

Collection of Taxes by Hostage-Taking on Islamic Law Perspective

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ABSTRACT

One of the government's revenues is to fill the state treasury through tax collection, because taxes make a large contribution to the state, to meet the needs of the community through the state treasury. In other words, tax is an agreement born from a law that obliges a person who has met the requirements specified in the law to pay a certain amount to the state that can be enforced, without getting compensation that is directly used to finance the administration of the state. Efforts to collect taxes are certainly important, so it should be understood that from an economic perspective, taxes are a transfer of wealth from taxpayers to the state treasury, which can be seen as a reduction in wealth. Because taxes reduce wealth, naturally someone (taxpayers) will try not to fulfill these obligations, by avoiding taxes or not paying taxes. The non-fulfillment of tax obligations can occur because the taxpayer or the tax underwriter does not have the will or intention to fulfill their tax obligations. The indifference of taxpayers in paying taxes makes the competent authorities forced to collect in the ways that have been stipulated in the law, one of which is by means of hostage. In this paper, we will explain tax collection by means of hostage taking in the perspective of Islamic law.

Keywords: Islamic Law, Tax, Hostage.

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ABSTRAK

Salah satu pendapatan pemerintah untuk mengisi kas negara melalui pemungutan pajak, karena pajak memberikan sumbangsih kepada negara yang besar, untuk memenuhi kebutuhan masyarakat melalui kas negara. Dengan kata lain pajak merupakan perikatan yang lahir dari Undang-Undang yang mewajibkan seseorang yang telah memenuhi syarat yang ditentukan dalam Undang-Undang untuk membayar suatu jumlah tertentu kepada negara yang dapat dipakasakan, dengan tidak mendapatkan imbalan yang secara langsung yang digunakan untuk membiayai penyelenggaraan negara. Upaya penagihan pajak tentu merupakan hal penting, sehingga perlu dipahami bahwa pajak dari sisi ekonomi merupakan peralihan kekayaan dari wajib pajak ke dalam kas negara dapat dipandang sebuah pengurangan kekayaan. Karena pajak mengurangi kekayaan tentu saja secara alamiah seseorang (wajib pajak) akan berusaha untuk tidak memenuhi kewajiban tersebut, dengan cara penghindaran pajak atau tidak membayar pajak. Tidak terpenuhinya kewajiban perpajakan dapat terjadi karena wajib pajak ataupun penanggung pajak tidak mempunyai kemauan atau niat untuk memenuhi kewajiban perpajakannya. Ketidakpedulian wajib pajak dalam membayar pajak membuat pejabat yang berwenang terpaksa untuk menagih dengan cara-cara yang sudah ditetapkan di dalam Undang-Undang, yang salah satunya dengan cara penyenderaan. Dalam tulisan ini akan dijelaskan penagihan pajak dengan cara penyanderaan dalam perspektif hukum Islam.

Kata Kunci : *Hukum Islam, Pajak, Penyanderaan*

A. PENDAHULUAN

In the sphere of human life living together in society for such a great state is incarnated in the container of a country. A country needs facilities and infrastructure that support the survival of its people and the country, so the participation of the community together in various forms gives a very urgent contribution to the state, one of them is taxes. Taxes are an important element in financing state administration, including in Indonesia. It should be understood that a tax that from the economic side is a transition of wealth from the taxpayer into the state treasury can be viewed as a reduction in one's wealth. Since taxes reduce wealth, of course, naturally a person (taxpayer) will try not to fulfill those obligations. It can be through tax avoidance methods or by certain sweeps or even tax smuggling. So that tax collection efforts are certainly important and

must be maximized. Non-fulfillment of tax obligations can occur because the taxpayer or tax insurer does not have the will or intention to fulfill their tax obligations. The indifference of the taxpayer in paying taxes makes the authorized officials forced to collect in the ways stipulated in the Act. One of them is by means of hostage.¹

Hostage-taking or *gijzeling* or force-by-body or hostage-taking institutions. The term *gijzeling* comes from a Dutch term meaning hostage. The arrangement of hostage-taking institutions has actually existed since before Indonesia became independent. Provisions regarding *gijzeling* are regulated in the Procedural Law, namely in articles 209 to 224 of the updated Indonesian Reglemen (HIR) and articles 242 to 256 of the Procedural Law Reglemen for areas outside Java and Madura (RBg). This provision was later frozen by Supreme Court circulars No. 2 of 1964 and No. 4 of 1975 because it was considered inhumane and contrary to Pancasila. However, in its course in 2000 this institution was enacted/revived with the issuance of PERMA No. 1 of 2000. As well as the enactment of Law No. 19 of 2000 concerning Amendments to Law No. 19 of 1997 concerning Tax Collection by Force Letter.²³

The background to the implementation of the hostage system in tax law is that it is based on the fact that the state is often difficult to collect taxes because of taxpayers who are not compliant in paying taxes. Although the government has given leeway by giving advance warnings through Tax Returns (SPP), sometimes taxpayers still neglect to pay taxes and even tend to avoid the

¹ And. Sri pudyatmoko, *Pengantar Hukum Pajak*, Edisi Revisi (Yogyakarta : Andi Offset , 2006), p. 1.

² Translation term "*kidnapping*" with hostage or Standoff exist of deep PERMA No. 2 Year 1964 and PERMA No. 4 Year 1975. While according to PERMA No. 1 Year 2000, translation *kidnapping* with Words hostage or Standoff be do not true because do not Include understanding Debtor that can but do not want Meet his obligations deep pay debt. Terjrmahannya that true be force body (get views consideration weigh letter b).

³ Galang Asmara *Peradilan Pajak dan Lembaga Penyanderaan dalam Hukum Pajak di Indonesia*, Cetakan Ke-1 (Yogyakarta : LaksBang PRESSindo, 2006), p. 138.
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obligation to pay taxes. Legal action in the form of hostage-taking or coercion of the agency, refers to Law No. 19 of 2000 concerning tax collection with forced letters, Supreme Court regulation No. 1 of 2000 and Government Regulation No. 13 of 2000 concerning Places and Procedures for Hostage Taking, Rehabilitation of Good Name of Tax Insurers, and Provision of Compensation in the Context of Tax Collection with Forced Letters. The mechanism of hostage taking by entering the taxpayer into a cell (detention center) in case of arrears in large quantities. The difficulty experienced is when the taxpayer gets around when the officer is about to confiscate his assets for auction. Moreover, sometimes their assets are sold in advance or transferred hands, so the existing assets do not correspond to the amount of arrears. So that this system was put in place in the hope of increasing the country's foreign exchange.

Islam considers human economic activity as one aspect of the implementation of responsibilities in the world. The person who is more and more involved in economic activities, then he will be more able and good as long as his life balance is maintained. Islam also teaches the principle of wealth transfer which is symbolized by the terms zakat, sadaqah, waqf and infaq. This principle implies reducing wealth to distribute to the poor or people who need it. In line with another principle, that wealth should not only circulate among a few people, because this will cause social inequality. It is on this basis that the state serves to carry out the redistribution of people's income and wealth. This function is carried out, among others, through tax institutions. Taxes not only function in distribution, but also function as allocation. The function of tax allocation according to Islam is directed at strengthening the self-help of the community itself.

A. Literature Review

In some literature has been explained a lot about the tax collection mechanism that occurs between the tax insurer and the tax collector. This is in

the background of the relationship between the tax insurer and the tax collector, which in reality often conflicts occur. So it is not wrong for Wiratni Ahmadi to illustrate that taxes are a very important and strategic source of state revenue.⁴

According to Rachmat Soemitro, hostage taking is more focused on psychiatric aspects (*psychologic*) and human dignity. People who are held hostage because their debts to the state/society are not paid, by society are perceived as disobedience to the state which is highly reprehensible and reduces the self-esteem of the offender. Therefore, the taxpayer or tax insurer and his family will be ashamed. Because of the psychological pressure that the taxpayer will pay the tax he owes. So according to Rachmat Soemitro, hostage-taking can still be listed even as the last means of force.⁵

Galang Asmara, clearly explained how the procedures for collecting taxes, and taxation can be passed by the hostage taking of the tax insurer. ⁶ In detail, he also explained how Law Number 19 of 1997 and Law Number 19 of 2000 discussed the mechanism for taking tax insurers hostage. In addition, Galang Asmara argued that the hostage-taking system is a form of tax collection in actions or stern warnings from the state against tax arrears.

Yul Endri in his research entitled *the concept of fiscal policy in regulating the country's economy according to the perspective of Islamic law*, in his discussion he used a legal approach and focused on tax issues in fiscal policy. ⁷ Nurul Aini Musyarofah in his research entitled *fiscal policy in an*

⁴ Wiratni Ahmadi, 2006. *Perlindungan Hukum Bagi Wajib Pajak Dalam Penyelesaian Sengketa Pajak*, Cetakan Ke-1 (Rafika Aditama : Bandung), p. 54.

⁵ Galang Asmara, 2006. *Peradilan Pajak dan Lembaga Penyanderaan dalam Hukum Pajak di Indonesia*, p. 160.

⁶ *Ibid.*, p. 137-159.

⁷ Yul Endri, Konsep Kebijakan Fiskal Dalam Mengatur Perekonomian Negara Menurut Perspektif Hukum Islam, *Skripsi*, Fakultas Syari'ah UIN Sunan Kalijaga Yogyakarta (2004).

economic perspective (Study of Indonesia's fiscal policy). In his discussion, he used an economic approach and what he discussed was fiscal policy in general.

⁸ Farida Hidayat in her research entitled *regional taxes and regional levies in the perspective of Islamic law: a study of articles 1 and 18 of Law No. 34 of 2000 concerning regional taxes and regional levies.* In his discussion, he used a normative juridical approach and what he discussed was only about local taxes and regional levies. He also outlined the system of collection and tariff fixing. However, in his thesis, it is not explained in the slightest about collection or collection by hostage taking.⁹

Presumably there are still many other works related to the above issues. However, in this work the author has not found a work that specifically discusses the problem of taxation with the hostage-taking system according to Islamic law. The existing work deals with taxes in general and has not explored the system of taxation with hostage-taking in the review of Islamic law.

B. Methods aboutlogs

This type of research uses *library research*, which is research that emphasizes the source of information from law books, tax books, fiqh books, journals and literature related to or relevant to the object of study. This research is descriptively analytical, where the author systematically outlines Islamic

⁸ Nurul Aini Musyarofah, Musyarofah, *Kebijakan Fiskal Dalam Perspektif Ekonomi (Studi Terhadap Kebijakan Fiskal Indonesia)*, *Skripsi* Fakultas Syari'ah IAIN Sunan Kalijaga Yogyakarta (2002).

⁹ Farida Hidayat, *Pajak Daerah dan Retribusi Daerah Dalam Perspektif Hukum Islam : Studi atas Pasal 1 dan 18 Undang-Undang No. 34 Tahun 2000 Tentang Pajak Daerah dan Retribusi Daerah*, *Skripsi* Fakultas Syari'ah IAIN Sunan Kalijaga Yogyakarta (2003).

provisions on how to collect taxes which are very important state income and then analyzed to find correlation with positive law.

The approach method used is normative Islamic law research, which is research to find the doctrines or general principles of Islamic law. So in this study, the author tried to understand the problem of tax collection by taking hostages from the scientific framework and the underlying paradigm. The data obtained by kemudi anare clarified and criticized according to the existing references. Then it is analyzed from the perspective of Islamic law.

C. Results and Discussion

The Concept of Tax Collection by Way of Hostage Taking

There are three definitions of hostage taking according to Indonesian law:

1. Hostage taking according to Tax Collection with Forced Letter (PPSP).
2. Hostage taking according to HIR
3. Hostage taking according to the Criminal Procedure Code

According to Law No. 19 of 1997 jo Law No. 19 of 2000 article 1 sub 21 what is meant by hostage taking is the temporary restraint of the freedom of the tax insurer by placing in a certain place. According to HIR Article 209 (1) (S 1941 No. 44) hostage taking is an act under civil law against a debtor at the request of the creditor if the debtor's goods are not sufficient to pay off his debt (this provision is frozen by the Supreme Court). Meanwhile, the hostage taking in the Criminal Procedure Code Article 161 (1) relates to a witness or expert witness who refuses to swear or promise. The sanction is that 14 days (fourteen days) can be charged hostage with a letter of determination of the presiding judge.

Hostage-taking is one of the tax collection efforts in the form of temporary restraint on the freedom of the tax insurer by placing it in a certain area. So that the hostage taking is not carried out arbitrarily and does not conflict

with a common sense of justice, it is given certain conditions. These requirements are quantitative and qualitative and have been carried out tax collection up to the forced letter.

1. *Quantitative requirements*, namely if the tax insurer / taxpayer has a tax debt of at least Rp. 100,000,000 (one hundred million rupiah).
2. *Qualitative requirements*, namely conditions regarding the doubtful good faith of the tax insurer / taxpayer concerned in paying off their tax debts, for example, the tax insurer / taxpayer hides his assets so that the assets used as collateral are not enough to pay off tax debts and tax collection costs.¹⁰

Thus, the tax officer obtains accurate data or information that is necessary for consideration to apply for a hostage permit. Hostage-taking is only carried out selectively, carefully and is a last resort. Hostage taking can only be done if the following things occur:¹¹

1. Tax insurers who have a tax debt of at least 100 million rupiah.
2. It is doubtful the good faith of the tax insurer in paying off the tax utang.
3. It has passed a period of 14 days from the date the forced letter was notified to the tax insurer.
4. Has received permission from the Minister of Finance of the Republic of Indonesia.

The purposes of tax collection by taking hostages are:

¹⁰ Muyassarotussholichah, *Hukum Pajak*, Cetakan ke-1, (Yogyakarta : Bidang Akademik SUKA, 2008), p. 144.

¹¹ Panca Kurniawan, *Penagihan Pajak di Indonesia Berdasarkan UU No. 19 Tahun 1997 Sebagaimana Telah Diubah dengan UU No. 19 Tahun 2000 Tentang Penagihan Pajak Dengan Surat Paksa*, Cetakan Ke-1, (Malang : Banyumedia, 2006), p. 168.

1. Establishes a balance between the interests of the taxpayer society and the interests of the state.
2. Providing legal certainty to the community so that they are motivated to pay taxes.
3. Increase state revenues from the import duty sector, excise duties, administrative fines, especially those that are bad receivables.

Basic Tax Collection In Islam

Islamic Shari'a was passed down through the prophet mahammad SAW, when human reason reached the level of maturity of thinking. That is why its principles, rules and legal goals have a maturity value and can even be said to be perfect. For without maturity or perfection it would not be able to fulfill the life of man he faced. The role of the state is considered important as the embodiment of the implementation of the mandate to develop and maintain the sustainability of natural resources, through legislation based on concepts that are in accordance with religious values (Islam). The involvement of the state in the economy according to Islam is more towards the role of the state in meeting basic human needs. The obligation to pay taxes imposed on society or citizens is a legitimate thing, because at this time the required budget is large and the growing needs of the modern state so that taxes are one of the solutions to the problems of the state.

In the course of a very long history of Islam has been known several sources of income and state finances. Some of them are routine, namely *zakat*, *kharaj* (land tax), *jizyah* (security guarantee tax on non-muslim) and *'usyûr* (import export tax). While some of the others are also incidental, namely spoils of war (*ghanimah*), mining products (*ma'âdin*), treasures (*rikaz*), relics of people who do not have heirs, found treasures and all forms of property that are not known exactly who owns them.¹²

¹² Malik Madani, "Pajak Dalam Perspektif Fiqh Islam", *Al-Jamiah*, (1994), p. 24.
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In the books of fiqh it has been quite detailed to talk about the sources of state income mentioned above. What must be understood is that not all sources of income of the state are determined on the basis of nash-nash syara' but rather some of them are determined on the basis of ijtihad which corresponds to the development and demands of life at each time. For example, the *kharaj* levy was first carried out during the time of caliph Umar Bin Khatab based on the results of his ijtihad which was later accepted by other companions. Similarly, *'usyûr* was established by the same caliph through deliberation with the other companions.¹³

In line with the development of the times and the complexity of life, there are also forms of levies beyond what has been mentioned above which is known as a tax (*dlaribah*) is a levy carried out by the ruler of his people in the name of the public interest or the state. With the development of life, the types of taxes are also increasingly diverse.

The policy of collecting fair taxes by the government is an absolute thing, because even though the discretion is in consideration of the benefit of justice, it must still take precedence. There is really no specific argument that orders or allows in the collection of taxes. However, Didin Hafiduddin found several basic reasons for the obligation of Muslims to pay taxes in addition to

﴿لَيْسَ الْبِرُّ أَنْ تُولُّوا وُجُوهَكُمْ قِبَلَ الْمَشْرِقِ وَالْمَغْرِبِ وَلَكِنَّ الْبِرَّ مَنْ آمَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَالْمَلَائِكَةِ وَالْكِتَابِ وَالنَّبِيِّينَ وَآتَى الْمَالَ عَلَى حُبِّهِ ذَوِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينَ وَابْنَ السَّبِيلِ وَالسَّائِلِينَ وَفِي الرِّقَابِ وَأَقَامَ الصَّلَاةَ وَآتَى الزَّكَاةَ وَالْمُوفُونَ بِعَهْدِهِمْ إِذَا عَاهَدُوا وَالصَّابِرِينَ فِي الْبَأْسَاءِ وَالضَّرَّاءِ وَحِينَ الْبَأْسِ أُولَٰئِكَ الَّذِينَ صَدَقُوا وَأُولَٰئِكَ هُمُ الْمُتَّقُونَ

That is to say : *It is not to turn your face towards the east and the west is a virtue, but indeed it is faith in Allah, the next day, the angels, the books, the prophets and giving the treasures he loves to his relatives, the orphans, the poor, the travelers*

¹³ *Ibid.*, p. 24.

(who need help) and those who beg for help; and (set free) the servants of the sahaya, establishing prayers, and performing zakat; keeping his promises when he promises, and those who are patient in narrowness, suffering and in war. They are the people who are right (the faith) and they are the people of piety.

According to Imam Qurthubi the sentence *وَأَتَى الْمَالَ عَلَى حُبِّهِ* ("....and give the treasure he loves....") means that if the Muslim, even though he has fulfilled zakat and has various needs and needs that must be addressed, it is obligatory to issue property for these purposes. Related to this verse, Imam Qurthubi also put forward a hadith narrated by Imam Dar al-Quthni of Fathimah binti Qayis, the Messenger of Allah said which means "*Verily in treasure there are other obligations besides zakat*".

Secondly, in addition, there is also QS. An-Nisâ' (4) : 59 on the command to obey *ûlu al-amr* as long as they command to the common good and benefit.

يَا أَيُّهَا الَّذِينَ آمَنُوا اطِيعُوا اللَّهَ وَاطِيعُوا الرَّسُولَ وَاطِيعُوا أَهْلَ الْأَمْرِ مِنْكُمْ

O you who have believed, obey Allah and obey the Messenger and the ulil amri among you.

Third, Social solidarity and helping fellow Muslims and fellow human beings in kindness which is an obligation that must be fulfilled.¹⁴

One of the concrete reasons for allowing taxes is the benefit of the people. If we follow the opinion of the clergy who allow it, then the current tax is indeed an obligation of citizens on the grounds that government funds are insufficient to finance the various needs (expenditures) that exist. If expenses or needs are not financed, an emergency will arise. Meanwhile, preventing emergencies is an obligation. As the rule of *ushul fiqh* says :

¹⁴ As mentioned in the Qur'an the Letter of Al-Maidah (5) : 2.
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ما لا يتم الواجب الا به فهو واجب¹⁵

That is to say: *Everything that cannot be abandoned for the sake of the performance of obligations other than having to be with it, then something is also obligatory to the law.*

Therefore, taxes should not be collected by means of coercion and power alone, but because of the obligations of Muslims imposed on the state such as providing a sense of security, protection due to sudden events, disasters and the like. Islam is an anti-tyranny religion. The collection of taxes cannot be done carelessly and at will of the ruler. Taxes recognized in the history of Islamic fiqh and the justified system must meet several conditions, namely:¹⁶

1. Absolutely the treasure is needed and there is no other source

Tax collection is allowed if the state really needs funds, while other sources are not obtained. Scholars and experts of Islamic law fatwas emphasized to pay attention to this requirement as far as possible. Some scholars require that it be permissible to collect taxes if the al- mâl temple is completely empty. The scholars are really very careful in obliging taxes to the people, for fear that it will burden the people with burdens beyond their ability and the greed of tax managers and rulers in seeking wealth by means of corruption of tax proceeds.

2. Fair Tax Collection

If the tax is really needed and there is no other adequate source to cover this need except the tax, then the collection of the tax is not only permissible but mandatory with the syara'. The burden was given fairly and not

¹⁵ Gusfahmi, *Pajak Menurut Syari'ah*, Edisi I, (Jakarta : PT Raja Grafindo, 2007), p. 188.

¹⁶ Yusuf Qardawi *Hukum Zakat*, cetakan ke-10, (Bogor : Pustaka Lintera Antar Nusa, 2007), p. 1079-108.
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burdensomely. Do not cause complaints from the community. Fairness in tax collection is based on economic, social and need considerations of the people and development.

3. Taxes should be used to finance the interests of the people not for *Maksiat* and lust

Taxes are not sufficiently carried out by collecting them fairly and are subject to their burdens fairly before the proceeds are actually used in the public interest, not for personal or ruling interests let alone merely as a mere means of lust. Therefore, the Qur'an pays attention to the target of zakat in detail, lest it become a game of lust, greed or for political purposes.

Therefore, Khulafa' ar-Râsyidîn and the great companions emphasized the use of popular wealth on the goals set by sharia. Do not let the tax become a land of corruption, but it is very regrettable, there are not a few people who misuse taxes for personal interests, groups and their cronies. That is the difference between Khulafaur ar-Râsyidîn and greedy kings and officials.

4. Consent of experts or scholars of morality

Imams (heads of state), their deputies, governors or local governments should not act alone to oblige taxes, determine their amount, and collect them from the public except after deliberation and obtaining the approval of experts and scholars in society. Because basically, one's property is illegitimately disturbed and the property is free from various burdens and dependents, but if there is a need for the benefit of the public, it must be discussed with experts including scholars. Deliberation is a basic element in a society of faith, as a direct order from Allah Almighty The government officials who handle taxes must consider fairly, objectively and carefully and carefully and carefully in setting tax rates. In addition, it also supervises the use of tax revenue that has been collected, so that it can really be used in accordance with its function.

Review Tax Collection By Way Of Hostage Taking

1. Tax collection problems

The State of the Republic of Indonesia is a State of Law based on Pancasila and the 1945 Constitution. The Indonesian nation has carried out rapid development in national life which needs to be continued with the support and all potential of the community. In order for the next development process to run smoothly, it is necessary to have a harmonious, harmonious and balanced relationship between the State Budget in a dynamic and professional manner in the context of implementing responsible development.

As a developing country, the Republic of Indonesia is promoting development in all fields, namely development in the fields of economy, socio-culture, law and others. These fields have the same purpose as those contained in the preamble to the 1945 Constitution in the fourth paragraph, namely to educate the life of the nation and to prosper the Indonesian people in a just and prosperous manner. To realize this goal, it is necessary to pay a lot attention to the issue of development financing. One of the efforts to realize the independence of a nation is by exploring sources of funds that come from within the country in the form of taxes. Taxes are used to finance developments that are useful for the common good. Indonesia's national development is basically carried out by the community together with the government. Therefore, the role of the community in financing development must continue to be grown by increasing public awareness about its obligation to pay taxes.¹⁷

In life in this world, it seems that there are always problems to be solved or challenges that must be faced and solved. This happens from a personal level, the family to the nation and the state. When talking about taxes, it is certainly one of them is the problem of collecting or collecting

¹⁷ See 1945 Constitution.

taxes. At this time, the tax collection carried out by the government faced a fairly complicated problem, so the government was forced to implement a tax collection system by force or by way of hostage taking as described above.

According to the author, the tax collection problems faced by the government as the sole manager in tax affairs are as follows:

- a. The attitude and behavior of taxpayers or tax insurers who seem to have never understood the importance of taxes in the development of the country.
- b. Lack of public awareness of the obligation to pay taxes.
- c. Lack of socialization to the community, especially rural communities. Because some traditional communities (village communities) they are only limited to knowing the Land and Building Tax. They do not know the other types of taxes, so even though they have a lot of income or wealth they do not pay income tax or other taxes.
- d. Tax regulations that are difficult to understand by the public in general.
- e. Political barriers.

2. Tax Collection Mechanism

The role of the state is considered important as the embodiment of the implementation of the mandate to develop and maintain the sustainability of natural resources, through legislation based on concepts in accordance with religious values (Islam). The involvement of the state in the economy according to Islam is more towards the role of the state in meeting basic human needs.

Islamic thinkers generally tend to place an active role of the state both in the application of laws and regulations, control the economy towards stable development, direct the allocation of resources so that a balance can be achieved between efficiency and broad community participation in business activities and redistribute people's income and wealth so as not to cause

lameness and social injustice. As has been explained, the government may carry out a (policy) in any case while it is beneficial to its citizens, one of which is the regulation on the imposition and collection of taxes. The Rule of Ushul Fiqih explains:

The imam's discharge on the people is in the interest.¹⁸

تصريف الامام على الرعية منوط بالمصلحة

That is to say: *A leader's policy (command) towards his people is a manifestation of mutual benefit.*

If the imposition of taxes in accordance with the applicable regulations and their distribution is clear, then not a single citizen refuses to pay taxes. This is evidence of the obedience of citizens to the government (leader) as the holder of control of public policy.

Public policy according to Islam based on tawhid contains several characteristics, namely:

- a. Directed towards the efficient use of natural resources which are a gift from God for the welfare of the people.
- b. Cultivating the role of each individual in improving the quality of his life in accordance with the dignity of a god-glorified human being.
- c. Foster a process of togetherness that provides opportunities for the development of creativity, innovation and hard work to achieve general well-being.
- d. Creating a fair and equitable distribution of people's income and wealth.
- e. Maintaining the stability and sustainability of economic development in the process of progress.

¹⁸ Malik Madani, " Pajak Dalam Perspektif Fiqh Islam ", *al-Jamiah*, (1994), p. 33.
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In the context of the modern economy, taxes are one of the most important and largest sectors of state income. On the grounds that the income is allocated to *public goods* and has the purpose of retribution and as a tool to stabilize economic growth. In modern economic terminology it is believed that the mechanism of increasing the tax burden at a time when people's income is increasing which will increase demand, will be able to push prices up. Thus there will be a balance.

Islamic teachings do not provide guidance or the teaching of allowing the government to take the property of the rich by force on the grounds that they are rich. However, in order to improve people's lives or lack of funds for the benefit of community development at large, Islamic teachings encourage its people to not only fulfill the obligations of zakat but also infaq and shadaqah which are not determined in amount as well as their use and use is very flexible covering all areas and sectors of life commanded by Islamic teachings.

Similarly, the mechanism or system of tax collection recognized in Islam that in the collection and collection of taxes must be strictly in accordance with the teachings of Islam. This is precisely inversely proportional to the tax collection system in the modern economic concept that uses a hostage system . Actually, the implementation of this system, is not without reason but has concrete and clear reasons. At first the hostage-taking institution was frozen by a Supreme Court decision for violating humanity. However, it is disbursed again on the grounds of saving state money and is a policy and public interest. Despite the ups and downs of hostage-taking institutions, the current hostage system will continue to apply if there is indeed a tax insurer who is indeed reasonable to be held hostage.

In the Law, it is very clear about the regulation, mechanism and implementation of tax collection by hostage taking, which is stated in Law

No. 9 of 2000 concerning Tax Collection with Forced Letters, then followed up with PP No. 137 of 2000 concerning Places and Procedures for Hostage Taking, Rehabilitation of Good Name of Tax Insurers, and Provision of Compensation in the Context of Tax Collection with a Forced Letter and Decree of the Director General of Taxes Number Kep-218 / Pj / 2003 concerning Guidelines for Instructions Implementation of Hostage Taking and Granting of Rehabilitation of The Good Name of Tax Insurers Held Hostage. From some of these regulations, it seems clear that in a positive legal system tax collection by hostage taking will be imposed on certain people or tax insurers. And not all tax insurers can be held hostage.

This shows that indirectly the laws and regulations regarding tax collection by means of hostage taking in the manufacture or preparation are very careful and prioritize the principle of good faith. This proves that there is a continuous correlation between the laws and regulations on tax collection by way of hostage taking and Islamic law. Where Islamic law focuses more on prudence, justice and benefit, especially in tax matters.

Good Tax Collection Patterns

If indeed system economy is presented to create a balance social and human life, especially for members of the society of a nation, then Islam is the life system that first laid these milestones in life. As a comprehensive system of life, Islam seeks to ground this goal in the praxis of life, namely by providing sharia rules on taxes. A sharia that serves to sustain the lives of the fakirs which is the duty of the state, Islam provides several tax provisions that must be carried out by its people to realize the balance in question.¹⁹

¹⁹ Abdul Sami' Al-Misri, *Pilar-Pilar Ekonomi Islam*, 1st Printing, (Yogyakarta : Pustaka Pelajar, 2006), p. 128

As a way of life, Islam came to form a new society by providing some rules, boundaries that must be observed in its course. A living system that calls for a universal call to nurture human values, a value that embraces all differences with the values of the creed. Islam yearns for the unity of the people and brotherhood. A living system that seeks to maintain the integrity of society and the rancidity of all members of society. For this reason, some rules must be understood in the life of the name. Among these rules, there is social solidarity that must be developed to help each other and care for each other.

Taxes are one of the sources of state revenue used to carry out development for all its people. Taxes are collected from citizens who are one of the obligations that can be forced to collect. In practice, there are often parties who do not have the awareness to pay their taxes. So that parties who do not want to pay their taxes can be collected taxes with forced letters and even hostage taking.

In the presence of tax collection by force letter, taxpayers who do not want to pay their taxes can be forced to fulfill their obligations. If after collection using a forced letter, the taxpayer still does not want to pay his taxes, then he may be subject to the sanction of confinement (hostage taking). The sanction of confinement is the last coercive effort that can be made in order to collect taxes. The existence of this sanction of confinement results in the loss of one's freedom. Judging from the consequences of tax collection with such an unpleasant hostage taking, then tax collection by hostage taking cannot be done arbitrarily. Therefore, the pattern of collecting taxes in good ways is necessary so that taxpayers or tax insurers do not feel disadvantaged. So that state revenue from the tax sector can be fulfilled and can be used for the common good.

According to the author there are several good ways of collecting taxes that the compiler quotes from various literature formulated as follows :

- a. Tax collection is carried out based on the juridical basis and provisions of applicable laws and regulations.
- b. If it is indeed necessary to collect taxes by means of hostage taking which is the last step, at least the authorized official is willing to provide a time limit in accordance with the agreement, regardless of the period of tax collection by force letter. However, if hostage-taking is indeed to be carried out then do it in the ways that have been stated by the Act.
- c. There is a balance between the interests of the taxpayer or tax insurer community and the interests of the state. This means that there is reciprocity even though the form is not directly, such as equitable distribution of the construction of public facilities and infrastructure both at the central and regional levels.
- d. Increase socialization about regulations and ways of collecting taxes to the public, so that people are not blind to tax regulations.
- e. Fairness of distribution and imposition and collection of taxes.

From the several steps above, at least it can be considered in a good tax collection pattern. Because with good tax collection can contribute greatly in the collection of taxes themselves, which will later contribute more in the income of the state treasury.

D. Conclusion

In the "tax" society there is still a lot of controversy (opposition). Some agreed, some refused. Apart from all that, Islam also gives guidance to show solidarity and help each other, as a manifestation of this solidarity the government makes a rule challenging the collection and imposition of taxes.

Taxes are one of the sources of state income used to carry out development and financing for all its citizens, which is one of the obligations that can be imposed on collection. Based on the rules contained in Law No. 19 of 2000 concerning Tax Collection by Force Letter, the hostage taking referred to herein is a hostage taking regulated in the tax provisions that:

1. The limitation of *gizjeling* (hostage taking) is the existence of unpaid tax debts, and there is no intention from the Taxpayer or tax insurer to pay the tax debt.
2. Hostage taking is a tax collection process, not a criminal tax settlement act. If there is a tax crime that results in a tax debt, and the tax debt is not paid, it can be subject to *gizjeling* according to tax provisions, but again this is done in an effort to collect taxes.

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