

The Management of Cash Waqf on Dinar and Dirham from The View of Islamic Law (Case study at Wakala Parent Bintan)

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Abstract

Waqf is a struggling conscience to give something to the development of people's welfare and struggle facilities. Many evidence conveys moving and stationary objects that can be represented but that is not enough to meet the growing needs of society. Based on the principle of waqf is made innovation of waqf products, namely cash waqf, which is with cash funds. The scholars' past practiced a lot of cash waqf using the dinar and dirham which is currently reappointed by Wakala Parent Bintan. The purpose of this research is to know the theory of Islamic law regarding cash waqf property management, to know the concept and practice of cash, dinar and dirham, to know the Islamic law on the management of cash and dinar Wakalah Parent Bintan. Research method of this study authors using qualitative method, which is a writing aimed at describing and analyzing a phenomenon about what Wakala Parent Bintan did in managing the cash waqf. From this study, researchers concluded that the practice of cash waqf in Wakala Parent Bintan using dinar and dirham, is a cash waqf that replaces it with a stationary object that produces the benefits of education rulings ahlu the madinah is a buy and sell transaction using both dinar and dirham and helps to enrich the surrounding community with market building for merchants without the use of taxes or rental of stalls in the market, as well as build a civilization away from riba. Thus the study can be concluded, but the researcher is aware that the research is far from the word perfection and requires further study that will discuss this issue more clearly. Great researchers hope for the advice and criticism and hopefully this research is beneficial for the authors in particular and the readers in general.

Keywords: *Waqf Cash, Dinar, Dirham*

Introduction

Commonly *waqf* is understood by most people as an object that is not moving, such as the *waqf* of land for education, *waqf* of land and building, *waqf* of teak, wells, graveyard and others to be taken advantage of. The understanding of most people is one of the causes of the lack of optimal functions of the *waqf* as a means of development of Islamic *syiar* and the empowerment of Muslims.

Meanwhile, if we look back on Islamic history, it is very obvious that the progress of Muslims and the development of Islamic territories can not be removed from the role of *zakat*, *infaq (waqf)*, and *sadaqah* (ZISWAF) conducted by Muslims since the time of the prophet Muhammad SAW. Even in the time of Rasulullah, Muslims have implemented *waqf*.

Waqf is the best investment in long-term world and the hereafter. *Waqf* has begun since the time before the prophet Muhammad, and this deed was justified and legalized by the prophet Muhammad and continued by the companions, and the Muslims until now. *Waqf* is a struggling conscience to give something to the development of people's welfare and struggle facilities, so that with the permission of Allah *waqf* is able to develop the welfare of the people in Indonesia with the transparency of sacrifice, attitude this example is the key to the success of the *waqf* itself (Ust. Hasan Abdullah Sahal).

Since the advent of Islamic religion in Indonesia, the representative has existed and is valid in Indonesian society based on Islamic and customary law, although there is no law. The objects that are represented in the form of objects are not moving in the form of properties such as mosques, school buildings, boarding schools, and others. But the needs of today's society continue to increase and so large that it needs cash funds to improve welfare. Based on the principle of *waqf* is made innovation of *waqf* products, namely cash *waqf*, which is *waqf* with cash funds.

There are interesting things that used to be done by the scholars' Muslims and this time in the re-lift in the society of Indonesia in managing cash *waqf* is using dinars and dirhams.

In this case, people can feel the life of what the prophet has taught, namely using dinars and dirhams as *waqf* in cash without *riba*, but the management and utilization of cash *waqf* in our homeland is still a little missed let alone *waqf* cash using dinars and dirhams.

Definition of Waqf

Waqf in Arabic language can be interpreted with *al-habs* "to withhold", or *al-mani'* "to obstruct".¹ Said *waqafa-yaqifu-waqfan* there are with the word *habaša-yahbisu*-ordination meaning hindered to use. The word *waqf* in Arabic contains meaning: (الوقف بمعنى التحبيس التسبيل), meaning: to hold, hold the treasure to be represented, not to be transferred.²

In Arabic, the term endowments often in the direction of objects or objects to be represented (*al-mauquf bih*).

In Indonesia, the term *waqf* can mean the object that is represented. According to the term although there are differences in interpretation, it is agreed that the meaning of *Waqf* is to hold objects and utilize the results or hold their dzis and make the benefit.³ *Waqf* is a very important instrument for Muslims, and therein there is a principle of investment and *shodaqoh* which is very beneficial for Muslims. Because the benefits of *waqf* can be felt continuously and will not be interrupted.⁴

In the *fiqh* of *mu'amalah*, the *fuqoha* disagreements in interpreting the meaning of *waqf*. Among the scholars' who argue are:

First opinion according to the scholars' Abu Hanafiyah defines *waqf* with Hadith Rasulullah:

حبس العين على ملك الواقف وتصدق بمنفعتها على جهة من جهات البر والحال
أو التال^٥

(To withhold the property of the waqf and the benefit of the good for the present or future.)

Imam Abu Hanifah explained that *waqf* is an act of withholding an object according to the law, ownership of the property remains

¹Monzer Kafh, *Al-Waqf al-Islami Tathawwaruh, Idaratuh, Tanmiyatun* (Damaskus: Dar al-Fikr, 2000), 19-22.

²Muhammad ibn Bakar ibn Mandzur al-Mishri, *Lisan al-'Arab, Jilid 11* (Bulaq: Al-Mishriyah, t.th.), 276.

³Abu Zahrah, *Muhadharat fi al-Waqf* (Beirut: Dar al-Fikr al-'Arabi, t.th.), 41.

⁴الدكتور مهند فؤاد إستيتي، *دقيقة الوقف وأثر خلاف المذاهب الأربعة فيه*، الرسالة استكمالاً

لمتطلبات درجة الماجستير في القضاء الشرعي بكلية الدراسات العليا في جامعة الخليل، ٢٠٢١م، ص. ٦.

⁵Badran Abu al-Ainaini, *Ahkam al-Washy wa Auqaf* (Iskandariyah: Muassasat as-Salaby, t.th.), 260.

belonging to the *waqif*⁶ in order to use its benefits for virtue. Based on the definition, the property will not remove its ownership from the *waqif*, even the *waqif* in the allow to withdraw the property that has been represented and allow it to sell it. And what if the *waqif* dies, the property of the *waqf* can be an inheritance for his heirs. So the thing that is contained in the *waqf* is only “to represent the benefits.”⁷

The second of the Maliki sect argues that the property of the *waqf* does not waive the possession of the assets that are represented from the *waqif*, but the *waqf* is to prevent the *waqif* from using his property for something that is not beneficial to him and *waqif* obligation to make the most of its benefits and should not withdraw its time. Although the property owned by *waqif* is in the form of wages, or the benefits of something or such a representative of money.⁸

The implementation of *waqf* is done by pronouncing *waqf* pledge for a certain period according to what is desired *waqif*. In other words, *waqif* withholds the property that has been in the *waqf* of personal use, but will welcome *nazir* to utilize the property for the purpose of goodness.⁹

The third of the Imam Shafi’i, who argues that *waqf* is a disconnection or separation of wealth from the possession of the *waqif*, *waqif* no longer has the right to intervene the property that has been in the *waqf*, and the result of the *waqf* is used to goodness and merely to draw closer to Allah SWT, and has been explained by the Imam Nawawi:

حبس مال يمكن الانتفاع به مع بقاء عينه بقطع التصرف في رقبته ۞ وتصرف
منافعه البر تقربا الى الله تعالى

“The containment of treasures that can be utilized while maintaining the integrity of the goods, regardless of the intervention of *waqif* or others, and the result is channeled for the sheer goodness and for the *taqarrub* (closer to God).”¹⁰

The four of the Hanabilah scholars who defined *waqf* come from the prophet’s hadith. To Umar ibn Khatab RA, (*Endure the origins and cast the results.*) In the meaning of the word «*origin*» of the

⁶Waqif: people who do *waqf* for their property. (Ahmad Soleh Sakni, “Konsep Ekonomi Islam,” JIA, Vol. 14 No. 1, 2013, 159).

⁷Idham Khalid Baedawi, *Fiqh Wakaf* (Jakarta: t.p., 2006), 2.

⁸Ibid.

⁹Ibid.

¹⁰Abu Zakaria Yahya bin Syaraf an-Nawawi, *Al-Minhaj* (Cairo: Mustafa Muhammad, t.th.), 464.

hadith is the property that has been represented and the meaning of the sentence «to drain the benefits» is to provide the benefits of goods that are represented, the result and profit of the *waqf* property, to the benefit of the people.

Al-Kabisi gives an opinion on the above definition. *First*, the definition does not mention *nazir* that will take care of *waqf* property after being represented. *Secondly*, the above definition does not have any additional definitions in detail, such as the obligation to draw closer to God, or not to move the possessions of the *waqif* property.¹¹

Cash Waqf

A. Meaning of Cash Waqf

Cash *waqf* is a physical charity that is done individually or more, or an institution or legal entity in the form of cash treasures. Cash *waqf* is one of the *waqf* moving objects in the form of cash that is used for profitable investments with the provisions that have been set to be used as a social service.¹²

Cash *waqf* or in another language we call *waqf* of money is managed *waqf* and generate beneficial benefits and used for the public interest such as education, research, health, economic empowerment of middle society down and more. Cash *waqf* can also devinpopulate the submission of the property of *waqif* cash to an institution or individual competent in the management of *waqf*, namely *nazir* to be managed productively.¹³

B. The Legal Basis of Cash Waqf

1. Al-Qur'an

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ¹⁴

“Never will you attain the good (reward) until you spend (in the way of Allah) from that which you love. And whatever you spend-indeed, Allah is knowing of it.”

¹¹Muhammad Abid Abdullah al-Kabisi, *Ahkam al-Waqf fi asy-Syari'ah al-Islamiyah (Hukum Wakaf)* (Jakarta: IIMaN Press, 2004), 60.

¹²Abu Bakar dan Chaider S. Bamualim, *Filantropi Islam & Keadilan Sosial* (Jakarta: CSRC UIN Jakarta, 2006), 78.

¹³Nurul Huda dan Muhammad Haykal, *Lembaga Keuangan Islam: Tujuan Teoritis dan Praktis, Ed. 1, Cet. 1* (Jakarta: Kencana, 2010), 325-326.

¹⁴Surah Ali Imran Verse 92.

The evidence above explains that the goodness will be reached by *waqf*. It is based on the history that Abu Talhah when he heard the verse, he rushed to represent some of the treasures he loved, namely *Beiruha*,¹⁵ a garden famous for its fertility. Rasulullah has advised him to make his plantation as *waqf*. Then Abu Talhah followed the advice of the prophet. Abu Ubaid said that although the word *infaq* in the verse above shows the meaning of *Sunnah*, but Muslims are always encouraged to realize and to achieve the goal of the *infaq*. Thus, the passage above becomes the evidence on the *sharia* of *waqf*.¹⁶

يَا أَيُّهَا الَّذِينَ ءَامَنُوا أَنْفِقُوا مِنْ طَيِّبَاتِ مَا كَسَبْتُمْ وَمِمَّا أَخْرَجْنَا لَكُمْ مِنَ الْأَرْضِ، وَلَا تَيَمَّمُوا الْخَبِيثَ مِنْهُ تُنْفِقُونَ وَلَسْتُمْ بِبَاحِلِيهِ إِلَّا أَنْ تُغْمِضُوا فِيهِ، وَاعْلَمُوا أَنَّ اللَّهَ عَنِّي حَمِيدٌ¹⁷

“O you who have believed, spend from the good things which you have earned and from that which We have produced for you from the earth. And do not aim toward the defective therefrom, spending (from that) while you would not take it (yourself) except with closed eyes. And know that Allah is free of need and praiseworthy.”

Verse above describes the advice to Muslims to provide some of the results of the business of the good Muslims (*halal*) and some of what Allah has issued from the earth, which is meant *infaq* in terms of this verse is charity. Among the deeds to provide some of the results of the efforts of the Muslims who are good in the way of Allah is *waqf*.¹⁸

إِنَّ الْمُسَدِّقِينَ وَالْمُصَدِّقَاتِ وَأَقْرَضُوا اللَّهَ قَرْضًا حَسَنًا يُضَاعَفُ لَهُمْ أَجْرٌ كَرِيمٌ¹⁹

“Indeed, the men who practice charity and the women who practice charity and (they who) have loaned Allah a goodly loan-it will be multiplied for them, and they will have a noble reward.”

The words of *tunfiq*,²⁰ in both these verses contain a general

¹⁵*Beiruha*: the name of a date palm garden belonging to Abu Talhah, whose location faces the Nabawi mosque. Source: <http://mencarimakna.wordpress.com/2009/10/30/namanya-bairuha/amp/>, Accessed on January 10, 2019.

¹⁶Abu Ubaid, *Al-Amwal* (Cairo: Daras Book at The Sharia Faculty of al-Azhar University, 1991), 552.

¹⁷Surah al-Baqarah Verse 267.

¹⁸[Http://www.ibnukatsironline.com/2015/04/tafsir-surat-al-baqarah-ayat-267-269.html?m=1](http://www.ibnukatsironline.com/2015/04/tafsir-surat-al-baqarah-ayat-267-269.html?m=1), Accessed on January 10, 2019.

¹⁹Surah al-Hadid Verse 18.

²⁰*Tunfiq*: spend wealth on the path of goodness. Source: <http://www.ibnukatsironline.com/2015/04/tunfiq.html?m=1>, Accessed on January 10, 2019.

meaning, which is to spend wealth on the path of goodness, while *waqf* is to provide of wealth on the path of goodness so that this verse is used as the proof of *waqf*.

2. Hadist

In Hadist narrated by al-Muslim:

عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ إِذَا مَاتَ الْإِنْسَانُ انْقَطَعَ عَنْهُوَ عَمَلُهُ إِلَّا مِنْ ثَلَاثَةٍ إِلَّا مِنْ صَدَقَةٍ جَارِيَةٍ أَوْ عِلْمٍ يُنْتَفَعُ بِهِ أَوْ وَلَدٍ صَالِحٍ يَدْعُو لَهُ²¹

Narrated by Abu Hurayrah RA indeed the prophet. has said: «If a son of Adam dies, then his tight, except for three things: alms jariyah, a fruitful science, a son of shaleh who prays his parents.”

The above Hadith is a common basis for *waqf*, the Hadith encourages human beings to set aside part of his provision as the afterlife savings in the form of *alms jariyah*.

Imam Shafi'i said that there were eighty companions who issued a *sadaqah* with noble *sadaqah* from the people of Ansar.²² Imam Tirmidhi also narrated that the *waqf* was done by the previous scholars, both from the companions of the prophet and others, Imam Tirmidhi not see any difference of opinion among the scholars *Mutaqaddimin* about the ability of *waqf*, either *waqf* of land and *waqf*.²³

In line with what was said by Imam Shafi'i, Imam al-Bagawi said that *waqf* was practiced by the previous scholars, both from among the companions, and circles after them, such as scholars *Mutaqaddimin*. There is no difference between them regarding the ability of *waqf* of land or *waqf* of goods in motion. The companions of Muhajirin and Ansar do *waqf*, both in the Medina and in other areas. There is not one history of those who deny the existence of the *waqf*, even never any of them who revoke his time for the reason he still needs it.²⁴

²¹Imam Abi al-Husain Muslim ibn al-Hajjaj al-Qusyairi al-Naisaburi, *Shahih Muslim*, Juz 8 (Beirut: Dar al-Fikr, 2007), 405.

²²*Ibid*, 29.

²³*Ibid*.

²⁴Abdurrohman Kasdi, *Fiqh Wakaf dari Wakaf Klasik hingga Wakaf Produktif* (Yogyakarta: Idea Press Yogyakarta, 2017), 29.

The Concept of Waqf Management

A. The Obligation of Nadzir

In practice, the management of *waqf* cash is not easy, because in managing it must go through various businesses, and this business has a high risk. Therefore, the management and development of *waqf*, especially cash *waqf* must be done by the professional muconsulting. Ideally, muconsulting is not only a person or legal entity that has religious abilities, but also has the expertise in looking at productive business opportunities so that the property of *waqf* is fully developed optimally.²⁵

Nazir's obligation when submitted by *waqf*, must maintain the property of *waqf*, its interests, rent, cultivation, and defense in the absence of conflicts in it, and produce a result of salary (*ujrah*), crops, fruit, and divide the results to the impossible, so also maintain the integrity of goods *waqf* and their income, because the *waqf* is a covenant. And for *nazir* should try to develop the property of the *waqf* and distribute it to the welfare, renovate, and give it to *mustahik*.

According to the Hanafiah sect that a *nazir* when submitted by *waqf* in the course of the management of the *waqf*, he received a reward that was worth it during his tenure as *nazir*. Similarly, a *nazir* must maintain the conditions specified by the *waqif* in the exercise of *waqf* goods, because the condition that is in the term of the *waqif* as the *sharia* in Islam (*Nash Asyari'*).²⁶ And *nazir* can not add the provisions of *waqif*, which can add only *qaadi* (judge), because the judge has power to the people, the person who does not exist, and the person who died. If *waqif* ignores the problem of leasing the *waqf* property There is a history of Hanafiah that it was handed over to *nazir*.²⁷

According to the Malikiyah sects when *nazir* rents *nazir waqf* should determine the price of rent according to the average rental price. If less or more than the rental becomes invalid.

Nazir can not share the rent price to the eligible for *waqf* except for the past. If *nazir* rushed to take wages for the upcoming tempo then he could not share his salary to the beneficiary of the current

²⁵M. Anwar Nawawi, "Pengembangan Wakaf Uang Tunai Sebagai Sistem Pemberdayaan Umat dalam Pandangan Ulama' Konvensional dan Kontemporer," *Fikri*, Vol. 1 No. 1, 2016, 204.

²⁶*Nash asyari'*: drafting of Islamic law in the view of *ahlus sunnah wal jama'ah*. (Wahbah Zuhaili, *Fiqh Islam wa Adillatul*, Jilid 10 (Jakarta: Gema Insani, 2011), 291).

²⁷Wahbah Zuhaili. *Al-Fiqh al-Islamiy wa Adillatuh*, Juz. 8 (Beirut: Dar al-Fikr, 1985), 233.

waqf. Because there is a chance that the *waqf* recipient will die, and that results in granting the *waqf* result to the unauthorized person and can prevent the person.²⁸

According to the Syafi'iyah sect if *nazir* rents *waqf* goods to others instead of the average price then it is not valid. If the supervisor rents *waqf* goods then the rent price is increased at a tempo, then the rental is not canceled in the most *saheeh* opinion. Because if the rental is rising in the market then *nazir* should raise the price.²⁹

Please Hanabilah different opinion about the rental price of the previous sect. Hanabilah said that, the price of *waqf* rental is valid if below average and *nazir* is deficient in the average price.³⁰

In carrying out his obligations *nazir* need people who are competent and can continue the sustainability of the property of the *waqf*. Munzir Qahaf explained that a *nazir* should need a management board when *waqif* determines *nazir* who will avoid his possessions and also for the continuity of the *waqf* property for the future. He also explained about the provisions of the board, including:³¹ The board has a minimum of five people, appointing the chairman of the management, all of which are elected by agreement with the social organization and also attended by representatives from the Ministry of Waqf. Serve for a five-year term and can be renewed through an annual trial. To develop a future plan for the management of the *waqf* property, conducting associations for evaluation and decision making.³²

B. Management of Waqf in Islamic Perspective

Islam has taught its people how to implement the practice of *waqf*, because *waqf* has been from the time of the Rosul to the present. Rasulullah SAW also once the representative of seven of his palm groves in the Medina region occurred in the third year of Hijrah. Among the gardens that were represented by Rasulullah are

²⁸Wahbah Zuhaili, *Fiqh Islam wa Adilatul ...*, 336.

²⁹*Ibid*, 336.

³⁰*Ibid*, 337.

³¹Munzir Qahaf, *Al-Waqf al-Islami Tathawwaruh, Idaratuh, Tanmiyatun* (Damaskus: Dar al-Fikr, 2000) 168.

³²*Ibid*, 169.

Mukhairih,³³ Barqah,³⁴ and other.³⁵

In the exercise of the plantation, Rosulullah did so by means of the plantation that had been given by Mukhairii, the result of the plantation he gave to Muslims and set aside some of the results to buy war equipment such as horses, weapons, and for the sake of the Muslims.³⁶

Although there are some differences of opinion among the *fiqh* scholars about the status of *waqf* plantations Mukhaglance, but the majority of the *fiqh* scholars say that the event is an practice of *waqf* done by Rosulullah. For when Abu Bakr became caliph the land of the plantation Mukhairii was not inherited to the Prophet's family and some benefits of the garden were not given to them, but used for the sake of Muslims at the time. When Umar ibn al-Khatab became caliph to do so, he entrusted the management of the *waqf* plantation to Ali ibn Abi Talib and al-Abbas. However, when they differed, Umar was no longer ordered to take care of the land, and the plantation was feared as a treasure. Umar immediately requested the plantation again and was given back to the temple al-Mal Muslims.³⁷

There was land of Khaibar³⁸ that had been endowed by Umar ibn al-Khatab in the time of Prophet Muhammad SAW. The prophet told Umar to endure the matter and to make the result to the poor, and Umar did what was commanded by Rosulullah.³⁹ This event occurred after the liberation of Khaibar land that occurred in the seventh year of Hijri and recorded in a hadith of the history of al-Bukhari and Muslim:

عن ابن عمر قال أصاب عمر أرضا بخيبر فأتى النبي صلى الله عليه وسلم يستأمره فيها فقال يا رسول الله إني أصبت أرضا بخيبر لم أصب مالا قط هو أنفس عندي منه فما تأمرني به قال إن شئت حبست أصلها وتصدقت بها قال فتصدق بها

³³Mukhairik: a fertile plantation owned by a Jew named Mukhairik given to the Prophet SAW. (Abdurrohman Kasdi, *Fiqh Wakaf* ..., 35).

³⁴Barqah: one of the largest kurma plantations near the Qubah Mosque. (<https://google.com/amp/s/pojoksatu.id/pojok-bibir-tertua-di-dunia-ada-sebelum-rosulullah-hijrah-ke-madinah/amp/>, accessed on January 09, 2019).

³⁵Abdurrohman Kasdi, *Fiqh Wakaf* ..., 35.

³⁶*Ibid*.

³⁷*Ibid*, 36.

³⁸Khaibar: an Oasis name about 153 km north of Medina. Before the rise of Islam the fortress city was inhabited by Jewish tribes, them fell to Muslim forces in 629 AD. (https://id.m.wikipedia.org/wiki/khaybar#cite_re-1, accessed on January 09, 2019).

³⁹Abdurrohman Kasdi, *Fiqh Wakaf* ..., 37.

عمر أنه لا يباع أصلها ولا يبتاع ولا يورث ولا يوهب قال فتصدق عمر في الفقراء وفي القربى وفي الرقاب وفي سبيل الله وابن السبيل والضيف لا جناح على من وليها أن يأكل منها بالمعروف أو يطعم صديقا غير متمول فيه⁴⁰

From Ibn Umar RA, he said, that the friend of Umar RA, obtained a plot of land at Khaibar, then Umar, facing the prophet. To ask for instruction, Umar said, "O Messenger of Allah, I got a plot of land in Khaibar, I have not had any treasures, then what did you command me?" The messenger said, "If you like it, you stand the word, and you are a good as a result." Then Umar gave it up, the treasure was not sold, not dished and not inherited. Ibn Umar said, "Umar gave him (the result of land management) to the people, relatives, servants of sahaya, sabilillah, ibn sabil and guests. It is not forbidden for those who manage waqf (nazir), eat from the results in a good way (he said) or feed others by not intending to accumulate wealth (narrated by al-Bukhaari, 1319:2737 and Muslim, 1929 M: 1632).

Umar granted the outcome and made the provision that the land was not sold, not to be dished, nor handed down to poor relatives or *fakers*.⁴¹ For managers it is not *haraam* to take advantage of it, as long as it is within the boundary that is *ma>ruf*, or to help his/her life without intending to seek profit. At the time of Umar ibn al-Khatib became caliph, he recorded his representative in the *waqf* deed by being witnessed to the witnesses and announcing it. From then on, many of the Prophet's families and companions had the land and plantation.⁴²

C. Types of Productive Waqf and Its Management

Throughout Islamic history, the form of *waqf* is very many and various types. It even covers all types and forms of property. Among these types of *waqf* objects if viewed from the context of possible moving is the *waqf* of moving objects and stationary objects that are productive.⁴³

The immovable object (*al-'iqar*)⁴⁴ is an object that cannot be moved from its original place, such as the house and the ground or

⁴⁰*Ibid.*

⁴¹*Ibid.*

⁴²*Ibid.*

⁴³*Ibid.*, 97.

⁴⁴*Al-'iqar*: in Arabic which means permanent property, building, and land. (Indonesian-Arabic dictionary al-Ma'aany).

something that remains. While the moving objects (*al-manqul*)⁴⁵ are objects that can be moved from the original place, or something that can be moved from one place to another.⁴⁶

There are differences in the opinion of the scholars about the group's two forms of property. Whether the moving objects that change in shape are called stationary objects or moving objects as well as buildings and trees. In this case, there are two different opinions. *First*, the opinion of the Hanafiyah cleric who mentions that the object that when moved was changed form is moving objects (*al-manqul*) except when the buildings and trees are remain on the ground.⁴⁷ *Second*, the opinion of the Jumhur Ulama other than the Hanafiyah sect mentions that the object is a category of objects not moving (*al-'iqar*).⁴⁸

1. The Management of Productive Waqf for Immoveable Assets

According to Kahf, in the management of *waqf* is not moving by providing assets or objects that are productive and remove from the personal intervention *waqif*, channeling the results and benefits of the *waqf* in order to be achieved objectives of the *waqf*.⁴⁹

The object of productive *waqf* does not move should that can be used directly for the purpose of *waqf* such as mosques, schools, hospitals, libraries, until the establishment of buildings for residential settlements and shophouses as a place productive. *Nazir* should preserve these buildings for the preservation of the integrity of the basic *waqf* and its productivity.⁵⁰

Waqf items are not sustainable forever unless they are treated and renovated while. According to *mazhab* Hanafiah when treating *waqf* goods, the cost of maintenance (cost) can be taken from the results of the *waqf*. If an *waqif* represents a rental house for his children the improvement of the house is lifted up by the child who lives in the house, because every need is cost. If the child who lived is reluctant

⁴⁵*Al-manqul*: in Arabic which means movable property, which is transported. (Indonesian-Arabic dictionary al-Ma'aany)

⁴⁶Yusep Rafiqi, "Wakaf Benda Bergerak dalam Prespektif Islam," *al-Mashlahah*, Vol. 06 No. 02, 2018, 194.

⁴⁷*Ibid*, 195.

⁴⁸Abu 'Amr Dubyan Ibn Muhammad al-Dubyan, *Al-Mu'amalat al-Maliyah Ashalah wa Mu'asharah* (Riyadh: Maktabah al-Malik Fahd al-Wathaniyyah, t.th.), 166.

⁴⁹Bashlul Hazami, "Peran dan Aplikasi Wakaf dalam Mewujudkan Kesejahteraan Umat di Indonesia," Vol. 16 No. 01, 2016, 177.

⁵⁰Abdurrohman Kasdi. *Fiqih Wakaf ...*, h. 97

or unable to take care of the house, *nazir* reserves the right to rent the property to another person, then take care of the house with his rent.⁵¹

The person who has the right to take the proceeds from the *waqf* property is not obliged to improve the *waqf* house, because he has no right of residence. If he has an increase in the *waqf* house he does not have to pay rent, because there is no point.⁵²

According to the Malikiyyah sect *nazir* can rent a residential house in case of damage to the rental house, the tenant is obliged to fix it, if they are reluctant after being asked to repair then *nazir* can issue the tenant. If it has been repaired then after the rental of the house is returned again to *nazir*.⁵³

According to Hanafiah, if *waqif* represents a mosque, the mosque already has the nature of immortality as a mosque, although the mosque is damaged until it becomes rubble or can not be reused because there is no charge for fix it in the opinion of Abu Hanifah and Abu Yusuf he will remain a *waqf* mosque until the day of judgment.⁵⁴

According to Muhammad, the debris from the mosque damaged can be sold and replaced with other *waqf* if it is not possible to buy then returned to the heir or to *waqif*, if *waqif* is not there or when it's *waqif* has passed away then shared to *fakir*.⁵⁵

2. The Management of Productive Waqf for Moveable Assets

In the management of moving objects that have been represented such as agricultural tools, *mushaf* Qur'an, prayer mat for mosques, books for public libraries and libraries of mosques, these items can be managed as well as the management of *waqf* objects do not move. These items may require maintenance and repair to preserve eternity or preserve their functions. But any moving objects will be damaged, extinct and can not function again. Therefore, the *fiqh* experts argue that the *waqf* object ends with the loss of the form of *waqf* objects or their damage.⁵⁶

There is another opinion according to the Maliki sect, if the bowed moving objects have been represented, then the way to maintain them is by replacement (*al-istibdal*). Thus, the status of this

⁵¹Wahba Zuhaili, *Fiqh Islam wa Adilatul*, Jilid 10 (Jakarta: Gema Insani, 2011), 322.

⁵²*Ibid*, 322.

⁵³*Ibid*, 323.

⁵⁴*Ibid*, 324.

⁵⁵*Ibid*, 325.

⁵⁶Abdurrohman Kasdi. *Fiqh Wakaf ...*, h. 97

movable property is replaced by immovable property.⁵⁷

In representing the moving object should be a property that can be borrowed or rented, when the item is returned in another form instead, the *waqf* property does not lose its identity even produce something productive.⁵⁸

The preservation of *waqf* that are moving is required because moving objects are not immortal, as well as land hijackers when damaged tenants to the contrary to *nazir* to be fixed, otherwise tenants can use them as usual. If the repair of the apparatus has difficulty then the hijacker is sold and the result is used to repair the new goods in lieu of the damaged goods. The goods that were damaged or the replacement shall not be given to the person who is entitled to receive *waqf* because the goods are made of *waqf*. They have no right to the goods, their right is only the result of the goods, therefore they only get the right.⁵⁹

According to the Malikiyyah sect if the *waqf* item is damaged, *nazir* is obliged to repair it. If the person who represents the goods requires the opposite to not be repaired then the condition of the *waqif* should not be followed, this can cause damage to the goods, *waqf* goods do not exist anymore and this should not be.⁶⁰

Waqf moving objects are also not produced for the treatment, the cost of care of the *waqf* is done by Baitul Mal. If there is no damage then the object is left to be damaged, *waqif* is not obliged to finance. Horses and war beasts financed by Baitul Mal, *waqif* are not obliged to finance the *waqf*. The horses are not leased for the maintenance of the rental. If not affordable Baitul Mal, or in the area there is no Baitul Mal, then the animal is sold and replaced by weapons and the like that do not require maintenance.⁶¹

Management of Cash Waqf

According to Jumhurul Ulama' among them Hanafi, Shafi'i, Maliki, Hambali, if it is reviewed from the jurisprudence, *waqf* cash is allowed, because cash *waqf* is a *waqf* of moving objects, as long as it should not be exhausted or lost until the property cash *waqf* remain

⁵⁷Yusep Rafiqi, "Wakaf Benda Bergerak dalam Prespektif Islam," *al-Mashlahah*, Vol. 06 No. 02, 2018, 199.

⁵⁸*Ibid*, 200.

⁵⁹Wahbah Zuhaili, *Fiqih Islam wa Adilatul ...*, 322.

⁶⁰*Ibid*.

⁶¹*Ibid*, 323.

intact and utilized continuously for the benefit of the people.⁶²

Waqf cash is used for two purposes. *First*, to be loaned to the people who need it, then once fulfilled the need for the money is returned again to be lent to others without taking advantage of any kind of loan. *Second*, *waqf* money for production purposes.⁶³

Hanafiyah scholars allow the *waqf* of moving objects as long as it is already an *urf*⁶⁴ (custom) in the society, like *waqf* of *mushaf* and money.⁶⁵ However, Hanafiyah jurists require that there must be *istibdal* (conversion)⁶⁶ of objects that are represented when feared there is an inconsistency of substance. The way is to replace the object with a stationary object that allows the benefit of the object to be permanent. From this, the Hanafiyah jurists argue that the dinar and the dirham can be held through the replacement (*istibdal*) with the object not moving so that the benefits remain.⁶⁷

Next is the statement of ulama' *mutaqaddimin* (early scholars),⁶⁸ from the scholars of the Madzhab Hanafi, he allowed *waqf* in cash dinar and dirham as an exception, on the basis of *bi al-'urfi*, based on the *atsar* Abdullah bin Mas'ud RA:

عن عبد الله بن مسعود عن النبي صلى الله عليه وسلم قال فما رأى المسلمون حسنا فهو عند الله حسن وما رأوا سيئا فهو عند الله سيئ رواه أحمد⁶⁹

From Abdullah bin Mas'ud of the Prophet SAW, he said, «What is considered good by the Muslims, so in the sight of God is good, and what is in poor view by the Muslims, then in the eyes of God is bad.» (HR. Ahmad).

⁶²Hendi Suhendi, *Fiqh Muamalah* (Jakarta: PT Grafindo Persada, 2014), 242-243.

⁶³Abdurrohman Kasdi, *Fiqh Wakaf ...*, h. 97

⁶⁴*Urf*: something that is familiar to people because it has become a habit and integrated into their lives in the form of actions or words. (Setiara Evendi and M. Zein, *Ushul Fiqih* (Jakarta: Kencana, 2005).

⁶⁵Wahbah Zuhaili. *Al-Fiqh al-Islamiy wa Adillatuh ...*, 162.

⁶⁶*Istibdal*: exchange *waqf* property for something whether the property is sold first then replaced with other items or moved to a location. (Musyfikah Ilyas, "Istibdal Harta Benda Wakaf Prespektif Hukum Islam," Vol. 3 No. 2, 2016, 1)

⁶⁷Muhammad Abbu Zahrah, *Muhadharat fi al-Waqf* (Beirut: Dar al-Fikr al-Arabi, 1971), 104.

⁶⁸*Ulama' mutaqaddimin*: the scholars who lived in the 2nd and 3rd centuries of the Hijri compiled the Hadits of Prophet SAW. ([Http://anasafriada.blogspot.com/2012/01/materi-ulumul-hadis.html?m=1](http://anasafriada.blogspot.com/2012/01/materi-ulumul-hadis.html?m=1), accessed on January 10, 2019).

⁶⁹Muhammad bin Abdullah Abu Abdullah al-Hakim an-Nisyaburi, *Mustadrik ala al-Shohihaini* (Beirut: Dar al-Kitab al-'Alamiah, 1990), 37.

The purpose of the hadith above that has been presented by Rosulullah that is what is considered good by the Muslims, so in the view of God is good, and what is considered bad by the Muslims, then in the view of God is bad.⁷⁰

According to sectarian Hanafi how to manage cash *waqf* is to make the business capital by means of *mudharabah* in the profit is given to the *waqf*. Or invested in *sharia*, and the profit can be channeled as a result of *waqf*. Cash *waqf* is invested in the form of stocks or deposits, exists or more precisely the value of money is maintained and generates profits over a long period of time.⁷¹

The opinion of Imam al-Zuhri who enabled the wealth of dinar and dirham, by making the dinar and dirham as business capital, then the profit channeled to *mauquf ‘alaih*.⁷²

Then, from the history of Abu Saur from the Shafi'i sect said that cash *waqf* was allowed by Imam al-Shaafi'i, with the condition of making money that was represented business capital (rented) to take the results (benefits). If the management of money from the *waqf* is lent with the *mudharabah* system and the result is returned with a nominal money that is still permissible, because the nominal money similar from *mudharabah* results can still be considered replace the original *waqf* money.⁷³

Conclusion

After doing the discussion that the author has exposed, then to the last chapter that is the juice from the discussion of this study, it will be the author to see some conclusions, among them as follows. *First*, cash *waqf* is an innovation of Muslims who need to be socialized to all Muslims as a whole, especially using dinars and dirhams. The utilization of cash *waqf* with dinars and dirhams is expected to contribute to the wider community. *Second*, cash *waqf* sourced from the Quran, Hadist, and *ijtihad* the scholars', in this case cash *waqf* has had a very strong basis to continue to be applied in the community.

⁷⁰Wahbah al-Zuhaili, *Al-Wasith fi Ushul al-Fiqh al-Islami* (Damaskus: Dar al-Kitab, 1978), 162.

⁷¹Muhammad Tho'in and Iin Emi Prastiwi, "Wakaf Tunai Prespektif Syariah," *Ilmiah Ekonomi Islam*, Vol. 01 No. 01, 2015, 71.

⁷²Suhrawardi K. Lubis and Farid Wajdi, *Hukum Wakaf Tunai* (Bandung: Citra Aditya Bakti, 2016), 75.

⁷³Mahmud al-Kafrawi, *Al-Nuqud wa al-Masarif fi al-Nazmial Islami* (Aieksandria: Dar al-Jama'ah, t.th.)

Thirdly, the practice of *waqf* management using dinar and dirham, is a cash *waqf* that replaces it with a stationary object that produces the educational benefits of Ahlu Madinah, which is a buy and sell transaction using dinars and dirhams and to help the people about the community with the market building for merchants without the use of taxes or rent a car in the market. Fourth, prospective *waqif* in the by where their *waqf* property will be distributed, such as their property will be made for the acquisition of *waqf* land that will benefit the interests of the people.

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