

Sharia Implementation in Northern Nigeria Over 15 Years.

Policy Brief No.3

Zakat & Waqf



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Introduction

The return of Nigeria to democratic governance on May 29, 1999, re-invigorated the agitation for the re-introduction and implementation of sharia (Islamic legal system) in most of the states in northern Nigeria. Twelve states (Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Yobe and Zamfara) have so far adopted the sharia legal system and established certain key institutions such as sharia commission; the *da'awah* committee; the *hisbah* group; the *zakat* and *waqf* [endowment] bodies, to support the smooth implementation of the sharia. But for Gombe state, all the other sharia implementing states have established a zakat and endowment institution.

Fifteen years after the first state (Zamfara) declared sharia and established the *Zakat* and Endowment Board to administer the collection, distribution and management of zakat and endowment funds, the questions that arise are: what legal framework regulates the administration of zakat and management of endowments? Are the institutions responsible for the administration of zakat and management of endowments functioning? What are the processes for the collection, distribution and management of zakat and endowment? Has zakat and endowments serve its intended purpose of engendering social and economic justice? What are the challenges facing the administration of *zakat* and management of *waqf*?

Research Method

This report is based on evidence collected from interviews, focus group discussions, participant observation and other relevant documentary sources obtained from the various *zakat* and *waqf* institutions. The interviewees and participants in the FGD were drawn from past and present officials of the *zakat* institutions, officials of the Ministry of Religious Affairs (MORA), Federation of Muslim Women Association of Nigeria (FOMWAN) and some beneficiaries. The data obtained was qualitatively analyzed using the comparative method of drawing out similarities and differences as well as establishing key patterns.

Locating Zakat and Waqf in Islam

The meaning of the word Zakat is literally to purify, in other words to purify the wealth of the rich by taking out a portion of it that really does not belong to them because it belongs to the poor. As the verse of the Qur'an (Q9:103) declares, clearly here is a command to those in authority, to Take! This suggests enforcement by authorities, which in our day and age means a legislation, which has been passed by parliament. To cleanse the wealth of the rich, would appear to project the moral dimension, in other words the rich are persuaded that for their wealth to be legitimately theirs, it has to first be relieved of the portion of the poor.

1. Based on Usman Bugaje & Danladi Ali, 2016, 'The Administration of Zakat and Management of Waqf in the Sharia Implementing States 1999-2015', Report for NSRP/dRPC/NRN Research Project on Sharia Implementation Over 15 Years.

In other words to acquire a substantial amount of wealth and to consume it alone without giving out a portion to the poor is to consume an impurity, which is morally toxic. These are strong metaphors for what today is referred to as ‘corporate social responsibility’. In other words the *sharia* uses both moral persuasion and legal enforcement to extract the poor due.

There are three other verses of the Holy Quran (Q59:6-8) which give further clarification on the objectives of *zakat*. These three consecutive verses, each reinforcing the other, further underscore the moral leverage and delineate the breadth of social and economic justice in Islam. The objective would appear to be **not only** to meet the **basic needs** of the poor, who come in different shapes and forms, as refugees, as peasants, as indigents, **but also a redistribution of wealth**, in the words of the Qur’an “so that it (wealth) does not circulate among the rich only.” This raises an issue of whether *zakat* should be collected and distributed without any cognizance to the depth of poverty or the peculiar needs of the community or *zakat* should be an instrument of providing social protection and creating a welfare provision that mitigates the gap between the rich and poor in society. It is only when the objective is clear that both the collection and distribution can be targeted and purposeful.

Box 1: Zakat

‘The objective would appear to be **not only** to meet the **basic needs** of the poor,... **but also a redistribution of wealth**, in the words of the Qur’an “so that it (wealth) does not circulate among the rich only.” This raises an issue of whether *zakat* should be collected and distributed without any cognizance to the depth of poverty or the peculiar needs of the community’

This argument needs restating. The objective is to raise the purposefulness and conscientiousness of the current collection and distribution of *zakat*. Since *zakat* is a definite portion, often percentage of the total zakatable wealth, the first step in collection is to establish the value of the zakatable wealth. This is not done, as far as our filed work has been able to establish. Equally important, there is no idea of either the level of poverty to be alleviated or the quantity of the poor in the community. In other words there is no data on the basis of which collection is done or for distribution either. Reading the texts one senses a clear objective but looking at the practice one sees a clear disconnect. For if *zakat* on rain-fed farm produce is 10% it would mean that we have to establish the quantity of the produce for which 10% would be the *zakat* to be collected.

Box 2: Obstacles to Proper Zakat management

- Difficulty in establishing the value of the zakatable wealth.
- No idea of either the level or intensity of poverty to be alleviated.
- Lack of knowledge on the numbers of the poor in the community.

It would appear that there was some basis for collection in the Sokoto Caliphate and this practice had continued through the colonial period. Going through the archives there are records, which showed that, in every village the quantity of agricultural produce at harvest is recorded, meticulously and sent to the district head, who would then passed it to the office of the Resident. The record for Wammako about 9 miles west of Sokoto showed how many bundles of sorghum or corn each



household produced [N.A. 1/1910 Provincial Correspondence Jacket – Sokoto Province]. Even visitors who are on transit and given land on loan to farm are documented. If nothing else this established what every household makes and makes the *zakat* not only fairly accurate but also allowed the community to know what to expect on a normal rainy season. It is not clear from the document at hand if this allows the community to match collection with needs of the poor in the community. Further research may be able to establish this.

Waqf, also called *hubs*, (Hausa, *hubusi*) on the other hand is similar but different. The similarity is that they belong to same genus of instruments of social protection and social peace. The difference is that *waqf*, unlike *zakat*, is a species, which is voluntary and unspecified in quantum. Abubakar, the first Caliph after the Prophet Muhammad drove this point home when he fought those who, on the demise of the Prophet, refused to pay *zakat*. While *zakat* has been mentioned in name in the Qur'an,

waqf is not, even as the exhortations for *waqf* in the Qur'an are no less powerful. Umar, the second Caliph showed the way by giving out his land for the purpose of *waqf*. There are many of such exhortations, but the oft-quoted one is where the Qur'an says: "It is not righteousness that you turn your faces ... " (Qur'an 2:177).

These exhortations rhyme with and reinforce those of the *zakat* and together provide the social protection and guarantee the social peace in society. It is important to note that as for *zakat* so for *waqf*, both envisage a plural society.

In Muslim history, *waqf* has been more powerful than *zakat* in building institutions. Many of the universities like Qayrawan in Morocco, Sankore in Timbuktu, Azhar in Cairo, etc., where started and sustained to this day with *waqf*. Many modern universities of Turkey today are products of *waqf*. While it may not be as accurate or as clear-cut as the *zakat* there are rules and regulations for *waqf*, which have evolved over time and there is a huge quantity of literature, with prominent jurist like

Ibn Qasim, Ibn Rushd, Shaykh Khalil, etc., on the subject. In the field we found very poor understanding and therefore attention paid to this important instrument of development. The collection from *waqf*, compared to *zakat*, was next to nothing. The potential for *waqf* is great, for it seemed to have been designed to build institutions like schools and hospitals. Many Muslim communities in many Muslim countries have used *waqf* to do this. It may be necessary to probe further why exactly this potential of *waqf* is under-utilized.

Box 3: *Waqf* or *hubs* (Hausa: *Hubuṣi*)

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Key Findings

Box 4: Key Aspects of Zakat in northern Nigeria after 1999

- Legal Framework: Not all the sharia implementing states have state-backed zakat law.
- Nature of Zakat Infrastructure: The nature of zakat infrastructures is not uniform in all the states. Some states adopt the emirate structure in collection and distribution while others adopt the LG structures.
- Nature of Zakat Obligation: In some states zakat obligation is compulsory while in others it is voluntary.
- Zakat Collection Processes: The system of zakat collection is robust in some states and weak in others.
- Zakat Distribution Procedures: Those who benefit from zakat are within the categories mentioned in the Holy Qur'an. However most of the states prioritized the poor and the needy. The amount distributed as zakat ranges from one thousand naira (N1000.00) to twenty five thousand naira (N25,000.00). The problem is that the amount to be distributed is arbitrarily fixed. There is no idea of either the level of poverty to be alleviated or the quantity of the poor in the community.
- Issues of Transparency and Accountability: Some states have a fairly elaborate system of record-keeping on the collection and distribution of *zakat* and *waqf*. Other publish annual reports and regular periodicals on every major distribution. Despite these measures, there is still a huge gulf of trust.

- **Issues of Inclusivity:** While women constitute the majority of beneficiaries of zakat distribution, they are not adequately mobilized in the process of collection. There is also the absence of women completely in the zakat infrastructures across the states. In all the states, there appears not to be discrimination on the beneficiaries of zakat and endowments proceeds.

In Kaduna state, the list of patients who benefited from zakat distribution at the general hospital Kafanchan included Muslims and Christians. Only in Sokoto state has the zakat committee received a donation from a Christian who donated about two million naira and a truckload of food items in 2014.

Legal Framework:

Not all the sharia implementing states have state-backed zakat law regulating the administration of zakat and management of waqf. For example only eight states (Bauchi, Borno, Jigawa, Kano, Kebbi, Niger, Yobe and Zamfara) out of the twelve sharia implementing states have zakat legislations. The other four states (Gombe, Kaduna, Katsina and Sokoto) are yet to enact any state legislation. Two of these four states (Kaduna and Sokoto) in the absence of a written law, rely on universal principles of zakat administration in the execution of their mandate. Katsina state Zakat Trust Fund has a Constitution which is registered with the Corporate Affairs Commission (CAC) and it is presently, just like Sokoto state, in the process

of enacting state law. The absence of legislation posed serious challenge of institutionalization of the zakat infrastructure. The implication is that the institutions exist as a stop-gap measure to fulfill certain political gains which can be done away with at will.

Nature of Zakat Infrastructure:

The nature of zakat infrastructures is not uniform in all the states under study. Some states like Bauchi, Jigawa, Niger, Sokoto and Zamfara adopt the emirate structure in collection and distribution while states like Borno, Kaduna, Kano, Katsina, Kebbi, and Yobe adopt the LG structures. Also the zakat infrastructures differs in terms of level of decentralization. Some are more decentralized than others - Jigawa state has a more decentralized system to the extent that they do not report to any central state authority, which is not the case with all the other agencies in other States. In terms of activities, there are also substantial variations – the zakat infrastructures are active in some state while they are not in others. Based on the quantum of zakat collection by states, the emirate institution has proved to be comparatively more effective platform for local collection and distribution of *zakat* and *waqf*. Those states with the highest zakat collection rates (Jigawa (Dutse), Zamfara, and Sokoto) rely on the emirate institution for local coordination and mobilization. However, the diverse nature of the zakat infrastructure is responding to local and circumstantial imperatives, which should not be ignored. For example, the emirate system has long established grassroots network of appeal and could easily fall back to that for mobilization and coordination. It is important to note that in Borno the infrastructure only exist in the law as no institution was ever constituted to administered zakat collection. Yobe is slightly different; the Committee operates within the Yobe State bureaucracy.

Nature of Zakat Obligation:

The nature of zakat obligation as defined by state zakat laws varies from state to state. In some states zakat obligation is compulsory while in others it is voluntary. In the states where zakat is compulsory their laws made provision for enforcement clauses against defaulters and failure to pay comes with judicial consequences. These states with such enforcement mechanism include Bauchi, Jigawa, Niger and Zamfara. However, none of these states have practically enforced the collection of zakat as a compulsory obligation.

There is therefore, some kind of muddling through which allows the institutions not to observe the letters of the laws in respect to enforcement. The claim by Dutse Emirate Zakat Committee of carrying out enforcement has not been independently verified. Some of the challenges hampering the implementation of the enforcement clauses include: the need to allow the people to imbibe the new culture of institutional administration of *zakat*; lack of adequate institutional capacity to initiate prosecution; and most of the culprits may turn out to be political leaders'; etc. While there are strong arguments for making *zakat* payment a compulsory obligation, available evidence from states shows otherwise.

Zakat Collection Processes:

The system of zakat collection is robust in some states and weak in others. States and entities with robust arrangements include; Dutse Emirate, Zamfara, Sokoto, Bauchi, Kano, and Niger. Dutse Emirate Committee and the Zamfara state Zakat and Endowment Board are clearly in the lead in terms of the quantum of collection. Kebbi, Bauchi, Sokoto, and Kano states have also recorded modest achievement in what they were able to collect. But despite this modest collection, the committees have not

been able to meet their expected estimation. The challenge is multifaceted. First, it is still difficult transiting from individual to institutional administration of zakat. Majority of eligible zakat payer still pay their zakat directly to beneficiaries or through their local Mallams. This process lacks accountability and the essence of zakat are not served. Second, determining what is due for zakat is left to the discretion of the payer.

This is despite legal provisions defining the percentage share of all zakatable items. To raise the purposefulness and conscientiousness of the current collection and distribution of zakat, diligent assessment of the value of the zakatable wealth must be a necessary precondition for determining what zakat is due for collection. This is often not done.

Zakat Distribution Procedures:

Zakat collected at each level is distributed within the same locality except Niger, where two third is remitted to the state headquarters.

Those who benefit from zakat are within the categories mentioned in the Holy Qur'an – the poor (Fuqara), needy (Masakin), collectors of zakah (amilina allaiha), inclined heart (Mualafatul qulub), to free Slave (Riqab), the debtors (Gharimin), in the cause of Allah (fissabilillah) and the Wayfarer (Ibn Sabil).

However most of the states prioritized the poor and the needy and in actual sense, debtors, slaves, and the Wayfarer for all intent and purpose fall within the poor and the needy. Not all the states subscribed to Amilina Alaiha – Sokoto is an example. The amount distributed as zakat ranges from one thousand naira (N1000.00) to twenty five thousand naira (N25,000.00). The problem is that the amount to be distributed is arbitrarily fixed.

There is no idea of either the level of poverty to

be alleviated or the quantity of the poor in the community.

The Dutse Committee carried out quantification of the number of poor within the Emirate in 2000 and that data has not been reviewed to meet current realities. In other words there is no data on the basis of which collection is done or for distribution either.

Issues of Transparency and Accountability:

Some states, (such as Dutse, Zamfara, Sokoto, Bauchi, Kebbi, and Kano) have a fairly elaborate system of record-keeping that provide general information on the collection and distribution of *zakat* and *waqf*. Other steps taken by the zakat institutions include publication of annual reports and in the case of Sokoto State Zakat and Endowment Committee, regular periodicals on every major distribution. Despite these measures, there is still a huge gulf of trust especially when one considers the number of eligible zakat payer who pays through the institution.

Issues of Inclusivity:

In all the states under review both male and female strive to fulfill Allah's command by paying their zakat. It is however observed that while women constitute the majority of beneficiaries of zakat distribution in majority of the states, they are not adequately mobilized in the process of collection. This may be due partly, by the absence of women completely in the zakat infrastructures across the states. Only Kano state has had a female representation in the past. The other aspect of inclusion has to do with the religious dynamics of the zakat and endowment beneficiaries. In all the states, while there appears not to be discrimination on the beneficiaries of zakat and endowments proceeds, only Sokoto state has received donation from a Christian.

In Sokoto, a non-Muslim donated about two million naira and a truckload of food items to the zakat and endowment committee in 2014. In Kaduna state, the list of patients who benefited from zakat distribution at the general hospital Kafanchan included Muslims and Christians.



Policy Recommendations

Box 5: Why support zakat?

Social Protection- New Thinking, New Direction:

Today when societies are decomposing for the dearth of social protection and governments world over are failing to address the growing poverty, we need to look inwards to create self-sustaining models of social protection. The alternative is to ignore this decomposition and continue to generate large army of dispossessed people who will continue to threaten both local and global security. As Amartya Sen would say, “If we continue to leave the vast section of the people of the world outside the orbit of education, we make the world not only less just but also less secure.” Some would prefer the less subtle words of James Baldwin, “the most dangerous person in any society is someone who has nothing more to lose” (in his book, ‘*The Fire Next Time*”).

1. Training

There is a dearth of knowledge on the philosophy and objective of the *zakat* and *waqf*. It appeared to be lost on many of the managers of the *zakat* institutions that while it is indeed a religious duty, it has clear objectives and therefore need clear targets set and some monitoring and evaluation. Admittedly these are modern techniques but we are operating in modern times too and there is no escaping our age and times. So our universities, with their departments of Islamic studies and centers for Islamic legal studies along with departments of public administration and management should design and teach courses on *zakat* administration and management.

2. Research

The fieldwork has revealed the huge areas of research in this field. A survey of the knowledge gap of the managers / administrators of *zakat* and *waqf* will help inform the colleges and universities to formulate appropriate curriculum for the training suggested above. There is also the area of the measurement of poverty levels in communities, this may be household surveys or other appropriate parameters to establish needs in the community, so that *zakat* collection and distribution is no longer done blindly, but is informed by relevant data and targets set. There are also institutions that measure poverty levels – such as the National Bureau of Statistics in Abuja and Oxford University’s OPHI - which can be called upon for assistance. Furthermore, there are lots of records in the archives and as Philips Ostien’s (2010) volumes have also shown, there is the need to have a better understanding of how

the *zakat* was collected and distributed in the pre-colonial and colonial periods. These are few examples of a range of relevant areas of research.

3. **Conference of Experts**

There are a host of issues that require to be revised by scholars and experts to re-invent *zakat* and *waqf* to meet the needs of our contemporary societies. The list of zakatable wealth is one of them. Should we continue to rely on a list prepared by *ulama'* over some ten or more centuries ago? What roles can modern technologies play in the assessment, collection, and distribution of *zakat*? Shouldn't we revisit the quantum prescribed in the light of meeting the needs for the social security of the community? Should we not distribute *zakat* to eliminate poverty rather than keep a permanent body of people living on the edges of life always there to collect *zakat*? We need the *ulama* and experts in economy and management to review these and many similar issues. The society has so evolved and transformed and so are the needs. The conference will also serve as avenues for sharing knowledge and best practices around the world.

4. **Advocacy Groups**

There is a huge space for advocacy to mobilize support both within the public and private sector to understand the role and advantage of *zakat* and *waqf* in addressing social security. This task can be taken up by the civil society organizations, which can also monitor the distribution and management of *zakat* which so far, nobody does. These *zakat* CSOs can or should maintain websites that keep data on the various *zakat* and *waqf* institutions and processes to make the sharing of knowledge easier and faster.

5. **Building Trust**

It is obvious that the dearth of trust negatively affects the volume of collection for both *zakat* and *waqf*. It is a constant refrain that if only officials are honest more people will be willing to give out *zakat* and *waqf*. Honesty is difficult to measure, luckily transparency and accountability is not. People in countries where institutions work are not any more honest than people in countries like Nigeria, rather where institutions work there are strong institutional checks that make it difficult to be dishonest and which provide for heavy penalties in case of any breach. What we require therefore is not a moral crusade for some honest people from God knows where, but rather, the institutionalization of measures and processes for transparency and accountability in the management of *zakat* and *waqf*. The building of robust and transparent institutions will elicit trust and improve the collection, distribution, and effectiveness of *zakat* and *hubusi*.

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This brief is based on a study conducted for the Nigeria Stability and Reconciliation Programme (NSRP) by the development, Research and Projects Centre, Kano (dRPC) and Nigeria Research Network (NRN).

NSRP is managed by the British Council, International Alert and Social Development Direct (SDD) and funded by the UK Department for International Development (DFID).

Views expressed are those of the authors.

This research work was made possible by the following



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