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## Zakat Law and Islamic Religious Revenue: New Sources of a State Revenue

Abdul Ghafar Ismail<sup>1</sup>  
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### Abstract

The state constitution makes a provision that they can expand the sources of revenues for socioeconomic purposes. Among these revenues are zakat, fitrah and baitumal and similar Islamic religious revenue. This paper will present an evidence based on the consolidated account in several states (Brunei, Indonesia, Malaysia and Singapore). The results will try to prove that (i) there are several advantages to compiling a consolidated account, such as being able to centralize the planning, and reporting of the revenue. In addition, it also helps in formulating the public policy. However, the current practice shows that these revenues are not consolidated as a state account; (ii) in relation to (i), how could the public policy be created and implemented; (iii) it may raise the issues on distribution (classification of zakat recipients, priorities and allocation mechanism) in order to improve the effectiveness of zakat distribution. This paper may have an impact on the disbursement made by the zakat institutions in one state should be recognized and endorsed by the relevant authorities or operational regulations.

*Keywords:* institutional economics, zakat, law, government revenue, Islamic Religious Revenues  
*JEL Classifications:* H23; K22; P34; P51; Z18;

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## 1. Introduction

Economist, generally, hold the mistaken overlooked regarding matters of public finance that the federal law generally do provide the provision in connection to the sources of government revenue. It does not take much practical exposure or thought to realize that this is a general misconception and the published books such as Lamb, et al (2004), Mallinak (2006), James and Nobes (2008), Graetz (2016) and Hamburger (2017) make this abundantly clear. This article is welcome addition to the current literature, as most work in the area of public finance has concentrated on tax issues without much attention to the overall federal and state law, and state religious administration.

The state constitution makes a provision that the state can expand the sources of revenues such as zakat, fitrah and baitumal and similar Islamic religious revenue for socioeconomic purposes. The state law also makes a provision that only the state can collect and disburse the zakat. It means that the law permits what institutions should do to create, administer, and regulate zakat and flows of resources. But there is, of course, another dimensions to all of this: legality. Descriptions of how zakat flows through the economy are inseparable from questions about the consolidated account. These complementary inquiries are deeply moral at their core, causing intuitive reactions, as they pressure people to consider what they think is a truly fair social order, severed from unnecessary worries about the state budget. Because these questions are conflict-ridden, they are the province of the legal field, of lawyers, lawmakers, regulators, and judges, who hammer out the statutes, cases, and codes that look into commercial activity.

The questions are complex, yet intuitive. If the state government collects zakat out of thin air, rather than taking it from some people to give it to others, as we have so often been told, then who owns the money? Who deserves the money? If money is not truly a commodity siphoned from the public, but a tool created and distributed by the government and its agents to the public, then who can claim ownership of the money currently wasting away in the state coffers? Deeper, still - who is entitled to the money that does not even exist yet? If there is no money scarcity, only real resource scarcity, then most legal and philosophical conversations about distributive justice are old-fashioned and impoverished.

This study deviates from many existing studies that mainly focus on the issues of both collections and disbursement of zakat.<sup>3</sup> The study may bring benefits in different aspects: an improved revenue flow, improved zakat management and more accurate revenue forecasting ability, greater earnings on investments, consistent and equal treatment of stakeholders (payer, amil, regulator, recipient), reduction in borrowing costs and increased compliance with zakat law.

Therefore, this study will present a visit on the state law in several jurisdictions and set the stage for the subsequent detailed discussions of the sources of revenue. We will then discuss the selected zakat law which highlights the framework within which waqf systems operate. The motivation is to learn comprehensively the extent of a government's revenue raising authority, when such revenues can be collected and how they are to be collected. Therefore, zakat law is also important in governing the government revenue.

The discussion in this study will be divided into five sections. In section two, our discussion will be divided into two sub-sections: to show that state laws are the most persistent affecting many aspects of revenue collection functions; and to discuss on the types of revenues collected and distributed by the level of governments. Section three will visit selected zakat law and try to learn the methods of zakat collection. In section four, we will address the issues behind the collection of zakat by looking at zakat as sources of government revenue, cash management profile, zakat in relation to consolidated funds and as tool of public policy. Section five will provide the conclusions.

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<sup>3</sup> Please refer to Ismail and Tahir (2016) and Abdullah (2018)

## 2. Law and Public Finance

The security and welfare of the people, as stated in federal and state laws, are the primary objective of a state in most countries. These objectives which in addition to the cost of governance require funding. How much of these objectives, are met would largely depend on the funds available for the use of the state from revenue raised or generated by it. It shows that the state law is very fundamental to state revenue. In this section, our discussion will be divided into two sub-sections: (i) we will show that state laws are the most persistent affecting many aspects of revenue collection functions; and (ii) we will discuss on the types of revenues collected by the level of governments.

### (a) State Law

State law provides the framework within which revenue systems operate. The law determines the extent of a state's revenue raising authority, what type of revenues and how they are to be collected.

**Federal Constitution** – it becomes a primary source of law. In general, the central government has been given a power on the following aspects. *First*, budget planning – for a given period, usually for a fiscal year, the state budget shows what its revenues are, and how they will be generated and used over the fiscal period. As shown in Table 1, under the state constitution, the revenue would come in the form of taxes, levies, fees and other charges. States like Brunei, Malaysia and Singapore define clearly that the revenues also include zakat, zakat and other Islamic revenues. These revenues are used by the states as key instruments for promoting its socio-economic objectives.

*Second*, budget formulating – the appropriations, revenue or public debt shall originate in the parliament. The form, content and manner of preparation of the budget are also described in the state constitution.

**Table 1: State Law and Government Revenues**

| Countries        | Federal Level                                 |  | State Level  |   |
|------------------|---|--|--|---|
|                  | States Law                                    | List of Revenues   | Other State Laws                                   | List of Revenues  |
| <b>Brunei</b>    | State Constitution, 2008                      | All revenues and money raised or received by the Government from whatsoever source shall, subject to this Constitution and any written law - be paid into and form one fund to be known as the Consolidated Fund | Akta Majlis Ugama Islam dan Mahkamah-Mahkamah Kadi | Consolidated Islamic Funds – Zakat, Waqf and Nazar  |
| <b>Indonesia</b> | Undang-Undang Dasar Negara Republik Indonesia | Any Tax and Non-tax Revenue <ul style="list-style-type: none"> <li>▪ Income tax</li> <li>▪ Value Added Tax</li> </ul>  | Act No. 28/2009 about local tax                    | <ul style="list-style-type: none"> <li>▪ Motor Vehicles Tax</li> <li>▪ Motor Transfer Duty</li> </ul> |

|                  |   |  |   |  |
|------------------|---|--|---|--|
|                  | Tahun 1945<br><br>Act No. 6/1983,<br>amended by Act<br>no.16/2009, The<br>General<br>Provisions and<br>Taxation<br>Procedures | <ul style="list-style-type: none"> <li>▪ Stamp Duties</li> </ul>   |   | <ul style="list-style-type: none"> <li>▪ Petroleum Tax</li> <li>▪ Tobacco Tax</li> <li>▪ Water Rate</li> </ul> |
| <b>Malaysia</b>  | Federal<br>Constitution 1957<br>(Amended in<br>2010)  | <ul style="list-style-type: none"> <li>▪ Direct Taxes:</li> <li>▪ Income tax</li> <li>▪ Real property<br/>gain tax</li> <li>▪ Petroleum income<br/>tax</li> <li>▪ Indirect Taxes:</li> <li>▪ Excise Duty</li> <li>▪ Import and Export<br/>Duty</li> <li>▪ Stamp Duty</li> <li>▪ Goods and<br/>Services Tax</li> <li>▪ Others</li> </ul>  | Syariah Criminal<br>Enactment Law of<br>each state                              |  |
| <b>Singapore</b> | Constitution of the<br>Republic of<br>Singapore   | All revenues and<br>money raised or<br>received by the<br>Government from<br>whatsoever<br>source shall,<br>subject to this<br>Constitution and<br>any written law -<br>be paid into and<br>form one fund to<br>be known as the<br>Consolidated<br>Fund<br>The revenue shall<br>not include any<br>sums received by<br>way of zakat, fitrah<br>and baitulmal or<br>similar Muslim<br>revenue | Administration of<br>Muslim Law Act<br>(Chapter 3)<br>(Revised Edition<br>2009) |  |

*Third*, restrictions on budgeting – the elected government has exclusive right to propose a budget. However, the parliament can only reduce or reallocate appropriations in the proposed budget.

*Fourth*, accounting and auditing – the state budget shall be recorded, classified, and summarized, in a significant manner and in terms of money, transactions and events which are, in part at least of a financial character and interpreting the results thereof. The primary function is to measure and communicate financial and data as it gives meaning to economic reports by explaining the results of transactions in terms of current financial positions.

While, auditing on the other hand is the examination of information by auditor general office with the intention of establishing its reliability, and the reporting of the results of this examination with the expectation of increasing the usefulness of the information to the user. Therefore, the auditor general office has the power, authority and duty to examine, audit and settle all accounts and expenditures of the funds and properties of the state government. Towards that end, it has the exclusive authority to define the scope, techniques and methods of its auditing and examination procedures. It also may prevent and disallow irregular, unnecessary, excessive, extravagant or unconscionable expenditures, or uses of government funds and properties.

**Local Revenue-Raising Authority**<sup>4</sup> – The ability of government (at state, regional or province level and local level, hereafter we will refer it as local government) to raise taxes (such as land tax) and other revenues is affected by their status as either “home rule”<sup>5</sup> or “Dillon’s rule” government.<sup>6</sup> In states that allow home rule, local government is granted constitutional and statutory powers to provide services to their residents, raise taxes and other revenues to fund them, and issue debt for various public purposes, subject only to specific prohibitions.<sup>7</sup> In states where Dillon’s rule is in effect, local government is granted authority to operate through statute, no authority is granted through the state constitution.

The countries such as Malaysia, Nigeria, and Pakistan as shown in Table 2, have granted home rule to their local governments. However, home rule is a matter of degree. In the countries where local government are granted home rule authority, the extent of their powers varies widely. The states may also make a distinction between the powers granted to city and county governments, with some providing greater authority to states than cities. Local laws give the responsibilities of certain local government officials.

**Other Federal Law** –Federal laws and regulations affect several areas of local government revenue, including the availability of funds through the financial system, debt collection practices and the receipt of grant proceeds. It shows that laws vary widely and may restrict the function of the revenue collections office in a number of ways. For example, laws may establish responsibility of collections, determine what tools are available for enforcement of the tax and revenue laws, and establish administrative standards for the operation of the collection function.

As a summary, it shows that the law provides the administration of the revenues such as taxes, fees, levies and other revenues. This is the result of products of legislative enactments beginning from which of the tiers of government is empowered to make laws regarding various revenue items, and or administer the laws enacted to regulate same. Taxes are the major sources of revenue for the first two tiers of government and as such the thrust of this discourse will be on taxes.

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<sup>4</sup> Depending on the system of government. The federalism system such as Malaysia defines the relationship between the federal government at the national level and its constituent units at the regional, state or local levels. While the unitary system of government is a sovereign state governed as a single entity such as Indonesia. The federal government is supreme, and the administrative divisions exercise only powers that the federal government has delegated to them.

<sup>5</sup> Home rule is the power of a constituent part (administrative division) of a state to exercise such of the state's powers of governance within its own administrative area that have been decentralized to it by the federal government.

<sup>6</sup> John Forest Dillon, for whom the Dillon Rule is named, was the Chief Justice of the Iowa Supreme Court approximately in 1867. The Dillon Rule is used in interpreting law when there is a question of whether or not a local government has a certain power.

<sup>7</sup> Local government such as Pasir Gudang and Putrajaya in Malaysia were allowed to issue sukuk to finance their activities. Refer to Ismail (2018)

## (b) Sources of Government Revenues

The sources of revenues for sample of countries is shown in Table 2. This table shows the sources of revenue for a selected sample of countries to the level of government. Since, the sources of revenues to selected countries depend on the system of government, therefore, we choose countries such as Brunei, Malaysia and Singapore who follow the federalism system. While countries such as Indonesia who follow the unitary system. We refer to the following laws: (i) Brunei – State Constitution of 2008 (Abdullah (2018) and Ismail at al (2017)); (ii) Indonesia – Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (iii) Malaysia - Federal Constitution 1957 (Amended in 2010); and (iv) Singapore - Constitution of the Republic of Singapore (revised edition of 1999).

**Table 2: Federal Government Revenues in Selected Countries**

| State     | Types of Revenue   |   |   |  |   |   |
|-----------|--|---|---|--|---|---|
|           | Federal Government   |   | State Government  |  | Local Government  |   |
|           | Tax  | Non-Tax   | Tax   | Non-Tax  | Tax   | Non-Tax   |
| Brunei    | <ul style="list-style-type: none"> <li>▪ Corporate tax</li> <li>▪ Stamp duty</li> </ul>  | <ul style="list-style-type: none"> <li>▪ Zakat</li> <li>▪ Zakat Fitri</li> <li>▪ Zakat</li> </ul>   | None  | None   | None  | <ul style="list-style-type: none"> <li>▪ Parking charges</li> </ul>   |
| Indonesia | <ul style="list-style-type: none"> <li>▪ income tax</li> <li>▪ value added tax on goods and services</li> <li>▪ sales tax</li> <li>▪ property tax</li> <li>▪ customs tax</li> <li>▪ import duties</li> <li>▪ export duties.</li> </ul>                             | <ul style="list-style-type: none"> <li>▪ Grants</li> <li>▪ Rents, and Royalty</li> <li>▪ Fee and fines</li> <li>▪ Income from State Owned Enterprises</li> <li>▪ Civil Administration</li> <li>▪ Zakat</li> <li>▪ Zakat Fitri</li> <li>▪ Zakat</li> </ul> | <ul style="list-style-type: none"> <li>▪ Motor Vehicles Tax</li> <li>▪ Motor Transfer Duty</li> <li>▪ Petroleum Tax</li> <li>▪ Tobacco Tax</li> <li>▪ Water Rate</li> </ul> | <ul style="list-style-type: none"> <li>▪ Income from Provincial Owned Companies</li> <li>▪ Grants</li> <li>▪ Investment Licensing Retribution</li> </ul> | <ul style="list-style-type: none"> <li>▪ Hotels</li> <li>▪ Restaurant</li> <li>▪ Advertisement</li> <li>▪ Parking</li> <li>▪ Amusement tax</li> </ul> | <ul style="list-style-type: none"> <li>▪ Income from Local Owned Companies</li> <li>▪ Investment Licensing Retribution</li> </ul> |
| Malaysia  | <ul style="list-style-type: none"> <li>▪ Personal Income Tax</li> <li>▪ Companies Tax</li> <li>▪ Value Added Tax</li> <li>▪ Capital Gains Tax</li> <li>▪ Petroleum Profit Tax</li> <li>▪ Goods and Services Tax</li> </ul>   | <ul style="list-style-type: none"> <li>▪ Stamp Duties</li> <li>▪ Customs Duties</li> <li>▪ Excise Duties</li> <li>▪ Petroleum</li> </ul>  | <ul style="list-style-type: none"> <li>▪ Land Tax</li> </ul>  | <ul style="list-style-type: none"> <li>▪ Zakat</li> <li>▪ Zakat Fitriah</li> <li>▪ Zakat</li> <li>▪ Resource Revenue</li> </ul>                          | <ul style="list-style-type: none"> <li>▪ Assessment Tax</li> </ul>  | <ul style="list-style-type: none"> <li>▪ Parking Charges</li> <li>▪ Fine</li> <li>▪ Business Licences</li> </ul>                  |
| Singapore | <ul style="list-style-type: none"> <li>▪ Income Tax</li> <li>▪ Property Tax</li> <li>▪ Estate Duty</li> <li>▪ Motor Vehicle Taxes</li> <li>▪ Customs &amp; Excise</li> <li>▪ GST</li> <li>▪ Betting Taxes</li> <li>▪ Casino Tax</li> <li>▪ Stamp Duties</li> </ul> | <ul style="list-style-type: none"> <li>▪ Dividends, interest and other income</li> </ul>  |   |  |   |   |

It shows that both revenues received and all loans raised by the federal government, and all moneys received by it in repayment of any loan, become one of the components in the consolidated fund. All other public moneys received by or on behalf of the federal government should be credited to the public account.

In **Brunei**, all revenues and moneys raised or received (Row 2, Table 2) by the federal government from whatsoever source should be transferred into the consolidated fund. The list of revenues that want to be collected such as the different types of tax and its rate should be subject to the approval from the federal government. The statement of the estimated receipts and expenditure of the federal government for that year should also be presented before the commencement of that year. The estimates of revenues should show separately (i) the total sums required to meet expenditure charged on the consolidated fund; and (ii) the sums respectively required to meet the heads of other expenditure proposed to be met from the consolidated fund; (iii) the sums should not include sums representing the proceeds of any loan raised by the federal government for any specific purpose and appropriated for such purpose. The sums also cover any money, or interest on money, received by the federal government subject to a trust and to be applied in accordance with the terms of that trust. But, the sums do not cover the Islamic revenues such zakat, waqf, and nazar.

In **Indonesia**, the federal government, as reported in Row 3, Table 2, has been given the power to collect: tax, non-tax, and grant. Tax consists of domestic tax and international tax. While domestic tax revenue is derived from income tax, value added tax on goods and services and sales tax on luxurious goods, property tax, customs tax, and other tax revenues. International tax is derived from the import and export duties.

Non-tax revenue is referred to as all federal government revenues that are received from natural resources, federal government's portion of profit from state-owned enterprises as well as revenue from the public service agencies.

Grant revenue is all state revenues either in the form of foreign exchange and/or foreign exchange denominated in rupiah, rupiahs, services, and/or securities acquired from grantors. This grant does not have to be repaid and are not binding, either from domestic or abroad.

Since the state is based upon "Belief in the One, Supreme God". The state guarantees freedom to every resident to adhere to his respective religion and to perform his religious duties in conformity with that religion and that faith. By implication, the state can also collect the Islamic revenues.

In **Malaysia**, the lists of revenues are quite similar as in Brunei, except that the federal government can impose income tax, and goods and sales tax (GST) and non-tax revenue from petroleum and natural gas and tax on resources such as timber and cess on commodities. The state government has been mandated by federal law that they can raise zakat, fitrah, Baitulmal, or similar Islamic religious revenue and transfer it into a separate fund.

In **Singapore**, the revenues come from different categories (Row 5, Table 2): (a) tax such as income tax, property tax and GST; (b) the total net assets managed by government investment companies (GIC) Private Limited and all its wholly-owned subsidiaries; (c) such moneys of the government as the Monetary Authority of Singapore (MAS) receives from the government as banker to the government; (d) the excess of the assets of MAS over its liabilities; (e) the excess of the assets of Temasek Holdings (Private) Limited (a sovereign fund) over its liabilities; and (f) net investment income comes from: (i) the dividends, interest and other income received by the government during the financial year from investing the reserves of the government; and (ii) the interest received by the government during the financial year from loans provided by the government; and (g) as stated under Clause 147(3), the revenue also includes any sums received by way of zakat, fitrah and baitulmal or similar Muslim revenue. But it should be separated from the consolidated funds; and (h) loans.

In addition, under clause number 15 of state constitution: (a) every person has the right to profess and practice his religion and to propagate it; (b) no person shall be obliged to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own; (c) every religious group has the right; (i) to manage its own religious affairs; (ii) to establish and maintain institutions

for religious or charitable purposes; and (iii) to acquire and own property and hold and administer it in accordance with law. It shows that the Muslim ummah can established and manage their funds.

### 3. Zakat Law and Government Revenue

The results from section two shows that zakat is one of the components of government revenues. Therefore, we need to look at the specific law that has been passed that we can learn on how the zakat system operates in selected countries.

Zakat law provides the framework within which zakat systems operate. The law determines the extent of a government's revenue raising authority, when such revenues can be collected and how they are to be collected. Therefore, zakat law is also important in governing the government revenue.

In this section, we will visit selected zakat law, as summarized in Table 3, and try to learn the methods of zakat collection and why their use relieves the necessity for examining the revenue and to assist in the utilization of zakat. In particular, we will look at; definition, power to collect zakat, Muslim's obligatory to pay zakat, way of distribution, the needs to prepare zakat account and the needs to have separate account of zakat.<sup>8</sup>

#### Brunei

Majlis Ugama Islam Brunei or The Religious Council of Brunei (hereafter The Majlis) has been given, as shown in Row 2 Table 3, the power to collect and dispose all zakat and fitrah payable in Brunei Darussalam in accordance with Shariah law. Given this power, the Majlis should prepare annually assessment lists in respect of each *mukim masjid* in Brunei Darussalam, showing the names of all persons therein liable to pay zakat and fitrah respectively and the amounts which they are so liable to pay. It shows that the Majlis should be directly responsible for the preparation of the assessment lists in respect of such areas. However, in all the areas, the Imam acts as agent for and on behalf of the Majlis. They prepare the assessment lists in respect of each *mukim masjid* and should submit copies thereof to the Majlis. Every muslim should pay zakat on animals, or crops or business. The zakat should be payable at the rate and in such manner as may be determined by the Majlis from time to time in accordance with Shariah law.

In addition, fitrah should also be payable by all Muslim households in Brunei Darussalam and should be at the rate of and in such manner as may be determined by the Majlis from time to time in accordance with Shariah law: Provided that (i) where a household consists of an odd number of members, payment shall be made as if it consisted of the next higher even number of members; (ii) payment of fitrah may be excused on grounds of poverty and the Imam may with the approval of the other *pegawai masjid* omit from the assessment list prepared by him the name of any person considered too poor to pay fitrah. However in any such case he shall inform the Majlis of the facts and the Majlis may reverse such decision.

In relation to the time and place to pay zakat, clause number 118 has been used which mentioned: (i) The Majlis or the Imam or Amil as the case may be, shall complete the Zakat assessment list by entering the amounts produced and the amounts payable as soon as the harvest is complete; (ii) Where any person produces *padi* in more than one *mukim masjid*, his name shall be entered in every assessment list concerned and he shall be assessed on the total production. Payment shall, in any such case, be made directly to the Majlis; (iii) On completion of the assessment lists, and notwithstanding any appeal pending, the producer shall forthwith pay the zakat to the Majlis or, in cases to which subsection (2) does not apply to the Imam;

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<sup>8</sup> Similar method can be seen in Obaidullah (2016)

(iv) Zakat shall be paid in *padi* but the person paying may be permitted to repurchase such *padi* at such price for instance per gantang as the Majlis may, by notification signified in the Gazette, from time to time fix.

The payment of fitrah meanwhile is stated in the clause number 119 which state (i) Fitrah assessment lists shall be completed not later than the 15th day of Syaaban in each year and the fitrah shall be paid to the Majlis or to the Imam not later than the 1st day of Shawal next ensuing; and (ii) The Majlis may from time to time by notification signified in the Gazette fix rates at which rice may be sold by any *pegawai masjid* to persons. Such rates shall be not lower than the current minimum market price for the cheapest grade of rice.

Receipts and Accounts – under the provisions of 120(1), (i) the Majlis or the Imam or Amil shall issue a receipt as in Form A or in Form B (as appropriate) in the First Schedule for every payment of Zakat or Fitrah, whether in cash or in kind; (ii) every Imam or Amil shall account to the Majlis for all zakat and fitrah received by him and shall hold, store, and dispose of the same or of any proceeds of sale thereof in such manner as the Majlis may direct; and (iii) the Majlis shall cause assessment lists, receipts, accounts and other documents kept by any Imam or Amil and relating to zakat or fitrah to be examined and audited and may for such purpose appoint and remunerate Inspectors.

## Indonesia

The Minister of Religion Affairs issued Decision No. 581/1999 on the Implementation of Law No. 38/1999. Both the Law and the Decision specifically address government-formed zakat collector bodies, known as Badan Amil Zakat (BAZ), and non-governmental collector institutions, known as Lembaga Amil Zakat (LAZ). Both BAZ and LAZ have the same functions: to collect, distribute, and utilize efficiently zakat proceeds - both zakat al-mal and zakat al-fitr – as well as other charity funds in Islam, according to the stipulation of Islamic law. The law stipulates zakatable items in article 11 sections 1 and 2, while in section 3 it mentions the calculation, nisab, rate, and time of payment that should follow Islamic law.

The revised zakat law of number 23, 2011 was approved in 2011. However, it was only implemented in 2014 under the decision number 14. Under the Law No. 23 of 2011, Badan Amil Zakat Nasional (BAZNAS) is formed by the government in the task of implementing the authority of zakat management nationally. The authority of the implementation of national zakat collection, distribution and utilization includes four functions specifically enacted in Law No. 23 of 2011, as follows: (i) the function of planning for the collection, distribution and utilization of zakat; (ii) the function of the implementation of zakat collection, distribution, and utilization; (iii) the function of controlling, distributing, and utilizing zakat; and (iii) reporting and accountability functions of zakat management (Article 7).

## Malaysia

Zakat is the responsibility of the Islamic Council of each state in Malaysia (or hereafter the Majlis). Each state has her own law called Administration of Islamic Laws (AILs). Based on this law, the consolidated zakat funds are managed by Baitulmal. The Majlis is empowered to collect zakat and fitrah due from every Muslim in Malaysia in accordance with Islamic law. There are several type of zakat that can be collected such as zakat on savings, business, shares, gold, livestock corps, and incomes including zakat fitrah.

Under the AILs, for example Section 87 of the Administration of the Religion of Islam (State of Selangor) Enactment 2003, the Majlis has the power to make regulations to determine the rate of value of zakat and fitrah portion payable by every Muslim, create procedures on collection, appoint amils, create penalties and provide punishment in relation to the collection and delivery of all proceeds of zakat and fitrah.

The audited financial statement of Baitulmal should be reported to the Majlis and it can also be available for public.

Under the Shariah Criminal Enactment Law of each state, Muslims in Malaysia could be served with jail time or be forced to pay a hefty fine for skipping their zakat payment on purpose.

**Table 3: Zakat Law and Its Provision**

| State            | Legal Provision |                                 |   |                     |  |              |           |
|------------------|-----------------|---------------------------------|---|---------------------|--|--------------|-----------|
|                  | Definition      | Power to Collect                | Types of Zakat Collected  | Way of Distribution | Reporting                                  | Muslim Funds | Penalties |
| <b>Brunei</b>    | No              | Religious Council               | Livestock, crops, business                                      | Imam or Amil        | Provisions of 120(1)                       | Yes          | No        |
| <b>Indonesia</b> | No              | Badan Amil dan Zakat Nasional   | Savings, business, shares, gold, livestock, crops, and incomes. | BAZNAS              | Zakat Law of 2011 (Article 7)              | Yes          | No        |
| <b>Malaysia</b>  | No              | Religious Council of Each State | Savings, business, shares, gold, livestock, crops, and incomes. | Baitulmal           | AILS (Administration of Islamic Laws) 2003 | Yes          | Yes       |
| <b>Singapore</b> | No              | Religious Council               | Savings, business, shares, gold, livestock, crops, and incomes. | Baitulmal           |  | Yes          | No        |

## Singapore

Under the Administration of Muslim Law Act (Chapter 3) (Original Enactment: Act 27 Of 1966) Revised Edition 2009, clause 57, a fund to be known as the General Endowment Fund (hereafter the Fund) is established. The Fund is administered by Majlis Ugama Islam Singapura (or the Majlis). The Fund shall consist of all money and property (i.e. movable or immovable), which by the Muslim law or under the provisions of this Act or rules made under subsection (6), accrue or is contributed by any person to the Fund. The Fund shall be vested in the Majlis which shall administer all such money and property in accordance with the rules made under this Act. Any investments of assets and funds vested in the Majlis may be sold, realised and disposed of. The Majlis may invest any money in the Fund in accordance with the standard investment power of statutory bodies as defined in section 33A of the Interpretation Act of 2004. The Majlis, with the approval of the Minister, may make rules for the collection, administration and distribution of all property of the Fund.

Collection of zakat and fitrah (clause 68) - The Majlis shall have power to collect zakat and fitrah payable in accordance with the Muslim law. While any zakat or fitrah collected shall also be disposed of by the Majlis in accordance with the Muslim law. The Majlis, with the approval of the Minister, may make rules for and regulate all matters in connection with the collection, administration and distribution of zakat and fitrah. Among the rules are: (i) to prescribe from time to time the amount of zakat and fitrah to be paid; (ii) to provide for the method by which zakat and fitrah shall be collected; (iii) for the appointment of agents and officers for the collection of zakat and fitrah; and (iv) to provide penalties for the collection or payment of zakat and fitrah by or to unauthorized persons.

Annual report (clause 73A) - The Majlis shall, as soon as practicable after the end of each financial year, submit to the Minister for Culture and Social Affairs) an annual report on the activities of the Majlis during the preceding financial year.

#### 4. What are the Issues

In this section, we will address the issues behind the collection of zakat by looking at zakat as cash management profile, sources of government revenue, zakat in relation to consolidated funds and as tool of public policy.

##### (a) Cash Management Profile

Zakat law often dictates on how to generate the benefits of zakat collection. This is important because a government's particular cash flow profile is directly related to the dates on which it receives its major revenues from zakat collection.

Efficient cash handling and control systems increase certainty that payments are made properly by the due date; and that receipts are passed without delay to beneficiaries. They also reduce operational risk and the scope for mismanagement or fraud. By minimizing the volumes of idle cash held by zakat institutions, most of which is unlikely to be fully remunerated, and reducing payment authorities (and cheques) in transit or awaiting clearance, there is a direct saving to amil. The linkage of amil (or assigned as government accounts) (so that balances are netted through a single account at the central bank), as presented in Appendix, not only reduces gross balances, it improves visibility of flows - opening up the opportunities for active management –and reduces risk, whether in terms of exposure to the financial system or to financial market movements.<sup>9</sup>

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<sup>9</sup> Zakat should also be considered as an element of financial stability or stress testing tests at macro or micro levels.

## **(b) Sources of Government Revenue**

As discussed in Section 3, zakat can be in the form of in kind or cash. Both can generate receipts. Currently, government receipts are divided into two groups – revenue receipts and capital receipts. Government receipts which neither: (i) create liabilities nor (ii) reduce assets are called revenue receipts. These are proceeds of taxes, profit and dividend on government investment, cess and other receipts for services rendered by the government. These are current income receipts of the government from all sources. Government revenue is the means for government expenditure. In the same way as production is means for consumption. Revenue receipts are further classified into tax revenue and non-tax revenue.

While, government receipts which either: (i) create liabilities (e.g. borrowing) or (ii) reduce assets (e.g. disinvestment) are called capital receipts. Thus when government raises funds either by incurring a liability or by disposing off its assets, it is called a capital receipt. Two examples of capital receipts which create liability are borrowing and raising of funds from public provident fund (PPF) and small savings deposits. Borrowings are treated capital receipts because they create liability of returning loans. Similarly, funds raised from PPF, small saving deposits in Saving Banks are treated capital receipts because they increase liability of the government to repay these amounts to PPF holders and small savings depositors.

Therefore, capital receipts may be debt creating or non-debt creating. Net borrowing by government at home, loans received from foreign governments, borrowing from central bank are examples of debt creating receipts. While, capital receipts such as recovery of loans, proceeds from sale of public enterprises (i.e., disinvestment), do not give rise to debt. Based on the above arguments, zakat are classified as revenue receipts, hence it does not increase the government debt. Hence, the zakat (in kind) need to be managed (by public sector enterprises (PSEs)).

## **(c) Consolidated Account and State Revenue**

The process of having a plan of the government begins with the launching of the First Five Year Plan. The Annual Plans are the operational phase of the Five Year Plans. Over the years, both the scope of public sector plan and the administrative machinery involved have undergone changes. The setting up of zakat funds has emerged as important elements of the plan implementation machinery which did not exist earlier.

The size of the plan outlay is determined by the estimated plan resources. The total resources of the Government are made up of estimated zakat collected. These resources are normally pooled together in consolidated account of state revenue. The total revenue receipts consist of both tax revenues and non-tax revenues but also zakat. The amount of revenue receipts left after meeting the estimated non-plan revenue expenditure is called balance from current revenue (BCR). The estimated capital receipts, on the other hand, may be divided into debt capital receipts and non-debt capital receipts. The non-debt capital receipts less the estimated non-plan capital expenditure is called miscellaneous capital receipt (MCR). For financing the plan budget, the government also resorts to borrowings.

The BCR, MCR and the fiscal deficit put together determine the size of gross budgetary support (GBS) for planning purposes. Out of total GBS, a portion is provided to states as central assistance for state plan. The public sector enterprises (PSEs) also mobilize some resources in the form of internal resources (IR) and extra budgetary resources (EBR), commonly known as IEBR. The GBS (net of assistance to state plan) and the IEBR constitute the plan resources of the government. Conventionally, different components of non-plan expenditure which are usually committed in nature are estimated at the time of budgeting. After providing for the committed expenditures like overdue payment, salary, pension, operation and maintenance of assets, what is left out of the total resources (non-debt and debt) is allocated for plan budget. In this sense, plan budget may be called residual in nature. However, in this study, countries like Malaysia, Brunei, Indonesia

and Singapore, zakat revenue is not considered as part of the consolidated funds, hence the budget planning would be without zakat revenue. Hence, it would not be part of the annual plan or five year plan.

#### (d) Public Policy

In International Labor Organization publication on World Social Protection Report 2014/2015 reported that only 20 per cent of the world's population has adequate social security coverage and more than half lack any coverage at all. ILO also actively promotes policies and provides assistance to countries to help extend adequate levels of social protection to all members of society. The protection covers the access to health care and income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a main income earner. In this section, we will argue that Islam also has its own view. Why we want to promote Islamic social security policy?

The Islamic concept of social security originates from the following verses of the Qur'an and the *hadith* which enjoin upon the believers of Islam to help the poor and needy who are unable to fulfill their basic human needs<sup>10</sup> and on how the government play her role.<sup>11</sup> Hence, social security is a ruler's duty to citizens or, in a more contemporary language, a government's duty to its people as it has an obligation to enable them, at least to lead the minimum standard of life and to offer assistance to all who need it.

Therefore, the social security policy (zakat as policy tool) should be directed to achieve the prosperity of society. By doing this, it can achieve its permanent happiness, goodwill, security, unity, and peace. At individual level, each member of society should also help those in needs so that they can lead at least a decent life and meet their basic needs. In achieving the objectives of this policy the assistance could directed into financial and moral assistants. The financial assistance is aiming at making the poor reach the limits of 'financial independence' or 'prosperity'. In this sense, 'Umar bin Al-Khattab, may God be pleased with him, said: *'When you make a donation, grant financial independence'*, which can be achieved through providing additional access to employment opportunities and assisting in starting, managing and growing small businesses and Ali bin Abi Thalib, may God be pleased with him, said: *'God imposes a duty on the rich to donate as much money as adequate for the poor in their society.'* On the other hand, moral assistant is represented by many forms because human needs are not only financial ones, but they also include different forms, such as consultation, advice, friendship, goodwill, education, consolation, and other many forms of donation.

Broadly speaking, social security embraces in its fold social assistance, provision of basic necessities of life, social insurance against risks of hazards (such as sickness, old age, and unemployment), public maintenance, etc. The idea of social security originated in realization by the state of its responsibility to provide its citizens adequately against certain contingencies like want, poverty, disease, illiteracy, unemployment and old age.

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<sup>10</sup>*"They ask thee, (O Muhammad), what they shall spend. Say: That which ye spend for good (must go) to parents and near kindred and orphans and the needy and the wayfarer. Moreover, whatsoever good ye do; Lo! Allah is Aware of it."* QS.2:215 and *"And serve Allah. Ascribe nothing as partner unto Him. (Show) kindness unto parents, and unto near kindred, and orphans, and the needy, and unto the neighbor who is of kin (unto you) and the neighbor who is not of kin, and the fellow-traveler and the wayfarer and (the slaves) whom your right hands possess. Lo! Allah loves not such as are proud and boastful."* [QS.4:36] and also the following hadith *"I am nearer to every believer than his own self; so whoever leaves behind a debt or children to support, it shall be our charge; and whoever leaves property, it is for his heirs, and I am the heir of the person who has no heir. – I inherit his property and pay his debt."* [Narrated by Muslim]

<sup>11</sup>*"The government is the guardian of anyone who has no other guardian."* [Narrated by Abu Daud and Turmidzi]

## 5. Conclusions

The study presents a visit on the state law in several jurisdictions and set the stage for the subsequent detailed discussions of the sources of revenue. Our results show that: zakat revenue has been recognized as the revenues of government; and there exists an obvious difference on the procedures for zakat creation and its management given that zakat law has prescribed clear guidelines on what constitutes zakat property, the manner of creating zakat and the general principles of zakat management. The implication from the results: there is a need for the standardization of methods to create zakat to facilitate the administration and management of zakat properties. A standardized method of zakat management (such as standard on creation and registration of zakat properties) will assist the regulator in preparing a comprehensive zakat law incorporating the use of the same procedures which would then empower the zakat on the basis of an easy and clear system. The efficacy of such a system would: create confidence of the general public to create zakat over their property, generate revenues to government; and bring more benefits to the community.

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**EXHIBIT 1-1  
Government Revenue: Collection Actors and Processes**

