should explore more comprehensive conflict mediation models and strategies to foster collegial awareness among waqf managers, ultimately advancing a more trustworthy and modern waqf institution supported by digital technology.

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