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ORIENTATION OF ZAKAT AS HUMANITARIAN ASSISTANCE TO ROHINGYA REFUGEES IN INDONESIA

Nur Mohamad Kasim¹

Abstract

The aim of this writing, reviewing the existence of Zakat as humanitarian assistance can be allocated for the Rohingya refugees who are in Indonesia. Given zakat is of national income devoted to indigenous citizens. This writing is normative, is the principal legal study is conceived as norms or rules which apply, both Islamic Law and International Law. Moreover, the authors did a qualitative approach through the study of Islamic law and supported the chart data on Zakat nationally and internationally. In the conclusion showed, *firstly*, the Rohingya refugees stranded in Indonesia must be given humanitarian aid as well as the Indonesian government to give relief to the citizens themselves, *secondly*, Indonesia with the Reviews largest Muslim population Strengthen obligations to protect the Rohingya refugees as solidarity Among fellow Muslims, *third*, Zakat implicitly also adhere to humanitarian assistance principle, the which is where all the funds collected from individuals is much more efficient assistance as humanitarian aid compared to other humanitarian aid, *fourth*, Zakat is a source of social financing to increase of the GDP (Gross Domestic Product) of Islamic states and can be relied upon as the primary funding source for humanity.

Keywords: Zakat, Humanitarian assistance, Rohingya refugees, Indonesia

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Background

Problems concerning refugees in the country to be the most complicated issue to date. It is based on the continuous discussions at both the state to the extent International Organizations continue to place refugees as a global problem that greatly affects a national order of the State. Last preaching related with refugees Myanmar Rohingya Muslim minority tribes invited the attention of the international community, after hundreds of Rohingya fleeing from Myanmar and stranded in the neighboring countries of Myanmar including Indonesia, Malaysia and Thailand. Muslim Rohingya is one who inhabit the country of Myanmar. It is unfortunate Rohingya never included in the list of 137 ethnic groups recognized by the government of Myanmar. The absence of this recognition cause they do not have citizenship or stateless person. On the basis of this treatment of Muslim Rohingya ethnic refugees who are currently granted asylum from countries recipients choose not to return to Myanmar. In Indonesia, there are nearly 11% of Rohingya refugees from Myanmar were registered at UNHCR Jakarta with the status of stateless persons of total 6.063 refugees were reported in late January 2016.

In International customs every country has a general duty to provide international protection as a liability which is based on international law, including humanrights law. So the states included in UNHCR (the UN refugee organization shade) is obliged to fulfill the rights of refugees from the reservoirs to provide a decent living. In this regard there are continuous efforts in the search for more effective ways to protect and provide assistance to particularly vulnerable groups. The aid is in the form of humanitarian aid as well as legal protection. However, the assistance and protection that can be given is based on the group of refugees under the Refugee Convention 1951 on the Status of Refugees, the United Nations of the High Commission for Refugees (UNHCR), the refugee status of asylum seekers and/ or the refugee status of stateless person or people without citizenship as experienced ethnic Rohingya Muslims of Myanmar. Not only did the UN that allows responsible for the Rohingya refugees, but also the member states of ASEAN, Organization of Islamic Cooperation, an international organization for humanity, such as the OECD (Organization of Economic Cooperation and Development), DAC (Development

Assistance Committee) and non-governmental organizations (NGOs) engaged in humanitarian.

Refugees Rohingya who are in Indonesia is currently bailed fulfillment of their rights by the Ministry of Foreign Affairs through the UNHCR in cooperation with local governments and the Ministry of Social Affairs. Currently Rohingya refugees be given the right to live a life as it should be men, children to school and parents mingled with the citizen in activities to earn a living, have even built mosques Arakan and shelter specifically Rohingya refugees (Integrated Community Shelter) in Aceh. It is already the standard treatment civilized countries of refugees, let alone consider the issue of Rohingya refugees is predominantly Muslim, while Indonesia is a Muslim majority country, then no one treatment is enticing for some refugees currently living in shelters evacuation choose to did not return to Myanmar or their country of origin. Technically not become a significant problem for the Indonesian government because it has become an obligation either by custom International or on the basis of solidarity among fellow Muslims, but rather how the financing arrangement needs refugees were the first when the Myanmar government itself as the country of origin of the Rohingya refugees are not willing to accept citizens back and *vice versa*, the refugees no longer willing to return to their home countries because of inhumane treatment and not admit their ethnicity in their home countries.

In Indonesia the distribution of humanitarian aid to refugees most of its funding is still done by the local government, for example Rohingya refugees were accommodated in the town of Langsa in Aceh, its financing comes from local budgets. Indeed, there are few humanitarian agencies specifically tasked to mobilize humanitarian aid, but distribution is not easily realized. The benchmark is the fund-raising conducted by humanitarian agencies in the country should be aimed at the citizens of Indonesia are still a lot of need of humanitarian assistance, such assistance could come from humanitarian funding provided by the government both local and central, and also can be derived from humanitarian agencies spiritual *Badan Zakat Nasional* (BAZNAS) or National zakat Agency, *Baitul Maal wa Tamwil* (BMT), also of Islamic Banking humanitarian assistance

through zakat. Zakat is the source of funds most likely to be used in humanitarian aid, for local and central government usually only budgeted humanitarian assistance for natural disasters, eroding poverty domestically. Furthermore, the problem of whether the zakat can also be channeled to the Rohingya refugees who in fact is not an Indonesian citizen, even considering the Rohingya refugees currently residing in the western part of Indonesia, many of them have been doing daily activities and mingle with the citizen another, so it makes them no longer willing to return to their home country.

The Regulation of Zakat in Indonesia

Zakat is an obligatory worship accomplished by every Muslim, as the wealth of its zakat object has reached *nishab* and *haul*. The regulation on the Zakat can be found in the Qur'an and *Hadith*, then technically more regulated in the rules of jurisprudence.

In Article 1 paragraph 2 of Law No. 23 of 2011 on Zakat Management mentioned that "*Zakat is a treasure that must be issued by a Muslim or a business entity to be given to those entitled*". Then on the management of Zakat itself in Article 1 paragraph 1 that the management of zakat is the planning, implementation, and coordination in the collection, distribution and utilization of zakat. Management of zakat itself but aims to effectivity and efficiency of services and enhance the benefit of zakat aims to the public welfare and poverty reduction (Article 3 of the Law on Management of Zakat).

This is elements of Zakat:

- The person who issued zakat (*Muzakki*); based on Zakat Management Act that *muzakki* are persons or entities that are owned by Muslims were obliged to pay zakat.
- The obligatory Zakat Harta according Zakat Management Act, among others:
 - Gold and silver
 - Trade and companies
 - Results of agriculture, plantation crops and fishery products

- Mining output
- Livestock
- Results of income and services
- *Rikaz*

Recipients of Zakat (*Mustahiq*); In Article 1, item 6 of Zakat Management Act states that *Mustahiq* is the person entitled to receive zakat.

Regarding *Mustahiq* is elaborated in the Qur'an letter At Taubah verse 60 that:

The real of Zakat, just for poor people, poor people, administrators of zakat, the Muslim convert, (to freeing of) slaves, those who owe, to the way of Allah, and those who were on the way, as something that required provision of Allah, and Allah is Knower, Wise .

It has also been stated in Article 25 of Law on Management of Zakat that:

Zakat shall be distributed to mustahiq in accordance with Islamic law, which the application can include people who are most defenseless economically, such as orphans, the elderly, persons with disabilities, people who are studying, boarding schools, abandoned children, people who incurred debts, refugees and victims of natural disasters.

In practice Zakat is an obligation for every Muslim with 2.5% of the accumulated wealth of every Muslim is to the benefit of humanity other Muslims (who need). Zakat is the main product of Islam for social spending. With poured zakat provisions in the act, then the zakat as one of the pillars of Islam have binding force for all Indonesian citizens who are Muslims and aimed for the rights of the people who deserve it, including the Rohingya refugees.

Regulations of Humanitarian Assistance

Humanitarian assistance is all forms of aid to victims of disasters and other emergencies, as opposed to foreign aid or in the form of domestic spending.

Humanitarian assistance funds come from many sources overseas but in practice to victims of humanitarian assistance administration should use the three main principles of humanity, namely:

Humanity

A principle which declares that every provision of humanitarian assistance should always be consistent and it must be given assistance to civilians who are victims and deprived of their basic rights by armed conflict, natural disasters and other emergency situation that occurred in the country. Therefore the use of this principle is violated when humanitarian assistance was provided to support either directly or indirectly, any of the parties to the dispute. Adherence to this principle can be seen from how the aid is distributed to the parties to the dispute without distinction. In addition to the conflicting parties should respect the existence of humanitarian assistance as well as humanitarian workers who participated in it. From this principle, it can be concluded that the principle of Humanity is a core principle in the delivery of humanitarian aid and is to distinguish civilians from the parties to the dispute who are victims of war, natural disaster or other emergency.

Impartiality

This principle asserts that humanitarian aid should not be their alignments and this assistance must be given without discrimination of any kind and must be proportionate to the needs of the population. There are three essential elements of the principle of impartiality, namely:

Non-discrimination; in providing humanitarian aid, workers are not allowed to treat the civilian population by distinguishing ranging from gender, race, religion, ethnicity, religion or national origin of the victims;

Proportionality; provision of humanitarian aid should be proportionate and adjusted to the needs of the civilian population who are victims of the parties to the dispute;

Subjective distinctions; in the provision of humanitarian aid was also not al-

lowed to differentiate the aid based on the legal status of the victim.

Neutrality

The provision of humanitarian assistance must be neutral. Neutral of humanitarian aid is carried out by simply providing humanitarian assistance to civilians. Humanitarian law there is no general principle, namely the principle of distinction is the principle that is done to distinguish combatants to civilian it is also done so in the provision of humanitarian assistance conducted distinguishable people who still go to war as combatants and people who are no longer involved in such dispute. It is also to provide ease to the workers in order to deliver humanitarian aid.

Based on these principles the provision of humanitarian assistance is not only devoted to countries with an armed conflict but also cater to the civilians who are victims of non-armed conflict, one of them is experienced Rohingya refugees. In the Universal Declaration of Human Rights has stated that the protection of all rights and freedoms without exception kind of color, race, ethnicity, religion, gender, language, property rights, political views, national origin, residence, or notch more. This is the basis of protection to any person in charge with the international community.

Further guidance on the protection of individuals also contained in the Charter of the United Nations in Article 2 (4 and 5) which is the goal of the United Nations that nations can coexist and maintain world peace. Two rules in the Covenant is felt is still all too common, but the United Nations through the organs of the core is in its form a special resolution on the protection and delivery of humanitarian assistance to countries experiencing conflict that many people and the civilian population are victims of conflict. General Assembly in its resolution 46/182 on strengthening of the coordination of emergency humanitarian assistance of the United Nations in this resolution clearly stated that the countries in the world have an obligation to provide humanitarian assistance in the event of a conflict in a country that could threaten peace and security international world. The resolution of the general assembly is often used as the basis of country or international

organization that wants to give humanitarian assistance.

Financing Humanitarian Assistance

On Global Humanitarian Assistance report in 2015, to the response of humanitarian aid in 2014 spent \$ 24.5 billion with funds from States, private sector, donor funds from the OECD (Organization of Economic Cooperation and Development), aid from DAC (Development assistance Committee) and individuals collected through humanitarian agencies or NGOs, one of which individual assistance in the form of zakat. All the humanitarian aid destined to the food sector, health and other multi-sector.

However, the challenge is the growing group of people in crisis-stricken countries especially conflict, among them Syria, Iraq, Sudan, West Africa, and Myanmar Rohingya, plus assistance to countries container refugee. While aid collected from various sources has not been able to achieve a load case with these countries. However, if understood, despite the availability of appropriate quality and quantity needs of funds that can efficiently meet all the burden of the international crisis, not necessarily to improve the welfare of people who experienced the conflict and refugee crisis.

Materially distribution of humanitarian aid in the world cannot cover all the problems of humanity. So to be able to meet the crucial needs, the funds are at least able to reduce the vulnerability of Rohingya refugees by the method of human resource development victims as efforts to address the long-term. For example, the Indonesian government channeled aid to Rohingya refugees in several districts in Aceh, which established several camps for skill development of each of them.

Financing Rohingya Refugees in Indonesia

Rohingya refugees in Indonesia is currently spread over four locations in Aceh. In the placement of these refugees, Indonesia through the local government provided a piece of land which has been built on top of buildings, including

barracks, sports facilities, playgrounds, mosques and even the common kitchen complete with gas stove and cooks. The buildings are managed by humanitarian agencies Aksi Cepat Tanggap (ACT) or fast action response. ACT is an institution in charge of managing international aid from various organizations for Rohingya refugees, including shelter built facilities with a fund of Rp6 billion. While the daily needs of Rohingya refugees are taken care of by the International Organization of Migration (IOM). More local government merely serves as a facilitator for the humanitarian agencies and/ or NGOs that want to distribute aid to refugees in terms of the aspect of education, health services, supply of skills and others.

In addition BAZNAS Indonesia doing activities in the form of assistance to suffice the needs. Zakat is distributed by BAZNAS is in the form of humanitarian aid collected from a Muslim or entity (*muzakki*) competent give aims then given *tomustahiq*. Distribution of zakat by BAZNAS in 2015 reached 41% distributed in the field of humanitarian assistance.

For the Rohingya refugees stranded in Aceh and North Sumatra, one BAZNAS aid of zakat raised went to meet the demand for water resources, clothing, and food and set up a tent for shelter. This assistance was raised not only from BAZNAS but other humanitarian organizations to work together to raise funds with BAZNAS like Rumah Zakat, FOZ (Forum Zakat), Dompot Dhuafa, PKPU (Pos Keadilan Peduli People) and others. This assistance is expected at least to be useful and ease the burden of refugees. As an initial assistance BAZNAS through its chairperson Prof. Dr. Didier Hafidhudin, M. Sc. funds worth Rp450 million from BAZNAS and PPADarul Quran. Then BAZNAS also held a week program Pekan Gizi Nasional (PGN) or nutrition programmes of Indonesia to distribute beef to Rohingya refugee camp in East Aceh, Nanggroe Aceh Darussalam (NAD). The amount of aid sent to Rp142 million in the form of four cows and nutrition assistance package. In addition to the Rohingya refugees, similar packages were also given to needy people around the refugee camps as well as to the students at Islamic boarding schools.

Currently, the number of refugees increasingly reduced. Previous number of

IDPs reached 409 people when the camp was first established, but now only 285 people. Therefore, it can be seen from the graph above, the distribution of zakat by BAZNAS against Rohingya refugees decreased between the years 2013-2015.

Meanwhile Baitul Maal Aceh together with the local government to build a new sanctuary that is more feasible for refugees. The location was used as a training center and coaching refugees. Since the beginning of the arrival of the refugees, BAZNAS has participated distribute zakat and infaq of *muzakki* and *munfik* to help them gain a more viable livelihood.

Zakat as Humanitarian Assistance for Rohingya Refugees

In the previous explanation related forms of humanitarian assistance, explained that the source of humanitarian assistance, one of which came from individuals collected through various humanitarian organizations based on religion. For Muslims, individual humanitarian assistance is channeled in the form of zakat. Zakat distribution is not only devoted to Muslim-majority countries in conflict but distributed to the entire world, to the victims of the humanitarian crisis. In the financial statements of Global Humanitarian Assistance (GHA) 2013 Zakat donate 16% of humanitarian aid from all international humanitarian aid. If the accumulated with funds that come from individuals amounted to US \$ 396.700.00, then zakat is one of the biggest donation in 2013.

Islamic countries and Muslim populations continue to rise significantly, along with the growing *muzakki* and *mustahiq* as donors and recipients, this encourages global interest to increase the potential of humanity in social Islamic financing arrangements. Between 2011 and 2013, reported humanitarian aid from countries that are members of the Organization for Islamic Cooperation (OIC) grew from US\$ 497 million to US\$ 773 million with an additional US\$ 1.6 billion specifically contributed by the Turkish government as a host state for the Syrian refugees. At the same time, an estimated 75% of people who live in the 10 countries that channeled aid recipients in 2013 were Muslims.

GHA research shows financial data from Islamic countries such as Indonesia, Malaysia, Qatar, Saudi Arabia and Yemen are expected to collect

approximately US\$ 5,700 billion each year for their own country through official institutions Zakat collection. Between 23% and 57% of the zakat is used for humanitarian aid. Based on these data, through zakat Islamic collective economic prospects and demonstrate the potential for future growth.

Indonesia is a country with the largest Muslim population, in 2004-2012 could produce GDP increased by 60%, due to zakat revenue in 2012 alone reached US\$ 217 million. In 2015, since the Rohingya refugees stranded in Aceh province, Indonesia through BAZNAS effective humanitarian assistance to the presentations 26.91%.

Conclusion

Rohingya refugees stranded in Indonesia must be given humanitarian aid as well as the Indonesian government to give relief to the citizens themselves. Liabilities arising not only because Indonesia is Myanmar's neighbors and / or the UN member states, but Indonesia with the largest Muslim population strengthen obligations to protect the Rohingya refugees as solidarity among fellow Muslims.

Humanitarian assistance it has a principle of humanity, impartial and neutrality, namely the existence of proportionality, non-discrimination and not paying attention subjective distinctions in the offering. Well, zakat implicitly also adhere to this principle, which is where all the funds collected from individuals is much more efficient assistance as humanitarian aid compared to other humanitarian aid.

Financing for efficient Rohingya refugees originating from zakat fund managed by BAZNAS and other humanitarian agencies are working with local authorities, considered the placement procedure of refugees to third states, the government cannot automatically expect funds from outside of the government. Zakat is a source of social financing to increase the GDP (Gross Domestic Product) of Islamic states and can be relied upon as the primary funding source for humanity.

Then apart from that, Islamic countries and Muslim populations continue to

increase significantly, in line with the growth rate the impact of conflict and humanitarian crises that dominate the Muslims, one of them suffering Rohingya. To that recommendation, the government and the UN need to improving human potential through social regulation Islamic Financing and formation of an international institution with the Zakat regulations that can be accepted by all countries.

References

Mushaf Al Qur'anul Karim

Anshori, Abdul Ghofur, *Hukum Islam Dinamika & Perkembangannya di Indonesia*, total Media, Jakarta.

National and International Instrument

Law No. 23/2011 concerning the Management of Zakat.

General Assembly Resolution No. 46/182 concerning Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations

Pusat BAZNAS, <http://pusat.baznas.go.id/>

Global Humanitarian Assistance, <http://www.globalhumanitarianassistance.org/>

UNHCR Indonesia, www.unhcr.or.id

Kementerian Luar Negeri, <http://www.kemlu.go.id/>