

## Waqf in the Perspective of Mawḍū'i Hadith: Analysis of Hadith Criticism Concerning the Prohibition of Selling Waqf Property

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### Abstract

*This study aims to determine the quality of the hadith related to the prohibition of selling waqf property and the opinions of the Islamic scholars regarding this matter. This research is a descriptive-qualitative study using the mauḍū'i hadith method with classical and contemporary approach and techniques of hadith criticism. The results of the study show that: (1) The quality of the hadith which is the object of naqd al-ḥadīṡ in this study is assessed as valid, both from the side of the chain (sanad) and the point of view (matan), because it has fulfilled the elements of hadith validity; (2) Regarding the law on the transfer of the function of waqf property, there are differences of opinion among the scholars. Shafi'i is of the opinion that waqf assets cannot be exchanged forever. According to Abu Hanifah, waqf property can be exchanged if the waqf property cannot be managed according to its purpose or because of public benefit and worship. Meanwhile, Ahmad bin Hambal considers that the prohibition on selling waqf property is only for waqf assets that can still be used for a need. As for waqf property that is old or almost unusable, it may be sold and the money bought for a replacement. Meanwhile, exchanging waqf assets for waqf is also permissible, apart from mosque waqf.*

### Keywords

Waqf; hadith; mauḍū'i; prohibition; selling



## I. Introduction

Humans were created not only as individual beings but also as social beings. As individual beings, humans have various rights and obligations. Likewise, as social beings, humans should be able to maintain good relations with others, foster a sense of social care and a sense of solidarity. Because in life, humans always need help from others.

In addition, humans are created with various advantages and disadvantages that are different and complementary. Therefore, in Islam it is recommended to perform waqf as a form of taqarrub to Allah in order to narrow the social gap between the rich and the poor and eliminate social jealousy.

The Islamic scholars are of the opinion that waqf is handing over a long-lasting property right to a person or Naẓīr (maintainer or administrator of the waqf) or to a management body on the condition that the proceeds or benefits are used in accordance with Islamic teachings. Waqf objects are no longer the property of the waqf and do not belong to the place of delivery, but belong to Allah (Halim, 2005). Waqf means holding an object whose substance is eternal to take its benefits for the public good (Idris, 2009).

Regulations on waqf in legislation have been regulated in Indonesia since the colonial period until now. This is proven by the seriousness of the Indonesian people in regulating this waqf and it is stated in various laws and regulations (Zuhri, & Iman, 2022). In the Compilation of Islamic Law (Kompilasi Hukum Islam, KHI), specifically Law Number 41 of 2004 concerning Waqf in Chapter 1, Article 1, Paragraph (1), it is explained that waqf is a legal act of wakif to separate and/or separate part of his property to be used forever. or for a certain period of time according to their interests for the purposes of worship and/or general welfare according to Sharia. The discussion of waqf contained in the KHI is not limited to property, but includes movable and immovable objects that have durability that are not only disposable and have value according to Islam (Departemen Agama RI, 2006).

Utilizing the waqf object means using the waqf object according to the will of the wāqif. However, if at any time the waqf object is no longer useful or does not provide much benefit for the public interest, some in the community then make changes to the waqf object, such as changing its shape/nature, moving it to another place, exchanging it with another object or even selling it in order to maintain its function and or bring greater benefits in accordance with the purpose of the waqf. The question is, is this kind of action, especially selling waqf property or objects, permissible in Islam?

Based on the description above, the formulation of the main problems in this study are: (1) how is the quality of the hadith regarding the prohibition of selling waqf property?; (2) what is the understanding of the hadith and the opinion of Islamic scholars regarding the prohibition of selling waqf property? To answer these problems, this research was conducted with the aim of knowing the quality of the hadith related to the prohibition of selling waqf property and the opinions of the scholars regarding this matter.

## II. Review of Literature

### 2.1. Definition of Waqf

The word of waqf according to etymology comes from the Arabic "waqafa" which means "hold" or "stop" or "stay in place" (Hafith et al., 2021). The word "waqafa (fi'il māḍī)-yaqifu (fi'il muḍāri')-waqfan (isim maṣḍar) has the same meaning as habasa-yahbisu-tahbisa which means to make waqf (Munawir, 2002).

It is called withholding because the waqf is held back from damage, sale and all actions that are not in accordance with the purpose of the waqf. In addition, it is said to withhold also because the benefits and results are withheld and prohibited for anyone other than those who are entitled to the waqf (Qahaf, 2005).

### 2.2. Normative Foundation

#### a. Al-Qur'an

The argument that forms the basis for the stipulation of waqf teachings comes from understanding the texts of the verses of the Qur'an and the *sunnah*. There is nothing in the Qur'anic verse that explicitly explains the teachings of waqf. What exists is about understanding the context of the verses of the Qur'an which are categorized as good deeds. The verses that are understood related to waqf as a good deed are as follows:

1. God's Word in Q.S. al-Ḥajj/22: 77,

وَأَفْعَلُوا الْخَيْرَ لَعَلَّكُمْ تُفْلِحُونَ

Means:

“Do good, so that you may be victorious.”

Al-Qurtūbī interprets "do good" with the understanding that good deeds are *sunnah* acts, not obligatory acts, because obligatory actions are obligations that servants should do to their Lord. One of the *sunnah* acts is waqf which always offers a reward with Allah. The last sentence of the verse above is "hopefully you are all lucky" is a picture of the positive impact of good deeds including waqf.

2. God's Word in Q.S. Āli ‘Imrān/3: 92,

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُذْفِقُوا مِمَّا تُحِبُّونَ ۚ وَمَا تُذْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ

Means:

“You will never reach (perfect) virtue until you spend some of the wealth you love. And whatever you spend, then verily Allah knows.”

3. God's Word in Q.S. al-Baqarah/2: 261,

لَهُ مِائَةُ حَبَّةٍ ۗ مَذَلُ الَّذِينَ يُذْفِقُونَ أَمْوَالَهُمْ فِي سَبِيلِ اللَّهِ كَمَثَلِ حَبَّةٍ أَذْبَتَتْ سَدَيْعَ سَدَابِلٍ فِي كُلِّ سُدْبٍ لِلَّهِ وَاسِعٌ عَلِيمٌ وَاللَّهُ يُضَاعِفُ لِمَنْ يَشَاءُ ۗ

Means:

“The parable of those who spend their wealth in the way of Allah is like that of a seed that grows seven grains, in each grain grows a hundred seeds. Allah multiplies (rewards) for whomever He wills. And Allah is All-Powerful, All-Knowing.”

## b. Hadith of Prophet

a. عن ابن عمر رضي الله عنهما قال: أصابَ عمرَ أرضاً بخيبرَ فأتى النَّبيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يسْتَأْمرُ فيها فقال: يَا رَسُولَ اللهِ إِنِّي أَصَبْتُ أرضاً بخيبرَ لم أصبْ مَالاً قطُّ هُوَ أَنفَسُ عِنْدِي مِنْهُ فَمَا تَأْمُرُنِي بِهِ. فَقَالَ لَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: إِنْ شِئْتَ حَبَسْتَ أَصْلَهَا وَتَصَدَّقْتَ بِهَا فَتَصَدَّقَ بِهَا عُمَرُ، إِنَّهَا لَأَتْبَاعٌ وَلَا تُؤْهَبُ وَلَا تُورَثُ. قَالَ: وَتَصَدَّقَ بِهَا فِي الْفُقَرَاءِ وَفِي الْقُرْبَى وَفِي الرِّقَابِ وَفِي سَبِيلِ اللهِ وَإِنَّ السَّبِيلَ وَالصَّنِيفَ لَأَجْنَاخٌ عَلَى مَنْ وَلِيَهَا أَنْ يَأْ كُلَ مِنْهَا بِالْمَعْرُوفِ وَيُطْعِمَ غَيْرَ مَتَمَوْلٍ. (رواه مسلم)

Means:

“From Ibn Umar r.a. said, that the companion of Umar ra. obtained a plot of land in Khaibar, then went to the Messenger of Allah for guidance. Umar said: O Messenger of Allah, I got a piece of land in Khaibar, I have never had such good wealth, so what do you order me? Messenger of Allah replied: If you like, you hold (mainly) the land, and you give alms (results). Then Umar did *ṣadaqah*, not sold, not donated and not inherited. Ibn Umar said: Umar gave it to the poor, relatives, slaves, *sabilillah*, *ibn sabil* and guests. And there is nothing wrong with it or it is not forbidden for those who control the waqf land (the administrator) to eat from the results in a good way (as appropriate) or eat without the intention of accumulating wealth.” (Al-Naisābūrī, 1991; (Fajri, 2021)

b. عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: إِذَا مَاتَ الْإِنْسَانُ انْقَطَعَ عَمَلُهُ إِلَّا مِنْ ثَلَاثٍ، صَدَقَةٌ جَارِيَةٌ وَعِلْمٌ يُنْتَفَعُ بِهِ وَوَلَدٌ صَالِحٌ يَدْعُو لَهُ. (رَوَاهُ التِّرْمِذِيُّ)

Means:

“From Abu Hurairah r.a., indeed the Messenger of Allah. He said: When the son of Adam (human) dies, his deeds will be cut off, except for three things: *ṣadaqah jāriyah*, useful knowledge and a pious child who prays for his parents.” (Al-Tirmizī, 1975)

### c. Law and Government Regulation

While the law that discusses the waqf is the Article 1 Paragraph (1) of Law Number 28 of 1997 formulated that "Waqf is a legal act that separates a portion of assets in the form of owned land and institutionalizes it forever for the benefit of worship or other public purposes. According to the teachings of Islam." According to Pratiwi (2020) in social life, law and society are two interrelated things that can never be separated. Through instruments, unlawful behavior is prevented and repressive measures are pursued (Tumanggor, 2019). From the aforementioned provisions, it proves the existence of new developments regulated in this Law (Purba, 2019).

In the Article 1 Paragraph (1) of Law Number 41 of 2004, waqf is defined as "a legal act of waqf to separate and/or surrender part of his property to be used forever or for a certain period of time in accordance with his interests for worship and/or welfare purposes common according to Sharia (Islam)."

## III. Research Methods

The method used in this research is the *mauḍū'i* (thematic) method. In the Popular Scientific Dictionary (*Kamus Ilmiah Populer*), the thematic word is defined; regarding the theme; the main one; about the main song. While in Arabic, the word *mauḍū'i* (thematic) means lowering something, or putting it down. Muslim (1989) says that *mauḍū'i* is putting something anywhere, either putting or lowering or setting or stabilizing in a place. Meanwhile, Ahmad (2007) said that the *mauḍū'i* hadith is a recitation or study of hadith based on the theme in question, both regarding its ontological aspect as well as its epistemological and axiological aspects, or one of the subs of one of its aspects (Partanto Al Barry, t.th; Ibn Zakariyya, 2002). Thus, the steps also refer to the steps of the *mauḍū'i* hadith method. In addition, this research does not escape the *tahlīlī* method to obtain clarity of the context contained in the hadith which is used as the object of research.

Meanwhile, the contemporary approach used is a multi-disciplinary approach, which connects the hadith about waqf with social, exact, humanities and religious approaches. The four sciences are needed to link waqf with the four sciences so that it will be traced how waqf actually was at the time of the Prophet. at the same time practice and its impact in the midst of society.

In analyzing the hadith, the researcher conducts an analysis in the form of "hadith criticism". Hadith criticism in this study includes two aspects, namely criticism of *sanad* and criticism of *matan*.

First, the *sanad* criticism method includes several aspects, including testing the continuity of the process of transmitting hadith by looking at the genealogy of teachers, students marked with *ṣiḡah al-ta'ammul* (symbol of acceptance of hadith), testing the integrity of the narrators. (*al-'adālah*) and intelligence (*al-ḍabṭ*) as well as security from *syūzūz* and *'illah*. If there is a contradiction in the ulama's assessment of a narrator, the researcher then applies the *al-jarḥ wa al-ta'dīl* rules by trying to compare the assessments and then apply the following rules:

a. *الْجَرْحُ مُقَدَّمٌ عَلَى التَّعْدِيلِ* (flawed judgment takes precedence over fair judgment).

The assessment of *jarḥ* (disability) takes precedence over the assessment of *ta'dl* if the following elements are present:

- 1) if *al-jarḥ wa al-ta'dl* are both ambiguous or the narrator's disability or fairness is not explained and the number is the same, because the knowledge of the person who judges the disability is stronger than the person who judges it fair. In addition, the hadith which is the source of Islamic teachings cannot be based on doubtful hadiths (Husain, 1979).
- 2) if *al-jarḥ* is explained, while *al-ta'dl* is not explained, even though the number of *al-mu'addil* (people who judge it is fair) is more, because people who assess defects have more knowledge of the narrators who are judged compared to people who judge it fair.
- 3) if *al-jarḥ wa al-ta'dl* both explain the causes of their defects or justice, unless *al-mu'addil* explains that the disability has disappeared or has not occurred when the hadith is narrated or the defect is not related to the narrated hadith (Al-'Usaimīn, 1410 H; Ahmad, 2005)

b. التَّعْدِيلُ مُقَدَّمٌ عَلَى الْجَرْحِ (fair judgment takes precedence over flawed judgment)

Contrary to the above, the assessment of *al-ta'dl* takes precedence over the assessment of *jarḥ* (flawed) if there are the following elements:

- 1) if *al-ta'dl* is explained while *al-jarḥ* is not, because the knowledge of people who judge it is fair is much stronger than that of people who judge it is flawed, even though *al-jāriḥ* (people who judge it is flawed) are more numerous.
- 2) if *al-jarḥ wa al-ta'dl* are both not explained, but more people judge them to be fair, because the number of people who judge them to be fair indicates that the narrator is fair and honest ('Abd al- Hādī, 1998).

Second, the criticism of *matan*, namely by checking the quality of hadith which contains certain meanings, and distinguishing between authentic and inauthentic hadith. The term criticism of *matan* according to Al-Jawabi, in his work *Juhūd al-Muhaddiṣin*, namely the provisions for the narrators of *ḥadīṣ*, either disability or justice by using certain expressions that have been known by *adīs* scholars, examining the *matan adīs* which has been declared *ṣaḥīḥ* in terms of *sanad* to overcome difficulties in understanding *adīs* and resolve contradictions contained in *matan ḥadīṣ* with deep consideration (Abbas, 2004).

## IV. Discussion

### 4.1. Description of the Hadith of Prohibition of Selling Waqf Assets

As explained earlier, the hadith that is the object of *naqd al-ḥadīṣ* in this study is the hadith about the prohibition of selling waqf property. The hadith is a hadith narrated by Tirmizi in his *Sunan* as follows:

حدثنا علي بن حجر أنبأنا إسماعيل بن إبراهيم عن ابن عون عن نافع عن ابن عمر قال: أصاب عمر أرضا بخبير فقال يا رسول الله! أصبت مالا بخبير لم أصب مالا قط أنفس عندي منه فما تأمرني؟ قال: إن شئت حبست أصلها وتصدق بها. فتصدق بها عمر أنها لا يباع أصلها ولا يوهب ولا يورث تصدق بها في الفقراء والقربى والرقاب وفي سبيل الله وابن السبيل والضيف لا جناح على من وليها أن يأكل منها بالمعروف أو يطعم صديقا غير متمول فيه قال فنكرته لمحمد بن سيرين فقال (غير متأثل مالا) قال ابن عون فحدثني به رجل آخر أنه قرأها في قطعة أديم أحمر (غير متأثل مالا) قال إسماعيل وأنا قرأتها عند ابن عبيد الله بن عمر فكان فيه (غير متأثل مالا) قال أبو عيسى هذا حديث حسن صحيح والعمل على هذا عند أهل العلم من أصحاب النبي صلى الله عليه و سلم وغيرهم لا نعلم بين المتقدمين منهم في ذلك اختلافا في إجازة وقف الأرضين وغير ذلك. (رَوَاهُ التِّرْمِذِيُّ)



Means:

Ali Ibn Hujr informed us, Ismā'īl Ibn Ibrahim informed us, from Ibn 'Aun, from Nāfi', from Ibnu Umar who said, "Umar struck a land in Khaybar and said, 'O Messenger of God! I owed money in Khaybar I never got more money than I have, so what do you command me to do?' He said, 'If you wish, you withhold its origin and give it as charity'. So, Omar gave it as alms, that its origin is not sold, it is not given, it is not bequeathed, it is donated to the poor, the kindred, the slaves, and for the sake of God, the wayfarer, and the guest. He said, 'It is not symmetrical with money'. Ibn Aun said, 'So, another man told me that he had read it in a piece of red skin 'not symmetrical in money', Ismail said, and I read it with Ibn Ubaidillah Ibn Omar, and it was in it 'not in harmony with money'. Abu Issa said, "This is a good and true hadith, and work on it." This is according to the scholars from among the companions of the Prophet, may God's prayers and peace be upon him, and others. We do not know among the forerunners of them a difference in the authorization of the two lands endowment and other things. (Narrated by al-Tirmizi).

#### 4.2 Analysis of the Quality of Hadith of Prohibition of Selling Waqf Property

By referring to the hadith which is the object of study above, the hadith has the names of narrators, namely Imam Tirmizi, 'Alī bin Hujr, Ismā'īl bin Ibrāhīm, Ibn 'Aun, Nāfi', and Ibn 'Umar.

The results of the analysis of hadith criticism from the side of the chain are described in the table as follows.

**Table 1.** Results of Hadith Criticism Analysis from the *Sanad* Side

No.	Name of Narrator	Narrator's Biography	The Opinion of Hadith Scholars regarding the Narrator
1	<b>Imām al-Tirmizī</b>	<p>His name Muḥammad bin 'Īsā bin Saurah bin Mūsā bin al-Ḍaḥḥāk al-Sulamī al-Tirmizī.</p> <p>He was born on 209 H in Turmuḡ city. Famous for his many memorization and knowledge. He traveled a lot around the area to study, especially hadith. This makes him have many teachers.</p> <p>Among his teachers were Muḥammad bin Basyār, Muḥammad bin al-Muṣannā, Ziyād bin Yaḥyā al-Hassānī, 'Amr bin 'Alī al-Qalānisī, Ya'qūb bin Ibrāhīm al-Dauraqī, 'Alī bin Hujr and others (Al-Ḍaḥabī, 2001).</p>	<p>Imam Ibnu al-Aṣīr said: Al-Tirmizī is an imam who has good works (Al-Ḍaḥabī, 2001).</p> <p>Imam al-Sam'ānī said: He was an imam in his time without anyone doubting him (Al-Ḍaḥabī, 2001).</p> <p>Ibn al-'Imād said: Al-Tirmizī is an example in the breadth and power of memorization (Al-Ḍaḥabī, 2001).</p> <p>The majority of hadith scholars praised and confirmed Imam al-Tirmizī as one of the imams in the science of hadith, they praised the breadth of memorization and strength. Thus, it can be concluded that the scholars categorize him as an imam and a scholar in the hadith.</p>
2	<b>'Alī bin Hujr</b>	<p>His name is 'Alī bin Hujr bin Iyās al-Sa'dī.</p> <p>He was born on 154 H.</p>	<p>Imam Nasā'ī said: He is an Imam, trusted and ḥāfiẓ (Al-Ḍaḥabī, 2001).</p> <p>Abū Bakr al-Khaṭīb said: A</p>

		<p>Among his teachers were Ismā'īl bin Ja'far, Shuraik al-Qāḍī, 'Abdullāh bin 'Amr, Ismā'īl bin Ibrāhīm, 'Abdullāh bin Mubārak, Ismā'īl bin Ayyāsy, 'Abdullāh bin Ja'far al-Madanī and others.</p> <p>His students included al-Bukhārī, Muslim, al-Tirmiẓī, al-Nasā'ī, 'Abdullāh bin Muḥammad al-Marwazī, and others (Al-Ḍahabī, 2001).</p>	<p>commendable person, strong in memory and ḥāfiẓ (Al-Ḍahabī, 2001).</p> <p>Muḥammad bin 'Alī bin Hamzah said: He is a noble and ḥāfiẓ person (Al-Ḍahabī, 2001).</p> <p>From some of the opinions above it can be understood that he is a trusted person, and an Imam who is recognized by scholars. This also proves that between him and Imam al-Tirmiẓī there is a clear connection.</p>
3	<b>Ismā'īl bin Ibrāhīm</b>	<p>His name is Ismā'īl bin Ibrāhīm bin Miqṣām al-Asadī.</p> <p>Born in the year of death of al-Hasan al-Baṣrī in 110 H.</p> <p>He narrated from many teachers, among them were Muḥammad bin al-Munkadir, Ayyūb al-Sikhtiyānī, Suḥaīl bin Abī ālih, 'Alī bin Zaid, Ishāq bin Suwaid, 'Abdullāh bin 'Aun, Ibn Juraġ, 'Abdullāh bin ', and etc.</p> <p>His students included 'Alī bin Hujr, Aḥmad bin Harb, Muḥammad bin Basyar, Hammād bin Zaīd, 'Alī bin al-Madinī 'Abdullāh bin Mubārak and many others (Al-Ḍahabī, 2001).</p>	<p>Yaḥyā bin Ma'īn said: He is a iqah and pious (Al-'Asqalāni, 1403 H).</p> <p>Shu'bah said: Ismā'īl was the leader of the hadith scholars (Al-'Asqalāni, 1403 H).</p> <p>Abū Dāud said: There is no one Muḥaddī who is not mistaken, except Ismā'īl and Bisyr bin Mufaḍḍal (Al-'Asqalāni, 1403 H).</p> <p>This also proves that Ismā'īl bin Ibrāhīm is a trusted person, it is proven that there is a connection between him and his student 'Alī bin Hujr.</p>
4	<b>Ibnu 'Aun</b>	<p>His name is 'Abdullāh bin 'Aūn bin Urtubḥān, Abū 'Aūn al-Baṣrī.</p> <p>He narrated the hadiths from many teachers, including al-Nakha'ī, Sa'īd bin Jubāir, Muḥammad bin Sirīn, al-Sya'bī, Muḥammad bin al-Qāsim, Nāfi' and many others.</p> <p>His students were: Sufyān al-Ṣaurī, Syu'bah bin Hajjāj, 'Abdullāh bin Mubārak, Mu'āz bin Mu'āz, Ismā'īl bin Ibrāhīm bin Ulayyah, and others (Al-Ḍahabī, 2001).</p>	<p>Ibn Mahd said: No one understands the sunnah in Iraq better than Ibn 'Aūn (Al-Ḍahabī, 2001).</p> <p>Al-Auza'ī said: If this ummah is given a choice, then I will choose Sufyān and Ibn 'Aūn (Al-Ḍahabī, 2001).</p> <p>Abū Dāwūd al-Ṭayālisī said: I have never seen anything like Ibn 'Aūn (in the hadith)" (Al-Ḍahabī, 2001).</p> <p>Based on some of the opinions above and there are still many</p>

			similar ones, it can be concluded that Ibn 'Aūn was a trusted person and also an imam. There is a connection between him and his student Ismā'īl and his teacher Nafi'.
5	Nāfi'	<p>His name is Nāfi' Abū 'Abdillāh al-Madanī. Ibn Mahd said: No one understands the <i>sunnah</i> in Iraq better than Ibn 'Aūn (Al-Ḥāhabī, 2001).</p> <p>Al-Auza'ī said: If this ummah is given a choice, then I will choose Sufyān and Ibn 'Aūn (Al-Ḥāhabī, 2001).</p> <p>Abū Dāwūd al-Ṭayālīsī said: I have never seen anything like Ibn 'Aūn (in the hadith)" (Al-Ḥāhabī, 2001).</p> <p>Based on some of the opinions above and there are still many similar ones, it can be concluded that Ibn 'Aūn was a trusted person and also an imam. There is a connection between him and his student Ismā'īl and his teacher Nafi'.</p>	<p>'Abd al-Raḥmān bin Khirasy said: A trusted and noble person (Al-Ḥāhabī, 2001).</p> <p>Imam Malik said: If you hear (hadith) from Nafi', then that is enough (Al-Ḥāhabī, 2001).</p> <p>'Ubaidullāh bin 'Umar said: 'Umar bin 'Abd al-'Azīz sent Nāfi' to Egypt to teach them (Al-Ḥāhabī, 2001).</p> <p>Ibn Hajar said: <i>Ṣiqah, ḍabt</i>, faqih, famous (Al-'Asqalāni, 1403 H).</p> <p>This shows that he is a noble person with knowledge, reliable, has a lot of memorization and is strong. He was a faqih in his day. In addition, the <i>sanad</i> is connected with Ibn 'Aūn and Ibn 'Umar.</p>
6	Ibnu 'Umar	<p>His full name is 'Abdullāh bin 'Umar bin al-Khaṭṭāb al-Qurasyī al-Madanī. One of the closest companions of the Prophet to him.</p> <p>He learned from: The Messenger of Allah. His father 'Umar bin al-Khaṭṭāb, Abū Bakr, 'Uṣmān bin 'Affān, 'Alī bin Abī ālib, 'Āisyah, Haḥṣah, Zaid bin Aslam, and many other friends.</p> <p>His students included Nāfi', Aslam bin Zaid, Adam bin 'Alī, Ismā'īl bin 'Abd al-Raḥmān, Umayyah bin 'Alī, Anas bin Sirīn, Bisher bin Harb, and others (Al-Ḥāhabī, 2001).</p>	<p>'Āisyah r.a. said: I have never seen anyone who was most consistent with the Shari'a except Ibn 'Umar (Al-Ḥāhabī, 2001).</p> <p>Abū Salamah said: 'Abdullāh bin 'Umar died and his glory was the same as his father's (Al-Ḥāhabī, 2001).</p> <p>Sa'īd bin al-Musayyib said: If I could testify to someone that he is a resident of heaven, then he is Ibn Umar" (Al-Ḥāhabī, 2001).</p> <p>Some of the statements above prove that 'Abdullāh bin 'Umar was a noble person, and no one reproached him. Likewise with the narration of his hadith, none of the scholars doubted him because of his closeness to the Messenger of Allah. and consistency in</p>



			<p>practicing his sunnah.</p> <p>In this hadith, 'Abdullāh bin 'Umar narrates what happened to his father 'Umar bin al-Khaṭṭāb who asked the Messenger of Allah directly about the land he had acquired in Khaibar. This shows that Ibn 'Umar was present and heard directly from the Messenger of Allah. thus there has been a continuation of the transmission of hadith.</p>
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If we pay attention to this hadith which consists of five levels (narrators), then the possibility of *syuḏūḏ* and *'illah* in this hadith can be avoided. This is because the narrators are *iqah* people, in fact all of them are imams in the science of hadith, which of course are all very trustworthy both in terms of memorization and honesty. The *ṣiqah* of the narrators is highly ranked and the chain is continuous from its *mukharrij* to its main source, namely the Messenger of Allah. The strength of this Tirmizī hadith chain may increase if it is associated with its *mutābi* 'and *syawāhid*.

For these reasons, it is very unlikely that this *sanad* contains *syuḏūḏ* (irregularities) or *'illah* (defects). Therefore, it has fulfilled the requirements if this *sanad* is declared to be free from *syuḏūḏ* and *'illah*.

As for the analysis of hadith criticism from the point of view, from the results of the analysis it can be stated that based on the aspect of *matan*, this hadith is not problematic, because there are no prominent differences in the meaning of this hadith that can affect the status of this hadith. Indeed, there is a slight difference in pronunciation, some use the pronunciation غير متمول, and there is also the pronunciation غير متائل مالا. However, this does not affect the status of the hadith, because its meaning does not change.

This hadith does not contradict the Qur'an at all, nor does it conflict with any other, more powerful hadith. In fact, this hadith is actually the basic argument in the issue of waqf. In addition, this hadith does not conflict with common sense, and fully meets the criteria as a hadith of the Prophet. Thus it can be said that the *matan* of this hadith is a valid *matan* that avoids *syuḏūḏ* and *'illah*.

#### 4.3 Syarḥ (Explanation) and Understanding of Hadith

Regarding the hadith above, it can be stated that in principle waqf is eternal for welfare and cannot be transferred, such as being inherited, sold or donated (Al-Ramlī, t.th). The social rights of these assets only concern the benefits that are available to them, it's just that some scholars try to reason about the possibility of converting the assets that have been waqfed into a new form with more measurable benefits.

As far as the discourse that develops among scholars, according to Imam Syafī'i, waqf property is forever not allowed to be exchanged and converted, even though it becomes something of a higher value (Al-Qalyūbī, t.th), such as making land that has been waqf for a garden into a house or land that is waqf for prayer is converted into a mosque. This applies if the *wāqif* does not require the waqf to do things that are of greater benefit to the waqf property. Meanwhile, if he has stated that it is permissible to do anything based on the benefit, then it is permissible to transfer the function of the waqf property based on the existing benefit (Al-Ramlī, t.th).

Imam al-Subkī stated that there are three conditions that allow the transfer of the function of waqf property, namely: (1) a slight change, not to the point of changing the other/*musamma*; (2) do not remove the water. There is *maslahah* for the waqf property (Al-Ramlī, t.th).

The prohibition on transferring the function of waqf property also applies to waqf building materials, such as waqf wood for mosques, if the mosque is old, or has been abandoned, it cannot be torn down unless it is feared that it will collapse. Then the mosque building materials may not be used for other mosques. This is if the mosque still needs these materials. Meanwhile, if the building materials can no longer be used by the old mosque, it is permissible to use them to build another mosque if the judge is of the opinion that building another mosque is of greater benefit (Al-Haytami, 2006).

These building materials may not be used for construction other than mosques, for example for the construction of a study hall unless there is no mosque that requires it, and vice versa (Al-Haytami, 2006). Besides being prohibited from transferring the function of waqf, it is also prohibited to do things that can interfere with the main purpose of waqf. So in the mosque it is forbidden to put a table that is used to put the book if it can disturb the congregation praying (Al-Haytami, 2006). As for if this does not disturb the congregation then it is permissible.

In waqf, the provisions of the *wāqif* are highly considered, so that all the conditions that he determines as long as they are not against the *syara'* must be complied with, for example he makes the condition that the land cannot be leased to one party for more than a year, or he requires that the construction of the land be borne by the party who occupies it, as another example he donated a mosque which was only devoted to followers of the Shafi'i School (Al-Haytami, 2006). All these conditions are complied with as long as there is no emergency. In an emergency, the *waqif's* requirements may not be fulfilled, for example, in the example he makes a condition that it cannot be rented out to one party for more than a year, if in the second year there is no other party who wants to rent it, it is allowed to be rented out to the party who has rented it in the second year. first. An example of a condition that is contrary to *syara'* is that the wakif makes a requirement that people who live in that place must be celibate, so this condition is not heeded because it is against *syara'* because *syara'* itself encourages marriage and denounces singleness (Al-Haytami, 2006).

Meanwhile, according to Imam Abu Hanifah, waqf property can be exchanged if the waqf property can no longer be managed according to its designation except by being exchanged or for public benefit and worship, but they still exclude the waqf of buildings that are intended as a means of worship (mosques or prayer rooms) and in order to find and generate better benefits.

According to Imam Ahmad bin Hambal, the prohibition of selling waqf assets is only for waqf assets that can still be used for a need. As for waqf property that is old or almost unusable, it may be sold and the money bought for a replacement. Meanwhile, exchanging waqf property for waqf is also permissible, in addition to mosque waqf.

The discussion of jurists concerns the use of waqf assets to the level of discourse on selling and replacing waqf assets. However, the study of the transfer of the intended waqf property needs to be reviewed to synchronize it with the current situation. Therefore, a study of this issue is very important to be reviewed from the perspective of the dimensions of Islamic law and the law on waqf (Azdy, 2014).

Meanwhile, according to Law number 41 of 2004 concerning waqf, Article 40, it is stated that waqf assets cannot be used as collateral, confiscated, donated, sold, inherited, and exchanged. Article 41 explains that changes in the status of waqf or exchange of waqf assets can be carried out if the waqf assets that have been waqf are used for the public interest in

accordance with the General Spatial Planning (*Rencana Umum Tata Ruang*, RUTR) based on the provisions of applicable laws and regulations and do not conflict with the Shari'a.

According to Government Regulation Number 42 of 2006 concerning the Implementation of Law Number 41 concerning Waqf that waqf assets cannot be exchanged except for reasons of the General Spatial Planning (RUTR), waqf assets cannot be used according to the waqf pledge, or exchange is carried out for religious purposes. directly and urgently. Waqf assets that have changed their status must be exchanged for useful assets and the exchange value is at least the same as the original waqf property (Azdy, 2014).

## V. Conclusion

Based on the results of the analysis and discussion above, it can be concluded several things as follows:

First, the quality of the hadith which is the object of naqd al-ḥadīṣ in this paper is rated as valid, both from the side of the chain and the point of view, because it has fulfilled the elements of hadith validity.

Second, related to the law on the transfer of the function of waqf property, there are differences of opinion among the scholars:

- a. According to Shafi'i, waqf assets cannot be exchanged forever.
- b. According to Abu Hanifah, waqf property can be exchanged if the waqf property cannot be managed according to its purpose or because of public benefit and worship.
- c. According to Ahmad bin Hambal, the prohibition of selling waqf assets is only for waqf assets that can still be used for a need. As for waqf property that is old or almost unusable, it may be sold and the money bought for a replacement. Meanwhile, exchanging waqf property for waqf is also permissible, apart from mosque waqf.

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