

# LIMITATIONS ON THE USE OF ZAKAH FUNDS IN FINANCING SOCIOECONOMIC INFRASTRUCTURE

SHAWKI ISMAIL SHEHATA\*

## 1. INTRODUCTION

It is well known that *zakah* is an earmarked levy. Its proceeds can be spent only on eight heads clearly mentioned in *Quran*. In this paper we will explain the rules governing these eight heads of expenditure. We will also discuss the possibility of the contemporary use of *zakah* funds in financing socioeconomic infrastructure projects both at the individual and the community level.

We will draw our conclusions from generally accepted principles of collection, distribution and administration of *zakah* in the light of the *shari'ah*. Section two of the paper covers eight principal cannons of maintenance and utilization of *zakah* revenue in conformity with the *shari'ah*. Accordingly, criteria for eligibility to receive *zakah* are also established under different circumstances and conditions.

Section three of the paper deals with the contemporary utilization of *zakah* funds to finance the socioeconomic infrastructure for Muslim individuals and communities. Various ways and means of wider utilization of *zakah* proceeds by the community at large are proposed. These proposals include preparation of the annual *zakah* budget within the framework of a five-year plan, expenditure on education, health, and vocational training of the poor and indigent, establishment of cottage industries, utility and trade projects, productive facilities, housing , debt relief, expenditure for conversion of non-Muslims into the Muslim faith and outlays for the cause of Allah.

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## 2. LEGAL RULES REGULATING THE EXPENDITURE OF *ZAKAH*

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

O, Commander of the Faithful: Allah, praise be to Him, has entrusted you with a heavy task, the reward of which is supreme and the penalty for which is most severe. He entrusted the destiny of this nation into your hands. You are now spending day and night to build this society and are concerned with the welfare of the people whom Allah has put under your custody. He made you guardian over their interests in being their ruler. Any structure founded on it other than piety can never remain erect and it will be demolished by Allah from its foundations over the heads of those who have built it and assisted in its construction. Do not betray the trust laid in you by Allah to oversee this nation and your subjects. Power and might lie in doing what Allah likes.<sup>1</sup>

He went on with his advice to Harun El Rasheed. The first subject he brought up was that of *zakah*. He said:

O, Commander of the Faithful; give order that only a man of honesty, who is trustworthy, upright and virtuous and loyal to you and to your subjects, should be selected to collect *zakah* from all the provinces. Order him to employ such persons of integrity, acceptable to him, after enquiring about their creeds, manners and honesty, so that they be competent to collect the *zakah* from the provinces and bring it over to him.

### 2.1 Need for an Independent Treasury for *Zakah*

The funds of *zakah* should not be mixed with *kharaj* (land tax) funds. *Zakah* should have an independent treasury (*baitul mal*).

In his letter to Harun El Rasheed, Abu Youssef went on to say:

Once the *zakah* is collected, distribute it in accordance with the rules of Allah, Who is worthy of utmost praise, and do not give the task to the collectors of *kharaj* (land tax). Funds of alms (*zakah*) should not be mixed with *kharaj* funds, because *kharaj* is for the well-being of all Muslims, while

*zakah* is intended only for the categories designated by Allah in His Holy Book.

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

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

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

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

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

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

the Shafeites, *zakah* is a partnership, and to the Hanbalis, the poor are partners in the wealth of the rich.

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

## **2.2 Entitlement of *Zakah***

Following rules govern the entitlement to receive *zakah*:

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

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

According to Abu Ubaid.<sup>4</sup> "We have discovered a condition other than richness in defining who is entitled to alms. The Prophet, (Pbuh), has declared the rich and the potential earner of livelihood to be equally non-eligible to *zakah*. They are both equal even if the able-bodied man has no money". There are exceptions mentioned in para (c) below.

(b) When is a rich man permitted to receive *zakah*?

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

- (i) if he is a *zakah* administrator and collector.
- (ii) if he has bought it with his own money.
- (iii) if his neighbor is poor and he gives alms to the poor man, but the poor man gives it back to him.
- (iv) if he is fighting for the cause of Allah.
- (v) if he is in debt.

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

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

(c) When is an able-bodied earner of livelihood entitled to *zakah*?

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

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

(d) Follow-up of four of the eight categories eligible to *zakah*.

The Hanbalites maintain that if four of the eight categories eligible to receive *zakah* (those in debt, those desirous of freeing captives, those struggling for the sake of

Allah and the wayfarers) spend their share of *zakah* as prescribed, it is well and good, otherwise they should be required to give the *zakah* money back.

### **2.3 Distribution of *Zakah* within the Locality of its Origin**

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

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

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

According to Yousef Al-Qardawi,<sup>9</sup> the territoriality of *zakah* was devised to combat and defeat poverty, to train each province to become self-sufficient and to enable it to solve its respective internal problems. Since the poor of the same locality have aspired to get their share from such a fund, therefore, it becomes pertinent that they be given priority in securing their right. However, in his opinion, this established practice may be waived if the locality does not need the *zakah* money. This is done by the *imam* through consultation with the scholars of *shari'ah* in the larger interest of Muslims.

### **2.4 The Policy of *Zakah* Distribution Among the Eight Categories**

#### **(a) Priorities in the distribution of *zakah*:**

Talking of the order of priorities in the distribution of *zakah* among the eight objects of expenditure, Abu Ubaid said<sup>10</sup> that the Prophet (Pbuh) is reported to have said that "*zakah* is to be collected from the rich and paid to the poor". Only this single category was specified in this quotation by the Prophet (Pbuh).

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

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

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

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

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

**(b) Abu Youssef and the system of distributing *zakah* funds**

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

As regards the other categories, the *imam* is at liberty to give *zakah* to anyone of the categories set forth by Allah in His Holy Book. Should he wish, he may spend it on only one category deemed most appropriate from amongst the categories specified by Allah.

**(c) Al-Mawardi and the system of distributing *zakah* funds**

In the opinion of Al-Mawardi<sup>13</sup> (died in 420 A.H.), "*zakah* is to be distributed to those referred to in Allah's Book as beneficiaries. The Prophet of Allah, (Pbuh) was in the habit of dividing it according to his own judgement and discretion. And when the 'Alms' verse was revealed to him, the Prophet, (Pbuh) said: "Allah did not leave the distribution of alms to the judgement of a chosen angel or a messenger and preferred to divide them in accordance with the categories specified by Him".

In his own opinion, alms (*zakah*) should all be divided into eight shares among the eight categories, if each category is available. No category should be encroached upon. However, he goes on to say that in the opinion of Abu Hanifah, *zakah* may be paid to only one of the eight categories even if all of them are available. Payment to all categories is not imperative.

## 2.5 The *Zakah* and the Level of Sustenance

### (a) Amount payable to the needy from *zakah* funds and the level of sustenance:

According to Abu Ubaid,<sup>14</sup> Umar Ibn Al Khattab, was quoted as saying: "If you give *zakah*, enrich the recipients". Abu Ubaid then gives an example of a *zakah* donor who may come to know of a needy family who is homeless, and buys them a house. Or he may know of a slave who is mistreated by his master, and buys the slave and sets him free. Such help may require a lot of money to be paid for the benefit of a single recipient. Abu Ubaid clearly states that it is permissible for the donor to pay for such help from his *zakah*.

### (b) Umar Ibn Abdul Aziz,<sup>15</sup> (may Allah bless him), on the degree of wealth that forbids asking for charity:

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

### (c) Al-Mawardi<sup>17</sup> on the division of the *zakah* and the level of sustenance:

According to Al-Mawardi, even if *zakah* is divided among the eight heads, the recipients may still fall into five categories as follows:

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

**(d) Al-Nawawi on lifetime or one-year sufficiency:**

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

**2.6 Permissibility of Granting Benevolent Loans out of Zakah Funds**

In reply to a question posed by the Government of Pakistan in 1396 A.H. (1950 A.D.) about the possibility of extending interest-free loans to individuals out of the *zakah* funds, Abu Zahrah<sup>19</sup> said: "If a debtor died and his heir are not capable of repaying his debt, it is possible that the debt be repaid from *zakah* funds. To Malik, Al-Shaf'i and Ahmad, the balance of the debt must be paid from his property left after his death. If the inheritance was sufficient, the debt is duly paid, otherwise, it becomes a bad debt".

Under Islam, goodly loans (*qard hasan*) can be paid back from the *zakah* funds. In this matter, Islam has been the forerunner of all other faiths. It suffices to know that in some countries, the Roman Law had given the creditor the right to take the debtor as a slave. But the Law of Allah, the Subtle and Aware, ordains that the debt of an insolvent should be paid by the state on his behalf. In so doing, people are encouraged to do more acts of benevolence and to grant more of *riba* free loans.

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

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

## **2.7 Can *Zakah* be paid to Institutions?**

Should *zakah* be paid exclusively to individuals or to institutions such as educational institutions, orphanages, and charitable societies?

This was another question which was submitted by the Government of Pakistan in 1369 A.H. (1950 A.D.) to which Abu-Zahrah<sup>20</sup> gave the following answer:

If institutions are intended for taking care of instructing and educating the poor and destitute or the like, at a time when the *zakah* is not collected by the state, the *zakah* money might be paid (by individuals) to these institutions for the benefit of the poor they are taking care of. If the institutions are not spending money on the poor and the destitute, then *zakah* may not be disbursed to them, as already opined by the majority of jurists, contrary to the opinion of some other jurists as indicated by Al-Qaffal.

Answering the same question, Mohamed Abdul Wahhab Khallaf<sup>21</sup> said: "It is not appropriate to assume that *zakah* is not considered legitimate and lawful unless it is given by the *zakah* donor to a certain person, or persons, as private possession".

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

## **2.8 Rights other than *Zakah* may be Assessed against Wealth and Taxes may be Levied in Addition to *Zakah*<sup>22</sup>**

In emergency, the destitute are legally entitled to be supported by funds other than *zakah*. A Muslim has an obligation towards his fellow Muslims in need. The former must help the latter out of righteousness to overcome his distress, and not only from the *zakah* due on his wealth. In normal times, some money can still be paid voluntarily. Meeting the needs of the poor, however, is a collective duty over and above *zakah* funds. No Muslim should be left alone in a predicament. Thus, taxes may be levied, besides *zakah*, if the public interest so dictates, so long as the ruler is administering justice without prejudice.

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

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

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

Under the prevailing circumstances of his time and the dictates of his environment, Abu Youssef<sup>24</sup> was of the opinion that a share of the *zakah* funds should be used on improving the routes travelled by Muslims after, of course, the payment for the subsistence of *zakah* collectors therefrom.<sup>25</sup>

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

- (i) Each road must be allocated a percentage commensurate with the number of people passing through it.
- (ii) A share must be dedicated to every traveller or wayfarer, having no shelter or relatives to support him.
- (iii) A wayfarer is to be offered food until he reaches home or reaches his destination.
- (iv) Special homes should be run by honest people to accommodate the needy wayfarer and to offer food to him as well as for his beast of burden.

## **2.9 Summary of Section Two**

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

1. *Zakah* funds should not be mixed with those of Islamic treasury. They should be managed independently in accordance with the rules of the *shari'ah*.
2. Infrastructural projects and public utilities and services beneficial to all Muslims, poor and rich, should not be financed out of the *zakah* funds. The same applies to the administrative machinery of the state.

3. It is not lawful to give the rich or the able-bodied men, any share of *zakah*.
4. The rich are not allowed to get anything from *zakah* funds unless they are involved in collecting and administering *zakah*, or engaged in the struggle for the cause of Allah, or have borrowed money to spend in settling disputes among Muslims, or in certain types of debt. The debtor is to be paid only the amount originally borrowed and nothing more.
5. Able-bodied earners are not allowed to receive any *zakah* unless their earnings fall short of meeting their basic requirements. For such men to receive anything from *zakah*, they shall have to demonstrate that they are unable to meet their basic needs out of their earnings.
6. The Hanbalis are of the view that when *zakah* is paid to debtors, captives, the wayfarers and those who fight for the cause of Allah, there should be some follow up in order to ascertain that the money they received has actually been spent as designated, otherwise they must pay back the money they received.
7. A matter of principle in respect of *zakah* is that it should be disbursed to deserving people in the same locality from where it has been collected.
8. The method applied in dividing the *zakah* among the eight categories, or of payment to some categories to the exclusion of others should be left to the discretion of the ruler who may give priority to one category over others. However, the majority of jurists, with the exception of Shaf'ities, are of the view that *zakah* need not necessarily be distributed among all the categories; and that it can be disbursed to only some of them if the requirement of the *shari'ah* are fulfilled.
9. The *zakah* is intended to be spent on the poor and the needy in an attempt to bring them out of poverty. The duration of payment is to be determined accordingly.
10. In the view of some scholars, goodly loans granted to the poor and the needy who are able-bodied and able to earn their living, should eventually be able to generate resources which could later be made available to the other poor and needy.
11. *Zakah* may be given to institutional bodies, taking care of the poor and the needy, in providing the public utilities and services. Ibn Abdeen maintains that any money spent on the education and medical treatment of the poor is deemed to have been spent on them and paid to them.
12. *Zakah* may be paid in cash or in kind. Payment in kind includes the money spent for procuring tools and equipment and the like.
13. Taxes may be levied on wealth in addition to the prescribed rate of *zakah*, if *zakah* proceeds are insufficient. The rich in every country, as held by Ibn Hazm, are under obligation to take care of the poor. Imam Ali made such an act obligatory if the *zakah* or the public welfare funds are not enough to provide the poor enough sustenance.

14.No Muslim should be forsaken.

### **3. USE OF ZAKAH FUNDS IN FINANCING THE SOCIOECONOMIC INFRASTRUCTURE**

#### **3.1 The Socioeconomic Infrastructure for the Muslim Individual and the Community: The Conceptual and Philosophical View**

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

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

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

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

#### **3.2 Formulation of a Five-Year Plan and an Annual Budget for the *Zakah* Treasury (*Baitul-Mal*)**

I suggest preparation of a five-year plan as well as annual plan for the receipts and expenditure of *zakah* institutions. In the absence of a public treasury (*Baitul-Mal*), I feel the need for the establishment of an Islamic international federation for *zakah*

institutions, or a world Islamic organization for *zakah* institutions, affiliated to the Organization of Islamic Conference. I am, also, in favor of preparing a detailed accountancy guide for such an organization, in line with the requirements of our time, wherein the *zakah* is properly dealt with and systematized in all respects.

Broad outlines for financing the Islamic socioeconomic infrastructure from *zakah* funds are indicated below:

**(a) Channels of expenditure for the poor and the needy:**

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

**(b) Vocational training and rehabilitation for *zakah* recipients:**

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

**(c) Establishment of simple cottage industries:**

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

**(d) Establishment of simple agricultural and cottage industries:**

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

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

**(f) Provision of some production facilities:**

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

**(g) Provision of working capital to craftsmen eligible for *zakah*:**

**(h) Low-cost housing:**

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

**(i) Medical treatment and health care:**

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

**(j) Expenditure on those whose hearts are made to incline to truth:**

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

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

The head of expenditure on 'those whose hearts are inclined to truth' remains valid, despite the fact that it was suspended during the reign of Hazrat Umar who believed that Islam had already been firmly established, and therefore, there was no need to persuade such people to come to the fold of Islam.

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

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

**(k) Heads of expenditure on people in debt and on wayfarers:**

This subject has already been discussed.

**(l) Expenditure for the cause of Allah:**

According to Abu-Zahrah:<sup>30</sup> "Some proponents of the Hanbalis hold the view that this type of money is not to be given to those who are fighting for the cause of Allah or defending the borders unless they are poor". In my view, this category is not to be treated independently. It is proper to comply with the opinion of the majority of jurists who hold that these people should receive their share of the *zakah* even if they are rich. They are qualified for it by reason of taking part in a holy war in the way of Allah.

The phrase "in the way of Allah" was interpreted by some jurists as including all persons serving the interests of Muslims. They permitted expenditure on this account out

of *zakah* fund. We, however, are not inclined to accept such liberal interpretation of the phrase. It is reasonable to adopt the view held by the majority of jurists.

### **3.3 Financing Socioeconomic Infrastructure from *Zakah* Funds in Modern World:**

- Payment of cash money to those who are completely disabled, unable to work or gain their living.
- Payment in kind, in the form of light fixed assets, production tools and productive commodities.
- Partnership that would culminate in ownership for the benefit of categories of people qualifying for *zakah*. This enterprise is to be financed by the *zakah* foundation.\*
- Engaging in a specific lawful *mudarabah* project pertaining to a specific activity, with *zakah* foundation acting as owner of the capital, while *zakah* beneficiaries are acting as workmen who take part in the *mudarabah* as partners contributing work. Any ratio of profit is to be divided between them in accordance with an agreement made prior to commencement of the work.\*
- Provision for leasing light fixed assets and production tools with nominal fees or rent to the poor and the needy.\*
- Benevolent loans should be granted to beneficiaries of *zakah*, under certain social conditions, or situations such as catastrophe, emergency, illness and costly surgery.\*
- Benevolent loans should be extended to those who are in debt, and qualified as such under the *shari'ah*.

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

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

and livestock and poultry industries within the framework of the 5-year national *zakah* plan.

## NOTES AND REFERENCES

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2. *Al-Amwal* (Funds), (1353 A.H.), Al-Tijariyyah Bookshop, Cairo, p.16.
3. *Al-Ahkam Al-Sultaniyyah* (Sultan's Rules), (298 A.H.), Al-Watan Press, Egypt, p.203.
4. *Al-Amwal*, op. cit., p.549.
5. *Al-Ahkam Al-Sultaniyyah*, op. cit., p.117.
6. *Al-Amwal*, op. cit., p.549.
7. *Ibid.*, p.598.
8. Abu-Zahrah, Mohamed, (1951), *Liwa' Al-Islam*, Cairo, Issue No. 11, Vol. 4, 1370 A.H.
9. *Fiqh Al-Zakah* (The Jurisprudence of the Zakah), (1980), Vol. II. Muassasat Al-Risalah, Beirut, p.816 et seq.
10. *Al-Amwal*, op.cit., p.580
11. *Ibid.*, p. 581.
12. *Al-Kharaj*, op. cit., p.81.
13. *Al-Ahkam Al-Sultaniyyah*, op. cit., p.203.
14. *Al-Amwal*, op.cit., p.565.
15. *Al-Amwal*, *Ibid.*, p.567.
16. *Al-Amwal*, op. cit., p.556
17. *Al-Ahkam Al-Sultaniyyah*, op. cit., p.203.
18. *Al-Majmu*
19. Abu-Zahrah, Mohamed, (1951), *Liwa' Al-Islam*, op. cit., p. 838.
20. Abu-Zahrah, Mohamed, *Liwa' Al-Islam*, op. cit., p. 841.
21. Khallaf, Mohamed Abdul Wahhab (1950), *Liwa' Al-Islam*, issue No. 4, Vol. III, Zul Hijjah 1369 A.H. p. 262.
22. Shehata, Shawki Ismail, (1977), *Contemporary Application of the Zakah*, Dar Al-Shuruq, Jeddah, p. 24 et seq.

23. *Al-Muhalla*, A, Vol. VI. Dar Al-Fikr, Cairo, p. 156.

24. *Al-Kharaj*, op. cit., p.81.

25. It is noteworthy that this opinion of Abu Youssef suggesting road improvement has been quoted and documented in many of the well known Hanafi treatises including *Al-Hidayah* and several commentaries on it in *Hashiya Ibn Abedin*. Even though these treatises meticulously recorded the opinion of Abu Youssef on every subject it differs from that of Imam Abu Hanifa. The author of a commentary on Abu Youssef's *Al Kharaj*; Muhammad Abdul Aziz M. Al Rahbi in *Fiqh al-Muluk wa Miftah al-Ritya ala Khizanat Kitab al-Kharaj* Ahmad U. Al-Kubaisi. Baghdad, 1973, suggests (Vol. 1, p.54) that the quotation from *Al-Kharaj* was an early opinion of Abu Youssef, which he later gave up. Abu Youssef's final view, as recorded in major Hanafi treatises is that "Fi Sabili Allah" is for poor mujahideen.

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

27. *Al-Ahkam Al-Sultaniyyah*.

28. Abu-Zahrah, Mohamed, (1951), *Liwa' Al-Islam*, op. cit.

29. *Fiqh Al-Zakah*, op. cit., p. 609.

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