

CORPORATE SOCIAL RESPONSIBILITY IN ISLAMIC BUSINESS: CASE STUDY OF INDONESIA COMPANY

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Abstract

It is widely acknowledged that Corporate Social Responsibility (CSR) has become socially "mandatory" for company to partake in the development of their community. Furthermore, CSR fills the blank space where the government cannot reach or has limited access. This paper will be addressing two issues: (a) CSR concept in accordance with Islamic Value; and (b) How the Indonesian Government regulates the application of Islamic CSR Model in the country. This research aims to analyze the concept of Zakat as a CSR model under the Islamic Business Law, with the objective to compare Zakat and the conventional CSR. This research is conducted in Normative-Juridical method which establishes that Islamic CSR means more than just "helping the humanity and the environment", but also as a "Heavenly duty", as opposed to Western business system in which CSR serves as the company's tool to protect its interest and public image leverage.

Keywords: *Corporate Social Responsibility, Islamic Business Model, Law, Zakat.*

A. Introduction

As one of the most populated Moslem countries in the world, Indonesia has adopted and applied some Islamic laws, especially Islamic Private Law. The application of Islamic law or Sharia in Indonesia dates back from the 10th century when the Islamic Kingdom was on the rise in Indonesia.

To talk about the history of Islam in general, according to world history, Islam as a religion was founded around 1,400 by Prophet Muhammad PBUH. Moslems were then tested after the Prophet Muhammad SAW passed away, where Moslems then thought of an effective leadership system in carrying out the state system built by the Prophet

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Muhammad SAW, with the first step that was then taken was to establish the Rashidun Caliphate in 632 AD or after Prophet Muhammad SAW passed Away. In the era of the Rashidun Caliphate, in the first era, it was led by Abu Bakr as the first Caliph (632-634), Umar Bin Khattab as the Second Caliph (634-644), Usman bin Affan the third (644-656) and Ali bin Abi Thalib as the Caliph Last Rashidun Caliphate (656-661).² After the Fall of The Rashidun Caliphate Islamic Leadership change hand many times to the Abbasid Dynasty, Ummayyad Dynasty, Fatimid until in the end after World War 1, the power of the Ottoman Empire began to fade and was even overthrown by Mustafa Kemal Pasha who made Turkey a Liberal State to this day.

The fall of Ottoman Turk in 1924 effectively ended Islamic Imperial power but the concept of the religion still exists and developed even partially or to some extent influence countries like Kingdom of Saudi Arabia (KSA), the Islamic Republic Iran, Federation of Malaysia including in Indonesia, until the point of Islam as religion considered as the official religion in some countries that effectively influence the law of countries.

One of the uniqueness of Islam was Islam was metaphorically rule everything from the tip of the hair until the tip of the toe of every Moslem (Islamic Religion Follower). That means Islamic Law or Sharia can be considered to have complete regulation in nearly all objects in life, which is including business and social life.

In today's modern world the Islamic bossiness model is becoming hot topic around the globe. For example, the concept of the Islamic finance system. According to Ibrahim A. Warde, Professor of International Business at the Fletcher School of Law and Diplomacy at Tufts University cited by CNBC news portal said that Islamic Bank asset was grown from in 2000 just \$200 Billion Dollar back in 2000, in 2016 the number grow become \$ 3 Trillion Dollar and projected in 2020 4 Trillion Dollar.³ In Indonesia, according to the Financial Service Authority (*Otoritas Jasa Keuangan*, OJK), the total assets of conventional banks in 2018 will reach Rp 8.1 quadrillion. This figure increased to 9.22% compared to the previous period of Rp. 7.4 quadrillion.⁴

² Encyclopedia Britannica, 'Rasidun', Rasidun <<https://www.britannica.com/topic/Rashidun>> accessed 10 December 2020.

³ Riyadh Mohammed, 'Hot Trend in 2017: Rise of Islamic Banks on Main St. USA', CNBC (2 December 2016) <<https://www.cnbc.com/2016/12/02/under-the-radar-islamic-banks-rise-in-th.html>> accessed 24 November 2019.

⁴ Dwi Hadya Jayani, 'Berapa Aset Perbankan Syariah Dan Konvensional?' KataData (20 September 2019) <<https://databoks.katadata.co.id/datapublish/2019/09/20/berapa-aset-perbankan-syariah-dan-konvensional>> accessed 30 November 2019.

But in every successful company, there are morality and social responsibility by the company. In western or liberal company concepts there is a concept of Corporate Social Responsibility (CSR) that aims to develop the society. What is CSR? According to According to World Business Council for Sustainable Development (WBCSD) definition: "Corporate Social Responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large".⁵

One example for this concept was about how AT & T Philantory model which specific about Education, Community Support and Safety Health & Human Services, Arts, Media & Culture. Another Example was what Djarum Foundation a cigarette company in Indonesia was actively involved in the development of young Badminton athlete and Scholarship for smart children from the unfortunate family.

It can be said that CSR has become socially "mandatory" for the company for the development of their community. Furthermore, CSR fills the blank space where the government cannot reach or has limited access with. The question now, is there any similarities between the Islamic business model to the CSR concept? Especially in Indonesia as one of the biggest Moslem population in the World. Indonesia had many regulations regarding Islamic business law although Indonesia is not Islamic countries especially in Law No. 23 of 2011 in *Zakat* that one of the articles consider *zakat* that had similar concept as CSR as a reason for tax discount, but the question is how sufficient Islamic law especially regulating Islamic business and CSR in Indonesia. Derived from that, this article will discuss about the CSR in Islamic business, to have greater comprehension on the CSR concept that exists in Islamic business in Indonesia.

B. Problem Formulation

Based on the Introduction above, this paper will be focusing on 2 problems, which are: first, how is the concept of CSR in accordance with Islamic Value? Second, How does the Indonesia Government regulate the application of Islamic CSR Model in the country?

C. Methodology

This study carried out a normative legal research method by using a statute approach and a conceptual approach. The object of this research focused on compare between *Zakat*

⁵ Isa Wahyudi & Busyra Azhari, Corporate Sosial Responsibility: Prinsip, Pengaturan, Implementasi (ISPIRE 2011).

and Conventional Corporate Social Responsibility, focusing on studying law or legislation regulating the issue as primary sources while the secondary and tertiary sources also becoming important reference on this study.

D. Discussion and Result

1. Understanding Islamic Business in General

In the general view of Islamic business, everything is permissible if it is not forbidden in the Sharia although according to Daud Ali in Islamic legal system the relation between private and public sometimes bias because there is public aspect in in private law and there are private aspect in public law.⁶ However to start the discussion, what is Sharia? Sharia is the legal basis of Islamic Law. According to Islamic Hadith or Prophetic Thought Telling by Imam Malik said that before passing away Prophet Muhammad PBUH was left a message to Moslems to always follow Al-Quran (Holy Book) and Hadith (Prophet Thought), in simple ways Sharia consists of Al-Quran and Hadith. According to Rohidin stated that Islamic law or Sharia is Islamic law is a set of rules sourced from Allah's revelation and the Sunnah of the Prophet Muhammad which regulates the behavior of converts who are recognized and believed to be binding by Muslims to achieve peace and vertical and horizontal obedience.⁷ Below the Sharia there is an agreement amongst preachers called *Ijtima*, the best analogy of the relation between Sharia and *Ijtima* was like the relation between Constitution and Laws.⁸

There are some major aspects in the Islamic business that must be followed. The most things that should be considered when doing a business according to Islam were avoiding uncertainty, avoiding gambling, avoiding coercion, avoiding interest, avoiding trickery, avoiding haram practice, and avoiding monopoly.⁹

Avoiding uncertainty means that when doing trade something that will be the object of business should be clear. For example, it was forbidden to sell fruit that is still stuck into a tree. Avoiding gambling means that the business should have a clear target point, not just a chance or uncertain target, for example, foreign currency exchange for profit. Avoiding coercion means that Business should be done with the willingness of

⁶ Daud Ali, *Islamic Law: Introduction to Islamic Jurisprudence and Legal Sytem in Indonesia* (Rajagrafindo Persada 2016).

⁷ Rohidin, *Pengantar Hukum Islam* (Lintang Rasi Aksara 2016).

⁸ Muhammad Ainun Najib, 'Legal Policy of Formalization of Islamic Sharia in Indonesia', (2020) *Prophetic Law Review* 2 (2).

⁹ Finastri Annisa, 'Bisnis Menurut Islam – Orientasi Dan Etikanya' dalam *islam* (25 January 2017) <<https://dalamislam.com/author/finastria>> accessed 24 November 2019.

every party not by coercion, for example, forced sale of things. Avoiding interest means that business should be done interest-free because in Islamic perspective interest is the act of coercion or injustice (*Dzalim*). Avoiding trickery means that business should be done with an honest attitude. Avoiding haram practice means that business should restrain in doing or selling goods that the God forbids like liquor. Avoiding monopoly means that business should be done in fairness and openness.¹⁰

Under Islamic teaching, there is a business entity, but the type is diverse. Under Islamic law, there are two types of bound or *Syirkah* or partnership. First is *syrah al-‘amlak* (ownership) and *syirkah al-‘uqud* (by concession & transaction). According to Evony Silvino Violita from Indonesia University (UI) said that *syirkah al-‘amlak* was partnership that happen not because agreement but nature instead, example for this is inheritance.¹¹ Different from *syirkah al-‘amlak*, *syirkah al-‘uqud* is a partnership based on agreement and transaction.¹² It can be said that the Islamic business entity is built by the concept of *syirkah al-‘uqud*. But there is something that should be remembered, Islam itself was separated into 2 big sects and it was Sunni and Shite. Even Sunni believe there are 4 Mazhab or Route and they are Hambali, Maliki, Syafii and Hambali, this was happening because sometimes there is some dispute between Preacher about meaning and conduct about some matter including about business entity.

According Evony Silvino Violita, according to traditional *Syirkah* according to route or *Mazhab*. According to Hambali *syirkah al-‘uqud* was separated into *Inan*, *Abdan*, *Wujud*, *Mufawadhah*, *Mudharabah*, while *Mazhab* Hambali *syirkah al-‘uqud* is divided into *Inan*, *Wujud*, *Abdan*, *Mudharabah*.¹³ *Mazhab* Maliki *syirkah al-‘uqud* is divided into *Inan*, *Abdan*, *Mudharabah*, while in *Mazhab* Syafi’i *syirkah al-‘uqud* is divided into *Inan* & *Mudharabah*.¹⁴

From all of the *Mazhab*, it can be concluded that there are 5 types of *syirkah*, which are *Inan*, *Abdan*, *Wujud*, *Mufawadhah*, *Mudharabah*. Hanafi Hadi Susanto &

¹⁰ Arisadi, ‘Bisnis Dalam Islam’ (2018) Volume 5 Jurnal Hadratul Madaniyah.

¹¹ Evony Silvino Violita, ‘Syirkah/Musyarakah/Partnership in Contemporary Islamic Business Power Poin’ (Lecture Weeks 6, Jakarta, 2016) <http://ocw.ui.ac.id/pluginfile.php/972/mod_resource/content/2/week6_musyarakah.pdf> accessed 30 November 2019.

¹² Ibid.

¹³ Evony Silvino Violita (n 11).

¹⁴ Ibid.

Mohammad Ghozali from National Islamic Academy of Purwokerto (STAIN Purwokerto) said that¹⁵:

1. *Inan* is a contract between two or more people by way of giving each party a portion of the funds from the entire capital and participating in each other's work.
2. *Abdan* is a company between two or more people who rely solely on their labor or expertise without their assets to receive work.
3. *Wujuh* is syrikah between two people with capital from parties outside the two people. That is, one person gives capital to two or more people, who act and respond to company directives and liability.
4. *Mufawadhah* is a contract of cooperation between two or more people. Each party provides a portion of the total funds and participates in the work. Each party shares the profits and losses equally, like firm-based business entity.

Mudharabah can be interpreted as a contract of business cooperation between two parties which the two parties are the fund owner as of the first party (*shahibul maal*) who provides all funds (100%), and the fund manager as the second party who acts as the manager.¹⁶ After talking about business entity or cooperation in Islam, then how Islam views CSR or Corporate Social Responsibility, and is the concept exists in the Islamic perspective?

2. CSR under Islamic perspective

From an Islamic perspective, Islam has 3 major relationships of Human: first relation between Human and God or *Hablunminallah*; second relation between Human and Human or *Habluminannas*; and the last is relation between Human and environment or *hablumminal'alam*.

Moslems believe that everything they do is being watched by God, it is why Moslem should do what God orders and avoid what God forbid as ordered in the Holy Quran. Which is why it could be said that *Hablunminallah* concept between God and the God's creation which is Human.

Hablunminallah concept was the main foundation between next human relation. Like in *Habluminannas* concept, God obliges human being to help each other in the Holy Quran, one of this *Hablunminnas* concept shown is that according to the Islamic belief, money and the personal treasure do not entirely belong to a person, there are some percent is the right of unfortunate people like The God (Allah) Order in Surah

¹⁵ Hanafi Hadi Susanto and Mohammad Ghozali, 'Konsep Syrikah Pada Perbankan Islam' Vol 13 *Justicia Islamica Jurnal Kajian Hukum dan Sosial* <<https://jurnal.iainponorogo.ac.id/index.php/justicia/article/view/612/pdf>> accessed 30 November 2019.

¹⁶ Fatwa Dewan Syari'ah Nasional No: 07/DSN-MUI/IV/20 on Mudharabah 2000.

Adz-Dzariat verse 19 in Holy Quran, which is why there is the concept of *Zakat* and *Sadakah* or donation in Islam.

The difference between the two is that *Zakat* is mandatory and has a specific amount and if one does not fulfill that, they will be considered sinning, when the donation is a voluntary and has no specific amount. There are 2 types of *Zakat*: *Zakat Fitrah* and *Zakat Mal*. *Zakat Fitrah* is paid at the end of the Islamic Holy Month of Ramadhan, Moslems must give around 3,5 liters (2,7 Kilograms) of basic meal in the area to poor people and people in need¹⁷, for example, because Indonesian basic meal is rice, hence it is mandatory to give around 3,5 liters or 2,7 kilograms of rice to poor people and people in need at the end of Ramadhan.

While *Zakat Mal* can be done in an entire year if the *Haul* and *Nishab* are satisfied,¹⁸ which *Haul* is the completion period of *zakat* asset in 1 lunar year or minimum ownership of things while *Nishab* is the minimum Moslem net worth to give *zakat*.¹⁹ Types of *zakat* are livestock, crops, and earnings from the business, income, savings, gold, and silver, or simply wealth should be productive nature.²⁰

The question is now are, can *zakat* by cooperation consider as CSR? According to Indah Purbasari, *zakat* concept can be considered identical with the CSR concept.²¹ Another opinion was stated by Lukman Raimi that,²² the acceptability of CSR is associated with its alignment with the concept of *zakat*, a potent mechanism for empowerment and social justice in Islam. It then strengthens by Arif Muftunin statement that stated that philanthropy type in Islam is *Zakat, Infaq, Shodaqoh and Qurban*.²³

It can be said that *zakat* can be considered as CSR, but who will manage it? The management of *zakat* was done by either government or Islamic religious NGO. In a country with Moslems as a majority, much of *zakat* management was handle by an official Government organization.

¹⁷ 'Jenis-Jenis Zakat' (Badan Amil Zakat Nasional, No Date) <<https://zakat.or.id/jenis-jenis-zakat/>> accessed 26 November 2019.

¹⁸ Ibid

¹⁹ Maulana Ihsan Fairi, 'Comparative in Zakat Management between Pusat Zakat Sabah and Badan Amil Zakat DIY', (2020) *Journal of Islamic Economics Lariba* 6 (1).

²⁰ Ibid

²¹ Indah Purbasari & Co, 'Alokasi, Distribusi Zakat Dan Tanggung Jawab Sosial Di Perbankan Syariah' (2015) 44 *Masalah-Masalah Hukum* 8.

²² Lukman Raimi & Co, 'Corporate Social Responsibility, Waqf System and Zakat System as Faith-Based Model for Poverty Reduction' (2014) Vol. 10 *World Journal of Entrepreneurship, Management and Sustainable Development* 10.

²³ Arif Muftunin, *Filantropi Islam: Fikih Untuk Keadilan Sosial* (Magnum Pustaka 2017).

After talked about *zakat*, another concept of donation in Islam was *Sadakah*. *Sadakah* in simple explanation was a donation. As stated, before *Sadakah* is a voluntary act and the result of *Sadakah* can be used following certain causes, for example, build religious building like Mosque, humanitarian aid, disaster relive and many more, different from *zakat* who had guidelines about who can receive *zakat*.

As for *hamblumminalalam* concept, according to Islamic belief, human is the one who lead and manage the Earth like The God (Allah) said in Holy Quran *Al-Baqoroh* 30. According to Rahmat Ilyas, human duty as the one who manages the earth because God trust to human and willingness of human to manage the earth.²⁴

As the ones who manage Earth, humans had the task to ensure the livelihood of Earth, it is true that according to Islam Human had a right to ensure exploit and use the earth as they will, but human should protect the earth and restrain not over-exploit it according to *Al-An-Am* 142 from the Holly Quran. The relation between the three concepts will be the main domain of the daily life of a Moslem including in the business. It is why maybe true business interests is to gain capital but there in the Islamic business there is a moral obligation that should be fulfilled either between the human or the environment. It can be said that *zakat* can be a more effective tool of philanthropic because the legal binding of *zakat* as mandatory in Islamic perspective rather than *sadakah* that widely consider *As-Sunnah* or optional but suggested in Islamic view. But the two systems can be said to have their uniqueness and completing each other as the foundation of Islamic social finance.

3. Islamic Law in Indonesia

Indonesia has the largest Moslem population in the world, which is around 200 million.²⁵ Indonesia is the largest Moslem population in the world. But the uniqueness of Indonesia is that it is not a religion base country like the neighboring countries such as Malaysia and Brunei Darussalam. But Indonesia cannot be considered a secular country because Indonesia had a Minister of Religion still had involved in the life of the state. Indonesia could be considered as a religious country but a non-theocratic country, because of Indonesia's view of religion's position for the country. This is then proven

²⁴ Rahmat Ilyas, 'Manusia Sebagai Khalifah Dalam Perspektif Islam' (2016) Vol. 1 Mawa'izh <<https://media.neliti.com/media/publications/285121-manusia-sebagai-khalifah-dalam-perspektif-a463de5e.pdf>> accessed 29 November 2019.

²⁵ Viva Budy Kusnandar, 'Berapa Jumlah Penduduk Moslem Indonesia?' KataData (24 September 2019) <<https://databoks.katadata.co.id/datapublish/2019/09/24/berapa-jumlah-penduduk-Moslem-indonesia>> accessed 29 November 2019.

by the fact that in the official structure of the Indonesian state there is a Ministry of Religion which is tasked with taking care of religious interests in Indonesia with one of the institutions that are the instrument for pluralistic assurance of religious rights in Indonesia is the existence of the Center for Religious Harmony at the Ministry of Religion The Republic of Indonesia with the subsidies of the Forum for Religious Harmony (FKUB) in every region in Indonesia. Apart from the official institutions of the government, there are also independent religious institutions that are partners of the Indonesian Government, including the Indonesian Ulama Council (MUI), the Association of Churches in Indonesia (PGI), the Indonesian Bishops' Conference (KWI), Parisada Hindu. Dharma Indonesia (PHDI), Representative of Indonesian Buddhists (WALUBI), the Indonesian High Council for Confucian Religion (MATAKIN), and many other religious organizations. This of course has greatly proven how Indonesia is built from multiculturalism.

Indonesian legal system was built widely upon the Netherland Colonial law or can be said as The European Continental Law System because of the effect of Netherland colonialism in Indonesia around 350 years. However, the Islamic root in Indonesia is very strong even in the colonial era. After Indonesia fought its independence from Netherland, the condition of Moslems in Indonesia was like a roller-coaster.

In the Federal era Islamic party Masyumi has dominated the Government, but in the Lead Democracy era or the Old Order, Islam was oppressed especially by the Indonesia Communist Party, even until today the dynamic of Islam in the political life in Indonesia was still dynamic and have a major role in Indonesia politic, which resulted from Indonesia had some special law related to Moslem like Law No.1 of 1974 on Marriage, Law No 50 of 2009 on Religious Court, Law No 21 of 2008 on Islamic Banking, and Law No 23 of 2011 on *Zakat* altought according to Mardani the root of Islamic law in Indonesia can be found from 7 Century and had significant role in Indonesia colonial era.²⁶ Another legislation about Islamic law in Indonesia was *Fatwa* (Ulama Decision) by Indonesia *Ulama Majelis* or Indonesia Preacher Assembly (Indonesia: *Majelis Ulama Indonesia*) or MUI, an independent organization with a strong partnership with the government of Indonesia. *Fatwa* is having less binding power than statutory law under the Indonesian law. Based on the Presidential Regulation No. 151 of 2014 on Funding Assistance for the Activities of the Indonesian *Ulama* Council, especially article 1 paragraph 1 defines MUI as a forum for

²⁶ Mardani, *Hukum Islam Didalam Hukum Positif Indonesia* (RajaGrafindo 2018).

deliberation by Moslem scholars, leaders, and intellectuals in protecting the ummah and developing an Islamic life and increasing the participation of Moslems in National development.²⁷ Unlike in countries that have an Islamic ideology like Iran, the power of the MUI *Fatwa* in Indonesia cannot be used juridically to bind society at large. However, the MUI *fatwa* in fact in society has a big influence in life, especially on the life of the moslem in Indonesia for example: the existence of MUI *Halal* certification which often becomes a measure of the feasibility of products that can be sold in the Indonesian market. Law No. 33 of 2014 on *Halal* Product Guarantee in which MUI and other state institutions are the operators of *Halal* product guarantee in Indonesia, another example is how MUI is trusted to make standard of sharia application in Indonesia Sharia Banking system. Law No. 21 of 2008 on Islamic Banking stated that²⁸ Sharia Principles as referred to in paragraph (1) imposed by the Indonesian Ulama Council. The same article at the Paragraph (1) also stated that²⁹ Business activities as referred to in Article 19, Article 20, and Article 21 and / or sharia products and services, must comply with the Sharia Principles.

It can be said that MUI had sufficient power to legislate the *sharia* standard in Indonesia. Furthermore, according to Agus Triyanta stated that the refer of MUI *fatwa* as an aspect of the Indonesia national legislation signal that MUI had greater power to influence legislation of bill in Indonesia.³⁰ Thus, MUI *fatwa* is inseparable aspect of building in Indonesia regardless did not had any real hierarchy position in Indonesia national law.

Even today, in the era of Covid-19 Pandemic, *fatwa* is also intended to comply with government regulations related to Covid-19, which based on John Austin's Legal Theory of Positivism and Hans Kelsen's Pure Legal Theory, the law must be made by a legislative power, written, its enforcement can be enforced by law enforcement agencies and has sanctions. Again, *Fatwa* cannot consider as law, however the law that is used not only to regulate, prevent, enforce ethical truth and justice, but also the function of law to maintain and uphold the dignity or dignity of humans, the nation, and the state, as well as the respectability of a religion, ethnicity, nation and also other groups. The basis of legal theory assumes of understanding the law, includes: (1) Non-linear, (2) freedom of thought

²⁷ Presidential Regulation of the Republic of Indonesia Number 151 of 2014 concerning Funding Assistance for the Activities of the Indonesian Ulama Council

²⁸ Law No. 21 of 2008 on Islamic Banking.

²⁹ Ibid.

³⁰ Agus Triyanta, 'Fatwa Dalam Keuangan Syariah: Kekuatan Mengikat Dan Kemungkinannya Untuk Digugat Melalui Judicial Review', (2014) Jurnal Hukum IUS QUIA IUSTUM 1.

(integrity and honesty), (3) Religious values (religious values influence legal construction), (4) National law is not autonomous (influenced by religious law and international law), and (5) Ideology of affirmative action for marginalized groups.³¹ It can be said that the *Fatwa* is not only a Law but also an effective instrument in social engineering.

Then how is the formation of the MUI *fatwa*? MUI explains that the formation of the MUI *fatwa* is based on the Guidelines for Determining the *Fatwa* of the Indonesian *Ulama* Council Number: U-596 / MUI / X / 1997 mainly in Part III. Where the process of making the *Fatwa* is as follows³²:

1. Every issue to be challenged must be discussed in a Commission Meeting so that the substance and issue of the issue are known. To obtain clarity as referred to in paragraph 1, you must first hear and consider the opinions of experts in the field related to the matter.
2. In discussing this issue, the Commission must first pay attention to and consider the opinions of the priests of previous schools of thought and jurists by researching the basics (arguments) and their still faces, as well as the benefit of the people. If there is only one opinion on the matter, the Commission may adopt it as a *fatwa* decision. If it turns out that there is more than one opinion, the Commission shall elect an opinion through *tarjih* and select it as a *fatwa* decision if that opinion fulfills the provisions in Article 2 paragraph 1.
3. If the provisions of Article 4 paragraph 2 and 3 cannot be fulfilled, the Commission may adopt the *ilhaq al-masail bi maza'iriha* method, as long as possible. *Ilhaq* is done by paying close attention to *mulhaq bih*, *mulhaq ilaih*, and *wajh al-ilhaq*.
4. If the provisions of Article 5 cannot be implemented, the Commission shall carry out *ijtihad jama'i*. *Ijtihad jama'i* is carried out by using *qawa'id ushuliyyah* and *qawa'id fiqhiyah* to explore and get the law from the basics as mentioned in article 2 paragraph 2.
5. If the discussion is in-depth and comprehensive and considers the opinions developed in the meeting, the Commission shall determine the opinion which will be used as a *Fatwa* Decision. In the *Fatwa* Decree, the basics must be stated (article 2 paragraph 2) accompanied by an adequate description and analysis of the problem as well as the source of the opinion of the *ulama* quoted. *Fatwa* decisions are signed by the Chairperson and Secretary of the Commission
6. Every *Fatwa* Decree must be annotated by the Leadership Council in the form of a *Fatwa* Decree. The *Fatwa* Decree must be formulated in a language that can be easily understood by the wider community. Every decision to determine a *fatwa* should be accompanied by a formulation of follow-up actions and recommendations, and/or a solution that is needed because of the decree on determining the *fatwa*.

³¹ Jawahir Thontowi, 'Pergeseran Paradigma Pemikiran Hukum Positivistik Menuju ke Hukum Progressif dan Inklusif serta Relevasinya Bagi Pembangunan Hukum Nasional Indonesia' (2019).

³² Guidelines for Determining *Fatwa* of the Indonesian *Ulema* Council Number: U-596 / MUI / X / 1997.

In the practice, MUI's *Fatwa* uses to solve some issue like³³:

1. The Indonesian *Ulama* Council has the authority to issue a fatwa regarding:
 - a. Religious issues that are general in nature and concern Indonesian Moslems nationally
 - b. Religious problems in one area are thought to extend to other areas
2. The Regional Indonesian *Ulama* Council has the authority to issue *fatwa*'s on religious matters of a local nature (cases in the regions), by first holding consultations with the MUI / MUI *Fatwa* and Law Commission.

Another privilege that Moslems had in Indonesia was the existence of a Religious Court which consisted of a district court and High Court and the Islamic Arbitration Body. According to Law No. 7 of 1989 *jo.* Law No. 3 of 2006 *jo.* Law No. 50 of 2009 on Religious Court in Indonesia especially article 1 stated that Religious Court in Indonesia is for Indonesia Moslem citizen.³⁴ Under Law No. 7 of 1989 *jo.* Law No 3 of 2006 especially article 49 stated that Religious Court of Indonesia had authority to judge the following cases³⁵: married, inheritance, testament, grant, *waqf*, *zakat*, *infaq*, *shadaqoh*, and Islamic Economic.

The authority of religious court is expanded in Law 3 of 2006 where Religious Court had authority over Islamic Business. Another legal remedy that can be an option for Islamic Business case is via Arbitration which is ruled under SK No Kep-392/MUI/V/1992 SK about *Badan Arbitrase Muamalat Indonesia* (Indonesian *Muamalat* Arbitration Board) but because of the growth of many Islamic business institution with SK MUI No Kep-09/MUI XII/2003 about The changing name of or BAMUI changed to *Badan Arbitrase Syariah Nasional* (National Sharia Arbitration Board) or Basyarnas.³⁶ Which Basyarnas function nearly the same as the regular counterpart of Indonesia Arbitration or under the Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution.³⁷ It can be said that much of Islamic law that applied in Indonesia was the private part of the law, with exception of Aceh with partially can conduct in Islamic Civil Law according to the Peace Agreement between the Government of Indonesia and Aceh rebel or The Helsinki Peace Agreement.

³³ Ibid.

³⁴ Law No. 7 of 1989 *jo.* Law No. 3 of 2006 *jo.* Law No. 50 of 2009 on Religious Court.

³⁵ Ibid.

³⁶ Agus Triyanta, 'Kelebihan dan Kelemahan Arbitrase Syariah' (28 January 2021) <<https://new.hukumonline.com/klinik/detail/ulasan/cl3189/kelebihan-dan-kelemahan-arbitrase-syariah/>>.

³⁷ Ibid.

4. Company in Indonesia

The company according to Labor Law No 23 of 2006³⁸ Article 1 verse 6 (a) and 6 (b), company is any form of business incorporated under legal entity or not, owned by individuals, the property of a partnership, or a legal entity, both private and property a country that employs workers/laborers by paying wages or rewards or social businesses and other businesses that have management and employ others by paying wages or rewards in kind other in another form.

Indonesia Company model was highly influenced by Netherland Private Alliance or *Maatschap*. According to that Indonesia law especially in Indonesia Private Law Book III, Chapter VIII was ruling about *Maatschap*. Indonesia had many types of *Maatschap* like Limited Liability Company or *Commanditaire Vennootschap*, Foundation, Firm, and Cooperation/*Koperasi*³⁹.

However, from many *Maatschap* in Indonesia, there are 3 *Maatschaps* that consider as Legal entity in Indonesia⁴⁰, and they are Limited Liability Company or LLC according to Limited Liability Company Law No. 40 of 2007⁴¹, Law No 16 of 2001 on Foundation⁴², and Law No. 12 of 2012 on Cooperation⁴³.

The Islamic model of Company or Funding is very rarely found in Indonesia, and usually, the terms like *Mudharabah* are just used in the Islamic Banking system as one of the loan systems.

5. CSR in Indonesian Company

Like every company in the world, a company in Indonesia especially the big one has CSR activity. Djarum for example, a cigarette company in Indonesia had a CSR spearheaded by Djarum Foundation. From the Djarum Foundation website, at least there is 5 Unit of CSR, they are *Djarum Sumbangsih Sosial* or Public Serving activity, Djarum Badminton Scholarship for Badminton Athlete, Djarum Tree for Life an environmental issue CSR, *Djarum Beasiswa* a scholarship for university students, *Djarum Apresiasi Budaya* an art CSR just an example about how a company did CSR in Indonesia.

³⁸ Law No. 23 of 2006 on Labor.

³⁹ Law No. 25 1992 jo. Law No. 12 of 2012 on Cooperation.

⁴⁰ Subject of Private Law in Indonesia was divided by two and it was individual and legal entity, when individual was natural person as subject of private law, company was considered as subject of private law or independent entity because it is granted by law.

⁴¹ Law No. 40 of 2007 on Limited Liability Company.

⁴² Law No. 16 of 2001 on Foundation.

⁴³ Law No. 25 1992 jo. Law No. 12 of 2012 on Cooperations (n 41).

When nearly every country has not ruled about CSR and CSR is more like moral or social responsibility rather than something mandatory from the law, companies in Indonesia should do CSR regarding the law.⁴⁴ According to Arif Zulkifli Nasution, there is some law that rules the mandatory of CSR, and they are⁴⁵:

- a. Law No. 25 of 2007 on Investment
- b. Law No. 40 of 2007 on Limited Liability Company
- c. Decree of the Minister of Finance No. 232 / KMK.013 / 1989 dated November 11, 1989, concerning Guidelines for the Development of Weak Economies and Cooperatives through State-Owned Enterprises (SOEs).
- d. Government Regulation Number 32 of 1998 concerning the Development and Development of Small Businesses
- e. Law Number 19 of 2003 concerning SOEs
- f. Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises
- g. Law Number 13 of 2011 concerning Handling of the Poor and Needy
- h. Republic of Indonesia Minister of Social Affairs Regulation No. 13 of 2012 concerning Business Responsibility Forum in the implementation of Social Welfare.

From the list above we can conclude that CSR is mandatory for every company in Indonesia rather than just a moral responsibility for the company. Even According to Article 34 of Investment Law 25.2007⁴⁶, Company that did not do CSR will be punished by Written Warning, Limitation of Company Activity, freezing of business activities and/or investment facilities, and revocation of business activities and/or investment facilities.

After talking about how mandatory CSR in Indonesia and the acceptance of *Zakat* is one of the CSR models, How *Zakat* was handled in Indonesia? *Zakat* in Indonesia is handled by *Badan Amil Zakat Nasional* or National *Amil Zakat* Body or BAZNAS with the legal basis of Indonesia Law number 23 the year 2011 about *Zakat* Management.

According to article 2 of Indonesia *Zakat* Management Law No. 23 of 2011⁴⁷, *Zakat* in Indonesia was based on *syariat* (Islamic Law), *Amanah* (trustworthy), Utility, Justice, legal certainty, Integrated, and accountability. BAZNAS is in the capital, but BAZNAS had a branch in every Province and Residence and City in Indonesia according to Article 15 of Indonesia *Zakat* Management Law No. 23 of 2011⁴⁸.

⁴⁴ Sri Wartini and Dodik Setiawan Nur Heriyanto, 'Enhancing the Implementation of CSR in Developing Countries to Achieve Sustainable Development: Indonesian Perspective', (2014) US-China Law Review 11.

⁴⁵ Arif Zulkifli Nasution, 'Dasar Hukum CSR' (bangazul, 7 January 2018) <<https://bangazul.com/dasar-hukum-csr/>> accessed 2 December 2019.

⁴⁶ Law No. 25 of 2007 on Investments.

⁴⁷ Law No. 23 of 2011 on Zakat.

⁴⁸ Ibid.

Article 16 of Indonesia *Zakat* management Law No. 23 of 2011⁴⁹ stated that BAZNAS, provincial BAZNAS, and BAZNAS regencies/cities can form *Zakat* Collection Unit in government agencies, owned business entities state, regionally owned business entities, private companies, and Republic representatives Indonesia abroad and can form *Zakat* Collection Unit at the district, village level or other names, and other places. It is why many government-owned companies and other private companies even had *Zakat*'s body coordinated with BAZNAS. Another reason why many companies had a relation with BAZNAS because there is some benefit of paying *zakat* including Tax Reduction.⁵⁰ According to Article 22 of Indonesia *Zakat* Management Law No. 23 of 2011 stated that *Zakat* paid by *Muzaki* (*Zakat* Payer) to BAZNAS or *Zakat* Bureau is deducted from Taxable income⁵¹, more over in Article 23 of Indonesia *Zakat* Management Law No. 23 of 2011 stated that the *Zakat* payment receipt should be given to the *Muzaki* as a proof to get tax deduction.⁵² It can be said that although *Zakat* is religious mandatory that should be given as a mandatory charity but it also had a practical value as tax deduction causes.

Nearly the same concept about Tax Reduction was applied in the USA, but in this case, instead of *Zakat*, it is a Corporate Social Responsibility program. This was proven by research from the CFO in 2015 that stated when the company in the US pay around 26% of Tax top 5 CSR company paid 1.7 % less than other company.⁵³ The nearly same practice happens in Indonesia when *Zakat* treasure was exempt by the Tax office in Indonesia as Tax Object.

E. Conclusion

When asked about how the concept of Corporate Social Responsibility in Islamic value the first talking point will be Islam view regarding, moral duty of helping each other in Islamic belief was to build around the concept of a relation between Human and God or *Hamblunminallah*, Relation between Human and Human or *Habluminannas* and Relation

⁴⁹ Ibid.

⁵⁰ Merna Arini Nurizzati, 'Zakat Bisa Meringankan Bayar Pajak, Ini Penjelasannya!' (kreditgogo, May 27 20179) <<https://kreditgogo.com/artikel/Informasi-Umum/Zakat-Bisa-Meringankan-Bayar-Pajak-Ini-Penjelasannya.html>> accessed 26 November 2019.

⁵¹ Law No. 23 of 2011 on Zakat (n 47).

⁵² Ibid.

⁵³ David Mcann, 'Socially Responsible Companies Pay Lower Taxes' (cfo, 16 December 2015) <<https://www.cfo.com/tax/2015/12/socially-responsible-companies-pay-lower-taxes-csr/>>.

between Human and environment or *habluminal'alam*, where *Hambluminallah* put the legal foundation between *Habluminannas* and *habluminal'alam*.

The concept of helping between human beings was put in a concept of *Zakat* and Donation when the relationship between Human and its environment mainly used Heaven decided theory as God decided Human was the leader of the earth. Can be said that in Islamic Corporate social responsibility or CSR rather than “Helping Humanity and Environment” because of Corporate Responsibility, Islamic see it more like “Heavenly Duty” or simply faith of Islam as religion.

When in Islamic View the “Heaven’s Order” and “God’s will” was the foundation of in every part of Moslem including in Business and CSR, the western business system was shown different view. Much of CSR was mean to be protecting the name of the company for future endeavors and marketing even become a leverage and lobby material in the government and company relation although not every company does that. Islam's ways of thinking about CSR are more about “Heavenly Duty” and “Duty of Humanity” rather than just for Future Endeavor and marketing which become the main different between the two concepts.

When talked about How the Indonesia Government Regulated the Islamic Corporate Social Responsibility in Indonesia especially related to religion of Islam cannot be separated from the fact how Indonesia as the largest Moslem country in the World indeed had some Sharia laws that applied in Indonesia, but in general, Indonesia was still using Netherland law as the core of company law in Indonesia. Indonesia is another example of how Sharia law can be done in even non-religious countries like Saudi Arabia or Malaysia. Where Indonesia just takes a partial portion of Sharia law especially in the private matter. It can be said that the direction of Sharia law can be understood as *Universal* rather than exclusive for Islamic society, which had a similar concept with Islam as *Rahmatan Lil Alamin* or Islam as the Grace for the world. Like every other part company in the world, Indonesia's company had a CSR activity too, however rather than just a moral responsibility CSR in Indonesia was regulated by Law and not purely just self-regulated in the company which one of the methods is by conducting *zakat*. When talked about *Zakat* in Indonesia, the *Zakat* system is well regulated by the government in Indonesia, although the fact of Indonesia is not theology countries like KSA or Malaysia, but the fact that Indonesia is religious country but not Theology country. Which according to the law of Indonesia *Zakat* or Mandatory Religious Donation can be consider as cause of Tax Reduction.

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