

THE PRINCIPLES OF ZAKAT AND TAX UPON THE TIME OF RASULULLAH SAW.

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Abstract

Zakat is one of principal worship requiring every individual (*mukallaf*) with considerable property to spend some of the wealth for zakat under several conditions applied within. On the other hand, tax is an obligation assigned to taxpayers and should be deposited into the state based on policies applied, with no direct return as reward, for financing the national general expense. In their development, both zakat and tax had quite attention from Islamic economic thought. Nevertheless, we, at first, wanted to identify the principles of zakat and tax at the time of Rasulullah SAW. Therefore, this study referred to normative research. The primary data was collected through library/document research and the secondary one was collected through literature review by inventorying and collecting textbooks and other documents related to the studied issue.

Keywords

zakat, tax, the time of Rasulullah SAW.

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Introduction

Zakat is one of principal obligation in Islam. Hence, Al-Qur'an has mentioned this matter 72 times (Qardawi, 2002). It also posed zakat along with shalat (Do'a, 2004). Furthermore, Rasulullah SAW explained that zakat was one of five Islamic enforcing elements (Yafie, 1994). Zakat and shalat are denoted as the whole of Islamic precept. The implementation of shalat shows how good an individual's relationship with his God, while zakat is the symbol of how harmonious his relationship with others is (Muhammad, 2002).

Upon the time of Rasulullah Muhammad SAW, zakat was the state's order. The implementation of this zakat was proven by the prophet's order (Rasulullah SAW) as the head of state to Muads bin Jabal who was the prospective governor of Yaman to take zakat from the people (Bukhari, 1981).

In philosophical manner, zakat and tax are different. However, Yusuf Qardawi argued that both them had several similarities. He stated that both them were required obligation. Furthermore, coercion was allowed for taking zakat and tax. In addition, both them was deposited into official institutions without any particular reward and solely for public interest.

Zakat is one of principal worship as an obligation for every individual (*Mukallaf*) with considerable property to spend some of the wealth under several conditions applied within. On the other hand, tax is an obligation assigned to taxpayers and should be deposited into the state based on policies applied, with no direct return as reward, for financing the national general expense.

As one pillar of Islam, zakat has been studied throughout history of Islam. Holy books "*kitab kuning*" authored since centuries and many other novel and modern references have described about zakat. Ancient literatures usually defined zakat in terminological manner. Those also described about the principles of zakat to be paid, who had to carry on the obligation, which property that should be charged for zakat, what the terms of condition which made the property to be charged for zakat, and finally, whom it would distribute to (Rahman, 2003).

In their development, both zakat and tax have become a concern in the thought of Islamic economic field. Therefore, this study aimed to identify the principles of zakat and tax at the time of Rasulullah SAW.

Rersearch Method

This study is a normative research. It aimed to identify the principles of zakat and tax at the time of Rasulullah SAW. The primary data was collected through library/document research. Furthermore, the secondary data was collected through literature review by inventorying and collecting textbooks and other documents related to the studied issue.

The Principles of Zakat at the time of Rasulullah SAW

Etymologically, the term *zakat* is derived from the word *zaka* defined as an addition, purification, and praise. Thus, it can be considered as *zaka* if it is increasingly good and pure, and an individual can be considered as *zaka* when he/she is a holy one and deserves to be praised. Furthermore, in *ma'rifat* manner, Al-Qur'an simultaneously mentioned the term *zaka* and *shalat* in one verse. Among thirty *surah* mentioning zakat, twenty of them consist of *Madaniyah* verses and the remaining eight include *Makkiyah* verses (Shomad, 2012).

Terminologically, zakat is considered as rights that must be taken from much property (wealth that has fulfilled its *nishab*) and it is distributed to particular groups of people who deserve to get some of the wealth, zakat. This is strengthened by Ibn Qayyim who asserted the grace of implementing zakat as purifying the wealth and the owner of the property, maintaining and increasing the grace, protecting from any sort of meanness. This argument was based on *Sunnah* narrated by Jabir bin Abdullah r.a. stating that Rasulullah SAW said: "If you have taken zakat from your wealth, you have faded its meanness" (Muthlaq, 2006).

Zakat during the period of Makah was unbound zakat. In the history of Islamic rules, zakat was just required in Medina. However, Al-Qur'an mentioned this in many verses in some *Makkiyyah* *surah*. Zakat recorded in many *surah* descended in Makah is different from which recorded in *surah* descended in Medina in the terms of its *nishab* and amount determined, the one how may distribute zakat, and the state's accountability in organizing zakat (Muthlaq, 2006).

Zakat in Makah refers to zakat which limits and amounts are not predetermined, but solely submitted due to the sense of individual's faith, generosity, and responsibility to others. Little is quite adequate but, somehow, when the needs come into urge, zakat is likely to be more and more (Muthlaq, 2006).

The focus of Islam at the period of Makah was intended to cope with poverty happening at Makah. The Moslems, at that moment, were still few and being

oppressed, wanted, had no legal government and politic organization. Nevertheless, they had Al-Qur'an as their holy book providing concerns on social issues of coping with poverty.

Moslems in Makah were restricted from taking worship. On the contrary, Moslems in Medina had become independence in their area, existence, and government. Verses descended in Medina asserted that zakat is required to do as the form of required order with very clear instruction for its implementation (Qardawi, 2002).

Theologians since the time of Prophet's companions had warned one fundamental thing that Al-Qur'an had always connected zakat with shalat, and it seldom mentioned zakat without including shalat within.

There are 82 Verses and chapter about zakat noted in Al-Qur'an. Those consisted of: the obligation of zakat (2:110, 2:177, 3:180, 4:37, 5:12, 5:55, 6:141, 9:5, 9:11, 9:18, 9:34, 9:71, 22:78, 33:33, 41:7, 58:13, 70:24, 70:25); implementing zakat is one of the pillars of Islam (2:43, 2:83, 2:110, 2:177, 2:277, 4:77, 4:162, 5:12, 5:55, 9:5, 9:11, 9:18, 9:71, 22:41, 31:4, 58:13, 73:20, 98:5); zakat is a precept of every prophet (19:31, 19:55, 21:73, 98:5); the merit of zakat and the virtue (2:277, 7:156, 9:5, 9:11, 9:18, 9:71, 23:4, 23:10, 23:11, 24:37, 24:38, 24:56, 30:38, 30:39, 31:5, 33:35, 34:39, 35:29, 42:38, 47:37, 51:19, 57:18, 73:20, 92:5, 92:18); the magnitude of reprisal for people who do not implement zakat (9:77, 92:8); the aim of wealth (9:34); wealth will be the fuel when the judgment has comes (9:35); wealth is likened to a snake (3:180); allotment for pauper (9:60, 30:38, 70:25); allotment for the poor (9:60, 30:38, 70:25); allotment of amil (the organizer of zakat): 9:60; allotment of zakat in war: 9:60; allotment for *mu'allaf* (individuals who just believed in Islam): 9:60; allotment for slaves: 9:60; allotment for people who fight in the path of God: 9:60; allotment for *musafir*: 9:60, 30:38.

Al-Qur'an is a constitution and the primary source of Islam rules. Thus, Qur'an only contains the basis and general principles of a matter, not providing any explanation in detail, unless it may cause significant doubts and confuse. Sunah corroborates and explains what Qur'an generally said. In this case, sunah is the verbal interpretation and concrete implementation of what Qur'an has said; explaining what seems vague, asserting what seems unclear, providing borders for what seems obscure, and specifying what seems general, based on what Rasulullah SAW captured from the verses.

In zakat, sunah comes for substantiating the provision that zakat is obligatory, and it has been asserted since the period of Makah. However, at the period of Medina, an intervention from *hadis* in terms of zakat as an obligation is much necessary to make it clear on its *nisab*, amounts, and terms of condition, its position, instruction/order, prohibition, and any other concrete implementation.

The Concept of Tax at the Time of Rasulullah SAW

In Arabic term, tax is known as *Al-Usyr Al-Maks*, or *Adh-Dharibah*, meaning as “levies collected from people by tax collectors”. Or somehow, it is known as *Al-Kharaj*, although this term is usually used for levies exclusively related to land, and the levies collector is known as *Shahibul Maks* or *Al-Asysyar*. Following philologists, tax is “a payment toward government to finance the expenses of providing public services and interests” (Ibnu Saini bin Muhammad bin Musa)

Tax, upon the time of Rasulullah SAW, was never obliged toward Moslems, and only obliged to infidels. Imam Ibnu Qudamah Rahimahullah, in his *Al-Mughni* volume (4/186-121) explained that the Moslems’ land/earth was classified into 2 kinds:

- 1) Land the Moslems got from Infidels without any war, as what happened in Medina, Yemen. Thus, for the freeholders might be charged with *kharaj*/land tax until they converted to Islam, and this provision was like *jizyah*. Thus, the tax applied in such kind of land was only applied to the infidels.
- 2) Land the Moslems got from infidels through wars which caused the infidels to be evicted and no longer had the land since it was donated to the Moslems (unless it was allotted for the Moslems). For the natives, both infidels and Moslems, who were willing to live or cultivate the land, had to pay rents since it had been donated and could not be either sold or possessed in personal, however, it did not mean as paying tax, but solely the rent of using the land.

Following Imam Ibnu Hazm Al-Andalusi Rahimahullah in his book entitled *Maratib Al-Ijma* (p. 121), and by Syaikhul Islam Ibnu Taimiyah rahimahullah: “And they (the theologians) have dealt that the inspectors (watcher) assigned to take fine (required to pay) for roads, the city gates, and anything (usually) in charged from markets in the form of tax over the goods carried by people who pass the roads or (goods carried by) merchants (all those) are considered as a very unjust behavior, and it was *haram* and *fasiq*, unless what they take from the Moslems is on behalf of zakat for goods they sell and buy (zakat of trade) every year, and (unless) what they take from *harbi* (infidels

who acted against the percept of Islam) or *dzimmi* (infidels who had to pay *jizyah* as a protection guarantee in Moslem land), (that is) taking a tenth or a half part of the goods they sell, hence, (the theologians) actually have debated about this matter, (some) argued to have the state take from each of those, and some others objected any levy from each of those, unless what has been agreed in a peace treaty with *dzimmah* experts” .

Tax is not zakat. Imam Abu Ja'far Ath-Thahawi rahimahullah, in his book entitled *Syarh Ma'ani Al-Atsar* (2/30-31), stated that *Al-Ushr* whose obligation were abolished by Rasulullah SAW over the Moslems was the tax usually taken by *Jahiliyah*. He added that this was different from zakat (Ibnu Saini)

Upon the time of Rasulullah SAW and Khulafa al-Rasyidun and the government of Daulah Umayyah and Daulah Abbasiyah, it was found practices and policies related to taxation as the source of public finance. The practice of collecting tax (*jizyah* and *kharaj*) at the time of the prophet SAW was conducted by *amil* who had dual roles, as the collector of both zakat and tax simultaneously. This policy kept running upon the government of Khulafa al-Rasyidun. Structuring the basis of taxation system began to happen during and after the government of Khalifah Umar bin Kaththab. Reformation and restricting of taxation system after long-time damage happened at the government of Khalifah Umar bin Kaththab (Ali Rama, 2010).

The concept of taxation system is also deeply explained by Ibnu Khaldun in his preamble. Tax is considered as an important element for the continuity of civilization of a country. However, the state is not allowed to set the rate of tax that may burden the people (tax payers).

Tax, in accordance to financiers, is defined as an obligation assigned to taxpayers and must be deposited into the state and it is used for financing any public expenses, at one hand, and for realizing the economic, political, and other purposes of the state.

In *Hukum Zakat*, Yusuf Qardhawi mentioned that discussants and thinkers had different argumentations dealing with the legal principles of people obligation to pay tax, as follow (Qardhawi, 2002) :

1) Theory of Agreement

Philosophers in 19th century argued that tax was required based on reciprocal relationship between the state and the people. the proponents of this theory saw that tax was paid as the recompense of what the property owners got in term of protection

over any public interests, by requiring the enforcement of an agreement of mandatory protection between the state and the people.

- a) Jane Jack Rossou: theory of “social agreement”
- b) Mirabau: “tax is advance payment conducted by an individual to protect a group of people. This indicates that such agreement is in the form of purchase contract.
- c) Adam Smith: This agreement is in the form of payment for service. The state provides various services for the people. Hence, the people pay tax to the state as the recompense of all those services.
- d) Montesque dan Hobes: “This agreement is in the form of protection guarantee. Therefore, tax is part of wealth required to be deposited by the owner to protect his/her wealth.

However, some critics argued that the way of such thinking was basically wrong. Thus, it is impossible to interpret the thought between tax paid by the wealth owner and the service they get from the state since it is impossible to carefully appraise the service provided by the state to every single people from the public finance such as maintaining the protection of legal regulation, disseminating doctrine and national defense. If such appraisal is conducted, this theory may reinforce much ruthlessness since the poor and indigents actually need more services from the state than the rich, and it may make the poor required to pay more tax.

Thus, this theory has disadvantage which includes restricting the state’s task to only maintain the protection aspect. This is inconsistent with what it actually happen. Furthermore, the agreement of protection makes people whose protection is secured get disadvantage since the state may not bear the loss caused by any peril every individual suffering from.

2) Theory of the State Sovereignty

This theory viewed that the state conducted its function to serve the people needs, not for personal interest. Thus, public interests is preserved over the personal interest and it must maintain the national interest for current and future generations.

To do its function, the state needs financial budget. Therefore, the state has rights, based on its sovereignty, to have the people finance all the expense based on the level of their capacity under the principle of “social protection” used by modern political group (Yusuf Qardhawi, *op., cit.*, p. 1009)

Furthermore, dealing with the principle of zakat, it is described as follows :

a) Theory of Public expense

This theory asserted that zakat is Allah rights as the Only One who gives grace to assign what Allah wants toward every human, whether obligation in physical or material aspect, as the fulfillment of their obligation and as the sense of being grateful for all grace they get.

b) Theory of Khilafah

This theory asserted that property/wealth was *amanah* from Allah. That the wealth belonged to Allah SWT, and human was the receiver of *amanah* for such wealth.

c) Theory of Plea between personal and people

This theory noted that human being is social creature who could not live as human unless they were in a group of society.

d) Theory of Confraternity

This theory noted that human should give their relatives without expecting any recompense and sincerely help them, love them as like loving the self or even more.

Based on those theories, it is clear that the theoretical principle of zakat as an obligation in Islam context is much broader, more comprehensive, and everlasting rather than an obligation of tax.

Some authors (theologians who wrote about zakat, sic) usually saw zakat as a proof that economic system Islam had was clear in its borders which purely free from any other system ever existed and remain applicable worldwide. Most of major principles of this system are derived from Al-Qur'an, and the comprehensive explanation is based on Rasulullah SAW and it, indeed, has been implemented upon the period of time he lived. Zakat was the primary income for Islamic country at that moment besides many other taxes such as land tax, personal tax, tax of spoils, agricultural tax, and etc. zakat is a part of human's wealth/property which should be spent because of Allah order for the needs of the poor and indigents and many other. (Rahman, 2003).

Furthermore, an argument revealed, as Ibnu Khaldun argued that wealth was always between the ruler and the people. He saw the state and the government as a big or even the biggest market in the world (*al-suq ala'zham*) and it the core of human

civilization (*maddat al-'umran*). Thus, when a country or government or a ruler restrained the wealth in the form of tax collected in its circle only, the amount of wealth circulating among the people would be definitely decreasing and, of course, their income would be decreasing as well, whereas, the people was the major group of these human beings.

Conclusion

A very concrete difference between zakat and tax refers to their basis that highlights both obligations. The principle of regulation or theory of taxpayer is based on different theories. However, the principle of zakat is definitely clear since it is an order from Allah SWT.

Following Yusuf Qardhawi, zakat is considered as both observance and tax, since it is organized by the state. Initially, zakat was identified as observance and religious *syi'ar* conducted to get closer as Moslems to Allah SWT. When an individual implements zakat, he/she has implemented one of the five Islamic pillars and the branch of *iman*/faith. Through zakat, he/she feels that he/she has helped others to obey Allah rules. in this case, paying zakat indicates that it may help people to improve their obedience and object any wickedness and infidelity.

Zakat has higher moral and spiritual purposes rather than tax. Such glorious purpose is implied in the term zakat. Tax has no such glorious purpose as what zakat does. Several financiers have objected any other purposes toward tax since many centuries unless for financing the state (neutral *Madzhab* of tax). Along with the development of ideas and changes in social, political, and economic aspects, the *Madzhab* turns to be decreasingly faded, and various taxes revealed as means to reach particular social and economic purposes, such as a suggestion to give donation, to save money, to efficiently organize expenses, luxurious goods, or to alleviate the gap between the rich and the poor, etc. Such purposes are the secondary purposes besides the primary ones which include financial purpose. However, the taxation planner and financiers along with the thinkers may not be out from the scope of material purposes, such as spiritual and moral aspects that become the primary purposes of zakat.

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