

Zakat as a Fiscal Instrument in The Sharia Economic Legal System (Philosophical and Empirical Juridical Analysis of BAZNAS Performance Over the Last Five Years)

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Abstract: Zakat in Islam has a strategic position as a fiscal instrument that aims to realise social justice and the welfare of the people. In Indonesia, zakat has been institutionalised through Law No. 23 of 2011 with the National Zakat Agency (BAZNAS) as a non-structural state institution. However, empirically, the performance of national zakat collection is still far from its potential. This article aims to analyse the effectiveness of zakat as a fiscal instrument through a philosophical and empirical juridical approach by highlighting BAZNAS' performance over the last five years compared to the potential of national zakat. The results of the analysis show a significant gap between the potential and realisation of zakat caused by institutional problems, legal culture, and the lack of integration of zakat into national fiscal policy. This article emphasises the need for a reconstruction of the zakat institution based on *maqāṣid al-syarī'ah* so that zakat can function optimally as a fiscal instrument in Indonesia's sharia economic legal system.

Keywords: Zakat; Islamic Fiscal Policy; BAZNAS; Maqāṣid Al-Syarī'Ah; Islamic Economic Law.

Introduction

Zakat is one of the pillars of Islam that has both a religious and socio-economic dimension. From a sharia economic law perspective, zakat is not only understood as an individual obligation, but also as a public fiscal instrument that serves to redistribute wealth and overcome poverty and social inequality. The role of zakat as a fiscal instrument places it as an integral part of the Islamic economic system, which aims to achieve justice and community welfare (Chapra, 1992). In Indonesia, zakat management has been institutionalised through Law No. 23 of 2011 on Zakat Management, which establishes the National Zakat Agency (BAZNAS) as a non-structural state institution with authority over national zakat management (Law No. 23 of 2011). However, this legal design has resulted in BAZNAS performing a dual function, namely as both a regulator and an operator. From the perspective of institutional governance and the principles of good governance, this combination of functions poses serious challenges, particularly in relation to potential conflicts of interest and the accountability of zakat institutions (Huda, 2020).

Despite having a clear legal and institutional basis, the realisation of national zakat collection to date is still not commensurate with the estimated zakat potential of hundreds of trillions of rupiah per year. Empirical data shows that the level of zakat collection is still relatively low when compared to the existing national zakat potential, raising fundamental questions about the effectiveness of zakat management institutions in Indonesia (BAZNAS, 2023). This gap between potential and realisation reinforces the urgency to review the position of zakat as a fiscal instrument in the national economic legal system. Based on this background, this article examines zakat from three main aspects, namely the philosophical position of zakat as a fiscal instrument in Islam, the legal framework for zakat management in Indonesia, and the legal and empirical effectiveness of BAZNAS by comparing the realisation of zakat collection and the national zakat potential over the last five years.

Methods

This study uses an empirical juridical method combined with a conceptual and philosophical approach. The juridical analysis focuses on examining the normative framework governing zakat management in Indonesia, particularly legislation and its institutional implications. Secondary data was obtained from relevant legislation, official reports from the National Zakat Agency (BAZNAS), and authoritative Islamic economic law literature. Empirical data sourced from national zakat performance reports was analysed qualitatively by comparing actual zakat collection with national zakat potential in order to assess institutional effectiveness. In addition, a philosophical approach was used to analyse zakat as a fiscal and social instrument from the perspective of *maqāṣid al-syarī'ah* and social justice theory, thereby enabling a comprehensive evaluation between the normative ideal and the empirical reality of zakat implementation in Indonesia.

Results and Discussion

Zakat as a Fiscal Instrument from a Philosophical Perspective

Philosophically, zakat cannot be understood solely as an individual religious obligation, but rather as a public institution rooted in the concept of *al-māl al-'āmm* (public wealth). The necessity of zakat administrators and the determination of recipient groups (*asnāf*) indicate that zakat was originally designed as a fiscal mechanism in Islamic society. With these characteristics, zakat functions as an instrument of distributive justice (*tawāzun al-māl*) that aims to maintain economic balance and prevent the accumulation of wealth in certain groups (Chapra, 1992).

Zakat also has a philosophical position comparable to taxation in modern states, but with normative legitimacy derived from revelation. From the perspective of *maqāṣid al-syarī'ah*, zakat serves to maintain *ḥifẓ al-māl*, *ḥifẓ al-naḥs*, and *ḥifẓ al-'ird* through mechanisms of redistribution and economic empowerment. Therefore, the effectiveness of zakat is not only measured by the amount of funds collected, but also by the extent to which zakat is able to change the socio-economic structure of *mustahik* in a sustainable manner. When zakat is reduced to a practice of consumptive philanthropy, the philosophical purpose of zakat as an instrument of social justice is reduced (Chapra, 1992).

Legal Framework for Zakat Management in Indonesia

The legal framework for zakat management in Indonesia is based on Law No. 23 of 2011 concerning Zakat Management, which is the main legal basis for the institutionalisation of zakat in the national legal system. This law affirms the role of the state in ensuring the effective, efficient, transparent, and accountable management of zakat, and establishes the National Zakat Agency (BAZNAS) as a non-structural state institution with the authority to coordinate zakat management at the national level (Law No. 23, 2011). In addition to BAZNAS, the law also recognises the existence of Zakat Management Institutions (LAZ) formed by the community as official partners in zakat management. Operationally, zakat management is reinforced by implementing regulations, including government regulations, minister of religious affairs regulations, and BAZNAS internal regulations governing technical management, reporting, supervision, and institutional accountability. However, this legal design places BAZNAS in a dual role as both regulator and operator, which, from a good governance perspective, has the potential to create conflicts of interest and weaken the effectiveness of the zakat institution (Huda, 2020). Normatively, the legal framework for zakat management in Indonesia has provided strong legitimacy. However, substantively, zakat is still positioned as a complementary socio-religious instrument, not as the state's main fiscal instrument. This is reflected in the fact that zakat has not been fully integrated into national fiscal policy, even though it has been recognised as a tax-deductible income (Law No. 23, 2011).

Empirical Legal Analysis of BAZNAS Performance Over the Past Five Years

Empirically, Indonesia's national zakat potential is estimated to reach around Rp327 trillion per year. However, the realisation of national zakat collection over the past five years shows relatively low achievements. BAZNAS data shows that in 2019, national zakat collection only reached around Rp10.2 trillion or around 3.1% of the national potential. This figure has increased gradually until 2023, reaching around Rp29 trillion or around 8.8% of the national zakat potential (BAZNAS, 2023). Despite showing an upward trend, this achievement is still far from optimal and does not yet reflect the function of zakat as an effective public fiscal instrument. From an empirical legal perspective, BAZNAS' performance shows fairly positive administrative developments, but these are not yet structural in nature. Several factors influencing this condition include the dualism of BAZNAS's function as a regulator and operator, the lack of integration of zakat into the national fiscal system, and the weak culture of zakat law in society (Huda, 2020). These conditions have prevented zakat from forming systemic compliance in national zakat collection.

Table 1 Data on Zakat Revenue Realisation Compared to Potential (2019-2023)

Year	National Zakat Realisation	Percentage of Potential
2019	± IDR 10.2 trillion	± 3.1%
2020	± IDR 12.4 trillion	± 3.8%
2021	± IDR 14.1 trillion	± 4.3%
2022	± IDR 21.3 trillion	± 6.5%
2023	± IDR 29 trillion	± 8.8%

Source: Baznas Report Data 2019-2023

When analysed using Lawrence M. Friedman's legal system theory, the effectiveness of law is determined by the interaction between legal structure, legal substance, and legal culture. In the context of zakat in Indonesia, the legal structure and legal substance are normatively available through Law No. 23 of 2011, but the legal culture of society still views zakat as a personal charity, not a public obligation. As a result, zakat law has not functioned as living law in society, so that the gap between the potential and realisation of zakat continues (Huda, 2020; BAZNAS, 2023). In philosophical and empirical legal synthesis, it can be concluded that zakat is conceptually an instrument of social justice oriented towards public welfare. However, in practice in Indonesia, zakat still functions as a complementary social instrument and has not been internalised as the state's main fiscal instrument. The gap between the potential and realisation of zakat reflects the suboptimal integration of the philosophical values of zakat into institutional design and national fiscal policy (Chapra, 1992; Law No. 23, 2011; BAZNAS, 2023).

This situation indicates that the main problem with zakat management in Indonesia does not lie solely in normative aspects or the availability of regulations, but rather in the weak translation of the philosophical values of zakat into operational and integrative public policies. Zakat is still placed within the realm of socio-religious policy, separate from the state fiscal system, so that its role in supporting distributive justice and national economic stability has not been optimised. Conceptually, however, zakat has great potential to contribute to reducing social inequality and improving community welfare if it is systematically integrated with other fiscal instruments. Furthermore, the institutional design of zakat, which places BAZNAS as both regulator and operator, reveals a tension between regulatory and service functions. From a good governance perspective, this condition has the potential to cause conflicts of interest and weaken the accountability and effectiveness of zakat management. The lack of clarity in the separation of these functions has an impact on BAZNAS' limited institutional capacity to encourage widespread zakat compliance, while reinforcing the public perception that zakat is an individual moral obligation, not a public obligation with clear legal consequences.

Therefore, it is necessary to reformulate zakat policy in a way that is not only administrative but also paradigmatic. This reform must be directed towards strengthening the integration of zakat into the national fiscal system, restructuring the zakat institutional framework, and developing a zakat legal culture that positions zakat as an instrument of constitutional social justice. Thus, zakat is no longer positioned as a complementary instrument, but as an integral part of the national economic development strategy based on the principles of justice and public welfare.

Conclusion

Based on philosophical, legal, and empirical legal discussions, it can be concluded that zakat is conceptually an Islamic fiscal instrument that has an ontological basis as a public institution and a normative purpose as a mechanism of distributive justice. From the perspective of *maqāṣid al-syarī'ah*, zakat does not merely function as an individual religious obligation, but as a means of protecting property, life, and human dignity through the redistribution of wealth oriented towards social welfare. Therefore, zakat has a philosophical position parallel to that of modern state fiscal instruments, but with stronger moral and theological legitimacy. Juridically, Indonesia already has a relatively comprehensive legal framework through Law No. 23 of 2011 and its implementing regulations, which provide state legitimacy for zakat management and designate BAZNAS as the national coordinator. However, substantively, these regulations still place zakat as a complementary socio-religious instrument, not as the state's main fiscal instrument. This is reflected in the absence of legal enforcement norms, the weak integration of zakat with the national fiscal system, and the position of zakat, which is still treated as a moral-religious obligation, not a public legal obligation. From an empirical legal perspective, BAZNAS' performance over the past five years shows an increase in zakat collection, but this achievement is still far from the potential of national zakat available. An analysis using Lawrence M. Friedman's legal system theory shows that the low collection of zakat is caused by an imbalance between a legal structure that is not yet integrated and non-coercive, legal substance that is weak in its imperative power, and a legal culture in which zakat is still viewed as a personal charity. The disharmony between these three elements has prevented zakat law from functioning as living law within the national legal system. Therefore, optimising zakat as a fiscal instrument requires simultaneous reform of the legal structure, substance, and culture so that the philosophical value of zakat can be effectively internalised in the state's fiscal and institutional policies.

References

- Auda, J. (2008). *Maqasid al-shariah as philosophy of Islamic law*. International Institute of Islamic Thought.
- Badan Amil Zakat Nasional. (2023a). *Laporan kinerja BAZNAS 2022*. BAZNAS RI.
- Badan Amil Zakat Nasional. (2023b). *Outlook zakat Indonesia 2023*. Pusat Kajian Strategis BAZNAS.
- Chapra, M. U. (1992). *Islam and the economic challenge*. The Islamic Foundation.
- Friedman, L. M. (1975). *The legal system: A social science perspective*. Russell Sage Foundation.
- Huda, M. S. (2020). BAZNAS dan tantangan governance di Indonesia. *Jurnal Hukum Islam*, 18(2), 171–188.
- Huda, N., & Hidayat, M. (2021). *Ekonomi Islam: Pendekatan filosofis dan teoritis*. Kencana.
- Kahf, M. (1999). *The economics of zakah*. Islamic Research and Training Institute–Islamic Development Bank.

Peraturan Direktur Jenderal Pajak Nomor PER-03/PJ/2023 tentang Zakat atau Sumbangan Keagamaan yang Sifatnya Wajib yang Dapat Dikurangkan dari Penghasilan Bruto.

Peraturan Menteri Agama Republik Indonesia Nomor 52 Tahun 2014 tentang Syarat dan Tata Cara Perhitungan Zakat Mal dan Zakat Fitrah serta Pendayagunaan Zakat untuk Usaha Produktif.

Peraturan Pemerintah Republik Indonesia Nomor 14 Tahun 2014 tentang Pelaksanaan Undang-Undang Nomor 23 Tahun 2011 tentang Pengelolaan Zakat.

Qaradawi, Y. al-. (1991). *Fiqh al-zakah*. Mu'assasah al-Risalah.

Rofiq, A. (2013). *Hukum Islam di Indonesia*. RajaGrafindo Persada.

Undang-Undang Republik Indonesia Nomor 23 Tahun 2011 tentang Pengelolaan Zakat, *Lembaran Negara Republik Indonesia Tahun 2011 Nomor 115*.

Undang-Undang Republik Indonesia Nomor 36 Tahun 2008 tentang Pajak Penghasilan.