

Cash Waqf Movement for Community Economic Empowerment

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Abstract

The cash waqf movement for community economic empowerment in the form of revolving loan to improve the Small and Medium Enterprises (SMEs) has been paid less attention. Promotion by the Indonesia Waqf Board is more on the cash waqf movement for investment through Cash Waqf Linked Sukuk. It surely has made studies on cash waqf for economic empowerment for weak people receive less attention. Even if there is a study on it, it is done more on the role of the Micro Waqf Bank, which in its legal format according to Indonesian laws and regulations is more accurately referred to as a microfinance institution than a waqf management institution. Hence, this study was conducted to review the legality aspects of cash waqf to find the possibility of growing the cash waqf movement for the economic empowerment of the people. This study used a descriptive qualitative approach by using documentation techniques in its data collection to answer the research questions. The opinions of classical Islamic law scholars, regulations and articles related to waqf were used as data sources to be analysed. The results of the study show that the cash waqf movement for community economic empowerment in the form of revolving loans for the development of SMEs actually has “fresh air” to be developed. It just needs a lot of effort considering that Indonesian Muslims still question the validity of cash waqf itself because most of them follow the Shafi'i school which does not allow cash waqf.

Keywords: cash *waqf* movement, legality, community economic empowerment

INTRODUCTION

Poverty is one of the social problems of Muslims in Indonesia as the majority population. There were at least 25.90 million poor people in Indonesia as of March 2023, or 9.36 per cent. This figure decreased by 0.46 million people compared to September 2022 and decreased by 0.26 million people compared to March 2022 (Badan Pusat Statistik, 2023). Although it can be categorised as low because it is still in the single digits, poverty alleviation programmes are still implemented by the Indonesian government, including participation from the community such as the establishment of zakat management institutions under the National Zakat Institution or waqf management institutions under the Indonesian Waqf Board.

Islam as the religion of the majority of the Indonesian population has various instruments for poverty alleviation such as zakat, infaq, sadaqah and waqf. Zakat is the instrument that gets the most attention as a tool to alleviate poverty. This is because zakat is ordered to be given to the poor and the needy. While infaq and sadaqah are not so because they are not a religious obligation, but only a sunnah (suggestion) in Islam. Meanwhile, waqf has been paid less attention as an instrument that can be used to alleviate poverty because so far waqf is only understood as a form

of giving immovable property, such as land and buildings, for the social and religious activities. Sarmidi Husna, as the Secretary of the Indonesian Waqf Board, stated that waqf management in Indonesia had not been well managed, especially for the community economic empowerment. Even though if waqf could penetrate into the empowerment of Small and Medium Enterprises (SMEs), the impact would be extraordinary because there were so many SMEs that were unable to access funds to Islamic banking for business development (Badan Wakaf Indonesia, 2020).

This condition necessitates studies related to the role of cash waqf for community economic empowerment in the form of revolving fund loans for SME development, for example, to be paid less attention. Even if there is one, it is more related to economic development as the development of waqf assets that were once unproductive to be productive so that they can be used for religious activities or other social benefits for Muslims (Kurniawan, 2013). Likewise, studies on productive waqf mostly talk about its contribution to economic development (Purwaningsih & Susilowati, 2020). Thus, studies on the utilisation of cash waqf for revolving loans as an effort to empower the community's economy have not been paid serious attention. Even if there are studies that examine waqf management for revolving loans, they are studies on the Micro Waqf Bank (Hidayat & Makhrus, 2021; Nur et al., 2019; Ramadhan & Sukmana, 2019), which institutionally cannot be said to be a waqf manager because it is regulated under Law No. 1 of 2013 on Microfinance Institutions whose supervision is under the Financial Services Authority, not under the Indonesian Waqf Board. This means that the Micro Waqf Banks are treated as microfinance institutions in Indonesian legislation like other microfinance institutions (Disemadi & Roisah, 2019; Sulistiani et al., 2019).

The lack of studies on the cash waqf movement for community economic empowerment through revolving loans for SMEs development is interesting to do, so in this paper will examine the possibility of cash waqf movement for community economic empowerment. This is because waqf is more likely to be managed in the form of revolving loans to those who need and have the potential for business development because waqf assets actually belong to Allah. This is clearly different from zakat funds, which under Islamic law are not managed in the form of revolving loans because zakat actually belongs entirely to mustahik (people who are entitled to receive zakat). This study used a descriptive qualitative approach by using documentation techniques in its data collection. In this case, the opinions of classical Islamic law scholars, regulation and articles related to waqf were used as data sources to be analysed.

RESULTS AND DISCUSSION

Legality of Cash Waqf in Islamic Law

Cash waqf is simply waqf in the form of money. Cash waqf is actually not a new concept at all. There is some evidence of its existence in the early history of Islam. Monzer Kahf found two definitions of cash waqf in the Islamic law literature written by classical Islamic law scholars. First, cash waqf in the Maliki school is referred to as the process of dedicating cash as waqf for the purpose of lending it to those designated as beneficiaries without interest. Secondly, a Hanafi scholar named Imam Zufar introduced a concept of waqf in the form of dirhams and dinars which

are given as mudharabah capital and then the profits are used for the charity specified by the waqif (Kahf & Mohomed, 2017).

Based on these findings, Monzer Kahf defines cash waqf as cash that is lent and collected from the borrower to be lent again to others, or it can be cash waqf in the form of cash that is managed in mudharabah contract and the profits are given to the beneficiaries of the waqf while maintaining the principal investment (Kahf & Mohomed, 2017). Meanwhile, Çizakça defines cash waqf as a charitable waqf established with cash capital (Çizakça, 2004a) or the retention of a sum of money from a waqif and the dedication of its utilisation as specified by the waqif for the welfare of society in perpetuity (Çizakca, 2004b). Monzer Kahf and Amiirah Nabee Mohomed, on the other hand, define cash waqf as the permanent or temporary retention of endowed cash to generate recurring benefits or uses for public or private benevolent purposes in accordance with the stipulations set by the waqif (Kahf & Mohomed, 2017). This broad definition covers both forms of cash waqf: first, using cash as a loan waqf to provide interest-free loans, and second, investing cash and giving the net proceeds to the beneficiaries of the waqf.

Based on this definition, it can be understood that cash waqf can be used for revolving loans to SMEs in need of capital who do not have access to banks. Thus, cash waqf may be used for the economic empowerment through the provision of revolving loans. Unfortunately, the validity of cash waqf is still being questioned by Muslims as money does not fulfil the immutability of waqf assets. Money can only be utilised when it is spent, thus lacking legitimacy from Muslims themselves. This is certainly an obstacle to develop cash waqf movement for the economic empowerment.

When it is traced, there are broadly two schools that allow cash waqf, namely the majority of scholars of the Maliki school and the more recent pre-modern Hanafi school that allow cash waqf. Meanwhile, in the Hanbali school, Ibn Taimiyyah views cash waqf as the favoured view in his school. In contrast, the Shafi'i school does not allow cash waqf (Mohammad, 2011).

Imam Zufar (as an Islamic law scholar who allows cash waqf in the Hanafi school) based his opinion on Imam Muhammad al-Shaibani and Abu Yusuf who allowed waqf of movable assets in general, while money is included in movable assets. According to him, cash waqf can be given as mudharabah capital and the profits earned can be used for public purposes as stated. In the Hanafi view, there are at least three recognised exceptions to this general principle. Firstly, waqf of movable property that follows the immovable property being waqf, such as oxen, sheep is permissible. secondly, if there is a hadith that states it is permissible, such as horses and swords. Third, if there is a custom in a certain area. Imam al-Shaibani stated that even if there is no hadith stating it, waqf of movable property is allowed if it is local wisdom (Çizakca, 1996).

Imam Zufar considers cash to fulfil the criterion of perpetuity when the cash given is used for mudharabah trade and the profit is distributed among the beneficiaries. Meanwhile, Ibn Abidin recognised the practice of cash waqf in Roman and non-Roman areas during the Ottoman Empire. Although Ibn Abidin could not justify such a practice, elsewhere unrelated to cash waqf, he viewed coins as property that could not be specifically replaced. If lent or lost, the recovery and

replacement of coins was done in the same unit. Through the replacement of one unit with another, money exists forever. Therefore, it is understandable that the Hanafi view proposes the permanence of coins, and hence the permanence of waqf (Mohammad, 2011). This is also true for the Maliki and Hanbali schools. The Maliki school narrates from Imam Malik about the permissibility of cash waqf for loan purposes. Ibn Taymiyyah, of the Hanbali school, on the authority of Abu al-Barakat, allowed cash waqf for loans or investments (Mohammad, 2011).

Thus, it can be said that only the Shafi'i school unanimously does not allow cash waqf because it does not fulfil the trait of permanence as a waqf asset. Meanwhile, the majority of other schools allow it even though there are still differences of opinion within their schools. This is a problem that can hinder the cash waqf movement for the community economic empowerment.

Cash Waqf Movement for Community Economic Empowerment

Despite the fact that cash waqf lacks legitimacy from Muslims in Indonesia due to their perspective that still questions the validity of cash waqf, cash waqf is legal in the view of the prevailing law in Indonesia with the issuance of Law No. 41/2004 on waqf. Article 16 of Law No. 41/2004 states that one of the assets that can be used as an object of waqf is money. This is actually “a breath of fresh air” for the realisation of the cash waqf movement for the community economic empowerment. The government itself, in the hands of the Indonesian Waqf Board, has been aggressively promoting the cash waqf movement. On 28 August 2023, the Indonesian Waqf Board together with the Director of Zakat and Waqf of the Ministry of Religious Affairs discussed the acceleration of waqf programs, especially cash waqf with a revenue target of IDR 1 trillion through the socialisation of the Cash Waqf Linked Retail Sukuk movement to the rectors of State Religious Universities (Badan Wakaf Indonesia, 2023).

Cash Waqf Linked Sukuk Retail is a cash waqf investment in state sukuk whose returns are distributed by the Nazir (manager of waqf funds and activities) to finance social programmes and community economic empowerment (Kementerian Keuangan, 2023). This means that a person dedicate his money for waqf temporarily or perpetually by handing over their funds to the waqf manager to be invested in Cash Waqf Linked Sukuk Retail which the investment returns will later be distributed to the waqf manager to be used for social programmes and community economic empowerment. If the desired waqf is temporary, the waqif will receive back the funds invested in the Cash Waqf Linked Sukuk Retail. However, if the desired waqf is perpetual, the funds will go to the intended waqf management institution to be reinvested either into Cash Waqf Linked Sukuk Retail or others. When looking at the cash waqf model through Cash Waqf Linked Sukuk Retail, it appears that this model is inspired by the opinion expressed by Imam Zufar (Hanafi scholars), which the funds waqfed are invested and then the proceeds are used for social religious purposes.

Interestingly enough, the waqf movement that is also promoted by the government for the community economic empowerment is the launch of the Micro Waqf Bank. The Micro Waqf Bank is a Sharia Microfinance Institution registered and supervised by the Financial Services Authority that aims to provide access to capital for small communities that do not have access to formal institutions (Otoritas Jasa Keuangan, 2023). The Micro Waqf Bank was established in 2017 by the

government and the Financial Services Authority as an effort to address poverty in collaboration with Islamic boarding schools in Indonesia (Sulistiani et al., 2019). Unlike banks, the Micro Waqf Bank does not collect funds from the community, but this institution only distributes funds to the community in the form of financing to increase business capital. The amount of financing disbursed ranges from IDR 1,000,000 to IDR 3,000,000. This financing is channeled without collateral and with a low profit sharing rate of 3 per cent per year (Hidayat & Makhrus, 2021).

The form of economic empowerment carried out by this institution includes two things. First, the provision of financing facilities for business development. There are two contracts used in this financing, namely mudharabah and qardh. The mudharabah contract is used for business capital, while the qardh contract is used for customers who have urgent needs such as health or education costs. Second, business mentoring. Assistance is carried out in the form of regular meetings in which two aspects of assistance material are discussed, namely religious aspects and business development aspects (Hidayat & Makhrus, 2021). This Micro Waqf Bank has a pretty good role in empowering the people's economy. A study conducted by Ramadhan and Sukmana showed that after receiving capital from the Micro Waqf Bank, the business profits of the customers increased. This is because the capital received by customers is indeed used to increase business volume and buy additional equipment to support buying and selling activities so that they can be more productive in business. In addition, the assistance provided by the Micro Waqf Bank also affected the development of the customers' businesses (Ramadhan & Sukmana, 2019).

When examined closely, the management of funds in the Micro Waqf Bank appears to follow the concept of cash waqf as stated by Maliki scholars. Unfortunately, the Micro Waqf Bank, despite using the name waqf, is not a waqf management institution commonly referred to as nadzir. The Micro Waqf Bank is an Islamic microfinance institution that performs the functions of a financial institution like any other microfinance institution. Therefore, the legal basis of the Micro Waqf Board is not Law No. 41/2004 on waqf, but Law No. 1/2013 on Microfinance Institutions (Sulistiani et al., 2019).

It is quite unfortunate because it does not fulfil the spirit of waqf, especially because it cannot be applied to mobilise wealthy people in an area to endow funds to the institution. In fact, Article 22 of Law No. 41 of 2004 regulates the allocation of waqf assets, one of which is for the advancement and improvement of the people's economy. This clearly leads to the empowerment of the people's economy in the form of revolving loans. According to Ahmad Syafiq, the use of cash waqf funds for economic empowerment is also a mandate of the waqf law. The distribution of these loans can be done by cash waqf management institutions and the loan recipients are preferably individuals or small business groups who are starting a business and the waqf management institution must also provide managerial assistance, marketing and product quality so that the business undertaken can survive and grow (Syafiq, 2016). Unfortunately, this has not become a big movement as stated by Sarmidi Husna, the Secretary of the Indonesian Waqf Board mentioned above.

The government's move to promote cash waqf through Cash Waqf Linked Sukuk or Micro Waqf Bank is already a step forward in growing the cash waqf movement for people's economic empowerment. Unfortunately, the path taken sometimes does not fully meet the elements of waqf legally based on applicable laws and regulations such as the Micro Waqf Bank which is recognised more as a microfinance institution than a waqf management institution because it is not subject to the law on waqf. For this reason, there is a need for a common understanding to build a cash waqf movement for the community economic empowerment through the promotion of wealthy people in a region to channel their excess assets in the form of cash waqf to a waqf management institution to be channeled in the form of revolving loans to SMEs so as to improve their economy. Small steps, albeit little by little, can certainly grow something big.

CONCLUSION

The cash waqf movement for community economic empowerment in the form of revolving loans for the development of SMEs has been paid less attention. More promotion by the Indonesian Waqf Board is more on the cash waqf movement for investment through Cash Waqf Linked Sukuk. The cash waqf movement for community economic empowerment in the form of revolving loans for the development of SMEs actually has fresh air to be developed. It just needs a lot of effort considering that Indonesian Muslims still question the validity of cash waqf itself since most of them follow the Shafi'i school which does not allow cash waqf.

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