



## **Zakat as Alternative Source of State Revenue** (Comparative Study of Indonesia and Malaysia from Legal Perspective)

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**Abstract.** This research analyzes the legal status of zakat within the state financial system and explores its potential integration as a sharia-based fiscal instrument in Indonesia through a comparative study with Malaysia. In Islamic law, zakat functions both as a religious obligation and as a mechanism for wealth redistribution aimed at achieving social justice. However, under Indonesia's positive law framework, zakat is still treated as a socio-religious institution outside the formal state fiscal system, as stipulated in Law Number 23 of 2011 on Zakat Management. In contrast, Malaysia has successfully integrated zakat into its Islamic fiscal policy through the authority of the State Islamic Religious Council (MAIN), which holds legal legitimacy as a regional public body. This study adopts a normative and comparative legal approach by examining statutory regulations, Islamic legal doctrines, and zakat institutional practices in both countries. The findings indicate that the integration of zakat into Indonesia's fiscal system is constitutionally permissible and does not conflict with Article 23A and Article 34 paragraph (1) of the 1945 Constitution, as it aligns with welfare state principles and the state's responsibility toward poverty alleviation. The legal implications of such integration include the establishment of *lex specialis* regulating zakat as a sharia fiscal instrument, harmonization with state finance laws, and the strengthening of institutional legitimacy and accountability in zakat management. Therefore, zakat holds significant potential to become a core pillar of Islamic economic law that supports economic equity and enhances national fiscal resilience.

**Keywords:** Fiscal System; Law Integration; Sharia Economic Law; State Financial Law; *Zakat*.

### **1. Introduction**

In the Islamic legal system, *zakat* is not merely understood as an individual religious obligation with spiritual dimensions, but also as a public legal instrument that carries significant social, economic, and political functions. *Zakat* represents a mandatory mechanism of wealth redistribution regulated explicitly in Islamic law to promote social justice and reduce economic inequality within society (Al-Qardawi, 2011; Kahf, 2015). This redistributive principle reflects the broader objectives of Islamic economic law, which emphasize collective welfare (*maslahah 'ammah*) and equitable prosperity.

The normative foundation of *zakat* aligns closely with the constitutional values upheld by the Indonesian legal system. Article 33 and Article 34 of the 1945 Constitution emphasize economic democracy, social welfare, and the state's responsibility to ensure equitable prosperity for all citizens. These constitutional mandates resonate with the fifth principle of Pancasila, namely social justice for all Indonesian people. Consequently, *zakat* occupies a strategic position as a potential legal instrument for realizing distributive justice within the national economic framework, bridging religious norms and state legal objectives (Chapra, 2014).

From a public law perspective, *zakat* may be categorized as a fiscal instrument with compulsory characteristics for Muslims. Although rooted in divine command, *zakat* generates

tangible economic and legal consequences comparable to modern taxation systems, particularly in its mandatory nature and its allocation for public benefit (Rahman & Ahmad, 2011). Historically, classical Islamic governance placed *zakat* administration under state authority (*ulil amri*), where *zakat* revenues were collected, managed, and distributed through public institutions for communal welfare (Al-Qardawi, 2011; Kahf, 2015). This historical precedent supports the argument that *zakat* possesses legal legitimacy as a public fiscal tool that does not contradict modern constitutional principles.

In the Indonesian constitutional context, Article 23A of the 1945 Constitution stipulates that “taxes and other compulsory levies for the needs of the state shall be regulated by law.” This provision implicitly opens legal space for the state to recognize alternative compulsory public levies, provided they are constitutionally justified and legally regulated. *Zakat*, with its mandatory nature and public welfare orientation, arguably fulfills these criteria and thus holds potential to complement the state’s fiscal system without undermining constitutional norms.

Indonesia, as the country with the largest Muslim population globally, possesses enormous *zakat* potential. According to a study conducted by the Strategic Research Center (PUSKAS) of BAZNAS, national *zakat* potential is estimated to exceed IDR 327 trillion annually. However, actual *zakat* collection remains significantly lower, amounting to approximately IDR 38 trillion per year, or less than ten percent of its estimated potential (Huda & Sawarjuwono, 2013; Owoyemi, 2020). This substantial gap indicates structural challenges, including limited institutional capacity, low public literacy on *zakat*, and the absence of strong integration between *zakat* management and public fiscal policy. If optimally managed, *zakat* could function as a strategic source of domestic financing to support national development and reduce dependence on external debt.

In terms of positive law, *zakat* management in Indonesia is governed by Law Number 23 of 2011 concerning *Zakat* Management, which formally mandates the National *Zakat* Agency (BAZNAS) and *Zakat* Management Institutions (LAZ) as authorized bodies. Despite this legal recognition, *zakat* is still positioned primarily as a socio-religious institution rather than as a component of state finance. As a result, *zakat* funds are excluded from the State Revenue and Expenditure Budget (APBN) and remain outside the scope of Law Number 17 of 2003 on State Finance, which regulates compulsory state revenues with public legal consequences. This legal separation places *zakat* outside Indonesia’s formal fiscal framework.

In contrast, Malaysia has developed a legal framework that integrates *zakat* into its public financial system. Under the Federal Constitution of Malaysia, Islamic affairs fall within the jurisdiction of individual states (Schedule 9, List II), granting authority over *zakat*

administration to the State Islamic Religious Councils (Majlis Agama Islam Negeri). Through state-level Administration of Islamic Law Enactments, *zakat* is legally recognized as a legitimate source of public revenue used to support Muslim welfare programs (Mansor & Muda, 2020; Nadzri et al., 2012). This regulatory model enables *zakat* to fulfill a dual role as both a religious obligation and a public financial instrument without diminishing its spiritual essence.

A comparative analysis between Indonesia and Malaysia reveals fundamental differences in legal paradigms concerning *zakat*'s position within the public financial system. Indonesia maintains a dualistic approach, where *zakat* law operates autonomously from the state's fiscal legal framework. Malaysia, by contrast, adopts an integrative model that embeds *zakat* within regional public finance through state-recognized Islamic legal institutions. This demonstrates a flexible legal approach capable of accommodating Sharia principles within modern public law structures (Rahman & Ahmad, 2011).

Beyond institutional considerations, constitutional law also plays a crucial role in shaping *zakat* policy. The Indonesian Constitution does not prohibit the incorporation of religiously inspired fiscal instruments, provided they align with constitutional principles and are regulated by law. In this regard, *zakat* may be interpreted as falling within the category of "other compulsory levies" under Article 23A of the 1945 Constitution. When managed transparently under state supervision, *zakat* could complement taxation and strengthen the national financial system based on social justice values.

Within the framework of Islamic economic law, *zakat* serves the objectives of *maqasid al-shariah*, particularly the protection of wealth (*hifz al-mal*) and the realization of public welfare (*maslahah 'ammah*) (Chapra, 2014; Obaidullah, 2016). Therefore, *zakat* management should not be confined solely to a charitable or socio-religious domain, but rather recognized as a legal instrument capable of contributing to broader public welfare goals.

Nevertheless, integrating *zakat* into the state fiscal system raises legal and ideological debates. Critics argue that *zakat* and taxation derive from distinct sources of authority divine sovereignty versus state sovereignty and therefore should not be conflated. However, contemporary legal theory allows for normative harmonization, wherein religious norms may be accommodated within positive law as long as constitutional requirements are satisfied (Kahf, 2015). In this sense, integrating *zakat* into public finance does not secularize religious worship but reinforces its legal and social function in achieving collective welfare.

Institutional capacity remains a decisive factor in the success of *zakat* integration. Malaysia's experience demonstrates that effective *zakat* management depends on centralized,

professional institutions with strong legal authority and public legitimacy. In Indonesia, BAZNAS occupies a strategic position as a government-established non-structural body, yet it continues to face challenges related to accountability, coordination, and fiscal integration (Latief, 2017; Owoyemi, 2020). This situation underscores the need for institutional reform to enhance BAZNAS's legal standing within the national financial system.

Based on the foregoing discussion, a comparative legal study is essential to assess the feasibility of positioning *zakat* as an alternative source of state revenue without violating Indonesia's constitutional and legal framework. Such an approach situates *zakat* not only as a religious obligation but also as a public legal phenomenon relevant to state financial policy. Accordingly, this research aims to analyze the legal frameworks governing *zakat* management in Indonesia and Malaysia, identify their similarities and differences, and evaluate opportunities for harmonizing *zakat* within Indonesia's state financial system to strengthen fiscal independence and promote social justice in accordance with constitutional mandates.

## **2. Research Method**

This research uses a normative legal approach with the methods of statutory approach and comparative law approach. The normative legal approach is used to examine the provisions of legislation related to *zakat* and state finances in Indonesia, such as Law No. 23 of 2011 concerning *Zakat* Management, Law No. 17 of 2003 concerning State Finances, and the 1945 Constitution Article 23A and paragraph (1) of Article 34. A comparative approach is used to analyze the legal framework of *zakat* in Malaysia thru the State Islamic Religious Council (MAIN) system and state level *zakat* regulations, such as the Administration of Islamic Law Enactments.

Research data were obtained from primary legal materials (legislation, judgments, and the constitution), secondary legal materials (law journals, books, and official institution reports), and tertiary legal materials (law dictionaries and Islamic law encyclopedias). The analysis was conducted qualitatively using legal interpretation methods and comparative legal analysis to identify commonalities and differences in the *zakat* legal systems between Indonesia and Malaysia, as well as the possibility of integrating them within the framework of Indonesian state financial law.

### 3. Result and Discussion

#### The Legal Status of *Zakat* in the Financial Systems of Indonesia and Malaysia

In the state financial legal system, every source of public revenue must have a clear legal basis and a legitimate position within the state financial structure. *Zakat*, as one of the instruments of Islamic economics, has unique characteristics because it is both religious and social. In Indonesia, *zakat* is legally recognized thru Law Number 23 of 2011 concerning *Zakat* Management, which replaces Law Number 38 of 1999. The law provides a formal legal basis for the collection and distribution of *zakat* at the national level. Nevertheless, the position of *zakat* in the Indonesian legal system is still viewed as a socio religious institution, not part of the state financial system like taxes or levies.

Constitutionally, Article 23A of the 1945 Constitution states that "taxes and other compulsory levies for the needs of the state shall be regulated by law." This norm provides constitutional legitimacy for the state to collect public funds as long as they meet the elements of being "compulsory" and "used for the interests of the state." However, in positive law, *zakat* has not been categorized as a "state levy" because its management is not carried out directly by the central or regional government, but by non-structural institutions such as BAZNAS and Lembaga Amil *Zakat* (LAZ). These two institutions have autonomous legal status and are not under the fiscal authority of the Ministry of Finance or the National Revenue Agency.

This legal construction has the consequence that *zakat* cannot be included in the State Revenue and Expenditure Budget (APBN). *Zakat* funds are not included in the classification of state revenue as stipulated in Article 2 paragraph (1) of Law Number 17 of 2003 concerning State Finance, which states that state revenue consists of tax revenue, non-tax revenue, and grants. Thus, although *zakat* has the potential to be a source of public revenue, it legally remains outside the state's fiscal system and is managed based on the principle of religious accountability, not fiscal accountability.

Article 6 of Law No. 23 of 2011 grants institutional autonomy to BAZNAS to manage *zakat* nationally, and to LAZ at the community level. BAZNAS holds the position of a non-structural government institution that is independent but accountable to the President thru the Minister of Religious Affairs. This model differs from fiscal institutions like the Directorate General of Taxes, which fall under the direct authority of the Ministry of Finance. Thus, from a public law perspective, *zakat* in Indonesia has a semi-public character: it is not a purely state institution, but neither is it a purely private institution.

This separation has legal implications for the position of *zakat* in the state financial system. Although substantively *zakat* functions like a tax, formally the law of *zakat* does not

yet have the coercive power regulated by the state. The obligation to pay *zakat* is moral and religious, not public law that can be sanctioned by the state if neglected. As a result, the effectiveness of *zakat* collection is highly dependent on the individual awareness of Muslims, rather than on positive legal mechanisms. This is different from taxes, which are compulsory and have a system of legal sanctions.

On the contrary, Malaysia has a different legal framework. According to the Federal Constitution of Malaysia, Islam is a state matter (Schedule 9, List II). This gives full authority to the State Islamic Religious Council (MAIN) to regulate and manage *zakat*, including issuing *Zakat* Enactments at the state level such as the Selangor *Zakat* Enactment 1999 and the Federal Territories Islamic Religious Council Act 1993. Based on this legal foundation, *zakat* has formal legitimacy as a legitimate public revenue at the state level, is regulated, audited, and used for the benefit of the Muslim community.

In practice, *zakat* management institutions in Malaysia such as the Selangor *Zakat* Board (LZS) and the Federal Territory *Zakat* Collection Center (PPZ-WP) operate under the supervision of MAIN. *Zakat* management in Malaysia is integrated with the local government administration system. *Zakat* funds can be used for social programs, education, health, and economic empowerment of the community. Because it has a public legal basis, *zakat* in Malaysia can be categorized as semi-public finance revenue, which is public revenue managed based on the principles of Islamic law and modern government governance.

The fundamental difference between Indonesia and Malaysia lies in legal legitimacy and fiscal authority. In Malaysia, *zakat* is part of the Islamic public law system (Islamic fiscal policy), while in Indonesia, *zakat* is still positioned as a non-governmental institution that stands alongside other religious social organizations. Malaysia views *zakat* not only as a religious obligation but also as a public legal obligation with sanctioning effects for Muslims who neglect to pay it. This kind of legal approach strengthens the position of *zakat* within the state's fiscal system.

From a constitutional law perspective, the Malaysian model demonstrates a form of decentralized fiscal governance within the context of Islam. Because the management of *zakat* is the authority of the state, each state can develop sharia-based fiscal policies according to local needs. This system is consistent with the principle of federalism adopted by Malaysia. Meanwhile, Indonesia adopts a unitary state system, where fiscal authority is centralized. Therefore, if Indonesia wants to adopt the Malaysian model, legal harmonization is needed so that the integration of *zakat* into the fiscal system does not conflict with the principle of national fiscal unity.

From the perspective of public financial law, the position of *zakat* in Malaysia falls under the category of religious public revenue, which is managed by official state institutions. In practice, *zakat* funds are reported in the local government financial statements, although they remain separate from conventional tax revenue. This shows that Malaysia has successfully integrated religious legal norms and public legal norms proportionally, where the state functions as a regulator and facilitator without changing the nature of *zakat* as a Sharia obligation.

Conversely, in Indonesia, the integration of *zakat* into the fiscal system still faces normative legal challenges. One of the main obstacles is the lack of norms in the State Finance Law that recognize *zakat* as part of state revenue. Additionally, there is potential for conflict with the principle of separation between taxes and *zakat* as two distinct legal instruments with different sources of authority. To address this, a *lex specialis* approach is needed, consisting of regulations that govern the synchronization between *zakat* and the state financial system, so that *zakat* can be recognized as a sharia fiscal instrument with social and economic functions.

With a different legal system, Malaysia has set a precedent that *zakat* can function as a tool for wealth distribution and simultaneously as a source of public funding. Malaysia's legal model demonstrates success in adopting Sharia values into a modern government system without creating legal dualism. This kind of approach can be adapted in Indonesia by emphasizing the principle of subsidiarity, where *zakat* can be managed by local governments thru synergy between BAZNAS, local governments, and the Ministry of Finance. In this way, *zakat* can serve as a complementary fiscal instrument supporting the country's redistributive policies.

Overall, the legal status of *zakat* in the financial systems of Indonesia and Malaysia reveals two different models of legal approach: the socio religious model in Indonesia and the Islamic public law model in Malaysia. The Indonesian model emphasizes the autonomy of religious institutions and community participation, while the Malaysian model emphasizes the integration of religious law into the governmental system. If Indonesia wants to make *zakat* a legitimate fiscal instrument, legal reform is needed thru revisions to Law No. 23 of 2011 and Law No. 17 of 2003, so that *zakat* gains legitimacy as part of national public finance without losing its inherent spiritual and religious essence.

### **Potential and Legal Implications of Integrating *Zakat* into the National Fiscal System**

Normatively, the integration of *zakat* into the state financial system has a strong constitutional basis in Indonesian law. Article 34 paragraph (1) of the 1945 Constitution states that "the poor and neglected children are cared for by the state," which indicates the state's legal

responsibility to ensure the social welfare of the community. This principle aligns with the essence of *Zakat* in Islam as an instrument to eradicate poverty and balance wealth distribution. Thus, the state's management of *zakat* does not contradict constitutional principles, but rather is a concrete form of implementing the state's social obligations as stipulated in the basic law.

Within the framework of Islamic law, *zakat* falls under the category of financial and social worship, which is worship with social and economic dimensions. *Zakat* is obligatory for every eligible Muslim as a mechanism for wealth redistribution and social solidarity. Its management is in the hands of the imam or *ulil amri*, which in the modern context means the government or public authority. Therefore, if the state regulates and manages *zakat* through a transparent fiscal system, it is not a form of secularization of worship, but rather a manifestation of sharia responsibility in the public legal domain.

From a constitutional law perspective, integrating *zakat* into fiscal policy can be seen as an expansion of the state's role in realizing a welfare state. The state not only functions as a regulator but also as a facilitator of the people's well-being. Within the framework of state financial law, *zakat* can be categorized as a special public fund with a social function. Therefore, the integration of *zakat* can strengthen the state's legal function in realizing social justice and economic equality without conflicting with the existing tax system.

However, normatively, there are legal challenges that need to be addressed. First, the Indonesian legal system still separates taxes as public levies regulated by positive law and *zakat* as religious levies regulated by religious law. Second, there is no clear legal mechanism to regulate the accountability and responsibility of *zakat* within the state financial system. Third, oversight of *zakat* management is not yet fully under the state audit institution, such as the Supreme Audit Board (BPK). Therefore, a specific legal basis or *lex specialis* is needed to regulate the integration of *zakat* into the fiscal system with the principle of dual compliance, namely simultaneous adherence to Sharia law and public law.

This principle of dual compliance demands a balance between religious obligations and the legal obligations of the state. The state can regulate *zakat* as a public obligation for Muslims without changing its essence as an act of worship. For example, the government can stipulate that *zakat* paid through official institutions will be deducted from certain tax obligations. This model has been implemented in Malaysia, where *zakat* payers receive an income tax rebate. This approach fosters synergy between the tax and *zakat* systems and strengthens citizens' fiscal compliance.

From the perspective of Islamic economic law, integrating *zakat* into the fiscal system reflects the expansion of the law's function from merely regulatory to redistributive. Law not

only regulates the relationship between the state and its citizens, but also serves as a means to achieve socio-economic justice. Thru *zakat*, the state can distribute funds directly to eligible recipients for poverty alleviation programs, education, healthcare, and economic empowerment. This creates a more inclusive, just, and economically sound legal system that aligns with the principles of maqasid al-shariah, particularly in safeguarding wealth (*hifz al-mal*) and public interest (*maslahah 'ammah*).

Additionally, integrating *zakat* into fiscal policy can strengthen the national public financial system. In situations of fiscal constraint, *zakat* can serve as an alternative source of sustainable public funding. Unlike taxes, which are general, *zakat* has clear recipients and a distribution mechanism regulated by Sharia law. This can reduce the burden on the state budget in financing social programs and accelerate the achievement of the Sustainable Development Goals, particularly in the areas of poverty reduction and economic inequality.

However, the integration of *zakat* into the fiscal system also has legal implications that need to be studied in depth. From the perspective of state financial law, the status of *zakat* funds needs to be explicitly defined whether they fall under the category of "non-tax state revenue (PNBP)" or form a new category as "sharia social revenue." Without legal clarity, the potential for overlapping authority between BAZNAS, the Ministry of Finance, and the Audit Board of Indonesia (BPK) will only increase. Therefore, a new legal framework is needed to bridge the management of *zakat* under the principle of public accountability while remaining in accordance with Islamic values.

On the other hand, integrating *zakat* into the fiscal system requires strong institutional reforms. Currently, BAZNAS holds the position of an independent non-structural government institution. To become part of the state financial system, the legal status of BAZNAS needs to be strengthened into an authoritative institution with limited fiscal authority in the field of *zakat*. Thus, BAZNAS not only acts as the manager of community funds but also as a public legal entity subject to the state financial supervision system. This institutional strengthening will ensure transparency and accountability in the management of national *zakat* funds.

Another important legal aspect is oversight and accountability. In the public financial legal system, every state revenue must be audited by an independent institution to ensure transparency. If *zakat* is integrated into the fiscal system, then the *zakat* management institution needs to be under the supervision of the state audit, both by the Supreme Audit Agency (BPK) and the General Inspectorate of the Ministry of Religious Affairs. With strong legal oversight, the integration of *zakat* can increase public trust in the management institution and encourage community participation in officially paying *zakat*.

From a legal theory perspective, *zakat* integration can be categorized as a form of legal norm synchronization (legal harmonization) between religious law and state law. This harmonization does not mean mixing the norms, but rather placing them in a complementary position. Islamic law provides substantial norms that regulate social goals and wealth distribution, while state law provides administrative and supervisory mechanisms. Thru this synergy, *zakat* can function optimally within the national legal system as a fiscal and moral economic instrument for the nation.

If managed well, *zakat* can complement the national tax system without causing legal conflict. Taxes serve as a general source of funding for development, while *zakat* acts as a social fund for wealth redistribution. The combination of both will create a fair and sustainable dual fiscal system. In the long run, this model can strengthen the economic independence of the community, reduce social inequality, and uphold the principle of distributive justice as mandated by Pancasila and the 1945 Constitution.

Thus, integrating *zakat* into the national fiscal system has great potential to strengthen the legal structure of the country's economy and finances. Legally, this step does not contradict the constitution; in fact, it expands the implementation of the welfare state principle. However, for this integration to be effective, legal reforms are needed thru the establishment of *lex specialis* on *zakat* as a Sharia fiscal instrument, the strengthening of the BAZNAS institution, and public accountability mechanisms that are in accordance with Sharia principles. With these steps, *zakat* can serve as a pillar of national law and economics, realizing prosperity and social justice for all Indonesians.

#### **4. Conclusion**

Based on legal and comparative analysis, it can be concluded that *zakat* has great potential to be an alternative source of state revenue within the legal framework of Islamic economics and state finance. In the Indonesian legal system, *zakat* has been normatively regulated thru Law No. 23 of 2011, but it has not been integrated into the country's fiscal system as it has in Malaysia. Constitutionally, the integration of *zakat* does not conflict with Article 23A and Article 34 of the 1945 Constitution, as it aligns with the principle of social justice and the state's obligation to care for the poor and needy. To achieve this, legal reform is needed thru harmonization between state financial law and *zakat* law so that *zakat* gains legitimacy as a sharia fiscal instrument. With institutional strengthening, accountability systems, and public participation, *zakat* can serve as a legal instrument supporting social justice and national fiscal independence based on Islamic values.

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