



## BALTIC JOURNAL OF LAW & POLITICS

A Journal of Vytautas Magnus University  
VOLUME 15, NUMBER 2 (2022)  
ISSN 2029-0454



Cite: *Baltic Journal of Law & Politics* 15:2 (2022): 418-438  
DOI: 10.2478/bjlp-2022-001025

### **ISLAMIC LAW PERSPECTIVES AND POSITIVE LAW ON THE RETO TUO PRACTICE OF THE REJANG INDIGENOUS COMMUNITY IN THE FRAMEWORK OF RENEWALING FAMILY LAW IN INDONESIA**

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Received: July 22, 2022; reviews: 2; accepted: October 23, 2022.

#### **Abstract**

The management of Reto tuo as an expert waqf practice in the Rejang indigenous community, Bengkulu has succeeded in the welfare of the children of the waqif descendants. However, over time there are potential problems that will become disputes in the future. The problems of this research are: How are the Islamic Law Perspectives and Positive Laws on the Practice of Reto Tuo in the Rejang Indigenous Peoples as Expert Endowments in the Framework of Renewing Islamic Family Law in Indonesia? The conclusions of this study are: The Islamic Law perspective of the practice of Reto tuo as Expert waqf in the Rejang Indigenous community is not carried out in accordance with the requirements and pillars of expert waqf in Islamic Law, especially in terms of expert waqf terms, should be stated

clearly, also regarding the designation and period of validity. waqf of the Expert. The positive legal perspectives are: Reto tuo practice as an Expert Waqf in the Rejang Indigenous community, there are no detailed regulations governing it. So for the benefit of the benefit, the reorganization of the Reto tuo Law as an Expert waqf is carried out by separating the regulations of the Expert waqf from the khairi waqf related to the implementation, recording or administration, asset management, and dispute resolution.

### **Keywords**

Reto tuo, expert waqf, Rejang indigenous people

### **Introduction**

Positive Law in Indonesia regulates inheritance in the Marriage Law (Law No. 16 of 2019), Compilation of Islamic Law, in book II on Inheritance Law from Article 171 to Article 193.<sup>1</sup> These rules comprehensively regulate the distribution of Islamic inheritance. However, each region in Indonesia has different customs in the distribution of inheritance, as happened in Bengkulu Province. Sometimes inheritance is distributed based on the customs prevailing in the Rejang indigenous people of Bengkulu Province, some people do not share part of the inheritance but appoint one of the children to inhabit, care for, and manage these assets to be used or shared together, this asset is commonly referred to as Reto tuo in the form of houses, fields, gardens, or other assets.<sup>2</sup>

However, based on the results of the survey conducted by the researchers, Reto tuo can also be owned and used jointly by the heirs in accordance with the heir's mandate. This mandate is said when the parents are still present either orally or in writing but more is done orally because it has become a habit of the community, in practice the parents: the father or mother gives the mandate to the children while they are still alive, usually the mandate contains the message if they all have died, certain assets are not distributed as inheritance and may not be sold or owned by one of the children, but managed by the designated child to be used together and benefited jointly or in rotation.

This can be seen in the reto tuo which is mandated to be a house, usually the house is inhabited by one of the children who is trusted and still lives in the village where the parents live, the house is used as a gathering place for children who go abroad if they will return to their hometown. hometown or used for events involving a large family. Likewise, if the asset is in the form of a garden or rice

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<sup>1</sup> RI Law No. 16 of 2019 concerning Marriage and the Compilation of Islamic Law and the 2009 PERPU on the Organization of the Hajj, (Surabaya: Kesindo Utama, 2010), p. 251.

<sup>2</sup> Interview with Kasmantoni, heir and community leader of Talang Pasak Village, North Bengkulu Regency, January 10, 2019, Muhammad Shulthoni, Norma Md Saad, "Waqf Fundraising Management: A Conceptual Comparison Between Traditional And Modern Methods In The Waqf Institutions", Indonesian Journal of Islam and Muslim Societies Vol 8, No 1 (2018), p. 57-58, <https://ijims.iainsalatiga.ac.id/index.php/ijims/article/view/1803/942>, accessed 15 November 2021

field, it is usually managed in rotation and the proceeds are used in rotation or divided equally for all heirs, especially in the Lebong Regency area, the results from the rice field or garden are used for the cost of managing the tuo house or the cost of eating when all relatives are gathered.

According to sources that the researchers got, this tradition has been going on for a long time, originating from earlier people. However, recently some of these situations have not been able to run properly, conflicts and abandonment of Reto tuo assets are caused by lack of and or unclear ownership and management (Ali, 2021; Atabek & Burak, 2020; Aytac, 2020).

This situation occurs because there is no written agreement between the heirs against the heirs who are appointed and mandated as managers and beneficiaries, the community also considers this a hereditary tradition, so that if there is unwillingness due to injustice from the use of Reto tuo they prefer to keep quiet, even though in my heart I don't want to. Circumstances like this have in some cases led to conflicts in the family environment, or the abandonment of existing assets. From this the researcher sees that the practice of Reto tuo in Rejang requires a legal umbrella so that there is no conflict between heirs or the abandonment of the Reto tuo assets.

In Islamic law the practice of holding property and taking its benefits to be used for offspring like this is called expert waqf or family waqf, waqf itself is divided into two, namely expert waqf / urri and khairi waqf. Expert waqf as waqf for family or descendants, namely when a person first waqf for certain people or certain people, even though in the end he makes it for charitable institutions, such as someone waqf for himself, his children, then after they die is given to the institution charity.<sup>3</sup> The legal basis for expert waqf includes the hadith from Ibn Umar ra below:

حَدَّثَنَا مُسَدَّدٌ حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ حَدَّثَنَا ابْنُ عُيَيْنٍ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ أَصَابَ عُمَرُ بِخَيْبَرَ أَرْضًا فَأَتَى النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ أَصْبَيْتُ أَرْضًا لَمْ أَصِبْ مَالًا فَطُ أَنْفَسَ مِنْهُ فَكَيْفَ تَأْمُرُنِي بِهِ قَالَ إِنْ شِئْتَ حَبَسْتَ أَصْلَهَا وَتَصَدَّقْتَ بِهَا فَتَصَدَّقَ عُمَرُ أَنَّهُ لَا يُبَاعُ أَصْلُهَا وَلَا يُوهَبُ وَلَا يُورَثُ فِي الْفُقَرَاءِ وَالْقُرْبَى وَالرَّقَابِ وَفِي سَبِيلِ اللَّهِ وَالصَّنْبِ وَابْنِ السَّبِيلِ لَا جُنَاحَ عَلَيَّ مَنْ وَلِيَهَا أَنْ يَأْكَلَ مِنْهَا بِالْمَعْرُوفِ أَوْ يُطْعِمَ صَدِيقًا غَيْرَ مُتَمَوِّلٍ فِيهِ

"Has told us Musaddad told us Yazid bin Zurai' told us Ibn 'Aun of Nafi' from Ibn 'Umar Raḍiallahu 'anhumâ said; 'Umar got property in the form of land in Khaibar then he went to the Prophet and said: "I have got treasure and I have never had wealth more valuable than him. How do you order me about it?" He said: "If you want, you take care of the trees and then you give alms (the results)". So 'Umar gave it as charity, where he did not sell the trees, nor did he donate it, nor did he inherit it, (but he gave his wealth to charity) for the poor, relatives, to free slaves, fî sabîlillah (in the way of Allah), to entertain guests and ibn sabil. And it is not a sin for the person who takes care of it to eat from it in a right way and to feed his friends as long as it is not for the purpose of hoarding it "(HR. Bukhari).<sup>4</sup>

<sup>3</sup> Wahbah az-Zuhaili, *Fikih Islam wa adillatuhu*, translated by Abdul Hayyie al Kattani et al, (Jakarta: Gema Insani, 2007), Volume 10.p. 277.

<sup>4</sup> Lidwa li software, Book of 9 Imam Hadith, Source Bukhari, Book: Will, Chapter: How to write waqf contract, Hadith number 2565.

Previous studies related to this research are: this research is Ahmadan's research with the title, "Management of Waqf al-Khairat Palu, Central Sulawesi". The focus of this research is the Al-Khairat Educational Institution, the management process is still felt to have weaknesses and lack of economic resources.<sup>5</sup> Muslikhun's research entitled, "Towards Productive Waqf (Study of Shifts and Changes in Teacher's Understanding of Waqf in Lombok)". The focus of the research is to examine the background, process, and causes of the shift and to explore what aspects the shift in the understanding of the master's waqf has occurred in Lombok.<sup>6</sup> Ahmad Furqon's research entitled, "Reconstruction of Expert (Family) Waqf: A Case Study of Family Land Waqf Management and Heirs of Sunan Kalijaga in Kadilangu Demak." The focus of this research is on the management of family land and heirs of Sunan Kalijaga as an expert waqf located in Kadulangu Demak.<sup>7</sup> Tjek Tanti's research entitled: "Expert (family) waqf in the concept of Traditional Fiqh Lecturers of the Syari'ah Faculty of the State University of North Sumatra in the Journal."<sup>8</sup> The focus of this research is explaining about expert waqf which is rarely touched by the public or the government.<sup>9</sup> While the problems of this research are: How are the Islamic Law Perspectives and Positive Laws on the Practice of Reto Tuo in the Rejang Indigenous Community as Expert Endowments in the Framework of Renewing Islamic Family Law in Indonesia?

### **Research methods**

The type of research is a descriptive analytical field research, using a normative juridical approach in revealing the problems of Islamic Law and Positive Law Perspectives on Reto Tuo Practices in the Rejang Indigenous Community as Expert Endowments in the Framework of Islamic Family Law Reform in Indonesia which is the focus of this research. Collecting data using interviews, observation, and documentation. This research is a qualitative research. Data analysis in this study was carried out using the inductive method carried out in tandem with the process of searching, collecting, and obtaining data in this study based on the results of interviews, observations, and documentation until the process of drawing conclusions.

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<sup>5</sup> Ahmadan, "*Pengelolaan Wakaf Al-Khairat Palu Sulawesi Tengah*", (Dissertation, Doctoral Program, Postgraduate Program at Wali Songo State Islamic University Semarang, Semarang, 2015)

<sup>6</sup> Muslikhun, "*Menuju Wakaf Produktif (Studi Pergeseran dan Perubahan Pemahaman Tuan Guru Tentang Wakaf di Lombok)*", (Dissertation, Postgraduate Program of the Walisongo State Islamic Institute Semarang, Semarang, 2012)

<sup>7</sup> Ahmad Furqon, "*Rekonstruksi Wakaf Ahli (keluarga); Studi Kasus Pengelolaan Wakaf Tanah Keluarga dan Ahli Waris Sunan Kalijaga di Kadilangu Demak*", (Research Report of Walisongo State Islamic University Semarang, Semarang, 2012)

<sup>8</sup> Tjek Tanti, "*Wakaf Ahli Dalam Konsep Fikih Tradisional*", *Al-Isyad Journal* Vol II January-June 2013, <http://repository.uinsu.ac.id/187/5/article.pdf>, accessed 15 November 2021

<sup>9</sup> *Ibid.*,

## Legal change

In this study, researchers used the theory of Legal Change. Islamic law is universal, for all times, places, conditions, intentions, and cultures. It was revealed as a mercy and guidance for mankind which is syuml in nature, this is believed to be able to provide solutions to the problems faced by society. Thus, social change is indeed a direct cause for the development of Islamic law.

The law is dynamic, always changing and adapting to certain socio-anthropological and cultural situations and conditions, so it is explained in Islamic principles, that al-Islām sālihun likulli zamān wa makān, that Islamic law is able in principle to be in harmony with all situations and conditions. dynamic and always changing. Then in the rules of fiqhīyah, that legal changes in Islamic law or fiqh are justified, it can even become a necessity if the sociological conditions of society change. A rule regarding legal changes attributed to Ibn Qayyim al-Jauziyyah (w.751 H.) reads:

تَغْيِيرُ الْأَحْكَامِ وَاجْتِلَافُهَا بِتَغْيِيرِ الْأَمْكَانَةِ وَالْأَزْمَنَةِ وَالْأَحْوَالِ وَالنِّيَّاتِ وَالْعَوَائِدِ

"Changes and legal differences are caused by differences in place, time, conditions, motivation and culture"<sup>10</sup>

Similar rules were also expressed by other scholars. As the rule reads:

لَا يُنْكِرُ تَغْيِيرُ الْأَحْكَامِ بِتَغْيِيرِ الْأَزْمَانِ

"It is not denied that changes in law are caused by changes in time"<sup>11</sup>

فِي تَغْيِيرِ الْفَتَوَى وَاجْتِلَافِهَا بِحَسَبِ تَغْيِيرِ الْأَزْمَنَةِ وَالْأَمْكَانَةِ وَالْأَحْوَالِ وَالنِّيَّةِ وَالْعَوَائِدِ

"Changes in law occur because of changes in time, place, circumstances and habits."<sup>12</sup>

الحكم يدور مع علته وجودا وعد ما

"The law depends on the illat of being and not being and not being."<sup>13</sup>

لَا يَنْكُرُ تَغْيِيرِ الْأَحْكَامِ بِتَغْيِيرِ الْأَزْمَنَةِ وَالْأَمْكَانَةِ وَالْأَحْوَالِ

"It is undeniable that legal changes occur due to changes in time, place and circumstances."<sup>14</sup>

لِلْأَكْثَرِ حُكْمِ الْكُلِّ

"The majority were all convicted."<sup>15</sup>

Operationally, the reference for legal changes according to the rules of fiqh

<sup>10</sup> Ibn Qayyim al-Jauziyyah (691-751H) was a Sunni Imam, scholar, and jurist who lived in the 13th century. He is an expert in the Hanbali school of jurisprudence, besides that he is also an expert in commentary, hadith expert, memorizing the Qur'an, expert in Nahwu science, expert in Usul, expert in Kalam science, as well as a Mujtahid. Student of Shaykh al-Islam Ibn Taimiyyah in the field of Jurisprudence. Some of his major works include; Tahzib Sunan Abi Dawud, I'lam al-Muwaqqi'in an Rabbil 'Alamin, Ighatsatul Lahfan fi Hukmi Thalaqi al-Ghadlban, Ighatsatul Lahfan fi Masa'id al-syaitan, Bada'i'ul Fawa'id, Proverbs Qur'an and Butlanul Kimiya' min Arba'ina Wajhan.

<sup>11</sup> Muhammad Ibn Qayyim al-Jauziyyah, I'lam al-Muwaqqi'in 'an Rabb al-'Alamin, (Bairut: Dar al-Jail, tt.h), p. 3

<sup>12</sup> Ibid

<sup>13</sup> Ali Ahmad Gulam Muhammad an-Nadawi, al-Qawā'id Fiqhiyah, (Damascus: Dar-al Qalam, th, 1994), Cet 3, p. 125

<sup>14</sup> Ibn al-Qayyim al-Jauziyyah, , I'lam al-Muwaqqi'in 'an Rabb al-'Alamin, p. 414

<sup>15</sup> Ali Ahmad an-Nadawi, Tahqiq Mustafa az-Zarqa, al-Qawā'id al-Fiqhiyah, (Damascus: Dar al-Qalam 1994), cet 13, p. 380

proposals is according to the presence or absence of the 'illat law which is carried out in the ta'lil ahkām process. or enactment of a law. If there is 'illat, then there is law, and vice versa, if there is no or no existence of 'illat in a new legal event, there is no law. The rules of fiqh proposal are:

الْحُكْمُ يَدُورُ مَعَ عِلَّتِهِ وَجُودًا وَعَدَمًا

"The law circulates on 'illat, whether there is a law or not"<sup>16</sup>

Furthermore, in addition to 'illat there is a rule which states that other legal references are benefit. Maslahah etymologically means benefit, use. While benefit means the use of goodness, benefits, and interests.<sup>17</sup> Benefits are also interpreted as goodness (as opposed to harm) which means loss or bad.<sup>18</sup> A benefit that is not mentioned by syarā 'and there are no arguments that tell to do or leave it. When implemented, it will bring great goodness. This is called Maslahat mursalah. This is because there is no argument that acknowledges its validity or invalidity. So that the excavation of the law uses the benefit of mursalah solely to realize the benefit and refuse harm to humans.<sup>19</sup>

الحكم يدور مع مصالح العباد فحيثما وجدت المصلحة فثما حكم الله

"The law revolves around the benefit of mankind, so wherever benefit is found, there is the law of Allah."<sup>20</sup>

المحافظة على القديم الصالح والأخذ بالجديد الاصلاح

"Maintaining the good old culture products and adopting a new, better culture."<sup>21</sup>

The above-mentioned rules show that the provisions of a law from an event may only apply to certain people and for a certain time. Therefore, the legal provisions must be reconsidered when the law will be applied at a different time and place, especially if the legal provisions no longer reflect benefit as the goal of Islamic law, then the provisions are not valid and there must be a new ijtihad that is more beneficial for the community. This kind of thing has been done by Imam Shafi'i in his legal taking with the terms qaul qadm and qaul jadd, where qaul qadm was carried out by Imam Shafi'i when he was in Iraq and qaul jadd when he was in Egypt.<sup>22</sup>

From the various approaches to the principles above, there is an impression that Islamic teachings are always in accordance with the principles of development and community dynamics. this is in line with the principles and principles of Islamic law, namely, first, adam al-harj (not making it difficult), second taqlil al-takālif (lightening the burden) and third al-tadrīj (gradually and step by step). The three

<sup>16</sup> Ali Ahmad Gulam Muhammad al-Nadawi, *al-Qawā'id al-Fiqhiyah*, Cet. 3, (Damascus: Dār al-Qolam, 1994), p. 125

<sup>17</sup> Ministry of Education of the Republic of Indonesia, *Indonesian Language Dictionary*, Jakarta: Language Center of the Ministry of National Education, 2008, p. 637

<sup>18</sup> *Ibid.*, p. 626

<sup>19</sup> *Ibid.*, p. 181

<sup>20</sup> Jalaluddin as-Suyuti, *al-Asybah wa an-Nazāir*, (Beirut: Dār al-Fikr, t.t.), p. 176

<sup>21</sup> Syafii Ma'arif, *Islam Dan Masalah-Masalah Kenegaraan* (Jakarta: LP3S 1985), p. 47

<sup>22</sup> Roibin, *Hukum Islam, Telaah Sosio Historis Pemikiran Imam Syafi'I*, (Malang: UIN Malang press, 2008), p. 125-129

principles of law application according to Hudari's view have developed in practice, among others, law can mean al-tasyjī (motivation). The changing times and the needs of the Indonesian people for legal certainty on a local Indonesian scale, as well as the urgent need for applied (material) law for Government Agencies (Religious Courts) and the Indonesian people in resolving cases in the community.

### **The Practice Of Reto Tuo In The Rejang Indigenous People**

Ahmad Dasan stated that the implementation of the Bengkulu community's inheritance law is divided into several types of inheritance distribution patterns including the implementation of inheritance based on the Rejang tribe, Serawai tribe, Bengkulu Malay tribe, Eggano tribe, Minangkabau customs, and the implementation of the Javanese tribe residing in Bengkulu.<sup>23</sup> Based on the findings in this study, the practice of Reto tuo was carried out by several tribes in Bengkulu Province, namely, the Rejang tribe, Serawai tribe and Lembak tribe, Pekal tribe and Muko-Muko. This study focuses on the practice of Reto Tuo in the Rejang tribe.

The Rejang tribe is a tribe scattered in various regions in Bengkulu Province, located in Rejang Lebong Regency, Kepahiang Regency, Regency. Central Bengkulu, North Bengkulu Regency and also Lebong Regency. The Rejang people who are spread across various districts in Bengkulu not only have customary laws that have been in effect for a long time, but also have a wealth of cultural customs. One of them is the language, namely the Rejang language with the Rikung letters or known as the letters ka ga nga.

The customs regulated in these provisions are:

1. So samo means that the people of Rejang rely on religious values, namely customs that rely on syarak, Syarak relies on the Book of Allah. As in the Minangkabau custom which mentions the syarak basandi custom. The syarak basandi of the book of Allah.
2. Kamo bamo means that the community recognizes that common rights are shared property, the main thing is the principle of kinship.<sup>24</sup>

The inheritance system in the Rejang tribe is divided into three, namely: (1). Inheritance system based on Islamic law, (2). Inheritance system based on local customary law, (3). The inheritance system that comes from the acculturation process between Islamic law and local customary law.<sup>25</sup>

According to Kasmantoni, in practice the three things above do happen, but most of the Rejang people carry out the distribution of inheritance by way

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<sup>23</sup> Ahmad Dasan, *Hukum Waris Islam Dalam Pelaksanaan dan Pandangan Masyarakat Bengkulu*, (Dissertation, Postgraduate Program at State Islamic University Sunan Kalijaga, Yogyakarta: 2015), p. 173-197

<sup>24</sup> Silvia Devi, "Orang Rejang Dan Hukum Adat Tafsiran Atas Kelpeak Ukum Adat Ngen Ca' o Kute Jang Kabupaten Rejang Lebong", *Journal of Anthropological Issues and Culture*, June Vol. 18 (1): 39-50, <http://jurnalantropologi.fisip.unand.ac.id/index.php/jantro/article/view/54>, accessed 15 November 2021

<sup>25</sup> Ahmad Dasan, *Islamic Inheritance Law*

of deliberation and it is also carried out according to local customary rules.<sup>26</sup> Likewise, based on the author's interview with Jusraweni, most of the implementation of inheritance in the Rejang community is carried out by deliberation, although there are also those who use customary law and Islamic law, this depends on the agreement of the heirs at the time of inheritance distribution.<sup>27</sup> Furthermore, Purwandi also explained that the implementation of inheritance is usually based on deliberation and customary law and in this village rarely uses Islamic law.<sup>28</sup> In practice, the community usually divides the inheritance to each child and leaves certain assets in the form of a house inhabited by parents, fields or gardens that are not distributed as inheritance, and appoints one of the children who is trusted and considered capable and appropriate to manage the property. This undivided inheritance sometimes comes from *Reto tuo* inherited from great-grandmothers, or *Reto tuo* which comes from joint property with parents.

The deputy chief of adat in Talang Pasak Village, Kerkap Subdistrict, explained that the practice of using *Reto tuo* is based on the unwritten local customs and culture of the local community. In practice, it is customary to use old houses, rice fields or gardens together and take turns. While the house is occupied by a daughter who lives with her parents, when the parents are gone the house is jointly owned, so that children or grandchildren who do not have a place to live can live in the house. A house with the status of an old house may not be certified for ownership, this is done to avoid private ownership of the *Reto tuo*.<sup>29</sup>

According to Suhasril, some of these *Reto tuo* practices have also been in conflict, but were resolved through deliberation, for people who do not obey customary decisions usually only get social sanctions, for example people do not want to go to the houses of people who do not comply with customary sanctions.<sup>30</sup> Furthermore, Sudirmansyah and Suhasril acknowledged that this situation could not be allowed to drag on because when the heirs died and reached their children and grandchildren, the potential for conflict would be even greater.<sup>31</sup> In Rejang Rumah society, the assets of *Reto tuo* are called *umeak twai* and the rice fields are called *umai kembin umeak*.<sup>32</sup>

There are also several *Reto tuo* practices as expert *waqf* that occur in the Rejang tribal community as follows:

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<sup>26</sup> Interview with Kasmantoni, son of the late. Zainul and late. Khadijah, Bengkulu, March 2, 2019

<sup>27</sup> Interview with Jusraweni, the people of Rejang and the grandson of the late. Wahhab and almh. Siam, Bengkulu February 20, 2019.

<sup>28</sup> Interview with Purwandi, Son of the late. Zainul and late. Khadija. , Talang Pasak village, interview, Talang Pasak 25 February 2019

<sup>29</sup> Sudirmansyah and Suhasril, Deputy traditional leaders and former head of Talang Pasak village, interview, February 1, 2020,

<sup>30</sup> Interview with Suhasril, Former Head of Talang Pasak Village, Kerkab District, February 1, 2020

<sup>31</sup> Interview with Sudirmansyah and Suhasril, Deputy customary leader and former village head of Talang Pasak, 1 February 2020

<sup>32</sup> Interview with Azizah Aryati, Lebong Community, 7 August 2020



1. The family of the late. Wahhab and almh. Siamese, of the Rejang ethnicity in Taba Baru Village, Kec. South Lebong. late Wahab has 8 (eight) children and appointed a second daughter to manage Reto tuo. The form of Reto tuo in this family is a house which in the front is made a restaurant business place, besides that there is also a plot of rice field managed by the child who is appointed to inhabit the house. The background of this Reto tuo practice is the local wisdom of the Taba Baru Village community. The implementation of the Reto tuo practice is explained by Jusraweni as follows:

“According to our custom, the custom of the Rejang people, it has become our custom, the old house is inhabited by a daughter or a child who was directly appointed by our parents while they were still alive, namely the child who is considered the best in temperament, compatible with all siblings. Therefore it is considered appropriate to manage Reto tuo. Reto tuo is usually in the form of houses and rice fields, even if the inheritance has been divided, houses and rice fields. The plot is usually not divided but entrusted to the designated and trusted heirs. Why should appoint a trusted person, because later he will stay and take care of the house if the parents have died. The old house is usually used as a gathering place for children who wander when they come home or to hold large family events. As for the use of rice fields, they are food sources for those who come, so the heirs who manage Reto tuo must be responsible for providing food when the big family gathers at the old house. Old houses and fields cannot be sold and their property rights are also shared. The trust and appointment of the Reto tuo manager is carried out while the parents are still alive. There is no written evidence in this implementation because it has become a custom so it is enough to just say it. Reto tuo in this tradition can originate from Reto tuo which was inherited from our great-grandfathers, it could also be from the joint property of our parents. If our house is indeed from the joint property of our parents.”<sup>33</sup>

Utilization of Reto tuo in the family of the late. Wahhab and almh. This Siam is for the common good as a gathering place for large families who are in the city when returning home, during Eid or other family events. While the rice fields are used for the management of old houses or expenses when a large family is coming or gathering.<sup>34</sup> these are among the positive benefits.

However, there are also negative impacts that arise from this Reto tuo practice. This is explained by Jusraweni:

“This joint use of Reto tuo has become a custom of the Rejang people. Because it involves inheritance, sometimes abuse occurs by less or irresponsible parties. When I was the village head in Tess village, Lebong district, there was once a case that the person appointed to manage the Reto tuo falsified the certificate and gave the Reto tuo unilaterally without the consent of the other brothers. The case went to legal channels, in the end the Reto tuo was sold and the proceeds

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<sup>33</sup> Interview with Jusraweni, grandson of the late. Wahhab and almh. Siam, February 20, 2019

<sup>34</sup> Ibid

were divided equally among the heirs. Usually the problem is that Reto tuo is managed by uneducated people. He made a fake certificate and then he sold the Reto tuo. Finally all the heirs are noisy. This often happened when I was the village head in Tess Village, Lebong Regency first.”

The implementation of the Reto tuo practice in Tabah Baru Village, Reto tuo is in the management of children (heirs) who are appointed and used by one of the children who inhabit the house, the children who live in the house have developed and the descendants feel they have Reto tuo inhabited by other people. their parents, while there is one heir who has become a widow and has a child who is still experiencing financial difficulties and intends to return to the village, but because Reto tuo has been occupied and managed by his brother, he does not dare to be honest, as stated by Miss S, one of the children of the heirs explained:

“The practice of Reto tuo has been going on since 1996 after our grandfather passed away, since then the father's eldest sister has been appointed and trusted to manage the tuo house left by his grandparents. The reto tuo came from the joint property of our grandparents and grandparents. My Uwak and his children have been managing Reto tuo for a long time and have opened a business in the tuo's house. Actually there is still my father's brother who intends to return to the village and intends to stay in the old man's house, because his husband has died and supports two orphans, but feels uncomfortable when he returns to the house, because the house has been occupied by the eldest brother and children -his son.”<sup>35</sup>

Furthermore, information from Sri who is one of Titi's relatives as heirs, it is true that Titi wants to return to the village and hopes for the benefits of the Reto tuo, she's just afraid that if she goes home it will cause a misunderstanding, because the appointed brother already manages and occupies Reto tuo long ago. Titi's desire to return is very reasonable because the house is on the side of the road and allows it to be a place of business for her. Furthermore, Titi also wants the Reto tuo to be distributed to all heirs.<sup>36</sup>

One of Titi's children also said that her mother wanted Reto tuo to be sold and distributed, because those who live far across the island rarely return to their village, only close relatives return.<sup>37</sup>

2. The family of the late. Zainul and late. Khadijah, in Talang Pasak Village, Lubuk Durian District, North Bengkulu Regency. Reto Tuo is in the form of houses and rice fields. The house and rice fields are managed by the youngest daughter of 6 (six) siblings. The reto tuo in this family comes from the joint property obtained during their parents' marriage. The background of the implementation of the Reto tuo practice is due to the local customs and culture of the local community.<sup>38</sup> The implementation of the practice of Reto tuo as an expert waqf as explained by Kasmantoni is as follows:

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<sup>35</sup> Interview with Miss S, grandson of the late. Wahhab and almh. Siam, February 25, 2019

<sup>36</sup> Interview with Sriwahuni, a relative of the late. Wahab and almh,. February 18, 2019.

<sup>37</sup> Interview with Danu, grandson of the late. Wahab and late Siam, January 15, 2020.

<sup>38</sup> Interview with Kasmantoni, son of the late. Zainul and late. Khadijah, March 2, 2019

"When mom and dad were still alive, mom often said that the house and rice fields should not be sold, the house is awaited by our youngest sister and the rice fields are used in rotation, there is no written statement for this determination, and we brothers and sisters trust each other, because of this it has become a habit of our village community, makonyo since 2017 our mother died the house is waiting for our youngest sister, at the same time rice fields are also planted and the results are taken, at first this rice field was cultivated in rotation, only later the use of the rice field was only used by the younger brother It's just us, there's no turn as mandated by our late parents, what we're afraid of is, our sister has remarried and is afraid that if we don't explain it, our new sister's husband thinks that everything (Tuo's house and rice fields) belongs to our sister. This is just the use of rice fields is only used unilaterally, the other heirs have not yet had their turn to eat take advantage of the fields. And after our sister remarried, Dio made another house in front of my mother's house, and finally Tuo's house was not used (abandoned)".<sup>39</sup>

Purwandi, another heir, explained further, "Therefore, in our opinion, there must be a clear status for the "tuo's house" and the rice fields left by our parents, so that there are no quarrels between us brothers and sisters", the mandate of our parents was not fulfilled.<sup>40</sup>

The Reto Tuo in their family comes from Gono Gini's mother's property<sup>41</sup> and tub<sup>42</sup> their property, in the form of houses and several productive plots of rice fields. This property is intentionally not shared with the aim that it can be shared by descendants. When my mother was still alive and living with my youngest sister in 1996, since then my sister has been living in the house and using the rice fields, and in 2013 my mother died since then the rice fields have been used in rotation while the house has become a gathering place, but in recent years the rice fields have only been used only by younger siblings without taking turns with other siblings.<sup>43</sup>

In practice, the practice of Reto tuo as an expert waqf has both positive and negative impacts. The positive impact is that families can use the house as a place to live, a gathering place for large families who live outside the area when there are family events or during Eid and school holidays, even according to the vice chairman of this village custom, tuo houses can be used for children and grandchildren who newly married and do not have a home. While rice fields as a source of family income are carried out in rotation.<sup>44</sup> However, in addition to the positive impacts, there are also negative impacts, namely when the heirs demand their right to use the rice fields in rotation, but the daughter who manages the tuo's house demands her share of half the results of the rice fields. This is because he

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<sup>39</sup> *Ibid*,

<sup>40</sup> Interview with Purwandi, Son of the late. Zainul and late. Khadija, February 25, 2019

<sup>41</sup> Mother

<sup>42</sup> Father

<sup>43</sup> Interview with Purwandi, Son of the late. Zainul and late. Khadijah February 25, 2019

<sup>44</sup> Interview with Sudirmansyah, Deputy Chairman of the Traditional Community of Talang Pasak Village, Kerkap District, February 1, 2020.

feels he has been appointed as the manager of the Reto tuo and there is no legality to the status of the house and rice fields. This situation further complicates the existing problems where previously rice fields and houses were mostly used by the heirs of the tuo house managers. Furthermore, at this time the condition of the tuo's house is also neglected because the heirs of the manager have made a new house.<sup>45</sup>

### **Legal Analysis Of The Practice Of Reto Tuo As Waqf Expert In Islamic Law And Positive Legal Perspectives In The Framework Of Renewing Islamic Family Law In Indonesia**

The practice of Reto tuo in the Rejang indigenous people is a tradition of inheritance that is not shared but is shared and used by the heirs according to the mandate of their parents. In practice, the parents appoint one of the children as the manager of Reto tuo's assets. These assets can be in the form of immovable objects such as houses, rice fields, gardens, jewelry, and others. This practice is motivated by the customs and habits of the local community and the influence of understanding is then actualized in the practice of Islamic religious guidance which has worship, social, and even economic dimensions.<sup>46</sup> After the researchers observed the practice of Reto tuo in people who adhere to Islamic teachings, it aims to maintain the benefit of family and descendants, strengthen friendship, avoid commotion between children, and a sense of mutual help between family members.<sup>47</sup>

In general, the practice of Reto tuo is carried out to maintain the benefit of the family (children and descendants), especially in terms of economic welfare, both primary and secondary needs. That is the philosophy of expert waqf. However, in its implementation, several problems occurred, for example the occurrence of

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<sup>45</sup> Interview with Mimih, son-in-law of the late. Zainul and late. Khadijah, September 10, 2019

<sup>46</sup> Umi Supraptiningsih, *Problematika Implementasi Sertifikasi Tanah Wakaf Pada Masyarakat*, Nuansa Journal, Vol. 9 No. January 1 – June 2012, p. 77, <http://ejournal.iainmadura.ac.id/index.php/nuansa/article/view/22>, accessed on November 6, 2021, Siska Lis Sulistiani, *The Legal Position of Waqf for Non-Muslims in Efforts to Increase Waqf Assets in Indonesia*, Samarah Journal Volume 5 No. 1. January-June 2021, p. 357, accessed 14 May 2022, <https://jurnal.ar-raniry.ac.id/index.php/samarah/article/view/9161/5698>, Azwar Iskandar, Bayu Taufiq Possumah, Khaerul Aqbar, Akhmad Hanafi Dain Yunta *Islamic Philanthropy and Poverty Reduction in Indonesia: The Role of Integrated Islamic Social and Commercial Finance Institutions*, Al-Ihkam Journal, Vol. 16 No. 2 (2021), <http://ejournal.iainmadura.ac.id/index.php/alihkam/article/view/5026>, accessed 14 May 2022 Asep Saepudin Jahar, *Bureaucratizing Sharia in Modern Indonesia: The Case of Zakat, Waqf and Family Law*, Jurnal Studia Islamika Vol 26, No 2 (2019), p. 225, <https://journal.uinjkt.ac.id/index.php/studia-islamika/article/view/7797/6160>, accessed 14 May 2022.

<sup>47</sup> Muhammad, *Wakaf Ahli: Antara Eksistensi Dan Revitalisasi*, Darussalam Sharia Journal Vol 4 No 2 (2019), <http://ojs.iai-darussalam.ac.id/index.php/syariahdrs/article/view/42>, accessed on 15 November 2021, Moh. Fudhail Rahman, *Waqf in Islam*, Journal of Al-Iqtishad: Vol. I, No. 1, January 2009, p. 84, <http://journal.uinjkt.ac.id/index.php/iqtishad/article/view/2455/1852>, accessed 15 November 2021

conflicts and the abandonment of Reto tuo assets, even though in theory the practice of Reto tuo as expert waqf is in line with the word of God in Surah an-Nisâ 'verse 9 which reads:

وَأَلْيَحْشَ الَّذِينَ لَوْ تَرَكُوا مِنْ خَلْفِهِمْ ذُرِّيَّةً ضِعْفًا خَافُوا عَلَيْهِمْ فَلْيَتَّقُوا اللَّهَ وَلْيَقُولُوا قَوْلًا سَدِيدًا - ٩

"And let fear of Allah those who if left behind them weak children, who they worry about (their welfare), therefore let them fear Allah and let them speak the truthful words." (Surat an-Nis '(4): 9).

Judging from the practice of Reto tuo in the Rejang indigenous people, there are several similarities between Reto tuo and expert waqf, including orders to withhold the object (there is a prohibition on selling it, making it an inheritance and even donating the object or object), and orders to take its benefits.<sup>48</sup> Furthermore, when viewed in terms of utilization, it can be used together, and property belongs to the parents as heirs and ownership status is not individual ownership. Judging from its designation, expert waqf and reto tuo are also intended for children and descendants. Likewise with Reto tuo objects, namely objects that can be taken advantage of. So according to the researchers, the prohibition of selling, bequeathing, giving and recommending the taking of benefits to be used together is one of the similarities between the practice of Reto tuo and expert waqf.<sup>49</sup>

The practice of Reto tuo when viewed from the pillars of expert waqf has also fulfilled its pillars. Wahbah az-Zuhaily (died 2015 AD) states that the pillars of expert waqf are like the pillars of waqf, which consist of wakif (people who do waqf), mauquf bihi (waqf objects), mauquf alaih (people who are waqf), and şigat (waqf speech). In this Reto tuo practice, it is the parents or children who agree to the Reto tuo practice, while the waqf object is the Reto tuo asset itself, maukuf alaih are children and descendants who receive the benefits of Reto tuo. While gat (waqf speech), in the practice of Reto tuo it is not spoken directly but the parent's mandate does not sell and can only be used can be a sign for the implementation of expert waqf, as agreed by the Hanbali school of law rules, waqf carried out by someone does not have to be done. spoken orally, but is considered valid by an act accompanied by a qarînah (accompaniment) which indicates the act of waqf. As explained by Muhammad Mustafa Zuhaily in al-Qawâid al-Fiqhiyyah wa Taţbîqâtihâ fî al-Mazâhib al-Arba'ah in the rules below:

<sup>48</sup> Akhmad Sirojudin Munir, *Optimalisasi Pemberdayaan Wakaf Secara Produktif*, Journal of Ummul Qura Vol VI, No 2, September 2015, p. 96, <http://ejournal.kopertais4.or.id/pantura/index.php/qura/article/view/2052>, accessed on 15 November 2021.

<sup>49</sup> Rafiqul Amin, Buchari Nurdin, "Konflik Perwakafan Tanah Muhammadiyah di Nagari Singkarak Kabupaten Solok Indonesia 2015-2019", Journal of Soumatera Law Review Volume 3, Number 1, 2020, p. 66-67, <http://ejournal.ildikti10.id/index.php/soumlaw/article/view/5309>, accessed on 20 June 2021, Siska Lis Sulistiani, "The Legal Position of Waqf for Non-Muslims in Efforts to Increase Waqf Assets in Indonesia", Samarah Journal Volume 5 No. 1. January-June 2021, accessed 14 May 2022, p. 357, <https://jurnal.ar-raniry.ac.id/index.php/samarah/article/view/9161/5698>, accessed 15 November 2021

العبرة في العقود للمقاصد والمعاني، لا للألفاظ والمباني

"The validity of a contract is seen from its purpose and meaning, not from its pronunciation and form"

In terms of conditions, in terms of wakif, in the practice of Reto tuo, the parents or heirs who agree are people who have the skills to do social charity when conveying the mandate for implementing this Reto tuo. This means that the requirements for experts at-tabarru' have been fulfilled. The second requirement of al-ikhtiyar has also been fulfilled because in the implementation of the Reto tuo's mandate, the parents or children as wakif do not force it. The practice of Reto tuo also does not aim to oppose God's orders, but to maintain property for the benefit of descendants, also actually requires taqarrub (get closer) to God. And judging from the terms of al-mauqf which consist of certain objects, in the practice of Reto tuo objects that are used as assets are certain and clear objects, which are also the property of the wakif and ownership can be transferred and the benefits can be taken. Or can generate benefits from it to alleviate poverty,<sup>50</sup> such as houses, shop houses, jewelry, rice fields and gardens as well as residences and others. Its use can also be carried out in a sustainable manner. Based on the explanation above, the theoretical requirements for Reto tuo practice are also in line with the mauqf requirements in expert waqf. Likewise with the requirements, conditions mauqûf alaihi (which is entrusted with waqf). Because the mauqûf 'alaihi here is a child and descendant of the owner of Reto tuo, who actually has a person. And lastly, when viewed from the gat requirements, it is also in line, as the researcher explained above that waqf carried out by someone does not have to be spoken orally, but is considered valid with actions accompanied by qarîna (accompaniments).

The practice of Reto tuo is not merely carrying out the old tradition but also provides several benefits for the children and descendants of the owner of the Reto tuo, including:

1. Reto tuo as a means of family gathering, because it is used as a gathering place for the whole extended family. Reto tuo as a place to live for children and grandchildren who do not have a permanent residence.
2. Reto tuo as one of the assets that can be used as a source of livelihood and business for descendants who do not have an established income.
3. Reto tuo as a source of funds for the family.
4. Reto tuo as a symbol of the identity of the extended family.
5. Reto tuo as a symbol of parental love for children and descendants.
6. Reto tuo as proof that family assets will be protected from extinction.
7. Reto tuo as inheritance that can protect offspring, especially girls, because some people think boys are stronger and can survive.

However, based on the research that the researcher did, not all of these

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<sup>50</sup> Agus Wahyu Triatmo, Ravik Karsidi, Drajat Tri Kartono. Suwanto, "A Political Ideology Of The Indonesian Islamic Philanthropy: A Case Study Of Suryakarta Beramal Foundation", Indonesian Journal of Islam and Muslim Societies Vol 10, No 2 (2020), p. 354, <https://ijims.iainsalatiga.ac.id/index.php/ijims/article/view/2879/pdf>, accessed 15 November 2021

Reto tuo practices went well, among others, due to:

1. Unclear ownership of Reto tuo makes children who are appointed as managers of Reto tuo feel that they have Reto tuo, resulting in unilateral use.
2. There was a conflict caused by the unilateral use of Reto Tuo by the Reto Tuo manager.
3. Unclear ownership of Reto tuo leads to unclear management and ultimately causes Reto tuo to be neglected.<sup>51</sup>

When the things above happen, according to the researcher, this has denied the status of property ownership in Islam which states that property is a mandate from Allah swt that must be guarded.<sup>52</sup>

Furthermore, the Wahab and Siam families, in Taba Baru village, South Lebong sub-district, and the Zainul and Khadijah families in Talang Pasak village, North Bengkulu, benefit from using the house as a place to live, a gathering place for large families who live outside the area when there are family events or during Eid. and school holidays, even the tuo house can be used for children and grandchildren who are newly married and do not have a home. While the rice fields are used as a livelihood for children and descendants who are used in rotation.

In the perspective of Positive Law in Indonesia, the practice of Reto tuo as expert waqf has been regulated in the following laws and regulations:

1. Government Regulation No. 28 of 1977 concerning the Waqf of Owned Land in the general explanation which explains the forms and varieties of waqf in Indonesia, which includes expert waqf.<sup>53</sup>
2. General explanation of Law Number 41 of 2004 concerning Waqf which explains that waqf must be registered and announced whose implementation is carried out in accordance with the procedures stipulated in the laws and regulations governing waqf, this law does not separate expert waqf and waqf khairi.<sup>54</sup>
3. Government Regulation Number 42 of 2006 concerning the Implementation of Law Number 41 of 2004 Article 30 paragraph 4-6. In this regulation it

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<sup>51</sup> Choirun Nissa, "Sejarah, Dasar Hukum Dan Macam-Macam Wakaf", Tazkiya Journal Vol. 18 No. 2 (July-December) 2017, p. 216, <http://jurnal.uinbanten.ac.id/index.php/tazkiya/article/view/1150>, accessed 06 November 2021, Islamiyati, Ahmad Rofiq, Ro'fah Setyowati, Dewi Hendrawati, "Implementation of the Waqf Law in Completion Waqf Dispute in the Coastal Region of Central Java", Journal of Legal Problems Vol 48, No 4 (2019), <https://ejournal.undip.ac.id/index.php/mmh/article/view/24954>, accessed 06 November 2021, and Ahmad Syafiq, "The Urgency of Waqf Registration in Indonesia After the Enactment of Law No. 41 of 2014 concerning Waqf", ZISWAF Journal, Vol. 2, No. 1, June 2015, p. 180-181, <https://journal.iainkudus.ac.id/index.php/Ziswaf/article/viewFile/1542/1413>, accessed 15 November 2021

<sup>52</sup> Kamariah, Sukaman, Nirwana, "The Problem of Waqf in Indonesia", Ats-Tsarwah Journal Volume 1 Number 1 March 2021, p. 64, <https://ejournal.stishid.ac.id/index.php/ats-tsarwah/article/view/103/85>, accessed 15 November 2021

<sup>53</sup> Government Regulation No. 28 of 1977 concerning Waqf of Owned Land

<sup>54</sup> Law Number 41 of 2004 concerning Waqf

is stated that the statement of wakif in performing waqf in occurs in two forms, namely in the form of expert waqf or khairi waqf. Paragraph 5 states that expert waqf is intended for the general welfare of fellow relatives based on kinship blood relations with wakif. And in verse 6 it is explained that in the event that fellow relatives of the expert waqf have become extinct, the expert waqf because of the law will change its status to khairi waqf. The rules for implementing expert waqf are as waqf khairi.<sup>55</sup>

This regulation slightly regulates the understanding and implementation of expert waqf, but does not regulate in detail the issues related to the procedure for implementing, recording or administering expert waqf, time limit, waqf object, waqf management and distribution of benefits to heirs and other important matters. others related to the implementation of expert waqf.

Seeing the practice of expert waqf in the Rejang Indigenous community, then there should be a solution that can accommodate all the interests and goals of the parents (heirs) for the use of the property. Researchers see that the practice of *Reto tuo* is in line with expert waqf law, if expert waqf law is applied, it will certainly increase the development of the treasures of waqf law in particular and Islamic family law in general. Expert waqf law that is not widely known and glimpsed by the Rejang Indigenous people who are Muslim in particular and Indonesia in general.

*Reto tuo* and expert waqf both utilize inheritance derived from the inheritance of parents, it's just that what distinguishes *Reto tuo* is based on customs while expert waqf is based on religious norms, namely the Qur'an and hadith which in Positive Law have been listed in the Waqf Law and its regulations. who set it up.<sup>56</sup>

In general, the practice of *Reto tuo* as an expert waqf has fulfilled the waqf elements in Positive Law. It's just that Positive Law in Indonesia has not regulated in detail about the implementation of expert waqf, namely related to the clear mention of the allocation of expert waqf for anyone, the lineage limit whether only children or to grandchildren, great-grandchildren and so on, as well as other related matters. the use of the waqf object. And Positive Law has not regulated the period of utilization of expert waqf assets.

Furthermore, in terms of objectives, both the practice of *Reto tuo* and expert waqf are aimed at the welfare of the family. And in terms of ownership, *Reto tuo* is joint property of children and descendants, while expert waqf ownership follows khairi waqf. The legal consequence of *Reto tuo* is the joint use of assets and the legal consequence of expert waqf in Positive Law is the use of waqf property according to its designation.

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<sup>55</sup> Government Regulation Number 42 of 2006 concerning the Implementation of Law Number 41 of 20014 Article 30 paragraph 4-6

<sup>56</sup> Asep Saepudin Jahar, "Bureaucratizing Sharia in Modern Indonesia: The Case of Zakat, Waqf and Family Law", *Jurnal Studia Islamika* Vol 26, No 2 (2019), p. 208, <https://journal.uinjkt.ac.id/index.php/studia-islamika/article/view/7797/6160>, accessed 15 November 2021



In terms of management, Reto tuo is managed by children who are appointed and given a mandate by their parents or siblings. The management of expert waqf in Positive Law is carried out by waqf nadzir. The distribution of results in the practice of Reto tuo is based on the mandate of the parents and the agreement of the offspring. Meanwhile, the distribution of results from productive expert waqf has not been discussed in the waqf law.

Finally, the Reto tuo dispute resolution is resolved by the customary leader and if it cannot be resolved then through the courts. Meanwhile, expert waqf disputes are resolved based on the waqf law, namely deliberation, mediation, arbitration and courts.

Based on the explanation above, for the benefit of expert waqf management, it is necessary to rearrange its management.<sup>57</sup> So it is hoped that this expert waqf can provide maximum benefits for the family and descendants of the waqif in particular and society in general. Presumably the important issues to be carried out in the reconstruction are:

1. Arrangements regarding expert waqf are separated from khairi waqf, with this, expert waqf should be discussed in a special article on expert waqf. Considering that expert waqf is only discussed in a few small sections in the waqf law and government regulations on waqf such as, government regulation no. 28 of 1977 concerning Waqf of Owned Land Regarding the implementation of expert waqf in Indonesia which includes expert waqf, the second rule of Law Number 41 of 2004 concerning waqf explains that waqf must be registered and announced this includes waqf khairi as well as expert waqf. The third rule is Government Regulation Number 42 of 2006 concerning the Implementation of Law Number 41 of 2004. Article 30 paragraphs (4-6). Some of the laws and government regulations above do not discuss the implementation of expert waqf in detail.
2. Law Number 41 of 2004 concerning waqf Chapter 1 Article 1 paragraph 3 does not mention the type of waqf to be implemented. (whether expert waqf or khairi waqf), the explanation of this law also does not separate expert waqf whose management and utilization of waqf property is limited to relatives (heirs) and khairi waqf for the benefit of the general public.
3. Article 6 of Law Number 41 of 2004 concerning waqf states that waqf is carried out by fulfilling the elements of waqf, namely nadzir, waqf property, waqf pledge, allocation of waqf property and time period. This article does not mention in detail about the rules for the designation and the time period for the implementation of expert waqf. In Article 30 of Government Regulation No. 42 concerning the implementation of Law No. 41 of 2004 concerning waqf only mentions the form of expert waqf and khairi, the allocation of expert waqf for fellow relatives based on blood relations, and if the expert waqf relatives have

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<sup>57</sup> N. Oneng Nurul Bariyah, "Dinamika Aspek Hukum Zakat Dan Wakaf Di Indonesia", Ahkam Journal Vol 16, No 2 (2016), p.210, <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/4450/3178>, accessed 15 November 2021

become extinct, then the status of expert waqf will change. become waqf khairi determined by the minister. This article does not mention limits, there should be a limit on the wakif family, whether the nuclear family or grandchildren as well and so on. Considering that children and descendants will continue to develop and will make it difficult to share the benefits of expert waqf if there is no lineage or time limit. In the books of fiqh, it has been explained a lot about the lineage of the beneficiaries of this expert waqf.

4. Chapter V Article 45 Management and Development has not separated the management and development of expert waqf and khairi waqf, the management of expert waqf will be more detailed because the maukūf alaihinya is limited only to the descendants of wakif only, therefore it needs a separate arrangement, this will make it easier if productive expert waqf was found, to facilitate the distribution of benefits from the expert waqf.
5. The need for a special article that explains the distribution of benefits of expert waqf, considering that the recipients of expert waqf are only limited to children and descendants.
6. Settlement of expert waqf disputes in accordance with the rules of the waqf law.
7. The Deed of Waqf Pledge should contain an explanation regarding the choice of waqf expert or waqf khairi, lineage limits and the period of time for expert waqf. Because this will further strengthen the status of expert waqf and the distribution of benefits of expert waqf.

### **Conclusion**

The conclusions of this study are: From the perspective of Islamic law, the practice of Reto tuo as expert waqf in the Rejang Indigenous community is carried out in accordance with the requirements and pillars of expert waqf in Islamic law, especially in terms of expert waqf terms, should be stated clearly, also regarding the designation and period of validity. the expert waqf. The positive legal perspectives are: Reto tuo practice as an Expert Waqf in the Rejang Indigenous community, there are no detailed regulations governing it. So for the benefit of the benefit, it is necessary to re-arrange the Reto tuo Law as an expert waqf by separating the regulation of expert waqf from the related waqf khairi: implementation, recording or administration, asset management, and dispute resolution.

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