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1 ULA MA VIEWPOINTS **OF CORPORATE WAQF IN** SOUTHEAST ASIA Introduction Waqf has proved to be an evolving subject and dynamic in theory and practice. The variety of waqf assets and practices provide rooms for this dynamicity and lead the way to creativity in this field. Unlike zakat, all of the Islamic jurists allow the non-Muslims to be the beneficiaries of general waqf (Hoexter: 2006).

Additionally, non-Muslimism could also be the donours in the practice of waqf. Primarily, Waqf is usually associated with immovable properties where the waqif endowed his real properties such as land or building for general or specific purpose to general or specific beneficiaries.

Later, the practice of cash waqf evolved when the fatwa by the Islamic jurists of Ottoman Empire approved such practice (Cizakca, 2011b). The rise of cash waqf has **provided the means to** the expansion of waqf practices. The waqf of financial assets that provide income such as shares has also take place afterward.

The participation of corporate institutions in the waqf practices has enriched the subject of waqf to be more complex and vibrant. One of the concepts of contemporary waqf is known as a corporate waqf. Corporate waqf are usually considered as a component of cash waqf. However, new developments that corporate waqf must be established as independent waqf concepts.

This means that the corporate waqf are independent waqf categories because of their prominent characteristics and broadening the understanding and concept of the latest corporate waqf (Asharaf Mohd Ramli, & Abdullaah Jalil, 2013). Reality shows that efforts to rejuvenate waqf institutions in Islamic countries are followed by corporate entities.

Corporate waqf have been practiced in modern Muslim countries, namely; Turkey, Singapore, Malaysia, Bangladesh, India and Pakistan. The company's participation in building and managing waqf assets has begun in Pakistan, Singapore and Turkey before (Magda Ismail Abdel Mohsin, 2009). The involvement of corporate bodies in this noble endowment activity shows the dimensions of business ethics.

In Malaysia through Johor Corporation (JCorp) has started a waqf business in 1998 which later developed into a corporate endowment entity known as the Waqaf An-Nur Corporation Berhad (WANCorp). Recently, the Selangor Islamic Council (MAIN Selangor) and Bank Muamalat Malaysia Berhad (BMMB) have combined their efforts to develop a money waqf fund called the Muamalat Selangor Waqf. Selangor Islamic Religious Council has begun to introduce waqf stock schemes.

In fact, Johor Corporation Berhad (JCorp) through its three subsidiaries has endorsed its shares with a total asset value of 200 million Malaysian ringgit under the management of Waqf An Nur Corporation Berhad. Dividends obtained from the shares are then used and reinvested, as well as given to Islamic religious assemblies and for charitable activities in Malaysia.

Through this waqf scheme Johor Corporation Berhad (JCorp) made the implementation of their CSR program through Waqf An Nur Corporation Berhad (Asharaf Mohd Ramli, & Abdullaah Jalil, 2013).² The waqf management model in Singapore is a country that has succeeded in developing its country's waqf assets to be more productive. It was proven in 2014 the Islamic Islamic Assembly of Singapore (MUIS) allocated funds from the sale of its property assets amounting to 26.8

billion to be allocated to 60 receipts of the benefits of waqf, mosques, madrasas, and the poor as well as charitable organizations. MUIS waqf property assets in Singapore worth IDR 7.5 trillion. The property business run by Warees Investments Pte Ltd is an Islamic concept villa. All of the assets of the management waqf have officially been mandated to the Majlis Ugama Islam Singapore (MUIS), because MUIS has a major role in safeguarding the interests of all waqf assets in Singapore (Sulaeman: 2015). All waqf assets in Singapore are managed singly by MUIS.

In the Indonesian context, Bank Indonesia published the results of its research on productive waqf models. Research conducted by Ascarya discusses the most applicable productive waqf models in Indonesia, in accordance with Law No. 41 of 2004 concerning waqf. The study divided the waqf model into two main parts, namely a simple waqf model and an innovative waqf model.

Ascarya explained, from 172 simple waqf models and 106 more innovative waqf models that developed in the world, there were 10 simple waqf models and 6 innovative waqf models that were considered the most applicable to be applied in Indonesia (Ascarya: 2018). There are several considerations in examining corporate waqf from the point of view of the fiqh waqf.

The considerations are as follows: i'tibariyyah shakhsiyyah both expert (legal capacity) or territory (legal authority), waqf al-waqif on itself, al-waqif establishes for itself, hybrid waqf (waqf mushtarak) or a combination of waqf khayri and waqf dhurri, and istibdal consideration (Asharaf: 2013). in the context of corporate waqf development, there seems to be a difference of view in understanding this waqf from the perspective of scholars in Southeast Asia.

Majelis Ulama Indonesia (MUI), Majelis Agama Islam Negeri (MAIN) Malaysia and Majelis Ugama Islam (MUIS) Singapore provide different justifications in responding to corporate waqf. All developments in waqf involving corporate entities should be analyzed to create a new waqf practice framework. In the end, the corporate waqf are the best manifestation of modern waqf practices based on their dynamic nature and active role with strong professional participation in their management.

This research plan, by exploring comparative advantage, seeks to compare the sharia conceptualization of waqf based on corporate in various countries, especially in Southeast Asia to be used as models for waqf development in Indonesia, so that it is expected to contribute meaningfully to the development of waqf in Indonesia through corporations or companies for the welfare of the wider community.

3 Problem Statement The rise of corporate waqf in the recent years provides a new dimension of waqf practices. Although some literatures and works have recognized waqf corporate as a component of waqf cash. Therefore, this study aspires to extend the concept of waqf corporate by exploring and suggesting shariah consideration of the waqf corporate. 1.

Why are there differences in views of Southeast Asian Ulama about corporate waqf? 2. What are the implications of these different understandings of corporate waqf development in their respective countries? Objectives The significance of this research is to find legal arguments and jurisprudence in the development of corporate waqf and develop models that are in accordance with sharia. 1.

To explain the differences in views of Southeast Asian Ulama about corporate waqf? 2.

To describe the implications of these different understandings of corporate waqf development in their respective countries? Literature Review The participation of corporate entity in the establishment, management and distribution of waqf proceeds to the beneficiaries has been started in the sixties in Turkey. Koc Holdings is the first corporate bodies involved in the establishment and administration of waqf properties as early as 1969 (Cizakca, 2011b).

Koc Holdings endowed 10,000 shares of the company and entrusted to Koc Foundation as a trustee (nazir). Most of waqf fund managed by Koc Foundation channels towards the establishment of education institutions, for example, Koc University. Realising the huge potential of mobilising cash waqf for the improvement of socio-economic of Muslim society has inspired Islami Bank Bangladesh Limited (IBBL) to establish the cash waqf certificate in 1997 (Mannan, 1999; Ramli and Sulaiman, 2006).

IBBL is the first financial institution involves in the managing and administrating waqf asset in the form of cash money. Cash waqf certificate is created to accumulate waqf fund and channels the proceeds for the betterment of underprivileged Muslims. IBBL in this respect has become a pioneer in the establishment and management of cash waqf instrument at the global stage.

The establishment of Dompot Dhuafa Republika in 1993 has changed the perspective of the public towards waqf management in Indonesia. Dompot Dhuafa Republika is a non-profit organisation professionally managed waqf fund and accumulating its cash waqf fund through Tabung Waqf Indonesia. With strong governance and accountability the collection of Tabung Waqf Indonesia has been increased every year and the proceeds are channels to increase socio-economic of the designated beneficiaries (Hari and Asmak, 2010).

The emergence of movable waqf assets, particularly in the form of shares of the company and cash money implemented in a number of Muslim countries is also affecting waqf practice in Malaysia (Magda Ismail Abdel Mohsin, 2009). The establishment of Corporate Waqf in 2006 by Johor Corporation (JCorp) has transformed waqf practice in Malaysia.

For the firsttime waqf assets in the form of shares of 4 company was issued and managed by corporate body. According to its founder; Tan Sri Muhammad Ali Hashim, the idea of creating corporate waqf derives from the notion of jihad business pioneered by himself with the main agenda to improve socio-economic wellbeing of Malay society in the country (Muhammad Ali Hashim, 2012). Hajah Mustafa et.al (2011) and Abdul Shakur (2011) explains in detail the structure of corporate waqf which started with the

pledged of share's amount RM200 million as waqf to WANCORP; a subsidiary of JCorp as a nazir (trustee). WANCORP manages and distributes waqf proceeds to the beneficiaries as stated in waqf deed.

In September 2011, Bank Muamalat Malaysia Berhad (BMMB) and Perbadanan Wakaf Selangor (PWS) collaborated in introducing cash waqf scheme known as Wakaf Selangor Muamalat (WSM) (Asharaf and Abdullah, 2014). Under this arrangement, both parties are agreed to manage and administer waqf asset in the form of cash money deposited at any BMMB branches.

The fund accumulated will be channeled to a designated waqf activities in the areas of education and health. BMMB has become the first financial institution in Malaysia participate in managing and administrating of waqf asset. The above discussion shows that corporate entities in a number of Muslim countries such as Turkey, Bangladesh, Indonesia and Malaysia have played a major role in the development and management of waqf properties.

It is worth to note that these institutions focus on developing movable waqf assets, in particular, shares and cash. Given the current state of underprivileged Muslims in most Muslims countries, the participation of more corporate bodies in waqf activities could enhance and provide better living standard for them.

As far as the researchers' knowledge in this study, there are still not many studies discussing specifically corporate endowments, including the perspective of fiqh waqf. Likewise the study of cash waqf and productive waqf in general. If referring to the study, it can be explained that there are no studies that have relevance to the company endowments.

Therefore, it is very urgent to conduct a deeper study and focus more on implementing contemporary waqf. This is not only able to solve the problem of procedures and administration of waqf institutions and even attempt to restore the function and role of waqf to socio-economic society.

Theoretical Framework Corporate Waqf is understood as the management of waqf assets and the distribution of waqf proceeds by business entities either independently or in cooperation with other parties. This definition can be further elaborated into four main things, namely: waqf assets and waqf management, continued waqf sharing, corporate entities, and Independent or cooperation with other parties. In the first phase of the company's endowments, the company entity will create its own waqf assets by using its own assets.

In this situation, the company entity is in the making of waqf or al-waqif itself. Waqf assets can be financial assets such as cash or shares or non-financial assets such as buildings or land. At the same time, the business entity nominates itself as the trustee who is responsible for managing, maintaining and investing the waqf assets.

This means that the corporate entity is also a Nazirite or mutawalli of waqf assets. 5 The company entity can then nominate itself as the only beneficiary or one of the beneficiaries of the waqf in order to have flexibility in managing and utilizing the results. This is known in Islamic jurisprudence as al-Waqf 'ala al-Waqif or waqf is made by the owner / owner himself.

This practice has been permitted by several Islamic jurists. After receiving the results, they are then distributed to the final and tangible beneficiaries such as the poor and the poor, Islamic institutions and so on. This arrangement provides flexibility for corporate entities to manage and utilize the results of waqf productivity.

Such flexibility is very important to attract more participation from corporate entities into corporate waqf practices. This means that the corporate entity can manage and plan the distribution of funds creatively and productively based on the needs of the entity and the community at the time of distribution of funds.

If the economic conditions are bad where corporate entities find themselves in difficult financial conditions, they can use the waqf funds for themselves and they are not obliged to distribute them. This aspect of corporate waqf will incorporate elements of business interest into the concept of entrepreneurial charity (tabarru) waqf.

Corporate waqf are established by individuals who are involved in income generating activities such as trade and investment. This entity is also required to apply the ethics of corporate governance to accountability, transparency and professionalism in accumulating and distributing waqf assets. In accordance with the legal structure of the state, business entities can independently establish, manage and distribute waqf results to beneficiaries.

Conceptual explanations of fiqh considerations about corporate waqf are as follows: 1. Shakhsiyyah I'tibariyyah: Ahliyyah (Legal Capacity) and Territory (Legal Authority). In the concept of waqf law, donors are usually natural individuals (shakhsiyyah haqiqiyyah or tabiiyyah). However, in the practice of corporate waqf, donors are usually institutions.

Thus, the legal concept of an individual or entity (shakhsiyyah i'tibariyyah / qanuniyyah /

ma'nawiyah) may arise. However, because most contemporary Islamic jurists have agreed to recognize this concept based on an analogy with Bayt al-Mal, and the mosque, the problem may be considered to have been resolved.

However, the two most important requirements that must be enjoyed by representatives of the i'tibariyyah shakhsiyyah are experts (legal capacity) and territory (legal authority). The second requirement means that the donor must be the principal material owner or agent (representative) appointed by the owner who contracts under the wakalah contract (agency).

This problem may be more important if the company - which plans to make its own waqf company scheme - is owned by the government and not by individuals. Waqf al-Waqif on itself. Generally, waqf practices are meant for charity and qurbah. Therefore, Majority of Islamic jurists claim that waqf ownership should not return to the waqif itself because it rejects the purpose of waqf.

However, based on the analysis of the author, some practices of waqf companies nominate waqif themselves as legitimate owners of waqif. Islamic jurists on this matter see that this is not true because the waqf cannot return to own what it has. This is the attitude of al-Malikiyyah, al-Shafiiyyah in their strongest view, the official view of the Hanabilah and Muhammad Ibn al-Hasan from al-Hanafiyyah.

On the other hand, this practice was approved by Abu Yusuf from al-Hanafiyyah, and this was their formal stand, an opinion from al-Shafiiyyah and the view of al-Imam Ahmad. The author likes the second opinion regarding the practice of corporate waqf because the institution usually does not intend to rearrange waqf assets. Such practices are carried out to give flexibility and full rights to corporate institutions in managing, distributing and distributing endowments or even using them. These institutions can use company waqf funds for their CSR programs and in certain situations reuse these funds to maintain their operations and businesses.

This flexibility will give them greater motivation to engage in corporate waqf practices and provide more space for Shariah compliance. However, this opinion is legally contrary to the existing legal framework. 3. Waqif Sets for himself. Another idea that might be similar to the previous situation is a situation where the waqf establishes itself as the sole beneficiary or the main beneficiary or among the beneficiaries of the proceeds of the waqf.

Hanabilah, Hanafiyyah and the opinion of Shafiiyyah view such practices as acts that are permitted to encourage people to make shamans and based on some Shariah evidence.

On the other hand, Shafi'iyah and Muhammad Ibn al Hasan from Hanafiyyah viewed such practices generally cannot be denied with certain exceptions 4. Hybrid Waqf (Waqf Mushtarak): Combination of Khayri Waqf and Expert Waqf / Dhurri.

In the case of beneficiaries, waqf can be in the form of waqf khayri (charity endowments) or expert waqf / dhurri (gift for descent). Based on the practice of waqf companies, it has been observed that some institutions establish themselves or their subsidiaries as the main beneficiaries of the waqf. As discussed above, there are several Islamic jurists and opinions that approve such practices.

From a fiqh perspective, the combination of khayri waqf and dhurri waqf is known as waqf mushtarak. From a managerial perspective, mushtarak waqf can benefit institutions involved in corporate endowments. This institution can design the company's waqf scheme to be in line with its CSR program.

Thus, the practice of entrepreneurial programs and waqf CSR can be built together as a partner. 5. Istibdal. The istibdal idea is very important for the continuity and sustainability of waqf companies. Although special practice has been approved by several Islamic law experts with certain conditions, this problem can be reviewed in detail to ensure compliance with istibdal practices. The corporate waqf model that was pioneered and practiced by practicing istibdal practices was the replacement of waqf assets with similar ones.

Special practice is based on the value (market) of shares and not the quantity (unit) of shares. This practice has become an alternative to the practice of istibdal if needed in the future. Metodology This research is qualitative research, with the intention of obtaining accurate information on corporate waqf.

Therefore, this research was carried out under reasonable conditions to see naturally in the field specifically examining various of corporate waqf developed in various countries. In addition to the work results, the research process is also very important with the researcher itself being the main instrument or research tool.

The type of research used is interpretative exploratory. With this type, this research attempts, first, to explore or find comprehensively a portrait of corporate waqf in several countries, especially Malaysia, Brunei, Pattani Thailand and Singapore. Second, explore, implication and design a corporate waqf model for Indonesia according to the wisdom and laws of waqf.

7 Data collection techniques are carried out both in document study, observation as well

as interviews. To analyze the data and draw conclusions from the results of the study, researchers used a qualitative analysis method that aims to understand the meaning of the data that has been collected. According to Miles and Huberman, the activity of analyzing qualitative data was carried out interactively and continuously thoroughly.

The activities in data analysis are as follows: a) data reduction means summarizing, sorting out, focusing on important things, looking for comparisons of models of corporate waqf that are developing in several countries. Data reduction aims to get a clearer picture and make it easier for researchers to collect further data and look for it if needed, b) data presentation is the next step of data reduction.

That is designing a corporate waqf in the Indonesian context presented by compiling it neatly and systematically in the form of narrative descriptions, by displaying the data, it will be able to understand what is happening easily and can plan the next work based on what has been understood, c) conclusion or verification that is temporary conclusions are then supplemented with supporting data so that they answer the research.

To test the validity of the data collected through interviews to the ulama, history of institution and documentation for example: MUI Indonesia, MAIN Persekutuan malaysia, selangor and Johor Bahru, MUIS Singapore, MAIN Brunei Darussalam, and MAIN Pattani Thailand. The data was tested for validity by testing the credibility of the data by triangulation, namely checking data from various sources in various ways and time with the aim of finding out how far the findings on the field were true. Discussion The systematic plan of discussion in this research is: 1.

Introduction, which contains the background of the problem, purpose, significance and method of research. 2. The theoretical framework for fiqh and corporate waqf. 3. Ulama and Ulema Council in Southeast Asia. 4. Diversity of scholars' views on corporate waqf. 5. Implications of the ulama's view of the corporate waqf on the development of productive waqf in southeast Asia. 6. Conclusion Bibliography Abdullaah ali& Mohd.

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