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The Regulation of Wakaf Tunai Calon Pengantin as a Cash Waqf Scheme for Advancing *Mashlahah* for Family Economic Resilience

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Abstract: This research examines the legal status of Cash Waqf for Prospective Brides and Grooms (WTC) in islamic regulatory frameworks to ensure legal certainty and enhance transparency. This research is a descriptive normative juridical research with statute approach and conceptual approach. The results of this research indicate that the normative status of WTC remains unclear, leading to legal uncertainty and gaps that need to be addressed immediately. Substantively, WTC aligns with maqashid syariah as it is oriented towards strengthening family economic resilience. However, in practice, it has not been realised due to unclear guidelines for implementation, low wakaf literacy, a lack of transparency, conflicts with extortionate fees, and the failure to distribute benefits effectively. This research recommends that WTC need to be supported by technical regulations aligned with national waqf law, involving BWI and the Ministry of Religious Affairs and that the concept of mashlahah mursalah serve as the foundation for drafting family-oriented regulations, such as BWI decrees, circular letters, and operational guidelines for the WTC. The optimalisation of the role of the BWI, the Ministry of Religious Affairs, and the BWI representatives, and strengthening of transparency through a real-time dashboard similar to the 'SatuWakaf' system.

Keyword: Waqf, WTC, Legal Certainty, Mashlahah, Family Economic Resilience.

INTRODUCTION

Cash waqf obtains juridical legitimacy through the resolution of the Fatwa Committee of the Indonesian Council of Ulama (MUI), as embodied in MUI Fatwa No. 2 of 2002 on Cash Waqf.[1] The existence of cash waqf as a form of waqf whose object consists of movable property in the form of money has been formally recognized under Article 16 paragraph (2) of Act No. 41 of 2004 on Waqf. Cash waqf carries substantial potential to be utilized as an instrument for enhancing the *mashlahah* of the Muslim community. This concept is closely related to the notion of the welfare state. As explained by Ridwan HR, a central characteristic of the state within the welfare state paradigm is the government's obligation to realize the general welfare

[1] Abidah Masrurah and Muzalifah, 2022, "Urgensi Fatwa MUI dalam Pembangunan Sistem Hukum Ekonomi Islam di Indonesia", *Indonesian Journal of Shariah and Justice,* Vol. 2, No. 1, p. 80-81.

of its citizens.[2] This is consistent with the preamble of the 1945 Constitution of the Republic of Indonesia, which mandates the promotion of the general welfare and the realization of social justice for all the people of Indonesia.[3]

Act No. 41 of 2004 on Waqf was enacted on the basis of Articles 29 and 33 of the 1945 Constitution of the Republic of Indonesia, and therefore enjoys constitutional legitimacy within the national legal system. Article 29 paragraphs (1) and (2) affirm that the state is founded upon the belief in the One and Only God and guarantee the freedom of every inhabitant to worship according to his or her own religion and belief, thereby strengthening the position of religion as one of the pillars of national and state life.[4] Meanwhile, Article 33 paragraph (1) underscores that the national economy is organized as a joint endeavor based on the principle of kinship. Accordingly, productively managed cash waqf constitutes a strategic instrument for supporting the constitutional objectives of the state in realizing the welfare of the *ummah* and social well-being.

The implementation of cash waqf in Indonesia has undergone various innovations, including the development of cash waqf products integrated with Islamic financial instruments and digital technology. One notable manifestation of this development is the Wakaf Tunai Calon Pengantin (WTC) program. WTC was first introduced by the Representative Office of the Indonesian Waqf Board (PBWI) of West Sumatra Province as a result of institutional synergy between the Indonesian Waqf Board (BWI), Bank Syariah Indonesia (BSI), and the Ministry of Religious Affairs (Kemenag) in 2023.[5] "*Agar Cintamu Seabadi Wakafmu*" ("May Your Love Be as Eternal as Your Waqf") is the theme adopted by this program, highlighting its aim of fostering family blessing and long-term welfare through waqf.[6] Through WTC, prospective brides and grooms are encouraged to participate in cash waqf, which is directly promoted by the Office of Religious Affairs (KUA). The benefits generated from the waqf are managed for the benefit of the *mauquf 'alaih*, namely broader communal interests, with particular emphasis on initiatives that support and strengthen family economic resilience.[7]

As the initiator of WTC, the West Sumatra Representative Office of BWI explains that the program was designed and implemented in view of the existence of 174 Offices of Religious Affairs (KUA) in West Sumatra, with an estimated 3.500 prospective couples each month. On this basis, the potential monthly collection of WTC funds could reach approximately Rp. 175.000.000, assuming a cash waqf contribution of Rp. 50.000 from each prospective bride and groom.[8] Based on this projection, the annual amount of cash waqf collected through the *WTC* program is expected to reach approximately Rp. 2,1 billion.[9] Potensi ini menunjukkan bahwa Wakaf Tunai Calon Pengantin merupakan instrumen filantropi yang sangat potensial

[2] Ridwan HR, 2010, *Hukum Administrasi Negara*, Raja Grafindo Persada, Depok, p. 14.

[3] Yasniwati, Zefrizal Nurdin, dan Misnar Syam, 2019, *Wakaf Untuk Kesejahteraan Sosial di Indonesia,* Andalas University Press, Padang, p. 1 dan 123.

[4] Uswatun Hasanah, 2008, "Napak Tilas Undang-Undang Wakaf (Bagian 1)", accessed from https://www.bwi.go.id/258/2008/09/23/napak-tilas-undang-undang-wakaf-bagian-1/, at December 29th 2025, 17.12 PM.

[5] Rima Kurniati, 2023, "Program Wakaf Calon Pengantin di Sumbar diluncurkan, Setiap Pasangan diminta Berwakaf Rp50 Ribu, accessed from https://padang.tribunnews.com/2023/07/26/program-wakaf-calon-pengantin-di-sumbar-diluncurkan-setiap-pasangan-diminta-berwakaf-rp50-ribu, at September 10th 2025, 00.49 AM.

[6] Bank Syariah Indonesia, 2023, "BSI Sinergi dengan BWI dan KUA, Akselerasi Potensi Wakaf Tunai Pengantin dalam Ekosistem Keuangan Islam", accessed from https://www.bankbsi.co.id/news-update/berita/bsi-sinergi-dengan-bwi-dan-kua-akselerasi-potensi-wakaf-tunai-pengantin-dalam-ekosistem-keuangan-islam.

[7] *Ibid*.

[8] Rima Kurniati, 2023, *Loc. cit.*

[9] Redaksi, 2023, *"Potensi Wakaf Tunai Catin di Sumbar Capai Rp.2,1 Miliar Per Tahun*", accessed from https://padangkita.com/potensi-wakaf-tunai-catin-di-sumbar-capai-rp21-miliar-per-tahun/ at September 10th 2025, 00.48 AM.

dalam menumbuhkan kesadaran berwakaf di kalangan masyarakat, khususnya di antara pasangan yang akan memulai kehidupan berkeluarga.This potential indicates that the Wakaf Tunai Calon Pengantin *(*WTC*)* program constitutes a highly promising philanthropic instrument for fostering waqf awareness within society, particularly among couples who are about to embark on married life.[10] Given this potential, the WTC program can serve as a significant source of waqf funds to support sustainable social and economic initiatives.

The introduction of the WTC program in West Sumatra has encouraged its implementation by other provincial representative offices of BWI across Indonesia, including Lampung, Aceh, North Sumatra, Riau, South Sumatra, DKI Jakarta, West Java, Central Java, DIY Yogyakarta, West Kalimantan, Central Kalimantan, East Kalimantan, South Kalimantan, North Sulawesi, and South Sulawesi. This program creates strategic opportunities to enhance the participation of *waqif* through innovative and easily accessible waqf mechanisms, enabling prospective brides and grooms to perform waqf simply by scanning *QRIS* or transferring funds via *mobile banking* to the account of the LKS-PWU partnering with each BWI representative office. In this way, the program responds to the challenges of the digital era and proactively restructures modes of waqf practice within society.

One concrete manifestation of the *WTC* implementation is the *WTC* program carried out by the West Sumatra Provincial Representative Office of BWI (PBWI). To date, the amount of funds collected has not yet exceeded the target of Rp. 750.000.000 set in PBWI's performance plan for the 2022–2025 term of office.[11] Based on the data recorded to date, the fund-raising performance of the program has not shown a significant increase in comparison with its potential for development in West Sumatra since its launch in 2023. As of 30 April 2026, the cumulative amount of cash waqf collected through WTC in West Sumatra stands at Rp. 716.127.303.[12] At the same time, West Sumatra has 174 Offices of Religious Affairs (KUA), with a potential WTC fund-raising capacity of approximately Rp.75,000,000 per month, assuming that each prospective bride and groom contributes at least IDR 50,000 in cash waqf. On this basis, the annual amount of cash waqf collected through the WTC program is estimated to reach around Rp. 2,1 billion. In stark contrast to this considerable potential, the relatively low level of actual fund collection indicates the existence of fundamental problems in the implementation of the program. This situation reveals a substantial gap between potential and realization, thereby necessitating a comprehensive evaluation of education and management strategies so that this significant potential can be fully optimized.

In the context of the national waqf system, the management of waqf in Indonesia continues to face several serious challenges, particularly with respect to transparency, accountability, and the efficiency of fund distribution.[13] Suyuti's research indicates that one of the primary obstacles in waqf governance is the limited availability of public information concerning the status, value, and utilization of waqf assets, which undermines public trust and participation.[14] This lack of transparency results in insufficient public trust in waqf institutions, thereby limiting participation in waqf activities and constraining the full realization of waqf's philanthropic potential.

[10] Redaksi BWI Sumbar, 2025, "BWI Sumbar Gelar Rakorda Gerakan Wakaf Tunai Catin, Wujudkan Ketahanan Ekonomi Keluarga", accessed from https://www.sumbar.bwi.go.id/2025/09/03/8845/bwi-sumbar-gelar-rakorda-gerakan-wakaf-tunai-wujudkan-ketahanan-ekonomi-keluarga/, at September 10th 2025, 01.10. AM

[11] Perwakilan Badan Wakaf Indonesia Provinsi Sumatera Barat, 2022, *Rencana Target Kinerja dan Tata Kerja Tiga Tahunan 2022-2025,* Padang, p. 15.

[12] Muhammad Yunus, accessed by https://www.sumbar.bwi.go.id/2026/05/09/9001/wakaf-uang-tumbuh-pesat-bwi-sumatera-barat-catat-rp168-miliar-per-april-2026/, at June 5th 2026, 11.25 PM.

[13] Setiawan Bin Lahuri dan Alya Zhafirah Nasywa, 2025, "Teknologi Blockchain Sebagai Upaya Akuntabilitas", *Sosmaniora Jurnal Ilmu Sosial dan Humaniora*, Vol. 4, No. 1, p. 100.

[14] *Ibid.*

Although WTC has considerable potential in realizing Islamic philanthropy, its current management practices have not yet enabled the optimal use of the resulting cash waqf for the *mashlahah* of the ummah in the form of strengthening family resilience. Specific provisions on governance, contractual arrangements, the rights and obligations of the parties, and legal protection in the implementation of this program are contained in the WTC program manual, but they are not clearly and explicitly stipulated in any dedicated implementing regulation governing WTC.[15] This situation has the potential to give rise to several problems, including legal uncertainty and increased risks in the management of waqf funds. The WTC provisions, which still rely on the Waqf Act and its derivative regulations, have not been implemented in a fully coherent and optimal manner, thereby generating doubts concerning the certainty of norms, governance standards, and legal protection for the parties involved.

In addressing the transparency challenge, there is still no clear regulatory framework governing the use of technological advances to periodically disclose cash waqf collection figures. Yet, in the context of cash waqf mobilization, the needs of the *waqif*, particularly with respect to access to clear and accountable information, constitute a crucial element that ought to be duly considered by the nazhir.[16] As stipulated in Article 215 paragraph (2) of the Compilation of Islamic Law, the *waqif* is understood as an individual or legal entity that transfers or dedicates property which he or she owns as waqf. In this capacity, the *waqif* ought to be provided with adequate access to the nazhir's accountability reports, information on the benefits delivered to the wider community, and high-quality services from the nazhir in managing waqf assets.[17]

In order to achieve the benefits and safeguard the *mashlahah* of the ummah through the WTC program, this study examines the legal status of WTC management as one of the cash waqf programs administered by the Indonesian Waqf Board (BWI). Special attention and synergy between BWI and the Ministry of Religious Affairs (Kemenag) are required to formulate policies that further regulate the WTC program, thereby ensuring legal certainty, sound governance, and adequate protection for the parties involved. In line with this objective, the study also explores the urgency of regulating the use of blockchain systems as an effort to realize the transformation of cash waqf management in Indonesia, particularly in terms of transparency, accountability, and efficiency. Accordingly, the central research problem addressed in this study is about how the Wakaf Tunai Calon Pengantin (WTC) program should be regulated as a cash waqf scheme aimed at achieving *mashlahah* for family economic resilience.

METHOD

The method used in this research is descriptive normative research. In this research, the authors use descriptive sentences that are systematically arranged to describe the research results based on laws and regulations, as well as legal developments applicable in Indonesia. The research approach employed is statute and conseptual approach. The results of this study will be processed using an editing method, starting with organizing the data sources and narrating them into a comprehensive study. The data collected from primary through interviews with the management of the West Sumatra BWI Representative Office as the initiator of WTC, secondary, involving a review of literature, including books on laws and regulations, legal documents, and materials related to the topic, and tertiary sources including dictionaries will

[15] Interview with Dr. Muslimah, M.Ag. as Director of the Nazhir Institution of the West Sumatra Provincial BWI Representative Office, at June 5th 2026.

[16] M. Zahid Ainul Yaqin, 2023, "Pelaksanaan Wakaf Uang di Badan Wakaf Indonesia Kota Tangerang (Tinjauan Hukum Islam dan Hukum Positif), Tesis Magister Hukum Ekonomi Syariah Universitas Islam Negeri Syarif Hidayatullah, p. 91-92.

[17] *Ibid.*

be processed by the authors. Data processing beginning with the editing process to check the clarity and completeness of the data obtained, followed by data analysis and systematic compilation.

RESULTS AND DISCUSSION

Wakaf Tunai Calon Pengantin is a cash waqf innovation initiated by the West Sumatra Representative Office of BWI in collaboration with the Ministry of Religious Affairs and Bank Syariah Indonesia (BSI) since 2023, and forms part of the family of cash waqf products whose designation is attached to a specific category of *waqif* namely prospective brides and grooms. The program leverages the pre-marriage momentum to encourage prospective couples to dedicate part of their assets in the way of Allah, under the slogan "*Abadikan Cintamu Seabadi Wakafmu*", thereby integrating cash waqf practice into the early stage of family life. The nomenclature "*wakaf tunai*" does not explicitly appear in Indonesian waqf legislation, such as the Waqf Act, its implementing Government Regulation, or BWI regulations. Nevertheless, this designation remains substantively valid and relevant because it refers to the notion of cash waqf as defined in MUI Fatwa No. 2 of 2002 on Cash Waqf, which describes wakaf uang (*cash waqf* or *waqf al-nuqud*) as waqf performed by an individual, group of individuals, institution, or legal entity in the form of cash. This terminological correspondence is further reinforced when viewed from the Arabic term *nuqud*, which specifically denotes cash money.[18] Consequently, although Indonesian positive law employs the term "*wakaf uang*", the designation "*wakaf tunai*" in the WTC program remains appropriate to capture the essence of *waqf al-nuqud* as articulated in the MUI Fatwa. In this regard, the object of property dedicated in the program consists of movable assets in the form of money, which are recognized as *mauquf bih* under Article 16 paragraphs (1) and (2) of Act No. 41 of 2004 on Waqf.

The prospective brides and grooms referred to as the target subjects of cash waqf collection in this program are those who are about to marry and register with the local Office of Religious Affairs (KUA). In view of the minimum age requirement of 19 years for marriage candidates under Article 7 of Act No. 16 of 2019 amending Act No. 1 of 1974 on Marriage, every prospective bride or groom aged 19 years and above possesses the legal capacity to act as a *waqif*. Prospective couples are guided and provided with socialization by KUA to perform waqf through the WTC program during premarital counselling sessions and when completing marriage administration. Nevertheless, WTC has no connection whatsoever with administrative marriage fees; it is merely a recommendation for prospective brides and grooms to dedicate part of their money in the way of Allah. For each prospective bride and groon, the WTC program has the potential to:[19]

a. Serve as a form of *mu'amalah* worship that spreads goodness and blessing to others, while at the same time constituting an act of *taqarrub* (drawing closer) to Allah SWT.
b. Function as a means for prospective couples to express gratitude for the blessings granted by Allah prior to the solemnization of their marriage.
c. Realize a continuous philanthropic worship that guarantees ongoing (*jariyah*) reward through social contributions, so that the marriage to be contracted does not merely bind worldly affection but also becomes a path to obtaining *ukhrawi* reward.

In addition, the WTC program can serve as a vehicle for disseminating public understanding of the significant development from traditional waqf patterns, which have long been limited to immovable property such as land for the construction of mosques or cemeteries. Through the introduction of cash waqf in WTC, society is encouraged to view waqf as a more

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[18] Mohamad Athoillah, 2019, *Hukum Wakaf Benda Bergerak dan Tidak Bergerak dalam Fikih dan Peraturan Perundang-Undangan di Indonesia,* Penerbit Yrama Widya, Bandung, p. 148.

[19] Imam Sujono, 2024, "Wakaf Uang Calon Pengantin", *JISH (Jurnal Ilmu Syariah dan Hukum*), Vol. 4, No. 2, p. 81-82.

dynamic instrument that is responsive to contemporary socio-economic needs while still preserving the fundamental values of waqf in the Islamic tradition.[20] In this way, the approach can help reshape public perceptions of waqf, moving beyond the previously narrow understanding toward an awareness that waqf has undergone significant development, allowing more flexible and non-burdensome forms of dedication. Such a shift in perception is expected to further enhance society's willingness to engage in cash waqf as an accessible and contextually relevant form of Islamic philanthropy.

In the context of WTC, the regulation of cash waqf for prospective brides and grooms can be understood as a manifestation of maṣlaḥah mursalah, as it fulfils key indicators of maqāṣid al-sharī'ah without any explicit textual prohibition in the Qur'an or Hadith, as follows.

a. Preservation of religion (*ḥifẓ ad-din*), whereby WTC strengthens the Islamic social finance system through cash waqf as one of the instruments of Islamic philanthropy. In this way, worldly worship is not limited to obligatory acts but also encompasses sunnah practices that yield ongoing (*jariyah*) reward.
b. Preservation of property (*ḥifẓ al-mal*), whereby WTC, through the productive investment of cash waqf, helps preserve the value of waqf assets and simultaneously enhances them so as to generate greater benefits for society. Through cash waqf, collected funds do not merely remain idle but are invested to produce economic benefits that can improve overall welfare.
c. Preservation of life (*ḥifẓ an-nafs*), insofar as the intended allocation of waqf proceeds is directed towards empowering family enterprises in need. When the economic condition of beneficiary families improves, their right to a decent life and the well-being of their members are better protected.
d. Preservation of lineage (*ḥifẓ an-nasab*), as WTC can reinforce family structures through programs that support family economic resilience, thereby safeguarding descendants and family continuity from the threat of poverty and social vulnerability.
e. Preservation of intellect (*ḥifẓ al-'aql*), as WTC promotes waqf literacy and understanding of Islamic law within society, particularly among prospective brides and grooms. WTC socialization activities at KUA serve as an educational platform on waqf law, Islamic philanthropic benefits, and social responsibility, helping individuals to think in a more informed and deliberate manner when dedicating their wealth in the way of Allah prior to establishing a household.

The strength of the WTC program lies in its flexibility and its economic potential for families as a strategic contribution to sustainable development. The strategy of collecting cash waqf through this program operates within the framework of *mashlahah mursalah*, whereby the various dimensions of cash waqf management, including collection, administration, and utilization, form an interconnected cycle aimed at realizing continuous public benefit.[21] The primary maṣlaḥah that WTC is expected to generate is the strengthening of family resilience through empowerment programs that support economically valuable income-generating activities,[22]thus the families who become the *mauquf 'alaih* possess adequate capacity to meet their needs with a reasonable quality of life. This includes increasing the availability of economic resources, creating employment opportunities, and ensuring sufficient asset ownership to sustain long-term family welfare.[23] In this way, needy families can meet their

[20] Surtiya Ningsih, *Et Al.,* 2025, "Potensi Pengembangan Wakaf Uang di Lembaga Wakaf Mutiara Tarbiyah Kota Palangka Raya", *Jurnal Ilmiah Ekonomi Islam,* Vol. 11, No. 04, p. 262.

[21] Yahya Al Ghifari Hidayat, Baiq Ratna Mulhimmah, dan Wawan Andriawan, 2025, "Analisis Efektivitas Wakaf Uang dalam Mengintegrasikan Sustainable Development Goals (SDGs) Perspektif Mashlahah Mursalah (Studi di MIM Foundation)" *Mu'amalat: Jurnal Kajian Hukum Ekonomi Syariah,* Vol. 17, No. 2, p. 104.

[22] Interview with Dr. Muslimah, M.Ag., *Loc. cit.*

[23] Syailendra Sando Djati PS, Ghifary Duyufur Rohman, dan Adi Aprianto, 2024, "Wakaf Uang dan Perannya dalam Penguatan Ketahanan", p. 332.

basic food requirements and pay for healthcare costs through the profits generated by income-producing activities financed from the returns of waqf assets.[24]

From the perspective of Islamic law, the urgency of the WTC program is grounded in Qur'anic teachings that emphasize the dedication of wealth for the sake of *birr* (comprehensive righteousness). Normatively, the definition and concept of WTC are consistent with Indonesia's cash waqf legislation, as they treat money as the object of waqf and direct its benefits toward the *mashlahah* of the ummah and family economic resilience. However, no specific regulation explicitly accommodating the technical aspects of WTC is yet available, either in the form of an implementing regulation or detailed operational provisions. At present, guidance on WTC remains in the form of a program manual first prepared by the West Sumatra Representative Office of BWI as a reference for the Nazhir Institution of BWI West Sumatra (LK-BWI Sumbar) in carrying out the program. This manual sets out the rights and obligations of the *waqif* and the nazhir, the implementation mechanism, transparency requirements in management, and the procedures for distributing benefits to eligible recipients.

The compatibility of key aspects of the *WTC* implementation with Indonesian positive law includes:

a. Prospective brides and grooms acting as *waqif*, having the requisite legal capacity in accordance with Article 7 of BWI Regulation No. 1 of 2009 in conjunction with Article 7 of Act No. 16 of 2019 amending Act No. 1 of 1974 on Marriage.
b. Money as *mauquf bih*, as recognized in Article 2 point (2) of BWI Regulation No. 1 of 2009, which identifies money as one of the possible objects of waqf property.
c. BWI representative offices serving as nazhir, consistent with Article 4 paragraph (1) of BWI Regulation No. 2 of 2021 on BWI Representative Offices, which authorizes BWI representatives to perform nazhir functions.
d. Islamic banks functioning as LKS-PWU, in line with Articles 23 and 24 paragraph (3) of Government Regulation No. 42 of 2006, which designate Islamic Financial Institutions Receiving Cash Waqf (LKS-PWU) as entities authorized to receive and manage cash waqf.
e. Family economic resilience as *mauquf 'alaih*, in accordance with Article 22 of Act No. 41 of 2004 on Waqf, which permits the utilization of waqf assets for general welfare purposes, including the strengthening of family economic conditions.
f. The issuance of cash waqf certificates for waqf contributions of Rp.1.000.000 and above, as stipulated in Article 3 paragraph (4) of BWI Regulation No. 1 of 2009, serving as a legal instrument of proof for cash waqf.
g. The use of *mobile banking* as an indirect deposit method, consistent with Article 6 paragraph (3) of BWI Regulation No. 1 of 2009, which allows cash waqf deposits to be made via bank transfers.

Based on the foregoing description, it can be observed that, in general, the WTC program is implemented with reference to the national waqf legal framework. Nevertheless, several provisions are not carried out as required, namely:

a. The waqf declaration form should be provided by the LKS-PWU as the official responsible for preparing cash waqf deeds, yet in the WTC scheme this form is supplied by the Nazhir Institution of the BWI Representative Office, which is inconsistent with Article 6 paragraph (3) of BWI Regulation No. 1 of 2009.
b. Cash waqf certificates should be issued by the LKS-PWU specifically for deposits of Rp.1.000.000 and above; however, WTC introduces a particularity in that there is no minimum nominal requirement for the *waqif* to obtain a certificate. Under this arrangement, cash waqf certificates are issued by the Nazhir Institution of the local BWI Representative Office, which does not conform to Article 3 paragraph (4) of BWI Regulation No. 1 of 2009.

[24] *Ibid.,* p. 333.

c. Transparency and accountability from the nazhir to the public have not been implemented consistently, whereas these matters should be aligned with the principle of publicity as reflected in Article 61 of the Waqf Act, which provides that:
   (1) The accountability for the tasks of the Indonesian Waqf Board shall be carried out through annual reports audited by an independent audit institution and submitted to the Minister.
   (2) The annual reports as referred to in paragraph (1) shall be made public.

In addition, WTC introduces a specific provision that has no explicit counterpart in existing waqf legislation, namely the designation of the Office of Religious Affairs (KUA) as a Waqf Collection Unit (UPW). The appointment of KUA as UPW is based on an internal mandate from the Nazhir Institution of PBWI to support the collection of WTC funds, thereby positioning KUA not only as a marriage registration authority but also as a strategic partner in mobilizing cash waqf at the grassroots level.[25] This legal uncertainty creates a critical gap arising from the absence of specific regulation regarding the role of KUA in managing waqf of movable property in the form of money, which in turn generates functional ambiguity for the Waqf Collection Unit (UPW). As a consequence, KUA's performance of its tasks within the WTC framework is not governed by clear standards and carries the risk of responsibility being denied or disclaimed in the execution of such functions. Accordingly, explicit technical regulation is required to establish national standards for KUA's role as UPW and to provide legal protection for the stakeholders involved. The uncertain legal status of KUA as UPW also leads to concerns within KUA itself, due to the lack of a firm legal basis for conducting socialization activities and facilitating the implementation of the WTC program.

Regulatory clarity will align KUA's mandate as a Waqf Collection Unit (UPW), so that it becomes a legitimate guiding framework for the performance of tasks that are integrated with the administration of cash waqf, while at the same time expanding KUA's authority to participate in efforts to improve the welfare of the ummah through the implementation of movable waqf in the form of money. The key issues that need to be clarified in this regard concern the limits of KUA's authority as UPW and the distinction between its duties and those of the nazhir, the mechanism for collecting cash waqf that must not be mixed with marriage fees, the coordination mechanism between KUA and the BWI Representative Office, as well as the pattern of publishing reports to the wider public. Without such regulation, the legal uncertainty surrounding KUA's status as UPW may trigger a decline in *waqif* participation and a loss of trust among prospective brides and grooms in engaging in waqf.

Essentially, although WTC does not have specific regulations, this program can still be implemented by grounding its provisions in the general rules of cash waqf. In line with the view of Yusuf Qardhawi, all matters related to muamalah activities are permissible as long as there is no single scriptural evidence that prohibits such an act.[26] However, WTC still requires a convergence of views among the mujtahid and the stakeholders involved in waqf implementation, particularly BWI, in order to provide guidance that responds to contemporary needs in achieving *mashlahah* and preventing *ikhtilaf.* From Radbruch's perspective, legal certainty for WTC should be realized through specific regulation on its implementation that meets several indicators of legal certainty, including:

a. Law is something positive, which is manifested in statutory regulations.[27] Essentially, this indicator has already been met because cash waqf has been recognized in Indonesia's positive law. However, its implementation remains limited to operational instructions

[25] Interview with Ibu Dr. Muslimah, M.Ag., *Loc. cit.*

[26] Iftia Fianisah and Saifuddin, 2023, "Tinjauan Hukum Islam Terhadap Wakaf Asuransi", *In Right Jurnal Agama dan Hak Azazi Manusia,* Vol. 12, No. 1, p. 130.

[27] Din Rizka Afdhali and Taufiqurrohman Syahuri, 2023, "Idealitas Penegakan Hukum Ditinjau dari Perspektif Teori Tujuan Hukum", *Collegium Studiosum Journal,* Vol. 6, No. 2, p. 558.

disseminated by KUA based on directives from each BWI Representative Office, and some of these guidelines have not been carried out in accordance with waqf regulations. As a result, there is still room for ambiguity that generates legal uncertainty, whereby KUA, nazhir, and *waqif* do not have binding legal guidelines in the implementation of WTC.

b. Law is based on facts, which means that law is created on the basis of factual reality.[28] In the context of WTC, the factual elements of WTC have not yet been regulated specifically in any dedicated legal instrument. As long as there is no special regulation concerning its technical procedures, there are no standard parameters for formulating the factual characteristics of WTC, so that existing cash waqf regulations remain generic and are not yet able to accommodate the particular reality of waqf collected from prospective brides and grooms.
c. These facts must be formulated in a clear manner so as to avoid errors in meaning and interpretation and to ensure that they are easy to implement.[29] Some aspects of WTC align with existing waqf regulations, others are in conflict, and there are also elements that have not been regulated at all, with no specific technical standards yet established.

This argument is in line with the findings of Amin Budiyanto and Sidik Hasan, who state that although the WTC program has a legal foundation in cash waqf as regulated within the framework of Islamic law through the MUI Fatwa and implemented in the Waqf Law and its derivative regulations, this legal basis is still not sufficient to firmly define the specific framework of WTC.[30] The lack of a clear WTC framework among waqf stakeholders may lead to biased public understanding, because the implementation of WTC is still not fully aligned with the existing cash waqf regulations.

According to Van Apeldoorn, legal certainty comprises two main aspects, including legal security, whereby the law can provide protection to individuals, and the existence of concrete law, whereby the law enables society to understand what is expected of them in certain situations. Without legal certainty, people do not know what they should do, and consequently uncertainty arises, which in turn leads to disorder as a result of the lack of firmness in the legal system.[31] Thus, in the absence of legal certainty, WTC may create room for *ikhtilaf* in public interpretations of the meaning of cash waqf. The pillars of waqf, which ought to be fulfilled as specific elements distinguishing waqf from other forms of *muamalah*, risk being blurred, thereby undermining the very essence of waqf. This situation may lead to WTC being misunderstood as merely an additional fee in marriage registration, or simply a form of donation, or even as a kind of illegal levy.[32]

In this regard, the suboptimal management of WTC can be seen from the fact that its proceeds have not yet been distributed to the *mauquf 'alaih*. Up to now, there has not been a single BWI Representative Office found to have successfully distributed the benefits generated from the management of WTC. Several obstacles frequently arise, including the low level of willingness among prospective brides and grooms to participate in waqf, which is partly caused by the fear of KUA in conducting socialization to every marriage applicant. This fear stems from the tendency of WTC practice to be associated or conflated with illegal levies.[33] dIn addition, KUA does not have legal certainty to socialize cash waqf to prospective brides and

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[28] *Ibid.*
[29] *Ibid.*
[30] Amin Budiyanti and Sidik Hasan, 2025, "Wakaf Tunai Calon Pengantin di Kota Surakarta Analisis Potensi Ekonomi dan Tantangannya Perspektif Teori Efektivitas Hukum dan Mashlahah Mursalah", *Journal of Social and Economics Research,* Vol. 7, Issue 2, p. 1259.
[31] Alfita Yola Hotta, 2025, "Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum", *Jurnal Hukum Dehasen*, Vol. 1, No. 1, p. 24.
[32] Muslimah, 2026, "Kebijakan Wakaf Tunai di Provinsi Sumatera Barat", *Jurnal Kajian Ilmiah Interdisipliner*, Vol. 10, No. 1, p. 106.
[33] Interview with Dr. Muslimah, M.Ag., *Loc. cit.*

grooms, which makes KUA apprehensive about carrying out its role as a Waqf Collection Unit (UPW).

Based on an interview with the Director of the Nazhir Institution of the West Sumatra BWI Representative Office, this Representative Office expects the issuance of a Circular Letter from the Ministry of Religious Affairs addressed to every KUA, in order to provide legal legitimacy for KUA in performing its duties as UPW and in socializing WTC to prospective brides and grooms. From the perspective of *mashlahah mursalah*, legal certainty for KUA as UPW constitutes a *dharuriyyah* need,[34] because without such certainty in the execution of KUA's duties, there is room for the perception that KUA lacks the capacity and authority to socialize and collect cash waqf. This situation may affect the sustainability of waqf programs and may lead to complaints regarding alleged misuse or deviation of KUA's functions and duties as UPW within the WTC program. In terms of the binding force of a ministerial circular letter, such a policy would only be binding internally on KUA in the performance of its tasks as UPW and would not provide clear legal protection or assurance to the public that WTC is a legitimate and safe program. Nonetheless, the Circular Letter could offer legal certainty for KUA by affirming its status as an extension of PBWI, a position which has not yet been regulated at all in existing waqf legislation.

Amin Budiyanti and Sidik Hasan, in their research, recommend that WTC be formulated in the form of a Regulation of the Minister of Religious Affairs.[35] A Regulation of the Minister of Religious Affairs (Permenag) has binding force at the national level and applies uniformly throughout all regions of Indonesia in accordance with Article 8 paragraphs (1)–(2) of Law No. 12 of 2011. Based on Article 6 letter h of Regulation of the Minister of Religious Affairs No. 25 of 2024 on the Organization and Working Procedures of the Ministry of Religious Affairs, the Ministry has the function of administering governmental affairs in the field of religion, including formulating, drafting, and providing policy recommendations in religious matters. These regulatory provisions can serve as a reference for formulating a Draft Regulation of the Minister of Religious Affairs on the management of innovative cash waqf programs, including WTC.

Another regulatory recommendation is in the form of a BWI Regulation. Such a regulation is recognized under Article 8 paragraphs (1)–(2) of Law No. 12 of 2011, which explicitly states that regulations issued by bodies established by statute have binding legal force. This provision is relevant to the establishment of BWI based on Article 47 paragraph (1) of the Waqf Law, together with its authority as a regulator. In accordance with Article 48 of the Waqf Law, BWI's regulatory role is not limited to issuing regulations, but also includes the authority to provide advice and recommendations to the government in formulating national waqf policies. These provisions are in line with Article 5 paragraphs (1) and (2) of BWI Regulation No. 2 of 2012 concerning BWI Representative Offices.

The fact that a Regulation of the Minister of Religious Affairs and BWI Regulations possess binding legal force for internal stakeholders and the wider community, particularly prospective brides and grooms, makes their enactment a necessity in responding to the specific needs arising from the development of other waqf innovations. However, this approach carries the potential risk of over-regulation,[36] due to the proliferation of fragmented waqf provisions, while the number of existing regulations on cash waqf management in Indonesia is already

[34] Ibrahim Ahmad Harun, 2022, "Implementasi Konsep Maslahah Mursalah Dalam Ekonomi Islam Menurut Tokoh Islam dan Jumhur Ulama", *Jurnal Economina,* Vol. 1, No. 3, p. 568.

[35] Amin Budiyanti and Sidik Hasan, *Loc. cit.*

[36] Nelci Priskila Kulle, 2023, "Simplifikasi Regulasi Sebagai Bentuk Penyelesaian Over Regulation dalam Sistem Peraturan Perundang-Undangan di Indonesia", *Jurnal Studia Legalia: Jurnal Ilmu Hukum,* Vol. 4, No. 2, p. 184.

considerable and includes overlapping norms. Therefore, the implementation of WTC can be optimized through the effective use of existing legislation, complemented by detailed technical provisions.In this regard, in addition to issuing a Circular Letter of the Minister of Religious Affairs concerning the status of UPW, implementation guidelines and technical guidelines for WTC can also be formulated. These instruments may be drafted by the Ministry of Religious Affairs in coordination with BWI, by clarifying the legal status of each WTC subject, its object, and the procedural steps of its implementation, so that technical legitimacy for governance is established, making use of the WTC guideline book prepared by PBWI West Sumatra while at the same time observing the existing waqf legislation.

In its formation, BWI is expected to take a proactive role in realizing legal certainty for WTC. This process can be initiated by the West Sumatra Provincial BWI Representative Office by reaching out to the Ministry of Religious Affairs and the Central BWI. In doing so, WTC will gain programmatic clarity, which is expected to reduce doubts in its implementation and enhance fundraising, so that *maslahah* can be achieved through the distribution of the benefits generated.

The solution to the problem of optimizing the duties and functions of the nazhir in relation to transparency can be aligned with the provisions on information disclosure regarding the continuity of cash waqf management based on the principle of publicity. In addition, transparency issues should follow the guidance of the Waqf Core Principles (WCP). The waqf governance framework compiled in the WCP by BWI, Bank Indonesia, and IRTI-IsDB in 2018 was introduced to ensure that nazhir management is prudent, transparent, and accountable, [37] particularly as reflected in WCP-28. The absence of a transparent and standardized reporting system is not in accordance with WCP-28 on Disclosure and Transparency. In order to implement the twenty-eighth WCP principle, WTC needs to apply information openness through standardized, real-time reporting, similar to the cash waqf program model found in the Waqf Movement of the Ministry of Religious Affairs' Civil Servants (ASN Kemenag) on the Satu Wakaf Indonesia website.[38] The platform provides a range of comprehensive indicators of cash waqf transparency, offering the public various options to assess the level of success of cash waqf programs.

Strengthening the regulation and institutional framework of cash waqf is one of the government's efforts to improve waqf governance in order to optimize its benefits for the wider community and to provide legal certainty. Legal certainty is a fundamental aspect in implementing philanthropic programs such as WTC, as it offers a sense of security and clarity for all concerned parties. Without legal certainty, this program may face difficulties in implementation, give rise to disputes, and undermine public trust. In such circumstances, it will also be difficult to achieve *mashlahah* and the objectives of Islamic law as taught by *mashlahah mursalah*, which must prioritize benefit in the form of social welfare and the prevention of harm.

CONCLUSION

The legal position of WTC within the national waqf system is grounded in Law No. 41 of 2004 on Waqf and its implementing regulations, as an innovation in the field of cash waqf, yet it still faces legal uncertainty with regard to its technical implementation. This uncertainty arises, among other things, from discrepancies between WTC practice and national legislation, particularly concerning the role of LK PBWI as the provider of waqf declaration forms, the minimum cash waqf deposit required for the issuance of Cash Waqf Certificates (SWU), the

[37] Bank Indonesia, Badan Wakaf Indonesia, and IRTI-IsDb, 2018, *Core Principles For Effective Waqf Operation and Supervision*, p. 12.

[38] Laporan Rekapitulasi Gerakan Wakaf Uang ASN Kemenag, accessed from https://apps.satuwakaf.id/report/asn-kemenag, April 27th 2026, 21.40 PM.

regulatory vacuum regarding the status of KUA as WTC's Waqf Collection Unit (UPW), and the fact that the benefits generated from waqf management have not yet been distributed. From the perspective of positive law, the technical aspects of WTC have not been explicitly codified in statutory norms, although from the standpoint of Islamic law WTC may still be regarded as valid as long as it fulfils the pillars and conditions of waqf and is directed towards achieving *maslahah*.

The benefit that WTC seeks to achieve is the empowerment of family economic resilience programs. However, thus far, the concrete manifestation of this *maslahah* remains largely theoretical, because the implementation of WTC is still confined to a programmatic form whose potential has not yet been optimally explored. Various issues hinder the realization of *maslahah* in WTC, including the lack of clear implementation guidelines which results in low waqf literacy among KUA as UPW, the apprehension of KUA in carrying out its role as UPW, the framing of WTC as indistinguishable from illegal levies, and the uneven practice of public reporting, which together prevent the development of public trust in waqf. It is therefore necessary first to optimize WTC's provisions by firmly referring to existing waqf legislation, complemented by the formulation of BWI Regulations, Circular Letters of the Minister of Religious Affairs concerning the status of KUA as UPW, and detailed implementation and technical guidelines for WTC issued by the Ministry of Religious Affairs and BWI. In this regard, the roles of the Ministry of Religious Affairs, BWI, and its Representative Offices as nazhir institutions responsible for the development of waqf assets in Indonesia must be strengthened, both in terms of guidance, supervision, and transparent management, in full compliance with the principles embodied in the Waqf Law.

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