

# REACTUALIZATION OF MASLAHAT AND SOCIAL JUSTICE PRINCIPLES IN THE CONTEXTUALIZATION OF FIQH ZAKAT

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Received 28-09-2023 | Revised 19-02-2024, 23-03-2024, 23-04-2024 | Accepted 26-06-2024

**Abstrak:** Zakat merupakan salah satu ibadah yang berhubungan langsung dengan masyarakat, yang tentunya dapat mengembangkan dan mengubah beberapa hal baik dari sisi subjek, objek, muzakki, amil, mustahik, maupun pengelolaan zakat. Tulisan ini berusaha menganalisis dan menemukan gagasan aplikatif tentang teori maslahat dan keadilan sosial dalam berbagai konsep pemikiran ulama kontemporer untuk kemudian dikorelasikan dengan rumusan pengembangan ijtihad zakat berbasis maslahat dan keadilan. Penelitian ini merupakan penelitian kepustakaan, literatur dalam penelitian ini berupa teks-teks keagamaan, penelitian ilmiah (jurnal dan disertasi), serta sumber-sumber klasik dan kontemporer yang membahas tentang upaya pemakmuran zakat, yang kemudian dianalisis secara kritis dengan pendekatan deskriptif kualitatif sehingga dapat ditegaskan bangunan pemikiran dan langkah strategis untuk menjadikan zakat sebagai sistem sosial Islam yang tidak hanya menyentuh persoalan keimanan semata tetapi juga kesejahteraan sosial ekonomi masyarakat sebagaimana tujuan utama pengaturan zakat. Hasil dari penelitian ini adalah prinsip maslahat yang dapat digunakan untuk upaya mensyariatkan fikih zakat tidak hanya terikat pada masalah mu'tabarab, mulghah, atau mursalah tetapi dapat menggunakan maslahat keadilan atau masalah maqsudah. Dengan menggunakan pendekatan keadilan maslahat atau masalah maqsudah, pengembangan objek, amil, dan mustahik, pengelolannya tentu akan lebih dinamis dan dapat mengoptimalkan zakat dalam perannya sebagai salah satu alat pembangunan negara.

**Kata kunci:** Maslahat, Keadilan Sosial, Kontekstualisasi, Fikih Zakat.

**Abstract:** Zakat is one of the worships directly related to society, which of course can develop and change certain things of subjects, objects, *mu'zakki*, *amil*, *mustahik*, and *zakat* management. This paper sought to analyze and find applicative ideas about the theory of *maslahat* and social justice in various concepts of contemporary scholarly thought to then be correlated with the formulation of the development of *ijtihad zakat* based on *maslahat* and justice. This research is literature research, the literature in this study is religious texts, scientific research (journals and dissertations), as well as classical and contemporary sources that discuss efforts to consecrate *zakat*, which is then critically analyzed with a qualitative descriptive approach so that it can be affirmed the building of ideas and strategic steps to make *zakat* an Islamic social system that does not only touch on the matter of faith alone but also the socio-economic welfare of the community as well as the main goal of *zakat* regulation. The result of this research is the principle of *maslahat* that can be used for efforts to consecrate *zakat fiqh* not only bound to *maslahat mu'tabarab*, *mulghah*, or *mursalah* but can use justice *maslahat* or *maslahat maqsudah*. By using the approach of justice *maslahat* or *maslahat maqsudah*, development of objects, *amil*, and *mustahik*, management will certainly be more dynamic and can optimize *zakat* in its role as one of the tools for state development.

**Key words:** *Maslahat*, Social Justice, Contextualization, *Fiqh of Zakat*



## INTRODUCTION

*Zakat* is a teaching that encourages the growth of the social and economic power of Muslims. *Zakat* has many different aspects, like the other four pillars of Islam: private-public, vertical-horizontal, and *ukhrawi-duniawi* values. These values serve as the foundation for developing the life of the wider community. If all these aspects of *zakat* teachings are implemented, *zakat* will become an enormous source of power for the development of the *ummah* that will drive the revival of Islamic civilization.<sup>1</sup>

The idea of *zakât* is mentioned in the Qur'an more than 100 times either alone or together with other commands. On the basis that *zakât* should be paid as part of total wealth. Bukowski stated that *zakat* is one of the best ways to measure economic growth, meaning that when people pay *zakat*, economic growth will increase and vice versa.<sup>2</sup>

As a social-ritual obligation, Islam has provided the principles of *zakat* that concern both spiritual and material values. Unfortunately, the discussion of *zakat*, especially in the existing classical *fiqh* books, only raises matters of *ubudiyah* and eschatological aspects, namely because of *ukhrawiyah* motives in the form of reward, the threat of punishment and in the form of *fadhillah* (virtue). The explanation of the law of *zakat* is also limited to the issue of its legal substance only, without explaining its purpose and importance, especially in terms of justice and other related concepts, such as social justice as *mu'amalah ijtimaiyah worship* and *mahdbah worship*.<sup>3</sup>

The classic debate between reason and revelation on textual ethics and benefit continues. Nowadays, the debate on the pattern of relationship between the two has never been linear. Beneficence, as the highest moral principle in Islamic teachings, is very important in the process of *ijtihad*, especially when socio-religious issues become more modern. Since benefit has strong theological legitimacy, consideration of benefit cannot be denied. In understanding religious texts, the main meaning of Islamic teachings is to benefit.<sup>4</sup>

About the concept of benefit and social justice, the object of *zakat* was initially determined by the Prophet Muhammad through his *sunnah*. The *nisab* of agricultural *zakat* that is irrigated with irrigation and requires costs and using rainfed has a significant difference of 5% and 10%. As the soul of *fiqh*, apart from *ikhtilaf*, there are many differences of opinion among scholars regarding the development of the object of *zakat* itself. The *mazhab* that gave many breakthroughs to the development of the object of *zakat* was the Hanafi *mazhab*. This is also one of the things that inspired later thinkers to dare to provide a breakthrough in renewing the object of *zakat* with considerations of justice. Inequality in the payment of *zakat* is certainly felt by the community. This makes many studies try to contribute their thoughts to direct the justice intended by the author. As done

<sup>1</sup> Safwan Idris, *Gerakan Zakat dalam Pemberdayaan Ekonomi Umat; Pendekatan Transformatif* (Jakarta: Citra Putra Bangsa, 1997), h. 33.

<sup>2</sup> Adam Bukowski, "Social Role of Alms (Zakat) in Islamic Economics," *Annales Ethics in Economic Life* 17, no. 4 (2014): 9, h. 124.

<sup>3</sup> Budi Rahmat Hakim dkk., "Tinjauan Fikih Awlawiyah Terhadap Praktik Penyaluran Zakat Pada Baznas Provinsi Kalimantan Selatan," *Interdisciplinary Explorations in Research Journal* 2, no. 2 (26 Mei 2024): 539, <https://doi.org/10.62976/ierj.v2i2.493>.

<sup>4</sup> M. Ilham Ilham, "Prinsip Moral Tertinggi," *Rausyan Fikir: Jurnal Studi Ilmu Usbuluddin dan Filsafat* 16, no. 1 (2020), <https://doi.org/10.24239/rsy.v16i1.550>.

by Yusuf al-Qaradhawi<sup>5</sup>, Sahhatih<sup>6</sup>, Hafiduddin<sup>7</sup>, Khatib<sup>8</sup>, Haris<sup>9</sup>, Waluyo<sup>10</sup>, and lmi<sup>11</sup>, and others in their dissertations. Al-Qaradhawi, Sahhatih, and Hafidhuddin broke down the development of the object of *zakat*, while Khotib attempted to reconstruct the *fiqh* of *zakat* from the area of Mahwah worship into *muamalah*, with the hope that efforts to develop the object of *zakat* are more dynamic and not rigid as happened in the Syafii school. Haris indirectly provided a way to dynamize the concept of *zakat* by basing it on progressive, proportional, and limitation principles. According to him, the dynamism of the percentage of *zakat* determined by the Prophet PBUH has 3 (three) characteristics, namely progressive, proportional, and limitations. Progressive means that *zakat* is taken from assets that grow and develop. Proportional, meaning that the percentage of *zakat* must be fair and not troublesome for *muzakki*. While limitation is the dynamism of the percentage of *zakat* that moves and is within the lower and upper limits of 2.5% to 20%.<sup>12</sup>

Based on, Waluyo, who has a breakthrough change to the *nisab* of *zakat*. Ilmi suggested that the management of *zakat* should be handed over to the Ministry of Finance, this is a further suggestion that is almost the same as that suggested by Khotib who had previously proposed this.<sup>13</sup>

Some other dissertations, such as the one written by Hadi<sup>14</sup>, showed that there are problems in the application of professional *zakat* in the Tulungagung area, there are civil servants who agree and also disagree to be subject to professional *zakat*. This also showed that the theory of the development of *zakat* objects offered by contemporary scholars such

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<sup>5</sup> Yusuf al-Qardhawi, *Fiqh al-Zakât; Dirâsah Muqaranah li Ahkâmihâ wa Falsâfâtihâ fi Dhaw-i al-Qur'an wa as-Sunnah* (Beirut: Yayasan al-Risâlah, 1991).

<sup>6</sup> Syaqui Ismail Sahhatih, *Penerapan Zakat Dalam Bisnis Modern* (Bandung: CV Pustaka Setia, 2007).

<sup>7</sup> Didin Hafidhuddin, *Zakat Dalam Perekonomian Modern* (Jakarta: Gema Insani Press, 2002).

<sup>8</sup> A Muhyiddin Khotib, *Rekonstruksi Fikih Zakat: Telah Komprehensif Fikih Zakat Pendekatan Teoretis dan Metodologi* (Batu: CV. Literasi Nusantara Abadi, 2019).

<sup>9</sup> Gusnam Haris, "Persentase Zakat Menurut Yusuf al-Qaradawi dan Urgensinya Bagi Penerapan Zakat Oleh Baznas Di Indonesia," *Kementrian Agama* (UIN Sunan Kalijaga, 2019).

<sup>10</sup> Waluyo, "Zakat Pertanian Perspektif Maqasid Syariah," *Kementrian Agama* (UIN Sunan Kalijaga, 2022).

<sup>11</sup> Muhammad Bahrul Ilmi, *Politik Hukum Pengelolaan Zakat di Indonesia: Kajian Terhadap Undang-undang Nomor 23 Tahun 2011* (Yogyakarta: Program Doktor Hukum Islam UII dan Mirra Buana Media, 2021).

<sup>12</sup> Imam Yahya, "Zakat Management in Indonesia: A Legal Political Perspective," *Al-Ahkam* 30, no. 2 (30 Oktober 2020): 195, <https://doi.org/10.21580/ahkam.2020.30.2.6420>.

<sup>13</sup> Syaikh Syaikh, Norwili Norwili, dan Rabiatul Adawiyah, "The Zakat Management Legal Conflict of the Prismatic Society in Central Kalimantan," *Al-Manahij: Jurnal Kajian Hukum Islam*, 25 November 2022, 209, <https://doi.org/10.24090/mnh.v16i2.6014>.

<sup>14</sup> Muhammad Hadi, *Problematika zakat profesi & solusinya: sebuah tinjauan sosiologi hukum Islam* (Pustaka Pelajar, 2010). Persoalan zakat profesi – yang pada awalnya ditujukan untuk keadilan dan kemaslahatan – tidak berarti tanpa perlawanan dari "calon" muzakki zakat profesi. Faozan Amar, "Strategi Penghimpunan Zakat Profesi Pada Organisasi Pengelolaan Zakat Lazismu Berbasis Digital Fundraising" (Universitas Muhammadiyah Prof Dr Hamka, 2023). Lihat juga, Efendi Sugianto, "Kesadaran Hukum Anggota Polri dalam Penerapan Peraturan Perundang-Undangan Tentang Zakat Profesi di Kepolisian Daerah Kepulauan Bangka Belitung dan Kontribusinya dalam Pengentasan Kemiskinan Masyarakat" (UIN Sunan Gunung Djati, 2023). yang menemukan bahwa kesadaran hukum anggota POLRI di POLDA Kepulauan Bangka Belitung dalam level sedang, dari 3.196 muzakki ada 1.244 muzakki yang membayar zakat profesi dengan jalan dipotong langsung melalui gaji. Lihat juga, Verina Salisa Azhara dan Ateng Ruhendi, "Pelaksanaan Penentuan Nishab Zakat Profesi PNS Menurut Fatwa MUI No. 3 Tahun 2003 Di Kantor Kementerian Agama Kabupaten Ciamis," *Al-Muamalat: Jurnal Ekonomi Syariah* 7, no. 2 (2020): 11., penelitian ini menunjukkan bahwa: 1) Ketentuan nishab zakat profesi PNS yang diterapkan di Kantor Kementerian Agama Kab. Ciamis tidak sepenuhnya mengikuti regulasi yang dijadikan patokan seluruh instansi di Kab. Ciamis, baik Fatwa MUI Nomor 3 Tahun 2003 maupun Keputusan Ketua BAZNAS Nomor 142 Tahun 2017. 2) Pelaksanaan zakat profesi PNS di Kantor Kementerian Agama Kab. Ciamis tidak selaras dengan Fatwa MUI Nomor 3 Tahun 2003 sebab zakat dikenakan kepada semua golongan PNS, zakat diambil dari penghasilan kotor, serta zakat dikeluarkan meskipun belum mencapai waktu haul.

as Qardhawi, Sahhatih, and others does not necessarily make the community consider it to fulfill *maslahat* and justice.<sup>15</sup>

In the study of the development of *zakat* management both related to the subject, object, and management of *zakat*, if no *shariah nash* is found, then the role of *ijtihad* of the scholars is needed. *Maslahat* and justice are some of the considerations that formulate fatwa and existing *zakat* regulations. *Fatwa* on *zakat* is a development of the existing *zakat* text. So far, the requirements for *maslahat* to be used as one of the arguments for changing a law that is not found in the *sharib nash*, are quite strict, such as that the *maslahat* is not only a *z'honiah maslahat*. Of course, this must be re-read with a reading that is adaptive and responsive to the times.<sup>16</sup>

This paper attempted to elaborate some philosophical concepts and thoughts about the principles of *maslahat* and justice that can be used as the basis for the development of progressive *ijtihad* on *zakat*, which is expected to be a contribution of thought to realize *fiqh* of *zakat* that is more responsive to the development of the modern era.

## METHOD

This research is a basic qualitative literature research that found to describes, analyzes, and interprets the legal materials collected in the literature review process. The library materials used in this research are religious texts, scientific research (journals and dissertations), as well as religious texts. Classical and contemporary sources that discuss the efforts to contextualize *zakat*. Literature related to the conception of *maslahat* and the theory of justice is correlated with ideas about the development of new *ijtihad* on technical aspects of *zakat fiqh*. Furthermore, the search is used as the basis of analysis to criticize and seek new ideas to develop the issues discussed. The approach that the author uses is normative-historical.

This approach involves studying various references and the concept of its implementation to understand how *zakat* is understood as an act of worship and also part of an effort to make *zakat* management have the spirit of *maslahat* and social justice. Of course, the results of this research are expected to have implications for public understanding of the development of *zakat fiqh*, to optimize *zakat* income which is then used for poverty alleviation as well as the development of the Indonesian state.

## RESULTS AND DISCUSSIONS

### Fiqh Paradigm in the Reality of Understanding and Actualizing Zakat

Throughout the history of Islamic society, Muslims have often ignored the teachings of *zakat* in all its aspects. *Zakat* turned into a “personal *mahdhab* worship of the Muslims”. *Zakat* evolved from a broad and deep doctrine developed by the Prophet and the Companions to a narrow doctrine when Muslims retreated and the willingness to do jurisprudence declined.<sup>17</sup>

Muslims agree that *zakat* is a pillar and ritual of Islam that must be performed by every Muslim. *Zakat* will always be contextualized as a ritual text. It is always related to the culture

<sup>15</sup> Muhammad Bahrul Ilmie dan Abdul Ghafur Anshori, “The Political Law of Zakat Management in Indonesia,” *Syariah: Jurnal Hukum Dan Pemikiran* 20, no. 2 (21 Desember 2020): 175, <https://doi.org/10.18592/sjhp.v20i2.4063>.

<sup>16</sup> Desi Refnita, “The Mustahik Zakat in Various Dimensions of Fiqh in Era Society 5.0,” *El-Maslahab* 11, no. 1 (28 Juni 2021): 13, <https://doi.org/10.23971/elma.v11i1.2285>.

<sup>17</sup> Idris, *Gerakan Zakat dalam Pemberdayaan Ekonomi Umat; Pendekatan Transformatif*, h. 33

in which *zakat* is performed. This means that the practice of *zakat* can vary greatly depending on its meaning as interpreted and transformed by the local community. *Zakat* law is different from other worship laws because its legal nature at this level is flexible, dynamic, and elastic by the development and needs of society (*mu'amalah ijtimaiyyah*) based on normative texts that are general and *zanniyyah*.<sup>18</sup>

According to Mas'udi, the social ideals and perspectives that are at the core of *zakat* teachings are driven by two characteristics of medieval religious styles. Firstly, as indicated by its *kalam* tradition, the focus was on the themes of speculative-metaphysical (occult) related to real-world challenges. Secondly, as its *fiqh* tradition shows, its focus is only on partial (*juz'iyah*) and ad hoc issues on an almost entirely individualized scale.<sup>19</sup> This relegation of social outlook certainly did not happen suddenly, but step by step by the socio-historical developments that took place in Islamic society itself.<sup>20</sup>

Around the 3rd century A.H. or 9th century A.D., the strongholds of the Islamic school of thought were built and strengthened, so that the people gradually experienced sterility of thought.<sup>21</sup> Religious concepts have been passed down from generation to generation. Submission must follow what has been outlined and elaborated by previous scholars. There is no need to change the concept of the teachings because of whatever happens in people's lives. There should be no adjustments to the formula of the teachings; instead, it is human needs that always have to adjust to the sound of the teachings.<sup>22</sup>

Of course, as a central religious teaching, the concept of *zakat* is also in this freeze. There is no need to rethink *zakat*, just as there is no need to rethink prayer, fasting, hajj, and others. Everything must be considered as a teaching of worship that must be addressed *ta'abbudi* (dogmatically), so what is always emphasized is only the practice, accepting and carrying out with full obedience (*sam'an wa thaa'atan*) that is the sole task and space for the *ummah*. *Zakat* is practiced by Muslims in a way that has been explained by the *mujtahid* scholars in their literature, just like the other pillars of Islam, such as prayer and fasting. Muslims tend to be *taqlid* or *maximally ittiba'*<sup>23</sup> to them.<sup>24</sup>

However, the situation began to change since the scientific and technological revolution about three centuries ago so the re-examination of religious teachings was increasingly open. The social and scientific revolution that ushered in and characterized this modern century has brought about very fundamental changes in the lives of mankind. This fact, according to Mas'udi, provided a lot of hope as well as causing anxiety. According to him, the development of science and technology not only has a positive effect on the

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<sup>18</sup> Mahdi Syahbandir dkk., "State and Islamic Law: A Study of Legal Politics on Zakat as a Tax Deduction in Aceh," *AHKAM: Jurnal Ilmu Syariah* 22, no. 1 (30 Juni 2022), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/26200>.

<sup>19</sup> Masdar Farid Mas'udi, *Pajak itu Zakat: Uang Allah untuk Kemaslahatan Rakyat*, Cet. I (Bandung: Mizan, 2010), h. xxxv.

<sup>20</sup> Ali Murtadho Emzaed dkk., "Restriction of Islamic Civil Society Participation: Genealogy of Zakat Legal Politics and Its Centralized Management in Indonesia," *Journal of Islamic Law* 4, no. 2 (9 Agustus 2023): 148, <https://doi.org/10.24260/jil.v4i2.1444>.

<sup>21</sup> Mas'udi, *Pajak itu Zakat: Uang Allah untuk Kemaslahatan Rakyat*, h. xxix.

<sup>22</sup> Ilham Thohari dan Moh Makmun, "Reformasi Zakat Pertanian (Studi di Dusun Jeblok Desa Brudu kecamatan Sumobito kabupaten Jombang)," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 19, no. 2 (31 Desember 2019): 185, <https://doi.org/10.18326/ijtihad.v19i2.185-203>.

<sup>23</sup> *Taqlid* dan *ittiba'* memiliki perbedaan yang cukup signifikan, yakni *taqlid* hanya mengikuti pendapat ulama tanpa harus mengetahui dalilnya, sementara *ittiba'* harus mengetahui dalil-dalil yang digunakan ulama yang dianut (metode *istidlal*-nya).

<sup>24</sup> Mohd 'Adli Zahri dkk., "Microfinancing from the Zakat Fund in Baitul Mal Aceh and the Readiness of Malaysia's Asnaf Entrepreneurs," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (31 Maret 2023): 418, <https://doi.org/10.22373/sjhk.v7i1.16012>.

level of prosperity and enjoyment of life but is combined with socio-economic inequality, which produces new and more complex problems such as poverty and injustice.<sup>25</sup>

In this context, *zakat* needed to show its role and power to solve the problem of socio-economic inequality. *Zakat* is the Islamic teaching that is closest to the main problem of humanity, an injustice that always stems from economic injustice.

Since modernity took hold of the world, various aspects of life have undergone many changes. Another important fact about the advent of globalization is that industrialization was brought about by rapid advances in science and technology. In the contemporary era, industrialization has become an essential component of a country.<sup>26</sup>

Many things must adjust, including religious life, because various aspects of life are developing rapidly, including the socio-economic sector. The jurists of the past were unaware of many of the issues that arise today. For this instrument of *ummah* empowerment to remain effective and relevant to the demands of modernity, *Zakat*, which is an important part of Islamic teachings, must be confronted with new issues that need to be scientifically examined. For example, the exploitation of nature around the world has resulted in an increase and growth of wealth that was not originally subject to *zakat* but is now considered unfair if it is not subject to *zakat*.<sup>27</sup>

In this regard, Qaradhawi said that new researchers are needed who can interpret Islamic teachings, especially *zakat*, in a way that suits the times. In addition, he stated that the discussions of past *fiqh* books do not cover many contemporary issues. Therefore, he emphasized the importance of contemporary *ijtihad*, including *zakat*.<sup>28</sup>

### The Principle of *Maslahat* in the Development of Islamic Law

The values and objectives of *Shara* substantially aim to create public interest in human life; this public interest changes and is flexible with the times. By considering the public good and preventing damage, the values and objectives of *Shara* offer alternative solutions to the complexity of problems facing human life.

Scholars of *ushul fiqh* often conclude that every law must produce benefits. *Maslahat* never leaves the law, but the benefit is not the basis of the law. The position of *maslahat* is different from the Prophetic *Sunnah*, *ijma'*, *qiyas*, and the Quran as *mustaqil* evidence. Because the rulings of *juz'i* (partial) are only the general meaning implicitly behind *maslahat*, while the *juz'i* rulings themselves would not exist without the process of *istinbath*.<sup>29</sup>

The word *maslahat* comes from Arabic (*al-maslahah*) and has been standardized into Indonesian, which means benefit or work that contains benefits. This term was put forward by scholars of *usul fiqh* in discussing the methods used when doing *istinbath* (determining the law based on the arguments contained in the text).<sup>30</sup> *Maslahat* is one of the methods of

<sup>25</sup> Mas'udi, *Pajak itu Zakat: Uang Allah untuk Kemaslahatan Rakyat*., h. xxxii.

<sup>26</sup> Suparto Suparto, Admiral Admiral, dan Deni Jaya Saputra, "Local Government Authority in The Field of Religion; A Study of Regional Regulation (Perda) on Zakat in Riau Province," *De Jure: Jurnal Hukum dan Syaria* 14, no. 2 (30 Desember 2022): 244, <https://doi.org/10.18860/j-fsh.v14i2.15322>.

<sup>27</sup> Nur Ibadi dan Eja Armaz Hardi, "Is Human Trafficking's Victim Receive Zakat as Riqab?: Zakat Distribution at East Java Philanthropic Organizations," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 22, no. 1 (30 Juni 2022): 15, <https://doi.org/10.30631/alrisalah.v22i1.1210>.

<sup>28</sup> Yusuf al-Qaradhawi, *Hukum Zakat; Studi Komparatif Mengenai Status dan Filsafat Zakat Berdasarkan Quran dan Hadis*, ed. oleh Salman Harun dan dkk, vol. Cet. IX (Jakarta: PT. Pustaka Litera AntarNusa, 2006), h. 7.

<sup>29</sup> Khairuddin Hasballah, Dhaiful Mubarrak, dan Saddam Rasanjani, "Disparity in Judge Decisions in Resolving Rad Inheritance Disputes: Case Study at the Sharia Court in Banda Aceh City," *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (30 Desember 2023): 249, <https://doi.org/10.22373/ujhk.v6i2.8612>.

<sup>30</sup> Abdul Azis Dahlan, *Ensiklopedi Hukum Islam* (Jakarta: Ichtiar Baru Van Hoeve, 1996), Jilid 6, h. 1143. Miftaakhul Amri, "Implementasi Zakat Profesi (Studi Analisis Pelaksanaan Zakat Profesi Aparatur Sipil Negara di Baznas Kabupaten Banyumas Perspektif Sosiologi Hukum Islam)" (Institut Agama Islam Negeri

thinking to obtain legal certainty on a problem based on benefit and harm due to the absence of text or consensus that determines the law.

Determination of the law on the consideration of *maslahat* is a very wide range when there is no text. The *maslahat* method opens the way for *mujtahids* to determine the law. However, the use of the *maslahat* method should not be haphazard and must go through procedures or signs set by the scholars, so as not to get out of the corridors of *sharia*.

The scholars agreed, that in the field of worship, the absolute guide is the Qur'an and hadith, so it is not valid worship by only adhering to the rules of *al-maslahat al-mursalah* or *qiyas*. Because the principle in worship is compliance with the *Sharia* text (*sam'ina wa 'atba'na*). Determination of the law of worship is solely the prerogative of Allah.<sup>31</sup>

This is closely related to the main purpose of Islamic *shari'a*, which is to realize the benefit of mankind both in this world and in the hereafter. This is in line with the overall mission of Islam which is *rahmatan lil'alamin*. In al-Muwafaqat, Al-Syatibi stated that: "It is known that the Islamic *Shari'ah* was enacted to realize the absolute benefit of the creatures".<sup>32</sup> In another statement, al-Qardawi said that: "Where there is *maslahah*, there is the law of Allah".<sup>33</sup>

As in the field of *mu'amalah* or issues concerning *fardu kifayah*<sup>34</sup>, maintaining worldly benefits can be thought of by common sense as principles in life relations for social welfare. Therefore, scholars agreed that in matters of *mu'amalat* and custom ("*urf*"), it is necessary to pay attention to the "*illat*", or background to the emergence of the law, which is the law that allows or prohibits doing something, such as in the economic field to prevent and reduce poverty as low as possible, improve the economic standard of living of the community through the provision of employment, reduce social inequality, and so on.<sup>35</sup>

Islamic law is flexible because *maslahat* is placed as secondary law. Local application showed that the law is universal, meaning that it can be applied anywhere and anytime in all social fields. However, keep in mind that the actual application of the formulation of the source of law is only for the field of *mu'amalat* (social), not the field of worship (*mahdhab*).<sup>36</sup>

Scholars who support this reasoning concept note that there are three conditions for the application of *maslahat* law, namely:

1. "*Maslahat* must be certain, not just a fabrication or assumption that it does realize a benefit or prevent a harm or misfortune).

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Purwokerto, 2019). Lihat Bazro Jamhar, "Konsep Maslahat dan Aplikasinya dalam Penetapan Hukum Islam (Studi Pemikiran Ushûl Fiqh Sa'id Ramadhân al-Bûthi)," *Kementrian Agama* (IAIN Walisongo, 2012).

<sup>31</sup> Kamaruddin dkk., "Cultural-Based Deviance on Islamic Law; Zakat Tekke Wale' Spending in Basala, Konawe, Southeast Sulawesi, Indonesia," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 2 (2023): 568, <https://doi.org/10.19105/al-lhkam.v18i2.10150>.

<sup>32</sup> Abû Ishâq al-Syatîbî Ibrâhîm bin Musa bin Muhammad al-Lakhîmî, *al-Muwâfaqât fî Ushû al-Abkâm* (Qahirah: Dâr al-Fadhîlah, 2010).

<sup>33</sup> Yusuf al-Qardhawi, *al-Ijtihad al-Mu'asir* (Beirut: al-Maktabah al-Islami, 1998), h. 68.

<sup>34</sup> Yaitu urusan-urusan umum yang menyangkut kepentingan-kepentingan (*mashalih*) tegaknya urusan agama dan dunia dalam kehidupan kita. Lihat Ali Yafie, "Konsep Istihsan, Istishlah, Istishab, dan Mashlahat al-'Ammah," dalam *Kontekstualisasi Doktrin Islam dalam Sejarah*, ed. oleh Budi Munawar Rahman (Jakarta: Yayasan Wakaf Paramadina, 1994), h. 367.

<sup>35</sup> Iza Hanifuddin, Nur Kasanah, dan Eficandra Eficandra, "Al-Qard al-Hasan Program of Bankziska: Zakat Fund-Based Empowerment Model for Victims of Loan Sharks," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 1 (6 Juni 2024): 10, <https://doi.org/10.31958/juris.v23i1.10799>.

<sup>36</sup> Anang Haris Himawan, "Refleksi Pemikiran Hukum Islam: Upaya Menangkap Makna dan Simbol Keagamaan," dalam *Epistemologi Syara': Mencari Format Baru Fiqh Indonesia*, Cet. II (Yogyakarta: Pustaka Pelajar dan Walisongo Press, 2009), h. 83-84. Maslahat merupakan salah satu metode penetapan hukum Islam, yang perselisihkan, namun tidak bisa dipungkiri bahwa keberadaannya menjadi satu hal yang tidak bisa dipisahkan dari perubahan hukum Islam. Lihat dalam Abdul Helim, *Metodologi Penetapan Hukum Islam (Ushul Fiqh Praktis (1))* (Yogyakarta: Pustaka Pelajar, 2022), h. 97-104.

2. *Maslahat* is not a personal interest or a small group of people but must be public, and become a public need.
3. The result of the *maslahat* reasoning does not lead to the neglect of a principle established by the sharia text or an equivalent provision (*ijma*).<sup>37</sup>

Scholars are reinterpreting Islamic law to re-actualize it, but it appears that they (the *mujtahids*) are limiting themselves to the field of *muamalah* as a whole, as this is a field that can undergo many changes due to changing conditions and situations. The development and change of *fiqh* are influenced by time, place, and circumstances. Hence, *maslahat* can change with the times and conditions of society. What is considered good at one moment may no longer be considered good at the next.

Khotib, in his dissertation, dared to break down the concept of *zakat* which is in the realm of *mahdah* worship, reconstructing it and reconstructing it for the sake of. It is included in the *muamalah* area.<sup>38</sup> In his dissertation, Khotib mentioned that the reconstruction of *zakat fiqh* from worship to *muamalah* has one of the implications, namely the development of *zakat* objects.<sup>39</sup> Although the concept built by Khotib is not easily accepted by many people, the implications are quite interesting to be discussed. Long before this, the debate about the object of *zakat* has been going on for a long time. One of them was about honey *zakat*, in which Ali ra. said that *zakat* was only obligatory for means of exchange and livestock (goats, cows, and camels), excluding horses, during the time of Ali ibn Abi Talib. He also said that no Muslim was free - adult, child, or insane. *Zakat* on honey also did not have to be applied to the people at that time.<sup>40</sup> Before Khotib's concept, the development of *zakat* objects had been initiated by al-Qardhawi, Shahatih, Hafifuddin, and others.

Khoiri<sup>41</sup>, in his dissertation, quoted the opinion of Abdul Mughits, who stated that shortly, it is projected that the Syafii school of thought will be gradually or even significantly abandoned by its adherents from the Indonesian Islamic community, especially in the field of *muamalat*, which is no longer relevant to the social and cultural conditions of the community. Even more so if Khotib's offer is accepted that *zakat* is included in the *muamalah* area. This has previously been researched by Anshor,<sup>42</sup> in his dissertation, stated that the dynamics of *mazhab* in bahtsul masail in the East Java NU regional board, which has begun to venture out of the main *mazhab*, namely Syafii fiqh, even using references outside the four *mazhab* such as the al-Zahiri madhhab.

However, the author found a hadith from Ibn Umar that explains the *nisab* of *zakat* on honey, namely:

حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى النَّيْسَابُورِيُّ قَالَ: حَدَّثَنَا عَمْرُو بْنُ أَبِي سَلَمَةَ النَّيْسَبِيُّ، عَنْ صَدَقَةَ بْنِ عَبْدِ اللَّهِ، عَنْ مُوسَى بْنِ يَسَارٍ، عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي الْعَسَلِ: (فِي كُلِّ عَشْرَةِ أَرْقِ زَقٌّ)<sup>(43)</sup>

<sup>37</sup> Yafie, "Konsep Istihsan, Istishlah, Istishab, dan Mashlahat al-'Ammah.", h. 367.

<sup>38</sup> Khotib, *Rekonstruksi Fikih Zakat: Telah Komprehensif Fikih Zakat Pendekatan Teoretis dan Metodologi*.

<sup>39</sup> Khotib.

<sup>40</sup> Muhammad Rawwâs Qal'âhî, *Mausûat Fiqh 'Alî bin Abî Thâlib* (Mesir: Dâr al-Fikr, 1983)., h. 300-320.

<sup>41</sup> Nispul Khoiri, *Metodologi Fikih Zakat Indonesia (Dari Kontekstualisasi Mazhab Hingga Maqasid al-Syariah)* (Bandung: Citapustaka Media, 2014)., h. 9.

<sup>42</sup> Ahmad Muhtadi Anshor, "Baht al-Masail Pengurus Wilayah Nadhatul Ulama (PWNU) Jawa Timur (Studi tentang Dinamika Bermazhab)," *Kementrian Agama (Institut Agama Islam Negeri Sunan Ampel, 2011)*.

<sup>43</sup> Muhammad bin Isâ bin Surah bin Musâ al-Dhahâk al-Tirmidzî, *Al-Jâmi' al-Shahîh Wa-Hunna Sunan Tirmidzî* (Kairo: Dâr al-Hadits, 2005)., Jilid 3, h. 15. Lihat juga Al-Imâm al-Hâfizh Abî al-'Alâ Muhammad bin Abdurrahmân Ibn Abd al-Rahmân al-Mubârafurî, *Tuhfâh al-Ahwâdzî bi Syarh Jami'u al-Tirmidzî* (Beirut: Dâr al-Kutub al-Ilmiyah, t.t.)., Jilid 2, h. 8. Lihat Muhyi al-Sunnah Abû Muhammad al-Husain bin Mas'ûd bin Muhammad al-Fara'î al-Baghâwî al-Syâfî'î, *Syarh al-Sunnah* (Beirut: al-Maktabah al-Islâmî, 1983)., Jilid 6, h.

The determination of *zakat* on honey is not based on strong evidence. However, if honey is not subject to *zakat* in this case, it can be subject to *zakat* again when it becomes a commodity of *tijarah* or trade, with the terms and conditions of trade of *zakat*.

When compared to Yemen, which issued Qanun No. 2/1999 on *Zakat*, it can be seen that there is *zakat* on money, and other securities, professional *zakat*, marine products such as fish, pearls, amber, and others. Honey and livestock products are also subject to *zakat*. In the case of *zakat al-fitr*, Yemen allowed the *muḥṣak* to pay with their *qimat* if it was deemed good and beneficial. The consideration of *maslahat* is also something that is often used to make a regulation.

In the concept of expanding the *mustahik* of *zakat*, it can be seen in “Baznas Decree Number 64 of 2019 concerning Guidelines for the Implementation of the Distribution and Utilization of *Zakat* within the National Amil *Zakat* Agency”, the definition and criteria of *fakir* have been expanded. “*Fakir* is a person who has no source of income to fulfill basic needs. Included in the *fakir* category are: elderly people who cannot work, children who have not reached puberty, people who are sick or physically or mentally disabled, people who fight in the way of Allah without receiving payment, victims of natural disasters or social disasters. While poor, is a person who has a source of livelihood but cannot meet the basic needs that are appropriate for the life of himself or his dependent family. Baznas provided the following categories of poor: 1) people who do not or lack knowledge and skills, 2) people who do not or lack business capital, 3) people who do not or lack access to markets, 4) people who do not or lack access to education and health; and, 5) people who do not have access to worship, while still paying attention to the provisions of needs measured by had *keifayah*”.

Baznas provided information that in the case of victims of natural disasters or social disasters in question, it does not look at whether the victims are Muslim or non-Muslim. This can be examined from the concept offered by Abu Hanifah in *fiqh*. If you look at the evidence, you will see that it is limited to *zakat al-fitr* only and that it may be given to non-Muslims. Al-Thabari<sup>44</sup> says in his *tafsir* that the poor are Muslims who are lacking in their daily needs and need to be assisted in fulfilling these needs. Whereas the poor are non-Muslims who need help in fulfilling their daily needs.

Because the purpose of *fiqh* is to bring about mutual benefit, it must naturally be able to relate to people's lives and become public legal awareness, in other words, the implementation of sharia law must be real amid religious plurality in society.

Conversely, the benefit of a society, whether individual or group, is determined by the changes and developments that occur in that society. Because no society stops changing with the times, society is always changing. Based on this fact, previous scholars stated that it is inevitable that laws change over time.<sup>45</sup>

تَغْيِيرُ الْفُتُوَى، وَاحْتِمَالُهَا بِحَسَبِ تَغْيِيرِ الْأَزْمَنَةِ وَالْأَمْكِنَةِ وَالْأَحْوَالِ وَالنِّيَّاتِ وَالْعَوَائِدِ<sup>46</sup>

44. Sangat memungkinkan terjadi perbedaan pendapat dalam mengiyaskan nisab madu dengan nisab hasil pertanian. Sedangkan KHES, lebih tegas, dengan Pasal 677 menyebutkan bahwa zakat wajib dikeluarkan pada madu jika telah mencapai 70 Kg setelah dikurangi biaya produksi dengan besarnya zakat yang harus dikeluarkan sebanyak 5%. Perhitungan ini tentu telah memperhitungkan dengan harga madu dan nilai dari nisab zakat pertanian.

<sup>44</sup> Muhammad Ibnu Jarir, *Jami' u al-Bayan fi Ayy Ta'wil al-Quran Tafsir Ibnu Jarir at-Thobari* (Mesir: Muasasah ar-Risalah, 2000)., Jilid 14, h. 308.

<sup>45</sup> Al-Imâm al-Jalâlu al-Din Abd al-Rahmân al-Suyuthi, *al-Ashbâh wa al-Nazhâ'ir fi Qawâ'id wa Furû' Fiqh al-Syar'hiyyah* (Beirut: Dâr al-Kutub al-Ilmiyyah, 1998)., h. 63.

<sup>46</sup> Ibnu al-Qayyim al-Jauziyah, *I'lâm al-Muwaqî'in Rabb al-'Alamîn* (Beirut: Dâr al-Jayl, 1975)., Jilid 3, h. 11. Lihat juga Abdullâh bin Abdul Muhsin, *Ushûl al-Mazhab al-Imâm Ahmad* (Beirut: Dâr al-Fikr, 1980)., h. 164.

“Changes and differences in fatwas are based on changes in time, place, conditions, intentions, and circumstances custom”

Society changes all aspects of its life, with both positive and negative consequences. Changes that lead to good customs in society can be used as a basis for ruling on issues that occur for the benefit of mankind. Therefore, in this situation, benefits also change with time, the environment, and the individuals who practice them.

### **Functional Correlation of Zakat with the Principle of Justice**

The Quran commands humans to do justice in all aspects of their lives, especially in social life. Since justice is an essential part of community life, the Quran commands humans to be fair and just be good (QS. AlNahl/16: 90). The justice that Allah commands is not equality of rights, but equality and balance because equality is contrary to the principles of justice in some situations.

The use of the word fair here means; equalizing, aligning, and comparing between two or more parties outside of oneself as separate units (not between potentials within oneself), even though one of the parties involved may be oneself *vis-à-vis* another person or party.

This theory in its realization stage has two forms, namely (1) equating, aligning, or comparing absolutely two or more without seeing the realization of the thing or object itself, whether the same or not. (2) Equating, aligning, or comparing two or more objects that are indeed the same, comparable, and parallel, namely by their reality. The first concept of justice (subjective) is a wrong concept of justice because equating two or more objects that are the same is an injustice (*ẓulm*), which is the opposite of the second form of justice (objective).<sup>47</sup>

In Islam, justice has its meaning. It is akin to a sacred belief, an obligation imposed on human beings to be carried out diligently and honestly. This is to guarantee one's interests with others. The concept of justice in this objective form is by the affirmation of Sayyidina Ali ibn Abi Talib ra.: *وضع الشيء في محله* ( putting things in their places and proportions).

In the Quran, the concept of justice is objective justice in its various aspects and contexts. It is the main principle that shapes its entire teachings, both about God, fellow human beings, and the universe. In general, it can be said that justice is harmony and harmony in all aspects of life. According to Islam, morals are the foundation of social justice. As a result, the obligation to act justly and help each other automatically increases. Justice is the main pillar of society, according to the Quran, more important than *Ihsan* or generosity. Justice is when people work together to make a strong society. Therefore, those who have more should feel compelled to help out those who cannot fulfill their basic needs or achieve so that they can live together well.<sup>48</sup>

As a result, Islamic social justice is considered a consequence of monotheism in life. Hence, economics is related to ethics, just as *zakat* indicates man's responsibility towards society. In Islamic society, socio-economic justice is the result of a decision-making process based on the truth because of Allah and therefore by human nature. Therefore, Islamic social justice has characteristics and goals:

- a. “Based on Islamic brotherly relations,
- b. defending the weak, the poor, and the needy,
- c. Based on dynamic human development,
- d. Ethics that honor work and achievement
- e. The ethic of giving is better than receiving,

<sup>47</sup> Abdurrahman Qadir, *Zakat dalam Dimensi Ibadah Mahdhab dan Sosial* (Jakarta: PT. RajaGrafindo Persada, 2001)., h. 136.

<sup>48</sup> Quraish Shihab, *Wawasan al-Qur'an; Tafsir Maudhu'i atas Pelbagai Persoalan Umat* (Bandung: Mizan, 2001)., h. 124.

- f. Disciplined, future-oriented, and planning,
- g. Pioneering and creative spirit,
- h. Prioritizing capital utilization and productive orientation.”<sup>49</sup>

*Zakat* is part of the justice system and one of the tangible forms of an economic system that supports social justice. As an instrument of the justice system, *zakat* gives rights to a person. In contrast, social justice can be defined as giving rights to people based on fairness and balance. Islamic social justice does not demand that all people have the same level of income or that poverty be eradicated. Rather, Islamic social justice should result in a harmonious society where there are no significant differences between the rich and the poor, and no factors that lead to a decline in productivity, growth, and development of the potential of natural and human resources.

The teachings of *zakat*, *sadaqah*, and other social assistance given by the rich to the poor are clear examples of Islamic social justice. This is because the task of realizing social justice is very heavy and broad, and the Quran gives the state great authority to realize welfare and prosperity for the community. This is clear evidence of the role of *zakat* in realizing definite social justice in society.<sup>50</sup>

Although a sense of justice is an abstract value, it demands concrete and positive actions and measures. Since the payment of *zakat* is a gift of some much-loved property, the payment of *zakat* is a concrete example of a sense of social justice. Since a portion of one's property is owned by others who are given property rights by Allah SWT, it must be spent willingly.

Qadir states that *zakat* has two social effects. First, the rich who are obliged to pay *zakat* automatically cleanse their souls from asocial traits such as benevolence, miserliness, greed, and selfishness, and encourage them to be social, like to sacrifice and help people who are unable. Secondly, the poor who receive *zakat* in the form of much-needed wealth will automatically get rid of bad traits such as benevolence, miserliness, and selfishness. By giving *zakat* to the rich, the soul of the poor is protected from ill will towards the rich. By giving *zakat* to the rich, the soul of the poor is protected from ill will towards the rich. Therefore, this group helps to realize social stability and security which is highly desired by everyone in society.<sup>51</sup>

Social justice must be created before stability and security can be achieved. *Zakat*, apart from serving as an act of worship, is also a means and tool for social justice. It is the most common and primary form of social justice. *Zakat* will greatly influence a dynamic and positive social life filled with a sense of social responsibility. It will avoid negative ideologies such as capitalism, which produces individualistic and self-centered attitudes, and communism, which incites the common people against the rich and the government.

An academic concern about justice is expressed by Waluyo<sup>52</sup>, who stated that farming households are a large contributor to the poverty rate. Waluyo felt that there is injustice in the issue of *zakat nisab*, agricultural *zakat* is 10% or 5%, while other *zakat* is 2 1/2%. The author suggests that the *nisab* of agricultural *zakat* should be 85 grams of gold, and 2 1/2%

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<sup>49</sup> M. Amin Aziz, “Sekitar Kemiskinan dan Keadilan dari Cendekiawan Kita Tentang Islam,” dalam *Sekitar Kemiskinan dan Keadilan dari Cendekiawan kita tentang Islam*, ed. oleh dkk. Sri Edi Swasono (Jakarta: UI Pres, 1987), h. 78-79.

<sup>50</sup> Muhammad Ali al-Sais, *Tafsir Ayat al-Abkam* (Kuwait: Dar al-Fikr, 2021), h. 37. Lihat juga Al-Jasshas, *Abkam al-Quran* (Mesir: Al-Bahiyah, 2002). Jilid 3, h. 152. Lihat Sukarni, “Manajemen Dan Etika Pengelolaan Zakat Menurut Tinjauan Syariah,” *Syariah Jurnal Hukum dan Pemikiran* 13, no. 1 (2014), <https://doi.org/10.18592/syariah.v13i1.83>, yang menegaskan bahwa Pentingnya zakat itu dapat dilihat dari misi syariah Islam sebagai ajaran yang ingin mewujudkan kesejahteraan lahir dan batin, material spiritual. Zakat menjadi instrumen mewujudkan kesejahteraan rakyat. Di Indonesia, kesadaran itu sudah masuk dalam kesadaran negara.

<sup>51</sup> Qadir, *Zakat dalam Dimensi Ibadat Mahdhab dan Sosial*. h. 161.

<sup>52</sup> Waluyo, “Zakat Pertanian Perspektif Maqasid Syariah.”

after deducting production costs, living expenses, taxes, and debts. This is also corroborated by other research on professional *zakat*, which not all accept even though regulations on the matter have been promulgated. In South Kalimantan, to date (2024) there are at least 5 regional regulations that regulate professional *zakat*. Hadi<sup>53</sup> found that: “The payment of professional *zakat*, which is determined by the relationship between the understanding of the obligation of *zakat*, the Regent's Decree and the interpretation of the *ulama*, is a reconceptualization between employees, government and *ulama* within the framework of positive law, is a concrete example of the interpretation of professional *zakat* that is patterned on the local area.”

Previously in 2019, Haris<sup>54</sup> has also tried to break the monotony of the percentage of *zakat* that has been understood so far. Gusnam argued that: “the rules issued by the Prophet SAW, regarding the percentage of *zakat* are in his capacity as a leader of society or head of state, whose policies are adjusted to the interests of the time. This means that the rules are sometimes binding and sometimes not, according to the interests of the people and religion.”

*Zakat*, as a practical act of worship, benefits the economically weaker sections of society. Social justice, on the other hand, is primarily aimed at improving the welfare and status of the poor in society. Social justice means that every member of society can live honorably without pressure or hindrance, having the ability to utilize their potential and wealth in a way that benefits themselves and their society.

### Contextualization of *Fiqh Zakat* Based on *Maslahat* and Social Justice

*Zakat* is a *qath'i* matter that cannot be changed. However, it should be kept in mind that there are three important components in *zakat*: the giver, the manager, and the recipient. In the first aspect (the giver), *ijtihad* absolutely cannot be applied in it. This is by *al-Ashl fi amr al-zakat*, so *ijtihad* cannot be applied in this regard. Whatever rate and treasure can be given that suits the current state of society is a challenge for modern giving. However, the element of *ijtihad* is dominant in both aspects and recipient and must be emphasized. The latter two components will be closely related to the economic and social circumstances of a society.<sup>55</sup>

According to the theory of social change, which states that change is the essence of society, the effort to revise the teachings of *Zakat* is driven by several reasons. Firstly, the concept of *fiqh of zakat* that is studied by most Muslims is no longer considered adequate. This is because the concept is no longer clear for the present time and because many factors are related to it. Secondly, there is a new reinterpretation that is seen and considered more adequate as a substitute for the resources of *fiqh of zakat* thinking that has existed before. Third, there is an effort to adjust or contextualize the text of *zakat* teaching with various factors that have changed the dynamics of people's lives.

One of the epistemological developments of *zakat fiqh* was developed by Mas'udi by proposing a *maslahat-justice* rule as a substance of implementation as well as the purpose of the law itself<sup>56</sup>. Proposing a rule that emphasizes more on the substance, namely

<sup>53</sup> Hadi, *Problematika zakat profesi & solusinya: sebuah tinjauan sosiologi hukum Islam*.

<sup>54</sup> Haris, “Persentase Zakat Menurut Yusuf al-Qaradawi dan Urgensinya Bagi Penerapan Zakat Oleh Baznas Di Indonesia.”

<sup>55</sup> Lihat Ali Yafie, *Menggagas Fikih Sosial: Dari Soal Lingkungan Hidup, Asuransi Hingga Ukbunwah* (Bandung: Mizan, 1995), h.231-232.

<sup>56</sup> Masdar F. Mas'udi, “Meletakkan Kembali Maslahat sebagai Acuan Syariah”, h. 97. Lihat Mahdi Syahbandir dkk., “State and Islamic Law: A Study of Legal Politics on Zakat as a Tax Deduction in Aceh,” *AHKAM: Jurnal Ilmu Syariah* 22, no. 1 (2022): 24. dalam tulisannya ini Mahdi mengulas tentang bagaimana zakat dan pajak di Aceh, hubungan antara agama, negara, dan hukum Islam di Aceh memiliki kaitan yang erat dengan konteks politik hukum Indonesia secara umum. Aturan pemerintah yang terkait dengan hukum Islam atau umat Islam sejak masa orde lama bahkan sampai reformasi dipengaruhi oleh konfigurasi politik, jika konfigurasinya demokratis maka karakter hukumnya juga demokratis begitu juga sebaliknya.

*maslahat*-justice, it does not mean that the formal and textual aspects of legal provisions should be ignored. However, to avoid anarchy, legal-formal-textual provisions must be a reference for human behavior in social life. However, it is important to remember that legal standards and texts are only how the ideal of *maslahat* is realized in real life.

If the above line of thought is accepted, we also need to revisit what is referred to as *qath'i* (which is certain and cannot be changed by *ijtihad*) and *zhanni* (which is not or less certain and can be changed by *ijtihad*) in Islamic law. According to contemporary *fiqh*, what is *qath'i* is that which is indicated by the Quranic text or the Prophet's hadith, while what is *zhanni* is that which is less or less indicated by the text, ambiguous, and has different meanings. The value of justice or *maslahat*, which is the core of Islamic law, is *qat'i*, which is defined literally as something that is fixed, eternal, and therefore essential. What falls under the category of *zhanni* (uncertain and changeable) is the entire body or text, the normative provisions, which aim to translate the *qath'i* (value of justice or *maslahat*) into real life. Therefore, it is correct to say that *ijtihad* can only be done for *zhanni* matters and cannot be done for *qath'i* areas. Considering "*maslahat* and justice" as *qath'i* in Islamic law, it is not possible - or even necessary - to perform *ijtihad* to determine whether the law is obligatory, permissible, or *sunnah*.

Things that are *zhanni*, uncertain, must be *ijtihadi* to the best of the *mujtahid's* ability because of the changing demands of space and time. This involves three things: first, an understanding of what *maslahat* and justice are in the context of our current relative time and space; second, a normative structure sufficient to indicate the ideal of *maslahat*-justice in the context of a particular time and space; and third, an institutional structure sufficient to actualize these norms in the relevant social reality.

The purpose of *zakat* is to realize social justice and welfare along with a strong principle of helping the less fortunate. Here, the concept of *zakat* does not require *ijtihad* to ensure that its laws uphold justice. However, *ijtihad* must be undertaken on the following matters: First, defining social justice and equitable distribution of wealth in a specific time and space context, such as the future context of Indonesia. Second, determining how much burden should be borne by those who are able (*miqdar al-zakah*), on whatever wealth base (*maball al-zakah*), and when it should be paid (*waqt al-ada*), and who legitimately and definitely should bear the burden.

There are no *qat'i* provisions in the texts of the teachings or the opinions of the scholars on the issues on these three points; they are all *zhanni* and therefore can be adjusted and changed according to the needs of justice. For example, in terms of *amwal zakawi*, it is unfair that we only impose mandatory alms levies on dates and grapes at this time, while palm oil, apples, coffee, and tobacco, which are also very economical, are exempted. Also, it is unfair that we impose the compulsory alms levy on the income of the agricultural sector while we exempt the industrial and service sectors.

In this context, *al-Maslahah al-Maqṣūdah* is the development of the above reasoning model. *Al-Maslahah al-Maqṣūdah* reformulated conventional *al-maslahah*, both classical and contemporary models. This makes it a post-contemporary *al-maslahah* model that uses a new paradigm, by *maqāsid al-Syarīah* (the purpose of Islamic law), especially with the support of *naql* or religious text. This *maslahah* emphasizes *maqāsid al-Syarīah* without being bound to the categories of *mu'tabarab*, *mulghab*, or *mursalab*.

## CONCLUSION

*Zakat* which is believed that there should be no renewal in it is one of the causes that *Zakat* does not achieve its purpose. To try to achieve the intended purpose of *zakat*, in addition to the use of the *istinbathi* method through the pattern of analogy (*qiyas*) in *ushul fiqh*, the development of *zakat fiqh* can also be done through the pattern of reasoning based

on *maslahat* and justice. This method can be more flexibly developed in reconstructing the epistemology of *zakat fiqh*.

In the *qath'izhanni* perspective, the value of *maslahat* and social justice must be placed as something *qath'i* in Islamic law, where there is no room for *ijtihad* in modifying it. While related to the operational definition of social justice and technical welfare distribution in the context of space and time, including the object (*maballi al-zakat*), *zakat* rates (*miqdar al-zakat*), channels (*masharif al-zakat*), as well as management mechanisms and institutions (*amil*) *zakat* is something that is *zhanni*, open space for reinterpretation and reformulation to adjust to the demands of the benefit and value of justice as the essence of *maqashid sharia zakat*. By using the *maslahah* approach of justice or *maslahah maqsudab*, the development of objects, *amil*, *mustabik*, and management will certainly be more dynamic and can optimize *zakat* in its role as a tool of state development.

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