

**THE PROBLEMS FACED BY A STATE IN THE COLLECTION OF  
ZAKAT (TAX)**

**BY  
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G62/68912/2012**

**THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE  
REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTER  
OF LAWS (LL.M) OF THE UNIVERSITY OF NAIROBI**

**NAIROBI**

**2012**

**NOVEMBER**

## **DECLARATION**

I certify that the work presented in this thesis, to the best of my knowledge and belief, is original, except as acknowledged in the text, and that the material has not been submitted, either in whole or in part, for a degree at this or any other university. I acknowledge that I have read and understood the University's rules, requirements, procedures and policy relating to my higher degree research award and to my thesis. I certify that I have complied with the rules, requirements, procedures and policy of the University (as they may be from time to time).

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## ACKNOWLEDGEMENTS

*In the Name of Allah, the Beneficent, the Merciful*

*All I can is that Allah has truly blessed me, and continues to bless me in ways that I could never have imagined. I love Him with all my heart and my thanks will never be enough. He gave me the most amazing parents and a brother that when I look at their lives and the way they live their lives it only makes me want to strive harder and make them proud of me. My Dad has always been supportive of me. His pride in me is all that matters and at the completion of this thesis, he expressed how proud he was of me and that has motivated me to step up higher and further in commitment and in the search for excellence and distinction. My humble Mother always supplicates for me and this thesis would not have been completed on time had she not encouraged me and made me believe in my ability. My brother, well he is a whole lot different and a difficult guy, nevertheless his support and humor were all I needed at times when I would have a mental block and could not figure out how to further proceed in writing this thesis.*

*Dr. AttiyaWaris, definitely my role model and a great help in directing this thesis. She went out of her way to encourage and advise me. Her reward lies with Allah. Finally, Mr. Ambrose Rachier, my immediate boss, mentor and role model. His calm composure and intelligence are always in my mind's eye and serve as a motivation for me to do better in all that I do. I am grateful to each and every person I have mentioned here as well Joy Asiema, Julie Obel, HadjaCisse, Caroline Nzembi, Maria*

*Teresa, and my guardian angels for their prayers, belief in me and outstanding support. I love you guys. Thanks.*

*This thesis is dedicated to my Mum and Dad.*

## LIST OF ACRONYMS

AH	Anno Hegirae or After Hijrah
KZH	Kuwait Zakat House
TK	Taka
US	United States

## GLOSSARY OF TERMS

<b>Al Gharimin</b>	means debtors
<b>Al Riqab</b>	means captives
<b>Ashura</b>	is the 10 <sup>th</sup> day of the Muslim month of Muharram
<b>Awamil</b>	means those employed by a State to collect zakat
<b>Fard</b>	is an Islamic term which denotes a religious duty commanded by Allah
<b>Fiqh</b>	means <a href="#">Islamicjurisprudence</a> . Fiqh is an expansion of the code of conduct ( <a href="#">Shariah</a> ) expounded in the <a href="#">Quran</a> , often supplemented by tradition ( <a href="#">Sunnah</a> ) and implemented by the <a href="#">rulings</a> and interpretations of <a href="#">Islamic jurists</a> . Fiqh deals with the observance of rituals, morals and social legislation in Islam. There are four prominent schools ( <a href="#">madh'hab</a> ) of fiqh within <a href="#">Sunni</a> practice and two within <a href="#">Shi'a</a> practice.
<b>Fuqara</b>	is plural of faqir, which means a person who does not have sufficient wealth to fulfil his needs and the needs of his dependants
<b>Hadith</b>	means the record of the sayings of Prophet Muhammad
<b>Hajj</b>	is the pilgrimage to Mecca

<b>Haram</b>	means prohibited or illegal
<b>Hijrah</b>	refers to Prophet Muhammad's emigration from Mecca to Medina
<b>Ibn as Sabil</b>	means traveller or wayfarer
<b>Ijtihad</b>	means to exert with a view to form an independent judgement on a legal question
<b>Ilm Al Usul Al Fiqh</b>	means origins, sources and principles upon which Islamic jurisprudence is based
<b>Israa</b>	refers to the night journey to Jerusalem and ascension to Heaven
<b>Khums</b>	is an Islamic tax consisting of 20% of a person's excess earnings
<b>Masakin</b>	means poor people
<b>Nisab</b>	is the amount one's net worth must exceed for the Muslim owner to be obligated to give zakat
<b>Niyah</b>	is an Islamic concept which is the intention one evokes in his heart to do an act for the sake of Allah
<b>Qur'an</b>	literally means the recitation, is the central religious text of Islam, which Muslims believe to be the verbatim word of Allah

<b>Ramadhan</b>	is the 9 <sup>th</sup> month of the Islamic calendar, and is observed as the month of fasting
<b>Riqab</b>	is one of the eight heads of account mentioned in the Quran on which zakat can be appropriated, meaning to spend money for the liberation of slaves.
<b>Sahaba</b>	were the companions of Prophet Muhammad. This form is plural; the singular is sahabi, which is Arabic for friend, companion.
<b>Shariah</b>	refers to a body of Islamic law. In the Islamic state Sharia governs both public and private lives of those living within the state. Sharia governs many aspects of day-to-day life, including politics, economics, banking, business law, contract law, and social issues. Some accept Sharia as the body of precedent and legal theory before the 19th century, while other scholars view Sharia as a changing body, and include reform Islamic legal theory from the contemporary period.
<b>Sunna</b>	means “way” or “custom”, and therefore, the sunnah of the prophet means “the way of the prophet”, or what is commonly known as the Prophet’s traditions.
<b>Tabieen</b>	means those who benefited and derived their knowledge from the Companions of the Prophet



<b>Uqiya</b>	means an ounce
<b>Ushr</b>	refers to the tith on a Muslim's property for the purpose of supporting the needy
<b>Wasq</b>	is a measure of weight
<b>Zakat</b>	literally means purification. It is used to express a portion of property bestowed in alms, as a means of purifying the person concerned and the remainder of his property. It is among the five pillars of Islam and refers to the mandatory amount that a Muslim must pay out of his property.
<b>Zakat Al Fitr</b>	means charity given to the poor at the end of the fasting of the Islamic Holy month of Ramadhan

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## CHAPTER ONE

### INTRODUCTION

#### 1.1 Background

Zakat is the obligation of almsgiving within Islam.<sup>1</sup> It is the third pillar<sup>2</sup> of Islam and is a requirement for all believers.<sup>3</sup> It is the law of Allah (Arabic word for God) explained in the Qur'an (the Muslim scripture) and through the hadith (Arabic word describing the record of the sayings and customs) of Prophet Muhammad. This thesis concerns the collection of zakat by a state. In its study, the thesis is limited to two main concerns. One, that there is a lack of coherence in the legal philosophy utilized by states in their policy on zakat and two, that as a result of the philosophical differences there is limited settled discourse on how to administer zakat as a result of which different states are using very different methods in zakat collection.

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<sup>1</sup>MonzerKahf (1991), "Zakat: Unresolved Issues in Contemporary Fiqh", in *Development and Finance in Islam*, Sadeqet.al (eds.). International Islamic University Press, at p. 174.

<sup>2</sup>Islam has five primary obligations, or pillars of faith, that each Muslim must fulfill in his or her lifetime. They are as follows: *Shahadah*, profession of faith, is the first pillar of Islam, *Salah*, prayer, is the second pillar, *Zakat*, almsgiving, is the third pillar, *Sawm*, fasting during the holy month of *Ramadan*, is the fourth pillar of Islam and *Hajj*, the pilgrimage to Makkah, is the fifth pillar and the most significant manifestation of Islamic faith and unity in the world. The five pillars of Islam define the basic identity of Muslims - their faith, beliefs and practices and bind together a worldwide community of believers into a fellowship of shared values and concerns.

<sup>3</sup>HammudahAbdalati, "Islam in Focus," (Al Jumah Press, Riyadh, Saudi Arabia, 1999) at p. 5.

History has shown that the collection of zakat used to be done at the state level since the time of Prophet Muhammad<sup>4</sup> (peace be on him)<sup>5</sup>, until the downfall of the Islamic rule through colonization<sup>6</sup> during the 18<sup>th</sup> and 19<sup>th</sup> centuries.<sup>7</sup> As a result of the colonization of Muslim lands, there has been a discontinuity in the collection of zakat by a Muslimstate for centuries.<sup>8</sup> However, this thesis has identified that some of the Muslim countries have begun to institutionalize the collection of zakat by choosing to implement the compulsory zakat collection system. This is a system where the government is responsible for the assessment, collection and distribution of zakat.<sup>9</sup> Some examples of countries already operating this system are Pakistan<sup>10</sup>, Saudi Arabia<sup>11</sup>, Sudan<sup>12</sup>, and Yemen<sup>13</sup>.

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<sup>4</sup> That is the time the Prophet emigrated to Medina from Mecca in 622 CE and established a state. This has been explained in YetkinYildirim, "Peace and Conflict Resolution in the Medina Charter," *Peace Review: A Journal of Social Justice*, 18:109–117 at p. 110.

<sup>5</sup>Peace be on him is a phrase that practising Muslims often say after saying (or hearing) the name of one of the Prophets of Islam.

<sup>6</sup> Ba-Yunus, Ilyas (1980) "A note on the Social Implication of Zakah in Modern Times" in Raquibuzzaman (ed.), *Some Aspects of The Economics of Zakah*, op. cit., pp. 179-183 at p. 179.

<sup>7</sup> Thomas M. McDonnell, *The West's Colonization of Muslim Land and the Rise of Islamic Fundamentalism*, in *The United States, International Law, and the Struggle Against Terrorism* (2010) at p. 15.

<sup>8</sup>Ba-Yunus, Ilyas (1980) "A note on the Social Implication of Zakah in Modern Times" supra note 6 at p. 3.

<sup>9</sup>FazlurRahman, *Islam and Modernity: Transformation of An Intellectual Tradition* (University of Chicago Press 1982) at p. 32.

<sup>10</sup>Islamic Republic of Pakistan, *Zakat and Ushr Ordinance* 1980.

<sup>11</sup> Saudi Basic Law, Article 21. ("Zakat shall be levied and dispensed to its legitimate beneficiaries."), Decree No. 61/51 Dated 5/1/1383 on Zakat. It is further elaborated by Ministerial Resolution No. 393 Dated 6/8/1370 (13/5/1950 CA).

<sup>12</sup> The Constitution of The Republic of The Sudan 1998, Art. 10, The Law of the Zakat Fund of Sudan 1980 and the Zakat Law of 1989 and The Zakat and Taxation Law of Sudan 1984.

## 1.2 Statement of the Problem

State controlled zakat collection is the most effective way of collecting zakat.<sup>14</sup> However, this system is not without difficulties that inhibit the size of zakat revenue to be realized. Accordingly, the topic concerning the collection of zakat is wide since there are a number of problems that can be identified which affect the collection of zakat. However, despite the foregoing this thesis is confined in its study to examine two main difficulties that states face in the collection of zakat. These are problems in the administrative law of a state as well as in its legal philosophy on zakat. These two problems are interrelated and hence this thesis chose to cover them both.

A number of publicists<sup>15</sup> have written several books and articles on the collection of zakat by a state. However none of them have considered the fact that this system faces difficulties when it comes to the collection of zakat. This thesis, therefore, has attempted to add to the existing literature by identifying what these difficulties are

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<sup>13</sup>Constitution of The Republic of Yemen 1994, Article 21 (“The state shall collect the zakat and shall spend it through its legal channels in accordance with the law.”).

<sup>14</sup>Salama, Abdin Ahmed (1990), “Voluntary and Compulsory Applications of Zakah: A Case study of Sudan 1405-1410 H”, paper presented at the Third International Conference on Zakah, Kuala Lumpur, Malaysia, May 14-17, 1990 at p. 4.

<sup>15</sup> For example: Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, Mu’assasat al Risalah Publishers, 2nd printing Beirut (in Arabic), Ba-Yunus, Ilyas (1980) "A note on the Social Implication of Zakah in Modern Times" in Raquibuzzaman (ed.), *Some Aspects of The Economics of Zakah*, op. cit., pp. 179-183, Ghazali, Aidit (1988) "The Phenomenon of Zakah Payment Through Unofficial Channels - An Empirical Analysis", Kulliyah of Economics, International Islamic University, Malaysia, Kahf, Monzer (1999), "Zakah: Performance in Theory and Practice", paper presented at the "International Conference on Islamic Economics Towards the 21st Century", Kuala Lumpur, August 1999. *See also*: Rahman, SahaMuhammedHabibur (1980), “Zakat- A Case for Equitable Distribution of Income and Wealth”, in K.T. Hosain et al (eds.), *Thoughts on Islamic Economics*, Islamic Economics Research Bureau, Dhaka, pp.94-101, Shirazi, Nasim Shah (2004), “Prospects of Poverty Elimination through the Institution of Zakat: A Case of OIC Member Countries”, International Conference on Poverty in the Muslim World & Communities, IIUM, 14 – 1 December, 2004.

that affect the collection of zakat by a state. As an example, one of the difficulties faced by a Muslim state in the collection of zakat is the lack of an efficient and effective administrative law on zakat collection. Also the number of scholars differing on zakat coverage and assessment contribute to a Muslim State leaving out of the zakat base wealth that would have attracted zakat on grounds that in their legal philosophy on zakat these states are guided by different scholars under different schools of thought who disagree among themselves on the law on zakat and as a result there is no uniformity in the methods that different states apply in their collection of zakat.

The thesis has also identified that Muslim scholars<sup>16</sup> have consistently since the time of the Prophet (peace be on him) argued for the collection of zakat by a state,<sup>17</sup> but have failed to discuss that this system may be facing problems that limit the revenue collected through zakat. These scholars were more concerned with the philosophies behind arguing a case for the collection of zakat by a state. Consequently, this thesis took upon the task of investigating through the case study approach what difficulties certain selected countries faced in the collection of zakat, and whether these difficulties were as a result of problems relating to a state's administrative law or arising out of its legal philosophy on zakat.

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<sup>16</sup> Such as Imam Abu Hanifa, Imam Malik, Imam Shafi, Imam Ghazali cited in Timur Kuran (2005), "The Absence of the Corporation in Islamic Law: Origins and Persistence", *American Journal of Comparative Law* **53**, pp. 785-834 [798-799], Abu Hamid Al-Ghazali, *Mysteries of Zakat*, Translated by Nabih Amin Faris 65 (Ashraf Press, Lahore 1974), and Al Mawardi, Abu al Hasan 'Ali bin Muhammad (1973) *al Ahkam al Sultaniyyah* (Circa 450), al Babi al Halabi Publishers, 3rd printing, Cairo (in Arabic).

<sup>17</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, Mu'assasat al Risalah Publishers, 2nd printing Beirut (in Arabic), at p. 749.

### **1.3 Justification of the Study**

There are a number of problems that affect the collection of zakat by a state, which in turn limit the amount of revenue collected. The problems identified by this thesis concern the administrative law of a state relating to zakat collection and the legal philosophy that a state utilizes in its collection of zakat. The justification, therefore, of this thesis is to address these problems by coming up with several recommendations. Zakat is a method by which poverty can be alleviated and wealth can also be equitably distributed in a society. Hence, having a zakat collection system that is not affected by problems in the administrative law of zakat and in a state's legal philosophy on zakat is important in realising the objective of zakat as a method of poverty alleviation and equitable wealth distribution in a society.

### **1.4 Research Questions**

The research questions that this thesis examined were: one what are the difficulties faced by individual states in applying Islamic legal philosophies and two, is the administrative law that is utilized by an Islamic state effective and efficient in the collection of zakat?

### **1.5 Research Methodology**

This thesis is chiefly qualitative. The research methodology employed in carrying out the research for this thesis was the explanatory approach and the use of the library. The explanatory approach aided in selecting the states that collect zakat and



describing the manner in which such states collect zakat to explaining the problems encountered by such states in the collection of zakat. The use of the library facilitated most of the research from whence a number of books and journal articles were considered and upon which the literature review is based.

In other words, this thesis adopted the descriptive, explanatory and exploratory approach by studying selected Muslim states collecting zakat and inquiring into the problems faced by these states by putting together and assessing the data that already exists hence ousting the need for quantitative research methods.

## **1.6 Hypothesis**

This thesis affirmed its hypothesis that problems in the administrative law and legal philosophy of a state in its policy on zakat affect the efficient and effective collection of zakat. In defining its hypothesis, this thesis did not refer to or have in mind any particular country.

## **1.7 Statement of the Objective**

The existence of problems in the administrative law of a state in the collection of zakat or in the legal philosophy utilized by a state in its policy on zakat affect and limit the amount of revenue collected in zakat and as such these problems defeat the objective of zakat as a method of poverty alleviation and equitable distribution of wealth. Hence, the general objective of this thesis was to identify and examine the reasons and circumstances that create these problems which in turn affect the optimal

collection of zakat by a state. .An examination of a number of Muslim states that collect zakat was carried out to examine this objective.

The subsidiary objectives of this thesis were to introduce the concept of zakat, to define it and to discuss the jurisprudence<sup>18</sup> surrounding it, to introduce the Muslim scholars who have written about zakat, argued for its collection by a state and to highlight the philosophies that led to the development of the collection of zakat. A discussion of these philosophies aided this thesis in identifying the gap in the literature relating to the study of zakat collection by a state. A further objective of this thesis was to indicate a number of recommendations to address the problems identified in the collection of zakat by a state.

## **1.8 Theoretical Framework**

This thesis is centred on the historic approach<sup>19</sup>, in particular the Islamic school of thought.<sup>20</sup> This thesis relied on this school in relation to the collection of zakat because the Islamic school of thought was useful in understanding the history and development of zakat and its collection by a state.<sup>21</sup> Various theorists<sup>22</sup> under this

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<sup>18</sup> Jurisprudence has been defined as the theories or philosophies about law in D'Amato, Anthony, "The Relation of Theories of Jurisprudence to International Politics and Law" (2011). *Faculty Working Papers*. Paper 1, at p 1.

<sup>19</sup> R.W.M. Dias, "Jurisprudence," 5<sup>th</sup> ed. (Butterworths, London, 1985), at p.355.

<sup>20</sup> This thesis is confined to the four main Islamic schools of thought, within the Sunni sect. These schools are the Hanafi, Maliki, Shafi'e and Hanbali schools of thought respectively.

<sup>21</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 17, at p. 749.

<sup>22</sup> Malik Ibn Anas, Al-Muwatta of Imam Malik Ibn Anas: The First Formulation of Islamic Law, § 17 zakat (Aisha Abdurrahman Bewley trans., Madinah Press Inverness 2001 edition), Al Qaradawi, Yusuf

school have also supported the collection of zakat by astate. This thesis also supports the collection of zakat by astate and relies on the views of Al Bukhari and Muslim<sup>23</sup> who continued the tradition of supporting the collection of zakat by astate. According to them the aim of collecting zakat was to cater for the welfare of the poor, needy and debtors among others and they therefore supported the view that there is a need to make mandatory payment of zakat to astate.<sup>24</sup>

The scholar Abu Hanifa also justified the concept of forcibly collecting zakat by astate.<sup>25</sup> He emphasized the collection of zakat by astate for catering towards the welfare of the poor, needy, wayfarer and debtors within the Muslim community. The scholar Malik IbnAnas also confirmed his support for the collection of zakat by astate.<sup>26</sup> His view being that such collection must be in support of the poor.<sup>27</sup>

ImamsShafi and Al Ghazali speak of avoiding human discretion in the collection of

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(1973), *Fiqh al Zakah*, Mu'assasat al Risalah Publishers, 2nd printing Beirut (in Arabic), at p. 749, Al-Ghazali, A. (1989). *On the Islamic Doctrine in Economic Development, Reflections on Islamic Economics Series*, Al-Wafaa Printing and Publishing, Al-Mansoura, Egypt, Al-Hilali, Muhammad Taqi-ud-Din and Muhammad Muhsin Khan (1404H), *Translation of the Meanings of the Noble Qur'an in the English Language*, King Fahd Complex for the Printing of the Holy Qur'an, Madinah, Abu Hamid Al-Ghazali, *Mysteries of Zakat*, Translated by Nabih Amin Faris 65 (Ashraf Press, Lahore 1974), Al Mawardi, Abu al Hasan 'Ali bin Muhammad (1973) *al Ahkam al Sultaniyyah*(Circa 450), al Babi al Halabi Publishers, 3rd printing, Cairo (in Arabic), IbnKathir (1997), *Al Bidayahwa al Nihayah*(Circa 774H), Hajar Publishers, Riyadh (in Arabic), at p. 437-39), WaelHallaq, *A History of Islamic Legal Theories: An Introduction To Sunni Usul Al-Fiqh 10-15* (Cambridge 1997) among others.

<sup>23</sup> Quoted in IrshadAbdal-Haqq, *Islamic Law: An Overview of its Origins and Elements*, J. ISLAMIC L. AND CULTURE 27, 36 (2002) at p. 11.

<sup>24</sup>Ibid at p. 11-12.

<sup>25</sup> Marshall G. S. Hodgson, *The Venture of Islam: Conscience And History In A World Civilization*, Volume 1: *The Classical Age of Islam* 97, 98 (U. of Chicago 1985) at p. 102.

<sup>26</sup> Malik IbnAnas, *Al-Muwatta of Imam Malik IbnAnas: The First Formulation of Islamic Law*, § 17 zakat (Aisha Abdurrahman Bewley trans., Madinah Press Inverness 2001 edition) at p. 47.

<sup>27</sup>Ibid at p. 47.

zakat. This discretion is more common where charitable institutions exist to collect zakat voluntarily paid to them by zakat payers.<sup>28</sup> Their view, therefore, also gives support to the collection of zakat by a state.

However, neither of these theorists has considered that there may be problems affecting the collection of zakat by a state. Their concern has mainly been for the welfare of the poor and on the equitable distribution of wealth. Accordingly, in their opinion, a state ought to be the collector of zakat if the objective of catering for the welfare of the poor and equitably distributing wealth in the society is to be realized. This thesis in as much as it agrees with these theorists goes a step further to state that there are problems affecting the collection of zakat by a state. Accordingly, it goes ahead to identify these problems as difficulties in the administrative law of a state relating to zakat collection and problems in its legal philosophy on zakat as a result of differences in the opinions of scholars of the different schools of thought under Islamic jurisprudence to which states subscribe to. The thesis also addresses the extent to which these problems affect the collection of zakat by a state.

Thus the historic approach was important since it is concerned with viewing events as they occurred by understanding the history and development of the collection of zakat and discussing actual the administrative law and legal philosophical problems that have arisen in the field of the collection of zakat by a state.

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<sup>28</sup>Sheikh, Abdul Aziz (1980). Concept of Zakah: A survey of Qur'anic Texts and Their Explanation in Shari'ah and Contemporary Economics. In M. Raquibuzzaman (Ed.). *Some Aspects of Economic of Zakat*, pp. 3-68.

## 1.9 Conceptual Framework

Zakat literally has been derived from the Arabic root word that carries the meanings of “that which purifies”<sup>29</sup>, as well as “that which fosters”,<sup>30</sup> that is, growth and increase. According to Ataina and Achmad<sup>31</sup> the meaning of growth of zakat is that by paying zakat, it might lead to the escalation of property in this world and also development of religious merit in the hereafter.<sup>32</sup> Furthermore, zakat also has been mentioned in the Holy Quran together with other terms such as sadaqat(donation), which also carries the meaning of connotation of giving and charity.<sup>33</sup>

Zakat is the amount of money that every adult, mentally stable, free, and financially able Muslim, male and female, has to pay to support specific categories of people. There are eight groups of people who are qualified to receive zakat, as mentioned by Allah in the Holy Quran at Chapter 9 Verse 60 that includes *al-Fuqara*’ (needy/strained), *al-Masakin*(poor/deficient/lacking), *amil*(has right to collect zakat), *mualaf*(convert/reconciled to Islam), *al-Riqab*(slave), *al-gharimin*(people in debt), *fi-sabilillah*(Allah’s cause) and *Ibn as-sabil*(traveler/wayfarer).<sup>34</sup>

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<sup>29</sup>Siddiqi, S. A. 1968, Public Finance in Islam, S. H. Muhammad Ashraf, Lahore, Pakistan, at p.37.

<sup>30</sup>Zayas, F. G. 2003, The Law and Institution of Zakat, Kuala Lumpur: The Other Press, at p.41.

<sup>31</sup>AtainaHidayati&AchmadTohirin 2010, ‘Management of zakah: centralized vs decentralized approach’, Proceedings of Seventh International Conference – The Tawhidi Epistemology: Zakat and Waqf Economy at p. 350.

<sup>32</sup>Ibid at p.352.

<sup>33</sup>Hairunnizam Wahid &Radiah Abdul Kader 2010, ‘Localization of Malaysian zakat distribution: perception of amil and zakat recipients’, Proceedings of Seventh International Conference – The Tawhidi Epistemology: Zakat and Waqf Economy, at p.462.

<sup>34</sup>Abu Sa’ud: *KhututRa’isiyyah fi al-Iqtisad al Islami*, (Kuwait, IFSO. 1978) at p. 68.

Zakat has been divided into two main categories, which are zakat of al-fitr and also zakat of wealth.<sup>35</sup> Zakat of al-fitr is the zakat, which needs to be paid by Muslims once a year during the month of Ramadan<sup>36</sup> before the Muslims festive season celebration known as Eid.<sup>37</sup> The basis for paying this type of zakat is found in the report narrated by Ibn Umar who said: “The Prophet enjoined zakat al-fitr assessed as a saa’<sup>38</sup> of dates, or a saa’ of barley, upon all the Muslims, slave and free, male and female, young and old, and he commanded that it be paid before the people went out for the Eid prayer.”<sup>39</sup>

Zakat of wealth is the zakat which needs to be paid by Muslims once a year and is to be paid on livestock (camels, cattle and sheep); gold and silver and, nowadays, paper currency; trade goods;<sup>40</sup> and what is produced by the earth, which includes two things,<sup>41</sup> which are; crops and fruits and buried treasure, that is, wealth buried in the ground that is found by a Muslim.

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<sup>35</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 17, at p. 749.

<sup>36</sup> Ramadhan is the 9<sup>th</sup> month of the Islamic calendar, and is observed as the month of fasting.

<sup>37</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 17, at p. 753.

<sup>38</sup> What is meant by a saa’ here is the measurement of the Prophet which is four times the amount that may be held in the two hands of a man of average build. It is acceptable to give a saa’ of the local staple food such as rice etc.

<sup>39</sup> Sahih Al-Bukhari, The Translation of The Meanings of Sahih Al Bukhari, Volume 2: Ahadith 876-1772 (Dr. Muhamad Muhsin Khan trans., Darussalam 1997), Hadith number 1503.

<sup>40</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 17, at p. 754.

<sup>41</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 17, at p. 754.

The table on page 13 shows a list of the categories on which zakat of wealth is due and the amount to be paid on such categories.

Wealth on which zakat is due and to be assessed	% of zakat due only when in possession for one year	% of zakat due immediately after possession		
Un-invested wealth	2.5%			
Invested wealth	2.5%			
Agricultural produce: <ul style="list-style-type: none"> <li>• Harvest from cultivated land</li> <li>• Harvest from non cultivated land</li> </ul>		5%		
Fortuitous fortune		10% (Ushr)		
Livestock		20% (Khums)		
		Wealth	Nisab <sup>42</sup> range	Rate of Zakat
		Camel	5-9	1 ram/goat
			10-14	2 rams/goats
			15-19	3 rams/goats
			20-24	4 rams/goats
			25-35	A year old she camel
			36-45	A 2 year old she camel
			46-60	A 3 year old she camel
			61-75	A 4 year old she camel
			76-90	2, 2year old she camels
			91-120	2, 3year old she camels
		Sheep/ Goats	40-120	A ram, sheep or goat
			120-200	2 sheep
			201-300	3 sheep
Cows	30-39	A 2 year old calf		
	40-59	A 3 year old calf		
	60-69	2, 2year old cows		

Source: Al SayyidSabiq, “Fiqh us Sunnah: AzZakah and As Siyam” (Translated by Muhammad SaeedDabas and Jamal al Din m. Zarabozo, Islamic Printing & Publishing Co, Egypt, 2000) at p. 275.

<sup>42</sup>Nisab is the amount one’s net worth must exceed for the Muslim owner to be obligated to give zakat.



## 1.10 Limitations

There are three main limitations to this thesis, one being that the author is a Muslim and therefore the possibility of bias exists, two that the findings of this thesis are limited to Muslim states that collect zakat and three that this thesis only considers the collection of zakat by a state in particular the administrative law and legal philosophical problems faced by a state in zakat collection. The reason that this thesis chose Muslim states to study is because Muslim states to an extent apply Islamic law, which in Arabic is referred to as Shariah<sup>43</sup>. Islamic law requires that Muslims pay the zakat and the historical school of thought has shown that the obligation to collect zakat has since the time of the Prophet been vested in the Muslim state. Secular states do not collect zakat, and therefore there was no need to include these states in the study.

Furthermore, in this thesis Kenya has not been used as a case study for reasons that Kenya is a non Islamic State and as such does not collect zakat. This thesis is specific to the collection of zakat by a Muslim state and the problems that affect a Muslim state in its collection of zakat. The findings of the study can only be disseminated to the Middle East, parts of Africa and Asia where the state enforces and applies Islamic law. In Kenya, Islamic law is enforced through the Kadhis Court. Such enforcement is limited only to personal law and the personal law asset out in the Kadhis Court

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<sup>43</sup>Shariah refers to a body of Islamic law. In the Islamic state Sharia governs both public and private lives of those living within the state. Sharia governs many aspects of day-to-day life, including politics, economics, banking, business law, contract law, and social issues. Some accept Sharia as the body of precedent and legal theory before the 19th century, while other scholars view Sharia as a changing body, and include reform Islamic legal theory from the contemporary period.

Act<sup>44</sup> and the Constitution of Kenya<sup>45</sup> does not envisage the collection of zakat, it is only limited to issues relating to personal status, marriage, divorce and inheritance of consenting Muslim parties to the jurisdiction of the Kadhis Court. The Muslims in Kenya pay their zakat directly to their indigent and needy relatives, poor and needy persons, towards the maintenance of orphans or to charitable institutions that have been established such as the MaahadDaawah Group for the collection of zakat. This system is referred to as the voluntary zakat collection system and is excluded by the thesis whose concern is limited to discussing compulsory collection of zakat by a Muslim state.

### **1.11 Literature Review**

IlyasBa-Yunus in his book titled “A Note on the Social Implication of Zakat in Modern Times”<sup>46</sup> reviewed a number of articles that supported the fact that throughout the history of Islam, governments played an important role in the collection of zakat.<sup>47</sup> HasanuzZaman on the other hand in his paper titled “Zakat and Ushr. Draft Examined”<sup>48</sup> went a step further and identified that a government in the collection of zakat may decide to take either one of the two ways of collecting zakat.<sup>49</sup> These

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<sup>44</sup> Republic of Kenya, The Kadhis Court Act, Chapter 11 of the Laws of Kenya, Revised Edition 2008 (1998) Published by the National Council for Law Reporting, Nairobi, Section 5.

<sup>45</sup> Republic of Kenya, The Constitution of Kenya, Revised Edition 2010, Published by the National Council for Law Reporting, Nairobi, Article 170 (5).

<sup>46</sup> Ba-Yunus, Ilyas (1980) "A note on the Social Implication of Zakah in Modern Times" supra note 6 at p. 180.

<sup>47</sup> Ibid at p. 180.

<sup>48</sup> Hasanuzzaman.S.M. (1979) "Zakat and *Ushr*.Draft Examined", Islamic Order, Vol. 1, No. 3, 1979.

<sup>49</sup> Ibid at p. 72.

methods are the compulsory zakat collection and the voluntary zakat collection. In the former, it is the government's responsibility to collect the zakat and zakat payers are under an obligation to make the payment to their government.<sup>50</sup> In the latter, the government does not have the responsibility to collect the zakat, but instead zakat is collected by the various charitable institutions established in the countries where zakat is paid, such countries either being Muslim states or non Muslim states having a minority Muslim population.<sup>51</sup>

In examining which of the two methods is most effective Abidin Ahmed Salama in his "Prospects of Poverty Elimination through the Institution of Zakat: A Case Study of OIC Member Countries"<sup>52</sup> using the Sudan experience in the collection of zakat pointed out that when the zakatis collected properly and in the right way according to the Shariah by the government it can alleviate poverty.<sup>53</sup> Accordingly, many researchers including Aidit Ghazali in his paper titled "The Phenomenon of Zakat Payment Through Unofficial Channels - An Empirical Analysis"<sup>54</sup> are now investigating zakat collection for long-term rehabilitation programmes since it has emerged that a number of charitable institutions have also emerged that collect

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<sup>50</sup> Ba-Yunus, Ilyas (1980) "A note on the Social Implication of Zakah in Modern Times" supra note 6 at p. 181.

<sup>51</sup> Ibid at p. 181.

<sup>52</sup> Salama, Abidin Ahmed (1990), "Voluntary and Compulsory Applications of Zakah: A Case study of Sudan 1405-1410 H", paper presented at the Third International Conference on Zakah, Kuala Lumpur, Malaysia, May 14-17, 1990 .

<sup>53</sup> Ibid at p. 6.

<sup>54</sup> Ghazali, Aidit (1988) "The Phenomenon of Zakah Payment Through Unofficial Channels - An Empirical Analysis", Kulliyah of Economics, International Islamic University, Malaysia.

zakat<sup>55</sup> and this has led to a sizeable amount of potential zakat revenue remaining outside the control of such institutions since there are no detailed rules on assessment, coverage and collection of zakat within which these institutions operate.<sup>56</sup> Therefore the collection of zakat by a state is a live issue and its discourse is not complete without considering whether there are any problems that affect the effective and efficient collection of zakat.

Jamil Othman in using Malaysia as his case study discussed in his paper titled "Zakat: A Case Study of Malaysia"<sup>57</sup> the issue of the emergence of charitable institutions collecting zakat. Othman found that in Malaysia a large percentage of zakat is paid through charitable institutions,<sup>58</sup> which according to this thesis is as a result of inefficiencies in the Malaysian governments' collection efforts and lack of confidence in the governments' collection of zakat among other reasons.

A number of countries operating the compulsory zakat collection system have their own rules in terms of the assessment, coverage, methods of collection of zakat and so on<sup>59</sup>, which according to Abdallah Al Tahir<sup>60</sup> means that there is no uniform way in

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<sup>55</sup>Ibid at p. 78.

<sup>56</sup>Ibid at p. 82.

<sup>57</sup>Othman, Jamil et al (1990) "Zakat: A Case Study of Malaysia", paper presented at the Third International Conference on Zakah, Kuala Lumpur, Malaysia, May 14-17, 1990.

<sup>58</sup>Ibid at p. 3.

<sup>59</sup> Russell Powell, Theology in Public Reason and Legal Discourse: A Case for the Preferential Option for the Poor, WASH. & LEE J. SOC. JUST. & C.R. Washington and Lee Journal of Social Justice and Civil Rights (2009) at p.40.

<sup>60</sup>Al Tahir, Abdallah (1997), "Zakat Proceeds and Developments of Society," in MonzerKahf (Editor), *Economics of Zakah*, Book of Reading No. 2, Islamic Research and Training Institute, Islamic Development Bank Group, Jeddah, pp. 507-64.

which zakat is collected since each government can decide to assess zakat on a particular category of items which another government does not consider<sup>61</sup> and this according to the thesis has the effect of limiting the amount collected through zakat.<sup>62</sup>

This thesis in reviewing the existing literature concerning the collection of zakat noted that despite literature supporting the collection of zakat by a state there is no discussion on the fact that a state may be facing problems in its administrative law and legal philosophy on zakat that inhibit the collection of zakat and prevent it from realizing its full potential. Hence, this thesis investigates whether there are any obstacles that limit the effectiveness of the collection of zakat by a state.

## **1.12 Chapter Breakdown**

There are five chapters to this thesis:

### **❖ Chapter One is on the Introduction**

This chapter gives an overview of the thesis. It introduces the reader to the theme of the thesis and its research question. It highlights the limitations of this thesis and also examines and reviews the literature relating to the collection of zakat. Further, it sets out the various objectives of this thesis and identifies the research methodology employed in gathering the data in support of this thesis.

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<sup>61</sup>Ibid at p. 510.

<sup>62</sup>Ibid at p. 515.

## ❖ **Chapter Two is on the Theoretical Framework**

This chapter discusses the theories and theorists supporting the collection of zakat by a state. It highlights the philosophies informing the decision of a state to collect zakat. Further, it traces the historical experiences and development of zakat and its collection and provides the foundation and legality of a state imposing zakat and collecting it. This chapter also points out the gaps in the collection of zakat by a state that have not been discussed in the existing literature. It is in this chapter that the theme of the thesis is properly introduced and framed for investigation in the next chapter.

## ❖ **Chapter Three is on Zakat Collection and Its Legal Challenges**

This chapter identifies the main methods by which zakat is collected. However, it focuses primarily on the collection of zakat by a state. The chapter also discusses the different ways by which the Muslim states engaged in this system collect zakat. Finally, it explores and explains through the case study approach the problems certain selected countries face in the collection of zakat and the effect of these administrative law and legal philosophical problems in the collection of zakat.

## ❖ **Chapter Four contains the Recommendations**

This chapter points out several recommendations that would aid in overcoming the problems identified in chapter three. The recommendations made in this chapter can only be generalized to those Muslim states that collect zakat.

## ❖ **Chapter Five is the Conclusion**

This chapter concludes the thesis. It highlights in summary the research question and the objectives that the thesis aimed to investigate and concludes whether the research question was proved or disproved and whether and to what extent the objectives of the thesis were met.

## CHAPTER TWO

### THEORETICAL FRAMEWORK

#### ANALYSING THE LEGAL PHILOSOPHIES CONCERNING THE COLLECTION OF ZAKAT BY A STATE AND IDENTIFYING THE THEORETICAL GAP IN THEM

##### 2.1 Introduction

This thesis is centred on the historical school of thought<sup>63</sup>, in particular the Islamic school of law.<sup>64</sup> It relies on this school in relation to examining the problems faced by a Muslim state in the collection of zakat. Islamic law rests its validity on historical events and their interpretation and as a result this school of thought is useful in understanding the legal philosophies employed by a state in its collection of zakat.<sup>65</sup> Various theorists<sup>66</sup> under this school have supported the collection of zakat by a state. Thus, the historic approach is important since it is concerned with viewing events as they occurred by understanding the history and development of the collection of zakat and discussing the problems that have arisen in the field of the collection of zakat by a

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<sup>63</sup> R.W.M. Dias, "Jurisprudence," 5<sup>th</sup> ed. (Butterworths, London, 1985), at p.355.

<sup>64</sup> This thesis is confined to the four main Islamic schools of thought, within the Sunni sect. These schools are the Hanafi, Maliki, Shafi'e and Hanbali schools of thought respectively.

<sup>65</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, Mu'assasat al Risalah Publishers, 2nd printing Beirut (in Arabic), at p. 749.

<sup>66</sup> Malik IbnAnas, Al-Muwatta of Imam Malik IbnAnas: The First Formulation of Islamic Law, § 17 zakat (Aisha Abdurrahman Bewley trans., Madinah Press Inverness 2001 edition), Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, Mu'assasat al Risalah Publishers, 2nd printing Beirut (in Arabic), at p. 749, Al-Ghazali, A. (1989). On the Islamic Doctrine in Economic Development, Reflections on Islamic Economics Series, Al-Wafaa Printing and Publishing, Al-Mansoura, Egypt, Al-Hilali, Muhammad Taqi-ud-Din and Muhammad Muhsin Khan (1404H), *Translation of the Meanings of the Noble Qur'an in the English Language*, King Fahd Complex for the Printing of the Holy Qur'an, Madinah, Abu Hamid Al-Ghazali, *Mysteries of Zakat*, Translated by Nabih Amin Faris 65 (Ashraf Press, Lahore 1974), Al Mawardi, Abu al Hasan 'Ali bin Muhammad (1973) *al Ahkam al Sultaniyyah*(Circa 450), al Babi al Halabi Publishers, 3rd printing, Cairo (in Arabic), IbnKathir (1997), *Al Bidayahwa al Nihayah*(Circa 774H), Hajar Publishers, Riyadh (in Arabic), at p. 437-39), WaelHallaq, A History of Islamic Legal Theories: An Introduction To Sunni Usul Al-Fiqh 10-15 (Cambridge 1997) among others.



state as a result of result different legal philosophies utilized by different states in their policy on zakat and which in turn has resulted in ineffective and inefficient administration of zakat

## **2.2 The Philosophy behind the Collection of Zakat during the time of Prophet Muhammad**

The historical school of thought, in particular the Islamic jurisprudence has shown that since time immemorial zakat used to be collected by the Islamic state.<sup>67</sup> Zakat, as a general obligation, had begun to be legislated during the period when Prophet Muhammad (peace be on him) was still in Mecca that is before his emigration to Medina.<sup>68</sup> This school identified the earliest form of zakat as the zakat al fitr that is an amount paid in charity by Muslims after the end of the Islamic holy month of Ramadhan<sup>69</sup> to the poor.<sup>70</sup> When this law was set out the philosophy behind it was to aid the poor persons and slaves who as a result of having accepted Islam were being discriminated against and boycotted by the Meccan elites.<sup>71</sup> However, at this point in history, the obligation to pay the zakat al fitr was purely on religious grounds.<sup>72</sup> The money paid to the poor in charity was simply seen as an act of virtue and spiritual well being.<sup>73</sup>

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<sup>67</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 3 at p. 749.

<sup>68</sup> Ibid at p. 750.

<sup>69</sup> This is the 9<sup>th</sup> month of the Islamic calendar, and is observed as the month of fasting.

<sup>70</sup> HasanuzZaman, "Definition of Islamic Economics," in *Journal for Research in Islamic Economics*, Vol. 1, No. 2, 1404H, pp.51 – 53.

<sup>71</sup> Al-Ghazali, A. (1989). *On the Islamic Doctrine in Economic Development, Reflections on Islamic Economics Series*, Al-Wafaa Printing and Publishing, Al-Mansoura, Egypt at p. 19.

<sup>72</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 3 at p. 750.

<sup>73</sup> Al-Ghazali, A. (1989). *On the Islamic Doctrine in Economic Development*, supra note 9, at p. 23.

The payment of zakat became obligatory to the state after the Prophet established a government in Medina.<sup>74</sup> The philosophy behind the obligatory nature of zakat at the establishment of a government, according to Yusuf Al Qaradawi was that the collection of zakat at that time became important in order to have the government function and cater for the welfare of its population.<sup>75</sup> In that respect the collection of zakat by the state became important in order to ensure that wealth was distributed equitably.<sup>76</sup> This theory of equitable wealth distribution has been alluded to in the Qur'an.

Chapter 9 verse 60 of the Qur'an states:

*The alms 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 for the cause of Allah, and [for] the wayfarer; a duty imposed by Allah. Allah is Knower, Wise.*<sup>77</sup>

This passage is important in jurisprudence as it identifies eight proper beneficiaries of zakat. It also goes to show that the objective of having the state collect zakat is in the alleviation of poverty and hardship and in ensuring that wealth is distributed to those who need it the most.<sup>78</sup> The first group of recipients is the poor (fuqarain Arabic), those who are in material need. The

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<sup>74</sup>Ibid at p. 31.

<sup>75</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 3, at p. 752.

<sup>76</sup>Al-Ghazali, A. (1989). On the Islamic Doctrine in Economic Development, supra note 9, at p. 24.

<sup>77</sup>Surah 9:60 (The Quran).

<sup>78</sup>Al-Ghazali, A. (1989). On the Islamic Doctrine in Economic Development, supra note 9, at p. 27.

second group of recipients, the needy (masakinin Arabic), is also similar.<sup>79</sup> The philosophy behind having the first and second groups of zakat beneficiaries as the poor and needy is in the consideration that when the Prophet emigrated to Medina with his followers, they left behind all their belongings in Mecca and came to Medina empty handed.<sup>80</sup> Thus one of the reasons for collecting zakat was to distribute it to these groups so that they would be able to meet the basic necessities of life.<sup>81</sup> Consequently, it was important to first cater for these groups, since the objective of zakat is to alleviate poverty.

The third category of recipients is “those who collect them.” This has been interpreted as an allocation to cover the cost of collecting and distributing alms.<sup>82</sup> Historically, when zakat was collected by Muslim states as a tax, this category was used to justify state administrative costs.<sup>83</sup> The fourth category of recipients is “those whose hearts are to be reconciled.” It is not clear whether the hearts of this group are fully reconciled or in the process of reconciliation.<sup>84</sup> Thus, one interpretation would include only members of the Muslim community (possibly recent converts).<sup>85</sup> Another would include those who are sympathetic to Islam, but are not yet believers.<sup>86</sup> This second interpretation when it comes to the distribution of zakat has been used

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<sup>79</sup>Encyclopaedia of Islam, Zakat (C.E. Bosworth ed., Brill 2004), article on “Miskin”.

<sup>80</sup>IbnHisham (1955) *Al Sirah al Nabawiyyah*(Circa 218H), al Babi al Halabi Publishers, Cairo (in Arabic) at p. 109.

<sup>81</sup>Al-Ghazali, A. (1989). *On the Islamic Doctrine in Economic Development*, supra note 9, at p. 27 – 28.

<sup>82</sup> Hanna E. Kassis, *A Concordance of The Qur’an 431*(Berkely 1983) at p. 266.

<sup>83</sup> Powell, Russel, “Zakat: Drawing Insights for Legal Theory and Economic Policy from Islamic Jurisprudence,” at p. 7. Available at: <http://ssrn.com/abstract=1351024> Last accessed on March 2012.

<sup>84</sup>Ibid at p. 7.

<sup>85</sup>See The Quran 9:60 (Yusef Ali translation) (“those whose hearts have been recently reconciled”).

<sup>86</sup>See The Quran 9:60 (Pickthall translation) (“here reconciliation is not completed”).

to justify financial support for missionary activities and for potential converts.<sup>87</sup>

The fifth and sixth rightful recipients are captives (al-riqab) and debtors (al-gharimin). Although debtors may include those who are enslaved, it may include others who are burdened by debt.<sup>88</sup> The seventh category of zakat recipients is “for the cause of Allah.” Historically, this was used to support those who served as warriors for the defense of Islam.<sup>89</sup> However, in the absence of a limiting hermeneutic in the fiqh<sup>90</sup> literature, it could be used for a wide range of activities that support this broad purpose. The final category of recipients is the “wayfarers.” This seems to justify expenditure of zakat monies to support travelers.<sup>91</sup> It may even apply to wealthy travelers if they do not have access to their wealth.<sup>92</sup>

From the foregoing, it can be concluded that zakat is a method of distributing wealth. The criterion informing its collection is the consideration of the welfare of persons. The Prophet during his time did not concern himself with the problems that the state may face in the collection of zakat. The Islamic government had just been established and the object of

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<sup>87</sup> MonzerKahf, Ed., *Economics of Zakat: A Book of Readings* 20 (MonzerKahf, ed., (Islamic Research and Training Institute 1997) at p. 31-32.

<sup>88</sup> Abu Hamid Al-Ghazali, *Mysteries of Zakat*, Translated by Nabih Amin Faris 65 (Ashraf Press, Lahore 1974) (Al-Ghazali limits the amount that a debtor may receive to the extent of indebtedness in a separate discussion from manumission payments.).

<sup>89</sup> *Ibid.*, at p. 62

<sup>90</sup> Fiqh is an [Arabic](#) word, which means [Islamic jurisprudence](#). Fiqh is an expansion of the code of conduct ([Shariah](#)) expounded in the [Quran](#), often supplemented by tradition ([Sunnah](#)) and implemented by the [rulings](#) and interpretations of [Islamic jurists](#). Fiqh deals with the observance of rituals, morals and social legislation in Islam. There are four prominent schools ([madh'hab](#)) of fiqh within [Sunni](#) practice and two within [Shi'a](#) practice.

<sup>91</sup> Powell, Russel, “Zakat: Drawing Insights for Legal Theory and Economic Policy from Islamic Jurisprudence,” at p. 8. Available at: <http://ssrn.com/abstract=1351024> Last accessed on March 2012.

<sup>92</sup> Abu Hamid Al-Ghazali, *Mysteries of Zakat*, supra note 26, at p. 63.

collecting zakat was to ensure that the inhabitants of Medina do not suffer poverty. Since zakat was seen as an obligation Muslims were quick to pay their zakat to the state. Also because the Muslim community during the time of the prophet was small there were no problems *per se* in the collection of zakat since the legal philosophy informing the policy on zakat at that time came from the Prophet and was applied uniformly. This thesis, therefore, states that any discussion on the collection of zakat is incomplete without examining whether there are any problems that a state faces in its collection.

### **2.3 The Philosophy behind the Collection of Zakat during the Caliphate Times**

Earlier in this chapter it was said that the focus of this thesis is on the collection of zakat by a state. Further, such collection is to be carried out by a state as is evidenced from history where the Prophet's government in Medina was responsible for this task.<sup>93</sup> The caliphate years also attest to the requirement of having a state collect zakat.<sup>94</sup> The theory behind the collection of zakat by a state is further set out by the Islamic school of economics that supports an economic system which is based on a sustainable, ethical and social responsibility approach<sup>95</sup> and is further evidenced by the following words of Prophet Muhammad (peace be on him) that:

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<sup>93</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 3 at p. 749.

<sup>94</sup> Ibn Hisham (1955) *Al Sirah al Nabawiyyah* (Circa 218H), al Babi al Halabi Publishers, Cairo (in Arabic) at p. 178.

<sup>95</sup> Timur Kuran (2005), "The Absence of the Corporation in Islamic Law: Origins and Persistence", *American Journal of Comparative Law* 53, pp. 785-834 [798-799].

*Indeed Allah has made zakat an obligation for the wealthy Muslims and through it poverty is alleviated. Consequently, the result of zakat is that the poor ought not to suffer hunger or lack of clothes unless the tight fisted Muslims cause it.*<sup>96</sup>

The above statement reflects the philosophy of the Islamic school of economics that it is incumbent upon a state to collect zakat in order to ensure the equitable distribution of wealth and in the alleviation of poverty.<sup>97</sup> The caliphate of Abu Bakr showed that zakat is integral to Islam and is just as important as prayer.<sup>98</sup> He ranked zakat in equal importance with prayer, stated that it was a right held over one's wealth, just as prayer is a right over one's actions, and that the denial of the obligation of paying zakat was an act of disbelief making its evasion a punishable offence.<sup>99</sup> Thus the positivist school of law<sup>100</sup> also becomes relevant in the collection of zakat in that because of its compulsory nature, evasion or non-payment of zakat can be enforced through the force of sanctions or a threat thereof.

As the number of Muslims grew during the times of the caliphate, some tribes in Arabia began to evade paying zakat. Their argument was that since zakat was payable during the time of the Prophet and now that he was no longer there, there was no obligation on them to pay the zakat. They accordingly then refused to pay zakat. This resulted in Abu Bakr as the caliph swearing to

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<sup>96</sup>Reported by Imam Thabarani, cited in Alfriti, (2006).“The Law of Zakat Management and Non Governmental Zakat Collectors in Indonesia”. International Journal of Not for Profit Law, vol. 8, no. 2 pp.55-64.

<sup>97</sup> Al Mawardi, Abu al Hasan ‘Ali bin Muhammad (1973) *al Ahkam al Sultaniyyah*(Circa 450), al Babi al Halabi Publishers, 3rd printing, Cairo (in Arabic) at p. 37.

<sup>98</sup>Ibid at p. 38.

<sup>99</sup>IbnKathir (1997), *Al Bidayahwa al Nihayah*(Circa 774H), Hajar Publishers, Riyadh (in Arabic), at p. 437-39) quoting Abu Bakr: “If they withhold giving (as Zakat) even a (little) rein of a camel or a small baby sheep (that is due on them) I will fight them for it. Zakat is the due obligation on properties. By God, I will fight whoever discriminates between prayers and Zakat”.

<sup>100</sup> R.W.M. Dias, “Jurisprudence,” supra note 1, at p. 75.

fight against the zakat evaders.<sup>101</sup> This was amongst the very first problems that the Islamic state started facing in the collection of zakat. Nonpayment or evasion of zakat became the very first difficulty during the time of the first caliph Abu Bakr in its collection and it then resulted in the caliph declaring war in order to force the defaulting Muslims to pay their zakat. However, this thesis has not considered the consequences of not paying zakat and neither does it discuss the problem of zakat evasion. It has only focused on the collection of zakat by a state and gone ahead to examine two main difficulties that different states face in the methods such states employ in the collection of zakat.

During the caliphate of Umar IbnKhattab the precedent set by Abu Bakr in following the prophetic example for the collection of zakat was followed. The Islamic empire was expanding and the number of Muslims was also growing and therefore in its administration of zakat the caliphate of Umar IbnKhattab mobilized zakat collectors and sent them to the various areas of the Islamic state to assess and collect zakat.<sup>102</sup> During this time, due to the expanding nature of the Islamic state, the entry of new persons into Islam, as well as new forms of employment-creating earnings within the caliphate, the amount of zakat being collected greatly increased.<sup>103</sup> This increase is illustrated in a narration collected by IbnAbiShaibah in his *Musannaf*<sup>104</sup> in which Abu Huraira came to Medina from Bahrain and related what follows below.

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<sup>101</sup> Al Mawardi, Abu al Hasan ‘Ali bin Muhammad (1973) *al Ahkam al Sultaniyyah* supra note 35, at p. 39.

<sup>102</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 3 at p. 749.

<sup>103</sup> Ibid at p. 749-753.

<sup>104</sup> Cited in Abu ‘Ubaid, al Qasim bin Sallam (1353H) *al Amwal*(circa 224 H), al Matba’ah al Tijariyyah al Kubra Publishers, Cairo (in Arabic), at p. 595.

*He says: "I reached al Medina and prayed with Umar. When he saw me, I approached and greeted him." He asked: "What have you brought with you?" I said: "500 thousand". He said: "Are you sure of what you are saying, 500 thousand?" I said: "100 thousand plus 100 thousand plus 100 thousand plus 100 thousand plus 100 thousand!" He said: "Perhaps you are tired, go get some sleep, and then come see me in the morning." In the morning I went to see him, and again he asked: "What have you come with"? I said: "500 thousand." He said: "Ok, well that is all I know then." He then proceeded to address the people saying: "A large sum of money has reached Medina. If you wish, I can count it for you, and if you wish, I can divvy it out by weight." A man then approached and said: "I have seen the non-Arabs write a ledger in which they write, and they disburse wealth according to it." At this Umar took to using a ledger for State disbursement.<sup>105</sup>*

This quote shows that the Islamic state at the time of Umar was concerned with the control of the amount of money flowing in society.<sup>106</sup> Again, the concern during Umar's caliphate was not on the problems that the state may be facing in the collection of zakat but the focus was more on coming up with methods to control the flow of capital in the state. This view is also supported by Yusuf Al Qaradawi, who argues that the collection of zakat by a state is important for the distribution of wealth in society and as such the state ought to be concerned about the amount of money flowing in its territory.<sup>107</sup>

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<sup>105</sup>Ibid at p. 595.

<sup>106</sup>IbnAbidin, Muhammad Amin (1301H), *Hashiyahradd al Muhtar 'ala al Durr al Mukhtar*, Istanbul (in Arabic), at p. 5.

<sup>107</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 3 at p. 749.



Consequently, the methods utilized during Umar's caliphate for the collection of zakat were properly entrenched. He based the collection of zakat on the principles of accuracy, transparency, and justice<sup>108</sup> and implemented a centralized accounting system by which accurate accounting practices were introduced.<sup>109</sup> Therefore, the state started having an effective management system for the collection of zakat and this system continues to date in Saudi Arabia.

IbnAbiShaibahas pointed out a theory supporting the collection of zakat by a state.<sup>110</sup> His theory concerns the protection of the public from unscrupulous collectors.<sup>111</sup> Consequently, AbiShaibah opines that zakat ought to be collected by a state since any other collection system would be prone to corruption.<sup>112</sup> The aim of zakat collection is on distribution of the proceeds collected to the poor. Accordingly, zakat collection has to be the responsibility of a state.<sup>113</sup> This thinking follows the implementation of a sound centralized accounting system during the caliphate of Umar enforced to date in Muslim states, such as Saudi Arabia.<sup>114</sup>

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<sup>108</sup>Ibid at p. 594.

<sup>109</sup>Ibid at p. 595.

<sup>110</sup>WaelHallaq, A History of Islamic Legal Theories: An Introduction To Sunni Usul Al-Fiqh 10-15 (Cambridge 1997) at p. 45.

<sup>111</sup>Ibid at p. 77.

<sup>112</sup>Ibid at p. 77.

<sup>113</sup>Ibid at p. 78.

<sup>114</sup>Wazarah al-Maliyahwa al-Iqtisad al-Watani, Waraqah 'AmalaI-Mamlakah al-'Arabia al- Saudia 'An Faridah al-ZakahwaTatbiqatiha al- 'Amaliyyah. Riyadh: Ministry of Finance and National Economy, at p. 58.

The emergence of charitable institutions during the time of Imam Shafi that collected zakat and distributed it in accordance with their discretion<sup>115</sup> further strengthened the support for a state controlled zakat collection system. The collection of zakat by these institutions depended on voluntary amounts paid by the zakat payers.<sup>116</sup> These institutions had no detailed rules on the coverage and on the assessment of zakat.<sup>117</sup> What was paid to these institutions were minimal sums utilized for the purpose of building schools and sponsoring orphans.<sup>118</sup> The zakat payers in accordance with their discretion paid out most of the zakat money. This meant that the state was losing control of the amount of money flowing in and out of the society. Earlier the thesis pointed out the importance of a state in having control of the amount of money flowing in and out of society so as to ensure that there is equitable distribution of wealth.<sup>119</sup> These institutions were therefore affecting the control the state had in the collection of zakat. Accordingly, scholars, in particular Abdul Aziz Bin Muhammad took to their pens and began writing about the importance of having a state collect zakat as opposed to such institutions.<sup>120</sup> These scholars did not engage in discussions and neither did they examine the question that there may be obstacles being faced by a state in its collection of zakat.

#### **2.4 The Philosophy behind the Collection of Zakat during the Post Caliphate Era**

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<sup>115</sup>Ibid at p. 63.

<sup>116</sup>Ibid at p. 63.

<sup>117</sup>Ibid at p. 63.

<sup>118</sup>Ibid at p. 64.

<sup>119</sup>IbnAbidin, Muhammad Amin (1301H), *Hashiyahradd al Muhtar 'ala al Durr al Mukhtar*, supra note 44, at p. 5.

<sup>120</sup> Abdul Aziz Bin Muhammad, *Zakat and Rural Development In Malaysia* 79- 104 (Kuala Lumpur: Berita 1993) 8-30.

Al Bukhari and Muslim<sup>121</sup> continued the tradition of supporting the collection of zakat by a state. Their focus however was on the eight categories of the zakat beneficiaries. According to them the aim of collecting zakat was to cater for the welfare of these eight categories and they therefore supported the view that there is a need to make mandatory payment of zakat to the state.<sup>122</sup> According to them as long as zakat was collected and the proceeds distributed to the poor and the needy then the objective of zakat was fulfilled and as such these scholars did not go further into investigating whether there are any difficulties a state faces in the collection of zakat.

The scholar Abu Hanifa also justified the concept of forcibly collecting zakat by a state.<sup>123</sup> He emphasized the collection of zakat by a state for catering towards the welfare of the poor, needy, wayfarer and debtors within the Muslim community. The scholar Malik IbnAnas also confirmed his support for the collection of zakat by a state.<sup>124</sup> His view being that such collection must be in support of the poor.<sup>125</sup> ImamsShafi and Al Ghazali speak of avoiding human discretion in the collection of zakat. Discretion is more common where charitable institutions exist to collect zakat voluntarily paid to them by zakat payers.<sup>126</sup> Their view,

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<sup>121</sup> Quoted in IrshadAbdal-Haqq, *Islamic Law: An Overview of its Origins and Elements*, J. ISLAMIC L. AND CULTURE 27, 36 (2002).

<sup>122</sup> Ibid.

<sup>123</sup> Marshall G. S. Hodgson, *The Venture of Islam: Conscience And History In A World Civilization*, Volume 1: The Classical Age of Islam 97, 98 (U. of Chicago 1985) at p. 102.

<sup>124</sup> Malik IbnAnas, *Al-Muwatta of Imam Malik IbnAnas: The First Formulation of Islamic Law*, § 17 zakat (Aisha Abdurrahman Bewley trans., Madinah Press Inverness 2001 edition) at p. 47.

<sup>125</sup> Ibid at p. 47.

<sup>126</sup> Sheikh, Abdul Aziz (1980). *Concept of Zakah: A survey of Qur'anic Texts and Their Explanation in Shari'ah and Contemporary Economics*. In M. Raquibuzzaman (Ed.). *Some Aspects of Economic of Zakat*, pp. 3-68.

therefore, also gives support to the collection of zakat by a state. These scholars were more concerned in interpreting the Quran and collecting the traditions and sayings of the Prophet Muhammad as well as engaging in discourse with different schools of thought in the interpretation of the Quran. They therefore did not go into investigating the problems a state may be facing in the collection of zakat.

Accordingly, this thesis goes a step further to state that there are problems that a state faces in its collection of zakat. The Muslim lands that were once under the caliphate are now different states with their own government following successful independence from colonization; these states utilize different legal philosophies in their policy on zakat and the lack of uniformity in their philosophies affect the amount of revenue collected through zakat. For example, Sudan collects zakat on all items over which zakat is due, such as uninvested wealth (for example, savings in the bank), invested wealth (for example, net value of stocks and bonds), livestock, agricultural produce, land and fortuitous fortune (for example, treasures, minerals found on a property) whereas Saudi Arabia only collects zakat on agricultural produce, livestock and tradeable items. This is as a result of differences in the legal philosophies utilized by these two states in their policy on zakat. The four different schools of thought under Islamic jurisprudence lack consensus on the assessment and coverage of zakat. Consequently a state subscribing to the philosophy of one school over the other would mean that in its collection the state would leave out categories of zakat that a different school would cover. This lack of coherence has resulted in a state collecting zakat from a limited zakat base.

## **2.5 Conclusion**

This chapter examined the various philosophies and scholars who support the collection of zakat by a state. The collection of zakat by a state is important since it is seen as a method of

distributing wealth equitably and in the alleviation of poverty. However, in as much as there is a lot of support from the scholars for a state controlled zakat collection system this chapter showed that no discussions or discourse has been engaged into by the scholars as to whether in the collection of zakat a state faces any difficulties. Therefore, in addressing this theoretical gap the thesis has identified that there are two main problems that affect this system. These problems are one, relating to the administrative law of a state in the collection of zakat and two, the lack of coherence in the legal philosophy utilized by a state in its policy on zakat. The next chapter will discuss in detail these problems in the context of selected Muslim states.

## **CHAPTER THREE**

### **THE PROBLEMS FACED BY A STATE IN THE COLLECTION OF ZAKAT**

#### **3.1 Introduction**

Zakat is a tax due to be paid by Muslims once a Muslim is in possession of items or properties over which zakat is due. The law on zakat is prescribed in the Qur'an and further detailed in the hadith of Prophet Muhammad (peace be on him). The Qur'an sets out the categories of persons to whom zakat is to be paid, whereas the hadith of Prophet Muhammad (peace be on him) sets out the coverage of zakat and the methods of assessing it. For example, where a Muslim is in possession of gold weighing 80 grams and above, the rate of zakat to be calculated is at 2.5% of its total weight. Another example is where a Muslim is in possession of 40-59 cows, then such a Muslim is eligible to pay as zakat a 3 year old calf.

Islamic law and in particular the law on zakat is to be enforced by a Muslim state. The Muslim head of state is seen as an Imam (Arabic word meaning leader) of his citizens and as such is therefore mandated to enforce the law of zakat as part of Islamic law. Islamic law forms part and parcel of the laws that a Muslim government enforces along with conventional law. For example, Saudi Arabia is a Muslim state where Islamic law is applied, Saudi Arabia is also member of the United Nations and as such international law is also part of its law.

In chapter two, this thesis described the philosophy supporting the collection of zakat by a state. Accordingly, in this chapter, the thesis has in its attempt to add to address the theoretical gap in the existing literature set out to examine whether in the collection of zakat a state faces any problems. Consequently, in order to set out the parameters of its study this thesis has confined itself to study two interrelated problems that a state faces in its collection of zakat. These problems as set out are; one, the problem of inefficient and ineffective administrative law of a state, and two, the problem in the legal philosophy utilized by a state in its policy on zakat.

There are two main methods of collecting zakat.<sup>127</sup> The first is by charitable institutions that are established by non-governmental bodies for the collection and distribution of zakat in countries where zakat is not collected by the state.<sup>128</sup> This method is referred to as the voluntary zakat collection.<sup>129</sup> Kenya features as an example of this method of zakat collection. Kenya has a number of Muslims as its citizens and as residents. These Muslims pay their zakat either directly to their poor and needy relatives or to poor persons. They also consider paying their zakat to organizations established and registered in Kenya such as the MaahadDaawah Group who collect zakat and distribute it to the poor persons, for sponsoring orphans and building schools for example in Pangani and Namanga which schools offer secular education combined with Islamic studies.

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<sup>127</sup>Ba-Yunus, Ilyas (1980) "A note on the Social Implication of Zakah in Modern Times" in Raquibuzzaman (ed.), *Some Aspects of The Economics of Zakah*, op. cit., pp. 179-183 at p. 181.

<sup>128</sup>Ibid at p. 181.

<sup>129</sup>Ibid at p. 181.

Alternatively, a state may create a zakat fund into which Muslims make their zakat payments.<sup>130</sup> Zakat payment to this fund is not compulsory, but rather it is voluntary.<sup>131</sup> For example, voluntary zakat collection started in Kuwait at the private level by mosque-based committees.<sup>132</sup> Encouraged by its success, a semi- government institution Kuwait Zakat House (KZH) was later established by the Government for voluntary and non-compulsory collection of zakat<sup>133</sup>. In the Kuwaiti system the KZH does not make assessment of zakat to be paid by the people. It, however, distributes booklets to help zakat payers to make their own assessment,<sup>134</sup> tries to create public awareness through the publication of books, pamphlets, exhibitions, and also through the mass media.<sup>135</sup> It also has extensive network to facilitate zakat accounts at the KZH offices and banks, mobile units, zakat boxes placed in the cooperatives and supermarkets, service boxes similar to auto- cash service in banks and a hot line for zakat collection.<sup>136</sup>

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<sup>130</sup>Hasan, Najmul (1984) *Social Security System of Islam with Special Reference to Zakah*, International Centre for Research in Islamic Economics, King Abdulaziz University, Jeddah, 1984 at p. 57.

<sup>131</sup>Ibid at p. 57.

<sup>132</sup>Ajil, Abdul QuaderDhahi (1990) "A Study on the Institutions that are Based on Non-Compulsory Payment of Zakah", paper presented at the Third International Conference on Zakah, Kuala Lumpur on May 14-17, 1990, at p. 2.

<sup>133</sup>Ibid at p. 2.

<sup>134</sup>Ibid at p 5-6.

<sup>135</sup>Ibid at p. 6.

<sup>136</sup>Ibid at p. 5.



The second method is where zakat is collected by a state, and is referred to as the compulsory zakat collection.<sup>137</sup> It is a system, which imposes on the government the responsibility to assess, collect and distribute zakat. Some examples of countries already operating this system are Pakistan<sup>138</sup>, Saudi Arabia<sup>139</sup>, Sudan<sup>140</sup>, and Yemen<sup>141</sup>. This chapter focuses primarily on compulsory zakat collection by examining the problems faced by a state in its collection of zakat. In the next section the thesis examines the case of Sudan as a state that operated both the voluntary and compulsory methods of zakat collection in order to draw conclusions supporting the theory that state controlled zakat collection is the most effective and efficient method as compared to the voluntary method.

## **3.2 Compulsory Zakat Collection**

### **3.2.1 The Case of Sudan**

Zakat collection in the Sudan used to be voluntary in nature during the period 1979 to

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<sup>137</sup>Ba-Yunus, Ilyas (1980) "A note on the Social Implication of Zakah in Modern Times" supra note 1, at p. 181.

<sup>138</sup>Islamic Republic of Pakistan, Zakat and Ushr Ordinance 1980, Islamic Republic of Pakistan.

<sup>139</sup> Saudi Basic Law, Article 21. ("Zakat shall be levied and dispensed to its legitimate beneficiaries."), Decree No. 61/51 Dated 5/1/1383 on Zakat. It is further elaborated by Ministerial Resolution No. 393 Dated 6/8/1370 (13/5/1950 CA).

<sup>140</sup> The Constitution of The Republic of The Sudan 1998, Art. 10, The Law of the Zakat Fund of Sudan 1980 and the Zakat Law of 1989 and The Zakat and Taxation Law of Sudan 1984.

<sup>141</sup>Constitution of The Republic of Yemen 1994, Article 21 ("The state shall collect the zakat and shall spend it through its legal channels in accordance with the law.").

1983.<sup>142</sup> It then became compulsory in 1984.<sup>143</sup> During the time of voluntary collection of zakat in Sudan the government had established a voluntary fund into which the government used to encourage people to pay zakat.<sup>144</sup> In its encouragement to have its citizen pay zakat into this fund, the government exempted the payers from certain taxes.<sup>145</sup> However, this approach was ineffective in getting zakat payers to pay their zakat into the fund.<sup>146</sup> This is evident from the fact that the zakat revenue collected during that time was only US Dollars 14770 (Sudanese Pound 35 million, 1 SDP = 0.000422 USD calculated at the 17<sup>th</sup> October 2012 exchange rate) in 1984 and when the compulsory zakat collection system was implemented the collection of zakat revenue increased to US Dollars 212688 (Sudanese Pound 504 million, 1 SDP = 0.000422 USD calculated at the 17<sup>th</sup> October 2012 exchange rate) in 1989 an increase of about 1500%.<sup>147</sup> Such was the effect of compulsory zakat collection by the state.

From the above, this thesis concludes that voluntary payment of zakat into a fund established for its collection by the government limits the amount of zakat that can be

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<sup>142</sup>Salama, Abdin Ahmed (1990), “Voluntary and Compulsory Applications of Zakah: A Case study of Sudan 1405-1410 H”, paper presented at the Third International Conference on Zakah, Kuala Lumpur, Malaysia, May 14-17, 1990 at p. 6.

<sup>143</sup>Ibid at p. 6.

<sup>144</sup>Ibid at p. 7.

<sup>145</sup> Ibid at p. 7, also see Shirazi, Nasim Shah (2004), “Prospects of Poverty Elimination through the Institution of Zakat: A Case of OIC Member Countries”, International Conference on Poverty in the Muslim World & Communities, IIUM, 14 – 1 December, 2004 at p. 56 of the proceedings.

<sup>146</sup>Ibid at p. 7.

<sup>147</sup>Salama, Abdin Ahmed (1990), “Voluntary and Compulsory Applications of Zakah: A Case study of Sudan 1405-1410 H”, supra note 27 at p. 6.

collected. The disadvantage of such a system is that it allows for zakat evasion,<sup>148</sup> since it is not compulsory. Zakat evasion during the caliphate of Abu Bakr was considered a punishable offence.<sup>149</sup> It was seen, as a right held by the government over the property of the owner of the zakat<sup>150</sup> and therefore, its collection was incumbent upon the state. Thus where the state does not compulsorily collect zakat, its evasion may occur,<sup>151</sup> since there is no effective administrative law that exists to curb the possibility of evasion. Where a state is not involved in the collection of zakat there is in essence no enforcing authority. Evasion of zakat limits the amount of money that would then flow into society thereby hindering the alleviation of poverty and affecting the equitable distribution of wealth in society.<sup>152</sup>

The Sudan experience also shows that where a state operates the voluntary zakat collection system, it may not be fully concerned with its efficient administration. The number of officers working with the voluntary zakat fund in Sudan was limited.<sup>153</sup> Thus the revenue collected through this fund was also limited according to

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<sup>148</sup>Ibid at p. 6.

<sup>149</sup>Ibn Kathir (1997), *Al Bidayah wa al Nihayah* (Circa 774H), Hajar Publishers, Riyadh (in Arabic), at p. 437-39 quoting Abu Bakr: "If they withhold giving (as Zakat) even a (little) rein of a camel or a small baby sheep (that is due on them) I will fight them for it. Zakat is the due obligation on properties.

<sup>150</sup> Al Mawardi, Abu al Hasan 'Ali bin Muhammad (1973) *al Ahkam al Sultaniyyah* (Circa 450), al Babi al Halabi Publishers, 3rd printing, Cairo (in Arabic) at p. 37.

<sup>151</sup>Shirazi, Nasim Shah (2004), "Prospects of Poverty Elimination through the Institution of Zakat: A Case of OIC Member Countries", International Conference on Poverty in the Muslim World & Communities, IIUM, 14 – 1 December, 2004 at p. 56 of the proceedings.

<sup>152</sup>Ibid at p. 56 of the proceedings.

<sup>153</sup>Salama, Abdin Ahmed (1990), "Voluntary and Compulsory Applications of Zakah: A Case study of Sudan 1405-1410 H", supra note 27 at p. 23.

SalamaAbdin Ahmed.<sup>154</sup>This fund was simply set up for zakat payers to have an avenue through which they could pay their zakat. The government was not fully concerned with its efficient administration hence the limited number of officers working with the fund.<sup>155</sup> It is important to point out here that among the beneficiaries of zakat are the ones who collect it on behalf of the state. Since the government of Sudan was not compulsorily collecting the zakat, there was no incentive for the collectors to ensure enforcement of the collection of zakat.<sup>156</sup>

A further reason that led to decreased revenues being collected by the government through the voluntary fund was that there were no regional offices established to collect zakat from the different regions in Sudan.<sup>157</sup> This is another setback of operating a voluntary zakat collection system. The effect of the non-existence of regional offices for the collection of zakat means that the state has no control over the money flowing into and out of its territory. The caliphate of Umar IbnKhattab showed that it is incumbent upon the state to control the money flowing in its territory since such control is important for the distribution of wealth in the society.<sup>158</sup>

The Sudanese experience shows that the collection of zakat by the government is more effective in terms of the coverage, assessment, collection and disbursement of

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<sup>154</sup>Ibid at p. 6.

<sup>155</sup>Ibid at p. 6.

<sup>156</sup>Ibid at p. 7.

<sup>157</sup>Ibid at p. 7.

<sup>158</sup>Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, Mu'assasat al Risalah Publishers, 2nd printing Beirut (in Arabic), at p. 749.

zakat.<sup>159</sup> It further supports the theories set out in chapter two that argued for zakat collection by a state. The fact that zakat revenues increased by 1500% since the implementation of the compulsory zakat collection confirm that zakat can be used as a method of wealth distribution and for poverty alleviation when such proceeds are distributed to cater for the welfare of the poor and needy.

In the next section the thesis examines the case of Pakistan where the compulsory method of zakat collection is implemented through banks. Pakistan has introduced a novel method in its collection of zakat. This method is in instructing the banks to deduct the zakat due from individual Muslim accounts.

### **3.2.2 The Case of Pakistan**

Pakistan operates a system of compulsory zakat collection under the Zakat and Ushr Ordinance of 1980 (the “Ordinance”).<sup>160</sup> It has historically been enforced at the state level by the Mogul Empire and was incumbent upon all Muslims.<sup>161</sup> Data suggests that prior to passage of the Ordinance, only 5% of Pakistanis actually practiced zakat.<sup>162</sup> The fact that there lacked a compulsory zakat collection system meant that the people were either evading zakat or did not know that the payment of zakat was

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<sup>159</sup>Rahman, SahaMuhammedHabibur (1980), “Zakat- A Case for Equitable Distribution of Income and Wealth”, in K.T. Hosain et al (eds.), Thoughts on Islamic Economics, Islamic Economics Research Bureau, Dhaka, pp.94-101.

<sup>160</sup>Islamic Republic of Pakistan, Zakat and Ushr Ordinance 1980, Islamic Republic of Pakistan. Ch.1

<sup>161</sup>Grace Clark, Pakistan’s Zakat and Ushr System From 1979-2000 (Charles H. Kennedy & Craig Baxter eds., Pakistan 2000) at p. 53.

<sup>162</sup>Ibid at p. 53.

due on them.<sup>163</sup> This further reinforces the support for a state controlled zakat collection system.

In Pakistan, banks and other depository institutions are responsible for collecting zakat. Their responsibility is to transfer appropriate contributions based on deposits<sup>164</sup> on an annual record date that is the first day of Ramadan.<sup>165</sup> Zakat is taken at the rate of 2.5% over the nisab<sup>166</sup>, which is considered at the current value of 612.3 grams of silver.<sup>167</sup> The advantage of this system is that it lowers collection costs by putting the onus on depository institutions to calculate and forward zakat, which can essentially be automated. The Pakistani experience shows the effectiveness of the compulsory zakat collection system as a continuation of the system put in place by the caliphate of Umar IbnKhattab in delegating the collection of zakat for wide coverage.

The above case studies have shown that the compulsory collection of zakat has a major advantage in that there is an increased governmental role in imposing, collecting and disbursing zakat. The Sudan case study has shown that compulsory collection of zakat leads to a dramatic growth of zakat revenue. The Pakistani experience shows that as far as the collection of zakat is concerned, the government makes greater efforts in identifying the methods by which zakat can be assessed and

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<sup>163</sup>Ibid at p. 54.

<sup>164</sup> These are often referred to as First Schedule Zakat funds.

<sup>165</sup> Zakat and Ushr Ordinance 1980 supra note 45Ch 1 & 2 (xxxii).

<sup>166</sup> This is the amount one's net worth must exceed for the Muslim owner to be obligated to give Zakat.

<sup>167</sup>Ibid Chapter 1, § 2 (xva).

collected. However, in as much as this method of zakat collection is more effective, there are a number of problems that affect it. Thus, in the next section, this thesis examines the problems faced by a state in the collection of zakat.

### **3.3 The Problems in the Administrative Law of a State and the lack of coherence in its Legal Philosophy in the Collection of Zakat**

#### *3.3.1 Lack of Coherence in the Legal Philosophy of a State in its policy on Zakat*

Different states apply different legal philosophies in the collection of zakat. These legal philosophies aid a state in determining what items and properties to assess zakat on and the rate of zakat applicable.<sup>168</sup> Further, the legal philosophy utilized by a state in its policy on zakat is based on a particular school of thought the government subscribes to.<sup>169</sup> There are four main schools of thought in Islamic jurisprudence and each of these schools has its own philosophy relating to zakat.

It is noteworthy to mention that Islamic law as envisaged in the Quran and further explained through the hadith of Prophet Muhammad is subject to the interpretation of the four different schools of Islamic thought. These different schools of thought emerged after the caliphate era. During the time of the Prophet Muhammad (peace

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<sup>168</sup>Al Tahir, Abdallah (1997), "Zakah Proceeds and Developments of Society," in MonzerKahf (Editor), *Economics of Zakah*, Book of Reading No. 2, Islamic Research and Training Institute, Islamic Development Bank Group, Jeddah, pp. 507-64.

<sup>169</sup> There are four schools of thought in the Sunni jurisprudence. These are the Hanafi, Maliki, Shafi'e and the Hanbali schools of thought. Islam has two main sects. These are the Sunni sects and the Shia sects. The majority of the Muslims subscribe to the Sunni sect.

been him) and the caliphs there was uniform application of zakat in terms of its coverage and assessment. Following the end of the colonization of Muslim lands and these lands becoming states, this uniform application of Islamic law, in particular the law on zakat became subject to multiple interpretations, which then resulted in lack of coherence in the legal philosophy on zakat. Three examples would suffice in explaining this point. One is the Hanafi school of thought, the other is the Maliki school of thought and the third is the Shafi' school of thought.

The Hanafischool, like all the other schools of Islamic thought, relies primarily on the text of the Quran. The Sunna<sup>170</sup>of the Prophet (peace be on him) as recorded in hadith<sup>171</sup>provides the context for Qur'anic interpretation and supplies a large number of legal standards. By the eleventh century, Hanafi jurists had developed an extensive corpus of legal treatises that analogized from the text of the Quran and hadith.<sup>172</sup> Their use of interpretive techniques in the classical period was broad and expressly allowed for judicial discretion.<sup>173</sup> While other schools of Islamic thought confined their interpretations to Islamic history and the way in which Prophet Muhammad (peace be on him) explained the Quran in the context of society at that time, Hanafi jurists exercised their discretion to interpret Islamic law on zakat focusing on the

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<sup>170</sup> Means “way” or “custom”, and therefore, the sunnah of the prophet means “the way of the prophet”, or what is commonly known as the Prophet’s traditions.

<sup>171</sup>The record of the sayings of Prophet Muhammad (peace on on him).

<sup>172</sup>FazlurRahman, *Islam and Modernity: Transformation of An Intellectual Tradition* (University of Chicago Press 1982) (Rahman describes his "double movement" theory of Qur'anic exegesis in relationship to traditional *fiqh*).

<sup>173</sup>WaelHallaq, *A History of Islamic Legal Theories: An Introduction to Sunni Usul Al Fiqh* 10-15 (Cambridge 1997) at p. 107-111.



emerging trends in society as a result of technological advancements and globalization. Zakat on paper currency is as a result of Hanafi jurists use of discretion and so is zakat on shares and bonds.

However while they expanded the class of wealth subject to zakat, Hanafi jurists narrowed the class of those who might receive Zakat.<sup>174</sup> In particular, the class of “those whose hearts are to be reconciled” did not apply once Islam was firmly established. The significance of these positions is a willingness to construe the intent of zakat broadly, without being bound by textual (particularly hadith) standards that are incongruous with social and economic circumstances. As a result, perhaps more than any of the other Sunni schools, the Hanafi tradition is most amenable to a modern reimagining consistent with the spiritual and redistributive purposes of zakat.<sup>175</sup>

Hanafifiqh identifies three categories of property over which zakat is to be assessed: livestock, crops, and gold/silver/trade goods.<sup>176</sup> Although government authorities following the Hanafi school of thought may collect zakat, they are limited to forcibly collecting “visible” property (generally livestock and crops).<sup>177</sup> Zakat beneficiaries

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<sup>174</sup>Ibid at p. 130 – 132.

<sup>175</sup>Ibid at p. 132.

<sup>176</sup> Yusuf Al-Qardawi, *FiqhAz-Zakat*, supra note 43 at p. 780.

<sup>177</sup> Nicolas ProdromonAghnides, *Mohammedan Theories of Finance* at 527.

include the categories listed in Chapter 9 Verse 60<sup>178</sup> of the Qur'an, with an emphasis on the poor, needy, wayfarers, and debtors within the Muslim community.

The Maliki school of thought places a distinct emphasis on traditions and rules attributed to the early Muslim community in Medina.<sup>179</sup> The treatise, *Al-Muwatta*, by Malik IbnAnas contains a significant treatment of zakat.<sup>180</sup> Unlike Hanafi jurisprudence, Maliki jurisprudence considers all property over which zakat is to paid to be subject to government collection (with no regard for whether property is “visible” or not).<sup>181</sup> Authorities also have broader discretionary power to distribute zakat proceeds appropriately.<sup>182</sup>

A state that utilizes the Hanafi philosophy is therefore limited to collecting zakat on livestock, crops, gold, silver and trade goods. This means that any property or item that does not fall within the definition of visible property is not subject to collection, leaving out a zakat base that would raise the level of revenue collected. For example, a state utilizing Hanafi philosophy will not collect zakat from a Muslim person for

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<sup>178</sup> The alms 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 for the cause of Allah, and [for] the wayfarer; a duty imposed by Allah. Allah is Knower, Wise.

<sup>179</sup>N.J. Coulson, *A History of Islamic Law* 55-61 (Edinburgh 2003 Printing), at p 43-47 (describing the jurisprudence of Malik ibn-Anas).

<sup>180</sup> Malik IbnAnas, *Al-Muwatta of Imam Malik IbnAnas: The First Formulation of Islamic Law*, § 17 zakat (Aisha Abdurrahman Bewley trans., Madinah Press Inverness 2001 edition) at 17.12.

<sup>181</sup> Nicolas ProdromonAghnides, *Mohammedan Theories of Finance* At 527.

<sup>182</sup> Malik IbnAnas, *Al-Muwatta of Imam Malik IbnAnas: The First Formulation of Islamic Law*, supra note 61, at 17.12 (“The position with us concerning the dividing up zakat is that it is up to the individual judgment of the man in charge.”).

fortuitous fortune, such as minerals, antiques, treasures found on a Muslims property. Whereas a state following the philosophy of the Maliki school of thought in its policy on zakat will assess and collect zakat on such fortunes. These two examples show that the different philosophies utilized by states following different schools of thought affect the coverage of zakat to be collected. The lack of uniformity in the collection of zakat causes a zakat base to be left out. Leaving out potential zakat base results in leaving out revenue.

The Shafi school of thought on the other hand adopts the Hanafi distinction between “visible” and “non-visible” goods, however, nearly all goods are considered “non visible,” thus removing them from the collection authority of the government.<sup>183</sup> This means that a state that utilizes the philosophy of the Shafi school does not assess the zakat due, instead it collects the zakat through the declaratory method, that is where the zakat payers themselves assess the zakat to be paid and declare it to the government who only has supervisory powers in confirming that the zakat declared is indeed a true account of the zakat to be paid. The problem in this philosophy is that the government is not involved in actively assessing zakat instead it relies on the zakat payers to assess the zakat and pay it to the government. A possibility of the problem of zakat avoidance as a result of this method may arise over which the government may have no control.

This thesis will now illustrate by way of examples the problem of lack of coherence

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<sup>183</sup> Nicolas Prodromon Aghnides, *Mohammedan Theories of Finance* at 527.

in the legal philosophy of a state in its policy on zakat. The following countries will be briefly considered: the Sudan, Yemen, Pakistan and Saudi Arabia. In the Sudan and Yemen, all kinds of wealth (as listed in Table 1 below), which attracts zakat, are included, this follows the Maliki philosophy that these states utilize, whereas Saudi Arabia only covers agricultural produce, livestock and tradeable items basing its philosophy on the Hanafi school. Saudi Arabia also utilizes the philosophy of the Shafischool by employing the declaration method of collecting zakat from the zakat payers. As a result Saudi Arabia is a unique case study that has tried to merge the philosophies of the Hanafi and Shafi schools.

Both Sudan<sup>184</sup> and Saudi Arabia<sup>185</sup> employ the declaration system, where the payers themselves do the assessment and thereafter pay the zakat assessed. If the declaration seems to be unacceptable, then the zakat officers may make arbitrary assessment. Thereafter zakat is paid to a zakat cashier.<sup>186</sup> Just as a system for the collection of zakat was put in place during the caliphate of Umar IbnKhattab, Saudi Arabia and Sudan too have put in place a system for collection of zakat. The difference is that during the time of the caliphate, the officials assessed the zakat,<sup>187</sup> whereas in these two countries, the payers themselves assess the zakat. As a result problems of zakat avoidance may emerge, which in turn limit the revenue collected through zakat.

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<sup>184</sup>Salama, Abdin Ahmed (1990), "Voluntary and Compulsory Applications of Zakah: A Case study of Sudan 1405-1410 H", supra note 27 at p. 7.

<sup>185</sup>Decree No. 61/51 Dated 5/1/1383 on Zakat. It is further elaborated by Ministerial Resolution No. 393 Dated 6/8/1370 (13/5/1950 CA).

<sup>186</sup>Awan, M. Mahmoud (1980) "Economic Policy for Development - A Treaties on Zakah", in Raquibuzzaman (ed.), Some Aspects of The Economics of Zakah, op. cit., pp. 185-207.

<sup>187</sup> Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, supra note 43, at p. 749.

Pakistan, on the other hand specifies some kinds of financial and monetary assets plus agricultural produce leaving out the rest of the zakat base from assessment and collection thereby resulting in less revenue.<sup>188</sup>

**Table 1**

**Items/Properties over which zakat is assessed**

<b>1. Un-invested Wealth:</b>
<ul style="list-style-type: none"> <li>• Gold</li> <li>• Silver</li> <li>• Savings in the bank</li> <li>• Valuables (antiques, paintings, ornaments, collector's items, etc.)</li> </ul>
<b>2. Invested Wealth / Tradable Commodities:</b>
<ul style="list-style-type: none"> <li>• Yield (net profit) from business and/or industry (after deducting direct expenses from total revenue)</li> <li>• Net profits from shares or partnerships</li> <li>• Net value of inventory (raw material / work-in-process / finished goods) of a business or industry (after deducting debt and any other direct expenses)</li> <li>• Net value of stocks and bonds</li> <li>• Net value of all tradable commodities (after deducting debt and any other direct expenses)</li> <li>• Net income from rental property (after deducting debt and other direct expenses)</li> </ul>
<b>3. Agricultural Produce:</b> (After deducting direct expenses)
<ul style="list-style-type: none"> <li>• Harvest from cultivated (irrigated) land</li> <li>• Harvest from non-cultivated (un-irrigated) land</li> </ul>
<b>4. Fortuitous Fortune:</b>
<ul style="list-style-type: none"> <li>• Treasures, mines, minerals, oil, natural gas, etc., found on a property</li> </ul>
<b>5. Livestock:</b>
<ul style="list-style-type: none"> <li>• Sheep, lamb and goats</li> <li>• Cows and Buffalo (domestic, not wild)</li> <li>• Camels</li> </ul>

Source: Al SayyidSabiq, “Fiqh us Sunnah: AzZakah and As Siyam” (Translated by Muhammad SaeedDabas and Jamal al Din m. Zarabozo, Islamic Printing & Publishing Co, Egypt, 2000) at p. 272

The governments of Sudan and Yemen compared to the governments of Saudi Arabia and Pakistan have a wider base for the collection of zakat, whereas the latter two have

<sup>188</sup>Hussain, M. and Nasim Shah Shirazi (1994).Role of Zakat and Ushr in Rural Development. Paper Presented at the Seminar on Rural Development in Islamic Perspective, Islamabad, International Institute of Islamic Economics, June 4-8.

a limited base. The size of the base affects the amount of zakat revenue to be collected. As discussed earlier the amount of zakat revenue will be affected by the school of thought that the government adheres to and where such a school of thought is not progressive then the collection of zakat may not be an efficient method for wealth distribution and in the alleviation of poverty.<sup>189</sup>

### *3.3.2 The Problem of an Inefficient and Ineffective Administrative system of a State in the Collection of Zakat*

An inefficient and ineffective administrative system of a state results in less revenues collected by a state through zakat.<sup>190</sup> This problem is related with the problem of the legal philosophy of a state. Where the legal philosophy of a state is not clear, the administrative law of the state will be ineffective since there will be no clearly defined rules and method for the collection of zakat. Law is based on philosophy. Where the philosophy of a state is not progressive, administration of zakat will be affected since there will be no way of identifying the coverage of zakat. An example is the case of Saudi Arabia. Saudi Arabia covers in its collection of zakat “agriculture produce, animals and tradeable items. Do tradeable items also include cash assets of companies, corporations and such establishments?”<sup>191</sup>

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<sup>189</sup>Ibid, the introduction.

<sup>190</sup>Kahf, Monzer, “Mafhum al Tamwil fi al Iqtisad al Islam,” (Concept of Financing in Islamic Economics), IRTI, Jeddah, Saudi Arabia, 1992.

<sup>191</sup>Ibid at p. 58.

Therefore, when it comes to the administration of zakat in terms of coverage and assessment, Saudi law does not set out clearly on what items referred to as tradeable does the government assess zakat on. In Kenya companies registered under the Companies Act, Chapter 486 of the Laws of Kenya are liable to pay 30% corporation tax, employees are also taxed Pay As You Earn on their income. The Kenyan conventional law is clear in its taxation policy which in turn makes its administration efficient.

In its administration of zakat law, Saudi Arabia ousts taxing as zakat the income of employees who are working in their professional capacity as doctors, lawyers, engineers, accountants, consultants and also on the establishment of art and entertainment.<sup>192</sup> Interesting enough, zakat is imposed only on the self-employed individuals in these professions, such that the salaried professionals, even if they earn more than the self-employed ones, are exempted from compulsory zakat. This keeps a reasonable zakat base outside of zakat collection.<sup>193</sup> The thesis attributes the non-assessment of zakat over the income of salaried professionals to a weak and ineffective administration system.

A further example identified by this thesis earlier that shows the problem in the administrative law of a state in its collection of zakat is the system of having the zakat payers to assess the zakat owed by them through the declaration method, which is

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<sup>192</sup>Ibid at p. 92.

<sup>193</sup>Ibid at p. 92.

open to abuse since there may arise a situation where some unscrupulous persons will not declaring in good faith the items in their ownership over which zakat is due. This was the concern of the scholar IbnAbiShaibah when he argued in support of zakat collection by the state<sup>194</sup> by saying that the responsibility of the government in collecting zakat means that the government establishes and implements a system based on the principles of accuracy, transparency, and justice to be operated by officials in assessing the zakat to be collected<sup>195</sup> and that such assessment is not to be left to the zakat payers.<sup>196</sup>

In case of the Sudan, as indicated earlier, zakat assessment of all modern sources of income depends on the declaration of the zakat payers in their zakat returns.<sup>197</sup> Administrative problems arise where assessment of zakat on commercial assets is required by the zakat payer who may lack experience in identifying for purposes of assessing zakat non-conspicuous assets, also the problem of non-availability of proper accounting by the zakat payers are problematic when it comes to the efficient and effective administration of zakat.<sup>198</sup>

Poor accounting practices and inexperience of the administrative officers in identifying the zakat bases for assessment of zakat are the further problems that affect

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<sup>194</sup>WaelHallaq, A History of Islamic Legal Theories, supra note 58 at p. 45.

<sup>195</sup>Ibid at p. 45.

<sup>196</sup>Ibid at p. 45.

<sup>197</sup>Salama, Abdin Ahmed (1990), "Voluntary and Compulsory Applications of Zakah: A Case study of Sudan 1405-1410 H", supra note 27, at p. 3.

<sup>198</sup>Ibid at p. 4.



the optimal collection of zakat. Such a problem makes zakat assessment fall short of what is due, and accordingly, affects the size of zakat revenue.<sup>199</sup>

Administrative problems also arise in the assessment of agriculture and livestock in for example, Saudi Arabia where such assessment is done by mobile awamil(zakat employees) who assess zakat on crops, except for wheat, at the rate of 5% or 10% depending on the kind of irrigation, rain or otherwise. The zakat is not, however, collected by the mobile awamil, but rather "the poor are referred to the growers to receive zakat directly from them".<sup>200</sup> This is a problem in the collection of zakat since the responsibility to collect the zakat is neglected and there are no checks and balances put in place to ensure that after assessment the zakat was distributed. The purpose of collecting zakat is to ensure that it is distributed equitably. Lack of enforcement on the part of the zakat officials will bring about a scenario where zakat is only assessed and remains uncollected.

Such an approach does not help in the alleviation of poverty, which is the objective of the collection of zakat. The administrative problem identified here is the lack of enforcement in ensuring that after zakat is assessed it is collected by the officials and not left to be collected by those who have been referred to go collect, especially if those referred are poor and have no means to go and collect the zakat as a result of their poverty.

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<sup>199</sup>Ibid at p. 5.

<sup>200</sup>Ibid at p. 73.

Another administrative problem identified is the payment of zakat through non-official channels. Such payments cause a major leakage in zakat collection. For example, in the Kelantan state of Malaysia, only two-thirds of total zakat is paid to the official channel and the rest is paid through the non-official channels.<sup>201</sup> This means that Malaysians pay only two-thirds of the zakat to the state, while the rest is either directly paid by the zakat payers to the poor, or is paid to non-governmental bodies established for the purpose of collecting zakat.

The reasons for the payment of zakat through such non-official channels include<sup>202</sup> one, the inconvenience of going to the council's office which collects zakat, where there is no timely assessment of zakat and the system is heavily bureaucratic; two, inefficiency of the council's collection efforts, the administrative officers do not actively engage in the assessment and collection of zakat and also as a result of lack of experience; three, lack of confidence in the council's administration of zakat, as a result of the foregoing issues Malaysians have no confidence in the manner in which their zakat money will be distributed; four, satisfaction received by giving zakat to known people; and five, political factors. Sometimes, the zakat payers believe that it is more religious to pay zakat by themselves rather than giving it to the state.

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<sup>201</sup>Othman, Jamil et al (1990) "Zakat: A Case Study of Malaysia", paper presented at the Third International Conference on Zakah, Kuala Lumpur, Malaysia, May 14-17, 1990 at p. 17-18.

<sup>202</sup>Ghazali, Aidit (1988) "The Phenomenon of Zakah Payment Through Unofficial Channels - An Empirical Analysis", Kulliyah of Economics, International Islamic University, Malaysia.

All the above point out the inefficiency and ineffectiveness in the administration of zakat and in the institutions tasked with collecting zakat. Inefficiencies in the administration of collecting zakat is therefore a problem that affects the amount of revenue collected through zakat. As an example the thesis considered the case of Malaysia, where the government had estimated the collection of zakat in 1998 to be Malaysian ringgits 365.45 million, and the actual zakat collected was only Malaysian ringgits 30.23 million.<sup>203</sup> That is, only about 8% of total potential zakat was collected. The reason for this reduction in the collection of zakat is a direct result of having non-official channels collecting zakat as well as the lack of adequate and effective government institutions collecting zakat. Consequently, a great deal of potential zakat revenue remains outside the collection of zakat by the state.<sup>204</sup>

A further problem identified that affects the collection of zakat by the state is the lack of knowledge and information about the laws and Shari'ah<sup>205</sup> provisions about zakat matters. In Malaysia, a factor, which affects zakat collection, is the lack of publicity and information on the types and kinds of zakat that should be paid.<sup>206</sup> This lack of information means that there exists a zakat base, which is idle because people do not

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<sup>203</sup>Othman, Jamil et al (1990) "Zakat: A Case Study of Malaysia", supra note 103 at p. 95.

<sup>204</sup>Ghazali, Aidit (1988) "The Phenomenon of Zakah Payment Through Unofficial Channels - An Empirical Analysis", supra note 104, at p. 41.

<sup>205</sup>Refers to a body of Islamic law. In the Islamic state Sharia governs both public and private lives of those living within the state. Sharia governs many aspects of day-to-day life, including politics, economics, banking, business law, contract law, and social issues. Some accept Sharia as the body of precedent and legal theory before the 19th century, while other scholars view Sharia as a changing body, and include reform Islamic legal theory from the contemporary period.

<sup>206</sup>Othman, Jamil et al (1990) "Zakat: A Case Study of Malaysia", supra note 103, at p. 20.

know that zakat is due on such items. Accordingly, this affects the amount of zakat that can be collected. In Kuwait, people have been observed to pay zakat in a strange manner due to ignorance about Shari'ahlaws concerning zakat. "One Muslim asks his relatives to change cars with new ones every year..." from his zakat money.<sup>207</sup> Sumait has, therefore, emphasized the need to inform the people about zakat matters by all possible means including press, radio, television, booklets and posters.<sup>208</sup> According to Sumait, the effect of such information is expected to be tremendous. As an example, poster campaign in 1984 about famine in Africa raised more than six million US dollars in zakat.<sup>209</sup>

Furthermore, the lack of adequate storage and transportation facilities also affect the collection of zakat from the agricultural sector. Agricultural crops are perishable, and livestock need food, shelter and other kinds of care. The zakat collectors in Sudan for example may not find ready outlets for sale of these items. This involves the problem of storage and transportation, which in turn affects zakat collection by the local councils in the Sudan.<sup>210</sup> This is a further example of an inefficient administrative system of a state in its collection of zakat.

The main objective of the institution of zakat is to upgrade economic conditions of

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<sup>207</sup>Sumait, AbdurRahmanHamoud, "Zakah Organizations Efforts in the Field of Public Expenses", paper presented at the Third International Conference on Zakah, Kuala Lumpur on May 14-17, 1990 at p. 1.

<sup>208</sup>Ibid at p. 3.

<sup>209</sup>Ibid at p.4.

<sup>210</sup>Salama, Abdin Ahmed (1990), "Voluntary and Compulsory Applications of Zakah: A Case study of Sudan 1405-1410 H", supra note 27, at p. 5.

the disadvantaged population of the society by redistributing income from the rich to the poor. It is important, therefore, to develop a distributive mechanism to reach the poor preferably in descending order of poverty so that the worst sufferers are taken care of first among those who are eligible, although all of them deserve help. The foregoing discussion on zakat collection where it is compulsory, that is carried out by a state has shown that it lacks administrative efficiency in terms of coverage, assessment and collection. It also lacks in supporting laws concerning zakat collection. As a consequence, zakat collection has not been effective to its full potential. One must, however, agree that it is being collected by the state after centuries of discontinuity and it is expected to increase in efficiency through experience, and also if the necessary political will is there.

### **3.4 Conclusion**

This chapter discussed the collection of zakat by a state. It considered by way of example the manner in which Sudan and Pakistan apply this method in collecting zakat in order to give the reader an understanding of this system of zakat collection. Since the primary concern of this chapter was to address the gap in the existing literature on zakat it heavily examined and discussed whether the collection of zakat by a state is affected by any problems. Accordingly, a number of problems were identified in this chapter that raised questions concerning the effectiveness of zakat as a method of poverty alleviation and equitable wealth distribution since these legal challenges inhibit the amount of zakat collected.

The circumstances creating these problems are one, an ineffective and inefficient administrative law on zakat collection by a state and two, lack of coherence in a state's legal philosophy on zakat. Jurist of different schools of thought treat the coverage, assessment and collection of zakat differently. Their difference of opinion impacts state collection of zakat since Muslim states and Muslims subscribe to one of the four schools of thought when it comes to the coverage, assessment and payment of zakat. The school of thought informs zakat payers on what to pay the zakat, and some of these schools argue for a narrow base of zakat while others expand the zakat base. Poor administration of zakat by the state also impacts the amount of zakat to be collected. Lack of infrastructure and officers manning the zakat collection offices are a further problems affecting zakat collection. In conclusion, these problems show that any discussion on the collection of zakat by a state is therefore incomplete unless factors that affect the collection of zakat under this system are addressed.

## **CHAPTER FOUR**

## RECOMMENDATIONS

### 4.1 Introduction

Having discussed the problems that a state faces in its collection of zakat, in this chapter the thesis offers a number of recommendations that may address and aid in overcoming the said problems. Since zakat is a method by which poverty can be alleviated and wealth can also be equitably distributed in a society it is important to have a zakat collection system that is free from such problems.

### 4.2 Recommendations

#### *Recommendation one:*

#### *The need to review and harmonise the opinions of the four schools of Islamic thought on the coverage, assessment and collection of zakat*

In chapter three the thesis identified a number of problems that affect the collection of zakat by a state, among them being the difficulty of having four different schools of thought.<sup>211</sup> These different schools of thought inform the manner in which a state may collect zakat. It is important to note that these schools have different views when it comes to the collection of zakat in terms of its coverage, assessment and disbursement.<sup>212</sup> This therefore means that there is no uniformity in the coverage and

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<sup>211</sup> There are four schools of thought in the Sunni jurisprudence. These are the Hanafi, Maliki, Shafi'e and the Hanbali schools of thought. Islam has two main sects. These are the Sunni sects and the Shia sects. The majority of the Muslims subscribe to the Sunni sect.

<sup>212</sup> Al Tahir, Abdallah (1997), "Zakah Proceeds and Developments of Society," in MonzerKahf (Editor), *Economics of Zakah*, Book of Reading No. 2, Islamic Research and Training Institute, Islamic Development Bank Group, Jeddah, pp. 507-64.

assessment methods that governments use in the collection of zakat. A government that subscribes to a school of thought that limits the zakat base will in its collection be limited to the zakat base approved by such school, whereas another government that subscribes to another school that argues for a wide zakat base will in its collection of zakat have a wide base from which to collect the zakat. Hence, there is a need to review the views and interpretations of each of these schools on zakat and harmonise them so that there is a uniform application of rules governing the collection of zakat by Muslim states, which in turn will improve the collection of zakat.

***Recommendation two:***

***The need to educate a Muslim public on the importance of zakat, its coverage and assessment and train government officials in the collection of zakat***

There is a need to educate a Muslim public on zakat. Chapter three showed that there is a lack of knowledge and information about the laws and Shari'ah<sup>213</sup> provisions about zakat matters. For example, in Malaysia, a factor, which affects zakat collection, is the lack of publicity and information on the types and kinds of zakat that should be paid.<sup>214</sup> This lack of information means that there exists a zakat base, which is idle because people do not know that zakat is due on such items. Accordingly, this affects the amount of zakat that can be collected. In Kuwait, people have been observed to

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<sup>213</sup>Refers to a body of Islamic law. In the Islamic state Sharia governs both public and private lives of those living within the state. Sharia governs many aspects of day-to-day life, including politics, economics, banking, business law, contract law, and social issues. Some accept Sharia as the body of precedent and legal theory before the 19th century, while other scholars view Sharia as a changing body, and include reform Islamic legal theory from the contemporary period.

<sup>214</sup>Othman, Jamil et al (1990) "Zakat: A Case Study of Malaysia", paper presented at the Third International Conference on Zakah, Kuala Lumpur, Malaysia, May 14-17, 1990 at p. 20.



pay zakat in a strange manner due to ignorance about Shari'ahlaws concerning zakat. "One Muslim asks his relatives to change cars with new ones every year..." from his zakat money.<sup>215</sup> Therefore, there is the need to inform the people about zakat matters by all possible means including press, radio, television, booklets and posters.<sup>216</sup>

Such education will assist the government officials in the collection of zakat since they too will be informed on what properties and wealth zakat is due and the rate at which it is to be assessed. The Malaysian experience has shown that inefficiencies in the collection of zakat result out of lack of knowledge and information on the part of the officials in the collection of zakat. Hence, to address this problem, there is a need to educate and train the government officials in the collection of zakat.

### ***Recommendation three:***

#### ***The need for a Muslim state to implement an efficient zakat administration system***

The theoretical gap identified in this thesis is that the theories concerning state controlled zakat collection do not consider that this system suffers from problems that limit the amount that can be collected through zakat. The thesis identified that the problem affecting the collection of zakat are either jurisprudential or administrative in nature; hence since a state collects the zakat the state must put in place and establish a proper and efficient zakat administration system.

In implementing an efficient zakat administration system, a state ought to be guided

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<sup>215</sup>Sumait, AbdurRahmanHamoud, "Zakah Organizations Efforts in the Field of Public Expenses", paper presented at the Third International Conference on Zakah, Kuala Lumpur on May 14-17, 1990 at p. 1.

<sup>216</sup>Ibid at p. 3.

by the Pakistan experience where the zakat from financial assets is deducted at source by institutions dealing with the assets.<sup>217</sup> This reduces collection costs and collection of zakat is guaranteed. The declaration system operated in the Sudan and in Saudi Arabia by which the zakat payer assess their own zakat and pay it must be curbed in favour of the aforementioned Pakistani method, since such a method prevents zakat evasion or avoidance.

A state ought to establish offices in every region, district or county to facilitate the collection of zakat from the various zakat bases. Further the Sudan experience has shown that the lack of adequate storage and transportation facilities also affect the amount of zakat that can be collected from the agricultural sector. Agricultural crops are perishable, and livestock need food, shelter and other kinds of care. The zakat collectors in Sudan for example are not able to find ready outlets for sale of these items, which in turn affects zakat collection by the local councils in the Sudan.<sup>218</sup> Therefore adequate machinery and measures ought to be put in place to enable zakat officers to collect the zakat and ensure its efficient distribution.

Saudi Arabia does not collect zakat from employed professionals whereas zakat from self employed is due and owing. This law narrows the zakat base and therefore in expanding the zakat base, States must come up with fair laws in the collection of

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<sup>217</sup>Awan, M. Mahmoud (1980) "Economic Policy for Development - A Treatise on Zakah", in Raquibuzzaman (ed.), *Some Aspects of The Economics of Zakah*, op. cit., pp. 185-207.

<sup>218</sup>Salama, Abdin Ahmed (1990), "Voluntary and Compulsory Applications of Zakah: A Case study of Sudan 1405-1410 H", paper presented at the Third International Conference on Zakah, Kuala Lumpur, Malaysia, May 14-17, 1990 at p. 5.

zakat to include both employed and self-employed professionals.

***Recommendation four:***

***The need to promote and regulate non-official channels in the collection of zakat***

The fact that there exist non official channels that also collect zakat, states collecting zakat might wish to either promote these non official channels or partner with these institutions in the collection of zakat by overseeing their administration, collection and distribution of zakat. These non official channels provide the support for charitable work that governments might not be able to fund, they provide an opportunity for building solidarity within the community by facilitating a pious obligation that also contributes to the physical wellbeing of some and the general welfare and further without the compulsion and the threat of sanctions, contributors are less likely to resent making payment or actively avoid payment to such non official channels.

Among the reasons why there are problems in state controlled zakat collection is the fact that such collection is resented by the public. For example in Pakistan, banks and other depository institutions are responsible for collecting zakat. Their responsibility is to transfer appropriate contributions based on deposits on an annual record date that is the first day of Ramadan.<sup>219</sup> This shows that Pakistan has the most truncated collection system. However, it also has one of the lowest rates of zakat giving. One explanation might be that the automatic system generates resentment of attempts to enforce

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<sup>219</sup>Islamic Republic of Pakistan, Zakat and Ushr Ordinance 1980.Ch 1 § 2 (xxxii).

payment of zakat, leading to avoidance. Thus, a state might promote voluntary zakat collection to combat and overcome this problem.

***Recommendation five:***

***Offering tax incentives to the zakat payers***

Offering tax incentives is another recommendation to improve the collection of zakat. The government in encouraging participation in the system might consider making zakat contributions to the state tax deductible.<sup>220</sup> This would create a new incentive for participating in the official system and might lead to an improvement in the collection of zakat.

***Recommendation six:***

***Promoting accountability in the collection of zakat by a state***

In order to overcome the problems that have been identified in chapter three states collecting zakat need to foster trust through the principle of disclosure in their administration of zakat. If zakat payers know that the contributed money is used effectively, they might be more likely to participate in the official system as opposed to the unofficial system. Studies of Indonesia's system seem to indicate that most citizens prefer to give within their local community, presumably both because of social connections and because such contributions might be more easily identifiable within the community.<sup>221</sup> The clearer it is that money collected by governmental

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<sup>220</sup> Arksal Salim, *The Influential Legacy of Dutch Islamic Policy on the Formation of zakat (Alms) Law in Modern Indonesia*, 15 PAC.RIM L. & POL'Y J. 683, 701 (2006).

<sup>221</sup> Ibid at 6-7 (Most zakat donors in Indonesia give to neighborhood funds, usually at the local mosque, or directly to beneficiaries.).

organizations is used well and in ways that meet needs normally unmet by local mosques and charities, the more willing zakat payers will be to participate in the compulsory zakat collection programs.

Also in order to overcome the problems that have been identified in chapter three states collecting zakat need to implement rigorous transparency policies, such as those of the Nasser Social Bank,<sup>222</sup> since such policies show an important measure of

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<sup>222</sup>MonzerKahf, “*Applied Institutional Models for zakat Collection and Distribution in Islamic Countries and Communities,*” in INSTITUTIONALFRAMEWORK OF ZAKAT: DIMENSIONS AND IMPLICATIONS, SEMINAR PROCEEDINGS NO. 23202-04 (Ahmed Abdel-Fattah al-Ashker& Muhammad SirajulHaq eds., Islamic Development Bank 1995).

credibility. It is important to have a system of zakat collection that is not afflicted by the vice of corruption. Transparency in state controlled zakat collection brings in the aspect of accountability where contributors are able to have access to information on how much zakat money was collected and on what it was spent. Transparency brings credibility to the system and contributors are more likely to pay the zakat because of confidence in the system as well.

## **CHAPTER FIVE**

### **CONCLUSION**

Muslim theorists<sup>223</sup> have consistently since the time of the Prophet (peace be on him)

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<sup>223</sup> Such as Imam Abu Hanifa, Imam Malik, Imam Shafi, Imam Ghazali cited in TimurKuran (2005), "The Absence of the Corporation in Islamic Law: Origins and Persistence", *American Journal of Comparative Law* **53**, pp. 785-834 [798 799], Abu Hamid Al-Ghazali, *Mysteries of Zakat*, Translated by

argued for the collection of zakat by a state.<sup>224</sup> This thesis in using the Sudan and Pakistan experience in the collection of zakat by their respective governments showed this system to be the most effective method of collecting zakat. However these Muslim theorists failed to discuss and consider that this system may be facing problems that limit the revenue collected through zakat. Instead these theorists have been more concerned with the philosophies behind arguing a case for the collection of zakat by a state. Accordingly, this thesis was able to identify a theoretical gap in the literature on collection of zakat by a state. Since neither of the theorists behind the collection of zakat during the time of the Prophet (peace be on him), the era of the caliphate and the time after the caliphate era considered that there may be problems affecting the collection of zakat by a state.

Their concern in the collection of zakat by a state was mainly for the welfare of the poor and on the equitable distribution of wealth. In their opinion, therefore, a state ought to be the collector of zakat if the objective of catering for the welfare of the poor and equitably distributing wealth in the society was to be realized. This thesis in as much as it agreed with these theorists went a step further to state that there are two main problems that affect the collection of zakat by a state and it identified the circumstances that create these problems as lack of coherence in the legal philosophy of a state in its policy on zakat and the problem of inefficient and ineffective

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Nabih Amin Faris 65 (Ashraf Press, Lahore 1974), and Al Mawardi, Abu al Hasan 'Ali bin Muhammad (1973) *al Ahkam al Sultaniyyah* (Circa 450), al Babi al Halabi Publishers, 3rd printing, Cairo (in Arabic).

<sup>224</sup>Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, Mu'assasat al Risalah Publishers, 2nd printing Beirut (in Arabic), at p. 749.

administration of collecting zakat by a state. Since zakat is a method by which poverty can be alleviated and wealth can also be equitably distributed in a society having a zakat collection system that is not affected by problems is important in realising this objective. Therefore, in conclusion, the thesis surmises that these problems show that any discussion on the collection of zakat by a state is incomplete unless factors that affect the collection of zakat under this system are addressed.

## **BIBLIOGRAPHY**

**-A-**

- Abdul Aziz Bin Muhammad, Zakat and Rural Development In Malaysia 79- 104 (Kuala Lumpur: Berita 1993) 8-30.
- Abu Hamid Al-Ghazali, Mysteries of Zakat, Translated by Nabih Amin Faris 65 (Ashraf Press, Lahore 1974).
- Abu ‘Ubaid, al Qasim bin Sallam (1353H) *al Amwal*(circa 224 H), al Matba’ah al Tijariyyah al Kubra Publishers, Cairo (in Arabic).



- Al-Hilali, Muhammad Taqi-ud-Din and Muhammad Muhsin Khan (1404H), *Translation of the Meanings of the Noble Qur'an in the English Language*, King Fahd Complex for the Printing of the Holy Qur'an, Madinah.
- Ajil, Abdul Quader Dhahi (1990) "A Study on the Institutions that are Based on Non-Compulsory Payment of Zakah", paper presented at the Third International Conference on Zakah, Kuala Lumpur on May 14-17, 1990.
- Al Mawardi, Abu al Hasan 'Ali bin Muhammad (1973) *al Ahkam al Sultaniyyah* (Circa 450), al Babi al Halabi Publishers, 3rd printing, Cairo (in Arabic).
- Al Qaradawi, Yusuf (1973), *Fiqh al Zakah*, Mu'assasat al Risalah Publishers, 2nd printing Beirut (in Arabic).
- Al Sayyid Sabiq, "Fiqh us Sunnah: AzZakah and As Siyam" (Translated by Muhammad Saeed Dabas and Jamal al Din m. Zarabozo, Islamic Printing & Publishing Co, Egypt, 2000).
- Al Tahir, Abdallah (1997), "Zakah Proceeds and Developments of Society," in Monzer Kahf (Editor), *Economics of Zakah*, Book of Reading No. 2, Islamic Research and Training Institute, Islamic Development Bank Group, Jeddah, pp. 507-64.
- Abu Yusuf, Kitab Al-Kharaj, trans. By (Abid Ahmad Ali trans., (Lahore 1979). See Also Ben Shemesh, Taxation In Islam 3:35-143 (Leiden: E.J. Brill, 1969).
- Arksal Salim, *The Influential Legacy of Dutch Islamic Policy on the Formation of zakat (Alms) Law in Modern Indonesia*, 15 PAC. RIM L. & POL'Y J. 683, 701 (2006)
- Awan, M. Mahmoud (1980) "Economic Policy for Development - A Treatise on Zakah", in Raquibuzzaman (ed.), *Some Aspects of The Economics of Zakah*, op. cit., pp. 185-207.

**-B-**

- Ba-Yunus, Ilyas (1980) "A note on the Social Implication of Zakah in Modern Times" in Raquibuzzaman (ed.), *Some Aspects of The Economics of Zakah*, op. cit., pp. 179-183.
- Bernard Freamon, "Slavery, Freedom, and the Doctrine of Consensus in Islamic Jurisprudence," 11 HARV. HUM. RTS. J. 1, 43 (1998).
- "Biography of Jafar Ibn Abi Talib." USC-MSA Compendium of Muslim Texts. 25 Aug. 2006. Available at: [http://www.usc.edu/dept/MSA/history/biographies/sahaabah/bio.JAFAR\\_IBN\\_ABI\\_TALIB.html](http://www.usc.edu/dept/MSA/history/biographies/sahaabah/bio.JAFAR_IBN_ABI_TALIB.html) last accessed on August 2012

**-D-**

- Dr. Mohammad Abdul Hai, “Uswa –e- Rasool –e- Akram,” (Translated by Mohammed Muqtadir, IdaraIsha’at –E- Diniyat (P) LTD, New Delhi, India, 2004)

**-E-**

- Encyclopaedia of Islam, Zakat (C.E. Bosworth ed., Brill 2004)

**-F-**

- FazlurRahman, Islam and Modernity: Transformation of An Intellectual Tradition (University of Chicago Press 1982)

**-G-**

- Grace Clark, Pakistan’s Zakat and Ushr System From 1979-1000, 141 (Charles H. Kennedy & Craig Baxter eds., Pakistan 2000).
- Ghazali, Aidit (1988) "The Phenomenon of Zakah Payment Through Unofficial Channels - An Empirical Analysis", Kulliyyah of Economics, International Islamic University, Malaysia.

**-H-**

- HammudahAbdalati, “Islam in Focus,” (Al Jumah Press, Riyadh, Saudi Arabia, 1999)
- Hanna E. Kassis, A Concordance of The Qur’an 431(Berkely 1983)
- Hannan, Shah Abdul (1988) "UsharerOporiharjotar O Bidhari" (The Obligation of *Ushrand* its Rules), *Zakah and Ushr*, Islamic Economics Research Bureau, Dhaka, pp. 32-37.
- Hasanuzzaman. S.M. (1979) "Zakat and *Ushr*. Draft Examined", Islamic Order, Vol. 1, No. 3, 1979
- Hasan, Najmul (1984) Social Security System of Islam with Special Reference to Zakah, International Centre for Research in Islamic Economics, King Abdulaziz University, Jeddah, 1984.
- Hussain, M. and Nasim Shah Shirazi (1994). Role of Zakat and Ushr in Rural Development. Paper Presented at the Seminar on Rural Development in Islamic Perspective, Islamabad, International Institute of Islamic Economics, June 4-8.

**-I-**

- IbnAbidin, Muhammad Amin (1301H), *Hashiyahradd al Muhtar 'ala al Durr al Mukhtar*, Istanbul (in Arabic)
- IbnHisham (1955) *Al Sirah al Nabawiyyah*(Circa 218H),alBabi al Halabi Publishers, Cairo (in Arabic).
- IbnKathir (1997), *Al Bidayahwa al Nihayah*(Circa 774H), Hajar Publishers, Riyadh (in Arabic), at p. 437-39)
- IrshadAbdal-Haqq, *Islamic Law: An Overview of its Origins and Elements*, J. ISLAMIC L. AND CULTURE 27, 36 (2002).
- Islam, Zahurul (1982) "The Zakah Ordinance - A few Observations". Thoughts on Economics, Vol. 3, No. 7, 1982

**-J-**

- John L. Esposito, *Islam: The Straight Path* 92 (Oxford 1988)

**-K-**

- Kahf, Monzer, "Mafhum al Tamwil fi al Iqtisad al Islam," (Concept of Financing in Islamic Economics), IRTI, Jeddah, Saudi Arabia, 1992.
- Kahf, Monzer (1999), "Zakah: Performance in Theory and Practice", paper presented at the "International Conference on Islamic Economics Towards the 21st Century", Kuala Lumpur, August 1999.

**-M-**

- Malik IbnAnas, *Al-Muwatta of Imam Malik IbnAnas: The First Formulation of Islamic Law*, § 17 zakat (Aisha Abdurrahman Bewley trans., Madinah Press Inverness 2001 edition).
- Marshall G. S. Hodgson, *The Venture of Islam: Conscience And History In A World Civilization*, Volume 1: The Classical Age of Islam 97, 98 (U. of Chicago 1985)
- MohiuddinAazim, "*Rush for Cash Withdrawal Recedes: Zakat Deduction*," DAWN, Nov. 8, 2002, available at <http://www.dawn.com/2002/11/08/ebr1.htm>
- MonzerKahf, Ed., *Economics of Zakat: A Book of Readings* 20 (MonzerKahf, ed., (Islamic Research and Training Institute 1997)
- Muslim Philanthropy: Potential And Reality of Zakat In Indonesia Survey Results In Ten Cities 67-70 (Kurniawati ed., Piramedia 2005)

**-N-**

- N.J. Coulson, A History of Islamic Law 55-61 (Edinburgh 2003 Printing),
- Norman Calder, Studies of Early Muslim Jurisprudence 154 (Oxford 1993).

**-O-**

- Othman, Jamil et al (1990) "Zakat: A Case Study of Malaysia", paper presented at the Third International Conference on Zakah, Kuala Lumpur, Malaysia, May 14-17, 1990 at p. 17-18

**-P-**

- Powell, Russell, "Zakat: Drawing Insights for Legal Theory and Economic Policy from Islamic Jurisprudence,"

**-R-**

- Rahman, SahaMuhammedHabibur (1980), "Zakat- A Case for Equitable Distribution of Income and Wealth", in K.T. Hosain et al (eds.), Thoughts on Islamic Economics, Islamic Economics Research Bureau, Dhaka, pp.94-101
- *"Recommendations of the Conference in INSTITUTIONAL FRAMEWORK OF ZAKAT: DIMENSIONS AND IMPLICATIONS*, Seminar Proceedings No. 23 473-477 (Ahmed Abdel-Fattah al-Ashker& Muhammad SirajulHaq eds., Islamic Development Bank 1995)

**-S-**

- Sahih Al-Bukhari, The Translation of The Meanings of Sahih Al Bukhari, Volume 2: Ahadith 876-1772 (Dr. MuhamadMuhsin Khan trans., Darussalam 1997))
- Salama, Abdin Ahmed (1990), "Voluntary and Compulsory Applications of Zakah: A Case study of Sudan 1405-1410 H", paper presented at the Third International Conference on Zakah, Kuala Lumpur, Malaysia, May 14-17, 1990
- Shabbir Ahmed E. Desai, "Ta'leemulHaq: An Authentic Compilation on the Five Fundamentals of Islam," (Noida Printing Press, New Delhi, India, 2005)
- Shirazi, Nasim Shah (2004), "Prospects of Poverty Elimination through the Institution of Zakat: A Case of OIC Member Countries",

International Conference on Poverty in the Muslim World & Communities, IIUM, 14 – 1 December, 2004

- Sheikh, Abdul Aziz (1980). Concept of Zakah: A survey of Qur'anic Texts and Their Explanation in Shari'ah and Contemporary Economics. In M. Raquibuzzaman (Ed.). *Some Aspects of Economic of Zakat*, pp. 3-68.
- Sumait, AbdurRahmanHamoud, "Zakah Organizations Efforts in the Field of Public Expenses", paper presented at the Third International Conference on Zakah, Kuala Lumpur on May 14-17, 1990

**-T-**

- Talal Malik, *GCC Can Rake Billions in Zakat Income Tax*, 12 Sep. 2007, <http://www.arabianbusiness.com/property/article/500208-gcc-can-rake-billionsin-zakat-income-tax->.
- The Council of Islamic Organisations of Greater Chicago, "The Institution of Zakat," (The Central Zakat Committee (CZC), The Council of Islamic Organisations of Greater Chicago (CIOGC), Chicago, Illinois, 2005). Available at: <http://www.zakatchicago.com>

**-W-**

- *Wazarah al-Maliyahwa al-Iqtisad al-Watani, Waraqah 'AmalaI-Mamlakah al-'Arabia al- Saudia 'An Faridah al-ZakahwaTatbiqatiha al- 'Amaliyyah*. Riyadh: Ministry of Finance and National Economy, at p. 58 and 92
- WaelHallaq, *A History of Islamic Legal Theories: An Introduction To Sunni Usul Al-Fiqh 10-15* (Cambridge 1997)

**-Y-**

- Yasin Dutton, *The Origins of Islamic Law* (Richmond: Curzon 1999)
- Yusuf Al-Qardawi, *FiqhAz-Zakat: A Comparative Study 79-104* (Dar Al- Taqwa: 1999)