

RESPONSE TO THE PROHIBITION OF ZAKAT (TITHE) COLLECTION BY PRIVATE ORGANIZATIONS IN ACEH, INDONESIA

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ABSTRACT

Purpose – This paper aims to analyze the response to the prohibition on zakat (tithe) collection by private organizations in Aceh Indonesia. Qanun (Islamic regional law) No. 10/2007 explicitly prohibited private zakat organizations (Lembaga Amil Zakat (LAZ)) from collecting zakat as it is included in the government budget. However, there is no sanction for incompliance and private zakat organizations seek other funds for their activities.

Design/Methodology/Approach – This paper is based on primary data from interviews in June 2013. Three private LAZs were interviewed on this specific case.

Findings – This paper gives facts that each LAZ responded differently to the regulation. They still conduct the social activities without taking zakat as their source of funds.

Practical Implications – This regulation caused uncertainty for LAZ; besides, they have to avoid what is prohibited in the regulation. However, this condition created some creativities of LAZ in order to survive and to service the community by promoting good programs.

Originality/Value – This may be claimed as the first research on the area of prohibition on zakat (tithe) collection in Aceh Indonesia.

Keywords: Zakat, organization, baitulmal, charity, Indonesia

1. Introduction

Zakat collection can be an interesting issue in Indonesia. This is because zakat is collected in significant amounts by private organizations. A governmental zakat collector gets a smaller amount than private collectors do. However, the reach of governmental zakat collectors is actually bigger as they have the necessary infrastructure in each region. Each region can establish a zakat collector under regional government authority and only coordinates with (Badan Amil Zakat Nasional –BAZNAS), the center of zakat collectors. So far, the progress is not very promising as the effectiveness is still rather low.

Historically speaking, zakat was collected by the government. This was practiced by the prophet Muhammad PBUH as the leader of the state (Siswanto, 2013). He managed zakat as the government budget for the needy, the poor, and many others. Therefore, the infrastructure for collecting zakat was quite good because zakat was optimally collected and benefitted its recipients.

In the case of Aceh, they have a specialization in managing their region. They can issue regional regulations, which are based on Islamic teaching (called as qanun). However, some regulations are not in line with regulations issued by the central government. Therefore, it cannot be applied; for example, zakat as tax deduction (Act No. 11/2006). This has not been accommodated by the Tax Act. In the case of the prohibition of private zakat organizations to collect zakat (Qanun No. 10/2007), it has not been regulated in the national zakat Act (Act No. 23/2011). The regional government of Aceh claimed that zakat is part of the regional budget. Therefore, private organizations cannot collect zakat which referred to the historical practices.

This paper tries to evaluate the response of prohibition on zakat (tithe) collection by private organizations in Aceh Indonesia. On the other hand, their existence is still needed by the community and regions to eradicate poverty and to solve social problems. This paper starts with related literature that shows how zakat should be collected in the current context. Then, a method is explained in qualitative method form, and then the results are analyzed. Interviewing skills are needed to uncover root issues; perhaps then effective solutions and suggestions can be given. Lastly, the conclusion of the research is based on the objective of the paper.

2. Theoretical Background

Authorities who are qualified in collecting zakat are discussed by

Siswanto (2013). He groups the involvement of the government in zakat collection into three types:

1. Zakat collected by the government
 - a. Zakat is part of the government budget; for example Aceh, Saudi Arabia, Sudan, Jordan, Kuwait
 - b. Zakat is excluded from the government budget, such as Iran, Pakistan
2. Zakat collecting institutions appointed by the government (Powell, 2010) and not part of the government budget, such as Malaysia
3. Zakat collected by registered zakat institutions (mixed, private, and state) such as Indonesia, Egypt

The important thing is how zakat can be collected as much as possible and distributed to the right recipients. However, the tax system may be different among various countries. This is based on the belief and principle of one country.

From these types, it is permitted for private organizations to be sole zakat collectors. This occurs in places where Muslims are the minority such as in the US, UK, Australia, Hong Kong, Japan, Netherlands, and Canada. However, it can also be under the authority of the government, which occurs in Singapore (Siswanto, 2013).

The issue of whether zakat should be part of the government budget was discussed by Bakar (2007). She claimed that it is not compulsory to include zakat in the government budget. In Pakistan, zakat is managed under central bank supervision (Toor and Nasar, 2004). Again, there should be evaluations on whether to include zakat as a part of the government budget as it has an implication on effectiveness in the disbursement.

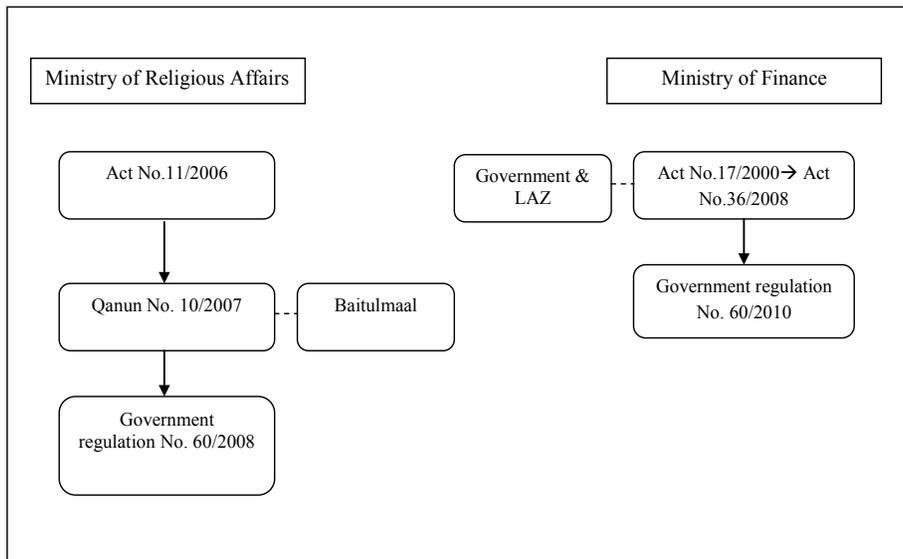
The important issues are how zakat cannot be received twice by the recipients, as many zakat organizations exist. This also becomes reason enough for the government to manage zakat. If it centralizes, the database is the same so double the zakat received by one recipient can be avoided. Yaumidin (2011) explains that if zakat is included in the budget, the allocation should be similar for specific recipients, which are called social activities expenditure in the budget. Zakat can substitute social expenditure in the government budget fund in Bangladesh (Hasan, and Khan, 2007), except for disaster management (Nurzaman, 2011).

The other issue is that only 19 institutions are recognized as having zakat as

a deduction of taxable income in Indonesia (tax office regulation No. PER—33/PJ/2011 on registered institutions for *zakat* receivers). Even in Aceh, no *zakat* organization is included in the list, especially Baitulmaal. However, private *zakat* organizations, which have been recognized to operate in Aceh, can claim the deduction.

Research on the issue of prohibition of private *zakat* organizations collecting *zakat* is rare. Most research discusses factors that affect *zakat* collection, effectiveness of *zakat* management, and *zakat* as tax deduction.

Figure 1. Regulation Hierarchy of *Zakat* Collection in Indonesia



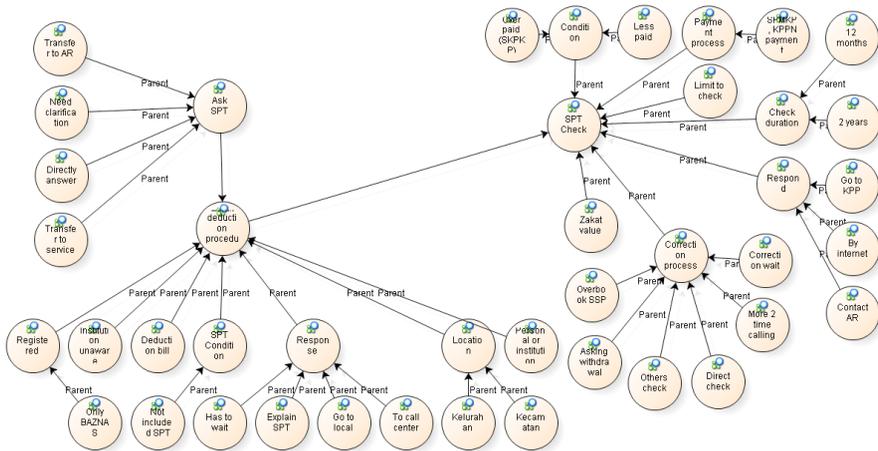
As stated in Figure 1, according to Qanun No. 10/2007 only Baitulmaal can collect zakat in Aceh. Other organizations were not permitted, but they may be recognized by central government and can deduct taxable income by showing the receipt. Nationally, private zakat organizationis permitted to collect zakat but they have to register first with the government. The problem is that the process of registration is pending without further explanation. On the other hand, many private zakat organizationand in mosque-zakat collector are not registered, which can cause lawsuits

3. Research Methodology

The research is based on the qualitative method. It uses interviews of three registered zakat organizations in Aceh. The period of data collection was June 2013. The topic is on the response of the prohibition of zakat collection by

private organizations in Aceh.

The model of the interview context was based on three parts: (a) response, (b) issue raised, and (c) next solution for the case. We coded the different responses for the interview based on the main topic then created the model for the analysis. Cross-tab analysis is also conducted to see different correlations on characteristics and stressing. Word occurrence was also found, but it may still need further analysis (see Appendix 1).



4. Analysis

Analysis of the research is based on coding which is called as node in NVIVO. The node is based on the actuality of the researcher in the research. It is grouped into some main topics. However, each LAZ has different characteristics and backgrounds; the topics may be varied. In addition, it may show the complexity of problems which LAZ faces.

Respondents are then classified based on their characteristics; such as age, letter sent by government, management size, and organization type. Age refers to “old” for zakat organizations, which were operated before the tsunami disaster (in 2004), and “new” for after the tsunami. “Letter” refers to the command letter to pay zakat to Baitulmaal, while “management” is based on the size and number of employees. “Type” is the organizational type such as foundation or community organization. The classification is to see different characteristics among LAZ, even though each characteristic shows different patterns.

The topic of the research is based on the response of prohibition of zakat (tithe) collection by private organizations in Aceh. This refers to Qanun No. 10/2007. It prohibited private zakat organizations from operating in Aceh.

However, when we confirm with the LAZ, they stated that it was only for zakat collection as it was included in government budget.

Table 1. Classification of Respondents

No	Name	Age	Letter	Management	Type
1	LAZ1	New	No	Many	Foundation
2	LAZ2	Old	Received	Small	Organization
3	LAZ3	Old	No	Many	Organization

The analysis consisted of three parts: (a) the response: response on the prohibition of LAZ (b) issues raised: issues occurring during interview, and (c) next activities: what is the LAZ action for next activities for responding the prohibition.

a. Response

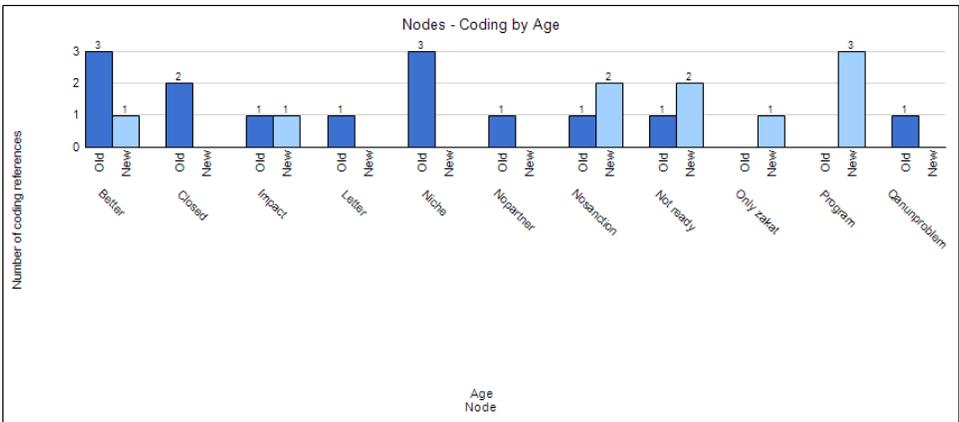
The biggest stress was on “better”; it is claimed that private organizations are better than the Baitulmal on managing the zakat fund. This may be because LAZ, which is a branch of the central zakat organization, has longer experience in managing zakat. Therefore, they may have better management. “Better” was followed by (a) “niche”—referring to the niche market for charity funds except zakat (however, there is other charity fund besides zakat such as gifts (infaq) and donations (shadaqah), and (b) “nosanction”—referring to no sanction if LAZ still collects zakat. Nevertheless, they would not promote having zakat collection. This gave LAZ the opportunity to remain alive and to operate as usual. No sanction can mean that there is no strong punishment for LAZ if they break the regulation. Next was (c) “not ready”—referring to the idea that governmental organizations seem to not be ready to manage zakat funds by themselves. This may be similar to the “better” issue, as Aceh is a big province so it may need a good system and infrastructure to manage zakat well. Following was (d) “program”—referring to LAZ promoting the program for the community and education. Therefore, they do not explicitly promote zakat collection, but they would focus to social activities such as CSR (see Figure 3).

The remaining nodes are:

- a. “closed”—referring to the idea that there are other private organizations, which were terminated because of the regulation. Some LAZ, which were established by organizations and communities, would choose to close their LAZ when the regulation is issued. This is because the regulation does not

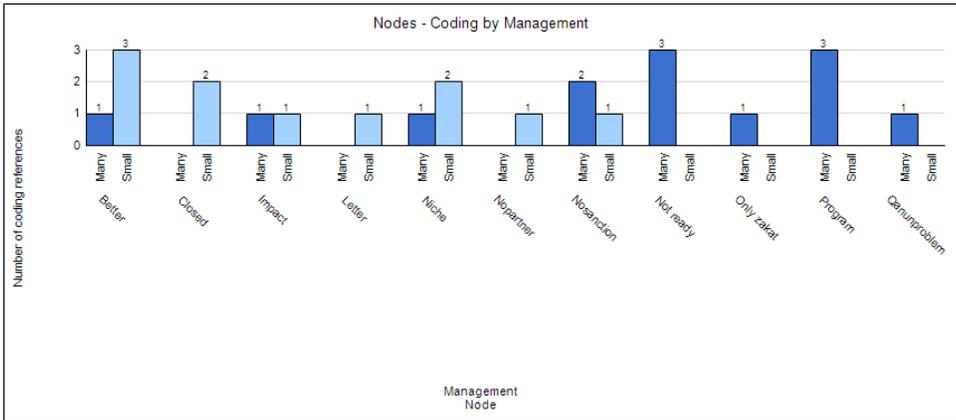
- give them room to develop zakat better.
- “impact”—referring to the idea that zakat revenue of LAZ decreased due to the regulation. Most LAZ have bigger source from zakat as their core competence. The regulation will directly affect their source of funding.
 - “letter” —referring to the idea that LAZ received letters to pay zakat from the government of Aceh. Baitulmal as the only government zakat organization has authority over all companies, offices, communities, and organizations to give zakat. However, only one LAZ received the letter. This may be because they belong to a community organization.
 - “nopartner” refers to the idea that LAZ would not like to join with Baitulmal. They argue that this would not be optimized for their performance. Besides, each LAZ has different characteristics and strengths in managing zakat funds.
 - “only zakat” refers to the idea that zakat is prohibited while charity is permissible. This is because zakat as government budget. However, based on qanun, it is stated that other government zakat organizations should be terminated.
 - “qanunproblem” refers to the idea that there is no clear explanation on the implementation of qanun. Therefore, LAZ assumes that it needs other supporting regulations to implement the termination of LAZ.

Figure 3. Cross-Tabulation Response and Age Type



Old LAZ dominates the nodes in the topic. This can mean that they already involve of the issue before it was just issued the qanun. Therefore, they commented in detail.

Figure 4. Cross-Tabulation Response and Management Type



If we look from a different perspective of the management, it can be seen that “many management” stressing is bigger than small management. This can mean that old and many management LAZ have more problems and experiences on the qanun, which prohibited the zakat collection. Big LAZs may have bigger problems that they face and solve.

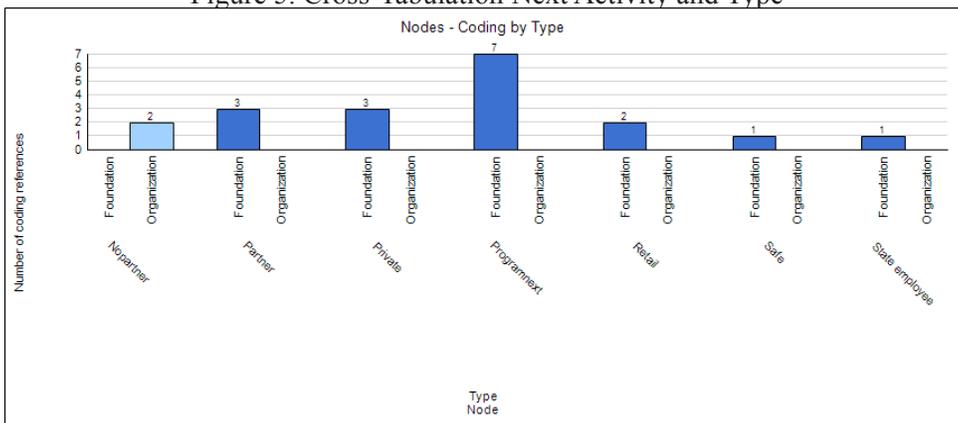
b. Issue

Most issues in LAZ are that they are still subsidized from central organization. It means that their collection may not fulfill the operating expenses. The issuance of qanun may severe the existence of LAZ which depends on zakat funds.

c. Next Activities

LAZ have some suggestions and solutions for the prohibited zakat collection. They have to think for their future, as they still have to operate without taking zakat fund. So far, there is no sanction if they still operate without managing zakat funds.

Figure 5. Cross-Tabulation Next Activity and Type



All nodes are dominated by the foundation LAZ type (see figure 5). Based on Act No. 23/2011, all LAZ must be based on community organization basis. So far, most LAZ legal bases are on a foundation type. Therefore, they must change their legal bases in order to follow the Act.

In fact, community based organization LAZ would not like to partner with Baitulmal. This may be because it would not be optimized, as the work is only partial. In addition, there is no regulation for that case.

Next activity issues from foundation LAZ are:

- a. “programmnext”: meaning that they focus on how to create programs, which can benefit the community. LAZ may realize that Aceh has special autonomy to manage zakat so Baitulmal has privilege to collect and to disburse zakat. Zakat is part of regional budget, which actually has similar objectives of recipients.
- b. “partner”: they open for partnership with Baitulmal. Baitulmal opens for partnership in collecting and disbursing zakat funds. However, it has not been regulated in the act, though partnership also can be in the form of program development.
- c. “private”: they focus to get funding from the corporate. In fact, they may follow CSR programs, which may benefit the company.
- d. “retail”: LAZ also receives funds from retail. If there is a person who would like to pay zakat to LAZ, they would receive it but it would not be promoted in the core activities.
- e. “safe”: LAZ would see the safeties of the program. LAZ prefers clear and recognized programs to new programs, which may not be in line with the regulations in Aceh. Besides, it would be also comply with regulations in Indonesia, such as zakat as taxable income deduction.
- f. “state employee”: if any state employee gives fund to LAZ, they would receive it.

There should be clear regulation for LAZ if zakat is part of governmental budget. Other zakat funds such as charities can be collected by LAZ. In addition, in Act No. 23/2011 LAZ can collect zakat besides governmental organizations. Especially in the regions in which Baitulmal has not reached, LAZ should be permitted to manage zakat funds.

5. Conclusion

Responses on the prohibited zakat collection by private organizations in Aceh caused uncertainty to current private organization at that time. Some

LAZ responded so carefully and others are taking not as serious as they used communications approach intensively with Baitulmal. LAZ still believed that their existence is still needed by the community and can contribute to Aceh's economy. On the other hand, no sanction is given if they break the regulation, as it is not stated clearly in the qanun. While, some LAZ opined it as challenges to be more creative and productive, overall the regulation gave negative impacts directly to their operating activities.

The issue of who should take zakat should be discussed and studied in detail before it is stated in the regulation. Historically, only the government managed zakat funds. They collected and distributed zakat to recipients. In the current context whereby Islam is not the basis of the state, there should be a clear coordination and harmonization with central regulation and others: for example, the tax system and the government budget mechanism.

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