



LEGAL IMPLEMENTATION FOR ZAKAT MANAGEMENT PERFORMERS IN INDONESIA

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ABSTRACT

Zakat is one of the obligations of Muslims which has been stipulated in the Al-Quran and explained in detail in the al-hadith of the Prophet Muhammad regarding its application, and also in the ijma' of the ulama. Management of the National Amil Zakat institution which manages, collects and utilizes zakat, infaq and alms throughout Indonesia, which consists of government and community elements. This research is qualitative research with Normative research methods. This research was carried out by looking for data sourced from laws, previous research, and from several references, especially in the section on how legal sanctions for managing zakat without permission are reviewed from Law no. 23 of 2011 and looking at the implementation of Law No. 23 of 2011, especially in article 22 concerning Zakat issued by muzakki will be deducted from taxable income. The results of this research are that managing zakat without permission will receive legal sanctions in the form of imprisonment for a minimum of 1 year and a maximum of 5 years or a fine of Rp. 500,000,000,- and the implementation of Law Number 23 of 2011 concerning zakat management related to zakat payments made. by muzakki where the implementation of zakat paid is deducted from taxable income has not yet been implemented optimally in Suluruh Indonesia. This is because employees do not implement these rules and what is known is only the obligation to pay zakat.

Keywords: *Law Implementation, Zakat*

INTRODUCTION

Zakat is one of the obligations of Muslims which has been stipulated in the Al-Quran and explained in detail in the al-hadith of the Prophet Muhammad. With the majority of Indonesia's population being Muslim, there is great potential for receiving zakat. Even though there is great potential in zakat receipts, there are disparities in the realization of zakat receipts. One of the main causes of this inequality is the reality that there are still many muzakki in Indonesia who pay their zakat without going through a zakat institution, but directly to mustahiq, so this causes muzakki zakat payments not to be recorded by zakat managers.

The large potential of zakat can be used to help reduce various humanitarian problems, including poverty and economic inequality. Based on the results of research conducted by Aryani, it is proven that there are significant changes or differences in the typology of mustahik poverty. The most obvious change is that zakat is able to change mustahik who were previously in the position or quadrant of absolute poverty into prosperous and mustahik who were previously in the material poverty quadrant to become prosperous. By looking at the large potential revenue and importance of zakat in the problem of poverty and economic inequality, in accordance with Law no. 23 of 2011

where Dompot Dhuafa Waspada is the National Zakat Amil Institution that manages zakat. The big aim of zakat management as mandated by Law no. 23 of 2011 is expected to be able to increase the effectiveness and efficiency of services in zakat management; and increasing awareness of the benefits of zakat to realize community welfare and reduce poverty. Based on Law no. 23 of 2011 explains that apart from BASNAZ, the institutions that can manage zakat also come from the community in the form of LAZ (Lembaga Amil Zakat). So this proves that the authority and involvement of the state as a zakat collector through bodies or institutions that are officially established or recognized by the state aims to ensure that zakat management can be carried out effectively, guaranteed and with legal certainty. The results of research conducted by Hakim (2016) explain that Law no. 23 of 2011 does not provide sanctions for muzakki who neglect their zakat obligations, so this shows that zakat payments are still voluntary.

The results of this research also explain the relationship between zakat and tax, where zakat has a role as a fiscal incentive which means paying zakat and making zakat a deduction from Taxable Income (tax deduction). The still not optimal amount of zakat receipts originating from professional zakat is also proven by research by Titi Martini Harahap (2013). The obstacles faced in the implementation of the zakat law are the lack of government support in the form of policies, the lack of funds to carry out outreach which requires a lot of funds, the lack of regulated sanctions for muzakki who do not pay zakat, and the lack of understanding and awareness of the public/employees, especially regarding professional zakat and zakat. through institutions. As for the implementation of zakat management managed by BAZNAS in Indonesia, in its realization it has participated in helping to develop infrastructure and improve the welfare of people throughout Indonesia. In the realization of zakat distribution managed by BAZNAS, it has provided benefits and contributions in improving the welfare of people throughout Indonesia. The aim of this research is related to the implementation of Law no. 23 of 2011 which relates to how income zakat is managed, what factors influence its management, and how zakat management is implemented at BAZNAS.

The Ministry of Religion today released a list of zakat management institutions with data until January 2023. At the central level, there is the National Zakat Amil Agency (Baznas). 34 provincial level Baznas and 464 district/city Baznas have also been formed. "The Ministry of Religion noted that there are 37 Amil Zakat Institutions or LAZ on a National Scale, 33 LAZ on a Provincial Scale, 70 LAZ on a Regency/City Scale which have legal permits from the Ministry of Religion," explained Director General of Islamic Guidance Kamaruddin Amin in Jakarta, Friday (20/1/2023) . "There are also 108 institutions that have carried out zakat management activities but do not have legal permits from the Ministry of Religion," he continued.

Kamaruddin emphasized that zakat management in Indonesia is regulated in Law No. 23 of 2011 concerning Zakat Management. Article 18 paragraph (1) of Law 23/2011 regulates that the formation of a LAZ must obtain permission from the Minister or an official appointed by the Minister. 4 Meanwhile, paragraph (2) stipulates that permission is

only given if it meets the requirements, is registered as an Islamic community organization that manages the fields of education, da'wah and social affairs, is in the form of a legal entity, has a recommendation from Baznas, has a sharia supervisor, has technical, administrative capabilities, and finances to carry out its activities, is non-profit, has a program to utilize zakat for the welfare of the people, is willing to be subject to regular sharia and financial audits. "Zakat management institutions that are not licensed are obliged to immediately carry out the licensing process in accordance with the guideline procedures for granting permits to establish zakat amil institutions," said Kamaruddin Amin. "Zakat management institutions that are not licensed in accordance with Zakat Law No. 23 of 2011 are obliged to stop all zakat management activities. "Article 38 confirms that every person is prohibited from intentionally acting as a zakat collector by collecting, distributing or utilizing zakat without the permission of an authorized official," he continued. Kamaruddin said that his party deliberately released a list of licensed and unlicensed zakat administrators. According to him, this is part of an effort to safeguard social religious zakat, infaq and alms funds and protect the public from misuse of the management of these funds. "This is also part of carrying out risk mitigation in the management of zakat, infaq and alms funds," he stressed. "The Ministry of Religion urges the public to always pay zakat, infaq and alms to zakat management institutions that have been established by the government and communities that have obtained operational permits in accordance with regulatory provisions.

LITERATURE REVIEW

The problem formulation in this research is legal sanctions for managing zakat without government permission in Indonesia?

METHOD

This research activity is an activity carried out as an effort to understand and solve problems scientifically, regularly and logically (makes sense). A research was initiated because there was a gap between *das sollen* and *das sein*, namely between the existing theory and the reality that occurs in the field, so the approach method used in this research is a normative juridical approach considering that the problems being researched and studied are in addition to adhering to the juridical aspect, namely based on norms, regulations, legal theories. In other words, this research does not only refer to applicable legal products but is also based on the reality that occurs in the field. The specifications used in this research are analytical descriptive because this research is expected to obtain a clear, detailed and systematic picture, while it is said to be analytical because the data obtained will be analyzed to solve problems in accordance with applicable legal provisions. The aim of the research is to use analytical descriptive specifications. to provide an objective picture of the reality of the object being studied.

RESULTS AND DISCUSSION

1. Legal Sanctions for Managing Zakat Without Government Permit in Indonesia

In accordance with the provisions of Law no. 23 of 2011, the management of national zakat is now centralized in the hands of the government, namely through BAZNAS. Even though it is still acknowledged, LAZ's position is now only to "help" BAZNAS. In the new law, BAZNAS, which was established from the central to district/city levels, has been substantially strengthened. Apart from being an operator, central BAZNAS also holds regulatory functions such as planning, controlling, receiving reports from provincial BAZNAS, district/city BAZNAS and LAZ, and has the right to receive budget from APBN and APBD. On the other hand, in the new law LAZ is now a subordinate of BAZNAS, reporting to BAZNAS even though both have the status of zakat operator, its establishment and granting of permits are very strictly restricted, and it is not entitled to receive budget from the APBN and APBD.

The big idea for structuring zakat management contained in Law No. 23 of 2011 and which animates the entire article is integrated management. The word integrated is the principle underlying zakat management activities in this country, both carried out by the National Zakat Amil Agency (BAZNAS) at all levels and the Zakat Amil Institution (LAZ) which has legality in accordance with statutory requirements. According to the provisions of the law, the zakat collected is distributed based on the principles of equality, justice and regionalism. The integration of zakat management places BAZNAS as the coordinator. The role of coordinator is a combination of integration. Articles 6 and 7 of Law no. 23 of 2011 as a legal basis that provides open space for BAZNAS to carry out coordination functions. When LAZ becomes part of the system coordinated by BAZNAS, its legal position becomes strong, so that the principles of Sharia guidance in the Qur'an (At Taubah verses 103 and 60) can be fulfilled.

In carrying out its duties, BAZNAS carries out functions, planning, implementation and control of the collection, distribution and utilization of zakat as well as carrying out reporting and accountability for the implementation of zakat management. BAZNAS in carrying out its duties and functions can collaborate with related parties in accordance with the provisions of statutory regulations. In order to implement zakat management at the provincial and district/city levels, provincial BAZNAS and district/city BAZNAS were formed. Law no. 23 of 2011 in Chapter III regulates the collection, distribution, utilization of zakat and reporting. Muzakki does his own calculation of his zakat-obligatory assets. Even though the muzakki cannot calculate it himself, BAZNAS can help calculate the zakat obligation he must pay. Article 22 of Law No. 23 of 2011 states that zakat paid through BAZNAS or LAZ can reduce the obligation to pay tax from taxable income. For this reason, BAZNAS and LAZ are obliged to provide proof of zakat deposits to muzakki. Proof of deposit is used as a deduction from taxable income.

The collected zakat must be distributed to mustahik in accordance with Islamic law, and the distribution is carried out based on a priority scale, taking into account the principles of equity, justice and justice (articles 25 and 26). The zakat collected is utilized for productive efforts in the context of handling the poor and improving the quality of the community. However, it can be utilized for productive businesses if the mustahik's basic needs have been met. BAZNAS and LAZ not only receive zakat, but are also given the authority by law to manage donations, alms and other religious social funds. The distribution and utilization is carried out in accordance with Islamic law and is carried out according to the designation promised by the donor, and must be recorded in a separate bookkeeping. In order for the management of zakat infaq, alms and other social funds managed by BAZNAS to be transparent and accountable, district/city BAZNAS is required to report the implementation of its management to the provincial BAZNAS and regional governments periodically, as well as the provincial BAZNAS. Meanwhile, LAZ is obliged to report its activities to BAZNAS and the government periodically. BAZNAS is obliged to submit reports on its activities to the minister periodically. The BAZNAS annual balance report is announced via print or electronic media.

In the Qur'an, Allah SWT. has ordered the Muslims to collect/take Zakat from some of the muzakki's assets to be given to the Zakat mustahik. This zakat is used for the worship dimension, namely as one of the pillars of Islam as well as for the social dimension, namely to reduce the gap between the rich and the poor, develop social solidarity, eliminate attitudes of materialism and individualism. In terms of collection, utilization, supervision and sanctions for violations of zakat management, the government has made rules or procedures for Zakat Management which are contained in Law no. 23 of 2011 which perfects the previous law regarding Zakat, namely Law no. 38 of 1999. Law no. 38 of 1999 is still valid as long as it does not conflict with Law no. 23 of 2011.

In terms of legal sanctions for violations of zakat management in accordance with Law no. 23 of 2011, as follows:

Article 39 Every person who deliberately violates the law and does not distribute zakat in accordance with the provisions of Article 25 shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum fine of IDR 500,000,000.00 (five hundred million rupiah).

Article 40 Every person who intentionally and unlawfully violates the provisions as intended in Article 37 shall be punished with imprisonment for a maximum of 5 (five) years and/or a fine of a maximum of IDR 500,000,000.00 (five hundred million rupiah).

Article 41 Every person who intentionally and unlawfully violates the provisions as intended in Article 38 shall be punished with imprisonment for a maximum of 1 (one) year and/or a fine of a maximum of IDR 50,000,000.00 (fifty million rupiah).

University of Indonesia (UI) academic Doctor Hamid A. Chalid considers it necessary to review Law Number 23 of 2011 concerning Zakat Management because there are a number of articles that will cause problems in the future. "There are three things that are being debated in the Zakat Management Law. ", namely centralization of zakat management, criminalization of zakat amil institutions, and requirements for zakat management institutions," he said at the National Seminar on the Future of Zakat in West Sumatra with the theme "Criticism of the Zakat Management Law" in Padang, Wednesday. In front of seminar participants held by Dompot Dhuafa Singgalang, Hamid cited Article 5 Paragraph (1) of Law No.23/2011 which states that the National Zakat Amil Agency (Baznas) is the sole operator of zakat management. If this is implemented, it is feared that it will weaken the role of amil zakat institutions (LAZ) and traditional zakat managers whose presence has been very strategic, he said. In 2007, he said, the amount of zakat collected from districts/cities throughout Indonesia reached IDR 348 billion. In detail, the amount collected by Baznas was IDR 102 billion, Bazda IDR 26 billion, and LAZ IDR 219 billion. "This means that around two-thirds or 63% of the incoming zakat funds are collected by LAZ."

Therefore, he considers it necessary to consider the level of public acceptance and trust in Baznas if it is decided to be the sole manager of zakat. Then, in the law it is stated that managing zakat without permission from the competent government can be subject to sanctions in the form of imprisonment for a maximum of five years and a maximum fine of IDR 500 million. This, according to him, would clearly be detrimental to traditional zakat administrators whose presence had existed long before the law was created. Apart from that, the law regulates the requirements for zakat management institutions which must obtain ministerial permission and must have a legal entity. "This regulation will clearly be burdensome for LAZ so that its presence will be limited," he said. He believes that this weak side needs to be reviewed so that it does not become a problem in the management of zakat in the future. The urgent thing that the government should do, according to him, is to increase the credibility capacity of Baznas, Bazda and LAZ, as well as socialize that zakat must be paid through formal institutions.

CLOSING

Conclusion

1. In terms of legal sanctions for violations of zakat management in accordance with Law no. 23 of 2011, as follows:
 - a. Article 39 Every person who deliberately violates the law and does not distribute zakat in accordance with the provisions of Article 25 shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum fine of IDR 500,000,000.00 (five hundred million rupiah).
 - b. Article 40 Every person who intentionally and unlawfully violates the provisions as intended in Article 37 shall be punished with imprisonment for a

maximum of 5 (five) years and/or a fine of a maximum of IDR 500,000,000.00 (five hundred million rupiah).

- c. Article 41 Every person who intentionally and unlawfully violates the provisions as intended in Article 38 shall be punished with imprisonment for a maximum of 1 (one) year and/or a fine of a maximum of IDR 50,000,000.00 (fifty million rupiah)

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