

Review of Maqasid Syariah on Reto Tuo as A Waqf Member in Bengkulu, Indonesia

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ABSTRACT

This study aims to analyze the implementation of reto tuo as an expert waqf in Bengkulu Province in the maqasid sharia review. This research is a qualitative research that is descriptive analytic because this research describes the application of expert waqf in Bengkulu Province. The data used in this study were obtained directly from interviews conducted with families who carry out ahl waqf, heirs who are managed by expert waqf, as well as community leaders in Bengkulu Province. In this study, the researcher used the maqāṣid al-syariah theory of Imam al-Syātībī to see how Islamic law views the practice of Reto tuo as an expert waqf within the framework of maqāṣid al-syariah Imam al-Syātībī, especially on the concept of the objectives of the Shari'a on guarding and protecting against five main elements, namely religion, soul, mind, descent and property. The results showed that the practice of Reto Tuo can be categorized as expert waqf, this is in accordance with the definition of waqf experts that the assets or benefits that are waqf (waqif) to the recipients of waqf (mauquf 'alaih) are waqif descent which is intended for virtue. In this context, it can be seen that the practice of Reto tuo has attempted to maintain the continuity of the assets owned by the family which are managed by their parents, with the hope that the maintenance of these assets can be used by the family when their parents have died.

Abstrak: Penelitian ini bertujuan untuk menganalisis implementasi reto tuo sebagai wakaf ahli di Provinsi Bengkulu dalam tinjauan maqāṣid al-syariah. Penelitian ini merupakan penelitian kualitatif yang bersifat deskriptif analitik karena penelitian ini menggambarkan penerapan wakaf ahli di Provinsi Bengkulu. Data yang digunakan dalam penelitian ini diperoleh langsung dari interview yang dilakukan kepada keluarga yang melaksanakan wakaf ahli, ahli waris yang mengelola wakaf ahli, serta tokoh masyarakat di Provinsi Bengkulu, Indonesia. Dalam penelitian ini, peneliti menggunakan teori maqāṣid al-syariah dari Imam al-Syātībī untuk melihat bagaimana pandangan hukum Islam terhadap praktik Reto tuo sebagai wakaf ahli dalam kerangka maqāṣid al-syariah Imam al-Syātībī terutama pada konsep tujuan

syariat pada pen jagaan dan perlindungan terhadap kelima unsur pokok yaitu agama, jiwa, akal, keturunan, dan harta. Hasil penelitian menunjukkan bahwa praktik Reto Tuo dapat dikategorikan sebagai wakaf ahli, hal ini sesuai dengan definisi wakaf ahli bahwa harta atau manfaat yang diwakafkan oleh pewakaf (*wāqif*) kepada penerima wakaf (*mauquf 'alaih*) yaitu keturunan waqif yang diperuntukkan bagi kebajikan. Dalam konteks ini, dapat dilihat bahwa praktik Reto tuo telah berupaya untuk menjaga kelangsungan harta yang dimiliki oleh keluarga yang ditinggalkan oleh orang tua mereka, dengan harapan bahwa pemeliharaan harta tersebut dapat dipergunakan oleh keluarga pada masa orang tua mereka telah meninggal.

Kata kunci: *maqāṣid al-syari'ah, reto tuo, wakaf ahli*

INTRODUCTION

Each region in Indonesia each has different customs in the distribution of inheritance, as happened in Bengkulu Province sometimes inheritance is not distributed according to Shari'a guidance or positive law in Indonesia, but based on the customs prevailing in the Bengkulu province community, for example some the community does not distribute inheritance but appoints one of the children to inhabit, care for and manage these assets to be used or shared together, these assets are commonly referred to as *form*, rice fields or gardens *thein ofretohouses* tuodetained (may not be sold) and *the second* may only be used for the family or the benefits distributed to the family (heirs). waqf expert have been regulated both in Islamic law and positive law in Indonesia, as explained in several hadiths of the Prophet Muhammad, Law no. 41 of 2004 concerning Waqf, and other laws and regulations governing the implementation of waqf in Indonesia. Law no. 41 of 2004 And re-regulated in Government Regulation of the Republic of Indonesia no. 42 of 2006 on general explanations and in Article 30 paragraphs (4-6) concerning the implementation of Law no. 41 of 2004 concerning Waqf.

Expert endowments are assets or benefits that are waqf by waqf (*waqif*) to waqf recipients (*mauquf 'alaih*), namely the descendants of waqif intended for virtue. Expert waqf has been practiced since ancient times among friends and the Islamic government. For example, expert waqf that still exists Until now it is the waqf of Saidina Umar and her descendants. The study of expert waqf has not received much attention compared to the study of khairi waqf. considered to perpetuate exclusivity. In addition, there are still debates among scholars regarding several things in expert waqf, for example the validity of heirs being waqf recipients, increasing wakif families which are not accompanied by an increase in waqf assets, not to mention the criticism addressed to expert waqf related to unproductive waqf assets, which cannot be managed properly. From an economic point of view, a lot of waqf – especially land waqf – reduces state income in the tax sector, because of the abolition of taxes for waqf assets.¹

Based on the initial observations that the researchers made on the practice of *Reto tuo* waqf an expert that occurred in several areas in Bengkulu

¹ Furqon, Ahmad. *Konstruksi Wakaf Ahli Di Indonesia (Studi Pengelolaan Wakaf Ahli Dan Ahli Waris Sunan Kalijaga Di Kadilangu Demak)*. Laporan Penelitian Fakultas Syari'ah IAIN Wali Songo Semarang. Semarang, 2012.

Province, the researchers identified several problems, including: (1) The existence of traditions in the Bengkulu Province community in the use of jointly on inheritance that is not divided and may not be owned (*Reto tuo*); (2) There is no clear legal status for inheritance (*Reto tuo*) which is used together as happened in Bengkulu Province; (3) There is a gap between heirs in the use of *Reto tuo*; (4) The practice of *Reto tuo* waqf *an expert* that occurs in Bengkulu Province can lead to conflict if there is no clear and appropriate legal umbrella; (5) The majority of people in Bengkulu Province are not familiar with *expert*, because *expert* has not been properly socialized; (6) Existing laws have not been able to accommodate *expert* specific *Reto tuo* in Bengkulu; (7) The failure to realize *expert* waqf law *expert*; (8) Even though it has been regulated in Islamic law, the ignorance of the community and religious leaders about *expert* has actually made *expert* less and less used. This study aims to analyze the implementation of *reto tuo* as expert waqf in Bengkulu Province in the review of maqasid sharia.

METHODS

This research is a qualitative descriptive analytic research because this research describes the application of expert waqf in Bengkulu Province. The data used in this study were obtained directly from interviews conducted with families who carry out waqf ahl, heirs who manage expert waqf, and community leaders in Bengkulu Province at the research site that the researcher mentioned above, in this case the researcher took 5 (five) data.) Regencies and 1 (one) Bengkulu city area as samples, namely North Bengkulu, precisely in Talang Pasak Village, Lubuk Durian District, Talang Empat Village, Kembang Sri District, Central Bengkulu Regency, Pasar Seluma Village, Seluma Regency, Medan Jaya Village, South Ipuh District, Muko Regency. Muko and Taba Anyar Village, Lebong Selatan District, Lebong Regency. The reason the researcher chose the areas above, is because this area is already an area where the community still adheres to adat and Islamic law. This study also uses secondary data obtained from secondary sources or secondary sources needed, such as fiqh books related to family waqf and discussions about *Maqāṣid as-syarīh*. Books of hadith and interpretations, research journals, articles, and documents related to the title of this research.

In this study, the researcher uses the *maqāṣid ash-syarīh* theory from Imam *ash-Syātibī* to see how the views of Islamic law on the practice of *Reto tuo* waqf *expert* within the framework of *maqāṣid ash-syarīh* Imam *ash-Syātibī*, especially on the concept of the objectives of the Shari'a in safeguarding and protecting against The five main elements are religion, soul, reason, lineage and property.² In this study the researchers focused on the protection of property (*hifẓ al-māl*). The use of this theory is based on a research survey conducted by

² Asy-Syātibī. *Al Muwafaqāt Fi Usul Asy Syari'ah*. Kairo: Mustafa Muhammad, n.d.

researchers that the practice of *Reto tuo* waqf *an expert* has the aim of safeguarding family assets so that assets are not used wastefully and it is hoped that the property will can provide economic welfare for the descendants left behind.

RESULTS AND DISCUSSION

1. Practice *Reto Tuo* as an Expert Endowment in Bengkulu Province

Practice *Reto* endowment *an expert* in Bengkulu Province occurs against the background of the customs and habits of the local community and the influence of community understanding of the teachings of Islam. After researching *Reto tuo* in a community that adheres to the teachings of Islam aims to maintain the welfare of the family and descendants, strengthen friendship and a sense of mutual help between family members. Islamic teachings teach that almsgiving to the immediate family is more important than to distant relatives or others. There are many arguments in the Qur'an and Hadith that command Muslims to prioritize their attention to family and relatives. As stated in Surat *Al-Baqarah* (2): 177 and 215, *An-Nisa* (4): 9, *Tahrim* (66): 6. In the hadith it is mentioned that there is a limit to giving to others only 1/3 (one third) property only, as the Prophet saw said, "You leave your heirs in a state of wealth is better than you leave them to be a burden to others".³ They understand these arguments as a basis for prioritizing the well-being of the family before others. As the researcher's interview with Mr. Supardi Mursalin and Mrs. Asnaini, who stated that the purpose of the joint use of inheritance is for the benefit of the family, because religion commands to help close relatives before others. (Junaidi, 2019) Some of those who implement the practice of *Reto tuo* based on customs have a reason that is not much different that is to maintain the integrity of family property so that it can be used together for the welfare of large families, maintain friendship and unity of family and descendants and maintain local customs and culture. common in societies that have been going on for a long time. Here are some examples *Reto wakaf experts* in Bengkulu Province that researchers found:

- a. The practice of *Reto tuo* is caused by the influence of Islamic teachings. The practice of *Reto tuo* in the village of Tanjung Agung, Bengkulu, is from the Alm family. Mr. Mursalin and Mrs. Bahima. Based on the results of the interview, the background of the practice of *Reto tuo* as a waqf *expert* aims for the welfare of families and descendants to be secured economically, foster love and strengthen friendship between large families and also their parents' understanding of Islamic teachings that leave the family in a state adequacy is better than their lack. In its implementation the practice of *Reto tuo* endowment *an expert* has

³ Bukhari, Muhammad bin Ismail Abu Abdillah Al. *Shahih Al Bukhari*. Beirut: Dar Ibnu Katsir, 1987

provided positive things for the welfare of the family, because each heir can use the property for important and urgent needs by using the contract of *Qhardul Hasan*.⁴ Furthermore, the practice *Reto tuo* endowment expert that took place in the village of Talang Empat, Central Bengkulu regency, happened to the Alm family. Mr. Amzir and Almh. Mrs. Laisa. The background for this is:

- 1) So that the property of the heirs can be utilized for the common good (family).
- 2) Not transferred ownership and still belongs to a large family. (Caring for the property of the parents' legacy).
- 3) As a memento of the parents, because the place gives a history of family struggles.
- 4) As a bond of family friendship that they have parents who own the garden.

The practice of *Reto tuo* as an expert endowment also occurs in the village of Pasar Seluma, Seluma regency, namely in the Alm family. Mr. Abdul Wahid and Almh. Ibu Azidah, who has 7 (seven) heirs: Ruslan Wahid, Razilah Wahid, Cahayani Wahid, Fatmawati Wahid, Nakmi Wahid, Zurwita Wahid and Kharuddin Wahid who are in Kota Seluma, precisely in Desa Pasar Seluma. The *Reto tuo* in the form of two plots of yard land entrusted cannot be sold and can only be taken advantage of by children and descendants. This practice is based on the customs of the local community who used to leave some heritage property by not sharing it but using it together, some even directly endow it as wakaf *khairi*. The seeds of conflict began to appear in Mr. Wahid's family due to the growing number of descendants, but it was overcome by changing the status of *Reto tuo* into wakaf *khairi*.

- b. The practice of *Reto tuo* is done based on the customs that apply in the community that have been done since the beginning, almost done by every community that is able to do it. This is as done by the people of Taba Baru village, Lebong Selatan sub -district, Lebong regency and in Talang Pasak village, Kec. Lubuk Durian, North Bengkulu regency, according to the people in the area, the implementation of inheritance distribution in their area is based on Rejang customary law and sometimes inheritance is distributed according to agreement (deliberation), there are still few who implement Islamic law. This happened to the family of Alm. Mr. Wahab and Almh. Siamese mother, who has 8 (eight) children and appoints the eldest daughter to inhabit and manage the rice fields. While the status of the rice fields and the house are joint property, the children who occupy only have the right to manage. The same thing also happened to the family of Alm. Mr. Zainul and Almh. Mrs. Khodijah, relics in the form of houses and rice fields. The

⁴ Antonio, M. Syafii. *Bank Syariah Dari Teori Ke Praktik*. Jakarta: Gema Insani Press, 2001.

house and rice fields are managed by the youngest daughter of 6 (six) siblings. The practice of *Reto tuo* as an expert endowment also occurred in the Pekal tribe, namely in the village of Medan Jaya, Ipuh sub-district, Muko-Muko regency, from the Alm family. Mr. Zainal Said and Mrs. Rosmi AR, both parents have 3 (three) children, namely: 1. Nilda Susilawati, 2. Afniarti, 3. Miftahul Husni, the inheritance for the 3 children was shared when Mr. Zainal Said died, including in the inheritance property 1 (one) house with a land area (15x60) called "rumah tuo". According to the customs of the village community of Medan Jaya Ipuh "rumah tuo" is allocated for the youngest daughter given orally when the parents are still alive and counted as an inheritance when the parents are gone, provided it cannot be sold and utilized to gather the family, the daughter can benefit and cannot sell up to her descendants down, her status is property rights.

Based on the results of research conducted by researchers, the practice of *Reto tuo* occurs in several tribes in Bengkulu Province, namely Rejang, Lembak tribe, Serawai tribe and Pekal tribe. *Reto tuo* referred to in this study comes from common property owned by parents since they got married in the form of a house inhabited by parents, rice fields, gardens, jewelry or other property belonging to parents (only in the Rejang tribe there are still *Reto tuo* origin from a great -grandmother passed down to a child trusted to manage it). Most of these *Reto tuo* are productive, only there is still a management system that is not good to cause *Reto tuo* to be unproductive. *Reto tuo* as a waqf expert has an economic purpose to be empowered by children and descendants. children and descendants. As the philosophy of waqf experts that God wants the creation of economic stability for children and descendants of *Wakif*. This is in line with the hadith of the Prophet saw. above, "You leave your heirs in such a state of wealth it is better than you leave them to be the burden of others".⁵

2. Maqasid Syariah Review of *Reto Tuo* as Expert Waqf in Bengkulu Province

The practice *tuo waqf expert* Bengkulu community tradition basically has two interrelated aspects *Reto* as . the of Islamic law. As explained in this study, previous scholars, with various expressions and opinions, agreed that the basic purpose of Islamic law is to provide benefits to humans, with various levels and types. (Auda, 2011)

The practice *Reto tuo*, in the research that the researcher conducted, can at least be seen from the objectives of the Shari'a (*Maqāsid*), namely: *hifzu al-nasl* or *al-'arḍ*, and *hifzu al-māl*. In general, the implementation of *expert waqf* as described in *Reto tuo* goes beyond the literal meaning of the texts of the Qur'an and Sunnah with the aim of achieving benefits that

⁵ Bukhari, Muhammad bin Ismail Abu Abdillah Al. *Shahih Al Bukhari*. Beirut: Dar Ibnu Katsir, 1987

better answer the problems that exist in people's lives. In As-Syatibi's language, "*laws are prescribed for the benefit of the servant*". (Al-Syathibi) However, in this study the researcher will focus on only two objectives of *tasri'*, namely: *hifzu al-nasl* or *al-'ard*, and *hifzu al-māl*.

The first aspect that is considered as a goal (*maqāṣid*) in the practice of *Reto tuo* waqf an expert is the protection of descendants (*hifzu al-naṣl* or *al-'ard*). or honor in this case is seen broadly which is not only limited to one's physical life, but also includes matters relating to human honor. Preserving offspring in the sense of protecting offspring from extinction requires efforts with various easy ways to avoid all kinds of problems. kind of trouble/affliction. ('Atiyyah) The views of the ulama are different regarding the position of maintaining this lineage or honor. Imam Al-Qarafi, Al-Thufi, Al-Subky, and Imam Al-Syaukani put *hifzu al-naṣl/ al-'irdh* as *maslahah* that is *aruri*. Meanwhile, Imam Ibn 'Asyur views that *hifzu al-naṣl* or *al-'ard* is included in the *maslahah al-hājiyat* category.

In the context of this research, the researcher puts the practice of *Reto tuo* waqf expert as a tradition in society which also aims to maintain the honor and life of mankind. This is illustrated by the practice of *Reto tuo* in a number of areas in Bengkulu, for example, in Taba Baru Village. South Lebong Regency. According to sources interviewed by researchers, the tradition of using *Reto tuo* has become a custom of the South Lebong community, which is inhabited by the Rejang tribe. The practice of using *Reto tuo* in this area has been carried out from generation to generation, by appointing other girls or boys. who is trusted to occupy and maintain the *tuo* and a plot of rice fields when his parents have died.

reto tuo, which is accompanied by a rice field, is traditionally used to pay for the maintenance of the house and to feed the brothers when they are gathered at the *tuo*'s house. *reto tuo* mandated by the parents may not be sold, but to be shared and occupied by one of the children who gave the mandate.

In another tradition, *Reto tuo* is used as a support for extended families when one of the family members experiences difficulties. *Reto tuo* is not only a necessity when a large family gathers, but more than that, *Reto tuo* and all the relics mandated by parents can be used by one family to meet the family's economic needs. This is illustrated by the practice of *Reto tuo*, Mr. Mursalin's family advised that property in the form of a house, rented property, rice fields and some gold jewelry should not be distributed as inheritance, but should be shared and used together (this property is not inherited by the four people). their children, namely Mr. Supardi, Mrs. Zuraida, Mrs. Marlini and Mr. Anwar Junaidi). In its implementation, it has provided positive things for the benefit of the family, because each heir can use the property for important and urgent purposes using *the Qhardlu Al-Hasan*⁶, in this case the heirs on behalf of Mr. In managing the property, in

⁶ Antonio, M. Syafii. *Bank Syariah Dari Teori Ke Praktik*. Jakarta: Gema Insani Press, 2001

the future the heirs hope to find a model of *Reto tuo* so that the benefits of *Reto tuo* can reach their descendants later. For this reason, the use *Reto tuo* has a purpose that is not only limited to daily food needs during the time of all family members. Most people return to their parents' homes, but can also be used for bigger and more important purposes. In the researcher's view, this is an implementation of the Shari'a goal which is to protect the honor and descendants of the family.

According to the researcher, this practice is in accordance with the objectives of the Shari'a, because the existence of *Reto tuo* been able to answer the needs of the *has. community* it can be seen in two forms of benefit, namely *hajiyyat* and *arūriyyat*. In terms of *reto tuo* as *hajiyyat*, it can be described by the existence of this tradition as a complement to the life of the Bengkulu people, namely when the extended family returns to their hometown. With this, *reto tuo* is used to meet family needs at the time of gathering. This includes *hajiyyat* because the family gathering period is not every time and usually in a short period of time. This means that *reto tuo* in its first form is not an obligation that must be fulfilled by the recipient of the mandate, but is limited to meet the needs of appropriateness.

For the second, namely *Reto tuo* in the realm of *hifzh al-nasl* or *al-'ird* as *arūriyyat*, namely in the case when *Reto tuo* is indeed needed by a family member to meet the needs of daily life. In this realm, *Reto tuo* is not only a complement, but as the main need of the family to live a more decent life like other families. This is also in accordance with the purpose of the *Reto tuo* in Bengkulu, namely to provide space for a family who really needs it.

In this case also later in the hadith of the Prophet Muhammad SAW told that the companions of the Prophet SAW did not hesitate to endow their wealth to family or relatives to use the results. This is revealed in a hadith which narrates:

عن ابن عمر رضى الله عنهما قال : اصاب عمر ارضا بخيبر فأتى النبي صلى الله عليه وسلم يستأمره فيها فقال : يا رسول الله إني أصبت ارضا بخيبر لم أصب مالا قط هو انفس عندي منه، فما تأمرني فقال : إن شئت حبست أصلها وتصدق بها، قال فتصدق بها عمر وأنه لا يباع أصلها ولا يورث ولا يوهب فتصدق بها في الفقراء وفي القربى وفي الرقاب وفي سبيل الله وابن السبيل والضييف لا جناح على من وليها ان يأكل منها بالمعروف الو يطعم صديقا غير متمول مالا. (متفق عليه)

"From Ibn Umar ra, he said: Umar got land in Khaibar so he went to Rasulallah saw to ask for guidance. Umar also said: O Messenger of Allah, I got a piece of land in Khaibar, I have never got a property that I am more comfortable and more valuable than that land, so what do you order me? The Messenger of Allah replied: If you like, you hold (the tree) of the land and you donate the result. Ibn Umar said: then Umar donated the fruit and the tree was not sold, not inherited, and not donated. He gave the result to the poor, close relatives, the liberation of

slaves, sabilillah, ibn sabil and guests. The person who manages it can eat the produce quickly or feed a friend without the intention of accumulating wealth".⁷

Then, in another hadith, Rasulullah saw also ordered Abu Talhah to donate the property produced from the land in Bairaha to his family. This is illustrated by the following hadith:

وان - وعن انس ان ابا طلحة قال : يا رسول الله ان الله يقول - لن تنال البر حتى تنفقوا مما تحبون احب اموالي الى بيرحاء, وانها صدقة ارجوا برها وذخرها عند الله, فضعتها يا رسول الله حيث اراك الله تعالى : بخ بخ, ذلك مال رابح مرتين, وقد سمعت, ارى ان تجعلها في الاقربين, فقال ابو طلحة : افعل يا رسول الله, فقسمها في اقاربه وبنى عمه (متفق عليه)

"From Anas that Abu Talhah said: O Messenger of Allah, Allah said 'You will never achieve virtue until you inflict some of the wealth you love'. Indeed, the treasure I love the most is Bairaha. I make it a charity to Lillahi Ta'ala. I expect goodness from it and as my savings in the sight of Allah SWT, so use it, O Messenger of Allah, as Allah shows you. Rasulullah SAW said: Wow, that is a profitable property (Rasulullah mentioned it twice) indeed I have heard and I have been shown that you should donate the property to your nearest family. Abu Talhah said: I will do it, O Messenger of Allah. Then Abu Talhah distributed the property to his relatives and cousins"(Muttafaq 'alaih). (software)

These two hadiths show that basically the Prophet gave instructions to the companions to keep trying to be able to give alms to the family, but on the other hand still maintain the property that is considered productive. For that, the property is then endowed (detained) in the initial ownership, but the benefits are then given to those in need, especially the family. (Hanifah) Such waqf can be said to protect the sustainability of the family, so that the existence of *member* is intended to help families who are difficult or in difficulty. As above, *expert* in the context of keeping the descendants will produce two benefits at once from the endowment implemented, namely as an effort to strengthen the bond of friendship between families who use the results of the land when gathered, and families in distress will get economic assistance from the results waqf objects without reducing the waqfed property. (Tanti)

In this context, the researcher reaffirmed that in the implementation of *Reto tuo* endowment *expert* that grew and became a tradition in the Bengkulu community in the practice of *Reto tuo* is the implementation of *expert* that should have existed in the Islamic tradition since the time of Prophet Muhammad SAW. The benefits that exist in the practice of *Reto tuo* have been justified by the existence of the purpose of the Shari'ah contained in it, although legally Islamic law has not been defined as standard and

⁷ Bukhari, Muhammad bin Ismail Abu Abdillah Al. *Shahih Al Bukhari*. Beirut: Dar Ibnu Katsir, 1987.

complete. The practice of *Reto tuo* formulated in the framework *maqāṣid as-syarīah* is essentially not contrary to Islamic Shariah. Even on the contrary strengthens the framework of the implementation of Islamic law that has previously been practiced by the early Muslim community.

Moreover, in the rules of Islamic law (Syariat), it is known that the determination of a matter or thing requires a clear affirmation of its benefits rather than *mafsadat* (damage), as well as the prohibition of affirming the magnitude of the damage contained in the matter compared to its benefits. (Al-Maliki, 1315H) As in the inheritance, the determination of Islamic law in the context of the endowment *expert* has objectives that are in line with the spirit of the implementation of Islamic law for the benefit of the people.

The second aspect of the purpose of Shari'ah in the practice of *Reto tuo* that the researcher identifies is related to *hifz al-maal* or preserving property. The maintenance of the property is not only related to the existence of property that then belongs to each family or heirs, but more than that, the property is intended to protect the continued use and usefulness of *Reto tuo* left by parents in a family. In this life, it is undeniable that every human being has needs that must continue to be met for a decent survival, even better. For that too then property becomes one of the important aspects in achieving that life, both individually and collectively. same in the family.

Wealth is a trust that must be developed in a planned manner for the purpose of eliminating poverty, meeting the basic needs of each individual, making life comfortable and encouraging the creation of an equal distribution of income and wealth. In acquiring and developing property is required to be based on the values of Islamic teachings that require a moral filter in its management. (Light) In terms of the purpose of the Shari'ah, the preservation of this property is emphasized in the implementation of infaq and alms, abstaining from extravagance, excess, and abuse. On the other hand, the protection of personal property is then enshrined in the prohibition of theft in Islam to a certain extent. ('Atiyyah)

In fact in the field, the practice of *Reto tuo* endowment *an expert* is an effort of the community in Bengkulu to ensure the maintenance of family property can be carried out properly and used for family survival, both large families and parts of families that really need. mandate *Reto tuo* that has been embedded in the tradition of the Bengkulu community is given to children who are considered trustworthy. Although in some places there is a provision that the property is given to the oldest or youngest child, in principle the choice of who will manage the property is a child who can be trusted.

Reto tuo practice is also in line with the concept of using wealth to the path of truth, because wealth is one of the four most important things asked later in *the end yaumil*, apart from the age given by God and its use, youth is used for what will also be held accountable in the last days and the knowledge we have will also be held accountable. And the property we have is also asked how to obtain it and for what the property is used. *Reto tuo* aims to keep the property in its use then the practice that has been done by the people of Bengkulu Province is in line with what the Prophet ordered. The use of property for the welfare of the family is also in line with the hadith of the Prophet above.

CONCLUSION

The practice of Reto Tuo can be categorized as expert waqf, this is in accordance with the definition of expert waqf that the assets or benefits that are waqf by (*waqif*) to the recipient of the waqf (*mauquf 'alaih*) are the descendants of waqif intended for virtue. In this context, it can be seen that the practice of Reto tuo has attempted to maintain the continuity of the property owned by the family left behind by their parents, with the hope that the maintenance of the property can be used by the family when their parents have died. This is the key to ensuring the continuity of family life (*hifz al-nasl*) communally and at the same time protecting the human soul in the family individually. Thus, the researcher reiterates, the practice of Reto tuo that has been carried out by a number of communities in Bengkulu is not at all contrary to Islamic Shari'a. On the contrary, this tradition or custom actually strengthens the aspect of protection against the objectives of Shari'a, namely descent or honor, and property. The lack of regulations that discuss expert waqf has made expert less ogled by waqf activists and academics, even though if seen in In the community, there are not a few cases that occur as a result of the lack of socialization and regulations for the expert .waqf expert or there is a misunderstanding in the community who thinks that expert waqf is waqf managed by Nazir from wakif waqf expert. Therefore, suggestions for further researchers can be discusses the legal framework of expert.

Author's Contribution

Desi Isnaini: Contribute to formulating research ideas, collecting data, processing data, and interpreting data, systematics, research methods, and analyzing interpretation results, the language proofread.

Arif Nugroho: Contributing to the language proofread.

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Declaration of Competing Interest

We declare that we have no conflict of interest.

REFERENCES

- Ad-Daraini, Fathi. *Al-Manâhij Al-Uşuliyah Fî Ijtihad Bi Ar-Ra'yi Fî at-Tasyri'*. Damsyik: Daar el Kitab al hadis, 1975.
- Akmaludi Sya'bani, *Maqāsid asy-syari'ah Sebagai Metode Ijtihad*, Ejournal Kopertais. or.id el Hikan, Vol. 7, no. 1. Januari-Juni 2015.
- Al Arif. M. Yasin, "Penegakan Hukum dalam Perspektif Hukum Progresif", dalam *Jurnal Hukum*, Vol. 2, No. 1, 2019.
- Aprilianti dan Rosida Idrus, *Hukum Waris Menurut Hukum Perdata BW*, Badan Penerbitan Fakultas Hukum Universitas Lampung: Justice Publisher, 2015.
- Arifin, Zainal dkk, "Tunggu Tubang: Marginalisasi Perempuan Semende," dalam *Musawwa Jurnal Gender Dalam Islam* (Pusat Studi Wanita UIN Suka), ISSN 1412-3460, Vol. 16. NO. 2 Juli 2017.
- Antonio, M. Syafii. *Bank Syariah Dari Teori Ke Praktik*. Jakarta: Gema Insani Press, 2001.
- Asy-Syâtibî. *Al Muwafaqât Fi Usul Asy Syari'ah*. Kairo: Mustafa Muhammad, n.d.
- Asriati, *Pembaruan Hukum Islam Dalm Terapan Dan Perundang-Undangan di Indonesia*, Jurnal Hukum Diktum, Volume 10, Nomor 1, Januari 2012, / Garuda ristekdikti.go.idartickle, diakses 16 Februari 2020 pukul 09.13 WIB.
- Az-Zuhaili, Wahbah. *Fiqh Islam Wa Adillatuhu*. Jakarta: Gema Insani, 2011.
- Bakti, Asafri Jaya. *Konsep Maqāsid asy- Syari'ah Menurut asy-Syâtibî*. Jakarta: PT Raja Grafindo Persada, 1996.
- Basri, Hasan, *Perlunya Kompilasi Hukum Islam*, Mimbar Ulama No. 104 Th. Ke X, 1986.
- Bukhari, Muhammad bin Ismail Abu Abdillah Al. *Shahih Al Bukhari*. Beirut: Dar Ibnu Katsir, 1987.
- Devi, Silvia, *Orang Rejang dan hukum adat tafsiran atas kelpcak ukum adat Ngen Ca'o Kute Jang Kabupaten Rejang Lebong*, Jurnal Antropologi Isu-Isu dan Budaya, Juni Vol. 18 (1): 39-50, ISSN 1416 8356.
- Fazlurrahman. *Islam*. Bandung: Pustaka, 1984.
- Furqon, Ahmad. *Konstruksi Wakaf Ahli Di Indonesia (Studi Pengelolaan Wakaf Ahli*

Dan Ahli Waris Sunan Kalijaga Di Kadilangu Demak). Laporan Penelitian Fakultas Syari'ah IAIN Wali Songo Semarang. Semarang, 2012.

— — —. "Penerapan Wakaf Ahli (Wakaf Keluarga) Di Indonesia," no. 41 (2004): 1-13.

Halim, Abdul. *Hukum Perwakafan Di Indonesia*. Jakarta: Ciputata Press, 2005.

Jazil, Saiful, *Al-A'dah Muhakkamah "Adat dan Urf Sebagai Metode Istinbat Hukum Islam*. Prosiding Halaqoh Nasional dan Seminar Pendidikan. Fakutas Tarbiyah dan Keguruan. Surabaya: UIN Sunan Ampel, tt.

Marillang, *Menimbang Paradigma Keadilan Hukum Progressif (Considering The Progressive Legal Justice Paradigm)*, Jurnal Konstitusi, mkri.id).

Marlina, Devi, *Larangan Menikah Satu Kaum Dalam Masyarakat Suku Pekal Ditinjau dari Perspektif Islam (Studi Kasus di Kecamatan Malin Deman Kabupaten Muko-Muko)*, Pasca Sarjana IAIN Bengkulu, Ejournal iain bengkulu.ac.id.

Muhammad Mawardi Jalaluddin, "Pemikiran Abu ishaq asy-Syatibi Dalam Kitab *Al-muwafaqat*," http://journal.uin-alauddin.ac.id/index.php/al_daulah/article/view/1483. Vol 4. No 2. Desember 2015.

Muhammad Rif'at Usman, *Makalah, an-Nadwah As-Sâlisah, al-Waqfu az-Zurri aw al-Ahli, a'mal al-Muntada Qadayâ al-Waqfi al-Fiqhiyyah as-sâni, Tahdîyât 'asriyyah wa ijtihâdat Syar'iyyah*, Kuwait: Al-Imâmatu al-Ammah li al-Awqâf, 2005.

Mukhidin, *Hukum Progresif Sebagai Solusi Hukum yang Mensejahterakan Rakyat*, Jurnal Pembaharuan Hukum, Vol.1, No. 3, September 2014. <http://jurnal.unissula.ac.id/index.php/PH/article/viewFile/1488/1156>.

Muslim, Imam. *Shahih Muslim*. III. Beirut: Darul Kutub Ilmiah, n.d.

Sabiq, Sayyid. *Fiqh Sunnah*. Bandung: Al-Ma'arif, 1987.

Shihab, M. Quraish. *Tafsir Al-Misbah*. Jakarta: Lentera Hati, 2012.

Tjek Tanti, "Wakaf ahli Dalam Konsep Fikih Tradisional", *Jurnal Al-Irsyad* Vol II Januari-Juni 2013.

Usman, Rachmadi. *Hukum Perwakafan Di Indonesia*. Jakarta: Sinar Grafika, 2013.

Zahrah, Muhammad Abu. *Muhadlarat Fi Al-Waqf*. Beirut: Dar al-Fikr al-'Arabi, n.d.

— — —. *Uşûl Al Fiqh*. Mesir: Daar el Fikr al Arobi, 1958.