



The Urgency Of Waqf For Development Of Sharia In Economic Sectors “Comparative Study”

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Abstract

Waqf is a form of social worship that has a significant impact on welfare. Waqf continues to be developed to achieve comprehensive benefits. Currently, waqf is a Sharia economic and financial instrument that exerts a significant influence on the development of the Islamic economy. This paper attempts to uncover the potential of waqf in the economic sector by formulating the following questions: first, What is the perspective of contemporary scholars on contemporary waqf? Second, how contemporary waqf applications in the real economic sector? The method used is qualitative, utilizing a literature review. Among the findings of this paper are the unique benefits of waqf in various aspects of our lives. Furthermore, waqf has now become an Islamic economic instrument developed in various economic sectors.

Keywords: *Waqf, development of syariah, economic sectors.*

Introduction

One of the unique characteristics of Islamic law is its emphasis on both the private aspect of worship, namely the relationship with Allah SWT, and the social aspect, namely relationships with other human beings. Islamic law highly honors human beings, as stated in the words of Allah SWT:

{وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْوَرْدِ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِنَ الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا تَفْضِيلًا}

Meaning: Indeed, We have glorified Adam's children and grandchildren and We have carried them on land and in the sea. We also bestowed upon them sustenance from good things and We preferred them above the many creatures that We created with perfect advantages. (Al-Isra': 70)

As a manifestation of this human dignity, Allah SWT ordained various forms of worship that foster mutual assistance and mutual benefit. Some forms of worship aim to benefit the community and the wider community.

Among the acts of worship that have a social impact and universal benefits is waqf. Waqf is an act of worship that extends beyond personal piety to social piety. In fact, the development of waqf today is increasingly diverse, including in real economic sectors and various innovations in financial institutions, particularly in Islamic economics and finance. Therefore, this article attempts to uncover the

potential of waqf in the development of the Islamic economic sector.

Research Problem

In this study, the researcher found two problem formulations which became the focus of the study: the first : What is the perspective of contemporary scholars on contemporary waqf? Second, how contemporary waqf applications in the real economic sector?

Research Method

This is desk research, in which the researcher followed a descriptive, analytical, and inductive approach.

The books approved for this research include books on the principles of Islamic jurisprudence, books on jurisprudence, whether based on the four schools of Islamic jurisprudence or books on comparative jurisprudence. They also include books on exegesis (tafsir) from various disciplines and schools of Islamic jurisprudence, and books on hadith with their commentaries, such as the Six Books and other hadith books approved by scholars of this field.

The researcher also attempted to present the issue in a comparative manner, examining whether there were

multiple opinions and weighing up the various points of view according to the rules of comparative jurisprudence, while also mentioning the discussions of each piece of evidence the author relied on. The objective of presenting the research in a comparative manner is to broaden the scope of this research.

Result and Discussion

I. Understanding of Waqf

From an etymological aspect, waqf means to withhold = menahan, the plural of which is wuquuf (وقوف) or auqof (أوقاف). (Bugha, 1992 M/ 1413 H, p. 9)

This linguistic meaning is in line with the essence of waqf, namely that the object that is donated no longer belongs to its owner and is no longer private property, but is used for the benefit of the Muslim community. The meaning of waqf in Islamic jurisprudence terminology :

There are differences among scholars in defining waqf terminologically, and these differences impact several details related to waqf law. Therefore, we should outline the meanings of waqf from the perspective of scholars and some examples of the consequences of these differing definitions.

First: according to the Hanafi school of thought:

حبس العين علي حكم ملك الواقف، والتصدق بالمنفعة علي جهة الخير.

Holding an object/goods while still legally belonging to the waqif, and donating its benefits for the benefit of the community.

Based on this definition, the object donated does not leave the waqif's ownership, and the waqif may return the object or sell it, as waqf is a jaiz contract, not a binding/lazim contract. (Zuhailiy, 2010 M, p. 151)

second: the definition of the majority of scholars

حبس مال يمكن الانتفاع به، مع بقاء عينه بقطع التصرف في رقبته من الواقف وغيره، علي مصرف مباح موجود أو يصرف ريعه علي جهة بر وخير تقربا إلي الله تعالى.

Holding assets that can be used and the objects remain, and cutting off the right to use from the waqif, allocated for things that are permitted or the results are distributed for goodness and obedience as a form of obedience to Allah SWT.

Based on this definition, the ownership of the object that has been donated has passed from the waqif to Allah SWT, so the results may no longer be used by the waqif but are distributed to those who are obedient and good.

II. The Arguments for The Basis of Waqf

Waqf is one of those recommended in Islam with valid arguments, both from the Koran and the Sunnah of Rasulullah Saw. The following are the arguments from the Qur'an and the Hadiths of the Prophet SAW. First is from the Qur'an Allah said :

{لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ}

Meaning: *You will never obtain (perfect) virtue until you invest some of the wealth you love. Whatever you spend, Allah is All-Knowing about it. (Ali Imron : 92)*

This verse discusses alms in general, including about waqf, because when this verse was revealed, a friend named Abu Talhah came to the Prophet Muhammad SAW and said, "O Messenger of Allah, among the treasures that I love most is the Bairaha' garden which is located opposite the Nabawi Mosque, so I made it as alms for the sake of Allah, I hope for birr (goodness) and its excellence." So the Messenger of Allah said, "Share it with your family, and that is the wealth that brings profit." So Abu Talhah shared it with his family. (Ismail, 1419 H, p. 63)

From here we can also see that the friends are very enthusiastic about carrying out the contents of the Koran. And this spirit should also be an example for us followers of the Prophet Muhammad, who want a great reward from Allah SWT.

Another proposition that is the basis for waqf is the hadith from the Prophet Muhammad:

إِذَا مَاتَ ابْنُ آدَمَ انْقَطَعَ عَنْهُ عَمَلُهُ إِلَّا مِنْ ثَلَاثٍ: صَدَقَةٍ جَارِيَةٍ، أَوْ عِلْمٍ يُنْتَفَعُ بِهِ، أَوْ وَلَدٍ صَالِحٍ يَدْعُو لَهُ. رَوَاهُ مُسْلِمٌ

Meaning : "If a person dies, his deeds are cut off, except for three things: alms, or useful knowledge, or a pious child who prays for him". (Riwayat Of Imam Muslim)

The meaning of sustainable charity here is waqf. (Kamil, 2020 M, p. 271) This aligns with the characteristics of waqf objects, namely permanent objects that can be used for a long period. However, some opinions also permit waqf for single-use items.

III. Various Forms of Waqf

Viewed from the point of view of its use, waqf is divided into two:

1. Waqf Al-Khair
It is a waqf intended for general good deeds. Such as waqf for schools and hospitals.
2. Al-waqf al-zurriy
It is a waqf that is intended for a particular person, such as a waqf for his child. (Zuhailiy, 2010 M, p. 159)

The distribution of waqf, seen from the periodization aspect, is divided into two:

1. Al waqf almuabbad or permanent waqf
This means it is permanent or eternal. This is in accordance with the texts that indicate the legitimacy of waqf.
2. Alwaqf almuaqqat or temporary waqf
This waqf is temporary. This type of waqf is disputed by scholars regarding its permissibility. The Shafii School and Imam Muhammad al-Syaibani from the Hanfiyyah community require that waqf be mu'abbad.

Some other scholars allow waqf even though they are not mu'abbad. Among the scholars who hold this opinion are the Maliki school of thought and also Imam Abu Yusuf from the Hanafiyyah. (Ahmad Ibrahim Beik, p. 57)

Distribution of waqf is seen from the aspect of the durability of the object, divided into two parts:

1. The object can endure for long time
This means that waqf objects can be used continuously. They don't disappear with use. Examples of such waqf objects include land and buildings.
This form of waqf is popular because it is characterized by something that can be continuously utilized and used. Therefore, scholars agree on the permissibility of waqf on such objects.
2. The object can't endure for long time
This means that when used, the item disappears. This is similar to the waqf of dinars as currency, because when money is spent, the item must be handed over to the seller. Similarly, the waqf of food disappears when consumed.
The waqf model with such an object is disputed among Islamic scholars. Some scholars say that waqf with such an object is invalid. However, some scholars, such as those of the Malikiyah school, permit waqf with such an object. The Malikiyah school permits waqf in the form of dinars for loans, business, and charity. Similarly, the Malikiyah school permits waqf of food. (Bayyah, 1426 H - 2005 M, p. 23)

IV. The wisdom of waqf

Every command of Allah SWT contains great wisdom, because Allah SWT never commands futile deeds. As mentioned above, waqf is a command of Allah and the Prophet Muhammad, so it certainly contains much wisdom, among which are:

1. As part of the method for doing good deeds, every one of us humans is required by Allah SWT to always be in a good way, until we die. As Allah SWT says:

{وَاعْبُدْ رَبَّكَ حَتَّىٰ يَأْتِيَكَ الْيَقِينُ}

Meaning: and worship your god until death comes to you. (QS. Al-Hijr: 99)

Imam al-Thabari said in interpreting this verse, that the meaning of al-yaqin in this verse is death. (at-Thobari, p. 160)

2. As a social act of worship. Waqf has a social dimension, as the benefits of the donated objects can be enjoyed by others, especially those in need, and serve various functions for the benefit of the community.
3. One of the good deeds continuing after death. One charity whose rewards can continue after someone dies is waqf. This is because waqf can be utilized for a long period of time.
4. It can support many areas, such as economic development, as in productive waqf, and education, in the form of financial assistance, school construction, and so on.
5. Strengthening the brotherhood and unity of the Muslim community. Waqf fosters togetherness in realizing shared desires, such as waqf for the construction of a mosque. This demonstrates togetherness and unity. Waqf for families strengthens relationships within the family.

Waqf in the Sharia Economic Reel Sector

Waqf is an Islamic financial instrument with a social purpose. Waqf has enormous potential, particularly in Indonesia, where Muslims are the majority.

According to the Ministry of Religious Affairs' Waqf Information System (2022), waqf land in Indonesia is spread across 440,500 locations, covering a total area of 57.2 hectares. Furthermore, the potential of the waqf sector in Indonesia, particularly cash waqf, is estimated to reach 180 trillion rupiah per year. The Indonesian Waqf Board recorded cash waqf revenue of 1.4 trillion rupiah as of March 2022. This figure represents an increase compared to the cash waqf revenue collected from 2018 to 2021, amounting to 855 billion rupiah. (Badan Wakaf Indonesia (BWI), 2002, p. 6)

This enormous potential, if properly managed, will undoubtedly have a significant impact on the community's economy. And the launch of the Waqf Core Principles (WCP) further strengthens waqf governance. A key factor in the success of a social institution is sound management, which can inspire complete trust in the community.

WCP is a global standard for waqf management initiated by Bank Indonesia (BI) to strengthen waqf management in Indonesia and globally. One crucial element in creating efficient and prudent waqf operations is the establishment of good nazir

governance. (Hendri Tanjung, 2020 M, p. 96)

Some of the latest forms of waqf development models in order to strengthen the economic sector include:

V.1 Share Waqf / saham waqf.

The object of shares is shares and the profits are distributed for the benefit of the community.

This stock waqf accommodates the trend of interest from capital market investors who want to invest with social benefits. Therefore, it is believed that the emergence of sharia stock waqf can be a magnet for investors and issuers included in the sharia securities list (DES). (Muhammad Syahbana, 2020, p. 4)

V.2 Cash Waqf Linked Sukuk (CWLS).

Is a form of social investment in Indonesia where cash waqf collected by the Indonesian Waqf Board as Nazhir through BNI Syariah and Bank Muamalat Indonesia as the Sharia Financial Institution Receiving Cash Waqf (LKSPWU) will be managed and placed in State Sukuk or SBSN (State Sharia Securities) instruments issued by the Ministry of Finance (Kemenkeu).

V.3 Sharia Life Insurance Endowment.

This is regulated in MUI Fatwa No. 106/DSN-MUI/X/2016 concerning Waqf for Insurance Benefits and Investment Benefits in Sharia Life Insurance. The fatwa states that Sharia life insurance waqf can be distributed in two ways:

1. With insurance benefits

A sum of money sourced from the tabarru' fund is distributed to the party experiencing the risk or the party designated to receive it. In principle, this insurance benefit is intended to mitigate risk for the Insured Participant or the designated party.

The party designated to receive insurance benefits is required to make a binding promise (wa'd mulzim) to donate a portion of the insurance benefits. The amount of insurance benefits that can be donated is regulated, with a

maximum of 45% of the total insurance benefits.

2. With investment benefits

In this method, the funds transferred to the Insured Participant come from the investments made and their returns. The maximum amount of investment benefits that may be donated by the Insured Participant is one-third (1/3) of the total assets and/or inheritance, unless otherwise agreed upon by all heirs.

V.4 Green Waqf

The Green Waqf Movement is a strategic solution for driving community-based energy production in Indonesia through green waqf. In addition to focusing on waqf campaigns, the Green Waqf Movement serves as a platform for waqf activists, environmentalists, and renewable energy activists to collectively contribute to addressing the issues of climate change and energy availability.

V.5 Productive Waqf

Productive waqf is a fixed asset or principal that is donated for use in production activities and the results are distributed according to the waqf's objectives. Such as land waqf for use in farming, springs for sale, and so on. Or production waqf can also be defined as assets used for production purposes, whether in agriculture, industry, trade, or services, where the benefits are not directly derived from the waqf object, but from the net profit from the development of the waqf, which is given to entitled people according to the waqf's objectives. (<https://www.bwi.go.id/4508/2020/02/24/makna-wakaf-produktif/>, 2020)

Conclutions and Suggestion

- Examining the contemporary perspectives of Islamic scholars, we find that they differ in their views on the development of contemporary waqf. Some see the reality of the continued development of many types of waqf, thus legalizing them under Islamic law.

- However, some others still adhere to the basic principle that waqf is limited to objects that are long-lasting. However, in Islam, differences are inevitable. These differences actually provide an opportunity for the Muslim community to continually adapt to circumstances that are in line with the demands of the welfare and goodness of the Muslim community as a whole.
- One of the greatest potentials in Islamic economics is the development of waqf. We can see this in the history and wisdom of waqf itself, showing how Muslims can make many positive contributions to the development of education and preaching through waqf. The potential of waqf is not only limited to education and preaching but also to the real economic sector. Currently, we can witness the development of various real economic sectors, such as stock endowments, bond endowments, cash endowments, insurance endowments, green economy development endowments, productive endowments, and various other types of products that have been developed.
 - as a means, that studies related to waqf must continue to be developed, especially in contemporary Islamic economic matters, so that the great potential of waqf is truly maximized properly and provides a large contribution to the Muslim community.

References

- (2020). <https://www.bwi.go.id/4508/2020/02/24/makna-wakaf-produktif/>. www.bwi.go.id.
- Ahmad Ibrahim Beik, W. '. (n.d.). *Mausu'ah Ahkam al-Waqf 'Ala al-Maszhahib al-Arbaah*. Kairo: Al-Azhar Press.
- at-Thobari, A. J. (n.d.). *Jami' al-Bayan ala Ta'wil Ayi al-Qur'an* (Vol. 17). Mekkah: Daar al-Tarbiyah wa al-Turats.
- Badan Wakaf Indonesia (BWI). (2002). *Analisis Kinerja Pengelolaan Wakaf Nasional*.
- Bayyah, A. b. (1426 H - 2005 M). *I'mal al-Maslahah fi al-Waqf* (I ed.). Beirut: Mu'assasah al-Rayyan.
- Bugha, D. M. (1992 M/ 1413 H). *Fiqh Manhaji Mazhab Imam Syafii* (IV ed., Vol. 5). Damaskus: Daarul Qolam.
- Hendri Tanjung, P. (2020 M). *Ekonomi dan Keuangan Syariah ; Isu - isu Kontemporer*. Jakarta: Kelompok Gramedia.
- Ismail, I. I. (1419 H). *Tafsir Qur'anul 'Adzim*. Beirut: Daar Alkutub Al Ilmiyyah.
- Kamil, D. H. (2020 M). *al Imta' al Najib Syarah Ghayah al-Taqrif* (II ed.). Kairo: Tsarais Press.
- Muhammad Syahbana, A. H. (2020). *Wakaf Saham Sebagai Instrumen Ekonomi Pembangunan Islam*.
- Zuhailiy, P. W. (2010 M). *al- Fiqh al-Islamiy Waadillatuh* (32 ed., Vol. 8). Damaskus: Daar Al-Fikr.