

Legal Reform of Zakat Management Based on Personal Data Protection Law in Indonesia

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Abstract

This article proposes the idea of accommodating the concept of personal data protection in zakat management law in Indonesia. It is because the Zakat Management Organization and online platforms that facilitate zakat payments online still need legal certainty regarding collecting, using, and reporting personal data about zakat payers (*muzakki*). There needs to be more clarity on the types of muzakki's personal data that can be collected and reported by Zakat Management Organization and online platforms to the government, which creates the potential for a muzakki's personal data breach. This article uses normative legal research methods with statutory and conceptual approaches. In conclusion, a mutually agreed-upon personal data protection agreement is required between Zakat Management Organization, the online platform, and *muzakki*. Therefore, it is necessary to reform the zakat management law to be adaptive to personal data protection by amending Law Number 23 of 2011 concerning the Management of Zakat.

Keywords

Zakat, Personal Data, Legal Reform

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Introduction

Technological development is part of human evolution from the traditional to the modern phase. The first industrial revolution (1.0) occurred from 1780 to 1820, marked by the transformation of the agricultural sector into an industrial and manufacturing system.¹ The second industrial revolution (2.0) in the 19th century, using electric power machines instead of steam engines, the airplane industry, and the beginning of cinema and communication systems.² The third industrial revolution (3.0), in the early 1970s, began to use automatic programming technology in the manufacturing process, where factories produced goods that operated automatically without human assistance.³

Meanwhile, the fourth industrial revolution (4.0), starting in 2011,⁴ was marked by using sensor technology, information systems, and internet networks, where computer technology operated the production, transaction,

¹ Carolina Narvaez Rojas et al., "Society 5.0: A Japanese Concept for a Superintelligent Society," *Sustainability (Switzerland)* 13, no. 12 (2021): 3–4, <https://doi.org/10.3390/su13126567>.

² A. B Hawken, P., Lovins and L. H. Lovins, *Natural Capitalism: Creating the Next Industrial Revolution*, 2000; OK. Mohammad Fajar Ikhsan et al., "Impact of Digital Economic Liberalization and Capitalization in the Era of Industrial Revolution 4.0: Case Study in Indonesia," *Problems and Perspectives in Management* 18, no. 2 (2020): 290, [https://doi.org/10.21511/ppm.18\(2\).2020.24](https://doi.org/10.21511/ppm.18(2).2020.24); Narvaez Rojas et al., "Society 5.0: A Japanese Concept for a Superintelligent Society", 4.

³ Ikhsan et al., "Impact of Digital Economic Liberalization and Capitalization in the Era of Industrial Revolution 4.0: Case Study in Indonesia", 291; Narvaez Rojas et al., "Society 5.0: A Japanese Concept for a Superintelligent Society", 4.

⁴ Muhammad Azmi Sait and Muhammad Anshari, "Industrial Revolution 4.0: A New Challenge to Brunei Darussalam's Unemployment Issue," *International Journal of Asian Business and Information Management* 12, no. 4 (2021): 34, <https://doi.org/10.4018/IJABIM.20211001.0a3>.

and communication systems in digital spaces.⁵ This phase is known for Internet of Things (IoT) applications, artificial intelligence, robotic systems, autonomous vehicles, cloud computing, big data sets, augmented/simulated reality, 3D printing, nanomaterials, blockchain, and twin technologies for artificial intelligence products.⁶

A society that takes advantage of the Industrial Revolution 4.0 is called an information society or society 4.0, an era where information technology is used for various fields such as social, cultural, and economic activities.⁷ From the Industrial Revolution 4.0 and Society 4.0, there was a shift in society's economic activities from traditional to online, thus changing the traditional economic landscape to a digital economy. For example, payment methods have changed from cash to digital money.⁸

In this phase, the need for the internet becomes very important to support economic activities that are changing to digital. Indonesia is one of the countries with the largest internet users in the world. Based on data from The Association of Indonesian Internet Service Providers survey in 2024 shows that internet penetration in Indonesia has

⁵ Hawken, P., Lovins and Lovins, *Natural Capitalism: Creating the Next Industrial Revolution*; Ikhsan et al., "Impact of Digital Economic Liberalization and Capitalization in the Era of Industrial Revolution 4.0: Case Study in Indonesia.", 291.

⁶ Jan Rymarczyk, "Technologies, Opportunities and Challenges of the Industrial Revolution 4.0: Theoretical Considerations," *Entrepreneurial Business and Economics Review* 8, no. 1 (2020): 188, <https://doi.org/10.15678/EBER.2020.080110>; Khalid Rasheed Memon and Say Keat Ooi, "The Dark Side of Industrial Revolution 4.0-Implications and Suggestions," *Academy of Entrepreneurship Journal* 27, no. SpecialIssue 2 (2021): 4.

⁷ Narvaez Rojas et al., "Society 5.0: A Japanese Concept for a Superintelligent Society.", 6.

⁸ Tapscott, *The Digital Economy: Promise and Peril in the Age of Networked Intelligence.*; Ikhsan et al., "Impact of Digital Economic Liberalization and Capitalization in the Era of Industrial Revolution 4.0: Case Study in Indonesia.", 291.

reached 79.50 percent, namely 221,563,479 people from a total population of 278,696,200 people.⁹ With this situation, the acceleration to achieve information society 4.0 is increasingly real.

The Industrial Revolution 4.0 and the information society above are opportunities and challenges for the *Zakat Management Organization (Organisasi Pengelola Zakat, OPZ)*. The opportunity is that OPZ, in collaboration with online platforms, can use information technology to maximize and facilitate *zakat* fundraising¹⁰ so that the *zakat* ecosystem expands and becomes more transparent, trusted, and safe.¹¹ Moreover, most internet users are young and most of them use social media so the socialization of *zakat* can reach a wider audience.¹²

During the COVID-19 pandemic in 2020-2021, online *zakat* collection mechanism is increasingly needed¹³ in various ways, including social media platforms, which are

⁹ Asosiasi Penyelenggara Jasa Internet Indonesia (APJII), “Survei Penetrasi Internet Indonesia 2024” (Jakarta, 2024).

¹⁰ Mohammad Soleh, “Zakat Fundraising Strategy: Opportunities and Challenges in Digital Era,” *Journal of Nahdlatul Ulama Studies* 1, no. 1 (2019): 12, <https://doi.org/10.35672/jnus.v1i1.1-16>.

¹¹ Wan Nur Azira Wan Mohamed Salleh, Siti Zaleha Abdul Rasid, and Rohaida Basiruddin, “Towards Transforming Zakat Collection and Distribution Roles Using Digital Wallet in Support of Social Justice and Social Financing,” *Open International Journal of Informatics (OIJI)* 7, no. 2 (2019): 96; Divisi Riset dan Kajian Pusat Kajian Strategis BAZNAS, *Dampak Zakat Terhadap Kesejahteraan Mustahik: Evaluasi Program Zakat Produktif 2018*, ed. Pusat Kajian Strategis BAZNAS (Jakarta: Pusat Kajian Strategis BAZNAS, 2019).

¹² Azhar Alam et al., “Generation Z Perceptions in Paying Zakat , Infaq , and Sadaqah Using Fintech : A Comparative Study of Indonesia and Malaysia,” *Investment Management and Financial Innovations* 19, no. 2 (2022), 323 [https://doi.org/10.21511/imfi.19\(2\).2022.28](https://doi.org/10.21511/imfi.19(2).2022.28).

¹³ Pertiwi Utami et al., “Refleksi Hukum Zakat Digital Pada Baznas Dalam Rangka Peningkatan Kesejahteraan Mustahik,” *Jurnal Surya Kencana Satu: Dinamika Masalah Hukum Dan Keadilan* 11, no. 1 (2020): 54, <https://doi.org/10.32493/jdmhkdmdhk.v11i1.5608>.

one of the motivations for many people to donate.¹⁴ As a result of this situation, the OPZ collaborates with online platforms such as Shopee, Tokopedia, GoPay, Linkaja, Dana, and other platforms that facilitate online *zakat* payments.

Meanwhile, the challenge is that OPZ must transform digitally despite facing several problems. Generally, OPZ faces two problems in digital transformation: internal factors, namely incompatible operating systems and unprofessional human resources, and external factors, namely cyberattacks, insufficient public information about online *zakat* procedures, and competition between *zakat* institutions.¹⁵

OPZ has difficulty undergoing digital transformation due to limited use of technology, such as incomplete information, data that needs to be updated, and poor website and mobile application designs. The management also needs help maintaining the technology due to a lack of human resources to operate it.¹⁶

¹⁴ Saeed Awadh Bin-Nashwan, "Fundraising Campaigns via Social Media Platforms for Mitigating the Impacts of the COVID-19 Epidemic," *Journal of Islamic Marketing* 12, no. 3 (2021), <https://doi.org/10.1108/JIMA-07-2020-0200>.

¹⁵ M Abdulloh and A Kasdi, "Risk Management in Digital Transformation of Zakat Collection and Information Systems in Indonesia," in *International Conference of Zakat* (Jakarta, 2021), <https://iconzbaznas.com/submission/index.php/proceedings/article/view/300%0Ahttps://iconzbaznas.com/submission/index.php/proceedings/article/download/300/164>.

¹⁶ Tika Widiastuti et al., "Optimizing Zakat Governance in East Java Using Analytical Network Process (ANP): The Role of Zakat Technology (ZakaTech)," *Journal of Islamic Accounting and Business Research* 12, no. 3 (2021): 309–310, <https://doi.org/10.1108/JIABR-09-2020-0307>; Marhanum Che Mohd Salleh and Mohammad Abdul Matin Chowdhury, "Technological Transformation in Malaysian Zakat Institutions: A Qualitative Analysis," *International Journal of Zakat* 5, no. 3 (2020): 44–56; Muhsin Nor Paizin, "Big Data Analytics for Zakat Administration: A Proposed Method," *Ziswaf: Jurnal Zakat Dan Wakaf* 8, no. 2 (2021): 104, <https://doi.org/10.21043/ziswaf.v8i2.11382>.

All information technologies require data because Online platforms will not function without data.¹⁷ Data drives the economy's innovation and creativity. It can be licensed, product innovation, new product licensing, product quality improvement, and improving production effectiveness.¹⁸ Data predict future situations (model probabilities). A digital system (digital stuff) is used by online platforms, such as Uber and Go-Jek, to support their operations. It can be built using various data with the assistance of algorithmic analysis. This system will provide the company with predictive results for future business models.¹⁹

Data is personal if it is associated with someone who identifies the data owner.²⁰ Entities protected in the concept of personal data protection are natural persons, not legal entities (legal persons), as stipulated in Article 1653 of the Indonesian Civil Code and laws and regulations concerning personal data protection both at international and national levels.²¹

¹⁷ Jathan Sadowski, "When Data Is Capital: Datafication, Accumulation, and Extraction," *Big Data and Society* 6, no. 1 (2019): 1–12, <https://doi.org/10.1177/2053951718820549>.

¹⁸ Christos Giakoumopoulos, Giovanni Buttarelli, and Michael O'Flaherty, *Handbook on European Data Protection Law 2018 Edition*, 2018th ed. (Luxembourg: European Union Agency for Fundamental (FRA), the EU Agency for Fundamental Rights Europe, the Council of Supervisor, the Registry of the European Court of Protection, Human Rights) and the European Data, 2018), <https://doi.org/10.2811/58814>. 16.

¹⁹ Sadowski, "When Data Is Capital: Datafication, Accumulation, and Extraction."

²⁰ Rob Kitchin, "Big Data, New Epistemologies and Paradigm Shifts," *Big Data and Society* 1, no. 1 (2014): 1–12, <https://doi.org/10.1177/2053951714528481>.

²¹ Sinta Dewi, "Konsep Perlindungan Hukum Atas Privasi Dan Data Pribadi Dikaitkan Dengan Penggunaan Cloud Computing Di Indonesia," *Yustisia Jurnal Hukum* 5, no. 1 (2016): 22–30.

Public and private institutions use personal data. In the public sector, the government uses personal data when they implement e-government for public services such as land services, civil services, investment, and health services. Likewise, In the private sector, International digital companies such as Amazon, Uber, Twitter, and Airbnb believe that personal data can support business development.²²

Zakat platforms that are organized by the public sector National Amil Zakat Agency (*Badan Amil Zakat Nasional*, Baznas) and private sectors (online platforms) also use data. In practice, *muzakki*, who pay *zakat* through online platforms, choose in advance whether the payment is for *zakat al-fitr* (a tax on the individual, either male or female, adult, or child, and tied to the performance of Ramadhan fasting) or *zakat maal* (a wealth tax that depends on someone's possessions).²³ Then, *muzakki* fills in the data on income, assets, and debts as the basis for calculating *zakat*.

The *zakat* calculator will calculate the total amount of *zakat* that must be paid, and the *muzakki* can see information on the *zakat* calculation in real time.²⁴ After that, *muzakki* fills out the personal data and pays directly through *zakat* institutions that collaborate with online

²² Giakoumopoulos, Buttarelli, and O'Flaherty, *Handbook on European Data Protection Law 2018 Edition*, 78; David Nguyen and Marta Paczos, *Measuring the Economic Value of Data and Cross-Border Data Flows*, *OECD Digital Economy Papers*, 297th ed. (Paris: OECD, 2020): 11.

²³ Iim Halimatusa'diyah, "Zakat and Social Protection: The Relationship Between Socio-Religious CSOs and the Government in Indonesia," *Journal of Civil Society* 11, no. 1 (2015): 80, <https://doi.org/10.1080/17448689.2015.1019181>.

²⁴ Afiful Ichwan, "Pengaruh Digital Literacy Dan Teknologi Acceptance Model Terhadap Keputusan Muzakki Membayar Zis (Zakat, Infaq Dan Shodaqoh) Melalui Fintech Go-Pay Pada Baznas" (UIN Raden Inten Lampung, 2020).

platforms such as Shopee, Blibli, Elevenia, JD.ID, Ovo, GoPay, Linkaja, and Dana.

In addition to the advantages and convenience of utilizing personal data, it also poses a significant risk because, from 2017 to 2020, cases of personal data breaches increased by 50% per year.²⁵ In 2020, several significant instances of personal data breaches occurred, including at Tokopedia (91,000,000 records), Credit Plus (890,000 records), Red Doorz (5,800,000 records), Cermati (2,900,000 records), and Bhinneka.com (1,200,000 records)²⁶ and in 2021, 279 million personal data were breached by the Social Security Agency (Badan Penyelenggara Jaminan Sosial, BPJS).

Losses for consumers whose personal data is leaked are fantastic. The total accumulation of cases from 2015–2020 was 25,759, with a loss of Rp. 5,050,000,000,000.²⁷ The last report in 2021 was 12,152 cases with a total loss of Rp. 3,880,000,000,000.²⁸ On an international scope, IBM notes that in 2021, the sectors that suffered losses due to personal data breaches were the health sector (US\$ 93 million), finance (US\$ 5.72 million), pharmaceuticals (US\$

²⁵ Divisi Humas Polri, “No Title,” Alinea Forum Bertajuk “Menanti Ketegasan Komitmen Menjaga Keamanan Data Pribadi, 2022.

²⁶ Deanne DF Putri and Muhammad H Fahrozi, “Upaya Pencegahan Kebocoran Data Konsumen Melalui Pengesahan RUU Perlindungan Data Pribadi (Studi Kasus E-Commerce Bhinneka.Com) The Prevention of Consumer Data Leakage Through Legalization of The Personal Data Protection Bill,” in *National Conference On Law Studies*, 2020, 262.

²⁷ Diky Paryadi, “Pengawasan E Commerce Dalam Undang-Undang Perdagangan Dan Undang-Undang Perlindungan Konsumen,” *Jurnal Hukum & Pembangunan* 48, no. 3 (2018): 652, <https://doi.org/10.21143/jhp.vol48.no3.1750>.

²⁸ Vika Azkiya Dihni, “Kerugian Akibat Kejahatan Siber Capai Rp 3,88 Triliun, Apa Saja Bentuknya?,” 2022, <https://databoks.katadata.co.id/datapublish/2021/10/07/kerugian-akibat-kejahatan-siber-capai-rp-388-triliun-apa-saja-bentuknya>, accessed on 23 January 2022.

5.04 million), technology companies (US\$ 4.88 million), the entertainment industry (US\$ 3.80 million), and government institutions (US\$ 1.93 million).²⁹

This potential risk can occur in online *zakat* management if it is not anticipated systemically. The reason is that there needs to be precise regulation on how *muzakki's* personal data can be collected, stored, and reported to the government. For example, when OPZ requests data on *muzakki* who have paid *zakat* on the online platform they work with, the online platform only displays the total amount of *zakat* collected globally. It does not provide specific information about each *muzakki's* nominal *zakat*. It contradicts BAZNAS Regulation Number 4 of 2018 concerning Reporting on the Implementation of *Zakat* Management, where all OPZ must make detailed *zakat* reports with the format of each *muzakki* and their respective nominals.³⁰

The online platform did not want to be considered a party that leaked *muzakki's* data because they had shared specific financial data with OPZ. Online platforms did it because financial data is a type of personal data according to Law Number 27 of 2022 concerning Personal Data Protection. Moreover, OPZ, the online platform, and *muzakki* have not made personal data protection agreements to determine the rights and obligations of the parties, as well as the types of *muzakki* data that can be shared, reported, and cannot be reported to the government.³¹ Besides, the agreement has an essential role in ensuring the security of personal data based on Law Number 27 of 2022 concerning Personal Data Protection.

²⁹ I B M Security, "Cost of a Data Breach Report 2021" (New Orchard Road Armonk, NY 10504, 2021).

³⁰ Tim Advokasi Forum Zakat, "Interview" (Forum Zakat (FOZ), 08 June 2022).

³¹ Tim Advokasi Forum Zakat.

This situation shows a legal vacuum in regulating the security of *muzakki's* data after the enactment of Law Number 27 of 2022 concerning Personal Data Protection. This problem cannot be solved by Law Number 23 of 2011 concerning the Management of *Zakat* because it is no longer relevant to the development of society, including personal data protection law. Therefore, it is necessary to reform the law of *zakat* management in Indonesia by incorporating the legal concept of personal data protection into Law Number 23 of 2011 concerning the management of *zakat*, which is adaptive and accommodative to Law Number 27 of 2022 concerning personal data protection. This legal reform is very urgent because the potential for Muslims to pay *zakat* through online platforms in Indonesia is huge. To analyze the problem, the article uses normative legal research. While the approaches used are legislation and conceptual³² Normative legal research uses secondary data from written regulations and literature.³³ This article also uses empirical data, such as stakeholder interviews, to complete the analysis.

In this article, we will discuss the urgency of the right to privacy from its historical aspects, Islamic religious views, and its relationship to personal data, as well as the regulation of personal data at both the international and national levels. After that, the discussion continued with the reasons why the online *zakat* platform must be accommodating and comply with the legal provisions for protecting personal data and the efforts that must be conducted by OPZ and the platform to protect the personal data of *zakat* payers.

³² Irwansyah and Ahsan Yunus, *Penelitian Hukum Pilihan Metode Dan Praktik Penulisan Artikel*, Revisi (Yogyakarta: Mirra Buana Media, 2021), p. 42,148 and 206.

³³ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia, 1986), p. 52.

The Urgency of Privacy Right on Zakat Online Platforms

Privacy began long ago in Roman and Greek times. Even Aristoteles concepts regarding Polis and Oikos are considered the initial idea of privacy.³⁴ Privacy also emerged from a concept about the relationship between the people and the state, where, at that time, state power was so dominant that it threatened a person's freedom. This situation made philosophers such as Thomas Hobbes, John Locke, and Montesquieu initiate the concept of limiting the absolutism of state power.³⁵ From these figures, theories of the relationship between the people and the state in the constitutional system emerged, such as the theory of separation of powers, protection of civil and political liberties, and the independence of judicial power.³⁶

From the aspect of human civilization, privacy is a journey of human culture that began more than three thousand years ago and is divided into five phases. The first Phase, the decade of 1500, was marked by the construction of walls separating the rooms of older adults. The second Phase namely the tradition of worship and reading conducted in secret in the decade of 1215. The third Phase occurred in 1700 when single beds were used. The fourth Phase was the decade of the 1900s, when awareness of the importance of privacy emerged in the information and technology era, especially after the ideas of The Right to

³⁴ Md. Toriqul Islam and Mohammad Ershadul Karim, "A Brief Historical Account of Global Data Privacy Regulations and the Lessons for Malaysia," *Sejarah* 28, no. 2 (2019): 169–186, <https://doi.org/10.22452/sejarah.vol28no2.9>; Judith DeCew, "Privacy," *The Stanford Encyclopaedia of Philosophy* (Spring, 2018), <https://plato.stanford.edu/archives/spr2018/entries/privacy/>.

³⁵ Eoin Carolan, "The Concept of a Right to Privacy," *SSRN Electronic Journal*, 2012, 1, <https://doi.org/10.2139/ssrn.1889243>.

³⁶ Carolan.

Privacy by Samuel D. Warren and Louis D. Brandeis³⁷ and the fifth Phase, namely privacy in the contemporary era.³⁸

In the era of Hammurabi's code, the importance of protecting privacy emerged through the Hippocratic Oath for the medical profession to be obliged to protect the confidentiality of the patients it treats. The oath contains: "What I may see or hear in the course of the treatment or even outside of the treatment regarding the life of men, which on no account one must spread abroad, I will keep to myself, holding such things shameful to be spoken about."³⁹

In the Islamic religion, privacy is one of its teachings. Islam respects privacy as an etiquette for a Muslim. This provision is as stated in the *Al-Quran* chapter An-Nur verses 27: "O you who have believed, do not enter houses other than your own houses until you ascertain welcome and greet their inhabitants. That is best for you; perhaps you will be reminded" and chapter An-Nur verses 59: "And when the children among you reach puberty, let them ask permission [at all times] as those before them have done. Thus does Allah make clear to you, His verses; and Allah is Knowing and Wise."⁴⁰

The prohibition on entering before obtaining permission is teaching about etiquette for men and women who are inside and outside the home, whether they are *mahram* or *non-mahram*, because every human being has

³⁷ Samuel D Warren and Louis D Brandeis, "The Right to Privacy," *Harvard Law Review* 4, no. 5 (1890): 193.

³⁸ Greg Ferenstein, "The Birth and Death of Privacy: 3,000 Years of History Told through 46 Image," *The Ferenstein Wire*, 2015, <https://medium.com/the-ferenstein-wire/the-birth-and-death-of-privacy-3-000-years-of-history-in-50-images-614c26059e>; Islam and Karim, "A Brief Historical Account of Global Data Privacy Regulations and the Lessons for Malaysia."

³⁹ Ray William London, "Comparative Data Protection and Security Law: A Critical Evaluation of Legal Standards" (Pretoria, 2013), p. 183.

⁴⁰ Saheeh International, *The Qur'an English Meanings*, ed. Saheeh International (Jeddah: Al-Muntada Al-Islami London, 2004), 339.

conditions that other people don't like to see, even if they are parents or siblings and child.⁴¹ In a hadith, Rasulullah SAW said, "A person should ask permission no more than three times. If given permission, then he may enter, and if not, then he should leave."⁴²

Furthermore, regarding privacy, Gavison defines privacy as secrecy, anonymity, and solitude. In other words, privacy is a situation where one person's access to others is limited.⁴³ Solove defines privacy as freedom of thought, control over one's body, being alone at home, control over personal information, surveillance, search, interrogation, and protection of one's reputation.⁴⁴ Allen and Margulis see privacy from a psychological aspect that emphasizes control or regulation of restrictions or exclusions from unwanted surveillance access.⁴⁵ Privacy is also referred to as the right to be alone or a person's freedom to make decisions free from intervention by other people or the state.⁴⁶ Meanwhile, William Parent considers privacy a condition for not having personal information documented by other parties.⁴⁷

Meanwhile, according to Clarke, there are four types of privacy: first, the privacy of a person, namely, the privacy of a personal body from physical threats, surveillance, and torture using medical technology. Second is the privacy of

⁴¹ Teungku Muhammad Hasbi Ash-Shiddiqy, "Tafsir Al-Qur'anul Majid," in *Annur* 4, 2nd ed. (Semarang: P.T. Pustaka Rizki Putra Semarang, 1995), 2718.

⁴² Ibnu Hajar al-Asqalani, *Fathul Bari* (Darul Fikr, 1993), p. 261.

⁴³ Ruth Gavison, "Privacy and the Limits of Law," *The Yale Law Journal* 89, no. 3 (1980): 421-71.

⁴⁴ Daniel J Solove, "Understanding Privacy," *GWU Legal Studies Research Paper No. 420*, 2008.

⁴⁵ Stephen T Margulis, "Privacy as a Social Issue and Behavioral Concept," *Journal of Social Issues*, 59, no. 2 (2003): 243-61.

⁴⁶ Warren and Brandeis, "The Right to Privacy"; Carolan, "The Concept of a Right to Privacy."

⁴⁷ Adam Moore, "Defining Privacy," *Journal of Social Philosophy* 39, no. 3 (2008): 411-28.

personal behavior regarding religious beliefs, politics, and sexual references. Third, the privacy of personal communication, namely freedom from interception or wiretapping through communication media, including letters, e-mail, directional microphones, telephone or communications, and recording. Fourth, personal data, and protection of personal data.⁴⁸ Therefore, according to Clarke, personal data is part of the concept of privacy. It is associated with someone who is identified as the owner of the data.⁴⁹ The concept of personal data is to protect individuals (natural persons), not a legal entity (legal person) as regulated in international law.⁵⁰

In Europe, privacy issues lead to personal data protection concept. Since then, there has been an awareness of protecting personal data through regulations. The first countries to make rules were Germany in 1970 and Switzerland in 1973, followed by European countries in 1980 (Austria, Germany, and Luxembourg),⁵¹ and they have continued to grow.⁵²

Two international institutions issued regulations on personal data, namely the Organization for Economic Cooperation and Development (OECD) and the Council of

⁴⁸ R Clarke, "What's Privacy?," Australian law reform commission workshop, 2016,

<http://www.cse.unsw.edu.au/~cs4920/resources/Roger-Clarke-Privacy.pdf>; Ilze Kalķe, "The Challenge of Personal Data Protection in The Era of Digital Economy" (Riga Graduate School of Law, 2018).

⁴⁹ Rob Kitchin, "Big Data, New Epistemologies and Paradigm Shifts," *Big Data and Society* 1, no. 1 (2014). 1-12.

⁵⁰ Sinta Dewi, "Konsep Perlindungan Hukum Atas Privasi Dan Data Pribadi Dikaitkan Dengan Penggunaan Cloud Computing Di Indonesia."

⁵¹ Maria Tzanou, *The Fundamental Right to Data Protection Normative Value on The Context of Counter Terrorism Surveillance* (Oregon: Hart Publishing, 2017), 22.

⁵² Kalķe, "The Challenge of Personal Data Protection in The Era of Digital Economy", 8-9.

Europe. The OECD issued The Protection of Privacy and Trans-Border Flows of Personal Data Guidelines in 1980 (amended in 2018), and the Council of Europe signed the 1981 Convention for the Protection of Individuals Regarding the Automatic Processing of Personal Data (Convention 108) as a result of these two institutions.⁵³ A significant development occurred when the European Union issued the European Union General Data Protection Regulation (EU GDPR—General Data Protection Regulation) in 2016, which came into effect on 25 May 2018. The GDPR has extra-territorial powers⁵⁴ because it applies to all parties everywhere, including those outside the European Union, if they carry out personal data processing activities in the EU region.⁵⁵

GDPR defines personal data as any information relating to an identified or identifiable natural person (data subject); an identifiable natural person can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person” (GDPR article 4.1).

⁵³ Kalke.

⁵⁴ Johannes Hermanto Sirait, “General Data Protection Regulation (GDPR) Dan Kedaulatan Negara Non-Uni Eropa,” *Gorontalo Law Review* 2, no. 2 (2019): 60–71.

⁵⁵ Riza Roidila Mufti, *A Policy Brief EU General Data Protection Regulation (GDPR)*, ed. Dara Yusilawati et al., 2021st ed. (Brussels: Kedutaan Besar Republik Indonesia di Brussel, 2021), p. 1, <https://kemlu.go.id/download/L1NoYXJIZCUyMERvY3VtZW50cy9icnVzc2VsL3Jlc2VhcmNoJTIwc2VyaWVzL0dEUFllMjAtJTIwdXBkYXRlZC5wZGY=>; Nadiah Tsamara, “Perbandingan Aturan Perlindungan Privasi Atas Data Pribadi Antara Indonesia Dengan Beberapa Negara,” *Jurnal Suara Hukum* 3, no. 1 (2021): 1, <https://doi.org/10.26740/jsh.v3n1.p53-84>.

On the other hand, the right to privacy is a human right in the Universal Declaration of Human Rights (UDHR). Article 12 states that: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

The International Covenant on Civil and Political Rights (ICCPR) also regulates the right to privacy as in Article 17, paragraph 1: “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.” Indonesia has ratified the ICCPR through Law Number 12 of 2005 concerning the International Covenant on Civil and Political Rights (ICCPR) Ratification.

Likewise, Indonesia as a law state is committed to human rights, recognizing everyone's right to privacy in Article 28 letter G paragraph 1 of the 1945 Constitution: “Every person shall be entitled to protection of his/her own person, family, honor, dignity, and property under his/her control, as well as be entitled to feel secure and be entitled to protection against threat of fear to do or omit to do something being his/her fundamental right.”

Zakat Digital Platform Compliance with the Concept of Personal Data Protection

Technological advancement makes *zakat* payments no longer only done manually with the presence of *muzakki* (*zakat* payers) and *amil* (*zakat* committee) in one physical location. However, it can be paid with technology, such as online *zakat* smartphone applications,⁵⁶ which collaborate

⁵⁶ G. Shabrina et al., “Redesign of User Interface Zakat Mobile Smartphone Application with User Experience Approach,” *IOP*

with OPZ and an online platform to facilitate *muzakki* in paying *zakat*. For example, Baznas collaborates with Tokopedia, Blibli, BukaLapak, KasKus, MatahariMall, Lazada, Rumah Yatim, Global Zakat, Dompot Dhuafa, LazisMU, Rumah Zakat, and NU Care-LazisNU. In addition, *zakat* payments can also be paid through crowdfunding platforms such as Kitabisa.com.⁵⁷

Seeing this situation, since early 2019, OPZ has been changing management by integrating data, transforming the system to digital, and preparing its human resources.⁵⁸ Even in the last few years, many OPZs have made innovations, one of which is using blockchain to optimize *zakat* management.⁵⁹ Blockchain allows complete tracking of transactions for the receipt and use of *zakat* funds at any time to increase the transparency and trust of *muzakki* and minimize the risk of fraud or misuse of *zakat* funds.⁶⁰

However, with the demands of technological developments in the current digital era, OPZ faces challenges. The big problem faced by OPZ is that there is still a gap in human resources that handles the digitization process, which still needs to be filled.⁶¹ In addition, the availability of infrastructure and funds are other

Conference Series: Materials Science and Engineering 505, no. 1 (2019): 2, <https://doi.org/10.1088/1757-899X/505/1/012088>.

⁵⁷ Hasbi Zaenal et al., *Outlook Zakat Indonesia 2019* (Jakarta: Pusat Kajian Strategis BAZNAS, 2018), 5.

⁵⁸ Zaenal et al., 45-46.

⁵⁹ Amelia Nur Natasha Nazeri et al., "Exploration of a New Zakat Management System Empowered By Blockchain Technology in Malaysia," *ISRA International Journal of Islamic Finance* 15, no. 4 (2023): 132, <https://doi.org/10.55188/ijif.v15i4.568>.

⁶⁰ Muhammad Choirin et al., *Outlook Zakat 2021*, Pusat Kajian Baznas (Jakarta: Pusat Kajian Strategis BAZNAS, 2019); Nazeri et al., "Exploration of a New Zakat Management System Empowered By Blockchain Technology in Malaysia", 134.

⁶¹ Noor Achmad et al., *Outlook Zakat Indonesia 2022* (Jakarta: Pusat Kajian Strategis Badan Amil Zakat Nasional (Puskas Baznas), 2021).

challenges.⁶² This situation has led OPZ to cooperate with online platforms that facilitate online *zakat* payments in dealing with this problem.

This phenomenon is the result of a development journey from the 19th, 20th, and 21st centuries⁶³ which transformed business into electronic models due to the influence of technology.⁶⁴ The massive development of online platforms is because they can mediate networks, services, content, and transaction patterns between sellers and buyers in one electronic system. As a result, there is an interaction between platforms, platforms with users, and platforms with independent bodies that use online platforms⁶⁵ including online platforms in collaboration with OPZ. In addition, the presence of an online platform can also increase trading efficiency because the platform provides data at a meager cost.⁶⁶

The massive development of online platforms is currently causing business forms to change significantly. Even large and well-known global corporations such as Alphabet-Google, Amazon, Apple, and Facebook are all online platforms with a market capitalization of up to US\$ 5.7 trillion in December 2020.⁶⁷ According to the European

⁶² Achmad et al.

⁶³ Zoltan J. Acs et al., "The Evolution of The Global Digital Platform Economy: 1971–2021," *Small Business Economics* 57, no. 4 (2021): 5, <https://doi.org/10.1007/s11187-021-00561-x>.

⁶⁴ Roberto Ruggieri et al., "The Impact of Digital Platforms on Business Models: An Empirical Investigation on Innovative Start-Ups," *Management and Marketing* 13, no. 4 (2018): 1213, <https://doi.org/10.2478/mmcks-2018-0032>.

⁶⁵ Esteban Lafuente et al., "Analysis of The Digital Platform Economy Around The World: A Network DEA Model for Identifying Policy Priorities," *Journal of Small Business Management* 00, no. 00 (2022): 7, <https://doi.org/10.1080/00472778.2022.2100895>.

⁶⁶ Avi Goldfarb and Catherine Tucker, "Digital Economics," *Journal of Economic Literature* 57, no. 1 (2019): 11.

⁶⁷ Annabelle Gawe and Nick Srnicek, *Online Platforms: Economic and Societal Effects: Study Panel for the Future of Science and Technology*,

Union, "online platforms" and "platforms" are two terms that are often used interchangeably. According to the European Commission, an online platform is a place that facilitates interaction between two or more parties using the internet network. Online platforms can take the form of online shops, app stores, search engines, social media, communications, payment systems, and services for the community's economic needs.⁶⁸

This online platform is categorized as an Electronic System Operator (*Penyelenggara Sistem Elektronik*, PSE) according to Government Regulation Number 71 of 2019 concerning Electronic System and Transaction Operators. There are five types of platforms in the government regulation:

1. Goods and/or service trading platforms (marketplaces and online shops) such as Bukalapak, Tokopedia, Bhinneka.com, Traveloka, and Shopee.
2. Financial transaction service platforms (payment gateways, Fintech) such as Doku, Dana, Gopay.
3. Paid on-demand service platforms such as Iflix, Genflix and Spotify.
4. Communication service platforms such as WhatsApp, Line, Instagram, and Facebook.
5. Automated search platforms such as Google, Bing, Yahoo.
6. Platforms for community electronic transaction activities (fintech, marketplace, social media), for example, Bareksa, Cekaja.com.

The use of online platforms in *zakat* has a positive impact because of the transparency aspect. Every *muzakki*

EPRS European Parliamentary Research Service (Brussels: European Union, 2021),

[https://www.europarl.europa.eu/RegData/etudes/STUD/2021/656336/EPRS_STU\(2021\)656336_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/656336/EPRS_STU(2021)656336_EN.pdf).

⁶⁸ Gawe and Srnicek., 2.

is free to pay to any *zakat* institution and monitors the open management of *zakat* and the distribution of *zakat* to groups entitled to receive *zakat*. So, with an online platform, *zakat* is more effective, efficient, and accountable than paying *zakat* conventionally.⁶⁹

However, the use of technology has the potential to violate privacy rights. Online platforms that collect, store, use, and transfer Personal data have the potential for personal data breaches if used without valid legal provisions⁷⁰ (including online *zakat* paying platforms). It is because every online platform utilizes databases as its primary source. Not only that, social media, geospatial technology, biometrics, search engines, IoT, and applications that use big data also have the potential to become facilities for personal data breaches. For example, social media platforms, where data collected by certain accounts can be shared with other parties without legal reasons so that it can be sold, intercepted, and accessed illegally. Geospatial technology, this system is vulnerable to illegal access to someone's location so that it can disturb privacy. Biometrics: This technology collects physical and behavioral data about a person. Biometrics are vulnerable to cybercrimes such as physical data theft due to the weak control of the data owner. Web tracking, this search engine is vulnerable because it can track someone's track record

⁶⁹ Mohammed Obaidullah, "Current Issue in Digitalization of Islamic Social Finance," in *The Proceeding of Islamic Economics Winter Course 2021 Digitalization of Islamic Social Finance for Sustainability and Social Impact*, ed. Muhammad Indra Saputra and Siti Maulida Adhiningsih (Jakarta: BAZNAS Center of Strategic Studies/ Directorat of Research and Development – The National Board of Zakat Jl., 2021), p. 74.

⁷⁰ James Waldo, Herbert S. Lin, and Lynette I. Millett, eds., *Engaging Privacy and Information Technology in a Digital Age* (Washington DC: The National Academies Press, 2007), p. 88-89 <https://doi.org/10.17226/11896>.

when accessing the internet. IoT, a system that connects many devices to facilitate digital transactions, is also vulnerable because it collects people's sensitive data. The use of big data must be careful because by profiling certain subjects with algorithms, there is a risk of illegal access and data leakage.⁷¹ As a result, the integration of *zakat* with the Internet of Things (IoT), big data, and online platforms will almost certainly open the door to unauthorized access to personal data, which is vulnerable to leaks into the public domain and misuse by certain parties.⁷²

Currently, Indonesia has Law Number 27 of 2022 concerning Personal Data Protection as a solution to the many problems of personal data breaches in Indonesia. This law is a new era of personal data protection in Indonesia. It also answers the legal uncertainty regarding personal data protection, which has spread across various laws and regulations. From a state and government perspective, this law is interpreted as the state's presence in protecting citizens' human rights, namely the right to privacy. Meanwhile, from a legal standpoint, this law is seen as a legal umbrella for personal data protection that is more comprehensive, adequate, and futuristic.

According to the law, personal data is data about identified individuals, either alone or in combination with

⁷¹ Sara Quach et al., "Digital Technologies: Tensions in Privacy and Data," *Journal of the Academy of Marketing Science* 50, no. 6 (2022): 1302–1305, <https://doi.org/10.1007/s11747-022-00845-y>.

⁷² Rolf H Weber, "Internet of Things: Privacy Issues Revisited," *Computer Law & Security Review: The International Journal of Technology Law and Practice* 31, no. 5 (2015): 619, <https://doi.org/10.1016/j.clsr.2015.07.002>; Rolf H Weber, "The Digital Future - a Challenge for Privacy?," *Computer Law & Security Review* 31, no. 2 (2015): 236–238, <https://doi.org/10.1016/j.clsr.2015.01.003>; Carsten Maple, "Security and Privacy in The Internet of Things," *Journal of Cyber Policy* ISSN: 2, no. 2 (2017): 165, <https://doi.org/10.1080/23738871.2017.1366536>.

other information, either directly or indirectly, using electronic or conventional media. There are two types of personal data, namely specific personal data (consisting of accident data and information, biometrics, genetics, crime records, children, personal finances, and other data) and general personal data (consisting of name, gender, nationality, religion, marital status, and personal data that combine to identify a person).

Based on this law, *muzakki's* financial data is part of personal data that must receive legal protection. Therefore, every online platform in collaboration with the OPZ must maintain the security of *muzakki* financial data according to the principles of personal data protection by controllers and processors of personal data and there is no illegal use and access to *muzakki's* data by irresponsible parties.⁷³

These principles mentioned in Law Number 27 of 2022 concerning Personal Data Protection are as follows:⁷⁴

1. Fair and legal. Any collection and use of personal data must avoid loss for the owner of the data and based on law.
2. Purposes limitation. Personal data collected by the platform must be under the specified purpose and are

⁷³ Nurhasanah and Indra Rahmatullah, "The Legal Protection of Sharia Financial Technology in Indonesia (Analysis of Regulation, Structure and Law Enforcement)," *International Journal of Advanced Science and Technology* 29, no. 3 (2020): 3091.

⁷⁴ Organisation for Economic Co-Operation and Development (OECD), "The OECD Privacy Framework," The OECD Privacy Framework § (2013); Privacy International, "Lawfulness, Fairness, and Transparency Purpose Limitation" (London: Privacy International, 2019), 1–5; Privacy International, "Data Protection Principles," in *A Guide for Policy Engagement on Data Protection* (London-UK: Privacy International, 2018), <https://doi.org/10.5040/9781784514143.chapter-004>; Lee A Bygrave, "Data Protection Pursuant to the Right to Privacy in Human Rights Treaties," *International Journal of Law and Information Technology* 6, no. 1 (1998): 249.

prohibited from being used for specific purposes other than the initial purpose.

3. Minimization. Only personal data that is needed and relevant can be processed. This provision requires strict and clear limitations or classifications of what data is relevant to the aims and objectives of the parties.
4. Accurate. Personal data must be accurate, complete, not misleading, up-to-date, and accountable.
5. Integrity and Confidentiality. Personal data on digital platforms is guaranteed confidentiality and security from the risk of damage, loss, and actions that are against the law.
6. Accountability. Digital platforms must commit to comply with all statutory provisions, principles, and rights of personal data subjects.

On the other hand, Article 16 section 2 the Law Number 27 of 2022 concerning Personal Data Protection, the processing of personal data must fulfill some requirements: first, any collection of personal data must be specific, purposes limitation, lawfulness, and transparency. Second, Data minimization, processing the personal data must specific and limited. Third Individual rights, the processing is carried out by ensuring the rights of the data subject. Fourth Accuracy, the processing is carried out in a manner that is accurate, complete, without any misleading intention, and kept up to date. Fifth integrity, security, and confidentiality, the processing is carried out by protecting the security of personal data from unauthorized access, disclosure, rectification, misuse, damage, and loss. Sixth purpose limitation, the processing is carried out by the informed purposes, activities of the processing and data breach. Seventh, lawful retention, personal data will be destroyed, and/or erased after the retention period has

expired or based on the request of the data subject. Eight accountability, the processing is carried out in an accountable manner, by complying with these principles, of which the compliance can be demonstrated clearly.

Based on Law Number 27 of 2022 concerning Personal Data Protection, there are administrative sanctions and criminal sanctions if online platforms and OPZ in collecting personal data of *zakat* payers violate the rights of personal data subjects and the principles of personal data processing. Administrative sanctions consist of: Written Warning; Temporary cessation of activities; Removal and destruction of personal data; and the administrative fine is a maximum of 2 percent of annual income or annual receipts for online platforms or corporations that violate it.

Meanwhile, criminal sanctions for every person, corporation, or online platform that obtains or collects, discloses, uses personal data that does not belong to them, and falsifies personal data carries the threat of imprisonment of four to six years or a fine of four to 6 (six) billion rupiahs. This provision is a warning to OPZ and online platforms always to be careful when utilizing the personal data of *zakat* payers.

Therefore, several things must be done by all *zakat* management stakeholders in Indonesia: first, OPZ and the Platform need personal data protection agreement that aims to minimize the risk of personal data breaches such as data leakage, illegal access, misuse of personal data, and illegal data transfer. The agreement regulates the terms of rights and obligations among *muzakki* as a personal data subject, OPZ and the platform as controller and processor of personal data.

The personal data agreement contains a clause that the online platform and OPZ must obtain approval from *muzakki* before collecting, using, transfer, or disclosing

personal data. This agreement is an absolute requirement that personal data cannot be processed unless permitted or required by law, fulfillment of contractual obligations, fulfillment of legal obligations, protection of vital interests, public interests, and legitimate interests.

In requesting approval, the platform and OPZ must state the legality of the processing, the purpose, type, and relevance of the processing of personal data, the document retention period, the details of the information collected, the processing period, and the rights of the personal data subject. The consent must be explicit, understandable, easily accessible, and in simple language to avoid misleading the personal data subject or hiding accurate information. The form written and recorded electronically or non-electronically has the same legal force.

Second, there is a need for law reform on *zakat* management laws by amending Law Number 23 of 2011 concerning the Management of *Zakat* in the provisions governing reporting of *zakat* collection, namely Article 29, which must be amended by adding the provision that reporting must also pay attention to the principles of personal data protection. Therefore, all stakeholders who are controllers of personal data need to adapt their provisions to this law to create legal certainty.

The law can no longer accommodate the digital needs of people who pay *zakat* through online platforms. The growth of online platforms in Indonesia is massive, starting with digital payments, crowdfunding, and peer-to-peer lending, which are the payment media of choice for *zakat*, *infaq*, and *sodaqoh*.

Although Indonesia issued Law Number 27 of 2022 concerning the Protection of Personal Data, all OPZs and online platforms as data controllers and processors of personal data must comply with all provisions in the law.

Based on this law, *muzakki's* financial data submitted to online platforms and OPZ is personal data according to Law Number 27 of 2022 concerning the Protection of Personal Data. Therefore, if the online platform and OPZ use for their interest such as cooperating with other platforms, they must get approval from *muzakki*.

On the other hand, for reasons of public interest and public service, as referred to in Article 20 paragraph 2 letter e of Law Number 27 of 2022 concerning the Protection of Personal Data, the protection *muzakki* data used for reporting *zakat* to the government becomes the legal basis for online platforms and OPZ to submit *muzakki* financial data. Therefore, all personal data controllers related to *zakat* management should pay attention to the provisions of the personal data protection law.

The idea of a personal data agreement and amendments to Law Number 23 of 2011 concerning the Management of *Zakat* is an effort to protect the rights of *muzakki* as personal data subjects. The rights of personal data subjects that are protected based on Law Number 27 of 2022 concerning the Protection of Personal Data are as follows:⁷⁵ Right to be informed; The right to rectification;

⁷⁵ Organisation for Economic Co-Operation and Development (OECD), The OECD Privacy Framework; "Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data," Pub. L. No. 108 (1981); Giakoumopoulos, Buttarelli, and O'Flaherty, *Handbook on European Data Protection Law 2018 Edition*; Privacy International, "Rights of Data Subjects Rights of Data Subjects," in *A Guide for Policy Engagement on Data Protection* (London-UK: Privacy International, n.d.), 2018; Riza Roidila Mufti, *A Policy Brief EU General Data Protection Regulation (GDPR)*; Tetiana L. Syroid et al., "The Personal Data Protection Mechanism in the European Union," *International Journal of Economics and Business Administration* VIII, no. Special Issue 1 (2020): 190–201, <https://doi.org/10.35808/ijeba/536>.

Right to access; The right to erasure/Right to be forgotten; The right to withdraw; Rights to automated decision-making and profiling; The right to restrict; The right to compensation; The right to object.

Legislation is an effective instrument for legal reform because it drives social change (law as a tool of social engineering) and reflects the existing values in society. Therefore, it is necessary to reform the law of *zakat* by amending Law Number 23 of 2011 concerning *Zakat* Management, especially in the *muzakki* data reporting chapter, to consider the provisions of personal data protection laws so that it can adapt to the development of society in the digital era.

Conclusion

Law Number 27 of 2022 concerning the Protection of Personal Data has changed all aspects of administering electronic systems in Indonesia by requiring every electronic system operator to protect personal data, including online platforms and OPZ in online-based *zakat*. Therefore, it is required for *muzakki*, online platforms, and OPZ as data controllers and personal data processors to have the protection agreement containing the rights and obligations. It is time for the legal reform of *zakat* management to be carried out so that it is adaptive to digital issues, one of which is the protection of personal data by amending Law Number 23 of 2011 concerning the Management of *Zakat* in term of the provisions governing reporting of *zakat* collection, namely Article 29, which must be amended by adding the provision that reporting must also pay attention to the principles of personal data protection.

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