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Waqf Crowdfunding Model in Post-Pandemic Economic Improvement According to Islamic Sharia and National Law

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Abstract

Technological developments make waqf able to be developed in terms of socialization, fundraising, and management in an effort to improve the economy after the COVID-19 pandemic. This study aims to identify and analyze the waqf crowdfunding model for post-pandemic economic improvement according to Islamic law and national law. This research is qualitative with a normative juridical approach, using types and sources of legal data including primary legal sources, Law No. 41 of 2004 concerning Waqf, PP No. 42 of 2006, and other regulations. In terms of Islamic sharia, namely the Al-Quran, Al-hadith, fatwas, and the opinions of related scholars, Secondary legal sources are journals, proceedings, theses, dissertations, and books, while tertiary legal sources are interviews with crowdfunding managers and nadzhir waqf. Then the data is collected through library research and then analyzed to see the synchronization stage and conformity with legal norms and principles through descriptive analysis.

Keywords: crowdfunding; waqf; law.

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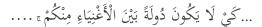
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1. Introduction

In Indonesia, the biggest impact of the pandemic was felt in the second quarter of 2020, namely the deepest economic contraction of -5.32% (Badan Pusat Statistik Indonesia, 2021). This requires Indonesia to maximize its potential, one of which is waqf. Waqf as a way of distributing wealth so that it can be felt by all elements of society, as the word of Allah ta'ala:



So that the treasure does not only revolve among the rich among you..." (Al-Hasyr [59]:7)

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With encouragement based on religious and social values, Indonesian people continue to compete to give their best assets for waqf. This is also supported by the publication of the Global Charities Aid Foundation in 2021, which mentions Indonesia as the most generous country in the world, which is ranked first (Foundation, 2021)



Picture 1. World Giving Index 2021(Foundation, 2021)

According to data from the Ministry of Religion's Waqf Information System (SIWAK), on September 29, 2021, the potential for waqf in the form of land in Indonesia reached 414,829 locations with an area of 55,259.87 hectares. (RI, 2021). In addition, based on data on the potential for cash waqf from the Indonesian Waqf Board (BWI), it reaches Rp. 180 trillion per year. However, the potential for waqf has not been optimized to reduce poverty and inequality in Indonesia. Waqf, on the other hand, should have a lot of potential for overcoming these two issues. Waqf Law No. 41 of 2004 states that the waqf is intended for socio-economic benefits.

Some of the challenges that caused these conditions include the non-optimal regulation of waqf, low literacy of waqf, low nazhir capacity, low utilization of digital channels, and not yet integrated national waqf data. In addition, what is considered an inhibiting factor for the use of the waqf crowdfunding platform in Indonesia is the compliance with Sharia contracts that arise due to differences of opinion based on civil law, secular principles, and those regulated by Islamic law according to the transcendental principle of religion based on the Qur'an and Sunnah. (Mhafudz, 2021).

On the one hand, the pandemic has accelerated digital inclusion, including in the waqf sector. Various digital-based waqf strengthening initiatives were developed to promote waqf invitations, make it easier for donors to transact, and assist aspects of waqf management. Waqf is currently also strengthened by product innovations that are more integrated with the commercial financial sector, such as insurance products, banking, and the Islamic capital market. Crowdfunding is considered one of the redistribution schemes in the economic system to assist in the distribution of wealth, consumption, and investment, which in turn can boost the economy. As a result, this will aid in the efficient allocation of resources in the economy. (Thaker, M. A. B. M. T., & Pitchay, 2018). Therefore, a waqf crowdfunding model is needed that is in accordance with the Islamic legal framework and national law.

2. Literature Review

Similar research has been carried out in several scientific publications, but has not been found that specifically analyzes from the point of view of Islamic law and national law in Indonesia, such as: Application Of Blockchain Based Waqf Crowdfunding In Fishermen Group: Case Study Of Nambangan And Cumpat, Surabaya(Sukmana et al., 2020), Faktor yang Mempengaruhi Niat Perilaku Muslim Menggunakan Platform Crowdfunding Waqf: Teori UTAUT Model (Diniyah, 2021), and Waqf Financing Model Through Crowdfunding Platform: An Indonesian Perspective (Nasution & Medias, 2019). from the search shows this research has never been done.

3. Methodology

This study aims to analyze Waqf crowdfunding in post-pandemic economic improvement in Indonesia according to Islamic sharia and national law in force in Indonesia. The research method used is a qualitative method with a normative legal approach. Sources and types of data collected through literature studies are in the form of laws and regulations governing waqf, compilations of Islamic law, the Qur'an, hadith, legal rules, and fiqh, and related books and journals. They then conducted descriptive and qualitative analyses on them.

4. Results And Discussion

Crowfunding Waqf

Crowdfunding begins with the broader concept of crowdsourcing and is defined as a collective microfinance and financing activity that provides access to a large group of people who raise public funds through an online platform. Crowdfunding is an internet-based public offering (publication) seeking funding in the form of donations, products or services. Crowdfunding utilizes web technology with online payment mechanisms that provide transactions between creators (people who apply for funds) and donors(Iswi Hariyani & Cita Yustisia Serfiyani, 2015). Crowdfunding is a collection of community donations that are returned to the community to support capital management in the form of loans or grants. Crowdfunding is a digital platform for easy access for small businesses to strengthen their economy(Uswatun Hasanah, 2020).

With the current development of crowdfunding, it has also triggered the growth of sharia-based crowdfunding in this case crowdfunding which is juxtaposed with waqf instruments. This is to meet the needs of people who want to be involved in crowdfunding but also want to comply with Sharia and can contribute more in the socio-economic sector. In addition, waqf crowdfunding is a means of optimization in strengthening the functions and benefits of waqf from the community and for the community.

According to Mundzir Qahaf, the definition of waqf is in accordance with the nature of the law and its economic content as well as its social role, namely holding assets either permanently or temporarily, to be used directly or indirectly, and to take advantage of the results repeatedly in the way of goodness, general or special (Munzir Qahaf, 2006).

In addition, in the Waqf Law no. 41 of 2004 it is stated that waqf is the act of separating and/or leaving part of his property to be maintained forever or for a certain period of time, in accordance with its interests for worship and/or public interest based on Sharia law. So far, the types of waqf that are known are in the form of land and buildings, so that most people think again about being able to donate their assets. However, with the development of forms and ways of distributing waqf, such as cash waqf, the attractiveness of waqf is even higher, it can even be used as a trend of waqf in society, especially among the millennial generation who are very intense in interacting with gadgets.

The term cash waqf is also used for waqf in the form of cash that is invested in profitable economic sectors provided that a certain percentage is used for social services. In the Indonesian context, cash waqf is waqf in the form of money in rupiah which is managed productively, the results

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are used for mawquf alaih. As stipulated in the waqf law, money is classified as property that has long-lasting durability and/or long-term benefits and has economic value according to sharia which can be waqf.

Meanwhile, another term that is developing and known is waqf through money, namely waqf by giving money to be bought/made into immovable property or movable property as desired by the wakif or programs/projects offered to the wakif, both for social and productive purposes. Investation(Syibli Syarjaya Dan Fahruroji, 2017).

Therefore, the collaboration of the social sector and business can not only reduce poverty, increase people's welfare and encourage financial inclusion as a whole, but also improve the balance of the economic system(Ascarya, 2017). particularly through digital platforms. Waqf is a very important teaching for the revival of Islamic civilization. In the heyday of Islam, Waqf played an important role in the development of Muslim society. In the past, many centers of civilization, culture and science were supported by waqf assets. Research funding and scholarship institutions are also funded by Waqf Empowerment.(Mu'allim, 2018). and now the spirit of waqf can be rebuilt to build public facilities for the benefit of the community.

Waqf for Post-Pandemic Economic Improvement

To ensure the welfare of the people, the state should regulate economic affairs, especially the post-pandemic economic recovery. Elimination of interest, establishment of philanthropic institutions, proper distribution of economic resources, prevention of stockings, public welfare are the hallmarks of the Islamic economic system. The social role of waqf in responding to the condition of the country's economic stability that has been shaken by the pandemic, it is necessary to integrate the form of waqf that is developing with related institutions to utilize waqf funds for handling the COVID-19 pandemic(Siska Lis Sulistiani et al., 2019). The type of waqf in terms of its form that can be used as a means of collecting and distributing more easily is through cash waqf or waqf through money. Comparing it with land waqf, for example, land waqf is only enjoyed by people who live in the vicinity of the waqf property. Meanwhile, the poor who live in various places, may not necessarily be able to feel it, so a source of social funding is needed that is not bound by place and time. Therefore, cash waqf is considered flexible and does not recognize distribution boundaries.

Based on Article 216 Book III of the Compilation of Islamic Law and Article 5 of the Waqf Law, it is stated that one of the functions of waqf is to provide facilities and infrastructure for the public interest, ensuring the realization of the public interest both in terms of worship and the economy (muamalah). So that those who live in poverty can be helped by the existence of waqf. Other Muslims can also use the waqf object as a public facility and abuse it.

Although it is not regulated in detail in the waqf legislation regarding the form of socialization and collection of waqf, so that innovation and creation in increasing understanding related to waqf can be encouraged in all sectors. So that so far, waqf socialization is usually done in a simple way, namely through sermons in the pulpits of mosques or through baligo on the outskirts of the city, now it should be able to switch through social media. In addition to the socialization aspect that can be optimized through waqf literacy campaigns, the benefits of waqf and other forms of waqf, it can also be a means to raise funds or waqf assets in the form of cash waqf or waqf through money directly from waqf virtually. In addition, current internet users have entered all lines of age and religion. Therefore, in collecting waqf to help increase the economic difficulties of the community and nation caused by this pandemic period by increasing awareness and collecting waqf. As in Article 8 of the Waqf Law, people who do waqf are not limited by age or religion. So that the market share in collecting waqf is even wider. With the aim of general welfare as long as it does not conflict with sharia and applicable rules as stated in Article 22 of the Waqf Law No. 41 of 2004(Sulistiani et al., 2021).

If analyzed more deeply related to the function of waqf instruments to provide fiscal benefits, it can occur through good waqf management. So that any form of waqf assets managed, both movable and immovable goods such as land and buildings will be able to realize the role of waqf as an instrument of state development. Among several sectors that can be developed by waqf as follows(Munzir Qahaf, 2006):

a. Infrastructure

Infrastructure is one of the pillars of the country's development. Waqf has two roles in the infrastructure sector, namely:

- 1) As a provider of land for infrastructure development through land waqf;
- 2) Become a source of financing for infrastructure development through cash waqf.

b. Education

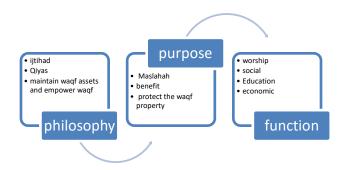
The role of waqf in education includes educational operations such as teacher salaries, subsidies for students and other educational tools. In addition, the construction of Islamic boarding schools, madrasas, and langgar. Through the concept of endowment funds originating from waqf assets that are invested and generate profits, so that they can provide benefits to the education sector.

c. Health

waqf in the health sector can be in the form of providing land for the construction of hospitals, clinics and fulfilling operational costs for health services originating from endowments as in the education sector.

d. Research and development

In the field of research and development, waqf can act as an instrument for providing land for the construction of research and development centers. In addition, research procurement costs can come from the results of waqf investments which are managed with the concept of endowment funds, and providers of scientific research research grants.



Picture 2 Philosophy, purpose and function of waqf

Types of crowdfunding

Over time, technological advances, especially in the financial sector, continue to change. Especially in digital-based financial services, according to Mohd. Thas Thaker et al. crowdfunding as "the collection of funds (in small amounts) from many crowdfunders on a Web-based platform for a specific project, business venture or for a social caus(M. A. Mohd Thas Thaker, H. Mohd Thas Thaker

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and A. Allah Pitchay, 2018), Basically, crowdfunding can be divided into four types(Nor Razinah Mohd Zain Nur Farhah Mahadi Azman Mohd Noor, 2019):

First, Lending crowdfunding: the lenders or investors are matched by the online platform with borrowers or issuers in need to finance a certain amount of loans, with a small interest rate which usually set by the online platform. Second, Equity-based crowdfunding: the collection of funds is raised for the sake of providing a certain amount of capital to a business, from which crowdfunders are offered to have equity interests in the business as investors. Third, reward crowdfunding: the collection of funds is generated from crowdfunders that contribute the funds either to get any personal benefits or socially motivated to contribute, from which tangible rewards are given to the crowdfunders. Such rewards are not monetary in form, e.g. membership rewards, coupons, etc.

Fourth, donation crowdfunding: the collection of funds is derived from crowdfunders' philanthropic or charitable intentions to achieve certain objectives, without requiring any exchange or profitable returns.

Of the types of crowdfunding in general in Indonesia, it is still running conventionally, among those who present a crowdfunding donation scheme in Indonesia, such as PT. Ammana Fintek Syariah Indonesia, kitabisa.com, kitawakaf.com, and wakafdigitalIndonesia.org. This type of waqf crowdfunding or donation crowdfunding has been widely developed in other countries, for example in Southeast Asia, Malaysia and Thailand.

Crowfunding of waqf according to Islamic sharia and national law in Indonesia

Digital-based financial transactions are increasingly in demand, because it makes it easier for the public to access them anywhere and anytime. In Indonesia, the development of crowdfunding is generally well known and the regulation under the financial services authority is OJK Regulation Number 37/POJK.04/2018 concerning Crowdfunding Services Through Information Technology-Based Stock Offerings (Equity Crowdfunding).

Collecting social donations, especially in cash waqf instruments, is one solution in helping accelerate economic recovery after the pandemic. In general, the basis for the legality of the hadith regarding the practice of waqf in Islam is based on the practice of waqf land in Khaibar by a friend of Umar Ibn Khatab and also a popular story related to waqf of rummat wells by a friend of Uthman bin Affan which was purchased from a Jew so that it developed into a hotel and hotel. other tools that are useful for many parties to date.

In addition, in the history of cash waqf has been carried out since the beginning of the second century Hijriyah. Bukhari narrates that Imam Az-Zuhri (d. 124 H), one of the leading scholars and the founder of Tadwin al-Hadith, has issued the fatwa, recommending dinar and dirham endowments for the development of da'wah and social and educational facilities for Muslims. The way is to make the money as business capital and then channel the profits. (Zahra, 2004).

This was also conveyed by the Hanafis who allowed cash waqf, as long as it had become 'urf among the community. The Hanafiyah are of the opinion that the law established by 'urf has the same power as the law established by the texts(Az-Zuhaili, 2011), The argument used by the Hanafiyah school is the atsar of Ibn Mas'ud:

"What is considered good according to the Muslims, then in the sight of Allah is good, and what is considered bad by the Muslims, in the sight of Allah is also bad." (Ahmad Ibn Hanbal, 2008).

The method of waqf money, according to the Hanafiyah is to make it business capital by means of mudharabah or mubada'ah. Apart from that, the profits are donated to Mawquf alaih(Wahbah Az-

<u>Zuhaili</u>, 1998), In addition, the Malikiyah believe that it is permissible to waqf with dinars and dirhams(<u>Wahbah Az-Zuhaili</u>, 1998), In this case, there is an explanation in the book al-Mudawwamah regarding the use of cash waqf, namely through the formation of loan funds. The rule is that the money is waqf and used as a loan to a certain party where the borrower is bound to pay the loan(<u>Anas</u>, 1994).

In the Indonesian context, the legality of waqf began with the issuance of the MUI fatwa in 2002 regarding cash waqf, then followed by the issuance of the Waqf Law No. 41 of 2004, then Government Regulation No. 42 of 2006 and changes occurred in 2018 and PP No. 52 of 2018, and then after those years there were many regulations, both fatwas and ministerial regulations and the Indonesian Waqf Board that regulate the forms and mechanisms of waqf that continue to develop.

The form of developing digital-based waqf collections through the donation crowdfunding mechanism or waqf crowdfunding makes it easy for all parties to donate money to be channeled into social projects in the form of building worship facilities, educational facilities, health, tourism or other public facilities. The reach of this digital collection mechanism can also attract people who want to be waqf but also have different locations, ethnicities and even religions. Because in figh there is no prohibition for non-Muslim communities to be able to participate in donating their assets in the form of waqf contracts(Sulistiani, 2021). as long as it is distributed to projects that do not conflict with sharia.

So far, the collection of cash waqf that has been running according to the Waqf Law No. 41 of 2004, namely through the Islamic Financial Institution Recipient of Cash Waqf (LKS-PWU) which is officially registered with the Ministry of Religion of the Republic of Indonesia, continues to run with a mechanism that is also currently developing in the form of collection through channels. digital, namely the position of the community as wakif to distribute it to LKS-PWU then the position of LKS-PWU as an intermediary institution to distribute community waqf funds to nadzhir who collaborate and have a waqf development project.

Due to the legality of the Waqf Law, it states that cash waqf must go through LKS-PWU, so that the collection of waqf in the form of money which is carried out directly by nadzhir is mostly done directly or through digital platforms with the waqf crowdfunding mechanism, so that the position between nadzir and this digital platform is a service contract or contract. ijarah in the process of collecting waqf funds with an agreed value.

There needs to be clear supervision from the financial services authorities and Indonesian waqf bodies as authorized institutions regarding the running of this waqf crowdfunding mechanism. Due to the fact that donation crowdfunding or waqf crowdfunding has not been regulated in national law, so far the regulation is still on the fundraising mechanism which refers to Law No. 41 of 2004 concerning waqf, PP No. 52 of 2018 concerning amendments to PP No. 42 of 2006, UU PUB to collect money and goods intended for development purposes in the social welfare, mental/religious/spiritual, physical and cultural fields with permission from the authorized official, namely the minister of social affairs, governor or at the level of regents and mayors, and so far limited to associations or community organizations, is also based on the Minister of Communications and Information Technology Regulation No. 36 of 2014 concerning procedures for registering the implementation of electronic systems.

Because the regulation is still general in nature, so that the principle of legal certainty in the traffic of mass fundraising in the form of waqf has not materialized, it is feared if problems occur in the future because there are no clear rules or supervision to protect all parties such as wakif, platform providers, nadzhir and others. waqf assets.

5. Conclusion

Waqf is an Islamic social financial instrument that can be used to help restore the community's economy. Given the generous nature of the Indonesian people, this is an opportunity to increase their sense of caring for others through waqf combined with digital platforms. Waqf crowdfunding is an effort to collect social funds in bulk through advances in information technology to maximize the collection of waqf funds.

Innovation in waqf collection through waqf crowdfunding in Indonesia does not yet have a clear legal basis, so it is still under the umbrella of general rules. The development of wagf crowdfunding needs to be followed by clear regulations and supervision from financial services authorities and Indonesian waqf bodies so that the goals and functions are clear. The main purpose of collecting waqf funds can be carried out in accordance with its objectives.

Author contribution statement

Siska for writing and analyzing the data Ramdan and Intan for collecting the data

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