EXPLORATION OF THE USE OF WAQF ASSETS AT EDUCATIONAL INSTITUTIONS

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Abstract

The research is motivated by several studies that only focus on the use of the waqf system, while the success in managing waqf assets so that the principal and benefits can last is to formulate specific targets for the right needs in using waqf assets. The purpose of this study is to explore the use of waqf assets given to educational institutions so that they are right on target and maintain the essence of the use of waqf assets. The approach used is a qualitative approach using literacy studies from various existing publications. Educational institutions can regulate waqf governance according to the type of waqf property provided by the waqf. The results of this study can provide views for waqf-based educational institutions to be able to maintain and manage waqf assets in accordance with established rules. Mobile waqf such as cars, cash, and securities can be managed by investing in SMEs located around the institution, or rented out or invested in short and medium-term investment programs. Immovable waqf can be managed by building educational facilities or renting out land to produce. All such governance must be in accordance with Islamic finance principles. Immovable waqf can be managed by building educational facilities or renting out land to produce.

Keywords: Waqf Assets, Educational Institutions, Islamic Finance
INTRODUCTION

Education is a gate in opening the horizons of a community whose large community is called the state. The education system in almost all countries cannot be separated from government intervention with the aim of getting quality education results, one of which is regulated is the problem of funding sources that will later be used to finance educational operational activities. The availability of funds in an educational institution is something that determines the smoothness of teaching and learning activities. All of these things can be fulfilled if sufficient funds are available. Funding problems in Indonesia are regulated in the Act. No. 20 on the National Education System. Article 46 states that education funding is the responsibility of the government, both central and local governments, as well as the responsibility of the community (Law No. 20 on the National Education System, 2003).

So far, funding provided to educational institutions, both public and private, is known as BOS (School Operational Assistance) funds. From the clause in the law, it can be concluded that there is a difference in the allocation of funds between private educational institutions and state educational institutions, which lies in funding the salaries of educators. It means that state educational institutions do not allocate their education funding for the salaries of educators. Likewise, in general, all educational institutions require adequate funding for the smooth running of educational activities and for the survival of the institution in managing educational activities. Thus, in essence, even though it is assisted by the government, educational institutions should still have to find other sources of funds for financing resilience.

As for Islamic finance, an instrument that can also be classified as a source of funding for educational institutions to last a long time is waqf. In theory, it is property whose ownership is handed over to the nadzir, either an individual or an institution, which relinquishes ownership rights from the waqf, nor does it belong to the nadzir waqf ((P3EI, 2015). The property that has been waqf is essentially the property of Allah SWT and the nadzir may only manage and utilize the property for the welfare of the people. In essence, waqf assets should not be reduced and it is recommended to increase, the addition of which may be allocated for 10% nadzir and managed again so that the waqf assets are maintained and beneficial for many people. This concept, is one of the right solutions for maintaining the sustainability of educational institutions, especially in terms of financing resilience.
Waqf is a form of worship in Islam. It means carrying out one of the deeds promised by Allah SWT. On this basis, many people want to donate their assets in the form of waqf, one of which is to higher education institutions known as universities. In a study stated that the waqf system can be one of the additional funding to strengthen the quality of education. On the basis of this monotheism, the waqif voluntarily donate their assets and for this university, it is one of the strengths in terms of funding so that the campus can survive (Mahamood and Rahman, 2016). In addition, there are several factors that make waqif want to endow their wealth to higher education institutions, namely religious basis, personal satisfaction, and commitment to be the strongest factors for waqif in committing to waqf their property (Khadijah, Sabki and Ismail, 2017). On the other hand, it is still about higher education, and it is undeniable that costs will increase every year. If relying on traditional waqf management, there is little fear that the educational institution cannot cover the costs incurred from educational activities, then there is an alternative to overcome this by creating a corporate waqf model for higher education institutions (Shamsudin et al., 2015).

Several studies that have been carried out have focused more on the use of the waqf system to be able to manage an institution, especially higher education, as well as looking for factors that cause waqifs to be willing to endow their funds to the institution. In fact, as Khaf’s analysis shows, success in managing waqf assets so that the principal and benefits can last, then the first thing that must be regulated is to formulate specific targets for the right needs in using these assets (Khaf, 2000). For this reason, the study of waqf assets so that it is right on target is also very important to maintain the essence of the waqf itself.

**REVIEW OF LITERATURE**

**Waqf**

The practice of waqf in Islam is marked by the establishment of the Quba mosque, this mosque is a form of waqf practice at the time of the Prophet, then followed by waqf of wells purchased by Usman bin Affan. The Prophet said that whoever buys the well will be promised a great reward. So, Usman bought the well and used it for drinking water for the Muslims because the owner of the well took a very high price for the drinking water. Furthermore, it is also known that waqf is in the form of a garden which is practically not inherited, but the results of the use of the garden at that time were partly given to the...
prophet’s family as waqif and some were intended for the interests of the garden, war and the interests of the people.

Waqf is a form of transfer of ownership from the waqif to the nadzir, after being handed over to the nadzir, the ownership of the waqif’s property is cut off. Etymologically comes from the word waqafa which means to stop or in other languages which are also often used to eat waqf is habasa which is defined as holding something (Khaf, 2000). And in terms of terminology, there are several meanings of waqf according to 4 schools of legal thought (mazahib/ mazhab): a) Hanafi Mazhab. Waqf is holding something in the ownership of the waqif and giving the benefits to the fuqara while maintaining the principal of the property; b) Maliki Mazhab. Waqf is to provide benefits as long as the existence of the property; c) Shafi’i Mazhab. Waqf is holding property to be used while maintaining the principal, and breaking off the ownership of the waqif of the property, and giving the property for the benefit of getting closer to Allah swt; d) Hanbali Mazhab; Waqf is holding the original ownership of property that may be used by the owner while maintaining the principal for good deeds.

Meanwhile, Khaf stated that waqf in Islam is a form of retaining ownership of certain assets and preserving them so that they can be used for social activities and prohibiting their use outside of what has been determined (Khaf, 2000; Aziz, Johari and Yusof, 2013). In the Waqf Law No. 41, waqf is a form of surrender of part or all of one’s property to be used forever or within a certain period of time which is used for religious purposes or the welfare of the general public by holding sharia values (Waqf Law No. 41, 2004).

From several explanations of the meaning of waqf above, it can be concluded that waqf is a form of surrender of ownership assets given to someone who is entrusted with being able to manage these assets in the way of goodness. The nature of the ownership of the property is broken after the property is given to someone known as the nadzir, as well as the property is not the right of the nadzir. Nadzir here only has an obligation to manage, develop and provide benefits for those in need.

The Purpose of Waqf

Waqf is one of the Islamic social financial instruments. Waqf has a unique system from other forms of Islamic social finance such as zakat, infaq and alms. Zakat, infaq and
alms in practice have the same characteristics in terms of utilization, namely the principal of the property is used up, while *waqf* is not. Assets that have been *waqf*, other than the ownership of which has moved, the principal of the property must not be reduced and may be used by preserving the property (Azmi et al., 2021). The eternal nature of *waqf* property is what makes *waqf* unique from zakat, infaq and alms. This immortality makes *waqf* one of the resources that can be used to create many benefits for the people.

If you look back at history, there are many benefits that have been felt by utilizing *waqf* assets. Some of them are like the first garden *waqf* by Umar bin Khattab, the results from garden management are intended to help people who are in need (Farhah et al., 2014; Shah, 2014). In contrast to the management of *waqf* property in the Ottoman era, *waqf* was not only empowered for religious purposes such as the construction of mosques, but also *waqf* assets were managed to build madrasas, markets, lodging places for visitors and various other forms whose profits were used for social activities such as provide scholarships for students (Perri, 1992). There is even something amazing about the management of *waqf* assets by Al-Azhar University in Egypt, the utilization of *waqf* assets was able to finance the Egyptian state at that time.

And here are some countries such as Egypt, Jordan, Bangladesh and Malaysia that have successfully managed *waqf* assets for the benefit of educational institutions. In Egypt, the development of science and technology is also the main target that is no less important than managing *waqf* land for economic land. Jordan, manages *waqf* assets to help the needy and poor people to be able to meet the needs of education, health and various other primary needs. Turkey, *waqf* property in the field of education is intended for the construction of student dormitories. Just like Jordan, Bangladesh manages its *waqf* assets for its people to get the same education rights. In this country, cash *waqf* is a substitute for part of the income tax used for infrastructure, social and humanitarian development (Rozalinda, 2015, 381–387).

From some of the descriptions above, it can be said that the management of *waqf* assets is not only intended for religious purposes, it is greater than that for the benefit of the welfare of the people. The following are some of the purposes of *waqf* that can be inventoried: a) To provide benefits for *waqf* recipients; b) To revive the community’s economic activities; c) To provide welfare for the *waqif* family and maintain friendship if
the *waqf* used is a form of expert *waqf*; d) *Waqf* can help economic growth in a region; e) *Waqf* can help the development of science and maintain public health.

**Types of *Waqf* Management**

The practice of *waqf* when viewed from the perspective of the management pattern is divided into three types, namely (Unair, 2016, 43): a) **Traditional *waqf* management.** Traditionally managed *waqf* still places *waqf* as *mahdhooh* worship or ritual worship. *Waqf* assets with this management are still realized in physical form such as mosques, burial grounds, Islamic boarding schools and others; b) **Semi-professional *waqf* management.** In semi-professional management, it can be seen in the development of *waqf* assets such as other facilities that stand on pre-existing *waqf* land. The results obtained from these facilities are used to finance *waqf* in other fields such as education; c) **Professional *waqf* management.** Professional *waqf* management can be seen from the productive empowerment of *waqf* and professionalism in the aspect of management, human resources in this case *nazhir*, the form of business partnerships and the use of various forms of *waqf* that have been supported by law. Thus, the results can be used for Islamic education, hospitals, economic empowerment or worship facilities and infrastructure.

In practice, the distribution of *waqf* in the education sector is still very minimal. The distribution of *waqf* in the field of education has not touched the main aspects needed by the education sector, its management is still limited to the construction of buildings for student dormitories and other facilities.

**Types of *Waqf***

Along with the changing times and the development of science, the practice of *waqf* has also become very dynamic, of course, by maintaining the original values of the *waqf*. The study of *waqf* has been explored by many *waqf* activists, so that people can get sufficient *waqf* literacy. The practice of *waqf* from the beginning of Islam consisted of two types, namely *waqf* on immovable objects such as mosques and land, and movable objects such as animals and books (Rozalinda, 2015). The object of *waqf* is currently no longer understood only in the form of *waqf* of immovable goods such as land or buildings, but can be in other forms, as has been widely studied, the object of *waqf* is cash *waqf* or *waqf* through money. Indeed, *waqf* assets are meant to be made productive without reducing the main assets, in other words, the *waqf* property is allowed to be used as a result of the
permanent object of the *waqf* that has been given (Rozalinda, 2015, p. 16). There are several types of *waqf* that can be classified, namely *waqf* seen from its designation and *waqf* seen from the object of the *waqf*.

*Waqf* when viewed from the object given is divided into 2 (two) namely (*Waqf* Law No. 41, 2004); a) **Moving *Waqf***. Movable *waqf* when referring to Law No. 41 concerning *waqf* is in the form of goods that cannot be moved from their original place, such as rights to a land or an apartment; b) **Immovable *Waqf***. *Waqf* is immovable if it refers to the *waqf* law all forms of goods that can be moved from their place of origin such as money, securities, vehicles, intellectual property and others in accordance with sharia provisions.

While the distribution of *waqfas* stated by Mughniyah in Jalil when viewed from the scope of the objectives, it is divided into 3 (three) forms, namely (Khaf, 2000; Abd Jalil, Yahya and Allah Pitchay, 2019); a) **Khairi Waqf**. Khairi *waqf* is a *waqf* that is clearly designated for the benefit of religion or for the benefit of the community. This type of *waqf* has more benefits for the welfare of the community because the benefits taken are not limited to certain groups. This *khairi waqf* can be in the form of establishing schools, roads, hospitals, and so on; b) **Zurri Waqf**. Zurri *waqf* is also known as expert *waqf*, which is a form of *waqf* that surrenders its assets to certain people. In practice, this type of *waqf* can only be used by people who have been appointed by the recipient of the *waqf*. It may endow his wealth to his own family to be used; c) **Combined *Waqf***. Combined *waqf* is a *waqf* model in which some of the results of its use may be given to the waqif family and partly given to the general public.

**Islamic Finance**

In short, Islamic finance is everything related to acquiring, managing and distributing assets in accordance with Islamic law. The Islamic financial system exists to be able to provide limits to *muamalah* activities that occur in the community so that they remain within the corridor of sharia. So far, when talking about Islamic finance, the first thing that is definitely depicted is banks, even though Islamic finance is not just talking about banks, but all forms of activities related to financial intermediaries based on sharia principles (Gait, AH, & Worthington, 2007) such as buying and selling, leasing and other financial activities including finance related to social activities such as zakat, infaq, alms and *waqf*.
Islamic finance has its own principles in managing the assets obtained by someone. In economic activities, Islamic finance has various kinds of contracts that can be used such as mudharabah, musyarakah, ijarah, rahn, hawalah, kafalah, and so on. These principles can be used in accordance with the economic activities undertaken, as well as in the development of waqf assets, these principles can be used if waqf assets are to be developed in certain economic activities. Because the development of waqf property is not all safeguarded by building something but can also be invested using these contracts.

**Islamic Finance Principles**

Islam has its own limitations according to sharia in managing assets. This is done to protect the property from things that are prohibited by religion. Thus, the wealth produced by a person is kept halal and gets blessings in using it. Not only that, these principles are also to maintain accountability of the assets being managed so that people believe in placing their assets in the right institutions. These principles include the following (Gait, AH, & Worthington, 2007):

- a) Far from the element of *usury*;
- b) Far from the element of *gharar*;
- c) Do not place funds in business forms such as alcohol and gambling;
- d) Apply the principle of sharing profit and risk;
- e) Putting funds on real economic activities;
- f) Far from the elements of exploitation and monopoly.

**RESEARCH METHOD**

This research is a form of qualitative research using a literature study approach to find out in depth about the management of waqf assets in the eyes of Islamic finance. The study uses secondary data by using a type of library research, namely research by collecting books, publications, or history related to research.

**RESULTS AND DISCUSSION**

*Waqf: Historically in Educational Institutions*

Historically, there have been several educational institutions that have succeeded in using waqf as a source of funding for their educational operations, such as the construction of school buildings and facilities, providing scholarships for students studying at the institution, and even providing welfare for the teachers who teach at the institution. In its journey, the spirit of *waqf* was very strong in the field of education, it was first started by the Prophet through the *waqf* institution which was under the management of the Quba and
Nabawi mosques. At that time, the mosque was not only for praying, besides that there was opened teaching about the science of the Qur’an and Hadith as well as other sciences. After that, Other educational institutions have emerged that have adopted this waqf principle in the world of education, such as those known as the oldest universities, namely Al-Azhar University in Egypt and Al-Qurrawin University in Morocco. Until now, the two campuses still survive with their waqf system. It also worked in the Ottoman Empire, through the spirit of waqf, educational institutions were successfully built and developed until now (Bakar et al., 2019).

In many studies, waqf-based higher education institutions have succeeded in using the concept of waqf in their educational activities (Bakar et al., 2019). While elementary school education to junior high school is also one of the initial educations that must be maintained for the continuity of education. In Indonesia, Pondok Modern Darussalam Gontor is one of the role models for the first and senior secondary education that uses this waqf system. Thus, it can be an input for educational institutions if they want to carry out such educational activities. It means that with proper governance, the utilization of waqf property will provide great benefits for the welfare of the ummah.

**Waqf Asset Management in Islamic Finance Perspective**

As previously explained, Islam has several general principles in managing wealth. Someone who wants to endow his wealth not only wants to get a reward, looking at the meaning of waqf, of course the waqf wants the property to be useful in the long term. For this reason, appropriate waqf management is the key to the success.

First, far from the element of usury. Waqf assets are assets that are given to someone so that they can be maintained and used for the benefit of the people. Waqf in any form, whether movable or immovable, nadzir must be careful in managing the waqf so that it is not exposed to the element of usury. From immovable waqf, movable waqf such as money, securities, vehicles or other types of movable waqf are susceptible to the element of usury in their utilization. For example, if someone comes to do cash waqf to a waqf-based institution, with the nature of the waqf property that cannot be changed in essence, then the nadzir takes the initiative in using it to lend the property to someone in need. In such cases, nadzir has two alternative contracts, namely the tabarru’ contract and the tijari contract, of course with different consequences. If the contract used is tabarru’, then the waqf property
is successfully utilized even though it does not make a profit. However, this contract protects the waqf property from the element of usury. And if nadzir utilizes the waqf property with a tijari contract, then nadzir must be careful in making the agreement so that it is far from the element of usury.

In educational institutions that receive waqf in the same way as the case in above, the institution can maintain its waqf property by making it additional capital in a business managed by the school so that it is far from the element of usury. This is also in line with the concept of Islamic economics itself, namely allocating funds to real economic activities.

Second, far from the element of gharar. If you look at etymologically, gharar means cheating (Paldi, 2014). As stated by Kamali in Paldi, that gharar is a form of speculative transaction whose results depend on chance and gambling. Educational institutions that receive waqf assets should not manage waqf assets in economic activities that contain gharar. Not only maintaining waqf assets, but also maintaining the sustainability of educational institutions in the long term. Things that contain gharar in economic activities will have a bad impact on institutions because there is no certainty of results. Meanwhile, educational activities must continue.

Third, do not place assets in gambling and alcohol endeavors. One of the characteristics of property ownership in Islam is that Islam recognizes a form of private ownership but is not absolute. In managing private property, it does not allow its people to invest in prohibited places such as cigarettes, gambling, drinking and other forms of investment that are forbidden. In private ownership, Islam has determined its stipulations, as well as for property that has been waqf in the way of Allah. The purity of the intentions of the waqif must be maintained by managing his wealth in lawful places so that his wealth is more protected from the financial side and blessings.

Educational institutions are places where students get knowledge and also a place for forging character for the nation’s successors, of course it is very unethical when the funds are used for things related to gambling and alcohol. Gambling and alcohol are closely related to actions that can bring harm.

Fourth, using the principle of sharing profit and risk. Educational institutions are one of the forums in forging the nation’s next generation. In order for a nation to maintain its sovereignty, it requires a generation that has intelligent thoughts. So, the existence of
educational institutions must really be maintained, especially in terms of funding. To maintain this resilience, educational institutions should not only depend on sources of funds from the government or the community, in this case parents, through the payment of tuition fees (education contributions). Educational institutions must also be able to manage these sources of funds in order to be able to generate returns as school income, so that during times of crisis educational institutions can still survive well. In relation to waqf assets handed over to educational institutions, then an educational institution can manage the waqf assets that they get from the waqif by putting the funds on the principle of profit and loss sharing or what is known as profit and loss sharing. Such a system can be used by educational institutions on movable and immovable waqf. The management of waqf assets with the principle of profit sharing here is to provide income according to each portion and also the contract used, such as mudharabah where the profit sharing can be used with a 60:40 pattern or according to the agreement. With this profit sharing, it is hoped that both parties will carry out their responsibilities in their entirety in order to avoid and escape losses. Such a system can be used by educational institutions on movable and immovable waqf. The management of waqf assets with the principle of profit sharing here is to provide income according to each portion and also the contract used, such as mudharabah where the profit sharing can be used with a 60:40 pattern or according to the agreement. With this profit sharing, it is hoped that both parties will carry out their responsibilities in their entirety in order to avoid and escape losses or according to the agreement.

Fifth, put funds on real economic activity. Not much different from the previous system, educational institutions receiving waqf assets would be better off placing their funds in real economic efforts, namely economic activities with real money and goods circulation, such as MSMEs in Islamic boarding schools, sharia cooperatives and printing houses. Not only educational institutions that will benefit, but the community around the
institution can also feel the benefits. And of course, it is in line with the principle of Islamic economics, namely moving the real market because the real market is in direct contact with the community.

Sixth, far from the elements of exploitation and monopoly. Exploitation or monopolizing a particular resource can damage the economic system. Currently, the anti-monopoly law is a hot topic of discussion considering that the Indonesian economy is entering the era of the free market. Educational institutions that receive *waqf* assets must maintain the model of the use of *waqf* assets away from exploitation and monopoly elements because it is not in line with Islamic finance principles.

The following is the flow of governance that can be carried out by educational institutions receiving *waqf* assets while maintaining the principles of Islamic finance:

**Figure 1**

*Suggested Waqf Management for Educational Institutions*

[Diagram showing the flow of governance for educational institutions receiving waqf assets.]
**CONCLUSION**

**Waqf** is one of the Islamic social financial instruments. With a very large Muslim population, of course, the potential for **waqf** is also very large. This enormous potential must of course be followed by professional **waqf** management, so that the assets donated are right on target and effective. The accuracy of this target and use is expected to result in welfare for the community.

In maintaining the accuracy of this target, the management of **waqf** property in educational institutions in particular, must be in accordance with the Islamic financial system. Not only financial services that must maintain the accountability of their institutions, **waqf**-based educational institutions including educational institutions must also maintain accountability for the management of these assets. The goal is not only to maintain the trust of the people who endow their wealth, but more importantly how to maintain the immortality of the **waqf** property for the sustainability of educational institutions and the benefits that accompany it.

By sticking to the principles of Islamic finance, the management of **waqf** assets in educational institutions is expected to be able to maintain that the **waqf** assets given to these educational institutions can be used more efficiently and effectively.

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