P2P cash waqf crowdfunding platforms: The next frontier for Islamic philanthropy in Indonesia

Under Islamic philosophy, philanthropy – as with many other aspects of life, including but not limited to agriculture, education, and health care – is centred around the core values of enabling mutual benefit between people, and the sincere and voluntary sharing of wealth, energy, and thought in assistance of others.

Broadly, Islamic philanthropy can take a number of different forms, with zakat and waqf amongst some of the most common. There are, however, important differences between the two: unlike zakat, which is obligatory for Muslims, waqf is sunnah muakkadah (recommended, but not obligatory). In particular, cash waqf – a type of movable waqf based on money – has been observed to be gaining increasing traction in Indonesia for its applications in enabling people empowerment, alleviating poverty, reducing unemployment, and minimising equality[3].

In this article, we will explore the promising potential of integrating cash waqf structures with P2P crowdfunding platforms, particularly in the context of serving unbanked individuals (including the needy, destitute and poor) in Indonesia, and discuss some of the accompanying challenges that continue to impede this integration.

Overview of waqf

There are two main dimensions to Islamic philanthropy: religious and socio-economic. The former refers to the need to fulfil one's obligations as a vicegerent or representative of Allah (Khalifah) and acting as a good Muslim (relationship between human beings and God), while the latter refers to the economic aspects surrounding mutual cooperation between human beings (relationship between human beings). For a prosperous life in this world and in the hereafter, both types of relationships must exist simultaneously.

In line with this, the objective of economic activity under Islamic philanthropy is to promote human security, and ensure maslahah (public interest) in individual property. Therefore, wealth must be circulated not only amongst the rich, but also to the needy, orphans, and wayfarers in accordance with the Holy Quran in Surah (QS) 57:7.

Under waqf schemes, philanthropic funds are not merely charitable donations to designated recipients, but must also be utilised under the specific mandate of the Waqif (donor). In general, there are four different types of cash waqfs that differ based on the motives or intentions of the Waqif: donation or charity-based; reward-based; equity-based; and lending-based[4].

An inextricable part of economic activity in Muslim jurisdictions

Although only a small fraction of the community typically participates in waqf schemes given their non-obligatory nature, this type of endowment has significant roles to play in improving societal welfare and prosperity. Numerous historical examples include for example, the use of waqf systems used to provide education and other essential services in the Ottoman Empire, and to build bridges, housing, and other infrastructure in South Iran[5].

For many Muslim jurisdictions, waqf is an inextricable part of economic activity, and its development is often closely intertwined with other existing socio-economic conditions or needs in these communities. In Indonesia, for example, waqf is typically focused on land, religious schools, and cemeteries. Similarly, the emergence of cash waqf reflects the current liquidity needs for Indonesia's national financial system and the financing of rural development programs (see "Indonesia's Cash Waqf Movement").

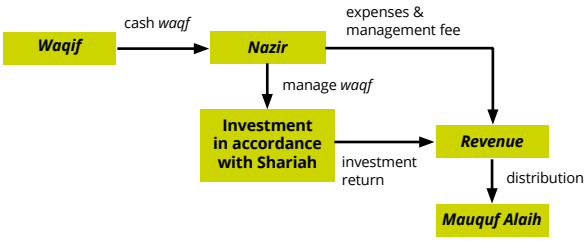
Overall, the waqf market in Indonesia holds significant untapped potential: in 2019, there were some 224 registered trustees (Nazhir), but only a relatively small number of 12 registered Sharia-compliant FinTech platforms as of November 2020. Furthermore, according to BWI estimates, total potential annual waqf collections amount to approximately IDR180 trillion, but only IDR400 billion of this was distributed in 2019[6].

Cash waqf, in particular, is increasingly seen as having an important role to play in stabilising the financial market, especially in light of the current economic turbulence caused by the global COVID-19 pandemic. For many industry players in Indonesia, cash waqf schemes – defined by Badan Wakaf Indonesia (BWI), or the Indonesian Waqf Board, in Law No 41/2014 and Regulation No. 1/ 2019 as investment instruments where returns are allocated to social benefits (see Figure 1) – are in fact perceived to be one of the most appropriate financial instruments to ameliorate the economy's current issue of liquidity.

In line with this, Bank Indonesia is currently promoting the adoption of cash waqf under the fatwa issued by the National Sharia Council of MUI (Indonesian Ulama Council) Number 2/2002 on 11 May 2002[8] which stipulates cash waqf as an instrument that is accordance with the Islamic concepts of improving the welfare of others during their lifetime in this world and beyond. In 2015, Bank Indonesia – in collaboration with several other institutions – also published the set of Waqf Core Principles (WCP), and launched the Cash Waqf Linked Sukuk[9].

[3] Uyun Q, "Zakat, Infaq, Shadaqah, dan Wakaf sebagai Konfigurasi Filantropi Islam". Islamuna 2, No. 2 (2015): 218-234.
[4] Nur Aqidah Suhaili & Mohd Rizal Palil, "Crowdfunding: A Collaborative Waqf Based Internet Platform". International Journal of Business, Economics and Law 11, No. 5 (2016).
[5] Suryani & Yunal Isra, "Wakaf Produktif Dalam Perspektif Hukum Islam dan Maqasid Al-Shari'ah". Walisongo 24, No. 1 (2016).
[6] H. Lubis, "Potensi dan Strategi Pengembangan Wakaf Uang di Indonesia". IBF: Islamic Business and Finance 1, No. 1 (2020).
[7] "BI Sebut Pemahaman Masyarakat Tentang Wakaf Sejauh ini Hanya Seputar Tanah". Merdeka. 8 October 2020.
[8] Muhdam Kamaludin, "Gerakan Wakaf Tunai". Koperasi Khairuummah. 30 January 2017.
[9] "Wakaf Produktif dan Teknologi Digital Dorong Perekonomian". Republika. 12 December 2018.

Figure 1: High-level overview of a cash waqf scheme



Source: IslamicMarket.com

Indonesia's Cash Waqf Movement

On 28 December 2020, Indonesia's Religious Affairs Minister, Yaqut Cholil Qoumas, launched the Cash Waqf Movement for civil servants at the Ministry of Religious Affairs. Under this program, civil servants can participate as cash waqf donors (Waqifs) by having the stipulated cash waqf deducted from their salaries and distributed to designated recipients through trustees comprising philanthropic institutions.

The Cash Waqf Movement is part of the Ministry's strategic plan for 2020-2024, and its implementation is guided by the Indonesian Ulema Council (MUI) Edict issued in 2002 as noted in Waqf Law No. 41/2004[10]. Looking ahead, it is expected that other ministries and institutions will follow this example and implement similar cash waqf schemes for the benefit of a greater number of Indonesians.

Untapped potential of P2P cash waqf crowdfunding platforms

With many unbanked individuals in Indonesia facing challenges in accessing conventional financial facilities, such as home financing instruments, due to their lack of credit history, one important application of cash waqf structures could potentially be to enable these unbanked individuals to own their own homes. Through a combination of cash waqf funds, government subsidies, and other sources of funding – achieved through collaboration between Nazhirs, the government, and other relevant stakeholders – it may be possible to create new financing structures for affordable housing.

In particular, the rise of innovative FinTech applications, such as peer-to-peer (P2P) crowdfunding platforms, presents several promising opportunities for the development of cash waqf programs. Currently, P2P crowdfunding platforms are already widely used in Southeast Asia, including in major Muslim markets such as Indonesia and Malaysia.

However, the overall focus for such cash waqf schemes thus far has largely been on channelling funds for social activities, rather than to unbanked individuals. Examples of platforms include Kitabisa.com, which enables users to donate to social causes, such as the construction of Islamic boarding schools (pesantren) and mosques, or funding support for orphanages. Users can donate to their causes through bank transfers and track the aggregated progress of their causes through the platform.

Lack of harmonised regulation

Nevertheless, the lack of harmonised regulation remains a significant challenge that P2P crowdfunding platforms looking to offer cash waqf schemes will need to overcome. Under Government Regulation 42/2006 on Enforcement of Law 41/2004, the Islamic Financial Institution (Lembaga Keuangan Syari'ah), under the appointmseent of the Minister of Religious Affairs, is responsible for overseeing cash waqf structures.

Although this institution is responsible for managing and developing waqf properties donated by the Waqif to the Nazhir through investments in the institution's products or other Islamic finance instruments, the situation becomes more complicated when FinTech players enter the mix.

Specifically, while waqf structures are regulated by both the Ministry of Religious Affairs and the BWI, FinTech companies fall under the purview of the financial services authority, Otoritas Jasa Keuangan (OJK). Given their differing objectives, each of these institutions have their own different sets of regulations that P2P cash waqf crowdfunding must individually navigate.

Potential Sharia-related issues

Furthermore, two important Sharia-related considerations continue to hinder the uptake of P2P cash waqf crowdfunding platforms in Indonesia. Firstly, there is the issue of Sharia contract compliance that arises due to differences in contracts that are governed by Indonesia law, which is based on secular, civil law principles, and those governed by Sharia, which is based on religious-trancendental principles in accordance with Al-Quran and Al-Hadist.

Under Sharia-compliant contracts, the party to the contract – for example, the borrower – is not strictly regulated. This party could be almost anyone, including an unbanked person. This is in contrast to conventional contracts, where the qualifications of the borrower often include bankability. Furthermore, while conventional

[10] "Gus Yaqut Launches Cash Waqf for Civil Servant". Tempo. 29 December 2020.

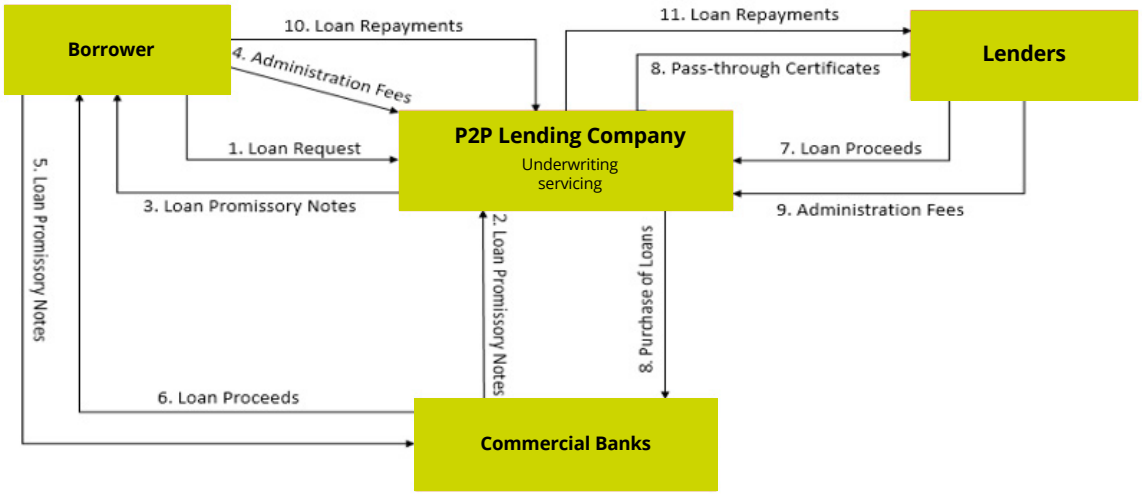
contracts require parties to be at least 17 years old, Sharia-compliant contracts do not stipulate a minimum age, requiring only that the party is a mature adult who is sane and healthy enough to make legal decisions.

Secondly, there is the issue of payment default or early settlement (Ibra'). As a waqf is a charitable social fund based on the concept of mutual partnership, the treatment of payment default or early settlement is different from the treatment in an Islamic banking context as the recipients tend to be unbanked individuals from lower socioeconomic groups. It is therefore challenging to structure an appropriate contract ('Aqd) for financing under a waqf program as it is significantly different from a contract that is based on sale-and-purchase (Al-Bai').

Key questions to consider

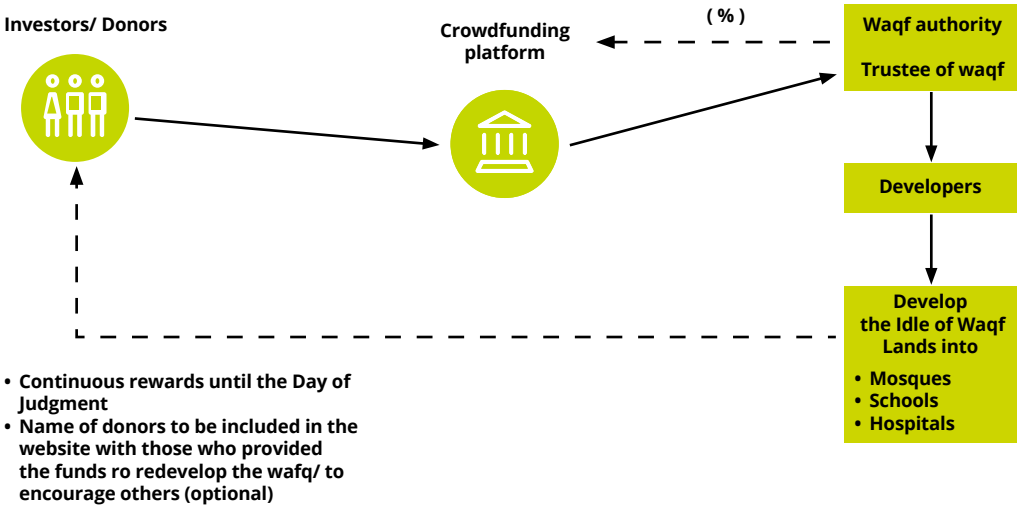
To better understand the potential legal and Sharia issues, it is useful to compare the conventional P2P crowdfunding process (see Figure 2) with the P2P cash waqf crowdfunding process (see Figure 3). In a P2P cash waqf crowdfunding process, there are at least four parties: the Waqif (donor), the Nazhir (trustee), the provider of the P2P crowdfunding platform, and the recipient of the cash waqf. To avoid disputes, a clear contract must be applied. In addition, there should also be clear mechanisms for dispute resolutions in the event of a breach by any of the parties.

Figure 2: Conventional P2P crowdfunding process



Source: Business Insider

Figure 3: P2P cash waqf crowdfunding process



Source: International Islamic University Malaysia

Under the standard P2P crowdfunding structure, we can see how most disputes can easily be avoided or resolved. However, when integrated with the Sharia aspects of cash waqf, the key issue of whether legal disputes should be settled under conventional law (civil court) or Sharia law (religious court) arises. Complicating this landscape is also the constitutional court decision that Islamic bank disputes must be settled through the religious court, which implies that all cash waqf transactions conducted through P2P crowdfunding platforms must also comply with the tenets of Sharia principles.

As P2P crowdfunding platforms consider the possibility of offering cash waqf scheme under in a model that would be compliant with both legal and Sharia principles, it may be useful for them to consider the following key questions:

- What are the legal issues involved in implementing cash waqf structures on P2P crowdfunding platforms?
- Can a non-Muslim be stipulated as a contracting party in the form of a Waqif since the waqf is considered to be a donation?
- What should the appropriate contracts between contracting parties, such as platform providers and Nazhirs or Nazhirs and recipients look like?
- Is there a Sharia-compliant solution that can be reached in the event of a contract breach between the platform provider and Nazhir and/or recipients?
- Are recipients allowed under Sharia law to utilise the funds given by the Waqif for purposes that are not in line with the Waqif's mandate?

Given the ongoing COVID-19 pandemic, cash waqf schemes have potentially important applications as an agile financial instruments that could act as crucial social security nets for many unbanked and vulnerable individuals in Indonesia during this difficult period. To enable this to happen, however, there needs to be greater levels of collaboration between FinTech industry players, regulators, Muslim scholars, and other relevant stakeholders to leverage P2P crowdfunding platforms as a mechanism for the distribution of cash waqf schemes to better meet Indonesia's urgent social needs.

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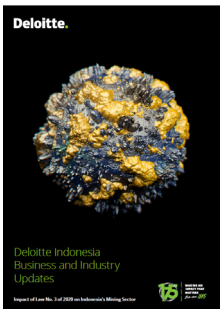

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