HARMONIZATION OF CASH WAQF IN ACEH THROUGH FIQH LEGITIMACY AND INSTITUTIONAL ACCOUNTABILITY

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Abstract

Cash waqf is recognized by national law, but religious interpretations and institutional practices still vary. In Aceh, this matter must be viewed in its entirety in Aceh MPU Fatwa No. 1 of 2021, which provides arguments for its invalidity, but also recognizes its conditional validity according to some Hanafi scholars. This study aims to understand the relationship between legal standards, religious authority, and the implementation of cash waqf and to develop an operational harmonization model. The study employs a socio-legal approach by combining legal documents with interview reports and observations in Banda Aceh, Aceh Besar, and Langsa. The main theoretical foundations are legal system theory, legal pluralism, and responsive law. The results indicate differences in sources of legitimacy among actors, constraints in administrative services, and discrepancies in the understanding of cash waqf among the interviewees. The practice is evidenced by a reported contribution from 19 waqf donors totaling approximately Rp1 billion; however, this does not yet demonstrate the effectiveness of its management or its general acceptance by the public. Differences in fatwas do not necessarily imply a hierarchical conflict between legal instruments. The contribution of the study is a harmonization model based on conditional legitimacy. The model translates the points of convergence in fiqh into the division of authority, protection of the fundamental values of waqf, transparency of information, and participatory review. Regional regulations (qanun) should be advocated to reinforce governance within the national legal system and to take into account the technical standards governing cash waqf.

Keywords: *Aceh, Cash Waqf, Legal Pluralism, Religious Legitimacy, Responsive Law*

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INTRODUCTION

Cash waqf expands the communities' options to create sustainable benefits through fund management. The validity of the waqf acts, the authority of receiving and managing institutions, the protection of the principal value, and the trust of the *waqif* are interrelated concerns. A study on Muhammadiyah's *waqf* governance in Aceh shows that asset management and documentation issues can hinder waqf development (Asy'ari 2017). In the national context, discussions regarding the position of the Indonesian Waqf Board (*Badan Wakaf Indonesia*) further highlight the importance of clear authority and institutional interrelations (Rimanto, Zulhuda, and Hermanto 2021).

The legal basis of national cash waqf is regulated in Law No. 41 of 2004 on Waqf. Article 16 paragraph (3) states that money is movable property that can be endowed as waqf. Articles 28–31 govern its implementation through Islamic financial institutions designated by the Minister. Its implementation is regulated by Government Regulation No. 42 of 2006, as amended by Government Regulation No. 25 of 2018. This legal recognition is in accordance with the Fatwa of the Indonesian Ulama Council (*Majelis Ulama Indonesia* / *MUI*) on Cash Waqf dated May 11, 2002, which allows cash waqf as long as the principal is retained and the proceeds are used for purposes permitted by Islamic law (Sharia).

Fatwa No. 1 of 2021 issued by the Aceh Ulama Consultative Council (MPU) reveals a more complex construction. In the second dictum, the dominant view (*qaul mu'tamad*) of the four schools of law (madhhabs) holds that cash waqf is invalid. In the third dictum, conditional validity is recognized in accordance with the opinion of some Hanafi scholars, provided that the asset is managed productively, the profits are distributed to the designated beneficiaries, and the principal asset is preserved. The fourth dictum calls for the preparation of a *qanun* (regional regulation) accompanied by a complete explanation of the legal status, taking into account the differing opinions of the scholars. Reading only the second dictum might obscure the scope for conditional acceptance already provided in the same document (Aceh MPU 2021, dictums 2–4).

The legal status of a *fatwa* must also be distinguished from that of legislation. Article 139 of Law No. 11 of 2006 positions MPU fatwas as one of the considerations in regional government policy. Article 140 assigns the MPU the task and authority to issue fatwas and to provide guidance regarding differences in religious opinion. Consequently, a fatwa holds an officially recognized institutional status and substantial socio-religious influence. However, this does not automatically give every fatwa the legal effect of invalidating the Waqf Law. The analysis must distinguish between conflicts of authority or binding norms, differences in jurisprudential logic (*fiqh* reasoning), and issues of social legitimacy.

Field reports in this study indicate that cash waqf services have been provided through collaboration between Bank Aceh Syariah and the Baitul Asyi Waqf Foundation (Yayasan Wakaf Baitul Asyi / YWBA).

At the same time, informant narratives in Banda Aceh, Aceh Besar, and Langsa reveal divergent understandings regarding the object of waqf and the conceptual distinction between cash waqf and *infaq* (charitable donations). The

results cannot be used as a measure of the literacy level of the whole population of Aceh. However, the variations among these actors provide a basis for examining how legal validity, religious interpretations, and service user experiences shape decisions to perform waqf.

Certain factors have been identified in the literature as influencing the acceptance of cash waqf: attitude, subjective norms, religiosity, knowledge, and trust. The relevance of these factors is shown in several studies (Faisal 2020; Haidlir et al. 2021; Masrizal et al. 2023). Kasri and Chaerunnisa (2022) explored online waqf among the millennial generation, and Haidlir et al. (2023) found differences in trust relations across generations. Qomar et al. (2024) highlight that the links between literacy, trust, attitude, and intention are not always direct or uniform. These studies illuminate the dynamics of involvement, but they cannot substitute for a study of the authority held in a given locality to create, interpret, and implement rules.

At the organizational level, Abdul Shukor et al. (2019) emphasize integrity and reputation in the formation of trust. Abd Jalil, Yahya, and Allah Pitchay (2019, 2023) link information transparency to waqif commitment, whereas Ab Shatar, Hanaysha, and Tahir (2021) examine the convenience and accessibility of fundraising mechanisms. Munandar and Fahrurrozi's (2024) study in Al-Qalam highlights the relationship between religious networks and technological utilization in the transformation of philanthropy. This literature offers valuable insights into service design, but those organizational and regional contexts differ from the institutional relationships in Aceh among the MPU, Baitul Mal, *nazhir* (waqf fund manager), and LKS-PWU (Islamic Financial Institution that Receives Cash Waqf).

The gap addressed by this study lies in the mechanism of translating conditional fiqh acceptance into auditable governance. The formulation of the qanun itself is not a novel concept, as it was already recommended by the MPU in 2021. The proposed contribution lies in the operational relationship among juridical legitimacy, fiqh legitimacy, and trust underpinned by management evidence. This study aims to explain the nature of normative and authority tensions; compare institutional positions and practices; and formulate a harmonization model based on the protection of waqf principal, division of responsibilities, and evaluation. This model is a conceptual proposition derived from the interpretation of legal materials and limited findings, rather than an existing policy or a model whose impacts have been tested.

Literature Review

Asy'ari (2017) identifies various issues in waqf governance in Aceh, especially in the Muhammadiyah organization. The study highlights a lack of transparency, accountability, and professionalism in waqf management, which has limited its ability to deliver substantial economic benefits. Asy'ari emphasizes the importance of reform in waqf governance to enhance its effectiveness (Asy'ari 2017).

Ferdian (2020) analyzes cash waqf regulations in Indonesia in the article "*Undang-Undang No. 41 Tahun 2004 tentang Wakaf Tunai*" [Law No. 41 of 2004 Concerning Cash Waqf]. It focuses on how Law No. 41 of 2004 provides a legal foundation for the development of cash *waqf*, while also identifying several implementation weaknesses, such as a lack of public awareness and understanding regarding cash waqf, as well as a shortage of competent human resources to manage cash waqf funds (Ferdian 2020).

Ibrahim (2014) reveals that the stagnation of waqf in Aceh is caused by several factors. Those factors are a lack of public awareness of the potential of waqf, limited innovation in waqf management,

and weak coordination between waqf institutions and the government.

Musa (2017) discusses the MUI fatwa, which serves as the legal foundation for cash waqf in Indonesia. Musa explores how this fatwa provides Sharia legitimacy for cash waqf practices while also highlighting the lack of effective implementation. The study emphasizes the importance of public outreach and education about cash waqf for society (Musa 2017).

Fitriani (2024) compares the waqf management system in Turkey and Aceh. Fitriani notes that Turkey has managed waqf profitably and recommended that Aceh adopt various best practices from Turkey, including the use of contemporary technology and a business-oriented approach in waqf administration (Fitriani 2024).

Although there are various studies about waqf in Aceh, this study specifically examines how cash waqf can be optimized in Aceh by taking into account the local social, cultural, and economic context.

Conceptual Framework

1. The legal system as a foundational framework.

Friedman's (1975) legal system theory is applied to examine the legal substance, structure, and culture. Substance covers waqf legislation and the content of fatwas, while distinguishing their respective binding force. Legal structure includes the division of responsibilities among institutions, the procedures for declaring waqf, documentation, reporting, guidance, and supervision. Legal culture refers to the understanding and expectations of stakeholders regarding the validity and management of waqf. The new regulations can only create changes in services if the institutions translate them into procedures that users understand and trust.

Effectiveness is not measured solely by administrative compliance but is assessed in terms of delivery, accessibility, compliance, preservation of the principal, and benefits. The research data primarily support an assessment of service delivery and reported barriers; assessing sustainability and benefits requires financial reports and beneficiary data.

2. Legal Pluralism and Living Law

Legal pluralism helps in analyzing the interaction among state law, fatwas, interpretations by dayah (traditional Islamic boarding school) scholars, and community practices. Griffiths (1986) and Merry (1988) opened analytical space for multiple normative orders within social life. However, following Tamanaha's (2008) conceptual caution, the social influence of a norm must not be automatically equated with its status as state law. In this study, pluralism is used to explain behavior and authority relations, not to assume that all normative sources hold equal hierarchical standing.

Ehrlich's (2002) concept of living law draws attention to the rules that people actually follow in their social relationships. A statement by a religious figure about fiqh is not, in itself, sufficient evidence that their view constitutes living law for the entire community. This must be examined through actual practices, the sources cited, and the reasons behind their actions. The reported differences in views among religious scholars and institutions prevent Aceh from being seen as a homogeneous legal culture.

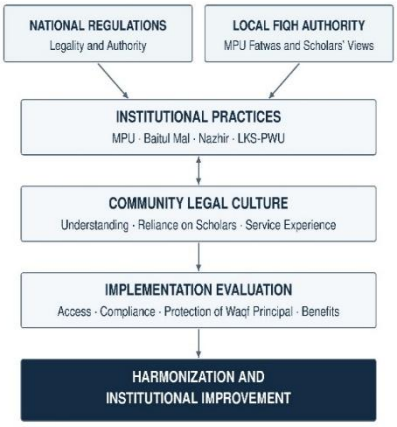
3. Responsive Law and Evaluation of Development Law

Nonet and Selznick's (2001) study is used as an evaluative framework for assessing harmonization design. Responsiveness refers to openness to social needs through purpose, participation, and accountability, while maintaining legal integrity. Consequently, the fiqh dialogues should allow substantive objections to be discussed, rather than gathering support for a proposal that has

already been decided. Responsiveness also requires that the protection of waqif, clarity about risks, and service accessibility become the benchmarks for policy.

Mochtar Kusumaatmadja's theory of development law is considered through a critical reading of Aulia (2018) and Fadillah (2022). The concept of law as a means of reform is useful for formulating the procedures, guidance, and coordination. However, waqf involves the beliefs and intentions of the property owner. Therefore, it should not function as a source of funds that can be mobilized solely for the sake of development goals. Davis and Trebilcock's (2008) critique of the simplistic assumption regarding the relationship between legal reform and development emphasizes the need to pay attention to context and implementation capacity. Accordingly, development law is not treated as a fourth primary theory, but rather as a critical lens for examining policy orientations.

Figure 1. Normative, Institutional, and Legal Culture Interrelationships Framework



Source: Processed by the authors.

The figure above illustrates how national regulations and local fiqh authorities interact in institutional practices. These practices are interrelated with legal culture: understanding influences the use of services, while service experiences can either strengthen or weaken trust. Evaluations of implementation provide input for harmonizing and improving procedures. The arrows illustrate the analytical relationships examined, not the results of statistical causal testing. The term conditional legitimacy refers to acceptance that requires compliance with fiqh requirements and the demonstration of institutional accountability.

RESEARCH METHOD

This study employs a qualitative socio-legal approach that links doctrinal analysis with empirical information on the practice of cash waqf. A distinction between the objects of analysis is necessary: legal materials are used to analyze the authority and consistency of norms, while interviews and observations are used to understand their interpretation and implementation. Empirical information does not prove the legality of a practice, just as the existence of rules does not prove an institution's compliance (Sonata 2014). The data for this study were collected in Banda Aceh, Aceh Besar, and Langsa. Analytically, these three locations provide context regarding provincial-level financial and institutional services, dayah authorities, and local institutional practices. The empirical sources include statements attributed to Bank Aceh Syariah officials, Baitul Asyi Waqf Foundation (YWBA) leaders, representatives from Baitul Mal Aceh (BMA) and the MPU, prominent dayah figures, institutional informants in Langsa, and community informants. The informants were selected based on their knowledge of or involvement in the issues under study.

Data collection for this research included in-depth interviews, observations, and document analysis. Interviews were conducted to understand the basis for assessing validity, the division of responsibilities, service constraints, and proposed regulations. Observations focused on the operations of financial institutions and waqf administrators.

The legal materials include the Waqf Law, the Aceh Government Law, waqf implementing regulations, the qanun on the MPU and Baitul Mal, fatwas from the MUI and MPU, and the Governor's Instruction on the Aceh Waqf Movement. Minister of Religious Affairs Regulation (PMA) No. 14 of 2025 was reviewed as a technical regulation enacted on October 9, 2025. Assessments of whether practices comply with these regulations must rely on clearly dated events; undated interview information cannot be directly used to conclude that there has been a violation of these regulations.

The normative analysis was conducted by comparing the subject matter, issuing authority, legal basis, binding force, conditions for implementation, and relationships among regulations. The text of the fatwa was read in its entirety to avoid drawing conclusions based on a single provision. The findings are organized through the condensation of information, the presentation of comparisons among actors, and the drawing of limited conclusions, in line with Miles, Huberman, and Saldaña (2014). The working themes include legality, fiqh validity, division of responsibilities, service accessibility, trust, and fundamental protections. The application of coding to the original transcripts, the handling of conflicting information, and the trail of analytical decisions still require documentation by the authors; the organization of themes is not presented as the result of recoding all the transcripts.

DISCUSSION

Acceptance of the Cash Waqf Concept in Aceh

From the findings of interviews with Fiqi Caesar, cash waqf officer at the Banda Aceh Branch of Bank Aceh, it becomes apparent that the cash waqf mechanism at this institution operates within a clear legal framework, but its implementation is limited and basic. Bank Aceh has been authorized by the Ministry of Religious Affairs of the Republic of Indonesia as an Islamic Financial Institution that Receives Cash Waqf (LKS-PWU), and is therefore permitted to receive, record, and transfer cash waqf funds in accordance with the provisions of Law No. 41 of 2004 concerning Waqf and Government Regulation No. 42 of 2006 concerning its implementation (interview with Qaesar).

In practice, Bank Aceh does not act as the waqf fund manager (nazhir), but rather as the recipient of funds and the recorder of the waqf pledge. The bank will register the waqf pledge and issue a cash waqf certificate to donors who contribute more than Rp1,000,000 after receiving the funds from the public.

Meanwhile, there is only one nazhir collaborating with the Banda Aceh branch of Bank Aceh, namely the Baitul Asyi Waqf Foundation. It is a waqf institution formally registered with the Ministry of Religious Affairs and has a long-standing reputation for administering waqf assets in Aceh. This means that the Foundation is the sole administrator, developer, and distributor of waqf income.

In the waqf pledge deed issued by Bank Aceh, it is explicitly stated that "the cash waqf program is not a product of Bank Aceh," and that Bank Aceh is released from all liability and claims regarding the management and distribution of waqf funds. This is in accordance with the principle of separation of duties between LKS-PWU and the nazhir, as set out in Article 28(3) of Government Regulation No. 42 of 2006, which provides that the sole function of LKS-PWU is to receive and transfer waqf funds to the nazhir, who is registered with the Ministry of Religious Affairs.

The cash waqf process at Bank Aceh is carried out through several administrative stages that are still manual and not yet fully digitalized. Based on the

field interviews, the procedural workflow operates as follows:

Waqf fund transfer. Prospective waqifs who are already familiar with the account number of the Baitul Asyi Foundation can transfer their money directly to the foundation's account via Bank Aceh. However, those who do not know the account number must visit a Bank Aceh branch in person to obtain the required information and carry out the waqf process manually.

Identity verification. Following the transfer of the funds, the waqif is required to submit their Indonesian identity card (*KTP*) to a Bank Aceh officer or a representative of the Baitul Asyi Foundation in order to complete the official Waqf Pledge Deed (*AIW*).

Making the waqf pledge deed. A Bank Aceh officer prepares the Waqf Pledge Deed, then records the waqf transaction in the internal system and periodically reports it to the Waqf Information System (SIWAK), which is managed by the Directorate of Zakat and Waqf Empowerment of the Ministry of Religious Affairs of the Republic of Indonesia.

Issuance of cash waqf certificates. After the AIW has been issued, Bank Aceh will issue a cash waqf certificate, which can be collected directly at the bank office or sent by email within a maximum of five working days after the deed is completed.

Distribution and management of funds by the nazhir. The nazhir can manage funds immediately once they are transferred to the account of the Baitul Asyi Foundation. In this regard, Bank Aceh has a moral obligation to monitor the process of fund management, even though it does not participate directly in the investment activities or in the distribution of the waqf proceeds.

Supervision of Bank Aceh is conducted by the Financial Services Authority (OJK). However, the OJK's responsibility with regard to waqf is limited to general supervision of Islamic banks' activities, not the management of waqf itself. Substantive oversight of waqf management remains with the Ministry of Religious Affairs through the Indonesian Waqf Board (*BWI*). Meanwhile, to encourage public engagement, the outreach of the cash waqf program is undertaken by the nazhir and religious leaders who have organized congregations. It is not done directly by the bank.

Digital systems such as Sharia mobile banking or e-waqf are not yet available, so people must visit a Bank Aceh office to make waqf.

Public Perceptions and Conceptual Understanding of Cash Waqf

The research findings reveal that the level of public understanding is relatively low in both Banda Aceh and Aceh Besar.

This phenomenon is reflected in empirical data obtained through interviews with the Banda Aceh Branch of Bank Aceh Syariah, a licensed LKS-PWU collaborating with the Ministry-authorized Baitul Asyi Waqf Foundation. Data from 2025 reveal that the institution recorded only 19 cash waqf donors, who contributed approximately Rp1 billion in total. This figure remains relatively small when compared to the considerable potential for Islamic philanthropy in Aceh (interview with Qaesar).

This low participation is not solely due to economic factors but also to the public's limited conceptual understanding of the nature of cash waqf. In interviews with several community members, many informants were found to still equate cash waqf with infaq and sadaqah. An informant from Kuta Alam Subdistrict, Banda Aceh, stated, "We think cash waqf is like charity; the only difference is the intention. Charity can be given at any time, but cash waqf, they say, must be done through a bank."

A similar situation was also found in Aceh Besar, where some members of the community even rejected the concept of

cash waqf because they felt they had never seen such a practice in their religious traditions. One resident of Krueng Barona Jaya Subdistrict, Aceh Besar, said, "We've always understood waqf to mean land for a mosque. We've never heard that money can be donated as a waqf." This view reflects the continued emphasis on immovable property (*al-'ayn al-thābitah*) in the community's understanding of waqf, an orientation rooted in the Shafi'i jurisprudential tradition that predominates in Aceh.

An interview with Basyarudin, a commissioner of the Indonesian Waqf Board (BWI) in Langsa City, revealed that the public's understanding of the concept of cash waqf in the Langsa region remains very limited and tends to be conservative. In the general public's view, the legal basis for a waqf must rest on the existence of 'ayn (tangible assets) that can be held and are permanent in nature, such as land, buildings, or movable property with a physical form. This aligns with the classical view in Shafi'i fiqh—which has long been the dominant school of thought in Aceh—that one of the conditions for the validity of a waqf is the continuity of benefit (*ta'bīd al-manfa'ah*) and the permanence of the waqf property (*ta'bīd al-'ayn*). Therefore, when money is designated as the object of a waqf, the public finds it difficult to accept this rationally because money is not considered to possess a permanent nature, especially given currency depreciation (inflation), which erodes its value over time (interview with Basyaruddin).

In the context of Shafi'i fiqh, money is indeed not considered an object of waqf because it lacks the quality of thubūt al-'ayn (permanence of the object). However, in the Hanafi school and parts of the Maliki school, money can be made the object of a waqf as long as its value can be managed productively to generate sustainable benefits.

Furthermore, Basyarudin noted that the dissemination of the MPU fatwa on cash waqf had been carried out in Langsa City, although the impact was not significant. The activities involved only a few religious leaders and officials from religious institutions, while the wider community and village (*gampong*) leaders were largely left out. The problem is further complicated by the fact that the Langsa City Baitul Mal has yet to manage cash waqf officially, and no LKS-PWU operates in the city.

Basyarudin stated that cash waqf in Langsa currently occurs only in specific contexts, such as when large organizations like Bank Indonesia or other social institutions distribute waqf-based funds through institutional partnerships. However, for individuals, the practice is closer to infaq or regular charity than to waqf in the formal legal sense. This is because the community believes, as is generally held, that the rewards of infaq continue to flow, while the concept of cash waqf is considered too complex and legally unclear at the local level.

From a legal perspective, Basyarudin emphasized the need for the Aceh government to immediately issue a qanun on cash waqf. He believed that public acceptance of cash waqf would depend heavily on the alignment of the legal arguments used in the qanun with the principles of Islamic law, as well as on the moral legitimacy granted by the MPU as the highest religious authority.

In a sociological context, Basyarudin also emphasized the importance of synergy among the government, the MPU, and charismatic religious scholars who wield significant influence within the community. Therefore, if outreach and advocacy for cash waqf are carried out solely by formal institutions like the MPU without involving dayah leaders and village religious scholars, it will be difficult to gain widespread acceptance.

Basyarudin also added that one of the main challenges is fostering contemporary fiqh literacy among the

public. He acknowledged that the majority of the public still adheres to classical fiqh perspectives without understanding the context of the modernization of the Islamic economy, which has given rise to instruments such as cash waqf. Therefore, educational efforts must go beyond merely explaining the religious justification for cash waqf; they must also include practical simulations and models for managing productive waqf so that the public can see the tangible benefits of cash waqf. For example, if waqf funds are professionally managed for the education, health, or microenterprise sectors, their social and spiritual value will become clearly evident.

Through its fatwa, the MPU affirmed that cash waqf is invalid according to the prevailing opinion (rajih), but is acceptable if based on the opinion of some scholars of the Hanafi school. This stance reflects a cautious approach in fiqh to preserve the purity of the Shafi'i principles, which have long served as a reference for the people of Aceh (interview with Muhibbuththabary).

In contrast to the MPU, Baitul Mal Aceh and the nazhir of the Baitul Asyi Waqf Foundation consider cash waqf legally valid under national law because it is explicitly regulated in Law No. 41 of 2004 on Waqf and Government Regulation No. 42 of 2006. This view is based on the principle that national law recognizes cash waqf as legally valid and provides a strong legal basis for its implementation (interviews with Mizaj Iskandar and Mohammad Haikal).

Meanwhile, dayah scholars have shown a more dynamic response. Based on an interview with Tgk. Yusrizal, Chair of the Lajnah Bahsul Masail (LBM) at Dayah Ulee Titi in Aceh Besar, it was revealed that the concept of cash waqf has become a serious topic of discussion among local scholars. In the LBM forum, it was concluded that from a taklifi legal perspective, the practice of cash waqf is jaiz (permissible), while from a wadh'i legal perspective it is considered valid, although this opinion stems from a weak (dha'if) view within the Shafi'i school of thought. According to Tgk. Yusrizal, this decision was based on the principle of maslahah mursalah—that is, to prevent established social practices from being classified as legally invalid (fasid). He emphasized, "We chose the weaker opinion not because we reject the truth, but because it serves the greater good of the Acehnese community today" (interview with Yusrizal).

However, not all dayahs share this view. Some alumni of Dayah Seulimum in Aceh Besar completely reject the validity of cash waqf, arguing that the opinion that must be followed is the rajih (preponderant) opinion within the Shafi'i school of thought, even if that opinion appears less suited to the contemporary social context. These differing views among scholars reveal epistemological diversity in the understanding of waqf jurisprudence, which in turn influences the public's understanding of the concept of cash waqf (interview with Yusrizal).

Empirically, interviews with the public indicate that, although there has been growing interest in Islamic philanthropy, the concept of cash waqf is still considered unfamiliar. Some urban residents who are familiar with Sharia-compliant financial products are beginning to show openness toward this practice, but rural communities tend to be more conservative. In the terminology of legal sociology, this situation illustrates a "cultural lag" between progressive legal regulations and social understandings that remain traditional.

The Effectiveness of Cash Waqf Regulation in Aceh

The effectiveness of cash waqf regulations in Aceh cannot be separated from the social and religious context that shapes the legal character of its society. As a region with special autonomy under Law No. 11 of 2006 on the Government of Aceh, Aceh has a dualistic legal system in

which national law coexists with local Islamic law as part of the living law of the community. This duality means that legal policies, including those governing cash waqf, must undergo a process of social and cultural adaptation before they can be effectively accepted at the grassroots level.

a. Tension between National Law and Local Fatwa Regarding Cash Waqf.

One of the main sociological factors affecting the effectiveness of cash waqf regulation in Aceh is the tension between national law and local religious interpretations. At the normative level, national legislation provides a clear legal basis for cash waqf. Law No. 41 of 2004 on Waqf and Government Regulation No. 42 of 2006 explicitly recognize money as a permissible waqf asset, provided that its management complies with Sharia principles. This legal framework is further supported by MUI Fatwa No. 2 of 2002, which affirms the permissibility of cash waqf.

However, in Aceh, the implementation of these regulations faces considerable cultural and theological challenges. Fatwa No. 1 of 2021 issued by the Aceh MPU states that cash waqf does not meet the requirements for a valid waqf because money does not satisfy the principle of taḥbīs al-'ayn, which requires the preservation of the asset's substance. This position is based on the Shafi'i school of Islamic jurisprudence, which holds that a waqf asset must be a tangible object ('ayn musyāhadah) that can provide benefits without its substance being consumed or lost (interview with Muhibbuththabary).

From a sociological perspective, the difference in views between the MUI and the MPU has led to fragmentation in the social acceptance of cash waqf. The people of Aceh, who culturally still hold the authority of the ulama in high regard, tend to follow the MPU's views as the embodiment of moral and spiritual authority. Consequently, although cash waqf is permitted under positive law, its social legitimacy has not yet been firmly established. This demonstrates that formal law is not necessarily effective without the support of social legitimacy derived from the "living law" of the local community.

b. Religious Perceptions and the Role of Islamic Scholars in Shaping Legal Awareness.

In Aceh, Islamic scholars are not merely religious figures; they also help shape the community's social and moral outlook. Efforts to introduce cash waqf therefore need to involve respected and influential Islamic scholars who serve as role models within their communities.

As Basyarudin suggested, cooperation among the MPU, local government, and local Islamic scholars is therefore essential to ensure that cash waqf policy is not perceived as something imposed from above, but rather as the outcome of consultation and deliberation between umara (government leaders) and ulama (Islamic scholars).

Furthermore, this view is in line with the theory of responsive law developed by Nonet and Selznick, which holds that law is more effective when it responds to the values and aspirations of the community it governs.

c. The Role of Local Government and Policy Instruments as Agents of Social Change.

The Aceh government, through Aceh Governor's Instruction No. 3 of 2025 on the Aceh Waqf Movement (GAB), seeks to institutionalize the concept of waqf within the framework of regional development.

First, this policy marks a shift from viewing religion as a moral guide to seeing it as a tool for development. Second, the policy reflects the Aceh government's increasingly active role in religious affairs, a domain in which religious scholars and institutions have traditionally held considerable influence.

However, the effectiveness of this policy ultimately depends on its acceptance by the community. Field interviews indicate that government policies often encounter implementation challenges because public understanding of cash waqf remains limited and conservative views of waqf persist. Factors such as public trust in government institutions, people's experiences with the management of public funds, and their personal ties to local Islamic scholars therefore play an important role in shaping how effectively the policy is implemented.

d. The Dynamics of Legitimacy and the Challenges of Raising Public Awareness of Cash Waqf.

Field research in Langsa City indicates that efforts to raise awareness of fatwas and regulations regarding cash waqf have not been entirely successful. As stated by Basyarudin, the practice of cash waqf in Langsa has so far been carried out only by certain institutions such as Bank Indonesia (BI) or national social welfare organizations, while individuals prefer to allocate their funds in the form of infaq (interview with Basyaruddin).

This suggests that the process of legal internalization remains incomplete. In the sociology of law, legal internalization refers to the process through which people come to accept, understand, and incorporate legal norms into their daily lives. The main obstacles appear to lie not in the formal legal framework itself, but in the limited reach of public outreach and the lack of trust needed to encourage wider acceptance.

In addition, concerns about the declining value of money due to inflation may lead people to question whether monetary waqf can generate lasting religious rewards. Therefore, bridging this gap requires an educational and theological approach to explain that cash waqf, when properly managed, can also provide sustainable benefits in line with the principle of maslahah mursalah.

Fatwas issued by the Aceh MPU and local government policies often run parallel to one another rather than being collaborative. This has led to a gap between legal legitimacy and social legitimacy. To address this, a cash waqf qanun should be formulated through a joint agreement among the MPU, Baitul Mal Aceh, academics, and community leaders.

The Role of Religious Scholars and Institutions in Formulating Cash Waqf Regulations in Aceh

The roles of the Aceh MPU and the BMA are crucial in the process of drafting future regulations on cash waqf. They complement one another in shaping regulations that are acceptable both legally and socially, although the two institutions possess different authorities and forms of legitimacy. The MPU represents religious authority based on fiqh traditions, while the BMA focuses on implementing public policy.

The MPU acknowledges the existence of a view within the Hanafi school of thought that permits cash waqf, but emphasizes several strict conditions that must be met. Among these are that the waqf funds must be managed productively, the proceeds must be distributed to beneficiaries in accordance with the waqf donor's wishes, and the principal amount of the waqf must be preserved. Furthermore, the MPU expressed support for the enactment of a cash waqf qanun in Aceh, provided that such a qanun does not conflict with recognized principles of fiqh. This position reflects a form of "conditional legitimacy," whereby the MPU's support will be granted if the regulations formulated are capable of guaranteeing the protection of fundamental principles of fiqh.

As an official institution established under the Aceh Government Law, the BMA is responsible for implementing public policies, including those related to waqf. Interviews revealed that the BMA is actively promoting the

accelerated development of specific regulations governing cash waqf and acts as a facilitator among various stakeholders.

The BMA has also demonstrated policy innovation by proposing to redirect a portion of infaq funds into cash waqf funds to strengthen waqf capital. This idea reflects a new approach to the management of religious funds, one focused not only on the distribution of aid but also on strengthening long-term productive assets. However, this measure still requires a clear legal basis to avoid legal issues in the future.

The proposed model for waqf regulation is based on three needs identified in this study: a clear explanation of when cash waqf is valid, a clear division of responsibilities, and transparent management that the public can trust. A qanun is one possible way to address these needs, but it is not a requirement for cash waqf to have a legal basis. Article 191(2) of the Aceh Governance Law provides a basis for further regulation. Existing rules, including Qanun No. 10 of 2018 and its 2021 amendment, should also be reviewed to avoid duplication and overlapping authority.

The initial stage involves identifying norms and implementation issues. The Aceh government and the Aceh Provincial Legislative Council (DPRA), together with relevant parties, need to assess whether the shortcomings stem from the content of the qanun, implementing regulations, standard operating procedures (SOPs), staff capacity, or public information. Issues that can be resolved through coordination do not have to wait for a new qanun. Governor's Instruction No. 03 of 2025 on the Aceh Waqf Movement outlines the direction for institutional mobilization, but this instruction is not equivalent to legislation that creates a new general obligation for every citizen.

The next stage involves substantive dialogue among the MPU, dayah scholars with diverse viewpoints, Baitul Mal, the Ministry of Religious Affairs, BWI, nazhirs, LKS-PWU, waqifs, and representatives of prospective beneficiaries. Topics for the dialogue include the object of the waqf, the basis for fiqh-based decisions, investment forms, risk management, and restrictions on the use of proceeds. The dialogue should document differing opinions and the reasons for accepting or rejecting proposals. Through a responsive legal approach, participation should influence the substance of decisions, rather than serving merely as symbolic legitimization of fundraising targets.

CLOSING

First, at the institutional level, this study identifies a sharp divergence in perception between the Aceh Ulama Consultative Council (*Majelis Permusyawaratan Ulama* / MPU) and the Aceh Baitul Mal (*Baitul Mal Aceh* / BMA). Aceh MPU acts as the guardian of the purity of the Shafi'i jurisprudence (fiqh), which emphasizes the principle of perpetuity in *waqf* assets. By contrast, the BMA interprets cash waqf as a religious economic instrument that is legally recognized under positive law and strategically important for regional development.

This tension is not merely theological; it reflects differences in the foundations of institutional legitimacy: the MPU is grounded in fiqh-based legitimacy, while the BMA relies on state legal legitimacy. Meanwhile, institutions such as YWBA build their legitimacy through social practices and public trust, using an operational model that has proven effective in the field through its partnership with Bank Aceh Syariah.

Second, the implementation of cash waqf regulations in Aceh is influenced by social factors, especially differences in legal authority and local government policies. In this regard, a responsive legal approach is essential to ensure regulations that are not only normatively valid but also

socially acceptable. Meanwhile, government policy intervention through the Governor's Instruction No. 3 of 2025 serves as a catalyst that accelerates institutional change and opens new avenues for the integration of religious values into public policy.

Third, this study underscores the importance of collaboration between religious scholars and the government in the process of formulating future regulations. The Aceh MPU, despite adhering to the Shafi'i school of thought, has demonstrated a willingness to accept a compromise by acknowledging the Hanafi school's perspective, provided there are guarantees regarding the preservation of waqf funds and their productive management. Meanwhile, the BMA acts as a policy implementer that connects state policies with the social realities of local communities. The BMA transforms waqf practices into measurable and accountable instruments of socioeconomic development through the bureaucratization of Islamic philanthropy.

Based on these findings, it can be concluded that the future of cash waqf regulation in Aceh depends on how well the state, fiqh, and the community can work together. The formulation of a specific *qanun* on cash waqf could help bring these three elements together within a legal framework that is responsive, adaptive, and participatory. Such regulation could help resolve normative tensions between national law and regional regulations and also strengthen the governance of waqf as a sustainable social finance instrument.

Thus, the reformulation of cash waqf policy in Aceh should not be viewed merely as an effort to harmonize laws. It is also a process of social transformation that bridges religious values, development needs, and public trust. If this process is managed in an inclusive and collaborative manner, cash waqf has the potential to become a model of Islamic philanthropy that is productive, equitable, and capable of strengthening the Muslim community's economy at both the local and national levels.

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