

## LEGAL STATUS OF ZAKAT FITRAH COLLECTION BY ZAKAT FITRAH COMMITTEES THAT DO NOT HAVE LEGITIMATE PERMITS FROM GOVERNMENT INSTITUTIONS ACCORDING TO LAW NO. 23 OF 2011

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### ABSTRACT

*Zakat fitrah is an obligation for every capable Muslim and must be paid during the month of Ramadan as a form of cleansing of wealth and soul. The management of zakat fitrah is usually carried out by the zakat fitrah committee in the community. However, not all zakat fitrah committees have permission or legitimacy from authorized government institutions, namely the National Zakat Amil Agency (BAZNAS) or registered zakat amil institutions. This research aims to analyze the legal status of zakat fitrah collection by a committee that does not have permission from the government based on Law no. 23 of 2011 concerning Zakat Management. This research uses a normative approach with a literature study regarding applicable legal provisions. In this study, the researcher used a statutory approach, namely an approach that analyzes and examines statutory regulations related to the legal problems currently being faced. The research results show that the collection of zakat fitrah by a committee that does not have permission or legitimacy from a government institution could potentially violate legal provisions regulated in Law no. 23 of 2011, which can cause problems regarding the legality of zakat distribution and supervision of its use.*

**Keywords:** Legal Status, Zakat Fitrah Commite, Legitimacy.

### INTRODUCTION

Fiqh can develop and change with changes in place and time. Islamic law is comprehensive (syâmil) which includes belief/worship systems and social systems, but in its expression between the two. The definition of fiqh presented by Imam Abu Hanifah, namely معرفة النفس ما عليها. Meanwhile, As-Syafi'i

provides a definition of fiqh العلم بالاحكام الشرعية المكتسب من ادلتها التفصيلية<sup>1</sup>.

In the concept of social change, change can mean progress, growth, development, development, reform, modernization, evolution, revolution, transformation, adaptation, modification, and so on. Progress is change that is based

<sup>1</sup>. Wahbah al-Zuhaylî, al-Fiqh al-Islâmî wa Adillatuh Juz I, (Damaskus: Dâr al-Fikr, t.t), h.14.

on a certain value benchmark. Development is a structural or cultural change that is expressed qualitatively. Transformation is a structural change in the context of the structure and culture of a particular society. With change comes a new form, which is called renewal.

In Islamic history, zakat has been implemented in a real and successful way, even to the point where there were no more poor people who were entitled to receive zakat. Yahya bin Sa'id, a zakat officer during the time of Umar bin Abdul Aziz, said, "Caliph Umar bin Abdul Aziz has sent me to collect zakat from Africans, then I took it and I asked the poor to collect it for me to give zakat. But it turned out that no one from that group took it. "Islamic teachings make zakat a *maliyah ijtimaiyah* worship, which has a social target to build oneeconomic system, has the goal of prosperity in this world and the hereafter. Zakat is a help for poor people andpoorpeople whichneed help. Zakat canencourage themtowork with enthusiasm when they are able to do so and can encourage them to achieve a decent life. With zakat, society will be protected from the disease of poverty and the country will be protected from persecution and weakness. Allah SWT. Will provide relief from hardship and will

provide ease, both in the world and in the hereafter, for those who provide ease and relieve hardship in the world to fellow Muslims<sup>2</sup>.

Zakat fitrah is one of the obligations for every able Muslim individual, which aims to cleanse the soul and wealth, and provide assistance to those in need. This zakat fitrah must be paid in the month of Ramadan and is usually distributed through the zakat fitrah committee in the community<sup>3</sup>. However, in its implementation, there is a zakat fitrah committee that does not have official permission from the authorized government agency at the Al-Ikhlas Mosque in Bunut Village. This is important to discuss because it is related to the legality and effectiveness of zakat distribution which should run in accordance with applicable provisions<sup>4</sup>.

Law of the Republic of Indonesia Number 23 of 2011 concerning Zakat Management regulates this. Clear

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<sup>2</sup> Retno Eka Untari, "*Legitimasi Hukum Zakat Di Indonesia*," *jurnal hukum keluarga dan pemikiran hukum Islam*, 2023.

<sup>3</sup> Aden Rosadi "Zakat Dan Wakaf Konsep, Regulasi, Dan Implementasi, Simbiosis Rekatama Media". 2019.

<sup>4</sup> Nurhidayah I. "*Tanggung Jawab Hukum Pengelolaan Zakat di Indonesia dan Penerapan Sanksi terhadap Pelanggaran*". *Jurnal Hukum Islam*, 2021, 10(3), 215-229.

regarding institutions that are authorized to manage zakat in Indonesia. In this law, it is stated that legitimate zakat institutions are institutions that are registered and have obtained permission from the government<sup>5</sup>. Therefore, zakat fitrah committees that do not have permission from government institutions have the potential to cause legal problems that can disrupt the management of zakat in the community<sup>6</sup>. Unauthorized committees can collect zakat without adequate supervision, risk distributing zakat to unauthorized parties, or even be involved in the practice of misusing zakat funds.

Meanwhile, legal legitimacy from the government through designated institutions is very important in ensuring that the collection of zakat fitrah runs with the principles of justice, transparency, and accountability. Clear regulations regarding the management of zakat in Indonesia aim to increase the effectiveness of zakat distribution and to ensure that zakat is

used properly in accordance with Islamic law<sup>7</sup>.

In this context, the discussion regarding the legal status of collecting zakat fitrah by a committee that does not have permission from a government agency to be very relevant<sup>8</sup>. It is important to examine whether this kind of committee can be held legally accountable, as well as what legal consequences arise if the collection of zakat fitrah is carried out without complying with the provisions in Law no. 23 of 2011<sup>9</sup>.

## METHOD

The research method used in this study is normative research, which is a research method that examines laws and regulations and other legal bases as sources of law. In this normative research method, it is also about the implementation of normative legal provisions (laws) in their actions in every specific legal event that occurs in a society". With the problem being studied, where the data analysis is qualitative. This

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<sup>5</sup> Undang-Undang Republik Indonesia Nomor 23 Tahun 2011 tentang pengelolaan zakat Pasal 5, lembar negara Republik Indonesia Tahun 2011 Nomor 74

<sup>6</sup> Z Hassan. "Analisis Hukum Pengumpulan Zakat oleh Panitia Zakat yang Tidak Memiliki Izin: Perspektif UU No. 23 Tahun 2011". *Jurnal Pengelolaan Zakat*, 2019, 8(2), 100-115.

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<sup>7</sup> Warman Azwa, Karim Adi, Metode Praktis Penetapan Nisab Zakat, (Bandung: PT. Mizan Pustaka, 2009), cet. ke-1, h.29.

<sup>8</sup> Soerjono Soekarto, *Pengantar Penelitian Hukum* (Jakarta: UI-Press, 2005), hal. 5

<sup>9</sup> Irwan, "Metodologi Penelitian Hukum", *Metodologi penelitian-hukum*

research is a normative legal research with a library research approach, in this study, the researcher used a statutory approach, namely an approach that analyzes and examines statutory regulations related to the legal problems currently being faced, which aims to examine and analyze the legal status of the collection of zakat fitrah by the zakat committee that does not have a permit or legitimacy from a government institution, based on Law of the Republic of Indonesia Number 23 of 2011 concerning Zakat Management.

This study examines the legal provisions related to zakat management, especially regarding the authority of zakat collection institutions and the regulation of permits that must be held by the zakat committee to collect zakat fitrah. By using a normative approach, This research focuses more on analysis of legal documents (statutory regulations, regulations, and legal literature) to find the legal basis for the issues raised<sup>10</sup>.

## **RESULTS AND ANALYSIS**

### **Legal Provisions Concerning the Collection of Zakat Fitrah by the Zakat Fitrah Committee According to Law**

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<sup>10</sup>Oneng Nurul Bariyah, N. 'The Dynamics of Legal Aspects of Zakat and Waqf in Indonesia', *Ahkam: Jurnal Ilmu Syariah*, 16.2 (2020), 197–212

## **Number 23 of 2011 concerning Zakat Management**

### **Understanding Zakat Fitrah and the Role of the Zakat Committee**

Zakat fitrah Linguistically, zakat comes from the word زكاة - يزكى - زكى which means holy, growing, blessing, and praiseworthy. According to Adi Warman Azwar Karim zakat means, namely Al-Barakatu which means blessing, An-Nama which means growth and development, At-Thahratu which means purity and Ash-Salahu which means order. It means growing holy and blessed<sup>11</sup>.

Zakat fitrah is an obligation for every Muslim which is carried out every month of Ramadan and this zakat must be distributed to the recipients who are entitled to receive it (mustahik), and one of the institutions that has a role in carrying it out to collect it is the zakat fitrah committee<sup>12</sup>.

### **Legal Basis for Collecting Zakat Fitrah**

Law No. 23 of 2011 concerning Zakat Management provides a clear legal basis for zakat management in Indonesia. This law regulates the government's

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<sup>11</sup> Ibnu Manzur, "Lisan al-arab, Jilid II, Beirut-Libanon: Dar Sader, 1990, h.35

<sup>12</sup> Seto Sangaji, " Status Panitia zakat Fitrah Sebagai Amil Zakat Perseorangan di masjid Al- Mubarak", April 2023 .

obligations in establishing a legitimate zakat management institution and provides guidelines to the community regarding the correct ways to pay zakat.<sup>13</sup>

The main articles governing zakat collection, including zakat fitrah, include:

- a) Article 1 Paragraph 1: Defines zakat as wealth that must be paid by every Muslim to be given to those entitled to it, with certain provisions and conditions.
- b) Article 14: Regulates that institutions authorized to collect zakat, including zakat fitrah, must be registered and obtain a permit from the government, which in this case is represented by the National Zakat Collection Agency (BAZNAS) or other zakat collection institutions accredited by the government.

### **Zakat Committee and Zakat Collection Permit**

In accordance with the provisions of Law No. 23 of 2011, the zakat committee authorized to collect zakat fitrah are those who cooperate with legitimate zakat institutions and have

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<sup>13</sup> Pasal 2, Undang-Undang Republik Indonesia Nomor 23 Tahun 2011 tentang *Pengelolaan Zakat*.

permission from the government<sup>14</sup>. In this case, the zakat fitrah committee that is not registered or does not obtain permission from BAZNAS or an institution recognized by the government, does not have a valid legal basis for collecting zakat fitrah. Without this permit, zakat collection activities are considered to violate regulations and can have legal consequences for the parties involved<sup>15</sup>.

Thus, the legal provisions regarding the collection of zakat fitrah by the zakat committee in Law No. 23 of 2011 emphasize the importance of a structured and responsible institution in managing zakat. BAZNAS as an official institution has a central role in collecting and distributing zakat fitrah, ensuring that this obligation is carried out in accordance with the principles of Islamic law and applicable laws.

### **Sanctions or Consequences That Can Be Imposed on Zakat Fitrah**

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<sup>14</sup> Fakina Herliani, “*Analisis UU Nomor 23 Tahun 2011 Tentang Pengelolaan Zakat (Perspektif Sosial dan Politik Hukum)*”, jurnal kajian ilmu-ilmu hukum, juni 2020.

<sup>15</sup> Muhammad Arifin Lubis, TESIS. "Analisis Pengelolaan Zakat Di LAZIS Muhammadiyah (LAZIS MU) Kota Medan Berdasarkan Undang-Undang No. 23 Tahun 2011 Tentang Pengelolaan Zakat". Repository UIN Sumatera Utara, 2021.

### **Committees That Do Not Have a Permit According to Zakat Law No. 23 of 2011**

The collection of zakat fitrah in Indonesia is regulated by Law Number 23 of 2011 concerning Zakat Management. This law aims to regulate the management of zakat in a transparent, accountable, and Islamic manner. One of the important provisions in the law is the obligation for every zakat fitrah committee that wants to collect zakat to have a permit or legitimacy from a legitimate institution, such as the National Zakat Agency (BAZNAS) or a zakat institution registered and recognized by the government<sup>16</sup>.

If the zakat fitrah committee does not have a permit, then the zakat collection they do is considered invalid and can be subject to sanctions or legal consequences. Discussion this will reviewing the various sanctions and legal consequences that can be applied to zakat fitrah committees that do not comply with the provisions of Law No. 23 of 2011.

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<sup>16</sup> Aulia M, "Tanggung Jawab Hukum Pengelolaan Zakat di Indonesia: Perspektif hukum Positif dan Hukum Islam". Jurnal Hukum Ekonomi Syariah, 5(2), 2020, 75\_92

### **Legal Sanctions for Zakat Fitrah Committees Who Do Not Have a Permit**

There are several types of sanctions or legal consequences that can be imposed on zakat fitrah committees that do not have permission or legitimacy from a legitimate institution, including:

#### **A. Administrative Sanctions**

Administrative sanctions are a type of sanction given by the government or authorized institution, which aims to correct the violations that occur. For zakat fitrah committees that do not have a permit, administrative sanctions can be:

- a. **Dissolution of Zakat Committee:** Zakat committees that are not registered or do not have permits can be disbanded. This dissolution is carried out by authorized institutions, such as BAZNAS or local governments, to ensure that only legitimate zakat institutions collect zakat fitrah.
- b. **Termination of Zakat Collection Activities:** Any zakat fitrah collection activities carried out by an unauthorized committee can be temporarily or permanently stopped. This aims to prevent misuse of zakat funds by unregistered committees.
- c. **Revocation of Organization or Institution Permit:** If the zakat

fitrah committee operates within the framework of a larger institution (for example, a social or community organization), then the operational permit of the institution can be revoked to stop all unauthorized activities.

## B. Criminal Sanctions

In addition to administrative sanctions, zakat fitrah committees that collect zakat without permission can also be subject to criminal sanctions, especially if there are elements of fraud or misuse of zakat funds. Article 22 of Law No. 23 of 2011 regulates the criminal sanctions that can be imposed on those who misuse zakat funds.

Some criminal sanctions that can be applied are:

- a. Imprisonment: Perpetrators who intentionally collect zakat without permission or with the intention of misappropriating zakat funds can be subject to imprisonment. This punishment aims to provide a deterrent effect and prevent further criminal acts.
- b. Fines: In addition to imprisonment, unregistered committees may be subject to fines. The amount of the fine depends on the amount of zakat funds that have been collected illegally and the

losses caused by these activities.

This criminal sanction also applies if the zakat funds collected are not distributed according to their intended use, or if there are indications that the funds are being misused.

## **Social Responsibility and Accountability**

In addition to legal sanctions, unlicensed zakat fitrah committees can also be subject to social and moral responsibility. People who feel disadvantaged by unauthorized zakat collection activities can report the committee to the authorities. This requires the committee to provide social accountability to the public regarding the use and distribution of zakat.

In addition, an unauthorized zakat fitrah committee can lose public trust. Credibility and trust are very important in zakat management, and without a valid permit, the committee cannot guarantee transparency and accountability in the collection and distribution of zakat.

## **Government Supervision of Zakat Fitrah Collection by Zakat Fitrah Committees that Do Not Have Legitimate Permits from Government**

## **Institutions According to Law No. 23 of 2011**

Zakat collection in Indonesia is regulated by Law Number 23 of 2011 concerning Zakat Management. In this case, zakat management does not only include collection, but also distribution and utilization of zakat. Therefore, the government has an obligation to ensure that zakat collection is carried out properly and in accordance with Islamic law.

In Law No. 23 of 2011, it is explained that the zakat committee or institution that collects zakat must be registered and obtain a permit from the government. The legitimate and registered zakat collection institutions include BAZNAS (National Zakat Collection Agency) and zakat collection institutions that have been accredited by the government. If a zakat committee does not have a valid permit, then the zakat collection carried out is considered illegal and can be subject to sanctions<sup>17</sup>.

### **Supervisory Authority by the Government**

The government, in this case the Ministry of Religion and BAZNAS, has

the authority to supervise and regulate institutions that play a role in collecting zakat. Law No. 23 of 2011 gives BAZNAS the authority to supervise zakat institutions that collect zakat. This supervision includes:

- a. Verification of zakat collection institutions that apply for permission to collect zakat.
- b. Monitoring and auditing of zakat collection, distribution and utilization activities by registered institutions.
- c. Providing recommendations and sanctions if found violations in zakat collection by unregistered institutions.

In addition, the Ministry of Religion also has the responsibility to supervise zakat activities at the national and regional levels. This supervision is carried out to ensure that zakat activities are carried out transparently and accountably.

### **Government Oversight Mechanism**

Supervision of zakat committees that do not have permits is usually carried out through the following steps:

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<sup>17</sup> Taufik, H, "Pengawasan Pengelolaan Zakat di Indonesia: Tinjauan Terhadap UU No.23 Tahun 2011, Yogyakarta: UIN Press



- a. **Registration and Licensing:** Before a zakat institution or committee can collect zakat, they must first register and obtain a permit from a legitimate institution, such as BAZNAS. The government has the authority to verify whether the institution meets the requirements to be a zakat collector.
- b. **Field Supervision:** The government, through BAZNAS or the Ministry of Religion, conducts field supervision to ensure that the operating zakat committees are registered and collect zakat in accordance with applicable regulations. This supervision can be in the form of audits, inspections, or verification of financial reports and zakat management.
- c. **Counseling and Education:** One aspect of supervision carried out by the government is through counseling and education to the community and zakat committees. By providing information about the importance of following existing legal provisions, the government hopes to prevent violations committed by zakat committees that do not have permits.

### **Challenges in Government Oversight**

Although supervision of zakat committees that do not have permits is the government's responsibility, there are several challenges in its implementation, including:

- a. **Resource Limitations:** The government and BAZNAS often face limitations in terms of human resources and budget to carry out comprehensive supervision. This can result in less than optimal supervision of zakat committees at the local or regional level.
- b. **Lack of Legal Awareness:** Many zakat committees still do not understand the importance of having a valid permit from a registered institution. This lack of legal awareness often causes the collection of zakat without a permit to continue to occur.
- c. **Diversity of Zakat Collection Models:** In Indonesia, the collection of zakat fitrah is often carried out by various parties, ranging from mosques, social institutions, to community organizations. This diversity adds complexity to supervision, especially for zakat committees that are not registered or licensed.

### **The Role of Society in Supervision**

In addition to government supervision, the community also plays an important role in supervising the zakat committee. Through community reports, the government can find out if there is a zakat committee operating without a permit or committing fraud. Therefore, education for the community about the importance of choosing a legitimate and registered zakat committee is very necessary.

In addition, the community also has a role in supervising the practice of collecting zakat fitrah. If the community finds a zakat committee that does not have a permit, they can report the violation to BAZNAS or the authorities for further action.

Based on this research, the author can analyze the legal status of collecting zakat fitrah by zakat committees that do not have legitimate permits from government institutions according to Law No. 23 of 2011 concerning Zakat Management, which shows that this action violates the provisions stipulated in the law.

According to Article 38 of Law No. 23 of 2011, every individual or institution prohibited from collecting,

distributing, or utilizing zakat without permission from authorized officials. This aims to ensure that zakat management is carried out in an accountable and transparent manner, and to prevent misuse of zakat funds.

This law also regulates sanctions for zakat committees that violate these provisions. Based on Article 41, violations can be subject to criminal sanctions in the form of imprisonment for a maximum of one year and/or a maximum fine of Rp50,000,000. This shows that the state is serious about enforcing the law regarding zakat management to protect the public from potential fraud and abuse.

And the collection of zakat by unlicensed committees can result in the loss of public trust in legitimate zakat management institutions. In addition, funds collected illegally have the potential to be misused for activities that are not in accordance with the purpose of zakat, such as funding criminal activities or terrorism.

So the legal status of collecting zakat fitrah by the zakat committee without permission clearly violates Law No. 23 of 2011. Therefore, it is important for the community to ensure that they only deposit zakat to institutions that have

official permits so that zakat funds are managed properly and in accordance with Islamic law. Strict law enforcement against these violations is needed to maintain the integrity of the zakat management system in Indonesia.

## CONCLUSION

From the description that the author has discussed in this problem, it can be concluded that zakat management should indeed be coordinated properly, in the view of Islamic law, the general purpose of the zakat law is to realize the welfare of the people and at the same time uphold justice. On that basis, the imposition of criminal sanctions on zakat managers as stated in Article 39 of Law Number 23 of 2011 concerning Zakat Management is not contrary to Islamic law because the aim is to regulate zakat management so that zakat funds can be coordinated properly. So here it is clear that Islam upholds and recommends the imposition of severe sanctions on zakat managers who commit violations. In the time of the Prophet, zakat managers were appointed directly by the Prophet himself. These managers were given special guidance and threats for those who committed violations. While in this day and age the role of the prophet has been replaced by the legitimate government.

Therefore, all decisions made by the legitimate government must be obeyed by all levels of society. Law No. 23 of 2011 concerning zakat management has been ratified by the government, so this law must be complied with absolutely.

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