

Enhancing Zakat Framework of Maldives: A Hundred Muslim Country

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ABSTRACT

Maldives is a hundred percent Muslim nation where zakat administrative function is entrusted to a government Ministry, Ministry of Islamic Affairs. Zakat al maal and zakat al fitr is managed by the Ministry of Islamic Affairs. Starting from 1st June 2016, the Ministry of Islamic Affairs has delegated the task of collecting zakat to Maldives Inland Revenue Authority (MIRA). At the moment, there is no law in Maldives dealing with zakat and Islamic Training and Research Institute (IRTI) has proposed a set of zakat laws that could be adopted by the country. The objective of this research is to discuss the proposed zakat framework by IRTI. This is a qualitative research. There is limited literature available about the zakat framework in Maldives and it is anticipated that this research will be the beginning point to do research on this point.

Keywords: Maldives, Zakat administration, Zakat, Zakat framework

INTRODUCTION

In Islam, poverty is regarded as a disaster, Zakat is the third pillar of Islam. Zakat is an obligation in respect of funds paid for a specified type of purpose and for specified categories. Zakat refers to the sum of money that Muslims who are mentally stable and financially able need to contribute in order to support specific groups of people according to eight categories stated in the Quran in Surah At-Taubah verse 60 (Wahab and Abdul Rahman, 2011; Yusuf and Derus, 2013).

Zakat administration in Maldives has a history. Muneeza (2017) has described the history of zakat administration as follows. In 1983, under the leadership of Former President Uz. Maumoon Abdul Qayoom, the first office to deal with matters related to zakat was opened and Sheikh Usman Abdulla was appointed as the head of the office. A weekly radio program was also

made to create awareness among the public on zakat related matters. A special book on zakat written in Dhivehi language was published by the President Office. Before the establishment of Zakat Office, the norm was only to pay zakat fitr. However, public awareness about zakat on wealth was created after the establishment of zakat office. In the early years of operation of Zakat Office about Maldivian Rufiyaa Fifty was collected annually as zakat on wealth. To administer the zakat related technical matters, Zakat Committee was formed and the mandate of this committee included announcing the nisab amount in Maldivian rufiyaa after considering the rate of silver. Discussions were undertaken in this Committee to identify the nisab limit in Maldivian Rufiyaa. It was agreed to utilize the comparative nisab in silver as the official amount of nisab in Maldivian Rufiyaa. The price of silver in the world market is reviewed every six months and the

equivalent amount in Maldivian Rufiyaa is published as the nisab for Maldives.

On 11th November 1993, the operation of the Zakat Office was under the purview of Ministry of Justice and Islamic Affairs. On 6th November 1996, the Zakat was brought under Supreme Council for Islamic Affairs. The *fi sabilillahi* component of the zakat distribution was administered via government ministries. The health component was administered by Ministry of Health while the education component was handled by Ministry of Education. Assistance under education, such as text books and uniforms were provided to the needy citizens. In addition, debtors and the poor were assisted via Zakat Office as cash benefits. In 2008, the Supreme Council for Religious Affairs, was transformed to Ministry of Islamic Affairs and all mandates of Zakat Office was transferred to the Ministry. Under the leadership of the Minister of Islamic Affairs, Dr Abdul Majeed Abdul Bari, numerous productive reforms to the administrative structure for zakat distribution were developed. On 3rd February 2010 in collaboration with the Ministry of Finance and Treasury, as per the Public Finance Act 2006, a special trust fund for zakat, namely “zakat fund” was established. The zakat fund is headed by a Committee which comprises of representatives from key stakeholder agencies. This Committee is mandated to identify the criteria which zakat distribution is made as per Islamic law. They also identify the focus areas as per broad communal benefits and amounts that can be spent under the *fi-sabilillahi* portion of the zakat. The Ministry of Islamic Affairs is responsible for collection of zakat from all inhabited islands in Maldives, including Male, the capital of the country. It also distributes the zakat as per categories stated under Islamic law.

In 2012, under the leadership of the

Minister of Islamic Affairs, Dr Mohamed Shaheem Ali Saeed, further developments and refinements were introduced to the zakat administration process after thorough legal and shariah research (Latheef, 2015). Guidelines for the beneficiaries of zakat under Islamic law and the scope of distribution of zakat were developed. Subsequently, a bill was drafted on zakat which incorporated further reform to the incumbent regulation on zakat distribution. The Bill constituted of procedures to be followed in zakat distribution, identification of beneficiaries, oversight on zakat collection and distribution as well as the facilitators for zakat administration, their roles and responsibilities. The Ministry of Islamic Affairs continues the effort to introduce and pass Zakat Bill in order to govern and manage the matters related to zakat as practiced in other Muslim nations. In 2012, a Shariah Advisory Committee consisting of religious scholars was created as an advisory body. The Shariah Committee is mandated to advise the zakat unit as well as the zakat committee on matters pertaining to zakat in Islamic law and shariah opinion. The members of the Committee are appointed by the Ministry of Islamic Affairs. In 2016, the operation carried out by Ministry of Islamic Affairs in the collection of Zakat-al-mal was handed over to Maldives Inland Revenue Authority (MIRA). However, the Ministry of Islamic Affairs continues to collect Fitr Zakat (Maldives Inland Revenue Authority, 2016).

At the moment, there is no law in Maldives dealing with zakat and Islamic Training and Research Institute (IRTI) has proposed a set of zakat laws that could be adopted by the country. On 12th January 2015, workshop on the proposed zakat law for the Maldives was held in the grand Islamic Center of Maldives with IRTI to meet the stakeholders and discuss the proposed zakat framework. The objective of

this research is to discuss the proposed zakat framework by IRTI. This is a qualitative research. There is limited literature available about the zakat framework in Maldives and it is anticipated that this research will be the beginning point to do research on this point.

Zakat Al Mal Collection and Zakat Fund

Ministry of Islamic Affairs is the Ministry in charge of religious matters including zakat. Maldives Inland Revenue Authority (MIRA) was set up under the Tax Administration Act (Law No.3 of 2010) for the purpose of implementing tax related laws and policies. Section 23 of the regulations on Business Profit Taxation 2011 provide tax deduction in payment of zakat as an incentive. The provision reads: Payments made as zakat al-mal may be deducted in calculating a Person's taxable profits provided that the person possesses a receipt that states that the zakat was paid to the relevant government authority.

Section 25 of the Public Finance Act 3/2006 states that the Trust Fund consists of the Interest Suspense Account referred to in section 30 of this Law, any trust accounts that other Laws establish as part of the Trust Fund and the trust accounts. The Trust Fund shall also include any trust accounts that are established from time to time for the following purposes for holding public moneys appropriated and passed in the budget for specific public purposes; for holding public moneys that the State holds for or on behalf of any person that is not a government agency; for holding temporarily as public moneys, money received as conditional grants and money received as grant assistance, gift or donation for a specific public purpose; for holding temporarily public money received until the purpose for which the money was received is identified; and all public moneys that have been appropriated and passed in a budget for

a specific purpose of the trust account. All public moneys received for a specific purpose of the trust account. A trust account must not be established without the written permission of the Minister and except for the purposes stated above.

Section 26 of the Public Finance Act 3/2006 states that when a trust account is established under this Law or another Law, a trust statement must be prepared for the account. In this Law "trust statement" means a document prepared and signed by the Minister containing the name of the trust account that is established, its purpose, the type and sum of money deposited in it, expenses permitted from it, the person accountable for operating it and all other details required to be maintained in relation to the account in accordance with the Public Finance Regulations and which is deemed the most authoritative document in respect of the account containing the official details relating to the account. A trust statement that is consistent with section 30 of this Law must be prepared for the Interest Suspense Account. All trust statements must be prepared in accordance with the Public Finance Regulations. The Minister, in accordance with the Public Finance Regulations, may amend a trust statement. Section 30 of the Public Finance Act 3/2006 states that as part of the Trust Fund there shall be an account called the "Interest Suspense Account". The public moneys in the Interest Suspense Account must be paid from it into a Public Fund or into another trust account or accounts in accordance with the trust statement for the Interest Suspense Account, unless another Law states otherwise.

Section 27 of the Public Finance Act 3/2006 states that public moneys must not be paid into a trust account except in accordance with the trust statement for the account. Section 28 of the Public Finance Act 3/2006 states that Public moneys must

not be paid from a trust account except in accordance with the trust statement for the account, and a trust account must not be overdrawn. Public moneys must not be paid from a trust account except in one of the following ways: if the account was established under another Law, in accordance with that Law and the trust statement for that account; in the case of the Interest Suspense Account, in accordance with section 30 of this Law and the trust statement for that account; if another trust account, in accordance with the trust statement for that account.

Section 29 of the Public Finance Act 3/2006 deals with closing of the trust account. The Minister has the authority to direct that a trust account be closed if the purpose for which the account was established has been fulfilled or if the Minister is of the view that the purpose for which the account was established will not be fulfilled. If the Minister directs that a trust account be closed, the balance of the public moneys in the account shall, after payment of the liabilities of the account, be paid out in accordance with the provisions, if any, of the account's trust statement that deal with the closure of the account. If the trust statement does not provide for the same, such money shall be paid into the Consolidated Revenue Fund.

Muneeza (2017) states that according to the Trust Statement of the Zakat Fund, the name of the trust account formed shall be zakat fund and Zakat money received shall be kept in the Trust account until it is distributed in the format in schedule 1 of the zakat fund trust statement. Schedule 1 of the Zakat Fund Trust Statement states that the categories to which zakat money shall be distributed is poor, miskin (needy), amil, muallafatu quloobuhum, debtors, fi sabilillah, ibn sabeel and freeing slaves. Zakat Fund shall be governed in accordance with the Public Finance Regulations. Money

deposited to the zakat fund shall be the money paid by the citizens of Maldives and the corporations as zakat and there is no ceiling to the money deposited to the account as zakat money received by individuals and corporates from the day off opening of this account and until it is closed can be kept. All expenses that has been made in accordance with schedule 2 of the Zakat Fund Trust Statement is authorized. According to schedule 2 of the Zakat Fund Trust Statement (first amendment effective from 15th May 2013) expenses authorized from the account are: eight categories of people mentioned in the Quran 9:60 (The Masakeen - 'the destitute', Fuqaraa - 'the needy or poor', Amil' Zakah - 'the alms collectors', Fi sabi `Lillah - 'in the path of God', Gharimun - 'people burdened with debt', Ibn as'Sabil - 'the wayfarers', Riqab - 'people in bondage or slavery', Mu'Allaf - 'those who have inclined towards Islam'), medical expenses of poor, people inflicted with calamities, bank Commission incurred while sending zakat money, spread Quranic knowledge and t conduct Quran competition, to conduct religious awareness activities, to build human capital required for nation development and to educate people in local & international universities, religious materials creation & proof reading related expenses, expenses incurred in conducting different educational courses related to religion, expenses incurred in training of Quran and Islam teachers and Imam training courses, under taker courses and other religious courses, expenses related to conducting of Quran classes, to build worship places in schools, build ablution facilities and other services related to it, to spend on expenses related peace and national security of the country and national related matters, give wages to Taraweeh prayer imams during Ramadhan, to people inflicted with sudden calamities, expenses incurred by educating of children and people

with special needs and spending on necessities of these category of people, expenses incurred in zakat money record keeping and consultancy services, and administrative expenses of the zakat fund and investment related activities of the fund.

If for any reason, the Zakat Trust Account is closed, if there is a balance in the zakat fund when closing it, the balance shall be deposited to the consolidated revenue account. An annual report on the zakat money received and disbursed shall be prepared once a year by the Zakat Unit and it shall be approved by the Zakat Committee. This report shall be prepared within one month of the end of the financial year. Within three months of the end of each Gregorian year Annual Report of the zakat fund and the financial statements of the previous year shall be gazette in the National Gazette or in the daily newspapers published and it shall also be published in the website of the Ministry of Islamic Affairs. Zakat Trust Account shall be closed on the date in which the Minister of Finance and Treasury decides after he receives a request to close the account from the Ministry of Islamic Affairs or if the Minister of Finance & Treasury decides to close it and order so, if he finds that the purpose for the creation of the fund is not achieved.

As per an announcement released on 30th May 2016 by MIRA, as stipulated in the Memorandum of Understanding signed between the Ministry of Islamic Affairs and MIRA, zakat al-mal being collected by the Ministry of Islamic Affairs would be collected by MIRA from 1 June 2016 onwards. MIRA branches and collection centers established in islands other than Male' would also be collecting zakat al-mal from 1 June 2016. Likewise, Island Councils would collect zakat al-mal from islands that do not have an established MIRA branch or collection center. Individuals, partnerships, companies and cooperative societies shall

submit the designated form (MIRA 510) when paying zakat al-mal.

Table 1. Zakat al Mal Collection Made by MIRA

Year	Amount in USD	Amount in MVR	Total (MVR)
2018 (until May)	515	21,623,870	21,631,764
2017	12,128	63,150,889	63,336,833
2016	3,004	35,853,470	35,899,479

Source: Compiled from the official website of MIRA

In March 2018, it was stated in MIRA website that Nisab for Zakat al-mal is MVR 5,033.70. In June 2018, it was published in MIRA's official Facebook page that MIRA Mobile Application can be used to conveniently make online payments via VaaruPay for vehicle fee, vessel fee, company annual fee, trade fee and Zakat al-mal. The only financial information you have to declare to MIRA when paying your Zakat al-mal is the amount you are paying as Zakat.

The Proposed Model Zakat Law for Maldives by Islamic Research & Training Institute, Islamic Development Bank

The proposed Zakat law of Maldives by IRTI had six chapters. Chapter one deals with the general provisions while chapter two deals with zakat management infrastructure and chapter three deals with zakat collection and disbursement. Chapter four deals with accountability and governance and chapter five deals with grievances, prohibitions and penalties. The final chapter is the closing chapter.

Article 1 of the proposed zakat law states that it shall be called Zakat Act when it becomes the law. Article 2 of the proposed zakat law defines eight terminologies. It defines Zakat management as the planning, implementation, and coordination of the collection, distribution, and utilization of

zakat; Zakat as part of property that must be given by a Muslim individual or a business entity for a charity giving to entitled recipients in accordance with Islamic law; Muzakki as a Muslim or a business entity obligated to pay zakat; Mustahiq as the person entitled to receive zakat; Ministry of Islamic Affairs hereinafter referred as MIA, is the Ministry of the Government responsible for all matters pertaining to practice of Islam including zakat management; Zakat Management Council, hereinafter referred as ZMC, is the national body for management of zakat and other Islamic charity funds under the MIA; Baitul Maal is a Fund comprising all zakat and non-zakat charity collections under the ZMC; and Shariah Advisory Committee, hereinafter referred as SAC is a body of Shariah experts to give Shariah-legal opinion on matters pertaining to management of zakat and sadaqa as requested by the ZMC from time to time.

Article 3 of the proposed zakat law states that Zakat management aims to maximize the efficiency of zakat collection and effectiveness of zakat utilization; and optimize the benefits of zakat for public welfare and poverty alleviation. Article 4 states that Zakat includes zakat maal and zakat fitr. Zakat maal here is referred to zakat on property and property refers to various forms of wealth, assets, output and earnings. Zakatable assets and wealth include, but are not limited to: gold, silver, and other precious metals; cash and other securities; and trade and business inventory. Zakatable output and earnings include, but are not limited to those from: agriculture, horticulture, and forestry; livestock and fisheries; mining; revenues and services, and wealth extracted from sea or excavated from underground. Zakat maal shall also be levied on zakatable assets, output, earnings in addition what is stated, as determined by the

ZMC in consultation with the Shariah Advisory Committee.

Article 5 of the proposed zakat law states that Zakat payment is compulsory on individuals and business entities who own wealth, assets, output and earnings that are zakatable as per the provisions of proposed law and subsequent rules and regulations formulated under the proposed law. Article 6 states that Zakat maal shall be levied on a property that is under clear and unambiguous ownership of an individual or business entity. If a debt is inherent in the property that is subject to zakat, such debt shall be first deducted from the property before computation of zakat liability. Article 7 states that notwithstanding the fact of ownership of property, a property shall not be zakatable under the following conditions: the property has no earning potential; the owner is not empowered to spend from the property; property is being used for private or personal usage and property is being used as evidentiary asset.

Article 8 states that where a property belongs to more than one person, zakat shall be determined on the basis of pro rata shares held by each individual, whilst considering the property as jointly-owned property (or severally-owned property). Severally-owned property or jointly-owned property here includes private businesses organized as partnerships and companies.

Article 9 states that property of the state and government organizations and service administrations, city councils, atoll councils and island councils; or similar property are not zakatable, except when this is in the nature of investments. Zakatable property as here shall include the property of all commercial ventures and companies that the government may own shares of.

Article 10 states that property that have been set aside specially for the benefit of the general public, or from the property of non-profit entities such as trust funds and

non-government organisations are not zakatable. Article 11 states that in order to be zakatable, the asset must be in ownership of the muzakki for at least one lunar year (hawl). In order to be zakatable, the asset or the output/ earnings must exceed the nisab as defined by Islamic law. Zakat cannot be levied on asset/ output/ earnings that has already been subjected to zakat during a given year.

Article 12 states that terms, conditions and methods of zakat calculation shall be in accordance with the Islamic law and shall be provided by “Rules of Zakat Calculation” as formulated by ZMC in consultation with the Shariah Advisory Committee. Further provisions regarding the requirements and procedures for zakat calculation shall be determined by the ZMC. Provisions regarding collection and distribution of zakat al-fitr shall be provided by the “Rules of Zakat al-Fitr”.

Article 13 states that the competent authority on behalf of the State in the administration of zakat shall be the MIA. A dedicated national body for zakat management, called the Zakat Management Council (ZMC) shall be established and staffed, within 14 days of this Act being promulgated by its publication in the official government gazette. The ZMC shall function as an integral and constituent body within the MIA. Article 14 states that the ZMC shall deposit all zakat and non-zakat charity funds in a dedicated account, to be called, the Baitul Maal. The ZMC shall maintain separation between zakat and non-zakat charity funds that are part of the Baitul Maal.

Article 15 states that in carrying out the tasks referred to in Article 13, ZMC shall have the following functions: planning the zakat management process, i.e. collection, distribution, and utilization of zakat; implementation of the zakat management plan; monitoring and

controlling the zakat management process, and reporting the operational performance of zakat management. The ZMC shall manage all non-zakat charity, except waqf. In carrying out its duties and functions, ZMC is to work with stakeholders in accordance with the provisions of the legislation.

Article 16 states that a Shariah Advisory Committee (SAC) shall be constituted by the MIA to advise the ZMC in Shariah issues relating to zakat management. Members of the SAC shall be appointed and dismissed by the MIA. Members of the SAC shall comprise eminent scholars of Islamic law. SAC shall deliberate on issues relating to zakat management referred by the ZMC from time to time and share its opinion with the ZMC. Further provisions on procedures for administration of SAC shall be elaborated by MIA. SAC shall be led by a chairman and a vice-chairman.

Article 17 states that each atoll council and each city council except Malé, shall provide full support and coordination to the ZMC in order to receive zakat from the respective constituents, to distribute zakat, send a predetermined portion to ZMC. In addition, each island council shall coordinate in full with atoll councils in all issues with respect to zakat management. The portion of zakat to be sent to ZMC, as stated here shall be decided by the MIA after considering the total wealth received from each local community, the number of people eligible to benefit from zakat, the degree of poverty among the people, and based on the information provided by the local councils regarding this issue. A dedicated staff shall be identified in every atoll council, island council, and in every city council excluding Malé, to represent the ZMC and to ensure zakat management in accordance with the provisions of the Act and relevant Rules and Regulations. The dedicated staff, as stated here shall be a civil service employee

and shall be appointed after consultation with the MIA and the Civil Service Commission.

Article 18 states that a muzakki can do self-calculation of zakat obligation and in this case the muzakki can seek help from ZMC to calculate its zakat obligation. Article 19 states that ZMC may appoint a bank or financial institution or any other body to act as its agent for collection; distribution or both of zakat and non-zakat charity funds. Article 20 states that all zakat funds collected by ZMC shall be placed in the Baitul Maal. Article 21 states that ZMC can, in addition to zakat, collect sadaqa, infaq, tabarruat and all non-zakat charity funds (except waqf), which shall be placed in the Baitul Maal. Article 22 states that Zakat paid by muzakki to ZMC shall be eligible for full rebate in income tax. Article 23 states that ZMC shall provide receipt of zakat payments to each muzakki. The receipt shall be used to by the muzakki to claim rebate in income tax payable. Article 24 states that further provisions relating to the enforcement and compliance mechanisms for zakat management shall be defined and elaborated by the MIA.

Article 25 states that Zakat shall be distributed to mustahiq among the asnaf or persons considered eligible in accordance with Islamic law. The persons considered eligible include the fuqara (poor), the masakin (pauper), the fi-riqab (under bondage), the gharimun (heavily indebted), muallaftul qulubum (those whose hearts are inclined towards Islam), ibn-sabeel (traveler), amileen alaih (zakat officials) and fi-sabilillah (in the path of Allah SWT)

Article 26 states that specific criteria for categorization of asnaf, definitions or eligible criteria for recipients of zakat shall be defined in the “Rules of Zakat Distribution”, which shall be formulated by ZMC in consultation with the Shariah Advisory Committee. The zakat allocation

ratios for various categories of eligible recipients, shall be determined by the ZMC in the light of priorities based on the principles of equity and justice.

Article 27 states that a muzakki has the right to distribute in private, up to 20% of the amount that corresponds to its zakat liability. If a muzakki exercise its right in this manner and distributes any portion of zakat, in private, to those rightfully eligible to receive zakat, the details of the recipients shall be submitted in the declaration provided in Appendix 1 of this Law, to the ZMC, or to the respective council office.

Article 28 states that Zakat can be utilized for productive activities in order to alleviate poverty and to improve the quality of life. Utilization of zakat for productive activities referred to in paragraph (1) shall be done after fulfilling the basic needs of the mustahiq. When zakat is utilized for productive activities, the poor or the beneficiary must be made the owner of the zakat paid to him/her in conformity with the principle of *tamleek* either as individuals or as a group. Further provisions for productive utilization of zakat as mentioned here shall be determined by ZMC.

Article 29 states that ZMC shall strive to distribute the entire amount of zakat collected in a given year during the same year with no carry forward to the next year. Surplus zakat in the Baitul Maal, only as an exception, may be carried forward or invested for short-term in safe avenues.

Article 30 states that the distribution and utilization of sadaqa funds shall be in accordance with Islamic law and shall consider the intention of the giver, if explicitly communicated. Article 31 states that surplus non-zakat funds in the Baitul Maal should be invested in safe avenues in a prudent manner. Guidelines for prudent investment of surplus funds shall be formulated by the ZMC.

Article 32 states to perform their duties, ZMC shall be financially supported by State Budget and part of zakat collection. ZMC may utilize a small part of the zakat collected, not exceeding one-eighth, to cover the overall cost of collection or to incentivize the collection activity by entities acting as agents of ZMC.

Article 33 states that in order to maintain the reliability of the process of zakat, the Auditor General's Office of the Maldives shall perform an annual audit of the ZMC. In addition to ZMC, the respective councils and all other parties involved in zakat management, shall extend full cooperation and assistance to the representatives of the Auditor General's Office to perform this audit. During the audit, if it is discovered that proper documentation procedure has not been followed, the auditors shall have the right to hold the responsible staff accountable in order to investigate and clarify the details of the issue.

Article 34 states that the funds received in the form of zakat and non-zakat charity shall be deposited in the Baitul Maal as a separate specialised account with the the Maldives Monetary Authority. Funds here shall not be mingled with other sources of government funds. Funds here shall not be deemed as property of the state. Funds here cannot be borrowed by the State for fiscal purposes. Separate books shall be maintained for zakat and non-zakat funds. All correspondence during the process of mobilizing zakat into the Baitul Maal shall be in writing.

Article 35 states that ZMC shall compile a report on the zakat management periodically. ZMC must submit the report to the MIA on a regular basis. A compiled report on zakat management should be available in printed and electronic media every quarter. Further provisions on

reporting mechanism shall be determined by the MIA.

Article 36 states that the public may participate in advising and supervision of ZMC. Advising here shall be in order to: increase public awareness to give charity through ZMC, and provide suggestions for improving the performance of ZMC. Supervision as here takes the form: access to information about the management of zakat by ZMC, and delivery of information in case of irregularities in the management of zakat by ZMC.

Article 37 states that if the muzakki discovers that the amount paid as zakat is in excess of the obligatory amount, it may claim back the additional amount by requesting the ZMC, along with details of the calculations, within one month of having submitted the money. If not submitted within one month, the muzakki shall not have the right to submit such a request later. If the ZMC discovers that zakat has been received in excess of the requirement, it not prevent the initial owner being given the opportunity to provide in writing what could be done next, in response to being notified of the excess, as per the rules to be made under this proposed law. If there is a valid claim for recovering any excess, it shall be done as per the procedure described in the rules, by considering the next year's zakat to be paid by the same muzakki.

Article 38 states that it is the responsibility of the MIA to audit and confiscate anything that is due as zakat but has not been paid. The MIA has complete authority in the confiscation of such property. The MIA has right to obtain any assistance that may be required in order to complete the undertaking defined in para (1) of this Article, from respective government administrations. All State Institutions shall provide full cooperation in assisting the MIA, if such assistance is requested, in order to collect unpaid zakat funds.

Article 39 states that in case anybody has any grievance or complaint regarding zakat, this may be submitted to the ZMC or via the island council, to the staff appointed as the representative of ZMC at the atoll council. Such complaints shall be submitted in writing, within 2 months of the occurrence of the issue, to the relevant authority. There shall be no fees applicable to any such complaints. Any issue regarding zakat shall not be sent to a court of law, unless the complaints process described here has been followed, by submitting the complaints to the relevant authority, and only if the issue is deemed to have been resolved unsatisfactorily. If the resolution of the complaint is deemed unsatisfactory, the matter may be lodged at a court of law within two months of the date of notification of the decision, or from the date when the outcome is known, whichever is later. If, within such period, the matter has not been submitted, it shall be concluded that the matter has been resolved in full. Even though deadlines are stated here, based on delays in the decision about complains submitted to the ZMC, after a written request for a speedy decision is not acknowledged appropriately; or based on a valid cause evidenced by written documents that justify the delay in missing the deadline for submitting appeals, or there is sufficient cause to believe such reasoning, this Article does not prevent the courts from accepting and proceeding with such a case.

Article 40 states that every person is prohibited from owning, pledge, grant, sell, and / or divert zakat, sadaqa and / or other non-zakat charity funds that exist in its management. Article 41 states that it is forbidden to deliberately engage in the collection, distribution, or utilization of zakat without the consent and/or authorization by the ZMC. It is forbidden to deliberately engage in the distribution, or utilization of zakat without the consent

and/or authorization by the ZMC. The prohibition under here does not apply to the zakat distribution by a muzakki under Article 27 of this Act.

Article 42 states that any person who intentionally violates the provisions of Article 25 in the distribution of zakat shall be punished with imprisonment of 5 (five) years and / or a maximum fine of MVR 500000. Article 43 states that any person who willfully and unlawfully violated the provisions of Article 40 shall be punished with imprisonment of 5 (five) years and / or a maximum fine of MVR 500000. Article 44 states that any person who willfully and unlawfully violated the provisions of Article 41 shall be punished with imprisonment for a maximum of 1 (one) year and / or a maximum fine of MVR 50,000.

Draft Rules for Zakat Distribution

In accordance with Article 26 of the Zakat proposed law which states that “Specific criteria for categorization of asnaf, definitions or eligible criteria for recipients of zakat shall be defined in the “Rules of Zakat Distribution”, which shall be formulated by ZMC in consultation with the Shariah Advisory Committee.” and “The zakat allocation ratios for various categories of eligible recipients, shall be determined by the ZMC in the light of priorities based on the principles of equity and justice.”

Rule 1 states that Zakat may be distributed equally or disproportionately amongst the groups of recipients as defined by Article 25 of the proposed zakat law. Zakat may be distributed disproportionately amongst the recipients even though they belong to the same category of recipients. Rule 2 states that the people considered as fuqara (poor) and masakin (paupers) as defined by Article 25 of the Zakat proposed law include: the poor and paupers who are unable to work due to old age; the poor and

paupers who are unable to work due to being disabled; the poor and paupers that are widows and students, who have no means of an income, and who do not have a legal benefactor, or who have a benefactor but is unable to make ends meet; or legal guardians who are unable to make ends meet for those who are under their guardianship; the poor and paupers who are legal guardians, but are unable to find sufficient income to match the expenses necessary for themselves as well as for those who are under their guardianship; those who are unable to initiate an economic activity due to lack of initial capital despite being qualified; and those who had their property damaged or means of income blocked due to a natural disaster, and are in need of alleviation due to the natural disaster.

The ZMC shall determine the amount to be handed out to the poor and paupers who apply to receive zakat, after considering their status as well as the amounts received as zakat. When allocating zakat in the category for the poor and paupers, consideration must be given to all other forms of aid and assistance being provided by the government for them. Any balance remaining, after distributing the amount allocated by the ZMC to the poor and paupers residing in the islands of the atolls shall be returned to the ZMC along with proper accounting logs and documentation.

Rule 3 states that the people considered as *amileen alaiha* (zakat officials) as defined by Article 25 of the proposed Zakat law shall include: staff and workers at various institutions appointed as agents of the ZMC for zakat management and staff appointed by the government and engaged in collecting zakat, distributing zakat to those who are rightfully eligible, and performing all relevant work. The responsibilities of zakat officials include: identify those who are liable to pay zakat

and the type and quantity of property they have to submit as zakat; identify the recipients of zakat, understand their livelihood situation, check their eligibility, ensure the total number of eligible recipients, determine how much each recipient is to receive and inform the ZMC; collect zakat; distribute among eligible recipients ; create public awareness on giving zakat and in addition, take care of other matters relating to zakat management. The ZMC shall determine the allocation to be made from zakat under this category.

Rule 4 states that the people considered as *Muallafatul Quloobuhum* (Those whose hearts have been reconciled to Islam) as defined by Article 25 of the Zakat Act shall include: those to whom some reward is given because they are those who have developed affection in their heart for Islam, and in order to encourage their conversion to Islam, those whose intention is to protect Muslims from harm, and those who, in exchange for some benefit, may stand up to defend Islam, and sympathise with Muslims in defending against foes. This category may be used to spend on those who strive to prevent harassment aimed at Muslims by non-Muslims, or to spend on encouraging interest regarding Islam, or to assist those who embraced Islam recently, or similar activities. The ZMC shall determine the allocation to be made from zakat under this category.

Rule 5 states that individuals who are recipients in the *Fi-riqab* (those in bondage) category as defined by Article 25 of the Zakat Act shall include Muslim prisoners of war, or people in similar situations, since slavery no longer exists in Islam. The ZMC shall determine the allocation to be made from zakat under this category.

Rule 6 states that individuals who are recipients in the *Gharimun* (in debt) category as defined by Article 25 of the Zakat Act shall include those who became

indebted due to investing without wasting and any wrong-doing from a legal perspective; and those who got into debt due to spending for the peace and harmony of the general public, especially while attempting to bring peace between feuding parties. The ZMC shall determine the conditions for becoming eligible as a debtor who receives from zakat, and determine the amount to be set aside for debtors out of the total received as zakat.

Rule 7 states that Zakat allocated in the *Fi Sabilillah* (In the path of Allah) category as defined by Article 25 of the Zakat Act may be spent to defend Islam and to improve the wellbeing of Muslims. The ZMC shall determine the allocation to be made from zakat under this category.

Rule 8 states that Zakat allocated in the *Ibn sabil* (travellers) category as defined by Article 25 of the Zakat Act may be given to Muslims travelling for a lawful purpose, while travelling, or while away from the hometown, or while abroad, get stranded and become helpless. Zakat may be given to travellers to help them with their essential needs and for finding a means to return home. The ZMC shall determine the allocation to be made from zakat under this category.

Draft Rules for Zakat Calculation

Draft Rules for Zakat Calculation is enacted in accordance with Article 12 of the Zakat proposed law which states that “Terms, conditions and methods of zakat calculation shall be in accordance with the Islamic law and shall be provided by “Rules for Zakat Calculation” as formulated by ZMC in consultation with the Shariah Advisory Committee” and “Further provisions regarding the requirements and procedures for zakat calculation shall be determined by the ZMC.”

Rule 1 states that each person obliged to give zakat, shall determine the amount obligatory as zakat, based on the type and valuation of the individual’s property, during the month of *Dhul-Hijjah* (the twelfth month in the Islamic calendar) and zakat shall be given by the end of the following month of *Muharram* (the first month of the Islamic calendar). Although it is stated as such in Part (a) of this Rule, the types of property that are not considered under an annual cycle shall have zakat given as soon as such property becomes eligible for obligatory zakat.

Rule 2 states that Zakat shall be given from all gold and silver, regardless of the form they may be in. Even though it is stated as such in Part (a) of this Rule, all forms of gold and silver that is personally being used as jewellery by women, whilst not being kept in storage, is exempted from this. Zakat shall be given out of all forms of hard currency (cash) or that which may be considered as cash, all funds deposited in banks, all funds held in trust by financial institutions, all forms of investment certificates or any similar financial instrument. Zakat shall be given out of all stocks, treasury bonds, cheques, shares of companies, or any such items being traded or held in storage for business purposes.

Rules 3 states that Zakat shall be given from property owned by businesses in the following manner. Any legal, economic activity, undertaken with the intention of making a profit, shall be considered as a business. For the purpose of this Rule, all goods used in businesses, pending debts and debit notes, cash or cheques, raw materials, semi-finished products, finished products, shall be considered as business goods. All profit-making enterprises, such as industrial work, construction work, banking, insurance, commercial trade in currency, brokers and brokering agencies, foreign investments, export-import trades, tourism

related businesses, cafés and restaurants, are included within the domain of obligatory zakat. Zakat may not be given out of fixed infrastructure, tools used for work, and all goods that are not being used business purposes. All donations given for the benefit of the general public are exempted. Zakat shall be given from the net profit obtained from manufacturing goods and from rent.

Rule 4 states that Zakat shall be given one time, from funds that have returned after being lent, except that which had been lent as a business debt. While zakat is being given, money that has been paid back after being lent as a business debt, may be taken together with other goods used for business purposes.

Rule 5 states that the Nisab or the minimum amount making property eligible for zakat, for the types of property stated in Rules 2 and 3, is 20 mithgal, or 85 grams of gold, or its equivalent in value. For the purpose of this Rule, the price of gold shall be that which is deemed as such by Maldives Monetary Authority or the competent authority of the State responsible for declaring prices.

Rule 6 states that for the types of property stated in Rules 2 and 3, the value to be given for zakat shall be obtained after combining the value of all such property together. If different currencies are included among the total property being valued, each currency value shall be calculated based on the exchange rate published by Maldives Monetary Authority or the competent authority of the State responsible for declaring prices, on the date in which the property becomes eligible for zakat. Goods used for business purposes shall be valued based on the market prices on the date in which the goods become eligible for giving zakat. Debts that are pending to be paid back shall be included in the calculation of the total value of property. Zakat from debts that are unlikely to be paid back shall be given

only once, after all that which has been lent out as debts have been returned.

Rule 7 states that Zakat may be given out of the property stated above only if the property is eligible for zakat at the beginning of the year and at the end of the year. If at the beginning of the year the property is eligible, and the property increased in amount through the year, and if zakat has previously not been given from this increase in amount, the increment shall be added on to the total amount of asset (property) and zakat shall be given from the subsequent amount at the end of the year.

Rule 8 states that for the types of property stated in Rules 2 and 3, 2.5% of the value shall be given as zakat.

Rule 9 states that agricultural produce (that is, the cultivated produce of the ground) shall be mandatory for zakat from the moment of harvest. The Nisab or minimum amount that qualifies agricultural produce eligible for zakat is 5 Wasaq. This is equal to 622 kilograms. Zakat shall be given from agricultural produce with the farmer's agreement. Further, if there are any taxes to paid, the taxable amount shall be calculated after the amount given for zakat has been deducted. The amount of zakat to be given from agricultural products is 5% of the total. However, if the crops were grown without artificial irrigation that is by using natural sources of water, then the amount of zakat to be given from such crops shall be 10% of the total produce. Even if the agricultural land is being rented, zakat has to be given by the lessee (that is the one who profits from the agricultural produce). The funds received as rent for the land falls under the category of zakat from businesses as stated in Rule 3.

Rule 10 states that except for work-animals, zakat shall be given from all livestock as scheduled in Appendix 1 of these Rules. To calculate for the Nisab, the animals' ages shall be disregarded. All other

animals that are fed and cared for, zakat shall be given only if the number is not less than five. Zakat is given on livestock stated in part (c) of this Rule as equal to 2.5% of their worth. If the livestock is for trade (buying and selling), or being bred to be sold, or being slaughtered for meat which is then sold, zakat shall be given from them as zakat from property being used for business purposes, as stated in Rule 3. Included in this category of livestock are horses, mules, donkeys, chicken, ducks, turkey, rabbits, pigeons and parrots, and all such animals and birds. If the animals and birds are being kept for harvesting and selling of milk, fur, honey, eggs, and such produce, zakat shall be given on the net profit thus earned. If the amount of net profit in one year equals the value of 85 grams of pure gold, 2.5% of the net profit shall be given as zakat, similar to all goods being used for business purposes.

Rule 11 states that Zakat shall be given from the income received from all types of work, in the following manner. Zakat shall be given from salary, stipend and allowances, if the total amount received in one year exceeds the Nisab value. The Nisab value is equal the value of 85 grams of pure gold. In this way, zakat shall be given for the amount remaining on hand as net income, after deducting for taxes, social security and other such schemes, and expenses for trips and transportation to and from work. For net income earned from private or self-employment, zakat shall be given if the amount exceeds the Nisab value for hard currency (cash), i.e. 85 grams of pure gold. For net income earned from professional jobs, zakat shall be given if the amount exceeds the Nisab value for hard currency (cash), i.e. 85 grams of pure gold. For all types of income mentioned above, zakat is calculated as 2.5% of net income. When giving zakat for all types aforesaid, all essential expenses incurred personally and the family shall be valued and deducted

from the total amount before calculating for zakat. The value of the said expenses shall be determined from time to time and announced by the ZMC.

Rule 11 deals with payment in cash or kind. Zakat shall be given in Maldivian Rufiyaa after combining the values of the amounts to be given as zakat from gold, silver, monetary funds, commercial goods, income earned, employment, company shares and cash, as a single transaction. However, exemptions may be granted to split up zakat donation under special permission of the ZMC and in a manner determined by the ZMC. While zakat may be given, without converting to cash, in the form of property that would last without spoiling, such property shall be placed in suitable storage and looked after in a responsible manner, until such time when rightful recipients of this zakat are determined and instructions are received to distribute among them. This Rule does not prevent the limited private distribution of wealth as property among those who are eligible to receive such property within the collective recipients of zakat, instead of cash, within the limits imposed by this Rule.

Rule 12 deals with *buried treasure*. Zakat shall be given from all property without any apparent owner that is recovered from underground excavation (archaeological finds, buried valuables, etc). However, if the items that are recovered by excavations are deemed as state property under another Law, or if a portion of the find is to be given up as state property, then the following shall apply to zakat given from the items. If a portion of the items recovered from underground belongs to the State under any Law, a fifth of the property, that shall be included as part of the portion that belongs to the state, shall be given as zakat, and the State shall receive any remainder of the initial portion that belongs to the State. If the items recovered from underground belong to

the State in whole under any Law, then a fifth of the total shall be given as Zakat, and the State shall receive the remainder.

Rule 13 deals with *shares of companies*. When valuing property for zakat, shares owned by the individual shall be included. If the property matches the Nisab, then include the value of the shares when giving zakat. The following procedures are to be followed for giving zakat from shares of companies. For shares bought in order to benefit from annual dividends, zakat shall be given based on the amount declared as dividend per share after the annual report of the company has been finalised. Shares obtained for the purpose of earning from trading in the stock exchange are eligible for zakat if their value, when combined with the value all other property, exceeds the value equivalent to 85 grams of gold, and 2.5% shall be then given as zakat. If a company gives zakat on the dividends prior to distributing them among their shareholders, the individual shareholders may not include the value of such dividends when accounting for zakat.

Rule 14 deals with *bonds*. Bond owners shall give zakat from the capital value of the bond, each year. The value of a bond shall be included when the bond owner's property is being valued for zakat. If there is, included within the value of the bond, any interest paid on the bond, or usury, or any such funds that may be prohibited in Islamic Shari'ah, such amounts of interest, usury or that which may be prohibited in Islamic Shari'ah shall not be included within the property that is being valued for zakat.

Rule 15 deals with *salvage or valuables found at sea*. In contrast to zakat from excavated or buried valuables, for valuables found at sea including that which is a by-product of the sea, treasure found at sea such as ambergris, jewels, at the time of discovery a portion of it need not be given

up as zakat. Irrespective of this while accounting property for zakat, such valuables (from the sea) shall be included, either as an amount of money received after selling them, or as their equivalent worth, before calculating zakat.

Rule 16 deals with property of children and the mentally ill. Zakat shall be given from the property of minors (children) and the property of mentally ill persons. The task of giving zakat from the property of minors and mentally ill persons is the duty of the respective guardian.

Rule 17 deals with *haram (forbidden) property*. Property or money obtained via a transaction that is not permissible in Islam, shall be not be included among the property being accounted for zakat. The validity of money used as zakat in terms of it being permissible (halal) is determined only by the words of the owner of the money. However if the owner claims that the money was obtained in a non-permissible manner, the parties involved with zakat collection shall have the right to inspect documents to validate such a claim.

Rule 18 deals with *pension scheme and other such funds*. When accounting for zakat, the money that has been deposited in the pension scheme and other such funds, shall not be included among the property. Once the money collected in the pension funds and in other such funds, is returned to the full control of its rightful owner, it shall be included in the person's property that is counted for zakat and zakat shall be given as per normal procedure for zakat. The phrase "full control of its rightful owner" as stated here means that either the money is in the individual's possession, or the individual has complete access to the money whenever needed, such as in a bank account.

Rule 19 states that when a company's worth is valued, and zakat is being given from it, if there is a share of a

non-Muslim in the company, that amount shall not be included in the valuation for zakat. Hence, in relation to this amount, there shall be no tax exemptions that result from giving zakat. Part (a) of this Rule, in no way disallows any other Law from imposing another tax regime on the portion of a company that may be owned by non-Muslims.

Rules 20 states that waqf properties are an inalienable religious endowment in Islamic law, and shall not be subject to zakat. Zakat may be imposed on the income generated from Waqf property, as per the following procedures. If the property was donated for dedicated purpose, or specific persons or community, the income earned from such donations shall be subject to zakat. However if the property donations were made as a welfare donation, then the income earned from such donations shall not be subjected to zakat.

Rule 21 states that if a person is deceased prior to giving zakat from property that is eligible for giving zakat from, zakat shall be given from the property prior to distribution among inheritors. On occasions such as stated in Part (a) of this Rule, the zakat shall be given by the inheritors.

Draft Rules for Zakat Al-Fitr

The zakat al fitr rules have been formulated in accordance with Article 12 of the Zakat Bill, which states that “Provisions regarding collection and distribution of zakat al-fitr shall be provided by the “Rules of Zakat al-Fitr”. There are total six provisions in these rules.

Rule 1 deals with the genera matters. It is stated that zakat-al-fitr may consist of dates, fine grains, raisins, or wheat. From any of the items that are permitted for giving zakat-al-fitr, a minimum amount of one saa’ shall be given. One saa’ is equivalent to two and a quarter kilograms (2.25kg). For the

commodity permitted to be given as Zakat-al-fitr stated in Rule 1, one of the items may be valued, and the amount to be given for zakat may be given alternatively as cash. The Office for Zakat shall publicly announce the amounts and values of various commodity that may be given as Zakat-al-fitr. In this manner, the value shall be determined for the commodity that for those who desire to give Zakat-al-fitr as cash, based on Maldivians’ current preference as the staple food and its current market price. It shall be right of the distributors of Zakat-al-fitr, after consideration of the recipients’ status, to convert commodity received to cash prior to distribution or to convert cash to a grain of choice prior to distribution to eligible persons.

Rule 2 deals with time period of Zakat-al-fitr Zakat-al-fitr may be given any time from the first day of Ramadan, and before the Imam initiates the Eid prayer. Even though if for any reason one fails to give zakat before the Imam initiates the Eid prayer, zakat shall be given at the earliest opportunity.

Rule 3 deals with individuals who must give Zakat-al-fitr. Each individual who has food for the eve of Eid and for Eid day, sufficient to support the individual’s self and those under their guardianship, and has food left over, shall give Zakat-al-fitr. When giving zakat as in this manner, zakat shall be given on behalf of each living individual, young or old, under one’s legal guardianship.

Rule 4 states about transferring the distribution of Zakat-al-fitr to another island. The Zakat Management Council (ZMC) shall reserve the right to distribute wealth received as Zakat-al-fitr among the eligible individuals found on the island or if there are more eligible persons on another island, transfer the distribution to that island. The transfer of distribution to another island, may only proceed when all the eligible

recipients on the initial island have been provided the allocated amount from zakat. When transferring the wealth collected as zakat from one island to another consideration shall be given to the total amounts received as Zakat-al-fitr from both islands, the number of persons eligible to receive from zakat in both islands, as well as the opinion of both island councils. The ZMC has the full authority to transfer distribution to another island, and distribute amongst its recipients, if there are no eligible recipients on the island where zakat was collected. If it is decided to transfer zakat distribution from one island to another as per the cases stated in this Rule, the details of the reasons pertaining to the transfer, the amount transferred, shall be documented at the ZMC as well as both the respective island council offices.

Rule 5 deals with distributing Zakat-al-fitr privately. All wealth received for Zakat-al-fitr shall be distributed privately by the parties giving zakat. However, this does not prevent delegation of the distribution of wealth collected as Zakat-al-fitr among eligible poor and paupers, to the ZMC, island councils, or private firms that specialise in distributing Zakat-al-fitr to the eligible persons.

Rule 6 deals with giving zakat to or receiving zakat from more than one individual. Zakat-al-fitr given by one individual may be distributed among more than one individual. Furthermore, Zakat-al-fitr received from more than one individual may be given to one individual or one group of individuals.

RECOMMENDATIONS

The perception of the stakeholders on the proposed zakat framework is important. On 12th January 2015, workshop on proposed zakat law for the Maldives was held in the

grand Islamic Center of Maldives with IRTI to meet the stakeholders and discuss the proposed zakat framework. The stakeholders in this workshop included officials of relevant Ministries, members from the legal fraternity, public and the media. The feedback received from the participants may be summarized as under:

1. Definition of Muzakki needs further clarification, especially where the zakatable entity is a Joint Venture with non-Muslim owners.
2. Laws should provide clarity on status of Muslim non-Maldivians.
3. Definition of Baitul Mal, in the context of Maldives generally means state treasury. Therefore, a different term should be used for the Zakat Fund.
4. Article 8-2 of proposed zakat law should include cooperatives in the list of zakatable entities.
5. Membership number, qualification, power and function of the Shari'ah Advisory Council may be made part of the law and not left to be determined later by the Zakat Management Council.
6. Competent authority should not be MIA but an independent body, perhaps may be called the MZMA (Maldives Zakat Management Authority) created by the President along similar lines as MIRA.
7. A few inconsistencies remain in the local translation that need to be corrected.
8. The annual audit should be of Zakat Fund and of the affairs of ZMC by the Auditor General.
9. The term "investigate" should be replaced with "inquire" and the term "staff" should be replaced by "party".

10. Zakat Fund financials should be in line with applicable reporting and accounting standards.
11. Collection of Zakat function should be entrusted to MIRA (that can also act as agent) in view of its capabilities in order to avoid duplication.
12. Formulation of ZMC needs to be articulated more clearly. It should include members of community and civil service and not political appointees. Members should be qualified and should not have any convictions or bankruptcies. Appointment mechanism, term duration, break between consecutive terms need to be spelt out. Models of MIRA and Pension Office may be followed.
13. There is apparently a conflict between Art. 37 and 39 (duration is one month in one and two for the second). This needs to be clear and consistent.
14. Article 40: There is a need to clarify the term "Every Person".
15. Article 44: Punishment should be more severe, in line with other penalties punishments.
16. Article 38: An additional paragraph should be added that "MIA should have a dedicated internal audit function to provide objective and independent assurance and risk management, governance and internal control of the ZMC."
17. Collection of zakat needs to be integrated with IT system at MIRA.

CONCLUSION

Maldives being a hundred percent Muslim country needs to enhance the zakat framework of the country. It is imperative to

have a zakat law. The Zakat law proposed by IRTI is indeed a sophisticated draft law which the country needs to adopt as soon as possible to strengthen the zakat framework and boost the confidence of zakat payers on zakat system. Zakat being a pillar of Islam needs to be transparently handled by the state to ensure the shariah objectives are fulfilled in both collection and disbursement of it. Definitely adopting the proposed zakat framework achieve these objectives.

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