

A Construction of Cash Waqf Management in Bangladesh

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Abstract

The practice of *Waqf Al-Nuqud* in Bangladesh is interesting to discuss. The construction of *waqf* in Bangladesh is in the spotlight, considering that *waqf* has played a role in improving the economy and reducing poverty. Bangladesh *waqf* management has succeeded in providing a positive response for the benefit of the community, so it is certainly interesting to explore *waqf* construction information. This study is classified as a literature review which is carried out by collecting information and data with the help of various literature references such as reference books, journal articles and research results. The findings of this study indicate that the *waqf* practice carried out by the state of Bangladesh has been managed by the Social Investment Bank Ltd (SIBL). This bank has developed a social capital market (The Voluntary Capital Market). One of the Islamic financial instruments that have been developed is in the management of cash *waqf*, namely the Mudarabah Cash *Waqf* Deposit with the option of a specific purpose. This list of destinations is available to the *wāqif* who will have the right to choose the destinations to be served from the list or other purposes permitted by the Shariah. Regulations in Bangladesh are contained in the 2013 *Waqf* Special Law which regulates the method of handing over and developing *waqf*. The implication of this finding is that *waqf* management in Bangladesh is managed by developing Islamic financial instruments with the deposit model, it can be adopted by other countries in improving *waqf* management.

Praktik *Waqf Al-Nuqud* di Negara Bangladesh menjadi menarik untuk ditelaah. Konstruksi wakaf di Bangladesh menjadi sorotan, mengingat wakaf

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telah berperan dalam peningkatan perekonomian dan pengetas kemiskinan. Manajemen pengelolaan wakaf Bangladesh telah berhasil memberikan respon positif untuk kepentingan masyarakat, maka tentunya menarik untuk menggali informasi konstruksi wakaf. Kajian ini tergolong sebagai kajian kepustakaan yang dilakukan dengan cara mengumpulkan informasi dan data dengan bantuan berbagai macam referensi kepustakaan seperti buku referensi, artikel jurnal dan hasil penelitian. Temuan hasil penelitian ini bahwa praktik wakaf yang dijalankan oleh negara Bangladesh telah dikelola oleh *Social Investment Bank Ltd* (SIBL). Bank ini telah mengembangkan pasar modal social (*The Voluntary Capital Market*). Instrumen-instrumen keuangan Islam yang telah dikembangkan salah satunya dalam pengelolaan wakaf uang yaitu *Mudarabah Cash Waqf Deposit* (Deposito Wakaf Tunai Mudarabah) dengan opsi tujuan tertentu. Daftar tujuan ini tersedia bagi *wāqif* yang akan memiliki hak untuk memilih tujuan yang akan dilayani dari daftar atau tujuan lain yang diizinkan oleh Syariah. Regulasi di Banglades tertuang dalam UU Khusus wakaf tahun 2013 yang mengatur tentang metode penyerahan dan pengembangan wakaf. Implikasi dari temuan ini bahwa dalam pengelolaan wakaf di Bangladesh dikelola dengan pengembangan instrument keuangan Islam dengan model deposito, hal itu bisa diadopsi negara lain dalam meningkatkan pengelolaan wakaf.

Key words: *Construction; management; cash waqf; Bangladesh.*

Introduction

Waqf is one of the Islamic philanthropic institutions that can be relied upon to support the social justice agenda, especially among the Islamic community.¹ *Waqf* as a form of transfer of assets whose benefits are used for social purposes in a sustainable manner.² However, the scope of *waqf* which has been generally understood so far tends to be limited to *waqf* of immovable objects such as land and buildings, then Law No. 41 of 2004 concerning *Waqf*, provides a solution or rule that people who give *waqf* (*wāqif*) can *waqf* part of their wealth in the form of movable *waqf* property, whether tangible or intangible, namely money, precious metals, securities, vehicles, intellectual property rights, rental rights, and other movable objects. In addition, the mandate of the *Waqf* Law is that *waqf* is not only

¹Suhrawardi K. Lubis, *Wakaf dan Pemberdayaan Umat*. (2nd Print; Jakarta: Sinar Grafika, 2010), p. 44.

²Hamzah, "Problematika Pengoptimalan Potensi Wakaf Produktif di Kabupaten Bone." *Ekspose: Jurnal Penelitian Hukum dan Pendidikan* 18.1 (2019): p. 742.

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intended for worship purposes, but the most important thing is to realize prosperity and increase economic potential.³

One way to do *waqf* is by using money. With the existence of cash *waqf*, of course it becomes effective and efficient and can be developed for the welfare of the community, because the purpose of *waqf* is not only intended in terms of worship, social affairs, but also for the welfare of society and alleviating poverty.⁴ Cash *waqf* can be used as a solution for those who cannot afford *waqf* in large amounts. All people are guaranteed to be able to cash *waqf* regardless of social strata.

Today, cash *waqf* has been recognized throughout the Muslim world as one of the most effective mechanisms in realizing the socio-economic and welfare goals of *waqf* institutions. One of the countries that pioneered the implementation of cash *waqf* is Bangladesh. Bangladesh is known as a poor and underdeveloped country. In addition, natural conditions are often unfavorable because this country is often hit by disasters such as floods and hurricanes and is one of the countries that has very limited natural resources.

These various dimensions of poverty, among others, are reflected in the decline in real incomes from the agricultural sector, the unequal distribution of income that tends to benefit urban communities, the difference in salaries in the formal and informal sectors, the emergence of several problems in fulfilling public health, unemployment, and internal migrants. However, Bangladesh is quite enthusiastic in practicing religious teachings.⁵ One of them is the implementation of the cash *waqf*.

The application of cash *waqf* carried out by Bangladesh is proven to improve people's welfare. Compared to the standard traditional concept of dedicating immovable property as *waqf*, cash *waqf* is a favorite for many Muslims, rich or otherwise. Bangladesh is the third most populous country in the world where land is becoming scarcer every day even for agriculture and housing. Therefore, cash *waqf* is a futuristic alternative which is gaining popularity and acceptance by the wider population who are willing to engage in welfare-oriented activities.

The development of this *waqf* has given birth to the concept of a cash *waqf* certificate which was presented for the first time by Prof. Abdul Mannan at the Third Harvard University Forum on Islamic Finance in October 1999. In Bangladesh, the concept of Islamic public finance was introduced to the public in

³Hardianti Yusuf. "Management And Utilization of Productive Waqf in Empowering Community's Economy." *Al-Bayyinah* 4.1 (2020): 38

⁴Junaidi Abdullah. *Tata Cara Dan Pengelolaan Wakaf Uang di Indonesia*. Jurnal Zakat dan Wakaf. ZISWAF, Vol. 4, No. 1, June 2017.

⁵Achmad Djunaidi and Thobieb al-Asyhar, 2006.

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December 1997 and SIBL was officially published on January 12, 1998. The cash *waqf* idea is managed by Social Investment Bank Ltd (SIBL) by developing the social capital market through the development of Islamic financial instruments such as property *waqf*, development bonds, cash *waqf* deposit *waqf* certificates, and dozens of other business institutions.⁶ This breakthrough is allegedly the mecca in the development of the cash *waqf* concept in several Muslim countries in the world. Because of this, it is hoped that Bangladesh can serve as an example for other countries in implementing cash *waqf* in their country.

Methodology

This research took data from the library (library research). Library research as an activity carried out systematically to collect, process, and conclude data by using certain methods/techniques in order to find answers to problems faced through library research.⁷ Thus, library research is a research activity carried out by collecting information and data with the help of various materials in the library such as reference books, similar previous research results, articles, notes, and various journals related to the problem to be solved. This research was carried out systematically to collect, process, and conclude data using certain methods/techniques to find answers to problems.

Discussion

Description of Cash *Waqf* in Bangladesh

Bangladesh is one of the countries that has developed *waqf* in a modern way, not only property, but has penetrated into cash *waqf*. Its success in developing cash *waqf* has brought Bangladesh to a country that has sufficient social funds, and no longer needs the mercy of developed countries to get assistance.⁸ *Waqf* in Bangladesh has made a significant contribution to the community in obtaining the right to education, health services, and other socio-religious services.

Since Bangladesh's independence, income has continued to increase. This has an impact on efforts to reduce poverty, which from the beginning has been a difficult problem faced by the Bangladeshi nation. To reduce the poverty rate by carrying out socio-economic economic policies that can have an impact in hatching

⁶Nurul Huda and Mohamad Heykal, *Lembaga Keuangan Islam* (1st Print; Jakarta: Kencana, 2010), p. 326

⁷Khatibah, K. *Penelitian Kepustakaan*. Iqra': Jurnal Perpustakaan dan Informasi 5 (01), 2011, p. 36-39.

⁸Siska Lis Sulistiani. *Pembaruan Hukum Wakaf di Indonesia*. (PT. Refika Aditama; Bandung, 2017), p. 35

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poverty. Through these socio-economic policies, Bangladesh seeks to reduce poverty and improve the economy of the poor.⁹ One of Bangladesh's important policies in terms of *waqf* management. The flexibility of *waqf* potential management has been used and utilized for the benefit of the poor. So with a system of collecting funds from the rich and then managing and distributing them for the needs of the poor.¹⁰

Previously, building and land *waqf* was the most popular form of *waqf*. Today, cash *waqf* is becoming increasingly popular, mainly because of its flexibility, which allows the distribution of the potential benefits of *waqf* to be utilized by the poor everywhere. Cash *waqf* was first introduced in the Ottoman era in Egypt. Professor Mannan then promoted cash *waqf* in Bangladesh through the Social Investment Bank Limited (SIBL). SIBL issues Cash *Waqf* Certificates to collect funds from the rich and distribute profits from managed funds to the poor.

Since cash *waqf* was popularized again as a *waqf* instrument by M.A. Mannan in 1995, Bangladesh became a model and model for productive *waqf* management. Along with that, the country was established Social Investment Bank Ltd (SIBL). This bank develops social capital market (The Voluntary Capital Market). Islamic financial instruments were developed such as *waqf* property development bonds, cash *waqf* certificates, family *waqf* certificates, zakat payment certificates and ushur payment certificates. etc.¹¹

In Bangladesh, *waqf* has been managed by Social Investment Bank Ltd (SIBL). This bank has developed a social capital market (The Voluntary Capital Market). One of the Islamic financial instruments that have been developed is in the management of cash *waqf*, namely the Mudarabah Cash *Waqf* Deposit (Mudarabah Cash *Waqf* Deposit) with a specific purpose option. This list of destinations is available to the *wāqif* who will have the right to choose the destinations to be served from the list or other purposes permitted by the Shariah.

⁹Masoud Ahmad, "Role of waqf in sustainable economic development and poverty alleviation: Bangladesh perspective." *Journal of Law, Policy and Globalization* 42.2 (2015): 121

¹⁰Foyasal Khan, "Waqf: An Islamic instrument of poverty alleviation-Bangladesh perspective." *International Conference-The Tawhidi Esptomology: Zakat and Wakaf Economy*. Bangi. 2001. p. 77

¹¹Muhammad Abdul Mannan, *The Institution of Wakaf : Its Religius and Socio-Economic Roles and Implications in Management and Developpent of Awqaf Properties*, *Proceeding of the Seminar*, (Jeddah: Islamic Research and Training Institute, Islamic Development Bank, 1987), p. 36. See also Direktorat Pemberdayaan Wakaf Direktorat Jenderal Bimbingan Masyarakat Islam, *Pengelolaan Wakaf Tunai*, (Jakarta, Direktorat Pemberdayaan Wakaf Direktorat Jenderal Bimbingan Masyarakat Islam, 2006), p. 113.

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The Construction *Waqf* Management in Bangladesh

Social Investment Bank Limited (SIBL) as an Islamic bank that issues Cash *Waqf* Certificates implements Cash *Waqf* Mudarabah Deposit Account (CWMDA) management, including:¹² *First*, *Wāqif* deposited his money through cash *waqf* according to his account at the bank. CWMDA can be in the form of installments so that *Wāqif* has the option to make cash *waqf* with the option of paying in cash or in installments. *wāqif* can start with a minimum deposit of Tk, 10,000.00 (ten thousand takas) only and subsequent deposits will also be made in thousands or multiples thereof. In the event that the *wāqif* fails to continue with the installment deposit, the amount accumulated during the installment deposit period will be calculated as the profit that will be given to the account. Period or in the following year *wāqif* will get the opportunity to save the installments again. It is stated that, at a certain time a *Wāqif* is not entitled to repeat not to deposit installments more than five times.

Second, when depositing the money, the *wāqif* will be given a list of the desired beneficiary (*mauquf alaih*) according to their specifications. Issuance of CWMDA Certificates and Cash *Waqf* Receipts is accepted in the Certificate for the entire amount issued when and when the installment amount is declared to have been paid in full. In the event of the failure of the *wāqif* to deposit another installment, the *wāqif* may request in writing that he cannot deposit the remaining amount to cover the declared Cash *Waqf*. Thus, he can issue a Cash *Waqf* Certificate taking into account the amount so far kept.

Third, The bank will act as a *nadzir* and invest its capital through a Mudharabah contract. CWMDA operates as a contract between the depositor and the bank in which the account will be governed by the Islamic Shariah Mudharabah principle. In this contract, the depositor is referred to as *wāqif* or *saheb-al-maal* or the owner of the funds and the Bank as *Nadzir* or *Mudarib* or the manager of the business. CWMDA operates in accordance with Sharia with the amount deposited in the Cash *Waqf* account being invested according to the Bank's own decision in accordance with Sharia. *Fourth*, the resulting investment results will be channeled to social programs or according to the specifications desired by the *wāqif*. Investment Income the *Wāqif* or beneficiaries under the MCWD scheme will get a maximum of 65% of the investment income.

Distribution of Usage Proceeds to beneficiaries prior to the declaration of final rate profit, the monthly profit amount will be credited to the account

¹²Abdulsoma Thoarlim, Asadur Rahman, et al. "Cash *Waqf* in Bangladesh and the Need for Innovative Approach towards *Awqaf*: Leson from selected Countries, *International Journal of Academic Research in Business and Social Scienses*, Vol. 7, No. 4, 2017, p. 157

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according to the temporary profit rate offered by the bank from time to time. Profits under this scheme will be adjusted annually i.e. after the declaration of the bank's final profit rate. The amount of profit will only be spent for the purposes specified by the *wāqif*. Unused profit amount is added automatically to *Waqf* account. Earned profits can be withdrawn and spent by Bank / *Wāqif* / Mutawalli for the purposes stated in the list. However the specific cause can be changed by the *Wāqif* during his lifetime. The *Wāqif* may instruct the bank to transfer certain installments from its account managed by the branch. In such cases, the bank charges a minimal service fee from the *wāqif* account.

The distribution of profits and losses of *waqf* funds is operated based on the Mudharabah principle, the *waqf* amount may not remain intact due to the distribution of profit and loss. According to the Mudharabah Principle, if any loss occurs in the business, the loss must be realized through a reduction in *waqf* deposits. The *Waqf* Management Committee is a special committee consisting of bank officials who will manage *waqf* funds. In the event of a question/complaint (if submitted by a *wāqif*) regarding mismanagement of funds or otherwise, the committee will look into the matter and the Committee's decision will be the final one.

List of Available Destinations *wāqif* has the right to choose from a list of destinations to be served from the following list or any other purposes permitted by the Shari'ah:¹³ *First*, Family Rehabilitation which includes providing food for the poor; make shelter for the poor; improve the conditions of the poor living below the poverty line, rehabilitate the disabled and disadvantaged; beggar; poor women and raised urban slum dwellers.

Second, Education, Sports, Da'wah & Culture by providing educational facilities for orphans, such as supplying books, developing technical education for skills development and vocational education in general, providing scholarships for deserving students as well as eligible dependents and descendants, financing research and establishing educational chairs. Physical education and sports facilities. Do da'wah activities. Support Islamic culture, heritage and promotion of the arts. Celebrate different Islamic Festivals.

Third, Health and sanitation by providing health care by establishing hospitals, clinics and providing health care programs especially for the poor. Health research grants and specialized disease research. Supplying sanitation facilities to villages and supplying pure drinking water by providing drilled wells.

¹³Abdulsoma Thoarlim, Asadur Rahman, et al. "Cash Waqf in Bangladesh...", p. 159

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Fourth, Social Services which includes providing legal assistance to the poor and deserving people. Provide assistance for marriages for poor girls. Planting and maintaining trees on the sides of public roads; to rehabilitate Recovered Muslims (Muallaf). Provide assistance to peace-loving Non-Muslims and solve their problems. Create social awareness to prohibit gambling and other social crimes such as theft and other anti-social activities. Construction, installation and development of public utility services. Maintenance of certain mosques with/without income generating projects. Maintenance of certain graves with/without income generating projects. Maintenance of certain Eidgahs with/without income generating projects.

Fifth, Arrangements after serving a special purpose or death of the *waqf*, the purpose of the *waqf* is achieved, the income/profit from the *waqf* account will be spent according to the additional indication of the *waqf* which will be stated at the time of account opening. If not stated or if a contradiction arises, the decision of the Committee (*Waqf* Management Committee) is final.

In the event of the death of the *wāqif*, the profits from the *Waqf* Account will be spent according to the choice given by the *wāqif*. However, in case the amount is less than the stated amount (if any) it can be kept by the deceased *wāqif* successor. Obligations and Rights of the *Wāqif* agrees that the bank will not be liable for any loss or damage if the bank is unable to provide services in connection with the account due to postal, courier, electrical, mechanical, telecommunications or by reason of disaster, war, civil or industrial disturbance, or other causes beyond the control of the Bank and it cannot be resolved.

The operation of this account will be guided by the Money Laundering Prevention Act and other terms and conditions as determined by the Bank from time to time. VAT/Tax, Customs or other charges (if applicable) must be deducted from the account according to the applicable rules of the competent authority. The Bank has the right to change/modify the weights, profit distribution principles, or other scheme rules from time to time according to the Bank's standards & policies.

The laws and regulations of Bangladesh and the customs and procedures applicable to scheduled banks in Bangladesh shall apply to govern the conduct of accounts opened by banks. Although the Bank maintains strict confidentiality in all account matters, the Bank will always have the right to disclose any information regarding the *wāqif* account held at the Bank for the following matters:¹⁴ (1) Any regulatory, supervisory, governmental or proxies authority with jurisdiction over the bank; (2) Anyone to whom the bank is required or authorized by law or court to make disclosures; (3) Any changes to the information provided by the *wāqif* must

¹⁴Abdulsoma Thoarlim, Asadur Rahman, et al. "Cash Waqf in Bangladesh...", p. 159

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be immediately notified to the bank, otherwise the bank will not be responsible for the consequences.

The general concept of *waqf* described above is that the concept of cash *waqf* must be more oriented to the financial and economic dimensions to suit the needs of companies in the industry. Therefore, cash *waqf* can be defined as: diverting funds (and other resources) from consumption and investing them in productive assets that provide results or income for future consumption by individuals or groups of individuals. The above explanation can be understood from the point of view of *waqf* management practice in Bangladesh which is substantially in line with *waqf* theory by perpetuating its essence and taking advantage of it. Cash *waqf* is enshrined in cash *waqf* certificates and managed by certain financial institutions to generate profits from the cash *waqf* investment. Furthermore, the profits from the cash *waqf* results are then distributed to the *waqf* designation list.

In the current era, *waqf* institutions are not only engaged in the economic field, but also in the social field. Utilization of cash *waqf* in fighting illiteracy, aid funds for natural disasters, oppressed women, malnutrition and various other health services. Even the bank program in Bangladesh which is intended for micro-credit for the poor and various policies such as non-profit businesses. The product is intended for the benefit of poor groups in the State of Bangladesh.¹⁵

Regulation of *Waqf* in Bangladesh

Along with the transition, the Bangladesh *Waqf* Law was adopted from the Bengal *Waqf* Law in 1934. The development of *waqf* continued to be encouraged with the birth of the *waqf* Ordinance in 1962. Even though its birth did not revoke the enforcement of the Bengal *Waqf* Law. After independence, the 1962 *waqf* Ordinance was maintained by the Bangladeshi government (not revoked). This means that the regulation is still in effect, even though it has undergone a few amendments to the 1988 and 1998 *waqf* ordinances, which are stipulated in the *waqf* management through the *waqf* directorate.¹⁶

Seeing gradually in relation to the regulations that apply in running, controlling and regulating *waqf* assets, as contained in the Bangladesh *waqf* department. Among them, *Waqf* Ratification Act 1913, *Waqf* Ratification

¹⁵Muhammad Fazlul Karim "waqf estates in bangladesh—analyzing socio-economic profile and exploring potential but unexplored expenditure options." *Abdul Ghafar Ismail Mohd Ezani Mat Hassan Norazman Ismail Shahida Shahimi* 329 (2010). p. 344.

¹⁶Ahmad, Md Mokhter, and Md Safiullah. "Management of waqf estates in Bangladesh: Towards a sustainable policy formulation." *Waqf laws and management (with special reference to Malaysia)* (2012): 229-262. 15

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(Amendment) Law of 1930, Bengal *Waqf* Act 1934, *Waqf* Ordinance 1962, *Waqf* Administration Rules 1975, Admin *Waqf* Bangladesh Employee Service Rules 1989, *Waqf* Special Provisions Act (Transfer and Property Development) 2013.¹⁷ The forerunner of the Bangladesh *Waqf* Law moved from the Bengal Act of 1934 which was still classified as East Pakistan at that time. The goal of the birth of the *Waqf* Law 1934 was an effort to supervise and protect plantation *waqf*.¹⁸

In general, after Bangladesh's independence in 1971, the *Waqf* Law was preserved. The most important point in the regulation of the 1962 *waqf* Ordinance lies in Article 5 as an adaptation of the existing law in Bangladesh from 1972. So administratively *waqf* is still regulated by the previous law, while the 1988 and 1998 Ordinances regulate *waqf* management in Bangladesh. The latest law, namely the 2013 *Waqf* Special Law, regulates the method of handing over and developing *waqf* assets.¹⁹

Conclusion

In terms of *waqf* management practice in Bangladesh, it is substantially in line with *waqf* theory by perpetuating its essence and taking advantage of it. Cash *waqf* is enshrined in cash *waqf* certificates and managed by certain financial institutions to generate profits from the cash *waqf* investment. Furthermore, the profits from the cash *waqf* results are then distributed to the *waqf* designation list. In Bangladesh, *waqf* has been managed by Social Investment Bank Ltd (SIBL). This bank has developed a social capital market (The Voluntary Capital Market). One of the Islamic financial instruments that have been developed in the management of cash *waqf* is the Mudarabah Cash *Waqf* Deposit with a specific purpose option. This list of destinations is available to the *wāqif* who will have the right to choose the destinations to be served from the list or other purposes permitted by the Shariah. The regulations governing *waqf* in Bangladesh are the 2013 special *waqf* law which regulates the method of submitting and developing *waqf*.

¹⁷Masoud Ahmad, "Role of waqf in sustainable economic development", p. 126.

¹⁸Rashedul Hasan, and Siti Alawiah Siraj. "Complexities of waqf development in Bangladesh." *Journal of Emerging Economies and Islamic Research* 4.3 (2016): p. 20

¹⁹Mohammad Thowhidul Islam. "Historical development of waqf governance in Bangladesh: Challenges and prospects." *Intellectual Discourse* (2018), p. 1143.

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