

Towards Reformulation of Waqf: An Indonesians Discourse

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KEYWORD

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ABSTRACT

In terms of history, waqf has played a very important role in improving the economic life of Muslims in all parts of the world. The main function of waqf which is closely related to worship practices must be followed by various and creative efforts in operating the economic functions it contains. The modern paradigm of management of waqf assets productively demands a more advanced management mechanism with all forms and spaces to innovate which ultimate goal is to carry out and run the economic functions. Some Muslim countries have succeeded in doing this. However, Indonesia, which has the most Muslim population in the world, does not benefit significantly from waqf. This article aims to offer a reformulation landscape on the concept of waqf that can be applied in Indonesia.

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INTRODUCTION

The economic crisis experienced by the Indonesian people has factually increased the number of poor people. Their numbers from time to time are increasing along with the national economic downturn that still occurs today. One of the efforts to improve the economic welfare of the community is to increase and maximize the institutional potential that has been regulated in Islam such as zakat, infaq, shadaqah, and waqf (Al-Jamal, 2007).

The economic institutions offered by Islam are strategic efforts in order to overcome the various problems of people's lives (Depag RI, 2007). Waqf, as one of the potentials that have an economic religious side, should be managed and developed in such a way as to become an instrument capable of providing real answers in the midst of the problems of people's lives, especially in the economic field.

Waqf allocation in Indonesia does not lead to the economic empowerment of the people and tends to be only for worship activities such as mosques, etc. This is due to the limitations of Muslims in Indonesia in understanding waqf both in terms of waqf objects, the allocation of waqf objects, and also nadzir (Wandi, 2015).

The widespread perspective in the Indonesia people towards waqf today is still in conventional management of waqf which is not profit oriented. This is certainly far behind compared to the management of waqf in other Islamic countries which has become increasingly modern and even profit oriented where revenue generated from productive management is shared with all communities in an effort to improve their economic life (Purwanto et al, 2016).

Waqf objects in Indonesia, in general, are still consumptive in nature. This phenomenon can be seen in the highest number of waqf objects in the form of lands of mosques, schools, orphanages, or even land that has not been cultivated at all. Since the object is in the form of consumptive goods, problems arise regarding the costs needed to maintain the waqf objects. Realizing the importance of the problem of waqf land in Indonesia, the government established a law on the basic rules of agrarian matters i.e., the law number 5 of 1960, containing articles which form the basis for the establishment of the Government Regulation No. 28 of 1977, a government regulation which has been used, until now, as the foundation of land waqf for the benefit of Muslim communities of Indonesia (Arifin, 2014)

There were some efforts of improvements through law No. 41 of 2004 concerning waqf which provided a wider scope for the development of waqf practices in Indonesia which was then followed by the issuance of Government Regulation No. 42 of 2006 concerning the establishment of the Indonesian Waqf Agency (BWI). The regulations relating to the aforementioned waqf constitute a real effort by the government in overcoming social economic problems that occur in Indonesian society. Waqf is believed to be one of the potential sources of funds as the solution to these problems. In this case, the development of waqf land productively becomes an alternative source of funding in the economic empowerment of the ummah in general. However, unfortunately, there are still many waqf lands in Indonesia that are not managed productively as mandated by the law and government regulations (Siswanto et al, 2014). Therefore, it is necessary to "reformulate waqf", so that it has the expected meaning and reach that is more relevant to the real conditions of Indonesian people.

To achieve the aims and objectives of this reformulation, a strategy for developing productive waqf is needed. During this time, waqf has not played a significant role in realizing the benefit, welfare of the people and social justice. Along with the absence of a clear formulation of how waqf can be developed to be an effective instrument for socio-economic change in a more secure direction. Abdullah Ahmad an-Na'im, as quoted by Mahmood (2013) has proposed a transformation and review of the waqf tradition, in order to improve the socio-economic life of the community, encourage the fulfillment of human rights, fair political administration, and guarantee the autonomy of society.

Productive management of waqf is inevitable. One of the things that should be considered as the entrance to this reformulation is significant and substantial support from the government as has been expressed through the regulations disclosed above. According to Tuti and Ridwan (2006), there are three basic things in the implementation of the development of productive waqf in Indonesia, (1) fulfillment of basic needs of society such as food, shelter, education, health etc. (2) Efforts to increase equal opportunities for all people, especially those who are the most disadvantaged in society. (3) Establishment of structural changes including changes in the system and social institutions that guarantee the welfare of the people.

Results and Discussions

Empowerment of Waqf

According to Mahmood (2013), there are two patterns of the productive waqf assets empowerment that can be carried out by nadzir: first, development of waqf for social activities, such as waqf for social justice, people's welfare, education development, health facilities, public policy, legal assistance, human rights, children protection, environmental preservation, women's empowerment, the development of arts and culture, and other programs. Second, economic development, such as trade development, industry, property, and other uses of economic value.

The implementation and empowerment of waqf will have an influence on a positive and dynamic social life, full of social responsibility, avoiding the influence of capitalism which leads to an individualistic and selfish attitude. Therefore, the basic principle of waqf which aims to create social justice is the implementation of an economic system that encourages and recognizes the rights of ownership of individuals and communities proportionally.

In the form of a multi-dimensional development model, waqf is one of the most significant activities. It is a reflection of piety, goodness and social justice, and more than that, waqf is also capable of encouraging innovation, entrepreneurial dynamics, and social development. Development based on the *waqf* model has social justice and equality as the central policy (Rozalinda, 2015; Mahmood, 2013).

Shaikh et al (2017) and Elasrag (2017) have underlined the important role of the waqf sector in delivering public services and can also contribute to socio-economic development both in the nonprofit, non-governmental and nonprofit sectors of the economy. The philanthropy-oriented waqf has succeeded in filling the gap in the socio-economic field with the influence of obedience to religion that ultimately attracts the piety of wealthy individuals.

Salarzahi (2010) proposes a slightly more practical concept. According to him, waqf will be able to be a significant influence on social welfare if it is managed with a good skill of entrepreneurship. According to him, waqf will be able to produce something useful for people if it is managed professionally and with good business skills. In relation to waqf, it is called social entrepreneurship.

Social entrepreneurship, to Sivathanu (2013), is an innovation for social problems. Social entrepreneurs typically use innovative measures to create social security mechanisms and mobilize resources to address social issues. Social entrepreneurship seeks to identify social and community needs so that they experience ups and downs. One example of successful social entrepreneurship is Sekem, a non-profit organization founded in Egypt. Therefore, it is very clear that in Islamic culture, waqf is as one of the successful entrepreneurship patterns or permanent Islamic almshouses that require using simultaneously business skills and entrepreneurial innovation and using the profits for eliminating poverty and social welfare strata (Al-Jamal, 2007).

It is also important to mention that the waqf sector, which has played a role in the delivery of public goods, did not harm or even cost anything to governments (Cizakca, 2011; Zarqa, 2000). To support this, Obaidullah (2016) has given his opinion that, in fact, given the active role of the waqf sector in providing public services, is a significant way of reducing government spending and borrowing. It could also lead to a reduction in the tax burden on society that would then increase the potential savings to be spent on private investment and overall economic growth. In line with this, Khan (2013) and Babacan (2011) stated that in Islamic countries, the waqf system is the most dominant economic actor outside the government and is regarded as the main vehicle for financing Islam as a society.

Khalid (2014) when comparing the family waqf to other foundations outside Islam, for instance, those are in the USA, those foundations are restricted to merely religious or philanthropic purposes, but waqf in Islam may also be for one's own family and descendants. This, however, the matter that reduces the future social welfare burden of philanthropies or governments. Thus, waqf plays an important role in the social life of societies (Salarzahi, 2010; Al-Jamal, 2007). In fact, anyone may administer a waqf asset whether he is an individual or a governmental or non-governmental entity, as long as the manager can hold a mandate to manage it and provide benefits to the recipient. For Umar bin Khattab once performed a waqf and appointed himself as a manager (Syakir, 2016). Likewise, with Usman bin Affan, he also donated a well-supplying drinking water to residents of Madinah run by the community without any government intervention at the time.

However, the management of waqf assets by the government is also not prohibited. This is exemplified and carried out during the Ottoman period that stretched from the turn of the 17th century until the beginnings of World War I in 1914, the waqf system changed from management dominated by political and religious elites into a state-controlled system. (Syakir, 2016). Waqf is an important institution in the Islamic socio-economic system. It has played a key role throughout Islamic history. According to Suhaimi (2014), history has shown that waqf institutions have succeeded in providing social welfare services as offered by many countries today.

The establishment of waqf institutions throughout the Muslim world is indeed the result of a benevolent and obedience which is a manifestation of an act of devotion to God. Syakir (2016) has reported that during the Ottoman period, financing of health and welfare services was entirely entrusted to the waqf system. This is a historical fact that cannot be underestimated. Khan (2013) and Babacan (2011) stated that in the Ottoman state the number of land waqf at the beginning of the 18th century, almost a third of the productive land. Waqf had many different immovable assets, such as production facilities, shelter, shops, and other public/social facilities. Waqf provided many consumers goods, such as operating a commuter boat, delivering water to the local area, supporting retired seafarers, defending the city, paying environmental tax, etc.

One of the productive forms of waqf in today's *ijtihadulama* is the form of cash waqf. In many Islamic countries, Cash Waqf has long been a study and has even been practiced and regulated. Nasution and Uswatun (2012) stated that cash waqf has opened up unique opportunities to create investments or to provide religious, educational, and social services. Conceptually, as described by Syakir (2016) in supporting the aforesaid statement, the cash waqf has a unique opportunity to create investments in religious, educational, and social services.

Meanwhile, Zahrah (2011) reported that another form of cash waqf investment is by the so-called *istibdal*, i.e., transferring money to immovable objects that allow the benefits of such objects to be eternal. *Istibdal* can be done in the form of purchasing objects that are used for a long time or invested in business activities so that the value of waqf property is maintained. It could be done for the purpose of building mosques, hospitals, bridges, drinking water, public transportation, etc.

Salarzahi (2010) also stated that the existing institutions in Muslim countries have made many programs for realizing social justice resulting from the investment of waqf funds collected from the community, such as the establishment of hospitals, schools, and village farms that have the potential to develop a cash waqf for building the welfare of society widely and sustainably. The programs that have been instituted by waqf institutions in Muslim countries by managing the cash waqf funds in this form are in an effort to make the waqf property more developed its economic and social benefits (Al-Ruqoib, 2015; Mahmood, 2013; Al-Jamal, 2007).

The keyword for waqf contribution toward social and economic development raised by Kahf (2013) is innovation. This notion can be proved by the real innovation in the idea of waqf that came in the early Islamic period in Madinah conducted by the Prophet as he asked someone to buy the well of Bayruha and provide the water as a free public utility. This act can be considered as an act of providing service for the welfare of the community. Then the Prophet again asked Umar to assign his land in Khaibar for the poor and needy and then during the reign of Umar, he added the family waqf. These three innovations are very pivotal in the history of waqf that had proved that waqf can serve the welfare of ummah and can stand as a tool for developing the life of society (Al-Ruqoib, 2015).

According to Ahmed et al (2015), conceptually, the project of productive waqf can be divided into two categories, namely the provision of services such as providing free education for the needy and income-generating projects such as shopping center waqf model with the rental system, then the rent is used for school maintenance. Both projects of this type of project require certain criteria to achieve its objectives. For the category of service provider project, the project objectives will be achieved if the services provided can be effectively utilized by the needy, so it should result in social benefits. As for the category of income increase, the project objectives will be achieved if the revenue generated exceeds the target set at the expense cost incurred, so it should result in a commercial benefit (Mahmood, 2013). Experience of waqf in Islamic countries has been shown that benefices can achieve the objectives connected with the development of the social role. For example, urban services, education, health, and treatment are indexes of development. Developing of waqf culture in the fields of education, health and social welfare have considerable influence on promoting social development (Sami, 2012; Al-Ruqoib, 2015).

In Malaysia, as Arif (2012) stated, evidences have shown that the waqf, in addition, to using its expenses in health and education fields there are many instances of use to participate in establishment of cooperative housing, industrial companies, libraries, laboratories, and research centers and having a direct effect on the promotion of economic growth and gross domestic product of this country. Khan (2013) and Babacan (2011) stated that in Islamic countries, the waqf system is the most dominant economic actor outside the government and is regarded as the main vehicle for financing Islam as a society.

Meanwhile, the keyword for waqf contribution toward social and economic development raised by Kahf (2013) is innovation. He said that the definition of waqf which states that waqf is to hold certain property and preserve it for the confined benefit of certain philanthropy and to prohibit any use or disposition of it outside its specific objective, has formed an understanding that it applies to non-perishable properties whose benefits can be extracted without consuming the property itself. Therefore, many waqfs related to land and buildings. However, there are also other innovations of this type of waqf livestock, shares and stocks and cash money (Zarqa, 2000).

However, one of the productive forms of waqf in today's *ijtihadulama* is the form of cash waqf. In many Islamic countries, Cash Waqf has long been a study and has even been practiced and regulated. The problem in various places both in Indonesia and in other countries is the management, waqf has been usually managed by the less good management so that it can cause the value or objects of waqf to be reduced or lost. In fact, if the cash waqf is organized, managed, and developed properly, it will bring a huge impact on society. The savings of the rich can be utilized by redeeming them with Cash-Waqf Certificate. The results of the development of waqf obtained from the certificate can be used for various purposes. This can simultaneously change the old habits in which waqf opportunities seem to be for the rich only. (Nasution and Uswatun, 2012).

Conceptually, as described by Syakir (2016) in supporting the aforesaid statement, the cash waqf has a unique opportunity to create investments in religious, educational, and social services. Savings from the middle to upper-income households can be utilized through exchange with Cash-Waqf Certificate, while income derived from the management of cash waqf can be spent on various purposes, including for the maintenance and management of waqf land. In order for waqf to be a good instrument for social welfare, Khalid (2014) and Zarqa (2000) proposed a very interesting proposal. According to him, an investment company will float a waqf certificate in any denomination value in accordance with the specific jurisdiction.

The certificate will consist of two types aimed at different types of social investors:

- a. General waqf Certificate: This is intended for people who are more likely to use waqf as a pure charity instrument that allows it to be submitted to waqf institutions to provide returns on investments to anyone deemed worthy or invested in any social project selected in accordance with the rules set by this agency.
- b. Nominee waqf Certificates: This certificate will give the investor the option to have a particular candidate who receives a return on invested capital. As discussed earlier, Waqif cannot nominate himself. It should be explained to certain waqf certificate holders that a certain percentage of their investment return will be used for socially beneficial projects before being cashed to their specific candidate.

He also explained that the investment strategy must be structured in a way that not only maintains capital but also leads to capital appreciation and an increase in income. The advantage to conventional investment funds is because waqf certificates cannot be exchanged or redeemed, almost all capital can be invested. Since the waqf structure has a long-term horizon, investments can be made with illiquid assets such as real estate that can lead to an increase in the value of capital. This property can also generate income through rental. For stable cash flow, investments can be used as fixed Syariah or Syariah fixed income instruments such as Sukuk. Investments can also be made in Syaria'ah compliant equity but after considerable due diligence. The percentage of revenue generated can be used to invest in socially responsible business, a Syaria'ah business using Mudarabah contracts. It can act as both income generating and helping entrepreneurs seek capital. The reason why revenue generated rather than waqf capital is used for Mudarabah contracts is to minimize risk as much as possible. Moreover, the percentage of income generated can also be used to provide free-interest loans to needy people using the QardHasana contract (Khalid, 2014).

In addition to the aforesaid contributions of waqf, it can be more effective in eliminating poverty programs. In the past benefices had been used to construction and equipping the shrine, maintenance and established training centers and the fields of health and treatment, preparing food for poor, but now waqf in addition cases can be use of drinking water supply for urban or rural areas, city protection, pay taxes of neighbors, supply of food for children and etc. In recent years cash waqf in many Islamic societies is more common and some of the Muslim capitalists, give specific funds in cash as a loan to applicants in return the loans will be used for social services for vulnerable strata (Sakhori, 2011).

This is in line with a study conducted by Faizah et al (2013) which said that in terms of alleviating unemployment in society, productive waqf is one of the most potential solutions. But, according to them, the main requirement that waqf can play a significant role in terms of alleviating unemployment is a serious assessment of qualified professional teams and involving people from different disciplines both economic, legal, fiqh, and other soil scientists work together in preparing, reviewing and developing productive waqf plans. So that all forms of productive programs and plans that will eventually absorb a lot of manpower automatically become a solution to the problem of unemployment. Waqf in all its forms can be done in such a way because waqftechnically is an act of transferring wealth from something that is considered consumptive later to become productive and produce something that can be consumed in the future. Producing something, in any form and for any purpose, will absorb much of the workforce. This is waqf in its real economic dimension. Khan (2015) has provided a factual example as it did in the city of Dhaka (Bangladesh) that The BaitulMukarram shopping complex is funding a large auditorium for various activities, a publication house, a mosque, and providing employment to a large number of people. Some of the waqf-funded sites are for general welfare while others are only for the poor, helping the poor by paying for their expenses.

One example of waqf contribution towards special needs is Sekem, a non-profit organization founded in Egypt. The ancient name of Egypt means solar energy based on indigenous traditions and Islamic teachings in 1977 and later this institution has turned into a multipurpose enterprise and its revenues will be used for vulnerable children's education, health, and care. Also in this institution, many efforts have been made to gain trust and entrepreneurial support to advance poverty eradication plans. The institute has given national awards and international humanitarian actions to eradicate poverty (Zarqa, 2000; Krlev, 2012). Waqf is as an Islamic charity foundation for the realization of goals through the property and finance that allocated to legal foundation. In Islamic countries, there are many projects that are operated through benefices and assets of the waqf. The results of waqf can be expressed to humanitarian projects of special cases, such as building houses for deprived, free place for impecunious travelers, organize the funeral of the dead who were poor, helping the handicapped, financing the marriage young people in need, and maintenance orphanage (Krafess, 2015).

To sum, as proposed by Khan and Jareen (2015), many waqf assets and sources have been utilized in development activities, as follow:

1. Training courses such as primary schools and secondary schools and also established colleges and higher education centers (for example in Bangladesh more than 8000 of the educational institution on the basis of waqf have been established).
2. Building Houses and taking care of orphan centers which kept the children and people without shelter and give those living facilities and free education.
3. Almost the majority of the mosques in Bangladesh are as Cultural and public Centers offer social services to Muslims and about 120 thousand mosques have been established through waqf and educational activities in the mosques would be presented for free. In addition in rural Bangladesh, mosques and Islamic teachings educational schools would be managed on the basis of benefices.
4. Clinics and health centers are examples of charity activities based on sources of benefices. The Hamdard foundation based on herbal medicine in Karachi that is successful model using the capacity of aid and people's benefices. Also, this clinic financially supported by the University of Karachi and relief aid workers in Pakistan, India, and Bangladesh and give medical services at the disposal of the vulnerable.
5. Dedicated stores and commercial centers which are a source of income opportunities and providing financial sources for public work and charity project.
6. Other sources such as finance and residential property, agricultural, stock companies and factories.

Conclusions

Waqf can not only be understood in the spiritual dimension, but it also contains a social-religious dimension and has the potential to improve the economy and welfare of Muslims. One of the efforts to empower waqf is to optimize the role of waqf to be more productive. Waqf saves a great potential to be developed productively, which support socio-religious services and various initiatives aimed at social justice and the common good.

To achieve these aims and objectives, management and paradigms related to the concept of waqf must be redesigned and reformulated to an understanding and awareness of modern waqf concepts. Fanaticism towards the teachings of the school of fiqh must be reformed in order to become more open to the development and needs of the current times. Productive management of waqf assets can only be achieved with extensive and flexible knowledge supported by creativity and innovation that does not contradict Islamic teachings.

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