

# Strengthening the Function of BAZNAS as Zakat Regulator: Legal Draft Proposal and Its Public Perceptions\*

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## Abstract

Zakat management in Indonesia is historically developed in civil society. In Law Number 38 of 2011, the state recognizes two official institutions in managing Zakat. While in Law Number 23 of 2011, zakat management is in BAZNAS, an institution formed by the government. There is an unequal position where LAZ is subordinated to BAZNAS. This can be seen in the task of LAZ, which is in charge of assisting BAZNAS in the management of national Zakat. The method used in this research is the descriptive statistical analysis method by distributing questionnaires. This study looks at the perception or views of the community if BAZNAS is the only authority in making arrangements for Zakat. As a result, BAZNAS has not become the only institution that the public can trust in managing national Zakat. People are accustomed to paying Zakat directly to mustahik or amil in the villages, such as paying Zakat to kyai. Distribution and distribution are not yet optimal, so the community prefers to give it themselves. Today's regulation of LAZ was adopted by the Ministry of Religion so that the relationship between BAZNAS and LAZ does not unite, which considers each other to be competitive. The proposal related to strengthening the regulation and management of Zakat by BAZNAS by only opening one coordination door has not been approved by the community because it is considered that the presence of BAZNAS will eliminate LAZ.

**Keywords:** Public Perception; BAZNAS; LAZ

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## Penguatan Fungsi BAZNAS Sebagai Regulator Zakat: Usulan RUU dan Persepsi Publik

### Abstrak

Pengelolaan Zakat di Indonesia berdasarkan sejarah berkembang di masyarakat sipil. Dalam UU Nomor 38 tahun 2011, negara mengakui adanya dua lembaga yang resmi dalam melakukan pengelolaan zakat. Sementara di UU Nomor 23 tahun 2011, pengelolaan zakat berada di BAZNAS yang merupakan lembaga bentukan pemerintah sehingga adanya kedudukan yang tidak seimbang, dimana LAZ menjadi subordinasi BAZNAS. Hal ini terlihat pada tugas LAZ yang bertugas untuk membantu BAZNAS dalam pengelolaan zakat nasional. Penelitian ini melihat bagaimana persepsi atau pandangan masyarakat, apabila BAZNAS menjadi satu-satunya otoritas dalam melakukan pengaturan tentang zakat. Metode yang digunakan penelitian ini ialah metode analisis statistik deskriptif dengan penyebaran kuesioner. Hasilnya, BAZNAS belum menjadi satu-satunya lembaga yang dapat dipercaya masyarakat dalam melakukan pengelolaan zakat nasional. Masyarakat terbiasa dengan membayar zakat secara langsung kepada mustahik atau amil di kampung-kampung seperti membayar zakat kepada kyai. Distribusi dan penyaluran yang belum optimal, maka masyarakat lebih memilih sendiri untuk memberikan. Aturan hari ini LAZ dianggap oleh Kemenag, sehingga hubungan BAZNAS dan LAZ tidak menyatu yang menganggap saling bersaing. Usulan terkait dengan penguatan regulasi dan pengelolaan zakat oleh BAZNAS dengan hanya membuka satu pintu koordinasi belum disetujui masyarakat, karena dianggap kehadiran BAZNAS akan meniadakan LAZ.

**Kata Kunci:** Persepsi Masyarakat; BAZNAS; LAZ

### Усиление функции BAZNAS как регулятора закята: Правовой проект предложения и его общественное восприятие

#### Аннотация

Управление закятом (Один из пяти столпов Ислама) в Индонезии исторически развивалось в гражданском обществе. В Законе № 38 от 2011 года государство признает два официальных учреждения в управлении закятом. В то время как в Законе № 23 от 2011 года управление закятом находится в BAZNAS (учреждение, которое осуществляет управление закятом на национальном уровне), учреждении, созданном правительством, так что возникает несбалансированная позиция, где LAZ (учреждение по управлению закятом, созданное частным сектором или вне правительства) становится подчиненным BAZNAS. Это видно из задачи LAZ, которое помогало BAZNAS в управлении национальным закятом. Метод, используемый в этом исследовании, представляет собой метод описательного статистического анализа путем распространения анкет. В этом исследовании рассматривается восприятие или взгляды сообщества на то, является ли BAZNAS единственным авторитетом в принятии решений о выплате закята. В результате BAZNAS не стал единственным учреждением, которому общественность может доверять в управлении национальным закятом. Люди привыкли платить закят непосредственно "Mustahik" (людям, которые имеют право на получение закята) или "Amil" (людям, ответственным за сбор и распределение закята) в деревнях, например, выплачивать закят в "kyai" (Эксперт по исламу). Распространение и раздача пока не оптимальны, поэтому сообщество предпочитает раздавать его самостоятельно. Современное положение о LAZ было принято Министерством по делам религии, чтобы отношения между BAZNAS и LAZ не объединялись, так как они считаются конкурирующими друг с другом. Предложение, связанное с усилением регулирования и управления закятом со стороны BAZNAS путем открытия только одной координационной двери, не было одобрено сообществом, поскольку считается, что присутствие BAZNAS устранил LAZ.

**Ключевые слова:** Общественное восприятие; BAZNAS; LAZ

## A. INTRODUCTION

Basically, the concept of Zakat has three main dimensions in the form of spiritual, social, and economic dimensions ([Rozalinda, 2016: 248](#)). The spiritual dimension of Zakat as a way of purifying the human soul to avoid being stingy. Zakat plays a role in improving the living standards of the poor. In the social dimension, Zakat can be used to help the poor. In the economic dimension, Zakat has implications for reducing the accumulation of wealth in only a few people.

Zakat in Indonesia is an instrument that has extraordinary potential. UIN Syarif Hidayatullah (2005) states that the potential for national zakat is IDR 19.3 trillion. While Firdaus et al. (2012) stated that the potential for national Zakat was Rp. 217 trillion, then [Wibisono \(2015\)](#) estimated that the potential of national Zakat was Rp. 106.6 trillion. Most recently, the potential for Zakat is around Rp. 233.8 trillion in 2019 ([Baznas, 2019](#)). In 2019, the national zakat collection reached Rp. 10,277,843,806,557, meaning that when compared with the potential for Zakat of Rp. 233.8 trillion, the portion of zakat collection is only 4% of the total existing potential ([National Zakat Statistics, 2019](#)).

Zakat was practiced around the 15th century in the Kingdom of Aceh, and the practice of Zakat was regulated by the state or kingdom at that time through the king's order to pray five times a day, fast in Ramadan, and pay Zakat. Other literature states that Zakat in the 18th century, the Sultanate of Banjar, taxes, and Zakat at this time were considered the same. At this time, the legal opinion stated that certain taxes were the same as Zakat, an opinion used to support tax collection ([Qardawi, 1997:1109](#)). Meanwhile, during the Dutch colonial era, the Dutch government issued Orodonantie Regulation No. 6200 on February 28, 1905. This regulation stated that the Dutch government would not interfere in zakat management, and it was entirely left to Muslims.

Zakat continued to grow in Indonesia and was included in national legislation for the first time in 1999. The first Zakat Management Law, namely Law Number 38 of 1999 concerning national zakat management, was issued. That is, Islamic values are accommodated in state law. This was welcomed by the community and led to the emergence of many zakat management institutions. From the development of zakat management, issues that often arise are related to who is the zakat manager, whether the government or civil society.

[Amelia \(2008\)](#) said that there are some people who oppose state intervention, where the state is only a partnership. Another thing that was

conveyed by [Jahar \(2019\)](#) in his research "Bureaucratizing Sharia in Modern Indonesia: e Case of Zakat, Waqf and Family Law" states that the existence of zakat and waqf laws is not Islamization but as a form of sharia bureaucratization aimed at modernizing the Islamic legal system. in order to provide certainty and justice in resolving legal disputes in the modern era.

However, research conducted by Luthfi (2020) says that the state has a dual role in zakat management, as a regulator and operator, which is confirmed in UUPZ 23/2011, this is considered to weaken the position of civil zakat institutions because there are efforts to centralize zakat management by the state, so it is the right step with the proposed review of the Zakat Management Act in the Constitutional Court. This is also reinforced by Arskal (2006) he argues that the policy of the Dutch government only strengthens its administrative system, which minimizes state interference in religious matters, but has changed dramatically, through the Ministry of Religion, the Indonesian government has increased its role in managing matters that related to Islam, especially related to Zakat, turned into the practice of Zakat as a means to build an Islamic socio-political and economic system in Indonesia.

The management of Zakat in Indonesia has historically been carried out by the government; when this is done by the state, it is considered as an effort to intervene by the state. The existing laws tend to strengthen BAZNAS's position as operator and regulator. Historically, the community has managed Zakat in Indonesia for a long time through Islamic boarding schools, mosques, and religious organizations, so with this regulation, traditional zakat management institutions are somewhat burdened with licensing ([Zakat Forum, 2021](#)). The hope related to the existence of a state in the management of national Zakat either through regulation or practice is to increase the benefits of zakat funds in the community as an instrument to reduce poverty by productively empowering mustahik. This is a matter of debate among the public. Therefore, from the various weaknesses that exist, it is necessary to know the actual view of the community regarding who should manage Zakat, whether the state or civil society or even both managed by a division of functions or by collaboration.

## **B. LITERATURE REVIEW**

### **1. Zakat Management in Indonesia before the Zakat Management Act**

Zakat was already practiced in the 15th century in the Kingdom of Aceh. It was possible to become more developed in the early 16th century when the

implementation of orthodox Islam in the Sultanate of Aceh ([Amelia, 2008, 71](#)). The state has regulated the practice of Zakat since the reign of Sultan Alauddin bin Sultan Ahmad Perak. He also forbade his people from drinking wine and gambling and ordered all his commanders to have beards, wear robes, and wear turbans, and he ordered all his subjects to pray the five daily prayers, fast during Ramadan, observe the recommended quickly, and pay Zakat.

At the time of Iskandar Muda, who led the Kingdom of Aceh to its golden age. He included ushr and market taxes in the state treasury income. Market tax is part of the Zakat that is owed on merchandise and can be collected in the market. The term ushr generally means a land or plant tax. The kingdom of Aceh considered Zakat as a religious tax imposed on agricultural produce and commodity trade (ushr). It is possible that zakat regulations were applied strictly and collected by force during the reign of Sultan Iskandar Muda, because he was an authoritarian ruler. Rulers with a more orthodox orientation tend to apply strict zakat collection.

In the 18th century, in the Sultanate of Banjar, taxes and Zakat were considered the same. This is possible; the Sultan wants to direct people who have become obligated to pay Zakat to the state through taxes to increase the kingdom's income. At this time, the legal opinion stated that certain taxes were the same as Zakat. Opinions used to support tax collection. This was also stated by Abu al-Su'ud, the Islamic Sheikh in the sixteenth-century Ottoman Empire. He claims that as long as there is a religious intention (niyya), the state tax imposed on sheep is categorized as Zakat. The Hanbalis and Imam Nawawi are classical jurists who support this opinion ([Qardawi, 1997: 1109](#)).

Then the management of Zakat during the colonial period by the Dutch. Zakat became a source of funds to fight against the invaders. After the colonial government learned of the function of Zakat being used against them, the Dutch government tried to prohibit all government employees and aristocrats from paying Zakat. This was done to weaken the financial resources for the struggle of the indigenous people. On that basis, the Dutch government August 4, issued Bijbled No. 1892, which contains that Zakat is not diverted for zakat officers ([Ali, 1988: 33](#)). This is because there have been abuses by religious officers such as penghulu, naib, and others. However, these religious officers who work for the Dutch government do not receive any salary or benefits ([Budiman, 2020: 252](#)).

In 1905, the Dutch government issued Orodonantie Regulation No. 6200 on February 28. This regulation states that the Dutch government will not interfere in the affairs of zakat management and is entirely left to Muslims

([Faisal, 2011: 259](#)). This policy means that the Dutch government does not want to interfere in the implementation of Zakat. The Dutch government tries to limit the government's responsibility, which is the responsibility of the people so that there is a separation between state and religion ([Budiman, 2020: 253](#)). On August 18, 1866, No. 216, the Netherlands issued a ban for local governments to take care of religious voluntary levies ([Nasution, 2020: 299](#)). The Dutch government is still intervening regarding the misuse of mosque funds.

In this era, the management of Zakat in Indonesia is still completely traditional. This is indicated by the direct relationship between muzaki and mustahik, who are still in the same area or local. This classic pattern is divided into two forms. First, muzaki give Zakat directly to mustahik, usually to religious teachers, scholars, and orphans. Second, muzaki can distribute through the manufacture of coupons that are used as a tool for raising zakat funds in muzakki ([Budiman, 2020: 249](#)).

From 1942 to 1945, Indonesia was in the hands of Japan. To attract the people's sympathy at that time, Japan implemented a policy that was relatively favorable to Muslims. Japan's policy is also contrary to the policy of the Dutch government. The Dutch tended to divide Muslims into small groups through the divide et empera politics, and the Japanese government actually united Muslims in one organization. The Japanese established Shumubu (Jawatan Islam Religion) at the center and Shumuka in the regions in 1942 to manage Muslim affairs. One of his duties is to deal with the problem of Zakat, zakat fitrah and waqf ([Shiddiqi, 1997: 42](#)).

At this time, there was an effort to involve the government in zakat collection efforts initiated by the Majelis Islam A'la Indonesia (MIAI) by establishing a central Baitul Maal to become the coordinator. Baitul Maal was founded in June 1943, chaired by Windoamiseno with 5 members, namely Mr. Kasman Singodimedjo, S.M. Kartosuwirjo, Moh. Safei, K. Taufiqurrachman, and Anwar Tjokroaminoto. The effort made by this organization is to travel to areas to form Baitul Maal. This journey was not in vain; within several months, Baitul Maal was already established in 67 districts at that time ([Harry, 1958: 146](#)).

However, the MIAI effort was forced to end because Japan was worried about the funds raised and would also cut off supervision from the designated department. Japan finally disbanded MIAI on October 24, 1943, and since then, the priority of the community has been how to seize independence, so that attention to Zakat has been neglected again ([Shiddiqi, 1997: 201](#)).

After Indonesia's independence, Zakat is still a matter of considerable concern. In 1951, the Ministry of Religion issued Circular No. A/VII/17357 related to the Implementation of Zakat Fitrah. The Ministry of Religion is tasked with overseeing the process of collecting or distributing zakat fitrah in order to comply with the provisions of the Islamic Religion ([Depag, 2002: 284](#)). At this time, precisely in 1964, the Ministry of Religion prepared a Bill (RUU) on the Implementation of Zakat. In addition, the Ministry of Religion is also working on making a Government Regulation Plan in Lieu of Law (RPPUU) related to the Implementation of the Collection and Distribution of Zakat and the establishment of Baitul Maal. However, these two regulations have not been submitted to the DPR or the president, so they have not been realized ([Faisal, 2011: 259](#)).

In 1968, the government issued Regulation of the Minister of Religion (PMA) No. 4 concerning the Establishment of the Amil Zakat Agency and PMA Number 5 concerning the Establishment of Baitul Maal for the central, provincial, and district/city levels. However, the Minister of Finance responded to the decision by saying that regulations related to Zakat are sufficient to make a Regulation of the Minister of Religion alone. There is no need for a law to be made. Therefore, the Minister of Religion issued Instruction No. 1 of 1968 relating to the implementation of the establishment of the Amil Zakat and Baitul Maal Agency ([Dawam, 1987: 37](#)).

In general, during the Old Order era (1945-1967), it seems that the government has not issued any particular policies. Policies that existed before during the Dutch and Japanese colonial times continued. The government has not paid much attention to the management of Zakat and is busy in efforts to maintain Indonesia's independence. The policy of the Old Order government was neutral, meaning that the state had no right to interfere in religious matters, but still provided facilities for the community for their spiritual life without being involved in the management of religious practices ([Wibisono, 2015: 38](#)).

After President Soekarno stepped down, the government was led by Suharto. Suharto's leadership provided opportunities for Muslims related to the application of Zakat. In following up on the instructions from the Ministry of Religion regarding the establishment of the Amil Zakat and Baitul Maal Agency, President Soeharto gave a recommendation regarding the establishment of the Amil Zakat Infaq and Shadaqah (BAZIS) Agency in DKI Jakarta during the Governor Ali Sadikin's time which was delivered to coincide with the Isra' Mi'raj commemoration at the Palace. State on October 22, 1968. This was the beginning of the existence of BAZIS, and after that, many BAZIS

emerged in areas such as East Kalimantan (1972), West Sumatra (1973), West Java (1974), Aceh (1975), South Sumatra, and Lampung (1975), South Kalimantan (1977), and South Sulawesi and West Nusa Tenggara (1985) ([Dawam, 1987: 37](#)).

In 1984 on March 3, the Ministry of Religion issued Instruction of the Minister of Religion Number 2 regarding Infaq One Thousand Rupiahs during the month of Ramadan, and its implementation was regulated in the Decree of the Director-General of Islamic Guidance and Hajj Affairs Number 19 of 1984 on April 30, 1984. In 1985, efforts were also made to Preparation of Academic Papers on Legislative Regulations through the activities and Codification of the National Legal Development Agency of the Ministry of Justice of the Republic of Indonesia. In 1984/1985, an Academic Paper on Legislations on Zakat was prepared, chaired by H. Dahdir MS. DT. Asa Bagindo ([Permono, 2005: 389](#)).

In the same year, the Instruction of the Minister of Religion Number 5 related to the Technical Guidelines for the Amil Zakat, Infaq, and Shadaqah Agency was issued, and the Instruction of the Minister of Home Affairs Number 7 of 1998 regarding the General Guidance of the Amil Zakat, Infaq, and Shadaqah Agency ([Fakhrudin, 2008: 264](#)). This instruction is addressed to the ranks of the Ministry of Religion to technically foster the duties of the Amil Zakat, Infaq, and Sadaqah Agency. Then the SKB was also followed up with the Instruction of the Minister of Home Affairs 7 of 1998 concerning the General Guidance of the Amil Zakat, Infaq, and Sadaqah Agency. This instruction is addressed to the Ministry of Home Affairs ranks to generalize the duties of the Amil Zakat, Infaq, and Sadaqah Agency.

Furthermore, on December 12, 1989, the Minister of Religion Instruction No. 16/1989 was issued regarding the Development of Zakat, Infaq, and Sadaqah. The instruction emphasizes that the Ministry of Religion is tasked with assisting religious institutions that manage Zakat, infaq, and shadaqah to use zakat funds for Islamic education purposes. In 1991 a joint decision was issued between the Minister of Religion and the Minister of Home Affairs Numbers 29 and 47 regarding the development of the Amil Zakat, Infaq, and Sadaqah Agency. The decree explained that zakat management was carried out by the Amil Zakat, Infaq, and Shadaqah Agency, which was abbreviated as BAZIS, which was formed at the provincial level to the village ([Nasution, 2020: 300](#)).

## **2. Zakat Management in Indonesia after the Zakat Management Act**

The birth of this law has become an important history of Zakat in Indonesia. Through the letter of the Chairman of the DPR RI Number



RU.01/03529/DPR-RI/1999 dated September 14, 1999, it was submitted to the President to be signed and ratified into law and signed by President BJ Habibie on September 23, 1999 ([Nopiardo, 2019: 1](#)). With this law, zakat institutions have legal certainty, and Zakat is officially included in positive Indonesian law, and directly, sharia legislation is included in state law. Practically in the field, the development of Zakat is very rapid, which is marked by the proliferation of zakat institutions, both those formed by the government and those formed by the community. The government is manifested in the form of the Amil Zakat Agency (BAZ) and the community zakat institution in the state of the Amil Zakat Institution (LAZ) ([Jazuni, 2005: 341](#)).

Law No. 38/1999 brought a new paradigm, especially regarding management and institutions. Previously, Zakat was only used as worship without any management in it. Zakat that was previously managed by the amil was distributed without seeing a clear target, strategy, and vision. Zakat is usually given directly to the mustahik, who is considered more important. Previously, zakat management was only sporadic and temporary. Still, zakat institutions have worked professionally, such as DKI BAZIS established in 1987, Al-Falah Social Fund Foundation (YSDF) in 1987, and BAMUIS BNI in 1967 ([Siradj, 2014: 418](#)).

Law No. 38 of 1999 encourages the improvement of zakat management to be more productive, so this law gives orders to BAZ, which has a structure from the national level to the sub-district level and LAZ as the spearhead in collecting zakat funds. This law also accommodates Zakat as a deduction from taxable income ([Law Number 23, 2011](#)). This provision is also strengthened in Law Number 36 of 2008 amendments to Law Number 17 of 2000 concerning Income Tax (PPh) ([Law Number 36, 2008](#)). Assistance or donations, including Zakat received by BAZ and LAZ are not included as objects of Income Tax. Nevertheless, Law Number 38 of 1999 related to Zakat is still considered voluntary.

However, this Law is not accompanied by technical regulations such as the Government Regulation (PP), which causes confusion and uncertainty among stakeholders in implementing Law Number 38 of 1999 regarding Zakat Management. The only practical rule that appears is the Decree of the Minister of Religion (KMA) Number 581 of 1999 related to the implementation of Law Number 38 of 1999, the decision of the Director-General of Islamic Guidance and Hajj Affairs Number D/291 of 2000 regarding Technical Guidelines for Zakat Management ([Siradj, 2014: 419](#)).

Eleven years since Law Number 38 of 1999 has been running, it is still considered not optimal, and many things have not been accommodated, so many voices are calling for the revision of Law Number 38 of 1999. The fundamental weakness of this Law is that there is no separation of roles and the lack of clarity about who the institution is center in the management of national Zakat. This law also does not explain the functions of BAZNAS and LAZ separately, both of which are in an equal position so that their functions are the same, namely collecting, managing and distributing competing, and running independently, which causes the goal of zakat management to not be achieved ([Siradj, 2014, 420](#)). Therefore, Law Number 38 of 1999 was revised to become Law Number 23 of 2011.

Law Number 23 of 2011 generally has the substance of a discussion on institutions. This aspect received enough attention from the drafters of the law. This can be seen from the dominance of the articles in it. There are 32 articles out of 47 articles that regulate the National Amil Zakat Agency (BAZNAS) institution, whether central, provincial, or regional. The regulation regarding BAZNAS consists of the definition, position, nature, form, membership, function, authority, and task. BAZNAS in Law Number 23 of 2011 is regulated rigidly. The previous Law, namely Law Number 38 of 1999, only regulates functions, while the rules are definitively regulated in the implementing regulations in the form of Presidential Decree Number 8 of 2001 related to the National Amil Zakat Agency (BAZNAS). ([Siradj, 2014, 422](#)).

Law Number 23 of 2011 has received a lot of attention, especially from the Amil Zakat Institution (LAZ), an element of the community that considers this Law to be aimed at centralizing zakat management by shifting the existence of LAZ. This law gives BAZNAS a position as the zakat management authority in Indonesia. Meanwhile, the position of LAZ in the Act is stated to be an assistant to BAZNAS or BAZNAS's subordination ([Law Number 23 of 2011](#)). Tightening is also carried out for LAZ, which wants to manage zakat funds. They are required to take the form of mass organizations that carry out activities in religion, social, and da'wah. Most LAZ is legal foundation under the Ministry of Social Affairs. If it has to be changed to an Ormas, it must be reorganized and licensed under the Ministry of Home Affairs. This is considered difficult for LAZ. On this basis, the rules regarding Zakat as a deduction from taxable income need to be revised. For some of these weaknesses, the community represented by LAZ conducted a Judicial Review on several articles that were deemed to violate the applicant's constitution in Law Number 23 of 2011 ([Djarmiko, 2019: 139](#)).

This judicial review decision was stated in the Constitutional Court's Decision Number [86/PUU-X/2012 on October 13, 2013](#). The highlighted articles were Article 5, Article 6, Article 7, Article 17, Article 18, and Article 19. Article 5, Article 6, and Article 7. Articles 5, 6, and 7 explain the authority of BAZNAS as a national zakat management institution starting from planning, implementation, control to reporting. In contrast to the previous Law, namely Law Number 38 of 1999 in Article 7, it states that the previously existing Amil Zakat Institution (LAZ) will be established, so that there is a spirit of togetherness in the management of national Zakat. This is considered an effort to centralize Zakat by the government.

Articles 5, 6, 7, 17, 19, 38, and 41 applications were rejected for several reasons, including ([MK Decision Number 86/PUU-X/2012](#)):

- a. Regarding the centralization of zakat management by BAZNAS, the Constitutional Court said that government intervention in achieving community welfare is very necessary so that the existing zakat management will be more effective and efficient.
- b. Regarding the subordination of LAZ to BAZNAS, the Constitutional Court argued that the word aid was not interpreted as descriptive but rather a form of opened legal policy from the legislators. The Court also considered that this did not prevent LAZ from carrying out zakat management activities, namely the collection, distribution, and utilization of Zakat.
- c. Regarding licensing restrictions, it is not an effort to make it difficult for LAZ, but rather the conditions that must be met in zakat management activities where Zakat is a religious obligation. According to the Constitutional Court, mass organizations are individual associations that may include foundations. There is no need to change the legal entity as a foundation to become an organization.
- d. Regarding the criminalization of zakat amil who do not have a permit, the Constitutional Court is of the opinion that the criminal instrument aims to bring order to the community, especially in relation to the management of Zakat, infaq, alms, and waqf to protect individual interests, the legal interests of the community, and the interests of the state.

### **C. METHODS**

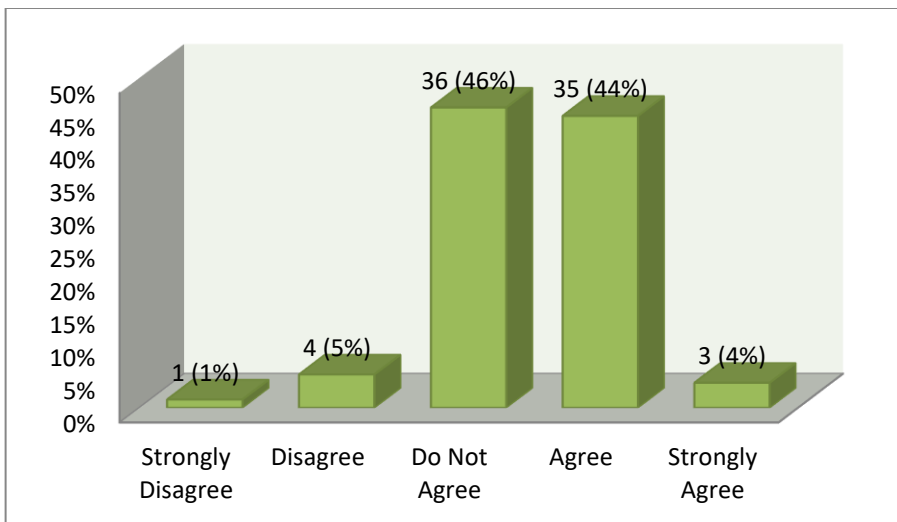
This research is research using a mixed-method or mixed research. In this case, this research is quantitative and qualitative. It is quantitatively using

descriptive and qualitative statistical analysis in the form of interviews supported by literature reviews related to research in books, journals, articles, news, or other information sourced from the internet. In connection with the interviews conducted with people interested in zakat management in Indonesia, such as representatives of BAZNAS, LAZ representatives, or associations of zakat institutions.

#### D. RESULTS AND DISCUSSION

In this study, we try to find out how the community sees this and how their views regarding this are related to their agreement. The following will be discussed:

**Table 1.1 Public Perceptions related to BAZNAS RI Implementing Guidance and Supervision of LAZ**



*Data processed, 2021*

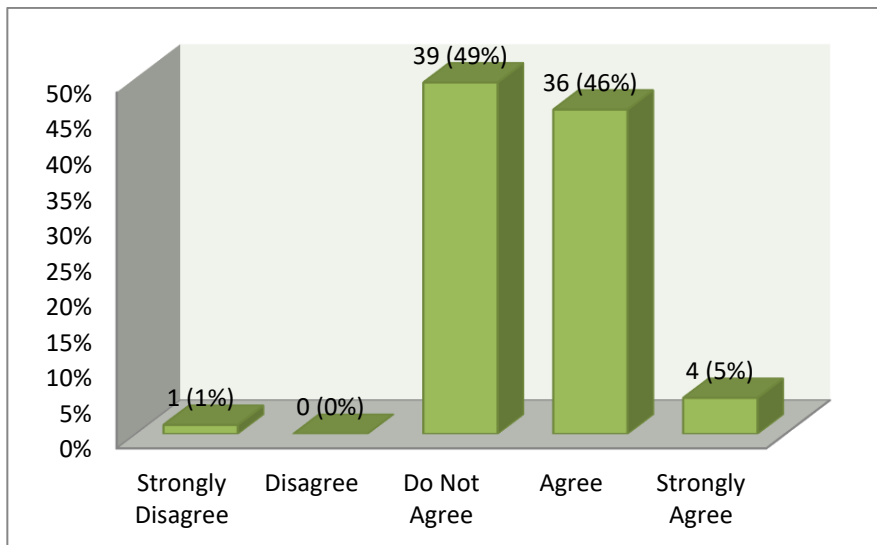
Based on the diagram, 44% of respondents agree, and 4% strongly agree that BAZNAS RI carries out guidance and supervision of LAZ. However, some do not agree as much as 45% of respondents who do not agree, 5% of respondents do not agree, and 1% of respondents strongly disagree about the RI BAZNAS implementing guidance and supervision of LAZ. It can be concluded

that the community does not decide if BAZNAS acts as a supervisor and supervisor for LAZ.

This disagreement is based on Law Number 23 of 2011, where BAZNAS has dual and supervisory functions. BAZNAS is also the operator of the national zakat management, so it is not possible to run in tandem with the supervisory and operator functions. This is a problem in Law Number 23 of 2011 so that the public conducts material tests at the Constitutional Court ([MK Decision Number 86/PUU-X/2012](#)). This will strengthen the position of BAZNAS, which acts as an operator and is stronger in terms of regulators, giving BAZNAS privileges ([Fadhilah, 2016: 513](#)).

Regarding respondents agreeing, this is already in Law Number 23 of 2011 that BAZNAS is an institution authorized to manage Zakat, including supervision of all zakat management organizations, including BAZNAS and LAZ. This is also in accordance with the weakness of Law Number 38 regarding the absence of an institution that oversees the management of national Zakat so that in Law Number 23 of 2011, BAZNAS was appointed in this regard ([Fhatonih, 2015: 38](#)).

**Table 1.2 Public Perceptions regarding BAZNAS RI Authority to Conduct Sharia Guidance and Supervision of Representative BAZNAS and LAZ**

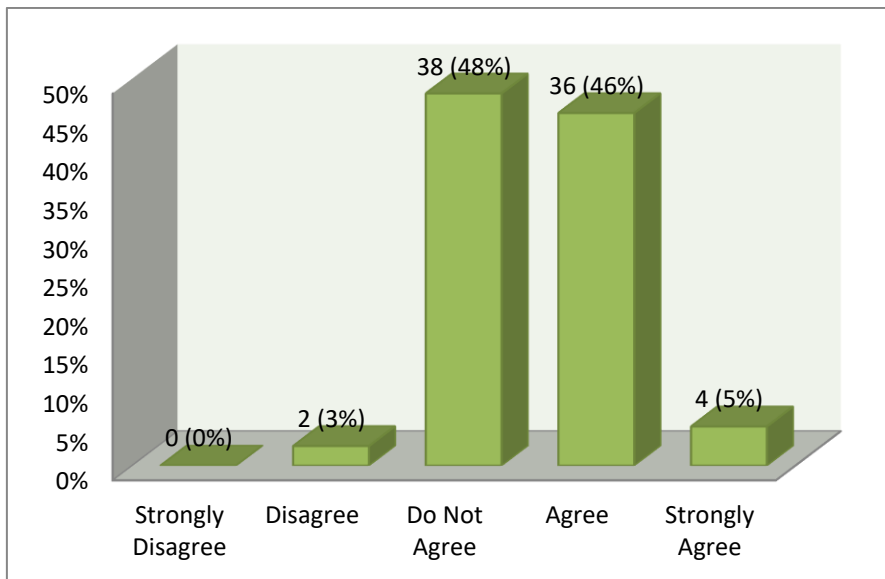


*Data processed, 2021*

Another thing is also regarding the proposal of BAZNAS, which is authorized in the development and supervision of sharia towards BAZNAS and LAZ, as many as 45% of respondents agree and 5% of respondents strongly agree. While as many as 49% of respondents do not agree, and 1% of respondents strongly disagree. This is seen as strengthening the authority of BAZNAS within the scope of regulation so that the authority between operators and rules must be separate, or maybe BAZNAS only focuses on supervision of zakat management by regional BAZNAS and LAZ.

This illustrates that BAZNAS can regulate LAZ because LAZ is structurally under BAZNAS. LAZ is subordinated to BAZNAS to help BAZNAS manage Zakat and is supervised and fostered in all aspects. Whereas when viewed from the previous law, LAZ and BAZNAS have an equal position as institutions officially recognized by the government in managing Zakat with the same function, namely the collection, distribution, and utilization of Zakat (Law Number 38 of 1999).

**Table 1.3 Public Perception regarding BAZNAS RI Authority to Issue Regulations related to Issuance and Revocation of LAZ Permits**



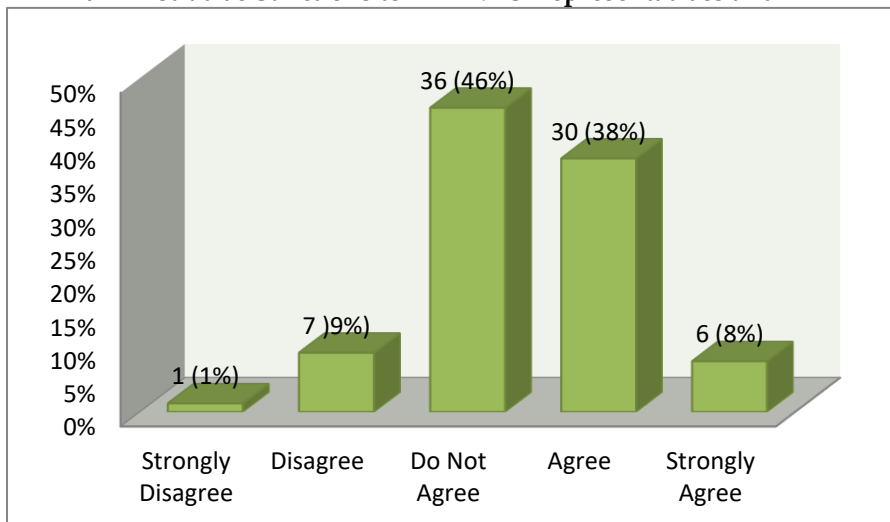
*Data processed, 2021*

It can be seen that there are 45% of respondents who agree and 5% of respondents who strongly agree related agreeing that BAZNAS RI has the authority to issue regulations related to the issuance and revocation of LAZ

permits, and there are also 48% of respondents who do not agree and 3% of respondents who do not agree. This strengthens the position of BAZNAS, which has a dual role and towards the centralization of Zakat by the state, which will not be in accordance with the development of Zakat in Indonesia (Faisal, 2011: 250). When BAZNAS has the authority to issue LAZ permits, it is feared that there will be a conflict of interest for BAZNAS as operator and regulator. In the current law, namely Law Number 23 of 2011, matters relating to the supervision and guidance of sharia are carried out by the Ministry of Religion.

This illustrates that BAZNAS wants to carry out full supervision of the management of national Zakat, which is contrary to the history or development of Zakat in Indonesia. During the Dutch colonial period, people were freed to carry out religious matters, including the management of Zakat at that time. Due to religious obligations, the community is released to collect and distribute zakat funds. During the Japanese colonial period, zakat management organizations were initiated, but their existence did not last long because the development of Zakat was very powerful at that time and was considered a threat to fight against the invaders. This zakat fund was feared by the Dutch and Japanese governments, which tried to limit this. The Indonesian government may see the great potential of Zakat as a form of state protection for muzakki.

**Table 1.4 Public Perceptions regarding BAZNAS RI Authority to Give Administrative Sanctions to BAZNAS Representatives and LAZ**

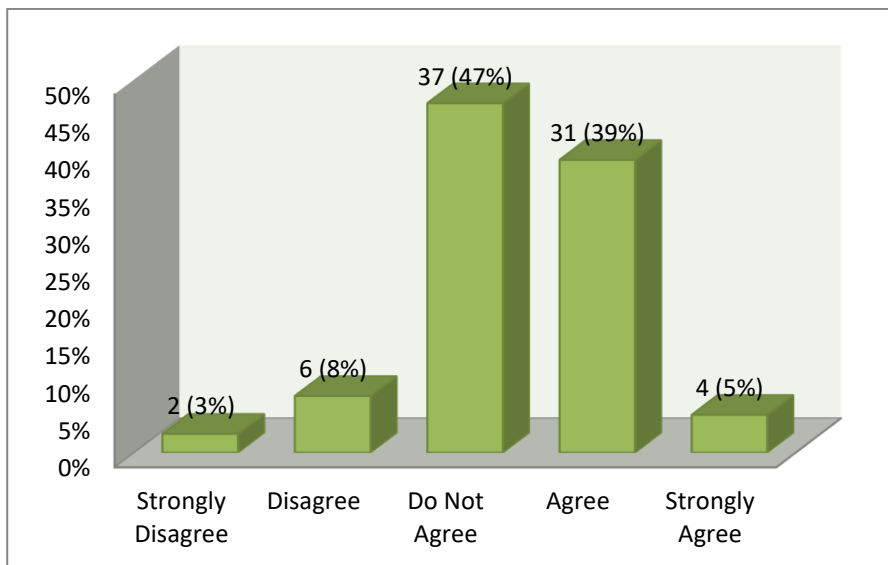


*Data processed, 2021*

It can be seen that 38% of respondents agree, and 8% of respondents strongly agree. In comparison, there are 45% of respondents do not agree, 9% of respondents do not agree, and 1% of respondents who strongly disagree with BAZNAS RI are authorized to give administrative sanctions to BAZNAS representatives and LAZ. In general, it can be seen that the community has not agreed with BAZNAS, which is authorized to give administrative sanctions to LAZ.

This disagreement is based on the apparent position of BAZNAS, which wants to do what the Ministry of Religion has done. This is contained in the Minister of Religion Regulation Number 5 of 2016, which explains the obligations and sanctions for BAZNAS, LAZ, and individuals who violate their obligations. The sanctions can be in the form of written warnings, temporary dismissal, and revocation of permits ([PP Number 5 of 2016](#)). This illustrates that BAZNAS wants to become an institution or authority to manage national Zakat as the highest institution and can oversee the management of national Zakat. BAZNAS is the appointed state institution. In this case, the state becomes the regulator and supervisor for LAZ and BAZNAS representatives.

**Table 1. 6 Public Perceptions related to BAZNAS RI may Issue Regulations on Zakat for matters that have not been regulated in this Law and Government Regulations**

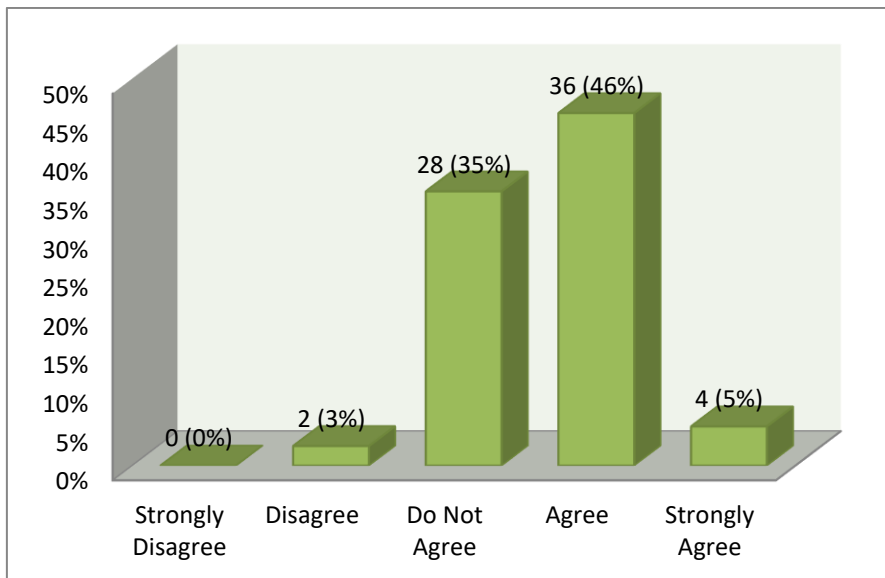


*Data processed, 2021*



It can be seen that 39% of respondents agree, and 5% of respondents strongly agree that BAZNAS RI can issue Zakat regulations for things that have not been regulated in the Act and its derivative Government Regulations in coordination with BAZNAS RI. There are also 45% of respondents who do not agree, 8% of respondents do not agree, and 3% strongly disagree. What happened today, where the Ministry of Religion functions as complete oversight related to zakat management, whether BAZNAS, LAZ, or individuals who manage Zakat, the state recognizes two institutions. There is also a section related to regulation. The Ministry of Religion contains general matters relating to zakat management nationally, and BAZNAS regulates related to zakat management carried out by BAZNAS representatives. In terms of licensing the formation of LAZ, BAZNAS was appointed as a permit recommendation by the Ministry of Religion ([PP Number 14 of 2014](#)) and was lowered again to Regulation of the National Zakat Amil Agency Number 3 of 2019.

**Table 1.7 Public Perception regarding the Prohibition of Everyone Deliberately Acting as Amil Zakat Collecting and Distributing Zakat Without Permission**



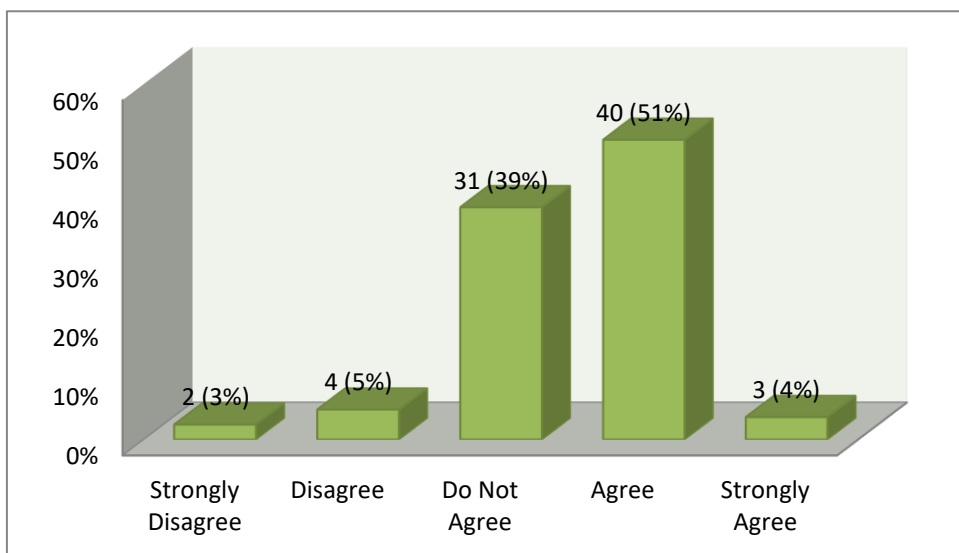
*Data processed, 2021*

It can be seen that there are 45% of respondents agree, and 5% of respondents strongly agree regarding the prohibition of people acting like amil managing zakat without permission from officials. In addition, there are also 48% of respondents who do not agree and 3% of respondents who do not agree.

The majority of respondents do not agree with a prohibition for people who act as amil zakat who are not licensed. This denies the existing reality. There are still many in areas or in mosques that manage Zakat by receiving zakat funds and then distributing them.

This provision is contained in Article 41 of Law Number 23 of 2011, which will be punished when people carry out management without a permit. This policy is considered a criminal policy which is defined as an attempt to repeat the crime. Meanwhile, crime is considered an act that harms society (Niken, 2013: 50). The management of Zakat carried out by institutions has not been said to be free from abuse. Even if it is related to state finances, it is brought into the realm of corruption. However, if funds from Muzakki misuse zakat funds, then it can use the provisions of the article related to embezzlement, namely the embezzlement of Muzakki's money (Niken, 2013: 52).

**Table 1.9 Public Perception regarding Zakat Muzakki Business Entities must be paid through BAZNAS RI or LAZ**



*Data processed, 2021*

Based on the results of the study regarding who may receive corporate Zakat, it is seen that 50% of respondents agree that BAZNAS and LAZ accept corporate Zakat, and 4% of respondents strongly agree on this matter. This is in accordance with Law Number 23 of 2011, and it is also stated in Law Number 38 of 1999 that zakat management can be carried out by

BAZNAS and LAZ. It can be seen that there is a balance of roles between BAZNAS and LAZ. Meanwhile, 39% of respondents do not agree, 5% do not agree, and 3% strongly disagree. This is possible because of the dual role of BAZNAS. Apart from being an operator, BAZNAS is also a regulator simultaneously. This respondent saw that this was not optimal in the management of national Zakat ([Ridwan, 2021](#)).

The national zakat architecture should place pure BAZNAS. This matter was already discussed when Law No. 38/1999. One of the weaknesses of this law is that no institution has a central role as a supervisor and regulator in the management of national Zakat. After this law was revised to become Law Number 23 of 2011, this weakness gave a centralized impression by simultaneously making BAZNAS a single player as regulator and operator ([Deni, 2014: 40](#)).

These results show that most respondents agree with the existence and presence of LAZ as an institution formed by the community. Since the Dutch colonial period, with its non-interventionist policy, the Netherlands handed over the affairs of Muslim worship, such as prayer fasting, including Zakat, to the Muslims themselves. As a result of this policy, the presence of zakat institutions formed by the community has become a traditional practice in the lives of Muslims in Indonesia. It's just that the question stating 'who has the task of helping BAZNAS RI' is estimated because there are 33 respondents who disagree. When compared with Law no. 38/1999 concerning Zakat, the relationship between BAZNAS and LAZ runs equally where both function as zakat institutions with similar operations and authorities.

However, the amendments to the Zakat Law contained in Law [no. 23/2011](#) seek to change this equality by making LAZ a subordinate and an institution that helps BAZNAS RI. BAZNAS is authorized to manage Zakat, starting from planning, implementing, and coordinating the collection, distribution, and utilization of Zakat and being a regulator and coordinator ([Law Number 23 of 2011](#)).

## E. CONCLUSION

BAZNAS is not the only institution that the public can trust in managing national Zakat. People are accustomed to paying Zakat directly to mustahik or amil in the villages, like paying Zakat to kyai. Distribution and distribution are not optimal, so the community prefers to give them themselves. Today's regulation of LAZ was adopted by the Ministry of Religion so that the

relationship between BAZNAS and LAZ does not unite, which considers each other to be competitive. The proposal related to strengthening the regulation and management of Zakat by BAZNAS by only opening one coordination door has not been approved by the community because it is considered that the presence of BAZNAS will eliminate LAZ.

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