HOW THE LEGAL STANDING OF AMIL ZAKAT TIBAN?

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ABSTRACT

Purpose: The study was conducted to review the legal status of the formation of AZT, analyze the implications of the AZT for the implementation of zakat law in Indonesia, and discuss the contribution of the AzT in the zakat management process, especially during the Covid-19 pandemic.

Design/methodology/data analysis: This type of empirical law research combines normative law research by reviewing laws and related literary sources and empirical legal research conducted by field research on several mosques, schools, and Islamic hostel schools in Semarang City. Data is collected through FGD, documentation, observations, and interviews, then analyzed through improvement, description, and interpretation of data.

Findings: The research results show that Amil Zakat Tiban's existence is considered valid if no UPZ (Baznas) or Amil Zakat institutions have had permission from the Office of the Ministry of Religion. Based on supplies, Amil Zakat Tiban is an ad hoc agency that collects and distributes the zakat and reports it transparently. Amil Zakat Tiban is implicit in implementing the Zakat law by providing ease for the community in paying the zakat and reducing the workload of BAZNAS and UPZ, which have flexibility of reach. Although the existence of Amil Zakat Tiban is controversial, he contributed to the management of zakat and its equal distribution to the society that did not get the attention of the Philanthropic Institution, especially to the people who suffered dismissal (PHK) at the time of the Covid-19 pandemic.

Originality/value: This study fills gaps in research on zakat, especially studies on the existence of private religious institutions formed by communities with strong local wisdom values, let alone many areas that are not accessible by BAZNAS.

Practical implications: The existence of Amil Zakat Tiban is very necessary for the community, both muzaki and mustahik in managing zakat funds, especially during the fasting month (Ramadhan) and Idul Fitr. Even though its presence has not yet received legal legality, people still trust AZT in distributing their zakat funds.

Keywords: management, amil zakat tiban, legal standing, shariah law.

Received: 11/20/2023
Accepted: 02/12/2024
DOI: https://doi.org/10.55908/sdgs.v12i2.3133
QUAL É O ESTATUTO JURÍDICO DO AMIL ZAKAT TIBAN?

RESUMO

Objetivo: o estudo foi realizado para revisar o status legal da formação do AZT, analisar as implicações do AZT para a implementação da lei do zakat na Indonésia e discutir a contribuição do AzT no processo de gestão do zakat, especialmente durante a pandemia de Covid-19.

Projeto/metodologia/análise de dados: Esse tipo de pesquisa jurídica empírica combina pesquisa jurídica normativa por meio da revisão de leis e fontes literárias relacionadas e pesquisa jurídica empírica conduzida por pesquisa de campo em várias mesquitas, escolas e albergues islâmicos na cidade de Semarang. Os dados são coletados por meio de FGD, documentação, observações e entrevistas e, em seguida, analisados por meio de aprimoramento, descrição e interpretação dos dados.

Conclusões: Os resultados da pesquisa mostram que a existência do Amil Zakat Tiban é considerada válida se nenhuma UPZ (Baznas) ou instituição do Amil Zakat tiver recebido permissão do Escritório do Ministério da Religião. Com base nos suprimentos, o Amil Zakat Tiban é uma agência ad hoc que coleta e distribui o zakat e o informa de forma transparente. O Amil Zakat Tiban está implicado na implementação da lei do zakat, facilitando o pagamento do zakat pela comunidade e reduzindo a carga de trabalho do BAZNAS e da UPZ, que têm flexibilidade de alcance. Embora a existência do Amil Zakat Tiban seja controversa, ele contribuiu para a gestão do zakat e sua distribuição igualitária para a sociedade que não recebeu atenção da Instituição Filantrópica, especialmente para as pessoas que sofreram demissão (PHK) na época da pandemia da Covid-19.

Originalidade/valor: Este estudo preenche lacunas na pesquisa sobre o zakat, especialmente estudos sobre a existência de instituições religiosas privadas formadas por comunidades com fortes valores de sabedoria local, sem falar em muitas áreas que não são acessíveis pelo BAZNAS.

Implicações práticas: A existência do Amil Zakat Tiban é muito necessária para a comunidade, tanto muzaki quanto mustahik, na administração dos fundos do zakat, especialmente durante o mês de jejun (Ramadhan) e Idhul Fitr. Embora sua presença ainda não tenha recebido legalidade jurídica, as pessoas ainda confiam no AZT para distribuir seus fundos de zakat.

Palavras-chave: administração, amil zakat tiban, estatuto legal, lei shariah.

¿CUÁL ES LA SITUACIÓN JURÍDICA DEL AMIL ZAKAT TIBAN?

RESUMEN

Propósito: El estudio se llevó a cabo para revisar el estatus legal de la formación de la AZT, analizar las implicaciones de la AZT para la aplicación de la ley del zakat en Indonesia, y discutir la contribución de la AZT en el proceso de gestión del zakat, especialmente durante la pandemia de Covid-19.

Diseño/metodología/análisis de datos: Este tipo de investigación jurídica empírica combina la investigación jurídica normativa mediante la revisión de leyes y fuentes literarias relacionadas y la investigación jurídica empírica realizada mediante investigación de campo en varias mezquitas, escuelas y colegios islámicos de acogida de la ciudad de Semarang. Los datos se recogen mediante DGF, documentación, observaciones y entrevistas, y luego se analizan mediante la mejora, la descripción y la interpretación de los datos.

Resultados: Los resultados de la investigación muestran que la existencia de Amil Zakat Tiban se considera válida si ninguna UPZ (Baznas) o institución de Amil Zakat ha tenido permiso de la Oficina del Ministerio de Religión. Basado en los suministros, Amil Zakat Tiban es una agencia ad hoc que recoge y distribuye el zakat y lo reporta de forma transparente. Amil Zakat Tiban

está implícito en la aplicación de la ley del zakat al facilitar a la comunidad el pago del zakat y reducir la carga de trabajo de BAZNAS y UPZ, que tienen flexibilidad de alcance. Aunque la existencia de Amil Zakat Tiban es controvertida, contribuyó a la gestión del zakat y a su distribución equitativa a la sociedad que no recibía la atención de la Institución Filantrópica, especialmente a las personas que sufrieron el despido (PHK) en la época de la pandemia de Covid-19.

Originalidad/valor: Este estudio llena lagunas en la investigación sobre el zakat, especialmente los estudios sobre la existencia de instituciones religiosas privadas formadas por comunidades con fuertes valores de sabiduría local, por no hablar de muchas áreas que no son accesibles por BAZNAS.

Implicaciones prácticas: La existencia de Amil Zakat Tiban es muy necesaria para la comunidad, tanto muzaki como mustahik en la gestión de los fondos del zakat, especialmente durante el mes de ayuno (Ramadhan) e Idhul Fitr. Aunque su presencia aún no ha recibido legalidad jurídica, la gente sigue confiando en la AZT a la hora de distribuir sus fondos del zakat.

Palabras clave: gestión, amil zakat tiban, legalidad, ley sharia.

1 INTRODUCTION

Islam is a religion that requires its adherents to carry out various worship as a form of faith, one of which is issuing zakat for those who have reached certain conditions (haul and nisab) (Masyita, 2018). Zakat, as a religious obligation, its implementation must follow the provisions in the books of fiqh (Aisyah & Ismail, 2019; Ismail & Aisyah, 2019; D. Mustafa et al., 2020). Especially in Indonesia, zakat is mandatory worship whose implementation is still a polemic (Nababan, 2018; Utami & Nugraheni, 2013). The history of zakat implementation informs that zakat has started since the beginning of the arrival of Islam to Indonesia, although at that time, its implementation was not well organized. Over time, the government began to realize the importance of zakat as mandatory worship as well as to help alleviate poverty and improve people's welfare (Akmal, 2021; Hariyanto, 2020; Ridwan, 2019), so various regulations were issued that regulate the implementation of zakat (Itang & Azzahra, 2018; Triantini, 2010). The legal regulation that specifically regulates zakat nationally where zakat as a religious obligation is linked to taxes as a state obligation is Law Number 38 of 1999 concerning Zakat Management. In general, the law explains zakat management, starting from the parties involved, the procedures for collection to distribution, and the imposition of sanctions for those who misappropriate zakat proceeds (Fadhilah, 2016).

After twelve years in force, Law (UU) Number 38 of 1999 was declared incompatible with legal developments and needs, so it had to be changed to Law Number 23 of 2011 concerning Zakat Management (Kusriyiah, 2020). In general, the law states...
that to increase the effectiveness and efficiency of zakat services in order to realize community welfare and reduce poverty (Azhar & Nor, 2019; Javaid & Al-Malkawi, 2018; Zakaria, 2014), zakat management will be carried out centrally at the National Amil Zakat Agency (BAZNAS), both at the central, provincial, and district/city levels. BAZNAS can form a Zakat Management Unit (UPZ) in government agencies and state-owned enterprises to the sub-district and village levels so that in carrying out their duties and functions, they can run well. The community can also assist the task of BAZNAS by establishing the Amil Zakat Institution (LAZ), but in its formation, it must obtain permission from the minister or an official appointed by the minister; in which to obtain the permit, LAZ must meet certain conditions such as having to be registered as an Islamic social organization; in the form of a legal entity; have technical, administrative, and financial capabilities; until it is ready to be audited periodically. The regulation is an effort by the government to regulate the implementation of zakat as a religious institution that aims to improve justice and public welfare and gain the community's trust (R. Hasan et al., 2018; Rusydiana & Al Farisi, 2016).

Law Number 23 of 2011, especially in the fourth section on LAZ, caused controversy and uproar. Before the regulation was passed, the community already owned and formed LAZ (Hardiyanto et al., 2018). Some people find it challenging to register LAZ to get permission from the minister or an official appointed by the minister, as referred to in Law Number 23 of 2011 (Saidurrahman, 2013). Especially in the LAZ, which was formed incidentally to receive zakat fitrah before Eid al-Fitr and immediately disbanded after the distribution of zakat proceeds was completed, the LAZ in this study is called Amil Zakat Tiban (AZT). AZT has become an annual mandatory activity carried out by people in most areas in Indonesia. Many years after the law was issued, the community continued to manage zakat fitrah through the formation of AZT (K. S. Hasan & Pasyah, 2019). Based on the results of interviews with random people, it can be seen that people prefer to pay zakat through AZT rather than through BAZNAS or LAZ, which have been licensed. The community knows AZT members well and can directly supervise the collection process to distribute their zakat proceeds, where the zakat recipients are known as neighbors. Meanwhile, if through BAZNAS or LAZ, zakat distribution is often carried out in other areas so that zakat will arise from the zakat party (muzakki) if neighbors in need do not receive zakat.
The presence of AZT ahead of the Eid al-Fitr holiday can be found in mosques in villages, Islamic boarding schools (pesantren), and schools. The formation of AZT is an annual activity carried out based on community initiatives without permission from the authorities, as stated in Article 18 (Fadhilah, 2016). Refer to the article and confirm through article 38 that the formation of AZT in villages, schools, and pesantren is a prohibited activity. The following provision in Article 41 states that an action is an act that intentionally violates the law and violates the provisions so that it must receive criminal sanctions with a maximum imprisonment of 1 (one) year and/or a maximum fine of fifty million rupiahs (Andiani et al., 2018; Masyita, 2018; Widarwati et al., 2016). Ten years since the law on zakat management was issued, there has never been any finding of criminal sanction of confinement or fines to the community or a group of people who form AZT. People may not know in detail about zakat management regulations, so people always form AZT and ignore orders to distribute zakat through authorized institutions such as BAZNAS and LAZ, which have been officially registered (Muthohar, 2016; Ridwan, 2016).

The phenomenon of the formation of AZT is increasingly widespread during the Corona Virus Disease-19 (Covid-19) pandemic. The spirit of forming AZT at this time is getting higher, considering that in the surrounding environment, there are people who need help due to the challenging economy. This situation further encourages people to pay zakat through AZT compared to BAZNAS and LAZ because through AZT, people can ensure that their zakat is distributed to the correct recipients in the surrounding environment (Purbasari et al., 2018). In addition, the presence of AZT, which is close to the neighborhood, also makes it easier for muzakki to continue to pay zakat safely because payments are made in the surrounding environment to minimize interactions with foreigners and avoid the transmission of Covid-19. The existence of AZT is generally known to be able to ease the burden on the surrounding community, considering that AZT can know and map the economic conditions of the surrounding community so that the distribution of zakat to zakat recipients (mustahiq) can be carried out in a targeted manner. It is unknown how this role will play in more detail, especially during the Covid-19 pandemic. Based on this background, this research was conducted with the aim of (1) examining the legal standing of the formation of AZT in the community by reviewing the legal basis for its formation, (2) analyzing the implications of AZT for the implementation
of zakat law in Indonesia, and (3) discussing the contribution of AZT in the process of zakat management.

2 THEORETICAL FRAMEWORK

The principle of fairness in the resolution of problems becomes the foundation in the establishment of law. This principle puts the legal orientation on the preservation of religion, soul, descent, reason and property (Haryanto et al., 2023; Muhammad & Saad, 2015; Soleh, 2016). The legal position of the institute of amil zakat in the study of fuqahâ, the scholars indicate that the ruler is obliged to appoint and send officers to collect zakat so that these five objectives can be achieved. Amil Zakat as a collector of zakat becomes a barometer of financial institutions that support in government construction. As the Prophet (peace be upon him) did, he sent friends into the Arabic countries and beyond the Arabs to be the managers of the zakat (Olaleye & Lekunze, 2023). This social context suggests that the supreme ruler in a region has the right to appoint or appoint acts of decency with certain considerations, just as acts must be honest and have high integrity. For this purpose, a person or group appointed as an act of zakat by the agency above him is considered legitimate.

In the framework of the laws and regulations of the community can form the Zakat Amil Institution whose functions help BAZNAS in the implementation of fundraising, distribution, and dissemination of zakat (Kasri & Putri, 2018; Mubarok, 2019; Tahiri Jouti, 2019). Fundraising by Amil Zakat Tiban is carried out with various forms of activities. This fundraising covers how the charity informs, reminds, encourages, and persuades the public to pay charity on the local charity. (Alhifni et al., 2018; Anwar and Khalsiah, 2018; Mohamad et al., 2016). During the time of the Covid pandemic, this fundraising was carried out by making letters facilitating payment of zakat (including infaq, shodaqah and fidyah) distributed through WhatsApp and other social media easily accessible by local citizens. Besides, the ustadz, the mosque manager and the Friday prayer chief are always asking for the payment of the zakat to be sufficient to the amil zakat administered by the local zakat. Strong motivation towards the community in collecting zakat through the institute of internak amil zakat is a form of responsibility and solidarity that ends with the attention of the institution to the community that lives around the institution of zakat tiban.
Distribution of zakat is given to mustahiq (asnaf tsamaniyah) based on a priority scale (A. Hasan et al., 2019; Mubarok et al., 2021). The Covid pandemic has caused people to be categorized as the most vulnerable with different kinds and types of aid. So that the interpretation of the distribution of the zakat (and the change of the verse 60) gives the authority for the deeds of zakat in distributing to those who are most entitled (on the scale of priority) to receive the zaka. For that reason the distribution of the zakat is based on the principle of justice and extortion. (M. Ahmad, 2019a). Justice places the zakat equal and equal, so that there is no accumulation of zakat to a particular group (Distribution on Income Inequality and Welfare) (Abdullah & Sapiei, 2018; Cokrohadisumarto et al., 2019). The Azas of Expropriation covers the territory of the Zakat Distribution, so the Amil Zakat is obliged to distribute its Zakat to the parties to which it belongs (Bilqis Ololade et al., 2017; Kashif et al., 2018). Religion teaches to help the nearest group (wa ati dzal kurba) (Abd. Wahab et al., 2017; Bilqis Ololade et al., 2017; Wahab et al., 2016; Wahab & Rahim Abdul Rahman, 2011). Therefore, an amil zakat must have a valid zakat distribution segmentation map (Alim, 2015; Mamun et al., 2020; Rahmat & Nurzaman, 2019).

Promotion of Zakat funds oriented to consumptive and productive distribution (Bilo & Machado, 2020; Muhammad & Saad, 2015). Effectiveness puts basic needs into consideration of productive or consumer distribution. Consumptive distribution has the goal of survival well awakened (hifd an nafs) (Jedidia & Guerbouj, 2020; Mubarok, 2021; Owoyemi, 2020). Productive distribution to mustahiq has the purpose of making a change of mustahiq into muzakki. For that, the agency needs to do a moustache mapping taking into account many factors, such as age, skill, and location. The output of status change (from mustahiq to muzakki) is part of the creation and innovation of amil zakat, so the training and support program must be carried out continuously. (Adzrin et al., 2015; D. Mustafa et al., 2020; M. O. A. Mustafa et al., 2013).

The Zakat Regulation Act No. 23 of 2011 on Zakat Management became a guideline in the implementation of the Zakat. This regulation regulates the National Acting Authority (BAZNAS), the Acting Organization (LAZ), the collection, distribution, disclosure and reporting of charges, as well as sanctions for violations/deviations in the management of the charges. The appearance of Amil Zakat Tiban (AZT) outside the mechanism of legislative regulation and becomes part of the tradition and practice of religious teachings. Nevertheless, its implications have an impact
on the social order in which the existence of a law must be supported by the culture of a society, besides its structure and substance. (Lawrence). Culture and religion have very close space and time. The establishment of an institute is part of the practice of religion and part of human rights. (liberty of religious freedom). Similarly, muzakki also has the freedom to choose to which institution his zakat will be handed over or paid. On this basis there is sometimes a conflict between religious practices and rules. If one of the elements does not work, then the law enforcement is difficult to implement in accordance with the regulations.

3 METHODOLOGY

This research is empirical juridical research that combines normative legal research and empirical law research. Normative legal research is carried out through library research by examining Law Number 38 of 1999 concerning Zakat Management and its successor law, namely Law Number 23 of 2011 concerning Zakat Management. Subsequent studies were carried out on Government Regulation Number 14 of 2014 concerning the Implementation of Law Number 23 of 2011 concerning Zakat Management, along with other documents that reviewed the law, starting from the filing of judicial review documents to the Constitutional Court's decision in cases of judicial review. -Law Number 23 of 2011 concerning the Management of Zakat against the 1945 Constitution of the Republic of Indonesia with Decision Number 86/PUU-X/2012, expert opinions, and the results of studies discussing the case.

Empirical legal research was conducted through field research to determine the implications and contributions of AZT to society. Field research was conducted at educational and religious institutions, including mosques, schools, and pesantren, forming AZT committees whose working period is only in Ramadan. In addition, research was also conducted on zakat givers (muzakki) through in-depth interviews and on zakat recipients (mustahiq) through participatory observation at the time of zakat distribution. The research location is in Semarang, Central Java, Indonesia. Data were collected using Focus Group Discussion (FGD), documentation, observation, and interviews. Information about the community's response to forming AZT was obtained from mosques, schools, and pesantren. The research data sources were randomly selected in mosques, schools, and pesantren with unofficial (unregistered) AZT institutions, which
always create zakat committees (AZT) or activate existing ones amil zakat institutions. In addition, primary data was also obtained from several research respondents, namely BAZNAS, LAZ, and UPZ managers who have been officially registered.

The data obtained from the field were classified and mapped to clarify information related to each AZT. The classification is carried out not only based on purpose but also considering information related to the specific experiences of the respondents in the formation of amil zakat, collection, and distribution of zakat based on their respective regions. The analysis step was carried out through three stages: data restatement, data description, and data interpretation. The restatement of the data is based on the results of tabulations and excerpts from interviews based on the experience of respondents managing AZT from 3 elements, namely mosques, schools, and pesantren. The data description clarifies the tabulation results and pieces of information obtained from the classification results. Interpretation is carried out by considering the individual and social context that surrounds the respondent. The data credibility test was carried out through triangulation, research extension, increased persistence, negative case analysis, reference materials, and member checks (Creswell, 2014).

4 RESULT AND DISCUSSION
4.1 LEGAL STANDING FORMATION OF AZT IN SOCIETY

An annual agenda in Indonesia ahead of Eid al-Fitr is that people in each village or institutions such as schools will form an amil zakat institution to receive zakat fitrah. The amil zakat institution in this study is Amil Zakat Tiban (AZT). Tiban in Javanese is defined as something that comes suddenly and only lasts a short time, as is the case with AZT, which was formed incidentally before Eid al-Fitr and immediately dissolved after the distribution of zakat was completed. Prior to the issuance of Law Number 23 of 2011 concerning Zakat Management, the existence of AZT was never a problem because the existence of AZT did not need to get permission from the authorized institution, namely the Minister of Religion or other appointed officials. After the enactment of Number 23 of 2011, zakat management was centralized to BAZNAS, which was authorized to carry out planning, implementation, control, reporting, and accountability functions, while LAZ, including AZT, was only given the authority to assist BAZNAS by collecting, distributing and utilizing zakat. Another controversy is that LAZ must also be registered as an Islamic community organization that manages education, da'wah, and social affairs,
even though AZT is not a specific social organization, so the community will find it challenging to meet these requirements. Hence, it is unlikely to get a permit.

The stipulation of Number 23 of 2011 concerning the management of zakat has resulted in pros and cons in the community, especially related to the existence of AZT. Those who are pro with the law consider that the law will make zakat management better because the management is centered in one place so that the zakat distribution process is evenly distributed or not centered on specific areas and is not only distributed in the form of money or goods, but also productive zakat. The contra is based on concerns that this law will shut down around 300 LAZs operating long before enacting the law. In addition, there are also concerns about the disruption of the zakat payment process, given the minimal number of LAZs, so their existence is far from muzakki. Collecting zakat will also be disrupted considering that most people do not fully trust the official LAZ and BAZNAS and instead prefer to pay zakat to private institutions and zakat amil who are not officially registered such as AZT. Another condition that is also burdensome is the requirement that LAZ must come from an Islamic community organization that manages the fields of education, da'wah, and social affairs, as stated in Article 18. At the same time, LAZ, including AZT, is only a collection of people who are not social organizations.

Parties against Law Number 23 of 2011 then submitted a judicial review to the Constitutional Court. The application submitted on August 16, 2012, was represented by managers of various zakat institutions such as the Al Falah Social Fund Foundation in Malang, Yatim Mandiri Foundation, Rumah Zakat Indonesia Foundation, LPP Ziswaf Harum, Portal Infaq Foundation, Harapan Dhuafa Foundation Banten, KSUP Sabua Ade Bima NTB, Kembang Makmur Situbondo Multipurpose Business Cooperative, as well as several individual applicants representing muzakki and mustahiq. The application disputed various articles in Number 23 of 2011, including Articles 38 and 41, which contained the prohibition to become an unlicensed amil zakat and the existence of sanctions in the form of a fine of fifty million rupiahs and imprisonment for 1 (one) year. Whereas so far, traditional amil, including AZT based on mosques, pesantren, or community associations, have been carrying out these activities for years and have won the community's trust. The existence of this criminal sentence is also considered to have violated the constitutional rights of the community, especially in Article 28D paragraph (1) of the 1945 Constitution, which states that everyone has the right to get recognition, guarantees, protection, and legal certainty that is fair and gets equal treatment before the
Law. In addition, it also contradicts Article 28C paragraph (2), Article 28E paragraph (2), and paragraph (3), as well as Article 28H paragraph (2) and paragraph (3) of the 1945 Constitution.

Law Number 23 of 2011 is also considered to strengthen the state's role in zakat management, but the opposite is the case. The judicial review document states that the law should be able to protect citizens who pay zakat (muzakki), prevent the misuse of zakat funds, facilitate the Islamic philanthropic sector for social change and provide incentives for the development of the national zakat world. However, the law breaks the practice of managing zakat. Zakat has been painstakingly developed and implemented by civil society with national zakat from the social-charitable realm to the development-empowerment realm over the last three decades, including those pioneered by the Al Falah Social Fund Foundation (1987), Dompet Dhuafa Republika (1993), Rumah Zakat Indonesia (1998) and Pos Justice Cares for the Ummah (1999). In addition, it also negates the hard work of AZT in remote villages that are not reached by the official BAZNAS and LAZ, which until now are known to have managed zakat brilliantly, and there have never been found any deviations in zakat management.

The perceptions that are understood by the public regarding Law Number 23 of 2011 then get a trial from the Constitutional Court (MK), which has the authority to try at the first and last levels, whose decisions are final to examine the law against the Basic Law. The results of the Constitutional Court's decision stated that the use of criminal instruments in article 41 is intended to ensure that article 38, which prohibits anyone from collecting, distributing, or utilizing zakat without the permission of the authorized official, can be carried out properly so that zakat payments can be centered on BAZNAS and LAZ which so that zakat management can be well organized. However, the Constitutional Court agreed that the use of the phrase "everyone" in this case is too general or broad, so it has the potential to criminalize the implementation of zakat that has been running so far, for example, by AZT. The Constitutional Court also agreed that the reality on the ground shows that not all areas have been reached by BAZNAS and LAZ, considering the vast area in Indonesia, so the existence of this article, if applied, will have the potential to create a vacancy in zakat services in the community with the formation of LAZ or BAZNAS and the obstruction of citizens' rights to fulfill zakat obligations. According to the Constitutional Court, the obstruction of the rights of citizens...
is contrary to the 1945 Constitution, especially Article 28E paragraph (2) and Article 29 paragraph (2) of the 1945 Constitution.

The Constitutional Court also agreed that the formulation of Article 38 and Article 41 of Law Number 23 of 2011 had negated the critical role and existence of amil zakat, which, according to the law, is considered "unofficial" because it does not yet have a permit, including AZT. The Constitutional Court then stated that the phrase "everyone" is prohibited from intentionally acting as an amil zakat cannot be justified if there is no BAZNAS or AZT in an environment and has notified the concerned zakat management activities to the authorized official. Based on this decision, it can be seen that AZT can continue to manage zakat on the condition that in an area there is no BAZNAS or LAZ, people find it challenging to pay zakat to BAZNAS or LAZ, which is far from their place of residence. In addition, AZT is expected to be able to notify the authorized officials of its zakat management activities. If these two conditions are met, then Article 41, which stipulates the existence of a crime, becomes invalid. In addition, the requirement to report activities to the authorized official is also a requirement that AZT does not have to be a community organization, as stated in Article 18 paragraph (2). AZT is legally legal to operate and does not conflict with Law Number 23 of 2011 as long as it has met the two requirements mentioned above.

In addition, if viewed according to legal theory, it is known that law enforcement can be implemented if there is culturally solid support from the community. Lawrence M. Friedman argues that the effectiveness and success of law enforcement depend on three elements of the legal system, namely the legal structure, legal substance, and legal culture. AZT, as a deep-rooted tradition, has become a community culture. Based on field data, the formation of amil zakat by mosques, schools, and pesantren is a longstanding tradition and the development of religion in the region. One of the religious expressions of the community in the month of Ramadan is to pay zakat, where the community needs zakat amil to manage the zakat of the surrounding community. Therefore, mosque administrators are obliged to form amil zakat. Likewise with schools and pesantren, usually schools form AZT consisting of teachers and students representatives to receive zakat from students and students, to familiarize students and students with zakat from an early age. Community culture in forming AZT has been going on for decades, where it is a religious expression guaranteed by Pancasila and the 1945 Constitution.
4.2 IMPLICATIONS OF AZT FOR THE IMPLEMENTATION OF ZAKAT LAW IN INDONESIA

Referring to Law Number 23 of 2011 concerning the management of zakat, the formation of AZT by the community is an act of violation that must receive criminal sanctions. Even so, after the issuance of the decision of the Constitutional Court as a result of a judicial review of the law, it can be seen that the existence of the law is legal as long as BAZNAS or LAZ has not been established in an area so that people find it challenging to pay zakat. That is, the existence of AZT is an effort from the community for the community so that the payment of zakat fitrah is easy to do. It is enough for the community to take a moment to come to the local mosque with rice or money to pay zakat. Rice can be paid directly, while money can be bought for rice first to the committee that has provided rice around the mosque, then pay zakat in rice. Meanwhile, if in a village, for example, there is no BAZNAS or LAZ, zakat payments must be made by traveling tens of kilometers which takes hours to get to the zakat payment place. The existence of BAZNAS and LAZ exacerbates it as official institutions limited by certain operating hours, while AZT can receive zakat at any time, including zakat payments made at night for people who are busy in the morning and evening with work.

The Unitary State of the Republic of Indonesia has an extensive area, so people will find it difficult if they have to pay their zakat to the official BAZNAS or LAZ, which are very minimal in number in Indonesia. The Ministry of Home Affairs stated that Indonesia consists of 34 provinces, 514 regencies/cities, 7230 sub-districts, and 83381 villages in 2021. In fact, in one village, there are at least five hamlets, and each hamlet has at least 4 Neighborhood Association (RT). Meanwhile, BAZNAS only exists at the district level. BAZNAS is expected to have a Zakat Collecting Unit (UPZ) at the village level, but in reality, not all regions have a UPZ which BAZNAS officially formed. As for LAZs formed by the community, only 18 have obtained permits from 300 LAZs in Indonesia, as stated in the judicial review submission document to the Constitutional Court. When compared with the size of the area and the number of people in Indonesia, there will be inequality, resulting in difficulties for people who will pay zakat. On this basis, the existence of AZT as zakat collectors who are located close to the community is very much needed.

The limited number of official BAZNAS, UPZ, and LAZ also causes the workload to accumulate for the three official agencies. Moreover, the payment of zakat fitrah has a
limited time, namely before Eid al-Fitr. Islamic teachings also show that the payment of zakat will be better if it approaches Eid al-Fitr, so it can be assumed that before Eid al-Fitr, there will be an accumulation of muzakki who will pay zakat. It will cause BAZNAS, UPZ, and LAZ to experience difficulties, considering that the numbers are tiny, while the number of people who will pay zakat is enormous. So the preacher, actually, the existence of AZT also makes it easier for the three agencies to manage zakat. AZT, which is in the tens of thousands and spread throughout Indonesia, even to remote villages, will break up the heavy work of the three agencies so that it will be lighter. The division of the workload also means the distribution of rewards to AZT, considering that being amil is also a noble activity that brings rewards from Allah SWT.

The workload division on AZT will then positively impact zakat management in Indonesia. Amil, a member of AZT, is a member of the local community who is well known for his fairness and trust in managing public funds. It is different from BAZNAS, LAZ, and UPZ, which are far from the community, so people do not understand the character possessed by the zakat amil. As a result, people become more confident in paying their zakat to AZT than to official government agencies. It is also considered not a problem because AZT also distributes the zakat proceeds in a transparent and accountable manner. It is indicated by the evidence that until now, there has never been a case where AZT misused the community's zakat fitrah funds. On the other hand, AZT can manage it brilliantly and distribute zakat to the community in a targeted manner.

The formation of AZT is also a religious expression based on internal and external encouragement. Some of the internal motivations are because every Muslim has faith in something and expresses his belief in the form of activities, such as forming AZT. The belief is that the formation of AZT is freedom of religion (liberty of religious freedom) and includes aspects of freedom of conscience (liberty of conscience). Freedom of conscience is an absolute part of belief and cannot be forced by anyone, and the expression of one's belief is manifested in actions (liberty of religious expression). In contrast, external demands include two things. First, the formation of amil zakat benefits the community because the management of zakat by AZT leads to the realization of an equitable and fair distribution of zakat. AZT’s task is to look for mustahiq to have a map of society based on the categories of 8 groups (asnaf al tsamaniyah). Second, the formation of AZT is a charity forum that attracts the community to help the economy of the weak. For the community, the existence of AZT makes it easier for people to give
zakat, infaq, and the like based on trust. Besides that, some people also feel comfortable if they receive assistance from AZT, compared to giving from individuals through individual zakat.

Based on research in the field, it can be seen that the external and internal encouragement of the community in forming AZT is shown in Table 1 as follows.

<table>
<thead>
<tr>
<th>Table 1. Internal and external demands of AZT formation by Society</th>
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<td><strong>Factors</strong></td>
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<td>Source: Data processed (2023)</td>
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Based on the table above, it is known that internal and external stimuli cause the formation of AZT. Internal encouragement can be categorized into internal encouragement from the manager (individual) and internal encouragement from an institution. Individual internal encouragement was born from the manager's call to the heart around them; there are community groups that need assistance from the economic aspect. Institution managers are community groups with good religious knowledge and are well established in the economy. This expression is realized to practice religious teachings through infaq, sadaqah, and zakat. Likewise, mosques, schools, and pesantren were also organized to provide benefits. Internal institutional encouragement is realized through institutional authorities in preparing work programs by forming amil zakat. The preparation of the work program of this institution is based on the extent to which the institution provides benefits to other parties. So that the birth of AZT in the period leading up to Ramadan, which mosques, schools, and pesantren conceived, became an official institution that had a role in the social economy of society. External encouragement comes
from various parties with their respective interests, including people who want to pay zakat to mosques and *pesantren* and want mosques to have activities during Ramadan, and parents who want their children to learn to pay zakat at school. In addition, there are also other factors in the form of a lack of concern for BAZNAS to students, which is indicated by the lack of proportionality of zakat given to students.

### 4.3 AZT's CONTRIBUTION TO THE ZAKAT MANAGEMENT PROCESS

AZT contributes to the zakat management process, especially zakat fitrah. Amil voluntarily mobilizes his energy to organize zakat receipts, from planning, collecting, distributing, and reporting. All of these activities in AZT in schools are carried out by the deputy head of public relations collaboration with students. In contrast, *pesantren* are carried out by representatives of teachers (ustadz) together with students (santri), and those in the community are carried out by the zakat committee consisting of the mosque administrator. After planning the activities, AZT then announces the time of receiving zakat, where muzakki can pay zakat during the specified time. AZT can receive zakat in the form of rice or money. Paying zakat in the form of money, AZT will exchange the muzakki money with rice that has been provided by AZT, which aims to provide practicality and convenience for the muzakki so that it is not difficult to carry rice from their residence to the zakat collection point. As for the distribution of zakat proceeds, AZT in schools and *pesantren* distributes mainly to the academic community in need and the community around schools and *pesantren*. As for AZT in the community, the distribution is carried out to the village community and other village communities in need, and it is assessed that community awareness of paying zakat is still low. As for reporting, AZT in schools and *pesantren* reports through the vice principals and *pesantren* in public relations, while AZT in the community reports after Eid al-Fitr prayers.

AZT collection activities are still ongoing despite the Covid-19 pandemic. The pandemic resulted in various adjustments to AZT activities. These adjustments include implementing strict health protocols, conducting online and offline coordination meetings, to the process of determining zakat recipients (mustahiq). Before the Covid-19 pandemic, mustahiq consisted of eight groups entitled to receive zakat, of which two were the indigent and the poor. The determination of the criteria for the needy and poor before the Covid-19 pandemic was based on the criteria for work, income, family burdens, and the house's condition. As for after the pandemic, the determination of the criteria for the
needy and the poor is not only based on these four criteria but also based on the economic condition of the community, where people who are laid off (Termination of Employment) or lose their jobs or experience business bankruptcy, will also be one of the recipients of zakat. Almost all AZT made this adjustment in the mosques, pesantren, and schools studied.

The adjustment of the criteria for zakat recipients provides benefits and very positive responses from the community. Based on the results of interviews with people who have experienced layoffs and business bankruptcy, it can be seen that the zakat given is very helpful for the economy of the people who are in terrible condition, which is even beyond the expectations of the community previously. The informants’ answers support it during the interview as follows.

"I am very grateful, sir. Alhamdulillah, I never thought I would be in this condition. I was laid off suddenly at the start of the pandemic, sir, so we have not prepared for this situation in advance. Our emergency fund is only enough to support the family for a few months. After that, I did not know what to feed my family. I have not got a job; my wife has not worked, though we have four children. Thank you very much for understanding our condition, sir." (Informant A)

"Oh my God, sir. Our business went bankrupt. Maybe you guys know this too. Since the pandemic, no one wants to eat at our stall, sir. Everyone prefers to cook at home. In a day at most, only ten people eat. Well, I am at a loss, sir. If it continues, I finally closed it for a while until the situation returned to normal. We can use the zakat given to us to make a living, sir. Thank You." (Informant B)

"I've been unemployed for two months at home, ma'am. The pandemic has made people afraid to take public transportation. Those who usually take buses prefer to take private vehicles. Finally, the boss dismissed several drivers at my workplace, including myself, because the buses operating were also drastically reduced. Before the pandemic, there were five buses within the district and three buses between provinces operating, ma'am. But after the pandemic, there was only one bus within the district and one bus between provinces that was still operating. Even then, the results are far below the standard, Mother. I also know, ma'am. So when my boss asked me to quit my job, I understood and accepted. Thank you, ladies and gentlemen, for understanding our condition and giving this zakat to us." (Informant C)

"The pandemic has hit us as a family, sir, ma'am. Usually, we make a living from selling clothes, and the peak is usually before Eid al-Fitr, when almost everyone buys new clothes. But after this pandemic, God willing, ma'am. Almost no one ever stops by our shop, even if it's just to have a look. Especially now that there is no Eid al-Fitr, no going to the mosque or gathering with family, people do not buy new clothes either, ma'am, sir. Finally, yesterday we decided to close the shop, sir, temporarily. But after all, the necessities of life are still the same as yesterday; daily meals and the children's lectures are the heaviest, sir. My five children and three are in college, all costing millions, and all three still have to pay the same amount. I didn't expect to receive zakat, sir, because we have always given so far, but to be honest, we need it. Thank you for understanding, ladies, and gentlemen." (Informant D)
Based on the answers of sources B and D when the interview was conducted, it can be seen that both of them were able groups of people before the pandemic. The pandemic forced the businesses supporting them to close for a while. The community's needs are still the same as usual, ranging from daily food needs to paying tuition fees for their children, as revealed by resource person D. However, the community has no income, so they are in a class that deserves to get zakat. Information about the condition of the community may only be known by the surrounding community and not known by BAZNAS and LAZ, which are far from where the community lives. It is the main contribution that AZT has, where AZT is very aware of the actual conditions currently experienced by the people in the surrounding environment. These conditions are often different from the conditions written in the income data of the people before the pandemic owned by BAZNAS and LAZ. AZT’s significant contribution, in this case, is to be able to map accurately the conditions currently experienced by the community so that the zakat collected can be distributed in a targeted manner to people who need it. Informants A and C are informants who before the pandemic had experienced economic difficulties, where these difficulties worsened after the pandemic due to layoffs.

5 DISCUSSION

The decision of the Constitutional Court on the Judicial Review carried out on Law No. 23 of 2011, especially regarding the criminalization of AZT, is a decision that becomes a middle ground. The Constitutional Court gave a decision that the AZT former will not be subject to criminal sanctions if the area is far from BAZNAS, UPZ, or LAZ so that people will find it difficult to pay so that in such conditions, people only need to report their AZT activities to the authorities. The Constitutional Court supports government programs to improve zakat management through official institutions. Management of zakat by official institutions has been carried out by various countries such as Malaysia, Nigeria, and Brunei Darussalam, as mentioned by Abdullah & Sapiei (2018), Ahmad (2019), and Salleh (2015). Zakat management through official institutions will manage zakat centrally, which is managed by professionals who are experts in the field of zakat so that the management of zakat funds can be carried out following Islamic law so that more significant benefits are obtained (Hudaefi et al., 2022), considering the management carried out by People who are lay in the field of religion are often not adapted to applicable Islamic law, such as what was done by UPZ Wonoketinggal Village,
Karanganyar District, Demak Regency, Central Java Province, Indonesia, where the distribution of zakat for amil is 25%, while it should only be 12.5% as mentioned by Ridwan (2016). The state's involvement in the management of zakat can also oblige the community to pay zakat to avoid the sin of abandoning the obligation to pay zakat even though they can afford it. Therefore, social security will be formed in the community where poverty can be overcome, and there is no excessive accumulation of wealth (Owoyemi, 2020).

Management of zakat by official institutions in various countries also experiences problems that are almost similar to those experienced by Indonesia. The problems experienced by official zakat institutions in Indonesia include the lack of public trust, so people prefer to distribute their zakat to the nearest AZT. This problem is also experienced in other countries, such as Pakistan, where some residents do not distribute zakat through official institutions and prefer to give it directly to those in need; where one of the factors is the lack of trust in muzakki as expressed by Kashif et al. (2016). In fact, according to Roziq et al. (2021), muzakki trust is the main point in increasing zakat yields because muzakki trust has a significant effect on muzakki loyalty in paying zakat, where then muzakki loyalty has a significant effect on zakat payments. The most significant factor in the decision to pay zakat by muzakki in Indonesia is the accountability and transparency of the amil zakat institution. Furthermore, Wahid & Ahmad's (2014) research in Malaysia states that public confidence in the amil zakat institution is mainly influenced by the image of the amil zakat institution in the eyes of the community, so the amil zakat must genuinely gain the trust of the community.

The Constitutional Court realized that the official amil zakat institutions in Indonesia in the form of BAZNAS, LAZ, and UPZ still had various shortcomings which required sufficient time to correct them. These shortcomings include the unequal distribution of BAZNAS, LAZ, and UPZ in all regions in Indonesia, as reported by Fadhilah (2016), so that people who will pay zakat have difficulty. It is especially true for zakat fitrah whose payment is determined by a short period and is usually paid by almost all citizens who feel not lacking. In addition, the official amil zakat institutions are still experiencing various obstacles in the zakat management process, including the lack of public perception that distributing zakat to official amil institutions will be more effective in empowering the people, low public trust, lack of productive human resources, and
innovative, as well as the lack of public knowledge, for example, those faced by BAZNAS in the West Java region, Indonesia (Syakir & Zulkarnain, 2019).

Cokrohadisumarto et al. (2020) provides recommendations so that the official amil zakat institutions can first improve themselves. Improvement efforts are made by expanding public understanding of zakat and the laws that govern it, increasing the credibility of zakat management, and increasing public awareness in paying zakat. Based on these reasons, the Constitutional Court's decision to take the middle way to allow the formation of AZT in areas that the official zakat collectors have not reached on condition that they report their activities to the authorities is considered the right decision. Taking the road is being carried out in line with improvements to the official zakat amil so that the official zakat amil can become as expected by the community. Finally, it is hoped that Law Number 23 of 2011 concerning Zakat Management will not be called a violation of human rights as demanded by community representatives in a judicial review of the Constitutional Court. Bearing in mind, the law is built based on the accumulation of universality ideas that recognize human rights in the life of the nation and state, including giving zakat easily and to zakat amil who are trusted by the community (Hoesein, 2012).

Giving zakat through official government institutions was a teaching of Islam at the time of Caliph Abu Bakr when those who could afford it were obliged to pay zakat to the state. However, as people's trust in the next government waned after the third caliphate, there was finally a debate about this obligation. The first opinion states that paying the government is an obligation. In contrast, the second opinion states that the most important thing is to pay zakat so that muzakki are given the freedom to distribute their zakat through unofficial AZT, official institutions, or distribute directly to individuals (Owoyemi, 2020). It also means that the community has the right to form AZT through mosques, schools, and pesantren to facilitate muzakki who entrust their zakat payments to AZT. Moreover, according to the latest decision, the establishment of AZT obtained a permit through the Constitutional Court's decision on the results of a judicial review of Law Number 23 of 2011. The decision views that AZT is needed to assist official zakat institutions in collecting zakat from the public.

The establishment of AZT is an annual routine activity carried out from, by, and for members of the community, schools, and pesantren. The muzakki who pay zakat on AZT is the community around the mosque and Islamic boarding school and the academic community at the school. The AZT committee is a member of the community in an
environment or academic community in schools and *pesantren* who have a good understanding of zakat management and have a fair and trustworthy nature in managing zakat. So it is not surprising that AZT was able to gain the public's trust, considering that the public was well acquainted with the nature of AZT members. Research conducted by Ahmad & Ma'in (2014) and Zaenal et al. (2016) states that the fair and trustworthy nature of the amil in managing zakat will result in the transparency of zakat management which is the central aspect that affects the receipt of zakat proceeds. The results of zakat that have been collected are then distributed to the surrounding community and students or students in schools and *pesantren*. Only when there is excess will it be distributed to people in need outside the area. The distribution of zakat with this model is also carried out by the people of Sanggau Village, as mentioned by Hasan (2015). The distribution of zakat in official institutions is not as expected, for example, in BAZNAS in Sragen Regency, Central Java, Indonesia, which must be interfered with in political affairs (Triatmo et al., 2020), as also happened with official zakat institutions in Malaysia which experienced surplus to the zakat proceeds (Saad et al., 2017).

The distribution of zakat must be done to the correct recipients. Owoyemi (2020) states that the distribution of zakat by official amil institutions is often not on target, so there is no sin for muzakki to choose their way of paying zakat. It is also confirmed by Kashif et al. (2018) that choosing their way of paying zakat will provide happiness and satisfaction for muzakki. One thing that muzakki can do is pay zakat through AZT because AZT managers are well acquainted with the environment around mosques, schools, and *pesantren* where AZT was established so that AZT can map zakat recipients well. AZT even knows about the latest economic conditions; for example, AZT can readjust after experiencing the Covid-19 pandemic, where many people have been laid off and experienced business bankruptcy (Mursal et al., 2021) zakat recipients based on these conditions. BAZNAS may not know knowledge of the current condition of the community at the district/city level or LAZ in the sub-district, so it is possible that if the official institution carries out the distribution, the distribution of zakat will not be right on target. Zakat will be able to carry out its function of alleviating poverty and helping people in need if zakat is given to recipients in a targeted manner (Hassan et al., 2017). Therefore, the main contribution of AZT during the Covid-19 pandemic is very much needed.
6 CONCLUSION

Based on the discussion above, it can be concluded that 1) The existence of AZT is legal if in an area it has not been reached by BAZNAS and LAZ and the public reports the activities carried out to the authorized officials, 2) The implication of AZT in the implementation of zakat law in Indonesia is that AZT facilitates community in paying zakat and reducing the workload of official agencies such as BAZNAS, UPZ, and LAZ if the number in a community is still limited, 3) AZT's contribution during the Covid-19 pandemic where there are many layoffs and business bankruptcies is being able to map and determine the correct recipient of zakat, which cannot be done by BAZNAS, UPZ, or LAZ which only has data on the condition of the community before the Covid-19 pandemic.
REFERENCES


