



## Implementation of Maqashid Syariah on Cash Waqf Linked Sukuk

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### ARTICLE INFO:

#### Article History:

Received: December 27, 2024

Revised: January 21, 2025

Published: March 5, 2025

#### Keywords:

Waqf; Maqashid Syariah; Cash Waqf Linked Sukuk

#### Kata Kunci:

Wakaf; Maqashid Syariah; Cash Waqf Linked Sukuk

### ABSTRACT

*This research aims to analyze the implementation of maqashid syariah in Cash Waqf Linked Sukuk (CWLS) and assess the alignment of the CWLS instrument towards public benefit. The theories used are the theory of waqf, cash waqf and maqashid syariah. This research is qualitative research with a literature review method. The research stages in order to analyze the implementation of maqashid syariah in CWLS are the preparation stage, literature collection, analysis and conclusion stages. The results of this research show that the concept and implementation of CWLS has implemented maqashid sharia both directly and indirectly. In *hifzh ad-din*, the implementation of CWLS has received a statement of sharia conformity by the DSN MUI. At *hifzh an-nafs*, CWLS investment proceeds have been allocated to hospitals which have served thousands of people to recover from their illnesses. At *hifzh al-aql*, one of the CWLS investment return fund allocations was given to the educational project funding program, so that it has facilitated many students to obtain knowledge and education. In the *hifzh an-nasl* concept, indirectly the implementation of CWLS has been allocated for long-term social and infrastructure projects so that the benefits can be felt by the next generation. Finally, in the *hifzh al-mal* concept, the implementation of CWLS has an economic value that provides returns on investment, this economic value can be enjoyed by mauquf alaih and other stakeholders.*

### ABSTRAK

Penelitian ini bertujuan untuk menganalisis implementasi maqashid syariah pada Cash Waqf Linked Sukuk (CWLS) dan meninjau keberpihakan instrumen CWLS terhadap kemaslahatan publik. Teori yang digunakan adalah teori wakaf, wakaf uang dan maqashid syariah. Penelitian ini adalah penelitian kualitatif dengan metode tinjauan literatur, adapun tahapan penelitian agar bisa menganalisis implementasi maqashid syariah pada CWLS adalah tahapan persiapan, pengumpulan literatur, tahap analisa dan kesimpulan. Hasil dari penelitian ini menunjukkan bahwa konsep dan implementasi CWLS sudah menerapkan maqashid syariah baik secara langsung maupun tidak langsung. Pada *hifzh ad-din*, penerapan CWLS sudah mendapatkan pernyataan kesesuaian syariah oleh DSN MUI. Pada *hifzh an-nafs*, hasil investasi CWLS telah dialokasikan untuk rumah sakit yang telah melayani ribuan orang untuk sembuh dari sakitnya. Pada *hifzh al-aql* salah satu alokasi dana imbal hasil investasi CWLS diberikan pada program pendanaan proyek pendidikan, sehingga telah memfasilitasi banyak murid untuk memperoleh ilmu dan pendidikan. Pada konsep *hifzh an-nasl* secara tidak langsung implementasi CWLS telah dialokasikan untuk proyek-proyek sosial dan infrastruktur jangka panjang sehingga manfaatnya bisa dirasakan oleh generasi selanjutnya. Terakhir, pada konsep *hifzh al-mal*, penerapan CWLS memiliki nilai ekonomi yang memberikan imbal hasil atas investasinya, nilai ekonomi ini dapat dinikmati oleh mauquf alaih dan orang-orang yang merasakan manfaat dari proyek CWLS.



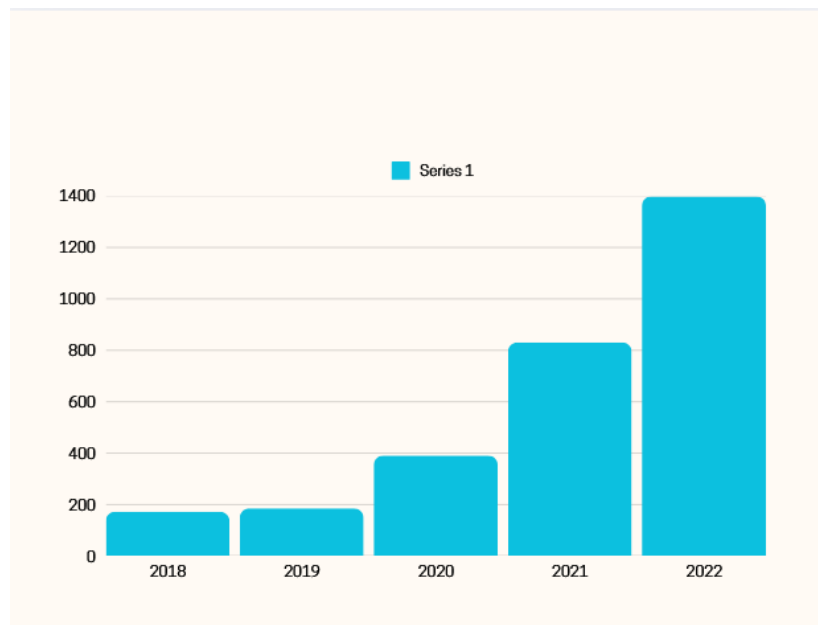
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**How to cite:** Alfian, A. M., Syafitri, H., Sari, I. P., & Tiswarni (2025). Implementation of Maqashid Syariah on Cash Waqf Linked Sukuk. *Iqtishodia: Jurnal Ekonomi Syariah*, 10(1), 36-44. doi: <https://doi.org/10.35897/iqtishodia.v10i1.1711>

## INTRODUCTION

As a country with the largest Muslim population in the world, Indonesia offers great opportunities for Islamic social financing, especially waqf. Over the past 5 years, the potential for cash waqf in Indonesia has continued to increase, even in 2022 the potential for cash waqf in Indonesia reached IDR 180 trillion per year (Lubis, 2020). However, this waqf potential has not been utilized optimally, this can be seen through the data on cash waqf collection. The data shows that the collection of cash waqf has not been optimized. for the last 5 years as listed in table 1.1 below:

**Table 1: Realization of Cash Waqf in Indonesia**



Source: Indonesian Waqf Board

The suboptimal potential of cash waqf can be attributed to the low level of public literacy about cash waqf and its practices. The public perception of waqf is still limited to waqf through buildings, land and other immovable objects. Meanwhile, the knowledge of cash waqf is still limited among certain communities. This limited knowledge results in the low collection of cash waqf, which in turn results in the low allocation of cash waqf to productive sectors, such as allocations to support economic growth or fulfill public needs. Waqf in Indonesia is currently limited to the construction of mosques, Islamic boarding schools and cemeteries (National Committee for Sharia Finance, 2019).

In response to this situation, the Indonesian Waqf Board (BWI) established a new waqf system known as Cash Waqf Linked Sukuk/CWLS in collaboration with Bank Indonesia, the Ministry of Finance, and the Ministry of Religious Affairs. As an innovation in Islamic social finance, CWLS combines commercial and Islamic social finance. (Paul, 2023). Through the initiatives undertaken, this integration can maximize the collection of cash waqf which aims to improve the welfare of the community. The projects undertaken also support economic growth and accelerate national economic growth.

CWLS instruments can be developed with the support of related parties, and the support of government authorities as an effort to accelerate the development of Islamic social finance in Indonesia. This commitment is

outlined through a memorandum of understanding between various stakeholders, namely Bank Indonesia, the Ministry of Finance, the Indonesian Waqf Board, and the Ministry of Religious Affairs regarding the management of cash waqf assets through sukuk or commonly referred to as waqf linked sukuk. This memorandum of understanding was inaugurated on November 1, 2018 with the aim of collaborating in managing and developing cash waqf assets through SBSN (Karim, 2020).

The main focus of the MoU revolves around the strategic alignment of waqf asset development, particularly in monetary form through state sukuk. The memorandum of understanding also covers the coordination of sukuk-related public education and outreach initiatives related to cash waqf, inclusiveness of information systems related to CWLS development, increasing the capability and number of human resources for CWLS development and evaluation related to CWLS development (Rahmatul Fadhil & Nurbalqis, 2021). To review the alignment of CWLS instruments towards the public good, this research will discuss the concept and practice of CWLS based on the maqashid shari'ah perspective.

### **Maqashid syariah**

In language, the term maqashid al-syari'ah comes from two words, namely maqashid and shari'ah. The word maqashid is the plural form of maqashud, which means intention, desire, intention, or purpose, with the root word qashada which means towards, intending, or aiming (Abdurrahman, 2020). According to Al-Afriqi, maqashid can be interpreted as a goal or a set of goals, while syariah literally means the path to the source of water, which is seen as a symbol of life (Maulana et al., 2024). In the terminological sense, shari'ah refers to all the rules set by Allah for His servants, including aspects of creed, morals, worship, and muamalah. However, over time, the meaning of shari'ah has narrowed and is more often associated with the rules of law governing human relations with God and human relations. The five main objectives in Islamic law, known as al-maqasid al-khamsah or al-maqashid al-syari'ah, are as follows (Nasrullah Kartika MR & Noor, 2014):

#### *Hifdz Ad-din* (Guarding the Religion)

In Islam, faith serves as the main framework that guides the existence of its adherents. Therefore, every decision taken by a Muslim must reflect a commitment to safeguarding Islam, ensuring compliance with divine commandments, and staying away from prohibitions in order to safeguard the aqidah. Although the majority of Indonesia's population is Muslim, religious diversity is recognized and respected, as explained in the word of Allah, which understands the existence of such differences. In applying this concept, it is important to pay attention to aspects related to the religion and creed of Muslims, as affirmed in the verse, "Establish the religion and do not be divided about it" (Ash-Shura: 13).

#### *Hifdz An-nafsi* (Guarding the Soul)

In Islam, every Muslim is considered an important asset to the ummah. Safeguarding the lives of fellow Muslims is the top priority among the five Maqashid Shariah principles. For example, the perpetrator of murder may be subject to qishash punishment as a form of justice for not protecting the lives of fellow Muslims. In the context of governance, this principle also includes fulfilling the basic needs of the people for their survival. By fulfilling these needs, Muslims are encouraged to work harder, which ultimately aims to improve the welfare of the community as a whole.

#### *Hifdz Al-Aql* (Guarding the Intellect)

Allah created man as the most perfect creature because he was given reason, as mentioned in the verse "Indeed We have created man in the best possible form" (At-Tiin: 4). It is this intellect that distinguishes humans from other creatures, including animals and angels. However, the next verse warns that humans may return to the lowest place (hell), unless they believe and do righteous deeds (At-Tiin: 5). Therefore, the intellect must be well guarded through good deeds that are based on the Qur'an, thus, humans can achieve their purpose in life as creatures given glory.

#### *Hifdz An-Nasb* (Preserving Progeny)

Based on the Qur'an and Hadith, Islam protects children by allowing marriage, prohibiting infidelity, and setting rules about who should not marry. In addition, Islam regulates the procedures for marriage and the conditions for it to be considered religiously valid. These rules aim to prevent irregularities in the relationship between men and women, so that the resulting offspring have a clear status. Preserving offspring also helps shape a more responsible younger generation and contributes to the betterment of the nation, preventing wild behavior that can undermine the morals of society.

### *Hifdz Al-Maal* (Guarding the Treasure)

Safeguarding wealth is an important aspect of decision making based on the concept of Maqashid Sharia. In the era of globalization, the economy is one of the main aspects that require protection. Therefore, Islam encourages its adherents to safeguard and manage wealth properly in order to support the sustainability of a fair and prosperous economy. This principle also includes the prohibition of harmful practices such as usury, theft, and fraud in transactions. By safeguarding wealth in a sharia-compliant manner, Muslims are not only able to create personal financial stability, but also provide benefits to the wider community through the distribution of wealth in accordance with Islamic teachings.

### Cash Waqf

Cash waqf is a form of waqf given in the form of rupiah and managed productively by the *nazhir* (waqf manager) (Sulistiani, 2021). The results of its management are then distributed to the beneficiaries (*mauquf alaih*). In this case, the money endowed is not handed over directly to the beneficiaries, but is first managed by the nazir through investment, and the profits are then distributed. Cash waqf can be done by individuals, groups, institutions, or legal entities in the form of cash. Scholars (*fuqaha*) have discussed the law of cash waqf, although there are different views among them. Imam Bukhari noted that Imam Az-Zuhri allowed waqf in dinars and dirhams, the currencies used in the Middle East at that time (Amir & Purwati, 2019). The mechanism is to invest the money as business capital, then the profits are given as waqf benefits.

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Wahbah Az-Zuhaili also said that the Hanafi madzhab allows cash waqf because it has become a common practice in the community (Zamraji et al., 2023). This is supported by the hadith narrated by Abdullah bin Mas'ud R.A., which reads: "What the Muslims consider good is good in the sight of Allah, and what the Muslims consider bad is bad in the sight of Allah." According to the Hanafi madzhab, *mudharabah* transactions can be used to convert cash waqf into business capital, then the profits are given to those who benefit from the waqf. (Faujiah, 2021). Ibn Abidin, on the other hand, is of the opinion that cash waqf is invalid because it is not customary in all regions, although it was practiced in the Roman area. He argues that cash waqf is only valid if it has become a local custom (Hardiati, 2020). A similar view is also held by the Shafi'i school. Based on Al-Bakri's opinion, the Shafi'i school of thought does not allow cash waqf because money, like dinars and dirhams, will run out when spent and thus lose its form (Zulfa et al., 2024).

Cash waqf has a range of significant benefits. Through cash waqf, anyone can participate, including those with limited funds, without having to wait to become a landowner first. The collected funds can be utilized to manage waqf assets in the form of vacant land, for example by constructing buildings or cultivating them into agricultural land. In addition, cash waqf can also help Islamic educational institutions that often face financial constraints, so that the welfare of their educators can be improved. Through cash waqf, Muslims can be more independent in supporting the advancement of education without having to rely on the increasingly limited government budget (Suryadi & Yusnelly, 2019).

## RESEARCH METHOD

The literature study method was used with qualitative techniques in this research. The literature study method is a way to obtain information from libraries, read, record, and process research materials. (Syafitri & Nuryono, 2020). This research uses secondary data based on the Qur'an, Hadith, fatwas of scholars, books, journals and official data from the Ministry of Finance and Bank Indonesia. The data is collected through libraries, official government websites and journals available on the internet. The research stages in order to analyze the implementation of Maqashid syariah in CWLS are the preparation stage, literature collection, analysis and conclusion stages. In the preparation stage, the process is to formulate the research framework and concept. Furthermore, the literature collection stage is to collect sources from the Qur'an, Hadith, fatwas of scholars, books, journals and official data from the Ministry of Finance and Bank Indonesia that are relevant to the research. In the analysis and conclusion stage, the researcher analyzes the relationship between all maqashid sharia variables with the concept and implementation of CWLS in Indonesia, and ends with a conclusion to answer the research objectives.

## RESULT AND DISCUSSION

### Result

#### CWLS Practice in Indonesia

Indonesia is the first country to use Cash Waqf Linked Sukuk (CWLS). CWLS is a type of financing that brings together the real and social sectors (Rahayu & Agustianto, 2020). This type of cash waqf is incorporated into the State Sharia Securities (SBSN) instrument to assist in the development program of public facilities for the community, such as schools and hospitals. Broadly speaking, the CWLS plan consists of four steps.

*First*, fund raising. The Indonesian Waqf Board as the manager of waqf assets receives cash waqf funds from waqifs through the Cash Waqf Recipient Sharia Financial Institution (LKS-PWU). *Second*, fund placement. The cash waqf funds are kept by BWI in a safe place and invested in instruments issued by the Ministry of Finance, particularly SBSN. When CLWS are issued, the money collected is used to build public service projects by the government. Bank Indonesia also has a role in this stage; it is in charge of managing the SBSN. At this stage, many parties have an interest in the proceeds. Distribution and Utilization of Yields.

*Third*, Distribution and Utilization of Returns. Since the government owns the project, it provides rebates and coupons to BWI as a form of gratitude. These payments are given to the organization responsible for managing waqf to help finance social projects and activities. The rebates given were originally intended to help build schools, Islamic private schools, health centers, and other types of social infrastructure. *Fourth*, Return of Waqf Funds. The government pays the principal of SBSN to BWI at maturity, at the same time BWI will return the principal to the representative if the waqf is temporary. In addition, policies that can support the needs of waqf empowerment/management are issued by the Ministry of Religious Affairs. Several stakeholders are intertwined in this stage, indicating that inter-agency collaboration is necessary for the continuity of the CWLS program.

#### Characteristics of Investment Instruments

The types of financial instruments that CWLS funds can enter are limited by applicable laws and regulations in the Waqf sector. BWI can place cash waqf funds into SBSN through the private placement method as nazir or waqf manager. The CWLS provided is a five-year SBSN that cannot be traded and provides savings and coupons as financial returns. The proceeds of waqf management are channeled to operational costs, transaction costs, nazir rights and mauquf alaih 7.5% of the discounted value is acquisition and operational costs, 2.5% of the discounted value for bank transaction costs, 10% of the discount is the right of the nazir, 90% of the discount/net profit sharing is the right of mauquf alaih.

#### Use of CWLS Funds

One of the uses of CWLS funds is for Ahmad Wardi Eye Hospital, Banten specifically for the Retina and Glaucoma Center Development, the funds used are sourced from the first series of CWLS discount and coupon funds. Innovation in financing is also possible through cooperation with the National Sharia Bank to meet the hospital's financial needs and ensure its long-term success. The process began on September 9, 2020 with the signing of a loan agreement with PT Rumah Sehat Terpadu Serang as the manager of Ahmad Wardi Eye Hospital and BNI Syariah with a Murabahah investment loan amount of Rp 8,811,551,800. This innovative funding program of Bank Syariah is implemented with a CWLS voucher-based installment mechanism. This project is an important achievement in waqf management, especially in accelerating the completion of the Retina and Glaucoma Center at Ahmad Wardi Eye Hospital. This scheme is an innovation related to national waqf funding, and this program can run with the help of donors, so that people can enjoy this health service and reduce the percentage of blindness.

This bank loan will make it possible to purchase not only retina devices but also glaucoma devices, making it possible to build a complete vision testing facility at the retina center. The hospital is also undergoing a renovation process to meet the hospital's operational standards. With the opening of the Retina and Glaucoma Center, Ahmad Wardi Eye Hospital hopes to provide eye surgery services to the underprivileged. The hospital plans to help 2,513 people with eye surgery. A more optimal system can be built in providing 5 years of service.

### **Maqashid Syariah Implementation in CWLS**

The concept and practice of CWLS must be in line with the objectives of the sharia, namely maqashid sharia. In this section, we will discuss the implementation of maqashid sharia in CWLS:

#### *Hifdz ad-Din*

Hifdz ad-Din / Keeping religion is the top priority in maqashid sharia, keeping religion in the sense that everything that is done must comply with the provisions of sharia. In order for CWLS to work, it must follow the rules set by the National Sharia Council of the Indonesian Ulama Council (DSN MUI). The DSN MUI must approve the sharia compliance of the CWLS series before it can be released. For example, in retail CWLS, there is a statement from DSN MUI stating that the product is run based on sharia principles and does not contain maysir, gharar, or riba. The product also has a sharia compliance statement from the National Sharia Council of the Indonesian Ulama Council (DSN MUI). In addition, all contracts used in CWLS use contracts that are allowed by sharia, namely ijarah, isthisna, wakalah and kainnya contracts. The main type of CWLS practice today is to use wakalah contracts, which are flexible in the way they are used to protect core assets. According to Shariah law, the assets on which these wakalah contracts are based are services, goods, projects and other types of assets.

#### *Hifdz an-Nafs*

Hifdz an-Nafs or preserving the soul is the second priority in maqashid sharia, the CWLS concept also applies hifdz an-Nafs which can be seen through one of its fund flows channeled for Health projects, namely the realization of the Retina and Glaucoma Center Development of Achmad Wardi Eye Hospital, Banten. In addition, cash waqf funds are also used to procure health equipment such as laser photocoagulator, laser photodisruptor, surgical equipment, ambulance cars and some retinal examination and glaucoma examination equipment. Since its inauguration, the number of beneficiaries of the CWLS results is 1,927 patients (2021 data). As many as 78% or equivalent to 1,502 patients with cataract disease, 13% or 249 patients with retinal disease and 176 patients with glaucoma have been treated. Even this hospital also accepts poor patients who do not have BPJS and other insurance services, services ranging from checking to eye surgery. It can be concluded that the result of CWLS's investment in establishing an eye health service, which has saved someone's life from their illness, is a form of hifdz an-Nafs.

#### *Hifdz al-Aql*

In the context of Hifdz al-Aql / preserving the mind. Investment returns from CWLS are also allocated to the provision of scholarships to a number of students including from the poor. Scholarships are given in the form of financing education programs. Pursuing education is one form of effort to keep the mind, because through education a person is trained to use his mind in understanding and analyzing learning materials. Indirectly, the utilization of CWLS funds intended for financing education programs is an effort to hifdz al-Aql for the recipients.

#### *Hifdz an-Nasl*

Hifdz an-Nasl/protecting offspring in the context of CWLS does not have a direct link, but some projects from CWLS returns are allocated to social projects for the long term by considering sharia principles, meaning that the results of social projects can be utilized by children/offspring.

#### *Hifdz al-Mal*

In the context of *Hifdz al-Mal*/maintaining religion, Islam allows any type of muamalah as long as it does not conflict with Islamic law. In CWLS, the form of muamalah carried out is investment which will later have a return on the return received. This return can also be channeled to mauquf alaih so that it becomes amal jariyah for the CWLS scheme waqf. In addition, the level of risk in CWLS is relatively safe because it has been guaranteed by the state, and there is certainty that the waqf principal will be returned if the waqf uses a temporary contract. In addition, cash waqf is managed by an official nazir who has received recommendations and supervision by BWI so that the management of assets can be maintained and guaranteed safe.

### **Discussion**

The results showed that the implementation of Cash Waqf Linked Sukuk (CWLS) has been in line with the concept of maqashid sharia in various aspects. On the concept of Hifdz ad-Din (safeguarding religion), CWLS obtained sharia compliance recognition from DSN MUI, ensuring that its practices comply with sharia principles. On the other hand, CWLS also reflects Hifdz an-Nafs (safeguarding the soul) through the allocation of investment returns to health projects, such as the construction of the Retina and Glaucoma Center at Ahmad Wardi Eye Hospital. This project provides access to health services to thousands of patients, including the poor, so that the benefits are felt by the community. From the point of view of Hifdz al-Aql (protecting the mind), CWLS also contributes in supporting education by providing scholarships to students from underprivileged groups. This support shows the role of CWLS as a social financial instrument that not only improves individual welfare but also has a sustainable impact on society.

The findings of this study highlight the advantages of CWLS compared to traditional waqf models that tend to be limited to immovable assets, such as land or buildings. Different from previous studies that focus more on the conventional management of waqf assets, this study reveals how CWLS is able to integrate the social and commercial financial sectors through SBSN instruments. These advantages include the guarantee of investment security by the state and flexibility in the management of waqf assets through sharia-compliant contracts, such as wakalah and mudharabah. However, the study also found that CWLS still faces challenges, such as low public literacy on cash waqf and lack of socialization on its economic benefits. Therefore, collaboration between the government, Islamic financial institutions, and the Indonesian Waqf Board is crucial to increase awareness and optimize the management of CWLS in order to expand the benefits for the wider community.

In addition, the results of this study show that there is a significant difference in the social impact generated by CWLS compared to conventional waqf. CWLS is able to provide more targeted and measurable benefits through investments in strategic projects, such as education, health, and social infrastructure. These projects not only directly improve people's quality of life but also strengthen the foundation of Indonesia's sharia-based economy. In the long run, this approach has the potential to change people's perception of waqf from passive to active and productive. Thus, CWLS opens up new opportunities to make waqf an important instrument in strengthening the ummah's economy, while supporting sustainable development goals in line with maqashid sharia principles.

## CONCLUSION

This research shows that the implementation of Cash Waqf Linked Sukuk (CWLS) is an innovative solution to optimize the collection and management of cash waqf, which was previously underutilized in Indonesia. CWLS not only complies with sharia principles as recognized by DSN MUI, but also provides tangible impacts in various aspects of maqashid sharia. Through CWLS, investment returns can be allocated to support health, education, and social infrastructure development projects, which directly improve the welfare of the community, especially the poor. In addition, CWLS introduces an integrative approach between the social and commercial financial sectors, which provides investment security and flexibility in the management of waqf assets. The results of this study confirm that CWLS has the potential to become a strategic sharia-based financial instrument in supporting sustainable development and empowerment of Muslims in Indonesia. Therefore, it is important to improve cash waqf literacy and expand the socialization of CWLS so that its benefits can be felt by more parties in the future.

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