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Assessing the Classical and Contemporary Jurists' View on the Nisab of Zakat Issue

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Abstract

This study aims to examine the views from the classical jurists and the contemporary with regards to the nisab of zakat particularly on the issue of the fluctuation of the benchmark price of the nisab, which are the gold and the silver. This issue raised due to the claim that the price of the nisab benchmark has a tendency to the exploitation of the group of poor and the destitute in the asnaf list. A comparison between the classical and the contemporary views are much needed in examining their discussion regarding the fluctuation of the price of the benchmark of nisab and their reaction in tackling the issues within the scope of two eras. The study makes use of the document analysis to discern the characteristics of view from both eras. Basically, the findings indicate that the classical jurists made some justification on the issue, though the system of the market price is not as similar as today, however, the concentration to the issue is limited. Otherwise, the contemporary shows their interest in resolving this issue. Relatively, it is clear that the issue raised has an implication to the concerned group. Thus, the discussion needs to be accounted from the aspect of risk management and as a step of precautionary to the authorities. With the emergence of Islamic awareness in the society, understanding the implications of various aspects of possibility pertaining the future welfare of the Muslim is essential. Therefore, this study puts some additional aspect to be concerned, which has received less attention or might be overlooked.

Keywords: Zakat, Nisab of Zakat, Classical and Contemporary View, Economic Development, Malaysia

Introduction

Nisab is a measurement of zakat, where one's should responsible to pay a certain amount once the wealth is equivalent and have an excess on that particular year. Nisab is also a tool of differentiating the poor and the affluent (Al Qaradhawi, 1999; Majah, 1952). However, this issue of nisab need to take an in-depth revision, where the price of silver or gold as a measurement of

determining the nisab is mainly due to the demand and supply in the world market. The fluctuation of price, indeed, varies the amount of nisab for that particular year. For the country that uses silver as the measurement of nisab, the inclination to involve the poor as a contributor of zakat is very high due to the low of the silver price currently (Kahf, 1989)

Based on the facts, these precious metals are itemized as the commodity items, thus, it could not be averted from any rigorous market activity (Kahf, 1989; Browne, Abbriano, & Lockwood, 2015). It means that, the gold also will be facing the natural implication as the silver price experienced. Thus, this gives the significance effect to the claim of Sadeq (2004) and Kahf (1999), who mention that a lower benchmark of zakat will associate to a lower nisab and it will inflict the household, whom categorized as poor and destitute as the potential of zakat contributor.

Statistically, a low-rated performance of these commodities are proven through the forecasting data provided by the World Bank (World Bank, 2016). Accordingly, it brings a doubt on the stability status of the gold, in which some has approved that the gold is the most stable item as compared to other commodity (Meera, 2002; Yaacob, 2009). Therefore, it puts a question mark to this claim, where the gold will also having a similar experience as the price of silver. In other words, the price will also fall once there is a disequilibrium in the world's market of demand and supply. The question is whether there could be any substitution to the gold as the benchmark of zakat and either it is permitted according to the syariah views or not.

Therefore, this study will bring some discussions pertaining to the issue in obtaining a whole picture from the perspective of the classical jurists as well as the contemporary for the purpose of to have a correct direction in strengthening the argument of the topic discussion.

In facilitating the discussion, this paper will be structured as follows. Section 1 is the introduction, while section 2 explores the literature reviews of the classical jurists' and the contemporary regarding the nisab of zakat on money respectively. Then, section 3 will presents the results and discussion, and finally, section 4 summarizes the study.

Limitation

This study will focus on the nisab of zakat upon salary in the case of Malaysia, in which it will be focusing much on the discussion on the nisab of gold and the arising issues on it.

Mainly, it discusses the topic of zakat on money due to the association of zakat of salary as the payment mode is basically using the money as the mean of the transaction. Therefore, this study will go in-depth on the discussion of the obligation of zakat on money.

Literature Reviews of the Classical Jurists' and the Contemporary Views on the Nisab of Zakat on Money

There is no doubt that the zakat on money is obligatory for all the Muslim by citing it from the al Quran, sunnah and ijma'. Allah says, " And there are those who hoard gold and silver and spend it not in the way of Allah. Announce unto them a most grievous penalty on the day when heat

will be produced out of that wealth in the fire of Hell and with it will be branded their foreheads, their flanks, and their backs. This is the treasure which ye hoarded for yourselves. Taste ye then the treasure ye buried."(Al Tawbah, verse 34-35).

Unanimously, most of the jurists refer the words "and do not spend it" is closely related to the monetary item, which is the gold and the silver, since both of these metals was the mean of the transaction in previous ages and it also defined as a money that can be spent (Al Qaradhawi, 1999).

A hadith, reported by Muslim (n.d.) mentions that the Prophet Muhammad (pbuh) said "No one who owns gold or silver and does not pay their due, but will have his wealth on the Day of Resurrection made into sheets of fire, heated in the fire of Hell, and with it will be branded his forehead, his flanks, and his back. The moment they cool off they are heated again, during a day the length of which is fifty thousand years, until judgement is given to God's servants, and he will then be shown his way to the Garden or to the Fire." Again, Al Qardawi (1999) states that these terrible treats bear to those who disobey the responsibility for zakat contribution especially on the gold and silver. Thus, in the majority, the gold and the silver are the items that have been agreed by all the jurists as the item of zakat on money.

While, the impose rate for the zakat of money that stated in the hadith is 2.5% as mentioned in the Al-Bukhari (1978); "And on silver, in each two hundred dirhams, the due is one-fourth or a tenth. If there are only one hundred and ninety dirhams, they are not zakatable unless the owner is volunteering to pay."

Ibn Qudamah (1972) also reports a hadith from the prophet Muhammad (s.a.w); "On, silver, one-fourth of a tenth is due." Therefore, no contradiction arises among the jurists regarding this rate of determination on zakat, namely 2.5%.

As the silver, the rate of zakat of gold is also similar as both are considered the means of the transaction at that pertaining ages.

A discussion on the nisab of gold

According to Al Nawawi (2002) , zakat will not be born into the wealth which have less than five uqiyyah, in which it is equal to 200 dirhams. This is based on the hadith, "There is no sadaqah on anything less than five uqiyyah of silver currency." (Al Bukhari, 2004; Muslim, n.d.). These have been agreed by most of the Muslim scholars (Ibn Qudamah, 1972).

While, the gold does not have a strong basis to be associated in the obligation of zakat. However, most of the scholars believe that the nisab for the gold is 20 dinars as what been mentioned by Al Syawkani (1999). Whereas, in aother version of views, it stated that the gold is evaluateed by the silver, in which it means that the gold nisab is 200 dirhams (Ibn Qudamah, 1972).

Albeit, there are plenty of texts that have mentioned about the gold nisab but yet, it is not exempted from criticism.

Ibn Majah (1952) reports from 'Aishah that the prophet Muhammad collects half a dinar on each 20 dinars, while Al Daruqutni (2004), reports that prophet Muhammad says "There is no (obligated sadaqah) on any less than 20 mithqal (dinar) of gold or 200 dirhams."

A letter from Umar Al Khattab mentioning that the gold is due once it reaches 20 dinars, then take it one half dinar as a zakat and none for below than that, in which it has been reported by Muhammad bin Abd Rahman al Ansari, but it is claimed as fake by Ibn Hazm (n.d.).

Abu Daud (n.d.) reports the saying of the prophet, " If you have 200 dirhams, and a year passes on them, there must be five dirhams (as a zakat). You are not obligated to pay anything (on gold) until you have 20 dinars. If you have 20 dinars and a year passes on them, there is a half dinar due on it (as a zakah)."

Ibn Hazm (n.d.) states that Umar al Khattab instructed to take the zakat which proportionally from each 20 dinars is one-half dinar, and above, than that is at the rate of one dirham from each four dinars.

There is also a narration from Ali's saying, which mentions that there is nothing due on less than 20 dinars and on 20 dinars, it is one-half dinar due as zakat, and on 40 dinars, it is one dinar due (Ibn Hazm, n.d.).

Ibn Hazm (n.d.) again indicates that the wife of Ibn Mas'ud wears a necklace that have a weight of 20 mithqal (20 dinars), then he instructed her to contribute five dirhams as a zakat.

Al Qaradhawi (1999) simplifies that there are none of the companions report an awkward narration other than 20 dinars for the nisab of gold and the zakat due is one-half dinar as has been stated by most of the narration of hadith. Even, Umar bin Abdul Aziz has instructed to his officer to take out the apparent wealth and from a trading profit at a sum of one dinar out of each 40 dinars, and at the same rate of proportion until it reaches the amount of 20 dinars. Once it is less than 20 dinars, even by one-third of a dinar, no zakat on it (Ibn Hazm, n.d.).

Imam Malik (2004) also emphasizes that the obligatory of zakat on gold is at the rate of 20 dinars as it is equal to 200 dirhams. While, Imam Syafie (1990) expresses that there is no doubt that the sadaqah on gold would not be counted until it reaches 20 dinars and once it does, zakat is due. Ibn Zanjawaih (1986) also stresses that the nisab of gold is 20 mithqal, which is equal to 20 dinars, and continues explaining that if a person possess for example 200 dirhams, 20 dinars, five camels, 30 cows or 40 sheep until the end of the year, zakat is obligatory to him indisputably.

From the above mentioned explanations, the nisab of gold is agreed to be at the rate of 20 dinars or 20 mithqal as what has been agreed by all the jurists, in which it has been strengthened by the saying of the prophet Muhammad narrated by the companions and followers who are categorized as good unanimously (Al Qaradhawi, 1999). Thus, this study will undergo the assessment based on the nisab of gold at 20 dinars or 20 mithqal.

A discussion of the weight of dirhams and dinars in shari'ah

In discussing the nisab of zakat, the thing that needs to be evaluated apart from its value, it has also comprised the determination of the weight of the silver and the gold itself in measuring the nisab.

Ibn Khaldun (n.d.) summarizes, the dirham that is used since the era of the companions and the followers is ten of which equal in weight seven mithqal of gold. In terms of uqiyyah, it is 30 dirhams. Accordingly, the weight of the silver for zakat is equal to seven-tenths the weight of a dinar of gold. Then, the gold in dinar equals to 72 grains of rye of average weight and it makes one dirham weight equals 55 grains.

Al Qardawi (1999) explains that the value of the dinar, which is similar to a mithqal did not show a huge difference from the pre and the post era of Islam. However, some alteration occurred due to the broadening of Muslim sovereignty during the caliph of Umayyad; Abdul Malik Bin Marwan. Thus, the existence of disparity in the measurement mentioned by Ibn Khaldun might be appeared due to the unification period during the caliph reign.

There is no specification in measuring the accurate weight identified from the prophet Muhammad, the only hadith that expand on this matter is from An Nasaie (1986) namely "Weight measures are those used by Makkans, and volume measures are those used by Madinans."

This is to signify that the Makkans are the people of trade that used weight in their business transaction, while the Madinans are the cultivators who familiar with the volume measurement, such as al wasq, al sa' and al mudd (Al Qaradhawi, 1999).

Due to the ignorance in giving the attention on this hadith, thus, the differences in measuring the weight and volume from one country to the other remain occurred, such as in Baghdad, Madinah, Egypt and Syria (Al Qaradhawi, 1999).

Meanwhile, Adel Allouche (1994; see also Al Maqrizi, 2007) states that the caliphs of Umar Al Khattab introduced the standard of weight during his reign, which was known as the standard of Umar Al Khattab. This standard utilizes the ratio of 10 dirham equals to 7 dinar, in which the dinar weighs 4.25 grams of gold and the dirham weighs 3 grams of silver.

It is believed by most of the historians that Abdul Malik Marwan continues this standard in his reign, however, his currency reform did alter the physical appearance, in which the symbol of Islamic virtues substitutes the Byzantine worship emblem (Yaacob, 2009).

There are a lot of arguments among the historians regarding the exact weight of the dirham and dinar. However, they agree that ten dirhams equal seven dinars, which is the same as seven mithqal. The mithqal of the Makkans weighs 4.25 grams and it means that a dirham is equal to 2.975 grams, which coincides with the weight of coins minted at the time of al Muqtadir (the years 295-320 H / 903-932 AD) (Al Qaradhawi, 1999).

Therefore, the most accurate means of determining the exact nisab weight of the silver and the gold is by multiplying 200 and 2.975 and 20 by 4.25, in which equals to 595 grams and 85 grams respectively.

Results and the Discussion Regarding the Views of the Classical Jurists and the Contemporary on the Determination of Nisab of Zakat

Since a century ago, paper money has been used predominantly in all over the world. Gold and silver have no longer been a medium of transaction since the collapse of Ottoman reign in Turkey. Apparently, the nisab of money which is 20 dinar of gold and 200 dirham of silver will not be the same as previous due to the factor of demand and supply in the world market (Kahf, 1989, 1999). Thus, it might cause a confusion on how to measure the nisab either based on the silver or the gold.

It is believed that some scholars have a tendency to utilize the nisab of the silver as it is unanimously certified by the sunnah and ijma', and due to a lower value of its nisab amount at present, thus, it could benefit the poor (Al Sarakhsiy, 1993; Al Zuhaili, n.d.).

This is might be the reasonable consideration that guides the countries such as Saudi Arabia, Egypt, the gulf states, India and Pakistan used it (Al Nadawi, 1967; Al Qaradhawi, 1999).

While, for those scholars who incline the gold as more appropriate than the silver is looking at the stableness of its value throughout the centuries. The scholars that the favour of the gold as a nisab benchmark are Abu Zahrah, Khallaf and Hasan (Al Qaradhawi, 1999; Mat Isa, 2013).

The reason of this is the comparison of the value of the gold nisab on the other items of wealth, namely, five camels or forty sheep is approximately equivalent to 85 grams of gold. Unfortunately, for the weight of 595 grams of silver, it is not even equal to one camel price (Isa, 2013; Sadeq, 2004).

Al Dahlawi (2005) and Sadeq (2004) mention that five uqiyah was estimated to the silver nisab due to the assumption that it was enough for one's household for their living in one year at a very reasonable standard of living with average consumption of dietary habits.

However, as the time passes, this measurement could not fit the living standard of today to the fact of inflation and the market instability. It would not be sufficient even for a week. Therefore, the benchmark of nisab is much more suited to the gold, which is at 85 grams of gold. Otherwise, it would inflict the injustice to the zakat contributors (Mahmud & Haneef, 2008; Mat Isa, 2013; Sadeq, 2004).

Furthermore, the instability value of money gives the bad impact to the silver nisab where the current price shows the low price of silver as compared to gold and other items of wealth. A lower price of silver would lower the nisab of zakat and it will give effect to the asnaf of zakat, especially to those in the group of poor (Mat Isa, 2013; Sadeq, 2004). Unfortunately, they would also be

considered as the zakat contributors. That is why the gold is more preferable than silver due to the fact of time changing.

Nevertheless, there would also a matter of market price fluctuation, where the price of gold could not be avoided from the decreasing of value. It could happen and it is possible (Abu-Saud, 1988; Kahf, 1989; Sadeq, 2004).

In the meantime, some people could argue as both of the silver and the gold are fluctuating in the response of the market demand and supply. It may appear a question on the matter of the availability from the aspect of syarak to discover the other item other than silver and gold.

In this condition, Al Qaradhawi (1999) views that the success of the real value of money is its purchasing power and notices that the silver price has decreased in value and that made the silver nisab extremely low, compared to nisab on other items of wealth. Therefore, one of the zakatable items could be utilized as a benchmark of nisab of zakat under the consideration of syariah point of view.

Al Sarakhsy (1993) claims that due to the factor of price fluctuation, the nisab of camels and sheep could be a correct estimator in responding to this subject matter. He justifies that a one-year-old she-camel is valued approximately 40 dirhams. Meanwhile, one sheep values five dirhams. Thus, five camels and 40 sheep are equal to 200 dirhams of silver.

However, Ibn Al Humam (n.d.) and Ibn Nujaim (n.d.) against that statement due to the authentic hadith from Sahih Al Bukhari, in which it indicates that the difference in value of one year old of age for camel is determined by the Prophet Muhammad (pbuh) at 2 sheep or 20 dirhams and for 40 sheep, it is 400 dirhams (Al Bukhari, 2004).

The Muslim council of Pakistan namely, Majlis Tahqiq Masail Hadirah has strongly opposed the intention in reviewing the nisab due to the reason that the authentic determination of nisab is not simply derived by the ijtihad but it is from the holy book; al Quran, hadith and ijma' (Mahmud & Haneef, 2008; Sadeq, 2004). However, they admit that the nisab has a tendency to be influenced by the trade market; should the value of nisab is increased, it results in a lower of zakat contributor and lead to a higher of zakat recipient. Thus, it will create an excess in demand for zakat and a tendency to have a begging culture in the society, in which, it is not preferable in Islamic culture (Mahmud & Haneef, 2008; Sadeq, 2004).

The same contradiction given by Al Solahin (2014), who argues that the capability of the livestock such as camel and sheep in substituting the precious metal as the benchmark of nisab, as these refers to the weaknesses of their limited life span and as well as the difficulties in differentiating the level of healthiness on each head of the animal.

On the other side, Raqibuzzaman (1980) insists that the nisab should be allowed to be changed according to the situation of the country. It is due to the condition that varies from country to another country. In addition, the nisab is a portion that value the adequate standard of living on

that particular time. Thus, the burden should not be borne to the poor and destitute as a result of a low nisab. This practice should use the analogy of what has been done by Caliphate Umar, who measures the horse as a zakat rate (Sadeq, 2004).

Abu-Saud (1988) claims that it should sometimes look at the eventuality, in which the benchmark is appropriate for that time being, however, due to the market imbalance, it should be reviewed.

As for an example, during the time of the Prophet Muhammad (pbuh), 5 awsuq was suffice for a family of three for a year, however, 5 awsuq for a planter in Malaysia nowadays is neither affluent nor it fulfils their basic needs in a year at all. Thus, due to the changing times, it is impractical to use an akin standard of benchmark in order to fulfil the needs of the poor and the destitute (Sadeq, 2004).

In addition, Mat Isa (2013) argues that, albeit the decision has been made by some scholars on gold as a value of nisab, the price of gold is constantly changing from time to time according to the market supply and demand. These changes have resulted a difference in the rate of nisab.

For instance, for the case of Malaysia, in 2003, the rate of nisab has been determined at RM3,000, while in 2013 the amount of nisab has increased to RM14,000 (PPZ, 2000). The increase is due to the changes of gold's price from RM35.3 (per gram) in 2003 to RM165 (per gram) in 2013 (Mat Isa, 2013). The difference of RM10,000 or 366.6 per cent in ten year time is considered as a huge change compared to the 10 years of the previous report, where the amount of gold and the nisab is consistent at RM34.1 (per gram) or at RM2900 respectively.

The above mentioned arguments have been tabled in order to facilitate the understanding.

Table 1: The Rate of Nisab in 2003 (Malaysian Ringgit)

Sheep	Cow	Camel	Silver	Gold
400*40 =16000	1500*30 =45000	5000*5 =25000	3.0*595 = 1785	35.3*85 =3000

Source: Mat Isa (2013)

Table 2: The Rate of Nisab in 2013 and the Comparison to Year 2003 (Malaysian Ringgit)

Sheep	Cow	Camel	Silver	Gold
700*40 =28000	2600*30 =78000	6000*5 =30000	3.5*595 = 2082.5	165*85 =14000
75%	44.4%	20%	16.6%	366.6%

Source: Mat Isa (2013)

The above table illustrates the rate of nisab in 2003 and 2013 respectively. From this table, Mat Isa (2013) describes that over the period of 10 years (from 2003 until 2013), the price of silver and livestock namely; sheep, cow and camel have increased moderately. However, the price of gold has massively increased by almost 400%. This change is believed due to several factors,

namely; the influence of currency fluctuations and the demand and supply for industrial purpose in the market.

Mat Isa (2013) has also compiled the data of nisab of zakat from the time of Prophet Muhammad and Abu Bakar as a comparison to the time of Umar Al Khattab.

Table 3: The Approximate Rate of Nisab during the Time of Prophet Muhammad and Abu Bakar (Dirham)

Sheep	Cow	Camel	Silver	Gold
10*40	20*30	40*5	0.33*595	2.35*85
= 400	=600	=200	= 200	=200

Source: Hadith and Athar

Table 4: The Approximate Rate of Nisab during the Time of Umar al-Khattab dan the Comparison to the Time of Prophet Muhammad and Abu Bakar (Dirham)

Sheep	Cow	Camel	Silver	Gold
12*40	60*30	120*5	0.33*595	12*85
=480	=1800	=600	= 200	=1020
20%	200%	200%	0%	410%

Source: Hadith and Athar

Both of the tables present the value of nisab for all zakatable items which are derived from the diyat compensation cost. During the day of Prophet Muhammad (pbuh), the value of nisab for some zakatable items were different from one and another. The nisab of the sheep and the cattle is 400 dirham and 600 dirham respectively. On the contrary, the value of silver, gold and camel is at the same value which is 200 dirham.

Meanwhile, the table 4 that shows the price of the zakatable items during the reign of Umar Al Khattab has slightly increased with the exception of the silver dirham. It is consistently at the same value of 200 dirham as it is used as an intermediate currency, where all the items are based on its value.

Briefly, the table shows that the nisab of the sheep increased by 20 percent to put its price at 480 dirham, while, cow, camel share a same percentage which is 200 percent and the gold rises at the highest percentage among others items which is 410 percent. The increase of the price for the zakatable items during 'Umar ibn al-Khattab's reign is believed due to drought season known as 'am al-ramad which had a direct impact to all consumption goods including the nisab of zakat amount (Isa, 2013).

According to Mat Isa (2013), this situation has led to the changes of the value of nisab, since zakat is paid based on its original item, but the changes in price do not affect to the payment of zakat for all the zakatable items. This is because all the zakatable items are paid based on the item itself.

As for the example, zakat of sheep will be paid after the number reaches the 40 heads, while cattle is 30 heads, camels is 5 heads, gold and silver is at 85 grams and 595 grams respectively, and with the condition of completing the hawl circle (lunar year).

From the fact presented, these changes recognise that the price of gold is highly depended on the market desire, thus, once it touches the peak, it is also a possibility that the price will plummet to lose its credibility as well as the public confidence.

Therefore, from the arguments from both sides of classical jurists and the contemporary, Al Qaradhawi (1999) summarizes that the determination of a new nisab of zakat is possible with a condition that it should choose either one-half of fives camel or forty sheep in that particular country. This is proposed in order to moderate the standard and the purchasing power in the world market due to the tremendous fluctuation of gold prices that could impact the nisab.

Conclusion

The main issue of this study is to examine whether the fluctuation of nisab amount with regards to the gold and the silver has been put into consideration by the classical jurists as what has been discussed by the contemporaries due to its different practices of the monetary system.

From this study, indeed, the classical jurists have considered that the nisab of zakat is one of the issues to be pondered upon, however, it does not put on much stress as the contemporary. As, for example, Al Sarakhsiy (1993) from the Hanafi school of thought has certified that 5 camels or 40 sheep is an accurate nisab in substituting the gold if it is required. Although, it has been disputed by many scholars, but it is sufficient enough to show that there is a discussion on it.

The contemporary has given a good input in order to make the life of the Muslim sustainable in the near future, however, it also could not be avoided from criticism. The scholars such as Abu-Saud (1988), Kahf (1989), Isa (2013), Sadeq (2004) and Al Qaradhawi (1999), just naming a few, have contributed an amazing discussion to put this issue forward to the authorities. It might not be happening at present, but, there will no confirmation what will be the next in our near future.

Therefore, this study recommends some suggestion for future work with regards to this issue, such as an empirical analysis to validate the hypothesis mentioned by the Majlis Tahqiq Masail Hadirah of India regarding this matter.

This is done in order to review the effect of the value of the nisab amount due to the time changes over time, in which it is not parallel to the rise of the living cost and, significantly, it changes the basket of essential needs especially to those who categorized as poor and destitute (Kahf, 1989).

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