

The Role of Sharia Banking Institution in Zakat Collection as a Source of Economic Development

Try Widiyono*
 Jakarta Islamic University
 t.widiyono@yahoo.com

Abstract. Indonesia as a Muslim majority country has the opportunity to explore the potential for raising public funds through the collection of zakat payments. In the effort to explore this potential, it has been supported by Law Number 23 of 2011 concerning Management of Zakat and Law Number 21 of 2008 concerning Sharia Banking which regulates among other things Sharia Banking can receive community zakat payments. Even though it has been supported by the Regulation, but the potential to raise public funds through the zakat sector is far from optimal, compared to the collection of development funds from the tax sector. The research uses the normative legal method that uses several theories including the theory of economic development triggered by Max Weber as a prerequisite for the success of economic development. It needs stability; Predictability; Fairness; Education; and the Special Development Ability of the Lawyer. The theory of justice proposed by John Rawls regarding justice derived from fairness can be used as a tool for analyzing how to optimize the collection of zakat for economic development for a country with a majority Muslim population. Thus, economic development does not only come from collecting taxes, but also from collecting zakat. The funds originating from Zakat and Tax will complement each other to be used in economic development towards a welfare state for all residents.

Keywords: *zakat, economic development, Muslim countries*

INTRODUCTION

Based on Law Number 23 of 2011 concerning Management of Zakat (Zakat Management Law) article 1 number 2 explained that Zakat is a property that must be issued by a Muslim or business entity to be given to those entitled to receive it by Islamic law. Furthermore, Article 3 of the aforementioned law on the management of zakat through amil zakat aims to: a) increase the effectiveness and efficiency of services in carrying out zakat management of zakat; and b) increasing the benefits of zakat to realize community welfare

and poverty alleviation. Thus it can be concluded that the payment of zakat and management of zakat is held as a source of economic development to alleviate poverty.

Law No. 21 of 2008 concerning Sharia Banking Article 4 paragraph (2) states that Sharia Banks and Sharia Business Units (UUS) are required to carry out social functions in the form of baitul mal, which is to receive funds from zakat, donations, alms, grants or other social funds and channel it to the organization that manages zakat. Even though the authority to receive zakat payment has been given, but no provision gives authority to Islamic Banks to manage Zakat.

Based on Article 5 of the Zakat Management Act, it is stated that to implement zakat management, the Government forms the National Zakat Amil Agency (BAZNAS) which is domiciled in the national capital. BAZNAS is a non-structural government institution that is independent and is responsible to the President through the Minister. There is a Provincial Level BAZNAS. To assist BAZNAS in carrying out the collection, distribution, and utilization of zakat, the community can form LAZ (Amil Zakat Institution) given to organizations that meet the requirements, namely: registered as an Islamic community organization that manages the fields of education, da'wah, and social affairs; in the form of a legal entity; received a recommendation from BAZNAS; have Sharia Supervisors; possess technical, administrative and financial capabilities to carry out their activities; non-profit nature; have a program to utilize zakat for the welfare of the people, and willing to be audited by the Shari'ah and finance periodically. Therefore, Islamic Banks cannot manage zakat, but can receive zakat deposits. Therefore, currently, the Sharia Bank is legally formally required to cooperate in the acceptance and distribution of zakat with BAZNAS or LAZ.

Thus the cost of economic development not only comes from taxes but also from zakat. Law Number 36 of 2008 concerning Income Tax Article 9 paragraph (1) letter g of tax reduction by zakat can only be done if paying zakat in zakat institutions established by the government, namely BAZNAS and organizations/bodies recommended by BAZNAS to the Director-General of Taxes. At present, the Director-General of Taxes issued Regulation Number 05 / PJP / 2019 dated March 26, 2019, concerning the Agency / Institution established or authorized by the Government

designated as the recipient of zakat or obligatory religious donations that can be deducted from gross income.

It is realized that a trustworthy financial institution in collecting public funds is the Bank. Because indeed the characteristic of banking institutions is trust. Therefore, to optimize the collection of zakat will be more optimal if it optimizes the role of Islamic Banks that have a network throughout Indonesia. Thus, it is worth asking the question of how the role of Islamic Banks in collecting zakat as a source of economic development.

METHOD

The research method in this study uses normative legal research, namely research that examines legal issues from the perspective of legal science in depth against established legal norms". Piter Mahmud Marzuki [1] stated "*Legal research is a process of finding legal rules, legal principles, and legal doctrines to address the legal issues faced.*" In this study the legal issues are described in the previous discussion, namely, how is the role of Islamic Banks in collecting zakat as a source of economic development?

In the end, legal research is carried out to solve the proposed legal issues. The result to be achieved is to describe what should be.

RESULT & DISCUSSION

Judging from its function, the Sharia Bank is not only an Intermediary function for parties who have funds and those who lack funds, but Sharia Banks have broader functions, namely social functions. The social function in this Sharia Banking Institution is not owned by other non-sharia Banking Institutions. The intended social function in Sharia Banking is obliged to carry out social functions in the form of *baitul mal*, which is to receive funds originating from alms, donations, alms, grants, or other social funds; this is expressly regulated in Act No: 21 of 2008 about Sharia Banking Article 4 paragraph (2). In the context of this research, it will highlight the social function of Islamic Banks to accept Zakat as a source of economic development.

Zakat etymologically means the *name'*(fertility), *thaharah* (holiness), *barakah* (blessing), and *tazkiyah tathhir* (purifying). While based on the syariah 'zakat the word Al-Hawi is the name for certain taking from certain assets which according to certain properties are given to certain groups. While according to Al-Syaukani, almsgiving is the giving of parts of wealth that have reached *nishab* to the needy and others, except to those who do not allow us to give alms to him [2].

Alms are closely related to the beliefs of Muslims. Zakat by scholars is categorized as human worship serving God, meaning that fulfillment of obligations is seen as a form of vertical relationship with God [3]. Therefore, based on the verses of the Qur'an the word zakat is often referred to together with prayer as the word of God in Surah Al-Muzzammil / 73: 20: "And establish prayer and pay zakat". Zakat is divided into 2 (two), namely zakat mal (treasure) and zakat nafs. Zakat mal is zakat on ownership of gold, silver, animals, fruits, and commercial goods. While the zakat nafs is also called zakat fitrah, which is the zakat of the soul which is issued after the Ramadan fasting [2].

Legally, the opinion of Ulama and Al-Qor'an's argument has been manifested in positive law in Indonesia, which is based on Law Number 23 of 2011 about Management of Zakat Article 4 paragraph 1 dividing zakat into zakat mal and zakat fitrah. Next paragraph 2 regulates the types of goods affected by zakat mal including a) gold, silver, and other precious metals; b). money and other securities; c). commerce; d). agriculture, plantation, and forestry; e). livestock and fisheries; f). mining; g). industry; h). income and services; and i). rikaz.

Based on the Fatwa of the Indonesian Ulama Council (MUI) No. 3 of 2003 about the amount of Zakat income is 2.5%. For Zakat Fitrah, 3.5 liters of rice are eaten daily. Based on article 27 of the Law on the Management of Zakat it is stated that Zakat can be utilized for productive business in the context of handling the poor and improving the quality of the people. The utilization of zakat for productive business is done if the basic needs of *mustahik* have been fulfilled.

When viewed from the aspect of expenses that must be paid by someone, then the expenditure for zakat is similar to the expenditure for paying taxes. Likewise, the function of using the function of zakat and the function of paying taxes is similar, namely for economic development. Tax and zakat are two obligations that must be paid or fulfilled. The teachings of Islam encourage its people to not only fulfill the obligation of zakat, but also to provide infinite *infaq* and alms as well as the utilization and utilization of a very broad and flexible covering all fields and sectors of life ordered by Islamic teachings [4].

Zakat paid by Muzaki to BAZNAS or LAZ is deducted from taxable income. The tax reduction mechanism is regulated in the Director-General of Taxes Regulation No. PER-6 / PJ / 2011 of 2011 about "Implementation of Payment and Making Proof of Payment of Zakat or Religious Donations which are Mandatory that can be deducted from Gross Income". For example, if the obligatory zakat and taxpayer have a gross income of Rp 100,000,000 then the zakat that must be issued is $Rp\ 100,000,000 \times 2.5\% = Rp\ 2,500,000$. Thus the

total gross income subject to tax becomes Rp97,500,000. In terms of the expenditure of obligatory zakat, such a large amount of funds can be used as funds for building the people's economy.

A. Riawan Amin stated that Islamic banks should be given the authority to manage zakat. This authority is expected because Islamic banks have the potential to manage zakat professionally. Islamic banks have the potential to offer depositors directly to collect alms from their funds that have reached nishab in sharia bank accounts and encourage their crews/employees to be examples as Muzakki. In this context cooperation between zakat, infaq, and alms management (ZIS) institutions and Islamic banks can potentially increase the ZIS funds [5].

Islamic banks in this case have a very large potential by referring to the number of branch offices of more than 10,000 (ten thousand) branches and outlets spread throughout Indonesia and have a relative technology network that has a good image of trust and taxpayers generally have funds existing in the bank, making it easier for Islamic banks to collect funds from the public to pay zakat. The role of Islamic banks to raise funds for tax payments will be optimal if:

- Islamic banks are given the authority to issue proof of payment of zakat which can be used as proof of income tax withholding which is currently only given to BAZNAS (National Amil Zakat Agency) and Amil Zakat Institutions; and
- Expanding the functions of Islamic banks to manage zakat. The current function of zakat management is only given to BAZNAS and organizations that meet the requirements, namely: registered as an Islamic community organization that manages the fields of education, preaching, and social affairs; in the form of a legal entity; received a recommendation from BAZNAS and was determined by the latest Director General of Tax Regulation of the Director-General of Tax Number PER-05 / PJP / 2019.

To provide a theoretical foundation and philosophical basis to formulate provisions relating to the development of the authority of Islamic banks, this research will use an analytical knife from 2 (two) legal theories put forward by Mac Weber regarding legal theory in economic development and the theory of justice proposed by John Rawls.

The conditions for making the law make a positive contribution to economic development have been stated by Max Weber's, namely *Stability; Predictability; Fairness; Education; and Special Development Ability of The Lawyer* [6], with the following explanation.

Stability is a legal quality that can provide a balance of competing interests. Thus the law can

accommodate various interests that exist in society, especially various interests in economic development. The competition between zakat payments and tax payments must be able to be balanced. Tax and zakat constitute 2 (two) different obligations on the basis. Taxes are based on State Provisions, but Zakat is based on Islamic Sharia provisions. Both of these basic philosophies must be able to be accommodated in an appropriate formula to provide a sense of justice for all.

Fairness, namely the interests of tax payments and zakat payments must apply to everyone. This is important to say because the obligation to pay zakat only applies to people of diverse Islam. Zakat is only obligatory for people who embrace Islam, so for non-Muslim followers, it must be given the same space for example almsgiving.

Education: In applying a law there must be sufficient information and outreach, both in its drafting and in its implementation, so that there is the ease in its application. The effectiveness of laws and regulations relating zakat and tax must obtain extensive socialization involving many institutions. The number of Indonesians who are 90 percent Muslim is part of this socialization will be very important for the effectiveness and optimization of the regulations established. The potential of Sharia Banks which have more than 10 branches and outlets throughout Indonesia with sufficient human and capital resources provides great expectations for the success of the socialization involving Sharia Banks.

Special Ability of The Lawyer: The role of a lawyer is needed in various contributions both to draft legislation and in a litigation practice. The role of the lawyer includes making legal construction of a particular community phenomenon, especially those related to economic developments that are sourced from tax and zakat.

If these conditions are not met, then the law will hamper economic development. In line with Max Weber's, Roberto M.Unger argues that the broadest sense, *rule of law* is defined through the idea of *neutrality, uniformity, and predictability*. The use of government power must take place within the limits of the regulations that apply to quite a large number of categories of people and actions [7].

To provide a theoretical foundation related to harmonization that links the payment of zakat and tax, which essentially has different basic philosophies based on the intrinsic obligation to pay taxes and an intrinsic basis for paying taxes, then in this study an appropriate approach to the theory of justice is used which is essentially John Rawls. The theory of justice developed by John Rawls introduces the theory of social contracts expressed by John Locke, Rousseau, and Kant to a higher level of abstraction [7]. John Rawls explored and then took ideas from various streams including Empiricism such as John Locke and Historical

schools such as Jean Jacques Rousseau and Kant who were classified as adherents of rational natural law.

Justice as *fairness* stated by Rawls is looking at various parties as parties in the initial situation which are rational and equally neutral, namely determining which justice should be chosen in the original position. If justice as *fairness* goes well, then the truth is revealed as *fairness*. The default position is determined by the status quo where all agreements reached are fair[8]. John Rawls argues that freedom and equality are elements that form the core of justice theory [8]. Rawls believes that there needs to be a balance between personal interests and shared interests. How to measure the balance must be given, that is what is called justice. Achmad Ali concluded that Rawls's opinion was expressed “*one way we can decide about justice, is to imagine a situation where we don't or don't have interests. In this case, there is no interest whatsoever, except deciding honestly*”[9].

CONCLUSION

- a. Zakat based on the opinion of scholars is categorized as human worship serving God, meaning that the fulfillment of zakat obligations is seen as a form of vertical relationship with God. This research can provide an answer to the positive legal basis governing zakat which is essentially the implementation of worship for Muslims in Indonesia.
- b. Zakat is a gift of wealth that has reached nishab to the needy and others, except to those who do not allow us to give zakat to him, with a percentage of the amount determined by the opinion of scholars that the amount for zakat income of 2.5 percent.
- c. Zakat and tax will complement each other to be equally used in the economic development of a country towards a welfare state for all residents. However, modifying the payment of zakat obligations and tax obligations at the same time

is an issue in various other Islamic countries. In Indonesia, the implementation of payments and proof of payment for zakat or religious donations which are obligatory can be deducted from gross income.

- d. The optimization of the collection of Zakat in Indonesia can still be potentially improved by optimizing the juridical support of the functions and roles of Islamic Banks in receiving and managing Zakat.

REFERENCES

- [1] P.M. Marzuki, *Penelitian hukum*, Jakarta: Kencana, 2007.
- [2] T.M.Hasbi Ash-Shiddieqy, *Pedoman zakat*, Jakarta: Bulan Bintang, 1987.
- [3] M. D. Rahardjo, *Perspektif deklarasi Makkah: Menuju ekonomi Islam*, Bandung: Mizan, 1987.
- [4] A. Riawan Amin, *Perbankan Syariah Sebagai Solusi Perekonomian Nasional*, Pidato Penganugerahan Gelar Doktor Honoris Causa dalam bidang Perbankan Syariah, Sidang Terbuka Universitas Islam Negeri (UIN) Syarif Hidayatullah Jakarta, 2009.
- [5] M.Weber's, by Leonard J Theberger, Member of The Bars of The District of 1980.
- [6] R. M. Unger, *Teori hukum kritis*, Bandung: Nusa Media, 2010.
- [7] J. Rawls, *A theory of justice*, 2nd Ed, Yogyakarta: Pustaka Pelajar, 2011.
- [8] A.G. Anshori, *Filsafat hukum*, Yogyakarta: Gadjah Mada University Press, 2009.
- [9] A. Ali, *Menguak teori hukum (Legal theory) dan teori peradilan (Judicial prudence) termasuk interpretasi Undang-undang (Legisprudence)*, 3rd Ed, Jakarta: Kencana, Prenada Media Group, 2010.