

**THE MANAGEMENT OF ZAKAT INSTITUTIONS IN MALAYSIA**

*Asmah Abdul Aziz, Accounting Research Institute & Faculty of Accountancy, Universiti Teknologi MARA, Malaysia, asmah030@salam.uitm.edu.my*

*Muslimah Mohd Jamil, Accounting Research Institute & Faculty of Accountancy, Universiti Teknologi MARA, Malaysia*

*Huzaimah Ismail, Centre of Islamic Thought, Universiti Teknologi MARA, Malaysia*

*Nafisiah Abdul Rahman, Centre of Islamic Thought, Universiti Teknologi MARA, Malaysia*

**ABSTRACT**

The establishment of zakat institutions is a practice of the Prophet Muhammad PBUH. This is a sunnah amaliyah. The history proved that the establishment of the zakat institutions had benefited the society when there is no zakat recipient during that era. Malaysian government had taken proactive action by establishing legislation and well-structured organizations. Thus, this paper explained the practice that had been implemented in Malaysia. With the establishment of *zakat* institutions, the concept of "Wakalah" is applied. The legal meaning is a contract made when a competent person authorizes another to perform the legal action on his behalf. Here, *zakat* institution is considered as a person that has been appointed to execute *zakat* distribution on behalf of the *zakat* payer. *Zakat* fund needs to be classified under separate fund and it cannot be included into consolidated fund. In conjunction with that, *zakat* received cannot be considered as the government revenue in preparing annual financial statements (Government of Malaysia, 1957). The three classifications of the state *zakat* institutions are: firstly, the collection and distribution of zakat is under the sub division of SIRC or independent government body. Secondly, segregation of the collection and distribution zakat centers and lastly, corporate collection and distribution zakat centre.

**Keywords:** *Zakat, Federal Constitution, Financial Procedure Act 1957, Wakalah, Malaysia*

## Introduction

*Zakat* plays a vital role for the Muslims. Allah S.W.T has emphasized on the importance of *zakat* payment where *zakat* has been mentioned 82 times in the Koran together with prayers (Abu Bakar, 2007; Nik Hassan, 2009; Qardawi, Hukum Zakat , 2010; Saleem, 2007). Literally, *zakat* can be defined by two literal meanings; purification and growth.

Purification is the cleansing process of the heart for *zakat* recipients and *zakat* payers. It eliminates the feeling of envy and hatred among individuals in the society since *zakat* practice can also assist in removing the feeling of egoism. *Zakat* too prepares Muslims to be ever ready in forfeiting their wealth for the sake of Allah (Shad, 1986 as cited in Samad & Glenn, 2010; Abu Bakar, 2007; Nik Hassan, 2009; Qardawi, 2010).

The second literal meaning is growth or fertility where *zakat* recipients are able to utilize the *zakat* funds in achieving economic stability (Al-Qaradawi, 1973 as cited in Samad & Glenn, 2010 ; Nik Hassan, 2009; Qardawi, 2010). In addition, *zakat* can be defined as an amount of wealth that Allah necessitates to be paid to the eligible person from fiqhi point of views (Qardawi, Hukum Zakat, 2010).

Samad and Glenn, 2010, affirmed that *zakat* payment is derived from four main objectives. The first objective is the elimination of poverty and the sustenance of socioeconomic justice. The second objective is preventing people from envy. The third objective is to cleanse the wealth of the payers and abolish stinginess. The last objective is to keep the faith on Allah's bounties. Thus, *zakat* gives significant impacts towards the development of economy and nation.

*Zakat* also plays important roles in developing ethical community. This is because *zakat* can empower and enhance human resource development (Choudhury & Silvia, 2006). The recipients of *zakat* can utilize the money in building their careers. Consequently, unlawful actions such as adultery and crimes can be abolished when people have means to generate income. Due to this, *zakat* institutions need to have an effective and efficient delivering system.

### ***Zakat* institutions and role of wakalah.**

*Zakat* is executable after fulfillment of *zakat* criteria even if it had been done without the intervention of *zakat* institution. A question arises here on the purpose of the establishment of *zakat* institution. The easy answer would be that Prophet Muhammad PBUH had practiced it. This is *sunnah amaliyah* where we must follow the practices of the Messenger of Allah (Qardawi, 2010).

The Islamic history showed the development of *zakat* institutions from the era of Prophet Muhammad PBUH until the *Umayyad* and *Abbaside Dynasty*. After the *Hijra* i.e. the journey where the Prophet Muhammad PBUH migrated to Medina, the administration of *zakat* had been organized centrally where *zakat* institutions were established at the state level. There were formal appointments

on *zakat* collectors as well as the introduction of record keepers (Samad & Glenn, 2010; Qardawi, 2010).

After the death of Prophet Muhammad PBUH, the four Caliphs namely Caliph *Abu Bakr*, Caliph *Umar*, Caliph *Uthman* and Caliph *Ali* did not make major changes in the basic *zakat* rules. Basic *zakat* rules are *nisab*, the group of recipients and *zakat* distributions. However, they made some adjustments on the ruling of *zakat*. It is because there were changed due to current economic activities. For example, Caliph *Umar al Khattab* introduced *zakat* on trade merchandise since the trading activities were prime activities in that era. In later years, Caliph *Uthman* introduced the classification of wealth. The wealth was classified into two categories, which are visible wealth (*Maa'l Zahira*) and invisible wealth (*Maa'l Baten*). These two categories have different rates. They are the new types of wealth that are subjected to *zakat* like horses, sea product and honey cultivation since that industries became the prime economic activities (Samad & Glenn, 2010).

During the *Umayyad* and *Abasside* period, the development of *zakat* had achieved its objectives. It is because they had excess of *zakat* proceeds in the *zakah* treasury. In the North Africa, there were no *zakat* recipients eligible to receive *zakat* distribution under the Islamic civilization. The *zakat* funds had then, been transferred to the central government office (Samad & Glenn, 2010).

With the establishment of *zakat* institutions, the concept of "Wakalah" is applied. *Wakalah* refers to the concept of delegation of task to the third party. Literal meaning of *wakalah* according to the fiqh scholars is protection, delegation, authorization (Saleem, 2007) and preservation (Al-Zuhayli, 2002) while the legal meaning is a contract made when a competent person authorizes another to perform the legal action on his behalf (Saleem, 2007; Al-Zuhayli, 2002). Here, *zakat* institution is considered as a person that has been appointed to execute *zakat* distribution on behalf of the *zakat* payer.

However, five conditions need to be observed prior to this transfer process. The first condition is on the principal i.e. *zakat* payer. The *zakat* payer should possess the property, and have the power and competence to execute the task. He is prohibited to transfer loan or rental property in which he did not have any right to transfer it even though he owns half of the ownership of the item (Al-Zuhayli, 2002; Saleem, 2007). By referring to this condition, it is consistent with the pre-requisite for *zakat* wealth in which is, the wealth should be in possession of the *zakat* payer. The minors or insane cannot execute this kind of *wakalah* contract since they do not have any knowledge of transfer (Al-Zuhayli, 2002; Saleem, 2007). It is based on the hadith of the Prophet Muhammad PBUH, where the religious obligation is free to the children and insane (Qardawi, 2010).

The second condition is the agent, which refers to *zakat* institutions. The agent should be competent in handling the works (Al-Zuhayli, 2002; Saleem, 2007). In this context, *zakat* institutions have been equipped with well-trained and knowledgeable employees in order to make sure that the operation works smoothly. Thus, the issue of competence does not arise.

The third condition is the thing or act. Here, it refers to the wealth. It should be identified in order to eliminate the element of uncertainty (gharry) (Al-Zuhayli, 2002; Saleem, 2007). In this case, Islam already placed several criteria over the properties before it can be classified as *zakat* wealth. The fourth condition is the action of the agent. It must be permissible in Islam and within the Shariah context. The agent is prevented to make or execute unlawful action on behalf of the principal (Al-Zuhayli, 2002; Saleem, 2007). It means that *zakat* institution needs to have due care in *zakat* management. The last condition is the subject matter of agency. It should be clear and understandable (Al-Zuhayli, 2002; Saleem, 2007). Here, it means that they must have clear communication between the principal and the agent.

In order to have perfect system, Zayas (2003) listed 104 ideal rules pertaining to *zakat* administration. Among the 104 ideal rules is the establishment of Islamic Institution of *Zakat*. It should be a medium to unite the Islamic society in a systematic system where it needs to be placed under the supervision of various Muslim government or special International Muslim supervisory body such as the Organization of Islamic Countries (OIC). In addition to that, *zakat* staffs also need to be appointed among the local residents where they are familiar with the conditions of Muslim community where they reside. It is used to maintain integrity and goodness of *zakat* collections and distributions. Furthermore, *zakat* institutions should be organized with the highest stage of integrity, courtesy and loyalty (Zayas, 2003).

The establishment of *zakat* institution would assist in achieving the objectives of *zakat* as the Prophet Muhammad PBUH and his companions had successfully practiced. In Malaysia, the Government has set up *zakat* institutions by setting up the appropriate legislation like Federal Constitution Act 1957 and Financial Procedures Act 1957 (Government of Malaysia, 2006; Government of Malaysia, 1957) and two levels of *zakat* administrations (Pusat Pungutan Zakat Majlis Agama Islam Wilayah Persekutuan, 2006).

### **Federal Constitution Act 1957 and Financial Procedure Act 1957**

In the aspect of legislation, *zakat* is placed under the Ninth Schedule, Lists 2 of the Federal Constitution Act 1957 (Mahamood, 2007) where it mentions that:

*“Except with respect to the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, Islamic law and personal and family law of persons professing the religion of Islam, including .....; Zakat, Fitrah and Baitulmal or similar Islamic religious revenue;....., which shall have jurisdiction only over persons professing the religion of Islam and in respect only of any of the matters included in this paragraph, but shall not have jurisdiction in respect of offences except in so far as conferred by federal law; the control of propagating doctrines and beliefs among persons professing*

*the religion of Islam; the determination of matters of Islamic law and doctrine and Malay custom.”* (Government of Malaysia, 1957, p. 182)

Besides that, the Government of Malaysia (1957) also spells out *zakat* matter in Part 3 of the Federal Constitution regarding revenues from *zakat* collection. Revenues on *zakat* are assigned to the State Revenue to control. *Zakat* is also mentioned in Part 7 of the Federal Constitution regarding financial provision. *Zakat* fund needs to be classified under separate fund and it cannot be included to the consolidated fund. In conjunction with that, *zakat* received cannot be considered as the government revenue in preparing annual financial statements (Government of Malaysia, 1957). Also, *Zakat*, fitrah, baitulmal or other similar revenue from SIRC are not deemed to be called as public money by the definition taken from Financial Procedure Act 1957 (Government of Malaysia, 2006).

### **Management of *Zakat* in Malaysia**

#### **a) Federal government level**

Government of Malaysia established the *Wakaf, Zakat and Haji* Department (JAWHAR) on 27 March 2004 for “ensuring the management and administration of awqaf properties, *zakat* and hajj are in order, systematic and effective” (Department of Awqaf, Zakat and Hajj, 2011, p. 1; Pusat Pungutan Zakat Majlis Agama Islam Wilayah Persekutuan, 2006). The objectives of this department is to “ensure the planning, coordination and implementation of policies and development of programs for awqaf, *zakat*, mal and hajj institutions in Malaysia’s development plan are always relevant and effectively monitored for the progressive development of ummah” (Department of Awqaf, Zakat and Hajj, 2011, p. 1; Pusat Pungutan Zakat Majlis Agama Islam Wilayah Persekutuan, 2006). The vision of this department is “to become the premier governmental department in spearheading continuous development of the ummah through the reinforcement of excellent awqaf, *zakat*, mal and hajj institutions. With this vision, they believe that they can achieve three missions as follows:

- enhance the quality of service delivery system to world class standard
- enhance the socio-economic development of the ummah through the reinforcement of the awqaf, *zakat*, mal and hajj institutions
- implement the best governance of world class in awqaf, *zakat*, mal and hajj institutions” (Department of Awqaf, Zakat and Hajj, 2011, p. 1; Pusat Pungutan Zakat Majlis Agama Islam Wilayah Persekutuan, 2006).

This department is under the purview of Prime Minister’s Department and being led by a minister. This department will work together with wakaf unit in SIRC, states *zakat* authorities and *Lembaga Tabung Haji* as depicted in Figure 1.

**(insert Figure 1 here)**

**b) State government level**

In accordance with Federal Constitution, the management of *zakat* institutions is under the SIRC. SIRC is headed by the Sultan for states with Sultan while the High Royal Highness will be the head for SIRC that do not have Sultan (Abu Bakar, 2007; Mahamood, 2007; Jabatan Audit Negara Malaysia, 2008; Government of Malaysia, 1957). The structures of *zakat* institutions vary in each state (Pusat Pungutan Zakat Majlis Agama Islam Wilayah Persekutuan, 2006; Mahamood, 2007; Pusat Pungutan Zakat Majlis Agama Islam Wilayah Persekutuan, 2009). Figure 2 shows the three classifications of the state *zakat* institutions.

(insert Figure 2 here)

**Classifications of the state *zakat* institutions****a) The collection and distribution of *zakat* is under the sub division of SIRC or independent government body**

Among the states, which apply this kind of structure, are *Perlis, Perak, Kedah, Sabah, Johor, Kelantan, Terengganu* and *Selangor*. (Pusat Pungutan Zakat Majlis Agama Islam Wilayah Persekutuan, 2006; Jabatan Audit Negara Malaysia, 2008). Only *Kedah* and *Sabah* have specific legislation regarding *zakat* which are *Enakmen Zakat Kedah 1374 (1955) (No. 4 tahun 1955)* and *Enakmen Zakat dan Fitrah Sabah 1993 (No. 6 tahun 1993)*. (Mahamood, 2007; Jabatan Audit Negara Malaysia, 2008). According to Mahamood, (2007), only *Kedah* state enforces the enactment and it has been continuously updated while *Sabah's* enactment is not enforced yet. *Sabah* has perfect and systematic legislation. *Kedah* places *zakat* institution under independent body that is *Jawatakuasa Zakat Negeri Kedah Darul Aman* which is headed by a secretary. He is responsible to manage the *Jawatakuasa Zakat Negeri* as well as 11 *zakat* centers in the state. The same goes to *Sabah zakat* institution. It is known as *Pusat Zakat Sabah* headed by a secretary. The management of *Pusat Zakat Sabah* is under *Sabah SIRC*.

Meanwhile, the Islamic Religious Councils in *Perlis, Perak, Kelantan* and *Terengganu* do not have the enactments but they have subsidiary legislations like *Peraturan-Peraturan Zakat dan Fitrah 1975, Perak* (Mahamood, 2007; Jabatan Audit Negara Malaysia, 2008) and *Peraturan Zakat Padi 1977, Kelantan* (Jabatan Audit Negara Malaysia, 2008). In *Perak*, SIRC is headed by the *Sultan* and assisted by the Deputy Sultan. All the collection and distribution of *zakat* is handled by a unit in *Perak SIRC* and get the assistance from the Districts Islamic Religious Council. The *Pegawai Baitulmal Daerah* headed the Islamic Religious Council in *Perak*. Furthermore, in *Terengganu, Kelantan, Perlis* and *Johor*, SIRC will handle any matter pertaining to *zakat*. SIRC established a special division or unit for *zakat* management. This division is led by a Secretary assisted by a Deputy Secretary. He covers district *zakat* centers. Each district *zakat* centre will be managed by the *Penolong Pegawai Hal*

*Ehwal Islam* (Mahamood, 2007; Jabatan Audit Negara Malaysia, 2008). *Selangor SIRC* instituted *zakat* institution as the subsidiary company under the name of *MAINS Zakat Sdn Bhd* on 15 February 1994. In 2006, *Pusat Zakat Selangor* was upgraded to *Lembaga Zakat Selangor* where it had been registered

**b) Segregation of the collection and distribution zakat centers**

*Zakat* institutions in *Wilayah Persekutuan*, *Malacca*, *Negeri Sembilan* and *Pahang* divide *zakat* operations into two main divisions; which are collection division and distribution division. These divisions will run separately. The corporate centre will control the collection while the distribution will be handled by the SIRC or sub-division of SIRC (*Pusat Pungutan Zakat Majlis Agama Islam Wilayah Persekutuan*, 2006). In *Wilayah Persekutuan*, the collection will be managed by *Harta Suci Sdn Bhd*. It is also known as *Pusat Pungutan Zakat* while the distribution will be handled by *Wilayah Persekutuan SIRC*. *Negeri Sembilan SIRC* establishes *MAINS Zakat Sdn Bhd* as the collection centre. It is widely known as the *Pusat Zakat Negeri Sembilan* while the *Negeri Sembilan SIRC* does the distribution.

Meanwhile, *Pahang SIRC* establishes *Pusat Kutipan Zakat*, a corporate body to handle any matter pertaining to the collection of *zakat* while the distribution of *zakat* will be conducted by the SIRC itself. There are eight divisions in coordinating *zakat* fund which are the headquarter of SIRC, *Pusat Kutipan Zakat* and 6 district Islamic religious departments. In *Malacca*, SIRC has established *Wakaf, Zakat and Baitulmal Fund* since 1982 in order to manage the collection and distribution of *zakat*. Later, *Malacca SIRC* has changed the operation into the computerized *zakat* counters (*KZB*) in order to speed up the collection and distribution of *zakat*. They changed the name from *KZB* to *Pusat Zakat Melaka Sdn Bhd*. This centre concentrates on the collection aspect while the distribution will be handled by Investigation and *Zakat* Distribution division (*Pusat Pungutan Zakat Majlis Agama Islam Wilayah Persekutuan*, 2006; Jabatan Audit Negara Malaysia, 2008).

All the operations of these *zakat* collection centers and distribution divisions of SIRCs use the subsidiary legislation. Among the legislations that the SIRCs use are *Peraturan-Peraturan Zakat dan Fitrah*, *Urusan Wakaf dan Baitulmal Negeri Melaka 1982*, *Kaedah-Kaedah Fitrah Negeri Sembilan 1962*, *Kaedah-Kaedah Zakat Dan Fitrah 1970*, *Pahang and Kaedah Baitulmal (Wilayah Persekutuan) (Perbelanjaan dan Penggunaan) 1980* (Mahamood, 2007).

**c) Corporate collection and distribution zakat centre**

*Pulau Pinang* and *Sarawak* choose to corporatize *zakat* institutions that will handle both the distribution and collection of *zakat*. *Penang SIRC* established *Syarikat As-Sahabah Urus Zakat Sdn Bhd* which is widely known as *Pusat Zakat Pulau Pinang* in June 1994 in order to collect *zakat*. In 1999, *Penang SIRC* transferred the portfolio of *zakat* distribution to *Pusat Zakat Pulau Pinang*. Thus,

the collection and distribution of *zakat* is handled by *Pusat Zakat Pulau Pinang*. Meanwhile, *Sarawak SIRC* established *Tabung Baitulmal Sarawak (TBS)* in 2001. It also acts as *Baitulmal* and *Wakaf Fund*. *TBS* is a representative from *Sarawak SIRC* in preparing the infrastructure to collect, to distribute and to manage *Zakat Fund*, *Baitulmal Fund* and *Fidyah Fund*. They also need to improve *zakat* management programme (Jabatan Audit Negara Malaysia, 2008).

## Conclusion

In conclusion, there are rooms for improvement in the administration of *zakat* in Malaysia. The clause in the Federal Constitution and Financial Procedure Act 1957 can be one of the evidence that Malaysian government had seriously looked for the betterment of the administration of *zakat* institution. This clause can mitigate the government authority from wrongdoing against the *zakat* funds. Since Malaysia have 13 states and 1 federal government, the management of *zakat* institutions depend on the states' law and regulation. In attempting to have effective and efficient administration, *JAWHAR* had been established.

In the earlier part of this paper, the researchers had mentioned that the establishment of *zakat* institutions is a practice done by the Prophet Muhammad PBUH. The *zakat* officials of the *zakat* institutions must act on behalf of *zakat* payers. Thus, the concept of *wakalah* is applied. The researchers believe the implementation of the whole concept of *wakalah* could help the *zakat* institutions to have effective and efficient *zakat* administration. This concept is a comprehensive delegation of tasks concept that can satisfy stakeholders of *zakat* institutions such as *zakat* recipients, *zakat* payers, *zakat* officials, and community. The eligible *zakat* recipients can receive the allocations that give opportunity to generate income. The *zakat* payers can trust the administration of *zakat* and would be more willing to cooperate. The *zakat* officials feel ease in dealing with their works. Community can have balance economic equilibrium and reduce the economic disparity as *zakat* could alleviate poverty.

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**Figure 1** The organizational structure of *zakat* administration in Malaysia



Source: Pusat Pungutan Zakat Majlis Agama Islam Wilayah Persekutuan (2006)

**Figure 2** Classification of *zakat* institutions in the 13 states and one federal territory in Malaysia

