

﴿ اَقِيْمُوا الصَّلٰوةَ وَ اَتُوا الزَّكٰوةَ ﴾

The Regulations of

Zakāh

& 'Ushr

By Mufti Muhammad Rafee'
'Uthmāni *hafizahullah*

Mufti and President
Dārul 'Uloom Karachi



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Preface & Endorsement

by Mufti Muhammad Shafee' 



This humble one has fully inspected the booklet, 'Ahkām-e-Zakāh' (The Regulations of Zakāh) by my dearest Molwi Muhammad Rafee' (may Allah safeguard him), which was written upon my instruction. Māshā'allah, the masā'il have been compiled in clear, easy to understand language, all referenced to authentic, reliable books. The necessary regulations and masā'il of zakāh appear within it in full detail.

May Allah ﷻ accept it and grant increase in the 'ilm, 'amal and lifespan of the compiler. Āmeen.

Muhammad Shafee'

21 Sha'bān 1382 AH

Foreword to the Urdu Edition



Praise be to Allah and peace be upon His servants whom He has chosen.

The necessity and importance of the regulations and masā'il of zakāh are in no need of mention, especially in this age when unfamiliarity and carelessness with regards to Deen and the knowledge of Deen are escalating like a storm. Some people approached my respected father, Shaykh Mufti Muhammad Shafee' *hafizahullah*, and requested that the regulations pertaining to zakāh be published in simple, straightforward Urdu. My honourable father, due to a multitude of commitments, did not have the opportunity, which is why he instructed this humble one to carry out the task. Along with the deficiency in my knowledge, I was then teaching at the Dā'irul 'Uloom and it was the exam season, yet believing compliance with the order to be a source of good fortune, I wrote what I could and submitted it. After scrutiny and rectification by my respected father, it is now being published.

Whilst writing the masā'il, special attention was given to ensuring the language was as simple and easy to understand as possible, for which eloquence had to be discarded in a number of places. The aim is to allow even a person with little education to grasp the masā'il with ease.

O Allah, accept this from us. Truly You are the All-Hearer, the All-Knower.

Muhammad Rafee' 'Uthmāni

Lecturer, Dā'irul 'Uloom Karachi

Foreword to the English Edition



We praise Allah and send salutations upon His noble Messenger ﷺ.

Alhamdulillah, the beneficial and sincere services for Deen of the righteous young ‘Ālim of Deen, Shaykh Muhammad Saleem Dhorat *hafizahullah* frequently appear before us. The benefits rendered by his institute and Academy are also increasing day by day, by the Grace of Allah.

Recently the respected Shaykh imparted the good news over the telephone that an English translation of this humble one’s booklet, ‘*Ahkām-e-Zakāh*’ has been rendered by one of his institute’s ‘Ālims, Shaykh Sulaymān Bhula, and has already been serialised in the institute’s monthly journal, *Riyādul Jannah*.

In this age there is a huge need for English translations of Deeni books, for by the grace of Allah, Islām is spreading fast in the western world and the number of Muslims there is growing. There is a great shortage of literature in English for their guidance, and a major method of alleviating this deficiency is to translate existing Deeni books into English.

Therefore news of this translation gave this humble one great pleasure, with increased peace of mind being felt when it was learned that Shaykh Muhammad Saleem Dhorat had also looked over it, through which the hope was reinforced that the standard of the translation’s language will be in conformity with current dispositions.

The translation of the final portion of this humble one's booklet, which deals with masā'il related to zakāh on agricultural produce, i.e. 'ushr, was not published in the monthly Riyādul Jannah, for maybe it was not considered necessary for the Muslims of Britain. However, the section is included in this booklet for the benefit of the public as Muslims in countries such as America do own agricultural land. May Allah ﷻ grant the translator and Shaykh Muhammad Saleem Dhorat a great reward for this beneficial work, and may He grant them barakah in their knowledge, their actions and their lives.

And we turn to Allah for help and only He grants tawfeeq.

Muhammad Rafee' 'Uthmāni

11 Rabee'ul Awwal 1426 AH, 21 April 2005 CE

Note: This translation has also been checked by Mufti Sulayman Lasania of the Islamic Da'wah Academy's Dā'irul Iftā.

The Regulations of Zakāh

Technical Terms and Definitions

A number of words related to zakāh and charity appear repeatedly in the Qur’ān and ahādeeth: zakāh, sadaqah, infāq fee sabeelillah, it’ām. Similarly, in the books of fiqh such technical terms as zakāh, ‘ushr, khums and nisāb are used abundantly. In order to facilitate understanding of the related masā’il which follow, these terms will be explained first.

Zakāh: Literally it means to grow and to become pure, but as Imām Rāghib Al-Isfahāni رحمته الله states, not every form of increase or growth is called zakāh. Zakāh is that figurative growth granted by Allah ﷻ by way of a blessing. Similarly not every form of cleanliness or purity is called zakāh, only that abstract and inner purity that someone obtains through the Will of Allah ﷻ. If a person cleans his body or clothes of his own volition, it is not considered zakāh.

In the parlance of the Qur’ān and Sunnah, zakāh is that portion of wealth which is extracted in the path of Allah ﷻ, by way of fiscal obligation. It is called zakāh because, as the Qur’ān and hadeeth affirm, paying zakāh is a means of growth and blessing in one’s wealth, or also because by paying it one receives inner purification. To conclude, zakāh in the terminology of the Qur’ān and Sunnah is that portion of wealth which has been made obligatory upon man to spend in the path of Allah ﷻ. In the books of fiqh too, the word zakāh has been used to represent the same.

Sadaqah: This word is derived from ‘sidq’, which means truth and truthfulness. Sadaqah is that wealth that is given from the heart, with the sincere intention of pleasing Allah ﷻ alone. This word

is used in a general way in the Qur’ān and the ahādeeth; obligatory sadaqah, zakāh, ‘ushr and sadaqatul fitr are also referred to as sadaqah. And something spent in addition, voluntarily, to gain reward is also referred to as sadaqah. Throughout the Qur’ān and the ahādeeth the word sadaqah is utilised in abundance for both obligatory and voluntary forms. The books of fiqh too see the word used in the same general way.

In fact the word sadaqah takes on an even broader meaning in the ahādeeth, being used to represent every good deed. To talk with a cheerful countenance, to lift someone’s burden etc. have all been called sadaqah in the ahādeeth.

Khayrāt: This word has not been used in the Qur’ān and hadeeth in the context it is used in the Urdu language. In Urdu terminology the word khayrāt too is used to mean sadaqah, encompassing both mandatory and voluntary forms.

Infāq and It’ām: The literal meaning of infāq is to spend, and it’ām is to feed. Like sadaqah, these words have been used in a general way in the Qur’ān and ahādeeth, covering fardh, wājib and nafl.

‘Ushr: In fiqh, the Shar’ee zakāh applicable to the produce of agricultural land is called ‘ushr. Similarly, the zakāh collected on trade goods at specific checkpoints is also known as ‘ushr. It can also be referred to as zakāh.

Khums: The quantity of one fifth which is deducted from war booty for the baytul-māl or a fifth of the produce of various types of mine, which is deposited in the baytul-māl for helping the poor.

Nisāb: In the terminology of fiqh it is the amount of wealth, the possession of which leads a person to be known in Shar’ee terms as wealthy, e.g. 52.5 tolas of silver or 7.5 tolas of gold etc.

The Obligation and Importance of Zakāh

Zakāh is one of the five pillars of Islām. Repeatedly in the Glorious Qur’ān, zakāh is mentioned along with salāh.

Establish salāh and give zakāh...And they establish salāh and give zakāh...And the establishment of salāh and the giving of zakāh...

Such terms appear throughout the Qur'ān, which goes to show that from the Islamic obligations, paramount is salāh, followed by zakāh.

As elucidated by the Qur'ān and Sunnah and the consensus of the ummah, zakāh is fardh upon anyone in whom its preconditions are to be found. Whoever rejects its status as fardh is not a Muslim, and whoever does not pay his zakāh, though he accepts it as a fardh, is a severe sinner and a fāsiq.

History of Zakāh

The correct view, as established from the Qur'ān and the ahādeeth, is that zakāh had become fardh upon the Muslims, along with salāh, in Makkah Mukarramah. This view is confirmed by the appearance of regulations regarding zakāh in Makki soorahs. Imām Ibne Katheer رحمته الله and others have expounded this matter in their commentaries.

However, detailing of the nisāb threshold, rate and recipients of zakāh and the establishment of a state collection system, occurred gradually after reaching Madeenah Munawwarah. Sadaqatul fitr was made obligatory in 2 AH, and thereafter 'āmilis (collectors) were appointed by the Islamic government in Madeenah Munawwarah to collect zakāh, 'ushr etc. In this way all the various forms of sadaqah were deposited in the baytul-māl, and great pains were taken to distribute this wealth among the poor and needy.

Zakāh is a form of worship through wealth, and upon every wealthy person it is, like salāh, compulsory under any condition. It is obligatory, irrespective of whether or not there is an Islamic government or baytul-māl to collect it. In the sharee'ah of every prophet of the past too, the observation of zakāh was, like salāh, compulsory. However, in their sharee'ahs it was not permissible to spend zakāh revenue on the poor and needy. It had to be heaped in a particular place and a heavenly fire used to descend and devour it, as a sign of accept-

ance.

Allah ﷻ, through His Grace, granted permission to this ummah to utilize zakāh for the needs of the indigent and poor. It is such an excellent way of solving the problems of the poor that if it was ensured that zakāh was given properly and spent in the correct areas, then – as even some Europeans claim – not a single Muslim would be left naked or hungry.

Carelessness in the Matter of Zakāh

Regrettably, many Muslims nowadays simply do not give zakāh, due to a prevailing ignorance and carelessness. And those that do extract zakāh from their wealth, consider it sufficient just to give it, whereas the Glorious Qur’ān has not simply commanded that zakāh be taken out of our pockets but also that we ensure that it reaches those who deserve it. The Qur’anic term *Ātuz zakāh* does not mean merely to extract, but to pay, and payment is only achieved when it is properly conveyed to the rightful recipient. This right is not fulfilled by simply parting from the money and giving it to someone. Everyone knows that in the case of a worldly debt it cannot be classified as settled, and a debtor is not seen as free from his debt, until payment reaches the creditor and he acquires ownership over it. Similarly zakāh is not considered as paid until it reaches a deserving recipient. In general, Muslims are prey to much carelessness in this regard. Without searching for and verifying the deservedness of a recipient they give their zakāh to someone and consider themselves absolved of their responsibility. The upshot of this is that the undeserving gain ownership of their zakāh and the deserving remain penniless and victims of hardship.

The Punishment for not Paying Zakāh

1. The Glorious Qur’ān states:

...And those that hoard gold and silver, and spend it not in the Way of Allah (i.e. do not discharge their zakāh), announce unto them

a painful torment. On the Day when that (gold and silver) will be heated in the fire of Hell and with it will be branded their foreheads, their flanks, and their backs, (and it will be said unto them:) 'This is the treasure which you hoarded for yourselves. Now taste of what you used to hoard.' (9:34-35)

2. Rasoolullah ﷺ said:

A people do not refuse (to give) zakāh except that Allah inflicts them with drought (i.e. scarcity of essentials). (Jam'ul Fawā'id)

3. Another saying of Rasoolullah ﷺ is:

He who, despite being given wealth by Allah, does not discharge his zakāh, his wealth will be made into a poisonous, bald-headed snake with two black spots over the eyes, which will coil itself around his neck on the Day of Qiyaamah and then bite his cheeks and say, 'I am your wealth, I am your treasure!' (Bukhāri)

4. Another saying of Rasoolullah ﷺ is that every morning two angels descend from the heavens. One makes the du'ā: 'O Allah, give the one who spends (in the Path of Allah) more,' and the other says, 'O Allah, bring destruction to the one who withholds.' (Bukhāri, Muslim)

5. Once Rasoolullah ﷺ, seeing bracelets of gold on the wrists of two women asked, 'Do you discharge their zakāh?' They answered, 'No.' Upon this Rasoolullah ﷺ said, 'Do you wish that you be made to wear bracelets of fire in their place?' They replied, 'No.' He said, 'So discharge their zakāh.' (Tirmidhi)

6. Of the seven groups of people that will be under the shade of Allah's ﷻ Throne on the Day of Judgement, Rasoolullah ﷺ made mention of that person who gives sadaqah in such a secretive way that his other hand is not aware. (Bukhāri)

Upon Which Type of Wealth is Zakāh Fardh?

It should first be understood that Allah ﷻ has only placed a minimal financial obligation on mankind. To begin with, zakāh is not

levied on every form of wealth, only that which usually increases, like merchandise, livestock or gold and silver. Gold and silver have been classified in Islām as a means of trade. Be they in the form of jewellery or stored away in bullion form, according to the Sharee‘ah they are trade goods. Thus, zakāh is fardh on gold and silver, whatever form they take.

Apart from these three categories of goods, zakāh is not fardh on houses, shops, utensils, furniture and other household items, machinery in factories and mills or gems, regardless of their value. If however, any of these are obtained with the intent to sell them, then zakāh will be fardh on them.

The second point worth mentioning is that even in the three categories of wealth outlined above, simply becoming the owner of the wealth does not make zakāh fardh. For a period of a whole (lunar) year, the owner can spend as much of it as he likes, wherever he likes. At the close of the year, after having spent on food, drink and all necessary and optional expenditure, only one fortieth of what remains is fardh in the form of zakāh.

It is therefore clear that unlike income tax, zakāh is not levied on income but on capital. And there is no restriction on expenditure of this capital, unlike under the rules of income tax, such that if a person spends all of his wealth over the period of the year, he will not need to pay any zakāh.

A fourth category of wealth is produce from agricultural land and orchards, but it is classified as ‘ushr in the terminology of the fuqahā. Therefore it will be discussed after the regulations of zakāh under the title of ‘ushr. From the three categories of wealth liable for zakāh, mentioned above, because zakāh regulations pertaining to livestock only affect a minority of people it was deemed unnecessary to include them in this short booklet. Herein, only regulations pertaining to merchandise, gold, silver and currency, followed by the regulations of ‘ushr, will be dealt with.

It should also be borne in mind that even on the wealth that the

Sharee'ah of Islām has stipulated liable for zakāh, it is not unconditionally fardh on every person in every situation. The following preconditions apply, and where they are not met, zakāh will not be fardh:

Preconditions for Zakāh

1. The payer of zakāh has to be a Muslim. Zakāh is not obligatory on a non-Muslim. (as mentioned in the general books of fiqh)

2. Maturity. Regardless of how much wealth a child under the age of puberty has, neither he/she nor his/her Shar'ee guardians are required to pay any zakāh. (Hidāyah)

3. To be of sound mind. There is no zakāh on the wealth of an insane person, as long as his insanity remains throughout the year. (Durr Mukhtār, Shāmi)

4. To be a free person. Thus a slave who has been purchased is not required to pay zakāh. (as mentioned in the general books of fiqh)

5. The wealth has to reach the threshold of nisāb. There is no zakāh on wealth below the threshold of nisāb. (Durr Mukhtār) Details of nisāb follow shortly.

6. The wealth must be in excess of one's necessities. Therefore there is no zakāh on items which take the form of human necessity, e.g. a house to live in, clothes to wear, utensils or furniture for use, car for (social) transportation etc. (as mentioned in the general books of fiqh)

7. The passing of a whole (lunar) year on this wealth. Before the passing of a year, no zakāh is applicable on any of the wealth. (Hidāyah)

8. The wealth must be *nāmi* i.e. productive, liable to growth. e.g. merchandise, gold, silver, livestock etc. Any wealth that is not productive, even though it may be in excess of one's necessities, is not liable for zakāh, e.g. more than one house, a second car, superflu-

ous utensils or furniture etc.

All these conditions are mentioned in detail in *Badā'i'us Sanā'i'* and general books of fiqh. There now follows an in-depth look at the regulations pertaining to the zakāh on each of the different types of wealth.

Zakāh on Gold and Silver

1. The nisāb for gold is 7.5 tolas¹ and that of silver is 52.5 tolas². Thus if anyone has 52.5 tolas of silver or 7.5 tolas of gold, and they remain in his possession for a year, then it will be fardh to pay zakāh on them. If one owns less than these quantities, then zakāh will not be fardh. If one owns more, then again, zakāh will be fardh. (Hidāyah)

2. Zakāh will be fardh on gold and silver in the form of jewellery, pots and utensils and embroidery, whether these ornamental items etc. are in use or not. In other words zakāh is fardh on every item of gold or silver, but if it is below the nisāb level then there is no zakāh. (Hidāyah)

3. If gold or silver is not pure but has something added to it, then the ruling will be made according to which substance is greater in quantity. If the amount of gold or silver is predominant, then the whole will be classified as gold or silver, and zakāh will be fardh. If the additive is greater, e.g. in 1 tola there are 3 mashas of silver and 9 mashas of additive, then it will not be considered as gold or silver. Zakāh will not then be fardh on it unless it is kept for the intention of trade. (Hidāyah vol 1)

Gilt coins and change incur zakāh for the sole reason that they are for exchange.

4. If someone possesses neither the nisāb level of gold nor the nisāb

[1] The tola is an old Indian unit of weight, equivalent to the silver rupee issued by the British East India Company. It is equivalent to 11.7 grams - Editor.

[2] A scholarly investigation into the mentioned measures of gold and silver can be found in 'Awzān-e-Shar'eeyah' by Mufti Muhammad Shafee' ﷺ.

level of silver, but a quantity of both metals, then if by adding the two together, their joint value exceeds the value of 52.5 tolas of silver, then zakāh will be fardh. If both metals are of such small quantities that by combining their values the nisāb is not reached, then zakāh is not fardh. If the quantities of both gold and silver are above their nisāb levels, then there is no need to value them, zakāh for the silver should be calculated separately and given, and zakāh for the gold separately. (Hidāyah and general books of fiqh)

5. If someone has 100 tolas of silver and then, before the end of the year, he obtains 2 or 3 tolas or 9 or 10 tolas of gold, then it will not be calculated separately but it will be reckoned with the silver. Therefore when the year ends for the silver, it will be deemed that a year has passed for the gold that came later as well. Zakāh will thus be fardh on both the silver and the gold. (Hidāyah)

6. If someone had 100 tolas of silver and then, before the year elapsed he obtained a further 2 or 3 tolas or 50 or 60 tolas of silver, then here too it will be assumed that a year elapsed on all the silver combined. Therefore zakāh will be fardh on all the silver, and the silver that was obtained later will not be reckoned separately. (Hidāyah vol 1)

To summarise, zakāh is not affected by wealth increasing or decreasing during the course of the year. However much wealth remains at the end of the year, it will all be liable for zakāh. (as long as the nisāb is present - Editor)

Imagine a person had £1,000¹ or the equivalent in gold or silver throughout the whole year, but just a few days before the year's end he obtained £9,000, or its equivalent in gold or silver. He will have to pay zakāh on all £10,000.

7. Zakāh is not necessary on clothes owned for wearing, no matter how many or how expensive they are. But if they have silver embroidery, then it is fardh to estimate the quantity of silver and combine

[1] Monetary values used as examples in this booklet have not been translated directly from the original Urdu but have been given in Pounds Sterling. - Editor

it with the other zakātable wealth and to pay zakāh on it.

For example, if a person has 100 tolas of silver and 10 tolas of embroidered silver, zakāh will be fardh on 110 tolas of silver. If he has 2 tolas of gold and 10 tolas of silver embroidery, then the 10 tolas of silver embroidery must be reckoned with the amount of silver equivalent to 2 tolas of gold, e.g. 140 tolas at today’s rates, and the amount of zakāh which would be applicable to 150 tolas of silver will be fardh. (Durr Mukhtār and Shāmi)

Zakāh on Cash

By a consensus of the fuqahā zakāh is fardh on money, whether gold or silver coins, gilt coins or in any other form, because it is acknowledged by society as, and was invented to be, a means of exchange. (Shāmi)

1. If someone has cash equivalent to 52.5 tolas silver or 7.5 tolas gold (irrespective of whether he has any actual gold or silver), then zakāh is fardh on it, for cash comes under the same ruling as gold and silver. (Shāmi)

2. For example, silver is £1.40/tola¹. If someone has £73.50, then zakāh is fardh on him because it is equivalent to the value of 52.5 tolas of silver.

3. A person has cash, gold and silver, but none reach the limit of nisāb on their own. The value of the gold and silver must be ascertained and if added to the cash, it reaches £73.50, zakāh will be fardh, otherwise not. (Durr Mukhtār)

4. For example, if at a particular time, gold is £86 per tola and silver is £1.40 per tola and a person has 1 tola gold and £5 cash, then at the end of the year zakāh is fardh on him. The 1 tola of gold was

[1] The value of silver is currently around £0.12/g or £1.40/tola and varies. The price of silver should be ascertained at the time of calculating one’s zakāh.

(Please note, the rates given have been adjusted to the rates at the time of translation, in Pounds Sterling.

- Editor)

equivalent to £86 and this, added to the £5, makes £91, which is greatly in excess of the value of 52.5 tolas of silver, the value of which at £1.40 per tola is only £73.50. (Durr Mukhtār)

5. However, if there is only 1 tola gold and there is no cash or silver, then zakāh is not fardh. (as mentioned in the general books of fiqh).

6. Someone had £300 and, before the end of a year, he gained another £200. The £200 will not be reckoned separately but when the year finishes for the £300 then zakāh will be fardh on all £500, and it will be deemed that all £500 had been kept for a year. (Hidāyah)

Zakāh on Merchandise

By merchandise is meant that which is obtained with the intention of sale. The nisāb for merchandise is the same as that for cash, i.e. if the value of the total merchandise equals or exceeds the equivalent of 52.5 tolas of silver or 7.5 tolas of gold, then it will be fardh to give a fortieth of it in zakāh after the passing of a year. (Durr Mukhtār and Shāmi)

1. The ruling for anything other than gold, silver and cash, e.g. jewel necklaces, iron, copper, brass, tin, gilt etc. and items made from them, clothing, footwear, furniture or any other goods is that if they have been procured for trade, then upon reaching the threshold of nisāb and after the passing of a year, paying zakāh on them becomes fardh. If they had not been obtained for the purpose of trade, then zakāh will not be fardh, irrespective of how valuable or numerous they may be and irrespective of being kept without necessity. (Durr Mukhtār and Shāmi)

2. If something other than gold or silver was obtained for personal use and then the owner decided to trade with it and sell it, but it remained unsold and the year passed, then zakāh is not fardh on it. This is because that intention is valid which exists at the time of obtaining the goods and in this case when the item was obtained it was not intended for trade, so it is not classified as merchandise.

However, from the time it is put on sale it becomes classed as merchandise and if after that time it remains in one’s possession for a year then zakāh will be fardh on it. (Hidāyah)

3. Shelving etc. used to store goods in shops, and furniture for use therein do not incur zakāh because they are not merchandise. If it is a furniture business and these items were bought or made with the intention of selling them then zakāh is fardh on them because in that case they are merchandise. (Durr Mukhtār vol 2 and Shāmi)

4. If someone has many houses and rents them out, zakāh is not fardh on the value of these houses, no matter how expensive they are. However it will be necessary to give zakāh on any rent money accrued from them which remains after the passing of a year, in the same way as with cash. Similarly if someone purchased, for instance, utensils, furniture, tents, bicycles or any other item, for a few hundred pounds or more, to hire out and maintained them on hire, then zakāh will not be fardh on them either. This is because by hiring goods out they cannot be classified as merchandise and zakāh is not fardh on them. But the money obtained through hiring them out is treated just like normal cash, i.e. if it exceeds nisāb and remains for a year then zakāh is fardh. (Hidāyah and Qādhi Khān)

5. Printing presses and machinery fitted in factories and mills are not merchandise and so do not incur zakāh. If however they are purchased to sell then zakāh will be fardh on them too. The same ruling applies to tailors’ sewing machines, dry cleaning equipment and all forms of machinery. (Durr Mukhtār and Shāmi)

6. Although zakāh is not fardh on machinery fitted in factories and mills etc. it is necessary on the goods produced by them. Similarly the raw materials stored in mills etc. to produce goods are liable for zakāh. It is fardh to value both the finished goods and the raw materials and pay 2.5 per cent in zakāh. (Durr Mukhtār and Shāmi)

7. Someone has some gold or silver along with some merchandise, but on their own neither reaches the nisāb level. In this case the values of both should be combined and if the sum exceeds the value of

52.5 tolas of silver then zakāh is fardh, if not then zakāh is not fardh. (Hidāyah)

8. Zakāh is fardh on company shares in accordance to their market price at the completion of a year. However, because company share prices include the cost of machinery, buildings and furnishings, which are in reality exempt from zakāh, if someone enquires from the company and deducts a proportional amount from the value of his shares corresponding to the machinery, buildings, shops and their furnishings etc. and only pays zakāh on the remainder, then this is permissible and correct. For example, the share value is £100 and upon enquiry it turns out that 5 per cent of the value is in the form of machinery, buildings, shops and their furnishings etc. then £5 will be deducted from the share price and zakāh payed on the remaining £95. (Durr Mukhtār and Shāmi)

When is Zakāh Fardh on a Debtor?

1. If someone has £200 and is also in debt by the same amount then zakāh will not be fardh on him, even if he keeps the £200 for a whole year. If he has a debt of £150 then still zakāh is not fardh on him because if £150 corresponds to his debt, it leaves only £50 surplus to requirements, a sum which is less than the value of 52.5 tolas of silver at today's rates. (Hidāyah vol 1)

2. If someone has £500 and has debts of £200, zakāh is fardh on him to pay on £300. (Hidāyah vol 1)

When is Zakāh Fardh on a Creditor?

If your wealth is in the form of a debt owed to you by someone else, then zakāh on that wealth is also fardh on you, as long as the debtor acknowledges he owes the money and has promised to pay it, or if he denies it, then you have witnesses or documentation by which you can secure your wealth in a court of law. However, debts fall under three categories:

1. The first type is when cash, gold or silver were lent to someone or merchandise was sold to someone and its payment was outstanding, and then the debt was paid after a year or a couple of years. This category of debt is termed *Qawee* (strong) in the language of the jurists. If such a debt is equal or greater than the *nisāb* i.e. the value of 52.5 tolas of silver, then upon being paid back, zakāh will be fardh for each of the preceding years. If however, the debt is not paid back in total as a lump sum but in instalments, then when a fifth of the *nisāb* level¹, i.e. 20 per cent² has been received, zakāh on only that 20 per cent will be fardh. Thereafter when another fifth is received, zakāh will be fardh on that as well. In this way zakāh will continue to become fardh on every fifth as it comes in, but it should be remembered that zakāh will have to be paid for all the preceding years.

And if the total debt is not equal to *nisāb* then zakāh is not fardh on it. If however, other wealth is also in one's possession and both combined they reach the *nisāb* level, zakāh will be fardh. (Shāmi vol 2 p 53)

2. The second type is when the loan has not been given in the form of cash, nor in the form of gold or silver, and neither through the sale of merchandise, but through the sale of some item which is not categorised as merchandise. An example of this type of debt is when clothes for personal use or household goods or some land was sold and the payment still remains due. Such a debt is technically known as *mutawassit* (medium). Its ruling is that if the amount meets the *nisāb* threshold and is being repaid after some years, then zakāh will be fardh on the amount for every year that it remained as a loan. If the whole amount is not received in one go then it will not be fardh to pay zakāh on it until an amount equal to *nisāb* is reclaimed. When an amount equivalent to *nisāb* is reclaimed then zakāh will be fardh on that amount for all the past years. (Shāmi vol 2 p53-54, Durr Mukhtār)

[1] i.e. equivalent to the value of 10.5 tolas of silver.

[2] i.e. 20% of the *nisāb* value.

Mas'alah: In this second type of debt, if it has not been repaid in one go, but e.g. £15 was returned, then if one already has enough wealth to exceed the nisāb level on which zakāh would be fardh e.g. £115 then the £15 will be added to the £115 and the calculation for zakāh made. So when the year ends for the £115 it will be assumed that a year has passed for the £15 of reclaimed debt too and zakāh will be liable on the full £130.

3. The third type is when the loan has not been given in the form of cash, nor in the form of gold or silver, nor through the sale of anything, but someone has become indebted to you through some other means, e.g. a bride's dowry becomes incumbent on the groom, a husband's khula' payment falls on the wife, blood money becomes incumbent on someone or a labourer's wages have still to be paid. Such debts are named *dha'eef* (weak) by the jurists. The ruling for this type of debt is that it will only enter the equation the day it is recovered, zakāh will not be fardh for the preceding years. Thus if after receiving the payment, a year passes then zakāh will be fardh on it, otherwise not. (Shāmi vol 2 p 54)

Mas'alah: Provident Funds fall under the third category. Thus after leaving work the 'zakāh year' for the payment from the fund will commence when it is received. Zakāh will not be fardh for previous years.

Note: There is a difference of opinion with regards to this issue amongst the 'Ulamā, whereby some categorise it as *qawee* or *mutawassit* and require that zakāh be paid for the previous years also. For this reason it is best if the corresponding zakāh is paid, erring on the side of caution. A full treatise on this subject can be found in the appendix to Imdādul Fatāwā vol 2.

The Ruling on Zakāh Paid before the Year Ends

1. If a wealthy person, upon whom zakāh is fardh, pays his zakāh before the end of the year, it is permissible and his zakāh will be deemed discharged. If however, he is not currently wealthy but ex-

pects to acquire wealth from somewhere, and still pays zakāh in advance, then his duty of zakāh will not be discharged. When he acquires the wealth and a year passes then he will have to pay zakāh on it again. (Hidāyah vol 1)

2. If a wealthy person gives zakāh for a number of years in advance then too, it is permissible. If however, it transpires that in some years his wealth increases then he will have to pay zakāh separately on the increased amounts. (Durr Mukhtār and Shāmi)

3. If someone has £100 after meeting all his needs and is in the expectation of receiving a further £100 and so gives zakāh for the full £200, this too is permissible. If when the year ends his wealth turns out to be less than the nisāb level, e.g. £50 then zakāh is waived and the amount he gave will be counted as nafl sadaqah and he will be rewarded for it. (Durr Mukhtār and Shāmi vol 1)

The Ruling on Wealth Finishing or Decreasing after the Passing of a Year

1. If a year passed in relation to someone's wealth yet he had still not discharged his zakāh when suddenly all his wealth was stolen or lost in some other way, then zakāh will be waived. If however, he gave his wealth away to someone of his own volition or wasted it in some other way of his own doing then the amount of zakāh that had become fardh will not be waived but he will still have to pay it. (Hidāyah and Durr Mukhtār vol 2)

2. If after a year passed someone gave away all his wealth in charity, without the intention of zakāh then also his zakāh will be waived. (Hidāyah vol 1)

3. If someone had £400 and after a year passed £200 was stolen or given away in charity then zakāh will be liable on just £200. (Durr Mukhtār vol 1 and Hidāyah vol 2)

The Method of Paying Zakāh and its Ruling

1. When a full year passes in relation to some wealth, then zakāh should be discharged immediately, for it is possible that death may occur suddenly and this duty remain outstanding. If someone does not pay zakāh after a year passes, to the extent that yet another year passes then it is a sin. He must do tawbah and pay zakāh for both years. In other words even though it is a sin to delay the payment of zakāh, whenever it is eventually paid it will count as *adā* not *qadhā*. (Durr Mukhtār vol 2)

2. It is fardh to give a fortieth as zakāh i.e. 2.5%. (Durr Mukhtār vol 2)

3. One has the choice when giving zakāh, of whether to give it all to one deserving person or to distribute it among many. There is also the choice of giving it all in one go or spreading the payments out over some months. (Durr Mukhtār vol 2)

4. It is best to give one poor person at least such an amount which will suffice him for that day, and save him from having to ask from anyone else on that day. (Durr Mukhtār vol 2)

5. It is makrooh (disliked) to give one poor person the amount of wealth upon which zakāh becomes fardh, though if someone does so, his zakāh will still be considered discharged. To give less than that is permissible without any detestation. (Hidāyah vol 1)

6. Someone has a quantity of silver jewellery which incurs 3 tolas of silver as zakāh. The owner of the jewellery has the choice of either giving 3 tolas of silver, its value in cash or its value in some other goods. The same ruling applies to gold in that its zakāh can be given either in gold or its value in some other goods.

7. For zakāh to be considered discharged, it is conditional that the amount given to a deserving person with the intention of zakāh is not given in return for any services rendered etc.

Mas'alah: For this reason, money given to an imām of a masjid, a mu'azzin or a mudarris (teacher in a madrasah), although an act

of reward, cannot be counted as zakāh as it is given in exchange for their services. If however, an imām, mu’azzin, mudarris or a member of domestic staff is poor and his wages are insufficient to meet his needs, then he can be assisted through zakāh funds. In that case whatever is given to him with the intention of zakāh will render it discharged. It is also a condition of discharging zakāh that the deserving recipient is granted ownership of the wealth, through which he has full control over how to spend it. If the recipient is not given ownership then zakāh will not be considered as discharged.

Mas’alah: Therefore if a few poor people are gathered together and fed with the intention of discharging one’s zakāh, it will not suffice because they were not made owners of the food.

Mas’alah: It is not permissible to utilise zakāh funds in the construction of a masjid, madrasah, khānqah, hospital, well, bridge or aid agency building. If zakāh money was spent on such projects, the zakāh will be considered unpaid, for here too the deserving recipients of zakāh were not given ownership of the funds.

Mas’alah: Similarly it is not sufficient for the discharging of zakāh to purchase books and donate them to a madrasah or to purchase land and give it as a trust for some humanitarian effort.

Mas’alah: Zakāh is also considered unpaid if houses are made with the funds and those deserving of zakāh are allowed to live in them rent-free. It will only be valid if they are given ownership of the property.

Mas’alah: Zakāh money cannot be given for the construction of hospitals, their running costs or the salaries of staff. However, zakāh money can be used to purchase medicines that will be given free to people deserving of zakāh.

Mas’alah: Some people accumulate zakāh money and that of other wājib forms of sadaqah, in order to use it to give as *qarz hasanah* (interest-free loan without a fixed term) and then recoup

it afterwards. Although a rewarding act, zakāh is not discharged in this way, as long as the recipient is not given ownership of the money.

For further details regarding these masā'il and their evidences from the Qur'ān and Sunnah please refer to the booklet, '*Qur'ān me nizām-e-zakāt*'.

The Intention for Zakāh

1. The intention of zakāh is fardh for it to be considered discharged. One should, at the time of giving to a deserving poor person, make the intention in the heart that, 'I am giving zakāh.' It is sufficient to make the intention in the heart, to say it out loud is neither necessary nor better. If the intention of zakāh was not in the heart, it will have to be given again and the money given without intention will be considered as nafl sadaqah. (Durr Mukhtār vol 2)

2. If someone did not make the intention of zakāh at the time of giving it to a deserving recipient, then by making intention during any time that the recipient still possesses the given amount will suffice. Making intention at this time will discharge one's zakāh. If however, one makes intention after the recipient has spent or disposed of the given wealth, then such intention has no consequence and the zakāh will have to be paid again. (Durr Mukhtār vol 2)

3. It is not necessary to inform the recipient that he is being given zakāh. In fact it is better not to mention it. (Durr Mukhtār vol 2)

4. If someone set aside a certain amount e.g. £10 of his wealth with the intention of zakāh, on the basis that when a deserving case is found then it will be given to him, then at the time of giving it to a deserving person he forgot to make intention, his zakāh will be considered discharged. If he had not set the money aside with the intention of zakāh, it would not have been discharged. In other words the intention for zakāh is valid both when setting aside zakāh funds and at the actual time of handing it over to the needy. If the intention was not made at either of these times then zakāh will not

be considered as paid. (Hidāyah vol 1)

5. A loan was requested by a person who is either known to be so poor that he will never be able to repay it, or who has a habit of not repaying. If he is given zakāh money under the pretext of a loan, with the intention of zakāh, then the zakāh is discharged, even though the recipient is under the impression that he has been given a loan. (Ālamgeeri)

6. If someone was given something as a prize with the giver having made the intention of zakāh, then the zakāh will be discharged. Similar is the case if zakāh is given as an ‘Eed present or a gift to a poor person or his children, even though the recipient thinks that he has been given a gift. This method is actually preferred when giving zakāh to friends and family so that they do not feel any embarrassment in accepting. (Durr Mukhtār and Ālamgeeri)

7. If a poor person owes you e.g. £10 and the zakāh you need to pay is also £10 or more and you waive the debt with the intention of discharging your zakāh, it will not be considered discharged. If however, you give him £10 with the intention of zakāh then it will be discharged and the same £10 can then be reclaimed from him as repayment of your loan. (Durr Mukhtār vol 2)

Payment of Zakāh Through a Third Party

1. It is permissible to give zakāh money to another individual or organization and make them your agent so that they can spend your zakāh money in the correct places. However, two points must be borne in mind:

(a) Conviction that the agent will spend the funds on those who are truly deserving of zakāh, not in other charitable causes.

(b) For as long as your zakāh money stays in the hands of the agent it is as if it is still in your possession. Zakāh will be deemed discharged only when the agent spends your money on deserving recipients. Many organizations collect zakāh money which is then

left unspent for years, an act of extreme carelessness.

2. If one does not give zakāh to the poor personally but instead gives it to someone else to give, then if this second individual does not make the intention of zakāh when he hands it over to the recipient, the zakāh will still be deemed discharged. (Ālamgeeri)

3. If you did not give any money but simply said to someone, 'Give zakāh on my behalf,' which he subsequently did, then your zakāh has been discharged. The amount that the other person gave is now a debt owed by you. (Shāmi vol 2)

4. If someone gave zakāh on your behalf without your knowledge and without your having told him to do so, then your zakāh will not be considered discharged. Even if you accept the gesture afterwards, it will still not be deemed valid and the money spent by the first person will be considered nafl sadaqah. This also means that he will have no right to reclaim the amount he spent from you. (Shāmi)

5. If you gave someone some money and told him to give it on your behalf as zakāh, then he has the choice of either giving it to a poor person himself or passing it to someone else to give as zakāh. It is not even necessary for him to specify the name of the person on whose behalf the zakāh is being paid. (Behishti Zewar vol 3 p 22)

6. If you gave someone some money and told him to give it on your behalf as zakāh, and he sees a relative or his parents as deserving and gives it to them, then it is permissible for him to do so. But if he himself is poor, it is not correct for him to keep it for himself. However, if you had said, 'Do what you wish with it and give it to whom you wish,' then it is permissible for him to keep it for himself, as long as he is deserving of zakāh. (Durr Mukhtār vol 2)

To Whom is it Permissible to give Zakāh?

1. A person who owns 52.5 tolas of silver or the value of such in cash or merchandise is classified as rich by the Sharee'ah. It is not permissible to give zakāh to such a person and it is not halāl for such

a person to accept it. (Ālamgeeri)

2. Similarly someone who has possessions of that value, which are not merchandise but are still excess to his needs, is also considered rich and it is impermissible to give zakāh to him. This is despite the fact that zakāh is not fardh on this type of ‘rich’ person. (Behishti Zewar vol 3 p 23)

3. And those who do not possess wealth equal to that amount or those who have nothing are classified as ‘faqeer’ (poor). It is permissible to give zakāh to such people and it is permissible for someone in those circumstances to accept it too. (Durr Mukhtār vol 2)

4. Items such as large cooking pots, large rugs, tents etc. which are made use of very infrequently, at the time of special occasions, and which are not used on a day-to-day basis are classified as excess to one’s needs. Therefore zakāh will not be deemed as discharged if one gives it to someone who owns such items to the value of nisāb. (Shāmi)

5. A house for living in, clothes for wearing, hired help and those household items which are used regularly are all classified as necessities. Therefore no one will be considered as rich by possessing these items, no matter how valuable they are, and it is permissible to give such a person zakāh. Similarly books which form reference material for educated people are also considered as necessary items, as are the tools of a craftsman, regardless of their value. Tools aside, if a craftsman does not have 52.5 tolas of silver or its equivalent then it is permissible for him to accept zakāh. (Shāmi vol 2)

6. If a person has a number of houses which he rents out or some other form of income, but his dependants are so numerous that he cannot make ends meet, and he does not own any other wealth that would make zakāh fardh on him, then it is permissible to give zakāh to him. (Shāmi vol 2)

7. If someone has £1,000 cash yet also has debts of £1,000 or over then it is permissible to give him zakāh. If his debts are less than

£1,000 then it should be determined how much he would be left with after the debt is paid. If he is left with the nisāb amount (or more) then it not permissible to give him zakāh, and if he is left with less then it is permissible. (Ālamgeeri)

8. If a wealthy person is on a journey and due to theft or some other circumstances he is left without any funds, not even enough to return home, then in such a case it is permissible to give zakāh to him, regardless of how much wealth he has back at home¹. Similarly it is permissible to give zakāh to a hāji who runs out of funds on his journey, despite the fact that he may have much wealth back at home. (Ālamgeeri)

9. It is not permissible to give zakāh to minor children whose father is rich. If however a child reaches maturity and is not rich himself, yet his father is rich, then it is permissible to give zakāh to the child. (Ālamgeeri)

10. If the mother of minor children is rich but the father is not then it is permissible to give zakāh to such children. (Durr Mukhtār vol 2)

11. It is not permissible to give zakāh to the Banoo Hāshim. The Banoo Hāshim are those who are Sayyids, i.e. the descendants of Fātimah ﷺ or Alawees or the descendants of Abbās, Ja'far, 'Aqeel or Hāriṯh ﷺ, who are the sons of 'Abdul Muttalib. (Hidāyah vol 1) Similarly no other form of wājib sadaqah can be given to them, e.g. nadhr, kaffārah, 'ushr and sadaqatul fitr. Nafl sadaqah and charity however, can be given to them. (Durr Mukhtār, Shāmi)

12. Zakāh cannot be given to a kāfir, only to a Muslim. This is the ruling for 'ushr, sadaqatul fitr, nadhr and kaffārah too. Other sadaqah can be given to a kāfir also. (Behishti Zewar)

[1] However, it is only permissible for such a person to take zakāh according to his needs. It is not halāl for him to take more than he needs. (Ālamgeeri)

The Rulings Pertaining to Giving Zakāh to Masjids, Madrasahs, Islamic Associations and Groups

These masā'il have already been referred to under the heading: 'The Method of Paying Zakāh and its Ruling,' but they will be mentioned here again in more detail due to their necessity.

1. Zakāh is not considered as discharged until a suitable recipient is made owner of it. Therefore it is not permissible to use zakāh money to build a masjid or, for example, to pay the funeral expenses of a deceased person who has no next of kin, or to pay the debts of the deceased, because in such cases no one is being made owner of the zakāh. (Durr Mukhtār vol 2)

2. It is impermissible to give zakāh money to a madrasah or association in which it is not spent on the poor but on workers' wages or building work etc. However, it is permissible to give zakāh funds to a madrasah or organisation which provides poor students or other poor people with free food etc. The zakāh will only be considered discharged though, when the money or its equivalent in food etc. is given to the poor, or other items e.g. bedding etc. are given to them and they are made the owners of the items. (as mentioned in the general books of fiqh)

3. If books or clothes are given as zakāh to a madrasah, then the zakāh is discharged only if deserving students are given ownership of them and they are not taken off them again, otherwise not.

4. Nowadays in the madrasahs, students are generally not given ownership of books but are given them on a temporary basis, to be returned at the end of the year without them being made the owners of the books. It is not permissible to buy such books with zakāh funds. Similar is the case with clothing, bedding etc. which is just loaned to students. However, if the giver of zakāh makes a poor student the owner of the books or bedding etc, giving him the choice to do what he wants with them and then the student willingly donates them to the madrasah, the zakāh is considered discharged. Now, whether these items are loaned to the students or given to them,

the original zakāh will be considered discharged. A benefit of this procedure is that as well as the giver of zakāh gaining full reward for giving his zakāh, the poor student who gave these books etc. to the madrasah will also receive the reward of nafl sadaqah.

5. Poor students can be given their education expenses from zakāh funds.

6. There is a two-fold reward for giving zakāh to poor students in Islamic madrasahs – one reward for discharging zakāh and one for supporting Islamic education. However, zakāh should be given to those madrasahs whose administrators can be depended on to spend zakāh money in the correct way, by giving food, clothing etc. to deserving students in a way that they become the owners of what they are given.

Zakāh funds cannot be spent on constructing medical centres, their running expenses and staff salaries. However, medicine which is given free to the poor can be counted as zakāh.

A Word of Caution

The construction of masjids, madrasahs and hospitals for the poor is an extremely necessary task for Muslims and spending on these projects also brings great reward. Nevertheless the Sharee'ah of Islām has stipulated that such expenses be borne from a specific allowance from the baytul-māl (treasury). Nowadays, due to the absence of a baytul-māl system difficulties have arisen. Consequently Muslims have had to resort to organising special collections for these projects, separate from zakāh, for zakāh money cannot be used for such purposes.

In cases of extreme need though, it is permissible to find a poor person who has a great desire to contribute to a particular cause but is unable to do so due to his financial situation. Such a person can be given complete and unrestricted ownership of the zakāh funds and then he may, of his own free will, after the money comes into his possession, donate the sum to a masjid, madrasah etc. This will

be classed as a charitable donation and the organisation can use it in any of its activities. However, it must be kept in mind that the pretence at transferring ownership of zakāh money that is popularly carried out these days does not render the zakāh discharged. This is because the person who is being made the ‘owner’ of the zakāh money knows for sure that he has no say in what happens to the money. In such circumstances neither does the recipient become owner of the wealth nor is the zakāh of the giver discharged. It is not permissible to apply money obtained by such a pretence to the building costs of masjids, madrasahs etc.

Details of the above mentioned masā’il can be found in the book ‘*Qur’ān me Nizām-e-Zakāh*’ as well as general books of fiqh.

Giving Zakāh to Family and Relatives

1. It is not permissible to give zakāh to one’s father, mother or paternal or maternal grandparents, from whom one is descended. Similar is the case with one’s children and grandchildren, i.e. one’s descendants. It is also not permissible for a husband to give zakāh to his wife or vice versa. (Hidāyah vol 1)

2. Apart from those mentioned above, it is permissible to give zakāh to all other relatives; e.g. brother, sister, nephew, niece, uncle, aunt, stepmother, stepfather, step-parents of parents, father-in-law, mother-in-law, as long as they are deserving of zakāh. (Shāmi vol 2)

3. When giving zakāh and other forms of sadaqah and charity one’s own relatives should be given foremost consideration – if they are poor then they should be given zakāh first. However, they should not be told that they are being given zakāh or sadaqah in order to save them from embarrassment. It is mentioned in the ahādeeth that there is a double reward for giving zakāh and charity to one’s relations – one reward for giving and the other for maintaining good relations with one’s relatives and treating them well. After giving to one’s nearest and dearest whatever remains should then be given to

others. (Ālamgeeri)

4. It is also permissible to give zakāh to one's radhā'i mother, radhā'i father or radhā'i children.¹

5. Workers in one's home, shop etc., cleaners, drivers, wet nurses, nannies etc. can be given zakāh if they are poor. However, the zakāh should not be calculated as part of their wages but should be given on top of their normal wages under the pretext of a reward or gift. If the intention is made in the heart of discharging zakāh then it will be discharged, otherwise not. (Ālamgeeri)

6. It is makrooh (disliked) to send the zakāh from one town to another. If however, one's poor relatives live in another town or if the inhabitants of another town are, in general, worse off than one's own town, then it will be permissible. Similarly if the inhabitants of another town are engaged in Deeni work e.g. students of a Deeni madrasah, pious 'Ulamā or mujāhideen, who are also deserving of zakāh, then it is permissible to send zakāh to them, rather it is more rewarding to do so. (Ālamgeeri)

The Ruling for when an Error is made in Giving Zakāh

1. If zakāh was given to someone under the assumption that they were poor and deserving, but it transpired that they were a *dhimmi* kāfir² or wealthy or a sayyid or if zakāh was given on a dark night and it turned out that the recipient was one's father or mother or other relative who is not permitted to be a recipient of one's zakāh then in all these conditions zakāh will be considered discharged. It is not necessary to pay the zakāh again. If the recipient realises that he is being given zakāh money and that he is not deserving of it, he should not accept it and he should return it. (Durr Mukhtār, Shāmi)

[1] When a woman breastfeeds a child belonging to someone else then the child is classified as her radhā'i child, and the woman and her husband are called the child's radhā'i mother and father.

[2] A *dhimmi* is that non-Muslim who enjoys rights of citizenship in Dārul Islām. A non-*dhimmi* is that non-Muslim who does not enjoy rights of citizenship in Dārul Islām.

2. If after giving zakāh one realises that the recipient was a *non-dhimmi kāfir* then the zakāh is not considered discharged. It will have to be paid again. (Durr Mukhtār, Hidāyah)

3. If there is doubt regarding whether a person is wealthy or not then he should not be given zakāh until his status is ascertained. If however, zakāh was given to him without ascertaining his status then the giver should contemplate; if he reckons the likelihood is that the recipient is poor then the zakāh has been discharged. If he reckons that he is rich then the zakāh is not accepted and he will have to pay it again. (Shāmi vol 2)

Miscellaneous

1. If a woman’s mahr (dowry) is equal to or greater than the nisāb of zakāh and it is expected that when she requests it her husband will give it to her without hesitation, then it is not permissible to give zakāh to such a woman. If however, her husband is so poor that he is unable to pay the mahr or he is wealthy but refuses to pay it, then it is permissible to give such a woman zakāh. Similarly it is permissible to give her zakāh if she has waived her rights to her mahr. (Durr Mukhtār vol 2)

A Word of Caution

As a rule, people only tend to consider those who beg as being poor, whereas sometimes, respectable people are more deserving. Due to modesty they neither let their poverty show through their clothing nor do they make mention of it. As far as appearances go they do not look poor, in fact sometimes they are even wage earners, yet they remain destitute due to a large number of dependants. If one discovers a person of this nature it should be considered a blessing, for it is more rewarding to give such a person zakāh and charity. Those who resort to begging can obtain money from other places but a person such as this will be unable to ask due to his shyness and self-reliance.

Zakāh ('Ushr) on Agricultural Produce

Defining 'Ushr and 'Ushri Land

Land which has been liberated by the Muslims from the kuffār after engaging in battle with them and which has thereafter been distributed amongst the Muslims by their ameer (leader), is 'ushri land. Similarly if the kuffār of a particular locality embrace Islām themselves, without any battle taking place, their land too is 'ushri.

But if the land was not liberated after fighting but was instead liberated after agreeing terms of peace and then left in the possession of its kāfir owners, then it is not classified as 'ushri. Similarly if the land was liberated through battle but not apportioned to the Muslims but left in the possession of its kāfir inhabitants, it will not be classified as 'ushri. (Hidāyah vol 2 p 70)

Mas'alah: If 'ushri land has been inherited down through generations or someone purchases land from a Muslim who has inherited it as 'ushri land from his forefathers, then zakāh is also liable on the produce of such land, and the zakāh is called 'ushr. (Shāmi vol 2 p 74)

Mas'alah: Land left by the Hindus in Pakistan, which was given to emigrants in response to their claims, or land simply given to emigrants or organisations by the Government of Pakistan without any remuneration, is all classified as 'ushri land. It is wājib to give a tenth of the produce in sadaqah, if irrigated by rain, or a twentieth if irrigated by streams or wells.

Mas'alah: If a kāfir purchases 'ushri land then it no longer remains 'ushri. If Muslims then buy it or acquire it in some other way, it will still not become 'ushri, and therefore 'ushr will not be wājib

upon it. (Durr Mukhtār vol 2)

The Difference Between Zakāh and ‘Ushr

The rulings of zakāh and ‘ushr differ in six ways:

1. There is no nisāb as a precondition for ‘ushr becoming obligatory. ‘Ushr is fardh whether the crop is plentiful or scarce. If however, the produce is less than 1 $\frac{3}{4}$ ser ($\frac{1}{2}$ sā‘ - equivalent to approx 1.6 kg - Editor) then ‘ushr is not fardh. (Durr Mukhtār and Shāmi vol 2)

2. The passing of a year on crops is not a precondition for ‘ushr. Therefore if a tract of land yields two harvests in a year or a tree fruits twice, ‘ushr will be fardh on every crop. (Durr Mukhtār and Shāmi vol 2)

3. Sanity is not a precondition for ‘ushr to be fardh. Therefore ‘ushr is also fardh on the property of an insane person. (Durr Mukhtār vol 2)

4. Maturity is not a precondition either, ‘ushr is also fardh on the property of a minor child. (Durr Mukhtār and Shāmi vol 2)

5. Being a free person is not a precondition either, ‘ushr is also fardh on the property of a slave. (Durr Mukhtār and Shāmi vol 2)

6. Ownership of the land is not a precondition for ‘ushr. Thus if the trustee of waqf land sows crops on it, ‘ushr will be fardh on its produce. Similarly if someone obtains land on rent and grows crops on it, ‘ushr will be fardh on the produce. (all from Durr Mukhtār vol 2 p 75)

What Types of Produce are Liable for ‘Ushr and How Much?

1. ‘Ushr is only obligatory on ‘ushri land, not on other land, which is called khirāji. It is the government’s responsibility to collect khirāj from such land. (Hidāyah)

2. Khirāj is deemed discharged through the land revenue that the

government levies on khirāji land. However, paying land revenue on ‘ushri land does not discharge the payment of ‘ushr, for the government neither levies it in the name of ‘ushr nor promises to use it in the specific areas of expenditure for ‘ushr. Therefore Muslims have to extract ‘ushr on ‘ushri land, in addition to land revenue, and spend it in the specific avenues of zakāh.

3. Land that is irrigated solely by rain, without the means of streams or wells incurs ‘ushr of one tenth of its produce, which is necessary to be given in sadaqah. Similar is the case of land situated on the bank of a river or stream which, being low-lying, is irrigated automatically (known in Urdu as khādar land). This type of land comes under the same ruling as that which is irrigated naturally by the rain, i.e. a tenth of its produce constitutes its zakāh. (Hidāyah)

4. Land irrigated by municipal wells or streams incurs zakāh at a rate of one twentieth of the produce, which is in reality half of ‘ushr, though still termed as ‘ushr. (Hidāyah)

5. The ruling for gardens in this regard is the same as that for fields, mentioned above, i.e. a tenth of the produce from gardens irrigated by rain and a twentieth on those irrigated by streams or wells is obligatory to give as ‘ushr. (Ālamgeeri)

6. The same ruling applies to sugar-cane, fruit, vegetables, grain, flowers – whatever the crop. (Ālamgeeri)

7. The ‘ushr on the produce of land leased to someone for a fixed sum is the responsibility of the contractor, not the owner of the land. ‘Ushr on land leased on a shared profit basis is the responsibility of both the land owner and the contractor, in proportion to their share of the crop. (Behishti Zewar)

8. ‘Ushr, at one tenth, is also fardh on honey produced in ‘ushri land, mountains or forests. (Durr Mukhtār vol 2)

9. If someone plants a tree or vegetables etc. in his home, which bear fruit etc. then ‘ushr is not fardh on them. (Ālamgeeri)

10. It is permissible to give ‘ushr to the same people it is permissible to give zakāh to and whoever it is impermissible to give zakāh to, it is impermissible to give ‘ushr to them too. (Durr Mukhtār and Shāmi vol 2)

11. As with zakāh, there is the choice with ‘ushr of whether to give it from the same produce or whether to give its value in cash. For example an ‘ushri plot produced 400 kg of wheat. The owner has a choice of giving 40 kg of actual wheat or the value of 40 kg of wheat.

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