

# Legal Protection of *Muzakkī* in *Zakat* Crowdfunding: Analysis of *Maqāsid Asy-Syari'ah*

Mohammad Farid Fad and Ali Imron

UIN Walisongo Semarang

Email: mohammadfarid@walisongo.ac.id

**Abstract:** The concept of crowdfunding is rooted in the concept of *crowdsourcing*. It utilizes a "crowd" of people to provide feedback and solutions to develop a startup's activities. Along with its development, the crowdfunding model was adopted in the technique of collecting zakat funds to improve the management of more productive zakat assets. This study attempts to critically describe the practice of zakat crowdfunding from the perspective of *maqāsid asy-syari'ah*, along with the concept of legal protection for *muzakkī* (zakat payers). A qualitative method was used in this study. For analysis, the authors used a descriptive-analytical method and normative empirical approach to systematically describe and analyze the facts found factually and accurately. This study revealed the principles of *ḥifẓ ad-dīn*, *ḥifẓ al-nafs*, *ḥifẓ al-'aql*, *ḥifẓ al-māl*, *ḥifẓ al-nasl* and *ḥifẓ al-'ird* are found in the application of *muzakkī* legal protection in crowdfunding zakat, so from the viewpoint of fiqh, it is permissible. This implementation will reduce unemployment and economic disparities. Besides, it strengthens the country's economic infrastructure to achieve benefits, which become the goal of *maqāsid asy-syari'ah*. Thus, preventive legal protection for the *muzakkī* of crowdfunding zakat is very urgent to protect the worship interests of prospective *muzakkī*.

**Keywords:** *zakat crowdfunding; legal protection; maqāsid asy-syari'ah.*

**Abstrak:** Konsep crowdfunding berakar dari konsep *crowdsourcing* yang memanfaatkan "kerumunan" orang untuk memberikan umpan balik dan solusi untuk mengembangkan kegiatan suatu perusahaan rintisan. Seiring perkembangannya, model crowdfunding diadopsi dalam teknik pengumpulan dana zakat demi peningkatan pengelolaan harta zakat yang lebih produktif. Artikel ini berupaya mendeskripsikan secara kritis tentang praktek zakat crowdfunding dalam perspektif *maqāsid asy-syari'ah*, beserta konsep perlindungan hukum bagi muzaki. Penelitian ini merupakan penelitian kualitatif dengan metode analisis deskriptif serta pendekatan empiris normatif, guna menggambarkan serta menganalisis secara sistematis fakta-fakta yang ditemukan secara faktual

dan cermat. Dari kajian yang telah dilakukan diperoleh temuan bahwa dalam zakat crowdfunding terdapat perlindungan hukum terhadap *muzakkī* terutama dalam hal perlindungan agama (*ḥifẓ ad-dīn*), perlindungan jiwa (*ḥifẓ al-nafs*), perlindungan akal (*ḥifẓ al-‘aql*), perlindungan harta (*ḥifẓ al-māl*), perlindungan keturunan (*ḥifẓ al-nasl*) dan perlindungan terhadap kehormatan diri (*ḥifẓ al-‘ird*). Dengan demikian, praktik zakat crowdfunding secara fikih adalah diperbolehkan. Terwujudnya perlindungan hukum bagi muzaki dalam zakat crowdfunding telah berdampak positif terhadap berkurangnya angka pengangguran, kesenjangan ekonomi dan sekaligus memperkuat infrastruktur ekonomi negara hingga tercapai kemaslahatan yang menjadi tujuan *maqāṣid asy-syarī’ah*. Dengan demikian, perlindungan hukum preventif bagi *muzakkī* crowdfunding zakat sangat urgen demi melindungi kepentingan beribadah *muzakkī*.

**Kata kunci:** *zakat crowdfunding; perlindungan hukum; maqāṣid asy-syarī’ah.*

## Introduction

Financial technology (*fintech*) is growing rapidly along with the development of internet technology and gadgets such as mobile phones, smartphones, PCs, tablet PCs, netbooks, and notebooks. In recent years, the world has been introduced to an alternative way to gain access to finance in the form of funding outside of common funding sources such as banking and capital markets. Such alternative funding is known as crowdfunding.

The concept of crowdfunding comes from the concept of *crowdsourcing* that uses a "crowd" of people to provide feedback and solutions to develop a start-up's activities. In crowdfunding, the goal is to raise funds by using social media networks. The essence of crowdfunding is to provide an alternative for entrepreneurs to obtain funding.<sup>1</sup> The amount of funding given to the people is often relatively small. However, because the number of people participating is quite large, the funds collected are big.

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<sup>1</sup> Paul Belleflam, "Crowdfunding: An Industrial Organization Perspective," *The Health service journal* 114, no. 5892 (2010): p. 36.

Massolution (2015) showed the results of his survey on the amount of funds raised by crowdfunding that globally reached \$ 16.2 billion in 2014. This amount increased from \$ 6.1 billion in 2013. Research on crowdfunding platforms in Indonesia by Wisudanto & Arifin (2017) showed that the funds collected from these financial services reached IDR 0.5 trillion. This amount currently looks small compared to other traditional sources of financing such as banking and the capital market.<sup>2</sup>

As the largest Muslim country in the world, based on research by Indonesia's National Zakat Agency (Badan Amil Zakat Nasional, BAZNAS) in 2019, the potential for zakat nationally reached IDR 233.8 trillion<sup>3</sup> or equivalent to 3.40% of the total Gross Domestic Product (GDP).<sup>4</sup> The high potential of zakat is an opportunity for BAZ and LAZ to raise as much zakat funds as possible to help solve various social problems such as poverty reduction. However, from that amount, Indonesia has managed to collect only 0.2%, which is around Rp. 6 Trillion per year.<sup>5</sup> Of course, the right strategy is needed for BAZ and LAZ to overcome this. One of the strategies that have been taken to accommodate zakat collection is through the crowdfunding platform. Kitabisa.com, for example, as one of the well-known crowdfunding platforms, has facilitated the collection of zakat in collaboration with BAZNAS, NU Care - LazisNU, LazisMU, Dompot Dhuafa, and so on.<sup>6</sup>

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<sup>2</sup> Salahuddin Rijal Arifin and Wisudanto, "Crowdfunding Sebagai Alternatif Pembiayaan Infrastruktur," *University Network for Indonesia Infrastructure Development*, no. September (2017): pp. 1–7.

<sup>3</sup> Puskas BAZNAS, *Outlook Zakat Nasional 2020*, (2020), p. 6.

<sup>4</sup> Yoghi Citra Pratama, "Peran Zakat Dalam Penanggulangan Kemiskinan (Studi Kasus : Program Zakat Produktif Pada Badan Amil Zakat Nasional)," *The Journal of Taubidinomics* 1, no. 1 (2015): pp. 93–104.

<sup>5</sup> Muamar Nur Kholid, "Keberterimaan Muzaki Terhadap Zakat Crowdfunding Di Indonesia : Preliminary Research Pendahuluan," *CIMAE: Conference on Islamic Management Accounting and Economics* 1, no. Fajriah (2018): 52–58, <https://journal.uii.ac.id/CIMAE/article/view/11682>.

<sup>6</sup> Kitabisa.com, "Zakatcrowdfunding," accessed March 17, 2021, <https://kitabisa.com/explore/zakat>.

However, practically, there are still no specific regulations governing crowdfunding zakat. As a result, it may cause legal uncertainty for *muzakki* as zakat donors. Therefore, if there is a violation of the rights of *muzakki* of crowdfunding zakat that causes harm to him, it cannot be enforced if regulation is not formulated yet.

Thaker, et al. (2018) mention that crowdfunding zakat has a positive impact on *muzakki* intentions to develop waqf (endowment) land in Malaysia.<sup>7</sup> Meanwhile, Nivoix and Ouchrif (2016) said that the platform of Islamic crowdfunding has variations related to the type of financing, so that an assessment of crowdfunding's compliance with *syari'ah* values is needed.<sup>8</sup> This crystallization of *syari'ah* values is known as *maqāsid asy-syari'ah*. When examined further, in principle, the concept of *maqāsid asy-syari'ah*, except containing a divine dimension (divinity), also has an insaniah (humane) dimension.<sup>9</sup> At the level of implementation, any crowdfunding platform must be in line with the principles of *maqāsid asy-syari'ah*, which aims to maintain the benefit of relationships with God and among human beings.

However, the disadvantage of this system is that there is no legalization for crowdfunding site organizers and there is no clear legal protection from the government as a form of protection for community collective funds as *muzakki* (zakat payers) in zakat crowdfunding practice. Based on the description above, this study focuses on the discussion of legal protection for muzaki in zakat crowdfunding from the perspective of the positive law and *maqāsid asy-syari'ah*. Then how is the practice of zakat crowdfunding from a positive legal perspective? How is the practice of zakat crowdfunding from the perspective of

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<sup>7</sup> Mohamed Asmy Mohd Thas Thaker, Hassanudin Mohd Thas Thaker, and Anwar Allah Pitchay, "Modeling Crowdfunders' Behavioral Intention to Adopt the Crowdfunding-Waqf Model (CWM) in Malaysia: The Theory of the Technology Acceptance Model," *International Journal of Islamic and Middle Eastern Finance and Management* 11, no. 2 (2018): pp. 231–249.

<sup>8</sup> Sophie Nivoix and Fatima Zahra Ouchrif, "Is Crowdfunding Sharia Compliant?," *International Perspectives on Crowdfunding* (2016): pp. 185–198.

<sup>9</sup> La Jamaa, "Dimensi Ilahi dan Dimensi Insani dalam *Maqāsid Asy-Syari'ah*," *Dimensi Illahi dan Dimensi Insani dalam Maqāsid Syari'ah*, Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum, UIN Sunan Kalijaga, Vol. 45, no. II (2011): pp. 1253–1268.

Islamic law (fiqh)? And how is the legal protection for *muzakkī* in zakat crowdfunding from the perspective of *maqāṣid asy-syarī'ah*?

This study uses a qualitative approach with primary and secondary data. Primary data were obtained from in-depth interviews with BAZNAS and Rumah Zakat. BAZNAS and Rumah Zakat were chosen because they are the largest zakat institutions in Indonesia. The secondary data were obtained from books, journals, and articles related to zakat crowdfunding and *maqāṣid asy-syarī'ah*. This study is qualitative-based research by using descriptive-analytical analysis and normative empirical approach.

### Zakat Crowdfunding Practice

In this study, crowdfunding zakat is viewed from a positive legal perspective, Islamic law (fiqh) and *maqāṣid asy-syarī'ah*. Etymologically, crowdfunding comes from two syllables, i.e. *crowd* which means a large number of people gathered together in a public place,<sup>10</sup> and *funding* which means money for a particular purpose.<sup>11</sup> Generally, it is defined as a system of raising funds by involving many people. It is similar to the joint venture in the past.

The concept of crowdfunding is derived from a similar term that was known earlier, i.e. *crowdsourcing*.<sup>12</sup> Kleeman stated that crowdfunding is:<sup>13</sup>

“Crowdfunding is defined as an open call over the Internet for financial resources in the form of a monetary donation, sometimes in exchange for a future product, service, or reward.

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<sup>10</sup> Oxford, “Crowd,” accessed March 17, 2021, [https://www.oxfordlearnersdictionaries.com/definition/english/crowd\\_1?q=crowd](https://www.oxfordlearnersdictionaries.com/definition/english/crowd_1?q=crowd).

<sup>11</sup> Oxford, “Funding,” accessed March 17, 2021, <https://www.oxfordlearnersdictionaries.com/definition/english/funding?q=funding>.

<sup>12</sup> Paul Whitla, “Crowdsourcing and Its Application in Marketing Activities,” *Contemporary Management Research* 5, no. 1 (2009): pp. 15–28.

<sup>13</sup> Frank Kleemann, “Un(Der)Paid Innovators,” *Collection of Technical Papers - 4th International Energy Conversion Engineering Conference* 4, no. 1 (2008): pp. 5–26.

Crowdfunding uses web technologies and existing online payment systems to facilitate transactions between creators (people who request funds) and funders (people who give money).”

In other words, crowdfunding is an offer that is open to anyone using the internet to raise funds with the platform. The basic idea of crowdfunding is to raise contribution money by taking advantage of the virtual crowd of large donors.

Meanwhile, in its history, donation-based crowdfunding was first popularized in the United States which was later imitated in Italy, England, Spain, Australia, Germany, and Canada such as the site [www.gofundme.com](http://www.gofundme.com) or the site [www.firstgiving.com](http://www.firstgiving.com). In Indonesia, it can be found through the sites [rumahzakat.org](http://rumahzakat.org), [Kitabisa.com](http://Kitabisa.com), and [ACT.ID](http://ACT.ID).

In Indonesia, the first crowdfunding platform that arose was [wujud.com](http://wujud.com) in 2002. A year after that, donation-based crowdfunding began to emerge under the name [Kitabisa.com](http://Kitabisa.com) which was initiated by the students of the University of Indonesia.<sup>14</sup>

Meanwhile, in general, the crowdfunding scheme is divided into four bases as follows:<sup>15</sup>

1. Donatio-based crowdfunding, where people do not receive compensation for their contributions;
2. Gift-based crowdfunding, where people receive goods or services in return for their contribution;
3. Loan-based crowdfunding, where the contributors receive interest payments in return for project financing with an agreed return and maturity date;
4. Equity-based crowdfunding, where people receive shares in a business as a reward for their contribution.

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<sup>14</sup> Indah Piliyanti, “Fintech Achieving Sustainable Development The Side Perspective of Crowdfunding Platform,” *Sbirkab Journal of Economics and Business* 3, no. 2 (2018).

<sup>15</sup> Diyah Hesti K, “The Role of Social Capital in the Fintech Application with the Crowdfunding Scheme,” *KnE Social Sciences* 2019 (2019): pp. 407–415.

Zakat crowdfunding can be interpreted as a new formula for easier zakat collection techniques. This is because all parties have access to donate social funds for more productive management of zakat assets.

Fundraising of this crowdfunding model can be interpreted as a model of collecting zakat funds from several *muzakkī* through the internet without restricting the nominal amount given, in the sense that *muzakkī* are allowed to deposit zakat funds with a small nominal, as long as their *niṣāb* (minimum amount for zakat) are fulfilled.

In the context of zakat crowdfunding, there are four official zakat distribution sites in Indonesia including Rumah Zakat, BAZNAS, Dompot Dhuafa, and Kitabisa.com. Meanwhile, this study focuses on gaining data from two institutions, i.e. Baznas and Rumah Zakat.

Figure 1.  
Zakat Institution Website Ranking in Indonesia Year 2020<sup>16</sup>



If we look closely, zakat crowdfunding is included in the donation-based crowdfunding category. It is because donation-based crowdfunding is generally suitable for projects or organizations on a

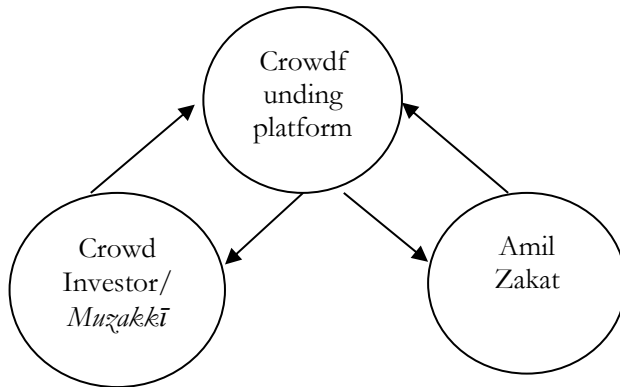
<sup>16</sup> NU Care Lazisnu, “Alexa Rank,” last modified 2020, accessed March 17, 2021, <https://alif.id/read/wnh/ranking-lembaga-zakat-terpopuler-menurut-alexa-b230442p/>.

charity basis. This is because the investor aims to donate funds without expecting a return from the crowdfunding project owner.

The following are general mechanisms related to zakat crowdfunding:<sup>17</sup>

1. Zakat institutions plan to develop zakat funds more productively.
2. Zakat institutions upload social project initiations into an online-based crowdfunding platform.
3. Potential donors select the projects they wish to support.
4. Donors transfer funds through financial institutions in collaboration with zakat institutions.
5. After the target is fulfilled, the system will update the status of the social project.
6. This platform works as an intermediary (liaison medium) for funds to zakat institutions and ensures that zakat institutions are ready to manage and supervise these social projects.
7. Zakat institutions manage and supervise these social projects.

**Figure 2.**  
**Zakat Crowdfunding Flow**



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<sup>17</sup> Mohamed Asmy Mohd Thas Thaker et al., “A Proposed Integrated Zakat-Crowdfunding Model (IZCM) for Effective Collection and Distribution of Zakat Fund in Malaysia,” *International Journal of Zakat and Islamic Philanthropy* 1, no. 2 (2019): pp. 1–12.



In its development, Rumah Zakat (RZ) cooperates with external platforms such as SharingHappines.Org and Kitabisa.com. It aims to increase crowdfunding zakat fundraising. Also, this cooperation is for improving zakat crowdfunding services for prospective *muzakki*.

The following are the terms and conditions of Rumah Zakat in zakat crowdfunding practice:<sup>18</sup>

- “1). The campaigner guarantees that the entire content uploaded to the SharingHappiness.org site can be accounted for; 2). If the campaign is in the form of an idea, then the Campaigner must state his originality; 3). Donations obtained by the Campaigner through the site will be deducted by the manager as much as 5 percent of the accumulated funds; 4). Campaigner must complete a fund request form via the Withdraw SharingHappiness feature or email via [info@sharinghappiness.org](mailto:info@sharinghappiness.org); 5). Campaigner must regularly control developments; 6). Campaigner must complete the campaign that has been rolled out on the SharingHappiness site after Rumah Zakat party submits the funds to the Campaigner; 7). Campaigner must submit an updated report regarding the realization of the program campaign through the SharingHappiness.org site; 8). If there are problems in the program, the Campaigner must report the constraints; 9). Campaigner must support Rumah Zakat when donors request a special report; 10). Campaigner must display the Rumah Zakat logo and SharingHappiness; 11). If there is a special cooperation agreement between the Campaigner and the SharingHappiness.org manager, the Campaigner is **obliged to carry out his obligations as stated in the agreement**”.

Meanwhile, the procedure for sending zakat crowdfunding donations at BAZNAS via the Kitabisa.com platform is as follows:

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<sup>18</sup> Sharing Happiness, “No Title,” accessed June 17, 2020, <https://sharinghappiness.org/syarat-ketentuan>.

1. Click the *Zakat Now* button
2. Select a payment method and enter the zakat amount
3. Make a payment.”<sup>19</sup>

Figure 3.  
Mechanism of Crowdfunding Zakat Donation at BAZNAS  
Through Kitabisa.com



In the practice of crowdfunding zakat, BAZNAS also has partnerships with several applications, including Kitabisa.com, Gopay, Gopoints, Gotix, OVO, Tcash, Kaskus, Invisee, Lenna, Mcash, Muslim

<sup>19</sup> “Campaign Baznas,” accessed March 17, 2021, <https://kitabisa.com/campaign/baznas>.

Tourism, and Oorth. Meanwhile, partnerships with e-commerce include Elevenia.co.id, Blibli.com, Shopee.co.id, Tokopedia.com, Lazada.com, Mataharimall.com, JD.id, Bukalapak.com.<sup>20</sup> This collaboration is aimed at expanding the BAZNAS network as well as making prospective *muzakki* easier to pay their zakat.

Then, the steps of zakat crowdfunding donations at Rumah Zakat through KitaBisa.com are as follows:<sup>21</sup>

- “1) Choose ZAKAT NOW,
- 2) Enter your data,
- 3) Enter the nominal donation you want,
- 4) Select a payment method,
- 5) Wait for the report on your email inbox.”

Meanwhile, in summary, the following risks may be experienced by zakat crowdfunding service providers:<sup>22</sup>

1. The fundraising service provider (platform) itself has the risk of bankruptcy (institutional risk).<sup>23</sup>
2. Conflicts of interest between the parties in the crowdfunding service provider platform,
3. The safety of personal data must be guaranteed, including security from hackers.

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<sup>20</sup> Baznas, “No Title,” accessed August 10, 2020, <https://baznas.go.id/id/channel-pembayaran>.

<sup>21</sup> Rumah Zakat, “No Title,” accessed July 18, 2020, <https://kitabisa.com/campaign/rumahzakat>.

<sup>22</sup> Rainer Lenz, “‘Take Care of the Crowd!’ Legal Protection of Retail Investors in Crowdfunding Is Long Overdue,” *SSRN Electronic Journal* (2015): pp. 1-3.

<sup>23</sup> M. Aulia Rachman and Annisa Nur Salam, “The Reinforcement of Zakat Management through Financial Technology Systems,” *International Journal of Zakat* 3, no. 1 (2018): pp. 57–69.

4. The absence of a personal relationship between social funders and service providers which is an important element in assessing financial risk.
5. Operational failure of the crowdfunding service provider platform (risk of default).
6. Risk of inappropriate information and quality of the information provided by the platform (fraud).
7. Potential investors are at risk of having asymmetric information.
8. Potential lawsuits.
9. There was a failure in the payment of zakat funds but the funds are debited,<sup>24</sup>
10. The potential for hacking site security systems (cyber security).<sup>25</sup>
11. One party, several parties commit *al-ta'addī*, that is taking actions that are not allowed in the contract.<sup>26</sup>
12. The existence of *al-taqṣīr* that is one party or several parties not taking action that should be taken. Defaults from the initiator or crowdfunding service platform provider that are detrimental to the muzaki.
13. *Mukhālafat asy-syurūf* (risk of fraud), where one party, several parties violate the content and/or substance or terms agreed in the contract.

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<sup>24</sup> Basrowi, "Analisis Aspek Dan Upaya Perlindungan Konsumen Fintech Syariah," *Lex Librum: Jurnal Ilmu Hukum* 5, no. 2 (2019): 959–980, <http://lexlibrum.id/index.php/lexlibrum/article/view/134>.

<sup>25</sup> Rinitami Njatrijani, "Perkembangan Regulasi Dan Pengawasan Financial Technology Di Indonesia," *Diponegoro Private Law Review* 4, no. 1 (2019): 462–474, <https://ejournal2.undip.ac.id/index.php/dplr/article/view/5109>.

<sup>26</sup> Fiska Silvia Raden Roro, Agus Yudha Hernoko, and Ghansham Anand, "The Characteristics of Proportionality Principle in Islamic Crowdfunding in Indonesia," *Jurnal Hukum & Pembangunan* 49, no. 2 (2019), p. 455.

These risks can be minimized through the formation of appropriate regulations for *muzakki* as zakat crowdfunding donors. Protecting social investors is very important because if the crowdfunding becomes fraudulent, the image of the OPZ and the zakat crowdfunding agreement will fall.

Therefore, according to the authors, preventive legal protection efforts against *muzakki* in zakat crowdfunding are very fundamental. This legal protection prompts the state to involve in minimizing potential disputes between zakat donors and zakat crowdfunding fund recipients.

### **Zakat Crowdfunding in a Positive Legal Perspective**

In Indonesia, the regulation that specifically manages zakat is Law No. 23 of 2011 concerning Zakat Management. But, its content has not regulated the practice of crowdfunding zakat, especially specific rules that serve to protect the *muzakki* of crowdfunding zakat as collective zakat donors. This is one of the fundamental weaknesses of the UUPZ because prospective *muzakki* do not get legal protection from the state in case a dispute happens in the future. Even though, practically, crowdfunding zakat can be distributed widely, both through the Zakat Collection Unit (Unit Pengumpul Zakat, UPZ) and Amil Zakat Institution (Lembaga Amil Zakat, LAZ).

Meanwhile, the rules regarding crowdfunding are generally regulated in Law Number 9 of 1961 concerning Collection of Money or Goods and Government Regulation Number 29 of 1980 concerning Implementation of Collection of Donations. From the description above, crowdfunding based on zakat donations is not included in the formulation of this regulation.

Regulations that specifically control the distribution of crowdfunding zakat have not been enacted yet, especially those that specifically discuss legal protection for *muzakki*, both from a preventive perspective and transparency in the use of social funds for *muzakki*. So, there is a legal vacuum in crowdfunding zakat.

## Zakat Crowdfunding Analysis in Fiqh

If viewed further, Islamic financial transactions are originally permitted (mubah) within the corridor of Islamic law. In the principle of Islamic jurisprudence (ushul fiqh) it is stated that:

الاصل في الاشياء الاباحة حتي يدل الدليل علي التحريم.

Meaning: "In principle, everything is permissible until an argument is found that forbids it."<sup>27</sup>

According to the above rules, crowdfunding practices can be considered not against Islamic law. However, what needs to be considered is as long as it does not violate the principles of *syari'ah*, such as a high risk of causing *gharar* (uncertainty), usury, *maysir* (speculation), or *zalim*.

The principles above are essential so that crowdfunding zakat payers are not involved in a contract that can harm themselves. Thus, from the *syari'ah* viewpoint, legal protection is deemed necessary in the form of regulations to protect the philanthropic interests of *muzakkī* in paying their zakat.

It is vital because zakat-based crowdfunding helps amil zakat institutions collect and distribute zakat fund allocations more effectively and efficiently as it has been practiced in Malaysia.<sup>28</sup>

If we look closely, the concept of zakat crowdfunding is a medium (*washilah*) to raise funds in accordance with the spirit of the **Al-Qur'an** (Q.S. 5: 2). From this verse, it can be taken a legal basis that the zakat crowdfunding agreement is allowed because it is based on the principle of helping each other in benevolence (*takaful*) and free from the element of usury.

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<sup>27</sup> Abil Faidh Muhammad Yasin bin Isa Al-Fadani, *Al-Fawā'id Al-Janiyyah*, Juz 1. (Dar al-Basyair al-Islamiyyah, n.d.), p. 205.

<sup>28</sup> Mohd Thas Thaker et al., "A Proposed Integrated Zakat-Crowdfunding Model (IZCM) for Effective Collection and Distribution of Zakat Fund in Malaysia, p.1."

Crowdfunding through zakat contains the principles and values of mutual cooperation with advances in science and technology. The principle of helping people or other weak parties (*mustadh'afin*) is based on the principles of brotherhood and kinship urged by Islamic law.

The law of zakat through an online platform is allowed because it meets the requirements of *ijab and qabul* (mutual agreement). In this case, the online zakat service provider platform must provide a statement of submission of zakat funds (*ijab*) and acceptance (*qabul*) so that what happens is a non-physical handover.

Regarding the non-physical acceptance criteria (*qabul*), in the fiqh zakat paradigm, the technical mechanism is submitted through the common traditional scheme (*'urf*). Al-Khattabi said that if Islamic law requires handover in a transaction but does not explain the mechanism in detail, then what becomes a guideline is the tradition of market players (*'urf tujjār*).<sup>29</sup>

If sending donations is interpreted as a part of the consent, then the acceptance statement can be considered as *qabul*. For the transfer of zakat online, it is declared valid as a non-physical handover because, in practice, the donation has been authorized to amil zakat or in this case the zakat fundraising provider.

The legal relationship between the parties in zakat crowdfunding services arises because of an agreement or contract which is commonly referred to as an electronic agreement. Whereas in the **Al-Qur'an**, it is explained that in principle, in an engagement, the parties must fulfill an agreement that is binding on both parties (Surah 5: 1).

At the operational level, the engagement that arises because of the legal relationship between the *muzakkī* and the crowdfunding amil zakat institution must meet the requirements such as carried out by parties who have a sound mind and reached puberty (aqil-baligh), the owner of the object of the contract, and on their own initiative (*mukhtār*). After the campaigner agrees to the site manager's requirements, a legal agreement occurs between the campaigner and the site manager. So, the principles

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<sup>29</sup> Al-Khattabi, *Mugnī Muhtāj* (Dar Kutub Ilmiyyah, n.d.), Jilid II, p. 72.

that apply within also include the principles of contract law. As a result of the agreement made by potential donors and crowdfunding service providers, the concept of legal protection for *muzakki* emerged.

For this reason, each party, i.e., the donor with amil zakat crowdfunding involved in the law of the engagement, is obliged to comply with the agreement made before. Thus, the legal relationship between zakat fund management institutions and crowdfunding site managers is a two-sided legal relationship, that creates rights and obligations for both.

The principle that underlies engagement in crowdfunding is the principle of contract freedom. This principle is commonly referred to as the free will to make or not make binding agreements on one's personal affairs.<sup>30</sup>

Also, the funds transferred by *muzakki* are the money getting from lawful businesses or jobs, not from money laundering crimes. To ensure that the money to be offered to finance a project or product is legal then temporarily the money owner (*muzakki* candidate) is required to fill out a declaration form of halal money. The social projects offered by the crowdfunding platform or amil zakat are also projects that are of high benefit and are in the *syari'ah* corridor.

Uniquely, in zakat crowdfunding, *muzakki* as social investors do not always have the same protection as investors informal financial markets. Of course, this is the duty of the government as a regulator to provide a legal system that is able to protect *muzakki* from the risk of loss. Rasulullah SAW has said: *Kullukum rā'in wa kullukum mas'ulun 'an rā'iyyatihi, al-imām ar-rā'in wa mas'ul 'an rā'iyyatihi* (You are a leader and will be held accountable for what he will lead. An imam is a leader of a country and will be held accountable for the people he leads).<sup>31</sup>

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<sup>30</sup> Agus Yudha Hernoko, *Hukum Perjanjian: Asas Proporsionalitas Dalam Kontrak Komersial* (Airlangga University, 2007), p. 144.

<sup>31</sup> Abi 'Abd Allah Muhammad bin Ismail Al-Bukhari, *Ṣaḥīḥ Bukhārī* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1992), Juz VII, p. 444.



The hadith above shows that the leader gets a mandate to protect the community and benefit his people.<sup>32</sup> The Government's responsibility in the concept of zakat has become a moral imperative as enjoined by the **Al-Qur'an**.

From the viewpoint of Islamic law, the government has an obligation to maintain and play a role in ensuring that zakat values are carried out according to social benefits. Thus, the government, constitutionally and based on *syarī'ah*, must make regulations for zakat donors that provide protection for the guarantee and protection of the zakat crowdfunding scheme.

### Legal Protection of *Muzakkī* on Zakat Crowdfunding in the Perspective of *Maqāṣid Asy-Syarī'ah*

If linked with the theory of legal effectiveness, this study belongs to the curative. It should be realized that the study of zakat so far has not had a direct impact on the welfare of the people and social justice, especially when it is related to the objectives of *syarī'ah (maqāṣid)*. This is because the study of zakat is still sporadic; it only fulfills the religious demands. Besides, the issue of *maqāṣid* is still considered as only part of the field of Islamic legal discourse, not dealing with the economic concept of the ummah.

Kabir, et al. (2021) state that within the scope of Islamic finance, there is a need for rules and authorities to formulate the *maqāṣid asy-syarī'ah* approach.<sup>33</sup> Even the presence of *Syarī'ah* itself is intended to realize the objectives of *Syarī'ah* in upholding the benefits, both in religious and worldly affairs.<sup>34</sup> According to Imam al-Ghazali,<sup>35</sup> *maslahah*

<sup>32</sup> Muhyiddin Syarf An-Nawawi, *Al-Minhāj Syarḥ Muslim Ibn Al-Hajjāj* (Beirut: Dar al-Ihya al-Turats, n.d.), part XII, p. 231.

<sup>33</sup> Ashraf Khan M. Kabir Hassan, Mehmet Sarac, *Islamic Finance and Sustainable Development A Sustainable Economic Framework for Muslim And Non-Muslim Countries*, Palgrave Macmillan, (2021), p. 29.

<sup>34</sup> Al-Syathibi, *Al-Muwāfaqāt Fī Uṣūl Asy-Syarī'ah*, Jilid I. (Kairo: Mustafa Muhammad, n.d.), p. 6.

<sup>35</sup> Al-Ghazali, *Al-Mustashfā Min 'Ilm al-Uṣūl* (Beirut: Dar al-Ihya' al Turas al-'Araby, 1997), p. 217.

is maintaining the objectives of the *Syarī'ah*. While the objectives of *syarī'ah* include five main principles, namely: 1) protecting religion (*ḥifẓ ad-dīn*); 2) protecting the soul (*ḥifẓ al-nafs*); 3) protecting the mind (*ḥifẓ al-'aql*); 4) protecting lineage (*ḥifẓ al-nasl*); and 5) protecting property (*ḥifẓ al-māl*). Even jurists need knowledge of *maqāṣid asy-syarī'ah* in accepting the sunnah, fatwas of companions and salaf ulama, and deducing the law.<sup>36</sup> Then how are the objectives of Islamic law (*maqāṣid asy-syarī'ah*) in view of zakat crowdfunding which aims to maintain the fulfillment of elements of social equity for the benefit of humankind?

The following is the protection for *muzakkī* in crowdfunding zakat when viewed from the perspective of *maqāṣid asy-syarī'ah*, including:

**a. *Ḥifẓ ad-dīn* (Protection of religion)**

It is prescribed that worship is nothing but a real realization of the concept of religious protection through the payment of zakat.<sup>37</sup> The practice of zakat crowdfunding can be interpreted as the realization of faith in Allah and the expression of gratitude for His gift (Surah 9 : 103, 3: 92). What should be noted is that in its implementation, the practice of zakat crowdfunding must not contradict the principles of *syarī'ah* that is to avoid *maysīr*, *garār*, *usury*, and *ḥarām*. The Al-Qur'an has also set the conditions of making social donations such as zakat crowdfunding so that donors are not supposed to harm themselves. The accumulated results of zakat crowdfunding fundraising are also an important source of funding for the construction of an appropriate place of worship. The goal is that people feel comfortable in worshipping and organizing a *majelis taklim* in the mosque, which in turn will strengthen the brotherhood of fellow Muslims (*ukhuwah Islamiyah*).

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<sup>36</sup> Thahir Ibn Asyur, *Maqāṣid Asy-Syarī'ah Al-Islāmiyyah* (Kairo: Dar al-Salam, n.d.), p. 17.

<sup>37</sup> Al-Syathibi, *Al-Muwāfaqāt Fī Uṣūl Asy-Syarī'ah*, Jilid II, p. 8-10.

The other use of zakat crowdfunding funds is the establishment of *majelis taklim* Rumah Shizuka. Besides, Rumah Zakat also allocates zakat crowdfunding funds in the form of distribution of Al-Qur'an Syiar Packages for *majelis taklim* for women and students of the Al-Qur'an Education Center. Through these activities, it is evidenced that the zakat crowdfunding fund is very useful in the development and empowerment of the activities of the *majelis taklim* and Al-Qur'an Education as a representation of the practice of *maqāṣid asy-syarī'ah*, especially maintaining religion (*ḥifẓ ad-dīn*).

At BAZNAS itself, through the achievement of zakat crowdfunding funds, a Mu'alaf Center was established to provide religious guidance and counseling for our fellow Muslims who have just converted to Islam. Among its activities are *hablum minallah* and *hablumminannas* and guiding the converts in reciting *shahadah*, organizing a BAZNAS Da'i School with the theme *Da'i Perekat Umat* through online methods. In fact, from the aspect of maintaining the philanthropic interests of zakat crowdfunding donors, this is the reason for the necessity of the state to provide legal protection for *muzakkī* in paying zakat as part of the manifestation of aspects of religious maintenance.

#### **b. *Ḥifẓ al-nafs* (Protection of soul)**

The benefits of funds from zakat crowdfunding can be used for social activities, such as disaster management, especially amid the COVID-19 pandemic. So it is hoped that victims of natural and non-natural disasters can be handled properly and optimally to reduce the number of victims. Another social project targeted by zakat crowdfunding practice at Rumah Zakat is the so-called *Desa Berdaya* program. In 2019, there were 1,605 Empowered Villages, 1,051 inspirational volunteers, and 245,821 beneficiaries. Through the waste bank program, Rumah Zakat helped waste management efforts to overcome waste problems in the target villages. The aim was to improve the quality of life of the community and reduce the risks of health problems. Among the utilization of zakat crowdfunding funds is realized in the form of improving health services for residents.

BAZNAS has also distributed 16 percent of the total funds it received in 2019.

Through zakat crowdfunding funds, BAZNAS also distributed assistance to poor families in need through the *Family Logistics Package* to support the family economy. This is very important to fulfill the *dharuri* (basic) needs of citizens who are still categorized as poor so that they have the resilience to face the nation's economic conditions amid the corona pandemic. Through zakat crowdfunding funds, BAZNAS is also proactive in building public kitchens to help victims of natural and non-natural disasters. The advantages of this productive zakat crowdfunding project can be used for various needs in the social sector, one of which is the health sector, including through the optimization of BPJS (Healthcare and Social Security Agency) services. From some of the advantages of zakat crowdfunding for the aspect of protecting the soul (*hifz al-nafs*) above, it is known that the need for preventive legal protection for *muzakkī* in zakat crowdfunding is very important. Protection for the benefit of human beings is the source or the highest legal principle. It is the goal of religion and the central axis of the intention of *Syarī'ah*.<sup>38</sup>

### c. *Hifz al-'aql* (Protection of intellect)

Chapra (2007) explains the importance of fulfilling human needs related to intellectual abilities.<sup>39</sup> Optimization of the use of zakat crowdfunding fund collection is one concrete step to improve the quality of human resources in this country and at the same time, all Muslims can enjoy free basic education with adequate facilities and infrastructure. BAZNAS has also distributed 20 percent of the total funds it received in 2019. It is evidenced by the existence of the Children's Champion Scholarship and Champion School Scholarships conducted by Rumah Zakat as part of the zakat

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<sup>38</sup> Ibnu Al-Qayyim Al-Jauziyyah, *I'lām Al-Muwaqqi'īn* (Beirut: Dar Kutub al-Ilmiyyah, 1973), p. 11.

<sup>39</sup> M Umer Chapra, "Vision of Development in the Light of *Maqasid Asy-Syarī'ah*," January 2008, (Jeddah: Islamic Research and Training Institute 2008), p. 1-52.

crowdfunding product and as a form of assistance for students who come from less fortunate families. Through the Children's Champion Scholarship, students are projected to be able to complete their basic education for free so that they can continue to a higher level of education. There were 102,319 beneficiaries recorded in October 2019.

Through zakat crowdfunding funds, BAZNAS also consistently provides BAZNAS Scholar scholarship packages for a maximum of 4 semesters or given until graduation. One of the zakat crowdfunding allocation funds at Rumah Zakat is through computer training programs. Besides, Rumah Zakat also initiated the establishment of the Omah Bening Rumah Baca. Some of the above activities are of course very beneficial for empowered villagers in the context of realizing *maqāṣid asy-syarī'ah*, i.e. maintaining intellect (*ḥifz al-'aql*).

However, from a positive legal point of view, raising funds through crowdfunding has a high risk because our country has no further regulations that preserve potential zakat crowdfunding donors. This preventive legal protection is very urgent because Islam protects the right of ownership and expense over legitimate assets. Protection for *muzakkī* in the social crowdfunding sector aims to create a reliable protection system for potential social investors, as well as increase online zakat literacy and raise public awareness about the importance of zakat crowdfunding to increase public confidence toward online social fundraising providers.

#### **d. *Ḥifz al-māl* (Protection of property)**

In practice, zakat crowdfunding can be an additional instrument for the government to further improve national economic performance. This is in accordance with A. T. Diallo and A. S. Gundogdu (2021) opinion that poverty must receive special attention through zakat or waqf platforms to support economic development in the country.<sup>40</sup> Moreover, Indonesia is known as a country with the

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<sup>40</sup> A T Diallo and A S Gundogdu, "Economic Empowerment, Zakat, Waqf, and Social Infrastructure," *Palgrave Studies in Islamic Banking* (2021): pp. 77–93.

largest Muslim population in the world. So, this country has a very large potential for zakat. In 2019, it was around 233.8 trillion Rupiah. Real evidence of the transparency of zakat crowdfunding distribution at BAZNAS is zakat crowdfunding fund payment notifications via e-mail as well as zakat crowdfunding payment confirmation services that can be monitored through the *Muzakkī* Corner application. Also, BAZNAS, through the Mustahik Economic Empowerment Institute (LPEM), is active in organizing training to foster new entrepreneurial actors. This issue is important in order to support the economic development of each region. Among the forms of transparency in the distribution of zakat crowdfunding funds through community economic empowerment, Rumah Zakat makes the *Senyum Mandiri* program. For this reason, in carrying out its function as a preventive effort, the government is supposed to give guidance, education, and also socialization related to the implementation and issue of related regulations in an effort to protect philanthropic interests for *muzakkī* of crowdfunding-based zakat.

**e. *Ḥifẓ al-nasl* (Protection of lineage)**

According to Auda (2008), based on its priority, *maqāṣid asy-syarī'ah* is divided into three categories, i.e., dharuriyyat, which includes maintaining religion, soul, property, reason, lineage.<sup>41</sup> Through zakat crowdfunding fundraising, *amil* institutions can provide scholarships for students who come from needy families. Through the offers of BAZNAS and Rumah Zakat scholarships, the children are able to continue to a higher level of education. The purpose of the zakat crowdfunding is to clean the property and souls of the zakat payers, as well as to make their assets to be developed, especially for the guarantee of the welfare of their families. For this reason, ensuring the comfort of *muzakkī* is very important so that the main vision of zakat crowdfunding as *mālīyyah ijtīmā'īyyah* worship, that is creating a social security system, can be achieved.

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<sup>41</sup> Jasser Auda, *Maqāṣid Al-Syarī'ah Introductory An Guide, Maqāṣid Al-Syarī'ah*, 2019, Herndon: International Institute of Islamic Thought,(IIIT), p. 7.

#### f. *Hifz al-'ird* (Protection of dignity)

The urgency of zakat crowdfunding as a social aid, where the main objective is to reduce poverty by increasing the standard of living of the *mustahiq* (zakat receivers). In 2019, BAZNAS has also distributed 42 percent of the total funds it received to reduce the poverty gap. The effect is that there is an increase in the dignity of *mustahiq* so that a social balance between the rich and the poor is created. Thus, the responsibility for fulfilling welfare is shifted from the government to the society itself, especially neighbors or close relatives to reduce the social burden of the government. Through zakat crowdfunding, the gap in social status is trying to be minimized. These socio-economic disparities are attempted to be solved by practicing zakat crowdfunding based on the spirit of mutual cooperation which is deeply rooted in the nation's veins. As a result, there are no parties who feel that they are not sufficient enough to be able to meet their daily needs properly through zakat crowdfunding. The operationalization of crowdfunding zakat results from a reorientation of *maqāṣid* values that are more oriented to human principles.<sup>42</sup>

#### Conclusion

In Indonesia, the regulation that explicitly regulates zakat is Law No. 23 of 2011 concerning Zakat Management. Meanwhile, the existing regulations only manage deviations in conventional zakat management by BAZNAS and LAZ. The need for regulations that comprehensively manage crowdfunding zakat donors is deemed necessary today as there are no laws and regulations that become *lex specialis* related to the legal protection of *muzakki* as crowdfunding zakat donors. This condition causes the absence of legal certainty for *muzakki*.

From the viewpoint of fiqh, the rule of paying zakat through an online platform is lawful because it meets the requirements of *ijab* and *qabul*. The crowdfunding zakat agreement is allowed because it is based

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<sup>42</sup> Jasser Auda, *Maqāṣid Al-Syarī'ah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institut of Islamic Thought, 2007), p. 248.

on the principle of mutual assistance in virtue (*takāful*) and is free from the element of usury. Also, this contract conforms to the rule that everything is permissible until an argument is found that forbids it. Crowdfunding zakat contains the principle of cooperation, which is correlated with advances in science and technology.

When viewed from the perspective of *maqāṣid asy-syarī'ah*, *ḥifẓ ad-dīn* in this study can be seen from the accumulated results of crowdfunding zakat fundraising that becomes a vital source of funding for developing *majelis ta'lim* and religious facilities. So, a guarantee from the State is needed in the form of legislation to provide legal protection for the *muzakkī* of crowdfunding zakat when paying their zakat as part of the manifestation of aspects of religious protection. Among the benefits of funds from crowdfunding zakat is for disaster management. The finding of *ḥifẓ al-'aql* in this study is aimed at improving the quality of the nation's human resources so that all Muslims can enjoy free primary education with adequate facilities and infrastructure. The realization of the *ḥifẓ al-māl* in crowdfunding zakat can be an additional instrument for the Government to further improve the national economy's performance. The realization of *ḥifẓ al-nasl* is BAZNAS and Rumah Zakat provide scholarships so that the children can continue to a higher level of education. As a form of *ḥifẓ al-'ird*, BAZNAS has distributed 42 percent of the total funds it receives to reduce the poverty gap. Through crowdfunding zakat, the gap in social status is trying to be minimized.

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