



## Opportunity and Challenges to Integrate Zakat Into Indonesian Fiscal System in The Light of *Siyasah Shar'iyah*

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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 *Siyasah Shar'iyah* (high objectives of the Shariah). Therefore, the objectives of the study are set with these following points: 1) to address the strength and the weakness of the implementation of this idea, 2) to assess its opportunity as well as its threat, 3) to examine whether the integration of zakat will secure *maslahah* (benefit) or create *mafsadah* (harm). The result shows that the integration of zakat into current fiscal system is in line with the *Siyasah Shar'iyah*. Hence, the strong willingness and commitment of government is strongly required to applicate it. The proper model of integration should also 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, *Siyasah Shar'iyah*

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### Introduction

The issue of zakat has been discussed in depth by past Islamic scholars. However, this issue still attracts many scholars today. Currently, a main issue of zakat is about zakat governance. A question arises about who should govern zakat, whether it be the private sector or the 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.

Undeniably, zakat is one of five pillars of Islam. Every Muslim is obligatory to perform it. Nevertheless, zakat is not only about spiritual matter, it is more. It has an active role to solve economic problems such as unemployment, poverty, debt and disasters, an extreme economic inequality and money hording (Qardawi, 2006). Furthermore, in a macroeconomic perspective, Khan, Darwish and Zain, Iqbal and Shuhaibani argued that zakat may increase the aggregate consumption of people. Moreover, Shaibani viewed that the dynamic effect of zakat on investment is positive (Kahf, 2002). Anyway, it is proven in the time of the caliph 'Umar ibn Abdul Aziz that zakat had alleviated poverty at the time, alongside tax. It is reported that the governor of Egypt had 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". Ibn Kathir revealed that 'Umar has appointed a person to look for persons who are under debts and those who intend to get married, the needy, the debtors and orphans throughout the streets and cities on a daily basis until he enriched all these people (Kathir, 1997).

Furthermore, zakat is a unique system compared to tax where the *nisab*, 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 distribution of tax is up to the government which is different from zakat. In brief, zakat has several distinctions with tax (Qardhawi, 2006).

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* prefer to pay zakat and donation in the near mosque rather than to give it to the zakat organization. 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 payers) is 18.7% of Indonesian population and the price of gold is IDR 102,200/gram (Yasin, 2011). This estimation, of course, needs to be revised as the gold price has fluctuated recently.

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

## Scope of Study

We limit the study on the feasibility of integration of zakat in Indonesia based on 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, those who deny 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 began to organize and administer it. Before, zakat which is mentioned in *Makkan* verses was in general a form of voluntary payments. (al-Qardawi, 1999).

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 have been sent out by the Prophet (pbuh), some of them are as follows:

- a) Ibn al-Latbiyah from the tribe of al-Azd
- b) Abu Mas'ud
- c) Abu Jahmibn Hudhayfa (d. 20 H)
- d) 'Uqbaibn 'Amir
- e) Al-DahhakibnQays
- f) QaysibnSa'd
- g) 'Ubadaibn al-Samit

h) Al-Walidibn 'Uqba which was sent out to the banu al-Mustaliq.

The policy of the Prophet was followed by caliphs after him, Abu Bakr (13 H/634 M), 'Umar ibn Khattab (23 H/644 M), Uthman ibn Affan (35 H/656 M) and Ali ibn Abi Thalib (40 H/661 M). They used to send zakat collectors too. It is reported by al-Shafi'i from Ibram ibn Sa'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 (al-Qardawi, 1999).

In the time of Abu Bakr ra (13 H/634 M), after the death of the Prophet (pbuh), many Muslims were refusing to pay zakat. To overcome this issue, Abu Bakr (13 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. (al-Qardawi, 1999).

### **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:

- a) To increase the service for the community in performing zakat obligation according to the Shari'ah.
- b) To improve the role and function of religious institutions in realizing people's welfare and social justice.
- c) To increase the benefit and advantage of zakat (Hafidhuddin and Beik, 2010).

Regarding zakat operations, 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 a private organization approved by the government. It is reported that, currently, there are, 33 provincial BAZ, 1 national BAZ, and around 400 BAZ in cities. In addition, there exist 18 national private zakat institutions which can operate throughout the country (Hafidhuddin and Beik, 2010).

Recently, the act has been revised by act no. 23 year 2011, Zakat Management. The implementation of the new act is awaiting 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 funds.

Before 1999, before the issuance of the first act, involvement of the government in managing zakat was somehow unclear. The establishment of Ministry of religion, January 1946, in order to manage the religious matter still is not enough, since zakat is excluded from the tasks of ministry. It can be seen that there is no special department organizing this matter (Alfitri, 2006).

Furthermore, Presidential Decree No. 07/PRIN/10/1968 gave impetus to incorporating matters pertaining to zakat into the responsibilities of the state. Thus, some governors established 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 so, some non-government organizations such as Muhammadiyah and Nahdatul Ulama still organize zakat in their communities (Alfitri, 2006).

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. However, the recognition of zakat as tax deduction started in year 2000 after revising the act of tax with the act no.17/2000 while the actual implementation of this act is started in 2003 after the issuance of Dirjen Pajak resolution No. KEP-163/PJ/2003 (Wibisono, 2010).

## Methodology

This paper employs a descriptive analysis, studying the internal and external factors of the idea to integrate zakat into Indonesia's 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 Threat) analysis is often used in the firms in order to determine the best strategy to improve the performance of the company. However, in this case, the author used SWOT to identify whether the integration is beneficial and possible in its implementation. The identification will be based on the light of *siyasah shar'iyah*.

## Discussion and Analysis

One who takes on the idea of integrating zakat into a fiscal system should first be made aware of the following points, namely strengths and weaknesses, in order to assess its benefits.

### Strength

There are some strengths in integration, which are as follows:

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

Many verses of the 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 do not pay zakat and disbelieve the hereafter. There are also many hadiths emphasizing its obligation.

Unfortunately, the current system, where zakat is not incorporated into the fiscal system, allows Muslims to refuse zakat payment. As mentioned above that the Zakat Management Act 1999 and even the newly enacted 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 benefit of the zakat, the potential being 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 above 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 (Kahf, 1999).

In the history of Islam, Abu Bakr (ra), the first Caliph after the Prophet (pbuh), had sent out many armies to fight those who refused to pay zakat. It indicated that the government has right to enforce zakat payment. Some scholars are saying that zakat should be governed by the state. Sahl ibn Abi Salih narrates that his father came to Sa'd ibn Abi Waqas and then said, "I accumulated a zakat able 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, those who are not willing to pay zakat deserving punishment, consequently, the amount of zakat collection may increase dramatically. The increase of zakat may hopefully prove to be a solution to the poverty in Indonesia. Ali emphasized that zakat is not voluntary but it is compulsory and the only institution that may able to do so is the government (Ali, 2006).

Regarding the type of wealth that should be collected by the 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 argue 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 puts effort towards zakat administration, zakat must be paid to the government (al-Qardawi, 1999).

On the other hand, Hanbali believe that paying zakat either apparent asset or non-apparent asset to the government is not obligatory. Even so, they argue that government has the right to collect zakat. Ibn Qudama 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. (al-Qardawi, 1999).

b. Disbursement will be much more effective.

One of problems today is the absence of a complete data pertaining *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 redundant when compared to other institution databases. In Consequent, there are some people who fail to receive zakat, being 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 (al-Qardawi, 1999). The integration of zakat may solve this problem since the government has the authority and capability to form a more complete database of the people.

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

The big potential of zakat fund may help the government programs especially in poverty alleviation. In fact, zakat can also 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 development goals. Zakat potential and its clear allocation which has been determined by Shari'ah can be in line with the national development planning (Ali, 2006).

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 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 (Kahf, 1997).

## 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 (Ali, 2006).

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 reduction due to the zakat payment. Simply put, it equals 10% of IDR 97.5

million which equals to IDR 9.75 million. This policy is, of course, determined after long and lengthy debates with the tax department since it may reduce their income.

Moreover, there exists proposal 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 one pays 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 the government will be lowered; hence, government income will be reduced. This is not wholly true. In fact, the income of the 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, it may put additional burden for Muslims as they would 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 out of 234,693,997 people. Since the majorities are 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 increase of zakat collection. In 2010, the amount of zakat that has been successfully collected by zakat organizations is approximately IDR 1.5 trillion where in 2009 the collected zakat close to IDR 1.2 trillion. Thus, there is 25% improvement. It can also be seen in the willingness of the legislative to legalize the Zakat Management Act no.23 year 2011.

### c. Failure of conventional system

Gini index of Indonesia in 1984 is 30.4%, but in 2009 it rose, 36.8%. It means that the gap between the rich and the poor is widening rather than narrowing. Moreover, it is reported in 1984 that 24.91% of total income of Indonesian people belong to 10% of its 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 amongst its society.

The problem of poverty in Indonesia is like a cycle that never ends. According to the mainstream economy, a poor country will be trapped in poverty in a so-called vicious cycle of poverty. The solution proposed by this theory is to borrow funds from a foreign body in order to cut this poverty cycle (Damanhuri et. al., 1997).

Nevertheless, this idea fails to solve poverty, even going so far as to create another problem, debt trap. It is noted that the total debt of Indonesia per March, 2012 is 228,457 million of USD with the debt to GDP ratio 26.2%. The recent Greek crisis should be taken as an example, to be ever 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.

## Threats

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

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

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

Having examined the big role that has been played by zakat NGO's, the idea to integrate will get sound opposition. Some reasons that hold substance by them: 1) lack of people trust toward government, 2) zakat NGOs will be closed down; 3) NGOs that have 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 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.

### b. Rejection of tax department

The rejection may occur from tax department. They may argue that the government should only focus on tax. The government should rather focus on how to maximize it. The rejection could become harder if the integration reduces the tax payment (tax credit). For instance, ministry of finance has enforced the government to issue a government rule no. 60/2010 when People's Representative Council were discussing about the legalization of zakat as tax credit. This rule is aimed to reject the idea of zakat as tax credit and emphasizes that zakat is considered only as tax deduction, and 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 and 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 will want their zakat to reach the *mustahiq* (Zakat recipient). Hence, he will choose an institution that can be trusted, to realize his wishes. If he does not find any trustworthy institution, he will give it directly to the *mustahiq*. A survey conducted by Hafidhuddin depicted that there are two factors determining the decision of *muzakki* to choose an organization to manage their zakat; professionalism and trust (*amanah*) (Hafidhuddin, 2006).

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 past few years may affect the trust of people towards the ability of the government to organize both zakat and tax. They fear that their zakat fund will be corrupted.

In fact, when the government has decided to undertake zakat, it is obligatory to pay zakat even if they do not trust the government. Muslims should pay their zakat to the government even if they fear or suspect that their funds will be misused. Sahlibn Abi Salih narrates that his father came to Sa'dibn Abi 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" (al-Bayhaqi, 458 H). "Al-Mughira ibn Shu'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," Ibn Shu'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."

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 the 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 may fear or mistrust the intention that comes with the integration. They may refuse the integration under a notion that it may cause national disintegration. A sociologist of religion at Sunan Kalijaga State Islamic Studies Institute (IAIN) expressed his opinion that the tax-deduction policy for the zakat payer is discriminatory since it is only applied for Muslims. He advocated that the government 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 along (Salim, 2008), The critique and rejection will be stronger when zakat becomes a fiscal tool and may rebate the tax payment.

#### e. *Siyasah shar'iyah* of the Integration

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

In a literal sense of the word, the meaning of *siyasah shar'iyah* is a shariah-oriented public policy, or government, in accordance with the Shariah. In the usage of *fuqaha'*, *siyasah shar'iyah* means decisions and policy measures taken by the imam and the 'ulu al-amr on matters for which no specific ruling could be found in the shari'ah (Kamali, 1989). According to ibnQayyim, *siyasah shar'iyah* does not necessarily mean conforming to the explicit rules of the shariah. Ibn Qayyim mentioned in *al-Turuq al-Hukmiyyah fi al-Siyasah al-Shar'iyah* the words of Ibn 'Aqil, "*Siyasah* is any measure which actually brings the people closest to beneficence (*salah*) and furthest away from corruption (*fasad*) in just *siyasah* even if it has not been approved by the prophet saw nor regulated by divine revelation". Moreover, Ibn Qayyim adds that anyone who says that there is *nosiyasah Shar'iyah* where the Shari'ah itself is silent is wrong and has misunderstood the Companions (*Sahabah*)..." (Ibn Qayyim, 1961).

Hence, in order to know whether the integration is the conforming of the *siyasah Shar'iyah* 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 *siyasah Shar'iyah* approach to compare between the SO (Strength and Opportunity) and WT (Weakness and Threat). The summary of SWOT analysis is depicted by the following table:

**Table 1: Summary of SWOT analysis**

Strength	Weakness
1) It is able to make <i>zakat</i> as compulsory	1) Additional burden to the government
2) Disbursement will be much more effective	2) Either reduce the tax income or impose double tax to the Muslims
3) May help government to achieve the development goals	
Opportunity	Threat
1) Majority of people is Muslim	1) Rejection of <i>Zakat</i> NGO
2) The increasing of Muslim's awareness toward <i>zakat</i>	2) Rejection of tax department
3) The failure of conventional system	3) Lack of people trust to the government
	4) Rejection of non-Muslims and Secularists

The table shows that the 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 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 as the government

should bear many tasks. Moreover, it can be solved by the good governance. 2) Regarding the second weakness, it depends on the integration model that is 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 not decreasing the government income rather it serves to increase 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 that zakat 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.

Furthermore, although the majority of Indonesian people are Muslim, Indonesia itself is not a Muslim country. Moreover, the collective voices of non-Muslims and secularists are more often heeded by the government. For instance, the draft of pornography act has 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 took several years as non-Muslims argued that it was exclusively for Muslims. Thus, the implementation of this idea will be hard and long. On the other hand, the rejection of zakat NGO and tax department and the lack of peoples 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 the government to implement and govern it. Good governance (no corruption, full transparency, efficient, etc.) will eventually eliminate the lack of peoples trust.

The rejection of Zakat NGO can be minimized if the government can nurture the understanding on the benefits and advantages that are achievable 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, if not only in distribution. The mechanism of cooperation should be discussed properly and intensively to increase the efficiency and the effectiveness of zakat collection and disbursement.

To conclude, the *maslahah* of the integration is higher than the *mafsadah*. Hence, it confirms the *siyasah shar'iyah*. Nevertheless, the implementation of it may take several years due to unavoidable obstacles.

## Conclusion

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

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