

# THE LEGAL ISSUES OF CASH WAQF IN CENTRAL JAVA, INDONESIA

<sup>1</sup>Islamiyati, <sup>2</sup>Dewi Hendrawati, <sup>3</sup>Aisyah Ayu Musyafah

<sup>1</sup>Faculty of Law, Universitas Diponegoro, islamiyati@yahoo.co.id

<sup>2</sup>Faculty of Law, Universitas Diponegoro, dewihendrawati@yahoo.co.id

<sup>3</sup>Faculty of Law, Universitas Diponegoro, aisyahayumusyafah@gmail.com

## *Abstract*

*The implementation of waqf cash that is not in accordance with the laws and regulations, raises legal problems in the community. The study will analyze the problem of chash waqf law and its juridical solution's. This research in Central Java, by taking research samples from Boyolali, Salatiga, Regency and City of Semarang. The aim was to analyze the implementation of cash waqf in Central Java and its benefits can be used as material for government policies in implementing cash waqf law. The research type was field research and data was in the form of primary and secondary data, which includes primary, secondary and tertiary legal materials. The data were analyzed using descriptive analysis. The research results of the problem of cash waqf law in Central Java is; low public interest in representing cash waqf, lack of coordination between cash waqf institutions (BWI and LKS-PWU), lack of human resources in understanding cash waqf, and misunderstandings about the meaning of cash waqf. Juridical solutions include; increasing BWI management resources, optimizing BWI's performance, socialization of waqf legal rules, forming a positive image of LKS-PWU, and increasing the professionalism of integrated management in managing waqf assets.*

**Keywords:** *Legal Problems; Cash Waqf Practice; Central Java*

## **1. Introduction**

Political will in enacting cash waqf in Indonesia was based on easy transaction so that Muslims were encouraged to give waqf. One of the roles of cash waqf for people was to be able to be used as the capital for low-income entrepreneurs to make a business to improve life welfare and minimize poverty.<sup>1</sup> If cash waqf was managed properly and correctly, it could be one of the solutions to overcome poverty. Cash waqf had encouraged all of the elements of people to participate because it was easy to be implemented and had become successful practice in Middle Eastern countries such as Egypt, Kuwait, Bangladesh and Malaysia. The success of waqf in those countries was affected by the government's commitment and ulama as well as business entities in increasing the capacity of cash waqf to develop the mandate of the ummah (public).<sup>2</sup>

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<sup>1</sup> Jafri Kahlil, "Standarisasi Nazhir Wakaf Uang Profesional," *Al-Awqaf Journal Badan Wakaf Indonesia* 1, no. 1 (2008): 34–35.

<sup>2</sup> Haslindar Ibrahim, "Cash Waqf: An Innovative Instrument for Economic Development," *International Review of Social Sciences and Humanities* 6, no. 1 (2013): 1–7.

Munerah Haron et al conducted a research entitled *Cash Waqf Collection: Any Potential Factors To Influence It?*,<sup>3</sup> explained that cash waqf/waqf in the form of money was an alternative method for Muslims has practiced cash waqf for the development of education, social, and culture. This research tried to collect trends in collecting cash waqf and the affected factors. The research results showed that the southern state of Malaysia experienced significant trends. Meanwhile, the North and East Coast State experienced fluctuated trends. The main factors that affected it were promotion, service, method, assembly point, and authority

In Indonesia, the role of cash waqf was really needed to improve the welfare and reduce the number of poverty. It was caused by the number of poverty in Indonesia that increased every year. In March 2015, the number of poverty was 28,59 million people (11.22 percent), increased 0,862 million people compared with the condition in September 2014 that was 27,73 million people (10,96 percent).<sup>4</sup> Indonesian people has practiced cash money based on the rules of religious principles from the values in Al-Qur'an and Al-Hadith as well as Fiqh from *ulama* who was expert in Islamic law. In addition, it was based on the legislations that were set by the government, that were; Law Number 41 Year 2004 concerning Waqf, Government Regulation Number 42/2006 concerning the Regulation for the Implementation of Waqf, The Regulation of Indonesian Waqf Agency Number 1/2009 concerning Guidelines for the Management and Development of Movable Waqf Assets in the form of Money.

Ideally, all of the rules of cash waqf law above could be implemented by Indonesian people, because principally the rules that were from religious values and the rules from the state were not contradictory. The rules from the state regulated it in more detail, so that it could be practiced easily for public. Moreover, it also legal certainty and protection for *wakif*, so that his act of worship was in line with its goal and benefit, so that it could provide benefits for public.

However, the reality of the implementation of cash waqf, was inappropriate with the mandate in Law, there were several legal issues in the public. Based on the research of Ahmad Furqon (2012) in *Praktik Wakaf Uang Di Bank Syariah Mandiri (BSM)*, explained that the practice of cash waqf at *BSM* had obstacles, that were; the implementation of cash waqf at *BSM* did not have specific unit that served cash *wakif* candidates, the lack of witness and *nazhir*

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<sup>3</sup> Munerah Haron et al, "Cash Waqf Collection: Any Potential Factors To Influence It?," *International Journal of Business, Economics and Law* 9, no. 2 (2016): 27.

<sup>4</sup> Ibrahim Siregar, "Sengketa Wakaf d Indonesia: Pendekatan Sejarah Sosial Hukum Islam," *Jurnal Miqot* 36, no. 1 (2012): 122–137.

signature form in the act of waqf law, so that its legality not ensured, because of the lack of requirements as determined.<sup>5</sup>

According to the research conducted by Suhairi (2011) concerning *Pengelolaan Wakaf Uang (Studi Terhadap Implementasi Wakaf Uang di Baitulmaal Muamalat)*, explained that the management of cash waqf at *BMM* was not completely in line with the rules of the implementation of cash waqf. In addition, in the cash waqf certificate and pledge were still inappropriate with the legislation and the cash waqf investment was not optimal yet.<sup>6</sup> Based on the research, it showed that there were the legal issues regarding the implementation and the management of cash waqf at *BMM* as the institution of LKS-PWU.

Based on the explanation above, if it was analyzed, there were several legal issues concerning cash waqf, that were cash waqf regulation that had been regulated in the legislations, that were not implemented thoroughly by the people. Moreover, there were also other issues in the implementation of cash waqf, such as; low interest of people in cash waqf, the lack of socialization of cash waqf law to the public. The lack of coordination between cash waqf institution (BWI and LKS-PWU) caused cash waqf implementation could not be run well. The lack of human resources that considered cash waqf and misinterpretation about the understanding and the definition of cash waqf in public. Therefore, the research concerning the issues of waqf law was crucial to be conducted, the research would explain and analyze legal issues of cash waqf practice in Central Java, from its terms of legal rule, its institution, and its legal culture.

The significances of the research could support the government in formulating the political will concerning cash waqf implementation, so that its role and function could be experienced by the people. In addition, it could also support the government in achieving the goal of national development. The research result was important to be known, because it could identify legal issues of cash waqf, analyzed it and found out its juridical solution, for achieving cash waqf law enforcement for Indonesian people.

The research concerning cash waqf, had been conducted many times by M. Nur Rianto Al Arif (2012), in his research *Efek Multiplier Wakaf Uang Dan Pengaruhnya Terhadap Program Pengentasan Kemiskinan*, explained that cash waqf had great waqf fund potential for the eradication of poverty and for the welfare of Muslims. Therefore, innovation was necessary on

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<sup>5</sup> Ahmad Furqon, "Praktik Wakaf Uang Di Bank Syariah Mandiri (BSM)," *Al-Manajih Journal* VI, no. 1 (2012): 113.

<sup>6</sup> Suhairi, "Pengelolaan Wakaf Uang (Studi Terhadap Implementasi Wakaf Uang Di Baitulmaal Muamalat)," *Islamic Research Journal*, *Mataram State Islamic Institute* 7, no. 2 (2011): 451.

the management and the use of cash waqf fund in order to get concrete result that could be experienced by the people. Cash waqf *nadzir* should be based on the principle of professionalism, transparency, trust, and accountability in managing and reporting it to the public, so that the public had high interest in the management of cash waqf.<sup>7</sup>

Muhammad Alfin Syaqui, in his research entitled *Optimalisasi Wakaf Uang Bagi Peningkatan Kualitas Hidup Umat* (2014), explained that cash waqf became the alternative in supporting the nation's independence and stimulating Indonesian development growth. Cash waqf was a new breakthrough to facilitate Muslims in giving waqf, the positivization of cash waqf through Law Number 41 Year 2004 was a means of social engineering, to change the mindset, attitude and behavior of Muslims so that the benefits of cash waqf could be optimized to improve people's welfare.<sup>8</sup>

Sudirman, in his book entitled *Wakaf Uang dalam Kajian Fikih Dan Hukum Positif Serta Implementasinya Di Indonesia*, explained that the Formulation of Law Number 41 Year 2004 concerning Waqf was the reference of the enactment of cash waqf in Indonesia. Indonesian people's understanding about cash waqf concept must be improved, both from fiqh study and positive law. Considering the *mashlahat* (benefits) that contained in cash waqf, sooner or later the people would enlightened to support the implementation cash waqf, such as the phenomenon of the establishment of cash waqf institution that was managed by *Tabung Wakaf Indonesia* and *dana abadi umat*.<sup>9</sup>

Latif Ali Romadhoni (2015), in the research entitled *Studi Analisis Terhadap Fatwa Majelis Ulama Indonesia (MUI) Tentang Wakaf Uang*, explained that *Fatwa MUI* on Shafar 28<sup>th</sup>, 1423 H or May 11<sup>th</sup>, 2002 M had determined the law on the allowance of cash waqf. The *madzhab* of *Imam* that legalized cash waqf were al-Zuhri, the *ulama* of *mutaqaddimin*, and *Hanafiyyah*. The *dalil* that was used was Al-Hadith from Ibnu Umar concerning waqf's Umar on Khaybar's land. This decision formulated new paradigm about the enactment of cash waqf that was responded by the government thorough the issuance of Law Number 41 Year 2004 concerning Waqf and Government Regulation Number 42/2006 concerning its implementation regulation. Moreover, the government also provided political will that *Lembaga Keuangan*

<sup>7</sup> M. Nur Rianto Al Arif, "Efek Multiplier Wakaf Uang Dan Pengaruhnya Terhadap Program Pengentasan Kemiskinan, Asy-Syir'ah," *Jurnal Ilmu Syari'ah dan Hukum*, UIN Syarif Hidayatullah Jakarta 46, no. 1 (2012): 311-312.

<sup>8</sup> Muhammad Alfin Syaqui, "Optimalisasi Wakaf Uang Bagi Peningkatan Kualitas Hidup Umat," *Law Journal Kamun, Syiah Kuala Univerisity Banda Aceh* XVI, no. 63 (2014): 282.

<sup>9</sup> Sudirman Hasan, "Wakaf Uang Dan Implementasinya Di Indonesia," *De Jure Journal, Syariah and Law Journal* 2, no. 2 (2010): 174.

*Syariah Penerima Wakaf Uang (LKS-PWU)* was one of the institutions that served the implementation of cash waqf.<sup>10</sup>

Based on the explanation of the literature review above, it showed that the research concerning “*Problematika Hukum Wakaf Uang di Jawa Tengah (Legal Issues of Cash Waqf in Central Java)*” had never been conducted before. This research would reveal several issues of cash waqf in Central Java, from its legality, institution, and legal culture.

## **2. Methods**

This research was legal research that aimed to find out legal effectiveness that was enacted in public. The type of this research was field research that took the location in Central Java, the regions of the sample of this research consisted of the City and Regency of Semarang, Salatiga and Boyolali. The approach method of this research used juridical empirical, juridical research approach method was research method that used the study of legislations concerning the regulation of cash waqf law, that were; *Fatwa MUI* concerning cash waqf, Law Number 41/2004 concerning Waqf and Government Regulation Number 42/2006 concerning the regulation of the implementation of waqf. Empirical approach was research approach based on the data that was found out in the field concerning cash waqf implementation, to acquire knowledge about the correlation and impact of cash waqf law to the public. Juridical empirical research approach method was research approach that mixed the legislations and actual fact in public that had correlation with the implementation of cash waqf.

The research used primary and secondary data. Primary data was obtained from several respondents of the research through the methods of interview and documentation. The respondents were; the chief of BWI, *wakif* (the person who gives waqf), and PPAIW, *nadzir* (cash waqf manager), and LKS-PWU. Secondary data was obtained from literature study, consisted of three legal materials, that were primary, secondary and tertiary legal materials. The research specification used analytical descriptive, described the research result then analyzed it.

## **3. Results and Discussion**

### **3.1. Legal Issues of Cash Waqf Practice on Central Java People**

The research result explained that legal issues of cash waqf in Central Java could be classified as follow;

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<sup>10</sup> Latif Ali Romadhoni, “Studi Analisis Fatwa Majelis Ulama Indonesia Tahun 2002 Tentang Wakaf Uang” (UIN Sunan Kalijaga Yogyakarta, 2012).

### **3.1.1. Legal Institutions of Cash Waqf**

Legal institution of cash waqf could be defined as the institution that had authority in providing service of cash waqf to the public including the institution that controlled, supervised and evaluated the implementation cash waqf. Those institutions were *BWI (Badan Wakaf Indonesia)* and *LKS-PWU (Lembaga Keuangan Syariah Penerima Wakaf Uang)*, the explanation about BWI and LKS-PWU would be explained as follow;

Based on the research results, it showed that BWI's jobs and authorities regarding cash waqf had not run effectively, BWI did not yet know the reports on the development of cash waqf in public, and there was no coordination yet with LKS-PWU as recipients and providing cash waqf services for people. It was proven by the unknown progress data on the implementation of cash waqf at BWI, so that it was difficult to control and evaluate cash waqf. It was caused by the lack of professional human resources in understanding and managing cash waqf, the lack of enthusiasm for BWI to collaborate with other institutions, such as; LKS-PWU, professional nadzir, and universities. In addition, the factor of funding from the government budget to establish the professionalism of Nadzir's work was far from the expectation. Until this day, BWI had coordinated with nadzir waqf through training or workshops, but only coordinated in general, did not explain in detail about the concept and practice of cash waqf, the participants were also different, so that it was less effective and efficient.<sup>11</sup>

Research data on the practice of cash waqf implementation in LKS-PWU, also showed that the public's interest in giving waqf in LKS-PWU was very low and even there was no interest. *Wakif* did not give cash money to LKS-PWU but give it directly to *nadzir*. Legal issue of cash waqf that occurred in LKS-PWU was that the legal subject of waqf (*wakif*) did not know about LKS-PWU as the recipient of cash waqf, so that people who gave cash waqf were rarely or not found in LKS-PWU. In addition, the cash waqf storage system in LKS-PWU was still debatable, because funds stored in banks must be subject to taxes or administrative duties, whereas based on its principle, waqf assets should not be spent. It caused several LKS-PWU did not receive cash waqf, but they were suggested to give only zakat or infaq.<sup>12</sup>

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<sup>11</sup> Muhammad Saidun, "The Director of Management and Empowerment of Waqf, Ministry of Religion, Central Java Mentioned in His Interview on October 2018," n.d.

<sup>12</sup> Anis Priyono, "Ministry of Religion in Boyolali, Zakat and Waqf Affairs Mentioned in His Interview on October 23rd," 2018.

### **3.1.2. Public's Awareness in Giving Cash Waqf**

The research result showed that generally Central Java people did not give cash waqf in his daily activity, it was caused by;<sup>13</sup> a) The people did not know about the understanding of cash waqf based on the mandate of Waqf Law and its implementation regulation, so that people's interest was low; b) The people did not know yet about LKS-PWU as the institution that received cash waqf; c) The people still thought that cash was only donated through *zakat*, *infaq* and *sahadaqah*, while waqf was only immovable assets that gave long lasting benefits to the people; and d) People were more interested in land waqf because it had a clear form and use, even *wakif* could also get benefits from it. It made *Wakif* felt satisfied and proud because he could give benefits to his property for the people.

### **3.1.3. Political Will Concerning Cash Waqf**

According to the research data, it showed that political will in providing the facility of budget could not be implemented thoroughly to socialize the regulation of cash waqf to people. In this case, the government could be defined as Ministry of Finance that prepared the state budget under the agreement of the president, and Ministry of Religion that had to provide service to the people including BWI.<sup>14</sup>

### **3.1.4. The Lack of Coordination Among Waqf Institutions**

Cash waqf was waqf in the form of money, could be carried out directly in LKS-PWU or could be carried out through *e-banking/financial teknologi*. There were several institutions that were involved in the implementation of cash waqf, that were; LKS-PWU, *nadzir* (the manager of cash waqf), *wakif* (the one who gave waqf), and BWI. The research result showed that among all of the parties above (LKS-PWU, BWI, Nadzir), there was no coordination or harmonious relationship, until this day there were many people who did not know the procedure of cash waqf. LKS-PWU did not coordinate with BWI and vice versa, BWI never received the report from LKS-PWU, while *nadzir* had their own work procedure in managing waqf assets from the people.<sup>15</sup> It caused the implementation of cash waqf did not run well in public, the mandate of Law concerning cash waqf did not implement in public.

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<sup>13</sup> Ibid.

<sup>14</sup> Saidun, "The Director of Management and Empowerment of Waqf, Ministry of Religion, Central Java Mentioned in His Interview on October 2018."

<sup>15</sup> Ibid.

### **3.1.5. Legality of Cash Waqf**

The government determined the regulation of cash waqf law, aimed to facilitate the people to implement waqf without ignoring the pillars and conditions, so that his act had legality. Whereas, in fact, there were several pledge that did not meet the pillars or conditions in the practice of cash waqf in LKS-PWU. On the form of receipt of cash waqf, there was no room for the signature of witness and *nadzir*, but witness and *nadzir* were the pillars of waqf. Thus, the implementation of cash waqf did not meet the pillars and conditions that had been determined by Waqf Law.<sup>16</sup>

### **3.1.6. Cash Waqf Management**

Management of cash waqf is very important in society, because with good management of cash waqf, its use will be felt in the community and cash waqf assets can rotate, not just settling in LKS-PWU. The results showed that there were cash waqf assets that were not managed properly, so that these assets were depleted and became intangible. The community uses cash waqf for business capital, but the business goes bankrupt, so the capital does not return. Therefore, there are cash waqf *nadzirs* that spend money waqf assets into fixed waqf assets, so that they can be utilized by the community. This includes actions that do not comply with the legal principle of waqf money which explains that waqf assets cannot be spent but preserved so that they are beneficial in society.

## **3.2. Juridical Solution of Legal Issues concerning Cash Waqf in Central Java**

Based on the explanation above, it was found out that legal issues of cash waqf in Central Java were; the lack of management strategy of the institution that served cash waqf (LKS-PWU), the lack of harmonization between legal institutions of cash waqf (BWI and LKS-PWU), lack of understanding of people about cash waqf so that their interest and awareness in giving waqf decreased, the legality of cash waqf, and political will concerning the implementation of cash waqf. The juridical solutions were;

### **3.2.1. BWI's Work Performance Optimization**

Professional human resources were needed to improve the quality of BWI institutions so that they could enforce the waqf law. BWI was an independent institution appointed by the

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<sup>16</sup> Baskoro, "The Staff of Bank BNI Syariah Branch Office of Hidayatullah Banyumanik, Semarang Mentioned in His Interview on August 30th," 2018.



government to be responsible for implementing the cash waqf law. Optimization of BWI's work performance was also urgently needed to collaborate with other institutions so that cash waqf law enforcement could be achieved and cash waqf management could be implemented and developed. In relation to the enforcement of the money waqf law, BWI collaborated with LKS-PWU so that BWI could find out the enthusiasm of the people in giving waqf. In addition, it was also able to find out the opportunities and obstacles for cash waqf in public. Regarding the development of cash waqf assets, BWI should cooperated with nadzir as the administrators of cash waqf, to improve the performance of nadzir so that cash waqf assets could give benefits for the people. BWI was also in charge of supervising, guiding, controlling the performance of nadzir, because BWI and nadzir had a structural relationship (Article 4 of BWI Regulation No. 1/2007 Concerning BWI's Organization and Work Procedures).

### **3.2.2. The Empowerment of Cash Waqf Law for the People**

The empowerment of cash waqf law for the people was carried out through socialization of the regulation of cash waqf law from the government to the people, to give understanding and technical instruction of cash waqf. The regulation of cash waqf law could be found in Article 28, 29, and 30 Waqf Law, Article 22 to 27 Government Regulation (*PP*) Number 42/2006, The Regulation of BWI (*PBWI*) Number 1/2009, and The Regulation of BWI (*PBWI*) Number 2/2009. Socialization of the regulation of cash waqf law was aimed to the law enforcers of cash waqf, such as; the staff of the Ministry of Religion in the field of zakat and waqf affairs, from provincial, district and sub-district level (*PPAIW/nadzir*). In addition, it was also aimed to the staff of LKS-PWU or Syari'ah Banking, foundation or intitutions of waqf, professional nadzir, Islamic organizations such as *NU*, *Muhammadiyah*, *Persatuan Islam*, *LDII*, public figure as *wakif* for the money. The urgency of socializing of cash waqf, made all of elements of people understood about cash waqf, so that there was no misunderstanding about cash waqf.

### **3.2.3. Political Will**

Political will regarding cash waqf was expected to provide facility or simplicity in socializing the regulation of cash waqf law in the form of the availability of funds in the socialization. It was expected to avoid misunderstanding between cash waqf and other donations, such as; infaq, shadaqah and zakat. If the people already understood about cash waqf, and the

technical instruction, so that the people would be enthusiastic to give cash waqf as *amal jariyah* (charity) to get God's reward in this world and hereafter.

In addition, the government also did not only make syariah banking as the institution of the recipients of cash waqf (custody bank), but also with the capacity owned by the syariah banking, so that it could be legalized to be nazhir of cash waqf. It was caused by Syariah Banking could manage cash waqf through deposits, not only *wadhiah* (deposit), with deposit, so that cash waqf assets could be developed and its result could be used by people.

According to the researcher, the government should issue political will to not only appoint syariah banking as LKS-PWU, but other social institutions that managed cash money. All this time, many people had given cash waqf in Islamic institutions, because they believed that the institutions had qualification and capability in managing cash waqf. Many private institutions had succeeded in developing cash waqf program before the existence of regulation of LKS-PWU, such as; Tabung Wakaf Indonesia (TWI) that was affiliated to Dompot Du'afa, Baitul Mal Mu'amalat (BMM) and Posko Keadilan Peduli Umat (PKPU).<sup>17</sup>

#### **3.2.4. LKS-PWU's Work Performance Optimization**

LKS-PWU as an institution that provided service of cash waqf, was expected to be able to improve its responsibility in optimizing people's awareness in giving cash waqf. LKS-PWU should try to communicate with the people so that its job in providing service of cash waqf could be in line with the target as planned,<sup>18</sup> the efforts were: a) Improving the existence of LKS-PWU in public, so that people knew it better, understood and were familiar that would encourage the interest of people in giving cash waqf; b) Increasing the revenue of LKS-PWU in the service of cash waqf to increase law enforcement of cash waqf; c) Giving positive image of LKS-PWU regarding cash waqf in public, so that the people would put more trust on the work performance of LKS-PWU that was satisfied for the people; d) Providing special service concerning waqf, including transaction form that could be used to include the name and signature of the witness and nazhir to meet the legality of cash waqf. Therefore LKS-PWU would developed more and improved as well as encouraged national economic growth; e) Making mutual benefit agreement with professional regarding the management and development of cash waqf; f) Coordinating with BWI in the implementation of cash waqf, in order to make collaboration between LKS-

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<sup>17</sup> Hasan, "Wakaf Uang Dan Implementasinya Di Indonesia."

<sup>18</sup> A. Riswan Amin, "Peran LKS Dalam Pengembangan Wakaf Uang," *Jurnal Awqaf Badan Wakaf Indonesia* 1, no. 1 (2008): 68.

PWU and government, so that it would affect political will in enforcing cash waqf law; g) LKS-PWU could socialize to the nadzir of cash waqf to invest its fund through LKS-PWU, and *nadzir* could also use cash waqf asset as collateral in LKS-PWU for the improvement of management of waqf to be useful for the people, such as; construction of building, worship place, hospitals, procurement of ambulance.<sup>19</sup>

### **3.2.5. The Role of OJK**

The role of *Otoritas Jasa Keuangan (OJK)* was related with the existence of LKS-PWU, where LKS-PWU consisted of Syariah Bank that had met the conditions determined. OJK had authority to appoint *Dewan Pengawas Syariah (DPS)* to supervise the work performance of Syariah Bank to be in line with Islamic principles, so that it also supervise the work performance of LKS-PWU. If there was LKS-PWU that was not in line with it, so that OJK had authority to give sanction in the form of oral reprimand, warning, written, civil and criminal sanction, based on the quality and quantity of its violation.

### **3.2.6. The Management of Cash Waqf**

One of the managements of cash waqf assets was not letting cash waqf asset was saved in a long time in LKS-PWU so that it was not taxed. Nadzir must manage cash waqf asset well so that its value could be gained by the people. Nadzir could manage cash waqf through syariah investment or shares, providing capital through profit sharing agreement through Islamic banking. If cash waqf was professionally empowered, so that the assets would developed, it would not be taxed. Therefore, integrated management was needed to manage waqf. It is expected that special bank that is oriented on social or voluntary sector such as *Social Investment Bank Limited (SIBL)* or the establishment of waqf bank so that the management of cash waqf could be optimal.

Integrated management system in the management of cash waqf assets, among others;

#### **Planning**

Planning is an initial activity in a job in the form of thinking about things related to work in order to get optimal results. Things that need to be considered in planning are as follows: 1) The results to be achieved in the management of cash waqf; 2) The object of the money waqf manager; 3) Time and priority scale; 4) Funds or capital from the required cash waqf

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<sup>19</sup> T Ibrahim, H., Amir, A., and Masron, "Cash Waqf: An Innovative Instrument for Economic Development," *International Review of Social Sciences and Humanities* 6, no. 1 (2013): 1–7.

## **Organizing**

A Muslim must be able to uphold his function as caliph and a spirit of cooperation between humans. The function of the caliph is to promote goodness and prevent ugliness. Ali Bin Abi Talib said: "Truth or rights are not well organized, defeated by evil which is more well organized". Organizing is very urgent, even falsehood can overcome an unorganized truth. The seriousness and seriousness in this case includes the seriousness and seriousness of organizing an activity. Thus organization in the Islamic viewpoint is not merely a forum, but rather emphasizes how a job is done neatly.

## **Supervision / Controlling**

Monitoring in the Islamic perspective is to straighten out what is not right, correct what is wrong and justify what is right. Therefore the Al-Qur'an recommends advising each other, as an effort to remind people if there is an error or neglect. Control that comes from oneself is control that comes from tawhid and faith in Allah SWT. A person is sure that Allah is watching His servants, so he will act carefully. A supervision will be more effective if the supervision system is carried out from outside oneself. The supervisory system can consist of outside the supervisory mechanism of the leader relating to the completion of tasks that have been delegated, the suitability between completion and planning of tasks and others.

Based on the explanation above, it could be concluded that juridical solution for the issues of cash waqf in Central Java, included; improving the resources of staff of BWI so that they could be responsible, professional, and trusted in running their obligation, optimalization of work performance of BWI through agreement with LKS-PWU to enforce cash waqf law, socialization of the regulation of cash waqf law and technical instruction of cash waqf from government to the people. Making positive image of LKS-PWU so that the people believed on the work performance of LKS-PWU, collaborating with OJK in controlling and evaluating the work performance of Syariah Bank as LKS-PWU, and the improvement of professionalism of integrated management in the management of cash waqf asset.

### **3.3. Analysis**

Based on the research result above, so that the important point that would be analyzed in this research was legal issues that made the practice of cash waqf in public was not in line with the mandate of legislations. It affected the enactment of ineffective and non-optimal law enactment. Therefore, the revision on cash waqf law was needed, that was the process of

examining existing cash waqf law regulation, and advocating as well as implementing the changes in legal system and effectiveness. Therefore, in this analysis, the author used legal effectiveness theory, so that the law could be implemented effectively by the people.

Effectiveness theory was one of legal theories that put law to be able to create or make expected situation by law.<sup>20</sup> Law could be effective if the law consisted of the regulations that were in line with the situation of public that happened, so that it could be implemented by people. According to Soerjono Soekanto,<sup>21</sup> explained that law could be implemented by people or law could be effective, if it met 5 (five) factors, that were: the legislations, institutions, the means and facility of law enforcement, people's culture, and the level of compliance on law.

If the theory of legal effectiveness above was related to efforts to make the implementation of the cash waqf law more effective, then there were several important things to do, for its legal regulations, institutions, and legal culture. In terms of legal regulations, in the form of an explanation of the cash waqf law in Law number 41 Year 2004 concerning waqf, then explained in detail in the PP. Number 42 Year 2006, and explained concerning the technical implementation of cash waqf in BWI Regulation Number 1 Year 2009. All of these legal bases must be implemented by the people, cash waqf legal institutions (LKS-PWU and Nadzir), cash waqf law enforcers (KEMENAG and BWI), and related parties. If there was a weakness in the regulation, for example; witness status, tax costs of cash waqf assets, reports on the use of waqf from the bank to the public. Moreover, it must be resolved with the next regulation determined by BWI as a waqf institution in Indonesia, considering that the formation of regulation through law was not easy, took much time and costs as well as a long process in the government parliament.

The effectiveness of the cash waqf law could be carried out through the achievement of a harmonious relationship among cash waqf institutions (LKS-PWU, BWI, and nadzir cash waqf) to collaborate in providing the best service for the people. All of them were integrated in the management of collection, management and service of cash waqf. Cash waqf legal management must be carried out to find out the strategy for implementing the law in cash waqf institutions, such as; planning, organizing, implementing, controlling, and evaluating. They were carried out so that the implementation or practice of cash waqf would run well, considering great functions

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<sup>20</sup> W. Yudho and H. Tjandrasari, "Efektivitas Hukum Dalam Masyarakat," *Majalah Hukum dan Pembangunan* (Jakarta, 1987).

<sup>21</sup> Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta: PT. Raja Grafind Persada, 2008).

and benefits of cash waqf for the government, for example; overcoming poverty, improving welfare, assisting government efforts in the fields of education and worship.

The effectiveness of the cash waqf law could also be carried out through the socialization of the cash waqf law for waqf law enforcers and the people to understand, then subjected and obeyed as well as implemented cash waqf law. These activities must be supported by the political will (KEMENAG and BWI) in providing facilities and infrastructure so that cash waqf law could be implemented in public. In addition, the government was also trying to change people's mindset, so that they understood the development of waqf law in Indonesia, especially the existence of cash waqf.

Changes in people's behavior in the implementation of the cash waqf law, from the traditional era to the professional era, of course, must be started first by socialization, a comprehensive understanding to the people and law enforcers about cash waqf. It was done to raise the legal awareness of the people to be positive about these regulation, so that it would create good legal culture that would implement the legal regulation of cash waqf.<sup>22</sup>

#### **4. Conclusions**

The legal issues of implementation of cash waqf in Central Java was a legal issue concerning the practice of cash waqf law that arose on the people of Central Java, including; the lack of institution management strategy that served cash waqf (LKS-PWU), the lack of harmonization among legal institutions of cash waqf (*BWI* and LKS-PWU, and *nadzir*), low understanding of the people about cash waqf so that the interest and awareness in giving waqf decreased, the legality of cash waqf, and political will regarding socialization of cash waqf law.

Juridical solutions to cash waqf in Central Java included; increasing the resources of the administrators of BWI in order to be responsible, professional and trustworthy in carrying out his obligation, optimizing the work performance of BWI through cooperation with LKS-PWU. Moreover, the socialization of the regulation of waqf law and the technical instructions of cash waqf from the government to the public was needed. *LKS-PWU* was highly important to give excellent service and form a positive image so that the public trusted the work performance of *LKS-PWU*. BWI coordinated with OJK in controlling and evaluating the work performance of *Bank Syariah* as *LKS-PWU*, and the improvement of professionalism of integrated management in the management of cash waqf assets.

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<sup>22</sup> Ahmad Syukron, "Rekonstruksi Hukum Islam; Kajian Historis Atas Urgensi Wakaf Produktif Di Indonesia," *Research Journal STAIN Pekalongan* 8, no. 2 (2011): 272.

The recommendations were delivered to the government (Ministry of Religion) in collaboration with *BWI* and *LKS-PWU*, so that the service of cash waqf in public could be effective. Political will was provided to facilitate the socialization of cash waqf in public, so that the interest of people in giving cash waqf increased and there was no misunderstanding in interpreting cash waqf. Moreover, there were several regulations of cash waqf that should be amended for achieving legality of waqf law.

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