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A Normative Review of Sharia Economic Law Regarding Productive Alms in Zakat Institutions

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ABSTRACT

This study aims to examine the concept of productive sadaqah (voluntary charity) management within zakat institutions and to formulate risk mitigation strategies for business failure from the perspective of Sharia Economic Law. The study is motivated by the fact that productive sadaqah practices often suffer from contractual ambiguity such as the application of Qardh al-Hasan in a coercive manner akin to commercial contracts—thereby risking legal disputes and a breach of donor trust. This is a normative legal study employing a statute-based approach, relying on a descriptive-qualitative analysis of zakat regulations, the Compilation of Sharia Economic Law (KHES), and DSN-MUI fatwas. The findings indicate that productive sadaqah practices have evolved into instruments of social entrepreneurship through revolving capital schemes and other forms of funding, including training and capital grants. To mitigate the risk of business failure and balance the principle of asset protection (Hifdz al-Mal) with humanitarian principles, the study recommends the implementation of a Conditional Contract Transformation Clause (Syarat al-Tahawwul al-Aqd). Under this clause, if business failure is proven to result from negligence (tafrith), the mustahik (beneficiary) is liable for restitution (dhaman); conversely, if the failure is caused by force majeure, the loan contract is voided and automatically transforms into an outright grant.

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1. INTRODUCTION

From the perspective of Sharia economic law, zakat, infaq, and sadaqah are fundamentally not merely instruments of distribution but also vehicles for mutual assistance (ta'awun) and economic empowerment oriented toward the public good. Ideally, these religious funds are managed in a manner that is trustworthy, transparent, accountable, and productive, ensuring that beneficiaries (mustahik) do not simply receive immediate, consumption-based aid but also gain sustainable economic capacity. This spirit aligns with the national zakat management framework and regulations governing the utilization of zakat for productive enterprises—an approach that emphasizes orderliness, precise targeting, transparency, accountability, and sustainability [1].

However, current practices regarding the management of productive alms (sedekah produktif) across zakat institutions still show significant variation. Various studies suggest that while productive programs have the potential to boost the income, economic self-reliance, and social resilience of mustahik* (beneficiaries), their success hinges heavily on continuous mentoring, transparent governance, and oversight [2]. On the other hand, issues regarding implementation persist, such as the inefficient targeting of resources, the use of funds for consumptive purposes, and weak monitoring of beneficiaries [3]. This situation elevates the risk of failure for ventures lacking clear Sharia-based risk mitigation strategies, thereby potentially compromising the trust placed in them by donors. Previous studies have tended to focus on the effectiveness of ZIS funds rather than addressing the concepts of contracts (akad) or the normative provisions governing productive programs.

Research by Rahim at BAZNAS Sidrap Regency confirms that the distribution of productive zakat based on Law Number 23 of 2011 is effective in alleviating poverty, as it is precisely targeted at the eight asnaf (eligible recipient categories) through structured programs [4]. Research by Agustine, Arifudin, and Efendi [5] at Pusat Zakat Umat (PZU) Cikijing revealed similar success, concluding that the implementation of economic empowerment—through the provision of business capital and job creation for mustahik (eligible zakat recipients)—fully aligned with Islamic law and presented no Sharia conflicts. However, the governance of distributing these productive funds is not without legal and operational challenges; as highlighted by Afrinda in a study of LAZ Yatim Mandiri Lampung, even though the empowerment program utilized a revolving social loan scheme (*qardh al-hasan), actual practices were deemed inconsistent with Islamic law due to targeting anomalies (funds reaching non-eligible individuals) and contractual breaches (default) by recipients who failed to repay the capital in accordance with the initial agreement [6].

Previous research indicates a lack of specific discussion regarding the comprehensive concept of productive programs—particularly productive sadaqah (voluntary charity). Consequently, this study is essential to establish a robust legal framework that protects community funds from risks such as disputes, negligence, and moral hazard, while simultaneously providing legal guidelines for zakat institutions to mitigate risks associated with productive sadaqah-based financing. Without a comprehensive review from the perspective of Sharia economic law, the well-intentioned aim of empowering the grassroots economy could inadvertently lead to formal and material legal flaws in the contracts actually employed in practice.

Based on this background, this study examines the concept of productive *sadaqah* within *zakat* institutions and analyzes through the lens of Sharia economic law risk mitigation strategies regarding potential business failure in the management of productive *sadaqah* funds.

2. LITERATURE REVIEW

2.1 *Overview of Sharia Economic Law*

According to Wahid [7], Sharia economic law can be defined as a set of norms and rules within a country that govern economic activities whether commercial or non-commercial—aimed at fulfilling human needs. These rules are grounded in Islamic Sharia, deriving their authority fundamentally from the Quran and Sunnah, as well as from human reasoning (*ijtihad*). Alternatively, Sharia economic law is described as a framework based on Islamic values that regulates all economic activities and transactions within society. Its scope encompasses areas ranging from contracts and financing to investment, all conducted while avoiding prohibited practices such as riba (usury/interest) and gharar (uncertainty). The primary objective of this law is to establish an economic order that is fair, transparent, and ethical, and capable of fostering social welfare in accordance with religious teachings [8].

Another perspective emphasizes that the ultimate goal of Economic Law is to achieve social welfare and strengthen solidarity within societ [9]. Thus, it can be concluded that Sharia economic law consists of economic regulations based on the Quran, Sunnah, and Ijtihad that govern transaction procedures to avoid riba*(usury) and gharar (uncertainty), with the aim of creating an economic system that is just, fosters prosperity, and strengthens social solidarity.

2.2 *The Concept of Charity in Islam*

Charity can be defined as giving to those in need out of a desire to seek the pleasure of Allah [10]. The Law on Zakat Management stipulates that Sedekah (voluntary alms) refers to assets or non-monetary items contributed by an individual or business entity separate from zakat for the public good [1]. Meanwhile, zakat is defined as an individual obligation to set aside a portion of one's wealth at prescribed times and in accordance with established regulations, and subsequently distribute it to recipient groups specifically designated by Allah SWT [11].

The practice of sedekah (voluntary charity) entails specific conditions and essential elements: 1) The giver must be the rightful owner of the item and possess the legal capacity (full authority) to manage or dispose of their assets; 2) The recipient must be eligible to hold property rights; consequently, a *sedekah* is deemed invalid if directed toward an animal or a fetus in the womb, as neither possesses the capacity to own property; 3) The transfer agreement (Ijab and Qabul): there must be a declaration of transfer from the giver (ijab) followed by a declaration of acceptance from the recipient (qabul); 4) The object of the sedekah: the availability of the assets or items to be given [12]. Rosidin added that charity should be given to righteous people, close relatives, and those in need [10]

Dasar zakat terdapat dalam Al-Qur'an Surah Al-Baqarah ayat 261

مَثَلُ الَّذِيْنَ يُنْفِقُوْنَ اَمْوَالَهُمْ فِيْ سَبِيْلِ اللّٰهِ كَمَثَلِ حَبَّةٍ اَنْۢبَتَتْ سَبْعَ سَنَابِلَ فِيْ كُلِّ سُنْۢبُلَةٍ مِّائَةُ حَبَّةٍۗ وَاللّٰهُ يُضٰعِفُ لِمَنْ يَّشَاۤءُۗ وَاللّٰهُ وَاسِعٌ عَلِيْمٌ ٢٦١

"The parable of those who spend their wealth in the way of Allah is like (those who sow) a grain (seed) which grows seven stalks, on each stalk there are a hundred seeds. Allah multiplies (rewards) for whom He wills. Allah is All-Encompassing, All-Knowing.

2.3 *Productive Charity as a Tool for Empowerment*

Productive almsgiving is a mechanism for providing assistance such as business capital or production equipment aimed at generating long-term benefits. Rather than merely focusing on meeting the immediate needs of recipients, the program emphasizes social empowerment and the achievement of sustainable economic self-reliance [13]. According to Wahbah Zuhaily in Afif et al, the distribution of productive zakat generally applies qard and qardul hasan contracts. In the qard concept, there is a money lending and borrowing agreement between the lender and the borrower, where the borrower is obliged to return the loan principal according to the agreed period without any additional interest or other costs [14]. The use of productive sadaqah (charity) as a tool for empowerment or economic self-reliance serves as a fundamental distinction from consumptive sadaqah, which is short-term in nature. The effectiveness of productive programs including productive Sadaqah can be measured through several key indicators, such as increases in beneficiaries' income levels, growth in productive asset ownership, the operational sustainability of enterprises, and the impact on fostering broader social welfare [15].

2.4 *Management of Alms by Zakat Institutions*

In Indonesia, the institutions authorized to manage Zakat, Infaq, and Sadaqah (ZIS) are BAZNAS, LAZ, and

UPZ. Law No. 23 of 2011 concerning Zakat Management stipulates in Article 1, Point 7, that BAZNAS is the national-level Zakat management institution. Points 8 and 9 further clarify that BAZNAS is assisted in its management duties by LAZ and UPZ. A Lembaga Amil Zakat (LAZ)—or Zakat Management Institution is a community-established entity tasked with assisting in the collection, distribution, and utilization of Zakat. Meanwhile, a Unit Pengumpul Zakat (UPZ) or Zakat Collection Unit is an organizational unit established by BAZNAS to assist with Zakat collection [1].

Law Number 23 of 2011 serves as the primary legal basis for the planning, implementation, and coordination of zakat collection, distribution, and utilization. The technical implementation of this Law is further detailed in Government Regulation Number 14 of 2014, which covers the governance of BAZNAS and LAZ, as well as the utilization of *zakat* for productive enterprises. In the context of sedekah (voluntary alms) although not always regulated as strictly as zakat—institutions typically adopt the same governance principles: trustworthiness, professionalism, and accountability [16].

Although there are no specific regulations governing the disbursement of productive sadaqah (charitable) capital, Ministerial Regulation Number 16 of 2025 [17] outlines that support for the destitute and poor may take the form of business capital provision, the facilitation of production resources, and business network development, while efforts to enhance the quality of the community encompass training, technical guidance, and the provision of scholarships.

In their operations, BAZNAS and LAZ are required to follow a systematic process comprising planning, implementation, control, and periodic reporting. The planning phase involves the preparation of documents that take into account national socio-economic data and priority scales, while control is exercised through monitoring and evaluation conducted at least once a year. Furthermore, each institution is required to submit periodic reports detailing program plans and actual implementation, challenges encountered, and recommendations to relevant parties, in accordance with applicable regulations [17].

3. RESEARCH METHOD

This study employs a normative legal research methodology, focusing its analysis on legal principles, rules, and norms—specifically those concerning the regulation of productive sadaqah (voluntary almsgiving) management. A statutory approach is utilized to examine Law Number 23 of 2011 [1], the Compilation of Sharia Economic Law [18], and relevant fatwas (religious rulings) issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) [19] regarding financing contracts. The data sources comprise both primary and secondary legal materials. Primary data is defined as information collected directly from research subjects in the field—often referred to as raw or empirical data—whereas secondary data refers to information gathered from library resources or literature relevant to the research topic. In normative legal research, specifically, library-based data serves as the primary source. Primary legal materials include national regulations on zakat management, statutes (Laws), Government Regulations (PP), and Ministerial Regulations (PM). Secondary legal materials encompass textbooks on fiqh muamalah (Islamic commercial jurisprudence) and scholarly journals. Data collection was conducted through library research techniques, involving the systematic searching, reading, and classification of legal literature.

The analysis of legal materials employs a descriptive-qualitative method. This method is a research approach grounded in post-positivist philosophy, designed to examine the subject matter in its natural context. The analysis begins by identifying the legal norms governing productive sadaqah, followed by interpretation to provide a legal assessment. By comparing normative facts derived from the literature with the principles of Sharia Economic Law, this study aims to draw normative conclusions regarding the ideal model of productive sadaqah*management—one that ensures Sharia compliance and upholds the principle of fairness for all parties involved.

4. RESULT AND DISCUSSION

4.1 Analysis of the Implementation of Productive Programs in Zakat Institutions

In accordance with Law Number 23 of 2011 and Government Regulation Number 14 of 2014, the utilization of *zakat* for productive enterprises requires transparent, accountable, and sustainable governance. This is implemented through the *Senyum Mandiri* Program (comprising Basic, Advanced, and Sustainability Entrepreneurship stages), which provides business capital, equipment, and continuous mentoring over a 12-month period [20].

This study demonstrates that Rumah Zakat transforms *zakat* funds from instruments for consumption into capital for social entrepreneurship, distributed to individuals or groups. A legal conflict arises regarding the nature of the fund ownership agreement. If the funds are distributed as a conditional grant (*hibah bi syarth*), the provision of 12 months of mentoring constitutes a legitimate form of oversight. However, the literature does not clarify whether the capital must be repaid (under a *qardh* scheme) or is provided as an outright grant. From the perspective of the KHES (Compendium of Sharia Economic Law), this ambiguity regarding the contractual status could blur the distinction between the absolute ownership rights of the *mustahiq* (beneficiary) and the authority of the amil (institution) to intervene in the management of the beneficiary's business operations after the funds have been disbursed [20].

In practice, Rumah Zakat has substantially fulfilled the objectives of Sharia (maqashid Sharia) regarding poverty alleviation and the principle of utility. However, from a formal standpoint, the institution is required to forulate contract clauses specifically the offer and acceptance (ijab-qabul) that explicitly state the provision of capital is contingent upon the beneficiary's (mustahik) obligation to comply with assistance and evaluation programs. This measure prevents the beneficiary from unilaterally severing legal accountability immediately after receiving the funds [20].

Research on the practices of LAZIS Sabilillah and LAZ El Zawa indicates that the distribution of revolving capital to mustahik (zakat recipients) must be governed by a qardh or qardhul hasan (benevolent loan) agreement, under which the borrower is obligated to repay the principal amount as agreed, without the addition of interest (*riba*). LAZ El Zawa implements this concept by providing interest-free capital loans, with the aim that mustahik will eventually become muzakki (zakat payers) [21].

The practices of LAZIS Sabilillah involve distinct arrangements. Research indicates that LAZIS Sabilillah provides capital without requiring collateral; if a mustahik (zakat recipient) encounters business difficulties or defaults on payment, the institution absorbs the entire loss (effectively a bailout). While debt forgiveness is valid from a philanthropic perspective (tabarru'), from an operational-normative standpoint specifically regarding the Zakat Law and Government Regulation No. 14 of 2014 concerning institutional accountability the unilateral absorption of losses by the institution risks fostering moral hazard and intentional default. The absence of legal due diligence to distinguish between business failure caused by force majeure (disasters or fate) and failure resulting from negligence undermines the principle of amanah (trustworthiness) owed to donors and muzakki (zakat payers) [21].

The distribution of productive alms in the form of qardhul hasan*(benevolent loans) must be accompanied by legal risk mitigation measures. Consequently, the waiver of the obligation to repay the capital cannot be automatic. Zakat institutions are required to establish Sharia-compliant mechanisms for investigating losses. If a loss is caused purely by force majeure*, debt forgiveness (ta'widh) may be legally justified; however, in cases of default, the institution retains the right to collect the debt as a form of legal and moral education for the beneficiaries (mustahik) [21].

Another study by Rahmawati and Pangestu indicates that economic empowerment through sedekah (charitable giving) can take the form of productive assets or capital intended to enhance the self-reliance of philanthropic beneficiaries. The IQRO Investment Indonesia Foundation utilizes productive sedekah by providing between 50,000 and 200,000 catfish fry to partner farmers (plasma) as a form of philanthropic investment [22].

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To avoid material legal defects, the legal structure of the IQRO Foundation must be grounded in the framework of a Mudharabah Muqayyadah (restricted partnership) agreement within the realm of philanthropy. The collection of funds from donors must be formalized through a transparent offer-and-acceptance process (ijab-qabul) as "social capital," wherein the distribution of catfish harvest proceeds is governed by a proportional split: a specific percentage allocated to the farmers acting as mudharib (managers), with the remaining profit mandatorily reinvested into the institution's fund (shahibul maal) for redistribution to other impoverished farmers, rather than being treated as commercial dividends [22].

According to literature authored by M. Anwar Sani, the concept of productive sadaqah (charity) can be implemented in various forms. These practices range from the direct distribution of grants to serve as business capital for the community to the management of long-term fixed assets, such as oil palm plantations. The operational basis for this approach is derived from a hadith attributed to Umar bin Khattab regarding the retention of the principal asset so that its productive yield may be utilized [23], [24].

Although the literature employs the umbrella term "productive sadaqah" (productive charity) to encompass all these activities, a legal analysis of the practice reveals terminological ambiguity. Specifically, regarding the management of fixed assets where the principal is retained (such as oil palm plantations), the utilization of these community funds is more accurately classified as Waqf (endowment) specifically "Productive Waqf" under Indonesian positive law. If such assets are merely recorded administratively as general charity or a grant, they lack binding legal protection. Therefore, pesantren (Islamic boarding schools) should ideally make legal adjustments in accordance with Law Number 41 of 2004 concerning Waqf [25], thereby ensuring the assets are supervised by the

Indonesian Waqf Board (BWI) and protected against future disputes [23], [24].

Consequently, pesantren (Islamic boarding schools) must make legal adjustments regarding their philanthropic assets. Practices involving the development of business units—such as plantations, livestock farms, and other fixed assets—must be registered under the legal framework for Productive Waqf rather than general sadaqah (charity). Through this measure, the institution or pesantren will legally act as a Nadzir (manager), bound by positive law to make the assets productive and to channel the resulting profits (mauquf 'alaih) specifically toward funding student scholarships and community empowerment, thereby ensuring a robust and sustainable legal framework.

4.2 A Sharia Economic Law Perspective on Risk Mitigation in Productive Almsgiving (Sedekah Produktif)

Institutions typically employ Qardh al-Hasan (benevolent loan) or Hibah (grant) schemes. However, a normative conflict arises when *Qardh al-Hasan*—fundamentally a tathawwu' (mutual assistance) contract—is administered with the coercive nature of a tijari (commercial) contract. According to the Compilation of Sharia Economic Law (KHES) Book II regarding Contracts [18], Qardh mandates the repayment of an equivalent object. In practice, some zakat institutions demand the absolute repayment of revolving capital—akin to banking practices—thereby disregarding the status of the mustahik (beneficiaries) as a vulnerable group. This contradicts the fiqh maxim "Al-ashlu fi al-qardh irfaq" (the fundamental principle of a loan contract is benevolence). Ideally, institutions should adopt the legal flexibility practiced by certain LAZIS (Zakat, Infaq, and Sadaqah Management Institutions), wherein Qardh al-Hasan funds are treated as loans while the business operates smoothly but automatically transform into a Hibah (grant) if the business fails without intentional misconduct. This aligns the contract's essential elements with the actual capacity of the mustahik.

In productive almsgiving schemes structured as investments—such as agribusiness or livestock empowerment—there are legal ambiguities that can trigger gharar (uncertainty) and dzulm (injustice), particularly regarding the status of fund ownership. If an institution utilizes a Mudharabah contract, the profit-sharing ratio (nisbah) must be clearly defined. However, since the funds originate from almsgiving, the institution is not entitled to extract a profit margin from the mustahik. Referring to the DSN-MUI fatwa on financing [19], imposing the entire risk of loss upon the mudharib (the mustahik) is void under Sharia law, unless negligence (Tafrith) is proven. Compelling a mustahik whose business has collapsed due to external factors to repay almsgiving funds constitutes an act of injustice (dzulm) that undermines the very essence of Islamic philanthropy. In the context of risk mitigation and default, the principle of Hifdz al-Mal (preservation of wealth) creates a dilemma: on one hand, the institution must safeguard the funds of muzakki (zakat payers) and munfiq (donors) to ensure they continue to circulate as a revolving fund; on the other, it must protect mustahik (beneficiaries) from falling into a debt trap. If a default occurs due to tafrith (negligence—for instance, if productive sadaqah funds are diverted for consumptive needs), then the legal maxim "Al-Kharaj bi al-Dhaman" (entitlement to gain accompanies liability for loss) and asset protection rules apply strictly. The mustahik is liable for restitution (dhaman), and the institution holds the legal standing to pursue collection. Conversely, if the loss results from *force majeure* (such as natural disasters, pandemics, or market crises), the obligation to repay must be waived. In the context of philanthropic funds, dispute resolution must be grounded in the funds' original intent: the distribution of wealth (income redistribution). Business failure beyond the *mustahik's control effectively establishes their absolute eligibility to receive pure sadaqah. As a normative recommendation regarding contract transformation clauses and the resolution of default, the disbursement of productive sadaqah (charitable) funds essentially binds the parties through a *Qardh al-Hasan* (benevolent loan) agreement. Under this agreement, the Second Party (the beneficiary/ *mustahik*) is obligated to repay the funds to the First Party (the institution) according to the agreed schedule, without any additional charges or returns. However, in the event of business failure caused by gross negligence (*tafrith*), fraud (*tadlis*), or the misuse of funds by the Second Party, the First Party reserves the right to pursue proportional recovery in accordance with applicable laws to uphold the mandate of *Hifdz al-Mal* (preservation of wealth). Conversely, if the business failure is proven to result from *force majeure* or systemic market risks entirely beyond the Second Party's control, the First Party shall based on principles of justice and humanity grant a waiver for the remaining loan balance. In such *force majeure* conditions, the legal status automatically transforms from a loan agreement into a *Hibah* (pure gift) agreement. Regarding the validity of the agreement, in addition to the essential pillars and conditions of the contract, the eligibility of the productive program recipient must also be assessed to ensure compliance with Sharia principles.

5. CONCLUSION

The concept of productive sadaqah (voluntary charity) within various zakat and Islamic philanthropic institutions has generally evolved from mere consumption-based aid into an instrument for sustainable economic empowerment (social entrepreneurship). In practice, the management of these funds is realized through several key models: ranging from the provision of revolving capital accompanied by mentorship schemes and "nucleus-plasma" partnerships involving capital asset provision, to investments in long-term fixed assets. In the fixed-asset investment model such as in agribusiness and livestock farming the institution retains the principal asset and puts it to productive use, ensuring that the resulting profits can be continuously distributed to foster the beneficiaries' self-reliance.

From the perspective of Sharia economic law, institutions must implement legal adjustments to avoid conflicts between tathawwu' (social/voluntary) contracts and management techniques that resemble ijari (commercial) practices. This is essential to prevent gharar (uncertainty/ambiguity) and dzulm (injustice/oppression). Ideally, the distribution of revolving capital should be formalized through a Qardh al-Hasan (benevolent loan) contract or a Conditional Grant (hibah bi syarth) via a formal offer and acceptance (ijab-qabul) process. Regarding risk mitigation for potential business failure, zakat institutions face the obligation to balance the principle of Hifdz al-Mal (safeguarding the community's wealth) with humanitarian protection for the mustahik (beneficiaries). Unilateral debt forgiveness without due diligence risks triggering moral hazard and violating the trust placed by the muzakki (donors). Therefore, institutions need to implement a Conditional Contract Transformation Clause (Syarat al-Tahawwul al-Aqd). Under this clause, if business failure is proven to stem from gross negligence (Tafrith) or fund misappropriation, the mustahiL is liable for restitution (dhaman), and the institution retains the right to claim payment. Conversely, if the failure is purely due to force majeure, the repayment obligation is waived, and the loan contract automatically transforms into an unconditional grant as an act of philanthropic justice.

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