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## A POLITICS OF RECOGNITION: The Legislation of Zakat Law in a Transition of New Order and Reform Era

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**Abstract:** This article discusses Islamic civilians' struggles in gaining recognition of 'positivization' of Zakat Law No. 38/1999 and analyzes dynamics of relations between religion and the state in Indonesia. A period of democratic transition from Suharto to B.J. Habibie (Reform era 1998) marked an entry point for a new phase of state juridical recognition to Islamic law. In this paper, the dynamics of political recognition of zakat law are elucidated from a historical-critical analysis. The findings are twofold. Firstly, the zakat law was enacted during B.J. Habibie's administration, where waves of democratization began. Secondly, the Islamic civilians played an important role in institutionalizing zakat and providing political support for the Ministry of Religion's efforts in proposing Zakat Management Bill (RUUPZ) to the House of Representatives. The state acknowledged multicultural society by adopting their living religious law whose application does not threaten the nation's unity.

**Keywords:** Zakat Law, Politics of Recognition, Democratic, Transition Period

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## Introduction

THE LAW OF ZAKAT<sup>1</sup> is a part of Islamic law used as positive law in the Indonesian legal system, which provides legal certainty for Muslims in managing zakat and creates room for negotiation in

<sup>1</sup> The term Zakat before the approval of Law No. 38 1999 means a practice of worship of the Muslims, while after the term is the so-called Zakat Management Act (UUPZ).

viewing a relationship between religion and the state in the country. The relationship has long been a heated discourse that seems not to reach an endless point. It remains a hot topic for further discussions in the relationship between the religion (Islam) and the state until the reform era.<sup>2</sup>

Prior studies on the zakat law uncover three dimensions, namely management, implementation, and a history of legal politics. However, they have not covered dimensions of state recognition of its legal enforcement during the democratic transition from the New Order to the Reform era. Research on the management was conducted by Najib Kailani and Martin Slama,<sup>3</sup> Hary Djatmiko,<sup>4</sup> Mari Adachi,<sup>5</sup> Sholikhudin, and Oktaria.<sup>6</sup> Rahmatina A. Kasri and Niken Iwani S. Putri<sup>7</sup> carried out studies

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<sup>2</sup> Kamsi, *Pergolakan Hukum Islam di Indonesia*, Revised Edition. (Yogyakarta: Calpulis, 2017), 91.

<sup>3</sup> The creativity of zakat management by related institutions in promoting zakat through social media has accelerated its assistance to those who are entitled (*mustahik*) and increased confidences in middle-class people (*muzakki* or those who are subject to pay zakat).<sup>8</sup> Najib Kailani & Martin Slama, "Accelerating Islamic Charities in Indonesia: Zakat, Sedekah and the Immediacy of Social Media," *Southeast Asia Research* 28, no. 1 (2020): 70–86.

<sup>4</sup> The existing UUPZ has offered a concept of zakat management as a tax deduction and will have a major impact on the economy if the concept is a deduction of income tax. Hary<sup>21</sup> Djatmiko, "Re-Formulation Zakat System as Tax Reduction in Indonesia," *Indonesian Journal of Islam and Muslim Societies* 28, no. 1 (2019): 135–162.

<sup>5</sup> Like Malaysia, Indonesia applies a top-down model in the management of zakat, which is then linked to the development of the Islamic economy and its financial inclusion. However, it should be remembered that this development should not forget that zakat is an individual practice comprising spiritual values. Mari Adachi,<sup>11</sup> "Discourses of Institutionalization of Zakat Management System in Contemporary Indonesia: Effect of the Revitalization of Islamic Economics," *International Journal of Zakat* 3, no. 1 (2018): 23–35.

<sup>6</sup> The ratification of UUPZ has provided a breath of fresh air for the management of zakat in the future by placing it as a means of poverty alleviation connected to the goals of the state. Muhammad Sholikhudin and Oktaria Ardika Putri, "Politik Hukum Dalam Undang-Undang No. 38 Tahun 1999 Tentang Pengelolaan Zakat Perspektif Maqasid Al-Risalah," *Tadaqquh: Jurnal Penelitian dan Kajian Keislaman* 8, no. 1 (2020): 72–92.

<sup>7</sup> There are differences in zakat fundraising strategies carried out by the two zakat institution contestants. BAZ tends to be traditional and LAZ tends to be market-oriented. Rahmatina A. Kasri and Niken Iwani S, "Fundraising Strategies

on the second dimension. Lastly, the historical dimension was done by N. Oneng Nurul Bariyah,<sup>8</sup> Amelia Fauzia,<sup>9</sup> Arskal Salim,<sup>10</sup> and Saidurrahman.<sup>11</sup>

The current research is in line with the aforementioned research, focusing on a conflicting discourse between the state and Islamic civil society/civil Islam<sup>12</sup> in obtaining the recognition of zakat law as the living law, converting it into positive law in Indonesia. Implementing Islamic law is said to be the same as an attempt to establish an Islamic state<sup>13</sup> or become an Islamic state<sup>14</sup>

<sup>19</sup> Optimize Zakah Potential in Indonesia: An Exploratory Qualitative Study," *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah (Journal of Islamic Economics)* 10, no. 1 (2018): 1–24.

<sup>8</sup> The legalization of zakat law carried out by the state has gone through a long process since the period of Nusantara Islamic Kingdom. N. Oneng Nurul Bariyah, "Dinamika Apek Hukum Zakat Dan Wakaf Di Indonesia," *Ahkam XVI*, no. 2 (2016): 197–212.

<sup>9</sup> The elaboration of the history of zakat management as a part of philanthropy in Islam in the context of the contestation of civil society and the state in Indonesia. Amelia Fauzia, *Faith and State: A History of Islamic Philanthropy in Indonesia* (Leiden, Boston: Brill, 2013).

<sup>10</sup> Shows the influence of the colonial government's Islamic policies on the formation of zakat laws in modern Indonesia. Arskal Salim, "The Influential Legacy of Dutch Islamic Policy on The Formation of Zakat (Alms) Law in Modern Indonesia," *Pacific Rim Law and Policy Journal* 15, no. 3 (2006): 683–701.

<sup>11</sup> Suggests that the state should give free spaces to Zakat Institution (LAZ) which has been subordinated to Amil Zakat Agency (BAZ) in the management of national zakat. Therefore, the state must review the law in a way not to kill LAZ's roles in managing zakat. Saidurrahman, "The Politics of Zakat Management in Indonesia: The Tension Between BAZ and LAZ," *Journal of Indonesian Islam* 7, no. 2 (2013): 366–382.

<sup>12</sup> The term Islamic civil society has been used by Robert W. Hefner as civil Islam in a book, see Robert W. Hefner, *Civil Islam: Muslim and Democratization in Indonesia* (Princeton: Princeton University Press, 2000).

<sup>13</sup> Daniel E. Price, *Islamic Political Culture, Democracy and Human Right: A Comparative Study* (Westport, Connecticut London: Praeger, 1999), 145; Ali Akhbar Abaib Mas Rabbani Lubis, "Rethinking the Book of Al-'Aql al-Siyasi al-'Arabi and Political Phenomenon," *Jurnal Penelitian* 17, no. 1 (2020): 67–80.

<sup>14</sup> Aspirations toward the implementation of Islamic law are suspected to restore the idea of an Islamic state in Indonesia. Arskal Salim and Azyumardi Azra, "The State and Shari'a in Perspective of Indonesian Legal Politics," in *Shari'a and Politics in Modern Indonesia*, ed. Arskal Salim and Azyumardi Azra (Singapore: ISEAS, 2003), 36; R. Michael Feener, *Muslim Legal Thought in Modern Indonesia* (Cambridge: Cambridge University Press, 2007), 222–227; Ali Akhbar

(*das Sein*). In a broad context, efforts to formalize Islam are always accused of reviving the Jakarta Charter with an agenda of implementing Islamic law. Apart from that, the state has a discriminatory treatment against the religious court's status, which Achmad Gunaryo describes as the "onion fertilizer court."<sup>15</sup> The struggle for recognizing the validity of zakat law must face a variety of policies in every ruling regime, which placed zakat only in a position as Muslims' practices of worship. This research aims to show that 'politics of recognition' has contributed to melting the tension between Islam and the state (*das Sollen*) in Indonesia, which differs from the existing studies. The state recognition of the enforcement of zakat law must be placed as an advantageous medium of political communication that requires mutual (symbiotic) relationships between Islam and the state.<sup>16</sup> We agree that the relationship between religion and Indonesia's state is in a position of symbiotic relations.<sup>17</sup>

This paper argues that the politics of state recognition of the enforcement of zakat law has been based on Islamic civilian practices in managing zakat, not only after Indonesian independence but also long before that since the arrival of Islam in the archipelago. This recognition was obtained through the momentum of political euphoria during the democratic transition from the New Order Regime to the Reform Regime, which imposed a participatory-responsive law.

<sup>25</sup> Abaib Mas Rabbani Lubis, "Religious Nation State: Bahtiar Effendy and Islamic Political Thought," *Millah: Jurnal Studi Agama* 19, no. 2 (2020): 167–198.

<sup>30</sup> Achmad Gunaryo, *Pergumulan Politik Dan Hukum Islam: Reposisi Peradilan Agama Dari "Peadilan Pupuk Bawang" Menuju Peradilan Sesungguhnya* (Yogyakarta: Putaka Pelajar kerjasama Pascasarjana IAIN Walisongo, 2006).

<sup>16</sup> Lubis, "Religious Nation State: Bahtiar Effendy and Islamic Political Thought," 188–191; Bahtiar Effendy, *Islam Dan Negara: Transformasi Gagasan Dan Praktik Politik Islam Di Indonesia* (Jakarta: Democracy Project, 2011), 319.

<sup>17</sup> Religion and state relations in Indonesia recognize three typologies: antagonistic relations. It is relations that prioritize the conflict between religion and state, religion always steals as the state and vice versa; integrated relations, and secular relations. Kamsi, *Pergolakan Hukum Islam*, 87. See also Muslihun, "Legal Positivism, Positive Law, and the Positivation of Islamic Law In Indonesia," *Ulumuna* 22, no. 1 (May 2018): 77–95.

The current research is a qualitative<sup>18</sup> study highlighting a substance of religious research which primarily points at religion as a social phenomenon.<sup>19</sup> A historical approach is employed in this study to analyze past historical data.<sup>20</sup> Atho Mudzhar used this historical approach with the term social history approach, an approach used in researching Islamic legal thought from results of interactions between legal thinkers and a socio-cultural or socio-political environment surrounding them.<sup>21</sup> As in this research, in the context of 'positivization,' zakat law is not imperative but facilitative. It cannot be interpreted as a product of legislation that is contrary to Islamic teachings.

### Dynamic discussions on relationships between religion and state

The relation between religion and the state in Islamic worlds departs from the fact that Western countries' colonization of Islamic countries brings a concept of a nation-state, nationalism, and so on, which have never been known in an Islamic political system.<sup>22</sup> Islam has practiced state life in Medina, giving birth to *mītsāq al-Madīnah* (Medina charter) amid a pluralistic community life. Kamsi suspects that this is akin to a city-state model in the form of a modern constitution.<sup>23</sup>

Azyumardi Azra believes that Muslims only recognize *dār al-Islam* literacy, namely Islamic power that is peaceful, safe, and prosperous, and *dār al-harb* with non-Muslim powers in dispute with Islamic power. When the nation-state's literacy enters the

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<sup>18</sup> Carl Babbie, *The Practice of Social Research* (Westford: Wadsworth Publishing Company, 1998), 309.

<sup>19</sup> M. Atho Mudzhar, *Pendekatan Studi Islam* (Yogyakarta: Yogyakarta, 1998), 37.

<sup>20</sup> Kuntowijoyo, *Metodologi Sejarah*, II. (Yogyakarta: Tiara Wacana Yogya, 2003), 162–163.

<sup>21</sup> M. Atho Mudzhar, *Membaca Gelombang Ijtihad: Antara Tradisi Dan Liberasi* (Yogyakarta: Titian Ilahi Press, 2008), 106–127.

<sup>22</sup> Azyumardi Azra, *Transformasi Politik Islam: Radikalisme, Khilafatisme, Demokrasi* (Jakarta: Kencana-PPIM UIN Jakarta, 2016), 32–33.

<sup>23</sup> Kamsi, *Pergolakan Hukum Islam*, 86. Kamsi, "Paradigma Politik Islam Tentang Relasi Agama Dan Negara," *In Right: Jurnal Agama dan Hak Azazi Manusia* 2, no. 1 (2012): 41–68.

concept and political system of Islam, there will automatically be historical and conceptual tensions.<sup>24</sup> Moreover, the Ottoman Empire had to end the caliphate system, which gradually accepted the concept of a nation-state, “foreign” literature in Islamic politics, and its peak in 1924. Starting from here, the dichotomy between religion (*sharia*) and the state (secular) became a polemic, which never ends by making Western law secular and rejecting sharia law.<sup>25</sup> There is also an issue of migration of many Muslims to the continents of Europe and America,<sup>26</sup> which tensions in these relations. Muslim countries experienced “difficulties” to make adjustments between the state and sharia after Western colonialism in the 20th century, including in Indonesia.<sup>27</sup>

After Indonesia’s independence, the relationship between Islam and the state can be mapped into an antagonistic (tension) and accommodative (complementary) relationship. According to Bahtiar Effendi, this antagonistic relationship began in the 1945-1950s marked by a failure of Islamic parties to make Islam as a basis of the state in the constituent assembly in 1959.<sup>28</sup>

The antagonistic relationship continued until the first two decades of the Suharto regime, although at the beginning of his regime, some called it a honeymoon period (1966-1969) as the regime needed supports to face the power of the Indonesian Communist Party (PKI).<sup>29</sup> Meanwhile, this accommodative relationship occurred in the late 1980s to 1997,<sup>30</sup> characterized by the issue of Religious Courts Law 1989, National Education System Law 1989, Indonesian Muslim Intellectuals Association

<sup>24</sup> Azra, *Transformasi Politik Islam: Radikalisme, Khilafatisme, Demokrasi*, 33.

<sup>25</sup> A. Atho Mudhar, *Fatwa-Fatwa Majelis Ulama Indonesia: Sebuah Studi Tentang Pemikiran Hukum Islam Di Indonesia, 1975-1988*, Dwi Hahasa. (Jakarta: INIS, 1993), 3.

<sup>26</sup> Muhammad Khalid Masud, “Pencarian Landasan Normatif Syariah Para Ahli Hukum Islam,” in *Dinamika Kontemporer Dalam Masyarakat Islam*, ed. Dick Van der Maij and Translated by Soemadi (Jakarta: INIS, 2003), 3.

<sup>27</sup> M. Ali Haidar, *Nahdlatul Ulama Dan Islam Di Indonesia: Pendekatan Fikih Dalam Politik* (Yogyakarta: Gramedia, 1994), 7.

<sup>28</sup> Bahtiar Effendy, *Teologi Baru Politik Islam: Pertautan Agama, Negara, Dan Demokrasi* (Yogyakarta: Galang Press, 2001), 4.

<sup>29</sup> Kamsi, *Pergolakan Hukum Islam*, 104.

<sup>30</sup> *Ibid.*, 133.



(ICMI) in 1990, and the emergence of Pancasila Muslim Charity Foundation in 1982.<sup>31</sup> Islamic civilization does not automatically provide rooms for Islamic politics, which still desires to establish the Islamic state.<sup>32</sup>

Indonesia, with its multiculturalism, has become an essential factor in shaping the life of the nation and state. Indonesia is neither a religious nor a secular state,<sup>33</sup> but is based on Pancasila.<sup>34</sup> Islam, as a majority religion in this country, does not demand Islam as the state ideology. Pancasila as a sentence of *sawa'* or borrow a term from Waleed el-Anshary as a 'common word'<sup>35</sup> that can unite Indonesia's diversity. Even so, Abdurrahman Wahid still likens Islam to irrigating a pond, which is called Pancasila.<sup>36</sup>

### The existence of Zakat Law in the Democratic Transition

Prolonged exposure to the economic crisis changed the political constellation in 1998. That was the beginning of the democratic transition from authoritarianism to a sovereign<sup>37</sup>people's democracy in an atmosphere of political reform euphoria. It turned out that this regime was unable to carry out self-reform, which resulted in President Suharto resigning from his power as president on May 21, 1998, and being replaced by B.J. Habibie,<sup>38</sup> who ran only 17 months,<sup>39</sup> from what it should have been until 2003.

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<sup>31</sup> Ude Rosyada and Et.al, *Pendidikan Kewargaan Demokrasi, Hak Asasi Manusia, Dan Masyarakat Madani* (Jakarta: Prenada Media, 2003), 66.

<sup>32</sup> Kamsi, *Pergolakan Hukum Islam*, 114.

<sup>33</sup> Mudhar, *Fatwa-Fatwa Majelis Ulama Indonesia: Sebuah Studi Tentang Pemikiran Hukum Islam Di Indonesia, 1975-1988*, 3.

<sup>34</sup> Azyumardi Azra, "Islamic Perspective on The Nation-State: Political Islam in Post-Suharto Indonesia," *Al-Jami'ah* 39, no. 2 (2001): 292-309.

<sup>35</sup> Waleed El-Ansary and David K Linnan, *Muslim and Christian Understanding: Theory and Application of "A Common Word,"* ed. Waleed El-Ansary and David K Linnan (New York: Palgrave Macmillan, 2010).

<sup>36</sup> Munawar Ahmad, *Ijtihad Politik Gusdur: Analisis Wacana Kritis* (Yogyakarta: LKiS, 2010), 278-279.

<sup>37</sup> Moh. Mahfud MD, *Politik Hukum Di Indonesia* (Jakarta: Rajawali Pers, 2011), 277.

<sup>38</sup> M. C. Ricklefs, *Sejarah Indonesia Modern 1200-2008* (Jakarta: Serambi Ilmu Semesta, 2008), 688-692.



Norhaidi calls reforms a very decisive democratic breakthrough<sup>40</sup> between a successful transition to democracy or destruction. Despite its excess, there is indeed the bloom of democracy by emerging Islamist militant groups.<sup>41</sup> Demands for democracy, freedom, transparency, justice, and human rights must be answered in the shortest possible time.<sup>42</sup> Reform in law has become a primary demand of the Indonesian people through four stages of a constitutional amendment.<sup>43</sup> This has implications for collective awareness that is limited to Islamic civil aspirations and fosters the institutional growth of zakat management.<sup>44</sup>

Mahfud MD considers that the Suharto regime from 1966-1998 had enforced the law repressively with an authoritarian political configuration.<sup>45</sup> The indications were the presidential power as the determinant of national political policy, political recruitment, the Supersemar holders, ABRI commander, MPR mandate, etc.

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<sup>39</sup> Burhanuddin Jusuf Habib, <sup>41</sup> *Detik-Detik Yang Menentukan: Jalan Panjang Indonesia Menuju Demokrasi* (Jakarta: The Habibi Center Mandiri, 2006), 447.

<sup>33</sup> Noorhaidi Hasan, *Laskar Jihad: Islam, Militansi, Dan Pencarian Identitas Di Indonesia Menuju Demokrasi* (Jakarta: LP3ES-KITLV, 2008), 1-2.

<sup>39</sup> Noorhaidi Hasan, *Islam Politik Di Dunia Kontemporer: Konsep, Genealogi, Dan Teori* (Yogyakarta: SUKA Press, 2012), viii.

<sup>42</sup> Habib, *Detik-Detik Yang Menentukan: Jalan Panjang Indonesia Menuju Demokrasi*, 4.

<sup>43</sup> Jimly Asshiddiqie, *Konstitusi Bernegara: Praktis, Kenegaraan Bermartabat Dan Demokratis* (Malang: Setara Press, 2016), 122.

<sup>44</sup> The formation of BAZIS was initiated by Governor Ali Sadikin for the DKI Jakarta Province which was then followed by other governors, such as DKI Jakarta (1968), East Kalimantan (1972), West Sumatra (1973), West Java (1974), South Kalimantan (1974), South Sumatra (1975), Lampung (1975), Irian Jaya (1978), North Sulawesi (1985), South Sulawesi (1985), and Bengkulu (1989). BAZIS is then known as the zakat institution that represents the government. <sup>4</sup> Yusuf Wibisono, *Mengelola Zakat Indonesia: Diskursus Pengelolaan Zakat Nasional Dari Rezim Undang-Undang No. 38 Tahun 1999 Ke Rezim Undang-Undang No. 23 Tahun 2011* (Jakarta: Prenada Group, 2015), 39-40. Meanwhile, the formation of LAZ as a non-state representation was initiated by BAMUIS BNI (1967), LAZ YAUMIL PT Bontang LNG (1986), al-Falah Social Fund Foundation, <sup>35</sup> (1987), Dompot Dhuafa Republika (1994), Indonesian Zakat House (1998), Pos Keadilan Peduli Umat (1999) and DPU Darut Tauhid (1999). *Ibid.*, 41.

<sup>4</sup> Wibisono, *Mengelola Zakat Indonesia: Diskursus Pengelolaan Zakat Nasional Dari Rezim Undang-Undang No. 38 Tahun 1999 Ke Rezim Undang-Undang No. 23 Tahun 2011*, 377.

Furthermore, power rotation rarely occurs, political recruitment is closed, and a political power hegemony exists.<sup>46</sup> That is why the aspirations for the existence of a positivization of zakat law were not approved by President Suharto, even though at the beginning of the regime and in the late 1980s, there was a close relationship with Muslims. It is possible with its authority to agree about the legal positivisation of zakat, but there are other factors. Arskal considers that the stigma of “returning to the Jakarta Charter” if the government interferes with zakat management<sup>47</sup> is powerful.

Meanwhile, during the reform era, the space for democracy was opened very widely. The enacted is responsive, and the political configuration has a democratic character through a strong legal foundation.<sup>48</sup> This is evident from a map of the political configuration between factions in the parliamentary house (DPR), which states that they agree to discuss, despite the political configuration of the election results during the Suharto regime, Zakat Management Bill (RUUPZ) and appreciate the government for the proposal, from Development Faction (F-PP), Development Work Faction (F-KP), ABRI faction and PDI (Indonesia Democratic Party) faction<sup>49</sup>. The implementation of the election accelerated with a multi-party system held in June 1999 with 48 political party contestants;<sup>50</sup> it has not yet produced definitive DPR members.

In the RUUPZ discussion, there was one crucial issue in the draft submitted by the government. It is an interpretation in article 12 (1) which states, “Zakat collection is carried out by zakat institutions by receiving or taking from *muzakki*.” The State Secretariat official responded to this article that it implied the realization of the Jakarta Charter because there was the word “taken.” He proposed a revision of the article, “The collection of

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<sup>46</sup> Affan Ghaffar, *Politik Indonesia: Transisi Menuju Demokrasi* (Yogyakarta: Pustaka Pelajar, 2006), 30–40.

<sup>47</sup> Arskal Salim, “Zakat Administration in Politics of Indonesia New Order,” in *Shari’a and Politics in Modern Indonesia* (Singapore: ISEAS, 2003), 183–184.

<sup>48</sup> <https://profgunarto.files.wordpress.com/2012/12/politik-hukum-7.pdf>, accessed 21 Agustus 2020.

<sup>49</sup> Jazuni, *Legislasi Hukum Islam Di Indonesia* (Jakarta: Citra Aditya Bakri, 2005), 412–413.

<sup>50</sup> Kamsi, *Pergolakan Hukum Islam*, 144.

zakat is carried out by zakat institutions by receiving or taking from *muzakki* (zakat payers) based on *muzakki* notification." This proposal was accepted by the government representatives. However, Umar Shihab, a representative from F-KP, suggested the strengthening of the draft from the government; that was zakat collectors (*amil zakat*) should be proactive in collecting zakat even without notification from the zakat payers. For Arskal, this proposal from the F-KP is a suggestion towards Islamization, or at least the pro-Islam rhetoric that has been shown since the 1990s. The F-KP proposal then received a strong objection from F-ABRI that the proactive collection of zakat would create resistance from the people, and its fate would be the same as the tax obliged on television ownership, which proved unsuccessful. Meanwhile, the F-PP, represented by Abdullah Paddare argued that "zakat payers must have the self-awareness to purify themselves from their assets without coercion. It's just then whether the zakat payers believe in the reward of heaven or not."<sup>51</sup>

Responding to the criticism, Shihab answered by clarifying that what he meant by being proactive was not pursuing, but merely reminding a Muslim to pay zakat. Citing verses from the Qur'an and fragments in early Islamic history, he only wanted to distinguish between the terms "force" and "remind." Furthermore, Shihab, who represents his faction, did not want to talk about Article 12 anymore and only intends to explain the RUUPZ,<sup>52</sup> even though it has a large number in the legislature. Finally, it was agreed that the sound of the article remained in line with the draft proposed by the government, which did not give zakat payers a "mandatory" character.

It was clear that the atmosphere in the RUUPZ discussion was very democratic. F-KP, as a faction that had many members in DPR did not impose its will to propose the nature of the RUUPZ with the word "mandatory." Researchers believe that the ratification of UUPZ can be said to be relatively short viewed from

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<sup>51</sup> Arskal Salim, *Challenge The Secular State: The Islamization of Law in Modern Indonesia* (Honolulu: University of Hawaii Press, 2008), 128–129.

<sup>52</sup> Salim, *Challenge The Secular State: The Islamization of Law in Modern Indonesia*.

the time when the draft was submitted on June 24 1999, with its ratification on September 23 1999. The political euphoria during the reform period became a main trigger for the democratic transition period and became a justification for reform demands by enacting participatory-responsive laws, although the political configuration in DPR is a legacy of the Suharto regime. Thus, the civil Islamic desire to realize the positivization of the law of zakat can be realized relatively in an easy way.

### Dynamics of Islamic Civil Struggle in Seeking Confession

Long before a collective consciousness of Indonesian nationalism growth in the early 20th century, the law of zakat was practiced by Muslims from the arrival of Islam in the archipelago in the 7th century AD brought by merchants.<sup>53</sup> The law of zakat is included as the living law amid Islamic civilization and a part of the leading Islamic teachings mentioned in the Qur'an side by side after the command of prayer.<sup>54</sup> Yusuf Qaradawi said it was scattered in 28 places<sup>55</sup> (verses) in the Qur'an.

When the archipelago became an Islamic empire, starting from Sumatra island in the 13th century, Islamization continued to develop, supported by trade transactions with Islamic law. The ruling kings and their people in general also practiced religious teachings, including the practice of zakat as individual piety to their Lord. There is no evidence that the kings collected zakat.

At the beginning of Dutch Colonialism (the beginning of the VOC in power), Islamic law had been applied to Muslims. Its enforcement was marked by applications of a theory of *receptio in complexu* in Batavia statute of 1642, which authorized the settlement of inheritance disputes between natives with Islamic law.<sup>56</sup> However, at the end of the 19th century, the policy towards Islam began to change by applying the receptive theory indicated

<sup>53</sup> Ricklefs, *Sejarah Indonesia Modern 1200-2008*, 3-4, 36-58.

<sup>54</sup> Q.S. Al-Bayyinah (98):5, Q.S. Al-Baqarah (2):43.

<sup>55</sup> Yusuf Qaradawi, *Hukum Zakat: Studi Komparatif Mengenahi Status Dan Filsafat Zakat Berdasarkan Qur'an Dan Hadis* (Jakarta: Lentera Antar Nusa, 1993), 39.

<sup>56</sup> Ahmad Rofiq, *Hukum Perdata Islam Di Indonesia*, Revisi. (Jakarta: Rajawali Grafindo Persada, 2015), 12.

by C. Van Vollenhoven's criticism and culminated in C. Snouck Hurgronje from 1886-1936 AD as recorded in the book, C. Snouck's Advice Hurgronje who enforced secularization of religion and state.<sup>57</sup> Not a few legal scholars were influenced by this theory after Indonesian independence. When there was an attempt at Islamic law to be adopted into the national legal system, there was also an attempt to abolish it.<sup>58</sup> In general, the policy towards Islam sought to suppress the power of political Islam and alienate Muslims from their religious teachings.<sup>59</sup> The Dutch fear Islam as a political doctrine, not Islam as a religious doctrine.<sup>60</sup>

An implication for the issue of zakat is that the colonial regime did not intervene in the management of zakat. Instead of arranging zakat management, the Colonial Regime made arrangements to prohibit native officials from interfering with the collection and management of zakat as stipulated in official letter number 1962 the year 1893.<sup>61</sup>

According to Amelia Fauzia, there are at least four communities that organize and manage zakat; formal institutions (*pengulu, modin, lebe*), informal religious leaders (*kiai, ajengan, Qur'anic teachers, tarekat teachers*), zakat management communities in mosques and Islamic boarding schools, and Islamic mass organizations such as Muhammadiyah and NU.

Muhammadiyah and NU have different approaches to human resource development, namely modernism, and traditionalism. This difference then comes to the issues of zakat management. The ideas of renewal proposed by its founder, K.H. Ahmad Dahlan (1868-1923), was inspired by the Qur'an<sup>62</sup> and the letter which states that Muslims are the best people<sup>63</sup> who want to be realized

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<sup>57</sup> Snouck Hurgronje, *Kumpulan Karangan Snouck Hurgronje, J.III* (Jakarta: INIS, 1995), 146.

<sup>58</sup> Abdul Manan, *Pembaruan Hukum Islam Di Indonesia* (Jakarta: Kencana, 2017), 317.

<sup>59</sup> Aqib Suminto, *Politik Islam Hindia Belanda* (Jakarta: LP3ES, 1985).

<sup>60</sup> Harry J. Benda, *Bulan Sabit Dan Bulan Matahari Terbit: Sejarah Politik Islam Indonesia Pada Masa Pendudukan Jepang* (Jakarta: Pustaka Jaya, 1980), 22-23.

<sup>61</sup> Alim, "The Influential Legacy of Dutch Islamic Policy on The Formation of Zakat (Alms) Law in Modern Indonesia," 68-69.

<sup>62</sup> Q.S. Al-Mā'ūn( 107): 1-7.

<sup>63</sup> Q.S. Ali Imrān ( 3): 109.

through the management of zakat in the form of Muhammadiyah charities in the fields of health, education, and social.<sup>64</sup> Its presence has proven that zakat has been managed through institutions that are modernly<sup>65</sup>beneficial and able to survive today.<sup>66</sup>

Unlike Muhammadiyah, since the beginning, NU understood that zakat, both in collection and distribution, was still based on *fiqh*-oriented originating from four *Imām Madhhab*.<sup>67</sup> NU is against the collection of zakat carried out by zakat institutions and its distribution outside eight *aṣnaf*, for example establishing mosques, schools, and Islamic boarding schools. Amelia suspects that this is precise to protect its members from the *Kiai* and *modin* circles, who are considered *mustahik* as well.

During the Sukarno Regime (1945-1965) and the Suharto Regime (1966-1998), the state also did not interfere with the management of zakat, even though Islamic civil aspirations wanted UUPZ. This aspiration later strengthened during the Suharto era in the form of several RUUPZ submissions to the DPR. In 1967, some Muslim scholars urged the Minister of Religion to propose a RUUPZ, which was followed up by submitting a proposal to the Gotong Royong People's Representative Council (DPR-GR) on July 5, 1967. A copy of the proposal was also addressed to the Ministry of Finance and the Ministry of Social Affairs. This proposal ultimately failed because DPRGR did not respond to it.<sup>68</sup>

In 1968, the Ministry of Religion issued a regulation (no.4 July 1968) concerning the establishment of the Amil Zakat Board (BAZ) at the district/city level throughout Indonesia. No more than three

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<sup>64</sup> Amelia Fauzia, *Filantropi Islam: Kontestasi Sejarah Masyarakat Sipil Dan Negara Di Indonesia* (Yogyakarta: Gading, 2016), 158.

<sup>65</sup> Mitsuo Nakamura, *The Crescent Arises over The Banyan Tree, A Study of the Muhammadiyah Movement in a Central Javanese Town* (Yogyakarta: Gajah Mada University Press, 1983).

<sup>66</sup> Azyumardi Azra, "Filantropi Dalam Sejarah Islam Di Indonesia," in *Zakat Dan Peran Negara*, ed. Kuntamo Noor Aflah and Mohd. Nasir Tajang (Jakarta: FOZ, 2006), 15–30.

<sup>67</sup> Greg Fearly, *Ijtihad Politik Ulama: Sejarah NU 1952-1967*, ed. Translated by Farid Wajidi and Mulni Adelina Bachtiar (Yogyakarta: LKiS, 2003), 370.

<sup>68</sup> Moch. Nur Ichwan, "Official Reform of Islam: State Islam and The MORA in Contemporary Indonesia 1966-2004" (Universiteit van Tilburg, 2006), 189.

months later, Suharto annulled this regulation through his official speech at the Isrā' Mi'rāj Celebration, October 22, 1968, declaring himself a national amil zakat.<sup>69</sup> Suharto's willingness to act as amil zakat, according to Amelia, was that Suharto had played a "zakat card" to gain political support from Muslims, which was integrated into the ideology of state development.<sup>70</sup> These methods also seem to be used by regional heads. As the results of Michael Buehler's research in Bulukumba, Makassar, and East Lombok, which have enacted a *Sharia* Regulation which obliges bureaucrats both in public and private agencies to channel zakat, *infaq*, and alms to the Regional Amil Zakat Agency (BAZDA).<sup>71</sup>

On 3-4 March 1992, there was an attempt to establish a zakat council that could regulate and facilitate zakat nationwide.<sup>72</sup> The presence of the Minister of Home Affairs, Rudini was asked by the participants to become the national zakat council, which was then submitted to President Suharto. The proposal submitted to Suharto was declined.<sup>73</sup> Although it failed, five years later, 11 zakat institutions (BAZIS and LAZIS) established a Zakat Forum (FOZ) on September 11, 1997.<sup>74</sup> Two years later, in 1999, it had 150 zakat

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<sup>69</sup> Djohan Effeni and Et al., *Agama Dalam Pembangunan Nasional (Himpunan Sambutan Presiden Suharto)* (Jakarta: CV. Kuning Mas, 1984).

<sup>70</sup> Fauzia, *Filantropi Islam: Kontestasi Sejarah Masyarakat Sipil Dan Negara Di Indonesia*, 197.

<sup>71</sup> Michael Buehler, "Shari'a By-Laws In Indonesian Districts: An Indication for Changing Patterns of Power Accumulation and Political Corruption," *Southeast Asia Research* 16, no. 2 (2008).

<sup>72</sup> The Minister of Religion, Indonesian Ulema Council (MUI), 11 BAZIZ (West Java, North Sumatra, East Java, West Kalimantan, South Kalimantan, South Sulawesi, West Sumatra, East Kalimantan, Yogyakarta, Central Kalimantan, Central Java and North Sulawesi) supported the idea National Zakat Council. Salim, *Challenge The Secular State: The Islamization of Law in Modern Indonesia*, 127.

<sup>73</sup> *Ibid.*, 142.

<sup>74</sup> The eleven zakat institutions are Kompet Dhuafa Republika, Bazis DKI Jakarta, Baitul Mal Pupuk Kujang, Baitul Mal Pupuk Kaltim, Baitul Mal Pertamina, Telkom Jakarta, Bapekis Bank Bumi Daya, Sharia Financial Institution Bank Muamalat Indonesia, PT Internusa Hasta Buana and the College of Science. Indonesian Economy (STIE) Jakarta. See <https://forumzakat.org/tentang-foz/>, accessed 27 May 2020. See also Arskal Salim, 209.



institutions as members.<sup>75</sup> Currently, the members have reached more than 400 institutions.<sup>76</sup>

Starting from the momentum of the planned implementation of the Haj Services Act on May 3, 1999, the Ministry of Religion, which was fully supported by the Zakat Forum (FOZ), has accelerated the completion of the RUUPZ draft and submitted an initiative permit letter to the State Secretary which he obtained on May 15, 1999, Subsequently, the draft was submitted to the DPR on June 24, 1999, for a schedule of discussions at DPR sessions. On July 26, 1999, RUUPZ discussion session was held.<sup>77</sup>

FOZ has a full role in supporting the Ministry of Religion's efforts to submit RUUPZ to DPR by developing networking of zakat institutions, mediating and coordinating zakat issues with the government, conducting zakat dissemination through seminars, zakat campaigns, and acting as a zakat consultant. Even at their first congress in January 1999, the members of FOZ had been mandated to prepare a RUUPZ,<sup>78</sup> which was then passed into law.<sup>79</sup> Thus, the civil role of Islam in an effort to manage zakat into the institutionalization of zakat and political support for filing a RUUPZ is authentic evidence of the practice of zakat law in Indonesia and must be placed as a source of living law, which is then recognized as a national legal system.

Table 1 provides a clear illustration of the dynamics of Islamic civil society in the struggle for the formation of RUUPZ.

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<sup>75</sup> Forum Zakat, *Direktori Organisasi Pengelola Zakat Di Indonesia* (Jakarta: FOZ, 2001), xi.

<sup>76</sup> <https://forumzakat.org/anggota/>, accessed 27 May 2020.

<sup>77</sup> Salim, *Challenge The Secular State: The Islamization of Law in Modern Indonesia*, 127.

<sup>78</sup> Salim, *Challenge The Secular State: The Islamization of Law in Modern Indonesia*.

<sup>79</sup> Muhammad Fuad Zaim Saidi and Hamid Abidin, *Kedermawanan Untuk Keadilan Sosial* (Jakarta: Prima Media, 2006), 1–2.

**Tabel 1. The dynamics of the struggle of Islamic civil society  
in efforts to form RUUPZ**

No	Year	Islamic civil society	Effort	Information
1.	1967	Islamic figures	The proposal to the Minister of Religion, Saifuddin Zuhri, to submit the Zakat Bill to the DPR GR.	The bill has been submitted to the Ministry of Finance and the Ministry of Social Affairs, but the DPR GR did not responded.
2.	1968	Suharto	Personally as the national amil zakat.	Soeharto declared himself a national amil zakat at the commemoration of Isra 'Mi'raj in Jakarta, October 22 1968.
3.	1992	Amil Zakat Agency for Infak Shadaqah (BAZIS) in Indonesia	The establishment of the National Zakat Council with Rudini as its chairman.	This attempt failed because President Soeharto did not approve the formation of the National Zakat Council.
4.	1997-early 1999	The Zakat Forum (FOZ) was formed as a forum for BAZ and LAZ associations in Indonesia	Mandated to draft the Zakat Bill at Congress I.	The FOZ I Congress took place in early January 1999 and had 150 members. From the beginning, it was only 11 members.
5.	1999	FOZ.	Backing up the Ministry of Religion (Kemenag), which submitted RUUPZ draft to DPR.	FOZ has a role in building networks among zakat institutions, mediating zakat issues with the government, disseminate zakat research through seminars, zakat campaigns, and act as a zakat consultant. On September 23 The UUPZ was ratified by the president.

Source: compiled from various sources

## Politics of Recognition Zakat Law

It can be said that a trajectory of the discourse of political recognition theory (politics of recognition) has been sticking out since the early 19th century, constructed by a famous philosopher, Hegel, into his moral philosophy. Departing from Hobbes's thoughts, Hegel expressed his opinion that humans have an inherent tendency as creatures controlled by desires to seek respect and self-respect. The tendency of humans to gain respect and self-respect will actually threaten the existence of other humans (subjects) when there is no concept of self-awareness (self-consciousness) of respect and self-esteem that mutually acknowledges on a social level (reciprocal social recognition) between them.<sup>80</sup> As a result, humans become wolves over other humans, like Hobbes' legendary expression, "homo homini lupus" which finds its relevance; humans tend to prey on and negate each other. It seems that Honneth tries to introduce the politics of recognition based on political philosophy and moral philosophy that combines recognition, power, and respect. Therefore, the politics of recognition in Honneth is a cognitive practice that is conscious of threats from others so that it is able to recognize others as part of its totality.<sup>81</sup> In this context, Honneth seeks to integrate the politics of recognition into two directions from two different entities by understanding each other, making "the other" (the others) as "I", not to negate each other but to be able to foster mutual understanding so that it becomes a need to live together.

Honneth affirmed Hegel's opinion that the construction of self-awareness on recognizing the presence of other people in social relations as the highest recognition (objective spirit) must occur in 3 different levels. Firstly, the level of love is understood as the level of relationship between two subjects who love, accept, and respect each other to reach a point of existential and emotional

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<sup>80</sup> Axel Honneth, <sup>16</sup> "Recognition or Retribution? Changing Perspectives on the Moral Order of Society," in *Recognition and Difference Politics, Identity, and Multicult*, ed. Scott Lash and Mike Featherstone (London: Sage Publications, 2002), <sup>27</sup> 46.

<sup>81</sup> Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, ed. Translated by Joel Anderson (Cambridge, Massachusetts: the MIT Press, 1995), 27.

comfort. This level of a love relationship is intimate, such as between parents and children or husband and wife at the family level. Secondly, the level of the legal order, that is the relationship between subjects that occurs in a society with the recognition of legal morality. Lastly, the state level begins with attitudes of subjects who have been converted into rational awareness to mutually acknowledge others' existence at the state level through solidarity.<sup>82</sup> This attitude of solidarity between subjects at the state level then creates a sense of mutual understanding, which will contribute to a better social order.<sup>83</sup> At the level of the legal order, state recognition of the validity of the zakat law is placed. Although Honneth argued that the occurrence of mutual recognition at the legal order-level involves personal relations between subjects (inter-subjective), but in recognition of the validity of zakat law, it has been represented by the state and Islamic civil society. The most important statement from Honneth that needs to be underlined is recognition of the legal order which results in the creation of good social order.

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<sup>82</sup> In fact, Honneth's understanding then sparked harsh criticism from his colleague, Nancy Fraser, who stated that the political discussion of recognition should not only stop at ethical aspects but proceed to changes in the overall structure to end inequality and guarantee what is called equal participation before the law. See Nancy Fraser, "Social Justice in the Age of Identity Politics: Redistribution, Recognition, and Participation," in *Redistribution or Recognition? A Political-Philosophical Exchange*, ed. Translated by et al. (London, New York: Verso, 2003), 42. Furthermore, Fraser criticized Honneth and most of the other political thinkers on recognition like Taylor, who were trapped in slogans of identity politics (politics of identity) based on religion, ethnicity, race, and others. Besides, Fraser also criticized Honneth regarding his recognition of the equitable distribution of economic distribution, which escaped the discussion of his political recommendations. *Ibid.*, 33. The criticism was then answered well by Honneth that in the span of human history the political struggle for recognition through what are known as social movements has demanded their particular identity to be recognized and respected. Therefore, the politics of recognition in Honneth's view are not limited to understanding identity politics, equality before the law, or equality in just economic distribution but broader than that, namely all forms of claims for recognition of particular life which have actually been going on for a long time in all aspects of human life.

<sup>83</sup> Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, 25.

It is not a coincidence that the state's recognition of the enforcement of zakat law occurred during the reform era. In fact, the spirit of political euphoria during the reform era made it easier for UUPZ to be realized because civil society has a strong bargaining position. Even the civil society was in a firm position when compared to the position of the government, which was in power at that time. Likewise, from legal formation, it has a very aspirational tendency towards civil society participation through the national legislative process in DPR.

The state's recognition of the application of UUPZ must also be interpreted as a fact of the struggle of Islamic civil society, which took place very dynamically in the historical span of zakat management as described earlier. In other words, politics of recognition in the context of this research is intended as a form of state recognition of the struggle of Islamic civil society to gain recognition of legal rights and social exclusion through recognition of zakat law as the applicable state law (*ius constitutum*) in Indonesia, although the source is from Islamic law (*ius constituendum*). The recognition of the existence of zakat law as a unique fact has been categorized into a form of recognition at the level of the legal order (legal order) in Honneth's recognized political theory. Thus, the law of zakat derived from the Islamic law, in this context, has not only been known as a particular identity but has also been practiced by Muslims since the arrival of Islam in the archipelago, especially after Indonesia's independence until this reformation period. In general, the struggle to recognize their particular identity is often carried out by minority groups. However, it can be said that it is unique that what has happened is the opposite, in terms of quantity, Islamic civil society as part of a civil society which is the majority in Indonesia, is in a position to fight for recognition of the validity of the zakat law as national law.

Through this recognition, the development of the same commitment (common platform) to the nation's life and state<sup>84</sup> within a framework of the Unitary State of the Republic of

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<sup>84</sup> Abdul Halim, "Membangun Teori Politik Hukum Islam Di Indonesia," *Ahkam XIII*, no. 2 (2013): 259–270.

Indonesia (NKRI) is getting stronger. In this context, Charles Taylor reminded a need for recognition is not only at the personal level (in the intimate sphere) but also at the community level (in the public sphere). He said:

“The discourse of recognition has become familiar to us, on two levels: First, in the intimate sphere, where we understand the formation of identity and the self as taking place in continuing dialogue and struggle with significant others. And then in the public sphere, where a politics of equal recognition has come to play a bigger and bigger role.”<sup>85</sup>

And conversely, the absence of state recognition of the enforcement of zakat law will result in moral injuries felt by Islamic civil society<sup>86</sup> because the state disrespects the facts of cultural multiculturalism in Indonesia. Axel Honneth also said, “...only if the means of articulation of a social movement are available can the experience of disrespect become a source of motivation for acts of political resistance.”<sup>87</sup> Honneth admits that social conflicts that occur in society are essentially struggling for recognition (struggle for recognition) of the fact of multiculturalism (particular identity) as a result of lack of respect.

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<sup>85</sup> <sup>28</sup> Charles Taylor, “The Politics of Recognition,” in *Multiculturalism: Examining the Politics of Recognition* (New Jersey: Princeton University Press, 1994), 37.

<sup>86</sup> Honneth offers a pattern of understanding about the importance of relations between subjects in their social relations that must be introduced to what is called “moral injury”. A moral injury can occur when there is no relationship between subjects who understand each other, acknowledge each other, and love each other. Furthermore, Honneth explains that the cause of moral injury is due to disrespect between one subject and another. Disrespects are a form of negation of respect for love, legal order, and solidarity built into its political theory of recognition. First, there is physical denial which is the most radical and most fundamental insult. Second, contempt for rights and social exclusion in the sense that the subject does not provide for moral rights and legal rights in their society. And third, insulting the existence of particular social groups that exist in society in the sense that there is no recognition of unique individuals in society. Subjects must follow the wishes of the majority, even if done in a repressive way. Honneth, “Recognition or Retribution? Changing Perspectives on the Moral Order of Society,” 48–50.

<sup>87</sup> Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, 139.

Zakat law, which comes from Islamic teachings, is understood in this context as a unique identity in the midst of the multiculturalism of the Indonesian nation. Taylor based the political principle of recognition on two things, namely the recognition of the right of every society to receive equal dignity treatment and respect for the diversity of unique identities that society has. In this connection, Taylor said, “*We all recognize the equal value of different cultures; that we not only let them survive but acknowledge their worth.*”<sup>88</sup> Indonesia itself is recognized as the most multicultural country in the world. This multiculturalism must be able to appear as a support for diversity. Yudi Latif also reminded that spaces for the coexistence of equal rights for ethnic, cultural, and religious groups should not cause social fragmentation.<sup>89</sup> The authors also agree that the appearance of religious identity should not divide Indonesia. In addition, Ma’arif argues that groups that intend to replace Pancasila ideology are motivated by a failure to understand the meaning of jihad, the meaning of justice, (so they concluded), Islam as a solution.<sup>90</sup> The groups are tiny when compared to Muslims, who have the silent majority. Suseno estimated it only 10%, which did not agree with the basic consensus of the Republic of Indonesia.<sup>91</sup> They often make ‘noisy’ on the political scene in Indonesia. Syafi’i Ma’arif also calls it a small group of people wearing *da’wah* robes, but their hindbrains are full of power, ‘libido.’<sup>92</sup>

The enforcement of UUPZ has the support of constitutive recognition as stipulated in 1945 Constitution Article 29 paragraph 1 and 2.

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<sup>88</sup> Taylor, “The Politics of Recognition,” 64.

<sup>89</sup> Yudi Latif, *Negara Paripurna: Historitas, Rasionalitas, Dan Aktualisasi* (Jakarta: PT. Gramedia, 2017), 379.

<sup>90</sup> Ahmad Syafi’i Ma’arif, dalam “Pengantar” Haedar Nashir, *Islam Syariat: Reproduksi Salafiyah Ideologis di Indonesia* (Bandung: Mizan, 2013), 15-16.

<sup>91</sup> Franz Magnis Suseno, “Agama, Kebangsaan Dan Demokrasi: Nurcholish Madjid Dan Kemanusiaan,” in *Agama, Keterbukaan Dan Demokrasi: Harapan Dan Tantangan*, ed. Ayu Mellisa and Husni Mubarak (Jakarta: PUSAD Yayasan Paramadina bekerjasama dengan The Asia Foundation dan The Ford Foundation, 2015), 15.

<sup>92</sup> Ahmad Syafi’in Ma’arif dalam “Pengantar” Haedar Nashir, *Islam Syariat: Reproduksi Salafiyah Ideologis di Indonesia* (Bandung: Mizan, 2013), 16.



“(1) Negara berdasar atas Ketuhanan Yang Maha Esa. (2) Negara menjamin kemerdekaan tiap-tiap penduduk untuk memeluk agamanya masing-masing dan untuk beribadat menurut agamanya dan kepercayaannya itu”/ “(1) The state is based on the One Godhead. (2) The state guarantees the freedom of each citizen to embrace his own religion and to worship according to his religion and belief.”<sup>93</sup>

The existence of a harmonious legal building in the midst of legal pluralism (multiculturalism) in the national legal system<sup>94</sup> becomes a reality what Ratno Lukito calls the transformative unification of sacred law and secular law.<sup>95</sup> Therefore, the ideal form of recognition politics in Honneth’s understanding is creating a society that is free from coercion/repression from both external and internal. Each individual must be recognized as a unique and particular person. In Hegelian’s argumentation, there are relationships that mutually acknowledge one another (reciprocal social recognition).

The zakat law ratified during this reformation period became a turning point where zakat policy has been regulated in separate legislation.<sup>96</sup> In a global context, the presence of UUPZ has added several countries involved in zakat management, such as Saudi Arabia, Yemen, Libya, Malaysia, Pakistan, and Sudan,<sup>97</sup> although an indirect involvement through BAZ (semi-state).

## Conclusion

The recognition of the state on the positivization of zakat law as part of the national legal system has entered a new chapter in the context of religious and state relations in Indonesia since the

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<sup>46</sup> Undang-Undang Dasar Negara Republik Indonesia 1945, Bab X I Agama, Pasal 29, ayat (1) dan (2).

<sup>94</sup> Ahmad Syafii Ma’arif, *Islam Dalam Bingkai Keindonesiaan Dan Kemanusiaan: Sebuah Refleksi Sejarah* (Bandung: Mizan, 2009).  
<sup>95</sup> Sunaryo, *Pergumulan Politik Dan Hukum Islam: Reposisi Peradilan Agama Dari “Peadilan Pupuk Bawang” Menuju Peradilan Sesungguhnya*.

<sup>96</sup> Ratno Lukito, *Hukum Sakral Dan Hukum Sekuler: Studi Tentang Konflik Dan Resolusi Dalam Sistem Hukum Indonesia* (Jakarta: Alvabet, 2012), 291–299.

<sup>97</sup> Ichwan, “Official Reform of Islam: State Islam and The MORA in Contemporary Indonesia 1966-2004,” 188.

<sup>98</sup> A. Zysow, “Zakat”; *The Encycloedia of Islam*, ed. P. J. Bearman and et.al (Leiden: Brill, 2002), 406–422.

enactment of UUPZ on September 23, 1999. This struggle for recognition has gone through a long dynamic in discourses about religion and state relations. The period of democratic transition from the Suharto regime to the B. J. regime Habibie became the entry point for a formal juridical state recognition into legislation that had never been implemented by the previous regime.

The findings of this study are, first, that the zakat law is valid, marked by the passing of UUPZ, which occurred during the reign of President B.J. Habibie, who has enacted a responsive law by accommodating Islamic civil aspirations. This zakat law has a participatory character. Second, the civilian role of Islam through the institution of zakat and political support for the proposed RUUPZ made by the government through the Ministry of Religion. The presence of this zakat law is proof of state recognition of the facts of multiculturalism in Indonesia with recognition of the equality of legal treatment at the community level (in the public sphere), based on the living law facts, which are supported by the recognition of 1945 Constitution.

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