



Implementation of Sharia Compliance to Optimize Zakat Governance in the Frontier and Outermost Regions in Indonesia (Comparative Study of East Kalimantan Province and Other Frontier Regions)

Nurfahmi Islami Kaffah¹ and Heru Susetyo²

¹Islamic Law Studies, Faculty of Law, Universitas Indonesia, Indonesia

²Faculty of Law, Universitas Indonesia, Indonesia

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Abstract

This research is a juridical and empirical study about the implementation of sharia compliance based on Law no. 23 Year 2011 on Zakat Management. Baznas or National Board of Zakat as the zakat management body under the government, must implement good governance based on Islamic Sharia principles, trustworthiness, benefit, justice, legal certainty, integrated and accountability as a mandate from the zakat regulation. Sharia compliance is the main aspect in the management of zakat which consists the rules and the principles of sharia which are essentially listed in the Qur'an, Hadith and developed in zakat fiqh related to principles of collecting and management of zakat, such as subject dan object of zakat, nisab and haul and the utilization and empowerment of zakat property. This study discusses the regulatory aspects of sharia compliance in the management of zakat, sharia principle in the operation of zakat, the stakeholders, indicators, reporting and auditing systems, and the benefits of implementing sharia compliance in zakat management. The research field was conducted in six Provinces in Indonesia (Aceh, West Nusa Tenggara, East Kalimantan, East Nusa Tenggara, North Sulawesi, Gorontalo). This research shows that East Kalimantan Province has implemented the most comprehensive sharia audit. The implementation of sharia compliance in zakat institutions began to be effective in 2018 after the Decree of the Ministry of Religious Affairs Number 733 in 2018 on sharia audit guidelines for zakat management reports. The implementation of sharia compliance has an impact with the implementation of good governance in the management of zakat institutions because it is associated with increased accountability and responsibility of zakat institutions. Sharia compliance is a strategic issue in achieving best practices in the management of zakat institutions, especially in ensuring legal certainty and trust in the community to optimize the empowerment of zakat in Indonesia.



1. Introduction

Islam establishes zakat as a compulsory charity tool that can be used for eight purposes. The effectiveness of zakat management plays an important role in the mission to eradicate poverty in the community (Johari et al., 2014). The development of the concept management of Islamic philanthropic institutions constitutes a particular concern for Muslim-populated countries to improve the system, governance, and public accountability, also occur in Indonesia. One of the countries with a majority Muslim population of 216.66 million people, 85 percent of the total population (Badan Amil Zakat Nasional, 2016). Research data conducted by the National Board of Zakat (Baznas) contained in "Indonesia's Zakat Outlook" stated that the total potential of national zakat in 2011 achieves 3.4 percent of total GDP, or in other words, the possibility of zakat in Indonesia was estimated at 217 trillion rupiahs (Firdaus et al., 2012). Furthermore, in the Baznas study, the potential of national zakat in 2015 has increased to 286 trillion rupiahs. This amount is generated to utilize the extrapolation method that considers GDP growth in the previous years (Badan Amil Zakat Nasional, 2016)

In Indonesia, zakat institutions play an essential role in increasing community empowerment after Law No. 23 of 2011 on Zakat Management. In Indonesia, good governance and Sharia Compliance become a severe conversation amid stakeholders of zakat institutions. There has been a shift from the management of traditional zakat, which previously was managed from the mosque to the mosque towards more professional financial and institutional management by prioritizing aspects of good governance and Sharia compliance or Sharia Governance system (Hakim et al., 2019).

Law Number 23 Year 2011 on Zakat Management, explained that the Management of zakat is based on Islamic Sharia, trustworthy, benefit, justice, legal certainty, integrated, and accountability (Indonesia, 2011). Islamic Sharia, which is the main principle in the management of zakat has implications for

the entire process of zakat governance starting from the Collection, Distribution and Reporting that must be carried out following the provisions of Islamic law. An audit is a tool for promoting corporate governance in organizations (Arwani, 2018). Sharia audits in zakat institutions are instruments in evaluating and ensuring that zakat management processes and systems are under the instructions in the Quran and Hadith as well as applicable regulations.

Law Number 23 Year 2011 on Zakat Management, actually already regulate the application of Sharia as a basic principle of zakat management. unfortunately the guidelines, standard operating procedures, and instruments governing the implementation of Sharia governance in zakat institutions are not elaborated (Amalia, 2018). However, in 2017 the Government designed the tools of "Technical Guidelines for General Supervision of Zakat Institutions in 2017". Furthermore, in December of 2018, the Indonesian government, through the Indonesian Ministry of Religious Affairs (Kemenag RI), legalized the "Decree Number 733 of 2018 on Sharia audit guidelines for reporting the implementation of zakat, infaq, charity and other religious, social funds". Both of these legal instruments have constituted the framework of regulation underlying the implementation of sharia audits at zakat institutions in Indonesia.

Baznas as a zakat institution that has representatives in all provinces in Indonesia. Based on zakat law both the central Baznas and Baznas province have a constitutional obligation to implement sharia compliance comprehensively in all regions and regional levels. This comparative study research is important to reveal the extent to which the application of shariah compliance has been applied in each province, especially frontiers and outermost regions in Indonesia. The implementation of Sharia Compliance that is evenly distributed in all regions of Indonesia is important because Baznas as an institution of trust for the public in managing zakat according to sharia guidelines. The questions and research problems of this study are as follows:

1. How is the legal framework for shariah compliance in Indonesia?
2. How does the effectiveness of the implementation of sharia audits between regions in Indonesia compared? Namely case studies in the area of the frontier, outermost, and least developed regions in Indonesia (*Aceh, West Nusa Tenggara, East Kalimantan, East Nusa Tenggara, North Sulawesi, Gorontalo*)
3. How does the impact of the application of sharia compliance on the improvement of zakat management?

2. Method

This study applies empirical and juridical normative research methods, field research, and legal research on both written and unwritten positive law (Soekanto & Mamudji, 2011). The use of this normative juridical research form is intended to examine the basic principles of elements, principles of zakat management under the provisions of the Zakat Law. The type of data used in this study are the official documents, books, research reports. Also, the study includes research and in-depth field observation in the way of interviews to resource persons and technical experts of zakat management as well as practitioners and experts associated with Good Governance.

The research was conducted with direct observation methodology, documents tracing, in-depth interviews, analysis about zakat management of Baznas' East Kalimantan province. The use of this empirical study to find out directly the implementation of zakat management principles contained in the provisions of Zakat Law is associated with the application of Sharia Compliance. Practically, this study also examines the principles of Islamic Sharia, and the audit system that were applied in measuring the implementation of Governance of zakat management, by Baznas.

Sharia Compliance

Sharia Compliance in the national zakat management system is the adherence to rules, policies, working procedures, and

values of sharia in the operational activities of zakat management, ranging from planning in collecting, distributing, utilizing, to managing zakat finance per the provisions of sharia (Azmi et al., 2019).

Zakat Core Principles (ZCP) states that sharia compliance is a unified system that aims to prevent and minimize potential fraudulent practices and Operations that are not complied with sharia (Rusydia & Firmansyah, 2017). According to the Islamic Financial Service Board (IFSB) 2009, the Sharia Governance Standard refers to set of institutional and organisational arrangements through which an Institution Islamic Financial Services (IIFS) ensures that there is effective independent oversight of Shari'ah compliance over each of the structures and processes in IIFS (Islamic Financial Services Board, 2009).

Article 29 paragraph (4) of Law Number 23 Year 2011 on Zakat Management, strictly regulated that "BAZNAS must submit reports on the management of zakat, infaq, alms, and other social and religious funds to the Minister periodically" (Indonesia, 2011)

Furthermore, not only Baznas at the intermediate level that must submit reports, but also Baznas at all levels from the city or district to the provincial level. This regulation also stipulates, Non-Government institutions of Amil Zakat, depending on the level of government in the form of a half-year report and year-end report. Government Regulation No. 14 Year 2014 on Zakat Management in Article 75, stated that:

- (1) Statements on the implementation of Management of Zakat, infaq, alms, and other socio-religious funds, as referred to in Article 71, Article 72, and Article 73, must be audited in sharia and finance.
- (2) The Shari'ah Audit, as referred to in paragraph (1), shall be carried out by the ministry, which organizes government affairs in the field of religion

Since the enactment of zakat law in 2011 until six years later, there is no significant technical legal framework, other than the Government Regulation of 2014 that has

encouraged the reform of zakat management in Indonesia. This absence of policies had affected the implementation of good corporate governance in the zakat institution framework in Indonesia. Furthermore, in 2018 the Indonesian Ministry of Religious Affairs (Kemenag) launched a Decree on Sharia Audit Guidelines about the Report of the Implementation of Management of Zakat, Infaq, Alms, and Other Religious Social Funds, The objectives of the Sharia Audit Guideline as follow:

1. To guide the implementation of sharia audits on the management of zakat, infaq, alms, and other socio-religious funds;
2. Preserve the management of zakat, infaq, alms, and additional social and religious funds under sharia compliance standards;
3. Prevent irregularities and violations of sharia provisions in the management of zakat funds, infaq, alms, and other

social, religious funds; and

4. Increasing stakeholder trust in the accountability and compliance of the Islamic amil zakat body and amil zakat institutions (Kementerian Agama RI, 2018)

Sharia Audit is an examination of the rules for the implementation of zakat, infaq, charity, or other socio-religious funds carried out by a sharia auditor determined by the Minister or a designated official (Kementerian Agama RI, 2018). Based on the description above, in the zakat management organization, the Sharia Audit is a strategic tool in ensuring sharia principles are applied effectively in all aspects of zakat management activities. Sharia auditors ensure that zakat management institutions have a framework for controlling and managing risk related to sharia compliance to minimize potential fraud and potential mismanagement (Kementerian Agama RI, 2018).

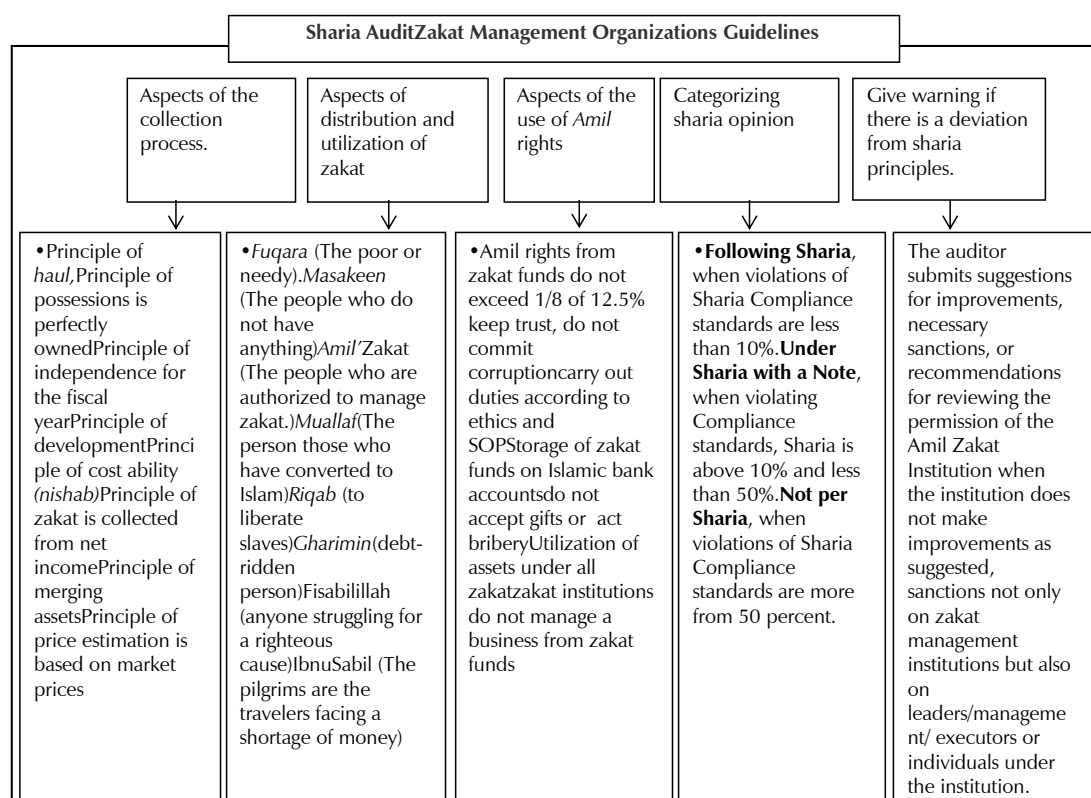


Figure 1. Sharia Audit Guidelines on Zakat Management Organizations

Source: (Decree Number 733 in 2018 on Sharia audit guidelines for reports on the implementation of zakat, infaq, charity, and other religious, social funds and “Technical Guidelines for General Supervision of Zakat Institutions in 2017”) drawn by the author

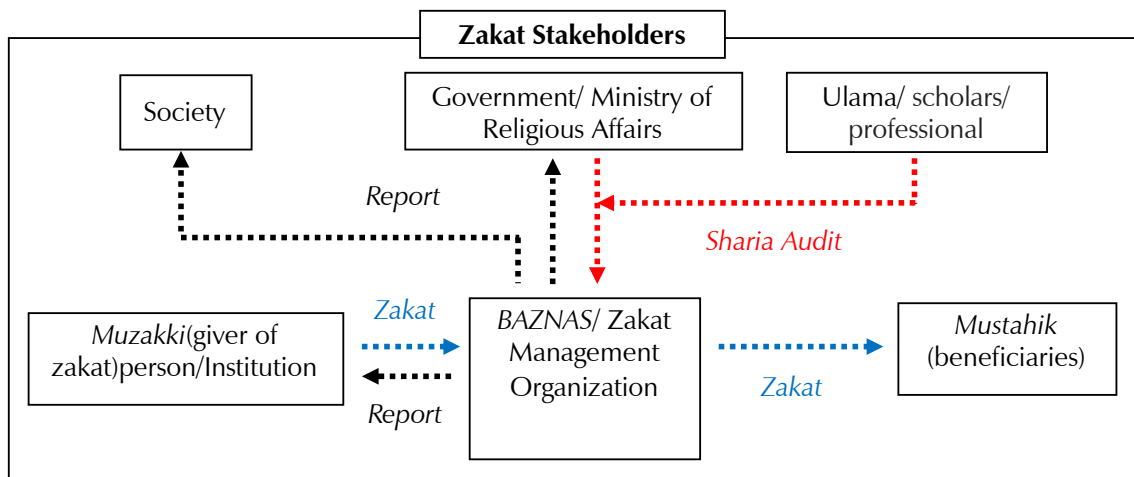


Figure 2. Zakat Stakeholders

Source: Law Number 23Year 2011 on Zakat Management (Indonesia, 2011) drawn by the author

Sharia Audit produces output in the form of “improvement” in the governance of zakat institutions, through recommendations and suggestions from the Auditor. On the other hand, the Auditor can also provide sanctions or warnings if the institution or individual does not improve the enforcement of sharia principles in the management of zakat.

This guideline becomes a strategic legal framework in promoting clean governance and enforcement of sharia principles in the implementation of zakat management organizations (ZMO). This guideline is also part of the government’s commitment to protecting stakeholders and strengthening the zakat institution. The application of Shariah compliance is related to zakat management organization (ZMO) control on risk factors such as fraud or violation of transparency (Triyani et al., 2018).

Stakeholders have an essential role in an organization since they own a relationship of interest to the actions and decisions of a company, as stated in stakeholder theory, that the sustainability of the corporation needs the support from the stakeholders (Meutia & Febrianti, 2017). An Islamic framework for sustainable business practices for corporate organization encompasses the interests of all stakeholders and management of corporations for the promotion of social justice and the avoidance of practices that involves greed,

voracity, and others (Fahm, 2018). In the Zakat Management Organization, public trust and stakeholder support constitute extreme dependency on how the organization manages stakeholders, particularly in terms of information disclosure, accountability, quality of operational implementation of zakat management, and reporting aspects.

3. Results And Discussion

Legal and regulatory instruments are fundamental in supporting the Zakat governance process since such laws has forced power to implement good governance. This particularly applies to Indonesia that adheres to the Civil Law system which, as expressed by Merryman (1985), developed 3 (three) sources of law in a country, namely statute, regulation, and habits that are not against the law (*custom*) (Merryman & Perez-Perdomo, 2007). In the case of Indonesia, that adheres to the civil law legal system, legal norms will be implemented after written regulations have been established or legalized by the authorized institution. With regards to chief Baznas of East Kalimantan, Fachrul Ghazi; (2018) clarified as follows:

“Baznas acts as an “executor” who manages zakat governance based on zakat law No. 23 of 2011, while the government represented by The Ministry of Religious Affairs (Kemeng) played a role in the functions of guidance, supervision, and regulation, Baznas fully applies the provisions written in the rules.”(Fachrul Ghazi, 2018)

The statement supported the same remark explained by Arifin Purwakananta (2017) in a previous study by Amalia (2017) that “BAZNAS only serves as a coordinator for zakat institutions in Indonesia. The Ministry of Religious Affairs plays regulatory and supervisory roles through the directors in charge of zakat affairs. Here, the rules and guidelines related to monitoring and auditing are conducted by the Ministry of Religious Affairs.” (Amalia, 2018).

Before the issuance of the Decree Number 733 year 2018 on Sharia audit guidelines, the Ministry of Religious Affairs had published “Technical Guidelines for General Supervision of Zakat Institutions in 2017” as “a bridge” to promote guidelines of sharia audit that will be applied at the Zakat Institutions nationwide. Based on the field studies in three regions in Indonesia during 2018, a comparative study among provinces: Aceh, West Nusa Tenggara, and East Kalimantan demonstrate the results as the following Table 1.

Based on the table above, it shows that East Kalimantan had implemented Sharia Audit since 2017 even before the regulation of the Ministry of Religious Affairs Decree was legalized in December 2018. Based on field

research, only the Ministry of Religion in East Kalimantan undertakes Shariah audit efforts and has a special report related to the application of shariah audits. The report has also been adopted and distributed to several other regional ministries of religion as a reference for conducting audits in their respective regions. An official who represents The Ministry of Religious Affairs Office in East Kalimantan Province, Aniek Prasmeswati (2018) clarifies as follows:

“The Ministry of Religious Affairs of East Kalimantan has designed the Sharia Audit concept since 2016 but has not been able to give opinion sharia, Furthermore in 2017 after the “Technical Guidelines for General Supervision of Zakat Institutions in 2017” the Ministry of Religious Affairs of East Kalimantan implements sharia audits to 11 Zakat management organizations, including Baznas, both at the city/regency and provincial level and several Amil Zakat Institutions in the East Kalimantan region.”(Prasmeswati, 2018)

The graph above shows that there are different results among zakat institutions. The chart also shows Baznas of District Berau achieved the highest score of sharia audit in East Kalimantan province. Therefore it received the title of opinion “in accordance with sharia.” On the other hand, Baznas of Kota Samarinda received the lowest audit score

Table 1. Comparison of Sharia Audits Implementation in Six Provinces in Indonesia during 2018- 2019

Province	Receive the Technical Guidelines- for Supervision 2017	Ministry of Religious Affairs (Region) socializes Guidelines	Sharia audit process from the Ministry (Region) to Baznas Province	Sharia audit and Supervision Report
Aceh	(√) done	(x) not complete	(x) not implemented	(x) not available
West Nusa Tenggara	(√) done	(x) not complete	(x) not implemented	(x) not available
East Kalimantan	(√) done	(√) done	(√) Implemented	(√) Available
East Nusa Tenggara	(√) done	(x) not complete	(x) not implemented	(x) not available
North Sulawesi	(√) done	(√) done	(x) not implemented	(x) not available
Gorontalo	(√) done	(√) done	(x) not implemented	(x) not available

Source: (Empirical study and direct observation by the author about Aceh, West Nusa Tenggara and East Kalimantan, East Nusa Tenggara, North Sulawesi, and Gorontalo 2018-2019, drawn by Author)

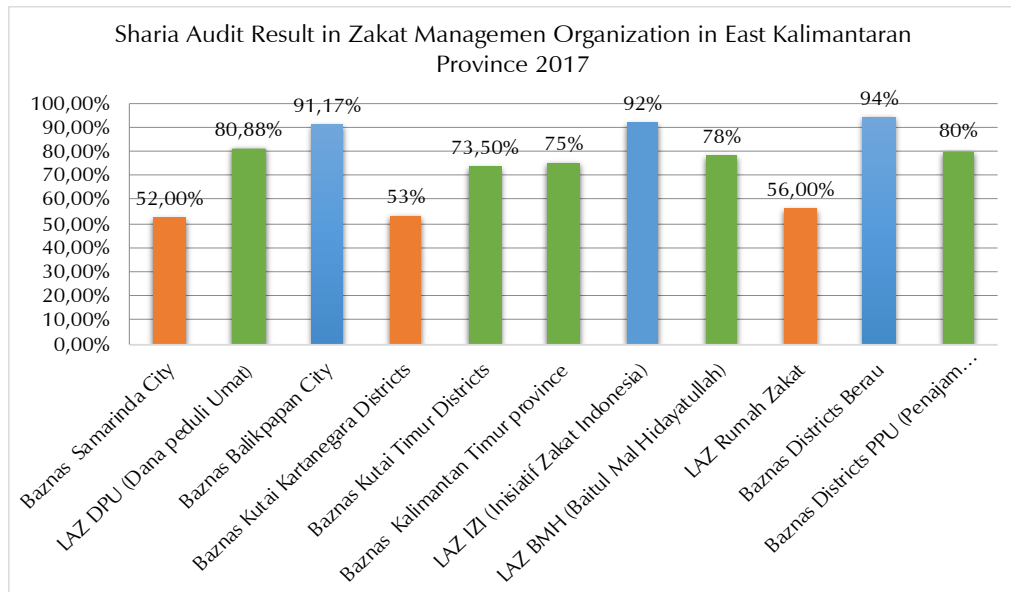


Figure 3. Sharia Audit Result in Zakat Management Organization in East Kalimantan Province 2017

Source: Sharia Supervision Report On Zakat Management Organization 2017, (Ministry of Religious Affairs East Kalimantan, 2017) drawn by the author.

from 11 different institutions and did not get an opinion.

The sharia auditor, Anik Prameswati (2018) explained that the sharia audit was carried out by involving elements of the Ministry and academics in the field of Zakat. Auditors' requirements are certified as "Sharia auditor" by the Indonesia Ministry of Religious Affairs.

Furthermore, the Sharia Audit Implementation must be based on the appointment and letter of assignment from the local Office of the Ministry of Religious Affairs. The audit process was conducted by observation method, in-depth interview, document analysis and examination of institutional administration completeness."(Prasmeswati, 2018).

Percentage of material availability for Sharia Audit in 11 Zakat Institutions in East Kalimantan Province 2017(%)

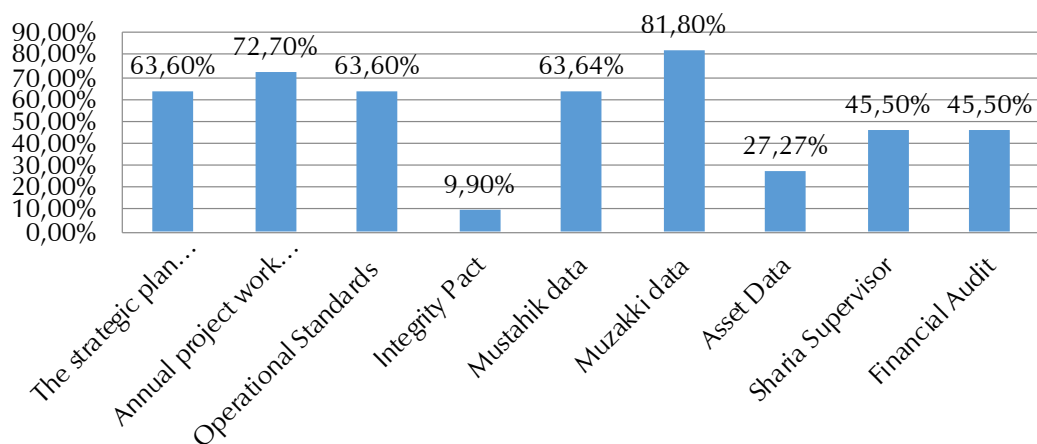


Figure 4. Percentage of material availability for Sharia Audit in 11 Zakat Institutions in East Kalimantan Province 2017(%).

Source: Sharia Supervision Report on Zakat Management Organization 2017, (Ministry of Religious Affairs East Kalimantan, 2017) drawn by the author.

Sharia audit material that must be prepared by the zakat institution is the strategic plan (Renstra), Annual project work plan, Operational Standards Procedures, Integrity Pact, Mustahik data, Muzakki data, Asset Data, Sharia Supervisor, and Financial Audit

The chart shows the inequality of sharia audit material in each zakat organization. For example, "integrity pact" is only 9.9%, meaning that no one zakat institution can provide an integrity pact that is quite feasible as an assessment for the auditor. Nevertheless, the process of guidance, supervision, sharia audits, and intensive improvements produce beneficial outputs and positive impacts in terms of the public trust to zakat management organization.

The table above indicates significant increases in the amount of zakat collection, infaq, and the number of muzakki both individuals and legal entities to zakat management institutions. Significant changes depart from 2016, which initially only ranged 2 trillion rupiahs rose to a peak of 10 trillion rupiahs in 2017, and in the half period of 2018, it collected 7.5 trillion rupiahs in July 2018 (Baznas Kalimantan Timur, 2018).

Based on direct studies, there are some fundamental issues Sharia Audit cannot efficiently be implemented as follows:

1. The Institutional capacity to implement the sharia audit. It is a fact that all offices of Ministry of Religious Affairs at the provincial level in Indonesia are not always capable of realizing and applying the "Technical Guidelines for General Supervision of Zakat Institutions in 2017" and Decree

Number 733 in 2018 on Sharia audit guidelines. Given that situation, in practice, not all offices of the Ministry of Religious Affairs at the provincial level are able to conduct coaching, sharia audits, and supervision successfully (Prasmeswati, 2018)

2. The problem of recruitment and preparation process for sharia auditors at the provincial level. The lack of policy and efforts for developing and increasing the number of sharia auditors become a reason why sharia audit cannot be fully implemented in several regions. Moreover, the problem of Auditor Inequality in interpreting and performing sharia audits was found, and this is an input note to the Ministry of Religious Affairs to strengthen and increase the number of sharia auditors. The experience of a sharia auditor is a determining factor in providing good quality audit results and recommendations (Khalid et al., 2018).
3. Institutional obstacles problems. In particular, there are institutional relations issues. The sharia auditors assume that the position holders at Baznas represent scholars or Ulama, and zakat experts, on the other hand, sharia auditors from the Ministry of Religious Affairs are mere bureaucrats or civil servants who are authorized to Audit. Here, the position gap sometimes creates obstacles in the audit process. Sharia Audit is conducted not to review aspects of Fiqh only, but also the elements of management and professionalism of

Table 2. Calculation of Zakat Collection from Baznas' East Kalimantan Province 2018

Year	Amount of Zakat Collection	Amount of Infaq and sedekah Collection	Number of Muzakki (individual)	Number of Muzakki (legal entity)
2016	2.760.357.725,33	825.378.827,00	1961	31
2017	10.040.515.497,54	987.889.985,83	2122	38
2018 (July)	7.584.942.981,69	644.826.582,00	2533	53

Source: (Calculation of Zakat Collection from BAZNAS Award 2018 in East Kalimantan Province in rupiah, (Baznas Kalimantan Timur, 2018) drawn by the Author)

the institution.

4. The most important output of sharia audits is the improvement of institutional governance based on auditor recommendations. The purpose of process improvement is to increase public trust and optimize the empowerment of zakat utilization. Therefore, the presence of the Sharia Auditors is highly expected by zakat institutions in the area. Audit results are a motivation for work for *Amil* and zakat institutions to improve performance (Prasmeswati, 2018).

4. Conclusion

This study aims to explain the framework of Sharia compliance in regulatory aspects and implementation analysis in the zakat management organization in Indonesia. Therefore, this study uses a juridical and empirical approach to find the effectiveness and legal issues related to the implementation of sharia audits.

The result shows the Sharia Compliance has a positive impact on encouraging and promoting good governance culture in zakat institutions. In a regulatory framework, the regulations regarding sharia compliance are legalized in December 2018 through the "Decree of the Ministry of Religious Affairs Number 733 in Sharia audit guidelines for reports on the implementation of zakat, infaq, charity, and other religious, social funds". Since 2017 each office of Ministry of Religious Affairs at the provincial level has received the training and technical supervision on the instrument of "Technical Guidelines for General Supervision of Zakat Institutions in 2017". However, the research found that not all Offices of the Ministry of Religious Affairs at the Provincial Level were capable enough to implement sharia audits according to the guidelines

East Kalimantan Province is one of the provinces that has implemented a comprehensive sharia audit compared to other Provinces such as Aceh, West Nusa Tenggara, East Nusa Tenggara, North Sulawesi, and Gorontalo. Based on field research, only the Minis-

try of Religion in East Kalimantan undertakes Shariah audit efforts and has a special report related to the application of sharia audits. The report has also been adopted and distributed to several other regional ministries of religion as a reference for conducting audits in their respective regions.

Based on the sharia audit that has been conducted, there are several crucial things. First, that sharia audits are highly dependent on institutional capacity. Furthermore, it is highly dependent on the performance of the Office of Ministry of Religious Affairs at the Provincial Level, as the monitoring and supervision authority of zakat institutions. Second, the problem of the recruitment and preparation process for sharia auditors at the Office of Ministry of Religious Affairs at the Provincial Level. Third, the issues of institutional relations, the stakeholder's support have a positive impact on producing accurate audits. On the other hand, the benefit of implementing a sharia audit, among other things, is to promote institutional governance and increasing public trust of Muzaki to the zakat management organizations.

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