



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 97/PUU-XXII/2024**

Concerning

Functions and Authorities of the National Zakat Agency (BAZNAS) as a Super-Agency

- Petitioners** : **Dompot Dhuafa Republika, et al.**
- Type of Case** : Material review of Law Number 23 of 2011 concerning Zakat Management (Law 23/2011) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Article 5 paragraph (1), Article 6, Article 7 paragraph (1) letter a, letter c, and letter d, Article 16 paragraph (1), Article 17, Article 18 paragraph (2) letter c and letter h, Article 19, Article 20, and Article 43 paragraph (3) and paragraph (4) of Law 23/2011 against Article 27 paragraph (1), Article 28C paragraph (2), Article 28D paragraph (1), 28E paragraph (1) and paragraph (3), Article 28I paragraph (1), paragraph (2) and paragraph (5), Article 29 paragraph (2), Article 33 paragraph (2) and paragraph (3) of the 1945 Constitution
- Verdict** : To dismiss the Petitioners' petition entirely
- Date of Decision** : Thursday, August 28, 2025
- Overview of Decision** :

The Petitioners are Dompot Dhuafa Republika Foundation (Petitioner I), a foundation legal entity engaged in the social sector, serving as a national Zakat Collection Agency (LAZ or Lembaga Amil Zakat) carrying out the collection, distribution, and utilization of *zakat*, *infaq* and *sadaqa* funds, and established under Deed of Establishment Number 41 dated September 14, 1994, the Zakat Forum (Petitioner II), an association legal entity engaged in the field of zakat advocacy, comprising of a combination of various Zakat Collection Agencies throughout Indonesia, and established under Deed of Establishment Number 02 dated June 5, 2008, and Arif Rahmadi Haryono (Petitioner III), a Muslim Indonesian citizen having activities as a zakat collector (*amil*) registered under Certificate of Competence of Zakat Collector Expert Number KEU 495 03578 2022 issued by the Sharia Financial Professional Certification Institute. Petitioner I has constitutional rights as guaranteed in Article 29 paragraph (1) and paragraph (2) of the 1945 Constitution, Petitioner II has constitutional rights as guaranteed in Article 27 paragraph (1), Article 28C paragraph (2), Article 28D paragraph (1), Article 28E paragraph (1), Article 28H paragraph (2), Article 28I paragraph (2) and paragraph (5), Article 29 paragraph (1) and paragraph (2), and Article 33 paragraph (2) and paragraph (3) of the 1945 Constitution, and Petitioner III explains that he has constitutional rights as guaranteed in Article 28D paragraph (1), Article 28I paragraph (2), Article 28E paragraph (1) and Article 29 paragraph (1) and

paragraph (2) of the 1945 Constitution. The enactment of the articles petitioned for review, in the opinion of Petitioner I, has brought a legal impact in the form of unequal competition conditions between the state and society in the collection, distribution, and utilization of zakat, because the National Zakat Agency (BAZNAS or Badan Amil Zakat Nasional) has been given additional functions as a regulator and auditor. Meanwhile, Petitioner II argues that it suffers a constitutional loss because of the articles being petitioned for review. The licensing involving BAZNAS creates a conflict of interest, given that, in zakat management, BAZNAS performs both operator and regulator functions and has the right to recommend the granting of a license to LAZ. Petitioner III, a zakat collector who advocates for zakat management and assists small LAZs, is hindered from completing assistance tasks in establishing new LAZs because LAZs applying for licenses are unable to proceed until they receive a recommendation from BAZNAS. If the petition in the case *a quo* is granted, then the constitutional loss suffered by the Petitioners will be restored.

Regarding the Court's authority, because the Petitioners' petition is a review of the norms of law, *in casu* Article 5 paragraph (1), Article 6, Article 7 paragraph (1) letter a, letter c, and letter d, Article 16 paragraph (1), Article 17, Article 18 paragraph (2) letter c and letter h, Article 19, Article 20, and Article 43 paragraph (3) and paragraph (4) of Law 23/2011 against Article 27 paragraph (1), Article 28C paragraph (2), Article 28D paragraph (1), 28E paragraph (1) and paragraph (3), Article 28I paragraph (1), paragraph (2) and paragraph (5), Article 29 paragraph (2), Article 33 paragraph (2) and paragraph (3) of the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

Whereas regarding the Petitioners' legal standing, in the Court's opinion, the Petitioners have clearly described and proven their qualifications as private legal entities (Petitioner I and Petitioner II) and as an individual Indonesian citizen (Petitioner III). The Petitioners have also clearly described the alleged constitutional loss that is specific, actual, and potential due to the enactment of the norms petitioned for review, as well as a description of the causal relationship (*causal verband*) with the norms petitioned for review, where, if the Petitioners' petition is granted, the Petitioners' alleged constitutional loss will no longer occur. Thus, the Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in submitting the petition *a quo*.

Whereas the Court further considers the constitutionality issues argued by the Petitioners:

1. Whereas, in the Petitioners' opinion, Article 5 paragraph (1), Article 6, and Article 7 paragraph (1) letter a, letter c, and letter d of Law 23/2011 are contrary to Article 27 paragraph (1), Article 28C paragraph (2), Article 28E paragraph (1), Article 28I paragraph (2) and paragraph (5), Article 29 paragraph (2), and Article 33 paragraph (2) and paragraph (3) of the 1945 Constitution. The Court notes that the main issue is the constitutionality of the norms of the articles *a quo*, namely the Petitioners' objections to the authority and functions held by BAZNAS under Law 23/2011. The Petitioners consider BAZNAS to be a super-agency because it performs the functions of regulator, operator, controller, and auditor, resulting in inequality that hinders the Petitioners' progress and giving rise to conflicts of interest and potential abuse of power. In the Petitioners' opinion, BAZNAS should be the sole implementer of zakat management. Meanwhile, the authority regarding planning, control, reporting, and accountability lies with the Ministry of Religion. Regarding the authority and functions held by BAZNAS under Law 23/2011, the Court has considered this in Constitutional Court Decision Number 86/PUU-X/2012, particularly paragraphs [3.15.3] and [3.15.4].

BAZNAS's authority and functions, and its relationship with the government, have been regulated in a series of norms in Article 5, Article 6, Article 7, Article 8, Article 10, Article 15, Article 16, Article 24, Article 29, Article 33, and Article 34 of Law 23/2011. To carry out these functions, the ministry that administers government affairs in the field of religion is also given the authority to form Ministerial Regulations [*vide* Article 4 paragraph (5) and Article 27 paragraph (3) of Law 23/2011]. In addition, the Law *a quo* has also clearly given the government the authority to form government regulations as further provisions [*vide* Article 13, Article 14 paragraph (2), Article 16 paragraph (2), Article 20, Article 24, Article 29 paragraph (6), Article 33 paragraph (1), Article 36 paragraph

(2) of Law 23/2011]. If BAZNAS wishes to regulate matters relating to the administration of its duties and functions, these regulations are only internal in nature and must not reduce the issues delegated to government regulations and ministerial regulations.

In addition, as the Court's stance in Constitutional Court Decision Number 86/PUU-X/2012, BAZNAS's position and institutional nature, as regulated in Article 5 paragraph (2) and paragraph (3) of Law 23/2011, constitute the lawmakers' legal policies. In this case, such legal policies remain constitutional, provided they do not violate these principles: morality; rationality; no intolerable injustice; not exceeding the lawmakers' authority; no abuse of authority; not inconsistent with and not negating the principles in the 1945 Constitution; not inconsistent with political rights; not inconsistent with the sovereignty of the people; and not carried out arbitrarily (*willekeur*).

Provisions of Article 7 paragraph (1) letter a, letter c, and letter d of the Law *a quo* regarding BAZNAS's functions cannot be considered as a form of centralization of zakat management which could give rise to abuse of power, as argued by the Petitioners. In this case, BAZNAS's functions in question are designed to create a unified system in planning, implementation, control, reporting, and accountability for the implementation of zakat management carried out by BAZNAS down to the lowest level and are also a form of integration and accountability of BAZNAS and zakat management institutions established by BAZNAS. So, it is inappropriate to argue that the provisions regarding BAZNAS's functions make BAZNAS a "super-agency". Such an argument is also not in accordance with Constitutional Court Decision Number 86/PUU-X/2012 which states that BAZNAS's functions under the provisions of Article 7 paragraph (1) of Law 23/2011 are basic functions that must be possessed by all organizations, *in casu* zakat management institutions, to provide more effective and efficient services to the community.

2. Whereas, in the Petitioners' opinion, Article 16 paragraph (1) of Law 23/2011 opens room for BAZNAS to interpret the word "may" as the basis for BAZNAS to be the only institution that has the exclusive right to establish a Zakat Collection Unit (Unit Pengumpul Zakat or UPZ), while prohibiting other institutions from doing so, thereby creating injustice and undermining the community's right to participate, which is contrary to Article 28C paragraph (2) and Article 28D paragraph (1) of the 1945 Constitution.

Regarding this argument, Point 267 of Appendix II to Law 12/2011, as last amended by Law 13/2022, the use of the word "may" in statutory regulations is intended to state the discretionary nature of the authority granted to authorized officials or institutions. Therefore, in its implementation, the establishment of UPZ in the norm of Article 16 paragraph (1) of Law 23/2011 cannot be used as an instrument or reason to force institutions as referred to in the norm of Article 16 paragraph (1) of Law 23/2011 to establish UPZ under BAZNAS. If there is a fact of coercion, this practice cannot be justified and accepted because, according to the basic principles of sharia, zakat payers (*muzaki*) are free to distribute zakat regarding their zakat obligation to the extent that it is given to the eligible recipients (*mustahik*) of the eight zakat categories (*asnaf*). In that context, as part of creating a unified system, the word "may" in the norm of Article 16 paragraph (1) of Law 23/2011 must still be read as a strategy to increase efficiency and effectiveness, so that zakat must be managed institutionally in accordance with Islamic law, trustworthiness, benefit, justice, legal certainty, and accountability. Within the limits of reasonable reasoning, all these strategies will lead to efforts to improve the effectiveness and efficiency of zakat management services.

3. In the Petitioners' opinion, Article 17 of Law 23/2011 narrows the space for community participation in zakat management because LAZ is only placed to assist BAZNAS. In fact, institutions such as LAZ existed before BAZNAS. In the Petitioners' opinion, both BAZNAS and LAZ should be able to cooperate or collaborate to complement each other in zakat distribution; however, the word "assist" in the norm of Article 17 of Law 23/2011 creates a superior relationship between BAZNAS and LAZ, thus being contrary to Article 27 paragraph (1) of the 1945 Constitution.

Referring to the legal considerations quoted in Constitutional Court Decision Number 86/PUU-X/2012 paragraph [3.16], the Court is of the opinion that the word “assist” in Article 17 of Law 23/2011 cannot be separated and must also be read as one unit with the word “may” in the norm of Article 17 of the Law *a quo*. In that context, the word “assist,” read as a single unit with the word “may,” will not give rise to the interpretation argued by the Petitioners. Even if the argument is valid, *quod non*, the zakat collection unit that assists BAZNAS is the one established by BAZNAS. Meanwhile, LAZ, established by the community, cannot and should not be interpreted to “assist” BAZNAS in the collection, distribution, and utilization of zakat.

Normatively, the norm of Article 17 of Law 23/2011 has provided the opportunity for the community to establish LAZs. However, in the current zakat management practice, LAZ is positioned as a party whose role is challenging to create synergy with BAZNAS, its zakat management partner. In this regard, the Court is of the opinion that regulations or restrictions by the lawmakers may not be carried out as freely as possible, but must, among other things, take into account fair demands in accordance with moral considerations, religious values, security, and public order.

4. Whereas, in the Petitioners’ opinion, Article 18 paragraph (2) letter c of Law 23/2011, which stipulates that there must be a recommendation from BAZNAS as a requirement for obtaining a license for establishing a LAZ and extending a LAZ, has made things difficult for many LAZs because BAZNAS does not easily give this recommendation unless the LAZ is willing to become an UPZ under BAZNAS. The norm *a quo* creates a conflict of interest and fails to provide equal standing between BAZNAS and LAZs, thereby rendering established LAZs that have not yet obtained a license illegal. In addition, the norm of Article 18 paragraph (2) letter h of Law 23/2011, which stipulates “willingness to undergo periodic sharia and financial audits,” creates uncertainty regarding the capacity of sharia auditors from the Ministry of Religion because they are not required to have expertise in the field of zakat law, while to become a zakat collector, one must have a special certificate for zakat management. Therefore, the norms of Article 18 paragraph (2) letter c and letter h, in the Petitioners’ opinion, are contrary to Article 27 paragraph (1) and Article 28E paragraph (1) of the 1945 Constitution.

Regarding the constitutionality issue of the norms of Article 18 paragraph (2) letter c and letter h of Law 23/2011, which the Petitioners petition them to be removed, the Court has considered it in Constitutional Court Decision Number 86/PUU-X/2012 paragraph [3.18], which, in essence, states that the requirement for a recommendation from BAZNAS and the willingness to be audited periodically for sharia and finance as part of the requirements for an institution to become a LAZ is not a constitutionality issue of norms, and remains in accordance with the functions and objectives of exercising BAZNAS’ authority. Until now, there have been no strong and fundamental reasons for the Court to shift from its stance as stated in the legal considerations in Constitutional Court Decision Number 86/PUU-X/2012. Article 18 paragraph (2) letter c of Law 23/2011 may not be used as an instrument or tool of pressure and, at the same time, of narrowing the room for the community to play a role in zakat management, particularly for LAZs that already existed and were established before the establishment of BAZNAS.

5. Whereas, in the Petitioners’ opinion, Article 19 of Law 23/2011, which stipulates the obligation of LAZ to make an audited report regarding the collection, distribution, and utilization of zakat to BAZNAS periodically, has created an unequal relationship between BAZNAS and LAZ, even though both of them have the same role. The enactment of the norm *a quo* causes an abuse of power and conflict of interest by BAZNAS, which has a dual role. In the Petitioners’ opinion, the role of the auditor in zakat management should be assigned to the Ministry of Religion, as the state institution with authority over religious affairs, due to the high audit fees charged by the Public Accounting Office (KAP). In contrast, not all LAZs can pay the KAP fees. Because of this unequal position, the norm of Article 19 of Law 23/2011 is contrary to Article 27 paragraph (1) of the 1945 Constitution.

Regarding the constitutionality of the norm of Article 19 of Law 23/2011, the Court has also considered it in Constitutional Court Decision Number 86/PUU-X/2012 paragraph [3.18], which confirms that regarding the obligation of LAZ to make an audited report regarding the collection, distribution, and utilization of zakat to BAZNAS periodically, the Court has considered that Law 23/2011 does regulate an unequal relationship between BAZNAS and LAZ. In this case, BAZNAS is a non-structural government organization that acts as an extension of the state in zakat management, while LAZ is a community organization that manages zakat. This unequal position between BAZNAS and LAZ is not intended to weaken LAZ, but rather is under the principle of coordination between BAZNAS and LAZ, so that they can create strong synergy in zakat management.

The argument that the positions of BAZNAS and LAZ are not on the same level and that this negatively affects zakat fund collection, in the Court's opinion, makes zakat management seem like a profit-oriented business, far from the benefit of the people. This paradigm is not in line with the objectives of zakat management; therefore, the state must be involved and regulate zakat management to maximize the potential benefits of zakat for community welfare and poverty alleviation.

6. Whereas, in the Petitioners' opinion, Article 20 of Law 23/2011 causes restrictions and obstacles to the operation and development of LAZ due to the existence of further regulations in government regulations regarding organizational requirements and the formation of representatives, where these regulations do not take into account justice, legal certainty and efficiency, thus creating unfair, legal uncertainty, and discriminatory provisions due to the lack of room for public participation. In the Petitioners' opinion, the provisions of the government regulations should be incorporated directly into the law. Therefore, in the Petitioners' opinion, the norm of Article 20 of Law 23/2011 is contrary to Article 28D paragraph (1) of the 1945 Constitution.

Article 20 of Law 23/2011 serves as the legal basis for the issuance of implementing regulations for several norms regulated by Law 23/2011, thereby enabling the Law *a quo* to be more operational, particularly in further regulating LAZ. Furthermore, under Article 1 point 5, which is strengthened by Article 12 of Law 12/2011, it shows that the law's order to regulate in more detail matters related to zakat management in government regulations is not intended to hinder the operation and development of LAZ, but rather so that the norms in Law 23/2011 can be appropriately implemented. The interpretation of Article 20 of Law 23/2011, as petitioned by the Petitioners in their *petitum*, in the Court's opinion, does not need to be reaffirmed, because, in principle, a government regulation must be made with reference to and must not be contrary to the law that orders its formation.

7. Whereas, in the Petitioners' opinion, the norms of Article 43 paragraph (3) and paragraph (4) of Law 23/2011, which stipulate that LAZs that have been confirmed by the Minister of Religion prior to the enactment of Law 23/2011 are declared to be LAZs under Law 23/2011 and shall be required to make adjustments no later than 5 (five) years, have created injustice and legal uncertainty regarding the legality of LAZs that have been established and have the potential to be faced with the choice of having to relinquish or being asked to choose a new form within that period, thus violating the Petitioners' right. Therefore, the norms of Article 40 paragraph (3) and paragraph (4) are contrary to Article 27 paragraph (1), Article 28C paragraph (2), Article 28D paragraph (1), Article 28E paragraph (3), and Article 28I paragraph (1) and paragraph (2) of the 1945 Constitution.

Whereas the construction of the provisions of Article 43 paragraph (3) and paragraph (4) of Law 23/2011, is in Part X "Transitional Provisions," which contains adjustments to the regulations for legal actions or legal relations that already exist under previous laws, to the new statutory regulations, *in casu* from Law 38/1999 to Law 23/2011. In the context of legal science, the transitional provisions aim to: 1) avoid legal vacuums; 2) guarantee legal certainty; 3) provide legal protection for parties affected by amendments to statutory provisions; and 4) regulate transitional

or temporary matters. This means that the transitional provisions in question have provided legal certainty for LAZs that existed and were established prior to the enactment of Law 23/2011. In this case, if the consequences of the time limit are not implemented, this cannot be used as a reason to declare that the norms of Article 43 paragraph (3) and paragraph (4) of Law 23/2011 are contrary to the 1945 Constitution.

Regarding the unconstitutionality of the norms in the articles that the Petitioners petition, it is more a matter of their application. The Court considers that the formulation or construction of the norms themselves may partly determine their application. Therefore, the Court needs to emphasize that the lawmakers must immediately revise or amend Law 23/2011, no later than 2 (two) years from the date the decision *a quo* is pronounced, to strengthen zakat management, taking into account protection and fair legal certainty for all parties, by referring to the decision *a quo*. Moreover, the plan to amend Law 23/2011 has been included in the 2025-2029 National Legislation Program, serial number 18. In this case, the amendment or revision takes into account, among other things: (1) differentiation of the authority, duties and functions between regulators, guidance, and supervision (by the government) and implementers/managers/operators (by BAZNAS and LAZ); (2) giving freedom for zakat payers (*muzaki*) to determine the body/institution they trust to pay zakat; (3) provide equal opportunities for all zakat management operators to develop optimally and fairly without any subordinate relationship between zakat management institutions; (4) zakat management must be carried out to realize good zakat governance; (5) the process of amending or revising Law 23/2011 is carried out by involving stakeholders' meaningful participation, including zakat collection agencies.

Whereas pursuant to all the descriptions of the legal considerations above, the Court is of the opinion that the norms of Article 5 paragraph (1), Article 6, Article 7 paragraph (1) letter a, letter c and letter d, Article 16 paragraph (1), Article 17, Article 18 paragraph (2) letter c and letter h, Article 19, Article 20, Article 43 paragraph (3) and paragraph (4) of Law 23/2011 have been proven that they do not give rise to inequality, do not hinder the Petitioners from progressing, are not contrary to Islamic law, do not give rise to injustice, do not give rise to legal uncertainty, are not discriminatory, do not give rise to conflicts of interest, and do not hinder citizens' constitutional rights in zakat management, as regulated in Article 27 paragraph (1), Article 28C paragraph (2), Article 28D paragraph (1), 28E paragraph (1) and paragraph (3), Article 28I paragraph (1) and paragraph (2), Article 28I paragraph (5), Article 29 paragraph (2), Article 33 paragraph (2) and paragraph (3) of the 1945 Constitution, not as argued by the Petitioners.

Accordingly, the Court subsequently passes down a decision in which the verdict is to dismiss the Petitioners' petition entirely.