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Strengthening *Al-Khums* towards National Economic Sustainability: A descriptive study

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Abstract

Al-Khums is a tax that is highlighted as a contributor to the economic growth of the country. Objectively, *al-Khums* is obligatory for the citizen to maintain the sustainable development of the country. This article used the qualitative method. Thus, the tax collection practiced by the government provides for tax deductions for individuals who are already qualified. Nevertheless, according to the national presentation budget, the existing taxes cannot cover the strength of the national expenditure. In this situation, the local authority must remember that Islam has been successful in practicing *al-Khums* as the economic growth of the country.

Keywords: *Al-Khums*; Islamic Tax; National Economy

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1.0 Introduction

Al-Khums is a tax payment introduced by Abdul Muttalib RA and practised by the caliphates during their reign (Ibnu Ishaq, 2004). As mentioned in the Quran, Abdul Muttalib RA dreamt of rediscovering the well of Zam Zam. Then Abdul Muttalib RA found various valuable treasures since the time of Prophet Ismail AS (Ibnu Ishaq, 2004). Therefore, he was worried that their rivals might find the treasure. Then he divided the treasure into five divisions, one for Allah and the rest for himself (Ibnu Ishaq, 2004).

Thereafter, the practise of *al-Khums* was implemented in his family until the first migration of Prophet Muhammad SAW (Alfred Guillaume, 1995). Thus, the first implementation of *al-Khums* was from the treasure, not from the spoils of war. It is obvious that the implementation of *al-Khums* in the Qur'an is an obligation for Muslims, because a Muslim's property is not an individual right (Abu Ja'far Muhammad, 1997), but should be divided into groups as mentioned in the Qur'an.

2.0 The Concept of *al-Khums*

Scholars have explained the concept of *al-Khums* on the basis of four fiqh mazahib and two aqeedah mazahib. They have their own opinions and perspectives on understanding *al-Khums*. Generally, the concept of *al-Khums* is the responsibility of a Muslim to pay taxes to the Prophet SAW and his family members, as the jurists of the Ahlul Sunnah Wal Jamaah agreed, and the figure of *al-Khums* is one-fifth (1/5), which is twenty percent (20%) of a Muslim's income or salary (Ibn Khaldun, 1971).

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On the other hand, the development of the history of thought is discussed, which can be pointed out to the community to significantly and critically understand the concept of *al-Khums*. The idea of *al-Khums* can also help to ensure that the Muslim economy does not depend on zakat alone.

For example, the payment of *al-Khums* provides sufficient funds for those involved in Islamic da'wah and in some ways strengthens Islamic rule. Firstly, the *al-Khums* fund helps religious members to invest time, energy, and trust in spreading da'wah, answering their doubts, and explaining Islamic laws and regulations to the public (Ali Y, 1946). Moreover, this task has an impact on the Muslim community, especially when it comes to the financial problems of scholars and the production of more Islamic economic scholars. Secondly, it is a responsible tool in the fair and equitable distribution of funds for needs irrespective of religion and different classes in society (Ali Y, 1946).

From a Sunni perspective, the meaning of *al-Khums* is the war booty tax (*al-ghanimah*) or known as property acquired after a war (Muhammad Ibrahim al-Syafi'i, 1989). *Al-Khums* is one of the Islamic laws that are essential for strengthening da'wah, education, and society. *Al-Khums* are often used when it comes to dividing the spoils of war (*al-ghanimah*). During the reign of Saidina Umar Abdul Aziz, he categorised *al-Khums* to cover the following aspects, (1) booty (*al-ghanimah*), (2) items obtained from the sea (*al-ghaws*), (3) treasures (*al-kanz*), (4) mineral resources (*al-ma'adin*), (5) gainful earnings (*arbaah al-makaasib*, business profits), (6) the lawful (*al-halal*), mixed with the unlawful (*al-haram*), and (7) land transferred from a Muslim to a dhimmi (a free non-Muslim who is protected by a treaty of surrender) by the latter's purchase of it (Abu Jafar Muhammad Ibn Hassan Al-Tusi, 1958).

3.0 The Roles of Taxes in Islam

In Islam, the tax is known as *dharibah*. *Dharibah* comes from *dharaba* (ضرب), which means debt, land tax, and others. It also means something that has to be paid or something that is a burden. Thus, people usually see taxes as coercion or a heavy burden. According to Al-Qaradawi (1988), taxes are very similar to zakat in several aspects, namely:

- i. The elements of coercion or obligation.
- ii. The taxes are paid to the government while the zakat has to be paid to an authority call 'amil zakat.
- iii. Payment of taxes or zakat does not bring any specific return to the *muzakki* (taxpayer).
- iv. The purpose of the taxes is economic, political or social welfare, whereas the scope of zakat is more social.

Taxation has long been known in Islam and is practiced by Muslims in economic activities in Islamic countries. According to M.A Manan (1970), the practise of taxation in Islamic countries shows that the concept of taxation has existed earlier in Islam. Some fiqh scholars said that the government could collect the taxes, and some of them called the tax *dharaiib* (plural for *dharibah*). Besides, some Maliki scholars called the tax *al-wadhaif* or *al-kharaj*, and the Hanafi scholars named it *al-nawaib* (the plural of the word *na'ibah*, which is a term for something that replaces someone from the sultan's side with something right or wrong. In contrast, the scholar of Hanbali called it *al-kulaf al-sulthaniyah*, which means the burden of property imposed by the sultan.

4.0 Discussion of the Taxes Obligatory

According to al-Qaradawi (1988), the purpose of the taxes is to collect money and use it for the needs of the country. Other means like zakat are restricted to *asnaf* only, as mentioned directly in the Quran. Therefore, property like zakat can only be used for purposes that are permitted in Islamic law. For example, zakat property cannot be used for building roads, bridges, and other developments in the country. Therefore, to fund the need for development costs and national expenditure, the government has no option but to impose taxes on the citizens.

Islamic scholars allow the government to impose taxes as a source of national income. The citizen must pay the taxes when asked to do so. Al-Qaradawi (1988) quotes imam Al-Ghazali (Shafi'i scholar) who allowed that when the treasury is empty and there are insufficient funds to spend on the army. It is feared that the enemy may invade the Islamic State or start a rebellion, then it is permissible for the government to call on the citizens to fund the army. In the early days of Islam, this view did not exist because the fund was quite large. Unlike today if the government does not impose taxes, it loses its power and the country will resist the rule of infidels, although everything depends on the strength of the government.

Al-Qaradawi (1988) pointed out that the government has the right to compulsory zakat and collect taxes from capable citizens. The imposition of taxes is a way of distributing income that serves as a source of revenue for the government and for the collection of zakat. All forms of taxes imposed by the government have only one purpose: the welfare of the people, whether Muslims or non-Muslims. On this basis, Islamic countries can impose taxes on their citizens.

In Islamic Jurisprudence, *al-Khums* is a national income other than zakat, a fair tax established by the jurists of the various mazahib. The Hanafi scholars stated that citizens recognise a fair tax and prescribe its implementation. Al-Qaradawi (1988) cited several opinions in four mazahib on the taxes permitted in Islam. As al-Qaradawi said, Ibn Abidin stated that the *an-nawaib* (the name of the tax in the Hanafi school) is acceptable. It is used to expand the shared river, soldiers' salaries, release of prisoners and others, but when the wealth of Baitul Mal runs out, it is obligatory to tax the people regularly.

What the sultan or the government owes the citizen for the common good is a duty and a right like the *kharaj*, also like the salaries for the police or the army, the construction of roads, etc. Therefore, Ibn Abidin also said that this matter should not be reported to the government or the Sultan so that they do not increase tax collection without a legal right. The law was known only to the jurists and their followers. It was not given to the authorities at that time, but they were supposed to burden the citizens with it by giving reasons or not. The Hanafi jurists explain that what is obligatory on the sultan or the government for the benefit of the people is a debt that must be paid

and a right. According to Maliki, the kharaj is obligatory for Muslims and is part of the method of masalih-mursalah. Moreover, there is no doubt about collecting the kharaj. On the other hand, Imam Ghazali and Imam Syatibi allow kharaj when the Baitul Mal is in a risky condition or has no funds, while the government needs stable finances for the citizens and the state.

So, for al-Qaradawi (1988), all four mazahib allow taxation in Islam, but the taxation must be fair. However, some jurists have not promulgated their fatwas on the possibility of taxation because they feared that the authorities would exaggerate in taxation and do injustice to the people.

While Islamic scholars explain that the purpose of taxation is mainly to provide public services and facilities (Chapra, 1993), the government can levy taxes other than zakat to achieve this goal as long as they serve the maslahah of a country. Similarly, as M.A Manan (1970) said, the tax system in Islamic countries must be based on the concept of justice. Therefore, direct or indirect taxes must be administered fairly and must not oppress any particular party or group.

The concept of justice applies comprehensively to all aspects of life, especially to the rights between government and citizens. Some arguments discuss the necessity of the concept of justice in the Qur'an. In general, the concept of justice and taxes is mentioned in the verses. Allah says in the Qur'an in surah an-Nisa 'verse 58, which means;

Verily Allah commands you that what you have been entrusted with (i.e. the mind, body soul, and free will) you return to its owner (Allah) and that when you judge between people, you judge with justice.
Verily Allah admonishes you with that which is excellent; verily Allah is All-Hearing, All-Seeing.
(Surah An-Nisa': 58)

According to the above verses of the Quran, in the first place, the government must collect taxes from the citizens and they are obliged to abide by it. Moreover, the taxes levied must be based on the consideration of the true welfare (muhaqqaqah). However, then, there is always a misunderstanding between maslahah and mafsadah. According to the literature, maslahah is a good thing that benefits an individual or a particular group. However, at the same time, the citizen suffers from the unfair taxes imposed by the government. Therefore, Umer Chapra (2014) and al-Qaradawi (1988) have mentioned some things that can be imposed by Islamic countries as part of fair taxation.

5.0 Fair and Regular Taxation

One of the sources of the flow of treasury is taxation. Umer Chapra (2014) argues that the taxation system in Islamic countries needs to be improved and revised so that the government can achieve growth of revenue in a reasonable manner and efficient administration. Fair taxation means that it is in accordance with Shariah (shariah compliance). Although taxes can be implemented in Islamic countries, certain conditions must be met for the government to collect taxes. Al-Qaradawi (1988) has mentioned four conditions for a tax to be considered fair taxation and for citizens to support it. Thus, taxes that are recognized in Islam must fulfill the following condition:

5.1 The Financial Resources of the State

The first condition is that an Islamic country has financial problems, which means that there are no other resources available to finance government expenditure. For example, a person's property cannot be claimed and is subject to obligations such as customs duties or fees. Similarly, his property cannot be damaged or taken away and something imposed on him unless it is urgent. On the other hand, the government has a source of revenue with which it can finance all its expenses. Therefore, according to al-Qaradawi (1988), the government should not publicly impose a tax obligation on the citizen.

Scholars stress that the government should pay attention to this condition. Some scholars call for the possibility of imposing taxes when Baitul Mal has no funds or the state capital is empty. Al-Qaradawi (1988) explained that the scholars were very particular about the payment of taxes to the city because they feared that whoever made the rules would greedily seek wealth regardless of whether the government needed funds or not, and then burden the citizens with an obligation to pay beyond their means.

5.2 Fair Tax Charge

According to the Shariah, al-Qaradawi (1988) said that if wealth is urgently needed and there is no other source, only taxes can be levied. So, the situation is not only possible but even obligatory. Tax collection must be done in a certain way without discrimination. The meaning of fair is not literally the same, because equating two different things is impartial. Nevertheless, fairness or legality is based on economic and social considerations, so the total tax charge is not equal. The aim is to avoid the accumulation of wealth only among certain groups of rich or poor, but Islam emphasizes that the distribution of income must be fair and eliminate substantial differences between them. Therefore, the tax charge must take into account the problems of the individual, such as alimony, family burdens, personal debts, and others.

5.3 The Use of Taxes for the Benefit of Muslims

Taxes are not only required by lawful collection but the tax revenue must also be used for the public interest and not for the benefit of particular individuals or groups. Therefore, al-Qaradawi (1988) explains that the benefit of the community is the most important thing to count according to Islamic law.

5.4 The Consent of the Islamic Experts

The government cannot levy taxes unless it obtains the consent of the Islamic experts and scholars of the community. A person's property is illegally tampered with and charged to an individual or group. If there is a vital need that requires the levying of a portion of property from the wealthy, then the government must seek the approval of the Islamic experts and scholars when levying. Therefore, governments can maintain these requirements to assess the need for government costs and know that there are no other sources of funding to finance a country. Then, the government can issue regulations to ensure fair distribution of tax levies by consulting the competent Islamic experts and scholars. Thereafter, the government should monitor the use of tax revenues to ensure that they are used for the benefit of the public or community.

M. Umer Chapra (2014) also speaks of a fair tax system. He agrees with the opinion of the jurists on taxation; three conditions show the application of fair taxation:

- i. Taxes are levied to fund things that are considered very necessary in the interest of realising the maqasid.
- ii. The tax charge is not too heavy compared to the ability of the people to bear it, and it must be distributed equally among those who can afford it.
- iii. The revenue from tax collection must be carefully spent to meet the needs.

A tax system that does not meet these characteristics is considered oppressive and is rejected by the fuqaha. Umer Chapra (2014) also agreed with al-Qaradawi (1988) and argued for the right of an Islamic state to increase state revenue through taxes other than zakat. Since zakat revenue is mainly used for the welfare of the poor and needy, the state needs various other financial resources to perform all the functions of effective distribution and stabilisation of allocations. Nevertheless, the situation is worrying that the right to collect taxes is abused and becomes an instrument of oppression of the people (Umer Chapra, 2014). However, this view does not invalidate the concept of taxation in Islam.

Furthermore, it is the right of the Islamic state to levy a legitimate tax. Therefore, levying it through the emergence of new taxes is not realistic, because the taxes that modern Islamic countries levy today are limited to the types of taxes discussed by previous fuqaha (Chapra, 2014). However, the situation has changed, and there is a need to create a tax system that takes into account the changing realities, especially the need for a modern economy that is thriving and efficient in terms of social and physical infrastructure and is committed to the realisation of maqasid in today's context. The application of such a tax system must be fair and lawful and generate sufficient revenue to enable a modern Islamic state to perform its various functions effectively without compromising the incentives to work, save and sow.

6.0 Al-Khums as the Source of Sustainability Economic Growth

The imposition of al-Khums has positive and critical impacts for society and politics. Al-Khums is an Islamic economic system that is obligatory for Muslims. Therefore, al-Khums will support the economy of the country. It is also claimed that al-Khums is still valid today. Al-Khums means taxes that are only one-fifth above 20 percent. In the terminology of Islamic law, it is one-fifth of the accumulated wealth. Then it is paid as Islamic tax. Through this implementation, the excess wealth is transferred from the selective sector to the underprivileged citizens. This is done at two different levels: the individual and the collective level. Table 1.0 below shows some of the tax components implemented by the government.

Table 1.0: statistic of tax accumulation in the year 2017

No.	Direct tax components	2017
		(RM Million)
1.	Individual	31,901.57
2.	Company	68,801.94
3.	Stamp duty	5,670.32
4.	Withholding tax	3,266.38
5.	CKHT	1,467
6.	Cooperatives	171
7.	Other taxes	163
8.	Petroleum	20,082
Total		137,035.00

Thus, the collection of direct taxes in Malaysia needs to be improved to ensure that tax revenues are used more competently and efficiently. Efficiency in the collection of al-Khums can contribute to the economic sustainability of the country. Two methods are available for the collection of direct taxes:

6.1 Tax Reform

Islamic countries generally do not meet these conditions because their tax system is inefficient and unfair. Islamic countries will certainly not receive excessive taxes. Therefore, tax revenues of Islamic countries are still relatively low, reaching only a few percent of gross domestic product (GDP). Direct taxes contribute only marginally to tax revenue and also make the tax system regressive.

There are three components of taxes: tax base, tax rates, and tax avoidance. The smaller the tax base, the higher the tax rate, and the higher the tax rate, the greater the incentive to avoid taxes. Therefore, the more illegal money there is, the higher the amount.

Nowadays, some people try to avoid paying taxes. Some of them avoid paying taxes because of their mindset. For example, they think that their wealth will decrease if they pay taxes, or that the government will increase taxes, etc.

Then, to avoid paying taxes, they will file a false report so that they can fix taxes as they like. They also refuse to pay taxes because they think that the administrative officials will ignore them, get a lower tax amount or hide the taxable item. In general, we need a reform of the tax system to maintain equality and elasticity.

6.2 The Benefit of al-Khums for Citizens' Expenditure

The prohibition of interest (known as Riba) is an important thing to be observed in an Islamic country. It shows that Islamic countries need to minimize their loans to ensure that interest rates are not higher or burden several Muslims. This can be the case if the government sets a strict rate for its spending and does not exceed the country's limits. For example, the government used to spend almost 80% of the tax revenue on national debt and only 20% can be used for the development of the country and its citizens. Currently, the country's expenditure is dependent on tax revenues. However, this is not an obstacle to maintaining the country's development project. The country could be able to allocate funds or assets for all projects through Shariah-compliant methods without applying for a loan to avoid interest (riba).

The government also needs to encourage citizens to give donations such as endowment (waqf), zakat, sadaqah, and others to maintain and build more educational institutions, hospitals, housing for an orphanage or other social projects. Waqf institutions played an important role in medieval Islam. However, this potential is not fully realised due to luxurious lifestyles and tax policies that focus on lower class citizens. The rehabilitation of waqf or zakat institution must help reduce government borrowing.

Table 2.0: Annual tax revenue and report of Inland Revenue Board of Malaysia (LHDN)

No.	Year	Target (RM billion)	Total Revenue (RM billion)
1.	2017	112.3	123.00
2.	2018	*****	137.***
3.	2019	*****	140.**
4.	2020	121.**	123.***
5.	2021	143.**	132.***

Note: The annual tax revenue report is inaccurate as Parliament only endorsed the report of the Inland Revenue Board of Malaysia up to 2017. The tax revenue for 2020 and 2021 is reported in the newspaper.

As shown in table 2.0, there is an increase in total revenue from 2017 to 2019. But, what about the distribution among government sectors such as medicine, education, macro and micro enterprises, international trade, travel, rural development, administration, and others? There is a consumption gap between the sectors. Therefore, the tax revenue from the implementation of al-Khums will help the government. Moreover, al-Khums benefit Muslims, not the government itself.

7.0 Conclusion

It seems that al-Khums has a positive impact on the growth of the government. The success of al-Khums was proven during the Abbasid caliphate when citizens had to pay one of fifth their salary to the government. In addition, the government's ability can also carry the maslahah of daruriyyat through the distribution of revenue from tax collection, providing micro and macro spending for sustainability and economic stability. The ability of al-Khums is the essence for individual or societal interest. The interest of the individual means that his profits are clean, pure, and halal. In contrast, the interest of society means that the payer of al-Khums has been indirectly fair for the economic growth of the Ummah and has helped the government to manage efficiently and distribute effectively.

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