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CONTROVERSIES IN ZAKĀT: AN EFFECTIVE METHOD OF RESOLUTION¹

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Abstract

Perhaps zakāt is the only pillar of Islam which has been so widely disputed by scholars with regard to its rulings, application and above all necessity of modification. The Muslim Ummah has witnessed widespread misconceptions about some rulings and application of zakāt mainly due to usage of weak and unreliable ahādīth. It must be noted that zakāt rulings are fixed by Sharī'ah and cannot be altered or modified due to the change of time and circumstance. Therefore, any discussion, argument, suggestion and criticism can only be based on authentic sources of Sharī'ah. It is imperative that the person attempting to face the challenges or to resolve controversies on zakāt has to be well versed in the major Sciences of Sharī'ah. These sciences are Qur'ān, Ḥadīth, Islamic Jurisprudence, Arabic language as well as their principles or sciences. The paper focuses on the following aspects: the critical areas of Ijtihād on controversial issues and how they could be resolved by using the method of combining the nusūs to produce a reasonable conclusion. The paper has adopted descriptive, deductive and historical methods of analysis.

Keywords: Zakāt, *al-Ijtihād*, *Ma'dan*, *al-Rikāz*, Horses, *al-Khaḍrawāt*, Rented house, Agricultural yield, Honey.

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Introduction

Zakāt literally means growth and purification. *Zakāt* as an act of worship is defined as “is an obligatory right on the wealth of a Muslim that reaches *niṣāb* which is to be given to specific types of people at a specific period of time” or *zakāt* means the purification of wealth by giving a prescribed amount of it to the poor or any of the categories mentioned by the Qur’ān.² It is the pillars of Islam that still suffers from unresolved controversies. Many papers have been written by academic researchers in an effort to reach a reasonable conclusion based on evidence from the book of Allah as well as the *Sunnah* of Prophet (S.A.W).

Having differences of opinion among human beings is a part of their nature, even the companions of the Prophet (S.A.W) had differences. The case of Banū Quraizah is the best evidence in this regard.³ The main difference between the people of the past and the present is that their society was based on accommodating differences in *fiqh* matters wherever *ijtihād* is possible. Although the *nuṣūṣ* of *Sharī’ah* are comprehensive,⁴ scholars are unequal when it comes to

² For more details see Al-Qaradāwī, *Fiqh al-Zakāt*, (Beirut: Mu’assasat al-Risālah, 1973), 37- 42.

³ This is a case that was narrated by Ibn ‘Umar, he said when the Prophet (S.A.W) returned from the battle of Al-Ahzab (The confederates), he said to us, “None should offer the ‘Aṣr prayer but at Banī Quraizah.” The ‘Aṣr prayer became due for some of them on the way. Some of them decided not to offer the *Ṣalāh* but at Banī Quraizah while others decided to offer the *Ṣalāh* on the spot and said that the intention of the Prophet (S.A.W) was not what the former party had understood. And when that was told to the Prophet (S.A.W) he did not blame anyone of them. (al-Bukhari, *ḥadīth* No: 2:946)

⁴ The *Qur’ān* says (*interpretation of the meaning*): And We have explained everything (in detail) with full explanation” (Sūrah al-Isrā’ āyah: 12. *The Noble Qur’ān*,). He says in another place (*interpretation of the meaning*): “And Allah will never lead a people astray after He has guided them until He makes clear to them as to what they should avoid. Verily, Allah is All-Knower of everything” (Sūrah al-Taubah āyah: 115. *The Noble Qur’ān*). Al-Nu’mān ibn Bashīr narrated that the Messenger of Allah (S.A.W) said: “The lawful is clear and the unlawful is clear, and between that are matters that are doubtful (not clear); many of the people do not know whether it is lawful or unlawful. So, whoever leaves it to protect his religion and his honor, then he will be safe, and whoever falls into something from them, then he soon will have fallen into the unlawful. Just like if someone grazes (his animals) around a

understanding a particular text. They have tried to the best of their ability to reach a proper understanding with sincerity, Allah knows best. Thus, there is no blame neither on the scholars nor on their understanding. Ibn Taimiyyah said: “It should be noted that none of the recognized scholars (Abū Ḥanīfah, Malik, Al-Shāfi‘ī and Aḥmad ibn Ḥanbal) ever intended to go against the *Sunnah* of the Prophet (S.A.W), what is seen to be contrary to the *Sunnah* is based on one of the three assumptions: either the *Sunnah* did not reach him or it reached him with an inauthentic chain of narration or he got the authentic narration but misunderstood the text”.⁵ Having said that, there are unclear revealed texts which are the areas of *ijtihād* for those who are qualified among the scholars. It is extremely important that before making any form of *ijtihād* or analysis a researcher must be knowledgeable and be well versed on the system that governs that issue. Otherwise, it will be very difficult to reach a proper conclusion, as the scholars have always mentioned that being accurate in a judgment is based on having a clear picture of the judged issue.⁶ ‘Alīyyu ibn al-Madīnī was reported to have said: “for a judgement to be accurate and errors to be detected, whatever is said about that issue must be combined”.⁷

The scholars affirm that *ijtihād* cannot be observed except by those who are qualified and fulfill the main conditions of *ijtihād*: a *mujtahid* must be trustworthy (*al-‘adl*). This is a person who stays away from the major sins and mostly avoids the minor sins as well.⁸ He also has to at least be well versed in the following sciences: Qur’ān, *sunnah* and their sciences, and its sciences, *ijmā’*, *qiyās* and

sanctuary, he would soon wind up in it. Indeed, for every king is a sanctuary (pasture), and indeed Allah's sanctuary is what He made unlawful.” (Al-Tirmidhī, Muḥammad ibn Īsa ibn Sawra. *Sunan al-Tirmidhī*. (Beirut: Dār Ihya’i al-Turāth). *Ḥadīth* No: 1126)

⁵ Ibn Taimiyyah, Aḥmad ibn ‘Abd Al Ḥalīm, *Raf‘u al-Malām ‘an al-A‘immah al-‘Alām* (Riyadh: al-Ri’āṣah al-‘Āmmah Li Idārat al-Buhūth al-‘Ilmiyyah wa al-Iftā’ wa al-Da’wah wa al-Irshād, 1983), 9

⁶ Ibn al-‘Uthaimīn, Muḥammad ibn Šāliḥ ibn Muḥammad, *al-Uṣūl min ‘ilm al-Uṣūl* (Al-Qāhira: Dār ibn Al-Jawzī, 1426), 83.

⁷ Al-‘irāqī, ‘Abd Al-Raḥīm ibn al-ḥusain, *al-Taḥqīd wa al-īdh Sharḥ Muqaddimah ibn al-Šalāḥ* (Al-Madīnah Al-Munawwarah: Al-Maktabat al-Salafiyyah, 1969), 117.

⁸ Al-Amīn al-Shanqīṭī, *Mudhakkarah fī Uṣūl al-fiqh* (Al-Madīnah al-Munawwarah: Maktabah al-‘Ulūm wa al-Ḥikam, 2001), 135.

their application, *fiqh* and its principles, finally the ‘Arabic language and its sciences (in particular *al-naḥw*, *al-balāghah*, *al-adab* and *al-lughah*).⁹

The selected issues in this article are: the definition of minerals and *rikāz*, *zakāt* on horses, *zakāt* on jewelry, rented houses and vehicles, *zakāt* on salaries, agricultural yield, *zakāt* on honey, and a conclusion and recommendations. The writers will readdress the issues based on the above-mentioned statement of ‘Aliyyu ibn al-Madīnī because it is the only way that can lead to reasonable conclusions.

The Definition of *Ma’ādīn* (minerals) and *Al-Rikāz*¹⁰

The word mineral refers to the Arabic word *ma’dan*, which is derived from the word *‘adan*, which means *iqāmah* (residing in one place). According to the closest opinion to the truth, it is anything that is found under the ground which is not part of the earth such as gold, silver, copper, platinum, titanium, etc. The *zakāt* is due on minerals when they are extracted and attain *niṣāb*. Their *niṣāb* is when their value reaches 85 grams of gold or more. Their due of *zakāt* is 2.5% of their value in the case of minerals other than gold and silver, or 2.5% of the whole amount in the case of gold or silver. Minerals do not require *ḥawl* or possession for one complete lunar year.¹¹

The Sunnah on *Al-Rikāz*

Linguistically the word *al-rikāz* means *al-ma’dan* which is the mineral and a buried wealth. It should be noted that in Islam the *Sharī’ah* definition always takes preference over the *urf* (custom) and literal definition. Thus technically, in *Sharī’ah* terms, *rikāz* means the

⁹ Ibn Qudāmah, ‘Abd Allah ibn Aḥmad, *Rawdat al-Nāẓir wa Junnat al-Munāẓir* (Makkah Al-Mukarramah: Al-Maktabah al-Makkiyah, 2002), 2:334-337. See also Muḥammad al-Khudarī Bak, *Usūl al-Fiqh*, (Al-Maktabah al-Riyāḍ al-ḥadīthah), 367-369. See also Al-Shawkānī, Muḥammad ibn ‘Aliyyu ibn Muḥammad, *irshād al-fuhūl ilā taḥqīq al-ḥaqq min ‘Ilm al-Usūl* (Beirut: Dār al-kutub al-‘Ilmiyyah, 1994), 370-374.

¹⁰ The buried wealth of a people during the *Jāhili* era (the pre-Islamic era).

¹¹ Al-Shathri, Sa’d ibn Nasir ibn ‘Abd Al-‘Azīz, *Sharḥ Bulūgh al-Marām* (Riyadh: Dār Kunūz Ishbīliya, 2014), 2:94

burial of the pre-Islamic era. *Al-rikāz* is different from *ma'dan* contrary to the opinion of the Hanafis. This is because the word *al-rakzu* originally refers to *al-ikhfā'* which is to hide something. Al-Ḥasan said “*al-rikāz* means a treasure buried in pre-Islamic times”¹². In the *Sunnah* of the Prophet (S.A.W) both words are mentioned in one place which indicated that they are separate entities.

It was narrated from Abū Hurairah (R.A) that the Messenger of Allah (S.A.W) said: “The injuries caused by the beast are without liability, and wells are without liability, and *ma'dan* (mines) are without liability, and the *khums* (one fifth) is due on *rikāz*”¹³.

As for the *rikāz* (treasure trove or a buried treasure), the *zakāt* due on it is 1/5 of their value regardless of *nisāb* or *ḥawl*. This is what is supported by the *Sunnah* of the Prophet (S.A.W) to govern the definition of *rikāz* and how much should be paid from it. *Al-Rikāz* is a type of *luqatah* (missing property) which is contrary to the mineral that is placed under the earth by The Creator. The *Sunnah* of the Prophet (S.A.W) is in conformity with the said concept. ‘Amr ibn Shu‘aib narrated on the authority of his father, who reported on the authority of his grandfather (R.A) that the Messenger of Allah (S.A.W) was asked about a treasure that was found by a man in some ruined land, and he said to him:

“If you found it in an inhabited village, then you must advertise its having been found. However, if he found it in an uninhabited village, then on it and the rest of the discovered treasure one fifth is payable as *zakāt*”¹⁴.

Furthermore, it is the opinion of Imām Mālik that all minerals found in the depths of the earth, (like petroleum) are the property of *baīt al-māl* or the Public Treasury of the Muslim government and should

¹² Abū Dāwūd, Sulaimān ibn al-Ash‘ath “*Sunan Abī Dāwūd*” (Beirut: Dār ibn Ḥazm, 1997), *Ḥadīth* No, 3088.

¹³ Al-Suyūṭī, *Sunan al-Nasā’ī, bi Sharḥi Jalāl al-Dīn al-Suyūṭī* (Beirut: Dār al-Ma‘rifah, 1994), *Ḥadīth* No. 2496.

¹⁴ Al-Shathrī, 2:87

be used to benefit the Muslims¹⁵. This section is designed by the authors solely for the purpose of clarification of the word *rikāz*. This is to avoid any possibility of using the word as a means to justify the taking of *zakāt* from everything that is found on earth. As seen above the word has a literal and *Sharī'ah* definition to govern its meaning, thus it should be restricted to what *Sharī'ah* intends. The principle is that when the literal definition contradicts the *Sharī'ah* definition the latter is given preference.¹⁶

Are Horses Subject to *Zakāt*?

The scholars of Islam unanimously agree that there is no *zakāt* on the horses of a Muslim that he keeps them for beautification or riding or *jihād*. They also agree (with the exception of the *Zāhirīs*) that *zakāt* is obligatory upon horses that are kept by a Muslim for the purpose of business. The only place where a controversy lies is in the case of horses that a person keeps for growth and reproduction. The vast majority of scholars are of the opinion that *zakāt* is not due on them. The *Ḥanafīs* on the other hand, believe that *zakāt* is due on them.¹⁷ The strongest evidence used by Abū Ḥanīfah is the following *ḥadīth*. Abū Hurairah (R.A) narrated that Allah's Messenger (S.A.W) said:

“Horses may be used for three purposes: For a man they may be a source of reward (in the Hereafter); for another, a means of protection; and for another, a source of sin. The man for whom they are a source of reward, is the one who keeps them for Allah's Cause and ties them with long ropes and lets them graze in a pasture or garden. Whatever those long ropes allow them to eat of that pasture or garden, will be written as good deeds for him and if they break their ropes and run one or two

¹⁵ Al-Bahūtī, Maṣṣūf ibn Yūnus, *Al-Rawḍ al-Murbi'* (Riyadh: Madār al-Waṭan, 2005), 116.

¹⁶ As-Subki, 'Aliyyu ibn 'Abd Al-Kāfī, *Al-Ibhaju fī Sharḥ al-Minhāj 'Alā Minhāji al-Wusūli ilā 'Ilm al-Usūl lil-Bayḍāwi* (Beirut: Dār al-Kutub al-'ilmiyyah, 1404), 3:231. See also Ash-Shanqīti Muḥammad ibn Muḥammad al-Mukhtār, *Sharḥ Zād al-Mustaḥni' fī Ikhtīṣar al-Muḥni'* (Riyadh: Ar-Riāsat al-'amma lil-buḥūth al-'ilmiyyah wal-iftā', 2007), 307.

¹⁷ Al-Bahūtī, 4:73-75.

rounds, then all their footsteps and dung will be written as good deeds for him, and if they pass a river and drink from it though he had no intention of watering them, even then, that will be written as good deeds for him. So such horses are a source of reward for that man. For the man who keeps horses for his livelihood in order not to ask others for help or beg his bread, and at the same time he does not forget Allah's right of what he earns through them and of their backs (that he presents it to be used in Allah's Cause), such horses are a shelter for him (from poverty). For the man who keeps them just out of pride and for showing off, they are a source of sin." Then Allah's Messenger (S.A.W) was asked about donkeys. He said, "Allah has not revealed anything to me regarding them except this comprehensive Verse: Then anyone who has done good, equal to the weight of an atom (or a small ant) shall see it, and anyone who has done evil, equal to the weight of an atom (or a small ant) shall see it."¹⁸

In this ḥadīth the Prophet (S.A.W) mentioned that the one whom *sitr* (protection) will be given because of his horses is the one who does not forget the right of Allah on their necks and backs. The Ḥanafīs say that the Prophet (S.A.W) was referring to *zakāt*. The other evidence used by the Ḥanafīs are all weak except some narrations attributed to some companions such as 'Umar ibn al-Khaṭṭāb (R.A).¹⁹ It is reported that 'Umar commanded that a *dīnār* should be taken from every horse.²⁰ Similarly, Al-Sā'ib ibn Yazīd said, "I saw my father evaluating the horses and sending their charity to 'Umar."²¹ Finally, 'Abd Allah ibn 'Abbās (R.A) was asked: "Is there any

¹⁸ Al-Bukhārī, Muḥammad ibn Ismā'īl, *Ṣaḥīḥ al-Bukhārī with Fat'h* (Riyadh: Dār al-Salām, 2000), *ḥadīth* No: 2242.

¹⁹ Al-Bahūfī, 4:73-74.

²⁰ 'Abd Al-Razzāq ibn Hammām al-Ṣan'ānī, *Muṣannaf 'Abd Al-Razzāq* (Beruit: al-Maktab al-Islāmī, 1403), 4:36.

²¹ Al-Ṭaḥāwī, Aḥmad ibn Muḥammad ibn Salāmah, *Sharḥ Ma'ānī al-Āṭhār* (Beruit: Dār al-Kutub al-'Ilmiyyah, 1399), 2:26.

charity on horses?” He replied: “There is no charity on horses that are kept for the sake of *jihād* for the sake of Allah”.²²

The first point to be noted here is that there is no clear evidence from the Prophet (S.A.W) about the *zakāt* being taken from horses, instead what is evident is the opposite. The Prophet (S.A.W), said in the following ḥadīth which is narrated by Abū Hurairah (R.A) that:

Allah’s Messenger (S.A.W) said, “There is no *zakāt* either on a horse or a slave belonging to a Muslim”.²³

In addition to that it has also been narrated from ‘Ali ibn Abī Ṭālib (R.A) that:

The Prophet (S.A.W) said: “I have given exemption regarding horses and slaves; with regard to coins, however, you must pay a *dirham* for every forty (*dirhams*), but nothing is payable on one hundred and ninety. When the total reaches two hundred, five *dirhams* are payable”.²⁴

This clearly proves that there is no *zakāt* on horses regardless of their nature. Moreover, the horses were there during the time of the Prophet (S.A.W) and his caliph Abū Bakr (R.A) and yet there was no record whatsoever that *zakāt* used to be taken from them. It is worthy of note that the time of ‘Umar is not far from that of the Prophet (S.A.W), thus, this leaves no room for anyone to claim that the number of horses increased after the time of the Prophet (S.A.W), (*There are some who argue that zakat from horses was only taken during the time of ‘Umar due to the fact that the territory, wealth (baitul mā), wealth of mujāhidīn (ghanīmah and fay’), and the military power of the Islamic state was much greater than it was during the time of the Prophet (S.A.W) or even Abu Bakr*). But, for the sake of argument, even if such a claim is to be condoned, it will never succeed knowing that *zakāt* is an act of *ibādah* that does not

²² Ibn Zanjawaih, Ḥumaid ibn Makhlad ibn Qutaibah, *al-Amwāl* (Saudi Arabia: Markaz al-Malik Faisal Lil Buḥūth wa al-Dirāsāt al-Islāmiyyah, 1986), 3: 1021.

²³ Al-Bukhārī, *Ḥadīth* No. 1370

²⁴ Abū Dāwūd, *ḥadīth* No: 1343

accept increase or decrease. This is because it would be considered injustice either to the *zakāt* giver in the case of an increase or the *zakāt* recipient in the case of a decrease. It is reported on the authority of Ibn ‘Abbās that Mu‘ādh (R.A) said:

The Messenger of Allah (S.A.W) sent me (as a governor of Yemen) and (at the time of departure) instructed me thus: You will soon find yourself among the people of the Book, so first call them to testify that there is none worthy of worship but Allah, that I (Muḥammad) am the Messenger of Allah, and if they accept this, then tell them Allah has enjoined upon them five prayers during the day and the night and if they accept it, then tell them that Allah has made *zakaat* obligatory for them that it should be collected from the rich and distributed among the poor, and if they agree to it do not pick up (as a share of *zakāt*) the best of their wealth. Beware of the supplication of the oppressed for there is no barrier between him and Allah.²⁵

Similarly, the evidence used by the majority is very clear and straight forward in its deduction whereas the evidence used by the Ḥanafīs is unclear. What was intended by the Prophet (S.A.W), when he said, ‘right of the neck and back’ is not clear, which makes it insufficient to prove the obligation of *zakāt* to be imposed on horses. According to the scholars of Usūl: “whenever a *Manṭūq* (the literal deduction) contradicts a *Maṣhūm* (the inferred deduction) the preference is given to the *Manṭūq*”.²⁶ The *ḥadīth* used by the majority is *Manṭūq*, thus it takes priority. With regard to the narrations about ‘Umar taking *zakāt* on horses, these narrations are either not authentic or they are authentic but what ‘Umar took was not *zakāt* that is similar to that of the livestock. It was either *zakāt* on merchandise if the horses were prepared for trading purposes, or what was given by the owner was only a normal voluntary charity that was not imposed by the *Sharī‘ah*. The following event confirms this assumption:

²⁵ Al-Bukhārī, *Ḥadīth* No. 1401.

²⁶ Āl Taimiyyah, *Al-Muswaddah* (Al-Qāhirah: al-Madani), 200.

Sulaimān ibn Yasār reported that the people of Shām requested from Abū ‘Ubaidah ibn al-Jarrāh (R.A) to take *ṣadaqah* from their horses and their slaves, he refused. When they talked to him again he wrote to ‘Umar ibn Al-Khaṭṭāb (May Allah be pleased with him) asking him about their request. ‘Umar replied, “If they wish you can accept it from them and give it back to them, use it to help the poor amongst them”.²⁷

It is clearly understood that by refusing to take *zakāt* from their horses and slaves, ‘Umar and Abū ‘Ubaidah knew that it was not obligatory to pay *zakāt* from them. This is because if *zakāt* is compulsory on the horses and slaves, ‘Umar and Abū ‘Ubaidah would never reject taking what Allah made mandatory upon the people. It is mentioned that the people kept on insisting that Abū ‘Ubaidah must take charity from it, Abū ‘Ubaidah also insisted that ‘Umar must ponder over the issue. ‘Umar then gathered people of authority and consulted them about the issue. From their deliberations they concluded that what the people of Shām wanted to do was a virtue, and thus it should not be rejected. It should be accepted with the condition that the charity must be taken and returned immediately to the poor of those people. This clearly shows that what was taken by ‘Umar was not *zakāt*.²⁸

One of the indicators of the weakness of the opinion that says *zakāt* is due on horses is that its proponents while supporting this opinion also say that the horses should be evaluated. This is against the *Sunnah* of *zakāt* on livestock. In the *zakāt* on livestock, the given portion is taken from them without making any form of evaluation. It should be noted that in *zakāt*, evaluation only takes place in merchandise and this is why the scholars mentioned that what was taken by ‘Umar is either *zakāt* on merchandise or it is not even *zakāt* but rather it is the general charity that is based on a person’s freedom and willingness to give whatever he wishes.²⁹

²⁷ Ibn ‘Abd Al-Barr, Yūsus ibn ‘Abd Allah, *Al-Istidhkar* (Beruit: Dār al-Kutub al-‘Ilmiyyah, 2000), 3:237-239.

²⁸ Ibid.

²⁹ Ibid.

Finally, even if it was agreed that what was taken by ‘Umar was *zakāt* and the narration about that is authentic, this narration contradicts an authentic *Sunnah* from the Prophet (S.A.W) concerning the case. It also contradicts narrations from other companions and it also contradicts other narrations from Umar himself.³⁰ The scholars mentioned that whenever a statement of a companion contradicts an authentic *Sunnah* from the Prophet (S.A.W) the *Sunnah* should be given preference over any narration from the companions. They also mentioned that if there are two opinions from the companions concerning an issue a student of knowledge should seek an external evidence to support one of the opinions.³¹ When this methodology is applied to this case the only opinion that is supported by external evidence taken from the *Sunnah* is the one held by the majority. Therefore, it is the only opinion that passes: *zakāt* is not obligatory on horses and slaves.

The Issue of Jewelry

It is a consensus of all of the scholars that *zakāt* is obligatory upon a Muslim who owns jewelry for the purpose of trading or renting. Similarly, they all agree that *zakāt* is obligatory on any jewelry that a Muslim is forbidden from using such as golden cups and plates. The controversy among the scholars lies in the case of jewelry that a woman owns for personal use for the sake of beautification. According to the majority of scholars this jewelry is not subject to *zakāt*. The evidence for this is a weak ḥadīth that says there is no *zakāt* on jewellery³². They also mentioned that it was the practice of at least five of the companions of the Prophet. These companions are ‘Āishah, ibn ‘Umar, Jābir, Asmā’ bint Abī Bakr and Anas ibn Mālik. However, if a woman has an unusual amount of jewelry that reaches a level of extravagance or keeps it as a treasure, she has to pay *zakāt*. On the contrary, Imām Abū Hanīfah and Ibn Ḥazm al-Zāhirī and many others, are of the opinion that *zakāt* is obligatory on women’s jewellery provided that they constitute *niṣāb*. The

³⁰ Ibid.

³¹ Ibid.

³² Al-Albānī, Muḥammad Naṣīr al-Dīn, *Ṣaḥīḥ al-Jāmi’ al-Ṣaḥīḥ* (Beirut: al-Maktab al-Islāmī, 1988), *Ḥadīth* No, 10374.

following is the evidence for this opinion which says *zakāt* is *wājib* (obligatory) upon a woman on her jewelry when it reaches the *niṣāb*. The saying of Allah (*interpretation of the meaning*):

And those who hoard up gold and silver (*Al-Kanz*: the money, the *zakāt* (obligatory charity) of which has not been paid) and spend them not in the way of Allah, announce to them a painful torment. “On the Day when that (*Al-Kanz*: money, gold and silver, the *zakāt* of which has not been paid) will be heated in the fire of Hell and with it will be branded their foreheads, their flanks, and their backs, (and it will be said to them) “This is the treasure which you hoarded for yourselves. Now taste of what you used to hoard”.³³

The companion Abd Allah ibn ‘Umar (R.A) gave the proper interpretation of this *āyah* which confirmed the deduction made from it. Khālīd ibn Aslam narrated that: We went out with ‘Abd Allah ibn ‘Umar and a Bedouin said (to ‘Abd Allah), “Tell me about Allah’s saying: And those who hoard up gold and silver (*Al-Kanz* - money, gold, silver etc., the *zakāt* of which has not been paid) and spend it not in the Way of Allah (V.9:34).” Ibn ‘Umar said, “Whoever hoarded them and did not pay the *zakāt* thereof, then woe to him. But these verses were revealed before the verses of *zakāt*. So, when the verses of *zakāt* were revealed, Allah made *zakāt* a purifier of the property”.³⁴ The ḥadīth of the Prophet (S.A.W):

It was narrated from ‘Amr ibn Shu‘aib, from his father, from his grandfather, that: a woman from among the people of Yemen came to the Messenger of Allah (S.A.W) with a daughter of hers, and on the daughter’s hand were two thick bangles of gold. He said: “Do you pay *zakāt* on these?” She said: “No.” He said: “Would it please you if Allah were to put two bangles of fire on

³³ Sūrah at-Tawbah Āyah, 34 and 35, Al-Hilālī, Muḥammad Taqī-ud-Dīn & Muḥammad Khān. *The Noble Qur’ān, English Translation of the Meaning and Commentary* (Saudi Arabia: King Fahd complex for the printing of the Holy Qur’ān, n.d.).

³⁴ Al-Bukhārī, *Ḥadīth* No: 1404.

you on the Day of Resurrection?” So, she took them off and gave them to the Messenger of Allah (S.A.W) and said: “They are for Allah and His Messenger”.³⁵

Another narration is the ḥadīth of Umm Salamah (R.A):

Narrated by Umm Salamah, Ummul Mu’minīn (R.A): I used to wear gold ornaments. I asked: Is that a treasure (*kanz*), Messenger of Allah? He replied: whatever reaches a quantity on which *zakāt* is payable is not a treasure (*kanz*) when the *zakāt* is paid”.³⁶

Another ḥadīth: Narrated ‘Abd Allah ibn Shaddād ibn Al Hād:

We entered upon ‘Āishah, wife of the Prophet (S.A.W). She said the Apostle of Allah (S.A.W) entered upon me and saw two silver rings in my hand. He asked, “What is this, ‘Āishah?” I said, “I have made two ornaments myself for you, Messenger of Allah (S.A.W)”. He asked, “Do you pay *zakāt* on them?” I said, “No” or I said, “Whatever Allah willed.” He said, “This is sufficient for you (to take you) to the Hell fire”.³⁷

Thus, this is the closest opinion to the truth based on this specific evidence that cannot be contradicted by other evidences that are inauthentic. There is no authentic ḥadīth attributed to the Prophet (S.A.W) saying that *zakāt* is not *wājib* upon jewelry. There are some authentic narrations attributed to some companions. But even these authentic narrations from some companions cannot be used to support the opinion that *zakāt* is not *wājib* on jewelry. This is because most of these authentic narrations from these companions contradict other narrations from the same companions saying different things. Secondly, their opinion contradicts those of other companions, and whenever this happens we have to look for an external evidence to favor one of the two opinions. Thirdly, whenever there is a

³⁵ Ibn Hajar, Aḥmad ibn ‘Aliyyu, *Bulūgh al-Marām* (Riyadh: Dār us-Salām), *Ḥadīth* No. 499.

³⁶ Ibid, *Ḥadīth* No. 500.

³⁷ Al-Baihaqī, Aḥmad ibn Al-Husain ibn ‘Ali ibn Mūsā, *Ma’rifatu al-Sunan wa al-āthār* (Beirut: Dār Qutaibah, 1991), 6:143.

contradiction between the saying of the Prophet and that of a companion, what is said by the Prophet (S.A.W) must take preference. Based on the above-mentioned evidences, the only opinion that can survive is that which confirms the obligation of *zakat* on jewelry. This important fact brings up the question of how is it possible for some people to pick up a weak opinion and base their criticism on it as if the consensus of the scholars was established upon the opinion they chose. Thus, it is really advisable that a sister, even if she decided to take the opinion that says no *zakāt* is due on jewellery, she should be on the safe side and give the *zakāt* of her jewellery upon reaching the *niṣāb*. It really is advisable that a Muslim should always remember the generality of the following ḥadīth which includes all types of gold and silver without exception.

Abū Hurairah reported Allah's Messenger (S.A.W) as saying: *If any owner of gold or silver does not pay what is due on him, when the Day of Resurrection comes, plates of fire will be beaten out for him; these would then be heated in the fire of Hell and his sides, his forehead and his back would be cauterized with them. Whenever these cool down, (the process is) repeated during a day the extent of which would be fifty thousand years, until judgment is pronounced among servants, and he sees whether his path is to take him to Paradise or to Hell.*³⁸

Zakāt on rented houses

One of the areas of conflict in this contemporary era is the issue of *zakāt* on rented houses and vehicles. In general houses could be classified into three categories: those bought for the purpose of personal utilization, those for the purpose of trading and those for leasing and renting purposes. There is no *zakāt* on houses bought for the purpose of personal utilization or living. Houses which are bought solely for the purpose of re-selling them will be liable to *zakāt* in the same way as merchandise goods (*'urūd at-tijārah*), because

³⁸ Muslim ibn al-Ḥajjāj, *Ṣaḥīḥ Muslim* (Riyadh: Dār al-Salām, 2000), *Ḥadīth* No. 2292.

they are also merchandise. The ḥadīth narrated by Samurah ibn Jundub says concerning the *zakāt* on merchandise: The Messenger of Allah (S.A.W) used to order us to pay the *sadaqah* (*zakāt*) on what we prepared for trade”.³⁹ *Zakāt* is due on the value of the houses as long as the other conditions of *zakāt* on goods are fulfilled.

In this contemporary era, huge investments are made in the form of houses, hotels, planes, ships, buildings, cars, etc., with the purpose of renting or leasing them out. This is one of the issues where the *ijtihād* of the contemporary scholars is apparent. The case, although it was not as prevalent as nowadays, also has a root in the past as it can be inferred from the ḥadīth. Generally, there are two main approaches on how *zakāt* should be paid on these types of items. The first approach is that *zakāt* is not due except on the value of the rental buildings, vehicles, planes and ships etc., which is in addition to their revenue. The *zakāt* due on these types of items according to this view is 2.5 percent of both the value and revenue. Basically, according to this opinion these items are nothing but *'urūd* (goods meant for sale), and this is a very weak approach as it will be seen later that there is a great difference between the two especially when it comes to the intention which has a great impact in determining a ruling. Thus, this approach is far from the reality, because none of those items possessed by their owners are meant for trading. The intention is to keep the corpus and rent the usufruct. The other approach is that which says *zakāt* is only due on the revenues earned by such possessions. But there is no consensus among the advocates of this opinion concerning the amount to be paid as *zakāt* out of the revenue generated from these possessions. Some said the revenue must be treated in the same way as *'urūd* (goods meant for sale) which is based on money or currency thus paying only 2.5% *zakāt*. On the other hand, there are some among the supporters of this approach (that *zakāt* is on the revenue) saying that the amount to be paid as *zakāt* is either 5 percent or 10 percent. They apply on it the ruling of *zakāt* on crops. This approach is also weak since it is based on inaccurate analysis as it will be seen later.

³⁹ Al-Shathrī, *Ḥadīth* No: 620.

Al-Qaraḍāwī's View on the Matter

Concerning this issue, a prominent Muslim scholar Shaikh Yūsuf Al-Qaraḍāwī states: If one builds or buys a building to rent it, then such building is not considered goods (*'urūd*). Therefore, *zakāt* is due on its revenues, not on its value. This is based on analogy with *zakāt* on the revenues of arable lands. As for the amount of *zakāt* due, is it 2.5 percent like the *zakāt* of money, 5 percent like the *zakāt* on lands irrigated by machines, or 10 percent of the revenue, after deducting the expenses and the like? In fact, all of these are possible. However, the opinion of 5 percent seems to be the most acceptable one. The first opinion (2.5 percent) is easier and more common among people, and it is somewhat passable. Anyway, a Muslim is to give the *zakāt* on these revenues once he receives them (monthly for example). He should not wait until the year passes. This is based on the general provisions of *Sharī'ah* and the analogy with crops, the ruling of which was mentioned in the verse (and pay the due thereof upon the harvest day) (Al-An'ām 6: 141).⁴⁰

Remark

A careful analysis of the argument made by Shaikh Yūsuf Al-Qaraḍāwī and the first two approaches shows that they are all weak since the basis of their conclusion is an analogy that has no justification. Analogy is not applicable here because *Sharī'ah* has provided a way to govern cases like this. Moreover, in all of those analogies made by the above-mentioned opinions, one of the main principles of *Qiyās* is missing. A legal *Qiyās* must contain four components or pillars, namely: the root, the branch, the underlying cause and the ruling derived from the root to be applied on the branch. Furthermore, the scholars stated that in *Qiyās* there should be no difference between the branch and the root in terms of the underlying cause.⁴¹ Merchandise are meant for trading, which means that the items sold are used as a medium of exchange. On the contrary the rented houses and rented vehicles are not used as a

⁴⁰ Al-Qaraḍāwī, 466- 482.

⁴¹ Ash-Shawkānī, Muḥammad in 'Alī ibn Muḥammad, *Irshād al-Fuḥūl ilā Tahqīqī al-Ḥaqqi min 'Ilmi al-Usūl* (Dimashq: Dār Al-Kitāb al-'Arabīyy: 1999), 2104-109.

medium of exchange and instead are mostly used to earn a living. That is why there is no transfer of ownership of the houses or the vehicles. Therefore, as previously mentioned *Qiyās* is not possible here.

Therefore, since *Qiyās* is not applicable here, there has to be another possible base for an acceptable ruling. The only possibility left is to analyse the issue from the root. Hence, we look at the items themselves to see whether or not they are subject to *zakāt*. When doing that it is clearly understood that there is no command whatsoever from the *nuṣūṣ* of *Sharī'ah* that these items under discussion are subject to *zakāt*. And if this is the case, the only reasonable conclusion to be made is that *zakāt* can neither be taken from them nor from their values. Additionally, since money is generated from them as revenue, it will be similar to what is known as *al-māl al-mustafād* (the benefited money) in some of its general definitions. Subsequently money is the product of these investment and rental activities, the focus now should only be on what *Sharī'ah* says about the *zakāt* of money. This is because this type of generated money is no different from the normal money that is subject to *zakāt*. *Zakāt* is taken from all types of money regardless of the means of its acquisition, whether it is from rentals, selling merchandise, earning a salary, etc. Therefore, the rental revenue has to be treated with the same rulings and conditions as in the case of gold which is the basis for the *zakāt* on currency. This means that *zakāt* is only taken from the revenue of these rented items, provided the revenue reaches the prescribed amount (*niṣāb*) and that amount or more remained under the possession and ownership of the owner for the period of a year without any form of decrease (from the prescribed amount).

An important remarkable point to be noted here is that the issue of wealth or right is very sensitive in Islam. The Prophet (S.A.W) said: "The wealth of a Muslim is not permissible except by his consent".⁴² Thus, *zakāt* should only be taken from the wealth of the believer based on a crystal-clear evidence that can justify the action of the authority by taking that part of his wealth as the right of those prescribed by the Al-Mighty. The evidence must be there with no doubt on its clarity or else the authority would be going against

⁴² Al-Albānī, *Ḥadīth* No. 7662.

the abovementioned text. Similarly, taking *zakāt* from the owners of the rented houses on a monthly basis (as suggested by Shaikh Yusuf al-Qaradāwī) is not justifiable according to the *nuṣūṣ* of *Sharī'ah*. This is because the analogy he made on the agricultural yield is not applicable here. This opinion assumes that the *zakāt* is on the arable land which is not correct, the *zakāt* being taken from the crops is *zakāt* on the crops themselves. The crops on the arable lands are not producing land or money, their outcome is crops and plants and the *zakāt* is taken from that outcome itself not from its value according to the *nuṣūṣ*. On the contrary, the rented houses generate an outcome of a different nature which is money and not houses. Therefore, since *Sharī'ah* has already prescribed the way to pay *zakāt* on money, there should not be any need for analogy. All that is needed is to refer to what is prescribed by the *Sharī'ah* about *zakāt* on money to find out the correct ruling.

In conclusion, *zakāt* is only obligatory on the revenue collected as rent for as long as it reaches *niṣāb* and a full year has passed from the time it was possessed by the owner of the wealth. And this is the opinion held by almost all of the scholars.⁴³ Allah knows best

The *Ḥawl* in *Zakāt* on Salaries

As mentioned in the previous section, the *zakāt* of currency or money has already been decided. *Niṣāb* and *ḥawl* are of the key conditions for the *zakāt* obligation. Based on their monthly salaries and their like are not different from any other money. Thus, the question of whether or not *zakāt* could be taken from salaries on a monthly basis is not applicable here. Concerning this matter, it imperative to quote Dr. Muhammad Arifin Badri in his response to a question raised about the payment of *zakāt* from salaries on a monthly basis. He said: *Zakāt* that is compulsory upon the rich has been explained clearly by the *Sharī'ah*. It being an act of worship means it doesn't accept any change or any sort of innovation except where a clear and unambiguous evidence supporting that change or innovation is established. The scholars have mentioned that the origin and the legal

⁴³ Al-Musnad, Muḥammad ibn 'Abd Al 'Azīz ibn 'Abd Allah, *Fatāwā Islāmiyyah* (Riyadh, Dār al-Waḍān, 1415), 2:80.

ruling concerning matters of worship (*ibādah*) is *tawaqquf* which means to wait until you are told to act. In due cause to this principle a Muslim should not perform an act unless if there is a crystal clear evidence to back it up, or else it will be rejected. The Prophet said that, “Whoever performs an act without our command, (it) is rejected”.⁴⁴ In another place he said: “whoever introduces an act in this affair of ours (religion) that which is not part of it, it will be rejected”.⁴⁵

Assuming if a person is to introduce a prayer which he makes obligatory other than the five daily prayers, or proposes that *fajr* should be made four *rak'āt* instead of two *rak'āt* or the testimony should be embedded with other words that according to him suit the improvement of man's lifestyle, or that the pilgrimage should be performed in every country (instead of Makkah) which will help in reducing the cost, or suggests that Ramadan should be distributed across the months of the year (instead of the full month of Ramadan), so as to ease the workload of manual labourers. Is there any Muslim who will listen or accept such an imbecile opinion? *Zakāt* as a pillar of Islam should be treated in this manner. A person who understands the nature of *zakāt* should reject the innovated opinion that it could be taken from salaries on a monthly basis. Moreover, it is a proven fact that the early generations starting from the companions of the Prophet to this contemporary era of ours never acknowledged this type of *zakāt* even though they did have the concept of a salary although it was recognized in a different name; al-‘*Atā*.’ The concept is exactly the same as what a salary or *rātīb* is in Arabic.⁴⁶

There are those who claim that the *zakāt* taken from salaries on a monthly basis is grounded on an analogy of the *zakāt* on agricultural yield. However, this analogy is unsubstantiated due to the fact that there is no link between the root and branch. Agriculture

⁴⁴ Muslim ibn al-Ḥajjāj, *Ṣaḥīḥ Muslim* (Riyadh: Dār al-Salām, 2000), *ḥadīth* no 3243.

⁴⁵ Al-Bukhārī, *ḥadīth* no 2499.

⁴⁶ Muhammad Arifin Baderi, “Is there any zakat taken one’s monthly salary,” Syariah, <http://syaria.com/324-is-there-any-zakat-taken-from-ones-monthly-salary-in-islam.html> (accessed on 17 April 2017).

and salaries are two different things. That is why the amount taken from them is also different: in the agricultural yield the amount taken from the *niṣāb* is 1/10 when it was watered by the rain without any effort or burden, and 1/20 if the irrigation is based on man's personal effort or hired labour. The takers of *zakāt* on monthly salaries take 2.5% and thus there is no match between the root and the branch. Salaries are money and the *zakāt* on money is already prescribed by the *Sharī'ah*, thus it is more appropriate to be equalled to *zakāt* of gold and silver.

The scholars of *ijtihād* of this contemporary era have made known their rejection of this type of *zakāt*. Ibn Baz: said when answering a question concerning the matter, "if the received wage is equal to *niṣāb* and a year has already passed over from the day it was received, the *zakāt* for such wage is compulsory. But if the wage is less than a *niṣāb* or has not completed a year or it has been spent before the completion of a year, there will be no *zakāt* obligatory on it." The permanent members' fatwa committee of the Kingdom of Saudi Arabia have also issued a similar fatwa regarding this matter, "As it is commonly known that gold and silver (currency) are *zakatable* properties. And among the necessary conditions to be fulfilled before *zakāt* is taken from them is the passage of a year from the date it was received. Therefore, based on this *zakāt* on salaries is not permissible unless if that salary was saved for a year and it has already reached *niṣāb* whether alone or together with other moneys from other sources. The analogy some are making with the agricultural yield is incorrect as it defies the requirement of the passage of a year from the time it was possessed (concerning the *zakāt* of money) as established by the texts of *Sharī'ah*. Thus there should not be any analogy at all concerning any part of its legal ruling. Based on that consideration *zakāt* is not compulsory on salaries of the employees unless if all the conditions set up by *Sharī'ah* to govern *zakāt* on money are fulfilled (*niṣāb* and *ḥawl*)".⁴⁷

To conclude, it should be said that *zakāt* of salaries on a monthly basis is groundless. Salaries are always given in a form of money and *zakāt* on money is already fixed and prescribed by the *Sharī'ah* which leaves no room for analogy.

⁴⁷ Muhammad Arifin Baderi, 2012.

Agricultural Yield (what is included and what is not?)

Agricultural yield is one of the categories in which large *zakāt* givers are involved especially people from the rural areas where agriculture and livestock are the main sources of income. The *Sunnah* of the Prophet (S.A.W) has given us the guidelines in which *zakāt* on this type of income should be based. The *Sunnah* said about the method:

‘Abd Allah ibn ‘Umar (R.A) narrated that the Prophet (S.A.W) said: “The tenth is due on whatsoever is watered from the sky (i.e rain) and springs, and half the tenth on what is irrigated by carried water”.⁴⁸

As for the *niṣāb*, it is also clearly prescribed and fixed by the Prophet (S.A.W) where he said:

Narrated by Abū Sa‘īd (R.A): Allah’s Apostle (S.A.W) said, “No *zakāt* is due on property mounting to less than five *Awāqin* (of silver), and no *zakāt* is due on less than five camels, and there is no *zakāt* on less than five *Awsuq*”.⁴⁹

In addition, there are certain restrictions made by the *Sharī‘ah* concerning the items that *zakāt* can be taken from. The purpose of this section is to provide clear information on this issue to remove any sort of doubt about the comprehensiveness of the *Sharī‘ah* in governing all issues of *zakāt*. It is also a fundamental purpose of this section to emphasize on the fact that whatever *Sharī‘ah* wanted to be included in the *zakāt* items is clearly mentioned in the *Sunnah* either directly or indirectly, and those that *Sharī‘ah* does not want to be included have been stated and defined by the scholars. Concerning what *zakāt* should be taken from, the *Sunnah* of the Prophet (S.A.W) stated the following:

“The tenth is due on whatsoever is watered from the sky (i.e rain) and springs, and half the tenth on what is irrigated by carried water”.⁵⁰

⁴⁸ Al-Mubārak Forī, Muḥammad ‘Abd Al-Raḥmān, *Tuḥfat al-Aḥwadhī bi Sharḥi Jāmi’ al-Tirmidhī* (Beirut: Dār al-Fikr), 291, *Ḥadīth* No. 634.

⁴⁹ Al-Bukhārī, *Ḥadīth* No. 1425.

⁵⁰ Al-Mubārak Forī, *Ḥadīth* No. 634.

This ḥadīth is very general which covers everything that grows on the ground including the grasses. But this generality is not intended, the *Sunnah* of the Prophet (S.A.W) confirms that the focus here is only on food, and it also takes out fruits and vegetables from being zakatable:

‘Alī ibn Abī Ṭālib (R.A) narrated that the Prophet (S.A.W) said: “There is no *zakāt* on *Khadrāwāt* (fruits and vegetables)”.⁵¹

The Prophet (S.A.w) also mentioned that *zakāt* is not due except on the following items:

Abū Mūsā Al-Ash‘arī and Mu‘ādh (R.A) narrated that The Messenger of Allah (S.A.W) said to them, “Do not take any *zakāt* except on these four crops: barley, wheat, raisins and dates”.⁵²

The above mentioned *nuṣūṣ* comprehensively cover all that is needed of principles to govern this type of *zakāt*. From these *nuṣūṣ* the type, nature, *niṣāb* and the type of crops exempted from *zakāt* are all clearly prescribed. The question that arises here is about the possibility of *ijtihād* based on an accepted *Qiyās* to include or to reduce some items. The vast majority of the scholars are of the opinion that the above-mentioned items act as principles to govern any agricultural produce that share a similar nature with them. Imām Abū Ḥanīfah believes as the majority save that according to him the *nuṣūṣ* are general to include whatever is planted by human beings. On the contrary, there is a view held by the minority, according to this view *zakāt* is only restricted to those agricultural produce mentioned by the *nuṣūṣ*. This is the opinion of the Imam Al-Hassan al-Baṣrī, Al-Hassan ibn Ṣaliḥ, Sufyān al-Thaurī, Al-Sha‘bī, ibn Sīrīn and narration from Imām Aḥmad (R.A). This opinion is closer to the truth than that of Imām Abū Ḥanīfah, this is because its evidence is more specific than that of Imām Abū Ḥanīfah.⁵³ The general

⁵¹ Al-Albānī, *Ḥadīth* No. 5411.

⁵² Al-Ḥākim, Muḥammad ibn ‘Abd Allah ibn Muḥammad, *Al-Mustadrak ‘alā aṣ-ṣaḥīḥayn* (Beirut: Dār al-kutub al-‘ilmiyyah, 1990), 1:558.

⁵³ Al-Amīr, Aṣ-ṣan‘ānī, Muḥammad ibn isma‘īl, *Subul as-Salām al-Muṣīlah ilā*

principle says: when a general contradicts a more specific, the preference is given to the specific.⁵⁴

Preference

As it can be seen from the above that the best and the closest opinion is that of the majority combined with the third opinion. According to this selected view fruits and vegetables (with the exception of dates and raisins) are exempted from *zakāt*. This is based on two reasons: The previous ḥadīth of ‘Ali ibn Abī Ṭālib which says that the Prophet (S.A.W) said: “There is no *zakāt* on *Khadrāwāt* (fruits and vegetables)”.⁵⁵ The ḥadīth of Abū Mūsā Al-Ash‘arī and Mu‘ādh (May Allah be pleased with them) narrated that The Messenger of Allah (S.A.W) said to them, “Do not take any *zakāt* except on these four crops: barley, wheat, raisins and dates”.⁵⁶ Furthermore the silent practice during the time of the Prophet (S.A.W) indicates that *zakāt* is not taken from everything.

Are Vegetables Modern Phenomena?

Some might say that the people during the Prophet’s (S.A.W) time did not grow these kinds of crops and this is also incorrect. The scholars mentioned that fruits and vegetables were there during the time of the Prophet (S.A.W) and the rightly guided caliphs, but there is no mention at all about *zakāt* being collected from them.⁵⁷ Furthermore, the following must be noted:

Firstly, the general legal maxim in Islamic jurisprudence says: “The one who negates the existence of something has to provide evidence for that negation”.⁵⁸ Thus, whoever claims that the people in Madīnah did not grow these types of crops must prove the claim. Secondly, the previous narration by ‘Alī ibn Abī Ṭālib and others

Bulugh al-Marām (Jeddah: Dār ibn Al-Jawzī, 1423), 4:35.

⁵⁴ Ibn al-Najjār, Muḥammad ibn Aḥmad, *Sharḥ al-Kaukab al-Munīr* (Al Madīnah al-Munawwarah: Maktabah al-‘Ubaikān, 1997), 3:382

⁵⁵ Al-Albānī, *Ḥadīth* No. 5411.

⁵⁶ Al-Shathrī, 2:87

⁵⁷ Al-Bahūtī, Manṣūr ibn Yūnus, 4:80.

⁵⁸ Al-Jayzānī, Muḥammad ibn Husain ibn Hasan, *Ma‘ālim usūl al-fiqh ‘inda ahl al-Sunnah wa al-Jamā‘ah* (Dār ibn Al-Jawzī, 1427), 214.

suggests their existence during that time with awareness of the Prophet and yet *zakāt* was not taken from them. Lastly, assuming that these types of crops were not in existence in the place where the Prophet (S.A.W) lived, nevertheless they did exist in neighboring areas such as Yemen. It is reported that Mu‘ādh ibn Jabal did not take *zakāt* from them.⁵⁹ This leaves no room for doubt that the Prophetic instruction on this type of agricultural produce is not to take *zakāt* from them.

Moreover, there are some who believe that *zakāt* should be taken from everything that comes out of the earth of plants and crops regardless of their type or nature. To address the issue the following point should be noted. From the produce that grows on the earth, the Prophet (S.A.W) exempted the taking of *zakāt* from *al-khaḍrawāt*. The word *al-khaḍrawāt* is general and includes all types of *khudār*. If they are to change the name of any type of vegetable from its literal contextual meaning evidence must be provided. Thus, the onus of proof is on anyone who claims exclusion of certain types of vegetables from this word. The only exception found in the *Sunnah* of the Prophet (S.A.W) is in the case of dates and raisins. The legal maxim under Islamic Jurisprudence which governs these kinds of situations is that: If a general text is affected by a specific ruling to the exemption of certain issues covered by the general ruling, whatsoever is not addressed by the specific will remain under the general. In our case the dates and raisins are excluded by the ḥadīth, therefore, anything other than the two will remain under the general ruling.

According to Islamic Jurisprudence an Arabic word used in a sentence is supposed to be understood literally. No diversion from its literal meaning is allowed without providing evidence for that. This is simply because the *Shari’ah* given to the Prophet is in the Arabic language. If *Allah* was to speak to the people using their language but with a different meaning, they would never understand, and this would be contradictory to the saying of Allah (*interpretation of the meaning*):

⁵⁹ Al-Shathrī, 2:87.

And truly, this (the Qur'ān) is a revelation from the Lord of the 'Ālamīn (mankind, jinn and all that exists), "Which the trustworthy Rūh [Jibrā'il (Gabriel)] has brought down "Upon your heart (O Muhammad [sal-Allahu 'alayhi wa sallam]) that you may be (one) of the warners, *In the plain Arabic language*.⁶⁰

It would have been a barrier between the Prophet (S.A.W) and the Arab non-Muslims when conveying the message to them, where he would have been speaking to them in a language they do not understand. Thus, *al-khaḍrawāt* must be understood literally, this means whatever is called *al-khaḍrawāt* is included in the ḥadīth. The meaning understood by the early generations especially the scholars among them clearly indicates that the word is general. The following are some reported interpretations for the word by the early scholars: the word *al-khaḍrawāt* in the ḥadīth is referring to 'Basils, legumes, cucumber, Armenian cucumber, watermelon, eggplant and their likeness. Yaḥyā ibn Ādam said: what is considered *Khaḍr* with us are pear, quince, peach, apple, fig, *Pyrus communis* (type of pear), apricot, pomegranate, cucumber, Armenian cucumber, buckthorn, carrot, banana, walnut, almond and their likeness.⁶¹ Al-Amir al-Yamānī said: *al-khaḍrawāt* are anything that are not naturally used as food by a people and are also not weighed.⁶² Concerning the issue of measure and weight, the *Sunnah* confirms that what should be used as the reference is what was used in the past during the time of the Prophet (S.A.W). 'Abd Allah ibn 'Umar narrated that:

The Prophet (S.A.W) said: (The standard) weight (to be used) is the weight of the people of Mecca, and the (standard) measure (to be used) is the measure of the people of Medina".⁶³

⁶⁰ Sūrah Al-Shu'arā'. āyah 192-195, *The Noble Qur'an*.

⁶¹ Al-Mubārak Forī, 'Ubaid Allah ibn Muhammad, *Mir'āt al-Mafātīḥ shar Mishkāt al-Maṣābīḥ* (India: Idārat al-Buḥūth al-'ilmiyyah wa al-Da'wah wa al-Ifā', 1984), 6:181

⁶² Ibid

⁶³ Abū Dāwūd, *ḥadīth* No: 3340

Careful observation of the above-mentioned interpretations by the scholars confirms that what the Prophet (S.A.W) said is based on the norm. This usage of the word depends on the literal definition of the word given by the Arabs. Furthermore, *al-khadrawāt* are those agricultural products that are universally agreed upon by the people of any given region to be given such a title. It is not easy to find all kinds of fruits and vegetables in one place. Thus, the Prophet (S.A.W) used a word that comprised whatever *'urf* of a people considered to be *Khadr*.⁶⁴

For this reason, the vast majority of scholars believe that making a logical conclusion with regards to this issue necessitates the usage of all the proofs that discuss this issue. ‘Aliyyu ibn al-Madīnī was reported to have said: “for a judgement to be accurate and errors to be detected, whatever is said about that issue must be combined”.⁶⁵ Thus, putting together whatever is narrated on this issue will force the reader to conclude that the best opinion is that of the majority of scholars. *Zakāt* is only *wājib* upon agricultural produce that are weighed foods and can also be kept and preserved for a very long period of time. This argument is applicable to all those plants, crops and trees (timber and others) that are not in line with the principles mentioned by the majority of scholars to govern this issue.

Alleged Negative Impact of the Preferred Opinion?

There are some contemporary scholars who say that if *zakāt* is not taken from these above-mentioned items then it will definitely lead to a great loss of wealth that is the right of the poor and needy from those who grew them.

In response to this claim, Shaikh Nāṣir said that the proponents of this belief always tend to have a very myopic point of view when

⁶⁴ This is one of uniqueness of the Prophet (S.A.W) that he is favored by Allah over the other Prophets. Abū Hurairah reported that the Messenger of Allah (S.A.W) said: I have been given superiority over the other Prophets in six respects: I have been given words which are concise but comprehensive in meaning; I have been helped by terror (in the hearts of enemies): spoils have been made lawful to me: the earth has been made for me clean and a place of worship; I have been sent to all mankind and the line of prophets is closed with me (Muslim Ḥadīth No. 523)

⁶⁵ Al-‘irāqī, ‘Abd Al-Raḥīm ibn al-ḥusain, *al-Taḥqīd wa al-ṭāḥ sharḥ muqaddimah ibn al-Ṣalāḥ* (Al-Madīnah Al-Munwarah: Al-Maktabat al-Salafiyah, 1969), 117.

studying the laws of Allah concerning *zakāt*. He says they need to expand their thinking within the limits provided by *Sharī'ah*. For example, the tea and rubber plantation farmers employ members of the community and thus preventing them from being poor and needy. Through their entrepreneurship activities they provide goods that can be traded in the economy and which can go through the value chain to increase their value. Thus, instead of focusing on modifying a system revealed and designed by Allah who has perfect knowledge of the unseen, He knows what was, what is and what will be, it is imperative that the system should be given a better chance (by the authorities) with proper supervision to function in the way it was before this contemporary era.

Is Honey Subject to Zakāt?

Honey is one of the most important divinely given medicines which is an effective cure for all types of illnesses. The Qur'ān says (*interpretation of the meaning*):

And your Lord inspired the bee, saying: "Take you habitations in the mountains and in the trees and in what they erect. Then, eat of all fruits, and follow the ways of your Lord made easy (for you). There comes forth from their bellies, a drink of varying colour wherein is healing for men. Verily, in this is indeed a sign for a people who think."⁶⁶

From this *āyah* and many *aḥādīth* from the *Sunnah* of the Prophet (S.A.W) it is understood that the main purpose of honey is to help in providing humankind with good health. Today there are a lot of honey bee farms owned by Muslims which produce large batches of honey. The question that arises here is whether or not *zakāt* is *wājib* on them. Some scholars are of the opinion that *zakāt* is to be paid on honey treating it as an agricultural produce. This is because honey is the result of what is taken by the bees from the flowers and fruits of the trees, and in addition, it carries the same nature as the *zakatable*

⁶⁶ Sūrah al-Naḥl, *āyah*, 68-69. *The Noble Qur'ān*.

seeds which are also weighted and can be kept for a long period of time.

However, on the contrary, the vast majority of scholars reject this view arguing that honey should be classified under merchandise goods when the honey is used as trading property and not agricultural produce.⁶⁷ Imām Al-Bukhārī said there is no authentic ḥadīth attributed to the Prophet (S.A.W) which declares *zakāt* to be taken from honey.⁶⁸ This statement is similar to that of Imām ibn al-Mundhir who also said there is no authentic ḥadīth or *ijmā'* on the issue of *zakāt* being imposed on honey thus, there is no *zakāt* on it.⁶⁹ Imām al-Shāf'ī also said, "My choice is not to take *zakāt* from it, this is simply because the narrations and *Sunan* on what *zakāt* should be taken from are firmly established, whereas with the *zakāt* on honey there is no authentic ḥadīth to establish it, and this makes it *afw* (an exemption)".⁷⁰

Therefore, the closest opinion to the truth and Allah knows best is that of the majority of which says *zakāt* should not be taken from honey unless if it is used as merchandise. However, a moderate opinion is discussed by Abū 'Ubaid al-Qāsim ibn Sallām, he said. "The closest approach to me in the issue of honey is to say that the owners of honey should be commanded and recommended to give some part of it as charity, it should be made disliked for them not to give the charity and they should be reminded that they might get sin if they hide it. But at the same time the charity should not be made obligatory upon them like it is obligatory upon the agricultural produce and livestock..... this is because there is no authentic *Sunnah* in the issue of honey as it is found with regard to the agriculture and the livestock..."⁷¹ Allah knows best.

⁶⁷ Sayyid Sābiq, *Fiqh al-Sunnah* (Beirut: Mu'assasat al-Risālah, 2002), 335.

⁶⁸ Al-Baihaqī, Ahmad ibn Al-Husain ibn Ali ibn Musa, *Ma'rifatu al-Sunan wa al-Athar* (Beirut: Dār Qūtaibah, 1991), 6:143.

⁶⁹ Ibid.

⁷⁰ Sayyid Sābiq, 335.

⁷¹ Abū 'Ubaidah, al-Qāsim ibn Sallām, *al-Amwāl* (Beirut: Dār al-Shurūq, 1989), 606.

Conclusion

The *Sharī'ah* has provided everything in detail without exception and this is the main benefit intended by the writers as stated above. The only thing left for a person to do is understanding those texts of the *Sharī'ah* from the scholars who are well versed in the principles of *Ijtihād*. They have certain differences in terms of understanding certain aspects/issues of *zakāt*. This has led to unresolved controversies among them up to the moment of compiling this paper. The compilers of this paper have looked into some of those controversies concerning *zakāt* within the context of the statement of ibn al-Madīnī (refer to the introduction). After careful observation on the issue of *zakāt* the writers of this paper concluded that the only way to resolve these controversies is the application of the principle mentioned by ibn al-Madīnī. This will never be possible unless if a person has strapped himself with taqwa that will lead him to conduct a non-bias analysis on those unresolved issues. However, to do that requires knowledge and a person to be well versed in the Qur'an and *Sunnah* of the Prophet (S.A.W). He also needs to be well versed in the science of Islamic Jurisprudence as well as the Arabic language. Participating in *ijtihād* by those who are unqualified to make *ijtihād* usually leads to violation of *nuṣūṣ* and taking people's wealth without their mutual consent or any other legal justification. The Qur'an says: "O you who believe! Eat not up your property among yourselves unjustly except it be a trade amongst you, by mutual consent. And do not kill yourselves (nor kill one another). Surely, Allah is Most Merciful to you".⁷² The Prophet (S.A.W) said "It is not permissible except by his consent".⁷³ This clearly shows that nobody is allowed to collect *zakāt* on things that *Sharī'ah* does not command him to take *zakāt* from. The Prophet (S.A.W) told Mu'ādh when he sent him to Yemen, "if they accept it (the five daily prayers), then tell them that Allah has made *zakaat* obligatory for them that it should be collected from the rich and distributed among the poor, and if they agree to it do not pick up (as a share of *zakāt*) the best of their wealth. Beware of the supplication of the oppressed for there is no barrier between him and

⁷² Sūrah al-Nisā', āyah: 29, *The Noble Qur'an*.

⁷³ Al-Albānī, *Ḥadīth* No. 7662.

Allah.⁷⁴ In another occasion he (S.A.W) told both Abū Mūsā Al-Ash‘arī and Mu‘ādh (R.A) when he sent them to Yemen “Do not take any *zakāt* except on these four crops: barley, wheat, raisins and dates”.⁷⁵ With all of this strictness and the restrictions by the *Sharī‘ah* how is it possible for someone who believes in the hereafter and accountability on that Day to get involved in *Sharī‘ah* matters without being qualified to do that? This is one of the main reasons why it is not easy to reach a conclusion in several issues these days because people are getting involved in *Sharī‘ah* matters without being qualified to do so. The Qur’an says: “And follow not (O man, i.e., say not or do not or witness not) that of which you have no knowledge. Verily, the hearing, and the sight, and the heart of each of those ones will be questioned (by *Allah*).⁷⁶

⁷⁴ Al-Bukhārī, *Hadīth* No. 1401.

⁷⁵ Al-Shathrī, 2:87.

⁷⁶ Sūrah al-Isrā’, *āyah*: 36, *The Noble Qur’ān*.

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