شروط تمام الملك
وأثره في قضايا الزكاة المعاصرة
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ملخص البحث
يناقش البحث أحد شروط الزكاة المعروفة عند الفقهاء ب"الملك التام" ويعني كون المالك قادرًا على التصرف في ماله والانتعاب به، ولم يتعلق به حق للغير. وبناءً على هذا الشرط فلا تجب الزكاة في بعض الأموال مثل: المال المفقود، والمسروق، والمجادود، والدين على المعسر ونحو ذلك؛ لأن هذه الأموال لا يمكن مالكها من التصرف فيها كما لو كانت في يده. ولتطبيق هذا الشرط أثره في بعض التطبيقات المعاصرة للزكاة، ويتجلى ذلك واضحاً في مسائل عدة منها: زكاة مال الضمار، وزكاة الديون المؤجلة، وأثر الديون على الوعاء الزكوي، وزكاة المال المملوك في جهات ذات شخصية اعتبارية، وزكاة المال الممنوع من التصرف فيه لقيود قانونية، وزكاة الأموال المحتجزة والمرهونة لدى الآخرين. وهذا ما سيركز البحث على بيانه باسطا الأقوال بدلتها ومرجحاً للرأي المدعوم بالمستندات الشرعية والعلمية الصحيحة والواضحة، مختتماً بتوصيات مهمة تستفيد منها الباحثون والدارسون لشؤون الزكاة وكذلك المؤسسات المالية والزكوية.

Impact of Absolute Ownership Requirement
On Contemporary Zakāt Issues
Saleh Al Fawzan
Abstract
This paper discusses a zakāt requirement known to jurists as ‘integrity of ownership’, which refers to a condition whereby an owner is able to dispose of, and utilize, his funds that are unencumbered by other persons’ claims. Based on this stipulation, zakāt levy is not obligatory on certain funds such as lost, stolen or disavowed money, or debt on an insolvent debtor. Such funds cannot be disposed of by the owner in the way he could if he were in full possession of the resources.
Application of this stipulation has an impact on contemporary zakāt practices clearly manifested in some aspects of zakāt; namely (i) zakāt on dhimar money (temporarily inaccessible funds), (ii) zakāt on deferred debts, (iii) zakāt on money owned at entities with juridical personalities, (iv) zakāt on sequestered funds due to legal restraints; (v) zakāt on distrained or mortgaged funds, and also (vi) the impact of debts on the zakāt pool. The paper, hence, examines these issues by setting forth different views along with supporting evidence. More importantly, the paper sheds light upon arguments based on authentic Shari'ah sources and reasonable inference. Finally, the paper concludes with important recommendations that may benefit academics and practitioners in zakāt spheres.
Islamic Finance: Moral or Ethical?

Abdelraziq Balabas

Abstract

In the context of academic interaction between Islamic and European countries, some economists tend to view Islamic finance as ‘moral finance’, while others attribute it as ‘ethical finance’. It is argued that the fundamental difference between the two is that morals are concerned with what is imperative, i.e. it is associated with codified regulations; while ethics are often associated with what is good or what is considered good. The paper argues that an interaction between these two concepts may help in understanding the relationship between empirical knowledge that guides conduct and reason as well as the objectives pursued in the context of post-modernist inquiries.

An interplay between these concepts also shows that issues in setting the objectives as an intellectual and rational conduct is not peculiar to Muslims. Moreover, the importance of setting the objectives in financial dealings is evident in Ṣaḥīḥah.

Keywords: Islamic Finance, Morals, Ethics, Reason