

Al-Qaraḍāwī's Juristic Perspectives On *Zakāh* of Agricultural Wealth as Reflected in His *Fiqh Al Zakāh*

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Abstract

This paper discusses al Qaraḍāwī's perspective on several issues in *zakāh* (alms) of agricultural wealth. It analyzes his juristic views on the issues as reflected in his master piece *Fiqh al Zakāh*. This paper focuses mainly on three issues, namely, *niṣāb* of agriculture, deduction of debts and expenses and *zakāh* on rented land. It is found out that al Qaraḍāwī's perspectives on *zakāh* of agricultural wealth based on the maqasid and he goes beyond the typical approaches of many Muslim scholars who only rely on the usul fiqh methods in deducing the rulings from the legal texts in Al Quran or Al Sunnah.

Keywords: *zakāh*, *zakāh* of agricultural wealth, *hukm*, contemporary *fiqh*, juristic perspectives

1. INTRODUCTION

Al-Qaraḍāwī is one of the best known muslim contemporary intellectual as well as a famous Islamic thinker and *dā'i* (missionaries) in Islamic world today. He had written and produced many books in different disciplines, such as *fiqh*, *'aqīdah* (creed), *akhlāq* (morals), *ḥarakah al Islāmiyah* (Islamic movement), *da'wah* (propagation) and other disciplines.

Among the famous one and the most important writings of him is *Fiqh al Zakāh*. The book is considered to have given a significant impact in the contemporary fiqh. In that book, he does a very detailed and elaborate treatment of many contemporary issues and topics related to *zakāh* (alms) (Mushfiqur Rahman, 2003).

The full name of this book is *Fiqh al Zakāt, Dirāsah Muqāranah li Aḥkāmihā wa Falsafatihā fi Ḍau' al Qur'ān wa al Sunnah* (al-Qaraḍāwī, 1994), translated into English by Mushfiqur Rahman as “*Fiqh al Zakāh, A Comparative Study of Zakāh, Regulations and Philosophy in the Light of Qur'an and Sunnah*” (Mushfiqur Rahman, 2003). The idea of this book came from Qaraḍāwī's PhD thesis in 1973. His thesis title was *al Zakāt wa Athāruhā fi Hill al Masyākil al Ijtimā'iyah*, that means “*Zakāh and Its Effect on Solving Social Problems*” (Ishom Talimah, 2001)

This two volume book covers almost all aspects related to the study of *zakāh* ranging from the history of the *zakāh* in the early Islam, a comparison with the other religion's charity system, zakatable wealth in fiqh both the classical and modern interpretation of the wealth, the system of distribution of *zakāh*, and its relation with the tax system, etc.

Thus, this paper will discuss al-Qaradawi's juristic perspectives on zakah of agricultural wealth. The main objectives of this paper is to verify and analyze al-Qaradawi's thoughts on zakah of agricultural wealth and to reveal al-Qaradawi's methods in establishing rules on *zakāh* issues.

2. ZAKĀH OF AGRICULTURAL WEALTH

Zakāh of agricultural wealth generally means an obligatory right to pay either 10% or 5% (based on watering or irrigation technique) from certain agricultural wealth crops on the day that the harvest is gathered (or after pre-estimating of crops is done), and the crops must be at least 5 *awsūq*.

Zakāh of agricultural wealth obligation is stated in al-Quran verses, as in *sūrah al-Baqārah* 2 : 267 :

“Oh you who believe! Give of the good things which ye have (honourably) earned, and of the fruits of the earth which We have produced for you, and do not even aim at getting anything which is bad, in order that out of it ye may give away something, when you yourselves would not receive it except with closed eyes. And know that Allah is Free of all wants, and worthy of all praise”

And *sūrah al-An’ām* 6 : 141 :

“And He it is Who produces gardens (of vine), trellised and untrellised, and palms and seed-produce of which the fruits are of various sorts, and olives and pomegranates, like and unlike; eat of its fruit when it bears fruit, and pay the due of it on the day of its reaping, and do not act extravagantly; surely He does not love the extravagant.”

In *Ḥadīth* as reported by al-Bukhārī, that the Prophet (Pbuh) said, *“On that which is watered by the sky or by springs, one-tenth is obligatory, and on that which is irrigated by carried water a half-tenth is obligatory”* and in *ijmā’* (al-Kasānī, 2003).

3. AL QARADĀWĪ’S PERSPECTIVES ON ZAKĀH OF AGRICULTURAL WEALTH

As for the *fiqh* discussion, the *fuqaha* discusses the subject in many aspect such as the types of agricultural products that become *zakatable*, the amount of *zakāh* that must be imposed on, the method of calculation of *zakāh*, the deduction of debt from the amount of *zakāh* as well as and the deduction of the cost incurred on planting works, the *kharāj* and its relation with *zakāh*, the payer of *zakāh* for the rented land and etc.

This paper will focus on three main issues in *zakāh* of agriculture, namely: *niṣāb* of the agricultural wealth, deduction of debts and expenses and *zakāh* on rented land.

3.1 *Niṣāb* of *Zakāh* of Agricultural Wealth

There is a disagreement between the majority of the classical Muslim jurists and Abū Ḥanīfah on the issue of the requirement of *niṣāb* in the agricultural wealth. *Niṣāb* means the minimum amount of property (agricultural wealth) liable to payment of *zakāh*. The majority believe that the *niṣāb* of agricultural wealth must be at least five *awsuq* (equals 5 camel-load) (Ibn Rusyd, 2009; al-Syīrāzī, 1995; Ibn Qudāmah, 1992). Abū Ḥanīfah on the other hand maintains that for the agricultural wealth the requirement of *niṣāb* is not applicable and it must be treated in different with another types of wealth. Abū Ḥanīfah's opinion based on the general word of al-Qurān verses and Hadīth from Prophet (Pbuh) which mention none about *niṣāb* (al-Kasānī, 2003), in one of the Hadith the Prophet said:

فيما سقت السماء العشر

“For that irrigated by rain is one tenth imposed on it”

Abū Hanīfah argues that this is a general command to include any agricultural wealth without specific mention of any amount of *niṣāb*. Apart from that Abū Ḥanīfah also argues that the condition of *niṣāb* is not applicable because the condition of the passage of one year (*haul*) is not required in this kind of wealth (Ibn Qudāmah, 1992). In this issue al Qaraḍāwī prefer that *niṣāb* is obligatory in *zakāh* of agricultural wealth, that is 5 *awsuq* which is in line with the position of the majority of the jurists. According to him, *niṣāb* is the criterion for richness which is the criterion for which *zakāh* is imposed on a Muslim not only in agricultural wealth but in all types of wealth. *Niṣāb* is considered the minimum level of richness. According to him also, waiving *niṣāb* is tantamount to contradict the ḥadīth that the Prophet Muḥammad clearly (Pbuh) said :

لَيْسَ فِيْمَا دُونَ خَمْسَةِ أَوْسُقٍ صَدَقَةٌ

“There is no *zakāh* on less than five *awsuq*”

(Hadīth muttafaq ‘alaih)

In supporting this position al Qaraḍāwī quotes the statement of Ibn al Qayyim in I'lam al Muwaqqi'in in which he says that there is no contradiction between the above two Hadiths. The first Hadith as Abū Ḥanīfah mentioned to support his view is actually to differentiate between one tenth and one twentieth of *zakāh* depend on the method of irrigation of the crops. It is not about to waive *niṣāb* in the zakah of agricultural wealth (al-Qaraḍāwī, 1994). This is the view of al Qaraḍāwī on the issue of *niṣāb* and he maintain the *niṣāb* is 5 *awsuq* as stated in the hadith.

After establishing the requirement of *niṣāb* al Qaraḍāwī further studys the exact quantity of 5 *awsuq*. The Muslims jurists unanimously agree that a *wasq* (1 camel-load) is equal to 60 *sa'* (bushel) which means that 5 *awsuq* is equal to 300 *sa'*.

The Muslim jurists agree to use the *ṣā'* that is used in Madinah as the benchmark in calculating the *niṣāb* based on the Hadith:

المكيال مكيال أهل المدينة والميزان ميزان أهل مكة

“The accepted measure is the what is practiced by the people of Madinah and the accepted weight is what is practiced by the people of Mekah”

However the jurists have different opinions about the size of *ṣā'*. For the people of Iraq like Abū Ḥanīfah and his companions they equate it to 8 *ritl* of Baghdadi, whereas the people of Hijaz like Mālik, Shafī'ī and Aḥmad equate it to 5 *ritl* and 1/3 of Baghdadi. Al-Qaraḍāwī sees that the view of the people of Hijaz as more accurate based on some evidences. Firstly, Imam Mālik himself studied the measure of *ṣā'* and the weight of one *ṣā'* full of grain used in Madinah at his time. The second evidence is Abū Yūsuf compared the weight of the *ṣā'*s (from fifty elderly sons of *Anṣār* and *Muhājirīn* in Madinah) contents and found it was little less than five and one third *ritl*, that was why Abū Yūsuf changed his view from that Abū Ḥanīfah to that of the residents of Madinah (al-Baihaqī, 2003).

The *niṣāb* of five *awsuq* is applicable to agriculture crops that can be measured. For a crops that cannot be measured, *zakāh* payment uses value of a 5 *awsuq* of the average value of grain or barley, for example. The value will differ from one country to another, from time to time. To determine *niṣāb* in each case, al Qaradawī says that the local muslim scholars in every countries must count the value according to the socio-economic variables in their countries (al-Qaradāwī, 1994). For example, *niṣāb* for sugar cane can be determined based on average value (price) of 5 *awsuq* rice or 653 kilogram rice in Malaysia.

Al Qaradāwī's opinion is based on Abū Yūsuf's opinion. Abū Yūsuf proposed to consider the value of a *niṣāb* of the cheapest grain that can be measured, and apply that value on crops that cannot be measured (al-Kasānī, 2003). Al Qaradāwī disagrees with Abū Yūsuf about the estimation at the cheapest measurable crop, but the estimation should be at the average value of measurable crop. The purpose is to protect zakah payers and the poor interests, that is why the estimation of *niṣāb* must be fair with both parties (al-Qaradāwī, 1994). Al Qaradāwī see this from the perspective of *maqāṣid* and *maṣlahah* in his establishment of the juristic view.

3.2 Deduction of Debts and Expenses

Before *zakāh* imposed on agricultural wealth, are debts and expenses deductible?. al-Qaradāwī opines that debts spent on the land (farming) or family must be deducted in the calculation of *zakāh* as suggested by Abū 'Ubayd. Abū 'Ubayd's suggestion is opted from Ibnu 'Umar's opinion which both debts on farming and family expenses must be deducted. The others who agree with Ibnu 'Umar are Aṭā', Ṭāwus dan Makḥūl, as well as a group of Iraḳi jurists (Abū 'Ubaid, 1989). The other group of jurists like Ibn 'Abbas and one of reports from Aḥmad see that the only debt spent on farming is deductible in *zakāh* calculation of agricultural wealth and not the debt spent on family

expenses. In discussing this issue al Qaraḍāwī make no added comments, rather he only quotes Abū ‘Ubayd and Ibn Qudamah’s view.

The other issue that al Qaraḍāwī raises up is regarding the expenses spent on farming which is not in the form of debts. These may include the cost of seed, fertilizer, pesticide, labor involved in cultivating, irrigation, harvesting, weeding, drying and many more. Are these costs deductible like debts?.

Al Qaraḍāwī opines that the expenses are deductible before *zakāh* is charged on crops. Al Qaraḍāwī notes that the most noticeable statement from the *salaf* jurists in this issue is what was mentioned by Ibn Ḥazm and reported by Yaḥyā bin Adam that Ismail Ibn Abd al Mālik reported that he asked Atā’ regarding the land that he cultivated and Atā’ said to him that: “You deduct the cost incurred and pay *zakāh* what is left” (al-Qarāsyī, 1384H).

Al Qaraḍāwī’s opinion is inconsistent with Ibn Ḥazm who rejects this view of deduction. Ibn Ḥazm (1349H) firmly states that :

“It is not permissible to include any costs spent on plantation, harvesting, cultivating, collecting, researching, excavation, sorting and others in zakāh calculation, and to be deducted in zakah calculation, whether the expenses in debts or not, whether the cost cover all the value of the crops or not . This is something that the predecessor scholar disagreed on”

In another place Ibn Ḥazm maintains that it is not permissible to deduct something obligatory upon the Muslim without any clear injunction from al Quran and al Sunnah. He adds that this is the position Mālik, Shāfi’ī, Abū Ḥanīfah and his companions.

Al Qaraḍāwī gives two reasons to support his opinion, as follows : firstly, *Syarī’ah* is always take into consideration the cost and efforts. The obvious example is the reduction of rate from ten to five percent because of the cost of irrigation. There are also cases in which the ruling of obligation is nullified because of the cost incurred like that of the case of livestock fed by the owner most of the year. So according to him it is acceptable to deduct the cost of planting in the zakah calculation. Secondly, growth in

fact is the surplus and surplus can only exist after considering the cost incurred (al-Qaraḍāwī, 1994).

3.3 *Zakāh* on Rented Land

The other issue that we will look into, is the situation when the farmland owner rents his farmland to the others. Who is going to pay the *zakāh*? Al Qaraḍāwī opines that the owner and the planter, both of them is obligatory to paying *zakāh*. According to him *zakāh* is a charge on the output and on the land, which means that *zakāh* is charged to the planter and the owner.

His opinion is a combination from two different opinions, Abū Ḥanīfah and majority of jurists. Abū Ḥanīfah sees that *zakāh* is charged to the farmland owner (al-Kasānī, 2003). He argues that *zakāh*, though usually collected from the output, it is in fact a levy on the land. The ownership of land remains in the hand of owner and not by the user, and since *zakāh* “according to Abu Hanifah’s principle”, is a charge on the land, it is the owner’s responsibility to pay the *zakāh* (al-Sarakhsī, 1978; Ibn Qudāmah, 1992; al-Mawardī, 1999). Another reason is, since the benefits of the land is collected by the owner through the rent and the rent is considered the replacement of the land’s benefits, *zakāh* is charged on the owner, based on the principles of *fiqh* “the *hukm* of replacement taken from the *hukm* of origin” (وحكم البديل حكم الأصل) (al-Sarakhsī, 1978).

On the other hand, the majority of jurists view that *zakāh* is charged on the planter, as they see that *zakāh* is a charge on the output and not on the land (Ibn Rusyd 2009; al-Nawawī, n. d; al-Mawardī, 1999; Ibn Qudāmah, 1992). al Qaraḍāwī’s opinion comes from Ibnu Rushd’s opinion. Ibnu Rushd realizes that *zakāh* is in fact on the land and its output together. Ibn Rushd (2009) is quoted to have said:

“And the reason of their disagreement is based on the principles whether zakah/usyur is the right of land or the right of the agricultures or the right of both land and

agricultures. However there is no one who said that it is the right of both. It is actually the right of the both”.

However, there is one problem, about the way of both of them to pay *zakāh*. Al Qaraḏāwī tries to resolve this problem and he suggests the estimation of *zakāh* on rented farmland, as follows :

Firstly, for the planter, the amounts of rent must be deducted as debts and expenses also should be deducted from zakatable crops. Then *zakāh* should be levied on the residual (either 10% or 5%) when *niṣāb* (5 *awsuq*) is sufficient. For example, he says, the planter rents a land for grains plantation, the amounts of rent is 20 *junaiḥ* (in Egypt) monthly. And the collected (in ten months) crops from that land is 100 *irdab* (Egypt’s volume measure used especially for grain) when 1 *irdab* is equal to 4 *junaiḥ*. The renter must deducts 50 *irdab* from that crops for rent payment (50 *irdab* x 4 *junaiḥ* = 200 *junaiḥ*) in ten months (10 month x 20 *junaiḥ* = 200 *junaiḥ*). The planter has spent 40 *junaiḥ* (is equal to 10 *irdab*) for expenditure costs that must be deducted [100 *irdab* – 50 *irdab* (rent payment) – 10 *irdab* (expenditure costs) = 40 *irdab*]. The balance is 40 *irdab*, and 40 *irdab* is a sufficient *niṣāb* to pay *zakāh*. So, the planter must pays 5% (or 10% based on irrigation techniques) from 40 *irdab* and it is equal to 2 *irdab*. A brief *zakāh* calculation for the renter is shown in the following table 3.3.1 :

Table 3.3.1 : *Zakāh* calculation for the planter/renter

| | |
|---|---|
| <i>Zakāh</i> calculation for the renter : | |
| 100 <i>Irdab</i> (400 <i>Junaiḥ</i>) | (Agriculture Crops in Ten Months) |
| - 50 <i>Irdab</i> (200 <i>Junaiḥ</i>) | (Land Rent) |
| - 10 <i>Irdab</i> (40 <i>Junaiḥ</i>) | (Expenditure Costs) |
| ----- | |
| 40 <i>Irdab</i> (160 <i>Junaiḥ</i>) | (The balance is a sufficient <i>niṣāb</i> to pay <i>zakāh</i>) |
| ----- | |
| Then <i>zakāh</i> should be levied on the residual either 10% or 5% | |

Source : Extracted from *Fiqh al Zakāh* book

The owner must pay a *zakāh* from a collected rent which is 200 *junaiḥ* (50 *irdab*). The owner must deducts *kharāj* (tax on agricultural land) from *zakātāble*. For example *kharāj* amount is 40 *junaiḥ*, 40 *junaiḥ* must be deducted from 200 *junaiḥ*. The balance is 160 *junaiḥ* (40 *irdab*) and it is a sufficient *niṣāb* to pay *zakāh*, and the planter must pay 5% (or 10% based on irrigation techniques) from 160 *junaiḥ*, which is equal to 8 *junaiḥ* (2 *irdab*) (al-Qaraḏāwī, 1994). A brief *zakāh* calculation for the land owner, is shown the following table 3.3.2 :

Table 3.3.2 : *Zakāh* calculation for the land owner

| | |
|---|---|
| <i>Zakāh</i> calculation for the land owner : | |
| 50 <i>Irdab</i> (200 <i>Junaiḥ</i>) | (collected rent from the land renter) |
| - 10 <i>Irdab</i> (40 <i>Junaiḥ</i>) | (Land taxation (<i>kharāj</i>)) |
| ----- | |
| 40 <i>Irdab</i> (160 <i>Junaiḥ</i>) | (The balance is a sufficient <i>niṣāb</i> to pay <i>zakāh</i>) |
| ----- | |
| Then <i>zakāh</i> should be levied on the residual either 10% or 5% | |

Source : Extracted from *Fiqh al Zakāh* book

If the balance is insufficient to pay *zakāh* due to the deduction of debts, expenses and *kharāj*, the obligatory of *zakāh* in that crops does not exist.

This approach of sharing in the payment of *zakāh* prevents duplication in *zakātability*, because the rent that is deducted from *zakātāble* output, as far as the farmer (the renter) concerned, is included in the *zakātāble* output of the land owner. Each is charged with what belongs to him (or her) from the profit on the land, and on the basis of the income that accrues to him (or her) from it (al-Qaraḏāwī, 1994).

Al Qaraḏāwī mentions that this position is appropriate with principles of justices and tolerance in Islam. The planter pays *zakāh* from agricultures and fruits that Allah

gives after the deduction of rent, debts, and other expenses. While the owner pays *zakāh* from land benefits and profits after the deduction of debts, *kharāj*, and others. Al Qaraḍāwī chooses the best of Abū Ḥanīfah's opinion and the best of majority jurist's opinion with a consideration on obligatory fairness.

4. CONCLUSION

This paper reveals some of al Qaraḍāwī's methods in establishing rules on *zakāh* issues. He first gathers the view of the previous scholars, analyzing them before establishing his own view on the issue. In many cases he base his view on the principle of *maqasid* and he does not bind himself to any particular school of law. In one issue he chooses a certain position of a school and in another issue he follows the other school of law as long as the view is in line with *maqāṣid*. He also does not stick to the four school of law but goes beyond that to the time of the *salaf*.

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