

FIQH OF ASNAF IN THE DISTRIBUTION OF ZAKAT: CASE STUDY OF THE NATIONAL BOARD OF ZAKAT OF INDONESIA (BAZNAS)

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ABSTRAK

Salah satu factor penentu keberhasilan pengembangan zakat adalah program distribusi zakat yang harus sesuai dengan prinsip Syariah. Hal ini menyebabkan standarisasi fiqh asnaf (kelompok penerima) zakat menjadi sangat penting. Di dalam aplikasinya, standar fiqh asnaf yang digunakan oleh sebuah Negara berbeda dengan Negara lainnya. Penelitian ini bertujuan untuk menganalisis fiqh asnaf zakat di Indonesia dengan mengambil studi kasus Badan Amil Zakat Nasional (BAZNAS).

Standarisasi asnaf yang BAZNAS tentukan berdasarkan 11 pasal yang terdapat di dalam Surat Keputusan dewan pengawas BAZNAS. Dewan ini memiliki otoritas dalam menentukan standar syariah program BAZNAS. Terdapat beberapa konsep baru yang diperkenalkan di antaranya zakat *muqayyadah*. Selain itu, standar kemiskinan yang ditetapkan adalah 2 dollar per kapita per hari. Selain itu, beberapa isu penting terkait fiqh asnaf ini dibahas secara lebih mendalam.

Kata Kunci: fiqh asnaf, kriteria mustahik, distribusi zakat

ABSTRACT

One of the main indicators determining the success of zakat development is zakat distribution programs. Zakat must be disbursed according to the shariah principles. The existence of standardized fiqh of *asnaf* that becomes zakat recipients is extremely important. However, this fiqh of *asnaf* may differ from one country to another. This paper attempts to elaborate the concept of fiqh of *asnaf* in the distribution of zakat in Indonesia, by taking a case study of the highest government zakat institution, i.e. The National Board of Zakat of Indonesia (BadanAmil Zakat Nasional, abbreviated as BAZNAS).

Standardization of *asnaf* criteria has been done by the Advisory Council of BAZNAS, which has the authority to issue verdict related to collection and distribution of zakat. This paper finds that there are 11 articles in the Decision Letter of BAZNAS

Advisory Council, which become guidelines in determining standard of zakat practices. For example, poverty line standard, which is used to define the poor and the needy, equals USD 2/capita/day. This standard is double than the standard of government poverty line. New concept has also been introduced, i.e. zakat *muqayyadah*. However, various important issues, such as definition of *garimin* and *muallaf*, need to be resolved immediately for future betterment.

JEL Classification: D64, Z12, Z18

Keywords: *fiqh of asnaf*, criteria of *mustahiq*, zakat distribution

1. INTRODUCTION

One of the most important matters that need to be determined by the zakat stakeholders all over the world is the standardization of zakat recipient criteria, which might be vary from one country to another. This issue is very essential because zakat distribution, beside its collection, is the main indicator determining the success of zakat development. Furthermore, compared with the sequence and arrangement in the holy Quran, the verse related to zakat distribution (QS At-Taubah: 60) appears earlier than the verse regarding zakat collection (QS At-Taubah: 103). Consequently, the standardization of *Fiqh* of zakat recipient in the zakat distribution should become top agenda, especially among the OIC member countries. Additionally, *fiqh of asnaf* also indicates the legitimation of zakat distribution in accordance with *shariah* perspective.

On the other hand, there are many cases where *fiqh of asnaf* defined using different parameters across the countries. For example is the determination of the poor and the needy *asnaf*. It would be not clear enough when the poor are only defined as those who have no sources of income so that they cannot meet their basic necessities, while the needy refers to those who have job with insufficient salary in fulfilling their needs, or vice versa¹. Thus, it is crucial to determine the most appropriate parameter to decide whether a person can be considered as poor and indigent or not.

In this regard, there are several approaches, which have been employed as the benchmark for *asnaf* determination in some countries. First, by using the official poverty line set up by the government. This is the most common method applied worldwide. Those who have income below that line would be categorized as the poor. For instance, the average poverty line in Indonesia stands at Rp 243,000²/month/person (Central Board of Statistic, 2011). This standard has invited some critics because its value is too low and unacceptable.

Second, there exists now alternative to poverty line, i.e. by proposing poverty line based on *had al kifayah* approach. In the context of Malaysia, this approach has been discussed by Salleh et al (2011) and Patmawati (2008, 2009). The concept of *had al kifayah* is determined by the level of necessity needed by a household to sustain daily needs. It is believed to be more appropriate and in line with the objective of the *shariah (maqasid al syariah)*. Several zakat institutions in Malaysia like LZS (Lembaga Zakat Selangor) have used this approach to determine eligibility of zakat recipients.

According to LZS, the poor standard is determined by the ability of a household to satisfy their basic needs (*daruriyyah*), which consist of foods, clothes, houses, health, and education. Thus, by applying *had al-kifayah*, a household is eligible to receive zakat fund only if their monthly income is less than RM 1,650³. Besides, if there were disable or people with severe illness in the family members, the minimum limit would be raised to RM 2,240/month/household⁴ (Rasool et al, 2011).

Furthermore, the second example of *fiqh of asnaf* issue is related with the right of *amil* that comes from *Infaq* and *sadaqah* fund. As for zakat fund, there are not any debatable substances, because all *ulama* agree that *amil* can take one eighth of the total of zakat fund. The problem emerges from the question on how much of *Infaq* and *sadaqah* fund that can be allocated to cover operational costs. Some argue that it is supposed to be one eighth as well, considering the main purpose of people to give charity is to help those in need and not for the operational cost of *amil* institution. But some other argue that *Infaq* and *sadaqah* fund can be used to settle the institution's operational cost, no matter how much the percentage is, as long as it can be professionally accounted (Beik, 2012).

The way out for this problem is that the determination of the amount of *Infaq* and *sadaqah* fund that are allowed to cover operational cost of *amil* institution should be based on the "*maslahah*" (benefit) consideration. The amount depends on the condition and situation faced. However, the new question arises now is how to define the "*maslahah*" itself?

The third example is related with the *garimin* (indebted) group. The definition of this group differs from one country to another. Brunnei Darussalam, for instance, has the least tight criteria in categorizing people who belong to this group (Beik, 2012). All muslims who cannot afford to pay their house or car installment, regardless of its type or its brand that are sometimes perceived as luxurious goods in other countries, can be categorized as *garimin*. This approach, however, may not be suitable for other countries, especially those belong to low income countries.

There are still more issues regarding this *fiqh of asnaf*. Essentially, the determination of *shariah* guideline for zakat distribution, including standardization of *asnaf*, cannot be done arbitrarily, but supposed to be through the adequate *shariah* review and analysis.

This paper, hence, attempts to elaborate and analyze the standardization of *asnaf*, which is expected to be able to contribute significantly for further zakat development. The analysis of this standardization is based on Indonesia case, by taking the *mustahiqor asnaf* criteria applied by the National Board of Zakat (BAZNAS), which is the highest government zakat institution in the country. Research method that is adopted by this paper is *library research*, in which analysis of relevant documents – such as books, journals, annual report of BAZNAS, and other reliable references – plays very important role.

The paper comprises five sections including introduction as the first one. The second section is literature review followed by overview on zakat development in Indonesia in the third section. Section four shall discuss the analysis on the criteria of *asnaf* applied by the National Board of Zakat (BAZNAS). Last section concludes the paper.

2. LITERATURE REVIEW

Zakat is one of the five pillars of Islam. It is basically the material as well as spiritual form of worship. This aims to purify ones wealth and positions by giving a certain amount of money to the poor and the needy from the net income exceeding *nisab*⁵ after a complete year. The term is derived from the Arabic verbal root, which means to increase (*al-namaa*), to purify (*al-taharatu*) and to bless (*al-barakatu*). By paying it, one is aspiring to attain blessing, purification and the cultivation of good deeds (Hafidhuddin, 2002).

Al-Qardawi (1993) states that zakat obligation is mentioned in the holy Quran thirty times, in twenty-seven of which zakat is associated with prayers. Furthermore, the term zakat in the Quran appears in many verses as *sadaqah*⁶, *Infaq*⁷, and *haq*⁸. This obligation is also emphasized in large number of the Prophet's sayings (*hadits*). He says that zakat, apart from being an obligatory worship (*ibadahmahdlah*), also has socio-economic objectives (*al-ibaadah al-maaliyah al-ijtima'iyyah*). Therefore, it has very important position in the development of the Muslim community.

The zakat beneficiaries have been classified into categories (*asnaf*). These groups are based on the Surah al-Taubah (9: 60). These zakat recipients comprise the poor (*fuqara*), the needy (*masakin*), zakat collectors (*amilin*), those newly converted to Islam (*muallaf*), ransoming of slaves (*riqab*), the debtors (*al-gharimin*), in the cause of Allah (*fi sabilillah*), and the wayfarers (*ibnusabil*) (Aziz, 1993).

Al-Qaradawi (2002) affirms that the basic objective of zakat is to solve tricky social problems such as poverty, unemployment, natural catastrophes, indebtedness, inequitable income distribution, etc. Zakat approach to dealing with these problems is based on the position of the religion towards these social malaises. Poverty is likely to be associated with lack of faith in some of the sayings of the Prophet Muhammad P.B.U.H. It is a kind of bondage or slavery for those who fail to fulfill their needs. The system of zakat distribution provides a solution to the problem of poverty and a relief to the poor regardless of their race, color, religion, and ethnicity.

In his study on the survey of zakat institutions, Sadeq (2002) finds that the institution of zakat helps eradicate poverty that brings untold sufferings. Poverty encourages begging, which is condemned by Islam. He also suggests that extreme inequality will not exist in a properly functioning Islamic economy since a variety of distributional channels tend to lead the Muslims towards a reasonably acceptable standard. As a result, the problem of poverty is not expected to be a severe one in a true Islamic economy. There also exists consensus among Islamic scholars that the higher priority in zakat disbursement is for the eradication of poverty.

There have been numerous empirical studies on the importance of zakat distribution. A study conducted by Zulkifli et al (2008) reveal the role of zakat in decreasing the burden in fulfilling the basic necessities namely health and education of the poor and the needy *asnaf*. However, in this case study, the zakat disbursement has not been able yet to move zakat recipient from the poverty level. Therefore such campaigns activities are needed in order to raise the awareness of zakat payers and finally will be effectively increasing zakat fund collection.

Beik (2010) finds that zakat program in productive endeavor for the poor and the needy have been able to reduce 7.5 percent of *mustahiq's* poverty incidence in Jakarta, Indonesia. Moreover, the depth and severity of *mustahiq's* poverty can also be reduced. In addition, cost free-hospital program with zakat basis has also been able to decrease 10 percent of the poverty incidence of zakat beneficiaries.

Another study carried out by Beik and Tsani (2012) explain the performance of zakat distribution in Indonesia in an effort to reduce poverty level of the country by taking case six big cities, namely Jabodetabek (Jakarta province), Yogyakarta (Yogyakarta province), Surabaya (East Java Province), Samarinda and Balikpapan (East Kalimantan Province), and Padang (West Sumatera Province). After observing 1.639 household of *mustahiq*, the study shows that the utilization of zakat done by amil institutions (BAZNAS and LAZ) can reduce the number of poor household by 21.10 percent.

It is interesting to note that this study also reveals that zakat empowerment program can accelerate the poverty alleviation period by 1.9 years. Without applying zakat utilization program, poverty level can be reduced within seven years, while after using such program; this poverty can be decreased within five years. Thus, the study proves that zakat is empirically able to be an accelerator for the poverty alleviation.

These studies, which attempt to prove positive impact of zakat, are basically indicator that the success of zakat development lays on the issue of distribution program, in addition to the increase in zakat collection. Kaslam (2007) argues that Quranic guidelines for distribution scheme of zakat must be strictly observed. It is the duty of the responsible zakat-officials to be, at all times, fully aware of the persons under their jurisdiction, who are deserving of receiving zakat assistance. Zakat should be regarded as an instrument for improving social well-being.

The importance of distribution side of zakat is also stressed by Bahrom et al (2011). They state that zakat must be distributed to the eight beneficiaries. However, the standard or criteria for those beneficiaries may differ from one country to other country. In the case of Malaysia, the distribution and the amount of distributed zakat fund are determined by council of fatwa and existing law of zakat prevailing in each state in Malaysia. Regarding this, Malaysia has the standard of *mustahiq* that become the target of zakat.

3. BRIEF HISTORY OF ZAKAT DEVELOPMENT IN INDONESIA

Zakat is a very important foundation of Islam. However, the attention towards zakat development in Indonesia was limited. Before Indonesia got its independence on August 17, 1945, zakat was collected by various Islamic organizations that were already established. However, there were no government regulations about this since the Netherlands, which occupied Indonesia did not pay any attention to the issue of zakat. After the independence, the encouragement to enhance zakat management increased noticeably. In the 1950s, some attempts related to the issuance of legal rules of zakat were made, although they were not successful⁹.

It was in the 1960s, the discussion about collection and distribution of zakat was conducted by formal institutions. On September 26, 1968, eleven well-known Islamic scholars or *ulama*¹⁰, came to President Soeharto underscoring the importance of implementing zakat. President Soeharto gave positive response to this call. As the result, the needs of having zakat management institution emerged.

In the zakat seminar, which was arranged by the research and workshop institution of Faculty of Economics, Muhammadiyah University of Jakarta, President Soeharto called the people to realize zakat in more concrete way. On October 26, 1968, the President repeated his call by stating that zakat implementation was

needed in order to support country's development. To intensify it, the President was issuing Presidential Decree No 07/POIN/10/1968 dated October 31, 1968. This instruction was given to Major General AlamsyahRatuPrawiranegara, Colonel Azwar Hamid, and Colonel Ali Afandi. They were given a task to assist the President in administering national zakat collection¹¹.

In continuation with the President's order, Minister of Religious Affairs issued the Minister Regulation about establishment of the government board of zakat until the level of sub-district and village. The President was strengthening this regulation by sending a Letter No B. 133/PRES/11/1968 to all related government officials. Governors of provinces were then responding to this letter by issuing decree in their respective provinces¹². The Jakarta Board of Zakat, or BAZIS DKI, was among the zakat institution that was established as response to the President's instruction.

However, in the subsequent decades, especially in the 1970s and 1980s, zakat development was stagnant, no significant improvement was made. Collection of zakat was conducted only in the month of Ramadan in the mosques throughout the country. Their operation mostly was conducted temporarily in this month¹³. On the other hand, utilization of zakat failed to reduce poverty in the country. Zakat management of some already established zakat institutions was very traditional, marginal, and not professional.

At the beginning, the awareness of Indonesian Muslims to pay zakat was limited to *zakat al- fitr*¹⁴ only. Sources of zakat were restricted on those mentioned explicitly in the Quran and hadith. These include gold and silver, agriculture produce, animal husbandry (limited to cow, goat, sheep and camel), trade (limited to certain commodities) and rikaz (treasure). Other sources were unknown and were not explored yet.

Hafidhuddin and Juwaini (2006) have identified this problem, and they attempted to find out the major reasons for the problem. According to them, the major reasons that create this situation are as follow.

- a. The number of zakat institutions operating in the country was still limited, except in some areas including the capital of Indonesia, i.e. DKI Jakarta.
- b. People's confidence on the institutions of *amil* was very low, and therefore, they like to directly pay zakat to the zakat recipients.
- c. Profession of *amil* was considered as part time rather than full time job.
- d. Lack of socialization, especially lack of campaign on the issues of urgency and objectives of zakat, sources of zakat fund, and zakat role in economic development.

Nevertheless, the situation changed in the 1990s. There was an emerging awareness to re-organize zakat management. Some private zakat institutions were established in order to revitalize new paradigm of zakat administration, i.e. zakat should be managed on the basis of modern management. *Amil* of zakat should be assigned a full time job. This era was an important landmark of generating new era of zakat management, which is more professional and effective.

On July 7, 1997, a forum for all zakat institutions was set up. This forum is called "Forum Zakat", abbreviated as FOZ. Initially, FOZ has 11 member institutions comprising *Dompot Dhuafa Republika, Bank Bumi Daya, Pertamina, Telkom Jakarta, Baitulmaal Pupuk Kujang, BAZIS DKI Jakarta, Hotel Indonesia, and Sekolah Tinggi Ekonomi Indonesia*. This forum is intended to gather and to synergize all zakat

institutions in order to further promote zakat as an instrument of development for the nation.

This forum has played very important role in creating awareness among the various parties including government and the House of the Representatives. Finally, on September 23, 1999, Zakat Management Act No 38/1999 was passed by the House of the Representatives. This Act has opened wider room for zakat institution to participate in the development process. The enactment of Zakat Management Act is basically an indication that zakat has been formally institutionalized in the state domain.

As implication of this Act, the National Board of Zakat (abbreviated as BAZNAS) was then established by the President of the Republic of Indonesia as a coordinating institution for zakat collection and distribution throughout the nation. This establishment is based on Presidential Decree No 8/2001 dated January 17, 2001. As for private zakat institution (called as *LembagaAmil Zakat* or abbreviated as LAZ), the Law acknowledges their presence as part of legal zakat organization as long as they fulfill the requirements.

After 12 years in operation, Zakat Management Act No 38/1999 was replaced by Zakat Management Act No 23/2011. There are some fundamental changes in this new legislation, such as strengthening the position of BAZNAS in the government structure¹⁵, encouraging integration system between government and private zakat institutions¹⁶, etc. This Act was passed by the House of the Representatives on October 27, 2011 and enacted by the President on November 25, 2011. However, since the beginning of October 2012, there is an effort made by some private zakat institutions to file judicial review for this Act to the Constitutional Court of Indonesia¹⁷.

In terms of collection, there is an increase in the total national collection of zakat. Table 1 portrays the total amount of collected zakat, infaq and sadaqah from BAZNAS and LAZ (private zakat institutions) for the last three years.

TABLE 1
 NATIONAL ZAKAT, INFAQ, AND SADAQAH (ZIS) COLLECTION
 2009-2011

Year	Total Amount of Zakat (Billion Rupiah)	Annual Growth (%)
2009	1,200 (USD 126 million)	-
2010	1,500 (USD 158 million)	25.0
2011	1,730 (USD 182 million)	15.3

Source: The National Board of Zakat (2012)

It can be observed from the table above, there is a positive trend of collection zakat, infaq and sadaqah. If it is compared with the collection in the year 2002, which equals Rp 68 billion (USD 7.16 million), there is a substantial increase by 25 times within 9 years. It indicates that the awareness of the muslims to fulfill their obligation tends to rise.

Nevertheless, the potential of zakat in Indonesia is much higher than its actual collection. According to the research conducted by BAZNAS and Faculty of Economics and Management, Bogor Agricultural University (BAZNAS, 2011), the country's zakat potential reach Rp 217 trillion (USD 23 billion), or equivalent with 3.40 percent of Indonesia's 2010 GDP. The collected fund is equal to 0.80 percent of the potential. It indicates that stronger endeavor to collect zakat should be prioritized.

In terms of distribution and utilization programs, BAZNAS has seven major programs. Those are Mustahiq Service Center (MSC)¹⁸, Healthy Home of Indonesia¹⁹, Smart Home for Children of the Nation²⁰, *Bayt al Qirad* BAZNAS (BQB)²¹, Cadre of 1,000 Ulama²², and Disaster Quick Response Program²³.

As for ratio between zakat payers and zakat recipients, the data of BAZNAS shows that total ratio of *muzakki* and *mustahiq*s equal to 1:12, meaning that zakat paid by a person could be used to assist 12 persons. Total mustahiq that can be covered by BAZNAS and LAZ is estimated to be equal to 1.7 million people, or 6.07 percent of the total poor people throughout the nation (BAZNAS, 2012). It is a big challenge for zakat community to reach as many poor as possible.

4. ANALYSIS ON SHARIAH STANDARD OF BAZNAS IN THE DISTRIBUTION OF ZAKAT

This section attempts to analyze the standard of collection and distribution of zakat adopted by BAZNAS in its operation. Based on current organizational structure of BAZNAS, the authority to issue fatwa and standardization of *asnaf* criteria is in the hand of Advisory Council²⁴, which comprises prominent figures and experts in shariah as well as management. The decision issued by Advisory Council will be a guideline for the Executive Body of BAZNAS to run the programs.

The Advisory Council of BAZNAS has issued a decision letter No. 001/DP-BAZNAS/XII/2010 about guidance of collection and distribution of zakat, which must be implemented by BAZNAS in its operation. This decision letter contains 11 articles. These articles are issued in order to respond various questions which emerge in the practice of zakat. These articles are as below.

4.1 ARTICLE 1: IMPLEMENTATION OF ZAKAT MUQAYYADAH

This article provides guidance on zakat *muqayyadah*. Zakat *muqayyadah* is defined as payment of zakat by the zakat payers with condition that this zakat fund must be allocated to the recipient that has been determined by the *muzakki*. According to this article, the conditions of this zakat *muqayyadah* are as below:

- a. For individual *muzakki*, zakat *muqayyadah* is allowed to be distributed to the surrounding area of zakat payer.
- b. For zakat of corporation, this zakat *muqayyadah* is only allowed for private corporations, in which the majority shareholders are muslims. As for state own enterprises, although it is not mentioned in the article, the allocation of zakat can also be negotiated with BAZNAS.
- c. Allocation of zakat *muqayyadah* paid by corporation is anywhere within the territory of the country.
- d. Amil of BAZNAS are not allowed to take the right of amil (one eighth) of this zakat *muqayyadah*, but they are permitted to request *ujrah* (fee) from the *muzakki* that is used to distribute the fund. If in the allocation program, BAZNAS at provincial or city/regency are involved, then this *ujrah* must be divided with them.

4.2 ARTICLE 2: THE RIGHT OF AMIL

It is stated that the right of amil equals maximum one-eighth of the collected zakat fund. As for *infaq* and *sadaqah*, there is no right for amil. However, this *infaq*

sadaqah fund can be used for operational cost with certain limitation and it has to be rational.

4.3. ARTICLE 3: COST OF ZAKAT SOCIALIZATION AND CAMPAIGN

The cost to socialize zakat is taken from the right of amil. This cost can also be taken from sources of fund other than zakat.

4.4 ARTICLE 4: ZAKAT FOR PHYSICAL DEVELOPMENT

This article regulates the use of zakat fund, which is only for human development. The use of zakat fund for building hospitals, schools, and other physical infrastructure is not allowed. They can be built from sources of fund other than zakat, such as *infaq* and *sadaqah*.

4.5 ARTICLE 5: ASNAF OF RIQAB (SLAVES)

It is stated that this asnaf in Indonesia does not exist. The advisory council rejects the idea to include prisoner or those who are convicted as part of this *riqab*. The main reason is that the prisoner is not a slave who has no independency to act. If BAZNAS want to empower these prisoners, especially the poor ones, then it is allowed under the *asnaf* of the poor and the needy (*faqir* and *miskeen*).

4.6 ARTICLE 6: COST OF MENTORING IN ECONOMIC EMPOWERMENT PROGRAM

This article states that operational cost and mentoring cost needed for economic empowerment program can be taken from zakat that has been allocated for *asnaf* of *faqir* and *miskeen*.

4.7 ARTICLE 7: ZAKAT DISTRIBUTION BASED ON QARD AL-HASAN SCHEME

In this article, it is stated that the use of *qard al hasan* scheme in the distribution of zakat is allowed. In case the *mustahiq* fail to repay the non-interest loan (default), then this default must be written off.

4.8. ARTICLE 8: FINANCIAL ASSISTANCE FOR AMIL

This article states that zakat assistance for amil, who is in urgent need, is allowed under *asnaf* of *faqir* and *miskeen*. Strict terms and conditions apply.

4.9 ARTICLE 9: CRITERIA OF MUSTAHIQ

Article 9 states that *mustahiq* criterion is determined based on their inability to fulfill *al-hajah al-asliyyah* (basic needs). The *mustahiq* income should be equal to Rp 20,000 (USD 2.11)/day/capita or below.

4.10 ARTICLE 10: *NISAB* OF GOLD

In response to different of opinion about gold standard²⁵, this article states that *nisab*(exemption limit) of gold is equal to 85 grams of gold. This opinion is in line with that of Yusuf Al-Qaradawi and WahbahZuhaily.

4.11 ARTICLE 11: ZAKAT DISTRIBUTION IN THE FORM OF UNIVERSITY SCHOLARSHIP

Distribution of zakat in the form of scholarship for bachelor, master and PhD, is prioritized for *asnafof faqirand miskeen*. However, for those who are not categorized as the poor and the needy, but unable to continue their study, they can be given zakat under category of *asnafof fiisabilillaah*.

After observing the decision of Advisory Council of BAZNAS, these articles can be classified into two major categories: shariah guidance for collection side of zakat and shariah guidance for distribution aspect. Articles related to the former are Article 1 and Article 10. The rests belong to the latter.

It is interesting to note that BAZNAS introduces the concept of zakat *muqayyadah*, which may not be found in the literature of zakat. This concept emerges as response to the actual condition faced by *amil*. In Indonesia, some of *muzakki* have requested BAZNAS to allocate their zakat to certain groups of *mustahiq*. Otherwise they will directly distribute the fund to the *mustahiq*.

There are two ways implemented by BAZNAS to respond this request. First, implementation of *zakat muqayyadah* based on the criteria mentioned in the Article 1. Second, BAZNAS also introduces non-binding recommendation for zakat distribution. For this second way, no *ujrah* fee is asked by BAZNAS to the zakat payers. The proposal of distribution given by *muzakki* may be rejected by BAZNAS when the proposed *mustahiq* are not eligible according to shariah and prevailing law.

Implication of this concept of zakat *muqayyadah* has made BAZNAS to open the room for unplanned distribution programs. It is because *muzakki* of BAZNAS can propose the program, which may not be planned before. However, normally BAZNAS will negotiate with the *muzakki* before the agreement is made.

As for the Article 10, BAZNAS has standardized the gold standard. It indicates that other opinion cannot be used to determine *nisab* standard of gold. All zakat institutions must follow this standard.

As for the criteria of zakat recipients, Article 9 has mentioned that the poverty line standard used is around USD 2/day/capita. This standard is basically double than that of the government, which is determined by the National Board of Statistics (Badan Pusat Statistik, abbreviated as BPS). The government poverty line standard is around USD 0.90/day/capita. This higher standard of BAZNAS opens more room for *mustahiq* and more rational as compared to the actual living burden.

Furthermore, Article 2, 5 and 11 discuss the standard for three groups of *asnaf*, i.e. *amil*, *riqab*, and *fiisabilillaah*, respectively. There are additional guidelines for *amil*, which can be observed in the articles number 3 and 8. In general, there are three main principles that must be followed by *amil*.

First, *amil* has the right to use one-eighth of the total collected zakat fund. This principle must be strictly followed since it has become *ijma* of contemporary councils of *ulamaglobally*. Second, cost of zakat campaign must be spent from the

right of amil. In case there is an increase in the cost of socialization, this cost can be covered by the sources of fund other than zakat, such as *infaq* and *sadaqah*. However, the use of such fund should be carefully observed. Third, in case there is financial problem faced by amil, which force them to move to *miskeen* status, financial assistance taken from allocation for *asnaf* *miskeen* is permitted. In other words, amil can receive the fund under *asnaf* of *miskeen*. Criteria for amil that is eligible to receive the fund must be determined clearly by the Executive Body of BAZNAS. In practice, BAZNAS provides two types of financial assistance given to amil, i.e. by providing non-interest loan or by putting the amil directly as part of *asnaf* *miskeen*.

The guidelines also define the *riqab*. In the context of Indonesia, this *asnaf* does not exist. Prisoners cannot be made as an analogy for *riqab* in the modern economy. Prisoners have no similarity with *riqab* that has been discussed in many literatures.

Advisory Council of BAZNAS has also included scholarship recipients in the category of *asnaf* *fiisabilillaah*. Interestingly, these recipients do not necessarily belong to the poor and the needy. Their income may be above the poverty line, but due to expensive university tuition fee or due to other desperate situations, they are not able to pay the fee. Therefore, they may fall under the category of *fiisabilillaah*. However, actual condition of the recipients must be carefully observed before the decision is made.

Furthermore, there are some principles which are related with productive-based zakat distribution programs. These principles have been mentioned in the Articles 6 and 7, respectively. Productive-based zakat distribution is conducted by providing *qard al hasan* financing scheme for the *mustahiq*. Usually the *mustahiq* involved are in the productive age group. It is because the *mustahiq* in this age group have a bigger opportunity to change their life condition.

The use of *qard al hasan* scheme is permitted due to two main reasons. First, it is used to educate the *mustahiq* not to misuse the fund they receive. It is also believed that through this way, the *mustahiq* will be more responsible in managing their fund. Second, this scheme is used because of limited zakat fund that has been collected, and it contrasts with the number of the poor that need to be assisted. However, if default takes place, then their debt are written off.

BAZNAS in running the productive-based programs should not only allocate the fund and lend it with *qard al hasan* scheme, but also need to provide mentoring program for the micro entrepreneur. This mentoring is extremely important since it provides managerial and technical assistance as well as religious meeting needed to build character of the *mustahiq*. Hence, this mentoring requires some fund. Advisory Council of BAZNAS has given permission to use the fund that is taken from *asnaf* of *faqir* and *miskeen*. The proportion should be as minimum as possible. In case the fund is not sufficient, BAZNAS is allowed to use *infaq* and *sadaqah* fund.

Finally, Advisory Council, as mentioned in the Article 4, limits the use of fund. Zakat cannot be allocated for physical development, such as hospital, house and buildings. All infrastructure and facilities must be developed by using *infaq* and *sadaqah* fund. Zakat can only be disbursed to 'person', not building and other physical facilities.

In general, these articles have depicted fiqh of *asnaf* that is implemented by BAZNAS in its programs. However, some of the *asnaf* have not been discussed by the Advisory Council of BAZNAS. For example, definition of *garimin* (highly indebted persons) and *muallaf* (newly converted to Islam) is still not clear since it is not

available in the Decision Letter of the Advisory Council of BAZNAS. Therefore, these important issues must be resolved immediately in order to strengthen shariah compliance aspect of zakat distribution.

5. CONCLUSION

Zakat distribution is a key indicator determining the success of zakat development. Various programs have been introduced by the National Board of Zakat of Indonesia (BAZNAS) in order to transform *mustahiq* to become *muzakki*. In practice, one of the most important aspects which must be carefully observed is criteria of zakat recipients. This criterion provides basis for determining eligible *mustahiq*. It may be different from one country to other country.

As the highest government institution that is responsible for zakat management in Indonesia, BAZNAS has provided guideline for its distribution programs. According to current its organizational structure, Advisory Council of BAZNAS has the authority to determine the standard of *asnaf* that will receive zakat fund. It has issued 11 articles of guidelines which must be followed by the Executive Body of BAZNAS. These articles are written in the Advisory Council's Decision Letter No. 001/DP-BAZNAS/XII/2010.

The presence of this guideline is highly needed in order to harmonize the practice of zakat in the nation with shariah. It also provides clear boundaries in the distribution of zakat which cannot be violated by *amil*. However, the guideline of BAZNAS must be sharpened by providing details in some of the articles, such as criteria of *amil* that can receive financial assistance and proportion of cost of mentoring that can be taken from *asnaf of faqir and miskeen* as part of economic empowerment program. It is also suggested that various issues, which have not been discussed, should be resolved immediately.

ENDNOTES

1. There is difference of opinion among the jurists about definition of the poor and the needy. The definition above is the one that is stated by Shafiischool, while the Hanafi school have the opposite definition. However in practice, the poor and the needy are considered the same and used interchangeably. No significant difference exists.
2. It is assumed that USD 1 equals Rp 9,500. Hence, Rp 243,000 is equal to USD 25.58.
3. This amount is calculated based on classification of household, which consist of head of household, working adult, unemployed adult (above 18 years old), child within 7-17 age group, and child within 1-6 age group.
4. Disable, child care and household member with chronic disease have additional RM 590 in their *had al kifayah* limit.
5. Nisab is the exemption limit, i.e. the minimum amount of money, wealth, and other zakatable items that must be owned by a muslim as the lowest limit for being categorized as muzakki or zakat payer.
6. See al-Hilali and Khan (2003) for the verses of Surah Al-Taubah (9:58, 9:60, 9:74, and 9:103).

7. Ibid. the verse of Surah Al-Baqarah (2:267).
8. Ibid, the verse of Surah Al-An'am (6:141). Haq has several meanings; one of which is a decision that is certain and clear. See *MajmaLugah al-Arabiyah*, page 189, 511, and 942.
9. Muhit, A (ed). 2006. *Manajemen ZIS BAZIS Provinsi DKI Jakarta* (Management of ZIS of the Jakarta Board of Zakat) Jakarta: BAZIS DKI. pp. 8-9.
10. These eleven ulama were Prof Hamka, KH Ahmad Azhari, KH M SyukriGhazali, M Sodry, KH Taufiqurrahman, KH M Sole Su'aidi, Ustadz M Ali al-Hamidy, UstadzMukhtarLuthfy, KH A Malik Ahmad, Abdul Kadir, and KH M.A. Zawawy.
11. Muhit, A (ed). op.cit. p 10.
12. In this period, there was no Zakat Act. It was President Decree that became legal foundation for the governor and other officers to establish Board of Zakat in their areas.
13. This view is given by Hafidhuddin (2002), Hafidhudin and Juwaini (2006) and Beik (2010).
14. It is a type of zakat that must be paid in the month of Ramadan prior to the performance of 'Eid prayer.
15. In the current Act, BAZNAS is defined as non structural government institution that is authorized to manage zakat nationally and directly responsible to the President through Minister of Religious Affairs.It has autonomy and independency in managing zakat.
16. BAZNAS, by this new Act, is given authority to coordinate and consolidate all zakat institutions including Provincial and Regency/City Boards of Zakat and all private zakat institutions.
17. Judicial review is a legal process that is intended to examine whether or not there exists conflict between an Act towards the Basic Constitution of the country, i.e. UUD 1945. Constitutional Court has the authority to decide outcome. This judicial review process is still ongoing until now.
18. Mustahiq Service Center is a program that is designed to provide assistance for fulfillment of short term needs of the mustahiq. These needs include cash and other goods needed by the mustahiq.
19. It is a cost-free hospital program that is intended to provide health services for the poor and the needy. This hospital is also equipped with mobile medical services, which aims to reach remote areas of the mustahiq.
20. This program is focused on increasing education quality of the mustahiq. This program is designed for students for primary and secondary levels as well as for university students. For primary and secondary schools students, the program provides extra tutoring in addition to scholarships. As for university students, they are given scholarships which cover both tuition fees and monthly expenditure. The special program for university students is called "One Family One Graduate".
21. BQB is a microfinancing institution that is set up by BAZNAS by using zakat and infaq fund. It provides financing for micro entrepreneurs along with their managerial supervision and technical assistance. It aims to increase capacity of *mustahiqin* sustaining their long term living condition and attempts to transform them to be the *muzakki*. This program is also designed to strengthen productive-based zakat distribution.
22. This is a program that is devoted to produce Islamic scholars (Islamic preachers or *da'i*) who have master and PhD degrees in their qualification. By cooperating

- with several prominent universities, these preachers are obliged to join master and PhD in Islamic thought and education studies (or other Islamic studies) and Islamic economics.
23. This program aims to provide disaster quick response unit, which is responsible to encounter natural and social disasters which may take place in the country.
 24. Structure of BAZNAS comprises three major components, namely Advisory Council, Supervisory Commission and Executive Body. Chairman of the Executive Body is the chairman of BAZNAS. This structure is based on Zakat Management Act No 38/1999. As for the new Act, the structure is changed. BAZNAS will be led by a council of commissioner comprising 11 members, in which 3 of them are representatives of top rank government officials (from three different related-ministries) and the remaining 8 members are selected from prominent figures of the country. Open selection for choosing these 8 members will be conducted by a selection committee that is led by the Minister of Religious Affairs. The candidates must also pass fit and proper test conducted by the House of the Representatives. Since the new Act needs the Government Regulation (GR) in its implementation, and this GR is still discussed internally by the government until now, structure of BAZNAS in this transition period follows the previous one, which already exists.
 25. In Indonesia, some institutions including Ministry of Religious Affairs, as can be observed in the *Tafsir of Al-Quran* produced by the Ministry, are of the view that gold *nisabis* 96 grams.

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