

Fatwa Pluralism on Zakat in Indonesia

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Abstract

This paper examines the production of fatwas and pluralism of the Islamic legal perspective on almsgiving (zakat) issued by Muslim civil society organizations in Indonesia and analyzes the goals, methods, and logic of Islamic scholars in formulating their religious judgments (fatwa). Religious teachings have been instrumental in underpinning the spirit of giving and volunteering. Yet, questions about how religious teachings are interpreted through various Islamic legal examinations remain interesting to discuss, partly because the nuances of the fatwa on zakat indicate Muslims' pluralistic and dynamic reception of Islamic teachings. Some Muslim civil society organizations have produced hundreds of fatwas on zakat in response to Muslim communities' questions. This paper argues that efforts to contextualize zakat practices and endeavors to preserve the orthodoxy of the zakat tradition among Indonesian Islamic scholars and fatwa institutions have led to diversity in formulating legal reasoning and in turn resulted in fatwa pluralism and fragmented zakat practices in Indonesia.

Keywords: zakat, fatwa, 'ulama, philanthropy, Islamic legal thought

Introduction

Religious philanthropy has been the subject of scholarly discussions with different philosophical and spiritual concepts for decades. The ideas of benevolent action, community services, and volunteerism are central to almost all religious teachings. Faith, therefore, has played a profound role in motivating and inspiring various types of altruistic deeds such as giving and volunteering (Putnam, 2000; Cadge & Wuthnow, 2006). Religious organizations remain essential players in charitable activities, social services, and relief and humanitarian missions in many parts of the world (Cnaan et al., 1993; Kuah-Pearce & Cornelio, 2015) even though people have witnessed more significant impacts of secularization.

Apart from examining the historical dimension of religious philanthropy from normative viewpoints, such as theological understandings of the benevolent act, the meaning of giving in spirituality, and how religious teachings motivated

giving (Singer, 2008; Grönlund & Pessi, 2015), researchers have paid attention to such issues as giving behavior (Obaidullah & Abdul Manaf, 2017), the relationship between state and religion in shaping philanthropy (Fauzia, 2010; Brown & Pierce, 2013), the growth of faith-based NGOs as a part of religious collective action (Ammerman, 1997; Benthall & Bellion-Jourdan, 2003), giving practices and political patronage (Haynes, 1987; Harmsen, 2008), and the internationalization of religious aid (Kraefss, 2005; Latief & Nashir, 2020).

In the study of religious philanthropy and global poverty, Mylek and Nel (2010) explore three dimensions of religiosity that have profound impacts on philanthropy mobilization or charity activism: “religious social capital,” which can be seen as faith-based social networks; “religious contents” that comprise spiritual teachings, values, and norms; and “religious-cultural power,” which functions to offer “cultural resources to inspire and galvanize civil society to combat poverty” (Mylek & Nel, 2010, p. 83; see also Putnam, 2000, pp. 72–73). According to Mylek and Nel, religious teachings, values, and norms, in particular, “link thought” among religious groups “with action” and *thus*, in practice, can make them “a powerful mobilizing force” (p. 84). People’s enthusiasm for giving and volunteering and establishing community services is also related to social capital and religious teachings (Bentley, 2002; Wang & Graddy, 2008).

I am interested in exploring how the normative religious contents of philanthropy are vibrantly interpreted by Muslim scholars, both individually and collectively, and transformed into diverse regulations or religious judgments to which Muslim societies might refer in practicing almsgiving. It is common in the Muslim world for the public to ask Islamic scholars for religious opinions (*fatwa*) to resolve their problems. *Fatwas* (Arabic plural for *fatwa* used in this paper instead of *fatawa*) issued by Islamic scholars (*mufti*) aim at informing Muslims, in general, and those asking for a religious opinion to know what they can (cannot) do and what they must (not) do. However, the reasons and arguments concealed behind fatwas are somehow very complex (Masud 2009), depending on the sources and methods used by the muftis have used. Islamic scholars (*‘ulama*) very often must refer to the classical, modern, or even contemporary Islamic literature, as well as conduct an in-depth study on Islamic law (Islamic jurisprudence and Islamic legal system) to be able to come out with a reliable and valid religious judgment (Masud, 1984; Messick, 1986). Afterward, the fatwas can be spread to the public and become new guidance for future Islamic law to justify Muslim religious practices (Kaptein, 1997, 2004).

Muslim-majority countries, such as Saudi Arabia, Egypt, Libya, Sudan, Morocco, Pakistan, Malaysia, and Indonesia, have witnessed the dynamics of the fatwa’s production on various religious, social, economic, and political issues. Even in the regions where Muslims live as a minority group, such as European countries, the United States, Singapore, Thailand, etc., fatwas are needed and often issued through authoritative institutions or respected Islamic scholars (Bruinessen & Allievi, 2007; Caiero, 2010; Dahlan, 2012). Indonesia, the world’s largest Muslim country, has its own experience producing fatwas. Indonesian Muslims have witnessed social, economic, and political changes, which increased

the complexity of religious practices and discourse (Dijk, 2007; Ichwan, 2011; Gillespie, 2010; Hasyim, 2019).

Many fatwas were enacted to address issues such as interfaith dialogue, halal food, minority groups, supposedly “deviant” religious sects, vaccines, etc. The public readily accepted some fatwas; others triggered debates among Muslim scholars and intellectuals. Fatwas may also derive “power and control, permeating social relations at many levels” (Caiero, 2006, p. 662) and can be projected as a “political tool” (Kersten, 2018). The issuance of a fatwa signifies the formation and reformation of the types of Muslim discourse and how Islam is interpreted and expressed. When Muslim societies are faced with a delicate situation in Pakistan and Afghanistan, the influences of respected ulama from such organizations as Deobandi and Barelwi were challenged by radical ulama aligned with the Taliban and al-Qaeda (Akram, 2014). In this respect, fatwas issued by mainstream religious authorities are not always successful in influencing public opinions.

The types of Islamic fatwas can also be shaped by religious bureaucracy. In a “secular” state such as Singapore, there has been a persistent process of “negotiations” and “contestations” between the country and the groups of ulama or “religious bureaucrats” that may stimulate policy changes and the production of “statist Islam” (Pasuni, 2018). Therefore, Muslim countries’ political systems and religious-political environments are instrumental in shaping fatwas’ impact on Muslim societies. Malaysia and Pakistan share different experiences about how fatwas are perceived and treated by society and the government. In Malaysia, fatwas are not merely the thoughts and opinions of esteemed Islamic scholars. As Malaysia views Islam as a “special faith” within the state’s system, and the state-leading sultans (*Kerajaan*) use religious views as part of the state’s policies, fatwas can be very powerful in society politically. In Malaysia, if the fatwa is officially released, “it becomes a binding and enforceable phenomenon” (Mehmood, 2015, p. 1). Because of this, people who give fatwas will consciously follow precise requirements relevant to their duties in representing Islamic authority. Meanwhile, fatwas are not legally binding in Pakistan, although fatwas can be highly influential to society and the state (Razi, 2014; Akram, 2014). Hence, Muslim countries’ political systems and religious-political environments shape fatwas’ effect on Muslim societies.

In essence, as observers have argued, fatwas “are not only instruments for learning rules and procedures, but also tools for creating the emotional dispositions necessary to the formation of pious Muslim selves” (Caiero, 2006, p. 663). Within the nation-state framework, fatwas give impacts on not only individual piety but also state policies. By discussing fatwas on Islamic philanthropy, we will see how a product of knowledge and Islamic law develop and how Islamic law, as a part of Indonesia’s knowledge system, should be adapted to current developments in Indonesia’s social, economic, and political environment.

As one of the five pillars in Islam, *zakat*, unlike the general term of benevolent acts (*sadaqa*), is understood as a kind of religious giving whose implementation should be in line with the Qur’an and the Sunnah (tradition).

Therefore, there are several works written by Islamic scholars to examine the concept of zakat to be socially and economically applicable in Muslim societies. In this respect, Ulama's opinions function to justify the zakat practice so that God in the hereafter will spiritually reward the correct process of giving by Muslims. Unsurprisingly, at the grassroots level, many questions were posed by Muslims to the 'ulama. In response to society's demand for the correct opinions, the ulama issued their religious or legal judgment (*fatwa*).

This paper examines the plurality of fatwas on Islamic philanthropy in Indonesia by looking at methods in implementing Islamic legal jurisprudential concepts such as independent legal reasoning (*ijtihad*), *tajdid* (renewal), and analogical reasoning (*qiyas*). The primary sources of this paper are collections of fatwas published by Islamic organizations such as Muhammadiyah (established in 1912), Persatuan Islam (1923), Nahdlatul Ulama (1926), and the Indonesian Ulama Council (established in 1975). These organizations are selected thanks to productivity in producing fatwas. Fatwas become guidance for their millions of members and sympathizers all over Indonesia.

Organizations	Number of Fatwas	Sources
Muhammadiyah	52 fatwas on zakat	(Questions and Answers about Religion, 7 volumes). This book is a compilation fatwas published in the <i>Suara Muhammadiyah</i> magazine.
Persatuan Islam	5 fatwas on zakat	Collection of Fatwa of <i>Dewan Hisbah</i> (Fatwa Commission) of Persatuan Islam.
Nahdlatul Ulama	44 fatwas on zakat	Collection of Fatwa of <i>Bahtsul Masaail</i> (Fatwa Commission) of Nahdlatul Ulama.
MUI	9 fatwas on zakat	Collection of Fatwa of Indonesian Ulama Council.

Apart from establishing clinics, hospitals, schools, madrasah, orphanages, humanitarian organizations, and zakat agencies, the above Islamic organizations also produce fatwas to fulfill the needs of knowledge and understanding of religion among their members and sympathizers. There are fatwa commissions set up by Islamic organizations above that have produced fatwas on Islamic philanthropy: the *Majlis Tarjih* (Muhammadiyah), *Dewan Hisbah* (Persatuan Islam), and *Lajnah Bahtsul Masail* (Nahdlatul Ulama). In this paper, I will also

analyze fatwas issued by the Indonesian Ulama Council (MUI). Since 1975, MUI has functioned as an umbrella of Islamic organizations and a government partner in giving policies related to Muslim religious affairs. Many Muslim leaders from Islamic organizations become MUI's functionaries. MUI has also produced various fatwas to which society and government may practice Islamic teaching or formulating Islamic regulations.

Regulating Religious Giving through Fatwas

In Indonesia, Islam is one of six officially recognized religions by the government, along with Hinduism, Buddhism, Catholicism, Protestantism, and Confucianism. However, the public visibility of Islam is rather apparent as Muslims are the majority of the population, and Islamic features such as attributes, dictions, events, and policies have been adopted in the government's various occasions. The Ministry of Religious Affairs functions as administrator and regulator in managing religious organizations but is not involved in regulating modes of worship. For the most part, people follow certain religious paths formulated by the ulama or by Islamic organizations. Under these circumstances, fatwas on philanthropy issued by the 'ulama have had a profound impact on the nature of Indonesian Muslim religious views, in general, and on zakat practices, in particular.

Different financial sources have been used for philanthropic schemes in the Muslim world. Among the most prominent financial sources is the tradition of *zakat* (almsgiving), the third of five Islamic pillars, which encourages Muslims to pay alms to those institutions approved to handle zakat funds. Today, numerous questions about how zakat should be formulated and practiced in the current social, economic, and political context have influenced Muslim debates over philanthropy issues (raising funds, models of distribution, and types of beneficiaries) in general. According to Islamic tradition, every Muslim whose wealth reaches a minimum amount (*nisab*) should pay zakat to designated institutions, called '*amilin*. The money collected from zakat payers (*muzakki*) should then be distributed to the eight types of beneficiaries. However, in the field, Muslim communities discover many new issues that need Islamic legal opinions.

To understand the nature of fatwa on zakat and how fatwas are needed to justify social action, it is worth mentioning the nature of fatwa on philanthropy, in general, and zakat, particularly, in other Muslim countries. Studies have suggested that fatwas on zakat issued by the 'ulama always show nuances between traditional or orthodox views and the effort to make innovations to zakat. The religious authorities rarely hold a single opinion that can unify the practice of zakat among communities. Benthall's and Bellion-Jourdan's (2013) observation on zakat distribution in Muslim societies suggests that Islamic scholars share different zakat beneficiaries' perspectives. Whether zakat beneficiaries should be Muslim has been debated by Muslim scholars. Some argue that zakat beneficiaries must be Muslims; others say that zakat beneficiaries must be low-income families (*faqr* and *miskin*) regardless of their religious affiliation (Benthall & Bellion-Jourdan, 2013, p. 10). These two competing views, in many

ways, have had significant consequences to the ways Muslims distribute zakat funds and select beneficiaries. Until now, the types of Muslim NGOs are contingent on religious fatwas issued by the 'ulama, whether they emerge publicly with inclusive and strategic philanthropic projects that address development issues or appear to be the religiously exclusive organizations that serve Muslims only as a part of the umma (Petersen, 2015).

In Egypt, some 'ulama have attempted to address "new areas for zakat" distribution such as Muslim refugees, Children's cancer hospitals, book publications, and even research to eradicate ignorance within society (Bremer, 2013, p. 71). These fatwas have challenged the traditional views that tend to prevent zakat distribution for schools or madrasah. In response to Egypt's poverty rate, the ulama of Al-Azhar under the Islamic Research Centre has urged the government to pay 20% zakat on the oil and gas trade. The above expositions suggest that "Islamic legal scholars are open to creative new applications of traditional *fiqh* as a source of moral suasion" (Powell, 2010, p. 61). Similarly, in Nigeria, the zakat organizations should consult the 'ulama when they attempt to formulate the zakat accountancy standard. The zakat accountancy standard is needed as a means of fostering transparency and the governance of zakat management. However, "the lack of consensus and a unified fatwa" among Islamic scholars becomes the main barrier to accelerating this accountancy standard's implementation. In turn, disagreements among 'ulama have "weakened the zakat system and made its bureaucracy dysfunctional" (Saad, 2019, p. 34).

Studies of the fatwas on zakat in Malaysia show how the ulama's legal opinions can influence the state. Malaysia is renowned for its advanced contribution to the implementation of state-sponsored zakat and Islamic economics. The diversity of the ulama's views has consequences for Malaysian federal states' diversity in issuing zakat legislation. For example, the imposition of zakat on salaries is implemented in the Federal Territories and Melaka, but the ulama in Perak does not approve of it. Meanwhile, ulama in other states such as Perlis and Terengganu do not have precise fatwas on salaries. Consequently, in Malaysia, "zakat on income remains a voluntary practice rather than been highly compiled by Muslims" because there is no "unified opinion on the zakatability of income" (Bakar & Rashid, 2010, p. 78; Hassan, 2014, p. 77).

Hooker (2003) analyzes Islamic law development in Indonesia by examining fatwas enacted by Muslim civil society organizations. He explored the consistency and inconsistency of Muslim organizations in arranging the arguments and how religious opinions and judgments can change over time, depending on the social, economic, and political situation. His study also shows that debates among Indonesian 'ulama took place because of differences in the utilization of the Islamic jurisprudence methodology or a lack of knowledge in understanding new technology that affected religious lives (Hooker, 2003, pp. 112–113). Likewise, Salim's (2008) study on Islamic legislation in Indonesia demonstrates that while fatwas are still needed by Muslim communities, in the context of the nation-state and to fulfill the needs of the larger audiences or citizens, the position of many fatwas is "replaced by Islamic legislation" (p. 73).

This implies that fatwas, including fatwas on zakat, deal only with individual Muslims' specific personal interests. When Muslims cope with the public interest, they refer to Islamic legislation instead of fatwas. Salim's (2008) argument on Islamic legislation may fit some conditions in contemporary Muslim society or Muslim-majority countries that have witnessed Islamic legislation or Islamic law adoption by the government, such as in Indonesia. However, there are some limits of Islamic legislation regulating specific issues on the emerging practices of philanthropy in Muslim society, which are very dynamic and vibrantly require innovative interpretation of Islamic tradition on zakat practices.

Like in other Muslim countries, fatwas on zakat in Indonesia is very diverse, depending on some factors such as Islamic references (literature), methodology, and jurisprudential concepts (*fiqh*) used by ulama and Islamic organizations in formulating their religious opinions. In Sunni Islam, there are four primary sources of Islamic law: the Qur'an, Sunnah (*hadith*), *Ijma'* (Islamic scholars' agreement), and *qiyas* (analogical reasoning). Islamic scholars or jurists in recent times mainly refer to these four sources in determining religious judgments on a particular case, including in answering questions from the communities. This paper argues that contextualization and dynamization by different methods of using Islamic law sources have led to fatwa pluralism on Islamic philanthropy in Indonesia. Fatwa pluralism of religious charity signifies the development of some "different legal tradition within a given sovereign territory" of Islamic organizations (Turner & Arslan, 2013, p. 440). People's acceptance of fatwa pluralism on Islamic philanthropy does not instigate intellectual and sociological tensions in communities. People still can voluntarily and freely follow certain opinions and practice particular religious giving traditions formulated by Islamic organizations.

The utilization of Islamic literature by jurists contributes to the development of fatwas' arguments and substance. Islamic organizations have used various literature in different fields such as Islamic exegesis (*tafsir*), Islamic tradition (*hadith*), Islamic jurisprudence (*fiqh* and *usûl al-fiqh*), and history (*sirah*) in enacting their fatwas. Nevertheless, Muslim jurists have their preferences in selecting these sources whether they want to focus on the first two primary sources of Islamic law (the Qur'an and Hadits) or wish to enrich their perspective by referring to books on Islamic jurisprudence. Muhammadiyah and Persatuan Islam mainly utilized the Qur'an, *hadith*, and *tafsir* literature in presenting their arguments in the fatwas. However, these two organizations rarely cited previous Islamic scholars' opinions from *fiqh* literature.¹

By contrast, Nahdlatul Ulama (NU) has used many Islamic references, called *Kitab Kuning* (the yellow books), on *fiqh* and *usul al-fiqh*. The reason why NU's 'ulama rarely cited the Qur'an and *hadith* in their fatwa is at least twofold: first, any question raised to obtain an opinion is not yet answered clearly in the Qur'an and *hadith*. Therefore, it is unnecessary to put many Quranic verses and *hadith* in fatwas because Muslim society needs a straightforward and clear answer.

¹ Sayyid Sabiq's *Fiqh al-Sunnah* is an exception, as Muhammadiyah and Persatuan Islam often quote it.

Second, the answers to people's questions were probably discussed and formulated by the previous *fiqh* 'ulama. Therefore, Nahdlatul Ulama needs to provide a precise answer, not an in-depth and complicated explanation. NU's Islamic legal tradition is mainly based on fatwas or legal opinions in four madhhabs (Islamic legal thought): Malikite, Hambalite, Hanafite, and especially Shafi'ite. Many questions raised by Muslim communities, in fact, have been examined and answered by previous ulama. It appears that MUI has formulated fatwas on zakat by referring to various Islamic literature, some of which shared similarities with the books used in Nahdlatul Ulama. MUI mainly quoted hadith from some literature and rarely cited the arguments and opinions of the 'ulama. It can be argued that Muslim jurists' justification of fatwas on philanthropy has relied on different types of Islamic literature and jurisprudential concepts in contextualizing zakat, which in turn led to the rise of fatwa pluralism.

Fatwa Pluralism: Between New Ijtihad and Traditional Views

In the late 19th century, an Indonesian Muslim requested a fatwa from a Malay scholar ('*ulama*) residing in Mecca about the utilization of zakat for mosque construction: on whether or not zakat funds can be used to finance the construction of a mosque. In the mid-20th century, a similar question was posed to the traditionalist Islamic organization Nahdlatul Ulama precisely about the use of zakat funds for mosques and madrasahs. Then, in the 21st century, the Muslim modernist movement organization Muhammadiyah received a letter from its members about the same issue. Although all the questions were answered and the *fatwas* were enacted, the answers reflected different concerns. Both the Malay scholar in the 19th century and Nahdlatul Ulama in the 20th century suggested in their responses that there is no legitimate argument in Islamic tradition that shows zakat funds can be channeled to a mosque or madrasah (see Pengurus Besar Nahdhatul Ulama, 2011, p. 276). By contrast, Muhammadiyah's answer in the 21st century allowed zakat payers (or zakat administrators) to disburse zakat funds for mosque activities and madrasah with a very restricted precondition: There is no low-income family left behind in the neighborhood (Majelis Tarjih, 2012c, p. 155). It appears that different fatwas issued by Muhammadiyah and NU on zakat for madrasah/Islamic schools are instigated by different understandings of the concept of *fi sabilillah*, one of the zakat recipients. Muhammadiyah suggested that the concept of *fi sabilillah* can be extended to include those seeking knowledge and struggling to have a place of worship (Majelis Tarjih, 2012c, p. 155). However, the Nahdlatul Ulama emphasizes that the meaning of *fi sabilillah* refers to those fighting (*jihad*) on the battlefield (Pengurus Besar Nahdhatul Ulama, 2011, p. 276; Hooker, 2003, p. 111).

The above prepositions suggest that questions about zakat have been responded to in different ways by Indonesian ulama. What is not permissible according to some ulama might be acceptable to others. In this paper, I would like to consider some examples of fatwas on zakat and how 'ulama give different responses in some cases. Fatwa institutions under civil society organizations sometimes received similar questions, and occasionally they shared different opinions. These different opinions appear as consequences of the diverse

perspectives in envisioning zakat practices, contextualizing Islamic tradition, utilizing the methodology of Islamic jurisprudence, as well as in referring to Islamic scholarly references. The simplicity of the questions raised by the public in fact should be responded to by the complexity of fatwa formulation.

The changing types of occupation and business in Muslim societies have stimulated the rise in questions about types of wealth that are zakat-able. Some Muslims have asked Nahdlatul Ulama for fatwas about zakat on hotel and transportation business. Generally, the Islamic concept of zakat deals with trading or commerce, characterized by the exchange of property. However, the businesses of renting land, hotels, and transportation are not precisely characterized by the “exchange of property,” such as businesses providing “services.” Nahdlatul Ulama uses analogical reasoning (*qiyas*) in determining its fatwas by emphasizing that the rental business is part of and can be analogized to commerce. Thus, an investment in hotel transportation is zakat-able (Pengurus Besar Nahdhatul Ulama, 2011, p. 380).

The types of wealth owned by Muslim communities in rural and urban areas change, and people’s occupation models are diverse. For example, zakat of agriculture in Islamic tradition, as suggested in *hadith* and *Sunna*, is applied to the farmers who cultivated and produced wheat and dates. In practice, notions of *zakat* of agriculture are occasionally associated with staple food production, including rice. However, in Indonesia, some people asked about zakat on coffee, tea, and cloves and whether these types of plantations share similarities with wheat and dates. The questions about zakat on agriculture were received by Nahdlatul Ulama and can be divided into two main concerns: 1) types of farm products that are zakat-able according to Islam and 2) the process of managing the farm and its consequences for the implementation of zakat. In formulating the fatwas on tropical agricultural products, Bahtsul Masail of Nahdlatul Ulama argues that agricultural products not mentioned in the Qur’an and *hadith* are still subject to zakat rules. Nahdlatul Ulama suggests that all plantations are part of commercial trading (Pengurus Besar Nahdlatul Ulama, 2011, p. 4011). Therefore, the *nisab* of the plantations above can be measured and calculated based on the zakat on commerce (2.5% net from revenue). Zakat on farming, such as coffee, tea, and cloves, cannot be juxtaposed with the zakat on wheat and rice (5%–10%) (Pengurus Besar Nahdhatul Ulama, 2011, p. 380). Nahdlatul Ulama’s view is different from Muhammadiyah’s perspective in formulating fatwas on plantations. Muhammadiyah does not mention zakat on trade (commerce) for coffee farming. Instead, Muhammadiyah uses the concept of zakat on agriculture (5–10%) for coffee, tea, etc. (Majelis Tarjih, 2012c, p. 159). It should be noted that in practice, direct engagements of NU and Muhammadiyah in assisting farmers and sailors to pay zakat rarely or even never occur.

The same logic (analogical reasoning) was used by Nahdlatul Ulama when discussing fish farming. Nahdlatul Ulama sees that fish and seeds of fish cannot be compared to animal husbandry and livestock. Fish and seeds of fish are parts of the commercial (trading) product, and thus the concept of zakat on commerce (*tijarah*) can be applied. Muhammadiyah has made a similar argument for animal husbandry concerning animals other than cows and goats. Muhammadiyah argues

that chickens and quails are subject to zakat on commerce (2.5%) (Majelis Tarjih, 2012c, p. 159). However, it should be noted that Muhammadiyah and Nahdlatul Ulama have different opinions about zakat on fish. The Nahdlatul Ulama has linked zakat on fish to the zakat on commerce because fish farming is intended for trading, while Muhammadiyah sees all fisheries' products, whether taken from the sea or fishponds, as mining. Therefore, according to Muhammadiyah, "something related to zakat on fish should be adjusted with the concept of zakat on the mining" (Majelis Tarjih, 2012b, p. 118). Again, analogical reasoning (*qiyas*) is applied by Muhammadiyah in giving an opinion about zakat on fish.

In 2018, the Indonesian government issued a regulation about zakat for Muslim civil servants. This regulation has caused heated debates among Indonesian Muslims, including the advocates of civil society-based zakat agencies. Some believe that the issuance of this regulation is part of the state-based zakat agency BAZNAS in monopolizing zakat payers from Muslim civil servants. This monopoly will reduce civil society-based zakat agencies' ability to gain zakat funds from their members who work for the government as civil servants. It should be noted that fatwas on the collection of zakat from civil servants have been issued by many organizations, including Muhammadiyah, Persatuan Islam, Nahdlatul Ulama, and MUI (Latief, 2014). The main topic of the debates among 'ulama is about zakat on salaries and whether an automatic debit from civil servants' salaries is acceptable according to Islamic law.

Muhammadiyah has received several questions about zakat on salaries, referred to as zakat on the profession (*zakat profesi*). In the beginning, the first fatwa issued by Muhammadiyah showed that zakat on salaries is not recognized in Islamic tradition and, therefore, Muhammadiyah does not apply this concept (Majelis Tarjih, 2012a, p. 113). Later on, Muhammadiyah's view changed as it recognized zakat on salaries in another fatwa (Majelis Tarjih, 2012b, p. 116). Nahdlatul Ulama also received a similar question. Again, in Nahdlatul Ulama's view, zakat on salaries should be examined from the perspective of zakat on commerce. If someone works in a government office or company and he/she does not intend to trade anything, their salary cannot be treated as zakat on commerce (Pengurus Besar Nahdhatul Ulama, 2011, p. 594). In particular, Nahdlatul Ulama does not accept the automatic monthly deduction from wages because zakat can be implemented on somebody's wealth after one year. Nahdlatul Ulama argues that the *nisab* (the minimum amount of wealth to be zakatable) and *haul* (one lunar year, the length of time that Muslims must possess the wealth) must be considered and calculated simultaneously. Therefore, according to Bahtsul Masail's fatwas, it is unacceptable to deduct a person's salary per month for zakat because zakat should be deducted annually.

Similarly, Persatuan Islam does not recognize zakat on salaries (profession) but urges Muslim employees to pay mandatory *infaq* or donation (not zakat) for social purposes (Pimpinan Pusat Persatuan Islam, 2008). Meanwhile, the Fatwa Commission of MUI issued an opinion (Fatwa no. 3 of the year 2003) reconciling the above views: accepting notions and practice of zakat on salaries (2.5%), suggesting that zakat can be deducted from wages received by employees after one year. Meanwhile, Persatuan Islam sees that Muslims should allocate

infaq or *sadaqa* from their salary (not zakat) as there is no reliable and convincing indication in the Qur'an and hadith about zakat on salaries (Majelis Ulama Indonesia, 2011).

Fatwa development in Muslim societies requires *ijtihad* (independent reasoning) among 'ulama to provide a grassroots "new source" of Islamic law (Masud, 2009). All questions posed by Muslim communities to the 'ulama or fatwa institutions indicate that there has been increased awareness among Muslim communities of facing and resolving new issues that require religious judgment, including philanthropy practice. It appears that Muslim communities in Indonesia are seeking to change the essence of their zakat practice from merely translating tradition and *adat* (customary practices) inherited from generation to generation into religiously justifiable and socially functional practices. Unsurprisingly, the recent discussions of zakat have included ideas of *maqasid shari'a* (the objective of Islam law) and notions of sustainable development goals as a new *ijtihad* perspective. Precise responses and convincing mufti opinions thus become a framework for societies to implement Islamic shari'a. For example, it is common in communities for zakat administrators or zakat payers to direct their zakat funds to projects like mosque construction, scholarship, investment, etc. Also, fatwas are required to explain automatic salary payments from employees among Indonesian Muslims. *Ijtihad* then plays a profound role in dynamizing zakat collection and distribution, until nowadays, which may lead to the inception of new ideas and the implementation of innovative social and empowerment projects. Therefore, the roles of contemporary 'ulama in addressing zakat can also energize zakat organizations to cope with current development issues, such as sustainable development goals.

Fatwa institutions play essential roles in resolving the complexities of zakat practices. Mufti and fatwa institutions within Islamic civil society organizations played vital roles in providing direction and guidance in zakat practice among Indonesian Muslim communities. Because several fatwas are given to answer questions from an individual or group, the fatwas' product can become sources from other Muslims facing a similar case. Not all people or groups agree with the fatwas. People may approve or reject fatwas. The strength of mufti to produce fatwas as a result of *ijtihad* indicates the role of fatwa institutions in delivering Islamic knowledge, particularly on zakat law and regulation in response to community philanthropy-practice dynamics. Whereas civil society organizations such as Muhammadiyah, Persatuan Islam, Nahdlatul Ulama, and MUI display their eagerness to implement fatwas, what is interesting is that they never refer to each other to issue fatwas, even when they discuss a similar subject.

It is worth mentioning three main contexts within which fatwas on zakat and Muslim philanthropy are formulated and implemented: ulama and literature, society's freedom to choose, and governmental intervention. First, the essence of fatwas on zakat and voluntary giving (*sadaqa*) can be seen from the production process and types of sources used by the *mufti* in fatwa formulation. Although the majority of Indonesians are Sunni Muslims, this does not mean that the types of literature utilized by muftis are unvarying. Islamic scholars' access to—and

perceptions of—Islamic literature are diverse. Some Islamic scholars preferred *tafsir* instead of *fiqh* books and others vice versa to justify the reformulation of fatwas. Muftis' religious backgrounds, whether modernist, traditionalist, or progressive, have had a profound impact on the patterns of legal differences (*ikhhtilaf*) between ulama or Islamic organizations (Masud, 2009, p. 349). In some instances, the muftis used an analogy (*qiyas*) to clarify and contextualize ideas about zakat to represent existing problems and contexts in which new issues emerged and must be resolved. In a nutshell, diversity in using the Islamic jurisprudential definition approach and methods stimulates the emergent “fatwa pluralism” on zakat practices in Indonesian Islam.

Second, fatwa pluralism offers societies an opportunity to choose fatwas appropriate for their circumstances. Muslim communities with no organizational affiliation can freely choose the preferred fatwas when they pay zakat. In the Indonesian context, there is not a special government agency that formally imposed and administered the implementation of fatwas on zakat. Thus, Muslim communities can personally select—and voluntarily and pragmatically practice—their preferred fatwas. Freedom to choose fatwas in Indonesia provides a space where different Islamic thoughts are circulated and contested in the face of Muslim communities. This freedom of selecting fatwas can also be indicated in the openness of *ifta'* institutions and zakat organization in posting their fatwas publicly. Briefly, Indonesia experienced decentralized religious authority by civil society organizations.

Third, it is worth emphasizing that freedom to choose fatwas is concomitant with the state's impartial views on the fatwas on zakat, unlike in other cases. Although there was a growing trend among local governments in some municipalities to impose zakat payments for civil servants, it was not applied consistently and, more importantly, was not based on a particular fatwa. For the most part, the state would not interfere with the mufti's decision even though the mufti's state policy on zakat often requires justification.

Methodologically speaking, the fatwa development models used by each Islamic organization are not the same. A mufti often gives precise, direct, and instant personal statements/opinions in answering public questions. Nonetheless, Muhammadiyah and NU demonstrate different response models. Many fatwas published in the *Suara Muhammadiyah* magazine are instant responses, but the others are long responses with thorough descriptions followed by various claims from the Quran and the hadith. The absence (limit) of sources mentioned in the fatwas is the lack of the fatwas in Muhammadiyah, and this differs from the fatwas in the NU, which frequently refer to some classical *fiqh* literature. NU explicitly mentions the origins of the views suggested as the response. Yet, NU fatwas do not provide sufficient explanation. It appears that MUI aims to merge the approaches used by Muhammadiyah and NU. The MUI addressed the subjects regularly, referring to the Quran, hadith, Sirah, and *fiqh* literature. Nevertheless, several MUI-produced fatwas deal only with major issues such as zakat policy.

While Islamic organizations have passed the very sophisticated fatwa production process to formulate convincing arguments and definite opinions, there is still a significant question about the impact of fatwas in Muslim societies.

The creation of fatwas affects philanthropy governance in Indonesia. In recent times, the government through the Ministry of Religious Affairs has issued a policy on the need for shari'a audits for Muslim philanthropic organizations or zakat organizations whose audit principles are partly relied on by fatwas. By producing fatwas, Islamic civil society organizations expect the practice of zakat among their members and sympathizers and zakat administrators to be consistent with the guidelines of the enacted fatwas. Islamic civil society organizations have issued fatwas on '*amilin* (zakat administrator) by addressing strategic issues such as the requirement to become a zakat administrator and the code of conduct, authority, and the role and duties of the zakat administrator in managing the public funds.

The above explanations suggest that Indonesian Muslims have witnessed the plurality of fatwas concomitant with the diversity of cultural expression, types of religious interpretations, and method of jurisprudential systems among Indonesian Islamic scholars. With Muslims making up more than 80% of the population of 260 million and many Islamic organizations, it is not easy to bring fatwa centralization in Indonesia, just like elsewhere in the Muslim world. Various fatwas on religious philanthropy issued formally by Islamic organizations develop in a coexistent way. There is almost no uniformity of religious opinion of the fatwa, which results in the diversity of religious philanthropy practices. Therefore, fatwas on religious philanthropy, just like Islamic law in general, are "characterized by the co-existence of two or more laws that interact within the process of modernization programs in nation-states" (Salim, 2015, p. 23).

Conclusion

Religious discourse in Muslim societies, represented by the production of fatwas, is central to the formation of Islamic social practices, as fatwas have a regulatory function, either formally or informally. Islamic philanthropy, in general, and the payment of almsgiving cannot escape from Islamic scholars' intellectual exposition. The production of many fatwas on zakat by Muslim civil society organizations in Indonesia suggests that Muslim understanding of religious teachings on philanthropy is related to the moral or ethical dimension of giving and volunteering and how to give. The fatwas on zakat rendered by religious authorities such as '*mufti*' and '*ifta*' institutions in Indonesia remain in its "discretionary" function as discursive religious knowledge that enlightens the public (*umma*). Neither is a fatwa on zakat legally binding nor officially enforceable to Muslim communities or Islamic organizations (see Khan & Bakar, 2022).

Unlike charity practices under the framework of *sadaqa* (*sedekah*), a very loose concept of giving, zakat has been regulated in the Islamic tradition. Therefore, ulama's sayings explaining "how to give" become the sources of reference and regulatory basis in Muslim societies. Thus, the progressive nature of almsgiving payment is contingent on the 'ulama's fatwas. However, how 'ulama formulate the goals of their fatwas has influenced the character of giving practices. In this respect, this paper argues that fatwa production on zakat does not lead much to reforming and innovating the philanthropy practice in Indonesia

because most of the fatwas on zakat practices, as discussed above, are not transformed into official law or regulation by enforceable rulers and agencies that technically implement, advocate, and evaluate the implementation of zakat fatwas. This paper also argues that analogical reasoning in Islamic jurisprudence was commonly and frequently used in different ways. Although religious authorities in many Muslim countries, including Indonesia, have attempted to form a unified fatwa on zakat through their respected jurists/ulama/mufti or Islamic organizations, in reality, the nature of fatwas is often, if not always, decentralized, open for changes, optional, fragmented, and, in turn, enriching fatwa pluralism in Indonesia.

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