From *Fiqh al-Ibadat* to *Muamalat*: Repositioning Zakat Management in Indonesia in the Perspective of *Maqāṣid Al-Sharī‘ah*

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**Abstract:** Zakat is one of the pillars of Islam and is considered an instrument that can potentially contribute to the economic development of the Muslim community in Indonesia. However, the current system and management of zakat have not been able to minimize the gap between the potential zakat that exists and the actual zakat that can be collected. This paper aims to examine zakat in its position as *fiqh al-ibadat* (Islamic jurisprudence of worship) and the consequences of its limited application, if not non-existent. Therefore, the purpose of this paper is to complement existing literature by proposing a new solution to the problem of zakat. This empirical legal study employed the *maqāṣid al-sharī‘ah* (objectives of Islamic law) approach. Data were collected by means of interview and literature review from relevant journal articles, books, and websites. The results of the study revealed that there is a need to reposition zakat from *fiqh al-ibadat* to *fiqh muamalat*. This will allow for more flexible zakat management that will have a maximum impact on the welfare of the Muslim community. Therefore, it can be argued that from the perspective of *maqāṣid al-sharī‘ah*, zakat is not only an act of worship related to the purification of wealth, but more than that, zakat can also be an instrument to promote the welfare and economic development of society if it is managed effectively and properly. The change in meaning and paradigm is significant to ensure that the *maqāṣid al-sharī‘ah* can be achieved effectively.

**Keywords:** Zakat, *fiqh al-ibadat*, *fiqh muamalat*, *maqāṣid al-sharī‘ah*, the pillars of Islam

Kata Kunci: Zakat, fikih ibadah, fikih muamalah, maqāṣid al-sharī‘ah, rukun Islam

Introduction

Zakat is one of the pillars of Islam, as well as an instrument expected to contribute to the development of the Muslim economy in Indonesia. A report by the Center for Strategic Studies of the National Zakat Management Agency (PUSKAS BAZNAS) showed that the potential for zakat in Indonesia could reach 233.8 trillion; however, in reality, in 2019 it only gained 10 trillion or less than 5% of its potential. Such a great potential has not been able to provide a significant impact on the development and economic welfare of the Indonesian Muslim community. This is due, among others, to the paradigm that considers zakat to be only a matter of worship, not a matter of muamalat (transactions). 1

In fiqh (Islamic jurisprudence), zakat belongs to the category of fixed and rigid fiqh al-ibadat (Islamic jurisprudence of worship), which cannot be changed (ghair qabil li al-niqas). Therefore, making changes to the zakat system is inherently difficult. As one of the pillars of Islam, zakat has spiritual, individual,
social, and economic dimensions that can be quantified and also *maqāṣid al-sharī’ah* (objectives of Islamic law) that can fulfill the public interest.\(^2\) From this concept, *zakat* needs to have dimensions to be developed and expanded further so that it is not only limited to the doctrine of *fiqh al-ibadat*, which tends to be rigid and unchanged. The positioning of *zakat* as part of *fiqh al-ibadat*, in fact, raises various problems, in terms of the management, distribution system, objects, and actors of *zakat*.

As an Islamic philanthropy, *zakat* has attracted the attention of various groups, not only from Muslims. Muslim scholars and intellectuals have published a large number of writings about *zakat*. Yusuf al-Qardhawi is one of the early researchers who conducted quite comprehensive research on *zakat*.\(^3\) In general, these studies can be categorized into four aspects. *Zakat* discussed in the aspect of management can be found in the writings of Bahri and Humaini,\(^4\) Purwanti,\(^5\) and Aminudin, et al.\(^6\) *Zakat* linked to taxes can be found in the writings of Zahroh and Harkaniri,\(^7\) Hidayatulloh,\(^8\) and Aprilia and Santoso.\(^9\) The impacts of *zakat* on the welfare of Muslims are written in the studies by Munanda, et al.,\(^10\) Nuriana,\(^11\)

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and Hany and Islamiyati. Public perceptions of zakat are researched by Muliati and Rasyid, Muddin, and Maulana and Kurniasih.

However, this paper differs from previous research because it offers a change in the paradigm of Muslims, which has long been established in the minds, views, and even beliefs of Muslims that because zakat is one of the pillars of Islam, it is part of the field of fiqh al-ibadat. The study complements the shortcomings of existing studies that have been limited to research the zakat management, impact, perception, and correlation between zakat and taxation. This paper intends to show that the placement of zakat solely on fiqh al-ibadat has led to the following three issues: hindered accumulation, limited distribution patterns, and narrow scope of zakat as fiqh al-ibadat. These three issues are the important focus of discussion in this paper. From these, the search for new solutions to allow zakat to have a maximum impact in improving the welfare of the Muslim community can be found.

The study argues that the problems in zakat fiqh are caused by the placement of zakat in fiqh al-ibadat. As explained by Muslim scholars and believed by Muslims, fiqh al-ibadat has several characteristics, namely: unreasonable (ghair ma’qul al-ma’na), ijtihad (independent reasoning) and qiyas (analogy) are not applicable, dogmatic, taken for granted (munazzalah), cannot be added, nor changed, nor reduced, and cannot be discussed (ghair qabil li al-niqas), as well as verses and hadiths are rigid, inflexible, and strict. Given these characteristics, it is justified that the impact of zakat on the welfare of Muslims is not optimal. Therefore, to overcome the aforementioned problems, zakat must be placed in fiqh muamalat (Islamic jurisprudence of transactions), whose characteristics differ from fiqh al-ibadat, namely: reasonable (ma’qul al-ma’na), ijtihad and qiyas are applicable, can be added, changed, or reduced, verses and hadiths are flexible and elastic, as well as open to discussion (qabil li al-niqas).

The selection of zakat as the object of this writing is motivated by the fact that even though Muslims in Indonesia are the majority and even the largest in the world, exceeding many Muslim countries, their level of welfare is still low. Muslim countries around the world are included in the third world countries, countries with low levels of welfare. This fact must be given serious attention so

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that it does not create a continuous gap among Muslims. *Zakat* as a divine teaching should have a positive impact on the community; yet, it has not provided maximum effects for Muslims, especially in terms of improving their welfare.

This present study used the empirical method with the *maqāṣid al-shari‘ah* approach. Data collection techniques included interviews with Muslim scholars and *zakat* activists and document study. The documents consisted of books, journals, and laws related to *zakat*. Data also came from the official websites of BAZNAS, LAZ Dompet Dhuafa’, Rumah *Zakat*, and Yayasan Dana Sosial al-Falah. The data collected were then analyzed for further examination.

**Zakat in the Perspective of *Maqāṣid al-Shari‘ah***

*Zakat* carries two meanings. First, *al-zakah* means *al-shalah* (righteousness), which consists of four verb forms: *zaka*, *zakiya*, *zakka*, and *tazakka*. Second, *al-zakah* is a property tax or purification of property, which has one verb form: *zakka*. In general, *zakat* is a certain amount of property taken from capable Muslims (*muzakki*) to be given to those in need (*mustahiq*). It is called *zakat* because it is to glorify Allah by giving away the remaining wealth to the God who created the wealth. The wealth in *zakat* must come from a halal source. The implementation of *zakat* in Islamic law is obligatory (*fardh*) for all Muslims since it is the third pillar of Islam as a *khashah* (special) worship that is predetermined by Allah SWT in detail with certain levels and methods. *Zakat* is generally divided into two types, namely *zakat fitrah* (obligatory for Muslims to pay before *Eid al-Fitr* in the month of Ramadan) and *zakat mal* (*zakat* on wealth).

From the many sources of literature that discuss *zakat*, the most frequently quoted verse of the Qur’an is Surah at-Taubah verse 103. In fact, the word *zakat* is mentioned in the Qur’an up to thirty times, and twenty-seven of them are stated together with the word *shalat* (prayer). In Islamic jurisprudence, the payment of *zakat* is obligatory at 2.5% of the accumulated wealth every year to be used for the poor and needy in order to achieve a balance between different categories and

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classes of society. In Surah at-Taubah verse 60, there are eight groups of people who are entitled to receive zakat (mustahiq): al-fuqara (the poor), al-masakin (the needy), amil (zakat administrators), muallaf (Muslim converts), riqab (i.e., slaves and captives), gharimin (the debt-ridden), fisabilillah (in the cause of God), and ibnu sabil (wayfarers). As for the types of wealth that can be distributed as zakat, the Qur’an divides them into three categories: (1) gold and silver, (2) crops, fruits, and livestock, and (3) treasure. In addition, the implementation of zakat cannot be separated from the presence of amil zakat who act as collectors, storers, guards, and recorders of zakat that comes from the muzakki.

The view of zakat encompasses two aspects: fiqh al-ibadat and fiqh muamalat. The concept of fiqh al-ibadat views zakat as a heavenly or spiritual concept that does not allow for any opportunity or room for change and development in its structure and implementation. On the other hand, fiqh muamalat views zakat in an administrative and institutional way and has a profane (worldly) capacity and can be changed both in its structure and implementation. The practice of zakat as an act of worship is also considered as a traditional zakat practice as it is limited to a vertical relationship with Allah only (hablu mina allah). In contrast, zakat as a muamalat activity broadens the field of worship to include relationships with other fellow humans, namely good behavior in serving humans. Hence, prospering others contributes to getting closer to Allah. The emergence of zakat muamalat is motivated by the emergence of an economic perspective, that zakat is interpreted as the transfer of wealth from the rich to the poor and is derived from economic sources.

The implementation of zakat in Indonesia has been facing many obstacles. Some obstacles are caused by the rigidity of zakat implementation due to the fanatical attitude of a group in the reference (madhhab) of zakat. Differences in madhhab that are believed by some groups or individuals make it difficult to realize the goals of zakat with economic and social dimensions (zakat muamalat). Thus, such rigidity and fanaticism have led to the inefficiency of zakat by zakat

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management bodies/amil zakat.\textsuperscript{26} Zakat in Islam is regulated by fiqh, and fiqh in its principles is rigid and strict. In Sufism, humans are invited to know “The Unlimited”, while in fiqh, humans are burdened with taklif (burden of sharia law). In zakat, the taklif in question is the burden of the soul and property borne by a person. The rigidity of zakat mostly comes from fiqh al-ibadat, in which zakat only relies on people who want to purify their wealth, with only certain types of wealth that are subject to the obligation of zakat for Muslims.\textsuperscript{27}

In addition, according to Hanafi, there are several obstacles in the implementation of zakat. First, there is no consensus among Muslim scholars about the position of zakat in Islamic law. Some believe that zakat is a form of ta’abbudi (worship), while others believe that it is a form of al-furudh al-ijtimaiyah (social obligation). Second, zakat is still seen as a ceremonial action and is not considered to be related to the economy, let alone poverty alleviation. Third, many people believe that zakat is only a personal worship and has nothing to do with other people. Fourth, there are no sanctions for Muslim people who are able, yet do not pay zakat. Fifth, the zakat management bodies are not officially established by the government, and so, they do not seem to be authoritative and do not have the right to force people to pay zakat, making the collection of zakat funds is less optimal.\textsuperscript{28} In addition, capable management and human resources as well as state policies are important issues in zakat management.\textsuperscript{29}

Personally, the functions of zakat include cleansing oneself from the stinginess, eliminating the miserliness of the wealthy, developing a sense of social responsibility, calming the feelings of the mustahiq, training oneself to donate and give, growing one’s wealth and purifying oneself from sin, as well as purifying the wealth of the muzakki.\textsuperscript{30} The position, function, and role of zakat are not only seen as a ritual oriented towards personal obligation, but also as a tool to empower the economy and to free society from unemployment and unequal income


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distribution. Therefore, in Indonesia, the effort to make zakat a part of the muamalat system is enforced through Law Number 23 of 2011 on Zakat Management. It is hoped that this can be the solution in addressing the problem of zakat, due to rigidity or fanaticism. The spirit of non-rigidity and willingness to accept contemporary ijtihads based on general Islamic principles can be very important in driving the effectiveness of zakat management. This implementation is closely related to the innovation of Islamic jurisprudence, which previously did not consider wealth known as zakat.

The concept of maqāṣid al-sharīʿah consists of two words, maqāṣid and shariah. Maqāṣid is the plural of the word maqshud, which means demand, intention, or purpose. The word shariah means a policy (wisdom) and the achievement of protection for everyone in the life of the world and the hereafter. Terminologically, the meaning of maqāṣid al-sharīʿah is al-maʿāani allati shariʿat laha al-ahkam, the values that become the purpose of the determination of law. As a basis for ijtihad in the process of determining law, it is not an exaggeration that the consideration of maqāṣid al-sharīʿah is essential for matters whose laws are not explicitly found in the nash.

According to Jaser Audah, the term al-maqāṣid is the plural form of the Arabic word maqsid, which refers to a goal, target, desired thing, or ultimate purpose. This term can be equated with the English term “ends”, the Greek term “telos”, the French term “finalite”, or the German term “zweck”. In the science of sharia, al-maqāṣid can refer to several meanings such as al-hadaf (goal), al-ghardh (target), al-mathlub (desired thing) or al-ghayah (ultimate purpose) of Islamic law.

According to Al-Shatibi, al-maqāṣid can be divided into two important parts: the divine objectives (qashdu al-shariʿi) and the objectives of the mukallaf (accountable person) (qashdu al-mukallaf). Al-Shatibi argues that the objectives of sharia within maqāṣid al-sharīʿa can be understood by examining two aspects. The first aspect is based on the purpose of God, the one who establishes the law. The second one is based on the purpose of humans who are bound by the law. The first perspective focuses on God’s intention in setting the principles of sharia.

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From this standpoint, God aims to make sharia understandable as well as enable humans to fulfill their obligations under sharia and help them grasp the wisdom (hikmah) underlying the sharia.

From *Fiqh al-Ibadat to Fiqh Muamalat*

The journey of *zakat* is as old as the history of Islam; yet, it has yet to provide a significant contribution to the progress of the Muslim community. The same is true of the state of *zakat* in Indonesia, whereby it has not been able to contribute significantly to the local Muslim community. The management of *zakat* seems to be fixated on the rules or *fiqh* of the early Islamic period. The position of *zakat* as one of the pillars of Islam has placed it as a *fiqh al-ibadat* that is difficult to alter according to the changing times. The rigid placement of *fiqh* of *zakat* on *fiqh al-ibadat* has caused the following three issues on the development of *zakat*: hindered accumulation, limited distribution patterns, and narrow space of *zakat* as *fiqh al-ibadat*.

**a. Restricted Accumulation of Capital among Muslims**

The positioning of *zakat* as a religious practice has limited the objects of *zakat*. Due to *fiqh al-ibadat*, *zakat* can only be taken from gold and silver, trade, agriculture, livestock, and mines. However, if the objects of *zakat* are included in *fiqh muamalat*, the scope will be wider, which can include securities (shares and bonds), companies, and professions, among others.

The amount of *zakat* collected today in Indonesia is very small and even limited from time to time. When compared to the large number of Muslims, even the largest in the world, exceeding other Muslim countries, it is still far and not comparable to the amount of *zakat* that can be collected. The data in Table 1 reflect this issue:

**Table 1. The Potential of Zakat in Indonesia**

<table>
<thead>
<tr>
<th>Agency</th>
<th>Year</th>
<th>Zakat Potential (Trilion)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CSRC</td>
<td>2005</td>
<td>19.3</td>
</tr>
<tr>
<td>Thoha Putra Center</td>
<td>2009</td>
<td>100</td>
</tr>
<tr>
<td>Wibisono</td>
<td>2010</td>
<td>106.6</td>
</tr>
<tr>
<td>PUSKAS BAZNAS</td>
<td>2020</td>
<td>233.8</td>
</tr>
</tbody>
</table>

Center for the Study of Religion and Culture (CSRC) of UIN Syarif Hidayatullah Jakarta showed that the potential of *zakat* and alms in Indonesia

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could reach IDR. 19.3 trillion. Further, Director of the Thoha Putra Center Semarang, Hasan Toha Putra, estimates that the potential zakat of the Indonesian people each year reaches more than Rp. 100 trillion. Individual research conducted by Wibisono reported a figure of IDR. 106.6 trillion for the zakat potential. In addition, a study by PUSKAS BAZNAS in 2020 showed a very high achievement of zakat potential of IDR. 233.8 trillion.

However, the great potential of zakat is still only a note on paper and has yet to materialize. To illustrate, in 2004 BAZNAS only managed to collect around IDR. 3.9 billion, which increased to IDR. 900 billion in 2008. The latest data from BAZNAS in 2019 reported that the total zakat collected was around IDR. 10 trillion, consisting of individual zakat mal of IDR. 3,951.1 trillion, zakat of institutions/organizations of IDR. 306.7 billion, and zakat fitrah of IDR. 1,406.1 trillion. Despite the addition of zakat from institutions/organizations to boost zakat revenue, the effect seems minimal on overall zakat revenue. Therefore, the positioning of zakat fiqh al-ibadat, which is still rigid and only opens to limited space, has resulted in the restricted accumulation of zakat funds.

As zakat is not well accumulated, its existence does not provide a maximum impact or contribution to society. Data presented by Ridlo and Setyani have indicated that zakat offers a positive but not significant effect on economic growth. Likewise, M. Haris Hidayatulloh states that zakat has no effect on the macro economy of the Muslim community. Suprayitno also emphasizes that zakat has a significant and positive relationship with economic growth and consumption in the short term only. These three statements from the researchers convey the message that if zakat can be accumulated properly, then it can be a positive force in developing the economic potential of the Muslim community.

Rigid orientation in fiqh al-ibadat has thus limited other potentials in fiqh muamalat, whereby zakat should be able to cover objects such as deposits, stocks, bonds, companies, professions, and so forth. This reality is happening in

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42 M. Haris Hidayatulloh, Peran Zakat, p. 21.

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Indonesia, even though prominent Muslim figures in the world, such as Wahbah al-Zuhaili, state that zakat can be taken from securities and professions.\textsuperscript{44} Furthermore, Yusuf al-Qardhawi adds that zakat can be taken from various kinds of wealth of Muslims, such as professions, companies, stocks, bonds, and others.\textsuperscript{45} The fixation on zakat as fiqh al-ibadat has confined zakat in the paradigm of medieval fiqh and is less aware to increasingly rapid global changes.

\textbf{b. Limited Distribution Patterns}

The position of zakat in fiqh al-ibadat has also limited its distribution patterns. This limitation has caused three issues: the dominant consumptive pattern, the limited distribution time, and the textualized concepts of mustahiq and muzakki.

Firstly, the placement of zakat in the field of worship causes inflexible distribution pattern of zakat, and thus, most of zakat funds are used for consumptive rather than productive purposes. The following data presented by the Zakat Management Agencies have reflected this issue.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{distribution.png}
\caption{Distribution of zakat, infaq, and shadaqah based on asnaf/mustahiq}
\end{figure}

The same situation is also shown by several National Zakat Management Institutions, including Dompet Dhuafa’ Republika, as shown in the following Figure 2.

\textsuperscript{44} Wahbah al-Zuhaili, \textit{Al-Fiqh al-Islamy wa Adillatuhi} (Damascus: Dar al-Fikr, 2004). p. 1819.

The distribution of zakat, both by BAZNAS and the Dompet Dhuafa, shows that consumptive distribution still dominates in zakat distribution, as described in the table that as high as 52.4% of zakat funds are for the poor and needy at BAZNAS, while 56,310,086,007 is used for economic programs at Dompet Dhuafa.

Secondly, the distribution of zakat is limited to certain fixed times. In Indonesia and many other Muslim countries, zakat fitrah must be paid on Eid al-Fitr and cannot be paid after that. However, if the muamalah approach is used, the times will be more widespread and longer. Imam Shafi’i, Imam Malik, and Imam Ahmad state that zakat fitrah must be paid before the Eid al-Fitr prayer. Therefore, zakat fitrah that is paid after the Eid al-Fitr prayer cannot be called zakat, but shadaqah (alms). However, the Hanafi school of thought views that zakat fitrah can be paid throughout the year because its obligation is included in the obligation of muwassa’ (widespread). With the long payment period of zakat fitrah, the opportunity to collect zakat fitrah will be maximized, and the recipients will also be wider and more evenly distributed.

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Thirdly, the concepts of mustahiq and muzakki described in the fiqh literature have not developed and cannot be contextualized. The textual understanding of mustahiq contained in Surah al-Taubah verse 60 has locked the possibility of a broader interpretation of the eight categories of zakat recipients (ashnaf tsamaniyyah). This has resulted in a limited number of zakat recipients and payers.

According to Rumah Zakat (2019), zakat recipients comprise only around six ashnaf/groups, namely: al-fugara, amil, fi sabilllah, muallaf, gharimin, and ibn sabil. The needy (al-masakin) and riqab groups are not included, even though al-masakin can be included in the category of fakir. Likewise, at Yayasan Dana Sosial al-Falah (YDSF), riqab is not listed as part of the mustahiq.

The position of zakat in fiqh al-ibadat has also hindered the development of fiqh muamalat, which will ultimately result in limited zakat regulation and limited space for ijtihad. Firstly, the limited reach of zakat regulation is caused by the worship-oriented fiqh. Law Number 23 of 2011 on Zakat Management shows that fiqh al-ibadat is more dominant than fiqh muamalat from several aspects, i.e., the recipients (mustahiq), the sources (objects), and the sanctions for the payers (muzakki).

<table>
<thead>
<tr>
<th>No.</th>
<th>Chapter/Article</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Chapter I/Article 1</td>
<td>Mustahiq is a person who is entitled to receive zakat</td>
</tr>
<tr>
<td>2.</td>
<td>Article 4 Paragraph 1</td>
<td>Zakat mal as referred to in paragraph (1) includes: gold, silver, and other precious metals; money and other securities; trade; agriculture, plantations, and forestry; animal husbandry and fisheries; mining;</td>
</tr>
</tbody>
</table>

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industry; income and services; and rikaz (treasure trove)

| 3. Chapter IX Article 39 | Any person who intentionally and unlawfully does not distribute zakat in accordance with the provisions of Article 25 shall be punished with imprisonment for a maximum of 5 (five) years and/or a fine of not more than Rp. 500,000,000.00 (five hundred million rupiah) |

Chapter I Article 1 describes that the scope of mustahiq is limited to individuals only, and so institutions/agencies/institutions are not included as mustahiq. Likewise, Article 4 paragraph 1 mentions that the objects of zakat are limited, and they have yet to cover broader objects of zakat, such as corporate zakat and others. In Chapter IX, Article 39, only zakat administrators (amil) are subject to sanctions, and the payers (muzakki) have yet to be included. These three articles limit the scope for contextualizing zakat fiqh.

Secondly, the limited scope of ijtihad is also one of the causes of the stagnation of fiqh muamalat, which then affects zakat fiqh in various aspects. This happens due to several differences between fiqh al-ibadat and fiqh muamalat.

Table 3. Differences between Fiqh al-Ibadat and Fiqh Muamalat

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>Fiqh of Worship</th>
<th>Fiqh of Transactions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. unreasonable (ghair ma’qul al-ma’na)</td>
<td></td>
<td>1. reasonable (ma’qul al-ma’na)</td>
</tr>
<tr>
<td>2. ijtihad and qiyas do not apply</td>
<td>2. ijtihad and qiyas apply</td>
<td></td>
</tr>
<tr>
<td>3. dogmatic</td>
<td>3. non-dogmatic</td>
<td></td>
</tr>
<tr>
<td>4. immutable (taken for granted/munazzalah)</td>
<td>4. changeable (added, subtracted, or modified)</td>
<td></td>
</tr>
<tr>
<td>5. undiscussable (ghair qabil li al-niqas)</td>
<td>5. discussable (qabil li al-niqas)</td>
<td></td>
</tr>
<tr>
<td>6. rigid and strict verses and hadith</td>
<td>6. flexible verses and hadith</td>
<td></td>
</tr>
</tbody>
</table>

Table 3 shows that the nature and characteristics of fiqh al-ibadat are different from those of fiqh muamalat. Fiqh of worship is dogmatic and undiscussable, nor added, nor subtracted, nor changed. In addition, the verses and hadiths that discuss worship are rigid and strict; hence, ijtihad and qiyas are not required. On the other hand, fiqh muamalat is non-dogmatic and open to discussion. The meanings contained in fiqh muamalat are also rational. In addition, the verses and hadiths that discuss fiqh muamalat are very flexible, and so ijtihad and qiyas are applicable.

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This study found that the placement of *zakat* in *fiqh al-ibadat* raises various problems. First, the restricted *zakat* accumulation causes the objects of *zakat* to be limited, the output is less than optimal, and it does not cover various types of wealth of Muslims that are required to pay *zakat*. The second problem escalates further issues, such as the dominance of the consumptive distribution pattern, the limited time for paying *zakat*, and the inflexible meanings of *muzakki* and *mustahiq*. The third problem is the delayed development of *fiqh muamalat*, which raises issues such as restricted *zakat* regulation and limited scope of *ijtihad*.

Therefore, the limitation in the development of *zakat* has led to less optimal actions in improving the welfare of Muslims (i.e., *mustahiq*). Due to various problems of the placement of *zakat* in *fiqh al-ibadat*, it is necessary to broaden the scope and coverage of *ijtihad*. This is highly possible, as suggested by Yusuf Qardhawi, because *zakat* is part of *maliyah ijtima'iyyah* or socio-economic worship that cannot be carried out between a person and his God alone, but must also involve other people, e.g., the *muzakki* and the *mustahiq*.

Respondent Sh is also of the opinion that *zakat* should be repositioned from *fiqh al-ibadat* to *fiqh muamalat*, since in its practice, *zakat* is related to other people (*mustahiq*) and to their development. Such a relationship inevitably also constitutes a *muamalah* practice that must be carried out by knowing the circumstances and situations of the persons, whether or not they are truly *mustahiq* of *zakat*. Moreover, from the broader division of *fiqh muamalat*, it includes *siyasah maliyah* (economic law), which in this case can include the way to manage *zakat* more effectively within the existing regulatory framework in Indonesia. In addition, discussing *zakat* in relation to *fiqh muamalat* will be more innovative and targeted by considering the reality of society regarding public awareness of *zakat*. To date, *zakat* payment has only relied on personal awareness to pay, without any government role through *siyasah* to enforce its implementation. However, it is important to note that the essence of worship in the payment of *zakat* should not be ignored. Therefore, it is better if the discussion of *zakat* is included in this dichotomy, between *fiqh al-ibadat* and *fiqh muamalat*. If possible, *zakat* in its application can be more flexible like *waqf* (endowment) with its various implementation so that *zakat* is more beneficial for the community. By conducting in-depth and appropriate interpretations through *ijtihad*, the essence of *zakat* will remain.\(^47\)

An interview with a *zakat* activist, Th, revealed that the repositioning of *zakat* can be implemented with several provisions, as follows:
1. It should not eliminate the essence of *zakat* worship, which has been explained in the provisions of the *fiqh al-ibadat*.
2. Being part of *fiqh muamalat* shall require innovation according to the circumstances of the times. For example, the meaning of wealth owned by

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\(^47\) Interview with Sh, Member of Nahdlatul Ulama’ of Malang Branch, July 27, 2023
individuals in the past is not the same as that of people today, which is more varied. The standards that apply in the implementation of zakat should not be interpreted normatively based on the conditions of the past, but rather according to the context of what is considered wealth in an era, e.g., cryptocurrency, stocks, bonds, and so forth. If ijtihad is not carried out, then the implementation and meaning of zakat will be limited and will not be beneficial for the people or mustahiq.

3. Zakat falls into fiqh muamalat. If possible, it can be directed to the meaning of fiqh muamalat in general. This will contribute to siyasah maliyah, leading to the formation of regulations that encourage individuals to pay zakat and generate a force effect to individuals who do not want to pay zakat despite being in the category of muzakki. Such is the spirit that must be sought in this fiqh muamalat, as what Abu Bakar did against those who did not oblige to pay zakat.

On the other hand, Respondent Ch., a member of the Indonesian Ulema Council (MUI) in Malang City, has expressed a slightly different opinion. While he agrees with the development of zakat, he argues that zakat still falls under fiqh al-ibadat because it has its own rules regarding who is eligible to receive it. This is especially true for zakat fitrah, as the recipients are clearly defined. He describes that zakat is fundamentally a matter of worship. Developing zakat is acceptable, as its principle is to help others. It can be used for both productive and consumptive purposes, but it must always be within the clear guidelines of Islamic law. If zakat is shifted to fiqh muamalat, it will lose its value as an act of worship. If zakat is to be drawn into the realm of fiqh muamalat, it must be clear which transactions are permissible and which are prohibited. Furthermore, the Quran states “وفي اموالهم حق معلوم.” The word “اموال” (wealth) is used in this verse, which is very general and does not specify the form of wealth. Therefore, it can be interpreted in various aspects of economics. Whether or not zakat can be drawn into the realm of fiqh muamalat is unclear, as there is no explicit evidence in the Qur’an. However, the next phrase in the verse, “haqqu ma’lum” (known right), clearly refers to zakat. Zakat itself has its own rules regarding who is eligible to receive it.

According to AZR, Khatib Syuriah Nahdlatul Ulama, Malang City, it is necessary to reposition the position of zakat from the concept of fiqh of worship to the concept of fiqh of muamalat so that zakat is truly a practice of worship that has a significant social impact on the existence of the eight existing ashnaf (mustahiq zakat) around us in particular and in Indonesia in general and this can be realized if zakat management is managed professionally. It goes on to say that logically, sekan worship is an individual matter which can be done or not.

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48 Interview with Th, Zakat Expert and Activist, July 27, 2023
49 Interview with Ch., Member of Majelis Ulama Indonesia, Malang City, August 10, 2023

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depending on the individual's awareness in the sense that people will carry out zakat only based on individual awareness and if giving zakat to mustahiq, it may only be focused on one of the 8 ashnaf, which is explained in the Qur'an. This phenomenon can be concluded from the management of zakat pentashorrufan being handed over to individual muzakky who feel that this is a matter of worship and worship is a private matter of muzakky. In fact, if you take it further from the maqoshid aspect of sharia, every act of worship in Islamic law definitely has great philosophical value and wisdom, especially zakat definitely has great value and wisdom for the benefit of the ummah.

Meanwhile, IZ, the mudhir of Ma’had Al-Jami’ah Sunan Ampel Al-Aly UIN Maulana Malik Ibrahim Malang, explained that there are 2 problems in zakat, namely how to build self-awareness in giving zakat and managing zakat. In this first problem regarding zakat awareness, the function of religious leaders in massive socialization is very important, in addition to the role of zakat institutions, they also always socialize zakat so that it is embedded in the minds of Muslims that zakat is obligatory for people who can afford it. For this management problem, it is necessary to have a mechanism that can stimulate muzakki to pay zakat. This is based on the fact that zakat is a form of worship that is connected with many people (social) so it needs a good and professional management system. This task is a collaboration between management experts and scholars who are focused on zakat. So that it can provide breakthroughs that do not conflict with the Shari’a and can be useful for many people. For this reason, according to him, he strongly agrees with the repositioning of zakat management, which up to now has been handed over to the muzakky to manage his zakat, or handed over to amil who is less professional, to be more professional and the scope is not localized to the area where the muzakky lives but is more useful in many places, both regions. as well as national. Therefore, if you look at it from the perspective of the maqhasid, it will really be applicable and not in conflict with Sharia.

Then, according to NM, Zakat is seen as worship because it is an obligation. There is worship called badaniyyah worship and there is maliyyah worship. Body worship is pure worship such as prayer, fasting, reading the Qur'an and so on and is called mahdhah worship. But if it is related to maliyyah, such as zakat and is related to property, then zakat must be developed. If we refer to muamalah fiqh, it means that we cannot do worship alone, such as praying, fasting, reading the Koran and other personal worship, but zakat cannot be like that. In zakat there are givers and there are recipients. This process is called mua’malah, because it involves other people.

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50 Interview with AZR, Katib Syuriah Nahdlatul Ulama’ Malang City, Maret 24, 2024.
51 Interview with IZ, Mudirul Ma’had Al-Jami’ah Sunan Ampel Al-Aly, UIN Maulana Malik Ibrahim Malang, Maret 24, 2024
52 Interview with NM, Lecture of UIN Maulana Malaik Ibrahim Malang, Maret 24, 2024.
Problems arising from the placement of zakat in fiqh al-ibadat are caused by the mindset of Muslims who are still apprehensive about expanding the scope of ijtihad. This is especially true given the history of Islamic thought, which once experienced a period of vacuum in ijtihad “insidad bab al-ijtihad” or the closing of the door of ijtihad. By using the maqāṣid al-sharī‘ah approach, this vacuum of ijtihad will not occur, including in repositioning zakat fiqh because the studies conducted focus on the values of human welfare in every taklīf revealed by Allah SWT. This is in line with the view of al-Syathibi that the purpose of sharia is to manifest human welfare in the world and in the hereafter. In other words, the laws contained in the two main sources of Islam, i.e., the Qur’an and hadith, are prescribed for the welfare of the God’s servants.53

Hence, in relation to zakat management, efforts need to be made in a productive, active, and creative way in the perspective of maqāṣid al-sharī‘ah. This policy is inevitable for the sake of the maslahat of the ummah, the welfare of the Muslims. To achieve the goals of zakat, social justice in poverty alleviation must be made, including by repositioning zakat from fiqh al-ibadat to fiqh muamalat.

This paper differs from previous research, which focused on zakat management, the impact of zakat on the economy of the Muslim community, public perception of zakat, and the correlation between zakat and taxation. This paper analyzes and maps out the complex problems that have caused a gap between the ideal potential of zakat and the existing reality of zakat accumulation and revenue. This study also provides a solution to these problems by offering an expansion of the space for ijtihad by reopening the space for more contextual interpretations in accordance with the conditions of the Muslim community today. One of the ways is to shift the paradigm of fiqh al-ibadat that exists in zakat to that of fiqh muamalat that places humans as the subject of zakat.

In view of the current conditions and problems, it is necessary to change the attitude and perspective of Muslims who have considered the placement of zakat in fiqh al-ibadat to be final. This change can imply a change in meaning as well as a change in paradigm among Muslims so that the goals of maqāṣid al-sharī‘ah can be obtained properly. In addition, changes and improvements to regulations should also be made that open up the possibility of zakat being accumulated optimally, such as by applying sanctions to the muzakki who do not fulfill their obligations to pay zakat.


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Conclusion

Many problems arise related to zakat, i.e., in terms of zakat accumulation and the effects it produces. Zakat has been less optimal primarily because zakat is still positioned as part of fiqh al-ibadat. This is a logical consequence of the rigid and inflexible nature of fiqh al-ibadat, as well as the impossibility for Muslims to expand the scope of ijtihad. The maqāsid al-sharī‘ah approach used in this study allows us to explore the fundamental problems of zakat. Previously, the approaches used by researchers investigating zakat from its management aspect have not been able to help accumulate zakat funds maximally. Further, from the maqāsid al-sharī‘ah perspective, zakat is not only an act of worship related to the purification of wealth, but it is also an instrument used to improve the welfare and develop the economy of society by managing it effectively and efficiently. To this end, it is highly significant to maximize the potential of zakat in Indonesia in its implementation.

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