



The paradigm shift of cash waqf: study of the parking lot of the Pontianak Mujahidin Grand Mosque

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ABSTRACT

The Pontianak Mujahidin Grand Mosque Foundation has implemented or collected cash waqf in the form of money intended for parking lots, where the implementation of cash waqf at the Pontianak Mujahidin Grand Mosque Foundation is based on the Articles of Association and Bylaws or AD ART of the Pontianak Mujahidin Mosque Foundation. The money waqf has been determined by the foundation in the amount of 250,000 rupiah/M. The parking lot that is the object of the cash waqf covers an area of 8000 M. In Indonesia, the form of money waqf is not widely known. Waqf money only obtained a halal fatwa by the Indonesian Ulema Council (MUI) 2002. Following that, Law Number 41 of 2004 concerning waqf and Government Regulation of the Republic of Indonesia Number 42 of 2006 concerning the Implementation of Law Number 41 of 2004 concerning waqf in which it regulates waqf of movable objects was passed. In the waqf law, waqif can entrust movable objects in the form of money through Islamic financial institutions appointed by the Minister. Several Islamic financial institutions that have currently been appointed as Islamic financial institutions receiving money waqf are Bank Syariah Mandiri, BNI Syariah, Bank Muamalat, Bank DKI Syariah, Bank Mega Syariah, BTN Syariah, Bukopin Syariah, BPD Yogyakarta Syariah, BPD Central Java, BPD West Kalimantan, BPD Riau, BPD East Java, and BPD North Sumatra. Cash waqf (cash waqf) is a waqf carried out by a person, group of people, and institutions or legal entities in the form of cash.

Keywords: Cash waqf; Islamic economic

1. INTRODUCTION

Waqf in Islam is known along with the beginning of the prophetic era of Muhammad (peace be upon him) and marked by the construction of the Quba Mosque and then

followed by the construction of the Prophet's Mosque, which was built on the land of orphans from Bani Najjar purchased by the Prophet Saw. The Prophet (saw) entrusted the land he bought to build a mosque, and then the companions provided support in the form of waqf for the completion of the construction of the mosque.¹

Since the arrival of Islam in the 7th century, land waqf has existed and prevailed in Indonesian society based on Islamic law and customary law. However, there is no written law governing it.² The objects entrusted at that time were generally immovable objects (such as soil), and their existence would continue until the end of time.

Usually, this waqf is in the form of property such as mosques, land, school buildings, Islamic boarding schools, and others. Meanwhile, the needs of people today are so great that they need cash to improve welfare. Based on the principle of waqf, an innovative waqf product was made, namely money waqf, which is not only in the form of property but waqf with funds (money) in cash.³ Efforts to revitalize waqf elements to provide various economic benefits require a breakthrough in thinking about the concept that is in accordance with existing developments but does not leave the elements of shari'ah.⁴

Based on Law Number 41 of 2004 Article 16 Paragraph (3) concerning Waqf, it is determined that movable objects, as referred to in Paragraph (1) point b, are property that cannot be exhausted because they are consumed, including Money; Precious metals; Securities; Vehicle; Intellectual property rights; Leasehold; and other movable objects in accordance with the provisions of sharia and applicable laws and regulations.

Money waqf is one of the results of Ijtihad, related to the contextualization of waqf to introduce or further revive and revive the idea of cash waqf (cash waqf), which has been alive since the 16th century. Even in Islamic historical records, money waqf has been practiced since the beginning of the second century Hijri.⁵

In Indonesia, the form of money waqf is not yet widely known. Waqf money only obtained a halal fatwa by the Indonesian Ulema Council (MUI) 2002. Following that, Law Number 41 of 2004 concerning waqf and Government Regulation of the Republic of Indonesia Number 42 of 2006 concerning the Implementation of Law Number 41 of 2004 concerning waqf in which regulating waqf of movable objects was passed. In the waqf law, waqif can entrust movable objects in the form of money through Islamic financial institutions appointed by the Minister.⁶ Several Islamic financial institutions have currently been appointed as Islamic financial institutions receiving money waqf, namely Bank Syariah Mandiri, BNI Syariah, Bank Muamalat, Bank DKI Syariah, Bank Mega Syariah,

¹ Suhrawardi K. Lubis (2010), *Waqf and Community Empowerment*, Jakarta: Sinar Grafika, p. 100

² Imam Suhadi (2002), *Waqf for the Welfare of the People*, cet. 1st, Yogyakarta: Dana Bhakti Prima Yasa, p. 39

³ Setiawan Budi Utomo (2003), *Fiqh Aktual*, Jakarta: Gema Insani Press, p.155

⁴ M.A. Mannan, *Cash Waqf Certificate An Innovation of Islamic Memory Instruments*, Jakarta :CIBER-PKTI-UI, p.94

⁵ Sumuran Harahap (2011), *Waqf Money in Islamic Legal and Economic Perspective*, in the journal *Al-Awqaf*, Volume IV, No. 4, January, p. 89

⁶ Ahmad Zahari, Idham (2010), *Waqf, Zakat, & Sharia Economics*, Pontianak: Artha Grafistama, p.10

BTN Syariah, Bukopin Syariah, BPD Yogyakarta Syariah, BPD Central Java, BPD West Kalimantan, BPD Riau, BPD East Java, and BPD North Sumatra. Cash waqf (cash waqf) is a waqf carried out by a person, group of people, and institutions or legal entities in the form of cash.⁷

The Pontianak Mujahidin Grand Mosque Foundation has implemented or collected cash waqf in the form of money intended for parking lots, where the implementation of cash waqf at the Pontianak Mujahidin Grand Mosque Foundation is based on the Articles of Association and Bylaws or AD ART of the Pontianak Mujahidin Mosque Foundation which was authorized by Notarial Deed Number: 51 of 2011 / Ratification of the Minister of Law and Human Rights of the Republic of Indonesia No. AHU-2297. AH. 01.04. In 2013, the Mujahidin Grand Mosque Foundation regarding the money waqf in the Mujahidin Grand Mosque on October 6, 2017, with Mr. (H. Joni Abu, S.Pd.I.) as the position (Executor), the money waqf has been determined by the foundation in the amount of 250,000 rupiah / M. The parking lot that is the object of the cash waqf covers an area of 8000 M.⁸

2. METHODS

The type of research in this research is field research (field research), or it can also be said to be empirical or sociological research, where this study focuses on the results of data collection obtained directly in the community from informants or predetermined sources. These informants include the Chairman of the Pontianak Mujahideen Grand Mosque Foundation and the Cash Waqf Executor at the Pontianak Mujahideen Grand Mosque. In this study, a juridical normative approach was used, namely assessing the implementation of cash waqf at the Mujahidin Grand Mosque Pontianak by taking into account the instructions in the Qur'an and hadith, the views of legal experts who are competent in this matter and the laws and regulations in force in Indonesia related to cash waqf.

3. RESULTS AND DISCUSSION

Since the beginning, discussions about waqf have often been directed to waqf immovable objects such as land, buildings, trees for fruit, and wells for water. Meanwhile, the waqf of moving objects has only surfaced later. Among the waqf of movable objects discussed lately is a waqf known as cash waqf. Cash waqf is translated as cash waqf, but if you look at the object of the waqf, it is more appropriate if cash waqf is translated as money waqf. Cash waqf are endowments that a person, group of people, and institutions or legal entities conduct in the form of cash.⁹

The term waqf money of the modern era was technically first introduced by Mannan, an economist from Bangladesh. He established an object called SIBL (Social Investment

⁷ Directorate of Waqf Empowerment (2006), Cash Waqf Management Guidelines, Jakarta: Ministry of Religious Affairs of the Republic of Indonesia, p.1

⁸ Results of an interview with the Foundation (H. Joni Abu, M.Pd.) on May 4, 2023

⁹ Directorate of Waqf Empowerment (2006), Cash Waqf Management Guidelines, Jakarta: Ministry of Religious Affairs of the Republic of Indonesia, p. 1

Bank Limited) in Bangladesh. SIBL introduces the first Cash Waqf Certificate product in banking history. SIBL raises funds from the rich to manage, and management profits are channeled to the poor.¹⁰

In its development, waqf is not only in the form of immovable objects, such as land and buildings but can also be in the form of movable objects, such as money or other securities. If we see the development of the developing economic system now, it is very possible to carry out cash waqf (cash waqf). The concept of entrusted money is used as business capital, such as the opinion of Imam Az-Zuhri (who died in 124 AH) that dinars and dirhams (currencies prevailing in the Middle East) can be waqf. The trick is to make the dinars and dirhams as business capital (trade) and then distribute the profits as waqf.¹¹ Similar to the opinion of the Hanafi madzhab, according to the Hanafi madzhab, the way to do cash waqf is to make it business capital using mudharabah. At the same time, the profits are given to the waqf.¹² Alternatively, invest in shares in bona fide companies or deposit in Shari'ah banks, and the profits can be channeled due to waqf.

Cash Waqf invested in the form of shares or deposits, the form or value of money remains maintained and generates profits for a long time. This is in accordance with the definition of cash waqf, namely waqf given by waqif in the form of cash given to waqf managers (nadzir) to be developed and the results for the benefit of the people. In contrast, the principal waqf must not run out at any time.

In Article 28 of Law Number 41 of 2004 concerning waqf, it is stated that waqif can entrust movable objects in the form of money through Sharia financial institutions appointed by the minister as LKS Recipients of Money Waqf (LKS-PWU).¹³ The money referred to in this Law is described in Article 22, paragraph (1) of Government Regulation 42 of 2006 as rupiah currency.¹⁴ If the money entrusted is still in foreign currency, it must first be converted into rupiah. Waqif who wish to entrust their money through LKS-PWU can deposit money waqf directly or indirectly.

Regarding direct money waqf, Article 5 of the Indonesian Waqf Board Regulation Number 1 of 2009 concerning direct money waqf deposits states: Money waqf deposits from waqif are addressed to money waqf nadzir who have been registered with BWI and have entered into a cooperation contract with LKS-PWU: First, the Waqif must fill out a waqif statement of will form that functions as an AIW followed by depositing an amount of money as pledged. Second, the waqif will statement form which functions as an AIW that has been filled out and signed by the waqif accompanied by proof of cash deposit of waqf money, then signed by 2 (two) bank officers as witnesses and by 1 (one) bank

¹⁰ Djunaidi et al (2017), *Cash Waqf Development Strategy in Indonesia*, Jakarta: Ministry of Religious Affairs of the Republic of Indonesia, p. 12

¹¹ Abu As-Su'ud Muhammad (2007), *Risalatul fi Jawazi Waqfi An-Nuqud*, Beirut: Dar Ibn-Hazm, p.20-21.

¹² Wahbah Az-Zuhaili (1985), *al-Fiqh al-Islami wa Adillatuhu*, Damascus: Dar al-Fikr, Volume VII, p. 162

¹³ Law Number 41 of 2004 concerning waqf, Article 28

¹⁴ Law Number 42 of 2006 concerning waqf, Article 22

official as PPAIW. Third, LKS-PWU issues a Money Waqf certificate to the waqif if the matters referred to in paragraphs (1) and (2) have been fulfilled.

The indirect waqf mechanism is that prospective waqif transfers money waqf through ATMs, E-Banking, or Internet Banking, and so on, in accordance with BWI regulation Number 1 of 2009 concerning guidelines for the management and development of movable waqf objects in the form of money mandates LKS-PWU to prepare non-cash transaction services, and also provide waqf payment services via E-Banking which are not only in the form of transfer services but there are features Waqf services. Article 6, paragraph (3) of the Indonesian Waqf Board (BWI) Regulation Number 1 of 2009 states what elements are mentioned in E-Banking: LKS-PWU must prepare an online system for receiving money waqf using electronic media.

The Mujahidin Grand Mosque Foundation makes the Articles of Association and Bylaws the authority of the Foundation in implementing the Waqf, which is stated in the Articles of Association of the Mujahidin Foundation on Wealth in article 5 paragraphs 1, 2, and 3 which read: (1) The Foundation has initial wealth derived from the founder's wealth which is separated consisting of cash of a nominal value of Rp 10,000,000. (ten million rupiah). (2) In addition to the assets referred to in paragraph 1, the assets of the foundation may also be obtained from non-binding donations or assistance; Waqf, Grant; Probate grants; Other acquisitions that do not contradict the foundation's articles of association or applicable laws and regulations; (3) All assets of the foundation shall be used to achieve the aims and objectives of the foundation.¹⁵ The description of Article 5, paragraphs 1, 2, and 3, is as follows:

First, the Foundation has an initial wealth derived from the founder's wealth, which consists of cash of IDR 10,000,000. (ten million rupiah). The Mujahidin Foundation lacks funds to expand the parking lot of the Mujahidin Grand Mosque by 8000 M2, and cash is needed. The foundation has the idea of raising funds from the ummah.

Second, in addition to the wealth referred to in paragraph 1, the wealth of the foundation can also be obtained from non-binding donations or assistance, Waqf, Grant, Probate grants, Other acquisitions that do not contradict the foundation's articles of association or applicable laws and regulations; Based on paragraph 2 which states that the assets of the foundation can also be obtained from donations or assistance that are not binding, the purpose above is that the Foundation has the right to collect funds of any form as long as it does not violate Islamic law. The Foundation is entitled to receive endowments where a waqf is a form of giving that requires original property retention and beneficially donating the proceeds.¹⁶

Moreover, it is also mentioned in the Bylaws of the Mujahidin Foundation in Chapter IV concerning Sources of Funds in Article 5, paragraph 1, which reads: The income of the West Kalimantan Mujahidin Foundation comes from business results, infaq, and other

¹⁵ AD/ART Mujahidin Foundation of West Kalimantan Province

¹⁶ Abdul Halim (2005), *Wakafan Law in Indonesia*, Jakarta: Ciputat Press, p. 1.

halal sources that do not contradict sharia and do not conflict with the provisions of laws and regulations.

The Articles of Association and Bylaws that make the Mujahidin Foundation implement cash waqf are the Articles of Association of the Mujahidin Foundation on Wealth in Article 5, paragraphs 1, 2, and 3, which read: (1) The Foundation has initial wealth derived from the founder's wealth which is separated consisting of cash amounting to a nominal value of Rp 10,000,000. (ten million rupiah). (2) In addition to the assets referred to in paragraph 1, the assets of the foundation may also be obtained from non-binding donations or assistance; Waqf, Grant; Probate grants; Other acquisitions that do not contradict the foundation's articles of association or applicable laws and regulations; (3) All assets of the foundation shall be used to achieve the aims and objectives of the foundation.

Moreover, as for what is meant by Article 5, paragraphs 1, 2, and 3, the Mujahidin Foundation lacks funds for the expansion of the parking lot of the Mujahidin Grand Mosque by 8000 M², and what is needed is cash the Foundation needs Infaq for the parking lot of the Mujahidin Mosque and as an attraction for the people the Foundation has the idea of collecting funds from the ummah. Based on paragraph 2, which states that the foundation's assets can also be obtained from donations or unbinding assistance, the purpose above is that the Foundation has the right to collect funds of any form as long as it does not violate Islamic law. The Foundation raises funds to attract the ummah with the Cash Waqf Movement program of the expansion of the parking lava of the Mujahidin Grand Mosque, based on Article 5 paragraph 2b on waqf where waqf is a form of giving that requires the detention of the origin of property and beneficially donating the proceeds.

Moreover, it is also mentioned in the Bylaws of the Mujahidin Foundation in Chapter IV concerning Sources of Funds in Article 5 paragraph 1, which reads: The income of the West Kalimantan Mujahidin Foundation comes from business results, infaq and other halal sources that do not contradict sharia and do not contradict the provisions of laws and regulations, so what is meant by article 5 paragraph 1 Foundation income does not only come from business results, infaq, sedakah, zakat, waqf and other halal sources that do not contradict sharia and do not contradict the provisions of laws and regulations.

To expand the parking lot of the Mujahidin Grand Mosque, covering an area of 8000 M². The Foundation raised funds with the Cash Waqf Movement program for the expansion of the parking lot of the Mujahidin Grand Mosque, which is directly managed by the financial sector of the Mujahidin Foundation, and the waqf receiving officer appointed by the Foundation, to receive funds with the Cash Waqf Movement that has been determined by the Foundation in the amount of 250,000,-/M².¹⁷

The procedures for cash waqf in the Foundation are as follows:

¹⁷ Hasil wawancara dengan pihak Yayasan (H. Joni Abu, M.Pd.) pada tanggal 4 Mei 2023

First, the community/waqif who will waqf cash can be done by directly coming to the Mujahidin Foundation with the waqif, and the officer who receives fill out receipts, and there are *ijab* and *qabul*. Second, it can be transferred by the Bank through an account in the name of the West Kalimantan Mujahidin Foundation.

Cash Waqf is a new program in Indonesia, so intensive socialization is needed so that the community in West Kalimantan knows the cash waqf program, especially in Pontianak City. The following are the steps the Pontianak Mujahidin Grand Mosque Foundation took to socialize the cash waqf program using eight media: 1. Mujahidin Videotron; 2. Mujahidin Radio; 3. Mujahidin Television; 4. Mading Mujahidin; 5. Banners; 6. Announcement of the MC of Friday Prayer; 7. Bulletin; and 8. Social Media FB.

Acknowledgment

A big thank you to the Executive Secretary and Secretary II of the Mujahidin Foundation and the executor of cash waqf, who have been willing to provide data to assist the author in completing this research.

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