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Contextualization of *Mustahiq Zakat* at LAZNAS Nurul Hayat Surabaya

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Abstract: This paper discusses the contextualization of *mustahiq zakat* seen from the changes in its meanings which have expanded to *riqâb*, *ghârim*, *sabilillâh* and *ibn al-sabil*, while other meaning of *mustahiq* is relatively static such as *faqîr*, *miskîn*, *âmil*, *mu'allaf*. Practically, the concept of *mustahiq zakat* is contextualized by various *zakat* managers, one of which is *Laznas* (National Amil Zakat Institute) Nurul Hayat Surabaya. *Mustahiq zakat* which refers to the poor and *âmil* is contextualized according to the general meaning, classical and contemporary *fiqh*. While the *mustahiq zakat* of *mu'allaf* is contextualized to be limited to people who have converted to Islam, while the concept of *mu'allafin fiqh* includes people who have not converted to Islam but have social potential and strength. The *mustahiq zakat* of *riqâb*, *ghârim*, *sabilillâh* and *ibn as-sabil* are contextualized widely beyond the meaning in *fiqh* generally. The contextualization of *mustahiq zakat* by *Laznas Nurul Hayat* shows that the benefit of humans (*maşâlih al-'ibâd*) is the main consideration in *zakat* management, in addition to the contextualization of *mustahiq zakat* is proof that changes in situations, conditions, environment and socio-culture influence the changes in Islamic law. The conclusion in this paper uses the theory of change in Islamic law and uses a normative approach which aim to reveal the truth values in the practice of *zakat* in society which can be actualized in the future.

Keywords: Contextualization, *Mustahiq*, *Zakat*, Nurul Hayat Surabaya.

Abstrak: Tulisan ini membahas tentang kontekstualisasi *mustahiq zakat*, hal ini dapat diketahui dari perubahan beberapa makna *mustahiq zakat* yang mengalami perluasan makna seperti *riqâb*, *ghârim*, *sabilillâh* dan *ibn al-sabil*, sedangkan beberapa *mustahiq* lainnya relatif statis seperti *faqîr*, *miskîn*, *âmil*, *mu'allaf*. Secara praktis, konsep *mustahiq zakat* tersebut dikontekstualisasikan oleh pengelola *zakat* secara variatif, salah satunya adalah *Laznas Nurul Hayat Surabaya*. *Mustahiq zakat* berupa *fakir miskin* dan *âmil* dikontekstualisasikan sesuai dengan makna umum yang terdapat dalam *fikih* baik klasik maupun kontemporer. Sedangkan *mustahiq zakat* berupa *mu'allaf* dikontekstualisasikan terbatas pada orang yang sudah masuk Islam saja sementara konsep *mu'allaf* dalam *fikih* mencakup orang yang belum masuk Islam namun memiliki potensi dan kekuatan sosial. Adapun *mustahiq zakat* berupa *riqâb*, *ghârim*, *sabilillâh* dan *ibn as-sabil* dikontekstualisasikan secara luas melebihi makna yang dipahami dalam *fikih* pada umumnya. Kontekstualisasi *mustahiq zakat* oleh *Laznas Nurul Hayat* ini menunjukkan bahwa kemaslahatan manusia (*maşâlih al-'ibâd*) menjadi pertimbangan utama dalam pengelolaan *zakat*, di samping itu kontekstualisasi *mustahiq zakat* tersebut merupakan pembuktian

adanya perubahan hukum akan mengikuti perubahan situasi, kondisi, lingkungan dan sosial budaya. Kesimpulan pada penulisan ini menggunakan teori perubahan hukum Islam serta menggunakan pendekatan normatif, dengan tujuan berupaya mengungkap nilai-nilai kebenaran dalam praktik zakat di masyarakat sehingga patut diaktualisasikan untuk kedepannya.

Kata kunci: Kontekstualisasi, Mustahiq, Zakat, Nurul Hayat Surabaya.

Introduction

Philanthropy is an important element in Islam and has major position in the lives of its people.¹ Etymologically, philanthropy means “generosity, bounteous, or social donations and everything that shows love for fellow human beings.”² Philanthropy aimed at improving the quality of human well-being through compassionate attitudes and behaviors to lighten the burden of others.³

Philanthropy is an attitude of generosity, compassion, bounteous, donations and social donation as a form of love for fellow human beings. Islam is very concerned about philanthropy as stated in the the Qur’an as in the Surah al-Taubah (9) : 103, al-Baqarah (2) : 215, al-Baqarah (2) : 43, al-Baqarah (2) : 195, al-Baqarah (2) : 215, al-Baqarah (2) : 261, Ali Imran (3) : 92, al-Nisâ’ (4) : 114, al-Nahl (16) : 71, al-Mâ’ûn (107) : 1-3, and al-Kautsar (108) : 2.

There are two types of philanthropy: traditional philanthropy and modern philanthropy for social justice. Traditional philanthropy is charity-based philanthropy and is realized in the form of direct gifts from benefactors to the poor to meet their daily needs. The modern philanthropy for social justice (social justice philanthropy) is philanthropy that mobilizes resources and seeks to find the root causes of poverty to realize social justice.⁴

Islamic philanthropy has several forms, including zakat, infaq, alms, and waqf.⁵ Zakat is worship that not only has ‘ubūdiyyah maḥḍah dimension or human relationship to God, but zakat also has social dimension that concerns the good relations among human beings. The issue of zakat has developed dynamically according to its era, especially the problem of mustahiq zakat. It can be seen from the development of juridical legality regarding zakat in Indonesia, especially after the Law Number 23 of 2011 concerning Zakat Management, Government of Republic of Indonesia Regulation Number 14 of 2014 concerning the implementation of Law number 23 of 2011 concerning zakat management, and Regulation of the Indonesian National Amil Zakat Agency, number 3 of 2018 concerning the distribution and management of zakat. These regulations impacted on the National Zakat Agency (BAZNAS) which then recommends several Amil Zakat Institutions (LAZ)⁶ to assist the collection, distribution, and utilization of zakat.⁷

¹ Azwar Iskandar et al., “Islamic Philanthropy and Poverty Reduction in Indonesia: The Role of Integrated Islamic Social and Commercial Finance Institutions,” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 16, no. 2 (2021): 274–301.

² The term philanthropy comes from the Greek *philein* (love) and *anthropos* (human), which means the practice of giving, service and voluntary association to help others who need the expression of love. Chaider S Bamualim and Irfan Abu Bakar, *Revitalisasi Filantropi Islam: Studi Kasus Lembaga Zakat Dan Wakaf Di Indonesia* (Pusat Bahasa dan Budaya UIN Syarif Hidayatullah, 2005), 38.

³ Han Latief, *Melayani Umat* (Gramedia Pustaka Utama, 2013), 36.

⁴ Zaenal Abidin, “Manifestasi Dan Latensi Lembaga Filantropi Islam Dalam Praktik Pemberdayaan Masyarakat: Suatu Studi Di Kota Malang,” *Jurnal Salam* 15, no. 2 (2012), 200.

⁵ Amelia Fauzia, *Filantropi Islam, Sejarah Dan Kontestasi Masyarakat Sipil Dan Negara Di Indonesia*, 2016., 13.

⁶ Saidurrahman Saidurrahman, “The Politics of Zakat Management In Indonesia: The Tension Between BAZ and LAZ,” *Journal of Islamic Law* 7, no. 2 (2013): 366–82.

⁷ Pasal 1 Angka 8 Undang-Undang Nomor 23 Tahun 2011 about, Zakat Management.

Nurul Hayat Foundation is one of the National Amil Zakat and Waqf Institutions based in Surabaya. This foundation was established in 2001 with its initial activities as a distributor of CSR (Corporate Social Responsibility) programs for orphans' compensation programs and scholarships. In 2002, the Nurul Hayat Foundation then established productive innovative business unit, a Fast Food Aqiqah Business Unit in Surabaya. This business unit succeeded in bringing the foundation's finances very well and the foundation's activities expanded. This foundation also engaged in zakat sector and became Laznas Nurul Hayat in 2003.⁸

Regarding the distribution of zakat, scholars have different opinions. According to Shafi'iyah, zakat must be given to eight groups as a whole or at least three groups⁹, Meanwhile, according to Hanafiyyah, Malikiyyah and Hanabilah, it is permissible to give zakat to one group of eight groups. Even according to Hanafiyyah and Malikiyyah, it is also permissible to give to one person from one of the eight groups, but it is recommended to give zakat to those who really need.

Laznas Nurul Hayat in addition to carrying out the above program also develops distribution to *mustahiq* zakat¹⁰, for example *sabillah* for scholarships to improve quality in education¹¹. In addition to providing scholarships, it also established several units of Islamic educational institutions such as SMP Tahfid Enterpreneurs Khairunnas, Pesantren Anak Sholeh (PAS), Pesantren Anak Sholeh Penghafal Al-Qur'an, dan Senyum Hari Raya. This educational program is also supported by other programs, such as mass circumcision, response to natural disasters, aid for conflict victims, *majelis taklim abang becak*, and intensive monthly Al-Qur'an teachers.¹² As an old philanthropic institution and located in a big city, Laznas Nurul Hayat has dynamics experience in managing and distributing zakat, especially regarding the contextualization of *mustahiq* zakat.

According to the above explanation, the author is interested in the contextualization of *mustahiq* zakat, for example for community empowerment and progressive public interest.¹³, one of which is used in education, health, social humanity, da'wah, and economic development with a *maqasid al-syari'ah* approach to realize the benefit of the people. With the contextualization of *mustahiq* zakat from being formalistic (legal-formal) to just fulfilling the obligation of *muzakki* (people who are obliged to pay zakat) to issue certain *nisab* to other people who have charitable rights, towards ethical fiqh (ideal-moral) to achieve social justice and social welfare. As said by Sahal Mahfud that zakat has a duty to solve the people poverty, to be able to realize this big agenda, an institution that manages philanthropy in a professional, safe, accountable, and transparent manner is needed.¹⁴

Laznas Nurul Hayat Surabaya as a professional and trusted amil zakat institution regulates the fairness of the proportion of zakat distribution in groups transparently. So far, the study of fiqh has not regulated and explained in detail about the proportion of zakat distribution to eight groups. Therefore, a study of the practical experience of Laznas Nurul Hayat related to *mustahiq* zakat is important.

⁸ <https://filantropi.or.id/direktori/individu/nurulhayat/>, accessed 22 Januari 2020; Kholaf, *Interview*, Surabaya, 12 January 2020.

⁹ Ubah Az-Zuhaili, "Fiqh Islam Wa Adillatuhu, Terj.," Abdul Hayyie al-Kattani, dkk. Jakarta (ID): Gema Insani § (2011), 869.

¹⁰ Rizal Fahlefi, "Perkembangan Pengumpulan Zakat Pada Baznas Kabupaten Tanah Datar Periode 2010 SD 2014," 2021.

¹¹ See "UU No 23 Year 2011"

¹² w.nurulhayat.org, accessed 5 January 2018.

¹³ Aden Rosadi and Mohamad Anton Atoillah, "Distribusi Zakat Di Indonesia: Antara Sentralisasi Dan Desentralisasi," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 15, no. 2 (2015): 237-56.

¹⁴ KHMA Sahal Mahfudh, *Nuansa Fiqh Sosial (LKIS Pelangi Aksara, 2003)*, 151.

Literature Review

The study of zakat has become a hot topic of discussion in the current era, because lately many practices in society are not in accordance with sharia. In further developments, recent researchers have conducted research on the pattern of zakat including Zenno Noeralamsyah, Didin Hafidhuddin, and Irfan Beik¹⁵, Idrus Andy Rahman¹⁶, Iman Santoso, Didin Hafidhuddin, dan Hendri Tanjung¹⁷, Aviva Nur Azizah¹⁸, Khaerul Aqbar dan Azwar Iskandar, Aden Rosadi¹⁹, Imam Yahya²⁰, Hamzah²¹, Abdul Wahid Al-Faizin, Taqiyah Dinda Insani, dan Tika Widiastuti²², Engkos Koswara²³, Basar Dikuraisyin²⁴, Sulaeman and Sri Yuyu Ninglasari²⁵, and others.

Most of the studies on zakat are equipped with various kinds of analysis, to make it easier to find differences and similarities with this research, the researchers will group this literature review into four parts; first, zakat reviewed from various analyses, second is about zakat management, third is contextualization zakat, and fourth related to *mustahiq* zakat.

Research which focuses on zakat reviewed from various analyzes have been investigated by Zenno Noeralamsyah, Didin Hafidhuddin, and Irfan Beik. These studies tried to analyze zakat management policies in Indonesia. The findings of this study are: *First*, Mursalah is one of the relevant sources for legal legitimacy that draws from the Qur'an and Sunnah; *Second*, Mursalah can be a mediator between positive law and Islamic law; *Third*, managing zakat is the duty of the government or certified amil; *Fourth*, there are some regulations that could be a problem in the future; and lastly, the mursalah approach deserves to be an analysis of the mashlahah indicators in Law No. 23/2011, both in the Shari'a texts and in the refinement of other sciences. Likewise, Iman Santoso, Didin Hafidhuddin, and Hendri Tanjung argue that the analysis of research on zakat on wealth is through qiyas or the analogical method. In conclusion, to answer contemporary zakat problems, Muslim scholars must master three things: first, understand and master ushul fiqh, especially those related to qiyas; second, mastering the conditions of property or wealth that must be issued as zakat; third, understand the five standard models of zakat assets.

Meanwhile, Abdul Wahid Al-Faizin, Taqiyah Dinda Insani, and Tika Widiastuti explored and analyzed the social role (Social Psychology) of Zakat as a mandatory system from Surah al-Taubah:

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- 15 Zenno Noeralamsyah, Didin Hafidhuddin, and Irfan Beik, "Analisis Pengelolaan Zakat Di Indonesia Berdasarkan Undang-Undang Nomor 23 Tahun 2011," *Kasaba: Jurnal Ekonomi Islam* 10, no. 2 (2019): 151-75.
 - 16 Idrus Andy Rahman, "Peran Zakat Produktif Dalam Meningkatkan Pendapatan Mustahik Di El-Zawa UIN Maulana Malik Ibrahim Malang," *Al-Mansyur: Jurnal Ekonomi Dan Bisnis Syariah* 1, no. 1 (2021): 45-58.
 - 17 Iman Santoso, Didin Hafidhuddin, and Hendri Tanjung, "Analisis Fiqh Zakat Harta Kontemporer Dengan Metode Qiyas," *Kasaba: Jurnal Ekonomi Islam* 11, no. 2 (2019): 151-75.
 - 18 Aviva Nur Azizah, "Pengelolaan Zakat Profesi Karyawan PT. Pama Persada Nusantara Distrik Kaltim Prima Coal Sangatta Kutai Timur," *At-Tawazun, Journal of Islamic Economics and Law* 9, no. 02 (2021): 76-87.
 - 19 Aden Rosadi, "Kontekstualisasi Pengelolaan Zakat Untuk Umat," *Asy-Syariah* 17, no. 2 (2015): 1-8.
 - 20 Imam Yahya, "Zakat Management in Indonesia: A Legal Political Perspective," *Al-Ahkam* 30, no. 2 (2020): 195-214.
 - 21 Hamzah Hamzah, "Empowerment of Mustahiq Zakat Model Towards Business Independency," *International Journal of Nusantara* 12, no. 1 (2017): 85-96.
 - 22 Abdul Wahid Al-Faizin, Taqiyah Dinda Insani, and Tika Widiastuti, "Zakat as an Obligatory System and Its Implications for Social Psychology Society (Social Tafsir of Sūrah Al-Tawbah: 103)," *International Journal of Zakat* 2, no. 2 (2017): 43-53.
 - 23 Engkos Koswara, "Zakat Management Strategy in Poverty Alleviation: Study of Zakat Collecting Institutions in Indonesia," *International Journal of Science and Society* 1, no. 2 (2019): 122-33.
 - 24 Basar Dikuraisyin, "Balanced Scorecard Analysis of Amil Kompetensi Competence as a Model Rule for the Development of Zakat Institutions Resources (Study at LAZ R4 Cah Zakat Surabaya, East Java): (Analisis Balanced Scorecard Terhadap Kompetensi Amil Sebagai Rule Model Pengemban," *El-Qist: Journal of Islamic Economics and Business (JIEB)* 11, no. 2 (2021): 150-64.
 - 25 Sulaeman Sulaeman and Sri Yuyu Ninglasari, "Analyzing the Behavioral Intention Factors in Using Zakat-Based Crowdfunding Platform in Indonesia," *International Journal of Zakat* 5, no. 3 (2020): 1-19.

103. It was found that zakat should be a mandatory system and its management should be done centrally by the government. BAZNAS is the government representative to carry out this task²⁶. Then, it will result in the creation of an equal degree and status between *mustahiq* and *muzakki*. Meanwhile, the implications of zakat in the social interaction are the creation of peace, security, and harmony for the whole community. In contrast to the research previously mentioned, the research of Sulaeman and Sri Yuyu Ninglasari aims to help the government and policy makers to plan appropriate intervention strategies to minimize the adverse impact of the COVID-19 pandemic on MSMEs in Indonesia. Furthermore, this research will contribute to the existing literature, especially about the factors that influence the adoption of the Zakat-based crowdfunding platform model. Basar Dikuraisyin's research differs from the studies before which attempts to analyze the competence of the *amil zakat* institution based on its performance and accountability.

Further research is classified based on zakat management. The first research was done by Aviva Nur Azizah in East Kutai where there are large companies engaged in the mining sector resulted in higher income compared to other sector which raises the potential for large zakat income. This study also aims to understand the management of the collection and distribution of professional zakat for employees of PT Pama Persada Nusantara, Kaltim Prima Coal Sangata District (KPCS) East Kutai. Similarly, Imam Yahya's research found the existence of BAZNAS is legitimized by law as a non-structural institution under the President who has the authority to manage zakat, whether collecting, distributing or developing zakat assets. Second, consequently, taxes that have been paid through the central BAZNAS or regional BAZNAS can reduce taxable assets. Third, BAZNAS has the power to recommend LAZ as well as oversee the performance of LAZ at all levels and the results are reported to BAZNAS. The journal that Engkos presents aims to describe the management of zakat carried out by Rumah Zakat Indonesia in alleviating poverty through community empowerment.

Furthermore, another research are classified based on the contextualization of zakat as in Khaerul Aqbar's article which shows that zakat has micro-economic and macro-economic implication. The policies of Umar bin Khattab and Umar bin Abdul Aziz in the management of zakat can be classified into three parts: First, the policy regarding the expansion of the object of zakat. Second, the view on the collection of zakat. Third, opinions on the distribution and empowerment of zakat. The zakat policies of Umar bin Khattab and Umar bin Abdul Aziz have relevance to several zakat practices in Indonesia, such as professional zakat, corporate zakat, property zakat, and other developing assets and businesses. Likewise in the collection of zakat and the distribution of zakat. This statement is supported by Ade Rosadi that zakat is not only for individual normative obligations, but also social implication as collective responsibility involving several subjects such as *muzakki*, *amil*, *mustahik*, and the government.

The last classification is based on *mustahiq* zakat, Hamzah argues that the *mustahiq* empowerment strategy can be done through intrinsic strengthening, technical aspect training, business capital assistance and mentoring. Empowerment can be carried out synergistically by the government (organization, service, and counseling), the private sector/State-Owned Enterprises (BUMS), universities and the community. Similarly, Idrus Andry Rahman, in his research argued that *el-Zawa* is one of the zakat institutions that has one of the leading programs, namely revolving MSME

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²⁶ Mazroatus Saadah and Uswatun Hasanah, "The Common Goals of BAZNAS' Zakat and Sustainable Development Goals (SDGs) According to Maqasid Al Sharia Perspective," *Al Ihkam Jurnal Hukum Dan Pranata Sosial* 16, no. 2 (2021): 302–26.

3 assistance, pure MSME assistance, and MSME development. The program is a productive distribution, so the funds given to *mustahiq* will be used for working capital.

Although the object of this research and the research previously mentioned are different, the focus of this research is similar to the previous research which focus on zakat. In addition, previous studies discussing zakat reviewed with various analyzes, zakat management, zakat contextualization, and related to zakat *mustahiq*. However, this research is different from previous research in the contextualization of *mustahiq* zakat in one of the *amil* zakat institutions in Surabaya. The author will try to complement the previous research by presenting the Contextualization of *Mustahiq* Zakat at Laznas Nurul Hayat Surabaya.

Fiqh Aspects of Mustahiq Zakat

The legality of *mustahiq* zakat has been explained in the Qur'an in the letter al-Taubah (9) verse 60.²⁷

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبِهِمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ، فَرِيضَةً مِّنَ اللَّهِ، وَاللَّهُ عَلِيمٌ حَكِيمٌ.

“Zakāh expenditures are only for the poor and for the needy and for those employed for it and for bringing hearts together [for Islām] and for freeing captives [or slaves] and for those in debt and for the cause of Allāh and for the [stranded] traveler - an obligation [imposed] by Allāh. And Allāh is Knowing and Wise.”.²⁸

Utsman Husein Abdullah explained that the word “*innamā*” in the verse above is *adāt ḥaṣr* which serves to summarize. It means that zakat is only distributed to eight groups and not to others. The distribution of zakat to other than the eight groups is void and classified as a sin. In addition, the sentence in the verse “*Farīḍatan min Allāhi wa Allāhu ‘Alīmun Hakīm*” shows that the eight groups mentioned in the verse are obligatory laws of Allah. Determining the eight groups is also the knowledge of Allah and His wisdom, who knows that the distribution of zakat to the eight groups is an effort to protect the people from social damage, while His wisdom is to provide for the needy. Mention *fuqarā* and *masākīn* at the beginning of the paragraph indicates the priority scale in the distribution because both *aṣnāf* needs more than others.²⁹

According to Fiqh, the eight groups of zakat recipients is known by the term *mustahiq* zakat. Elaboration of *mustahiq* zakat in fiqh can be categorized into two major understandings, namely the understanding of classical and modern fiqh.³⁰ Classical fiqh is represented by scholars who are affiliated with schools of jurisprudence such as Wahbah az-Zuhailī mazhab which is not far from the explanation of the Syāfi'īyah. While the modern understanding of fiqh tends to provide an explanation of *mustahiq* zakat in the present context, as Masdar F. Masudi relates *mustahiq* zakat in the context of modern state administration.³¹

²⁷ 50 Zuhaili, Fiqh Islam wa adillatuhu, terj., 874.

²⁸ R I Departemen Agama, “Al-Qur'an Dan Terjemahan,” Jakarta: PT Syaamil Cipta Media (2005) , 431.

²⁹ Uṣmān Husein Abd A 26, “Az-Zakāt Al-Ḍamām Al-Ijtimā'ī Al-Islāmī” (Mesir; Dār al-Wafā, 1989), 155.

³⁰ Nur Quma Laila and Irwan Abdullah, “Questioning Fiqh Muamalah of Toleration: Religious Spatial Segregation in the Urban Area of Yogyakarta,” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 1 (2022): 28–59.

³¹ Masdar explained that the verse on *mustahiq* zakat is an ethical bench mark, or a moral reference for the work of all state

Fiqh explanation about *mustahiq* Zakat can be described as follows:³² First, *faqîr* are people who have no property at all and have no income, or people who have assets and income that is not sufficient for half of their daily needs. This explanation is the explanation of the majority of fiqh scholars.

Second, *Miskîn* is people who have few assets or income that can meet half of their needs. The words indigent and poor in their use tend to be treated as one compound word together which denotes people who are financially incapable. Many *fuqahâ'* have generally distinguished between the two. Eventhough, the difference between the two is not principal, but only gradual.³³

Third, *Âmil* is a person who plays role in the management of zakat, both collecting, recording and distributing zakat. Masdar said that *al-âmilîn* is the government in relation to the right to receive or collect taxes, they are people or agencies involved in one of the four areas of responsibility as controllers of tax policy as agreed by the taxpayers (*muzakki*), tax administration apparatus, and government officials who work for the welfare or benefit of the people with tax funds".³⁴

Forth, *muallaf* can mean new followers of Islam and people who are still infidels. For new followers of Islam, it can mean Muslims whose faith is still weak or has social influence in their environment so that giving zakat to them is expected to strengthen their Islam or influence their social environment to convert to Islam. Whereas *muallaf* in the sense that people who are still infidels are those who are feared to disturb Muslims so that giving zakat to them is expected to soften their hearts to convert to Islam and not disturb Muslims.³⁵ In the present context, giving zakat to *muallaf* can be in the form of non-Muslim institutions or countries with Muslim minorities so that the giving of zakat to them is expected to attract them to sympathize with Islam and treat Muslims fairly.³⁶ In modern context, giving zakat to *muallaf* can be realized to re-awaken criminals, costs for mental, humanitarian or other rehabilitation and community development or isolated tribes.³⁷

Fifth, *riqâb* in the sense of classical fiqh means slave *mukâtab*, namely slaves who are bound in an agreement to free themselves from slavery. Giving zakat to them is expected to help them free themselves from slavery. Meanwhile, in the modern fiqh, *Riqâb* is an oppressed people so that giving zakat to them is an effort to liberate those who are oppressed and lose their right to determine the direction of their own lives. *Mustahiq* in this category can be targeted at laborers who are shackled by their employers, or certain people who are punished just for using their basic right to think or choose.³⁸

Sixth, *ghârim* in the classical fiqh is a person who has a debt where the debt is used to reconcile people who are in dispute, for their own good or to bear the burden of others. Meanwhile according to modern Fiqh, *Ghârim* means the people who fell bankrupt. Giving zakat to them can be realized in

institutions, including the preparation of the State Budget. The reference clearly sided with the interests of the people, especially the weak, not the interests of the ruling elite. Those who have been referred to as the ruling class, in the teachings of zakat are positioned as *'âmilîn* and or as an officer, *sabilillah* which means people who are employed and paid in return for their services to serve the interests of the people at large. Look Masdar Farid Mas'udi, *Pajak Itu Zakat: Uang Allah Untuk Kemaslahatan Rakyat* (Mizan Pustaka, 2010).

³² Az-Zuhaili, *Fiqh Islam wa adillatuhu*, terj., 625.

³³ Az-Zuhaili, 869.

³⁴ Az-Zuhaili, 869.

³⁵ An-Nawawî, "Rauḍah Al-Ṭâlibîn" (Beirut: al-Maktab al-Islâmî, 1991), 313.

³⁶ Oni Sahroni et al., "Fikih Zakat Kontemporer," 2018., 182.

³⁷ Sahroni et al., 182.

³⁸ Mas'udi, *Pajak Itu Zakat: Uang Allah Untuk Kemaslahatan Rakyat*, 182.

the form of paying their debts, management training, especially small entrepreneurs not to be easily bankrupt and paying debts to poor people or countries to reduce their burden.³⁹

Seventh, *sabilillâh* according to majority of fiqh scholars agreed that mujahid refers to the people who fought in the way of Allah even though they are rich.⁴⁰ Masdar F. Mas'udi agree with the scholars who interpret *sabilillâh* with *sabil al-khair* which means the way of goodness, or benefit that includes the interests of all parties. Zakat for *sabilillâh* can be distributed to who works for humanitarian activities such as state or government system administrators in the legislative, executive and judicial ranks as law enforcers, maintainers of public facilities and infrastructure and other social activists who care about improving human quality in building civilization, science, and technology and other efforts that are consistently aimed at realizing the ideals of social justice and human welfare.⁴¹

Eight, *ibn al-Sabil* is a person who travels in obedience to Allah and needs funds to continue the journey and return home. According to Masdar, the meaning of *ibn al-Sabil* can be interpreted as homeless and refugees. This understanding is broader and more relevant than just covering the traveler who lacks provisions as known in classical fiqh. Therefore, the distribution of zakat funds can be used for the needs of refugees for political reasons, for environmental reasons or natural disasters.⁴²

Imam Shafi'i said that a *mukallaf* is obliged to pay zakat fitrah for himself and for those who must be given a living, such as his wife, father, and children.⁴³ Imam Syafi'i's opinion regarding the distribution of zakat is based on the command of Allah SWT in the Qur'an at-Taubah verse 60 as the main basis for zakat recipients. Imam Shafi'i is oriented to the bayani approach regarding groups that are entitled to receive zakat. Shihab asserted that Imam Shafi'i believed the letter *lam* means ownership, thus all those mentioned had to get the same share. According to him, this is also strengthened by the word *innama*/only which means specialization, while the scholars of Imam Shafi'i believed that if zakat is distributed to three groups, it is sufficient.

In Surah At-Taubah 60, the letter *lam* is used to express ownership, then each group has the same rights because it is associated with the letter *wawu* (one of the articles meaning "and") which shows the similarity of actions. Therefore, all forms of zakat belong to all those groups, with equal rights. In addition to this verse, Imam Shafi'i's legal *istinbath* says that the distribution of zakat to the *ashnaf of zakat* is based on hadith narrated by Abu Dawud from al-Shada'i.

Sabiq also said that the distribution of zakat fitrah is the same as the distribution of zakat mal, which is divided into eight *ashnaf*.⁴⁴ Meanwhile, Ibn Qudamah also said that the distribution of zakat fitrah was to those who were entitled to receive it as described in the Qur'an at-Taubah verse 60 regarding people who are entitled to receive zakat. Thus, the distribution of zakat fitrah is the same as distributing zakat on assets.⁴⁵

³⁹ Mas'udi., 182.

⁴⁰ Slightly different opinion Yūsuf al-Qarḍāwī, that the meaning of jihad does not have to be a war of weapons, he argues that jihad can be done with writing and speech just as it can be done with a sword and knife. Sometimes jihad is carried out in the fields of thought, education, social, economic, political as well as done with the strength of the army. All these types of jihads require material support and encouragement. Look Yūsuf Qarḍāwī (al), "Dirāsah Fi Fiqh Maqāṣid As-Syar'iyyah" (Kairo: Dār al-Ḥadīth, 2008), 121.

⁴¹ Mas'udi, *Pajak Itu Zakat: Uang Allah Untuk Kemashlahatan Rakyat*, 166.

⁴² Mas'udi, 166.

⁴³ Muhammad Jawad Mughniyah, *Fiqh Lima Mazhab: Ja'fari, Hanafi, Maliki, Syafi'i, Hambali (Gold Edition)* (Shaf, 2015), 41.

⁴⁴ Sayyid Sabiq, *Sunnah Jilid I* (Republika Penerbit, 2017), 152.

⁴⁵ Ibn Qudamah, *Asy-Syarhul Kabiir* (Beirut: Darul Kitab Al-Arobi, n.d.), 251.

In conducting *istinbath*, Imam Shafi'i did not rely on previous opinions, but Imam Shafi'i performed *ijtihad* referring to the main sources; the Qur'an and al-hadith. It is proven⁵⁸ determining the *mustahiq* zakat fitrah based on surah At-Taubah: 60 that zakat fitrah is also distributed to 8 groups of *ashnaf recipients* as in zakat mal. They argue that zakat fitrah and zakat mal are similar to zakat that must be given by muslim with different conditions. Thus, he argued the distribution of zakat fitrah with zakat mal should be equally distributed to the 8 groups previously mentioned. He further argued that giving zakat to the close relatives who are included in the 8 groups of zakat recipients is considered better.

Imam Malik believes that zakat fitrah is only distributed to the poor and needy. Ibn Umar narrated that the Prophet SAW ordered his companions to pay alms (zakat) fitrah before they left for the prayer room (musholla), then he said: "Enrich (sufficient) their needs (so that they) do not beg today".

According to the above hadith, the meaning of enriching them (the poor and needy), and among the efforts to enrich them (so that they no longer ask for help) on that day (Eid Al-Fitr) or go around crowding people one by one is to give zakat to them before they leave for prayer (musholla).⁴⁶

Mustahiq in Indonesian Legislation

Law, Number 34⁶⁷ of 2011 concerning Zakat Management is an important legality in discussing zakat²⁹ in Indonesia. Article 1 paragraph 2 of the Law states that zakat is property, which is obligatory for Muslim, or business entity to be given to those who are entitled to receive it in accordance with the Islamic law.⁴⁷ The recipients referred to in the Law are eight groups, namely the destitute, the poor, *âmil*, *muallaf*, *riqâb*, *ghârim*, *sabîlillâh*, and *ibn al-Sabîl* which in its application can include people who are the most economically helpless, such as orphans, the elderly people, the disabilities, people who are studying, Islamic boarding schools, abandoned children, people who are in debt, refugees, and victims of natural disasters.⁴⁸

Regarding *mustahiq*, Majelis Ulama Indonesia (MUI) also provides some basis for legitimacy. For example, related to *amil*, MUI Fatwa No. 8 of 2011 concerning *Amil Zakat* asserts that *Amil zakat* is a person or group of people either appointed by the government or formed by the community which is then ratified by the government to manage the implementation of zakat. If the *Amil* receives a salary from the state or private institution, he is not entitled to receive a share of the zakat funds, but if he does not receive a salary from the state or private institution then he is entitled to receive a share of the zakat fund as a reward on the basis of the principle of fairness. Likewise, about Muslim students or scholars who need scholarships, then it is included in the definition of *fi sabîlillâh*.⁴⁹ while *sabîlillâh* can mean everything that concerns the public interest (*masalah 'âmmah*).⁵⁰

Contextualization of Mustahiq Zakat at Laznas Nurul Hayat Surabaya

Mustahiq zakat in Laznas Nurul Hayat perspective has been contextualized as follows: *Fakir* or the destitute is contextualized to people who have absolutely no source of livelihood to meet their

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⁴⁶ Ibnu Hamzah Al-Husaini Al-Hanafi, "Ad-Damsyiqi," *Asbabul Wurud* 2 (2008), 209.

⁴⁷ Undang Undang RI Nomor 23 tahun 2011 about Zakat Management.

⁴⁸ Penjelsan pasal 25 (62) ang Undang RI Nomor 23 tahun 2011 about Zakat Management.

⁴⁹ This can be seen in MUI Fatwa Number Kep-120/MUI/II/1996 about Giving Zakat for Scholarships. See Amin, 171.

⁵⁰ Amin., 159.

basic needs.⁵¹ Meanwhile, *miskin* or the poor is a person who has source of livelihood but is only sufficient to meet the basic needs of a decent life for himself and his dependent family.⁵²

According to Laznas Nurul Hayat that *amil* is a person or group of people who are appointed by the government or who have a mandate from the leadership of zakat managers to manage zakat.⁵³ *Muallaf* are people who just converted to Islam to strengthen their belief and their heart.⁵⁴ Laznas Nurul Hayat only giving zakat to people who have converted to Islam whose faith is still weak and it is hoped that giving zakat can strengthen their faith, while kafir (infidels) is not included in this category to avoid missionaries to followers of other religions.⁵⁵

Laznas Nurul Hayat applied *riqāb* to Muslims who are victims of human trafficking, those who are held captive by enemies of Islam or people who are colonized and persecuted, for example refugees and abused workers.⁵⁶ *Ghārim* is a person who is in debt for urgent needs, not complementary needs. The gharim category is also applied to people who are in debt and are unable to pay when the payment is due for a reasonable personal benefit, the general benefit for peace and others.⁵⁷

Laznas Nurul Hayat stating that *sabīlillāh* are people or groups who are struggling to uphold the word of God, including in war and da'wah, as well as people who are really seeking knowledge that is beneficial for the people.⁵⁸ *Ibn al-sabīl* applied by Laznas Nurul Hayat to people who run out of provisions on their way to carry out obedient acts, not for immorality, which are not expected to achieve their goals if they do not receive zakat assistance.⁵⁹

The following table is the Contextualization of *Mustahik Zakat* at Laznas Nurul Hayat:

No	Asnaf	Contextual	Description
1	<i>Fakir</i>	The destitute are people who have absolutely no source of livelihood to meet their basic needs	Relevant to classical, contemporary scholars
2	<i>Miskin</i>	The poor are people who have source of livelihood but only sufficient to meet the basic needs of a decent life for themselves and their dependent families	Relevant to classical, contemporary scholars
3	<i>Amil</i>	a person or group of people who are appointed by the government or who have a mandate from the leadership of zakat management to manage zakat	Relevant to classical, contemporary scholars
4	<i>Muallaf</i>	people who have just converted to Islam to strengthen their hearts and beliefs.	Contextualized limits only people who have converted to Islam

⁵¹ Kholaf, *Interview*, Surabaya, 12 January 2020.

⁵² Kholaf, *Interview*, Surabaya, 12 January 2020.

⁵³ Kholaf, *Interview*, Surabaya, 12 January 2020.

⁵⁴ Kholaf, *Interview*, Surabaya, 12 January 2020.

⁵⁵ Kholaf, *Interview*, Surabaya, 12 January 2020.

⁵⁶ Kholaf, *Interview*, Surabaya, 12 January 2020.

⁵⁷ Kholaf, *Interview*, Surabaya, 12 January 2020.

⁵⁸ Kholaf, *Interview*, Surabaya, 12 January 2020.

⁵⁹ Kholaf, *Interview*, Surabaya, 12 January 2020.

5	Riqab Muslims who are victims of human trafficking, those who are held captive by enemies of Islam or people who are colonized and persecuted, for example refugees and persecuted Indonesian migrant workers	Contextualization, includes the broad meaning of captives and oppressed people.
6	Gharim people who in debt for urgent needs, not complementary needs. <i>Gharim</i> are people in debt and are unable to pay when payment is due for: a. Self-benefit by not overdoing it, such as making a living, treating the sick, building houses, and so on; b. Public benefits such as reconciling two or more Muslims who are in dispute; c. Other public benefits such as building worship facilities.	Contextualization, including personal and institutional debt
7	Sabilillah a. People or groups who are struggling to uphold the word of Allah, do not have to go to war, for example the teachers of the Qur'an b. People who sincerely carry out religious guidance to obey Allah and draw closer to Him, for example preaching. c. People who really seek knowledge that is useful for the people	Contextualization, not only jihad with weapons, but includes the broad meaning of jihad which refers to the way of goodness in upholding the word of Allah.
8	Ibn al-Sabil people who run out of provisions on the way to carry out obedient acts, not for immorality, who are not expected to achieve their goals if they do not receive zakat.	Relevant to classical, contemporary scholars

Discussion and Analysis

The contextualization of *mustahiq* zakat in Indonesia has experienced dynamic development in terms of juridical legality and sociological practical aspects. Law Number 23 of 2011 concerning Zakat Management is a response to the legality of zakat in Indonesia.⁶⁰ Supported by several Fatwa MUI related to *mustahiq* waqf such as *amil sabilillah* and *Ibn as-Sabil* whose objects has expanded, is the manifestation of the dynamics meaning of *mustahiq* waqf based on the social changes. According to Nonet and Selznick, such law is called responsive law that responds to social provisions and public aspirations.⁶¹

From a practical point of view, contextualization *mustahiq* zakat practiced by Laznas Nurul Hayat that is above experiences varied dynamics, from narrowing to expanding or not far from the meaning given by classical and contemporary scholars. Contextualization Variations *mustahiq* zakat these can

⁶⁰ Mushtaha Mushthafa, "Mustahiq Zakat Fitrah Dan Relevansinya Dengan Kewajiban Menunaikannya Bagi Setiap Muslim (33) aah Pendapat Imam Malik w. 178 H)," *JURIS (Jurnal Ilmiah Syariah)* 18, no. 1 (2019): 1-10.

⁶¹ Philippe Nonet and Philip Selznick, *Hukum Responsif: Pilihan Di Masa Transisi* (Perkumpulan untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologis (HuMa), 2003), 203.

be categorized as follows: First, a static category where the contextualization is in accordance with the fiqh explanations that have developed so far. This category is shown by Laznas Nurul Hayat when applying *mustahiq* zakat for the poor, poor and amil. Contextualization of the three groups *mustahiq* this is applied by Laznas Nurul Haya in accordance with the explanation of the scholars that the poor are people who do not have a livelihood while the poor are people who have a livelihood but do not meet their basic needs.⁶² Meanwhile, amil is a person, institution or official who is appointed and authorized by the government as zakat manager.

Second, the narrowing category of contextualization. This category appears in contextualization of *mustahiq* zakat's for *muallaf* category which limited to only to people who have just converted to Islam, while the explanations of both classical and modern scholars allow people who are still infidels, especially those who have social influence and power hoping that giving zakat to them can soften their hearts to convert to Islam and even motivate others to convert to Islam.

Third, the category of expansion of contextualization. This category is shown by Laznas Nurul Hayat in contextualization of *mustahiq* zakat *riqâb*, *ghârim*, *sabîlillâh* dan *ibn as-sabîl*. If classical scholars and some scholars like Wahbah al-Zuhailî think that *riqâb* is a slave *mukâtab* namely slaves who are bound by an agreement with their master, then Laznas Nurul Hayat Surabaya expands the meaning *riqâb* against victims of human trafficking, persecuted people such as war refugees and abused migrant workers. This expansion of meaning is not far from the opinion of modern fiqh. Similarly, the meaning *ghârim* not only limited to people having debt but meaning *gharim* contextualized towards bankrupt people and even entrepreneurs who need managerial guidance so as not to fall into bankruptcy.

As for *ibn as-sabîl* contextualized by Laznas Nurul Hayat is not only limited to travelers who run out of provisions, but also includes refugees and the homeless as this is an explanation of modern fiqh. As well *sabîlillâh* not limited to mujahid as described in classical fiqh, however *sabîlillâh* covers all the paths of the good of the people (*sabîl al-khair*) this is also explained in the fatwa of the Indonesian Ulema Council (MUI) on the Intensification of Zakat Implementation in 1982 which stated that: *sabîlillâh* can cover all types of needs for the benefit of the people.⁶³ Fakhr al-Dîn ar-Râzî said that the outward meaning of the sentence *fi ssabîlillâh* it's not limited to people who went to war, by quoting Imam al-Qaffal opinions which quoted by some fiqh experts who allowed the distribution of zakat funds for all forms of goodness including shrouding the dead, building public facilities, and prospering mosques.⁶⁴

Both the legal and practical dynamics of the contextualization of *mustahiq* zakat above are the implementation of the basic principles of Islamic sharia which emphasizes on the basis of maintaining human benefit for the happiness of the world and the hereafter as the expression asy-Syâtibî *inna waḍ'â asy-syarâi'i innmâ huwa li maşâlih al-'ibâd fî al-'âjil wa al-'âjil ma'an*.⁶⁵ In addition, the maintenance of human benefit must be in line with the theory of change (elasticity) that changes in law follow changes in the situation and environmental conditions as popular rules in Islamic law that it cannot be denied that legal changes are caused by changing times (*lâ yunkaru*

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⁶² Dede Rodin, "Rekonstruksi Konsep Fakir Dan Miskin Sebagai Mustahik Zakat," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 15, no. 1 (2015): 137–58.

⁶³ Amin, "Himpunan Fatwa MUI Sejak Tahun 1975.", 156.

⁶⁴ ʿĀlam al-Rāzī, "Tafsīr al-Fakhr al-Rāzī," *Juz V, Dar al-Fikr Li al-Thiba'wa al-Nasyr Wa al-Tanz, t. Th*, 1985, 113.

⁶⁵ Abu Ishaq Asy-Syâtibî, "Al-Muwâfaqât Fî Uşûl Asy-Syarî'ah" (Beirut: Dâr al-Kutub al-Ilmiyyah, n.d.), 54.

tahayyur al-ahkâm bi taghayyur az-zamân)⁶⁶, as well Ibn Qayyim al-Jauziyyah statement that changes in fatwas and their differences follow changes in times, places, situations and conditions, intentions and prevailing habits. (*tahayyur al-fatwâ wa ikhtilâfihâ bi ḥasabi al-azminah wa al-amkinah wa al-ahwâl wal an-niyyât wa al-'awâid*).⁶⁷ Contextualization of zakat mustahik occurs by paying attention to and placing great emphasis on maintenance to realize the benefit of humans to reach them for the happiness of the hereafter by providing benefits and rejecting difficulties for them as in the following quotation:

تغير الفتوى واختلافها بحسب تغير الأزمنة والأمكنة والأحوال والنيات والعوائد⁶⁸

According to the above quotation, to maintain human benefit, changes in Islamic law is possible due to the situations and conditions of the era. This is ⁶⁵ of the power of Islamic law with its accommodative nature to changing times and places. The eight groups, who are entitled to receive zakat can change, the criteria are in accordance with the situations and conditions faced by the Muslim community, the principle behind the distribution of these eight groups is justice, and social welfare.

Conclusion

Contextualization of *sabîllillâh* zakat in Indonesia experiences various kinds of dynamics along with the changes of the situation and conditions of the times. This is shown from the aspect of legality and social practice. The dynamics legality of *sabîllillâh* zakat can be seen from the expansion of meaning *âmil sabîllillâh* and *ibn as-sabîl* in several Fatwas of the Indonesian Ulema Council. Meanwhile, in terms of practice, it can be seen from the contextualization of mustahiq zakat carried out by Laznas Nurul Hayat Surabaya. Contextualization of *sabîllillâh* zakat by Laznas Nurul Hayat applied variously into three categories, namely static categories such as *Fakir*, *Miskin*, and *Amil* which are interpreted according to the developed Fiqh, categories of contextualization narrowing such as *Muallaf* which are limited to converts to Islam, and categories of expanded contextualization such as *riqâb*, *ghârim*, *sabîllillâh dan ibn as-sabîl* which experienced the expansion of the subject of zakat recipients. Contextualization of *sabîllillâh* zakat is a form of implementation of the value of human benefit (*maṣâlih al-'ibâd*) in the management of zakat in Indonesia as well as proving the rules which state that changes in law follow changes in the situation and conditions of the people.

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⁶⁶ Ali Ahmad Al-Nadawi, "Al-Qawaid Al-Fiqhiyyah: Mafhumuha," *Nasyatuha, Tathawwuruha, Dirasat Mualifatiha, Adillatuha, Muḥimmatuha, Tathbiqatuha, Dar Al-Qalam, Damaskus*, 1994, 123.

⁶⁷ Ibn Qayyim Al-Jauziyyah, "I'lâm Al-Muwaqqi'în 'an Rabb Al-'Âlamîn" (Mesir: Dâr al-Ja'îl, n.d.) 64.

⁶⁸ Al-Jauziyyah, 121.

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