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Distributive Justice in the Indonesian Ulema Council (MUI)'s Fatwa No. 2 of 2025 on Fair Taxation: Perspectives of Amartya Sen's Capability Theory and Islamic Fiscal Politics

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Abstract
The Fatwa of the Indonesian Ulema Council (MUI) No. 2/MUNAS XI/MUI/2025, so-called MUI's Fatwa No.2 of 2025 on Fair Taxation, is a religious response to public grievances over burdensome tax collection, such as the repeated increase of land and building tax. This article argues that the fatwa can be read as an instrument of distributive justice through two theoretical lenses: Amartya Sen's capability approach and Islamic fiscal politics (*al-siyasah al-maliyah*). Using normative-qualitative analysis of the fatwa text combined with a review of relevant academic literature, the study finds that several provisions of the fatwa align with Sen's notion of substantive freedom and a basic capability threshold, particularly through the ability-to-pay principle tied to the *zakat -nisab*, exemption of primary needs from taxation, and prohibition of repeated taxation on non-commercial dwellings. From the perspective of Islamic fiscal politics, the fatwa affirms tax as a subsidiary instrument permissible only after optimization of state wealth, and demands trustworthiness (*amanah*), transparency, and public benefit (*maslahah 'ammah*) in its management. The article concludes that the fatwa can be read as an attempt to connect classical *fiqh* norms with contemporary distributive justice discourse, although its reach depends on the state's willingness to adopt its recommendations into formal tax policy.

Keywords: *distributive justice; just taxation; MUI fatwa; capability approach; Islamic fiscal politics.*

Introduction

The relationship between the state and citizens in modern state life largely manifests through taxation. The state collects mandatory contributions from its citizens to finance public interests, while citizens demand that the burden they bear be commensurate with their ability and proportional to the benefits they receive. The tension between fiscal obligations and a sense of justice has recently emerged in Indonesia, among other things, through public complaints about the increase in Land and Building Tax (PBB), which is considered excessive and burdensome (Wildan, 2025).

The government often focuses on efficiently collecting funds from the public to finance national development. However, an approach that overly emphasizes achievement figures sometimes neglect the real burdens felt by the community, especially low-income groups. As a result, the fiscal policies implemented risk pressuring the economic lives of citizens who should be protected.

In response to the concerns, the Indonesian Ulema Council (MUI) during the 11th National Conference (Munas) held from November 20–23, 2025, in Jakarta, issued Fatwa Number 2/MUNAS XI/MUI/2025 on Fair Taxation, hereinafter referred to as MUI's Fatwa No. 2 of 2025. This fatwa emphasizes several conditions and limits for the state in collecting taxes, including the principle of ability to pay linked to the *nisab* of *zakat maal*, the prohibition of double taxation on basic needs, and the demand for trustworthy and transparent tax management. As a product of religious law that lacks the formal binding power of a law, this fatwa remains important to observe because it reflects the moral authority of religion, which has historically influenced discourse and, under certain conditions, the direction of public policy in Indonesia.

The urgency of this study is further emphasized by the response that emerged immediately after the fatwa was issued. Several observers, including members of the MUI Fatwa Commission itself, view this fatwa as a momentum for reforming national fiscal governance, particularly through strengthening the integration of zakat and taxes (Muzammil, 2025). This perspective aligns with Islamic economic literature that has previously emphasized the potential of zakat-tax integration as an instrument of distributive justice and the *maqashid sharia* framework, which highlights the preservation of wealth and welfare as the orientation of economic policy (Chapra, 2008). However, these studies generally stop at affirming the normative legitimacy of zakat-tax integration, without providing tools to test whether that legitimacy correlates with expanding the real capabilities of target groups. This article starts from the assumption that Islamic fiscal policy and Sen's capability theory can not only be applied side by side but can even complement each other structurally. The *maqashid sharia* framework explains the basis of legitimacy and the logic of designing fiscal instruments in fatwas, while the capability theory provides evaluative measures to test the extent to which these designs, at the level of specific provisions, are truly translated into the expansion of freedom and substantive functioning for taxpayers and *mustahik*. Thus, the gap to be filled is not merely the absence of studies that interpret tax fatwas through the philosophy of contemporary distributive justice, but rather the absence of an analytical framework that can bridge normative-Sharia legitimacy with substantive testing of its impact, and it is this gap that this article aims to address.

Several academic studies on the relationship between zakat, taxes, and justice in Islamic economics have developed quite extensively, generally focusing on the integration of zakat into the national fiscal system (Suherli et al., 2025; Mohamed et al., 2025; Rizal et al., 2026) or on the character of fatwas as non-state legal instruments (Islami et al., 2026; Nasrudin et al., 2025; Ansori, 2022). However, studies that specifically examine contemporary tax fatwas through the framework of contemporary distributive justice philosophy, particularly Amartya Sen's capability theory, are still limited. This gap is important to fill because the capability theory offers a measure of justice that is not solely based on the distribution of income or wealth, but also on the substantive freedom of individuals to achieve a life that is valuable to them. This reading becomes a perspective that has the potential to enrich the interpretation of the norms of *fikih siyasah maliyah* (Islamic fiscal policy) that form the basis of fatwa's arguments.

Based on the description, this article questions how MUI's Fatwa No. 2 of 2025 on Fair Taxation can be interpreted as an instrument of distributive justice from the perspective of Amartya Sen's capability theory and Islamic fiscal politics. The purpose of this article is to map the main provisions of the fatwa into these two theoretical frameworks, as well as to discuss to what extent and with what limitations this fatwa can function as an instrument of distributive justice in the context of Indonesian tax policy.

Literature review

For mapping the position of this research, the Author conducted a review of previous studies, which are certainly numerous, and the results indicate that the study of the relationship between zakat, taxes, and justice in Islamic economics can be categorized into three main currents. First is the research that focuses on the integration of zakat and tax institutions as a fiscal policy strategy to expand the state revenue base while promoting economic justice, as demonstrated by studies on the opportunities for zakat-tax integration, on zakat and tax as solutions to the double tasking debate (Suherli et al., 2025), and on zakat as a complementary fiscal instrument that requires strengthening the governance of amil (Rizal et al., 2026). These studies generally stop at the level of harmonizing regulations and institutions, without much touching on the framework of distributive justice philosophy as a normative analytical tool.

Second, research examines religious fatwas, particularly MUI's fatwas, as a form of non-state regulation that possesses normative power despite lacking the binding force equivalent to laws. Ansori (2022) mapped the effectiveness of MUI, NU, and Muhammadiyah fatwas within the Indonesian Islamic legal system; (Nasrudin et al., 2025) documented the transformation pattern of the DSN-MUI fatwa authority from non-binding to binding through state regulatory accommodation, and (Islami et al., 2026) examined the MUI's fatwa in the field of zakat on productive assets as a form of non-state economic regulation based on *maqasid al-shari'ah*. All three provide an important foundation for understanding the legal character of MUI's Fatwa No. 2 of 2025, but none have specifically examined the taxation fatwa, which is the subject of this article, considering that the fatwa was only issued in November 2025.

Thirdly, there are studies that link the framework of *maqashid al-shariah* with contemporary Islamic fiscal and economic policies, such as the exploration of the vision of Islamic development through *maqasid al-shari'ah* (Chapra, 2008), the elaboration of the maqasid concept in formulating Islamic economic policies (Karimullah, 2023), zakat as an instrument of fiscal policy (Judijanto et al., 2025), and empirical evidence that the internalization of *maqasid* values correlates with tax compliance (Bulutoding, 2026). Studies in this stream are rich in normative-Islamic content, but rarely engage explicitly with contemporary theories of distributive justice outside the tradition of Islamic thought, including Sen's capability theory, which is widely discussed in secular political philosophy but rarely applied to the reading of financial political jurisprudence texts (Ali, 2025; Balashov, 2021; Alexander, 2016; Drydyk, 2012).

From the mapping of these three research typologies, it appears that previous studies have not explicitly brought together Amartya Sen's capability theory with a textual analysis of a contemporary tax fatwa, while also interpreting it thru the framework of Islamic fiscal politics. The novelty of this article lies in the effort to directly map the provisions of MUI's Fatwa No. 2 of 2025 into these two theoretical frameworks side by side.

This research uses two theories to analyze MUI's Fatwa No. 2 of 2025 on Fair Taxation. The theories are Amartya Sen's capability theory and Islamic fiscal policy theory, which will be explained as follows:

1. Distributive Justice and Amartya Sen's Capability Theory

The discourse on distributive justice in modern political philosophy has been greatly influenced by the work of John Rawls, specifically his book *A Theory of Justice*, published in 1971. John Rawls shifted the focus from utilitarian ethics towards a deontological framework based on the principle of justice as fairness. Rawls measures justice through the distribution of primary needs, that is, basic resources such as rights, freedoms, income and wealth that anyone would rationally desire regardless of their life plans, using the principle of difference, which justifies inequality only to the extent that it yields the greatest benefit for the least advantaged group (Rawls, 1971). Amartya Sen has raised a significant critique of this framework. Sen argues that equal ownership of resources does not automatically result in equal real freedom, as each individual possesses different capabilities in converting resources into life outcomes that are valuable to them (Balashov, 2021).

From that criticism, the capability theory was born, which places the space for comparing justice not on utility or resources, but on capabilities. Namely, a combination of life functions that can realistically be achieved by an individual, or in other words, the substantive freedom they possess to lead a life they consider valuable (Ali, 2025). Sen emphasizes that two people with identical resources can have very different capabilities if their conversion factors differ, for example, due to health conditions, social environment, or economic position. The implication is that fair policies must take into account the heterogeneity of citizens' real abilities to convert resources into well-being, rather than merely equalizing the number of resources distributed (Alexander, 2016).

In his subsequent work, *The Idea of Justice*, Sen emphasizes a comparative and realization-oriented approach, rather than a transcendental-institutional one like Rawls. Instead of formulating a single ideal institution that is perfectly just, Sen advocates for the assessment of justice through the comparison of real conditions and gradual improvements, which can be achieved through an open and participatory public reasoning process (Drydyk, 2012). This approach is relevant for understanding the legislative process as well as the process of issuing fatwas that arise from collective deliberation forums, as both can be understood as realizational efforts to rectify concrete injustices.

Martha Nussbaum even criticized Sen for not formulating a definitive list of basic capabilities, making his approach considered too procedural and lacking substantive guidance for policy (Nussbaum, 2003). Regardless of the debate, the common ground between Sen and his critics is the belief that distributive justice should be measured by the real ability of individuals to meet their basic needs and functions of life, not merely by the numbers of income or wealth they possess. This principle serves as the focal point of this article in assessing whether the provisions of a tax policy, including the principle of ability to pay commonly discussed in tax law literature (Dodge, 2005; Petraj, 2025), can protect or undermine the basic capability threshold of citizens.

In tax law literature, the principle of ability to pay is usually derived into two operational measures, horizontal equity (equal treatment for taxpayers with equivalent economic conditions) and vertical equity (proportional treatment for taxpayers with different economic conditions) (Musgrave, 1990; Cordes, 2014). Both are not free from normative debates, as some scholars indeed doubt that horizontal equity has a standalone theoretical foundation and consider it merely a derivative of vertical equity (Kaplow, 1985). Regardless of the debate, these two measures are useful as operational lenses to translate the abstract idea of distributive justice, including Sen's capability approach, into more concrete tax policy designs, and will also be used in this article to interpret the ability-to-pay provision in MUI's

Fatwa No. 2 of 2025.

2. Islamic Fiscal Policy: Zakat, Tax, and *Maslahah*

Islamic fiscal policy, or in the classical *fiqh* tradition known as *al-siyasah al-maliyah*, is a branch of fiqh siyasah that regulates the management of state finances based on *maqashid al-shariah*, which are the objectives of *sharia* to preserve religion, life, intellect, lineage, and property. In this framework, zakat occupies a position as a mandatory and fundamental fiscal instrument whose rate, objects, and categories of recipients have been textually established, and it functions as a mechanism for wealth redistribution and poverty alleviation (Judijanto et al., 2025; Razak, 2019).

Taxes in classical *Fiqh* are generally positioned as complementary instruments that can only be collected by the government when the sources of *Baitul mal*, including zakat and the management of other state wealth, are insufficient to meet the financing needs of public welfare. This subsidiary position has long been discussed in classical *Siyasah Maliyah* literature and remains a relevant theme in the study of the integration of zakat and contemporary taxes (Luthfy et al., 2026; Suherli et al., 2025; Mohamed et al., 2025). The historical precedent can be traced back to the *kharaj* policy (land tax) of Caliph Umar bin Khattab, who allowed conquered lands to remain managed by their original owners with the obligation to pay taxes for redistribution to the community. This is a policy that, according to researchers, can reflect the application of *maqashid al-shariah* in formulating social justice through fiscal instruments (Özdemir et al., 2025; Riza, 2017).

Ibn Khaldun in the *Muqaddimah* made an important contribution to the theory of taxation in the Islamic tradition. Khaldun argued that taxes that are too low do not allow the state to perform its functions, but taxes that are too high suppress the productive activities of the people, reduce the incentive to work, and in turn actually decrease the state's revenue. This is considered by several scholars to precede the idea of the Laffer curve in modern fiscal economics (Islahi, 2015; Maulidizen, 2019). Khaldun emphasizes that in the tradition of Islamic fiscal politics, tax justice is not merely a moral issue, but also a consideration of long-term economic sustainability, so that a fair tax rate is one that is proportional to the taxpayer's ability and does not stifle productivity (Jirhanuddin, 2017).

The principle of justice in Islamic fiscal policy does not stand alone, this principle intertwines with the principles of *maslahah* (public interest) and *amanah* (integrity in management). The *fiqh* principle "*tasarruf al-imam 'ala al-ra'iyyah manutun bi al-maslahah*", which means that the leader's policies toward the people must be oriented toward the common good, serves as the basis that every fiscal policy, including tax collection, is only legitimate if it is genuinely directed toward the public interest and managed honestly, professionally, transparently, and accountably (Santoso et al., 2025). The absence of any of these elements, in the view of classical jurisprudence, can shift the status of the levy from a legitimate contribution to a form of extortion that is prohibited.

As a product of a non-state religious authority, MUI's fatwas have a distinctive character within the Indonesian legal system. MUI's fatwas are not automatically binding in a formal sense, but they can gain strong normative power through social acceptance and, in certain cases, through accommodation into state regulations (Nasrudin et al., 2025; Ansori, 2022). Several studies indicate that MUI's fatwas, particularly in the field of sharia economics, have functioned as a form of non-state regulation that also shapes economic behavior and, in some cases, influences public policy direction even without the coercive power of laws (Islami et al., 2026). This character is what makes MUI's Fatwa No. 2 of 2025 worthy of being read as a guide for individual rituals and as a form of articulation of Islamic fiscal politics directed at the state.

The framework of *maqashid al-shariah* itself provides a methodological space for such reasoning. The values of *maqashid*, namely the preservation of religion, life, intellect, lineage, and property, have long been used as a compass in formulating contemporary Islamic economic policies, including tax policies, because they emphasize a long-term welfare orientation over mere textual compliance (Karimullah, 2023). In the context of taxation, empirical studies even show that the internalization of *maqashid al-shariah* values among taxpayers is positively correlated with tax compliance, indicating that the ethical-religious dimension can be a driving mechanism for compliance beyond the conventional economic model (Bulutoding, 2026). This *maqashid*-based reading implicitly underlies the argumentation of fatwas, as also reflected in the tradition of classical scholars' thinking such as Imam al-Haramayn al-Juwayni, who discussed the tax polemic through the distinction between nas, tafsir nas, and the application of nas in the context of the welfare of the *ummah* (Bunyamin et al., 2023).

Research method

This article uses a normative-qualitative legal research method with a content analysis approach to the text of the Indonesian Ulema Council's Fatwa Number 2/MUNAS XI/MUI/2025 on Fair Taxation as primary data. The analysis was conducted by mapping each dictum of the fatwa, namely the preamble, evidence (Qur'an, hadith, fiqh rules, and scholars' opinions), legal provisions, and recommendations, into theoretical propositions of Amartya Sen's capability theory and Islamic fiscal politics. Secondary data in the form of supporting academic literature were traced through cross-disciplinary academic databases to ensure that the theoretical framework used refers to published studies. The analysis used is descriptive-interpretative in nature, with the aim of identifying points of convergence and tension between fatwa norms and theoretical propositions.

The procedure for mapping the provisions of the fatwa into both theoretical frameworks is carried out through four analytical steps. First, a comprehensive inventory of all fatwa dictums is conducted, including the considerations, arguments, legal provisions, and recommendations, to identify any provisions that contain normative implications for the subjects, objects, or authority of tax collection. Second, from the results of this inventory, provisions that directly regulate the allocation of tax burdens, protection of certain needs, or the limits of state authority in tax collection are selected, namely provisions that can potentially be interpreted as propositions of substantive distributive justice, while excluding provisions that are purely administrative-technical in nature, such as reporting procedures. Third, the analytical categories are deduced from the core constructs of each theoretical framework, "freedom", "functioning", and agency from Sen's capability theory, as well as *hifz al-mal*, *siyasah maliyah*, and *tasarruf al-imam 'ala al-ra'iyyah manutun bi al-maslahah* from Islamic fiscal policy. The intersection between the two units of measurement results in seven dimensions of analysis, the tax base, the objects protected from the tax burden, the nature of tax authority, the limits of state authority, the policy formulation process, the consequences of violations, and the main limitations, as presented in Table 1. Fourth, each selected fatwa provision is coded into these seven dimensions based on the substance's alignment with the theoretical constructs of each framework, before an interpretative reading of the points of convergence and tension between the frameworks is conducted in the discussion section.

The selection of secondary academic literature is carried out with several criteria such as the relevance of sources that thematically directly encompass one of the three main keywords, namely capability theory/distributive justice, Islamic fiscal policy/*maqashid al-shariah*, or ability to pay in tax law, indexed journal articles, and academic books/monographs published by credible publishers or research institutions, with non-academic sources (such as media coverage or opinion columns) used only sparingly to support the narrative of the current context, not as theoretical references, and not rigidly limited by the range of years, considering that several classical references (such as Rawls, 2005; Ibn Khaldun) remain relevant as conceptual foundations.

This research has a number of methodological limitations that need to be emphasized. First, as a normative-qualitative legal study, this article does not involve field data collection (surveys, interviews, or observations) and is therefore not intended to empirically measure the reception, understanding, or compliance of the community with the fatwa. Second, the analysis is focused on the textual reading of a specific fatwa (MUI's Fatwa No. 2 of 2025), so generalizations of the findings to other sharia economic fatwas need to be made with caution. Third, as a descriptive-interpretative study, the presented theoretical mapping results remain open to alternative readings, considering that both Sen's capability theory and Islamic fiscal politics are frameworks that contain internal debates, as discussed in the theoretical framework section.

Result

Substance of the Indonesian Ulema Council (MUI)'s Fatwa No. 2 of 2025 on Fair Taxation

The Fatwa of the Indonesian Ulema Council (MUI) No. 2/MUNAS XI/MUI/2025 on Fair Taxation or MUI's Fatwa No. 2 of 2025 was issued with considerations that explicitly mention complaints from some members of the community regarding the implementation of tax levies deemed unfair, with concrete examples such as the significantly increased and burdensome Land and Building Tax (PBB). The basis for the arguments used includes verses from the Qur'an about the prohibition of consuming the wealth of others unjustly (QS al-Baqarah [2]: 188 and 286; QS an-Nisa [4]: 29, 58, and 59), the prohibition of harming the rights of others (QS Hud [11]: 85; QS asy-Syu'ara [26]: 183; QS al-A'raf [7]: 85), the prohibition of burdening beyond one's capacity, the command to obey the government within the limits of what is good, the command to uphold justice (QS al-Ma'idah [5]: 8), as well as several hadiths about the prohibition of taking the rights of others without their consent, the prohibition of officials collecting funds unlawfully, and the severe threat against extortion practices. The fatwa also refers to the opinions of classical scholars, including al-Syatibi on the conditions of state financing emergencies, al-Qurthubi on the transparency of public asset management, Abdul Wahab Khalaf on the principles of justice and equity in taxation, and Ibn Khaldun on the economic risks of excessive taxation (MUI Fatwa, 2025).

The General Provisions of the fatwa define tax as a mandatory contribution to the state owed by individuals or entities, enforced by law, without direct compensation, and used for the needs of the state for the greatest prosperity of the people. The Legal Provisions emphasize that the state must first manage and utilize all national wealth for the prosperity of the people. Taxes may only be collected if national wealth does not meet financing needs. When the collection is carried out, the fatwa stipulates a number of cumulative conditions, including that income tax is only imposed on citizens whose financial capacity is equivalent to the nisab of zakat *maal* (85 grams of gold), the tax object is limited to wealth that has the potential to be productive and/or is a secondary-tertiary need (*hajiyat* and *tahsiniyat*), the tax is used for the benefit of the wider community, its determination is based on the principle of justice, and its management must be trustworthy, transparent, and oriented toward the public good.

Furthermore, MUI's Fatwa No.2 of 2025 emphasizes that primary necessity goods (dharuriyat) should not be subjected to double taxation, consumable primary necessity goods, especially the nine basic staples, should not be taxed at all, and land and buildings inhabited for non-commercial purposes should not be subjected to repeated taxation. Citizens are required to comply with tax regulations that meet these provisions, while collections that deviate from the regulations are declared *haram*. Zakat that has been paid is established as a reduction in tax obligations. In the Recommendations section, MUI's Fatwa No.2 of 2025 encourages a review of the progressive tax burden to align it with the ability to pay, optimization of national resource management, action against tax mafias, evaluation of regulations related to VAT (red. PPN in Indonesian), income tax, property tax, vehicle tax, and inheritance tax, as well as trustworthy tax management by the government.

Discussion

Comparative Mapping of MUI's Fatwa No. 2 of 2025 within the Framework of Amartya Sen's Capability Theory and Islamic Fiscal Politics

In this section, the author maps the main provisions of MUI Fatwa No. 2 of 2025 through the framework of Sen's capability theory and Islamic fiscal politics. This mapping is intended to provide a comprehensive overview before an in-depth discussion is conducted. This is done to show the points of convergence and tension among the three of them. The comparison is as follows:

Table 1. Mapping of MUI's Fatwa No. 2 Year 2025 Provisions to Amartya Sen's Capability Theory and Islamic Fiscal Policy

Analysis Dimension	MUI's Fatwa Provision No. 2/2025	Amartya Sen's Capability Theory	Islamic Fiscal Policy
Tax base	Ability to pay equivalent to the nisab of zakat *maal* (85 grams of gold), productive assets, and/or secondary-tertiary needs.	The real capacity of individuals to achieve basic life functions is not solely determined by the nominal amount of income or wealth.	The rate and object of the levy are determined based on the taxpayer's real economic capacity.

Objects protected from tax burden	Basic necessities, non-commercial housing, and primary needs (*dharuriyat*) are exempted/prohibited from double taxation.	Protection of the most basic life functions such as adequate food and shelter (basic capability threshold).	Preservation of wealth (*hifz al-mal*) as part of *maqashid al-shariah*, basic needs are prioritized over the fiscal interests of the state.
The nature of tax authority	Taxes are supplementary in nature and are collected only if the state's wealth is insufficient to meet financing needs.	Public policy is assessed based on its impact on the substantive freedom of citizens, not solely on the amount of state revenue.	Baitul *mal* and zakat are the backbone of state financing, while taxes are a complementary instrument (Islahi, 2015; Maulidizen, 2019).
The limits of state authority	Taxes are a trust from the people to the leaders; they must be managed honestly, transparently, and accountably.	Individual capabilities should not be reduced for the sake of the aggregate interest of the state; welfare should be measured from the individual, not the average.	The principle of the ruler's governance over the subjects is contingent upon public interest, meaning that a leader's policy is considered legitimate only if it is oriented toward the common good.
Policy formulation process	Established thru the deliberation of the Fatwa Commission and the plenary session of the 11th MUI National Congress as a response to concrete complaints from the community.	Public reasoning, that justice is achieved thru comparative-realist deliberation on real injustices, not an abstract ideal model (Drydyk, 2012).	Deliberation (*syura*) as a mechanism for legitimizing fiscal policy, in line with the historical precedent of the *kharaj* policy during the era of Umar bin Khattab (Riza, 2017).
Consequences of violations	Collection outside the provisions of the fatwa is declared *haram*, and the principles of fiqh threaten tax extortionists with a great sin.	Policies that undermine basic capabilities are considered unfair regardless of their formal legality.	Ibn Khaldun stated that excessive taxation has the potential to suppress productivity and ultimately reduce the state's own revenue (Islahi, 2015).
Main limitation	Not legally binding, dependent on the accommodation of national regulations.	Wealth-based thresholds (*nisab*) do not fully capture multidimensional capabilities (health, education, family dependents).	The technical integration of zakat and taxes still requires harmonization with the PTKP basis in the Income Tax Law (Suherli et al., 2025).

Fatwa as an Instrument of Distributive Justice: An Analysis of Amartya Sen's Capability Theory

Based on Sen's capability theory, several fatwa provisions show sensitivity to the idea of basic capability thresholds. This sensitivity needs to be emphasized from the beginning as an alignment at the level of normative logic, not as a direct operationalization of Sen's multidimensional capability measure. This distinction is discussed further towards the end of this subsection. The principle of ability to pay associated with the nisab of zakat mal serves to establish a lower limit, meaning that only citizens who have surpassed a certain threshold of living needs, which in *fiqh* is assumed to be equivalent to the possession of 85 grams of gold, can be subjected to income tax. Nisab in this sense functions structurally similarly to the idea of a capability threshold, as both mark the point below which an obligation (here, tax) should not be imposed to avoid eroding the capacity to meet basic needs. However, this functional similarity does not make nisab an operational equivalent of Sen's capability threshold. Nisab is a single wealth-based measure (unidimensional and resource-based), whereas the capability threshold in Sen's framework depends on conversion factors that vary between individuals, so two people with wealth equivalent to nisab can have different real capabilities due to differences in health conditions or family burdens (Sen, 1999). The nisab provision is therefore more appropriately analysed as consistent with Sen's basic assumption that distributive justice should take into account a person's real capacity to achieve basic life functions, rather than merely the nominal income amount (Ali, 2025; Balashov, 2021), rather than being read as a direct application of the capability measurement method itself. The imposition of taxes on citizens who have not yet reached that threshold still risks undermining their capability to meet basic needs, a risk that the fatwa explicitly seeks to prevent, regardless of the operational differences.

The prohibition of taxation on nine basic necessities and the prohibition of double taxation on non-commercial housing can be interpreted as direct protection of the most fundamental functioning within Sen's framework, namely the ability to obtain adequate food and shelter. This provision shows that the fatwa does not treat all consumption objects equally. The MUI's fatwa distinguishes between *dharuriyat* (primary) needs that must be protected from multiple fiscal burdens, and *hajiyat-tahsiniyat* (secondary-tertiary) needs that can be subject to taxation. This tiered distinction is structurally similar to the argument in the ability-to-pay literature that income or wealth allocated for meeting minimum living needs should be exempt from the tax base (Wadaa, 2025; Dimitrijević, 2021).

The prohibition against burdening beyond one's capacity, based on QS al-Baqarah [2]: 286, also resonates with Sen's concern for the heterogeneity of conversion factors among individuals. The recommendation of the fatwa to review the progressive tax perceived as too high indicates an awareness that a uniform tariff structure can have a disproportionate impact on groups with different economic capacities, thus requiring adjustments that are more sensitive to the real conditions of taxpayers, rather than mere formal compliance with the established tariff scale.

When analyzed through the horizontal-vertical equity framework, the ability to pay provision in MUI's Fatwa No.2 of 2025 actually upholds both measures simultaneously, namely horizontal equity reflected in the equal treatment of all taxpayers below the nisab threshold, which is a full exemption from income tax. Meanwhile, vertical equity is reflected in the demand for a review of progressive rates to be proportional to the economic capacity of groups above that threshold (Musgrave, 1990; Cordes, 2014). This reading shows that the MUI's Fatwa No. 2 of 2025, although formulated based on fiqh arguments, structurally addresses two classical issues in the theory of tax justice that are also of concern to Sen, namely how to treat equals equally and how to treat unequals unequally in proportion.

The process of establishing MUI Fatwa No. 2 of 2025 through the Fatwa Commission meeting and the plenary Munas meeting, which involved several scholars and intellectuals from various academic backgrounds, can be understood as a practice of public reasoning as emphasized by Sen in *The Idea of Justice*. MUI's Fatwa No. 2 of 2025 was not formulated from an abstract ideal tax model. This fatwa was formulated as a comparative-realist response to the concrete complaints of the community regarding certain tax collection practices, particularly the case of the doubled property tax. This case-based and collective deliberation approach is consistent with Sen's methodological preference for gradual improvements to real injustices.

The qualifications mentioned above need to be further emphasised here. The threshold used in the MUI's Fatwa No.2 of 2025, the nisab of zakat maal, fundamentally remains a resource-based foundation, not a measure of multidimensional capability as emphasised in Sen's approach or Nussbaum's list of substantive capabilities, which also includes dimensions of health, education, and social participation (Nussbaum, 2003). The MUI's Fatwa No.2 of 2025 has not yet addressed how the tax burden should be treated for citizens who nominally exceed the nisab but bear heavy health burdens or support large families, where the situation is clearly relevant within the capability framework but has not been explicitly regulated.

Fatwa and Islamic Fiscal Politics: The State, Trust, and Limits of Fiscal Authority

From the perspective of Islamic fiscal policy, the provision that the state must first optimize national wealth before collecting taxes reaffirms taxes as a subsidiary (complementary) instrument in formulating classical *siyasah maliyah*. MUI's Fatwa No. 2 of 2025 explicitly cites al-Syatibi's view that taxing the wealthy is only justified when the state treasury truly cannot meet urgent needs, and even then, it must be done proportionally and gradually to avoid inciting public resentment. This principle treats tax not as a primary source of revenue taken for granted. Tax is the last option, and its use must be justified by fiscal emergency conditions. In classical fiscal policy, *zakat* and the management of public wealth are the backbone of state financing in the Islamic system, with taxes playing a complementary role (Rizal et al., 2026; Judijanto et al., 2025).

The assertion that taxes paid by taxpayers in accordance with Sharia remain the property of the people, with their management entrusted to the government (*ulil amri*), carries an important conceptual implication: the state's fiscal authority is not absolute ownership, but a conditional trust bound by the obligation of honest, professional, transparent, and accountable management. This trust framework functionally aligns with the idea of constitutional limitations on tax authority in contemporary tax law studies, which demand that every collection is based on the principles of certainty and proportionality (Petraj, 2025; Koritnik et al., 2017). However, MUI's Fatwa No. 2 of 2025 grounds these limitations in theological-ethical arguments, not secular constitutional law.

The excerpt from MUI's Fatwa No. 2 of 2025 regarding Ibn Khaldun's view on the risk of excessive taxation, which actually suppresses productivity and ultimately reduces state revenue, shows that classical Islamic fiscal policy is sensitive to the macroeconomic consequences of fiscal policy, not solely relying on moral arguments. This view aligns with contemporary readings of Ibn Khaldun, which present him as an early articulator of the negative relationship between excessive tax rates and state revenue, long before the concept was redefined in twentieth-century supply-side economics (Islahi, 2015; Maulidizen, 2019; Jirhanuddin, 2017). This awareness is relevant to contemporary debates regarding the optimal limits of progressive tax rates, and positions the prohibition of tax extortion not just as an individual ethical norm. But also as a principle of prudence in public policy.

The provision that *zakat* paid can reduce tax obligations is an effort to harmonize two financial obligations that have often run parallel without adequate integration. *Zakat* as a religious obligation and tax as a state obligation. The theme of *zakat*-tax integration has been widely discussed in contemporary Islamic economic literature as a solution to what is called the double tasking debate between the two financial obligations of Muslims (Suherli et al., 2025; Mohamed et al., 2025). However, its realization fully depends on the accommodation of state regulations, for example, thru amendments to the Income Tax Law that formally recognize zakat as a deduction from taxable income, rather than merely a deduction from gross income as currently stipulated.

The fatwa recommendation explicitly addressed to the Government, the House of Representatives, as well as the Ministry of Home Affairs and local governments to evaluate the provisions of VAT (red. PPN), income tax, property tax, vehicle tax, and inheritance tax emphasizes that this fatwa is not positioned merely as an individual guideline for Muslims. MUI's Fatwa No.2 of 2025 is a form of moral-political pressure from Religious Organizations on the state. This character is consistent with previous research findings that MUI's fatwas, particularly in the realm of sharia economics, can function as a form of non-state regulation that shapes discourse and, under certain conditions, influences public policy direction despite lacking the formal legal binding power equivalent to laws (Islami et al., 2026; Nasrudin et al., 2025).

If viewed as a whole, the combination of the principle of ability to pay based on *nisab*, protection of basic needs from double taxation, and the demand for trust-transparency in tax management forms a normative package that conceptually favors redistribution and protection of citizens' basic capabilities. In this case, the MUI's Fatwa No. 2 of 2025 can be said to have linked classical *fiqh* norms regarding the limits of state fiscal authority with sensitivity to distributive justice, which, although not directly using Sen's terminology, substantially moves in the same direction.

Nevertheless, several limitations still need to be noted, such as, first, as a non-state religious legal product, the MUI's Fatwa No.2 of 2025 does not have formal legal binding power. Its effectiveness as an instrument of distributive justice entirely depends on the state's willingness to adopt its recommendations into legislation, as seen in the transformation pattern of other fatwa authorities from non-binding to binding, which has been documented in other sharia economic fatwas (Nasrudin et al., 2025). Second, the use of the *nisab* of *zakat maal* as a threshold for ability to pay has the potential to cause technical issues in the harmonization process with the Non-Taxable Income (PTKP) base as regulated in the Income Tax Law, thus requiring further study on the convergence of the two. Third, as mentioned, the wealth-based threshold used in MUI's Fatwa No. 2 of 2025 does not fully capture the multidimensional aspects of capability, such as health conditions or family dependents, which remain relevant in the framework of Sen and Nussbaum for a comprehensive assessment of tax justice.

Conclusion

MUI's Fatwa No. 2/MUNAS XI/MUI/2025 on Fair Taxation is better understood as a normative framework and a potential instrument for distributive justice, rather than as a policy instrument that has proven effective, given its non-binding nature in positive law and its effectiveness fully dependent on the state's willingness to adopt its recommendations into formal regulations. As a normative framework, this fatwa contains several provisions that substantially resonate with Amartya Sen's capability theory, particularly through the principle of ability to pay based on the nisab threshold, protection of basic needs from the burden of multiple taxes, and a determination process resembling public reasoning practices. From theperspective of Islamic fiscal politics, this fatwa reaffirms the nature of tax as a subsidiary instrument that adheres to the principles of justice, maslahah ammah, and amanah, while also positioning itself as a form of moral-political pressure on the state to ensure that tax policies are more aligned with the real capabilities of citizens.

Two conditions determine the extent to which this potential can be realised into effective policies: the willingness of the state to adopt its recommendations into formal regulations, and further refinement of the capability measures used so that they are not solely based on wealth, but also consider broader dimensions of capability. With that note, this fatwa deserves to be regarded as a significant initial contribution in linking the tradition of *fikih siyasah maliyah* with the contemporary discourse on distributive justice in Indonesia, as a promising normative framework rather than a proven effective policy instrument.

Declaration of conflicting interest

The authors declare that there is no conflict of interest in this work.

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