



*Islamic Development Bank*  
*Islamic Research and Training Institute*

**MANAGEMENT OF  
ZAKAH  
IN MODERN  
MUSLIM SOCIETY**



**Islamic Development Bank  
Islamic Research and Training Institute**

## **MANAGEMENT OF *ZAKAH* IN MODERN MUSLIM SOCIETY**

**Edited by :**

**I. A. Imtiaz**

**M. A. Mannan**

**M. A. Niaz**

**A. H. Deria**

Papers presented to the first Seminar on Management of *Zakah* in Modern Muslim Society held in Karachi, Pakistan during 02-12 Sha'aban 1405 H ( 22 April - 02 May 1985 ).

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## FOREWORD

As an international financial institution fostering the economic development and social progress of the member countries of the Organization of Islamic Conference and the Muslim communities in non-member countries at large, the Islamic Development Bank, is responsible, inter alia, for under-taking research and training primarily in areas of Islamic economics, banking and finance and other related fields which would further the development of its member countries. It is in realization of this particular responsibility that the Bank established the Islamic Research and Training Institute (IRTI) in 1401H (1981).

The objective of IRTI is to undertake research for enabling the economic, financial and banking activities in Muslim countries to conform to *Shari'ah*, and to extend training facilities to personnel engaged in development activities in Bank's member countries. The Seminar on "Management of *Zakah* in Modern Muslim Society", held in Karachi, Pakistan during 2-12 Sha'baan 1405H (22 April -2 May 1985), was organized in partial fulfilment of the Institute's objective.

On behalf of IRTI I would like to acknowledge with gratitude the contributions made to the seminar by the co-organizing institutions in Pakistan, namely, Pakistan Development Banking Institute (DBI) and Central *Zakah* Administration (CZA), Government of Pakistan. Thanks are also due to all resource persons, paper writers, commentators, and participants from OIC member countries who made the Seminar a success. I would also like to acknowledge the contribution of Br. C. P. Saleem of IRTI for the painstaking effort he rendered to the editors in the publication of this volume.

Finally, I do hope that this document will contribute to the growing literature on Islamic economics and will help meet the needs of students as well as the interested public in the vital area of Islamic economics.

**Dr. Mohammed Aslam Niaz**  
Officer-in-Charge,  
Islamic Research & Training Institute





**PART I**

**MANAGEMENT OF ZAKAH  
IN MODERN MUSLIM SOCIETY**



# INTRODUCTION

I. A. Imtiaz<sup>\*</sup>

1 - Here an attempt is made to provide a broad overview of six papers presented at the seminar and the comments and discussions which followed at the International Seminar on the Management of *Zakah* in a Modern Muslim Society held in Karachi from 22 April to 2 May 1985. In this Seminar a number of thought-provoking issues concerning various aspects of *Zakah* were mooted and debated.

## ***Zakah* : Its Economic Potential**

2 - M. A. Mannan's paper entitled " Effects of *Zakah* Assessment and Collection on the Redistribution of Income in Contemporary Muslim Countries " generated much useful discussion. In the paper, Mannan observes that while *Zakah* may add to consumption demand in the economy by redistributing income from the rich to the poor, it is also likely to stimulate investment by checking the tendency to hoard idle cash, thus adding to the production of goods and services of common use for the poor, rather than luxury goods for the rich. Furthermore, in his view, *Zakah*- financed projects in fields such as education, medical care, social welfare etc., will raise the productivity of the poor. Higher productivity so attained coupled with the multiplier effect will raise the real income of the *Zakah* recipients by a multiple of investment. However, in order to enable the institution of *Zakah* to realize its potential, particularly in regard to the alleviation of poverty and the reduction of income and wealth disparities, he moots a number of ideas which, in his view, will make larger resources available to the poor and also improve the quality of *Zakah* proceeds utilization further.

## **Extension of *Zakah* Base**

**3 - One such question relates to the expansion of the list of items liable to *Zakah* which can be restated as follows :**

**a) Originally when *Zakah* was instituted as a religious obligation, a num-**

- Mr. I. A. Imtiaz<sup>\*</sup> was the Administrator General, Central *Zakah* Administration, Government of Pakistan, Islamabad, Pakistan.

ber of items were exempted from *Zakah* on the assumption of their being required for bonafide personal use, e.g. ornaments, dwelling houses, consumer durables, etc. This assumption no longer holds good in many cases in the modern Muslim society. People are found frequently indulging in " conspicuous consumption " and keeping such items, on the ostensible but untenable, pleasure of personal need, much in excess of what may be regarded as a socially desirable limit. In order to counter this, the following proposals were advanced :

- i) Guidelines be developed at the national level to determine the size and composition of an average family in a particular social con-text, at various income levels; and to define the standard of living at the subsistence, sufficiency and comfort levels;
  - ii) Then limits be set on what in a particular social context an average family, at a particular income level, may be allowed to keep to maintain its standard of living at a certain level.
  - iii) Assets kept over and above the limits so set, be subjected to *Zakah* the obligation of which the asset-owner may be motivated through appropriate Islamic education, to accept and discharge on a voluntary basis.
- b) When precious metals like silver and gold were made liable to *Zakah* these were the- only two precious metals which either per se or in the form of their coins or manufactures were used generally as stores of value. Currently, a number of metallic items. (e.g. platinum) and nonmetallic items (e.g. diamond, sapphire and other precious stones and gems) are being used as stores of value like silver and gold. Therefore he argued whether these new stores of value be made liable to *Zakah* or whether the asset-owner be motivated to accept and discharge on a voluntary basis as socially tolerable maxima items of personal need, or whether such a list of nontraditional items liable to *Zakah* be reviewed every 5 years to keep abreast of changing times.
- 4 - Two precedents have been quoted in support of the proposition : one that of Hazrat Umar Ibn al Khattab who is reported to have levied *Zakah* on horses, while it was not levied before; and the other, that of Hazrat Umar Bin Abdul Aziz who levied *Zakah* on all minerals, acting on a ruling by Imam Ahmad Bin Hanbal. Although the purpose of Mannan is not to pronounce judgement on the issues raised but to unfold them providing the *Shari'ah* scholars some food for thought, one has to face a set of complex problems at the operational level.

### **Revision of Nisab**

5 - Again, with a view to enlarging the scope of resource transfers from the rich to the poor via *Zakah*, Mannan has mooted another question which he calls " Vertical Assessment of *Nisab* ". Mannan raises a question as to whether all the *Zakatable* assets be valued; then their values be added together; and then if the combined total value of all the *Zakatable* assets, irrespective of genus, exceeds the silver-based or gold-based *nisab*, *Zakah* be levied. The Hanafite doctrine favours combining silver and gold for the purposes of determining *nisab*,, should each of them be below *nisab*, but taken both together be above *nisab*, fixed for each of them. This question also calls for a careful examination both from the conceptual and operational viewpoints.

### **Monetization of Nisab**

6 - Another point raised by Mannan with a view to making larger resource transfer to the poor via *Zakah* than is possible at present relates to what he calls " Intra-scale Rationalization of *nisab* " and which also implies monetization of *nisab*, The idea is "to take the *nisab*, of gold or silver, as given, then to evaluate other items in terms of their ruling prices and then to apply to them the gold-based or silver-based *nisab* ".

### **Zakah Disbursement**

- 7 - On *Zakah* disbursement side, too, Mannan raised a number of interesting questions with a view to improving the quality of such disbursement in terms of its distributive efficiency.
- 8- Operationally, Ziauddin Ahmad has rightly pointed out and Mannan himself too has acknowledged that formulation of the proposed guidelines at the national level, in most contemporary Muslim countries, may, after all, not be a feasible proposition.

### **Zakah and Public Expenditure**

9 - Shawki Ismail Shehata's paper entitled " Limitations on the Use of *Zakah* Funds in Financing the Socioeconomic Infrastructure of Society " emphasizes the imperative need for keeping *Zakah* receipts and disbursements completely separate and distinct from *non-Zakah* receipts and disbursements. He points out that *Zakah* moneys do not belong to the State which is only a conduit between the *muzakki* and the *mustahiq* and, that, therefore, *Zakah* moneys must not be allowed to get mixed up with the other state revenues - tax or non-tax. He stresses the point that in the wealth of the wealthy, Allah has conferred a right to the beggar and the destitute and that the divinely conferred right

must be respected meticulously. He makes the interesting point that it is perhaps imprecise to say that *Zakah* redistributes wealth between the rich and the poor, he would prefer to say that in an Islamic economy, wealth is distributed per se ( and not redistributed ) between the rich and the poor, for, he points out, according to Imam Shafe'i and Ahmad Bin Hanbal, in the wealth liable to *Zakah*, the rich and the poor are co-owners. Hence, he concludes that public infrastructural projects such as public utilities, public services, public administration, etc., meant to serve the public at large, the rich and poor, the Muslim and the non-Muslim, alike, cannot be financed from *Zakah* revenues without contravening the provisions of the *Shari'ah*.

- 10 - The implications of such works being covered or not covered under the "*feesabeelillah*" category, with or without the individual ownership of the recipient condition, have been commented upon already.

### ***Zakah* Entitlement**

- 11 - As for the exclusion from entitlement to *Zakah*. he is of the view that the rich and the able-bodied are excepted in case the rich person is engaged in collecting and disbursing *Zakah* or buying it back with his own money (e.g. a goat given as *Zakah* is bought back by the *muzaki* with his own money ); or the payee returns it; or the recipient is a *mujahid*; or under debt contracted for a good cause and is unable to repay.
- 12 - As for the locality of disbursement, he is of the view that, as a rule, *Zakah* should be disbursed in the same locality from where it is collected except that the state, in consultation with the *Ulemu*, may decide to send it elsewhere. As to the allocation of *Zakah* to the eight categories specified in *Aayah IX:60*, he considers it generally to be a matter of discretion with the state. As to how much to be given to a *mustahiq*, he describes various options varying from that limited to one-year needs ( Imam Malik, Imam Ahmad Bin Hanbal ), to self-sufficiency for life ( Imam Shafe's Mawardi ), to limitless ( Abu Ubaid )
- 13 - Quoting Abu Zahrah, Shehata also suggests that " good " loans may be advanced from *Zakah* proceeds, the justification given being that just as the debts of the *gharimeen* ( debtors in distress who contracted debt in good cause ) can be discharged from *Zakah* proceeds so also can loans be advanced. Even assuming that there is no juristic problem in so doing, it is for consideration whether *Zakah* moneys can be exposed to the risk of non-recovery or delayed recovery, whether financial and administrative costs would be bearable or prohibitive, and whether it would be prudent to do so while other more or equally pressing needs of the entitled needy exist.

## **Disbursement to Institutions**

- 14 - Shehata finds himself in favor of *Zakah* moneys being given to the institution as long as they serve the *mustahiqeen* only, whether such institutions are for noncommercial or for commercial purposes. Though there are some who consider the distinction between *Zakah* and *non-Zakah* revenues in an Islamic state irrelevant, the general consensus is that *Zakah* must not be mixed up with any other levy neither conceptually nor operationally. Caution would also demand, as D. M. Qureshi points out that the provision of the public goods, where the exclusion principle cannot be applied ( e.g. public roads and bridges), out of *Zakah* proceeds, may be avoided. Private goods, where the exclusion principle can be applied, may be financed from *Zakah* funds, be these consumption goods, e.g. food, clothing, or investment goods, e.g. education. Investment of *Zakah* proceeds in commercial ventures, albeit within the framework of the *Shari'ah*, needs careful consideration. As pointed out earlier, it is unlikely that the *mustahiqeen* would readily agree to such investments because their immediate consumption needs may not be such as could be deferred; second, because their expectation as to the rate of return may be unrealistically high; and thirdly because it may not be prudent to expose them to such business risks.

### ***Zakah* on Buildings Meant for Rent**

- 15 - Sabahaddin Zaim in his paper entitled " Recent Interpretations of the Economic Aspects of *Zakah* " has raised, *inter alia*, the question of the liability of the real estate and building meant for renting, to *Zakah*. There are differences of opinion on, firstly, whether such buildings, or their rents, or both are liable to *Zakah* or not; and secondly, if the answer is in the affirmative, at what rates would *Zakah* liability be **computed**.

### ***Zakah* on Fixed Assets**

- 16 - Sabahaddin Zaim has also raised the question of the liability of the fixed assets to *Zakah*. Fixed assets are defined as the assets such as " real estate (land, building), industrial plants, machinery equipment, fittings and fixtures etc. that help promote the production process and economic activity "; fixed assets are also said to include invisible items such as goodwill premia, etc. In other words, these are assets not subject to wear and tear in one productive operating cycle and are not meant for turnover or sale. Current assets, on the other hand, are so defined as to include goods produced, work in progress, raw materials **inventory**, auxiliary materials, cash in till, receivables, shares etc. Current assets, unlike fixed assets, are meant for sale or turnover. Cost of



acquiring fixed assets are charged as capital expenditure, while their depreciation is chargeable as an operating expense. There are, of course, differences of opinion on the liability of the fixed assets to be charged to *Zakah*.

#### ***Zakah on Shares and Certificates***

- 17 - Sabahaddin Zaim has also raised the question of the *Zakatability* of shares and certificates. Shares represent shareholder's part-ownership of the company. Certificates, on the other hand, show that the holder is a creditor to whom the borrowing company is to pay certain fixed return irrespective of profit or loss; *Shari'ah*-wise such certificates are open to serious questions. However, since both shares and certificates are traded on the stock exchange, it is generally accepted that both are liable to *Zakah* in the hands of the holder, as goods for trade.
- 18 -The position with regard to the liability of the company issuing shares, to pay *Zakah* in respect of its net assets, in addition to the share holders paying *Zakah* in respect of shares in their hands, is, however, unclear. One view is that a company is a judicial person in its own right, distinct from the person of the shareholder, and that the payment of *Zakah* by him in respect of the shares he holds as a store of value, or goods for trade, does not absolve the company of its own distinct liability to pay *Zakah* in respect of its own net assets. The other view is that charging *Zakah* both from the shareholders in respect of their shares, as also from the company in respect of its net assets, may appear to amount to charging *Zakah* in respect of the same asset twice, within the same *Zakah* year, which is not permissible. This area may also need some more deliberation.

#### **Fiscal Aspects of *Zakah***

- 19 -Mohammad Hashim Awad in his paper entitled "Adjusting Tax Structure to *Zakah*" calls *Zakah*, an 'earmarked tax' 'the only constant in the tax system', the rest being, in his words, 'mere extension of this religious levy (*viz. Zakah*). " It is not just a wealth-redistributing device", says he, "it is also an instrument for stimulating growth, stabilizing the economy, promoting social cohesion, and international peace".

#### ***Zakah & Fiscal Policy***

- 20 - As to *Zakah* 's relationship with the fiscal policy of an Islamic State, there are two schools of thought - one holding that *Zakah* is not only a part but the most important ingredient of the Islamic fiscal system, meant and expected to perform multifarious fiscal and economic func-

tions. The other view is that *Zakah* is simply not available to the Islamic State to be manipulated as a fiscal tool. It has certain divinely ordained role which should not be interfered with.

- 21 - Awad evidently belongs to the first school of thought. Awad's perception is also shared by Faridi when he calls *Zakah* as " the irreducible minimum ingredient of the Islamic fiscal policy ". In his view, Islamic society must ensure minimum means of livelihood to its members by ensuring optimally productive use of its material and human resources, for the common goal, measured in terms of the welfare in this world and in the life hereafter, in accordance with the permissible and the prohibited limits set by Allah and the do's and don'ts prescribed by the *Shari'ah*. In his view, *Zakah* represents the spirit of mutual sharing of the community's income and wealth, between the privileged and the underprivileged. In fact, Faridi and Awad both call for the restructuring of the Islamic tax system, with *Zakah* at the center, so as to fill in, what Faridi calls, the ` objectives gap ' indicated by or incidental to *Zakah*. In other words, the objectives assigned to, but unattainable by *Zakah* alone should be made attainable through the rest of the tax system.
- 22 - Zafar Iqbal, too, in his comment on the paper, seems to be inclined to think that since *Zakah* base, *nisab* rates and uses, are all divinely fixed, and its receipts and disbursements are not susceptible to state manipulation at will, except to the limited extent permitted by the *Shari'ah*, the institution of *Zakah*, may, perhaps be kept out of the state's fiscals armory.
- 23 - All in all, because of its economic dimension, *Zakah* may, and in fact does, have its distinct policy and operational implications for the Islamic State's fiscal policy, the clear<sup>est</sup> implication of each being that the fiscal policy (as without doubt other policies too) should be in harmony with the spirit of *Zakah* , the policy should complement than contradict, reinforce than weaken, the pursuit of objectives which the institution of *Zakah* is meant to serve and promote.
- 24 - Awad raises another important issue when he points out that since *Zakah* base, *nisab*, rates and uses are fixed and unalterable, *Zakah* proceeds, when they are not enough to meet what he calls ` all the needs of the poor', should be supplemented by levy and by collection of taxes in aid of the poor; this in his view is not only permissible but also imperative. What, however, he considers debatable, is the legitimacy of imposing taxes for reasons other than aiding the poor.

25 - As to what a 'just tax' is, Awad's answer is that it is this tax which can be justified by its end-use. He says "the imposition of any tax in an Islamic state must be justified by what it is to be spent on. The Muslim *Imam* may impose a *wazifah* (tax) only to meet some essential need like defending the country, paying ransom for Muslim captives, or providing for the poor. Taxes that strengthen the economy and enable it to shoulder these and other responsibilities by improving resource allocation, promoting investment and stabilizing income, etc., must also be permissible".

26 - The model Zakah-based tax structure that Awad has suggested consists of traditional taxes and supplementary direct and indirect taxes. In the traditional taxes, he has excluded *Zakah* which, as has been pointed out, is more of an *ibadah* than a tax, with its predetermined immutable sources, nisab, rates and uses, and as such, may neither conceptually nor operationally be a component of the tax structure, since it is not freely available.

However, among the taxes Awad would like to see excluded from his model tax structure, are the 'taxes that duplicate *Zakah*'.

Awad's observation that *Zakah* "is not just a wealth redistributing device, but also an instrument for stimulating growth, stabilizing the economy, promoting social cohesion and international peace", is worth serious consideration. For assessing *Zakah*'s role as a growth stimulant, implications for consumption, saving, hoarding and investment, would be relevant.

### **Organization of *Zakah* in Contemporary Muslim Countries**

27 - *Zakah* is not a private matter between the *Zakah* payer and the beneficiary. It has a certain distinct and inalienable social dimension. The *Shari'ah* enjoins all Muslims who are *sahib-e-nisab* to pay, and the Islamic State to arrange for the proper assessment, collection, disbursement and utilization of *Zakah*. It is true that the part thereof not so collected by the State, is to be disbursed by the *sahib-e-nisab* Muslims themselves for the purposes authorized, and in the manner prescribed by the *Shari'ah*. But the State's responsibility to secure the proper organization of *Zakah* comes first.

It is in order to discharge this divinely imposed obligation that a number of contemporary Muslim countries have promulgated law, set up high-powered organizations, laid down procedures and provided operational and administrative mechanisms for the collection and disbursement of *Zakah*, in compliance with the requirements of the

*Shari'ah*. Unfortunately, information is not readily available on all the Muslim countries though the compilation and publication of an *Ummah Zakah* Directory giving specific details of the *Zakah* collection and disbursement arrangements together with the related data in a standardized format. in respect of all the Muslim countries, may be an idea worth exploration. From the papers presented in the Seminar, for ex-ample, on Pakistan, Sudan and Kuwait, and from the country-briefs on the current status of *Zakah* arrangements in Saudi Arabia, Jordan, Bahrain, Malaysia and Bangladesh, together with the information gleaned from elsewhere, on Libya and Lebanon, the position obtaining these ten Muslim countries has been indicated in the table at the end of the conclusion.

- 28 - It would be observed that of the ten Muslim countries, in six, namely, Jordan, Bahrain, Kuwait, Lebanon, Malaysia and Bangladesh, payment of *Zakah*, into the collectively organized *Zakah*, fund is voluntary. In the other four countries, namely, Saudi Arabia, Libya, Pakistan and Sudan, where *Zakah* payments into the regularly contributed *Zakah*, fund, have been made obligatory, the coverage is partial.. This is reflective of the host of operational and management problems which confront any serious attempt to organize *Zakah* completely and effectively.

#### CONCLUSION

- 29 - Apparently, two distinct lines of thinking have emerged on the assigned role and functions of *Zakah* in the context of the contemporary Muslim society:
- a) One view is that, *Zakah* is a "micro-cosm of the entire Islamic economic system. "; that it embodies the entire Islamic philosophy; that it is " the irreducible minimum ingredient of the Islamic fiscal system"; and that it is the ' fulcrum of the Islamic economy '. Ac-cording to this view *Zakah* has to play a crucial and extended role in affecting, shaping and directing the Islamic economy, virtually in all of its important ramifications : it has to eradicate poverty, en-sure equitable distribution of wealth to the desired level, stimulate economic growth, act as a counter-cyclical economic stablization device, and promote social welfare and common welfare.
  - h) The other view is that *Zakah* may or may not eradicate poverty, depending on the balance between the degree of *tagwa* and af-

fluence on the one hand, the extent of poverty on the other, in any economy that it may reduce income and wealth disparities, but, by itself, may not be able to ensure equitable distribution of income and wealth to the socially optimum level; that to the extent it succeeds in pushing hoarded wealth into productive investment which is an important determinant of growth, it may give growth orientation to the economy, but the measure of its effectiveness remains indeterminate; that the rules regarding its collection and disbursement being divinely fixed and inflexible, cannot be varied to tackle the inflationary or deflationary vagaries of the economy and hence the expectation as to its ability to act as a counter-cyclical device and as an economic stabilizer may also not be over-pitched; and that, in sum, *Zakah* may not be expected to serve all the important objectives of the Islamic state. Nonetheless, it is recognized that *Zakah* is the most important component of the Islamic social security system; ensures provision of relief in situations of distress, disaster and destitution; alleviates poverty ( though may not eradicate it ), reduces income and wealth disparities ( though may not remove them ), and also has growth stimulating potential.

- 30 - All are, however, agreed that irrespective of whether *Zakah* has to play an extended or limited role in directing or influencing the economy, much of its potential remains unrealized because of its relatively low level of receipts in the organized sector, compared to the enormity and the urgency of the needs. On the question as to how this potential can be realized in a fuller measure, there again appears to be two distinct points of view:
- a) According to one view, only *Zakah* uses have been prescribed in the Qur'an and not the sources, *nisab*, and rates, thus, there is considerable scope for fresh thinking within the Qur'anic imperatives through *ijtihad* applying the principle of *qiyas*; and that the receipt base could be considerably extended by adding to the list of *Zakatables*, by reducing exemptions and by varying rates.
  - b) The other view is that it may be inadvisable to think of unsettling settled *fiqhi* issues, and that perhaps a better alternative to this would be to complement *Zakah* with other levies which should be in harmony with the spirit, the objectives and the principles of *Zakah*.
- 31 - In support of the first view that favors the extension of the *Zakah* receipt base by expanding the list of *Zakatables*, the following suggestions are made :
- i) the list of persons liable to *Zakah* may be extended by including

therein companies in respect of their net worth, in addition to the shareholders of the company being liable to *Zakah* in respect of their shareholdings: the proposal is objected to on the ground that it may amount to the same asset being subjected to *Zakah* more than once within the same *Zakah* year. The counter argument given is that a company is to be held as a judicial person in its own right, with its own assets and liabilities, with its own rights and obligations, distinct from and independent of the rights and obligations of its constituents;

- ii) to the list of assets liable to *Zakah* may be added items representing new forms of storing value like silver and gold of the olden days e.g. precious metals other than silver and gold like platinum; precious stones like diamond, sapphire;
- iii) to the list of Zakatable assets may be added items which were not subjected to *Zakah* because these were assumed, in the earlier days of Islam, to be needed for personal use but at present these are largely used for profit e.g. real estates and buildings meant for renting; and
- iv) to the list of Zakatables may be added shares and certificates - ' representing stores of value as well as goods for trade.

32 - As to how the *Zakah* receipt base may be expanded by reducing or removing exemptions, the following ideas are discussed:

- i) a number of items were exempted from *Zakah* for the reason of their being needed for personal use e.g. dwellings, consumer durables, ornaments other than those of silver and gold, conveyances, etc. In contemporary social setting in many cases, these are being used for conspicuous or wasteful or avoidable consumption, far in excess of what may be regarded as the upper socially tolerable limit; *Zakah* exemption in respect of such holdings, whether of productive or nonproductive assets above the socially desirable limit is to be withdrawn and those be subjected to *Zakah*.;
- ii) at present each Zakatable genus enjoys *Zakah* exemption below its own nisab,, separate from the other Zakatable genres: the number of genres being quite large, for the purposes of determining the nisab of a person liable to *Zakah* all these Zakatable assets should be clubbed together, valued and then the combined value of all Zakatable assets may be applied to ' nisab ' as applicable to silver or gold.

- iii) at present, different nisab are applicable to different Zakatable genres, even if all the Zakatable assets are not clubbed together for the purposes of determining a unified nisab, the silver-based or gold-based (preferably silver-based) nisab, may be treated as given and applied to each genus;
  - iv) to pasturing animals also a uniform rate of 2.5 percent of value (applicable to silver, gold, and the like, and goods for trade) may be applied.
- 33 - Those who do not subscribe to the above-mentioned approach, say that "neither the sources, nor the rates, nor the avenues of *Zakah* can be altered or modified", 'since that' in the view of most Muslims, "is a settled matter ". Since both the rates of *Zakah* and the sources and the *nisab*, of *Zakah*, for each type of wealth have been prescribed by the Holy Prophet (PBUH), they are immutable". They caution against the possible danger of 'frequent changes in the rates of *Zakah* according to the expediency of the ruling authorities, and may also become an election issue in countries having multi-party systems, and destroy the sanctity of *Zakah* which is a form of *ibadah* .
- 34 - The proposal of Awad to reinforce *Zakah* is to supplement it with other taxes imbued with the spirit of *Zakah*, carrying the principles and objective to every part of the economy, complementing and supporting *Zakah* and not contradicting or weakening it. While there is consensus that in an Islamic State taxes which are justified by their end use may be levied, with the willing consent of the people, preferably temporarily there is difference of opinion on what ends and conditions would justify the imposition of taxes: one view supports a relatively lower level of taxation in an Islamic state because the only ends which will justify taxation according to this view are aiding the poor and defending the policy; and there, too, taxation may be undertaken as the last resort if *Zakah* and non-tax resources are not adequate. Basing this stand on the views of Imam Malik, Ibn Hazam and Qatani, it is argued that the responsibility of the state ends after ensuring the fulfilment of a socially-determined subsistence living standard for the poor i.e. essential food, clothing and shelter.
- Recapitulated, the view supporting low-level taxation in an Islamic State. rests on the following grounds:
- a) since taxes are justifiable by their end use only, taxation for defense and provision of essential basic needs to the poor may be undertaken if *Zakah* proceeds are not adequate; and taxes to finance consumption are not justified;

- b) taxes should be the last resort, only after non-tax sources of resource mobilization are exhausted; if non-tax revenues equal or exceed expenditures, there should be no taxation; if there is a surplus, it should be invested in income-generating projects; if there are deficits these should be met by non-inflationary, preferably non-tax finance.
  - c) taxes when levied should be just (as said by Imam Ghazali, Ibn Taimiyah, Mawardi ); e.g. indirect taxes on non-luxury goods of common use by the poor are not just.
- 35 The above view limiting the Islamic state's functions and hence its needs for taxation is seriously controverted by others who say that an Islamic State cannot escape its responsibility for improving the material and spiritual life of its subjects and for that it has got to stimulate economic growth along with social equity, and income and price stability, for which large scale expenditures are inevitable; the scope for non-tax resource mobilization being quite limited: monetary expansion scope is limited because currency debasement is not liked; scope for borrowing is also limited since interest is prohibited; income from public investments and property is also limited because of the poor standards of integrity and efficiency; thus, taxation by a process of elimination becomes inexplicable.
- 36 - According to Awad, taxes that strengthen the economy and improve resource allocation, promoting investment and stabilizing income etc. - must also be permissible .
- 37 - Both the schools of thought whether for limited taxation or extensive taxation are agreed, however, that taxes when levied should remain within reasonable limits, wasteful expenditure must be avoided, and administrative expense must be kept to the minimum.
- 38 - What, however, the Seminar does bring out clearly is that in addition to the two approaches outlined in the preceding paragraphs, namely, enhancing the receipt base by attempting to vary the base, the *nisab* and the rates of *Zakah* and by complementing *Zakah* with non-tax and tax finance to serve the same purposes as *Zakah* - there is a third alter-native too, which seems not to have received much attention so far. The third option emphasises the fact that even within the existing *fiqhi* limitations of the already accepted base, *nisab* and rates, there is a tremendous scope for maximizing receipts into the organized sector by extending the area of compulsory payments into the organized *Zakah* Fund. The position reported to the Seminar in respect of the Muslim countries indicated that out of ten, in six countries - namely:



Malaysia, Bangladesh, Bahrain, Kuwait, Jordan, and Lebanon, the payments into the *Zakah* Fund are voluntary: only in four out of ten countries, namely: Saudi Arabia (1951), Libya (1971), Pakistan (1980) and Sudan (1984) payments are compulsory. But even in those four countries the coverage of the compulsory net is partial and far from

total. In the words of Ghulam Ishaq Khan's concluding address to the Seminar "our presently organized *Zakah* system nets only a part - and a small at that - of the *Zakah* and *ushr* due under the *Shari'ah*"

- 39 - What seems to be needed is more and more attention to be devoted to the organizational and operational aspects of *Zakah* so that within the vast completely non-controversial area, a beginning is made by extending the coverage of the compulsory net to all the *Zakatable* assets including silver, gold, manufactures thereof, savings, financial assets, goods for trade, pasturing animals, and agricultural produce, etc. To begin with, small shopkeepers, cottage industry owners with turn over upto certain specified limits could be exempted, while others could be made to assess their own liability and file an annual return along with the proof of *Zakah* payment into a recognized *Zakah* fund, they will have to be cautioned that their returns could be subjected to random check.
- 40 - In order to improve the quality of disbursement so that its utility to the recipients in particular, and the society at large in general, are maximized, the suggestions made were several. For example, a family, rather than an individual, be treated as an appropriate beneficiary unit for determining entitlement; the entitlement should be equal to the gap between the actual income and the nationally determined poverty line. The suggestion is questioned, *inter alia*, on grounds of its doubtful feasibility.
- 41 - So also the consensus appears to be against making non-Muslims eligible to receive *Zakah* whether on humanitarian grounds or under *muallafatulqulub*. There is apparently general agreement on the expenditure on *aamileen-e-Zakah* ( i.e. those assigned the task of collecting and disbursing *Zakah*) be kept to the barest minimum so as to make the largest possible proportion of, *Zakah* collections available for the benefit of the entitled beneficiaries. Advancing interest free loans from *Zakah* proceeds is questioned both on conceptual and operational grounds. The area generating the maximum debate relates to "*feesabillillah*' ; whether it is restricted to the warrior struggling in the cause of Allah, or a pilgrim traveller or a student seeking knowledge of Islam, or whether it may be extended to all good deeds done to seek

Divine Pleasure. Another area that attracts differing opinions relates to the Hanafi doctrine of *tamleek*, namely, must the *muzakki* transfer the proprietary rights specially to the individual beneficiary or whether with it could be used to set up institution which though not owned by the beneficiaries individually, work exclusively for their benefit; or where the non-entitled beneficiaries could be sifted from the entitled ones - the 'non-entitled pay for the services they receive, out of their own resources; and where such sifting may not be feasible, cautious approach is advised.

42 - Varying the mode of *Zakah* disbursement in order to maximize its utility also attracts considerable attention. It is generally agreed that it must not be in forms which dampen work incentives and encourage parasites. Recurring grants in cash or its equivalent are considered inappropriate in cases where the possibilities exist of rehabilitating the beneficiary, by making him earn his own living through acquiring gainful skill or trade. Simultaneously, it is also acknowledged that the consumption needs of the needy, with alternative options to meet them not being available, must be met urgently and must not be deferred or made to wait to serve or promote any other objective. Disbursement in the form of *modaraba* certificates where the beneficiaries provide the work input, and the *Zakah* fund provides the capital, with the beneficiaries appropriating the whole or most of the profit, or in the form equity participation certificates where the beneficiaries become part-owners of commercially run enterprises and get entitled to dividends/return as a regular source of income instead of remaining dependent on *Zakah* instalments indefinitely - though unexceptionable *Shari'ah-wise*, it has been questioned for reasons of feasibility and advisability - largely because of the possible delays and risk inherent in such arrangements.

43 In conclusion, the message of the Seminar would appear to be that while intellectual discussions on the juristic and socio-economic aspects of *Zakah* may go on, the most urgent need of the hour in the context of the contemporary Muslim society is to organize it comprehensively on an institutionalized basis. In countries where Muslims rule themselves, this would mean promulgation and enforcement of a comprehensive law to give statutory backing to all the arrangements necessary for the proper organization of *Zakah* in compliance with the requirements of the *Shari'ah*. However, in countries where this is not so, for example, where Muslims live under non-Muslim or secular rule, the Muslim communities will have to substitute the community's collective moral

pressure coupled with a high degree of individual motivation through persuasion, - for the statutory cover.

Without organized management, the benefits expected of *Zakah* would not accrue in the measure expected of it under the *Shari'ah* or other-wise. The message of the Seminar would also tend to indicate that setting up an organization and then restricting it to disbursing whatever *Zakah* is received on voluntary basis, whether supplemented or not by private charity and state support, may at best be regarded as the first step and should not cause complacency; instead, it should spur us to further concrete action so as to enlarge the coverage of the organized net. Gradually, the proportion of *Zakah* receipts collected on compulsory basis should increase and the proportion of *Zakah* that is disbursed by *a muzakki* to *a mustahiq* directly should get reduced.

- 44- No doubt it is easier said than done. The task is momentous and bristling with foreseeable and unforeseeable issues and problems of conceptual and operational character. Nonetheless, where there is a will, there is a way. Once the political will gets determined to organize the divinely ordained institution of *Zakah* in full measure, Allah's guidance and support would be forthcoming to help us crossing the bridges as and when we arrive there. We must not be deterred by the counsels of despair for that would be fatal. Since Allah has made *Zakah*, for a Muslim, a fundamental pillar of the Islamic faith and has promised reward many times over in this world and even more in the Hereafter; and since He Himself has called it *Zakah* i.e. a source of purified growth, too much anxiety need not be shown for the so-called possible dangers and hazards that the wordly-wise seem to be so intent on pointing out. If effort is made with unflinching faith in the Perfect Wisdom of the Qur'an and the *Sunnah*, it is bound to be crowned with unqualified success, provided we implement the Divine Injunction in full measure, and not half-heartedly. Only then would it be possible for the Muslim *Ummah* to throw up, for the rest of the world, a model to emulate. May Allah be our Guide. *Aameen*.

**Table : *Zakah* arrangement in ten selected muslim countries**

S1. Name of Country No.	Date of <i>Zakah</i> Law Promulgation	Controlling Forum	Assessment & Collection Arrangements	Disbursement Arrangements
1. Saudi Arabia	07 April 1951	Social Security Foundation	Individuals and companies obliged to pay half of their <i>Zakah</i> liability in respect of their specified types of assets.	Social Security Foundation disburse to specified categories of beneficiaries.
2. Libya	28 October 1971	Social Security General Secretariat	<i>Zakah</i> collection compulsory in respect of silver, gold, pasturing animals and agricultural produce only.	The destitute and the needy entitled to 50% and remaining to 10% each; in bondage category excluded.
3. Jordan	11 January 1978	Board of Directors <i>Zakah</i> Fund	<i>Zakah</i> payments to the <i>Zakah</i> Fund voluntary	Disbursements confined to the poor and the needy and the Managers. But Management expenses not to exceed 10%.
4. Bahrain	18 March 1979	<i>Zakah</i> Fund Board of Directors headed by a Government Minister	<i>Zakah</i> payments to the <i>Zakah</i> Fund voluntary	<i>Muzakki</i> has the right to indicate his preference for any particular type of beneficiaries.
5. Pakistan	24 June 1979 (partial) 20 June, 1980 (composite)	Central <i>Zakah</i> Council headed by a Judge of the Supreme Court, the highest judicial forum in the country	<i>Zakah</i> payments into the Central <i>Zakah</i> Fund and <i>Ushr</i> payments into the Local <i>Zakah</i> Funds, partly compulsory, partly not compulsory.	Disbursements through Local <i>Zakah</i> Committee where the beneficiary resides or through the institution which serves the beneficiary.

Sl. Name of Country No.	Date of <i>Zakah</i> Law Promulgation	Controlling Forum	Assessment & Collection Arrangements	Disbursement Arrangements
6. Sudan	23 August 1980 (par-tial) 26 Sept. 1984 (comprehensive)	A <i>Dewan</i> headed by the President of Sudan	Payment of <i>Zakah</i> by every <i>sa'hibe nisab</i> Sudanese Muslim, into the Fund compulsory; Payment of <i>Zakah</i> by every non-Sudanese Muslim residing or working in Sudan compulsory. Non-Muslims obliged to pay social solidarity tax comparable to <i>Zakah</i> .	Disbursements guided by the Supreme National Body.
7. Malaysia	1980	<i>Zakah</i> Fund. A committee headed by the Mufti of Kuala Lumpur	Payment of <i>Zakah</i> to <i>Zakah</i> Fund voluntary	All the eight categories specified in <i>Ayah</i> 1 X:60 eligible; payment in cash or kind; in goods or equities.
8. Kuwait	16 January 1982	A <i>Zakah</i> Fund Board headed by a Minister of Government	Payment of <i>Zakah</i> into <i>Zakah</i> Fund voluntary	All the eight categories specified in <i>Ayah</i> 1 X:60
9. Bangladesh	1982	A Board of <i>Zakah</i> Fund headed by an <i>Alim</i> (religious scholar)	Payment of <i>Zakah</i> to <i>Zakah</i> Fund voluntary	Disbursement 50% in the same district where collected; remaining into the Central Fund; distribution in a district overseen by a District Committee.
10. Lebanon	23 February 1984	A Committee of <i>Zakah</i> Fund under the Mufti of Beirut	Payment of <i>Zakah</i> into <i>Zakah</i> Fund voluntary	In accordance with the <i>Shari'ah</i> .

# **EFFECTS OF ZAKAH ASSESSMENT AND COLLECTION ON THE REDISTRIBUTION OF INCOME IN CONTEMPORARY MUSLIM COUNTRIES**

M. A. Mannan \*

*It is argued that Zakah revenue redistributes wealth into consumption flows for the poor, raises their productivity, reallocates ex-ante saving by checking the tendency to hoard idle cash, and stimulates production through inter-sectoral allocation of resources. It is assumed, however, that if all the fiscal measures are not well-coordinated, the redistribution effects of the Zakah revenue may be cancelled out. The paper has discussed the possibility of utilization of Zakah fund in lawful "mudarabah Projects" as a financial partner. The question of rationalization of "nisab" so as to make more resources available for the purpose of redistribution of income is also discussed. The paper has raised at least three major issues, relating to (a) vertical assessment of "nisab"; (b) rationalization of intra-minimum scale of "nisab"; (c) limits of socially appropriate consumption of household consumer durables and nonproductive assets which are exempted from Zakah. The paper raised the problem of choice of income unit as a basis for measurement of Zakah. It is argued that the size and composition of family as an income unit does affect the assessment of Zakah. Because a narrower definition of family unit whose income is being measured implies greater incidence of poverty, and vice versa. The paper stresses the need to have a national guideline dealing with the size of the family for the purpose of calculation of Zakah, the meaning of the standard of living in a particular social context at subsistence, sufficiency and comfort level. The paper argues that when Zakah revenue is spent for provisioning "public good" which is non-rival consumption in character and where exclusion is infeasible, attempts must be made to diffuse the benefits of the public good among the most deserving recipients of Zakah. In similar view, the transfer of Zakah fund to the poor should also be reduced rapidly as their income increases so that the transfer becomes zero at the break-even income level. Otherwise, it may create the problem of intra-poor distribution equity. However, it is felt that Zakah has a tremendous humane potential and can generate the forces of altruistic behavior in a Muslim society. The need to educate the people to accept the obligatory income sharing voluntarily is stressed. [ Editors ]*

\* Prof. Dr. Muhammad Abdul Mannan is now Senior Economist, Islamic Research and Training Institute (IRTI) of Islamic Development Bank (IDB), Jeddah, Saudi Arabia.

## 1. INTRODUCTION: SETTING THE PROBLEMS AND THE OBJECTIVES

This paper seeks to highlight the effects of assessment, collection and disbursement of *Zakah* on the redistribution of income, and raises some conceptual and operational issues in the assessment of *Zakah*. Differences in assessment modes tend to affect the availability of total amount of *Zakah* revenue, affecting the redistribution of income in diverse ways. While an attempt has been made to discuss the question of whether to use cash or in kind transfers of *Zakah* revenue, the paper also seeks to examine the socioeconomic efficiency conditions for the disbursement of *Zakah* funds so that the welfare of its beneficiaries is maximized. The paper is not intended to pronounce judgement on the issues raised but to unfold them, providing the readers some food for thought which can eventually lead to the more efficient management of *Zakah* revenue in contemporary Muslim societies.

Despite the fact that *Zakah*, being the pivot of public finance and next only to *Salat* in order of importance, has been considerably discussed by both the *Shari'ah* scholars and Muslim economists, the implications of certain issues in the assessment, collection and disbursement of *Zakah*, having definitive bearings on the redistribution of income, have not been well analyzed or focused in the contemporary literature of Islamic economics. For example, issues concerning (a) imposition of *Zakah* on new forms of wealth, not in vogue during the early days of Islam; (b) vertical assessment and intrascale rationalization of *nisab*, (c) should all household consumer durables in excess of what is considered to be socially desirable be taken into account while determining *nisab*; and (d) limits of *Zakah* to be collected and disbursed in cash or kind, etc., in each careful view.

## 2. ASSUMPTIONS AND QUALIFICATIONS

However, at the very outset, it is to be clearly recognized that there is an inherent danger of analyzing the distributional effects of *Zakah* in isolation without taking into consideration other secular taxes. The usually unknown incidence of any secular tax limited our ability to say much about the overall net distributional effects of *Zakah* within the fiscal structure of a Muslim country. If all the fiscal measures are not well coordinated, the redistribution effects of the *Zakah* revenue may be cancelled out. It should be clearly understood though that the *Zakah* revenue and expenditure must be kept separate from the general budget of the state.

Since *Zakah* is a religious obligation, the people are expected to make the payment of *Zakah* voluntarily, thereby reducing the amount or resources necessary to administer the *Zakah* funds.

Finally, this paper assumes that the readers have elementary knowledge in both the *Shari'ah* and the economics.

### 3 • ZAKAH AND NATURE OF REDISTRIBUTION OF INCOME AT A MACRO LEVEL

Before we actually raise a number of pertinent questions, it is perhaps in order to discuss in some detail the nature and scope of redistribution of income at a macro-level. It is commonly believed that *Zakah* redistributes wealth into consumption flows for the poor and the needy. Its effects on production and consequent inter-sectoral resource allocation are not properly appreciated. It reallocates ex-ante saving. " It checks the tendency to hoard idle cash resources and provides a powerful stimulus for investing these idle stocks. This stimulus gets momentum from the fact that Islam allows profit and sleeping partnership in which profits as well as losses are shared subject to the injunctions of the *Shari'ah*<sup>1</sup> . Thus raising the level of total aggregate demand, it stimulates investment and leads allocation of resources towards a " comparatively equitable economic structure ". Since both consumption and production have a close interrelationship, *Zakah* by stimulating production of consumption goods and services of the poor, tends to create new lines of trade and to direct these from the production of luxury goods to goods of common use by the people of small means at least to the extent it reduces the disposable income of the rich resulting from the imposition of *Zakah*.

The dynamic forces of integration of production and consumption effects are expected to push the production possibilities frontiers to the right by creating new employment, feedback and self generating successive momentum through inter-sectoral allocation and reallocation of resources, gradually losing its independency and identification and it becomes dependent on the rest.

Again, *Zakah* revenue can be spent for raising the productivity of the poor. In my earlier work<sup>2</sup>, I advocated for productive investment of the *Zakah* fund for financing various development projects in education, health care, safe-water and other social welfare activities, designed exclusively for the benefit of the poor. The income of the poor is expected to increase resulting from their higher productivity. Its indirect benefit is likely to spread over the economy and their overall effect of the investment increase is called the multiplier effect. Thus increase in income of the poor will be some multiple of the increase in investment.

Interestingly enough, it is intuitively plausible that an increase in income from *Zakah* investment is expected to have a multiplier larger in size than an increase in income from *non-Zakah* funds investment. It is due to the fact that in addition to the leakage into saving, some portion of income at the

1. M. A. Mannan. Islamic Economics: Theory and Practice, Sh. Mohammad Ashraf Publication, Lahore, Pakistan; reprint 1983, p. 221.
2. M. A. Mannan. op. cit, p. 30.



successive rounds of income and spending would be siphoned off by other leakages such as taxes, and imports, mostly in case of the income of the rich<sup>3</sup>.

Thus we see that *Zakah* can ensure redistribution of income in diverse ways.

Finally, we shall see later on that the rich are not allowed to get anything from the *Zakah* fund unless they are engaged in the collection and administration of *Zakah* or struggling for the cause of Allah . The implicit assumption is that the collection and the management of *Zakah* fund should be entrusted to those who are better qualified and skilled in the interest of efficiency. Thus this administration of *Zakah* by the people who are expected to be better skilled than the poor provides us with some interesting clues as to whether the surplus *Zakah* fund can be invested in lawful *mudarabah* projects for the benefit of the recipients of *Zakah* . Here the question arises as to whether *Zakah* beneficiaries as a group can act as financial partner sharing the profit and loss or they can participate in equity financing or capital structure of joint venture projects in the interest of economies of scale and efficient management of the fund and thereby receiving dividends, to be distributed among the beneficiaries as laid down in the *Shari'ah*. Once this is allowed, it may have far-reaching consequences in building the socioeconomic infrastructure of the Muslim communities.

#### **4. ASSESSMENT OF *NISAB* (MINIMUM EXEMPTION LIMIT) AND ITS EFFECT ON REDISTRIBUTION OF INCOME**

Let us now discuss some of the issues concerning the assessment of nisab.

The question of the rationalization of *nisab* so as to make more resources available for the purpose of redistribution of income needs to be taken seriously by the *Shari'ah* scholars. There is growing tendency among a number of recent writers, mostly Muslim economists who tend to argue in favor of valuation of the nisab<sup>4</sup>. There is a consensus that all types of wealth which are not for personal use, and which remain in the possession of the owner for one year, are subject to *Zakah*, provided they exceed a prescribed minimum exemption limit called nisab. The minimum exemption limit, in case of debtor, will be arrived at after deducting the amount of debt from his total wealth.

3. M. A. Mannan. The Making of Islamic Economic Society: Islamic Dimension in Economic Analysis, IAIB, Cairo, 1984, p. 335.

4. M. N. Siddiqi. Muslim Economic Thinking, Islamic Foundation, U. K. (1980), P. 23.

According to the majority of Islamic jurists, the rates have been agreed as follows

On all types of liquid wealth	2.5% of the value
Mines and treasure	20% of output (Hanafi School)
Irrigated land	5% )
Unirrigated land	10% ) of the produce
Animals	1% )

At this stage, it is also desirable to note the *nisab* or *Zakah* on certain items as named below<sup>6</sup>.

Silver	200 dirhams or 52.5 tolas
Gold	7.5 tolas ( 3 ozs. )
Camel	5
Goats	40
Cows	30
Merchandise	Equal to the price of 52.5 tolas of silver ( 21 ozes )

It should be mentioned here that all articles belonging to the same genus ( kind) only are taken into consideration for purpose of *nisab*. Each type of wealth constitutes a separate kind for the levy of *Zakah*. Thus, a man who owns animals, commercial goods and gold and silver, and if these are severally above *nisab*, then they would be taxable.

The *Shari'ah* also provides a list of articles and consumer durables which are not subject to *Zakah* since these articles are considered either necessities or nonproductive in nature

#### **Exemption :**

The following are exempted from *Zakah* :

- (a) Dwelling houses .
- (b) Wearing apparel .
- (c) Household utensils
- (d) Riding animals
- (e) Arms for use
- (f) Food, etc.
- (g) Articles of adornment, other than gold and silver

5. Abdul Aziz **Shaik**. "**Concept of Zakah**": A Survey of the Qur'anic Texts and Their explanations in the *Shari'ah* and Contemporary Economics in **Some Aspects of the Economics of Zakah** edited by M. R. Zaman, American Trust Publication, Indiana, U.S.A., pp. 18-19, 1984.

6. S. A. Maududi, **Fundamentals of Islam**, Islamic Publications, Lahore, Pakistan, p. 182-190.

- (h) Books.
- (i) Tools used for further production
- (j) Animals used in agriculture
- (k) Jewels and gems

The above mentioned articles are not subject to *Zakah* so long as they are not intended for trade. Briefly speaking, these are some of the views of the majority of Islamic jurists on the various aspects of *nisi*.

**Issues concerning *nisab* :**

The preceding views of the jurists have raised at least three major issues requiring attention of the scholars. They relate to :

- (a) vertical assessment of *nisab*.
- (b) rationalization of intra-minimum scale of *nisi*; and
- (c) social limits of household consumer durables which are exempted from *Zakah*.

**(a) Vertical assessment of *nisab*.**

The question of reassessment of *nisi* so as to make more resources available for the purpose of redistribution of-income is also raised by few scholars, although the majority of Islamic jurists are of the view that each type of wealth constitutes a separate kind for the levy of *Zakah*. Thus a man who owns 29 cows, 7 tolas of gold and merchandise having a price less than 52 tolas of silver, may not pay the *Zakah* under the rules.

So the question arises as to whether all types of wealth falling below *nisi* be combined together vertically and express them in terms of the ruling prices and impose *Zakah* on them, if the combined value of *Zakatable* assets exceeds the scale of *nisi* prescribed for any type of wealth, preferably gold and silver.

One view is that it is against *ijma* on the subject. As such, no *ijtihad* is permissible in matters on which clear directives are found in *the Shari'ah*.

Another view is that *ijma* is one of the sources of Islamic law. If *ijma* or consensus of scholars at a particular period or point of time remains absolutely unalterable even in the light of the new circumstances, Islamic laws would then cease to be a dynamic force. There is considerable evidence to the effect that *ijma* on the various aspects of *Zakah* such as its coverage has changed overtime. It is argued that at its heart lies not the form but the individual readiness to perform the *ibadah* which *Zakah* actually entails. *Zakah* is, in fact, a kind of *ibadah* which is likely to generate the forces of altruistic behavior of the individual at an operational level.

At issue is "no clubbing together of all *Zakatable* assets of a person" falling separately below *nisab* but to consider the question of extension of the principle of *qiyas* in respect of the assessment of *nisi* vertically in an effort to solve the contemporary problem of mass poverty of the Muslim peoples. The fact is that the vertical assessment of *Zakah* appears to be permissible in the *Shari'ah* both at intra and inter-categories of wealth. For example, if gold and silver do not come upto the required standard of *nisi* separately but their combined value becomes equal to the scale fixed for any one of them, the payment of *Zakah* will become obligatory.

Furthermore, in the case of merchandise, the minimum exemption limit can be expressed in terms of the price of *nisi* scale of silver. It is to be examined, however, whether there is a case for inclusion of all types of wealth on the basis of this analogy. It is argued, however, that once it is allowed, it is likely to make more resources available for redistribution to the poor sections of the society. It is further added that the Qur'an has only specified the eight heads of expenditure on which *Zakah* can be spent; it is silent on the details of assessment unlike laws of inheritance. Therefore, there is scope for flexibility in matters related to *Zakah* assessment within the Qur'anic imperatives, although caution must be exercised in the matters in which there are authentic *hadiths*. On the basis of this hypothesis further investigation may be carried out.

#### **(b) Intra-scale rationalization**

The question of intra-scale rationalization of *nisi* is also closely linked with the vertical assessment of the minimum exemption limit. We have already noted the minimum scale of *Zakah* on some articles such as gold, silver, camel, goat, cow and merchandise. In a barter economy, where there is considerable difficulty of exchange and actual measurement in the absence of universally acceptable medium of exchange, a standard unit of account calculation of *nisi* in terms of physical volume has a great appeal, indeed,

In this connection it is worth considering as to whether *nisi* of gold or silver should be taken as given then convert other items in terms of their ruling price against gold or silver in the interest of uniformity and universality as there is a consensus of opinion about their *nisi*. This may be the case in respect of animals of different kinds (i.e. goats, cows, camels, etc.) the prices of which are subject to fluctuations depending on their size, age weight and location and consequently their relative prices may vary significantly.

Again, Hazrat Umar, after consulting the other Companions including Hazrat Ali, levied *Zakah* on horses at the rate of 5% of its price or one dinar

7. S. A. Maududi, op. 138

per horse. This would also apply to other animals reared for trade or procreation. It is to be examined whether these historical facts should enable us to take up this issue again.

It is argued by some scholars that once this rationalization is allowed it is expected to introduce greater flexibility and liquidity in the sense that it would be easy to send *Zakah* fund from one locality to another to deal with natural calamities or to make a more efficient and effective use of *Zakah* in a relatively poorer community or locality within a country, although it is preferable to spend *Zakah* money in the community from where it is collected.

It should be clearly recognized, however, that at its heart lies the notion of obligatory income-sharing for ensuring equitable distribution of income. and thereby removing the poverty of the masses.

### **(c) Social limits of household consumer durables**

In the context of contemporary Muslim society, it is to be examined whether guidelines indicating the limits of socially appropriate consumption of non-productive assets which could otherwise be subjected to *Zakah* be developed although it is not possible to compare the standard of living of different individuals without resort to cardinal utility, because the equivalence scales cannot adequately capture reality without taking into account different consumption patterns of the individuals and the families having different types of income and utility differences. Despite the fact that our knowledge is still limited in defining the standard of living of different peoples with different income level, it should be possible to develop a national guideline for an average family in a particular social context for various items which are exempted from *Zakah* such as dwelling houses and ornaments other than gold and silver.

Besides, the question of calculation of *nisi* on precious stones such as diamonds, sapphires, platinum which have now organized markets and are more valuable than gold and silver, calls for serious attention. Hazrat Umar Bin Abdul Aziz is reported to have been of the view (later adopted also by Imam Bin Hanbal) that all minerals whether in solid or in liquid state if in possession for a year are subject to *Zakah* at 2.5% providing their value reaches *nisab*<sup>8</sup>.

The question of defining the social limits of non productive assets such as dwelling houses, consumer durables, jewels and gems which are exempted from *Zakah* deserves consideration. The issue at stake is not the list of non

8. See A. Aziz Shaik, op. cit, p. 26.

productive assets which are not subject to *Zakah*, it is that of ascertaining as to when the limits of nonproductive assets and consumer durables in excess of what is considered to be essential or desirable in the particular social context assume the character of hoarding in non-liquid form from an Islamic viewpoint.

One view is that Islam expects its followers to spend as much as possible in the way of Allah. The exhortations should be in general terms rather than specifically to non productive assets which have traditionally been regarded as not subject to *Zakah* because they do not have the capacity to produce further wealth. Another view is that the so-called nonproductive assets can very well be seen as hoarding in non-liquid form and be considered to be in excess of what is to be viewed as desirable in a particular social context. For example, one may decide not to pay *Zakah* by converting his productive assets into a number of dwelling houses in different parts of a country and enjoy the benefits of capital appreciation in the long run. Or one may have several sets of color television in different rooms of a dwelling house to suit the taste of different persons in the house, and thus encourage conspicuous consumption and yet avoid payment of *Zakah* on the ground that they are non-productive consumer durables. Similarly, one may convert all his gold and silver possessions, into diamonds, sapphires and platinum, thereby making his possession of gems and jewels *non-Zakatable* assets under the *Shari'ah*.

It is argued, however, that instead of imposing *Zakah*, the state can very well impose taxes on these luxurious consumer durables and non-productive assets. It is also said that *Zakah* is not a tax but has a specific spiritual, social and economic dimension in it.

In this context, the questions which require serious examination are related not only to defining the desirable social limits of consumption of non-productive assets but also to re-examining the role of *ijma* and *qiyas* as dynamic sources of Islamic laws. Specifically, the point which requires attention is to what extent consumption of non-productive assets should be considered Islamically justified (in a particular social context for which no *Zakah* can be levied) beyond which further possession of non-productive assets may be treated as hoarding and be subjected to *Zakah* as such. If it is done, it would tend to stimulate investment by checking the tendency of conspicuous consumption, thereby adding to the production of goods and services in the economy. An authoritative judgment on these issues can only be arrived at by a representative assembly of persons well versed in the *Shari'ah*. The *Shari'ah* scholars may not work in isolation. The role of the social scientists in general and economists in particular lies in raising pertinent questions to economics and sociology of economic life of Muslim peoples in contemporary societies so that the *Shari'ah* scholars can get the overall perspectives of issues

and problems. Herein lies the importance of an integrated approach and joint action by *Shari'ah* scholars and Islamic economists.

## **5. EXPENDITURE EFFECTS : THOSE DESERVING ZAKAH AND POVERTY LINE**

It is well known that there are eight categories of people who have been described by the Holy Qur'an as entitled to *Zakah*. They are (1) '*fuqara*' (the destitute), (2) '*masakin*' (the poor), (3) '*amilin alaiha*' (those who are deputed to collect *Zakah*) (4) '*muallafat-ul qulub*' (those whose hearts are to be reconciled), (5) '*fir-riqb*' (for the emancipation of slaves), (6) '*al-gharimin*' (for relieving someone from the burden of debt), (7) '*Fi-sablillah*' (in the cause of Allah) and (8) '*ibn-us-sabil*' (wayfarer).

While there is no difference of opinion among the Islamic jurists as regards these eight heads of expenditure, some differences of opinion do exist concerning items of expenditure to be carried particularly under the item number seven above which says the *Zakah* revenue can be spent in the cause of Allah which includes all good deeds and *Jihad*. Besides, the question involving the choice of income unit as basis for measurement has not been thoroughly analyzed, although many scholars such as Ibn Abbas, Hasan Basri, Imam Abu Hanifa and many others tried to identify the characteristic of the poor or destitute<sup>9</sup> because the problem of choice of income unit or a family unit is much more intractable than it appears in the first instance. The size and composition of the family as an income unit does affect the assessment and *Zakah* dues because a narrower definition of income unit whose income is being measured implies a greater incidence of poverty. Suppose a family of five has an income of US\$ 150 per month, all earned by one person, then none of them appears to be poor if the poverty line for such a family is defined in terms of US\$ 100. But if the family size consists of four persons, then one of them will be poor who is entitled to receive *Zakah* as he has no income. In other words, the wider the definition of the family unit whose income is being measured, the fewer the people who will be counted as poor. What really matters is to define the limits of voluntary and obligatory sharing of income in the light of the *Shari'ah*. At an operational level, definition of family unit should give due weight to dependants. If the poverty line of a single person is \$50 then the poverty line for a couple should be \$100 or less. What about the children and relatives who have some claim on the income of a rich relative? Answers to such questions cannot be given without defining the term 'standard of living' of families of different sizes and income in a particular social and economic context. Whichever way one tries to answer this question, one

9. See A. Al-Maududi op. cit. p. 191.

has to face a set of complex operational problems. This is likely to affect the assessment of the *Zakah* revenue and its consequent disbursement.

### **Those not deserving *Zakah***

This problem is also related to some of the categories of people who are not entitled to *Zakah*, if paid to any one of them by the payer individually. These categories of people include, among others, the following persons:

- 1 - Parents, grandparents and others in line of ascent.
- 2 - Children, grandchildren and others in line of descent.
- 3 - A man's own wife.

"This is so because one is not allowed to benefit one's own self and family with *Zakah*- it is a duty enjoined by the *Shari'ah* on every Muslim to help and support one's family from one's wealth. Apart from these relations, it is not only lawful, but preferable and praiseworthy to give *Zakah* to all other relations".

It becomes clear that the above categories of people *not* entitled to *Zakah*, may affect the size and composition of family unit whose income is being measured for the purpose of calculation of *nisab* and consequent assessment of *Zakah*.

The preceding analysis calls for the need to have a national guideline dealing with the definition of the size of the family for the purpose of calculation of *Zakah*., the meaning of the standard of living in a particular social context at subsistence, sufficiency and comfort levels for different families having different income levels.

This also calls for periodic review (say, once in five years) of a list of *Zakatable* items so as to include new forms of wealth within the purview of *Zakah* in view of the changing circumstances of the contemporary Muslim society.

## **6. CASH VERSUS KIND DEBATE**

So far, we have discussed the question of rationalization of *nisab*. Here, we shall discuss some of the questions relating to cash or in-kind transfer of *Zakah* revenue having a bearing on the redistribution of income. Since the Qur'an has specified the clear eight heads of expenditure without specifying the details of the form of transfer, there appears to be considerable scope for flexibility as long as *Zakah* fund is utilized efficiently in accordance with the provisions of the *Shari'ah*. This is where the question of Islamic economic analysis enters.



It is commonly believed that *Zakah* should be spent in cash and given to its recipients in the locality from where it is collected, although the *Shari'ah* provides that *Zakah* may be given in kind. But when it is spent for pro-visioning public goods in kind, it does need careful consideration.

Broadly speaking, there are two main economic justifications for redistribution in kind. One relates to the external consideration arising out of the characteristics of public goods being redistributed and the other to the utility function of the rich who pay *Zakah* and the poor who receive. It is argued that in many cases market allocation, is likely to be more efficient than State allocation, particularly in the case of health care and education. In such cases, cash transfer would not achieve an efficient allocation because the recipient would be likely to spend too much on the nonessential goods.

The standard neo-classical utility function cannot explain the utility of the rich in an Islamic society. In Islam the utility functions of the rich and the poor are interrelated<sup>10</sup> The income of the poor will enter into the utility function of the rich. In an Islamic framework the redistribution from the rich to the poor tends to be efficient, if it does increase the utility of both the rich and the poor. The utility gains to the rich reflected in the spiritual and social satisfaction they derive from the payment of *Zakah* to the poor, must outweigh their utility loss. This brings us to the crucial problem of the quality of redistribution of income through *Zakah*. If the recipients of *Zakah* spend their money on 'inappropriate' goods either due to ignorance or bad habits there is perhaps a case for redistribution in kind despite some higher administrative cost involved in executing such programs. Furthermore, redistribution in kind may be the only way to redistribute among the orphan children. The social responsibility cannot be separated from the moral responsibility in an Islamic society.

Let us consider the example of education of the children of a poor family living on subsistence income as illustrated in Figure I below:

10.. The standard neo-classical utility function shows the utility of the rich  $U_r$ , as:  
 $U_r = f(Y_r)$  where  $Y_r$  = income of the rich. In Islamic framework, it should be shown  
as,  $u_r = f(Y_r, Y_p)$  where  $Y_r$  = Income of the rich,  
 $Y_p$  = Income of the poor.

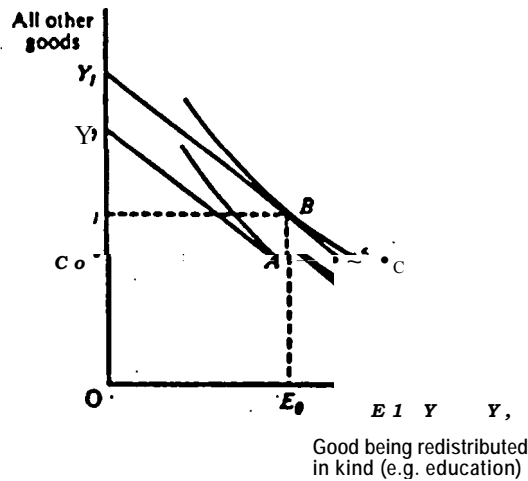


Figure I : Beneficial effect on re-distribution in kind

Suppose a family has money income as shown by budget line  $Y_oY$  and purchases all its goods at market prices. Obviously with this income, it can either purchase  $OY$  education or  $OY_o$  other goods. If it chooses a point such as  $A$ , it would consume  $E_o$  of education, and  $G_o$  of other goods which is supposed to be hardly minimum.

In such, circumstances, if it is given sufficient *Zakah* fund in cash so that the budget line is shifted to  $Y_rY_r$ , it is most likely to move to a point  $B$ , consumes the same amount of education as before,  $E_o$  and an increased quantity of goods  $E$ . If it does, it would not be better off in the long run, because, the family can receive additional education  $E_1$  minus  $E_o$  at a zero price as a non transferable transfer-in-kind. The moving on to point  $C$  on a curve than  $B$ , results in better utilization of the resources. This is what Islam wants. In this case, both the rich and the poor are expected to prefer redistribution in kind to redistribution in cash. It should be stressed, however, that these theoretical arguments, based on the monetary consideration, need to be understood within the framework of totality of social conditions and individual welfare.

The fact is that the payment of *Zakah* and other voluntary transfer payments constitute a 'good act' per se, because the *Shari'ah* attributes the quality of 'goodness' to it. The satisfaction an individual receives from the payment of *Zakah* is distinctly different from the results of the act. In economics, there is no direct and fixed correlation between the 'goodness of the act' and its result. Generally speaking, this distinction is not clearly understood. The question is: Should we be merely concerned with this "good

deed" in itself not with the consequences or results that this "good deed" brings about? What the individual derives satisfaction from is the act of doing the 'good' deed of making transfer payments. The cost of the act is foregone alternative uses of the funds given up. What is equally important for the individual who makes transfer payments is to evaluate the results or consequences of such payments particularly when such transfer payments are in-tended to make provisioning for public goods designed to help the poor. The different types of public goods will yield different results. There is perhaps more goodness for most persons in the act of providing schooling facilities for orphans than there is in providing toys for them. There are probably also more goods in providing food to a poor neighbour than in providing the same to a professional beggar, and so on. The point I am making is that at a given level of social expenditure of public goods out of transfer payments, an at-tempt should be made to maximize the utility of the result, which the act providing the *Zakah* fund brings about. Hence the necessity of planned expenditure of *Zakah* fund to attain predetermined social objectives<sup>11</sup>.

## 7. REDISTRIBUTION OF ZAKAH FUND AND MARGINAL RATES

So far we have discussed the question of what type of redistribution policy to use. Here we are going to discuss the question of how much the poor should receive out of the *Zakah* fund. It is important to know that the marginal *Zakah* rate can be very sensitive to the volume of redistribution. If the marginal rate becomes 100%, then redistribution tends to dampen incentives to produce and thereby may reduce the total income available to the community. Therefore transfer of *Zakah* fund need to be reduced rapidly as income increases so that the transfer becomes zero at the break even income level.

An example will make this point clear. Suppose the poverty line is drawn at US\$ 100 per family of four persons. This is considered as a break-even level income because a family with an income above US\$ 100 will not be entitled to receive *Zakah* .

Now if the disbursement programme of *Zakah* fund tends to bring each family exactly up to US\$ 100, this means that we shall have to transfer US\$ 100 to families with zero pre-transfer income, US\$ 60 to families with US\$ 40 in pre-transfer income, US\$ 10 to families with US\$ 90 pre-transfer income, and so on. Although it is not known what level of redistribution creates qualitatively significant adverse incentive problem, yet it is most likely that

11. M.A. Mannan, "The Economics of Poverty in Islam with special reference to Muslim Countries," a Paper presented at the Second International Conference on Development, Finance and Distribution in Islamic Perspective, held in March, 1983 at Islamabad, Pakistan under the auspices of International Islamic University, Islamabad, Pakistan.

this transfer program, regardless of any consideration of pre-transfer income of the recipients, may affect incentives to work.

This problem can perhaps be avoided by giving every family an equal amount of US\$ 25 implying a zero marginal rate between zero and US\$ 100. Despite the fact that it is relatively easy to administer, it does create incentive problem for the families with an income between US\$ 101 and US\$ 125. Besides, the abrupt reduction in the transfer from US\$ 25, when income is US\$ 100, to zero when income is US\$ 101, creates a 'notch problem' - a complex discontinuity in the economic relationship between the recipients and *Zakah* payers. What is important then is to make a gradual reduction in the transfer of *Zakah* fund in consciously planned way until it reaches the break-even income level. Otherwise it may create the problem of intra-poor distributional equity<sup>12</sup>.

## **8. ZAKAH AND SOCIOECONOMIC EFFICIENCY CONDITIONS: SUSTAINING THE REDISTRIBUTION EFFECTS**

As regards *Zakah* and other obligatory transfer payments there is a need to develop an institutional mechanism where its collection and disbursement can be carefully planned and implemented to get the maximum social advantage arising out of redistribution of income. This does not mean that the individual's right to pay and distribute *Zakah* is to be completely ignored. In fact, individual freedom and choice can be incorporated into the very scheme of institutional mechanism once its full effects are clearly understood by all concerned.

There are a number of critical issues which require attention for the disbursement of *Zakah* and other voluntary transfer payments to sustain the full effects of redistribution of income. Although the Qur'an has specified items of expenditure for the *Zakah* fund, yet there is a great deal of flexibility in spending the *Zakah* revenue within the Qur'anic imperatives. Since *Zakah* has tremendous human potential and generates the forces of altruistic behaviour it is perhaps desirable to lay down some socio-economic efficiency conditions for *Zakah* so that its redistribution effects are sustained over time

The following five conditions may, among others, be kept in view in respect of assessment, collection and disbursement of *Zakah*:

- (a) Assessing *Zakah* in terms of scale of higher value
- (b) Maximizing the good act effect

12. See M. A. Mannan. **The Making of Islamic Economic Society" Islamic Dimensions in an Economic Analysis** - Published by International Association of Islamic Banks, Cairo, Egypt (1984) - Chapter 14, pp. 332-346 (1984).

- (c) Minimizing the "free rider" effect
- (d) Exploring the possibilities of vertical redistribution of income
- (e) Minimizing the cost of administering *Zakah*

**(a) Assessing *Zakah* in terms of higher scale**

Whenever it is permissible in the *Shari'ah* to combine one type of wealth with other types either vertically or horizontally, the calculation may be made so as to make more *Zakah* fund available for the poor and the needy. We have already discussed the question of rationalization of intra-scale of *nisab* as well as its vertical assessment in some detail.

**(b) Maximizing the good act effect**

It is mentioned earlier that the payment of *Zakah* is not an end in itself, it is a means to an end. Therefore, the social and moral responsibility of the payers does not end with the payment itself. As noted earlier, in economics, there is no direct and fixed correlation between goodness of the act and its result. The different types of goods and services paid out of the *Zakah* fund tend to yield different results. It is desirable that the administrator of the fund should evaluate the consequences of different types of spending on the society as a whole to maximize social and moral welfare of the people involved.

**(c) Minimizing the "free rider effect"**

The third condition of expenditure from the *Zakah* fund is that it should minimize the "free rider" effects. When and if *Zakah* fund is utilized to make provisioning for public goods with non-rival consumption and infeasible exclusion over a large group (i.e. improving lighting facilities of the road used by the traveller), the free rider problem will emerge because it is difficult to exclude others from deriving their benefit. If public goods are supplied, they are by definition available to everyone irrespective of whether any particular individual has expressed any interest in having them or any willingness to pay for them. So an individual will think that by keeping quiet about his needs, he can enjoy the fruits of such output without paying a penny for it: this is the famous 'free-rider' problem, as it is often described in the literature..

Thus, in the context of an Islamic economy, expenditure from the *Zakah* fund should be geared in a way so that the people who are not supposed to get the benefit of the *Zakah* revenue and have the ability to pay, should not get the service of goods free of charge. The crucial policy implication is that *Zakah* should be spent for provisioning of those public goods where it should be possible to put some price tag on those who are not entitled to receive *Zakah* (i.e. full tax on users) because if an individual feels that his own contribution will make contributions by other individuals less likely, the in-

Individuals' incentive to contribute for the social welfare would tend to be weak. Therefore, the rule is to minimize 'free-rider effect'<sup>13</sup>.

**(d) Encouraging the vertical redistribution of income**

Generally speaking, the disbursement of *Zakah* revenue is likely to play an important role in any vertical income distribution that occurs, since, the share of upper income groups in their costs is not particularly large in view of collection of *Zakah revenue at a fixed rate, the share* of the very lowest income group in the benefits tends to be high and main beneficiaries of *Zakah revenue tend to be poor* wage earners as well as non-wage-earning class, because they are retired, or disabled or incapacitated. The policy implication for disbursement of *Zakah* revenue is that other fiscal measures need to be coordinated so that redistribution effect of *Zakah* revenue is not cancelled out and poverty reduction welfare programs do not achieve only horizontal income redistribution from one earning class to another earning class. It is to be noted here that one of the important ways to achieve the vertical redistribution effect is to make public provision of certain key services, particularly public education, health care, etc. for the poor<sup>14</sup>. This vertical redistribution of income tends to increase the social mobility.

**(e) Minimizing the cost of administration of *Zakah***

It is expected that every effort should be made to reduce the cost of *Zakah* administration. Apart from introduction of self-assessment of *Zakah*, the administrative cost can be further reduced by seeking voluntary cooperation of some people whose opportunity cost may be zero. Thus, resources, not devoted to *Zakah* administration, could be used for other types of expenditure intended to remove poverty of the masses. This should be the least cost item of expenditure as a percentage of the total expenditure on other heads of expenditures.

**9. SUMMARY AND CONCLUSION**

1 - This paper highlights the effects of assessment of *Zakah* on the redistribution of income by raising some pertinent issues in respect of assessment, collection and disbursement of *Zakah*. It is assumed however, that if all the fiscal measures are not well coordinated, the redistribution effects of the *Zakah* revenue may be cancelled out.

2 - As for the nature of redistribution at the macro-level, the paper argues

13. See A. R. Prest and N. A. Barr: **Public Finance in Theory and Practice** (Sixth Edition, Weidenfield and Nicholson, London, 1979, pp. 27-28. 14 See M. A. Mannan. *The Economics of Poverty*, op. cit., p. 38.

that *Zakah* revenue redistributes wealth into consumption flows for the poor, reallocates *ex-ante* saving, stimulates production towards a desirable egalitarian economic structure and thereby creating feedbacks and self-generating successive momentum through inter-sectoral allocation and reallocation of resources. The paper raises the question of utilization of *Zakah* fund in lawful and *mudarabah* Projects as a financial partner.

- 3 - The question of rationalization of *nisab* so as to make more resources available for the purpose of redistribution of income is also discussed. The paper has raised at least three major issues relating to (a) vertical assessment of *nisab* involving contribution of all items belonging to different kinds of assets; (b) rationalization of intra-minimum scale of *nisab* so as to achieve uniformity; and (c) limits of socially appropriate consumption of household consumer durables which are exempted from *Zakah*. There is a need to educate the people in a way so that people accept the obligatory income-sharing voluntarily.
- 4 - The paper discusses the problem of choice of income unit as a basis for measurement of *Zakah*. It is argued that the size and composition of family as an income unit does affect the assessment of *Zakah* because a narrower definition of family unit whose income is being measured implies greater incidence of poverty and vice versa. The paper stresses the need to have a national guideline dealing with the definition of the size of the family for the purpose of calculation of *Zakah*, and the meaning of the standard of living in a particular social context at subsistence, sufficiency and comfort level.
- 5 - It is argued that when *Zakah* revenue is spent for provisioning 'public goods' which is non-rival consumption in character and where exclusion is infeasible, free-rider problem is likely to rise. It is to be avoided. At a given level of social expenditure on public goods out of transfer payment, an attempt should be made to maximize the utility derived from the payment of *Zakah*. In an Islamic framework, the utility functions of the rich and the poor are viewed as interrelated.
- 6 - The paper argues that the transfer of *Zakah* fund should be reduced rapidly as income increases so that the transfer becomes zero at the break-even income level. Otherwise, it may likely create the problem of intra-poor distributional equity having adverse effect on incentives to work, although it is not clearly known as to the level of redistribution which creates quantitatively significant adverse incentive problems.

- 7 Lastly, the paper lays down five conditions concerning assessment, collection and disbursement of *Zakah* in the interest of sustaining its redistribution effects. They are expressed in terms of the following:
- (a) Assessing in terms of higher scale of value;
  - (b) Maximizing the beneficial results resulting from the payment of *Zakah*;
  - (c) Minimizing the "free-rider problem" in order to diffuse the benefits of public goods among the most deserving recipients of *Zakah*.;
  - (d) Encouraging vertical redistribution of income; and
  - (e) Minimizing the cost of collection and administration of *Zakah*.

The paper argues that there is a great deal of flexibility in spending *Zakah* within Qur'anic imperatives. It is however, felt that *Zakah* has a tremendous humane potential and generates the forces of altruistic behavior in a Muslim society.



**APPENDIX I**  
**SOME TEXTS ON *ZAKAH* FROM THE HOLY QUR'AN**  
**(From Yusuf Ali's Translation of the Holy Qur'an)**

"That which ye lay out for increase through the property of (other) people, will have no increase with Allah; but that which ye lay out of *Zakah*, seeking the countenance of Allah, will increase; it is those who will get recompense multiplied". (30:39).

"Those who establish regular prayers and give regular *Zakah*, and have (in their hearts) the assurance of the Hereafter". (31:4).

"And stay quietly in your homes, and make not a dazzling display, like that of former times of ignorance; and establish regular prayer and give regular *Zakah*; and obey Allah and His apostle. And Allah wishes to remove all abomination from you, ye members of the family, and to make you pure and spotless". (33:33)

"And be steadfast in prayer and regular in charity *Zakah*: And whatever good ye sent forth for your soul before you, ye shall find it with Allah; for Allah sees well all that ye do". (2:110).

"It is not righteousness that ye turn your faces towards east or west; but it is righteousness - to believe in Allah and the Last Day, and the Angels, and the Book, and the Messengers; to spend of your substance out of love for Him, for your kin, for orphans, for the needy, for the wayfarer, for those who ask, and for the reason of slaves; to be steadfast in prayer, and practice regular charity (*Zakah*), to fulfill the contracts which ye have made; and to be firm and patient, the pain (or suffering) and adversity, and throughout all periods of panic. Such are the people of truth, the God fearing". (2:17).

"Those who believe and do deeds of righteousness, and establish regular prayers and regular charity (*Zakah*) will have their reward with their Lord; on them shall be no fear, nor shall they grieve". (2:27).

"Your (real) friends are (no less than) Allah, His Apostle, and the (Fellowship of) Believers, - those who establish regular prayers and regular charity (*Zakah*), and they bow down humbly (in worship)". (5:58).

"And ordain for us that which is good, in this life and in the Hereafter; for we have turned unto Thee. He said". "With My punishment I visit whom I will; but My Mercy extended to all things. That (Mercy) I shall ordain for those who do right, and practice regular charity (*Zakah*) and those who believe in our signs." (7:156).

"He used to enjoin on His people prayer and *Zakah*, and he was most acceptable in the sight of His Lord". (19:55).

"And We made them leaders, guiding (men) by Our Command, and We sent them inspiration to do good deeds, to establish regular prayers, and to practice regular *Zakah*.; and they constantly served Us (and Us only)" (21:73).

"And strive in His cause as ye ought to strive, (with sincerity and under discipline); He has chosen you, and has imposed no difficulties on you in religion; it is the deen of your father Abraham. It is He Who has named you Muslims, both before and in this Revelation; that the Apostle may be a witness for you and ye be witnesses for mankind! So establish regular prayers, give regular *Zakah*., and hold fast to Allah! He is your protector - the Best to protect and the Best to help! (22:78).

## APPENDIX 1I

### **NISAB AND RATES FOR DIFFERENT ANIMALS**

#### FOR SHEEP AND GOAT

40-1'20 sheep and goats	1 goat or sheep upto 1 year or more
121-200 sheep and goats	2 goats or sheep upto 1 year or more
201-399 sheep and goats	3 goats or sheep upto 1 year or more
400 sheep and goats	4 goats or sheep upto 1 year or more

For every additional 100 goats or sheep (or part of hundred) one goat or sheep. There is no *Zakah* for less than 40 sheep and goats.

#### FOR COWS AND BUFFALOES

*Zakah* is leviable from 30 upwards as follows:

30-39 cows or buffaloes	1 calf of a year or more	1 two-year
40-59 cows or buffaloes	1 calf not less than two years old calf	
60- cows or buffaloes	2 one-year old calves	
For additional 30 cows or	1 one-year old calf	

buffaloes

For each additional  
40 cows or buffaloes

#### FOR CAMELS

A person having 5 camels is owner of *nisab* and will *pay Zakah* at the following rates :

05-09 camels	1 goat
10-14 camels	2 goats
15-19 camels	3 goats
20-24 camels	4 goats
25-35 camels	1 camel colt in its 2nd. year
36-45 camels	1 camel colt in its 3rd. year
46-60 camels	1 camel colt in its 4th. year
61-75 camels	1 camel colt in its 5th. year
76-90 camels	2 camel colts in their 3rd. year

## COMMENTS

**Ziauddin Ahmad\***

In his paper Dr. Mannan has drawn attention to certain issues related to modes of collection, assessment and distribution of *Zakah* which have a bearing on the redistributive role of *Zakah* in an Islamic economy. Many of the points that he has raised have already been discussed thoroughly in the literature on the subject. However; since a consensus does not exist on several of these points, a continuing discussion on them does serve a useful purpose and can help in narrowing the differences between the various viewpoints, ultimately leading to convergence of opinions.

Dr. Mannan has done well to clarify at the very beginning of the paper that "the paper is not intended to pronounce judgement on the issues raised but to unfold them, providing readers some clues and food for thought-which can eventually lead to the efficient management of *Zakah* revenue in contemporary Muslim countries". In the same vein, the writer of this comment on his paper must make it clear that the views expressed here are purely his personal views and are meant merely to add something to the on-going discussion on these issues. An authoritative judgement on these issues can only be arrived at by a representative assembly of persons well versed in *fiqh*.

The introductory portions of Dr. Mannan's paper state the well recognized socio-economic effects of imposition and distribution of *Zakah*. Like other scholars, Dr. Mannan is also of the view that while the *Zakah* system may add to the consumption demand in any economy by redistributing income from the rich to the poor, it is also likely to stimulate investment by checking the tendency to hoard idle cash resources thereby adding to the production of goods and services in the economy. Moreover; it is likely to improve the production mix by reallocating some of the productive resources from the production of luxury goods to goods of common use consumed by people of small means. The author has also mentioned another well recognized economic effect of the *Zakah* system that it helps in raising the productivity of the poor by meeting their requirements of basic necessities of life.

\* Dr. Ziauddin Ahmad was Director General, International Institute of Islamic Economics, International Islamic University, Islamabad, Pakistan at the time of the Seminar.

The author then goes on to suggest productive investment of *Zakah* funds for financing "various development projects in education, health care, safe water and other social welfare activities, designed exclusively for the benefit of the poor" to raise their productivity and income earning capacity. This theme recurs in a later portion of this paper where under the caption "cash versus kind debate", the author advocates greater emphasis on "redistribution in kind" through "provisioning for public goods designed to help the poor". To some extent the author's advocacy of use of *Zakah* fund for "public goods" appears to emanate from his concern that if *Zakah* funds are disbursed in cash, the poor may not use them to the best purpose. Thus, he says that "if the recipients of the *Zakah* spend their money on inappropriate goods either due to ignorance of bad habits, there is perhaps a case for redistribution in kind despite some higher administrative cost involved in *executing* such programs". For illustrating his point, the author makes use of indifference curves to show that as a result of increment in income of a poor family due to receipt of *Zakah* funds, the family may choose to spend the increase in income on "other goods" which keeps the expenditure on education of children unchanged even though the latter would have made the family "better off in the long run". Transfer of *Zakah* funds in kind through better educational facilities for the children of the poor families can therefore result in "better utilization of resources". In this context the author emphasizes "the necessity of planned expenditure of *Zakah* funds to attain predetermined social objectives".

The issue of disbursement of *Zakah* funds in cash or kind has received a good deal of attention in the literature on the subject. There is no difference of opinion on the point that *Zakah* funds can be used either in cash or in kind. In fact, there is a consensus that the most preferable course is that cash assistance should be provided only to those who for one reason or another are not able to work for earning a living or where earning is insufficient for meeting the basic necessities of life. In the case of those who can work, the best form of assistance is to put them in a position whereby they are able to earn their own livelihood. Thus provision of help in the form of tools for workmen and things like sewing machines to widows is generally regarded as a highly commendable form of use of *Zakah* funds.

The difference in opinion arises, however, when the concept of use of *Zakah* funds in kind is extended to cover expenditure on social infrastructure projects like laying of water pipes for providing safe drinking water and building of hospitals, schools and roads. A number of *ulema* down the ages have been strongly opposed to the expenditure of *Zakah* funds on such infrastructure projects. They point out that in the matter of disbursement of *Zakah* and utilization of proceeds of *Zakah*, no deviation is permissible from

the heads of expenditure so clearly and unequivocally specified in the Holy Qur'an. The translation of the relevant verse of the Holy Qur'an reads as follows: (I x 60):

"The *sadaqat* are only for the poor and the needy and those who collect them and those whose hearts are to be reconciled and to free the captives and the debtors and the Cause of Allah and for the wayfarer, a duty imposed by Allah."

It is the view of many Islamic scholars that social infrastructure projects are not covered by these heads of expenditure. They also point out that proceeds of *Zakah* were not used for financing social infrastructure projects in the time of the Holy Prophet (PBUH) and at *Khilafat-i-Rashida*. Some scholars have expressed the view that *Zakah* funds can be used for expenditure on social infrastructure project as this can be regarded spending for the "Cause of Allah" which is one of the heads mentioned in the verse quoted above on which *Zakah* funds can be spent. This view, however, has not found general acceptance in the *ummah* and there is strong opposition to extending the meaning of the term "Cause of Allah" to include social infrastructure projects.

Many scholars oppose expenditure of *Zakah* funds on social infrastructure projects for another reason. They insist that *tamlik* is an important condition to be fulfilled in the matter of disbursement of *Zakah* funds. *Tamlik* means that *Zakah* funds should be disbursed in such a way that *mustahaqeen Zakah* become the owners of these funds. Since the ownership of most social infrastructure projects like roads, bridges, schools, etc., cannot be vested in *mustahaqeen Zakah*, it is not possible to use *Zakah* funds for these purposes. However, even those *ulema* who insist on *tamlik* do not rule out the possibility of *Zakah* funds being used for the collective benefit of *mustahaqeen Zakah*. For example, they do not object to *Zakah* funds being used for the establishment of such industrial, trading or agricultural concerns whose ownership is fully vested in *mustahaqeen Zakah*.

Dr. Mannan is surely aware of the viewpoint of prominent *ulema* of the Muslim world on this issue. To my mind, this is the reason why he qualifies his advocacy of the use of *Zakah* funds for social infrastructure projects by stating that consideration may be given to use of *Zakah* funds for "financing various development projects in education, health care, safe water and other social welfare activities designed exclusively for the benefit of the poor". The problem, however, is that it is very difficult in practice to ensure that benefits of such projects would flow only to the poor. Dr. Mannan himself recognizes this and, in this context, proposes minimization of "free rider effect". Specifically he recommends that "expenditure from the *Zakah* fund should be agreed in a way so that people who are not supposed to get the benefit of the

*Zakah* revenue and have the ability to pay should not get the service or goods free of charge". This qualification rules out the possibility of using *Zakah* funds for a number of social infrastructure projects like roads and bridges. However, it may be possible to use *Zakah* funds for setting up schools and hospitals which provide free facilities to the *mustahageen* and charge some fee from others making use of these facilities. The idea stands greater chance of acceptance by Islamic scholars if some way could be found to fulfill the conditions of *tamlík* also.

An idea worth exploring in this connection is that schools and hospitals may be built in areas predominantly inhabited by the poor by borrowing the amount needed from the *Zakah* fund. The "*mustahageen*" making use of these facilities may be given the necessary resources to pay on these from the *Zakah* funds. Those not falling in the category of *Mustahageen* may be allowed to use these facilities on payment for these services from their own resources. The operating surplus of such institutions may be used to pay off the amount borrowed from the *Zakah* fund over a period of time.

Dr. Mannan's advocacy of the use of *Zakah* funds for social infrastructure projects is actuated by his concern that the *Zakah* system should be administered in a way which enhances the productive capacity of the poorer sections of the population and obviates the risk of *Zakah* being used for 'inappropriate' purposes. However, in most countries actual *Zakah* collections may not provide much scope for the initiation of such projects as they are fairly capital intensive. Given a particular magnitude of *Zakah* collections the *mustahageen* may derive greater benefit from these resources if they are used to assist them in becoming self-supporting rather than for social infrastructure projects. It cannot be denied that social infrastructure projects are also of greater importance but, instead of financing them from *Zakah* collections, they should form part of the development program of the country and be financed through the general revenues of the state.

Another idea mooted by Dr. Mannan is the use of *Zakah* funds for investment in lawful "*mustahageen*" projects whereby some *Zakah* beneficiaries as a group may be made financial partners in certain productive enterprises. He feels that "once this is allowed, it may have far-reaching consequences in building the socio-economic infrastructure of the Muslim communities". This proposal seems to be fully compatible with the requirements of *Shari'ah*. In fact such a proposal came under discussion in one of the *ulema* conventions held in Pakistan and found general acceptance.

Dr. Mannan's paper raises certain issues concerning the assessment of *nisab* also. He pleads for serious examination of the question of 'rationalization of *nisab* so as to make more resources available for redistribution to

poorer sections of society. One suggestion made by him in this context is the 'vertical' rather than 'horizontal' assessment of *nisab*. Specifically the suggestion is to club together all *Zakatable* assets of a person, evaluate them jointly in terms of ruling prices and impose *Zakah* on them if the combined value of *Zakatable* assets exceeds the monetary value of the *nisab* prescribed for gold or silver. In this context, he suggests re-examination of the view of the majority of Islamic jurists according to which each type of wealth, such as gold and silver, different kinds of cattle, and commercial goods is assessed separately and is subjected to *Zakah* if it exceeds the particular *nisab* set for it. This is not a new proposal. It has been considered time and again by Islamic scholars but has not found acceptance as it is against *ijma* on the subject. It is relevant to mention here that, according to the general principles of *fiqh*, no *ijtehad* is permissible in matters on which clear directives are found in the Holy Qur'an and *Hadith*. Since both the rates of *Zakah* and the *nisab* of *Zakah* for each type of wealth have been prescribed by the Holy Prophet (PBUH) they are immutable. I feel this is a very sound principle. If deviation from this principle is allowed it can lead to unfortunate results. The inviolability of the rates of *Zakah* prescribed by the Holy Prophet (PBUH) would also be undermined. This could lead to frequent changes in the rates of *Zakah* according to the expediency of the ruling authorities and may also become an election issue in countries having multi-party systems and destroy the sanctity of *Zakah* which is a form of *ibadah*.

While making a plea for re-examination of the issue of *nisab*, Dr. Mannan quotes the instance of levy of *Zakah* on horses by Hazrat Umar at the rate of 5% of its price or one dinar per horse, and argues that "these historical facts are indicative of the fact that the door of *ijtehad* in this area has not been closed". A number of writers have pointed out that the Holy Prophet (PBUH) did not rule out imposition of *Zakah* on all types of horses. In fact there is a *Hadith* narrated by Hazrat Zubayr which says: "For every *sawaim* (freely pastured and kept for breeding) horses, one dinar or ten dirhams and there is nothing on horses stationed in forts". There is of course another *Hadith* to the effect that "There is no *Zakah* on your slaves and horses" but it has been interpreted to mean that the Holy Prophet (PBUH) meant the horses of the warriors and that horses kept for their offspring were subject to *Zakah*. The instance quoted by Dr. Mannan cannot, therefore, be made a basis for *ijtehad* in favor of vertical rather than horizontal assessment of *Zakah* on various types of *Zakatable* assets.

Dr. Mannan also suggests the people should pay *Zakah* voluntarily on non-productive assets and consumer durables "in excess of what is considered essential" to make a contribution in building a healthy Islamic welfare society. Islam, of course, expects its followers to spend as much as possible in the



way of Allah and the spirit of *infaq* in Muslims should be encouraged. However, I feel that this exhortation should be in general terms rather than related specifically to the possession of certain consumer durables which have traditionally been regarded as not subject to *Zakah* because, unlike the specified *Zakatable* assets, they do not have the capacity to produce further wealth. The suggestion made by Dr. Mannan to include diamonds, sapphires and platinum in *Zakatable* assets, however, stands on a different footing as they are akin to gold and silver and there appears to be a strong case for their inclusion on the basis of analogy.

Dr. Mannan has also discussed certain operational issues in regard to distribution of *Zakah* among *mustahageen*. He stresses the need, for example, of having a national guideline dealing with the size of the family and standard of living, etc., in a particular social context to identify and determine the quantum of *Zakah* to be disbursed among *mustahageen*. He also suggests that transfer of *Zakah* funds should be reduced steadily as the income earned of the beneficiary increases so that the transfer becomes zero at the break-even income level. These are useful suggestions though they are not capable of being implemented with any great precision because of the difficulties involved in calculations of this nature and the many subjective elements involved in any such assessment.

Dr. Mannan's paper ends with the statement that there is great deal of flexibility in matters related to *Zakah* within Qur'anic imperatives. I am also not in favor of a completely static position on these issues but, as stated earlier, caution must be exercised in these matters since an authoritative judgment on these issues can only be arrived at a representative assembly of persons well versed in *fiqh*.

# LIMITATIONS ON THE USE OF ZAKAH FUNDS IN FINANCING THE SOCIO-ECONOMIC INFRASTRUCTURE OF SOCIETY

Shawki Ismail Shahatah \*

*This paper seeks to deal with the concepts of Islamic jurisprudence and the legal rules concerning the eight heads of expenditure of the Zakah as well as the contemporary use of the Zakah funds in financing the socioeconomic infrastructure projects both at the individual and the community.*

*The author has drawn his conclusions from generally accepted principles of collection, distribution and administration of Zakah in the light of the Shari'ah. This part of the paper covers eight principal cannons of maintenance and utilization of Zakah revenue in conformity with, the Shari'ah. Accordingly, criteria for eligibility to receive Zakah are also established under different circumstances and conditions.*

*The second part of the paper deals with the contemporary utilization of Zakah funds to finance the socio-economic infrastructure for Muslim individuals and communities. The author proposes various ways and means of wider utilization of Zakah proceeds by the community at large. Some of his proposals include preparation of annual Zakah budget within the framework of five-year plan, expenditure on the education, health, and vocational training of the poor and indigent, establishment of cottage industries, utility and trade projects, productive facilities, housing, debt relief expenditure for the conversion of non-Muslims into the Muslim faith and outlays for the cause of Allah. [ Editors ]*

## PART ONE

### CONCEPT OF ISLAMIC JURISPRUDENCE AND LEGAL RULES REGULATING THE EIGHT HEADS OF EXPENDITURE OF **ZAKAH**

Writing to the Commander of the Faithful, **Harun** El Rasheed, the greatest king of his age, Abu Youssef (died in 113 A.H.) said:

"O, Commander of the Faithful: Allah, praise be to Him, has entrusted you with a heavy task, the reward of which is supreme and the penalty for which is most severe.

He committed the destiny of this nation into your hands. You are now spending day and night to build this society and concerned with the welfare of

\* Dr. S. t. Shahatah was Advisor, Faisal Islamic Bank, Cairo, Egypt at the time of the seminar.

the people whom Allah has put under your custody. He made you guardian over their interests in being their ruler. Any structure founded on it other than piety can never remain erect and it will be demolished by Allah from its foundations over the heads of those who have built it and assisted in its construction. Do not lose the trust laid in you by Allah to oversee this nation and your subjects. Power and might lie in doing what Allah likes"<sup>1</sup>.

The first subject he brought up was that of *Zakah*. He said: "O, Commander of the Faithful; give order that only a man of honesty, who is trustworthy, upright and virtuous and loyal to you and to your subject, should be selected to collect the *Zakah* from all the provinces. Order him to employ such persons of integrity, acceptable to him, after enquiring about their creeds, manners and honesty, so that they be competent to collect the *Zakah* from the provinces and bring it over to him".

1.1 THE FUNDS OF THE *ZAKAH* SHOULD NOT BE MIXED WITH THE *KHARAJ* (LAND TAX) FUNDS. THE *ZAKAH* SHOULD HAVE AN INDEPENDENT TREASURY (*BAITUL MAL*).

Abu Youssef goes on to say:

"Once the *Zakah* is collected, order him to distribute it in accordance with the rules of Allah, Who is worthy of utmost praise, and do not give the task to the collectors of the *kharaj* (land tax) as funds of alms (*Zakah*) should not be mixed with the *kharaj* funds, because the *kharaj* is for the well-being of all Muslims, while the *Zakah* is intended only for the categories designated by Allah in His Holy Book.

Defining the nature of funds collected through *al-fay'i*, Abu Ubaid <sup>2</sup> (154-224A.H.) says that the *fay'i* is that which is earmarked for the well-being of all Muslims, rich and poor alike. It is paid at the time of fighting and for the sustenance of children as may be determined by the *Imam* in the interest of the people and for the benefit of Islam and the Islamic community. As for the one-fifth funds, religious scholars were divided in their opinion on it. Some said they should be expended on the five categories named in the Holy Book. Others opined that this category is subject to the same rulings regulating *fay'i* and left to the *Imam* to determine. Should the *Imam* decide that it is more beneficial to the Muslims to spend the money on non-Muslims, he is free to do so.

Alms are the *Zakah* collected from the Muslims to be disbursed according to the eight categories of expenditure designated by Allah. No one is entitled to receive any portion of them save these categories. In this respect, Hazrat Umar said "This money has to go only to those categories".

"Al-Kharaj" (Land Tax), Al-Salafiyyah Press and Bookshop, Cairo, 1352, A.G., p. 3. 2.

"Al-Amwal" (Funds), Al-Tijariyyah Bookshop, Cairo, 1353 A.H., p. 16.

The same point of view was expressed by Al-Mawardi<sup>3</sup> (died in 420 A.H.) and other contemporary Muslim jurists.

There is no controversy over the fact that the funds of the *Zakah* should not be mixed with those of the *kharaj* and that the *Zakah* should have a separate treasury and a private budget for disbursement of funds to the eight heads of expenditure.

Funds of the *Zakah* do not belong to the state's public revenues nor do they belong to the sovereign revenue of taxes in the state budget. *Zakah* funds are neither intended for all Muslims nor treated as a tax. *Zakah* is a recognized right of those deserving it in the assets of the Muslims. I do not subscribe to the opinion of those who hold that the *Zakah* is liable to adaptation in the same manner as income may be redistributed in the interest of social solidarity or security in one way or another. *Zakah* and the increasing up wealth is a question of profound significance to an Islamic economy and public finance.

In my opinion, *Zakah* is for the proper disbursement, and not the redistribution of wealth. It has been decreed by Islam for disbursement among the eight categories of people in order to establish economic and social justice among those who have no chance of taking part in any elements of the production process namely: capital, land and work in the wider sense of the word, including organization and management, or among those whose share in the proceeds of wealth distribution has fallen below the level of sustenance. To the Shafeites, the *Zakah* is a partnership, and to the Hanbalis, the poor are partners in the wealth of the rich.

Therefore, it is disallowed to draw money from the *Zakah* fund to finance infrastructural projects, public expenditure for public utilities, public services intended for all Muslims, rich and poor alike, or the administrative machinery of state.

## **1.2 ENTITLEMENT OF *ZAKAH***

### **1.2.1 *Zakah* is not to be given either to a rich or to an able-bodied person capable of earning his livelihood.**

The Prophet, (PBUH) is reported to have said that: "*Zakah* is not for the rich and the able-bodied earner of livelihood".

According to Abu Ubaid<sup>4</sup>. "We have discovered a condition other than richness in defining who is entitled to alms. The Prophet, (PBUH), has

3. "*Al-Akham Al-Sultaniyyah*" (Sultan's Rules), Al-Watan Press, Egypt, 298 A.H., p. 203.

4. "*Al-Amwal*". op. cit., p. 549.

declared the rich and the potential earner of livelihood to be equally non-entitled to *Zakah*. They are both equal even if the able-bodied man has no money". There are exceptions mentioned in para 1.2.3 below.

### **1.2.2. When is a rich man permitted to receive *Zakah* ?**

Quoting Yahya Ibn Sa'd on the authority of Sufian Zaid Ibn Aslan, Ata'Ibn Yasar, Abu Ubaid reported the Messenger of Allah, as having said: "A rich person is not lawfully entitled to *Zakah* except in the following five cases :

- (a) if he is a *Zakah* administrator and collector.
- (b) if he has bought it with his own money.
- (c) if his neighbour is poor and he gives alms to the poor man, but the poor man gives it back to him.
- (d) if he is fighting for the cause of Allah.
- (e) if he is in debt".

The foregoing saying of the Prophet (PBUH) was reported by Abu Dawud and Al-Thawri and quoted by Ibn Majah and Al-Darqutni.

Elaborating on the share of those who are in debt Al-Mawardi<sup>5</sup> says: Among them are those who borrowed money to settle disputes amongst Muslims. These must be repaid as much as they had borrowed, with no excess, irrespective of whether one is poor or rich. Another category of people entitled to *Zakah* are those who had borrowed money for their own needs, but later became poor. Their debts can be repaid out of *Zakah*.

### **1.2.3 When is an able-bodied earner of livelihood entitled to *Zakah*?**

In the opinion of Abu Ubaid<sup>6</sup>, if an able-bodied earner is in distress and despite his endeavor to support his dependents, falls short of meeting his needs, then he is entitled to receive a share of the the Muslim funds in compliance with Allah's injunction: "In whose wealth there is a right acknowledged for the beggar and the destitute".

It is obviously clear that the *Zakah* does neither undermine nor weaken the motive for work. Any able-bodied earner who endeavors to gain his living but fails in the process is allowed to receive *Zakah*. For example a craftsman who is in need of the necessary production tools or working capital to make a living is entitled to *Zakah* .

5. "**AI-Ahkam AI-Sultaniyyah**", op. cit., p. 117

6. "**AI-Amwal**", op. cit., p. 549

#### 1.2.4 Follow-up of four of the eight categories eligible to *Zakah*

The Hanbalites maintain that if four of the eight categories eligible to receive *Zakah* (those in debt, those desirous of freeing captives, those struggling for the sake of Allah, the wayfarers) spend their share of the *Zakah* as prescribed, it is well and good, otherwise they would be required to give the *Zakah* money back.

### 1.3. DISTRIBUTION OF *ZAKAH* WITHIN ITS LOCALITY

In a chapter on "Distribution of *Zakah* within its locality of origin and its disbursement beyond it," Abu Ubaid<sup>7</sup> (154-244 A.H.) confirmed that all the Prophetic sayings stress the fact that when *Zakah* is collected from a locality, it should be distributed within the same locality if it can be demonstrated that they are in need of it. This is decreed by the *sunnah* to preserve the rights of neighbourhood .

In reply to a question posed in Egypt by the Government of Pakistan in 1369 A.H. (1950 A.D.) as to who should be allowed to collect *the Zakah*. Abu-Zahrah<sup>8</sup> said:

"It is the state which should collect the *Zakah* although in principle, it is the *Imam* who is to collect and to distribute all *Zakah* funds". In the case of a large state, the governments of provinces are left free to collect and distribute the *Zakah* in accordance with the principles of the *Shari'ah*.

According to Youssef Al-Qardawi<sup>9</sup>, the territoriality of the *Zakah* was devised to combat and defeat poverty, to train each province to become self-sufficient and to enable it to solve its respective domestic problems. And since the poor of the same locality have aspired to get their share from such a fund, therefore, it becomes pertinent that they be given priority in securing their right.

In his opinion, this established practice might be waived if the locality does not need the *Zakah* money. This is done by the *Imam* through consultation with the scholars of the *Shari'ah* in the larger interests of Muslims.

### 1.4 THE POLICY OF *ZAKAH* DISTRIBUTION AMONG THE EIGHT CATEGORIES

#### 1.4.1 Talking of the order of priorities in the distribution of *Zakah* among the eight objects to expenditure, Abu Ubaid said<sup>9</sup>.

7. Ibid; P. 598.

8. Abu Zahrah, Mohamed, "*Liwa'at Al-Islam*" magazine, Cairo, Issue No. 11, Vol. 4, 1370 A.H. (1951 A.D.).

9. **Fiqh Al-Zakah** (The Jurisprudence of the Zakah", Vol. II, Muassasat Al-Risalah, Beirut, 1980 A.D...., p. 816. et. seq.  
'Al-Amwal', op. cit., p. 580.'

The Prophet (PBUH) is reported to have said that "the *Zakah* is to be collected from the rich and paid back to the poor". Only this single category was specified in this quotation by the Prophet (PBUH).

When the Prophet (PBUH) received more money, a second category of people consisting of "those whose hearts are to be reconciled" was added.

And, again, when further money was received, a third category of people consisting of those who are in debt was added.

Abu Ubaid, on the authority of Ibn Bukhari related that Imam Malik said:

The distribution of *Zakah* is to be left at the discretion of the ruler. All the eight categories people are the ones who are to receive the *Zakah*., their share may be decided by the ruler, who should give preference to those categories which have more pressing needs and more needy persons. No specific proportion of *Zakah* is prescribed for the *Zakah* collectors".

The conclusion reached by Abu Ubaid<sup>11</sup> regarding the policy of dividing and distributing the *Zakah* is that the Imam is to distribute it at his discretion without partiality or prejudice. This also applies to anyone other than the *Imam*.

#### **1.4.2. Abu Youssef and the system of distributing *Zakah* funds**

Dealing with the division of the *Zakah*, Abu Youssef<sup>12</sup> (died in 113 A.H.) said that it should go to the categories specified by Allah in His Holy Book. In his opinion, the poor and the destitute, who live around a town, should have a share in the *Zakah* paid by its own people. It should be dedicated to them; and it should not be given to the inhabitants of another town.

As regards the other categories, the *Imam* is at liberty to give *the Zakah* to anyone of the categories set forth by Allah in His Holy Book.

Should he wishes, he may spend it on only one category, deemed most appropriate from amongst 'the categories specified by Allah.

#### **1.4.3 Al-Mawardi and the system of distributing *Zakah* funds**

In the opinion of Al-Mawardi<sup>13</sup> (died in 420 A.H), "the *Zakah* is to be distributed to those referred to in Allah's Book as beneficiaries. The Prophet

11. Ibid, p. 581.

12. "*Al-Kharaj*, op. cit., p 81.

13. "*Al-Ahkam Al-Sultaniyyah*", op. cit., p. 203.

of Allah, (PBUH) was in the habit of dividing it according to his own judgement and discretion. And when the `Alms' verse was revealed to him, the Prophet, (PBUH) said: "Allah did not leave the distribution of alms to the judgement of a chosen angel or a messenger and preferred to divide them in accordance with the categories specified by Him".

In his opinion, alms (the *Zakah*) should all be divided into eight shares among the eight categories, if each category is available. No category should be encroached upon.

Hegoesontosay: "In the opinion of Abu Hanifah, however, *Zakah* may be **paid** to only one of the eight categories even if all of them are available. Payment to all categories is not imperative".'

## **1.5 THE ZAKAH AND THE LEVEL OF SUSTENANCE**

### **1.5.1 Amounts payable to the needy from *Zakah* funds and the level of sustenance**

According to Abu Ubaid<sup>14</sup>, Umar Ibn Al Khattab, was quoted as saying: "If you give *Zakah*, enrich the recipients".'

Abu Ubaid then gives an example of a *Zakah* donor who may come to know of a needy family who is homeless, so he buys them a house. Or he may know of a slave who is mistreated by his master, so he buys the slave and sets him free. Such help may require a lot of money to be paid for the benefit of a single recipient. Abu Ubaid clearly states that it is permissible for the donor to pay for such help from his *Zakah*.

### **1.5.2 Umar Ibn Abdul Aziz, may Allah bless him, and the degree of wealth that forbids asking for charity**

According to Abu Ubaid<sup>16</sup>, Umar Ibn Abdul Aziz wrote: "Repay the debts of those in debt". In reply, Al-Laith said: "But what about a man in debt, but having still a house, a servant, a horse and furniture". Umar wrote him back, saying: "A Muslim should have a house to dwell in, a servant to assist him in his effort, a horse on whose back he could fight his enemy and furniture in his house. Still if he is in debt then pay his debt".

### **1.5.3 Al-Mawardi<sup>17</sup> and the division of the *Zakah* and the level of sustenance**

According to Al-Mawardi, "if the *Zakah* is divided among the eight categories, they may still fall into five classification as follows:

14. "Al-Amwal", op. cit., p. 565.

15. "Al-Amwal", !bid, p. 567.

16. "Al-Amwal", op. cit., p. 556.

17. "Al-Ahkam Al-Sultaniyyah", op. cit., p. 203.



- 1 - They may receive the *Zakah* fund in a manner so that they cease to become deserving of alms.
- 2 - They may receive less than adequate for them to satisfy all of their needs, hence they may go to other referred sources.
- 3 - *Zakah* funds may be sufficient to some, and insufficient to others .
- 4 - If beneficiaries reach a level of sufficiency after getting their share of *Zakah* funds, the surplus of *Zakah*, if any, is to be distributed among other people of the towns nearest to them.
- 5 - Some may receive *Zakah* in excess of their needs while, in the case of others, the *Zakah* may fall short of their needs. In this case the former should offset the shortage of the latter, until both become self-sufficient.

#### **1.5.4. Al-Nawawi and lifetime or one-year sufficiency**

On this matter, Al-Nawawi<sup>18</sup> says, there are two concepts: first concept deals with the provisioning of the poor and the destitute enough to turn their lot and make them permanently self-sufficient. For example, in case of craftsman, he should be given enough money to establish his craft or the tools of his craft, whether its value is small or big. The amount paid to him shall of course, depend on the nature of the crafts, age, and type of people involved. Under the second concept Maliki, the Hanbalites and other jurists held the view that, self-sufficiency should be ensured for a person and his dependents for a full year.

#### **1.6 PERMISSIBILITY OF GRANTING BENEVOLENT LOANS OUT OF ZAKAH FUNDS**

In reply to the question put for discussion in Egypt by the Government of Pakistan in 1369 A.H (1950 A.D.) about the possibility of extending (interest-free) loans to individuals out of the *Zakah* funds, Abu Zahra<sup>19</sup> said: "If a debtor died and his heirs are not capable of repaying his debt, it is possible that the debt be repaid from *Zakah* funds. To Malik, Al-Shafi and Ahmad, the balance of the debt must be paid from his property of funds left *after* his death. If the inheritance was sufficient, the debt is duly paid, otherwise, it becomes a bad debt".

"Under Islam, fair debts are to be paid back from the *Zakah* funds. In this matter, Islam has been by far the forerunner of all other faiths. It suffices to know that in some states the Roman Law had given the creditor the right to take the debtor as a slave . But the Law of Allah, the Subtle and Aware,

18. "Al-Majmu"

19. Abu Zahrah, Mohamed, "Liwaat Al-Islam" magazine (Question No. 29) Issue No. 11, Vol. IV, Rajab 1370 A.H. (April, 1951 A.D.), p. 838.

ordains that the debt of an insolvent should be paid by the state on his behalf. In so doing, people are encouraged to do more acts of benevolence and chivalry and to grant more of *riba* free loans" .

Abu Zahrah, (May Allah bestow His Mercy on him), goes on to say "since the fair debts are paid back from the *Zakah*. funds, loans may be granted from the *Zakah* funds so that they may be repaid later".

In this connection I may add that if loans are granted from *Zakah* funds to people eligible to receive *Zakah* , especially those able to work and earn their living and to repay their debts to the *Zakah* treasury in time, it then becomes an act that would provide new sources of finance which could be channeled to the economic requirements of the poor and the needy in a manner which should enable them to get out of the poverty line .

### **1.7 SHOULD ZAKAH FUND BE PAID EXCLUSIVELY TO INDIVIDUALS OR TO INSTITUTIONS SUCH AS EDUCATIONAL INSTITUTIONS, ORPHANAGES, AND CHARITABLE SOCIETIES**

This was in fact question No. 26 which was submitted for discussion in Egypt by the Government of Pakistan in 1369 A.H. (1950 A.D.) to which Abu-Zahrah<sup>20</sup> gave the following answer:

"If institutions are intended for taking care of instructing and educating the poor and destitute or the like, at a time when the *Zakah* is not collected by the state, the *Zakah* money might be paid (by individuals) to these institutions for the benefit of the poor they are taking care of".

"If the institutions are not spending money on the poor and the destitute, then the *Zakah* may not be disbursed to them, as already opined by the majority of jurists, contrary to the opinion of some other jurists as indicated by Al-Qaffal".

Answering the same question, Mohamed Abdul Wahhab Khallaf<sup>21</sup> said:

"It is not appropriate to assume that the *Zakah* is not considered legitimate and lawful unless it is given by the *Zakah* donor to a certain person, or persons, as private possession".

Referring to the same subject, Abu Zahrah said that anything spent on educating and treating the poor medically is proper spending.

20. Abu Zahrah, Mohamed, "**Liwa Al-Islam**" magazine, Issue No. II, Vol. IV, Rajab 1370 A.H. (April 1951 A.D.), p. 841.

21. Khallaf, Mohamed Abdul Wahhab, "**Liwa Al-Islam**" magazine, issue No. 4, Vol. III, Zul Hijjah 1369 A.H. (September, 1950 A.D.), p. 262.

### **1.8 RIGHTS OTHER THAN THE ZAKAH MAY BE ASSESSED AGAINST WEALTH AND TAXES MAY BE LEVIED SIDE BY SIDE WITH THE ZAKAH<sup>22</sup>**

In emergencies, the destitute are legally entitled to be supported by funds other than *Zakah*. A Muslim has an obligation towards his fellow Muslim in need. The former must help the latter out of righteousness to overcome his distress, and not only from the *Zakah* due on his wealth. In normal times, some money can still be paid voluntarily. Elimination of want, however, is a collective duty over and above *Zakah* funds. No Muslim should be left alone in a predicament.

Thus, taxes may be levied, besides the *Zakah*, if the public interest so dictates, so long as the ruler is administering justice without prejudice.

Ibn Hazm<sup>23</sup> holds that "it is the duty of the rich in every country to take care of the poor. Should the *Zakah* and general welfare funds fall short of caring for the poor, the ruler has the right to impose taxes on the rich in addition to *Zakah*."

Among the contemporary jurists and scholars such as Abu-Zahra, Yousef Al-Qaradawi who advocate the necessity of collecting the *Zakah* in compliance with the Islamic Law are all agreed that should the Muslims be confronted with dire circumstances, after the *Zakah* had been paid, they should be given further financial assistance. In the words of Malik and other jurists, (may Allah have mercy on them), "Muslims must redeem their captives, even if it drains all their funds".

Whoever is in authority should try to meet the basic needs of the poor as already defined by Ibn Hazm, (e.g. food, clothing and housing,) as well as to provide provisioning for education and health care etc. which could enable the poor to go out of the poverty line.

Under the prevailing circumstances of his time and the dictates of his environment, Abu Youssef<sup>24</sup> was of the opinion that a share of the *Zakah* funds should be used on improving the routes travelled by Muslims after, of course,

22. Shehatah, Dr. Shawki Ismail, "**Contemporary Application of the *Zakah***", Dar Al-Shuruq, Jeddah, 1977 A.D., p. 24 et. seq.

23. "**AI-Mahalli,A**", Vol. VI, Dr. Al-Fikr, Cairo, p. 156.

24. "**AI-Kharaj**", op. cit., p. 81.

the payment for the subsistence of *Zakah* collectors there-from<sup>25</sup>.

Abu Ubaid<sup>26</sup> likes to distribute the share of the wayfarer in *Zakah* funds as follows:

- 1 - Each road must be allocated a percentage commensurate with the number of people passing through it.
- 2 - A share must be dedicated to every traveler or wayfarer, having no shelter or relatives to support them.
- 3 - A wayfarer is to be offered food until he reaches a home or reaches his objective.
- 4 - Special homes should be run by honest people to accommodate the needy wayfarer and to offer food for him as well as for his beast of burden.

#### SUMMARY :

From these juristic and religious concepts and interpretations, the following principles could be drawn:

- 1 - *Zakah* funds should not be mixed with those of Islamic treasury. *Zakah* funds should be managed independently in accordance with the rules of the *Shari'ah*.
- 2 - Infrastructural projects and public utilities and services beneficial to all Muslims, poor and rich, should not be financed out of the *Zakah* funds. The same applies to the administration machinery of the state.
- 3 - It is not lawful to give the rich or the able bodied men, any share of the *Zakah* to earn their own livelihood.
- 4 - The rich are not allowed to get anything from the *Zakah* funds unless they are involved in collecting and administering the *Zakah*, or engaged in the struggle for the cause of Allah, or had borrowed money to spend in settling disputes among Muslims, or in certain types of debt.  
The debtor is to be paid only the amount originally borrowed with nothing more.
- 5 - Able-bodied earners of livelihood are not allowed to receive any *Zakah*

25. It is noteworthy that this opinion of Abu Yusuf suggesting road improvement has been quoted and documented in many of the well known Hanafi treatises including Al-Hidayah and several commentaries on it. No. in **Hashiyah Ibn Abedin**. Even though these treatises meticulously recorded the opinion of Abu Youssef on every subject if it differs from that of Imam Abu Hanifa the author of a commentary on Abu Youssef's Al Kharaj; as Muhammad Abdul Aziz M. Al Rahbi in **Fiqh al-Muluk wa Miflah al-Rilyaj ala Khizanat Kitab al-Kharaj** Ahmad U. Al-Kubaisi, Col., Baghdad, 1973, 1975 suggests (Vol. 1, p. 54) that the quotation from Al-Kharaj was an early opinion of Abu Youssef, which he later gave up. Abu Youssef final view, as recorded in major Hanafi treatises is that "*fi Sabili Allah*" is for poor *mujahideen*. - Editor.

26. "Al-Amwal", op. cit., p. 580.

unless their earnings fall short of meeting their basic requirements. For such men to receive anything from *Zakah*, they shall have to demonstrate that they are unable to meet their self-sufficiency basic needs out of their earnings.

- 6 - The Hanbalis are of the view that when *Zakah* funds is paid to debtor, captives, the wayfarers and those who fight for the cause of Allah, there should be some follow up in order to ascertain that the money they had received have actually been spent as designated, otherwise, they must pay back the money they received earlier.
- 7 - A matter of principle in respect of *Zakah* is that it should be disbursed to deserving people in the same locality from where it has been collected.
- 8 - The method applied in dividing the *Zakah* among the eight categories, or of payment to some categories to the exclusion of others be left to the discretion of the ruler who may give priority to one category over others. However, the majority of jurists, with the exception of Shafi'ites, are of the view that the *Zakah* need not necessarily be distributed among all the categories, and that if it is disbursed to only some of them, it fulfils the requirement of the *Shari'ah*.
- 9 - The *Zakah* is intended to be spent on the poor and the needy in an attempt to bring them out of poverty line. The duration of payment is to be determined accordingly.
- 10 - In the view of some scholars good loans granted to the poor and the needy, who are able-bodied and able to earn their living, should eventually be able to generate resources which could later be made available to the other poor and needy.
- 11 - *Zakah* might be given to corporate bodies, taking care of the poor and the needy, in providing the public utilities and services. Ibn Abdine maintains that any money spent on the education and medical treatment of the poor is deemed to have been spent thereon and paid thereto.
- 12 - The *Zakah* may be paid in cash or in kind. Payment in kind included the provisions for procuring tools and equipment and the like.
- 13 - Taxes may be levied on wealth in addition to the prescribed rate of *Zakah*, if *Zakah* proceeds are insufficient. The rich in every country, as held by Ibn Hazm, are under obligation to take care of the poor. Imam Ali made such an act obligatory if the *Zakah* or the public welfare funds are not enough to provide them enough sustenance.
- 14 - No Muslim should be forsaken.

**PART TWO**  
**CONTEMPORARY USE OF ZAKAH FUNDS EN FINANCING THE**  
**SOCIOECONOMIC INFRASTRUCTURE FOR THE MUSLIM**  
**INDIVIDUAL AND THE COMMUNITY**

**2.1 The Socioeconomic Infrastructure for the Muslim Individual and the Community: The Conceptual and Philosophical view**

There is no doubt that the socioeconomic infrastructure of the Muslim individual and the community has its roots in the belief in Allah, His Oneness as well as in all allied values of Islam which exert their impact on social and economic behavior of Muslims both at the individual and the social level. By virtue of these values, human contradictions and inconsistencies are overcome and properly rationalized in the management of an Islamic society.

It is well known that the social dimension and relationships within the Muslim society are determined by "Islamic Brotherhood". It is not simply a spiritual experience or mere wishes or expressions of sympathy. This notion of brotherhood is also strongly backed by economic solidarity, as exemplified in the payment of the *Zakah* by the rich without which his faith will remain imperfect.

Islam pays special attention to land as a productive resource on which Allah made us His vicegerent. Basically, a Muslim is supposed to be a hard worker and a productive individual. Any uncultivated land becomes *terra nullius* for all Muslims or for the poor and the needy or, if the land is not used, for public utility. By virtue of their vested interest (though of *Zakah*), the beneficiaries of *Zakah* under the eight prescribed categories, are in a sense partners with those who own the three factors of production, namely: capital, land and labor. And, thus, economic and social justice is ensured. This prescribed right is decreed by Islam for those who cannot take part in the production process and in economic activities. This is done in accordance with the rule that no Muslim should be left due to predicament.

On the basis of the preceding discussion we can put forward a framework for the contemporary use of the *Zakah* fund in financing the Islamic socioeconomic infrastructure.

## **2.2. Formulation of a 5-year Plan and an Annual Plan Budget for the *Zakah* Treasury (*Baitul-Mal*):**

I suggest preparation of a five-year plan as well as annual plan for the receipts and expenditure of *Zakah* institutions. In the absence of a public treasury (*Baitul-Mal*), I feel the need for the establishment of an Islamic international federation for *Zakah* institutions, or a world Islamic organization for *Zakah* institutions, or a world Islamic organization for *Zakah*, affiliated to the Organization of Islamic Conference. I am, also, in favor of preparing a detailed accountancy guide for such an organization, in line with the requirements of our time, wherein the *Zakah* is properly dealt with and systematized in all respects. Broad outlines for financing the Islamic socioeconomic infrastructure from *Zakah* funds are indicated below :

### **2.2.1. Channels of expenditure for the poor and the needy:**

- *Zakah* funds, under this category, could be spent on Islamic education of the children of the poor.  
The establishment of at least one Islamic educational school each year in every town with one meal freely provided to its pupils.  
The teaching of Arabic as a basic school subject.  
Establishment and support to primary school for teaching the Holy Qur'an.

### **2.2.2 Vocational training and rehabilitation for *Zakah* recipients :**

- Training of craftsmen and tradesmen in order to enhance their productive efficiency and skills.  
Supplying of necessary tools to craftsmen.  
Provision of vocational training to some of the handicapped in order to turn them into productive individual, coupled with the provision for the handicapped.  
Supplying tools for productive families which can carry out economic activities indoors.  
Establishment of workshops and factories for tailoring, weaving and manufacture of ready-made clothes.  
Establishment of workshops and factories for teaching girls and widows knitting and producing woollen clothes.

### **2.2.3. Establishment of simple cottage industries:**

- Production of handmade rugs and carpets on handlooms.
- Production of leatherware.
- Other simple products, such as wooden manufactures.

### **2.2.4 Establishment of simple agricultural and cottage industries :**

- Breeding poultry and rabbits.

- Establishing beehives.
- Establishing various kinds of rural and communal cottage industries.

**2.2.5. Provision of simple fixed assets in small utility and trade projects as iceboxes for selling canned food etc.**

**2.2.6. Provision of some production facilities:**

- Raw materials.
- Semifinished articles produced by individuals or productive families who are recipients of *Zakah* .

**2.2.7. Provision of working capital to craftsmen eligible for *Zakah*.**

**2.2.8. Low-cost housing:**

- Building of low cost economic building blocks at minimum cost.
- Giving possession of flat on the basis of rent financing.
- Encouraging of benevolent endowments (*waqfs*) concerning economic housing.

**2.2.9. Medical treatment and health care:**

- Establishment of dispensaries in different localities for providing medical treatment to the poor in all fields of specialization free of charge or against nominal fees.
- Whenever possible, volunteer doctors or doctors charging nominal fees should be employed for these dispensaries. The *Zakah* institution should assume part of the costs of treatment of some individuals, eligible for *Zakah* , in some hospitals where a number of beds, carrying the name of the *Zakah* institution, may be reserved for the in-patients.

**2.2.10. Expenditure on those whose hearts are made to incline to truth**

In the words of Abu Ya'la<sup>27</sup>, those whose hearts are inclined to truth, Muslims or non-Muslim could have a share of *Zakah* under the following four categories of people:

- ( i ) whose hearts are inclined to help the Muslims;
- (ii) whose hearts are inclined to defend the Muslims;
- (iii) who can be persuaded to embrace Islam; and
- (iv) who can be persuaded to attract their tribes and clans to Islam.

The head of expenditure on those whose hearts are inclined to truth remains valid, despite the fact that it was suspended during the reign of Hazrat Umar who believed that Islam had already been firmly established,

27. "Al-Ahkam Al-Sultaniyyah".



and therefore, there was no need to persuade such people to come to the fold of Islam.

In the opinion of Abu Zahrah<sup>28</sup>, funds paid to those whose hearts are to be made inclined to Islam are similar to what we now term as public relations and publicity expenditure.

Yousef AI-Qaradawi<sup>29</sup> opines that such people should continue to receive money from the *Zakah* because as it is ordained by Allah, some of these funds should be spent to persuade non-Muslims to convert to Islam or to strengthen their belief in it, or to win more supporters..

#### **2.2.11. Heads of expenditure on people in debt and on wayfarers**

This subject has already been discussed. 2.2.12 **Expenditure for the cause of Allah**

According to Abu Zahrah<sup>30</sup>: "Some proponents of the Shafi'ites and disbursed to those who are fighting for the sake of Allah and for those who are commissioned to defend the Muslim borders.

According to Abu Zahrah<sup>29</sup>: "Some Proponents of the Shafi'ites and Hanbalis held the view that this type of money is not to be given to those who are fighting for the cause of Allah or defending the borders unless they are poor". In my view, this category is not to be treated independently. It is pro-per to comply with the opinion of the majority of jurists who hold that these people should receive their share of the *Zakah* even if they are rich on the grounds that they have qualified for it by reason of taking part in a holy war in the way of Allah"..

The phrase "in the way of Allah" was interpreted by some jurists as to all men serving the interests of Muslims. They permitted expenditure on this account out of *Zakah* fund. We, however, are not inclined to accept such liberal interpretation of the phrase. It is reasonable to adopt the view held by the majority of jurists.

#### **2.3. Islamic Approaches to . Financing Socioeconomic Infrastructure from Zakah Funds in Our Modern World :**

- Payment of cash money to those who are completely disabled, unable to work or gain their living.
- Payment in kind, in the form of light fixed assets, production tools and productive commodities.

28. Abu Zahrah, Mohamed, "**Liwaa AI-Islam** magazine, Issue. No. I I, **Vol**, p. **836**.

29."Fiqh **AI-Zakah**", op. cit., p. 609.

30. Abu Zahrah, M. op. cit., pp. 840-41.

Partnership that would culminate in ownership for the benefit of categories of people qualifying for the *Zakah*. This enterprise is to be financed by the *Zakah* foundation\*.

Engaging in a specific lawful *mudarabah* project pertaining to a specific activity, with the *Zakah* foundation acting as owner of the capital, while *Zakah* beneficiaries act as workmen who take part in the *mudarabah* as a partner contributing his work. Any ratio of profit is to be divided between them in accordance with an agreement made prior to commencement of the work\* .

Provision for leasing light fixed assets and production tools with nominal fees or rent to the poor and the needy\*.

**Good Loans :** (Interest-free loans)

- Good loans should be granted to beneficiaries of the *Zakah*, under certain social conditions, or situations such as catastrophe, emergency, illness and costly surgery\* .
- Good loans should be extended to those who are in debt, and qualified as such under the *Shari'ah*.

For Islamic banks and companies set up in the recent past, it should be possible to identify various methods of financing the basic socioeconomic development projects from *Zakah* funds. These methods include, *inter alia*, the opening of benevolent investment accounts with the Islamic banks, financing construction of low cost housing on behalf of *Zakah* beneficiaries as well as providing support to crafts and simple cottage and livestock and poultry industries within the framework of the 5-year national *Zakah* plan.

\* These suggestions are yet to be scrutinized and generally approved by the jurists. - Editors.

## COMMENTS

**D. M. Qureshi\***

Dr. Shawki Ismail Shehatah has written a comprehensive paper on the distribution and management of *Zakah* across various heads approved in the *Shari'ah*.

The paper is divided in two parts. The first part deals with early juristic thinking on the subject whereas the latter part deals with contemporary thinking. The author has also given various suggestions for improvements in the management of *Zakah* funds. The notable suggestion is the five year plan for the management of *Zakah*.

Dr. Shehatah has presented a good summary at the end of each section which has made my task easy by saving me from the ordeal of summarizing his ideas and suggestions. I should, however, like to make few comments in the spirit of this paper which is also the basic theme of the Seminar.

There is a fundamental difference between *Zakah* and other taxes, commonly used in the contemporary world. The payment of *Zakah* is a religious duty and Allah has designated *Zakah* as the right of the poor and the needy in the wealth of the rich. As opposed to this, the payment of taxes derives its sanction on the principle of cost-sharing, which individuals agreed to share for producing "public goods" in the society. Accordingly, as correctly pointed out by early jurists, *Zakah* and taxes should not be mixed either conceptually or administratively.

An immediate implication of the above distinction is that no part of *Zakah* fund can be allocated to the provision of public goods. By definition, public goods are those goods in which market mechanism cannot be used to exclude people from its consumption e.g. defense services cannot be sold in the market nor are they equal in the act of consumption, for every member of the society consumes more or less the same amount of public good.

As opposed to taxes, the *Zakah* funds have to be distributed across eight

\* Dr. D.M. Qureshi was Managing Director, Bankers Equity Ltd. Karachi, Pakistan at the time of the Seminar.

heads approved by the *Shari'ah* for the acquisition of "private goods", goods and services for which there are price tags. Furthermore, it will be the choice of those who qualify for *Zakah* to use these funds for immediate consumption of private goods, (of, clothing, etc.) or for investment in human capital (i.e., education) for the recipients of *Zakah*.

The Islamic socioeconomic infrastructure spelled out by Dr. Shehatah can qualify for the *Zakah* funds if it is designed for 'enhancing the rights and entitlements of the needy and the poor over private goods and services in the society". Such a program should be exclusively meant for these people. If it assumes the nature of "public good", (which it might very well be) and it is not designed and implemented with utmost care, then the resulting distribution may not be in line with the *Shari'ah*.

An interesting and probably new suggestion for the use of *Zakah* funds is also given in the paper. This relates to the possible investments out of *Zakah* funds within the framework of the *Shari'ah*. This suggestion needs to be settled within the spirit of the law instituting *Zakah*.

As mentioned earlier, *Zakah* is exclusively for the use of a given class of society. The central administration is designed merely to synchronize the process of collection and distribution. The managers of *Zakah* funds are basically the agents of this class. Accordingly they should act in the best interest of the class itself.

The proposition for using *Zakah* funds for investment purposes needs to be carefully scrutinized keeping the distinction between private goods and public goods uppermost in our minds. In other words, a positive answer shall have to be found whether those who qualify for *Zakah* funds would voluntarily agree to invest, if the funds were given in their possession.

Since the class of persons who qualify for *Zakah* have a very high marginal propensity to consume, they may perhaps spare no funds for enhancing their future consumption. Besides, the expected rate of profit which might induce them to save would be so high that there may hardly be any project which can compensate them for the sacrifice of their current consumption.

Finally, there is the problem of high risk-aversion on the part of *Zakah* recipients. Since any investment within the framework of the *Shari'ah* would expose them to risk, the optimal choice of the class may be to avoid any such activity.

I have made these comments in the hope of provoking further discussion.



# **ADJUSTING TAX STRUCTURE TO ACCOMMODATE ZAKAH**

**Mohammad Hashim Awad \***

*The paper advocates a Zakah-based tax structure. It stresses the need for a through restructuring of the tax system of an Islamic state, following the introduction of an institutionalized program of Zakah collection and distribution. "The purpose of this restructuring is not simply to remove any overlapping between Zakah and other taxes, it is intended to ensure harmony in all respects between Zakah and other taxes so that Zakah becomes the core of the system, and the tax structure a mere extension of this religious level as Zakah is seen - an instrument for stimulating growth stabilizing the economy and promoting social cohesion. The paper argues that these recognized goals of fiscal policy should either be given explicit expression by Zakah or be found to be fully compatible with it. It is also statistically demonstrated that Zakah yields can be quite significant in relation to GNP. Zakah has an expansionary effect on the economy in that it encourages investment, since its main target is hoarded wealth. On the other hand, it is shown that Zakah is not regressive in nature, but that it simply reaches the grass roots of the nation's resources. In all, Zakah is "essentially a built in (automatic) stabilizer in the economy", responding flexibly to economic fluctuations. Furthermore, it is conceivable for a government to further Zakah revenues. Finally, guidelines for tax structuring are outlined. Zakah may be supplemented by other levies recognized by Islam such as khums, ushr, kharaj, and wazifas, in order to meet the basic welfare needs of Muslims. It is also argued that tax-restructuring in the wake of introducing Zakah may entail the impositions of some direct taxes such as taxes on visible hoarding, windfall gains and monopoly profits. No less important is the change that must occur in indirect taxes which tend to be regressive in nature. In sum, this-tax restructuring "will combine what is permanent in the tax systems of the early Muslim states with what is useful and Islamically acceptable as the elements of modern fiscal systems". A case study of the Sudan is also annexed to the paper. [Editors]*

## **PART ONE**

### **1. INTRODUCTION : TOWARDS A ZAKAH-BASED TAX STRUCTURE**

Islamic economics is rapidly passing from the state of theorization to that of application. In the monetary field, Islamic banks, insurance companies and investment trusts spearheaded the transition. In fiscal matters, legislation for the collection and the disbursement of *Zakah* have generally been the first step towards the Islamization of systems of public finance. Such laws have now been promulgated in countries like Saudi Arabia, Yemen Arab Republic,

\* Professor M. H. Awad was a professor at the University of Khartoum, Sudan at the time of the Seminar.

Pakistan, Libya, Iran and Sudan. More countries are expected to follow suit in the near future. Yet the practical ramifications of this step have so far found little attention from the students of Islamic economics.

Research on *Zakah* has largely focused on its wider fiscal connotations. In particular, researchers have concerned themselves with the possibility and the effectiveness of using *Zakah* as a means of achieving such objectives of modern fiscal systems as efficient allocation of resources, equitable distribution of income and stable economic growth. The interest shown by researchers in these issues is hardly surprising since *Zakah* is not just a tax; it is, in effect, a microcosm of a whole economic system. Embodied in *Zakah* is the economic philosophy of Islam relating to such basic issues as property, income distribution, economic rights, state intervention in the economy, and economic relations with non-Muslims. Its impact reaches every sector of the economy - primary, secondary or tertiary, every economic activity - consumption, savings, hoarding, investment, production, distribution, credit and employment, and every individual, community and locality. This emanates from the unique character of *Zakah*, which is simultaneously charity and a levy, a revenue and expenditure item, a progressive and a proportional tax, and a direct and an indirect tax. No less complex are the purposes of this Islamic levy. It is not just a wealth-redistributing device; it is also an instrument for stimulating growth, stabilizing the economy and promoting social cohesion and international peace.

So captivated have researchers been with the multifaceted nature of *Zakah* that they became too fascinated by its general impact on the social landscape to focus on its basic role as a tax - albeit an earmarked tax with specific avenues for its yield, and an act of worship and charity. Very little has been said about the consequences of its incorporation into existing tax systems. This is a practical problem that has faced all countries that passed laws establishing state participation in the collection and the distribution of *Zakah*. In most cases, these countries evaded, rather than solved this problem, by either abolishing all direct taxes which overlap with *Zakah*, or making *Zakah* payments deductible from the total tax obligations of citizens. Obviously, this is not a satisfactory arrangement. Not all the objectives of direct taxes are served by *Zakah* - at least, not to the same extent since its base and rates differ radically from those of most direct taxes. Nor does the retention of taxes and the rerouting of some of their yield to *Zakah* administrators (as is the case with tax-deductible charities in many Western countries) solve the problem since the nature of many of these taxes may be quite incompatible with that of *Zakah*. Hence the need for a thorough restructuring of the tax systems of most countries in the aftermath of introducing *Zakah*. The purpose of this restructuring is not simply to remove any overlapping in all respects between *Zakah* and other taxes. This means that when *Zakah* is introduced

into the tax system, the system is not just expanded but effectively imbued with the spirit of *Zakah*. *Zakah* becomes the core of the system, and the tax structure a mere extension of this religious levy. Other taxes assume the role of extending the principles and the objectives of *Zakah* to every part of the economy, and to enhance its impact (its coverage, its effectiveness, its revenue; etc.). In other words, *Zakah* will, perhaps, be the only constant in the tax system, with taxes being added, eliminated or altered to make the system consistent with *Zakah*.

## **2. ZAKAH'S ALLEGED DEFICIENCIES**

*Zakah* has been debated in a series of forums extending from the 1952 Social Seminar organized by the Arab League in Damascus to the 1984 First Conference on *Zakah* held in Kuwait under the aegis of *Beitul Zakah* of Kuwait. Discussions have largely focused on two main issues: the identification of contemporary types of wealth that are *Zakah*-liable, and *Zakah*-deserving recipients; and the assessment of the compatibility of *Zakah* with the objectives of a modern fiscal policy. But instead of accepting the limitations of *Zakah* as an instrument of fiscal policy and seeking ways of supplementing it with additional fiscal tools, most researchers remained preoccupied themselves with adapting the Islamic levy to modern fiscal needs of societies. Thus, some economists<sup>2</sup> toyed with the idea of varying *Zakah nisab* and rates. Others<sup>3</sup> called for the manipulation of the disbursement of *Zakah* proceeds or the deliberate variation of the degree of its monetization so as to turn it into an economic stabilizer. The utilization of *Zakah* proceeds in the provision of some public and semipublic goods, particularly welfare projects that cater for the poor was urged by some writers.

There were, however, those who were ready to dismiss *Zakah* as a tax revenue on the ground that it is too small to warrant its consideration as a 'powerful fiscal tool'<sup>4</sup>, a major means of redistributing income<sup>5</sup>, an effective instrument of alleviating poverty<sup>6</sup>, or a significant source of financing state activity. The example of Pakistan may be cited in support of this contention where *Zakah* collected on visible wealth (*amwal zahira*) had been spent on 2 to 3 percent of the total population, while *Zakah* deserving persons roughly range between 15 percent and 20 percent of the Pakistanis<sup>7</sup>. The proceeds of *Zakah*, it is told, constituted only a fraction of the national budget<sup>8</sup>. Some writers even ascribed to *Zakah* "certain incidental effects on the economy", which can be redressed only by an appropriate mechanism of secular levies<sup>9</sup>. For instance, it was charged that *Zakah* "must tend to increase consumption and reduce saving"<sup>10</sup>. Also, some complained that because investment is exempted from *Zakah*, wealthy people who reinvest all the proceeds of their investments before the year is out may never pay *Zakah* while poorer persons pay it out of their smaller savings". Special fiscal measures were called for so as to redress such alleged defects of *Zakah* and boost its proceeds. These in-



cluded taxes on windfall gains, a so-called "equilibrium tax", and a tax on "unnecessary consumption"<sup>12</sup>.

Before going any further, we must try to clarify some popular misconceptions that lie behind some of the above related views. That neither the sources, nor the rates, nor the avenues of *Zakah* can be altered or modified is, in the view of most Muslims, a settled matter. That it may not be sufficient to meet all the needs of the poor and may have to be supplemented by imposing other levies on the rich has always been recognized by Islam. The Prophet (PBUH) himself referred to dues other than *Zakah* on wealth, and he quoted the Qur'anic verse which defines righteousness (*birr*) as to mean, among other things, giving money to relatives, orphans, the needy, the wayfarers, beggars and captives (2:177). The Prophet (PBUH) is reported to have said that God had levied on the rich as much as would meet the needs of the poor so that they would suffer hunger or nakedness only as a result of the refusal by the rich to pay the proper dues imposed by God upon them, thereby exposing themselves to punishment. Therefore, the supplementation of *Zakah* proceeds with taxes the revenues of which are spent on the poor is not only permissible, but also imperative when *Zakah* does not yield enough sums. What is debatable is the legitimacy of imposing taxes for reasons other than aiding the poor. Earlier Muslim scholars were generally averse to the idea, possibly because taxes (*mukus*) were seen at the time as the means by which Persian and Byzantine monarchs impoverished their subjects. Besides, the early Caliphate was able to meet all its expenses, without recourse to taxation, from such sources of revenue as *ghanayim*, *fay* and *kharaj*. But contemporary Muslim scholars realized that in the absence of these last three sources of revenue, Muslim governments will have to tax their subjects so as to provide them with essential services. Hence their approval of taxes that can be utilized in this manner so long as the services rendered to people are of such a nature that users cannot be made to pay for them individually or supply them cooperatively.

But to say that *Zakah* proceeds are insufficient to meet the basic needs of the poor is not to suggest that these proceeds are insignificant. Estimates for total *Zakah* proceeds made by Anas Zarqa for Syria<sup>13</sup> and myself for Sudan indicate that they reach 3 to 4 percent of the GNP. Since public consumption in developing countries averages at about 13 percent of the GNP, a single tax that draws 3 percent to 4 percent of the GNP cannot be considered insignificant at all. The same conclusion is reached if we view *Zakah* as a tax that can transfer within one decade roughly a third of the GNP from the rich to the poor. Few wealth taxes in the world can be that effective. Yet, *Zakah* is only one of the tools by which Islam attains an equitable distribution of wealth, and it is a gradual one. Quick redistribution is attained through socialization of unutilized lands and untapped resources, abolition of usury, confiscation

of wealth acquired through monopoly or exploitation, and distribution of inherited wealth among numerous heirs.

### **3. ZAKAH AND STABLE GROWTH**

Those who think that *Zakah* reduces investment because, by transferring income from the rich to the poor it raises the propensity to consume, seem to have forgotten that the transferred sum are drawn from hoarded, not saved and invested, income. That is why *Zakah* is essentially expansionary, or *namaa* as called by the Prophet (PBUH). Equally wrong are those resent seeing wealthy people 'evade' paying *Zakah* by investing their cash earnings before the year is completed: this is exactly what *Zakah* is for turning cash in-to investments. After all, a wealthy man who thus runs his hoardings to less than the *nisab* is rendering the community greater service than one who pays only 2 percent of it in *Zakah*. The poor are likely to benefit more and longer from the employment opportunities he creates for them than from the *Zakah* he gives to them on annual basis. Of course, taxes can still be imposed on the assets of wealthy person, in order to achieve fairer distribution of income. But this cannot be done by applying *Zakah* to returns from investment as they flow in, as has been proposed. This annul the anti-hoarding role of *Zakah*: the application of a 10 percent *Zakah* on returns from investments, as suggested by Qaradawi and M. Zarqa<sup>14</sup>, means that investors will pay more *Zakah* on investment that yield returns of more than 25 percent than on hoardings of equal volume.

Because *Zakah* rates and *nisab* are in such a form that makes farmers pay a greater share of their incomes than traders, some people regard *Zakah* as regressive. But to be effective, as a means of redistributing income and discouraging hoarding, *Zakah* have to reach the bulk of the population who, in poor countries, happen to be in agriculture. What is important here is that *Zakah* collected from rural areas. (i.e., from farmers and animal owners) is distributed within those areas and not transferred to the more prosperous urban areas as the charge of *Zakah* regressiveness suggests. Produce of *Zakah* is clearly aimed at hoard able foodstuffs like grain, barley, dates and raisins, which are staples with inelastic demand. Thus *Zakah* ensures that the poor receive 5 percent to 10 percent of these staple foodstuff once they are harvested; but as demand for these foodstuffs tend to be inelastic in nature farmers are able to shift the tax to the consumers (other than the *Zakah* recipients). Besides, primary production, like farming and mining, relies heavily on natural resources owned by the whole community, while secondary and tertiary production, like manufacturing and trading, relies more on human and man-made resources, and *Zakah*, rates merely reflect this.

Early Muslim scholars are at one that, once collected *Zakah* proceeds should be forthwith. This precludes the withholding of the proceeds to avert

inflation, or their investment in projects of a long gestation. Since it reinjects hoardings into circular flow of income, *Zakah* seems to be of an inflationary nature. But it must be remembered that in a boom, hoarding tends to be relatively small, which adversely affects the volume of *Zakah* proceeds; furthermore, unemployed recipients of *Zakah* will be fewer, so that the reduction in proceeds will be matched by a cut in demand for charity. This dampens *Zakah's* inflationary pressures. But in recessions the impact which *Zakah* has on investment is great since it has a wide base of hoarding to reach and more needy to help. Thus, *Zakah* is essentially built-in (automatic) stabilizer in the economy. Its main contribution to growth is through its penalization of hoarding and encouragement of investment by wealth holders. Its proceeds are intended to make the needy self-reliant in the shortest possible time; prior to that, it aims at providing them with their immediate consumption needs. These two goals cannot be satisfied by embarking upon investing the proceeds in projects that take time to yield goods and jobs, unless these projects are financed out of *Zakah* paid well in advance of the year of collection, or by state borrowing against future *Zakah* proceeds. Both measures have been tried in early Muslim days. Caliph Umar was reported to have obtained camels for the state on credit; payment for them was made when *Zakah* had been collected. This does not only resolve the controversy over the use of *Zakah* proceeds in financing projects in the interest of the poor, but also indicates that Muslim governments can use deficit financing so as to pull themselves out of depressions, as suggested by Keynes. (However, deficit financing through money printing seems to be contrary to Islamic teaching since it is in effect a form of currency debasement which Islam frowns upon, as suggested by various pronouncements on the reduction of weight or quality of coins<sup>15</sup>).

#### **4. THE NEED FOR RESTRUCTURING TAXES**

In the light of what has been said so far on the compatibility of *Zakah* with most of the objectives of fiscal policy in a modern economy, we may now present our perception of a model tax structure for an Islamic economy.- This structure will consist of *Zakah* and ancillary taxes, which together form an integral part of an Islamic fiscal system. Beside *Zakah* and taxes, this system comprises profits' of state enterprises, donations, interest-free loans, equity participation by individuals and bodies in state entities, and instalments paid by subscribers in state-operated welfare schemes. Within the tax structure, *Zakah* plays a central role even if its proceeds constitute only a fraction of total tax revenue. This entails treating the other taxes as subordinate and supplementary to *Zakah*: they are supposed to reinforce the stabilizing and expansionary effects of *Zakah*, to supplement the sums it transfers from the rich to the poor, to finance the provision of services enjoyed by both the rich

and the poor, and to serve fiscal objectives other than those realized through *Zakah*. However, the taxes must not duplicate *Zakah* because *Zakah* cannot be taken more than once a year.

The proposed tax structure combines the permanent features of the early Islamic tax system with what is best in modern taxation from the Islamic point of view. This synthesis produces a structure that is bound to differ considerably from the structures found in most Muslim countries. The significance of these differences cannot be fully grasped unless our discussion of *Zakah* and non-*Zakah* revenue is related to the expenditure side of the budget. This is essential partly because *Zakah* is an earmarked tax the spending avenues of which are as specific as its sources, but also because the imposition of any tax in an Islamic state must be justified on the basis of what it is to be spent on. The Muslim *Imam* may impose a *wazifa* (tax) only to meet some essential need like defending the policy, paying ransom for Muslim captives or providing for the poor. Taxes that strengthen the economy and enable it to shoulder these and other responsibilities by improving resources allocation, promoting investment, stabilizing income, etc., must be also permissible.

Expenditure of the early Muslim state was essentially of a welfare nature. The destitute, the debtors, the captives, the wayfarers and the orphans were aided from *Zakah*, *khums* or *faya*. After the conquest of Iraq, Syria and Egypt revenues from *faya* and *kharaj* boosted enormously, *ataa* (allowance) was granted every man and woman, young or old. It consisted of a cash grant of varied amount and an issue of monthly rations of food (flour, oil and vinegar) in uniform qualities. In addition to this welfare expenditure, the early Muslim state spent money on raising and equipping armies, building mosques, public offices (like *Beit al Mal* (the treasury), and *Dar al Suweiq*, the flour warehouse, built in the days of Caliph Umar), and rest-houses on the main routes, digging canals, and operating a mail service. Salaries of the troops and the *ummal* (employees) of the state were an important expenditure item. Since revenue from the sources specified in the Qur'an - *Zakah*, *khums*, *faya* and *jizya* were sufficient to meet all the expenditure requirements of the early Muslim state, no attempt was made to impose taxes by the first Imams. The only exception was the *ushr* imposed by Caliph Umar on non-Muslim traders operating from outside the Islamic state in Muslim territory in reciprocity to the taxing of Muslim traders working abroad by host countries. When inflationary pressures appeared in the days of the Caliph as a result of the dispatch of *kharaj* from the conquered lands in cash, he shrewdly acted by instructing his provincial governors to send the tax in kind, particularly grain and oil<sup>6</sup>. He also resorted to borrowing against future *Zakah* revenue when he needed camels for the armies and did not possess the required funds.

Nowadays, welfare expenditure is still an important item in budgets of most countries, especially the richer ones. It represents 38 percent of all ex-

penditure in the industrial countries, 27 percent in Latin America, 11 percent in the-Middle East, 5 percent in Africa and 4 percent in Asia. These are inversely related to per capita income in the regions mentioned here. Unlike in the early Muslim state, welfare funds are spent on providing social services to the citizens and not distributed in the form of goods or cash. These services include health, education, and housing. There are also economic services like transportation and communications, and water and electricity services. It is noticeable that spending on education and economic services tends to constitute a higher percentage of the budget (percentage of their budgets on health, housing and welfare in general). (See Annex I.). Likewise, subsidies and transfers account for 56 percent of the total spending of governments in the industrialized countries, but only 28 percent in the developing countries. Thus, developing countries, which include all Muslim countries, tend to devote much smaller percentage of their budgets to the welfare services and transfers than an Islamic state is expected to provide compared to other countries.

Muslim countries, however, spend higher percentages of their budgets on defense than either industrial or agricultural projects and even more than in the other developing countries in general: defense of the Muslim community, it will be remembered, has a high priority in Islam. Being also poor in general, Muslim countries are undertaking substantial capital expenditure on development projects, particularly in the oil-rich states. But in the poorest of them, where welfare spending is low, development expenditure is also small. Wages and salaries, on the other hand, are an important spending item, taking a heavier toll from revenues than in the industrialized countries of the world. All this suggests that although much of the spending undertaken by Muslim countries these days tallies with Islamic goals, the spending priorities set by Islam are not always observed. The reallocation of government expenditure by simple shifting of resources from some sections to others is very difficult because of the contractual nature of much of government spending and other outlay inelasticities. Thus, revenue has to be increased and channelled into areas of high priority if we are to satisfy the demands of an Islamic system.

## 5.. GUIDELINES FOR TAX RESTRUCTURING

The introduction of *Zakah* will be an important step towards creating revenue base for the kind of spending envisioned by Islam. It goes a long way in providing the poor with basic needs, improving the distribution of income, and encouraging investment and growth. But its contribution to revenue is not a net addition: *Zakah* duplicates some of the familiar taxes, and since *Zakah* takes precedence over them and double-taxation is not permitted, the latter may have to be abolished or drastically altered. Nor will *Zakah* be sufficient on its own to meet all the urgent needs of the poor in all societies; hence the

need to supplement it from other sources, again avoiding double taxation as far as possible. First, *khums*, *ushr*, *kharaj* and similar taxes expressly recognized by Islam are tried; then recourse is made to such *wazifas* as taxes on foreign traders, first introduced by Caliph Umar, before others are introduced. The introduction of these taxes will enable the state not only to meet the urgent needs of the poor, but also to perform such legitimate functions as defending the Islamic community and spreading the faith.

Of course, raising living standards of the citizens and providing them with improved services are also legitimate goals which Islamic states must pursue. But the speed with which these goals are to be achieved, and, therefore, the costs involved and the sources from which they are met are left to the umma to decide. (This is not the case with caring for the poor or defending the faith, which are obligatory on all Muslims, and must be met from sources other than *Zakah* if it proves inadequate). The financing of development or improved services, which benefit both rich and poor persons, may be undertaken by the state through either borrowing from the public or the banking system, inviting equity subscription by the public, charging the beneficiaries, or imposing taxes on every person who is likely to benefit from them. Alternatively, finance may be provided by philanthropic or profit-seeking institutions. Thus taxation is a last resort in financing economic development or social services, unless the umma expresses a preference for this means of finance over the other ones. Taxation may, however, be the best means of discouraging certain undesirable spending or retrieving for the exploited what has been taken from them. For instance, unnecessary or harmful spending on such matters as jewelry or liquor can be reduced by taxing these goods heavily. Windfall gains at the expense of others, and the profits of monopolists are examples of unearned benefits that taxes can help to restore to the victim. Besides, taxes may be the best means of stabilizing the economy, optimizing resource allocation, protecting infant industries, or forming a customs union. Even *Zakah* may not mobilize all hoardings, and some of its forms may have to be taxed heavily in an attempt to "smoke them out".

Some economists have suggested that taxes can be used so as to redress some alleged ill-effects of *Zakah*". But for the principle to become accepted, these economists must first establish that *Zakah* does have such ill-effects. So far, the defects ascribed to *Zakah*, like encouraging consumption at the expense of saving or generating inflationary pressures at times, have all failed to pass close security.

Finally, it remains to be slated that the restructuring of tax systems in the wake of introducing *Zakah* does not mean only that taxes that duplicate the levy are abolished and ones that strengthen its role are added. An equally important part of the restructuring process is the elimination of fiscal measures,

particular taxes, which contravene the principles embodied in *Zakah*. Repressive tax is an obvious example. These taxes which are borne mainly by the poor are the main source of revenue in most developing countries. They consist mainly of customs and excise duties on essential goods. These duties account for 40 percent of government revenue in these countries, as against 17 percent in the industrialized countries. By contrast, income taxes, which tend to be progressive, account for only 26 percent of revenue in the developing countries, and 42 percent in the industrialized countries (Annex I). Obviously, correction of this situation cannot be made overnight, and gradualism has to be followed in shifting the incidence of the tax system from necessities to luxuries. Similarly, taxes which penalize investment must be removed instead of resorting to suspending them on a selective basis whenever a line of investment needs special encouragement. A better technique would be to use the revenue from taxes on undesirable spending to subsidise favored modes of investment. '

The tax structure: moulded in this manner will consist primarily of *Zakah*. Other Quranic levies (*khums, faya, kharaj* and *jizya*), are taxes designed to supplement *Zakah* proceeds to meet obligatory spending (on defense and the poor), to enhance the effectiveness of *Zakah* as a developmental, distributional and stabilizing tool, to dispossess recipients of unearned gains, to finance investments and services which cannot be financed otherwise or to meet the public preference to see them financed through taxation, or. to achieve ends which can only be attained by taxes. The tax structure created in this manner will center on *Zakah* and will be imbued with its spirit. It will be free from duplications and contradictions.' It will combine what is permanent in the tax systems of the early Muslim states with what is useful and acceptable to Islam of the elements of modern tax systems and fiscal policies (See the following page).

To give a concrete illustration of how a tax system may be restructured so as to incorporate *Zakah*, we shall take Sudan as a case study. After examining this country's experiment in introducing *Zakah* into its tax system, we will attempt to present a comprehensive scheme for establishing a proper *Zakah*-based tax structure in Sudan.

## A MODEL *ZAKAH* - BASED TAX STRUCTURE (I)

### Components

#### A. Traditional Taxes

- |                           |                                |
|---------------------------|--------------------------------|
| 1. <i>Zakah</i>           | (Prescribed in the Qur'an)     |
| 2. <i>Khums</i>           | (Prescribed in the Qur'an)     |
| 3. <i>Faya</i>            | (Prescribed in the Qur'an)     |
| 4. <i>Jizya</i>           | (Prescribed in the Qur'an)     |
| 5. <i>Kharaj</i>          | (Prescribed in the Qur'an)     |
| 6. <i>Ushur</i>           | (Recognized by early scholars) |
| 7. <i>Jehad</i>           | (Recognized by early scholars) |
| 8. <i>Muasa (welfare)</i> | (Recognized by early scholars) |

#### B. Supplementary Taxes

##### i) Direct Taxes:

1. Development-oriented taxes: on hoardings and unproductive use! of resources.
2. Equity-oriented taxes: on windfall gains and monopoly profits.
3. Stability-oriented taxes: progressive income taxes.

##### ii) Indirect Taxes:

1. Taxes on luxuries. and conspicuous consumption.
2. Taxes on harmful goods.

### (II) Exclusions

1. Taxes that duplicate *Zakah*.
2. Taxes that conflict with the objectives of *Zakah* e.g. taxes on investment or on the poor.
3. Taxes which finance services and projects that the public prefers to see financed by other means.



## PART TWO

### THE SUDAN AS A CASE STUDY 1.

#### 1. THE 1984 ACT

The Sudan is one of the latest Muslim countries to pass a law for the collection of *Zakah* by the state. The *Jumada II*, 1405 H (March 1984) *Zakah* and Taxation Act superseded the earlier *Zakah* Fund Act of 1980. The 1980 Act set up an administrative system for receiving and disbursing charity that was voluntarily paid by Muslim persons and bodies, who could then ask for tax deductions or rebates equal to their donations. The 1984 Act made the payment of *Zakah* (and a few others that were introduced at the same time) compulsory on all Sudanese Muslims living inside or outside the country, as well as on foreign Muslims residents in Sudan, so long as they are in possession of the prescribed *nisab*. The Act created a single administration (*diwan*) for both *Zakah* and taxation; the new body was directly under the supervision of the President through a Convenor who is accountable to the President. The Administration was to collect *Zakah* on minerals, stock-in-trade, hoards of gold, silver and cash, produce and animals, it was also entrusted with receiving charities other than *Zakah*, the proceeds from lawful investment of *Zakah* funds, and sums confiscated from those who had acquired them unlawfully.

The 1984 Act repealed 19 previous Acts under which a wide variety of direct taxes, both central and local, had been levied. They included taxes on buildings, rainlands, dates, business profits, personal income, capital gains, production, sales and consumption, as well as the entertainment, defense, and development taxes, stamp duties, royalties, additional charges, and payments into the Price Stabilization Fund. Instead, the Act created three new taxes. One was a Social Solidity Tax to be paid by non-Muslims and non-Sudanese resident in Sudan: it is of the same structure as *Zakah*. Another tax is the Development and Investment Tax, which is to be paid by all Sudanese, foreign or mixed capital invested in the Sudan, or Sudanese capital employed abroad for profit so long as it exceeds the *nisab*. The Tax rate was initially fixed at 10 percent, but can be altered by the President. Every year, net profit is added to the invested sum before the tax is applied. A third tax is a stamp duty on any document, communication, contract or bill listed in the by-laws.

Specified in the Act are also the procedures for the assessment, collection and distribution of the levy. The *diwan* officers were given powers to inspect

books and premises, and the payers could appeal to a special tribunal against what they consider excessive demands, and they could also propose to whom their *Zakah* should go. A High Adjudication Council interpreted the Act, and its decisions were final. *Zakah* evasion became a crime punishable by a fine of upto double the levy. Implementation of the Act was to commence in September 1984; this coincided with the start of the new Muslim year (1405 H), which become also the fiscal year. In anticipation of the new Islamic budget, which was to incorporate *Zakah* for the first time in this country, the taxes abolished by the 1984 Act were stopped, causing an appreciable rise in wages and many other incomes. pre-budget estimates put the expected proceeds from *Zakah* at £S. 118 million. But when the 1405 H Budget was announced, it contained estimates for *Zakah*: showing losses of £S. 118 million in revenue due to the abolition of taxes on personal incomes and capital gains, and also the banning of liquor which used to bring the treasury considerable sums in excise duties. The Budget speech made only a brief reference to leaving the collection and distribution of *Zakah* during the year to regional authorities<sup>18</sup>. A few weeks later, consumption tax and a social justice tax were imposed. Some regional authorities announced the collection of *Zakah* for the first two or three months of 1405 H: the figures quoted were well below the pre-budget estimates<sup>19</sup>.

## 2. AN EVALUATION OF THE EXPERIMENT

Numerous factors lie behind Sudan's unsuccessful bid to incorporate *Zakah* into its tax system. The attempt was made as part of the Islamization drive launched in September 1983. An entire Islamic code was prepared hurriedly. It all passed through. But implementation commenced after a state of emergency was declared and special courts were set up to administer the new laws. First to be applied was the criminal code. The *Zakah* and Taxation Act came together with other economic measures, at a later stage of Islamization. Most Muslim scholars thought that these measures should have preceded rather than followed the application of Islamic penalties. In fact, the passing of the *Zakah* Act need not have been delayed for so long since much research had already gone into this area since 1977<sup>20</sup>. This culminated in the convening of the Solidarity Conference for the re-establishing of *Zakah* and the drafting of a private bill for introducing the levy, both in the first month of 1984. All the studies conducted on *Zakah* stressed the fact that it is not a substitute for taxes and cannot be used to finance state activities that benefit the rich as well as the poor. The draft bill emphasized the need for a complete separation of *Zakah* funds from state ones and to place its collection and disbursement under an independent body supervised by a council of Muslim jurists.

But the manner in which the 1984 Act was drafted and reported in the media gave the impression that the levy was introduced as substitute, as the

Act abolished most of the direct taxes and linked what was left of them to *Zakah* under one administration. The National Treasury resented the abolition of direct taxes and the creation of the *diwan* as an independent and, possibly, a rival treasury. There was also a general feeling in the country that the timing of the Act was inappropriate since the country was witnessing its worst drought in this century: Caliph Umar, it will be remembered, suspended *Zakah* in the *Ramadan* (Famine) year.

Some critics concentrated on juristic aspects of the Act, they considered that they are not in line with mainstream thinking on the subject. In particular, they saw the substitution of *Zakah* with its low rates for the highly progressive income taxes as leading to the widening of the gap between the rich and the poor, which is the very opposite of what *Zakah* is intended to achieve. Hence their insistence that income taxes should be retained but modified so as to accommodate *Zakah* and to avoid double taxation-It was also felt that the 10 percent Development and Investment Tax on capital appears to be in conflict with *Zakah*, which is against hoarding but not investment. There were also misgivings about the Social Solidity Tax on non-Muslims, as it does not resemble *jizya* and the Act is silent as to how it is to be disbursed<sup>21</sup>

### 3. DIMENSION OF TAX RESTRUCTURING

The abolition of the direct taxes as a consequences of the introduction of *Zakah* was clearly an attempt to remove what were considered levies with bases that overlapped with *Zakah*, or rates that seemed excessive when compared with the Islamic tax. Taxes on animals, date trees and produce are examples of taxes which are also subject to *Zakah*; progressive taxes on business profits and personal income represent levies with rates that are well above *Zakah* rates. However, it is important to mention that there may be also some direct conflict between *Zakah* and indirect taxes, if the latter do not satisfy the equity principles embodied in *Zakah* because indirect taxes. are generally regressive in nature. As Annex III below shows, taxes account for some 59 percent on public revenues; 81 percent of tax proceeds come from indirect taxes. Although the rate of most indirect taxes are highest on luxuries and lowest on necessities, their burden falls mainly on the poor because most imports and domestic products, subject to indirect taxes, are necessities.

The achievement of an equitable distribution of income, or even the safeguarding of the poor's basic needs, may require not only the modification of the indirect taxes, but also the enhancement of the direct taxes. With the income per capita among the poor Sudanese averaging at about one-third of the national average, it is estimated that *Zakah* needs (at the going growth rates of 4 percent for the national income and 2.8 percent for the populations)

8-12 years to raise the standard of living of the poor to that of the average Sudanese. (Time variation is due to whether *Zakah* represents 3 percent or 4 percent of the GNP). This period can be reduced to 4-6 years, if direct taxes are allowed to double every year as they were during 1978/79 and 1980/81, provided that these taxes are made truly progressive.

The concept of poverty alluded to here is quite different from the one implied in *Zakah*. Here we have been talking about persons living below the poverty line. The needs of a poor person, as recognized by most Muslims scholars, go well beyond this to include adequate clothing, shelter, medicare, transportation, etc. In fact, scholars agree that *Zakah*-deserving persons are those who do not possess the *nisab*, which is a (net) cash surplus over and above their normal consumption needs. All this clearly indicates that the poverty line envisaged by Islam is well above the one currently discussed by economists: To be more specific, Islam draws the poverty line at a level which cover man's need for adequate food (the poverty-line envisaged by economists), other basic needs, plus a contingency cash balance which is roughly equal to 20 percent of his normal expenditure.

#### **4. PROPOSALS FOR A *ZAKAH*-BASED TAX STRUCTURE**

Contradiction between *Zakah* and some of the existing taxes is not confined to the issue of equity. *Zakah* is a means of combatting hoarding and boosting investment. Sudan's present tax structure need to be geared to tackle this problem. Hence the attempt to impose Capital Gains tax and requiring landowners who benefit from changes in the value of their land caused by the development of the neighborhood to pay "value-improvement dues" may be considered. Under the present inflationary conditions, *Zakah* may not be sufficient to curb hoarding, and taxes may be levied on bank accounts held in foreign currencies and on insured jewelry.

The tax system of Sudan should try to combat hoarding. According to most early scholars, neither the invested funds nor their capitalized profits are subject to *Zakah*. This will make their subjection to taxation an invalidation of the boost which *Zakah* gives to investment.

Finally, the restructuring of the Sudanese tax system so as to accommodate *Zakah* must go beyond removing double taxation or contradictions with *Zakah* over issues like equity and curbing hoarding. Tax restructuring must also aim at promoting fiscal objectives which are not in conflict with those of *Zakah*. Chief among these are optimization of resource allocation and economic stabilization.

In our view, tax restructuring in the wake of introducing *Zakah* may entail the imposition of some direct taxes, like taxes on visible hoarding, wind-fall gains, and monopoly profits. No less important is the change that must

occur in indirect taxes. On the whole, the introduction of *Zakah* must transform the tax system in a way that makes it not just the means of financing state activity, but also the instrument of attaining social justice, optimum allocation of resources, rapid growth, and economic stability. These are the recognized goals of fiscal policy in the world of today, which are either given explicit expression by *Zakah*, or found to be fully compatible with it.

#### FOOTNOTES

- 1 - For fairly up-to-date resume of the main ideas on the subject, see M.A. Zarqa, *The Role of Zakah in public Economics and Fiscal Policy\**, a paper submitted to the First *Zakah* Conference (Kuwait: May, 1984), Vol. 2.
- 2 - Z. Ahmed, M. Iqbal and M. Fahim Khan, *Fiscal Policy and Resource Allocation in Islam*, (Islamabad, 1983).
- 3 - Op. cit., M. M. Metwally, p. 72-73; M. Kahf, p. 134.
- 4 - Op. cit., R. Ahmed, p. 51.
- 5 - Op. cit., M. A. Zarqa, p. 51
- 6 - Op. cit., Ahmed, p. 159.
- 7 - Op. cit., A. Siddiqi, p. 154. .
- 8 - Loc. cit., R. Ahmed.
- 9 - Op. cit., R. Ahmed.
- 10 - Op. cit., A. Qadir, p. 82.
- 11 - Op. cit., N. Siddiqi, p. 94; Mustafa Zarqa, *Aspects of Zakah that Re-quire a Fresh Juristic Look\**, *Journal of Research in Islamic Economics*, Vol. 1, No. 2, pp. 83-93.
- 12 - Op. cit., M. Kahf, p. 136 and p. 152; S. Zaim, p. 123
- 13 M. A. Zarqa, *Macroeconomic Estimation of Potential Zakah Proceeds, and their Relationship to economic Development*, Paper submitted to the symposium on Islam and Development (Philadelphia: April 1976); M. H. Awad, *Zakah and our Contemporary Economy* (1977) and *Zakah and Sudan's Economy Resources* (1982) Unpublished.
- 14 - Y. Qaradawi, *Zakah Jurisprudence\**, Quoted in M. A. Zarqa, op. cit., p. 91.
- 15 - See, A. Safi el Din, *History and Rules of Currency Issuing in Islam\**, *Adwaa el Shari'a*, No. 12 (1982) pp. 209-237.
- 16 - S. M. El Tamawi, *Umar Ibn El Khattab and the Principles of Modern Politics and Administration* (Dar el Fikr el Arabi, Cario, 1976), p. 177.

- 17 - Faridi, op. cit., p. 29
- 18 - Speech of the Minister of Finance and Economic Planning on the Proposals for the Current and the Development Budgets for 1404 , p. 9.
- 19 - Refer to M. H. Awad, loc. cit., and the papers of the Solidity Conference for the Reinstitution of *Zakah*\* organized by the Society for Brotherhood and Charity.
- 20 - Ibid
- 21 - *jizya* does not resemble *Zakah* in its sources, rates or avenues of disbursement. It is a flat poll tax paid by non-Muslims allied to Muslims in lieu of the protection offered to them by the latter. *jizya* is not paid if the non-Muslims participate in defending the commonwealth, or the Muslims could not effectively protect them. *jizya* was not demanded by the Prophet (PBUH) from the Jews when he formed with them the Medinah Confederacy soon after his *Hijra*. This was because they were joined to the Muslims at the time in a peaceful manner and were not absorbed through conquest, as they were subsequently. They were, therefore, at first allies and partners, but later became *dhimmis*. Non-Muslims living in Muslim countries today, obviously, resemble the Jews under 'the Medinah Confederacy in their relationship with the Muslims. They are not expected, therefore, to pay *jizya*; nor can they be called *dhimmis*. In fact, Islam permits all non-Muslims to have their separate administration, legislative, judicial and financial institutions.

\* (In Arabic language).

**ANNEX I**  
**DISTRIBUTION OF REVENUE BY SOURCE**  
**AND EXPENDITURE BY FUNCTION**  
(Per cent.)

	Noe-Tax Revenue	Income Taxes	Taxes on Domestic Goods	Taxes on Foreign Trade	Defence	Education	Health	Housing	Welfare	Road	Other
World	10	38	17	5	14	6	10	2	34	2	32
Industrialized World:	7	42	15	2	14	5	11	3	38	2	27
Developing Countries	19	26	25	15	14	11	5	2	16	5	47
Oil-exporting	45	43	5	9	22	11	4	5	3	6	49
Oil-importing	13	23	30	16	13	11	6	2	19	5	44
Latin America	8	22	30	12	7	.12	6	1	27	4	42
Middle East	24	22	18	19	35	10	4	2	11	1	37
Africa	11	37	24	22	11	16	5	1	5	4	58
Asia	18	20	38	21	21	9	3	2	4	6	55
Sudan	22	11	25	41	14	5	2	5	3	1/2	70 1/2

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Source : IMF Government Finance Statistics Yearbook,  
Vol. 4 (1980).

**ANNEX II**

**DISTRIBUTION OF SUDAN GOVERNMENT REVENUE BY SOURCE**  
(Per cent)

	Non-Tax Revenue (1)	Direct Taxes (2)	Profit Tax (3)	Personal Income Tax(4)	Indirect Taxes (5)	Import Duties (6)	Excise Duty (7)			( 1		
1974/75	110	33	25	8	145	88	33	12	(77)	(26)	51	(61)
1975/76	129	35	24	8	169	111	37	10	(70)	(22)	51	(66)
1976/77	127	41	28	9	220	110	44	11	(68)	(23)	57	(50)
1977/78	172	51	35	11	228	150	48	11	(69)	(23)	51	(66)
1978/79	275	59	42	13	247	156	58	10	(71)	(22)	43	(63)
1979/80	336	73	44	24	308	193	62	12	(60)	(33)	43	(63)
1980/81	426	116	60	43	365	237	63	13	(52)	(38)	40	(65)

Source: First National Economic Conference (1982)

N.B. Bracketed percentages (3) and (4) are related to (2) & (7) are related to (5)



**ANNEX III**  
**DISTRIBUTION OF CENTRAL GOVERNMENT**  
**REVENUE IN MUSLIM COUNTRIES BY FUNCTION**

(Per Cent)

	Non-Tax Revenue	Direct Taxes	Indirect Exclse D.	Taxes Custom D.	Other Taxes
Bangladesh	52	4	22	18	4
Mali	7	21	20	31	21
<b>Somalia</b>	22	7	21	41	9
<b>Chad</b>	15	18	13	52	2
Niger	7	25	29	35	4
<b>Pakistan</b>	19	11	35	35	0
<b>Mauritania</b>	27	20	16	33	4
<b>Sudan</b>	22	11	25	41	1
Indonesia	7	67	14	10	2
<b>Egypt</b>	27	14	12	26	21
<b>Yemen AR</b>	20	7	5	64	4
<b>Morocco</b>	14	21	34	20	7
<b>Syria</b>	43	12	10	17	18
Tunisia	17	15	25	24	19
Jordan	18	9	12	52	9
Malaysia	9	36	21	32	2
Iran	76	8	3	8	5
Bahrain	73	12	1	10	4
Oman	70	28	1	1	0
Kuwait	96	2	1	1	0

Source : IMF Government Finance Statistics Yearbook, Vol. 4 (1980).

## COMMENTS

**Zafar Iqbal\***

Prof. Hashim Awad has prepared a learned and thought provoking paper on "Adjusting Tax Structure to Accommodate *Zakah* ". Prof. Awad feels that *Zakah* should form a central or key position in the budget of a Muslim country. Other taxes and sources of revenue should supplement the objective and purposes of *Zakah*. He has emphasized the pivotal position of *Zakah* in his paper in different ways and gives a model *Zakah*-based structure. I will talk about the structure a bit later.

The paper is divided into two parts. The first part is "Towards a *to-Zakah* based Tax Structure" which is by and large a discussion of the fiscal\* system of Islam and the position of *Zakah* therein. Part two, gives a case study of Sudan, with special reference to *Zakah* and Taxation Act of March, 1984. The learned author has also given three pages of statistical appendices. Empirical information about composition of revenue and expenditure of Muslim countries is useful and highlights certain important characteristics of the tax structure of Muslim countries. He has also used in the text some comparative figures about developing Muslim countries and industrialized countries of the world'. These figures point out how little Muslim countries spend on social welfare as compared to some of the industrialized and rich countries of the west.

An important question that arises in the context of *Zakah*, is its English translation. In the context of fiscal policy and administration, perhaps the term 'tax' is unavoidable. However, the connotation of tax as understood in English is different from the much broader and different connotation given to - *Zakah* . It is evident from the paper of Prof. Hashim Awad, too. For example, he uses three other terms for *Zakah* besides tax. These are (a) levy; (b)charity; and (c) worship. In a way the basic problem is to settle the terminology. According to religious scholars, and even according to ordinary readers of the Qur'an, one would think that *Zakah* is an '*ibada*' or an act of worship, because it is bracketed with *salat* in many places. Nevertheless, according to Islam, *Zakah* is collected, recorded and disbursed as in the case of any tax in

\* Mr. Zafar Iqbal was holding the position of Chairman, National Development Finance Corporation, Karachi, Pakistan at the time of the Seminar.

modern tax administration. Perhaps, a solution might be that a suitable adjective is devised and prefixed to the term "tax" such as "Ideological Tax", "Obligatory Tax", "Fundamental Tax", etc. The learned author divides the revenue into two parts or categories. He describes the first one as Traditional Taxes which include *Zakah*, *khums*, etc., the second one as Supplementary Taxes. One may not agree with this classification or at least terminology. Several alternatives were possible, such as Religious Taxes and Secular Taxes, or Welfare Taxes and General Taxes, Fundamental Taxes and Supplementary Taxes. Perhaps the last mentioned alternative may seem to be appropriate in view of the general approach of the paper, wherein the learned author's view is that *Zakah* is the central or fundamental tax around which other taxes should be developed to help complete the budget structure. However, looking at the spirit and nature of *Zakah* and other such collections, the terminology Welfare Taxes and General Taxes may seem to be more appropriate. Anyway, the term "traditional taxes" seems to be a little out of place, now that we are talking about Islamic renaissance and the eternal character of Islam.

Prof. Hashim Awad refers to a valuable study conducted by him about Sudan and a study by Dr. Anas Zarqa about Syria. According to these empirical studies, the author, says that *Zakah* proceeds if properly collected would constitute 3 to 4 percent of the GNP of the respective countries. The learned author rightly points out that few wealth taxes in the world would accomplish what the *Zakah* system can. Incidentally, it may be mentioned that *Zakah* has been used by the author in a broader sense to include *ushr* (applicable to agricultural produce/income). Talking about individual countries, he makes a casual mention of Pakistan, conveying an impression that *Zakah* proceeds are too meager to meet the welfare requirements.

The learned author has devoted a good deal of space to argue that *Zakah* does not discourage investment and savings. He points out that *Zakah* is against hoarding or idle wealth. Prof. Awad states that the objective is "turning cash into investment". What he appears to mean is that 'ideal' cash would be taxed at 2.5<sup>0</sup>% per annum. The problem is defining idlecash in a modern economy and having defined it to be able to identify and tax it.

In order to understand the argument the terms hoarding, saving and investment would need to be defined. The paper is unfortunately, silent on this subject. For a secular economist *Zakah* represents a tax on savings and to that extent he would argue that it discourages savings. On the other hand, taxes on wealth are considered progressive at least by left-leaning economists. The issue is far from clear and a fruitful ground for extended and perhaps noisy debate. In Pakistan, *Zakah* is levied on financial instruments, mainly on the tie deposits with banks and other financial institutions should in theory have affected mobilization of saving. However, since savings are only estimated

ex-post (i.e. after determining the figure for investment and equating savings to it), there is not much empirical evidence available at present that could be advanced in support of the theoretical outcome. The secular objection would nevertheless stand. On the other hand, if *Zakah* is paid as an act of faith, most of the secular arguments are rendered pointless.

Since in the author's view *Zakah* is the "fundamental tax sanctioned by Islam" for attaining social objectives, he suggests that, if necessary other taxes may be devised to accomplish these objectives. For example, he suggests that some kind of Consumption Tax and Windfall Gains Tax may be introduced. Perhaps, he seems to suggest that the practices or phenomena which Islam condemns, can be curbed and checked through additional or supplementary taxes. These would also supplement the funds of proceeds of *Zakah* for Welfare. However, it is for the top religious scholars to think over the matter for the guidance of the *ummah*.

An interesting deduction that can be made from the paper is that supplementary taxes are permissible. Professor Hashim Awad gives the example of the Second Caliph, who introduced *ushoor*. The term "*ushoor*" is quite distinct from "*ushr*", which is levied on agricultural produce. "*ushoor*", however, was a commodity tax, something like customs duty. Interestingly, he gives the historical background of this decision. To use the modern terminology it was something like a 'retaliatory tariff'. Muslim traders were subjected to duties or taxes by non-Muslim countries. Islamic states, therefore, had to reciprocate. The example illustrates that 'new taxes' can be introduced and levied according to needs of the time. According to him there is a misconception among some people that taxes not mentioned in the Holy Qur'an and the *Hadith*, cannot be introduced. The misconception is dispelled. The learned author has tried to discuss so much of fiscal theory in the paper that it is not possible to comment on the paper at length within the limited time available to me.

The main thrust of Part I of Prof. Awad's paper is that *Zakah* is the central part around which the rest of the budget should be developed in a country seeking to implement Islam. He has taken great pains to establish his thesis. However, one gets a feeling that the thesis is not very well-founded. We all know that *Zakah* (including *ushr*) is meant for specific purposes. In fact the Holy Qur'an, which generally provides only brief and broad guidance about most of the things, has specified eight items of expenditure for proceeds from *Zakah*. Similarly, assets on which *Zakah* (in a broad sense) can be levied have been specified in *Hadith* or sayings of the Prophet (PBUH), as well as interpretations and clarifications of the pious Caliphs and *Imams* of *fiqh*. In this background a good case can be made that the nature of sources of collection and items of *Zakah* are specific and are in the nature of welfare,

distinct from other taxes of a general nature. It would, therefore, logically follow that a separate and distinct budget for welfare based on *Zakah* (in a broad sense including *ushr* on agricultural produce) should-be prepared while the general purpose budget should be kept separate and prepared separately. It may be said by some that in early Islamic history the pious Caliphs did not have a segregation of public funds and their separate administration.

However, it is apparent from the economic history of Islam as well as the paper of Prof. Hashim Awad, that in the early period, taxes other than *Zakah* were nominal, and the main concern of the Islamic state at that time was welfare of Muslims and the spread of Islam. But it is well known that many functions of the Government including *jihad fee sabeelillah* were performed voluntarily without involving large and regular expenditure. However, in to-day's world functions and activities of states have been widened substantially and voluntary services on a large scale and a regular basis are not likely. Thus, a view could be advanced that it is desirable that the *Zakah* budget and the general budget should be kept separate. I realize that these submissions would seem to counter the entire thesis of Prof. Hashim Awad. Nevertheless, I think that the submissions made here would be considered by the scholars and experts participating in the seminar.

In Part II of the paper, Prof. Hashim Awad discusses the experience of *Zakah* in Sudan. He mentions that the *Zakah* and Taxation Act was introduced in 1984, by repealing 19 existing taxes, and adding a couple of other taxes. The learned author goes into the details of how the original plan or suggested draft was modified and the final outcome in the form of the *Zakah* Act was different from that it was supposed to be. He also mentions that three new taxes were also imposed. Prof. Hashim Awad mentions in detail that implementation was somewhat hurried and people found ways to evade. Consequently, the proceeds of *Zakah* were much less than what they might have been. Anyway, now that there have been political and administrative changes in Sudan, perhaps some of the shortcomings may be overcome and lacunae removed. It is perhaps not the right time to discuss the faulty implementation.

However, one interesting thing mentioned by Prof. Hashim Awad is that a great deal of research and home-work about the *Zakah* Act was done starting in 1977, and a Solidity Conference for *Zakah* was held. One wishes the learned author had given a gist of the research he has referred to. This would have been definitely of interest and value to the participants of this seminar.

On the whole in my opinion the author has done a valuable, and thought provoking work on *Zakah* which should be widely appreciated.

# RECENT INTERPRETATIONS OF THE ECONOMIC ASPECTS OF ZAKAH

Sabahaddin Zaim \*

*In this paper the author has made a survey of literature pertaining to assessment, collection and disbursement of Zakah together with the issues that emerged from them. The paper discusses the basis of Zakah assessment including nisab, productivity and ownership of Zakatable assets. It also deals with conditions of eligibility to pay Zakah, and the different rates of Zakah on various kinds of wealth varying from articles of trade to windfall profits. In this context, some controversial points such as the changing values of gold and silver, Zakah on industrial assets, income from stocks and bonds etc. are raised from the fiscal point of view, Zakah is contrasted with secular taxes using a number of criteria. The macroeconomic impact of Zakah is also examined. The paper refutes the argument of some scholars who favor that Zakah rates should be made flexible and responsive to the state of economic condition. It is argued, however, that the proper management of Zakah proceeds can conceivably serve as an economic tool for stability as well as a measure to counter cyclical changes in economic growth. It is maintained that Zakah proceeds have a multiplier effect on the national economy if they are productively invested. Zakah is seen to have a positive role not only in the fair reallocation of scarce economic resources, but also in the redistribution of income in favor of the poor and the disadvantaged (Editors).*

## I INTRODUCTION

*Zakah is one of the five pillars of Islam. Its importance can be judged by the fact that at different places in the Qur'an, the injunction to perform prayers is followed by the commandments regarding Zakah.*

*In Islam, Zakah payment is compulsory, levied on the members of the Muslim community, so as to take the surplus money from the comparatively well-to-do members of the society and to give it to the destitute and the needy.*

*Zakah literally means "growth" and "increase" as well as "purity"*

*Sadaqah is a synonym for Zakah. The general usage however, is to consider sadaqah as a more generic term applying to alms whose payment is a fard (compulsory), as well as to alms the giving of which is entirely voluntary.*

\* Prof. Dr. Sabahaddin Zaim was a Professor at the Istanbul University, Turkey at the time of the Seminar.

In other words, while all **Zakah** is *sadaqah*, only the *sadaqah* which is *fard*, is *Zakah*.

*Zakah*, being a compulsory payment becomes the right of the entire community or society in the wealth of individuals, as prayer is the right of Allah from Muslims.

*Zakah* is regarded by some as mere alms giving. But this is a wrong interpretation of the tenets of *Zakah* as enunciated in the Qur'an. Although private charity and payment by individuals is permissible, *Zakah* does not fall in this general category.

The definition of *Zakah* is precise; the amount collected by way of *Zakah* is also distributed in a precise manner. Its chief beneficiaries are specified in the Qur'an.

## II BASIS OF **ZAKAH** AND **ZAKAH** LIABILITY

*Zakah* becomes obligatory when an individual freely owns and possesses a productive *nisab* (minimum') of property. The possession and ownership of productive assets or property, apparent or non-apparent, constitutes the extent and degree of wealth of an individual, creating the obligation to pay *Zakah*,

### 1. Productivity

Productivity is either real, as in procreation and trade or hypothetical as in case where productivity is possible, though not actual, in that the property has been in the possession of the owner or his agent. Productivity, real or hypothetical, is considered to be present when one of the following three conditions exists: (1) when property is gold or silver, (2) when animals are pastured, (3) when property is intended for trade.

### 2. Possession and full ownership

In addition to being productive, the *nisab* must also be owned in full ownership, that is, ownership combined with possession. Consequently, mere possession of property does not subject it to *Zakah*. According to Abu-Hanifah ownership without possession, is not subject to *Zakah* since the calculating of *nisab* in that case may not be possible.

### 3. The *nisab*

For *Zakah* obligation the property must be above *nisab*. The *nisab* must be over and above what is necessary for the satisfaction of the primary necessities of life. The *nisab* must also be free of debt. However, according to Al-Shafi, indebtedness does not affect the obligation of *Zakah*. According to

one Shafite view, indebtedness suspends *Zakah* as is the case of non- apparent property.

There is disagreement as to whether a debt of *Zakah* should continue a cause of exception. Al-Balkhi establishes a distinction between the *Zakah* due on "apparent" property consisting of *sawaim* animals and tithe on the one and "non-apparent" property consisting of the rest of the property such as gold, silver and articles of trade on the other. He thinks that only the debt due on apparent property exempts from *Zakah*, because, according to him, only the latter kind of *Zakah* is subject to demand for payment on the part of the tax collector. Al-Sarakhsi takes exception and claims that *Zakah* is "due" on both apparent and non-apparent property.

According to the accepted Hanafite view, debt is applied against the property which is subject to *Zakah* and not against property which is destined for the satisfaction of necessities and consequently exempt from *Zakah*.

### III CONDITIONS FOR ZAKAH

The following conditions must be fulfilled before *Zakah* becomes *lard* (compulsory) on an individual:

#### 1. Reason and maturity

There can be no responsibility without reason and maturity. Children and the insane are not responsible for *Zakah*-obligation. But there are some differences of opinion:

- According to Abu Ubeyd, children and the insane are not responsible, even if they are rich. According to Abu Gafer and El Sha'bi, the property of orphans is not *Zakatable*. According to Abu Hanifa, only agricultural products of orphans are *Zakatable*.
- *Niyyah*, (intention) is necessary for *Zakah* as for *salat*. The intention of the child and the insane are not acceptable.
- According to a *Hadith*, a child is not responsible.
- Purification of property is not required for children and insane.
- Their property will gradually get decreased, if their property becomes *Zakatable*. However, according to Malik Hanbalis and Al-Shafi'is, properties of minors and the insane are subject to *Zakah*.

#### 2. The state of being a Muslim

Because the payment of *Zakah* is a divinely ordained act, it can be performed by a Muslim. Non Muslims are not liable to pay *Zakah*.



### 3. "Dimar" property

"*Dimar*" is a property which has slipped out of one's possession with little chance of recovery. Examples of *dimar* property is property fallen into sea. *Dimar* property is exempted from *Zakah* according to Abu Hanifah, Abu Yusuf and Mohammed Ibn Al-Hasan, because the condition of productivity is absent. According to Zufar and Al-Shaffi, however, *dimar* property is subject to *Zakah* for past years, when recovered, because upon its recovery, the cause of *Zakah*, namely a complete *nisab* has come into existence. But, if the property is deliberately hidden or buried, it does not qualify for such exemption.

### 4. Property which lacks productivity, and basic essentials of life are exempt from *Zakah*:

This includes dwelling houses, wearing apparel, household utensils, slaves, employed tenants, riding animals, arms kept for use, food used for oneself and family, articles of adornment, if not made of gold and silver; gems, pearls, emeralds and the like; coins other than those of gold and silver, if intended for personal expenditure, books and tools. The principle behind the exemption is to avoid hardship on the part of the Muslim to pay *Zakah* on items which he needs to meet the daily necessities of life, (e.g. items required in trade but not intended for trade). Taxable limits or exemptions as developed in modern theory of taxation are based on this principle.

### 5. The property of minors and insane

The property belonging to minors, and the insane is exempt from *Zakah*, since: they lack respectively maturity, reason and the conditions of being Muslim. According to Shafites and the Malikites, minors are subject to *Zakah* on the grounds that *Zakah* is an obligation connected with property, irrespective of ownership. However, the Hanafites, on the other hand, hold that *Zakah* is an act of worship and therefore it is obligatory only on those who can exercise intention (*niyyah*) in its discharge.

### 6. Condition of completion of one year

Once the conditions enumerated above are met, the property becomes subject to *Zakah*, but only if a year has elapsed over the *nisab* of productive property. There is an explicit *Hadith* to the effect that "no *Zakah* is due on property before a year has elapsed". The elapse of a year is essential, because time is indispensable for productivity to materialize. According to the Hanafite view, *Zakah* payment may elapse after it becomes due if the deceased owner has not left any will making settlement of the *Zakah* from his estate.

Shafites and Hanbalis differ on this. They believe that *Zakah* debt of the deceased person may be collected from the entire estate, whether or not he left any will.

#### **IV RATES OF ZAKAH**

The rates of *Zakah* depend upon the type and capital that has gone into the creation of the property. The concept is similar to the value added tax, although it differs in substance. The rates vary anywhere between 1/5 to 1/40, depending upon the source of income or the extent of property accumulation. For example, if a person has unearned income or windfall income of some kind, the rates are higher as in the case of a discovered treasure, a war-booty, etc which are subject to *Zakah* at the rate of  $\frac{1}{16}$  whereas the rate of *Zakah* on gold, silver and articles of trade is 1/40. Similarly, the rates of *Zakah* on agricultural land including horticultural plots vary between 1/10 to 1/20 depending upon the type of irrigation facilities. It is appropriate to mention that the economy of an Islamic state during those days was basically agricultural and to some extent commercial, but certainly lacked the complexity of modern business. If the land has been irrigated and the irrigation facilities have been developed through investment of capital and labor, the rate of *Zakah* on such land would be lower say to 1/20 of the total produce, but if the irrigation facilities were developed either by the state or wholly dependent on rain, the rates would be higher upto 1/10 of the entire produce.

Rate of *Zakah* on articles of trade is the same as on gold or silver. The same applies to transactions relating to sale and purchase of horses etc., carried out on business.

The *nisab* of gold is 20 *mithqals* (85 gram) and *nisab* of silver is 200 *dirhams* (595 grams). There is no *Zakah* for less than 20 *mithqals* of gold and 200 *dirhams* of silver. In determining whether or not the *nisab* is complete and *Zakah* is due, it is the weight and not the value or number that is taken into account. There is, however, a difference of opinion as to the basis of payment. According to Abu Hanifa and Abu Yusuf, it is the weight that serves as the basis. Zufar claims that the value is relevant, whereas Muhammed Ibn-Hasan contends that the one that is more favorable to the poor should serve as the basis.

Here, we do not want to go into the details of how to measure the *nisab* for each item, only some of the areas *will* be discussed.

#### **Some areas requiring further attention**

- a) According to Malikis and Shafi'is, *nisab* in respect of articles of trade, is necessary only at the end of the year. Decrease of *nisab* at the beginning of

the year is not important. But, according to Hanbalis, *nisab* is necessary for the whole year.

- b) In our time, relative value of silver and gold is subject to wide fluctuations. There are some debates about the selection of gold or silver for the measurement of *nisab*. Muslim scholars like Muhammad Abu Zahra are of the opinion that gold should be the criterion to establish the *nisab* both for money as well as for articles of trade. But, some other scholars on the other hand, do not defend the measurement of *nisab* through monetary calculations, due to the cyclical variations in gold value.
- c) As for agricultural lands on which *ushr* or *kharaj* taxes are to be levied, Shafiis, Malikis and Hanbalis, held the view that since the legal status of land does not affect the *Zakah* obligation whether the land tax is *ushr* or *kharaj*, all agricultural produce is *Zakatable*. For example, if a Muslim produces in *kharaj* land, he would pay both *kharaj* and *Zakah (ushr)*. But according to Hanafis, only *ushr* land is *Zakatable*. Muslims' produce from *kharaj* land has no *Zakah* obligation.
- d) Assessment of *Zakah*: Income from different sources are added to each other and a unified assessment is made. If a trader, for example, has pro-fits from trade and animal wealth, then both are added. This is known modern language as unified assessment.
- e) Controversy over whether *Zakah* should be paid on paper money or not should not exist any longer, since paper money is now an easy instrument that can be used as a means of payment and all our holdings are valued in terms of this type of money. For example, Mymoon Ibn Mahran, one of the early Muslim scholars is reported to have said that when *Zakah* was due, a trader should calculate all his monetary holdings as well as other assets which will be evaluated in monetary values and whatever loans he gave to credit worthy individuals should be added. Out of this sum, a trader should subtract all that he owes to others, the remainder is *Zakatable*. Not all trader's capital is subject to *Zakah*; only circulating capital is subject to *Zakah*, but assets like buildings and furniture, for ex-ample, are exempted.
- f) Whether *Zakah* should be imposed on a narrow base or broad-base : Muslim jurists are divided on this issue. Those who call for a narrow base rely on what is being narrated from the Prophet (PBUH) that he imposed *Zakah* on a few types of agricultural produce. Imam Malik and Al-Shafei argued that *Zakah* should be paid on all edible crops that can be stored. On the other side, Imam Ahmad argued that *Zakah* be

paid on all crops that could be dried or can be stored and weighed. As such no *Zakah* was imposed on fruits like apricots, peaches, apples and vegetables according to those criteria. But, Abu Hanifah extended the application' of *Zakah* on all produce. Al-Qaradawi views that what Abu Hanifah held was the nearest to the spirit of the *Shari'ah* and con-forms to what was said by Khalifah Omar Ibn Abudl Aziz, Mujahid, Hamad and Dawud Al-Nakhie that all produce is subject to *Zakah*. But some jurists have argued that *Zakah* on vegetables and fruits which could not be stored, should be paid out of the value of the crops and not in kind.

- g) *Nisab* for minerals According to Imam Shafei, Malik and Ibn Hanbal, *nisab* condition is required for mineral wealth to pay *Zakah* obligation. And this *nisab* is calculated as in the case of gold and silver, that is, if the value of minerals is above 200 *dirhams* or 20 *mithqals*, they are *Zakatable*. But according to Hanefites, *nisab* conditions are not required for minerals, for whether their value is over or under *nisab*, they are *Zakatable*.
- h) *Zakah* on industrial wealth: There is a difference of opinion about the rate of *Zakah* on industrial wealth. According to Abu-Zahra, Khallaf and Abdurrahman Hasan, the income of industry is *Zakatable*, not the industrial machines, plants etc. The rate of *Zakah* should be five percent on net income or ten percent for total aggregate income. In their evaluation, they did make comparision with agricultural land, According to Yusuf Al-Qaradawi, comparision with agricultural land is acceptable provided we reduce net income by deducting the expenditure for the basic needs and yearly depreciation, the rest of net in-come is then subject to ten percent *Zakah*. If income net of expenses cannot be calculated exactly, the rate of *Zakah* should be five percent of gross income always after deducting depreciation. On the other hand, some Muslim economists argue that two and a half percent *Zakah* rate should be imposed on the value or machines, and other industrial assets.
- i) *Zakah* from real estate, buildings and vehicles: The income from this kind of property has recently increased very much. There is no difference of opinion on the necessity to pay *Zakah* in respect of such incomes. As regards difference related to the rate of *Zakah* there are two views:
  - a) to pay *Zakah* out of income at 2.5 percent if that income is retained, in money form, for one year;
  - b) to pay *Zakah* at 10 percent of net income.

j) Income from shares and bonds: This kind of income is very popular nowadays. If shares are used as a trade article, 1/40 *Zakah* has to be paid annually on their current market value. But if they are saved and kept to get dividends out of them, then 10 percent *Zakah* should be paid on the dividends. Some of the Muslim economists argue that after a period of one year, out of current value of shares, 2.5 percent *Zakah* should be paid. Of course, bonds are not permissible in Islam, as they carry interest. But, if there is interest income, still *Zakah* should be paid. According to Yusuf Qaradawi 10 percent *Zakah* should be paid out of the net income shares of all companies, whether trading or industrial. According to some other jurists, The nominal value of shares in respect of trading companies, plus their dividends, should be levied 2.5 percent *Zakah*. But in respect of shares of industrial companies, only out of total dividend, 10 percent *Zakah* should be levied.

## V THE EXPENDITURE OF ZAKAH INCOME

The Qur'an has laid down that *Zakah* is to be paid for the benefit of:

- (a) The poor
- (b) The needy (*miskin*)
- (c) Those, who are appointed to collect *Zakah*
- (d) Islamic propagation (*AI Muallafatu Qulubuhum*)
- (e) Freeing slaves
- (f) The indebted
- (g) In the way of Allah
- (h) The wayfarer

According to this classification, the first to come are the poor and the needy. Abu Yusuf, Zufar and some Malikites define the poor as the person whose income is not enough to satisfy his basic needs, or whose income is below the level of *nisab*. On the other hand, needy (*miskin*) means the person who has no income and property at all. But, Shafies and Hanafis argue just the reverse and say that poor has no income and property and needy has not enough income to satisfy his needs. Some scholars like Hamidullah claim that the concept of *miskin* includes non-Muslim needy as well. However, in either way, it is definite that people who have no income or not enough in-come are eligible to get *Zakah*. So there are three categories of people; one group, whose income does not satisfy their basic needs; they are entitled to *Zakah*. The second group, who can satisfy their basic needs but having in-come below *nisab*, they do not pay *Zakah*, neither do they receive *Zakah*. The third group, whose income is above *nisab*, they pay *Zakah*.

In an Islamic state, *Zakah* collectors are paid out of *Zakah* income. This

happens where the state collects *Zakah* compulsorily. According to majority of jurists, this category of people is limited to those who are dealing with the collection of *Zakah*. It does not include other civil servants.

Islamic propagation is very important today especially in Africa and Asia. To spread and defend Islam, it is necessary to spend some portion of *Zakah* income in this area also.

Some parts of *Zakah* should be paid to provide freedom to slaves and to relieve the debtor from his debt. According to some other jurists, the Muslim who wants to free slaves also can benefit out of *Zakah* income. Some scholars like Rashid Riza and Mahmoud Shaltout argue that, to provide freedom and independence to the colonized nations can also, be included into this category. But Qaradawi holds the view that this kind of expenditure should be in the category of way of Allah (*fi sabeelillah*). Some of the jurists argue that as we use the *Zakah* income to pay the debt of a Muslim, we can also lend to the Muslims out of the *Zakah* fund.

For the wayfarer, some jurists have broader interpretation. Shafeis, for example, are inclined to such a view. Some scholars like Rashid Riza argue that even orphans can be included in this category. According to Shafeis, *Zakah* income should be equally distributed among the above mentioned eight groups.

## **VI FINANCIAL ASPECTS OF ZAKAH**

*Zakah* provides the base of the fiscal system and defines its scope of operation within the general institutional framework of an Islamic economy. It has been argued by some that a fiscal system beyond what is defined by *Zakah* is un-Islamic. The argument relies on the sanctity of private property recognized by the Islamic *Shari'ah* and contends that any compulsory government charge on it is patently unjust, since taxes constitute the core of modern fiscal policies, an Islamic fiscal policy is a contradiction in terms. According to some other Muslim economists like Faridi and Metwally this is not acceptable. According to them, other taxes on income and property may be levied for several purposes, based on Islamic principles; e.g. (a) double or multiple assessment of the same base is not permissible in one stipulated period of *Zakah*; (b) in the calculation of assessable income "expense" items shall have to be deducted as is done under the *Zakah* law; (c) no additional levies on personal or collective income can be imposed on those whose in-comes fall below the *nisab* stipulated in *Zakah*.

According to Faridi, the socioeconomic policy goals of an Islamic state are as follows:

- i) Justice and equity;
- ii) Provision of the socioeconomic needs or socioeconomic welfare of the community
- iii) Enhancement of the community's economic resources and economic growth;
- iv) Improvement in the cultural milieu of the community.

These policy goals have been derived from the Qur'an and *Sunnah* and implemented in the simple socioeconomic system prevalent during the Prophet's life (PBUH) and that of Khalifate-e-Rashidah. Later, as the Islamic society became more complex, Islamic thinkers such as Al-Ghazzali, Abu Ubaid, Imam Yusuf, Ibn Taymiah, Al-Shatibe suggested appropriate devices for their attainment. Recent additions to this literature provide extremely valuable view of their contemporary relevance and modern exposition. We can take them as given and envisage the path along with the fiscal mechanism in an Islamic state which is likely to operate. Faridi, correctly argued that *Zakah* is the most important fiscal and distributive mechanism of an Islamic economy. But, both as a fiscal necessity and a means to alleviate poverty, in certain situations it may be necessary to impose certain subsidiary welfare levies. Moreover, *Zakah* collections may sometimes fall short of resource requirements. For welfare expenditure has been recognized by the Qur'an itself in as much as it has exhorted the Muslims to expend voluntarily a part of their resources. Although such situations may not ordinarily arise, they are nevertheless important in the context of many Islamic countries to-day, where the phenomenon of mass poverty coexists alongside a relatively small number of wealthy people, which calls for additional mobilization of resources. Moreover, equitable distribution of income in a situation where exogenous developments have led to an unprecedented rapid accumulation of personal income, may not be wholly attainable through *Zakah* levies alone. In such a situation *Zakah* may be interpreted as the minimum rather than the maximum effort to alter the situation. But, it seems probable on the basis of evidence recorded in the early Islamic literature that a compulsory additional charge on such extraordinary income is permissible under the Islamic law.

#### A. The difference between *Zakah* and tax

There are generally many differences between *Zakah* and tax.

- a) *Zakah* is a religious duty and worship in terms of finance. Tax is an economic and financial responsibility.
- b) *Zakah* is *only* for Muslims; tax is for all citizens.
- c) Tax can be forgiven, *Zakah* can never be waived.
- d) The rate, the way of payment of *Zakah* which are clear and definite, cannot be altered; but tax is relatively changeable.

- e) The methods of distribution and spending of *Zakah* are definite, while tax is not.
- f) *Zakah* is taken from the rich and paid to the poor, while in respect of tax, it is not necessary to be always so.
- g) *Zakah* payer cannot get direct benefit out of it, whereas with tax payer it is a possibility.
- h) *Zakah* is taken only out of productive wealth, but tax can be taken out of consumption expenditure.
- i) Exemptions in respect of *Zakah* are organic, elastic and realistic, but in case of a tax the exemptions are not flexible but accountable,
- j) The limit of minimum responsibility is definite *in Zakah*, but does not exist in the case of tax, as is the case with indirect taxes.
- k) Evasion is a real possibility in tax, but *Zakah* is paid by the believer as form of , worship.
  - 1) *Zakah* is the divinely granted right of the poor on the wealth of the rich: a tax is the non-divine right of the state to collect money to meet state needs.
- m) Tax burden can be transferred by the tax payer to the consumer or producer; but in *Zakah*, there is no such transfer of *Zakah* burden.
- n) From the practical point of view, the collection of *Zakah* appears to be cheaper than tax collection.
- o) Comparing *Zakah* with progressive taxes, Metwally claims that *Zakah* has a wider base than progressive taxation; it is imposed not only on income, but also on idle assets. The proceeds of *Zakah* go mainly and directly to the poor and the needy and hence act immediately to raise the propensity to consume. *Zakah* falls heavily on assets which are capable of growing, and would therefore have a stimulating rather than discouraging effect (as with taxation) on investment.

## **B. Negative tax and *Zakah***

The transfer of funds through *Zakah* or other taxes may redistribute real income among the members of the society via the redistribution of purchasing power. Faridi claims that *Zakah* payment may be conceived in terms of what is described as a "negative tax". Under this concept an individual is considered to be capable of making a positive tax contribution to the government if his personal income exceeds poverty level. But he is considered eligible to receive the negative transfer of funds from the government if his personal income is below the designated poverty level of income. Under *Zakah* transfer payment, the Government may similarly designate a poverty-line based on current living standards and make payment to those individuals whose income falls below the poverty line so designated. But Zarqa claims that we should be careful in applying the concept of negative income tax since it has been found to be disincentive to work. This will not be so in the case of *Zakah*. There is a



moral nuance in the case of *Zakah*. According to some other Muslim economists, any poverty line designated with reference to current standards of living will have to be adjusted in the light of *nisab*. According to them, *nisab* allows a dynamic interpretation in terms of cost of living index, and reasonably defines current standards of living. But sometimes, there is a loose limit between current incomes which fall short of needs and one's saving in terms of gold jewellery; which exceed *nisab*. Hence, the disbursement of transfer payments is required to take into account both of these factors. But most of the Muslim economists do not accept such an adjustment system according to cost of living indices.

## VII ECONOMIC CHARACTERISTICS OF *ZAKAH*

Muslim economists argue that *Zakah* increases productivity, redistributes and reallocates the national income in favor of the poor, decreases particularly the conspicuous consumption of the rich, increases investment and utilizes ideal *Zakatable* income and stimulates aggregate demand.

### A. Income elasticity of *Zakah*

As was mentioned before, *Zakah* is not a tax only, it is a worship as well. No change in it is permissible. In the second place, *Zakah* is not an inflexible fiscal measure. Its base is net savings or net wealth of the assessee. These bases are variables in size and likely to grow or decline in response to variation in income. In addition, the reductions allowed on account of trade or consumption do not vary in a magnitude proportionate to the fluctuations in the scale of economic activity or incomes. The marginal propensity to consume bears a stable relationship to income in the short period and may decline, other things being equal, after a certain level of individual income. Thus, deduction allowed on account of consumption expenditure has little likelihood of substantial growth to the detriment of *Zakah* collections. The case of trade expenses is not so clear, but certain items of cost are subject to economies of scale. Hence, every change in the scale of economic activity may not cause a proportional rise or fall in such a cost. These considerations have led to "built-in flexibility" to the statutory rate of *Zakah* although its degree of sensitivity of yield in response to changes in income may not be so high as that of some other taxes.

### B. Stability and countercyclical use of *Zakah*

The statutory rate of *Zakah* and fixed *nisab* for exemption limit, accords to a fiscal policy a much needed stability. While a fiscal system based on *Zakah* involves an automatic fluctuation in state revenues in response to changes in the size of its base depending on changes in income together with

appropriate combinations and permutations of other taxes, it may work for an automatic stabilization of total income and employment. In addition, it may also lead to a stable budget. The latter point may be understood more accurately in terms of specific items of *Zakah* disbursement. Quite a few of these are intended as transfer payments to the poor or the unemployed. As economic prosperity increases, the required volume of *Zakah* transfer payments may decline, thereby causing an accumulation of budget surpluses. This accumulated budgetary surplus on account of *Zakah* may be held over during these years and used when recession or depression sets in and causes hardship to the people. Of course, under *Zakah* not all unemployed people will benefit, for those who would be entitled to benefit will be only those who do not have *nisab*. Nevertheless, the budgetary surpluses or deficits arising out of *Zakah* collections may be disbursed in a countercyclical manner or more appropriately as an element of compensatory fiscal policy. According to Metwally, there are two curves for inflation in Islamic economies. The first is through an increase in the rates of dues on personal incomes. This will result in a decline in consumption which will cause a shift in aggregate demand towards the equilibrium (full employment) price level. This would result in a high degree of economic stability. According to Faridi, in deflationary conditions, the total *Zakah* collection would decline in spite of its fixed rate. While during the period of rising incomes, *Zakah* levies may be paid out of the current flows of income during the downward swing of the economy. They may constitute a charge on hoarded wealth and / or net savings. This is likely to reduce the assessable wealth and hence *Zakah* collections. Together with this development, greater deductions on expense account may be allowed in view of the falling individual income. Thus, the number of people assessable and the total *Zakatable* wealth would tend to decline. The stable tax rate combined with a variable amount of disbursement of *Zakah* funds in response to rise or decline in total employment in an advanced economy serves as an automatic regulator of government expenditure. This characteristic of *Zakah* tax, if judiciously combined with similar fiscal devices is likely to work for stability without major dislocations in the economy.

### **C. *Zakah* and inflation**

Some of the Muslim economists like Akram Khan argue that *Zakah* may have some inflationary tendencies. According to this view, out of the eight heads of *Zakah* expenditure, at least three (that is, the *fukarah*, the *miskin* and *gharimin*) pertain to the poorer sections of the society. Even the rest of the five could be poor. Anyhow, *Zakah* is a transfer of wealth from the rich to the poor. The poor have a higher propensity to consume than the rich. Therefore, the institution of *Zakah* is a potential source of increasing aggregate demand in the economy which could be inflationary. According to the

same opinion, the concept of just wages contains seeds of inflation as well. The just wage besides being related to productivity has been mainly construed to provide the basic necessities of life to everyone. Moreover, the profit participation, bonus, subsidies on the produce of the employee and social security from *Zakah* are all inflationary in character as they will directly boost demand for consumer goods industries. It is further argued that *Zakah* benefits are inflationary in character. And during the period of rising prices, a careless distribution of these benefits will not only push prices further, but will also damage the interests of the poorer sections of the society who are in receipt of these benefits. In order to save these benefit from erosion, one proposal could be to prepare a surplus *Zakah* budget. According to these economists, time lags can be introduced between collection and distribution of *Zakah*. Expenditure on defense (*fi sabilillah*), communication (*webnes-sabil*) and (*muallafatu-qulubuhum*) may be reduced and share of *fuqara*, *masakin* and *gharimin* may be kept intact. The surplus *Zakah* budget will have the effect of reducing aggregate demand in the economy and consequently may dampen the price level. But, some Maliks and Hanafies do not accept time lag between collection and spending of *Zakah* without any valid reason. According to these jurists a time lag of a few days is permissible. The Muslim economists who defend the surplus budget also propose the application of *Zakah* Certificates. The fund so mobilized may be invested in industries to provide employment to the poor people. The profits of these industries may be distributed among the *fukara*, *masakin* and *gharimin* in the form of annual dividends. In its intial periods, such a policy will be inflationary as there will be time lags between investment and production and the aggregate demand may outstrip the aggregate supply. But subsequently the dividends of these industries may be used as a fiscal device. It can be argued that during periods of rising price level, the dividends are not distributed in cash. Instead, *Zakah* cerificates may be issued at par value, cashable at the option of the holder after a period of three to six months. In this way, demand can be dampened for a short period. These Muslim economists, in order to curb inflationary influence of *Zakah*, propose the application of *Zakah*- benefit ratio system as well. According to this proposal, the Qur'an has ordained eight heads for *Zakah* expenditure, but the precise ratio of these disbursements has not been laid down. It is the discretion of the state to decide the share of each head of expenditure. This provides wide operational freedom to the state. Therefore, in an Islamic economy, comparative effects on aggregate demand of expenditure under these heads should be studied and in the light of the findings, a suitable *Zakah* mix should be prepared. On the face of it, it can be said that expenditure on *fuqura* and *masakin* is more inflationary than, for example, expenditure on *muallafatu-qulubuhum* or *gharimin*. The *muallafatuqulubuhum*" may have a smaller propensity to consume than *fuqura* and *masakin*. Similarly, *Zakah* to *gharimin* will be passed on to the creditors who

can normally be expected to have a better economic position and thus a lower propensity to consume than the *fuqara* and *masakin*. But all this needs to be worked out in the light of empirical evidence. Once these indicators are available, a suitable mix can be devised for *Zakah* expenditure to control inflation. According to the Muslim jurists, this is possible. Although, Imam Shafei favors equal division among the eight groups, according to the majority, the state may arrange the share of each group bearing in mind the need of the hour. Some jurists are of the opinion that surplus *Zakah* fund can be utilized for the establishment of factories or companies, land reclamation, construction projects or any others which can be owned at least in part by the poor themselves and provide them with a steady flow of modest income. As can be seen, this is a broader explanation of the spending of the *Zakah* funds which is similar to the idea of *Zakah* Certificates.

#### **D. The impact of *Zakah* upon consumption, saving and investment**

Some Muslim economists like Metwally argue that *Zakah* will have two effects on total consumer expenditure in an Islamic economy. Firstly both the average and the marginal propensities to consume would be higher in an Islamic economy than in a non-Islamic economy which does not have a similar fiscal measure. Secondly, the investment gap at each level of income would be smaller in an Islamic economy. But according to some other Muslim economists, the consumption pattern of society is determined by a host of factors other than transfer of purchasing power to poorer sections of society through *Zakah* which tend to reduce the inequality of income and wealth. It is also argued that the overall propensity to consume would not necessarily be higher in an Islamic economy.

Abu Ali refers to the work of Dusenberry who shows, with the use of Veblen's demonstration effect, that consumption at a given level of income could be higher in a society characterized by larger inequalities of income and wealth. He claims that in an Islamic economy, consumption would be less compared to other economies with the same level of income. Most of the Muslim economists believe that Islam's emphasis on simple living and avoidance of ostentatious consumption would serve to keep the overall propensity to consume lower in an Islamic economy. It appears that in this field the actual situation can differ from country to country depending on the state of country's development, its historical background and the attachment of its people to moral values of Islam.

According to Faridi, *Zakah* levies may have two opposite effects on private saving and investment. An annual *Zakah* levy on net savings (or net wealth) above the *nisab* limit is likely to strengthen the propensity to consume. An individual saver may derive greater satisfaction from extravagant

expenditure to avoid the yearly *Zakah* levy which threatens to eat away his net savings. Thus, the consumption function has an upward shift. But, it may produce an entirely different reaction in him. In order to protect his wealth from gradual erosion, he may turn his idle wealth into active real or financial resources. His willingness to invest may be intensified. Both these tendencies would in the ultimate analysis, cause an upward shift in the demand for goods and services produced in the economy. Increased demand for consumer and capital goods would contribute to greater production. Considered from another angle, the power of *Zakah* to erode idle wealth, and its punitive imposition on hoarded precious metal would tend to increase the supply of savings (in an economic sense) in comparison to its demand. This effect of *Zakah* would be beneficial in as much as it would reduce the expected rate of return, from the investment on socially productive sector. Of course, there would be a minimum profitability limit of such investments. Its rate of return must not be below the *Zakah* rate but must be above it measured by the cost of inconvenience involved in such investment.

Looked from another angle, the punitive nature of *Zakah* would exercise a healthy and positive impact on people's willingness to work harder in an effort to protect one's net savings. In this way, idleness would be discouraged and productivity would increase.

The most important aspect of the matter is the mode of disbursement of *Zakah* funds. If *Zakah* funds flow into investment channels, it would reduce its negative effects on savings and add to gross national product. On the other hand, investment oriented disbursement of these funds would have cumulative effect on reducing poverty.

In conclusion, it can be said that abolition of interest and functioning of *Zakah* system can be expected to provide powerful stimulus to growth. The interaction between the incentive and disincentive effects arising from these two basic features of an Islamic economy serves to promote growth. By penalizing idle resources, the *Zakah* system discourages hoarding and stimulates investment. The demand for investment at a given expected rate of profit will be higher in an Islamic-economy compared to other economies. Since investment is one of the most important determinants of the rate of growth, an Islamic economy would have a pronounced growth orientation. But one has to bear in mind that a full-fledged Islamic economy does not exist anywhere in the world at present. Many of the propositions advanced by Muslim economists are therefore in the nature of hypotheses rather than definitive conclusions from observed behavior of an Islamic economy.

### **E. Multiplier effect of *Zakah***

Some Muslim economists believe that a certain amount of *Zakah* funds invested according to the overall production priorities of an economy would benefit the poor in particular and the economy, in general, through its multiplier effect on employment and incomes. In this way it would gradually eliminate poverty instead of providing recurring financial support to the same set of people. It would increase employment and income in the economy thereby raising the standard of living of the people and eventually it would enhance the aggregate volume of the *Zakah* collection.

### **F. Welfare function of *Zakah***

*Zakah* ensures redistribution of income. Actually, Islam aims at achieving an equitable distribution of resources between present and future generations. Islam also emphasizes the need to give the poor their rights in such a way that their pride and dignity are well preserved. It is clear that the state is entrusted with the task of alleviating poverty. *Zakah* is used for this purpose and designed to promote the welfare function of the public expenditure. According to some Muslim economists, like Ahmad Saqr, Islamic government, can embark on a range of productive projects in industry and agriculture which will provide permanent employment for the poor and as such will create continuous flow of income. By this way, for example, M. A. Mannan believes that *Zakah* funds may be allocated to those avenues of public expenditure which can improve the working conditions and the efficiency of the eligible recipients. Improved housing facilities, health services, training programs, educational institutions and a number of similar services may be initiated for this propose. In this way, the welfare function of the public expenditure can be promoted. A survey of the poor economies of today reveals the alarmingly low ratio of such expenditure to GNP in many of them. If, even one percent of the national wealth, not current national income, is earmarked yearly for such services, it will account for a reasonably high level of welfare expenditure in the state budget. It would be useful if an attempt is made to improve the ratio of *Zakah* revenues to total public revenues in an Islamic economy. According to some Muslim economists, this can be done by keeping in view the following features of *Zakah* levy:

- a) It is tax (say at a constant rate of 2.5%) on net national wealth (that is, investible goods).
- b) Most of this amount is specifically earmarked for expenditure on the welfare of the poor. Assuming that GNP is equivalent to net national wealth (minus those owned by authorities) and that public revenues constitute about 25% of GNP, about 10% of the total public revenue could be spent on the welfare of the poorer sections of an economy.

*Zakah* also can be used as an effective instrument in the fulfillment of the allocative as well as distributive functions of fiscal policy. Although the ratio of disbursement of *Zakah* fund is not fixed, it is said that the Qur'anic numeration of eight heads of expenditures serves as an indicator that as a starting point 12.5 percent of the total may be earmarked for each head of disbursement. However, the disbursement authority shall be competent to authorize the transfer of funds from one alternative use to the other in the interest of the eligible recipients themselves and to serve its objective better. But, to use *Zakah* as an instrument for eradicating poverty and income redistribution depends on some other factors despite the fact that *Zakah* is one of the most important components of the social security system of Islam. However, ability of *Zakah* alone to eradicate poverty depends on the number of people who need *Zakah* assistance in a particular country. If the teachings of Islam are faithfully followed in a system, the glaring income inequalities would not exist nor would there be many people to receive *Zakah*. In such a situation, proceeds from *Zakah* should suffice to eradicate poverty. However, if for historical -reasons and neglect of Islamic teachings, the number of poor people in a country is very large, it is the duty of an Islamic state to supplement the resources obtained through *Zakah* by other means to meet the minimum basic needs of the poor. If glaring inequalities of income and wealth exist in a society, *Zakah* alone may not be sufficient to achieve the desired reduction in such inequalities, especially because the *Zakah* rates are fixed and cannot be changed. It follows from this that an Islamic state would have to use other fiscal policy instruments, including progressive taxation for redistributive purposes. Social justice is the hallmark of the Islamic economic system and abolition of interest. and establishment of the *Zakah* system are seen as two major institutional devices to establish a just social order. Islam seeks to promote virtues of *Adl* and *Ihsan* among its followers and any society which is permeated with these qualities would need a minimum state intervention to establish a just social and economic order. It is the responsibility of the state however, to ensure social justice. But in the context of prevailing conditions, it is empowered to take all necessary actions within the framework of the Islamic *Shari'ah* to achieve this objective. Payment of *Zakah* is of course obligatory on Muslim, but they are exhorted to spend as much as possible, beyond this compulsory levy, on the general welfare of the community for their own spiritual uplift and to attain beneficent reward in the hereafter. Therefore, some Muslim economists attach so much importance to such welfare oriented resource transfers in a Muslim community that their view of an Islamic economy should be composed of three sectors, namely, public sector, private sector and voluntary sector. The private sector is characterized by the forces of demand and supply and is activated by the profit motive. In the public sector, profit motive is substituted by considerations of social welfare. "The third" or "voluntary sector" encompasses all such individual and social

activities ( alms and *Zakah*) as are not motivated by material considerations but are undertaken for securing reward in the hereafter. The concept of the third sector reduces the role of the market forces in the allocation of resources, and since the activities of this sector are intended directly to raise the general economic and social welfare of the community, it leads to a more socially optimum allocation of resources. The composition of the national output is more need-oriented and less luxury-dominated. The government is relieved of a lot of social welfare expenditure which means that resort to taxation can be kept low in an Islamic economy. Although Muslim economists agree with this voluntary sector idea, there are some question about its quantitative significance in the context of the present state of Muslim societies. Therefore, the volume of resources flowing through a voluntary sector will be a function of the state of *taqwa* of an Islamic society. A fiscal policy mainly based on *Zakah* will have to play a major role in present day Muslim societies in alleviating mass poverty and modifying the pattern of income distribution in line with the egalitarian objectives of an Islamic society.

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## COMMENTS

Justice Sheikh Aftab Hussain \*

It is an honor to comment on the article of our brother Dr. Sabahaddin Zaim who is a distinguished economist and has, in his paper, regenerated the economic philosophy of *Zakah* in the language of modern economics and widened its potential scope to ensure a pragmatic approach for the realization and resolution of the problem likely to raise their heads in an aura of experimentation for the application of divine injunctions pertaining to *Zakah*. The most important of these is inflation and the methods to fight it. He has also exhaustively dealt with various aspects of *Zakah*, spiritual as well as temporal, the varying outlook of the jurists of Islam on its manifold problems emanating from the interpretation of the injunctions in the Qur'an and the *Sunnah*, the features which distinguish *Zakah* as a tax from taxation in the modern age, the role of *Zakah* in a welfare state and welfare oriented society with particular reference to the socioeconomic needs of the society, or its socioeconomic welfare, the enhancement of the community's economic resources or economic growth and improvement in the cultural milieu of the Islamic society.

Like the *salat* or prayer there is repetitive order about *Zakah* in the Qur'an. Sometimes the word "*Zakah*" is used in the same sense as communicated by the use of the word "*infaq*". Twenty five verses contain references to both *salat* and *Zakah*, seven verses contain references to *salat* and *infaq* both, four verses concern *Zakah* only and twenty one verses concern *infaq* only. The injunction about *Zakah* was repeated during the revelations received by the Prophet (PBUH) at Makkah before Hijra. The Medina period is conspicuous for giving it a legislative form and fixation of commodities held *Zakatable*, fixation of the exempted minimum which is not *Zakatable* and fixation of rates of *Zakah* which vary with the variation in the commodity, cattle, mineral-and fruit and farm produce, which are subject to *Zakah* in the *Shariah*.

The repetition of the injunction about *Zakah* established the extent of divine emphasis on it. In a society consisting of freemen and a great number of slaves, of a few rich and all others poor, the emphasis on charity and the welfare of the entire society is apt and understandable. But its stress in a

\* Justice Shaikh Aftab Hussain was Justice, Federal *Shari'ah* Court, Pakistan at the time of the Seminar.

society comprising persons mostly belonging to the pauper class converts is indispensable particularly when the converts had to be the victims of social and economic boycott of the rich and prosperous and had to suffer their malevolent and vengeful spite for their outrageous abandonment of their duties for one Almighty Allah. The problem of starvation of the new ummah, could be solved only by pooling the resources of all the members thereof through their individual volition.

After *hijrah* to Medina, a state was set up with the Prophet (PBUH) as its head and the period of legislation started. An era of defensive wars also started. The individual volition whose response to the demands of the ummah had always been generous and magnificent was now partly substituted by the binding nature of periodical payment of *Zakah* on savings, gold and silver symbolizing minerals, camels, cows and goats, symbolizing cattle and capital goods meant for retail sale or wholesales. To this was added the order to pay a percentage of farm and fruit produce which came to be known in *Sunni fiqh* as *ushr*. In *shia fiqh* there is only one nomenclature for both i.e. *Zakah*.

***Zakah* like *salat* or prayer** is an *ibadah* or form of devotion to the Almighty and is one of the five pillars of Islam. It had been enjoined on the previous *ummahs* also. (See Q. 19:55 for Ismael; Q. 7:156 for Moses and Q. 19:31 about Jesus; Leviticus 27:30-33; Deuteronomy, 14:27-29), but the legislative process of the Prophet (PBUH) gave it a new complexion. Its payment to the state became mandatory and its fiscal character became pronounced. Its economic systematization made it a special part of *bait ul mal* or Islamic exchequer and its mandatory character as a part of "*ibadah*" or devotion made it incumbent upon the state authorities to denounce anyone as apostate who repudiated its obligatory nature. This is how the first Caliph characterized such person and this is why he declared holy war on such tribes or people.

Thus while it is the duty of every Muslim who owns more than the exempted minimum to *pay Zakah* upon it, it is the duty of an Islamic state to collect it and to disburse it according to the manner and for purposes prescribed by the Qur'an.

The beneficiaries of *Zakah* are not individuals alone. There are certain heads of its expenses which can indirectly benefit Muslims, their Governments as well as Islam. Dr. Zaim has translated the relevant verse (Q. 9:60) as laying down that it is the duty of the Muslims to spend *Zakah* for the benefit of :

- a) The poor.
- b) The needy (*miskin*).
- c) For those, who are appointed to collect it.

- d) For Islamic propagation.
- e) For freeing the slave.
- f) For the indebted.
- g) Those on the way of Allah.
- h) Wayfarer.

May I be excused if I point out that "(d) for Islamic propagation" is too narrow an interpretation of those whose hearts are to be reconciled as specified in the Qur'an. Similarly the last but one category is enumerated as individual persons i.e. 'those on the way of Allah'. In Qur'an is a purpose and not a person or group of persons, though narrowly interpreted by the jurists and commentators as a person who participates in the holy war, it includes every expense in the way of Allah.

The fourth category of *moallafat il quloob* (those whose hearts are to be reconciled) has been the subject matter of a variety of opinions and views which often have no meeting points and run parallel to one another. It is said that this item of expenditure is for Muslims only. This is the opinion of Imam Shafei. Another view is that it is for both Muslims and non-Muslims and is lawful wherever it is necessary to spend in the interest of and for facilitating conversion of non-Muslims, for financial reinforcements of new converts who are economically hit as a result of their conversion, and for eradication of mischief of those who, when paid, glorify Islam and otherwise scandalize it. By the time of Hazrat Omar, Islam gained such strength that he refused to disburse *Zakah* under this head. Some of the jurists concluded that permission to spend only this item had lapsed which amounts to virtual abrogation of the injunction to this extent. But others disavowed this opinion and held that the injunction being of the Lawgiver, it could be abrogated by the Lawgiver only and Hazrat Omar's action only amounted to a refusal to pay to those to whom payment would not have served any useful purpose. A section of the jurists is of the view that the power vested in the person in authority or *ul-ul amr* to suspend the injunction if conditions in a country justify it. Whenever payment to *moallafat ul quloob* advances the object of verse 60 of chapter 9 of the Qur'an the payment under that head may be revived.

To support the theory that the beneficiaries under this head are also Muslims alone, Ferishta translated the words as 'Those whose hearts are reconciled (to Islam)' (See p. 292 of the Law and Philosophy of *Zakah*, Vol. 1). But this is not correct. The true meaning is : 'Those whose hearts are to be reconciled'. The view that the payment to non-Muslims under this head is justified, is in my view, correct. The role of *moallafat ul quloob* can be better appreciated by the method of conversion of people in Africa and other countries to Christianity adopted by the Christian missionaries. They opened hospitals, dispensaries and educational institutions in extremely remote cor-

ners and the missionaries helped them convert the pagan population of African continent in large numbers.

There are a number of traditions from which it appears that the generous disbursement of money and cattle by the Prophet (PBUH) to the pagans of Arabia resulted in the mass conversion of the tribes. Such traditions furnish the best illustrations of the applicability of the principle. If it is correct that the punishment of *irtidad* or apostasy in Islam is death, it should not be necessary to reconcile the hearts of the Muslims to maintain their stead-fastness to their religion in an Islamic state.' If the direction to spend for reconciliation of hearts is a permanent measure, as it undoubtedly is, it must follow that the reconciliation is aimed at the non-Muslims whose hearts can be conditioned to bring them toward Islam.

I am in full agreement with the findings of Dr. Yousuf AI-Qardawi that in the modern age *Zakah* under this head can be spent on giving financial assistance to the non-Muslim governments and organizations in order to gain their sympathies for the Muslims and to incline them towards Islam; on seeking the cooperation of authors and men of letters in the defense of Islam.

From this discussion it would be clear that spending *Zakah* money on reconciliation of hearts is meant for moulding a character and conduct in the Muslim community which may lead non-Muslims to be inclined towards Islam.

The seventh item of expenditure of *Zakah* fund *fi sabeelillah* is interpreted by the author of the paper as "Those on the way of Allah". It appears that the word 'Those' has been used to make the interpretation conform to the principle of *tamlik* which is a pillar of Hanafi juristic thought in the matter of disbursement of *Zakah*. *Tamlik* includes making an individual a beneficiary owner of the *Zakah* money. The principle is that the liability to pay *Zakah* cannot be discharged unless an individual beneficiary is made owner thereof. The narrow principle does not leave any scope for undertaking projects from the *Zakah* fund like building of village roads, constructing rest houses for the travellers or buildings for residence of the poor which play benefit groups living in particular localities and help not only in alleviating their misery but also in raising their standards of living. Since a dead person is in of owning anything, it is not lawful among the Hanafi's to pay the debt of the deceased or to make a shroud for his burial (*Radd ul Mohtar*, Vol. 2, p. 85). Many of the jurists confine this head of expenditure to equipping the volunteers for  *Jihad*. But the other view is that  *Jihad* is included in *fi sabeelillah* (in the way of Allah). According to Imam Mohammed *fi sabeelillah* means those persons who have strayed from the Caravan going for Hajj. Some hold it to mean seekers after knowledge. Alkasani says in *Al Badai* that it includes all actions leading to the obedience of Allah or are

rewarding in the hereafter, and all poverty stricken people and paupers who tread the path of virtue and attempt to obey Allah are included in it. According to Ibn Nujaim, writer of *Al Bahr ur Raiq* pauperism is the primary condition for assistance. The author of *Al Manar* (see Vol. 1, p. 580) notes that the imposition of this condition means that this is not an independent head of expenditure but is likely to be merged in the expenditure on the first two heads of the poor and the needy.

The Maliki interpretation is rather wide though it is confined to  *Jihad* and matters pertaining to  *Jihad*. Same is almost the position in Shafei and Hanbali jurisprudence. These views are not so narrow as those of the Hanafis since according to them pauperism is not a primary condition for the volunteer for  *Jihad*. Even the person who is otherwise liable to pay  *Zakah* can be given assistance in the form of equipment and weapons, etc. required for battle. According to the Malikis,  *Zakah* money can be expended on employing spies in the enemy ranks. There is a difference of opinion on the question whether it is permissible to construct from it a defensive wall round the city. Some hold it lawful. even boats meant for fighting with the enemy can be made or purchased from the fund. The Malikis do not justify the stress on  *tamlik* or making the beneficiary an owner of the  *Zakah* money or things purchased from it. Imam Shafei does not allow more than one eighth of  *Zakah* money to be spent under this head, but others are not in favor of this limiting of the expenditure on this item on the basis of equality of distribution on each item.

Imam Razi on the other hand wrote in his commentary on the Qur'an that there is no justification in limiting this item of expenditure to combatant in a holy war. For this reason Qaffal reproduced the opinions of some jurists in his commentary that it is lawful to spend from the  *Zakah* fund on all virtuous acts, which include the burial of the deceased, construction of forts for defense and construction of mosques. Ibn Qudama ascribes to Anas and Hassan Basri the view that it is lawful to spend that money on making of roads and construction of forts.

In the Jaafari  *fiqh* there are two views on whether it is permitted to spend money from  *Zakah* fund under this item on Hajj,  *Jihad* and construction of bridges. One view is in favor of its lawfulness, the latter day jurists generally hold this view. Nawab Siddiq Hassan Khan differed with the jurists and scholars who limited the scope of this head of expenditure to the Holy war, since there is no ground for this limitation. According to him the money under this head can be spent on any matter which ensures divine favor.

Among the modern scholars preference is given to the opinion of Qaffal that every act, object of which is to seek divine favor is included in *fi-sabilillah* (in the way of Allah). Mahasin ul Taaweel, Vol. 7, p. 318). Alama Rashid Riza author of the commentary known as Al Manar says that *fi sabilillah* denotes public welfare among the Muslims and not the welfare of individual or individuals. It can be spent on the establishment of peace, law and order on the roads used for Hajj pilgrimage, arrangement of food and water during the period of Hajj and arrangement for maintenance of health of the Hajj is. It can be spent on all matters which are expedient for advancement of the interest of the Muslims in matter of religion and the state. The primary expedient is the acquisition of capability of defence, buying of weapons, making arrangement for feeding the army, arming of the volunteers and arranging for the means of transport.

*Zakah* money under this head can also be expended on establishment and maintenance of military and civil hospitals, construction of roads and railway lines for transportation of the army, construction of aerodromes for the air force, and of ditches and fortifications for the army.

In modern times it is requisite that missionaries may be sent to the countries of non-Muslims to preach the teachings of Islam.

This is the summing up of the views of Allama Syed Rashid Riza. Sheikh Mohamoud Shaltout, another great jurist of this age interprets *fi sabilillah* as meaning public welfare expedients which may not pertain to an individual, and benefit of which does not accrue to an individual. It should vest in Allah, and its creation may be jointly benefited from. He includes in it all preparations for the country's defence, including construction of roads and railway lines. He also includes in lawful expenses the arrangement for memorizing the Qur'an. Construction of essential number of mosques, hospitals, educational institutions and steel plants is also included.

According to Sheikh Hasanain Makhlouf, 'Mufti of Egypt, it is permissible to pay from the *Zakah* fund to the Islamic welfare organizations (for their maintenance).

Yousuf Qardawi after discussing in detail the wide interpretation of "*fi sabeelillah*" includes in it the establishment of centers of learning for the Muslim youth, centers for propagating Islam and Islamic values in every nook and corner of the world, preparation of literature which may counteract the literature published for misguiding the Muslims, the publication of impressive books on Islam, the assistance of all those Muslims who have to bear all the atrocities at the hands of the enemies of Islam and the context with the latter on the ideological and cultural front.

There appears no justification for limiting the scope of *fi sabeelillah* to the holy war or to the defense of the country nor is there any justification in applying the principle of ownership for the beneficiaries. Confining it to *jihad* amounts to narrowing down its scope, and applying the principle of *tamlík* to it amounts to further restricting and limiting its scope to the individual beneficiaries.

It appears that one of the objects of the paper of Dr. Zaim is to prove the viability of *Zakah* as a fiscal measure of the modern age. This object cannot be achieved by unduly limiting the scope of *fi sabeelillah*. The welfare function to the public expenditure, as Dr. Zaim puts it, cannot be promoted except by the adoption of the wider interpretation of *fi sabeelillah*. The payment of *Zakah* amount to individuals only, however great the disbursement may be cannot achieve the object of promotion of public welfare.

Similarly, there is no interpretative or legal justification for extending the principle of *tamlík* to the poor and the needy (*fuqara* and *masaakin*). Verse 60 of *Surah Taubah* stipulates that *Zakah* is inter alia, 'for the poor and the needy'. The word 'for' is the translation of *lil*. *Lil* is; constituted of *lam* (an Arabic letter) and *al* which is used for particularisation or to be more precise, for turning an indefinite into definite. "*Lil*", therefore means 'for the' or 'for the benefit or use of'. The concept of *tamlík* or ownership is not necessarily included in it. In this view of the matter, the stress of the Hanafi jurists on *tamlík* is not quite understandable. The philosophy of *Zakah* that it will be recovered from the rich among the Muslims and shall be returned to the poor amongst them does not mean that it shall have to be given in the ownership of individual needy. It would suffice if its benefit is restored to the poor and the needy, whether directly or indirectly. Houses may be constructed for their residence. But it does not appear necessary that one apartment each should be distributed on the basis of title and ownership among such individuals who need a house. The housing scheme may be owned by the poor and the needy as a corporate body and houses may be allotted for residential purpose only so that if a person has to abandon the house on account of migration to another city or locality, it may be allotted to another needy. In this manner, in many cases, the usufruct may remain intact and much more benefits may accrue out of it than by the distribution of the *Zakah* fund or things purchased from it among the needy on ownership basis.

Dr. Zaim, in his illustrious article has drawn nice distinctions between *Zakah* and tax in the language of economics and finance. I also endorse the view that the rate of *Zakah* as fixed by the Prophet (PBUH) should not be interfered with. But we cannot altogether ignore the role of *qiyas* in view of the changes in social, cultural, financial and other spheres. Thus horses were made subject to payment of *Zakah* by Hazrat Omar because of the conceptual change



in its utility. The subject matter of *Zakah* is likely to change with the change of times and the *Zakatability* of other new items can be decided by the applicability of the principle of *dalalat un nas.*

If *Zakah* can be imposed on marketable goods or merchandise why should it not be imposed on the industrial concerns which, like merchandise, are also productive in character? If cattle, on account of their productivity, can be *Zakatable* why not every concern which is productive of marketable commodities?

Generally *Zakah* is on produce or what is productive. The *Zakah* on savings is proof that Islam is opposed to idle money. The interest oriented banking is different from *Zakah* oriented banking in so far as in the former the idle money known as saving increases by the earning of 'interest while in the latter the money, if not invested through banks, goes on diminishing. It is therefore, better to deposit money with the object of investing it through banks and to earn profits on it. The welfare function of Islamic state can be achieved by increasing production and by investment of idle money. This may help in eradicating the curse of and the temptation for earning interest on idle money.

The *Zakah* earning in Pakistan may not be upto the mark as many of the properties which are really visible have been included in Schedule II of the Act regarding *Zakah* and ushr which leaves it to the person liable to pay *Zakah* to assess it on those items and to pay the same voluntarily in the *Zakah* fund or to disburse it in charity. The emphasis at present is on disbursement either to those who cannot work or earn or those who can use it for productive purposes and can try to become earning members of the family. This partly reduces the negative effect of disbursement to charity as pointed out in the article. However if full *Zakah* on ail *Zakatable* things is recovered by the state; the latter can undertake many of the projects necessary for turning it into a truly Islamic welfare state and may also have to use surplus *Zakah* money in the establishment of industrial undertakings which may open job opportunities for the jobless, and help in improving the working condition of its employees.

It can be claimed without any fear of contradiction that the old juristic opinions which may cater to the problems of the modern age are not wanting. In fact, the difference of views provides considerable opportunity to modern thinkers, economists and financiers to choose what is eminently suitable to fight the curse of inflation, to fix, as pointed out by Dr. Zaim, the minimum level of subsistence level even though it may be higher than the *Shari'ah nisab*, to pay such big amount of money from the *Zakah* fund which may enable the payee of *Zakah* to invest the same and attain that level of subsistence which has been fixed as the minimum, keeping in view the standard of

living of the people, not to pay such money to able bodied persons who are capable of earning but prefer to remain idle, to benefit the beneficiaries as a corporate body indirectly instead of acting on the principle of *tamlík* and various other matters which are difficult to circumscribe in these comments. The study of the economic and the fiscal parameters of *Zakah* by social scientists is an encouraging sign. Such persons as Dr. Sabahaddin Zaim may help the Islamic states in forming *Zakah* oriented fiscal and economic policies and *Zakah* oriented banking as distinguished from interest oriented banking. Their efforts ought to be appreciated even though they are at the pioneering stage.



# MANAGEMENT OF **ZAKAH** THROUGH SEMI-GOVERNMENT INSTITUTIONS

Fuad Abdullah Al-Omar\*

*The paper identifies three stages of implementation of Zakah in Kuwait: first stage in vol ves formal imposition of Zakah on some conventional items such as cattle, fish etc; second stage formation of Zakah committees in differenf parts of the country in an effort to reactivate this duty amongst the Muslims; and third stage establishment of the semi-Government institution, viz: The Zakah House in 1982 by formal legislation. The paper also reviews the law of establishment of Zakah House and its basic objectives as well as the administrative organization under the Zakah House as organized by the Board of Directors. Then the paper examines the general policies adopted by Zakah House for itself for the implementation of Zakah including collection and disbursement. It also outlines the organizational policy of the various departments and divisions of the Zakah House. Lastly, the paper discusses the future goals which the Zakah House seeks to achieve. (Editors).*

## PART ONE

### STAGES OF APPLICATION OF **ZAKAH** IN KUWAIT

The State of Kuwait did not have any law regulating *Zakah* ever since its establishment, nor did it undertake the task of assessment of *Zakah* as its payment was left to the discretion of the citizens. We can, however, indentify three stages in the implementation of *Zakah* in Kuwait.

#### **1. Stage one: Official Levying of Some Types of *Zakah***

Historical studies indicate that the State of Kuwait had been levying *Zakah* on cattle, fish and farming.

##### *(a) The Zakah on Cattle*

The ruler used to issue orders to the collectors of the legal *Zakah*, namely, the livestock *Zakah*, from the nomads. The collectors used to proceed on two to three months' tours to meet the tribes and individuals who owned cattle and camels, then they would assess and calculate the same so that they may consequently apply the legal rules of the duty of *Zakah*.

\* Mr. F. Abdullah Al-Omar was the General Director of **Zakah** House, Kuwait at the time of the Seminar.

The *Zakah* Collector, when the payment of *Zakah* became due, used to proceed with his sixty or so workers, in a guarded caravan mounted on camels and horses. They would travel both, west and south, in the desert of Kuwait to collect *Zakah* from the nomads. They would pitch their tents as guests of the head of the tribe on their way next to the water wells and springs where the nomads gathered up with their livestock. This was normally done after the rainfall season and the beginning of summer. The tent of the *Zakah* collector would have a distinguishing mark. The nomads would call him '*al-muzakki*' (the purifier). The *Zakah* workers would travel through these areas, calculate the sheep and camels owned by the nomads and levy the established legal *Zakah* thereon after evaluating the same in Kuwaiti dinars or Indian rupees. *Zakah* used to be collected according to the provisions of the *Shari'ah* where the declaration of the owner on what he owned in terms of camels and sheep was accepted, since telling the truth was the rule amongst the people. *Al-muzaki* would record down the sums he collected in the official record in his custody, and would issue to the payer of *Zakah* a receipt called *birwi* vouching for the payment of the legal *Zakah*, so that no other official authority would impose on him the payment of *Zakah* again:

At the end of this tour, which normally extended from 'two to three' months under the burning desert sun, *al- muzaki* would return with his workers to the capital where he would hand over the collected *Zakah* funds to the Ruler.

The State, however, stopped levying the *Zakah* on livestock after the discovery of oil in the latter part of Shaikh Ahmad Al-Jabir Al-Sabah's era.

#### ***b) Zakah on fish and shrimps***

It was imposed as a tax during the era of Shaikh Mubarak Al-Sabah. However, this tax was equivalent to the Islamic *Zakah* of one tenth where the fisherman would pay one pound of fish for every ten pounds. The same was the case for the shrimps where one container would be levied out of every ten containers. As for the fish which was sold in the market, they used to levy one fish out of every ten. Part of the established tax used to be levied in cash in Indian rupees while the other part used to be levied in kind and sold in the fish market. However, this tax was cancelled during the era of Shaikh Salem Ibn Mubarak Al-Sabah.

#### ***(c) Zakah on Farming***

No direct provision had been mentioned in respect of the real estate so much so that some people thought that the authorities were not levying anything on the agricultural land. But it seems to us that the authorities were

imposing a certain tax on the agricultural crops, namely, the Islamic one (*ushr*) tenth which they collected in cash or in kind.

In 1904, one third of the cultivable land in Failak Island was exempted from taxes. The remaining part was paying *Zakah* to the Ruler of Kuwait at the rate of one tenth of the total production. Furthermore, the Shaikh would take for himself all the hay crop or all lands including the ones which are exempted from taxes excluding a small portion which the citizens retained for their needs, but the crop of wheat and barley would be divided, after deducting the tax, into two equal parts: the first one would go to the farmer and the other would go to the supplier of grain, ploughing animals and farmer's food, (i.e. the farmer's share would be about 50 percent of the produce).

It is to be noted here that historical studies do not indicate any lands, other than those mentioned, from which the government recorded *Zakah*. However, after the discovery of oil which has become the backbone of the Kuwaiti economy, the government has ceased to levy the aforesaid types of *Zakah*.

## **2. Stage Two: Public Imposition of the Duty of *Zakah* (Role of the Public *Zakah* Committees)**

In an effort to develop an institutional framework of management of *Zakah* a number of Muslims met in Kuwait and decided to form committees to collect *Zakah* and to distribute the same to the needy individuals and families. They unanimously agreed that there was no way to tackle this matter except through the reactivation of the role of mosque as being the social, cultural and religious institution which looks after the affairs of all Muslims, in addition to the fact that the mosque is a place for worship.

The starting point in this respect was the formation of the first *Zakah* Committee at Othman Mosque with the objective of collecting the *Zakah* paid voluntarily by Muslims and expending the same through the legal channels on those who were deserving of *Zakah*. This Committee was formed in 1392 AH. (corresponding to 1972 AD).

As a result of the success achieved by this Committee and the response it received from the Muslims, the Muslims in other mosques followed suit and formed *Zakah* Committees in their areas similar to the one at Othman Mosque. The number of *Zakah* Committees has now reached 35 distributed throughout Kuwait. There is also a *Zakah* Committee at Dasmah Mosque which operates according to the Ja'fari denomination.

The formation of the *Zakah* Committees at the mosque is a noble task, a successful step towards reactivating the role of the mosques and deepening the spiritual and social relations among the Muslim. However, to make these

Committees effective, it is imperative that coordination is made effective between these committees and the *Zakah* House of Kuwait.

### **3. Stage Three: Formal Rationalization of Voluntary *Zakah* Collection (*Zakah* House of Kuwait)**

Due to the increasing public awareness of the duty of *Zakah*, as being the right of Allah in the wealth of the *sahib-e-nisab* and in view of the success realized by the Committees, the idea of establishing a *Zakah* House as a semi-Government institution for the voluntary and non-compulsory collection of *Zakah* was advanced. It was hoped that this institution would develop so much so that the compulsory levying of *Zakah* would become feasible in society, and the order of Allah would be applied in full in so far as the duty of *Zakah* is concerned.

The establishment of *Zakah* House which is a pioneering step to reactivate one of the great pillars of Islam, endeavors to collect and distribute *Zakah* and charities in the best and most efficient legal ways, in a manner compatible with the speedy development and traditions of the Kuwaiti society.

Two members of the Kuwaiti National Assembly had submitted two separate draft proposals for the collection and distribution of *Zakah* funds, wherein the gradual application of *Zakah* was suggested; the *Zakah* was to be collected on voluntary basis: the State providing all the necessary facilities and supplementing voluntary collection with the payments of an annual subsidy to the *Zakah* House to promote its activities. The National Assembly then passed the Law which was issued on 21 R. Awal 1403H (corresponding to 16 January 1982).

#### ***z a k a h* House Regulating Law**

##### **Law No. 5 in the year 1982**

##### **In respect of the establishment of the *Zakah* House**

. Having regard to Articles 2, 7, 8, 109 and 133 of the Constitution of Law No. 31 for the year 1978 concerning the rules for preparing the balance sheets, supervising the execution thereof and the closing account, of Law No. 15 for the year 1979 concerning the Civil Service, and, of the Decree issued on 4th April, 1979 concerning the Civil Services Regulations. The National Assembly has passed the Law, the provision of which are as follows:

### **Article 1**

A public authority with an independent budget shall be established under the name of *Zakah* House, which shall enjoy a corporate entity and shall be under the supervision of the Minister of *Awqaf* and Islamic Affairs.

### **Article 2**

**The resources of *Zakah* House shall consist of the following:**

- a) *Zakah* funds which are voluntarily paid by individuals or others;
- b) Grants and contributions made by the Public Authorities and Institutions, Societies, Companies and Individuals and accepted by the Board of Directors; and
- c) Annual subsidy by the State.

### **Article 3**

The *Zakah* House shall have a Board of Directors under the chairmanship of the Minister of *Awqaf* and Islamic Affairs with the following as the members:

- a) Under Secretary of the Ministry of *Awqaf* and Islamic Affairs;
- b) Under Secretary of the Ministry of Social Affairs and Labor;
- c) Director General of the Public Institution for Social Security;
- d) Director of Minor Affairs Public Authority and
- e) Six experienced and competent Kuwaitis who do not occupy any public post. Their appointment shall be made by the Council of Ministers for a period of three years, which would be renewable.

### **Article 4**

- a) *Zakah* House shall formulate the general policy of the *Zakah* House, adopt the financial and administrative regulations and pass the decisions necessary for executing this law; and
- b) Determine the priorities and amount of expenditure on legal *Zakah* aspects, charity and public beneficence in conformity with the provisions of the Islamic *Shari'ah*.

### **Article 5**

The Law of Civil Service as well as the rules and provisions applicable to all civil servants shall apply to the employees of the *Zakah* House.

The Prime Minister shall execute this law. It shall be published in the official Gazette and shall become effective after three months from the date of its publication.



### **Objectives of the *Zakah* House.**

The objectives of the *Zakah* House are summarized as follows:

- 1 - institutionalize the collection -and disbursement of *Zakah* in Kuwait through all available means and institutions;
- 2 - establish and develop self-financing resources for the *Zakah* House;
- 3 - regulate the collection of funds and rationalize its disbursement thereof through the issuance of the necessary rules from time to time;
- 4 - strengthen Islamic religion and culture locally and abroad, activate the Islamic studies particularly' in the field of *Zakah* and emphasize on the actual practice of religious teaching in order to promote the. spirit of social solidarity amongst the people;
- 5 - coordinate and cooperate with governmental and private authorities that look after social welfare;
- 6 - develop the *Zakah* House services, modernize the administrative system with a view to facilitating the work and introducing flexibility;
- 7 - understand the financial impact of *Zakah* -in all fields;
- 8 establish a network of '*Zakah* Committees in the various parts of Kuwait with the participation of the public to reach the target group of people;
- 9 - endeavor to bring the poor out of poverty line through rehabilitation or making available to them job opportunities 'which suit their circumstances; and
- 10 enhance the role of Kuwait and its international position in the fields of Arab and Islamic relations through aid to Islamic authorities and sup-port for Muslims during disasters and calamities.

### **The Bond of Directors and its Composition**

The *Zakah* House has a Board of Directors under the chairmanship of the Minister of *Awqaf* and Islamic Affairs.

The Board has the authority to deal with the affairs of the *Zakah* House and may take whatever decisions that are necessary to achieve the objectives for which the *Zakah* House has been established. The Board of Directors is composed of 12 members.

Terms of Reference of the Board of Directors are as follows:

- 1 - draw up the general policy and supervise, the execution thereof, and issue the necessary directives in respect thereof;
- 2 - determine the priorities and the amounts to be expended pursuant to the provisions of the Islamic *Shari'ah*;
- 3 - accept grants, contributions and subsidies made by public authorities and institutions, societies, companies and individuals;

- 4 - issue the administrative and financial statutes that regulate the activities of the *Zakah* House;
  - 5 - formulate the plans to urge the authorities, institutions and individuals to pay the *Zakah* as well as other grants and contributions;
- 6- pass the draft budget and the closing account prior to forwarding the same to the competent authorities;
- 7- approve the annual general report on the activities of the *Zakah* House;
- 8 - draw up the policy and formulate the rules of investment of the entire resources in a manner compatible and in consonance with the provisions of the Islamic *Shari'ah*;
- 9 - follow up the work progress in the *Zakah* House through the reports presented thereto by the Chairman of the Board of Directors; and
- 10 - appoint and remove the auditor of the *Zakah* funds as well as fix his fees.

A number of Committees are attached to the Board in order to achieve the objectives of the *Zakah* House, namely:

#### **1. Resources Development Committee**

This Committee formulates the general policy for the development of resources, collection of the same, determining the sources thereof, following up the execution of the plans thereof, establishing the basis of acceptance of the grants, contributions and subsidies from the authorities, institutions, societies and individuals.

#### **2. Subsidy Distribution Committee**

. The terms of reference of this Committee include formulation on the basis of distribution of subsidies, fixing priorities and making assessments. It also coordinates efforts with the Ministries, various authorities and *Zakah* Committees in the field of distributing the grants.

#### **3. Organization Committee**

The scope of this Committee is to study the financial, administrative and organizational regulations and to examine the accounts and the budget.

#### **4. The *Shari'ah* Commission**

It was formed on 7 Rajab, 1403 AH (corresponding to 30 April, 1983 AD) by a resolution of the Board of Directors to supervise and control the operations and activities of the *Zakah* House as well as to ensure the conformity with the provisions and rules of the Islamic *Shari'ah*, issue of legal opinion (*fatwa*) and activities of the Management of the *Zakah* House and citizens. The *Shari'ah* Commission consists of six members.

**PART TWO**  
**POLICY FOR THE FUNCTIONING OF THE**  
**ZAKAH HOUSE**

The general functioning policy of the *Zakah* House depends on two basic processes, namely:

- 1 - Collection of *Zakah* and charity; and
- 2 - Distribution of *Zakah* and charity amongst those who deserve the same.

The *Zakah* House observes, while undertaking the foregoing processes, the rules of *Shari'ah*. The House sets out the feasible plans for the collection process and formulates the legal framework for distribution. The policy of the *Zakah* House can be divided into the following aspects:

1. The legal aspect.
2. Voluntary collection of *Zakah* and charity.
3. Development of resources.
4. Internal distribution.
5. External distribution.
6. Organization.
7. Administration.
8. Future development.

**1. The Legal Aspect**

The *Zakah* House has been established to execute the Almighty's command in respect of *Zakah*. Therefore, the *Zakah* House, since its early establishment, has endeavored to comply with the rules of the *Shari'ah* in regard to its activities and work as can be seen in the following:

**1.1 Formation of the *Shari'ah* Commission**

This Commission has been formed to supervise and control the *Zakah* House functions and activities as well as to ensure conformity thereof with the laws and rules of the Islamic *Shari'ah*, issue of *fatwas* (legal opinions) and to answer the questions put forward by the *Zakah* House Administration and the citizens of Kuwait. The Commission is composed of some scholars and specialists in the Islamic *Shari'ah* to supervise the general policies of the *Zakah* House.

**1.2 The *Shari'ah* Office**

It is an internal office within the House and attached to the *Zakah* House manager. The duty of this office is to finalize the urgent inquiries concerning the *Zakah* as well as give orientation to the *Zakah* House employees

continuously on *Zakah* affairs. The *Shari'ah* office maintains the link between the *Zakah* Houses and the *Shari'ah* Commission.

## **2. Voluntary Collection of *Zakah* and Charity:**

The framers of the *Zakah* House law took into consideration the Kuwait society's conditions as well as the gradual application of the *Zakah* rules in the state of Kuwait. Therefore, the *Zakah* law is based on offering *Zakah* funds voluntarily. Also, the *Zakah* House has endeavored to facilitate the process of the *Zakah* collection and formulated detailed plans to motivate the Muslims to pay the *Zakah* in consideration of the following.

### **2.1 Orientation**

In this aspect, the *Shari'ah* Commission and the *Shari'ah* Office which is attached to *Zakah* House calculate the *Zakah* dues on the wealth of various individuals as well as the numerous investment activities, so that modern economic deals and entanglements thereof will not represent a justification for the nonpayment of *Zakah*. For this purpose, the House issued a booklet entitled "The *Zakah* Directory" which aims at clarifying the information needed by the *Zakah* payer with the help of figures which deal with the legal aspect of the *Zakah* due. Also the First *Zakah* Conference represented a serious attempt on the part of the House to study *Zakah*., its applications and problems thereof in modern times.

### **2.2 The Information**

The House provides information to the public through mass communication media (video, television and newspapers) about its various activities thereby facilitating the collection of *Zakah* . In this regard, the House applies practical modern methods such as producing video films like the one on famine in Sudan which highlights the House's efforts to relieve famine distress, a radio program during' the month of *Ramadhan*, contacts with the local and international news agencies, television programs, books and publications. This information drive has actually motivated the people to pay *Zakah* due on their wealth.

### **2.3 Public Relations**

The *Zakah* House seeks to establish contact with big businessmen and donors through personal interviews in order to explain the House activities and achievements as well as keep them updated on the most significant achievements of the House.

#### **2.4 Diversification of Charitable Activities**

This is a policy adopted by *Zakah* House with a view to diversifying the services offered for developing the society. This policy is aimed at identifying various schemes of assistance, such as the Orphan Sponsor Scheme, the Students' Education Fund, the Handicapped Welfare, the Patients' Care, etc. in order to promote the social and economic standards of these categories of people. These projects are administratively and technically independent of the *Zakah* House but can be encouraged to expend so as to promote values.

#### **2.5 Facilitating the Payment of *Zakah***

This is done through the establishment of branches of the *Zakah* House in remote areas and the opening of accounts for *Zakah* and charity with the various branches of the Islamic Banks as well as providing collectors to collect *Zakah* in cash and in kind, in conformity with the needs of the ***Zakah*** recipients.

### **3. Development of Resources**

The resources of *Zakah* House can be categorized as follows:

#### **(a) *Zakah***

The *Zakah* House accepts cash funds which are voluntarily paid by individuals, societies, authorities and institutions at the *Zakah* House Headquarters. The *Zakah* House also accepts *Zakah* in kind, e.g. food items and goods, provided they meet the needs of *Zakah* recipients. -

#### **(b) Charity**

The House accepts charities which our religion has urged us to pay such as simple alms, the alm of the ' *Al-Fitr* feast and the sacrifices of *Al-Adha* feast. The House also accepts the penalties imposed by 'the Sublime God as an atonement for some sins such as swearing, breaking of fasting in *Ramadan* and the pre-Islamic form of divorce.

#### **(c) Grants and Contributions**

The House accepts the grants and contributions made by the public authorities and institutions, societies, companies and individuals, which the Board of Directors approves. -

#### **(d) The State's Subsidy**

The State provides an annual subsidy to help achieve the goals of the House as well as to support its various activities in order to contribute to the

realizations of 'the goal of social solidarity amongst the citizens. The State subsidy for the fiscal year of 1,982/83 amounted to KD 2,000,000 and for the fiscal year of 1983/84 it amounted to KD 4,000,000.

### **3.1 Zakah House's Policy towards the Development of Resources**

The House has adopted a permanent policy which aims at reducing its dependence on the State's subsidy so as to ensure a steady flow of income. This policy is being implemented in the following manner:

#### **3.1.1 Formulating plans for the development of resources**

The House has formulated a general policy for collecting the revenues, indentifying their sources and following up on the execution of these plans. The House, for instance, has compiled the necessary data on various individuals, institutions and companies in order to acquaint people with the House and its activities as well as urge them to pay *Zakah* on their wealth.

#### **3.1.2 The resources of the House include the following:**

Investing the State's subsidy and spending from its yield. The following Table shows the development of investment:

**Table 1**

Year	1982 / 83	1983 / 84	1984 / 85
Revenue from Investment	130,193	<u>380,545</u>	416,160

#### **3.1.3 Establishing and managing Alms Fund**

~~This Fund is based on finding steady assets~~ which generate annual cash income for spending therefrom on the plans and schemes of the Fund. The method of contribution to this Fund is based on the contribution of certain amount to be invested by the Fund. From the yield of such an investment, spending will be made on the activities included under the Fund's Regulations such as health care, students' education, drilling of wells and the like.

### **3.2 Utilization of Available Funds Includes the Following:**

#### **3.2.1 Savings**

The House deposits the available funds in a saving account with one of the banks for investing the same until the time of spending according to an approved expenditure plan.

### 3.2.2 Rehabilitation productive schemes

These schemes aim at improving the conditions of the needy families, which the *Zakah* House assists so that they become productive families and can contribute to the growth of the national economy.

The following Table 2 shows the development of the House revenues:

**Table 2**

	(Kuwaiti Dinar)		
	1982/83	1983/84	1984/85
<i>Zakah</i> charity	967,038	1,178,060	1,300,000
State's subsidy	109,117	1,054,007	1,400,000
and Investment	2,130,193	4,384,545	4,416,160
Total:	3,206,348	6,616,612	7,116,160

### 4. Local Distribution

The *Zakah* House distribution policy as contained in the Ministerial Decision No. 8 for the year 1983 can be summed up as follows:

#### *Zakah* Expenditure

The poor	The needy	Those who collect them	Those whose hearts are to be reconciled.	Free Debtors whose captives	For the cause of Allah	Wayfarer
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#### Charity Expenditure

The distressed	General charity aspects
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The local distribution represents 65% of the aid budget provided by the House. The House's policy towards local distribution is based on the following:

#### 4.1 Providing social aid

The House takes into consideration the living conditions of the citizens and their needs. The House aid in this respect is divided into the following phases:

4.1.1 Monthly assistance: this is paid to the families that qualify, according to the study conducted thereon.

4.1.2 Lump sum aid : these are paid to those who are in temporary need for any contingent reason.

4.1.3 Interest-free loans: these loans are granted to some of the cases that need a sum of money provided that such loans are paid back in convenient instalments. The following Table 3 shows the volume of local aid provided by the House:

**Table 3**

( Kuwaiti Dinar)

Year	Type of aid	Monthly Assistance		Lump Sum Aid		Interest-free Loan		Grand Total	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1983		268	212,500	498	540,000	145	181,600	911	934,100
1984		555	452,000	1525	1910,000	191	211,400	2271	2573,400

#### 4.2 The Students' Fund

The importance of the students' sector in our society is significant as they form 26 percent of the population. The House has provided material and moral support to the students. This is done through an agreement between the *Zakah* House and the Social Services Department of the Ministry of Education. This agreement has led to the establishment in-tended of an institution to provide financial and material aid to the deserving students.

The number of cases studied till the end of 1984 was 241 (53 of these cases are being granted monthly aid, 66 cases were given a lump sum aid).

#### 4.3 The Restrained Families

The House has established a new scheme for the restrained families which are reluctant to seek help from others due to self respect despite their need. The scheme is based on secrecy of information as well as reliance on trustworthy charitable people for giving information on these families, and meeting their needs in proper methods. The aid is provided, after ascertaining the family's budget need in a manner which would preserve and respect the integrity of such a family. Aid had been provided to 43 restrained families till the end of 1984.

#### 4.4 Rehabilitation of Entitled Families

The House policy is based on starting up productive projects aiming at transforming the poor families aided by the House, from consuming



families to productive one in order to reach the stage in which they can support themselves, and thus become self sufficient. This is done by holding training and rehabilitation courses as well as , setting up productive centers.

#### 4.5 Cooperation with the Ministries and Governmental Institutions

The House coordinates and cooperates with the Ministries and Govern-mental Institutions in order to rationalize and synchronize the charitable activities so that duplication is avoided in the provisioning of aid. The House cooperates particularly with the Ministry of Social Affairs and Labor, the Public Authority for Minor Affairs', the Public Institution for Social Security, the Ministry of Education and the Kuwait University. The cooperation has resulted in the establishment of the Students' Fund with the Ministry of Education.

#### 4.6 Zakah Al-Fitr Feast

The *Zakah* House organizes annually the process of collecting and distributing the '*Id Al-Fitr*' in-kind and *cash Zakah*, during the month of *Ramadhan* where the House acts as a conduit between those who pay the *Zakah* and those eligible and entitled to receive it.

The House gives coupon to *Zakah* recipients. This coupon can be exchanged in some supermarkets which has arrangements with the House. This gives a wide range of choices of food needed by the *Zakah* recipients. The total cash collection of *Id Al-Fitr Zakah* amounted to about KD 12,000 in *Ramadhan* during the year 1403 AH. The beneficiaries of this *Zakah* numbered 3,500 persons. The House also received about 100 sacks of rice and some quantities of dates, sugar and flour as *Zakah* in kind which were distributed amongst the deserving people:

#### 4.7 Breaking of Fasting Feasts

' The House holds the breaking of fasting feasts throughout the month of *Ramadhan* in a number of Kuwait Mosques. The House aims at reviving the genuine Kuwaiti traditions. The House arranges with one of the catering companies to distribute these meals daily at the time of breaking the fasting. The following Table 4 shows the total number of beneficiaries of the Scheme:

Table 4

Year	No. of Mosques	No. of Beneficiaries	Amount
1984	10	.21075	18,750



#### 4.8 Supporting the *Zakah* Committees and Charity Societies

The **Public *Zakah*** Committee assists the ***Zakah* House** in identifying the needy families which need assistance, within the area of competence of these committees. The House supports the *Zakah* Committees by providing a percentage of the total of their local subsidies. Also the House provides assistance to the Charity Societies in support of their activities. The following Table shows the development of the volume of assistance provided by the House:

	1982/83	1983/84	1984/85
No. of <i>Zakah</i> Committees	6	20	25
<b>Total Subsidy</b>	75,000	120,000	144,000
<b>No. of Charity Societies</b>	1	3	5
Total Subsidy	10,000	30,000	30,000

#### 4.9 The Orphan's Uniform

The House manages the scheme of the Orphan's Uniform in the *Al-A dha* Feast in cooperation with the public *Zakah* committees.

#### 4.10 Cooperative Societies

There is an active cooperation between the House and the cooperative societies that provide cash contributions to the House. The House receives a list of the names of those who deserve *Zakah* in the areas where the cooperative society is located and the contributions made by the society are distributed in consultation with the Ministry of Social Affairs and Labor.

#### 5. The External Distribution

The external distribution represents 35 percent of the aid budget provided by the House. The House's policy in this sphere is based on the following principles:

- 5.1 Establishing innovative and new channels for the charity work which attracts the largest number of donors and charitable people. The external distribution activities vary from announcing charity schemes to adopting schemes abroad such as the Orphan's Sponsor. Scheme which

covers 18 countries other than Kuwait. The House is keen on providing all the facilities to the donors where the House has the various schemes for implementation.

**5.2 Supporting** the Islamic institutions outside Kuwait and rationalizing its aspirations and activities in such a manner that would serve the Islamic cause. The House's interest in this aspect is asserted through the Muslims solidarity in the various parts of the world. The following Table shows the number of authorities and the volume of the aid provided thereof :

<b>Party</b>	<b>No. of Authorities</b>		<b>Total Amounts</b>	
	<b>1983</b>	<b>1984</b>	<b>1983</b>	<b>1984</b>
The Arab World	65	117	127,200	155,900
Indian Subcontinent	34	54	52,500	59,000
The Middle East & South East Asia	25	32	52,700	38,500
North & South America	14	26	24,000	24,500
Europe	21	45	29,600	58,500
South, West, Middle & East Africa	<b>11</b>	21	14,000	26,000
TOTAL	170	295	<i>300,000</i>	<i>362,400</i>

### **5.3 Relations between Kuwait and other Islamic Countries**

This policy is executed through the House's care to support the Islamic countries which have experienced disasters and calamities such as earthquakes, floods, drought and destructive wars. Under this scheme, the aid was provided to the Yemen, the African Muslims, Palestinians and Lebanese. This has had the greatest impact on improving Islamic ties between Kuwait and other Islamic countries.

### **5.4 Disasters and Calamities -**

The House participates in relieving the effects of disasters and calamities that inflict our Arab and Islamic world such as wars, earthquakes, floods, drought and famines. Among such activities, the following are worth mentioning:

#### **5.4.1 The Lebanese events**

The House's Manager paid a visit to Lebanon in order to review the needs of those **who** suffered from the civil war and the Zionist invasion, and supervise the distribution of the assistance provided by the Kuwait people. The aid was extended to the Islamic Hospital in Tripoli.

#### **5.4.2 The Afghan refugees**

A number of visits to the Afghani refugee camps in Pakistan were arranged to gain first hand information about their living, health, social and financial conditions. The aid provided included medicine, medical equipment, assigning full time physicians to work in the refugee camps, drilling artesian wells, renovating mosques, repairing schools and printing books in addition to the food and social aids.

#### **5.4.3 Aid to the Palestinian people**

The House arranged a number of visits to the Palestinian Refugee camps in Lebanon and Jordan in addition to the aid to support our brothers on the West Bank. They included the renovation of mosques in a number of West . Bank cities and Gaza Strip, the establishment of a printing press, health unit, supporting *the Zakah* committees and camps, setting up of ten productive projects such as sheep raising, bee-keeping.

#### **5.4.4 Famine in Africa**

The House arranged a number of visits to the areas affected by drought in Sudan, Mauritania and other countries in order to supervise and distribute the food items directly to those who were affected.

#### **5.5 Adopted schemes**

These schemes aim at improving the Muslims' conditions by providing work opportunities and production. They include the building of mosques, clinics, orphanages and old age houses, schools, institutes, drilling of wells and the like. Seven such schemes were implemented at a total cost of KD 123,500.

#### **5.6 Charity schemes**

The House is in the process of implementing a number of charity projects. Under this scheme the donor is given the option of selecting the project. The House receives from the donor the resources required to set up the project and then hand over this amount to the authority that will be in charge of the project. There is a provision for follow up and the authority in charge of the project needs to submit periodical progress report. 36 projects have so far been implemented at a total cost of KD 5,012,181.

#### **5.7 Orphan's Sponsor Scheme**

In line with Islamic teaching, the House has established the Orphan's

Sponsor Scheme to take care of orphans socially, economically, and psychologically as well as to raise them according to Islamic teachings. The orphans reside in several countries other than Kuwait. The House receives the amount needed by the orphan from the sponsor and then the House enters into contract with the Islamic authority that looks after the orphans.

5.8 Under this scheme a total number of 3600 orphans from Kuwait and abroad received the benefit. The amount collected so far for this scheme amounted to KD 900,000.

### Student Education

The idea of this scheme is to provide support to those Muslim students who are unable to continue their studies due to their financial conditions on scholarships. The scheme aims at improving the standard of education of the Islamic society as well as direct Muslim students towards the studies needed for the growth and development of the society.

### 5.9 Scheme of the Sacrificed Meat

The House supervises the collection and distribution of the sacrificed meat in Kuwait and some Arab and Islamic countries in order to perform one of our true religious rites as well as to apply the principle of social solidarity by delivering such meat to the needy and deserving. The House plays the role of proxy for the individuals who wish to sacrifice meat and the House collects the cost of the operation in cash and sends the money to the other countries where the animals are bought, slaughtered and distributed among the deserving people.

The following Table shows the total amounts collected and the number of immolations in each country :

**Table 7**

<b>Country</b>	<b>No. of immolations</b>
Afghan Refugee Camps	1,786
Egypt	215
Sudan	1,290
Refugee Camps in Jordan	380
Lebanon	160
<b>TOTAL</b>	<b>3,831</b>

However, 1500 persons in Kuwait have contributed towards this scheme and offered their sacrifices to the House which, in turn, distributed them among the needy. The number of beneficiaries inside Kuwait totalled about 1000 families.

### **5.10 Winter Relief Schemes**

This project aims at providing better life conditions to the needy families as well as providing winter clothes and blankets to them. The number of blankets distributed by the House was 1600. Also, about 3000 bags of cloth were distributed among the needy families in Kuwait.

The House also shipped relief clothes and blankets to the refugees of Tripoli in Lebanon which helped about 13,000 persons. Another shipment of clothes and blankets was donated to the Eritrean refugees in the Khashm Al-Kary Camp in Sudan.

### **6. Organization**

The House has a flexible structure of organization. It is divided into three main sectors. The first sector deals with collection, the second with distribution and the third with services. The House is interested in establishing specialized institutions which are administratively and functionally independent of the house but connected with the House in the matter of financial control and supervision. This type of organizational arrangement aims at the following:

- 6.1 Allowing large number of qualified persons to share in the work on the basis of autonomy and delegation of authority thereby giving them an opportunity to utilize their skills to the maximum extent.
- 6.2 Introducing flexibility of work and administration through specialized institutions and departments.
- 6.3 Introducing specialization and efficiency through division of activity.

### **7. Administrative Policy of the House** The

House strives to achieve the following.

- 7.1 Formulating and enacting laws of *Zakah* in the form of regulations, activities and measures in such a manner that makes *Zakah* concept clearer, with emphasis on simplifying the procedures thereof since *Zakah* is a religious duty which can be discharged without much difficulty and embarrassment.
- 7.2 Utilizing modern systems and technical equipment of high efficiency such as computers and microfilms in all of the House's activities.
- 7.3 Taking interest in studies, planning and follow-up in all activities before embarking upon them.
- 7.4 Taking interest in the internal review of the activities and work in order to ensure its conformity with established regulations.

# Organizational Chart of *Zakah* House

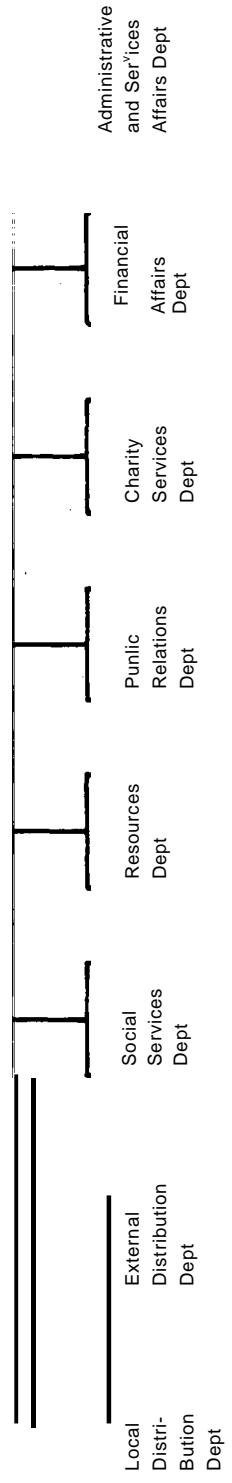
The External Distribution Committee  
The Local Distribution Committee  
The Resources Developing Committee  
The Organization Committee

\_\_\_\_\_  
Board of Directors  
\_\_\_\_\_

\_\_\_\_\_  
Chairman of the Board of Directors  
\_\_\_\_\_  
**Sharifah Commission**  
**Board of Directors**  
**Secretariat**

\_\_\_\_\_  
Computer Bureau  
Legal Bureau  
Planning and Follow-up  
Bureau  
\_\_\_\_\_

\_\_\_\_\_  
General Manager  
\_\_\_\_\_  
**Budget Committee**  
Personnel Committee



1. Distribution

2. Collection

3. Services



7.5 Taking interest in training and the continuous development of manpower in view of the non-availability of such expertise in the field of *Zakah* management.

## **8. Future Development**

- 8.1 The House strives to become a holding institution in future which would collect the *Zakah* funds and alms and distribute them through a subsidiary of associated institution that assume the burden of specialized activities, such as the Orphan's Sponsor Scheme in which the *Zakah* House's role is restricted to receiving the sponsors funds and handing over these funds to reliable parties all over the world for the purpose of execution.
- 8.2 The House strives to formulate the law of *Zakah* as a duty imposed by Allah with secular measures in such a manner that would simplify the payment thereof and its distribution with minimum costs through the use of the latest administrative methods and techniques.
- 8.3 The House concentrates on projecting *Zakah* as a fact of life for the Muslims so as to highlight its significance in the eyes of every Muslim, by using the various mass media bearing in mind the following factors.
  - 8.3.1 Maintaining respect towards legislation expressed in the Qur'anic verses and Prophet's *Hadith* which signify the duty of *Zakah*.
  - 8.3.2 Outlining the expenditure channels of *Zakah* in accordance with the *Shari'ah*.
  - 8.3.3 Facilitating the method of payment and its estimation through legislative measures.
- 8.4 The House shall be concerned with training and rehabilitating the needy families so that they may depend on themselves in earning their living as well as realize an important Islamic principle as mentioned by the Prophet (PBUH), in his reply to a question of a poor man where he told him "Go and hew wood and do not let me see you for fifteen days".



## COMMENTS

**Manzoor Ahmad\***

Mr. Fuad Abdullah al-Omar's paper, on the Management of *Zakah* Through Semi-Government Institutions presents a good overall picture of the development of an altruistic activity in an affluent Muslim society. It is heartening to note that the Islamic *ummah* is becoming aware of social obligations at the grass root level and that social service institutions are growing from that level voluntarily.. Let us hope that the experiment in Kuwait would serve as a prototype for the other Muslim societies in the world.

As is evident from the paper, the social security system in Kuwait is working at three different levels. Firstly, there is a government department of social security, which must be working, as is the case with other governments of the world, without inhibitions in the distribution and collection of funds, which are essential to the concept of *Zakah*. Secondly, there are Public *Zakah* Committees which grew voluntarily in the society and preceded the establishment of the *Zakah* House. thirdly, the *Zakah* House which was established in 1982, as a semi-Government, autonomous institution, under an edict of the Amir of Kuwait. All these three institutions have independent administrative structures, yet complement each other in the distribution of benefits to the needy persons.

The paper under review mainly deals with the establishment and working of the *Zakah* House. Before we try to evaluate the pragmatic utility of the scheme let us have a look at the paper itself.

Part one of the paper deals with the historical development of the application of *Zakah* in Kuwait. It consists of three stages:

- (a) Early stage (no dates are mentioned) when the State was levying some type of *Zakah* or, taxes, for instance, on cattle, fish and farming, etc. If this historical discussion is to illuminate any subsequent development of *Zakah* institution, it must include the following:

\* ' Dr. Manzoor Ahmad was a Professor in the Karachi University, Karachi, Pakistan at the time of the Seminar.

- ( i ) An analysis of the social conditions of the time in which various types. of *Zakah* were levied.
- ( ii) An analysis of the motivation of levying *Zakah* by various authorities.
- (iii) An account of the uses of *Zakah* thus collected.
- (iv) The nature of the differentiation between the collection and expenditure of *Zakah* and other taxes.
- (v) Information about the maintenance of *Zakah* accounts as separate from other taxes.

The scantiness of these details in this part of the paper may be due to the non-availability of relevant data. Nevertheless, to become meaningful, history of levying *Zakah* in any country has to be related with the social reality of the corresponding period.

- (b) In the second stage of the history, public *Zakah* Committees came into existence. This event is of recent origin and the first public' *Zakah* Committee in Kuwait was formed in 1982 with a mosque as its center. Here the motivation can be easily discerned. It is to create a social service institution because individual action becomes increasingly tiresome and inefficacious in a highly urbanized society. It is a step towards developing social consciousness out of a personal sense of duty. The benefit of socializing this individual action is quite obvious. It no more remains the responsibility of an individual to look for needy persons, or, to determine the extent of their needs. Once *Zakah* is paid to a Committee by a person, he is relieved of his legal and moral responsibility. The development of social service institutions, (as well as of service industries) is one of the significant, ( though not desirable) features of modern developed societies (channelling human sentiments and feelings through service institutions like hospitals, charity schemes, senior citizen homes, orphanages, etc., results in the mutation of a person into an automaton). In this portion of the paper there is also a mention of a *Zakah* Committee which operates in accordance with the rules of Jafferi denomination. More information about the working modalities of the committee as well as its relation with the *Zakah* House may help to understand the system better. Has this Committee any complementary role with the *Zakah* House, as other Committees seem to have?
- (c) The third stage of the application of *Zakah* in Kuwait witnesses the establishment of the *Zakah* House in the same year in which the first Public *Zakah* Committee was formed. It would be interesting to know whether any of the two came into existence as a reaction to the other? *Zakah* House is a semi-Government institution run by a Board of Directors, six of whom are ex-officio members from various ministries along

with another six picked up by the government from the public. No mention has been made of the criteria of selection of public members except that they are appointed by the Council of Ministers for a renewable period of three years. An interesting feature of the House scheme is the establishment of a *Shari'ah* Commission which operates under the control of the Board of Directors. It is not clear whether any room has been made for the Jafferi denomination in this Committee. It is also not clear whether members of the Jafferi denomination contribute to the *Zakah* House, and if they do, whether separate rules are followed for collection and distribution of their *Zakah*.

At the moment, *Zakah* is collected by the House on a voluntary basis only, but it is hoped that the collection would become compulsory in the near future. It would be very instructive if we are told of the nature of impediments in the way of achieving this desired goal. It would help us in understanding some of the complexities in the compulsory collection and distribution of *Zakah* by a single institution operating within a State.

The constitution of the House is a simple bare-bone structure, which must be taking care of the initial stages of its working. As the functions of the House grow further, especially if the levying of *Zakah* is made compulsory, this structure, of course, would require changes. The establishment of a small creative cell in the House may be desirable, to visualize future changes and to make tentative blueprints for subsequent structures. So far, it seems to be a sound organization and appears to be taking proper care of the collection and distribution of *Zakah* funds.

The distributive mechanism of the House is well channelized. But we in Pakistan would like to know of any difficulties that the House is facing in applying the *Shari'ah* laws to contemporary situations. For instance, is there any special mechanics for expenditures under the heads of 'Students Education' or Handicapped Patients' Welfare? A phrase in this connection hints to another source of income "administratively and technically independent from *Zakah* House". Does it mean that for such expenditures, where, presumably, *Zakah* money cannot be technically spent, the House serves as an intermediary agency for securing, *non-Zakah* funds for the purposes? Has the *Shari'ah* Commission evolved a fresh interpretation of the concept of *tamlik* for spending *Zakah* money on the establishment of welfare institutions (e.g. orphanages, hospitals etc.)?

The funds for *Zakah* House come from State subsidies, *Zakah* and other charities. State subsidy has played a dominant part in the establishment of the House. *Zakah* contributions are also 1/4th of the State subsidies. It would be helpful to know, how this amount (*Zakah*) compares with the amount collected by public *Zakah* Committees and also with the total estimated *Zakah* of

the country (if such a calculation is possible).

The Kuwait experiment leads us to two problems of fundamental nature which must be clearly apprehended for an eventual rationalization of the system. The first is the multiplicity of the system and the second relates with the pragmatic utility of the scheme. I shall, in brief, touch upon these two issues.

**(i) Multiplicity of the system**

The social security needs of the people in Kuwait are looked after by three agencies, e. g., the social security system of the government, the Public *Zakah* Committes and the *Zakah* House. The establishment of a creative cell suggested above, may also look into the possibilities of merging these structures into one in the interest of efficiency. keeping more than one infrastructure for the same type of work may be beyond the means of developing states.

**(ii) Pragmatic utility of the scheme**

The Kuwait scheme is based on voluntary actions of individuals. Its use as a paradigm would depend on the question as to whether it is the duty of an Islamic State to provide for the social security needs of its people. If the answer is in the affirmative, as is expected to be, then, most of the Islamic States do not have resources to afford the luxury of keeping *Zakah* system as voluntary. In most cases, the funds collected through *Zakah* and *ushr*, etc, would only provide for a very small fraction of the total requirements. The same creative cell (suggested earlier) may also be entrusted with the task of working out the economies of the system for various societies.

The most significant potential which lies in Mr. al-Omar's paper is the idea of establishing an autonomous structure for the working of *Zakah* institution. The idea has a great potential for all Islamic societies and must be very seriously explored further.

Government social security schemes, or *Zakah* institutions, managed by government face the possible danger of being affected by the vagaries of power dynamics. A system, independent of such unwholesome influences may be the need of the day. But for it to act meaningfully; it should have a stable base. Establishment of such 'autonomous structures should be provided for in the constitutions of the Islamic countries. (Unfortunately, at the present moment, this also seems to be a flimsy base, but there is no better alternative). Such autonomous bodies should have three modes, the operational, the evolutionary and the third to keep a check on errant behaviour. I suggest that the seminar may form a committee to develop the idea further and to present the fruits of its deliberations to all the Islamic States. Such a scheme may also act as a working model for Muslim minorities living in other countries of the world.

# **ORGANIZATION OF ZAKAH: THE PAKISTAN MODEL AND EXPERIENCE**

**I. A. Imtiaz**

*The paper begins with the recognition of Zakah as a fundamental pillar of Islam, and then proceeds to describe the historical context of the steps taken to establish Zakah as an operational institution in Pakistan. The paper lists what the assessment, collection, disbursement and utilization of Zakah implies by way of operational arrangements.*

*Then the paper goes on to state briefly the provisions of the Pakistani Zakah Law with regard to the persons and wealth liable to Zakah, the nisab for Zakah, the valuation date and the Zakah Year, the valuation basis of Zakah computation formula, Zakah collection arrangements together with facts and figures on actual collection during the first .5 years of the Pakistani experience of organized Zakah collection. Thereafter, the statutory provisions as also the administrative procedures and arrangements for the assessment and collection of ushr as also actual performance during the first two years after the introduction of organized ushr collection, are briefly described and appraised.*

*Then the paper goes on to describe the provisions regarding the establishment of Zakah funds at three levels - Central, Provincial and Local. The paper describes briefly the composition and functions of each tier of the 5-tier Zakah Organization consisting of the Central and Provincial Councils and the District, Tehsil/Subdivision and Local Committees. Thereafter, the volume, value and composition of the Zakah moneys disbursed together with the purposes for which they are disbursed are briefly described and analyzed. The utilization strategy is also described followed by a brief appraisal.*

*After dealing with the assessment, collection, disbursement and utilization procedure arrangements and their appraisal, the paper goes on to describe briefly the bookkeeping, the inspection, the audit and the evaluation dimensions of the operational arrangements and the work done under each head during the first 5 years of Pakistan's experience with the organized Zakah.*

*The paper concludes by identifying briefly some of the salient successes as also the weaknesses of the Pakistani experience with organized Zakah during the first five years, expressing the hope that the Pakistani model may prove to be of some use to other Muslim countries and communities wishing to organize Zakah as an institution in accordance with the Islamic Shariah. (Editors).*

1. On 14 August 1947, Pakistan came into being as an independent Islamic State. *Zakah*, including *ushr*, being one of the fundamental tenets, in fact, one of the pillars of Islam, the Constitution of Pakistan had to and does, provide that the State shall endeavor, in respect of the Muslims of Pakistan to secure, inter *alia*, the organization of *Zakah*.
2. *Zakah*, in the literal sense, means "purification", for it is meant to purify the soul and spirit of the giver, of vices such as greed and undue love and lust for wealth; the soul and spirit of the recipient beneficiary, of vices such as jealousy and undue envy; the soul and spirit of the society in general, of imbalances which may lead to social tensions.
3. *Zakah* also means "growth", for, being an act of *ibaadah*, through Divine Pleasure, it means to make the wealth and the soul and spirit of the giver, as well as of the recipient grow in value and stature, thereby enabling the collective material as well as the spiritual satisfaction of the society as a whole, to grow.
4. *Zakah*, in the juristic (*fiqhi*) sense, however, means:  
the complete, unilateral and unconditional disbursement, as an *ibaadah*, by a Muslim owning or possessing for a year (where applicable), certain specified types of productive wealth, not less than *nisab* of a certain proportion of that wealth, amongst those eligible to receive *Zakah* under, and for purposes authorized by, the *Shari'ah*.
5. The above definition of *Zakah* implies that the organization of *Zakah* must provide:  
Firstly, for the assessment, collection, disbursement and utilization of *Zakah*; and secondly, for general management and financial control such as accounting, inspection, audit and evaluation.
6. In turn, the assessment arrangements should provide for the: a).  
identification of the persons liable to *Zakah*;  
b) identification of the wealth liable to *Zakah*;  
c) determination of the *nisab* for each type of wealth liable to *Zakah* ;  
d) determination of the Valuation date (the *Zakah* Year, where applicable) i. e. the date on which the assets liable to *Zakah* are to be valued;  
e) determination of the basis of valuation; and  
f) determination of the formula for the computation of the *Zakah/ushr* liability of the *sahib-e-nisab*.
7. The collection arrangements should provide for the:  
a) determination of the person / agency responsible for collection;  
b) determination of the collection dates and frequency;



- c) prescription of procedure for the speedy, inexpensive, convenient and accurate collection and transmittal of *Zakah* receipts from the primary collection points to its disbursement points.
8. Also disbursement arrangements should provide for the:
- a) establishment of an organization network capable of transferring the *Zakah* receipts from the collection points to the disbursement points;
  - b) determination of the procedures for the transfer of the actual disbursement of the *Zakah* receipts from the disbursement points to those, and those only, who are eligible to receive *Zakah* under the *Shari'ah*.
9. Last, but not the least, the utilization arrangements should ensure that *Zakah* receipts are actually used for such and such purposes only as are consistent with the letter and spirit of the *Shari'ah*.
10. As for the supporting, but equally important, general superintendence and control arrangements:
- a) the accounting arrangements should provide for the bookkeeping of receipts and payments in the manner that will attract, retain and promote public trust and credibility;
  - b) the in-house inspection arrangements should cater for effective supervision to ensure that the organization is ticking and functioning at a reasonably acceptable level of efficiency and integrity, with due regard to economy;
  - c) the audit arrangements should provide for the checking of accounts by qualified personnel;
  - d) last but not the least, the evaluation arrangements should provide for the objective, exogenous, composite, long-range appraisal of the performance of the system, as a whole with reference to given objectives, goals and targets, with due regard to priorities, in the larger socio-religious context .
11. With the aforementioned primary and secondary considerations in view, a draft *Zakah* and *ushr* Order, 1979 was published in Pakistan, on 10 February 1979, for eliciting public opinion. Later, on 24 June 1979, was promulgated the *Zakah* and Ushr (Organization) Ordinance, 1979, under which a 5-tier *Zakah* Organization in Pakistan was set up. Subsequently, on 20 June 1980, *Zakah and Ushr* Ordinance 1980, which repealed the earlier *Zakah* and ushr (Organization) Ordinance 1979, comprehensively provided for the assessment, collection, disbursement, utilization, ac-count keeping, inspection, audit and evaluation arrangements. However,

the provisions pertinent to *ushr* were kept in abeyance till 15 March 1983.

12. According to the Pakistani *Zakah* Law, persons liable to *Zakah* are the Muslims who own or possess on the valuation date and have so owned or possessed for the past one year, assets liable to *Zakah* not less than the value of the *nisab* as fixed for each type of *Zakatable* wealth, except that the condition of "one-year ownership/possession" prior to the valuation date, is not applicable to agricultural (including horticultural and forest) produce under this law. Persons not liable to *Zakah* include non-Muslims, non-Pakistanis, *non-sahib-e-nisab*, and those excluded from the definition of *sahib-e-nisab* e. g. governments, government owned bodies, certain types of religious, charitable, philanthropic institutions, trusts, endowments, societies or funds.
13. Wealth or assets liable to *Zakah* can be classified broadly into four categories:
  - a) gold, silver, manufactures thereof, cash, financial instruments representing savings, investments etc.;
  - b) goods for trade;
  - c) animals fed free in pastures; and
  - d) agricultural (including horticultural and forest) produce.
14. *Nisab* for various types of *Zakatable* wealth has been set out as follows:
  - a) in the case of a person whose *Zakatable* assets consists of gold only: (87.48 grams of gold);
  - b) in relation to silver, cash, financial instruments representing savings, investments etc., and stock in trade: (612.32 grams of silver); and
  - c) in relation to animals fed free in pastures:

i) goats / sheep	40 heads;
ii) Bovine animals	30 heads;
iii) camels	5 heads;
  - d) in relation to agricultural (including horticultural and forest) produce 5 *wasqs* (948 kilograms) of wheat or, in case of non-wheat produce, value equivalent to 948 kilograms of wheat.
15. The valuation date, i. e. the date on which the *Zakatable* assets have to be evaluated, has been laid down to be the first day of *ramadhanul mubarak* for all *Zakatable* assets except agricultural produce in which case it is the day of harvest to be notified by the designated authority. *Zakah* Year in relation to all *Zakatable* assets, except agricultural produce, has been specified to be a year, according to Hijrah calendar commencing on the first day of *ramadhanul mubarak* and ending on the last day of the following *sha'abanul muazzam*.

16. The basis Of the evaluation of *Zakatable* assets where *Zakah* is not paid in kind, is, as a rule, the market value.
17. *Zakah/ ushr* liability is to be computed with reference to the following formulae in relation to:
  - a) gold, silver, manufactures thereof, cash, financial instruments, goods for trade \_\_\_\_\_ 1/40 of the value as on the valuation date;
  - b) animals fed free in pastures \_\_\_\_\_ as laid down in the *Shari'ah*;
  - c) agricultural (including horticultural and forest) produce \_\_\_\_\_
    - i) if grown in the non-rainfed irrigated area. 1/20 of the value as on the valuation date.
    - ii) if grown in the rainfed area. 1/10 of the value as on the valuation date.
18. The responsibility for deducting *Zakah* at source in respect of assets mentioned in the first schedule (i. e. the assets subject to compulsory levy of *Zakah* through deduction at source for credit to the central *Zakah* Fund), lies with the bank, office, center or institution, as the case may be, having custody of the asset and responsible for the encashment / redemption / withdrawal of the asset or for the payment of return in relation thereto, except those owned or possessed on the Valuation Date by a person who declares on solemn affirmation that *Zakah* recovery in the manner as laid down in the Pakistani law is not in accordance with his faith and *fiqh* and who does not wish to contribute to the *Zakah* Fund even by way of *sadaqah* or *khairat*.
19. The date on which the *Zakah* due is to be deducted at source in respect of the assets specified in the first schedule, the Saving Bank Accounts and similar accounts by whatever name described, is to be notified by the Administrator General *Zakah* every year. So far, the date has been the commencing day of each *Zakah* Year. For other assets mentioned in the first schedule, it is the date on which the first return on annuity benefit is paid on the asset, or the date of encashment or withdrawal or redemption or maturity or repurchase of, or non-refundable advance from, the asset.
20. Where the recovery of *Zakah* deductible at source falls into arrears, the same is then to be effected through coercive methods as applicable to the recovery of government dues in arrear.
21. *Zakah* deduction at source and refund, where due, are regulated by the *Zakah* (Deduction & Refund) Rule 1981 which rules lay down detailed procedures for the purpose.
22. Primarily, a *Zakah* Deduction Office i. e. an office directly responsible for the deduction of *Zakah* at source, deducts the *Zakah* at source on the

deduction date and then transmits the *Zakah so* deducted to its head-office called the *Zakah* Deductions Controlling Agency (ZDCA).

23. In turn, the ZDCA is responsible for ensuring that its branches / sub-offices do collect *Zakah* as due and transmit the same to the Head office, speedily and correctly. *Zakah* Deductions Controlling Agency collates and consolidates the remittances received from its *Zakah* Deduction Offices and then passes the same on to the credit of the Central *Zakah* Fund Account kept by the State Bank of Pakistan (i. e. the Central Bank of Pakistan), speedily and correctly, in accordance with the prescribed procedure.
24. In turn, the State Bank of Pakistan affords credit to the Central Bank Fund and informs regularly every month the Central *Zakah* Administration i. e. the office of the Administrator General *Zakah*, the Secretariat of the Central *Zakah* Council which is the highest policy-making and implementation - monitoring forum for *Zakah* and *ushr* matters in Pakistan.
25. According to the latest information available, the number of the *Zakah* Deductions Controlling Agencies was 713, and that of the *Zakah* Deduction Offices (ZDOs) 16,147 vide Table I below:

**Table I '**

S1. No.	Name of the Agency	No. of ZDOs with the Agency	Percentage of the Total
1.	Post Office Directorate	<b>8,513</b>	52.70
2.	<b>Habib Bank</b> Limited	1,736	10.80
3.	United Bank Limited	1,687	10.50
4.	Muslim Commercial <b>Bank</b> Ltd.	1,332	8.20
5.	National <b>Bank</b> of <b>Pakistan</b>	1,271	7.90
6.	Allied <b>Bank</b> of Pakistan	<b>648</b>	4.00
7.	<b>National Savings Directorate</b>	310	1.90
8.	Miscellaneous	650	4.00
	Total	16,147	100.00

(Source: Administrator General *Zakah*, Pakistan).

26. It would be observed that the first Agency alone accounts for almost **53%** of the total, while the first seven, amongst themselves, account for 96% of the total.

7. The position of the *Zakah* deducted-at-source during the 5-year period (1400-01 to 1404-05), classified broadly agency-wise, is as in table II below:

**Table II**

(Source: Administrator General *Zakah*, Pakistan)

S1. Name/Type of the <i>Zakah</i> No. Deductions Controlling Agency	Collection (Pak Rupees in Millions)	Percentage of the Total
1. Habib Bank Limited	1462.11	30.80
2. United Bank Limited	821.71	17.30
3. National Bank of Pakistan	674.82	14.20
4. Muslim Commercial Bank Limited	527.43	11.10
5. National Savings Directorate	294.36	6.20
6. Allied Bank of Pakistan	173.37	3.60
7. Foreign Banks (as a class)	160.89	3.40
8. Post Office Directorate	156.84	3.30
9. Companies (as a class)	133.52	2.80
10. National Investment Trust	90.83	1.90
11. Provident Funds (as a class)	44.29	0.90
12. Cooperative Banks (as a class)	24.72	0.50
13. State Life Insurance	23.79	0.50
14. Development Financing Inst. (as a class)	22.09	0.45
15. Investment Corporation of Pakistan	19.59	0.40
16. State Bank of Pakistan	9.79	0.20
17. Miscellaneous	115.99	2.45
<b>Total</b>	<b>4,756.14</b>	<b>100.00</b>

28. It would be observed that the five nationalized banks and the two directorates, namely the National Savings Directorate and the Post Office Directorate, amongst themselves, account for about 85.50% of the total collections.

29. During the 5-year period 1400-01AH to 1404-05AH, the position of *Zakah* deducted-at-source, classified broadly asset-type-wise, is given in the Table III:

30. It would be observed that the first item namely Savings Banks Deposite alone accounts for 68.5% of the total receipts, while the first two items,

**Table III**

(Pak Rupees in million)

S. No.	Type of asset	1400-01 AH	1401-02 AH	1402-03 AH	1403-04 AH	1404-05 AH	Total	Percentage of Grand Total
1.	Savings Bank Deposits	618.15	557.64	590.63	697.95	785.88	3,250.25	68.5%
2.	Fixed Term Deposits	76.05	111.81	147.46	161.28	271.74	777.34	6.4%
3.	Savings Certificates	22.87	29.74	33.82	55.33	74.01	215.77	4.5%
4.	Notice Deposits	70.89	39.32	23.04	20.38	20.69	174.32	3.7%
5.	Shares and Debentures	25.15	23.49	27.15	32.75	34.12	142.66	3.0%
6.	National Investment Trust Units.	19.64	19.51	13.65	19.64	21.52	93.96	2.0%
7.	, Provident Funds	5.55	10.39	10.49	10.77	11.75	48.95	1.0%
8.	Life Insurance Policies	2.99	4.69	5.21	5.99	6.10	25.58	0.5%
9.	Investment Corporation Mutual Funds Certificates.	1.90	1.07	2.63	2.76	3.28	11.64	0.25%
10.	Government Securities	1.01	0.83	1.10	1.46	1.05	5.45	0.12%
11.	Annuities	0.05	0.02	0.01	0.02	0.12	0.22	0.005%
	<b>Total</b>	<b>844.25</b>	<b>798.51</b>	<b>855.19</b>	<b>1011.33</b>	<b>1230.86</b>	<b>4746.14</b>	<b>100.0%</b>

Note: Pak-Rupees: US\$ parity has been changing from Rs.9.90 (1400-01AH) to 15.00 (1404-05 AH) per US \$.

(Source: Administrator General *Zakah*, Pakistan.)

namely, Savings Bank Deposits and Fixed Term Deposits, account for about 85% of the total receipts.

31. As for the increase / decrease in the receipts of various types of compulsory *Zakatable* assets over the 5-year (1400-01AH to 1404-05AH) period, the position is as in Table IV below: '
32. It would also be observed that while the total receipts have registered an increase by 45 % over the 5-year period, the highest increases have been registered by Fixed Term Deposits and Savings Certificates (over 200%),

**Table IV**

(Pak. Rupees in million)

S. No.	Type of asset	Collection		Variation: absolute	Variation: percentage	Remarks
		in 1400-01 AH	in 1404-05 AH			
-1.	Fixed Term Deposits	76.5	271.74	195.69	257%	
2.	Saving Certificates	22.78	74.01	51.23	2241%	
3.	Annuities	0.05	0.12	0.07	140%	smallest weight in the total
4.	Life Insurance Policies	2.99	6.70	3.71	124%	
5.	Provident Funds	5.55	11.70	6.15	112%	
6.	ICP Mutual Fund Certificates	1.90	3.28	1.38	73%	
7.	Shares and Debentures	25.15	34.12	8.97	36%	
8.	Savings Bank Deposits	618.15	785.88	167.73	27%	highest weight in the total
9.	NIT units	19.64	21.52	1.88	10%	
10.	Government Securities	1.01	1.05	0.04	4%	
11.	Notice Deposits	70.89	20.69	(-)50.20	(-)71%	negative i. e. decline
Total		844.25	1230.86	386.61	45	

followed by Annuities, Life Insurance Policies and Provident Funds (over 100%), followed by ICP - Mutual Funds Certificates (73%). Items which have shown comparatively smaller increases include shares and debentures of Companies (36%), Savings Bank Deposits (27%), NIT Units (10%) and Government Securities (4%). The item that has shown the most dramatic decline is Notice Deposits (-71%): that should be understandable, since the first deduction-at-source on 21 June 1980, was

without prior notice, while subsequently, deductions could be avoided by the depositors by adjusting the maturity dates of their notice deposits in a manner that the notice deposits may not exist on the 1st of *ramadhanual mabarak*.

33. As for *Zakah* in respect of *Zakatable* assets not included in the First Schedule, total receipts not included in the First Schedule, total receipts on voluntary basis in the *Zakah* Funds have been of the order of paltry Rs. 3 million approximately i. e. less than 0.7% of the *Zakah* deducted at source, during the same period, viz 1400-01AH to 1404-05AH.

34. *ushr* i.e. *Zakah* on agricultural (including horticultural and forest) produce is payable by every *sahib-e-nisab* Muslim.

All agricultural (including horticultural and forest) produce of economic value, is liable to *ushr*.

*Nisab* in relation to wheat is 5 *wasqs* or 948 kilograms, and in relation to other agri-produce, value equivalent of 948 kilograms of wheat.

The valuation date for *ushr* purposes is, as a rule, the day of harvest to be notified by the designated authority for every crop for every region.

The basis for valuation is provided by four factors, namely, the area sown, the type of crop grown, the yield obtained and the farm-gate price secured.

*Ushr* liability is computed at the rate of 10% of the produce if grown in the rain-fed area, and at the rate of 5% of the produce if grown in the irrigated area.

The responsibility for *ushr* assessment is primarily that of the *sahib-enisab* himself; should he fail to do so, or should the self-assessment be unacceptable to the Local *Zakah* Committee, Local *Zakah* Committee can reassess. Should reassessment by the Local *Zakah* Committee be unacceptable to the assessee, he may go in revision before the Tehsil *Zakah* Committee but only after depositing with the Local *Zakah* Fund 50% of the assessed demand. Assessment by Tehsil *Zakah* Committee is final.

35. *Ushr*, under the Pakistani *Zakah* Law, has been divided broadly into two categories:

a) that to be charged and collected on compulsory basis for credit to the Local *Zakah* Fund;

b) that other than (a) above, payable by *sahib-e nisab* either to a *Zakah* fund or direct to a *mustahiq*.



*Ushr*, is chargeable and recoverable, on compulsory basis from every *sahib-e-nisab* landowner / landholder, lessee / leaseholder, grantee / allottee at the rate of 5% of his share of the produce, reducible by one-third if produce obtained from land irrigated by tubewells, and by one-fourth otherwise - unless he himself be eligible to receive *Zakah* or claims exemption from compulsory recovery for reasons of faith and *fiqh*.

36. As a rule, it is expected that the *ushr* payer will deposit *ushr* due from him, to the Local *Zakah* Fund. Generally, that does not happen. The Local *Zakah* Committee then collects the *ushr* demand either directly or through collection agents like village accountants (public functionaries) in Sind, or village headmen (*lambardars*) in the rest of the country. Collection agents can be authorized to receive remuneration for services rendered, as an exception to the rule which is that all services in connection with the assessment, collection and disbursement of *Zakah* will be rendered free of charge.
37. Where the recovery of *ushr* compulsorily realizable falls into arrears, the same can be effected through coercive methods, generally usable for the recovery of government dues in arrear.
38. Detailed procedure regulating the assessment and collection of *ushr* is contained in the *ushr* (Assessment and Collection) Rules, 1984.
39. *ushr* due under the *Shari'ah* but not chargeable and recoverable, on compulsory basis under the law (e.g. the tenants share of the produce, or 5% of the produce in the rainfed area, or one third or one fourth of the produce allowed to be reduced as estimation relief) is nonetheless payable by the *sahib-e-nisab* either to a *Zakah* Fund or direct to the *mustahiq*.
40. Since 15 March 1983, when the statutory provisions relative to *ushr* were made effective, *ushr* liability was assessed at Rs. 327 million approximately during 1403-04 AH and at Rs. 284 million approximately during 1404-05AH. While collection as a percentage of assessment has been generally satisfactory, doubts have been expressed as to the correctness of the assessment. It is believed by some that *ushr* liability has been under-assessed due to the following factors:
  - a) over-reliance on self-assessment;
  - b) fixation of average crop yields and average farm gate prices at low levels;
  - c) exclusion of the tenants' produce from compulsory recovery;
  - d) exclusion from compulsory recovery for reasons of faith and *fiqh*; and
  - e) provision for one-third to one-fourth reduction in crop value by way of estimation relief.

### **Zakah Funds:**

41. *Zakah* Funds which have been established at the following three different levels act as the conduit for transmitting *Zakah* money from the collection points to the disbursement points:
  - a) A Central *Zakah* Fund to which are credited:
    - i) *Zakah* deducted at source;
    - ii) *Zakah* paid into it voluntarily, grants, donations, etc.
    - iii) Transfers, if any from other *Zakah* funds.
  - b) A Provincial *Zakah* Fund, one for each province, (4 in all) to which are credited:
    - i) transfers from other *Zakah* funds;
    - ii) *Zakah* paid into it voluntarily, grants, donations etc.
  - c) A Local *Zakah* Fund, one for each locality (32,000 approximately to begin with; 36,000 approximately after first reconstitution) to which are credited:
    - i) *Ushr* proceeds;
    - ii) *Zakah* paid into it voluntarily, grants, donations etc.;
    - iii) transfers from other *Zakah* funds.
42. All matters pertinent to *Zakah* and *ushr* in Pakistan are attended to and handled by a 5-tier *Zakah* Organization.
43. At the apex is a Central *Zakah* Council, headed by a Judge of the Supreme Court and composed of fifteen members - eight non-official including three *Ulema*, and seven officials including the Administrator General *Zakah*, also the Chief Executive; the Council's function being to provide policy guidelines for, and to exercise general superintendence and control over matters relating to *Zakah* and *ushr* particularly *Zakah* Funds and maintenance of their accounts.
44. Then, there is the Provincial *Zakah* Council one in each province (4 in all) headed by a Judge of the High Court and composed of nine members -5 non-official including three *Ulema*, and four officials including the Chief Administrator *Zakah*, also the Provincial Chief Executive: the Provincial Council's function being to exercise general superintendence and control over matters relating to *Zakah* and *ushr* , particularly the *Zakah* Funds in the Province, and the maintenance of their accounts in accordance with the policy guidelines given by the Central Council.
45. Then, there is the District *Zakah* Committee (one in each district 65 to 73 in all), headed by a non-official Chairman nominated by the Provincial *Zakah* Council, and composed of at least six member's - five nonofficial and one official; the District Committee's function being to oversee the assessment and collection of *ushr*, collection of *Zakah* (voluntary),

disbursement of *Zakah*, maintenance of accounts by the Local *Zakah* Committees, and arranging the audit of their Funds, within the guidelines given by the Central and the Provincial Councils.

46. Then there is the Tehsil/Taluka/Sub-division *Zakah* Committee (one in each Tehsil/Taluka/Subdivision: about 300 in all) headed by an elected Chairman plus six members - five non-official and one official: its function being to oversee the functioning of the local *Zakah* Committee within its jurisdiction, particularly *ushr* assessment and collection, *Zakah* collection (voluntary) and *Zakah* disbursement, within the guidelines given by the Central and the Provincial Councils and the District Committee.
47. Then, there is the Local *Zakah* Committee (one in each locality, i. e. a village in the rural area, a ward in the urban area; 32,000 to 36,000 in all), headed by an elected non-official Chairman plus six non-official members selected through consensus, by the majority of the adult Muslim residents of the locality: its function is to begin the assessment and collection of *ushr*, collection of *Zakah* (voluntary) and disbursement of *Zakah* and *ushr*, maintenance of accounts and Central and the Provincial Councils as well as the District and the Tehsil/Taluka/Subdivision Committees.

Term of office of each Council / Committee is three years. All the chairman and the members have to be Muslim.

49. Transfer of *Zakah* money from one *Zakah* fund to another and its eventual disbursement amongst the *mustahiqeen* , is regulated by the relevant provisions in the *Zakah* Law and the *Zakah* (Transfer and Disbursement) Rules, 1980.
50. The Central Bank Council makes disbursements and transfers funds . from the Central *Zakah* Fund to the Provincial *Zakah* Funds, Islamabad Capital Territory, and institutions of all Pakistan character-serving the *mustahiqeen* in such form and manner as would help in ensuring satisfaction of the needs of the needy and the poor throughout the country as far as possible, on a uniform basis.
51. The Provincial *Zakah* Council makes disbursements, and transfers funds to the Local *Zakah* funds and institution serving the *mustahiqeen* within its jurisdiction, in such form and manner as would help in ensuring satisfaction of the needs of the needy and the poor throughout its jurisdiction, as far as possible on a uniform basis.
52. The Local *Zakah* Committee disburses, or incurs expenditure from the local *Zakah* Fund in the prescribed manner for authorized purposes within the locality, particularly for the benefit of the needy, the indigent

and the poor, especially orphans and widows, the handicapped and the disabled, eligible to receive *Zakah* under the *Shari'ah*, for their subsistence or rehabilitation, mostly directly, and sometimes through institutions: religious, educational and medical.

53. No expenditure on the collection, disbursement and administration of *Zakah* and *ushr* is charged to *Zakah* Funds except to the extent of 10% of receipts in a Local *Zakah* Fund during a year. All other expenditures at the central level is paid by the Federal Government, and that at the Provincial, the district and the Tehsil/Taluka/Subdivisional level by the provincial government concerned. All banking services and other services connected with the assessment or collection of *Zakah* or *ushr* realizable on compulsory basis under the *Zakah* law are rendered free of charge except that in regard to *ushr*, payment of remuneration may be authorized by the designated authority, for any specified services.
54. Amounts released from the Central *Zakah* Fund to the Provincial *Zakah* funds and earmarked for Islamabad Capital Territory over the 5-*Zakah* years 1400-05AH period totalled Rs. 3,750 million. Amounts disbursed from the Central *Zakah* Fund through religious, educational and medical institutions and for some miscellaneous purposes, during the same period amounted to Rs. 13 million approximately of which almost Rs. 11 million were through educational institutions alone.
55. Disbursements from the Provincial *Zakah* Funds over the 1400-05AH, 5-year period amounted:
  - i) through *deeni madaris* to Rs. 200 million (approximately or on the average per annum Rs. 40 million benefiting on the average 70,000 students per annum, (1404-05AH = 110,000);
  - ii) through general educational institutions (post primary), Rs. 100 million approximately or on the average Rs. 22 million per annum benefiting, on the average 17,000 students per annum (1400-05 AH = 60,000);
  - iii) through social welfare institutions, Rs. 70 million approximately or on the average Rs. 14 million approximately per annum benefiting on the average 26,000 beneficiaries per annum (1400-05AH = 29,000);
  - iv) through medicare institutions, Rs. 45 million approximately or on the average Rs. 9 million approximately per annum benefiting on the average 57,000 patients per annum (1404-05AH = 196,000); and
  - v) through miscellaneous expenses (e.g. printing of forms and registers and payment of audit fees, etc.) Rs. 25million

- approximately or on the average Rs. 5 million approximately per annum.
56. Disbursement from the Local *Zakah* funds as subsistence allowance during the 1400-05AH 5-year period amounted to Rs. 2,635 million approximately (average = Rs. 527 million approximately per annum), benefiting 1.2 million recipients per annum on the average: (1404-05AH = 953,000).
  57. *Disbursement from the Local Zakah Funds*, as rehabilitation grants, during the same 1400-05AH 5-year period, amounted to Rs. 315 million approximately (average = Rs. 63 million per annum) benefiting roughly 33,000 recipients per annum (average) (1404AH-05 AH = 45,000).
  58. Utilization strategy as envisaged in the Pakistani *Zakah* law, elaborated in the *Zakah* (Transfer and Disbursement) Rules, 1980, and enunciated and elucidated by the Central *Zakah* Council, in line with the requirements of the letter and spirit of *Shari'ah*, has the following principal ingredients:
    - i) highest priority goes to the rehabilitation of the recipients through education, training, skill formation, medical treatment, provision of artificial limbs and other aids, production tools and small business initial capital; rehabilitation grant may go up to Rs. 3,000 per recipient family;
    - ii) preferably, institutional channels to be used for channelling *Zakah* disbursement to the *mustahiq*;
    - iii) subsistence allowance only during the period of education, training, skill development, medical treatment, or for the incurably ill or the elderly above 60 years of age, incapable of engaging in gainful employment or productive work; and
    - iv) where subsistence allowance is unavoidable e.g. for the incurably ill, for the elderly or during skill development, the rate not to be less than Rs. 150 per month of Rs. 1800 per annum plus 10 percent for every dependent child.
  59. Analysis of the (1400-05 AH) 5-year actual performance, however, reveals that the utilization strategy as outlined above did not work with full effectiveness on the ground, inasmuch as:
    - i) disproportionately large sums were disbursed as subsistence allowance through the Local *Zakah* Committees; and
    - ii) disproportionately low sums were utilized for:
      - a) the rehabilitation of the *mustahiq* recipients;
      - b) the grant of educational 'scholarships';
      - c) social welfare; and
      - d) medicare.

60. The above, in the initial stages of a completely new, unprecedented and largest organizational network in the country should be understandable and should be largely remediable now that the initial period is over, by reemphasizing the revised utilization strategy as follows:
- i) primary emphasis to be on rehabilitation: subsistence allowance only when unavoidable and on meaningful scale;
  - ii) total cover for the education-cum-training needs of the *mustahiqeen*, at home and abroad;
  - iii) total cover for the genuine needs of the disabled, the handicapped, the widows and the orphans; and
  - iv) total provision of such medicare when not available free of charge at public health establishments and yet adjudged essential for the *mustahiqeen*.
61. The accounts of the Central *Zakah* Fund are to be maintained and! operated by the Administrator General *Zakah*, for which detailed Ac-counting Procedures have been laid down with the approval of the Central *Zakah* Council.
62. The accounts of the Provincial *Zakah* Fund have to be maintained and operated by the Chief Administrator *Zakah* concerned, for which detailed accounting procedures have been laid down with the approval of the Central *Zakah* Council.
63. The accounts of the Local *Zakah* Committee have to be maintained and operated by the Chairman of the Local *Zakah* Committee in close conjunction with the other members of the Committee. Detailed procedures have been laid down for the guidance of the Local *Zakah* Committees in *respect of all their operations with particular reference to account keeping. These procedures have the approval of the Central Zakah Council.* Care has been taken to ensure that these procedures remain simple to understand, economical to operate and administer but without compromising the minimum requirements of public accountability.
64. The *Zakah* law lays great emphasis on general superintendence and control. For example, the Central *Zakah* Council has "to provide policy guidelines for, and to exercise general superintendence and control over matters relating to *Zakah* and *ushr*, particularly the *Zakah* Funds and the maintenance of their accounts".
- Similarly, the Provincial *Zakah* Council has "to exercise general superintendence and control over matters relating to *Zakah* and *ushr*, particularly the *Zakah* Funds in the province and the maintenance of their accounts".

Similarly, the District *Zakah* Committee has "to oversee, generally, the functioning of the Tehsil/Taluka/Subdivisional *Zakah* Committees and, more particularly, the assessment of *ushr*, and the collection of *Zakah*, *ushr* and *atiyyat*, and the disbursement and. utilization of *Zakah* moneys in the Local *Zakah* Funds, by the Local *Zakah* Committees in the district".

Yet again, the Tehsil/Taluk/Subdivisional *Zakah* Committee has to oversee the assessment of *ushr* and the collection of *Zakah*, *ushr* and *atiyyat*, and the disbursement and utilization of the moneys in the Local *Zakah* Funds by the Local *Zakah* Committees, in the Tehsil/Taluka/ Subdivision.

65. In order to help the Central and the Provincial *Zakah* Councils and Administraion, as also the District and the Tehsil/Taluka/Subdivisional *Zakah* Committees perform their general superintendence and control function effectively through inspection, an elaborate but simple Inspection Guide has been prepared, printed, published and supplied to all concerned.
66. Under the *Zakah* Law, to carry out the audit of the Central *Zakah* Fund account, annually or at shorter intervals, the Central *Zakah* Council has to appoint qualified Chartered Accountants as auditors.
67. Similarly, it is the statutory responsibility of the Provincial *Zakah* Council to appoint qualified Chartered Accountants as auditors of the Provincial *Zakah* Funds accounts, annually or at shorter intervals.
68. Again, similarly, it is the statutory responsibility of the District *Zakah* Committee to appoint a person adjudged by it qualified to audit the Local *Zakah* Funds accounts, annually or at shorter intervals. Statutory audit has to include propriety audit too.

In addition, the Auditor-General of Pakistan too can audit any *Zakah* Fund any time; the Central *Zakah* Council can get any Provincial or Local *Zakah* Fund audited any time :

- i) the Provincial Council can get any Local *Zakah* Fund in its jurisdiction audited, any time; and
  - ii) the Local *Zakah* Committee can get its own Local *Zakah* Fund audited any time.
69. So far, the Central *Zakah* Fund accounts and the 4 Provincial *Zakah* Funds accounts and almost all of the Local *Zakah* Funds accounts, for the first 4 *Zakah* years (1400- -1404 AH), have been subjected already to statutory audit. That for the 5th *Zakah* year (1404-05 AH), should also be over by now.

70. Pakistan's *Zakah* Law does not content itself with merely providing for bookkeeping, in-house inspection and external audit: it also provides for outside evaluation in the larger socio-religious context. For example, the annual reports of the auditors on the Central *Zakah* Fund accounts, have to be laid before the Parliament:
- i) those on the Provincial **Zakah** Fund accounts have to be laid before the Provincial Assembly concerned; and
  - ii) those on the Local *Zakah* Fund accounts have to be laid before the District Council concerned.

This is without prejudice to any *Zakah* Council or Committee, getting its overall performance evaluated objectively and scientifically by outside experts.

71. The statutory audit reports for the first 4 *Zakah* years' (1400-04 AH) mostly have been submitted to and scrutinized by the evaluation forums already. Audit reports for the 5th *Zakah* year (1404-05 AH) are mostly in the process of being readied for submission and evaluation. An expert objective evaluation study on the organization of *Zakah* in Pakistan is currently under discussion between the Central *Zakah* Administration and the International Institute of Islamic Economics, Islamabad.
72. In conclusion, in retrospect, the positive aspects of the organization of *Zakah* and *ushr* in Pakistan, during the first few years after its inception (1400-05AH) may be recapitulated briefly as follows:
- i) a sound statutory framework has been designed in keeping with the requirements of the *Shari'ah*, acceptable to the vast majority of the country's *Ulema* and practicing Muslims, for the assessment collection, disbursement, utilization of *Zakah* and *ushr* and with due provisions for bookkeeping, inspection, audit, and evaluation;
  - ii) detailed procedures have been worked out, simple to understand, easy to work and economical to administer, to guide and regulate the operation in the field at the grass-root level or above;
  - iii) an organizational network has not only been conceived but also put on the ground starting from the center at the national level and going through the Provincial, the District, the Tehsil/Taluka/Subdivision to the local level, registering its presence in every village in the rural area and in every ward in the urban area - a network whose extensive character (one Central *Zakah* Council, 4 Provincial *Zakah* Councils, 73 District *Zakah* Committees and 300 Tehsil/Taluka *Zakah* Committees and over 36,000 Local Committees) has no parallel in Pakistan now or before;
  - iv) the organizational network presents a pragmatic mix of the



- nominated, the selected and the elected-an arrangement that has stood the test of time so far and has received generally a large measure of popular approval;
- v) the Chairmanship of the Central and the Provincial *Zakah* Councils by the members of the superior judiciary has enhanced the arrangement's credibility; and the inclusion of three *Ulemas* has enhanced the arrangement's overall acceptability;
  - vi) preponderance of non-officials in the *Zakah* Councils/Committees and exclusion of bureaucracy from the crucial decision-making and day-to-day management, particularly at the lower levels, without letting the key-officials dissociate themselves from the *Zakah* Organization, has kept it mostly free from ills like corruption and malpractices which generally afflict any system run by bureaucracy;
  - vii) not charging administrative expense to the *Zakah* Funds (except a negligible 10 percent at the local level: mostly not consumed) and devoting all receipts for the benefit of the *mustahiqeen*, has helped reinforce confidence in the government's credentials; so also the government decision to keep *Zakah* and *ushr* receipts and disbursements completely distinct and separate from the government's general revenues;
  - viii) collection of almost Rs. 5 billion in 5 years through deduction-at-source, Rs. 500-600 million in two years by way of *ushr*, are amounts unmatched in the past: never has so much been collected in the name of Islam on an organized basis; at such little cost and for the benefit entirely of the neglected and deprived sections of society; never before has so much gone to every nook and corner of the country and that, too, through non-official channels;
  - ix) provision of 72,000 per annum (average) of scholarships to the students of *deeni madaris*, of 17,000 per annum (average) scholarships for general education (post-primary); of 26,000 per annum (average) grants to beneficiaries through social welfare institutions and 57,000 per annum (average) grants to poor patients over the last 5 years (1400-05AH), represents appreciable breakthrough in difficult areas;
  - x) provision of subsistence to 1.2 million beneficiaries per annum (average) and rehabilitation grants to 33,000 beneficiaries per annum (average) also represents appreciable advance in a difficult area; and
  - xi) arrangements for accounting, inspection, audit and evaluation have been worked out in detail and made available to all concerned at all levels in Urdu language (in addition to English, wherever required).

73. Dark areas including the following

- i) *Zakah* deducted at source has not risen fast enough;
- ii) *Zakah* voluntary collections have been relatively negligible;
- iii) *Ushr* proceeds have remained low;
- iv) Disbursements for rehabilitation, particularly through institutions, as also for general education and medicare have remained low - the scales of rehabilitation grants have also remained low;
- v) disbursements as subsistence allowance have been disproportionately high while the scales have been too low;
- vi) as for beggary, even though a multifaceted problem and not entirely susceptible to solution through *Zakah* organization alone, no tangible contribution have been made yet by the *Zakah* Organization to eliminate professional beggary; and
- vii) though National *Zakah* Foundation was established to skirt round the requirements of *tamleek* in the disbursement or *Zakah* for collective good, progress towards utilizing *Zakah* funds for the collectively - owned community welfare-cum development works and institutions, largely benefiting the poor, has not yet been significant.

**Pakistan Experience as a Model:**

74: Notwithstanding the foregoing, Pakistan's experience offers a valuable model for the Muslim countries (and even for Muslim communities in non-Muslim countries) wishing to organize the assessment, collection, disbursement and utilization of *Zakah*, in a collective basis, in keeping with the *fiqhi* requirements and spirit of *the Shari'ah*. It is true that much remains to be done to attain cent percent coverage, yet that which has been attained already, lays a solid base for further progress in the direction of the right goal. Of course, each country (and each community) has to devise its own variant, responsive to its own peculiar set of circumstances; yet there is much that we can learn from each other being the followers of the same faith, that is, Islam, and seekers of the Divine Pleasure in the light of the Qur'an and the Sunnah. May Allah be our Guide: Aameen!

# COMMENTS

Abdul Jabbar Khan\*

Mr. I. A. Imtiaz should be complimented for a very useful, comprehensive and well documented paper on the system of *Zakah* as introduced in Pakistan.

The first part pertaining to the Pakistan Law on *Zakah* and *ushr* and the second explaining the five tiers of organizational network created by Pakistan for assessment, collection and disbursement of *Zakah* need no comments.

Mr. Imtiaz has also indicated some issues requiring further investigation, in the third part of his paper.

Issues raised by Mr. Imtiaz are listed below along with some suggested solutions:

- i) Pakistan Law excludes non-Muslims from its application based on the premise that *Zakah* being an *ibadah*, a fundamental pillar of Islam, it can be the obligation of a Muslim only and of no one else. Questions have been raised with regard to this exclusion both by Muslims and non-Muslims. Related to this question is another issue, that is, whether a non-Muslim can be made eligible to receive *Zakah* with or without the obligation to pay *Zakah* or equivalent. Further one *fiqhi* school amongst the Muslims objected to the collection of *Zakah* and *ushr* in accordance with the *Zakah* Law as according to that school, *Zakah* is not payable in respect of currency notes or other forms of financial assets, savings or investments as laid down in the *Zakah* Law. The panel of bankers and economists set up by the Islamic Ideology Council were aware of the above problem and, therefore, recommended in their report that non-Muslim citizens should also be required to pay an equivalent countervailing tax to be known as special welfare tax.**

• Mr. Abdul Jabbar Khan was President, National Bank of Pakistan at the time of the Seminar.

The panel further recommended that *Zakah* should be imposed on all items considered as being subject to *Zakah* by any of the recognized schools. Payment of *Zakah* on items not covered by a particular *fiqhi* school would be taken either as *a sadaqah* or welfare contribution. The Council did endorse these recommendations of the panel. Solution of the issue perhaps lies in the acceptance of the recommendations made by the panel and endorsed by the Council. If these recommendations had been accepted, not only the amount available for helping the poor would have been much more than being received now under the *Zakah* head but would also have avoided the subsequent heated controversy about the *Zakah* Law and would also have made the task of collection much easier.

- ii) The second issue raised in the paper is as to whether certain types of wealth particularly conspicuous wealth should be included in levy of *Zakah* e.g. real estate unless traded, buildings and factories, means of transport and other exclusive consumer durables, etc.
- iii) The third issue raised in the paper is regarding the condition of *hawlaan-e-hawl*. Pakistan Law as enforced does provide that if a person becomes *Sahib-e-nisab* and remains so throughout the year, the amount which he would own at the end of the year shall be liable to *Zakah* even if he has become the owner of a part of it one day before. This point was also considered by the panel, and to overcome the implications, the panel has recommended the following:

"the panel feels that since the moral values of our society do not match the standards expected by Islam from its true followers, the determination of the liability of *Zakah* on personal wealth and stock in trade at a point of time i.e. the close of the year may lead to evasion of *Zakah*. It, therefore, commends for consideration of Council whether use can be made of the averaging concept in determining the liability of *Zakah* on these items. If this concept is found compatible with the *Shari'ah* it will also help resolve the problems arising from seasonal bulges in the production of certain goods and market variation in the off-take of various commodities at different periods".

The Council had also approved the above recommendation in view of the position explained by the panel. The remedy, therefore, lies in accepting the recommendation of the panel.

- iv) As for treating the company as a judicial person distinct from the shareholders owning it, for the purpose of levy of *Zakah*, the pre-sent practice should continue as it is tilted favorably towards the poor.
- v) Similarly, the present practice of computing *Zakah* liability on raw materials and finished goods as on the valuation date rather than on the undertakings, net worth should continue for the simple reason that the moral values of our society would create complications in the assessment of net worth of an undertaking.
- vi) As for the debt setoff, the existing procedure should continue, firstly, because it is more beneficial to the poor and, secondly, as the panel mentioned in their report that with the growth of modern banking, borrowing has become so common, that if it is set off against the valuation of items subject to *Zakah*, even the wealthiest businessmen and industrialists may not be found liable to any *Zakah*.
- vii) The banks are shifting to interest free banking. With the completion of that process, the objection against recovery of *Zakah* from an interest bearing asset or at least from the amount representing interest would go.
- viii) Because of the change in the pattern of cultivation, production expenses account for a substantial amount. At the same time calculation of actual production expenses in each would be a difficult proposition. Therefore, the middling position followed by Pakistan Law in as much as it allows crop value reduction by one-third to one-fourth but does not allow any additional reduction on account of crop production expenses seems to be the only feasible alter-native available in the circumstances.
- ix) As for the issue relating to the interpretation of *fi-sabeelillah* with particular reference to the requirement of *tamleek*, the panel made the following recommendations in regard to the distribution of *Zakah* proceeds:

"In regard to distribution of *Zakah* proceeds, the panel feels that it will be advisable to distribute a part of the *Zakah* proceeds directly among the *fuqara* and *masakin*, while the rest should be devoted to expenditures conducive to collective good of the community such as setting up of schools, training centers, hospitals, industrial homes and cottage industries".

The Council of Islamic Ideology has also endorsed the above recommendations while recommending the establishment of .

hospitals, industrial training centers and educational institutions for the poor people out of the *Zakah* funds. It would, therefore, be advisable if the recommendations of the Council are followed so that *Zakah* collection is used for improving the lot of the poor.

- x) If the recommendations of the panel that every citizen whether Muslim or non-Muslim may be required to pay *Zakah* or an equivalent counter-vailing tax to be known as special welfare tax is accepted, then the accuracy of deductions at the *Zakah* deducting agency level would be better ensured. On the day of deduction, the total assets on which the *Zakah* is deductible would be known and the deducting agency would be required to account for *Zakah* at the rate of 2.5 percent of that total amount. At present, this check is not available because banks do not keep separate record of amounts pertaining to a particular asset on which the *Zakah* is deductible and, hence, the chances of short deduction for whatever reason, cannot be ruled out. As for improving the collection of *Zakah* and *ushr*, without subjecting the *ushr* /*Zakah* assessee to harassment and without adding to administrative cost, the portion of voluntary payment of *Zakah* has to be increased. This can only be done if the *Zakah*/ *ushr* payers are convinced about the proper use of the *Zakah* funds. They can only be convinced if they find that the poor segment of the society is really benefiting from the *Zakah* funds. One way to do this is the eradication of beggary in Pakistan.
- xi) As mentioned above, the people do expect that *Zakah* and *ushr* should redistribute income and wealth in a manner that will reduce income and wealth disparities within tolerable limits, thus laying the foundation of an egalitarian society. If not anything else, at least beggary should be contained in the country.

The economic issues raised in Mr. Imtiaz's paper have to be tackled in two ways. Firstly, the quantum of *Zakah* funds has to be increased substantially. For this purpose, it is suggested that every citizen of Pakistan should contribute to *Zakah* fund or welfare tax as the case may be and this *Zakah* or welfare tax should be imposed on all items considered being 'subjected to *Zakah* by any of the recognized schools. Similarly, both for helping the poor as well as for curtailing expenditure on luxury goods, some sort of levy should also be charged on certain types of wealth even if not covered under the levy of *Zakah*, particularly conspicuous wealth.

Secondly, income level of the poor should be improved by pro-

viding them job opportunities by at first imparting vocational training and then providing them job opportunities by establishing industries for such purposes. Besides, to create a better impression among the general public about the process of Islamization in the country, in particular about the institution of *Zakah*, beggary should be eradicated from the society. Some solution has to be found to the problem of beggary in Pakistan.

The establishment of state managed welfare homes is not a pro-per remedy because merely confining the beggars in the welfare homes will not serve the purpose as almost all beggars and their families along with their children and dependents engage themselves in begging as a family profession. Instead, without disturbing them from their abodes, gainful employment should be provided to them. In this regard the following suggestions are made:

In each district or if the area is large, in each police station area:

- i) with the help of Local *Zakah* Committee members, local councillor (s) and/or social workers of the area, a list of needy persons be prepared;
- ii) the Local *Zakah* Committees may also simultaneously collect the following information in respect of such needy families:
  - a) name of the Head of family, his/her age and health condition with full address;
  - b) names of dependents with age and health condition along with relation with the Head of family;
  - c) existing sources of income and amount of monthly income; and
  - d) particulars of the dwelling, i.e.:
    - number of rooms;
    - open courtyard size;
    - area of roof as available for use of the family;
    - particulars of location whether in congested area or less congested area;
- e) possible suggested occupations for the family:
  - i) small poultry farm of 100 birds in cages on the roof or in the court yard;
  - ii) rearing of 10 teddy goats in the open fields;
  - iii) 100 table birds in cages in the courtyard;
  - iv) silkworms in one of the rooms;

- v) farming of mushrooms in a room;
- vi) sewing and needlework at home;
- vii) any other.

From the information so provided by the Local *Zakah* Committees, the banks may provide financial assistance on selective basis. The selection will be done by the banks according to their own assessment of the families. The finance will be made available by way of fixed term finance for any of the occupations listed above which should give a monthly income of Rs. 500 to Rs. 1,000 to the family. The banks will provide finance for acquisition of assets only e.g., machinery, equipment and the raw materials needed. The financial assistance will be provided for a period of 18 months which may be relaxed in genuine cases. If the repayment starts on schedule and the entire amount of finance is paid off in time or within 2 months after the due date, nothing will be charged and the entire amount of finance will be treated "Interest Free". In the case of Agricultural financing upto Rs. 6,000 per year, the State Bank of Pakistan subsidizes, in full, to the banks the amount of markup payable on such "Interest free" financing. Under this financial assistance program also, State Bank of Pakistan may be approached to subsidize the markup part of the finance if paid within due time or within 2 months after the due date. This will help the banks sustain the financial burden. Further, the scheme may be incorporated under the existing scheme for small farmers and fishermen. For this purpose, State Bank of Pakistan (SBP) may be approached. SBP may also be required to provide it the cover of their guarantee as is available to Small Loans Scheme whereby SBP reimburses to the banks 50 percent of loss in the event of loan going bad. This scheme will be run in close cooperation with the Local *Zakah* Committees. The members of the *Zakah* Committees will be asked to involve themselves along with the local bank staff in arranging the required raw materials to the recipients at their doorstep and collecting the finished product from them for distribution/sale in the market. This will relieve the recipient of the inconvenience and hazards involved in procuring inputs and marketing the output.

Alternatively a central place or places may be selected which would serve as the "Learn-and-Earn Centers". Support of local businessmen may be obtained for marketing the products of these "Learn-and-Earn Centers". These Centers would provide training facilities necessary to the needy persons as per list prepared, in the



trade or trades, the products of which would be picked up by the local businessman or businessmen. The needy persons, men and/or women, would work at the Center and would be paid on the basis of piece rate. The raw materials, etc., would be provided by the businessman or businessmen who have agreed to cooperate in the venture. They would be run by a committee consisting of (a) one nominee of the local civil administration, (b) the Chair-man of the Local *Zakah* Committee, (c) the local Councillor and (d) the businessman or businessmen who have agreed to cooperate in the venture:

- i) a general appeal will be made to the people not to give alms to the beggars. Instead, they (beggars) will be asked to approach their respective Local *Zakah* Committee and if the Committee concerned fails to provide them with gainful employment according to their ability, complaint will be lodged with the District *Zakah* Committee;
- ii) wide publicity will be given to condemn beggary through the radio, the television, the press and other media of mass contact in the light of the Qur'an and *Shari'ah* and
- iii) the *Ulema* and the *Khutaba* be asked to deliver Friday sermons on the subject in the light of the teachings of the Holy Qur'an and the *Sunnah*.
- iv) Local *Zakah* Committee will be made responsible for ensuring that no one begs publicly for alms in its area. For this purpose full support of the local administration should be provided to the *Zakah* Committee. Chairmen of Local *Zakah* Committees, Local Councillors, businessmen of the area willing to cooperate and representatives of the local administration will meet, as and when required, to initiate, implement, monitor and oversee the aforesaid schemes.



## **PART II**

### **SEMINAR MESSAGE AND ADDRESSES**



## MESSAGE

Late General Mohammad Ziaul Haq  
Late President of Pakistan

- 1 - It is a great privilege, and in fact, a source of immense pleasure for Pakistan to host this important Seminar in cooperation with the Islamic Development Bank, on as important a subject as the Management of *Zakah* in Modern Muslim Society. I welcome you all to this auspicious occasion. I extend a particular welcome to Dr. Ahmad Mohamed Ali, President of the Islamic Development Bank and other foreign guests to Pakistan. I hope their deliberations will be useful for the Islamic *ummah*.
- 2 - As you know, *Zakah* is an important institution in the socioeconomic order ordained by Islam and it is our proud privilege in Pakistan to introduce and practise the system of *Zakah* and *ushr* in a modern society. We made a start on 10 February 1979, on the auspicious day of *12 Rabi-ul-Awal*, by publishing a draft *Zakah* and *ushr* Order. Four months later, we promulgated the *Zakah* Law and set up a five-tier organisation for the collection and distribution of *Zakah* according to the tenets of Islam. A year later, that is on 20 June 1980, we followed up the earlier part of *Zakah* Law with the composite *Zakah* and *ushr* Law. Thus we are about to complete five years of collection of *Zakah* from the *ashaab-a-nisab* and its distribution among the *mustahiqeen*. By the fifth anniversary of this historic step, we will have collected, *Insha* Allah, a total of Rs. 4750 million, and disbursed nearly Rs. 3750 million, providing monetary relief each year, on an average, to more than one million beneficiaries such as the widows, the orphans, the disabled, the handicapped and other categories of *mustahiqeen*. I thank Almighty Allah for having enabled us to do this much for His people. We have to carry this system forward and do more for the indigent and the poor.
- 3 - During all these years of collection and disbursement of *Zakah*, I have always felt that if *Zakah* has to become a potent instrument of comprehensive social security for the poor and the needy, so as to cater for some of their basic needs like food, clothing, shelter, education and medicare leading eventually to the Islamic ideal of social and economic justice, then something more extensive, more effective, and more far-reaching will have to be done.

- 4 - It is in this context that I consider this Seminar as a God-sent opportunity and I urge all the eminent men of knowledge gathered here to formulate concrete recommendations and practical guidelines into how to manage the divinely gifted institution of *Zakah* for the benefit of the maximum number of deprived members of the society, so as to rid them of the scourge of social insecurity, and enable them to lead a self-reliant and respectable life.
- 5 - It is also for consideration of this Seminar whether the *Zakah* and *ushr* funds can be utilized on the collectively owned public works of community development and social welfare, without violating any injunctions of Islam on the subject. I look forward to the recommendations of the Seminar on these vital aspects of *Zakah*.
- 6 - I wish you all success and welcome you once again to the historic city of Karachi. I hope your stay will be pleasant and fruitful.

*Khuda Hafiz.*

## **WELCOME ADDRESS**

**Dr. Ahmad Mohamed Ali**  
President, Islamic Development **Bank**

Your Excellency, General Mohammad Zia-ul-Haq,  
President of the Islamic Republic of Pakistan,  
Distinguished Guests,  
Scholars and Honourable Participants,

*Assalamu Alaikum Warahmatullah Wabarakatuh*

On behalf of the Islamic Development Bank, I want to express deep appreciation and profound gratitude to Your Excellency and through Your Excellency to the people and the Government of the Islamic Republic of Pakistan for hosting this Seminar, first of its kind, jointly conducted by the Pakistan Development Banking Institute and the Islamic Research and Training Institute of the Islamic Development Bank (IDB). Islamic Development Bank is deeply indebted to the support extended by Your Excellency personally and the continuous support of the people and Government of Pakistan in furthering the cause for which the IDB is established.

It is highly significant that this Seminar on the Management of *Zakah* in Modern Muslim Society, is being held in the Islamic Republic of Pakistan - a country which has already taken a number of positive and very important steps to operationalise Islamic values as a way of life in our contemporary period. Implementation of *Zakah* Ordinance of 1980 throughout the country and introduction of interest-free banking system, are some of the significant milestones in the Islamization process of the economy of Pakistan.

Your Excellency,

The importance of *Zakah*, the third pillar in Islamic faith, can hardly be over-emphasized. It is the Islamic Institution which enhances social solidarity, generates the forces of altruistic behaviour and provides tool for equitable income-distribution, social justice-and welfare. Ever since the golden days of the Khaliphates, the importance of *Zakah* within the Muslim Ummah has been obvious. In more recent times, there has been a renewed awareness about the importance of *Zakah* .This renewed awareness has been the subject of

various commendable research works and studies which served as the basis for numerous scholarly symposia, conference and other similar endeavours. In recent years application of *Zakah* on governmental level took place within the fiscal systems of a number of Muslim countries. At the same time active private organizations in a number of Muslim communities have been established to mobilise the *Zakah* fund in order to support various social programmes which come under the eight items of expenditure as specified in the Holy Qur'an.

*Zakah* has its own social and economic purposes as well as its own specific channels of disbursement. As such it is different from taxation. It is envisaged that in Muslim society, besides *Zakah* additional resources should be mobilised by the state to meet the other financing needs of the community such as education, roads, defence and so forth.

I want to take this opportunity to call upon all Muslims all over the world to revive the importance of *Zakah* in Muslim societies. This could be done not only by the government but also through the efforts of every Muslim. It is very important that private institutions should be established to help every individual Muslim to fulfil this important *rukun* (pillar) of his or her faith. I want also to call upon all scholars and the established institutions to review the methods by which the "*ahkam*" of *Zakah* are being taught and administered and implemented. It is very important to have teaching of "*ahkam*" of *Zakah* imparted among Muslims bearing in mind the socio-economic realities of their communities today and thereby helping them in implementing the *Zakah* in accordance with the instruments and modes which also cover the new forms of wealth of our times, such as apartment and office buildings, Islamic bonds, shares, etc.

I am confident that this forum of senior officials concerned with the operation of *Zakah* and the scholars who are gathering here for exchanging ideas should be able to provide useful and practical insights which will lead to better understanding and help development of a more efficient administrative method of the *Zakah* in modern times.

I am confident also that through this collective intellectual and practical exercise, various options and strategies in respect of management and administration of *Zakah* will be reviewed, and that the theoretical and practical issues will be analysed resulting in formulating a specific action plan for teaching, administering, and implementing *Zakah* in the Muslim community of today and tomorrow.

Your Excellency,

The Islamic Development Bank, through the Islamic Research and Training Institute, will be very happy to co-operate with any government or



Muslim community or institutions, or scholars for promoting this cause. An important objective of the Islamic Research and Training Institute is to promote and to encourage basic and operational research and training in all aspects related to Islamic economics, banking and finance in the service of member countries as well as Muslim communities in non-member countries.

Once again on the half of Islamic Development Bank, I want to thank Your Excellency and all the officials in the Ministry of Finance and *Zakah* Administration and Pakistan Development Banking Institute for hosting this Seminar and for the cordial receptions and excellent hospitality extended to all of us. We pray Almighty Allah for the continuous progress and welfare of Islamic Republic of Pakistan and its people.

*Pakistan Zindabad.*

*Wassalamu Alaikum Warahmatullah Wabarakatuh*



## INAUGURAL ADDRESS

Lt. General Jahan Dad Khan\*

Dr. Ahmad Mohamed Ali,  
President, Islamic Development Bank.  
Distinguished Delegates,  
Ladies and Gentlemen,

It gives me unique sense of satisfaction and fulfilment, for the **honour** and opportunity to inaugurate this first of its kind, ever and anywhere, International Seminar on the Management of *Zakah* in Modern Muslim Society. Islamic Development Bank, particularly you, Sir, Dr. Ahmad Mohamed Ali, the President of the said Bank, deserve all the credit and our gratitude for having initiated the idea to hold such a moot and to **have** given us in Pakistan the honour to host it.

The choice of Pakistan as the venue for this historic Seminar is apt and appropriate for reasons more than one. It was established on 14 August 1947, with the avowed objective of establishing an Islamic order in the country, both in the individual and the collective spheres, representing the expression of the indomitable will of the millions of Muslims of Indo-Pakistan sub-continent to carve out for itself a state where Islamic tenets and values will be taught, propagated and practised.

For thirty years, the Muslims of Pakistan waited patiently to see the promised order to be established. In 1977, their patience was exhausted and the movement for the establishment of the Islamic Order in Pakistan, led to the toppling of the then government and a new regime clearly and fully committed to Islamizing the economy, the polity and the society, took over. Immediately after the assumption of office, work commenced in right earnest to translate ideas, ideals and slogans to workable and feasible realities consistent with the requirements of the complexities of modern times and not breaking away too abruptly from the historical context.

• Lt. **General Jahan Dad Khan was Governor** of Sind, Pakistan at the time of the Seminar.

It was but natural that work on the formulation of the Grand Design for the transformation of the Pakistani Society into a truly Islamic mould, should include attention to the establishment of an organised system of *Zakah* (including *ushr*) assessment, collection and disbursement, strictly in accordance with the requirements of the *Shari'ah*, at the same time not inconsistent with the requirements of the so-called modern society.

It was on 10 February 1979, that we published a draft *Zakah* and *ushr* order for eliciting public opinion. After having received and analysed a large number of responses from all shades of public opinion, both from within and outside the country, and after undertaking extensive consultations with relevant experts and others, we promulgated on 24 June 1979, a part *Zakah* Law setting up a 5-tier *Zakah* Organization with

- a Central *Zakah* Council at the national level,
- a Provincial *Zakah* Council in each province,
- a District *Zakah* Committee in each district,
- a Tehsil or Sub-district *Zakah* Committee in each sub-district and a
- Local *Zakah* Committee in each locality.

We used the first year for setting up the Organization and training its members and concerned public functionaries, in the art and methodology of discharging their duties vis-a-vis *Zakah* and *ushr* assessment, collection and disbursement. We also used the first year for laying down the ground rules regulating a host of administrative and organizational matters.

Once the ground work had been completed, on 20 June 1980, we promulgated the composite *Zakah* and *ushr* Law replacing the *part-Zakah* Law promulgated a year earlier. Immediately after the promulgation of the said composite *Zakah* Law, the deduction of *Zakah* at source in respect of a number of specified types of financial assets commenced and simultaneously the process of disbursement of *Zakah* amongst those eligible and entitled to receive *Zakah* under the *Shari'ah* commenced, through forums consisting almost exclusively of non-officials chosen for their piety and *taqwa*, and assigned *Zakah* duties without any *quid pro quo* except the Divine pleasure and the reward in the Hereafter.

We shall be completing the 5th year of the *Zakah* collection and disbursement next month and by then we will have collected almost Rs. 47,50 million and disbursed almost Rs. 37,50 million, benefiting each year more than a million beneficiaries such as the widows and the orphans, the disabled and the handicapped, the poor students of *deeni madaris*, the indigent students and trainees of educational, vocational, technical and professional institutions, the needy patients at the health establishments and so on and so forth.

Right from the beginning our emphasis has been on utilizing ever-increasing proportion of available *Zakah* funds for rehabilitating, wherever feasible, the recipients so as to make them independent of the need for begging for *Zakah* money again and again except when and where unavoidable. Over 100,000 *Zakah* recipients have been rehabilitated through the provision of resources, mostly in kind, for small business, provision of artificial limbs, push carts, tricycles and other income generating electrical or non-electrical mechanical appliances, provision of dowries at the time of the marriage of destitute girls, etc.

In doing all this, we also ensured that the burden of administrative expense on *Zakah* funds remains nil or negligible and wherever unavoidable, even there, its level is kept to the barest minimum. This has become possible through the willing co-operation of almost everybody concerned with *Zakah* and *ushr* assessment, collection and disbursement, doing his duty *fisabeelillah*, free of charge. Whether these are *Zakah* Deduction Offices 11000 in number or the *Zakah* Committees almost 37000 or their members almost 250,000, they are all doing and have been performing their role only as a matter of religious duty.

Presence of the members of superior judiciary at the higher echelons of *Zakah* Organisation ensures strict neutrality, objectivity and impartiality. Presence of *Ulema* and the religious scholars there ensures strict conformity to the requirements of Islamic jurisprudence. Arrangements for constant and multi-dimensional inspection and audit ensure credibility and accountability.

Though much has been done and achieved, yet much remains to be done and achieved. And it is in that sense that I say that this Seminar is not only most welcome and opportune but also has not come about a day too soon.

We do realize that our effort at establishing the *nizam-e-Zakah* in Pakistan represents but a modest beginning in as much as through the compulsory deduction of *Zakah* at source in respect of certain specified types of financial assets and through the compulsory recovery of partial *ushr*, we net only small proportion of *Zakah* and *ushr* payable under the Islamic *Shari'ah*. If *Zakah*-*apart* from being an act of worship, an *ibadah*, of course, one of the fundamental pillars, has also to become a potent and effective tool of comprehensive, and reliable social security for the poor, the indigent and the needy, so as to cater for not only some of their basic needs such as food, clothing, education and medicare but also some other equally basic but more expensive needs such as housing, employment, eradication of beggary etc., then something far more extensive, far more drastic, far more far-reaching will have to be attempted.

Thus that is the one specific area to which I would hope and expect such illustrious luminaries, men of knowledge, experience and wisdom, as gathered together here, to address themselves, so as to fulfill the real purpose of the Seminar, namely, how to manage, ever more purposefully, imaginatively and constructively, the divinely gifted institution of *Zakah* for the benefit of the deprived segments of human society so as to rid them of the scourge and menace of social insecurity.

Another equally, if not more, important area worthy of attention by this august gathering of scholars and researchers, teachers and preachers, professors and administrators, lawyers and jurists, financiers and bankers which appears to me is the need for the utilization of *Zakah* and *ushr* funds on the collectively owned public works for community development and social welfare. This Seminar on the Management of *Zakah* in Modern Muslim Society will have succeeded immeasurably if it can throw up viable ideas on the resolution of this impasse.

Yet another area to which I shall urge that this Seminar focuses its attention is the ever-increasing role of *Zakah* Organization, in the eradication or at least containment of professional beggary.

While I am pointing out these areas of possible focus and exploration, I must state, clear and loud, that I am by no means suggesting deviation from the norms set by *Shari'ah*. These norms, these parameters, must be observed but with due cognizance of the realities of modern times, particularly our own conditions, the conditions of Muslim *Ummah* as a whole.

I am glad to learn that some very learned papers on some of the most thought-provoking topics pertinent to *Zakah* and *ushr*, are going to be presented by men of letters drawn from Saudi Arabia, Kuwait, Sudan, Egypt, Turkey which will then be commented upon in depth by knowledgeable persons. Thereafter the floor will be thrown open for general discussion. That to my mind is the best way to examine any important issue of public interest in depth, and then to evolve therefrom a workable strategy for promoting the common goal in accordance with the injunctions of the Qur'an and *Sunnah*.

I am also glad to learn that our Central *Zakah* Administration and National Development Finance Corporation have played an active role in collaborating jointly with the Islamic Development Bank to set up this Seminar. I compliment all three of them and through them everyone high or low who has contributed his bit to the successful organization of this Seminar.

I shall be watching the deliberations of the Seminar keenly and with great interest. In fact not only I but the rest of the world too. The outcome of your deliberations, I have no doubt, will be a historic landmark in the history of *Zakah* organization and management.

I also hope that this Seminar, though the first of its kind, will by no means be the last. More and more of such moots will be organised hopefully again and again at suitable intervals. If the arrangement could be institutionalized under the aegis of the Islamic Development Bank and with the mutual collaboration of the Muslim countries, that would be highly desirable. Let us assure you, Sir, and through you, others who may be interested in such a project, that the Government of Pakistan will do its best to perform as adequately as feasible any role that may be assigned to it in this behalf. For ex-ample, an off-the-cuff idea that strikes me is the establishment of a Training Institute for running short and medium term orientation-cum-training courses for the benefit of *Zakah* functionaries, official and non-offical, from all over the Muslim world.

Ladies and Gentlemen,

I have already said more than I had intended to say. Let me now end by saying once again, how happy I am that this Seminar has been organized, how privileged we feel to have the honour to host it; we do hope, the results would be commensurate with the expectations and requirements of the hour; that substantial and useful results will ensue from the deliberations of this Seminar, possibly leading to the institutionalization of mutually beneficial arrangements in the implementation of the all-important divinely ordained institution of *Zakah*.

With these words I declare the Seminar open and wish it all success.

Islam *Zindabad*, Pakistan *Paindabad*.





## CONCLUDING ADDRESS

**Ghulam Ishaq Khan\***

Distinguished delegates and gentlemen,

It gives me great pleasure to address the concluding session of the International Seminar on the Management of *Zakah* in Modern Muslim Society. The President of the Islamic Development Bank, Dr. Ahmad Mohamed Ali, deserves our compliments for his proposal to organize such a Seminar and our gratitude for choosing Pakistan as its venue and for conferring on us the privilege to be its local hosts. I hope the arrangements made for the Seminar were of the desired standard and that the participants will carry home pleasant memories of their stay in Pakistan.

My association with the introduction in Pakistan of a centrally organized nation-wide mandatory system of *Zakah* and *ushr* goes back to the very inception of the system. The framing of the organic law for the assessment, collection, disbursement and utilization of *Zakah* and *ushr*, the resolution of the conceptual and *fiqhi* problems which confronted us at every step and the setting up of the administrative infrastructure for the purpose, reaching from the Federal level down to the remote village in the country, together with setting a process in motion for the Islamisation of the general economy constituted an important part of my ministerial responsibility. As such my interest in the subject matter of the Seminar - the Management of *Zakah* in Modern Muslim Society - continues to be keen and abiding.

Unfortunately because of my absence from the country I was not able to participate in your earlier working sessions. On return, however, I have, through the courtesy of Mr. Imtiaz, Pakistan Administrator General, *Zakah*, brought myself up to date on the deliberations and discussions of the Seminar.

I am glad to learn that as many as 23 participants from 23 Muslim countries attended the Seminar and that six papers were presented, commented upon and discussed.

Mr. Ghulam Ishaq Khan who was Chairman of the Senate of the Islamic Republic of Pakistan at the time of the Seminar, is now President of the country.

I also understand that the first paper presented in the Seminar on the "Recent Interpretation of the Economic Aspects of *Zakah*" by Professor Dr. Sabahaddin Zaim of Turkey, projects the view that *Zakah*:

- "(a) increases the productivity and flexibility of income;
- (b) redistributes and reallocates the national income in favour of the poor and the indigent;
- (c) constricts the conspicuous consumption of the rich;
- (d) increases investment;
- (e) utilizes idle (*Zakatable*) incomes;
- (f) increases the morale of the poor;
- (g) and stimulates aggregate demand."

The paper ends by saying "A fiscal policy mainly based on *Zakah* will have to play a major role in present day Muslim societies in alleviating mass poverty and modifying the pattern of income distribution in line with the egalitarian objectives of an Islamic society."

The second paper presented in the Seminar by Dr. M. A. Mannan of the Islamic Development Bank, was, I understand, on "The Effects of *Zakah* Assessment and Collection on the Redistribution of Income in Contemporary Muslim Countries.". The commentator on this paper, Dr. Ziauddin Ahmad, Director General, International Institute of Islamic Economics, Islambad, has succinctly summed up the salient points in Dr. M. A. Mannan's paper as follows:

- a) "While the *Zakah* system may add to the consumption demand in an economy by redistributing income from the rich to the poor, it is also likely to stimulate investment by checking the tendency to hoard idle cash resources, thereby adding to the production of goods and services in the economy.,"
- b) Moreover, it is likely to improve the production mix by reallocating some of the productive resources away from the production of luxury goods to goods of common use consumed by people of small means .
- c) It helps in raising the productivity of the poor by meeting their requirements of the basic necessities of life".

The author, according to the commentator, "emphasises the necessity of planned expenditure of *Zakah* funds to attain predetermined social objectives". The commentator has pointed out that social infrastructure projects have not been adjudged by the majority of the *Ulema* as being eligible to be financed from *Zakah*, according to the Hanafites, because the requirements of *tamleek* cannot be met in these cases, and according to others, because. these are not covered by any of the eight authorised *masarif or* categories of

*Zakah*. The commentator has also pointed out that the qualification added by the author that such social infrastructure projects should be for the exclusive use of the mustahiqeen is virtually impossible to implement in respect of roads and bridges, and quite difficult to enforce even in relation to schools and hospitals. As such, in his opinion, it would be advisable to finance such projects from the non- *Zakah* state revenues.

The paper also suggests "vertical integration of all types of *Zakatable* assets of a person, evaluate them jointly in terms of ruling prices and impose *Zakah* on them if their combined value exceeds the monetary value of the *nisab* prescribed for gold or silver".

It says further that "people should pay *Zakah* voluntarily on non-productive assets and consumer durables, in excess of what is considered essential, as a contribution to the building of healthy Islamic Welfare Society".

The paper also stresses the need for having "a national guideline dealing with the size of the family and standard of living, etc., in a particular social context, to identify and determine the quantum of *Zakah* that should be disbursed among the mustahiqeen, which quantum should be reduced gradually so as to become zero at the break even income level".

. The third paper by Dr. Shawki Ismail Shehatah of Egypt entitled "Limitations on the Use of *Zakah* Funds in Financing the Socioeconomic Infrastructure of Society", sets forth the view that;

- *Zakah* funds account must be kept separate from *non-Zakah* funds account.
- Infrastructural facilities irrespective of the *Zakah* entitlement of the user, should not be financed from *Zakah*.
- *Zakah* should not be given to those rich or able to earn unless (they fall in the category of) *amileen* or *mujahideen* or *muballigheen*.
- *Zakah* should not be disbursed, as a rule, in a locality other than where collected.

The paper also suggests the formulation of a 5-year plan and annual budget for *Zakah*, the establishment of an Islamic International Federation of *Zakah* Institutions or an Islamic World *Zakah* Organization, affiliated to OIC.

The fourth paper by Mr. I. A. Imtiaz, Administrator General *Zakah*, Pakistan, gives the juristic basis of various provisions of the Pakistani *Zakah* Law, outlines the organizational structure and operative systems and procedures and indicated a number of issues requiring further consideration.

The fifty paper by Professor Muhammad Hashim Awad of Sudan, on the "Adjusting Tax Structure to Accommodate *Zakah*" propounds the view that a model tax structure for an Islamic economy will consist of *Zakah* and ancillary taxes which together will form an integral part of an Islamic fiscal system. Besides *Zakah* and other taxes such a system will also encompass profits of state enterprises, donations, interest-free loans, equity participation by individuals and corporate state-run bodies and subscriptions to state-run welfare schemes. According to the author, while *Zakah* will remain at the centre of the system and will constitute perhaps the only constant, in the tax structure, other taxes will have a subordinate and supplementary role. of extending the principles and objectives of *Zakah* to every part of the economy and to enhance its impact, effectiveness and yield, and at the same time to raise funds for financing general purpose services and serve other fiscal objectives not realizeable through *Zakah* alone whose sources and purposes are specific and unchangeable.

The sixth paper by Mr. Fuad Abdullah Al-Omar of Kuwait on "Management of *Zakah* through Semi-Government Institutions" gives with reference to the Kuwait *Zakah* House its historical background, current status, policy, organization and procedures, and plans and programmes for the future.

In presenting this crude and hastily drawn summary of the papers that were presented to the Seminar I realize that I have perhaps not done justice to any one of them, and I apologize to you for it.

Without doubt these are excellent papers and a great deal of scholarly insight and profound thinking must have gone into their preparation. It was a pleasure for me to read them and I am sure, that when published, they would represent valuable addition to Islamic economic literature not only on the management of *Zakah* in modern Muslim society with which this Seminar was essentially concerned but also on some of its conceptual, theoretical, juristic and economic aspects into which some of the papers have digressed. The papers from Sudan, Kuwait and Pakistan also describe their respective experiences in operational terms. I also understand that country papers describing the *Zakah* system in Malaysia, Jordan, Bangladesh, Bahrain and Sierra Leone too were presented. I am sure that the individual experience of these countries as outlined in these papers will have many lessons to offer to other Muslim countries wishing to move ahead with the establishment of an organized *Zakah* and *ushr* assessment, collection and disbursement system.

In some of the papers I have also come across suggestions which concern themselves with enlarging the base of the *Zakatable assets*, with changing the *nisab* of the rates, of computing *Zakah* liability or again with reinterpreting the traditional perceptions and positions in a manner that would maximize *Zakah* yield or serve certain otherwise desirable socioeconomic ob-

jectives. My own view on this matter is that while such concerns and suggestions have their own validity and utility, for the present as well as for the future, what appears to me to be of prime importance right now, is not so much how to expand the *Zakah* base or vary the *nisab* or the rates, but how to effectively implement on what there is a universal agreement or broad consensus already. Undoubtedly, our vision must extend to the distant future encompassing new frontiers and new horizons; yet we must concentrate on issues of immediate operational concern e.g. the formulation and implementation of measures that would ensure accurate assessment, economic collection, effective disbursement and efficient utilization, within what may be called the agreed norms and parameters of the *Shari'ah*.

I say so because I have personal experience of how we had to cut through the maze of arguments and counter-arguments on highly philosophical conceptual issues of a controversial nature but of little practical relevance.

For example, some of the issues that we had to face at the very outset were: if *Zakah* is an *ibadah*, as surely it is, is state intervention justified? If yes, how would the obligation be discharged without the *niyaat* of the *sahib-e-nisab*? Again it was said: if *Zakah* is an *ibadah*, as surely it is, how can *Zakah* be charged on a corporate body, a juridical person; further, how would the Muslim or non-Muslim character of a corporate entity be determined? Again, it was argued whether it was right to charge *Zakah* including *ushr* from those Muslim whose *fiqhi maslak* did not conform in all respects to the arrangements envisaged in our *Zakah* Law for its assessment, collection and disbursement.

We consulted all shades of public opinion. We consulted *Ulema* of different *masaalik*. We consulted the Council of Islamic Ideology. And we resolved these issues. Compulsory versus non-compulsory *Zakah* collection controversy was resolved by dividing all *Zakatable* assets into two schedules; the first specifying assets liable to *Zakah* deduction at source and the second specifying the assets not so liable. We resolved the *fiqhi* differences of *maslaks* by making it possible for a Muslim conscientiously objecting to the statutory arrangement to opt out after complying with certain conditions. We were told that the open ended option would virtually undo the whole system since every Muslim not willing to get *Zakah* deducted at source would file a false declaration as to his *maslak* and get away with it. That was not to be and *Zakah* yield instead of coming down, has been going up uninterruptedly from year to year.

Another objection raised against the disbursement arrangement said that by killing or at least dampening the incentive to work we would merely end up by adding to the army of beggars or non-gooders or work-shirkers. We averted

the apprehension by making rehabilitation of the recipients of *Zakah* as our first priority, and the grant of subsistence allowance to the needy and the indigent the second priority, and that too where absolutely unavoidable and permissible under the *Shari'ah*.

Yet another apprehension was that while administrative expense in *Zakah* disbursement on private account is either zero or near zero, in a centrally organized arrangement it is bound to eat up a sizeable proportion of the *Zakah* yield, particularly when the *Shari'ah* permits it, and that would be at the expense of the potential beneficiaries. We decided not to charge a penny to the *Zakah* Fund but to defray the administrative expenses from the general revenues of the state and keeping that even, at the lowest possible level, by organizing the whole set up, including the maintenance of accounts by the banks, and the audit of funds, involving about 2,500,000 workers in various capacities on a voluntary basis.

It was also said that *Zakah* disbursement through illiterate or semi-literate *Zakah* Committee members at the local level would make account keeping and enforcement of accountability impossible. Yet the extremely simple procedures, forms and registers devised for the purpose, coupled with the *taqwa* and basic integrity of the members of the *Zakah* Committees and other *aameleen* made it not only possible but a model for others.

Today by the grace of Allah, we have a system which deriving its underlying philosophy and moral imperative from the Quran and the *Sunnah*, combines and fully coordinates a traditional religious welfare institution with the country's other social development and welfare efforts. It enjoys an almost universal public acceptance and political support. Based on a national law it allows for democratic participation of hundreds of thousands of volunteer workers thereby making nominal, almost negligible overhead and administrative costs. It emphasises social rehabilitation of the poor together with meeting the basic needs of specific deserving categories of people as ordained by the *Shari'ah*. Control over the funds is exercised locally and accountability is ensured through audit organized centrally.

Having said all this I must hasten to add that we can hardly afford to rest on our laurels and bask in the glory of our current achievement. Critical self-evaluation must constantly go on with a view to improving the level of *Zakah* administration in the light of experience. All said and done, our presently organized *Zakah* system nets only a part - and a small part at that, of the *Zakah* and *ushr* due under the *Shari'ah*. Considering the known yield of *Zakah* from *Zakatable* items outside the purview of the compulsory levy seems to have arrived for serious consideration being given, even if on a selective basis, to the transfer of one of two items from Schedule II to Schedule I

an example that comes to my mind readily is *amwal-e-tijarat* - or merchandise or goods for trade. The beginning need not be spectacular but modest.

We must also now think of converting the system into one of total social security for some of the most vulnerable, neglected and deprived sections of society, e.g., the crippled, the widows, the orphans, etc. In particular with the experience of 5 years with us we should now move rapidly to providing 100% cover to the education-cum-training needs of the community, to the needs of the handicapped and the disabled beyond rehabilitation, of the poor patients in respect of exceptionally expensive medical treatment and of poor widows and orphan girls requiring some provision for their dowries.

In order to overcome the juristic difficulty posed by the Hanafite doctrine of *tamleek* we have set up a National *Zakah* Foundation which is funded from the general revenue. Expenditures involved in rehabilitation of the *mustahiqeen* or for improving the productive efficiency of spendings from *Zakah* or again for improving the working conditions and efficiency of the eligible recipients which cannot be met under the above doctrine from *Zakah* funds, are picked up by this Foundation. In order to ensure more purposeful utilization of the *Zakah* money the resources at the disposal of the Foundation may need to be augmented.

We must also continue our efforts to evolve a consensus on the re-interpretation of the *Zakah* base so as to make it responsive to the requirements of modern times.

I agree with those of you who are of the view that *Zakah* is not just a tax, it is in effect a microcosm of the whole Islamic economic system. As Professor Awad has said, embodied in *Zakah* is the economic philosophy of Islam relating to such fundamental issues as property rights, income distribution, human economic rights and state intervention in the economy. *Zakah* revenues may or may not be too small to warrant its consideration as a powerful fiscal tool from the point of view of alleviation of poverty or redistribution of incomes. But there is no doubt that it influences every sector of the economy and exercises a positive impact on all such economic activities, as savings and consumption, investment and production, distribution and employment. It also constitutes as "the irreducible minimum ingredient" or the constant core of fiscal policy of an Islamic State. However, it must also be understood as your deliberation in this Seminar has clearly brought out that the fiscal management in an Islamic State is neither co-extensive nor co-terminous with *Zakah*. While there must be harmony between *Zakah* and other taxes there is no bar on an Islamic State to resort to other forms of taxation, avoiding of course excesses or stepping into areas which are *haram*, in order to raise revenues legitimately required for the socioeconomic development of the country, the welfare of the people and for meeting its genuine defence needs.

Another aspect of the significance of *Zakah* to which attention may be drawn is the role it plays in fixing the norms for and pointing to the direction in which an Islamic economy is desired to move. The basic orientation of an Islamic economy is "mutual sharing of the community's income between the affluent and the have-nots" in order to ensure the minimum means of sustenance to each and every member of the community. At the same time in order to promote the material well being of the community at large it must ensure the best productive use of all its economic resources. It is in this way alone - the mutual sharing of the community-income, combining at the same time maximum beneficial production, with a rational austerity in consumption - that every member of the Muslim society will be enabled to live to a reasonable degree with honour and dignity, and lead a life of "spiritual grace, moral earnestness and material simplicity", which Islam positively commands. In this context, *Zakah* not only serves as an institution which provides for the needs of those who cannot provide for themselves by means considered normal in the community but also the humanitarian function "to eliminate the most dreadful consequences of poverty by meeting (through sharing of income) at least the survival needs of the helpless poor".

Nations deal with poverty on both a societal and individual level. This is exactly what the institution of *Zakah* is expected to do at the national level. The question arises as to what can be done to eradicate poverty at the *Ummah* level - Islam is concerned not only with the welfare of individuals and individual nations but, as a universal religion, with the welfare of mankind at large. The time, in my view, would appear to have come when we should think in terms of evolving a comprehensive social security and welfare system for the entire *Ummah*. This may be possible through the instrumentality of appropriately designed socioeconomic policies with *Zakah* organized at *Ummah* level as its central piece. It should be possible for such an instrumentality to mobilize and regulate the inflows and outflows of *Zakah* and *sodaqaat* from country to country depending on the resource endowment and need situation of various countries. And in this the Islamic Development Bank under the overall guidance of the OIC can play a positive, progressive, indeed an epoch making, role.

Finally, in order to resolve some of the problems which still come in our way in making the system of *Zakah* more effective in its impact and more efficient in its administration and management, what we need is innovative approaches which would combine tradition with modernity and change, in ways new and constructive but without, at any time, departing from the fundamentals embodied in the *Qur'ani* and *Sunnah*. This points to the imperative need for *ijtihad*. *Fiqh* is our heriitage. Our *Imams* did an excellent service to the cause of Islam by finding solutions to innumerable problems in the light of



The Qur'an and *Sunnah* of the Prophet (PBUH) applying their own judgement and discernment. But no one among them ever claimed finality which appropriately belongs to the word of God alone, which lays down certain basic fundamental principles and truths, universal and eternal. Were the Divine commandments in the Qur'an overly specific, their universality and eternity could be in jeopardy. But that is not so. Today, on the one hand, we have to guard ourselves against the invasion of religious and cultural values and traditions from the irreligious, materialistic West and on the other hand, we have to guard ourselves against the danger of getting frozen and frigid in the mould of the past, getting stuck with the static view of the world and losing the dynamism implicit and inherent in Islam, the last and final revealed religion of the world.

I realize that unbridled *ijtehad* can degenerate into licence but that apprehension should not numb our creative energies and nullify our ability to act imaginatively, constructively and with vision.

Perhaps the way to go about it would be to establish at the Muslim *Ummah* level an institution which will organize in-depth research in complex juristic economic and administrative aspects of the Islamic *Shari'ah*, on a continuing basis attempting to evolve meaningful consensus for the whole of the Muslim world not necessarily backed by supra-national or ultra-state authority but by the sheer force of logical, consistent and intelligent reasoning as the Almighty expects and enjoins upon us to do.

Gentlemen, I have already spoken far more and longer than I had in-tended to. Let me, however, conclude by saying what a great pleasure it has been for me to attend and chair the concluding session of the Seminar, how interesting and absorbing I have found listening to the report of the Rapporteur General, stating briefly what the Seminar had been doing in its previous sessions. I have no doubt that Dr. Ahmad Mohamed Ali, the President of the Islamic Development Bank, will follow up his initiative in holding this Seminar, by gradually formalizing and institutionalizing inter-country and other consultative arrangements concerning an important cardinal pillar of Islam, namely, *Zakah* and *ushr*, so that the very useful deliberations of the Seminar undertaken with such diligence and dedication by all the participants do not go waste.

I am grateful once again for the opportunity to be with you - I wish you all well and Godspeed: may Allah be our Guide and may we do, individually and collectively, what the Almighty expects us to do. Aameen.

Islam Zindabad  
Pakistan Painsdabad



# *APPENDICES*



## APPENDIX I

### RECOMMENDATIONS OF THE SEMINAR

- 1 - In order that the extremely good work commenced at the Seminar does not go waste, it is necessary that an appropriate inter-country standing consultative mechanism is set up under the aegis of the Islamic Development Bank.
- 2 Till that happens, as a stop gap arrangement, perhaps a small ad-hoc follow up committee may be set up by the IDB - to keep track of the action to be taken consequential to the Seminar particularly to take care of items such as the early printing of the Proceedings of the Seminar, the preparation and publication of a Book of Reference on *Zakah* and the organization of further study of at least some of the issues indentified by the Seminar as being worthy of such further study.
- 3 - A similar second Seminar may be organised by the IDB after suitable interval say two years or so at some suitable location in consultation with the government of the country concerned.
- 4 - A call may go from the OIC or the IDB to all the OIC member countries member countries to set up *Zakah* organisations where not yet established and to extend the scope and level of operations where established. A similar call may go to the Muslim communities in non-member countries with the assurance that suitable assistance, advisory and financial, to the extent and in the manner feasible, will be provided in this behalf.
- 5 - IDB may wish to initiate a comparative study of the *Zakah* organizations and procedures in these six or seven countries which have already made a beginning and make the results of the comparative study available to all member countries for information and guidance.
- 6 - In order to institutionalize the flow of information all over the OIC membership, the possibility of bringing out an OIC or **IDB** *Zakah* Bulletin on a quarterly basis from Jeddah, as a vehicle of exchange of news and views concerning *Zakah* may be explored seriously.
- 7 - In order to help the OIC member countries who have not yet set up the *Zakah* organizations, the possibility of providing to them advisory services to be developed through surveys and research, from a central point, may also be studied.

## **APPENDIX II SUGGESTED ISSUES FOR FURTHER RESEARCH**

M. A. Mannan

### **1. INTRODUCTION AND OBJECTIVES:**

The classification of selected problems and issues raised in the Seminar have been made in terms of assessment, collection, disbursement and utilization of *Zakah* which is in line with the conventional methodology and terminology in the literature. Since most of the issues outline have both juristic as well as economic and/or management dimensions, it is not desirable to categorise them exclusively in terms of juristic and economic related issues.

The main objectives of this outline of issues are to:

- i) unfold a number of selected issues and problems by raising pertinent questions or by reporting divergent views on the subject, thereby providing researchers some clues and food for thought which can serve as a basis for further research in fiscal economics of Islam with special reference to *Zakah*;
- ii) advance a number of hypotheses, assertions and propositions which need to be examined further in depth; and
- iii) provoke researchers to come up with new issues or to encourage critique on the issues outlined.

These issues are unfolded mostly in the form of a statement of problem by capturing the essence of diverse arguments. This unique way of outlining them is intended to give the researchers a broad perspective of juristic and socioeconomic dimensions of the issues involved. The researchers may then take a position on the issues concerned and make further in-depth study and investigation.

### **2. PROBLEMS AND ISSUES IN THE ASSESSMENT AND COLLECTION OF ZAKAH:**

#### **2.1 *Zakah* and Islamic principles of taxation: consequences of incorporation of *Zakah* into existing fiscal structure.**

On the question of re-structuring the tax structure of a Muslim country in the aftermath of introducing *Zakah*, two divergent views emerged in the Seminar. One view is that all the direct taxes which overlap with *Zakah* and which appear to have the same base as *Zakah* should be abolished as is done by Sudan *Zakah* and Taxation Act of 1984. Another view is that *Zakah* and some direct taxes on windfall gains, monopoly profit, etc., may co-exist side by side. It is argued, however, that the substitution of a low *Zakah* rate by the progressive income taxes may widen the gap between the rich and the poor. Besides, impact and incidence of heavy indirect taxes which tend to be

regressive in character must be studied in the light of the objectives and spirit of *Zakah*. It is argued that there is an inherent danger of analysing the distributional effects of *Zakah* in isolation. If all the fiscal measures are not well-coordinated, the re-distribution effects of the *Zakah* revenue may be cancelled out. Citing the instance of Sudan, it is maintained that all the objectives of direct taxes are not served by *Zakah*, not to speak of indirect taxes, the burden of which falls mainly on the poor. The questions and hypotheses which emerge from this debate are as follows:

Can we take the existing tax structure of a Muslim country as "given", assuming that *Zakah*, once introduced will take care of the problem of re-distribution automatically? If our answer is in the negative, then we have to find out an answer as to the nature of modifications, alterations or abolition of direct and indirect taxes, needed so as to conform it with the Islamic principle of taxation. Thus, once *Zakah* is introduced, the range of issues regarding the advisability, or otherwise of proportional, progressive, direct or in-direct taxes and their "optimum mix" need an in-depth study, bearing in mind the Islamic principle on the basis of which taxation can be imposed. What is needed then is to make an in depth study of the consequences of incorporation of *Zakah* into the existing tax system in a Muslim country.

## 2.2 Assessment of *Zakah* : its methodology.

*Zakah* and the concept of flows and stocks in Islamic economics.

The question of how and when to assess *Zakah* received considerable attention among the participants. One view is that *Zakah* should be payable on money one holds for one year. Another view is that the *Zakah* should be paid on what one has now, if it is in excess of *nisab*. It is however, suggested that if there comes a time during the year when he was less than the *nisab* he is supposed to start again when he exceeds that *nisab* once more. But the majority of the scholars hold the view that if at the beginning and at the end of the year he has more than the threshold of *Zakah*, then he is liable to pay *Zakah* on what he holds according to the prescribed rules. This is what is known as *Zakah* payable on earned money. However, the consensus is that to pay now for what was held a year ago is the conflict with the *Shari'ah*.

It is however pointed out that a year begins on the day when a person starts to have more than the *nisab* irrespective of any month of the year. However, people may choose to pay their *Zakah* in the month of *Ramadan* because good actions are rewarded more generously by Allah when they are done in *Ramadan*, although there is no specific reference in the Qur'an or *Hadith* to the effect that *Zakah* must be paid in the month of *Ramadan*.

Another methodological issue is related to the period of holding *Zakah* fund after its collection. The question is how long a person who is required to pay *Zakah* can hold the fund.

That a person who is required to pay *Zakah* should not hold *Zakah* for any long period, becomes clear from the fact that *Zakah* should be sent to the most deserving person in his own locality as a matter of priority. If he cannot find any one in his locality, he may consider sending it to a neighbouring town or country as the case may be. However, the determination of reasonable non-spending period of *Zakah* fund is assuming greater importance with the process of institutionalising *Zakah* by the state. Should we treat collection and disbursement of *Zakah* fund as flows or as "stock"? Some of the serious confusions may give rise from a failure to distinguish between stocks and flows, because a flow necessarily has a time dimension, whereas a stock does not have a time dimension. The Pakistani experience of collection and disbursement of *Zakah* fund during the last five years need be examined in this context.

### 2.3 *Zakah* and limits of non-productive assets.

The question of defining the social limits of non-productive assets such as dwelling houses, consumer's durables, jewels and gems which are exempt from *Zakah* came under discussion. At issue is not the list of non-productive assets which are not subject to *Zakah* but to ascertain as to when the limits of non-productive assets and consumers durables in excess of what is considered to be essential or desirable in the particular social context assume the character of hoarding in non-liquid form.

One view is that Islam expects its followers to spend as much as possible in the way of Allah. The exhortations should be in general -terms rather than specifically to non-productive assets which have traditionally been regarded as not subject to *Zakah*, because they do not have the capacity to produce further wealth. Another view is that the so-called non-productive assets can very well be seen as hoarding in non-liquid form and be considered to be in excess of what is to be viewed as desirable in a particular social context. For example, one may decide not to pay *Zakah* by converting his productive assets in the form of a number of dwelling houses in the different parts of a country and enjoy the benefits of capital appreciation in the long run. Or one may have several sets of coloured television in different rooms of a dwelling house to suit the taste of different persons in the house, and thereby encouraging conspicuous consumption and avoiding payment of *Zakah* on the ground that they are non-productive consumer durables. Similarly, one may convert all his gold and silver possessions into diamonds, sapphires and platinum, thereby making his possession of gems and jewels *non-Zakatable* assets under the *Shari'ah*.

Another view is that instead of imposing *Zakah*, the state can very well impose taxes on these luxurious consumer durables and non-productive assets. But it is said that *Zakah* is not a tax or *Zakah* has a specific spiritual, social and economic dimension in it.



In this context, the questions which require serious examination relate not only to defining the desirable social limits of consumption of non-productive assets but also to re-examine the role of *ijma* and *qiyas* as dynamic sources of Islamic laws. Specifically speaking, the point which requires attention is that to what extent consumption of non-productive assets should be considered to be Islamically justified (in a particular social context for which no *Zakah* can be levied) beyond which further possession of non-productive assets may be treated as hoarding and be subjected to *Zakah* as such. If it is done, it would tend to stimulate investment by checking the tendency of conspicuous consumption, thereby adding to the production of goods and services in the economy. An authoritative judgement on these issues can only be arrived at by a representative assembly of persons not only well versed in *fiqh* but also in economics and sociology of economic life of Muslims in contemporary societies.

#### 2.4 Vertical assessment of *Zakatable assets* and *nisab*.

The question of reassessment of *nisab* so as to make more resources available for the purpose of redistribution of income also came under discussion. The majority of Islamic jurists are of the view that each type of wealth constitutes a separate kind for the levy of *Zakah*. Thus if a man owns animals, commercial goods, gold and silver, and these are severally above *nisab* then they would be subject to *Zakah*. Thus a man who owns 29 cows, 7 tolas of gold and merchandise having a price less than 52 1/2 tolas of silver, may not pay the *Zakah* under the traditional rules.

So the question arises as to whether all types of wealth falling below *nisab* be combined together vertically and express them in terms of the ruling prices and impose *Zakah* on them if the combined value of *Zakatable* assets exceeds the scale of *nisab* prescribed for any type of wealth, preferably gold and silver.

One view is that it is against *ijma* on the subject. As such *no ijtihad* is permissible in matters on which clear directives are found in the *Shari'ah*.

Another view is that *ijma* is one of the sources of Islamic law. If *ijma* or consensus of scholars at a particular period or point of time remains absolutely unalterable even in the light of the new circumstances, Islamic laws would then cease to be a dynamic force. There is a considerable evidence to the effect that *ijma* on the various aspects of *Zakah* such as its coverage has changed overtime. It is argued that at its heart lies not the form but the individual readiness to perform the *ibadah* which *Zakah* actually entails - a kind of *ibadah* which is likely to generate the forces of altruistic behaviour of the individual at an operational level.

At issue is "no clubbing together of all *Zakatable* assets of a person falling separately below *nisab* but to consider the question of extension of the principle of *qiyas* in respect of assessment of *nisab* vertically in an effort to solve the contemporary problem of mass poverty of the masses. The fact is that the vertical assessment of *Zakah* indeed permissible in the *Shari'ah* both at intra and inter-categories of wealth. For example, if gold and silver do not come upto the required standard of *nisab* separately but their combined price become equal to the scale fixed for any one of the items, then the payment of *Zakah* will become obligatory. Furthermore, in the case of merchandise, the minimum exemption limit can be expressed in terms of the price of *nisab* scale of silver. It is to be examined whether there is a case for inclusion of all types of wealth on the basis of this analogy. It is argued that once it is allowed, it is likely to make more resources available for re-distribution to poor sections of the society. It is further added that the Qur'an has only specified the eight heads of expenditure on which *Zakah* can be spent; it is silent on the actual detail of assessment unlike laws of inheritance. Therefore, there is a scope of flexibility in matters related to *Zakah* within the Qur'anic imperatives, although caution must be exercised in the matters in which there are authentic *hadiths*. On the basis of this hypothesis, further investigation may be carried out.

### 2.5 *Zakah* on new forms of wealth and ifs rates.

The question of extending the base of *Zakah* covering new forms of wealth not found in the early days of Islam, came up for discussion. While it is generally recognised that the new forms of wealth can very well be subject to *Zakah*, a consensus does not, however, exist on some of the issues, one of them being the rate of *Zakah* in case of new forms of wealth, for which no explicit provisions are found either in the in the *Sunnah* or in the *Hadiths*.

On view is that the rates of *Zakah* as found in the Islamic law is not subject to change. The new form of wealth may follow the proportional rates as set out in the *Shari'ah*. Another view is that since no explicit provisions are found in the *Shari'ah*, the equestion of rates of *Zakah* be linked with the productivity which varies from industry to industry or from enterprise to enter-prise so that the element of progression may be introduced in fixing the rates of *Zakah*, keeping the traditional rates as fixed in the *Shari'ah* undisturbed.

This question is becoming increasingly important partly due to the emergence of new forms of wealth, not known in the early days of Islam and partly due to the relative decline of most of the old categories of wealth (such as cattle, cows, camel, even silver, etc.) on which the *Shari'ah* has provided elaborate scale of *nisab* and rates for the different categories of wealth. In this context, it is worth mentioning that after the discovery of oil in Kuwait,

the importance of many traditional basis of *Zakatable* wealth such as cattle, camel, etc., has declined resulting from the structural transformation in the economy. The state of Kuwait becomes no longer interested in the collection of *Zakah* on such items, although they remain valid forms of wealth in the eyes of the *Shari'ah*. Therefore, this issue needs further investigations.

#### 2.6 *Zakah* liability and corporate enterprise as juridical persons.

It is generally agreed that *Zakah* can be extended to "new forms of wealth" not known in the early days of Islam. Thus in most Muslim countries it becomes necessary to identify the *Zakah* liability of the joint-stock company or corporation being treated as juridical person per se in most Muslim countries. Then some of the issues that we had to face at the very outset are: if *Zakah* is an *ibadah*, as surely it is, how can *Zakah* be charged on a joint stock company or corporate body which is regarded in the law as an entity separate from the individuals who own it. It can enter into contracts and it can sue and be sued. Apart from its legal entity, its method of control and finances raise a number of issues also. The company obtains the money paid for the shares, and the shareholders become the owners, not the managers of the company. The Board of Directors appoints senior managers. So the management and ownership are separated. The shareholders are entitled to share in the profit of the company, which, when they are paid out are called dividends. One of the easiest ways for the management of the corporation to raise money is to retain some current profits rather than paying them out as dividends to shareholders which may be subject to *Zakah*. But the undistributed profit becomes a part of the investment process, which could otherwise be a part of the dividend of the shareholders. Thus it is to be examined whether the present corporate behaviour conforms to the principles of the *Shari'ah* and how can *Zakah* be charged on the corporate body? Even in modern Islamic states some of the shareholders can very well be non-Muslims. In fact many joint-stock companies have tens of thousands of shareholders irrespective of religious considerations. This gives rise to the difficulty of imposing *Zakah* on undistributed profit. These are some of the questions which need close examination.

#### 2.7 The management of *Zakah* by the state Vs autonomous body

On the question of management of *Zakah*, a number of views were floated in the Seminar. One view is that the assessment, collection and disbursement of *Zakah* should be controlled by the state, because it is argued that the Prophet (PBUH) himself established a system of administration of *Zakah* which was subsequently expanded during the period of *Khulafa-e-Rashedeen* and retained largely during the Umayyad and Abbasid period. Although there

historical evidences are not disputed, yet it is felt that if the *Zakah* is collected and centrally managed by the state, the bureaucratic redtapism in the context of present-day realities may cause delay in disbursement among the recipients. Besides, in the interest of efficient management and disbursement among the most deserving recipients of *Zakah*, decentralization may be necessary particularly in a country with a large population. Unless separate budget estimates are made, the *Zakah* fund may be mixed up with the other revenues and temptation to spend from such fund may not be controlled particularly when it is not declared as an Islamic state as such. Besides, there is a vast number of Muslim minorities living in non-Muslim countries. In such a situation non-Islamic states may not be interested in the development of social service institutions for Muslims only for mobilising *Zakah*. Thus the benefit of socialising the individual action at the community level may not be fully realised. Therefore, the question arises as to whether the management of *Zakah* should be conducted by establishing an autonomous institution for its operation. In this context, the Management of *Zakah* through semi-government institution in Kuwait attracted considerable attention and discussion.

The desirability or otherwise of administering the institution of *Zakah* and controlling its policy through autonomous body on the analogy of autonomous structure of the Central or State Banks of many Muslim countries, responsible for controlling monetary policy, needs further examination. The question of co-ordination and its linkage with overall fiscal structure of the state needs to be analysed in this context. The potentialities of extending this model for Muslim minorities in non-member countries of the OIC re-quires further investigation.

#### 2.8 .Organization and method of assessment and collection of *Zakah* (O & M of *Zakah* as an issue)

The issue of organization and method (O & M) of collection of *Zakah* is raised and discussed in the Seminar. The question arises as to how to improve O & M of *Zakah* without increasing administrative costs and bureaucratic interference although the administrative cost can be charged to collect *Zakah* fund. It is suggested that "since *Zakah* is a religious obligation, the people are expected to make their self-assessment of *Zakah*, thereby reducing the amount of resources necessary to administer the *Zakah* fund". It is further added that apart from introduction of self-assessment of *Zakah*, the administrative cost can be further reduced by seeking voluntary co-operation of some people whose opportunity cost may be zero. But in the case of Pakistan voluntary *Zakah* which was expected to flow in many times more than *Zakah* deducted at source has remained a trickle and numerous incentives tried to attract

voluntary *Zakah* have failed to produce the desired result. "In fact, it is said that in relation to *ushr* recoverable on compulsory basis in Pakistan, there is a general feeling that the amount of *ushr* recoverable is much less than expected, possibly due to "excessive reliance on self-assessment".

Now the critical questions are whether this issue is merely related to O & M of *Zakah* or whether the O & M of *Zakah* should be seen within the framework of a total Islamization programme. While various options aiming at improving the O & M of *Zakah* in the short run need to be analysed, the long term role the Islamic education can play should also be highlighted. The critical question is how to imbue the people with a deep sense of moral duty and dedication to the objectives for which *Zakah* is to be paid.

## **2.9 *Zakah* liability, double counting and depreciation plan**

The question of computing *Zakah* liability on the marketable produce of industrial units needs further study in the interest of avoiding double counting. Because there are different stages of production, so the question arises as to whether *Zakah* liability should be confined to final products or it should spend on the value of what is made and sold or on the income of the maker.

Another related question is linked to the calculation of profits net of depreciation costs intended to recover the capital invested in property. What is expected to decline in value as a result of time and/or use. Since there are different methods of calculating depreciation costs, i.e. straight line declining balance sum-of-years-digits affecting the availability of *Zakah* funds it is worth exploring the Islamically justified method of calculating depreciation in a given circumstances. Because while the straight-line method provides uniform periodic depreciation charges over the write-off period, declining balance provides for an accelerated write-off during early years of the life of the asset with smaller charges progressively in subsequent years.

### *2.10 Zakah (i.e. ushr) on agricultural produce*

The *Zakah* levy on agricultural produce is known as *ushr* and its rates depend on whether the land is irrigated or not. According to the majority of Islamic jurists, the rates for irrigated land is 5% and unirrigated land 10%. The question which calls for attention is whether *ushr* should be imposed on gross agricultural produce (including horticultural and forestry produce) net of production expenses ( i.e., fertilizers, etc. ), personal consumption allowance and other related allowance such as allowance for estimation error, wastage and the like.

While the three *Imams* (Abu Hanifa, Malik and Shafei are of the opinion that *ushr* should be imposed on the gross not on the net agricultural

produce, many modern jurists however, look with favour at the imposition of *ushr* on net agricultural produce. The question which needs examination relates to examination of economic and social conditions under which the *Imams* made such decisions. Since the recognition of the difference in rates of *ushr* between irrigated land and non-irrigated land indicates that there is an allowance of human efforts in the production process. The question of interpretation or reinterpretation of the conservative *fiqhi* position through the application of the principles of *qiyas* or *ijtihad* need further examination in the light of evolution of mechanised methods of cultivation in many Muslim countries.

### 3. ISSUES IN DISBURSEMENT AND UTILIZATION OF ZAKAH

#### 3.1 *Zakah* and social infrastructure projects

The issue of disbursement of *Zakah* fund in cash or kind received a good deal of attention in the literature. While there is hardly any difference of opinion on the point that *Zakah* fund can be disbursed either in cash or in kind and particularly in the form of tools for poor workmen or sewing machines for poor widows so as to enable them to earn their own livelihood, the difference in opinion, however, arises when the concept of use of *Zakah* funds in 'kind' is extended to cover expenditure on social welfare and social infrastructure projects such as safe water supply, building hospitals, and schools. One view is that the disbursement of *Zakah* fund for financing social infrastructure projects is not clearly covered by the heads of expenditure of *Zakah* as specified in the Qur'an. Besides, it is difficult to establish ownership of such projects among recipients of *Zakah*. Another view is that the expenditure on such community welfare oriented public goods can be regarded as spending for the 'cause of Allah' to include social infrastructure projects. This view has yet to be accepted by the scholars. However, it is argued that possibility of financing social welfare projects out of *Zakah* fund cannot be ruled out altogether, provided "free rider effect" is minimised or that the rich who have the ability to pay should not get *Zakah*-financed goods and services free of charge simply because they are not entitled to it. Thus, "when and if *Zakah* fund is utilized to make provision for public goods with non-rival consumption and infeasible exclusion over a large group, the "free-rider. problem" is likely to emerge. It provides a limited scope for spending *Zakah* fund for provisioning of these public goods where it should be possible to put some price tag on those who are not entitled to receive *Zakah*. At the operational' level, the question arises as to how to design a project or to make provision for those public goods (i.e. hospitals, schools) which provide free facilities to the actual recipients of *Zakah* and charge some fees from others making use of these facilities.

### 3.2 *Zakah* and collectively owned enterprise for community development

The issue of disbursement of *Zakah* fund among the *Zakah* beneficiaries as a group came up for discussion. In this connection, several possibilities are discussed. It is argued that *Zakah* funds may be invested in lawful *mudarabah* projects, whereby some *Zakah* beneficiaries as a group may be made financial partners in certain productive enterprises. In such a situation *Zakah* fund may be given in the form of "shares" in an enterprise, thereby giving him title of ownership of the enterprise, to the extent of the value of the share. He can get the dividend on the share on a continued basis. This can be a permanent source of his income. Given the structure of the financial market, he can, of course, sell the shares at the prevailing market price if he so wishes. It is argued that this disbursement of *Zakah* fund in the form of "shares" is like provision of help in the form of tools for workmen or sewing machines to poor widows. But those who do not favour this idea argue that *Zakah* recipients are poor and in need of money for immediate consumption. As they are not expected to have the necessary skill to supervise the enterprise, it will be required to be managed by others with the possibility of incurring loss. As such advisability or desirability of such disbursement of *Zakah* fund should be examined from the Islamic point of view. In this connection, the Malaysian experience of distributing *Zakah* fund in the form of shares by the government agencies needs to be examined also.

### 3.3 Disbursement of *Zakah* and non-Muslims

The issue of disbursement of *Zakah* among the non-Muslims who are generally poor and needy has assumed significance in the context of a modern Muslim state and has attracted considerable discussion in the Seminar. One view is that since it is collected from the Muslims, it should be spent for them only. If *Zakah* revenue is spent for the non-Muslims, they should be made to pay at least the equivalent of *Zakah* in the form of some kind of welfare tax. Another view is that *Zakah* revenue can be spent for the non-Muslim. It is argued that there are historical precedents in the early days of Islam where *Zakah* fund has been used for the non-Muslims in the greater interest of Islam. It would help operationalise the Islamic concept of universal brotherhood, thereby attracting non-Muslims to the fold of Islam. Besides, it is the duty of an Islamic State to ensure provisioning for the minimum level of living to all its citizens including non-Muslim. A related issue that generated discussion as to whether non-Muslims should be made to pay *Zakah* equivalent welfare tax, to be spent exclusively for the benefit of the non-Muslim beneficiaries. It was pointed out, however, that any move in this direction may be viewed as imposition of the principles of religious obligations of the Muslims upon the non-Muslims because *Zakah* is indeed a prayer, it may not be mixed up with other secular taxes. Further it is pointed out that the

imposition of *jizya* on non-Muslims and its relevance must be seen in the historical context.

### 3.4 The issues of disbursement of *Zakah* and beneficiaries

The Qur'an has clearly specified the eight heads of expenditure on which *Zakah* revenue can be spent. They are (1) *fuqara* (the destitute), (2) *masakin* (the poor), (3) *amilin alaiha* (those who are deputed to collect *Zakah*), (4) *muallafat-ul-qulub* (those whose hearts are to be reconciled), (5) *firriqab* (for the emancipation of slaves), (6) *al-gharimin* (for relieving one from the burden of debt); (7) *fī-sabīllah* (in the cause of Allah) and (8) *ibn-*

*us-sabil* (*wayfarer*).

While there is no difference of opinion among the Islamic jurists as regards these eight heads of expenditure, yet differences of opinion do exist regarding the scope of activities on which *Zakah* funds can be spent with the specific reference to them. Number seven above says that the *Zakah* revenue can be spent in the cause of Allah, which includes all good deeds, social services and *jihad*. Again what constitutes "promotion of the cause of Islam" under this category of expenditure appears to be relative in the diverse socio-economic complexities of different Muslim country. This calls for specification of services or activities which can be treated as expenditure "in the cause of Allah". Besides, the question of involving the choice of income unit as basis for measurement has not been thoroughly analysed although many scholars such as Imam Abu Hanifa and many others tried to identify the characteristics of the poor or destitute. Nevertheless, the problem of choice of income unit or a family unit is much more intractable than it appears in the first instance. The size and composition of the family as an income unit does affect the assessment and *Zakah* dues because a narrower definition of income unit whose income is being measured implies the greater incidence of poverty. Suppose a family of five has an income of \$150 per month, all earned by one person, then none of them appears to be poor if the poverty line for such a family is defined in terms of US\$ 100. But if the standard family size is prescribed as four persons then one of them will be poor and entitled to receive *Zakah* as he has no income. In other words, the wider the definition of the family unit whose income being measured, the fewer the people who will be counted as poor. What really matters is to define the limits of voluntary and obligatory sharing of income in the light of the *Shari'ah*. At an operational level, definition of family unit needs to give due weight to dependents. If the poverty line of a single person is \$50 then should the poverty line for a couple be \$100 or less? What about the children and relatives who have some claim on the income of rich relative? Answers to such questions cannot be given without defining the term "standard of living" of families of different sizes and income in particular social and economic context. Whichever way one



tries to answer this question, one has to face a set of complex operational problems. This is likely to affect the assessment of the *Zakah* revenue and its consequent disbursement.

### **3.5 The issue of disbursement and non-beneficiaries**

This problem is also related to some of the categories of people who are not entitled to *Zakah*, if paid to any one of them by the payer individually. These categories of people include among others, the following persons:

- (1) Parents, grandparents and others in line of ascent'.
- (2) Children, grandchildren and others in line of descent.
- (3) A woman's own husband.
- (4) A man's own wife.

"This is because one is not allowed to benefit one's own self and family with *Zakah* - it is a duty enjoined by the *Shari'ah* on every Muslim to help and support one's family from one's wealth. Apart from these relations' it is not only lawful, but preferable and praiseworthy to give *Zakah* to all other relations".

It becomes clear that the above categories of people not entitled to *Zakah*, may affect the size and composition of family unit whose income is being measured for the purpose of calculation of *nisab* and consequent assessment of *Zakah*.

Do we need then a national guideline dealing with the definition of the size of the family for the purpose of calculation of *Zakah*, the meaning of the standard of living in a particular social context at subsistence, sufficiency and comfort level for the different families having different income levels.

This also calls for periodic review (say, once in five years) of a list of *Zakatable* items so as to include new forms of wealth within the purview of *Zakah* in view of the changing circumstances of the complex contemporary Muslim societies.

### **3.6 *Zakah* and work incentive for increasing productivity**

Out of the eight heads of expenditure on which *Zakah* revenue can be spent, at least six of them is related towards removing the poverty of the poor and the needy in one way or another. It is, therefore, argued that the disbursement arrangement, if not properly planned, may likely kill or at least dampen the incentive to work, affecting productivity and growth. This may eventually lead to the creation of a class of social parasites or an army of beg-gars depending on the dole of the rich. The other view is that *Zakah* instead of dampening the incentive to work, is likely to stimulate not only consumption

but also production of consumption goods and services for the poor. This tends to create a new line of trade and to reallocate the resource from the production of luxury goods to goods of common use by the people of small means at least to the extent it reduces the disposal income of the rich resulting from the imposition of *Zakah*. What is its impact on saving and investment? Is it inflationary or can it serve as a stabilization device over the years? What is needed is an in-depth study of the economic and social effects of different modes of disbursement of *Zakah* proceeds and its impact on the distribution of income and wealth, inter-sectoral allocation of resources and elimination of poverty. Since a number of Muslim countries are having organized *Zakah* system, it is important to examine the impact of *Zakah* both from the collection as well as from the disbursement side using primary data as far as practicable.

### 3.7 *Zakah* and its conditions for utilization

Is it possible to lay down the juristic and socioeconomic efficiency conditions for the disbursement and utilization of *Zakah*? Since there is still a difference of opinion among the scholars about the way the disbursement of *Zakah* fund should be made among the various groups of beneficiaries as indicated in the Qur'an, there is indeed a need for defining the necessary and sufficient conditions for utilization of *Zakah* particularly in the light of the contemporary trends to institutionalise the *Zakah* fund. The necessary conditions must satisfy the Shari'ah-related injunctions and conditions.

In this connection, several major issues such as (a) determining the conditions of a *tamleek* (i.e., ownership of the recipients), in the light of various types of joint and collective ownership of goods and services, having implications for community welfare, (b) indentifying the nature and scope of *fi sabilillah*, (c) defining the "poverty line" of the poor and the needy and (d) specifying the conditions of the "destitute" in the context of the present day societies and other related issues, call for, among others, a closer examination.

The sufficient conditions of disbursement of *Zakah* must satisfy, not only the *Shari'ah* related issues but also issues related to socioeconomic efficiency conditions designed to maximise social advantage through efficient utilisation of *Zakah*. Is it possible then to develop an institutional mechanism where its collection and disbursement can be carefully planned and implemented to improve the quality of redistribution of income through *Zakah*? That is not to say that the individual's right to pay and distribute *Zakah* is to be completely ignored. Then how can we incorporate individual freedom and choice into the very scheme of institutional mechanism so that full effects of re-distribution of income and its, quality can be sustained overtime? In

economics, there is no direct and fixed correlation between goodness of the act and its result. The different types of goods and services paid out of the *Zakah* fund tend to yield different results. Then how can an administrator of funds evaluate the consequences of different types of spending on the society as a whole in the light of the criteria so identified regarding the utilization of *Zakah* revenue?

### **3.8 Institutionalising *Zakah* fund and its possible dehumanising effect: The sociology of *Zakah***

The benefit of creating social services institutions such as homes for the widows, orphans, disabled citizens, etc., through utilization of *Zakah* fund is clearly advocated and recognised in the seminar, because "individual action becomes increasingly tiresome and ineffective in highly urbanized society". These institutions help developing social consciousness out of the personal sense of duty. Seen in this light the establishment of the public *Zakah* Committee as a semi-government and autonomous institution in Kuwait is considered to be a laudable effort. But the concern was expressed about the dehumanising effect of such service institutions, if it is pushed too far, because when one gets right down to it, it cannot supply the things like love, compassion, affection, attention, involvement and commitment. Therefore, too much emphasis on institutionalising *Zakah* fund through creation of service institutions may "result in the mutation of a person into an automaton". Now the question arises as to how to minimise the dehumanising effect of the so-called service institutions as developed in the western societies to take care of their senior citizens, and disabled because it is felt that the mere imitation of the western social services model and its implementation in a Muslim society through utilization of *Zakah* fund may very well shake the foundation of a family as a basic unit in Muslim societies. What are the alternative ways of providing social security to the poor and the needy which can provide a service with compassion and love for the orphans, disabled and the old? This needs investigation and empirical study.

## **4. NOTES AND REFERENCES**

All the issues emerge mainly from the presentation of the following papers at the Seminar and discussion that followed. The written comments on each of the papers and the presentation of country experiences by delegates of selected countries provide useful inputs. The Rapporteur General's report by I. A. Imtiaz gave a brief but an excellent account of the proceedings and issues raised. The comments on some of the issues by Br. A. H. Deria were also very helpful.

The list of papers presented at the Seminar was in the following order:

- 1 - "Recent Interpretations of the Economic Aspects of *Zakah* by Prof. Dr. Sabahaddin Zaim (Turkey).
- 2 - "Effects of *Zakah* Assessment and Collection on the Redistribution of Income in Contermporary Muslim Countries", by Dr. M. A. Mannan (IRT/IDB).
- 3 - "Limitations of Use of *Zakah* Funds in Financing the Socioeconomic Infrastructure of Society" by Dr. S. Ismail Shehatah (Egypt).
- 4 - "Organization of *Zakah*: The Pakistan Model and Experience", by Mr. I. A. Imtiaz (Pakistan).
- 5 - "Adjusting Tax Structure to Accommodate *Zakah* "by Prof. Muhammad Hashim Awad (Sudan).
- 6 - "Management of *Zakah* Through Semi-government Institutions" by Mr. Fuad Abdullah al-Omar (Kuwait).

## **APPENDIX III PROGRAM OF THE SEMINAR**

2-12 Shaban 1405 H.  
(April 22 to May 2, 1985)

MONDAY - APRIL 22, 1985

0900 hours

Registration

Venue: Pakistan Development Banking Institute  
Briefing session

1000 hours

Session Chairman, Mr. I. A. Imtiaz, Administrator  
General *Zakah*, Pakistan.

- a) Introduction of the delegates.
- b) Orientation / information and other details.
- c) Selection of Rapporteurs.

Rapporteurs

- i) Six delegates will be selected to work as Rapporteurs and one as Rapporteur General.
- ii) The Rapporteurs will be assigned one paper each. They will be responsible for keeping a detailed record of the main issues raised during the deliberations on the respective papers assigned to them.
- iii) After all the papers have been presented, the Rapporteurs will discuss the main points noted, with the delegates in the morning session of the seminar on May 01, 1985.
- iv) The Rapporteur General will synthesize the findings and observations of all the delegates. In consultation with the other Rapporteurs he/she will formulate and present the recommendations at the concluding session of the seminar (May 02, 1985).

Lunch and prayer interval - Quiet lunch at the hotel

- Prayer at the hotel mosque.

Seminar Inauguration

Venue: Hotel Holiday Inn. Karachi.

1230-1415 hours

Attendance: By invitation only (Separate details have been issued).

2015 hours	Dinner by Dr. Mahbubul Haq; Finance & Planning Minister, Government of Pakistan. Venue: Hotel Holiday Inn. Karachi.
TUESDAY-APRIL 23, 1985	
	Venue: Pakistan Development Banking Institute.
Session Chairman:	Mr. A. G. N. Kazi, Governor, State Bank of Pakistan.
Morning Session	
0830 hours	Recitation from Holy Quran.
0840 hours	Paper I : "Recent Interpretation on Economic Aspects of <i>Zakah</i> " Presentation by Prof. Dr. Sabahaddin Zaim, Turkey.
0900 hours	Commentary by Justice Shaikh Aftab Hussain Federal Shari'ah Court
0910 hours	Open discussion.
1015 hours	Break for refreshments.
1045 hours	Open discussion continues.
1150 hours	Rejoinder by the Paper Writer.
1205 hours	Summing up of the <b>proceedings</b> by the Session Chairman.
1230 hours .	Conclusion of the morning session; Departure from DBI.
Lunch and Prayer Interval:	
1245 hours	Quiet lunch and <b>prayer</b> at the hotel mosque.
1415 hours	Departure to DBI.
Afternoon Session:	
	Venue: <b>Pakistan</b> Development <b>Banking</b> Institute.
1430 hours	Paper 2: "Effects of <i>Zakah</i> Assessment and Collection on the Redistribution of Income in Contemporary Muslim Countries". Presentation by Prof. Dr. Mohammad Mannan, (IRTI).
1450 hours	Commentary by Dr. Ziauddin Ahmad, Director General, International Institute of Islamic Economics.
1500 hours	Open discussion.
1605 hours	Break for refreshments.

1635 hours	Open discussion continues.
1730 hours	10 minutes break for <i>Asr</i>
1740 hours	prayers Rejoinder by the
1755 hours	Paper Writer.
1830 hours	Summing up of the proceedings by the
Evening	Session Chairman.
2030 hours	Conclusion of the afternoon session; Departure from DBI.
WEDNESDAY-APRIL 24, 1985	Dinner by Pakistan International Airlines (PIA). Venue: Pakistan Development Banking Institute. Mr. H. U. Beg. Secretary, Ministry of Finance, Government of Pakistan.
Session Chairman: Morning	
Session:	
0830 hours	Recitation from Holy Quran.
0840 hours	Paper 3: "Limitations of use of <i>Zakah</i> funds in Financing the Socioeconomic Infrastructure of Society." Presentation by Dr. S. Ismail <b>Shehatah</b> (Egypt).
0900 hours	Commentary by Mr. D. M. Qureshi. Managing Director, Bankers Equity Limited.
0910 hours	Open dicussion.
1015 hours	Break for refreshments.
1045 hours	Open discussion continues.
1150 hours	Rejoinder by the Paper Writer.
1205 hours	Summing up of the proceedings by the Session Chairman
1230 hours	Conclusion of the morning session; Departure from DBI.
Lunch and Prayer Interval:	
1245 hours	Quiet lunch Prayer at the hotel mosque.
1415 hours	Departure to DBI

Afternoon Session	
1430 hours	Paper 4: "A Model System to Assess, Collect & Distribute <i>Zakah</i> (Case of Pakistan)".
	Presentation by Mr. I. A. Imtiaz (Pakistan).
1450 hours	Commentary by Haji Abdul Jabbar Khan, President. National Bank of Pakistan.
1500	Open discussion.
1605 hours	Break for refreshments.
1635 hours	Open discussion continues.
1730 hours	10 minutes break for <i>Asr</i> prayer
1740 hours	Rejoinder by the Paper Writer.
1755 hours	Summing up of the proceedings by the Section Chairman
1830 hours	Conclusion of the afternoon session: departure from DBI
Evening:	
2030 hours	Dinner by Bankers Equity Limited (BEL)

#### THURSDAY - APRIL 25, 1985

Venue:	Pakistan Development Banking Institute.
Session Chairman:	Mr. M. R. Khan, Chairman, Pakistan Banking Council.
Morning Session	
0830 hours	Recitation from Holy Quran.
0840 hours	Paper 5: "Adjusting Tax Structure to accommodate <i>Zakah</i> ".
	Presentation by Prof. Dr. Mohammad Hashim Awad (Sudan).
0900 hours	Commentary by Mr. Zafar Iqbal, Chairman, National Development Finance Corporation.
0910 hours	Open discussion.
1015 hours	Break for refreshments.
1045 hours	Open discussion continues.
1150 hours	Rejoinder by the Paper Writer.
1205 hours	Summing up of the proceedings by the Session Chairman.
1230 hours	Conclusion of the morning session; Departure from DBI.
Lunch and Prayer Interval	
1245 hours	Quiet Lunch
	Prayer at the hotel mosque.
1415 hours	Departure for DBI.
Afternoon Session	
1430 hours	Paper 6: "Management of <i>Zakah</i> Through Semi-Government Institutions."
	Presentation by Mr. Fuad Abdullah Al-Omar (Kuwait)



1450 hours	Commentary by Dr. Manzoor Ahmad, Professor, University of Karachi.
1500 hours	Open discussion.
1605 hours	Break for refreshments.
1635 hours	Open discussion continues.
1730 hours	10 minutes break for Asr Prayer.
1740 hours	Rejoinder by the Paper Writer.
1755 hours	Summing up of the proceedings by the Session Chairman.
1830 hours	Conclusion of the afternoon session; Departure from DBI.
Evening	Dinner by Pakistan Industrial Credit and Investment Corporation

(PICIC) 2030 hours

FRIDAY - APRIL 26, 1985

	Visit to Pakistan Steel Mills Corporation Return to Hotel At about 1430 hours. Lunch by Pakistan Steel Mills corporation
	Departure to Karachi International Airport for onward journey to Lahore.
0800 hours	Dinner on board

1630 hours

SATURDAY - APRIL 27, 1985

Morning	Visit to Shalimar Gardens - sight-seeing Visit to a Rural Zakah Committee.
	Lunch by Pakistan Engineering Company (PECO) Visit to Tehsil Zakah Committee.
0830 hours	Courtesy call on the Governor of Punjab. Dinner by Punjab Industrial Development Board.

SUNDAY - APRIL 28, 1985

Morning 0830 hours	Courtesy call on the Chief Minister and Minister for <b>Zakah</b> , Government of Punjab. Visit to Badshahi Mosque and Shahi Qilla. Quiet Lunch
	1420 hours Departure to Lahore International Airport for onward journey to Islamabad.

MONDAY - APRIL 29, 1985

Morning 0900

hours

Courtesy call on the Minister of Finance, Government of Pakistan.

Visit to 'Silai Markaz'.

Quiet lunch .

Afternoon

Visit to: Rawalpindi Dam  
Shakkar Parrian

Daman-e-Koh

Faisal Mosque

**Evening**

1900 hours

Courtesy call on the Prime Minister of Pakistan

2030 hours

Dinner by the Prime Minister

TUESDAY - APRIL 30, 1985 0830

hours

1) Visit to Taxila Museum. 2)

Visit to Tarbela Dam.

Afternoon

Lunch by WAPDA

**1430 hours**

Return to Islamabad.

Evening

1730 hours

Departure for Islamabad International Airport for onward journey to Karachi.

Dinner on Board

WEDNESDAY - MAY 01, 1985

Venue :

Pakistan Development Banking Institute.

Session Chairman :

Prof. All Baloula, Islamic Research and Training Institute.

Morning Session

**0830** hours

Recitation from Holy Quran.

**0840** hours

Presentation of selected country experiences.

**1205** hours

Summing up of the proceedings by the Session Chairman.

1230 hours

Conclusion of the morning session; Departure from DBI.

**Lunch and Prayer Interval**

**1245 hours**

Lunch at the hotel.

Prayer at the hotel mosque.

**1415 hours**

Departure for DBI.

Afternoon Session 1430 hours	Presentation of the main points by the Rapporteurs. Discussion on points by the delegates.
1605 hours	Break for refreshments.
1635 hours	Open discussion, on the main issues raised during the seminar, continues among all the participants.
	Finalization of the Rapporteur General's report in consultation with the Rapporteurs for presentation the next morning.
1815 hours	Summing up of the proceedings by the Session Chairman. Departure from DBI.
Evening 2030 hours	Dinner by National Development Finance Corporation (NDFC)
THURSDAY - MAY 02, 1985	Venue: Karachi Sheraton Hotel
0930 hours	Informal session Seminar evaluation.
Morning Session Session Chairman	Mr. Ghulam (shaq Khan, Chairman, Senate
1000 hours	Recitation from the Holy Quran.
1010 hours	Presentation of the recommendations by Rapporteur General and further discussion on important issues, if any.
1110 hours	Summing up of the proceedings by the Session Chairman Expression of thanks by the organisers. Du'a
1300 hours	Lunch Hosted by. Central <i>Zakah</i> Administration (CZA) and Pakistan Development Banking Institute (DBI) Departure/Dispersal.
Afternoon	

## **APPENDIX IV**

### **LIST OF PARTICIPANTS**

<b>S1.</b>		
<b>No.</b>	<b>Name of Country</b>	<b>Name &amp; Designation of Participant</b>
1.	Democratic and Popular Republic of Algeria	Temem Mourad Assistant Director of Imports Ministry of Finance
2.	State of Bahrain	Abdul Hameed Ali Ibrahim  Senior Accountant Ministry of Finance & National Economy
3.	People's Republic of Bangladesh	Moulana Fariuddin Masoud Acting Director Translation and Compilation of Islamic Foundation
4.	People's Republic of Benin	Toungouh Zourkarneyni Administrator Ministry of Planning & Statistics
5.	Republic of Cameroon	Aboubakar Dancha 2nd. Secretary Cameroon Embassy, Jeddah
6.	Republic of Chad	Oumar Hissene Director General of Finance
7.	Federal Islamic Republic of Comoro Islands	Rashid Mohamed Mubarak Adviser on Social & Political Affairs Ministry of State Production and Industries
8.	Arab Republic of Egypt	Osman Gohar Osman Under Secretaty of State for Government Accounting Sector
9.	Republic of Gambia	Adama A. Cessay Asst. Commissioner of Income tax

- |                                    |  |
|------------------------------------|--|
| 10. Republic of Indonesia          | Agah Nugrah<br>Section Head of matters relating to<br>rights and obligations with<br>IMF and IDB     |
| 11. Republic of Iraq               | Saeed Abboud Al Samarraie Expert<br>in Research Department in Central<br>Bank                        |
| 12. Hashemite Kingdom of<br>Jordan | Husein Al Hiyari<br>Director of <i>Zakah</i> Fund<br>Ministry of <i>Awqaf</i> and Islamic<br>Affairs |
| 13. Malaysia                       | Abdul Hamid Desa<br>Asst. Secretary<br>Tax Division<br>Federal Treasury                              |
| 14. Republic of Mali               | Baba Sylla<br>Technical Consellor for Cultural and<br>Social Affairs<br>Ministry of Interior         |
| 15. Islamic Republic of Pakistan   | Sher Mohammed Zaman<br>Director General<br>Islamic Research Institute, Islamabad                     |
| 16. Kingdom of Saudi Arabia        | Faisal Hussain Saigh<br>Manager <i>Zakah</i> and<br>Taxation   |
| 17. Republic of Senegal            | Mamadou Mamoune Mbacke<br>Economist<br>Ministry for Planning & Cooperation                           |
| 18. Republic of Sierra Leone       | Mohamed Senesie Mustapha Rogers<br>Deputy Secretary<br>Ministry of Finance                           |
| 19. Somali Democratic Republic     | Farah Mahmud Ali   |
| 20. Syrian Arab Republic           | Abdallah Halabi<br>Ministry of <i>Awkaf</i>  |

21. Republic of Turkey  
Ahmet Tiktik  
Expert in Prime Ministry State  
Planning Organization
22. People's Democratic  
Republic of Yemen  
Ali Naser El Sanbi  
1st. Lawyer  
Ministry of Justice and *Awkaf*
23. Islamic Republic of Iran  
Bijan Latif  
Director General for Foreign  
Economic Relations and  
Int. Organs. Ministry of Economy &  
Finance.

# ISLAMIC DEVELOPMENT BANK (IDB)

## Establishment of the Bank

The Islamic Development Bank is an international financial institution established in pursuance of the Declaration of Intent by a Conference of Finance Ministers of Muslim countries held in Jeddah in Dhul Oa'da 1393H (December 1973). The Inaugural Meeting of the Board of Governors took place in Rajab 1395H (July 1975) and the Bank formally opened on 15 Shawwal 1395H (20 October 1975).

## Purpose

The purpose of the Bank is to foster the economic **development and** social progress of **member** countries and Muslim communities individually as well as jointly in **accordance** with the principles of *Shari'ah*.

## Functions

The functions of the Bank are to participate in equity capital and grant loans for productive projects and enterprises besides providing financial assistance to member countries in other forms of economic and social **development**. The Bank is also **required** to establish and **operate** special funds for specific purposes including a fund for assistance to Muslim communities in non-member countries. in addition to setting up trust funds.

The Bank is authorized to accept deposits and to raise funds in any other manner. It is also charged with the responsibility of assisting in the promotion of foreign trade, especially in capital goods among member countries, providing technical assistance to member countries, extending training facilities for personnel engaged in **development** activities and undertaking research for enabling the economic, financial **and banking activities** in Muslim **countries to conform to the Shari'ah**.

## Membership

The present membership of the Bank consists of .53 countries. The basic condition for membership is that the prospective member country should be a member of the Organization of the Islamic Conference and be willing to accept such terms **and conditions as may be decided** upon by the **Board of Governors**.

## Capital

**The authorized capital of the** Bank is six billion Islamic Dinars. The **value** of the Islamic Dinar, which is a unit of account in the Bank, is **equivalent** to one Special Drawing Right (SDR) of the International Monetary Fund. The subscribed capital of the Bank is **3.654.78** million Islamic Dinars **payable** in freely **convertible** currency **acceptable** to the Bank.

## Head Office

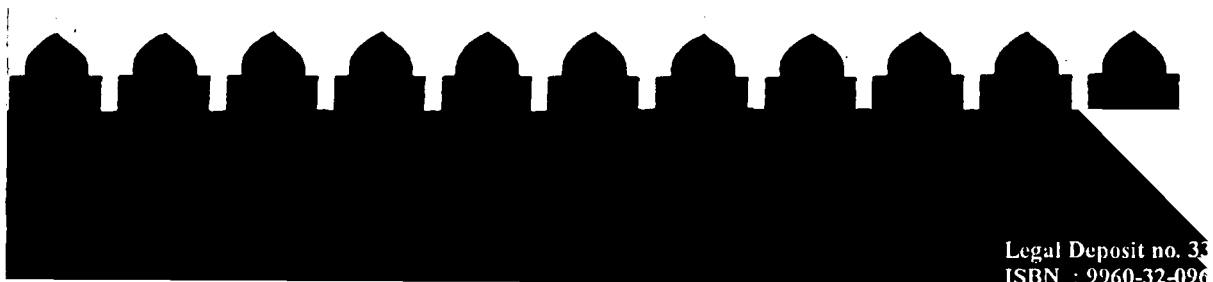
The Bank's **headquarters** is **located** in Jeddah, Saudi Arabia and it is **authorized** to establish agencies or branches elsewhere.

## Financial Year

The Bank's financial year is the Lunar Hijra year.

## Language

The official language of the Bank is Arabic, but English and French are **additionally** used as working **languages**.



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