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INTEGRATING ZAKAT INTO INDONESIAN FISCAL SYSTEM IN THE LIGHT OF SIYASAH SHAR’IYYAH

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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’iyyah (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 mafsada (harm). The result shows that the integration of zakat into current fiscal system is in line with the SiyasahShar’iyyah. 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’iyyah,

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
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.\(^{711}\) 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.\(^{712}\) 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”.\(^{713}\) IbnKathir 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.\(^{714}\)

Furthermore, zakat is a unique system compared to tax where the nisab\(^{715}\), 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


\(^{713}\) Habib Ahmed (2004), Role of Zakat and Awqaf in Poverty Alleviation, IDB-IRTI, p. 31

\(^{714}\) Ibn Kathir (774 H). Al-Bidayah wa al-Nihayah. Riyadh: Hajar Publisher (1997), vol. 12, p. 696

\(^{715}\) The minimum amount of an asset or wealth which makes the owner in 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.\textsuperscript{716}

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.\textsuperscript{717} 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’iyyah, 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

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.718

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.719

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.720

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

719Ibid p. 475-476
720Ibid.
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 Khattab ‘Umar ibn 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.\(^{721}\)

**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.\(^{722}\)

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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\(^{721}\)Ibid, p.480

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

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.

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 NahdatulUlama are still organizing zakat in their communities.

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

723Ibid, p. 3


725Ibid
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/2003.²²⁶

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‘iyyah.

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.

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, Didin Hafidhuddin reported that the collected *zakat* in 2010 reached IDR 1.2 trillion and around 2.28 million people took 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. 

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. SahibnAbi Salih narrates that his father came to Sa’dibnAbi Waqas 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”. 

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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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.\textsuperscript{729}

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 asset 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.\textsuperscript{730}

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.


Moreover, Islamic state is required to administer both zakat collection and distribution, without any exception.\(^731\)

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.\(^732\) 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.\(^733\)

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

\(^731\)Ibid, pp. 482-484

\(^732\)Ibid, p. 479

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.734

**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.735

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


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. 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.

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. 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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the debt to GDP ratio 26.2%.

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:


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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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.\textsuperscript{740}

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.\textsuperscript{741} 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


\textsuperscript{741}Yufuf Wibisono (2010), Op.cit, p. 7
decision of muzakki to choose an organization to manage their zakat; professionalism and trust (amanah). 742

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”. 743 "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." 744

d. Rejection of non-Muslims and Secularists


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. 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. Astrid Soesanto, a former legislative member from the Christian party (PDKB) also voiced the same. The critique and rejection will be stronger when *zakat* becomes one of fiscal tool and may rebate the tax payment.

6. *Siyasahshar‘iyyah* 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 discus the *siyasahshar‘iyyah* of the integration.

In literal, the meaning of *siyasahshar‘iyyah* is a shariah-oriented public policy, or government in accordance with the Shariah. In the usage of fuqaha’, *siyasahshar‘iyyah* 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. According to ibnQayyim, *siyasahshar‘iyyah* does not necessarily mean conforming to the explicit rules of the shariah. IbnQayyim mentioned in *al-Turuq*

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747 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

al-Hukmiyyahfi al-Siyasah al-Shar‘iyyah 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‘iyyah where the Shari‘ah itself is silent is wrong and has misunderstood the Companions (Sahabah)…”

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

**Maslahah vs Mafsadah**

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‘iyyah 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**

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

| **Opportunity** | **Threat** |

1) Majority of people is Muslim
2) The increasing of Muslim's awareness toward zakat
3) The failure of conventional system

| 1) Majority of people is Muslim | 1) Rejection of Zakat NGO |
| 2) The increasing of Muslim's awareness toward zakat | 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 term of the obligation to pay zakat and it also help 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 to the 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.750

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 siyasahshar‘iyyah. Nevertheless, the implementation of it may take several years since the occurrence of hard challenges.

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’iyyah 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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