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 Ummayyad 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 tahun1955)* 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 *Jawatankuasa Zakat Negeri Kedah Darul Aman* which is headed by a secretary. He is responsible to manage the *Jawatankuasa 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*
The 5th International Conference on Financial Criminology (ICFC) 2013
“Global Trends in Financial Crimes in the New Economies”

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.

ACKNOWLEDGEMENT

We would like to thank the Ministry of Higher Education (MOHE), Malaysia for financial and research funding support under ARI HICOE fund.

REFERENCES


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

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