

Cash Waqf and People Economic Empowerment in Indonesia

Uswatun Hasanah

Abstract

Waqf is one of the Islamic institutions that tightly relates to social and economic problems of society. In many countries having developed productive waqf, waqf serves as one of pillars of their economies. In Indonesia, where Moslems are the majority of its population, the existing waqf has not yet been able to empower the people's economy substantially. This is probably due to the fact that the waqf existing in Indonesia is limited to the fixed assets and has not been managed productively. With the issuance of Law Number 41 Year 2004 on Waqf, it is expected that in Indonesia waqf may grow and develop satisfactorily, so that the results can be used to assist the government in solving the people's social and economic problems. The law on waqf governs not only fixed waqf assets, but also movable assets, including money. It is also important that waqf shall be managed by professional waqf nazhir (waqf managers) with the assistance of Indonesian Waqf Board.

Keywords: Cash waqf; Wakif; Nazhir

JEL Classification: Z12; H00

1. INTRODUCTION.

In history, the *waqf* has served an important role in economic empowerment of the Islamic community. This can be seen in some countries having developed *waqf* productively; For example Egypt, in which the *waqf* have been offering opportunities for the Egyptian people in particular, and people from all over the world at large to gain knowledge in the country that is very popular with its Pyramids and the Nile river. Egypt, with its al-Azhar University founded around 1000 years ago, has arouse Moslem's consciousness to explore science. In addition to al-Azhar, *waqf* properties in Egypt are also managed productively, so that the results can be utilized in accordance with the divine mission of *waqf*, namely to improve the welfare of the people and to address poverty.

Besides Egypt, *waqf* also thrive in Turkey, Kuwait, Qatar, Saudi Arabia, so that the various social and economic problems can be addressed by *waqf*. The question is, how about *waqf* in Indonesia.

As we all understand, at present, poverty and unemployment in Indonesia is still an unresolved issue. Although the government has implemented various policies, but until now there is no government policy is really capable of alleviating poverty. If there are no proper policies of poverty alleviation, it seems that unemployment and other social issues will remain crucial for the Indonesian people. It might even be more serious, because in recent times Indonesia has often been hit by various disasters ranging from floods, landslides, earthquakes, tsunamis etc., and the last large disaster occurring was the eruption of Mount Merapi in Yogyakarta. In addition to causing low level of education and health which subsequently decline the quality of our human resources, the poverty and unemployment possibility raises criminality in society. Thus, poverty and unemployment should be addressed immediately. Poverty and unemployment in society are actually not entirely government's task, but a shared responsibility between government and society. To deal with the problems of poverty and unemployment, actually in Islam there are economic institutions with potential to be developed, including *waqf*.

For the Muslims of Indonesia, *waqf* is not new because the institution has been practiced by Indonesian Moslems since the entrance of Islam in Indonesia. *Waqf* institution was readily accepted by Muslims in Indonesia, because before Islami's arrival in Indonesia there were similar institutions developed in this archipelago. In Indonesia, many customary wealth similar to *waqf*. Institutionally there are similarities between customary wealth with *waqf* although according to Islamic law, customary wealth is clearly not *waqf*. *Waqf*-like property is a custom prevailing in a society. Almost every region in Indonesia has land that is utilized for the benefit of the family and the public interest. For example, in Banten region, there is a "Huma Serang". Huma is a field, which is worked together every year and the results of which are used for the common interest. Lombok also recognizes customary land called "*Tanah Pareman*", namely state land exempted from taxation or "*Landrente*" (land rent, that is tax on land) handed over to the villages, Subak, and also to the temple for common interests.¹ In East Java, there is also a "Perdikan". *Perdikan* was a piece of land which is provided by a King to a person or group of people in a village, who have rendered services of outstanding achievement to the King or to the state. According to

¹Abdurrahman, Masalah Perwakafan Tanah Milik dan Kedudukan Tanah Wakaf di Negara Kita, (Bandung: Alumni, 1979), page 14

Rachmat Djatnika, it almost resembles the *waqf* of experts in terms of land use functions which is used as objects. As for the "*Pusaka* (legacy land)", it is a treasure given by the ancestors for the benefit of family members as a whole, which cannot be traded and cannot be inherited by individuals. This form is nearly identical to the *waqf* of experts. Even "*Sima*", which existed at the time of Javanese Hindu-Buddhist in the form of partial forest granted by a King to a person or group of people to take the results, is also almost the same as *waqf* of experts.²

Waqf, which is commonly known in Indonesia, is limited to fixed assets, such as lands, gardens, fields, mosques, prayer houses, school buildings, cemeteries and other fixed assets. When in fact the assets that can be endowed as *waqf* are not limited to the fixed assets, but also movable assets, including money. Although cash *waqf* is already known at the time of Imam of jurist schools, but the cash *waqf* just recently become subject of attention of scientists and the subject of intensive study. In many countries, cash *waqf* has long been the subject of study, and has been practiced and regulated in the legislation. In Indonesia, cash *waqf* has been known and disseminated for about 10 years. This article will explain cash *waqf* and people economic empowerment in Indonesia.

2. *WAQF* IN THE ISLAMIC WORLD

Waqf is one of the Islamic institutions, which is potential to be developed, especially in the developing countries. Considering the experiences of Islamic countries whose *waqf* institutions have advanced, *waqf* can be developed to be one of the pillars of economy. Generally in those countries, *waqf* have been managed productively. Productive *waqf* management has actually been conducted since the beginning of Islam, so that at the time *waqf* could be exploited for people economic empowerment. This is because *waqf* had been developed properly. According to Hasan Langgulung, *waqf* institutions reached its golden age in the 8th and the 9th century AH., when the number of *waqf* very large and can be used for public welfare. *Waqf* at that time was generally managed by the Sultan and Amir, his children or anyone assigned by *waqif*. They consist of employees, emirs, and his staffs as *waqf* supervisor.³

²Rachmat Djatnika, *Tanah Wakaf*, (Surabaya: Al-Ikhlas, t.t.), page 12

³Hasan Langgulung, *Asas-asas Pendidikan Islam*, (Kuala Lumpur: Percetakan Saufi, 1991), page 173-174

Although Islamic territory were fragmented as the result of colonization, but the *waqf* treasures in Islamic regions having got independence, can be maintained properly. The history proves that the *waqf* maintained and developed productively in a society became very valuable to the interest of people. Today there are several countries having managed *waqf* productively, which their management results were actu ally helpful for those who in need. In order that *waqf* in Indonesia can be managed productively, it is appropriate for us to learn from countries or institutions that have been able to manage *waqf* properly.

Turkey is one country that has had a long history of *waqf* that is interesting to learn. Since the reign of the Ottoman Sultans, *waqf* has been sustaining a variety of public services and financing a variety of arts and cultural buildings. In general the *waqf* that has been developed since the 15th century are property and cash *waqf*.⁴ During the Republican government, by adopting the civil law (Law Number 903), *waqf* has acquired a new identity. Based on the law, the government of the Republic of Turkey established the Directorate General of Waqf, which is in charge of running all *waqf* ministry task imposed on the era of the former Ottoman empire. Even in 1983, Turkey established the Ministry to oversee the governance of *waqf*. At this stage, all *waqf* in Turkey are governed by legislation.⁵

Some *waqf* in Turkey are managed by the Directorate General of Waqf and the others are managed by *mutawalli*. In addition to managing the *waqf*, the Directorate General of Waqf also supervises and controls the *waqf* managed by the *mutawalli* or new *waqf* (Art 78 Civil Law). In the legislation regulation in Turkey, *waqf* shall have the management board. *Waqf* in Turkey shall also be audited once every two years. By doing so the Directorate General gets 5% of net income of *waqf* as supervision and auditing expenses, but not more than TL 1 million. The Directorate General is appointed by the Prime Minister and is under the Office of the Prime Minister.

In addition to Turkey there are some countries having already managed *waqf* productively, among others is Bangladesh. At the first time, the condition of *waqf* in Bangladesh is not much different from the situation in Indonesia. In some cases, incomes from many *waqf* properties, which are small and scattered are not sufficient to maintain *waqf* property. Meanwhile, a permanent lease is not sufficient to maintain

⁴Tuti A. Najib and Ridwan al-Makssary (Ed.), *Wakaf, Tuhan, dan Agenda Kemanusiaan Studi tentang Wakaf dalam Perspektif Keadilan Sosial di Indonesia* (Jakarta: CSRC UIN Syarif Hidayatullah, 2006), page 50.

⁵*Ibid.*

the *waqf* assets, additionally *waqf* family has also become source of legal cases in Bangladesh. It is this conditions that require reforms in the administration and management of *waqf* properties. The survey, conducted by M.A. Mannan revealed that there are sufficient flexibility and scope to be reformed further for the development of property management and administration of *waqf* in Muslim countries or Muslim-majority country, especially with regard to cash *waqf*.⁶

Cash *waqf* is expected to be able to become a means for social reconstruction and development, where the majority of the populations can participate. To realize such participation, various attempts need to be done intensively to introduce the importance of *waqf* including *cash waqf* as a means of transferring savings from the rich to entrepreneurs and the public to fund various activities in Moslem countries. According M.A. Mannan, *cash waqf* may serve as a supplement to the funding of various social investment projects managed by Islamic banks, so it can be turned into *waqf bank* (a bank that holds *waqf funds*). In Bangladesh cash *waqf* has a very important role in mobilizing funds for development of *waqf property*. Social Investment Bank Ltd (SIBL) introduced *Cash Waqf Certificate*, a new product in the history of banking of the voluntary sector.

In addition to Turkey and Bangladesh, the practice of *waqf* in Kuwait also needs attention, *Waqf* practice in Kuwait is as old as the existence of cultures of Kuwait people. At first *waqf* assets in Kuwait only comprises of mosques, old houses and limited money. But after the discovery of oil resources, the value of *waqf* in the form of property is growing rapidly. Many of the *waqf* properties are used as commercial complexes, residential buildings, shops, and recreation centers.⁷ In 1921 the Kuwait Government established the Ministry of *Waqf*, and in 1948 the department was assigned the task of managing places of worship and care for people in need. After Kuwait's independence, the department of *waqf* was converted to the Ministry of *Waqf* that was formalized on November 17th, 1962. In 1993, three years after the Gulf war *Kuwait Awqaf Public Foundation* (KAPF) was established. KAPF's main task is to encourage the development of the Islamic *waqf* and promote

⁶Mannan, M. A., "Cash-Waqf Certificate Global Opportunities for Developing The Social Capital Market in 21 -Century Voluntary Sector Banking", in Harvard Islamic Finance Information Program-Center for Middle Eastern Studies, Proceedings of The Third Harvard University Forum on Islamic Finance, (Cambridge: Harvard University, 1999), page 247 .

⁷Tuti and Ridwan al-Makassary, *op.cit.*, page 58. See also Abdul Mohsen M. Ali Othman and Dhahi al-Fadhli, "Role of Kuwait Awqaf Public Foundation in Promoting Awqaf", in Syed Khalid Rashid (ed.), *Awqaf Experiences in South Asia*, (New Delhi: Institute of Objective Studies, 2002), page 251.

improvements based on economic, cultural, socio-civic and relieve the poor of the difficulties they experienced.

Several years ago, the Kuwait Ministry of *Waqf* straightened all the existing management in a single waqf institutions. In performing its duties, this *waqf* institution used structured system based on each field and specialization of work, but still to achieve the same goal of *waqf* property management.

The structured work system has established two essential parts of *waqf* institutions, namely the investment division, which consists of several parts such as property and non property investment division; the funding and projects division which consists of multiple channels of funding and projects needed by society. Investment division in this waqf institution is specialized in dealing with waqf property investment and development, and optimizing its implementation to improve its results. Investment strategy on the investment division relies on structured systems that perform their duties in accordance with their specialization and their respective fields. Property and non property investment divisions each has its own office, but all divisions build cooperation each other in order to maintain the smooth and the implementation of the ideal investment which include all types of less risky investments, and geographically all regions of investment is easy for distribution. The investment is sometimes made in property, finance and services. Thus the waqf institutions in Kuwait have contributed enormously in making various areas of financial investments which are all bound by Sharia law, and have been scheduled for the short, medium and long terms. Therefore, these *waqf* Institutions have financial investment divisions.⁸

To develop a *waqf*, in particular cash *waqf*, it is necessary for Muslims in Indonesia to take lessons from the experiences and practices of *waqf* developed in Turkey, Bangladesh, and Kuwait. Thus the waqf can develop properly and the results can be utilized for economic empowerment of the people of Indonesia who some still live below the poverty line.

3. CASH WAQF IN INDONESIA

Since 2000, waqf began to attract much attention in Indonesia, from practitioners, academics as well as government. This condition is identified by the presence of various articles in Mass Media, both printed and electronic Medias, seminars and workshops, both nationally and internationally. In addition, at some faculties in the universities there are

⁸*Ibid.*, page 313-314.

also subjects related to *waqf*. For examples is in the Faculty of Law of the University of Indonesia. The course of *zakat* and *waqf* have existed since 1994; In the Faculty of Law, Tarumanagara University there is also subjects of *Zakat* and *Waqf*. In some postgraduate programs *waqf* courses have also been opened, such as *Zakat* and *Waqf* Management in the Middle East and Islam Study Program in the University of Indonesia and Islamic Economics and Finance in Post Graduate Program, in Trisakti University.

Before the issuance of Law Number 41 Year 2004 On *Waqf*, in Indonesia there is legislation on *waqf* in force, among others, Government Regulation No. 28 Year 1977 On *Waqf* of Property Land. The Government Regulation No. 28 Year 1977 only regulates social *waqf* (general *waqf*) on land owned by a person or legal entity. The land endowed as *waqf* pursuant to the Government Regulation is limited to land of ownership, while the rights of other lands such as the rights to cultivate, rights to build and rights to use are not regulated. In addition, other objects such as money, stocks and others are also not regulated in the Government Regulation No. 28. Therefore the development of *waqf* in Indonesia before 2004 was rather sluggish. To be grateful the Draft of Law of the Republic of Indonesia on *Waqf* on October 27th, 2004 was signed by President Susilo Bambang Yudhoyono to become the Law Number 41 Year 2004 on *Waqf*. The law regulates various things which is important to the development of *waqf* in Indonesia.

When compared with some legislation on *waqf* prior to 2004, the Law on *Waqf* sets many new and important things. Some of them are the issue of *nazhir*, assets to be endowed as *waqf* (*mauquf bih*), and the allotment of *waqf* assets (*mauquf 'alaih*), as well as the need to establish Indonesian *Waqf* Board. With regard to *nazhir*, because this legislation does not only regulate fixed assets as commonly recognized in Indonesia, but also movable assets such as money, precious metals, securities, vehicles, intellectual property rights, rental rights and others, consequently the *nazhir* is demanded to be able to manage those assets.

In this law, *waqf* assets is not limited to fixed assets but also movable assets. In Article 16 paragraph (1) it is stated that the *waqf* assets comprises of:

- a. fixed assets, and
- b. movable assets.

While in paragraph (2) in the same article, it is mentioned that the fixed assets as referred to in paragraph (1) letter a covers:

- a. land rights in accordance with the provisions of the applicable legislation, both those registered and not;
- b. buildings or parts of buildings standing on the land as referred to in letter a;
- c. plants and other objects related to the land;
- d. ownership rights of apartment units in accordance with the provisions of the applicable legislation;
- e. other fixed objects in accordance with the provisions of Sharia and the applicable legislation regulations.

Whereas in paragraph (3) of the same article, it is mentioned that movable assets as referred to in paragraph (1) letter b are assets that cannot be worn out due to consumption, including:

- a. money;
- b. precious metals;
- c. securities;
- d. vehicles;
- e. intellectual property rights;
- f. lease rights, and
- g. other movable assets in accordance with the provisions of Sharia and the applicable laws and regulations.

In Law on *Waqf*, cash waqf is also regulated in a separate section. Article 28 of the Law states that *waqif* may pay waqf of movable assets in the form of money through Islamic financial institutions appointed by the Minister. Then Article 29 paragraph (1) also mentions that endowing waqf of movable assets in the form of money as referred to in Article 28, shall be conducted by *waqif* with the statement of intention made in writing. In subsection (2) of the same article, it is regulated that for the *waqf* endowment of movable object in the form of money as referred to in paragraph (1), a cash *waqf* certificate shall be issued therefor. While in paragraph (3) the same article it is stipulated that the cash waqf certificate as referred to in subsection (2) shall be issued and delivered by Sharia financial institutions and to waqif and nadzir as proof of delivery of *waqf* assets. The provisions regarding *waqf* endowment of movable assets in the form of money will be regulated further in a government regulation.

In Indonesia, some institutions have already been established to try to manage cash *waqf*, such as Baitul Mal Muamalat, Tabung *Waqf* Indonesia, and others, although not completely following the rules provided in the Law of *Waqf*. The questions often asked by the public are; what is exactly meant by cash *waqf*? Cash *waqf* is *waqf* in the form rupiah, which can be

managed productively, the results are used for *mauquf 'alaih*. This means that the money endowed should not be given directly to *mauquf 'alaih*, but it must be invested first by *nazhir*, then the income from the investment is given to *mauquf 'alaih*.

According to the authors, *waqf* management model conducted in Bangladesh, as already mentioned, is actually very suitable to be applied in Indonesia, because before Prof. Mannan developed cash *waqf*, the *waqf*-related problems in Bangladesh are almost the same with *waqf* issues in Indonesia. Therefore it is appropriate that in the Law on *Waqf*, cash *waqf* is provided in a separate section. In Article 28 of the Law on *Waqf* it is mentioned that *waqif* may endow *waqf* of movable objects in the form of money through Islamic financial institutions appointed by the Minister. Then Article 29 paragraph (1) states that a movable object in the form of cash *waqf* as referred to in Article 28, carried out by *waqif* with the statement of intention made in writing. In subsection (2) The same article it is regulated that for *waqf* endowment of movable object in the form of money as referred to in paragraph (1), a cash *waqf* certificate shall be issued therefor. While in paragraph (3) it is stipulated that the cash *waqf* certificate as referred to in subsection (2), shall be issued and delivered by the Islamic Financial Institutions to *waqif* and *nazhir* as proof of delivery of *waqf* property. The provision for *waqf* of movable assets in the form of cash *waqf*, is further stipulated in Article 22 of the Government Regulation Number 42 Year 2006 on the Implementation of Law Number 41 Year 2004 on *Waqf*. *Waqif*, who will endow his money as *waqf*, is required to:

- a. present before Sharia Financial Institutions of Cash *Waqf* Receiver (LKS-PWU) to express the will of make cash *waqf* endowment;
- b. explain the ownership and origins of the money to be endowed as *waqf*;
- c. deposit in cash a sum of money to the LKS-PWU;
- d. fill in a form of *waqif*'s statement of will, that serves as AIW.

In case *waqif* is unable to attend as referred to in paragraph (3) letter a, then *waqif* may appoint representative or proxy. This is clearly stated in Article 22 paragraph (4). In subsection (5) Article 22 it is stated that *waqif* may pronounce *waqf* pledge of movable assets in the form of cash *waqf*, to *Nazhir* before the PPAIW, then *Nazhir* submits the AIW to LKS-PWU. Then *waqif* can endow the movable assets in the form of money through LKS (Sharia Finance Institution) appointed by the Minister of Religious Affairs as LKS, cash *waqf* collector (Article 23).

At this time there are seven Islamic Banks appointed by the Minister of Religious Affairs such as LKS of Cash *Waqf* Receiver, namely PT. Bank Negara Indonesia (Persero) Tbk., Sharia Division with the Decree of the Minister of Religious Affairs Number 92 Year 2008; PT. Muamalat Indonesia Tbk. with the Decree of the Minister of Religious Affairs No. 93 Year 2008; PT. Bank DKI Jakarta with the Decree of the Minister of Religious Affairs Number 94 Year 2008; PT. Bank Syariah Mandiri with the Decree of the Minister of Religious Affairs Number 95 Year 2008; and PT. Bank Mega Syariah Indonesia with the Decree of the Minister of Religious Affairs Number 96. These five banks are followed by Bank Bukopin Syaria; BTN Sharia and Sharia BPD of DIY (Yogyakarta Special Region). Hopefully these banks are followed by other Islamic banks.

The duties of LKS-PWU duties Article 25 of the Government Regulation Number 42 Year 2006 are:

- a. to announce its existence as LKS the receiver of cash *waqf*, to the public;
- b. to provide blank of Cash *Waqf* certificates;
- c. to accept the money from of the cash *waqf* on behalf of *nazhir*;
- d. to put money into the deposit account (*wadiah*) on behalf of *nazhir* designated by *waqif*;
- e. to receive a statement of will of *waqif* made in writing on the form of *waqif* will statement;
- f. to issue cash *waqf* certificate and deliver the certificate to *waqif* and submit copies of the certificates to *nazhir* appointed by *waqif*; and
- g. to register the cash *waqf* to the Minister on behalf of *Nazhir*.

The next question is, according to Law Number 41 Year 2004 and Government Regulation No. 42 Year 2006, who are the Officials of Waqf Pledge Deed (PPAIW)? Before there was Law No. 41 Year 2004, which then became PPAIW, the Officials of Waqf Pledge Deed (PPAIW) are the Office Head of District Religious Affairs (KUA). But at this time according to the Government Regulation No. 42 Paragraph 37, they are as follows.

- (1) PPAIW of fixed *waqf* assts such as land, are the Head of KUA and / or officials who conduct the waqf affairs.
- (2) PPAIW of movable *waqf* assets other than money are the Head of KUA and / or other officials designated by the Minister.
- (3) PPAIW of movable *waqf* assets in the form of money is the official of Islamic Financial Institutions, the LKS lowest level is equivalent with LKS Section Chief appointed by Minister.

- (4) The provisions referred to in paragraph (1), paragraph (2) and (3) does not close the opportunity for *waqif* to make the AIW before Notary.
- (5) Requirements for Notary Public to become PPAIW is determined by the Minister.

The presence of LKS in cash *waqf* fund raising is strengthened by Law No. 21 Year 2008 Article 4 paragraph (3), where it is stated that the Islamic Banking and UUS⁹ may collect social funds originated from cash *waqf* and disburse them to the managers of *waqf* (*nazhir*) in accordance with the will of the *waqf* payer (*waqif*). With the incorporation of *waqf* in several laws, it means that *waqf* is an Islamic institution that must be managed in a professional manner based on the applicable legislation.

Based on the discussion above, it is clear that there are significant differences between the rules that existed before and after Law on *Waqf*. For example, Government Regulation No. 28 Year 1977 only regulates *waqf* of privately owned land, while the Law on *Waqf* regulates not only *waqf* of fixed assets but also movable assets including cash *waqf*. In addition to the above article, there are still quite a lot of articles relating to *waqf* and the regulations to develop it. This is intended that *waqf* can be managed optimally. Management of *waqf*, cash *waqf* in particular, is not easy because its development must go through various hard stages of efforts, and this effort are highly risky. Therefore, management and development of *waqf* assets, especially cash *waqf* must be held by a professional *nazhir*.

Cash *waqf* is very important to be developed in Indonesia today where the economic conditions is worsening. The successful of implementation of the cash *waqf* certificate in Bangladesh can be used as example for Muslims in Indonesia to learn. If Muslims are able to implement it on a large scale it will bring positive implications to the activities of cash *waqf*. Cash *waqf* holds a unique opportunity for the creation of investments in the field of religious, educational, and social services. Income earned from the management of *waqf* can be spent on a variety of different purposes, such as for education, health, economic empowerment of the community, for the maintenance of *waqf* assets, and others. If there are institutions capable of managing cash *waqf* professionally, those institutions will become new means for Muslims to

⁹Pursuant to article 1 number 10, Law Number 21 Year 2008 On Sharia Banking, those referred to as UUUS (Unit Usaha Syariah/Sharia Business Unit) is a work unit of the central bank of National Commercial Bank, which functions as the head office of an office or unit which performs the Business unit based on Sharia principle, or a work unit in a branch office of a Bank domiciled abroad which performs the business conventionally, which function as head office of a Sharia branch and/or sharia unit.

do generosity. In this issue Mustafa Edwin Nasution has made an assumption that the number of the middle-class Muslims population in Indonesia are 10 million people with average income per month between Rp.500,000.00 (five hundred thousand rupiahs) – Rp 10,000,000.00 (ten million rupiah). Then the calculation of *waqf* potential is as follows.¹⁰

Table 1. Cash *Waqf* Potential in Indonesia

Income Rat/Month	Number of Muslims	Tarif of Waqf/Month	Cash Waqf Potential/ Month	Cash Waqf Potential/ Year
Rp 500.000	4 million	Rp 5000,-	Rp 20 Billion	Rp 240 Billion
Rp 1 –2 million	3 million	Rp 10,000	Rp 30 Billion	Rp 360 Billion
Rp 2–5 million	2 million	Rp 50,000	Rp 100 Billion	Rp 1,2 Trillion
Rp 5 - 10 million	1 million	Rp 100,000	Rp 100 Billion	Rp 1,2 Trillion
Total				Rp 3 Trillion

1. If the total Muslims earning Rp.500,000,00 are 4 million people and every year each pays waqf Rp.60,000.00,- every year there will be Rp.240,000,000,000,- collected.
2. If the people who earn 1,000,000.00 – Rp.2,000,000.00 are 3 million people and every year they pay waqf Rp.120,000.00 each, then every year the fund collected is as much as Rp.360,000,000,000.00.
3. If the people who earn Rp.2,000,000.00 – Rp.5,000,000.00 are 2 million people, and every year they pay waqf Rp.600,000.00 each then every year the fund collected is as much as Rp.1,200,000,000,000.00.
4. If the people who earn Rp.5,000,000.00 – Rp.10,000,000.00 are 1 million people and every year they pay waqf Rp.1,200,000.00, each, every year the fund collected is as much as Rp.1,200,000,000,000.00.

As a result the *waqf* accrued during one year will reach Rp.3,000,000,000,000.00,-. Based on the calculation above it is clear that the success of *waqf* institution to mobilize funds will largely determine the benefit of the said *waqf* institution. The problem is, the money cannot be directly handed over to *mauquf 'alaih*, but *nazhir* must manage and develop it first. The fund that must be delivered to *mauquf 'alaih* is the result of investment of the Rp.3 trillion, while the waqf fund itself should not be diminished one bit.

¹⁰Mustafa Edwin Nasution and Uswatun Hasanah (Editor), *Wakaf Tunai Inovasi Finansial Islam, Peluang dan Tantangan dalam Mewujudkan Kesejahteraan Umat* (Jakarta: PKTTI-UI, 2005), page 43-44.

Based on the examples mentioned earlier, it seems clear that the task of *waqf nazhir* of cash *waqf* in particular is very important. Therefore in my opinion, *nazhir* in addition to fulfilling the requirements mentioned in Article 10 paragraph (1) of the Law on *Waqf*, which are a. Indonesian citizen; Muslim; c. adult; d. trustworthy; e. able to physically and spiritually, and f. not prevented to make legal actions. However, later in its execution, in order that *nazhir* can work professionally in managing *waqf*, *nazhir*, especially *nazhir* of cash *waqf* must also have a variety of capabilities that may support his duties as productive *waqf nazhir*, namely:¹¹

1. Understanding laws and regulations related to *waqf*. *Nadzir* should understand well the *waqf* laws and regulations related to the problem of *waqf*. Without these understanding, I am sure that *nazhir* will not be able to manage *waqf* properly and correctly;
2. Understanding the knowledge of economics and Islamic financial instruments. *Waqf* is one of the Islamic economic institutions with huge potential to be developed. Therefore it is proper that the *nazhir* of cash *waqf* in particular is required to have an understanding of Islamic banking and Islamic financial instruments;
3. Understanding *waqf* practices in particular cash *waqf* in various countries. Thus the concerned person is considered to have the ability to make innovation in developing cash *waqf*, for example, practices of cash *waqf* in Bangladesh, Turkey, and others;
4. Being able to manage finances in a professional manner and in accordance with the principles of Sharia, such as the *waqf* fund investing. These investments may be in the form of short-term, medium and long term investments;
5. Being able to administer the beneficiary account. This requirement requires high technology and reliable human resources;¹²
6. Being able to access the prospective *waqif*. Ideally cash *waqf* manager is an institution that has an ability to access the prospective *waqif*, so that *nadzir* is able to gather enough *waqf* funds. These will obviously be very helpful to accumulate sizable *waqf* fund, which is expected to be able to improve the welfare of the people;

¹¹Uswatun Hasanah, "Wakaf Produktif Untuk Kesejahteraan Sosial dalam Perspektif Hukum Islam di Indonesia", An Inauguration Speech of Permanent Professorship for Islamic Legal Science in the Faculty of Lw of the University of Indonesia, Depok, April 22nd, 2009, page 47-48.

¹²See also: Muhammad Syafi'i Antonio "Bank Syariah Sebagai Pengelola Dana Waqaf", delivered on International Workshop on Community Economic Empowerment through Productive Waqf Management, held by The Ministry of Religious Affairs (DEPAG-IIIIT, 7-8 January 2002.

7. Being able to distribute waqf fund investment result. Besides being able to make an investment, it is expected that *nazhir* is also able to distribute the *waqf* fund investment result to *mauquf 'alaih*. The distribution is expected not only to be consumptive, but it can empower *mauquf 'alaih*;
8. Being able to manage *waqf* fund in a transparent and accountable manner.

With such conditions, it is expected that *nazhir* can really develop *waqf* money appropriately, so that the results can be used for the economic empowerment of the people. To get *nazhir* with the above qualification is certainly not easy, and it takes time. To improve the quality of *nazhir*, then coaching them should be conducted immediately. In Law 41 Year 2004 on *Waqf*, establishing Indonesian *Waqf* Board is mandated. In Article 47 paragraph (1) the Law on *Waqf* it is mentioned that in order to promote and develop national *waqf*, Indonesian *Waqf* Board was formed. Indonesian *Waqf* Board is domiciled in the capital city of the Republic of Indonesia and may establish representative offices in provinces and / or districts / cities if necessary (Article 48). In Article 51 paragraph (1) it is stated that the Indonesian *Waqf* Board consists of the Managing Board and Advisory Council. Indonesia *Waqf* Board membership is appointed for a term of 3 (three) years and may be reappointed for one (1) more term.

In Article 57 paragraph (1) it is mentioned that for the first time of the membership appointment of Indonesian *Waqf* Board, were proposed by the Minister (Minister of Religion) to the President. Thank God, after going through a long process, ultimately the Minister of Religious Affairs of the Republic of Indonesia succeeded in selecting candidates for the National *Waqf* to be proposed to the President of Indonesia. On July 13th, 2007, the Decree of the President of the Republic of Indonesia on the appointment of members of the Indonesian *Waqf* Board was signed by President Susilo Bambang Yudhoyono.

In various countries *waqf* have well developed, they generally have *Waqf* Board or its equivalent, for example Egypt, Saudi Arabia, Sudan, and others. In Egypt for example, the *Waqf* Board has been established since 1971 based on Law Number 80 Year 1971.¹³ The *Waqf* Board in Egypt is under the Ministry of *Waqf* or *Wizaratul Auqaf*. The main task of the Egyptian *Waqf* Board is dealing with various issues and developing a productive *waqf* in accordance with the legislation in force. In addition,

¹³Jumhuriyyah Misr al-'Arabiyyah, *Qawanin al-Waqf wa al-Hikr wa al-Qararat al-Tanfidiyyah* (Kairo: Al-Haiah al-'Ammah li syuun al-Mathabi al-Amiriyyah, 1993), page 143-144.

Egyptian *Waqf* Board is also obliged to investigate a troubled *waqf*, distribute the *waqf* results and carry out any activity having been set. As a country that is quite experienced in dealing with *waqf*, the people they put in the *Waqf* Board are the professionals in their respective fields. To facilitate its activities, the Egyptian *Waqf* Board also invites professionals beyond those already become administrators. The Egyptian *Waqf* Board has the authority to manage and distribute the results of management to those who qualify with the best they can, so that the *waqf* can serve to realize the people welfare.¹⁴

In addition to Egypt, Saudi Arabia also has a sort of *Waqf* Board named the High Council of *Waqf*. *Waqf* Upper House is under the Ministry of Hajj and *Waqf*. This *Waqf* House of Lords is regulated by the Decree No. 574 dated 16 Rajab 1386 in accordance with Royal Decree No. M/35, dated 18 Rajab 1386.¹⁵ The authority of the High Council of *Waqf*, among others, to develop a productive *waqf* and distribute the results of development of *waqf* to those who qualify. In this connection, the *Waqf* High Council also has the authority to make program development of *waqf*, the survey of *waqf* assets and think about their management, determining the measures of capital investment, and the measures of other productive development of *waqf*, and to publish the results of the *waqf* development to the public.¹⁶

In developing *waqf*, Sudan also conducted management experiment by establishing Islamic *Waqf* Board that work independently from the Ministry. The authority granted to the Islamic *Waqf* Board, among others are, make order the lands and promote the tradition of *waqf* for the generous *waqf*. *Waqf* resurrection in Sudan was clearly seen again since 1991 for the Ministry gave some privileges to the *Waqf* Board, including the provision to reserve funds for the institutions that manages the productive *waqf* land either for agriculture, settlement and trade center. In performing its duties, the *Waqf* Board basically has two tasks: first, promoting the new *waqf* and secondly, enhancing the development of

¹⁴*Ibid.*, page 146

¹⁵As'ad Hamzah Syairah, in Hasan Abdullah Amin, *Idarah wa Tatsmir Mumtalahat al-Auqaf* (Jeddah: al-Ma'had al-Islamy li Buhuts wa al-Tadrib al-Bank al-Islamy li Tanmiyyah, 1989), page 324. In countries whose *waqf* is managed by the Government, generally those countries have The Department of *Waqf* such as Irak with *Wizarat al-Auqaf wa Syu'un ad-diniyah*, Kuwait and United Arab Emirat also have Ministry of *Waqf*. The Ministries of *Waqf* in Muslim countries or in the country with Muslim majority, holds *waqf* in accordance with business directing straightening, maintenance, development and expending *waqf* in compliance with conditions determined later by *waqif* and in accordance with Law of *Waqf* in the concerned country. In every country or kingdom which has Ministry of *Waqf* in general they have Special Board holding ball in the field.

¹⁶*Ibid.*

productive assets. Among the two tasks, the second tasks namely the development of productive property is very interesting for further investigation. In connection with its duties to develop *waqf* property, the Sudan *Waqf* Board invested *waqf* assets in the community in good management. Thus, the results can be exploited by *mauquf 'alaih* to improve their economy. If the origin of *waqf* is unknown then the *Waqf* Board is to manage it productively and distribute it to those who qualify. To develop the *waqf*, the *Waqf* Board may establish several companies, one of them is a contracting company. The objectives of the company is to rehabilitate the building, plan and complete them. In addition, the *Waqf* Board builds the bank to set up a *waqf* development projects and helps establish the business and industrial development company.¹⁷ The question is "what is about the Indonesia *Waqf* Board"?

In Article 47 paragraph (2) of Law No. 41 Year 2004 on *Waqf*, it is mentioned that Indonesian *Waqf* Board is an independent institution. The duties and authority of the Indonesian *Waqf* Board as mentioned in Article 49 paragraph (1) are as follows:

- a. to provide guidance for *nazhir* in managing and developing the *waqf* property;
- b. to perform *waqf* property management and development nationally and internationally;
- c. to provide consent and / or permission for the change of the designation and status of *waqf* property;
- d. to dismiss and replace *nazhir*;
- e. to gave approval for the exchange of *waqf* property;
- f. to provide advice and opinion to the Government in formulating policies on *waqf*.

As in paragraph (2) the same article it is mentioned that in performing the tasks referred to in paragraph (1) Indonesian *Waqf* Board can cooperate with government agencies, both central and local, community organizations, experts, international agencies, and other parties deemed necessary. In Article 50 it is stated that in performing the tasks referred to in Article 49, the Indonesian *Waqf* Board takes into account the advice and consideration of the Minister and the Indonesian Ulama Council.

¹⁷Monzer Kahaf, *op.cit.*, page 312.

4. CONCLUSION

From the discussions above it is obvious that *waqf* can be well developed, if the property endowed as *waqf* are not limited to fixed assets, but also movable assets such as money, stocks and others. In addition, *waqf* management, especially cash *waqf*, shall be hold by professional *nazhir* (*waqf* managers), so that *waqf* can be developed productively and the results can be utilized for the economic empowerment of the community. In order that *nazhir* can manage *waqf* productively, particularly cash *waqf*, *nazhir* coaching should be carried out. As for the task of coaching *nazhir* in Indonesia is Indonesian *Waqf* Board. With the presence of Indonesian *Waqf* Board which is in charge to promote and develop *waqf* in Indonesia, it is expected that *waqf* can empower the community. Now the problem resorts to Muslim themselves, whether the Muslims are committed to developing *waqf* or lets the *waqf* institutions remains as it was in the past. The author believes, the Indonesian people, especially Muslims have a commitment to develop *waqf* including cash *waqf*, so the results of the *waqf* development can be used for venture capital or for those who qualify (*mauquf' alaih*).

REFERENCES

- Abdurrahman, 1979. *Masalah Perwakafan Tanah Milik dan Kedudukan Tanah Wakaf di Negara Kita*. Bandung: Alumni.
- Amin, H.A., 1989. *Idarah wa Tatsmir Mumtalakat al-Auqaf*. Jeddah: al-Ma'had al-Islamy li al-Buhus wa al-Tadrib al-Bank al-Islamy li Tanmiyyah.
- Antonio, M.S., 2002. Bank Syariah Sebagai Pengelola Dana Waqaf. Paper presented in an International Workshop of Community Economic Development through Productive Waqf Management, held by the Ministry of Religious Affairs-IIIIT, 7-8 January 2002.
- Basar, H., 1987. *Management and Development of Awqaf Properties (Eds)*. Jeddah: Islamic Research and Training Institute Islamic Development Bank.
- Djatnika, R., 1962. *Tanah Wakaf*. Surabaya: Al-Ikhlash.
- Al-Hajeri, K. and Thomas, A., 1999. Applying Waqf Formula on Global Basis, in Harvard Islamic Finance Information Program-Center for Middle Eastern Studies. *Proceedings of The Third Harvard University Forum on Islamic Finance*, Cambridge: Harvard University.

- Hasanah, U., 2009. *Wakaf Produktif Untuk Kesejahteraan Sosial dalam Perspektif Hukum Islam di Indonesia*. Speech of Innaguration of Professorship of Islamic Legal Science on the Faculty of Law of the University of Indonesia.
- Islamic Research and Training Institute, 1987. *Management and Development of Auqaf Properties*, Jeddah: Islamic Development Bank.
- Jumhuriyyah Misr al-'Arabiyyah, 1993. *Qawanin al-Auqaf wa al-Hikr wa Qararat al-Tanfiziyyah*. Cayro: Al-Haiah al-'Ammah li Syuun al-Matabi al-Amiriyyah.
- Langgulong, H., 1991. *Asas-asas Pendidikan Islam*. Kuala Lumpur: Percetakan Saufi.
- Kahaf, M., 2005. *Manajemen Wakaf Produktif*, Translation by Muhyiddin Mas Rida. Jakarta: Khalifa, Pustaka al-Kautsar Grup.
- Khallaf, A.W., 1951. *Ahkam al-Waqf*. Mesir: Mathba'ah al-Misr.
- Kubaisyi, M.U.A., 1977. *Ahkam al-Waqf fi Syari'at al-Islamiyyah*. Volume II, Baghdad: Mathba'ah al-Irsyad.
- Mannan, M. A., 1999. Cash-Waqf Certificate Global Apportunities for Developing The Social Capital Market in 21-Century Voluntary Sector Banking, in Harvard Islamic Finance Information Program-Center for Middle Eastern Studies, *Proceedings of The Third Harvard University Forum on Islamic Finance*. Cambridge: Harvard University.
- Najib, T. A. and Al-Makssary, R., 2006. *Wakaf, Tuhan, dan Agenda Kemanusiaan Studi tentang Wakaf dalam Perspektif Keadilan Sosial di Indonesia (Eds)*. Jakarta: CSRC UIN Syarif Hidayatullah.
- Nasution, M.E., and Hasanah, U., 2005. *Wakaf Tunai Inovasi Finansial Islam, Peluang dan Tantangan dalam Mewujudkan Kesejahteraan Umat (Eds)*. Jakarta: PKTTI-UI.
- Shan'any, M.I.I., 2004. *Subul al-Salam*, Hazim al-Qadi,(Eds). Mecca: Maktabah Nizar Mustafa al-Bar, vol.3, 965.
- Syaukani, M. *Nail al-Authar*. Egypt: Musthafaal-Babi al-Halaby, Vol.IV.
- Zuhaily, W. *Fiqh al-Islamy wa Adillatuhu*. Egypt: Dar al-Fikri, Vol. VIII.

Contributors of the Issue

- N. Haidy A. Pasay** : Faculty of Economics, University of Indonesia
and The Demographic Institute.
hпасay@pasay.name
- Dwini Handayani** : Faculty of Economics, University of Indonesia
and The Demographic Institute
dwiniariantо@yahoo.com
- Budi Setiawan** : Graduate Program on Population and Labor,
University of Indonesia and Central Board of
Statistics
- Feri Hadi Priantio** : Ministry of Finance, Republic of Indonesia
ferihadipriantio@yahoo.com
- Shieldvie Halim** : Faculty of Economics, University of Padjadjaran
- Rayenda Brahmana** : Finance Cluster, School of Management,
Universiti Sains Malaysia
raye_brahm@yahoo.com
- Aldrin Herwany** : Faculty of Economics, University of Padjadjaran
- Kiki Verico** : GSAPS - Waseda University, Tokyo, Japan
kverico@yahoo.com
- Uswatun Hasanah** : Faculty of Law, University of Indonesia
uswahhdm@yahoo.co.id
