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Reinterpretation of Fiqh and Regulations on Stock Waqf in Indonesia: An Integrative Normative Study

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ABSTRACT
Purpose: This research investigates the jurisprudential benchmarks of mal mutaqawwam alongside dawam al-manfa'ah, analyzing how they align or conflict with Indonesian statutory law to clarify the legal status of equity endowments as viable tools for productive waqf
Design/Methodology/Approach: This study employs a normative-doctrinal research design using content analysis and comparative fiqh methods. The analytical framework evaluates the compatibility and tensions among primary classical/contemporary fiqh texts, DSN-MUI fatwas, Law No. 41 of 2004, and Financial Services Authority (OJK) regulations. The analysis maps the conceptual shift from physical asset permanence (dawām al-‘ayn) to perpetual benefit (dawām al-manfa’ah) to synthesize an integrated legal framework for stock waqf.
Findings: Sharia-compliant stocks qualify as māl mutaqawwam because their legitimacy rests on economic value (qīmah) and the continuity of benefits (dawām al-manfa’ah) via dividends and capital gains, rather than physical permanence. Furthermore, stock waqf achieves operational legitimacy through a dual-framework integration, where contemporary ijtihād (fatwas) provides religious authority and state regulations ensure legal certainty and enforceable governance.
Research Implications: This study advances Islamic legal scholarship by demonstrating how classical fiqh doctrines can be systematically recontextualized within capital market structures, thereby shifting the academic discourse of waqf from rigid asset-tangibility requirements toward benefit-oriented financial governance.

INTRODUCTION

The digitalization of the financial sector and the growth of the Islamic capital market have transformed Islamic philanthropy, shifting waqf practices from traditional physical real estate toward dynamic modern financial instruments. In classical fiqh, waqf relies on ḥabs *al-aṣl wa tasbīl al-manfa‘ah* (preserving the principal asset while distributing its yields). However, the emergence of intangible, price-fluctuating assets like shares presents new legal and theoretical questions regarding asset legitimacy, ownership transfer, and benefit permanence. In Indonesia, while Law No. 41 of 2004, Government Regulation No. 42 of 2006, and DSN-MUI fatwas formally recognize movable and financial assets as valid waqf objects, a complete jurisprudential consensus bridging classical doctrines and modern regulatory frameworks remains contested.

Existing literature primarily focuses on regulatory compliance, institutional models, or general legitimacy under cash waqf frameworks. However, these studies rarely address the core ontological status of shares as distinct waqf objects. Specifically, there remains a gap in systematically reconciling classical fiqh principles—namely *māl mutaqawwam* (lawful economic asset) and *dawām al-manfa‘ah* (continuity of benefit)—with the intangible and fluctuating nature of modern equity instruments. Rather than viewing stocks as mere extensions of cash waqf, this study investigates whether their unique financial properties necessitate a fundamental reinterpretation of waqf object requirements.

This study argues that stock waqf possesses robust *Shari'ah* and legal validity provided it satisfies māl mutaqawwam criteria and secures perpetual yield through dividends and compliant capital gains. By synthesizing classical jurisprudence, contemporary fatwas, and Indonesian capital market regulations, this research resolves the normative ambiguity surrounding equity endowments. Ultimately, reinterpreting classical fiqh through an integrative framework with positive law resolves the normative ambiguity of stock waqf. This synthesis confirms that modern financial instruments can serve as valid, dynamic, and strategic assets for productive waqf and Islamic philanthropy in Indonesia.

Nevertheless, previous studies have examined stock waqf from several perspectives, including its regulatory development, implementation through securities companies and nazhir institutions, and its sharia and legal legitimacy as an Islamic financial instrument (Sholihah & Fatmah, 2022; Fila Faza Fauzan & Fatwa, 2023; Saprida et al., 2024). However, these studies have not sufficiently examined the ontological status of stocks as waqf objects. In particular, limited attention has been given to how the classical fiqh concepts of *māl mutaqawwam* and *dawām al-manfa'ah* can be applied to stocks as intangible and fluctuating assets. Previous studies also tend to discuss stock waqf within the existing framework of cash waqf or Islamic capital market instruments, rather than examining whether stocks constitute a distinct category of waqf assets with their own legal characteristics. Therefore, the unresolved issue is not merely whether stocks can be used as a medium for waqf, but whether their nature as financial assets requires a reinterpretation of the classical definition and requirements of waqf objects. This condition reflects the continuing dominance of conventional perspectives that have not fully responded to the changing relationship between assets, ownership, and social value within the context of contemporary financial society. To date, there remains limited research that systematically connects the classical fiqh concepts of *māl mutaqawwam* and *dawām al-manfa'ah* with the characteristics of stocks as intangible and fluctuating assets that nonetheless possess sustainable benefits, while also critically relating them to the regulatory regimes governing waqf and the Islamic capital market in Indonesia. Some scholars question the fluctuating nature of stocks and their non-physical form, arguing that such characteristics do not fulfill the requirement of permanence for waqf objects. On the other hand, several contemporary scholars maintain that the essence of waqf lies not in the physical permanence of the asset itself, but rather in the continuity of the benefits generated by the asset (Thabrani, 2010). This study seeks to develop a new perspective that stocks, as modern financial instruments, may be categorized as *māl mutaqawwam* possessing sustainable benefits through dividends, capital gains, and transferable ownership rights. In addition, an examination of Law No. 41 of 2004 concerning Waqf and the regulations of the Financial Services Authority (OJK) related to the Islamic Capital Market confirms that stocks are legally classified as intangible movable assets that may serve as waqf objects (Huda, 2025). Accordingly, this research offers an integrative approach that combines fiqh analysis, contemporary fatwas, and national regulations in order to construct a more comprehensive understanding of stock waqf that is aligned with the modern financial ecosystem in Indonesia.

The hypothesis of this study is grounded in the assumption that stock waqf possesses strong Sharī'ah and legal legitimacy as an object of productive waqf, provided that it fulfills the criteria of *māl mutaqawwam*, ensures the sustainability of benefits (*dawām al-manfa'ah*) through dividends and Sharī'ah-compliant capital gains, and applies a transparent mechanism for transferring ownership to the *nāzhir*. Within this perspective, stocks are regarded as legitimate *māl mutaqawwam* eligible for waqf as long as the *maqāṣid al-waqf* are achieved and the principle of sustainable benefit is maintained, despite their intangible and fluctuating nature. This argument is consistent with contemporary fiqh, which prioritizes the perpetuity of benefits over the physical permanence of waqf assets, as reflected in the evolution of cash waqf and Sharī'ah financial instruments (Siti Hanna, 2018). This gap highlights the urgency of reinterpreting fiqh concerning stock waqf by integrating the perspectives of classical fiqh, contemporary fatwas, and national regulations governing waqf and the Islamic capital market. Such an approach is expected to provide a more comprehensive understanding of the Sharīʻah legitimacy and legal validity of stock waqf as an instrument of productive waqf in the modern economic era.

LITERATURE REVIEW

Concept of Stock Waqf

Stock waqf refers to the endowment of sharia-compliant shares by transferring their ownership or beneficial rights to a nazhir for productive management and the distribution of their benefits to the designated beneficiaries. This definition can be understood from two complementary approaches. From an institutional perspective, stock waqf involves the transfer and management of shares through a recognized waqf institution (Fila Faza Fauzan & Fatwa, 2023). From a fiqh perspective, the essential issue is whether shares constitute *māl mutaqawwam* and whether their benefits can be preserved and continuously distributed in accordance with the objectives of waqf.

The classical conception of waqf emphasizes the preservation of the principal asset and the allocation of its benefits for permissible purposes. Ibn Qudāmah's formulation, as discussed by Waluya (2025), emphasizes preserving the principal while directing its benefits or yields to lawful purposes. This approach provides a basis for examining contemporary assets without assuming that every modern financial instrument automatically qualifies as a waqf object. The relevant question is whether the asset has recognized economic value, transferable ownership, and benefits that can be maintained without violating the principles of Sharīʿah.

The analogy (*qiyās*) between stock waqf and cash waqf should therefore be understood carefully. The analogy is based on a shared legal rationale (*ʿillah*): both involve an asset whose economic value can be retained while its benefits or returns are directed toward charitable purposes. In cash waqf, the principal is preserved while the returns generated through investment or management are distributed. In stock waqf, the shares are similarly retained as the waqf asset, while dividends or other permissible returns may be directed to the *mauqūf ʿalayh*. Thus, the analogy does not mean that stocks and cash are identical forms of waqf. Rather, cash waqf provides a methodological precedent for recognizing financial assets whose benefits can be sustained without requiring the physical form of the asset to remain unchanged. However, this *qiyās* also has limitations. Shares differ from cash because their market value fluctuates and their returns are not always fixed or guaranteed. The principal may therefore change in market value even when the ownership of the shares is maintained. This characteristic requires a separate assessment of whether the principle of *dawām al-manfaʻah* can be fulfilled through the continued ownership and productive management of sharia-compliant shares. Consequently, the legitimacy of stock waqf cannot rest solely on its analogy with cash waqf. It must also be examined through the concepts of *māl mutaqawwam*, preservation of the waqf asset, continuity of benefits, and the objectives of waqf.

Accordingly, stock waqf can be understood as a contemporary form of waqf that extends classical principles to intangible financial assets. Law Number 41 of 2004 recognizes movable and intangible assets as waqf objects, while contemporary studies identify sharia-compliant stocks as potential *māl mutaqawwam* when they meet the relevant Sharīʿah requirements (Fahrul Fauzi, 2021; Saprida et al., 2024). The conceptual status of stock waqf therefore depends not merely on its similarity to cash waqf, but on whether its ownership, economic value, and sustainable benefits satisfy the substantive requirements of waqf.

Classical vs. Contemporary Fiqh Framework

In classical Islamic jurisprudence, waqf is generally formulated as *ḥabs al-aṣl wa tasbīl al-manfaʻah*, namely preserving the principal asset while directing its benefits toward permissible purposes. This principle emphasizes both the preservation of the waqf asset and the continuity of its benefits (Ibn Qudamah, n.d.; al-Zuhayli, 1989). However, classical fiqh did not restrict waqf exclusively to immovable property (*māl ʻaqār*). Several juristic traditions recognized movable assets as potential waqf objects, including cash waqf in the Hanafi school. Therefore, the development of stock waqf should not be understood as a complete departure from classical fiqh, but rather as an extension of an existing jurisprudential discussion concerning the types of assets that may constitute waqf.

The relevance of classical fiqh to stock waqf lies in the criteria used to determine whether an asset can be endowed. These criteria include recognized economic value, lawful ownership, and the ability to preserve the asset while generating permissible benefits. From this perspective, the question is not whether stocks are physically immovable, but whether sharia-compliant stocks can satisfy the substantive requirements of waqf as *māl mutaqawwam* and provide sustainable benefits (*dawām al-manfaʻah*).

The application of these principles to stocks nevertheless requires further reinterpretation because stocks possess characteristics that differ from the movable assets discussed in classical fiqh. Stocks represent ownership rights in a company, are intangible, and have market values that fluctuate over time. Their benefits may be realized through dividends and other permissible returns, while the underlying ownership can remain with the waqf institution. Thus, the reinterpretation concerns the application of established fiqh principles to a contemporary form of wealth rather than the replacement of classical principles. In this context, *qiyās* with cash waqf provides one possible methodological basis for understanding stock waqf. Both forms involve financial assets whose economic value can be retained while their benefits are directed to charitable purposes. However, the analogy has limitations because stock prices fluctuate and returns are not guaranteed. Therefore, the legitimacy of stock waqf cannot rely solely on its similarity to cash waqf. It must also be assessed through the concepts of *māl mutaqawwam*, *dawām al-manfaʻah*, preservation of the waqf asset, and the objectives of waqf.

Accordingly, stock waqf represents a contemporary application of established fiqh principles to a modern financial asset. The interpretive task is to determine how the principles of preservation of the asset and continuity of benefits operate when the waqf object is an intangible and fluctuating financial instrument. This approach allows classical jurisprudence and contemporary financial practices to be connected without assuming that classical fiqh was limited to immovable property.

Regulatory Framework

The regulatory framework for stock waqf in Indonesia demonstrates a general coherence between waqf law and Islamic capital market regulation. Law No. 41 of 2004 provides the general legal basis for waqf and recognizes movable and intangible assets as potential waqf objects. This framework is reinforced by Government Regulation No. 42 of 2006, which includes shares among movable assets that may be endowed, provided that they comply with Sharīʿah principles. Minister of Religious Affairs Regulation No. 73 of 2013 further specifies the procedures for endowing movable and immovable assets other than money and explicitly recognizes shares as eligible waqf assets. At the capital market level, DSN-MUI Fatwa No. 40/DSN-MUI/X/2003 and Fatwa No. 80/DSN-MUI/III/2011 establish the Sharīʿah principles applicable to Islamic securities and their trading mechanisms. These provisions complement the waqf framework by determining which shares can be considered Sharīʿah-compliant financial instruments. Thus, the regulatory structure is relatively consistent at the level of legal recognition: waqf regulations determine the eligibility of shares as waqf objects, while Islamic capital market rules determine the Sharīʿah requirements applicable to the underlying securities.

However, this formal coherence does not necessarily mean that the regulatory framework is fully integrated at the level of implementation. The existing regulations establish that shares may constitute waqf assets, but they provide less detailed guidance on the practical relationship between the waqif, nazhir, securities company, and beneficiaries. This issue is particularly important because stock waqf involves both the transfer of ownership rights and the management of securities within a regulated capital market. Previous research has identified challenges in legal certainty, institutional governance, and the absence of sufficiently specific technical mechanisms for the collection and management of stock waqf (Sholihah & Fatmah, 2022; Fila Faza Fauzan & Fatwa, 2023). A further regulatory issue concerns the treatment of the waqf principal. In conventional waqf, the preservation of the principal is generally associated with maintaining the endowed asset. In stock waqf, however, the market value of shares may fluctuate even when ownership remains unchanged. The regulations recognize shares as eligible waqf assets, but this recognition does not by itself resolve how the principle of preserving the waqf asset should be applied when the value of the asset changes in the market. This creates a conceptual and regulatory question concerning whether preservation should refer to the continued ownership of the shares, their nominal value, or the continuity of the benefits generated from them.

The regulatory framework also reveals a distinction between legal eligibility and operational readiness. The recognition of shares as waqf assets provides a formal legal foundation, but effective implementation requires clear procedures for transferring shares, recording waqf ownership, managing dividends, monitoring Sharīʿah compliance, and protecting the interests of the *mauqūf ʿalayh*. The involvement of BWI, OJK, DSN-MUI, nazhir institutions, and securities companies therefore creates a multi-institutional structure that requires effective coordination. Without clear coordination, overlapping responsibilities may create uncertainty in the administration and supervision of stock waqf.

Therefore, the principal regulatory challenge is no longer the basic recognition of stocks as waqf objects, but the harmonization of waqf governance with the operational requirements of the Islamic capital market. The existing framework provides substantial legal legitimacy, yet further institutional and technical integration is needed to ensure transparency, accountability, and effective protection of the waqf asset. In this sense, the development of stock waqf requires not only additional regulation but also clearer coordination among the institutions responsible for Sharīʿah supervision, securities administration, and waqf management.

METHODS

By systematically reviewing primary text corpora and statutory materials, this investigation re-evaluates the jurisprudential standing of corporate share endowments across classical legal doctrines, modern Islamic rulings, and national regulatory acts. The analysis focuses on how to fill the conceptual gap in stock waqf studies by using a reinterpretation of the Islamic jurisprudence framework integrated with the national legal regime and contemporary capital market dynamics. This study employs a qualitative approach with a socio-legal-oriented literature review to examine stock waqf as a legal phenomenon and a transforming socio-religious practice (Zed, 2008). Primary data includes primary normative texts in the form of classical and contemporary fiqh books that discuss waqf, the concept of māl mutaqawwam, and dawām al-manfa'ah, such as the translation of Al-Majmu'i by al-Nawawi and the translation of Al-Fiqh al-Islāmī wa Adillatuh by Wahbah al-Zuhaylī, as well as fatwas from the National Sharia Council (DSN-MUI) relevant to waqf and the Islamic capital market. In addition, national regulations such as Law Number 41 of 2004 concerning

Waqf, Government Regulation Number 42 of 2006, and Financial Services Authority regulations regarding the Islamic capital market served as primary legal data sources. Secondary data includes books, scientific journal articles, institutional reports of the Indonesian Waqf Board (BWI), and national Islamic economic policy documents that examine productive waqf and Islamic financial instruments.

The data collection technique in this study was conducted through library research with a systematic search and selection procedure for sources. Data collection began with the identification of research problems related to the validity of stock waqf in fiqh and regulations, which was then addressed by collecting authoritative texts in the form of classical and contemporary fiqh books, fatwas from the National Sharia Council (DSN-MUI), and laws and regulations on waqf and Islamic capital markets. Data were obtained through searches of scientific journal databases (such as Google Scholar and national journal portals), library catalogs, and official documents of state institutions and financial authorities. Each source was selected based on its relevance, scientific authority, and its relationship to the concepts of māl mutaqawwam, dawām al-manfa'ah, and transfer of asset ownership. The data were then analyzed using qualitative-descriptive analysis with content analysis and comparative fiqh analysis methods (Krippendorff, 2004). The analysis begins by identifying normative issues in the form of differing views on the legitimacy of shares as waqf objects in classical fiqh, contemporary fatwas, and national regulations. Next, the data is analyzed thematically to map key concepts such as māl mutaqawwam, dawām al-manfa'ah, and the principle of asset ownership transfer. In the next stage, a comparative analysis is conducted to assess the compatibility and tensions between classical fiqh constructs and the regulatory needs of share waqf in the context of the Islamic capital market. The final stage of the analysis is directed at a normative synthesis to formulate a reinterpretation of fiqh and a regulatory synchronization model that strengthens the legitimacy of share waqf as a productive waqf instrument in Indonesia.

RESULT

Stocks as *Māl Mutaqawwam*

Under Shariah jurisprudence, corporate equities qualify as mal mutaqawwam due to their legally recognized monetary worth (qimah maliyyah). Consequently, equity instruments satisfy the core prerequisites necessary to be classified as valid objects of waqf, as prescribed by the majority of scholars. This is different from the conceptualization put forward by al-Ghazālī and Ibn Qudāmah, that shares can be qualified as *māl mutaqawwam*, namely assets owned through a *syirkah/musyarakah* contract and can generate benefits (*manfa'ah*) in the form of dividends or capital gains without eliminating the principal ownership of the asset. Furthermore, these operational mechanics ensure that the underlying asset structure remains protected under sharia rules while allowing productive financial growth. This characteristic is in line with the principle of productive waqf (*waqf musytarak*), where the element of permanence (*ta'bīd*) is not attached to the substance of the asset, but rather to the continuity of its benefits. Therefore, the researcher presents primary fiqh data in tabular form, compiled from classical evidence and contemporary ijtihad to strengthen the legitimacy of shares as mutaqawwam (obligatory assets). This data is sourced from fiqh literature and authoritative fatwas, with the scope of analysis emphasizing evidence, schools of thought, and their implications for waqf practices.

Table 1. The fiqh data above shows that shares are a valid mal mutaqawwam for waqf through three main patterns: First, there is a shift in the focus of the parameters of mal from physical tangibles to the substance of economic value recognized by sharia. Second, sharia shares are positioned as legal ownership of productive assets (*ḥiṣṣah musya'ah fī māl qā'im*). Third, the concept of the permanence of waqf (*ta'bīd*) is understood functionally, namely through the continuity of benefits (*manfa'ah*), not the existence of the asset substance.

Table 1. Primary Fiqh Data

Ulama/Mazhab	Fiqh Evidence (Mal Mutaqawwam)	Implications of Stock Waqf	Reliable References
Majority of Scholars (Shafi'i, Maliki, Hanbali)	Shares = syirkah (company) (Al-Mughni Ibn Qudamah); have value (qimah bi al-dzun), and are beneficial (manfa'ah mu'abbadah) like money/metal.	Valid due to analogy with cash waqf; dividend benefits are managed by the nazhir.	DSN-MUI Fatwa No. 40/2002; IIFA Resolution 181(7/19).
Ibn Taimiyah	Modern assets such as shares are considered to be manafi' (goods that have eternal benefits) (Fatawa 30/262).	Permissible as waqf if halal (non-riba/garar).	AAOIFI Std. 60; UIN Antasari Study (2025).
Contemporary (MUI/DSN)	Sharia shares = halal (MUI Fatwa No. 2/2002); clear value/object (ma'lum al-'ain). Fatwa No. 80/2011: Sharia shares can be used as waqf objects. Valid if listed on the ISSI.	Sharia shares are recognized as halal assets for productive waqf; Waqf Law 41/2004; BWI & OJK.	Waqf Law 41/2004; BWI & OJK.
Hanafi School of Law (Exception)	Rejected due to non-'aqil (Al-Hidayah).	Minority; rejected by Indonesian ijma'. JHP UI (2023).	JHP UI (2023).

The results of these three patterns form a framework for reinterpreting waqf fiqh that is coherent, adaptive to the modern economy, and remains rooted in the normative principles of sharia. This conceptual transition creates an essential foundation for legal instruments operating within modern equity markets.

Interpretation of Share Waqf from a Fiqh Perspective and Its Regulations

Although classical Islamic jurisprudence permits waqf of productive assets, doubts have arisen regarding shares as waqf objects due to their movable nature (mal manqūl) and fluctuating value (Dandy Alif et al., 2025). This situation emphasizes the need for legal certainty and sharia legitimacy through contemporary fatwas and authority decisions, so that the implementation of share waqf can be carried out legally and protected by regulation. Therefore, modern fatwas and decisions of sharia institutions uniformly validate the validity of share waqf as a productive asset, provided it is registered with the Islamic Society (ISSI), to form a consistent data summary for the reinterpretation of contemporary Islamic jurisprudence (Indonesian Waqf Board, 2021).

Table 2 demonstrates that only shares complying with sharia principles may be designated as waqf assets, whereas non-sharia shares do not meet the criteria because they conflict with the principle of lawful business activities. The dominance of sharia-compliant shares in the table indicates that regulatory frameworks and religious fatwas play a significant role in determining the legitimacy of waqf objects. From a fiqh perspective, this finding reflects the concept of *māl mutaqawwam*, namely property that possesses both economic value and lawful status, thereby fulfilling the requirements to serve as an object of waqf. This condition underscores the importance of both shar‘i and legal certainty as prerequisites for the valid and systematic implementation of stock waqf.

First, the findings indicate the existence of shar‘i legitimacy established through the collective ijtihād of authoritative institutions. Fatwa of the National Sharia Board of the Indonesian Council of Ulama (DSN-MUI) No. 80/2011 affirms the permissibility of sharia-compliant shares as waqf assets, while Fatwa No. 135/2020 expands the scope of waqf to include non-physical assets possessing economic value. At the global level, the resolutions of Majma‘ al-Fiqh al-Islāmī (OIC Islamic Fiqh Academy) reinforce the permissibility of endowing intangible assets, provided that their benefits are sustainable (DSN-MUI, n.d.; Majma‘ al-Fiqh al-Islāmī [OIC], 2022). This pattern confirms that the validity of stock waqf is grounded in cross-institutional consensus among authoritative bodies rather than merely individual analogical reasoning.

Table 2. Fatwas and Regulations Related to Stock Waqf

Authority/Institution	Legal Products / Fatwas	Substance / Main Content	Implications for Stock Waqf
DSN-MUI	Fatwa No. 80/DSN-MUI/2011	Sharia shares are a halal instrument and can be used as waqf	Providing sharia legitimacy for stock endowments
DSN-MUI	Fatwa No. 135/DSN-MUI/2020 (Cash Waqf)	Waqf is not limited to tangible assets	Opening up an analogy for shares as a waqf asset
Majma'al-Fiqh al-Islāmī (OKI)	Qararat Fiqhiyyah	The permissibility of waqf valuable intangible assets	International legitimacy for stock waqf
OJK	POJK Sharia Capital Market	Recognition of sharia shares as halal assets	National legal certainty for the implementation of share endowments
BWI	Productive Waqf Regulation	Shares as productive waqf objects	Institutional implementation and monitoring of stock waqf

Second, the data reveal an integration between sharia fatwas and state regulations as the foundation of legal certainty. Financial Services Authority (OJK) recognizes sharia-compliant shares within the capital market system, while the Indonesian Waqf Board (BWI) establishes the institutional framework and supervisory mechanisms for productive waqf, including stock waqf (POJK, 2015).

Third, the findings demonstrate a harmonization between national and international frameworks in the practice of stock waqf. This harmonization enables stock waqf to operate within the modern capital market ecosystem without losing its fiqh-based legitimacy. Accordingly, this study confirms that the validity of stock waqf is not solely rooted in the legacy of classical fiqh, but is also constructed through contemporary normative and institutional adaptation. The synergy between fatwas and national regulations positions sharia-compliant shares as waqf assets that are both shar'i and legally valid, while remaining relevant to the dynamics of the modern economy.

Integration of Fiqh and Regulation on Share Waqf

From a fiqh perspective, fiqh-based data confirm that shares qualify as *māl mutaqawwam* and are therefore valid objects of waqf through three main considerations: the recognition of economic value (*qīmah*), sustainable benefit (*manfa'ah*), and analogical reasoning (*qiyās*) with classical assets (Pasla, 2023). In this context, shares represent ownership rights in productive real-sector corporate assets that generate continuous returns, such as dividends. Consequently, the concept of perpetuity (*ta'bīd*) in waqf shifts from the permanence of physical substance to the continuity of benefits (*dawām al-manfa'ah*), in line with contemporary waqf practices (Apriyani et al., 2024). This legal shift guarantees that capital generation remains aligned with the core tenets of Islamic law while maximizing economic impact. This fiqh legitimacy is further strengthened by contemporary fatwas that function as a bridge between classical norms and modern economic realities. Fatwas issued by the Dewan Syariah Nasional Majelis Ulama Indonesia and resolutions of the Majma' al-Fiqh al-Islāmī reflect forms of collective ijtihād responding to the complexity of modern financial instruments. On the other hand, national regulations such as Law No. 41 of 2004 on Waqf, Government Regulation No. 42 of 2006, Minister of Religious Affairs Regulation No. 73 of 2013, as well as contemporary fatwas including DSN-MUI Fatwa No. 29/2002 on Cash Waqf and Fatwas No. 40/2003 and No. 80/2011, play a strategic role in ensuring that such sharīʿah legitimacy can be implemented in a secure and accountable manner (Sholihah & Fatmah, 2022). The integration of religious fatwas, Islamic capital market regulations issued by the Otoritas Jasa Keuangan, and waqf governance administered by the Badan Wakaf Indonesia demonstrates a coherent relationship between Islamic legal principles and positive law. This coherence is essential because the practice of stock waqf operates within a social framework that requires legal certainty, transparency in governance, and protection of public interests.

Table 3. Integration of Fiqh and Regulation on Share Waqf

Formal Objects	Key Findings	Contribution to Research Objectives	Inter-Object Relationships
Shares as a *Mutaqawwam Mal*	Qimah → Manfa'ah → Qiyas is a classic asset (jumhur ulama).	Reinterpretation of Islamic jurisprudence: the validity of waqf mal manqul halal.	Basis → Object 2 (fatwa qiyas money).
Validity of Contemporary Fatwas	Qiyas DSN-MUI No. 135/2020; OJK; BWI.	Authoritative confirmation: 90% pro-legality of *mashlahah*.	Bridge → Object 3 (BWI/OJK regulations).
Harmony of Fiqh-Regulations	Harmony of Waqf Law 41/2004, PP42/2006, PMA73/2013.	Practical implementation: AIW, SOTS, sharia portfolio nazhir.	Synthesis: Fiqh → modern regulation.

The table shows that stock waqf has a strong normative-regulatory basis, demonstrating the dynamic nature of Islamic waqf law, adapting to the transformation of assets and ownership in the modern economy. The legalization of shares as waqf is not a deviation from classical Islamic jurisprudence, but rather a reinterpretation based on established normative principles. Thus, stock waqf can be understood as the result of a dynamic interaction between Islamic jurisprudence, fatwas, and regulations. The reinterpretation of Islamic jurisprudence provides the normative basis, contemporary fatwas provide operational legitimacy, and national regulations ensure the sustainability and accountability of its practice.

DISCUSSION

The findings of this study indicate that stock waqf can be reinterpreted as a valid waqf instrument with strong legitimacy from the perspective of Islamic jurisprudence, contemporary fatwas, and national regulations. This is based on the understanding that shares meet the qualifications of māl mutaqawwam because they have economic value, legal ownership, and the potential for sustainable benefits, thus aligning with the basic principles of waqf that emphasize the sustainability of the principal and the utilization of the proceeds. Both empirically and normatively, the analysis shows a meeting point between the contemporary fiqh view, reinforced by fatwas from Islamic scholars and Islamic financial institutions, and national regulations that have recognized movable objects, including shares, as waqf objects within the framework of productive waqf. Therefore, this reinterpretation not only confirms the legal validity of stock waqf but also emphasizes the importance of integrating fiqh and regulations as a basis for strengthening productive waqf amidst the development of the modern financial system.

The results of this study confirm that the reinterpretation of stock waqf represents a conceptual transformation, not simply an expansion of the waqf object. The recognition of shares as māl mutaqawwam reflects a shift from a physical asset orientation to value, legality, and sustainable benefits. This is evident in the dynamic interaction between contemporary Islamic jurisprudence (fiqh), fatwas (religious edicts), and regulations, which complement each other in their normative foundations and legal implementation. Thus, this reinterpretation is an integrative process that strengthens the relevance of Islamic law in addressing modern financial developments and strengthening productive waqf.

The results of this study indicate that the legitimacy of stock waqf is shaped by various social, economic, and institutional factors, not solely normative arguments. The development of Islamic finance and the digitalization of capital markets have encouraged the expansion of the meaning of māl mutaqawwam, thus recognizing shares as valuable and productive waqf assets. Support from religious fatwas, Islamic financial institutions, and national regulations has also strengthened this legitimacy both normatively and legally. Thus, the reinterpretation of stock waqf is the result of a dynamic interaction between modern economic needs, religious authorities, and the state legal system in the development of productive waqf.

The results of this study indicate that the legitimacy of Islamic jurisprudence and the regulation of stock waqf can encourage the transformation of productive waqf in the modern financial era. Recognizing shares as a mutaqawwam (obligatory asset) opens up opportunities for more flexible, liquid, and valuable asset diversification. This has the potential to increase public participation and strengthen the integration between waqf institutions and the Islamic capital market in professional fund management. Thus, the integration of Islamic jurisprudence and regulation drives innovation and strengthens the role of waqf in economic development and social welfare.

The results of this study demonstrate both a strengthening and development of previous studies on stock waqf. Unlike earlier research, which was generally limited to normative Islamic jurisprudence discourse or partial discussion of regulations, this study emphasizes a more comprehensive integration between the concepts of māl mutaqawwam (Islamic jurisprudence), Islamic jurisprudence legitimacy, fatwas, and national law. Previous research tended to focus on the permissibility of shares as waqf objects or the analysis of movable property regulations, without deeply examining the dialectical relationship between religious and state authorities. Therefore, this study offers a comparative contribution in the form of a more comprehensive synthesis, which not only strengthens but also expands on previous findings through an integrative approach to Islamic jurisprudence and regulation in the development of productive waqf.

The results of this study emphasize the need for strategic steps through strengthening policies and institutions to optimize stock waqf. Harmonization between fiqh (Islamic jurisprudence), fatwas (religious edicts), and regulations through clear technical guidelines is necessary to ensure the principle of māl mutaqawwam (property of wealth) and the sustainability of benefits. Concrete efforts include improving inter-institutional coordination, strengthening the literacy and capacity of nazhir (Islamic trustees), and utilizing digital technology for transparency and accessibility. Thus, these steps ensure that legitimacy is not merely conceptual but also effectively implemented in support of economic development and social welfare.

Overall, the results of this study confirm that stock waqf is a legitimate and relevant waqf instrument within the framework of Islamic jurisprudence and national regulations. The reinterpretation of shares as māl mutaqawwam (obligatory assets) demonstrates a transformation in the waqf paradigm, making it more adaptive to modern financial developments. Integration of fiqh, fatwas, and regulations is key to building legitimacy and effectively implementing stock waqf. Therefore, with policy support and institutional strengthening, stock waqf has the potential to become a strategic instrument in developing productive waqf and improving social welfare.

CONCLUSION

The main findings of this study indicate that the legitimacy of stock waqf does not rest solely on the expansion of waqf objects in Islamic jurisprudence (fiqh), but is constructed through the reinterpretation of classical concepts (māl mutaqawwam and dawām al-manfa'ah) and the dynamic evolution of DSN-MUI fatwas alongside a robust national regulatory framework (Law No. 41/2004, PP No. 42/2006, and OJK regulations). This confirms that state legal-formal legitimacy holds an equal position with normative Islamic arguments, providing scientific novelty through an integrative model that bridges normative fiqh, fatwas, and capital market governance. Operationally, stock waqf can be executed through direct share transfers or investment returns (dividends and capital gains), where market volatility and delisting risks are mitigated through the istibdal mechanism to ensure ḥifẓ al-aṣl (asset preservation) and tasbīl al-manfaʻah (continuity of benefits). Furthermore, empirical indicators showing an average annual growth of 18.5% in capital market waqf demonstrate strong public adoption, provided it is supported by strict Nazhir accountability, sharia audits, and digital integration via SIWAK. However, this study remains limited to a normative-doctrinal framework and secondary data analysis. To optimize policy implications, future developments require regulatory standardization of Nazhir competency certifications and tax incentives for stock waqifs, while opening pathways for future empirical research on field implementation and digital financial innovation in productive waqf.

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