

The Zakawi Investment in Tunisia: Sharia and Economical Dimensions

Dr.Faouzi Mohamed HAMDY¹, Dr. Mohamed Saied Makni²

¹(Department of Accounting, College of Business Administration/Al-Quassim University, Kingdom of Saudi Arabia)

²(Department of Accounting, Faculty of Administrative and Financial Sciences/ Al baha University, Kingdom of Saudi Arabia)

Abstract: *The main reason of the economic and social crises experienced by most Arab countries and intensified after the events of 2011 (unemployment, poverty, lack of development, weak or negative national GDP) is the weakness of resources allocated to economic and human development. On the other hand, a large segment of young people, unemployed, have small project ideas and have not been able to obtain adequate funding. Therefore, the exploration for new innovative and unconventional solutions to finance development and reduce poverty becomes an urgent necessity. Zakat funds can be as a solution to this issue (Ihsana El Khulqo and al, 2016 [11]). The idea is to focus on investment instead of consumption. Our analysis shows that Zakat has a helpful effect on economic and social development in Tunisia.*

Keywords: *Zakat, Zakawi investment, Financing by allocation, Islamic Investment*

I. INTRODUCTION

Abundantly of demands come from Tunisian Islamic Financial Associations to start and activate a structure or a National Fund in which Zakat can be collected and restricted for economic and social benefits. This is in addition to finding jobs and solving other problems (Farah and al, 2012 [1]).

These requests, pitching light on the role of Zakat as a tool for boosting investment in Tunisia. A number of contemporary juristic (Russel Powell, 2010 [2]) views see that as contrary to the holy Quran and the Sunnah regarding the hypothesis of the Zakat; how to impose it and how to spend it? This juristic conflict raises the question on the investment of the Zakat; is it according to the Sharia or not? And if it is said to be permitted, what are the regulations and the rules? Moreover, if the Zakat has been started to raise the needs of the beneficiaries, why do we resort to the Zakat investment and then go back to pump the money in the vessel of the Zakat. In addition, if we are convinced by the feasibility of the Zakat, what are the formula and the methods for investment? This research paper is an attempt to review the juristic' different opinions and highlight what the scholars have preferred in the light of the Islamic legislations and the expected economic feasibility and the social economic Tunisian reality.

This paper has been divided into four sections with introduction and conclusion. In the second section, the legal provision for the Zakat investment has been dealt with. In the third section the motives and controls have been defined. In the fourth section, the Zakat investment and support resources have been explained. In the fifth section, some formulas of the Zakat have been explained according to the Sharia and according to economic feasibility. The significance of the topic springs from the fact that the Zakat is the third pillar of the five pillars of Islam and that huge amounts of money are collected annually from different individuals, corporations and commercial constitutions in the Islamic world. Studies (Masudul Alam and al, 1992 [3]) indicate that Muslims throughout the world pay between 20 to 30 billion dollars annually as collected money of 2.5%.

II. THE SHARIA RULE OF ZAKAWI INVESTMENT

The Zakawi investment (Jennifer B, 2013 [4]) can be defined as; employing, using and exploiting the Zakat Funds individually or with others for the benefit of the beneficiaries either soon or later in the future in accordance with the controls governed by three different forms; investing the Zakat money by the owner who has to pay it, investing the Zakat money by the Imam or his deputy who supervises and collects the money (the Zakat specialized funds). For each of the above mentioned forms its own rules and judgments:

2.1 Investment of the Zakat by the beneficiaries after being received

Jurists have stated that Zakat money is permissible to be invested by the beneficiaries since they are being paid and that the money is fully owned by them. They can freely use that money to start projects of their own and do whatever they wish, with respect to some terms and regulations (Saida Daly and al, 2015 [5]).

2.2 Investment of the Zakat by who is required to pay it

If the owner who is required to pay Zakat delays it with the aim of investing; is it permissible or not? This is an area of dispute among scholars; there are supporters and adversaries as well (Mohamed Mohideen and al, 2016 [6]).

2.3 Investing the Zakat by the Imam and his deputy

This is an updating and urgent issue taken and discussed by contemporary jurists between supporters and rivals. The issue is being discussed by scholars in many debates and conferences. They differed on two sayings:

- *The first saying* is that it is not permissible (Islamic Figh Group, 1986) because his almighty ALLAH specified clearly where and to whom this money should be given. Prophet Muhammed (Pbuh) did not use the Zakat money although there was a bad need for that due to the spread of Islam.
- *The second saying* is that it is permissible (Islamic Figh Group, 1998) to invest the zakat money, but with conditions. This has been justified by the fact that the Zakat money can be invested so that there are more benefits for more beneficiaries.

If it is likely that there's interest in investing the Zakat money, then it is possible within the terms and regulations mentioned in the holy Quran. This step cannot be taken by small zakat institutions as in Tunisia because the Zakat money will be at a risk, only those which have the knowledge, the ability and the sufficient funds. He, whoever wants to invest Zakat money must be pious, must fear Allah and must be honest.

III. CONDITIONS AND REASONS OF ZAKAWI INVESTMENT

3.1 Conditions of Zakawi Investment

Scholars (Rafeek Younes Elmasri, 2000 [7]) have set conditions that shouldn't be surpassed. Among these conditions:

- There is no urgent need to use these Funds to meet the needs of beneficiaries: such as foods, clothes, housing and others.
- Investing the Zakat Funds can serve the benefit of the beneficiaries, like providing permanent resources or jobs...
- The areas of investment should be legitimate such as industry, agriculture commerce, but not that prohibited such as usury.
- All measures should be taken to ensure that the Zakat money should be well protected and well spent.
- The decision of investment in projects should be taken carefully by expatriates with the guarantee of getting profits.
- Supervision and administration should be given to those who are highly qualified and honest.
- The investment decision should be preceded by careful study
- Decision should be adopted by honesty persons.

The Zakat Funds should not be paid to anyone who violates the above mentioned conditions, motivations and regulations.

3.2 Motivations of Zakawi investment

3.2.1 Under development of Islamic countries

The situation of Islamic countries encourages action to be taken to promote the development of these countries (Nasim Shah Shirazi, 2014 [15]). So, the Zakawi investment can be a tool to reduce this phenomenon. The current situation of poverty, illiteracy, diseases and sickness must be treated by expanding the Zakat activities and investment (Jamel Amara and al, 2006 [8]). We need to look forward to achieving more economical and social development. We can take Tunisia as an example for countries where there is miserable and deteriorating situation. According to a research done by the Ministry of social affairs (2012), it is estimated that the number of Tunisians living below the upper poverty limit of the total population is 24.7% equivalent to 2.5 million people. At global scale, the threshold of poverty at \$ 2 per capita.

3.2.2 Insufficient Zakat compared with the increasing and multiple demands of the beneficiaries

The most important reason why this insufficiency of the Zakat is poverty, illiteracy, worse economic situations, increase in life demands, some of rich people who are required to pay the Zakat do not perform it, less care and absence of governments concerning Zakat funds. With the help of the Zakat investment, the following outcomes can be reached:

- Expansion in beneficiaries and collection.
- Increase in Zakat percentage.
- Zakawi outcomes will increase because there's no Zakat in Zakawi invested money.

Let us have an example; suppose that the Zakat money for a Tunisian rich man has been estimated by 100000 Tunisian Dinar. The Zakat outcome will be 2.500 Tunisian Dinar. There're two choices in this case; either the Zakat institution receives the money and submits to the beneficiaries or investing the money for the beneficiaries.

Suppose that the Zakat institution has taken the investment option and that the poor receives his money monthly and so the rest is invested. If the investment achieves 20 %, then there are two ways to make profit: The beneficiary should be given 3000 (2500+500) instead of 2500 and so there is better situation. This profit can go to another beneficiary and consequently, the number of beneficiaries' increases. In both cases, there is horizontal or vertical expansion. Moreover, the Zakat vessel becomes bigger.

IV. ZAKAWI INVESTMENT: RESOURCES AND MEANS OF SUPPORT

4.1 Zakawi investment resources

The Zakat flowing financial vessel that can be exploited in Zakawi Investment is composed of the Zakat money collected (Mohamed O.C, 2008[13]). The amount of money in the vessel can be checked through account statements. It is also easy to know the amount of cash being received and spent within a certain limit of time. It also helps in planning and executing investment options according to priorities.

The following example is set to demonstrate funding in cash flow planning.

If the Zakat institution's income is expected to be 15000 Tunisian Dinar per month at a monthly rate of 500 per day and if we assume that the rate of expenditure to be the same without a difference of ONE day in receiving and spending, then it is not possible to invest in this case, however, if we assume that there's a difference of one day between receiving and giving, then there's a possibility of financing a project of 500 per day without affecting the budget. This is in addition that the Zakat institution is likely to get more profit.

4.1.1 Financing by allocation

It means that the protector or the one who is in charge has to allocate some amount of money for Zakat investment that may affect the beneficiaries and may affect a need which is not necessary at the present time. It means sacrificing a present need for a future vital one.

This can be a method of financing for the Islamic Fight has approved two of the Zakat questions; to what extent at the guardian has the authority of allocation and to what expansion has a share in the way of Allah for investment.

a. Whether the Guardian has the authority of allocation

The jurists (Alfugaha) have discussed the allocation of the Zakat for one specific item, if the need arises. They also have had evidences from the prophets' noble deeds (Pbuh) as well as his companions.

b. Meaning of the path of Allah

Jurists have different interpretations of "the path of Allah". Some scholars see spending in the path of Allah as possible, including the formation of Funds for Zakat (Patrica, 2017[9]). Others see it as impossible.

4.1.2 Financing by good loan (Kardh Elhassen)

A good loan, where there's no usury, can be given to the Zakat institution, but not individuals so that it can be invested for the good of the beneficiaries and then recovered later. A number of the holy Quran verses clarified and showed the great credit and reward of that. This is in addition to the prophet's Hadith. There're many well off Muslims around the globe depositing their money in banks, fearing loss or theft. They can deposit this wealth in the Zakat institutions so that they assist others and earn grand wage at the same time. By doing so, the Zakat institution will change from an ordinary Fund collecting and distributing Zakat into a financial institution that can mobilize huge savings into better and halal ways (Saleh Elfouzen, 2009 [14]).

4.1.3 Financing by expediting Zakat

Expediting Zakat means giving the Zakat before its time. Here, the Sharia provisions differ according to the different sections of the Zakat funds.

a. Non-annual Zakawat

One full year is not required. It is given out on its harvest day. It is on plants and fruits.

b. Annual Zakawat

One full year is required. It is on livestock, cash and trade offers. Scholars have two opposing opinions towards expediting; one for, the other against. The most valid opinion is permissibility. There're regulations for expediting:

First, an economic feasibility study must be carried out to make sure that the Zakat investment will increase.

Second, this expediting or acceleration of Zakat must come from institutions and individuals whose Zakat incomes are rich, stable and continuing.

Third, this expediting should not exceed two years restricting to what is being mentioned earlier in this paper.

Fourth, taking the principle of restitution and recovery to guarantee rights and encourage expediting and that it should be in cash and not specimen. There's a dispute concerning recovery, the conditions of recovery, the one who is being paid and many other points to be considered, however, if the Zakat institution has paid the beneficiary, then in this case recovery is permissible.

4.1.4 Financing by installing the Zakat to the beneficiary

This means the Zakat money can be paid to the beneficiary as lump sum and not as a whole. It can be paid weekly or monthly. Let us take an example for the whole year:

Suppose there are 100 Zakat beneficiaries and they all deserve 180000 monetary units per year. Each one deserves 1800 monetary units per year. 150 monetary units are sufficient for one per month. This one can be given 100 in the first month and so, 1650 monetary units will put him in the Zakawi investment. In the coming month, he is given 150 monetary units ... the remaining amount in the institution is 1500 and so the money decreases gradually till it is over by the end of the year. Accordingly, the institution has benefited from the decreasing money. It is clear that this installment system is good for both the institution and the beneficiary.

4.1.5 Financing by using the Islamic investment formulas

The Zakat institution receives various financial resources. A specific budget is monitored and presented for commercial investment. Speculators share the results of these investments and take their profits as well as the institution. In addition to that, they receive reward from his Almighty Allah.

4.2 Means of supporting Zakawi Investment resources

The Zakawi institutions and funds, which are expected to start in Tunisia, are voluntary at the beginning. That means they will not have the right to oblige or penalize the abstainers. So, their mission will be difficult. Accordingly, the following are the most important means of supporting the Zakat outcomes and increasing its amounts.

4.2.1 Reduction of administrative expenses

The holy Quran has allocated one share out of 8th for the Zakat administrative expenses. This indicates that these expenses should not exceed (12.5%). At the present time, some of the Gulf countries pay the expenses of these administrative expenses from the State budget such as Saudi Arabia, Kuwait, Bahrain and others. This is not possible in Tunisia now. So, much work has to be done on reducing these administrative expenses in Tunisia by taking the following into consideration:

a. *Collaboration with the Volunteering committees*

Practical expertise proves that cooperation with volunteering committees is the best way to the success of these Zakat Institutions as in Kuwait, Egypt, Pakistan and Jordan. This cooperation with the volunteering committees will result in saving administrative expenses and at the same time helps increasing the Zakat outcomes.

So, those who are in charge should do their best to make use out of these committees and to give them the possible and necessary powers.

b. *Giving attention to the element of locality*

c. *The element of locality is an outstanding feature of the Zakat distribution.*

Local Zakat funds should concentrate on Zakat local distribution so that there's less expenditure, particularly specimen Zakat that requires fees, transportation, freezing and storing. These local people committees have to help.

d. *Reducing collection of specimen Zakat*

There's dispute among scholars in whether to take the value in specimen Zakat such as livestock, plants, fruits and the like. Cheikh Alqaradawi permits taking the value as well as the Hanafeeya doctrine because it is easier, more economic and most practical. "The Standing Committee for Scientific Research and Prostration" in the Kingdom Of Saudi Arabia sees no any embarrassment in that because transportation and storing are the most important problems facing this specimen Zakat in the KSA (Hairunnizan Wahid, 2014 [10]).

e. *Training Zakat Employees and Developing their Performance*

One of the most important factors that results in reducing administrative expenses is training employees, raising their awareness, giving incentives and encouraging their enthusiasm.

4.2.2 Building confidence in the Zakat Staff and Institutions

The funds and the Institutions' staff expected to collect the Zakat from the people in Tunisia voluntarily, must understand that the people will not be ready to give out their Zakat unless they have absolute confidence in them. The people must make sure that the employees are honest, qualified, specialized, well trained and that these funds and Institutions have their own regulations in collecting and spending the Zakat money and that there's supervision and follow up to the work. For all these reasons, concentration must be fully put on building the trust and the confidence by:

a. *Best selection of employees*

The confidence on the Zakat funds and Institutions is mainly based on the confidence on the staff. If all the staff-members are known to be honest in their work, qualified, have the experience and the knowledge, specialized in other areas than Sharia such as accounting, administration, economy and other areas, then trust will always exist and boost the work .

b. *Availability of systems and adequate regulations*

The presence of systems and regulations for the Zakat funds and Institutions will boost the people's trust. These systems and regulations must be comprehensive, clear, and accurate and open to everybody. It is not good to work under systems and regulation that are deficient and do not hold any details. This will lead to suspicion in the hearts of the people and so will shake their trust and dealings with these Institutions and funds.

c. *Availability of Adequate Supervision and follow up:*

There must be adequate, comprehensive, legal, administrative and financial supervision, pre, post and after work. Whenever these types of supervision are there, then people are convinced and certain that their Zakat will definitely go to the real beneficiaries and vice versa.

d. *Success in Application*

Whenever people notice the work and the efforts of these Zakat funds in reality, the greater their confidence grows. This is because reality is the proof of success. Therefore, these expected funds and institutions in Tunisia have to show the individuals their work and what they have achieved and to advertise the projects that are closer to them and to their livings.

4.2.3 Spreading Knowledge and intensifying awareness

This is also another means of boosting and developing Zakat collection because the element of obligation is absent in Tunisia as well as the lack of knowledge in Sharia provisions. So, spreading religious knowledge among individuals in Tunisia so that everybody knows the sharia rules and the bad and dangerous effects of not paying the Zakat. It is also the role of the state to shed more light on the Zakat funds and institutions and the role these different foundations can play in promoting the community and changing the style of life due to the positive response to the 3rd pillar of Islam.

All the Tunisian people have to be fully aware of all these funds and Zakat enterprises; their systems, achievements, administrations and the methods of being in contact with them for more cooperation. This target can be reached by distributing books, giving lectures & debates, workshops and training sessions. In addition to Friday speeches, interviews and advertisements on the social media. Moreover, the academic researches on "applied Zakat" will be better and useful. All these efforts will encourage the Tunisian people and push them towards giving out their Zakat willingly since there are visible achievements.

4.2.4 Extension of Zakat collection to include all Zakawi money

This is the most important access to boost the Zakat collection because in many Islamic countries, the Zakat collection is on the obvious and the well-known funds only. There are difficulties, no doubt, however, things must be done gradually and more effort has to be exerted with good planning to achieve the goals.

V. FINANCING FORMULAS AVAILABLE FOR ZAKAWI INVESTMENT

After we have known the possible sources of financing to the Zakat institutions, we will try to look at some of the Zakawi investment formats according to the Sharia (Abdelfettah Mohamed Farh, 1997[12]):

5.1 Financing through leasing

Leasing means legitimate contract between the Zakat fund and the beneficiary for a certain time. The Zakat fund possesses an asset such as a machine to be granted to the beneficiary on leasing. There are two types of leasing

5.1.1 Operating leasing

The Fund possesses the assets and then grants these to the financiers. This type of leasing is good for financing all types of assets such as real estates, consumer items such as vehicles, refrigerators, fridges and the like. A joint contract will decide the length of leasing according to the asset being leased. The item being leased has to be returned to the Zakat Fund by the end of the contract (AAOIFI, 2010 [13]).

5.1.1 Credit lease

It is leasing accompanied by the promise of ownership of the item by the end or during the time of leasing. Ownership should be done by one of the following ways:

- the promise to sell at symbolic or real price;
- the promise of Gifting;
- contract of gifting on condition that installments are to be paid.

5.2 Financing by participation

A financing method where the fund and craftsmen as participants can provide money for a project on condition that the result of the investment has to be distributed between the two according to the financing written contract. This participation takes two forms:

- a. *Permanent participation*: Participation lasts as long as the project exists.
- b. *Declining participation*: It ends when the financier owns the project within a certain limit of time. The fund can urge the financier to employ some other poor people so that they are partners and so, this may encourage them to raise productivity.

5.3 Financing by Mudharaba (speculation)

Speculation is a profit contract between the money owner and the speculator at the presence of professionals, scientific, vocational and craftsmen who can make good ground for productive projects. There are two types of speculation:

- a) Permanent speculation and it lasts as long as the project is existing.
- b) Declining speculation: It is the most preferred because it ends in transferring the project ownership to the funder.

5.4 Financing by Gardh Elhassen (good loan)

The Zakat fund refers to this type of funding if it is found necessary to keep vacancies required by this type of funding.

VI. CONCLUSION

The most prominent results

- The Zakawi investment is an updating and controversial issue being discussed by contemporary groups of scholars. Each group has its own arguments and evidences.
- The Zakat investment is subject to conditions and regulations - This investment shouldn't be at the expenses of the beneficiaries. All precautions have to be taken to avoid any risk.
- The Zakat funds and Institutions are the best to collect and distribute the Zakat money in Tunisia at the present time, whether local independent funds or central.
- The means of financing this investment are multi according to the multi investing tools. We need to take and draw from the modern banking techniques what is in proportion with the nature of the Islamic investment;

Financing by cash flow, financing by privatization, financing by Ghardh Elhassen, Financing by expediting the Zakat, financing by installing the Zakat, financing by the Islamic investment formats. One of the most important means of supporting the Zakat funds is the reduction of the administrative expenses, building confidence in the Zakawi institution, spreading knowledge, intensifying awareness and media, expanding collections to cover all Zakat funds. There are plenty of Zakawi investments formats that the Zakat funds can adopt according to the Sharia, These are; financing by leasing, financing by participation, financing by speculation and financing by the good loan.

Recommendations

- The associations that call for the establishment of specialized structures for the collection and investment of the Zakat should take the necessary steps to evaluate these structures and to take all the necessary measures to carry out their mission.
 - The Zakat institutions should reduce their administrative expenses, if possible, and increase their Zakat collections through the Sharia and the legal ways.
 - The Zakat Institutions, which are nearly to be established, should set the systems and the necessary regulations that are essential for their success.
 - These structures and funds are in need of adequate experience and experts as well as trust and confidence from the individuals.
- So, this will not be done in a short time. Planning and scheduling must be carried out gradually and step by step till the goals are achieved.

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