

Verbal Waqf in the Digital Age Between Sharia Validity and National Legal Certainty

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Abstract: Waqf is an important instrument in the Islamic economic system that has social and spiritual functions in improving the welfare of the people. The concept of waqf as a charitable deed means that its benefits can continue to be felt as long as the waqf property is used for the public good. In classical fiqh, waqf can be declared verbally through a shighat in front of witnesses without the need for written documents, as long as it fulfils the pillars and conditions of waqf, such as the wakif, mauquf, mauquf 'alaih, and shighat. However, in positive law in Indonesia, through Law Number 41 of 2004 concerning Waqf and Government Regulation Number 42 of 2006, waqf must be proven with a Waqf Deed (AIW) to ensure legal certainty, transparency, and accountability in the management of waqf assets. With the development of digital technology, there has been a phenomenon of waqf through electronic media such as voice recordings, videos, or online messages. Sharia law considers this form to be valid if it fulfils the elements of intention, clarity of statement, and testimony. However, formal law still requires reinforcement through official documents such as e-AIW or certified digital signatures. This study uses a normative juridical approach based on literature review by analysing primary, secondary, and tertiary sources qualitatively. The results of the study show that harmonisation between Islamic law and positive law is necessary so that waqf practices in the digital era remain valid under Sharia law and have legal certainty.

Keywords: Verbal Waqf, Digital Waqf, Islamic and Positive Law, Legal Certainty, Digital Transformation.

Introduction

Waqf is an important instrument in the Islamic economic system that has social and spiritual functions to realise the welfare of the people. In the context of Islamic law, waqf is regarded as a charitable deed whose rewards continue to flow as long as the waqf property is still being used by the community (Zahrah, 1971). Traditionally, waqf was carried out verbally in front of witnesses, without the need for written documents, as long as the pillars and requirements were fulfilled, such as the presence of a waqif (waqf giver), mauquf (waqf property), mauquf 'alaih (beneficiary), and shighat (waqf statement). However, the development of modern society and the national legal system requires authentic and formal legal evidence in the implementation of waqf, thus raising issues when waqf is only carried out verbally without digital documentation or a waqf deed that is legally valid in the eyes of the state.

In Indonesian positive law, waqf is regulated under Law Number 41 of 2004 concerning Waqf and Government Regulation Number 42 of 2006 concerning its implementation. These regulations stipulate that every waqf transaction must be formalised through a Waqf Pledge Deed (*Akta Ikrar Wakaf*-AIW) authorised by the Official for the Making of Waqf Pledge Deeds (*Pejabat Pembuat Akta Ikrar Wakaf*-PPAIW) as valid legal evidence (Republic of Indonesia, 2004). This provision is essential to ensure legal certainty, transparency, and accountability in the management of waqf assets. Nevertheless, in the current digital era, a new phenomenon has emerged in which waqf is conducted through online media, short messages, or video recordings without formal written legal procedures. This phenomenon raises debates between its validity under Islamic law and its recognition within the national legal framework, as verbal waqf may be considered valid in fiqh but lacks strong evidentiary power in positive law (Badan Wakaf Indonesia, 2022).

From the perspective of Islamic law, the majority of scholars from the Shafi'i, Maliki, and Hanbali schools maintain that waqf becomes valid once it is clearly declared and fulfils the element of *shighat*. Its validity does not require a written form, as the essential element lies in the intention and verbal declaration of the donor (Zuhaili, 1985). However, with the advancement of information technology, such verbal declarations may now be recorded as digital evidence, including audio recordings, video files, or electronic messages. This development raises a new

question: whether such digital recordings may be regarded as a form of “modern verbal declaration” that is valid according to Islamic law while simultaneously meeting the evidentiary requirements of positive law in courts or land administration institutions (Buang, 2022).

From the perspective of national legal certainty, the concept of verbal waqf presents significant challenges. Without an official deed, waqf declarations may potentially give rise to disputes, particularly regarding asset ownership, the validity of the donor, and the management of waqf property (Irfan, 2018). Furthermore, the national legal system requires administrative legality so that waqf assets can be registered within the national land and financial systems. Without such registration, waqf assets lack adequate legal protection. Therefore, the role of the state through the Indonesian Waqf Board (*Badan Wakaf Indonesia* – BWI) and the Ministry of Religious Affairs is crucial in regulating and validating forms of waqf in the digital era in order to maintain harmony between Islamic principles and legal certainty (Badan Wakaf Indonesia, 2023).

The digitalisation of waqf has also introduced new dynamics in the practice of waqf management in Indonesia. Many institutions now facilitate online waqf through websites, applications, and social media platforms, enabling the public to perform waqf more easily and widely (Arifin, 2023). However, questions arise regarding its formal validity: whether a waqf declaration conducted through digital platforms that rely solely on clicks or message confirmations can be regarded as a valid *shighat* of waqf according to both Islamic law and national law. This issue indicates that technological developments require a reinterpretation of the concept of “verbal declaration” in waqf so that it can adapt to digital realities without undermining Islamic values and legal certainty.

From the perspective of contemporary fiqh, several scholars and fatwa institutions, including the Indonesian Council of Ulama (*Majelis Ulama Indonesia* – MUI), have begun to acknowledge that digital media may serve as a legitimate means of expressing intention provided that it fulfils requirements of authenticity and does not involve elements of fraud (Majelis Ulama Indonesia, 2023). Nevertheless, such views must be accompanied by stronger national regulatory frameworks to ensure that digital waqf practices do not create legal loopholes or opportunities for misuse. Hence, the integration between the Sharia validity of verbal waqf and the formal legality of digital waqf represents a significant challenge for policymakers and religious authorities in Indonesia (Aisyah, 2024). Therefore, the study entitled “Verbal Waqf in the Digital Era between Sharia Validity and National Legal Certainty” becomes highly relevant. This issue concerns not only theological and jurisprudential aspects but also legal protection, waqf governance, and the adaptation of Islamic law in responding to digital transformation. This study is expected to contribute to the harmonisation between Sharia norms and positive law, as well as to provide direction for the development of more responsive regulations in addressing technological advancement in Indonesia.

Methods

This study employs a qualitative approach using a descriptive–analytical method combined with a normative juridical approach in order to obtain a comprehensive understanding of the legal phenomenon under examination (Novianti, 2024). This approach enables the researcher to analyse concepts, legal norms, and various perspectives found in scholarly literature and legal documents in a systematic and contextual manner. Methodologically, the research applies a multidimensional approach consisting of the statute approach, conceptual approach, and historical approach. The statute approach is used to examine the legal regulations governing waqf in Indonesia, particularly Law Number 41 of 2004 concerning Waqf and Government Regulation Number 42 of 2006 as the principal legal framework for waqf practices. Meanwhile, the conceptual and historical approaches are employed to understand the development of the concept of verbal waqf in Islamic law and its transformation within the contemporary digital context. This research is based on a library research method by utilising various relevant and authoritative academic sources, including books, journal articles, conference proceedings, and legal documents related to the research topic (Fatahillah et al., 2025; Novianti, 2024). The data sources consist of primary legal materials such as the Qur’an, Hadith, statutory regulations, and relevant fatwas; secondary legal materials including books and scholarly articles; and tertiary legal materials such

as legal dictionaries and encyclopaedias. Data were collected through documentation studies and literature searches from credible academic sources in both printed and digital formats. The data were then analysed using qualitative normative analysis through content analysis techniques to identify concepts, patterns of thought, and relationships among ideas emerging from the examined literature (Novianti, 2025; Fatahillah et al., 2025). Through this approach, the study seeks to explain the legal position of verbal waqf in the digital era while also contributing to the harmonisation between Sharia validity and national legal certainty.

Results and Discussion

The Concept and Validity of Verbal Waqf in the Perspective of Islamic Law

Waqf is one of the forms of social worship (*ibadah ghair mahdhah*) that possesses both spiritual and socio-economic dimensions. In the perspective of Islamic law, waqf is understood as the detention of property whose benefits may be utilised for public welfare or charitable purposes in the path of Allah without eliminating the substance of the property itself. Terminologically, scholars define waqf as the act of holding a property so that its benefits may be used for the benefit of society with the intention of seeking closeness to Allah SWT. The legal basis of waqf can be found in the Qur'an, including Surah Al-Baqarah verse 267, which encourages Muslims to spend from their best wealth in the path of Allah. In addition, the principal foundation of waqf is derived from a hadith of the Prophet Muhammad SAW narrated by Muslim stating that when a person dies, all of their deeds come to an end except for three: ongoing charity (*ṣadaqah jāriyah*), beneficial knowledge, and a righteous child who prays for them (Muslim, 1992). This hadith forms the primary basis of the concept of ongoing charity, which was later institutionalised in the form of waqf as a sustainable charitable practice among Muslims.

In classical Islamic jurisprudence, the validity of a waqf contract depends upon the fulfilment of its pillars and conditions, namely the presence of the *wakif* (donor), *mauqūf bih* (the endowed property), *mauqūf 'alaih* (the beneficiary), and the *ṣighat* or declaration of waqf. Among these elements, the *ṣighat* plays a crucial role as it signifies the manifestation of the legal intention of the donor. The declaration of waqf may be expressed through verbal statements, written forms, or understandable gestures depending on the context and capability of the donor. Scholars from the Shafi'i, Maliki, and Hanbali schools generally recognise that a verbal declaration is sufficient to establish waqf, provided that the statement clearly indicates a firm intention to dedicate property for religious or charitable purposes (Zuhaili, 1989). This opinion is also supported by Imam An-Nawawi, who explained that waqf becomes valid once it is declared through words indicating the permanent dedication of property for religious purposes, even without written documentation (An-Nawawi, 1996).

The validity of verbal waqf in Islamic law is grounded in the principle that intention (*niyyah*) and the explicit will of the donor constitute the essential elements of any contract. In Islamic legal maxims, the principle *al-umūr bi maqāṣidihā* states that legal actions are determined by their intentions and objectives (Al-Suyuthi, 1998). Consequently, as long as the donor clearly expresses the intention through a verbal statement indicating the dedication of property for charitable or religious purposes, the waqf contract is considered valid according to Sharia. This perspective is also consistent with the view of Hanafi jurists, who maintain that written documentation is not a requirement for the validity of a waqf contract, since the principal function of a contract is the expression of intention, which may be conveyed through a statement understood by the beneficiaries or witnesses present at the time of the contract (Al-Kasani, 1986).

In modern society, however, debates have emerged concerning the evidentiary form of verbal waqf, particularly as contemporary legal systems often require written documentation for verification. Contemporary scholars such as Yusuf al-Qaradawi emphasise that Islam does not restrict contractual declarations to written forms as long as the meaning and substance of the agreement can be clearly understood by the parties involved (Al-Qaradawi, 1999). Nevertheless, within the administrative framework of state law, Sharia validity should ideally be accompanied by formal legal certainty in order to prevent potential disputes over waqf assets in the future.

The rapid development of digital technology in the modern era has also introduced new dynamics in the practice of verbal waqf. Declarations of waqf intention are no longer made solely through direct verbal statements before witnesses but may also occur through electronic media such as video recordings, voice messages, or digital platforms facilitated by waqf institutions. From the perspective of Islamic law, declarations conveyed through digital media may still be regarded as a valid form of *shihat* provided that the statement is clear and verifiable. This principle corresponds with the Islamic legal maxim which states that the validity of a contract is determined by its substance and objective rather than merely its formal expression (*al-'ibrah fi al-'uqud lil ma'ani wa al-maqasid la lil alfazh wa al-mabani*) (Ibn Qayyim al-Jauziyyah, 1991).

Based on these perspectives, it can be concluded that Islamic law normatively recognises the validity of waqf conducted through verbal declarations, whether expressed directly or through digital media. The fundamental principle emphasised is the presence of a clear intention and explicit declaration by the donor to dedicate property for religious or charitable purposes. However, this Sharia validity does not always correspond with legal certainty within positive law systems, which generally require written documentation to ensure the protection and sustainability of waqf assets. Therefore, in the context of the digital era, harmonisation between Sharia validity and national legal certainty becomes necessary so that verbal waqf may be recognised as legally valid both from a religious perspective and within the framework of state law.

The Position of Verbal Waqf in the Indonesian Positive Legal System

Within the Indonesian positive legal system, waqf is comprehensively regulated through Law Number 41 of 2004 concerning Waqf and Government Regulation Number 42 of 2006 concerning its Implementation. These regulations affirm that waqf constitutes a legal act performed by an individual or legal entity to separate part of their property and institutionalise it for religious purposes or public welfare in accordance with Sharia principles (Republic of Indonesia, 2004). However, Indonesian positive law treats waqf as a formal legal act that must be documented in written form rather than merely expressed verbally. This requirement is clearly stated in Article 17 of Law Number 41 of 2004, which stipulates that the waqf pledge (*ikrar wakaf*) must be declared before the Official for the Waqf Pledge Deed (*Pejabat Pembuat Akta Ikrar Wakaf-PPAIW*) and recorded in a Waqf Pledge Deed (*Akta Ikrar Wakaf - AIW*) (Republic of Indonesia, 2004).

This provision demonstrates that the state aims to ensure legal certainty in the implementation of waqf through an orderly and documented administrative mechanism. The purpose of establishing the AIW is not to negate the validity of the donor's intention (*wakif*), but rather to provide legal protection for the endowed property. Within the framework of positive law, a written deed serves as a valid and strong evidentiary instrument in the event of disputes regarding the ownership, utilisation, or management of waqf assets (Mertokusumo, 2009). Thus, although Islamic law recognises the validity of verbal waqf provided that the pillars and conditions are fulfilled, Indonesian positive law considers written documentation an essential element for ensuring that the waqf receives formal recognition and legal protection from the state. Furthermore, Article 24 of Government Regulation Number 42 of 2006 stipulates that the PPAIW is obliged to draft and sign the Waqf Pledge Deed as the basis for official registration at the Ministry of Religious Affairs (Republic of Indonesia, 2006). The registration is subsequently reported to the Indonesian Waqf Board (*Badan Wakaf Indonesia-BWI*), which has the authority to supervise and guide waqf activities throughout the country. Through this mechanism, the positive legal system places the legal-formal aspects of waqf within an organised administrative structure that ensures accountability and sustainability. The existence of official documentation and registration functions to preserve the long-term benefits of waqf and prevent unlawful transfers of ownership in the future.

Nevertheless, the legal position of verbal waqf remains a subject of debate in practice, particularly in cases where waqf has historically been conducted solely through oral declarations witnessed by members of the community. In several instances, such as the establishment of mosques or burial grounds through verbal waqf in earlier periods, the government continues to acknowledge their existence provided that they can be substantiated through witness testimony

and historical evidence. In this regard, the Ministry of Religious Affairs allows the legalisation or certification of longstanding verbal waqf by involving witnesses, heirs, and *nadzir* (waqf managers) as part of the verification process (Ministry of Religious Affairs of the Republic of Indonesia, 2018). This policy represents a form of compromise between the Sharia recognition of verbal declarations and the national legal requirement for written documentation.

From the perspective of civil law, waqf may also be regarded as a unilateral and non-commercial legal act. Therefore, the intention and will of the *wakif* constitute essential elements in determining the validity of the act. However, in accordance with the principle of legal certainty as guaranteed under Article 28D paragraph (1) of the Constitution of the Republic of Indonesia of 1945, every citizen is entitled to recognition, protection, and fair legal certainty (Republic of Indonesia, 1945). This constitutional principle underlies the requirement for formal written evidence in the national legal system to prevent legal uncertainty and potential disputes over waqf property in the future. At the same time, developments in the digital era have begun to encourage new interpretations of the Waqf Pledge Deed. Several waqf institutions and digital platforms now facilitate the declaration of waqf intentions and the transfer of waqf assets through electronic media. In such cases, the waqf pledge may still be considered legally valid provided that it is conducted under the supervision of the PPAIW and supported by verifiable digital evidence (Indonesian Waqf Board, 2020). This development illustrates the dynamic nature of national law in responding to technological progress while maintaining the principle of legal formalities.

Consequently, although verbal waqf remains valid from the perspective of Islamic law, Indonesian positive law requires that such declarations be supported by administrative documentation in order to obtain binding legal force. The position of verbal waqf within the national legal system can therefore be understood as religiously valid under Sharia, yet legally incomplete until it is formally recorded and certified in accordance with statutory provisions. More broadly, Indonesian positive law places waqf as a legal institution possessing both spiritual value and significant socio-economic functions. Within the national legal framework, waqf is not merely regarded as an act of worship but also as an instrument of development that requires legal certainty and institutional governance. The recognition of intention and declaration in waqf demonstrates that the state respects the fundamental principle of Islamic law that waqf must originate from sincere and voluntary intention for the benefit of society. However, the legal system also requires written proof through the Waqf Pledge Deed to ensure the protection and sustainability of waqf assets. The requirement for written documentation should not be interpreted as a rejection of Islamic law, but rather as an effort by the state to strengthen legal protection and administrative accountability. In modern society, transparent and well-organised administrative systems are necessary to ensure that waqf assets are properly recorded, managed, and protected from misuse. Written documentation therefore serves as an important mechanism to clarify ownership status, prevent disputes, and ensure that the benefits of waqf are distributed in accordance with its intended objectives.

The relationship between Islamic law and national law in the regulation of waqf reflects a holistic and contextual legal approach. Islamic law provides the moral and spiritual foundation of waqf, while national law offers legal certainty and administrative protection for waqf property. Rather than being contradictory, these two legal systems complement one another. The state positions itself not as an intervening authority in religious values, but as a guardian ensuring that Sharia principles can be implemented in an orderly and sustainable manner within the national legal system. This synergy also opens opportunities for legal innovation, particularly in the context of digital transformation and globalisation. In the future, the concept of the Waqf Pledge Deed may evolve into electronic legal documents possessing the same legal force as conventional written deeds. Such developments align with governmental efforts to build technology-based administrative systems that are efficient, transparent, and secure. Ultimately, the integration of Sharia validity and legal certainty reflects the maturity of the Indonesian legal system, which is founded upon the principle of belief in God as articulated in Article 29 of the 1945 Constitution of the Republic of Indonesia (Republic of Indonesia, 1945). In this context, waqf regulation represents not merely administrative law but also the institutionalisation of moral and religious values within the national legal order. Through this integration, waqf emerges as a living legal

institution capable of adapting to social change while preserving its spiritual essence and continuing to contribute to sustainable social welfare and equitable development.

Adaptation and Transformation of Waqf Law in the Digital Era

The rapid development of digital technology has significantly influenced many aspects of social life, including the governance and management of waqf. Digital transformation has opened new opportunities for the implementation of waqf through electronic media such as online platforms, Islamic financial applications, and integrated waqf information systems. In the digital era, the practice of waqf is no longer limited to verbal or written declarations before a *nadzir*, but may also be conducted through electronic media supported by digital verification systems. This phenomenon requires legal adaptation to ensure that waqf practices carried out through digital platforms remain valid from the perspective of Islamic law and obtain legal certainty within the national legal system. From the perspective of Islamic law, the fundamental elements of waqf consist of intention (*niyyah*), declaration (*ṣiġhah*), the endowed property (*mauqūf*), and the beneficiaries (*mauqūf ‘alayh*). Within the digital context, these elements can still be fulfilled provided that the intention and declaration of the *wakif* can be clearly demonstrated, even when conveyed through electronic media such as voice recordings, video statements, or authenticated digital documents. The International Islamic Fiqh Academy (*Majma’ al-Fiqh al-Islāmī*), an international fiqh institution under the Organisation of Islamic Cooperation (OIC), has recognised the permissibility of using electronic media in Islamic financial transactions, including waqf, provided that the principles of clarity (*tabyīn*) and prudence (*iḥtiyāṭ*) are maintained (Majma’ al-Fiqh al-Islāmī, 2010). This position indicates that Islamic law is adaptive to technological developments as long as the substance of the contract does not contradict the fundamental principles of Sharia.

Within the framework of Indonesian positive law, the adaptation of waqf regulation in the digital era has begun to appear through the development of the Waqf Information System (*Sistem Informasi Wakaf* – SIWAK) managed by the Ministry of Religious Affairs. SIWAK enables the digital recording, monitoring, and reporting of waqf assets. However, the declaration of the waqf pledge still requires the drafting of a Waqf Pledge Deed (*Akta Ikrar Wakaf* – AIW) before the Official for the Waqf Pledge Deed (*Pejabat Pembuat Akta Ikrar Wakaf* – PPAIW) as stipulated in Law Number 41 of 2004 concerning Waqf (Republic of Indonesia, 2004). In practice, this requirement presents a challenge because there is not yet a regulation that explicitly governs the creation of the AIW in a digital or electronic format that is formally recognised by law. In response to this challenge, legal innovation is necessary to enable the implementation of waqf based on information technology without diminishing its legal validity and Sharia values. One possible step is the development of electronic waqf (e-waqf) as a legal instrument utilising certified electronic signatures as regulated under Law Number 11 of 2008 concerning Electronic Information and Transactions, as amended by Law Number 19 of 2016 (Republic of Indonesia, 2008). The use of certified electronic signatures authorised by competent authorities may replace conventional signatures in legal documents, including waqf deeds, provided that the authenticity and integrity of the document can be guaranteed.

The integration of digital systems between waqf institutions, Islamic financial institutions, and the government constitutes an essential component of the transformation of waqf law in the digital era. The digitalisation of waqf has the potential to enhance transparency, accountability, and efficiency in the management of waqf assets. Nevertheless, this transformation must continue to observe the principle of prudence within Islamic law so that the essence of waqf as a form of worship is not reduced to merely a modern financial transaction. Therefore, synergy between Islamic scholars, regulators, and technology practitioners becomes crucial in ensuring that digital innovation in waqf governance remains consistent with the objectives of Sharia (*maqāṣid al-sharī‘ah*), namely the attainment of public welfare. The adaptation and transformation of waqf law in the digital era is therefore an inevitable development in response to societal change. Modern societies that are increasingly integrated with information technology require the renewal of waqf management systems in order to remain relevant and responsive to evolving social dynamics. In this context, waqf law cannot rely solely on classical textual provisions but must also adapt to new

realities arising from technological advancement, such as digital platforms, electronic transactions, and blockchain-based recording systems. Legal reform in this area is an important step to ensure the sustainability of the social and economic functions of waqf while preserving its spiritual values.

The transformation of digital waqf law also involves philosophical and theological dimensions. Essentially, waqf is a form of social worship that embodies the principle of perpetuity and sustainable benefit; therefore, changes in its mechanism must not obscure the objectives of Sharia (*maqāṣid al-sharī'ah*) that underpin it. In the digital era, the declaration of the *wakif's* intention may be made through electronic media such as digital signatures or online platforms, yet the validity of the contract must remain consistent with the principles of Islamic law that emphasise intention, clarity of the endowed object, and the existence of a *nadzir*. Consequently, reinterpretation of the concepts of “verbal declaration” and “intention” within contemporary Islamic legal thought becomes necessary so that digital statements may be recognised as a legitimate manifestation of the *wakif's* commitment to dedicate property for the benefit of the community.

In the national legal context, the establishment of specific regulations governing digital waqf has become an urgent necessity. Such regulations are expected to bridge conventional waqf practices with digital innovation without eliminating their religious essence. National law should provide space for the integration of Sharia principles with the positive legal system so that the implementation of digital waqf possesses a strong legal foundation. These regulations should cover procedures for registration, supervision, transparency, and accountability in the management of digital waqf assets. With clear and adaptive regulations, society will obtain legal certainty, protection of rights, and confidence in participating as *wakif* in the digital era. From a technological perspective, digital systems offer significant opportunities to strengthen modern waqf governance. The utilisation of technologies such as blockchain, smart contracts, and big data can enhance security, authenticity, and traceability in every waqf transaction. Such systems allow each process to be recorded permanently and prevent manipulation, thereby increasing accountability and public trust. Moreover, digital technology expands public participation because waqf can be performed more quickly, efficiently, and across geographical boundaries, including by younger generations who are more digitally literate. Consequently, digitalisation serves not merely as an administrative tool but also as a means of empowering the Muslim community in optimising the potential of waqf as a sustainable instrument of Islamic economic development.

Nevertheless, alongside these opportunities, the transformation of digital waqf also presents serious challenges that must be anticipated. Limited digital literacy among the public, insufficient institutional readiness among *nadzir*, and the threat of cybercrime represent critical issues that may hinder the effective implementation of digital waqf. Without adequate institutional capacity and human resources, digital waqf practices may lead to misunderstandings, mismanagement, or even misuse of public funds. Therefore, strengthening human resources in the fields of law, Islamic finance, and information technology constitutes a strategic step that cannot be delayed. Educational programmes, training for *nadzir*, and digital literacy campaigns for the wider community should be promoted so that the development of digital waqf aligns with both Sharia principles and applicable national legal provisions. To address these challenges, close collaboration between the government, religious institutions, academics, and the technology industry is essential. Such synergy is necessary to formulate comprehensive and practical policies on digital waqf that correspond to the needs of society. Institutions such as the Indonesian Waqf Board and the Ministry of Religious Affairs may act as regulators and supervisors, while academics and technology practitioners can contribute to the development of secure digital systems that comply with Sharia principles.

This collaboration is also expected to generate policy innovations that are adaptive to technological progress while remaining rooted in Islamic values and Indonesia's local wisdom, which emphasise justice, transparency, and collective welfare. The adaptation and transformation of waqf law in the digital era should not merely be understood as legal modernisation but as the actualisation of Islamic values within a technologically advanced society. The digitalisation of waqf offers significant opportunities to expand the economic and social benefits for the Muslim

community, provided that it is governed through sound management, secure systems, and adherence to Sharia principles. The harmonisation between Islamic law and national law thus becomes a fundamental key in establishing a digital waqf system that is both legally credible and ethically grounded, reflecting the universal, inclusive, and compassionate spirit of Islam (*rahmatan lil 'ālamīn*) amidst the advancement of global technology.

Conclusion

Verbal waqf is legally valid under Islamic law as long as it fulfils the pillars and conditions of waqf, particularly the intention (*niyyah*) and the *ṣighah* (declaration of pledge), based on the principle of *al-umūr bi maqāṣidihā*, which emphasises the purpose and intention of the *wakif*. However, under positive law, waqf must be formally documented in a Waqf Pledge Deed (*Akta Ikrar Wakaf* -AIW) before the Official for the Waqf Pledge Deed (*Pejabat Pembuat Akta Ikrar Wakaf* -PPAIW) in accordance with Law Number 41 of 2004 and Government Regulation Number 42 of 2006 in order to ensure legal certainty, asset protection, and administrative accountability, even though the state still recognises the validity of verbal waqf that can be historically proven. The digital era has also encouraged the transformation of waqf practices through electronic media such as voice recordings, video statements, or online platforms. From the perspective of Islamic law, such forms can be considered valid provided that they fulfil the elements of clarity, testimony, and intention. However, for recognition within the national legal system, the development of an electronic Waqf Pledge Deed (*e-AIW*) supported by certified digital signatures is required. Therefore, the synergy between Islamic law and positive law creates a holistic, adaptive, and sustainable waqf system that preserves spiritual values while ensuring legality, accountability, and socio-economic benefits. In this way, waqf becomes a strategic legal, social, and economic instrument in promoting the development of intergenerational community welfare.

References

- Abu Zahrah, M. (1971). *Muhadharat fi al-Waqf* (hlm. 45). Kairo: Dar al-Fikr al-'Arabi.
- Al-Kasani, A. B. (1986). *Bada'i al-Shana'i fi Tartib al-Syara'i* (Juz 6, hlm. 226). Beirut: Dar al-Kutub al-'Ilmiyyah.
- Al-Qaradawi, Y. (1999). *Fiqh al-Zakah* (hlm. 342). Kairo: Maktabah Wahbah.
- Al-Suyuthi, A. (1998). *Al-Asybah wa al-Nazhair* (hlm. 60). Kairo: Dar al-Hadits.
- Az-Zuhaili, W. (1985). *Al-Fiqh al-Islami wa Adillatuhu* (Juz 8, hlm. 153). Damaskus: Dar al-Fikr.
- Az-Zuhaili, W. (1989). *Al-Fiqh al-Islami wa Adillatuhu* (Juz 8, hlm. 155). Damaskus: Dar al-Fikr.
- Badan Wakaf Indonesia. (2020). *Pedoman Teknis Wakaf Uang dan Wakaf Digital* (hlm. 14). Jakarta: BWI Press.
- Badan Wakaf Indonesia. (2022). *Panduan Praktis Wakaf Produktif* (hlm. 12). Jakarta: BWI.
- Badan Wakaf Indonesia. (2023). *Laporan Tahunan BWI 2023* (hlm. 18–19). Jakarta: BWI.
- Buang, A. H. (2022). Digital evidence and Islamic legal perspective. *Malaysian Journal of Syariah and Law*, 9(2), 33.
- Fatwa MUI No. 2 Tahun 2023 tentang Wakaf Digital.
- Fatahillah, I. A., Novianti, L., & Nuraeni, N. (2025). Penguatan bisnis syariah sebagai strategi mitigasi dampak proteksionisme dan ketidakpastian ekonomi global. *Gunung Djati Conference Series*, 56. Seminar Nasional Ekonomi dan Bisnis Islam Tahun 2025.
- Irfan, M. N. (2018). *Hukum Wakaf Indonesia* (hlm. 61). Jakarta: Kencana.
- Imam An-Nawawi. (1996). *Al-Majmu' Syarh al-Muhadzdzab* (Juz 9, hlm. 392). Beirut: Dar al Fikr.
- Kementerian Agama RI. (2018). *Pedoman Pelaksanaan Pendaftaran dan Sertifikasi Tanah Wakaf* (hlm. 21–22). Jakarta: Direktorat Pemberdayaan Wakaf.
- Majma' al-Fiqh al-Islami. (2010). *Qarārāt al-Majma' al-Fiqh al-Islami al-Duwalī*. Jeddah: OIC.
- Mertokusumo, S. (2009). *Hukum Acara Perdata Indonesia* (hlm. 45). Yogyakarta: Liberty.
- Muslim bin Hajjaj. (1992). *Shahih Muslim* (Juz 3, hlm. 125). Beirut: Dar Ihya al-Turats al 'Arabi.
- Novianti, L. (2024). Green Constitution dalam Mendorong Green Economy sebagai Pembangunan Inklusif Berkelanjutan. *Gunung Djati Conference Series*, 42, 1–10.

- Novianti, L. (2024). *Metodologi Penelitian Hukum di Era Digital*. GERECHTIKEIT: Jurnal Riset Peradaban Hukum, 1(2)
- Novianti, L. (2025). Historical business ethics of the Prophet Muhammad SAW in facing the development of artificial intelligence technology. *Causality Journal*, 2(1), 12–22. <https://doi.org/10.61597/causalityjournal.v2i1.115> ISSN: 2774-65
- Qayyim al-Jauziyyah, I. (1991). *I'lam al-Muwaqqi'in 'an Rabb al-'Alamin* (Juz 3, hlm. 45). Beirut: Dar al-Jail.
- Republik Indonesia. (1945). *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, Pasal 28D ayat (1).
- Republik Indonesia. (2004). *Undang-Undang Nomor 41 Tahun 2004 tentang Wakaf*, Lembaran Negara Republik Indonesia Tahun 2004 Nomor 159, Pasal 17–18.
- Republik Indonesia. (2006). *Peraturan Pemerintah Nomor 42 Tahun 2006 tentang Pelaksanaan Undang-Undang Nomor 41 Tahun 2004 tentang Wakaf*, Pasal 24.
- Republik Indonesia. (2008). *Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik*, sebagaimana telah diubah dengan Undang-Undang Nomor 19 Tahun 2016.
- Siti, A. (2024). Harmonisasi Hukum Islam dan Hukum Nasional dalam Pengelolaan Wakaf digital. *Jurnal Ilmu Hukum dan Syariah*, 7(1), 40.
- Zainal, A. (2023). Modernisasi wakaf dan transformasi digital. *Journal of Islamic Philanthropy Studies*, 4(2), 25.