



ZAKĀT ADMINISTRATION: AN ANALYSIS OF THE PAST APPROACH

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ABSTRACT

Zakāt is one of the five pillars of *Islām* and even though it is a system designed by Allāh the Almighty, it has faced many challenges across the centuries in its implementation. The main objectives of *zakāt* were well achieved during the early generations, from the time of the Prophet to the time of the Rightly Guided Caliphs. This success was a result of strict adherence to the text of *Sharī'ah* which is supposed to be understood literally in this matter. However, this is not the case in our contemporary era where mismanagement of *zakāt* occurs due to interference by those in authority and inappropriate *ijtihād* which have become obstacles that hinder achievement of the *zakāt* system objectives. The system is divinely revealed by Allāh and this is proof of its perfection and accuracy and thus needs no modification or change. The paper focuses on certain key issues of concern in managing the collection, preservation and distribution of *zakāt*. Unless these points are managed as prescribed by the *Sharī'ah*, the *zakāt* objectives cannot be achieved.

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1. INTRODUCTION

The Islamic Economic System is the most reliable economic system as it has been designed by Allāh the Almighty to fulfil community needs. *Sharī'ah* has several tools that equip the system to succeed. *Zakāt* is one of those divinely revealed tools that Allāh has equipped the Muslim community with to support the needy among them. The word *zakāt* is one of the words borrowed by the *Sharī'ah* from the Arabic Language. The word originally means growth and purification. According to the *fiqh* or *Sharī'ah* definition the word means: an

obligatory right on the wealth of a Muslim that reaches *nisāb* which is to be given to a specific type of people at a specific period of time, or the purification of wealth by giving a prescribed amount of it to the poor or any of the categories mentioned by the *Qur'ān* (Al-Qaradāwī, 1973). *Zakāt* is one of the pillars of Islam which still has unresolved controversies. Papers have been written by academic researchers in an effort to reach a reasonable conclusion based on evidence from the right sources.

An important point to be noted here is that having differences of opinion among human beings is a part of their nature; even the Companions who were the best generation used to have differences in their approach and understanding. The case of Banū Qurayzah is the best evidence in this regard. Ibn Umar said when the Prophet (*ṣal-Allāhu 'alayhi wa sallam*) returned from the battle of Al-Aḥzāb (The confederates), he said to us, “None should offer the *'Aṣr* prayer but at Banī Qurayzah.” The *'Aṣr* prayer became due for some of them on the way. Some of them decided not to offer the *Ṣalāh* but at Banī Qurayzah while others decided to offer the *Ṣalāh* on the spot and said that the intention of the Prophet (*ṣal-Allāhu 'alayhi wa sallam*) was not what the former party had understood. And when that was told to the Prophet (*ṣal-Allāhu 'alayhi wa sallam*) he did not blame anyone of them (al-Bukhārī, 2000). The main difference between the people of the past and the present generation is that their society was based on accommodating differences in *fiqh* matters wherever *ijtihād* is possible. Although the *nuṣuṣ* of *Sharī'ah* are comprehensive¹, scholars are unequal when it comes to understanding a particular text. They have tried to the best of their ability to reach a proper understanding with sincerity; Allāh knows best. Thus, there is neither blame on the scholars nor on their understanding. Ibn Taimiyyah said: “It should be noted that none of the recognized scholars (Abū Ḥanīfah, Mālik, Al-Shāfi'ī and Aḥmad ibn Ḥanbal) ever intended to go against an authentic *Sunnah*, what is seen to be contrary to the *Sunnah* is based on one of the following assumptions: either the *Sunnah* did not reach him or it reached him with an inauthentic chain of narration or he got the authentic narration but misunderstood the text” (Ibn Tamiyyah, 1983). Having said that, there are unclear revealed texts which are the areas of *ijtihād* for those who are qualified among the scholars. It is extremely important that before making any form of *ijtihād* or analysis, a researcher must be knowledgeable and be well versed on the system that governs that issue. Otherwise it will be very difficult to reach a proper conclusion, as the scholars have always mentioned that being accurate in a judgment is based on having a clear picture of

the judged issue (Ibn al-‘Uthaimīn, 1426). ‘Aliyyu ibn al-Madīnī was reported to have said: for a judgement to be accurate and errors to be detected, whatever is said about that issue must be combined. (Al-‘Irāqī, 1969).

The scholars affirm that *ijtihād* cannot be observed except by those who are qualified and fulfill the main conditions of *ijtihād*: a *mujtahid* has to be trustworthy (Al-‘Adl). This is a person who stays away from the major sins and mostly avoids the minor sins as well (Al-Amīn al-Shanqītī, 2001). He also has to at least be well versed in the following areas of knowledge: *Qur’ān*, *Sunnah* and their sciences, *Ijmā’*, *Qiyās* and their applications, *Fiqh* and its principles, and finally the Arabic Language and its sciences (in particular *al-Nahw*, *al-Balāghah*, *al-Adab* and *al-Lughah*) (Ibn Qudāmah, 1994). In this paper focus is on the correct administration of zakat which will lead to achieving its objectives which are: increase of *īmān*, and wealth, soul purification, poverty alleviation, and economic empowerment, socio-economic justice, unity and brotherhood.

2. OBJECTIVES OF ZAKĀT

The system of *zakāt* is designed by *Sharī‘ah* in order to achieve certain objectives. The following are some of these objectives together with a brief explanation of their nature.

2.1 INCREASE IN ĪMĀN AND WEALTH

Zakāt being an act of worship increases the *īmān*, of the one who pays it. Furthermore, belief in *zakāt* as an obligation is a pillar of a person’s Islam without which a person cannot claim to be a Muslim. The Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) in one of his statements described *Ṣadaqah* as *burhān* which means an evidence. The scholars mentioned that giving *Ṣadaqah* is evidence indicating sincerity in the *īmān* of the giver. The *Sunnah* also confirmed that: “Charity does not in any way decrease the wealth (of its giver) and Allāh increases the honor and respect of the one who forgives, and nobody will be humble for the sake of Allāh except that Allāh elevates him in ranking” (Muslim, 2000, 1131).

2.2 PURIFICATION

One of the objectives of *zakāt* is to purify the soul of the giver as well as purifying the wealth itself. This is one of the most important keys

to success in this life. Allāh says, “Indeed he succeeds who purifies his own self (i.e. obeys and performs all that Allāh ordered, by following the true Faith of Islamic Monotheism and by doing righteous good deeds).” (*Qur’ān*, 91:9) The *Qur’ān* mentioned purification of the soul as one of the main objectives of *zakāt* “Take *Ṣadaqah* (alms) from their wealth in order to purify them and sanctify them with it, and invoke Allāh for them. Verily, your invocations are a source of security for them; and Allāh is All-Hearing, All-Knowing.” (*Qur’ān*, 9: 103)

2.3 POVERTY ALLEVIATION AND ECONOMIC EMPOWERMENT

Zakāt is an effective tool for alleviating poverty. It provides more than just cash assistance due to the diversity of *zakāt*able items. People may receive *zakāt* in the form of cash, camels, sheep, goats, cows, cereal crops, jewellery, and so forth. In that case poor families may benefit from livestock in the form of milk and meat. These animals may also reproduce over the years thus providing sustainable food sources and lifting the *zakāt* recipients from poverty. In addition to food, the poor would also benefit from the physical labor that animals such as cattle and camels can provide them in farming and other activities. Living a satisfactory life is one of the main objectives of *Sharī’ah*, and this should not be restricted to the rich. The *Qur’ān* says: What Allāh gave as booty (*Fay’*) to His Messenger from the people of the townships – it is for Allāh, His Messenger, the kindred (of Messenger Muhammad (*ṣal-Allāhu ‘alayhi wa sallam*), the orphans, *Al-Masakīn* (the needy), and the wayfarer, in order that it may not become a fortune used by the rich among you. And whatsoever the Messenger gives you, take it; and whatsoever he forbids you, abstain (from it). And fear Allāh; verily, Allāh is severe in punishment (*Qur’ān*, 59:7).

The *zakāt* system is one of the best mechanisms designed by Allāh which if properly implemented leads to economic empowerment. It is an objective of the *zakāt* system to provide the community especially the needy with a satisfactory way of living. During the era of the righteous predecessors the essence of their public policy as leaders in their economic system was to help the *Ummah* to attain satisfaction and happiness in their lives. In order to achieve that goal they did everything possible to ensure proper management of *zakāt* during their reign. This helped many people in their time to get out of the poverty zone to the level of satisfaction.

2.4 SOCIO-ECONOMIC JUSTICE

Zakāt provides the basis for socio-economic justice and equality. Facts have shown that poverty is one of the main causes of many social crimes committed in the community (Al-Qaradāwī, 1985). If many people who fell into crime had something to do it would have restrained them from committing crime (Gosk, 2016). One of the best examples to prove this fact is the *ḥadīth* about the three men who were trapped in a cave and were told they could not get out until each one had supplicated to Allāh with a good deed they had performed. Among them was a man who had almost fallen into illegal sexual intercourse because of the woman's desperate situation as it is narrated, "...The next said: O Allāh! I had a cousin whom I loved more than anybody else (in another narration the Prophet (*ṣal-Allāhu 'alayhi wa sallam*) said: as a man can love a woman). I wanted to have illegal sexual intercourse with her which she refused, until the year she was confronted by a severe famine, then she approached me for a material relief. I gave her one hundred and twenty dinars on condition that she would succumb to me which she agreed to, but when we got together (for the illegal sexual intercourse), she shed tears and said: Fear Allāh and do not break the seal unlawfully. Her words had a great impact on me which forced me to move away from her despite the fact that I loved her most passionately; I then let her go with the gold I gave her. O Allāh! If I did that seeking Your Pleasure, O Allāh remove the distress we are in. The rock moved aside a bit further (by the grace of Allāh) but they were still unable to get out." (Muslim, 2000, 1188)

Therefore if it were not for the effects of the famine she would not have been vulnerable to being used for illegal sexual intercourse. Similarly, in this contemporary era many with the same nature get involved in the immoral, evil and dangerous occupation of prostitution, human trafficking and sexual slavery (Medical News Today, 2005) because of pressure from poverty. Indeed there are spiritual tools in *Sharī'ah* that increase a person's *īmān* to deter them from falling into sin but *zakāt* is a measure that ensures people do not have to fall into the situation where their iman will be tested by financial difficulty.

2.5 UNITY AND BROTHERHOOD

Paying *zakāt* brings the hearts of the people together as it increases brotherhood. It removes the sense of helplessness that poor people might have when faced with hardships due to poverty. In addition, it

prevents any jealousy and envy that a poor person might feel toward his wealthy brother because he knows that the prosperity of his brother does not hinder him and instead benefits him in the form of his *zakāt* payments (Al-Qaraḍāwī, 1973). It prevents poverty from being an endless cycle because through *zakāt* the next generation is provided with more resources compared to their destitute parents. Similarly, the *zakāt* system prevents a large income disparity in society. *Zakāt* recipients do not feel humiliated by accepting *zakāt* because it is not a favor on the part of the *zakāt* payer but rather it is a provision that Allāh ‘azza wa jall has provided them through the hands of the *zakāt* payer. These objectives can only be achieved if the following aspects of *zakāt* are properly managed: collection, disbursement, saving and preservation which are the focus of the subsequent sections in this article.

3. EFFECTIVE AND EFFICIENT COLLECTION

Zakāt should only be collected from those who are qualified and fulfil the stipulated conditions mentioned by the scholars. These conditions are: Islām, ownership, *niṣāb*, *hawl* and in the case of livestock there is an additional condition of *Ṣawm* (grazing). The giver has to be Muslim who has the full ownership of the prescribed amount by the *Sharī‘ah* (*niṣāb*). Furthermore, for other than agricultural commodities there has to be a passage of a complete lunar year upon that prescribed amount (this is known as *hawl*), and finally if the *zakāt* item is livestock, the condition of *Ṣawm* (grazing for most of the year) must be fulfilled for the *zakāt* to be obligatory upon the giver. *Zakāt* can only be obligatory if these conditions are met. These conditions are all extracted from the divinely given texts of the *Qur‘ān* and *Sunnah*, and this closes the door of *ijtihād* that attempts to include those which are not included by the text (Al-Bahūtī, 2005). For this reason, salaries are not zakatable unless they reach the prescribed amount, and a year has passed over them from the time the nisab was achieved.

3.1 THE ROLE AND RESPONSIBILITIES OF THE AUTHORITY IN ZAKĀT COLLECTION

Zakāt being a pillar of *Islām* earns it a great status in the religion. For, being a pillar means it has to be preserved or else the *Dīn* of the Muslim will be incomplete. As such it is the responsibility of the authority to ensure proper collection of *zakaat*. This was the case during the time of the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*), as he always

sent people known as *zakāt* collectors to collect the due right of *zakāt* on the wealthy people. Giving *zakāt* is not a voluntary act that a Muslim has an option of whether or not to give. It is the responsibility of the authority to ensure that the people of concern are willingly given their due right. The Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) used to assign people (*Sā’ī*) to collect the due right from the rich wherever they were without waiting for them to come and give him their *zakāt*. Abū Ḥumaid Al-Sā’idī narrated that: Allāh's Messenger (*ṣal-Allāhu ‘alayhi wa sallam*) had appointed a man named Ibn Al-Lutbiyah, from the tribe of Al-Asd to collect *zakāt* from Banī Sulaim. Upon his return, (to Madīnah with the *zakāt*) the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) checked the account with him. (al-Bukhārī, 2000). On occasions when they voluntarily brought the *zakāt* it was righteousness on their part and not because he was waiting for them to bring it themselves. In cases of failure to give the *zakāt* willingly the government has to take it by force. This is indicated in the following *ḥadīth* where the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) said: out of every forty camels, a *bint labūn* (a young she-camel that completed two years and begins the third year) should be given as *zakāt*. No camel is to be separated from the rest of the camels (i.e. this is referring to jointly owned livestock as mentioned above). Whoever gives the due right willingly, seeking reward from Allāh the Almighty, he will be rewarded. (However) if someone refrains from paying the *zakāt* due upon him, it will be taken from him (by force) along with a part of his wealth (as punishment), for it is a right of Allāh. None of it is lawful for the family of Muḥammad (*ṣal-Allāhu ‘alayhi wa sallam*). (Abū Dāwūd, 1997; Aḥmad, 1999; Al-Suyūfī, 1994). The *ḥadīth* clearly shows that it is indeed the responsibility of the government to ensure that *zakāt* is paid. For this reason the first Caliph, Abu Bakr (during his reign), waged war against those who refused to pay *zakāt*.

Abū Hurairah reported that after the demise of the Messenger of Allāh (*ṣal-Allāhu ‘alayhi wa sallam*), Abū Bakr was appointed his successor (caliph). Some among the Arabs apostatised. Abū Bakr decided to wage war against them in which ‘Umar ibn Al-Khaṭṭāb disagreed with him. He said to Abu Bakr: “How can you wage a war against a people knowing that the Messenger of Allāh (*ṣal-Allāhu ‘alayhi wa sallam*) has said: ‘I have been commanded (by Allāh) to fight people till they testify *La ilaha illAllāh* (there is no deity worthy of worship except Allāh); and if they do that, their blood (meaning their life) and property are saved and secured except for its due right, and their accountability is upon Allāh.’” Upon this Abu Bakr replied:

By Allāh, I shall definitely fight whoever makes distinction between *salāh* and *zakāt*, for it is an obligation upon the rich to pay *zakāt*. By Allāh I will definitely fight them even to secure the piece of rope which they used to give to the Messenger of Allāh (*ṣal-Allāhu ‘alayhi wa sallam*).” ‘Umar said upon hearing that: "I realized that Allāh opened the heart of Abu Bakr for waging war against those who refused to pay *zakāt*, and I fully recognized and believed that Abu Bakr is upon the truth. (al-Bukhārī, 2000).

Hence, effective *zakāt* management would meet the goals of *zakāt* in contributing to socio-economic justice and equality. It will alleviate economic hardship by making an effort to find sources to improve lives which will gradually bridge the gap between the rich and poor in terms of their income level and economic opportunities. *Zakāt* provides Muslims with an opportunity to develop a sense of religious and moral responsibility toward other Muslims. Wealth can be divided into two categories: *Amwālun ṣāhirah* and *amwālun bāṭinah*. *Amwālun ṣāhirah* refers to wealth and property which is apparent to everyone and knowledge of it is not privy to its owner alone. This is contrary to *amwālun bāṭinah* which is only known to its owner. The opinion of the scholar Al-Māwardī in his book *al-Aḥkām al-Sulṭāniyyah* is that the authority should monitor and collect even by force the apparent wealth and in his opinion the hidden wealth is the right of the owner to give it out and the authority has no jurisdiction over it (Al-Māwardī, 1989). The writers believe that unlike years ago when there was a category of wealth that was hidden, nowadays most wealth is apparent to the authorities. Individuals and companies have to be transparent about their operations, expenditures, revenues and income. It is not easy to conceal such information from the authorities. Therefore the authorities should take *zakāt* from it even by force because in that case even according to Al-Māwardī it becomes *ṣāhir*. In 2013 a Minister in the Prime Minister’s Department Datuk Seri Jamil Khir Baharom commented that although the amount of *zakāt* funds collected in 2013 (RM2.2 billion) exceeded the funds of the previous year (RM1.9 billion), more needs to be done to ensure eligible *zakāt* payers fulfil their responsibilities. He commented that *zakāt* institutions need to go to those eligible to pay *zakāt* and sensitize them on the matter instead of just waiting for them to volunteer. Based on his statement it is clear that if the federal law gave the *zakāt* institutions legal authority to collect *zakāt* by force then the *zakāt* collected would exceed current amounts.

3.2 ZAKĀT COLLECTORS (WHO THEY ARE AND THEIR RESPONSIBILITIES)

One of the eight groups of *zakāt* recipients are the *zakāt* collectors; the *Qur'ān* refers to them as *Al-Āmilūna 'Alaiha*: the *Fuqaha* noted that the *Al-Āmilūna 'Alaiha* mentioned in the *āyah* are those *zakāt* collectors and the administrators assigned by the authority to go around and collect and manage the rights of Allāh from the wealth of the rich and pass it to the recipients. In this contemporary era some *zakāt* institutions employ people to collect and distribute the *zakāt* in addition to those employed for administrative purposes. In contrast, in the past only a few people were selected to carry out these responsibilities. Nowadays the advancement in the banking system and information technology has meant that *zakāt* collectors do not necessarily have to physically look for those qualified to pay *zakāt*. Ironically there should be fewer people employed to collect the *zakāt* than in years before due to the previously mentioned factors. In addition, there is ease of transportation and communication lines which make the job even easier and cheaper to conduct. Therefore it is a form of mismanagement and inefficient use of *zakāt* funds to employ a lot of people unnecessarily when only a few people are needed to complete the task. Fewer people employed under this task would free up more *zakāt* funds which could then be given to those recipients really in need. In this way *zakāt* can have a real impact in poverty alleviation rather than just being a form of cash assistance which leaves the recipients continuously dependent on *zakāt*. An example of an effective practice is from the time of 'Umar ibn 'Abd Al-'Azīz. One of his methods of minimizing administrative costs of collecting *zakāt* was direct salary deduction of *zakāt* from the workers' pay provided they fulfilled all the conditions of *zakāt*. This reduced the need for *zakāt* collectors except a necessary number which freed up more *zakāt* funds for the poor and needy (Ibrahim Nuhu Tahir, 2015).

3.3 DATABASE OF ZAKĀT PAYERS AS WELL AS THE ELIGIBLE RECIPIENTS

This is a system that would enable the documentation and records of people who are able to pay *zakāt* and how much they are supposed to pay based on their income and assets. This will assist the government in ensuring that all those who should pay the *zakāt* pay it and do so on time. It will help to keep track of any offenders and repeat offenders. It is very crucial that records of *zakāt* payers are kept especially

because this was the practice during the time of the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*). He used to send people to collect *zakāt* from specific rich people. In addition, it is necessary that records of the eligible *zakāt* recipients should be kept. They should not be expected to present themselves to the *zakāt* institutions looking for their right. Their names and addresses should be known and the *zakāt* should be sent to them without them looking for it. This will ease and speed up distribution thus ensuring that *zakāt* does not stay in storage or saved up unnecessarily when people need it. This is a practical solution to a problem of retained *zakāt* funds as *zakāt* institutions are sometimes known to have a large balance after *zakāt* distribution.

This is supported by the previously mentioned opinion of al-Nawawī that thorough documentation of *zakāt* recipients, their number and the level of their needs will aid quick disbursement of *zakāt*. This is the main role an agent should fulfil, ensuring that the right which is received from the rich should be immediately delivered to its owners without delay. This will be a prompt fulfilment of *amānah* and remove the risk of him keeping the *zakāt* unnecessarily which exposes him to liability for any losses.

3.4 GOOD SUPERVISION OF ZAKĀT INSTITUTIONS

Government needs to ensure adequate supervision of *zakāt* institutions with tools such as check and balance systems applied in order to monitor the *zakāt* institution activities. Zakat institutions should not be given the autonomy to do whatever they deem best to the people. Routine auditing of the database and financial accounts has to be conducted periodically to ensure transparency and prevent misuse of *zakāt* funds. The *Sunnah* confirms the necessity of this type of supervision; for example the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) checked the account with Ibn Al-Lutbiyah when he appointed him to collect *zakāt* from Banī Sulaim (Al-Bukhari, 2000). In another narration an explanation of how he was checked was detailed. Abū Ḥumaid Al-Sā’idī mentioned that when Ibn Al-Lutbiya returned (from Banī Sulaim), he was checked by the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*). Ibn Lutbiyyah said (to the Prophet), "This is yours, and this is what is given to me as a gift." Upon hearing that, Allāh's Messenger (*ṣal-Allāhu ‘alayhi wa sallam*) said, "Why didn't you stay in your father's and mother's home to see whether you will be given gifts or not if you are truthful?" Then the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) addressed us, and after praising and glorifying Allāh, he said: "Ammā Ba‘du" I employ a man from among you to manage some

affair of what Allāh has put under my custody, and then he comes to me saying, "This is your money and this is what has been given to me as a gift. Why didn't he remain in his father's and mother's home to see whether or not the gift will be given to him? By Allāh, not anyone of you takes a thing unlawfully but he will meet Allāh on the Day of Resurrection, carrying that thing. I do not want to see any of you carrying a grunting camel or a mooing cow or a bleating sheep on meeting Allāh." At the end the Prophet (*ṣal-Allāhu 'alayhi wa sallam*) raised both his hands till the whiteness of his armpits could be seen, and said, "O Allāh! Haven't I conveyed (Your Message)?" The narrator added: My eyes witnessed and my ears heard (that *ḥadīth*) (al-Bukhārī, 2000, 203-204).

Furthermore, the *Sunnah* shows that this necessary monitoring and supervision is not only restricted to the *zakāt* collectors or institutions, but it also involved the givers as shown in the narration that was previously mentioned in the section before this, where the Messenger of Allāh (*ṣal-Allāhu 'alayhi wa sallam*) said: Whoever gives the due right upon him willingly, seeking reward from the All-Mighty Allāh, he will be rewarded. (However) if someone refrains from paying the *zakāt* due upon him, it will be taken from him (by force) along with a part of his wealth (as punishment), for it is a right of Allāh. None of it is lawful for the family of Muhammad (*ṣal-Allāhu 'alayhi wa sallam*). (Abū Dāwūd, 1997). This is in addition to the action taken by Abū Bakr when he waged war against those who refused to pay the *zakāt* and said: By Allāh I will fight them even to secure the piece of rope which they used to give to the Messenger of Allāh (*ṣal-Allāhu 'alayhi wa sallam*) (al-Bukhārī, 2000).

3.5 ZAKĀTABLE ITEMS

This section is aimed at drawing the reader's attention to an important principle which is submission to the Will of Allāh in whatsoever He decreed. This is very important because it is only if a person observes this principle that he will refrain from interfering in the Divine Will of Allāh. Some writers hypothesize in their work that if a broad *zakāt* base was designed inclusive of all types of income, this would increase the total *zakāt* collected. In their criticism of the *zakāt* base they state that it is unjust for a subsistence farmer to be obliged to pay *zakāt* while a rich rubber or tea plantation owner does not have to pay *zakāt*. They claim that the current *zakāt* is redistribution from the poor to the poorer in society and this increases the gap between the rich and the poor (Nienhaus, 2006).² It is a failure in constructive criticism to

notice that such a writer has focused on criticizing the Islamic system of *zakāt* for the deficiencies actually caused by human failure such as maladministration and people absconding on paying *zakāt*. He also failed to consider the effectiveness of ‘Umar ibn ‘Abd Al-‘Azīz (may Allāh have mercy on him) in the economic reforms he made in which *zakāt* was an important part. ‘Umar did not change the rates or include items that are not supposed to be included. All that he did was to keep the system functional in the way it should. The most important part of his administrative reforms was the strong supervisory role he fulfilled to ensure proper *zakāt* collection and distribution.

As for the issue of *zakāt* not being taken from rubber, this is simply because *Sharī‘ah* does not command the owner to give *zakāt* out of it. It is nothing but a divine decree of Allāh. The *Qur‘ān* says: “Do they then seek the judgement of (the days of) Ignorance? And who is better in judgement than Allāh for a people who have firm Faith.”(*Qur‘ān*, 5:50). Additionally, the production and trade of rubber supports the community in general and in some cases the whole country. *Zakāt* is not the only form of economic support that Islam recognizes; *Sharī‘ah* also encourages business and trade which provide jobs, beneficial products, an income, and so forth. *Zakāt* is only a system that ensures that the poor, as one group from among the eight groups of *zakāt* recipients, are not left behind or neglected as an economy develops. He has also failed to realize the economic value of those items that are not *zakāt* able (the details on this are to be stated later). He misses a small yet important fact that the *niṣāb* being measured by gold and silver means that it does not remain stagnant in value. And although he talks about how the *zakāt* collected is insufficient to meet the needs of the poor, he fails to provide proof for this. Academically he was supposed to provide substantial evidence of a place where the *zakāt* system was properly applied, as it has been designed by *Sharī‘ah*, and it was not effective. What is seen in his article is a mere claim without proof. The problem with the author is that he always judges *zakāt* from one perspective which is: how he wants the system to function. That is why he fails to mention the non-monetary *zakāt* payments such as camels, cows, and sheep. These are very valuable in the contemporary era and he should have considered their monetary value to the new owner who receives them as a *zakāt* beneficiary. Nienhaus does not mention the fact that as much as *Sharī‘ah* has fixed how much should be taken from a person, *Sharī‘ah* never stipulated the limit a person can receive of *zakāt* as long as that amount is what his needs require.

Al-Albānī explains that people tend to have a very myopic point of view when studying the laws of Allāh. He says they need to expand their thinking. For example, the tea and rubber plantation farmers –Nienhaus (2006) complains about- employ members of the community and thus prevent them from becoming poor and needy or helping them out of their poverty. Through their entrepreneurship activities they provide goods that can be traded in the economy and which can go through the value chain to increase their value. *Zakāt* has been revealed by Allāh who has perfect knowledge of the unseen; He knows what was, what is and what will be. The system of *zakāt* like every act of *ibādah* cannot be changed and improvised to fit the so called current economic circumstances.

Unlike secular legal and economic systems, the *Sharī'ah* is complete, perfect, static and universal. *Zakāt* is not like the welfare programs a government may develop to meet peoples' needs. They may come across new problems which would require new laws to meet the new needs and situations. This is unlike the system of *zakāt* which will not change until the Last Day. It is imperative in fair judgment and observation that for a system to be proven to be a failure, it should have been given a chance to function with all the necessary resources and without interference. Thereupon if it fails then a critic can freely criticize what is confirmed to be a failure if that is possible. Further clarification shall be given in subsequent sections. May Allāh fix the affairs of the *Ummah*.

4. SAVING AND PRESERVATION

The *zakāt* collected money is supposed to be protected by the rich as well as the authorities whose job is to monitor and to supervise its collection. In this section the focus will be on how *zakāt* money should be preserved diligently which cannot be possible without taking the following into account.

4.1 SEPARATE ACCOUNTS FOR ZAKĀT AND INSTITUTION'S ADMINISTRATIVE ACCOUNTS

The *Qur'ān* says: “*Al-Sadaqat* (here it means *zakāt* as an obligatory charity) are only for the Fuqara' (needy), and *Al-Masakin* (the poor) and those employed to collect (the funds); and to attract the hearts of those who have been inclined (towards Islam); and to free the captives; and for those in debt; and for Allāh's Cause (i.e. for *Mujahidun* – those fighting in a holy battle), and for the wayfarer (a traveller who is cut

off from everything); a duty imposed by Allāh. And Allāh is All-Knower, All-Wise (*Qur'ān*, 9:60).

It is imperative that the financial statements of the *zakāt* money should be separated from any other financial statements. This is simply because Allāh declared in the above mentioned *āyah* that *zakāt* is only given to people mentioned in those eight categories. The scholars highlight that the *āyah* in its nature is restricted to these eight categories, and this cannot be achieved without having an accurate documentation of *zakāt* disbursement. In the absence of vigilant separation, the rights of the eight categories might be unlawfully given to someone else who is not part of the category. This is nothing but oppression against the interest of the recipients. The unity of financial statements observed by the *zakāt* institutions without separating the *zakāt* account from others' can lead to fraud and *gharar* (ambiguity). This is because there is a high possibility of using *zakāt* funds for other public services besides those mentioned in the *āyah* above. Unlike the *waqf* which can be made for the benefit of anyone according to the interest of the *wāqif* (the founder of *waqf*), *zakāt* can only be given to those mentioned by the *Qur'ān*. Furthermore, without separation it will not be easy to have proper supervision of the institution's activities. In addition to that, unsavoury characters might take advantage of this and use the *zakāt* funds for their own benefit and it would be difficult to detect this.

The scholars mentioned that it is obligatory upon the leader to have a separate *bayt al-māl* for *zakāt* where *zakāt* is properly preserved and well documented until it is properly disbursed to its rightful recipients (Al-Kuwait, 1427). Al-Nawawī said it is imperative for the *zakāt* collector to be meticulously concerned with documenting the *zakāt* recipients, their number and the level of their needs. This is to give the *zakāt* collectors more free time for effective collection of *zakāt* since the eligible rich people and the amount they should give is already identified. This type of documentation has the great advantage of easing the quick disbursement of *zakāt* without any delay, because the needy are already known together with their needs; what is left is just to collect and disburse it according to what is documented. Al-Nawawī said by doing this we will gain two benefits. Firstly, giving the right to its owner on time (which is the nature of *amānah*). Secondly, staying away from *gharar* that might lead to a loss in the *zakāt* collected. This is because the more *zakāt* fund is kept (without disbursing it to its rightful owners) the greater the risk. This will turn the *zakāt* institution into a guarantor and not a trustee anymore, but if we disburse the *amānah* as soon as we receive it, no risk will exist.

The separation of financial statements regarding *zakāt* will enable us to gain the benefits that Al-Nawawī has stated. If the statements are unified then it creates another task of separating the accounts when the *zakāt* arrives which will delay its disbursement. It will also open the possibility of errors in calculation resulting in the *amānah* that has been placed upon the *zakāt* institution being misplaced. A prominent scholar of this contemporary era, Shaikh Mukhtar Al-Shanqīṭī, mentioned that the *Sunnah* confirms that the *zakāt* money will never be mixed with another money except it destroys it. So mixing the financial statements of *zakāt* with other statements is not even good for the *zakāt* institutions because the *barakah* will be removed from the other wealth.

4.2 INVESTING ZAKĀT FUNDS

To Allāh belongs the kingdom and the ownership of everything; thus, the full ownership of wealth is Allāh's whereas man is nothing but a temporary caretaker who has to ensure that whatever he has been assigned to supervise is managed properly. *Zakāt* is the right of Allāh on the wealth of a Muslim. The reality of *zakāt* is that Allāh Who is the ultimate owner of the wealth takes from that which He owns and He assigns the rich person to deliver it to those whom Allāh wishes. Based on this fact the *zakāt* institutions are no more than agents entrusted by Allāh to collect some part of His Wealth, from the eligible people whom He granted permission to put it in the proper place. Hence the job of an agent is just to collect the due right (which is an *amānah* with him) and pass it immediately to those whom Allāh has given that right without any form of delay except where necessary. Any form of negligence in delivering the *amānah* will amount to liability in the case of loss. This is clearly shown in the following *āyah* where Allāh reminds us that the wealth in our possession is only a trust He has placed upon us and our role is to act as trustees over it. "Believe in Allāh and His Messenger Muhammad (*ṣal-Allāhu 'alayhi wa sallam*), and spend of that whereof He has made you trustees. And those who believe among you and spend (in Allāh's way), theirs will be a great reward" (*Qur'ān*, 57:7). It is mentioned above that the *zakāt* collected must be disbursed immediately; this is because *zakāt* is a form of *amānah* and in Islām *amānah* has to be delivered immediately to its owner. Allāh says "Verily, Allāh commands that you should render back the trusts to those whom they are due; and that when you judge between men, you judge with justice. Verily, how excellent is

the teaching which He (Allāh) gives you! Truly, Allāh is Ever All-Hearing, All-Seeing.” (*Qur’ān*, 4:58).

A command from Allāh necessitates a prompt response. Moreover, it is also the practice of the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) where he did not delay the disbursement of the received *zakāt*. He would immediately distribute what he received of *zakāt* to the eligible people. ‘Uqbah ibn Al-Ḥārith said: “Once I performed the *‘Aṣr* prayer in Al-Madīnah behind the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*). After finishing the *ṣalāh* with *taslīm*, the Messenger of Allāh got up quickly and stepped over the people, to reach one of the rooms of his wives. The people were startled at his haste, and when he came out and saw their astonishment at his urgency, he said, “I recalled that there was some gold left with me which was meant for charity; I did not like to keep it any longer, so I gave orders that it should be distributed”. (al-Bukhārī, 2000, 435). In another narration, the Messenger of Allāh said, “I had left some gold for *Ṣadaqah* in the house, and did not wish to keep it overnight.”

The *āyah* of *zakāt* recipients confirms that the ownership of *zakāt* belongs to the eight recipients and should be given to them immediately. Therefore, there is no way that the *zakāt* collected can be an income for a company or organization because it is someone else’s money which cannot be used or invested without his permission.

Opinions on investing *zakāt* funds

For the past 14 centuries people did not know anything about investing *zakāt* money. Careful studies have shown that *zakāt* money was always disbursed immediately to those eight recipients mentioned by the saying of Allāh: “*Al-Ṣadaqāt...*” (*Qur’ān*, 9:60). This is the status of *zakāt* in the past 14 hundred years. However, with the existence of charitable institutions and Islamic organizations the motion has been tabled in many Islamic conferences and forums on whether or not *zakāt* money could be invested. According to supporters of the motion this kind of investment is needed on the grounds that the *zakāt* institutions usually collect a huge amount of money which is sometimes in the millions. They always argue that instead of keeping it idle why not invest it and make profit that will benefit the *zakāt* recipients in general and the poor and needy in particular. As previously mentioned, this issue was not known to the people of the past.

The contemporary scholars are divided into two main groups concerning the matter; those who follow the footsteps of the earlier

generations and those who see the possibility of *ijtihad* on the matter. And as such the latter group justifies the investment. According to this group the *maṣlahah* necessitates that since it brings an increase to the *rizq* (sustenance) of the *zakāt* recipients then it should be permissible. Another justification is that *Sharī'ah* is established upon the recognition of *maṣāliḥ* and prevention of evil. Thus, *Sharī'ah* will never be in conflict with whatsoever brings benefit to the community. These types of investments will no doubt bring *maṣlahah* to the poor and needy as well as the rest of the *zakāt* recipients. In addition, they also claim that the Prophet (*ṣal-Allāhu 'alayhi wa sallam*) used to collect camels for the charity and keep them with him until they increased through reproduction and this is similar to investment. This is their main justification to support this opinion of permissibility. According to Wan Marhaini (2012) some of the conditions that the proponents of this opinion have placed are: to undertake the investment in a diligent and secure manner, to only undertake investment activities that conform with Islamic law, to immediately liquidate the investment when the *zakāt* is needed by the recipients, to eventually transfer all the invested assets to the recipients, and to provide guarantee against loss.

Some also insist that the delay which would be incurred when investing *zakāt* funds prior to transferring ownership is allowed as it is a 'beneficial delay' which to them is permissible. Although virtuous statements are made about how *zakāt* funds should be invested for the benefit of the recipients, a more honest justification is what some have mentioned that these funds can be used as a new source to finance economic development. This ultimately means *zakāt* would no longer be an exclusive wealth but inclusive of everyone (Wan Marhaini, 2012). Furthermore, proponents of *zakāt* fund investments propose different activities such as labor intensive workplaces, purchasing capital goods for use in business, and so forth. These activities are supposedly meant to improve the general welfare of the *zakāt* recipients beyond meeting their basic needs. Regardless of the support some give to the investment of *zakāt*, one author (Wan Marhaini, 2012) identified numerous structural policies that the government and *zakāt* institutions would have to adopt in order to comply with the conditions set by scholars. A particularly interesting observation the writer makes is that if the surpluses from *zakāt* distribution are a result of mismanagement and not a result of the recipients having their needs fulfilled then the writer questions the permissibility of those investments (Wan Marhaini, 2012).

One opinion by some authors is that apart from the right the recipient has on the *zakāt* money, the general society also has a ‘public right’ upon it. This supposed public right is that there is an expectation that the *zakāt* funds should have a positive indirect effect on the economy of society as a whole. They further state that based on this the authorities can use the *zakāt* funds where the greatest benefit will be produced for society in general (Aḥmad, 2009). Others justify investing *zakāt* funds with the notion that alleviating poverty is a *darūrah* (life threatening situation) and thus it can be done by any means (Uddin, 2016).

On the other hand there are those who follow the vast majority of the scholars of the *Ummah* in their opinion which says it is impermissible for *zakāt* money to be invested. They use various evidences to support their stance. Firstly, the *āyah* of the *zakāt* recipients which was previously quoted. In the *āyah* Allāh confined the disbursement of *zakāt* to those mentioned in it which is a right to its ownership given to them by Allāh The Owner of the wealth. Indeed this undoubtedly necessitates a prompt submission of that right to its proper owners. This is in addition to the legal nature of *zakāt* as an act of worship and the legal maxim concerning matters of *‘ibādah* is that they should be kept the way they are.

Secondly, the saying of Allāh, “And it is He Who produces gardens trellised and un-trellised, and date palms, and crops of different shape and taste (their fruits and their seeds) and olives, and pomegranates, similar (in kind) and different (in taste). Eat of their fruit when they ripen, but pay the due thereof (its *zakāt*, according to Allāh's Orders, 1/10th or 1/20th) on the day of its harvest, and waste not by extravagance. Verily, He likes not *Al-Musrifūn* (those who waste by extravagance),” (*Qur’ān*, 6:141). The statement, “but pay the due thereof on the day of its harvest” necessitates command from Allāh which makes it compulsory upon a wealthy Muslim to pay the *zakāt* on his agricultural yield. Similarly it also necessitates a prompt action because He says it should be given on the day of its harvest. This itself is enough to dismantle any evidence used by those who believe in the supposed *maṣlahah* from the delay incurred due to *zakāt* investment.

Thirdly, the previously mentioned *ḥadīth* where the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) said "I recalled that there was some gold left with me which was meant for charity; I did not like to keep it any longer, so I gave orders that it should be distributed (al-Bukhārī, 2000, 435). The *ḥadīth* has definitely shown that *zakāt* money has to be disbursed immediately without any unnecessary delay. This is

because if a delay is permissible the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) could have waited to at least finish the *adhkār* after the *ṣalāh* then move to the house to disburse the charity. When they asked him about the cause of his rush he responded by saying, “I had left some gold for *Ṣadaqah* in the house, and did not wish to keep it overnight.” (al-Bukhārī, 2000, 435).

Fourthly they mentioned that the *zakāt* money belongs to *faqīr* and the rest of the *zakāt* recipients. This is their money given to them by the Ultimate Owner of everything. To make a better understanding of this fact, the following should be noted: the kingdom of the Heavens and the Earth belong to Allāh. The ownership of man in this life is partial, they are nothing but trustees entrusted by Allāh to take care of whatever He gave them of wealth. This is clearly shown in the following *āyah* where Allāh reminds us that the wealth in our possession is only a trust that He has placed upon us and our role is to act as trustees over it. “...and spend of that whereof He has made you trustees...” (*Qur’ān*, 57:7). Thus *zakāt* is nothing but the Right of Allāh in the wealth of a believer that He prescribed upon that which He owns. In this regard the rich and the wealthy person are only assigned to deliver it to those whom Allāh wishes. Having this fact in mind, the *zakāt* institutions and organizations are nothing but agents who are entrusted by Allāh to collect some part of His Wealth, the *zakāt*, from those rich people whom He granted permission to use it or to put it in the proper place.

Al-Shīrāzī, a great Shāfi‘ī scholar was of the opinion that it is impermissible for a wealthy person who has *zakāt* due upon him to delay paying it because it would be keeping wealth which does not belong to him (Al-Shīrāzī, n.d.). Moreover a prominent scholar from the Malikis, Imam Al-Dasūqī stated regarding *zakāt* “it must be disbursed immediately, it is impermissible for him to keep it to be disbursed gradually whenever a needy comes to him” (Al-Dasūqī, n.d.). Meanwhile, the job and the responsibility of an agent is just to collect the *zakāt* (which is an *amānah* with him) and disburse it immediately to those recipients mentioned in the *āyah* without any form of delay save where the delay is necessary. *Zakāt* collection is *amānah* on the shoulder of the wealthy and their agents; as such any form of negligence in delivering the *amānah* will amount to a serious liability. This is the correct application of the legal maxim: *Al-Badal ya ‘khudhu ḥukm al-Mubdali minhu* which means the representative or agent takes the same ruling and effect as his principal. They have to bear the loss encountered when they decide to invest it without the owner’s permission. Concerning the nature of *amānah* in Islam Allāh

says, “Verily, Allāh commands that you should render back the trusts to those, to whom they are due; and that when you judge between men, you judge with justice. Verily, how excellent is the teaching which He (Allāh) gives you! Truly, Allāh is Ever All-Hearing, All-Seeing.” (*Qur’ān*, 4:58). Therefore the sole responsibility of the *zakāt* payer and collector is to hand over the *zakāt* to the *zakāt* recipient who possesses the sole right to use it in the way he sees fit. Thus the right to invest or not to invest *zakāt* money is exercised by the *zakāt* recipients alone. Al-Nawawī, in his *al-Majmū’* states, “The collector of *zakāt* or the ruler is not allowed to transact on the obligations (*zakāt*) that they are carrying until (the *zakāt*) are received by their rightful owners, for the *fuqarā’* are competent to transact. Therefore, any transaction on these obligations cannot be executed without their permission...” (Al-Nawawī, n.d.).

Fifthly they said that the permissibility of these types of investments is based on the risks that exist in it which would be borne by all the partners. This is because whenever loss or profit is guaranteed by any of the parties, the investment in this case will never be permissible. Investment naturally comes with risk and no one can guarantee a profit or protection from a loss. If this is the case then there is no way for this type of action to be permissible in Islam without prior permission of all the recipients whose *zakāt* would be used. This is independent of the fact that the recipients might not give their permission because of the pressing needs that the poor and needy usually have. This is another reason their permission cannot be assumed to be granted. This is why when the Permanent Standing Committee of Saudi Arabia was asked about investing the *zakāt* funds their reply was that it is not permissible for the *zakāt* institutions to invest the *zakāt* money they collected. They went on to say that it is obligatory upon the collector to disburse it to those recipients stated in the *āyah* after confirming their eligibility. This is because the main objective of *zakāt* is to meet the various needs of the *zakāt* recipients. They also said that investing *zakāt* money might prevent the main objective behind *zakāt* obligation or at least delay its achievements (Al-Tayyar, Al-Mutlaq and Al-Musa, 2012).

A question was posed to ‘Ādil Ṣālahī of Arab News in Jeddah and the response he gave was as follows: I plan to establish a trust out of *zakāt* and charity (i.e. *Ṣadaqah*) money and invest such funds in some profitable business. My plan is to distribute the annual earnings of the business to deserving students on merit. How far is this acceptable, taking in view that this will serve the community for a longer period? The reply was as follows: “The idea of setting up a trust

fund and investing the proceeds to ensure annual returns, which can be given to the poor, is a very sound one. However, *zakāt* money cannot be used for such a purpose. The reason is that *zakāt* money must be paid to its beneficiaries when it is due. Once you set aside your *zakāt* liability, it no longer belongs to you. How, then, do you allow yourself to dispense with it in a way which you determine? This money belongs to Allāh and He has given you instructions on how to distribute it. It must be distributed straight away. Moreover, its beneficiaries must be put in possession of it. When you put it in a trust fund, you are taking it away from its beneficiaries without their consent. May be they need it for a more immediate use. How can you, or indeed anyone for that matter, deny them that privilege?" (Muhammad Arif, 2005).

Syed Iqbal Zaheer of Young Muslim Digest said, "The idea behind investing *zakāt* money is antithesis of the spirit of *zakāt*. This is because the reason why *zakāt* has been instituted is the reason why the suggestions for re-investment comes. One of the reasons why *zakāt* has been instituted is for men to get over their love of money. The re-investment idea, whatever its outward goals and objectives, indicate that it is the love of wealth that prompts the people to suggest ways by which *zakāt* collections could be put to "better" uses. He also said: Removal of poverty is one of the objectives of *zakāt*, but not all its reason, nor even the primary reason. The main reason is purification of the soul (*tazkiyat al-nafs*) and infusion of Allāh's love into the hearts. The heart however, as we know, is normally occupied by the love of "worldly" things. We need to remove this love before we can enter into a relationship of love and obedience with our Lord. And, of the "worldly" things, wealth happens to be the dearest.

Yet another objective of *zakāt* is levelling of the "haves" and "haves not" – and not removal of poverty. Poverty will never disappear from any society. At best economic levelling can be achieved. In an Islamic system you make the rich poorer, and the poor richer, to some degree or the other. You go on with the process, year after year, until the whole society is levelled up, again to some degree. Some very poor here, and some very rich there, will remain. But by and large, the society will be of those who share the good and bad things of life, all together. Doing business with the *zakāt* money would actually enrich the rich and weaken the poor. But the main emphasis of *zakāt* is not on economic levelling either. In fact, as a sole factor, it will never attain that objective. Laws of inheritance, expiations, and state allowances have to play their own role. The much-desired economic levelling cannot be achieved through economic measures

alone, as the unbelieving world thinks. Without moral and ethical reformation of the individuals, neither will there be the sense of guilt nor the reasons for expiation. At the collective level, if people refuse to implement the laws of Islam, there will never be any benefit from the laws of, say, inheritance. Poverty is the poverty of the soul. Expending, and not ways of augmenting charity funds, removes this poverty (Zaheer, 2008).

4.3 SENSITIVITY OF ZAKĀT COLLECTIONS

Unlike *waqf* where its funds can be invested to generate more benefit for the beneficiaries, *zakāt* is extremely sensitive. Not only is it impermissible for the *zakāt* institutions to keep it unnecessarily but according to most of the scholars they are also not allowed to invest it even if the intention is to bring more benefit to the recipients. This is simply because the money does not belong to the institutions. Thus for them to invest it they have to get permission from its owners, i.e. all the *zakāt* recipients. This is almost impossible because they have to approach all of those who have a right over it and get permission for that. It is even more impossible given that in the categories of *Ibn al-Sabīl* and the *Mujāhidīn* these recipients occur because of unpredictable events. They may invest the money today when the call for defence had been made or a traveller arrived in the city without their knowledge and is in need of money but the *zakāt* institution would not have any to give him. In this case they would have taken their right. Even those scholars who accept that it can be invested to generate more money set the condition that it should be after all the recipients have received their due right and all their needs have been met. This is also almost impossible because of unpredictable events that can create a great need. In addition to that they also mention that all sorts of precautions must be made to ensure that loss is prevented which is another uncertainty. Allāh knows best.

5. DISBURSEMENT

The main purpose of charity collection is to ease the affairs of the needy. And this cannot be fulfilled unless the wealth collected is disbursed to the rightful people immediately and correctly. The wealth collected from *zakāt* is sensitive and is not supposed to be disbursed in the same way as normal charity. There has to be a well-defined disbursement system that follows the restrictions emphasized by the *Qur'ān* concerning those who are entitled to receive it. This section

focuses on the definition of each category among the eight *zakāt* beneficiary groups mentioned by the *Qur'ān*. This is to block the possibility of any unnecessary *ijtihād* that usually causes deficiencies in the distribution and a loss of its objectives. The section will also look into some areas where misconceptions usually take place, such as the category of *Fī sabīlillāh*.

5.1 ZAKĀT BENEFICIARIES

There is a fixed set of beneficiaries that Allāh The Lawgiver has allocated the *zakāt* to. They are the only ones who have the right to receive *zakāt* as the *āyah* says: “*Al-Sadaqat....*,” Below is a short interpretation of each category.

5.1.1 AL-FUQARĀ' (THE POOR) AND AL-MASĀKĪN (THE NEEDY)

The first two categories of *zakāt* beneficiaries are the *fuqarā'* and *masākīn*. A *faqīr* poor person is the one who has nothing to fulfil his necessary needs whereas the *miskīn* (the needy) is a poor person who has something but it does not suffice his basic needs. Even though the scholars have argued concerning the difference between the two, the best approach has been emphasized by this article. Based on the saying of the *Sunnah* which clearly describes a *miskīn* to be someone who has something but it is insufficient to suffice his needs: Abū Hurairah reported: Messenger of Allāh (*ṣal-Allāhu 'alayhi wa sallam*) said: A needy person is not the one who goes from door to door, begging and is turned away with a morsel or two or with a date or two. But a needy person is the one who does not have enough to live upon, and neither from his appearance it occurs that he is needy and should be given alms, nor does he himself beg anything from others. (al-Bukhārī, 2000 and Muslim, 2000). Moreover, the scholars mention that poor people who can work to remove their poverty but are unable to do so due to their dedication and sacrifice for the sake of seeking knowledge or spreading *Islām*, and righteousness through *da'wah* or being legally prevented from any work due to their refugee status are also entitled to *zakāt*. The targets here are students, scholars, researchers and refugees.

5.1.2 AL-ĀMILŪNA 'ALAYHĀ

These are the *zakāt* collectors and administrators who are assigned by the leader to collect and manage the rights of Allāh from the wealth of

the rich and pass it to the recipients. The discussion on this issue has already been tackled in the first section of this research where it was stated that the *zakāt* institutions are not *zakāt* collectors, rather they are agents of the rich people.

5.1.3 AL-MU'ALLAFATU QULŪBUHUM

Al-Mu'allafatu Qulūbuhum are the people who we believe that giving them *zakāt* will soften their hearts and motivate them to accept *Islām*. Or they are tribal leaders who are already Muslims and it will encourage them to become righteous good believers who will use their authority and power to support the religion of *Islām* and its affairs. Therefore this category is for people whose acceptance of *Islām* or the truth will make a great change in the community to the benefit of *Islām*.

5.1.4 AL-RIQĀB

This is the portion allocated for slaves who are short in satisfying their contract for purchasing their freedom from their owners. These are the type of slaves to be given priority before any other type of slave. Shaikh Yūsuf al-Qaradāwī is of the opinion that the portion of *al-Riqāb* is not restricted to a slave. According to him the portion is also designed to include helping the oppressed Muslim minorities by giving them a portion of *zakāt* which would serve the purpose of making them economically independent. He reasons that this helps liberate the Muslim *Ummah* or a section of it from economic and cultural slavery. Based on both cases, Muslim scholars argue that emancipation may also refer to liberating nations or groups. This is considered an additional meaning besides emancipation of individuals from slavery (al-Qaradāwī, 1973). However, this *ijtihād* by Shaikh Yusuf needs to be assessed through the practice of the Prophet (*ṣal-Allāhu 'alayhi wa sallam*) or at least that of the caliphs. This is because the word *al-Riqāb* has its own intended meaning by the *Sharī'ah* and to add or incur another meaning to it requires evidence. As long as this type of evidence is not in existence then such *ijtihād* will be baseless. Therefore, the best and safest approach in the issue of *zakāt* recipients is that of the majority of the scholars which says these words are supposed to be kept in accordance with their original use by the *Sharī'ah*. Failure of which amounts to removing the word from its original purpose to the inclusion of every Tom, Dick and Harry; Allāh knows best.

However, there are a lot of other Islamic means that can be used to ease the affairs of oppressed Muslim minorities. The use of *bayt al-māl* and encouraging Muslims to establish *awqāf* for that single purpose is a longer-term solution. On the contrary, the use of *zakāt* revenue alone might not be sustainable. The conflict between the truth and falsehood will not end as long as human beings exist on this earth so there might not be a permanent solution to these situations. Thus, the need to have a continuous and constant means that can respond promptly to the needs of those living as a minority is always there. Allāh knows best.

5.1.5 AL-GHĀRIMŪN

Al-Ghārimūn are people who are overburdened by debt and unable to pay their legal debts. They shall be given only what is sufficient to settle their debts. This does not include people who have fallen into debt due to extravagance or through prohibited means as this will encourage people to observe such an evil attitude.

5.1.6 FĪ SABĪLILLĀH

This portion is designed and restricted to the fighters (The *Mujāhidīn*) who fight for the sake of Allāh. It includes strengthening the defence capability of the Muslim states. According to the *Sunnah*, this does not include every voluntary good deed that is done for the sake of Allāh, and that is the view of the vast majority of scholars. However, some among the scholars hold that this portion could be expanded to include virtually any good deed. This view is incorrect and the evidence shall be discussed later. But the question is, can the meaning of *Fī sabīlillāh* be widened to accommodate any form of Islamic activities? In other words is it possible to widen its application due to the nature of the word? This is one of the most contentious issues in *zakāt* concerning its recipients and their definitions or limitations.

As previously mentioned, some scholars are of the opinion that anything which requires some sort of struggle for the sake of Allāh deserves to fall under the category of *Fī sabīlillāh*. However this is a distortion of the meaning intended by the *Sharī'ah*. In the *Qur'ān* the word is used specifically for those who fight in the way of Allāh, for the sake of Allāh. It is always used to address *jihād* and according to the general principle, this culture of the *Qur'ān* should be kept with no modification except where such modification is necessary based on evidence. Bearing this in mind, it is illogical to then use the word in

other than the *mujāhidīn*. Furthermore, there is no clear proof whatsoever from the *Sunnah* that it can be used for other groups of people regardless of their struggle. Moreover, if this form of *ta'wīl* was applicable then *zakāt* could also be given to selfish and greedy people. This is simply because in terms of generosity and having a charitable spirit these selfish and greedy people are figuratively poor and destitute and would be placed under the category of *fuqara'* and it could be justified that this would soften their hearts toward giving *Ṣadaqah*. The *āyah* stated that *zakāt* is only given to those categories listed above. Whether or not the word *Fī sabīlillāh* is restricted to *jihād* for the sake of Allāh or not, the literal meaning should also be adopted. In this regard the vast majority of the scholars believe that the word is restricted to the *jihad* for the sake of Allāh. Other forms of *sabīl* Allāh are not included in the ruling. The following are some of the evidence used by the majority to support their position.

First of all the *Qur'ān* in the above mentioned *āyah* used the method of *Al-ḥaṣr* (restriction). This is manifested in the saying of Allāh *Innamā al-Ṣadaqāt*, and according to Arabic grammar the word (*Innamā*) is usually used by the Arabs to show restriction of the *hukm* to those mentioned in whatever sentence (*Innamā*) is connected to. Thus when the *Qur'ān* says: (*Innamā al-Ṣadaqāt*), it shows confinement of *hukm* to those mentioned in the sentence.

Secondly, the usage of the article of *Al-atf*, which means connection, is to be considered as well. In the *āyah* the eight categories are stated and connected to each other through the means of *atf*, and according to the Arabic Grammar *atf* necessitates and suggests a difference in terms of rulings or meanings of the two connected words.

Thirdly, the word (*sabīl*) as mentioned by Ibn al-Athīr when he described the literal meaning of the word, he said: "originally the word *sabil* means a way/road, and the *sabīl* of Allāh is general which includes every sincere act that is used in the way of pleasing Allāh, such as performing the obligations, *Sunan* and all types of *nawāfil*. But if the word is used without any restriction it usually falls on *jihād*, because of the excessive usage of the word on *jihād*, the word tends to be restricted to *jihād*" this is what is known as *ḥaqīqah al-Shar'iyyah* where a word is used by the *Shari'ah* to address a specific meaning. In this issue of ours the *ḥaqīqah lughawiyyah* suggests the word to be general which includes every act that is done for the sake of Allāh, whereas the *ḥaqīqah al-Shar'iyyah* confirms that the word is used for *jihād* alone. The legal maxim says whenever there is a contradiction between the two (*ḥaqā'iq*) in *Shari'ah* matters the preference is given to the *ḥaqīqah al-Shar'iyyah*. This is simply because the case is a

Sharī‘ah matter, thus nobody should know better than *Sharī‘ah* in terms of the meaning in which the word is used for.

Fourthly, the fact about the *Qur‘ān* being revealed to the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) in the Arabic Language, which uses the most accurate standard usage of words, sentences and phrases. It is part of the eloquence of the language that a general word only comes either after or before a specific word. The Arabs do not use a general (*ām*) between two specifics (which is contrary to what the belief in the word *sabīl* Allāh to be general (*ām*) suggests). Thus, saying that the *sabīl* Allāh used by the *āyah* is general does not comply with the language of the *Qur‘ān*.

Fifthly, if the word *sabīl* is general to include every good deed or righteousness is accepted, then the list of the eight categories would be redundant. It would look like the *Qur‘ān* just repeated the same word eight times with no justification and this against the eloquence of the Arabic language and indeed the *Qur‘ān*.

Finally, the statement of some scholars that the word means *ṭalabatu al-‘Ilm*, is too far from the truth, this is because during the time of the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) when that *āyah* was revealed to him, there was no such thing as a group of people called *Ṭalabatu al-‘Ilm*. Similarly, for the sake of argument, even if we are to agree that the title existed in those days, including them in that category is baseless. This is because the real purpose of seeking knowledge is for education of the self and the *Ummah* about the Islamic legal rulings and it is common sense that there is none who can be compared with the Companions of the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) in this regard. If the student of knowledge was included in this category then Companions of the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) would have all been included because no one can be compared to them in how they sought knowledge. Nevertheless, there was no record where the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) gave *zakāt* to the companions on the ground of seeking knowledge. The Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) refused many people who approached him for charity due to lack of qualification. In short, there was no title of *Ṭalabatu al-‘Ilm* during the time of the Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) and it would be illogical to have revelation from Allāh about distribution of wealth to someone who does not exist. Therefore the only possible opinion that can be accepted is the opinion of the majority which says the word is restricted to *jihād* and *mujāhidīn*. This is the opinion of the Mālikīs, Shāf‘īs, Ḥanbalīs and many Ḥanafīs and others (Al-Bahūtī, 2005).

With regard to the students of knowledge, it is a fact that knowledge is highly regarded as one of the most important keys to success in the life of a Muslim. In Islam almost everything is based on knowledge including *tawhīd*. The *Qur'ān* says: “So know (O Muhammad (*ṣal-Allāhu ‘alayhi wa sallam*) that *Lā ilāha illAllāh* (none has the right to be worshipped but Allāh), and ask forgiveness for your sin, and also for (the sin of) believing men and believing women. And Allāh knows well your moving about, and your place of rest (in your homes) (*Qur'ān*, 47:19). The Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) said: When Allāh wants good for a person He gives him in-depth understanding of the religion. (al-Bukhārī, 2000). This is the status of knowledge in Islam; however the question is whether or not it is permissible for the authority to allocate some portions of the *zakāt* to support this group of people in their journey to seek knowledge. Based on the opinion of the majority, the students of knowledge are not included in this section nor in any of the categories.

However, it is possible that they can be attached if the following two conditions are met, i.e. they have to be poor or needy and incapable of earning for themselves. Before giving *zakāt* to the students of knowledge, they must be incapable of earning for themselves, or the ability is there but they are unable to utilize it due to their preoccupation with seeking knowledge or by any legal impediments. These conditions are necessary because in *Islām* a person has to be in the state of need for him to deserve charity. The *ḥadīth* says: It is not permissible to give charity to a rich man (or one who is independent of means) or to one who is strong and healthy. (Al-Albānī, 1409). It is also confirmed by the *sunnah* that: *Ṣadaqah* may not be given to a rich man, with the exception of five classes: One who fights in Allāh's path, or who collects it, or a debtor, or a man who buys it with his money, or a man who has a poor neighbor who has been given *Ṣadaqah* and gives a present to the rich man. (Al-Albānī, 1409).

Based on the above-mentioned narrations, if there are students of knowledge or *Du'āt* who are poor or needy, but because of the responsibility of *Da'wah* or education they are unable to make use of their skill to earn their living, *zakāt* can be given to them not based on *fī sabīlillāh* but under the first and the second categories. Thus, the student of knowledge can be given from the charity provided they are poor or needy. This is the difference between considering them as *fī sabīlillāh* and giving them the *zakāt* based on poverty recognition. In the first (*fī sabīlillāh*) need is not a condition (the one who fights

for the sake of Allāh can use *zakāt* regardless of his condition – wealthy or not) whereas it is necessary in the second for a person to be entitled to the charity. Furthermore, if he is a *mujāhid* he can be given under the category of *fī sabīlillāh*, if he is hired to collect *zakāt* he can receive it as one belonging under the category of *zakāt* collectors and if he is rich but cannot pay his debts, he can receive *zakāt*, if he is a traveller who runs out of money during his travel regardless of his wealth back at home, he can be given *zakāt*. What is rejected is the idea that he can receive *zakāt* under the category of *fī sabīlillāh* because of his struggle and effort to seek knowledge.

5.1.7 IBN AL-SABĪL

The travelers who do not have enough to enable them to reach their destination. This category includes travellers who due to financial restraints are unable to return to their homeland. They qualify regardless of the size of their wealth back at home. An important point to be noted here is that this journey must have been undertaken for an Islamically acceptable reason (Al-Bahūtī, 2005). This is how these groups should be understood according to the classical view of the scholars. They also believe that looking at the nature of the *āyah* quoted above, *zakāt* is only restricted to them literally. Whatever is not included in the word literally cannot be included through *ijtihād*.

6. CONSEQUENCES OF MISMANAGEMENT OF ZAKĀT FUNDS

Mismanagement in the *zakāt* system can be found in its collection, preservation and distribution as mentioned above. There have been reported cases of mismanagement of funds in different Muslim countries and communities around the world. Some Muslim organizations accept and use *zakāt* funds even though they are not eligible for them based on wrong fatwas and inventing new reasons to accept *zakāt*. Wrong *ijtihād* is used to justify the hosting of expensive awards, galas, and dinners (Aḥmed Shaikh and Usman Omarji, 2016). In addition, in some places *masājid* are being built in affluent neighborhoods and all of these are evidence that in those places *zakāt* has become wealth that circulates among the rich. This is contrary to the objective of *zakāt* which is to help the poor and needy and the other categories mentioned in the *Qurʾān*. Sadly, this practice is often left unchecked by the majority of the Muslims based on blind trust or a

lack of knowledge (or sometimes due to the inability to legally correct the situation) (Arkib Harakah Daily, 2011). Furthermore, there are cases where *zakāt* funds are used to pay for academic researches intended to improve the *zakāt* system which can easily be done pro bono by qualified experts. According to *Sharī'ah* it is impermissible for a *zakāt* institution to pay for research into a matter when there are qualified people willing and able to do it for free and this is if the research is necessary at all. This is because, as previously mentioned, the *zakāt* money does not belong to the institution and anything they use it for should be permitted by *Sharī'ah*.

There have been cases where insufficient security practices are followed when collecting and disbursing the *zakāt* items such as money and clothes. The *zakāt* payers do not go to the *zakāt* recipients as they should and it becomes a humiliating process where people end up in stampedes looking for their need (Khān, 2018). In one case, an audit of an Islamic Organization revealed the inappropriate use of *zakāt* funds by one of its leaders. It also revealed the personal use of *zakāt* funds on relatives even though they were not employees of the organization (McClean, 2016). If *zakāt* was managed properly at every stage in the system then the billions collected globally could lift millions of Muslims out of poverty (Irin News, 2012). Some organizations, who although may have good intention, have deviated in their understanding of *zakāt* issues away from what the *Sharī'ah* stipulates or intends (Villarino, 2015).

7. CONCLUSION AND THE WAY OUT

Zakāt is a divinely revealed system which is the third pillar of Islam. As a system it has objectives which *Sharī'ah* aims to achieve through correct and effective implementation and management. These objectives as previously mentioned are increasing *īmān* and wealth, purification, poverty alleviation, economic empowerment, socio-economic justice and unity and brotherhood. In addition to the objectives of *zakāt*, the authors have also discussed its collection and distribution which arouse some controversy. In this paper some of those issues have been discussed and the authors have brought evidence to support the opinion closest to what *Sharī'ah* intended. *Zakāt* is an *amānah* upon the one who is supposed to pay it and the one who collects it and distributes it. It is wealth that Allāh has given the eight asnaf as mentioned in the *Qur'ān*. Fulfilling the *amānah* of *zakāt* means collecting it from those who should pay it according to

Sharī'ah and giving it to those who Allāh has designated. *Zakāt* collectors and *zakāt* institutions should fear Allāh by ensuring proper management of *zakāt* funds. The earlier generations succeeded in fulfilling the *amānah* of *zakāt* and achieving the objectives of *zakāt* due to their diligence in following the texts of *Sharī'ah* in their rules. The only way the system can succeed is to follow the method used by the earlier generations and our job is just to apply it precisely the way it is without any modification. Focus should be on how to monitor and supervise the system and not on how to re-invent or modernise because Allāh has already designed it and the *Sunnah* has explained how it should be put in place. That design was perfectly preserved by the early generations which was the cause of their success. For us to succeed we need to follow in the same track. As al-Imām Mālik said: "Nothing can fix the later generation of this *Ummah* except that which fixed the earlier generation." (ibn Rushd, n.d.)

ENDNOTE

1. The *Qur'ān* says (*interpretation of the meaning*): And We have explained everything (in detail) with full explanation" (*Qur'ān*, 17:12). Allāh says in another place (*interpretation of the meaning*): "And Allāh will never lead a people astray after He has guided them until He makes clear to them as to what they should avoid. Verily, Allah is All-Knower of everything" (*Qur'ān*, 9:115). Al-Nu'mān ibn Bashīr narrated that the Messenger of Allah (*ṣal-Allāhu 'alayhi wa sallam*) said: "The lawful is clear and the unlawful is clear, and between that are matters that are doubtful (not clear); many of the people do not know whether it is lawful or unlawful. So, whoever leaves it to protect his religion and his honor, then he will be safe, and whoever falls into something from them, then he soon will have fallen into the unlawful. Just like if someone grazes (his animals) around a sanctuary, he would soon wind up in it. Indeed, for every king is a sanctuary (pasture), and indeed Allah's sanctuary is what He made unlawful." (al-Tirmidhī, n.d.)
2. These are a series of claims by Professor Volker Nienhaus in one of his articles referenced as follows: Nienhaus, V. "Zakāt, Taxes and Public Finance in Islam." In *Islam and the Everyday World, Public Policy Dilemmas*, Edited by Sohrab Behdad and Farhad Nomani, 165-92. London and New York: Routledge, 2006.

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