

The Importance of Regulation in The Implementation of Islamic Philanthropy

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Abstract

Indonesia has been awarded 5 times in a row as the most generous country in the world according to the 2022 World Giving Index research released by the Charities Aid Foundation. This generosity is reliable through the results of the Indonesia Philanthropy Outlook 2022 Survey which states that there are seven areas of progress in Indonesia's philanthropy. Philanthropy itself can be interpreted as the practice of generosity which is a tradition and religious teachings of the Islamic community with its actualization through zakat, infaq, endowments and alms. The progress in this area raises hopes for philanthropy to be able to maintain public trust. Therefore, the Indonesian Philanthropy Association (PFI) has contributed by issuing the Indonesian Philanthropy Code of Ethics (KEFI) in 2021 to maintain donor trust through the realization of an accountability system. But in fact there are still deviations in philanthropy. For this reason, Chairman of the KEFI Task Force and President of the Human Initiative Tomy Hendrajati mentioned the need for a regulation and law that regulates philanthropic activities. This is the basis for the author in setting research objectives, namely to find out the importance of a regulation for philanthropic activity. This study uses the previous research literature study method and a normative juridical approach to obtain secondary data. Furthermore, the data is processed and analyzed using a qualitative descriptive analysis method to become a research that is useful for researchers and readers. The results of this study are that philanthropic regulations have an important role in strengthening a system of accountability for actors to maintain public and donor trust in philanthropic institutions. In addition, the regulation also acts as a supervisor so that violations and philanthropic deviations can be alleviated.

Keywords: islamic philanthropy, zakat, wakaf, infaq, shadaqah, regulation

1. Introduction

As a form of generosity, philanthropy is defined as a reflection of a character that prioritizes the interests of individuals or other groups. In an Islamic perspective, philanthropy is reflected in the activities of zakat, infaq, shadaqah, and waqf (ziswaf). These activities develop together with their benefits for the poor. Even though zakat is an obligation, in contemporary life there is no punishment for those who do not pay zakat. It was different from the conditions in the early days of Islam, where there was a war to punish those who were reluctant to pay zakat. Therefore, zakat is categorized as a form of philanthropy after going through a research process by researchers and academics.

In Indonesia itself, the potential for philanthropy is enormous. Philanthropy has become a culture that is instilled through traditional teachings and religious teachings. In fact, Indonesia has been awarded up to 5 times in a row with the title of the most generous country in the world based on the 2022 World Giving Index research conducted by the Charities Aid Foundation. This generosity is reliable through the results of the Indonesia Philanthropy Outlook 2022 survey which states that there are seven areas of progress in Indonesia's philanthropy. The seven areas of philanthropic progress include transforming the governance of philanthropic

institutions, increasing donations and their distribution process, the capacity of philanthropists and their professionalism, and innovation in giving charity in Indonesia.

The progress in the area of philanthropy has become a great potential for philanthropy, as well as growing hope for philanthropy to be able to maintain public trust. Therefore, the Indonesian Philanthropy Association (PFI) has contributed by issuing the Indonesian Philanthropic Code of Ethics (KEFI) in 2021 to maintain donor trust through the realization of an accountability system. However, in reality there are still irregularities in philanthropic activities. The philanthropic irregularities that occurred varied, both in fundraising activities, management, and in fund distribution activities. For this reason, Chairman of the KEFI Task Force and President of the Human Initiative Tomy Hendrajati said there was a need for regulations and laws governing philanthropic activities.

In addition, in the management of philanthropy, a large role is needed from a state, both by compiling regulations and by forming semi-structural philanthropic bodies. This will have a positive impact on the Indonesian state to be able to optimize philanthropic management institutions so that they are able to prioritize and prioritize community strengthening programs that have long-term effects. On the other hand, philanthropic management institutions are also expected to be able to encourage people to make donations through institutions so that they are more structured and organized.

2. Research Methods

In the process of collecting data, this study used the library study method. Literature study or library research, is research conducted by collecting scientific papers or data that are in line with this research or collecting data of a literary nature, or analysis carried out to find a solution to a problem that is based on critical and in-depth analysis of relevant literature materials.

This research uses a normative juridical approach. Soerjono Soekanto explained that the normative juridical approach is legal research carried out by examining legal concepts, theories and principles with library materials as the main source.

The data collected and obtained is in the form of secondary data. Secondary data is data obtained indirectly, namely through existing sources. Secondary data can be obtained from literature and other documentation materials such as text books, scientific journals, articles, the internet, and other sources that are in line with research.

The data collected was then analyzed and processed using a qualitative descriptive analysis method. Qualitative descriptive analysis method is a technique used to collect data, process and analyze, and present data descriptively. This research method uses qualitative data which is explained descriptively.

3. Results and Discussion

3.1. Islamic philanthropy

Philanthropy according to language comes from the word *philanthropia* or from the words *philo* and *anthropos* in Greek which means human love. Philanthropy is an entity or group's concern for other people based on love. Philanthropy can also be interpreted as generosity or love for others. In a broader sense, Philanthropy originates from the word "loving people", so that its existence is widely implemented by cultures and communities in all parts of the world. Even its implementation has been going on for a long time because the conception of social justice has developed since pre-Islamic times.[†]

By some academics, philanthropy is equated with giving for good (*ata' khayri*), social giving (*al-ata' al ijtima'i*), good deeds (*al-birr*), human solidarity (*al takaful al insani*), and alms (*shadaqah*). Referring to this understanding, Islamic philanthropy in principle is any act of charity. Islamic philanthropy in a broader sense is to understand goodness that sometimes does not recognize group, race, social, culture, even religion when someone wants to do good anytime and anywhere.

Philanthropy is generosity, generosity, or social giving which is a form of expressing love for humans. Philanthropy is literally defined as the conception of the practice of giving or giving, service or service, and association on the basis of one's own volition to provide assistance to other parties who need it as an expression of love. In this case, Islam shows itself as a religion with a philanthropic face through the intermediaries of ijtihad techniques, such as zakat, infaq, alms, and endowments. The goal is that the circulation of wealth is not

[†] Makhrus. *Dinamika dan Aktiwisme Filantropi Islam dalam Pemberdayaan Masyarakat [Dynamics and Activism of Islamic Philanthropy in Community Empowerment]*. Yogyakarta: Penerbit Litera, 2018. page 17.

only among the rich. Therefore, Islamic philanthropy can also be interpreted as giving charity based on the view of introducing social justice and benefit to the general public.[‡]

Institutionally, Islamic philanthropy is manifested in institutions that manage zakat, infaq, alms, and endowments. This is because in Islamic teachings, zakat, infaq, and alms can be interpreted the same as giving or philanthropy. This refers to the word of Allah SWT, namely QS. At-Taubah: 60.

﴿ إِنَّمَا الصَّدَقَتُ لِلْمُفْقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمَوْلَقَةَ قُلُوبُهُمْ وَفِي
الرِّقَابِ وَالْعَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ
حَكِيمٌ ﴾

“In fact, zakat is only for poor people, poor people who are amil zakat, whose hearts are softened (converts), to (liberate) slaves, to (free) people who are in debt, for the way of Allah and for people who are on their way, as an obligation from God”

3.2. Philanthropy Regulations

Regulation is a word that is absorbed from the English word "Regulation" which means rule. In Collins Dictionary, regulation is a rule created by the government or other authorized institution to regulate the way something is done or the way someone behaves. Meanwhile, in the Big Indonesian Dictionary, regulation is defined as a regulation.[§] Regulations are certain rules or restrictions as a way to control people or society. Regulations are usually implemented in various forms, such as legal restrictions by the government, regulations by companies, and so on.

There are several different opinions regarding the definition of a regulation. Steewart and Walshe (1992) stated that "regulation is a process to ensure that there is a standard as a legal requirement that is fulfilled for certain services or public activities so that policies are fulfilled". According to Rosenbloom (2009) in the Handbook of Regulation and Administrative Law, regulation is defined as a process area that involves three state institutions, namely the executive, legislative, and judicial within the framework of public administration which includes three important aspects, namely regulation preparation, implementation or enforcement, and adjudication. Meanwhile, in the opinion of Kyla Malcom (2009), regulation is an area that focuses on the process of regulation, implementation, and supervision. This definition involves three interrelated aspects, namely legal and institutional structures, law enforcement, and supervisory activities. Then Bruce Yandle, economist and professor from Clemson University, defines regulation as a set of regulations made by the government and other institutions to control market behavior. George J. Stigler, an economist from the United States, defines regulation as an action taken by the state to reduce social and economic costs as a result of an economic activity or transaction that has the potential to harm society.

So we can draw a red line that regulation is a group of rules or policies created to control and regulate the actions or behavior of a person, group or organization in a particular field. Philanthropic regulations are a set of rules established by the government or other authorized institutions, to regulate every philanthropic activity, whether carried out individually or in groups or organizations.

The creation of a regulation certainly has a purpose and function. The purpose of regulation can vary, for example to maintain security, health, environment or justice in a society, it can also be made by the government or other institutions to protect public interests or prevent harmful practices. Meanwhile, in general there are several functions of a regulation, including:

1. As a controller and giver of certain limits.
2. Creating a feeling of security and peace.
3. Provide protection of rights and obligations
4. Making parties within the scope of regulations obedient and disciplined.
5. As a guide in behavior.
6. Creating a regulatory system that can be used as social control.
7. Ordering individuals not to commit acts that harm others.
8. To realize a common goal

[‡] Akbar W, Jefry T, and Noor M. Filantropi Islam (Regulasi dan Implementasi Zakat di Indonesia) [Islamic Philanthropy (Regulation and Implementation of Zakat in Indonesia)]. Yogyakarta: Penerbit K-Media, 2021. page v.

[§] regulasi. 2016. At Big Indonesian Dictionary Online. Taken 29 June 2023, from <https://kbbi.kemdikbud.go.id/entri/regulasi>

Currently, there are four core philanthropic regulations in effect in Indonesia. These regulations govern donations and philanthropic institutions, including:

1. Law Number 19 of 1961 concerning Collection of Money and Goods
2. Government Regulation Number 29 of 1980 concerning Implementation of Contribution Collection
3. Regulation of the Minister of Home Affairs Number 38 of 2009 concerning Acceptance and Giving of Ormas Assistance from and to Foreign Parties
4. Regulation of the Minister of Social Affairs Number 8 of 2021 concerning Organizing the Collection of Money and Goods.

In addition, there are also several supporting regulations, for example Law Number 28 of 2004 concerning Foundations, Law Number 14 of 2008 concerning Public Information Disclosure, and Presidential Regulation Number 16 of 2018 concerning Procurement of Public Goods and Services.

3.3. Aspects of Islamic Philanthropy and The Regulation

3.3.1. Zakat



“Truly lucky are those who believe, (namely) those who are humble in their prayers, and those who distance themselves from (deeds and words) that are useless, and those who pay zakat”. (QS. Al-Mu'minun: 1-4)

وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَارْكَعُوا مَعَ الرَّاكِعِينَ

“And establish prayer, pay zakat and bow down with those who bow”. (QS. Al Baqarah: 43)

Zakat literally comes from the word "zakka, yuzakki, tazkiyatan, zakaatan" which means *thoharoh* (clean/purify), *namaa'* (grow/develop).** Zakat means good, holy, growing, blessing, and growing. In several books of Islamic law, zakat is also defined as holy, growing, developing and blessing. If this meaning is related to wealth, it means that the property that is being given zakat will develop, grow, and blessings will bring benefit to the life of the person who owns the property. Meanwhile, according to the term, it can be interpreted as an act of worship that is legally obligatory to be carried out by issuing a certain amount of property owned to people who have the right to receive it in accordance with Islamic sharia rules.

On the other hand, according to the Shari'a, zakat is part of the assets that we are legally obliged to give out from the assets that Allah has bestowed and have reached the nisab and haul to those who are entitled to it.††

The majority agreed that zakat is not a form of "generosity", but is an "obligation" that must be carried out or carried out when it reaches a certain level. Despite the reality, zakat is still included in Islamic philanthropy because it is still carried out based on self-will or willingness and on the basis of individual awareness without social sanctions for those who do not carry it out. Therefore, issuing zakat is an ethical obligation and can also be referred to as philanthropy on the basis of morality.

Zakat is a form of implementation of the nature of mutual cooperation between those who have excess assets and those who are lacking. Zakat can be a form of protection for the community from social disasters such as poverty and weakness, both physical and mental. Communities that are spared from these disasters can become communities with lives that have virtue. This understanding comes from the word of Allah SWT in surah At-Taubah verse 103: "Take alms from their property, you clean them and purify them with that alms". For this reason, zakat needs to be managed seriously by the government or authorities with the establishment of regulations and professionalism in management activities and legal guarantees so that it can be effective for society.

** Hudaifah A, at al. Sinergi Pengelolaan Zakat di Indonesia. Surabaya: Scopindo Media Pustaka [*Zakat Management Synergy in Indonesia*], 2020. page 3.

†† Rosadi A. Zakat dan Wakaf: Konsepsi, Regulasi, dan Implementasi [*Zakat and Waqf: Conception, Regulation, and Implementation*]. Bandung: Simbiosis Rekatama Media, 2019. page 9.

The following are several laws and regulations regarding Zakat Management that apply in Indonesia, including:

1. Law Number 23 of 2011 concerning Management of Zakat
2. BAZNAS Regulation Number 01 of 2014
3. BAZNAS Regulation Number 02 of 2014
4. Government Regulation No. 14 of 2014 concerning Implementation of Law No. 23 of 2011 concerning Management of Zakat
5. Regulation of the Minister of Religion No. 52 of 2014 concerning Requirements and Procedures for Calculation of Zakat Mal and Zakat Fitrah and Utilization of Zakat for Productive Businesses
6. Regulation of the Minister of Religion No. 69 of 2015 concerning Amendments to Minister of Religion Regulation No. 52 of 2014 concerning Requirements and Procedures for Calculation of Zakat Mal and Zakat Fitrah and Utilization of Zakat for Productive Businesses
7. Regulation of the Minister of Religion No. 5 of 2016 concerning Procedures for Imposing Administrative Sanctions in the Management of Zakat
8. Decree of the BAZNAS Advisory Council No 001/DP-BAZNAS/XII/2010 concerning Guidelines for the Collection and Administration of Zakat, Infaq, and Sadaqah at the National Amil Zakat Agency
9. Decree of the Head of BAZNAS No. KEP. 016/BP/BAZNAS/XII/2015 concerning Nishab Value of Zakat Income or Profession in 2016
10. Decision of the Head of BAZNAS No 142 of 2017 concerning the Value of Nishab Zakat Income in 2017
11. BAZNAS Regulation Number 01 of 2019 concerning Procedures for Appointing and Dismissal of Provincial National Amil Zakat Board Leaders and District/City National Amil Zakat Board Leaders
12. BAZNAS Regulation Number 02 of 2019 concerning Duties and Authorities of Provincial BAZNAS Leaders and District/City National Amil Zakat Board Heads
13. BAZNAS Regulation Number 03 of 2019 concerning Procedures for Application for Recommendations for Permits for the Establishment and Opening of Representatives for Amil Zakat Institutions
14. Circular Letter Number 01 of 2018 concerning the Implementation of Neutrality for BAZNAS Members, Provincial BAZNAS Leaders, Regency/City BAZNAS Leaders, Leaders of Amil Zakat Institutions, and Implementing Amil in the Implementation of General Elections for Regional Heads, Members of the Legislature and President and Vice President
15. Circular Letter Number 02 of 2018 concerning the Implementation of Collection and Distribution of Zakat Fitrah
16. Circular Letter Number 03 of 2019 concerning the Dissemination of 3 (three) National Amil Zakat Agency Regulations

3.3.2. Wakaf

Waqf comes from the mashdar word "*waqafa-yaqifu-waqfan*" which means to hold or stop. Waqf as the origin of the word waqf has the meaning of returning (*radiah*), captive (*al-tasbil*), restrained (*al-tahbis*), and preventing (*al-man'u*). Meanwhile, in terminology, waqf is "*tahbisul ahl wa tasbilul manfa'ah*" which means to hold something or object and provide benefits. In Article 215 paragraph (1) of the Compilation of Islamic Law, it is explained that "waqf is a legal act of a person or group of people or a legal entity that separates part of his property and institutionalizes it forever for the benefit of worship or other public purposes according to Islamic teachings".^{¶¶}

Some scholars define waqf as follows:^{¶¶}

1. Muhammad al-Syarbini al-Khatib expressed the opinion that waqf is holding assets that can be used for benefits followed by the permanence of the property by cutting off assistance (*tasharruf*) in guarding over managers (*mushrif*) who are allowed to exist.
2. Ahmad Azhar Basyir, argues that waqf is an activity of retaining assets that can be taken advantage of and not destroyed instantly, as well as for uses that are permissible and intended to gain the pleasure of Allah.
3. According to Idris Ahmad, waqf is the custody of assets that may be used, the substance remains, and is handed over to places that have been regulated by *syara'* and is prohibited from being free on the objects that are benefited.

^{¶¶} Akbar W, Jefry T, and Noor M. *Filantropi Islam (Regulasi dan Implementasi Zakat di Indonesia) [Islamic Philanthropy (Regulation and Implementation of Zakat in Indonesia)]*. Yogyakarta: Penerbit K-Media, 2021. page 2.

^{¶¶} Rosadi A. *Zakat dan Wakaf: Konsepsi, Regulasi, dan Implementasi [Zakat and Waqf: Conception, Regulation, and Implementation]*. Bandung: Simbiosis Rekatama Media, 2019. page 121.

In the current era, the development of waqf is actualized more elegantly. In its development, waqf is not only in the form of land, schools, mosques, and other objects. But it can also be in the form of "productive waqf" or "cash waqf" which has quite a large impact on social development and welfare.

According to the Law of the Republic of Indonesia Number 41 of 2004 CHAPTER I Article 1 Point 1, "waqf is a legal act to separate and/or hand over some of his property to be used forever or for a certain period of time in accordance with his interests for the purposes of worship and/or welfare public according to sharia".

In addition, in Article 1 of the Indonesian Waqf Regulation Number 4 of 2010 concerning Guidelines for the Management and Development of Waqf Assets, the same definition of waqf is also explained, "waqf is a legal act of wakif to separate and/or surrender part of his property to be used forever or for a period of certain time according to their interests for the purposes of worship and/or general welfare according to sharia".***

Based on the definition according to the previous law, the waqf period is divided into two types, namely perpetual waqf and temporary waqf. Perpetual waqf is a type of waqf property that is handed over by the wakif to the nadhir for an unlimited or forever period, so that this form of waqf can be used in the long term while still taking advantage of the waqf's interests. Meanwhile, temporary waqf or a certain period of time are waqf assets handed over by the wakif to the nadzir for a certain period of time or not forever either because of the form of the goods or because of the wakif's own will.

The following is a list of laws and regulations regarding waqf that apply in Indonesia:†††

1. Law No. 41 of 2004 concerning waqf.
2. Government Regulation No. 42 of 2006 concerning the Implementation of Law No. 41 of 2004 concerning waqf.
3. Government Regulation No. 25 of 2008 concerning Amendments to Government Regulation No. 42 of 2006 concerning Implementation of Law No. 41 of 2004 concerning waqf.
4. Regulation of the Minister of Religion No. 73 of 2013 concerning Procedures for Waqf of Immovable Objects and Movable Objects Other Than Money.
5. Regulation of the Minister of Religion No. 4 of 2009 concerning Administration of Cash Waqf Registration.
6. Indonesian Waqf Board Regulation No. 1 of 2008 concerning Procedures for Preparing Recommendations for Requests for Exchange/Change of Status of Waqf Assets.
7. Indonesian Waqf Agency Regulation No 3 of 2008 concerning Procedures for Registration and Replacement of Nadzir Immovable Waqf Assets in the Form of Land.
8. Indonesian Waqf Agency Regulation No. 1 of 2009 concerning Guidelines for the Management and Development of Waqf Object Prices in the Form of Money.
9. Indonesian Waqf Agency Regulation Number 2 of 2010 Concerning Procedures for Registration of Nazhir Cash Waqf
10. Indonesian Waqf Agency Regulation Number 4 of 2010 Concerning Guidelines for the Management and Development of Waqf Assets
11. Indonesian Waqf Agency Regulation Number 1 of 2020 Concerning Guidelines for the Management and Development of Waqf Assets
12. Indonesian Waqf Board Regulation Number 1 of 2021 Concerning the Organization and Work Procedures of the Indonesian Waqf Board
13. Indonesian Waqf Board Regulation Number 2 of 2021 Concerning Representatives of the Indonesian Waqf Board
14. Fatwa of The Council of Scholars Regarding Cash Waqf

3.3.3. Infaq and Shadaqah

يَا أَيُّهَا الَّذِينَ آمَنُوا أَنْفِقُوا مِنْ طَيِّبَاتِ مَا كَسَبْتُمْ وَمِمَّا أَخْرَجْنَا لَكُمْ مِنَ الْأَرْضِ ۗ وَلَا تَيَمَّمُوا الْخَبِيثَ مِنْهُ تُنْفِقُونَ وَلَسْتُمْ بِأَخِيذِهِ إِلَّا أَنْ تُعْمِضُوا فِيهِ ۗ وَعَلَّمُوا أَنَّ اللَّهَ عَنِ حَيْدٍ

*** Indonesian. Article 1 Law Number 41 of 2004 concerning Waqf. State Gazette of 2004 Number 159, Additional State Gazette Number 4459. State Secretariat.

††† Farid R. Analisis Sistem Pengawasan Wakaf di Indonesia [Analysis of the Waqf Supervision System in Indonesia]. 1st ANNUAL CONFERENCE ON IHTIFAZ: Islamic Economics, Finance, and Banking (ACI-IJIEFB). Universitas Ahmad Dahlan. Yogyakarta: 2020. page 119.

“O you who believe, spend (in the way of Allah) a part of what you do well and a part of what We remove from the earth for you. And do not choose the bad and then spend from it, even though you yourself do not want to take it, but by squinting at it. And know that Allah is Rich, Most Praised.” (QS. Al-Baqarah: 267)

Based on Law Number 23 of 2011, "Infaq assets issued by a person or business entity outside of zakat for the public benefit". Infaq is assets other than zakat issued by a person or business entity to provide public benefit.^{†††} Infaq comes from the root of the Arabic word *Al Infaq* which means to spend.

In the Big Indonesian Dictionary, infaq is defined as a donation or gift of wealth and so on (besides the obligatory zakat) for good^{§§§}. Infaq is defined as the act of giving something to another person in order to cover the needs of another person, either in the form of drink, food or anything else, based on sincerity to Allah. Infaq is also related to something that is carried out obligatory and sunnah.

Infaq is the act of someone giving something to someone else to cover their needs, donating, giving gifts/provisions, or spending something for someone else based on a sense of *Ikhlās lillāhī ta'āla*. Infaq comes from the root word *nafaqa* which means to spend or spend. Meanwhile, according to Shari'a, infaq is an expenditure for an interest ordered by Islamic Shari'a which is taken from a portion of assets, income, or income..

While sadaqah has the meaning of giving someone both material and non-material sincerely to those who have the right to accept it so that they will get a reward as a reward from Allah SWT. According to the language, alms is giving something to get closer to Allah SWT. Meanwhile, according to syara', alms is an activity of giving ownership to someone while living without expecting a reward or reward from those who are given and with the aim of taqarrub to Allah SWT. Alms is also interpreted as the activity of giving something useful to other people who need help (the poor) in order to get a reward.

Sadaqah can also be defined as a person's act of voluntarily giving something to another person, institution or legal entity without a time limit or a certain amount in order to expect reward and pleasure from Allah SWT. Shadhaqah comes from the Arabic root word *Shadhaqa* which means true, honest and true to promises. In terms of terminology, Shadhaqah has a meaning that is more or less the same as infaq, including in terms of law and provisions. However, shadhaqah has a broader meaning, which concerns matters that are non-material.

Infaq, alms, and social religious funds are regulated in Articles 28 and 29 of Law Number 23 of 2011. These articles explain about infaq and alms in a separate section, namely in the fourth chapter entitled Management of infaq, alms, and other social religious funds. It is said that Infaq and alms are part of the object of zakat management, both BAZNAS and LAZ. In Article 28 it is stated that apart from receiving zakat, BAZNAS or LAZ can also receive infaq, alms, and other religious social funds. Then, infaq, alms, and other religious social funds are distributed and utilized on the basis of Islamic law and in accordance with the designation that has been pledged by the giver. With regard to the management of infaq, alms, and other religious social funds, it must be recorded in a structured manner in a separate bookkeeping. Reporting on the implementation of the management of infaq, sedelah, and other social religious funds must be carried out by LAZ to BAZNAS and the Regional Government periodically.

3.3.4. Case Study of Misappropriation of Funds by the Aksi Cepat Tanggap Foundation

The Aksi Cepat Tanggap Foundation (ACT) is a foundation in the social and humanitarian fields which was officially launched on April 21, 2005, with its head office located in East Cilandak, South Jakarta. The Aksi Cepat Tanggap Foundation continues to expand its network both through a network of volunteers and through the establishment of ACT branch offices in various provinces, as well as outside Indonesia. Through these efforts, the Aksi Cepat Tanggap Foundation has succeeded in transforming itself into a global humanitarian organization. The activities of the Aksi Cepat Tanggap Foundation include emergency response activities, post-disaster recovery programs, community empowerment and development, as well as spiritual-based programs such as Qurban, Zakat and Waqf.

However, as of July 5 2022, the Ministry of Social Affairs officially revoked the permit to organize the Collection of Money and Goods with the issuance of the Decree of the Minister of Social Affairs of the Republic of Indonesia Number 133/HUK/2022 concerning Revocation of the Permit to Organize Collection of Contributions to the Aksi Cepat Tanggap Foundation in South Jakarta which was signed by Minister of Social Affairs Ad Interim Muhadjir Effendi. The reason behind the issuance of the Decree of the Minister of Social Affairs regarding the revocation of the permit for the collection of money and goods was due to allegations of misappropriation of donated funds by the members of the Aksi Cepat Tanggap Foundation.

^{†††} Abd. Halim M and Ammar KW. Efektifitas Regulasi & Pengelolaan Infaq, Sedekah dan Dana Sosial Keagamaan [Effectiveness of Regulation & Management of Infaq, Alms and Religious Social Funds]. Jurnal At-Tamwil. 2020; 2(1): page 27.

^{§§§} infak. 2016. At Big Indonesian Dictionary Online. Taken 29 June 2023, from <https://kbbi.kemdikbud.go.id/entri/infak>

The disclosure of allegations of misappropriation of funds within the ACT Foundation began for the first time since the publication of a journalistic report by Tempo Magazine. In the report, it was stated that there were allegations of ACT Foundation officials living in luxury with funds donated by the public. Ibnu Khajar as the President of ACT who was in office at that time also admitted that the salary of ACT's top officials reached 100-250 million per month plus the facilities of a fairly luxurious vehicle. For the community, the nominal salary is clearly quite large for the salary of an institution employee engaged in the social sector, even greater than the income of someone who works in the commercial sector.

The Center for Reporting and Analysis of Transactions (PPATK) has been processing allegations of misappropriation of funds for a long time. The misappropriation of funds that occurred was allegedly for personal gain and prohibited activities. PPATK has also submitted a report on the alleged misappropriation of these funds to law enforcement officials, including the National Counterterrorism Agency and the Special Detachment 88 Anti-terror. The report was then followed up through further investigation by summoning Ibnu Khajar and several foundation administrators to provide information and clarification. From the investigation that was conducted, other facts were also found that ACT had deducted 13.7 percent of the donation proceeds with a claim for the foundation's operational needs. Based on Article 6 Paragraph (1) of Government Regulation Number 29 of 1980 concerning the Implementation of Collection of Donations, "Financing for donation collection efforts is a maximum of 10% (ten percent) of the proceeds of the collection of the donation concerned", withholding funds for operational purposes by the ACT clearly greater than the provisions in force.

ACT has cut donations excessively in several cases. An example occurs in the case of the construction of a mosque in Sydney, Australia. Of the total Rp. 3.01 billion that should have been disbursed, ACT made a deduction of Rp. 707 million or around 23 percent. The details of the deduction of funds are for Facebook advertising costs of IDR 507.7 million, for ACT parties of IDR 168.9 million, and for administration fees for the bank providing the donation payment method of IDR 29.4 million. Another case example is the case of Suharno and his family, as recipients of ACT's fundraising. They are victims of severe accidents and require large medical expenses. ACT visited Suharno's family and created a donation campaign on ACT's official website. Of the total fundraising of Rp. 412.2 million, the Suharno family only received Rp. 3 million or only 0.7 percent. Excessive funding cuts also occurred in a different case, namely the case of the construction of the Al-Ikhlâs Mosque in Magetan, East Java. The total funds collected amounted to IDR 17.7 million, but only IDR 9 million was received by the construction committee. This means that ACT has cut funds by up to 49 percent.

Basically, Islam has guaranteed the right of Amil. For example, in Article 67 paragraph 2 of Government Regulation Number 14 of 2014 concerning the Implementation of Law Number 23 of 2011 concerning Management of Zakat, "The amount of amil rights that can be used for operational costs as referred to in paragraph (1) is determined in accordance with the Shari'a by considering the productivity aspect, effectiveness, and efficiency in Zakat Management". There is also the Fatwa of the Indonesian Ulema Council Number 8 of 2011 concerning Amil Zakat, it is explained that amil zakat is allowed to take part of 1/8 or 12.5 percent as long as it is within reasonable limits. On the other hand, in a general context, Article 6 of Government Regulation Number 29 of 1980 concerning Implementation of Contribution Collection applies. It was stated that the maximum financing for efforts to collect donations was 10 percent. Normatively, the funding cuts made by ACT were clearly too large. The amount of salary and facilities obtained by ACT officials are also considered too high for people who work in the social sector.

After a series of investigations, the police named four suspects for misappropriation of funds, including Ahyudin who was the head of the advisory board of ACT, Ibnu Khajar who was the caretaker of the foundation, and two members of the advisory committee. One example of misappropriation of funds committed is a social fund intended for the victims of the Lion Air JT-610 plane crash, which reached IDR 34 billion. The funds that should have been given to the families of the victims of the Lion Air JT-610 plane crash were only disbursed in the amount of IDR 103 billion, while the remaining IDR 34 billion was used inappropriately, including to procure a rice truck fleet of IDR 2 billion, for the big food bus program. Rp. 2.8 billion, and Rp. 8.7 billion for the construction of the Tasikmalaya civilization Islamic boarding school. Apart from that, Rp. 3 billion was used for CV CUN's bailout funds, Rp. 7.8 billion for PT MBGS, and for Sharia Cooperatives of approximately Rp. 10 billion.

This case began when The Boeing Company provided a compensation fund for the heirs of 189 passengers and crew members who died in the Lion Air JT-610 crash. The compensation fund consists of the Boeing Financial Assistance Fund (BFAF) and the Boeing Community Investment Fund (BCIF), each worth USD 25 million. BFAF funds are channeled directly to heirs without third party intermediaries. Meanwhile, BCIF funds, which are financial assistance funds for local communities, are not given directly to the families of victims/heirs, but are managed through charities as third parties. Boeing does not directly appoint a charity that will manage the fund, but only determines the conditions for recipients of the funds. The company delegates this authority to the Administrator to determine individual programs, projects or charities that will be funded with

BCIF funds. In the distribution of BCIF funds, it is the heirs who have the authority to appoint a charity that will manage the funds.

ACT actively contacted the heirs/families of the victims by saying that ACT had been appointed by Boeing to manage the BCIF funds. ACT directed the victim's family/heirs to fill out and sign an application form which was then sent to Boeing to receive the BCIF funds disbursement. Here, ACT has lied to the victim's family to get the BCIF funds disbursed by claiming to have been directly appointed as the fund manager by Boeing. In addition, ACT also did not convey to the heirs the amount of the BCIF funds received. ACT allegedly used some of the funds for personal needs, such as paying salaries and personal facilities. The funds were also used to run programs outside Boeing's implementation, without the knowledge of Boeing or heirs.

As a result of the misappropriation of these funds, Ahyudin as the Chairperson of the ACT Trustees was sentenced to 3 years and 6 months in prison for violating Article 374 of the Criminal Code juncto Article 55 Paragraph (1) 1st of the Criminal Code subsidiary to Article 372 of the Criminal Code in conjunction with Article 55 Paragraph (1) of the 1st Criminal Code. Then Ibnu Khajar as the administrator of the foundation and Hariyana were charged with violating Article 374 of the Criminal Code juncto Article 55 Paragraph (1) 1st of the Criminal Code. Meanwhile, Novariyadi Imam Akbari, who is the Senior Vice President of the Humanity Network Department, his case is still under investigation by the authorized prosecutor.

4. Conclusion

Philanthropic regulations are a set of rules established by the government or other authorized institutions, to regulate every philanthropic activity, whether carried out individually or in groups or organizations.

The creation of a regulation has a purpose and function. The purpose of regulation varies, for example to maintain security, health, environment or justice in a society, it can also be made by the government or other institutions to protect the public interest or prevent harmful practices. Meanwhile, the functions of a regulation include: (1) As a controller and giving certain boundaries, (2) Creating a feeling of security and peace, (3) Providing protection of rights and obligations, (4) Making parties within the scope of regulation comply and discipline, (5) As a guide to behavior, (6) Creating a regulatory system that can be used as social control, (7) Ordering individuals not to commit acts that harm others, (8) In order to achieve common goals.

In Indonesia itself, there is no regulation that specifically regulates all philanthropic activities. Existing regulations are still separate regulations, for example the Law on Zakat Management, the Law on Waqf, and the Law on Collection of Money and Goods.

From previous case studies of funds misappropriation by the Aksi Cepat Tanggap Foundation, where the Aksi Cepat Tanggap Foundation is a foundation in the social and humanitarian fields, it can be concluded that philanthropic regulations have a very important role in strengthening a system of accountability for philanthropic actors to maintain trust. public and donors to philanthropic institutions. In addition, the philanthropic regulation also acts as a supervisor so that violations and philanthropic deviations can be alleviated.

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