

Orphans As Mustahik Of Zakat in Sipirok District Tapanuli Regency South: A Study Of The Sociology Of Law

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Info Articles	Abstract
<p>Article History Received : 2017-07-03 Revised: 2017-07-12 Published: 2017-07-30</p> <p>Keywords: <i>Islam, Law, Zakat, Tapanuli</i></p>	<p>Zakat is an obligation for every Muslim who has a purpose and objective to share with those who are less fortunate. From a social perspective, zakat is prescribed with the aim of eradicating poverty and destitution among Muslims, so that Allah SWT. makes rules and provisions in the distribution of zakat such as the time and amount of zakat that must be paid. Allah also determines the people who are entitled to receive zakat, so that the zakat is right on target and to avoid errors in its distribution as happened in Sipirok District, South Tapanuli Regency. Muzakki makes orphans as mustahik zakat and even prioritizes them over mustahik zakat mentioned in the Quran. How is the implementation and what are the factors causing the Muslim community in Sipirok District, South Tapanuli Regency to make orphans as mustahik zakat and even prioritizes them over other mustahik zakat.</p>

I. INTRODUCTION

Zakat is an obligation for every Muslim, and it is one of the fifth pillars of Islam, which has the intention and purpose to share with those who are less fortunate. Viewed from a social perspective, zakat is prescribed with the aim of eradicating poverty and poverty, especially among Muslims, so that Allah SWT. makes rules and provisions in the distribution of zakat such as the time and amount of zakat that must be paid and Allah also determines the people who are entitled to receive zakat or those called mustahik zakat who have the intention and purpose so that the zakat is right on target and can achieve the goal of the initial spirit of zakat that was prescribed (Hasbi, 1997). The obligatory nature of zakat is one of the most appropriate ways to foster an attitude and sense of concern as well as a sense of social responsibility among the Islamic community and can foster an attitude of mutual love and help among fellow Muslims.

To avoid mistakes and errors in the distribution of zakat, a person Muslims must know who is entitled to receive zakat or who is called mustahik zakat, because errors in distributing zakat will affect the effectiveness of zakat towards the eradication of poverty and poverty

among the Islamic ummah. If zakat is distributed precisely to the mustahik, it will be able to play an active role in the community eradicating poverty, but if zakat is not distributed appropriately to the mustahik then the initial spirit of the zakat mandate will not be achieved, namely eradicating poverty and destitution among Muslims.

In terms of language mustahiq comes from the word istahaqqa, yastahiqqu, Which meaning "deserves to receive." While mustahiq is isnoun from say istahaqqa, yastahiqqu which has the meaning of being entitled. While the word "mustahiq" In Islamic jurisprudence, zakat is those who have the right to receive zakat. The Koran pays great attention to "mustahiq" by providing a detailed explanation of who is entitled to receive zakat funds. The people entitled to receive zakat are as stated in theby Allah SWT. In the Koran surah at-Taubah verse 60, "In fact, zakat is only for the needy, the poor, zakat administrators, converts who are persuaded by their hearts, for (freeing) slaves, people who are in debt, for the path of Allah and for those who are on a journey, as a decree required by Allah, and Allah is All-Knowing, All-Wise.." Provision In this verse, Allah states that there are eight groups entitled to receive zakat, namely: the poor, the

needy, those who administer zakat, those who are converted to Islam, those who are given to free their slaves, those in debt, those who are in the way of Allah, and those who are on a journey. These are the groups entitled to receive zakat (Suparman, 2002).

Ideally In the distribution of zakat, it is carried out in accordance with the provisions of Allah as stated in the Qur'an and the Sunnah of the Prophet and these provisions are standard provisions from Allah and these provisions will become the applicable law in the Islamic religion. However, sometimes there are certain communities that do not carry out according to the provisions of Allah and this is a legal phenomenon that occurs in society, especially the Islamic community, and this legal phenomenon was discovered by researchers in the field, namely in Sipirok District, South Tapanuli Regency.

As for The legal phenomenon that occurred in Sipirok District, South Tapanuli Regency, is that the Muslim community in the area has determined a new mustahik for zakat which is not listed in the verse, namely orphans, and they even prioritize them over the mustahik for zakat which has been determined by Allah in the Qur'an, they also make orphans as mustahik for zakat without considering the status of the orphans, whether they are poor or rich.

An orphan is a child whose father has died. While they are not yet adults, whether they are rich or poor, male or female. Children whose parents have died are also considered orphans and are usually referred to as orphans. The term "orphan" is only used in Indonesia, while in classical Islamic jurisprudence literature it is simply referred to as "orphans." The Muslim community in Sipirok District, South Tapanuli Regency, believes that orphans are entitled to receive zakat, both zakat mal and zakat fitrah. They believe that orphans are the mustahik of zakat who should be prioritized. This is inseparable from several factors, including

philosophical and social factors, where the people of Sipirok District, South Tapanuli Regency have customs or habits that have been passed down from their ancestors and this is closely related to the development of law, especially Islamic law in the Sipirok District, South Tapanuli Regency.

According to Mr. Abdullah Salim Harahap, one of the community leaders in Sipirok District, he said that the habit of giving zakat to orphans is a teaching that has been obtained from community leaders in his area and it was obtained from parents and community leaders before them from generation to generation. Likewise, the statement of one of the zakat administrators in Parandolok Mardomu Village, Sipirok District, South Tapanuli Regency, that there are no residents who are classified as poor in his area. He said that those who do not have enough for their living needs are not worthy of being given zakat because they have agricultural land, they are poor because of laziness and the sins they do such as gambling and drinking alcohol, so according to them people like that do not deserve help, let alone zakat which is a form of worship. According to them, the poor are those who have tried hard but the results of their efforts are not enough to cover their daily living needs and this category of poor is the one who is entitled to receive zakat because the people who deserve help are those who have made efforts to get out of poverty, moreover zakat is an obligatory worship so it must be on target to be more important.

According to them, people who are less fortunate and do not have a business are not poor. However, if they are lazy, especially if they are physically healthy and own agricultural land and plantations, they do not deserve a share of zakat, because the zakat they receive may not be used appropriately for its intended purpose. Therefore, they conclude that in their area there are no poor and needy, but only orphans and the elderly, so this is one of the reasons they make orphans mustahik zakat. In their view, orphans must be

helped because they no longer have a father or mother. By giving zakat to orphans, the zakat will be able to comfort and help them.

According to them, orphans should be provided with assistance because they see their very dire situation. Because they are children who have not yet reached adulthood who really need protection and love from a father. So by giving zakat to them is a form of caring and affection towards them by giving zakat to them you will get many benefits, including the priority of paying zakat as an obligation and the priority of supporting orphans.

Another factor that causes them to make orphans as mustahik zakat and even prioritize them is because of their lack of knowledge about zakat, this is due to the lack of role of BAZ, religious figures and scholars in Sipirok District, South Tapanuli Regency in socializing zakat and distributing zakat properly according to Islamic law and also this is influenced by the lack of their role in collecting zakat in their area so that it causes Muslim residents of Sipirok District, South Tapanuli Regency to pay zakat individually and hand over their zakat directly to the mustahik zakat they want so that every time there is a distribution of zakat, both zakat mal and zakat fitrah, they prioritize orphans as mustahik zakat without looking at the poverty or wealth of an orphan.

II. RESEARCH METHODS

This research is qualitative descriptive which tries to review and describe the conditions in which orphans are made the priority recipients of zakat in the District Sipirok, South Tapanuli Regency as a legal phenomenon. Descriptive qualitative research is research that is descriptive in nature and tends to use an inductive analysis approach. The theoretical basis is used as a guide so that the research focus is in accordance with the facts on the ground. Qualitative research is a particular tradition in

the field of social sciences that fundamentally relies on observations of humans in their own region and relates to those people in their language and terminology (Lexy, 2000). This research does not use statistical data or numbers. This research aims to explain the research object, describe the state of something or the status of a phenomenon that occurs in an area (Suharsimi, 1998). With this, researchers can understand matters related to the distribution of zakat in Sipirok District and the factors causing the Muslim community in Sipirok District to consider orphans as mustahik zakat and even prioritize them as mustahik zakat.

The approach used in this research is the sociology of law and Islamic law, a perspective in research based on the science of sociology of law and Islamic law. More specifically, this research is empirical legal research, also known by other terms, namely sociological or non-doctrinal legal research (Faisar, 2010). It is called empirical research because it examines legal issues at an empirical level, namely how they are applied. It is also called sociological research because it examines legal practices that apply in social society. It is called non-doctrinal legal research because this research does not intend to seek legal truth regarding a problem, but rather seeks to describe the legal practices that exist in the Muslim community in Sipirok District.

Empirical legal research aims to examine a research object as it is. The empirical nature inherent in this research indicates that the object is explained. in accordance with those found in the research field. Meanwhile, the sociological nature of this research indicates that the legal phenomena being studied are meaningful social phenomena and occur in society, not just individuals. Meanwhile, the non-doctrinal nature, which is the opposite of the doctrinal nature in a study, indicates that the purpose of this research is to provide a true or false predicate for a legal phenomenon. The

correctness of legal practices in society is not a significant concern in non-doctrinal research, because the goal is to describe the legal phenomenon.

Good research Empirical, sociological, and non-doctrinal legal research occur simultaneously. All three are legal research that examines legal phenomena developing in a social society, without the intention of demonstrating right from wrong, or vice versa. Empirical, sociological, and doctrinal legal research are important in the development of legal systems. Although this research does not formulate legal material, it provides a factual basis of information about the state of law in social life. This is crucial for formulating laws that can respond to the legal needs of social society. In other words, empirical, sociological, and doctrinal legal research provide information, while doctrinal (clinical) legal research formulates laws based on that information.

III. RESULTS AND DISCUSSION

Researchers found that in Sipirok District, orphans were made into mustahik zakat on the grounds that orphans are children who need to be supported, and one way to support them is by giving them a portion of zakat. Orphans are designated as mustahik zakat because the majority of the poor and needy in Sipirok District are not truly poor and needy, but rather they are in such a situation due to their laziness in working. Researchers also found information that some of them consider orphans as mustahik zakat because they do not understand who is entitled to receive zakat.

To make it easier for researchers to analyze the legal phenomena that occur in Sipirok District, making orphans as mustahik zakat, it is necessary to analyze it from two sides, namely sociological studies, namely normative juridical and empirical juridical as follows.

1. Normative Jurisprudence

Peter Mahmud Marzuki explains that normative legal research is a process of discovering legal rules, legal principles, and legal doctrines to address the legal problems faced. Normative legal research is conducted to generate new arguments, theories, or concepts to resolve the issues at hand (Peter, 2005).

To answer the legal phenomenon that exists in Sipirok District regarding making As orphans are entitled to receive zakat, it is necessary to provide standard rules for the zakat distribution process, which include the zakat recipients or those entitled to receive zakat. Those entitled to a portion of zakat are the zakat recipients mentioned by Allah in the Qur'an, Surah At-Taubah, verse 60, "*indeed zakat-zakatthat, only for the needy, poor people, amil zakat, whose hearts are softened (mu'allaf), to (free) slave slaves, to (free) people who are in debt, for the path of Allah and for people who are on a journey, as an obligation from Allah, Allah is All-Knowing, All-Wise.*" As for those who are entitled to receive zakat In this verse there are only eight groups, namely the poor, the needy, those who collect zakat, those whose hearts are softened (converts), those who are freeing slaves, those who are in debt, those who are in the way of Allah and those who are on a journey.

From this verse, it can be seen that zakat cannot be given to anyone other than the eight mustahik zakat mentioned by Allah in the Qur'an, Surah At-Taubah, verse 60, such as for the development of waterways, to buy shrouds, repair roads and build fences because at the beginning of the verse mentioned earlier, the innama al-shadaqat is mentioned, which contains a meaning for limitation and determination (Zuhaili, 2000). Thus, this verse determines all the groups mentioned and denies

other things outside of that, with the stipulation that those who are entitled to receive zakat are the eight groups of mustahik zakat (Zuhaili, 1997).

As for making orphans as mustahik zakat and prioritizing them needs to be seen from two sides. First, orphans who live in destitute and poor conditions are permitted to receive a portion of zakat due to their destitution and poverty, added to their orphan status. According to data obtained by researchers in the field, the lives of orphans who are destitute and poor are very concerning. In addition to being destitute or poor, they also live full of sadness because they do not have a father who always provides protection for them. Some orphans even live without a mother to care for them. Therefore, if there are orphans who live in destitution and poverty, it is not a problem if they are made mustahik zakat and even prioritized because it is in accordance with the word of Allah SWT. in the letter at-Taubah verse 60 and supported again by the verse of the Qur'an, letter Al-Baqarah verse 177, "and gives wealth that is loved by him to relatives, orphans, poor people, people on the way (travelers) begging and to free slaves." Second, orphans who have wealth or are rich or have a rich family who takes care of them, it is better not to make this group of orphans as recipients of zakat because these children are rich children while rich people are not entitled to receive a share of zakat.

From the explanation above, it can be seen that orphans are destitute and poor. Those who are entitled to receive zakat are those who are orphans, destitute, and poor, while wealthy orphans should not be considered as recipients of zakat because they are considered wealthy. Therefore, the basis for receiving zakat is not a

person's faith, but rather their poverty and destitution.

Regarding the views of the Sipirok community regarding the category of poor and needy, who say that poor and needy people who are lazy and commit sins do not deserve zakat, this is according to the opinion of the Shafi'i and Hambali groups, namely that zakat for the poor and needy should not be given to rich people, nor to people who are able to work properly and can provide for themselves and their families (Yusuf, 1996). Likewise, the opinion of some Maliki followers says that zakat should not be given to people who are able to work. Therefore, it can be seen that someone who is poor but physically strong and able to work is not entitled to receive zakat. Likewise with the poor and needy who commit immoral acts, in this case the ulama allow giving zakat to people who commit immoral acts as long as they remain in Islam to improve their behavior, but this situation does not apply as long as it is not to help them commit immoral acts, such as when zakat assets are used to commit immoral acts, buy khomar drinks or fulfill purposes which are forbidden, because in any case, zakat assets cannot be used to disobey Allah. As for people who commit immoral acts, openly and causing damage, then that person is not entitled to a portion of the zakat until his repentance is known and he stops his crime (Yusuf, 1996).

2. Empirical Juridical Study

Empirical legal studies view law as a reality that includes social reality, culture and this study is descriptive (Yesmil, 2018). The intention is that this study will describe the reality or legal practices that exist in society, without judging whether or not the legal practices are correct normatively. It should be noted that the laws that apply in society sometimes do not comply

with normative law, this could occur due to several factors including lack of knowledge about the law, lack of role of law enforcers or competent people in it, the law is contrary to the conscience of society, and the existence of other binding laws, such as traditions and customary law.

As in this study, researchers found several realities in the Sipirok community, namely, the acceptance of orphans as recipients of zakat. While the applicable regulations regarding zakat distribution do not categorize orphans as recipients, the Muslim community in Sipirok District cites several reasons for choosing orphans as recipients of zakat, including:

- 1) *Childorphanis* a weak child, needs affection and by distributing zakatto them will be able to entertain and they will feel cared for.
- 2) Giving zakat to orphans is a tradition that has been passed down from generation to generation, passed down from parents and previous scholars in the area.
- 3) There is a public perception of the criteria for poverty and the conclusion that The poor and needy in their area are not entitled to receive a share of zakat.
- 4) Lack of knowledge regarding zakat recipients is due to a lack of socialization about zakat.

According to the Muslim community in Sipirok District, orphans are children who must betheir fate is paid attention to because orphans are weak children and really need attention and affection, so with this, the Muslim community in Sipirok District makes orphans as *mustahik* zakat, and according to them by giving zakat to orphans they will get the priority, namely the priority of supporting orphans and the priority of paying zakat as an obligation of a Muslim. Then the Muslim community in Sipirok District gave another reason, namely giving zakat to orphans they have done since long ago and has become a tradition that they got from their parents and previous scholars, so it still

continues until now.

Furthermore, due to the perception of Muslim society towards the poor and needy where according to them, the poor and needy who deserve to receive zakat are the poor and needy who have made efforts, are diligent in worship and are far from committing sins, and according to them, there are no poor and needy in this category in Sipirok District so they consider orphans very suitable to be made *mustahik* zakat because they are weak children and they are still pure from sinful acts.

Furthermore, the reason they make orphans as *mustahik* zakat is because the *muzakki* does not know the *mustahik* mentioned in the Koran and then the lack of role of zakat committees in collecting zakat so that the *mustahik* distribute their zakat individually and only give zakat to the people they want.

From the brief explanation of the researcher's findings in the field, it is very clear that the majority The Muslim community in Sipirok District makes orphans as *mustahik* zakat and this is a legal phenomenon that occurs in Sipirok District, South Tapanuli Regency.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

The conclusion that can be drawn from this research is that the Muslim community in the District Sipirok makes orphans as *mustahik* zakat and there are even some who prioritize them over other zakat recipients, this happens due to the lack of public knowledge about zakat and about the people who are entitled to a portion of zakat, so that they make orphans the recipients in every gift they give, especially zakat, this happens due to the lack of role of religious scholars and religious figures community towards the socialization of zakat.

On the other hand, the Muslim community in Sipirok District makes orphans as *mustahik* zakat because orphans are very special children

and they must get attention and affection and one form of expression of attention and affection towards them is by making them as mustahik zakat because zakat can be a comfort to their sadness. There are also some people who give their zakat to orphans because according to them in their area there are no people who are classified as poor and needy who are entitled to a portion of zakat, because they have the criteria of poor and needy who deserve to be given a portion of zakat such as poor and needy who have tried and are far from sinful acts, these poor and needy are the ones who deserve to be helped and get a portion of zakat, while the poor who are lazy and like to commit sinful acts do not get a portion of zakat because zakat is a form of worship and its distribution is not appropriate for people who commit sins.

From the results obtained in the field, if viewed from the perspective of Islamic law, making orphans as mustahik zakat needs to be considered from two sides. First, poor and needy orphans, this is allowed to receive a portion of zakat due to their poverty and destitution and added to the orphan status they have. According to the data obtained by researchers in the field, the lives of poor and needy orphans are very concerning, besides being poor and needy, they also live full of sadness because they do not have a father who always provides protection for them, some of these orphans even live without a mother who cares for them. Second, orphans who have property or are rich or have a rich family who takes care of them, it is better not to make these orphans as recipients of zakat because these children are rich children while rich people are

not entitled to receive a portion of zakat. It can be concluded that making orphans as mustahik zakat is not solely because of their orphan status but they receive zakat because of their poor and needy status.

Regarding the views of the Sipirok community towards the poor and needy according to class Syafi'i and Hanbali, namely that zakat should not be given to rich people, nor to people who are able to make a decent effort and can provide for themselves and their families. Likewise, the opinion of some Maliki followers says that it is not permissible to give zakat to people who are able to work. Likewise with the poor and needy who commit immoral acts, in this case the ulama allow giving zakat to people who commit immoral acts as long as they remain in Islam to improve their behavior.

B. Suggestions

The study suggests that zakat institutions, religious leaders, and local governments should strengthen public education and socialization regarding the categories of zakat recipients as prescribed in Islamic law. Greater efforts are needed to improve community understanding so that zakat distribution can be carried out in accordance with the principles established in the Qur'an and Islamic jurisprudence. In addition, zakat management institutions should play a more active role in collecting and distributing zakat to ensure that eligible recipients receive their rights fairly and appropriately. Although supporting orphans is highly encouraged in Islam, the distribution of zakat should remain based on the legal criteria of mustahik to maintain compliance with Islamic legal norms while still addressing social welfare concerns.

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