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Controversial Issues in Law No. 23 of 2011 on Zakat Management: A Perspective from John Rawls' Theory of Justice

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ABSTRACT
Law Number 23 of 2011 concerning Zakat Management was enacted to modernize zakat governance and maximize its efficient and effective utilization through constitutional means. However, from a legal standpoint, the law contains controversial provisions that could grant the National Zakat Agency (BAZNAS) authority and supremacy. This study aims to examine these controversial provisions in Law Number 23 of 2011 and evaluate the resulting inequities through the lens of John Rawls's theory of justice. This is a normative legal study employing both statutory and conceptual approaches. The statutory approach was used to identify problematic articles within the law. In contrast, the conceptual approach is used to evaluate and propose a reconstruction of zakat provisions based on Rawlsian justice. Data collection was conducted through a literature review. The findings indicate that Law Number 23 of 2011 grants BAZNAS supreme authority by positioning it simultaneously as a regulator, auditor, and operator. This concentration of power can trigger conflicts of interest and competition with private zakat institutions (LAZ), and even lead to human rights violations by criminalizing zakat administrators (amil) who lack a permit from the Ministry of Religious Affairs. This arrangement contradicts John Rawls's principles of justice, as it restricts fundamental freedoms regarding religious expression and denies private zakat institutions (LAZ) equal opportunity to operate on par with BAZNAS. The distribution of authority outlined in the law fails to ensure substantive justice for the most vulnerable stakeholders in the zakat sector, such as traditional zakat administrators. These findings are reinforced by the Constitutional Court's ruling (Number 97/PUU-XXII/2024), which calls for legal amendments and revisions to achieve "good zakat governance." This study contributes by analyzing the problematic provisions of Law Number 23 of 2011 concerning zakat management through the perspective of John Rawls's theory of justice.

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INTRODUCTION

The development of zakat (Islamic obligatory charity) management institutions in Indonesia can be divided into several phases, namely: (1) the first phase, the management of zakat during the colonial era. During this period, the colonial government sought to prevent the individual management of zakat because zakat funds were suspected of being used to oppose the colonial government; (2) the second phase, during the Old Order regime from 1945 to 1967, when the management of zakat no longer faced obstacles from the government. However, during this period, the management of zakat funds was still carried out on an individual basis; (3) the third phase occurred during the New Order government from 1968 to 1998, when zakat began to attract public attention, leading to the emergence of zakat management institutions; the government also began to pay attention to the zakat sector, although this had not yet resulted in the enactment of formal legislation; (4) the fourth phase, the transitional period from 1999 to 2000, during which Law No. 28 of 1999 on the management of zakat was enacted; (5) the fifth phase, from 2001 to the present, during which Law No. 23 of 2011 on the management of zakat was enacted, repealing the previous law (Fathoni et al., 2020).

Law No. 23 of 2011 on the administration of zakat was enacted to regulate modern zakat governance and to maximize the efficient and effective utilization of zakat through constitutional means consistent with Islamic law (Hidayatullah & Priantina, 2018). However, in practice, Law No. 23 of 2011 has sparked controversy over several provisions that centralize authority. Firstly, Articles 6 and 7 designate the National Zakat Agency (BAZNAS) as the sole national operator of zakat, responsible for planning, collecting, distributing, and utilizing zakat; this has led to a duplication of functions and the potential for conflicts of interest. Secondly, Article 18 mandates the establishment of Zakat Management Institutions (LAZ) subject to the recommendation of BAZNAS, which effectively makes BAZNAS the arbiter of the existence of these zakat-operating institutions, entities that are, in effect, competitors in the collection of zakat. Thirdly, Article 19 stipulates that LAZs must regularly report all zakat management activities to BAZNAS; these controversial articles grant BAZNAS overlapping authority as a regulator, auditor, and operator. Furthermore, from a human rights perspective, Article 38 risks criminalizing independent zakat management practices and could hinder community initiatives, such as mosque-based organizations, which have long been the backbone of community welfare and predated state involvement. Although Indonesia is a Muslim-majority country, zakat compliance remains relatively low (Evriyenni et al., 2025).

Concerns and debates regarding the controversial provisions on BAZNAS's dual authority have been further heightened by the corruption case involving the convicted offender Arsuatman Arsyad, who was found guilty of criminal offenses relating to the distribution of zakat, infaq and shodaqoh (ZIS) funds at BAZNAS in Tanjung Jabung Timur Regency, as ruled in the Jambi District Court Judgment No. 39/Pid.Sus -TPK/2023/PN Jmb dated 8 May 2024. Mismanagement of zakat by BAZNAS has eroded public confidence in the organization's accountability and credibility as a government-established body responsible for collecting zakat.

Zakat has a significant impact on social welfare and poverty alleviation; the extent to which this impact is realized is heavily influenced by the level of public trust in zakat institutions (Nashirudin et al., 24). Consequently, the centralized zakat administration system has violated the principles of justice championed by John Rawls (the principle of equal liberty and fair equality of opportunity) and has denied Zakat Management Institutions (LAZ) a fair opportunity to contribute on an equal footing. When the state monopolizes the public sphere of worship and new regulations on zakat management fail to uphold the principles of justice, the primary objective of maximizing benefits for vulnerable groups will not be realized.

The regulatory transformation of zakat management in Indonesia was marked by the enactment of Law No. 23 of 2011, which shifted the management paradigm toward centralization under the authority of the National Zakat Agency (BAZNAS) (Alamudi & Hasan, 2023; Hakim, 2016). Since the law's enactment, debates have emerged regarding the strengthening of the state's role in intervening in the religious public sphere (Emzaed et al., 2023; Pasya et al., 2025). Previous studies have extensively addressed issues surrounding the Zakat Management Law from the perspective of maqasid sharia, evaluating zakat's effectiveness in realizing welfare (maslahah) and in upholding good governance principles that emphasize transparency, accountability, and institutional professionalism (Fathoni et al., 2020; Zaki et al., 2020). While theological and practical aspects have been widely discussed, a crucial gap remains in the literature on a philosophical analysis of the problematic articles in Law No. 23 of 2011 deemed discriminatory. Prior discussions have examined the law from the perspectives of the sociology and politics of law (Alamudi & Hasan, 2023; Pasya et al., 2025). Although existing literature acknowledges the potential for conflicts of interest involving BAZNAS (Lutfi et al., 2026), few studies have analyzed these inequities in depth through the lens of John Rawls's theory of justice.

Based on this background, this study poses research questions regarding the problems arising from the centralization of zakat management under BAZNAS and how Law No. 23 of 2011 can be analyzed through the lens of John Rawls's theory of justice. The study aims to examine controversial issues within Article 23 of the 2011 Zakat Management Law and to critically evaluate the inequities present in the legislation using John Rawls's theory of justice.

■ METHOD

Research Approach

This study is normative research employing a conceptual-juridical approach. The juridical approach was used to examine controversial provisions in Law No. 23 of 2011 concerning Zakat Management, while the conceptual approach was used to analyze the legal substance through the lens of John Rawls's theory of justice. These two approaches were applied in an integrated, sequential manner: the legislative approach was employed during the identification and description of legal texts, whereas the conceptual approach was used during the evaluation and reconstruction phases, based on John Rawls's theory.

Data Sources

The primary legal sources used were the 1945 Constitution of the Republic of Indonesia, Law Number 23 of 2011, and Constitutional Court Decision Number 97/PUU-XXII/2024. Secondary legal sources included an *amicus curiae* brief from the Yogyakarta Legal Aid Institute, books and journals addressing issues surrounding the centralization of zakat management, and John Rawls's theory of justice.

Legal Material Collection Techniques

The data collection method employed was the documentary method, which involves searching for data on specific topics or variables from records, books, legislation, newspapers, magazines, journals, and the like.

Data Analysis Technique

The data analysis technique employed was qualitative, involving data collection and an examination of provisions within Law Number 23 of 2011 concerning Zakat Management that conflict with principles of justice. John Rawls's theory of justice was used to evaluate the extent to which Baznas's dominant authority creates structural inequality for community-managed zakat institutions and to reconstruct community zakat governance in alignment with principles of justice. John Rawls's principles of justice comprised procedural justice and substantive justice. Procedural justice emphasized fair decision-making based on the "original position" and the "veil of ignorance," ensuring that no party intervenes for self-interest. Meanwhile, substantive justice refers to fairness within a policy aimed at equitable treatment for all parties, particularly vulnerable groups. This research is not merely a critical normative study but also an analytical framework that can serve as a tool for constitutional review in the legislative process for zakat management.

■ RESULTS AND DISCUSSION

The Issue of Centralizing Zakat through the National Zakat Agency (BAZNAS)The enactment of Law No. 23 of 2011 on Zakat Management aims to strengthen the national zakat governance framework. The national zakat management framework is based on seven principles: Islamic law, trustworthiness, public benefit, justice, legal certainty, integration, and accountability (Afifah et al., 2023). However, in practice, this has raised concerns among zakat practitioners, academics, and civil society. The state's involvement through BAZNAS has given rise to issues of centralized authority, imbalances in institutional relations, and restrictions on public participation in zakat management. The controversies that have arisen relate to the distribution of power, institutional justice, and the protection of civil society's rights in the practice of religious worship. The following are criticisms of the controversial articles in Law No. 23 of 2011.

The supremacy of BAZNAS's authority and the emergence of conflicts of interest

The enactment of Law No. 23 of 2011 established BAZNAS as an institution with significant authority. Legally, this Law grants BAZNAS financial authority in its capacity as regulator, auditor, and operator. The overlap among its regulatory, reporting, and operational functions raises questions about institutional accountability (Lutfi et al., 2026). BAZNAS's authority as a regulator is set out in Article 18, which requires LAZs to obtain a recommendation from BAZNAS as a condition for obtaining an operating license. Its authority as an operator is based on Articles 6 and 7, which grant it full authority over the management of zakat at the national level, ranging from collection and distribution to its utilization. Furthermore, BAZNAS has the authority to conduct periodic audits of reports on the collection, distribution, and utilization of zakat prepared by LAZs (Article 19).

The supremacy of BAZNAS's authority may lead to a weakened sense of accountability and a loss of fear of consequences in BAZNAS's zakat management. Granting excessive authority to BAZNAS as regulator, auditor, and operator actually creates an imbalance in relationships, disproportionate control, and the potential for conflicts of interest and injustice (Yogyakarta Legal Aid Institute, 2025). To be legally recognized, LAZ must obtain a recommendation and authorization from BAZNAS and be subject to regular supervision and reporting. Both national and regional LAZs are required to obtain recommendations from the central and regional Ministries of Religious Affairs, respectively, in accordance with their

Figure 1. The supremacy of Baznas's authority

respective levels (Yahya, 2020). This gives rise to a systematic conflict of interest that runs counter to the principle of structural justice. This conflict of interest arises from the absence of institutional mechanisms governing the exercise of BAZNAS's powers, thereby risking BAZNAS hindering the growth of LAZs, which are viewed as competitors in the management of zakat. Furthermore, BAZNAS, as a non-structural state institution, receives funding from two sources: allocations from the State Revenue and Expenditure Budget (APBN) and the Regional Revenue and Expenditure Budget (APBD), as well as 12.5 percent of zakat funds collected. Meanwhile, LAZs are entirely dependent on funds generated from their own operations. This disparity in funding sources and authority creates a competitive environment that is structurally unequal (UU 23 Tahun 2011 Tentang Pengelolaan Zakat, 2011)

Failure to separate these functions contravenes the technical standards for institutional governance set out in the Core Principles of Zakat (ZCP), which serve as non-binding technical regulatory guidelines and were launched at the UN World Humanitarian Summit in Turkey on 23 May 2016 (BAZNAS & Bank Indonesia, 2016). One of the Core Principles of Zakat emphasizes the supervisory body's independence from the implementing body. ZCP 1 and ZCP 2 state that the regulatory, supervisory, and operational functions of zakat must be separated institutionally and functionally to prevent conflicts of interest. ZCP 2 also mentions one important criterion: the zakat supervisor must publish an up-to-date list of licensed zakat institutions that is easily accessible to the public. Designating BAZNAS as both the supervisory authority and the operator of the zakat system actively encourages competition in fund-raising and undermines the principle of checks and balances. This is because there is no external body overseeing BAZNAS's performance as an operator. The supervisory authority of the Minister of Religious Affairs, as stipulated in this Law, is inadequate because the minister lacks the technical and operational capacity to conduct regular sharia and financial audits of zakat. Consequently, there is potential for BAZNAS to abuse its authority in both regulation and operations. One indication of the lack of oversight at BAZNAS is the corruption case involving the convicted Arsuatman Arsyad, who was found guilty of criminal acts relating to the distribution of zakat, infaq and shodaqoh (ZIS) funds at BAZNAS in Tanjung

Jabung Timur Regency, as decided by the Jambi District Court Judgment No. 39/Pid. Sus -TPK/2023/PN Jmb dated 8 May 2024, in which the case cited state losses amounting to 1.2 million.

Competition in zakat collection and the decline in public participation

The government's efforts to centralize the administration of zakat by establishing BAZNAS have caused tension amongst Muslim civil society groups, who wish to retain their autonomy in managing zakat. In practice, there is competition between BAZNAS and LAZ. BAZNAS's status as a Non-Structural State Agency (LNS) not only grants it dual authority but also two guaranteed sources of funding: from the state and 12.5% from the *amil* (Beik & Ayuniyyah, 2015). The problem is that BAZNAS's performance is no better than LAZ's, which is funded entirely by *amil* funds. LAZ is often more innovative and closer to the community (Sriyana et al., 2025). LAZ's progressive approach to zakat collection and distribution programs has earned the community's trust (Yahya, 2020).

The debate over the hierarchical relationship between BAZNAS and LAZ is not new. The enactment of Law No. 23 of 2011 fundamentally altered the position of LAZ from that of an equal partner to an institution operating under the coordination of BAZNAS. When BAZNAS and LAZ operate in the same region, they will compete for the attention of those obliged to pay zakat (*muzakki*) (Saidurrahman, 2013). Research conducted in Malang in 2020 showed that LAZ was more creative, innovative, and responsive to the community's social needs than BAZNAS and mosques, as traditional zakat administrators, in both the collection and distribution of zakat across a wider range of categories (Ekawaty et al., 2020). Previous research findings were based on eight samples (one BAZNAS, three LAZs and four mosques) within a single city; consequently, their generalisability to the national context is limited. The concepts of creativity, innovation and responsiveness were based on program types, outreach methods and distribution coverage, as determined through interviews and questionnaires. Nevertheless, these findings can serve as an initial indication of the tension between BAZNAS and LAZ, which subsequently culminated in constitutional challenges before the Constitutional Court in cases numbered 97/PUU-XXII/2024 and 54/PUU-XXIII/2025.

Research findings indicate that the hierarchical relationship between BAZNAS and LAZ has given rise to social jealousy. It cannot be denied that LAZ, as an institution that predates BAZNAS, has strong ties, trust, and a significant contribution to the micro-economy. In practice, this existential jealousy has caused integration problems amongst zakat organizations. One of the consequences is evident in the utilization of zakat funds, which is only around 20–30 percent. Furthermore, to address the institutional issues mentioned above, it has been found that zakat institutions in Sumenep Regency have compromised and restructured zakat management. Drawing on the strong structural role of ulama (Islamic religious scholars) within the cultural sociology of Madurese society, BAZNAS and LAZIZNU in Sumenep Regency have developed a comparative-integrative relationship between these two elements of zakat management. The ulama and zakat institutions carry out the functions of collection, distribution, and the empowerment of productive zakat, whilst BAZNAS ensures that zakat institutions and individual *amil* operate in accordance with the law and that they formulate productive zakat programs. Thus, BAZNAS, LAZ, and individual *amil* can work synergistically in accordance with the principles of good zakat management (Dikuraisyin & Najah, 2024). This model of mutual compromise cannot be directly applied to other regions with different socio-cultural contexts, such as more pluralistic urban areas; however, it demonstrates that the restructuring of zakat institutional management can be developed in ways adapted to local conditions. The success of zakat management is determined not only by the sophistication of regulations or the bureaucratic apparatus, but by how flexible and open the system is to the involvement of indigenous communities, social creativity, and the state's ability to continually learn and negotiate with an ever-changing reality (Nuriskandar et al., 2025).

On the other hand, research indicates that BAZNAS and LAZs in the Surabaya-Gresik region still focus on individual zakat, with varying segments of those obliged to pay zakat. Another finding is that companies such as Bank Muamalat Indonesia, BTN Syariah, and PT Semen Indonesia, which have their own zakat collection agencies (LAZs), have never paid corporate zakat. The presence of LAZs within companies is used solely to manage zakat, infaq, and sadaqah contributions from employees, directors, or customers. BAZNAS and LAZs in the region have also never managed corporate zakat, which is subsequently distributed to the eight categories of zakat recipients (Asnaf). This indicates a lack of understanding of zakat law and weak government regulations regarding zakat empowerment (Purbasari, 2015). Findings from previous studies indicate that the process of collecting zakat is inseparable from community participation, both prior to Law No. 23 of 2011 and at present. Active community participation in the planning and evaluation of zakat distribution can ensure that aid is more targeted and sustainable(Jamal & Turasih, 2022).

The potential for human rights violations resulting from centralized zakat management

Law No. 23 of 2011 on the management of zakat does not, de jure, prohibit the independent distribution of zakat; however, de facto, by designating BAZNAS as the sole operator managing zakat at the national level, acting as both regulator and auditor for LAZ and UPZ, the authorities have created a centralized zakat system that effectively shuts out or delegitimizes community-based zakat practices. This creates an indirect compulsion on muzakki to distribute zakat solely through official state institutions so that it is recognized as administratively valid zakat. (Yogyakarta Legal Aid Institute, 2025). Sections 38 and 41 of this Act state: “No person shall intentionally act as a zakat collector to collect, distribute or utilise zakat without the permission of the competent authority”, “Any person who wilfully and unlawfully contravenes the provisions referred to in Article 38 shall be liable to imprisonment for a term not exceeding 1 (one) year and/or a fine not exceeding Rp50,000,000.00 (fifty million rupiah).” These two articles have criminalized traditional zakat collectors, who have long played a role in zakat collection within the community. The centralization of zakat management through BAZNAS and the criminalization of traditional *amil* potentially violate the rights to freedom of religion, assembly, and association. This practice constitutes a covert restriction of human rights.

Law No. 23 of 2011 recognizes only the national administration of zakat by BAZNAS, which risks unlawfully restricting the performance of the zakat obligation in accordance with an individual’s beliefs and convictions. As explained by Imam Yahya, in the administration of zakat, the state plays a role only in technical and administrative matters (Yahya, 2020). Article 28J(2) of the 1945 Constitution of the Republic of Indonesia also emphasizes that restrictions on the right to freedom of religion may be imposed only on collective manifestations of religious teachings in the public sphere. This collective sphere is also referred to as the ‘external forum’, encompassing all forms of religious expression in the public sphere. Within the framework of international human rights law, Manfred Nowak distinguishes between two spheres of protection for freedom of religion, namely: 1) the internal forum (forum internum) is the inner dimension comprising a person’s beliefs, faith and thoughts, which are absolute and may not be interfered with by the state under any circumstances, 2) the external forum (forum externum) is the public manifestation of such beliefs, such as worship, rituals, teaching and religious practices in the public sphere. This may be subject to limited restrictions by the state only if it meets the requirements of legality, necessity and proportionality as stipulated in Article 18(3) of the ICCPR (International Covenant on Civil and Political Rights)(International Covenant on Civil and Political Rights, 1966), and the practice of distributing zakat independently, whether through traditional zakat collectors, is a manifestation of religion in the context of worship, spiritual understanding and religious practice.

As part of Islamic teachings, the payment of zakat and the choice to channel it through specific institutions or directly to the mustahik (recipients) constitute a form of religious expression guaranteed by the constitution and international human rights instruments. Zakat cannot be viewed merely as an administrative matter, but rather as a human right guaranteed by the constitution. Therefore, the administration of zakat, whether independently or collectively through religious community organizations, is part of the direct implementation of the right to freedom of religion (Yogyakarta Legal Aid Institute, 2025). In the context of external forums, muzakki (those obliged to pay zakat) cannot be compelled to pay zakat through a single distributor. Government policy, through Law No. 23 of 2011, which designates BAZNAS as the sole national zakat management body and grants it the authority to establish UPZs in all government and private institutions, has essentially created a centralized national zakat management system.

Manfred Nowak explains that the restriction or curtailment of rights is not always carried out directly, but can occur through indirect coercion. This form of coercion includes granting privileges to adherents of a particular religion or belief through existing legal policies, or denying access to other fundamental rights to those who choose to practice their religion outside the state-established framework (Khusniah, 2024). A field study involving 65 non-civil servant zakat payers in Kuantan Singingi Regency, Riau Province, revealed that people feel it is more virtuous to give zakat directly to recipients who are fellow residents or relatives in their local community than to pay zakat to BAZNAS, due to a lack of trust and concerns about the misappropriation of zakat funds (Yuliani et al., 2018). In addition, a study involving 56 respondents from West Kalimantan Province found that the majority of rural residents prefer paying zakat at the mosque, as this is a long-standing family tradition and the mosque is close to home, rather than paying it to BAZNAS West Kalimantan (Haffizha & Laksamana, 2023). As many as 88% of residents in Medan Tembung Sub-district are reluctant to pay or channel their zakat through BAZNAS due to religious beliefs (feeling it is better to donate directly to the recipients), the distance of BAZIS/LAZ offices from their homes, unsatisfactory service, and a lack of credibility and transparency (Daulay & Lubis, 2015). A similar situation applies to the Prismatik community in Kalimantan, who are reluctant to pay zakat to BAZNAS and prefer to fulfill their zakat obligations in their own way (Syaikhu et al., 2022). The findings of this research indicate that the indirect coercion resulting from the centralisation of BAZNAS is not merely a theoretical construct, but has a tangible impact on the choices made by muzakki to avoid official state institutions due to a lack of trust in them; for a muzakki, this constitutes an expression of the right to freedom of religion, which is guaranteed under Article 28E(1) and (2), as well as Article 29(2) of the 1945 Constitution. However, this is subsequently interfered with by the state through Articles 38 and 41, which impose criminal penalties for the independent management of zakat by mosques, Islamic boarding schools, and other Islamic organizations that have not obtained official permission from the Ministry of Religious Affairs (Asyhari et al., 2025).

In essence, the state has a negative obligation not to interfere with or hinder, either directly or indirectly, the religious expression of its citizens. In other words, by intervening, monopolizing, regulating exclusively, and even creating a legal regime that restricts the way citizens practice their religious beliefs through the independent collection and management of zakat, the state has, in fact, violated the principles of international human rights and the 1945 Constitution.

This concentration of authority can become a covert restriction (a de facto restriction disguised as regulation) on religious freedom by limiting the expression of Islamic teachings through independent zakat practices or autonomous community management. In Islamic tradition, zakat is not merely administrative but also a religious ritual (*ibadah*) directly linked to the community's beliefs and social responsibilities. Although Law No. 23 of 2011 does not explicitly prohibit the independent distribution of zakat, by limiting the recognition and legality of zakat to state-approved institutions, the regulation has substantially restricted citizens' freedom of religion. This constitutes a form of restriction on human rights that is not explicitly recognized as such, yet directly affects the exercise of constitutional and fundamental rights.

Towards Fair Zakat Management: John Rawls's Perspective

Zakat is not merely a ritual obligation, but also an important social duty for maintaining social harmony and a means of holding the state accountable for the welfare of its people (Retsikas, 2014). Efforts to resolve issues surrounding the administration of zakat in Indonesia under Law No. 23 of 2011 need to be followed up by a fundamental overhaul grounded in the principle of justice. In this context, fair zakat management can be based on John Rawls' theory of justice. John Rawls' theory of justice emphasizes a robust prescriptive framework for redesigning zakat management in Indonesia. The problem with the current regulations is the state's overreach, which has given rise to a perception of injustice in the public sphere. The solution to fair zakat management, according to John Rawls, is to require that zakat be managed on the principles of procedural equality and the prioritization of vulnerable groups. The reconstruction of several articles aims to enhance legal certainty, justice, and legal equality (Muhasim et al., 2019). Rawls constructs his theory of justice based on two principles that follow one another lexically: the First Principle (The Equal Liberty Principle), which states that everyone has an equal right to the most extensive system of basic liberties, as extensive as a similar system for others; and the Second Principle, which consists of two parts: Fair Equality of Opportunity (offices and positions must be open to all persons of equal ability) and the Difference Principle (social and economic inequalities are only justifiable if they actually benefit the least advantaged group) (Rawls, 2001).

Based on the principle of Equal Basic Freedoms in John Rawls' theory of justice, it is emphasized that the basic freedoms of citizens, including the freedom of belief in the practice of religious teachings, are absolute and cannot be exchanged for any social benefits or

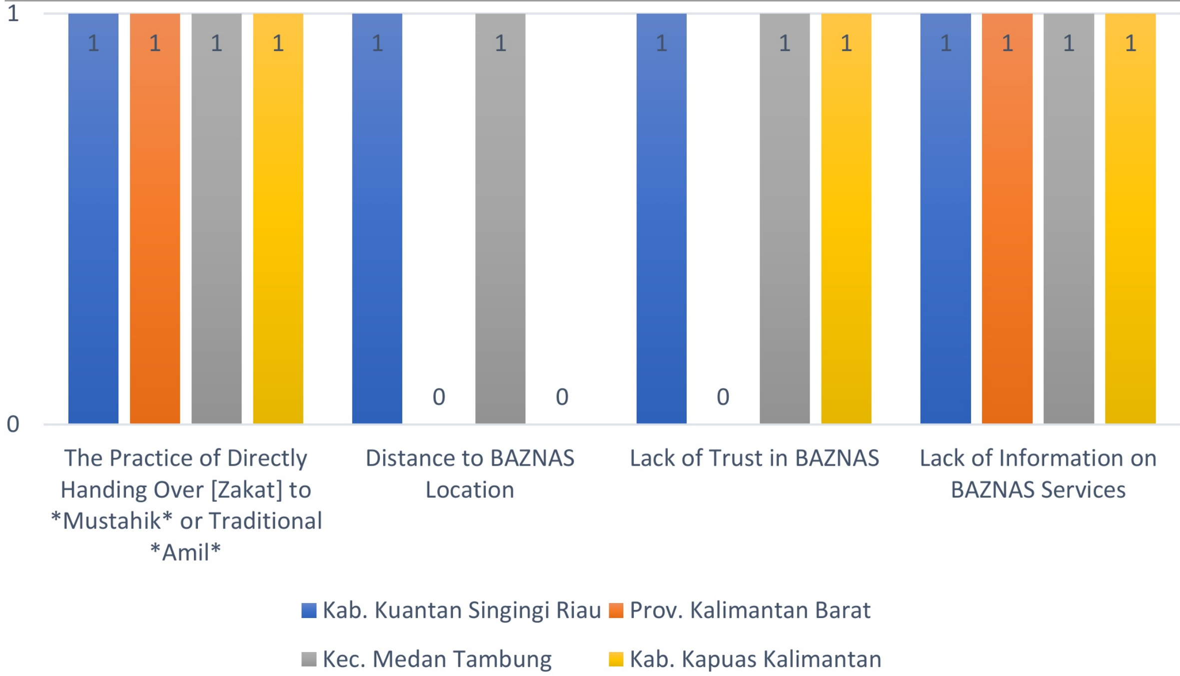

Figure 2. Factors behind Muzakki's reluctance to distribute zakat through Baznas

economic efficiency. In this context, the policy of centralising the management of zakat and the criminalisation of traditional *amil* are contrary to this principle of freedom as set out in the International Covenant on Civil and Political Rights, which has been ratified by Indonesia through Law No. 12 of 2005, The UN Human Rights Committee, in General Comment No. 22, emphasises that freedom of religion encompasses the right to practise religion individually or collectively, including through the management of religious resources such as zakat, in both the public and private spheres (CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion), 1993). Furthermore, in Islamic theology, zakat is not merely a transfer of wealth, but an act of worship that manifests the transcendental relationship between the servant and God. When the state restricts the distribution of zakat to BAZNAS and criminalizes practices outside this framework, it acts unjustly by infringing upon citizens' freedom to perform religious rituals solely to achieve the state's administrative objectives. The policy of centralizing zakat undermines the participation of the Islamic civil society in managing zakat in accordance with their genealogical traditions. It disregards the integral practices of zakat, rooted in the history and culture of the Islamic civil society in Indonesia (Emzaed et al., 2023).

John Rawls' principle of 'fair equality of opportunity' must form the basis for the operational legitimacy of zakat institutions. The problem arising from Law No. 23 of 2011 is that the supremacy of BAZNAS's authority as a regulator, auditor, and operator hinders the people's ability to exercise checks and balances over the state, whilst also demonstrating the legislators' failure to set aside sectoral interests. Furthermore, this supremacy of authority also renders LAZ subordinate and dependent on BAZNAS's recommendations regarding its institutional structure. Reconstructing justice requires a level playing field. If BAZNAS is to remain positioned as a regulator, then it must be relieved of its operational authority over zakat. This is necessary to establish equality between BAZNAS and LAZ before the law. From John Rawls' perspective, positions and social status as managers of public funds must be open to anyone with the necessary competence (meritocracy), rather than being based solely on state appointment. The practical implication is the removal of the requirement for a BAZNAS recommendation in the LAZ licensing process. LAZ operational licenses can be based on transparent, objective administrative criteria, such as audit capability, human resources, and infrastructure, rather than on the political discretion of stakeholders. By creating equality amongst institutions, the public is granted the rational freedom to choose to channel their zakat to professional and trustworthy institutions, whether government or private. The centralization of zakat through BAZNAS is said to be one of the efforts to realize social justice; however, in reality, the modernization of philanthropy merely fulfills modernity within technical and administrative systems and does not always address the root causes of injustice (Fauzia, 2017).

The principle of the ‘difference of people’ asserts that social and economic inequalities within the structure of society can only be morally justified if such policies are demonstrably capable of delivering the greatest benefit to vulnerable groups; in the context of zakat, these are the mustahik, or those entitled to receive zakat. Rather than optimizing the protection and fulfillment of the mustahik’s basic rights, this law focuses more on regulating, restricting, and criminalizing traditional *amil* without official permission, even though traditional *amil* are often the frontline defenders in saving local poor people from acute hunger, long before state aid—which is slow and inflexible—arrives. Stifling philanthropic initiatives in the name of administrative uniformity risks undermining the living law and harming the mustahik.

The administration, collection, and distribution of zakat are just as important as the upholding of justice. John Rawls said, “Social and economic inequalities must be arranged in such a way that they are expected to benefit everyone”(Ma’ruf et al., 2020). In understanding John Rawls’ theory of justice, a distinction must be made between procedural justice and substantive justice. Procedural justice emphasizes fair decision-making based on the ‘original position’ and the ‘veil of ignorance’, ensuring that no party interferes for their own benefit. To technically implement the ‘original position’ and ‘veil of ignorance’ procedures in the drafting of the revised Zakat Management Law, several stages can be followed. First, the fact-finding phase, in which all stakeholders—comprising the Ministry of Religious Affairs, BAZNAS, LAZ and traditional *amil*—present the full empirical reality and sociological constraints on the ground. Subsequently, an independent team of experts anonymizes all institutions and maps them into objective public case typologies. Second, article drafting is carried out through role-reversal simulations and worst-case scenarios. Third, the codification phase: the draft that passes the test is structurally locked using John Rawls’ lexical hierarchy system to ensure that basic rights to justice are not sacrificed for the sake of administration. Fourth, the ratification phase, free from transactional political lobbying or sectoral influence. Thus, all stakeholders can present the best discourse on zakat management to win public trust through performance and transparency, rather than through legal privileges. By separating the functions of regulator, auditor and operator, the state can ensure that every policy produced is free from conflicts of interest and purely aimed at enforcing standards of Sharia compliance and good zakat governance (Beik & Ayuniyyah, 2015).

On the other hand, substantive justice requires that the outcomes of a policy must tangibly benefit vulnerable groups, referred to as ‘the most disadvantaged members of society’. In practice, Law No. 23 of 2011 has a valid procedural basis for the formulation of regulations as it was passed through the mechanisms of the People’s Representative Council; however, in terms of substantive justice, there is significant debate because the law strengthens the position of state institutions whilst sidelining civil society autonomy by criminalising traditional zakat collectors without official permits who have contributed long before the establishment of BAZNAS. Substantive justice is the solution to realizing

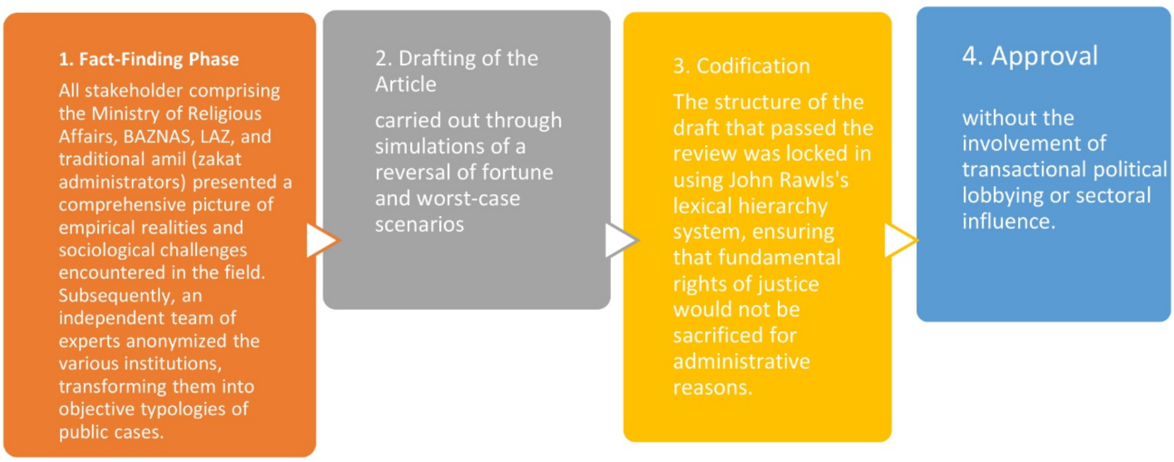

Figure 3. The mechanism of re-regulation: a John Rawlsian perspective

fair zakat so that the state does not monopolize the interpretation of *amil* and zakat practices in society. Substantive justice is justice that does not merely focus on the formal legality of licensing, but also examines the essence of benefits and human rights. Substantive justice rejects the criminalization of community initiatives that have clearly contributed to poverty alleviation (the law of life) and demands that the state respect citizens' autonomy in choosing how to worship in accordance with their consciences, free from intimidation by threats of administrative sanctions. This substantive justice can be measured by calculating the number of mustahiq who have risen above the poverty line per distribution cycle, and by surveying muzakki satisfaction levels and the freedom of zakat distribution channels for muzakki. Alternatively, this can be achieved by formulating sharia-quality policies, as has been done by the Jambi Provincial BAZNAS. (Zaki et al., 2020).

The restructuring of zakat management regulations is also supported by Constitutional Court Decision No. 97/PUU-XXII/2024, which affirms the constitutionality of the state's role in realizing public welfare while acknowledging flaws in the formulation of legal norms (Muhtadi & Fatmawati, 2025). Furthermore, the decision mandates that the legislature revise or amend Law No. 23/2011 within a maximum period of two years from the date the ruling was pronounced to strengthen zakat management. The amendments and revisions in question include, amongst others: (1) distinguishing the authority, duties, and functions of the government as regulator, advisor, and supervisor from those of the implementers/managers/operators (BAZNAS and LAZ); (2) granting zakat payers (muzakki) the freedom to choose the body or institution they trust to distribute their zakat; (3) providing equal opportunities for all zakat management operators to develop optimally and fairly without any subordinate relationships amongst zakat management institutions; (4) zakat management must be carried out to realise good zakat governance; (5) the process of amending or revising Law No. 23 of 2011 must involve meaningful participation from stakeholders, including zakat collection institutions that have

Table 1. Analysis matrix

John Rawls's Principles of Justice	Provisions of Law No. 23 of 2011	Human Rights and Institutional Impacts/Issues	Reconstruction Following Constitutional Court Ruling 97/PUU-XXII/2024
Equal Liberty Principle	Articles 38 and 41: criminalization of traditional *amil* (zakat collectors) or independent zakat managers operating without a permit from the Ministry of Religious Affairs.	Restrictions on freedom of religion in the forum externum	Decriminalizing traditional *amil* (zakat collectors) by granting muzakki (zakat payers) the freedom to choose a trusted zakat distribution institution (the second point of the Constitutional Court ruling).
Fair Equality of Opportunity	Articles 18 and 19: the establishment of a Zakat Management Institution (LAZ) requires a recommendation from BAZNAS, and the LAZ is required to submit periodic reports to BAZNAS.	The subordination of LAZs to BAZNAS creates a barrier to entry for civil society organizations (an unequal relationship).	Removal of the BAZNAS recommendation requirement; establishment of equal status between BAZNAS and LAZ without a subordinate relationship (Point 4 of the Constitutional Court ruling).
The difference principle and procedural justice	Articles 6 and 7: BAZNAS holds the concurrent roles of regulator, auditor, and operator.	Structural conflicts of interest, the loss of checks and balances, and weak protection of benefits for eligible recipients.	Separation of regulator-auditor and operator functions, independent external oversight, and a focus on benefits for mustahik (beneficiaries) (final paragraph of the Constitutional Court ruling).

in fact been involved in zakat management. The aforementioned ruling was issued on 28 August 2025 and is final and binding (Constitutional Court of the Republic of Indonesia, 2025).

CONCLUSION

This study concludes that Law No. 23 of 2011 on Zakat Management contains several controversial provisions that substantially conflict with the principles of justice, both from a constitutional law perspective and from John Rawls' theory of justice. Firstly, granting BAZNAS supremacy as both regulator, auditor, and operator creates a structural conflict of interest that undermines the system of checks and balances within the framework of national zakat governance. This is contrary to the Core Principles of Zakat (ZCP), which emphasize that the regulatory, supervisory, and operational functions of zakat must be separated both institutionally and functionally. Secondly, the hierarchical relationship between BAZNAS and LAZs established by this Act has created an unequal competitive environment, marginalizing the innovation and public trust long-established by community-based LAZs. The dependence of LAZs on BAZNAS's recommendations to obtain operational licenses clearly manifests the absence of fair equality of opportunity, as outlined by John Rawls. Thirdly, provisions criminalizing zakat administrators who do not hold a license from the Ministry of Religious Affairs have the potential to violate human rights, particularly the right to freedom of religion guaranteed under Articles 28E and 29 of the 1945 Constitution, as well as the International Covenant on Civil and Political Rights, which Indonesia has ratified through No. 12 of 2005. This restriction constitutes indirect coercion (de facto coercion) as it delegitimizes community-based zakat management practices that have long been rooted in Islamic tradition in Indonesia.

From John Rawls' perspective, the reconstruction of a just zakat governance system is based on two principles. The First Principle (The Equal Liberty Principle), whereby everyone has an equal right to the broadest possible system of basic freedoms, which can be realized by granting freedom in the management of zakat and not criminalizing traditional zakat collectors. The Second Principle, which consists of two parts: Fair Equality of Opportunity (positions and roles must be open to all individuals with equivalent capabilities) and the Difference Principle (social and economic inequalities are only justifiable if they genuinely benefit the least advantaged groups), alongside the removal of the BAZNAS recommendation requirement in the licensing process for establishing LAZs. This aligns with the mandate of Constitutional Court Ruling No. 97/PUU-XXII/2024, which urges the revision of Law No. 23 of 2011 no later than two years from the date the decision was pronounced, in order to realize a zakat governance system that is fair, participatory, and based on the principles of good zakat governance.

DISCLOSURE OF THE USE OF GENERATIVE AI AND AI-ASSISTED TECHNOLOGY

During the writing of this manuscript, the author used Gemini and Claude AI to discuss legal logic and analyze the subject matter, then used DeepL Translator to edit the English script. The author has reviewed and edited the content generated by this tool and assumes full responsibility for the content of the published article.

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