

## ***Fiqh Functionality in the Profitability of Sharia Stock Waqf***

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### ***Abstrak***

Wakaf saham merupakan sebuah instrumen yang telah diterapkan oleh Badan Wakaf Indonesia sebagai bentuk wakaf produktif. Implementasi wakaf saham merupakan salah satu bentuk wakaf yang telah diperbolehkan dalam Islam, saham yang dapat diwakafkan yaitu yang memiliki underlying asset yang halal. Menurut Standar Syariah Internasional bahwa wakaf saham diperbolehkan dengan catatan pada saat tashfiah dilakukan istibdal. Penelitian ini memiliki tujuan untuk dapat mendeskripsikan bagaimana fungsionalitas fiqh dalam profitabilitas wakaf saham syariah. Penelitian ini menggunakan penelitian kualitatif deskriptif. Data yang telah dikumpulkan melalui cara observasi, interview, dan dokumentasi dianalisis secara deskriptif analitis. Hasil penelitian ini dapat menunjukkan bahwa diperbolehkannya wakaf saham tidak terlepas dari adanya wakaf uang sebagai ashl. Pendapat ini merupakan pendapat Muhammad bin Abdullah Al-Anshari, Sahabat Imam Zufar yang dipilih oleh Imam Ibn Ta'imiyah. Diperbolehkannya wakaf saham syariah tersebut dapat mewadai tren minat investor muslim yang ingin berinvestasi atas manfaat sosial.

**Kata Kunci:** Fiqh; Wakaf Saham

### ***Abstract***

Share waqf is an instrument that has been implemented by Badan Waqf Indonesia as a form of productive waqf. The implementation of stock waqf is one form of waqf that has been allowed in Islam, shares that can be waqf are those that have halal underlying assets. According to international sharia standarts that waqf shares are permitted provided that when tashfiah is done istibdal. This study aims to be able to describe how the functionality of fiqh affects the profitability of sharia stock waqf. This study uses descriptive qualitative research. Data that has been collected through observation, interviews, and documentation were analyzed descriptively. The result of this study indicate that the permissibility of share waqf cannot be separated from the existence of cash waqf as ashl. This opinion is the opinion of Muhammad bin Abdullah Al-Anshari, a friend of Imam Zufar who was chosen by Imam Ibn Taymiyah. The permissibility of sharia stock waqf can accommodate the trend of interest in Muslim investors who want to invest for social benefits.

**Keywords:** Fiqh; Share Waqf

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## INTRODUCTION

Waqf is an Islamic sharia that Allah sharia which has a social mission that functions to be able to build people's resilience to community life, so that it becomes an act of kindness for the beneficiaries of the waqf, both life in the world and the hereafter in the future. When viewed from the function of waqf as an instrument of distribution of assets to improve social welfare. Waqf itself is a form of paradigma development about waqf. Productive endowments can be implemented at least by means of money endowments or stock endowments (Rozalinda, 2016). Waqf is included in *infaq fi sabilillah*, so the basis used by scholars in interpreting waqf is the Qur'an regarding *infaq bi sabilillah*. Conceptually, sharia stock waqf in realizing the ummah economy is very large because it touches the real sector, but in its application it is still very dynamic even though sharia stock waqf is well known and has been regulated according to the laws in Indonesia. Sharia stock waqf is a productive waqf of movable objects, the development of waqf on movable objects has clear evidence that waqf is not necessarily *ta'abudi* in nature but also has an impact on the economy. Sharia shares are a form of securities for ownership of company *assets* based on the sharia system, sharia shares can also be interpreted as a form of investment because issuers will look for investors who own capital on the IDX, by buying shares. This is very much in line with the improvement of a company's performance, the dominant profit is large in stocks in accordance with the risks faced or high *risk high return*.

Judging from the opinion of scholars regarding waqf assets that have been waqf whether they still belong to the waqif or have become the property of the people, where the waqf objects cannot be withdrawn by the waqif and need to be understood further because it is related to the development of the waqf including the application of stock *waqf*. According to Shafi'iyah and Hanablah scholars that the law of waqf is sunnah, it is decreed by Allah as a way to get closer to Allah, the purpose of waqf is for the good of Muslims, so that waqf property that has been waqf cannot be taken back. While the law of waqf according to Abu Haneefa in Ibn Human Al-Hanafi is to hold an object that according to the law remains the property of the *waqif* in the rank of a use for good (K. Muhammad, 2003). With another interpretation that

waqf is done by reciting *lafaz* waqf for a certain period according to the will of the *waqif* (Al Zuhaili, 2014). While Malikiyah's opinion is almost the same as Abu Haneefah's opinion about the ownership of waqf property, it remains waqif but *its tasaruf* belongs to the ummah. The opinion of the Hanafi fuqaha is supported by Ibn Human's opinion in interpreting waqf, namely withholding *ain* or property belonging to the *waqif* and alms the desired benefits for a good purpose. In the opinion of Hanfiah and Malikiah, it tends that the lot of shares entrusted by investors can be withdrawn and only *dividends* can be used for the benefit of the people, so shares that have been entrusted by the *waqif* or investor cannot be replaced or exchanged without the knowledge or permission of *the waqif*.

Through sharia stock endowments, *waqif* can apply two things simultaneously, namely investment and social activities. In its implementation, sharia stock waqf can be implemented in two ways, namely endowment of sharia shares or profitability of sharia shares in the form of *dividends* and / or *capital gains* (Musthofa, 2020). Basically, waqf should contain economic value and continuity because it is oriented towards the benefit of the people. Based on the type of property, Islamic stock waqf is included in the category of movable objects in the form of money value, in other words the source of money in Islamic stock waqf comes from stock management. Stock endowments in Indonesia are regulated in Government Regulation Number 42 of 2006 concerning the Implementation of Law Number 41 of 2004, stock endowments were officially launched in 2019, referring to Fatwa DSN-MUI Number 40 / DSN-MUI / X / 2003 that the shares to be waqf are sharia shares. Waqf practitioners are reminded to always pay attention to sharia fatwas and regulations, especially related to money, stocks, investment and capital markets. The precautionary principle must be put forward without weakening the spirit of innovation because what is managed is waqf, because Indonesia is the first country to develop sharia stock waqf. Based on some of the conditions above, it needs to be discussed again and understood more deeply, namely about how the functionality of fiqh in the profitability of sharia stock waqf, with an innovative role carried out by waqf *stakeholders* who have supported the empowerment program of sharia stock waqf in Indonesia, in relation to the need to increase waqf literacy for all levels of society.

## THEORETICAL FOUNDATIONS

The theory used in this research discusses the views of fiqh scholars regarding the development of waqf. Whereas waqf in classical literature studies is only in the form of immovable goods, however in modern times many valuable items are in the form of immovable goods such as money, precious metals, securities and also shares. Sharia share waqf is something new so fiqh must address it so that there is no stagnation in Islamic law.

## RESULTS AND DISCUSSION

### Fiqh Functionality Against Stock Endowments

In fiqh, one of the *amaliyah* of the Prophet SAW whose reward continuously flows is waqf, waqf is included in the category of jariyah charity whose reward will not be interrupted. Waqf as a fiqh law has indeed been decreed in the second year of the Hijri, but the implementation of waqf has existed since the beginning of the migration of the Prophet Muhammad SAW to Medina which was marked by the construction of the Quba mosque. Waqf itself is an institution born from Islamic law, therefore it cannot be separated from the conception of waqf according to Islamic law, because there are very diverse opinions (Abdurrahman, 1994). The mujtahids define waqf as follows:

Waqf according to Shafi'iyah is:

حَبْسُ مَالٍ يُمَكِّنُ الْإِنْتِفَاعَ بِهِ مَعَ بَقَاءِ عَيْنِهِ بِقَطْعِ التَّصَرُّفِ فِي رَقَبَتِهِ عَلَى مُصَرَّفٍ مُبَاحٍ

*Withholding property that can be taken advantage of with the permanence of things, and the property is free from the control of the waqif, and used in something allowed by religion.*

According to Imam Shafi'i, the property that has been entrusted is independent of the *wakif* belongs to Allah SWT and means *holding* the treasure forever. Therefore, waqf is not allowed to be determined for a period as allowed by the Maliki school.

Waqf according to Hanafiyah are:

حَبْسُ الْعَيْنِ عَلَى مِلْكِ الْوَاقِفِ وَالتَّصَدُّقُ بِمَنْفَعَتِهَا

*Menahan objects whose status still remains to be waqf, while those given away are the benefits.*

The Hanafi School allows money endowments (shares) provided that it has become 'urf among the people. The Hanafi School holds that laws established under 'urf have the same force as laws established under nash. According to the Hanafi School, the way to endow money (shares) is by making it business capital, while the profitability is given to those who are given endowments.

Waqf according to Hanabilah are:

تَحْيِيسُ مَالِكٍ مُطْلَقِ التَّصَرُّفِ مَالَهُ الْمُنْتَفِعَ بِهِ مَعَ بَقَاءِ عَيْنِهِ بِقَطْعِ تَصَرُّفِهِ فِي رَقَبَتِهِ لِنَوْعٍ  
مِنْ أَنْوَاعِ التَّصَرُّفِ تَحْيِيسًا يُصَرَّفُ رِبْعُهُ إِلَى جِهَةٍ بَرٍّ تَقَرُّ بِأَيِّ اللَّهِ

*Withholding the freedom of the owner of property in giving away his useful property accompanied by the permanence of the object and cutting off all authority over the object. Let the benefits be used in terms of virtue to draw closer to God.*

Abu Haneefah's definition states that a waqf contract is superbling, customary or non-binding, in the sense that the person with the waqf or waqif can take over the waqf and sell it.

Meanwhile, according to Malikiyah , namely:

جَعْلُ مَنْفَعَةٍ مَمْلُوكٍ وَلَوْ بِأَجْرٍ أَوْ غَلَّةٍ لِمُسْتَحِقٍّ بِصِغَةٍ مُدَّةٍ مَا يَرَاهُ الْمُحْبِسُ

*Make the benefits of the property owned, either in the form of rent or proceeds to be handed over to the rightful, with a period of delivery in accordance with the will of the waqif.*

The Maliki School holds that the waqf does not release the property that has been waqf from the ownership of the wakif, but the waqf prevents the wakif from being able to take actions that could release his ownership of the property to others and the wakif is obliged to give away benefits and is not allowed to withdraw the waqf property. Wakif Deeds make the benefits of the property to be used by mustahiq. Waqf according to the Maliki mahzab interpretation, uninterrupted wakif rights to the object of waqf. As for what is cut off, it is only a tasarruf thing.

In particular, there are no nash of the Qur'an and Hadith that explicitly mention the legal basis for waqf. The law of waqf was born based on the ijtiḥad of the scholars, but universally found many verses of the Qur'an and Hadith that recommend that believers can set aside their property to give in the way of good, the legal basis of the Qur'an surah Ali Imran verse 92 is:

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

*"You never arrive at (perfect) virtue until you have spent the wealth you love. and whatever ye spend, God knows it".*

There is a Hadith of the Prophet that more clearly describes the recommendation to carry out waqf which is the Prophet's command to Umar to be able to waqf his land in Khaibar, namely:

"عَنِ ابْنِ عُمَرَ قَالَ أَصَابَ عُمَرُ أَرْضًا بِحَيْرٍ فَأَتَى النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَسْتَأْذِنُ فِيهَا فَقَالَ يَا رَسُولَ اللَّهِ إِنِّي أَصَبْتُ أَرْضًا بِحَيْرٍ لَمْ أَصِبْ مَالًا قَطُّ هُوَ أَنْفَسُ عِنْدِي مِنْهُ فَمَا تَأْمُرُنِي بِهِ قَالَ (إِنْ شِئْتَ حَبَسْتَ أَصْلَهَا وَتَصَدَّقْتَ بِهَا). قَالَ فَتَصَدَّقَ بِهَا عُمَرُ أَنَّهُ لَا يُبَاعُ أَصْلُهَا وَلَا يُبْتَاعُ وَلَا يُورَثُ وَلَا يُوهَبُ. قَالَ فَتَصَدَّقَ عُمَرُ فِي الْفُقَرَاءِ وَفِي الْقُرْبَى وَفِي الرِّقَابِ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ وَالضَّيْفِ لَا جُنَاحَ عَلَيَّ مَنْ وَلِيَهَا أَنْ يَأْكُلَ مِنْهَا بِالْمَعْرُوفِ أَوْ يُطْعِمَ صَدِيقًا غَيْرَ مُتَمَوِّلٍ فِيهِ. (رواه البخاري و مسلم)"

*"Narrated from Ibn Umar(ra). he said: Umar had obtained a piece of land in Khaibar, and he came to the Prophet (peace be upon him) to ask for consideration of the land, then he said: O Messenger of Allah verily I have obtained a piece of land in Khaibar, which I have not obtained any property of more value to me than him; then what do you want to command me in connection with him? The Prophet (peace be upon him) said to Umar: If you like to keep this land and you give away the benefits. then Umar also gave away the benefits of the land on the condition that the land will not be sold, will not be granted and will not be inherited. The land he entrusted to the poor of the kind, servants of sahaya, sabilillah, Ibn Sabil, and guests, and there was no obstacle for those who took care of it to use part of it in a ma'ruf manner and eat it without assuming that the land belonged to himself." (An-Naisaburi, 2003) (HR. Muslim).*

From some of the opinions and hadiths above, the basis for the declaration of waqf as a legal act is by releasing ownership rights over an object of waqf and giving away its benefits for the benefit of the people, with the intention of obtaining rewards from Allah. The public interest can be in the form of social interests or religious interests. In classical jurisprudence, the object of waqf is only on immovable objects, but in the development of contemporary jurisprudence it is no longer limited to immovable objects. Movable property is an object that will not run out when consumed, such as money, precious metals, securities, vehicles, intellectual property rights, rental rights, and other movable objects in accordance with sharia provisions. Like waqf, there are four pillars contained in waqf, namely wakif, mauquf 'alaih, mauquf bih, and *sighat akad*.

In fiqh law, the ownership of waqf property is discussed by scholars of the four schools, the Maliki school holds that the ownership of waqf property remains with the wakif because waqf does not eliminate the *wakif* ownership of property that has been waqfed by the *wakif*. However, the ownership of the property is bound, that is, it has no right to sell it or not take legal action against the property. *Al-maal* is a fundamental component in human life, with human property being able to meet both material and immaterial needs. In that context, property stands as an object. Linguistically *al-maal* is defined as everything that can bring tranquility, and can be possessed by humans with an effort or *fi'il*, whether something is in the form of substance or material or in the form of benefits (az-Zuhaili, 2007). Whereas according to Hanafiyah, *al-maal* is everything that may be owned, stored, and utilized. The majority of fiqh scholars explain *al-maal* i.e. everything that has value, further Imam Shafi'i said, *al-maal* is devoted to something that is valuable and can be bought and sold and has consequences for those who damage it. Based on these several understandings, *al-maal* is something that can reflect a financial value, in the sense that it can be measured in monetary units. In this case, *mauquf 'alaih* is not the owner of the waqf property, but only as a party appointed to benefit from the waqf property in accordance with the wakif statement contained in the waqf pledge deed.

Waqf property is not the same as other property in that it ceases or retains waqf property from transfer of ownership except for the exchange of waqf property with other property as a substitute. In this case, waqf property serves for social welfare, property that has been waqf must be managed and developed for the needs of the people. Thus the *wakif* will get a double reward because of the waqf and not as the owner of the waqf property, *mauquf 'alaih* improves the welfare of the people because as a beneficiary *wakaf* nor as the owner of the waqf property, *nadzir*. Obtaining rewards for being the manager of waqf property, not for being the owner of waqf property. The owner of waqf property according to fiqh is Allah SWT.

Waqf investment or also called sharia stock waqf is actually implemented to maintain, maintain, develop waqf property, and realize the objectives of waqf in the fields of social humanity, education, health, da'wah, economy and infrastructure development. According to Imam al-Bukhari explained that Imam az-Zuhri argued that dinars and dirhams could be waqfkan by making the dinars and dirhams into business capital, then could distribute these profits as waqf (M. bin M. bin M. A. 'Imadi A. H. Muhammad, 1997). In this case, profitable investments need to be carried out because it can also happen that the waqf property is lost or reduced because it is intended to pay operational costs or maintenance costs. The importance of making such investments has been discussed by scholars by stipulating several provisions so that investment activities are in accordance with sharia and obtain success or avoid *loss*, these provisions include, *first*; The investment should be in accordance with sharia principles, in the sense that the stock waqf activities are in accordance with the provisions of sharia law, such as not investing waqf in business fields or investment instruments that have been prohibited, such as shares in conventional banking or *trading* in companies with non-halal *income* of more than 10%, *second*; can maintain and maintain waqf property so that it can still be obtained for the welfare of the people, *third*; not investing waqf in *high risk* investment types, *fourth*; The investment has economic feasibility, and to find out this, it is necessary to have a *feasibility study* made by experts, *fifth*; can pay attention to the situation of *mauquf 'alaih* by immediately distributing the benefits of waqf to, *sixth*; the existence



of a cooperation agreement between the parties involved in the investment, among others, can explain the *profit and loss sharing* borne by the parties, *seventh*; Implementation of evaluation and supervision of these investment activities so that they run smoothly according to the plans and programs that have been set.

Waqf itself is classified into two, namely expert endowments and khairi endowments. Waqf investment or stock waqf is included in khairi waqf, which is a waqf whose designation is for public interest, the waqf is called in line with waqf practice, the khairi waqf results can be enjoyed by the community at large and as a means to improve community welfare in various fields. After the pledge the waqf is carried out by *the wakif*. Stock endowments are also categorized as productive endowments. Stocks as moving objects are felt to be able to stimulate results that can be intended for the benefit of the people, with large capital, stocks can provide a large contribution compared to other commodities. The International Islamic Fiqh Academy in its 19th conference in the United Emirates in April 2009 issued a decree containing the permissibility of waqf shares with the consideration that the waqf is one of the fiqh discussions that openly accept *ijtihad*, it includes *ma'qul al-ma'na* which is bound by the purpose of shari'a, namely with the aim of realizing benefits for *wakif* and *mauquf 'alaih*. Shares can also be entrusted on condition that the shares are legally owned, because the shares themselves are considered valuable property. Stock endowments have several consequences for the law, namely, *first*; The origin of the shares to be waqfed is fixed, where the waqf comes from profits from shares and is not traded on the IDX, so the *nadzir* is not allowed to transact except for benefit or in accordance with what has been proposed by the *wakif*. This is known as the procedure for changing ownership, *secondly*; if the company pays the price of securities (pays off) then it may replace them with waqf principal such as buildings, shares, and other securities on the condition given n by the wakif or based on the benefits returned to the waqf, *third*; if the endowment is temporary based on the wishes of the *wakif* then it should be cashed according to its conditions, *fourth*; If the property (money) is entrusted and invested to buy *lots* of shares or other securities, then the shares do not become waqf property

occupying the place of money as long as the *wakif* does not require it to do so, and is allowed to be sold and invested which has more profit for the benefit of the waqf, and the amount of money that becomes the waqf property withheld. If it is based on the opinion of previous jurisprudence scholars, the discussion of stock endowments is included in the benefit endowment, which if the endowment is in the form of benefits owned by other than the owner of the goods.

### **Interpretation of Sharia Stock Waqf Profitability**

Waqf is one of the instruments aimed at socio-economic justice. Based on the data collected, according to the Indonesian Waqf Board that stock waqf is one type of productive waqf in the capital market and is included in movable assets. The mechanism of share endowments is the same as endowment of other assets. In the Compilation of Islamic Law article 215 (4) it is explained that waqf objects are all objects both movable and immovable that have durability that is not only disposable and valuable according to Islamic teachings. Stocks that can be waqfed are sharia stocks that have been listed on the Indonesia Stock Exchange and entered the Indonesia Sharia Stock Index. In addition to being able to waqf all sharia shares, the object of waqf can be in the form of investment profits from sharia shares, both *dividends* and *capital gains*. The waqf assets are managed by the Waqf Fund Management Institution or *nadzir* which will later be used for the benefit of community empowerment programs or also called *mauquf alaihi*. The requirements of nadzir according to the Compilation of Islamic Law article 215 (4) are individuals who must meet the requirements are Indonesian citizens, Muslims, adults, physically and mentally healthy, and if in the form of law, then the *nadzir* should meet the requirements of being an Indonesian legal entity and domiciled in Indonesia. In the Compilation of Islamic Law 216 and PP No. 28/1977 article 2 explains the function of waqf and introduces the benefits of the waqf object in accordance with the purpose of waqf, namely institutionalizing it forever in the interest of worship or its needs with Islamic teachings (Rofiq, 1977).

The National Sharia Council explains that sharia shares are proof of ownership of a company that has met the criteria and does not contradict Islamic law, and does not include shares that have special rights. Waqf through stock instruments carried out by the issuer is

directly supervised by the Financial Services Authority in accordance with applicable regulations. The definition of shares itself is a securities that is used as proof of ownership or *asset* rights of the company, so it can also be interpreted that the owners of the company are the shareholders. According to (Supramono, 2014) shares can be interpreted as proof of ownership, participation of a person or legal entity in a company, the form of the shares is a piece of paper that explains that the owner of the sheet is a securities issued by the company, the upper part of the ownership is determined by the size of the participation included in the company.

Sharia stock waqf has been recognized and has a legal basis, namely in the Government Regulation on the Implementation of Law Number 41 of 2004 concerning waqf, Regulation of the Minister of Religious Affairs No. 73 of 2013 and Fatwa of the Indonesian Ulema Council. Investors can make transactions through the Shariah Online Trading System (SOTS) which is an online Islamic stock transaction system that meets sharia principles in the capital market. The characteristics of sharia stocks that have been determined by the OJK are business screening is a type of business that is carried out not contrary to sharia and the law, and sharia screening is a transaction carried out by companies that does not conflict with sharia principles in the capital market, and the last is *financial screening* is a financial system where non-halal income is no more than 10% of the total revenue of a company. In waqf there are two concepts used in the management of waqf assets, namely the corporate stock waqf model and individual stock waqf (Isfandiar, 2008).

Stock waqf is one form of productive waqf that has a long period of time, the unit of stock waqf object is calculated based on the number of stock *lots* and the rupiah value. The value of sharia shares refers to the nominal rupiah value of shares at the time of the waqf pledge, using the share price at the end of the previous exchange as the basis for the calculation (Bariato, 2021). Before waqf, you should have sharia shares that have *halal underlying assets* and do not conflict with laws and regulations. In the implementation of share waqf there are several conditions that must be met, *first*; the shares entrusted must be in the form of sharia shares, *second*; shares should be clearly their object and

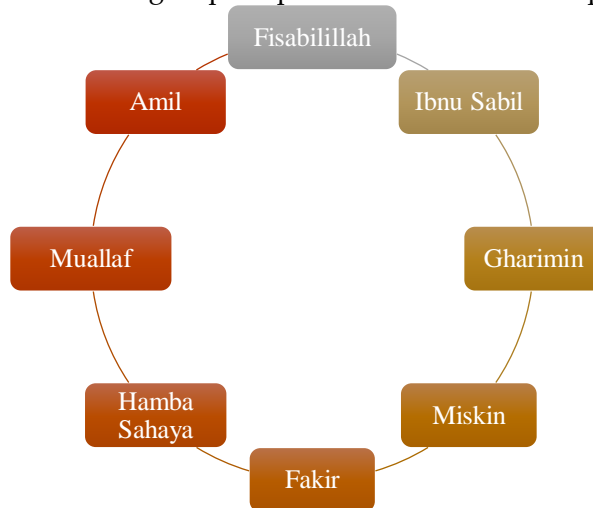
value, *thirdly*; The shares that are entrusted must be fully owned by Mustahik, when the property has been handed over it will change hands or ownership becomes the property of Mustahik which will be authorized and managed by the *Nadzir* to be taken advantage of for the welfare of the people. Explicitly, the implementation of waqf is not only in the form of words for pledges, and must not only be fulfilled elements of waqf, but also the procedures or process of waqf that will be carried out when the *wakif* wants to endow his property. Based on the statement of Article 9 of Government Regulation Number 28 of 1977 that waqf should be carried out administratively, with the intention of having authentic evidence and can function as a need and problem in resolving disputes that may occur. The other side of the purpose of the waqf is to build and increase devotion for both *wakif* and waqf recipients, with the intention of being able to maintain and carry out the mandate of the waqf of the ummah in accordance with the objectives of sharia.

The implementation of stock waqf will be assisted by securities companies whose role is to move shares from investors' portfolios to the portfolios of waqf institutions or also called *nadzir*. Furthermore, the shares that have been entrusted will be managed by the *nadzir* and the profits from the share investment will be distributed to the beneficiaries or also called *mauquf 'alaih* through several programs that have been owned by *the nadzir*. Until this research is completed, there are 6 (six) securities companies and 5 (five) waqf institutions that provide facilities for stock endowments, namely, *first*; MNC Sekuritas, which has collaborated with BWI and Rumah Zakat, *second*; BNI Sekuritas in collaboration with Global Waqf, *third*; Henan Putihrai Sekuritas in cooperation with Global Waqf, *fourth*; Philip Sekuritas, in collaboration with Dompot Dhuafa, *fifth*; Panin Sekuritas, which collaborates with Dompot Dhuafa, and the *sixth*; Samuel Sekuritas in collaboration with PPPA Daarul Quran.

Based on the IDX 6th Indonesia Sharia Economic Festival held in 2019, Indonesia already has a complete scheme and way of sharia investment in the form of stock endowments. In the Indonesian Stock Market, shares must move through exchange members, so they must go through securities companies and stock brokers. For this reason, investors who want to entrust their shares must have an account in a

securities company and *nadzir* who will manage the share endowment. The function of a stock broker is as a party who will represent the *nadzir* to be able to receive stock endowments and represent investors to be able to disburse the stock endowments. The transaction that occurs is that investors meet with *nadzir*, but have been represented by brokers, this has become a separate regulation in Indonesia. If there are many waqf shares that have been managed by the *nadzir*, then the *nadzir* can form an investment manager and must meet special conditions, the results of the management will be distributed to beneficiaries or become a productive program that benefits the people, so that *assets* will not disappear or run out but will develop and remain in the form of shares. Since the property is entrusted, it is the property of the *mustahik* or beneficiary, which will later be authorized to the *nadzir* to be managed which results are more useful and productive. The following is a scheme of beneficiaries of Islamic stock endowments:

Figure 1. Scheme help recipients of sharia stock waqf specifically



Source: *tabungwakaf.com*

The most important ifat in waqf is that waqf should be aimed at the concept of *birr* which is doing charity for a virtue, *ihsan* which is goodness, and *ukhuwah* which is brotherhood. According to (Kuran, 2001) waqf is considered an expression of piety because it is regulated by laws that are considered sacred, not because its activities are indeed

religious or its benefits must be limited to Muslims. The endowment can be devoted to poverty alleviation programs, or to alleviate the socioeconomic situation of people who are in need, and other fields that can improve the quality of life, such as health, education, environment and science. As well as the fatwa issued by the International Council of Fiqh Academy which explains that using money or movable property should be preserved as long as the principle of waqf is maintained and can be useful. After the wakafan procedure is carried out properly and correctly, the *wakif* cannot make provisions outside the agreement on the property that has been entrusted. The property handed over is then distributed to *mauquf 'alaih* as binding alms, that is, the property cannot be bequeathed to the heirs of the *waqif*. Assets that have been entrusted become the responsibility of the waqf recipient as a whole with the aim of meeting social needs and *wakif* is not allowed to prohibit the management of assets that have been endowed. However, in Law No. 41 of 2004 there is a change in the Status of Waqf Assets in which the Indonesian Ulema Council states that assets that have been waqf can be sold or converted for purposes that are more beneficial to the people.

According to the regulation of the Indonesian Waqf Board No. 1 of 2020 concerning Guidelines for the Management and Development of Waqf Property, the management of waqf can be carried out directly and indirectly aimed at productive projects for the benefit of the people, the management of these waqf should be insured in sharia insurance. Even in the case of management and development of waqf in Islamic banking that is not included in the deposit insurance institution program, *the nadzir* is still obliged to guarantee that the waqf funds do not decrease. The role of the government in socializing the stock waqf movement and inviting collaboration between institutions to be able to develop the potential of stock waqf is natural and should be carried out gradually and sustainably. Thus, the opinion that allows stock endowments is legitimized by the Waqf Law which specifically regulates the waqf of movable objects in the form of money, namely in articles 28 to 31. With this, the potential of waqf for Islamic development can be seen from the benchmark of success of the awareness of the Muslim community in giving some of the assets they have and the management of waqf that has been received, in addition to the huge potential of stock waqf in

encouraging the welfare of the ummah, where there are many challenges from the stock waqf, namely the lack of professional *waqf nadzir* causing underdevelopment of *assets* become even more productive. To be able to manage and develop productive waqf properly and in accordance with Islamic law, it is very necessary for *nadzir* who are trustful, professional and full of strong commitment. Therefore, the first development in Islam is the formation of character who are *ahklaq* and have the expertise to achieve the goal of developing the welfare of the Ummah.

## CLOSING

In classical jurisprudence, the object of waqf is only on immovable objects, but in the development of contemporary jurisprudence it is no longer limited to immovable objects. Movable property is an object that will not run out when consumed, such as money, precious metals, securities, vehicles, intellectual property rights, rental rights, and other movable objects in accordance with sharia provisions. The mechanism of stock endowments is the same as endowments of other assets, in this case shares are one form of productive endowments that have a long period of time, the unit of stock waqf object is calculated based on the number of *lots* of shares and the value of the rupiah. The stock waqf itself should have sharia shares that have *halal underlying assets* and do not conflict with laws and regulations. The implementation of stock waqf will be assisted by securities companies whose role is to move shares from investors' portfolios to the portfolios of waqf institutions or also called *nadzir*. Furthermore, the shares that have been entrusted will be managed by the *nadzir* and the profits from the share investment will be distributed to the beneficiaries or also called *mauquf 'alaih* through several programs that have been owned by *the nadzir*.

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