Review of the Contemporary Zakat Collection Systems from the Islamic Economic Policies

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ABSTRACT

This study aimed at reviewing the contemporary systems of zakat collection, drawing insights from Islamic legal theories and economic policies. The study is designed to address many questions regarding the permissibility or otherwise in respect to some collection methods employed by zakat administrators. Thus, the study focuses on topics related to zakat collection including; criteria for zakatability of wealth, the condition of the nisab, the condition of alhaul, condition of full right of ownership, and exempted properties from zakat base. In a bid to find better systems of collection the study discusses issues arising regarding nisab and deductible expenses, issues arising regarding alhaul, and the best methods of determining the nisab in line with contemporary changes. This work considers both classical and contemporary views and practices of zakat collection.

Introduction

During the life time of the Prophet zakatable items are very familiar since the sources of wealth are very well known. *Zakat* is levied on camels, sheep, cows, goats, gold, silver, agricultural products and goods designated for trade (Qardawi 2006). A property exempted from zakat in the life of the Prophet includes properties used for personal use such as living house, clothes and furniture.In the early Muslim generation, duty of zakat collection is carried by the state as tax imposed by *shariah*and distributed to the needy (Marshal 1985). *Zakat* as an Islamic welfare system was not only seen as mere spiritual charities, but was enforced using the power of the state as a means for sustaining the wellbeing of the community by redistribution of wealth.

Contemporarily, Muslim scholars have shown serious concern over the changes in the concept of wealth as against the traditional concepts. They have been debating on the possibility of the use of *ijtihad* to accommodate the newly emerging *fiqhi* issues related to *zakat* collection and distribution (Shah 2008). Some scholars also argue that the identification of *zakat* as a form of tax and welfare deprives it from its religious and moral powers (Siddique 2006).

Research Problems

Scholars concluded that insufficiencies of *zakat* funds to serve as effective public fiscal tool against poverty are mainly caused by inefficiencies of the responsible *zakat* collection and distribution (Chapra 1992). Among the major indications of inefficiencies observed by the scholars is narrowing the interpretation of the *zakat* and its principles. This led to limiting the chances of application of *ijtihad* to enhance the methods of *zakat*.

Research Objectives

This study is designed to suggest the best practices of zakat collection in line with the provisions of *shariah,* this is achieved by;

a- examining The criteria of zakatabilty of wealth in the shariah perspectives
b- Assessing the exempted properties from zakat from the contemporary perspectives of wealth
c- Explore the issues arising regarding the condition of zakatability and
d- Propose the best practices for zakat collection in the Islamic traditions

The Criteria for Zakatabilty

Classical jurist looked at the application of zakat from traditional sources and identify zakat as a duty imposed on all properties that are liable to grow or to bring profit to the owner. They concluded that only naturally growing assets could be subject to zakat (Tabrizi 741 H). Growth and profitability are further explained as (1) something that provide profit or benefit to the owner (2) or something that grows in form of surplus or newly acquired item, like business for profit realized, and livestock reproduction.

(Al- Kasani 1986) maintained that "the meaning of zakat is growth and growth does not happen except when there is a growing wealth. We do not mean by this that the wealth automatically grows per se. but we mean that such wealth is susceptible to growth by some means, such as grazing and trading. Grazing is a source of having milk, reproduction and meat while trading is the cause of realization of the profits.

It may be observed that this view may cause negative effect on zakat collection in corporate sectors, as the zakat will only be charged on the circulating wealth not the fixed assets of the company.

Al-Shaukani (1250 H) maintained that zakat is legislated to help and relieve the poor without impoverishing the rich, by having the rich pay from their surplus taking a little from the plenty. Therefore imposing zakat on the wealth that does not grow reverses the purpose of zakat since it is paid annually in addition to living expenses.

It is clear that classical scholars maintained that; assets meant for personal purposes and assets that do not grow are not subject to zakat. Only growing and profitable assets are subject to zakat.
The implications of this view could be portrayed in the following:
Items subject to zakat are:
i. Major kinds of wealth known at that time including; livestock, inventory of trade, gold and silver.
ii. Part of income embodied fron the major kinds of wealth or income saved in form of wealth regardless of its sources.
iii. Agricultural products, and
iv. Natural resources
Items exempted from zakat include:
i. Human skills and resources,
ii. Income used for consumption
iii. Items used for personal and family purposes including house, horses, furniture and etc.
iv. Trivial things not meant as trade inventory such as laborers tools.

Conditions Governing the *Nisab*(rate)

(Classical jurists considered the traditional sources of zakat from the Quran and Sunnah, and agree that there are no zakat imposed on any properties unless it reaches the nisab laid by shariah, limits of the nisab was institutionalized by the Prophet S.A.W. The Prophet determines five camels and above, forty sheep and beyond, 200 and beyond for silver dirhams and five wasq (653 kilogram) for grains as nisab for zakatability.
Khan (1994, 2003) further relates that whenever above properties reach the nisab, the following four types of rates is imposed:
i.2.5% from the capital income
ii.10% or 5% from the land crops
iii. According to the detailed codes of livestock
iv.20% of the found treasures
Abu Saud (1988) quoted IbnTaymiyah supporting the rationale behind differences in the rate, believing that since some types of the wealth requires less effort than others, then ratio of the zakat has to vary.

The Condition of *Alhawl*(Passage of a year)

Majority of scholars agrees that a complete lunar year has to pass over the possession of the zakatable property after its ownership. This condition is only applicable to capital assets, such as money, business stock and livestock.
Arguments emerged with regards to time earmarked for determining the passage of a year. Shafi'iyyah and Hanabilah for instance, maintained that the nisab must be constant throughout the year, while Hanafiyyah believed that the nisab is only required to be present at the end and the beginning of the year. Similarly (Qardawi 2006) maintained that zakatable properties such as crops, fruits minerals and found treasure, salaries and wages are all classified as earned income (mal al-mustafad). This kind of income according to his view does not require the passage of year to determine its zakatabilty.

Full Ownership and Free from Debts

Another conditions considered by early Muslim jurists is that before assessing the nisab of zakat out of a property, the owner of the property must enjoyed the privilege of full right of ownership. The property must be free from all kinds of debts or outstanding liabilities. They further divided zakatable wealth into two categories; apparent (zahir) and non-apparent (batin). Zahir is a kind of property that can be seen by the poor and assessed by the zakat collector, like livestock and crops. And batin are properties that needs testimony of the owner before its proper assessment.
Hanfiyyah jurists maintained that the first category would be free from zakat if overwhelmed by the debt or reduces zakatable value owned by the debtor. They justify their argument that since zakat is a right of the poor taking from the rich, then the right of the debtor is ahead of the right of the poor and therefore he should be settled first. But Shafi'iyyah jurist argued that zakat being an act of worship is a right of Allah, and the right comes ahead of any other rights (Qardawi 2006).
But Hanifiyyah, Shafi'iyyah and majority of scholars agreed that for non-apparent wealth it will be free from zakat if the owner is indebted. But in a situation where the remaining balance reaches the nisab then zakat should be deducted from the balance of his wealth.
Nevertheless, with the contemporary advancements in the financial and banking sectors, discussion on apparent and non-apparent wealth is not relevant. Nowadays, all asses could be assessed using a simple formula of calculations.

Exempted Properties from Zakat

Some jurists maintained that there are two things to be considered before assessing the zakat of a person; (1) his basic needs must be extracted as zakat is only imposed on the excesses of wealth. This view is supported by Imam Buhkari and IbnKathir as reported by Qardawi (2006). IbnAbideen (1994) further explains basic needs to cover things that are used necessarily in the life of human being, such as expenses for living, shelter, clothing, personal weapons and etc. similarly, debts, tools for handicraft, home furniture, animal for personal transportation and books for study are all excluded out of ones property before assessing his zakat.
Majority of Muslim scholars opposed this view arguing that, the former condition of growth and profitability has already classified these assets among non-growing properties as such discussion on this condition is not necessary.

Abu Saud (1988) considers the present day changes and supports the views of Hanafiyyah in this regard. However, Qardawi (2006) mentioned that expenditures on holidays, unnecessary shopping for luxury, buying big bungalows or cars are not considered as essential needs and therefore monies spent on such is accountable in zakat assessment.

Issues Arising on *Nisab* and Deductbale Expenses

The contemporary literatures about nisab and deductible expenses indicate a great deal of inconsistency and ambiguity if the classical views on nisab are to be applied in modern world.

Al-Dahlawias cited in Qardawi (2006) for instance, defines nisab using contemporary perspectives of wealth and economy, according to his definition; he refers to nisab as clean reference to the cost of living. He finds that there are no repercussions of this interpretation in all studies about nisab of wealth. He also stressed that relative price of gold and silver and all other commodities have changed in value from the time the nisab is fixed. The value of 200 dirham of silver is no longer compatible to 20 dinar of gold 40 sheep, 5 camels or 653 kg of grains. Similarly, the contemporary living cost have changed as housing takes higher priority and consumes bigger income against what is used to be in the past. Changes are also observed in the size of families that cannot be sustained by 653 kg of grains. Moreover, agricultural products have experienced drastic decline in value and industrial products and services are introduced and becomes more sources of wealth in the present generation.

In order to achieve the zakat objectives, these changes must be considered in stipulation of nisab in the contemporary days. In is noted that zakat is a sacred religious duty spelled out by shariah sources and unnecessary alteration of its principles should not be tolerated. But application of ijtihad to accommodate the current changes in the economies should be considered in order to meet the requirements of time and achieve the zakat's objectives.

Similar inconsistencies could be observed on deductible expenses. Qardawi (2006) for instance, insists that one of the conditions of zakatability of wealth is that the item which zakat is targeted at must be in excess to the need of the owner. While he applied this principle on salaries and wages, he didn't make it clear in the case of peasant farmers whose family live on the farming produce of 653 kg for the whole year. It could be simply understood that expenses allowances are not the same in the two cases of salaried and farming zakat payers. A situation like this may cause a lot of confusion to authorities responsible to zakat administration.

Kahf (1989) cited similar situation in Pakistan, where the zakat authorities opted for suggesting a deductible limits by collecting ushr from farmers who cultivates more than three acres neglecting the actual nisab of 653 kg. By implication the payment of ushr is left voluntarily to farmers cultivating less than three acres, consequently they may not be willing to pay the zakat and their production may not be enough to meet their basic needs.

These radical changes approaching the economies and the nature of wealth have created a lot of concern among contemporary scholars. Many of them calls for fresh ijitihad's regarding zakat issues for its consistent application. This comes in line with the concept of (al-islahwa al-tajdid) (Shah 2008).

Scholars mentioned following reasons as basis of arguments in calling for new ijitihad on matters related to zakat;

i. With the current changes in the concept of wealth, sticking to the classical definition would obviously exclude much contemporary wealth from zakat application. Kahf (1989) found that if zakat application is limited to livestock, agriculture, mining and monetary holdings, zakat proceeds will only stood at between 0.9% and 2% (except in Sudan it is 4.3%) of the total GDP. But when the contemporary views is applied and the newly sources of wealth is considered, the estimates shows that rapid increment to 2% and 7.5% of the total GDP.

ii. If zakat collections are based on classical views, may cause diversion of wealth from the poor to the rich. For instance, if the nisab of money is to be assessed by calculating the value of silver, zakat may be imposed on the poor as the value of the silver have sharply depreciated as compared with gold. Similarly, imposing zakat on the gross produce of the grains of 10% or 5% on 653 kg's of grains. It means that the poor farmer once harvest that amount which is not up to N40, 000 has to pay its zakat.

Definitely calculating zakat on the net amount after deducting the agricultural expenses and the basic needs of the farmer would resolve a lot of conflicts.

iii. Another issue raised by the contemporary scholars is the exemption of fixed assets from zakat. The exemption of fixed assets raises a lot of concern among scholars. They maintained that in the classical Muslim era, business requires little fixed assets in a shop or spot. While in the current times business require large amount of investments and capital on fixed assets, such as lands, structures, machineries etc. hence imposing zakat on stock cash alone leaving the much higher investments in fixed assets is defeating the objectives of zakat (Shah 2008)

Issues Arising on the Conditions of Alhawl

Contemporary Muslim economist questioned the idea of growth as a condition for zakatability. Kahf (1989) criticizes the condition of growth in many ways among them are:

Firstly, applying growth as a condition of zakat excludes fixed assets of business entity regardless of the value of amount invested in the assets. He argued that fixed assets in contemporary business are not only meant to help in keeping the business. But fixed assets are equally used in the production process and should therefore be accountable to zakat.

Secondly, Kahf stressed that excluding fixed assets from zakat on the basis of lack of growth is not consistent, especially when idle money that does not grow is still subject to zakat.

Thirdly, when fixed assets are considered as non-growing and not zakatable, then the application of growth on agriculture is arbitrary. Since agricultural produces does not grow in actual or potential sense.

Fourthly, whenever it is established that growth is strictly considered as reason (Illah) for zakatabilty, then a property that does not grow should not be considered zakatable. But this was not the case in trading properties as their zakat is imposed even if it incurs lost.

Kahf finally suggested that classical scholars have mistaken in the concept of growth in determining zakatability, instead, they should have considered the basis of richness (ghina).

Abu Saud (1978) further emphasizes that the theory of growth is not consistent in application in modern times. He supposed another definition that will give a room for accommodating the modern changes in economies as “zakat is a due on all economic goods once they exceed nisab, except for those goods acquired for personal uses or consumptions, as well as on all money in its different forms if the amount withheld exceeds the limit”.

However other contemporary scholars like Qardawi (2006) and many official zakat institutions are opposed to this opinion and advocates for the condition of growth as a base for zakatabilty.

Determining the *Nisab* Today

It is clear that the contemporary scholars maintained different views regarding the nisab, to meet the demands of time and nature of wealth in the contemporary day. To address this demands, Mannan (1985) suggested that the formula of nisab should consider the standard of living of an average community. The basic amounts required for living in each community should be calculated out of the wealth before determining the nisab.

In support of this view, Raqibuzzaman proposes that “we need to allow different nisab and exemption limits for each country as situation varies from country to country”. His arguments were based on consideration that the prophet fixed the nisab in accordance with the conditions of time and the place he is living. He maintained that reviewing them in line with today’s conditions will not violate shariah in any way (Sadeq 2009).

Masfiqurrahman as cited in Sadeq (2009) believes that scholars who oppose the idea in principle, some of them reverse their views, especially when the conventional rates is not sufficient to remove poverty. They also justify their views by precedent from Umar Ibn al-khattab that He changed the zakat rates on horse.

The Saudi zakat administration rejects the idea in principle. But they were forced to admit changes within the sub-structure of textually defined nisab. This happens in the case of silver and gold, due to sharp decline in the price of silver, the Saudi zakat authorities now considers the price of gold as the bases of monetary nisab and ignore the value of silver in determining the nisab (Shah 2008).

Conclusion and recommendation

The central point covered in this paper is a review of the available literature on debate about adjusting certain features of *zakat* jurisprudence.

The paper argued and concluded that: There are parts of zakat laws than can be reviewed and there are other aspects that are not amenable to human extrapolation. On the renewable part,we argued and agreed with the extension of zakat base to include all economic goods and services of our time .We also agreed that today’s fixed assets is a growing wealth in the economic sense and not in the legal sense as defined by the classical jurists, thus it has to be zakatable.We also favor the fresh understanding of deductible debts as today even most wealthy people are not free of running debts of some kind.

And as for the second issue ,the paper concludes that zakat poses challenges as well as opportunities for Islamic banking and finance .On the challenge side ,zakat has to find its way to banks as far as its enforcement is concerned .On the opportunity side ,for the zakat to realize its socio-economic goals of effectively alleviating poverty ,its financing potential needs to be realized beyond what has been practiced so far .

As such, we recommend the following:

Zakat institutions should make the necessary legislative changes in tandem with the new *ijtihad* on *fiqh al-zakat* to practically enable the the consideration of contemporary sources of wealth in to zakat folds in order to ensure achievement of zakat objectives and establish social welfare. Banks to fulfill the obligation of zakat on behalf of both their customers and shareholders, for instance, allowing banks tax-rebates similar to the one accorded to employment zakat.This requires amendment of certain laws governing taxation in the states practicing zakat collection.

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