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Integrated Sukuk based Waqf in Pesantren: A Modified Model

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Abstract: Waqf and Sukuk are not seemingly equal things to compare, one is filled with a spiritual and social aspect, the other with a commercial aspect. But time proves that the development of Islamic economic concerns is complimentary not only to commercial issues but also to social issues. Besides, Pesantren is serious about empowering a potential business unit through waqf to enhance the economic development of Pesantren. The purpose of this study is to propose models of integrated Sukuk based waqf model in Pesantren using a qualitative approach, accompanied by scholars, academicians, and practitioners with surveys and focus groups discussion. The results show that Sukuk has an important role to play in supporting Pesantren's waqf quality. This type of Sukuk will generate a new source of fund for Pesantren based on the ijarah theory, which can generate own profit for primary pesantren projects. This model shows the way Pesantren maintains and develops waqf assets toward a self-financing waqf institution. Pesantren is responsible for both the primary and secondary projects through its two divisions: Pesantren Financing Corporation and Pesantren Production Corporation. Finally, as a conclusion, the author expects that this model would be an alternative model that could be more beneficial to Pesantren in need.

1 INTRODUCTION

Islam explains how to worship God not only in ritual manners but also in many aspects of human being's behavior. Islam encourages human justice. It prohibits some groups of the rich to only benefit from each other but it should reallocate the wealth to those in need.

Islam introduces the principle of Sadaqah to redistribute wealth from rich to poor. It may also have the component of compulsory or voluntary in money (material) and non-material. Zakah is a kind of mandatory sadaqah, while waqf is a type of voluntary one.

Pesantren is well known and has played an important role in waqf history and Muslim education. Most pesantren stand today on waqf land, but for a long time, pesantren stand on the ownership of the land of its founder. After a proper operation, his founder endowed the pesantren with his land.

Waqf donations to pesantren are mostly in the form of property or land that is not prepared for use at times. To be used properly, the current waqf land must also be maintained. By putting it into a

profitable waqf, the waqf land of pesantren can be completely transformed.

Some ways of funding waqf projects, such as cash waqf, government grants, individual donations, and others, are available in pesantren. However, this paper focuses only on how the investment waqf pesantren can be financed by Sukuk. This paper also provides a modified model for financing waqf investment with Sukuk, in general, to discuss the operation of Integrated Sukuk Based Waqf in pesantren. In principle, Integrated Sukuk Based Waqf in pesantren can be accepted by any pesantren as a finance tool for waqf. However, there are certain issues to be resolved with a view to revitalizing the pesantren waqf productivity in the long term.

2 LITERATURE REVIEW

The practice of waqf is not specifically stated in the Quran and the Sunnah but is part of the general donation. Donations in the form of waqf are known as acts of philanthropy which may be described as a

sustained charity, called sadaqah Jariyah (Zuki, 2012: 174).

Waqf has been developed since the era of Prophet Muhammad Rasulullah. After his first year of Hijrah in Madinah, when the Prophet felt the need to pray in some place, he built a mosque known as Quba. Because of the increasing numbers of Muslims, he built a new mosque known as Nabawi. He advised Utsman ibn Affan to purchase Rumah water well to supply water for everyone. Waqf has been established and played an essential role in Muslim socio-economics.

The experience of waqf organizations has shown Cizacka (2002: 265) to provide social welfare programs that many current states are trying to offer. Baskan (2002: 17) states that during the Ottoman era the waqf scheme was largely tasked with financing for health, education and welfare programs. There is also a need for an improved management approach to improve its effectiveness and performance (Boudjellal, 2008: 124).

The fact that the person who administers the waqf is allowed to shape it as he wants. Ahmed (2004: 28) stated that waqf Institutions have a flexible organizational structure. He is equally responsible for a waqf/trustee (Ibrahim, 1996: 9). Nevertheless, it is constrained by certain moral and legal obligations. For example, it is the responsibility of the nazir to preserve and optimize its income for the waqf property (Rassool, 2007: 6).

From an economic point of view, waqf can be described as an investment of funds in properties that offer income for possible uses by individuals or groups (Pirasteh and Abdolmaleki, 2007: 5). It is an endowment with a strong economic force that guides the business to growth and prosperity (Yalawae and Tahir, 2003: 3). Kahf (1998) further defines Waqf as "an activity that includes savings for the future and accumulation of sustainable capital that supports the future generations." Waqf offers certain social welfare services as part of the voluntary sector, which are financed via the investment of the funds allocated. To order to redistribute wealth between the poor and the rich, the waqf sector is one of the strongest tools to minimize socioeconomic disparities.

Besides the early development of productive waqf, the Muslim ummah also has faced the evolution of the Islamic educational institution known as pesantren. Pesantren, one of the pioneers of Islamic education in Indonesia, has long been using waqf for self-sufficient governance. In major parts of the country, especially in Java, hundreds of pesantren arise and expand. It has a common goal of promoting

well-being and a good characteristic for prosperity, i.e. productive waqf and pesantren.

Pesantren are Islamic institutions of education with many common features. Their structure in physics and organizations is typically composed of several features: mosque, dormitories, students – they are also popularly called santri – and the Muslim scholar who leads pesantren, called kyai. The main area is a mosque in which students and Kyai pray five times a day and do other things, including public lectures, group prayers, and public preaching. The Kyai House is often next to the mosque and the students' dormitory (Dhofier, 1999: 33).

Pesantren is often referred to as pondok pesantren in more formal language. Pondok means a hut literally while pesantren means a santri place. The term santri also refers to 'religiously-oriented Muslims' in a wider sense rather than 'abangan' or 'common Muslims' (Geertz, 1960: 120). The term 'santri' can also be limited to the term 'student of the pesantren'. In the past, the term pondok pesantren had only been used in Java, but today in other regions of Indonesia it has also been used since the central government has adopted that term for Islamic boarding schools (Azra 2006: 78).

Waqf donated to pesantren is mostly in the form of an estate or land that is not ready to be used, such as old houses, old buildings or others. To work properly, existing waqf properties must also be maintained. Existing waqf properties could be financed by some schemes. Existing waqf properties are financed entirely by the pesantren internal funds. In many ways, pesantren could use cash waqf, government grants, individual grants, and others to maintain existing waqf properties.

2.1 Previous Studies

The integration of financial instruments and waqf in pesantren is a new topic, in that the existing studies on this issue are scarce. The closest literature to this topic is the waqf through Sukuk al-intifaa. Some of these studies include, among others, Kholid, *et. al.* (2009) and Ismal, *et. al.* (2015).

Several models of the waqf through Sukuk according to Kholid, *et al.* (2009) include Sukuk al-intifaa. The aim of this paper was mainly to present a proposed model on the role of Sukuk al-intifaa in supporting the management of waqf. To be able to implement this model, some of the requirements should be met in advance, i.e. Islamic endowment corporation, waqf financing corporation, SPV Company for waqf project, waqf developer corporation, and developer company. The authors

modified this model so it could be an alternative model for the performance of pesantren.

Awqaf linked Sukuk with awqaf properties as a component of underlying assets is proposed by Ismal, *et. al.* (2015) to finance government projects as well as infrastructure development. The paper examined the possible issuing of awqaf linked Sukuk that would contribute to sustainable economic development and social welfare through the strategic alliance among governments and businesses through a Public-Private Party (PPP). The creation of awqaf-related Sukuk is hoped to become a driving force in the global Sukuk output within Islamic finance.

In our scenario, the waqf institution is represented by a pesantren who manages the waqf asset himself. Modified waqf linked Sukuk models from previous studies provide guidelines for the development of a pesantren waqf project through Sukuk. This model shows the maintenance and development of a waqf asset for the self-funding of pesantren by a holding pesantren.

For more instructions about the references and citations usage please see the appropriate link at the conference website.

3 ANALYSIS MODEL

Our model of investment waqf is based on a model developed by Kholid, *et. al.* (2009) and Ismal, *et. al.* (2015). The Integrated Sukuk Based Waqf model is a model of productive waqf development involving the main parties, namely, pondok pesantren. The main requirement of this model is the establishment of a holding pesantren as a nazir or holder of a waqf land, the main role of which is to manage, maintain, generate and develop waqf land.

The holding pesantren can be formed not only by the association of boarding schools but also by several pesantren who have the same vision and mission in the field of Islamic education. The holding pesantren is the parent company of the pesantren business unit that can control the policies of the pesantren business unit and oversee its management decisions. It merely maintains supervisory capacity and therefore does not actively participate in the running of day-to-day business operations. The holding pesantren, supported by good management and governance, is expected to be able to support business activities on a larger scale in the context of the development of the pesantren business unit. Holding pesantren is the integration of several pesantren business units to strengthen the presence of

capital, market development and access to information.

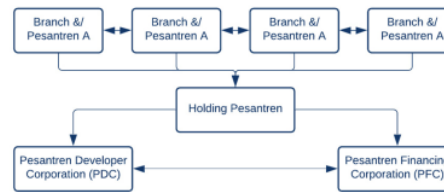


Figure 1: Organization Structure of the Holding Pesantren.

Based on the definition of the holding pesantren, the objective is to achieve the economic independence of the pesantren to support the pesantren as the basis of Indonesia's economic flows. In this Integrated Sukuk Based Waqf model, the holding pesantren is responsible for agreeing on the mega-projects needed for the benefit of the holding pesantren members. The net profit from the acquisition of waqf assets is used to finance the development of other secondary projects or to fund social programs and is even intended to be reinvested.

3.1 Modified Model of the Integrated Sukuk based Waqf in Pesantren

Modified Model of the Integrated Sukuk Based Waqf In Pesantren provides a guideline in developing waqf projects. In this model, the Pesantren Financing Company (PFC) and the Pesantren Developer Company (PDC) are required to form a subsidiary. PFC has to become a financial management company as well as a financial provider, which is why PFC is obliged to issue Sukuk to finance the project. Another task of this division is to act as the manager (management company), namely the building manager or the property manager. While PDC is obliged to build an asset on waqf land. There is close coordination between the holding pesantren, PDC, PFC, during and after the development of the waqf project.

Holding pesantren plans mega property development projects that require large enough funds to be financed by Sukuk issuance. The holder of a pesantren collaboration with the two institutions formed by the pesantren uses the Build-Operate-Transfer (BOT) system in the field of real estate for the construction of installations on the pesantren waqf land. Holdings pesantren as Nazir sign a long-term lease agreement (Long Lease, Hukr) with PDC.

The PDC then signs a sub-lease contract (during or less than a long lease term) with the PFC that will

issue a Sukuk, which may be in the form of Sukuk Ijarah, Sukuk Musharakah, Sukuk Al-Intifaa or other Sukuk, where the property will be built by the PDC, while financing and building property management is carried out by the PFC.

The main task of PFC is to generate, collect and distribute funds to finance the activity of waqf project, to sustain it and to grow it. The appointed PFC's manager should, with this massive responsibility, satisfy certain criteria such as amanah, honesty and good management sense. To order to maintain and expand the waqf land, he has to be able to find new sources of funding. The manager should be able to assign a budget to the primary and secondary programs.

PFC collects funds from two sources, the investment fund and the endowment fund from the holding pesantren. The pool fund that serves as the PFC's internal fund is then put into all collected funds. Investment Fund is leveraged by investors investing in waqf investment through musharaka financing, mudharabah financing, Ijarah funding, and others. The primary project was financed primarily by this fund. This paper explained, however, the use of Integrated Sukuk Based Waqf for investment funding in the next section. The second source of funds for the PFC is a donation fund, which can be used as a cash waqf, government grant, individual grant, and others.

PFC can issue Sukuk because it is a company formed by pesantren which is engaged in finance and has obtained permission from the Ministry of Finance as an SPV (Special Purpose Vehicle). PFC collects funds directly from the investor by financing the project. Sukuk is generally cheaper than Islamic bank financing and foreign financing.

The property is managed by PFC and is used to meet the needs of the pesantren mandated at the beginning of the development of the mega project. Examples of developments needed by Pesantrens today are residential buildings, in the form of hotels or cottages for guests staying overnight, hospitals for students and surrounding communities, housing for lecturers, distribution centers as warehouse student cooperatives in all branches of pesantren. If the proceeds are used to finance property management, pay Sukuk coupons to Sukuk holder investors, pay Sukuk when it is due, and the rest is the profit of the holding pesantren.

After the project is completed, PFC is the project operator. But this is not a compulsory arrangement. The Pesantren holding company can become the project operator. The agreement between the holders of pesantren and PFC varies. PFC will then raise funds from investors to finance the project based on

the financial agreement with PDC. PDC may, however, also request that PFC use the internal fund to finance a primary project fully or partially. In the case where PFC contributes to secondary project financing, the profit of all projects is divided by pesantren holding.

Some of the main projects with good management in pesantren can generate benefits. Every profit made from both projects is then shifted to PFC to be pooled in a fund pool with other funds. This fund pool is the internal financing source for PFC to fund maintenance costs, operating costs and new waqf projects. In summary, this model offers an alternative to managing waqf pesantren in favor of independent pesantren to ensure that the pesantren continues to develop.

3.2 The Operations of Integrated Sukuk based Waqf in Pesantren



Figure 2: Integrated Sukuk based Waqf Model in Pesantren.

Below is an explanation of how the divisions support pesantren, tasks and coordination work. This model explores how the project that a holding pesantren can carry out to issue Sukuk based on waqf land can be identified through a financial contract with public institutions including the Ministry of Finance and the BWI (1a–1e). The finance ministry is in a pivotal situation in promoting the initiative regarding its present roles in the issue of sovereign Sukuk. Finally, Bank Indonesia and the financial service authority (OJK) have a role in enabling the tradability of such a proposed sukuk to deepen the Islamic financial market in the secondary market.

The holding pesantren manages its waqf project through its two divisions (2a – 2b), Pesantren Financing Company (PFC) and Pesantren Developer Company (PDC). Following the financing scheme, a holding pesantren contract with PDC (3) for Built Operate and Transfer (BOT) and then leases the project contracts to PFC (4), which will then be implemented. BOT contract between the holding pesantren and PDC is the underlying asset for the

leased one. PDC will develop and then transfer the finished project to PFC following this contract. The contract period will, however, depend on the funding scheme used to finance the project.

PFC will then issue a waqf associated Sukuk for the project following the signing of the lease contract (5). Investors subscribe to the Sukuk, which has the right to use the asset for a certain period. For a specified time, the investor is entitled to use the stated asset in the Sukuk. Investors can, however, lease the Sukuk to other parties who want to use the asset. This is one reason why the Integrated Sukuk Based Waqf is liquid.

PFC receives funds from project development funding subscribers (6a). In some situations, the holding pesantren also contributes to the financing of the internal fund (6b). But the primary project should be funded by PFC (7). PDC begins project development (8) and the developer transfers the project to the PFC once the project is finished (9a). PFC is now in charge of the completed project. PFC operates the project from the completion of the project to the end of the BOT contract (10). The income (11) is then shared among Sukuk holders (12a) and holding pesantren (12b).

The PFC's return is collected in the project fund pool (13). The pool is made up of an internal fund used by PFC to finance both the primary project and the future secondary project (14). The process is carried on until the BOT contract is concluded. After the BOT contract, PFC shall return the asset to PDC (15). PDC shall then return the asset to the holding pesantren, which has awarded the BOT contract (16). The project is now fully owned and generates income for pesantren continuously. To conclude, this model shows a model in which pesantren receives permanent benefits through Integrated Sukuk Based Waqf from the revitalisation of the waqf asset.

4 CONCLUSIONS

Development of productive waqf in Indonesia with commercial objectives is common but not yet widely known to the public, while non-productive waqf with social objectives such as education and health are best known and appreciated by the public. Productive waqf models developed in Indonesia are simple productive waqf models by relying on raising waqf through money, self-managed or managed by other parties where Nazhir is a social legal entity or a non-government organization (NGO). The high-cost properties are therefore constrained by the length of the collection of endowments.

One of the educational institutions, known as pondok pesantren, is engaged in education and can also develop waqf through one of the financial market tools, namely Sukuk. But there are still barriers that have not been fully addressed, such as Islamic boarding schools, which are still traditional and do not have access to finance. To ensure that innovative productive waqf models through Sukuk have not yet been applied in Islamic boarding schools, Sukuk-linked waqf models have been applied in several countries and other waqf management institutions in Indonesia, namely foreign financing or Indonesian state owned enterprises (BOT with Sukuk issuance).

The most important elements of the Integrated Sukuk Based Waqf models are nazir waqf or holding pesantren capable of establishing PFC and PDC as independent subsidiaries, the form of waqf assets to be financed by the issuance of this Sukuk, the professional waqf asset management schemes and the Shariah compliance elements that must be encountered.

The main problems for managing the productive waqf in Pesantren include a lack of understanding of the pondok community concerning investment tools in the Islamic financial market, a low level of professionalism in Nazhir (including *assatidz* (teachers), *musyrif*, *musyrifah*, *santri* or business units staffs) or other problems that can be identified in the pondok. Therefore, some urgent things to do include:

1. Community education, especially students and female students of pesantren through education programs in colleges and recitations, productive waqf forums, productive waqf movements, and so on.
2. Nazhir's certification and standardization from basic to advanced, Nazhir's education and training, increasing Nazhir's remuneration, etc.
3. Designing Sharia financing schemes that are consistent with the character of developing waqf land in pesantren

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