

CONTEMPORARY SHARIAH ISSUES RELATED TO OPERATING COSTS OF ZAKAT DISTRIBUTION BY ISLAMIC FINANCIAL INSTITUTION

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Abstract: *The management of zakat requires thorough governance procedures to ensure the end-to-end process of collection and distribution of zakat funds is conducted in the proper manner. The research focuses on contemporary Shariah issues related to zakat distribution by Islamic financial institution (IFI) practices, such as through direct distribution or wakalah zakat or others. It aims to study operating costs related to zakat distribution and further elucidate their Shariah justifications on the possibility to deduct such costs from zakat funds by critically analyzing classical and contemporary Shariah scholars' views of the said subjects. The research explores the Shariah opinions on the concept of amil (collector and distributor of zakat), wakil (agent) or ajir (performer of a specific task), and fi sabilillah; whether the operating costs of zakat distribution can be considered as amil's portion, wakalah or ajir cost, or fi sabilillah's portion. The Shariah justifications for the allowable operating costs are believed to assist IFI in specific and Muslim ummah as a whole in distributing zakat funds to asnaf (zakat beneficiaries) and executing an impactful zakat distribution.*

Keywords: zakat, wakil, amil, fi sabilillah, costs

1. Introduction

Since the inception of the zakat ruling in the second Hijri of Islam (Al-Zuhaily, 2011), zakat has undergone various management in the collection and distribution of zakat funds. However, reality has changed throughout the years, and both zakat collection and distribution processes have become more complex and entail a thorough governance procedure. This includes various types of zakat distributions at IFI through direct distribution by the *muzakki* (payer of zakat), *wakalah* zakat, i.e., in Malaysian context, where the State Islamic Religious Council (SIRC) appoints IFI as *wakil* to distribute zakat funds to *asnaf*, or the IFI appoints an implementing partner (IP) in distributing zakat funds to *asnaf* or others. The research focuses on zakat distribution and attempts to understand the allowable operating costs that may be utilized from zakat funds.

Having a thorough understanding of the allowable operating costs to be counted from zakat funds is the catalyst for supporting SIRC and IFI in developing various impactful and innovative zakat distributions. The distribution party (SIRC and IFI) will be able to determine the appropriate costs from zakat funds under the basis of *amil*, *wakalah* or *ajir* cost, or *fi sabilillah*, and in selecting the suitable IPs to distribute zakat funds to *asnaf*, i.e., to review

which IP could provide the best rate of expenses and to evaluate its services, whether they align with the distribution party's objectives.

2. Literature Review

2.1 Overview of Zakat Management

Management and operation of zakat involve various processes and actions that are required to be executed to ensure the zakat collected is distributed to the *asnaf* accordingly. In Malaysia, the zakat management has undergone various transformations, and some local Shariah scholars differentiated the periods before 1990, where zakat matters were under the patronage of Yang Di-Pertuan Agong for Federal Territories and the Sultan or Islamic ruler for the respective states through the SIRC (Rahman et al., 2012). After 1990, dedicated institutions were established and were set up as a subsidiary of SIRC with the primary ambition to collect all types of zakat systematically.

These institutions such as Pusat Pungutan Zakat Wilayah Persekutuan (1991), Pusat Urus Zakat Pulau Pinang (1994), Pusat Kutipan Zakat Pahang (1995), Pusat Zakat Negeri Sembilan (1998), Pusat Zakat Melaka (2001), and others (Rahman et al., 2012). The SIRC is mandated by Islamic ruler to collect and distribute zakat. For instance, in the state of Selangor, the Enakmen Pentadbiran Agama Islam Negeri Selangor 2003 Section 86 stated that: “(power to collect zakat and fitrah) Majlis is empowered to collect zakat and fitrah due from every Muslim in the State of Selangor in accordance with Hukum Syarak on behalf of His Royal Highness the Sultan”. In this context, it can be assumed that the individual *muzakki* has to pay zakat to SIRC.

2.1.1 Zakat Distribution through Direct Distribution

In the current context, the *muzakki* could be the individual or company, and naturally, in Malaysian context, the individual *muzakki* will pay zakat to SIRC as the institution that is authorized to collect zakat. However, there are situations where the *muzakki* might want to pay zakat directly to *asnaf* without going through SIRC. From the Shariah perspective, can *muzakki* distribute zakat directly to *asnaf*? An-Nawawi (2005) established that: “and he (the *muzakki*) is allowed to pay zakat directly (to *asnaf*) if the zakat assets are categorized as *mal batin*, and also if the zakat assets are considered as *mal zahir* according to *al-jadid* (new opinion of as-Shafi'i). And he is also allowed to appoint an agent (to distribute zakat) and to distribute zakat to the Islamic ruler. Among the sound opinions of as-Shafi'i is that distributing zakat to the Islamic ruler is more recommended, except if the Islamic ruler is considered a tyrannical Islamic ruler”.

An-Nawawi's view above was narrated by contemporary Shafi'i scholars such as Wahbah al-Zuhaily (1985) and Muhammad al-Zuhaily (2011). Muhammad al-Zuhaily (2011) concluded that although it is allowed for the *muzakki* to distribute zakat directly to *asnaf*, it is more advisable to pay zakat to the Islamic ruler as the *muzakki* might wrongly pay the zakat to *asnaf* (if without the Islamic ruler).

2.1.2 Zakat Distribution through *Wakalah* Zakat

Among the innovative and pioneer innovations in zakat distribution was the *wakalah* zakat, which was introduced by Majlis Agama Islam Wilayah Persekutuan in 2010 when there was an application from an IFI to distribute its own zakat payment to *asnaf* (mywakalah, n.d.). Some researchers defined *wakalah* zakat as follows (Paizin & Sarif, 2021): “dasar ini merupakan program di mana institusi zakat atau Majlis Agama Islam Negeri mewakilkan kuasa kepada pembayar zakat untuk mengagihkan sendiri wang zakat kepada golongan *asnaf* yang layak melalui pemulangan semula sejumlah wang zakat yang dibayar berdasarkan syarat-syarat yang telah ditetapkan”. The *wakalah* zakat by SIRC permits *muzakki* (in this situation, an IFI) as a *wakil* to distribute zakat to the *asnaf*.

2.1.3 Zakat Distribution by IP under IFI’s Direct Distribution and *Wakalah* Zakat

Under IFI’s direct distribution and *wakalah* zakat, the IFI might have several programmes under zakat distribution and might want to appoint an IP to assist in distributing zakat to *asnaf*. From the IP perspective, in order to create an impactful and long-lasting benefit of zakat distribution, they will, for instance, execute several modules to train the *asnaf* to become a successful entrepreneur with the higher objective that the *asnaf* will be the *muzakki* in the future. These modules of training will demand operating costs and can these operating costs be counted from the zakat distribution that IFI distributed to the IP (to be later distributed to *asnaf*)?

2.2 Operating Costs Related to Zakat Distribution through IFI’s Direct Distribution, *Wakalah* Zakat, and IP

2.2.1 Overview of Operating Costs

The operating costs refer to the costs incurred by a business for its operational activities (Corporate Finance Institute, n.d.). Other business institutions defined operating costs as every cost that is incurred to run the business (eBillity, 2021). From the zakat management perspective, the operating costs can be inferred as costs and expenses in operating both zakat collection and distribution. In Malaysian context, some researchers suggested that the zakat funds have been utilized to fund several activities of Zakat Institution (ZI). These activities are deemed critical activities aimed at distributing zakat to *asnaf*. The activities are listed as follows: administration (including salaries of ZI employees), sales and promotion, research and development. The above costs are stated to be funded from the zakat funds by looking at the ZI’s position as the appointed *amil* by SIRC (Ahmad & Main, 2014).

2.2.2 Operating Costs from IFI’s Direct Distribution and *Wakalah* Zakat

From the Malaysian IFI perspective, the zakat in this research refers to the business zakat for the IFI’s Shariah-compliant activities that the IFI will pay as an institution (Hasan, 2011). Similar to ZI’s situation, when distributing zakat to *asnaf* through IFI’s direct distribution and *wakalah* zakat, there will be administration tasks involved in reviewing and monitoring applications of zakat, the dedicated officers at IFI that will communicate with *asnaf* and prepare the relevant documentation and approval with relevant approval authorities at IFI, and further prepare the disbursement of funds to the *asnaf*. During the disbursement of funds to *asnaf*, there may be several transportation costs incurred to reach them. These tasks are

deemed as critical tasks in ensuring the zakat is restricted and distributed to *asnaf*, aligning with the main principle of zakat ruling.

2.2.3 Operating Costs from IP's Zakat Distribution

IP can be understood as any institution, whether a university, a non-governmental institution (NGO), or others for which IFI seeks a collaboration to achieve a certain objective. These collaborations such as between CIMB Islamic Bank Berhad and Yayasan Belia Malaysia (Astroawani, 2022), Maybank Islamic Berhad and Islamic Relief Malaysia (Bernama, 2024) and others. Perhaps the reason an IFI collaborates with various NGOs or others as IP is the service that the IP provides to connect with various segments of society.

Ahmad & Arshad (2022) suggested that the NGO is able to provide a platform to increase the well-being of community, provide services to the community, provide a bridge between public and other stakeholders (government or private sectors), be a representative for the community, and act as a communicating agent on behalf of the community. It can be assumed that the NGO's platform and close connection with society attract IFI's interest to collaborate in various programmes, such as through corporate social responsibility, Islamic social finance initiatives (including zakat) and others.

In addition, IP will embark on various programmes to distribute zakat to *asnaf* and this includes programmes aimed at delivering impactful zakat distribution to educate the *asnaf* to become *muzakki* in future. The education of *asnaf* requires more than disbursement of zakat funds one-off; rather it calls for a dedicated programme to build *asnaf*'s confidence and to instil values that will enhance *asnaf*'s life quality and provide the necessary skills. These programmes will demand the following costs as such as payment to programme manager, coordinator of the *asnaf* entrepreneurship or the relevant programme to educate *asnaf*, payment to the dedicated trainers of the programme, creation of a module on the *asnaf* entrepreneurship or the relevant programme, payment to the platform of the IP (to register, monitor, and overall arrangement to guide the *asnaf*), and other related operating costs to be determined by IP.

3. Research Methodology

This research employs a qualitative method by critically analyzing Shariah scholars' views on *amil*, *wakalah* or *ajir*, or *fi sabilillah* as the proposed Shariah justifications to cover the operating costs of zakat distribution by IFI. The Shariah justifications for the allowable operating costs are believed to assist IFI in specific and Muslim ummah as a whole in distributing zakat funds to *asnaf* and executing an impactful zakat distribution.

4. Discussion

4.1 Shariah Analysis for Utilization of Zakat Funds for Operating Costs Related to Zakat Distribution by IFI

Zakat ruling establishes that the distribution of zakat is restricted to the *asnaf* revealed in the Quran. Al-Kasani (2003) expounded that: "Allah taala has specified that zakat is limited to the mentioned *asnaf* (in the Quran) with the letter *lam* that denotes a definite right (to receive zakat) that further vindicated their rights (to receive zakat)". A similar opinion was deliberated by Ibn Juzay (1995) from Maliki school, Ibn Qudamah (1997) and Ibn Qassim (1977) from

Hanbali school. In Arabic methodology, the words *innama* and *li* postulate that zakat is limited to the mentioned categories in the Quran. The authors do not wish to elaborate further on this topic as it has been deliberated in other research papers (Mahmud & Jamaludin, 2023; Hasan et al., 2023) and others.

4.2 Shariah Analysis for Operating Costs of Zakat Distribution through IFI's Direct Distribution

One of the allowed practices in Malaysia is the distribution of zakat directly to *asnaf*. In this situation, there will be some operating costs, such as transportation costs to reach the *asnaf* and others; can these costs be counted from the zakat funds? Because the IFIs are committed to the tasks corresponding to *amil* in distributing zakat to *asnaf*. The IFI's position in this situation is as *muzakki*. The majority of the Shariah scholars viewed that if the *muzakki* distributes zakat directly to *asnaf*, he is not entitled to receive zakat. The justification is that the role to distribute zakat to *asnaf* has been mandated and revealed by Allah taala to the *amil* (where *amil* is permitted to receive zakat). Ibn Abidin (2003) opined that: "the owner of the zakat assets (*muzakki*), if they bring and pay zakat directly to the *imam* (without *amil*), he (*muzakki*) will not be entitled to a portion of zakat funds". A similar opinion was discussed by an-Nawawi (1991), Said Ba Ashen (1992), Muhammad al-Zuhaily (2011) from Shafi'i school, and Ibn Qassim (1977) from Hanbali school. A contemporary Shariah scholar (Al-Ani, 1999) concluded that: "if the owner (of zakat assets) decides to distribute zakat directly to the Islamic ruler, it will nullify *amil*'s right (to receive zakat) and *amil* is not entitled to receive any portions of zakat. And this is the summarized opinions of Hanafi, Maliki, Shafi'i, and Hanbali schools".

4.2.1 Does IFI as an Institution Take a Similar Shariah Ruling as an Individual *Muzakki*?

It can be concluded that the Hanafi, Maliki, Shafi'i and Hanbali schools believed that it is not permissible for the individual *muzakki* to take a portion of zakat as operating costs if he distributes zakat directly to the *asnaf*. A few international fatwa institutions reached a similar opinion, such as Kuwait Ministry of Awqaf and Islamic Affairs (2006) and Council of Senior Scholars of the Kingdom of Saudi Arabia (n.d.). It is understood that the above opinions did not specify between individual and company *muzakki* because the company *muzakki*'s obligation to pay zakat for its Shariah-compliant businesses is considered a new situation in the 21st century where later some Shariah scholars resolved that a company is responsible to pay zakat for the mentioned matter.

An-Nawawi (1980) when discussing al-Mawardi's view on the permissibility of direct distribution of zakat by *muzakki*, established as follows: "in discussing which approach is more recommended; Shafi'i school opined that (for *amwal batinah*) to distribute it directly to *asnaf* is more recommended than to appoint *wakil* (and later to be distributed to *asnaf*) without a dispute. Because he (*muzakki*) will have the overall understanding of his zakat assets (in comparison to *wakil*". From the current Malaysian perspective, IFI may distribute zakat directly to *asnaf* and legally, they are allowed to opt for this approach. This approach might provide further opportunity for the IFI to embark on various innovative zakat distributions.

4.2.2 Exploration of Operating Costs (under IFI's Direct Distribution) under *Fi Sabilillah* Concept and Whether It Tantamount to *al-Muhabah fi al-Zakah*

Nazih Hammad (2008) discussed the definition of *al-muhabah* as follows: “*al-Muhabah* is any kind of *tabarru'* (charity) that is performed, but (those who performed the *tabarru'*) are still demanding returns for their actions”. From zakat perspective, this can be understood that *muzakki* is still benefiting from the zakat that was paid, although he is supposed to distribute it to others than himself. Ad-Dardir (n.d.) discussed examples of *al-muhabah fi al-zakah* as follows: “it is not recommended to the *wakil* when distributing zakat; to limit his own relatives or to *muzakki* or owner of zakat assets' relatives because it is similar to *al-muhabah* and prevents other *asnaf* categories (from receiving zakat). And if the relatives are someone that is compulsory under *wakil*'s financial support or owner of zakat assets' financial support, it is not permissible to distribute zakat to them (as they are under the respective party's financial support and not zakat funds)”.

The purpose of utilizing operating costs under IFI's direct distribution of zakat is not to limit zakat to IFI's own utilization or IFI-related institutions' own utilization. Rather, the operating costs are to cover the cost to ensure the zakat reaches the *asnaf* and other dedicated programmes to educate the *asnaf* and will directly benefit the *asnaf*. It is proposed that the assistance and its operating costs performed by IFI under the direct distribution of zakat are utilized under *fi sabilillah* portion. The assistance is believed to be a noble initiative and is included under “all actions of kindness to Allah” as defined by al-Kasani (2003), ar-Razi (2009), and al-Qaffal as-Shashi (2015), who articulated the definition of *fi sabilillah* as follows: “*fi sabilillah* denotes all actions of kindness to Allah. And it includes all initiatives that are aimed to obey Allah taala particularly if the person commits to them”.

4.3 Shariah Analysis for Operating Costs of Zakat Distribution through IFI's *Wakalah Zakat*

In Malaysian context, the IFI will pay zakat to the SIRC as the authorized *amil* in Malaysia, and later upon further application by the IFI, the SIRC will appoint IFI as *wakil* to distribute zakat to *asnaf*. Could the IFI as *wakil* of SIRC under *wakalah zakat* be considered as *naib al-amil* (agent or assistant of the *amil*)? The authors are of the view that IFI could be regarded as *naib al-amil*. Al-Kharashi (1899) established that: “the *naib al-amil* is permitted to take a portion of zakat if they are regarded as part of the *asnaf*, in the right manner”.

4.3.1 The Concept of *Ajir* in the Zakat Distribution According to Shafi'i School

Nazih Hammad (2008) defined *ajir* as follows: “(*ajir* is) a party that is appointed (based on his expertise) to provide certain services”. An-Nawawi (1980) further elaborated on methods of appointment of *ajir* in zakat distribution as follows: “(the Islamic ruler) has the option between to engage *ajir* with a determined and agreed salary and later he (*ajir*) will receive it from zakat funds or to send the *ajir* first (to distribute zakat) and later he (*ajir*) will receive a salary based on *ujrah al-mithl* (the actual costs involved) from zakat funds”. An-Nawawi (1980) further elaborated that both methods are permissible as follows: “the Islamic ruler has the option to send an *amil* (to distribute zakat) without a specified condition and later when the *amil* is returned, to pay him based on *ujrah al-mithl* from zakat funds. Or to engage him with a determined and agreed salary from zakat funds. And both methods are permissible”.

Under IFI's *wakalah* zakat, the concept of *ajir* is suggested to be the position of IFI under this approach. Upon receiving the approval from SIRC for the *wakalah* zakat, IFI will perform numerous tasks to distribute zakat to *asnaf*. These tasks may require operating costs and IFI may take the operating costs from zakat funds on the basis of *ajir*.

4.4 Shariah Analysis for Operating Costs of Zakat Distribution by IP under IFI's Direct Distribution and *Wakalah* Zakat

In Malaysian context, IFIs might want to appoint an IP or other institutions to distribute their business zakat. This approach will diversify IFIs' existing zakat distribution through various initiatives and methods of zakat distribution.

4.4.1 Could IP take the Role of *Amil* under IFI's Direct Distribution and *Wakalah* Zakat

Al-Buhuti (1983) opined that: "if a Muslim appoints another party to distribute zakat (to *asnaf*), the appointed party is not entitled to receive zakat from *amil*'s portion, as he is not regarded as *amil* but a *wakil*". Shariah scholars further discussed that the main distinction of an *amil* is that he shall be appointed by the Islamic ruler. Ibn Hazm (1998) narrated an *ijma'* (consensus) regarding this matter as follows: "the *amilun* are the external officers that are appointed by the rightful Islamic ruler that are obliged to obey, (the characteristic of them) they are honest, and they are the officers (to collect zakat)". A similar *ijma'* was narrated by Al-Balul & Al-Muhailiby (2022).

Based on this *ijma'*, it seems that IP is not entitled under *amil* concept because IP is not appointed by the Islamic ruler; rather they are companies or institutions appointed by IFI that are committed to social tasks to assist the poor and needy in general and *asnaf* in specific.

4.4.2 Could IP take the Role of *Fi Sabilillah* under IFI's Direct Distribution and *Wakalah* Zakat

This research suggests that IP is committed to the role of *fi sabilillah* (one of *asnaf* categories revealed in the Quran). Shariah scholars have identified five (5) definitions of *fi sabilillah* and the preferred definition of this research is "all actions of kindness to Allah" as defined by al-Kasani (2003), ar-Razi (2009), and al-Qaffal as-Shashi (2015), who articulated the definition of *fi sabilillah* as follows: "*fi sabilillah* denotes all actions of kindness to Allah. And it includes all initiatives that are aimed to obey Allah taala particularly if the person commits to them". In this context, the IP may receive the operating costs from zakat funds as part of *asnaf* (under *fi sabilillah* category) as they are committed to educate *asnaf* through training, education, and others; in addition to assist the distribution of zakat to *asnaf*.

5. Conclusion

The research concludes that zakat is restricted to eight (8) *asnaf* categories as revealed by Allah in the Quran. Under IFI's direct distribution of zakat, the operating costs may be taken from the zakat funds under *fi sabilillah* category as the assistance that is required to ensure zakat reaches *asnaf*. Under IFI's *wakalah* zakat, the IFI may take the operating costs from zakat funds on the basis of *ajir* (subject to specific conditions from SIRC as *muwakkil*). Zakat distribution by IP under IFI's direct distribution and *wakalah* zakat; the operating costs may be taken by IP under *fi sabilillah* category.

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