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## **Questioning about Legality of Cash Waqf within Civilization Progress**

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### **Abstract**

This study aims to find out how the permissibility of cash waqf in the development of civilization progress. This study uses a qualitative method with a descriptive analytical approach. The results of the study indicate that in line with the progress of human civilization, cash waqf can be carried out by considering professionalism in management.

**Keywords;** cash waqf, legality of waqf, progress of civilization

### **Introduction**

Waqf is a social worship in Islam that is sustainable and contributes greatly to the welfare of the community (Nour Aldeen et al., 2022). As an instrument of philanthropy, waqf has supported various public facilities, such as places of worship, education, and health services, the benefits of which continue to be felt by the community (Kachkar, 2017). Traditionally, waqf is better known in the form of immovable assets, such as land and buildings. Many educational institutions, hospitals, and large mosques in the world are the result of waqf from individuals or groups of donors (Ascarya et al., 2023). However, over time, the concept of waqf has developed, one of which is through cash waqf, which is a solution for those who want to make waqf without having fixed assets. (Berakon et al., 2022)

### **Literature Review**

The research focuses on socializing cash waqf literacy among millennial students in Kulon Progo Regency to enhance their understanding and interest in cash waqf as a modern giving solution. The socialization involved lectures and discussions, engaging 45 participants from the Kulon Progo Student Association, and aimed to equip young people with knowledge relevant to the 4.0 era. (Pambudi et al., 2022)

This study explores the prevalent waqf culture in the Ottoman Empire, focusing on the significance and societal impacts of cash waqfs. It examines their emergence, activities,

benefits, and sustainability, while also addressing regional differences in their prevalence and comparing them to modern Islamic financial institutions. (Kısacık & Topkar, 2024)

The research aims to determine the influence of cash waqf literacy on optimizing its collection in Indonesia, where the potential for cash waqf is significant but currently underutilized due to limited community understanding. Findings indicate that improving literacy in cash waqf can enhance its collection, and it is recommended that waqf institutions focus on increasing public awareness through information technology. (Rahmania & Maulana, 2025)

## **Research Method**

This research uses a qualitative approach with a descriptive analysis method. The data needed are data in the form of descriptive data and sourced from books, journals and articles that present cases as an example. Departing from the case studies that have been described by several media and written works, the researcher then conducted an in-depth descriptive analysis.

## **Result and Discussion**

Cash waqf is a form of waqf of movable property that has great potential in developing the people's economy (Ascarya & Masrifah, 2023). In Indonesian positive law, provisions regarding cash waqf are regulated in Law Number 41 of 2004 concerning Waqf and its implementing regulations as follows: Waqf can waqf movable property in the form of money through a designated Islamic Financial Institution (LKS) (Azrai Azaimi Ambrose & Abdullah Asuhaimi, 2021). Cash waqf is carried out with a written statement of the will of the waqf. Cash waqf is issued in the form of a certificate as proof of the validity of the waqf transfer. Cash waqf certificates are issued by Islamic Financial Institutions and submitted to the waqf and nazhir. Islamic Financial Institutions register waqf assets in the form of money with the Minister of Religion within seven working days after the certificate is issued (Eficandra, 2022). To clarify the mechanism of cash waqf, the government issued Government Regulation Number 42 of 2006 concerning the Implementation of the Waqf Law (Ismal, 2022). Several provisions regulated in this regulation include: Cash waqf that can be waqf must be in rupiah. If the money to be waqf is in foreign currency, it must first be converted into rupiah. Wakif is required to:

- a. Present at the Islamic Financial Institution Receiving Cash Waqf (LKS-PWU) to state his/her wishes directly.
- b. Explaining the ownership and origin of the money donated.
- c. Deposit money in cash to LKS-PWU.
- d. Filling out the waqf declaration form as valid evidence of the waqf. If the waqif cannot be present in person, he can appoint a representative or power of attorney to carry out the cash waqf process.

Management and Development of Cash Waqf in the Law The management and development of cash waqf must be carried out in accordance with sharia principles and applicable regulations. Government Regulation Number 42 of 2006 emphasizes that the management of cash waqf may only be carried out through investment in Sharia Financial Institution (LKS) products and/or sharia financial instruments. Several important provisions in the management of cash waqf include: Management and development of cash waqf is carried out through investment in sharia financial products. If the Sharia Financial Institution Receiving Cash Waqf (LKS-PWU) receives cash waqf for a certain period of time, then the nazhir can only manage it in the LKS. Management of cash waqf in sharia banks must follow the deposit insurance institution program according to regulations. If cash waqf is invested outside of a sharia bank, it must be insured in sharia insurance. As an institution responsible for managing waqf in Indonesia, the Indonesian Waqf Board ( BWI ) issued BWI Regulation Number 4 of 2010 concerning Guidelines for the Management and Development of Waqf Assets. This regulation serves as a reference in ensuring that cash waqf can be managed optimally for the benefit of the community. (Kasri & Chaerunnisa, 2022).

In the BWI regulation, it is stated that the management and development of cash waqf can be carried out in the form of investments outside of Islamic Financial Institution products with the approval of the Indonesian Waqf Board . The approval was given after the Islamic Waqf Board (BWI) conducted a study on the feasibility of the investment in question. The distribution of cash waqf investments (cash waqf portfolio) can be carried out with the provision that 60% of the investment is in LKS instruments and 40% is invested outside LKS. Cash Waqf in NU Decisions Discussion of cash waqf has become one of the topics in the NU Ulama Congress in 2002 which was held at the Hajj Dormitory, Pondok Gede, Jakarta. In the forum, the kiai agreed that according to the majority of scholars, namely the Maliki, Syafi'i, Hanbali schools, and some Hanafi scholars, waqf in the form of cash is not considered valid because it does not meet the requirements of waqf. However, there is a different view from some Hanafi scholars who allow cash waqf, as long as it is managed in a way that maintains its principal value (Ahkamul Fuqaha', pages 572-573.)

Sheikh Nizamuddin al-Barnahaburi together with a group of Indian scholars explained that waqf in the form of currency is not valid (Allah Pitchay et al., 2023). This is because money does not meet the criteria for waqf assets, namely assets that can be utilized without reducing or using up their physical form. In other words, the money used will be used up in transactions, unlike assets such as land or buildings that remain sustainable even though they are utilized (Asmara & Abubakar, 2019). Therefore, according to their view, cash waqf does not meet the requirements for the validity of waqf in Islamic law.

وَأَمَّا وَقْفُ مَا لَا يُنْتَفَعُ بِهِ إِلَّا بِالْإِتْلَافِ كَالذَّهَبِ وَالْفِضَّةِ وَالْمَأْكُولِ وَالْمَشْرُوبِ فَغَيْرُ جَائِزٍ فِي قَوْلِ عَامَّةِ  
الْفُقَهَاءِ. وَالْمُرَادُ بِالذَّهَبِ وَالْفِضَّةِ الدَّرَاهِمُ وَالْذَنَائِيرُ وَمَا لَيْسَ بِحُلِيِّ

This means, "As for waqfing something that cannot be used except by spending it, such as gold, silver, food, and drinks, then it is not permissible according to the opinion of the majority of scholars. What is meant by gold and silver here is dirham, dinar, and everything that is not jewelry." (Nizamuddin al-Barnahaburi et al, Al-Fatawa Al-Hindiyyah, [Surabaya,

Darul Ilmi: tt] volume I, page 256) Although most scholars reject the validity of cash waqf, there is a different view from scholars of the Hanafi school, one of whom is Sheikh Ibn Syihab az-Zuhri. He is of the opinion that waqf with money is permissible, as his opinion is quoted by Imam al-Bukhari.

وَقَدْ نُسِبَ الْقَوْلُ بِصَحَّةِ وَقْفِ الدَّنَائِيرِ إِلَى ابْنِ شِهَابٍ الزُّهْرِيِّ فِيمَا نَقَلَهُ الْإِمَامُ مُحَمَّدُ بْنُ إِسْمَاعِيلَ  
الْبُخَارِيُّ فِي صَحِيحِهِ حَيْثُ قَالَ: قَالَ الزُّهْرِيُّ: فِيمَنْ جَعَلَ أَلْفَ دِينَارٍ فِي سَبِيلِ اللَّهِ وَدَفَعَهَا إِلَى غُلَامٍ لَهُ  
تَاجِرٌ فَيَتَّجِرُ وَجَعَلَ رِبْحَهُ صَدَقَةً لِلْمَسَاكِينِ وَالْأَقْرَبِينَ

This means, "The opinion regarding the validity of donating dinars (money) has been attributed to Ibn Syihab Az-Zuhri, as narrated by Imam Muhammad bin Isma'il Al-Bukhari in his Sahih. He (Al-Bukhari) said that Az-Zuhri was of the opinion about someone who donated a thousand dinars in the way of Allah, then handed it over to a slave who worked as a trader so that the money would be used in trade (Jatmiko et al., 2024). He determined that the profit would be give alms to the poor and close relatives." (Abu Su'ud Muhammad bin Muhammad al-Hanafi, *Risala fi Jawazi Waqf an-Nuqud*, [Bairut, Darul Ibnu Hazm: 1997], pages 20-21).

For ulama who allow cash waqf, the implementation is done by using it as business capital. In practice, waqf money is not directly given to the beneficiaries (*mauquf 'alaih*), but is managed first in the form of sharia investment (Al-Daihani et al., 2023), such as *mudharabah* or other mechanisms that ensure that the principal value is maintained (Ismail Abdel Mohsin, 2013). The profits obtained from this management are then distributed to the parties entitled to receive benefits in accordance with the purpose of the waqf. In this way, cash waqf can provide benefits sustainably, while maintaining its principal value so that it remains sustainable. (Ashfahany & Lestari, 2023)

وَقِيلَ فِي مَوْضِعٍ تَعَارَفُوا ذَلِكَ يُفْتَى بِالْجَوَازِ. قِيلَ كَيْفَ: قَالَ الدَّرَاهِمُ تُقْرَضُ لِلْفُقَرَاءِ ثُمَّ يَقْبِضُهَا أَوْ تُدْفَعُ  
مُضَارَبَةً بِهِ وَيَتَّصَدَّقُ بِالرِّبْحِ

This means, "It is said that in places where people are used to this practice, the fatwa given is to allow it. When asked how, he said: The dirhams (money) can be lent to the poor, then returned. It can also be handed over as *mudharabah* (trade cooperation) capital, where the profits are given in charity." (Abu Su'ud Muhammad bin Muhammad al-Hanafi, 20-21).

With the differences of opinion among scholars regarding cash waqf, it is clear that Islamic law provides room for *ijtihad* in adjusting waqf practices to the needs of the community. Although the majority of scholars from the Shafi'i, Maliki, and Hanbali schools reject the validity of cash waqf, the view of Hanafi scholars who allow this practice with the condition that management maintains its principal value provides an alternative for Muslims in utilizing modern financial instruments. (Saiti et al., 2021)

## Conclusion

In the context of today's Islamic economy, cash waqf has great potential in empowering communities in a sustainable manner. With management in accordance with sharia principles,

cash waqf can be an instrument of social and economic empowerment, so that its benefits can be felt by more people. Therefore, it is important for waqf management institutions to ensure that cash waqf is managed in a trustworthy, professional, and in accordance with sharia principles so that its benefits can continue to be sustainable.

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