Constitutional Frameworks of Government Finance and Specific Aspects of Islamic Religious Revenues

Abdul Ghafar Ismail
Muhammad Hasbi Zaenal
Kamaru Salam Yusof

This version
November, 2019

IESTAC Working Paper Series
Working Paper No 19

Citation style: Abdul Ghafar Ismail (2019) *Constitutional Frameworks of Government Finance and Specific Aspects of Islamic Religious Revenues.* IESTC Working Paper Series, Working Paper No. 19. Bangi: Organization of Islamic Economic Studies and Thoughts

Constitutional Frameworks of Government Finance and Specific Aspects of Islamic Religious Revenues

Abdul Ghafar Ismail[1]
Muhammad Hasbi Zaenal[2]
Kamaru Salam Yusof[3]

Abstract

The constitution makes a provision that they can expand the sources of revenues for socioeconomic purposes. These revenues come from Islamic religious revenue. This study will present an evidence based on the consolidated account in selected countries. The results will try to prove that there are several advantages to compiling consolidated account and Islamic religious fund, such as being able to centralize the planning, and reporting of the revenue. In addition, it may help in formulating the public policy. However, the current practice shows that: these revenues are not consolidated as state national account; in relation to how could the public policy be created and implemented; and it may raise the issues on distribution in order to improve the effectiveness of fiscal policy. This study may have an impact on the distribution made by Islamic religious revenues in one state should be recognized and endorsed by the relevant authorities or operational regulations.

Keywords: constitutional framework, government revenue, state government finance, constitution, Islamic religious revenue
JEL Classifications: H23; K22; P34; P51; Z18;

[1] Rector and Professor of Islamic financial economics in Kolej Pengajian Islam Johor. He is also Research Fellow, Islamic Economic Studies and Thoughts Centre and AmBank Group Resident Fellow for Perdana Leadership Foundation. He can be contacted at agibab62@gmail.com.
[2] Director, Center of Strategic Studies, Badan Zakat Nasional. He can be contacted at: mohd.hasbi@puskasbaznas.com
[3] Lecturer of Islamic economics, Universiti Islām Sultan Sharif Ali. He can be contacted at: muntalaq@gmail.com

1. Introduction

A country's constitutional provisions define the framework for its governance and the principles under which it must operate. The provisions lay out the core public finance matters. They cover both revenue (or fiscal instruments) or expenditure sides that are allocated across different tiers of government. From the legal side, public finance (or fiscal) matters concern about the division of public sector functions and finances among different tiers of government. While, from the economic side, it concern about the theory of public goods provisions.

Theoretically, the economists emphasis the need to focus on the necessity for improving the performance of the public finance and the provision of their goods by ensuring a proper alignment of responsibilities and fiscal instruments. Therefore, economists focus on efficiency and welfare achievement in determining ideal jurisdictional authority. However, the construction of ideal jurisdictional authority in practice goes beyond purely economic considerations. Political considerations, as well as historical events and necessities, have in practice, played major roles in shaping the inter-governmental fiscal relations in most countries.

Recently, most countries, as reported in Baskaran and Feld (2013), have been moving towards greater fiscal decentralisation. Amongst the reasons are: globalisation and deepening democratisation; increasing incomes; meet all of the competing needs of their various constituencies, build local capacity by delegating responsibilities downward to their regional governments; looking to local and regional governments to assist central government on national economic development strategies; regional and local political leaders are demanding more autonomy and want the taxation powers that go along with their expenditure responsibility.

Decentralisation has also become a feature of reform agenda promoted and supported by the multilateral institutions. It is not therefore surprising that up to now many countries have been embarking on one form of decentralization or another. Revenues are considered as important subject in decentralisation. The administration, collection and distribution of revenue are very much related to the law that govern all those aspects. The subjects have been discussed by many such as Tiebout (1956), Buser (2011), Baskaran and Feld (2013) and Yang (2016).

However, the subject of Islamic revenues are not known. They are only a few which discusses the subject.[4] For example, Khaf (nd) looks at the types and forms of public revenues of the early Islamic state. His study was aimed to discover the main features of the Islamic public system. While a study done by Shaikh (2010) shows a limited view on the role of zakat as the only source of revenue.

Therefore, this study will look at the Islamic revenues that are set forth in the federal constitution and the fourteen state constitutions. Recognizing that neither the federal constitution nor any constituent state has a free-standing fiscal constitution, this paper works through the tangle of fiscal provisions that are embedded in the constitutions and constitutional law. The aim is to identify what the federal constitution "says" about the practice of fiscal federalism and what the Islamic revenue meant by federalism.

The discussion of this article begins with a a primer of the fiscal frameworks set forth in the federal constitution[5] and fourteen state constitutions. It will lay out the core public finance provisions in the constitution. Then, the classical sources of revenues will be reviewed. A scheme for the distribution of revenues between the federal and the states is laid down in the constitution. The proceeds of all the taxes and non-taxes levied; and Islamic religious revenues by the state are fully retained by the concerned states themselves while revenues axes in the Federal list may be in part allowed to the states.

---

[4] The list of references can be found in Khan (1996)

[5] We refer to the State of Malaysia (with 3 level of government – federal, state and local) (refer to Ghani, J.A. (2014)), Singapore (refer to Nathan and Kamali (2005)) and Brunei (only a central government).

2. Constitutional Framework of Government Finance

This section provides a primer of the fiscal frameworks set forth in the federal constitution[6], state law, and fourteen state constitutions, especially in Malaysia. Recognizing that neither this country nor any constituent state has a free-standing fiscal constitution, this section works through the tangle of fiscal provisions that are embedded in the constitutions and constitutional law. Because what the constitution "says" about the practice of fiscal matters is largely about what the provisions have decided it should be based on what the framers meant by level of government,[7] This section begins with a review of the framers on federal and state fiscal powers. It then lays out the core public finance provisions in the constitution.

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

Federal Constitution – It becomes the primary source of law. Fiscal matters, as presented in column 3, Table 1, are discussed as a section of the constitution. The constitution mentions this subject under the title of finance or financial provisions as in the case of Brunei or Malaysia and Singapore, respectively.

In general, the government has been given a power on the following aspects. *First*, budget planning for a given period, usually for a fiscal year, as mentioned in item 58 (in Brunei), items 97(1) and 97(2) (in Malaysia) and item 145 (in Singapore) the budget shows what its revenues are, and how they will be generated and used over the fiscal period. As discussed in section 3, under the constitution, the revenue would come in the form of taxes, levies, fees and other charges. Countries like Malaysia, Singapore and Brunei define clearly that the revenues also include Zakat, Fitrah, Baitulmal and other Islamic revenues. These revenues are used by the states as key instruments for promoting its socio-economic objectives.[8]

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 constitution. In all the countries, as provided by items 60 (in Brunei), 99(1) (in Malaysia) and 147(3) (in Singapore) shown in column 4, Table 1, the estimated amount of revenues and expenditure needs to be tabled at Parliament before the commencement of that fiscal year.

---

[6] We refer to the State of Malaysia (with 3 level of government – federal, state and local) (refer to Ghani, J.A. (2014)), Singapore (refer to Nathan and Kamali (2005)) and Brunei (only a central government).

[7] The framers might be influenced by economists' view

[8] As spell out in the Islamic Religious Administration Enactment of each state.

Table 1: Federal Law and Government Revenues

Countries	Sources	Section	Provision
Brunei	State Constitution 1959 (Amended in 2008)	Part VIII Finance	Item 58 – consolidated fund covers all revenues and moneys raised or received and spent by the Government Item 60 - Annual estimates of receipts and expenditure before the commencement of that year and be presented at the Legislative Council Item 69 – items 58 and 60 shall not be applicable to Muslim revenues and funds.
Malaysia	Federal Constitution 1957 (Amended in 2010).	Part VII Financial Provisions	Item 97(1) - consolidated fund covers all revenues and moneys raised or received and spent by the Government Item 97(2) - consolidated fund of a state covers all revenues and moneys raised or received and spent by a state Item 97(3) – zakat, fitrah, baitulmal, or similar Islamic religious revenue shall be paid into a separate fund and shall not be paid out except under the authority of State law or federal law Item 99(1) - Annual estimates of receipts and expenditure before the commencement of that year and be presented at the house of Representatives
Singapore	State Constitution 1959 (Amended in 2010)	Part XI - Financial Provisions	Item 145 – establishment of Consolidated Funds Item 147(1) - prepare an annual estimates of revenue and expenditure during the succeeding financial year and be presented at Parliament Item 147 (3) – the estimates of revenue shall not include any sums received by way of zakat, fitrah and baitulmal or similar Muslim revenue

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 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.

Other State Revenue-Raising Authority[9] – The ability of government (at state or local level, hereafter we will refer it as state government) to raise taxes (such as land tax) and other revenues (such as revenues from natural resources) is affected by their status as either "home rule"[10] or "Dillion's rule" government.[11] In states that allow home rule, state 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.[12] In states where Dillon's rule is in effect, local government is granted authority to operate through statute and no authority is granted through the state constitution.

Countries such as Malaysia, as shown in Table 2, has granted home rule to their state governments. However, home rule is a matter of degree. The state government is 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.

Generally, like federal government, state government has been given power to set up the consolidated fund. For example, item 29 (in Sabah), item 29(1) (in Sarawak) and item 85 (in Selangor) in column 4 Table 2 show that consolidated fund comprises revenues and moneys raised or received and spent by the state. The type of revenues will be discussed in section 3.

---

[9] 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 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.

[10] 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.

[11] 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.

[12] Local government such as Pasir Gudang and Putrajaya in Malaysia were allowed to issue sukuk to finance their activities. Refer to Ismail (2018)

Table 2: State Law and Government Revenues

States	Sources	Section	Provision
Sabah	Constitution of the State of Sabah 1964	Part III - Financial Provisions	**Item 29** - Consolidated Fund comprises revenues and moneys raised or received and spent by the State **Item 30 -** estimated receipts and expenditure of the State shall be laid before the commencement of that year for that year and be presented at the Legislative Assembly
Sarawak	Constitution of the State of Sarawak 1941	Part III – Financial Provisions	**Item 29(1) -** Consolidated Fund comprises revenues and moneys raised or received and spent by the State **Item 30(1) -** estimated receipts and expenditure of the State shall be laid before the commencement of that year and be presented at the Dewan Undangan Negeri
Selangor	Constitution of the State of Selangor 1959	Chapter 6 - Finance	**Item 85** - Consolidated Fund comprises revenues and moneys raised or received and spent by the State **Item 86(1) -** estimated receipts and expenditure of the State shall be laid before the commencement of that year and be presented at the Legislative Assembly **Item 86(2)** – estimated receipts and expenditure does not include zakat, fitrah, Baitulmal or similar Muslim revenue

The state constitution also recognizes the existence of the Islamic Religious Fund. In Selangor,[13] zakat, fitrah, Baitulmal or similar Islamic religious revenues are the items (for example item 86(2) of Selangor state constitution) discussed in the provisions as Islamic Religious Fund. This provision is then further refined in the respective law. For example, in Malaysia, State Islamic Religious Council Enactment is given the power to manage the Islamic Religious Fund. This enactment clarifies that the results and money of these revenues are known as the Islamic Religious Fund. The provision also explains that income generated from it are part of the fund.

[13] We could not download the constitution of other states. But we believe other states also has a similar provision on Islamic religious fund.

By looking at several sample such as State of Johor, Kedah, and Selangor (http://www2.esyariah.gov.my/esyariah/mal/portalv1/enakmen/State_Enact_Ori.nsf/100ae747c72508e748256faa00188094/67e67d1acc5599664825711e00080def?OpenDocument) we observe the following findings. First, the Enactment generally agrees on: establishment of Baitulmal Fund (in Sabah it is only known as Fund) and how do they manage property belongs to State Religious Council.[14] Second, the estimated revenue and expenditure of this fund need to be presented to Sultan or King before the commencement of that year. Third, the type of revenues is only limited to zakat, fitrah, waqf and khairat collection plus property belongs to State Religious Council. However, in the case of Federal Territory, Baitulmal Fund does not include zakat and fitrah. Fourth, the collection is generally aimed to to collect money or other contributions for any charitable purpose to support and promote the religion of Islam or for the benefit of Muslims in accordance with shariah law. Fifth, the Enactment does not define what is Islamic religious revenues?

3. Revenue Sources of Federal and State Government in Malaysia

In general, many countries classify their revenues into three categories - revenue is classified under three general categories, which are tax revenue, non-tax revenue and non-revenue receipts.

First, in Malaysia, tax revenue is classified into direct tax revenue and indirect tax revenue. Direct tax revenue includes revenue from income tax (individual, company, petroleum and cooperative), stamp duty, real property gains tax and Labuan offshore business activity tax. For example, for the year of assessment 2017, income taxes were imposed for a resident who has an earning above RM38,202.25 per year or RM3,183.52 per month. While business tax maximum charge is 24%. Indirect tax revenue consists of revenue from export duties, import duties, excise duties, sales tax, service tax and levy. For example, loan agreement stamp duty is only imposed for the purchase of first home above RM300,000.

Second, non-tax revenue consists of receipts from registration fees, licenses and permits, service fees, proceeds from sales of goods, rental, interests and return on investment, fines and penalties, contributions and compensation from foreign governments and international agencies. Included under licences area all charges imposed on the granting of rights to individuals, corporations, businesses and other enterprises for purpose of regulation or control, and motor vehicle license. Service fees consist of receipts for services rendered by the Federal Government to the public under Financial Procedure Act 1957 (amended in 2006).

The non-tax revenue also comprises of - proceed and return from sales of goods are receipts from the sale of physical assets owned by the government including land, building, store facilities and miscellaneous goods to the public. Interests and returns on investments include all interest on loans granted by the government, bank interest, interest or dividends earned from shares and royalty on petroleum as well as gas. Example of non-tax revenue is registration and renewal fees of company.

Third, non-tax revenue receipts include all refunds of expenditure, inter-departmental credits, refunds of overpayment in previous fiscal year, reimbursements and contributions from other government departments, statutory bodies or government owned enterprises and receipts from the Federal Territories. Refunds of expenditure include receipts from the Consolidated Fund from the previous year, refund of salaries on resignation and refund of training expenses, while receipts from other government agencies consists of inter-ministerial or inter-departmental transfer of funds for services rendered by the government to other government owned bodies. Receipts from the Federal Territories consist of tax and non-tax revenue,

---

[14] In Sabah, zakat and fitrah are managed under the Zakat and Fitrah Enactment (1993) (http://www2.esyariah.gov.my/esyariah/mal/portalv1/enakmen/State_Enact_Ori.nsf/f831ccddd195843f48256fc600141e84/36afdd65a822f7b3482570ed0021d4d2?OpenDocument)

which includes receipts from licensed and permits, premium, quit rent, sales of assets, rental, service fees and entertainment duties.

State government revenues come from the conditional and unconditional grants that have been granted to them by Federal Government. These grant been granted to state government by number of populations times allocation of budget per head. They become as major sources of revenue to pay all the expenditure for multi-purpose programme that state government want to hold. Other sources of State Government are entertainment duty, licenses, rents, treasure trove and Islamic religious revenue.

First, entertainment duty refers to Entertainment Duty Act 1953 (Revised 1973). It includes admission to any place in which an entertainment to any place in which an entertainment is held or any other place. Entertainment also includes any exhibition, performances, amusement, game or sport, or any other activities may declare to be entertainment by the Ministry of Finance. Section 4 (2) of Entertainment Duty Act 1953 stated that any entertainment consists of the following items: a stage play, a ballet (whether a stage play or not), a performance of music (whether vocal or instrumental), a lecture, a recitation, a music hall or other variety entertainment, a circus, a travelling show or a menagerie or any game of sport other than racing or trial of speed of animals, vehicles, motor vessels or aircraft. Any entertainment activities will be levied and imposed an entertainment duty.

Second, licenses refer to revenue from licenses other than those are connected with water supplies and services, mechanically propelled vehicles, electrical installation and registration of business. For example, under The Water Services Industry Act 2006, license for water supplies and service is needed for the all water supply and sewerage service operator under the Suruhanjaya Perkhidmatan Air Negara. There are two types of licenses connected with water supply that are individual (public system) and class (private system).

Third, rents mean the charge imposed when property of state is being rented. It called as Rents on state property. For example, under House and Government Offices Building, the officer who is being allowed to stay at the government housing required paying rent according to prescribed rate.

Fourth, treasure trove, as defined in National Heritage Act 2005 cover any money, coin, gold and silver plate, bullion, jewelry, precious stones or any object or article of value found hidden in. Example, in Malacca state, the state governments found the billion ringgit treasure hunt at Pulau Nangka in May 2014. Besides that, any matters related to mines or forests or land that will generate income of the state will be one of the revenue sources for the state government. National Forestry Act 1984 (amended in 2006), under section 16 had been stated, occupy or carry out any activity upon any land in a permanent reserved forest by way of a use permit, may be granted by the State Authority.

Fifth, Islamic Religious Revenue refers to collection of Islamic religious matter of the state such as Zakat, Fitrah and Baitulmal. It is stated under Income Tax Act 1967 that individual under Section 6(A)(3) is entitle to get a rebate for a year of assessment for any zakat, fitrah or any other Islamic religious dues payment of which is obligatory. Under Section 44 (11A) in Company Act 1967 (amended in 2016), the amount paid by a company is to be treated as deduction of up to 2.5% of the aggregate income.

4. Islamic Religious Revenue

A scheme for the distribution of revenues between the Federal and the States (as in the case of Malaysia) and only central government (as in the case of Brunei and Singapore) is laid down in the constitution. The proceeds of all the entertainment duty, licenses, rents, treasure trove and Islamic religious revenue by the state are fully retained by the concerned states themselves while revenues axes in the Federal list may be in part allowed to the states.

However, the term Islamic revenues is limited to zakat, fitrah and Baitumal. While other Islamic revenues are not known. Therefore, this section will revisit those revenues from the classical view,[15] then it will highlight what is meant by baitulmal and other Islamic revenues. By doing this, this study can identify the revenue as stated in the act or enactment.

a. Zakat

Zakāh is obligatory for every muslim, it's part of the wealth required of a Muslim when his wealth has reached *nisāb*[16] to be given to people who deserve it (*mustaḥiq*). The group that has been assigned the right to receive has been mentioned in al-Qur'an. Allah (s.w.t)[17] said: *"The alms are only for the poor and the needy, and those who collect them, and those whose hearts are to be reconciled, and to free the captives and the debtors, and for the cause of Allah, and (for) the wayfarer; a duty imposed by Allah. Allah is Knower, Wise."*[18] *Zakāh* is divided into two types, is based on the purpose of the charity function itself, one for the purpose of purifying the soul and the second aim is to purify the property (or *mal*).[19]

Zakat al-Fitrah

This is a special type of zakat which is to be paid in the month of Ramadan or lastly in the morning of eid al-Fiṭr. The obligation is intended to purify the soul, as cleaner on the soul of things littering during the fasting of Ramadan.[20] It also serves as a donation for the poor and those who are eligible to receive charity on eid al-Fiṭr. This is an obligation for every Muslim, whether rich or poor, is still alive, and have excess on the property from being spent on basic needs. Prophet s.a.w said: *"The compulsory al-fiṭrah charity in Ramadan, one sḥa*[21] *of dates, or one ṣha of wheat, of every Muslim free and slave, male or female."*[22]

Zakāh al-Māl

This type of zakāh must be paid by a Muslim from certain wealth when it reaches a certain amount (*niṣāb*).[23] Allah s.w.t said: *"O ye who believe! Spend of the good things which ye have earned, and of that which We bring forth from the earth for you, and seek not the bad (with intent) to spend thereof (in charity) when ye would not take it for yourselves save with disdain; and know that Allah is Absolute, Owner of Praise."*[24] and *"And in whose wealth there is a right acknowledged, For the beggar and the destitute."*[25]

---

[15] Refer further Zaenal et al. (2013)
[16] Gold *nisab* is 20 dinars (equivalent to 85 grams of pure gold) while nisab silver is 200 dirhams (equivalent to 672 grams of silver). This means, if you have 20 dinars of gold for one year, then gold should be issued zakat 2.5%. While nisab of cash money, savings, stocks, bonds, and other treasures are similar in value to the amount of gold must be paid same as zakah of gold and silver. Nisab of income is if your income has reached a value of 5 wasaq or 652.8 kg of grain (equivalent to 520 kg of rice), the amount must be paid is 2.5% from income.
[17] Swt refers to subhanahu wa ta'ala in Arabic for "May He be glorified and exalted"
[18] Surah Tawbah (9):60
[19] Refer to Surah Tawbah (9): 103
[20] Yūsuf al-Qardhawy, Fiqh al-Zakāh, Muassasah al-Risālah, Cairo, Part 1, 1973.
[21] Ṣha, if we convert, then the amount of zakah al-Fiṭrah is worth 2.176 kg of basic foodstuffs that apply in the region, such as wheat flour, dates, wheat, and rice.
[22] Al Shaukany, Muhammad ibn ᶜAli, Muntaqā al-Akhbār, Nil al-Awṭār, Dar al-Hadiih, Cairo, 1993, Part 4, p. 179.
[23] Husain Husain Shaḥatah, Kaifa Yuḥsab al-Ṣoydali Zakāh Mālihi, 2005, Working Paper. Al-Azhar University, Cairo.
[24] Qur'an, 2:267
[25] Qur'an, 70:24-25

b. Baitulmal

The word itself carry a very significant meaning, that is, house of property (or wealth).**[26]** The concept of property (or mal) could be understood from the definition of al-Mal as given below. *Al*-Fayruz Abadi in his book *al-Qamus al-Muhit* defined *al Mal* as all things which are capable of being owned, and according to Ibn Manzur (1994) in *Lisan al- 'Arab*, *mal* is customarily known as all things capable of being owned. Hence, linguistically in Arabic *al Mal* categorized as whatever in effect a man may *acquire* and *possess*; whether that is corporeal (*'ayn*) or usufruct (*manfa'ah*); such as gold, silver, animal, plant and benefit gained out of things such as the riding of vehicles, the wearing of clothes and the residing in houses etc (MW. Islam, 1999). On the other hand, as Al-Zuhaili (1985) explained whatever a man cannot possess, cannot linguistically be regarded as mal. For instance, birds in the sky, fish in the water, trees in the forest, and mines in the secret depth of the earth are not linguistically considered *mal.*

The concept of *al Mal* is also defined as "desire" or "tendency"[27]. The Qur'an says, *"Beautified for people is the love of that which they desire - of women and sons, heaped-up sums of gold and silver, fine branded horses, and cattle and tilled land. That is the enjoyment of worldly life, but Allah has with Him the best return"*[28]

Desire or behavior of human to *al Mal* is the central point in economic discourse as the science that studies human behavior as economic agent. Therefore, in Islam, human desire to the *al Mal* (property) should be always guided by Islamic principles from Al Quran and Al Sunnah, that are, *Mal is Worship Intermediary between human and its Creator* **-** The properties are not the final destination of human's life, but one of the means and supplies that shall be used to support worships and righteous deeds.[29] Thereby, Allah commands human being to share the wealth and properties through zakat, alms and all charities; which could not be accomplished only by *al Mal*. Allah has obliged mankind to seek the legal provisions; to be able to bear his responsibilities and obligations in order to fulfill the right of his family. By spending some wealth, human being also obliges to perform the pilgrimage to Mecca (*Hajj*) for those who are capable of it.

The following mal, which is called as Islamic religious revenue, can be used to seek the pleasure of Allah.

Nadhr

This is an action which becomes necessary due to one imposing it upon oneself. This can be done if one wishes to express gratitude, and the action can take on a number of forms, including *Ṣādaqah*. If a person makes such an oath of giving charity, then it becomes *Ṣādaqah Wājibah*. If they are unable to uphold the oath, they will have to give *Kaffārah*, and may be sinful.[30]

Fidyah

---

[26] Refer to Mal as discussed by Ismail and Possumah (2018). IESTC Working Paper Series No …..

[27] This meaning we can understood from what the great scholar from Hanafi School Ibn Abidin has said in His reknown book *Hashiah Minhat al-Khaliq 'ala al-Bahr al-Ra'iq*, when He said that *al Mal* "is what human instinct inclines to" see Ibn 'Abidin (Muhammad Amin), *Hashiah Minhat al-Khaliq 'ala al-Bahr al-Ra'iq*, n.d., n.p., vol. 2, p. 57 and vol. 4, p. 105.

[28] QS.3:14

[29] *"Go forth, whether light or heavy, and strive with your wealth and your lives in the cause of Allah. That is better for you if you only knew."* [QS.Al Taubah:41]

[30] *"(Remember) when the wife of 'Imran said: My Lord! I have vowed unto Thee that which is in my belly as a consecrated (offering). Accept it from me. Lo! Thou, only Thou, art the Hearer, the Knower!"[Qur'an 3:35]*

This is compensation *Ṣoum* (fasting) for a person who cannot perform it due to being in terminal illness or being deceased (in which case it is given out of a third of the wealth) or in the event of a person making a minor mistake in Hajj. The amount for each *Ṣoum*, or each minor mistake in Hajj is to give 1.6 kg of wheat or its value (i.e. the same amount given for *Ṣādaqah al-Fitr*) to the poor. *Fidyah* is *Ṣādaqah Wajibah*. Ṣādaqah Nafilah may be given in addition either from the deceased's estate or on their behalf in which case both the giver and the deceased are rewarded. Allah said: *"(Fasting) for a fixed number of days; but if any of you is ill or on a journey, the prescribed number (should be made up) from days later. For those who can do it (with hardship) is a ransom, the feeding of one that is indigent. But he that will give more of his own free-will—it is better for him, and it is better for you that ye fast, if ye only knew".*[31]

Kaffārah

This is major compensation and like *Fidyah* it is also *Ṣādaqah Wājibah*. It applies in various situations such as if a person breaks a fast intentionally, breaks an oath, or kills someone, *Kaffārah* would then be binding as the form of redemption. There are five actions for which *kaffārah* will be necessary, however, they fall under two types.

The greater *Kaffārah*: For redemption of this a person may free a slave (which is no longer applicable) or fast for two consecutive months (if a person breaks a fast intentionally they would need to fast for sixty consecutive days, unless they can't fast due to poor health or old age, there are no exceptions to this). Failing that one may feed sixty poor people for a day (i.e. two meals a day, each meal is equivalent to a *fidyah*). This *Kaffārah* applies to intentionally breaking Saum[32] (fast), breaking *Zihar* (To consider one's wife as Haram for oneself by comparing her to a Mahram - anyone too closely related to be marriageable) and Being the direct cause of someone's death (this is coupled with the set punishments).

The lesser *Kaffārah* for redemption of this a person may free a slave (which is no longer applicable) or feed ten poor people for two meals in one day, or give each one of them clothing. Failing this, he may fast for three consecutive days (The order is also different from the greater *Kaffārah*). This *Kaffārah* applies to breaking/violating *Yamīn* (an oath) and Breaking *Ilaᵃ* (To take an oath on not having conjugal relationships with one's wife).

Uḍḥiyyah

This is also known as *Qurbani* or sacrifice. It is voluntaryobligation order upon all mature Muslims, on the day of eid ul Adha, possess nisāb. Whoever qualifies for this is required to purchase a sheep or goat of more than one year in age, and slaughter that in the name of Allah after the Eid prayer preferably on the same day. The sacrifice can also be done on the four days of eid adha. If one fails to make the sacrifice in these three days he will still have to donate the value of the animal.[33]

From the meat he may eat himself and feed his family and also distribute meat amongst the poor Muslims. One is not responsible to give Zakāh or any necessary Ṣādaqah for one's spouse nor one's mature

[31] Qur'an: 02:184

[32] In the instance of not being able to feed sixty people in a single day then he may feed one person for sixty days, but in this case if they were to try to quicken payment of this by giving all the money in one day to one person, kaffarah would not be fulfilled, and his offering would only be equal to one days feeding.

[33] One may slaughter goats or sheep, which constitute one sacrifice each, or one may slaughter a larger animal (i.e. cow or buffalo) which will be counted as seven sacrifices each. In the event of living in a wealthy country, it is better that one sacrifices one part locally to fulfil the Sunnah of sacrificing oneself; and to arrange for the remaining sacrifices to be performed in a poorer country, where the poor may also partake of it.

children - they are responsible for themselves. One is however, responsible for only giving sādaqah al-fiṭr for one's minor children, however, neither Zakāh is given from their wealth, nor uḍḥiyyah given on their behalf.

Uḍḥiyyah in other type is Dām . There two types, one is like uḍḥiyyah in the sense that it is a religious requirement on adult Muslims. The only difference is that it is specific to people who are performing Hajj. This Dām is called Dām ash-Shukr.

The second type of Dām, like *fidyah*, is a means of compensation for mistakes in Hajj, but the difference is the magnitude of the mistake. Fidyah is given in lieu of minor mistakes while Dām is in lieu of major mistakes. Dām, like Udhiyyah, is the sacrifice of a sheep or goat. It can also be made a part (i.e. 1/7) of a larger sacrifice.

Other type of uḍḥiyyah is baḍonah is like Dām, but while Dām is the sacrifice of a sheep or goat, Badanah is the sacrifice of a large animal, i.e. a cow or camel. This is the largest penalty in Hajj.

Ṣādaqah Nāfilah

This is charity which is not binding in nature but is optional. This type includes alms given for the removal of difficulties, philanthropic (to give out of mercy to the less fortunate), the general giving of any Halal item to any one etc. This type does not need to be spent on the specified categories to be rewarding nor does it have to be spent on Muslims, although if spent on poor Muslims it would be more rewarding. This can also be bequeathed in one's will (in which case it would be only up to a third of the deceased person's entire estate).

There are various motives in this instrument such as avoid disaster for the giver and his family[34]; it will make extendable of life, and prevented from bad of death[35]; defuse Allah's anger[36]; closes seventy-seven ugliness doors[37]; can avoid slander from the families, children and neighbors[38]; remove sin as water removing fire[39] or cools his grave.[40] Generally, sadaqah might be referred for all Islamic philanthropy besides the zakāh. All worshipping act through the expenditure of money, property or doing good manner is broadly classified as *sadaqah*. According to al-Qur'an and al-Hadith, we can find a whole range of important instruments in Islamic philanthropy that comes from sadaqah.[41]

Lillah (for god)

This is common among Muslim. It is generally called as *Ṣādaqah.* It does not have the condition of having to be passed into the possession of a person, as it can be given to institutes (e.g. Masajid, hospitals, schools, orphanages, etc.)

Waqf

This is to allot something as a trust for a certain cause. This can be during one's lifetime or bequeathed in one's will (up to the value of a third of one's estate). When executed, the donation becomes the property of Allah (and thus has specific rules regarding it), and its beneficiaries are to remain those named as the cause

---

34 See al-Tirmizy, Vol. 5, Hadith 2863.
35 See al-Thabrany, Vol. 5, Hadith 422.
36 See al-Bahauty, Mansūr ibn Yunus, Kashaf al-Qina' an Matni al-Iqna', Dar al-Fikr, Beyrut, vol. 2, 1982, p. 296.
37 See al-Thabrany, Vol. 4, Hadith 4402.
38 See al-Asqalany, Ahmad ibn Ali ibn Hajar, Fath al-Bari Syarh Shohih al-Bukhari, Kitab Mawaqit al-Sholah, Bab al-Sholat Kafarah, Hadith 502, Dar al-Rayan li al-Turāth, Cairo, 1986.
39 See Ibn Rajab, Jami' al-ᶜUlum Wa al-Hikam, Muassasah al-Risalah, Dimashq, 2001, Hadith 29, p. 134.
40 See Abd al-Badr, Abu ᶜUmar Yūsuf, al-Istizkar al-Jami limazahib Fuqaha al-Amsar, Dar al-Wai', Cairo, 1993, p. 393.
41 See Muslim, Hadith 720 and 1006. Also Al-Bukhari, Hadith 2707, 2891.

(e.g. the poor, orphans, students, the people of a certain locality, etc.) The difference between this and *Lillah* is that with *Waqf* ownership is not given to people or institutes but only the benefits are ascribed. Like today's trusts, Waqf also requires the care of trustees over it.

Aqīqah

This is the sacrifice of an animal or two as thanks to Allah for the birth of a child. With this too can members of the locality be fed, preference again is for the poor and close family members.

Charity that is above the amount of Zakāh and Ṣadaqah Wajibah. This type of Ṣādaqah is the essence of Lillah. Although not categorized as necessary, this type of charity, as long as from pure means and with pure intentions, is always accepted by Allah. It is also this type that Allah I has described as a beautiful debt, as He treats this charity as a loan which He will repay in the hereafter. "*Who is he that will loan to Allah a beautiful loan? For (Allah) will increase it manifold to his credit, and he will have (besides) a liberal reward*."[42]

The summary of those instruments are presented in Table 3.

Table 3: Fiscal Instruments in Islam

Instrument	Ownership	Motives/Recipients	Governance
Zakat al-Fiṭrah	Rulers	Obligation to purify our soul	Trustee
Zakat	Rulers	Obligation to purify our wealth	Trustee
Waqf	Allah	Eternal goods for Allah	Trustee
Ṣādaqah *Lillah*	Allah	Expiation of sins, Prevented from bad death, Defuse Allah's anger, Avoid Slander, Cools his grave, Easier of livelihood, etc	Supervise/Facilitate
Nadhr	Allah	Keeping promises to Allah	Facilitate
Fidyah	Allah	Substitutes of worship	Facilitate
Kaffārah	Allah	Getting Allah's forgiveness	Facilitate
Udhiyya	Allah	Pay fines to Allah	Facilitate
Aqīqah	Allah	Thanks for the birth	Facilitate

[42] Qur'an, 57:11

Al-Fay’

Fay˒ in classical legal thought is usually the collective wealth of Muslims derived from the taxation of conquered peoples. The term Fay’ is applied in the Qur’an and the Sunnah exclusively to war gains—whether consisting of lands or tribute or indemnities—which are obtained from an enemy who has laid down arms before actual fighting has taken place. It is not to be distributed like booty (Ghanimah) among the soldiers, but the whole of it is for Allah and His apostle.[43] From the Sunnah and Practice of the Prophet of Islam it is evident that the Prophet himself used to manage Fay’ as the head of the Muslim Countries.

Al-Luqatah

'Al-Luqatah' refers to anything that is found and picked up from the ground. Technically, some scholars defined it as: 'Property that the owner loses and a person finds and takes away (to preserve it in trust).' Al-Luqatah remains a trust with the person who finds it and keeps it, and he is deemed liable for it only if he abuses it. He is also deemed liable for it if he gives it to somebody else without the permission of a judge.
If the owner does not come forward after it has been announced for an entire year, it becomes the property of the finder, but before he disposes of it he must be sure of its exact description, so that if the original owner comes along some day and describes it, he can give it back to him if it is still there, or he can give him something else if it is no longer there, be-cause his possession of it is limited and expires when the original owner comes along.

5. Conclusion

The aim of this study is to look at the Islamic revenues that are set forth in the federal constitution and the fourteen state constitutions. There are several preliminary findings of this provision: first, the dualism of the Consolidated Fund and the Islamic Religious Fund. At least there are two "thoughts" streams that are Keynes and Ubayd. Second, there is no such Islamic Revenue Fund that has been treated as Consolidated Fund in terms of planning, reporting and auditing. The current practice shows the budget speech only cover the consolidated funds only. It shows that there is a policy on taxation. But, there is no public policy on Islamic Revenue Fund. This implies that Islamic religious revenues is not considered as national agenda because of the absence of such a policy, more important than the lack of coordination of the two policies. The second finding implies that waqf only generates income. Third, Islamic religious fund is not only understood to generate income, but is wider than that of generating benefits.[44] This is contrary to the views of most Islamic economics scholars who argue that Islamic religious revenues such as waqf also produce benefits or in terms of current economic terms are known as outcomes. Fourth, Islamic economic model is already embedded in the constitution. Fifth, treatment of zakat, it shows that it becomes the secondary sources, whereas it should be considered as on equal basis. There is no such cases of income tax deduction or deductible income. Sixth, a separate law that govern each type of revenues. Seventh, the enactment does not consider debt as an option in fiscal matters.

[43] See Al-Qur’an 59: 6-7
[44] The views of Islamic economists views argue that outcome based budgeting is more dominant than output based budgeting

References

Baskaran, T. and L.P., Feld (2013) Fiscal decentralisation and economic growth in OECD countries. Is there a relationship?, Public Finance Review 41(4): 421–445

Brennan, G.; Buchanan, J. 1980. The power to tax: analytical foundations of a fiscal constitution. Cambridge: Cambridge University Press.

Buser, W. 2011. The impact of fiscal decentralization on economic performance in high income OECD nation: an institutional approach, Public Choice 149(1): 31–48.

Ghani, J.A. (2014) Market Preserving Federalism: Implications For Malaysia. PhD Thesis submitted to Victoria University, Melbourne, Australia

Ismail, A.G. (2018) Money, Islamic Banking and Real Economy (2nd. Ed.) Singapore: Cengage Learning Asia Pte. Ltd.

Ismail, A.G., M.H., Zaenal and M.H.M., Mohd Shafiai (2013) Philanthrophy in Islam: A promise to Welfare Economics System. IRTI Working Papers WP-1435-03. http://www.irti.org/English/Research/Documents/326.pdf

Ismail, A.G., and M.Z., Hamzah (2006) Fiscal decentralization and economic growth nexus: evidence from province-level cross-section data for Indonesia. Review of Islamic Economics

Khaf, M. **(**nd) The Early Islamic Public Revenues System: Lessons And Implications. Unpublished paper. Jeddah: Islamic Research and Training Institute. Retrieved from http://monzer.kahf.com/papers/english/THE_EARLY_ISLAMIC_PUBLIC_REVENUES_SYSTEM.pdf on 23rd July 2018

Khan, M.A. (1996). Public Finance in Islam. *Islamic Studies, 40*(2), 227-256. Retrieved from http://www.jstor.org/stable/20837096

Nathan, K. S., and M.H., Kamali (2005). *Islam in Southeast Asia: Political, social and strategic challenges for the 21st century*. Singapore: Institute of Southeast Asian Studies.

Shaikh, S.A. (2010) Sources of Public Finance in an Islamic Economy. MPRA Paper No. 22998, posted 4. June 2010 09:08 UTC. Retrieved from https://mpra.ub.uni-muenchen.de/22998/

Tiebout, C. 1956. A pure theory of local public expenditure. Journal of Political Economy 64 (5)

Yang, Z. (2016) Tax reform, fiscal decentralization and regional economic growth: new evidence from China. Economic Modelling 59: 520–528.