Institutionalization of Zakat and Waqf in Contemporary Economies: Challenges and Prospects

Salman Ahmed Shaikh*

Abstract

Zakat and Waqf are important social finance institutions, but their utilization and impact are less than optimal compared to the expectation and potential. Part of the reason is weak governance and enforcement. Another notable reason is the complexity of applying old jurisprudential axioms to new modes of production, income, and forms of wealth. Therefore, both jurisprudence related to the institutionalization of Zakat and Waqf and their current governance needs a fresh revisit given the changes in the type of production, the process of production, market structure, forms of business organization, income distribution, storable wealth forms and the functions of a state. The paper highlights several potential anomalies in applying the traditional understanding of institutionalizing Zakat in the context of modern economy, if the implications of choosing a particular way of interpretation among different sets of interpretations are not considered. Thus, serious deliberations are needed on challenges involved and how to overcome them and this paper adds to that dialogue.

Keywords Zakat, Waqf, Modern Economy, Income Inequality, Poverty.

Introduction

In order to streamline institutionalization of Zakat in modern economic framework, there are certain problems which need to be resolved.¹ Major forms of storable wealth as well as modes of production have vastly changed in the last fourteen hundred years.²

In the past, primary forms of storable wealth were property, livestock, such as goats, sheep, cows, camels and commodities, such as gold, silver, diamond and precious stones. In modern economies, new forms of storable wealth have appeared, such as fiat money, financial investments, foreign exchange and intangible assets, such as trademark/patent licenses etc.

* PhD, Head, Post Graduate Studies, Shaheed Zulfikar Ali Bhutto Institute of Science and Technology (SZABIST) University, Karachi, Pakistan.
Furthermore, changes have also taken place in the modes of production. In olden times, primitive agriculture and trade of labor-intensive manufactured goods was common. Nowadays, even developing countries have a much greater proportion of services valued-added as compared to agriculture value-added in Gross Domestic Product (GDP). Industrial manufacturing and services sector production has eclipsed agricultural production in almost every economy, regardless of their state of development.

When Islamic jurisprudence of Zakat was developed soon after Prophet Muhammad (PBUH), the contemporary investments, modes of production and organizational forms, such as limited liability corporations, did not exist. Hence, naturally, Islamic jurisprudence could not take the current context into perspective. Now, in order to institutionalize Zakat at the government level more formally, it is important to extend the rules to new forms of wealth and production to avoid anomalies and discrepancies.


> *Today’s plants and factories are the productive growing capital. Consequently, we conclude that craftsmen’s tools which the owner uses personally are exempted from Zakat because they are essential for his or her personal needs, but plants and machinery are subject to Zakat. No one can claim that by stating this we stand against the opinion of preceding jurists, since they never expressed an opinion on factories they never saw. If they had seen them, they would have given the same ruling. We are merely applying their standards and criteria to modern times.*

In this backdrop, this paper outlines challenges in institutionalizing Zakat and also discusses how to resolve them. Part two presents the challenges in institutionalization of Zakat. Part three discusses Zakat administration in modern economies. Part four discusses how to institutionalize Zakat while overcoming juristic challenges and resultant anomalies. Finally, part five discusses institutionalization of Waqf for its effective utilization in society.
Challenges in Institutionalization of Zakat

Multiple Nisab on Different Forms of Wealth

The first challenge in streamlining Zakat is what should be the Nisab (exempted value of wealth) limit for Zakat in cases where it is not explicitly mentioned. There is a difference of opinion among scholars regarding Nisab for agricultural products and for other assets and forms of wealth, there is no explicit guidance from Qur'an and Hadith on the Nisab limit. For instance, Imam Abu Hanifa (ra) did not allow exemption in the assessment of Ushr to be paid.

There are also multiple Nisab on different forms of wealth. For example, if a person has a diversified wealth base, but wealth in each form is less than the value of Nisab, then this might result in Zakat exemption, despite having a sizable aggregate value of wealth. For instance, if someone has 500 grams of silver, four camels, 29 cows, 39 sheep, and goats, then that person is still going to be exempted from Zakat, because he has wealth below Nisab in each category even though, the aggregate value of the wealth held by that person can be quite significant.

Even in liquid wealth, there is the issue of multiple Nisab as one amount is in silver, and the other is in gold. In silver, the value of Nisab is around 612.36 grams, while in gold, it is around 85 grams. In some countries, gold Nisab is used, such as in Malaysia and in some other countries, silver Nisab is used, such as in Pakistan.

The conversion rate between silver and gold has changed significantly over the last 1400 years. If the Nisab of silver is used, it would be only 10 percent value of the Nisab of gold. So, the Nisab in gold is almost 10 times as much in value as the Nisab of silver. Both are completely different values. If silver exemption limit is applied, then people who are supposed to pay Zakat would be relatively less rich. But, if the gold exemption limit is used, then the people who are supposed to pay Zakat would be relatively richer. From both of these exemption limits, a different number of Zakat payers and Zakat-deserving people emerge, which is a great challenge in streamlining Zakat.

Exemptions May Result in Avoidance and Inconsistent Impact

Some exemptions on wealth that is subject to Zakat may result in deliberate avoidance or inconsistent impact. There is Zakat of 2.5 percent on value of
gold and silver, even if not held for trade, but on other minerals and stones like diamonds, there is no Zakat if not held for trade. So, if just before the Zakat due date, a person converts cash or gold into diamonds, then the Zakat amount will go down as there is no Zakat on diamonds and on other precious stones if they are not held for trade, no matter what their value is. Therefore, some exemptions may result in avoidance or inconsistent impact.\textsuperscript{10}

\textbf{High Value-Added Production Exempted from Production Levy}

The structure of economies and modes of production have gone through a lot of changes over time. From agrarian economies to the industrial revolution in Eighteenth Century, from the knowledge economies in the Twentieth Century to embracing industrial revolution 4.0, the modes of production have significantly evolved. Even in developing countries, the services sector constitutes as much as 50 percent of the total GDP or more and the share of agriculture has diminished a lot, to not more than 10 percent to 20 percent in many of the developing countries, and developed countries, the share of agriculture has even reduced to less than 10 percent of the GDP.

In Islamic jurisprudence, production from agriculture was subject to Zakat at 5 percent and 10 percent rate depending on the nature of the production process. Nonetheless, agriculture is no longer the dominant mode of production in terms of value-added production. In comparison, there is much greater value-added production in the manufacturing sector and also in the services sector. The list of top corporations and top billionaires shows that they are engaged in the information and communications technology (ICT) sector or sophisticated state-of-the-art industrial manufacturing.

The contribution margin (difference between sale price per unit of output and cost price per unit of output) in an agricultural enterprise is very low, because of the competitive nature of the market. Agricultural markets are the closest to purely competitive markets with large number of buyers and sellers trading in undifferentiated goods. Hence, the difference between the selling price and variable cost is not that high because of the competitive nature of the market structure in most agrarian markets.

Then, there is Ushr (10 percent fixed rate levy) or half Ushr (5 percent fixed rate levy) on the value of produce that comes from agriculture. However, value-creating activities in the industrial sector, and in the services sector are overlooked. In manufacturing and services sector, there is more value addition and greater contribution margins. A major portion of invested capital in the
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Economy lies in the manufacturing and services sector. Most of business profits also come from these two sectors.

If the production value levy is not the same on the services and industrial sector value-creating activities, then it would result in inconsistencies and inequities. The agriculture sector is the mainstay of employment for poor farmers in developing countries. Now, if that sector is subject to 10 percent and 5 percent flat production levy on output, one may question why the treatment for industrial and services sector output and value-creating activities is not the same?

As per current understanding in mainstream Islamic jurisprudence, industrial output would be subject to only wealth Zakat of 2.5 percent, if the industrial output is held for trade on a certain date in a year. Now, on that certain date, the stock of inventory could be very high or could be very low, and it depends on a lot of circumstances. However, if a person knows the date in advance, he can also create an arbitrage opportunity if he wants to avoid Zakat by liquidating the asset and buying an asset that is exempted from Zakat.

Furthermore, as per traditional understanding, trade assets including real estate are subject to Zakat if the following two conditions are met:

i) The definite intention to sell the asset is there at the time of buying the asset without any semblance of confusion.

ii) The intention remains intact from the time of buying the asset till the time Zakat due date arises without any confusion.

This opinion leaves it to the Zakat payer to decide the matter and his intention – which is invisible to others – becomes the deciding factor as to whether the asset is subject to Zakat or not. If he changes his intention to sell anytime from the time of buying till the Zakat due date or even says that he is unsure whether to use the asset or to sell it, then the asset in his ownership would not be considered subject to Zakat.

Inconsistency in Incidence Based on Different Nature of Business

There is also inconsistency in the incidence of the Zakat levy based on the different nature of businesses. In typical production processes in the past, there were simple supply chains. However, modern economies have global value chains. A single finished good is produced with different processes in production completed in different regions. Finally, when the product is ready
in the retail market, then we have the finished goods inventory. Now if only that retailer is going to pay the wealth *Zakat* on his inventory, then the ones at the back end of the supply chain are considered. Regardless of the fact that their profit margins are usually higher than the retailers who compete in a more competitive retail segment.

Expensive consumer durables and specialized capital goods for firms would have lower inventory turnover ratios. Some manufacturers with streamlined efficient and short production processes might opt for just-in-time inventory and have high turnover ratios. Other businesses in the services sector may not have inventory as they do not sell any tangible goods. So, different businesses would have different levels of tradable inventory and their intensity of *Zakat* payment would depend more on the nature of the business rather than their size of business (invested capital in production infrastructure) or net profits. The capital-intensive businesses will have a greater incidence of *Zakat* on tradable inventory if they cannot adopt just-in-time inventory due to the high cost of production and customization needs and if their production process goes beyond a year.

Businesses that are more profitable will have higher sales and higher inventory turnover ratios. However, those businesses that are struggling will have fewer sales and low inventory turnover ratios. The former class of businesses might have earned more profits and have a higher capacity to pay *Zakat* while the latter class of businesses might have earned lower profits and have a lower capacity to pay *Zakat*. Nonetheless, the latter businesses with unsold inventory will have to pay higher *Zakat* comparatively on inventory piled up. They are required to pay *Zakat* on the whole value of inventory regardless of whether the ex-post net income is positive or negative.

**Business Cycle Downturn and Pressure on Traders**

A business cycle downturn can occur in many economies after certain periods, and in recessions, the ability to pay tax or any kind of a levy to the government is much less compared to the expansionary business cycle period. In fact, during a recession, there are more subsidies and tax rebates provided.11 However, in case of *Zakat* on tradable inventory, there is going to be more *Zakat* collection in recessionary and deflationary periods compared to when the economy is doing very well. If inventories are taxed rather than income, then traders and producers who are struggling to make sales are burdened even more through paying wealth *Zakat*, irrespective of whether they can make enough sales, let alone earn any profits. It may instigate a deflationary pressure
just before the *Zakat* due date in the economy when unsold inventory is sold at significantly deflated prices causing recession and unemployment.

However, there is also a positive side to this story. This will discourage hoarding in the economy. Consequently, sellers would not hold on to their inventories long enough because if they do, they will be subject to *Zakat*. Therefore, they would like to have a higher inventory turnover ratio as compared to hoarding. However, again there is a problem that not all businesses have very high inventory turnover ratios. Not all businesses have the same value of inventories as well. There are fast-moving consumer goods and there are capital-intensive goods as well like railway parts or airplane parts and capital equipment and so on. Thus, there will be a greater incidence of *Zakat* on businesses with low inventory turnover ratios either due to the nature of the business and/or due to lower sales in recessionary periods.

**Different Treatment of Liquid Capital and Physical Capital**

There is also a difference in the treatment of liquid capital and physical capital. Yousuf al-Qaradawi\(^{12}\) and Monzer Kahf\(^{13}\) are of the view that the physical capital stock should also be subject to *Zakat*. However, according to the *Nusus*, i.e. *Qur’an, Sunnah*, and *Hadith*, we find that means of production should be exempted from *Zakat*. Many corporations have huge amount of wealth invested for productive purposes in physical capital goods. If investment in a factory, plant, machinery, and equipment is going to be treated as a means of production, then such investments would be exempted from *Zakat*. In that case, only the liquid capital would be subject to *Zakat*.

On a positive side to this treatment. Islamic economics encourage the conversion of liquid capital into physical capital, to avoid idle capital. This can boost investment, production, employment and incomes. But the problem still remains that in a lot of businesses, especially in the manufacturing industry, the liquid capital would not be as much in value as compared to the physical capital goods.

The value of land, machinery, plant and buildings is going to be much higher compared to the cash, receivables, liquid investments and the value of tradable inventory. Thus, if working capital management is carried out in a way that cash flow received near the *Zakat* due date is used to purchase fixed assets in businesses, then *Zakat* collection would go down since the means of production are exempted from *Zakat*.
Zakat on Shares Yield Different Outcomes

There are different scholarly views on Zakat on shares, there are many opinions which are quite different from each other. These opinions have different implications, effects and outcomes. For instance, investment in shares is subject to wealth Zakat at 2.5 percent which is a consensus-based view.14

If investment is made with the intention to obtain capital gain, then the entire value of the shares constitutes the Zakat base. If the investment is made with a view of long-term holding to obtain dividends, then only assets subject to Zakat constitute the Zakat base, which means that cash in hand, cash at the bank, account receivables, investments and tradable inventory, would be the Zakatable assets and Zakat will be paid on them.

This kind of ruling puts an onus on the Zakat payer whether he or she has the intention to hold the stock for the long term or has the intention to hold the stock for the short term to obtain capital gain in the market. The problem is that intentions are invisible. It is quite difficult to institutionalize this kind of a ruling, because if there is an external agency to administer the calculation as well as collection of Zakat, then it would be very difficult to have a system with a uniform law and way of administering Zakat, while basing decisions on people’s intentions primarily.

Hanafi jurists allow all debts to be deductible against the Zakatable value of assets. Regarding the balance sheet of any manufacturing concern, on the asset side, it has current assets, and fixed assets. Usually, the value of fixed assets is more than the value of current assets. Now, if all the debts are to be deductible from the Zakatable current assets, then most corporations would have a negative net Zakatable base since current assets minus total liabilities will most probably be a negative number for most corporations. In that case, no Zakat will be chargeable on shares. Almost 75 percent of all the invested wealth is in the corporations. Most bank financing also goes to corporations. Therefore, if all debts are to be deductible from the Zakatable value of assets in corporations, then 75 percent of the invested wealth would cease to be in the Zakat net anymore.

On the other hand, Shafi jurists have a different view. They do not allow debt to be deductible against Zakatable value of assets and this results in a different outcome altogether. Hence, these juristic differences create problems in institutionalizing the system of Zakat in a standardized way. It
also affects the potential of Zakat collection and hence its socioeconomic effects.

Some Hanafi jurists like Mufti Muhammad Taqi Usmani have also suggested that all debts should not to be deductible against the value of Zakatable assets. Only the value of those debts can be deducted which have been taken to buy Zakatable assets.

**Tamlik (Ownership) Limits Usage Beyond Asset Transfer**

Condition of Tamlik (ownership) implies that the receiver of Zakat shall become the owner of the value of Zakat so that he can use it the way he desires by having financial autonomy. This condition has a positive aspect which is to ensure financial autonomy and prohibit misuse or exploitation. Nonetheless, the condition of ‘ownership transfer’ to the individual human being in Zakat limits usage of Zakat funds in providing indirect benefits.

Such indirect benefits are provided through building schools, hospitals and producing public goods that benefit not only a particular individual, but a group of individuals or a society at large. The public goods are non-rival and non-excludable goods. When the public goods are provided by the state outside of market, non-payers cannot be excluded from the usage of these public goods. For instance, when state provides water filtration service, it benefits society, but no one single person owns that public good. If the contrary position is taken that Zakat funds cannot be used to provide public goods and build the infrastructure of institutions which provide indirect benefits to the poor, then it may introduce inflexibility in the way Zakat funds could be used for the broader welfare of people and society.

Imam Al-Razi (ra) writes that ‘to’ indicates ownership, while ‘in’ connotes the purpose of the spending in verse 60 of Chapter Tawba. Allama Yousuf Qardawi argues in ‘Fiqh-uz-Zakat’ that Shari’ah requires that Zakat funds are for the Mustahiqueen (deserving). They can be spent on their welfare. Ibn-e-Munir in ‘Al-Intisaf’, a footnote of ‘Kishaf’ writes ‘only the view that Zakat shall be spent for the Mustahiqueen’ is consistent with the word ‘fi’ as well as ‘Laam’ simultaneously.

**Reassessing Zakat Administration in Modern Economies**

The challenges discussed so far require revisiting Zakat administration in modern economies. First of all, if guidance from the Nusus, i.e. Qur’an and
Sunnah including Hadith, is sought, then they shall remain the primary sources to think about redesigning the system of the administration of Zakat in contemporary economies.

Some scholars have gone beyond Nusus as well to favor Ijtihad which goes against the Nusus and in matters where we have explicit guidance from the Nusus. If guidance from the Nusus, i.e. Qur’an, Sunnah, and Hadith, is sought then one should stick to it. For instance, the Nisab and the rates of Zakat have been identified in the Nusus, so they cannot be changed. However, there are things which can still be changed given the advancement of technology and changes in economic structure.

In some cases, ‘Ijtihad bil Qiyas’ from the Nusus is possible and it has been used in Islamic jurisprudence. There are examples of Ijtihad in the Islamic tradition. For instance, horses were exempted from Zakat in earlier period, but then they were brought into the Zakat net later on. Likewise, production in a forest was not part of the initial administration of Zakat, and then it was brought into the Zakat net. Initially, the state was responsible for complete Zakat collection, later due to administration-related difficulties, it was decided that only Amwal-e-Zahira – only those forms of wealth which are quite easily discoverable, and which can be monitored very easily and can be collected very easily – would be subject to the collection of Zakat by an external agency, meaning the state. Meanwhile, for Amwal-e-Batina – those forms of wealth which are not quite easily discoverable – it would be allowed to pay Zakat on them privately. These matters were decided on administrative convenience of that time period. With the change in technology and in the way economy is documented, there might be situations where making certain exclusions or exemptions would not be required.

For instance, blockchain technology provides an easy and robust way of documenting the different economic activities, and also the ownership of different kinds of assets, digital as well as real and financial. Therefore, it is quite possible that those administrative steps are no longer needed that we were taking initially for applying Zakat on perishable goods like vegetables since it was hard to document, collect and distribute such forms of production. Without fast transportation, and refrigeration facilities, it was very hard to keep them fresh, usable and transport them to different areas. So, when it was not possible, Zakat administration was treating them differently. However, this does not mean that only those forms of wealth and production in Zakat net are to be considered which existed in past as it will cause inconsistencies as well as cases of injustice.
New Perspectives in Institutionalizing Zakat

Some of the issues discussed above have already been dealt with and some issues are still outstanding. For instance, there is generally a consensus that since currency notes are used as a medium of exchange and store of wealth like gold and silver previously, hence they shall be subject to Zakat. From the economic standpoint, there is a need to revisit contemporary forms of wealth, business organizations, modes of finance and operations of institutions to come up with consistent rulings of Zakat on new forms of wealth, production and income-earning pursuits. Monzer Kahf, Yusuf al-Qaradawi, and several other jurists and Muslim economists are at least favoring this point of view in a broad sense. They have different ideas on the specifics of how to bring changes and reforms, but they do agree on the need for reforms.

\[\text{Zakat is meant to purify wealth, as is stated in the Nusus (Qur'an 9:103).} \]

In his magnum opus, ‘Fiqh uz-Zakat’, Yusuf al-Qaradawi has given a lot of references from the Nusus as well as from the opinions of the jurists to emphasize the need for consistent extension of Zakat net on new forms of wealth. If Zakat is meant to purify wealth, then considering only some forms of wealth as subject to Zakat opens loopholes and room for Zakat arbitrage. Therefore, from economics perspective, any asset (real or financial) that can perform the function of a store of value beyond regular personal use can be classified as one of the forms of wealth subject to Zakat. Divisibility of investments, securitization, and financialization of assets allow people to have growth in all forms of wealth directly or through exchange.

That is one way to go forward in institutionalizing wealth Zakat. Regarding Zakat on value-creating activities where there was Ushr (10 percent levy) and half-Ushr (5 percent) on agricultural produce is still to be explored. Such value-creating activities are not limited to agriculture anymore in contemporary economies. In the composition of GDP, the manufacturing and services sectors together constitute almost 80 percent of the GDP. In the manufacturing sector, value-creating activities resulting in tangible goods production come in the Zakat net with 2.5 percent Zakat on tradable inventory. Nonetheless, since this rate is charged once a year with an allowance of adjustment of debt, tradable inventory minus debt may turn out to be a negative figure whereby there is no Zakat due on business assets. On a single day, the value of variable inventory in someone’s hand could be any number depending on lots of circumstances one cannot know in advance. One cannot really rely on it for a sustainable source of Zakat mobilization.
In the services sector, such value-creating activities do not result in tradable inventory. So, all of these value-creating activities which constitute 50 percent or more of the GDP are going to be excluded from Zakat, because there is no storable inventory in the services sector. If the essence of Ushr is to apply Zakat on value-creating activity resulting in production or income, then this principle can be extended to contemporary value-creating activities in the manufacturing and services industries.

Lastly, regarding Zakat on shares, when a stock is bought, one makes a divisible investment through financial securities in a value-creating economic enterprise. In economic enterprise, means of production are exempted from Zakat and only the value of production is subject to Zakat at 5 percent (Nisf-Ushr) and 10 percent (Ushr). From the perspective of investor, income on stock investment comes with employment of investment capital, but not labor. In this regard, income on stock investment can be subject to Ushr rules rather than Zakat on wealth. Ushr is applied on agricultural production where water is not provided by the producer. Hence, when factors of production are less intensely used in production process, then there is greater charge, i.e. 10 percent instead of 5 percent. This view of applying Ushr rules on stock investment which is an indirect way of engaging in economic enterprise is favored by Akram Khan25 in his commentary on the paper by Abdul Azim Islahi26.

Looking at the merit of this view, it is quite logical, and it effectively resolves the inconsistency that has been discussed above. Likewise, those who are salaried professionals, those who are earning royalty income, and those who are earning consultancy income, they all can be brought in Zakat net. It is important to look at whether they are putting in labor only in economic enterprise or capital as well. Consultants, self-employed professionals like doctors, and salaried professionals earn through labor only. Hence, their income can be treated under Ushr rules and Ushr can be deducted at source.

When someone invests only capital in the stock market in buying shares, he or she is providing capital in the economic enterprise, and hence the income arising from that can be subject to Ushr. This is based on the premise that in agricultural production, if we have production coming from the intensive use of both labor and capital, then the value of the produce is subject to 5 percent or half Ushr. On the other hand, if the value of production is coming from a production process in which there is intensive use of only the capital or labor; then in that case, the value of produce is subject to a charge of complete Ushr meaning 10 percent.27
Hence, it is important that Zakat administration should not have loopholes: it should not allow Zakat arbitrage and should not exempt huge amounts of wealth invested in some activities while only tax the poor farmers in agriculture at market value of production without allowing debt adjustment and exemption.

The prospect of charging Zakat on shares from corporations can be considered as well for ease in administration. The issue of Nisab can be mitigated by the reasoning that shares are combined to determine Zakat eligibility for corporation as one unit, as favored by respected Imam Shafi (ra). Mufti Inam-ul-Haq Qasmi also stated that it is allowed to pay Zakat jointly or by individual shareholders in private capacity. This practice is currently being followed in Malaysia and Saudi Arabia.

**Institutionalization of Waqf in Contemporary Economies**

Unlike Zakat, Waqf is less complicated. It is more flexible to use Waqf assets and funds for variety of beneficial uses. One issue comes in dealing with the concept of perpetuity when the Waqf asset is in cash form. It is because cash is useful when it is spent. Once it is spent, it is no longer intact. However, the solution proposed by scholars is that instead of using cash in Waqf for beneficial uses, the cash shall be invested in less risky investment options to generate regular income stream. The income earned on less risky investments can be used for beneficial uses. In this way, the principal value of cash remains intact.

Another issue comes in the strategic repositioning of the Waqf if required with time. Waqf rules state that the instructions by Waqif are as much binding as Nusus. Nonetheless, with time, the Waqf asset may require strategic repositioning to make it more useful and valuable. For instance, if a well or mosque was built and if somehow, there is less population in the area, then the Waqf asset or property over there can be exchanged with another asset or property somewhere else where there is a need for such asset or property. Likewise, if an agricultural farm was endowed as Waqf and it becomes less productive due to shortage of water or deterioration in soil quality, then the farm can be exchanged with another one in a different locality where there can be more effective use of the Waqf property.

Contemporary jurists have devised rules under which exchange and substitution of Waqf assets is allowed under strong governance. A balance is kept between giving due importance to the instructions of Waqif while also
ensuring that if necessary, the Waqf assets can be changed or substituted to save against loss of usefulness of Waqf assets or property.

If the Waqf deed is worded in a way so that provision is kept for exchange and substitution permitted by the Waqif himself, then this can further simplify the issue and avoid the situation of conflict between Waqif’s instructions and demands of realities on the ground. Hence, there is much less complication in institutionalizing Waqf. The issues which arise are resolvable through contemporary juristic opinions.

Conclusion

Since the major forms of storable wealth as well as modes of production have changed in the last fourteen hundred years, there is a need to revisit Fiqh of Zakat and Waqf to avoid anomalies. The paper discussed how anomalies can result in benefitting the affluent while exclusively burdening the people owning particular types of storable wealth and who are involved in agriculture where the profit margins are already lower comparatively.

From the economic standpoint, there is a need to revisit Zakat on contemporary forms of wealth, business organizations, modes of finance, and operations of institutions to come up with consistent rulings of Zakat on new forms of wealth, production, and income-earning pursuits.

If Zakat is meant to purify wealth, then considering only some forms of wealth as subject to Zakat opens loopholes and room for Zakat arbitrage. So, from economics perspective, any asset (real or financial) that can perform the function of a store of value beyond regular personal use can be classified as one of the forms of wealth subject to Zakat. Divisibility of investments, securitization and financialization of assets allow people to have growth in all forms of wealth directly or through exchange.

Value-creating activities are not limited to agriculture anymore in contemporary economies. If the essence of Ushr is to apply Zakat on value-creating activity resulting in production or income, then this principle can be extended to contemporary value-creating activities in the manufacturing and services industries.

In Waqf, one issue comes in dealing with the concept of perpetuity when the Waqf asset is in cash form. It is because cash is useful when it is spent. Once it is spent, it is no longer there. However, the solution proposed by
scholars is that instead of using cash in *Waqf* for beneficial uses, the cash shall be invested in less risky investment options to generate regular income stream. The income earned on less risky investments can be used for beneficial uses. In this way, the principal value of cash remains intact.

As per the rules devised by contemporary jurists, exchange and substitution of *Waqf* assets is allowed under strong governance. A balance is kept between giving due importance to the instructions of Waqif while also ensuring that if necessary, the *Waqf* assets can be changed or substituted to save against loss of usefulness of *Waqf* assets or property.

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**Notes**

19 Ibn-al Munir, Al-Intisaf (Riyadh: Maktabat ul Harmain, 1691).