

## AMIL ZAKAT AUTHORITY ACCORDING TO LAW OF ISLAMIC LAW AND LAW

Nurhadi

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### ABSTRACT

*History records the development of amil zakat in Indonesia starting from 1968 issued Regulation of the Minister of Religious Affairs No. 4 of 1968 on the Establishment of Amil Zakat and Regulation of the Minister of Religious Affairs No. 5 of 1968 on the Establishment of Baitul Maal. On 12 December 1989 issued the Instruction of the Minister of Religious Affairs 16/1989 on the Development of Zakat, Infaq and Shadaqah. In 1998-1999 and 2001-2003 formed BAZNAS of the Presidential Decree until 2011 was born a law that regulates the processing of zakat on Law no. 23 of 2011. From here the author wants to discuss what is meant by amil zakat and kopetensinya according to the Law and Islamic Law. Amil zakat is the people who are involved or actively participate in zakat activity which starts from collecting zakat from muzaki to distributing it to mustahik. According to the law in Indonesia, zakat's zakat is very important in paying zakat funds and channeling it to mustahiq, but the dominant collection should be supported by the authorities. According to Islamic law kiletensi amil zakat very urgent also, especially if amilnya fair and transparent. While the competence of the government in increasing the Baznas aggregation in collecting zakat is very urgent, especially if MUI can issue fatwas to cut the salary for civil servants / ASN to be more effective in collecting zakat and will maximize the Baznas in alleviating poverty and prospering the community.*

**Keywords:** Authority, Amil Zakat, Zakat Law, Islamic Law.

### Abstrak

Sejarah mencatat perkembangan amil zakat di Indonesia dimulai dari tahun 1968 dikeluarkan Peraturan Menteri Agama Nomor 4 Tahun 1968 tentang Pembentukan Badan Amil Zakat dan Peraturan Menteri Agama Nomor 5 Tahun 1968 tentang Pembentukan Baitul Maal. Pada tanggal 12 Desember 1989 dikeluarkan Instruksi Menteri Agama 16/1989 tentang Pembinaan Zakat, Infaq dan Shadaqah. Pada tahun 1998-1999 dan 2001-2003 dibentuk BAZNAS atas Kepres sampai 2011 lahir undang-undang yang mengatur tentang pengolahan zakat pada UU No. 23 tahun 2011. Dari sini penulis hendak membahas apa yang dimaksud dengan amil zakat dan kopetensinya menurut UU dan Hukum Islam. Amil zakat adalah orang-orang yang terlibat atau ikut aktif dalam kegiatan pelaksanaan zakat yang dimulai dari sejak mengumpulkan zakat dari muzaki sampai mendistribusikannya kepada mustahik. Menurut perundangan di Indonesia kompetensi amil zakat sangatlah penting dalam menghipun dana zakat dan menyalurkannya kepada mustahiq, namun dominan pengumpulan harus didukung oleh pihak penguasa. Menurut hukum Islam kompetensi amil zakat sangat urgen juga, apalagi jika amilnya adil dan transparan. Sedangkan kompetensi pemerintah dalam meningkatkan penadapatan Baznas dalam menghimpun zakat

sangat urgen sekali, apalagi jika MUI bisa mengeluarkan fatwa keharusan memotong gaji bagi PNS/ASN agar lebih efektif dalam pengumpulannya zakat dan akan lebih maksimal Baznas dalam mengentaskan kemiskinan serta mensejahterakan masyarakat ummat.

**Kata Kunci :** *Wewenang, Amil Zakat, Undang-Undang Zakat, Hukum Islam.*

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## PRELIMINARY

Zakat as a form of worship that prioritizes social values in addition to ritual messages, seems to have very long historical roots. It can be predicted as long as the human race itself (the generation of Adam) or at least from the generation of some prophets of God Almighty and before the Prophet Muhammad, for example Prophet Musa, was obliged to give alms to the wealth of 10% of the cattle, goats and camels. Nisab at that time (Anshori, 2006: 4). What is commonly known as the five arkan al-Islam (five pillars of Islam), namely the creed, prayer, zakat, fasting, and pilgrimage are basically already recited since the time of the Prophet Adam, even if there are differences between the generations of prophets with each other, then the inequality is more focused on matters of a formal symbolic nature and procedures that are adapted to the language of the people of the prophet concerned, rather than differences in matters of substantial fundamentals (Hafhifuddin, 2012: 56). The connection with the arguments according to revelation is in al-Baqarah: 43, at-Taubah: 34-35 and Maryam: 31.

The obligation of zakat in the time of the Prophet saw began in abid II Hijriah, at that time only the awareness of each individual, there was no official amil (Anshori, 2006: 5-6). In the IX century there was the term amil zakat designated by the State and paid for from the amil zakat (A.Karim, 2011: 30 and Hafhifuddin, 2012: 60). After the death of the Prophet, it became the responsibility of Abu Bakr and got enemies of zakat

dissidents (Tarigan, 2007: 211). Technically the distribution follows the way of the Prophet (Al-Shaykh, 2014: 128). After that, Umar prioritized people's welfare by empowering Baitul Maal (Tarigan, 2007: 213).

Baitul Maal comes from the word bayt in Arabic which means home, and al-mal which has assets. Etymologically, baitul maal means khazinatul mal a place to collect or store property. As for terminologically, Baitul Maal is an institution or party that has a special task to handle all people's assets, both in the form of income and expenditure of the state. Baitul Maal can also be interpreted physically as a place to store and manage all kinds of assets that become State income (Sholahuddin, 2005: 354). Whereas this modern and modern era is felt, almost all Islamic Countries have used amil bodies to collect zakat and its distribution (Anshori, 2006: 6 and Hafhifuddin, 2012: 57).

History records the development of amil zakat in Indonesia starting in 1968 issued by Minister of Religion Regulation No. 4 of 1968 concerning the Establishment of the Amil Zakat Agency and Minister of Religion Regulation Number 5 of 1968 concerning the Establishment of the Baitul Maal. The two PMAs have very close links because Baitul Maal functions as the recipient and container of zakat, and then is deposited to the amil zakat body to be distributed to the rightful. In 1984 the Minister of Religion issued Instruction No. 2 of 1984 dated March 3, 1984 concerning the Thousand Rupiah Infaq during the month

of Ramadhan, the implementation of which was regulated in the Decree of the Director General of Islamic Bimas and Hajj Affairs Number 19/1984 dated April 30, 1984. The Minister of Religion 16/1989 concerning the Development of Zakat, Infaq and Sadaqah, which assigned all ranks of the Ministry of Religion to assist religious institutions that administer zakat, infaq and shadaqah to use zakat funds for Islamic education activities and others. In 1991 a Joint Decree of the Minister of Religion and Minister of Home Affairs was issued No. 29 and 47 of 1991 concerning the Development of the Amil Zakat, Infaq and Shadaqah Agency which was then followed up with Minister of Religion Instruction Number 5 of 1991 concerning Guidelines for Technical Guidance of the Amil Zakat Agency, Infaq and Sadaqah and The Instruction of the Minister of Home Affairs Number 7 of 1998 concerning the General Guidance of the Amil Agency for Alms, Infaq and Sadaqah. In 1998-1999 and 2001-2003 BAZNAS was formed on the Presidential Decree (Baznas, 2016: 1) until 2011 a law was regulated governing zakat processing in Law No. 23 of 2011 (Purbasari, 2015: 69).

From the background above, the problem needs to be formulated is what is amil zakat and how is the competence of amil zakat according to Islamic Law and Law).

## **DISCUSSION**

### **Amil Zakat**

The scholars provide various definitions of amil, including the following: 1). According to Imam Shafi'i amilun are people who are appointed to collect zakat from their owners (Asnaini, 2008: 54.). From this understanding, amil is the people in charge of collecting zakat.

2). According to Yusuf Qardhawi il amilun are all people who work in administrative equipment on zakat affairs, both in the matter of collecting, storing, recording, calculating and recording the entry of zakat and sharing with the mustahik (Qardhawi, terj., Harun, 2002: 545). 3). Regarding the zakat collection officer, Hasbi chose Abu Hanifah and Malik's opinion which stated that amilin was the officer who was given wages taken from the zakat collection according to the level of their labors (Siddiqi, t.th .: 209). 4). Amil zakat is all parties who act to work related to the collection, storage, safekeeping, recording, and distribution or distribution of assets of zakat. (Kurnia, 2008: 142) So, amil zakat is the people involved or actively participating in zakat implementation activities starting from collecting zakat from muzaki to distributing it to mustahik. Amil's Legal Basis in the Koran (at-Taubah: 103 (Basyir, 1997: 76), at-Taubah: 60 (Shihab, 2002: 629 and al-Utsaimin, 2011: 298-299) and the Sunnah and fatwa of MUI Number 8 In 2011 concerning Amil Zakat, namely: (MUI, MUI Fatwa Number 8 of 2011 concerning Amil Zakat, <http://mui.or.id> accessed on 26 February 2018):

- 1) Amil zakat is: a. A person or group of people appointed by the Government to manage the implementation of zakat worship; or b. A person or group of people formed by the community and authorized by the Government to manage the implementation of zakat.
- 2) Amil zakat must fulfill the following conditions: a). Muslim; b). Mukallaf (understanding and baligh); c). Trustful; d). Having knowledge about the laws of zakat

- and other matters related to the duty of amil zakat
- 3) Amil zakat has the duty: a). Withdrawal / collection of zakat which includes compulsory collection of zakat, determination of the obligatory object of zakat, the amount of zakat, the amount of zakat rates, and certain conditions for each obligatory zakat object; b). Maintenance of zakat which includes inventory of assets, maintenance, and securing zakat assets; and c. Distribution of zakat which includes the distribution of assets of zakat to arrive at the zakat mustahik properly and correctly, and includes reporting.
  - 4) Basically, the operational costs of managing zakat are provided by the Government (ulil amr).
  - 5) In the event that operational costs are not funded by the Government, or provided by the Government but are insufficient, then the operational costs of managing zakat which are the duty of amil are taken from the zakat fund or part of Fi Sabilillah within reasonable limits, or taken from outside funds zakat.
  - 6) Activities to build zakat awareness such as advertisements can be funded from zakat funds which are part of amil or Fi Sabilillah within the reasonable, proportional and in accordance with the rules of Islamic law.
  - 7) Amil zakat which has received a salary from a state or private institution in its duties as amil is not entitled to receive a portion of the zakat fund which is part of amil. While amil zakat that does not get a salary from the state or

private institution has the right to receive a portion of the zakat fund which is part of amil as compensation on the basis of the principle of fairness.

- 8) Amil may not accept gifts from muzaki in relation to his duties as amil.
- 9) Amil may not give gifts to muzaki originating from the assets of zakat (Nopiardo, 2016: 92-93)

### **Amil Zakat Authority According to Zakat Law**

Zakat management according to Law Number 23 Year 2011 is an activity of planning, implementing and coordinating supervision in the collection, distribution and utilization of zakat. These activities are one of the Amil Zakat Institutions as stipulated in Article 17 of Law Number 23 Year 2011 concerning Management of Zakat. According to Sudirman, the Amil Zakat Institution is a zakat management institution formed by the community so that it has no affiliation with the Amil Zakat Agency (Sudirman, 2007: 99), which incidentally was formed on the initiative of the government. Juridically, the definition of LAZ can be found in the explanation of Article 7 Paragraph (1) of Law Number 38 of 1999 concerning Management of Zakat. The amil zakat institution is seen as a zakat management institution which was fully formed on the initiative of the community and by the community (Law No. 38 of 1999). After this Law was amended, the definition of LAZ also experienced changes as stipulated in Article 1 point 8 of Act Number 23 of 2011 concerning Management of Zakat. The Amil Zakat Institution, hereinafter abbreviated as LAZ, is an institution formed by a community that has the task of helping the

collection, distribution and utilization of zakat (Law No. 23 of 2011). Through this definition, the role played by LAZ also changes, namely as a helper in the management of zakat in Indonesia. So according to the existing legislation in Indonesia the competence of amil zakat is very important in considering zakat funds, not only receiving zakat from the muzakki, it must also remind and enlighten and understand the importance of tithe to help and cleanse property for the journalists to become the muzakki obedient (Ramadhita, 2011: 26).

To improve the role and function of LAZ, four principles need to be developed, namely the principle of harmony, moral principles, management principles, and institutional principles. The principle of morality, pillars of faith, institutions, functions to increase public trust, especially muzakki to channel zakat, infaq, to the shahqah to LAZ. While the management principle functions to empower mustahik, so they can turn into muzakki in the future. hence the existence of LAZ and UPZ is proof that amil zakat is very competent in collecting zakat from the muzakki (Ramadhita, 2011: 33 and Purbasari, 2015: 80).

### **Amil Zakat Authority According to Islamic Jurisprudence Law**

Amil zakat competence in the opinion of the Ulama School is (Nopiardo, 2016: 93): 1). The Shafi'ite School states that zakat may be channeled through amil zakat formed by the government (imam), especially if the government is fair to its people. 2). According to the Hanafi School, stated that the best way to distribute zakat is done by muzaki, but if it still wants to go through the amil zakat body, it is permissible and valid. (Rofiq, 2004: t.h.). 3). According to Hanabillah, it

was stated that the circumcision of the muzaki handed over his own zakat, thus he was fully convinced, that his zakat arrived at his mustahik but if he gave it to the government, it was also permissible (jaiz). 4). According to Malikiyah, it states that if the priest is fair (remember, amil is an apparatus of the priest equal to the government), handed over to the priest and if it is not fair, it can be left to the mustahik himself (Santoso, et al, 2004: 124). So according to the scholars of the four schools of competence in amil zakat, it is only a solution and a suggestion if the government is fair. But according to the author, this is if the relationship is to channel zakat, then the competence of amil zakat is very small, if it is related to the collection of zakat funds, which the journalists are reluctant to pay zakat, should the government interfere in collecting zakat funds as a form of the State's welfare in public welfare. At least there is an urgency that paying zakat through official amil zakat is better fulfilled, and the purpose of welfare for the government will be helped. The urgency is: 1). In accordance with the qur'qn san sunnah texts; 2). To optimize the level of discipline of zakat payers; 3). To maintain the inferiority feelings of mustahik towards muzaki; 4). To achieve efficiency and effectiveness as well as targets in the utilization of zakat; 5). To show the symbol of Islam in terms of managing the economic potential of the people; 6). To produce accurate muzaki and mustahik data (Nopiardo, 2016: 94-98).

### **Government Authority in Intervening in the Obligation of Zakat for PNS / ASN**

Discourse Religion Minister Lukman Hakim Saifuddin said the plan to

cut civil servant (PNS) salaries for zakat is not mandatory. The government only aims to facilitate the civil servants to make alms. "There is no obligation, but the government facilitates Muslim civil servants to fulfill their obligations, namely to cut some of their income to pay tithe," Lukman said in his office, Central Jakarta, Wednesday, February 7, 2018.

Lukman said that not all employees are obliged to pay income zakat. Before applying the deduction, the employee will be asked for his approval. Later, any civil servant who enters the mandatory zakat requirement will be recorded. The determination will be carried out in accordance with Islamic law. As for those who will collect and manage zakat from civil servants are the National Amil Zakat Agency (Baznas) and other amil zakat bodies. Lukman said that the collected zakat will be used for various interests of the Indonesian people, not just for Muslims.

According to Lukman, this plan was based on the awareness of the huge potential of zakat in Indonesia. He said, if this plan is successful, it is estimated that IDR 10 trillion will be raised per year. "It can be allocated for education, for example building Islamic boarding schools, madrasas, hospitals, helping economic development, as well as victims of natural disasters," he said (Tempo. Wednesday, February 7, 2018 16:51 WIB).

The statement of the minister of religion was welcomed by the MUI, Deputy Secretary General of the Indonesian Ulema Council (MUI) Amirsyah Tambunan said his agency supported the government's proposal to withdraw zakat 2.5 percent of the salaries of civil servants (PNS) who are Muslim. Amirsyah also appreciates if the policy is

properly implemented. "What is important is the benefit of the people and the nation," Amirsyah said when contacted by Tempo on Tuesday, February 6, 2018. According to Amirsyah, zakat collection can be done in various sectors. Not only civil servants, zakat can also be withdrawn from the police or the Indonesian National Army (TNI) for example. Because, zakat is obligatory for Muslims.

Therefore, according to Amirsyah, optimizing the increase in zakat is important to implement. Besides being obligatory in the Islamic religion, taking zakat is one step to alleviate poverty. Even so, said Amirsyah, the government needs to think about how to optimize it. The cuts in civil servants' salaries are considered not problematic as long as the rules are clear. For example, the government specifies whether all civil servants are obliged to give zakat or only those who are able and fulfill the requirements according to Muslim teachings. "Study must be done first. Try to discuss with stakeholders, there are MUIs or other mass organizations (community organizations), so that the study can be understood and accepted by all parties," Amirsyah said. Religious Minister Lukman Hakim Saifuddin said that he was preparing the rules regarding zakat collection for civil servants. The zakat comes from deductions from salaries of civil servants who are Muslim at 2.5 percent. "We are preparing a presidential decree (presidential decree) for special zakat collection and this only applies to ASN or Muslim civil servants," he said. Withholding only applies to Muslims. Because, only Muslims have the obligation to pay zakat. However, according to Lukman, deductions from salaries for zakat are not mandatory. Civil

servants or state civil servants (ASN) may raise objections if they are not willing to deduct their salary (Tempo. Wednesday, February 7, 2018 16:51 WIB).

However, the discourse of the Minister of Religion and the Indonesian Ulema Council was denied by members of the Republic of Indonesia Ombudsman in the Religion, Social and Cultural Field, Ahmad Su'adi, who assessed the 2.5 percent salary increase for Muslim civil servants for zakat potentially maladministration. If the government implements the idea, a violation has occurred. "Zakat is a private matter. So the state should not interfere, let alone withdraw zakat into the government," Ahmad said when contacted by Tempo, Tuesday, February 6, 2018. According to Ahmad, the government should fail to carry out the plan. Because, zakat worship is a private matter, so the state should not interfere with the matter. Moreover, said Ahmad, the management of wrong zakat results in major sins. For example, there is fraud or corruption of zakat funds. "If it happens, the government does something that is not supposed to or even prohibited. But this (salary withdrawal) is just a plan," Ahmad said. If the government still wants to withdraw zakat from Muslim civil servants, in the law it is necessary to state the difference between who is mustahik or has the right to receive zakat and who is giving the zakat.

Ahmad said that the withdrawal of zakat from civil servant salaries had occurred in East Lombok around 2006 or 2007. Initially, the Regional People's Legislative Assembly and the local regent made a policy similar to the collection of zakat from civil servants. However, civil servants feel disturbed and exploited. So they rallied massively. The majority of protesters are lower-ranking civil servants.

According to Ahmad, it is possible that this will happen again when the government officially collects zakat from Muslim civil servants. Previously, Minister of Religion Lukman Hakim Saifuddin said that he was preparing the rules regarding zakat collection for civil servants. The zakat comes from deductions from salaries of civil servants who are Muslim at 2.5 percent. "We are preparing a presidential decree (presidential decree) for special zakat collection and this only applies to ASN (state civil apparatus) or Muslim civil servants," he said. Cutting, he said, only applies to Muslims, because only Muslims have an obligation. However, according to Lukman, salary deductions for zakat are not compulsory, civil servants or ASNs may object if they are not willing to deduct their salary (Tempo. Wednesday, February 7, 2018 16:51 WIB).

According to the authors of the three institutions in the country, namely the minister of religion, the ulama and ombudsman assemblies, there is truth in it, but in Islamic law according to the author, the Ministry of Religion and the MUI are far more appropriate to the present situation, many rich people are reluctant to pay zakat, even the juridical foundation had existed since the Prophet and Abu Bakr, and Abu Bakr would invade people who were reluctant to pay zakat. This situation is very appropriate according to the author, that the government with the intention of helping Baznas to collect zakat, and facilitate the muzakki in fulfilling their obligations without having to bother distributing to mustahiq. Dissolution of the role and competence of the government in accordance with the opinions of the Maliki school, in this case is more precise and more useful. So the review of the

Maqashid Shariah Kopetensi government in cutting civil servants / ASN salaries is very difficult for the community. While the opinion of the ombudsman can be ignored, if the management is submitted to Baznas, then the ombudsman statmen need not be worried. While the government's desire is only to help Baznas hard work in collecting zakat for the Muslim ummah, this is a good intention, it should not be ignored and must be supported.

### CONCLUSION

Amil zakat is the people involved or actively participating in zakat implementation activities starting from collecting zakat from muzaki to distributing it to mustahik. According to legislation in Indonesia the competence of amil zakat is very important in neglecting zakat funds and channeling them to mustahiq, but the dominant collection must be supported by the authorities. According to Islamic law the competence of amil zakat is very urgent too, especially if its amil is fair and transparent. While the government's competency in increasing Baznas revenue in collecting zakat is very urgent, especially if the MUI can issue a fatwa to cut salaries for PNS / ASN to be more effective in collecting zakat and Baznas will be more maximal in alleviating poverty and welfare of the ummah community.

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