

DISTRIBUTIVE JUSTICE IN FISCAL POLICY: ZAKAT, TAXATION, AND THE CONSTITUTIONAL MANDATE OF SOCIAL WELFARE

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Info Articles	Abstract
Article History Received : 08-13-2026 Revised : 09-18-2026 Published : 10-01-2026 Keywords: <i>Distributive justice; Fiscal policy; Social welfare; Taxation; Zakat.</i> Kata Kunci: <i>Kebijakan fiskal; Keadilan distributif; Kesejahteraan sosial; Pajak; Zakat.</i>	Abstract Zakat and taxation coexist in Indonesian fiscal law without a coherent account of how they relate to one another or to the constitutional duty of the state to care for the poor. This study aims to determine the normative position of zakat within the constitutional fiscal order, to compare models of zakat and tax integration across jurisdictions, and to formulate criteria for a distributively just arrangement. The research applies normative juridical research with statutory, conceptual and comparative approaches, supported by a maqāṣid reading of zakat as a determined entitlement, drawing on Indonesian constitutional and fiscal legislation, Malaysian and Pakistani instruments, classical works on public finance and contemporary scholarship. The findings show that zakat and tax rest on structurally different normative logics: tax is a contribution assessed on capacity and spent at budgetary discretion, whereas zakat is an earmarked right belonging to specified categories of recipients. Indonesian law treats zakat as a deduction from taxable income rather than as a credit, which limits its fiscal significance, while the centralisation of zakat administration has raised constitutional questions about the freedom of civil society institutions. The gravest risk is substitution, in which religious philanthropy is invoked to relieve the state of a duty the Constitution assigns to it. The study recommends criteria of fiscal neutrality, non-substitution, audited transparency, integration with national poverty data, and protection of institutional pluralism.

I. INTRODUCTION

Every fiscal system embodies a theory of distributive justice, whether or not its designers say so. The decision to tax income progressively, to exempt subsistence consumption, or to earmark revenue for particular purposes is a decision about what citizens owe one another and what the state owes its poorest members. In Indonesia that decision is complicated by the coexistence of two distinct redistributive systems: a statutory tax regime administered by the state, and zakat, a religious obligation with its own base, rate, threshold and closed list of beneficiaries.¹

¹ Qur'ān 9:60 specifies the eight categories of zakat recipients.

The constitutional framework establishes both the state's revenue power and its welfare duty. Taxes and other compulsory levies must be regulated by statute; the national economy is to be organised as a common endeavour on the basis of the family principle; and the poor and abandoned children are to be cared for by the state.² Article 34 is not hortatory. It assigns responsibility, and the assignment is to the state rather than to charity.

Ideally, zakat and tax would occupy complementary positions within a single, articulated fiscal architecture, each performing a function the other cannot. The actual arrangement is looser. Zakat paid to an officially recognised institution may be deducted from taxable income, not from tax payable, which means the fiscal relief it generates equals the payer's marginal rate applied to the zakat sum rather than the sum itself.³ Aceh operates under a distinct regime in which zakat paid to the Baitul Mal functions as a regional revenue item and as a deduction against income tax.⁴

The governance dimension has been equally contested. The Zakat Management Law of 2011 centralised authority in the national zakat agency and subjected community-based collectors to permit requirements, prompting a constitutional challenge in which the Constitutional Court upheld the framework while limiting the criminal exposure of traditional collectors operating in areas where the official system does not reach.⁵ The episode exposed the underlying tension between administrative rationalisation and the associational freedom through which zakat has historically been organised in Indonesia.

The literature approaches these issues from three directions. Classical and contemporary fiqh scholarship, from Abū 'Ubayd and al-Māwardī to al-Qaraḍāwī, treats zakat as a defined right within a public finance system rather than as voluntary charity.⁶ Islamic economics scholarship, represented by Kahf and Chapra, has modelled zakat's macroeconomic potential and its relationship to fiscal policy.⁷ Political philosophy, most influentially in Rawls' difference principle, supplies criteria for evaluating the justice of any distributive arrangement.⁸

What is missing is an analysis that connects the three. Fiqh scholarship rarely engages the constitutional question of what the state owes irrespective of religion.

² Constitution of the Republic of Indonesia 1945, Articles 23A, 33 and 34.

³ Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax, Article 9(1)(g); Law Number 23 of 2011 concerning Zakat Management, Article 22.

⁴ Law Number 11 of 2006 concerning the Governing of Aceh, Article 192.

⁵ Constitutional Court of the Republic of Indonesia, Decision Number 86/PUU-X/2012, concerning the review of Law Number 23 of 2011 on Zakat Management.

⁶ Yūsuf al-Qaraḍāwī, *Fiqh al-Zakāh*, 2nd ed. (Beirut: Mu'assasat al-Risāla, 1973), 1:87–95.

⁷ Monzer Kahf, "Zakat: Unresolved Issues in the Contemporary Fiqh," *Journal of Islamic Economics* 2, no. 1 (1989): 1–22; M. Umer Chapra, *Islam and the Economic Challenge* (Leicester: Islamic Foundation, 1992), 270–276.

⁸ John Rawls, *A Theory of Justice*, rev. ed. (Cambridge: Harvard University Press, 1999), 65–73.

Islamic economics literature frequently estimates zakat potential without asking whether mobilising that potential relieves the state of duties it should retain. Constitutional scholarship, for its part, seldom examines zakat at all. The research gap is therefore the absence of a framework capable of specifying when the integration of religious philanthropy into fiscal policy advances distributive justice and when it erodes it.

Three questions structure the analysis. First, what is the normative position of zakat relative to taxation within the Indonesian constitutional fiscal order? Second, what models of zakat and tax integration exist comparatively, and what distributive effects do they produce? Third, what criteria should govern integration so that the constitutional welfare mandate is strengthened rather than displaced? The novelty lies in treating substitution risk as the central analytical category, and in deriving criteria that are defensible simultaneously in constitutional and in maqāṣid terms.

II. RESEARCH METHODS

This is normative juridical research combining doctrinal analysis with comparative legal method. The statutory approach examines the Constitution, the Income Tax Law, the Zakat Management Law, the Aceh governance legislation and their implementing regulations, with attention to the hierarchy of norms. The conceptual approach reconstructs the theory of distributive justice in both liberal and Islamic registers, including the distinction between a levy assessed on capacity and an entitlement held by designated recipients. The case approach analyses the reasoning of the Constitutional Court on zakat administration. The comparative approach places Malaysia, Pakistan and Sudan alongside Indonesia, selected because each represents a structurally different technique of integration.⁹

Primary materials comprise constitutional and statutory texts, implementing regulations, judicial decisions, and the classical literature of Islamic public finance, principally Abū ‘Ubayd’s treatise on public revenue and al-Māwardī’s treatment of the offices of collection and distribution.¹⁰ Secondary materials consist of peer-reviewed scholarship in law, public finance and Islamic economics. Analysis proceeds by qualitative content analysis, comparative tabulation, and evaluation against criteria drawn from the constitutional welfare mandate and the maqāṣid framework. The study relies on published aggregate data; it does not generate original quantitative estimates of collection or distribution.

⁹ Konrad Zweigert and Hein Kötz, *An Introduction to Comparative Law*, 3rd ed., trans. Tony Weir (Oxford: Oxford University Press, 1998), 34–36.

¹⁰ Abū ‘Ubayd al-Qāsim b. Sallām, *Kitāb al-Amwāl*, ed. Khalīl Muḥammad Harrās (Beirut: Dār al-Fikr, 1988), 576–583; Abū al-Ḥasan al-Māwardī, *al-Aḥkām al-Sulṭāniyya wa-l-Wilāyāt al-Dīniyya* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1985), 113–120.

III. RESULTS AND DISCUSSION

A. Two Redistributive Logics, Not One

The first and most consequential finding is that zakat and taxation are not two versions of the same instrument. Taxation is a compulsory contribution assessed according to capacity, without a direct counter-performance, whose proceeds enter a general fund allocated through a political budgetary process. Its rate, base and expenditure are all matters of legislative discretion, and its legitimacy derives from representation.

Zakat is structurally different in every one of these respects. Its base is defined by categories of wealth, its rate is fixed, its threshold is set by reference to a minimum holding, and its proceeds are earmarked to eight categories of recipients from which the collector may not deviate. Classical doctrine treats it not as a gift but as a determined portion belonging to those recipients, a characterisation with direct legal consequences: the payer discharges a debt rather than exercising generosity, and the administrator holds the funds in a fiduciary capacity.¹¹

The practical importance of this distinction is that the two systems answer to different failure modes. A tax system fails when it is regressive, evaded or spent badly, and the remedy is political. A zakat system fails when funds are diverted from the designated categories, when collection is captured, or when the entitlement is treated as discretionary, and the remedies are fiduciary and doctrinal. Legislative designs that blur the two, by folding zakat into general revenue or by treating tax payments as discharging the religious obligation, dissolve the accountability structure specific to each.

B. The Indonesian Design and Its Limits

Indonesian law adopts a deduction model. Zakat paid to a recognised institution reduces taxable income, so a taxpayer in the lowest bracket obtains relief equal to a small fraction of the amount paid, while a taxpayer in the highest bracket obtains relief at a much higher rate for the same religious act. The model is fiscally cautious, but its distributive profile is difficult to defend: the higher a payer's income, the greater the public subsidy attached to the payment.

Two further limitations deserve attention. First, zakat proceeds do not enter the state budget and are therefore not subject to the audit and parliamentary accountability mechanisms that govern public expenditure, even though the state confers official status on the collecting institutions and grants fiscal recognition to payments made to them. Second, the persistent gap between estimated zakat potential and recorded collection, reported consistently across a decade of studies,

¹¹ al-Qaraḍāwī, *Fiqh al-Zakāh*, 2:545–552.

indicates that the binding constraint is trust and administrative reach rather than the tax treatment of payments.¹²

The centralisation question follows from this. The Constitutional Court's decision upholding the Zakat Management Law while shielding customary collectors from criminal liability effectively preserved a pluralist reality against a unitary statutory design. The decision is doctrinally significant because it recognises that zakat administration is embedded in associational life protected by freedom of association and religion, and cannot be nationalised in the way tax administration can. Institutional pluralism is therefore not an obstacle to reform; it is a constitutional feature that reform must accommodate.

C. Comparative Models of Integration

Table 1. Models of Zakat and Tax Integration

Jurisdiction	Integration technique	Fiscal effect for the payer	Principal weakness
Indonesia	Zakat deductible from taxable income; official and licensed institutions	Relief equal to the marginal rate applied to the amount paid	Regressive relief profile; proceeds outside budgetary audit
Malaysia	Zakat on income creditable against income tax at state level	Effectively full offset of the amount paid	Public subsidy of a religious levy; federal and state fiscal asymmetry
Pakistan	Compulsory deduction at source on specified assets	Automatic deduction with sectarian exemption on declaration	Legitimacy deficit; avoidance through declaration and asset shifting
Sudan	Zakat administered as a state levy under a dedicated chamber	Compulsory assessment alongside taxation	Blurring of religious entitlement and general revenue

Source: Processed from primary legal materials and comparative literature, 2026.

The comparison yields a clear ordering of risks. The Malaysian credit model maximises payer incentive but converts the fiscal system into a subsidiser of a religious obligation, raising equality concerns for citizens who do not share it. The Pakistani compulsory model maximises collection on paper but generated widespread avoidance and a legitimacy deficit once exemption by declaration became routine, illustrating that coercion applied to an obligation whose validity depends on intention is self-defeating.¹³ The Sudanese model achieves administrative unity at the cost of the fiduciary earmark that gives zakat its distinctive accountability.

Indonesia's deduction model, judged against these alternatives, is defensible in its restraint but unambitious in its design. The more interesting question is not whether to move from deduction to credit, but whether fiscal treatment is the right

¹² Bambang Sudibyo, "The Development of Zakat Management in Indonesia: Institutional and Regulatory Perspectives," *Journal of Islamic Monetary Economics and Finance* 4, no. 1 (2018): 1–14.

¹³ Grace Clark, "Pakistan's Zakat and 'Ushr as a Welfare System," in *Islamic Reassertion in Pakistan*, ed. Anita M. Weiss (Syracuse: Syracuse University Press, 1986), 79–95.

lever at all, given that the evidence points to institutional trust rather than tax incentives as the operative constraint on collection.

D. Substitution Risk and the Constitutional Welfare Mandate

The central normative finding of this study concerns substitution. Wherever religious philanthropy is institutionally strong, a political temptation arises to treat it as a partial answer to poverty, and thereby to relax the state's own commitment. This temptation is doubly dangerous. Constitutionally, it transfers to voluntary institutions a duty that Article 34 places on the state, and a duty transferred is a duty no longer enforceable by citizens. Distributively, it makes the adequacy of support depend on the religious affiliation of the recipient, since zakat is restricted to defined categories and cannot serve as a universal safety net.

Rawlsian analysis sharpens the point. If institutions are to be assessed by their effect on the least advantaged, then a scheme that is generous but partial in coverage may perform worse than a modest but universal one, because the worst-off may fall outside the covered categories entirely.¹⁴ Islamic legal theory reaches a convergent conclusion by a different route: the classical literature treats the relief of destitution as an obligation of the public treasury that survives the exhaustion of zakat funds, which means the ruler remains liable where zakat proves insufficient.¹⁵ Zakat, on this reading, is a floor beneath which the community may not fall, not a ceiling on what the state must provide.

Properly understood, therefore, zakat and the constitutional welfare mandate are not competitors. They fail together when they are treated as substitutes and succeed together when their distinct functions are preserved: zakat as an earmarked entitlement with fiduciary accountability, taxation as a universal instrument with political accountability. The task of fiscal policy is to keep the two logics legible rather than to merge them.

E. Criteria for a Distributively Just Arrangement

Five criteria follow. First, fiscal neutrality: the tax treatment of zakat should not generate relief that rises with the payer's income, which argues for a capped credit rather than an uncapped deduction if reform is undertaken. Second, non-substitution: legislation should state expressly that zakat distribution does not discharge or reduce the state's obligations under the constitutional welfare mandate, and budget documents should not count zakat towards poverty-reduction targets. Third, audited transparency: institutions receiving fiscal recognition should be subject to published external audit and standardised reporting, since official recognition is a public act warranting public accountability. Fourth, data integration: zakat distribution should draw on the national social registry to reduce duplication

¹⁴ Rawls, *A Theory of Justice*, 65–73.

¹⁵ al-Māwardī, *al-Aḥkām al-Sulṭāniyya*, 118–120.

and exclusion errors, while retaining the doctrinal categories of eligibility. Fifth, institutional pluralism: licensing should be a facilitative instrument, not a barrier to community-based collection, consistent with the Constitutional Court's recognition of customary practice.

IV. CONCLUSION

Zakat and taxation rest on different normative logics, and the coherence of Indonesian fiscal policy depends on keeping that difference visible. Tax is a capacity-based contribution spent at budgetary discretion; zakat is an earmarked entitlement held by designated recipients and administered fiduciarily. Indonesian law currently recognises zakat through a deduction whose relief profile rises with income, keeps zakat proceeds outside budgetary audit, and has centralised administration in ways the Constitutional Court was obliged to soften in favour of community practice.

Comparative examination shows that credit models maximise incentive at the cost of equality, compulsory models forfeit legitimacy, and fully statist models dissolve the earmark that gives zakat its accountability. The decisive risk in every model is substitution: the use of religious philanthropy to relieve the state of a constitutional duty. Both Rawlsian and classical Islamic public finance reasoning reject that move, the former because partial coverage may leave the worst-off unprotected, the latter because the treasury's obligation to the destitute persists independently of zakat.

The study recommends five criteria: fiscal neutrality in the treatment of payments, an express statutory rule of non-substitution, audited transparency for institutions holding official recognition, integration with national poverty data while preserving doctrinal eligibility categories, and protection of institutional pluralism in collection. Further research should measure empirically whether districts with high zakat distribution exhibit weaker growth in public social spending, which would provide the first direct test of the substitution hypothesis advanced here.

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