

Law, Society and Tax Law Enforcement in a Sharia Context

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ABSTRACT

The paper "Law, Society, and Tax Law Enforcement in a Sharia Context" comprehensively explores the intersection between Islamic legal principles, the social structure of society, and tax law enforcement practices. The research focuses on how Islamic law views and regulates tax collection, highlighting the balance between the fiscal needs of the state and moral obligations towards society. With a multidisciplinary approach, this paper examines the impact of tax regulations on social and economic life, as well as how sharia principles can be applied to create a fair and efficient taxation system. The study provides insights into how tax law enforcement is regulated in Islamic sharia, as well as the challenges and opportunities that arise in its implementation in contemporary society.

Keywords: Law, Society, Law Enforcement, Tax Law, Social Regulation

ABSTRAK

Makalah "Law, Society, and Tax Law Enforcement in a Sharia Context" secara komprehensif mengeksplorasi persimpangan antara prinsip-prinsip hukum Islam, struktur sosial masyarakat, dan praktik penegakan hukum perpajakan. Penelitian ini berfokus pada bagaimana hukum Islam memandang dan mengatur pemungutan pajak, menyoroti keseimbangan antara kebutuhan fiskal negara dan kewajiban moral terhadap masyarakat. Dengan pendekatan multidisiplin, makalah ini mengkaji dampak peraturan perpajakan terhadap kehidupan sosial dan ekonomi, serta bagaimana prinsip-prinsip syariah dapat diterapkan untuk menciptakan sistem perpajakan yang adil dan efisien. Studi ini memberikan wawasan tentang bagaimana penegakan hukum perpajakan diatur dalam syariah Islam, serta tantangan dan peluang yang muncul dalam implementasinya di masyarakat kontemporer.

Kata kunci: Hukum, Masyarakat, Penegakan Hukum, Hukum Perpajakan, Peraturan Sosial

INTRODUCTION

Indonesia is among the developing nations that remains committed to advancing sustainable economic development. In this context, the involvement and cooperation between the government and citizens become crucial elements. One of the public financial instruments that plays a central role in this development

framework is the taxation system in Indonesia. Taxes are perceived not solely as a mechanism for generating state revenue, but also as a strategic instrument essential to the financing and advancement of national development programs. From this perspective, the role of taxation serves as an indicator of economic independence, reflecting the state's capacity to effectively and autonomously manage its financial resources in pursuit of sustainable economic development objectives. (Firdaus, 2019).

Sukirno (2006 in Aini, 2019), government initiatives to reform the tax system are classified as fiscal policies, which exert a direct influence on the structure and performance of the State Budget (APBN). Taxation constitutes the primary source of state revenue for Indonesia. An analysis of the components of the State Budget (APBN) over the years indicates that taxes consistently represent the largest source of government revenue and have shown a steady increase in support of national development efforts. (Sri Rahayu & Wijaya, 2021).

The state can be conceptualized as a comprehensive organizational entity established within a defined territory, originating from a social contract among its members. Its primary role is pivotal in societal life, with a central focus on promoting the welfare and well-being of the population. The state designs various policies including in the economic aspect whose main goal is to ensure that each individual obtains fair benefits, especially in efforts to fight poverty and plan for sustainable economic growth (Rizqulloh et al., 2023).

In its efforts to achieve economic goals related public assets through the tax system, of course, the government must also consider Islamic teachings that must be implemented by Muslims who are the majority of the population of the Republic of Indonesia (Ichsan, 2018). The obligation of a Muslim to pay taxes set by the government is an act of obedience in state life. In essence, the Qur'an and hadiths does not support taxation (dharibah) as a means of generating state revenue because Islam mandates zakat for those who fulfill its requirements (Choirunnisak, 2023).

A comparative analysis of tax and zakat, from both sharia and state legal perspectives, reveals significant distinctions, despite their shared function as mechanisms for generating public revenue for the common good. Zakat denotes a mandatory financial obligation for Muslims, requiring the allocation of a specified portion of wealth in accordance with the principles and regulations of sharia law. Meanwhile, in state law in Article 1 of the KUP Law, "Taxes are mandatory contributions to the state owed by individuals or entities that are compelling based on the Law by not getting direct rewards for state purposes for the greatest prosperity of the people" (Zahroh & Harkaneri, 2020).

In Islamic teachings, the principle of private ownership is recognized and not restricted, but the prohibition of acquiring wealth through illegal and immoral means is emphasized. From an Islamic perspective, accumulated wealth is considered to

contain the rights of others, in line with sharia principles. In contrast, under positive law, such assets are regarded as state property rather than the possession of individual. Nonetheless, within certain limits, state leaders and other officials may use such assets to fulfill their personal needs (Ichsan, 2018).

In the context of Islamic sharia, the formulation and enforcement of laws concerning societal matters—such as taxation—should fundamentally be guided by considerations of public benefit (*maslahah*).” (Fatarib, 2019). However, research by Christianto (2014), Ari et al (2017), Arifin (2018) in (Irawan, 2020) found the fact that many legal cases in the form of tax evasion or corruption in Indonesia, which have also become public news in the community, have triggered people's disobedience to become taxpayers. In line with this, research by Soemitro (2011) and Wahyuningratri (2018) in (Mukoffi et al., 2022) states that taxpayers whose level of compliance is relatively low cause reluctance to pay taxes on time or even not pay taxes at all. Taxpayer non-compliance is influenced by the perception of tax corruption and tax justice. The results of Hayati & Aslilah's research (2020) obtained data that for some people taxes are felt more as a burden because there is no direct reward felt and the nature of payment is forced. Data from other studies say tax revenue in general

Not achieving the targets set by the government in various forms of public facilities and infrastructure makes people not feel obliged to comply with state regulations, especially for people who do not have the ability to pay due to economic limitations (Aini, 2019).

Based on the background of the issue, this study aims to examine the law, society and tax law enforcement in the context of sharia.

METHODS

This study employs a qualitative research methodology, utilizing a library research approach as the primary means of data collection and analysis. The literature study encompasses theoretical analysis, scholarly works, and relevant references that explore the norms, values, and societal practices within the field under observation (Sugiyono, 2019). The data used is secondary data derived from literature such as journals, scientific papers and other sources related to the research topic.

RESULTS AND DISCUSSION

Basic Concept of Tax

In his book, Prof. Dr. Rochmat Soemitro defines tax as a contribution from the people to the state treasury, mandated by law, where no direct compensatory services are provided in return. These funds are utilized to finance public expenditures, including public investments. From a legal perspective, Soemitro (Purkon, 2014)

defines tax as an obligation arising from law, which compels citizens to contribute a specified portion of their income to the state.

In a country that adheres to the rule of law, all matters concerning taxation must be governed by legislation. In Indonesia, the legal basis for tax collection is outlined in the 1945 Constitution, Article 23, paragraph 2, which stipulates that taxes and other levies must be grounded in law. The essence of this article is that taxes represent a transfer of wealth from the private sector to the public sector, intended to finance state expenditures, without the provision of directly corresponding reciprocal services. In this context, taxes are essentially the wealth of the people entrusted to the state. Article 23 paragraph 2 holds profound meaning: it determines the fate of society, as the people are expected to influence their own future by participating in the formation of tax laws through their elected representatives in the House of Representatives. Hence, it is essential that citizens choose representatives who are competent and genuinely committed to advocating for the people's interests and aspirations.

Although taxation can be perceived as burdensome, its legitimacy stems from the fact that it has been deliberated and approved by the people's representatives, thus making it a binding legal obligation. In this regard, taxes cannot be viewed as a form of arbitrary deprivation of wealth, since they are enacted through formal legal processes. However, taxes also cannot be considered purely voluntary contributions, as they entail legal obligations and penalties for non-compliance. Furthermore, the existence of tax laws ensures legal certainty for taxpayers and upholds the principle of justice. An equally important consideration in the formulation of tax policy is the principle of equity, given the wide disparity in economic capacity and living standards across different segments of the population.

The Indonesian government's policy is outlined in the State Budget Plan (RAPBN), which is then submitted to the House of Representatives (DPR) for approval and ratification into law as the APBN. The APBN serves as a detailed framework for the government's planned activities, aimed at generating income and expenditures to support the functioning of government operations and national development. In its efforts to promote economic growth, the state plays a key role in maintaining domestic security, ensuring national defense, administering the judiciary, and providing goods and services that cannot be effectively supplied by private enterprises. These things are the responsibility of the government in its implementation, aims to ensure the conduciveness of the country for its citizens, fair and wise policies and build infrastructure and development. This is carried out by the government by conducting fiscal policy, namely the management of state revenues and expenditures intended for the welfare of its citizens (Hasbi, 2021 in Miskiyah et al., 2022).

Zahroh & Harkaneri (2020) explain that taxes according to positive law or state law are regulated in Indonesian Law Number 6 of 1983, namely the KUP Law Article 1 Chapter 1 concerning.

General Provisions and Tax Procedures which has been last amended by Law of the Republic of Indonesia Number 16 of 2009, namely:

1. Taxes are mandatory contributions to the state owed by individuals or entities that are compelling based on law by not getting direct rewards and are used for state purposes for the greatest prosperity of the people.
2. Taxpayers are individuals or entities, including taxpayers, tax deductors, and tax collectors, who have tax rights and obligations in accordance with the provisions of tax laws and regulations.
3. Taxable Entrepreneurs (PKP) are entrepreneurs who deliver Taxable Goods (BKP) and/or Taxable Services (JKP) that are subject to tax under the 1984 Value Added Tax (VAT) Law and its amendments.

According to Law No. 28 of 2007, article 1, "Taxes are compulsory contributions to the state owed by individuals or entities that are compelling based on law with no direct reward and are used for state purposes for the greatest prosperity of the people."

Basic Concept of Tax in Islam

Etymologically, the Arabic term for tax is 'Dharibah,' which encompasses meanings such as to obligate, determine, set, impose, or explain (Munawwiw, 2002 in Fatarib, 2019). Dharibah can also be interpreted as a levy so that the position of taxes in Islam must be in accordance with Islamic law. The characteristics of taxes (dharibah) according to sharia are as follows;

1. Taxes (dharibah) are temporary and not continuous; they may only be imposed when the Baitul Mal has insufficient assets or is facing a shortfall.
2. Taxes (dharibah) may only be levied for expenses that are obligatory on Muslims and are limited to the amount necessary for such obligatory expenses.
3. Taxes (dharibah) are only taken from Muslims.
4. Taxes were only levied on wealthy Muslims.
5. The tax levied corresponds to the amount of financing required.
6. Taxes may be abolished when they are no longer necessary.

For the Indonesian context, the legal umbrella for the Directorate General of Taxes (DGT) not to be selective in applying sharia-based taxation rules in Indonesia has been issued, namely Government Regulation (PP) Number 25 of 2009 with the title of income tax (PPH) on sharia-based business fields. Therefore, income obtained from sharia-based businesses and transactions by both personal and corporate taxpayers can be subject to these rules.

Islamic fiscal policy refers to the regulation of government expenditures and revenues, with the primary objectives of maintaining economic stability, fostering growth, and achieving optimal prosperity both in this world and the hereafter. Fiscal policy has been known in Islamic economic theory for a long time, since the time of the Prophet Muhammad SAW. and Khulafaur Rasyidin, which was then developed by scholars. Fiscal policy at that time was carried out by adjusting the development of Islam and the situation at that time such as the situation of the expansion of Muslim territorial power at that time.

From an Islamic economic perspective, fiscal policy consists of two main instruments: first, revenue policy, which is embodied in tax policy; and second, expenditure policy. Both of these instruments are reflected in the state budget. Throughout Islamic history, fiscal policy has played a strategic role in shaping well-planned and directed governance of state finances. Adiwarmanto Azwar Karim in the book *History of Islamic Economic Thought*, states that at least the fiscal policy instruments recorded at the beginning of the Islamic government are as follows:

- a. Increase in national income and labor participation rate. As a leader, the Prophet had already planned steps to begin the intensification of community development.
- b. The implementation of the Prophet's tax policies such as kharaj, jizyah, khums, and zakat led to price stability and reduced inflation.
- c. In preparing the budget, expenditures that lead to the public interest are always prioritized, such as infrastructure development (Karim, 2016).

In the Islamic perspective, there are two views or opinions from different scholars. The first opinion is that the imposition of taxes is a form of wrongdoing. On the contrary, the second opinion allows the existence of a tax system on the grounds that the tax law can be mandatory because one of the Islamic behaviors is to obey *waliyatul amri* where *amri* is the government. This taxation system should follow the provisions of the law because the tax levy will be allocated to the community to be enjoyed in the form of services or facilities provided by the state (Rizqulloh et al., 2023).

Abu Yusuf stated that all the Khulafa' al-Rashidun emphasized that taxes should be collected with justice and generosity. They should not exceed the people's ability to pay, nor should they impede their capacity to meet basic daily needs. Abu Yusuf supported the authority of the ruler to adjust taxes, either increasing or decreasing them, based on the financial capacity of the people. If state resources are insufficient, the state must raise funds from the public to meet communal needs. When the benefits of state expenditures are directly enjoyed by the people, it becomes their obligation to bear the associated costs. Previous scholars have provided general rules based on the Quran and Hadith in guiding economic policy as follows:

1. QS. Al-Hasyr, verse 7, emphasizes the concept of wealth distribution and underscores Allah's guidance on how wealth should be managed to ensure equity within society. It mandates that wealth must be shared across all segments of society, and that it should not be concentrated solely among the wealthy. The circulation of wealth among a limited group would lead to injustice, depriving the broader community of its fair share. This prohibition is emphasized by Ali Shariati, who said that in the Quran, two-thirds of its verses contain the obligation to uphold justice or economic empowerment, and hate injustice (Fikri et al., 2018).
2. QS. Al-Maidah, verse 2, highlights that mutual assistance, as endorsed in Islam, is centered on promoting goodness and piety. This principle extends to how taxpayers, with sincerity, support the government by fulfilling their tax obligations. The government trustfully runs according to fiscal objectives (Zabidi, 2020).
3. Hadith Reported by Thabrani, No:891, Baihaqi, No:334, "Verily the Messenger of Allah S.A.W said: Verily, Allah loves a man who, when he works, does it earnestly".
4. Furthermore, it is also explained by H.R Bukhori No.6015, "Imam Al-Bukhari stated that Muhammad bin Sinan narrated to us, Qulaih bin Sulaiman narrated to us, the narration was from Atha' from Yasar, from Abu Hurairah R.A who said: The Messenger of Allah (SAW) said: If a trust is wasted, then wait for the time of its destruction. Abu Hurairah asked, 'How should trust be placed, O Messenger of Allah?' The Messenger of Allah replied, 'If a matter is entrusted to someone who is not qualified, then await its destruction.' (Hamdan et al., 2021).

CONCLUSION

One of the fundamental objectives of Islamic sharia is to ensure the welfare of wealth and the well-being of its owners. Both aspects must be harmonized, and in the context of taxation, this harmony is reflected in policies that serve to bridge the legal framework and fiscal strategy. The community, as taxpayers, and the government, as waliyatul amri or leaders represented by the House of Representatives in drafting the state budget must adhere to Islamic principles based on the Qur'an and Hadith.

Therefore, when either party the state or the citizens fails to fulfill their respective rights and obligations, the legal sanctions established by the state must be implemented. In Islamic governance, taxation functions not only as a fiscal instrument but also as a means of wealth redistribution and a tool to address social inequality. The Islamic taxation system thus plays a vital role in promoting economic sustainability and enhancing social welfare within Muslim societies.

BIBLIOGRAPHY

- Aini, I. (2019). Fiscal policy in Islamic economics. *Al-Qisthu: Journal of Legal Sciences Studies*, 17(2), 43–50. <https://doi.org/10.32694/010760>
- Choirunnisak. (2023). Socialization of tax introduction in the perspective of Islamic economics at MAN Satu Ogan Ilir Regency. *AKM: Action to the Community*, 3(2), 371–382. <https://doi.org/10.36908/akm.v3i2.637>
- Fatarib, H. (2019). Taxes in the perspective of Sharia economic law. *Istinbath: Journal of Law*, 15(2), 337. <https://doi.org/10.32332/istinbath.v15i2.1265>
- Fikri, A. L. R., Yasin, M., & Jupri, A. (2018). The concept of pesantren cooperative management for community economic welfare: A study of Surah Al-Hasyr verse 7. *Islamic Economics Scientific Journal*, 4(02), 91–102. <https://doi.org/10.29040/jiei.v4i2.249>
- Firdaus, M. S. (2019). Sharia review of the allocation of tax funds in Indonesia. *Business Sketches*, 6(1), 59–67. <https://doi.org/10.35891/jsb.v6i1.1606>
- Hamdan, M. N., Bulutoding, L., & Sumarlin. (2021). Review of tax volunteer performance in an Islamic perspective to improve tax compliance. *ISAFIR: Islamic Accounting and Finance Review*, 2(2), 205–220. <https://doi.org/10.24252/isafir.v2i2.22988>
- Hayati, N., & Aslilah. (2020). Taxpayer strategies in avoiding taxes & tax benefits from an Islamic perspective. *Jurnal Ekonomi dan Keuangan Islam*, 4(1), 29–38. <https://doi.org/10.32682/jpekbm.1569>
- Ichsan, N. (2018). Review of the implementation of tax and zakat collection according to the concept of Islamic economics in Indonesia. *Islamadina*, 19(2), 75–91. <https://doi.org/10.30595/islamadina.v19i2.2628>
- Irawan, A. (2020). The effect of perceptions of tax corruption and perceptions of tax system fairness on individual taxpayer compliance with trust as an intervening variable. *Prisma (Accounting Student Research Platform)*, 1(6), 114–125. <https://ojs.stiesa.ac.id/index.php/prisma>
- Miskiyah, Z., Zunaidi, A., Almustofa, S., & Suhardi, M. (2022). Monetary policy in the perspective of Islamic macroeconomics. *Istithmar: Journal of Islamic Economic Studies*, 6(1), 69–83. <https://doi.org/10.30762/istithmar.v6i1.33>
- Mukoffi, A., Sulistiyowati, Y., Himawan, S., & Kontesa, K. (2022). Tax corruption and tax justice on taxpayer compliance (Case study at the Batu Tax Service Office). *Journal of Paradigm Economics*, 17(1), 85–94. <https://doi.org/10.22437/jpe.v17i1.17339>

- Purkon, A. (2014). Tax boycott according to Islamic law. *SALAM: Journal of Islamic Social and Culture*, 1(1), 97–118. <https://doi.org/10.15408/sjsbs.v1i1.1529>
- Rizqulloh, A. Z., Sururi, M. F. H., Anjani, D., & Rohim, A. N. (2023). Sources of state non-zakah revenue in Islam and its comparison with contemporary times in the United States, Indonesia. *Islamic Economics and Business Review*, 2(2), 205–225. <https://doi.org/10.59580/iesbir.v2i2.6010>
- Sri Rahayu, I., & Wijaya, A. (2021). Review of Islamic law on tax law enforcement by the Gijzeling agency. *Shautuna: Scientific Journal of Comparative Mazhab and Law Students*, 2(1), 107–118. <https://doi.org/10.24252/shautuna.v2i1.18144>
- Sugiyono. (2019). *Quantitative, qualitative and R&D research methods*. ALFABETA.
- Zabidi, A. (2020). Social groups in society perspective QS. Al-Maidah ayat 2. *BORNEO: Journal of Islamic Studies*, 3(2), 42–58. <https://doi.org/10.37567/borneo.v3i2.262>
- Zahroh, F., & Harkaneri, H. (2020). Comparison of tax and zakat laws according to Sharia and state. *J-MACC: Journal of Management and Accounting*, 3(1), 38–50. <https://doi.org/10.52166/j-macc.v3i1.1855>