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Arab	Latin	Arab	Latin
ا	= a	ف	= f
ب	= b	ق	= q
ث	= ts	ك	= k
ج	= j	ل	= l
ح	= <u>h</u>	م	= m
خ	= kh	ن	= n
د	= d	و	= w
ذ	= dz	ه	= h
ر	= r	ء	= ’
ز	= z	ي	= y
س	= s		
ش	= sy		Untuk Madd dan Diftong
ص	= sh	ا	= â (a panjang)
ض	= dl	ي	= î (i panjang)
ط	= th	أ	= û (u panjang)
ظ	= zh	أو	= aw
ع	= ‘	أي	= ay
غ	= gh		

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INDEKS

REJECTION OF PERDA ZAKAT IN EAST LOMBOK: PUBLIC CRITICISM ON PUBLIC POLICY

Ahmad Fathan Aniq*

Abstract

One of five Islamic pillars is *zakah*, which aims to create social welfare. As the last revealed religion, Islam puts the social justice in a high sequence. As the matter of fact, the word “*adl*”, “*qisth*”, and “*mizan*” as well as their derivates, are the third most frequently mentioned word after the word “*Allah*” and knowledge respectively in *al-Qur'an*.

This article is all about the development of *zakah* regulation in Indonesia, particularly in East Lombok. Perda Zakat in East Lombok was enacted by its regent, Ali bin Dahlan, by a Decision Letter No. 4 of 2004 as the implementation of Regional Regulation No. 9 of 2002 on Zakâh and Prohibition to Drink Alcoholic Drink. Therefore, he was enthusiastic to apply the regulation by deducting the public servants' salaries of 2.5% every month. But most of Muslim teachers refused the regulation. For them, the regulation contradicted with *zakâh* concept in Islam.

Keywords: Perda Zakat, Public Policy, Zakat Management, Public Criticism, Alm-taxt.

IN 1999, Indonesian government issued legislation on how to manage *zakâh* by law no. 38 of 1999 on *Pengelolaan Zakat* (*zakâh* management). Since that time, some regions proposed their regulations on *zakâh* called Peraturan Daerah tentang Zakat (regional regulation on *zakâh*), abbreviated with Perda Zakat. The regulation is proposed under argumentation that *zakâh* is

*The author is currently pursuing MA Degree on Islamic Studies at Leiden University, The Netherlands. e-mail: anix_07@yahoo.com

one of Islamic pillars which must be implemented by Muslim society, managed by 'āmil (*zakāh* organizer), and established by regional governments. The implementation of the regulations is claimed as an indicator that a certain region implements Islamic law. However, there has been much resistance to this regulation, such as the resistance of public servants toward Perda Zakat in East Lombok region.¹ It has begun from the end of 2003 and finished in the middle of 2006. The resistance rose when *Bupati* (regent) of East Lombok issued a policy to deduct 2.5% of public servants salaries to pay alms-tax (*zakat penghasilan*). The policy has raised a sharp opposition from public servants, most of are teachers.²

The policy however made teachers' life more difficult. Most of teachers in East Lombok region merely get low wages. More

¹East Lombok is one of nine regions in West Nusa Tenggara province in Indonesia. Laid on east part of Lombok Island, the region is less developed than the western part of the island. Most of the region inhabitants are native Sasak people, the ethnics of Lombok. They still keep their culture very much in life.

The influences of 'ulamā still play a significant role in their societal actions. When The Council of Indonesian 'Ulamā (MUI) issued *fatwā* on the prevention of the penetration of the Ahmadiyya movement to Indonesia, Lombok Muslim societies destroyed Ahmadiyya followers' houses and worship places in a noisy group. It seems that for them, the voice of 'ulamā is a final solution that needs to be implemented.

Since still there are many farm areas in East Lombok, the majority of its people work as farmers. Nevertheless, their earnings of this occupation are generally still below standard level. Therefore, to work as a civil servant is something admired and prestigious. The salary of the civil servants although not always being more than the farmers' earning is demanded since it is given regularly.

²These teachers for several days left their teaching activities at schools and preferred to demonstrate in front of the regent's office and the house of representative council against the policy. See *Suara NTB*, "Pengunjuk Rasa Sandera Anggota DPRD Bupati Lotim Dinonaktifkan", Released on 12 January 2006, Online, <http://www.suarantb.com/2006/01/12/index.html>.

than eighty percents of PGRI (Association of Indonesian Teachers) members that out of 7.800 teachers, at that time only received low salaries and indeed most of them received less than their needs.³ Therefore, it was quite proper when the teachers then refused the policy⁴.

In this paper I will explore about the refusal of the teachers on *zakâh* payment in East Lombok. Some questions I will propose regarding the case are: What is the issue relating to *zakâh* payment in East Lombok? How is the social structure of East Lombok society? What is the content of the Perda Zakat? What is the reaction of people whose salaries are deducted and why do they react? To what extent does their reaction affect the regent's new policy? Furthermore, what is going wrong with the policy?

Of these questions, I will try to conduct a library research. Some publications from either daily Indonesian newspapers or books and researches related to the issue become vitally necessary and essential for this study. Since there are many reactions from the society rejecting the regulation, the study on "public sphere" proposed by Jürgen Habermas⁵, becomes relevant. Another aspect is why the people get involve critically in discussing policies of the regional government. There might be some inaccurate factors in the policy or in its

³Bali Post, "PDK Tak Larang Guru Gelar Aksi Demo", Released on 10 December 2003, Online, <http://www.balipost.co.id/BaliPostcetak/2003/12/10/nt1hl.html>.

⁴Meanwhile, many people defined the phenomenon as an indication of the low social solidarity among East Lombok people. Due to the economic pressure and high cost of living, teachers tend to act individually, put more priority on their own interests, and leave people suffer. However, this assumption is such a simplification and should be clarified since there are many other factors caused the rejection on *zakâh* payment.

⁵Jürgen Habermas, *Communication and the Evolution of Society*, translated [from the German] and with an introduction by Thomas McCarthy (Cambridge: Polity Press, 1991).

implementation. Therefore, the study of public policy pioneered by Harold Lasswell becomes important too to evaluate the government policy on the Perda Zakat.

Normative Aspect of Zakat

The Importance of Zakat

Zakâh is the third out of five pillars of Islam. It differs from the other four pillars, *syâhâdah*, *shalât*, *shiyâm ramadlân*, and *hajj*, since it has more social dimensions. However, it is an integrated part of Islam. Every Muslim who has capability is obligated to pay *zakâh*.⁶ The *zakâh* then is distributed to its *mustâbiq* (who has a right to receive *zakâh* especially the poor and weak) to improve their life quality. Furthermore, the principal objective of *zakâh* is to elevate the spirit of human beings above the love of material acquisition. Consequently, Islam does not view the *zakâh* payer as a mere source of funds, but as a person who always needs purification and cleansing, both spiritually and materially.

Zakâh is mentioned in al-Qurâن more than 70 times.⁷ One of its meaning is fertility. Hasby says that the fertility is not on the wealth, but on the society. The same statement is also suggested by Mâhir al-Baqrî quoted by al-Makhzanî. He says that the fertility in Islamic perspective is the devolvement of civilization generally.⁸ *Zakâh* indicates a mutual cooperation. By *zakâh*, Muslims are able to help their debtor bothers, able to give shelters for travelers, able to cure those who are sick and so on.

⁶There are two obligated requirements for Muslims to pay *zakât*. If those two are fulfilled, Muslims have to pay *zakât*. They are *hawl* and *nishâb*. *Hawl* is the minimum period of time when Muslims have their wealth, that is usually a year except for *zakât* of agriculture, mine, and discovery. While *nishâb* is a minimum amount of wealth.

⁷Teungku Muhammad Hasbi ash-Shiddieqy, *Pedoman Zakat* (Semarang, Pustaka Rizki Putra, Second Edition: 1999), 307.

⁸As-Sayyid Ahmad al-Makhzanî, *az-Zakâh wa Tanmiyat al-Mujtama'* (Mecca: Da'wah al-Haq, 1419H), 21.

Those who apply it become a fertile society. It is therefore a manifestation of social life rather than a tentative charity.

The objective of *zakâh* as one of *sharia* pillars is to create welfare societies based on social justice. Islam puts the social justice in a high sequence. For instance, the word ‘*adl*, *qisth*, and *mizân* and their derivatives are the third most frequently mentioned word after the word “Allah” and “knowledge” respectively in al-Qurâن.⁹ For the significant role of *zakâh*, al-Qurâن always mentions it after the command of *shalât*. Furthermore, al-Qurân also explains in detail how to manage it and to whom it should be given.¹⁰

In addition to *zakâh*, there are other terms for Islamic philanthropy. They are *shadaqah*, *infâq*, and *waqf*. *Shadaqah* is a giving usually in a small amount. *Infâq* is the giving in the bigger amount for instance to build *madrasa*, Mosque, and hospital. While *waqf* is rather similar to *infâq* but it has a long durability. However, they are used interchangeably in al-Qurân, because they have the same purpose namely donation.

There are two kinds of *zakâh* in Islam. They are *zakâh al-fîthîr* (*zakâh* of natural creation) and *zakâh al-mâl* (*zakâh* of wealth).

⁹Mubyarto, “Etika Keadilan Sosial dalam Islam” in *Islam dan Kemiskinan*” (Bandung: Pustaka, 1988), 4. See also Andi Agung Prihatna, “Filantropi dan Keadilan Sosial di Indonesia”, in Chaider S, Bamualim and Irfan Abubakar (eds.), *Revitalisasi Filantropi Islam: Studi Kasus Lembaga Zakât dan Wakaf di Indonesia* (Jakarta: Center for Language and Culture UIN Jakarta, 2005), 10.

¹⁰There are eight categories of people to whom *zakât* is distributed. They are the poor, the destitute, those who collect it, reconciling people’s hearts, freeing slaves, those in debt, spending in the Way of Allah, and travelers.(Qs. al-Tawbah [9]: 60) Muhammad Rasyid Ridha gives an interesting category of these eight groups. He divides them into two. The first is individual receivers; they are the poor, the destitute, those who collect it, reconciling people’s hearts, those in debt, and travelers. The second is collective receiver; they are slaves and who spend in the Way of Allah. See Dawam Raharjo, “Fungsionalisasi Zakât dalam Pencapaian Kesejahteraan”, in *Islam dan Kemiskinan*” (Bandung: Pustaka, 1988), 48.

Zakâh al-mâl is an obligatory payment for Muslims of a determinate portion of specified categories of their lawful property for the benefit of the eight *mustâhiqs* in al-Qurâن. While *zakâh al-fitr* is the obligatory payment by Muslims who have a surplus wealth of their common needs in the night of *Id al-Fitr*. Unlike other forms of *zakâh*, *zakâh al-fitr* is levied on persons and not on wealth or income. However, our concern in this paper is on *zakâh al-mâl*, especially on *zakâh* of earning regarding the Perda Zakat in East Lombok.

Zakâh and Government

It is important to know the relationship between *zakâh* and government from normative perspective since *tuan gurus* or *'ulamâ* in East Lombok still have a big role in the society. Their understanding of Islam is still influential to the people in this region. Simultaneously, since the role of *'âmil* or a collector of *zakâh* is very significant, it is important to determine who is *'âmil* as mentioned in al-Qurâن. Here, at least there are two questions should be asked. The first question is who should become an *'âmil*? Is he a government or a private institution? The second one is if the government or a state is responsible to be an *'âmil*, what kind of government is allowed? Must it be an Islamic government or may it be a secular one? How if the government is neither a religious government nor a secular government such as Indonesia?

For the first question, Yûsuf al-Qaradawî answers that as a confirmed obligation from Allah, *zakâh* is not merely charity left to individuals to implement or obligation which depend on the generosity of the wealthy. *Zakâh* is rather a social welfare institution supervised by the state and an organized tax administered by a specific governmental body.¹¹

¹¹Yûsuf al-Qaradawî, *Fiqh az-Zakât: A Comparative Study* (London: Dar al-Taqwa, 1999), 474.

Zakâh as a social obligation for the sake of justice and communal welfare will be difficult to be implemented except by the institution which has a formal and structural authority such as the government or the state. Implementing it by excluding the ‘âmil, *zakâh* is not *zakâh* substantively but it is only a charity. In Islam precept, there is another term which can be called as the charity, it is *shadaqah tathawwu’ah*. It is different from *zakâh* which has a more social dimension (*mashlahah ‘âmmah*), *shadaqah tathawwu’ah* or the charity has an effect merely on the individual good.¹²

Without any ignorance to private institutions which have significant roles in collecting *zakâh*, the governmental institution has a wider scoop in societies. The government can reach all elements of society while the private institutions usually belong to certain groups. However, there are some private institutions which are neutral and founded for all elements of society such as Dompet Dhu’afa Republika. Surprisingly, this private institution is more trusted by Indonesian Muslims rather than the governmental institutions such as BAZIS.¹³

When the state or government being responsible for collecting the *zakâh*, is it necessary for the government to be Islamic? To the question, Abû ‘Ubayd and al-Mâwardî answer that *zakâh* should be paid to the government. However, their argument is based on assumption that the government has an Islamic characteristic. When the condition changes and the

¹²Masdar Farid Mas’udi, *Agama Keadilan; Risalah Zakât (Pajak) dalam Islam* (Jakarta: Pustaka Firdaus, 1991), 163.

¹³Dompet Dhu’afa which is founded recently in 1993 at the first time learned from BAZIS DKI which is owned by DKI Jakarta provincial government. But then, by a well organized, Dompet Dhu’afa leads BAZIS DKI in a societal trust. For the more data, see Karlina Helmanita, “Mengelola Filantropi Islam dengan Manajemen Modern: Pengalaman Dompet Dhu’afa”, in Chaider S, Bamualim and Irfan Abubakar (eds.), *Revitalisasi Filantropi Islam: Studi Kasus Lembaga Zakât dan Wakaf di Indonesia* (Jakarta: Center for Language and Culutre UIN Jakarta, 2005), 87-123.

government is not characterized by Islamic values anymore, *zakâh* which is paid to the government or state should be reanalyzed.¹⁴

On the other hand, according to Masdar F. Mas'udi has another opinion. For him, it is acceptable to pay *zakâh* to any government, either Islamic or secular. He argues that the most essential is not in the term but in its commitment to the purpose of *zakâh* justification, and the purpose is public good and social justice.¹⁵ Indonesia is neither a religious nor a secular state but its law is lineal with the objectives of Islamic Law. Therefore, following this reasoning, Indonesian Muslims should give their *zakâh* to the government.¹⁶

The problem rises when the government is an oppressive government. In this case, Muslim scholars have different opinions. Some believe it is unconditionally permissible while others declare it is prohibited in all cases. Both of these two extreme opinions have their own arguments. The first group

¹⁴Al-Qaradawî also emphasizes that government's commitment to Islam is the indispensable condition for allowing *zakâh* to be managed by any government. Al-Makhzanî also says the same opinion as al-Qaradawî. For him the state which commits to Islamic law is responsible to manage zakât. Ugi Suharto, *Keuangan Publik Islam; Reinterpretasi Zakât dan Pajak, Study Kitab al-Amrâl Abu Ubayd* (Yogyakarta: Pusat Studi Zakât STIS, 2004), 199. See also Yusuf al-Qaradawî, *Fiqh az-Zakât: A Comparative Study* (London: Dâr al-Taqwa, 1999), 501; and as-Sayyid Ahmad al-Makhzanî, *az-Zakâh wa Tanmiyat al-Mujtama'* (Macca: Da'wah al-Haq, 1419 hijrâ), 210.

¹⁵Masdar Farid Mas'udi, *Agama Keadilan; Risalah Zakât (Pajak) dalam Islam* (Jakarta: Pustaka Firdaus, 1991), 170.

¹⁶Even though Indonesian government has a responsibility to collect and distribute zakât from Indonesian Muslims, its law No. 38 year 1999 on Zakât Management states that there are two kinds of 'âmil. The first is Badan Amil Zakât (BAZ) which is founded by government and positioned structurally under government authority. The second is Lembaga Amil Zakât (LAZ). It is the zakât institution which is founded fully by societal intention. For more detail, see Departemen Agama RI, *Peraturan Perundang-undangan Pengelolaan Zakât* (Jakarta: Departemen Agama RI, 2002), 5 and 17.

bases their argument on some *hadits*¹⁷ which give clues that the Islamic state always needs funding for its social insurance programs and for public services and if people withhold making payments to the state because of the injustice of some rulers, many essential public services would be disrupted. The second group who do not allow giving *zakâh* to oppressors bases their argument on the *âyat*, “*My contract does not include the wrongdoers.*” (Qs. al-Baqârah [2]: 124) They say paying *zakâh* to oppressors does not fulfill the ‘religious worship’ aspect of *zakâh*.

Furthermore, between these two respectively extreme opinions several views exist. For instance what is said by al-Qaradawi. He says:

“In my opinion, Muslims are not required to repeat payment if they are forced to pay *zakâh* to oppressive governments, as long as what is paid takes the name of *zakâh*. Moreover, *zakâh* should be paid to unjust governments as long as they collect and distribute justly to the categories named in the *Shari'a*, even if such government are otherwise oppressive. Government which do not distribute *zakâh* properly yet enforce its collection may be given due *zakâh* as long as Muslims cannot avoid doing so.”¹⁸

However, as public finance, *zakâh* should not be understood only from political perspective but also from ritual aspect as public finance. From this perspective, *zakâh* is an obligation to every Muslim and the most important thing is that *zakâh* should be distributed to society whether through the government or

¹⁷One of the hadits is what reported from Wa'il ibn Hajar, “When the Messenger of Allah was asked by a man, ‘what wold you say if we happened to have rulers who prevented us from getting our rights and yet ask us for their right?’ I heard him reply, ‘Listen and obey. They have the burden of what they do and you have that of your deeds’” (Muslim and at-Thirmidhi). See Yûsuf al-Qaradawî, *Fiqh az-Zakât: A Comparative Study* (London: Dâr al-Taqwâ, 1999), 498.

¹⁸*Ibid.*, 500.

non government institutions. The characteristic of *zakâh* is laid on its distributive aspect rather than its collective aspect.

Nevertheless, the role of *'âmil* as an institution is still quite important in *zakâh* implementation. Why al-Quran cited *'âmil* in the third order after *fâqir* (the poor) and *misikin* (the destitute) in the *mustahiq* sequence may be because of his important role. Without this institution (the *'âmil*), the wealth which is given is not called as *zakâh* but *shadaqah tathawwu'ah* or charity. Culturally, *'âmil* also functions as the third party between *muzakki* (the giver) and *mustahiq* (the receiver). By *'âmil*, the possibility of being patronage between the giver and the receiver can be hindered. Without *'âmil*, the giver may give his wealth to the poor with other purposes which might lead to injustice among society. In another word, there will be patronage between the rich and the poor and it is in contradiction to *zakâh* purpose, that is the equality and the social justice.

Regulations on *Zakâh* Management

Indonesia has a long history of philanthropy. Since Islam was introduced to Indonesia, *zakâh*, *infâq* and *shadaqah* (ZIS) had become sources of funds in developing Islamic teaching institutions such as *pondok pesantren* and *madrasa*. In Dutch colonial era, these kinds of fund sources also used by Indonesian Muslims for fighting the colonialist and for defending themselves, such as in Aceh. The same case was also found in other places with the majority of Muslim inhabitants. They struggled because they had fund sources such as *zakâh*, *infâq* and *shadaqah*. The Dutch government realized it and worried if the funds would be used to attack them. Therefore, on 4 August 1883, the Dutch government enacted *Bijblad* No. 1892 to control the implementation of *zakâh al-fitr* which was conducted by *penghulu* (preacher).

This was well documented by C. Snouck Hurgronje when he was becoming an advisor of the Dutch government in

Indonesia. Snouck says that the ignorance of the Dutch government to *zakâh* and *zakâh al-fitr* management had made leaders of *thariqah* easier to get important fund every where. He also added when Muhammadan (Muslims) paid their state tax it would benefit the government, but then when they paid *zakâh*, it would benefit the enemy's of power.¹⁹ The Dutch government also forbade all of their workers and inlander *prijayi* to get involve in the implementation of *zakâh*. This prohibition was written on Bijblad No 6200, dated 28 February 1905.²⁰

After the independent day of Indonesia, there were still many efforts in some provinces to develop the implementation of *zakâh*. However, there was no formal institution which is formed by the Indonesian government at that time. In Old Order era, tendencies to an authoritarian state gave no a big chance for societies to develop a well managed philanthropy. The government started to pay attention on *zakâh* management in New Order era. On 26 October 1968, Soeharto, the second president of Indonesia, announced to all Indonesian Muslims that he personally was ready to collect Indonesian Muslims' *zakâh*, or he was ready to be an '*amil*. The president's confession finally motivated some provinces initiated by the DKI Jakarta provincial government to found an '*amil zakâh* institution called Badan Amil Zakat Infak dan Sedekah (BAZIS).

Simultaneously, the government issued regulations on *zakâh* management by Ministerial Decrees and Instructions, such as the Regulation of the Minister of Religious Affairs No. 4 of 1969, dated 15 July 1968 on establishing '*amil zakâh* institutions, and Regulation of the Minister of Religious Affairs No. 5 of

¹⁹E. Gobee and C. Adrianse, "Nasihat-nasihat C. Snouck Hurgronje Semasa Kepegawaianya Kepada Pemerintah Hindia Belanda, 1889-1936", translated from *Ambtelijke Adviezen van Snouck Hurgronje, 1889-1936* (Jakarta: INIS, 1992), vol. 8, 1323-4.

²⁰Mohammad Daud Ali, *Sistem Ekonomi Islam, Zakat dan Wakaf* (Jakarta: UI Press, 1988), 32.

1969, dated 22 October 1968 on founding *bait al-mâl* in state, province, and region levels.

DKI Jakarta is the first province implementing the instruction on 5 December 1968 by founding BAZIS and later followed by other provinces such as East Kalimantan (1972), West Sumatra (1973), West Java (1974), Aceh (1975), South Sumatra (1975), and South Kalimantan (1977).²¹ These institutions have different names, but generally, the names are BAZ, BAZIS, and BAZI. The development of the institutions also varied among regions. To make these *zakâh* institutions function optimally, the government issued the Joint Decree of the Ministry of Religious Affairs and the Ministry of Home Affairs No. 29 and 47 of 1991 on the Guidance of the Board of Amil Zakâh, Infaq and Sadaqah (BAZIS). The Decree is followed and strengthened by the Instruction of the Minister of Religious Affairs No. 5 of 1991 setting out the technical guidance for BAZIS.²²

However, these regulations were still inadequate for Muslims during the Post-New Order era. Therefore, requests to raise their status as laws became stronger and stronger. Finally, after the hard and long struggle in the parliament, on 23 September 1999, B. J. Habibie, the third president of Indonesia, enacted the law No. 38 of 1999 on *Zakâh* Management. The law then followed by a Decision of Minister of Religious Affairs No. 581 year 1999 on the Implementation of the Law No. 38 of 1999 on *Zakâh* Management.

By this Law, many regions in Indonesia get their legitimation to propose their Perda Zakat. However, applications of the law are varied among the regions which indicated by different responses of each region.

²¹*Ibid*, 37.

²²M. Nur Ichwan, *Official Reform of Islam: State Islam and the Ministry of Religious Affairs in Contemporary Indonesia, 1966-2004*, Dissertation (Tilburg: Universitaet van Tilburg, 2006), 318.

One of the regions which proposed Perda Zakat is East Lombok region which becomes my focus in this study. Perda Zakat in East Lombok was enacted by its regent, Ali bin Dahlan, by a Decision Letter No. 4 of 2004 as the implementation of Regional Regulation No. 9 of 2002 on Zakâh and Prohibition to Drink Alcoholic Drink.²³ The decision made a disputable opinion among societies. Furthermore, some activists of philanthropy were attracted to pay their attention to this case. Some regions even gave a visit to learn from this region when they want to apply the same regulation, for instance Kutai region in East Kalimantan.²⁴

East Lombok Society's Responses to Perda Zakat

From the description above, we know about the development of *zakâh* regulation in Indonesia. We also know who should manage the *zakâh* and how important it is. As a majority, more than 99 percents, Muslims in East Lombok perhaps will have the same opinion with what '*ulamâ*' says about who has authority to collect and distribute *zakâh*. However, at least there are two questions rise, why do East Lombok people refuse Perda Zakat which has been proposed by their government? What encourage them to conduct some demonstrations?

For these questions, I say that it was about the development of public sphere among the society. How they accepted the policy, how they discussed it and communicated each other, what the role of media was in building their views, and what

²³Kompas, “Aturan Potong Gaji Dicabut”, Released on 3 February 2006, Online, <http://www.kompas.com/kompascetak/0602/03/daerah/2408583.htm>

²⁴DPRD Kutai Kartanegara, “Belajar Kasus Pro-Kontra SK Zakâh Gaji di NTB”, released on 9 October 2006, Online, <http://www.dprdkutaikartanegara.go.id/bacawarta.php?id=656>.

their response to the policy are chain processes of public sphere characteristic.²⁵

The strikes and the demonstrations of teachers against the policy were preceded by a long process. The policy to deduct the public servants' salaries itself was issued in 2002 based on the Regional Regulation No. 9 of 2002 on Zakâh and Prohibition to Drink Alcoholic Drinks. Perda Zakat was enacted by the East Lombok Regional Representative Council (DPRD) and then implemented by the regent. The regent emphasized that the implementation of Perda Zakat in his region was expected as a starting point to implement Islamic Law. He said that Muslim societies were weak, and still there were many poor societies who had various problems.²⁶ Therefore, he was enthusiastic to apply the regulation through his government by deducting the public servants' salaries every month.

At the first time when the regulation was issued, there was only a few protests against the regulation. Two years of the implementation of the regulation, the issue seemed disappear. There was no significant protest during these two years. Perhaps in this period of time, dialogues on the issue were intensely occurred in the society. Next, in the end of 2005, the demonstration atmosphere became more and more heated. In the first three days of December 2005, the teachers were on teaching strike. The strike was preceded by a big demonstration

²⁵Pubic sphere is a theory which is closely associated with the work of Jurgen Habermas, although his development of the idea is largely based on European societies and in the etes of many is linked to the emergence of a certain form of bourgeois society and te rational-critical discourse possible within it. See Miriam Hoexter, Shamu N. Eisenstadt, Nehemia Levzion (eds.), *The Public Sphere in Muslim Societies* (Albany: State University of New York Press, 2002), 2. See also: Luke Goode, *Jurgen Habermas: Democracy and the Public Sphere* (London: Pluto Press, 2005).

²⁶Suara NTB, "Ali Bin Dachlan: Berjuang untuk Sebuah Prinsip bukan Demi Jabatan", Released on 13 January 2006, Online, <http://www.suarantb.com/2006/01/13/wilayah/Mataram/xdetil3.htm>.

followed by approximately four thousand teachers of total six thousand teachers with public servant status.²⁷

The aim of the protest was to refuse the regulation. Their argument was that the regulation contradicted with *zakâh* concept in Islam. For them, their salaries are below the minimum *zakâh*able amount. They suggested the government to notice *hawl* and *nishâb* of *zakâh* before deducting their salaries. Their opinion perhaps influenced by *tuan gurus fatwâ*. The *tuan gurus* were also polarized in two voices, some of them supported the policy while other refused it. However, the louder protests against the policy came from teachers or public servants.

Everybody can speak their opinion now. They can get involve in determining Islamic religious discourse. Resistances of the *zakâh* regulation demonstrate that societies have created their public sphere. Leader's opinion or policy as well as fatwâ of religious leader are to some extents not accepted immediately by societies. They will discuss the policies first informally or formally and then they will show their agreement or disagreement. This continual interaction among *'ulamâ*, governments and different sectors of the community are crucial to the constitution of an autonomous public sphere in Islamic societies.²⁸

Media also have a big role in encouraging the society to demonstrate. Since the tap of democracy in Indonesia has been opened, there are many demonstration news exposed on televisions and newspapers. These shows of course watched not

²⁷Tempo, “Guru di Lombok Timur Hentikan Aksi Mogok Mengajar”, Released on 4 Desember 2005, Online, <http://www.tempointeractive.com/komentar/?berita=brk,20051204-70100.id.html>.

²⁸Shamuel N. Eisenstadt, “Concluding Remarks: Public Sphere, Civil Society and Political Dynamics In Islamic Studies”, in Miriam Hoexter, Shamuel N. Eisenstadt, Nehemia Levzion (eds.), *The Public Sphere in Muslim Societies* (Albany: State University of New York Press, 2002), 151.

only by urban society but also by rural society. Media in this case refigure audiences as communities, because sender and receiver have different backgrounds, but then they become a new community.²⁹

The peak of teachers' demonstration was on 11 January 2006. Their demand was to get back their two years salaries which had been deducted by the government. The issue of demonstration at that time was also shifted to overthrowing the regent through the special assembly (*Sidang Istimewa*). The demonstration was held in front of the representative council house. Finally, the demonstration was fruitful. The representative council decided to put the regent in the status of suspended with pay.

From this phenomenon, we can say that the society become more critical. They will keep on guarding new policies dealing with them. Such a new policy labeled by Islamic details will not immediately accepted by them. They will discuss it and bring it into their own public space.

Zakat Regulation and Problematisation of Public Policy

In compliance with reformation agenda after the fall of New Order regime, implementation of democratization in Indonesia becomes necessary. Many efforts have been conducted to actualize it, one of which was restructuring of the relationship between the central government and regional governments by the Law No. 22 of 1999 on Regional Government and the Law No. 25 of 1999 on the Financial Balance between the Central Government and Regional Governments.

The regional autonomy however on the one hand gives a big chance for every region to develop his own potencies and on the

²⁹Dale F. Eickelman and Jon W. Anderson, "Refending Muslim Publics", in Dale F. Eickelman and Jon W. Anderson (eds.), *New Media in Muslim World* (Indiana: Indiana University Press, 1999), 9.

other hand, it makes regional governments fumbling in making and applying their public policy. The deduction of public servant salaries in East Lombok region by its government is one of the examples. The deducting itself is regarded by the actor of the policy as the implementation of *zakâh* of earning.

Here, the study of public policy analysis becomes relevant because what is meant by public policy is the actions of government. The demonstration of teachers in East Lombok against the policy of their regent or government reflects the failure of the policy. Therefore, in order to find the root of the problem, the case is best analyzed from this perspective.

Introduced by Harold Lasswell and others in the United States and the United Kingdom, public policy is defined by William Jenkins as 'a set of interrelated decision taken by a political actor or group of actors concerning the selection of goals and the means of achieving them within a specified situation where those decision should, in principle, be within the power of those actors to achieve'.³⁰ As a process, a certain policy cannot be seen only from one aspect of the policy. It is a complex phenomenon consisting of numerous decisions made by numerous individuals in government.

It was obvious that there was deduction of 2.5% of public servants' salaries in East Lombok region. Consequently, it made big protests from those whose salaries were deducted. From the responses of the society, it reflects that the government did not conduct a serious and comprehensive analysis before deciding their policy. The East Lombok government as the policy maker in this case, should have made a careful consideration before

³⁰The definition by Jenkins explicitly views public policy making as a process. It is different from other definitions that define it as a choice like what has been proposed by Thomas Dye. Dye describes public policy as 'anything a government chooses to do or not to do'. See these definitions in Michael Howlett and M. Ramesh, *Studying Public Policy: Policy Cycles and Policy Subsystems* (Canada: Oxford University Press Canada, 2003), 5-6.

issuing the policy. Twenty five percent of public servants' salaries perhaps is a big amounts for those whose salaries are around Rp. 1.000.000,- Moreover, some of them did not get their salaries fully because they used it for debt payments. However, the deduction was applied evenly to all of East Lombok public servants.

Dealing with the policy, Irfan Abubakar says that at least there are three essential problems that should be analyzed seriously before Perda Zakat implementing. The first, are the actors of the policy ready to perform their duties? That is from either human resource competencies or their public accountability aspect. Secondly, do those who get the impact of the policy understand and agree with the policy? Thirdly, are the social environment, economy, politic, and culture surrounding the society conducive for the implementation of the policy?³¹

The decision of the East Lombok government which seems so hasty without considering the condition of the society shows the weakness of the human resource of the government. Moreover, the accountability and the transparency also become important aspects to be noticed. Effectiveness, accountability, and legitimacy are central problems in philanthropy.³² During the deduction of the salaries, only few of public servants who knew what their salaries are used for.

The society also consider that the deduction was contradicted to Islamic teachings. For them it was not *zakâh* because *zakâh* is only obligated to those who has the capability, that is when their wealth has reached *hawl* and *nishâb*. Since many teachers only receive small amount of salaries, they are not

³¹Irfan Abubakar, "Isu Zakât Profesi dan Lemahnya Manajemen Kebijakan Publik Kita", Realeased on 6 June 2006, Online, <http://www.philanthropyforjustice.org/kolom/?Berita=060606043849&Kategori=9>.

³²Peter Frumkin, *Strategic Giving: The Art and Science of Philanthropy* (Chicago and London: The University of Chicago Press, 2006), 55.

obligated to pay *zakâh*. Societies' opinions also influenced by some *fatwâs* of local *'ulamâ* who said that the deduction is unlawfulness. Even though some other *'ulamâ* issued the contradictory *fatwâ*, majority of them refused the deduction. However, the teachers have their own opinion that make them conduct some demonstrations.

Next, after the situation became uncontrolled, and the issue of refusal on Perda Zakat had shifted to another issue that is to overthrow the regent, the regent finally issued a new policy. The deduction was stopped, but it was only for teachers' salaries, excluding public servants besides teachers. The regent promised he would return back the teachers' salaries which have been deducted previously two years.

From the East Lombok case, other regions should take it into their considerations when they want to apply the same policy. The public policy analysis should be conducted seriously and deeply in order not to get the same response from societies.

Conclusion

Zakâh is one of five Islamic pillars. It has more social dimension than the other pillars. Muslims whose wealth have reached *hawl* and *nishâb* are obligated to pay *zakâh* as purification and cleansing, both spiritually and materially. Its objective is to create welfare societies in social justice.

The deduction of 2.5 percents of public servants' salaries in East Lombok region was inspired by this teaching. It was also expected to be the starting point in implementing Islamic Law in the region. However, many protests came from the teachers whose salaries were deducted. They disagreed with the policy and considered it as unlawfulness. They argued that Muslims will be obligated to pay *zakâh* when their wealth have reached *hawl* and *nishâb* and they thought that they did not fulfill those criteria. Most of Lombok people work as farmers while some others go abroad to be labors. Generally, they live below

standard level. Therefore, to work as a public servant is something admired and prestigious. The salary of the public servants although not always being more than the farmers' earning is much favoured since it is given regularly.

Perda Zakat of East Lombok although had an ideal aim to empower the weak society, had some weakness. The weakness was in the application level. Decisional maker in this case the government did not conduct serious and comprehensive analysis before implementing the policy. What happened then was hard protests from those who were impacted by the policy.

Societies become more critical nowadays. The communication among society, 'ulamā and ruler also become more intense. Therefore, governments have to be careful in issuing policies. They cannot entice societies by labeling new policies with such Islamic details. Societies will take it into their consideration whether the policy is in line with Islamic value or not. They have found their public sphere.●

References

Andi Agung Prihatna, "Filantropi dan Keadilan Sosial di Indonesia", *Revitalisasi Filantropi Islam: Studi Kasus Lembaga Zakâh dan Wakaf di Indonesia*, eds. Chaider S. Bamualim and Irfan Abubakar (Jakarta: Center for Language and Culture UIN Syarif Hidayatullah, 2005).

As-Sayyid Ahmad al-Makhzanî, *Az-Zakâh wa Tanmiyat al-Mujtama'* (Macca: Da'wah al-Haq, 1419 Hijrâ).

Bali Post 10 December 2003, "PDK Tak Larang Guru Gelar Aksi Demo", Online, <http://www.balipost.co.id/BaliPostcetak/2003/12/10/nt1hl.htm>

Dale F. Eickelman and John W. Anderson, "Refending Muslim Publics", in *New Media in Muslim World*, eds. Dale F. Eickelman and John W. Anderson (Indiana: Indiana University Press, 1999).

Departemen Agama RI, *Peraturan Perundang-undangan Pengelolaan Zakâh* (Jakarta: Departemen Agama RI, 2002).

DPRD Kutai Kartanegara, *Belajar Kasus Pro-Kontra SK Zakâh Gaji di NTB*, released on 9 October 2006, Online, <http://www.dprdkutakartanegara.go.id/bacawarta.php?id=656>

E. Gobee and C. Adriaanse, “Nasihat-nasihat C. Snouck Hurgronje Semasa Kepegawaianya Kepada Pemerintah Hindia Belanda, 1889-1936”, translated from *Ambtelijke Adviezen van Snouck Hurgronje, 1889-1936*, vol. 8 (Jakarta: INIS, 1992).

Irfan Abubakar, *Isu Zakâh Profesi dan Lemahnya Manajemen Kebijakan Publik Kita*, Realeased on 6 June 2006, Online, <http://www.philanthropyforjustice.org/kolom/?Berita=0606043849&Kategori=9>

Jürgen Habermas, *Communication and the Evolution of Society*, translated [from the German] and with an introduction by Thomas McCarthy (Cambridge: Polity Press, 1991).

Karlina Helmanita, “Mengelola Filantropi Islam dengan Manajemen Modern: Pengalaman Dompet Dhu’afa”, in *Revitalisasi Filantropi Islam: Studi Kasus Lembaga Zakâh dan Wakaf di Indonesia*, eds. Chaider S, Bamualim and Irfan Abubakar (Jakarta: Center for Language and Culture UIN Syarif Hidayatullah, 2005)

Kompas, “Aturan Potong Gaji Dicabut”, Released on 3 February 2006, Online, <http://www.kompas.com/kompas-cetak/0602/03/daerah/2408583.htm>.

Masdar Farid Mas’udi, *Agama Keadilan; Risalah Zakâh (Pajak) dalam Islam* (Jakarta: Pustaka Firdaus, 1991).

Michael Howlett and M. Ramesh, *Studying Public Policy: Policy Cycles and Policy Subsystems* (Canada: Oxford University Press Canada, 2003).

Mohammad Daud Ali, *Sistem Ekonomi Islam, Zakat dan Wakaf* (Jakarta: UI Press, 1988).

Moch. Nur Ichwan, *Official Reform of Islam: State Islam and the Ministry of Religious Affairs in Contemporary Indonesia, 1966-2004*, A dissertation for doctoral degree of Universitaet van Tilburg, 2006.

Mubyarto, “Etika Keadilan Sosial dalam Islam” in *Islam dan Kemiskinan* (Bandung: Pustaka, 1988).

Peter Frumkin, *Strategic Giving: The Art and Science of Philanthropy* (Chicago and London: The University of Chicago Press, 2006).

Shamuel N. Eisenstadt, “Concluding Remarks: Public Sphere, Civil Society and Political Dynamics In Islamic Studies”, in *The Public Sphere in Muslim Societies*, eds. Miriam Hoexter, Shamuel N. Eisenstadt, Nehemia Levtzion, (Albany: State University of New York Press, 2002).

Sinar Harapan 17 September 2002, “Lombok Timur Masih Tegang: Pengungsi Makin Banyak”, Online, <http://www.sinarharapan.co.id/berita/0209/17/nus01.html>

Suara NTB 13 January 2006, “Ali Bin Dachlan:Berjuang untuk Sebuah Prinsip bukan Demi Jabatan”, Online, <http://www.suarantb.com/2006/01/13/wilayah/Mataram/xdetil3.htm>

Suara NTB 12 January 2006, “Pengunjuk Rasa Sandera Anggota DPRD Bupati Lotim Dinonaktifkan”, Online, <http://www.suarantb.com/2006/01/12/index.html>

Tempo 4 Desember 2005, “Guru di Lombok Timur Hentikan Aksi Mogok Mengajar”, Online, <http://www.tempointeractive.com/komentar/?berita=brk,20051204-70100,id.html>

Teungku Muhammad Hasbi ash-Shiddieqy, *Pedoman Zakâh* (Semarang: Pustaka Rizki Putra, 1999).

Yûsuf al-Qaradawî, *Fiqh az-Zakâh: A Comparative Study* (London: Dar al-Taqwa, 1999).