

Testing the Justice of *Maslahah*: A Critique of the Makassar Religious Court's Ruling in a Waqf Dispute

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Disputes over waqf land between heirs and the waqf donor highlight a crucial juncture in the relationship between formal legality and the principle of public interest in the management of waqf in Indonesia. This research aims to examine the legal considerations of the Makassar Religious Court in resolving waqf disputes, assess the principle of justice based on public interest, and analyse the implications of the court's decisions for the parties involved. This study employed a qualitative method, using a case-based and conceptual approach through content analysis of the Makassar Religious Court's rulings, applying the concept of *maslahah*-based justice. The study shows that the panel of judges prioritized legal certainty and tended to overlook the values of *maslahah*-based justice and the essential purposes of waqf. The implementation of these rulings reveals a tension between legal certainty and the social benefits of waqf, which serves as a form of ongoing charitable deeds (*amal jariyah*). These findings indicate that social benefits, the role of the waqf donor, and the status of the waqf are still insufficiently considered in decision-making. This research highlights the importance of a *maslahah*-based justice paradigm in legal deliberations, ensuring that the purpose of waqf transcends mere legal act and becomes an instrument of social empowerment and the sustainability of ongoing charitable deeds. This research proposes a *maslahah*-based justice paradigm as a model for resolving global Islamic legal disputes that can mediate the conflict between legal formalism in waqf and the protection of the civil rights of vulnerable groups.

Sengketa tanah wakaf antara ahli waris dan wakif menggambarkan titik krusial hubungan antara legalitas formal dan prinsip kemaslahatan dalam pengelolaan wakaf di Indonesia. Penelitian ini bertujuan untuk menelaah pertimbangan hukum Pengadilan Agama Makassar dalam menyelesaikan sengketa wakaf, menguji keadilan bermaslahah, serta menganalisis implikasi putusan bagi para pihak. Penelitian ini dilakukan secara kualitatif dengan pendekatan kasus dan konseptual melalui analisis isi terhadap putusan Pengadilan Agama Makassar menggunakan konsep keadilan bermaslahah. Hasil penelitian menunjukkan bahwa majelis hakim lebih mempertimbangkan aspek kepastian hukum dan cenderung mengabaikan nilai-nilai keadilan bermaslahah dan tujuan esensial wakaf. Implementasi putusan ini memperlihatkan ketegangan antara aspek kepastian hukum dengan aspek kemanfaatan sosial wakaf yang merupakan amal jariyah. Temuan ini mengungkap penempatan manfaat sosial, peran wakif, dan status wakaf masih kurang dipertimbangkan dalam pengambilan keputusan. Penelitian ini merekomendasikan pentingnya paradigma keadilan bermaslahah dalam pertimbangan hukum sehingga tujuan wakaf tidak hanya sebagai tindakan hukum, tetapi juga sebagai instrumen pemberdayaan sosial dan keberlanjutan amal jariyah. Penelitian ini menawarkan paradigma *maslahah-based justice* sebagai model resolusi sengketa hukum Islam global yang dapat memediasi benturan antara formalisme hukum wakaf dan perlindungan hak keperdataan rentan.

Keywords: *maslahah justice; religious court decisions; waqf disputes.*

Introduction

Waqf is a form of worship that is highly beneficial, both socially and economically, for the growth of Muslim communities (Daud, Hanafi and Hussin, 2022; Jafar, Ibrahim and

Malik, 2025; Mujahidin et al., 2025; Aditya and Musthofa, 2022; Aufa, Pratama and Pati, 2023). Nevertheless, in practice, waqf disputes still frequently occur, such as those between heirs and the waqf donor, as well as discrepancies between applicable laws and the essential purpose of waqf, as a pillar of community welfare and the goal of ongoing charitable deeds (Masyrifah, 2024; Rahman et al., 2024; Amelia et al., 2025; Sukardi et al., 2026; Yafiz et al., 2025). Furthermore, an inadequate regulatory and administrative system for waqf management may neglect its primary function as a source of community development (Sudirman et al., 2022; Kamaruddin, Hanefah and Masruki, 2024; Ayub et al., 2025). Even the *nazirs*, who are tasked with receiving and managing waqf, still frequently encounter problems, particularly regarding waqf land (Suhadi et al., 2024). This results in the vast potential of waqf not being fully realized due to improper management, which can lead to disputes (Syibly et al., 2022; Haryanto, Maufiroh, and Sulaiman, 2023; Nashirudin, Razali and Ulfah, 2025).

This phenomenon reveals a gap between the primary purpose of waqf as a form of ongoing charity and the reality of how it is implemented in religious courts, which often do not align (Al-Anshori, Ramadhita and Manfaluthi, 2025). One such waqf dispute involving heirs and the waqf donor is Decision No. 1954/Pdt.G/2023/PA.Mks of the Makassar Religious Court. This ruling serves as a concrete example of how aspects of ownership and formal legality are prioritized over religious values and the principle of benefit to the community. This has become a crucial topic of discussion because waqf, with all its legal sources, is still frequently pitted against regulations that disregard its social and sustainable objectives.

Various studies have discussed the dynamics of waqf law, highlighting different trends. Conceptually, Hadi et al. (2025) emphasize the importance of enhancing the professionalism of waqf administrators, revising regulations, and digitizing waqf management to improve transparency and efficiency. Regarding waqf-related issues, Fauzi et al. (2022) sought to identify factors hindering the successful empowerment of waqf land in Indonesia. While Memis (2021) studies the gradual disintegration of the waqf system in Jerusalem in the early 20th century. In the context of waqf management development, Rahman et al (2024) proposed a temporary waqf model for family waqfs by establishing parameters for

its implementation in Malaysia. Hamid et al. (2024) discussed the potential of the *zurri waqf* in family empowerment. Meanwhile, Thabith and Mohamad (2021) analysed waqf management in Sri Lanka regarding the development of waqf property leases. However, these studies remain limited to normative studies of waqf management and dispute resolution, and few have incorporated the principle of *maslahah*, particularly in religious court rulings. Therefore, this study addresses a gap in the literature by examining the rulings of the Makassar Religious Court in South Sulawesi from the perspective of justice based on *maslahah*.

This research addresses fundamental issues of justice and the adjudication of cases in religious courts. In the context of worship, waqf is not merely a religious practice for the *waqif* alone, but extends further to its benefits for the welfare of the general public (Ismon, Ali and Hingun, 2021; Qurrata et al., 2025). When considerations of justice and the public interest are disregarded, the sustainable objectives of waqf are also compromised. Therefore, it is important to analyse judicial rulings to assess the extent to which the dispute resolution process in court can accommodate spiritual values and the public interest within the framework of national law.

This research analyses the implementation of waqf regulations and the concept of *maslahah* by offering new ideas oriented toward justice based on *maslahah* in religious courts. In addition to providing a conceptual contribution, this research offers insights into the reform of Islamic law in the field of waqf that strengthens the value of *maslahah* for the Muslim community. Therefore, this research aims to conduct an in-depth analysis of how legal considerations are applied in the Makassar Religious Court when resolving waqf land disputes, to examine the application of the *maslahah* principle and the value of *ḥifẓ al-māl* in legal reasoning, and to explore the implications of these rulings in efforts to achieve *maslahah*-based justice for all parties, including waqf beneficiaries. This research is expected to provide a new perspective on how *maslahah*-based justice operates within waqf law, ensuring that the benefits and sustainability of waqf continue to be felt by the beneficiary community.

Method

This research employs a juridical-empirical method based on qualitative descriptive analysis

(Creswell and Poth, 2018). The research utilizes both a case study approach and a conceptual approach. This research focuses on the application of the principles of *maslahah* in the deliberations of religious court judges. The ruling of the Makassar Religious Court No. 1954/Pdt.G/2023/PA. Mks regarding a waqf land dispute between heirs and the waqf donor serve as the primary data. This ruling was selected purposefully as a single case study because it constitutes a case analysis that critically brings together the legal dualism between inheritance and waqf disputes within a single civil law matter. Among the numerous rulings related to waqf disputes, this ruling presents a unique legal anomaly because the judge nullified the sacred purpose of the waqf in the interest of distributive justice in inheritance. Meanwhile, relevant journal articles on waqf, beneficial justice, and the theory of *maqāsid al-shari'ah*, as well as regulations such as Law No. 41 of 2004 on Waqf and the Compilation of Islamic Law (KHI), serve as secondary data.

Data analysis was conducted in three stages. *First*, data containing key sections of the rulings were filtered to analyse the factual findings. *Second*, the data were interpreted by considering the judges' reasoning and the theory of *maslahah*, with reference to the concept of *ḥifḍ al-māl*. *Third*, a normative evaluation was conducted by linking the analysis results to the substantive objectives of waqf and to considerations of substantive justice. The study employs a theory of justice and benefit grounded in *maqāsid al-shari'ah*, specifically regarding social benefit and the protection of property (*ḥifḍ al-māl*) (Rimanto and Hidayatullah, 2022; Asyiqin, Hamsin, and Hisyam, 2026).

The discussion followed a structured approach, beginning with an explanation of the chronology of the case in Decision No. 1954/Pdt.G/2023/PA.Mks. The analysis examined the judge's reasoning in resolving the waqf land dispute to determine if it upheld the principle of justice that serves the public interest within the context of the essence of waqf. Finally, the discussion analysed the implications of the Makassar Religious Court's ruling on the realization of justice that serves the public interest for the disputing parties. The discussion aims to enhance substantive justice without undermining the value of waqf as a charitable act for the donor.

The legal framework for waqf and mechanisms for resolving waqf disputes in Indonesia

Waqf governance in Indonesia is based on a harmonization between the doctrines of *fiqh al-muamalah* and the formalism of positive law. The legal framework for waqf in Indonesia is regulated by Law No. 41 of 2004, Government Regulation No. 42 of 2006, and the Compilation of Islamic Law (KHI) (Musthafa, Abdullah and Pauzi, 2022). A waqf is considered valid only if it fulfills the elements specified in Law No. 41 of 2004, including the *waqif* (waqf donor), the *nadzir* (waqf administrator), the *mauquf bih* (waqf object), the *mauquf 'alaih* (purpose of the waqf), the declaration (*ikrar*), and the duration of the waqf. In Islamic law, the most fundamental material requirement is the principle of *milku al-tamm*, which refers to the waqif's full and absolute ownership of the waqf object (Cheema, Mansoori and Usman, 2022). The act of endowing property, including the civil rights of others (*haqqul adam*), is classified as *tasarruf fudhuli*, which is materially defective. Siddiq et al. (2025) and Huda et al. (2025) emphasize that the reconstruction of modern waqf policy based on *maqāsid al-shari'ah* requires this certainty in substantive law, the essence of asset protection is not overlooked in favor of mere administrative formalism.

Procedurally, the waqf donor is required to recite the waqf declaration in the presence of the Waqf Declaration Deed Officer (PPAW), a position held ex officio by the Head of the Subdistrict Office of Religious Affairs (KUA). A Waqf Declaration Deed (AIW) can be issued as the basis for obtaining a Waqf Land Certificate from the National Land Agency (BPN). However, the effectiveness of waqf land registration is often compromised by inadequate verification of ownership status during the administrative stage. Wibisono et al. (2025) and Hidayat et al. (2024) emphasize that expediting the registration and certification of waqf land is crucial for ensuring legal recognition and preventing future disputes. When the initial verification by the PPAIW and the nazir fails to account for the existence of joint property or undivided inheritance rights, the resulting certificate may actually trigger civil disputes in the future (Syarief, 2021; Putra, Alwahidin and Sikki, 2025).

The management of waqf does not always run smoothly, and there are many waqf disputes in society. To address this, Article 62 of Law No. 41 of 2004 establishes a step-by-step dispute resolution mechanism. The first stage requires pursuing a non-litigation route: consensus-based deliberation. If deliberation fails, the parties may request the Indonesian Waqf Board (BWI) to conduct mediation. Amicable settlement (*al-ishlah*) in Islamic law is

intended to preserve the social function of waqf and familial bonds (Abdullah, Sholihin and Habibi, 2023). If mediation fails, the dispute may be brought to court for litigation. In the formal judicial sphere, the authority to resolve waqf disputes is vested in the religious courts, as stipulated in Article 49 (a) (7) of Law No. 3 of 2006 Amending Law No. 7 of 1989 on Religious Courts. Although waqf deeds are issued administratively by civil service officials (PPAIW/KUA), the Religious Courts retain the authority to review the substantive validity of the issued waqf deeds.

Description of a waqf land dispute case between heirs and the waqf donor at the Makassar Religious Court

A waqf land dispute between heirs and the waqf donor was addressed in the Makassar Religious Court Decision No. 1954/Pdt.G/2023/PA. Mks, which resulted in the annulment of the waqf and a victory for the heirs. An overview of the facts of the case and the judge's reasoning is presented in four sections: the parties and subject matter of the case; the history of the marriage and inheritance; the chronology of the waqf's establishment and the facts of the case; and the court's decision and the judge's legal reasoning.

First, the parties' identities and the subject matter of the dispute. This waqf dispute is registered with the Makassar Religious Court under Case Number 1954/Pdt.G/2023/PA.Mks. The Plaintiffs consist of three biological siblings of the late husband (initials: S), which are P1, P2, and P3. The Defendant is T, a 75-year-old woman, the widow of the S. The subject of the dispute in this case is a plot of land along with the buildings on it, covered by Certificate of Ownership (SHM) No. 20695/Buakana Subdistrict, measuring 173 m², in Rappocini District, Makassar City. This property is administratively registered in T's name but is closely linked to the civil rights of the late S.

Second, the historical relationship between marriage and inheritance, in which the late S and the defendant (T) were married on July 30, 1964. For more than half a century, the couple had no children until S eventually passed away on October 12, 2018. During their marriage, specifically in 2011, they acquired the assets at issue, land and buildings in the Buakana neighbourhoods. Based on the ownership status of these assets, the disputed property constitutes joint property. Therefore, under Islamic law, half belongs to S and the other half to T. Since the late S passed away without any children or a living father.

According to Islamic inheritance law, the heirs entitled to the late S's share are the defendant (I), as his wife, as well as the plaintiffs (P1, P2, P3), as the late S's full siblings.

Third, the chronology of the establishment of the waqf and the facts of the case: on August 8, 2022, the defendant (D), unilaterally and without the knowledge or consent of the plaintiffs, acted as the waqf donor (*wakif*). T endowed the entire plot of jointly owned land for the construction of a house of worship and a tahfidz boarding school through the Deed of Waqf Declaration (AIW) No. W2/06/08/2022 before the PPAIW of Rappocini Subdistrict. However, from the time of S's death in 2018 until the waqf declaration was made, the distribution of the deceased's share of the joint property had never been carried out. The Plaintiffs consider T's act of donating assets in which the rights of other heirs still exist to be an unlawful act because the waqf donor did not have absolute ownership of the entire waqf property at the time the declaration was made.

Fourth, the court's decision and the judges' reasoning: On November 29, 2023, the Panel of Judges of the Makassar Religious Court granted the Plaintiffs' petition and declared the Waqf Declaration Deed invalid and without legal force. The judges' legal reasoning was based on Article 217(3) of the Compilation of Islamic Law (KHI), which stipulates that property donated as a waqf must be free from all encumbrances, liens, seizures, and disputes. The judges held that, since the property in question was joint property that had not yet been distributed to the Plaintiffs as the lawful heirs of the late S, the Defendant did not meet the criteria to be a waqf donor with full rights to it.

Next, a chronological overview of the dispute is presented in the following table.

Table 1
Facts of the Case in Judgment No. 1954/Pdt.G/2023/PA.Mks

Date/Year	Legal Events	Consequences of the Legal Status of an Object
July 30, 1964	The marriage of the late S and the Defendant (I)	Effective Date of the Joint Property Arrangement

The year 2011	Purchase of land/building under SHM No. 20695 in the name of T	The property is classified as joint property ($\frac{1}{2}$ owned by S, $\frac{1}{2}$ owned by T), even though the wife's name is formally listed on the title
October 12, 2018	S passed away without leaving behind any children or a father	$\frac{1}{2}$ of the estate of the late S has officially become an undivided inheritance. The Plaintiffs (siblings) are entitled to their share of the inheritance.
August 8, 2022	The Defendant (D) issued Waqf Declaration Deed No. W2/06/08/2022	Unilateral waqf. There is a subjective defect because the property involves the rights of other heirs that have not yet been granted.
September 27, 2023	The Plaintiffs filed a lawsuit seeking the annulment of the waqf with the Makassar Religious Court	The property officially became the subject of a legal dispute in court
November 29, 2023	The Panel of Judges rendered its decision in Case No. 1954/Pdt.G/2023/PA.Mks.	End of the dispute. The Waqf Declaration Deed was declared invalid/null, and void by law. The status of the land reverted to that of undivided inherited property.

Source: Judgment data compiled by the author, 2025

The land dispute in this ruling illustrates a destructive conflict between marital community property and the deferred exercise of inheritance rights. When S passed away in 2018, under Sharia law, $\frac{1}{2}$ of the decedent's property became subject to inheritance (*tirkah*). Since the decedent died without leaving any children or a father (*kalalah*), the distribution of the inheritance shares, as stipulated in Surah al-Nisa' verses 12 and 176, is as follows: the Defendant is entitled to one-quarter ($\frac{1}{4}$) of the inheritance, and the remainder belongs to the Plaintiffs (P1, P2, P3) as full siblings who hold the status of '*asabah* heirs. The lack of an estate distribution since 2018 has left the subject of the dispute in a state of conditional ownership (*milkiyyah syai'ah*), which, in theory, includes an undivided share of

ownership held by another party.

From the perspective of Islamic law, the defendant's act of endowing all the jointly owned property without the plaintiffs' consent is classified as a legal act concerning another party's rights without legal authority (*tasarruf fudhuli*). This act is fundamentally subjectively flawed because it violates the absolute requirement of full and perfect ownership (*milku al-tamm*) that is mandatory for a wakif (Cheema, Mansoori and Usman, 2022). The transfer of assets, each of which contains the civil rights (*haqqul adami*) of others belonging to the heirs without prior distribution, indicates a void unilateral seizure of rights (*ghashab*).

Legal rationale of the Makassar Religious Court in resolving a waqf land dispute

In ruling on Case No. 1954/Pdt.G/2023/PA.Mks, the panel of judges at the Makassar Religious Court employed a multi-argument approach to justify the annulment of the Waqf Declaration Deed (AIW). The judges' considerations were categorized into five types of arguments: legal, theological, procedural, social, and policy oriented.

First, regarding the legal argument, the judge focused on the validity of the waqf property's ownership status under the positive law in force in Indonesia. The judge referred to Article 217(3) of the Compilation of Islamic Law (KHI), which stipulates that waqf must consist of property free from all encumbrances, liens, seizures, and disputes. In examining the case, the judge established that the land with SHM No. 20695/Bukana was purchased in 2011 during the marriage between the Defendant and her late husband. The legal status of this asset is classified as joint property. Since the husband died in 2018 without children and the joint property had not yet been distributed among the heirs, the Plaintiffs, as lawful heirs, still hold inheritance rights to the property in question.

Second, the theological-Sharia argument, although the judge did not directly cite the Qur'an in the final ruling, Islamic legal principles are strongly reflected through the enforcement of Islamic inheritance law. The judge implicitly applied the principles governing the determination of heirs' shares and the prohibition against unlawfully appropriating another person's property. In Islamic law, although the act of waqf is highly recommended, it must not be established in violation of another person's rights. The judge emphasized that failing to grant the rights of other heirs prior to the declaration of waqf would result

in the nullification of the waqf itself.

Third, regarding procedural arguments, the judge highlighted administrative negligence by the Official in Charge of Drafting Waqf Declarations (PPAIW) and the waqf administrator. The judge emphasized that the waqf administrator did not thoroughly examine the prerequisites and legal status of the assets before accepting the declaration. The PPAIW of Rappocini Subdistrict was also found to have issued AIW No. W:2/06/08/2022 without first verifying the inheritance documents.

Fourth, the social argument is one of the most compelling considerations because, based on facts on the ground, the land and buildings donated as a waqf were originally intended for the construction of a mosque on the second floor. However, the local community firmly rejected this and refused permission for the designated use of the waqf, causing the property to fall into disuse. The judge ruled that the loss of the waqf's social and religious function strengthened his reasoning, concluding that it would be more beneficial to revoke this waqf than to uphold it.

Fifth, the policy-oriented argument relies on the Defendant's own cooperative attitude during the trial. The Defendant verbally stated that he had no objection to the annulment of the waqf declaration. On the other hand, it was revealed that the Defendant currently has no fixed residence and is staying at his nephew's house. The panel of judges adopted a policy approach grounded in humanitarian protection and distributive justice.

The legal considerations in the ruling, based on the analysis, indicate that the judges placed greater emphasis on the formal legality of the waqf, resulting in the declaration of invalidity. Among the five considerations evaluated by the Panel of Judges, the most significant argument was the legal argument in the annulment of the waqf declaration. From a theological-Sharia perspective, the judges' reasoning was firmly grounded in the *fiqh muamalah* doctrine concerning the conflict between waqf and *haqq al-adami* (the civil rights of heirs). A pure intention behind a waqf can be automatically nullified if it is established at the expense of another person's inheritance rights, in accordance with the principle of "*la dharara wa la dhirar*" which prohibits causing harm and retaliating with harm (SJ, Harahap and Rustamaji, 2026). Thus, in fulfilling the intention of a waqf, respecting the civil rights of others takes precedence over pursuing its social benefits.

The epistemological construction of *maslahah*-based justice in relation to the essence of waqf

The concept of “justice based on *maslahah*”, the analytical framework in this research, is a theoretical synthesis between the ideal of universal legal justice and the principles of Islamic law derived from the doctrines of *maslahah* and *maqāṣid al-shari’ah*. This concept is not a conventional school of law but rather represents a reconstruction of how distributive justice is applied in Islamic law. In classical Islamic legal thought, justice is not interpreted solely in a textual sense; rather, justice is achieved when the legal objectives aimed at protecting the five essential interests (*al-dharuriyyat al-khams*), including the preservation of property, are fulfilled (Farabi, Mesraini and Abdullah, 2026).

Genealogically, the roots of this concept of *maslahah*-based justice can be traced back to the thought of the prominent scholar Imam al-Syatibi (d. 1388 CE) in his work “*al-Muwafaqat*”. Al-Syatibi asserts that Islamic law aims to realize human *maslahah* in this world and the hereafter (Parrey, 2024; Sirait, Syahnun and Panjaitan, 2024; Sunaryo and Fahmi, 2024; Harun et al., 2025; Krismiarsi and Adityo, 2025). In a modern context, the concept of substantive justice based on *maslahah* was developed by Jasser Auda through a systems approach, which emphasizes that justice and *maslahah* are the essence of the objectives of Islamic law (Abdullah, 2021). This is highly relevant to the objectives of waqf, namely, to achieve *maslahah* in this world and to serve as a source of ongoing reward in the hereafter.

In terms of the essence of waqf justice, the dialectic between legal certainty and the public interest is central to the debate (Ambrose and Peredaryenko, 2022; Asmaya et al., 2026). This phenomenon demonstrates that *maqāṣid al-shari’ah* serves as a responsive instrument in addressing the tension between formal legality and the public interest (Noor and Lee, 2023; Rohmanu and Rofiah, 2023; Muhammadong, Shobri and Yaqien Makkarateng, 2024; Ibrahim et al., 2025; Musadad et al., 2025; Abdullah, Mohd and Ibrahim, 2026; Lokman et al., 2026; Samudin, Nasir and Ismail, 2026). Globally, the public-interest objective of waqf has even been conceptualized in relation to modern multidimensional issues through the lens of *maqāṣid al-shari’ah* (Sari et al., 2026). This forms the basis for using the concept of *maslahah*-based justice as an embodiment of universal justice and *maqāṣid al-shari’ah* to analyse its implementation in waqf dispute rulings.

Analysis of the judge's rationale in a waqf land dispute ruling in the context of justice based on the public interest

From the perspective of justice based on the public interest, the judge's rationale seeks to prevent harm. Waqf, as a social practice, is not permitted if the rights of others with a legitimate claim under Islamic law regarding the waqf property are being disregarded. The annulment of the waqf declaration serves as the court's solution to prevent the creation of temporary benefits at the expense of denying the rights of the rightful parties and to prevent ongoing conflicts among the parties. According to *maslahah*, this reasoning aligns with the principle "*dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*", that preventing harm takes precedence over seeking benefit (Al-Suyūṭī, 1998). The judge ruled that the social benefits of waqf (*jalb al-maṣāliḥ*) should not overlook the heirs' civil rights (*dar'u al-mafāsīd*).

However, these considerations remain limited to the essence of sustainable waqf, as the ruling tends to prioritize heirs' rights while overlooking the role of the waqf administrator after revocation. The court's reasoning has not yet addressed the essential purpose of waqf, which is also important: the pursuit of reconciliation (*al-iṣlāḥ*) through the possibility of a renewed waqf declaration (re-waqf) regarding the defendant's share of ownership after the distribution of the estate. Thus, justice that serves the public interest is understood only at the level of rights protection, not in terms of the socially beneficial and sustainable essence of the waqf.

Similarly, regarding waqf governance, the panel of judges found only that the waqf administrators and the officials who drafted the waqf declaration lacked diligence in examining the waqf's. However, in the context of waqf law, the waqf administrator plays a vital role in ensuring the waqf's formal legality and promoting sustainable social benefits (Kasdi et al., 2022; Sukmana et al., 2024; Maulina et al., 2025). Thus, the legal reasoning behind the ruling upholds the principle of justice, serving the public interest by applying the law and protecting the rights of interested individuals. Upon deeper examination of this justice serving the public interest, the reasoning has yet to address the endowment's benefits for the public and its sustainability, as intended by the endower.

The conceptual significance of this research reveals that true *maslahah* justice in waqf jurisprudence should integrate the certainty of individual rights with the goal of ongoing

charitable deeds (*amal jariyah*). Rather, it must integrate a middle ground that ensures the protection of assets for the heirs and the waqf donor's pure intention. When understood in a broader context, the concept of *maslahat* will evolve in a way that promotes the public interest (Sutikno, Kurniati and Sultan, 2023). Efforts primarily aim to prioritize the rights of heirs and prevent prolonged conflicts. However, further steps can be taken after ruling through discussion and consideration of the waqf's status as property already relinquished by the waqf donor. Furthermore, the waqf donor, the deceased's wife, holds rights to the joint property, namely a $\frac{1}{2}$ share as a spouse and a $\frac{1}{4}$ share as an heir. Hence, the complete revocation of the waqf property risks fulfilling only individual rights. In this context, the waqf retains room for implementation, and in fact, the rights retained by the waqf donor outweigh those that must be relinquished, a point that waqf administrators should prioritize and strengthen.

Therefore, legal innovations are essential to keep waqf assets in community hands and ensure sustainable benefits (Ishak et al., 2025; Sujarwadi et al., 2025; Zafar and Jafar, 2025). This research examines waqf disputes that overlook social benefits, highlighting the importance of justice grounded in the public interest (*keadilan bermaslahah*). Strengthening the value of public interest (*maslahah*) and the preservation of property (*hifz al-mal*) are key objectives of Islamic law. Furthermore, it is crucial to consistently promote waqf registration to ensure legal certainty and prevent future disputes (Ghazali et al., 2020; Hariyanto and Islamy, 2023; Subhi, Umar and Rahman, 2025). These researchs agree on the need to uphold the objectives of waqf as a form of ongoing charity (*amal jariyah*) and a source of sustainable social benefits.

Implications of the ruling on waqf land disputes for achieving justice based on *maslahah*

The legal implications of the Makassar Religious Court's ruling No. 1954/Pdt.G/2023/PA.Mks definitively resolve the conflict over exclusive jurisdiction between the Religious Courts and the Administrative Court (PTUN) in reviewing the administrative act known as the Waqf Declaration Deed (AIW). Pursuant to Article 49(a) of Law No. 7 of 1989, as amended by Law No. 3 of 2006, and Article 62 of Law No. 41 of 2004 on Waqf, the Religious Court possesses absolute and exclusive jurisdiction over substantive waqf disputes.

The application of legal arguments based on the principle “*dar’ al-mafāsīd muqaddam ‘alā jalb al-maṣāliḥ*” (Al-Suyūṭī, 1998) has proven effective in providing legal certainty regarding *ḥifẓ al-māl* and *ḥaqq al-‘adamī* (civil rights) for the heirs. However, this formal legal advantage significantly affects the status and essential purpose of the waqf. This ruling prioritizes individual civil rights but undermines the entire sustainability of the waqf’s social benefits without distinguishing between the heirs’ shares and the portion of the assets that legally constitute the Defendant’s absolute right.

Based on the socio-theological perspective of justice for the common good, the complete revocation of the AIW has cut off access for the nazir and the communities benefiting from the waqf, and has nullified the waqf donor’s intention to attain ongoing charitable reward (Kassim and Noordin, 2025; Zulkipli, Basit and Wajdi, 2025). From a fiqh perspective, although the principle that “the conditions set by the waqf donor (*syurūṭ al-wāqif*) are like those set by the lawmaker (*syurūṭ al-shāri’*)” underscores the need to respect both. However, this does not justify disregarding the rights of heirs. Annulling waqf condition without assessing the balance of public interest does not reflect holistic justice. The defendant still possesses a lawful share of $\frac{1}{2}$ of the joint property and $\frac{1}{4}$ of the inheritance, which, under Sharia law, may be freely endowed as a waqf. Therefore, justice based on the public interest offers a solution rooted in *al-tawassut* (the middle path), through post-judgment mediation to preserve the waqf by having the defendant reaffirm the lawful portion that belongs to him.

Possible solutions include an amicable settlement, whereby part of the waqf land could be managed by the *naẓīr*, and the remaining portion could be owned by the heirs, as is their right. This is because, during the court proceedings, all considerations can be considered to strengthen the positions of both parties, thereby resulting in a win-win solution that ensures the objectives of the waqf are achieved while the heirs’ rights are upheld. These findings indicate that justice in the public interest has not yet been fully implemented, as priority is given to the heirs, while the nazir and the beneficiary community receive insufficient attention.

By prioritizing reconciliation (*al-iṣlah*) and deliberation, it is hoped that issues can be resolved without causing further problems, thereby achieving the community’s common good in accordance with the *maqāṣid al-syari’ah* (Djafri et al., 2021). This reinforces the idea

that waqf disputes should be resolved through deliberation, as they involve social benefits and help ensure that the essence of the waqf, as intended by the waqf donor, remains preserved. Resolution through deliberation serves as an alternative that can provide the best solution for the disputing parties; naturally, this deliberative process requires consideration of the public interest.

The implications of this ruling have a direct impact on the neglect of the purpose of waqf as a source of ongoing charitable deeds for the waqf donor and the weakening of the role of the waqf trustee as the manager of the waqf. The importance of upholding the purpose of waqf is emphasized by Sudirman et al. (2022), who note that the Muslim community's cosmological system positions waqf as a form of savings for the waqf donor's afterlife. To honour and fulfill this intention, a strong role is needed from professional waqf administrators so that the waqf can be managed well and be beneficial (Adnan, Mutalib and Ab Aziz, 2022; Priyadi et al., 2023). This can be achieved by evaluating the performance of waqf management, including its institutional framework, regulations, systems, and resulting impacts (Fahmi et al., 2024; Adniyah, 2025).

The strengthening of regulations and the role of waqf administrators underscore the importance of considering the position of the nazir, including in the resolution of waqf disputes in religious courts. The development of waqf governance is a priority because waqf assets are entrusted property used for charitable and social welfare purposes (Eficandra, 2022; Wira et al., 2023; Pitchay et al., 2024; Mukhlisin et al., 2024). Thus, the sustainable use of waqf assets can significantly affect socioeconomic conditions in Muslim communities worldwide.

Conclusion

This research reveals that the reasoning behind the Makassar Religious Court's decision No. 1954/Pdt.G/2023/PA.Mks prioritizes the formal legal aspects of ownership in resolving a waqf dispute between heirs and the waqf donor, without giving due consideration to the principle of substantive justice that serves the public interest. The analysed ruling demonstrates greater adherence to the principle of legal certainty than to the principle of social benefit, which is the essential purpose of waqf. Similarly, the waqf donor's motivation

for establishing the endowment has not been examined in depth, and the public's trust in the waqf institution may be undermined if waqfs can be easily revoked. This indicates that the decision has not framed waqf as an ongoing charitable endowment intended by the donor for social and sustainable benefit. Epistemologically, this finding underscores the distinction between waqf law and the values of *maqāṣid al-shari'ah* regarding the preservation of assets (*hifẓ al-māl*) and the public interest.

This research contributes to strengthening the *maslahah*-based justice paradigm as a model for resolving global Islamic legal disputes, reconciling the conflict between the formalism of waqf law and the protection of the civil rights of vulnerable groups. This paradigm serves as the foundation for reforming waqf law to be more responsive to the welfare of the Muslim community. This is because, in waqf law, priority should be given to the purpose of the waqf as intended by the waqif. The effectiveness of waqf management institutions should be enhanced to ensure they can function effectively and are not overlooked in resolving waqf disputes. The benefits of waqf will be felt sustainably if disputes are resolved peacefully. Nevertheless, this research is limited in scope to the cases examined and therefore does not comprehensively demonstrate the extent to which *maslahah*-based justice operates across different cases. Further research is recommended, particularly a comparative study of religious court rulings across different regions or countries, to assess the broader implementation of *maslahah*-based justice.

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