



Cash Waqf According to the Views of Four Madzhabs (Study of the Book Al-Fiqh Al-Islami Wa Adillatuhu)

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ABSTRACT

As science and technology develop, so does a nation's economy, and so does the way in which Shari'ah is implemented for Muslims, including in the case of waqf. Previously, waqf was limited to the use of permanent objects such as land, buildings and so on, so now waqf is being introduced in the form of money. This situation is certainly a new breakthrough, which often gives rise to resistance among fiqh scholars. The aim of this research is to find out about the law of cash waqf from the perspective of four schools of thought according to the book of Islamic jurisprudence wa adillatuhu with the hope that it will provide more complete information about the law of cash waqf and bring peace to Muslims. The research method used is qualitative. This research approach uses descriptive analysis of primary data, namely the book of Islamic jurisprudence wa adillatuhu written by Syeh Wahbah Az-Zuhaili. The findings of this research conclude that waqf in the form of money is legal because waqf in the form of dinars and dirhams is permissible. Cash waqf is permissible because there are verses and hadiths that strengthen cash waqf. Moreover, with the increasing pace of civilisation, cash waqf is very easy to distribute, such as through bank transfers in remote areas. Most ulama in the millennial era agree that cash waqf is permissible and legal, provided the procedures are understood.

ABSTRAK

Seiring berkembangnya ilmu pengetahuan dan teknologi, maka berkembang pula ekonomi suatu bangsa dan pada gilirannya, berkembang pula cara melaksanakan syari'at bagi umat Islam yang di antaranya dalam perkara wakaf. Dahulu wakaf terbatas hanya pada pemanfaatan benda yang tahan lama seperti tanah, bangunan dan lain-lain, maka sekarang diperkenalkan wakaf dalam bentuk uang. Keadaan ini tentu terobosan baru yang tak jarang memunculkan resistensi di kalangan ulama fiqh. Tujuan penelitian ini untuk mengetahui tentang hukum wakaf uang tunai dalam pandangan empat madzhab menurut kitab *fiqh Islami wa adillatuhu* dengan harapan akan memberikan informasi lebih utuh perihal hukum wakaf uang dan memberikan ketenangan bagi umat Islam. Metode penelitian yang digunakan adalah metode kualitatif, Pendekatan penelitian ini menggunakan deskriptis analisis atas data primer yaitu kitab *fiqh Islami wa adillatuhu* karangan Syeh Wahbah Az-Zuhaili. Hasil temuan penelitian ini menyimpulkan bahwa wakaf dalam bentuk uang hukumnya sah, dengan alasan diperbolehkannya wakaf dalam bentuk dinar dan dirham. Wakaf uang boleh karena ada ayat dan hadis yang memperkuat tentang wakaf uang, selain itu dengan semakin cepatnya peradaban zaman, wakaf uang sangat lebih mudah distribusikan, seperti halnya transfer via bank di daerah terpencil. Jumhur ulama di era milenial sepakat wakaf uang diperbolehkan dan sah hukumnya, dengan syarat faham tata caranya.



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INTRODUCTION

In Islamic civilization, the Koran has a cultural role that cannot be ignored in shaping the face of civilization and in determining the nature and character of the sciences that develop within it (Fadhillah, 2008). Islam as a religion is quite sensitive to all laws and regulates everything about life, from the smallest to the largest, economic and even social aspects from birth to the grave. Islam as a universal, integral and comprehensive system of life has established a complete order for human life (Hamid, 2009). As a way of life, Islam organizes everything related to life, from the simplest things to the most complicated matters. Both in political, economic, educational, artistic, social, cultural and other aspects. Islam is a perfect religion, which regulates matters related to the economy (Fitria 2016).

As adherents of a good religion, Muslims must know the consequences of cause and effect that occur when we do everything. Because every action we do will definitely be held accountable for its good and bad (Marzatillah & Wahid, 2017). As stated in the Qur'an Surah al-Zalzalah verses 7-8: "*So whoever does good deeds according to zarah, surely he will see (the reward). And whoever does evil deeds as big as zarah, surely he will see (the reward)*".

The Ahlussunnah wal-Jamaah group agrees in terms of jurisprudence that it is permissible to follow one of the four schools of thought, this is because in understanding the Sunni group agrees in terms of jurisprudence referring to the views of four schools of thought, namely Imam Hanafi, Imam Malik, Imam Syafi'i, and Imam ibn Hambali. These four schools of thought are different from the Shi'i, Dzahiriy, and Ja'fari jurisprudence (Jafar & Asmara, 2022). So, in this study of cash waqf theory, it is appropriate for someone who admits to be ahlussunnah waljama'ah, should know about the opinion of cash waqf according to the four schools of thought. We often find differences of opinion between schools of thought, including regarding the law regarding waqf in the form of cash.

Islamic teachings not only require doing good deeds of a worldly nature, but spiritual life is also required to be prepared as well as possible. Islamic law does not only pay attention to individual matters, there are also issues of general benefit such as endowments which are also discussed in as much detail as possible. Because Waqf is a transfer of property rights from an individual or group to a congregation or other institution. such as the construction of mosques, prayer rooms, madrasas, Islamic boarding schools, hospitals and others.

Apart from that, waqf is also an act of charity whose rewards continue to flow continuously even if the person who donated it (wakif) has died. This is based on the hadith of the Prophet Muhammad saw from the history of Imam Muslim:

إِذَا مَاتَ ابْنُ آدَمَ انْقَطَعَ عَنْهُ عَمَلُهُ إِلَّا مِنْ ثَلَاثٍ: صَدَقَةٍ: عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهُ: أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ جَارِيَةً، أَوْ عِلْمٍ يُنْتَفَعُ بِهِ، أَوْ وَلَدٍ صَالِحٍ يَدْعُو لَهُ

"When a person dies, his deeds are cut off except for 3 things: shodaqoh jariah, useful knowledge, pious children who pray for their parents" (H.R Muslim no.1631)

The above hadith is sufficient to prove that the reward for giving charity continues to flow continuously like a waqf. We often come across a short definition of waqf, namely holding property so that it is possible to take advantage of it and the eternal essence of the property itself, it is prohibited to share its essence. Meanwhile, mentasharrufkan its benefits in goodness with the aim of getting closer to Allah. As time goes by, we often find laws that are new or do not yet have absolute explanation in the Koran and hadith, such as the issue of cash waqf.

This research should present a scientific work on the theme of cash waqf according to the four schools of thought discussed in the book *al-Fiqh al-Islami wa Adillatuhu* written by Sheikh Dr. Wahbah Az-Zuhaili. Sheikh Dr. Wahbah Az-zuhaili is a scholar who is an expert in the field of jurisprudence, his work is known to the world community, it is reasonable to believe that his knowledge is beyond doubt. He was born in Damascus, Syria, in 1932 (Damanhuri, 2023). In 1956 he successfully pursued his higher education at Al-Azhar University, Cairo, Egypt, Faculty of Sharia. He received a master's degree in 1959 in the field of Sharia from Al-Azhar University, Cairo, Egypt, and obtained a Doctorate degree in Islamic Sharia from Al-Azhar University, Cairo, Egypt, in 1963, and then he taught at Damascus University (Bastari, 2024). There he studied Fiqh and Ushul Fiqh and taught at the Sharia Faculty. On August 9 2015 he died at the age of 83 years.

In this research, I deliberately presented it in the form of a description between madhhabs, so that it could produce a comparison between one madhhab and another, especially the opinions of the four madhhabs in the Ahlusunnah wal-jama'ah school, namely Imam Hanafi, Imam Malik, Imam Syafi'i, and Imam Ibn Hanbali.

RESEARCH METHOD

This research focuses on exploring the Book of *Al-Fiqh Al-Islami Wa Adillatuhu*, with an epistemological approach to the book. The purpose of this research is to explain the opinion of the four schools of thought followed by the Ahlusunnah wal Jamaah group in the book *Al-Fiqh Al-Islami Wa Adillatuhu* regarding cash waqf. This research is qualitative in nature and adopts a literature review method. This approach does not produce data that can be measured statistically, but seeks to describe the contents of the book *Al-Fiqh Al-Islami Wa Adillatuhu*. The primary data source for this research comes from texts, especially primary data taken from the book *Al-Fiqh Al-Islami Wa Adillatuhu* by Sheikh Wahbah Az-Zuhaili, a great scholar from Egypt. Secondary data is also utilized through references from books, journals and related research to complete and simplify data analysis. The data results were then analyzed using the content analysis method, (Fadli 2021) with the aim of explaining in more detail the contents of the book *Al-Fiqh Al-Islami Wa Adillatuhu* regarding cash waqf.

RESULT AND DISCUSSION

Cash Waqf in the View of the Hanafi Madzhab

Differences often occur among religious scholars, in fact it is not uncommon for us to find teachers and students also having differences of opinion, but this phenomenon does not mean that it can be used as an excuse to divide each other in implementing a view, but instead, they work together to support each other in adopting attitude, so that it does not give rise to doubts for the community in choosing followers in the madhhab, because differences of opinion are a blessing (Minfahuddin, 2015). Madzhab Hanafiah states that there are several core elements of waqf which are divided into two points of view, namely between Imam Abu Hanifah and his two famous students, namely Abu Yusuf and Muhammad ibn al-Hasan. The views of these two students are exactly the same as those of Syafi'iyah and Hanabilah. Even *al-Qaul al-Mufta* (the opinion applied in the fatwa in the name of the Hanabilah Madzab) is the opinion of two of his students.

According to Abu Hanifah, waqf is freezing the *tasarruf* of an object while handing over its benefits for good purposes by ensuring that the wakif's property rights remain permanent (Wahib, 2029). Based on this explanation, the *mauquf* remains in the hands of the wakif. In fact, according to Hanafi's opinion, he can perform reconciliation or take back items that have waqf status, and can even sell them. According to the Hanafi school of thought, waqf is included in the category of *jaiz* contract, which is unusual and according to it is exactly the same as the loan system (Arkham & Rambe, 2021). Meanwhile, according to the two students of Imam Abu Hanifah, Abu Yusuf and Muhammad ibn Al-Hasan, they are of the opinion that waqf is freezing-*tasarruf*- an object while condemning it to transfer ownership to Allah and giving away the proceeds or benefits (Laluddin, et. al, 2021). Actually, waqf that can be sold, in Imam Abu Hanifah's opinion, includes several conditions: have received a decision from a judge, The waqf being sold is not a conditional waqf, if there is a waqf that is conditional on the wakif, then you cannot abandon those conditions, waqf is not a mosque or place of worship used for Muslim worship (Muna, 2023).

According to the view of the Hanafi school of thought, waqf law is *mubah* (permissible). The argument that is the basis or reason for this statement is the legal validity of waqf from infidels. However, waqf can also become obligatory under certain conditions, for example for someone who has a *nazdar*, then the law for those who have a *nazdar* changes from permissible to obligatory. In a different view, the Hanafiyah

madzhab has only one pillar in the pillars of waqf, namely: Shighat (Usman 2016). According to Abdullah ibn Mahmud al-Mushili, he provides a summary of the waqf conditions and explanations which are quoted in the book *al-Ikhtiyar li Ta'lim al-Mukhtar*. According to him, there are four conditions for the validity of waqf, submit to the waqf administrator, want to be separated or isolated, It does not require any results or benefits from the waqf for the wakif himself, this method was perpetuated, including proposing fuqara as the last wave of mauquf 'alaih (Fanani & Abduh, 2023). Abu Yusuf has a different opinion, he believes that the four conditions above are not waqf conditions, because for him waqf is the same as the concept of *isqath* (aborting the property rights of the wakif), so this can also be equated with i'taq or freeing slaves (Md Raus, 2016).

The Hanafi Imam's legal injunctions regarding cash waqf may be based on several classical texts, which are quoted in the book *al-Radd al-Mukhtar la Durr al-Mukhtar*, namely that Hanafis punish the validity of waqf for public facilities and its cancellation due to differences of opinion. According to the Hanafi madzhab, there are those who punish waqf is valid and some are not, then this is ikhtilaf (Kamal, et.al, 2019). If in a matter there are two qauls that are validated, then it is permissible to take a fatwa that punishes one of them. There are at least two rules used by the Hanafi madzhab, namely "qiyas is abandoned because there is more usage (Umami & Puspita, 2024), and that what remains based on urf is the same as nash" The basis of the argument is:

مَا رَأَى الْمُسْلِمُونَ حَسَنًا فَهُوَ عِنْدَ اللَّهِ حَسَنٌ، وَمَا رَأَى الْمُسْلِمُونَ قَبِيحًا فَهُوَ عِنْدَ اللَّهِ قَبِيحٌ

"What Muslims see as good is good with Allah and what they see as bad is bad with Allah."

Cash Waqf in the View of the Maliki Madzhab

Waqf according to the view of fuqoha from the Maliki Madzhab is an act that benefits the assets owned or provides the proceeds of an asset to the rightful person, through sighat, within a time period determined by the wakif or giver (Permana & Rukmanda, 2021). This opinion was also strengthened by Ibn Arafah, according to him, the definition of waqf is an act that provides the benefits of something as long as it is tangible and is accompanied by the ownership rights of the giver remaining even though it is estimated (Mawaddah 2018). The Malikiyah Madzhab has the same point of view as the Shafi'iyah and Hanabilah who say that the law is sunnah muakkadah, this opinion is based on the arguments from the Koran and the hadith of the Prophet SAW.

According to Imam Malik, there are four pillars of waqf (Hartanto, et. al, 2021). *First*, Waqif is the physical owner of property or its beneficial owner who has the requirements of Ahliyat at-tabarru' (worthy or legal to use the property) in the sense that these conditions are mature, intelligent, independent, rusydu (capable of benefit and prosperity) and also mukhtar (on the initiative themselves), because waqf will not be valid if it is carried out by a child, crazy person, slave, safih or someone who is forced. *Second*, mauquf is something owned by the waqif, which may be goods or benefits. The legal requirements for mauquf are that it is not related to other people's rights, can be used without reducing the physical object, is legal for use according to sharia' and is owned by the waqif. *Third*, mauquf 'alaih is something that is worthy of receiving property rights (ahliyat al-amalluk) or concretely like humans or abstractly like mosques. *Fourth*, shighat or waqf pledge is something that shows the provision of benefits, even though the unit of time has been determined. This opinion is what makes the Malikiyah madzhab different from the opinions of other madzahbs. Because in the opinion of the Malikiyah school of thought, waqf does not require ta'bid and tanjiz. he conditions for waqf in the Malikiyah view is only hauz. The essence of hauz is a mechanism where the wakif has released his authority from the mauquf and is accompanied by allowing the mauquf 'alaih to use or accompanied by takhliyah, namely giving permission to other people to use the mauquf in the form of goods, such as mosques, madrasas.

According to Imam Malik, cash waqf has a different definition from Imam Abu Hanifah's opinion. The Maliki school of thought is of the opinion that waqf does not release the assets donated (Aldeen, et.al, 2020). It only prevents the wakif from carrying out actions that could release his ownership of the property waqf of movable objects or money according to the Maliki school of thought is permissible as is waqf of mushaf, books and the like, this is because the waqf of dinars and dirhams are also allowed.

Cash Waqf in the View of the Syafi'i Madzhab

Waqf is a maliyah act of worship, a ritual of worship to draw closer to Allah through the use of property. it is also not mahdlah worship. Syafi'iyah believes that waqf is giving forever (*athiyah muabbadah*). Imam al-Syafi'i in the issue of waqf is actually quite detailed in defining it, it is stated in the book

of al-Syafi'i in the chapter on waqf that waqf can be done with three conditions. First, something donated is in the form of an item that can be benefited from by retaining the substance or object. Second, waqf is aimed at an existing principal and has unbroken branches. Third, waqf cannot be given to something that is prohibited by the Shari'a.

As a result, we can understand that according to Syafi'i, assets that have been donated cannot be withdrawn by the owner, because the main purpose of waqf is to hold the assets that have been donated and assets that have been donated cannot be inherited, donated and cannot be given away. sell. According to the Shafi'iyyah school of thought, harmony is a core element in the nature of something, so it must be done with all the things involved in that element. In simple terms, it is a composition in a formula. If the composition is incomplete then the formula will not occur. The pillars of waqf can be described in the table below:

Table 1. The Pillar of Waqf

Pillar	Required Condition
Waqif	Mukallaf, Mukhtar, Tabarru' expert, have item to donate, Independence
Mauquf	Have a value (empty space objects)
Mauquf 'alaih	Mu'ayyan, Ghairu Mu'ayyan
Shighat	<i>Ijab and Qabul</i>

Source: Processed Data

Some scholars are of the opinion that Imam Syafi'i is of the opinion that cash waqf is not permissible, because the objects are not eternal. According to Imam Syafi'i's view, the items donated must be ta'bid (eternal). However, there are several scholars from the Shafi'i school of thought, namely Abu Syar, who narrated from Imam Syafi'i about the permissibility of waqf in the form of dinars and dirham (Suryadi and Yusnelly, 2019).

Cash Waqf in the View of the Hanbali Madzhab

Imam Ahmad ibn Hanbal is the founder of the youngest madhhab among the four popular madhhabs. Hanabilah fiqh was born after the Shafi'iyyah madzab, there are many similarities between the two, both in terms of law, requirements and pillars of fiqh. However, even so, this does not mean that the Hanabilah school of thought is said to be a plagiarist in legal interpretation, because the source or basis of Hanabilah law is not the same as the Syafi'iyyah. In the book al-Iqna', Shaykh Musa al-Hajawi al-Maqdisi states that the definition of waqf is as "freezing carried out by the owner who is free to invest in his wealth which is useful along with the existence of the goods by cutting off the tasarruf of the wakif or other person regarding the physical goods while allocating benefits towards goodness with the sole aim of getting closer to Allah SWT (Ayudin, 2016).

According to Hanabilah's view, waqf law is sunnah (Azizuddin & Azam, 2021). This law is sunnah because, if in his heart the wakif wants to get closer to Allah SWT through waqf. This law can change depending on the wakif's intentions. This opinion is based on the explanation in the book Mathallib Ulin Nuha, Musthafa ibn Sa'ad ar-Rahbani states that *taqarruban ilallah ta'ala*, mention is needed to define waqf that produces rewards, not other than this purpose. Because sometimes someone endows their property to other people just to show their love, aka not just to worship Allah. According to the Hanabilah school of thought, the pillars of waqf consist of four pillars as follows: Waqif, Mauquf, Mauquf 'Alaih and shighat or a medium that leads to the validity of the waqf in the form of words or their substitutes and work. There are six conditions for valid waqf as explained in the book Ghayat al-Muntaha:

1. Wakif is a person who has the status of the owner of the mauquf and has the legal status of the transaction; namely mukallaf and capable (rashid). This can also be done by someone representing him.
2. Mauquf with the following conditions: in the form of objects or goods, known (excluding waqf property that is mubham or unclear), valid when sold, useful in general, exists without decreasing in physical value when being used, contains the value of worship, in the sense of allocation The benefits of waqf must contain the value of worship.
3. Mauquf 'alaih which has mua'yyan (certain) criteria. The meaning is other than himself. Have the right to exist or have full rights, except for those of a slave. Waqf must be Tanjiz (direct). There are no conditions that conflict with the terms of waqaf.

In the view of the Hambali school of thought, waqf for movable goods or cash is permissible as long as it has become 'Urf or custom among the community and brings benefits, such as books, mushaf and so on (Asmuni, 2019). Even though Imam Hambali's teacher is of the opinion that Imam Syafi'i does not allow waqf in the form of dinars and dirhams, because dinars and dirhams can disappear by being spent and it is difficult to preserve the substance of the goods, Imam Hambali allows waqf in the form of cash if it has become a tradition for the community or habits that are often done.

Cash waqf law has become a concern for experts in Islamic law, especially in the field of fiqh, because cash waqf is an act that often occurs today, so it is worth discussing in detail, so that there is clarity in the application of the law carried out by society. Several sources say that cash waqf has been practiced by people who adhere to the Hanafi school of thought. In fact, other schools of thought also apply the same thing, only the perspective of interpretation is different. The Syafi'i School actually does not prohibit cash waqf because the nature of money is temporary, because cash waqf, even though it is temporary, can also be invested so that you can obtain goods that will last a long time.

There are differences of opinion regarding the law of cash waqf. Imam al-Bukhari revealed that Imam al-Zuhri (d. 124 H) was of the opinion that dinars could be donated by using the dinars as business capital (trading), then channeling the profits as waqf (Hidayat & Daipon, 2018). Wahbah al-Zuhaili also said that the Hanafi madzhab allows money as an exception, on the basis of istihsan bi al-'urfi, because it is already widely practiced by society. The Hanafi School believes that laws established based on 'urf (customs) have the same legal force as laws established based on nash (text). The basis of the Hanafi school's argument is the hadith narrated by Abdullah ibn Mas'ud:

مَا رَأَى الْمُسْلِمُونَ حَسَنًا فَهُوَ عِنْدَ اللَّهِ حَسَنٌ، وَمَا رَأَى الْمُسْلِمُونَ قَبِيحًا فَهُوَ عِنْدَ اللَّهِ قَبِيحٌ

"What is considered good by Muslims is in the sight of Allah good, and what is considered bad by Muslims is also bad in the sight of Allah."

Not all scholars accept cash waqf because it is temporary and there are also those who believe that cash waqf is not a habit. Therefore, Ibnu Abidin is of the view that cash waqf is not permissible or invalid (Ja'far, 2019). As time goes by, it has become popular or a habit among society for someone to want to donate waqf in the form of cash, which previously was not a habit or was unknown in the early days of Islam. It is very natural that the legal basis for cash is difficult to find in classical books, even though waqf is still understood in the form of immovable objects as is often quoted in classical books. However, as time went by, waqf in the form of money gained legal legitimacy. The following are the legal grounds for allowing cash waqf, these basic grounds are quoted in the holy book Al-Quran and also the hadith of the Prophet.

Ali Imran verse 92: *"You will never reach (perfect) virtue until you spend some of the wealth you love. And whatever you earn, Allah knows it."* And Al-Baqarah verse 261: *"The parable of (the income spent by) those who spend their wealth in the way of Allah is similar to a seed that grows seven ears, and in each one a hundred seeds. Allah multiplies (rewards) for whom he wills, And Allah is all-encompassing (his bounty) and all-knowing."* The two verses of the holy Qur'an above are still global in nature and encourage Muslims to set aside some of their wealth to be given to charity for public purposes or endowment. This verse is often quoted for Muslim women to like to give alms or spend some of their wealth in the way of Allah.

The following are the basics of waqf from the hadith, Hadith narrated by Ahmad: *"If a child of Adam dies, then his deeds will be cut off, except for three things, sadaqah Jariyah, useful knowledge, and pious children who pray for their parents."* And Hadith History of Al-Bukhari: Narrated by Ibnu Ummar r.a. that Umar Ibn Khattab r.a. Obtaining a portion of land (garden) in Khaibar, then he came to the Prophet to ask for guidance regarding the land. He said, *"O Messenger of Allah, I obtained land in Khaibar which I have never obtained better property for me than that land. What are your orders to me regarding this?"* The Prophet SAW answered, *"if you want, you keep the principal and give alms to the proceeds."*

CONCLUSION

Waqf in the form of money is legal, for the reason that waqf is allowed in the form of dinars and dirhams. Cash waqf is permissible because there are verses and hadiths that strengthen cash waqf. Apart from that, with the increasingly rapid civilization of the waqf era, it is much easier to distribute money, such as transferring via bank in remote areas. Most ulama in the millennial era agree that cash waqf is permissible and legal, provided you understand the procedures.

The lack of references and comparisons is a weakness in this research because there is not much research on cash waqf. The hope is that there will be more future research on cash waqf in a more comprehensive manner from a normative and epistemological perspective. At the very least, this will provide additional data and contributory corrections to studies regarding cash waqf which, in some circles' understanding, is still difficult to accept, including in Indonesia, where the majority adhere to the Shafi'iyah school of thought which does not legally condemn cash waqf. Apart from that, it is necessary to sit down with stakeholders in responding to cash waqf considering the current developments and advanced technology, so that the decisions taken can be accepted by all parties.

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