

## ***Zakat Funds & Terrorism: Need for State Regulation?***

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The collection of zakat is justified under the command enshrined in the Qur'an chapter IX:103. Given that authority of zakat collection is religious in nature Muslim states, in general, find themselves under a religious obligation ensuring effective management, collection and redistribution of zakat. Non-compliance by the Muslim state results in society having to take responsibility on Judgment Day (Al-Qaradawi, Fiqh; Nakamura Mitsuo 2001). It is at least arguable that the religious rules and obligations within Muslim states creates a burden ensuring zakat collection, distribution and administration is systemized and to some extent answerable to common and accepted principles (Imitiazzi 1985: 27).

The situation is less clear when the state does not implement Shariah law or takes a more secular approach to governance. Be it as a result of Muslim minority community such as South Africa or through alternative governance in states with a large Muslim community such as Indonesia. Given the lack of religious obligation the state finds itself free from involvement in zakat affairs.

The simple proposition of non-state involvement does not discharge the Muslim community from their obligation in respect of zakat. Unlike other religious collections, zakat presents a sophisticated system of collection that traditionally operates within an Islamic framework. In the absence of an Islamic framework the question is raised as to what obligation, if any, the state is under to provide a secular framework for effective collection, management and accountability of zakat.

South African provides a useful case study of an effective state framework for zakat collection through the use a Public Benefit Organisation (PBO). Such a model maintains the independence in relation of decision making, payments and governance of zakat funds whilst placing restraint in terms of accountability and financial reporting.

In states with a large Muslim population non-state governance of some sort seems nonsensical given the sheer scale of zakat contributions. Indonesia would fall firmly into this category. Although through the promulgation of Act No. 38/1999

Indonesia has introduced a framework that covers both semi-governmental collector agencies and the nongovernmental ones.

The law makes provisions for auditing and annual reports to be made to the government, whilst encouraging public disclosure. However the system of zakat collection in Indonesia remains complex through both state actors (Badan Amil Zakat) and community founded organizations (Lembaga Amil Zakat). The auditing and reporting to government burden is placed on both, although such active state involvement raises a further issue.

If it is accepted that zakat collection is broadly defined for the distribution of wealth for justice among the weak and to assist in the reduction of poverty, the role of the state in the allocation of the funds is questionable. Whilst this may be the case in Muslim states they are of course susceptible to the governing Islamic principles in terms of distribution and accountability.

The failure to effectively regulate the collection, reporting, accountability and distribution of zakat at a state level is in effect opening the door to abuse of the funds. Whilst the types of abuse may vary, perhaps the most notable in the current climate is the transmission of funds through hawala into terror groups and organizations. Since the use of the hawala leaves little or no trace at all it forms the perfect tool through which to (a) receive funds (b) to move funds whilst avoiding detection.

Further criticism of hawala have been made since investigators linked hawala transactions to the al Qaeda network during the 2001 occupation of Afghanistan the network continues to use the system to transfer funds around the world (Douglas Farrah: 2002). At its most basic level the argument for state regulation of zakat funds is such that it forms part of numerous international agreements but at a higher level it is tantamount to the state acceptance of abuse of Islamic principles and those who are obligated to give.

This paper will consider the extent state involvement is necessary and desirable outside of Muslim states by drawing on the Indonesian model and contrasting this with the South African model to determine whether such risks are apparent and if so to what extent they are avoidable.