

## ZAKAT, KHARĀJ, 'USHR, AND JIZYA AS THE INSTRUMENTS OF ISLAMIC PUBLIC FINANCE: A CONTEMPORARY STUDY

Nafis Irkhani

Institut Agama Islam Negeri Salatiga, Indonesia

Email: [nafis\\_ir@yahoo.com](mailto:nafis_ir@yahoo.com)

**ABSTRACT** – The aim of this article is to find out the conceptual construction of zakat (alms) and taxes in Islamic public finances. Its significance is to propose an alternative for Islamic public policy. It also means to enhance literature on Islamic public finance. This qualitative study is an explorative-analysis, which is intended to unravel key concepts of the classical scholar thought, both from primary and secondary sources. It clarifies various charges in the institution of zakat as like taxation in general economics. This study finds that the ultimate goal of Islamic political economy is the fulfillment of the basic needs of every citizen. Thus, its concepts and approaches are different from conventional economics, which promotes the aggregate economic growth and ignores the well-being of individuals. The government has the competence of public policy to collect something from the public according to its consideration, for example, *jizya* and *kharāj*. Regarding to fair distribution, the government also has an obligation to take public finance policies (allocation of state expenditures, including zakat to the rightful parties).

**Keywords:** Islamic Public finance, *zakat* (alms), *kharāj*, 'ushr, *jizya*

**ABSTRAK** – *Zakat, Kharāj, 'Ushr, and Jizya sebagai Instrumen Keuangan Publik Islam: Suatu Kajian Kontemporer.* Tujuan penulisan artikel ini adalah untuk memahami kerangka konseptual mengenai zakat dan pajak dalam keuangan publik Islam. Signifikansinya adalah untuk mengusulkan alternatif kebijakan publik Islam. Dengan demikian studi ini juga dimaksudkan untuk melengkapi kajian literatur keuangan publik Islam. Studi kualitatif ini bersifat eksploratif-analisis, yakni dimaksudkan untuk mengungkap konsep-konsep kunci dari pemikiran klasik, baik dari sumber primer dan sekunder. Kajian ini mengklarifikasi berbagai justifikasi negatif terhadap institusi zakat, sebagaimana perpajakan dalam ekonomi umum. Studi ini menemukan bahwa tujuan akhir dari ekonomi politik Islam adalah pemenuhan kebutuhan dasar setiap warga negara. Dengan demikian, konsep dan pendekatannya berbeda dari ekonomi konvensional yang mempromosikan pertumbuhan ekonomi secara makro dengan mengesampingkan kesejahteraan individual. Pemerintah memiliki kompetensi kebijakan publik untuk menarik pemasukan publik sesuai pertimbangannya, misalnya dengan *jizyah* dan *kharāj*. Terkait dengan pemerataan distribusi, pemerintah juga memiliki kewajiban untuk mengambil kebijakan keuangan publik (alokasi pengeluaran negara, termasuk zakat, kepada pihak-pihak yang berhak).

**Kata Kunci:** *Keuangan publik Islam, zakat, Kharāj, 'Ushr, and Jizya*

## INTRODUCTION

The expansion of the early Islam to western (Africa and Spain) and eastward (Central Asia and China) requires an adequate administration of the governance. It is including on the public financial policy. The new empire which has such a big area was required to own and build a solid and operational state financial management system. In this case, the historical record shows that the initiators and the planners of fiscal policy lines of the day have been discussing various public finance issues. The scope of the study is about the management of state revenues and expenditures. The scopes of the discussions are on the state revenues income collection, taxation structures, and tax disbursements. While on the state expenditure covers the issue of state expenditure for the welfare of society, economic development and so forth.

The early discourses of Islamic public finance have recognized several sources of state income and finances (*al-mawārīd al-māliyyah li al-dawlah*). According to Wahhab Khalaf as quoted by Azmi (2004) the revenue sources of the state can be categorized into the routine (*dawriyyah*) and the incidental income (*ghayr dawriyyah*). The regular state income consists of *zakāt*, *kharāj* (land tax), *jizya* (refuge assurance tax on non-Muslims), and *'ushur* (export and import tax). *Ghayr dawriyyah* means unexpected income. These were obtained from *ghanīmah* and *fay'* (spoils of war); *ma'ādin* (one fifth tax of the mining product); *rikāz* (treasures); and all forms the unknown property of the owner. Azmi (2004) made a different classification of the state income sources. Based on the allocation objectives, he distinguishes it as follow; 1) *Ghanīmah*, 2) *Shadaqāh*, and 3) *fay'*. According to him, it becomes very important because the allocation of each income category has been determined. It should not be jumbled.

Scholars, financial planners, *wazīr* and those who responsible for the taxation and public spending are the pioneers of the public finance thought in the early development of Islamic. They tried to understand the public finance problems that emerged in their time, especially after the expansion of conquered territories. They sought to refer it to the Qur'an and *Sunnah* and the practices of the caliphs as well as the previous *fuqahā* opinions.

Tax withdrawal is actually an adoption and adaptation of Islam from previous cultures. Tax withdrawal outside zakat continues even though for different



reasons. In its development, the relationship between zakat and tax is reversed. After the decline of Muslims, European occupation, and the hegemony of their civilization, Western political-economic concepts began to dominate. For example, the obligation of zakat is start to be subordinated to tax obligations. In this context various problems arise, for example regarding the double burden of taxes for Muslims; the essence of both to realize social justice and equity for all people; etc. Regarding the issues mentioned above, many economists and enthusiasts of development studies are trying to see zakat from their perspective. Nevertheless, the study of zakat as an instrument in fiscal policy has not yet been developed optimally (Ibrahim, 2011). Based on the background, the research problem of this study is: How is the intersection of *zakat* and *kharāj*, *'ushr* and *jizya* with pre-Islamic civilization. Then, how do the contextualization efforts carried out by scientists in early Islam and the classical period?

## LITERATURE REVIEW

Generally, early works that specifically deal with public finances are using the titles of *al-kharāj*, *al-amwāl*, and *al-aḥkām al-sultāniyyah*. This trend can be described as follow. Firstly is the use of *al-kharāj* as the title of the book. The words “*kharāj*” referred to the tax which is taken from the landowners (Rahman, 2015: 24). It includes all kinds of taxes such as *jizya*, *khums*, *'ushr*, and others. However, in the beginning, *kharāj* is intended for taxes imposed on lands conquered by Muslims which is left to possess by previous owners (Suharto, 2004: 4).

Mu'awiyah ibn Ubaidullah (d.786) was the first person believed to have written about *kharāj*. He is the prominent minister of the Caliph al-Mahdi (Abbasid). Unfortunately, this book has disappeared. Of the dozens, books entitle *al-kharāj* which saved up to this day are the works of Abu Yusuf, Yahya ibn Adam, and Qudamah ibn Ja'far.

The next *al-Kharāj* was written by Abu Yusuf. The book was completed to fulfill the request of the Caliph Harun al-Rashid (d.809). In his introduction, he states that the book is intended as a reference and consideration for the caliph in implementing Islamic tax policies (Yusuf, 1979: 3). Based on the purpose, the approach of the book is very pragmatic and has the *fiqh* pattern. In fact, there are many bits of advice (*fatāwa*) about ethical leadership (Majid, 2003: 34). Another book which is also entitled *al-Kharāj* was composed by



Abu Zakariyya Yahya ibn Adam (d.818). It was written in the same period as Abu Yusuf. As Abu Yusuf's, it was intended as a general guideline of Islamic public finance foundations. Thus, it does not mention the legal practice of taxation, but more to convey the hadiths related to the issue of public finance.

The topics of the hadith compilation by Yahya ibn Adam are on the *ghanīmah*, *fai'*, *kharāj*, and *jizya* (whether derived from war booty or through a peace treaty). It also describes the authority of the caliph to distribute the conquered lands; on the prohibition of renting the land of *kharāj*; provision on reviving dead land; on the mining goods taxes; on the provisions applicable to conquered communities, zakat and so on. These issues have actually been discussed comprehensively by Abu Yusuf. Nevertheless, the approach is different.

Abu Yusuf's book is more judicial-oriented, whereas Yahya's seems to be intended as a compilation. Thus it is richer on analysis and legal reasoning. Yahya concentrates more on collecting as many of the hadiths as the legal basis. Nevertheless, according to Meera and Ahsan (1992: 205), it is only 40 of the hundreds of hadiths expressed in the compilation book which can be found in the *Kutūb al-Sittah*.

The last book of *al-Kharāj* which is still can be found today, though it is no longer complete, is the work of Qudamah ibn Ja'far (d. 932). Same with the background of the two previous authors, the writing of this book has a liaison with the government at that time (Azmi, 2004: 32). The two previous authors wrote as their capacity as the government-recognized scholars, and do not hold a specific position in the government. In contrast to both of them, Qudama is an officer of the government. So, his work is more contextual. Even it is suspected as a counter to criticism by the tax authorities (collectors and tax administrators) at that time. According to him, the practices of public finance by the government deviate from the provisions of Islam. In his discussion, he does not show many hadiths as his predecessor. He tends to express various opinions of the ulama (Kameel, 1992: 206).

After the books entitled *al-Kharāj*, the next early works on public finance were *al-Amwāl*. The word is the plural form of *al-māl* which means "wealth or finance." The books which use this title generally deal with the sources and management of state income. Thus, the terms *al-kharāj* and *al-amwāl* are often used interchangeably by scholars of that period (Azmi, 2004: 32). In its



use, the discussion of *al-kharāj* emphasizes the land tax, while the *amwāl* discusses all forms and sources of public financial income. In other words, *al-amwāl* books have a wider scope.

At least there are six books with the same titles *al-Amwāl*. Nevertheless, we can only read the works of Abu Ubayd, Abu Humaid ibn Zanjawaih and Abu Ja'far ibn Nashr al-Dawudi (Azmi, 2004). The *Amwāl* by Abu Ubayd is a systematic and comprehensive book on public finance. It may have been composed during Abu Ubayd's retired as *qādī* (judge) in Tarsus (Suharto, 2004: 41). So, it is his reflection as a scholar as well as a legal practitioner. As Abu Yusuf, Abu Ubayd also discussed the public finance by *fiqh* approach. He referred his views on the Qur'an verses, hadiths, and the practice of the caliphs and the opinions of earlier scholars. Based on his references, Ubayd's book is historical.

The next *al-Amwāl* is the work of Humaid ibn Zanjawaih (the student of Abu Ubayd). In the beginning, it discusses the norms of leadership and citizenship in Islam. The author then discusses the public finances of Islam, especially in relation to the territories which appoint on peace treaties. This work is judged by some scholars as an explanation (*sharāḥ*) upon the *al-Amwāl* by his master (Azmi, 2004: 33). Although there are many points of view which are different from his teacher, generally he followed the teacher's descriptive method. The manuscript of Zanjawaih is saved on the Istanbul Library. Later on, it is edited and published by Shakir Daib.

The last book entitled *al-amwāl* was written by Ja'far ibn Nashr al-Dawudi. The book compiled by the Mālikiyah ulama at the end of the 4th century Hijriyah is the only book that specifically discusses public finance from the perspective of the Maliki. In contrast to the two earlier books of *al-amwāl*, in his discourse al-Dawudi adopted the prevailing taxation practices of the time, particularly in Iraq, Sicily and Spain (Azmi, 2004: 33). In general, this book campaigns for clean government practices of corruption and abuse of office. Thus it could be a reflection of the socio-political conditions prevailing at that period.

The next books on public finance are entitled *al-Aḥkām al-Sulṭaniyah*. Unlike the two former models which emphasize the discussion of public finances, it has a wider scope. In addition to public finance, it also covers topics of



government administration, macroeconomics (market systems, government intervention into markets), monetary (currency systems), and so on.

The first two writers of *al-Aḥkām al-Sultāniyah* are Hasan al-Mawardi and Abu Ya'la al-Farra'. Both also have the same coverage of discussion and the period (first half of the fifteenth century). However, it is not known exactly who first completed his book. Both are written in good and coherent systematics. Their topic of discussion is not only on public finance but also on the taxation issues; land management, public spending and so on. In addition, they also discussed governance issues and administrative procedures, including the role of government on the economy. According to Azmi (2004), the main difference between both is on the discussion on the aspects of financial administration. In this case, Abu Ya'la's quotations are more from his own school of thought (Hanbalites). But Mawardi refers not only to his own school (Shafi'ite) but also to the Hanafi and Maliki schools of law. Furthermore, Mawardi mentions the references to his work. It proves that the work has used writing styles such as scientific books today.

Contemporary studies on Islamic public finance have been given little interest than on its practical aspects as a religious duty. For example, the role of zakat, the problems of management, collection, and allocation. Many data show that most Moslem countries do not organize the collection of zakat. Bremer's field research (2013) explores zakat in Egypt. Its emphasis is on emerging innovative models of zakat for development management. Korayem and Mashhour (2014) also examine the role of zakat on the alleviation of poverty in Egypt. The same topic research was done by Shah and Yusuf (2016) but with the different case of Tunisia. Islam and Gani (2015) also examine the underlying features of fiscal policy under the Islamic framework and its importance and challenges, especially on Bangladesh. A research on the same theme was done by Katan and Abidin (2015) with the different case on Malaysia and Ibrahim (2011) for the case of Indonesia.

The article which is focused on the fiscal and monetary policies was conducted by Tahir (Tahir, 2013: 1-22). This study highlights zakat as a voluntary sector of the fiscal policy. He concluded that the role of government should be abridged to only governance. More specifically, the organization of zakat with tax system in Malaysia was analyzed by al-Mamun and Haque (2015). The synchronization of tax laws with Islamic tenets also becomes the focus of the work of Freudenberg and Nathie (2010). It was argued that this



connection is deserving of greater consideration, given the calls to amend Australia's tax laws for greater facilitation of Islamic finance. The article initially painstaking the potential benefits to Australia in becoming the pivot of Islamic finance in the South East Asian region, particularly given the low penetration levels to date.

There have been many studies focusing on implications of zakat for the economy. For examples, Aisha and Badrudin (2019) and Sarea (2012) analyzed the influence of zakat on economic growth and welfare society. Pailis et al. (2016) and Yulianti (2008) tried to seek the role of zakat in Indonesia. Their backgrounds are that zakat does not take a significant role to create public prosperity. The conclusion is that zakat manager organizations BAZIS (*Badan Amil Zakat, Infaq, dan Shadaqah*) and LAZIS (*Lembaga Amil Zakat Infaq dan Shadaqah*) have not shown adequate accountability and transparency. They recommended the need for optimization of zakat agents. Noviyanti (2016) also explores zakat for public finance by historical approach. It describes the management of public finance in the classical period of Islam. The same exploration was done by Hasibuan (2016). This descriptive-qualitative article also describes the positive law of zakat in Indonesia. It explores the dual functions of zakat as spiritual and social.

The role of private sectors to organize alms for social welfare in Indonesia also has been investigated by Jaelani (2015), Latief (2013), and Wahyuni (2017). Based on its academic problems, it is clear that they did not focus on the zakat as an instrument of public finance. Latief concluded that the trend of zakat practice on corporates has indicated the dynamics of Islamic corporate social responsibility in Indonesia.

All researches above did not fully spell out the macroeconomic framework from the Islamic political economy point of view for these policies. That is the institutional structure of the economy, nature, and role of government, the policy framework and the goals of macroeconomic policies. Its focus is on the conceptual construction of zakat (alms) and taxes in Islamic public finances.

## **METHOD**

This paper is intended as a study of the history of Islamic economic thought. Its emphasis is on the development of economic thought on public finance. Therefore, taxation and zakat are seen as a religious obligation to the government. The focus is to reveal how the early Muslim economists



responded to the problems at their time. With this approach, we hope to get a clear idea of the early stages of the development of Islamic public finance theory and at the same time to confirm the contribution given by Muslim economic thinkers. At least, we can reply the mystery of the “Great Gap” thesis (Schumpeter, 1997: 73-74) that there is a missing link in economics since the fall of Rome until the time of Thomas Aquinas (1225-1274). On the one hand, it can be understood based on the fact that there is very little information which reaches us about the shape and development of Islamic economics or economic system in the Islamic world. On the other hand, Muslims themselves have not yet explored the economic predictions of their predecessors, coupled with the fact that much of the literatures in this field were loss. Islahi (2015: 19) remarks that the “great gap” is the Islamic economic discourses.

## RESULTS

### The Early Development of Islamic Public Finance

The financial administration system of the Prophet era is relatively simple. This is understandable because he lives in the newly-developed "small country", with a humble financial policy. At the time of *Khulafā al-Rāshidīn*, the Islamic region began to penetrate the boundaries of the Arabian Peninsula, especially during the reign of Umar bin Khattab. The public financial management on the conquered territory demands the need for a more professional and efficient financial system. Coincidentally, the Caliph Umar was one of the Prophet's companions who had the most critical understanding. At that era, the state revenues largely derived from the expansion of territory and the spoils of war were still sufficient for the necessities of the state. The state financial condition is going well since it was organized carefully and efficiently and upholding the principle of trust.

The maximization of *Bayt al-Māl* becomes the focus of the Caliph Umar. Its motivation is the coming of Abu Hurayrah (Governor of Bahrain) who was carrying a *kharāj* tax fund of 500,000 dirhams. Since then, for the first time in Islamic history, he has decided not to spend out all the tax revenues. He reserved it for the benefit of the state (Abdullah, 2012: 271). It was clearly an unpopular policy at that time. Although when it was decided that the Caliph had gathered the leaders of the Companions to discuss it, it was undoubtedly a





polemic among them. One of the Companions who disagreed with this policy was Ali, the last *Khulafā al-Rashidīn*.

Subsequently, the land tax (*kharāj*) from Iraq, Egypt, Africa, Cyrenaica, Cyprus received by the Caliph Uthman was 200,492,000 dirhams or worth 20 million dinars. This amount does not include *kharāj* from Arabia, Syria, Armenia, Azerbaijan, and Persia. The state acquisition of the Iraqi *jizya* tax is about 15.4 million dirhams or 1.54 million dinars and from Egypt for 4 million dinars or 40 million dirhams; and from Syria 0.5 million dinars. The total *jizya* income at that time is equivalent to 420.02 million U.S. (Oran & Rashid, 1996: 108). This illustrates how large the income was during the Caliph Uthman.

The growing complexity of fiscal problems with the increasingly established Daulah Muslim become the reason why not all sources of revenue and expenditure of the country are not determined textually. It must be re-contextualized by *ijtihad*. The first person to be judged to carry out this contextualization was the Caliph Umar bin Khattab. Based on his *ijtihad*, for example, he is the first *mujtahid* (scholar) who established new zakat objects; decided not to surrender the conquered land to the soldiers, but still owned by the natives with the obligation to pay tax and *jizya* (Yusuf, 1979: 23-27, 35) and (Ubayd, 1986: 65). He also imposed *'ushur* charges on Manbij (Hierapolis) residents (Yusuf, 1979: 26-27).

As exemplifies by the Prophet, there is no obstruction to adopt pre-Islamic traditions and practices as long as they do not in conflict with the basic provisions of Islam. It can be adopted with certain modifications to conform to *maqāṣid al-sharī'ah*. Based on that, Caliph Umar accepted the Sasanide land taxation system after revising its rate, administration and collection method. Therefore, Umar surrendered the land to the tenants and made it a common possession of Muslims and established a tax (*kharāj*) to the people (Ubayd, 1986: 65).

Furthermore, not only adopting and adapting pre-system of tax, Caliph Umar even feels the need to re-contextualize some of the public finance policies that have been imposed by the Prophet Muhammad SAW. A clear example of such *ijtihad* is the policy of *ghanīmah* land distribution. At that time, one-fifth of the lands acquired from the conquest by war belong to the government (this part is known as *khums*). The rest of it will be distributed to the army. When



many areas were conquered, Caliph Umar decided not to distribute it as determined in the Qur'an (8): 41. These lands were left to be possessed by the natives with the compensation to pay *kharāj* and *jizya*. Thus the soils were treated as *fay'* (i.e. everything that is obtained from the enemy peacefully, not by war).

Pre-Islamic Arabian tribes have been accustomed to withdraw levies or retributions from trade caravans. It was a return for the protection for passing through their territory, or as a compensation for passing through it. This tribute (*ju'ālah*) is a force-burden charge (usually 10%). It also called as *al-Maks*. Some of the Prophet's sayings narrate his criticism of the practice of collecting this tribute, for example, the hadith by Imam Muslim (III/1323), and Abu Dawud (III/132). It becomes an element of expenditure that should be prepared by exporters for their survival. Every trade caravan that does not want to pay it will be intercepted, stolen, or even killed even though they are the messenger of the king (Karim, 2003: 66).

The Persian King, Kisra Anusyahwan sent a group of caravans carrying wood as a raw material for the arms of one of his administrators in Yemen. In Bani Tamim, this caravan is asked for tributes (*ju'ālah*) by collusion, so that it can safely travel to Yemen. Hearing of this collusion, Bani Tamim pursued the caravan and then grabbed and killed some of them (Karim, 2003: 67). The story informs us that the enforced tribute or retribution levies for merchants while passing through certain tribal areas is a longstanding tradition, before Islamic civilization.

The government eradicates inter-provincial taxes. Some scholars consider that the injunction is related to the existence of tyranny (coercion and vandalism) of *ju'ālah* or *al-maks* (Iqbal, 2004: 53). I tend to regard it as the Prophet response to prevent injustice (violence, extortion and security disturbances) as on the previous tribute collection practices. There are many hadiths that conveyed the reluctance of some Companions to be served as *āshir* since it is considered as contrary to morality. For example, a narration from ibn Sirin as quoted by Yusuf (1979: 148), he said, "They wanted to hire me to withdraw one-tenth tribute to Ablah (land on the coast of Dijlah) but I refused. One then came to me and said: "Why you do not want to do something that Umar does?"



Later on, this retribution was frozen by the Prophet. Caliph Umar ibn Khattab reapplied it as the source of public finance but with different terms, *'ushr* (Yusuf, 1979: 134). The background of the retribution of the levy tax which literally means "one-tenth" is the request of the *Harby* of Manbij to trade in an Islamic country by paying one-tenth of the value of the goods. A sentence of the mail conveyed, "Please permit us to enter into your territory for commerce, and we will pay the one-tenth tax..." Umar granted their request after consultation with some Companions.

The more popular background to his re-emergence is a special case raised by Abu Musa al-Ash'ary who reported to Caliph Umar that Muslim traders have levied one-tenth on the foreign territory (*'ard al-harby*). The Caliph counters by assigning *'ushr* taxes to them at different percentages. He said, "Take from them (*Ahl al-Harb*) as they take from Muslim merchants (10%). Take half (5%) from *Ahl al-Dhimma* (the people of the religions), while for the Muslims take one dirham of every multiple of 40 dirhams (2.5%)" (Yusuf, 1979: 135).

In general, all types of trade commodities that enter the Islamic state are the objects of *'ushur*. The basic provisions of it were outlined by Abu Yusuf in his book are as follows (Oran & Rashid, 1996: 126).

1. Taxpayer goods are intended as trade commodities.
2. The tax rate for Muslim trader is 2.5 percent (it is calculated from the total amount of commodities).
3. The tax rate for the *dhimmi* merchant is 5 percent.
4. The tax rate for foreigner is 10 percent.
5. Taxes may be paid in cash or in kind.
6. The minimum limit of taxpayer goods is the same as the provision of *niṣāb* in zakat (200 dirhams).
7. If the trader stays for more than one year, then the commodity will be taxed again.
8. Muslim traders and *dhimmi* are only charged once for the same commodity.
9. Foreign merchants have to repay tax when they returned.
10. The tax payment receipt should refer to the amount of tax paid, the value of the taxable goods, and the date.
11. Taxes levied for inter-province trade in Islamic countries.
12. The size of the tax burden takes into consideration the policies in force in other countries.



13. The items assessed are only slightly exempt from taxes
14. Staple goods are exempt from tax or taxed with other considerations.

The general provisions above show that the tax rate determinants are the status of citizenship and religion of the merchants. The distinction is normal for socio-political realism at that time. It even can be categorized as a very fair method. In fact, the *dhimmy* traders need more protection from robbers than Muslims. In addition, it should also be considered that Muslim traders must pay zakat for their commodities, while *dhimmy* is only obliged to pay '*ushr*' when conducting cross-border trade activities.

The larger '*ushr*' (taxes) which is applied to the foreign traders than for the citizens indicate a "national business." It is very similar to the subsidy policy in the modern public policy system. Furthermore, the use of incentive taxes, in the sense of providing greater opportunities for national merchants to grow faster and protect them from foreign competitors, is a real implication of the classical '*ushr*' system period.

The '*ushr*' as practiced in the early period may lose its relevance to the contemporary economic policy context if viewed from the side of the universal brotherhood of Islam (*ukhuwah Islāmiyah*). Mannan (1993: 250) considered '*ushr*' as an obstacle for the international trade. It is also contrary to the Islamic norms which do not recognize discrimination on trade. Based on the recent condition of the poor and developing Islamic countries, he emphasized that modern customs practice can be accepted as far as to improve their welfare. In fact, the "modern version" of '*ushr*' is still be widely applied by various countries to protect domestic production.

### **The Fairness on Zakat, Kharāj, 'Ushr, and Jizya**

The terms in the Qur'an to mention Islamic public finance sources are *fay'*, *ghanīmah*, *anfāl*, *khums*, and *jizya*. Generally, the remark of these terms is related to war (*jihad*, *qital*, *ghazwah*) and conquest (*futuḥ*). Therefore it can be understood if some of them appear just the once in the Qur'an; such as *anfāl* in Q.S. al-Anfāl (8): 1, *Khums* in Q.S. al-Anfāl (8): 41, and *jizya* in Q.S. al-Taubah (9): 29. The verse that mentions the *jizya* came down during the Tabuk War. It is the last battle followed by the Messenger of Allah (Kathir, 1984: 75). The background of the war was a clash on the *Dār al-Islām* (Islamic State) and the *Dār al-ḥarb* (Foreign). No longer after the revelation came down, the Prophet urged the kings of Zoroaster, Oman, Yemen,



Byzantium, Persia, and Abyssinia to embrace Islam or otherwise, to pay *jizya*. Related to this, the term *ṣāhirūn* in the *jizya* verse is interpreted as "submission." According to Mannan (1993: 250), this interpretation is based on the two reasons; first, all Muslims are freed from *jizya*. Secondly, the use of coercion for religion conversion is not allowed in the Qur'an.

Under the conditions of the socio-economic at that time, the imposition of *jizya* tax on non-Muslims is a form of compensation for the protection and security provided by the government. It also can be understood as a form of appreciation given to them for their submission (*ṣāhirūn*) to Islamic law. Thus, a citizen can only be categorized as a *dhimmi* if he has surrendered to the rules of the government (An-Na'im, 1990: 88). Economically, it is more profitable for them than do not want to subject themselves to the rules.

The Qur'an does not specify a standard amount on the withdrawal of *jizya*. Meanwhile, al-Sunnah mentions variable magnitudes. In principle, the amount of levies is based on the "ability to pay". It was not burdensome to the taxpayer (*ahl al-dhimmah*) (Suharto, 2004: 115). One form of application of the principle is that children and women are not compulsory to pay *jizya*.

The tax rate in the early Islamic taxation system emphasizes the criteria of equality and the principle of "ability to pay." Abu Yusuf (1979: 85) argues that the government has the authority to reduce or increase the tax rate in accordance with the productivity of the land and the ability of the taxpayer. Similarly, the *jizya* burden rate is not set at the beginning, because its determination considers changes according to the ability of the taxpayer. Therefore, the difference level of *jizya* (12, 24, or 48 dirhams per year) is charged according to the ability to pay *Ahl al-dhimma* (Ubayd, 1986: 45). This principle is also applied to zakat. For example, zakat on the harvest of the irrigated agricultural lands is 5%. While the zakat for harvest from non-irrigated, where the water is naturally abandoned is 10%.

The different rate payment as practiced in early Islam was known as "the fiscal capacity" in the modern tax theory. It consists of horizontal and vertical justice. Based on the former, every citizen should pay taxes according to his income. Based on it, the higher the income, the higher the tax will be (Aronson, 1985: 308).

Abu Yusuf's term for the principle of tax collection is the *muqasamah*. It based on non-fixed value. According to him, the established taxation system



(*wazīfah*) is not fair. The tax rate should consider the level of ability and percentage of income. This proportional tax system stresses on the distinction of tax rates regarding the income.

Abu Yusuf's theory refers to the tax system prevailed in Sawad at the time of Caliph Umar. Before establishing a tax percentage, the Caliph had established the council assigned to measure the Sawad land and examine the financial capacity. Based on the survey, the land area is 36000000 acres (Yusuf, 1979: 36). The Caliph determined the tax rate is a dirham for each *jarīb* (the measuring unit of the land) and one *qafīz* of wheat or barley for the river area. It represents one-third of the tax amount that has been determined by the previous authority holder. The Sawad tax system was based on *muqāsamah* (Majid, 2003: 48-68). In this case, the principles used in taxation in Sawad district are the level of productivity, the elasticity of income demand to agricultural land, the irrigation cost, and the land situation related to market (Nezhad, 2004: 11-12).

### **The Principles of Islamic Public Policy**

Abu Yusuf and Qudamah ibn Ja'far for example, more than a thousand years ago have explained the theory and practice of *jizya* and *'ushr* in an Islamic government, which is very similar to the modern theory of "the fiscal capacity" includes "the horizontal and vertical justice." Works of literature on conventional public finance have paid much attention to the criteria of fairness on the tax policy. They state that each taxpayer must provide a fair share of his ownership for government financing. In modern economics, the "fair share" is generally measured in two ways.

The first is the measurements that refer to the principle of benefit. It states that each taxpayer contributes to the benefit values that will be received from public services. Whereas the second is refer to the principle of ability to pay. As on modern economics, it states that people should contribute to their government in accordance with their ability to pay (Musgrave & Musgrave, 1987: 228-229). Under this principle, the taxpayer who has the same ability to pay should tax the same amount. Likewise, citizens with more capability have to pay more.

The structure of the early Islam tax system is focused on the criteria of equality. As initiated by the scholars who were cited in this paper, their main emphasis is on the principle of ability to pay. To reaffirm, Abu Yusuf (1979:



85) states that the ruler has the authority to reduce or increase taxes in accordance with the ability (i.e. the productivity) of the land and the taxpayers. Likewise, the *jizya* and zakat burden levels are not set on the fixed amount at the beginning. It considers the situation and condition of the taxpayer.

Several centuries after Abu Yusuf, Adam Smith determined that government protection to cover a public liability should be in accordance with the people abilities and provisions (Shaban, 1999, p. 38). It is based on the income level. This is what it means that the obligation to pay taxes should be adjusted to the financial ability (Khan, 2001: 228).

Abu Yusuf underlining on the "ability to pay" by suggests the principle of "public benefit" on the public services. Again, it is representing to the theory of "benefit" in the conventional economy. As we have seen before, the obligation of *dhimmi* to pay *'ushr* is in line with their benefit that will be earned. It is compensation for security and safety. According to Abu Yusuf, it is also applied to the development projects. For example, farmers who have taken immediate benefits from the irrigation projects must participate in the financing of it proportionately.

The aim of Islamic political economy is to create a re-entrenched economy and society by internalizing the Islamic values of social justice (Asutay, 2016: 115). The system introduces zakat as a new instrument of public finance. It is not only understood as a voluntary charity. It is God's demand to the owner of the property, to set a certain property as the religious experience. Different from the modern economy in which the government derives income from tax sources, customs, and levies, Islam places a special emphasis on zakat.

Based on the concept of zakat, individual ownership in Islam is always associated with the welfare of other individuals. But on the other hand, the recognition and assurance of Islam against the human tendency to own treasure will be a motivation and enable them to utilize resources optimally. Individual motivation is not allowed to be an epicenter of economic welfare. Its ethos is balanced with the social moral obligations (zakat and other forms of charity). This is what makes an individual motivation in the Islamic economic system is different from that applied in capitalism and socialism.

Islam upholds the individual right to own property. This basic concept has been formulated as one of the fundamental objectives of Islamic law (*maqāṣid*



*al-sharī'ah*). However, the ownership mechanism is not entirely left to the individual. The power, expertise, and opportunity of each person to get possessions are dissimilar. Since it can lead to the creation of inequality, they need a system that can ensure the justice distribution which is in accordance with the provisions of sharia (Zallum, 2004: 83).

The Islamic political system also uses a non-economic distribution pattern, in addition to the public policy. Its focuses are on the wealth distribution among those who do not have appropriate economic access. Its instruments are zakat, *shadaqah*, *hibah*, and government grants. This is not meant to generalize economic access as socialism or communism (Zallum, 2004: 24-25).

Table 1. Categorization of the Distribution Mechanisms

		Legal status	
		<i>Wājib</i> (Obligatory)	<i>Sunnah</i> (recommended)
Mechanism	Economic	<i>Bayt al-māl</i>	Insurance ( <i>takāful</i> )
		Tax	<i>Qardh al-ḥasan</i> (interest-free loans)
	Non-Economic	<i>Zakat</i>	Charity ( <i>ṣadaqah</i> , <i>infaq</i> , <i>hibah</i> )
		<i>Warith</i> (inheritance)	

### Towards an Extensive Scope of Justice

Scholars of Islamic public finance interpreted justice in various ways. For example, Ibn Hazm (1347H, p. VI: 156) defines it as a guarantee of minimum basic needs for all citizens. *Zakat* and *fai'* are allocated for this purpose. If it is not sufficient, the mission becomes the responsibility of the government. Abu Yusuf added that the *jizya* imposed on the *dhimmi* should be allocated for the protection of their property and business. Therefore, women, children, and old peoples are not subjected to the *jizya*. While in this case, the withdrawal of zakat does not pay attention to these aspects.

From what they expressed, it can be drawn that justice (in the public financial policy) means a mutual relation between right and obligation. The government has an obligation to aid citizens who suffer from distress due to famine, scarcity of goods, and high prices of the basic needs. The services were tendered by the *Bayt al-Māl* institution (Rahman, 2015: 25).





Within the framework of this study, the economy equity can only be reached if the goods and services are distributed in such a way that the needs of all people are satisfactorily fulfilled. In this condition, there is an equitable distribution of income and wealth, so it does not adversely affect employment, business, savings, and investment.

Ibn Taymiyyah's approach to an equal distribution of income and employment has certain features that distinguish it from what was adopted in the modern economic system of Keynesian. The most distinguishing feature is that the approach of Ibn Taimiyyah (1969: 178) to fight poverty is a dual obligation (religious and obligatory as a citizen).

Public financial policy is expected to play an important role in eradicating poverty. It also must role in keeping fair incomes and wealth preserved based on the *sharī'ah*. In this case, the Holy Qur'an and al-Sunnah do not establish a rigid financial system. Islam does not bind a country to a certain size of the tax. Different country may have dissimilar policies. In this case, he emphasizes the importance of observing the social reality which surrounds it.

The main emphasis of Islamic public finance is the responsibility of the state to provide basic needs for the poor. In this context, the government has an obligation to collect and distribute zakat. Although both of it was taking the values of justice, it must be realized that they will not enrich the poor (Taimiyyah, 1969: 11, 46). At least, they are expected to serve to eradicate the inequities of wealth. As in Indonesia, zakat has the potential to divert 3% to 4% of domestic gross domestic product to the poor. According to BAZNAS, the national potential of zakat on 2018 is about IDR 217 trillion (*Republika*, 23/02/2018).

Islamic public finance studies emphasis on justice and social welfare. It can only be achieved if the government considers their leadership as the trust given by the people. Therefore in an Islamic economy, all policies can be taken as long as it holds to the function. In this case, the budget deficit as suggested by Keynes may be accepted if the data indicates an increase in yields from the borrowing country and the ability to repay the debt (Chapra, 1995: 303). But on his other work he recommended that on the condition of lack resources, the state should collect funds from the people to serve the public interest (Chapra, 1980).



However, the use of budget deficits should be calculated carefully. Once a country uses a deficit budget (which means depend on foreign aid), it is very difficult to escape from the bondage. According to The Jubilee Debt Campaign (an institution which is an advocate for the eradication of foreign debt of developing countries), External loans to low and lower middle income countries have more than quadrupled between 2008 and 2016, from \$56 billion to \$262 billion (jubileedebt.org.uk). Therefore, the policy of high spending cuts or the excessive taxation demanded by the returns is always politically and publicly unacceptable. Many recipient countries only involve a few in projects financed with foreign debt. According to Arief (1998: 238), the accumulation of foreign debt is due to two things, firstly, the value of the installment plus interest greater than the value of new debt received; second, the decline in terms of trade of export products from these countries to developed countries.

The case of Indonesia is the most concrete example to explain this. Although the government used a balanced budget, it is substantially a deficit one. Even worse, the allocation of the budget is not effective to stimulate the economy. It is because of the complex issues such as corrupt bureaucratic culture and funding sources derived from debt. As a result, the government's efforts to stimulate economic needs are always accompanied by accumulated debt. Indonesia's foreign debt stood at US\$ 347.3 billion in November last year, growing by 9.1% year-on-year, according to Bank Indonesia's (BI) report. In addition, the multiplier effect of the policy is not maximal.

The income from taxes cannot be increased in line with the expenditures. It is due to the limited fundamentals of taxation and the inefficiency and corruption of tax administration that usually occurs in developing countries. In addition, high taxes will undermine the world of investment. It will lead to slower economic growth (Bashir & Darrat, 1993: 99). To overcome this situation, the government is no longer possible to use Keynes recipes, because the underlying issue is completely different from the present context. As Keynes often emphasized, the question of economics is a short-term problem.

The frequent criticism of Keynes's theory is on his postulation that investment merely serves as a tool for enlarging effective demand. Keynes does not much question the content of an investment. Many developing countries support the theory of Keynes. The decision-makers of those countries make effective efforts to direct investments into productive sectors. In reality, what happened



are investment activities which support to renter consumption (Arief, 1998: 8). The greater the investment fund is channeled for it, the lower the growth rate of capital goods inventory can be used for reproduction purposes. Despite its goals of equity and employment, Keynesian policy tools are still regarded as a very growth-oriented. Redistribution is run through growth, not in line with it. Meanwhile, many scholars argue that the policies that have been implemented to deal with external fluctuations that negatively affect the Indonesian economy are considered as a policy that is only stop-gap measures. These policies lack strategic weight for the long term.

The use of fiscal policy as a short-term stabilization technique in practice faces a problem, which is less effective. Changes in tax rates, especially in income taxes, are impractical and long-term; as well as the large proportion of government expenditures for, for example, the construction of schools, roads, hospitals, and national defense, illustrates long-term economic and social commitments and changes are not easy to do without going through long-term formalities of formal political negotiations. Likewise, changes in taxes or expenses result in multiple effects, but for an indeterminate period of time. In addition, the use of fiscal policy to keep the high aggregate demand levels to achieve full employment often leads to demand-pull inflation.

A tax policy seems to be less effective in promoting social justice and equality. So, in the context of prosperity-oriented societies, economic planning and medium-term expenditure policies that give priority to public spending is essential. In this case, the medium-term policy is a policy that sets out a set of targets for public-sector borrowing requirements. Thus, the goal of this policy is to provide more opportunities for the private sector in the economic arena. High priorities for public spending must be in line with all demands to ensure social justice. The immediate implication of this statement is that there would have to be a fair division between the needs of direct consumption and the need for capital formation (investment).

In general, public spending should reflect the fact that the government must play an important role in the dynamic process of moving the economy toward Islamic ideals. It is not only as a catalyst but an active agent of change. In the field of stabilization policy, the state will also involve in the projects to create employment opportunities in the poor areas. They must also play a role to generate effective demand when depression. Nevertheless, they must not disregard the private sector. The consequence of it will create a castration of



the private role in creating output. In addition, the government should also be able to manage the functions of zakat, since it has a tremendous potential to create justice and prosperity of the community.

## CONCLUSION

The history of ideas development of the zakat and public finances has begun since the very beginning of Islam itself. The intersection of Islam with other civilizations becomes important visible to understand Islamic law properly. The Caliph Umar Ibn Khattab has initiated contextualizing efforts of Islamic law in accordance with the socio-historical conditions that surround it. His efforts often had to face to the forms of textual understanding of the Companions. The peak of the application of the tax system which refers to the classical Islamic public financial system was during the Abbasid period. This is proved at least by the development of the economic discourse in the period.

The relevance of zakat and taxes (*kharāj*, *‘ushr*, and *jizya*) to the modern public finances can only be perceived within the general framework approach. This restriction must be done given the very long span of time. The discussion of Islamic public finance would lose its relevance without it. Furthermore, in the early days of government revenues from the *ghanimah* sector, *fay* and *jizya* were to be very urgent. Likewise, government expenditures for expansion and border areas are enormous. If our current discussion still revolves around these issues, with a legal reasoning or judicial oriented approach, rather than with a historical approach, the discussion will rest on the theoretical level. But if we use the epistemological approach framework, the actual concepts and practices of taxation in modern times have no different from what is mentioned in the books on public finance of the early period of Islam.

Succeeding the epistemology of Islamic public finance, modern scholars should have made a reconstruction on the fiscal taxes to bring about justice and to avoid discrimination. On the zakat thought, the re-contextualization efforts need to be advanced. For example, it may expand the obligatory objects of zakat. In the context of contemporary economic thought, the most important factor to be considered from it is their re-actualize approach to the Islamic provisions by considering the changes in socio-historical conditions.



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