Sharia Implementation in Northern Nigeria Over 15 Years.

Policy Brief No.3

Zakat & Waqf Institutions
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Background

The return of Nigeria to democratic governance on May 29, 1999, re-invigorated the agitation for the re-introduction and implementation of sharia (Islamic legal system) in most of the states in northern Nigeria. Twelve states (Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Yobe and Zamfara) have so far adopted the sharia legal system and established certain key institutions such as sharia commission; the da’awah committee; the hisbah group; the zakat and waqf [endowment] bodies, to support the smooth implementation of the sharia. But for Gombe state, all the other sharia implementing states have established a zakat and endowment institution.

Fifteen years after the first state (Zamfara) declared sharia and established the Zakat and Endowment Board to administer the collection, distribution and management of zakat and endowment funds, the questions that arise are: what legal framework regulates the administration of zakat and management of endowments? Are the institutions responsible for the administration of zakat and management of endowments functioning? What are the processes for the collection, distribution and management of zakat and endowment? Has zakat and endowments serve its intended purpose of engendering social and economic justice? What are the challenges facing the administration of zakat and management of waqf? This report is based on evidence collected from interviews, focus group discussions, participant observation and other relevant documentary sources obtained from the various zakat and waqf institutions, officials of the Ministry of Religious Affairs (MORA), Federation of Muslim Women Association of Nigeria (FOMWAN) and some beneficiaries.

Context: Locating Zakat and Waqf in Islam

The meaning of the word Zakat is literally to purify, in other words to purify the wealth of the rich by taking out a portion of it that really does not belong to them because it belongs to the poor. The Qur’an (Q9:103) enjoins those in authority to enforce this injunction. In our day and age, this means a legislation, which has been passed by parliament. To acquire a substantial amount of wealth and to consume it alone without giving out a portion to the poor is to consume an impurity, which is morally toxic. There are three other verses of the Holy Quran (Q59:6-8) which give further clarification on the objectives of zakat. The objective would appear to be not only to meet the basic needs of the poor - refugees, peasants, or indigents, but also a redistribution of wealth.

¹ Based on Usman Bugaje & Danladi Ali, 2016, ‘The Administration of Zakat and Management of Waqf in the Sharia Implementing States: 1999-2015’. The research for this report was conducted by the dRPC and NRN with the support of the Nigeria Stability and Reconciliation Programme (NSRP).
This raises an issue of whether zakat should be collected and distributed without any cognizance to the depth of poverty or the peculiar needs of the community or zakat should be an instrument of providing social protection and creating a welfare provision that mitigates the gap between the rich and poor in society. It is only when the objective is clear that both the collection and distribution can be targeted and purposeful.

**Box 1: Zakat**

‘The objective would appear to be **not only** to meet the **basic needs** of the poor,… **but also a redistribution of wealth**, in the words of the Qur’an “so that it (wealth) does not circulate among the rich only.” This raises an issue of whether zakat should be collected and distributed without any cognizance to the depth of poverty or the peculiar needs of the community ….’

This argument needs restating. Since zakat is a definite portion, often percentage of the total zakatable wealth, the first step in collection is to establish the value of the zakatable wealth. This is often not done in the sharia implementing states, as far as our filed work has been able to establish.

Equally important, there is no idea of the level of poverty to be alleviated in the community. In other words there is no data on the basis of which collection is done or for distribution either. Reading the Quranic texts one senses a clear objective, but looking at the actual practices one sees a clear disconnect.

**Box 2: Obstacles to Proper Zakat management**

- Difficulty in establishing the value of the zakatable wealth.
- No idea of either the level or intensity of poverty to be alleviated.
- Lack of knowledge on the numbers of the poor in the community.

Going through the archives there are records which showed that, in every village the quantity of agricultural produce at harvest is recorded, meticulously and sent to the district head, who would then pass it to the office of the Resident. Even visitors on transit are documented. This established what every household makes and makes the zakat not only fairly accurate but also allowed the community to know what to expect in a normal rainy season.

*Waqf*, also called hubs, (Hausa, hubusi) on the other hand is similar to zakat but different. The similarity is that they belong to same genus of instruments of social protection and social peace. The difference is that *waqf*, unlike *zakat*, is a species, which is voluntary and unspecified in quantum. There are many exhortations to give *waqf*, but the oft-quoted one is where the Qur’an says: “It is not righteousness that you turn your faces … “ (Qur’an 2:177). These exhortations reinforce those of the zakat and together provide social protection and guarantee social peace in society. Both *zakat* and *waqf* envisage a plural society.

In Muslim history, *waqf* has been more powerful than *zakat* in building institutions. Many of the universities like Qarawiyin in Fez, Sankore
in Timbuktu, Azhar in Cairo, etc., where started and sustained to this day with waqf. Many modern universities of Turkey today are products of waqf. While it may not be as accurate or as clear-cut as the zakat there are rules and regulations for waqf, which have evolved over time and there is a huge quantity of literature from prominent jurist like Ibn Qasim, Ibn Rushd, Shaykh Khalil, etc., on the subject. This research found very poor understanding and therefore attention paid to this important instrument of development.

The collection from waqf, compared to zakat, was next to nothing. The potential for waqf is great, for it seemed to have been designed to build institutions like schools and hospitals. Many Muslim communities in many Muslim countries have used waqf to do this. It may be necessary to probe further why exactly this potential of waqf is so under-utilized in Nigeria.

Box 3: Key Aspects of Zakat in northern Nigeria after 1999

- **Legal Framework**: Not all the sharia implementing states have state-backed zakat law.
- **Nature of Zakat Infrastructure**: The nature of zakat infrastructures is not uniform in all the states. Some states use emirate structure while others use LG structures.
- **Nature of Zakat Obligation**: In some states zakat obligation is compulsory while in others it is voluntary.
- **Zakat Collection Processes**: The system of zakat collection is robust in some states and weak in others.
- **Zakat Distribution Procedures**: Those who benefit from zakat are within the categories mentioned in the Holy Qur’an. However most of the states prioritized the poor and the needy. The amount to be distributed is arbitrarily fixed and unconnected to the level of poverty to be alleviated in the community.
- **Issues of Transparency and Accountability**: Some states have a fairly elaborate system of record-keeping on the collection and distribution of zakat and waqf. Other publish annual reports and regular periodicals. Despite these measures, there is still a huge gulf of trust.
- **Issues of Inclusivity**: Women constitute the majority of beneficiaries of zakat distribution, but they are not adequately mobilized in the process of collection. There is also the absence of women in the zakat administrations. No religious discrimination in the distribution of zakat proceeds. In Kafanchan Hospital in Kaduna state, Muslim and Christian patients have benefited from zakat. Only in Sokoto state has a Christian donated to zakat - about two million naira and a truckload of food items in 2014.
Main Findings

Challenges with the Legal Framework Remain:

Not all the sharia implementing states have state-backed zakat law regulating the administration of zakat and management of waqf. For example only eight states (Bauchi, Borno, Jigawa, Kano, Kebbi, Niger, Yobe and Zamfara) out of the twelve sharia implementing states have zakat legislations. The other four states (Gombe, Kaduna, Katsina and Sokoto) are yet to enact any state legislation. Two of these four states (Kaduna and Sokoto) in the absence of a written law, rely on universal principles of zakat administration in the execution of their mandate. Katsina state Zakat Trust Fund has a Constitution which is registered with the Corporate Affairs Commission (CAC) and it is presently, just like Sokoto state, in the process of enacting state law. The absence of legislation posed serious challenge of institutionalization of the zakat infrastructure. The implication is that the institutions exist as a stop-gap measure to fulfill certain political gains which can be done away with at will.

The Nature of Zakat Infrastructure is Challenging:

The nature of zakat infrastructures is not uniform in all the states under study. Some states like Bauchi, Jigawa, Niger, Sokoto and Zamfara adopt the emirate structure in collection and distribution while states like Borno, Kaduna, Kano, Katsina, Kebbi, and Yobe adopt the LG structures. Also the zakat infrastructures defers in terms of level of decentralization. Some are more decentralized than others - Jigawa state has a more decentralized system to the extent that they do not report to any central state authority, which is not the case with all the other agencies in other States. In terms of activities, there are also substantial variations – the zakat infrastructures are active in some state while they are not in others. Based on the quantum of zakat collection by states, the emirate institution has proved to be comparatively more effective platform for local collection and distribution of zakat and waqf. Those states with the highest zakat collection rates (Jigawa (Dutse), Zamfara, and Sokoto) rely on the emirate institution for local coordination and mobilization. However, the diverse nature of the zakat infrastructure is responding to local and circumstantial imperatives, which should not be ignored. For example, the emirate system has long established grassroots network of appeal and could easily fall back to that for mobilization and coordination. It is important to note that in Borno the infrastructure only exist in the law as no institution was ever constituted to administered zakat collection. Yobe is slightly different; the Committee operates within the Yobe State bureaucracy.

Ambiguity around the Nature of Zakat Obligation Remains:

The nature of zakat obligation as defined by state zakat laws varies from state to state. In some states zakat obligation is compulsory while in others it is voluntary. In the states where zakat is compulsory their laws made provision for enforcement clauses against defaulters and failure to pay comes with judicial consequences. These states with such enforcement mechanism include Bauchi, Jigawa, Niger and Zamfara. However, none of these states have practically enforced the collection of zakat as a compulsory obligation. There is therefore, some kind of muddling through which allows the institutions not to observe the letters of the laws in respect to enforcement. The claim by Dutse Emirate Zakat Committee of carrying out enforcement has not been independently verified. Some of the challenges hampering the implementation of the enforcement clauses include: the need to allow the people to imbibe the new culture of institutional administration of zakat; lack of adequate institutional capacity to initiate
prosecution; and most of the culprits may turn out to be political leaders’; etc. While there are strong arguments for making zakat payment a compulsory obligation, available evidence from states shows otherwise.

**Zakat Collection and Distribution Processes Are Unclear:**

The system of zakat collection is robust in some states and weak in others. States and entities with robust arrangements include; Dutse Emirate, Zamfara, Sokoto, Bauchi, Kano, and Niger. Dutse Emirate Committee and the Zamfara state Zakat and Endowment Board are clearly in the lead in terms of the quantum of collection. Kebbi, Bauchi, Sokoto, and Kano states have also recorded modest achievement in what they were able to collect. But despite this modest collection, the committees have not been able to meet their expected estimation. The challenge is multifaceted. First, it is still difficult transiting from individual to institutional administration of zakat. Majority of eligible zakat payer still pay their zakat directly to beneficiaries or through their local Mallams. This process lacks accountability and the essence of zakat are not served. Second, determining what is due for zakat is left to the discretion of the payer. This is despite legal provisions defining the percentage share of all zakatable items. To raise the purposefulness and conscientiousness of the current collection and distribution of zakat, diligent assessment of the value of the zakatable wealth must be a necessary precondition for determining what zakat is due for collection. This is often not done.

Zakat collected at each level is distributed within the same locality except Niger, where two third is remitted to the state headquarters. Those who benefit from zakat are within the categories mentioned in the Holy Qur’an – the poor (Fuqara), needy (Masakin), collectors of zakah (amilina allaiha), inclined heart (Mualafatul qulub), to free Slave (Riqab), the debtors (Gharimin), in the cause of Allah (fissabiilllah) and the Wayfarer (Ibn Sabil). However most of the states prioritized the poor and the needy and in actual sense, debtors, slaves, and the Wayfarer for all intent and purpose fall within the poor and the needy. Not all the states subscribed to Amilina Alaiha – Sokoto is an example. The amount distributed as zakat ranges from one thousand naira (N1000.00) to twenty five thousand naira (N25,000.00). The problem is that the amount to be distributed is arbitrarily fixed. There is no idea of either the level of poverty to be alleviated or the quantity of the poor in the community. The Dutse Committee carried out quantification of the number of poor within the Emirate in 2000 and that data has not been reviewed to meet current realities. In other words there is no data on the basis of which collection is done or for distribution either.

**Lack of Transparency, Accountability and Inclusivity Exist:**

Some states, (such as Dutse, Zamfara, Sokoto, Bauchi, Kebbi, and Kano) have a fairly elaborate system of record-keeping that provide general information on the collection and distribution of zakat and waqf. Other steps taken by the zakat institutions include publication of annual reports and in the case of Sokoto State Zakat and Endowment Committee, regular periodicals on every major distribution. Despite these measures, there is still a huge gulf of trust especially when one considers the number of eligible zakat payer who pays through the institution.

In all the states under review both male and female strive to fulfill Allah’s command by paying their zakat. It is however observed that while women constitute the majority of beneficiaries of zakat distribution in majority of the states, they are not adequately mobilized in the process of collection. This may be due partly, by the absence of women completely in the zakat infrastructures across the states. Only Kano state has had a female representation.
in the past. The other aspect of inclusion has to do with the religious dynamics of the zakat and endowment beneficiaries. In all the states, while there appears not to be discrimination on the beneficiaries of zakat and endowments proceeds, only Sokoto state has received donation from a Christian. In Sokoto, a non-Muslim donated about two million naira and a truckload of food items to the zakat and endowment committee in 2014. In Kaduna state, the list of patients who benefited from zakat distribution at the general hospital Kafanchan included Muslims and Christians.

Box 5: Why support zakat?

Social Protection- New Thinking, New Direction:

Today when societies are decomposing for the dearth of social protection and governments world over are failing to address the growing poverty, we need to look inwards to create self-sustaining models of social protection. The alternative is to ignore this decomposition and continue to generate large army of dispossessed people who will continue to threaten both local and global security. As Amartya Sen would say, “If we continue to leave the vast section of the people of the world outside the orbit of education, we make the world not only less just but also less secure.” Some would prefer the less subtle words of James Baldwin, “the most dangerous person in any society is someone who has nothing more to lose” (in his book, ‘The Fire Next Time”).

![Image of a classroom with children and a teacher]

![Image of children sitting on benches]
Policy Recommendations

To address the lack of proper understanding on zakat and waqf, capability building for community leaders, religious leaders, operators of zakat institutions, and contributors to zakat and waqf is necessary:

1. **To Nigerian Institutions of Higher Education**

   a. **Develop Training Programmes on zakat and waqf:**

      There is a dearth of knowledge on the philosophy and objective of the *zakat* and *waqf*. It appeared to be lost on many of the managers of the zakat institutions that while it is indeed a religious duty, it has clear objectives and therefore need clear targets set and some monitoring and evaluation. Admittedly these are modern techniques but we are operating in modern times too and there is no escaping our age and times. So our universities, with their departments of Islamic studies and centers for Islamic legal studies along with departments of public administration and management should design and teach courses on zakat administration and management.

   b. **Conduct Research on zakat & waqf**

      The fieldwork has revealed the huge areas of research in this field. A survey of the knowledge gap of the managers / administrators of *zakat* and *waqf* will help inform the colleges and universities to formulate appropriate curriculum for the training suggested above. There is also the area of the measurement of poverty levels in communities, this may be household surveys or other appropriate parameters to establish needs in the community, so that *zakat* collection and distribution is no longer done blindly, but is informed by relevant data and targets set. There are also institutions that measure poverty levels – such as the National Bureau of Statistics (NBS) in Abuja and Oxford Poverty & Human Development Initiative (OPHI) - which can be called upon for assistance. There is also the need to have a better understanding of how the zakat was collected and distributed in the pre-colonial and colonial periods.

2. **To the governments of the Sharia implementing states and the managers of zakat institutions - Zakat and Waqf management should be a knowledge-driven process.**

   There are a host of issues that require scholarly and expert revision so as to re-invent *zakat* and *waqf* to meet the needs of our contemporary societies. The governments of the Sharia states and the managers of the zakat institutions should create platforms for experts in Islamic law, public finance, and social policy to come together to cross fertilize ideas in order to upgrade the zakat institutions. The determination of what is zakatable wealth is an item
worthy of expert opinion. Should we continue to rely on a list prepared by the ulama’ over some ten or more centuries ago? Or should new categories, more consistent with current realities be worked out? What roles can modern technologies play in the assessment, collection, and distribution of such zakat? Shouldn’t we revisit the quantum prescribed from centuries ago in the light of the needs for the social security and community cohesion today? Should we not distribute zakat to eliminate poverty rather than keep a permanent body of people living on the edges of life always there to collect zakat? We need the ulama and experts in the economic and management sciences to review these and many similar issues. The society has so evolved and transformed and so have the needs. The platforms we recommend can be in the form of conferences, workshops, and regular meetings of expert panels. These can also serve as avenues for sharing knowledge and best practices from around the world.

3. **To Islamic civil society.**

   (a) **Conduct enlightenment campaigns on zakat and waqf**

   There is a huge space for advocacy to mobilize support both within the public and private sector to understand the role and advantage of zakat and waqf in addressing pressing issues of social security and cohesion. This task can be taken up by the civil society organizations.

   (b) **Monitor existing zakat institutions.**

   The existing zakat institutions need constant monitoring to ensure that the distribution proceeds and the general management of the institutions meet acceptable standards. So far, nobody carries out this important watch-dog function. These zakat CSOs can or should maintain websites that keep data on the various zakat and waqf institutions and processes to make the sharing of knowledge easier and faster, and give the general public access to vital information on the institutions.
4. **To the Zakat institutions**

(a) **Upgrade your regulations & operations**

It is important that the current zakat institutions are constantly reviewed to upgrade their laws, rules, organs, and performance. Modern management experts should be involved in this process. Goal-setting and monitoring and evaluation should form part of this constant reform process.

(b) **Building Trust**

It is obvious that the dearth of trust negatively affects the volume of collection for both zakat and waqf. It is a constant refrain that if only officials are honest more people will be willing to give out zakat and waqf. Honesty is difficult to measure, luckily transparency and accountability is not. There is a need for strong institutional checks that make it difficult to be dishonest and which also provide for heavy penalties in case of any breach. What we require therefore is not a moral crusade for some honest people from God knows where, but rather, the institutionalization of measures and processes for transparency and accountability in the management of zakat and waqf. The building of robust and transparent institutions will elicit trust and improve the collection, distribution, and effectiveness of zakat and waqf.
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Views expressed are those of the authors.

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