

Discussion on Cash Waqf: Perpetuity, Legal Aspect, and Scheme of Investment Between Madzahib and Islamic Scholars

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Abstract

The discussion on waqf is very interesting, especially in cash waqf which has recently been widely used in Islamic business instruments even though some Islamic scholars had different positions about it. In-depth, the problem appeared because the madzahib prohibited the using of cash waqf in business and its make policy makers on waqf productive confused, therefore the discussion and solution of the madzahib and Islamic scholar's opinions are needed, as well as the scheme of waqf investment through traditionally and contemporarily methods are required. Objectively, the research will discuss the comparison of madzahib opinions on cash waqf perpetuity and legal aspect depend on Islamic jurisprudence and snapshot the scheme of waqf investment traditionally and contemporarily. The methodology in this research is qualitative methodology where is conducting the documentation method to compile the madzahib and Islamic scholar's opinion on cash waqf perpetuity and legal aspect, as well as the scheme of waqf investment through traditional and contemporary methods. Concluded, the perpetuity and legal aspect of cash waqf used in investment depend on Syafi'i, Hanbali, Maliki, and Hanafi is prohibited due to impermanent source to use in waqf investment, but in the same time they pursued a solution of this problem by remaining the primary function of money as a medium of value or a tool to obtain permanent assets, therefore, some scholars allowed in creating traditional and contemporary scheme of waqf investment by using the cash waqf in according to the opinions.

Keywords: Cash Waqf; Perpetuity; Legal Aspect; Scheme of Waqf Investment

Abstrak

Pembahasan tentang wakaf sangat menarik, terutama dalam wakaf tunai yang akhir-akhir ini banyak digunakan dalam instrumen bisnis Islam meskipun beberapa ulama Islam memiliki pendapat yang berbeda tentangnya. Secara mendalam, permasalahan muncul karena madzahib melarang penggunaan wakaf tunai dalam bisnis dan membuat penyusun kebijakan wakaf produktif menjadi bingung, sehingga diperlukan pembahasan dan solusi dari pendapat madzahib dan ulama, serta skema investasi wakaf melalui metode tradisional dan kontemporer. Secara obyektif, penelitian ini akan membahas tentang perbandingan pendapat madzahib tentang kekekalan wakaf uang dan aspek hukumnya berdasarkan pada fiqh Islam, serta memotret skema investasi wakaf secara tradisional dan kontemporer. Metodologi dalam penelitian ini adalah metodologi kualitatif dengan menggunakan metode dokumentasi untuk menghimpun pendapat para madzahib dan ulama Islam tentang kelangsungan dan aspek hukum wakaf uang, serta skema investasi wakaf melalui metode tradisional dan kontemporer. Dapat disimpulkan bahwa, keabadian dan aspek hukum dari wakaf tunai yang digunakan dalam investasi menurut Syafi'i, Hanbali, Maliki, dan Hanafi itu dilarang karena sumbernya tidak permanen untuk digunakan dalam investasi wakaf, tetapi pada saat yang sama mereka mengupayakan penyelesaian masalah ini dengan kembali kepada fungsi utama uang sebagai media nilai atau alat untuk mendapatkan aset permanen, oleh karena itu, penggunaan uang diperbolehkan dalam membuat skema investasi wakaf tradisional dan kontemporer sesuai dengan pendapat madzahib.

Kata Kunci: Wakaf Tunai; Kekekalan; Aspek Hukum; Skema Investasi Wakaf

Introduction

Cash waqf is a part of productive waqf that can be developed if managed well like an investment fund and cooperate with professional *nazhir*.¹ Otherwise, Obaidullah said cash waqf is endowed and the earnings generated out of the investment of the cash funds are used to fulfil the intended social needs.² As mentioned by Cizakca³ and Prasetya,⁴ the earliest of cash waqf may be traced

¹Anna Sardiana, "Cash Waqf Fundraising: The Glaring Gap in Marketing Communication Practice of BWI (Indonesian Waqf Board)," *Jurnal Ilmu Manajemen & Ekonomika* 11, no. 2 (2019): 66, <https://doi.org/10.35384/jime.v11i2.146>.

²Mohammed Obaidullah, *Awqaf Development and Management* (Jeddah: Islamic Research and Training Institute, 2016), 47.

³Murat Cizakca, "Awqaf in History and Its Implications for Modern Islamic Economies," *Islamic Economic Studies* 6, no. 1 (1998): 46, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3164811.

⁴Yusi Septa Prasetya and Miftahul Huda, "Relevansi Tatakelola Wakaf Turki

back to 8th century, when Imam Zufar⁵ was asked how such waqf should function, and had been approved the Ottoman courts as early as the 15th century and by the end of the 16th such the dominant form of waqf formation all over Anatolia and the Balkans, and this argument is bolstered by Imam Bukhari and Ibnu Syihaab Az-Zuhri⁶ that allowed Dinar and Dirham waqf by converting both Dinar and Dirham as business capital.⁷

Further, Az-Zuhri proclaimed a *fatwa* that encouraged people to utilize Dinar and Dirham for the establishment of preaching, social, and education provision of Muslims at that time.⁸ Therefore, cash waqf is an efficient instrument can be an alternative for poverty alleviation, solution in some waqf businesses establishment without attaining totally by the government, a sustainable source of fund in creating Islamic socio-economics, powerful pervasive voluntary activity by perpetuity characteristic,⁹ innovation to assist in the establishment of a Waqf Hospital (RSW), waqf Personal Protective Equipment (PPE), waqf masks, waqf polyclinic, waqf Isolation House (RIW) and vaccine funding, and helps micro business actors in funding and sustaining businesses for recovering of economic.¹⁰

¹¹ ¹² Furthermore, cash waqf provides more giving *maslahah* for

Terhadap Pengembangan Wakaf Produktif Di Indonesia,” *Justicia Islamica* 14, no. 2 (2017): 177, <https://doi.org/10.21154/justicia.v14i2.1231>.

⁵Muhammad Zahid Al-Kausary, *Lamhatu An-Nazr Fi Sirati Al-Imam Zufar* (Cairo: Al-Anwar, 1949), 3.

⁶Salahuddin Ali Abdul Mawjood, *The Biography of Imam Az-Zuhri* (New York: Darussalam, 2006), 86.

⁷Abu As-Sa’ud Muhammad bin Muhammad, *Risalah Fi Jawaz Waqf An-Nuqud* (Beirut: Daar Ibn Hazm, 1997), 13.

⁸Aam Slamet Rusydiana, “Analysis of Cash Waqf Development in Indonesia Using Interpretive Structural Modeling (ISM),” *Journal of Islamic Economics Lariba* 4, no. 1 (2018): 1, <https://doi.org/10.20885/jielariba.vol4.iss1.art1>.

⁹Khaled Nour Aldeen, Inayah Swasti Ratih, and Sri Herianingrum, “Contemporary Issues on Cash Waqf: A Thematic Literature Review,” *International Journal of Islamic Economics and Finance (IJIEF)* 3, no. 2 (2020): 122, <https://doi.org/10.18196/IJIEF.3236>.

¹⁰*Ibid.*

¹¹Nurjannah and M. Wahyuddin Abdullah, “Cash Waqf: Economic Solution During the Covid-19 Pandemic,” *Fitrah: Jurnal Kajian Ilmu-Ilmu Keislaman* 6, no. 2 (2020): 226, <https://doi.org/10.24952/fitrah.v6i2.3058>.

¹²Uswatun Hasanah, “Cash Waqf and People Economic Empowerment in Indonesia,” *Economics and Finance in Indonesia* 59, no. 2 (2011): 218, <https://ideas.repec.org>.

developing profitable and secure investment in Islamic financial institution and promoting entrepreneurship in the world with interest free loans that makes the poor self-reliant and dignified.^{13 14}

Unfortunately, the debate on perpetuity, the legal aspect and investment through cash waqf are still happened due to the traditional concept of waqf embedded in the mindset of people which is waqf from movable and immovable wealth, whereas cash waqf is none from both sides. Therefore, this research appears to involves the opinions of Islamic scholars in the basic component of cash waqf, there is perpetuity, legal aspect, and scheme of investment.

Methodology

The research method used is a qualitative-descriptive method with a library research approach.^{15 16} Library research is a method of finding references relevant to the problems encountered, describes theoretical analysis, scientific studies, references, and literature related to this research,¹⁷ where is conducting the documentation method.¹⁸ Qualitative research used to analysis utilized documentation methods, including written text, files, and images, to document

[org/a/lpe/efijnl/201110.html](https://ejournal.unida.gontor.ac.id/index.php/aliktisab/article/view/10154).

¹³Mahadi Ahmad, "Cash Waqf: Historical Evolution, Nature, and Role As an Alternative to Riba-Based Financing for the Grass Root," *Journal of Islamic Finance* 4, no. 1 (2015): 66, <https://doi.org/10.12816/0024801>.

¹⁴Gustani and Dwi Aditya Ernawan, "Cash Waqf As an Alternative Source of Islamic Microfinance Institution's Capital in Indonesia," *Journal of Islamic Economics Lariba* 2, no. 2 (2016): 18, <https://journal.uui.ac.id/JIELariba/article/view/9677>.

¹⁵Selamet Hartanto and Devid Frastiawan Amir Sup, "Konsep Wakaf Uang Dalam Perspektif Hukum Di Indonesia," *Juornal Indonesian Comparative of Syariah Law* 4, no. 1 (2021): 42, <https://doi.org/10.21111/jicl.v4i1.5778>.

¹⁶Selamet Hartanto, May Shinta Retnowati, and Devid Frastiawan Amir Sup, "Waqf in the Perspective of Waqf Rules in Indonesia," *Al-Iktisab: Journal of Islamic Economic Law* 5, no. 1 (2021): 40, <https://doi.org/10.21111/al-iktisab.v5i1.6203>.

¹⁷Siti Aisyah et al., "Rethinking the Paradigm of Islamic Banking: Integrated of Commercial and Social Oriented," *Al-Iktisab: Journal of Islamic Economic Law* 6, no. 2 (2022): 151, <https://doi.org/10.21111/al-iktisab.v6i2.8844>.

¹⁸Devid Frastiawan Amir Sup and Achmad Hasyim Masruri, "Praktik Kerjasama Usaha Dalam Perspektif Musyarakah," *Al Hikmah: Jurnal Studi Keislaman* 13, no. 1 (2023): 114, <https://doi.org/10.36835/hjsk.v13i01.4027>.

events and provide accounting,¹⁹ the method compiles opinions of Islamic scholars to discuss perpetuity, legal aspects of cash waqf, and investments schemes by using inductive methods for conclusions. The analysis process is carried out continuously from start to finish. The analysis process in question includes data interpretation, language translation, word editing, and compiling them in a logical systematic way, so that the resulting description can become a complete concept building that is easy to understand.²⁰

Results and Discussion

Cash Waqf According to the Islamic Scholars

Cash waqf is a term for money or currency, a medium of exchange, and store of value based on goods and services.²¹ Moreover, definition of cash waqf is unique charitable endowment using cash or trust funds for charitable purposes, supporting services in Allah's name,^{22 23 24} while Chowdhury defined cash waqf as a gifted capital was "transferred" to borrowers who after certain period returned to the waqf the principal plus a certain "extra" amount,²⁵ money spent

¹⁹Jashim Uddin Ahmed, "Documentary Research Method: New Dimensions," *Indus Journal of Management & Social Sciences* 4, no. 1 (2010): 4, https://econpapers.repec.org/article/ijhjournal/v_3a4_3ay_3a2010_3ai_3a1_3ap_3a1-14.htm.

²⁰Devid Frastiawan Amir Sup, "Relevansi Konsep Hutan Wakaf Dengan Konsep Wakaf Di Dalam Islam," *Islamic Economics Journal* 7, no. 1 (2021): 50, <https://doi.org/10.21111/iej.v7i1.6430>.

²¹Al-Ma'any, "Definition of Nuqud," Al-Ma'any, 2022, <https://www.almaany.com/ar/dict/ar-ar/النقود/>.

²²Cizakca, "Awqaf in History and Its Implications for Modern Islamic Economies," 49.

²³Murat Cizakca, *A History of Philanthropic Foundations: The Islamic World from the Seventh Century to the Present* (Istanbul: Economics Department Bogazici University Istanbul, 2000), 23.

²⁴Murat Cizakca, "Incorporated Cash Waqfs and Mudaraba, Islamic Non-Bank Financial Instruments from the Past to The Future," in *International Seminar on Non-Bank Financial Institutions* (Kuala Lumpur: Munich Personal RePEc Archive, 2004), 18, <https://mpra.ub.uni-muenchen.de/id/eprint/25336>.

²⁵Md. Shahedur Rahaman Chowdhury, Mohd. Fahmi bin Ghazali, and Mohd. Faisol Ibrahim, "Economics of Cash Waqf Management in Malaysia: A Proposed Cash Waqf Model for Practitioners and Future Researchers," *African Journal of Business Management* 5, no. 30 (2011): 12158, <https://doi.org/10.5897/AJBM11.1810>.

on pious and social purposes by founders, including individuals, companies, institutions, corporations, or organizations, is dedicated to society's welfare in perpetuity.²⁶ Further, cash waqf (*waqf al-nuqud*) is waqf that a person, group of persons or institution or legal entity in the form of cash, include money, gold and silver bullion, Dinar and Dirham, gold and silver jewelry,²⁷ operated by sharia financial institutions that can be used as an investment by *nadzir* in productive businesses and the benefits are provided to the people.²⁸

Cash waqf has various benefits like Kamal's explanation when cash waqf offers security funds from depreciation, immutability of principal value for money used as *mawquf* objects for *mawquf 'alaih* receivers, and productive investment for accurately, clearly, and targeted receivers.²⁹ Additionally, Pusparini and Awang argue that cash waqf offers four main benefits for community building, enabling minimal-fund individuals to participate without land ownership, investing idle land in infrastructure, supporting unstable Islamic educational institutions, and encouraging independence in education development without state budget dependence.³⁰

Concisely, cash waqf, also known as *waqf al-nuqud* or *dananir*, refers to cash from Islamic financial institutions, such as money, gold, silver bullion, Dinar, Dirham, and jewelry, used for investment in productive businesses and providing benefits to the people.

²⁶Magda Ismail Abdel Mohsin, "Financing Through Cash-Waqf: A Revitalization to Finance Different Needs," *International Journal of Islamic and Middle Eastern Finance and Management* 6, no. 4 (2013): 307, <https://doi.org/10.1108/IMEFM-08-2013-0094>.

²⁷Diana Farid, "The Waqaf of Money: An Islamic Financial Instrument for Empowering Economy Community," *International Journal of Nusantara Islam* 4, no. 2 (2016): 30, <https://doi.org/10.15575/ijni.v4i2.1068>.

²⁸Muhammad Tho'in and Iin Emy Prastiwi, "Wakaf Tunai Perspektif Syariah," *Jurnal Ilmiah Ekonomi Islam* 1, no. 2 (2015): 64, <https://doi.org/10.29040/jiei.v1i02.29>.

²⁹Mustafa Kamal, "Wakaf Tunai Menurut Pandangan Fiqh Syafi'iyah Dan Fatwa Majelis Ulama Indonesia No. 2 Tahun 2002 Tentang Wakaf Uang," *Jurnal Ilmiah Islam Futura* 15, no. 1 (2015): 96, <https://doi.org/10.22373/JIIF.V15I1.560>.

³⁰Martini Dwi Pusparini, "Konsep Wakaf Tunai Dalam Ekonomi Islam: Studi Pemikiran Abdul Mannan," *Falah: Jurnal Ekonomi Syariah* 1, no. 1 (2016): 17, <https://doi.org/10.22219/JES.V1I1.2692>.

The Perpetuity of Cash Waqf Between Islamic Scholars

Cash waqf is human-owned property in Islamic jurisprudence,³¹ and a *al-mal* refers to properties owned and controlled by someone, involving physical and beneficial aspects like gold, silver, animals, plants, and residence,³² and definition of property in various Islamic scholars opinions is many, such Ibn 'Abidin said a meaning of property is human tendencies, saved and used for financial support,³³ Syatiby said a property is everything has ownership status of someone and is not allowed by others to own it without the permission,³⁴ and Ibn Al-'Araby said a property is something makes humans persistent to get it and use it in their daily lives.³⁵ In term of property meaning, some of scholars before highlighted the ownership system in something could be saved and used in daily lives which humans persistent to get it.

Moreover, *fiqh* categorizes property into four classifications, *mutaqawwim* (valuable and non-valuable), *'iqar* (immovable and *manqul*), *mitsly* (fungible property) and *qimiy* (non-fungible property), and *istihlaky* (consumable and inconsumable property).³⁶ By those classification, appear controversial opinions about property in waqf, especially on cash waqf included immovable or movable property in *fiqh*. A gap could looked under figure below:

³¹Abu Al-Fatih Nasir Ad-Din Al-Mutorrijy, *Al-Mugrib Fi Tartib Al-Ma'rib* (Syria: Maktabah Usamah bin Zayd, 1979), 278.

³²Wahbah Az-Zuhaily, *Al-Fiqh Al-Islamy Wa Adillatuhu* (Damascus: Dar Al-Fikr, 1985), 40.

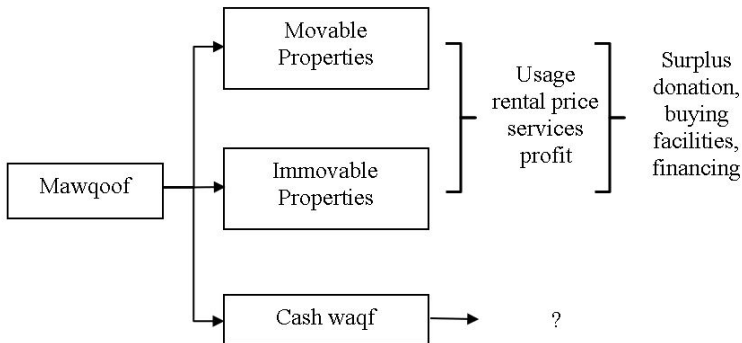
³³Ibn 'Abidin, *Raddu Al-Muhtar 'Ala Ad-Dur Al-Mukhtar* (Riyadh: Dar 'Alim Al-Kutub, 2003), 10.

³⁴The Ministry of Awqaf and Islamic Affairs, *Al-Mausu'ah Al-Fiqhiyyah Al-Kuwaytiyyah* (Kuwait: The Ministry of Awqaf and Islamic Affairs, 2006), 231.

³⁵Ibn Al-'Araby, *Ahkam Al-Quran* (Beirut: Dar Al-Kutub Al-'Ilmiyah, 2003), 107.

³⁶Az-Zuhaily, *Al-Fiqh Al-Islamy Wa Adillatuhu*, 43.

Figure 1. The Diagram of Immovable and Movable Properties



Source: Rahman and Awang (2018)³⁷

The figure shows that immovable and movable properties have perpetual benefits due to their corpus being maintained. Waqf generates perpetual benefits from permanent assets, such as the Masjid Al-Haram Hotel in Makkah. The longer the property can be preserved, more benefits can be generated, such as developing additional properties. Cash waqf remains controversial due to its non-permanent nature.³⁸

The statement above supported with Islamic scholars, including Syafi'i, Hanbali, Maliki, and Hanafi those believe waqf is only allowed on movable, eternal property.³⁹ For example, gold and silver jewelry can be inherited as waqf due to their enduring nature, allowing for eternal benefit, as seen in Hafsah's bequest to relatives.⁴⁰ In case Dinar and Dirham, raises debate among scholars because it from consumable property whereas benefit can be taken when used in a transaction,

³⁷Amilah Awang Abd Rahman and Abdul Bari Awang, "Exploring the Dynamism of the Waqf Institution in Islam: A Critical Analysis of Cash Waqf Implementation in Malaysia," *Intellectual Discourse* 26, no. Special Issue (Waqf) (2018): 1112, <https://journals.iium.edu.my/intdiscourse/index.php/id/article/view/1260>.

³⁸Ibid.

³⁹Farhana Mohamad Suhaimi, Asmak Abd. Rahman, and Sabitha Marican, "The Role of Share Waqf in the Socio-Economic Development of the Muslim Community: The Malaysian Experience," *Humanomics* 30, no. 3 (2014): 230, <https://doi.org/10.1108/H-12-2012-0025>.

⁴⁰Ibn Qudamah, *Al-Mughni* (Riyadh: Dar 'Alam Al-Kutub, 1992), 230.

thus, making it evident that the element of perpetuity is not inherently present in the cash per se.⁴¹ However, in practice, cash is a medium for storing value and can be used to obtain permanent assets like land and buildings, meeting waqf criteria. This opinion aligns with other *madzhab* schools standards, such as Syafi'i, Maliki, and Hanbali.⁴² Succinctly, Islamic scholars debate money's physicality and role in waqf, with some suggesting it's a medium for permanent assets.

The Legal Aspect of Cash Waqf Between Madzhab

Cash waqf has been carried out since the 2nd century after the *Hijrah*. As narrated by Imam Bukhari who said that Imam Zuhri is of the view that Dinars and Dirhams can be used as waqf assets as capital then the profits are distributed to those who are entitled (*mawquf 'alaih*) and it is recommended for the construction of social facilities, preaching, and education of Muslims,⁴³ even though some Islamic scholars had different opinion on cash waqf, especially on a legal of cash waqf like below.

Hanafiyah school from Abu Hanifah and Abu Yusuf also not permitted a cash waqf due to money is a type of movable property, but in contrary with Zufar⁴⁴ who allowed cash waqf like Dinar or Dirham in lending transaction of business with distributing a revenue for needy or in the way of Allah, it is same with Muhammad opinion who allowed cash waqf with condition, i.e. economy process or transaction in cash waqf.^{45 46 47} Meanwhile, the *mutaqaddimin* (classical) *ulama* from the Hanafis, allow Dinar and Dirham waqf as cash waqf. It is based on *al-istihsan bi al-'urf* in the *asar* of Abdullah bin Mas'ud ra., "*What is considered good by the Muslims is also considered good by*

⁴¹Suhaimi, Rahman, and Marican, "The Role of Share Waqf in the Socio-Economic Development of the Muslim Community: The Malaysian Experience," 231.

⁴²Ibn 'Abidin, *Raddu Al-Muhtar 'Ala Ad-Dur Al-Mukhtar*, 555.

⁴³Al-Bukhary, *Sahih Al-Bukhary* (n.p.: Dar Tuq An-Najat, 2001), 12.

⁴⁴Zaynuddin Ibn Nujaym, *Al-Bahru Ar-Raiq Syarhu Kanzu Ad-Daqaiq* (Beirut: Dar Al-Kutub Al-'Ilmiyyah, 1997), 219.

⁴⁵Ibn Al-Maudud Al-Mausuly, *Al-Ikhtiyar Li-Ta'li' Al-Mukhtar* (Cairo: Matba'ah Al-Halby, 1937), 42.

⁴⁶Ibrahim bin Muhammad bin Ibrahim Al-Halby, *Majma' Al-Anhur Fi Syarhi Multaqa Al-Abhur* (Beirut: Dar Al-Kutub Al-'Ilmiyyah, 1998), 747.

⁴⁷Ibn 'Abidin, *Raddu Al-Muhtar 'Ala Ad-Dur Al-Mukhtar*, 374.

God, and what is considered bad by Muslims is also bad in the eyes of Allah".⁴⁸ In the 8th century, Imam Zufar had approved cash waqf in the Islamic world for the first time. According to him, cash waqf would be invested through *mudarabah* and profits would be spent for charity. Nevertheless, cash waqf did not expand and mature until the 16th century and after that century it became popular, especially among the Ottomans.⁴⁹

Scholars from Hanbali, Syafi'i, Ibn Syas,⁵⁰ Ibn Al-Hajib, from Maliki school,⁵¹ prohibited a practice of cash waqf due to money is consumable property and it benefit appear properly with breaking a commodity like using a money in various business, and this condition is an opposite with waqf. Nevertheless, Sahib Al-Furu' known with Ibn Muflih,⁵² allowed cash waqf which was prohibited by Syafi'i scholars.^{53 54 55 56} Maliki school in generally didn't allow cash waqf in practice except used in lending transactions, but the opinion in *al-mudawwanah* book from Imam Malik by sentence "*fatuqrad liman yantafi'u bi-infaqih, wa yaruddu badalaha*" or cash waqf is possible to use in lending transaction with a commitment of lender to return back after using a property, thus, the cash or property still existed though used in business transactions,⁵⁷ same as Ibn Muhammad Al-Maliky in book of *zakat* and waqf.⁵⁸ Further, Maliki scholars decided a legal

⁴⁸Ahmad Ibn Hanbal, *Musnad Imam Ahmad Ibn Hanbal* (Beirut: Muassasah Ar-Risalah, 1999), 84.

⁴⁹Chowdhury, Ghazali, and Ibrahim, "Economics of Cash Waqf Management in Malaysia: A Proposed Cash Waqf Model for Practitioners and Future Researchers," 12159.

⁵⁰Khoruddin Az-Zirikly, *Al-A'lam* (Beirut: Dar Al-'Ilmi li Al-Malayin, 2002), 269.

⁵¹Umar Rida Kahalah, *Mu'jam Al-Muallifin* (Beirut: Muassasah Ar-Risalah, 1957), 265.

⁵²Ibid., 44.

⁵³As-Syarbiny, *Mugny Al-Muhtaj* (Beirut: Dar Al-Ma'rifah, 1997), 377.

⁵⁴Ibn Syihabuddin bin Ar-Ramly, *Nihayah Al-Muhtaj* (Beirut: Dar Al-Kutub Al-'Ilmiyyah, 2003), 358.

⁵⁵An-Nawawy, *Raudah At-Talibin* (Beirut: Dar 'Alam Al-Kutub, 2003), 315.

⁵⁶Al-Ansary, *Asna Al-Matalib Syarhu Raud At-Talib* (n.p.: Al-Matba'ah Al-Maymaniyyah, 713), 458.

⁵⁷Ad-Dasuqy, *Hasyiyah Ad-Dasuqy* (Cairo: Dar Ihya Al-Kutub Al-'Arabiyyah, n.d.), 583.

⁵⁸Ibn Muhammad Al-Maliky, *Syarhu Miyarah Al-Fasy* (Beirut: Dar Al-Kutub Al-'Ilmiyyah, 2000), 229.

of cash waqf as a *makruh*,⁵⁹ or discouraged action in generally.⁶⁰

In according to Ibn 'Abidin, cash waqf is forbidden due to cash waqf is a tradition came from Rome society and an opposite with another countries,⁶¹ the essence of money is like food which is things from consumable property and Ibn Ruslan said cash waqf unallowed excluded real estate and movable property,⁶² even though some scholar of Syafi'i allowed cash waqf like Abu Saur,⁶³ in Mawardi's book.⁶⁴ Additional, some of Syafi'i scholars allowed cash waqf depend on Nafi' narration, "*Hafsa bought jewelry for twenty thousand, so she endowed it for the women of the Al-Khattab family, and she did not pay its zakat*", because this is an asset can be used with eternal goods such as real estate so it is permissible to endow it and take the proceeds.⁶⁵ Moreover, Faiq said that cash waqf used in loan transactions is allowed and has the advantage to produce great benefits for the needy and no problems in this regard or the arguments that prohibit it and have good intentions to help others.^{66 67}

A recent *fatwa* issued by the International Council of Fiqh Academy (ICFA) of the Organization of the Islamic Conference, holding its 15th session in Muscat, Sultanate of Oman, on 14–19 Muharram 1425 H (6–11 March 2004), clearly states: (1) Creating cash waqf is permissible since it satisfies the shariah objective of waqf that is retaining the principal and offering its benefits and because units of money have no specific merits that prevent units from standing

⁵⁹Oxford, "Makruh," Oxford University Press, 2022, <https://www.oxfordreference.com/view/10.1093/oi/authority.20110810105327428>.

⁶⁰Ibn 'Abdurrahman At-Tarablisy, *Mawahib Al-Jalil Li-Syarhi Mukhtasar Al-Khalil* (Cairo: Dar 'Alam Al-Kutub, 2003), 631.

⁶¹Abu Zakariya Muhyiddin bin Syaraf An-Nawawy, *Al-Majmu' Sharh Al-Muhaddzab* (Jeddah: Maktabah Al-Irsyad, n.d.), 325.

⁶²Ibn Ruslan, *Syarhu Kitab Gayah Al-Bayan* (Beirut: Dar Al-Ma'rifah, n.d.), 457.

⁶³Az-Zirikly, *Al-A'lam*, 30.

⁶⁴Abu Al-Hasan 'Aly bin Muhammad bin Habib Al-Mawardy, *Al-Hawy Al-Kabir* (Beirut: Dar Al-Kutub Al-'Ilmiyyah, 1994), 1299.

⁶⁵An-Nawawy, *Al-Majmu' Sharh Al-Muhaddzab*, 325.

⁶⁶Alauddin Abu Al-Hasan 'Aly bin Sulayman Al-Mardawy, *Al-Insaf Fi Ma'rifah Ar-Rajih Min Al-Khilaf 'ala Mazhab Al-Imam Ahmad Bin Hanbal* (Beirut: Dar Ihya At-Turas Al-'Araby, 1998), 11.

⁶⁷Muhammad bin Salih bin Muhammad Al-'Usaymin, *As-Syarhu Al-Mumti' 'ala Zad Al-Mustaqni'* (n.p.: Dar Ibn Al-Juzy, 2007), 18.

for and replacing each other; (2) Money can be made principal of waqf for extending goodly loans or for investment, either directly or through the participation of several waqf founders in one fund. Money can also be mobilized for waqf purposes through the issuance of waqf shares to donors to encourage giving waqf and to promote collective participation in it; (3) When a money waqf is invested in purchasing physical properties (as when the waqf manager uses it for purchasing a real estate or contracting a manufactured asset), the purchased property does not itself become waqf in replacement of the money. Therefore, the properties purchased in this manner can be resold to continue the investment process.⁶⁸

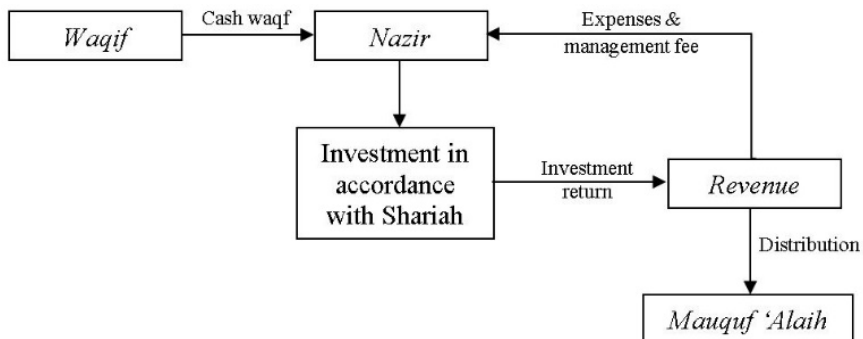
Concisely, the Hanafiyah school has varying opinions on the legality of cash waqf usage. Abu Hanifah and Abu Yusuf prohibited cash waqf due to money being a movable property. Zufar, Muhammad, and *mutaqaddimin ulama* from Hanafi allow Dinar and Dirham as cash waqf, relying on *al-istihsan bi al-'urf*. Scholars from Hanbali, Syafi'i, Ibn Syas, Ibn Al-Hajib Al-Maliky, Ibn Muflih As-Syafi'iy, Maliki school, and Ibn Muhammad Al-Maliky differ in their opinions. Discussions have spread among Syafi'iyyah scholars, with some allowing it while others, like Ibn Ruslan, Abu Saur, and some Syafi'i scholars, based on Nafi' narration, prohibit cash waqf practice.

The Scheme of Cash Waqf Investment

The investment using cash waqf has various types and different models, but a basic model of cash waqf investment as below and developed day by day:

⁶⁸The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference, "Resolution No. 140 (6/15) Investment of Waqf, Its Yields, and Incomes," International Islamic Fiqh Academy, 2004, <https://iifa-aifi.org/en/32887.html>.

Figure 2. Cash Waqf Management and Investment Scheme



Source: Islamic Markets (2020)⁶⁹

Cash Waqf Investment Through Mudarabah Based Financing

Imam Zufar approved cash waqfs, envisioned investing corpus through *mudarabah* and distributing returns to poor as charity.⁷⁰

⁷¹ *Mudarabah* is a partnership where one partner executes a viable business, while the other invests or finances it.⁷² This arrangement can be concluded between investment account holders and Islamic banks, with the Islamic bank sharing profits based on pre-agreed ratios. Losses are borne by the fund's provider, except for verified misconduct or violation of conditions.⁷³ Further, the cash waqf used for *mudarabah* based financing as below:

⁶⁹Shamsiah Abdul Karim, "Cash Waqf in Indonesia," Islamic Markets, 2020, <https://islamicmarkets.com/education/cash-waqf-in-indonesia>.

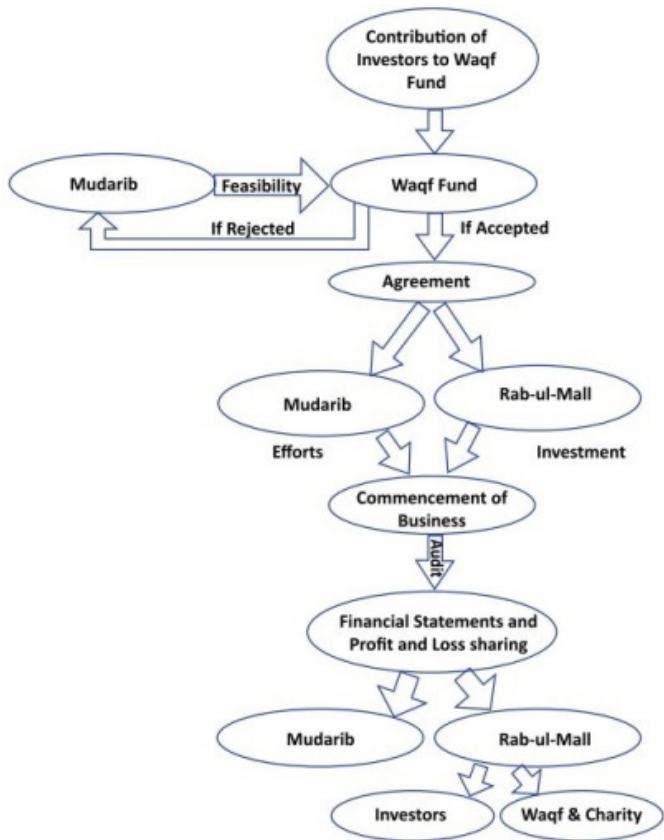
⁷⁰Cizakca, "Incorporated Cash Waqfs and Mudaraba, Islamic Non-Bank Financial Instruments from the Past to The Future," 21.

⁷¹Chowdhury, Ghazali, and Ibrahim, "Economics of Cash Waqf Management in Malaysia: A Proposed Cash Waqf Model for Practitioners and Future Researchers," 12160.

⁷²Abdullah, "Waqf: A Proposed Model for Islamic Finance," *Market Forces Research Journal* 9, no. 1 (2014): 18, <https://kiet.edu.pk/marketforces/index.php/marketforces/article/view/257>.

⁷³Md. Habibur Rahman, "Mudarabah and Its Applications in Islamic Finance: An Analysis," *Asian Research Consortium* 8, no. 6 (2018): 36, <https://doi.org/10.5958/2249-7323.2018.00042.1>.

Figure 3. Mudarabah Based Financing



Source: Abdullah (2014)⁷⁴

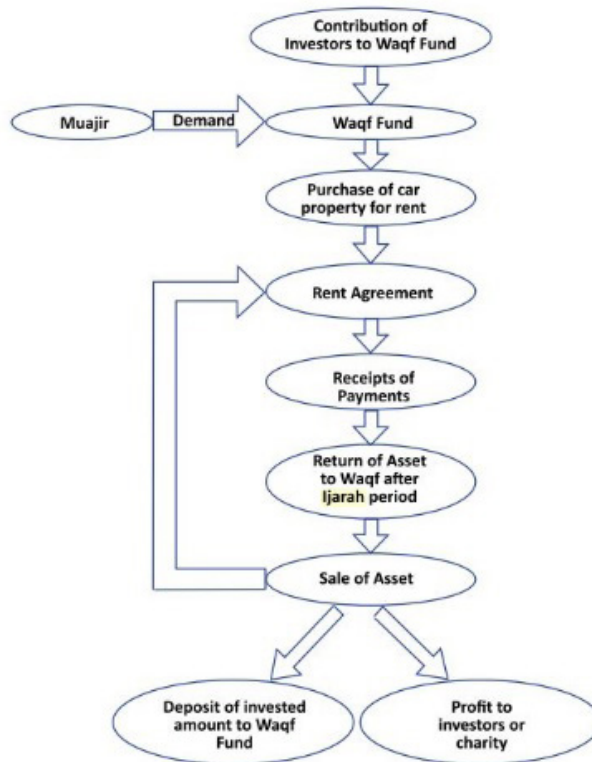
Cash Waqf Investment Through Ijarah Based Financing

Ijarah in Islamic jurisprudence involves renting out an asset, with two types, hiring employee services and transferring property usufruct for rent claim.⁷⁵ The cash waqf based *ijarah* based financing could be seen in figure below:

⁷⁴Abdullah, "Waqf: A Proposed Model for Islamic Finance," 18.

⁷⁵Ibid., 19.

Figure 4. *Ijarah* Based Financing



Source: Abdullah (2014)⁷⁶

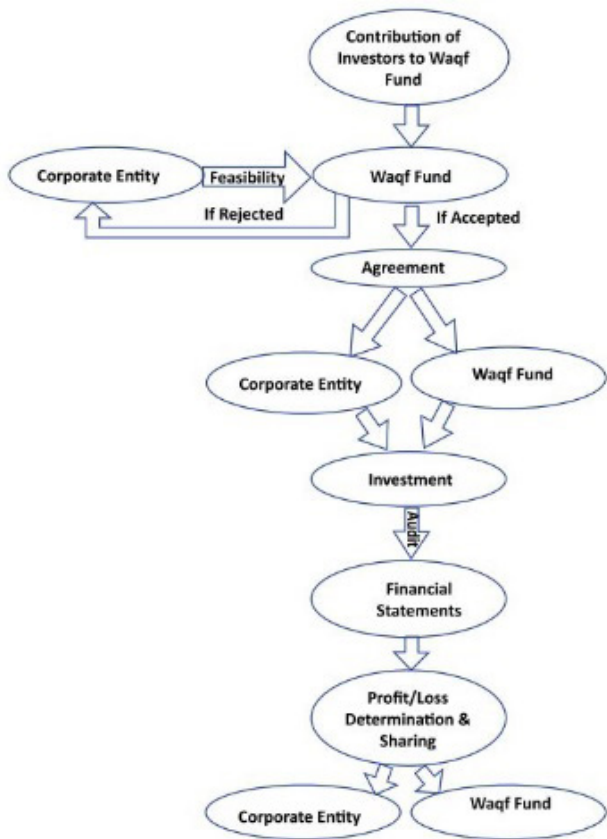
Cash Waqf Investment Through Musyarakah Based Financing

Islamic banks use a financing technique where capital providers share funds with business enterprises, with all partners participating in management. Profits are distributed in pre-agreed ratios, while losses are borne by each partner proportional to capital contributions.⁷⁷ While cash waqf investment through *musyarakah* financing as figure below:

⁷⁶Ibid.

⁷⁷Muhammad Akram Khan, *Islamic Economics and Finance: A Glossary*, 2nd ed. (London: Routledge, 1990), 136.

Figure 5. Musyarakah Based Financing



Source: Abdullah (2014)⁷⁸

Cash Waqf Investment Through Murabahah Based Financing

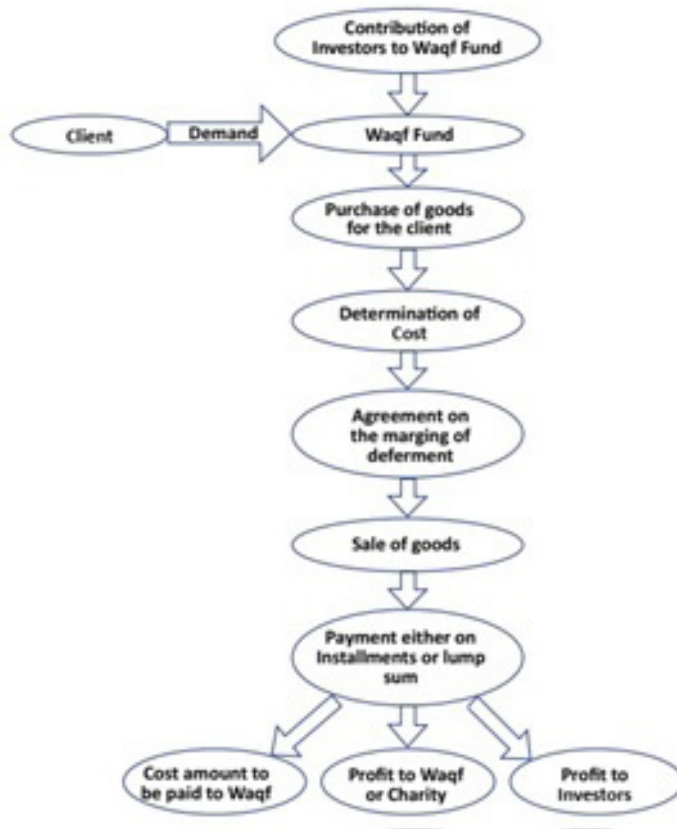
Murabahah is the sale of goods with a profit mark up, developed by Islamic banks as a financing technique. There are two types, purchasing goods without prior promise from customers and buying goods ordered from third parties and selling them to the same customer.⁷⁹ Through cash waqf, this type of financing could

⁷⁸Abdullah, "Waqf: A Proposed Model for Islamic Finance," 20.

⁷⁹Akram Khan, *Islamic Economics and Finance: A Glossary*, 26.

be implemented as model below:

Figure 6. Murabahah Based Financing



Source: Abdullah (2014)⁸⁰

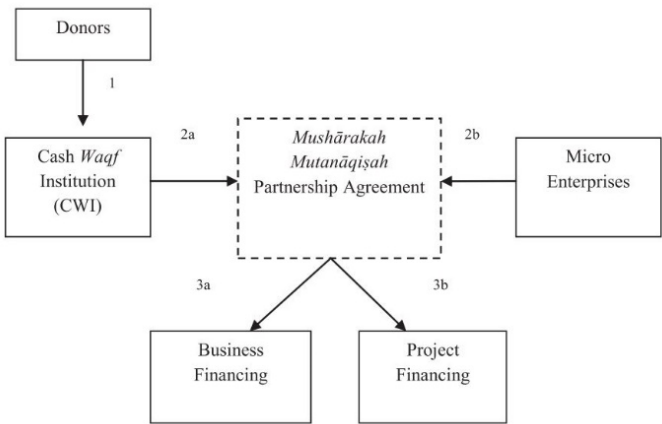
Cash Waqf Investment Through Microfinance

The characteristics of cash waqf such as permanence, irrevocability, and perpetuity differentiate waqf from other type of donations. Therefore, cash waqf-based Islamic microfinance makes

⁸⁰ Abdullah, "Waqf: A Proposed Model for Islamic Finance," 21.

sustainability and providing low-cost capital to poor entrepreneurs without collateral. It also has social implications.⁸¹ Moreover, ICWME-I model combines waqf institutions and micro enterprises through participatory contracts and diminishing partnership financing arrangements as figure showed below:

Figure 7. Integrated Cash Waqf Micro Enterprise Investment (ICWME-I)



Source: Thaker (2018)⁸²

Small and Medium Enterprise (SME) Loan

Cash waqf benefits SME and society by providing financial rewards, increasing liquidity, capital accumulation, and business opportunities.^{83 84} It fosters emerging sectors, creates a social safety

⁸¹Rose Abdullah and Abdul Ghafar Ismail, "Taking Stock of the Waqf-Based Islamic Microfinance Model," *International Journal of Social Economics* 44, no. 8 (2017): 1021, <https://doi.org/10.1108/IJSE-06-2015-0176>.

⁸²Mohamed Asmy bin Mohd. Thas Thaker, "A Qualitative Inquiry Into Cash Waqf Model as a Source of Financing for Micro Enterprises," *IJIF: International Journal of Islamic Finance* 10, no. 1 (2018): 22, <https://doi.org/10.1108/IJIF-07-2017-0013>.

⁸³Muyassar Mukhitdinova Ziyaviddinovna and Khadzhaev Khabibulla Sagdullaevich, "Poverty Reduction by Islamic Waqf System," *Journal of Critical Reviews* 7, no. 4 (2020): 71, <https://doi.org/10.31838/jcr.07.04.14>.

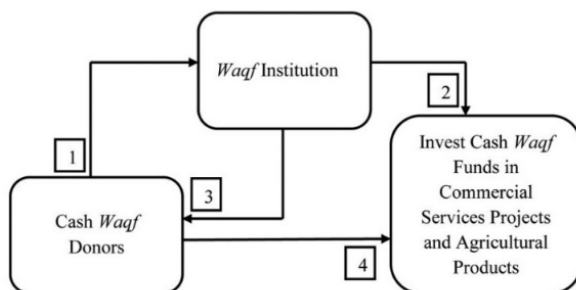
⁸⁴Chowdhury, Ghazali, and Ibrahim, "Economics of Cash Waqf Management in

net, and saves businesses, particularly micro-small enterprises, through digital marketing and financial assistance.⁸⁵ Cash waqf can also provide no-refund financial assistance for starting a business, subject to *mutawalli*.⁸⁶

Cooperative-Waqf Model (CWM)

The proposed CWM in this study aims to address two issues, namely, to promote consistency among cash waqf donors and to solve the liquidity problem faced by waqf institutions. Below the demonstration of the CWM in Malaysia and detailed explanation of the workings of the CWM:

Figure 8. Cooperative-Waqf Model (CWM)



Source: Authors

Source: Pitchay, et. al. (2018)⁸⁷

Stage 1, donors contribute cash waqf to the waqf institution through salary deductions or over-the-counter payments, the

Malaysia: A Proposed Cash Waqf Model for Practitioners and Future Researchers," 12161.

⁸⁵Ascarya, "The Role of Islamic Social Finance During Covid-19 Pandemic in Indonesia's Economic Recovery," *International Journal of Islamic and Middle Eastern Finance and Management* 15, no. 2 (2022): 389, <https://doi.org/10.1108/IMEFM-07-2020-0351>.

⁸⁶Ahmad, "Cash Waqf: Historical Evolution, Nature, and Role As an Alternative to Riba-Based Financing for the Grass Root," 69.

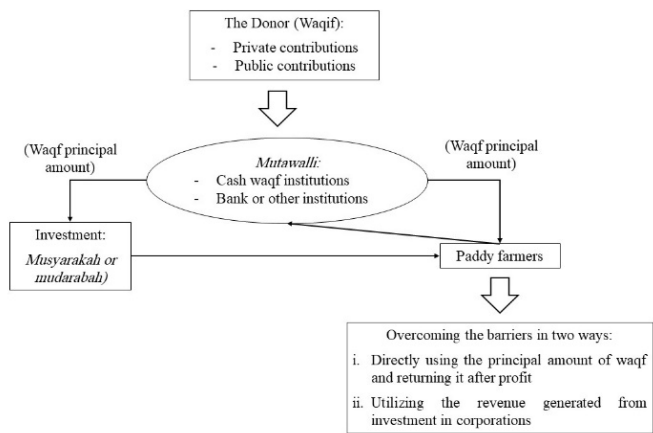
⁸⁷Anwar Allah Pitchay et al., "Cooperative-Waqf Model: A Proposal to Develop Idle Waqf Lands in Malaysia," *IJIF: International Journal of Islamic Finance* 10, no. 2 (2018): 228, <https://doi.org/10.1108/IJIF-07-2017-0012>.

institution issues cash waqf certificates specifying development projects, currently, donors have no idea of cash usage and no incentive for giving except for rewards from Allah and tax deductions. *Stage 2*, the waqf institution will proceed to developing the projects. *Stage 3*, waqf institution will issue *Sahabat Waqf* membership cards to donors with RM 500 annual contributions, based on cooperative concept, subject to change by institution. *Stage 4*, membership grants privileged rates to donors for waqf-based commercial services and agricultural products.

Integrated Cash Waqf Environmental Protection (IWEP) Model

The IWEP model integrates cash waqf to help farmers adapt to climate change. Public and corporate donors contribute cash to Cash Waqf Institutions (CWI) to raise funds in program. Further, figure below shows the IWEP model operation:

Figure 9. Integrated Cash Waqf Environmental Protection (IWEP) Model



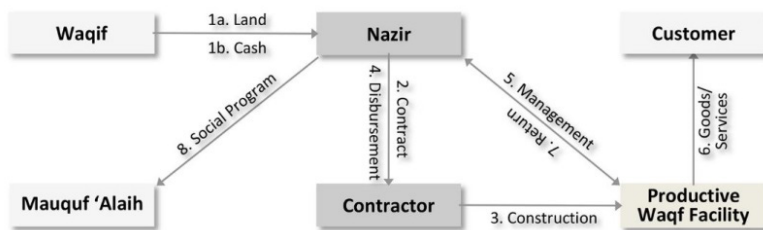
Source: Afroz, Muhibbullah, and Morshed (2019)⁸⁸

⁸⁸Rafla Afroz, Md. Muhibbullah, and Mohammed Niaz Morshed, “Factors Affecting the Intention of the Rice Farmers to Adopt the Integrated Cash Waqf Environmental Protection Model: An Empirical Study in Kedah Malaysia,” *Journal of Asian Finance, Economics, and Business* 6, no. 4 (2019): 192, <https://doi.org/10.13106/jafeb.2019.vol6.no4.189>.

Cash Waqf and Self-Managed

The *nadzir*, the holder of a waqf land trust, develops the land at low cost. They raise funds, enter a property development contract with a contractor, and manage the building's rental and maintenance. As the result, the net profit is used for social and reinvestment programs, and the figure can be seen as below:

Figure 10. Cash Waqf and Self-Managed



Source: Ascarya, Hosen, and Rahmawati (2022)⁸⁹

Cash waqf investment can be conducted through traditional and contemporary schemes, such as Islamic commercial transactions and microfinance. These schemes can include SME loans, cooperative-waqf models, IWEP, ICG, and self-managed cash waqf. As long as pillars of waqf are preserved, these investment methods are valid and effective.

Conclusion

Cash waqf, an Arabic term meaning money, is an Islamic social finance instrument used for investment in productive businesses. Debates exist on its physicality as a consumable asset or perpetuity aspect. Scholars like Syafi'i, Hanbali, Maliki, and Hanafi focus on money as a medium of value for obtaining permanent assets and allow to use it in waqf investment. Cash waqf investment can be conducted

⁸⁹ Ascarya, Muhamad Nadrattuzaman Hosen, and Siti Rahmawati, "Designing Simple Productive Waqf Models for Indonesia," *International Journal of Ethics and Systems* 38, no. 3 (2022): 383, <https://doi.org/10.1108/IJOES-07-2020-0101>.

through traditional and contemporary schemes, including Islamic commercial transactions, microfinance, SMEs loans, cooperative-waqf models, IWEP models, and Islamic Corporate Governance models.

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