

# Study the Philosophy of Islamic Law in Determination Percentage of Zakat Mal

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**Abstract:** *The issue of zakat in today's society is very complex and dynamic. Zakat, which is expected to be an instrument of economic empowerment of the people, must be able to explore its potential. One of the potentials of zakat that can be hope in the development of the Islamic economy is the determination of the percentage of zakat dynamically. This is interesting because the percentage of zakat is considered by some academics to be a fixed thing (tsubut) and cannot be changed, but is that true? And how is the actual determination of the percentage of zakat at the time of the prophet by looking at the socio-historical at that time? Then how is the percentage of zakat contextualized in the current era? This article is a normative-philosophical study, and it is library research using an Islamic legal philosophy approach to the percentage of zakat in this modern era. The result of this article is that the percentage of zakat is not standard (tsubut). Several narrations have implications for scholars' opinion that the percentage of zakat is seen from the masaqah in getting it and is evidence that zakat is dynamic. This is following al-Qaraji's opinion, namely by positioning the prophet Muhammad when setting the zakat percentage policy, not as a messenger of God but rather as a leader in regulating the policies of his people.*

**Keywords:** *Zakat Percentage; Dynamic Zakat; Islamic Law Philosophy; Determination Percentage*

**Abstrak:** Isu zakat dalam masyarakat saat ini sangat kompleks dan dinamis. Zakat yang diharapkan menjadi instrumen pemberdayaan ekonomi umat harus mampu menggali potensinya. Salah satu potensi zakat yang dapat diharapkan dalam pengembangan ekonomi Islam adalah penentuan persentase zakat secara dinamis. Hal ini menarik karena persentase zakat dianggap oleh sebagian akademisi sebagai hal yang tetap (tsubut) dan tidak dapat diubah, namun apakah itu benar? Dan bagaimana sebenarnya penentuan persentase zakat pada masa nabi dengan melihat sosio-historis pada saat itu? Lalu bagaimana konteks persentase zakat di era saat ini? Artikel ini merupakan kajian normatif-filosofis, dan merupakan

penelitian kepustakaan dengan menggunakan pendekatan filsafat hukum Islam terhadap persentase zakat di era modern ini. Hasil dari pasal ini adalah prosentase zakat tidak baku (tsubut). Beberapa riwayat berimplikasi pada pendapat ulama bahwa persentase zakat dilihat dari masaqaah yang mendapatkannya dan merupakan bukti bahwa zakat itu dinamis. Hal ini sesuai dengan pendapat al-Qarafi, yaitu dengan memosisikan Nabi Muhammad SAW dalam menetapkan kebijakan persentase zakat, bukan sebagai utusan Allah melainkan sebagai pemimpin dalam mengatur kebijakan umatnya.

**Kata Kunci:** *Penetapan Zakat; Zakat Dinamis; Filsafat Hukum Islam; Penetapan Persentasi*

## Introduction

Zakat is a social instrument that aims to help equalize the income of wealthy Muslims by distributing it to certain Mustahik. This is also emphasized in the letter al Hasr [59:7] “so that it will not be a perpetual distribution among the rich from among you”.<sup>1</sup> Zakat is also expected to provide an economical solution, especially for the poor who have difficulty in meeting their daily needs and other problems faced by Mustahik.<sup>2</sup>

The position and role of zakat can be a central point in the Islamic economy, this is because zakat can influence, shape, and direct the distribution of wealth to all aspects of society, stimulate economic growth, as a tool to stabilize the economic cycle, and encourage the level of social welfare. Even further, zakat plays a role in meeting the basic needs of people who suffer from the non-fulfillment of basic needs.<sup>3</sup>

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<sup>1</sup> مَا أَقَاءَ اللَّهُ عَلَى رَسُولِهِ مِنْ أَهْلِ الْقُرَىٰ فَلِلَّهِ وَاللِّرْسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَابْنِ السَّبِيلِ كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ ۚ وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا ۚ وَاتَّقُوا اللَّهَ ۚ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ

<sup>2</sup> M. Daud Ali, *Sistem Ekonomi Islam: Zakat dan Wakaf Jakarta* (Jakarta: UI Press, 2006). H. 40.

<sup>3</sup> Sayed Afzal Peerzade, “Place for an Expenditure Tax in The Islamic Fiscal System” 11 (1999).

If it is drawn from the early history of Islam, at first, zakat was required as a form of affection done voluntarily and was seen as synonymous with piety. In subsequent developments, zakat became a mandatory levy on property, including money, livestock, agricultural products, fruits, and merchandise.<sup>4</sup> Even with zakat, the state's economy can run and can support the employees whom Baitul Mal bears.<sup>5</sup>

In the current era, especially in Indonesia, data in 2019 compiled by lokadata from the Baznas report states that the potential for zakat in Indonesia is 230 trillion but only 8 trillion collected, or around 3.5 percent of the total potential.<sup>6</sup> Although the realization is still tiny, the growth of zakat from year to year has increased and shows a positive trend.

Even Law no. 23 of 2011 concerning Zakat Management explicitly makes zakat a public income that is specifically allocated to empower the poor and Mustahik with various problems. Well-managed and progressive zakat can be a tandem for poverty alleviation, especially in today's modern era where the sources of zakat are broad in scope. The obligation of zakat is not only on five things, namely livestock, valuables, plants, fruit, and merchandise,<sup>7</sup> but also, every property that develops must be paid zakat.<sup>8</sup>

Even further, the percentage of zakat should be understood dynamically. This means that zakat is issued by looking at how the property is obtained, whether easily or difficultly. This became the basis for when the Prophet determined the amount of zakat *urudh*

<sup>4</sup> Philip K. Hitti, *History of The Arabs*, trans. oleh R. Cecep Lukman Yasin dkk (Jakarta: Serambi, 2010). H. 166

<sup>5</sup> Caliph Abu Bakr ash Shidiq was chosen to be a leader in poor condition as a trader who could not meet his family's needs. For that Baitul Mal bears the needs of his family. See Rahmad Hakim, *Menjelemen Zakat: Histori, Konsepsi dan Implementasi* (Jakarta: Prenadamedia Grub, 2020). H. 10.

<sup>6</sup> Lokadata, "Penerimaan zakat, besar potensi minim realisasi," Portal Data, 18 Mei 2020, <https://amp.lokadata.id/amp/penerimaan-zakat-besar-potensi-minim-realisasi>.

<sup>7</sup> Muhammad bin Qosim al Ghazi, *Fathu al Qarib* (Bairut: Dar Ibn Hazm, 2005). H. 119

<sup>8</sup> Yusuf al Qardawi, *Dirasat Muqaranah li ahkamih wa falsafatih fi dha'i al Quran wa As Sunnah* (Bairut: Muassasah ar Risalah, 1973). H. 145.

*tijarah* of 2.5%. Because trade at that time had to take a long time, and there were even *masaqah* in the process. Then in determining agricultural zakat by setting 5% for non-rainfed agriculture and 10% for rain-fed agriculture, this shows that there are indications that in determining zakat expenditure, see from the aspect of whether the process is easy or not.

The issue of zakat in today's society is very complex and needs to be viewed dynamically. Zakat, which is expected to be an instrument of economic empowerment of the people, must be able to explore its potential. One of the potentials of zakat that can be hope in the development of the Islamic economy is the determination of the percentage of zakat dynamically. This is interesting because the percentage of zakat is considered by some academics to be a fixed thing (*tsubut*) and cannot be changed, but is that true? And how is the actual determination of the percentage of zakat at the time of the prophet by looking at the socio-historical at that time? Then how is the percentage of zakat contextualized in the current era?

This study will discuss the text and context of determining the percentage of zakat at the prophet's time and the social conditions at that time. In looking at this problem, the author uses an Islamic law philosophy approach to examine the percentage of zakat. The approach to the philosophy of Islamic law is a method that functions as an entry point and a bridge in integrating and interconnecting the object of study. This approach can broadly look at the hadith texts regarding the percentage of zakat with its socio-historical conditions and examine it in depth to reveal the wisdom of *at-tasyri* in determining the percentage of zakat.

### **Philosophy of Islamic Law as an Entrance to Understanding the Determination of the Percentage of Zakat**

The development of the methodology of Islamic law in modern scientific treasures is constructive in understanding the determination of law following conditions and reality. The planting of the Islamic paradigm of *rahmatan li al 'amin* must be strengthened in looking at issues related to the economy-society. Amin also revealed that the concept of *rahmatan li al 'amin* could be achieved by conducting a dialogue between Islamic studies and contemporary

humanities social sciences. So that Islamic studies and social humanities sciences can actively provide input, criticism, and things that need to be improved for the common good. This concept is not only for the internal Muslim community itself but also can provide benefits for the universe.<sup>9</sup>

The concept of dialogue between religious sciences -related to law and social humanities- is one of the main problems in studying Islamic legal philosophy. If it is assumed that the law is immutable and permanent, how can a law accommodate the changing times that always demand adaptability according to the times?<sup>10</sup> This can be answered if a scholar uses the philosophical foundation of Islamic law. This means that he tries to think progressively and believes there is a need for new *ijtihād* to solve growing problems by using legal principles such as *maslahat*, *maqasid* and other tools in Islamic legal philosophy. Linant de Bellafonds and Shubi Mahmashani also emphasize that Islamic law can be adapted according to changing times by emphasizing *ijtihād* (independent legal thought).

The philosophy of Islamic law can accommodate and become the entry point for scholars in formulating laws following existing realities. Fathurrahman Djamil emphasized that Islamic legal philosophy can analyze Islamic law (as an object) methodically and systematically and can produce basic and scientific information.<sup>11</sup> The application of Islamic legal philosophy produces two tasks, namely critical and constructive tasks. Both play an essential role in reviewing Islamic law, which is already considered established and absolute, without looking at the actual state of society. The critical task acts as an explorer of questions from the established paradigm in Islamic law. In contrast, the constructive task acts as a tool in fostering,

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<sup>9</sup> Amin Abdullah, *Multidisiplin, Interdisiplin dan Transdisiplin Metode Studi Agama dan Studi Islam di Era Kontemporer* (Yogyakarta: IB Pustaka, 2020). H. 52-53.

<sup>10</sup> Muhammad Khalid Masud, *Filsafat Hukum Islam Studi Tentang Hidup dan Pemikiran Abu Ishaq Al Syathibi*, trans. oleh Ahsin Muhammad (Bandung: Pustaka, 1996). H. 1-2.

<sup>11</sup> Fathurrahman Djamil, *Filsafat Hukum Islam* (Ciputat: Logos Wacana Ilmu, 1997). H. 37.

constructing, building, and uniting the branches of Islamic law in a unified and inseparable system.<sup>12</sup>

The application of Islamic legal philosophy related to the dynamics of the percentage of zakat mal can be dissected using the Maqasid as Sharia theory by integrating the text-reason-reality methodologically, systematically, and scientifically. In this case, how is the dynamic percentage of zakat seen from the maqasid perspective so that it can be placed in the point of public benefit. Maqasid as Sharia has five general principles: *hifz ad din*, *hifz al mal*, *hifz an nafs*, *hifz al aql* and *hifz al nasl*. However, in this topic, we will discuss *hifz al mal* which is closely related to the benefit of the people's economy towards social welfare.

### The Concept of Categorizing Sunnah

Understanding the hadith in its entirety requires serious attention to the texts spoken by the Prophet. This understanding will lead someone to see the socio-historical why a hadith appears. In this case, al Qarafi, in his work *al Furuq* explains that the sunnah is divided into three categories, they are:<sup>13</sup>

- Direct delivery of messages (risalah) by the Prophet or actions in the capacity of a messenger (at *Tasaruf bi al Risalah*)
- Sunnah with a specific purpose, outside the direct delivery of the message. The related sunnah must be understood and applied in Islamic law according to the context of its objectives.
- Sunnah is in the area of daily human decisions or actions, which ibn Asyur calls "the goal of non-instruction."

Al-Qarafi also explains this categorization: some of the Prophet's actions were *tabligh* and fatwas, some were his decision as a judge, and partly his decision as head of state. Indeed there is a debate about the Prophet's actions. This is because the life of the Prophet has two sides or even more.

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<sup>12</sup> Juhaya S. Praja, *Filsafat Hukum Islam* (Bandung: Piara, 1993). H. 21.

<sup>13</sup> Abu al Abas syihab al Din al Qarafi, *al Furuq* (Dar al Maarif, t.t.). h. I:205.

Shaykh Saltut explained that to find out whether the Sunnah is *tabligh* or not, it is necessary to pay attention to the conditions under which the prophet carried out the Sunnah.<sup>14</sup> So that the reviewer can classify the nature of the hadith, whether it is a revelation or a decree of the prophet as a leader or an ordinary person.

### **Understanding Hadith in the Text and Context of Determining the Percentage of Zakat**

A hadith will be understood comprehensively when the reviewer understands why a hadith appears and also knows the relationship of the hadith with other hadiths or the Koran. The study of hadith, which is growing and becomes a discourse in an academic climate, makes a hadith no longer seen from one point of view. Applying the study of hadith in micro and macro will make it easier to categorize the hadith to be studied.<sup>15</sup>

The study of zakat hadiths related to the amount issued (percentage) of zakat is rarely touched and studied in depth. It is still rare for scholars or academics to discuss the percentage of zakat, which has the potential to be dynamic, especially in the current era, which is very different from the era of the prophets.<sup>16</sup>

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<sup>14</sup> Mahmud Syaltut, *al Islam Aqidah wa Syariah* (Cairo: Dar As Syuruq, 2001). H. 490.

<sup>15</sup> Understanding the hadith in micro and macro means understanding the hadith seen from its *asbab al wurud*. *Asbab al Wurud Khassah* (Micro) is a science that explains why the Prophet said his words and the times when the Prophet said them. See M. Hasbi ash-Shiddieqy, *Sejarah dan Pengantar Ilmu Hadis* (Semarang: Pustaka Rizqi Putra, 1999), hlm. 142-143. While *Asbab al Wurud 'Ammah* (Macro) is a general situation and condition in the context of what and when, and where the prophet delivered his words. See Said Agil Husin al-Munawwar dan Abdul Mustaqim, *Asbabul Wurud*, hlm. 21. It does not mean that all hadiths that do not have *Asbab al Wurud al Khassah* must be looked for their *Asbab al Wurud al 'Ammah*, because this does not apply to traditions that contain the supernatural or matters of *aqidah*. There is no need for *asbab al-wurud (al Khassah/ al 'Ammah)* because these loads are not affected by any situation. See Muh. Zuhri, *Telaah Matan Hadis Sebuah Tawaran Metodologi* (Yogyakarta: LESFI, 2003), hlm. 62-63.

<sup>16</sup> Academics who have studied the dynamics of the percentage of zakat that have been recorded by the author include: Yusuf al Qaradawi dalam fikih zakat

To understand how the percentage of zakat was determined, it is necessary to first know the socio-anthropology of the Arabian Peninsula at that time, then further discussion of the traditions related to the determination of the amount (percentage) in zakat. Here are some points to note:

### 1. Social and Economic Conditions

The Arabian Peninsula is characterized by its plains divided into two main groups: rural people (Bedouin) with nomadic or nomadic habits and urban residents. Bedouin people usually depend on themselves by raising livestock, camels, sheep, and goats. Bedouin people use their livestock by consuming meat and milk. On the other hand, they also make clothes, tents, and furniture from wool and sell them when their personal and family needs are met. This can also be a measure of the status of the Bedouin, that the more livestock they have, the richer they are and the higher their social status.

Meanwhile, urban people have two parts: residents who live in fertile areas as farmers, such as Yemen, Taif, Medina, Najd, and Khaibar. Residents in the area are accustomed to depending on their source of life through agriculture, although it is possible to raise livestock. Some residents work in the commerce field, especially those living in Makkah. At that time, Mecca was a commercial center.<sup>17</sup>

On the other hand, dry air and salty soil land conditions reduce the possibility of growing green plants.

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(1973), Masdar Farid dalam *Agama Keadilan Risalah Zakat (Pajak) dalam Islam* (1991), and Gusnam Haris in his *Dissertation Persentase Zakat Menurut Yusuf al Qaradawi dan Urgensinya Bagi Penerapan Zakat Oleh Baznas di Indonesia* (2019).

<sup>17</sup> Even the Prophet and Umar used to be shepherds. In the notes of Philip K Hatti, in the Arabian plains, horses are expensive animals whose feeding and care are pretty inconvenient for their owners, who mostly live in the desert. The owner of the horse is a symbol of luxury. The specialty of the horse is its reliable speed in lightning raids, wars, and hunting matches. In an Arabian village, in the middle of the dry season, when water was scarce, a small child would be left thirsty, while his horse-owning parents would pour the last of the water into a vessel for the horse to drink.



Most of the plants that grow are dates, the prima donna of agriculture in this area. Wheat is grown only near-certain oases,<sup>18</sup> such as in Yemen also, grains such as wheat are grown in areas of Oman and Hasa.

Grape is a plant cultivated in the Taif area and produces an alcoholic drink known as *nabidh az zabib*.<sup>19</sup> Olive trees originating from Syria are not yet known in the Hejaz. Other products from Arab oases are pomegranates, apples, apricots, almonds, oranges, lemons, sugar cane, watermelon, and bananas.<sup>20</sup>

## 2. Percentage of Zakat

At first, zakat was required as a form of affection carried out voluntarily, which was seen as synonymous with piety. Then in subsequent developments, zakat became a mandatory levy on the property, including money, livestock, agricultural products, fruits, and merchandise.<sup>21</sup>

Since 14 centuries ago, Islam has established technical rules for proper operations in collecting people's property and making it the first in the eyes of history.<sup>22</sup> Islam stipulates the concept of *nisab* (minimum limit), *miqdar* (percentage), *mal zakawi* (object of zakat),

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<sup>18</sup> Oasis at that time was more of an agricultural place, so oasis areas are famous for being fertile and easy to grow plants. Because the climate in the Arabian Peninsula is hot and rarely rains, then at certain times when it rains, desert plants for fodder will grow or even become water reservoirs in a wadi (small lakes) whose land is used for farming.

<sup>19</sup> Unlike the arak (*khamr*), which many Arab poets sing, it is an imported product from Hauran and Lebanon.

<sup>20</sup> Hitti, *History of The Arabs*. H. 16-36.

<sup>21</sup> Q.S [2]: 43, 83, 177, 262-271, 275-277)

<sup>22</sup> Islam came when the rulers were targeting the people at that time. Be it in the west centered on the Roman empire and in the east centered on Persia, the history of power is, in fact, the history of human oppression over man. They set tribute (udhiya) to the population without any clear rules of payment limits.

and *haul* (maturity) as generally accepted, definite and objective policies at that time regardless of social class.<sup>23</sup>

The following explains the percentage of zakat that has been carried out by the prophet and his companions, which was taken from the object of zakat in effect at that time. Four general percentage distributions are carried out in the era of the prophet and companions, namely 2.5%, 5%, 10%, and 20%. Here are the details:

#### a. Trading

The basis for the obligation of zakat on trade is in the Qur'an and Hadith. In the Qur'an, Surah al Baqarah [2:267]

يَا أَيُّهَا الَّذِينَ ءَامَنُوا أَنْفِقُوا مِنْ طَيِّبَاتِ مَا كَسَبْتُمْ وَمِمَّا أَخْرَجْنَا لَكُمْ مِنَ الْأَرْضِ

*“O you who have believed, spend from the good things which you have earned and from that which We have produced for you from the earth.”*

Imam Tabari said that this ayat means, "Take out zakat from some of the good you earn with your efforts, either from trade or carpentry in the form of gold and silver. Imam Jashas also emphasized the same thing, that *ما كسبتم* has the meaning of "the results of your trade." According to Imam Razi, the verse indicates that zakat is obligatory on all wealth obtained from business, including trade, gold, silver, and livestock.<sup>24</sup>

The basis of the Hadith narrated by Abu Daud from Samra bin Jundab<sup>25</sup>

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<sup>23</sup> Masdar Farid Mas'udi, "Zakat: Etika Pajak dan Belanja Negara Untuk Rakyat", Makalah pada Seminar Nasional Reformasi Pengelolaan Pajak dan Zakat: Peluang dan Tantangan Terkini, Program Studi Keuangan Islam Fakultas Syari'ah UIN Sunan Kalijaga Yogyakarta, 18 September 2006, hlm. 54.

<sup>24</sup> Qardawi, *Dirasat Muqaranab*. H. 300-310.

<sup>25</sup> Sunan Abu Daud, no 1335 (Al Alamiyah) or no. 1562 (Bait al Afkar ad Dauliyah), Kitab Zakat, Chapter: Should all assets (other than dinars and dirhams) be traded, zakat must be paid?

حَدَّثَنَا مُحَمَّدُ بْنُ دَاوُدَ بْنِ سُوَيْبَانَ حَدَّثَنَا يَحْيَى بْنُ حَسَّانَ حَدَّثَنَا سُلَيْمَانُ  
 بْنُ مُوسَى أَبُو دَاوُدَ حَدَّثَنَا جَعْفَرُ بْنُ سَعْدِ بْنِ سَمُرَةَ بْنِ جُنْدُبٍ حَدَّثَنَا  
 حُذَيْبُ بْنُ سُلَيْمَانَ عَنْ أَبِيهِ سُلَيْمَانَ عَنْ سَمُرَةَ بْنِ جُنْدُبٍ قَالَ أَمَا بَعْدُ  
 فَإِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يَأْمُرُنَا أَنْ نُخْرِجَ الصَّدَقَةَ  
 مِنْ الَّذِي نَعِدُّ لِلْبَيْعِ

*“The Messenger of Allah ordered us to give alms from everything we intend to sell.”*

The meaning of the word alms is zakat. Ibn Hazm emphasizes that if the word "alms" in the hadith does not mean zakat, then that understanding is far from the meaning shown by the logical reference of the hadith.

Daruquthni narrated from Abu Dharr, "I heard the Messenger of Allah say, camels are a charity, goats are a charity, and clothes are also charity." In this hadith, there is the word clothing by referring to the logic of the hadith, namely clothing that is traded. This can also be seen from the historical context that merchandise includes clothing, wool, cloth, etc.

From Turmizi narrates:

أدوا زكاة أموالكم

This hadith does not explain what wealth must be paid for zakat, but in general, it can be understood that what is meant is everything that can be traded.

The conditions for the issuance of zakat are:

- a. It has reached the *nisab*, which is equivalent to the *nisab* of gold and silver.
    - b. It has been through the haul.
    - c. From the start, it was intended to be traded.
- Technical payment of zakat:
- a. The balance sheet is calculated at the end of each year.
  - b. The calculation is combined with all items.
  - c. the price (*qimah*) is calculated, not only the goods.
  - d. Percentage spent 2.5% (like gold and silver).

## b. Livestock

The basis of the hadith on taking zakat on livestock is from Bukhari, a hadith from Abu Bakr's writings when he sent Anas bin Malik to Bahrain as a zakat officer.<sup>26</sup>

حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ الْمُثَنَّى الْأَنْصَارِيُّ قَالَ حَدَّثَنِي أَبِي قَالَ حَدَّثَنِي ثُمَامَةُ بْنُ عَبْدِ اللَّهِ بْنِ أَنَسٍ أَنَّ أَنَسًا حَدَّثَهُ أَنَّ أَبَا بَكْرٍ رَضِيَ اللَّهُ عَنْهُ كَتَبَ لَهُ هَذَا الْكِتَابَ لَمَّا وَجَّهَهُ إِلَى الْبَحْرَيْنِ بِسَمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ هَذِهِ فَرِيضَةُ الصَّدَقَةِ الَّتِي فَرَضَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى الْمُسْلِمِينَ وَالَّتِي أَمَرَ اللَّهُ بِهَا رَسُولُهُ فَمَنْ سئِلَهَا مِنْ الْمُسْلِمِينَ عَلَى وَجْههَا فَلْيُعْطَهَا وَمَنْ سئِلَ فَوْقَهَا فَلَا يُعْطِ فِي أَرْبَعٍ وَعِشْرِينَ مِنَ الْإِبِلِ فَمَا دُونَهَا مِنَ الْعَنَمِ مِنْ كُلِّ خَمْسٍ شاةٌ إِذَا بَلَغَتْ خَمْسًا وَعِشْرِينَ إِلَى خَمْسٍ وَثَلَاثِينَ فَفِيهَا بِنْتُ مَخَاضٍ أَنْثَى فَإِذَا بَلَغَتْ سِتًّا وَثَلَاثِينَ إِلَى خَمْسٍ وَأَرْبَعِينَ فَفِيهَا بِنْتُ لُبُونٍ أَنْثَى فَإِذَا بَلَغَتْ سِتًّا وَأَرْبَعِينَ إِلَى سِتِّينَ فَفِيهَا حِقَّةٌ طَرُوقَةٌ الْجَمَلِ فَإِذَا بَلَغَتْ وَاحِدَةً وَسِتِّينَ إِلَى خَمْسٍ وَسَبْعِينَ فَفِيهَا جَذَعَةٌ فَإِذَا بَلَغَتْ بَعْنِي سِتًّا وَسَبْعِينَ إِلَى تِسْعِينَ فَفِيهَا بِنْتُ لُبُونٍ فَإِذَا بَلَغَتْ إِحْدَى وَتِسْعِينَ إِلَى عِشْرِينَ وَمِائَةٍ فَفِيهَا حِقَّتَانِ طَرُوقَتَا الْجَمَلِ فَإِذَا زَادَتْ عَلَى عِشْرِينَ وَمِائَةٍ فِي كُلِّ أَرْبَعِينَ بِنْتُ لُبُونٍ وَفِي كُلِّ خَمْسِينَ حِقَّةٌ وَمَنْ لَمْ يَكُنْ مَعَهُ إِلَّا أَرْبَعٌ مِنَ الْإِبِلِ فَلَيْسَ فِيهَا صَدَقَةٌ إِلَّا أَنْ يَشَاءَ رَبُّهَا فَإِذَا بَلَغَتْ خَمْسًا مِنَ الْإِبِلِ فَفِيهَا شاةٌ وَفِي صَدَقَةِ الْعَنَمِ فِي سَائِمَتِهَا إِذَا كَانَتْ أَرْبَعِينَ إِلَى عِشْرِينَ وَمِائَةٍ شاةٌ فَإِذَا زَادَتْ عَلَى عِشْرِينَ وَمِائَةٍ إِلَى مِائَتَيْنِ سَاتَانِ فَإِذَا زَادَتْ عَلَى مِائَتَيْنِ إِلَى ثَلَاثِ مِائَةٍ فَفِيهَا ثَلَاثُ شِيَاهٍ فَإِذَا زَادَتْ عَلَى ثَلَاثِ مِائَةٍ فِي كُلِّ مِائَةٍ شاةٌ فَإِذَا كَانَتْ سَائِمَةً الرَّجُلِ نَاقِصَةً مِنْ أَرْبَعِينَ شاةً وَاحِدَةً فَلَيْسَ فِيهَا صَدَقَةٌ إِلَّا أَنْ يَشَاءَ رَبُّهَا وَفِي الرَّقَّةِ رُبْعُ الْعَشْرِ فَإِنْ لَمْ تَكُنْ إِلَّا تِسْعِينَ وَمِائَةً فَلَيْسَ فِيهَا شَيْءٌ إِلَّا أَنْ يَشَاءَ رَبُّهَا.

*"Bismillahir rahmaanir rahim. This is the obligation of zakat, which has been obligated by the Prophet sallallahu 'alaibi wasallam to the Muslims and as ordered by Allah and His Messenger regarding it. Whoever of the Muslims is asked about zakat according to the provisions then give it and if*

<sup>26</sup> Bukhari no. 1362 or Fathul Barri no 1454.

*asked for more than the provisions then do not give it, i.e. (in the provisions of zakat on camels) on every twenty-four camels and less than that the zakat is with a goat. Every five camels, the zakat is a goat. If it reaches twenty-five to thirty-five camels, then the zakat is one bintu makhadh. If it reaches thirty-six to forty-five camels, then the zakat is one female bintu pumpkin. If it reaches forty-six to sixty camels, then the zakat is one hiqqah that is ready to be fertilized by a male camel. If it has reached sixty-one up to seventy-five camels, the zakat is one jadza'ah. If it reaches seventy-six to ninety camels, then the zakat is two bintu pumpkins. If it has reached ninety-one to one hundred and twenty camels, then the zakat is two hiqqah ready to be fertilized by a male camel. If it is more than one hundred and twenty, the stipulation is that for every multiple of forty, the zakat is one bintu pumpkin, and for every multiple of fifty, the zakat is one hiqqah.*

*Furthermore, whoever does not own a camel except for four camels, then there is no zakat obligation for him unless the owner wants to pay zakat, because only for every five camels there is zakat, namely a goat. Furthermore, for the zakat of goats that are shepherded and not kept in cages, the stipulation is that if it has reached forty to one hundred and twenty heads, the zakat is one goat. If it is more than one hundred twenty to two hundred, then the zakat is two goats. The zakat is three goats if it is more than two hundred to three hundred heads. If it is more than three hundred, then the zakat is one goat in every multiple of one hundred. Furthermore, if a shepherd has less than one head of forty goats, then there is no zakat obligation for him unless the owner wants to take it out. And for zakat on silver (dirham) then the provisions are forty when (it has reached two hundred dirhams) and if it does not reach that amount but only one hundred and ninety then there is no obligation for zakat unless the owner wants to issue it.*

In this case, the Prophet did not explain clearly the nisab of cows. This could be because the number of cows in the Hejaz and its surroundings at that

time was tiny. Therefore, in his famous letters, the Messenger of Allah did not explain the obligatory provisions of zakat, as he explained the others.

Some scholars and it is a well-known opinion that the nisab of cows is 30 heads. This is confirmed in a narration from Ahmad, and four Sunan writers from Masruq from Mu'az bin Jabal said, "The Messenger of Allah has sent me to the land of Yemen, and he ordered me to take from every 30 cows his zakat a male or female calf (age one year or more) and from every 40 heads of zakat a female calf (2 years old)."

### c. Precious Metals

The determination of the obligation of zakat on gold and silver is determined by the Qur'an, Surah At-Taubah, [9:34-35]

.... وَالَّذِينَ يَكْنِزُونَ الذَّهَبَ وَالْفِضَّةَ وَلَا يُنْفِقُونَهَا فِي سَبِيلِ اللَّهِ فَبَشِّرْهُم بِعَذَابٍ أَلِيمٍ (٣٤) يَوْمَ يُحْمَىٰ عَلَيْهَا فِي نَارِ جَهَنَّمَ فُتَنُكُورًا بِهَا جِبَاهُهُمْ وَجُنُوبُهُمْ وظُهُورُهُمْ هَذَا مَا كَنَزْتُمْ لِأَنفُسِكُمْ فَتَوْفَؤُا مَا كُنْتُمْ تَكْنِزُونَ (٣٥)

*"And those who hoard gold and silver and spend it not in the way of Allah - give them tidings of a painful punishment. (34) The Day when it will be heated in the fire of Hell and seared therewith will be their foreheads, their flanks, and their backs, [it will be said], "This is what you hoarded for yourselves, so taste what you used to hoard. (35)."*

As for the provisions in the hadith, as explained by Anas, as Abu Bakr wrote when sending him to Bahrain, "and from the currency (gold and silver) is collected in the amount of 200 dirhams 2.5%. If it does not reach that amount, except for 190 dirhams, there is no zakat unless the owner wants it."

Based on existing history, the meaning of gold and silver is the type of currency used at that time. Basically, these two currencies were obtained from

the big kingdoms at that time. The dinar was used by most of the inhabitants of the Byzantine Roman empire, while the dirham was used in the Persian empire. And the Arabs use these two types as a medium of exchange in trade. However, the people of Mecca in the *Jabiliyah* era did not use it thoroughly. They had scales that were given unique names. Among them Rithl (12 Uqiyah), the price of 1 Uqiyah for 40 dirhams, *nasy* (20 dirhams or  $\frac{1}{2}$  *uqiyah*), and *nawat* (5 dirhams)

The nisab size for gold is 20 misqal or 20 dinars (1 dinar = 4.25 grams = 85 grams), while the nisab for silver is 200 dirhams, which is equivalent to 642 grams, and the percentage issued is 2.5% (*rub' al 'usyri*). The percentage mechanism is based on the hadith of the Prophet<sup>27</sup>

فَإِذَا كَانَتْ لَكَ مِائَتَا دِرْهَمٍ وَحَالَ عَلَيْهَا الْحَوْلُ فَفِيهَا خَمْسَةٌ دَرَاهِمٍ  
وَلَيْسَ عَلَيْكَ شَيْءٌ يَعْني فِي الدَّهَبِ حَتَّى يَكُونَ لَكَ عِشْرُونَ دِينَارًا  
فَإِذَا كَانَ لَكَ عِشْرُونَ دِينَارًا وَحَالَ عَلَيْهَا الْحَوْلُ فَفِيهَا نِصْفُ دِينَارٍ  
فَمَا زَادَ فَحِسَابِ ذَلِكَ

*"If you have two hundred dirhams, and have reached the haul, then there is zakat of five dirhams, and you are not obligated on anything, namely gold, until you have twenty dinars. So if you have twenty dinars and have reached the haul, then zakat is half a dinar, then the rest is according to that calculation."*

As for jewelry, most scholars think that accessories made of gold and silver must be paid zakat if it is intended to be traded or stored as an investment. If it is only used for decorative purposes, essentially, it will not be issued zakat. As the prophet said, "there is no zakat on jewelry."

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<sup>27</sup> Abu Daud no. 1342, Book of Zakat chapter Zakat Saimah (animals that are not grazed)

#### d. Rikaz and Mining goods

Rikaz is any treasure buried in the ground, even if there is an element of intent or not by human intervention. It is different from the mining goods which God created from the start. As for Rikaz, 20% of his zakat is issued, the same as the spoils of war (ghanimah). The word of God in Surah al Anfal [8:41]

وَأَعْلَمُوا أَنَّمَا غَنِمْتُمْ مِنْ شَيْءٍ فَإِنَّ لِلَّهِ خُمُسَهُ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ  
وَالْيَتَامَىٰ وَالْمَسْكِينِ وَأَبْنِ السَّبِيلِ إِنْ كُنْتُمْ ءَامَنْتُمْ بِاللَّهِ وَمَا أُنزَلْنَا عَلَىٰ  
عَبْدِنَا يَوْمَ الْفُرْقَانِ يَوْمَ التَّلَاقِ الْجَمْعَانِ وَاللَّهُ عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ

*And know that anything you obtain of war booty - then indeed, for Allah is one fifth of it and for the Messenger and for [his] near relatives and the orphans, the needy, and the [stranded] traveler, if you have believed in Allah and in that which We sent down to Our Servant on the day of criterion - the day when the two armies met. And Allah, over all things, is competent.*

Prophet said:

قَالَ الْعَجْمَاءُ جُبَارٌ وَالْبِنُرُ جُبَارٌ وَالْمَعْدِنُ جُبَارٌ وَفِي الرِّكَازِ الْخُمْسُ

In terms of rikaz and minerals, the fiqh scholars have different views. According to Malikiyah, the two are different. Mining includes gold, silver, copper, tin, and sulfur, which Allah created to be extracted and sought with effort. Meanwhile, Rikaz is a treasure found or hidden treasure from the previous people, so the level is 20% because there is no effort in finding it. Nevertheless, if the production or search is large and used for the public interest, the zakat is only 2.5%.

Syafi'iyah also sees the difference between minerals and Rikaz. Specifically, for gold and silver, the percentage is 2.5% without having to wait for haul and other mining goods, which is analogous to plants and fruits, which is between 5%-10% on the basis that they have grown and developed by



themselves when lifted from the ground. Meanwhile, the percentage of rikaz is 20%.

**e. Agriculture and Fruits**

The basis for the obligatory zakat on agriculture and fruits is Surah al-Baqarah [2:267] which reads:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا أَنْفِقُوا مِنْ طَيِّبَاتِ مَا كَسَبْتُمْ وَمِمَّا أَخْرَجْنَا لَكُمْ مِنَ  
الْأَرْضِ

And al An'am [6:141]

كُلُوا مِنْ ثَمَرِهِ إِذَا أَثْمَرَ وَءَاتُوا حَقَّهُ يَوْمَ حَصَادِهِ

In the hadiths narrated:

- Muslim narrates from the source Jabir from the Prophet s.a.w

فِيَمَا سَقَّتِ الْأَنْهَارُ وَالْعَيْمُ الْعُشُورُ وَفِيَمَا سَقَى بِالسَّائِيَةِ نِصْفُ الْعَشْرِ

*"Which is irrigated with a river or rain, the zakat is one-tenth, and if it is irrigated with the help of animals, the zakat is one-twentieth."*

- Yahya bin Adam narrated in al-Kharai from the source Anas

*"The Messenger of Allah s.a.w. obligated that the rain of one-tenth irrigated the zakat, and that which was irrigated by pinwheels, animals, buckets, and sprinklers, the zakat was one-twentieth."*

- Ibn Majah narrated from Mu'az

*"I was sent by the Messenger of Allah s.a.w. to Yemen to collect from that which is irrigated by rain and groundwater (ba'l) as much as a tenth, and from that which is irrigated with the help of a windmill as much as a twentieth."*

Abu Ubaid said that what is meant by al-Ba'l is land that gets water from its groundwater without irrigation (as many vines and fields in Palestine). Likewise, all land that is irrigated without any means of irrigation, either from rain or water flowing from

mountains, rivers, or big springs, or gets water from its groundwater, all of which is 10% zakat.<sup>28</sup>

Al Mughni says, "In short, land that is irrigated with irrigation efforts, for example with the help of animals, buckets, windmills; or others, the zakat is 5%. This is due to the existence of a business so that the obligation to pay zakat is aborted for cost reasons, which means it is pretty reasonable if it is given relief. And also, because zakat is only obligatory on wealth that is growing, while the irrigation business causes that development to decrease, therefore the obligation to be paid also reduced."<sup>29</sup>

### **Dynamic Zakat Percentage between 2.5%-20%**

In general, the distribution of the percentage of zakat consists of four parts, they are:

a. Zakat percentage 2.5%

Generally, the nisab is measured by the value of gold, namely currency, commerce, and livestock. Especially for livestock, sometimes it can be lower than 2.5%, such as the percentage of goats that are already above 120 heads and experience a gradual increase when it reaches ten times the nisab.

b. Zakat percentage 5%

The amount of this zakat, in general, is zakat on fruit and agriculture. The percentage of zakat issued is 5% with an effort to develop and cultivate agriculture. However, there is an opinion that zakat ma'adin can have 5-10% potential because it is analogous to plants or agriculture.

c. Zakat percentage 10%

The same as above, the 10% percentage is used when the management does not cost a lot and tends to

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<sup>28</sup> Qardawi, *Dirasat Muqaranah*. H. 356.

<sup>29</sup> Qardawi.

get an abundance or assistance from nature itself in its management. So that someone has to manage without any other costs from the results of his business.

d. Zakat percentage 20%

This percentage is spent explicitly on rikaz (buried objects) and mines. However, there are differences of opinion regarding the purpose of the mine. It is even possible that when the mining goods have been produced, the value of the zakat percentage will be reduced from 20% of the existing provisions.

In determining the percentage, the Prophet considered justice for muzakki and mustahik, so that in issuing zakat, muzakki were not burdened and mustahik could benefit from the wealth of muzakki. This means that the percentage of zakat can be dynamic depending on how to manage it. Yusuf al Qaradawi also emphasizes this in the percentage of zakat on livestock. In the hadith narrated by Ali bin Abi Talib and the hadith narrated by Umar bin Khatab.

The two hadiths talk about how when there is no animal for zakat, and there is only an age difference. Then what is the stipulation for the age difference? From Ali narrated

إِذَا أَخَذَ الْمُصَدِّقُ سِنًّا دُونَ سِنِّ، أَوْ فَوْقَ سِنِّ، رَدَّ عَشْرَةَ دِرَاهِمٍ

From Umar narrated

أنه أمر برد شاتين أو عشرين درهما

In these two hadiths, there is one common thread regarding the Prophet's provisions regarding the difference in zakat between the age groups of the animals being given zakat, namely by valuing two goats or money worth ten dirhams (in the history of Ali) and twenty dirhams (as in the history of Umar). This provision is not standard because comparing camels with goats - if the value of the two tails is considered constant - will be very contrary to the value of justice because sometimes the price of goats can be low or expensive depending on the selling price at that time, this is also the same as now.

For this reason, it can be concluded that in determining the percentage of zakat, the Prophet positioned himself as the head of state by taking policies that followed the circumstances at that time. Furthermore, in understanding cow zakat, the Prophet chose to

remain silent and did not determine the nisab. So there are various narrations regarding the zakat of cows ranging from 5 tails equated with camels, 30 heads, and even 40 heads.

The silence of the Prophet, according to Yusuf al-Qaradawi, shows that zakat collections can be *ijtibadi* depending on the time, circumstances, and where they are located. Sometimes the Messenger of Allah differed in setting a policy, as evidenced by the above narrations. The Prophet's policy implicitly set the law as a form of determining benefit and justice at that time, and maybe it might change with the conditions of the times to come.

Determining this percentage is the same as agricultural and mining zakat. The effort and the costs incurred can be seen whether the percentage is large or small. Rikaz is calculated as 20% because there is no business burden and is equated with ghanimah. This is considered fair because, without effort, a person can get valuable and valuable assets. However, if there is a business, it can be withdrawn to a percentage of 5 or 10%.

Reflecting on the opinion of Yusuf al Qaradawi that the amount of zakat will increase if the level of difficulty decreases, on the contrary, the amount of zakat will decrease if the effort and costs increase. This leads to the understanding that the provision of zakat is not standard and depends on whether or not it is easy to produce. However, it should be underlined that religion has set a simple percentage of zakat, namely 2.5% for gold, silver, and commercial, 5% for watered plants, 10% for plants without tools, and watered manually, and 20% for rikaz and mining. This simple percentage is used to make it easier to follow.

Concerning Maqasid ash Syariah, the dynamics of the percentage of zakat can be included in the protection of assets or *hifz al mal*. This means that the wealth does not only revolve around the rich but can also keep away from the behavior of capitalism so that zakat can truly prosper the *mustahik*. Furthermore, the dynamics of the zakat percentage based on the value of justice is essential for *muzakki* and *mustahik*. It has become crucial in today's era. Using the paradigm that the percentage of zakat is dynamic, recent cases related to zakat can be appropriately resolved scientifically and systematically. The percentage of zakat obligatory assets can be determined by

looking at the effort and costs obtained while still looking at the guidelines for justice between muzakki and mustahik.

## Conclusion

Zakat is an obligation for Muslims on their property that has reached the stipulated provisions. The amount of zakat starting from 2.5-20% is a simple measure so that people can take advantage of the stipulation. The provisions of zakat are not standard. This is based on the fact that many narrations can influence scholars' opinions on the percentage of zakat. This is proof that zakat is dynamic.

The percentage of zakat confirms that the position of the prophet when issuing a policy on zakat is as the head of state so that the policy is dynamic and not rigid. This is also following the maqasid ash sharia, namely hifz al mal, to protect assets for the benefit of muzakki and mustahik.

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