



PRODUCTIVE WAQF IN MAQASID SHARIA PERSPECTIVE

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Abstract

Giving has become a habit in our culture. Unfortunately, in our society's view, waqf tends to focus on land and buildings. The meaning of a waqf event can be interpreted more broadly; it can be managed to be more productive, for example. This study uses library research methods that show productive waqf from the perspective of *maqasid sharia*, including *ijtihad maslahi*, which must be based on the main objectives of religion. Second, *ijtihad maslahi* must be based on knowledge of *maslahah al-shariah* (maslahat in religion). Third, *ijtihad maslahi* must apply and consider the public benefit of understanding the text in both al-Qur'an and Hadith. Fourth, *ijtihad maslahi* must consider the point of view of profit and loss.

Keywords: *Productive Waqf, Maqasid Sharia, Ijtihad Maslahi, Maslahah al-Shariah.*

Introduction

According to Islam, humans should always do good. It is because kindness will benefit oneself, others, and society. Allah will also increase the reward. The spirit of sharing and caring must be fostered to thrive as a way of life. Amid today complex social problems, sharing

can provide relief and evidence of concern for others. Sharing and caring with kindness will improve social interactions. Sharing can help those in need by easing their burden.

This social attitude of sharing with others has historically played an essential role in the advancement and deve-



lopment of religion.¹ Zakat, infaq, alms, and waqf are instruments that have been carried out for centuries, benefiting the economy of the people of the past as one of the instruments used by Islamic governments for the advancement and glory of Islam.

Good management is required as an instrument of state income, zakat, infaq, alms, and waqf, so that the benefits of these activities can be enjoyed by more people and have social value. Waqf is one of the instruments with a more prolonged impact because its object is fixed and does not diminish even as it is used and distributed.

Waqf, as a social activity, provides tangible evidence of people's responses to social problems. This activity will benefit more people if it is appropriately managed and placed in the hands of the right people. His role in easing the social burden inspired him to become a more professional manager.²

Our society assumes that waqf is merely a gift in the form of immovable property, land, and buildings. This way of thinking is perfectly valid because

¹ Van Buren, et al. "Religion as a Macro Social Force Affecting Business: Concepts, Questions, and Future Research," *Business & Society* 59, no. 5 (May 2020): 799–822. DOI: 10.1177/0007650319845097.

² H. Aravik, N.R. Yunus & D. Sulastyawati, "Legal Politics of Waqf-Regulation in Indonesia," *NUR EL-ISLAM: Jurnal Pendidikan dan Sosial Keagamaan* 6, no. 1 (2019): 153–170. DOI: 10.51311/nuris.v6i1.122.

history frequently records waqf in the form of goods and land. However, the community's needs are continually increasing, and economic problems are getting more complicated; waqf has also been transformed into a social activity expected to address current economic changes. This social activity will benefit everyone by enabling capital owners to realize social welfare.³

As a social activity, waqf demonstrates how people respond to social problems. More people will benefit from this activity if it is appropriately managed and placed in the hands of the right people. His contribution to reducing social burdens inspired him to become a more professional manager.⁴

Productive waqf is expected to be able to change people's perceptions of waqf only in the form of land and buildings as part of philanthropic activities. More people will benefit from productive waqf if it is practiced and appropriately managed.

Waqf, as a revelation-based order, should be dedicated to creating a benefit for the people that will impact this world's life and happiness in the here-

³ Abdurrohman Kasdi, "Pergeseran Makna dan Pemberdayaan Wakaf: Dari Konsumtif ke Produktif," *ZISWA* 3, no. 1 (June 2016).

⁴ Zunaidi, A. "Wakaf Keluarga Perspektif UU No. 41 Tahun 2004 dan Maqasid al-Usrah Jamal al-Din Atiyyah," *Mahakim: Journal of Islamic Family Law* 5, no. 2 (2021): 115–133. <https://jurnalfasya.iainkediri.ac.id/index.php/mahakim/article/view/137>.

after.⁵ This article attempts to decipher productive waqf from the standpoint of *maqasid sharia*. Waqf development into productive waqf must have goals consistent with Islamic law (*maqasid sharia*) so that this practice can inspire people to do similar good deeds.

The study uses library research to gather data on productive waqf. These data are used as consideration and reference in this study's conclusion of a problem, namely studies related to productive waqf and its perspective in *maqasid sharia*.

Waqf and Fuqaha's View

Waqf is a grammatical term that means to keep. Shara' defines waqf as "holding back and giving its benefits only to ask for His pleasure." Furthermore, waqf is defined as an act that institutionalizes ownership of property or land for worship or other interests by Islamic teaching.⁶ Meanwhile, according to Law No. 41 of 2004, the scope is no longer limited to land and buildings but can also include movable and immovable property.⁷

⁵ Mochammad Andre Agustianto, "Wakaf Sebagai Strategi Pemberdayaan Ekonomi Masyarakat: Studi Pengenalan Perwakafan di Indonesia," *eL-Qist* 9, no. 2 (2019).

⁶ Peraturan Pemerintah RI Nomor 28 Tahun 1997 tentang Wakaf.

⁷ Hafsa, "Wakaf Produktif dalam Hukum Islam Indonesia: Analisis Filosofis terhadap Undang-Undang RI Nomor 41 Tahun 2004

This elaboration is since the object of waqf and the problems encountered are growing to the point where a different interpretation is required to meet the demands of the times without removing the original law of waqf acts. As a result, it stands to reason that the formulation of waqf in its development can take the form of movable or immovable property, land, building, and livestock.

As defined by *fuqaha* (fiqh scholars), waqf varies according to their point of view. On the other hand, scholars agree on the benefits of this waqf and the importance of managing its waqf.⁸ In summary, waqf, according to the fiqh school, is as follows:⁹

Madhhab al-Shafi'i

- a. Imam Nawasi defines waqf as "the activity of holding back assets that can be taken advantage of not for themselves, while the object is still there and its benefits are used for goodness and to draw closer to Allah."
- b. Ibn Hajar al-Haitami and Shaykh Umairah are defined waqf as "Retaining assets that can be used by

tentang Wakaf," *MIQOT* 33, no. 1 (2009).

⁸ Fawza Rahmat, "Pengelolaan Wakaf Kontemporer," *At-Tasyri'iy* 1, no. 2 (2018).

⁹ Yunal Isra Suryani, "Wakaf Produktif (*Cash Waqf*) dalam Perspektif Hukum Islam dan Maqāsid al-Sharī'ah," *Walisongo* 24, no. 1 (May 2016).

maintaining the integrity of the property by deciding the ownership of the property from the owner for what is permissible."

- c. Shaykh Syihabuddin al-Qalyubi, waqf means "holding property to be used according to what is permitted and maintaining the integrity of the property."

Madhhab Hanafi

- a. Imam Sharkhasi defines it as: "Retaining property from the reach (of) others."
b. Al-Murghinany defines: "Keeping property under the hands of its owner, accompanied by the provision of benefits as alms."¹⁰

Madhhab al-Maliki

Ibn Arafah defines waqf as follows:

Giving the benefit of something at the time limit of its existence along with the persistence of the waqf in possession of the giver, even though it is only an estimate.

Legal Basics of Waqf

The Qur'an

As the primary reference source for all activities, the Qur'an contains

¹⁰ Abu 'Abd Allah Muhammad bin Ahmad bin Abu Bakr bin Farkh Shams al-Din al-Qurtubi, *Al-Jami' li Ahkam al-Qur'an*, Vol. 1 (Riyadh: Dar 'Alim al-Kutub, 2003), 457

several verses that command the act of waqf, albeit with different editorials. On the other hand, scholars interpret waqf through the Qur'an.

You will never reach the perfection of virtue until you spend some of the wealth you love. And whatever you spend, Allah is aware of it (3: 92).

Spend (in the way of Allah) some of the fruits of your good works and some of what we bring out of the earth for you, and do not choose the bad ones and then spend from them, even if you do not want to take them except by squinting at them, and know that Allah is Rich and Praiseworthy (2: 267).

Hadith

The Hadith also contains waqf orders. The Hadith states, "When a person dies, his deeds are cut off, except for three things: charity, beneficial knowledge, and a pious child who prays for him.

Sadaqah jariyah is interpreted as waqf by hadith experts in the context of the preceding Hadith. Because of the waqf's long duration, the reward continues to flow as long as it provides benefits and is used by others.

The Hadith concerning Ibn Umar and the land of Khaibar is a clearer

hadith regarding the waqf commandment.

Omar Ra's friend. They obtained a plot of land in Khaibar and then went to the Messenger of Allah for guidance. O Messenger of Allah, I have got a piece of land in Khaibar. I have never had such good wealth, so what do you order me? The Prophet replied, "If you like, you hold (mainly) the land, and you give alms (results). Then Umar did sadaqah, not sold, not donated, and not inherited. Ibn Umar said: "Umar gave it to the poor, relatives, pawns, sabilillah, Ibn sabil, and guests. And it is not forbidden for people who control the waqf land (take care) to eat the results in a good way (properly) or eat without intending to accumulate wealth.¹¹

Productive Waqf

Productive waqf is a scheme for managing people's waqf donations by making them productive to generate long-term profits. These profits are used to finance and benefit people who are in need. The original funds have not been reduced in any way.¹²

¹¹ Muhammad ibn al-Bukhari, *Shahih al-Bukhari III* (Beirut Dar al-Fikr, 1981 M/ 1401 H), 185.

¹² Huzzatul Fikriyah & Muhamad Zen, "Strategi Penghimpunan Dana Wakaf Produktif di Baitul Maal Muamalat," *Jurnal Mana-*

Types of Productive Waqf

Productive waqf is divided into three categories as part of Islamic philanthropy:¹³

1. Cash Waqf

Cash or money waqf, as one component considered capable of being used to be more productive, no longer functions solely as a medium of exchange but as a tool that provides additional benefits.

Cash waqf is a gift in the form of cash assets that cannot be transferred or frozen without public interest because it does not reduce the value and principal amount.¹⁴

2. Cash Waqf Certificate

Cash waqf certificates are product purchase certificates managed as endowments issued as social investment bodies or products from Islamic banking institutions. The purpose of this certificate is to empower savings as a social activity and as a facilitator to assist waqf management.¹⁵

jemen Dakwah 5, no. 1 (June 2019).

¹³ Abd. Kadir Arno, "Wakaf Produktif Sebagai Instrumen Kesejahteraan Sosial dan Pemberdayaan Ekonomi Umat: Potensi dan Tantangan," *Dinamis* 1, no. 2 (October 2018).

¹⁴ Wulpiah, "Paradigma Baru Pengembangan Wakaf Produktif: Kajian Empiris Badan Wakaf Indonesia Provinsi Bangka Belitung," *Asy-Syar'iyah* 4, no. 1 (June 2019).

¹⁵ Achmad Muchaddam Fahham, "Pengelo-

3. Share Waqf (Corporate Waqf)

Shares are also thought to be capable of stimulating the growth of people's funds to be dedicated to those in need. This type of waqf permits funds to be managed in the capital or stock market. Profits will be paid out in the form of dividends and distributed to those in need for economic and social purposes.¹⁶

Productive Waqf in Indonesia

Productive waqf is still relatively unknown among Indonesians. This model of waqf has begun to be socialized more frequently as an alternative form of waqf management, usually only in the form of land and buildings, as a form of *ijtihad* by today's scholars and the welfare of the people.

Even though this practice has existed since the beginning of Islam, almost all countries that practice waqf have a problem with its management. What frequently occurs is the reduction or loss of the waqf object. Based on this, good management is required to carry out the mandate of this *ummah*.¹⁷

laan Wakaf Tunai di Lembaga Pengelola Wakaf dan Pertanahan Pengurus Wilayah Nahdlatul Ulama Daerah Istimewa Yogyakarta," *Aspirasi* 6, no. 1 (June 2015).

¹⁶ Indah Yuliana and Surya Perdana Hadi, "Model Penerapan dan Potensi Wakaf Saham di Indonesia," *Jurnal Perspektif Ekonomi Darussalam* 5, no. 2 (September 2019).

¹⁷ Veithzal Rivai Zainal, "Pengelolaan dan

Based on Waqf Law Number 41 of 2004, much Islamic banking and public institutions in Indonesia specialize in waqf management to address this issue. These institutions have products and provide facilities for collecting donations from the public.

The results of the management of productive waqf it has contributed to the community, both in the form of funding for the renovation of houses, hospitals, schools, and other facilities. In addition, there are also many whose management and distribution concerns focus on economic issues. The form of facilities provided is in the form of financing and capital for the community.

With the many benefits this productive waqf can provide, it is natural for this waqf to be associated with the government to motivate people to donate. In terms of economic development, this productive waqf has the potential to create a better and more prosperous life.

The Concept of *Maqasid Sharia*

As a religion with extensive laws, Islam has rules and norms that serve as a guide. There is the Qur'an as the primary source and the Hadith as an explanation. Scholars' interpretations of the most recent problems in the deve-

Pengembangan Wakaf Produktif," *Al-Awqaf: Jurnal Wakaf dan Ekonomi Islam* 9, no. 1 (January 2016).

lopment of their times emerged from these two factors. Every time a new problem arises in the field of *muamalah*, new laws must be enacted. As a result, scholars use a unique standard to determine the law of each issue in the *mua-malah* field. The concept can be found in the *maqasid sharia* principle.

The concept of *maqasid sharia* itself comes from the existence of fiqh rules. In fact, sharia aims to realize the benefit of the world and the hereafter.¹⁸

As a rule, *maqasid sharia* aims to be carried out, whether for the good or benefit of the human. It corresponds to God's command to multiply good deeds. The main goal is to obtain the benefit specified by Allah in the prophet's verses and Hadith.

Maqasid Sharia's Principles

As the world's largest Muslim community, the Qur'an and Hadith are the primary sources of reference in all matters because Allah must have a reason for each of His rules. The primary goal of creating rules for humankind is to benefit the world and the hereafter. The prophet's hadith has the same goal: there is wisdom in every command and prohibition.

We are now dealing with more complex issues than those described in the Qur'an and Hadith. As a result, our scholars create guidelines to make decision-making easier. Benefits and drawbacks are two criteria used to determine the law of each new problem. The goal of this principle is known as *maqasid sharia*.

There are five forms of *maqasid sharia* that are well known today. These five principles are known as *kulliyat al-khamsah* (core principles), including *hifdzu din* (protecting religion), *hifdzu nafs* (protecting the soul), *hifdzu 'aql* (protecting the mind), *hifdzu maal* (protecting property), and *hifdzu nasab* (protecting offspring).¹⁹

Two of the five *maqasid* above are divided into several levels based on benefits and interests. Based on the urgency, you will find *dharuriyat*, *tahsinat*, and *hajiyyat*.

Dharuriyat for the interests of the highest urgency because it involves something that must be done immediately. With its urgent nature, this need has a side impact and must be fulfilled instantly.

Hajiyyat has a slower or sufficient nature to fulfill. Because of its nature, it does not require to be rushed, so the

¹⁸ "Konsep dan Pengertian Maqashid Syariah," <https://ponpes.alhasanah.sch.id/pengetahuan/mengenal-maqashid-syariah-pengertian-dan-bentuk-bentuknya>, accessed February 21, 2020.

¹⁹ Afridawati, "Stratifikasi al-Maqashid al-Khamsah (Agama, Jiwa, Akal, Keturunan dan Harta) dan Penerapannya dalam Masalahah," *Alqisthu* 13, no 1 (2015).

effect only gives difficulty. In contrast to *dharuriyat*, which has side effects if not fulfilled.

While *tahsinat* is only used as a complement. Its properties are only complementary, so there are no side effects or difficulties if it is not fulfilled. It's just a feeling of discomfort if that need is not met.

In Islamic law, *maslahat* has certain limitations (*dhawabit*) to determine the substance of general *maslahat* and relate it to the existing arguments, so there is a connection between them.

The limitations of the *dhawabit* include:²⁰

1. *Maslahat* is part of *maqasid sharia*. It must be one of the five principles of *maqasid sharia*: guarding religion (*hifdzu din*), guarding the soul (*hifdzu nafs*), guarding the mind (*hifdzu 'aql*), guarding property (*hifdzu maal*), and protecting offspring (*hifdzu nasab*).
2. Cancel if it contradicts the Qur'an and Sunnah. Every benefit must have no conflict with the Qur'an or Hadith. If it does not, then the law is null and void.
3. Not inimical to the greater good. A benefit must have legal force. Its nature is binding so that if there is a

²⁰ "Tujuan dari Suatu Hukum (Maqoshid Syariah), <http://tanjungpinangpos.id/tujuan-dari-suatu-hukum-maqoshid-syariah>, accessed February 21, 2020.

more significant benefit, the smaller one automatically becomes invalid because the benefit to the people comes first.

It should be underlined that the function of *maqasid sharia* is to understand texts as sources of law in order to be able to provide a comprehensive understanding, so *maqasid sharia* can strengthen the opinion of *fuqaha* by considering the long term with all the problems that may come and the fatwa it needs.

In using the *maqasid sharia*, a rule is needed, namely that every provision in Islam has a purpose (*maqasid*), because these provisions will make *taqsid* (determine *maqasid* based on existing arguments and *mafasadat*, then distinguish between *maqasid* and *wasa'il* in every provision of Allah.²¹

The application of *maqasid sharia* in productive waqf is elaborates the *maqasid* (goal) of magnitude, namely *hifdzu maal*. *Hifdzu maal* is currently part of the rules of *muamalah*. This rule begins with a general purpose (*maqasid 'ammah*) and ends with a specific goal (*maqasid khassah*).

Maqasid 'ammah is part of the stipulation of several groups or cross-laws. While *maqasid khassah* the goal is to prescribe certain laws. *Maqasid khassah*

²¹ "Tujuan Nurnazli, "Penerapan Kaidah Maqâshid Syariah dalam Produk Perbankan Syariah," *Ijtimaiyya* 7, no. 1 (February 2014).

is the result of studies by scholars on texts and *qath'i* sharia law.

Maqasid 'ammah in economic activity has special provisions, namely that the presence of every business agreement must be known to each party, must be fair, must be committed to the agreement, protect property rights, and property must be adequately distributed so that every level of society can enjoy it.

In this way, we can understand why Allah sometimes decrees a law that we do not like but benefits us in the opposite direction.

Productive Waqf in Maqasid Sharia Perspective

The potential for productive waqf is very large. It demands the ability and hard work to make it happen so as to contribute to the state and society. Shared perceptions and perspectives on the development and empowerment of productive waqf are very important so that community support grows in realizing a strong and prosperous community economy.

Seeing how big the potential is, it changes the common perception of the community. To equalize that perception requires understanding the community that *maqasid sharia* is one of the easiest ways to be used to create the correct perception for the acceptance of productive waqf in the community. One of the

principles of *maqasid sharia* is to make it easier for people to know whether an act is good.

First, the primary purpose of religion. From this aspect, it can be ascertained that productive waqf is by religious principles. The welfare of the community is the primary goal, without forgetting that Islam teaches us always to maintain religion because the main goal is the happiness of the hereafter. Productive waqf is a part ordered in religion with the same purpose, teaches sharing to others, and keeps religion in its command, with the afterlife as the primary goal.

Second, it must be beneficial. There are the benefit of this world and the hereafter. This benefit will have several levels, namely *daruri* (primary), *hajjiy* (secondary), and *tahsini* (tertiary). This productive waqf is included in the urgent benefit (immediately, because the *daruri* benefit is expected to realize a balanced social order, there is no difference in wealth.

Third, consider the public benefit. Productive waqf has excellent benefits. The object that is not reduced gives more value to this waqf. The benefits can be streamed continuously so that more and more people feel the benefits for the benefit of the people.

Fourth, consider the point of view of profit and loss. In contrast to land and building waqf, productive waqf empha-

sizes the advantages and disadvantages. As in profit-oriented businesses, productive waqf also has the same orientation. This waqf is always oriented to the profits obtained from the circulation of the waqf object. The results will be obtained and disseminated to more people.

Conclusion

Consequently, it can be concluded that it is necessary to strengthen the management of productive waqf for humans in the world and the hereafter. Muslims apply the *maqasid sharia* principles to determine whether the act is good or not in the waqf. There are several considerations in this perspective toward productive waqf. First, the primary purpose of religion is to protect religion. Second, it must be beneficial. Third, consider the public benefit. Fourth, consider the point of view of profit and loss.

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