

## Exploring Zakatable Wealth from Classical and Contemporary Scholars Perspectives

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### Abstract

Nowadays, there are many collective *ijtihad* by various internationally recognized Islamic organizations as well as individual fatwas of leading contemporary Muslim jurists have been undertaking the process of identifying modern wealth that are compulsory to be zakatable. This is because nowadays, there are many economic activities that are capable of generating higher profit returns and many of them are seen probably higher than those of the traditional zakatable sources. This paper attempts to study the conditions and foundations of zakatability of wealth classically and contemporarily which are made subject to zakat based on the Islamic legal theories and scholars' perspectives. Then, it explores both classical and contemporary zakatable wealth. To fulfill the objectives, this study will use a qualitative approach with data collection methods documentation. It involves library research to get information from various sources like books, journals, papers work and others and then analyzing them by using inductive and deductive (*istiqrā'i*) approach. The study found that there are several conditions made by the classical and contemporary jurists on wealth before it is made to be subject to zakat. They have also come out with various approaches like analogy (*qiyas*), growth (*nama'*), richness (*ghina'*) and historical success factor in identifying the basis (*dawabit*) of zakatable wealth. The findings of this research show that based on *ijtihad* and *fiqhi* resolutions of the jurists, zakat accommodates contemporary changes in the concept of wealth and gives opportunity in exploring the expansion of the other zakatable wealth resources in the form of modern assets. As such due to changes of time, these foundations of zakatability will continue to be implemented due to its suitability and significance with the demands of the needs of the Ummah.

*Keywords:* zakat, contemporary wealth, basis of zakatability, *ijtihad*.

## 1.0 INTRODUCTION

Zakat is a system designed by Allah to ensure equitable redistribution of wealth as well as create a sense of affection love and mercy among mankind (Bilal Ahmad Malik, 2016). It is known as 'purification' or 'growth' of the wealth as literally it means blessing, purification, goodness, betterment, increase and praise (Ibn Manzur, n.d; Rohi Baalbaki, 1996). Technically, zakat is defined as an act of monetary worship for any individual Muslim who possesses a wealth determined by Allah that must be paid at the prescribed rate, to designated categories of recipients (al-Zuhayli, 1989). In Shari'ah, the word *zakat* refers to the set portion of wealth that Allah has ordered to be distributed to the selected deserving recipients. Every qualified individual Muslims needs to pay his or her zakat obligation annually to ensure that the zakatable assets or property sought or acquired and owned are net out of the rights of others in it.

With the changes of times, there are several modern and contemporary zakatable wealth have been identified by many leading and well known Muslims jurists, international *fatwa* organizations or associations, local zakat institutions and state authority. For example, zakat on income from various types of professional income and benefits like takaful, social media, patent and many more. This is because in our today's modern time, many current economic activities are capable of generating higher profit returns and many of them are seen probably higher than those of the zakat traditional sources like online business and trading, many types of income investment for instant sukuk, reits and so on. However, there are many debatable issues and conflicting views on the basis of zakatability of the wealth which should be made subject to zakat among the scholars and the studies on these differences of opinions among them are still few and not much discussed.

Therefore, this paper attempts to study what are the necessary conditions and basis (*dawabit*) of zakatability of wealth discussed by the classical and contemporary jurists based on the Islamic legal theories and scholars' perspectives, as well the conflicting and debatable views on them. It explores how does zakat can accommodate contemporary changes in the concept of wealth in the form of modern assets.

## 2.0 METHODOLOGY

This research used a qualitative approach by analysing the documents published relating to rulings on zakat. Documents collected are books, article journals, paper work and internet sources. Data has been analysed using content analysis approach, following methodology of inductive and deductive (*istiqrari*) analysis. The authors will describe the scholars' views as well as draw conclusions from the views gathered.

## 3.0 RESEARCH FINDINGS AND DISCUSSIONS

### 3.1 Sources Of Zakatability of Wealth

The zakatability of wealth sourced from both the Qur'an and the Sunnah of the Prophet Muhammad SAW himself. The word wealth stated in the Qur'an and Sunnah of the Prophet SAW in which zakat is imposed on them can be categorised in two forms. Firstly, it is in the general form; and secondly is in the specific form (Mahmood Zuhdi, 2003; al-Qaradawi, 1969). In the general form of zakatable wealth, the Qur'an only mentions the word *amwal* in a few verses. The word *amwal* in the Qur'an which means wealth or assets has been mentioned clearly. Regarding this matter, the Qur'an says:

*“O Muhammad; take out of their possessions sadaqat so that you may cleanse and purify them thereby, and pray for them.”*

(Surah al-Tawbah: 9:103)

And

*“And in their wealth and of possessions is assigned a right for the needy and those who suffer deprivation.”*

(Surah al-Dharyat: 51: 19)

Besides the Qur'an, there are also some of a couple of hadiths of the Prophet Muhammad SAW which state zakatable assets in the general form of wealth. Among those examples as stated below (Al-Asqalani: 1991):

*“Inform them that Allah has enjoined on them zakah which is to be taken from the rich among them and given to the poor among them. And if they obey you that, take zakah from them and do not take the best of their possessions.”*

As stated by the texts of Quran and al-Sunnah above, it shows that zakatable wealth in its general nature, but there are also several Quranic verses and the texts of Sunnah that mention certain types of wealth in particular as a source of classical zakatable wealth that will be discussed later on. Even though the Quran and al-Sunnah mention all those certain types of zakatable wealth, however, there is no any other indication that limits the general form of wealth as stated in verse 103 of Surah al-Tawbah and verse 19 of Surah al-Dharyat. In conclusion, this does not mean that other types of zakatable wealth are not compulsory for all qualified and wealthy Muslims to consider the obligation. Instead, the responsibility was assigned to Prophet Muhammad SAW to provide the details of zakat and its rates. Other than that, in fact, in Shariah, the subsidiary sources are *Qiyas*, *Istihsan*, *Masalih al-Mursalah*, *Urf* etc (Abdul Wahab Khallaf, 1981). In other words, in principle, these sources will be referred to in issuing new rulings related to the zakatable wealth.

It can be concluded that in determining the law including those related to zakat matters, it is not the only Quran and Sunnah that applies. In addition to the two basic sources of Islamic law, various other subsidiaries can help scholars to recognize and identify the other Islamic law. The sources of this subsidiary are indeed recognized by the Quran and the Sunnah as the necessary mechanisms to understand the Quran as well as the Sunnah comprehensively. The following discussions will focus on analyzing the basis for zakatability of wealth that all free individual Muslim must consider the obligation. Then, it explores zakatable wealth based on both classical scholars and contemporary scholars' views or their *ijtihad* individually or collectively.

### **3.2 Conditions and Basis (Dawabit) For Zakatability of Wealth**

Jurists have evaluated the characteristic of wealth that should be imposed zakat. Several specific basis (*dawabit*) and conditions must be met for assets to be considered zakatable, they are:

#### **3.2.1 Growth**

The first condition for an asset or wealth to be zakatable or not is it must be either be growing (نماء تحقيقي) or has the potential for growth (نماء تقديري). Actual growth is in the increase in the value of the wealth by natural or entrepreneurial factors, on the other hand, potential growth is when the wealth can increase in value if it used properly for that purpose. It means that the wealth has to be actually or potentially provide its owner with profit and benefit (Muhammad 'Uqlah, 1982; G. Zayas, 2003; al-Qaradawi, 1969).

This condition is consistent with the meaning of zakat itself since one of the meanings of the word “*zakat*” is growth. Allah states in the Qur’an “that which ye lay out for zakat seeking the countenance of Allah, will increase. It is these who will get a recompense multiplied (Al-Qur’an Surah al-Rum 30:39). Thus, the law of zakat considers the productivity of wealth as either actual productivity such as agricultural produce, pasturing domestic animals and invested money; or potential productivity like gold, silver, money, kept as savings etc (Ibn ‘Abidin, 1994; G. Zayas, 2003).

Based on this condition, any wealth owned by Muslims which is not growing is not zakatable. The jurists from the earliest days have exempted homes inhabited by the owner, animals used for personal transportation, household furniture and many more from zakat as those wealth are not to be made to grow (al-Baji, 1999; Muhammad Ra’fat, 2010 and al-Qaradawi, 1969). Besides that, concerning this condition of growth, jurists agree that no zakat should be imposed on a person’s wealth which cannot be utilized by him that beyond its power or unlawfully controlled by others. One of the examples of such property is the lost wealth and there is no hope it will be found again. (Ibn Nujaim, n.d; al-Dusuqi, n.d).

Some contemporary Muslim economists argued the idea of growth as a basis of zakatability of wealth. According to Monzer Kahf (1989), classical scholars should have considered the basis of *ghina* (richness) instead of the concept of growth in determining zakatability of wealth. He explained that the growth concept is seen inconsistent on the idle money as it does not grow but is still to be zakatable. Abu Saud (2008) further criticizes that the concept of growth is not in line with the modern times’ application. He suggested that zakat is imposed on all economic goods once they meet *nisab*, as well as on all forms of money if the amount withheld meets the *nisab*, except for those goods which meant for personal use and consumption. Besides that, Daud Bakar (1998) also believes that *ghina* is the best basis of zakatability of wealth instead of the growth concept.

However, majority of jurists classically and contemporarily strongly agree that the zakatability of the wealth is because of their actual or potential growth (Monzer Kahf, 1989; Abu al-Hasan Sadeq, n.d). According to Yusuf al-Qaradawi (1969), this condition for zakatability can be used as a criterion to determine whether a type of wealth is subject to obligatory zakat if it is not covered by the general texts of the Quran and Sunnah. He states that general texts of the Quran and Sunnah do not differentiate between kinds of wealth as the word *amwal* refers to all growing wealth or assets, excluding the wealth for personal use. Besides, it is unreasonable to think that Shari’ah meant to oblige zakat payment on those who own forty sheep or five *wasq* of barley or own five camels while exempting big businessman who owns real estate, factories and other businesses; or professionals like chief executive officers, lawyers, scientists and many more who might earn far more than forty sheep or five camels every day.

In conclusion, the foundations used in identifying contemporary wealth among the classical and contemporary scholars which are non-unanimously agreed upon are based on the method of *qiyas* (analogy), growth, historical success factor and *ghina*’ (richness). Besides that, every individual Muslim who own growing wealth must share the responsibility for the Muslim community by paying zakat whether his or her wealth lie in industry, business or earnings from professional work and services. It is because zakat is not only an act of individual worship, but it is considered as an essential component of the Islamic socio-economic system.

### **3.2.2 Undivided and Absolute Right of Ownership**

Although Allah the Almighty is the true and absolute owner of all creature and bounties in this universe, He honours His servants with the privilege of ownership over them by using the phrase

'loan to Allah' with the responsible and accountable for what they control (Yusof al-Qaradawi, 1969). Allah mentions in the Qur'an:

*"Who is he that will loan to Allah a beautiful loan which Allah will double unto his credit and multiply much time."*

Thus, private ownership is a great bounty from Allah and the payment of zakat is the compulsory way to express thankfulness to Him as the Great Giver (al-Salus, 1998; al-Qaradawi, 1969). However, zakat is not required on all kinds and all conditions of wealth. Regarding the conditions of wealth, certain conditions must be met for assets to be considered zakatable.

The first requirement that has been outlined by Muslim scholars for a wealth subject to zakat is the payer must have the undivided and absolute right of ownership of it. In other words, these two crucial features of ownership mean that authority over the owned wealth is fully exclusive to the owner (al-Zayn, n.d). While the absoluteness of that ownership strongly means that nobody else has any share in it, nor does the owner has to ask permission or authorization from others (al-Rahbani, n.d). The other condition of absoluteness of ownership that defined by jurists is the owner must have the ability and authority of disposition over the wealth throughout the whole year (Abu al-Hasan, n.d).

On the other hand, wealth of private trust of which are reserved for an individual or a specific group of its beneficiaries like children's trust are subject to obligatory zakat, since the right of private ownership on those wealth is transferred to the benefits of the children even though they cannot spend or dispose of those assets themselves (al-Nawawi, 1977).

This condition also implies that wealth which do not have specific owner are not subject to obligatory zakat as the right to them belongs to the whole society, including the poor and needy (al-Qaradawi, 1969). Imposing obligatory zakat on public wealth or trusts that designated for the benefit of the poor and needy is meaningless because their ownership is incomplete and they are not zakat payers but rather zakat recipients (Ibn Rusyd, 1994). Therefore, it can be concluded that all state resources such as *fay'* (a tribute taken from anemies without fighting) or on the government's share of *ghanimah* (a type of wealth gained as a result of lawful war with enemies) publicly owned assets or wealth or in general are non-zakatable because all these revenues belong to all Muslims that considered to be spent on their benefits.

This undivided and absolute right of ownership condition also excludes various zakatable wealth acquired by unlawful and prohibited means. In other words, it excludes all the types of wealth acquired by theft, bribery, counterfeiting, cheating, interest, monopoly and many more. It is known as evil wealth and non-zakatable because all such wealth must be returned to its real owner if known, or to his or her legal heirs. However, if the real owners are unknown, then it must be distributed to the poor and needy (al-Salus, 1998).

Besides, there is another implication of this absolute and undivided ownership condition that relates to zakat on debts. Since the lifetime of the Companions of the Prophet Muhammad SAW, the majority of jurists have differentiated between two types of debts. The first type of debt is a debt on parties who are capable of paying. Zakat is obligatory on this type of debts every year. This is the opinion from the Companions such as 'Umar, 'Uthman, Jabir, Ibn 'Umar, and from the followers Maymun ibn Mahran, Jabir ibn Ziyad, Mujahid and Ibrahim (Abu Ubayd, 1934).

On the other hand, the second type of debt is the dead or doubtful debts. It is a debt which is denied by the debtors or which is on individuals who are incapable of repayment. Abu Ubayd (1934) reports that there are three views about zakat on these debts as stated in Table 1 below:

**Table 1:** Views on Zakat Implication on Dead or Doubtful Debts

Views on Dead or Doubtful Debts	Zakat Implication	Opinion of Jurists
<b>First View</b>	If the creditor is repaid his debt, he must pay zakat for all past years	Ibn ‘Abbas and ‘Ali.
<b>Second View</b>	If the creditor is repaid his debt, he must pay zakat for only the last year.	Al-Hassan and ‘Umar ibn ‘Abd al-‘Aziz. It is also view of Malik (al-Dusuqi, 1980).
<b>Third View</b>	If the creditor is repaid his debt, the zakat will only be due if he has them for a year after repayment.	Abu Hanifah and his two disciples.

Yusuf al-Qaradawi (1969) agrees with the Abu Ubayd on the opinion that zakat is obligatory every year if the creditor got back the debts which are on parties who are capable of paying. However, he differs with Abu Ubayd on the case of dead and doubtful debts as the right of absolute ownership on such debts is incomplete (al-Qaradawi, 1969). Thus, all assets and wealth whose owner is incapable of extracting benefit from them are not subject to obligatory zakat, since such assets do not make their owner wealthy, and zakat is only imposed by Allah on the wealthy (al-Kasani, 1909; al-Rahbani, n.d).

There are several resolutions and recommendations of the council of the Islamic Fiqh Academy 1985-2000 concerning zakat on debts for the creditors or lenders. It was during its second session which was held in Jeddah (Kingdom of Saudi Arabia) from 22<sup>nd</sup> December – 28 December 1985. The Council has come out with the following resolutions:

The lender is obligated to pay zakat, every year, on his loaned money, if the borrower is solvent.

The lender is obligated to pay zakat after the elapse of one year starting from the day he receives his loaned money if the borrower is impoverished or controverting.

Based on the above resolutions and recommendations, it is noted and can be concluded that the creditor or the lender is obliged to pay zakat annually if he can pay it. In the event, if the debtor is unable or deferred the repayment of the debt, the zakat must be paid by the lender a year after the receipt/refund of the debt. Yusuf al-Qaradawi (1969) strongly agrees and prefers that in the case of when the debt is repaid, it should be considered as a newly earned wealth and the creditor just need to pay zakat for one year only upon receipt of the debt.

To sum up, all types of wealth whose owner is incapable of extracting benefit from them are not subject to obligatory zakat, since such assets do not make their owner wealthy, and zakat is only imposed by Allah on the wealthy. It is obligatory every year if the creditor got back the debts which are on parties who are capable of paying. It should be considered as a newly earned wealth and the creditor just need to pay zakat for one year only upon receipt of the debt in the case of when the debt is repaid.

### 3.2.3 Nisab

Another condition or requirement for a growing wealth and wealth to be zakatable is known as ‘*nisab*’. *Nisab* is a minimum threshold required for zakatability as zakat is not imposed on all amounts of growing wealth (al-Jaziri, 2004). It is agreed upon among majority of jurists that this condition applies to all zakatable wealth, however, it does not apply to agricultural produce (Syed

Sabiq, 2010) and the produce of gold and silver mines (al-Qaradawi, 1969). One of the examples of hadith which affirms this condition as mentioned by al-Bukhari (1979) is:

*“No alms to be taken from grain or dates until there is an amount equal to five camel-loads, nor are alms to be taken from (a herd of) less than 5 camels, nor are alms to be taken from less than 5 anwaq (of silver).”*

The rationale behind this condition of *nisab* for zakatability can be seen as obligatory zakat is only a due on the wealthy to relieve the poor and to share in the cost of interest to Islam and Muslim community. It is worth noting that the Shari’ah of Allah exempts those with limited resources from obligatory zakat in consideration of their inability to pay. According to al-Asqalani (1991), the Prophet SAW says:

*“There is no sadaqah except from wealth.”*

Zakat on currencies or money, for instance, becomes obligatory when the amount of cash, whether held in bank or hand fulfils *nisab*. Its *nisab* is based on the present value of the gold *nisab* of 20 *mithqal* (85 grams) or silver (595 grams). Majority scholars (*Jumbur fuqaha*) has relied on *nisab* of money to *nisab* of gold (85 grams). The rate of zakat on currencies is 2.5% (Sayyid Sabiq, 2010; Muhammad Kamal ‘Atiyah, 1995 and al-Salus, 1998).

The amount of zakat payment that must be paid differs according to the source of income as well as the amount of zakatable wealth owned (al-Jaziri, 1969). There are four different rates of zakat on wealth as stated in the Quran and hadiths. For the agricultural produce, the rate is fixed at 10 per cent if they are irrigated naturally, on the other hand, it becomes 5 per cent if it is done by employing some animals or machines. The rate is fixed at 2.5 per cent for gold, silver and trade goods. Meanwhile, the spoil of war is subject to one-fifth of zakat. For the livestock, the rates depend on the types and amount of animals owned (al-Bukhari, 1979).

On the other hand, some contemporary scholars have different views on *nisab*. Mannan (2000) suggested that the *nisab* formula should be based on the living standard of an average economy. In other words, the amount required for a basic living needs must be assessed out of the wealth before *nisab* determination. Sheik (1980) in supporting this view have cited in Raqibuzzaman proposes by stating that “We need to allow different *nisabs* and exemption limits as in fact, each country’s situation differs from the other.” According to him, reviewing the *nisab* by today’s conditions will not contradict with the Syariah principles (Sadeq, 2004). However, the majority of jurists reject this idea in principle. But due to sharp decline in the silver’s price, majority of them including the Saudi zakat administration have now considered the gold’s price as the *nisab* for monetary form and have ignored the silver’s value (Sayed Sikandar and Mekwok, 2011).

Thus, it can be concluded that the condition of *nisab* applies to all zakatable wealth, however, it does not apply to the produce of gold and silver mines. Regarding the zakat on currencies or money, it becomes obligatory when the amount of cash, whether held in bank or hand fulfils the *nisab*. Its *nisab* is based on the present value of the gold *nisab* of 20 *mithqal* (85 grams) or silver (595 grams). However, the majority of scholars have relied on *nisab* of money to *nisab* of gold (85 grams) with a rate of 2.5%.

### **3.2.4 The Passage of a Year**

Besides that, the possession of wealth for one full year based on *Hijri* Calendar as an essential condition for obligatory zakat, is one of the most characteristic features of the Law of Zakat (al-Jaziri, 1969). According to Ibnu Majah (2010), the Prophet SAW states:

*“There is no zakat on an asset until a year has passed.”*

This condition which is established by the Prophet Muhammad SAW however restricted on capital wealth only such as livestock, business assets, gold, silver and money. It does not apply to accrued wealth like agricultural produce, treasure troves, honey, spoils of war and the produce of gold and silver mines. It is agreed upon among the majority of jurists (Ibnu Qudamah, 1947; Ibnu Rusyd, 1994). Ibn Qudamah (1947) explains that the wealth which are subject to *hawl* conditions are those wealth that have the potential for growth (نماء تقديري).

In other words, there is no disagreement among the majority of jurists either the early generations or later ones that zakat on capital wealth like business inventory, livestock and money are required only once a year. However, there are some variations among the companions and followers on this *hawl* condition. It was reported that Ibn Mas'ud, Ibn 'Abbas and Mu'awiyah to have taken the view that zakat is due on wealth when acquired, without needing the passage of a year, if that earned asset fulfils the *nisab* on its own or after being added to the wealth that were already owned before its accrual (al-Shawkani, n.d; al-Andalusi, n.d; Ibnu Hazm, n.d). The main reason for that exception is the lack of an authentic saying of the Prophet Muhammad SAW (Ibnu Rusyd, 1994). In commenting those views, Yusuf al-Qaradawi (1969) strongly agrees that as Shari'ah always considers to remove hardships and difficulties, the adding of profits to the original capital achieves the same end of easiness, and it is the proper and the best way for zakatability (al-Qaradawi, 1969).

In conclusion, the condition of passage of a year is restricted on capital wealth only such as livestock, business assets, gold, silver and money. It does not apply to accrued wealth like agricultural produce, treasure troves, honey, spoils of war and the produce of gold and silver mines. Adding of profits to the original capital achieves the same end of easiness, and it is the proper and the best way for zakatability in line with the Shari'ah laws and objectives.

### 3.2.5 Excess above Essential Needs

As discussed earlier, it is agreed among the majority of jurists that all assets designated to satisfy basic needs are not subject to the calculation of zakatability. According to some of the jurists, there is another condition for wealth to be considered zakatable. The establishment of this basis is *nisab* must be more than basic needs of the owner as a person is not supposed to be wealthy if the existing assets that he or she has are only enough for his or her personal and family members' necessities (Muhammad 'Uqlah, 1982; Sayyid Sabiq, 2010; al-Qaradawi, 1969).

Moreover, all the things needed to satisfy basic needs like homes inhabited by owners, food, personal transportation, personal clothing and many more are not at the same time are the wealth which grow (al-Kasani, 1909; Monzer al-Kahf, 1989). The Shari'ah general intention regarding spending either obligatory or voluntary should come out of what is surplus. There is a Quranic text that affirms this view and condition for zakatability of assets:

*“They ask thee what they are to spend. Say, what is beyond your needs.”*

(Surah al-Baqarah 2: 219)

However, it is noted that the essential needs of human beings change and evolve with time and circumstances. Moreover, in this our modern materialist time, human beings have an infinite level of need. Therefore, determination of these essential needs of the zakat payers which includes their own needs as well as their family members' needs whom there are required by Shari'ah to support should be done by the proper authorities in the Islamic state (Abu Saud, 1988).

It can be concluded that the *nisab* must be more than basic needs of the owner as a person is not supposed to be wealthy if the existing assets that he or she has are only enough for his or her personal and family members' necessities. The determination of these essential needs of the zakat

payers and their family members should be done by the proper authorities in the Islamic state. In Malaysia, for example, the state of Selangor imposes zakat on income after considering all the several deductions of basic living needs expenses known as *had kifayah*. Meanwhile, the other states also impose zakat on income and salary on individual Muslims at their own respective states after the deduction of several basic living needs expenses as well.

### 3.2.6 Freedom from Debt

According to the majority of jurists, debts are deducted from zakatable wealth because it is supported by the texts as well as the spirit of the Shari'ah itself (al-Nawawi, n.d; al-Qaradawi, 1969). In this regard, al-Qaradawi (1969) states that Hanafites say:

*Whoever owes debts that exhaust his wealth, whether these debts belong to other people or Allah (such as past-due zakah), is not zakatable. Such a person needs to pay liabilities due to other people as well as to Allah, to avoid people's demand and the punishment of the Hereafter. Not paying due debts hinders him from entering heaven, what need is there more than this? Thus, ridding himself of these responsibilities is to him like water for the thirsty person or clothing for the naked. Such a person must indeed be exempt from zakah.*

According to him, this requirement is an additional requirement to make the "full possession" and "more than basic needs" requirements more robust. This means that if the debt incurred by a person is at a rate that makes the ratio of his wealth less than the *nisab* rate, zakat is not imposed on his wealth. In other words, before the amount of zakat payable is determined, the liability of the owner's debt must be deducted in advance of the substantial amount of the zakatable wealth.

Ibn Rusyd (1994), in commenting on this view agrees that zakat on the debtor is waived by Shari'ah based on its consistent spirit and principles. There are several reasons or justifications supported by many jurists which are related to this point of view. Among these reasons are the incomplete or weak ownership of the debtor because the creditor has the authority on his due debts; and there would be a double zakat payment on the same wealth if the debtor is also required to pay zakat on the same debt while this duality is prohibited by Shari'ah (al-Nawawi, n.d).

Also, the status of the overwhelmed debtor is like the poor as he is in need to pay his debts and it is irrational to leave the needs of the debtor unsatisfied to provide for the needs of other people (Ibnu Qudamah, 1972). It should be noted that the debt referred to is the amount of debt due in that year and not the whole amount incurred, since those which are accounted for are the assets and liabilities of the year (Ibnu Qudamah, 1972; al-Salus, 1998; Mohd. Saleh and Mahmud Zuhdi, 2003).

In our today's modern time, even wealthy people are also burdened to pay various types of loans and make the payment by way of instalments. Regarding this debt issue, majority of the contemporary jurists nowadays have established that only debt in the current year (due in that year) can be deducted from the calculation of the zakatable wealth (Mohd. Saleh, 2005).

In the case of debts that are owed to human beings and those that are due to Allah, Yusuf al-Qaradawi favours the view of the Hanafites that only debts to people are deductible because people seek payment and are protected by the law or judicial system. On the other hand, debts to Allah like *kaffarat*, zakat that still owed from previous years and pledges are not deductible. However, in the case that the state does not collect zakat and all individual Muslims have to pay their zakat obligation on their own, these debts to Allah can be deductible (al-Qaradawi, 1969).

Therefore, it can be summarized that the status of an overwhelmed debtor is like the poor as he is in need to pay his debts and it is irrational to leave the needs of the debtor unsatisfied to provide

for the needs of other people. The debt referred to is the amount of debt due in that year and not the whole amount incurred, since those which are accounted for are the assets or wealth and liabilities of the year. In our today's modern time, majority of the contemporary jurists nowadays have established that only debt in the current year (due in that year) could be deducted from the calculation of the zakatable wealth.

### 3.3 Zakatable Wealth Based On Classical Scholars

During the lifetime of the Prophet Muhammad SAW, gold and silver were the main currency of exchange and thus liquid saving was mainly in the form of gold and silver. The main sources of income for Muslims at that time came from trading and agricultural activities. During this era, the size of livestock herds was a major factor of an individual's wealth and the imposition of zakat on salaries and income were not practised (Abdus Samad & M. Glenn, Lowel, 2010). In general, zakatable wealth during the lifetime of the Prophet Muhammad SAW that the majority of jurists either classical or contemporary conclude that they are subject to obligatory zakat can be categorized as follows (Ibn Qudamah, 1972; Ibn Hazm, 1968; al-Ramli, 1967; al-Jaziri, 1969):

1. Zakat on gold, silver and money
2. Zakat on business inventories
3. Zakat on agricultural produce
4. Zakat on livestock
5. Zakat on minerals and treasures

All those five types of zakatable wealth are the classical ones known as unanimously agreed on zakatable wealth (*ittifaq*) among all scholars and jurists. The basis of obligatory zakat on those classical zakatable wealth is based on the texts of both Quran and Sunnah which discuss in the specific form of wealth that all qualified Muslims have to observe its obligation.

The Quran for instance, specifically mentions certain types of wealth that are required to zakat, they are gold and silver (Al-Quran 9:34); business and mineral resources (Al-Quran 2: 267) and agriculture (Al-Quran 6: 141). Meanwhile, there are many hadiths of the Prophets SAW which determine various kinds of wealth that subject to zakat, including all types of growing wealth, for example, gold, silver, silver coins, livestock like camel, cow and sheep, buried treasures of the earth, tradable goods, and agricultural products including wheat, barley, dates and grapes (al-Bukhari, n.d). All those wealth were considered as growing wealth known to the Arabs during that time.

Besides, there are several Quranic verses and a couple of hadiths that determine the rates of zakat. There are four different rates of zakat on different types of wealth. The rate is fixed at 2.5 per cent for gold, silver and trade goods. For the agricultural produce, the rate is fixed at 5 per cent if it is done manually or by employing some animals or machines, on the other hand, it becomes 10 per cent if they are irrigated naturally. Meanwhile, the spoil of war is subject to one fifth or 20 per cent of zakat. Lastly, for livestock such as cows, sheep and camels, its rates depend on the types and amount of those animals owned. A few of those examples from the texts of hadiths are as the following:

*“No alms to be taken from grain or dates until there is an amount equal to five camel-loads, nor are alms to be taken from (a herd of) less than 5 camels, nor are alms to be taken from less than 5 anwaq (of silver).” (al-Bukhari, No. 1483; No. 2134)*

During his caliphate, Umar al-Khattab imposed zakat on honey at a rate of 5 to 10 per cent depended on the energy used in processing honey. Meanwhile, Caliph Uthman ibn Affan came up with the imposition of zakat on the net wealth after considering all deductions of the zakat payers' debts. Caliph Ali ibn Abi Talib then imposed zakat rate for the first five camels that can be replaced

with an older or younger camel provided that compensation is paid with two sheep or 10 *dirhams* to its owner (Siddiqi, 1983). Among the earliest classical scholars who has contributed his writings and discussion on zakatable wealth is Abu Ubayd, as he compiled all the related hadiths concerning the types of wealth that subject to zakat. He made a review on many issues about the zakatable wealth based on the Sunnah of the Prophet Muhammad SAW as well as the opinions of various Muslim scholars (Abu Ubayd, 1934).

Apart from that, the companions and the classical scholars have added more items of zakatable wealth to the above types of zakatable wealth that have been prescribed by both the Qur'an and Sunnah of the Prophet Muhammad SAW. For instance, the expansion of zakatable wealth during the classical period has been made and enforced by the Caliph Umar al-Khattab (634-644 A.D), who is the second caliph. He has imposed zakat on horses, lentils and sea products like amber, coral and pearls during his reign (Malik ibn Anas, 1997; Siddiqi, 1983).

Some of the classical jurists added more wealthy assets to the above types of wealth that subject to obligatory zakat based on their types of wealth. Jurists particularly the Malikis and Shafi'is who believe that the basis of zakat depend only on textual evidence impose zakat on few selected types of agricultural produces compares to the Hanafis who extend or broaden the imposition of zakat to almost all types of produces (al-Zarqa', 1984).

Besides that, it is reported that several Companions believed in the obligation of zakat on earned income like Ibn 'Abbas, Ibn Mas'ud and Muawiyah (Ibn Hazm, 1968; al-Qaradawi, 1969). There were few reports show that the zakat deduction on annual salaries and income at source had already been practised by 'Abd Allah ibn Mas'ud in Kufah during the time of 'Umar and 'Uthman (Abu Ubayd, 1934; Siddiqi, 1983). The first head of the Islamic state who imposed and collected zakat from income and salaries in the state administration was Mu'awiyah and none of the Muslims during that time were reported to object to this action even though he was the target of much criticism (Anas ibn Malik, n.d; al-Qaradawi, 1969).

They are followed by a few classical jurists like al-Baqir, al-Nasir, al-Sadiq and Dawud as well as few cases reported from 'Umar ibn 'Abd al-'Aziz, Al-Zuhri, al-Hasan and al-Awza' i (Ibn Hazm, 1968; al-Qaradawi, 1969). There were also various reports indicates that during the reign of Muawiyah and other Umayyad rulers after him including 'Umar ibn 'Abd al-'Aziz, it was the common and usual practice to deduct the zakat on the annual salaries at source (Siddiqi, 1983; al-Qaradawi, 1969).

### **3.4 Zakatable Wealth Based On Contemporary Scholars**

As mentioned earlier, zakat is traditionally imposed not only on gold and silver (gold and silver-minted and unminted) but also on commercial goods or business merchandise, livestock (camel, sheep and cow), agricultural produce (wheat, maize, date, barley and grape), minerals and treasure trove. The generations of jurists have added other modern and contemporary growing sources of wealth to the above list.

With the changes of times, there are several modern and contemporary zakatable wealth have been identified by the many leading and well known Muslims jurists, international fatwa organizations or associations, local zakat institutions and state authority (Zahri Hamat, 2014; Saadan Man, 2014). There are many modern fatwas on zakat which are issued by these prominent international Islamic organizations such as the Majma al-Fiqh al-Islami al-Duwali, Majma al-Fiqh al-Islami, Bayt al-Zakat of Kuwait and Bayt al-Tamwil al-Kuwait.

Today zakatable wealth consists of trade asset, cash in the form of savings as well as bank deposits and financial securities like shares, bond, *sukuk* certificate, unit trusts; and in the area of modern income like salary, bonuses, remunerations, rental payment, gift, professional service; agricultural wealth, industrial wealth, rented buildings, animal wealth, fixed capital, underwater wealth, mineral wealth, and many more (al-Ghufayli, 2008; Abd Rahman Isa, n.d; Syauqi, 1988; al-Qaradawi, 1969; Mahmood Zuhdi, 2003; Magda Ismail, 2013). Some jurists add cooperative insurance and takaful protection benefits policy that subject to obligatory zakat (al-Ghufayli, 2008; al-Salus, 1995; Mahmud Zuhdi, 2003).

Among the leading contemporary scholars who have come out with their writings about zakat rulings particularly related to contemporary wealth that seem to meet the parameter of zakatable wealth is Muhammad Kamal 'Atiyyah. In his writings, for instance, he concludes that wealthy assets that must to be zakatable can be divided into two main categories. First, are fixed assets which are compulsory to be zakatable depended on the income derived from the assets only; and while the second one is current assets which are subject to zakat on both the assets and income derived from that assets. The zakatable assets are classified into two categories that are tangible assets that cannot be concealed to avoid zakat; and intangible assets that can be hidden to avoid zakat. The examples of tangible assets are agriculture, livestock and so on. Meanwhile the examples of intangible assets are gold, silver and business commodities. For him, fixed assets are compulsory to be zakatable depended on the income derived from those assets only (Muhammad Kamal Atiyyah, 1995). On the other hand, Al-Yasa' Abubakar divides the zakatable wealth into two categories; first wealth in possessions, for instance, gold, silver and livestock and the second category is income like agriculture, salary and mineral resources (Zahri Hamat, 2014).

At present, the majority of Islamic jurists contend that obligatory zakat needs to be imposed on various types of income from salaries, wages, professional activities as well as return on capital invested on other than trade and many more (Monzer Kahf, 1995; al-Qaradawi, 1969). All these are seen meet the parameter of zakatable wealth in the new form of modern and contemporary wealth as many Muslims become wealthy by earning from those salaries, wages and professional activities. Among the first contemporary jurists stated that was Yusuf al-Qaradawi and later followed by most of the other jurists, including Abu Bakr Jabir al-Jazairi, Mahmud' Atif al-Banna, Muhammad Sa'id Wahbah, Abd al-'Aziz Jamjum, Sultan Muhammad bin 'Ali Sultan, Muhammad Kamal 'Atiyyah, Mahmud Abu al-Sa'ud, Monzer Khaf, Yahya Ahmad Mustafa Qalili, Mujaini Tarimin, Mahmud Zuhdi and so on. The jurists strongly believe the obligation of zakat on income based on the text of the Qur'an, hadith and *ijtihad* with *maslahah* argument. This obligatory zakat is for the sake of the general interest of the public and the goodness of both deserving recipients as well the zakat payers.

Consequently, there are a few arising corollary issues concerning the rates and the methods for the new zakatable wealth among those contemporary jurists. Muhammad al-Ghazalli (1987) suggests a rate of 5% and 10% according to the efforts spent in earning the income for the imposition of zakat on income (al-Qaradawi, 1969). Meanwhile, Monzer Kahf (1995) provide suggestion at a rate of 2.5% for productive fixed assets due to the reasons or factors namely; their value protection through the mechanism of depreciation reserves, and their growth over time (Monzer Kahf, 1989). On the other hand, Yusuf al-Qaradawi comes up with suggestion at a rate of 2.5% for zakat on income earned from labour and wages, while for the earned income of the capital investment alone or an income of combination of capital investment and labour he suggests the rate of 10% (al-Qaradawi, 1969).

Although zakat on income is already known and is being actively imposed by several zakat institutions in Islamic countries including Malaysia, there are some Muslims who still don't accept

its obligations. Mujaini Tarimin (2000) mentions that the public's perception of the imposition of zakat is divided into three groups. That is: firstly, those who do not accept the obligation of zakat on income due to the terms of the law which are not considered to be based on the true texts. Secondly, the people who agree with the obligation of zakat on income based on the argument of general societal benefit (*maslahah*) as well as for both recipients and payers specifically. And third, those who agree or impose zakat on income based on the revelation of Qur'an and Hadith. However, those who accept the obligation of zakat on income still have different views regarding its *haul* condition, the amount of *nisab* and the rate (Mujaini, 2000).

Yusuf al-Qaradawi (1969) discusses *al-mal al mustafad* as the basis of the view in setting all the concepts associated with zakat income. The concept of *al-mal al-mustafad* in whatever forms of income acquired which are not due to the investment or current existing business wealth. But it is acquired in a prescribed manner such as gifts, inheritance, wills, bonuses, gifts as halal service rewards and so forth. However, illegally acquired wealth such as stealing, robbery, gambling, *riba* and others are not included in *al-mal al-mustafad*.

He discusses the scope of zakat on income by dividing it into two forms of income; namely zakat on income in the form of salary and zakat on professional or independent income. Income in the form of salary is the acquisition of the work done by someone for the other party, whether government, company or individual with a salary as a reward of the work. While the income of a professional or independent is the acquisition of a self-employed work without relying on another person for the skill of the hands or minds, such as the production of a doctor, lawyer, artist, tailor, carpenter and others (al-Qaradawi, 1969).

These two forms of income were also discussed by many other scholars, including Wahbah Zuhayli (1984), Husain Syahatah (n.d), Muhammad Kamal 'Athiyah (1995), Mujaini bin Tarimin (1999), and some other scholars as well. In determining the obligation of zakat on income, Muhammad Ghazali (1987) states that for those who have income not less than the income of a farmer, then it is obligated to pay the same rate of zakat with a farmer without considering the capital and its terms and conditions.

Meanwhile, in determining the completeness of *haul* requirement in the obligation of zakat on income, there were three professors 'Abd al-Wahhab Khallaf, Muhammad 'Abu Zahrah and 'Abd al-Rahman Hasan, for example, have discussed this matter in their lecture in Damascus in 1952, and concluded that they do not impose zakat on income on the flow of income itself during the year because they require the fulfilment of the *nisab's* condition at both beginning and end of the year (al-Qaradawi, 1969).

### 3.5 Parameter Of Contemporary Zakatable Wealth

Based on the above discussions, it can be concluded that like the classical zakatable wealth, the several conditions and basis (*dawabit*) of zakatability of wealth are also applicable on modern or contemporary wealth before it can be made compulsory to be zakatable. These conditions and basis are known as parameters that need to be fulfilled and should be seriously taken into account in the assessment. The following Table 2 below explains some of the examples:

**Table 2:** Parameter of Contemporary Zakatable Wealth

CONTEMPORARY ZAKATABLE ASSETS	PARAMETER OF ZAKATABLE ASSETS					
	Growth	Undivided and Absolute Right of Ownership	Nisab	The Passage of a Year	Excess above Essential Needs	Freedom from Debt

Bonds and Sukuk	X	X	X	X	X	X
Customer’s Account (Savings and Current Accounts)	X	X	X	X	X	X
Rents and Leasing Properties	X	X	X	X	X	X
Trading Goods	X	X	X	X	X	X
Shares and Investments	X	X	X	X	X	X
Banking and Finance Business	X	X	X	X	X	X
Salary and Wages	X	X	X	X	X	X
Fishing Business Activities	X	X	X	X	X	X
Retirement Benefits and Grants of Employees	X	X	X	X	X	X
Takaful Benefits	X	X	X	X	X	X
Mineral Resources	X	X	X	X	X	X
Gold (Bar, bullion, wafer, dinar coins etc)	X	X	X	X	X	X
Silver (Bar, bullion, dirham coins etc)	X	X	X	X	X	X

## 4.0 CONCLUSIONS

The above discussions indicate that based on the differences of jurists’ opinions on the foundations of zakatability of wealth, there are possibilities to extend zakat base. In determining the law related to zakat matters and its relationship with the modern zakatable wealth, it is not the only Quran and Sunnah that applies. In addition to the two basic sources of Islamic law, various other subsidiaries can help the scholars to recognize and identify the other Islamic law as well as the modern wealth that seem meet the parameter of zakatable wealth.

There are various efforts for increasing zakat collection as well as identifying new sources of zakat have been undertaken by various internationally recognized Islamic organizations as well as individual fatwas of leading contemporary Muslim jurists. They have been undertaking the process of identifying modern and contemporary wealth which are required for zakat as zakat-base in today’s practice of zakat collection should not be limited only on the traditional sources of zakat as due to changes of time. They have a strong belief that zakat should also be considered on various types of contemporary wealth as their returns probably higher than those of the classical zakatable wealth. Thus, they have been trying to address all the challenges in the implementation process like the determination of *nisab*, *haul* and calculation procedures according to the principles of zakat and its requirements.

Certain types of wealth which are seen meet the parameter of zakat requirements should be seriously taken into account as the activities bring in substantial revenue. These measures should be taken into consideration and are subsequently should be carried out based on the circumstances in which many modern economic activities today are lucrative. Therefore, even if the wealthy assets physically (*ain*) are not obligatory zakat such as fixed assets but their revenues should be considered to be zakatable by referring to the *illab*.

The same applies to various types of wealth in the field of banking, finance, investment and takaful benefits owned by the wealthy Muslims as well as these assets are the modern and contemporary wealth which considered meet the parameter of zakatability. For the takaful benefits, it is worth to

note here that the policies nowadays are considered one of the best well-known forms of savings and investment which suit with the lifestyles and needs of the policyholders and their beneficiaries in the modern Islamic finance era particularly during the preparation of the misfortune events and death. Every individual Muslim who own growing wealth must share the responsibility for the Muslim community by paying zakat whether his or her assets lie in industry, business or earnings from professional work and services. It is unreasonable to think that Shari'ah meant to oblige zakat payment on those who own forty sheep or five *wasq* of barley or own five camels while exempting big businessman who owns real estate, factories and other businesses; or professionals like chief executive officers, lawyers, scientists and many more who might earn far more than forty sheep or five camels every day.

Thus, zakat accommodates contemporary changes in the concept of wealth and gives opportunity in exploring the expansion of the other zakatable wealth resources in the form of modern wealth. The study also concludes that the foundations used in identifying for both classical and contemporary wealth from the classical and contemporary scholars' perspectives are based on the method of *qiyas* (analogy), growth, historical success factor and *ghina'* (richness) which are made compulsory for zakat. It is because zakat is not only an act of individual worship, but it is considered as an essential component of the Islamic socio-economic system.

Apart from that, the government should consider the process of reassessment on various types of modern wealth which zakat is to be imposed to suit with the changes of time. Besides, the government can make several changes to zakat accounting treatment which is being applied. Those foundations of zakatability of contemporary wealth will continue to be used due to its suitability with the demands of current needs and modern wealth, as it may eventually reduce the poverty among Muslims families. Its significance can be seen obviously for the sake of the general interest of the public and the goodness of both deserving recipients as well as the zakat payers. It is truly the best system designed by Allah to ensure equitable redistribution of wealth as well as create a sense of affection love and mercy among mankind.

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