

THE PRINCIPLE OF JUSTICE FOR THE POOR: ITS IMPLEMENTATION IN CHARITABLE INSTITUTIONS IN INDONESIA AND THE STATE PHILOSOPHY OF PANCASILA*

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ABSTRACT

Charitable Institution of zakāh in Shariah economic system in Indonesia growing quite fast. Until the year of 2012 was recorded that there has been 19 zakāh receiver institutions that appointed by Directorate General of Taxes, that has been implementing their activities to collect and distribute zakāh. The growth of zakāh charitable institutions turns out have an impact on poor community empowerment in several places in Indonesia. Through some of their programs, like “Dompot Dhuafa Republika” that managing productive zakāh, has been created opportunity to the poor community to improving their living standard so they would not depend on others. Zakāh charitable attempts to help the life of the poor community actually is the essence of embodiment for principle of justice that exist on the Shariah economic system. That principle of justice also have similarity with the principle of social justice that consist in the philosophy state of Indonesia, that is

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Pancasila, especially the 5th Principle (Sila ke-5). This paper will do the comparative study between principle of justice in economy sector that implemented by the zakāh charitable institution in Indonesia and in the Pancasila principle, particularly with the connection of both systems to empowering and giving the justice in economy sector for the poor community.

Keywords: *principle of justice, empowering the poor, Pancasila, Dompét Dhuafa Republika*

INTRODUCTION

Background

Poverty becomes one of the problems faced by many states, including Indonesia. Various concepts and programs have been proposed and implemented, but still however the problem on poverty is unable to be maximally solved by the suffering states. Specially in Indonesia, the problem on poverty, from year to year remain becoming a problem, which solution is continually attained. Actually there have been various programs set up by the Government of Indonesia to overcome the problem on poverty, such as: Program Providing Services on Community Health Assurance (*Program Jamkesmas*) for 76.4 million people, Family Expectation Program, and National Program for Self-supported Community Empowerment (*PNPM Mandiri*). Nevertheless, such programs are still considered unable to maximally overcome the problem on poverty, since there are still some weakness in the implementation. The interesting phenomenon has been precisely done by private sectors, which are also participating in overcoming poverty in Indonesia, such as those carried out by the private companies by means of their CSRs, or by other social groups established with the objectives to cope the problem of poverty, for instance through *Dompét Dhuafa Republika*.

It is acknowledged at a glance, that the efforts already carried out by private sectors constitute efforts to make the principle of justice in the economic sector become reality, with the final objective to achieve social welfare of the people. As a matter of fact, the concept of justice in economic sector is included already either in the Islamic teaching or in the context of statehood living in Indonesia, while Indonesia itself is known as not an Islamic state. In this case for instance, whatever carried out by *Dompét Dhuafa Republika* through its programs aiming to overcome poverty basically constitute the implementation of the principle of social justice as it is inserted in the state

philosophy of Indonesia, *Pancasila*, particularly the 5th Principle, which reads “Social justice for all Indonesian people.”

Problem

This paper will further concern on the comparative study on the principle of justice in Shariah economy sector and the principle of justice contained the state philosophy of *Pancasila*, particularly relating to the efforts of both systems to empower as well as to give justice in economy for the poor community.

Methodology

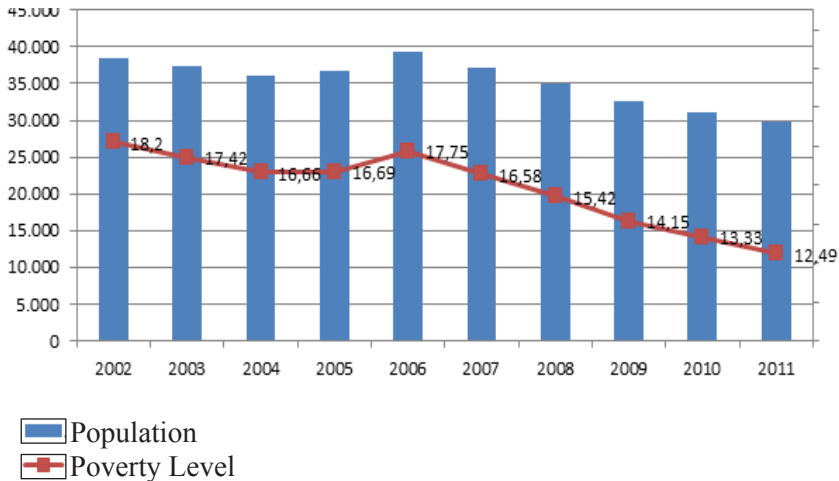
The research method to discuss the problems in this paper shall be doctrinal research method. Approach will be made to the key concepts on justice in economy sector either according to the Islamic teaching or according to the state philosophy of Indonesia, *Pancasila*. The method of data compilation (tracing the source of information) used, shall be library research. By means of library research, the secondary data will be compiled, particularly the primary legal instruments such as legislative regulations and secondary legal instruments such as scientific books, written by experts of law, discussing matters in relation with this paper.

FACTS ON POVERTY

According to Law Number 13 Year 2011 concerning Handling the Poor and Needy, Article 1 point 1, “poor and needy” shall mean a person who does not have at all source of live hood and/or has source of live hood but has no ability to meet the proper basic needs for his living and/or family. It is one of the criterias used for illustrating poverty in Indonesia. Until the end of 2012, poverty index in Indonesia still around 11.96% or equivalent to 29.13 million life. The poverty profile in Indonesia from year to year can be seen in the following graphic:¹

¹ Badan Pusat Statistik, <<http://data.tnp2k.go.id/index.php?q=content/profil-kemiskinan-di-indonesia>>, accessed on 26 December 2012.

Figure 1: The Poverty Profile in Indonesia



According to Ahmad Juwaini, the problems on poverty in Indonesia are due to the following reasons:

- a) Inability in managing the natural resources maximally;
- b) The Economy policies have no commitment to overcome poverty and merely running for economy growth.

Actually, the poverty problem has been handled either by the government or by private sectors (community), however the programs are not carried out maximally, due some weakness of the programs. According to Juwaini, the weakness of the programs handling poverty are, among others:

- a) Still macroeconomic growth oriented rather than equal distribution.
- b) Centralization of policy rather than decentralization.
- c) More charitable than transformative
- d) Positioning the community as object and not as subject
- e) Consideration concerning the handling of poverty still charity oriented rather than productivity.
- f) Assumption on problems and poverty solution is very often considered similar rather than plurality.
- g) No further program level available, consequently the group which obtained success in the first level, shall face difficulty to expand the business at further level.
- h) Less integration and coordination program between institutions handling the problems on poverty in Indonesia.

Those weakness at last, caused the expenses already allocated by the government for handling poverty not equivalent with the result of handling poverty which is achieved.

The government has actually allocated a number of fund as budget for handling (managing) poverty in Indonesia. The total fund for poverty is estimated to already reach 200 billion rupiahs, nevertheless the influence of such big amount of budget over managing poverty is ever decreasing (Ahmad Juwaini, 2012). From the elucidation mentioned, the problem of handling poverty in Indonesia is actually not caused by the insufficient fund allocated to handle poverty, but would rather caused by neglecting the empowerment factor to the poor community, in the poverty handling programs available. By neglecting the empowerment factor to the community shall exactly make the effort of handling problems on poverty in Indonesia temporary only, and the poor community will become the object of the assistance given to them.

ECONOMY JUSTICE IN ISLAM AND *ZAKĀH*

Economy Justice According to Islam

Justice is the most important pillar in Islam. Therefore, the concept of justice according to *al-Qur'ān* shall be either as legal norm or an integral part of devout (Asghar Ali Engineer, 1999: 58). Justice is an adjective word, which means a just action. Just shall mean equal, impartial (Departemen Pendidikan & Kebudayaan Republik Indonesia, 1990: 6-7). The word "just" according to *Ensklopedi Hukum Islam*, by terminology, shall mean considering something the same as another, either from the point of view of its value or its size, so there would be something which is not imbalance and indifference, one with another (Tim Ichtiar Baru Van Hoeve, 2000: 25). In the opinion of Qurraisy Syihaab, justice means putting something in place (M. Quraisy Shihab, 2008: 238). While according to Miskawaihi, as quoted by Ahmad Azhar Basyir, justice is the superiority of soul created from the association of wisdom (*hikmah*), purity (*iffah*), and bravery (*shajā'ah*) (Ahmad Azhar Basyir, 1993: 102).

Al-Qur'ān has explicit commitment concerning the enforcement of justice. This is reflected by mentioning the word "justice" in *al-Qur'ān* for more than 1.000 (one thousand) times. It has the meaning that the word "justice" is in the 3rd sequence of several words which are many times mentioned in *al-Qur'ān*, that is after the word "Allah" and the word "*ilm.*" Ali Syariati even mentioned that two third of the verses of *al-Qur'ān* contain obligations to enforce justice and dislike despotism (Majid Kahduri, 1984: 10). The holly book *al-Qur'ān*

uses at least two keywords illustrating justice, namely “*al-adl*” and “*al-qist*”, and words which have similar meaning with “*al-adl*” namely “*al-wazn*” and “*al-wast*” which is inserted in various writings in *al-Qur’ān* (Fazlur Rahman, 1982: 21). The word *al-adl* in Arabic has the meaning both equalizing and levelling, meaning that justice shall be equally benefited by both parties. *Al-Qist* is the key-word used in *al-Qur’ān*, which shall refer to the meaning of distribution, installment, even distance, and also justice, honesty as well as proper (*Ibid.*).

Al-‘Adl and *al-muqsit* constitute also the name of Allah, which means The Just God (Seyyed Hosein Nasr, 2003: 289). The word *al-wast* means *al-‘adl* and *al-nisf* which means centre or core (Muḥammad Fu‘ad ‘Abd al-Bāqī, 1981: 448). The word *al-wazn* has the meaning *ta’dīl* and *istiqāmah* or moderate and straight. In *al-Qur’ān*, the *al-‘adl* is always attached with the word *al-zulm* which has contrary meaning (*Ibid.*, 448; Harun Nasution, 1994: 62). *Al-Zulm* means to put something at the proper place, by means to be more excessive or reduce or deviate from the time and place (M. Dawam Raharjo, 1996: 391-410). God has created Islam as a system of life for all human, stresses the importance to enforce justice in every part of life, either in economic, politic or social. The concept of justice in *al-Qur’ān*, as it has been discussed before, shall not only constitute legal norms but also place it as an integral part of devout (*taqwa*). Similarly with devout (*taqwa*) in Islam, it shall not just a ritual concept, but it is integrally related to social and economic justice (Asghar Ali Engineer, 1999: 58). The terminology of social justice in Islam is used by Sayyid Qutb in his book *al-‘Adālah al-Ijtimā‘iyyah (Social Justice in Islam)*. In this book, Qutb explained that what is meant by justice shall be equality of humanity, which is observing also justice in all values, which covers economic aspects broadly (Sayyid Qutb, n.d.: 37). Social justice constitute justice in humanity, which shall not stop to consider material and economic matters, but shall cover also immaterial matters (*Ibid.*, 41).

Qutb has stated clearly that the concept of Islam concerning justice differs with other concepts. Islam has a specific concept concerning justice. From the definition of justice mentioned, it is explained that justice in Islam is not equalizing the income, the income however shall depend on the capacity of each individual. Islam recognizes differences between humans, but does give equal opportunity to every body, as it is stated in *al-Qur’ān*, letter al-Hujurat par. 13, that “...Actually the most noble person beside God shall be those who are devout.” According to Islam teaching, social justice in economic sector shall be based on either spiritual commitment or the concept of universal friendship between human being. *al-Qur’ān* has explicitly stressed the importance of justice and such friendship. According to M. Umer Chapra, the ideal Islam

community has to bring up justice and friendship into reality at the same time, considering that both justice and friendship constitute two sides which are similar and inseparable. Consequently, those two objectives are strongly integrated therein in the teaching of Islam, so that the realization of which shall become the spiritual commitment (religious service) of the Islam community.

The strong commitment of Islam towards friendship and justice demanded that all resources which are the holy messages from God be utilized in order to bring up the *maqāṣid al-sharī‘ah* into reality, which means fulfilling human needs of life, especially the basic needs (primary), such as clothes, foods, homes, education and health. Both friendship and justice demanded also that resources shall be equally distributed to the people through fair policies such as by means of *zakāh*, *infāq*, alms and others. *Tawhīd*, as the major foundation in Islamic economic, has a strong relation with the concept of social justice and friendship. *Tawhīd*-based economic which teaches that God as the absolute owner and human as just the holder of the instruction, has the consequence that within the property owned by every human, there is the rights of others therein which has to be released, in accordance with God’s instruction, through *zakāh*, *infāq*, alms and other means, in order to realize distribution of income which is in line with the concept of friendship of human being.

In the framework of making the ideal for economic social justice into reality, Islam has strongly criticized the concentration of assets in a certain group and has offered the concept of *zakāh*, *infāq*, alms, *waqf* and other means, such as tax, *jizyah*, *daribah*, and others. *al-Qur’ān* strongly states “In order that the property is not circulating only in the circle of the haves among you” (*al-Qur’ān* letter al-Hashr par. 7), and also that “within their property there the right of the poor and needy, either the beggar or the poor (who are shameful to beg)...” (*al-Qur’ān* letter al-Ma‘ārij par. 24-25). That’s why, Islam has emphasized the balance between growth and equal distribution. Growth itself shall not become the main objective, unless it is accompanied by equal distribution. In the concept of Islam, growth and equal distribution constitutes two sides of an entity which is inseparable, that is why both of which must not be separated.

Zakāh

Zakāh constitutes a part of the Islam monetary and social system (Yūsuf al-Qaraḍāwī, 1969: 4). The consequence is that Islam has to be able to make itself the foremost guard and standard in solving nation’s economic problems through *zakāh* (Ahmad Warson Munawwir, 1994: 615). In practice, the

management of *zakāh* still faces problems which are caused particularly by the Islam community itself. Awareness of implementing *zakāh* within the Islam community is still not yet accompanied by a proper understanding level, especially when it is compared with the other religious obligation such as *ṣalāh* and fasting. At present, community with less understanding on *zakāh* can still be found. This insufficient understanding on the portion of properties to be for *zakāh* obligations, and on the paying mechanism according to the teaching of Islam, have made the implementation of *zakāh* very much depending on each individual. As a consequence, it will finally influence the development of the *zakāh* institution, which actually has an important role to developing the religious service of *zakāh* in a collective way, in order that this religious service shall be more effective and efficient and shall become one of the institutions able of giving solutions on matters of poverty in the community (M. Djamal Doa, 2001: 62).

Yūsuf al-Qaradāwī has criticized the opinion of the follower of *fuqaha* which categorize the *zakāh* in the dimension of *mahdhah* religious services, in every discussion. In fact, there should be a new method discussing the *zakāh* within *fiqh* which is related to matters on property (economic aspect) and matters related to the community (*ijtimā'i*). Similarly when regulations are to be made, the *zakāh* should be inserted in the economic and social community aspects (*Ibid.*: 46). In line with al-Qaradāwī, Sayyid Qutb has stated that *zakāh* is a real social principle between those of the Islamic principles. Therefore, discussion on *zakāh* constitutes the most important part in the ownership politic in Islam (Sayyid Qutb, n.d.: 184). *Zakāh*, from etymology point of view, derived from the base of word (*masdar*) كَسَبَ (*zakā*) which means blessing, growing, clean and good (Ahmad Warson Munawwir, 1994: 65, *supra note* 20). According to the terminology, *zakāh* shall mean a number of a certain property which is obligated by Allah SWT to be given to those who have the rights, and besides, it shall mean also releasing the said certain amount itself (Yūsuf al-Qaradāwī, 1969: 38).

Zakāh is worship, which has two dimensions, namely vertical and horizontal dimensions. Vertically, *zakāh* means worship, which is a form of obedience to God, and horizontally, *zakāh* means a form of obligation to all human. *Zakāh* is also often called worship of *māliyah ijtihādiyyah*. The level of importance *zakāh* is, can be found in the so many paragraph of *al-Qur'ān* imposing the order of *zakāh* with the order of *ṣalāh*, namely approximately 82 paragraphs. *Zakāh* is also one of the characteristics of Muslim economic system, considering that *zakāh* is one of the implementation of the principle of justice in the Muslim economic system. In relation with the aforementioned matter, according to M.A. Mannan, *zakāh* has six principles are (Mannan, 1970:

9) the principle of religiousness belief, which means that those paying *zakāh* constitutes one the manifestation of their religiousness belief; the principle of equality and justice, that the social objective of *zakāh* shall be to distribute the property given by Allah SWT more equally and more just to others. Therefore, it is quite exact also, if *zakāh* is said to be the individual obligation to the community; the principle of productivity, stresses that *zakāh* is indeed should be paid, considering that a certain ownership has made a certain product after a certain period elapsed; the principle of logic which is very rasional that *zakāh* of the property which is producing must be released; the principle of freedom, that *zakāh* shall be paid only by those who are free; and the principle of ethics and proper, meaning that *zakāh* shall not be collected arbitrarily.

Concerning those having the competence to manage *zakāh*, based on the rules, the relation pattern between the government and *zakāh* has been regulated in *al-Qur'ān* letter al-Tawbah par. 103, which states, that, “*Take zakāh out of a portion of their property, by the zakāh you clean and purify them.*” This paragraph indicates that the one who takes the *zakāh* is the Prophet Muhammad SAW himself. The instruction in the order of Allah SWT to take *zakāh* is aimed to give the authority to Prophet Muhammad SAW and to everyone managing matters of the Muslims, afterall to take and manage the *zakāh*. According to the valid *ḥadīth* of Bukhari-Muslim and that of Ibn Abbas, it was told that the Prophet Muhammad SAW, when asking Mu’adz bin Jabal to go to Yaman, has said: “*Tell to them, that Allah SWT has required, that a part of their property to be donated. Taken out from the rich, to be given to those unfortunate. If they obey you in this case, then take care of their property, and be afraid of the prayer of those mistreated. There is truly no hindrance between their prayer and Allah.*”

The aforementioned *ḥadīth* explained that matters on *zakāh* shall be collected by the person in charge, to be distributed, not managed by the persons giving the *zakāh* (*muzakkī*) themselves. Ḥafīz Ibn Ḥajar said that the authority shall be the person in charge to collect and distribute the *zakāh*, either he himself directly or his subordinates. Then, everyone among those who refused to give *zakāh*, the *zakāh* is advised to be taken out of such person by force (Ibn Ḥajar, n.d.: 123). In Indonesia, the management of *zakāh* was regulated in Law Number 38 Year 1999 on Management of *Zakāh* which was later replaced by Law Number 23 Year 2011 on Management of *Zakāh*. In both acts, the instruction to the management of *zakāh* to actively take from those having the obligations the release *zakāh* (*muzakkī*) is not regulated therein. The collection of *zakāh* is carried out by *Badan Amil Zakat* (BAZ) or Amil Zakat Institution (*Lembaga Amil Zakat* or LAZ), by means of receiving or taking from *muzakkī*

based on the notification from *muzakkī*.² There is no penalty for the *muzakkī* for not submitting the *zakāh* to BAZ or LAZ.

In both acts, the methods of managing *zakāh* which is effective, profitable in the long period for those who have the right to receive, is also not regulated, as a result, BAZ or LAZ merely distributed the *zakāh* in an instant manner, which is very potential to be finished that very instant by the receiver of *zakāh* (*mustahiq*). There is an interesting book written by Masdar Farid Mas'udi with its title *Agama Keadilan: Risalah Zakat (Pajak) dalam Islam*. This book was published before Law Number 38 Year 1999 on Management of *Zakāh* was promulgated. This book explained the concept of justice in religion by proposing a solution in economic matters, that is equalizing *zakāh* and tax. For those who have paid tax, then it shall be already a part of paying *zakāh* (Masdar Farid Mas'udi, 1993: 58). In said book, it is also explained that *zakāh* and tax is similar with soul and body. Tax and *zakāh* are indeed different but it does not mean to be separated, considering that *zakāh* constitute the soul, while tax constitute the body. Therefore, paying tax shall require the intention of *zakāh*. With this intention, the tax paid shall not be meaningless, and thus, someone is not necessary to pay tax and *zakāh*, because the tax shall be the *zakāh* which is already intended for both tax and *zakāh* (*Ibid.*: 12).

By the concept of *zakāh* as tax, according to Mas'udi, the government shall be in the position to be the party having the competence to collect and manage tax, and has to be controlled also on every of its action, because it relates with the mandate which should be passed to the party concerned (Masdar Farid Mas'udi, 1993: 12). By this concept, *zakāh* (tax) already collected by the government from the community which constitutes *muzakkī* must be used for the interest of the people, who are called *mustahiq*, with priority the lowest level of community, namely the poor (*Ibid.*: 75). If based on the aforementioned opinion, the management of *zakāh* shall be applied to that of tax. This means no cash fund shall be given to *mustahiq*, as it is carried out by most agencies and *zakāh* management institutions at present, but it is precisely managed based on the need of the community, such as for building means and infrastructures needed by the community, or the empower the community by promoting education and skill which are useful for earning their life in the future. The practice which can be used as an example concerning the management of *zakāh* based on community demand have been performed by one of the well-known *zakāh* amil institution in Indonesia, namely *Dompét Dhuafa Republika*, although this institution still not yet relate the concept of tax.

² Law Number 23 Year 2011 regarding Zakat Management, Indonesia.

Examples on Practices of *Zakāh* Management by *Dompét Dhuafa Republika*

Dompét Dhuafa Republika is a non-profit institution owned by the community in Indonesia, having the objective to promote the dignity of the dhuafa using funds obtained from *zakāh*, *infāq*, *ṣadaqah*, *waqf* (donation) (ZISWAF), as well as other funds which is permitted and legal, from an individual, a group, a company/institution.³ The establishment was initiated by four collective community of journalists, having a lot of interaction with the less fortunate community, and the well-to-do community at the same time. Then the idea to set up the management of togetherness with any party concerned with the life of dhuafa was proposed. The four journalists, Parni Hadi, Haidar Bagir, S. Sinansari Ecip, and Erie Sudewo joined together as the founder of the independent institution *Dompét Dhuafa Republika*.

On September 4, 1994, *Dompét Dhuafa Republika* Foundation was established. Erie Sudewo was appointed to manage the *Dompét Dhuafa* Foundation in collecting and distributing the funds in its various humanity programs, such as among others, for emergency needs, economic assistance, health and education for the community of dhuafa (*Ibid.*). On October 2001, *Dompét Dhuafa Republika* was for the first time re-enforced by the government as *Lembaga Zakat Nasional* (National Zakat Institution/*Lembaga Amil Zakat*) by the Ministry of Religion of the Republik of Indonesia. The foundation's establishment was drawn-up before Notary Public H. Abu Yusuf, on September 14, 1994 and was announced in the State Announcement of the Republic of Indonesia Number 163/A.YAY.HKM/1996/PNJAKSEL. In line with Law Number 38 Year 1999 on Management of *Zakāh*, *Dompét Dhuafa Republika* (hereinafter to be referred to as DD) is an institution of *zakāh* management which is set up by the community. On October 8, 2001, the Minister of Religion of the Republic of Indonesia has issued a Decision Letter Number 439 Year 2001 on the Confirmation of *Dompét Dhuafa Republika* as *Lembaga Amil Zakat* at national level (*Ibid.*).

DD has the vision to bring into reality a welfare community supported by local resources through a just system. Whereas the mission of DD are building humanity and self-supported value; improving community donation participation and resources supports for empowerment; motivating the cooperation of program and the organization networking for global community empowerment; developing and making use the community assets through a just economic; and promoting *zakāh* as an alternative to manage poverty.

³ Dompét Dhuafa Republika, "Profil Sejarah," <<http://www.dompetedhuafa.org/profil/sejarah/>>, accessed on 29 November 2012.

Based on the vision and missions mentioned above, DD has the following objectives are to motivate voluntarism and the growth of community leadership as an agent of change; realization of social change through multi-stakeholder advocacy in order to create welfare; becoming a trusted institution for community resources support; to optimize community resources support; becoming a ZISWAF-based world class organization, forming self-supported cluster networking to manage poverty; becoming an expert institution and reference in poverty management policies in Indonesia; and to develop asset-redistribution based industries and businesses as well as to realize a sound and ethical business networking.

Observing the elucidation on the vision, missions and objectives of the establishment of DD, it is observed that there are some important principles as references used by DD in carrying out the activities to collect and manage ZISWAF fund, namely the principle of community empowerment and self-supported and the principle of a just economic system to achieve community welfare. Some programs already carried out by DD as concrete management of ZISWAF fund. Firstly *Dompét Dhuafa* Relief Program.⁴ Three main activities in this program are giving basic services to poor community, disaster management, and management of the Indonesian migrant workers. DD in this case shall set up a networking for program implementing institution. The community services program is conducted by Community Services Institution (LPM); the disaster management program is conducted by Disaster Management Centre (DMC) and the program for the Indonesian migrant workers which is carried out *Institut Migran* (MI). Relief Division which organizes the *Dompét Dhuafa* Relief Program shall continuously develop the program management format in line with the demand of poverty at the surroundings. At present, several new program themes are being prepared, namely are green universal program, as the poverty management program within environmental activities framework; accessibility program, uniting the distance between physic, geography, as well as information, and housing program, as housing services program for the community. It is expected in the coming days, that those themes be fixed as programmes using mediator mechanism in its implementation.

Secondly *SMART Ekselensia* Indonesia Program.⁵ SMART Ekselensia Indonesia (SMART EI) is a senior high-school with dormitory, free of charge and accerative (the study period only for five years for Yunior High School

⁴ Dompét Dhuafa Republika, "Profil Relief," <<http://www.dompetedhuafa.org/relief/profil-relief/>>, accessed on 29 November 2012.

⁵ Dompét Dhuafa Republika, "Smart ei Ekselensia Indonesia," <http://www.dompetedhuafa.org/smart-ei-ekselensia-indonesia-2/>, accessed on 29 November 2012.

upto Senior High School). This program was set up in 2004 in Parung, Bogor. SMARAT EI is dedicated to the children possessing good achievement, but who are economically weak from all over Indonesia. There are 294 (two hundred ninety four) persons received the benefit from SMART EI from 2004 until 2012. The kinds of benefit received by SMART EI's students covers school fee, dormitory fee and student's fee. From 2004 until 2012, the distribution area receiving the benefit from SMART EI has reached 27 (twenty seven) provinces in Indonesia. Thirdly Urban Community Empowerment Program.⁶ This program consists of several programs, among others are empowerment program for micro- scale food industries which are easily using hazardous food additive supplement; empowering a group of micro-scale healthy food industries in Jakarta; program for the juvenile and self-supported, a program which empowers the jobless juvenile and drop-out of school through entrepreneurship activities; and economic empowerment program of the community around mosques.

Fourth is Rural Community Empowerment Program.⁷ This program consists of several programs, among others are empowerment of palm-sugar farmers in Pacitan, East Java; empowerment of duck husbandry in Tangerang; and empowerment tofu iwul industries, environment management-based with zero waste, at Bojong Sempu, Parung, Bogor; and empowerment of cassava farmers by means of promoting community-based agrobusiness in Kuningan, West Java.

The funds obtained and managed by DD to the receivers of benefits is carried out openly. DD shall always issue the data concerning the funds obtained and managed to public, either by means of situs (website) with address <<http://www.dompetchuafa.org/>>, or through a periodic news Swaracinta, or through Care Visit Program. In said Care Visit Program, those giving the fund (*muzakkīt*) are given the opportunity to directly see to the site (to the community) the programs being performed, which are financed from the funds received and distributed by DD. So, the fund-giver shall really know to what programs the funds they give through DD has been used.

⁶ Dompetchuafa Republika, "Program Ekonomi Pemberdayaan Masyarakat Urban," <<http://www.dompetchuafa.org/program/ekonomi/pemberdayaan-masyarakat-urban/>>, accessed on 29 November 2012.

⁷ Dompetchuafa Republika, "Program Ekonomi Pemberdayaan Masyarakat Rural," <<http://www.dompetchuafa.org/program/ekonomi/pemberdayaan-masyarakat-rural/>>, accessed on 29 November 2012.

ECONOMIC JUSTICE IN *PANCASILA*

Pancasila as the state philosophy, actually is the realization of a noble agreement of the entire component of people, for the sake of implementing the existence of state structures (Mochamad Isnaeni Ramdhan, 2009: 232). *Pancasila* as the state philosophy which is stated in the Preamble of the State Constitution of 1945, on the basis of legal philosophy paradigm, is further transformed in the articles contained therein in the State Constitution of 1945 (*Ibid.*). In order to be applied for the people, the articles of the State Constitution of 1945 are then regulated in government regulations, considering that the legal norms are already public in nature and are binding all the citizen (Maria Farida Indrati S., 2007: 67). By means of those government regulations, the more concrete development programs shall be further formulated and implemented. *Pancasila* as the state philosophy bear the ideal values as it is reflected in each of its principle, and one of which is the value of justice. In the opinion of Abdulkadir Besar, the specific characteristic of the concept of justice according to *Pancasila* shall be as follows (Abdulkadir Besar, 2005: 42): The subjects are plural and interact in couple. It means that justice is always related to the nature of human character in this globe. In the universe, human being naturally does not live by itself. Human being shall be in the situation of togetherness with other human being, with all the existing phenomenon. This situation of togetherness is nothing but an integral connection of inter-phenomenon which is related equally (*Ibid.*: 27). This concept gives signal that inter-human being there is a mutual dependency relation and certainty, in the form of mutual giving. Therefore, according to Besar, the duty in the life of human being shall be actually *a priori* giving (doing something for) the surroundings (*Ibid.*: 28-29); The basic material of justice shall be the result of the obligation to give by the subjects. Justice, in this case, is initiated first from the process of giving (doing something) from one subject to another, dan receiving subject shall do similar thing to other subjects. Human being is given a natural obligation to give something to its environment.

The result of implementing the obligation to give by one subject to another subject (referred to as object) shall be considered (thought or deeply-understood) by the object as its rights. Therefore, it is assumed that the sense of rights in this case is relation, and rights shall be the derivative of obligation (*Ibid.*: 40-41). The process to perform the mutual obligation inter-human as explained above take place in sequence, from one person to another, even by one person to its environment. Thus, in such interaction, the balance shall be achieved between the obligation and the right, between all couple of subjects (those who give) and the object (those who receive), so that the balance in

totality shall be formed. Furthermore, it is this balance that will create social justice, because a big number of subjects are involved (*Ibid.*: 41-42); Justice has functional character; and By the transformation of obligation to become rights of the inter-couple of plural subjects, by means of relation one-many, as it is intended in the elucidation number 2 mentioned above, social justice shall be realized.

Of such concept of justice, the concept of justice in various development sectors is further formulated. Particularly in economic sector, to make it applicable in the community, the concept of justice which is in accordance with the philosophy of *Pancasila* shall be realized afterwards, in the form of economic system rule by the people (sometimes also called as the system (principle) of economic democracy). The economic system rule by the people constitutes an economic system which is chosen already by the Indonesian people, and it is a system which source is *Pancasila*, the 5th principle in particular, namely “Social justice for all the Indonesian people” (as philosophy source), which is later transformed and becomes the articles inserted in the State Constitution of 1945, Article 33 (as constitutional source) (Mochamad Isnaeni Ramdhan, 2009: 40). Article 33 consists of five paragraphs, and shall completely read as follows are economic matters are arranged as a collective business based on the principle of family atmosphere; important production branches for the state and dominating the need of many peoples shall be controlled by the government; the earth and water and natural resources contained therein shall be controlled by the state and shall be utilized at most for the welfare of the people; national economic shall be carried out on the basis of economic democracy, under the principle of togetherness, efficiency, just, sustainable, environmentally oriented, self-supported, and protecting the balance of development and national economic unity; and further provisions concerning the implementation of this article shall be regulated in legislative regulations.

From historical perspective, the concept of economic rule by the people was already applied in Indonesia. This concept, at the beginning, was introduced by Mohammad Hatta, through his article under the title “*Ekonomi Rakyat*”. That article was published in daily *Daulat Rakyat*, dated November 20, 1933. The background of Hatta’s thinking in that article was due to his concern to condition of the Indonesian economy under Dutch occupation (Revisond Baswir, 2006: 18). Due to that background, then the concept of economy ruled by the people was made a part of his struggle in the economic sector, to set the Indonesian people free and at the same time to give prosperous life. In composing his thought on economic rule by the people, Hatta was also inspired by the struggle of labour and famer community in Europe (*Ibid.*).

According to Sri Edi Swasono, Article 33 par. (1) of the 1945 Constitution, which states that “Economic matters are arranged as a collective business based on the principle of family atmosphere”, can be elaborated into several important elements. *First*, the word “economic” which is certainly intended to have the meaning economic system, economic order or economic life, shall cover the form and structure of economic business, relate the economic organization in totality, including therein cooperative, state and private enterprises (Sri Edi Swasono, 2005: 37). *Second*, the word “arranged” stresses the importance of imperative actions (restructurization) to be done in building the Indonesian economy, does not allow it arranged by itself or release it to the market power within *faissez-faire* system (*Ibid.*: 38). *Third*, the word “collective business” shall be a business which exists in the spirit of togetherness, cooperation, help each other, mutual-cooperation, mutualism, give each other and create synergy together, as it is properly carried out by an organized legal entity. When the abstract form is re-investigated, this collective business is actually based on the the principle of social concensus which exists in the Indonesian community (*Ibid.*). *Fourth*, concerning the words “based on the principle of family atmosphere” shall explain that the relation of economic mutualism shall have the character of brotherhood, refuse subordination and exploitation, stressing emancipation and giving mutual benefit.

The elements “collective business” and “based on the principle of family atmosphere” mentioned above are actually said to be something which are Indonesian original (*Ibid.*: 39). Even according to one of the founders of the State of Indonesia, Mohamad Hatta, the form of cooperation and the principle of brotherhood have been long time ago become “the root of the Indonesian community life guidelines” (Marwah M. Diah, 2003: 56) and at the same time it constitutes the form of nasionalism in economic sector, which opposes all kinds of colonialism and exploitation, as a consequence of unconventional capitalism which is individualistic (*Ibid.*: 60). Thus, those two elements must be became basic for improving the economic sector in Indonesia. In the opinion of Revrisond Baswir, on the basis of Article 33 of the 1945 Constitution, it can be formulated that economy rule by the people, in broad outline, shall comprise three main matters, namely (Revrisond Baswir, 2006).

First, the participation of all members of the community in national production process. This is an important matter, in order to guarantee an efficient use of all potency of national resources, and make sure the participation of members of the community in the production process. This would relate with the constitutional security intended in Article 27 par. (2) of the 1945 Constitution which reads: “Every citizen has the right to work and condition of life favourable for humanity.” *Second*, the participation of all members of

the community to enjoy the output of national production. It means, that in the frame work of economy rule by the people, there must be security that every member of the community shall enjoy the output of national production, including the poor and needy and the neglected children. This is emphasized further in Article 34 of the 1945 Constitution which states: “The poor and needy and neglected children shall be protected by the government.”

The interrelation between the two articles shall be a form of security, that in the framework of economy rule by the people, the government has the obligation to establish a system of social security for the poor and needy and the neglected children in Indonesia. *Third*, the activity to set up production and to distribute the output of national production must be executed under the leadership and control of the community. This means, that in the framework of economy rule by the people, the community shall not be made as the object of the economy activities, but would rather be made as the subject of the economy activities. Thus, eventhough the national economy activities (production process) can be carried out with the involvement of foreign investors, in its realization those activities must still be under the management and control of the community.

In line with the opinion of Baswir, Padmo Wahjono has his opinion also that Article 33 of the 1945 Constitution contains three main things, which can be understood as the Indonesian principle of economy democracy, namely (Padmo Wahjono, 1991: 267, 299): *First*, the principle of the Indonesian economy shall be for the great part for the people’s prosperity. Thus, the priority shall be the community’s prosperity, not the individual prosperity. *Second*, the production principle in the Indonesian economy shall be the production which is done by all for all under the control of the community. *Third*, the subject or the actor of the economic activity shall be the government and/or individual (private). Then, based on the three main thoughts, it can be understood that the objectives of economy rule by the people shall be basically to improve the community’s capability in controlling the work of the economic wheel. Jimly Asshiddiqie has a more comprehensive explanation concerning the objective of the economy sistem rule by the people, namely for: “... the realization of the idea of a just and prosperous community, based on *Pancasila* and the 1945 Constitution. Thus, those who have to obtain the benefit of utilizing the natural resources available shall be all the people, numerous people, and including the local people” (Jimly Asshiddiqie, 2010: 282).

There are five main targets when the main objectives of the economy rule by the people are further outlined, as follows (Revrisond Baswir, 2006: 27) are; The availability of work opportunity and favourable condidtion of life for

all members of the community; The execution of social security system for the members of the community require it, especially the needy and neglected children; Distribution of material capital ownership, relatively even between members of the community; The execution of national education which is free for the community, and The assurance of the freedom of every member of the community to establish and become a member of any economic union.

Soeharsono Sagir has summarized the five main targets into three targets which he called triple track development, namely: pro-poor; pro-job and pro-growth (Jimly Asshiddiqie, 2010: 354). Nowadays, the three targets is added with another one target, namely pro-environment (Ahmad Juwaini, 2012).

CHANCES OF SYNERGY BETWEEN THE PRINCIPLES OF ECONOMIC JUSTICE IN ISLAM AND IN *PANCASILA*

From the explanation above, it can be seen that there is actually a principle of equality between Islam and the Indonesia state philosophy, *Pancasila*, in responding to the poverty problem. Both equally posited the principle of, community empowerment and independency, as well as the principle of equitable economic system to achieve the welfare of society (freeing people from poverty). Besides that equation, Islamic beliefs with philosophy *Pancasila* also equally put spiritual aspect in the effort to alleviate poverty. The understanding that *Pancasila* also put the spiritual aspect in the effort to make society free of poverty appeared to be an important things to be taken seriously. This is because there are still parties in Indonesian society considers that *Pancasila* was the product of secular who want to separate religion and other areas of life, both in the state and community level. In fact, the assumption is not true, moreover, if looking back that system of relations between principles (*sila-sila*) that are in *Pancasila* philosophy is an inseparable unity, which by Abdul Kadir Besar called “the inter-relation between concept between precept system” (Abdulkadir Besar, 2005: 83).

Thus, poverty alleviation performed with based on a principle of *Pancasila* actually have also containing spiritual aspect, because principle that was conceived in *Sila* number 5, which is social justice for all people of Indonesia (as philosophical source), which are then transformed into clauses in the regulations of the people’s economy system, must be understood in relation to the others *sila* of *Pancasila*, including *Sila* number 1, “Divinity of the one true God.” So in terms of the concept of economic justice, both Islam teachings and the philosophy of *Pancasila* are concern to the aspects of the fraternity or *ukhuwah*. In Islamic teachings, the practice of *zakāh* which is an action to set

aside a certain amount of wealth in part when it comes to the certain time, from one party to another (*mustahiq*), is not just merely the act of property transfer from one to the other. The act was more, on one side, the act of helped brother fellow Muslim condition of disadvantaged on the economic part, and in other side, is the activity of worship. So, the emphasis is on some aspects at once, which in the opinion of Chapra, i.e. aspects of spiritual commitment, and the universal brotherhood of humanity.

In the context of the philosophical thought of *Pancasila*, which then generates a populist economic system, then the aspect of fraternity contained in the principal thoughts of the four, about “based on the principle of kinship,” on *Pasal 33 Undang-Undang Dasar 1945* (Article 33 of the 1945 Constitution). As in Swasono opinion, that based on the principle kinship written in Article 33 explained fraternity based manners economic relations mutualism that refused subordinated and exploitation, upholds emancipation and mutual benefit. With those couple of equations, actually it can be an opportunity for the development of poverty reduction programs in Indonesia. Therefore, then needed: synergy of both concepts, both based on the teachings of Islam and based on *Pancasila*. The chances of synergy between the concept according to Islamic teachings with the principle of philosophy *Pancasila* can be directed to formularization programs as:

- a) Charity programs (*zakāh*) as tax as mentioned previously, where in this program definitely will be involved the two entities at once, the entity of the state (public) and Muslim entities, as well as two goals (interest) at once, the interests of the afterlife (spiritual) and sociological (social world).
- b) The involvement of the non-Muslim party programs into the poverty reduction activities are attempted by BAZ and LAZ is there, such as DD. Because it must also be acknowledged the existence of the fact that many parties from among the non-Muslims who have concern for the poverty eradication effort, and who want the efforts are managed by professional, accountable, and transparent, as much as is applied by institutions like DD in managing public fund that has been entrusted to them.

In addition to the foregoing, that needs to get attention again: the legislation (law aspect) which prevails in Indonesia was set regarding *zakāh* which functioned as well as an instrument of poverty alleviation. In connection with a chance of creating synergy between Islamic teachings with the principle of *Pancasila* philosophy in eradicating poverty, so it can be said that the legislations in Indonesia now is still not in line with efforts to synergy. About it, at least it can be seen in the setting of management of *zakāh* principles contained in Law Number 23 Year 2011 on Management of *Zakāh*. This act excluded *Pancasila* and Constitution as one of the principles in managing

zakāh. Article 2 from Law Number 23 Year 2011 states that: “In managing *zakāh*, its principles are Islamic sharia; Righteous; Usefulness; Justice; Legal certainty; Integrated, and Accountability.”

Different it is with the Law Number 38 Year 1999 on Management of *Zakāh*. The previous legislation was thus explicitly mention *Pancasila* and the 1945 Constitution as part of *zakāh* management principles. As contained in Article 4 which reads “The management of *zakāh* is based on faith and piety, openness, and legal certainty in accordance with *Pancasila* and the 1945 Constitution.” Even within the General Explanation of Law Number 39 Year 1999 are explained also that the management of *zakāh* is an effort in order to realize social justice, and also as a form of practice the values of *Pancasila* and the 1945 Constitution. Therefore, when the opportunity to create synergies between Islamic teachings and principles of the philosophy of *Pancasila* in tackling poverty like to really be embodied, an improvement on the legislation side concerning *zakāh* also needs to be done.

CONCLUSION

Justice is the most important pillar in Islam. The concept of justice in the *al-Qur’ān* not only as legal norms but rather places it also as an integral part of piety. Similarly piety in Islam is not only a concept of ritual, but is also associated with the integral economic and social justice. About social and economic justice, thinkers from among muslims has given his opinion, among others, as expressed by Sayyid Qutb. Qutb explained that the definition of justice is also paying attention to humanitarian equation justice on all values that include the extensive economic aspects. Social justice is justice humanity doesn’t stop on the material and economic, but also includes things that are immaterial. So too according to M. Umer Chapra. He explained that the commitment of the Islamic brotherhood and justice demand that all of the resources into the sacred mandate of God used to bring about *sharī’ah maqāsid*, the fulfillment of human life, especially basic needs (primary), such as clothing, food, house, educational, and health. Fraternity and Justice also demand that resources are distributed equitably to the people through a fair policy such as via instruments religious obligatory, *infāq*, charity, etc. So, *tawhīd*, the main Islamic economic foundation, have strong relations with the concept of social justice and fraternities.

Zakāh constitutes a part of the Islam monetary and social system. The consequence is that Islam has to be able to make itself the foremost guard and standard in solving nation’s economic problems through *zakāh*. In practice, the management of *zakāh* still faces problems which are caused particularly

by the Islam community itself. Awareness of implementing *zakāh* within the Islam community is still not yet accompanied by a proper understanding level, especially when it is compared with the other religious obligation such as *ṣalāh* and fasting. *Zakāh* is also one of the characteristics of Muslim economic system, considering that *zakāh* is one of the implementation of the principle of justice in the Muslim economic system. In its implementation, *zakāh* has six principles, as follows: the principle of religiousness belief, the principle of equality and justice, the principle of productivity, the principle of logic, the principle of freedom, the principle of ethics and proper. In Indonesia, the management of *zakāh* was regulated in Law Number 38 Year 1999 on Management of *Zakāh* which was later replaced by Law Number 23 Year 2011 on Management of *Zakāh*. The practice which can be used as an example concerning the management of *zakāh* based on community demand and six principles of *zakāh* have been performed by one of the well-known *zakāh* amil institution in Indonesia, namely *Dompot Dhuafa Republika* (DD).

Pancasila as the state philosophy, actually is the realization of a noble agreement of the entire component of people, for the sake of implementing the existence of state structures. *Pancasila* as the state philosophy which is stated in the Preamble of the State Constitution of 1945, on the basis of legal philosophy paradigm, is further transformed in the articles contained therein in the 1945 Constitution. *Pancasila* as the state philosophy bear the ideal values as it is reflected in each of its principle, and one of which is the value of justice. In economic sector, to make it applicable in the community, the concept of justice which is in accordance with the philosophy of *Pancasila* shall be realized afterwards, in the form of economic system rule by the people (sometimes also called as the system (principle) of economic democracy).

The economic system rule by the people constitutes an economic system which is chosen already by the Indonesian people, and it is a system which source is *Pancasila*, the 5th principle in particular, namely “Social justice for all the Indonesian people” (as philosophy source), which is later transformed and becomes the articles inserted in the 1945 Constitution, Article 33 (as constitutional source). In the opinion of Revisond Baswir, on the basis of Article 33 of the 1945 Constitution, substances of the economy rule by the people, in broad outline, shall comprise three main matters, namely: *First*, the participation of all members of the community in national production process. *Second*, the participation of all members of the community to enjoy the output of national production. It means, that in the frame work of economy rule by the people, there must be security that every member of the community shall enjoy the output of national production, including the poor and needy and the neglected children. *Third*, the activity to set up production and to distribute

the output of national production must be executed under the leadership and control of the community.

This means, that in the framework of economy rule by the people, the community shall not be made as the object of the economy activities, but would rather be made as the subject of the economy activities. What is the specific point in concept of *Pancasila* in comparison with the concept of economic justice than the other thought? Economic justice concept in *Pancasila* having particularity because: *first*, ground point its philosophy starting from an effort to give something good for other people. In terms of Besar, it is called as implementing the obligation of giving. An obligation is precedence than the rights. These rights will arise after the giving obligation implemented. Such an attitude is distinctly different with the concept that is in the liberal that prioritizes the rights. *Second*, it gave a large portion for the country to play a role in economic processes. From this point, the economic concept of *Pancasila* closer to socialist doctrine, but what distinguishes them remain, which is that economic development in which countries have a major role should still provide opportunities for private parties to take part in the economic process. And *third*, according to the *Pancasila*, the process of economic development that clearly could not discharge with the objective world as well as the purpose of the afterlife.

There are similarities between the Islamic principles and the state philosophy of *Pancasila*, in Indonesia, responding to the problem of poverty. Both equally posited the principle of community empowerment and self-reliance, as well as the principle of equitable economic system to achieve the welfare of society (freeing people from poverty). With the existence some of the equation that principle, in fact it can be a chance for the development of poverty reduction programs in Indonesia to be able to run more optimally, both process and outcome.

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