

Contemporary Islamic Philanthropy: Stock Waqf in the Perspective of MUI Fatwa on Cash Waqf

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ABSTRACT

The digital era has catalyzed fundamental transformations in Islamic philanthropy practices, driving evolution from conventional models toward innovative approaches that leverage modern financial technology. This study explored the role of MUI Fatwa No. 2 of 2002 on Cash Waqf as the normative basis for legitimizing stock waqf within the context of contemporary Islamic philanthropy in Indonesia. Using a qualitative approach with library research methods, this study analyzed MUI fatwa documents, legislation, and relevant literature through content analysis techniques. The results indicate that the MUI Fatwa bridges a paradigmatic shift in the understanding of waqf jurisprudence by transitioning from a textualist interpretation to a contextual approach, thereby opening methodological space for the diversification of modern waqf instruments. The expansion of the definition of cash waqf to include “securities” provides a solid normative foundation for the development of stock waqf. The implementation of stock waqf has been supported by an adequate regulatory hierarchy, but it still faces challenges in the form of a lack of specific regulations and the absence of specific fatwas. Stock waqf represents a synthesis of classical Islamic philanthropic traditions with the needs of digital economic empowerment, in line with the principles of maqasid syariah in optimizing communal welfare. This study recommends the need for the formulation of specific fatwas on stock waqf and the development of comprehensive technical regulations to optimize the potential of stock waqf innovation as a model of contemporary Islamic philanthropy.

Keywords: *Islamic philanthropy, stock waqf, MUI fatwa, Islamic capital market*

A. INTRODUCTION

The advent of the digital age has precipitated a paradigm shift in Islamic philanthropy practices, propelling an evolution from conventional models toward innovative approaches that leverage modern financial technology. The necessity to adapt to the contemporary socio-economic complexities has motivated Muslim communities to develop more effective giving mechanisms without compromising core Islamic principles. The proliferation of cash-based waqf instruments within Muslim communities signifies a pragmatic orientation that prioritizes the attainment of optimal benefits (mashlahah) over rigid adherence to traditional legal interpretations. This is evidenced by the implementation of flexible and responsive fundraising strategies (Latief, As’ad, and Khasanah 2015). This transformation indicates that contemporary Islamic philanthropy has evolved into a system that is more responsive to community needs while adhering to the principle of mashlahah as its main foundation.

The evolution of contemporary Islamic philanthropy is marked by the emergence of adaptive sharia social finance instruments, which have been developed to address contemporary needs. This evolution is driven by the pressing necessity to optimize the role of waqf in sustainable social and economic development in the digital age. The advent of stock waqf, inaugurated by the Indonesia Stock Exchange (IDX) in 2019, substantiates this innovation, which is purported to be a pioneering initiative on the global stage (“Indonesia Negara Pertama Kembangkan Wakaf Saham” 2019). This development signifies a fundamental shift in the paradigm of waqf, moving

from a focus on physical assets to a more dynamic and productive approach with modern financial instruments.

The legitimacy of stock waqf has a robust normative genealogy stemming from the evolution of waqf jurisprudence understanding. This evolution commenced with the seminal Fatwa of the Indonesian Ulema Council (MUI) on cash waqf (Majelis Ulama Indonesia 2002). This fatwa proved to be a significant catalyst for change, as it effectively expanded the paradigm of waqf objects from a rigid traditional concept to a more flexible understanding. This fatwa explicitly includes securities, including shares, as assets that can be endowed, thereby providing a solid legal foundation for the development of stock endowments. This fundamental change is indicative of the adaptive capacity of Islamic jurisprudence in responding to the dynamics of contemporary societal needs without compromising its core principles.

The implementation of stock waqf gives rise to multifaceted methodological dilemmas in the formation of contemporary fiqh, particularly in creating synergy between sharia principles and modern capital market operations. The crux of the matter pertains to the preservation of the fundamental principle of waqf, namely the continuity of principal value (*tahbis al-ashl*), within the inherently volatile milieu of the stock market. This challenge necessitates the construction of a comprehensive analytical framework and the application of sophisticated *ijtihad* methodologies to ensure that stock waqf innovations not only comply with Sharia provisions but are also effective in maximizing communal benefits. Consequently, a comprehensive exploration that synthesizes the dimensions of fiqh, economics, and Sharia finance is required to produce an integrated solution.

A body of research on contemporary waqf has validated the strategic importance of adapting Islamic philanthropy mechanisms to the dynamics of modern financial systems. This adaptation is necessary to maintain the relevance and operational effectiveness of these mechanisms. This adaptation process is a strategic necessity because the complexity of today's socio-economic problems requires more sophisticated and responsive philanthropic instruments. Çizakça(1995) identified that waqf institutions throughout history have demonstrated consistent adaptability to economic transformations while maintaining their primary philanthropic orientation. Abdel Mohsin (2013) emphasized that the revitalization of cash waqf can accommodate diverse financial needs through integration with the modern financial ecosystem. The corpus of extant evidence suggests that stock waqf innovation is indicative of the logical continuity of adaptive evolution, a historical characteristic of waqf institutions.

The research gap related to stock waqf in the Indonesian context indicates a critical need for comprehensive investigation exploring the correlation between the MUI fatwa on cash waqf and the legitimacy of stock waqf. The limitations of this specific study are a critical issue given Indonesia's strategic position as a pioneer in the systematic and organized implementation of stock waqf. The status of Indonesia as a global pioneer in endowment stock innovation necessitates a robust theoretical and empirical foundation to ensure the sustainability and replicability of this model in other Muslim-majority countries. Considering the considerations, the objective of this study is twofold: firstly, to examine the MUI Fatwa concerning cash endowments as the normative foundation for the emergence of endowment stocks, and secondly, to investigate its implementation as a model of communal welfare. Specifically, it explores the evolution of fiqh understanding of waqf, analyzes the expansion of the waqf object paradigm in the MUI fatwa, and evaluates the challenges and opportunities for implementing stock waqf in Indonesia's Islamic capital market ecosystem.

B. METHOD

The present study employed a qualitative approach, utilizing a descriptive-analytical library research method. This research was selected to investigate and thoroughly analyze the relationship between the MUI fatwa on cash waqf and the legitimacy of stock waqf in the context of contemporary Islamic philanthropy in Indonesia. The present study employed secondary data comprising primary sources, including MUI Fatwa No. 2 of 2002 on Cash Waqf, pertinent laws and regulations concerning waqf, and sharia capital market regulations. Secondary sources included books, scientific journals, articles, and official publications relevant to the topic of stock waqf and contemporary Islamic philanthropy.

The data for this study was collected through a documentary study, in which documents related to cash waqf, stock waqf, and MUI fatwas were collected, identified, and analyzed. The data was collected from libraries, online databases, official websites of relevant institutions, and academic repositories. The data was then subjected to content analysis to ascertain its meaning and historical-legal context in the context of the MUI fatwa. The analysis was conducted through a series of data reduction stages. Initially, relevant information was identified. Then, the data was categorized based on main themes. After that, the data was interpreted and synthesized to build analytical arguments. Finally, conclusions were drawn based on the findings obtained.

C. RESULT AND DISCUSSION

The Evolution of Understanding Waqf in Contemporary Fiqh

The MUI Fatwa No. 2 of 2002 on Cash Waqf signifies a transformative moment, marking a paradigmatic shift in the understanding of waqf jurisprudence in Indonesia. This decision does not merely signify a pragmatic adaptation to contemporary needs; rather, it reflects a fundamental reorientation in fiqh methodology, marked by a shift from a textualist approach to an interpretive-contextual one. The legitimacy of cash waqf is predicated on the hadith of Ibn Umar: *"If you wish, preserve the tree and give away its fruits"* (al-Bukhârî 1987, 2:982; Muslim, n.d., 3:1255), which indicates a degree of flexibility in interpreting the concept of the physical asset of waqf (waqf property) in a modern context.

The conceptual shift proposed by the MUI is predicated on the development of an interpretation that the essence of waqf is not confined to the physical continuity of the waqf object, but rather to the continuity of value. This paradigm reflects a shift from the traditional Shafi'i school of thought, which emphasizes the physical permanence of the substance (baqa' 'ainih), toward a broader conception of the permanence of value and benefit (baqa' ashlih). The conventional Shafi'i interpretation of waqf confines its application to tangible assets, stipulating their preservation in a state of physical integrity. Conversely, the MUI has augmented this scope, extending it to encompass the dimension of intrinsic value (Kamal 2015).

This fundamental change is embodied in the addition of the phrase "aw ashlihi" (baqa' ashlih) in the definition of waqf developed by the MUI (Armiadi 2018). This terminological innovation is not merely a semantic modification; rather, it is a representation of an epistemological reconstruction that emphasizes that the object of waqf is the intrinsic value of property, not merely its physical manifestation. This approach engenders methodological space for flexibility in the management of waqf assets, including their transformation into modern financial instruments such as sharia stocks, sukuk, and other capital market products.

The paradigmatic significance of this fatwa can be understood through contextual analysis, which demonstrates that the MUI is not merely responding to practical needs but is building a

theoretical framework that allows for the continuous evolution of waqf jurisprudence. Latief, As'ad, and Khasanah (2015) identify that the flexibility in interpreting cash waqf in Indonesia reflects a societal orientation that prioritizes public interest over rigid adherence to textual legal interpretations. This phenomenon suggests that MUI fatwas have effectively established a balance between fidelity to fundamental sharia principles and responsiveness to contemporary socio-economic dynamics.

The MUI Fatwa as a Fundamental Pillar of Legitimacy for Stock Waqf

The issuance of the Indonesian Ulema Council (MUI) Fatwa No. 2 of 2002 on Cash Waqf represented an institutional response to the complex socio-economic challenges of that period (Armiadi 2018). The profound economic disparity between the affluent segments of society and the majority of the population living in poverty served as the primary catalyst for the formulation of this fatwa. The MUI identified the strategic potential of cash waqf as an adaptive and effective philanthropic mechanism to address these structural issues, by facilitating community participation through monetary contributions that can be optimally utilized in a productive manner (Armiadi 2018). This initiative was also motivated by the urgency to provide sharia validation for cash waqf practices that have been implemented in several other Muslim jurisdictions, including Bangladesh (Kamal 2015).

The MUI's acknowledgement of the enhanced adaptability of cash waqf in comparison to conventional waqf instruments, along with the considerable prospects for advantages through waqf fund investments, constituted pivotal factors in the issuance of this fatwa. This fatwa is indicative of an evolution in contemporary fiqh thinking, demonstrating a responsiveness to modern socio-economic dynamics. According to Jamaa's (2018) study, the MUI has made a positive contribution to the transformation of contemporary Islamic law in Indonesia through 137 fatwas and 50 decisions addressed to Indonesian Muslims and the Indonesian government.

Expansion of the Waqf Object Paradigm

The MUI fatwa precipitated a fundamental epistemological transformation in the conceptualization of the waqf, transcending the conventional boundaries that had been firmly entrenched in the Indonesian fiqh tradition. This conceptual innovation represented a departure from a literalist interpretation that confined waqf to tangible assets, marking a shift towards a substantive understanding that emphasized the continuity of benefits as the essence of waqf. This transformation is reflected in the formulation of the definition of cash waqf as “*waqf performed by an individual, group of individuals, institution, or legal entity in the form of cash*” (Majelis Ulama Indonesia 2002).

The definition's significance extends beyond its terminological aspects, encompassing profound philosophical implications that fundamentally alter the paradigm concerning the substance of waqf. This fatwa challenges the conventional understanding of waqf among the majority of Indonesian Muslims, who, adhering to the Shafi'i school of thought, limit the concept to physical objects characterized by sustained durability. As articulated in the Compilation of Islamic Law, the prevailing definition of waqf accentuates that “*waqf property constitutes any property, whether movable or immovable, that possesses durability beyond a single use and is appraised according to Islamic tenets*” (Kementerian Agama RI 2018; Republik Indonesia 1991).

The most strategic breakthrough in this fatwa lies in the expansion of the definition articulated in the First Provision, Number 2: “*Included in the definition of money are securities*” (Majelis Ulama Indonesia 2002). This conceptual expansion is not merely a semantic modification; rather, it is a manifestation of epistemological reconstruction that opens up methodological space for the diversification of contemporary waqf instruments. This expansion carries profound transformative implications for the construction of contemporary waqf jurisprudence. Al-Zarqā (1997) posits that interpretation or opinion (al-ra’y) occupies a significant position in waqf jurisprudence, permitting accommodation to a range of contemporary assets. In this context, the inclusion of securities within the scope of cash waqf engenders normative legitimacy for the development of stock waqf in the Islamic capital market.

This paradigm expansion suggests that Islamic law is methodologically flexible, accommodating the evolution of modern financial instruments without compromising fundamental sharia principles. According to Kahf (2000), the development of waqf law is characterized by the process of *ijtihad*, which is influenced by the gradual evolution of society’s dynamic needs. The MUI fatwa exemplifies the continuity of this *ijtihad* tradition by adapting the classical concept of waqf to address the intricacies of the contemporary financial system. Concurrently, Abdullah (2018) underscores that the progression of waqf jurisprudence is inextricably linked to the emergence of contemporary Islamic financial innovations, which necessitate the adaptation of classical *fiqh* instruments to present-day circumstances. The expansion of the definition of cash waqf to include securities is indicative of the capacity of Islamic *fiqh* to transcend temporal and contextual boundaries while preserving the spiritual and social essence of the waqf institution.

Implications for Waqf Instrument Innovation

The expansion of the waqf object paradigm engenders strategic opportunities for the development of various waqf instrument innovations that are integrated with modern financial systems. Latief, As'ad, and Khasanah (2015) identified that the flexibility of interpreting cash waqf in Indonesia demonstrates that society places a greater emphasis on *maslahat* (benefit) than on a literal interpretation of the law. This phenomenon has become a catalyst for the emergence of new waqf objects, such as stock waqf, which leverages the dynamics of the Islamic capital market. This expansion is consistent with the tenets of *maqasid syariah*, which prioritizes the pursuit of *maslahat* through the optimization of benefits. Al-Ghazali defines *maslahat* as an effort to realize benefits and avoid harm by maintaining five fundamental aspects (al-Ghazâlî 1997, 1:416–17). In the context of stock waqf, the implementation of the principle of *hifz al-mal* (protection of wealth) is highly relevant. This is because this instrument enables the optimization of waqf asset value through structured and transparent capital market mechanisms.

The Justification for Stock Waqf

Specifically, the expansion of the definition to include securities provides a solid normative basis for the justification of stock waqf in Indonesia's Islamic financial system. According to the MUI fatwa, stocks, regarded as securities that signify ownership in a company, have been designated as a valid waqf object. This dynamic has engendered prospects for the optimization of waqf benefits through the implementation of productive investment in the Islamic capital market.

This paradigm shift is indicative of a synthesis between classical Islamic philanthropic traditions and the contemporary need for economic empowerment of the Muslim community.

Çizakça's (1995) seminal study identified that endowment institutions have a proven capacity to adapt to changing economic conditions while maintaining their primary philanthropic objectives. The MUI fatwa on cash endowments, particularly in its expansion to include securities, represents the continuity of this historical adaptation within the context of the contemporary financial system. Consequently, the augmentation of the waqf object paradigm through the MUI fatwa not only engenders instrumental innovation but also reinforces the relevance of waqf as a socially and economically empowering instrument that is responsive to the dynamics of the times. This expansion presents opportunities for the development of a more inclusive and sustainable Islamic social finance ecosystem through integration with the modern Islamic capital market.

Implementation in the Context of the Islamic Capital Market

The implementation of stock waqf in the context of Indonesia's Islamic capital market is based on Indonesian regulations. The MUI fatwa on cash waqf is legitimized and reinforced through the national regulatory hierarchy, starting with Law No. 41 of 2004 on Waqf as the main legal umbrella (Republik Indonesia 2004). This legislative act formally acknowledges the legitimacy of securities as valid waqf objects, thereby establishing a legal framework for the development of stock waqf within the Indonesian Islamic capital market.

Derivative regulations, such as Government Regulation No. 42 of 2006 on the Implementation of the Waqf Law, which was subsequently revised through Government Regulation No. 25 of 2018, offer a more detailed operational framework for the implementation of modern waqf (Republik Indonesia 2006; 2018). This regulatory framework is designed to accommodate the flexibility inherent in endowment objects by incorporating Islamic stocks into the category of movable property that can be endowed. However, it is essential to note that this inclusion is contingent upon the fulfillment of specific Islamic criteria and the possession of sustainable economic value. Furthermore, Minister of Religious Affairs Regulation No. 73 of 2013 concerning Procedures for the Waqf of Immovable and Movable Property Other than Money provides specific technical procedures for the implementation of stock waqf (Kementerian Agama RI 2013). This regulation establishes administrative mechanisms, including documentation requirements, verification processes, and management standards that the nazhir must adhere to in the management of waqf.

Implementation Challenges

Despite the presence of a sufficient regulatory framework, the implementation of stock waqf continues to encounter pressing challenges that necessitate immediate resolution. The fundamental challenge lies in the absence of specific regulations that comprehensively regulate stock waqf. Despite the inclusion of securities as objects of waqf in Law No. 41 of 2004, the subsequent regulations are found to be general in nature and do not consider the unique characteristics of shares as a volatile investment instrument. This regulatory vacuum engenders a range of interpretations among practitioners and regulators, which may result in legal uncertainty during implementation.

In addition, the distinctive attributes of stocks as contemporary financial instruments necessitate specific regulatory frameworks that diverge from those applicable to traditional waqf objects. Stocks possess specific attributes, including value volatility, market risk, corporate actions, and intricate trading mechanisms. These aspects are not adequately addressed in existing

waqf regulations, which are generally designed for static assets such as land or buildings. Consequently, critical aspects such as risk management, safeguarding the principal value of waqf, corporate action mechanisms, and exit strategies are not clearly defined.

Another challenge is the absence of a fatwa that would regulate stock waqf. Even though Fatwa MUI No. 2 of 2002 on Cash Waqf has established a foundation by incorporating securities within the purview of waqf, this fatwa fails to address the intricacies of stocks as contemporary investment instruments. The divergent characteristics inherent to stocks, as compared to cash, necessitate the establishment of more precise Sharia guidelines. Issues such as managing volatility in the context of perpetual endowments, corporate action mechanisms (e.g., stock splits, rights issues, and bonus shares), handling dividends and capital gains, and criteria for replacing shares that lose their Sharia status require detailed normative clarification. The dearth of a particular fatwa engenders an excessive reliance on the interpretation of general fatwas, which are not always adequate to address the specific operational dilemmas of stock waqf.

D. CONCLUSION

This study produces several findings related to the role of MUI Fatwa No. 2 of 2002 on Cash Waqf as a normative basis for the development of stock waqf in the context of contemporary Islamic philanthropy in Indonesia. The MUI Fatwa represents a fundamental shift in the paradigm of waqf jurisprudence, moving from a textualist interpretation to a more contextual approach. The expansion of the definition of cash waqf to include “securities” in the MUI fatwa provides a solid normative foundation for the development of stock waqf. This conceptual expansion is not merely a semantic modification; rather, it is a manifestation of epistemological reconstruction that facilitates the adaptation of waqf to the dynamics of the contemporary financial system without compromising the fundamental principles of sharia. The implementation of stock waqf in the context of Indonesia’s Islamic capital market has been supported by an adequate regulatory hierarchy, ranging from Law No. 41/2004 to its derivative technical regulations. However, there are still pressing challenges to be addressed, namely the absence of specific regulations governing the specific characteristics of stocks as volatile investment instruments and the absence of fatwas that explicitly accommodate the operational complexities of stock waqf. Moreover, stock waqf represents a synthesis between classical Islamic philanthropic traditions and the needs of people's economic empowerment in the digital era, in accordance with the maqasid sharia principle of optimizing communal benefits. This innovation is indicative of the adaptive ability of waqf institutions to optimize the benefits of the community. This innovation is indicative of the adaptive ability of waqf institutions to maintain relevance in the face of the intricacies of contemporary socio-economic issues.

The study posits the necessity of formulating a specific fatwa on stock waqf that accommodates the unique characteristics of capital market instruments and the development of comprehensive technical regulations. The innovation of stock waqf has the potential to become a model of contemporary Islamic philanthropy that can be adopted by other Muslim countries by making adaptations according to their respective socio-economic and regulatory contexts.

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