PUBLIC SECTOR RESOURCE MOBILIZATION IN ISLAM

MAHAMOUD A. GULAID*

1. INTRODUCTION

There is considerable debate on the role of state in contemporary Islamic economics. On the one hand, there is a need for a concise and precise definition of important fiscal instruments in public policy. On the other hand, there are substantive gaps and a dearth of literature on resource mobilization in the Islamic perspective especially as regards non-tax sources. Compared to writings on allocation, distribution and stabilization, relatively little research work has been conducted in this area. This exercise is meant, in part, to bridge this gap.

The objective of this research is to synthesize the role of the public sector in mobilizing resources through tax and non-tax sources. The paper is divided into four parts. Part One deals with the public sector in Islam. Emphasis here is on an historical perspective using the early period of Islam as a foundation. Resource structure and the composition of public activities are discussed in terms of the priorities and the available methods of mobilizing the required public revenue. The legislation of instruments of fiscal policy is also examined. This section could not be considered complete without a brief discussion of the Madinah State in terms of its mandate, roles and functions which were to be used as a model for designing future Islamic states.

Part Two explores the particular nature and significance of public sector activities in contemporary Muslim society. Since there is considerable discussion on this subject, different positions taken by contemporary scholars on some of the pivotal areas of interest are highlighted.

* Islamic Research and Training Institute, Islamic Development Bank, Jeddah, Saudi Arabia.

In Part Three different methods of financing contemporary public sector needs and activities are discussed. Sources of revenue for the contemporary public sector are also explored in the light of the experience of the early Islamic state. In this perspective, each method is classified, according to its sources, into traditional and contemporary and on each the position of modern-day scholars is highlighted. In Part Four, the significance of tax and non-tax sources of revenue in financing public sector activities is discussed. A brief summary of major issues on the topic is given at the end of the paper.

2. PUBLIC SECTOR IN ISLAM : HISTORICAL PERSPECTIVE

2.1 The Madinah State

The genesis of the first Islamic state, from the operational point of view, began with the **"Migration"** *(Al Hijira)* of the Prophet (pbuh) to Madinah, then known as *Yathrib*, in the first year of the Hijira (622 AD). This was the initial stage of what was to become a new operational, legislative and financial era for the Islamic state. Social, economic and political developments were gradual with every step carefully calculated and logically reasoned out in the process of constructing the new Islamic state. The Prophet (pbuh) was the chief executive and helmsman for this critical period in the history of Islam.

Madinah was not captured through war, but rather through the voluntary acceptance of Islam by its people. Madinah, thus, set the historical precedent of being the first city/state to submit to the will of Allah. As such, it is often referred to as the city that was conquered through the Qur'_n as opposed to the sword or other non-peaceful means. The Prophet's (pbuh) migration to Madinah from Makkah was followed by powerful legislation allowing Muslims to fight back and fend for themselves. This legislation epitomized the degree of animosity towards Islam and, therefore, the concerted pressure exerted by the people of Makkah, who did not believe in Mohammad's (pbuh) message. Their dissent focussed on methods of neutralizing this message with force if necessary. (See Surat Al Haj, verses 39-40). However, as soon as Madinah was established as a stronghold for the *muhajirs* (migrants) and the *ansars* (supporters), a statehood based on the Qur'_n and *sunnah* became on operational reality, thus consummating the message of Prophet Muhammad (pbuh).

The Madinah State that was established thereafter was not a "state" in the narrow sense of the term, i.e. the establishment of a system of government only. It was instead, a comprehensive attempt to intricately integrate Islam into the spiritual and worldly pursuits of people subject to the Qur'_n and *sunnah.* Madinah, then, was a replica of a state conceived in the teachings of Islam with its perception of life and liberty and the uniqueness of its system of governance based on legislation and the rule of law. (See; Al-Rayes, 1969, page 40).

In the period immediately following the death of the Prophet (pbuh), the legislation of laws through the process of the consensus *(ijtihad/ijma')* of the Ulama proved to be a useful recourse in the formulation of legislation and the definition of potential policy instruments, besides those generated through the directives of the Qur'_n and *sunnah* (See; Al-Rayes, p.88).

The term consensus *(ijtihad/ijma')* in this context has a very critical meaning. Implicit here is the serious deductive reasoning based on logic and conditional to the social and other norms peculiar to the state at the time. These norms included the guarantee of justice and social welfare in favor of all Muslims as opposed to limiting these to the vested interest, the class structure and the ruler of the state at the time.

The objective of these laws and, therefore, the system of governance was based on the acceptance of the Islamic *aqidah* (belief) which transcends color, race, and affiliation to national boundaries. Once the Islamic *aqidah* is established, endorsed and put into operation, boundaries between Muslim nationalities and/or countries and differences of race, creed and color should, logically, disappear. In their place, the Islamic state takes over to ensure that the protection of the individual rights of all subjects, irrespective of social and political hierarchy and/or previous background is implemented according to Islamic teaching.

The structure of the Madinah State, even after such a brief introduction, can now be introduced to include; (a) the mutual protection against external aggression; (b) the adjudication for inter-tribal disputes and feuds, and (c) the administration of legislative, juridical and financial activities, etc. Contemporary scholars add (d) international relations and (e) economic, social and ecological development in order to complete the functional perspective of the modern state taking into account the preambles of the Madinah State.

2.2 Evolution of Resource Mobilization Instruments

In order to discuss the evolutionary nature of resource mobilization and its development in the context of fiscal policy in Islam, and historical, albeit anecdotal perspective, is hereby presented. This is, logically, unavoidable if we are to strengthen arguments presented in the preceding section of this paper.

We indicated that the operational details of the Islamic state, for all practical purposes, began with the Madinah State in the first year of the *Hijira (622* AD). We also indicated that the Islamic state, thus established, had to, by circumstance, build itself into a formidable military power in order to be able to defend itself and its subjects against hostilities. Such hostilities included, among others, foes that sought to destroy the ability of the then Islamic state not only to defend itself but also to propagate its religion and way of life, and, therefore, its credibility as a viable alternative way of life.

Immediately after the migration of the Prophet (pbuh) to Madinah, the nascent state was mandated to wage war against any one who stood in the way of its growth. The strategy of the state was, thus, transformed from a defensive posture, essentially limited to a specific area, to one that reached out to the rest of the world. This condition considerably changed the posture of the state in the periods to follow. The state eventually became the mechanism through which Islam was to be spread beyond the boundaries of Madinah during the first year of the *Hijira.*

> As a result of the battle of Badr in the month of Ramadan of the second year of the *Hijira,* a substantial amount of war booty was collected for the Madinah State. However, there surfaced a serious argument as to how this booty should be divided among Muslims, and, therefore, the need arose for an economic-cum-financial distribution policy on the part of the Muslim leader, i.e. the Prophet (pbuh) to resolve the problem. Thus, the first part of *Surat al-Anfal* was revealed suggesting that the Badr booty be left undistributed and that it be consigned to Allah and to his Prophet (pbuh) (See Al-Mawardi, p.133).
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> One month after Badr, Beni Qaynuqa' of Madinah contravened the agreement it had entered into with the Prophet (pbuh) and declared its enmity to the Muslims. The Prophet (pbuh) forced them out of Madinah in the month of Shawwal (See Al-Mawardi, p.160). The war booty collected was to be distributed according to *Surat Al-Anfal, Ayah* (verse) 21, viz., A fifth share is assigned to God and to the Apostle and to near relatives, orphans, the needy and the wayfarer.

The first land that ever came under the control of the Islamic state was that left by Mukhayriq under the Prophet's (pbuh) trusteeship. These gardens (seven in number) were relegated as *sadaqah* (benevolent deeds) by the Prophet (pbuh) at a latter stage. The first land ever conquered by the Prophet (pbuh) was that which was taken from Bani Nazir who attempted to kill the Prophet and conspired against the Muslims. The lands of Bani Nazir were distributed to the *muhajirs* in Rabi' Awwal of the fourth year of the Hijira (626 AD). The distribution of these lands following the Battle of Bani Nazir was revealed in Surat Al-Hashr (For details, See Al-Mawardi, p.161).

In Shawwal of the fifth year of the Hijira, the Battle of Khandaq took place. Bani Nazir in collaboration with Banu Qurayda reneged on their promises and in Dhul-Qa'da of the same year, the Muslims waged war on Banu Qurayda and conquered substantial war booty. This booty was to be subdivided among the Muslims based on instructions from the Prophet (pbuh) (See Al-Mawardi, p.160).

As Islam reached out to open up the surrounding communities outside Madinah, the resources of the Islamic state naturally expanded. In the 7th year of the Hijira, for instance, Khybar was conquered and *Ahl-Faddah* peacefully submitted to Islam. Makkah was conquered in Ramadan of the 8th year of Hijira. In Shawwal of the 8th year of Hijira, the Battle of Hunayn was fought. This was followed by the Battle of Tabuk in the 9th year of Hijira, then the people of Najran peacefully submitting to the Prophet's Da'wah. By this time, the Madinah State was no longer the enclave limited by space and resources that it was in the first year of the Hijira. Rather, it acquired a substantial degree of flexibility to mobilize resources, given the authority it had assumed over the lands it had under its jurisdiction. Its physical, economic and human resources had multiplied geometrically. By the time of the Prophet's (pbuh) death in the 11th year of the Hijira (632 AD), the Islamic state had jurisdiction over Madinah, Makkah and the surrounding areas, Northern Hijaz, Najran, Yemen, Oman, Bahrain and many more adjacent areas in the Arabian Peninsula. For Sham proper and other areas beyond, the Prophet (pbuh) had laid out strategies and plans for spreading the message in order to extend the rule of Islam. This, unfortunately, was interrupted by his death. Usama Bin Zayd was, accordingly, to implement this strategy and lead this campaign (For details, See Al-Mawardi, p.161).

Abu Bakr Al-Siddiq took it upon himself to fulfill the expansionary plan as laid out by the Prophet (pbuh). He did it upon his inauguration as the first Khalifa. With this accomplished, the Islamic state, during Abu Bakr's era, had to take Islam beyond the Arabian Peninsula. Confrontation was then bound to occur between the Islamic State and the Roman and the Persian Empires which ruled most of the surrounding areas (See, Al-Mawardi, p.162).

The outcome of most of these military operations, resulting in the defeat of empires, was legislation on (a) *jihad* and (b) the institution of payment of *jizyah* by the people of the Book whose countries were overpowered by Islam (See 9:29).

After the Battle of Redda, Abu Bakr began, in the 12th year of the Hijira (633 AD), to focus on the Persian and Roman flanks. By the time of Abu Bakr's death (22nd Jumad Thani, 13 Hijira), Khalid Bin Al-Walid had brought Iraq under the jurisdiction of the Islamic state (that is, all the land west of the Euphrates) (See Al-Rayes, Undated ., p.103).

Khalid Bin Al-Walid had agreed, on peaceful terms, with the people of Al-Hayrah on payment of substantial wealth in the form of *jizyah*, making this, therefore, the first event in the history of the Islamic state in which *jizyah* was collected from Iraq (See Abu Yusuf, *op.cit.*, p.145).

During Umar Bin Al-Khatab's Caliphate (between the 13th and 23rd year of the Hijira, i.e., 634 and 644 AD), the western flanks (relative to Iraq) became the next critical area of operational focus. Yarmouk (in Jordan) was brought into the Islamic state in the 13th year of the Hijira, Palestine was taken over in the 14th year and in the 15th year, Syria and Al-Qadisiyah (the so-called Sawad in Iraq) were annexed. Also in the 15th year of the Hijira, further to the west, Egypt, Libya and Tunisia were annexed from the Roman Empire. (The latter two countries were referred to, in those days, as Africa) (For details, See Al-Rayes, Undated, p.104).

The Islamic state, by now, had expanded to include the whole of the Arabian Peninsula, the majority of the Middle East, and large portions of Maghreb. Subsequent campaigns brought in what was left of Maghreb, Anatolia to the north, Iran and most of what is now Pakistan, Afghanistan and Southern Russia.

2.3 Legislation of *Kharaj* and other Islamic Fiscal Instruments

The Islamic state, in the Caliphate of Umar, besides expanding to most of the countries of the Middle East, reached east to the Caucasus and west to Maghreb. It covered an extensive geographic area, which included different regions and nationalities. Naturally, the Caliphate encountered new problems in the administration of these new countries.

A new approach was needed to govern these new lands that would resolve financial and other needs of the state in order for it to be able to deliver the services required by these different communities.

One question which was immediately raised was whether these new lands should be divided among those who had participated in their conquest or whether this matter should be left for future generations to resolve. If these lands were divided among those who were instrumental in bringing them to Islam, then the problem would have been one of negating the ownership rights of future generations since these lands would, otherwise, be inherited by members of the families who had been given titles/deeds in the first place. In addition, funds for cities, armies, and civil servants could not be met from the meager resources of a state which did not take this opportunity to mobilize resources from such sources. In fact, the state would be left with nothing from which it could generate a consistent stream of revenue in order to meet current or future obligations.

To resolve this problem, Umar decreed that the new lands acquired in these locations would be left in the custody of the state to be used by the Muslim communities at that time and in the future. This is one of the major pieces of legislation of Caliph Umar Bin Al-Khattab.

Apart from land, Umar Bin Al-Khatab agreed to subdivide war booty *(fay')* among those who were party to its acquisition. This decision was based on *Surat Al-Anfal, Ayah 6*, which lists the five deserving groups already noted in the preceding pages. Umar's argument in favor of this position was expressed in terms of spending *fay'* on the Muhajirs (see: verse 8 of the same *surat*), the Ansars (see: verse 9), and on the generations of the future (see: verse 10). Hence, *fay'* was divided and the problem of distribution of newly conquered wealth *(ghanaim)* was logically resolved (For details see; Al-Rayes, Undated, p.115).

During this critical period, in so far as a systematic set of laws was being devised, the Islamic state had to, for the first time, legislate land and land use related activities which came under the jurisdiction of the state. Conquered lands were classified as *kharaj* land and taxes, known either as *kharaj* and/or *ushr*, were imposed. Those who were given use rights to Kharaj land or had access to Kharaj water would be subject to *kharaj.* Those who reconciled with the new Islamic state in their own territories would, in addition, pay the *jizyah* (or the poll tax) (See Al-Rayes, Undated p.166).

Further refinements of these resource mobilization instruments in order to attune them to the realities of these diverse geographic regions were designed during Umar's Caliphate. This had, in turn, sharpened the effectiveness of the set of fiscal tools and instruments deployed to mobilize needed revenues then available to the Islamic state. By this time, there were *ghana'im, fay', kharaj, jizyah, ushr,* and *khums* to mention only a few. These supplemented *zakah* (the obligatory levy) in most cases (See Al-Rayes, Undated., p.166).

The application of these instruments in mobilizing resources and in setting the norms of an equitable pattern of distribution between the present and the future generations were introduced not only in the Sawad of Iraq, but also in Egypt and other regions.

The state, empowered by this set of laws, was now able, through these fiscal instruments, to mobilize resources from a wide range of sources. There was a need to establish an institution that would collate these fiscal policies, regulate tax structure, and implement systematic registration procedures for the purpose of the collection, storage and expenditure of revenue.

The need for such an institution had never been as crucial at the time of the Prophet (pbuh) or in Abu Bakr's Caliphate. This was due to the fact that these previous Islamic states had never had to face the problem of managing financial resources large enough to warrant the establishment of an independent public treasury. This does not mean, however, that there were no offices that exercised these functions, but rather that they were token activities meant to provide the services called for under the circumstances.

The first *d_w_n* (registration) and implicitly the *Bayt Al-Mal* was established by Umar Bin Al-Khattab in the 15th year of the Hijira (For details, See Ibn khaldun, *Al-Muqadimah*, p.203). The systematic implementation of this financial institution and/or arrangement may have taken place a little later in the 20th year of the Hijira when the *kharaj* of Iraq and Sham were collected (For details, See Al-Rayes, Undated., p.140).

By the 23rd year of the Hijira, the Islamic state was a full- fledged empire. Its laws were grounded in the realities of the regions it governed; its fiscal policies and instruments were mandated; and the institutions required to implement these public sector objectives and targets were well established. Indeed almost everything needed to run and manage the affairs of the public sector was well in place.

The *kharaj* from the regions of Iraq, Egypt, Libya, "Africa" (Tunis), and Cyprus, during Uthman Bin Affan's Caliphate (the 30th year of the Hijira), was estimated at over two hundred million Dirhams, a large amount of money by any standard. It should be emphasized that this did not include the *kharaj* of Al-Sham, the Arabian Peninsula, Azerbaijan, Armenia or Persia (then referred to as the land "East of the Sawad"). This estimate also did not include the *akhmas* (plural for *khums*) which were collected by the state as its share of *ghana'im* (For details, See Al-Rayes, Undated p.160).

3. PUBLIC SECTOR ACTIVITIES IN CONTEMPORARY MUSLIM SOCIETY

Muslim scholars have, in recent years, written at length about most of the instruments of fiscal policy conceived and implemented by the early Islamic state. An attempt is made in this section to highlight some of the relevant views and issues.

Ibn khaldun in his *Al-Muqadimah* defined the function of the Islamic state as ensuring that religion belongs to Allah and that the word of Allah is supreme (See Ibn Khaldun, p.2). Al-Mawardi defined the functions of the Islamic state as safeguarding religion and managing the worldly affairs of the Muslim (See Al-Mawardi, p.5).

Ibn Khaldun went a long way to inject the socio-politics of religion into the context of worldly affairs. He deduces from this reasoning that the function of the Islamic state should be seen as one of getting every one to follow the intent and the purpose of *shari'ah*. The central issue in this argument is that the worldly affairs of the individual and his hereafter are closely interwoven in so far as "a system of rationalization is utilized by the state to determine the relevance, usefulness and efficacy of political decisions." (See Kahf, 1980). Accordingly, three socio-political systems which may be presented, focus on Ibn Khaldun's rationalization, viz., the monarchic, the democratic, and the Islamic system (See Kahf, 1980).

The monarchic rationale is seen to rest on the desires, zeal and drive of the monarch. The democratic rationale, on the other hand, focuses on the power of human reasoning to define the concept of government and, hence, the fundamental instruments needed to mold the democratic apparatus. Little spiritual input is expected in this definition of the ways and means of government.

The Islamic rationale, however, takes into account, and is subject to, both human reasoning and spiritual revelations. As such, the values, methods and instruments of government all rest on what is mandated in the Qur'_n and *sunnah*, hence, the spiritual factor. Human reasoning, in this context, serves as a power that would ensure effective execution of the will of Allah. The role of the Islamic state is simply to facilitate the wish of its society to work and toil in this world so as to win Allah's pleasure *(rida)* in the hereafter (Kahf refers to this as "....having people work toward their own salvation and success in pleasing Allah" (See Kahf, 1983, pp. 137-138).

3.1 Definition of Terms

Some important terms need to be defined before continuing with this study. This, necessarily, should start with the fundamental dichotomy underlying distinctions between Islamic and secular economics and should then proceed to a definition of the important tools and functions of the Islamic economy vis-a-vis the mandate of the state in order to illustrate contemporary public sector prerogatives.

Fiscal policy in Islam aims at achieving efficient allocation of scarce economic resources, ensuring equitable distribution of income and encouraging economic development subject to spiritual revelations as mandated in the Qur'_n and *sunnah.* There is the added stipulation that efficiency in this context refers to the allocation of resource use in this world as well as in the hereafter. This is also true for the distribution and economic development of the welfare of the individual (See Salama, 1983).

This points out some elements that distinguish Islamic economics from secular economics. The distinction lies, in part, in the specification of the `hereafter' dimension in the current activities of the individual Muslim. This is something that is not entertained in secular economics. By internalizing the spiritual needs of the individual Muslim, Islamic economics definitely diverges from secular economics as most of us know it. The latter, as it is conventionally taught and practiced, does not consider the spiritual needs of the individual with respect to the allocation of resources and the stabilization, distribution and specification of fiscal goals, objectives and, implicitly, instruments.

Fiscal policy in Islam, therefore, is a tool, among others, which, according to contemporary scholars, works to achieve the goals of *shari'ah*. The goals of *shari'ah*, according to Imam Ghazali, include promoting the welfare of people by safeguarding their faith, life, intellect, posterity and property. Whatever safeguards any of these serves the public interest and is, therefore, desirable (See Al-Ghazali, 1937, pp.139-140). These are in accordance with the message of the Prophet (pbuh) which states that Islam is to foster a good life and welfare, provide ease and alleviate hardship, generate prosperity, nurture a climate of love and affection, and ensure freedom from moral corruption, hunger, fear, and mental anguish (See Salama, 1983, p.99)

While the objectives of fiscal policy in Islam may be similar to those in a secular state, especially in so far as efficiency of resource allocation, distribution, etc. are concerned, the two systems differ some what in terms of the operational norms and the nature of the instruments adopted to achieve these goals. For instance, the concept of welfare in the Islamic perspective, includes the well being of man in the hereafter. This concept is not found in the secular economic perspective. That is to say that fiscal policy in secular economics refers to the use of fiscal tools to effect worldly economic goals, while in Islamic economics, these may be used to effect both worldly goals as well as those of the hereafter and other spiritual targets.

Assuming that the three-sector characterization (i.e., market, voluntary economic institutions, and the government) is applicable, then the Islamic economy, according to Faridi, "derives from the value premise of an Islamic society which involves the voluntary flow of a sizable part of its total resources in such activities as are considered to attain the welfare of *Al-Akhira* (the Hereafter) but have significant economic implications for the society" in this world (See Faridi, 1983, p.35).

It is with these premises that we set out to discuss, in the remaining sections of this paper, the issues relating to the nature and significance of fiscal policy in so far as this relates to the use of tax and expenditure policies that affect the performance of the public sector, public sector activities and needs and, in particular, resource mobilization (i.e., revenue aspects of public finance).

3.2 Nature and Significance of Public Sector Activities and Needs

Taking into account the structure of the Madinah State and the subsequent establishment of the objectives of *shari'ah*, the following fundamental functions of the Islamic state may be listed, viz: ensuring national defense, eradication of poverty, creation of full employment and sustained economic growth, promotion of stability (social, political and financial), ensuring social and economic justice and equitable distribution of income and wealth, and fostering a harmonious policy of international relations (See Kahf, *op.cit.*, p.132, among others). These are the common aspects of state functions in the Islamic perspective.

The individual perspective of contemporary scholars varies. Siddiqi, for instance, thinks that a Muslim state should cater to national defense, internal security, roads, bridges, canals, waterways and education (See Siddiqi, 1986).

Others appear to further expand these functions to cover goods which serve the public interest at large. According to Salama, the list may be enlarged to include goods that provide military strength which, in turn, will depend on the level of development and technology available, the infrastructure and telecommunications system, as well as the facilities needed by all sectors of the economy. The latter includes social capital which should be developed through the provision of education, sports facilities, public health, medical facilities, environmental facilities, housing, potable water, drainage, sewage systems and others (See Salama *op.cit.*, p.100).

Siddiqi suggests that the Islamic state must guarantee the fulfillment of the basic needs of every human being within its jurisdiction. It must prevent the concentration of wealth. It must keep the country strong. Under contemporary conditions, it must ensure employment, stability and progress in science and technology (See Siddiqi, 1986, p.135).

The functions and activities under the jurisdiction of the Islamic state today have grown rapidly. While the list may have been short during the early period of Islam, the nature and significance of contemporary activities designated to the state have markedly expanded to include, for example, safeguarding religion, spreading the word of Allah, defense, social capital, meeting the basic needs of individuals, developmental projects and programs, and so forth.

This proliferation of activities of the Islamic state is a matter of considerable debate among contemporary scholars, and we shall return shortly to closer exploration of this phenomenon. At this point, suffice it to say that these activities define the important public finance expenditures for which the state must mobilize corresponding revenue. Based on this definition, we will present these expenditures with the contemporary instruments used to collect the required revenue. The accent, in this instance, will be on the revenue aspects of public finance as pointed out in the objectives and scope of this study.

3.3 Different Positions Taken by Contemporary Scholars

In the early period of Islam, the major items of expenditures were the procurement of war materials for *jihad*, the freeing of Muslim slaves from bondage, the provision of financial aid to newly converted Muslims, the settlement of debts on behalf of poor Muslims prior to or after death, the provision of the basic needs of the poor and the needy, and the funding of social pensions (See Aden and Gulaid, 1991). It is the expansion of these activities rather than the activities themselves, which is at the center of the debate.

There are scholars (Siddiqi, for instance) who strongly feel that the functions of the contemporary Islamic state should not be limited to reflecting only the real-world economic and social conditions of the early Islamic period. The rationale is that contemporary Muslim societies have to live in their own world which has its peculiarities and needs especially in terms of the basket of goods and services to be delivered by the state. The dichotomy of views is not so much of the spiritual replication of the Madinah State, but rather one of the socioeconomic interests and needs of Muslim societies in general. This distinction is very important in order to avoid the misunderstanding that the spiritual replication of the Madinah State is not desirable, which in the minds and pursuits of contemporary scholars and states is not a debatable issue.

Siddiqi divides the functions of the Islamic state into those assigned by *shari'ah* on a permanent basis, those derived from *shari'ah* on the basis of *ijtihad* and those assigned to the state at any time and place by the people through the process of *shura*. He sees no limitations, either by function or ability, on the state in exercising greater responsibility in the conduct of fiscal policy, if this is dictated by the will of the people (See Siddiqi, *op.cit.,* 1986).

Taking Professor Siddiqi's position, it is possible to see the first category of functions as being those upon which the Madinah State was founded and built. These functions include defense, law and order, justice, needs fulfillment, *da'wah* (supplication/citation of good deeds in Islam), *al-amr bil ma'ruf wa al-nahyi an al-munkar* (the idea of encouraging good deeds and forbidding bad deeds), civil administration, and the fulfillment of social obligations in the event of the failure of the private sector to deliver them. Almost all contemporary scholars accept this list without reservation.

It is those functions that are derived from the *shari'ah* on the basis of *ijtihad* that have become the focus of debate. This is perhaps due to the fact that (a) the *ijtihad*, in and of itself, encourages, the freedom of manoeuverability and, therefore, opens the door of discussion for scholars on matters of social and economic interest, which is permissible in Islam with the stipulation that the *mujtahid* fulfills the conditions expected of him in venturing *ijtihad*, (b) the socioeconomic conditions prevailing in the contemporary era are not the same as those in the Madinah State or in Umar's Caliphate. Therefore, there is a need for appropriate solutions to the changing circumstances of contemporary Muslim societies, and (c) the nature of functions of the state in the contemporary era through *shura* is more complex and can only be harmonized by entertaining the complexity of expression and the diversity of the views and interests of the people through egalitarian representation based on Islamic teachings.

Others (Kahf, for instance) see the functions of the contemporary Islamic state as a replica of those adopted by the Madinah State in spirit as well as in practice, with little flexibility allowed for the difference in time between the two periods or for the change in socioeconomic needs (See Kahf, 1980).

Kahf takes the extreme view that the Islamic state has a minimum role in the formulation of fiscal policy (See Kahf, 1990). He argues that the Islamic state is not empowered to pursue economic policies involving changes in the pattern of revenue and expenditure, nor is it allowed to impose economic, social or political limitations which may or may not violate the freedom and rights bestowed on the individual by Allah.

Kahf's argument is based on the sanctity of private ownership. Neither the state nor any other entity (private or autonomous) can or should interfere with these injunctions. Any intervention, in any shape or form would be construed as an "act of aggression". This challenges, therefore, the authority of the government to levy taxes on private property in order to, for instance, support state expenditure beyond that which is decreed by *shari'ah*. This reasoning also applies to such other fiscal objectives of the modern state as welfare, growth, and economic stability.

As far as state functions and, implicitly, fiscal prerogatives of the contemporary state are concerned, Kahf is comfortable with the safeguarding of religion and the supremacy of the word of Allah as suggested by Ibn Khaldun, Al-Shatibi and others. In his view, public expenditure should be confined to ensuring the security of the state, minimizing the administrative expenses of the state, meeting the subsistence needs of the people, and developing a productive capacity in spheres where private enterprise does not deliver (See Aden and Gulaid, 1991).

In so far as Kahf (1990) suggests a minimum role for the Islamic state by way of formulating policies, he rejects the position that the state is not limited in exercising responsibility in the conduct of fiscal policy in an Islamic perspective. This is the essence of the polarity of views between two Muslim scholars on issues of fiscal functions and policies.

Notwithstanding these differences, there is a noteworthy consensus among contemporary scholars which points out the virtues of a middle or moderate position.

The pros and cons of levying taxes in addition to *zakah* are discussed extensively by contemporary scholars. Faridi argues in favor of the compensatory or supplementary role of taxes in the context of bridging the resource gap (See Faridi, 1983, pp. 27-58). Kahf (1980), however, argues that the levying of taxes in addition to *zakah* is an exception and not a rule. The essence of this difference of opinion lies in their understanding of *zakah.* The stock of resources to be utilized by *zakah* is limited in the case of Faridi's view, whereas in Kahf's, the proceeds of *zakah* would, in almost all cases, be sufficient to meet the needs stipulated. In Kahf's argument, taxes can be imposed by an Islamic state only under certain circumstances and warranted conditions (See Kahf,1980, pp.135-146).

According to Faridi (1983) *zakah* provides the base of the fiscal system and defines its scope of operation within the general institutional framework of an Islamic state. The allocation, distribution and stabilization functions of an Islamic state are processed and implemented jointly through the private sector, the voluntary sector and the public sector. The public sector role though minimal, in Faridi's opinion, is however, of great importance in so far as it operates continuously to ensure an optimal allocation of community resources, rectifies an unsatisfactory distribution of income, and introduces an element of stability.

The Islamic taxation policy is so defined as to compensate or supplement the "resources gap" arising from or incidental to *zakah* and *sadaqah*. According to Faridi (1980), it is a dependent variable and a derived one. The dynamics of an Islamic taxation policy, therefore, operate within the limits set by *zakah* and voluntary contributions *(sadaqah)* made in favor of the aggregate socioeconomic welfare of the community.

In summary, there are three major groups, categories or activities, according to *shari'ah* that would command public expenditure. First are the permanent expenditures, which include defense, law and order, needs fulfillment, *da'wah,* etc. which were discussed in the preceding section. The second category may be defined according to the distinction made by Islamic jurists as to the necessities *(dar_riy_t)* the needed *(hajiyat),* and the commendable *(kamaliyat).* Activities in the category of necessities are referred to in *shari'ah* as *Al-Usul Al-Khamsa* and include religion *(din),* life *(nafs),* family or progeny *(nasl),* property *(mal)* and intellect or reason (See Siddiqi, 1988 and Kahf, 1990).

Beyond these two major classifications, the third category covers other potential expenditure options, which take into account the contemporary needs of the Muslim community. The choice and methods of financing these activities are decided on the basis of *ijtihad* and the decision-making process of consultations *(shura).* These include, among others, the protection of the environment, the expenditures necessitated by stabilizing policies, capital formation and economic development, scientific research, the supply of necessary public goods (not covered in either of the options given above), subsidies for priority private activities, etc.

By way of summarizing different, albeit opposing views, we refer to yet another extreme position suggested by Kahf who, to quote directly, indicates that the "Economic enterprises of the state should not be financed by means of taxes... These include economic enterprises which aim at economic and social development as development is not a necessity according to *shari'ah* except when it is related to defense, establishment of religion or provision of basic and indispensable needs for people" (See Kahf, 1990, pp. 20-21).

It is surprising to see that no distinction has been made between, on the one hand, public sector activities financed through revenue mobilized by the state, and on the other, economic activities undertaken by state-owned enterprises under the guise of real world competitive market conditions.

4. FINANCING CONTEMPORARY PUBLIC SECTOR NEEDS AND ACTIVITIES

Sources of Revenue of the Contemporary Public Sector in View of the Early Period of Islam

4.1 Traditional Sources of Revenue

During the early period of Islam, a major portion of state expenditures was met through voluntary financial and physical contributions from private sources. Public borrowing was unknown even though the Prophet (pbuh) was reported (See *Al Nisai'*, p. 314, and *Ibn Al-Athir,* p.163) to have resorted to such a financing alternative in order to meet the expenditure required by a specific state activity. *Zakah* was, however, by far the most predominant source of revenue of the early Islamic state.

War booty in the form of *ghanai'm, khums, fay,* and to a considerable extent, *jizyah* and *kharaj* provided substantial revenue for the state. These were committed to finance military operations, the cost of the army, and the salaries of public employees. The uniqueness of these sources of revenue for the Islamic state was the absence of any substantive tax. There was, however, at the time, a tax imposed on foreign traders bringing in goods to the Islamic state. This customs tariff or duty *('ush_r)* made a modest contribution to the public revenue since it was based on reciprocity and since the volume of transactions (i.e., goods traded) was generally very small.

Zakah is specific in terms of the obligations and the type of wealth on which it is imposed. The nature of the beneficiaries and agencies responsible for its collection and distribution have also been specified. Its contribution to the resource mobilization of the public sector was, in practice, set aside for specific purposes. Because of their transitory nature, the voluntary contributions *(sadaqat)* from the wealthier segments of the believers, the customs duties and *ghanai'm,* were small and irregular. These were occasional sources of revenue that could not be taken for granted and/or used for planning purposes since, by virtue of their characteristics, they would never be appropriate for long-range resource mobilization strategies.

Jizyah, referred to as head or poll tax, is payable annually by non-Muslims living under the protection of an Islamic state. This is the equivalent of *zakah* on wealth by Muslims. The juridical sources of *jizyah* are the Qur'_n, *sunnah* and *ijma*. While *kharaj* (see below) may be adjusted according to prevailing circumstances and real world conditions, *jizyah,* like *zakah,* is divinely prescribed and, therefore, is not subject to manipulation.

However, what exerted a considerable influence on the ability of the Islamic state to mobilize and meet relevant expenditures at the time, was the revenue mobilized through *kharaj* and other land-based tax assessments. For instance, when, during Umar's caliphate, Iraq, Syria, Egypt and others were annexed, *kharaj* revenue poured into the state treasury. This, it is often argued, was large enough to meet all the expenditures of the Islamic state at that time.

Other sources of revenue surely supplemented the resource mobilization potentials of the state but played a secondary role especially in terms of the frequency of occurrence (as in the case of *ghanai'm,* etc.) or were subject to the willingness and ability of wealthy individuals to pay, as in the case of contributions *(sadaqat).*

I. *Kharaj*

Even though the term may be used in a general sense to mean taxes there appear to be two kinds of *kharaj*-based fiscal instruments; *kharajal-wazifa* and *kharajal-muqasama* (See Al-Rayes, Undated).

Kharaj al-Wazifa is a rent imposed on land subject to the size of the land and the type of cultivation adopted. The rate of *kharaj* payable is flexible and its assessment should normally take into account the potential earnings likely to be generated by the land, subject to the amount of land in use, its fertility, the crops likely to be grown and other important factors. As such, the tax can only be based on an empirical assessment of the potential of the land to generate a stream of income from agricultural activity. The exact amount of this tax is estimated on the basis of *ijtihad*.

Kharaj al-Muqasama, on the other hand, is an assessment based on the distribution of the produce from *kharaj* land between the user of the land and the state which administers *kharaj* land. This can be a fifth, or a sixth, etc. of the produce from the *kharaj* land. The Prophet (pbuh) made an agreement with the people of Khaybar to share the produce on the basis of *kharaj al-Muqasama.* This, as in the case of *kharaj al-Wazifa,* is also based on *ijtihad*.

II. *Al-Musaqat*

This type of product-sharing arrangement was entered into by the Prophet (pbuh) with the people of Khaybar, as was the case with *kharaj al-Muqasama* (See Shafi, Abi Ibrahim Ismael Bin Yahya, *Kitab AI-Sha'ab,* pp. 101-107). The difference is that *musaqat* deals with the method of distribution of the produce of fruit-bearing trees whereas *muqasama* covers all produce from *kharaj* land except that specified under *musaqat.* There can only be a produce-sharing arrangement for fruit-based on the yield of the land. The exact amount to be shared may vary (e.g., 1/5, 1/4, 1/3, etc.) depending upon the conditions stipulated in the prior definition of the size of shares for each party.

III. *Al-Muzara'ah*

If land is to be cultivated and planted through the arrangement of *al-muzara'ah,* then the harvest may be shared between the parties on the basis of agreed proportions. Seeds, etc., will be provided by the owner of the land, but labor and management, will be provided by the cultivator. The amount to be shared will be determined by the agreement as in the case of the *musaqat.* In either of these arrangements. one of these parties could be the state (See Shafi' Abi Abdallah Mohammad Bin Idris, *Kitab al-Um, 1322H).*

IV. *Ushr*

Ushr, which in Arabic means a tenth, is a tax payable from *ushr* land. The produce and output from *ushr* land are subject to *zakah.* The magnitude of this *zakah* is divinely prescribed, and, therefore, is specific and determined. *Ushr*, unlike *kharaj*, does not call for any *ijtihad* by way of determination of the tax rate since it has been prescribed in the Qur'_n as a priory fixed proportion or value.

The produce of cultivation which is solely dependent upon rainfall will be assessed an *ushr* of 10%. If the land is irrigated mechanically or via other man-made technologies and/or means, then the total produce from *ushr* lands would be subject to *zakah* at the rate of 5% (See Gulaid, 1991, pp. 47-49).

These taxes, in terms of modern day economics, are agriculture-based fiscal policy tools. Incidentally, these taxes are also subject to change depending on what *ijtihad* perceives as warranted, so much so that tax assessments can be calculated by taking the optimum conditions of levy and the economic circumstances into account.

Taking these factors into account, it would appear reasonable to hypothesize that there could be room for the reform of resource mobilization in the contemporary public sector based on a system through which one could restructure fiscal innovations in Muslim countries. I shall return to this hypothesis and its implication at a latter stage.

4.2 Contemporary Sources of Revenue

In the preceding section, we discussed what is referred to in this study as the traditional sources of revenue in the early Islamic state. The argument was made that these instruments are still valid and could be used today since their effectiveness as tools to mobilize resources has not been reduced by the passage of time or by their acceptance as tools of fiscal policy. However a few exceptions may be isolated which do not fit this general rule. *Ghana'im* and *fay'* have ceased to be practical. Their validity in modern day society is for all practical purposes, outdated. In their place, contemporary Muslim societies will have to seek other means and/or instruments for mobilizing revenue. These instruments will have to rely, instead, on *shura* and other popular participation alternatives.

Contemporary scholars agree that there are a number of practical tools, in addition to those divinely prescribed, that could and perhaps should be borrowed from the experience of the early Islamic state. Particularly significant is the policy of supplementing *zakah* by other levies recognized by Islam (such as, *khums, ushr, kharaj and wazifas* in order to meet the basic welfare needs of Muslims. According to some scholars (Awad, 1989, for instance), this is permissible and imperative.

The supplementary nature of taxes relative to *zakah* is not an issue among contemporary scholars. They are more interested in whether or not taxes can be imposed for reasons other than aiding the poor. On this question earlier scholars took the position that levying taxes for such purposes could cause considerable hardship and perhaps even the impoverishment of the people. These scholars also realized that revenue from what have been referred to as traditional sources was sufficient to meet the expenditures deemed appropriate during the early Islamic state.

Most contemporary scholars, with few exceptions, favor the fiscal alternative of imposing taxes as long as the objectives prescribed for the levy meet the rigorous test of providing public goods and services to Muslim communities and users (See Awad, 1985).

The condition of linking taxes to end-uses has strong support in Islamic fiscal policy. The imposition of any tax in an Islamic state must, according to Awad (1985), be justified on the basis of what the tax revenue is to be spent on. Since *zakah* is set aside for specific purposes, a Muslim state may impose a tax in order to meet an essential need. Taxes that strengthen the economy and enable the state to meet these and other objectives and/or goals by improving the resource allocation, stabilizing income, etc., must, according to Awad, be permissible.

The debate continues on the use of *zakah* revenue for development purposes. *Zakah* for some is intended to make the needy self-sufficient in the shortest possible time, and also to provide the poor with their immediate consumption needs. The position that such a goal cannot be satisfied by investing *zakah* proceeds in projects that take time to pay off (i.e., have a long gestation period before they mature) still remains unresolved.

There are, on the other hand, those who see this issue as being moot since it is possible, in principle, to finance similar programs out of *zakah* if such revenue is paid in advance of the year of collection, or alternatively, if the state can borrow against future *zakah* proceeds. The latter position is supported by historical antecedents (for instance, the case of advance payment of *zakah* in favor of the Madinah State, the Prophet (pbuh) having borrowed from Umar and, on another occasion, from Safwan. (Reported by Al Baihaqi; see Al-Qardawi, 1986). It is reported that Caliph Umar obtained camels for the state on credit (Al-Qardawi, 1986, p. 825). Repayment of this credit had to be made when, at a later date, the *zakah* proceeds had been collected. According to Awad (1985), this does resolve the controversy over the use of *zakah* proceeds in financing projects that are defined to be in the interest of the poor.

The importance of this discussion for contemporary fiscal policy is the suggestion that there is, albeit implicitly, a logical order in the formulation of fiscal policy in the Islamic perspective. This hierarchical development of fiscal policy begins with the functions of the state, is followed by fiscal instruments as sanctioned by the Qur'_n and *sunnah*, and then by items of expenditure as exemplified in the priorities and plans of the contemporary state; and finally by the revenue required to meet corresponding items of expenditure.

The logical sequence follows from the structure of the early Islamic state: that is, defining the functions of the state, then its goals and priorities, followed by the definition of the cost of programs in order to formulate corresponding expenditures, and finally by mobilizing resources/revenue for the expenditures.

In so far as this establishes a budgetary equilibrium between expenditure and corresponding revenue, the system of sequential policy formulation makes it easy to work out and implement budgetary plans and allocations.

We take this hierarchical presentation of fiscal policy formulation during the early period of the Islamic state as given so as to logically present the case for the contemporary state.

The contemporary state has great latitude and flexibility in mobilizing resources to meet its prescribed expenditures. First, it should adopt the policy of establishing the traditional sources of revenue which were the cornerstone of the early Islamic state. The fundamental role of *zakah* in this structure will remain the critical element around which all else revolves. This may, in turn, be supplemented with other fiscal instruments as circumstances warrant.

Justification of goals, priorities and costs will have to be made by means of consensus and *shura* in order for the state to be able to define society's preferred ordering of developmental schemes. With this in place, the contemporary state must rely on the *ummah's* plebiscite so as to set its goals. These issues are critical in the case of the development of related programs and projects, since revenue mobilized through the first set of sources, i.e., the traditional sources, cannot be used to meet the expenditures required for developmental programs and projects. The state must then seek authorization to devise supplementary taxes in order to implement the *ummah's* priorities. Taxing the public in order to pay for social and economic development programs should, in any case, be the last resort. This option can only be entertained if the *ummah* chooses priorities that take these programs into account, in which case, this method of financing would take precedence over other options.

5. FINANCING PUBLIC SECTOR NEEDS AND PRIORITIES THROUGH TAX AND NON-TAX SOURCES

The contemporary state is mandated to steer the economy towards prosperity and in so doing improve the standard of living of the society. It is to do this through the implementation of well-conceived developmental programs that identify the community's priorities and preference ordering schemes. These development programs normally cause substantial macro-economic transformations and are thus, structured in such a way that the quality of the social and economic life of the community is, in the long run, upgraded relative to a given base period.

In the Islamic perspective, the functions of the state are well-defined. We have elaborated this extensively in the preceding sections of this paper. There is sufficient scope for the contemporary state to accommodate both the dynamics of change as a result of the temporal and/or environmental conditions prevailing at the time, as well as to replicate, albeit with some necessary modification, those experiences the state finds beneficial from its counterparts in the early period of Islam.

Taking this into account, the activities of the contemporary Islamic state are likely to have a tangible effect on its citizens, since these activities have macro-economic implications, are target-oriented and are temporal by definition (i.e., programs have a life of their own and are place/location specific). Public sector involvement can be found in the civil defense establishments and industries, in the economic and social sectors, in the provision of infrastructure and supporting facilities, in institutions, in the catering services, and in many other less easy to define places depending on the level of sophistication in the particular locality or environment.

Given this level of involvement in the affairs of the state, the government is likely to face large expenditures in operating the state apparatus and institutions. Notwithstanding the size, complexity and structure of government, we wish to highlight, in this last section of the paper, some plausible options for resource mobilization by the contemporary public sector through tax and non-tax sources. Implicit here is the view that the expenditures outlined have a corresponding source of revenue and that these sources, unless proven otherwise, have a wide range of applicability in the Islamic perspective.

By way of strengthening the resource mobilization capability of the contemporary state, the view is adopted here that the instruments presented could be used essentially to supplement the prevailing modes discussed in the section on "Traditional Sources of Revenue". The contemporary state may thus explore the acceptability of the instruments listed here from the perspective of the *shari'ah* as well as from the ability of citizens to bear the burden of the tax.

Taking this into account, the set of possible fiscal policy instruments likely to be employed by the contemporary state may be classified into two general categories, i.e., non-tax sources of revenue and tax-based sources. These are discussed in detail below as instruments supplementary to the traditional sources of revenue which we consider, like others have done in the past, to be the basis for fiscal policy formulation in the Islamic perspective.

5.1 Non-tax Sources of Revenue

I. Philanthropic Agencies

As with the early Islamic state, the contemporary state may seek assistance (donations, grants and other financial contributions) from domestic philanthropic agencies. This source of revenue has always been significant, because those who give in the way of Allah find a considerable utility in this philanthropic generosity.

Revenue mobilized by this voluntary means could be strengthened by allowing donors an active participatory role in the programs for which their funds are to be used. This participation would sharpen the incentive of donors to come forth on behalf of certain social and public sector programs of their own which could, in turn, be integrated into the range of development projects. Such cooperation should be encouraged by the contemporary state in whatever form. It will ensure the participation of the appropriate philanthropic agencies.

A similar approach may be adopted with respect to foreign-based philanthropic agencies except that their voluntary contributions may be exclusively oriented to financing the expertise and technical components of projects in Third World countries. The contributions of some international philanthropic agencies, for example, during Africa's severe droughts and civil strife, were significant in terms of the emergency food aid, medical relief, and transitory shelter and other stop-gap programs that saved the lives of millions of stricken people whose governments could not help them.

II. Government Enterprises

a) Profits from State Enterprises

In the recent past, the legacy of the contemporary state has been one of involvement in some economic enterprises that were best left in the hands of the private sector. This condition was particularly discernible in countries where the private sector was small or inactive. Hence there is today a proliferation of government enterprises in the production and services sectors of the economies of the majority of emerging Third World countries.

In the case of some small economies government enterprises are ubiquitous in agriculture-based industries, in textile industries, in fruit-packing industries, in sugar refining and affiliated industries, in milk and meat production and packing industries, in fertilizer production, and in a host of other related enterprises.

Even though the performance of these production sector government enterprises is rife with economic difficulties, there are considerable number of enterprises which are competitive and, therefore, financially feasible and lucrative. Where government enterprises satisfy these descriptions and are, therefore, profitable, the advantage of mobilizing revenue for the state from them, admittedly, appears good. Profits from government enterprises, wherever these have proven viable and consistent, have been used to augment the ability of the state to generate additional revenue thereby strengthening the financial position of the national treasury.

b) Equity Participation by the Private Sector in State Enterprises

Some successful government operated enterprises/projects may be opened up to the private sector in the form of equity participation. Private individuals and/ or groups may acquire equity in these enterprises. This is advantageous in that private sector management initiative as well as its capital will most likely be used to sharpen the competitive edge of such projects. Equally, there are other projects that are best left in the hands of the state for reasons of national interest.

Equity participation from the private sector strengthens the ability of the government to mobilize revenue from the private sector, thus permitting it to entertain wider expenditures identified through *shura* and implicitly, the priority ordering scheme alluded to in the preceding sections. Under this sort of arrangement, the national treasury will be strengthened to the extent of the equity participation. If private sector managerial acumen is made an integral part of these projects, then the likelihood is that these projects will be profitable for both parties. In this case, the profits accruing to the owners will most probably be meaningful and stable. At any rate, the contemporary state stands to benefit in this sort of joint enterprise initiative.

Equity participation may also be opened for certain well-defined projects by foreign individuals and organizations. These should be defined on the basis of their conformity with *shari'ah*, on national priorities and, additionally, with a view to establishing a competitive environment in favor of some domestic goods and/or the imported components of local manufacturing enterprises.

c) Economizing Initiatives and Privatization

The state may find it a sound economic policy to transfer some enterprises to the private sector. There are a number of economic reasons for adopting such a policy. In so doing, the state would remove one of the most troublesome items of expenditure and would save scarce community resources (hence, the economizing effect) on this or similar undertakings. Rather, it would be in a position to divert these resources to areas with a more pressing need. This sort of liquidation of government enterprises in favor of privatization applies only to those projects most suitable for private sector operation. Public goods are naturally not included in this sort of transfer arrangement for fear of denying any particular segment of the population the right of access.

III. Public Borrowing

There is an historical precedent for public borrowing. The case of the Prophet's (pbuh) Madinah State, is a vivid instance. It was reported, as we have pointed out earlier that the Prophet (pbuh) had an advance payment of *zakah* proceeds one year before maturity (See Al-Qardawi, p.825). In another instance, the Prophet (pbuh) was reported to have borrowed military equipment for his army in order to prepare for the Battle of *Hunain* (See *Al-Nisa'i*, p.314).

5.2 Tax-based Sources of Revenue

This category of sources of state revenue is considered the last resort in relation to those discussed earlier. Therefore, traditional sources and contemporary non-tax sources of revenue take precedence over tax-based sources. This is the premise under which tax-based sources of revenue are entertained in the Islamic perspective.

Taxes, as a source of revenue of the last resort, may be imposed as a deterrent to *israf*, or as a disincentive mechanism to discourage hoarding profits from monopolies and windfall gains. Taxes may also be a mechanism to check indulgence in the *muharramat* (forbidden things). As such, this would be an administrative issue.

Alternatively, taxes may be imposed by the state in order for it to circumvent conditions warranted by the real world circumstances in which the state finds itself at any given time. Even though the state may be justified, given the conditions just stipulated, it may have to get the community's approval. This last condition makes the *shura* a necessary recourse that could validate the imposition of a tax, and if acceptable, determine whether the burden of tax can be met, willingly and without compulsion, by those who can afford to pay it. This general rule does not cover taxes that contradict the spirit and intent/utility of the traditional sources of revenue of the Islamic state as sanctioned by the Qur'_n and *sunnah.*

Assuming that all the necessary conditions required for imposing a tax are fulfilled, the state will still be expected to define the nature of the tax to be imposed as well as how equitably it should be distributed among the taxpayers. In the following pages, we will attempt to explore tax options that contemporary livestock-based economies may look into as potential instruments for mobilizing resources.

I. Grazing Permit on State Land

This tax may be imposed on state administered land for which individuals may be licensed to acquire user rights, for a specific period of time. It may be interpreted as a user tax in which case the uses would reflect those activities to be undertaken on the land that are different from cultivation. This distinction is important in that it will define the purpose for which the individual is to use the land. As an illustration, state land suitable for grazing may be administered through a mechanism similar to the Bureau of Land Management (BLM), whereby access by livestock owners is permitted only during a specific period of the year. Taxes will be imposed subject to the carrying capacity of the BLM land, that is the size of the herd to be grazed taking into account the ability (climatic, physical and soil structure, etc.) of the land to replenish itself during the non-grazing period.

The rationale of this type of activity in terms of the management of fodder as scarce resource is very significant for livestock-based economies.

Unlike *ushr or kharaj,* this grazing tax on state land is temporary in that it is adjusted according to the length of the grazing season. These and such other relevant conditions as the rate of tax, etc. will be rigorously defined by the BLM on behalf of the state. Therefore, this tax should not duplicate or contradict *ushr or kharaj.*

This tax may also be seen as a service charge since the BLM enhances the quality and productivity of the grazing land. There is great potential for this tax to supplement the resource mobilization which was discussed earlier. This is especially true for a number of OIC member countries. (e.g., Sudan, Somalia) and most of the states in Western Africa which have large livestock-based economic sectors.

II. *Zariba* Stall Tax

In livestock-based economies, the transaction between sellers and buyers of live animals can only take place under state supervision. Ensuring the health standards of animals through veterinary examination takes place in stalls referred to as *"Zaribas"*. In Somalia, for example, this is a traditional function of the state.

Zaribas are animal stalls built and managed by an agency of the state. Sellers bring their animals to the *zaribas* and have them examined by a qualified veterinarian, who upon finding the animal healthy, authorizes the transaction to continue. This service has become an integral part of the marketing process for live animals sold either for domestic use or for export. Only the intensity of the veterinary services offered differs between these two end uses, i.e., domestic and export. For instance, in the case of the sale of live animals for export the veterinary seal and health authentication certificate of the examining officer at the *zariba* is compulsory. Without this seal of approval, the port authority would not allow these animals to be shipped.

This service charge should be strengthened in order to supplement other sources of revenue for the state. The degree to which this makes a significant contribution to the state treasury would naturally depend on the size of the livestock economy in question, and the efficiency with which this service meets the health and other marketing standards for both the local and international markets.

III. Slaughter Service Charge

This is a service charge that could become a significant source of revenue for those states which are endowed with large livestock resources or which have or can create a strong local demand for livestock by means of the appropriate market channels. Taken in combination with the Zariba Stall Tax and the traditional taxes already discussed the potential of generating a constant flow of revenue for the contemporary state from this source deserves further attention.

The services offered through these facilities that would justify the service charge, include, among others: adopting stringent health procedures for the certification of livestock in order to ensure that consumers are buying healthy animals worthy of consumption; establishing proper public standards of sanitation and enforcing regulations especially in the disposal of offal and the unused parts of slaughtered animals; ensuring a sanitary environment in and around slaughter houses instead of discarding unwanted parts for scavengers. (e.g., dogs, cats, vultures, etc.) thus causing public nuisance and unwarranted health hazards; and maintaining a high standard of sanitation in the cleaning of carcasses and the packing of meat.

IV. Other Service Taxes

It is within the services offered to the public by the state that there remains room for manoeuver in terms of future taxes. The multitude of services offered by the state or its agencies may be used to supplement the effort to mobilize revenue.

The use of public road network could be adequately taxed. This is not a new initiative. It is common in both secular and contemporary Islamic states. Only the degree of intensity of the use of these options differs between states. This sort of tax is, therefore, found under different names.

There are, for example, road or user taxes, motorcar circulation charges, and a host of related taxes which have their origin in the actual use of the services offered through this general classification of activities. Of particular significance today are taxes based on the use of motor vehicles. Even though these are generally covered within the service-oriented charges discussed above, they are unusual in the sense that they affect a multitude of people and machines. Considered, therefore, in the context of a highly mobile and motorized population the revenue that could be generated by the state from such services (operator or driving licenses, vehicle circulation charges, annual motor vehicle inspection charges, etc.) is likely to be very large and reliable in the long run.

This is also true for postal, recreational, tourist and other such services offered by the state. Taxes covering such services as airports and sea ports in the form of user-charges, most commonly known as exit-taxes for both nationals and visitors of a country, have also become common. Taxes generated from these supplementary sources could then be used to strengthen the basic sources of revenue already discussed.

6. SUMMARY AND CONCLUSIONS

Future fiscal policy should emphasize areas where *ijtihad* can be accommodated. This is necessary in order to make room for fiscal policy instruments likely to be generated in the future. The following are some areas in which a considerable latitude for change or innovation can be accommodated taking into consideration the expenditures confronting modern Islamic states:

a)There appears to be scope for scholars in economics and *shari'ah* to empirically quantify the significance of introducing relevant fiscal policy instruments in resource mobilization and in so doing assess the potential revenue and contributions likely to be generated through the implementation of such fiscal policies.

b)The estimation of the carrying capacity of *kharaj* land used for grazing would be a logical starting point. Once determined, the creation of an institution (of the BLM type) to administer and regulate *kharaj* land in order to use fodder efficiently would appear feasible. Livestock owners would be charged according to the number of animals using the *kharaj* land, the period in which the land is expected to be utilized for grazing, and the season in which livestock owners wish to use the land.

These are important parameters in the estimation of the carrying capacity of *kharaj* land as well as the tax per animal, depending on what other services the BLM offers to livestock owners while using *kharaj* land.

c)Regarding *zariba* service charges, economists could devise methods of linking this tax to the supply and demand for red meat that originates from an Islamic state so that this could be used as the basis for reform of the quality of service offered to the domestic as well as the international market. In so far as this affects the foreign trade of the state, one would expect significant macroeconomic implications to be generated. The service charge could then be justified through the services offered subject to consumer preferences. (e.g., age, weight, and health certification of the animal being traded through the *zariba* under the aegis of an appropriate institution of the government).

d)With respect to slaughter facility charges, the principle and justifications discussed in the *zariba* service charge may be carried one step further. The nature, extent and quality of services offered to consumers may be improved to justify the slaughter facility charge as well as support consumer tastes and preferences. The community's sanitation and environmental standards are also affected because in the absence of these facilities, the public is faced with numerous health hazards.

e)There are many other fiscal instruments that could be justified through the facilities and services offered to the community. These may also be enhanced not so much as to generate revenue, but with the view of ensuring the safety, health, educational, aesthetic and other priorities of the community. A tax of this sort would be justifiable only when these factors including an equitable sharing of the tax burden are addressed.

f) Without taking into consideration the priorities and the welfare of the community, the state will not succeed in imposing a tax no matter how significantly it might contribute to the national budget. The approval of the community through the *shura* process should, in all cases, be sought. The justification of appropriate fiscal instruments of taxation through the principle of offering the community a needed service in return makes good sense economically and socially and is in accordance with the *shari'ah.*

g) Taking into account the number of needs and activities financed by the state, the community must be frugal in the manner in which it rations its scarce resources. Philanthropic contributions and giving in the way of Allah should be encouraged so as to provide the state with a significant proportion of the required revenue in order for this to supplement other sources. This is an Islamic tradition that should be maintained irrespective of the circumstances in which Muslims find themselves today.

h) These and other contemporary methods of mobilizing revenue assume a secondary role relative to the traditional sources of revenue which we have already discussed. *Zakah* is the pivot around which contemporary fiscal instruments revolve. Instruments that contradict the intent and purpose of *zakah* (including those in this traditional basket) should not be entertained. Therefore, an Islamic state seeking to mobilize resources through taxes must realize that this is a last resort since it must have already exhausted at least in principle all other admissible and relevant options.

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