

Development Of A Model Of Utilizing Cash Wakaf To Realize A Legal Tourism Area In Medan City

Faisal¹, Zainuddin², Nursariani Simatupang³, Ismail Koto⁴, Ismail Sitorus⁵

¹²³⁴⁵Fakultas Hukum Universitas Muhammadiyah Sumatera Utara
Jl. Kapten Mukhtar Basri No. 3 Medan, Sumatera Utara

Email: faisal@umsu.ac.id (Corresponding Author)

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Abstract

Today's cash waqf has become one of the financing alternatives in fiscal instruments in the economy. The understanding of the benefits of waqf, which so far has only been used for direct worship facilities, such as mosques and cemeteries, has shifted to a broader direction, especially to improve welfare and the economy. Cash waqf has two functions as a means of worship and improvement of social welfare. Returns from the management of cash waqf can be used as instruments in poverty alleviation programs through the development of MSMEs and the establishment of tourist areas. The impact of developing tourist areas will be felt directly by the community if in these tourist areas MSMEs grow and develop. The utilization of productive waqf with the management of Hajj funds is in accordance with the intent of Law Number 34 of 2014 concerning Hajj Financial Management and Law Number 41 of 2004 concerning Waqf, both of which aim to provide benefit to Muslims. In its implementation, the utilization of waqf funds can be made into a hotel project or infrastructure supporting halal tourism such as airports, MSME kiosks, and so on. Then the profits obtained will be channeled for the benefit of the people. On the other hand, the development of halal tourism facilities and infrastructure also creates jobs. In addition, Indonesia is already known as a Muslim-friendly tourist destination. This development of halal tourism can optimize Indonesian tourist destinations as Muslim-friendly tourist destinations. Cash waqf as a means of financing, can not only be used for one particular sector, and only certain models. Cash waqf can be used as an alternative solution in financing all sectors that support the economy, both for consumptive and productive purposes. The benefits of cash waqf for the productive sector can be realized by increasing community capital in developing their business, both for basic business capital and for supporting capital for their business. Supporting capital means what about the attractive design and appearance of the area around where they are trying to become a community destination for visiting.

Keywords: Cash Waqf, Legal Tourism.

INTRODUCTION

Today's cash waqf has become one of the financing alternatives in fiscal instruments in the economy. The understanding of the benefits of waqf, which so far has only been used for direct worship facilities, such as mosques and cemeteries, has shifted to a broader direction, especially to improve welfare and the economy. Cash waqf has two functions as a means of worship and improvement of social welfare. Returns from the management of cash waqf can be used as instruments in poverty alleviation programs through the development of MSMEs and the establishment of tourist areas. The impact of developing tourist areas will be felt directly by the community if in these tourist areas MSMEs grow and develop.

The results of observation and identification of people in the Deli riverbank area, which is in the area of Jalan Brigjend Katamso, Environment XII, Sei Mati Village, Medan Maimun District, Medan City, North Sumatra Province, who trade snacks in front of their respective homes as MSMEs, there are many obstacles in the field of capital, this is due to weak partnerships with financial institutions, as well as limitations in developing their business so that the community knows not only the surrounding environment, but more distantly the people in the Medan city area. Therefore, MSMEs need to get business capital and financial institutions, which do not burden them with very complicated guarantees and conditions. The use of cash waqf as a financial means to help develop community home-based businesses is considered to have very high potential. The problem to be examined in this study is how to develop a cash waqf distribution model to increase community business capital.

The specific objective of this study is to examine the development model for the Deli riverbank area as a legal tourism area, by examining three factors, namely the juridical philosophical aspect, the economic aspect, and the sociological aspect. The findings of the development of the cash waqf utilization model were used to compile the publication of the *sinta tiga* accredited national journal "Delegalata: Journal of Law Sciences" Faculty of Law, Muhamamdiyah University, North Sumatra.

RESEARCH METHOD

This writing uses normative juridical research, namely research on positive legal principles and legal principles which is carried out by evaluating legal norms (laws and regulations) and conducting literature studies relevant to the research topic. (Fajar & Ahmad, 2010). Normative juridical research is legal research that places law as a system of norms. The system of norms is about principles, norms, rules of law, agreements and doctrines. This normative research is research on legal systematics, namely research whose main objective is to identify the notions or basis in law (Sunggono, 2015). This research was conducted by conducting a literature review and providing an overview of phenomena based on facts that occurred based on literature, journals, reading materials, and regulations related to the object of research.

DISCUSS AND ANALYSIS

Waqf Arrangement as a Funding Facility in Forming Legal Tourism Areas

Before discussing the meaning and approach of cash waqf, it is necessary to explain in advance what is meant by waqf in general. The meaning of the word waqf in Indonesian comes from Arabic which comes from the verb or fi'il wa-qa-fa. Waqafa and ha-ba-sa in the form of verbs which mean to stop and hold or stop in place. Waqf according to syara' terms is

holding assets that may be benefited without spending or damaging objects (ainnya) and used for good. The definition of waqf according to etymology or lughat which means holding property and utilizing the results in the way of Allah or there are also those who intend to stop the benefits and be replaced for good deeds in accordance with the purpose of waqf. Stop all activities that initially allow assets, such as selling, inheriting, granting, transacting them, so after they are made into waqf assets, they may not be only for religious purposes, not for the needs of the waqif or other individuals.

So the definition of waqf according to the author himself is someone's property that has been willing to be handed over to the person in charge of the waqf, and used for the public interest where the benefits of the waqf are felt by the public (Handayani, 2011). Since the beginning, discussions about waqf have often been directed at waqf of immovable objects such as land, buildings, trees for fruit and wells for water, while movable waqf came to the fore later. Among the object waqf known as cash waqf. Cash waqf is translated as cash waqf, but if the owner of the waqf object is money, it would be more appropriate if cash waqf is translated as cash waqf. Cash waqf is waqf made by a person, group of people, and institution or legal entity in the form of cash. The law of cash waqf has become the concern of the fuqaha (Islamic jurists). Several sources state that cash waqf has been practiced by people who adhere to the Hanafi school of thought.

There are differences regarding the law of cash waqf. Imam Al-Bukhari (died 2526 H) revealed that Iman Az-Zuhri (died 124 H) was of the opinion that dinars and dirhams (both currencies in force in the Middle East) could be donated as endowments. The trick is to make dinars and dirhams as business capital (trade), then channel the profits as waqf. Wahbah Az-Zuhaili also revealed that the Hanafi school of thought allows cash waqf as an exception, on the basis of istihsan bi al'Urfi, because many people have done it. The Hanafi school of thought is indeed of the opinion that laws stipulated based on 'urf (customs) have the same power as laws stipulated based on nash (text). Based on the various opinions of the scholars above, that waqf using money is the same as waqf using land, trees and water. Because cash waqf has been around for a long time, which has become the custom of the Islamic religion (Usman, 2009).

Cash waqf (bash waqf/waqf al-Nuqud) has long been practiced in various countries such as Malaysia, Bangladesh, Egypt, Kuwait and other Islamic countries in the Middle East. In English, cash waqf is translated as cash waqf. seen from the waqf object. Namely money, more precisely if cash wafq is translated as cash waqf. So that in terms of language, cash waqf can be interpreted as waqf made by a person or legal entity in the form of cash. The context of waqf here is different from waqf in general which is widely known in society, in general if someone donates waqf among other things the waqf property is in the form of land, but here the author will discuss different waqf, namely waqf using money or it is called cash waqf (Masyarakat, 2007).

The practice of waqf has been known since the beginning of Islam. Even pre-Islamic societies had practiced a kind of waqf, but under a different name, not waqf. Because the practice of a type of waqf existed in pre-Islamic society, it is not too deviant to say that waqf is a continuation of the practice of pre-Islamic society. While cash/cash waqf became known during the Ayyubid dynasty in Egypt. In land waqf, those who can enjoy the waqf property of land and buildings are the people who live in the area where the waqf property is located.

Meanwhile, the poor are widely dispersed throughout Indonesia, so a new source of funding is needed that is not bound by place and time. Along with the enormous need for funds for poverty alleviation and the locations are spread outside the areas of the wakifs, the idea arose of waqf with money. Money is flexible and knows no boundaries in the distribution area. Money is a waqf of movable objects, because money is flexible. And when the wakif is out of town, he is able to donate his wealth, not using land but using money. So that the poor are able to experience waqf, they do not have to live where the waqf property is built or located (Supramono, 2002).

According to Stephen M. golgfeld and Lester V. Chander 11, money is as a unit of value and as a standard of delayed payment-does not help to determine the "goods" which are included in the money supply and which are not included, because these objects are in the form of an abstraction that can be related to many different other objects (Wakaf, 2015). In traditional economics, money is defined as any generally accepted medium of exchange. The medium of exchange can be any object that can be accepted by everyone in society in the process of exchanging goods and services. In modern economics, money can be defined as something that is available and generally accepted as a means of payment for the purchase of goods and services and other valuable assets and for paying debts. According to the 2002 Fatwa of the Indonesian Ulema Council concerning Cash Waqf, that Cash Waqf is a waqf made by a person, group of people, institution or legal entity in the form of cash; according to Law Number 41 of 2004 concerning waqf, that cash waqf is not directly mentioned regarding its meaning, only the meaning of waqf in general, namely the legal act of wakif to separate and/or surrender part of his property to be used forever or a certain period of time according to his interests worship needs and/or public welfare according to Syari'ah. However, referring to article 28 of Law Number 41 of 2004 concerning waqf it is stated that a waqif can endow movable objects in the form of money through an Islamic Financial Institution appointed by the Minister (Indonesia, 2011).

Waqf according to the majority of scholars, besides Hanafiyah is a recommended sunnah. This includes alms that are sunnah, according to the word of Allah SWT, Namely in the letter Al 'Imron (3) verse 92: (Penyelenggara, 2005) *"you never reach (perfect) virtue, before you spend some of the wealth you love. and whatever you spend, surely Allah knows it "*. Further more in the letter Al-Baqarah (2) verse 261: (Penyelenggara, 2005) *"the parable (of income issued by) those who spend their wealth in the way of Allah is similar to a seed that grows seven ears, in each ear a hundred seeds. Allah multiplies (rewards) for whom He wills. and Allah is Extensive (His gifts) and All-Knowing"*.

Also, the words of the Prophet Muhammad SAW (Azam, 2010): *"if you want, you can hold the land, and give charity with the produce"*. Also, the words of the Prophet Muhammad SAW: (Al'asqalani, 2004) *"From Abu Hurairah R.A. that Rasulullah SAW said, "If the child of Adam dies, then his deeds will be cut off except for three things, namely charity and beneficial knowledge, or a pious child who prays for both parents."*

The current development of the Islamic economy shows a positive trend and will continue to grow. This is driven by the globalization of Islamic economic practices in every line of sector for the needs of the world's Muslim community, including the halal tourism sector. based on a report from the Islamic Corporation for the Development of the Private Sector-Thomson Reuters's stated that the global Muslim community spent a total of 151

billion US dollars (\$) for travel activities other than Hajj and Umrah in 2015. This amount constitutes 11% of total global spending in the travel sector, which is \$ 1.3 trillion, even in 2021 it is predicted that Muslim spending on travel can reach \$ 243 billion. The world countries which are a source of global Muslim tourists based on spending in 2014 are Saudi Arabia (\$ 19.2 billion), United Arab Emirates (\$ 15.1 billion), Qatar (\$ 11.7 billion), Kuwait (\$ 9 billion), Indonesia (\$9.1 billion), and Iran (\$7.2 billion) (Moshin & Rodrigues, 2020).

For Indonesia, the tourism sector is an important sector that makes a significant contribution to the economy. The Ministry of Tourism and Creative Economy in 2014 noted that the contribution of the tourism sector to national GDP was 3.8% and was able to create jobs for up to 10.18 million people or the equivalent of 8.9% of the total number of workers in Indonesia (Suherlan, 2015). The role of tourist visits is also a source of state revenue originating from the economic activities of tourists while traveling in Indonesia (Singagerda et al., 2013). Waqf is one of the Islamic social fund instruments not only as a religious institution of worship value, but also has a dual role to improve the economy of a country (Nurchaliza, 2018). One of the roles of waqf for the economy is to improve the welfare of the ummah. Waqf has also proven to be able to support a portion of government spending and also be able to absorb labor. Because waqf has a role in the development of public sector infrastructure such as education, health services, parks, roads, bridges, religious infrastructure and so on. By empowering waqf funds in the public sector such as the halal tourism sector, managed waqf funds will be more optimal and productive in their absorption (Sari et al., 2019)

Based on Law no. 9 of 1990 explained that the notion of a tourist area is an area that has a certain area built and provided for tourism activities. When associated with water tourism, this understanding means an area provided for tourism activities by relying on water area objects or attractions. The definition of this tourism area was also expressed by an expert, namely Inskeep as an area developed with the provision of complete facilities and services (for recreation/relaxation, deepening of an experience/health). While the definition of a tourism area in general is an area with a certain area that is built or provided to meet the needs of tourism and tourism services. In a wider scope, the tourism area is known as a Resort City, namely a township that has a life focus on providing tourist facilities and infrastructure such as lodging, restaurants, sports, entertainment and the provision of other sightseeing services. If the tourism area relies on natural scenery in the form of water areas as its trademark, then the provision of facilities and infrastructure as well as entertainment or tourist attractions is directed to utilize and enjoy these water areas.

Then utilization and waqf for the development of halal tourism in Indonesia is by utilizing the Hajj funds invested through the development of productive waqf assets. The utilization of productive waqf with the management of Hajj funds is in accordance with the intent of Law Number 34 of 2014 concerning Hajj Financial Management and Law Number 41 of 2004 concerning Waqf, both of which aim to provide benefit to Muslims. In its implementation, the utilization of waqf funds can be made into a hotel project or infrastructure supporting halal tourism such as airports, MSME kiosks, and so on. Then the profits obtained will be channeled for the benefit of the people. On the other hand, the development of halal tourism facilities and infrastructure also creates jobs. In addition, Indonesia is already known as a Muslim-friendly tourist destination. This development of

halal tourism can optimize Indonesian tourist destinations as Muslim-friendly tourist destinations (Nurchaliza, 2018).

One example of a model for managing haj funds to become a productive waqf is the Imara Wakaf Building in Kuala Lumpur, Malaysia, which was built on waqf land. In implementing this project the Islamic Religious Council for the Federal Territory as nazhir cooperates with the Haji Savings Foundation as a provider of Hajj funds and the waqf assets are fully leased by Bank Islam Malaysia Berhad, then the proceeds are allocated to muaqaf alaih (Saptono, 2018). Then Waqf linked Sukuk which is a model that is commonly found today. This model is basically cash waqf which is used to build social assets. The nature of the Waqf linked Sukuk instrument can be temporary with a minimum period of five years or be continuous. As for the source of return for a temporary nature, it can come from waqf crowdfunding or the government budget (if the project being built intersects with government projects that have been scheduled in the APBN/APBD). Developing the potential of waqf funds in Indonesia for the development of halal tourism can be an alternative in terms of capital investment and financing problems. As written in the 2020-2024 Kemenparekraf/Baparekraf Strategic Plan, one of the key issues in tourism development in Indonesia is the aspect of capital. In addition, the development of halal tourism through waqf funds has a social aspect where the results of waqf development are required to be redeveloped for the benefit of the people. (Saptono, 2018).

A Model for Utilizing Cash Waqf to Realize a Legal Tourism Area

Cash waqf (cash waqf) was first used during the time of Uthman in Egypt, at the end of the 16th century (1555-1823 AD). During the Ottoman era in Egypt, the use of Hanafi fiqh developed in carrying out its business and social activities. Imam Muhammad asy-Syaibani explained that even if there is no strong hadith support, the use of movable property as waqf is permissible, if indeed it has become a common practice in certain areas. Even for Imam Muhammad al-Sarakhsi, general practice is not always a requirement in using movable assets as waqf assets. The popularity of cash waqf occurred after Professor Mannan socialized it in Bangladesh through Social Investment Bank Limited (SIBL). SIBL makes Cash Waqf Certificates (Cash Waqf Certificates) to collect funds from the rich and share the cash waqf earnings that have been collected among the poor. The popularity of "cash waqf", arises because of the flexibility of spreading the benefits of cash waqf to the mustadh'afin (poor people and people who are economically oppressed) and dhu'afa' (poor people) in all places (Arif, 2010).

Cash waqf as a means of financing, can not only be used for one particular sector, and only certain models. Cash waqf can be used as an alternative solution in financing all sectors that support the economy, both for consumptive and productive purposes. The benefits of cash waqf for the productive sector can be realized by increasing community capital in developing their business, both for basic business capital and for supporting capital for their business. Supporting capital means what about design and attractive appearance. The area around where they are trying to become a destination for the community to visit.

Making the area where people trade, in this case the area on the banks of the Deli River, arranged in such a way, with designs and decorations that will attract people to visit, and enjoy the view of the area which is full of decorations, legal education writings to the public. In order to realize the legal tourism area, funds are needed to organize ordinary residential areas into extraordinary areas.

CLOSURE

Pengembangan Model Pemanfaatan... (Faisal, Zainuddin, Nursariyani Simatupang, Ismail Koto, Ismail Sitorus)

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