

Method of *Instinbāth* Law of Money Waqf Abu Hanifah Immediate Perspective

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Abstract : This research should be done to find out how to explore and understand the contents of the text (*Instinbāth* pattern) of waqf legal money from the perspective of Imam Abu Hanifah. This research rests on the *Instinbāth* theory of Islamic law in establishing laws for the next generation. The library research uses descriptive analytical methods. The approach used in this study is referring to *usul fiqh* and *Maqāshid al-Syāri'ah*. These two approaches are used to analyze how the pattern of *Instinbāth* of law, as well as the constructs of the *fiqh* thought of Imam Abu Hanifah. From this study it can be concluded that: the pattern of *istinbāth* of Imam Abu Hanifah, first, in terms of coverage of *nāsh* from the three sources of waqf law (*Q.S al-Māidah: 103*, the narrative of Ibn Masūd, and the hadith of ibn 'Abbās)) *dhahir lafadh al-nāsh* shows the lack of encouragement of *muamalah* by carrying out the action of "*al-Habsu*" (*waqf*), because he can match the habits of Arab *Jahiliyah* who are used to the practice of *Bahira*, *Sāibah*, *Washīlah*, and *Hām* as explained in the *Qur'an*. Both *istinbāth al-Ma'āny*, through the approach: *Isyārah al-Nāsh*, *dilālah al-Nāsh*, and *Iqtidhā 'al-Nāsh* (analysis of the relevance of the meaning) according to Imam Abu Hanifah it can be understood that *mu'amalah waqf* does not contain '*luzūm contract*' (where an object that has been represented remains in the possessor's ownership with his *tasharruf* rights). On the basis of this *istinbāth* according to Imam Abu Hanifah cash may be represented, because in principle the *mawqūf* (*waqf* object) remains in the power of belonging to the apostle.

Keywords : *Instinbāth* pattern, Law, Waqf.

I. Introduction

Ushul Fiqh (Shari'ah) at the same time in order to answer the problems faced by the Islamic *ummah*. Because that as written by Muhyar Fanani, is a very precise statement from a number of legal experts who revealed that: "*Ushul Fiqh*" in Islam is a process of intellectual activity that is comprehensive in order to find, obtain, and at the same time understand the terms contained in the revelation teachings which then transforms the teachings of the revelation into a system that can be implemented in the form of rights and obligations "(Jurisprudence in Islam). The term of the divine will and transforms them into a system of legally enforceable rights and duties).

Based on the explanation above, the existence of the science of *Ushul Fiqh* is very important in an *ijtihad* activity which will always play a role in providing direction and guidance for a *mujtahid* (law maker from revelation) when carrying out his duties. Furthermore, if the knowledge of *Ushul Fiqh* is to talk about methodology and theory used to understand the rules set by Allah (*al-syāri'ah*), then it can mean how to regulate the steps in *ijtihad*, starting from the determination of legal arguments *Fiqh* is an approach, theory and methodology used in *fiqh* in order to understand the rules set by to be used as *istidlāl* tools (determine the proposition of an event). Besides that, it will also be noted about the orderly level of *istidlāl* from the legal arguments that apply in the legal *istinbāth* method.

II. Theoretical Study

2.1 Definition of *Instinbāth*

Instinbāth is a rule in the *fiqh* proposal, The word *instinbāth* comes from Arabic, namely "استنباط - استنباط - استنباط - استنباط", which means issuing, giving birth, digging and more. The basic word is "الماء" means rising water coming out of the ground. Thus, according to the language the meaning of *instināth* is the issue of removing something from its hidden hiding place.

The definition of *ijtihad* according to the theologian of the *fiqh* proposal is that there is a lot of diversity with the editor who adds it. But in the author's opinion, although with the diversity of the editors but not showing substantial variations, some of these definitions are:

القرية وقوة الذهن بفرط النصوص من المعاني استخراج

"Removing the meanings of texts (contained) by shedding thoughts and abilities (potential) instinctively".

According to Atabik Ali and A. Zuhdi Muhdhar in a contemporary Arabic Indonesian dictionary, saying that what is meant by *instināb* is the excavation or legal expenditure from the source.

Instinbāth is also interpreted by: "issuing legal content from texts that are in the Qur'an and -*Sunnah*, with the sharpness of reason and optimal ability".

From the above definition two things can be understood, first, that the essence of *instinbāth* is the effort to give birth to legal provisions from the source both contained in the Qur'an, *Sunnah* and other arguments. Secondly, based on the above description, it can be underlined that the term *instinbāth* according to Islamic law theorists is somewhat identical to *ijtihad*. As we know, the notion of *ijtihad* according to Islamic law theorists is an effort to devote all *fāqih's* abilities in issuing *amyyah* laws from detailed arguments, even though there are differences in their realization.

2.2 Definition and Basics of Money Waqf Law

Before the author explains the notion of cash waqf, it illustrates a bit of the basis of waqf conversations that are often found (more discussed) in most literary literature on waqf. In Indonesia, since the beginning of the study of waqf, basically what often became the highlight of the discussion was about endowments of immovable objects. In a number of literature books or books of *Fiqh* are also often detailed examples such as land, buildings, wood trees to be used by the fruit, wells that can be taken water and so forth. Whereas the discussion or discussion of movable waqf objects (which are currently often termed productive waqf), has only been more prominent lately. One form of movable endowments that is often discussed is cash waqf, with the popular term often referred to as cash waqf.

The explanation above does not mean that the study of waqf in moving objects has never been discussed before, but the study of productive waqf can also be found in the books of *fiqh* as the authors will examine in the next chapter. It's just because in practice, waqf that has been written is fixed on waqf objects that don't move. Because of this factor, he is more often encountered.

Regardless of which issues are more often discussed between waqf in the form of fixed objects, or aspects of its Islamic economics, what needs to be concluded here is that based on a number of references, the existence of cash waqf which has often been discussed

has indeed been there since the past, but the -the side of the difference is sometimes found in its utilization that continues to grow, and can be seen as ideas or ideas that develop today.

2.3 Basic legal endowments of money

Indeed, basically from the beginning of the talk about the legal foundation of waqf there was not one verse of the Qur'an which mentioned the practice of waqf explicitly. After understanding the legal foundation of waqf from these arguments is the implication through the interpretation of the fiqh cleric, So the legal foundation of waqf is not found explicitly in its legal basis, so in this case the author feels it will be the same as the legal waqf cash basis (al-waqf and al- nuqūd).

In the sub discussion of the definition of cash waqf, the author has suggested that if it is based on the substance of its understanding there is a substantial gap between the terms "cash waqf (al-Waqf and al-Nuqūd)" with "waqf (al-Waqf)", then in the basic discussion this cash waqf law although from their respective meanings ("waqf" and "cash" (al-Waqf and al-Nuqūd) "with" waqf (al-Waqf) "shows these differences, but is found from a number of reading literature about waqf, all of them include the legal basis of cash waqf not unlike the legal basics of waqf, a book written by the Ministry of Religion: "Guidelines for Cash Waqf Management" explain that: the legal basis of cash waqf also consists of verses of the Qur'an, hadith and opinions of Ulama. Perwakafan law in Indonesia is explained: "As a legal basis perwakafan are al-Qur'an, al-hadith, and ijtiḥad (interpretation of scholars).

Furthermore, in a complete explanation of the Laws of God: explained: "Although there is no verse of the Qur'an which specifically talks about waqf or the establishment of waqf assets, the indications (indications) are contained in a number of verses of the Qur'an which are widely scattered here and there with the theme "al-Infāq fi sabilillāh" which means issuing wealth in the way of Allah ". So far it can be understood that, the legal bases for "cash waqf" (al-Waqf al-Nuqūd) "and" waqf "(al-Waqf) exist which consist of the arguments agreed upon by the ulama (al- Adillah al-Muttafaq 'Alaih), namely: the Qur'an and the hadith, and there are also from the arguments that are still disputed (al-Adillah al-Mukhtalaf) namely "the opinion of the ulama" according to their respective ijtiḥad which may be Istiḥsān , Mashālih al-Mursalāh or Istishlāh and others.

2.4 Provisions on Waqf Provisions

The waqf provisions meant here are of course binding rules of waqf (consisting of pillars, other terms and conditions) that must be fulfilled in the practice of waqf processions. So in this case the provisions as described from the formulation of the definition of waqf, include the pillars (principal elements of waqf) and other aspects of the provisions of waqf as detailed in the following explanation.

1. Understanding pillars and waqf requirements

Before discussing the terms and harmony of the cash waqf at length, the author tries to review a little about the notions of terms and conditions themselves, and the difference between the terms and harmonies of the waqf itself. The word rukun comes from 'Arabic" al-Rukn ", meaning the strongest side, then al-rukṅ al-syai` means the side of something that is a place to rest. Whereas viewed from the terminology aspect of fiqh (fiqh terminology) harmonious is something where something is seen as very decisive for a particular discipline, also it is an integral part of the discipline itself, or in other terms harmony is perfecting something where it is part of something that is.

2. Types of pillars of endowments

a. Wāqif (perpetrators of endowments)

What is meant by wāqif is the owner of the property who is carrying out a legal act. According to experts in Islamic law, a waqf is considered valid and can be implemented if wāqif has the ability to carry out tabarru 'ie to give up property rights without material compensation. People who are said to be capable of doing tabarru 'are those who are already baligh, have a healthy mind, and are not forced. Endowments must be based on their own will, not on the pressure and coercion of any party. Islamic jurists have agreed that the endowments of people who are forced are illegitimate, as are laws or provisions for each act.

b. Mawqūf (endowments).

Mawqūf is a waqf object that is owned and controlled by the apostate legally and is one of the important elements in the representation. Law No. 41 of 2004 concerning waqf affirms that one of the main conditions that must be fulfilled regarding waqf property is the property that is intended to be owned and controlled by the interpreter legally. From this explanation it can be understood that, the property that can be represented by the interpreter is only the property that is clearly owned and fully controlled by the interpreter. An apostate cannot inherit property obtained legally, but not owned or possessed at that time.

c. Mawqūf 'Alaih (target or recipient of waqf)

What is meant by mauquf is the purpose of waqf that must be carried out based on the provisions set by the teachings of Islam. Therefore, objects that are used as objects of endowments should objects which are included in the field draw closer to Allah SWT.

d. Sighat (editorial of waqf contract)

In qif (perpetrators of endowments) and recipients of waqf perform qabul grants. One important Islamic law Sighat (editors of waqf contract) is also called a waqf pledge that occurs when Wāment in the representation is the "Pledge of Endowments". The waqf pledge is a statement from the person who represents it to the manager or management of waqf (Nazhir) about his intention to inherit the assets he owns for certain purposes or purposes. Sighat (editors of waqf contract) is the real proof of the surrender of receipt of waqaf property. So Sighat (editors of waqf contract) functions as clarifying the status of waqf items explicitly and clearly.

III. Research Method

The type is the study of Instinbāth of waqf law perspective of Imam Abu Hanifah, which aims to find out how the pattern of Instinbāth of the legal endowments of the money. So considering the object of this research is the collaboration between the legal instinbāth on the argument or its source with its legal consequences, this study is a library study conducted by reviewing the literature of books and books relating to the Istinbath pattern of the fiqh proposition. So this study is a qualitative descriptive study, using the Bayani analysis method.

IV. Discussions

As understood, in performing ijthad (Instinbāth Hukum), Imam Abu Hanifah always expressed his opinion by directly basing it on the Qur'an and hadith, namely by not having to

look first at the views of a particular school. This is because of the existence of Imam Abu Hanifa in his level as a scholar who occupied the position of Mujtahid al-Mustaqil (scholars who were able to explore the law directly from the Qur'an and al-Hadith, using the theory of fiqh propositions which created themselves as things the priests of the four schools. By some of the fuqahās call this level the term "Thbaqah al-Mujtahidīn fi al-Syar'iy" (the level of the mujtahids in syara '). Therefore, the object of Instinbāth Imam Abu Hanifah in the matters of waqf law of money are: first the Qur'an, the letter al-Maidah verse: 103, the two hadiths of Ibn Masūd's history, and the hadith of the history of ibn 'Abbās, and the third al-Ra'yu (logic).

Furthermore, before describing the legal istinbath pattern, in order to be more focused on understanding it, the author explains a few points which are substantially shifted in the legal pattern of marriage. Therefore, there are basically two ways of approach developed by the mujtahids in carrying out legal instinbāth, namely:

1. اللَفْظِيَّة طَرَق namely the way of legal istinbath based on the "message" contained in the text by understanding the language of the visible text. This text can be spoken, written and understood. The aim of this text study is the verses of the Qur'an and Sunnah of the Prophet Muhammad which are contained in the hadith books written in Arabic, so that his reasoning also uses Arabic studies.

In terms of coverage, there are general legal statements and there are also specific ones. Specific legal statements are final and definite (طَع) so that it closes to other meanings. However, this particular legal statement is absolute (وَالْمَقْيَد، الْمَطْلُق ل ل فَض) without restrictions and some are restricted. Besides being absolute and limited, special legal statements are also accompanied by orders and prohibitions of (وَالنَّهْي الْأَمْر). An order is a demand to do something from a higher party to a lower position. Prohibition is the demand to leave an action from a party that is higher in position to a lower level.

2. الْمَعْنَوِيَّة طَرَق namely the way of istinbath law based on the "impression" contained in the text. There are four analysis techniques to explore the law through the meaning of a legal statement, namely the analysis of the meaning of the translation (ībarah al-Nah), analysis of the development of meaning (dilālah al-Nāsh), keyword analysis of a statement (isyārah al-nāsh), and relational analysis its meaning (iqtidhā 'al-Nāsh).

In the case of the Instinbāth of the law of money waqf, Imam Abu Hanifah made his Instinbāth object on three basic legal arguments, namely: first the Qur'an surah al-Maidah verse: 103, Both hadiths of Ibn Mas'ūd's history, and ibn 'hadith Abbās, and third al-Ra'yu (logic). Imam Abu Hanifah understood the message and impression of the Al-Qur'an letter al-Maidah verse 103 malalui Instinbāth al-Lafdhiyyah (اللفظية طرق) which is based on the "message" contained in the text; and also with the pattern of Instinbāth al-Ma'nawiyah (طرق المعنوية) with details of the explanation of the Instinbāth pattern as follows:

Surat al-Maidah verse 103 reads:

لَا وَأَكْثَرُهُمْ يَعْقِلُونَ الْكُذِبَ لَمَالٍ عَلَى يَفْتَرُونَ كَفَرُوا الَّذِينَ وَلَكِنَّ حَامٍ وَلَا سَائِبَةَ وَلَا بَجِيرَةَ مِنْ اللَّهِ جَعَلَ مَا

Meaning: "Allah never recites the existence of Bahrah, Sāibah, Washīlah, and Hām. But the disbelievers make lies against God, and most of them do not understand. " (al-Māidah verse: 103)

Imam Abu Hanifah understands based on the scope of the text in terms of the contents of the اللَفْظِيَّة طَرَق context, there is a prohibited legal statement from the habits of the Jahiliyah Arabs who practiced Bahīrah, Sāibah, Washīlah, and Hām. As it reads:

حَامٍ وَلَا وَصِيْلَةٍ وَلَا سَائِبَةٍ وَلَا بَحِيْرَةٍ مِنْ اَللّٰهِ جَعَلَ مَا

1. Explanation of Instinbāth al-Lafdhiyyah

In Al-Qur'an Surat al-Mā'idah verse 103, with the approach of construction lafadh or (اللفظية طرق) by the Imam Abu Hanifah, found in the language of the text (nash al-Qur'an) which appears lafadh or letters النافية ما (which functions to deny that is interpreted as never having been recommended), and الناهية لا (which functions to prohibit), the lafadh is: first to the sound of "اللَّهُ جَعَلَ مَا", the second is followed by the next note "سَائِبَةٍ وَلَا" which can be brighter. contained in the text to the ban (التهمي).

Furthermore, regarding Instinbāth al-Lafdhiyyah Imam Abu Hanifah against the object of the waqf legal proposition from the hadith of Ibn Mas'ūd's history is also the same, namely the message of the narration of al-Hadis shown to no suggestion from al-Habsu (releasing something valuable from his ownership) , with the record of making it as "mahbūs" property (no longer owned by the owner, therefore no longer allowed to be traded, and may not be withdrawn in any way), which can be understood from lafadh "لَا حَيْسَ" (لَا النَّافِيَةَ) containing the message is that there is no suggestion to recover property forever without taking legal action on it). The integrity of the hadith is:

(مسعود بن إرواه) تَعَالَى اللهُ يُضْفَرًا عَنْ لَاحِسَ

Meaning: "there is no detention of property (al-habsu) in matters that already have the provisions of Allah" (H.R. Ibn Mas'ūd)

The hadith of the history of ibn 'Abbās which reads:

الحد بيس بديع والسلام الصلاة عليه محمد عا الله عنهما الله رضى و شريح
عن وهكذا عباس بن إوعن لشعبي

"From Ibn 'Abbās and Shuraih Radhiyallahu 'anhuma both said: The Prophet Muhammad SAW once sold al-Habīs (property which has been endured from its use by the owner, because it has been given to the poor), as said from Sya'by ". Dara dhahir lafdh the hadith text contains the message may (الإباحة) carry out legal actions muamalah on assets that have been detained (māl al-Habīs), based on the actions of the Prophet Muhammad as explained in the hadith text "bi baby' al-Habīs ".

So it is clear that the pattern of the Imam Abu Hanifah Instinbāth in the verses of the Koran is by the approach of Instinbāth al-Lafdhi construction lafadh or (اللفظية طرق), wherein the scope of the Qur'an and hadith mentioned above, according to Imam Abu Hanifah there are main messages such as: First "اللَّهُ جَعَلَ مَا" (النافية ما) contained a message that there was never a suggestion in Shari'ah); The second is lafadh "سَائِبَةٍ وَلَا" (الناهية لا) contained a message of prohibition) namely from the practice of Bahīrah, Sāibah, Washīlah, and Hām; The third "بديع" (لَا النَّافِيَةَ) containing the message has no suggestion); and Fourth, which is "الحد بيس" (مال الحد بيس) (contained in the message may (الإباحة) carry out legal actions muamalah on the assets that have been detained (مال الحد بيس).

This pattern of Instinbāth of Imam Abu Hanifah, as written by Kamāluddin Ibn al-Hammam al-Hanafi in his book Fath al-Qadīr, is as follows.

، والوصيلة، ذبته والسأ، الحد بيرة من أله عليه كان ما ب أن القسمة عن حد بيس مال لا حد بيرة ولأبى
والحمى

In the view of Imam Abu Hanifa, there is no type of property being held (الحد بيس مال) which is no longer passed on to the next heirs such as Bahīrah, Sāibah, Washīlah, and Hām, because that is the habit of ignorant people.

The legal term of Imam Abu Hanifah is based on the construction of lafadh or طرق اللفظية, by understanding the message that shows that there is no suggestion and even prohibits it from practice.

2. Explanation of Instinbāth al-Ma'nawiyah

Besides applying the pattern of Instinbāth al-Lafdhi in this money waqf law, Imam Abu Hanifah also carried out legal Instinbāth with an approach based on the "impression" contained in the text (Instinbāth al-Ma'āny or الامعنوية طرق). This Instinbāth al-Ma'any Imam Abu Hanifah is by focusing his attention on the analysis of the meanings of the Al-Qur'an Surat al-Maidah verse: 103, which covers the four aspects of al-Ma'any, namely:

- a. 'Ibarah al-Nāsh (analysis of translated meanings);
- b. Dilālah al-Nāsh (analysis of meaning development);
- c. Isyārah al-nāsh (keyword analysis of a statement); and
- d. Iqtidhā 'al-Nāsh (analysis of meaning relaxation).

The point is that the Qur'an Surat al-Māidah verse: 103 which is made as one of the Instinbāth objects of Imam Abu Hanifah in the legal waqf money is ibarah al-Nāsh which reads of the absence of advice from practice: Bahīrah, Sāibah, Washīlah, and Hām as the sound of al-Nahsh:

"حَامٍ وَلَا وَصِيلَةٍ وَلَا سَائِبَةٍ وَلَا بَحِيرَةٍ مِنْ اللَّهِ جَعَلَ مَا"

The meanings contained in each of the terms: al-Bahrah, Sāibah, Washīlah, and Hām are as follows:

- 1) al-Bahīrah, contained the meaning: "the female camel has given birth five times and the fifth child is male, then the female camel is cut off by the ear, released, may not be ridden again and cannot be taken milk"
- 2) al-Sāibah, contained the meaning: female camels were left to go anywhere because of something vows. Like, if an Arab Jahiliyah will do something or a heavy trip, then he usually vows to make his camels sāibah if his purpose or journey succeeds.
- 3) al-Washīlah, contained the meaning: a ewe gave birth to twins consisting of males and females, so this male is called washīlah, not slaughtered and handed over to idols.
- 4) and al-Hāmy means: male camels that should not be contested again, because they have been able to rip the female camel ten times, where this treatment of bahīrah, sāibah, washīlah and hām is an ignorance of Arab beliefs.

So the four terms of the Qur'anic text which consist of: al-Bahira, al-Shāibah, al-Washīlah, and al-Hām the istibāth pattern of Abu Hanifah's imam is with his understanding of three meanings, namely: First through the 'Ibarah' approach al-Nāsh (analysis of the meaning of the translation), shows that there is no suggestion even forbidding practice: bahīrah, sāibah, washīlah and hām, which means to hold back property by not doing any muamalah on him, which is termed الحاد بيس مال (property or eyes which is as bearable as the hadith explains).

The two through Isyārah al-nāsh (keyword analysis of a statement) show the abolition of the law of jahiliyyah habits which are used to practicing bahīrah, sāibah, washīlah and hām (الحاد بيس مال) and are canceled with the coming of the Shari'ah as explained by Kamāluddin Ibn al-Hammām al-Hanafi in the book Fath al-Qadīr, namely:

الصَّلَاةُ عَلَيْهِ بِقَوْلِ وَالْحَامِي، نُؤْبَهُ وَالسَّاءِ، الْبَدِيرَةُ مِنْ كُلِّ ذَلِكَ أَبْطَلَ وَالشَّرْعُ حَدُّهُ أَبْطَلَ وَيُوقَلُ
"اللَّهُ فَرَّضَ عَنْ حَادِ بَيْسٍ لَا" وَالسَّلَامُ

"And Abu Hanifah explained that: the habits of the Jāhiliyah people (bahīrah, sāibah, washīlah and hām) were canceled by Shari'at which the Prophet brought with his hadith" there is no detention of property (al-habsu) in matters that already exist the provisions of God "

Third through Iqtidhā 'al-Nāsh (analysis of relaxation of meaning) contained in the prohibition of the practice of bahīrah, sāibah, washīlah and hām, leading to the main purpose is the absence of adultery in the muamalah waqf, where it does not imply the loss of ownership status of the sipewakaf. This is explained in the book of Al-Mabsun:

حذفة أبي فهدل يل عنه الله رضى مسعود بن إعن) الله ف راض عن ح د بيس لا (أ ه روى وقد
للزوم به يتعلق لا الوقف أن في عنه الله رضى

"And indeed this narration is narrated (La Habīsa) from Ibn Masūd r.a. and the hadith is the argument of Imam Abu Hanifah in the issue of waqf law which is not contained in the uz luzūm contract ". (In another sense, something that has been represented is still in full ownership status for the person who is still permitted to do any muamalah actions such as being sold and others).

The understanding of Imam Abu Hanifa is like this, because there is also an explanation of the narrative of Ibn 'Abbās wa Syuraih, where the Prophet Muhammad also sold the property that was represented (ال ح د بيس المال), as the sound of the event is:

عن وهكذا ال ح د بيس ب د بيع والصلوة الصلاة عليه محمد عا الله عنهما الله رضى و شريح عباس بن إوعن
الشعبي.

From Ibn 'Abbās and Shuraih Radhiyallahu'anhuma both said: The Prophet Muhammad SAW once sold al-Habīs (the property which had been endured from its use by the owner, because it had been given to the poor), as said from Sya'by.

Fourth through al-Dilālah al-Nāsh (analysis of the development of meaning) of the hadith texts which read:

"ال ح د بيس ب د بيع والصلوة الصلاة عليه محمد أ ج قال"

"Ibn 'Abbās and Shuraih Radhiyallahu'anhuma both said: The Prophet Muhammad SAW once sold al-Habīs (waqf)" shows: First, the object that has been represented remains the sipewakaf, therefore the waqf can still be sold to buy it or other muamalah; Second, it is not required that waqf must be mu'abbadah (forever); Third, because the eyes of any objects that have been represented are still in the possession of the apostle (can be sold buy or can still be done by other muamalah-muamalah), and then the waqf is not necessarily mu'abbadah (forever), then the dirham, dinar or cash may represented.

This explanation is as explained by Abi Hasan 'Ali Ibn Abi Bakr al-Margyanānī al-Hanfī, in the book Al-Hidāyah Syarh Bidāyah al-Mubtadī, and the book Fath al-Qadīr namely:

لا ملك وبلا، الواقف ملك عن خرج بال لزوم للزوم به يتعلق لا الوقف أن عنه الله رضى حذفة لأبى
فى التأييد شد ترط لا أنه من) بيته ما على منه بدو لا بدى تأ لا فى به الوقف أن ولا نا. ال بيع من يتمكّن
الذراهمك فى صار (الوقف

According to Imam Abu Hanifah r.a. in mu'amalah waqf is not contained 'akad luzūm" (where something that is represented still can be sold and bought). This is because it can be understood its meaning as a result of the luzūm contract can eliminate the ownership status of the sipewakaf, and without ownership of an object will prevent it from the possibility of its tasharruf rights (the ability to manage by selling it and others); whereas in our view (Imam Abu Hanifah and his followers) waqf objects do not have to be eternal, even

endowments must not be eternal as we have explained (not required the existence of eternal endowments), then endowments may be like dirhams (cash) and others.

So the law of waqf money in the view of Imam Abu Hanafah is permissible, with patterns of *Instinbāth al-Lafdhiyyah* and *Instinbāth al-Ma'nawiyyah*. In the pattern of *Instinbāth al-Lafdhiyyah* with the approach of *lafadhi* construction, which is found in the text of the Qur'an "ما النَّاقِيَةَ" (which functions to deny that it is interpreted as never being recommended), and النَّاهِيَةَ لَا (which functions to ban). Whereas the pattern of *Instinbāth al-Ma'nawiyyah* is an approach to the analysis of meaning through: 'ibarah al-Nāsh (meaning of the translation); development of meaning (*dilālah al-Nāsh*); keyword analysis of a statement (*isyārah al-nāsh*); and analysis of the relevance of meaning (*iqtidhā 'al-Nāsh*); and with the approach of *al-Dilālah al-Nāsh* (analysis of the development of meaning), as already detailed, the above meanings.

V. Conclusion

The *istinbāth* pattern of the legal endowments of Imam Abu Hanifa's money is methodically: First in terms of coverage of *nāsh* (the three sources of waqf law) in *dhahir lafadh al-nāsh* shows the lack of encouragement *muamalah* by carrying out the action of "al-Habsu"(endowment), because he can match the habits of Arab *Jahiliyyah* who are accustomed to the practice of *Bahira*, *Sāibah*, *Washīlah*, and *Hām* as explained in the Qur'an. Both *istinbāth al-Ma'āny*, through the approach: *Isyārah al-Nāsh*, *dilālah al-Nāsh*, and *Iqtidhā 'al-Nāsh* (analysis of the relevance of the meaning) according to Imam Abu Hanifah it can be understood that *mu'amalah waqf* does not contain 'luzūm contract '(where an object that has been represented remains in the possessor's ownership with his *tasharruf* rights). On the basis of this *istinbāth* according to Imam Abu Hanifah cash may be represented, because in principle the *mawqūf* (waqf object) remains in the power of belonging to the apostle.

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