

*Research Article***The Implementation of Land Waqf Law in Indonesia and Malaysia as a Stage to Land Waqf Law Reform in Indonesia: A Comparative Study**Asma Hakimah¹, Ruzian Marom², Islamiyati^{3*}, Aisyah Ayu Musyafah⁴, Achmad Arief Budiman⁵^{1,2}Faculty of Law, Universiti Kebangsaan Malaysia, Malaysia^{3,4}Faculty of Law, Universitas Diponegoro, Indonesia⁵ Faculty of Sharia and Law, Universitas Islam Negeri Walisongo Semarang, Indonesia

*islamiyati@yahoo.co.id

ABSTRACT

Legal problems in the implementation of land waqf in the community are found in; wakif, status of waqf land, nadzir, wakif heirs, nadzir heirs, and land waqf institutions. Therefore, it is very important to conduct a research on A Comparative Study on the Implementation of Land Waqf Law in Indonesia and Malaysia as a Stage to Land Waqf Law Reform in Indonesia to analyze land waqf practices in Indonesia and Malaysia, then to compare and identify their similarities and differences. This research can provide ideas for the government in updating the land waqf law. This study used a comparative approach. The research data include primary and secondary data. The data were analyzed qualitatively. The results showed that there are some similarities of land waqf practices in Indonesia and Malaysia. These similarities are found in terms of ; its legal basis; forms of wakif and nadzir; as well as the position of the land waqf witness. Meanwhile, the difference lies in; land waqf management practices; government policy on waqf institutions; allotment, term, and settlement of land waqf disputes. By comparing Malaysian and Indonesia land waqf law practices, Indonesia can renew the land waqf law on the aspects of its legal rules and legal institutions.

Key Words: Comparative Study; Law Reform; Land Waqf.

A. INTRODUCTION

The growth of waqf in Islamic countries, such as; Saudi Arabia, Kuwait, Sudan, Jordan, Turkey, Egypt, and Malaysia has progressed rapidly. Each of these countries has waqf law rules stipulated by the state, and also has authorized waqf institution that provides waqf services and waqf assets management for public interest, as well as encouraging people to give waqf for social, religious and state interests (Aldeen, Ratih, & Herianingrum, 2020).

Likewise, the development of land waqf in Malaysia is more orientated in the state policy

particularly in regulating waqf land in order to provide benefits to the state and the people. Land waqf law rule is from the federal constitution, which means the rule is enforced in each state, where, in each state, some rules are similar and some are different. The states in Malaysia have announced the ratification of waqf land through waqf certification, given authority for State Islamic Religious Council (SIRC) to manage and develop waqf land. The waqf land registration method was more effective and administered waqf land so that the quality and quantity of waqf land could be determined (Kader et.al, 2013). By doing so, waqf

land may contribute more in the development of Malaysia.

In Indonesia, waqf has existed since Islam entered Indonesia in 13th Century AD. Since that time, land waqf has become one of religious practices of Islam. There are three theories that explain the history of the entry of Islam in Indonesia, namely; 1) The Gujarat, pioneered by Snouck Hurgronje, explains that Islam entered Indonesia in the 13th century (Suryanegara, n.d), 2) The Makkah theory, pioneered by Hamka, explains that Islam entered Indonesia in the 7th century AD (Hamka, 2010), 3) The Persian theory, developed by Hoesen Djajadiningkrat, explains that Islam entered Indonesia in the 13th century AD (Djajadiningrat, 1983). The author uses the Gujarati theory and the Persian theory which explain that Islam entered Indonesia in the 13th century because these two theories have stronger evidence than other theories. The one of evidences is the tombstone of the tomb of Sultan Al-Malikus Salih, the King of the Samudra Pasai Kingdom who died in 1294 (Asfiati, 2014).

People give waqf land because land is a valuable asset. If a land is given as waqf, it will give benefits for the one who gives it away (*wakif*) and also for his descendants and the people who use it. At that time, legal basis of waqf used religious law (*fiqh wakaf*) as an applicable law in society (Syamsuri et.al, 2019).

Along with political developments in Indonesia, land waqf also required law that was reformed by the state as the stage to provide legal protection on waqf practice that was run in

society. In this context, the state stipulated Basic Agrarian Law (*UUPA*) Number 5 Year 1960, regulating that the state recognized and protected waqf land with religious and social functions (Article 49 of *UUPA*), and its implementing regulation was contained in Government Regulation Number 28 Year 1977 concerning Asset Endowment. In addition, the state also regulated the Compilation of Islamic Law (*KHI*) Presidential Instruction No. 1 Year 1991 Book III concerning Waqf and Law No. 41 Year 2004 concerning Waqf. In 2010, the government established Indonesian Waqf Board, as an independent institution that had a role in developing and running waqf in Indonesia. In relation to the existence of land waqf, BWI (Indonesian Waqf Board) also had authority to stipulate derivative regulations such as Indonesian Waqf Board regulation and the regulation of the chairman of Indonesian Waqf Board concerning land waqf asset management, and *PERMA* 73 Year 2013 concerning Procedures for Waqf of Immovable and Movable Assets other than Money, and Ministry Regulation of *ATR/BPN* No.2 Year 2017 concerning Waqf Land Registration Procedures (Maria, 2022).

According to the legal issues of waqf land practice aforementioned, in reality it showed that land waqf practice had legal issues between land waqf law in legislation and land waqf practice in society. Therefore, the study on the implementation of waqf practice in society needed to be implemented because the practice of land waqf might face issues.

The rapid development of land waqf is not supported by the practice of land waqf in accordance with the law, causing legal problems. According to Ahmad Syafiq's research, it shows that people, with land waqf in a lesan manner, are not listed in PPAIW (Officials Making Deeds of Waqf Pledge) (Syafiq, 2015).

A research by FX. Sumarja explained that in the community, there are still uncertified waqf lands and disputed waqf lands. These waqf properties (land) are not reversed in the name of nazhir to BPN (waqf land certificate and registration institution), so that the name of the owner listed in the certificate is still the name of the wakif. Such phenomenon will cause uncertainty in the waqf law because there are no clear boundaries in the waqf land, so a dispute over the boundaries of the waqf land is inevitable (Sumarja, 2013).

A research by Nurhidayani, Yasin, & Busaini, which is corroborated by the research of Islamiyati et.al, shows several problems of land waqf. The author found that the nazirs of land waqf were often less responsible. The problems were mostly caused by waqf land which was inherited or sold by the wakif heirs or waqf land which was sold by nazhir. The wakif then appointed new nazhir without the knowledge and consent of the existing nazhir members, resulting in disputes between the nazirs in the management of waqf land (Nurhidayani, Yasin, & Busaini, 2017) (Islamiyati et.al, 2019) .

A research on land waqf in Malaysia, conducted by Ismail Omar et.al, shows that the

Malaysian government has begun efforts to improve waqf land for development purposes, but the fact is that there are problems in land administration and waqf land registration, lack of human resources who are experts in the development of waqf land assets (Omar, Yusof, & Manaf, 2014).

This research is corroborated by a research conducted by Zunaidah Ab Hasan et. al showing that the practice of land waqf in Malaysia experiences several challenges and obstacles, namely; lack of budget provided by the government, lack of resources that are experts in the service and empowerment of land waqf in the community, documentation of land waqf administration and property waqf that is not in order (Hasan et.al, 2015).

The study was implemented through the stage of comparing law implementation practice of land waqf in Malaysia. Some aspects being compared were land waqf giver (*wakif*) whether it was a private, legal entity; an institution that served land waqf, its procedures, its regulation and nazhir. It was due to the similarities and differences of the implementation of land waqf law in Indonesia and Malaysia.

The research problem was how the comparative study of land waqf law implementation in Indonesia and Malaysia for land waqf law reform in Indonesia was. The aim of this study was to analyze the benefits of comparative study of land waqf implementation between Indonesia and Malaysia to reform of land waqf law. Its benefits could help the government

in creating land waqf law based on its aim and benefit of land waqf assets that have effect for people. Novelty research can make the practice of land waqf more orderly and in accordance with applicable law in Indonesia.

B. RESEARCH METHODS

The study about *A Comparative Study of Land Waqf Law in Indonesia and Malaysia as the Stage for Land Waqf Law Reform in Indonesia* was a *Field Research* that took locations in the state of Indonesia and Malaysia. The selection of sample was based on the procedures of *snow ball*. The research sample included Central Indonesian Waqf Board and Central Java (Indonesian Waqf Board) in Regency/City, Pejabat Pembuat Akta Ikrar Wakaf (Officials Making Deeds of Waqf Pledge) located in Kantor Urusan Agama (The District Office of Religious Affairs), and Badan Pertanahan Negara (State Land Agency). In Malaysia, data were taken from Muhammadiyah and NU religious organizations, the Majlis Agama Islam Negeri (MAIN) in Trengganu state, and the Malaysian Belia Waqf Foundation. Although the type of this research was field research, but it also offered the references through library research to find out the theory and concept about the research themes, as followed; land waqf law, law reform, waqf in Indonesia and Malaysia.

The data needed included primary and secondary data. Primary data collection was obtained through interview, literature study, documents, web and FGD by presenting the

experts to study the research themes. The respondents were *PPAIW* (Officials Making Deeds of Waqf Pledge), Indonesian Waqf Board in District, the institution of Muhammadiyah and NU. Secondary data collection was obtained by reading and studying literature references about land waqf and its legal basis. The research approach used was empirical, juridical, and *comparative law*. Juridical approach was carried out through the study of legislations, but empirical approach was carried out by observing its practice in society. Comparative law approach was carried out by comparing land waqf law implementation practice in Indonesia and Malaysia, by looking for the gaps of their differences and similarities. This comparative study aimed to perfect or complete the rules of land waqf law implementation in Indonesia.

The research specification was descriptive analysis. The research data was analysed qualitatively, and concluded inductively. The research data findings would be a new knowledge and a new reference on land waqf practice. Although the procedures of land waqf have been regulated by the state through legislation, but the effectiveness of its implementation in the society has to be tested.

C. RESULTS AND DISCUSSION

The results of the study will explain the comparison of the practice of implementing land waqf in Indonesia and Malaysia, which includes; the similarities and differences, the causative factors, and the legal problems. Comparative law

is one of the research methods that aim to compare laws through the explanation of the similarities and differences aspects from legal substance that are being compared. Legal substances that are compared in land waqf law practice in Indonesia and Malaysia, include; *wakif*, *nadzir*, the origin of land waqf, the management, aims, the term, and land waqf institution.

Based on the research data, the similarities in land waqf practice law in Indonesia and Malaysia, are as follows: 1. Similarities on the use of the legal basis for the practice of land waqf. Both countries initially used the rules of Islamic law, then were corroborated by state law in laws and regulations; 2. Equations about the shape of the wakif. In Indonesia, there are three forms of wakif, namely; individuals, foundations/institutions, and legal entities. In Malaysia, there are also three forms of wakif, namely; individuals, companies, legal entities and organizations; 3. Similarities about the nadzir form of land waqf, namely; individuals, institutions/foundations, and legal entities; 4. Between the countries of Indonesia and Malaysia, there are similarities in the position of land waqf witnesses. The witness does not belong to the waqf pillar, but is a condition of the validity of the waqf pledge carried out in front of state officials. The witness becomes evidence of the pronouncement of the waqf pledge from the waqf to the nadzir before the waqf pledge majlis, then the name of the witness is written in the waqf pledge deed.

Based on the explanation aforementioned, it can be concluded that the similarity of land waqf

practices in Indonesia and Malaysia is found in the elements that must be present in the land waqf law, namely; legal basis, form of wakif, form of nadzir, and position of witnesses in land waqf. While the differences, among others: 1. Legal issues of land waqf. In Indonesia, the legal problem of land waqf practice that often arises is the legality of land waqf, so it is always related to National Agrarian law (Makyuddin, 2021). Meanwhile, in Malaysia, the practice of land waqf is often problematic in the productive management of land waqf. In this case, the allocation of waqf land is often arbitrary and does not coordinate with the nadzir, resulting in misunderstanding between nadzirs (Pitchay et.al, 2018). Solving the legal problems of land waqf in Malaysia, using the principles of Islamic economic law, Islamic trade and business law, regarding the management of waqf land; 2. The position of the state as a wakif. In Indonesia, if the state is going to provide waqf land, there must be a legal submission from an institution or foundation, related to the nadzir or person in charge and management of the land waqf (Afifuddin, 2020). In Malaysia, the state can act as a wakif, which represents land in the name of the state, and which appoints a nadzir as well as a state; 3. The number of pillars or elements that must be met in the legal act of land waqf. There is a difference between the states of Indonesia and Malaysia. In Indonesia, the pillars of land waqf refer to Law Number 41 Year 2004 concerning Waqf, as follows; *wakif*, *nadzir*, land waqf assets, *ikrar wakaf*, the allocation of waqf land, and the term of

land waqf. Meanwhile, the pillars and requirements of land waqf in Malaysia refer to classical fiqh teachings that are based on the opinions of madzab scholars. According to majority of the scholars of *Malikiyah*, *Syafi'iyah*, *Zaidiyah*, and Hanabilah stated that there are four pillars of waqf as follows (Al-Khurasyi, 1317); *Waqif* (the one who gives waqf), *Mauqūf 'alaih* (destination or place for giving waqf), *Māl al-Mauqūf* (the asset that is given as waqf), *Sighah* (*ikrar* or *akad* of waqf). Thus, the differences on the elements or pillars of land waqf between Indonesia and Malaysia are *nadzir* of waqf land and the term of waqf. There are no those elements in Malaysia, and it includes in the element of *Mauqūf 'alaih* (destination or the place for giving waqf); 4. Meanwhile, the pillars and requirements of land waqf in Malaysia refer to the classical fiqh teachings based on the opinions of madzab scholars. In the opinion of most *Malikiyah*, *Shafi'iyah*, *Zaidiyah*, and Hanabilah scholars, there are four pillars of waqf, namely; *Waqif* (the one who has the waqf), *Mauqūf 'alaih* (the purpose or place of waqf), *Māl al-Mauqūf* (waqfed property), *Sighah* (waqf pledge or contract); 5. Land waqf management practices. In Indonesia, the practice of waqf land management tends to be traditional and semi-traditional / semi-productive (Rappe, 2019). While in Malaysia, it tends to be productive, so that waqf assets are increasingly abundant and widespread. In Malaysia, the addition of waqf assets comes from productive waqf management. In Indonesia, the addition of waqf assets comes from wakif or a

collection of funds from the community; 6. *Nadzir* of waqf in the form of institutions/foundations on land waqf management is frequently aimed at educational, health, and social aspects, while the productive land waqf management, *nadzir*, is frequently in the form of legal entities. In addition, in Malaysia, *nadzir* of land waqf is frequently developed in the form of institutions/foundations, legal entities, and companies. Waqf land is aimed at worship/religious, social, education, and health, so the *nadzir* is in the form of institutions/foundations and legal entities, while waqf land that is managed productively, so the *nadzir* is in the form of company. *Nadzir* that is a company is frequently implemented on land waqf management in Malaysia; 7. Land waqf institution, which is an institution appointed by the state to develop land waqf. Land waqf institutions in Indonesia are under the authority of the Ministry of Religion in matters of zakat, waqf, infaq, and shadaqah. The Ministry of Religious Affairs instructed the Office of Religious Affairs, which the former office concurrently serves as the Deed-Making Officer of the Waqf Pledge to serve the waqf of land in the community. Nowadays, the Indonesian state established the Indonesian Waqf Board which is an independent institution to develop waqf in Indonesia. Meanwhile, waqf institutions in Malaysia are under the authority of JAWHAR, the Ministry of Waqf and Zakat, and even the state can be domiciled as wakif and *nadzir*. The state sets aside a large budget for the development of waqf because the results of the waqf allocation are very helpful for the state in the

field of welfare and social justice. Waqf is one of the Islamic philanthropies that carries the concept of welfare which includes the relationship between individuals in a community, and the relationship between individuals and Allah (Dahlan et.al, 2014). Waqf is a good deed in the use of property that has a socioeconomic dimension. Waqf property must be preserved and its benefits must be developed by the nadzir (Sulistiani, 2021); 8. Settlement of waqf land disputes. In Indonesia, the settlement of waqf land disputes uses non-litigation and litigation mechanisms. Non-litigation is carried out by deliberation, if peace is not achieved, then using mediation, if not achieved, using arbitrase. If non-litigation is not achieved, then use the litigation mechanism by submitting a land waqf case through the Religious Court (Abdullah, & Qodin, 2016). The results explained that the mechanism for resolving waqf land disputes in Malaysia uses negotiations, mediation, arbitrase and Civil Courts. The difference lies in the fact that Indonesia uses deliberation while Malaysia uses negotiations. Between deliberation and negotiation, there is a difference in understanding. Deliberation is the settlement of waqf land disputes internally. Meanwhile, negotiation is deliberation by presenting a referee who leads the dispute resolution to mediate when there is a bargaining of the parties in an effort to resolve the dispute. The result of the negotiation agreement is stated in the minutes of dispute resolution. By understanding the differences, negotiations are stronger than deliberations. Negotiations can be

used as written agreements and authentic evidence, in order to avoid misappropriation of the parties to the agreement that has been made together. In Malaysia, the settlement of waqf land disputes by litigation is under the authority of the State Court (Islamiyati, Hendrawati, & Musyafah, 2020); 9. The term of the land waqf. The period of land waqf in Indonesia is forever, except for the waqf of land rights, for example; lease rights, right of use, right of use of the building. The period of time is within a certain time span. The period of land waqf in Malaysia is forever, because the land that is waqfed is always built into a permanent building that cannot be torn down.

Based on the explanation above, it can be concluded that the differences in land waqf practices in Indonesia and Malaysia are found in several aspects, namely; legal issues, the position of the state as a wakif, management practices, designations, timeframes, dispute resolution, institutions, and differences in schools in determining the pillars of land waqf. The description of the similarities and differences in the practice of implementing land waqf in Indonesia and Malaysia aforementioned can be seen in the following table :

Table .1. The Similarities and Differences in The Practice of Implementing Land Waqf in Indonesia and Malaysia

No	Similarities	Indonesia dan Malaysia	
1.	Land Waqf Legal Basis	Based on the rules of Islamic law, customary law corroborated by state lawl.	
2.	Equations about the shape of the wakif.	There are three forms of wakif, namely; individuals, foundations/institutions, and legal entities.	
3.	<i>Nadzir</i>	Similarities about the nadzir form of land waqf, namely; individuals, institutions/foundations, and legal entities	
4.	Equality in the position of witnesses	The witness does not belong to the waqf pillar, but is a condition of the validity of the waqf pledge carried out in front of state officials The witness becomes evidence of the pronouncement of the waqf pledge from the waqf to the nadzir before the waqf pledge majlis, then the name of the witness is written in the waqf pledge deed.	
	The Differences	Indonesia	Malaysia
5	Waqf land asset	From a private, joint land, <i>adat</i> land, the state land on behalf of an institution, inherited land and wills. Most of them are from private land.	From private asset, the state, <i>adat</i> land, will, inheritance, and corporate institutions.
6.	Legal issues of land waqf	The legal problem of land waqf practice that often arises is the legality of land waqf, so it is always related to National Agrarian law.	The practice of land waqf is often problematic in the productive management of land waqf, while the allocation of waqf land is often arbitrary and does not coordinate with the nadzir, resulting in a misunderstanding between nadzirs. Solving the legal problems, using the principles of Islamic economic law, Islamic trade and business law, which has to do with the management of waqf land.
7.	The position of the state as a wakif	If the state is going to provide waqf land, there must be a legal submission from an institution or foundation, related to the nadzir or person in charge and management of the land waqf.	The state can act as a wakif, which represents land in the name of the state, and which appoints a nadzir as well as a state.
8.	The number of pillars or elements that must be met in the legal act of land waqf,	The pillars of land waqf as followed; <i>wakif</i> , <i>nadzir</i> , land waqf assets, <i>ikrar wakaf</i> , the allocation of waqf land, and the term of land waqf.	The pillars and requirements of land waqf in Malaysia, as followed; <i>a>qif</i> (the one who has the waqf), <i>Mauqūf 'alaih</i> (the purpose or place of waqf), <i>Māl al-Mauqūf</i> (waqfed

			property), <i>Sighah</i> (waqf pledge or contract)
8	The allocation of waqf land	For family/relatives and public, mostly for public.	For family/relatives and public
9.	Term of land waqf	<i>Wakif</i> gives land waqf, in everlasting term (<i>wakaf mu'abbad</i>)	Everlasting.
10.	Land waqf management	Semi-productive, but Indonesian Waqf Board always gives guidelines productively,	Consumptive for religious, social, educational, and health activities. Productive/had economical value, for business ventures, for rented, and profit-sharing investments.
11	Land waqf Institution	Religious Court (waqf dispute settlement), Ministry of Religion (the institution in charge for the growth of waqf asset), PPAIW (land waqf service institution in society), District Office (additional institution in the fulfillment of administrative requirement), BPN (waqf land certificate and registration institution), and BWI (Indonesian Waqf Board).	Under the authority of the state (dependent), such as JAWHAR (Ministry of Waqf, Infaq and Zakat), MAIN (management institution and institution in charge for the existence of waqf asset), SIRC (waqf administration institution), independent institution/Foundation of waqf <i>nadzir</i> .
12 .	Waqf land dispute settlement institution	Through non-litigation and litigation. Non-litigation is assisted by contemporary mediation. Litigation is under the authority of Religious Court. A criminal case is settled by District Court.	Through non-litigation and litigation. Non litigation is assisted by professional mediator. Litigation is under the authority of District Court, There is also the state which is under the authority of Religious Court.

The data was taken from secondary legal material

Table 1 shows that the similarity of land waqf practices between Indonesia and Malaysia is found in number (1) the legal basis of land waqf; number (2) wakif form; number (3) nadzir form; and number (4) of the position of witnesses in the waqf of the land. Some of these similarities are based on the existence of the legal basis of waqf derived from Islamic law which is systematically explained in the waqf fiqh. The waqf fiqh was compiled by the scholars in interpreting and explaining in detail about the waqf law. The waqf fiqh was compiled by scholars

in interpreting and explaining in detail about the waqf law because the waqf law is not explained in detail in the Qur'an and the Hadith (Abbasi, 2012). The existence of the waqf fiqh is what is used as a guideline or legal basis in waqf for Muslims everywhere (Suliaman, & Yaakob, 2019), including in Indonesia and in Malaysia.

The differences in the implementation of land waqf in Indonesia and Malaysia are shown in table 1, from numbers 5 to 12; Waqf land asset, legal issues of land waqf, the position of the state as a wakif, The number of pillars or elements that

must be met in the legal act of land waqf are the allocation of waqf land, term of land waqf, land waqf management, land waqf Institution, waqf land dispute settlement institution.

The differences could be seen on several aspects, such as; management practice, institutions, allocation, the term, and land waqf dispute settlement mechanism. The differences were caused by several factors as followed; 1. Community legal culture in Indonesia and Malaysia is different. Community legal culture in Indonesia is based on Hindu-Buddhist, Islamic and Dutch colonial culture. They made legal culture grow through local wisdom to civil law system, from law in action to law in book. In correlation to land waqf, the law used was law in book from Islamic law rules, then supported by law in action in the form of legislation. Therefore, the state frequently stipulated waqf rules in the form of legislations, although the people sometimes did not know and understand it yet, for example; Basic Agrarian Law Number 5 Year 1960, Government Regulation Number 28 Year 1977 concerning Endowment of Owned Land, Waqf Law Number 41 Year 2004, Government Regulation Number 42 Year 2006 concerning Waqf Implementation. Meanwhile, community legal culture in Malaysia was based on British colonial background, that used common law system (Somadiyono, 2020). Therefore, law system used by Malaysia tends to use applicable legal rules in society that is enforced as waqf law. The correlation with land waqf is that Malaysia uses Islamic law rules in formulating waqf law

(*Enakmen Wakaf*). Therefore, there is waqf rules that do not miss Islamic law basis, such as; the determination of waqf requirements and pillars and the allocation and term of waqf. Thus, the states of Indonesia and Malaysia have a different pattern of the concept of a legal state. The concept of a legal state in each of these countries cannot be forced to impose on the other countries because everything aims for the sake of its own people (Hamzani, 2014); 2. Different form of the state of Indonesia and Malaysia has effect on government policies in land waqf implementation. Malaysia is an Islamic country that has given land waqf owned by its state for waqf purpose. Moreover, Malaysia also has appointed professional *nadzir* as waqf management, so waqf land asset has grown rapidly in Malaysia. On the other side, Indonesia as the country with the biggest Muslims population also protect and provide waqf land for religious and social interest, and also for developing economic activity in society, so justice and prosperity for the people could be realized. In correlation with land waqf, Indonesia does not give waqf in the form of land, but they own the land. Therefore, Indonesians give land waqf through offering from the people, institutions/foundations, or organization to turn the state land into waqf land after a minimum of ten (10) years of use; 3. Malaysia as Islamic country also has an impact on waqf institution. Malaysia has given waqf affair to the Ministry of Waqf and Zakat, to take the responsibility in waqf implementation in Malaysia. This Ministry is also assisted by other institutions, such as; MAIN,

SIRC and waqf Foundations/institutions that are established in society (Talib et.al, 2018). Land waqf institutions in Indonesia were initially managed by Ministry of Religion in the administration, progress, and management of waqf land, as well as the empowerment of waqf nadzir. Since Indonesia stipulated Waqf Law, the government has established Indonesian Waqf Board as an independent institution that is responsible for the development of land waqf in Indonesia. Therefore, based on the institutional aspects, land waqf between Indonesia and Malaysia has differences in the characteristics. In Malaysia, the characteristics of waqf institutions are under the authority of the state (Ministry of JAWHAR). On the other side, in Indonesia, the characteristics of waqf institutions are under the authority of the state (Ministry of Religion) and under the authority of independent institution or non-governmental institutions, such as BWI that has main office in Jakarta, and has representatives in provinces and districts. Thus, based on land waqf institutions aspects, Indonesia has stronger position than Malaysia;

4. Malaysia as Islamic country does not give impact on land waqf dispute settlement because land waqf dispute settlement institution in Malaysia is under the authority of Civil/State Court, although land waqf law is from Islamic law, there is a waqf case settled by the judges who do not know about waqf law. It has an impact on the judge's verdict that does not reflect justice for the seekers. In Indonesia, waqf dispute settlement case is under the authority of Religious Court

because waqf law is from Islamic law. Based on the legal system in Indonesia, Religious Court is a law enforcement institution that settles Islamic law case submitted by Muslims (Article 49 Law Number 3 Year 2006);

5. Malaysia also has policy in managing land waqf asset, in the form of granting fund allocation to empower *nadzir* in managing and empowering land waqf, so *nadzir* institution is established and works professionally. Therefore, in waqf management, Malaysia has managed waqf in modern way/productively to develop and expand land waqf asset, and becoming the fund source for consumptive waqf asset maintenance. In Indonesia, the existence of *nadzir* that is appointed by *wakif* is still dominated according to social relations and trusts. This is unprofessional, so that land waqf management is mostly still carried out through semi-traditional method, in the form of the combination between traditional land waqf management (consumptive waqf) and modern waqf management (productive waqf).

Based on the explanation above, it could be concluded that several factors that distinguish the implementation of land waqf in Indonesia and Malaysia, are; the form of the state, legal culture, and government's policies. After knowing these differences, it is useful for legal development in Indonesia to;

1. Be able to find out and analyze legal basis characteristics used as the guidelines in land waqf practice in Indonesia and Malaysia. In Indonesia, land waqf law characteristics use religious rules that are supported by the state regulations, such as; Basic Regulations of

Agrarian Principles Number 5 Year 1960, Government Regulation Number 28 Year 1977 concerning Endowment of Land Properties, Waqf Law Number 41 Year 2004, Government Regulation Number 42 Year 2006 concerning Waqf Implementation. However, in its practice, people tend to use the rules of fiqh teachings in the books written by previous scholars that explained about waqf, for example; Naulil Authar, Subulus Salam, Kifayatul Ahyar, and others. The teachings of these books are delivered by kyai or scholars in *majlis ta'lim*, such as; lectures, *madrasah* or Islamic school, and Islamic boarding school. Land waqf law characteristics in Malaysia are based on Islamic law that is stipulated as written rules, and are also based on scholars' opinion that explained the procedures of waqf and waqf management also other waqf rules in detail that are needed by the people. Malaysia, which is an Islamic country and consists of several states, stipulated that each country has authority to make land waqf rules separated from another country. The difference of legal basis has an impact on legislation conflict issue. The state government stated that waqf law was from Islamic law, so its implementation and dispute settlement of waqf law case was also from Islamic law, and the institution that settled it was Shariah court (Religious Court). While other state government stated that land waqf law has become the issue in the state generally, so its legal basis used the state law, and the court that settled it was the Civil Court (District Court); 2.Be able to understand the similarities and differences in land waqf practice

law between Malaysia and Indonesia. The similarities of land waqf practice law in Indonesia and Malaysia lie on several aspects, as follows; land waqf law basis; the form of *wakif* and *nadzir*; and the position of land waqf witnesses. The differences of land waqf practice law in Indonesia and Malaysia lie on several aspects, as followed; management practice, institution, allocation, the term, and land waqf dispute settlement; 3.Be able to analyze the policies stipulated by the state of Malaysia and Indonesia, in their relation to land waqf practice. Therefore, we could understand the enforcement of land waqf law in a state. Indonesia's policies have correlation with land waqf practice in term of stipulating land waqf rules, as follows; Basic Regulation of Agrarian Principles Number 5 Year 1960, Government Regulation Number 28 Year 1977 concerning Endowment of Land Properties, Waqf Law Number 41 Year 2004, Government Regulation Number 42 Year 2006 concerning Waqf Implementation. The waqf regulations are valid generally for all the people in Indonesia (universal). The consequence of the state stipulating the rules means that the state also gives authority to the judiciary to settle the cases, if there is a land waqf dispute. The state has given authority to Religious Court to settle land waqf case through civil settlement, and the Criminal Court to settle waqf case that contains criminal offense if it is compared with land waqf law culture in Malaysia, that directly uses Islamic law as written law and applicable law in society. Therefore, land waqf practice law in Malaysia is

based on Islamic law. Moreover, waqf institution is established by the people (*penghulu/kyai/modin*), then it is changed into a waqf institution that is established by the state (MAIN), through authentic proof or documentations. Thus, Malaysians has used the state law in implementing waqf land, because the state is an Islamic country that enforced Islamic law as guidelines in giving land waqf (Muhamad Don, 2019); 4.Be able to find out legal issues/problems on land waqf practice in Indonesia and Malaysia as well as the settlement procedures that are carried out by each state. Land waqf law problems in Indonesia have occurred on waqf law institutions or waqf law enforcers. Community culture and the rules are used as guidelines in waqf practice. In waqf law culture, people are used to give land waqf orally, not going through Officials Making The Deed of Waqf Pledge, but going through *nadzir* directly to manage waqf asset. People act like that because of several factors, such as; they give land waqf because of Allah, and only expect Allah's blessing; they do not understand waqf rules stipulated by the state, lack of patience and persistence in fulfilling land waqf requirements and pillars as regulated in the legislations, lack of understanding in bureaucracy, and problems in the fund/cost (Daryadi, 2021). Those problems hamper the proof, so it will cause further problems in the future, such as abandoned waqf assets, less maintained / stalled asset, the transfer of the asset, the loss of asset, or that the asset was controlled by others (Junaidi, & Kamasarudin,

2019). If *wakif* dies, the problems that cause the disputes frequently occur, both between *nadzir* and the heir of *wakif*, and between *nadzir* and the people. The phenomenon of waqf law problems in Indonesia also occurs in the Tunisian Djerba community which initially took a waqf by using oral and customary waqf contracts intended for the benefit of worship for the general public (Merimi, 2021). Land waqf law implementation in Malaysia faced legal issues on waqf law dispute settlement institution that involved the judge who did not run his authority as a legal expert including waqf law, so he was not able to master waqf law. It affects the judge's verdicts, which do not reflect justice value for the seekers. If the government do not take a step to enforce justice through intitutional role, then the people would not trust the judicial judges; 5.Be able to study the progress and innovations land waqf practice law in Malaysia, as the material to rearrange the law or updating the law in Indonesia so that the law can be implemented.

From explanation aforementioned, the benefits of comparing the law of land waqf practice between the Indonesian and Malaysian states, for the Indonesian nation, are; to know the characteristics and practices of land waqf in Malaysia; to analyze Malaysian state policy in relation to land waqf; to know the legal problems of land waqf practice in Malaysia; to study the advancement and legal innovations of land waqf practice that occur in the country of Malaysia. This can inspire the renewal of land waqf law in

Indonesia, divided from the aspect of legal regulation and institutions.

Based on the history of land waqf progress and enactment, Malaysia is more advanced than Indonesia. Therefore, in 2004 the state stipulated Waqf Law Number 41 Year 2004 to reform waqf law in Indonesia, and its implementing regulation that was Government Regulation Number 42 Year 2006. The government stipulating the legislation generally aimed to reform land waqf law in Indonesia. Moreover, government's specific objectives in stipulating Law Number 41 Year 2004 concerning Waqf, are; to turn people's mindset from traditional into modern; to support waqf law rules from the rules of religious institutions; to save, to give legal certainty and protection for the involved parties in land waqf law act, such as; *wakif*, *nadzir*, witness, waqf asset and the person who used land waqf asset. Moreover, land waqf rules that are stated in Law Number 41 Year 2004 concerning waqf, are (Siregar, 2012): 1. There are two types of land waqf, as follows; giving land waqf with everlasting ownership right, and giving land waqf with lease rights in specific time, after the term of land rights of lease waqf has been complete, *nadzir* returns it to the owner; 2. The allocation of waqf land asset for public (*wakaf Khairi*) and certain circles (waqf experts), but in waqf certificate is intended for public; 3. *Wakif*, that is private groups (giving waqf jointly, by buying the land per m²), institutions, foundations, and organizations must give land waqf to Officials Making The Deed of Waqf Pledge by presenting required elements in

land waqf, then Officials Making The Deed of Waqf Pledge express it in land waqf pledge deed; 4. *Nadzir*, that is a private foundation/institution, organization and legal entities that has met the requirements and is proven by the letter of appointment of *nadzir* from Indonesian Waqf Board *Nadzir* must live in the same sub-district with the waqf land. *Nadzir* is assisted by Officials Making Deeds of Waqf Pledge to manage waqf land registration in the State Land Agency for the issuance of the waqf land certificate, as an authentic proof of the implementation of land waqf law act. Waqf land certificate is on behalf of *nadzir* because *nadzir* has responsibility for the maintenance, management and saving of waqf land; 5. Land waqf asset is a legal asset of *wakif*, that is proven by a certificate or other proofs that show the ownership of *wakif*. Moreover, land waqf asset is not in dispute, not in guarantee, and not in debt, that is proven with letter of statement from the Head of Village; 6. Land waqf managements are not only for *ibadah mahdhoh* but also for *ibadah ghoiru mahdhoh*, and has economic value. Waqf land management is intended for productive waqf, and waqf land management result is used for social interest or for developing waqf land asset, so it can increase waqf land asset and can fulfill people's needs; 7. The institutions that manage land waqf are; Officials Making Deeds of Waqf Pledge, State Land Agency, *Kalurahan* Office, District Office, and notaries for land waqf that is in the form of inheritance and wills whose certificate is broken; 8. Land waqf dispute settlement is carried out through deliberation. If it

still cannot be settled, it will be settled through mediation. If mediation cannot settle the issue, it will be settled through arbitration. If arbitration cannot settle the dispute, legal process through the Religious Court will be used for civil case, and District Court for criminal offenses; 9. The existence of Indonesian Waqf Board as an institution that takes role in collecting data dan administration, as well as licensing in the changes to the allocation and transfer of land waqf asset. Moreover, Indonesian Waqf Board also has role as a mediator or arbitrator in waqf dispute settlement.

Currently, the applicable law waqf is Waqf Law Number 41 Year 2004 concerning Waqf. If it is compared with previous land waqf regulations, there are similarities and differences. The similarities are in the elements that must be met in land waqf, such as; *wakif*, *nadzir*, waqf land asset, waqf pledge in front of Officials Making The Deed of Waqf Pledge, the presence of witness, and Religious Court as waqf dispute settlement institution. The differences are on several aspects, such as; the validity of *nadzir* that must be proven by letter of statement form Indonesian Waqf Board; *nadzir*'s residence that must be in the same sub-district with land waqf; productive land waqf management; non-litigation and litigation waqf dispute settlement, and the position of BWI in land waqf law enforcement.

Thus, the position of Waqf Law Number 41 Year 2004 concerning Waqf is to support land waqf law that has been regulated in Basic Regulations on Agrarian Principles Number 5

Year 1960, Government Regulation Number 28 Year 1977 concerning Waqf Land Properties, and KHI of Presidential Instruction Number 1 Year 1991 Book III concerning Waqf. Moreover, Waqf Law Number 41 Year 2004 concerning Waqf also reformed land waqf law, both in its substance and its law implementation procedures.

The renewal of waqf law in Indonesia is essential because there are several legal issues on land waqf practice, that is from *wakif*, *nadzir* and Officials Making The Deed of Waqf Pledge. On *wakif*, there is still the *wakif* who gives waqf using Islamic law rules and does not know the progress of land waqf law from the state, so *wakif* gives land waqf because of the intention of the worship itself, not officially making the deed of waqf pledge, but to *nadzir* directly and orally, because *wakif* does not believe in the state rules thoroughly. In terms of *nadzir*, there is still the *nadzir* that is not professional, has no legal entity, has no understanding on the waqf asset management, is not fully trusted by the people, and has no awareness in creating waqf land certificate. In terms of Officials making Deed of Waqf Pledge, there is still Officials who do not implement their jobs and obligation properly, in relation to the coordination and the empowerment of *nadzir*. These officials also do not show excellent service (*good governance*) to the people, are lack of the administration of waqf land and lack of socialization of land waqf law in the society.

The renewal of the law is carried out on its juridical rules and its institutions. The juridical

rules are that the state sets land waqf rules that are oriented towards several things, namely; proof and determination in writing of the wakif, nadzir, designation and term of the waqf; land waqf management shifted from consumptive waqf to productive waqf, so that the amount of waqf assets does not only come from wakif, but also comes from productive waqf management; settlement of land waqf disputes is resolved through litigation and non-litigation mechanisms; establishing an independent Indonesian Waqf Board institution, as a waqf institution that helps strengthen the enforcement of waqf laws. Land waqf law derived from the rules of Islamic law really needs to be perfected by state law so that aspects of certainty, legal protection and legal justice are achieved (Hadi, 2014).

Legal reforms in land waqf institutions, namely; the state through the Ministry of Religious Affairs seeks to increase the resources of the Waqf Pledge Deed Making Officer by conducting legal education or training, so that the Waqf Pledge Deed Making Officer can carry out their duties and authorities properly and correctly, for example; implementation of the open access strategy in serving land waqf in the community (Triyanta, & Zakie, 2014).

The state seeks to realize a professional Indonesian Waqf Board with integrated management in legalizing land waqf nadzir, so that nadzir has certainty and legal protection in managing land waqf assets. Research conducted by Umar Habibu Umar and Md Harashid Haron shows that countries in the world including

Indonesia should provide regulations, standard guidelines that motivate nadzir to compile annual reports on the management of waqf assets, both for social and productive purposes (Umar, & Haron, 2021).

In addition, the renewal of land waqf law is also carried out through effective and efficient cooperation between waqf institutions, namely; The Indonesian Waqf Board, the Official Making the Deed of Waqf Pledge, and the nadzir, so that the assets of the waqf land are not destroyed and lose ownership, even though the wakif has passed away. The renewal of waqf from the institutional aspect has also been researched by Norbert Oberauer that shows the development of waqf since the 2nd century Hijriyah until now has shifted in that the ownership of waqf property does not belong to the individual, but belongs to the public. The Wakif has already relinquished ownership of his property for religious and social purposes, in the hope of obtaining a charitable reward from God. Nadzir is required to maintain the waqf mandate by managing it properly, professionally, and sustainably (Oberauer, 2013).

D. CONCLUSION

Based on the explanation aforementioned, it could be concluded that the comparative study on the implementation of land waqf law in Indonesia and Malaysia has big impact on the growth of land waqf in Indonesia. This study has allowed us to be able to find out the characteristics of legal basis, the similarities and differences of the implementation of waqf law,

and legal formulations, to analyze the state policies, to study the progress and innovations of land waqf practice law in Indonesia and Malaysia. They can be used as a stage to reform waqf law in Indonesia.

The renewal of waqf law in Indonesia is crucial because there are still some legal problems in the practice of land waqf, which comes from wakif, nadzir and Waqf Pledge Deed Making Officers. The renewal of the law is carried out on its juridical rules and its institutions. The juridical rules are that the state establishes land waqf rules that are oriented towards aspects of certainty, legal protection and achieving legal justice. In addition, the state also carries out legal reforms to land waqf institutions to enforce the law and land waqf assets can be managed properly and professionally, so that the results can be utilized as much as possible for the prosperity of the people.

REFERENCES

JOURNALS

- Talib, Nori Yani Abu., Latiff, Radziah Abdul., Aman, Aini., & Palil, Mohd Rizal. (2018). An Exploratory Study of Accounting and Reporting Practice for Waqf Among State Islamic Religious Councils in Malaysia. *International Journal Of Islamic Thought*. Vol.13,(Issue2),pp.90-105. <https://doi.org/10.24035/ijit.13.2018.009>
- Aldeen, Khaled Nour., Ratih, Inayah Swasti., & Herianingrum, Sri. (2020). Islamic Social Finance and Ethics Contemporary Issues on Cash Waqf: A Review of the Literature. *International Journal of Islamic Economics and Finance (IJIEF)*, Vol.3,(Issue 2), pp.119-144. <https://doi.org/10.18196/ijief.3236>
- Abbasi, Muhammad Z. (2012). The Classical Islamic Law of Waqf: A Concise Introduction. *Arab Law Quarterly*, Vol.26,(Issue2),pp.121-153.<https://doi.org/10.1163/157302512X629124>.
- Dahlan, Nur Khalidah., Yaa'kub, Noor Inayah., Hamid, Mohamad Abdul., & Palil, Mohd Rizal. (2014). Waqf (Endowment) Practice in Malaysian Society. *International Journal of Islamic Thought*, Vol. 5, (Issue 2), pp.56-61. <http://journalarticle.ukm.my/7229/>
- Hasan, Zunaidah Ab., Othman, Azhana., Ibrahim, Kalilah., Malek Md Shah, Moch Abd., & Mohd Noor, Abd. Halim. (2015). Management of Waqf Assets in Malaysia. *International Journal of Nusantara Islam*, Vol. 03,(No.01),pp.59-68.<http://dx.doi.org/10.15575/ijni.v3i1.412>.
- Merimi, M. (2021). The production of Ibadi and other waqf acts in Tunisia in modern times (La production des actes de waqf ibadites et autres en Tunisie à l'époque modern). *Journal of Islamic Manuscripts*, Vol.12, (Issue1),pp-40-41.<https://doi.org/10.1163/1878464X-01201004>.
- Oberauer, N. (2013). Early Doctrines on Waqf Revisited:The Evolution of Islamic Endowment Law in the 2nd Century AH. *Islamic Law and Society*, Vol. 20, (Issue 1-2),

- pp.1-47.<https://doi.org/10.1163/15685195-0001A0001>
- Omar, Ismail., Yusof, Aminah Md., & Manaf, Faizal A. (2014). The Economic Transformation Of Waqf Lands In Malaysia - A Structure And Agency Approach. *International Journal of Business, Economics and Law* ,Vol. 5, (Issue 3), pp.1-11.
- Pitchay, Anwar Allah., Mohd Thas Thaker, Mohamed Asmy., Mydin, Al Amin., AZhar, Zubir., & Abdul Latiff, Abdul Rais. Cooperative-Waqf Model: A Proposal To Develop Idle Waqf Lands In Malaysia. *ISRA; International Journal of Islamic Finance*, Vol.10(No.2),pp.225-236. <https://www.emerald.com/insight/content/doi/10.1108/IJIF-07-2017-0012/full/html>
- Sulistiani, Siska L. (2021). The legal position of waqf for non-muslims in efforts to increase waqf assets in Indonesia. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Vol.5 (No.1),pp.357-371. <http://dx.doi.org/10.22373/sjhc.v5i1.9161>
- Syamsuri., Arif, Syamsudin., Fedro, Alfarid., Wibisono, Vina Fithriana., Rivai, Veithzal., Subagja, Iwan Kurniawan., Basalamah, Salim. (2019). Existence of Waqf in Enhancing of Indonesia Financial Stability in Era Industrial Revolution 4.0: A Conceptual Design. *East African Scholars Journal of Economic, Bussines and Management*, Vol. 2,(Issue.12),pp.744-753. <https://www.easpub.com/journal-details/easjebm/19/123>
- Kader, Syed Abdul., Zubaidah, Sharifah., Ali, Zuraidah., & Mohamad, Nor Asiah.(2013). Eviction of Unlawful Occupiers of Land in Malaysia – Judicial Responses and Policy. *Malayan Law Journal Articles 1*, pp.1-17. <http://irep.iium.edu.my/47629/>
- Suliaman, Ishak., & Yaakob, Mohm Azrof Zaki. (2019). Analysis on Textual Hadith of Waqf Infrastructure in al-Kutub al-Sittah and Its Applications from the Perspective of Maqasid al-Sunnah. *Al-Bayan: Journal of Qur'an and Hadith Studies*, Vol.17,(Issue 2), pp.221-245. <https://doi.org/10.1163/22321969-12340077>
- Umar, Umar Habibu., & Haron, Md Harashid. (2021). Accounting for Waqf Institutions: Business, Not-for-Profit or Hybrid Entities?. *International Journal of Islamic Economics and Finance (IJIEF)* Vol.4, (Issue2),pp.293-314. <https://doi.org/10.18196/ijief.v4i2.11734>
- Abdullah, Junaidi., & Qodin, Nur. (2014). Penyelesaian Sengketa Wakaf Dalam Hukum Positif. *Jurnal ZISWAF; Jurnal Zakat dan Wakaf*, Vol.1, (No.1), pp-37-54.
- Asfiati. (2014). *Masuk dan Berkembangnya Agama Islam di Indonesia (Analisis Teori-Teori yang ada)*, Jurnal Thariqah Islamiyah. Vol. 1 (No.2). pp.16-30.
- Hadi, S. (2014). Regulasi UU Nomor 41 Tahun 2004 Tentang Wakaf (Tinjauan Sejarah-Sosial). *Jurnal Penelitian*, Vol.8, (No.2), pp.319-338. <http://dx.doi.org/10.21043/jupe.v8i2.840>
- Sumarja, FX. (2013). Perkembangan Pengaturan Objek Wakaf dalam Perspektif Hukum Tanah

- Nasional dan Hukum Islam. *Jurnal Litigasi*, Vol.14(No.2),pp.1908-1936. <http://dx.doi.org/10.23969/litigasi.v14i2.78>
- Hamzani, Irwan A. (2014). Menggagas Indonesia sebagai Negara Hukum yang Membahagiakan Rakyatnya. *Jurnal Yustisia*, Vol.90,(No.1),pp.136-143. <https://doi.org/10.20961/yustisia.v3i3.29562>
- Islamiyati., Rofiq, Ahmad., Setyowati, Rofah., & Hendrawati, Dewi. (2019). Implementasi UU Wakaf dalam Penyelesaian Sengketa Wakaf di Wilayah Pesisir Jawa Tengah. *Jurnal Masalah-Masalah Hukum*, Vol.48, (No.4), pp.331-400. DOI: 10.14710/mmh.48.4.2019.331-340
- Junaidi., & Kamasarudin. (2019). Penyelesaian Sengketa Tanah Wakaf Studi Kasus di Desa Nusantara Jaya Kecamatan Keritang. *Jurnal Syariah*,Vol.VII,(No.2),pp.65-78. <http://ejournal.fiaiunisi.ac.id/index.php/syariah/article/view/261>
- Muhamad Don, Mohd. Ali. (2019). Teori Wakaf, Kepelbagaian dan Contoh Amalan di Malaysia (Theory, Diversity and Practices of Waqf in Malaysia). *Malim; Jurnal Pengajian Umum Asia Tenggara* 20(2019), pp.24-39. <https://doi.org/10.17576/malim-2019-2001-03>
- Nurhidayani., Yasin, Muaidy., & Busaini. (2017) Pengelolaan dan Pemanfaatan Wakaf Tanah dan Bangunan. Maqdis. *Jurnal Kajian Ekonomi Islam*, Vol. 2, (No. 2), pp.163-175. <https://moraref.kemenag.go.id/documents/article/97873310930438788>
- Rappe, A. (2019). Problematika Wakaf Aset Tanah Persyarikatan Muhammadiyah Di Sulawesi Selatan. *AL-SYAKHSHIYYAH; Jurnal Hukum Keluarga Islam dan Kemanusiaan*, Vol. 1, (No. 1), pp.37-59. DOI : 10.35673/asyakhshiyah.v1i1.133
- Siregar, I. (2012). Pembaharuan Hukum Perwakafan diIndonesia. *TSAQAFAH; Jurnal Peradaban Islam*, Vol. 8, (No. 2), pp.275-294. DOI : 10.21111/tsaqafah.v8i2.25
- Syafiq, A. (2015). Urgensi Pencatatan Wakaf Di Indonesia Setelah Berlakunya Undang-Undang Nomor 41 Tahun 2014 Tentang Wakaf. *Ziswaf; Jurnal Zakat dan Wakaf*, Vol. 2,(No.1),pp.176-195. <http://dx.doi.org/10.21043/ziswaf.v2i1.1542>
- Somadiyono, S. (2020). Perbandingan Sistem Hukum Antara Indonesia dan Malaysia. *Jurnal Wajah Hukum*, Vol. 4, (No. 2), pp.414-420. <http://dx.doi.org/10.33087/wjh.v4i2.243>
- Triyanta, Agus., & Zakie, Mukmin. (2014). Problematika Pengelolaan Tanah Wakaf: Konsep Klasik dan Keterbatasan Inovasi Pemanfaatannya di Indonesia. *Jurnal Hukum IUS QUIA IUSTUM*, Vol. 21, (No.4), pp.583-606. <https://doi.org/10.20885/iustum.vol21.iss4.art4>

PROCEEDINGS

- Islamiyati., Hendrawati, Dewi., Musyafah, Aisyah Ayu. (2020) A Comparative Study of Waqf Legal System Between Indonesia and Malaysia. *In Prosseding of The International Conference on Environmental and*

Technology of Law, Bussiness and Education on Post Covid-19, ICETLAWBE 2020, September 26, Bandar Lampung. DOI: 10.4108/eai.26-9-2020.2302564.

BOOKS

- Djajadiningrat, H. (1983). *Critical Review of the History of Banten*. Tangerang: Djambatan.
- Harsono, B. (2005). *Hukum Agraria Indonesia, Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*. Jakarta: Djambatan.
- Islamiyati. (2021). *Kajian Perbandingan Mekanisme Hukum Penyelesaian Sengketa Tanah Wakaf Di Indonesia Dan Malaysia*. Semarang: Pustaka Magister.
- Hamka. (2010). *Between Facts and Imagination "Tuanku Rao"*. Jakarta: Bulan Bintang.
- Khozin, M. (2009). *Sistem Hukum Perspektif Ilmu Sosial*. Bandung: Nusa Media.
- Suryanegara, Ahmad M. (n.d). *Islamic Discourse: Finding History: Discourse on Islamic Movements in Indonesia*. Bandung: Mizan.

ONLINE SOURCE

- Maria, A. (2022). Pelayanan Pendaftaran Tanah Sebagai Jenis Penerimaan Negara Bukan Pajak Yang Berlaku Pada Badan Pertanahan Nasional Menurut PP No.13 Tahun 2010. Retrieved from <https://www.hukumproperti.com/pertanahan/pelayanan-pendaftaran-tanah-sebagai-jenis-penerimaan-negara-bukan-pajak->

yang-berlaku-pada-badan-pertanahan-nasional-menurut-pp-no-13-tahun-2010/

INTERVIEWS

- Afifuddin, A. (2020). Official for making the Waqf Pledge Deed, Bonang District, Demak Regency.
- Daryadi, E. (2021). Official for making the Waqf Pledge Deed, Subah District, Kendal Regency.
- Makyuddin, M. (2021). The official for making the Waqf Pledge Deed, Wates District, Kulonprogo Regency.