

## ***Siyāsah Shar‘iyyah* and State Governance in Zakat Management: A Case Analysis of Judicial Review on BAZNAS Authority vis-à-vis LAZ/BAZ Institutions**

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### **ABSTRACT**

Law No. 38/1999 established Indonesia's first legal framework for zakat management, institutionalizing the National Zakat Agency (BAZNAS) and civil society-led Amil Zakat Institutions (LAZ). Revised through Law No. 23/2011 to enhance oversight and systemic integration, the amendment triggered debates over four critical issues: (1) potential criminalization of LAZ/BAZ (Articles 38-41); (2) centralization of authority under BAZNAS; (3) operational restrictions on LAZ/BAZ (Article 20); and (4) legal ambiguities and perceived inequities. This study examines state regulatory roles in zakat governance through Constitutional Court Case 97/PUU-XXII/2024, which challenges BAZNAS's exclusive authority. Using normative juridical methods, the paper analyzes statutory frameworks and LAZ's legal arguments against Law 23/2011. Findings reveal tensions between centralized state control and civil society autonomy, underscoring unresolved legal ambiguities in Indonesia's zakat ecosystem. The research contributes to discourse on balancing regulatory efficiency with participatory governance in Islamic social finance systems.

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## 1. INTRODUCTION

The substantial potential of zakat in Indonesia has driven the government to actively engage in its regulatory oversight (Akbar, 2018). Rooted in *siyasah syar'iyah* (Islamic political jurisprudence), the state assumes a pivotal role in administering and monitoring Sharia-compliant practices, particularly zakat management. This authority derives from the state's mandate to advance public welfare (*maslahah 'ammah*), as it holds the institutional capacity to systematize zakat collection and redistribution (Arlis, 2011). Historically, this principle mirrors practices from the Prophet Muhammad's era (peace be upon him) and the *Khulafā' al-Rāshidīn* period, where state-appointed authorities centrally managed zakat. Building upon this legacy, Indonesia institutionalized its first zakat governance framework through Law No. 38 of 1999, establishing legal mechanisms for structured zakat administration (Yahya, 2020).

While Law No. 38/1999 aimed to create a robust legal foundation for zakat management, it increasingly proved insufficient in addressing Indonesia's changing socio-legal demands. Scholars have highlighted its limitations in adapting to contemporary needs, prompting calls for reform (Ninglasari et al., 2023; Muftadi & Susilowati 2018). Consequently, Law No. 23 of 2011 was enacted to resolve unresolved issues from the preceding legislation, particularly enhancing regulatory clarity and institutional accountability.

Law No. 23 of 2011 designates the National Zakat Agency (*Badan Amil Zakat Nasional*/BAZNAS) as the official state institution authorized to regulate, supervise, and coordinate zakat management nationally. This law further mandates that all Amil Zakat Institutions (*Lembaga Amil Zakat*/LAZ, *Badan Amin Zakat*/BAZ) obtain formal accreditation and adhere to BAZNAS regulations, effectively subordinating them to its oversight (Melis et al., 2020). While intended to standardize governance, the law has generated significant controversy, drawing criticism from practitioners, academics, civil society, and LAZ/BAZ entities that previously operated independently. Critics argue that the framework risks stifling institutional autonomy through excessive bureaucratic requirements, centralization of authority, and reduced community engagement in zakat empowerment initiatives. Concerns also extend to fears of LAZ/BAZ dissolution and the perceived erosion of civil society's independent role in managing zakat funds (Hamzah, 2022).

The controversy surrounding Law No. 23 of 2011 on Zakat Management reached a critical juncture with the submission of a judicial review petition (Case No. 97/PUU-XXII/2024) to Indonesia's Constitutional Court. The petition was filed by several stakeholders, including the Dompot Dhuafa Republika Foundation (represented by Ahmad Juwaini and Etika Setiawanti), the Jakarta Zakat Forum Association (represented by Bambang Suherman and Irvan Nugraha), and an individual petitioner, Arif Rahmadi Haryono. Collectively, the petitioners contested specific provisions of the law, arguing that they generate four primary concerns: (1) the potential criminalization of Amil Zakat Institutions (LAZ/BAZ) under Articles 38 and 41; (2) the excessive centralization of zakat governance under BAZNAS; (3) operational restrictions in Article 20 that impede LAZ/BAZ's institutional flexibility and development; and (4) systemic legal ambiguities and perceived injustices within the law's framework.

Previous research has devoted significant scholarly attention to the state's role in zakat management, emphasizing its function as a pivotal mechanism for poverty alleviation and equitable welfare distribution (Zunaidi et al., 2025; Siregar et al., 2023). For example, Samsul et

al., (2024) analyzed collaborative dynamics between Indonesia's National Zakat Agency (BAZNAS), Amil Zakat Institutions (LAZ), and local governments, revealing persistent challenges in inter-institutional coordination and suboptimal utilization of zakat resources (Mu & Nurrahman 2021). Similarly, a comparative Indonesia-Pakistan study by Marenza and Karimuddin (2024) underscores the necessity of strengthening partnerships between state bodies and civil society to bolster transparency and accountability in zakat governance. In contrast, Rahma et al. (2020) demonstrate divergent state approaches in Malaysia and Indonesia: Malaysia employs a centralized regulatory model, while Indonesia excels in channeling zakat to *mustahik* (eligible recipients), highlighting the state's dual capacity as regulator and implementer (Ma'ruf et al., 2020). Collectively, these studies affirm that institutional robustness, transparent practices, and government-backed operational efficiency are integral to leveraging zakat for sustainable development (Erni et al., 2024).

While extensive scholarship has explored the state's role in zakat management, a critical gap persists in analyzing the implications of *siyāsah shar'īyyah* (Islamic political jurisprudence) within the context of Constitutional Court Decision No. 97/PUU-XXII/2024—a ruling that adjudicates the regulatory authority of the National Zakat Agency (BAZNAS) over Zakat Management Institutions (LAZ/BAZ). This judicial decision has ignited debates over the boundaries of state intervention and the autonomy of civil society in zakat administration. Central to this discourse is the conflict of interest inherent in BAZNAS's dual mandate as both regulator and operator of zakat governance—a structural flaw that risks power concentration and undermines principles of accountability. By applying the *siyāsah shar'īyyah* framework, this study contends that such overlapping roles contravene Islamic governance ideals, which prioritize institutional integrity and public welfare (*maslahah*). Through a critical analysis of Decision No. 97/PUU-XXII/2024, the research advocates for policy reforms to disentangle regulatory and operational functions, thereby advancing transparent, equitable, and participatory zakat governance aligned with both Islamic jurisprudence and modern administrative principles.

Building on this foundation, the present study investigates state-civil society dynamics in zakat governance, with particular focus on Judicial Review No. 97/PUU-XXII/2024—a landmark case in which Amil Zakat Institutions (LAZ/BAZ) contested the regulatory authority of the National Zakat Agency (BAZNAS). This legal challenge provides a critical framework for evaluating the boundaries of state intervention and the scope of participatory governance in Indonesia's zakat ecosystem. Entitled “*Siyāsah Shar'īyyah and the Role of the State in Zakat Governance: An Analysis of Judicial Review No. 97/PUU-XXII/2024 on BAZNAS Authority by LAZ/BAZ*,” the research interrogates how Islamic political jurisprudence (*siyāsah shar'īyyah*) reconciles centralized regulatory mandates with civil society's autonomy. By situating the court ruling within this doctrinal framework, the study advocates for governance reforms that balance institutional oversight with community-led initiatives, ensuring zakat management aligns with both Islamic principles of *maslahah* (public welfare) and modern imperatives of transparency.

## 2. METHODS

This study adopts a qualitative, normative-juridical methodology to analyze legal frameworks governing zakat management, particularly Law No. 23/2011 and its interplay with

Constitutional Court Decision No. 97/PUU-XXII/2024. The research methodology integrates three analytical approaches:

- a. Statutory analysis of zakat legislation;
- b. Case-law examination of judicial review proceedings;
- c. Conceptual evaluation through the lens of *siyāṣah shar‘iyyah* (Islamic political jurisprudence).

Legal materials are categorized into: Primary sources: The 1945 Indonesian Constitution, Law No. 23/2011, and Constitutional Court rulings; Secondary sources: Scholarly works, peer-reviewed journals, and classical/modern Islamic legal texts; Tertiary sources: Reference materials such as legal dictionaries and encyclopedias.

Data collection involved systematic document analysis, including judicial review petitions, trial transcripts, and the Constitutional Court’s verdict, supplemented by library research. A qualitative-descriptive analytical framework was applied to interpret legal norms, evaluate stakeholder arguments, and assess the decision’s alignment with Islamic governance principles. This approach enables a critical examination of the state-civil society dynamic in zakat governance, particularly the regulatory tensions between BAZNAS and LAZ/BAZ. The study ultimately seeks to propose pathways for institutional collaboration that harmonize statutory mandates with Islamic ethical frameworks, ensuring equitable participation and accountability in zakat administration.

### **3. RESULTS AND DISCUSSION**

#### *3.1. The Structure and Authority of BAZNAS and LAZ Under Positive Law*

##### *a. Legal Framework of Law No. 23/2011*

Law No. 23/2011 on Zakat Management marks a pivotal reform in Indonesia’s zakat governance, replacing Law No. 38/1999 to address evolving regulatory needs. The 2011 Law institutionalizes a dual governance framework: the National Zakat Agency (BAZNAS) and Amil Zakat Institutions (LAZ). Established via Presidential Decree No. 8/2001, BAZNAS operates as the sole government-authorized entity mandated to collect and distribute *zakat*, *infaq*, and *sadaqah* (ZIS) nationwide. Law No. 23/2011 further codifies BAZNAS’s monopoly over zakat administration, granting it legal primacy over other actors (Nazaruddin, 2022).

Structurally, BAZNAS is defined as an independent, non-structural government entity under the oversight of the President via the Minister of Religious Affairs. Its operations are governed by three “3A” principles: (1) Syariah Compliance (*Aman Syar’i*): Adherence to Islamic legal principles in zakat management; (2) Regulatory Adherence (*Aman Regulasi*): Compliance with national statutory requirements; (3) Accountability to the State (*Aman Negara*): Fiscal and operational transparency to the Republic of Indonesia. This tripartite framework ensures BAZNAS operates at the intersection of Islamic jurisprudence, statutory law, and public accountability.

The authority of the National Zakat Agency (BAZNAS) under Law No. 23/2011 is firmly established through three pivotal provisions. Article 6 designates BAZNAS as the sole institution authorized to oversee zakat management at the national level. Article 7 elaborates on this mandate, requiring BAZNAS to execute four core functions: planning, implementing, monitoring, and reporting zakat collection and distribution. To operationalize this framework, Article 16

empowers provincial and district/city-level BAZNAS branches to establish Zakat Collection Units (UPZ) within government agencies, state-owned enterprises, private corporations, and Indonesian diplomatic missions abroad. Furthermore, BAZNAS is authorized to extend UPZ networks to sub-district, village, or community-level jurisdictions, ensuring zakat accessibility aligns with local needs (Najiyah & Febriandika, 2019). Collectively, these provisions create a multi-tiered governance structure that centralizes regulatory authority while decentralizing operational reach, enabling BAZNAS to balance standardized oversight with grassroots implementation.

*b. The Hierarchy and Functional Relationship between BAZNAS and LAZ*

As a state-mandated institution, the National Zakat Agency (BAZNAS) ensures zakat management adheres to principles of fairness, equity, and nationwide coordination. Amil Zakat Institutions (LAZ), in contrast, operate as community-driven entities with the flexibility to target underserved populations and implement innovative programs beyond BAZNAS's bureaucratic reach. This complementary dynamic was emphasized by Kamaruddin Amin, Director General of Islamic Community Guidance at Indonesia's Ministry of Religious Affairs, during a Constitutional Court hearing (Case No. 97/PUU-XXII/2024) on October 17, 2024. Representing the government, Amin asserted that BAZNAS and LAZ function as "complementary components" within Indonesia's zakat governance framework, with BAZNAS ensuring regulatory compliance and LAZ enabling grassroots responsiveness. His testimony, delivered in the Plenary Courtroom of Central Jakarta, formed part of the government's defense of Law No. 23/2011 on Zakat Management during a session attended by the House of Representatives (DPR) and presidential representatives (Hosen et al., 2022). The judicial review thus underscores the contested yet interdependent roles of state and civil society in balancing centralized oversight with community-led innovation.

Kamaruddin clarified that BAZNAS, in executing its functions under Article 7 of Law No. 23/2011, does not seek to dominate or marginalize LAZ but aims to promote synergy among zakat institutions for optimal outcomes. Article 19 formalizes this relationship as one of coordination, not subordination: BAZNAS acts as the regulatory and policy-guiding body, while LAZ operates as an active partner in implementing zakat programs across diverse communities.

Furthermore, BAZNAS is a non-structural state institution established by Law No. 23/2011. Post-legislative amendments, it operates as an independent governmental entity accountable to the President through the Minister of Religious Affairs (Amalia, 2018). This structure positions BAZNAS as a pivotal actor within the state apparatus, tasked with advancing public welfare and poverty alleviation through systematic zakat management. Its mandate aligns with Article 34 of the 1945 Indonesian Constitution, which obligates the state to protect marginalized groups, including the poor and vulnerable children. By channeling zakat funds toward these constitutional priorities, BAZNAS directly supports the state's social responsibility framework—a role underscored by Syafii et al., (2022) as critical to national development.

Before the establishment of the National Zakat Agency (BAZNAS), zakat management in Indonesia was decentralized, with Amil Zakat Institutions (LAZ)—civil society organizations dedicated to professionally managing *zakat*, *infaq*, and *sadaqah* (ZIS)—serving as primary actors (Fadilah et al., 2017). LAZ's core mandate involves collecting, distributing, and utilizing zakat funds in compliance with Islamic jurisprudence (*fiqh*) and national regulatory frameworks.

Law No. 23/2011 on Zakat Management formalized LAZ's role as non-profit entities

mandated to administer ZIS transparently and accountably. Under this law, LAZ operates under the supervisory authority of BAZNAS, the national regulatory body established via Presidential Decree No. 8/2001. This framework positions LAZ as grassroots implementers and BAZNAS as the centralized guarantor of regulatory adherence, ensuring harmonization between Islamic principles and state policies (Setiawan & Soewarno, 2024).

### 3.2. *The Role of the State in Zakat Management from the Perspective of Siyāsah Shar‘iyyah*

#### a. *The Concept of Siyāsah Shar‘iyyah*

*Siyāsah Shar‘iyyah* (Sharia-based public policy) refers to an Islamic governance doctrine authorizing rulers or states to formulate policies for implementing Islamic law (*Sharī‘ah*) in sociopolitical affairs. Classical scholars define it as legal-administrative norms that align with the *spirit* (*rūḥ*) of Islamic jurisprudence, even if not explicitly rooted in Qur’anic or Hadith texts. Its primary objective is to realize public welfare (*maṣlaḥah ‘āmmah*) through governance frameworks derived from Islamic legal principles (Ibn Taymiyyah, 1953; Khalaf, 1994). For instance, Ibn Taymiyyah conceptualizes *siyāsah shar‘iyyah* as policies ensuring societal justice and equity, while Khalaf (1994) emphasizes its flexibility in adapting *Sharī‘ah* to modern governance needs. This doctrine thus legitimizes state authority in zakat management, provided policies uphold Islamic ethical objectives and communal benefit.

*Siyāsah Shar‘iyyah* provides a normative framework within Islamic jurisprudence for reforming Indonesia’s zakat regulations. Rooted in this doctrine, the state is obligated to develop policies that prevent undue hardship through adherence to Islamic legal standards. When existing laws impose excessive burdens, the principle of *rukhsah* (Sharia-grounded concessions) must be invoked to mitigate rigidity. As a cornerstone of Islamic governance, *Siyāsah Shar‘iyyah* empowers the state to align public administration—including zakat management—with core Islamic values while addressing sociopolitical realities. Crucially, it integrates divine revelation with human reason, synthesizing textual authority (*Qur’an* and *Hadith*) with contextual tools such as scholarly consensus (*ijmā’*), customary practices (*‘urf*), and empirical experience. These elements are harmonized under transcendental ethical objectives to ensure compliance with Sharia’s overarching intent (*maqāṣid*). Thus, *Siyāsah Shar‘iyyah* bridges scriptural mandates and adaptive governance, positioning it as a dynamic basis for zakat reform that respects both Islamic principles and Indonesia’s sociocultural pluralism.

#### b. *The Role of the State in Zakat Administration*

Zakat, as a form of *‘ibādah māliyyah* (financial worship), encompasses both social and public dimensions. Operating within the framework of *siyāsah shar‘iyyah* (Islamic political jurisprudence), the state is entrusted with the responsibility to implement policies ensuring communal welfare (*maṣlaḥah*) in alignment with Islamic legal principles. This doctrinal perspective transforms zakat from an individual religious obligation into a state instrument for advancing social justice and economic equity (Azizy, 2019). *Siyāsah Shar‘iyyah* further stipulates that state authorities retain discretionary power to enact policies beyond explicit scriptural mandates (*nass*), provided such policies prioritize the public interest (*maṣlaḥah ‘āmmah*) and adhere to the ethical foundations of Islamic law. Consequently, institutionalized state management of zakat—through bodies like BAZNAS—is not only legitimate but imperative, as it operationalizes religious imperatives into governance mechanisms that address modern socioeconomic challenges (Nafi, n.d.).

In Indonesia, zakat remains a voluntary religious practice for Muslims, devoid of state coercion. However, the state actively institutionalizes its management through legislation, grounded in *siyāsah shar‘iyyah* (Islamic governance principles). Under this framework, the House of Representatives (DPR) and the President, as the highest state institutions, exercise legislative authority to codify zakat governance, reflecting *siyāsah shar‘iyyah*’s mandate to align state policy with communal welfare (Owoyemi, 2020).

This legislative approach is driven by three imperatives: (1) Religious obligation, zakat, as a sharia-mandated duty for financially capable Muslims, requires state facilitation to ensure compliance; (2) Social justice, zakat’s institutionalization transforms it into a strategic tool for equitable wealth redistribution and poverty alleviation; (3) Operational efficiency, centralized, sharia-compliant management maximizes zakat’s socioeconomic impact while mitigating mismanagement risks. These imperatives culminated in Law No. 23/2011 on Zakat Management, which amended the outdated Law No. 38/1999 to harmonize Indonesia’s zakat framework with evolving governance needs and Islamic legal ethics (Herianingrum et al., 2024).

Zakat management is intrinsically tied to public order and the protection of Muslim citizens’ rights. Consequently, the state assumes authority to regulate and supervise zakat collection and distribution, ensuring optimal achievement of social justice objectives (Herdianto, 2011). Legal frameworks like Law No. 23/2011 institutionalize this oversight through the establishment of the National Zakat Agency (BAZNAS) and Zakat Management Institutions (LAZ), mandating transparent, accountable, and Sharia-compliant practices (Hadi, 2022). These measures aim to prevent fund mismanagement and ensure zakat’s socioeconomic benefits reach marginalized communities effectively. Thus, while zakat remains a voluntary act of worship, the state bears a constitutional obligation to regulate its administration, safeguarding public interest and upholding Muslim citizens’ entitlements (Adib, 2017).

Building on this framework, *siyāsah shar‘iyyah* positions zakat as a religious obligation embedded within the forum externum—the realm of social relations. As a guardian of public welfare, the state holds constitutional authority to secure communal assets, including wealth redistribution mechanisms like zakat. This doctrine obligates the state to ensure zakat management adheres to principles of efficiency, effectiveness, and ethical accountability, aligning with Islamic jurisprudence. By guaranteeing zakat reaches its rightful beneficiaries (*mustahiq*), the state fulfills its *siyāsah shar‘iyyah*-driven mandate to harmonize religious duties with sociopolitical governance. This reciprocity between state and citizens, rooted in constitutional and rational foundations, underscores the Zakat Management Law’s core objective: transforming religious imperatives into actionable policies for collective welfare (Alwiyah, 2023).

Under *siyāsah shar‘iyyah*, legislative regulation must adhere to principles of justice, moral integrity, and public welfare rather than arbitrary exercise of power. Law No. 23/2011 grants the National Zakat Agency (BAZNAS) a dual mandate as both regulator and operator in zakat management, centralizing authority within a single institution. This dual mandate, while streamlining governance, risks institutional conflicts of interest—a concern antithetical to *siyāsah shar‘iyyah*’s emphasis on equitable power distribution. To mitigate such risks, the doctrine mandates regular *sharī‘ah* and financial audits as mechanisms to enforce accountability. *Sharī‘ah* audits, in particular, verify compliance with Islamic legal principles across zakat’s collection, distribution, and utilization phases, ensuring alignment with divine injunctions (*ahkām*) and communal trust (Herianingrum et al., 2024). Thus, while BAZNAS’s centralized authority

enhances operational efficiency, *siyāsah shar‘iyyah* necessitates rigorous oversight to reconcile regulatory power with ethical governance.

### 3.3. Classical and Contemporary Scholars’ Ijtihād on the Role of the State in Zakat Administration

#### a. Imam al-Māwardī (d. 1058 CE)

In his authoritative treatise *Al-Aḥkām al-Sulṭāniyyah* (*The Ordinances of Government*), al-Māwardī asserts that zakat administration constitutes a core state responsibility. He posits that the caliph or governing authority must appoint specialized zakat administrators (*‘āmil al-zakāh*) to oversee the collection and equitable distribution of zakat to the eight Qur’anic categories of beneficiaries (*mustahiq*).

“The ruler is obligated to appoint zakat administrators (*‘āmil al-zakāh*) entrusted with the duties of collection and distribution, for this constitutes a sacred trust (*amānah*) of the ummah, not to be delegated to unqualified individuals.”

—Al-Māwardī, *Al-Aḥkām al-Sulṭāniyyah*

Building on this framework, al-Māwardī underscores the indispensability of state institutionalization in zakat management to prevent fiscal mismanagement and ensure systematic, justice-oriented distribution. His analysis reflects an early articulation of centralized governance in Islamic fiscal policy, positioning the state as the guarantor of both religious fidelity and socioeconomic equity.

#### b. Ibn Taymiyyah (d. 1328 CE)

Ibn Taymiyyah conceptualizes *siyāsah shar‘iyyah* as *siyāsah ilāhiyyah* (divine governance), deriving its legitimacy from Qur’anic principles. He argues that any pursuit of public benefit (*maṣlaḥah*) must align with Sharia ethical objectives; governance deviating from these principles—regardless of pragmatic utility—lacks validity under Islamic law. For Ibn Taymiyyah, zakat functions as a state mechanism for institutionalizing social justice, necessitating centralized administration rather than reliance on individual, ad hoc distribution. In his *fatāwā*, he explicitly rejects decentralized zakat practices, asserting that state authority (*walī al-amr*) must oversee its management to ensure compliance with Sharia higher purposes (*maqāṣid al-sharī‘ah*).

“Zakat is not ordinary charity to be dispersed arbitrarily. It is a sacred trust (*amānah*) requiring administration by legitimate authorities for communal benefit.”

—Ibn Taymiyyah, *Majmū‘ al-Fatāwā*

Thus, Ibn Taymiyyah positions the state as the custodian of public trust in zakat governance, a role critical to preserving religious integrity and equitable resource allocation. His treatise *Al-Siyāsah al-Shar‘iyyah fī Iṣlāḥ al-Rā‘ī wa al-Ra‘iyyah* (Beirut: Dār al-Āfaq al-Jadīdah, 1988) underscores this imperative, framing state oversight as both a theological and sociopolitical obligation.

#### c. Yūsuf al-Qaradāwī (d. 2022 CE)

In his seminal work *Fiqh al-Zakāh* (*The Jurisprudence of Zakat*), al-Qaradāwī asserts that the state bears not only the authority but also the obligation to administer zakat, contingent on its capacity to implement equitable and Sharia-compliant systems. While advocating for centralized oversight, he simultaneously recognizes civil society’s complementary role through independent *Amil Zakat Institutions* (LAZ), provided these operate under rigorous state supervision to prevent fragmentation.

*“If the state establishes a just zakat system, Muslims are obligated to channel their zakat through state mechanisms rather than distributing it directly to beneficiaries (mustahiq).”*

—al-Qaradāwī, *Fiqh al-Zakāh* (2022, Vol. 2)

This dual framework reflects a contemporary *ijtihad* that harmonizes state authority with societal participation, prioritizing structured coordination and accountability mechanisms. Al-Qaradāwī’s synthesis thus bridges classical doctrines of centralized governance with modern demands for institutional pluralism, positioning zakat as both a religious obligation and a collective socioeconomic instrument.

### 3.4. Judicial Review Analysis of Case No. 97/PUU-XXII/2024: Contesting BAZNAS’s Authority vis-à-vis LAZ/BAZ Institutions

The Judicial Review of Law No. 23/2011 on Zakat Management reached Indonesia’s Constitutional Court (*Mahkamah Konstitusi*) following claims that the law disproportionately empowers the National Zakat Agency (BAZNAS). Critics argue that the 2011 revision—replacing Law No. 38/1999—transformed BAZNAS from a zakat management body into a dual-role entity acting simultaneously as regulator, auditor, and operator. This institutional duality has sparked debate over potential conflicts of interest, with opponents contending that BAZNAS’s consolidated authority marginalizes Amil Zakat Institutions (LAZ) and undermines fair competition in zakat governance (Case No. 97/PUU-XXII/2024).

The case reflects broader sociopolitical tensions over civil society’s role in religious governance, particularly LAZ/BAZ institutions’ mandate to safeguard communal autonomy in zakat management. A critical precedent emerged in Constitutional Court Decision No. 86/PUU-X/2012, initiated by the Zakat Community Coalition (*Koalisi Masyarakat Zakat/KOMAZ*) and multiple LAZs, which challenged provisions centralizing zakat authority under BAZNAS. Petitioners argued that the law’s restrictive framework threatens over 300 community-established LAZs—most registered as foundations—by stifling their operational independence and relegating them to subordinate roles under state oversight.

Constitutional Court Decision No. 86/PUU-X/2012 marked a pivotal shift toward decentralizing zakat governance by expanding operational flexibility for Amil Zakat Institutions (LAZ) and recognizing their role beyond BAZNAS’s structural oversight. Despite this opening for community-driven management, critics warned that reduced state coordination risked fragmenting accountability, potentially enabling mismanagement or misuse of zakat funds.

A decade later, evolving challenges in Indonesia’s zakat ecosystem prompted Judicial Review No. 97/PUU-XXII/2024, contesting the authority demarcation between BAZNAS and LAZ/BAZ institutions. Petitioners argued that Law No. 23/2011 disproportionately centralizes power under BAZNAS—granting it regulatory, operational, and auditing roles—thereby marginalizing LAZs. Specific articles (5, 6, 7, 17, 18, 19, 38, and 41) were challenged as allegedly contravening the 1945 Constitution (UUD 1945), particularly provisions safeguarding communal autonomy and equitable resource governance.

On 15 July 2024, three petitioners formally filed the judicial review: (i) Dompot Dhuafa Republika Foundation (Representatives: Ahmad Juwaini, Etika Setiawanti); (ii) Bambang Suherman and Irvan Nugraha (LAZ-affiliated advocates); (iii) Arif Rahmadi Haryono (Individual petitioner), represented by the Indonesia Zakat Watch Legal Team (Komp. Bumi Parahyangan Kencana, Bandung Regency, West Java). This legal action underscores persistent tensions

between state-centric regulatory frameworks and civil society's demand for participatory zakat governance—a debate rooted in Indonesia's constitutional balancing of religious imperatives and pluralistic democracy.

The petitioners initiated a judicial review of Law No. 23/2011 on Zakat Management, challenging the constitutionality of Articles 5(1), 6, 7(1), 16(1), 17, 18(2), 19, 20, 38, 41, and 43(3–4). These provisions were contested against Articles 27(1), 28C(2), 28D(1), 28E(1), 28I(2), and 29(2) of the 1945 Constitution of Indonesia (UUD NRI 1945), which safeguard citizens' rights to religious freedom, legal certainty, and equitable participation in public affairs.

During proceedings, the petitioners' *posita* (legal arguments) focused on three critical flaws: First, Article 5(1) institutionalizes BAZNAS as a *de facto* "superbody," granting it unchecked dominance over national zakat governance; Second, Article 6 lacks safeguards against BAZNAS's abuse of authority, enabling potential mismanagement of zakat funds; Third, Article 7(1) entrenches systemic centralization by consolidating BAZNAS's roles as operator, regulator, and auditor—a framework that stifles civic participation and violates constitutional guarantees of communal autonomy. This tripartite critique underscores the petitioners' core contention: the law's structural bias toward BAZNAS erodes Indonesia's constitutional balance between state oversight and civil society's role in religious resource management.

The petitioners interpret Article 16 as granting BAZNAS exclusive privileges while imposing mandatory obligations on third parties. They argue that the term "may" (Indonesian: *dapat*) is functionally construed as a right for BAZNAS but an obligation for State-Owned Enterprises (BUMN), Regional-Owned Enterprises (BUMD), private entities, and Indonesian diplomatic missions—requiring them to establish zakat collection units (*UPZ*) at sub-district (*kecamatan*), village (*kelurahan*), or other administrative levels.

Article 17 is contested for obligating LAZ institutions to assist BAZNAS in achieving zakat goals, despite their equivalent operational status. This hierarchical dynamic, petitioners contend, undermines LAZ's autonomy and contradicts constitutional guarantees of equitable institutional participation.

Article 18(2) is criticized for creating systemic bias in LAZ licensing processes, disproportionately favoring BAZNAS-affiliated entities and violating citizens' rights to fair administrative treatment. Similarly, Article 19 entrenches an unequal power relationship by centralizing regulatory, operational, and auditing authority under BAZNAS—a structure petitioners argue stifles competition and limits zakat's socioeconomic potential.

Article 20, coupled with Government Regulation No. 14/2014, imposes restrictive requirements on LAZ organizational structures, licensing, branch establishment, and reporting mechanisms. Rather than fostering institutional growth, petitioners assert these rules erode LAZ's operational independence, relegating them to subordinate actors under BAZNAS oversight.

Articles 38 and 41 face scrutiny for prioritizing criminal sanctions over administrative remedies. While intended to protect *muzakki* (zakat payers) through legal certainty, petitioners warn these provisions risk penalizing legitimate *amil* (zakat administrators) for minor infractions, chilling grassroots zakat initiatives.

Finally, Articles 43(3–4) are challenged for generating legal ambiguity around pre-existing LAZ institutions. By retroactively imposing new regulatory standards, petitioners argue the law delegitimizes decades of community-driven zakat management, violating constitutional principles of non-retroactivity and institutional equity.

The Petitioners' constitutional grievance substantively demonstrates harm arising from the Zakat Law's implementation, particularly through the institutional supremacy granted to BAZNAS as a state-managed zakat authority. This dominance stems from BAZNAS' multifunctional mandate, enabling simultaneous operation as regulator, auditor, and operator within Indonesia's zakat ecosystem. Such role consolidation has created systemic imbalances and perceived inequities in zakat governance, especially regarding LAZ (Amil Zakat Institutions), as BAZNAS effectively functions as a centralized governing entity with comprehensive oversight powers.

At the 5 November 2024 Constitutional Court hearing, key stakeholders including the House of Representatives (DPR RI), BAZNAS, Lazismu, and Lazisnu presented their positions. DPR RI representative Sarifuddin Sudding first addressed the constitutional challenge to multiple provisions of the Zakat Management Law. The Petitioners specifically seek judicial review of Article 5(1), Articles 6-7(1)a,c,d, Articles 16-20, and Article 43(3)-(4), questioning their compliance with Indonesia's 1945 Constitution. The session subsequently examined the Petitioners' legal standing and legislative perspectives on the dispute.

In BAZNAS' response delivered by Chairman Prof. Nur Ahmad, the agency clarified its statutory foundation under Law No. 23/2011 as Indonesia's primary zakat management body. To ensure operational compliance, BAZNAS undergoes dual oversight: annual financial audits by independent accounting firms (consistently receiving unqualified opinions) and sharia compliance reviews by the Religious Affairs Ministry. This dual audit framework applies uniformly to all zakat institutions, including LAZ nationwide, to maintain transparency, legal adherence, and Islamic financial principles.

Regarding institutional capacity, BAZNAS reported a workforce of 13,466 professionals across its national network and partner LAZ. Human resource development is facilitated through its BAZNAS Professional Certification Institute (LSP BAZNAS), accredited by the National Professional Certification Board (BNSP). To date, 23,038 zakat administrators at all institutional levels have obtained professional certification through this program. The agency emphasized its accountability structure, noting it operates under joint supervision of the Religious Affairs Ministry and regional governments rather than functioning as an autonomous "super-body."

In its third statement, Lazismu articulated critical perspectives on the contested articles under judicial review. Regarding Article 5(1), Lazismu maintained the fundamental validity of the provision, which obligates the government to establish BAZNAS through statutory mechanisms while ensuring coordinated oversight for accountable zakat governance. However, Article 7(1) drew criticism for its failure to comprehensively delineate the state's duties and jurisdictional scope in zakat administration. On Article 16(1), Lazismu emphasized the necessity of explicit role differentiation between BAZNAS as the state-appointed authority and LAZ as community-based entities to prevent institutional overlap.

Turning to subsequent provisions, Lazismu advocated for revisions to Article 17, specifically urging the removal of the phrase "to assist BAZNAS" to eliminate hierarchical implications. For Article 18(2), the organization proposed abolishing clause (c)—which conditions licensing on BAZNAS recommendations—arguing that such authority should reside solely with the Minister. While supporting the retention of Article 19 in its current form, Lazismu stressed that Article 20 requires legislative harmonization under the Directorate General of Legislation to preclude regulatory conflicts with higher laws. The organization further aligned

with petitioners in seeking the repeal of Articles 43(3)-(4), citing risks of criminalizing religious leaders who may lack formal expertise in financial auditing or zakat compliance frameworks.

Concluding the hearing, Lazismu's representative structured their intervention around two analytical axes: first, interrogating BAZNAS' legitimacy as *amil* (zakat administrator) through the lens of classical Islamic jurisprudence, and second, evaluating the constitutional boundaries of state authority in zakat governance, balancing communal religious autonomy with institutional accountability mandates.

During the 9 May 2025 Constitutional Court hearing, Wahfiudin Sakam Bahrum—Deputy Chair of the Indonesian Ulema Council's Education and Cadre Formation Commission—asserted that state involvement in zakat management contradicts its hands-off approach to religious financial practices in pluralistic societies, mirroring its non-interference in Christian tithing traditions. He contested the absolutism of state roles in Islamic zakat governance, emphasizing Indonesia's unique constitutional paradox: as neither a theocratic nor fully secular state, it cannot directly adopt foreign models. This ambiguity, he argued, necessitates developing a hybrid governance framework that reconciles Indonesia's socioreligious pluralism with its legal-institutional imperatives.

The 28 May 2025 follow-up session featured expert testimonies from presidential appointees, including Dr. Wahiduddin Adams, S.H., M.A. (present in-person) and Dr. Irfan Syauqi Beik, S.P., M.Sc., Ec. (joining virtually). Dr. Adams clarified that Case No. 97/PUU-XXIV/2025 centers on constitutional compatibility reviews of Law No. 23/2011 on Zakat Management, particularly its alignment with Articles 28D(1), 29(1)-(2), and 34 of the 1945 Constitution. He systematically addressed the Petitioners' eight-point legal arguments, highlighting their focus on institutional overreach and regulatory conflicts.

Central to Dr. Adams' critique was the logical inconsistency between the Petitioners' *petitum* 5.1 and 5.2. While 5.1 alleges Article 16(1) of Law No. 23/2011 violates constitutional principles, 5.2 paradoxically demands its limited enforcement "only when interpreted as supporting BAZNAS' operational mandates." This contradiction, he noted, creates juridical indeterminacy by simultaneously declaring the provision unconstitutional (5.1) and seeking conditional validity (5.2). Such paradoxical demands, he concluded, undermine the coherence of the judicial review petition while failing to propose actionable legislative alternatives.

The Petitioners' *petitum* 6.1 and 6.2 exhibit inherent contradictions without proposing viable alternatives. While *petitum* 6.1 seeks an absolute declaration of unconstitutionality for the contested provision, *petitum* 6.2 paradoxically demands conditional invalidity by restricting its legal force to specific interpretations. This dual posture—simultaneously pursuing categorical and qualified unconstitutionality—creates juridical inconsistency. Similar contradictions permeate *petitums* 7.1, 8.1, and 10.1, which likewise challenge constitutional compatibility while failing to provide coherent legislative alternatives.

The expert analysis concluded that the Petitioners' requests for judicial review of Articles 16(1), 17, 18(2), 19, 20, and 43 of Law No. 23/2011 violate procedural clarity under Article 74 of Constitutional Court Regulation No. 2/2021. This provision mandates the dismissal of petitions (as *niet ontvankelijk verklaard*) when reliefs contain conflicting demands and lack alternative formulations. The expert emphasized that such internal contradictions render the petition legally ambiguous (*obscuur libel*), warranting inadmissibility.

Regarding Article 43(4) of Law No. 23/2011—the focus of *petitum* 11—the Petitioners

erroneously challenged a transitional provision under Chapter X. This article's five-year validity period, effective from the law's promulgation on 20 November 2011, expired automatically on 20 November 2016. Consequently, the contested clause concerning LAZ (Lembaga Amil Zakat) became legally obsolete, rendering the petition *moot* due to the norm's statutory expiration (*ipso jure*).

In his virtual testimony, government-appointed expert Dr. Irfan Syauqi Beik framed his analysis through three interconnected pillars. Firstly, he underscored Law No. 23/2011's foundational role in formalizing Indonesia's zakat governance framework, crediting its statutory architecture for fostering systemic accountability and enabling sustainable socioeconomic development through structured philanthropy. Secondly, he delineated four strategic axes central to the judicial review debate: (1) the jurisprudential interpretation of the Quranic injunction "*Khudz min amwalihim shodaqah*" (At-Tawbah:103) within state-administered zakat systems, (2) the operational efficacy of the law's institutional design in harmonizing centralized oversight with grassroots implementation, (3) inherent risks of conflating regulatory and executive roles within zakat institutions, and (4) the imperative for coherent administrative coordination between BAZNAS, LAZ networks, and regional governments to prevent jurisdictional fragmentation. By synthesizing these dimensions, Dr. Beik's testimony sought to reconcile Islamic ethical principles with Indonesia's constitutional mandate for equitable and transparent zakat governance.

## CONCLUSION

This analysis of Constitutional Court Decision No. 97/PUU-XXII/2024 and its implications under *siyāsah shar'iyah* principles demonstrates the state's indispensable yet circumscribed role in ensuring zakat governance adheres to Islamic legal tenets of transparency and accountability. While the state's strategic authority is constitutionally warranted, the institutional design of BAZNAS under Law No. 23/2011—vesting it with overlapping regulatory, operational, and auditing powers—has engendered systemic conflicts of interest, legal ambiguities, and operational constraints on LAZ (Amil Zakat Institutions) and regional BAZ agencies. From a *siyāsah shar'iyah* perspective, such centralized dominance without robust checks and balances contravenes core Islamic governance principles of *maslahah* (public welfare), distributive justice, and communal participation in managing religious-social resources. State involvement must therefore prioritize collaborative synergy with civil society rather than monopolistic control.

This analysis further underscores that while centralized oversight aims to enhance administrative efficiency, functional separation between policymaking and implementation remains imperative to mitigate governance risks. Comprehensive legal reforms must recalibrate BAZNAS's dual mandates, establishing an inclusive framework that safeguards institutional autonomy while ensuring sharia compliance. Decision No. 97/PUU-XXII/2024 marks a critical juncture for redefining Indonesia's zakat governance paradigm, necessitating alignment not only with constitutional norms but also with *siyāsah shar'iyah*'s normative foundations. The ruling delineates boundaries for state intervention while affirming civil society's participatory rights, thereby charting a path toward equitable, dignity-driven zakat management. Such reforms would advance Indonesia's pursuit of social justice and holistic welfare, reconciling bureaucratic efficacy with Islamic ethical imperatives.

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