

## Reconstruction of the Concept of Waqf Muaqqat in the Hanafi Perspective: Relevance and Implementation in the Modern Era

Elda Ermawati\*

Institut Agama Islam Negeri Palangka Raya, Indonesia  
\*Corresponding Authors: ermawatielda3@gmail.com

Hamidah

Institut Agama Islam Negeri Palangka Raya, Indonesia  
Email: hamidah@iain-palangkaraya.ac.id

Muhammad Noor Sayuti

Institut Agama Islam Negeri Palangka Raya, Indonesia  
Email: m.noor.sayuti@iain-palangkaraya.ac.id

Rofi'i

Institut Agama Islam Negeri Palangka Raya, Indonesia  
Email: rofiipky@gmail.com

**Abstract:** waqf is actually one of the Islamic financial instruments that has a strategic role in improving the social and economic welfare of the community. Traditionally, waqf is known as a form of permanent donation, but the concept of muaqqat waqf (temporary waqf) has also become part of the discussion of Islamic jurisprudence. The purpose of this study is to examine in more depth the reconstruction of the concept of waqf muaqqat from the perspective of the Hanafi school of thought and its implementation and relevance in the modern era. The method used by the researcher is a qualitative method based on literature studies with data sources obtained from fiqh books, academic literature, and waqf regulations, journal books and other credible sources. The results of this study indicate that the Hanafi school of thought allows temporary waqf where this is a solution for sustainable waqf asset management. Furthermore, the researcher also provides research recommendations in the form of the need for regulations that are able to accommodate and support Islamic financial institutions in an effort to achieve optimal implementation of waqf muaqqat in the context of Islamic economics.

**Keywords:** Waqf Muaqqat; Abu Hanifah; Temporary Waqf

## Introduction

The word "Waqf" or "Waqf" comes from the Arabic word "Waqafa". The origin of the word "Waqafa" means "to hold" or "to stop" or "to stay in place" or to remain standing.<sup>1</sup> As for the term, waqf means stopping or holding assets that can be taken advantage of without being destroyed immediately and for permissible uses, and is intended to gain the pleasure of Allah SWT. The importance of effective and transparent management of these waqf assets will not only provide economic benefits, but also strengthen social solidarity and improve the overall quality of life of the community.<sup>2</sup>

The concept of muaqqat waqf has received special attention in classical fiqh literature, including in the thoughts of Abu Hanifah, a great imam of the Hanafi school. Abu Hanifah provided a different view on the validity and implementation of temporary waqf.<sup>3</sup> His thoughts provide an important theoretical basis in understanding how waqf can be applied flexibly without neglecting the principles of sharia. In the modern era, the relevance of muaqqat waqf has become even more significant. With fast-changing social and economic dynamics, temporary waqf offers a more adaptive and pragmatic solution in meeting the needs of society.<sup>4</sup>

Research on the concept of muaqqat waqf from Abu Hanifah's perspective and its relevance to temporary waqf in the modern era is important. This is not only to dig deeper into valuable classical thoughts but also to find applicative patterns that can be applied in the current context. This study is expected to make a significant contribution to the development of the science waqf and encourage innovation in waqf practices that are more dynamic and in accordance with the needs of the times.<sup>5</sup>

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<sup>1</sup> Rijalul Khaer, Atep Firmansyah, and Pupun Saepul Rohman, "Meta-Analysis Of Wakaf Based Sharia Microfinance Institutions," *Perisai : Islamic Banking and Finance Journal* 7, no. 2 (2023): 237–54, <https://doi.org/10.21070/perisai.v7i2.1661>.

<sup>2</sup> N A A Bakar, M N M Hussain, and A B Hamed, "Scrutinizing the Effects of Restructuring in Perbadanan Wakaf Selangor," *International Journal of Accounting* 2, no. 4 (2017): 13–21, [www.ijafb.com](http://www.ijafb.com).

<sup>3</sup> Mohd Haziqi Hilmi and dan Muhammad Hakimi Mohd Shafiai, "Peranan Wakaf Tunai Sebagai Penyelesaian Isu Kos Sara Hidup Mahasiswa Universiti (the Role of Cash Wakaf As a Solution To the Cost of Living Issues of University Students)," *International Journal of Social Science Research* 4, no. 4 (2022): 63, <http://myjms.mohe.gov.my/index.php/ijssrjournalwebsite:http://myjms.mohe.gov.my/index.php/ijssr>.

<sup>4</sup> Hida Hiyanti, Indria Fitri Afiyana, and Siti Fazriah, "Potensi Dan Realisasi Wakaf Uang Di Indonesia Tahun 2014-2018," *Jurnal Ilmiah MEA (Manajemen, Ekonomi, Dan Akuntansi)* Vol.4 No.1, no. 1 (2020): 77–84.

<sup>5</sup> Duski Ibrahim, Ahmad Zainuri, and Miftachul Huda, "Empowering Wakaf (Islamic Endowment) for Economic Development: An Insightful Value of Nazir Waqf in Indonesia," *UMRAN* -

Istinbath is a complex process and requires a deep understanding of the sources of Islamic law and the rules of fiqh.<sup>6</sup> Method istinbath Abu Hanifah emerged from the In an effort to strengthen the literature of this research to compare the reality in the field with relevant theories, here are more details: First, Nur Mifchan Solichin, *Temporary Waqf as a Study of Fiqh Muamalah (Juridical Thought and Possible Implementation)* states that waqf in Indonesia has not been fully managed effectively, in many cases there are abandoned waqf objects that are not maintained.<sup>7</sup> To reduce the neglect of waqf assets, the discourse of waqf fiqh develops with the discussion of temporary waqf. Nahdlatul Ulama officially recognizes four schools of fiqh: Hanafi, Maliki, Shafi'i, and Hanbali, so there is a possibility that temporary waqf can be implemented by Nahdlatul Ulama because Hanafiyah and Malikiyah allow temporary waqf.

Second, Jalaluddin's *Life Insurance Waqf Position in Islam*, this research is a legal act according to the Hanafi school of thought that is more flexible because it can waqf movable objects (a'in) temporarily and permanently even ownership is still by the donor. The main difference between research on the concept of mua'qqat waqf in Abu Hanifah's perspective and Jalaluddin's research on life insurance waqf lies in the object of waqf, the implementation mechanism, and the implications in the modern context.<sup>8</sup> The application of temporary waqf can be seen in various sectors such as education, health, and economy, where waqf assets can be used to support public facilities or economic empowerment for a certain period of time before being transferred back to the endowers or other parties in need.<sup>9</sup>

Third, Khusaini and Muhammad, *Muaqqat Waqf in the Perspective of the Shafi'i Mazhab*, the argument from the Shafi'i Mazhab is that muaqqat waqf is invalid (canceled). Because basically waqf is held in principal and utilized for its

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*International Journal of Islamic and Civilizational Studies* 7, no. 1 (2020): 103–14, <https://doi.org/10.11113/umran2020.7n1.405>.

<sup>6</sup> M. F. Puteri Nur Farah Naadia and A. R. Khairuddin, "Shariah Compliance Risk Management in the Provision of Wakaf-Zakat Housings," *International Journal of Islamic Thought* 19, no. 1 (2021): 102–9, <https://doi.org/10.24035/IJIT.19.2021.200>.

<sup>7</sup> Surita Hartini Mat Hassan et al., "The Influence of Promotion and Waqf Knowledge toward Cash Waqf Awareness in Pahang Region," *International Journal of Academic Research in Business and Social Sciences* 11, no. 4 (2021), <https://doi.org/10.6007/ijarbss/v11-i4/9816>.

<sup>8</sup> MPOC, lia dwi jayanti, and Jennifer Brier, "Konstruksi Pengembangan Wakaf Saham Dalam Rangka Mengoptimalkan Potensi Wakaf Produktif Di Indonesia Lokot," *Malaysian Palm Oil Council (MPOC)* 21, no. 1 (2020): 1–9, <https://doi.org/http://journal.um-surabaya.ac.id/index.php/JKM/article/view/2203%0Ahttp://mpoc.org.my/malaysian-palm-oil-industry/>.

<sup>9</sup> Surita Hartini Mat Hassan et al., "The Implementation of Ijarah in Producing the Wakaf Property: Studies in Penang, Malaysia," *International Journal of Academic Research in Business and Social Sciences* 11, no. 1 (2021), <https://doi.org/10.6007/ijarbss/v11-i1/9007>.

results, and for devotion to Allah SWT. The main difference between the concept of mua'qqat waqf in the perspective of Abu Hanifah and the Shafi'i Mazhab lies in the legal nature and validity of waqf. According to the 'i Mazhab, waqf must be muabbad (permanent) whereas, in Abu Hanifah's perspective, waqf is ghair lazim (not permanently binding).<sup>10</sup> Thus, the concept of temporary waqf becomes more flexible and innovative, in line with the dynamics of the times without losing the social benefits that are the main purpose of waqf in Islam. In the Modern Era of Hanafiyah Perspective". The main gap of discussion in this research is an in-depth analysis of Abu Hanifah's thoughts on muaqqat waqf and its relevance in the modern era like today. This research aims to explore the implementation of temporary waqf in all lines of human life in the education, health, and economic sectors along with an analysis of its potential implementation in sustainable waqf management.

### **Method's**

The type of research focused by the author in this study is qualitative research. This method refers to the collection and analysis of data based on narrative data.<sup>11</sup> In the data mining process, the researcher uses a data mining method with source collection by referring to library research where the sources are obtained from various credible literature on the topic of discussion of Muaqqat waqf in fiqh and law, Construction of Muaqqad waqf: Imam Hanafi's Offer, Relevance of Muaqqat Waqf with contemporary waqf. Furthermore, the analysis of this research data is carried out in a structured manner with the principle of a historical approach with a scope of historical, social, political, and economic studies regarding the concept of Muaqqat waqf. The analysis process, the researcher considers as a strategic step that presents involvement, both in identifying patterns or themes that are likely to be the subject of discussion in similar sources, as well as in-depth evaluation in the form of unifying arguments as well as supporting evidence as validation of the author's data. The analysis techniques that are the basis for writing this research are several types, namely thematic analysis, discourse analysis, and historical analysis. Overall, this analysis process is intended for the preparation of the research flow so that data synthesis can be conveyed clearly and in-depth interpretation of the relevant theoretical framework. Although in practice, this research process does not go directly to the field, it is expected that the in-depth analysis that the author wants

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<sup>10</sup> M Jannah et al., "Management Strategies of a Productive Waqf-Based Forest in Bogor, Indonesia," *Jurnal Sylva ...*, 2024, <https://sylvalestari.fp.unila.ac.id/index.php/JHT/article/view/931>.

<sup>11</sup> Hayat, *Metode Penelitian Kualitatif* (Malang: UNISMA Press, 2020).

to convey can be conveyed well.<sup>12</sup> The author chose library sources because these sources tend to be broad so that they can produce fairly valid conclusions.

### **The Concept of Waqf Muaqqat**

Waqf is an instrument of public finance in Islam that has a role in creating social welfare, which in turn can improve the community's economy. The main characteristic of waqf is that when waqf is fulfilled, there will be a shift from private ownership to community ownership. The waqf is an endowment fund and is expected to provide benefits to the community in a sustainable manner with the aim of expecting the pleasure of Allah SWT alone. So far, waqf has often been directed only to the waqf of immovable objects such as land, buildings, trees for fruit, and wells for water. Meanwhile, the issue of waqf of movable objects has discussed in recent years.<sup>13</sup>

The Hanfi school states that the definition of waqf is not taking action on an asset, which has the status of permanent property rights by providing its benefits to certain parties either for the present or for a specified time. Meanwhile, the Malik school of thought believes that waqf does not release the property owned by the donor and the donor is obliged to provide the benefits of the property he has donated and may not withdraw the donated property. Mazhab shafi'i.<sup>14</sup> It is argued that waqf is the release of property from ownership through existing procedures. The waqf donor may not take any action on the property that has been waqf by him. The Shafi'i school of thought also allows waqf in the form of movable objects on the condition that the waqf item must have lasting benefits.<sup>15</sup>

Waqf is an Islamic teaching that aims to build welfare and the development of an advanced civilization, the progress of Islamic civilization in the past cannot be separated from the role of waqf.<sup>16</sup> In fact, waqf has successfully funded Islamic civilization projects from time to time and in social

<sup>12</sup> Muhammad Ramdhan, *Metode Penelitian* (Surabaya: Cipta Media Nusantara, 2021).

<sup>13</sup> Mohd Hafiz b. Hj. Fauzi et al., "The Impact of Trust in Cash Waqf Contribution: A Case Study of Wakaf Selangor Muamalat (Wsm) Service of Bank Muamalat Malaysia Berhad (Bmmb)," *International Journal of Business, Economics and Law* 18, no. 2 (2019): 1–10.

<sup>14</sup> Wakaf Perkhidmatan and Menurut Perspektif, "WAKAF SERVICE FROM AN ISLAMIC POINT OF VIEW," *International Journal of Islamic Studies* 31, no. 2 (2023): 142–57, <https://doi.org/http://al-qanatir.com>.

<sup>15</sup> An'im Fattach and Maskun Maskun, "Konsepsi Strategis Pengembangan Wakaf Produktif Melalui Investasi Berbasis Syariah," *Management of Zakat and Waqf Journal (MAZAWA)* 3, no. 2 (2022): 51–65, <https://doi.org/10.15642/mzw.2022.3.2.51-65>.

<sup>16</sup> S H A Razak, "Zakat and Waqf as Instrument of Islamic Wealth in Poverty Alleviation and Redistribution: Case of Malaysia," *International Journal of Sociology and Social Policy* 12, no. 1 (2020): 72, <https://doi.org/10.1108/IJSSP-11-2018-0208>.

and economic development, so waqf plays a good role in achieving the welfare of a just and prosperous society. Waqf in general, when viewed from the actions of the person who donates, waqf is a legal act of a person who deliberately separates or releases his property, the benefits of which are for purposes in the way of Allah and can be understood from some of the definitions above that the property belongs to a person or group, the property does not run out when used, the property is released from ownership by the owner, then the property cannot be donated, inherited or traded and the benefits of the property are for the public interest in accordance with Islamic law.<sup>17</sup>

The potential of waqf in Indonesia can be maximized and utilized through waqf sukuk. The Ministry of Finance, OJK and BWI have conducted studies on the maximization of waqf assets. The public has understood that waqf assets are only in the form of land that will be used to build mosques on it or build social institutions. Furthermore, land waqf can be maximized through sukuk waqf and its underlying assets using land waqf.<sup>18</sup>

Muaqqat waqf is a temporary waqf, where the waqf property is only used for a specific purpose within an agreed period of time. After the specified period is over, the endowed property will be returned to the endowers or their heirs. This waqf is different from permanent waqf (muabbad waqf), where the waqf property cannot be taken back and must continue to be used for public purposes forever. The concept of muaqqat waqf according to Abu Hanifah is different from the view of the majority of other scholars who consider waqf to be permanent. According to Abu Hanifah, A waqf is not customary (ghair lazim), which means that it can be temporary and can be withdrawn by the donor after a certain period of time.<sup>19</sup>

Muaqqat waqf, or temporary waqf, is a form of waqf in which property endowed for a certain period of time determined by the waqif (endower). When the period ends, the property can be returned to the waqif or transferred according to the initial agreement. This is different from muabbad (permanent) waqf, which is perpetual with no time limit. In Law No. 41/2004 on Waqf, the

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<sup>17</sup> U Priyadi et al., "Waqf Management and Accountability: Waqf Land Financing Models for Economic Wellbeing," *Asian Economic and ...* (researchgate.net, 2023), [https://www.researchgate.net/profile/Mochamad-Imron/publication/366634055\\_Waqf\\_management\\_and\\_accountability\\_Waqf\\_land\\_financing\\_models\\_for\\_economic\\_wellbeing/links/63abea4fa03100368a33d05c/Waqf-management-and-accountability-Waqf-land-financing-models-for](https://www.researchgate.net/profile/Mochamad-Imron/publication/366634055_Waqf_management_and_accountability_Waqf_land_financing_models_for_economic_wellbeing/links/63abea4fa03100368a33d05c/Waqf-management-and-accountability-Waqf-land-financing-models-for).

<sup>18</sup> N A Ghazali, I Sipan, and A C Yaacob, "Proposing Waqf New Form (WNF) in Waqf Land Registration System in Malaysia," *UMRAN-Journal of Islamic ...* 8, no. 2 (2021): 41, <https://jurnalumran.utm.my/index.php/umran/article/view/502>.

<sup>19</sup> I Islamiyati, "Juridical Analysis of Productive Land WAQF Assets Management Based on Empowerment Conservation of Environmental Functions," *IOP Conference Series: Earth and Environmental Science*, 2023, <https://doi.org/10.1088/1755-1315/1270/1/012029>.

definition of waqf includes both types, namely waqf that is valid forever and waqf that is limited in time.<sup>20</sup> In Indonesia, the implementation of muaqqat waqf has been accommodated in legislation. Law No. 41/2004 on Waqf allows the implementation of waqf with a certain period of time, which provides flexibility for waqifs in determining the period of waqf in accordance with their intentions and objectives. This shows the adaptation of waqf law in Indonesia to the various views of the madhhabs and the needs of contemporary society. The implementation of muaqqat waqf in Indonesia provides opportunities for the optimization of waqf assets in various sectors, such as education, health, and economic empowerment. With the option of term waqf, it is expected that public participation in waqf will increase, and the management of waqf assets will become more dynamic and in accordance with the needs of the times.<sup>21</sup>

### **The Essence Of Temporary Waqf**

Temporary waqf is another term for temporary waqf (muaqqat waqf), which refers to waqf that is only valid for a certain period of time. In this waqf, the assets are only utilized for public interest or social purposes within a period of time determined by the donor. After the period ends, the assets will revert back to the property of the donor or his/her heirs. Temporary waqf offers flexibility for individuals who wish to contribute to social good but do not want to permanently lose ownership of their assets.<sup>22</sup>

Drawing from the definition of 'temporary' itself, temporary Waqf is a Waqf that has a specific time limit. In temporary Waqf, the Waqf asset remains in the possession of the individual or family who donated it, but the benefits are allocated for specific purposes, such as education, health, or social activities within a predetermined period of time. Temporary Waqf is predicted to have great potential to maintain masalah (public interest). Even so, until now temporary Waqf has not received special attention by the general public. Many do not know that temporary Waqf can still provide lasting benefits similar to permanent Waqf. Temporary Waqf can also be a solution for someone who owns wealthy but neglected assets. For example, there is a Muslim who owns an outdated building that is only filled with wild plants and garbage. So, rather than

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<sup>20</sup> Makinudin, 'Maslahah Analysis of Muaqqat Waqf (Study of Article 1 Paragraph 1 Uu No. 14 of 2004 concerning Waqf', *Islamic Journal* Vol. 2, No.1 (2019).

<sup>21</sup> Razak, "Zakat and Waqf as Instrument of Islamic Wealth in Poverty Alleviation and Redistribution: Case of Malaysia."

<sup>22</sup> H Laluddin, S S S Haneef, and ..., "Revisiting the Concept of Waqf: Its Maintenance, Issues and Challenges," ... *Journal of Islamic ...* (journalarticle.ukm.my, 2021), <http://journalarticle.ukm.my/18225/1/Hayatullah-IJIT-20-Dec-2021.pdf>.

the asset having no productive value, it would be better if the asset is run as a temporary Waqf.

Temporary waqf, also known as muaqqat waqf, is a form of waqf in which assets are endowed for a certain period of time determined by the waqif (endower). After the period ends, the assets can be returned to the waqif or transferred according to the initial agreement. This concept is different from permanent waqf, which is perpetual without time limit. In Law No. 41/2004 on Waqf, the definition of waqf includes both types, namely perpetual waqf and time-limited waqf.<sup>23</sup> The implementation of temporary waqf in Indonesia provides opportunities for the optimization of waqf assets in various sectors, such as education, health, and economic empowerment. With the option of term waqf, it is expected that public participation in waqf will increase, and the management of waqf assets will become more dynamic and in accordance with the needs of the times.

### **Muaqqat Waqf in Jurisprudence and Law**

Muaqqat waqf is usually called temporary waqf, which is essentially an Islamic jurisprudence concept that accommodates a person or group of people to donate their property for a certain period of time and time limit.<sup>24</sup> Beyond the time limit, the waqf property will return to its heirs. The Hanafi school of thought emphasizes that the concept of waqf muaqqat has a unique side when compared to other schools of thought which tend to be eternal. Abu Hanifah also stated that the essence of waqf is not merely the transfer of absolute ownership of property but rather refers to the provision of benefits for something with a specific purpose and time period determined by the wakif. The synthesis of Abu Hanifah's thoughts is that waqf is not a permanent transaction but rather a permit to utilize waqf property for a certain period of time. When the waqf period has ended, the property that has previously been utilized will be returned to its owner if in the process the owner dies, then the waqf property can be given to his heirs. Abu Hanifah's explanation of this point of view is legally different from the opinions of several great scholars, both from the Maliki and Syafi'i schools of thought, who tend to assume that waqf must be permanent or absolute

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<sup>23</sup> A Mohammed Noor et al., "Analysis of Issues and Solutions on the Implementation of Istibdal Waqf Property in States of Peninsular Malaysia," *Qualitative Research in ...* 12, no. 1 (2023): 111, <https://doi.org/10.1108/QRFM-04-2021-0071>.

<sup>24</sup> M I A Jalil, "Issues and Challenges of Waqf Practice in Malaysia: A Review," *Labuan E-Journal of Muamalat And Society (LJMS)* 6, no. 1 (2020): 12, <https://jurcon.ums.edu.my/ojums/index.php/LJMS/article/view/2868>.

so that the existence of waqf cannot return to the hands of the wakif, whatever the problem.<sup>25</sup>

In the perspective of positive law, the majority of Muslim countries in the world have adopted the concept of waqf muaqqat in their laws and regulations. The purpose of this regulation is to optimize flexibility and optimize the benefits of waqf assets for the welfare of humanity. The concept is quite relevant to the development of a modern Islamic economic system based on modern technology that demands the availability of financial instruments that are more adaptive to modern socio-economic needs. In the context of implementation, waqf muaqqat in the context of positive law in each country in the world has variations in different approaches depending on the legal policies and regulations that are currently in effect in the relevant country.<sup>26</sup>

In the context of the Indonesian state, the concept of muaqqat waqf or temporary waqf is not explicitly stated in the Waqf Law, but rather the principle is still explained in sufficient detail in several provisions so that compassionate waqf can be implemented in accordance with the applicable provisions.<sup>27</sup> The law that regulates waqf is contained in Law Number 41 of 2004 concerning Waqf and its derivative regulations which emphasize waqf as a permanent legal act. In Article 1 paragraph (1) of the Waqf Law, it is explained that waqf here begins with a wakif who wishes to separate or hand over part of the property that is his property to be of benefit to others for a certain period of time based on the interests of worship or the main goal of realizing general welfare based on sharia principles. The phrase "certain period of time" implied in this study contains the intention that the law opens up loopholes for the implementation of muaqqat waqf in the practice of waqf in Indonesia.<sup>28</sup>

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<sup>25</sup> M T Luik, A Fatoni, and M F Ahmad, "Utilising Permaculture to Develop Abandoned Waqf Land in Resolving Food Insecurity in Indonesia," *Albukhary Social Business Journal ...* (researchgate.net, 2021), [https://www.researchgate.net/profile/Ahli-Fatoni/publication/358283758\\_Utilising\\_Permaculture\\_to\\_Develop\\_Abandoned\\_Waqf\\_Land\\_in\\_Resolving\\_Food\\_Insecurity\\_in\\_Indonesia/links/61fb50791e98d168d7e9115c/Utilising-Permaculture-to-Develop-Abandoned-Waqf-Land-in](https://www.researchgate.net/profile/Ahli-Fatoni/publication/358283758_Utilising_Permaculture_to_Develop_Abandoned_Waqf_Land_in_Resolving_Food_Insecurity_in_Indonesia/links/61fb50791e98d168d7e9115c/Utilising-Permaculture-to-Develop-Abandoned-Waqf-Land-in).

<sup>26</sup> S Akhmadi, "The Contribution of Waqf in Overcoming Agrarian Problems: A Study of Hadith," *International Journal of Social Science and Religion ...* 3, no. 163 (2022): 12, <https://doi.org/https://doi.org/10.53639/ijssr.v3i2.6>.

<sup>27</sup> Umar Khasasanudin, "PENGELOLAAN WAKAF PADA LEMBAGA WAKAF YANG BELUM TERDAFTAR PESPEKTF HUKUM POSITIF DAN HUKUM ISLAM (Studi Kasus Pada Lembaga Wakaf Yayasan Tarbiyatul Mukmin Magelang)," *Islamic Education and Counseling Journal* 5, no. 1 (2024).

<sup>28</sup> Diana Mutia Habibaty, "Kompetensi Nazhir Pada Wakaf Produktif Ditinjau Dari Undang-Undang No 41 Tahun 2004 Tentang Wakaf," *Al-Awqaf: Jurnal Wakaf Dan Ekonomi Islam* 10, no. 2 (2017): 154–61.

Although in classical fiqh, the majority of scholars agree that the nature of waqf is permanent, however, muaqqat asih waqf can be openly applied in Indonesia because there are regulations that allow waqf practices with a certain time period. This is also in line with Article 16 paragraph (3) of the Waqf Law, with the core point that waqf assets are flexible in nature, other than money, they can be in the form of movable objects including rental rights or benefits from an object. Thus, it will certainly open up the possibility for temporary waqf, for example in the form of waqf for the benefits of buildings or land used for certain purposes within an agreed period of time.

Modern waqf that is relevant to the current era has begun to develop in Indonesia, which is seen as a manifestation of one of the productive waqf schemes, such as land waqf that is rented in order to support economic or social interests for a certain period of time, after which the assets can be returned to their owners when the hope is over. This scheme is utilized as a form of optimizing waqf assets so that they can be used sustainably without having to transfer ownership permanently.<sup>29</sup>

Although this concept has not been explicitly regulated widely in regulations, its application in the form of benefit waqf and cash waqf shows that Indonesia has accommodated flexibility in waqf management. Therefore, although waqf in the Indonesian Waqf Law tends to be directed at the principle of permanence, there is an opportunity for muaqqat waqf to be applied more widely in the national waqf system. Although this concept has not been explicitly regulated in regulations, its application in the form of benefit waqf and cash waqf shows that Indonesia has accommodated flexibility in waqf management. Therefore, although waqf in the Indonesian Waqf Law tends to be directed at the principle of permanence, there is an opportunity for muaqqat waqf to be applied more widely in the national waqf system.<sup>30</sup>

### **Construction of Muaqqad Waqf: Imam Hanafi's Offer**

The concept of muaqqat waqf or temporary waqf was introduced by Imam Abu Hanifah as a more flexible alternative compared to permanent waqf. In his view, waqf does not have to be absolute, but can be limited to a certain period of time. After the waqf period ends, the waqf assets will be returned to the

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<sup>29</sup> Achmad Sjamsudin, "Wakaf Dalam Perspektif Ekonomi," *EKOSIANA: Jurnal Ekonomi Syariah* 7, no. 2 (2020): 86–92.

<sup>30</sup> Mohd Ridzuan Mohamad and Ahmad Azrin Adnan, "Pendanaan Wakaf Menurusi Wakaf Bertempoh (Muaqqat): Sorotan Kajian Di Negeri Terengganu [Waqf Funding Through Durational Waqf (Muaqqat): Literature Review in State of Terengganu]," *International Journal of Islamic Products and Malay Civilization* 3, no. 1 (2024): 10–20.

original owner or his heirs..<sup>31</sup> In the modern context, this concept is very relevant especially in the development of productive waqf, cash waqf, and waqf investment. This scheme allows waqf assets to be utilized for social and economic interests without having to lose ownership permanently. For example, land or property can be waqf for 30 years for education or health purposes, after which it is returned to its owner or inherited.

The application of waqf muaqqat in the positive legal system is also increasingly developing. Several Muslim countries have begun to accommodate this concept in their regulations to be more adaptive to modern socio-economic challenges. Indonesia itself provides space for waqf benefits and cash waqf which indirectly opens up opportunities for the implementation of waqf muaqqat. With this flexibility, waqf muaqqat can be a solution for individuals or institutions who want to contribute to waqf without losing permanent ownership of the assets. It also encourages more community participation in the waqf system and supports more productive and sustainable asset management.<sup>32</sup>

Imam Abu Hanifah offered the concept of waqf muaqqat, which is a waqf with a certain period of time, as a more flexible alternative to traditional waqf which is permanent. With this approach, asset owners can donate their assets for social interests for a certain period of time without permanently losing ownership. In the modern context, this concept is very relevant, especially in the development of productive waqf, cash waqf, and waqf investment which require flexibility in asset management in order to provide optimal benefits. For example, someone can donate property or funds for a certain period of time to support education or health activities, and after the specified period ends, the assets return to the original owner or are transferred according to agreement. With supporting regulations, waqf muaqqat can be an innovative solution that allows more individuals to be involved in waqf without worrying about losing assets permanently. This is also in line with the needs of the times which demand an Islamic financial system that is more dynamic, adaptive, and able to answer socio-economic challenges more broadly.

### **The Relevance of Muaqqat Waqf to Contemporary Waqf**

Waqf is actually a socio-economic instrument in Islam which in essence has been used since the time of the Prophet Muhammad SAW as an effort to support the welfare of the people. In the classical perspective, waqf is interpreted

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<sup>31</sup> Nawawi Thabran, "WAKAF MENURUT AL-SARAKHSI DALAM KITAB AL-MABSU TH DAN KORELASINYA DENGAN WAKAF DI INDONESIA," *JURNAL FALASIFA* I, no. 1 (2010): 47–58.

<sup>32</sup> Nurul Hukmiah, Syahrizal Abbas, and Ilyas Ismail, "WAKAF DALAM JANGKA WAKTU TERTENTU (Suatu Analisis Terhadap Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf Dan Hukum Islam)," *Ilmu Hukum Pascasarjana Universitas Syiah Kuala* 11, no. 1 (2019): 55.

as an effort that is understood as a form of giving something to people in need with its permanent nature. This concept means that if the waqf property has changed ownership, it cannot be sold, inherited, or transferred. However, Imam Abu Hanifah provided an adaptive offer with the development of the existing era, namely by adopting the concept of waqf muaqqat or commonly called temporary waqf because of its limited time period..<sup>33</sup>

In the modern era like today, which has driven a revolution in all aspects of life, this concept is quite relevant to the development of the economic and legal system which requires waqf management to be more flexible and productive.<sup>34</sup> In the context of contemporary waqf, muaqqat waqf becomes a solution that answers the challenges of the times, especially in the aspect of waqf asset management by upholding the principles of sustainability, Islamic financial innovation, and the needs of modern society. The following is a further explanation regarding the Relevance of Muaqqat Waqf to Contemporary Waqf;

### **Flexibility in Waqf Asset Management**

The biggest challenge in the context of waqf management in the current era is the stagnation of waqf assets. The majority of waqf assets, especially those in the form of land or buildings, are not utilized axially due to limited funds or regulations that require waqf to be permanent.<sup>35</sup> In the context of permanent waqf, the assets will remain in the ownership of the recipient because the nature of the asset cannot be returned to its owner or its ownership transferred, thus it is often difficult to utilize for economic interests. On the other hand, muaqqat waqf has a flexible and dynamic nature based on the development of the current era, especially in the context of asset management, where waqf assets can be used for a certain period of time, then returned to the owner or transferred in a new, more productive scheme. An example of this concept is when someone donates their land to be used as an education center for 30 years. Then after 30 years have passed, the land can be returned to the waqif or inherited by his heirs. With this system, the waqif can still contribute to waqf without eliminating the permanent ownership nature so that in the end it can encourage more participation in the waqf system.

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<sup>33</sup> Khusaeri Khusaeri, "Wakaf Produktif," *Al-A'raf: Jurnal Pemikiran Islam Dan Filsafat* 12, no. 1 (2015): 77, <https://doi.org/10.22515/ajpif.v12i1.1185>.

<sup>34</sup> Abdurrahman Kasdi, "Peran Pemerintah Dalam Regulasi Perundang-Undangan Wakaf," *ZISWAF: Jurnal Zakat Dan Wakaf* 2, no. 2 (2015): 362-79.

<sup>35</sup> Qurratul 'Aini Wara Hastuti, "Peran Lembaga Keuangan Syariah Penerima Wakaf Uang (Lks-Pwu) Bagi Optimalisasi Wakaf Uang," *ZISWAF: Jurnal Zakat Dan Wakaf* 4, no. 1 (2018): 41, <https://doi.org/10.21043/ziswaf.v4i1.3030>.

### Cash Waqf and Islamic Financial Innovation

In the modern era, various Islamic financial instruments such as cash waqf and stock waqf are increasingly developing. In many cases, the concept of permanent waqf becomes an obstacle because many investors or individuals want to participate in waqf but do not want to lose their assets permanently.<sup>36</sup> Muaqqat waqf can be a solution in a cash waqf scheme, where someone can donate a certain amount of funds to be managed for a certain period of time, for example 10 years. After that period ends, the principal funds can be returned to the waqif, while the investment results are used for social interests. An example of its application is in waqf through financial institutions, where Islamic banks or waqf institutions manage waqf funds in profitable investments. The profits from this investment are used for social activities, while after a certain period of time, the principal funds are returned to the waqif. This allows individuals to continue to contribute to the waqf without having to lose capital permanently.

The biggest challenge in the context of waqf management in the current era is the stagnation of waqf assets. The majority of waqf assets, especially those in the form of land or buildings, are not utilized axially due to limited funds or regulations that require waqf to be permanent.<sup>37</sup> In the context of permanent waqf, the assets will remain in the ownership of the recipient because the nature of the asset cannot be returned to its owner or its ownership transferred, thus it is often difficult to utilize for economic interests. On the other hand, muaqqat waqf has a flexible and dynamic nature based on the development of the current era, especially in the context of asset management, where waqf assets can be used for a certain period of time, then returned to the owner or transferred in a new, more productive scheme. An example of this concept is when someone donates their land to be used as an education center for 30 years. Then after 30 years have passed, the land can be returned to the waqif or inherited by his heirs. With this system, the waqif can still contribute to waqf without eliminating the permanent ownership nature so that in the end it can encourage more participation in the waqf system.

### Conclusion

Muaqqat waqf is a temporary waqf concept that allows for the waqf of property for a certain period of time after it is returned to the owner or heir. The Hanafi school explains in detail about waqf which is not permanent in nature, but rather a permit to use property for a certain period. This contains differences

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<sup>36</sup> Aam Rusydiana, "Aplikasi Interpretive Structural Modeling Untuk Strategi Pengembangan Wakaf Tunai Di Indonesia," *Jurnal Ekonomi Dan Bisnis Islam (Journal of Islamic Economics and Business)* 4, no. 1 (2018): 1, <https://doi.org/10.20473/jebis.v4i1.9771>.

<sup>37</sup> M.M Ilyas Marwal, *Hukum Wakaf: Tinjauan Komprehensif Terhadap Aspek Hukum Dan Syariah*, 2024.

with the views of other schools such as Maliki and Syafi'i who consider waqf to be permanent. In positive law, many Muslim countries have adopted the concept of muaqqat waqf in order to optimize the benefits of waqf assets in the modern Islamic economic system. In Indonesia, although Law Number 41 of 2004 concerning Waqf emphasizes waqf as a permanent act, there are legal loopholes that allow for the implementation of temporary waqf, especially in the form of benefit waqf and cash waqf. The relevance of muaqqat waqf in the contemporary context is very significant because it offers flexibility in the management of waqf assets, allows for the development of productive waqf, and increases community participation in waqf. This model also supports Islamic financial innovations, such as cash waqf and waqf-based investments that maintain asset ownership. With more flexible regulations, muaqqat waqf can be an innovative solution to increase the effectiveness and sustainability of the waqf system in the modern era.

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