

THE STATUTORY PRINCIPLES OF ZAKAT: AN EFFECTIVE INSTRUMENT FOR THE ACCOMPLISHMENT OF ECONOMIC OBJECTIVES IN KANO STATE

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ABSTRACT

This paper intends to study the principles of zakat and its statutory status vis-a-vis the economic development of Kano. The paper found out that, although the status of zakat in Kano is statutory, still the collection or payment of zakat remains private. The aims and objectives of this paper are to analyze and evaluate the socio-economic environment of Kano state, the principles of zakat, the historical origin of statutory zakat, the Kano state law on zakat etc. Being this paper book oriented research, the doctrinal method of research is used. Zakat is never a tax usually paid to the state or charity paid to the needy; it is an obligatory duty on each and every adult Muslim who is free and whose wealth reaches the nisab of zakat to pay to the needy or authority. This paper recommend among other things for the amendment of Kano State Zakat and Hubsu Commission Law, 2003.

INTRODUCTION

Kano State is one of the component states in Nigeria; it is a State with high population and commercial activities.

The people living in the state are mostly Muslims. Islam has been the way of life of people of Kano for the time immemorial (Islam in Kano, 2008). The people of Kano practice Islam in almost all realms of their life (Islam in Kano, 2008). Islam is a way of life which was revealed to prophet Muhammad (SAW) with five basic rules which all Muslims should follow (Encyclopedia Britannica, 2011), among these basic rules there is zakat. Zakat is one of the most important aspects of Islam. Zakat means giving charity to the poor. Generally, a Muslim is expected to give zakat as long as they are able. Through zakat, wealth reaches to the poor class of the society. It is considered to be a personal responsibility for Muslims to help those in need and eliminate inequality (Lloyd Ridgeon, 2003). It is often 2.5% of what the Muslim has (Yusuf Al-Qardoway 1999). The payment of zakat is compulsory on any Muslim whose wealth reaches Nisab.

In spite of the reintroduction of shariah by Kano state government, the affairs of zakat still remains as it has been in colonial and post colonial era.

The questions which this research intends to answer are:

1. What is the socio economic environment of Kano?
2. What is zakat and what constitute principles of zakat?
3. What is the historical origin of statutory zakat?
4. Can Kano state enact law on zakat?
5. Is the law comprehensive enough to tackle the problem at hand?

The main aim of this research is to identify and examine the principles of zakat and how effective is the statutory zakat toward accomplishing an economic objective in Kano for equitable distribution of income among people.

This research intends to achieve the following objectives:

1. To examine the socio – economic environment of Kano.
2. To analyze the principle of zakat.
3. To evaluate the historical origin of statutory zakat.
4. To identify the power of Kano state, under Nigerian constitution, for the enactment of law on zakat.
5. To examine and evaluate the law of Kano state on zakat and how comprehensive is the law.

Furthermore, the scope of the study is within the principles of zakat; the paper does not intend to study other aspect of Islamic or Nigerian revenue. The study is limited to the legal point of view; it is not predicated on economic, financial or theological point of view.

Therefore, the research is purely book oriented research which is why a doctrinal methodology is used.

Empirically, there are many literatures written on zakat, however, the literatures do not address the issue at hand; in Abubakar and Farouk's "The Challenges of Zakat Management: A Case Study of Kano State", the paper only studied the challenges of zakat, it did not address the issue of statutory zakat. In Abdullahi N. Mohyudi's (2012) "A Technical Note on the Derivation of Zakat Effectiveness Index", the paper studied zakat from management perspective, not legal perspective as these current writers intend to achieve. In Ahmed N.N's (2014) "The Application of Unified Theory of Acceptance and Use of Technology for Predicting the Usage of E-Zakat Online System", the write up addressed the issue of zakat on technological perspective. Therefore, almost the related literatures on zakat do not address the issue from legal point of view as this paper intends to do.

SOCIAL ECONOMIC ENVIRONMENT OF KANO

Kano state was created as one of the Nigerian states on 27th May, 1967. It has the total area of 20,131 km (7,773sq mi). As at 2011, the estimated population was 11,058,300 (Statistics and Maps on city population, 2014). Kano State Gross Domestic Products was worth 12.39 billion dollar, and per capita income of the state was 1,288 dollar (Canback, 2010).

The commercial activities in Kano was first developed with the establishment of Kurmi market by the Emir of Kano Muhammadu Rumfa in the 16th century CE, subsequent leaders made contribution to the emergence of Kano as a leading commercial centre in Sudanic Africa. Kano state is the second largest industrial center after Lagos State in Nigeria and the largest in northern Nigeria with textile, mining, food ware, cosmetics, plastics enamelware, pharmaceuticals, ceramics, furniture, agricultural implements, soft drinks, food and beverages, dairy products, vegetable oil and animal feeds etc. The major markets in Kano are:

- i- Kofar Ruwa market
- ii- Dawanau market
- iii- Sabon Gari market
- iv- Kantin Kwari market
- v- Kofar Wambai market
- vi- Abattoir market
- vii- Yankaba market
- viii- Kwanar Dawaki market
- ix- Singa market
- x- Yanlemo market
- xi- Kurmi market

The inhabitants in Kano participate in trades and skills labour in the above mentioned major markets and small scale markets which gives room for number of eligible zakat payer in the state. However, in spite of the above expositions, Kano state is still one of the states in Nigeria in which poverty is endemic. "The United Nations Development Programmes

Multidimensional Poverty Index has indicated that poverty is more endemic in the North-west region of Nigeria. The list of the 10 states with the least performance on the poverty indices brings in another two states in the north-west, namely, Kano and Katsina” (Everest 2018).

THE PRINCIPLES OF ZAKAT

The literal meaning of zakat is something which purifies (Benda-Beckham, Franz Von, 2007). Zakat-al-mal meaning zakat on wealth means alms giving which is treated in Islam as the third pillar of Islam after prayer; it is a religious obligation on only Muslim whose wealth reaches nisab (Lessy, Z. 2009).

Zakat in Islam originates from textual authorities namely Qur’an and Hadith. In chapter 9:103 of the Holy Qur’an, Allah (SWT) says:

خذ من اموالهم صدقة تطهرهم وتزكيهم بها وصل عليهم ان صلاتك سكن لهم والله سميع عليم (Tauba-103)

“Take sadaqah (alms) from their wealth in order to purify them and sanctify them with it, and involve Allah is all Hearers all known”.

The prominent Hadith collectors; namely Sahih Bukhari, Sahih Muslim, Sunan Abu Dauda etc. discuss various aspect of zakat. The hadith also describe punishment for those who refuse to pay zakat (Kitab-al-zakat, 2014).

Although Qur’an does not specify guidelines on which types of wealth zakat is collected and also Qur’an does not specify percentage to be given, the customary practice is that the amount of zakat paid on capital assets (e.g money) 2.5% (1/40) and it is also collected on agricultural goods, precious metals, minerals, and livestock at rate varying between 2.5 and 20% (1/5) depending on the type of the goods. Zakat is usually payable on assets continuously owned over one lunar year that are in value. However, Islamic scholars have disagreed on this issue (Zakat, 2014).

Yusuf-al-Qaradawiy says:

“Unlike payers, we observe that even the ratio, the exemption, the kind of wealth that are zakatable are subjects to different among scholars. Such differences have serious implications for Muslims at large when it comes to their application of the Islamic obligation of zakat. For example, some scholars considered the wealth of children and insane individual zakatable, others don’t, some scholars consider all agricultural products zakatable, others restrict zakat to specific kinds only. Some consider debt zakatable, others don’t. Similar differences exist for business assets and women’s jewelry, some don’t etc. The same kind of differences also exists about the disbursement of zakat” (Yusuf-al-Qaradawiy, 1999).

DISTRIBUTION

Zakat is distributed to the following persons:

- 1- Those living without means of livelihood
- 2- Those who cannot meet their basic needs
- 3- The zakat collectors
- 4- Those sympathetic to or expected to convert to Islam, the recent converts to Islam and potential allies in the cause of Islam.
- 5- To free slave from slavery or servitude
- 6- Those who have incurred overwhelming debts while attempting to satisfy their basic needs.
- 7- Those fighting for a religious cause or a cause of God.
- 8- Wayfarer, stranded travelers who are traveling with a worthy goal but cannot reach their destination without financial assistance.

However, zakat is not given to one's parents, grandparents, children, grandchildren, spouses or the descendants of the prophet Muhammad (SAW) (Herschall, 2009). Zakat is central in Islamic economic system and its significance can never be overemphasized, thus, Islam places zakat as third pillar of Islam. Zakat is fundamentally set out to achieve the objective of poverty reduction and fair wealth distribution. Thus, a good zakat management system focuses on the effective and efficient generation and utilization of zakat funds to achieve the desired set objective(s) of the zakat system. Zakat as an institution sanctioned with the primary objective of fair and equitable redistribution of wealth to take care of the basic needs of all members of a given society and reduce the gap between the rich and poor (Mathew, 2013); by way of construction of schools, roads, hospitals and provision of basic amenities.

THE ORIGIN OF STATUTORY ZAKAT

Zakat is compulsory in Islam; it was during the caliphate of Sayyid Abubakar As-sadiq that those that refused to pay the zakat were made to face the wrath of the state. Abubakar (RA) established the principles that zakat must be paid to the legitimate authority (Weiss, Anita M. 1986). The statutory zakat originated from the reign of Abubakar (RA).

The subsequent caliphs, namely: Umar Ibn Khattab and Usman Ibn Affan continued the codification of zakat. Usman Ibn Affan modified the principles of the collection of zakat to include only those "apparent wealth that were zakatable" (Weiss, Anita M. 1986).

So also it continued to the reign of Ma'awuyya where those that did not recognize the legitimacy of his government refused to pay the zakat (Weiss, Anita M. 1986).

However, during the reign of Umar Ibn Abdul-Aziz (717-720AD) when almost everybody in Madina did not need zakat, gradually, the collection of zakat by the state changed to be individual responsibility (Weiss, Anita M. 1986).

Furthermore, in Kano Nigeria, before the coming of colonial masters, the system of the statutory zakat was very much formidable, alive and functional. There was a complete system which was under the office of Sa'i which was under the Emir for the collection, keeping and distribution of zakat (Ibrahim & Shaharuddin, 2015).

After the conquest of the Sokoto caliphate by colonial masters around 1903, the leadership changed; the socio-political and economic system of the people of Kano changed. The system of colonial administration was enforced on the people by the use of sophisticated weapons under the leadership of Lugard, changed the system of Islam which governed the people and dubiously justified his intrusion as he stated in his book titled "The Dual Mandate in Tropical Africa" as follows:

"Islam is a religion incapable of the highest development but its limitations clearly suits the limitations of the people. It has undeniably had a civilizing effect, abolishing the gross forms of pagan superstition and barbarous practices, and adding to the dignity, self-respect and self control of its adherents" (Lugard, 1922, in Luqard, 2004:907).

On account of the above, the British colonial masters destroyed the then existing system of zakat and adopted several strategies to continue sabotaging the system. Thus heavy taxes were imposed so that it will be difficult for the subjects to pay Zakat, resulting in shortage of funds to exercise powers by the local leaders. When the colonialists realized that people were ready to pay the zakat even with the heavy tax, they then made further effort by making the zakat to be voluntary and requiring 1/4 of it to be remitted to the British government (Bugaje, 2010).

It is noteworthy that the British colonial masters attempted to sabotage zakat payment not because there was anything bad in it rather to starve the well regarded religious leaders and scholars of funds in order to erode their powers to lead their subjects successfully (Abubakar Umar Farooq 2017).

Furthermore, the British colonial masters, after applying many strategies to sabotage zakat and failed, it finally made the collection of zakat by the religious leaders "illegal and those chiefs caught demanding or accepting it were liable for being accused of extortion and punished accordingly". By this, the British colonial masters finally succeeded in destroying the statutory system of zakat, thus, the collection of zakat was made private; the hands of the state were completely removed (Bugaje 2010).

After independence, the system of Zakat in Kano continued to suffer the same fate. However, by the "introduction of Shariah" after the return of civilian government in 1999, on 9th of December 1999, the Kano state government set up a committee to advise the government on the implementation of shariah (Yusufari, 2004). Consequence upon which, on 21st of June 2000, the government publicly declared the implementation of shariah in Kano (Yusufari, 2004).

After the implementation of shariah by Kano State Government in Kano, in 2003, the Government enacted a legislation titled: Kano state Zakah & Hubsu Commission Law 2003.

However, the power to legislate on tax in Nigeria is within the exclusive list of Federal Legislation; a State House of Assembly does not have such power (item 59, part 1, second schedule of 1999 Constitution).

However, zakat is identified to be different from tax (Islam Miscellaneous). Therefore, zakat does not come within the items listed under exclusive list of federal legislation (item 59, part 1, second schedule of 1999 constitution).

The Kano State Government derives its power to legislate on zakat from sec 4(6) and (7) a,b,c and section 16 of 1999 constitution of the Federal Republic of Nigeria. On the premise of this, as explained above, the Kano State Zakah and Hubsu Commission Law (KS2HCL) 2003 was enacted.

The Law has twenty six (26) Sections, starting from section one (1) which is a citation and commencement section; section two (2) which is interpretation section; section three (3) establishes Kano state Zakah and Hubsu Commission; section 4 provides the functions of the commission to be the Regulation, Collection and Distribution of zakah to the deserving members of the public in accordance with the dictates of Shariah, and also to invest in accordance with Islamic jurisprudence such resources at the disposal of the commission, not immediately required for its purpose in such securities as may be approved by the governor, and to dispose of such securities, to also act as a trustee of all funds, wealth and property entrusted in the commission, and any other function assigned to it by the Governor. Section five (5) provides for the structure and members of the commission. Section 6 makes a provision for the creation of department in the commission.

The Law further provides for the establishment of Zakah and Hubsu Councils in each of the forty four (44) local Government areas of Kano State and also the establishment of zakah and hubsu committee at each village of such local governments (section 7 & 9 KSZHCL), the membership to such zakah councils and zakah committee comprises of learned Islamic scholars; district or village head (as the case may be); the chief imam; the representative of such local governments, the representative of business/commercial entrepreneurs, farmers groups and live stock farmers, person of proven integrity and secretary to such council or committee (sec. 8 and 10 KSZHCL).

The chairman of the commission is the Chief Executive and Accounting Officer who is responsible for the General Administration of the commission. The commission also has Director General who is answerable to the chairman. A legal practitioner not below six years post call must be the Secretary and Legal Adviser of the commission. Moreover, the commission has power to ask to be sent on secondment or posting an officer or officers from

the ministries and parastatals of the government for the enhancement of its efficiency (sec. 11, 12, 13 and 15 KSZHCL).

The Law further provides that, funds of the commission comprise of grant from State Government, Zakah and Hubsu (sec 14 KSZHCL). The law further provides for the Account and Audit of the Commission's Finance (sec. 16, 17, 22 and 23 KSZHCL).

Finally, the law makes a provision for the meetings and proceedings of the Commission (sec. 18, 19, 20 and 24 KSZHCL).

SUMMARY, CONCLUSION, OBSERVATIONS AND RECOMMENDATIONS

From the foregoing discussions, this paper studies the socio-political, religious and economic environments of Kano State. It studies the principles of zakat, the origin of statutory zakat, the constitutional and statutory framework of zakat. The paper further discusses the content of Kano State Zakat and Hubsu Commission Law (2003). From the discussion so far, it has been discussed that the principal aims of zakat in Islam is for the equitable distributions of resources and economic prosperity among people. However, it is worthy of note that Kano State remained one of the poorest state in Nigeria in spite of its commercial prominence which creates favorable atmosphere for the emergence of many eligible zakat payers.

The Kano state Zakat and Hubsu Commission Law (2003) is not also comprehensive enough for meeting the objectives of zakat as ordained in Islam. The Law is more of making provisions for the General Administration of the Commission than for the comprehensive mechanisms and indexes for the collection and distribution of zakat in the state.

The law does not make the collection of zakat to be compulsory as it is obtainable in other Muslim countries. To this regard, the law does not make a provision as to the punishment for defaulters so as to make people comply and also the law does not provide incentives for those that comply so as to encourage compliance.

Furthermore, the composition of the members of the commission does not include financial experts like expert in Tax and Revenue, Economists, Accountants and Experts in Islamic and Conventional Banking. It is finally observed that the law is not comprehensive enough, thus not satisfactory.

It is on account of the above, that the paper recommends that the Kano State Zakat and Hubsu Commission law, 2003 be amended to contain a provision as to the comprehensive mechanisms and indexes for the collection and distribution of zakat. The law should contain a provision which makes the payment of zakat compulsory and provides punishment for the defaulters and incentive in tax relieves for those that comply. The composition in the members of the commission should be expanded to include financial experts such as specialists in economic, taxation, revenue as well as experts in Islamic and Conventional Banking.

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