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## INTEGRATING *ZAKAT* INTO INDONESIAN FISCAL SYSTEM IN THE LIGHT OF *SIYASAH SHAR'IIYAH*

NASHR AKBAR\*

ASSOC. PROF.DR.SAIMKAYADIBI\*

### *Abstract*

Nowadays, the idea of integrating *zakat* into fiscal system has arisen in Muslim countries including Indonesia. It is argued that *zakat*, in history, has played a significant role to create welfare among societies. It is proven at the time of Caliph 'Umar ibn 'Abdul 'Aziz that *zakat* has alleviated poverty at that time alongside tax. Having considered such achievement, some scholars argued that *zakat* should be reintegrated into current fiscal system. This paper, therefore, attempts to study the feasibility of integrating *zakat* into Indonesian fiscal system. Employing descriptive analysis based on *SiyasahShar'iiyah* (high objectives of the *Shari'ah*). Therefore, the objectives of the study are set with these following points: 1) to address the strength and the weakness of the implementation of this idea, 2) to assess its opportunity as well as its threat, 3) to examine whether the integration of *zakat* will secure *maslahah* (benefit) or create *mafsadah* (harm). The result shows that the integration of *zakat* into current fiscal system is in line with the *SiyasahShar'iiyah*. Hence, the strong willingness and commitment of government is strongly required to apply it. The proper model of integration also should be planned well. Moreover, nurturing the understanding to all parties especially to the non-Muslims and secularists that this idea is really beneficial and not discriminatory should be promoted.

**Keywords:** *Zakat*; Fiscal; Integration; SWOT analysis; *SiyasahShar'iiyah*,

### **Introduction**

The issue of *zakat* has been discussed in depth by past Islamic scholars. However, this issue still attracts many scholars today. Currently, a main issue of

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\* M.Ec student, the Department of Economics, Faculty of Economics and Management Sciences, International Islamic University Malaysia (IIUM), Kuala Lumpur; Lecturer of Tazkia University College of Islamic Economics, Email: [nasher.oke@gmail.com](mailto:nasher.oke@gmail.com)

\* Assoc. Prof. Dr. Saim Kayadibi, Deputy Director, International Affairs Division in Deputy Rector, teaching in the Department of Economics, Kulliyah of Economics and Management Sciences, International Islamic University Malaysia (IIUM), email: [saim@iium.edu.my](mailto:saim@iium.edu.my) and [skayadibi@yahoo.com](mailto:skayadibi@yahoo.com)

*zakat* is about *zakat* governance. A question arises about who should govern *zakat*, whether it is private sector or government sector? There are some points why this issue is so important: 1) *zakat* is obligatory for Muslims, 2) The big roles that can be played by *zakat* especially in order to alleviate poverty, 3) its unique characteristic compared to tax, 4) the big potential of *zakat* collection.

Undeniable, *zakat* is one of five pillars of Islam. Every Muslim is obligatory to perform it. Nevertheless, *zakat* is not only about spiritual matter but it is more than that. It has an active role to solve economic problems such as unemployment, poverty, debt and disasters, an extreme economic inequality and money hording.<sup>711</sup> Furthermore, in macroeconomic perspective, Khan, Darwish and Zain, Iqbal and Shuhaibani argued that *zakat* may increase the aggregate consumption of people. Moreover, Suhaibani viewed that the dynamic effect of *zakat* on investment is positive.<sup>712</sup> Anyway, it is proven in the time of caliph ‘Umar ibn Abdul Aziz that *zakat* has alleviated poverty at that time alongside tax. It is reported that governor of Egypt sent a letter to ‘Umar ibn Abdul Aziz asking what to do with the proceeds of *sadaqah* because he found no deserving poor and needy in the country. ‘Umar replied: “buy slaves and set them free. Built rest areas on the highways and help young men and women get married”.<sup>713</sup> Ibn Kathir revealed that ‘Umar has appointed a person to look for persons who are under debts and those who intend to get married, the needy, the debtors and orphans throughout the streets and cities on a daily basis until he enriched all these people.<sup>714</sup>

Furthermore, *zakat* is a unique system compared to tax where the *nisab*<sup>715</sup>, amount, objects and others are determined by Allah and his messenger. In the contrast, the amount of tax is determined by the government. Moreover, the

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<sup>711</sup>Yusuf al-Qardawi (2006). *al-Zakah, Dawruha Fi ‘Ilaj al-Mushkilat al-Iqtisadiyah wa Shurut Najahiha*. Cairo: Dar al-Shuruq, second edition, p. 7

<sup>712</sup>Monzer Kahf. “Introduction to the Study of the Economics of Zakah”. In *Economics of Zakah*, edited by Monzer Kahf. Jeddah: IRTI, 2002, pp. 15-60.

<sup>713</sup>Habib Ahmed (2004), *Role of Zakat and Awqaf in Poverty Alleviation*, IDB-IRTI, p. 31

<sup>714</sup> Ibn Kathir (774 H). *Al-Bidayah wa al-Nihayah*. Riyadh: Hajar Publisher (1997), vol. 12, p. 696

<sup>715</sup>The minimum amount of an asset or wealth which makes the owner liable to pay *zakat*

distribution of tax is up to the government which is different from *zakat*. In brief, *zakat* has several distinctions with tax.<sup>716</sup>

About its potential, in Indonesia, PIRAC (*Public Interest Research and Advocacy Center*) did survey on ten cities in 2007. The result showed that *zakat* potential of Muslims in Indonesia reached IDR 19.3 Trillion. In detail, it is stated that 59% of *muzakki* is more prefer to pay *zakat* and donation in the near mosque rather than to give it to the *zakat* organisation. Meanwhile, Yasin estimated that the potential of *zakat* in Indonesia reached Rp 6.5 Trillion. This result is based on assumption that the number of *muzakki* (*zakat* payer) is 18.7% of Indonesian population and the price of gold is IDR 102,200/gram.<sup>717</sup> This estimation, of course, need to be revised as the gold price has fluctuated recently.

Having considered aforementioned points, some scholars argued that *zakat* should be reintegrated into current fiscal system. This paper, therefore, attempts to study the feasibility of integrating *zakat* into Indonesia fiscal system. Employing descriptive analysis based on *siyasahShar'iyah*, the objectives of the study are: 1) to address the strength and the weakness of the implementation of this idea, 2) to assess its opportunity as well as its threat, 3) to examine whether the integration of *zakat* will secure *maslahah* or create *mafsadah*.

## Scope of Study

We limit the study on the feasibility of integration of *zakat* in Indonesia looked from its strength, weakness, opportunity and threat. Integration means that *zakat* becomes a fundamental source of government income alongside tax. Besides, *zakat* is also obligatory for every Muslim, who denied paying it deserves punishment.

## Literature Review

### *Zakat* Management in the Early Islam

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<sup>716</sup>See Yusuf al-Qardawi (1999). *Fiqh az-Zakat: A comparative Study*. London: Dar al-Taqwa Ltd, pp. 621-692

<sup>717</sup>Ahmad Hadi Yasin (2011). *Panduan Zakat Praktis*. Jakarta: Dompot Dhuafa Republika, p. 7

The obligation to pay *zakat* starts in the second year of *Hijrah*. At that time, the Prophet (pbuh) prescribed *zakat* in specific form where the lawgiver determines the exact kinds of wealth on which *zakat* is required, the conditions of its obligation, the percentage and the ratios, and the recipients of *zakat*. He also starts to organize and administer it. Before, *zakat* which is mentioned in Makkan verses was in general form of voluntary payments.<sup>718</sup>

In terms of administration, the Prophet (pbuh) always sent out his companions to collect *zakat* in other cities and then distribute it to them. There are several companions that ever been sent out by the Prophet (pbuh), some of them are as follows:

1. Ibn al-Latbiyah from the tribe of al-Azd
2. Abu Mas'ud
3. Abu JahmibnHudhayfa (d. 20 H)
4. 'Uqbaibn 'Amir
5. Al-DahhakibnQays
6. QaysibnSa'd
7. 'Ubadaibn al-Samit
8. Al-Walidibn 'Uqba which was sent out to the banu al-Mustaliq.<sup>719</sup>

The policy of the Prophet was followed by caliphs after him, Abu Bakr (13 H/634 M), 'Umar ibnKhattab (23 H/644 M), UthmanibnAffan (35 H/656 M) and Ali ibnAbiThalib (40 H/661 M). They used to send *zakat* collectors too. It is reported by al-Shafi'i from IbramibnSa'd from al-Zuhri that they did not postpone its collection in any year. However, al-Shafi'i also reported in his former opinion that 'Umar ever delayed the *zakat* collection in the year of Famine, hence, he sent collectors to take twice as much in the following year.<sup>720</sup>

In the time of Abu Bakrra (13 H/634 M), after the death of the Prophet (pbuh), many Muslims were refusing to pay *zakat*. Overcoming this issue, Abu Bakr (13

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<sup>718</sup>Yusuf al-Qardawi (1999). *Op.cit.*, p. 15

<sup>719</sup>Ibid p. 475-476

<sup>720</sup>Ibid.

H/634 M) sent out armies to fight them. It does make sense that the government has the right to force *zakat* payment. The administration of *zakat* was strengthened by ‘Umar ibn al-Khattab (23 H/644 M) through the establishment of *Bayt al-Mal*.

A little different practice was implemented by the third Caliph, Uthman ibn Affan (35 H/656 M) whereby he differentiated between apparent asset and non-apparent asset. As for apparent assets which are agricultural crops, livestock and etc., the government was undertaking the collection and disbursement while for non-apparent asset; the distribution is left to the individual Muslim.<sup>721</sup>

### **The Development of *Zakat* Management in Indonesia**

The implementation of *zakat* in Indonesia is based on the *Zakat* Management Act No. 38/1999. This act does not include *fiqh* of *zakat* since it is regulated based on the Shariah law. There are some objectives of *zakat* management as stated in the act:

1. To increase the service for the community in performing *zakat* obligation according to the *Shari‘ah*.
2. To improve the role and function of religious institution in realizing people’s welfare and social justice.
3. To increase the benefit and advantage of *zakat*.<sup>722</sup>

Regarding *zakat* operator, the act mentioned that government does not manage *zakat* directly. The role of government is to regulate, motivate, facilitate, coordinate and control all *zakat* institutions. There are two kinds of institutions that have legal permission to manage *zakat* namely BAZ (Badan Amil Zakat) and LAZ (Lembaga Amil Zakat). The former is the institution which is established by the government at various levels while the latter is private organization approved by the government. It is reported that, currently, there are 1 national BAZ, 33

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<sup>721</sup>Ibid, p.480

<sup>722</sup>Didin Hafidhuddin and Irfan Syauqi Beik. “*Zakat* Development: The Indonesia's Experience”. *Jurnal Ekonomi Islam al-Infah*, 2010, pp. 2-3

provincial BAZ and around 400 BAZ in cities. In addition, there exist 18 national private *zakat* institutions which can operate throughout the country.<sup>723</sup>

Recently, the act has been revised by act no. 23 year 2011, *Zakat* Management. The implementation of the new act is waiting for the government regulation. Unfortunately, the act did not impose punishment for the individuals who do not fulfill *zakat*. In other words, *zakat* is not legally obligatory. The government may not enforce the collection of *zakat*. However, the act mentioned clearly that punishment will be imposed to the *zakat* institution which misuses the fund.

Before 1999 or before the issuance of the first act, the involvement of the government in managing *zakat* was somehow unclear. The establishment of Ministry of religion in January 1946 in order to manage the religious matter still does not satisfy since *zakat* is excluded from the tasks of ministry. It can be seen that there is no any special department organizing this matter.<sup>724</sup>

Furthermore, Presidential Decree No. 07/PRIN/10/1968 gave impetus to incorporating the matters of *zakat* into the responsibilities of the state. Thus, some governors start to establish a semi-autonomous *zakat* agency, called BAZIS. It was founded in Jakarta in December 1968, in East Kalimantan in 1972, West Sumatra in 1973, West Java and South Kalimantan in 1974, and North Sulawesi and South Sulawesi in 1985. Each provincial BAZIS also had three basic levels: regency (kotamadya or kabupaten), district (kecamatan), and village (kelurahan). Even though, some non-government organizations such as Muhammadiyah and Nahdatul Ulama are still organizing *zakat* in their communities.<sup>725</sup>

Regarding the relationship between *zakat* and tax, *Zakat* act no. 38/1999 clause 14 has mentioned that *zakat* can be an incentive for the tax payer. *Zakat* may deduct the taxable income. Even though, the recognition of *zakat* as tax deduction

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<sup>723</sup>Ibid, p. 3

<sup>724</sup>Alfitri. "The Law of *Zakat* Management and Non-Governmental *Zakat* Collectors in Indonesia". *International Journal of Not-for-Profit Law*, vol. 8, no. 2, 2006, pp. 55-64.

<sup>725</sup>Ibid

just started in year 2000 after revising the act of tax with the act no.17/2000. However, the implementation of this act is started in 2003 after the issuance of DirjenPajak resolution No. KEP-163/PJ/2003.<sup>726</sup>

### **Methodology**

This paper is employing descriptive analysis which is studying the internal factors and the external factors of the idea to integrate *zakat* into Indonesia fiscal system. Internal factors are the strengths and the weaknesses while the external factors are the opportunities and the threats. SWOT (Strength, Weakness, Opportunity, and Treat) analysis is often used in the firms in order to determine the best strategy to improve the performance of company. However, in this case, author used this SWOT to identify whether the integration is beneficial and possible to be implemented or not. The identification will be based on the light of *siyasahShar'iyah*.

### **Discussion and Analysis**

The idea to integrate *zakat* into fiscal system should aware of the following points namely strengths and weaknesses in order to assess its beneficial.

#### **Strength**

There are some strengths of the integration which are as follows:

- a. Fiscal policy has power or authorization to make *zakat* payment as compulsory.

Many verses of *al-Qur'an* have stated the obligation of *zakat* for Muslims. Allah always relates the obligation of *zakat* with the obligation of *salat*. Moreover, it is stated in surah al-Fussilat: 6-7 that the unbelievers are those who are not paying *zakat* and disbelieve the hereafter. There are also many hadiths emphasizing its obligation.

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<sup>726</sup>Yufuf Wibisono. "MenimbangRelasiZakat Dan Pajak Di Indonesia: IntegrasiZakatDalam Pembangunan Nasional". Presented At *Zakat Public Discussion - Indonesia Magnificence Of Zakat* (Imz). *Mengurai Relasi Antara Zakat Dan Pajak: Menyikapi Dikeluarkannya Pp No.60 Tahun 2010*. Jakarta (16<sup>th</sup> Of November 2010)



Unfortunately, the current system where *zakat* is not incorporated into fiscal system allows Muslim people to refuse *zakat* payment. As mentioned above that the *Zakat* Management Act 1999 even the new act did not stipulate any punishment that can be charged to the *zakat* defaulter. Consequently, the amount of *zakat* collected is still far from its potential's amount. The chairman of BAZNAS, DidinHafidhuddin reported that the collected *zakat* in 2010 reached IDR 1.2 trillion and around 2.28 million people take the benefit of *zakat* while the potential is Rp 19.3 trillion according to PIRAC and IDR 6.5 trillion according to Yasin as mentioned in the introduction. In comparison to the Gross Domestic Product (GDP), the total of Indonesian *zakat* proceeds is not more than 0.1%. Meanwhile, in the countries that collect *zakat* on obligatory basis such as Saudi Arabia, Yemen, Sudan and Pakistan, the amount of *zakat* proceeds ranges between 0.3-0.6 percent of their GDP. In detail, the ratios of *zakat* proceeds over GDP are not more than 0.3 percent in Pakistan, between 0.3-0.5 percent in Sudan, not more than 0.4 percent in Sudan, between 0.4-0.6 percent in Saudi Arabia.<sup>727</sup>

In the history of Islam, Abu Bakr (ra), the first Caliph after the Prophet (pbuh), had sent out many armies to fight who were refusing to pay *zakat*. It indicated that government has right to enforce *zakat* payment. Some scholars are saying that *zakat* should be governed by the state. SahlibnAbiSalih narrates that his father came to Sa'dibnAbiWaqas and then said, "I accumulated a zakatable amount of wealth and I want to perform it. I have found an appropriate place to distribute it while the government may spend it in the things that you have known (it was the time of Umayyads)", he replied: "give it to them (government)!" and then I asked aba Sa'id with the same question, he replied: "give it to them!" and I asked ibn 'Umar, he replied: "give it to them".<sup>728</sup>

The integration of *zakat* with tax in fiscal system gives the right to the government to impose *zakat* into citizens. Who are not willing to pay *zakat*

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<sup>727</sup>Monzer Kahf (1999), The Performance of The Institution of Zakah in Theory and Practice, presented in International Conference on Islamic Economics towards the 21st Century, Kuala Lumpur, April 26-30, 1999

<sup>728</sup>al-Bayhaqi (d.458 H). *al-Sunan al-Kubra*. Hyderabad: MajlisDairah al-Ma'arif al-Nizamiyah (1344 H), vol. 4, p. 115, hadith no. 7635



deserves punishment. In consequent, the amount of *zakat* collection may increase dramatically. The increasing of *zakat* is hopefully may solve the poverty problem in Indonesia. Ali emphasized that *zakat* is not voluntary but it is compulsory and the only institution that may able to do so is government.<sup>729</sup>

Regarding type of wealth that should be collected by government, most jurists agreed that *zakat* of apparent asset should be administered by state. Obviously, state is responsible to enforce the collection of *zakat*. However, as for the non-apparent asset, jurists have several opinions about the right of state to enforce *zakat* payment. Hanafi are of the opinion that the distribution of such assets should be left to the owners although, in principle, the state has the right to collect it. Meanwhile, Maliki are of the opinion that there is no difference between those two assets. Both should be submitted to a just government. In the case of the government is not fair, some Maliki still argued that it must be paid to the state. Conversely, Shafi'i view that Muslims may distribute *zakat* on their non-apparent assent independently while for apparent assets, the prominent opinion said that *zakat* may be distributed personally. Nevertheless, All Shafi'i agreed that *zakat* should be paid to the government if the government carries out this responsibility of *zakat* collection. In other words, when the government put his effort for *zakat* administration, *zakat* must be paid to the government.<sup>730</sup>

In the other hand, Hanbali believe that paying *zakat* either apparent asset or non-apparent asset to the government is not obligatory. Even though, they argued that government has the right to collect *zakat*. IbnQudama said in al-Mughni that it is preferred for Muslims to distribute their *zakat* by themselves in order to ensure that it is given to the true deserving categories. In the contrast, Qardawi is of the opinion that there is no distinction between apparent and non-apparent asset.

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<sup>729</sup>Nuruddin, M. Ali. (2006). *Zakat Sebagai Instrumen Dalam Kebijakan Fiskal*. Jakarta: Raja Grafindo Persada, p. xxiv

<sup>730</sup>Yusuf al-Qardawi (1999). *Op.cit.*, pp. 481-482



Moreover, Islamic state is required to administer both *zakat* collection and distribution, without any exception.<sup>731</sup>

b. Disbursement will be much more effective.

One of problems today is the absence of a complete data about *mustahiq*(who are eligible to receive *zakat*). Each institution has its own data which is limited. Not every single *zakat* institution has a complete list of people who are eligible to be *mustahiq*. Moreover, the collected data could be redundancy in other institutions. In Consequent, there are some people who are not receiving *zakat* although he is really need or categorized as *mustahiq*. In the meantime, there are some people who get *zakat* twice or even more. Al-Qardawi is of the opinion that if *zakat* distribution is left to individuals, one poor person may receive *zakat* from several rich people while another poor person may be forgotten or neglected. It happens because each individual has his personal bias to whom he has to spend his *zakat*.<sup>732</sup> The integration of *zakat* may solve this problem since the government has the authority and capability to collect the complete data of the people.

c. *Zakat* can help the government to achieve the development goals.

The big potential of *zakat* fund may help the government programs especially in the poverty alleviation. In fact, *zakat* also can help the government to build schools, road and etc. that can be categorized as *fisabilillah*(in the way of Allah). Thus, the government should manage *zakat* fund and tax fund properly and then synergize both of them in order to realize the development goals. The big *zakat* potential and its clear allocation which has been determined by *Shari'ah* can be in line with the national development planning.<sup>733</sup>

Furthermore, Kahf argued that *zakat* is better than subsidies since *zakat* is distributed directly to the poor and needy, unlike subsidies where every citizen either rich or poor may utilize it. Hence, *zakat* can relieve certain budgetary

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<sup>731</sup>Ibid, pp. 482-484

<sup>732</sup>Ibid, p. 479

<sup>733</sup>Nuruddin, M. Ali. (2006). *Op.cit.*, p. xxv



revenues to be used for other budgetary objectives. Indirectly, it can also increase the potential of tax through the increasing of productivity, employment and output. Moreover, it can be used as a policy tool to influence economic activity in the society. Those effects can be made through seven assumptions: 1) *zakat* proceeds are sufficient to cover needs, 2) *zakat* is collected and distributed by government, 3) the Islamic government can regulate the methods and approaches of *zakat* disbursement, 4) the cost of collection and disbursement are minimized, 5) *zakat* does not create economic distortions from the perspective of equity and justice, 6) *zakat* collection does not reduce other government revenues, and 7) all *zakat* proceeds are disbursed within the year in which they are collected.<sup>734</sup>

### Weakness

There are some weaknesses of the implementation of this idea which are as follows:

a. Additional burden to the government

It is argued that government should not operate *zakat* since it will add more burdens to the government. State should only focus on the tax management. The government should not interfere in depth with religious matter. Moreover, *zakat* should be governed by groups of communities or private institutions. It may benefit to the development of civil society without the intervention of government.<sup>735</sup>

b. Either reduce the tax income or impose double tax to the Muslims.

The integration of *zakat* and tax should be formed appropriately and planned well. The model of integration should be discussed properly. For now, the relationship between *zakat* and tax in Indonesia is that *zakat* payment may reduce the taxable income. For instance, the taxable income is IDR 100 million while the *zakat* payment is Rp 2.5 million; hence the tax that should be paid is the 10% of

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<sup>734</sup>Monzer Kahf (1997). "Potential Effects of *Zakat* on Government Budget". *IIUM Journal of Economics and Management*, vol. 5, no. 1, pp. 67-85

<sup>735</sup>Nuruddin, M. Ali. (2006). *Op.cit.*, p. xxvi



the taxable income after reduced by the *zakat* payment. In simple, it is 10% of IDR 97.5 million which equals to IDR 9.75 million. This policy is, of course, determined after long debate with tax department since it may reduce their income.

Moreover, there are some proposals from scholars to make *zakat* as the element that may reduce the tax payment like in Malaysia. For instance, the taxable income is IDR 100 million while the tax rate is 10% which equals to IDR 10 million. However, if he paid *zakat* for IDR 2.5 million, then, the tax that should be collected to the government is only IDR 7.5 million (10 million – 2.5 million). Having noticed that, we found that the second model has lower tax compared to the first model. In this case, the tax that could be received by government will be lower; hence, the income of government will be reduced. In fact, the income of government is still the same, IDR 10 million but the tax department keeps the IDR 7.5 million while *zakat* department is keeping the rest, IDR 2.5 million.

On the contrary, if the model is that the *zakat* may not reduce the tax, then, it may put additional burden for the Muslims as they should pay “double tax”, original tax plus *zakat*. Following the above example, Muslims should pay IDR 12.5 million (IDR 10 million + IDR 2.5 million). This will be unfair for Muslims since they are imposed to pay IDR 12.5 million while non-Muslim only pay IDR 10 million. All in all, the fair model should be built.

## **Opportunity**

Some opportunities are as follows:

- a. Indonesia is a Muslim country

Indonesia is not an Islamic state but it has Muslim majority. The Muslim population of Indonesia is 85.2% which equals to 199,959,285 souls out of



234,693,997 people.<sup>736</sup> Since the majority is Muslim, the idea for integration will be easily accepted by the majority

b. The increasing of Muslim's awareness toward *zakat*

The awareness of people towards *zakat* is increasing day to day. It can be seen from the increasing of *zakat* collection. In 2010, the amount of *zakat* that has been successfully collected by *zakat* organization is about IDR 1.5 trillion where in 2009 the collected *zakat* is about IDR 1.2 trillion. Thus, there is 25% improvement. Moreover, it can also be seen in the willingness of legislative to legalize the *Zakat* Management Act no.23 year 2011.

c. The failure of conventional system

Gini index of Indonesia in 1984 is 30.4% but in 2009 it becomes 36.8%. It means that gap between the rich and the poor is widening and not narrowing. Moreover, it is reported in 1984 that 24.91% of total income of Indonesian people belongs to 10% of people but in 2005 those 10% people may earn 28.51% of total income. Thus, the current system practiced in Indonesia fails to create welfare among society.<sup>737</sup>

The poverty problem in Indonesia is like a cycle that never ends. According to the mainstream economy, the poor country will be trapped in poverty which is so-called vicious cycle of poverty. The solution proposed by this theory is to borrow funds from the foreign in order to cut this poverty cycle.<sup>738</sup> Nevertheless, this idea fails to solve poverty problem even it creates another problem, debt trap. It is noted that the total debt of Indonesia per March, 2012 is 228,457 million of USD with

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<sup>736</sup>[http://www.id.wikipedia.org/wiki/islam\\_di\\_Indonesia](http://www.id.wikipedia.org/wiki/islam_di_Indonesia). Accessed May 28, 2012

<sup>737</sup><http://www.data.worldbank.org/indicator>. Accessed March 10, 2012

<sup>738</sup> Didin S. Damanhuri, H. Nugroho, I. Kleden, M. Mohtar & S. Ramlan (1997). *Tinjauan Kritis Idiologi Liberalisme dan Sosialisme*. Badan Pendidikan dan Pelatihan Depdagri.



the debt to GDP ratio 26.2%.<sup>739</sup> The recent Greek crisis should be an example to be aware of the debt trap.

Having considered this condition, we should look to the solution proposed by Islam. One of solutions is the obligation of *zakat* and the suggestion to pay *infaq* and *sadaqah*. The integration of *zakat* and tax provide a better solution to cut the cycle of poverty.

### **Threat**

There are some threats that may come from the external factors. They are as follows:

#### **a. Rejection of *Zakat* Non-Government Organization.**

In Indonesia, *zakat* is not only organized by government but also by private organizations. Those private organizations have played a big role in the society. Many schools, hospitals and others were built by them through *zakat*, *infaq*, *sadaqah* and *waqf* management. They have started to organize *zakat* before the independence of Indonesia. In addition, the establishment of DompetDhuafaRepublika (DDR), a *zakat* NGO, has initiated a modern *zakat* management. The innovation and professionalism of DDR has increased the trust of people to give their *zakat* to the institution.

Having examined the big role that has been played by *zakat* NGO, the idea to integrate will get interruption from them. At least, there are some reasons that could be presented by them: 1) lack of people trust toward government, 2) *zakat* NGO will be closed down; 3) NGO that has played a big role to develop society may lose some of their funds. Furthermore, the rejection also may come from the gross root society particularly those who have managed *Zakat* in villages (mosque, school, etc.). For instance, they rejected the implementation of act no. 23 year 2011 about *zakat* management since two points of the act (Clause no. 38 and 41) stipulated that people are not allowed to act as *amil* (*zakat* operator) unless they got

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<sup>739</sup><http://www.bi.go.id/web/en/Investor+Relations+Unit/Economic+Data/External+Debt+Statistics+of+Indonesia/Buku+Utang+Mei+2012.htm>. Accessed on June 6, 2012



permission from the authorized government. Those who break the clause will be imprisoned for one year and or penalty not more than Rp 50 million. They also questioned about the requirement to establish *zakat* organization which is stipulated in the clause 18.<sup>740</sup>

b. Rejection of tax department

The rejection may occur from tax department. They may argue that the government should only focus to the tax. The government should think how to maximize it. The rejection could become harder if the integration may reduce the tax payment (tax credit). For instance, ministry of finance has enforced government to issue a government rule no. 60/2010 when People's Representative Council were discussing about the legalization of *zakat* as tax credit.<sup>741</sup> This rule is aimed to reject the idea of *zakat* as tax credit and emphasized that *zakat* is considered only as tax deduction not more (not tax credit) and this facility is merely applied for those who pay *zakat* in the authorized *zakat* organization. In this case, the government should understand well that both *zakat* and tax are tools that help governments. The main goal of government is to achieve the development goal not to maximize the tax. The existence of *zakat* may reduce the tax but it may help government to reach the goal.

c. Lack of people's trust to the government

One of variables that influence *muzakki* (*zakat* payer) to give his *zakat* to an institution or give it directly to the *mustahiq* is trust. *muzakki* as *zakat* payer want their *zakat* reach to the *mustahiq* (*Zakat* recipient). Hence, he will choose an institution that can be trusted to realize his hope. If he does not find any trustworthy institution, he will give it directly to the *mustahiq*. One of survey conducted by Hafidhuddin depicted that there are two factors determining the

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<sup>740</sup><http://www.imz.or.id/new/news/1225/koalisi-masyarakat-zakat-protas-uu-no-232011>, accessed on May 28, 2012

<sup>741</sup>Yufuf Wibisono (2010), *Op.cit*, p. 7

decision of muzakki to choose an organization to manage their *zakat*; professionalism and trust (*amanah*).<sup>742</sup>

Regarding the integration between *zakat* and tax, the trust of people should be built before the implementation. Currently, some people still do not put their trust to the *zakat* government organization, BAZ, even the institution has reformed their performance. Moreover, the occurrence of many issues in tax management such as corruption in these few years may affect the trust of people toward the ability of government to organize both *zakat* and tax. They may afraid that their *zakat* fund will be corrupted.

In fact, when the government has decided to undertake *zakat*, people is obligatory to pay their *zakat* although they do not trust the government. Muslims should pay their *zakat* to the government even they are worried that their fund will be misused. SahlibnAbiSalih narrates that his father came to Sa'dibnAbiWaqas and then said, "I accumulated a zakatable amount of wealth and I want to perform it. I have found an appropriate place to distribute it while the government may spend it in the things that you have known (it was the time of Umayyads)", he replied: "give it to them (government)!" and then I asked aba Sa'id with the same question, he replied: "give it to them!" and I asked ibn 'Umar, he replied: "give it to them".<sup>743</sup> "Al-MughiraibnShu'ba once asked his slave who was managing his assets in Taif, "what do you do with the *zakat* on my wealth?" the manager said, "I distribute part of it and pay part of it to the government," IbnShu'ba said, "why do you do that? He answered, "They buy land and marry women with what we give them." Al-Mughira said, "Give it to the government, for the sake of Messenger of Allah saw orders us to give it to them."<sup>744</sup>

#### d. Rejection of non-Muslims and Secularists

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<sup>742</sup>Didin Hafidhuiddin. "Analysis on the Effectiveness of Zakah Agency Promotion in Zakah Collection to Improve Poor Family Welfare". *Media Gizi & Keluarga*, 2006, pp. 100-109.

<sup>743</sup>al-Bayhaqi (d.458 H). *al-Sunan al-Kubra*. Hyderabad: MajlisDairah al-Ma'arif al-Nizamiyah (1344 H), vol. 4, p. 115, hadith no. 7635

<sup>744</sup>al-Bayhaqi (d.458 H). *al-Sunan al-Kubra*. Hyderabad: MajlisDairah al-Ma'arif al-Nizamiyah (1344 H), vol. 4, p. 115, hadith no. 7630



Non-Muslims and secularists may fight against the integration. They argue that Indonesia is not Islamic State although it is Muslim State. *Zakat* cannot be integrated into fiscal system since it is exclusively for Muslims. According to them, state should not govern the religious matter. Ali mentioned that there could be some communities which are phobia with the integration. They may refuse the integration and then say that this will cause nation disintegration.<sup>745</sup> A sociologist of religion at Yogyakarta-based Kalijaga State Islamic Studies Institute (IAIN) expressed his opinion that the tax-deduction policy for the *zakat* payer is a discriminatory since it is only applied for the Muslims. He advocated the government to be fair by applying the same tax policy to the non-Muslims since they also have sacred duties to make charitable donations.<sup>746</sup> Astrid Soesanto, a former legislative member from the Christian party (PDKB) also voiced the same.<sup>747</sup> The critique and rejection will be stronger when *zakat* becomes one of fiscal tool and may rebate the tax payment.

## **6. *Siyasahshar'iyah* of the Integration**

The strengths, weaknesses, opportunities and the threats of the idea to integrate between *zakat* and tax have been presented above. Having considered them, we would like discuss the *siyasahshar'iyah* of the integration.

In literal, the meaning of *siyasahshar'iyah* is a shariah-oriented public policy, or government in accordance with the Shariah. In the usage of *fuqaha'*, *siyasahshar'iyah* means decisions and policy measure taken by the imam and the 'ulu al-amr on matters for which no specific ruling could be found in the shari'ah.<sup>748</sup> According to ibnQayyim, *siyasahshar'iyah* does not necessarily mean conforming to the explicit rules of the shariah. IbnQayyim mentioned in *al-Turuq*

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<sup>745</sup>Nuruddin, M. Ali. (2006). *Op.cit.*, p. xxvi

<sup>746</sup>“Tax Deduction of Zakat Must Apply to Non-Muslims,” The Jakarta Post, December 3, 2001, <https://www.thejakartapost.com/news/2001/11/29/tax-deduction-039zakat039-must-apply-nonmuslims.html?1>. Accessed on October 22, 2012

<sup>747</sup>ArskalSalim (2008), The shift in Zakat Practice in Indonesia; from piety to an Islamic Socio-Political-Economic System, Thailand, Asian Muslim Action Network Silkworm Books, p. 55

<sup>748</sup>M. Hashim Kamali. “Siyasah Shar'iyah or the Policies of Islamic Government”. *The American Journal of Islamic Social Sciences*, 1989, vol. 6, no.1, p. 61

*al-Hukmiyyahfi al-Siyasah al-Shar'iyah* the words of Ibn 'Aqil, "Siyasah is any measure which actually brings the people closest to beneficence (*salah*) and furthest away from corruption (*fasad*) partakes in just *siyasah* even if it has not been approved by the prophet saw nor regulated by divine revelation". Moreover, IbnQayyimadd that anyone who says that there is *nosiyasahShar'iyah* where the *Shari'ah* itself is silent is wrong and has misunderstood the Companions (Sahabah)..."<sup>749</sup>

Hence, in order to know whether the integration is conforming the *siyāsahShar'iyah* or not, the investigation on the *maslahah* and the *mafsadah* of the integration should be conducted.

### ***Maṣlahah vs Mafṣadah***

Actually, *maslahah* and *mafsadah* can be known from SWOT analysis. Strength and opportunity provide the *maslahah* while weakness and threat present the *mafsadah*. Hence, we may employ *siyasahShar'iyah* approach to compare between the SO (Strength and Opportunity) and WT (Weakness and Threat). The summary of SWOT analysis is depicted by the following table:

**Table 1 Summary of SWOT analysis**

Strength	Weakness
1) It is able to make <i>zakat</i> as compulsory	1) Additional burden to the government
2) Disbursement will be much more effective	2) Either reduce the tax income or impose double tax to the Muslims
3) May help government to achieve the development goals	
Opportunity	Threat

<sup>749</sup>Ibn Qayyim (d.751 H). *al-Turuq al-Hukmiyyah fi al-Siyasah al-Shar'iyah*. Cairo: al-Mu'assasah al-'Arabiyyah li al-Tiba'ah (1380/1961), p. 16



1) Majority of people is Muslim	1) Rejection of <i>Zakat</i> NGO
2) The increasing of Muslim's awareness toward <i>zakat</i>	2) Rejection of tax department
3) The failure of conventional system	3) Lack of people trust to the government
	4) Rejection of non-Muslims and Secularists

The table shows that there are three strengths and two weaknesses. The integration of *zakat* may help the implementation of *Shari'ah* in terms of the obligation to pay *zakat* and it also helps the government to achieve their targets especially to create welfare among society. Meanwhile, its weaknesses are the additional burden to the government and it may either reduce the tax or impose double payment for Muslims. Having examined both weaknesses, it is found that the weaknesses are not essential. The reasons are: 1) the additional burden to the government does mean that the government will not be able to govern other tasks. Moreover, the goal of government is to achieve welfare. This goal should be achieved even the government should bear many tasks. Moreover, it can be solved by the good governance. 2) Regarding the second weakness, it actually depends on the integration model that will be implemented. Imposing double payment for Muslims is unfair. Hence, the best model which is fair should be initiated.

It should be noted that the current system that enables *zakat* to deduct the taxable income is actually not decreasing the government income but increasing the total income. For instance, in the absence of *zakat*, the tax on IDR 100 million is Rp 10 million (rate: 10%) and the total income of government is only IDR 10 million. Meanwhile, when *zakat* is imposed, the Muslim (tax payer) should pay *zakat* for Rp 2.5 million and tax for IDR 9.75 million (10% out of Rp 97.5 million). Hence, the total income for government is IDR 12.25 million which is higher than when *zakat* is not imposed. Knowing about this, some scholars propose

*zakat* to be able to deduct the tax payment not the taxable income. All in all, the appropriate model should be built before the implementation. Furthermore, Kahf argued that *zakat* imposition can increase the potential of tax indirectly through the improvement of productivity, employment and output.<sup>750</sup>

Furthermore, although the majority of Indonesian people are Muslim but Indonesia is not a Muslim country. Moreover, voice of non-Muslims and secularist is often more listened by the government. For instance, draft of pornography act had been revised many times due to the rejection of non-Muslims and secularist before its legalization in 2008. Likewise, the legislation of Islamic bank act takes several years as non-Muslims argued that it is exclusively for Muslim. Thus, the implementation of this idea will be hard. On the other hand, the rejection of *zakat* NGO and tax department and the lack of people trust will not be as hard as the rejection of the first aforementioned party (non-Muslims and secularists). However, it depends on the strong willingness and commitment of government to implement and govern it. Good governance (no corruption, full transparency, efficient, etc.) will eventually eliminate the lack of people trust.

The rejection of *Zakat* NGO can be minimized if government can nurture the understanding on the big benefits and advantages that may be achieved through the integration. Actually, the integration does not mean that *zakat* NGO will be eliminated but the government should cooperate with them in the both *zakat* collection and distribution or only in the distribution. The mechanism of cooperation should be discussed properly and intensively to increase the efficiency and the effectiveness of *zakat* collection and disbursement.

To conclude, the *maslahah* of the integration is higher than the *mafsadah*. Hence, it confirms the *siyasah shar'iyah*. Nevertheless, the implementation of it may take several years since the occurrence of hard challenges.

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<sup>750</sup>Monzer Kahf (1997). *Op.cit.* pp. 15-60



## Conclusion

The idea of *zakat* integration should be realized since *zakat* is obligatory for Muslims and it may play big roles to help government to achieve their goals, to create welfare into society especially to solve the problem of poverty. *Zakat* and tax should be integrated and not to be confronted. After deliberating and discussing the strength, weakness, opportunity and the threat of the integration, it is found that it is in accordance with the *siyasahshar'iyah* since it contains more *maslahah* than *mafsadah*. Nonetheless, there are some points that should be noted to realize this idea: *first*, strong willingness and commitment of the government, *second*, to prepare the fair model, *third*, nurturing the understanding to all parties especially to the non-Muslims and secularists that this idea is really beneficial and not discriminatory.

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