



The Concept of Waqf: Analysis of Waqf Thought According to Imam Shafi'i

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Abstract

This research describes the thoughts of Imam Syafi'i on waqf, one of the important concepts in Islam that involves the transfer of property ownership for perpetual charitable purposes. Waqf itself means the release of wealth intended to build facilities and infrastructure needed by To promote community well-being human life. Imam Syafi'i is one of the great scholars who views waqf as a powerful instrument in promoting social welfare and providing sustainable benefits for the Muslim community. He believes that waqf is the surrender of a property or wealth to Allah for charitable use and cannot be revoked by the waqif (the one making the waqf), meaning that waqf with a specific time limit is not permissible because the waqif, who has dedicated their property to Allah, cannot reclaim the waqf property. The research method used in this study is a descriptive qualitative study with a field survey approach. The results of this investigation suggest that the land was dedicated as a waqf. is no longer the individual's (waqif's) ownership but has transformed into the ownership of the community (belonging to Allah). As a result, the dedicated property cannot be traded, donated, or inherited because it is no longer personal property but public ownership (belonging to the community).

1. Introduction

Wealth has a very important and risky role in human life, and Islam pays great attention to all aspects related to wealth. In this context, waqf, as an instrument of wealth in Islam, has an urgency that is increasingly relevant in the current era. According to Abdul Qadir Ar-Rahbawi (2021), waqf aims to build facilities and infrastructure needed by society and improve human welfare.

Waqf has a significant role in the framework of Islamic law and property management and community empowerment. This was confirmed by Abdullah Muhammad bin Idris Asy-Syafi'i (2008), who showed that the concept of waqf has long been known and has become an integral part of the lives of Muslims. However, there are differences of opinion among ulama regarding the validity period of waqf. Imam Syafi'i, one of the imams of the school of thought who had a major influence in the development of Islamic fiqh, expressed his views regarding waqf, including the time limit for its validity.

In principle, waqf is not only an economic resource in Islam, but also an

instrument that needs to be expanded in a social and economic context. Moenawar Chalil (1996) explains that so far, Muslim society has often viewed waqf only as worship that is vertically connected to Allah, without paying attention to the related social and economic dimensions. However, waqf should be seen as a solution to overcome social inequality, in accordance with Islamic values.

In Imam Syafi'i's thinking, waqf has two important dimensions. First, the ritual dimension which involves devotion and worship to Allah SWT. Second, waqf also has a social dimension which involves caring for others as a concrete form of implementing Islamic values. This idea is also reinforced by the research of Nursapia Harahap (2014), which highlights the importance of the social dimension in the concept of waqf.

Thus, waqf is not only spiritually relevant in the context of worshiping Allah, but also has great urgency in solving society's social and economic problems. This is in line with Islamic principles which emphasize the importance of community empowerment and caring for others. Therefore, a deep understanding of the



concept of waqf, including the thoughts of Imam Syafi'i, is very important in applying Islamic values in the current context.

2. Literature Review

2.1 Biografi Imam Syafi'i

Imam Syafi'i is one of the Imams of the four famous schools of thought. He is one of the leading scholars who was born in Gaza City in 150 H. Imam Syafi'i has the full name Abu Abdullah Muhammad bin Idris bin al-Abbas bin Uthman bin Syafi' bin As-Sa'ib bin Ubaid bin Abdu Yazid bin Hasyim bin Al-Muththalib bin Abdu Manaf bin Qushai Al-Qurasyi Al-Muththalibi Asy-Syaf'i Al-Hijazi Al-Makki. In his lineage, he is part of the family of Rasulullah SAW, with lineages meeting at Abdu Manaf. He lived during the Abbasid dynasty under the reign of Caliph Harun Al-Rasyid, Al-Amin, and Al-Ma'mun. Since childhood, Imam Syafi'i has been an orphan. His father, Idris ibn al-Abbas, died in Guzzah, and at that time, his mother and he lived in poor conditions.

At the age of 2 years, Imam Syafi'i was taken by his mother to Mecca to introduce him to her family. Then, when he was ten years old, he and his mother officially moved to Mecca with the aim of obtaining a quality education. This decision was taken because at that time, Makkah was a center for education which was expected to provide benefits. Apart from that, they also hope to get help from the Baitul Mal section of the Zawil Qurba..." which is related to the Bani Muthallib lineage. Imam Syafi'i took the opportunity to study and hone his understanding of the Koran, Arabic grammar, literature, rhetoric, science of hadith, and fiqh in Mecca. His teachers were impressed by his ability and intelligence in absorbing and understanding the various disciplines taught, including Sufyan bin 'Uyainah and Muslim bin Khalid Az-Zanji 'i decided to go to Medina to continue his studies. Many scholars followed the Imam Syafi'i school of thought who later wrote many books based on this school.

Some of the famous scholars who studied from Imam Syafi'i were Muhammad bin 'Abdullah bin 'Abdul Hakim, Abu Ibrahim

Isma'il bin Yahya Al-Mazani, Abu Ya'kub Yusuf bin Al-Buwaiti, and Ruba'iy Al Jaizi They are Shafi'i scholars who studied from Imam Syafi'i from the Maliki school of thought. The Shafi'i school of thought has experienced significant growth in strategic Islamic countries in the East and continues to spread to surrounding areas. At this time, the Shafi'i School had spread to various large cities in Qatar, both among the indigenous population and inland tribes. Apart from that, the Shafi'i School also experienced development in Palestine, Kurdistan and Armenia. The followers of Ahlus Sunnah in Persia, Muslims in Thailand, the Philippines, Indonesia, India, China, Australia, as well as several cities in Yemen such as 'Adn and Hadhramaut also follow the Shafi'i School of thought. However, in 'Adn the majority of the population follows the Hanafiyah School of thought. The Shafi'i school of thought has also developed in Iraq, Hijaz, and Syria, along with other schools of thought.

2.2 Understanding Waqf

Waqf means Al-Habs, the meaning of the language which comes from the verb **حَبَسَ - يَحْبِسُ** - **حَبَسَ** is to set aside an individual from something or limit his freedom which later developed into **حَبْسٍ** which means handing over property as a dedication to Allah SWT. The word waqf itself comes from the words **وَقَفَتْ** (Fi'il Madhi), **يَقِفُ** (Fi'il Mudha), **وَقْفًا** (Isim Mashdar). Regarding the explanation of the meaning of waqf in a legal context, scholars have varying views according to the school of thought they adhere to. In each school of thought, the definition of waqf can be explained as follows:

- In the Hanafi School, Waqf refers to the act of holding an individual's property from the concept of ownership and then donating the benefits for good causes.
- The view of the Malikiyah School states that waqf does not eliminate ownership of the assets donated by the wakif, but the waqf limits the wakif from taking actions that could transfer ownership of the assets to other people. Apart from that, the waqif also



has the responsibility to donate the benefits of the assets, and is not allowed to take back the waqf.

- c. According to the Syafi'i School and Hambali School, After complete waqf procedures, waqf involves the transfer of ownership of the donated property by the wakif. Once the waqf is made, the wakif is prohibited from taking any action with the donated assets.

Based on the definitions proposed by the Hanafi, Maliki, Syafi'i and Hambali schools, the conclusion is that waqf is the act of holding ownership of property with the aim of using it for the benefit of the people and religion. The difference between them lies in whether ownership of the donated property is legally severed, or whether the wakif still has the possibility of taking back ownership.

2.3. Legal Basis of Waqf

There are several things that can be used as a legal basis for Waqf:

a. Al-Qur'an

Explicitly, the Qur'an does not provide a detailed explanation of the teachings of waqf. However, the argument makes the principles of waqf teachings the main basis through the context of verses in the Qur'an related to the implementation of good deeds, including:

QS Al Hajj/22 : 77

يَا أَيُّهَا الَّذِينَ آمَنُوا ارْكَعُوا وَاسْجُدُوا وَعْبُدُوا رَبَّكُمْ وَفَعَلُوا الْخَيْرَ لَعَلَّكُمْ تُفْلِحُونَ

Translation:

"O you who believe! Bow, prostrate, and worship your Lord and do good so that you will be successful."

QS Al Baqarah/2 : 267

يَمْمُوا الْخَبِيثَاتِ مِنْهُ تُنْفِقُونَ كَمَا يُنْفِقُ الَّذِينَ آمَنُوا أَنْفِقُوا مِنْ طَيِّبَاتِ مَا كَسَبْتُمْ وَأَنْفِقُوا فِي سَبِيلِ اللَّهِ لَعَلَّكُمْ تُفْلِحُونَ

Translation:

"O you who believe! Invest some of the results of your good efforts and some of what we bring out of the earth for you. Don't choose what is bad to take out, even though you yourself don't

want to take it but by narrowing your eyes (reluctant) towards it. and know that Allah is all-rich, all-praiseworthy"

b. Al Hadith

The hadith explains the legal basis of waqf, including according to history that the first waqf carried out was the waqf carried out by Umar bin Khatab ra. As explained in the hadith of the Prophet Muhammad. which means: "From Ibn 'Umar ra. He said: Umar had obtained a piece of land in Khaibar. Then he came to the Prophet saw. to ask for consideration regarding the land, he said: O Messenger of Allah, indeed I have found property that is more valuable to me than it; So what will you command me regarding it? So said the Messenger of Allah. to her. "If you like, keep the land, and give alms to its benefits." So Umar gave away the benefits, on the condition that the land would not be sold, not given away and not inherited. He donated the land to poor people, relatives, freed servants, Sabilillah, Ibn Sabil and guests. And there is no obstacle for people taking care of it from eating some of it in a decent way, and eating it without considering that the land is their own.

2.4 Legal basis for Indonesian waqf

The legal basis for waqf according to Indonesian law is regulated in various statutory regulations, namely:

1. Basic Agrarian Law Number 5 of 1960.
2. Government Regulation Number 28 of 1977 concerning Procedures for Waqfing Owned Land.
3. Minister of Religion Regulation Number 1 of 1978 concerning Details of PP No. 28 of 1977 concerning Procedures for Waqfing Owned Land
4. Joint Instruction of the Minister of Religion of the Republic of Indonesia and the Head of the National Land Agency Number 4 of 1990, Number 24 of 1990 concerning Waqf Land Certification.
5. National Land Agency Number 630.1-2782 concerning Implementation of Waqf Land Certification.



6. Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law.
7. Law Number. 41 of 2004 concerning Waqf.
8. Republic of Indonesia Government Regulation no. 42 of 2006 concerning Implementation of Law no. 41
9. 2004 concerning waqf.

3. Research Methods

This research uses a descriptive qualitative approach with the Field Research method. The object of this research is Imam Syafi'i's thoughts on the concept of waqf, especially in the context of opposition to waqf with certain time limits. The main material used is the book *al-Umm* written by Imam Syafi'i, as well as primary and secondary sources related to his thoughts. The main tool used is interview techniques with scholars, academics and practitioners who are competent in the field of study.

This research was conducted in various relevant places, including places where interviews with informants were conducted. The data collection technique used was interviews with ulama, academics and practitioners who have a deep understanding of Imam Syafi'i's thoughts regarding waqf. The main variable in this research is Imam Syafi'i's thoughts about waqf, especially regarding the rejection of waqf with certain time limits. The data analysis technique used is descriptive qualitative analysis. By using the research methods and techniques described above, this research aims to provide a deeper understanding of Imam Syafi'i's thoughts on waqf, especially regarding the rejection of waqf with certain time limits.

4. Results and Discussion

4.1 Analysis of Imam Syafi'i's Islamic Economic Thought regarding Certain Term Waqf

According to the Syafi'i School, the explanation of waqf is the act of holding assets that have the potential to provide benefits, while ensuring the integrity of the items and

removing the waqif's ownership of these assets, with the aim of using them for permitted things.

Imam Syafi'i is of the opinion that the waqf contract is included in the category of *aqad tabarru'* (waiver of rights). Therefore, the goods that have been donated are no longer owned by the waqf giver, but become public property (Belongs to Allah). As a result, items that have been donated may not be sold, donated or inherited because they no longer belong to the individual, but to the public or community.

To find out views regarding waqf over a certain period of time, researchers conducted interviews. The first interview was conducted by the author with Ulama Mr. Kyai Dr. H. Bachtiar Syam, LC, Chairman of the Sultan Hasanuddin Gowa Islamic Boarding School Foundation (12/05/2023), he explained that Waqf with a certain period of time, both in Muhammadiyah and in Gontor, including at UINAM, the waqf giver is no longer allowed to take his waqf assets and that has become the property of the Muslim community throughout the world and when the waqif has donated his property he can no longer take it back.

According to the results of this interview, Imam Syafi'i stated that waqf must be eternal without time limits according to his requirements. In the book *al-Muhadzdzab* it is stated "waqf cannot be linked to a certain time because the waqif has donated his property as a *taqarrub* (approach) to Allah."

Then the second interview was conducted with an academic named Mr. Taufiq Tahir, M.Sc. He said his opinion about Waqf itself is that Waqf is something that gives ownership to other people for the benefit of the ummah and regarding Waqf with a certain period of time it is not allowed when the wakif has If you give your wealth, you can never take it back.

Then finally, the third interview was conducted with a practitioner, namely Mr. Rahmat Nur, LC. Waqf is a form of *Jariah* worship whose rewards continue to flow until the Day of Judgment. Waqf worship is often



associated with immortality and its eternal nature.

Regarding Waqf with a certain period of time, he gave an example: For example, Mr Andi donated his land to Dompot Dhuafa for the construction of a mosque. From a legal perspective, the land previously owned by Mr Andi with a certificate of ownership (SHM) in his name was then donated to Dompot Dhuafa and converted into a waqf certificate in the name of Dompot Dhuafa as nadzir or waqf manager. In this case, Dompot Dhuafa has the authority over the land, no longer Mr Andi. The legal implication is that Mr Andi cannot inherit, sell or mortgage the land that has been donated.

Returning to Imam Syafi'i's thought, the transfer of ownership of goods that have been donated to certain individuals or parties is considered as a transfer of ownership from Allah as the true owner of all goods in the heavens and on earth. Therefore, the meaning contained is that ownership is independent of the individual personally, and becomes symbolic ownership of Allah, not the ownership of the waqf or recipient of the waqf.

In fact, what Syafi'i wants is that the essence or substance of waqf remains, cannot be erased because it has become the property of Allah. However, the proceeds generated from the waqf can be used for public purposes, worship, or to get closer to Allah. If wakifs (waqf givers) and nazhir (waqf managers) understand that waqf concerns only physical development such as mosques, langgar, TPU, and social activities, they are mistaken. Syafi'i also included cash waqf in the waqf concept. However, Shafi'i was known for his cautious nature, which he called ihtiyat. He stated that after being pledged, waqf has become the property of Allah. This was done because of concerns that changing or transferring the function of waqf assets could lead to misuse or irregularities.

The statement made by Imam al-Syafi'i regarding the prohibition of waqf for a certain period of time can be found in his book called al-Umm, especially in the chapter entitled al-

Ihbas. This book is considered to be one of the largest and most prominent fiqh books of its time. al-Umm discusses various problems comprehensively by including the arguments, which come from the Koran, al-Sunnah, Ijma' (agreement of the ulama), and Qiyas (legal analogy). The contents of this book reflect the depth of Imam al-Shafi'i's knowledge in the field of fiqh.

Apart from being recognized as an important fiqh book, al-Umm is also called a hadith book because Imam al-Shafi'i used his own path of narration in conveying the hadith arguments that he put forward, as is generally found in hadith books. In the context of waqf with a certain period of time, Imam al-Syafi'i refers to the Al-Qur'an and As-Sunnah as the main sources of his argument.

1. Al Qur'an

Even though the Qur'an does not explicitly and clearly mention waqf, the views of experts state that QS A'li Imran/3 : 92 is used as the basis for the practice of waqf:

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ وَمِمَّا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ

Translation:

"You will not gain virtue until you invest some of the wealth you love. And whatever you spend, of that matter, Allah knows best."

According to experts, this verse of the Qur'an is considered the general basis for the principles of waqf. Tafsir al-Azhar explains that this verse had a great influence on the Prophet's companions. This verse is also a source of deep spiritual knowledge in the hearts of Muslims who want to strengthen their beliefs.

2. As Sunnah

Imam al-Shafi'i stated that we must follow the Sunnah as well as following the instructions contained in the Koran. He emphasized that as-Sunnah has equal status with the Koran, but someone who rejects as-Sunnah in his beliefs is not considered an infidel.

According to Imam al-Syafi'i, in the hadith narrated by Yahya bin Yahya at-Tamimiy from Sulaim Ahdlor from Ibn Aun from Nafi' from



Ibn Umar, As-Sunnah explains about waqf for a certain period of time. This hadith is found in Muslim history which means the following: If you wish, you can retain the land and give the benefits as alms. Umar bin Khattab donated the proceeds from the land on the condition that the land could not be sold, bought, inherited or given away. Umar donated the proceeds to the poor, relatives, to free slaves, for jihad fi sabilillah, to provide provisions for people who were on a journey, and to welcome guests. The person who manages the waqf is allowed to eat some of the proceeds in a good way, and is also allowed to feed his friends according to his Alakadar. Imam Syafi'i does not allow waqf with a certain time limit. In his explanation, Imam Syafi'i used the word "Abadan," which means "forever" and is found in the chapter "ihbas" (donating wealth for the cause of Allah). The term "Abadan" is used to refer to the concept of "waqf" which can be found in the book al-Umm, juz IV, page 53, chapter "ihbas".

Imam Syafi'i's reason for using this term in the context of "waqf" is based on the background of his lifetime. At that time, there were many gifts of permanent property, such as land, which was used to build permanent madrasas and mosques, and could not be returned to the waqf giver.

The essence of Imam Syafi'i's statement can be summarized as follows:

"Imam Syafi'i said: the perfect gift with the words of the giver, without being received by the person who is given, is: what, if given out because of the words of the giver, is permissible for what he gives. So the giver may no longer have possession of what those words have said to him forever."

According to Syafi'i, there are three types of gifts of property, whether movable or immovable, namely:

- 1) Grant
- 1) Will
- 2) Waqf.

Furthermore, according to Imam Syafi'i, there are two types of gifts a person gives while he is still alive:

- a) giving in the form of a gift or inherited inheritance
- b) giving in the form of waqf, whereas there is only one type of giving after someone dies, namely what is known as inheritance.

Imam Syafi'i is of the opinion that when giving gifts and wills, it is considered valid only by the words of the giver (ijab). However, in the context of waqf, validity is only achieved if there are two elements: first, words from the giver (ijab), and second, acceptance from the recipient (qabul).

However, this requirement only applies to waqf that is directed specifically to certain people. For general waqf which aims for the public interest, acceptance requirements (qabul) are not required. Imam Syafi'i's statement shows that in waqf contracts addressed to certain parties, acknowledgment (ijab) and acceptance (qabul) are necessary conditions for the validity of the agreement.

Imam Syafi'i's statement implies that waqf is a form of worship regulated by Islamic law. For him, waqf is considered valid if the waqf giver expressly states with the words "waqaftu" (I have donated), even without requiring a decision from a judge.

By donating property, the waqif loses ownership rights over it, because the ownership has been transferred to Allah SWT and does not belong to the recipient of the waqf. However, the waqif is still permitted to use the property. According to Imam Syafi'i's view, waqf is binding so it cannot be withdrawn, sold, pawned, or inherited by the waqif..

5. Conclusion

5.2 Conclusion

The conclusion from the analysis of waqf thinking according to Imam Syafi'i is that waqf is a very important concept in Islam, where ownership of property or wealth is transferred for eternal charitable purposes. In Imam Syafi'i's view, waqf is a strong instrument in improving social welfare and providing sustainable benefits for Muslims. For him, waqf is the handing over of property or wealth to



Allah to be used in charitable activities, and cannot be revoked by the waqf (the person who makes the waqf). This means that waqf with a certain time limit is not permitted, because waqf who have dedicated their assets to Allah cannot take back the waqf assets.

Imam Syafi'i also emphasized that waqf has two important dimensions: the ritual dimension which involves worshipping Allah SWT, and the social dimension which involves caring for others as a concrete form of implementing Islamic values. Therefore, waqf is not only spiritually relevant in the context of worshipping Allah, but also has great urgency in solving society's social and economic problems.

In the context of Islamic economic thought, waqf is seen as an instrument that not only has economic value, but also important social value. Waqf is considered a solution to overcome social inequality, in accordance with Islamic values which emphasize the importance of community empowerment and caring for others

5.2 Suggestion

Suggestions that can be given based on this analysis are the need for a deep understanding of the concept of waqf, including the views of Imam Syafi'i, in applying Islamic values in the current context. Stakeholders, including ulama, academics and practitioners, need to work together to promote waqf as an instrument that can improve the social and economic welfare of Muslims. Apart from that, the need for public education and awareness about the potential and benefits of waqf in improving social and economic conditions also needs to be increased.

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