

CONTRIBUTION OF CASH WAQF IN IMPROVING PROGRAMS IN THE FIELD OF EDUCATION (STUDY AT INTERNATIONAL ISLAMIC UNIVERSITY (IIUM ENDOWMENT FUND) MALAYSIA)

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ABSTRACT

Waqf is a kind of charity whose rewards will flow even if the person who fulfills it has died. The benefits of the donated assets will still benefit the wider community, even if the waqif has died. When waqf is in the form of land and buildings, now you can donate online. Online waqf is a way of giving waqf by utilizing technology and the internet. The type given is cash waqf in the form of funds collected to build various public facilities and places of worship. Later, the funds that have been collected will be used to be distributed to charity projects and social activities that provide long-term benefits for the wider community, such as building mosques, orphanages, schools, hospitals, and so on. Distribution can be done on platforms that provide waqf facilities with payment methods via electronic transfer or online payment. So what is the law on online waqf? Most scholars believe the law is permissible. This is because in waqf, consent does not always have to be done directly. This means that the waqf remains valid, whether the consent and qabul are carried out face to face between the waqif and the nadzhir (waqf manager), or not in person. Most importantly, waqf must have a written agreement so as not to cause problems in the future. This is because waqf is long-term, even until the waqif dies. The waqf method is carried out by transferring a certain amount of funds to the waqf manager. After waqf, you will receive written evidence in the form of a waqf certificate issued by the waqf institution. Online waqf is one way of giving waqf that makes it easy for waqifs and nadzhir. Transactions can be done quickly without having to visit the waqf institution. As a result, digital waqf is said to be very economical in terms of costs and time. Apart from that, there are several advantages of doing online waqf, including: Wider Reach, More Efficient and Transparent, Ease of Choosing Waqf Programs and Wider Distribution

A. INTRODUCTION

In the Islamic economic system, cash waqf¹ is recognized as having a faster impact than the type of waqf for concrete objects, due to the

1 „Aisyah Radiah Binti Haji Gani., Perkembangan Wakaf Di Negara Brunei Darussalam, Jurnal KUPUSB. And see Al-Hadi, Abu Azam Upaya Pemberdayaan Tanah Wakaf Produktif Bagi Kesejahteraan Ummat, Jurnal Islamica, Vol. 4, No. 1, September 2009.

flexibility of this type of waqf in responding to existing environmental conditions. The effectiveness of this instrument for the economy really depends on the role of the state in its use. So that currently, careful planning is needed by the government in order to implement it in the economy, both in terms of regulatory readiness in the form of laws and institutional readiness that is integrative with other economic institutions².

Regarding cash waqf in Indonesia, Dr Uswatun Hasanah, Head of the Research and Development (R&D) Division of the Indonesian Waqf Board, stated that currently there are no longer any problems with this form of waqf. According to him, on May 11 2002, the Fatwa Commission of the Indonesian Ulema Council determined that "Cash waqf (Waqf al-Nuqud) is a waqf made by a person, group, institution or legal entity in the form of cash. Cash waqf is also included in the definition of securities. The law of cash waqf is Jawaz (permissible)." Cash waqf can only be used for things that are permissible according to sharia. Meanwhile, the principal value of cash waqf must be guaranteed to be preserved, it cannot be sold, given away, or inherited³.

As a productive waqf, cash waqf has many advantages in this modern era. Cash waqf can be an alternative investment financing in the real sector which is currently needed in Indonesia. Mustafa Edwin Nasution said that cash waqf has various fund mobilization instruments. Apart from that, it can expand the source base of funds significantly because the nominal amount is much lower and varied compared to waqf for physical assets such as land and buildings. Cash waqf is easy to manage and develop into a productive waqf because it has many alternative investment placements, both in domestic and global financial portfolios⁴.

Several important things that have been breakthroughs in the development of waqf since the enactment of Law Number 41 of 2004 concerning waqf, which was then followed by the issuance of PP Number 42 of 2006 concerning the Implementation of Law Number 41 of 2004 are (1). The formation of the Indonesian Waqf Board, the main objective is so that national waqf can progress and develop. (2). It is recognized that waqf for movable objects, including cash waqf (money). (3). Management of waqf assets is carried out productively so that the benefit of the community can be achieved.

The development of information and communication technology has produced the concept of waqf management via the internet, known as "online waqf". Waqf management using an online system is a waqf where transactions are carried out online (interconnecting network) by anyone and anywhere. Supervision of management and distribution can be done through website access as the institution or institution managing the waqf. Then the management of waqf of course raises new problems, namely not

2 Maharsi, Sri., Pengaruh Perkembangan Teknologi Informasi Terhadap Bidang Akuntansi Manajemen, *Jurnal Akuntansi dan Keuangan*, Vol. 2, No. 2, November 2000

3 Zainal Abidin Ahmad., *Dasar-dasar Ekonomi Islam*, Jakarta: Bulan Bintang, 1979

4 Afdawaiza., *Terbentuknya Akad dalam Hukum Perjanjian Islam*, Al Mawarid Edisi XVIII, 2008. Abu Zahrah, *Mudharat fi al-Waqf*, Beirut: Dar al-Fikr al- „Arabi, 1971. p. 59 see to As-Syarbini, *Mughni al-Muhtaj*, Kairo: Musthafa Halabi, Juz II, tt.

meeting physically and not knowing the legal agreement, there are no witnesses, so that the process of waqf pledge becomes legally unclear⁵. In this article the author tries to describe cash waqf using an online system along with advances in technology and information that are impossible to stop and Islam as rahmatan lil 'alamin.

B. RESEARCH METHODS

This research is a quantitative analysis research which aims to capture the values or views represented by sharia experts and practitioners regarding the issue of digital-based cash waqf in Indonesia. The analytical tool used is the Analytical Hierarchy Process (AHP) method. The research object is the target of the research. The object of this research consists of five aspects, namely the regulator, Nazir, system, sharia and society aspects. The subjects in this research are experts or specialists from both academics and practitioners who practice or study the collection of cash waqf, especially online⁶. Data collection in this research was in the form of a questionnaire or questionnaire regarding the five aspects which was carried out to experts. Research design or research design is basically a strategy for obtaining data used to test hypotheses including determining the selection of subjects, where the information or data will be obtained, the techniques used to collect data, the procedures followed for collection and the treatment that will be carried out (specifically for experimental research). In this research, descriptive research is used, where descriptive research is research that attempts to describe and interpret something, for example existing conditions or relationships, developing opinions, ongoing processes, consequences or effects that occur, or ongoing trends.

C. RESULTS AND DISCUSSION

1. RUKUN AND CONDITIONS OF MONEY WAQF

Waqf is declared valid if the terms and conditions have been fulfilled. There are 4 types of pillars of waqf according to fiqh, namely (1) Waqif (the person who donates). (2) Mauquf bih (endowed assets). (3) Mauquf „alaih (the party entrusted with the waqf). (4) Shighat or iqrar (statement or pledge of waqif as a will to donate)⁷. Meanwhile, the conditions for the validity of cash waqf include:

- a. Waqf must be eternal (eternal) and continuous.
- b. Waqf must be made in cash, without depending on the occurrence of an event in the future. Because the declaration of waqf results in the release of property rights immediately after the waqif declares his waqf. The purpose of the waqf must be clear, meaning that the waqf should be stated clearly and clearly to whom the assets are being

5 Ibid.

6 Budi, Iman Setya, Revitalisasi Wakaf sebagai Penggerak Ekonomi Masyarakat, *Al-Iqtishadiyah Jurnal Ekonomi Syariah dan Hukum Ekonomi Syariah*, Vol. II, No. II. June 2015

7 Yuliafitri, Indri dan Arie Indra Rivaldi., Pengaruh Penerapan Prinsip-Prinsip Good Governance dan Promosi terhadap Penerimaan Wakaf Tunai (pada Lembaga Pengelola Wakaf di Indonesia). *Jurnal InFestasi*, Vol. 13, No. 1, June 2017;

donated.

- c. Waqf is something that must be implemented without any conditions of khiyar. This means that it is permissible to cancel or continue the waqf that has been declared, because the waqf statement is valid in cash forever.

From the conditions mentioned above, there is debate among school scholars about the element of "eternity". This debate arose, especially between the Shafi'i and Hanafi schools on the one hand and the Maliki school of thought on the other. Imam Syafi'i places greater emphasis on waqf on fixed assets (fixed assets)⁸ and makes it a valid condition for waqf. Meanwhile, Imam Maliki emphasizes the meaning of "eternity" in the nature of the goods donated, both fixed assets and movable assets. Meanwhile, the pillars of waqf are basically in agreement as mentioned above, except for Imam Hanafi who is of the opinion that there is only one pillar of waqf, namely shighat. Shighat here are words that show the meaning of waqf. For example, someone said, "My land is donated forever to poor people."⁹

Seeing this reality, waqf shighat is a mistake among the ulama. Therefore, according to Islamic law rules¹⁰, the government can determine the terms of the pledge through the Minister of Religion. Compilation of Islamic Law Article 223 paragraph (4) states that the implementation of the pledge, as well as the making of the waqf pledge deed, is considered valid if it is attended and witnessed by at least two witnesses. This provision ensures that endowments are strengthened by evidence in the form of testimony. In terms of fiqh, this testimony can strengthen a law. In the provisions of the Shafi'i school of thought, testimony for matters relating to property requires at least one witness to be sworn in. It can also be with one man and two women¹¹.

2. Implementation Of Money *Waqf* With An Online System

Since the beginning, discussions about waqf have often been directed towards waqf for immovable objects such as land, buildings,

8 Alimuddin., Aplikasi Pembaharuan Hukum dalam Teori Socio Legal Studies, Dirjen Badan Peradilan, www.badilag.net, accessed at 26 December 2018. (IIUM Malaysia) see <https://act.id/news/detail/wakaf-tunai/uang>, accessed at March 2024 (IIUM Malaysia) and <https://wakafkuburansinergifoundation.wordpress.com/tag/pengertian-wakaf/>, accessed at March 2024 (IIUM Malaysia)

9 Nasution Mustafa Edwin dan Uswatun Hasanah (ed)., *Wakaf Tunai Inovasi Finansial Islam (Peluang dan Tantangan dalam Mewujudkan Kesejahteraan Umat)*, Jakarta: Program Studi Timur Tengah dan Islam Universitas Indonesia, 2006. page. 22. Also see Romli SA., *Muqaranah Mazahib Fil Ushul*, Jakarta : Gaya Media Pratama, 1999. page.76

10 Mohdar, Yanlua., March 2012, *Legalitas Hukum Islam dalam Hukum Nasional*, <http://yanluamohdar2010.blogspot.com>, diakses 25 Februari 2019, Selasa, 06.03 WIB Peran BWI dalam Pengembangan Wakaf Indonesia <http://sigitsoebroto.blogspot.com/2009/06/peran-bwi-Di> downloaded at 20 September 2023.

11 Dahlan, Rahmat., Faktor-faktor yang Memengaruhi Presepsi Nazhir terhadap Wakaf Uang, *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah*, Vol. 6, No. 2, 2015

trees for their fruit and wells for their water, while waqf for movable objects has only emerged recently. Among the movable property waqf that has been widely discussed recently is the waqf known as cash waqf. Cash waqf is translated as cash waqf, but if you look at the object of the waqf, namely money, it would be more appropriate to call cash waqf. Cash Waqf is a waqf made by a person, group of people, or institution or legal entity in the form of cash. The emergence of the idea of cash waqf is indeed surprising because it is contrary to the perception of Muslims that has been formed over many years. Cash waqf is not a fixed asset in the form of immovable objects such as land, but rather a current asset. The MUI defines waqf as "holding assets that can be utilized without the object or principal being lost, by not taking legal action against the object (selling, giving or bequeathing) to be distributed (the proceeds) to something that is mubah (not haram)".¹²

Even though throughout Islamic history, waqf has played a very important role in the development of Muslim society, we also encounter various realities that not only do waqf administrators show impressive progress, but also show abuses. Mismanagement often occurs. Therefore, good management strategies need to be created to achieve the objectives of establishing waqf. Waqf should be managed well and invested in various types of investments, so that the results can be used for the benefit of the community at large. The management is handed over to Nazir, both from the government and from the community.

There are 3 requirements for cash waqf management, namely professionalism. transparent and accountable. Apart from the 3 requirements that cash waqf managers must have, they also have the following criteria¹³:

- a. Have good access to potential waqif candidates.
- b. Have the ability to invest waqf funds.
- c. Able to distribute results/profits from waqf fund investments.
- d. Have the ability to record/book all matters relating to the beneficiary, for example accounts and their designation.
- e. Cash waqf management institutions should be trusted by the public and their performance controlled in accordance with the rules and regulations that apply to public fund management institutions.

Management of cash waqf with an online system uses an internet basis by a Waqf Center institution. In this institution cash waqf is managed by investing waqf funds for various programs, including¹⁴:

- a. Waqf money is a program for the benefit of the people.

12 Abdul Ghofur Al-Anshori., *Hukum dan Praktek Perwakafan di Indonesia*, Yogyakarta:Pilar Media, 2004, page. 32. Also see Achmad Djunaidi dan Thobieb Al Ansyhari., *Menuju Era Wakaf Produktif, Sebuah Upaya Progresif untuk Kesejahteraan Umat*, Jakarta: Mitra Abadi Pres, page. 76

13 *Compilation of Islamic Law, Book III on Waqf*. See to Muhammad bin Ahmad bin „Umar al-Syathiri, *Syarah al-Yaqut al-Nafis*, Jeddah : Dar al-Minhaj, 2007. page.65

14 *Ibid*.

- b. Waqf money for the endowment fund program for mosque operations.
- c. Waqf money for program to establish Al-Qur'an interpretation headquarters.

In implementing cash waqf using an online system, it is explained by **Center Waqf Institution** as follows :

a. Program Selection

The program selection is intended so that the waqif has a choice in donating his money. This relates to the type of allocation desired by the waqif so that later the proceeds from the cash waqf are allocated in accordance with the aims and functions of the waqf. As explained in Law No. 41 of 2004. In the context of the objectives and functions of waqf, waqf assets can only be intended for¹⁵:

- 1)Worship facilities and activities.
- 2)Educational and health facilities and activities.
- 3)Assistance to the poor, abandoned children, orphans, student scholarships.
- 4)Progress and improvement of the people's economy, and or
- 5)Promotion of other general welfare that does not conflict with sharia and statutory regulations.

The programs to choose from include:

First, cash waqf program for the benefit of the people, this program is intended for the benefit of the people by focusing on five things, namely housing, education, health, economics and other social problems.

Second, cash waqf, mosque operational endowment fund program, this program aims to allocate funds and make mosque programs a success that are experiencing problems in terms of procuring mosque operational funds.

Third, cash waqf program for establishing Al-Qur'an interpretation headquarters. This program allocates cash waqf funds for the construction of an Al-Qur'an interpretation headquarters as a forum for guidance in understanding Al-Qur'an interpretation with land management referring to the balance between the knowledge of interpretation and the economic independence of program participants. And it aims to build a movement to understand the Qur'an nationally, increase the number of teachers who are experts in exegesis who are also given the ability to build a family economic base as capital for a prosperous survival, able to appreciate the values of the Qur'an and its guidance in everyday life. day, both personally and in social life, and to realize the insight that the Qur'an is not just a ritual guide but more than that, namely as a guide to life¹⁶.

15 Op.cit.

16 Hilmi, Hasbullah, "Dinamika Pengelolaan Wakaf Uang: Studi Sosio-Legal Perilaku

b. Choosing a Waqf Program Model

The choice of this program model only applies to cash waqf for the community benefit program which is divided into two things, monthly cash waqf for the community benefit program and cash waqf for the community benefit program all at once. The monthly cash waqf program model¹⁷ is a cash waqf program where payments are made regularly every month with the applicable provisions and the nominal amount of waqf money determined by the waqif with a one-time waqf pledge. Meanwhile, the lump sum cash waqf program model is a cash waqf program where payments are made all at once or in one payment with the applicable provisions and the nominal value of the waqf money determined by the waqif.¹⁸

1) Selecting a Bank Account

Selection of a bank account as a means of sending waqf money where the bank account has been established in the name of the waqf institution (Nazhir) in accordance with the determined amount.

2) Select Form

Filling out the form is addressed to the waqif as identity data for sending waqf money through the columns specified on the waqf management website (Nazhir). This data also serves as a sign of the pledge to hand over cash waqf.

3) Receipt of Waqf

After filling in the cash waqf willingness form and having transferred the cash waqf to the specified account, the waqif receives a receipt for the cash waqf by looking at the name of the waqf sender on the list of waqf names on the website.

Thus, according to the author, it can be concluded that waqf management must be carried out professionally by fulfilling the criteria as explained above, so that the results of the waqf can be optimized properly. Technically, the implementation of cash waqf by utilizing information technology online is easy to implement, because the waqif does not need to come to the relevant institution, he simply opens access to the institution and transfers the cash waqf to a predetermined account, just like cash waqf in general¹⁹. This convenience ultimately gave rise to new problems, namely the waqif

Pengelolaan Wakaf Uang Pasca Pemberlakuan Undang-Undang Nomor 41 Tahun 2004 tentang Wakaf, *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan*, Vol. 12, No. 2, 2012;

17 <http://akitiano.blogspot.com/2009/12/tata-cara-wakaf-danpendaftaran-wakaf.html>

18 Fatwa Majelis Ulama Indonesia tentang Wakaf Uang tertanggal 11 Mei 2002/28 Shafar 1423. Firdaus, *Fiqh Wakaf*, Direktorat Pemberdayaan Wakaf dan Direktorat Jenderal Bimbingan Masyarakat Islam Depag RI, Jakarta 2007. See to Government Regulation No. 42 of 2006 on the Implementation of Law No. 41 of 2004 on Waqf and Hamka Haq, *Al-Syathibi, Aspek Teologis Konsep Masalah dalam Kitab Al-Muwafaqat*, Jakarta: Penerbit Erlangga, 2007. page. 42

19 *Ibid.*

and nazhir not meeting physically, the legal agreement not being known, and the absence of witnesses which made the pledge process legally unclear.

3. Analysis Of Money *Waqf* With Online System

a. Waqf in Muamalah

Waqf management in Indonesia has experienced three major periods of waqf management, namely: The first is the traditional period where waqf was intended for physical development such as mosques, Islamic boarding schools and cemeteries so that the social contribution was not yet felt. The second is the semi-professional period where waqf is managed productively but not yet carried out optimally, for example the construction of mosques plus shop buildings and meeting halls for weddings, seminars and so on. The third is the professional period which is marked by productively empowering the community's waqf potential which includes aspects of management, human resources, business partnership patterns, forms of waqf objects which are starting to develop more, such as money, shares and other securities.²⁰

Judging from several verses of the Qur'an and the Prophet's hadith that touch on waqf, it seems unclear. Therefore, very few waqf laws are determined based on these two sources. So the teachings of waqf are placed in the area of ijtihadi, not ta'abudi, especially those related to management aspects, types of waqf, allocation requirements and so on.

Therefore, when a law (Islamic teachings) enters the area of ijtihadi, it is flexible, open to new interpretations, dynamic, futuristic (oriented towards the future), so that, viewed from the aspect of waqf teachings alone, waqf is a The potential is large enough to be developed according to the needs of the times. Moreover, the teachings of waqf are part of muamalah. The features of muamalah teachings in Islam include:

- 1) The basic principle in matters of muamalah is to realize the benefit of humanity, by paying attention and considering the various situations and conditions that surround humans themselves. The management of each type of muamalah upholds the principles of justice, honesty, helping each other, not making things difficult and like each other.
- 2) That various types of muamalah are legally permissible until arguments are found that prohibit it. This means. As long as there is no argument that prohibits a muamalah type of creation, then muamalah is permissible.

20 Jauhar Faradis., Analisis Strategi Penghimpunan Wakaf Uang Tunai (Studi Kasus Badan Wakaf Uang Tunai Majelis Ulama Indonesia, Yogyakarta: Universitas Gajah Mada, 2010. Also see: Kharul Umam dan H.A.Ahyar Aminudin, Ushul Fiqih II, Bandung: Pustaka Setia, 1989. page. 66

Fiqh scholars divide the types of muamalah into two things, the first is the type of muamalah whose laws are directly designated by the text by providing certain limitations, because Allah knows that it is difficult for humans to find the ultimate truth in issues like this. Even though they know this, their desires dominate the truth. Among the muamalah issues that are directly determined by Allah, for example, issues of inheritance, divorce rates, 'iddah, khulu', reconciliation, the prohibition of wine, the prohibition of pork and the prohibition of usury.

The two types of muamalah are not directly appointed by the text, but are left entirely to the results of the *ijtihad* of the *ulama*, in accordance with the creations of experts in order to meet the needs of humanity throughout all places and times, and also in accordance with the situation and conditions of society itself. For the field of muamalah like this, Islamic sharia only puts forward basic rules, criteria and general principles that are in line with *maqashid as-syari'ah*, namely for the benefit of all mankind²¹.

Apart from the above, a very extensive discussion in fiqh books is about "shighat waqf" Waqf which is carried out online, of course also has shighat, only it is done without having to be in one assembly. Shighat waqf are all words, writings or gestures from people who have agreed to express their wishes and explain what they want. Like the statement of the contract agreement in the muamalah (transaction) which is an expression of the parties entering into the contract in the form of an agreement and a confession. "Ijab and kabul" represents permission (agreement) which describes the agreement and willingness of both parties regarding the rights and obligations arising from the contract²².

Shighat status (statement), in general, is one of the pillars of waqf. Waqf is invalid without shighat. Every shighat contains a consent, and may also contain a consent. However, waqf shighat only requires an agreement from the waqif without requiring a grant from the mauquf „alaih. Likewise, granting is not a condition for the validity of the waqf and is also not a condition for the right to receive the benefits of waqf assets²³.

The shighat of the waqf contract, whether verbal or written, is different from the shighat of the contract in muamalah. This difference is clearly visible because the shighat of the waqf contract does not require a consent from the recipient of the waqf, whereas in the shighat of the muamalah contract (transaction) a consent is

21 Kasdi, Abdurrahman., Potensi Ekonomi Dalam Pengelolaan Wakaf Uang di Indonesia, *Equilibrium: Jurnal (Online)*, Vol. 2, No. 1, June 2014

22 Muhammad Syafi'i Antonio., Bank Syari'ah sebagai Pengelola Dana Wakaf, (paper in Workshop Internasional, "Pemberdayaan Ekonomi Umat Melalui Wakaf Produktif" in Wisma Haji Batam, 7-8 January 2002 see to Nasrun Haroen, *Fiqh Muamalah*, Jakarta: Gaya Media Pratama, 2000. page. 76

23 Ibid.

required. In the definition of a waqf contract, it is a tabarru' contract in which the transaction is carried out unilaterally and is valid as a contract that does not require a consent from the waqf recipient. The definition of a contract here is a form of legal act (tasharruf) which results in the necessity of structuring what is expressed in the will of the legal act by the interested party, even if the statement is one-sided.

The fuqaha scholars state that one of the conditions for a contract is that it must be carried out in one contract assembly. The place and time where the two parties are at the time of negotiations which start from the moment the consent is proposed and last as long as they remain focused on the issue of negotiating the agreement and ends with them turning away from the negotiations, this is what is called the contract assembly. As a consequence of this contract assembly theory, khiyar qabul, khiyar withdrawal (khiyar ar-ruju') and khiyar assembly (khiyar al-majelis) were born²⁴.

The unity of the contract should not be understood rigidly within the dimensions of space and time. On the other hand, the concept of assembly unity needs to be developed in line with the development and progress of the times. The unity of the assembly is not meant to mean the unity of place and time, because this would be difficult to apply in the realities of contemporary life, where transactions can occur through communication tools that place the parties not in the same place. However, what is meant by the unity of the contract assembly is the unity of time, not the unity of physical place, where the contracting parties still focus on the agreement being made.

Judging from the definition above, it is very clear that the shighat contract carried out in the sense of the unity of the assembly is a contract in the form of an agreement and a consent, because the agreement can only be part of the contract if it meets directly with the agreement. When consent and acceptance meet, a legal agreement occurs between the two parties. Meanwhile, in the waqf contract, which is a tabarru' contract, which is valid as a contract that does not require a consent from the recipient of the waqf, it does not require the existence of a unified assembly in the contract, because in the waqf contract there is no need for a consent. An agreement in the waqf contract will occur if the waqf recipient receives the waqf contained in the shighat of the waqf waqf contract. For example, the waqif donates his money and when the waqf recipient has received the waqf money, an agreement is reached in the waqf contract. As has been explained, waqf can occur when the pillars have been fulfilled. And witnesses are not a pillar or a condition of waqf. So a waqf contract that is not attended by witnesses is considered valid according to the Shari'a provided that the pillars of waqf are fulfilled.

Thus, according to the author, it can be concluded that a waqf

24 Ibid.

contract is valid according to the Shari'a if it fulfills the pillars and conditions of the waqf with the provisions that the waqf assets are maintained (not destroyed) after the benefits are taken and are for permissible use (not prohibited by the Shari'ah) and are intended to obtain pleasure. from Allah SWT.

b. Use of the Online System in the Waqf Pledge Agreement

Exploring the use of online systems in waqf pledges is included in the scope of discussion of Islamic legal epistemology. In this discussion, legal propositions are the basis for Islamic jurists in establishing legal provisions that are applied practically by a person or society. Therefore, to discuss the use of online systems in waqf pledges, we use sharia propositions, namely:

1) Nash's Theorem

Regarding the topic of discussion regarding the use of online systems in waqf pledges, no text from the Qur'an was found that explicitly explains this. Moreover, online systems are historical or policy products that are closely tied to the dimensions of space and time. However, if we trace the contents of the Qur'an, there are verses that implicitly indicate the need for action that leads to the benefit and public order in the form of administering a contract or at least it can be used as a basis for justifying the policy that is taking place. Among these verses is surah al-Anbiya 21: 107.

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ

Wahbah al Zuhayly explained that the meaning of mercy is any action aimed at the public benefit. If Allah sent a Messenger by bringing in laws that do not bring benefit to humans, then for what?

Another verse of Surah Al Baqarah 2: 282.

The message value contained in this verse is the writing or recording of muamalah contracts (especially time-limited contracts). If transactions are for a certain period of time, such as debts and receivables and leases, the Qur'an recommends that they be recorded, especially for contracts that are valid for an unlimited period of time, such as waqf.

It is very interesting that the Koran talks about writing in a transaction when human civilization was not yet familiar with this pattern. This shows that recording a contract occupies a strategic position in the muamalah relationship. If there is no verse found in the Koran that explicitly explains the use of an online system in waqf pledge agreements, neither does the hadith discuss this matter.

From this, the understanding can be drawn that the implementation of cash waqf using an online system is an embodiment of the message value contained in the Koran as a means to complete transaction activities in the form of waqf

pledges.

2) Al maslahah al mursalah

The second proposition that can be used to analyze the position of using the online system in the waqf pledge is al-maslahah al-mursalah. It is a method of determining law based on universal benefit as the goal of sharia', without being based directly on the text or meaning of a particular text. If there are certain texts that support it in terms of meaning, it means it becomes qiyas. Meanwhile, if there is a text that textually rejects it directly, it means it is invalid. 18

Contemporary ushul fiqh expert, Abdul Wahab Khalab groups the propositions into two, namely: First, propositions that are *mustaqil* (independent, free and not bound by other propositions such as the Koran and Sunnah. Second, propositions that are *la yakun mustaqillan* (not independent, bound and require other propositions such as Qiyas, Istihsan, and Maslahah Mursalah). To explore the legal substance and position of the use of the online system in the waqf pledge, the argument used is the second argument which has the characteristic of *la yakun mustaqillan* because implicitly the argument that is *mustaqil* is not found.

The discussion of the use of online systems in terms of their legal character is included in the legal framework of fiqh, due to the absence of text arguments that clearly regulate these matters. So, to determine the law on the use of online systems, it must be through legal formulation that departs from postulates that are *dzanni al dalalah*. As formulated by Abd al-Wahab Khallaf; *Nash dzanni al dalalah* is a pronouncement that indicates a meaning, but that meaning contains possibility so that it can be interpreted and turned away from that meaning to another meaning.

From this definition, it can be understood that a *dzanni* verse contains more than one meaning, making it possible to interpret it. Because this law results from a process of *ijtihad* which departs from the *dzanni* text, the results are uncertain, relative, not permanent and change or change. The laws in this category are the field of *ijtihad*.

Apart from that, the implications of the laws that occur boil down to the agreement that all laws established by Allah contain benefits, as stated by Al Syatibi that the main aim of enshrining Islamic law for humans is the realization of benefits both worldly and spiritual.

The benefit in question must always be in line with *maqshid al tasyri'* (the will of syara') in relation to the five basic maintenance (*mabadi al khamsah*) namely maintenance of religion, soul, mind, lineage and property, which according to Ibnu Al Subkhi adds one more namely maintaining honor (*hifdzu al*

'iradi). This is the emphasis on the correlation between maqashid al tasyri' and the maslahah element. To realize the maintenance of these five basic elements, the ulama divided them into categories, namely, Al maslahah al dlaruriyyah, Al maslahah al hajiyah and Al maslahah al tahsiniyyah.

Meanwhile, Jumhur Ulama is of the opinion that al maslahah al mursalah can be a proof of syara' in the development of law, with various considerations:

- a) The benefits that humans need are always developing and unlimited, so that if the law does not develop along with the development of benefits and is only based on the benefits that are explained by the sharia, then many human benefits will be neglected.
- b) The establishment of al maslahah al mursalah as the basis of law is a historical reality of Islamic law which has been practiced by friends, tabi'in and mujtahid imams. For example, the bookkeeping of the Al-Quran manuscripts was carried out by Abu Bakr, which rules are not contained in the Sharia texts. Likewise, Umar bin Khattab's friend did not enforce the law of cutting off the hand of thieves during the lean season. Shafi'iyah scholars also rely on the maslahah mursalah when requiring the law of qishos in cases of murder committed by a group of people with one person being the victim. All of these are examples of legal enactments based on maslahah mursalah that have been carried out by friends and tabi'in.

However, to avoid misuse of legal provisions based on al maslahah al mursalah, several conditions have been stipulated:

- a) The problem must be genuine, not an estimate or conjecture, so that the determination of it really brings benefits and avoids harm.
- b) Maslahah must be general and comprehensive, not specific to certain people and not specific to a small number of people.
- c) Maslahah must be in line with the objectives of the laws aimed at by syar'i.
- d) Maslahah is not an incorrect maslahah, where existing texts do not confirm it, and do not consider it wrong.

Henceforth, in the present era, the development of law that is based on the problem becomes urgent and pressing because human benefit continues to develop and change according to developments in time and conditions. So that the determination of laws based on maslahah results in various possibilities; First, one day it can bring benefits to humans. Both at the same time create benefits in certain conditions and bring difficulties in other conditions. And if in certain conditions it is found that there are benefits that contain harm or vice versa, then the guideline is which one has greater benefits (al amru al a'dham).

Starting from the existence of a legal vacuum that explains the position of the use of online systems in waqf and the urgency of the problem which may result in harm to society, then using a benefit approach, it can be said that the use of online systems in waqf is an issue that contains the value of al maslahah al hajiyyat. Because the implications of using an online system are needed by someone to make it easier for them to live their lives and eliminate difficulties or hardships in order to donate their money for religious purposes and the public benefit.

D. CONCLUSION

This is a description of cash waqf using an online system, which is a legal breakthrough and is much needed by Muslims in Indonesia. Technology and information are so fast, fast and impossible to avoid, Muslims should look for solutions in distributing their waqf, without having to be trapped and trapped by the entrenched traditional system. Muslims must respond to this according to the needs and developments of the times so that people who want to donate their assets are not shackled, but can simply do so by accessing the website and transferring via a bank account appointed by the waqf manager. Waqifs no longer need to bother coming to the waqf institution's office. This is based on al maslahah al mursalah as a legal basis, the aim of which is in line with maqasid as syari'ah. May Allah SWT be pleased with our struggle.

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