

THE PRINCIPLES OF ZAKĀT PAYMENT AND THEIR FIQHICAL ANALYSES THE EXAMPLE OF MABSŪṬ

ZEKĀT ÖDEMESİYLE İLGİLİ ASILLAR VE FIKHÎ TAHLİLLERİ MEBSŪT ÖRNEĞİ

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THE PRINCIPLES OF ZAKĀT PAYMENT AND THEIR FIQHICAL ANALYSES THE EXAMPLE OF MABSŪṬ

Abstract

Islam has a legal system with its practical provisions. Since The Prophet (pbuh), its legal structure has been organised through classification and compilation, especially during the period of mujtahid imāms, and it has continued its development in the following centuries as it found a field of application. The principles, which are also described as the general principles of Islamic law, are based on the Qur'an and the words of The Prophet (pbuh), who expressed a lot of meaning with few words. Before the emergence of the science of fiqh, before it was written down and codified, these principles were in the minds of the mujtahids as basic principles and were taken into consideration in obtaining judgements. In addition to primary evidences, the rulings derived by Islamic jurists through methods of deduction (istinbāt) and the principles formulated thereby constitute key aspects that render Islamic law's universal and continuous nature both comprehensible and applicable. In the following periods, Islamic jurists determined some principles in line with the general rules they obtained from The Book, The Sunnah, the practice of the companions and the judgements of fiqh subjects, and made qawā'id and ḍawābiṭ a highly regarded discipline in the science of fiqh.

In this direction, from the second century of Hijri, when the science of fiqh began to be classified and edited with subject headings, fiqh principles began to be included in the explanation of the issues, and the principles that reflect the basic principles of fiqh and are important in the solution of legal issues were determined as general principles and applied in zakāt, which is a financial worship, as in every field. One of the important works showing the application of fiqh principles in zakāt is the book of the Hanafi jurist Imām Sarahsī (d. 483/1090) titled *al-Mabsūṭ*. Sarahsī, who annotated the opinions of the Hanafi madhhab's *zahir al-rivāya* in his book *Mabsūṭ* in an analytical and partially comparative way, builds the issues on the principles.

The method of payment of zakāt is directly related to the goods subject to zakāt, the means of payment, the common measures of value and the items that have the characteristics of goods, as well as being closely related to the assignment, which is one of the conditions of the validity of zakāt. In order for the property to be paid as zakāt or its value to be a substitute for zakāt and to relieve the zakāt obligor from his debt, the property in question must be able to be transferred to ownership, that is, it must fulfil the condition of assignment. In this context, whether the property is suitable for assignment or not is one of the main factors to be taken into consideration in terms of both the religious and legal validity of zakāt.

In this study, the principles related to the payment of zakāt will be determined only in the zakāt section of Imām Sarahsī's *Mabsūṭ*, and the forms of zakāt payment will be determined. With this determination, it will be tried to prove that the science of fiqh is built on a set of rules and basic principles together with evidence and methods through the payment of zakāt. In doing so, based on the principles identified, the basic principles that are suitable for being ḍābiṭ, even if they are not directly mentioned in the text, will be identified, their jurisprudential meanings will be mentioned, and their place in practice will be emphasised. Fiqhī principles (uṣūl) will be analysed in accordance with the subject flow of the book in general. However, the principles that are complementary or explanatory to each other will be tried to be included one after the other by abandoning the order of the book, thus aiming to ensure the integrity of the subject and contribute to the understanding of the qāidah.

The following conclusions have been reached in this article: In the formation of the

science of fiqh, the basic principles and rules of law were included along with the evidence and methods. Sarahsî, who commented on the zahir al-rivâya views of the Hanafî madhhab in his work *Mabsût*, built the issues on the principles, which are also called the general principles of Fiqh. In the *Mabsût*, the essentials in the sense of basic principles are also included in the worship of zakât with property. Principals, also called universal principles, have been effective in understanding the subjects of fiqh. Based on these principles, it has been determined in the *Mabsût* that zakât can be paid in three ways: from the property in kind subject to zakât, from cash or from another property in kind.

Keywords: Islamic Law, Hanafî Madhhab, Principles of Fiqh, Zakât, Sarahsî, The *Mabsût*.

ZEKÂT ÖDEMESİYLE İLGİLİ ASILLAR VE FIKHÎ TAHLİLLERİ MEBSÛT ÖRNEĞİ

Öz

İslam, ameli hükümleri ile bir hukuk sistemine sahiptir. Hz. Peygamber'den (s.a.s) itibaren özellikle müçtehit imamlar döneminde tasnif ve tedvin yoluyla hukukî yapısı düzenlenmiş, uygulama alanı buldukça da sonraki asırlarda gelişimini sürdürmüştür. İslam hukukunun genel ilkeleri olarak da nitelenen asıllar, Kur'an-ı Kerim'e ve kendisini az sözle çok mana ifade eden Hz. Peygamber'in (s.a.s) sözlerine dayanmaktadır. Fıkıh ilmi ortaya çıkmadan, yazıya geçirilip tedvin edilmeden önce bu ilkeler, hüküm elde etmede müçtehitlerin zihninde temel ilkeler olarak yer almakta, hüküm elde edilmesinde dikkate alınmaktaydı. İslam hukukçularının birincil delillere ek olarak ürettikleri hüküm istinbat yöntemleri ile elde ettikleri hükümler ve bu hükümler üzerinden belirledikleri hukukun temel ilkeleri şeklindeki prensipler de İslam hukukunun evrensel ve sürekli niteliğini anlaşılır ve uygulanabilir kılan önemli özelliklerindendir. İslam hukukçuları Kitap, Sünnet, sahabe uygulaması ve fıkıh konularının içtihatlarından elde ettikleri genel kuralları doğrultusunda bazı ilkeler belirlemişler, kavâid ve davâbıtı fıkıhta itibar edilen önemli bir ilim haline getirmişlerdir. Bu doğrultuda fıkıh ilminin konu başlıklarıyla tasnif ve tedvin edilmeye başlandığı hicri ikinci asırdan itibaren meselelerin izahında fikhî ilkelere yer verilmeye başlanmış, fıkıhın temel ilkelerini yansıtan ve hukukî meselelerin çözümünde önem arz eden asıllar, genel ilkeler şeklinde belirlenerek her alanda olduğu gibi mali bir ibadet olan zekâtta da uygulanmıştır. Zekât konusunda fikhî ilkelerinin uygulanışını gösteren önemli eserlerden biri de Hanefî fukahâsından İmam Serahsî'nin (öl. 483/1090) el-*Mabsût* adlı kitabıdır. Hanefî mezhebinin zahirü'r-rivâye görüşlerini *Mabsût* adlı eserinde analitik ve kısmen mukayeseli bir şekilde şerh eden Serahsî, meseleleri asıllar üzerine inşa etmektedir.

Zekâtın ödeme şekli, zekâta tabi olan mallar, ödeme vasıtaları, ortak değer ölçüleri ve mal niteliğine sahip eşyalarla doğrudan bağlantılı olduğu gibi, zekâtın geçerlilik şartlarından biri olan temlik ile de yakından ilişkilidir. Zekât olarak ödenecek malın veya onun değerinin, zekât yerine geçebilmesi ve zekât yükümlüsünü borcundan kurtarabilmesi için, söz konusu malın mülkiyete intikal edebilmesi, yani temlik şartını taşıması gerekmektedir. Bu bağlamda, malın temlike elverişli olup olmadığı, zekâtın hem dini hem de hukukî açıdan geçerliliği açısından dikkate alınması gereken temel unsurlardan biridir.

Bu makalede İmam Serahsî'nin *Mabsût* adlı eserinin sadece zekât bölümünde zekâtın ödenmesi ile ilgili asıllar tespit edilecek, zekât ödeme şekilleri belirlenecektir. Bu tespitle fıkıh ilminin bir takım kural ve temel ilkelerle birlikte delil ve yöntemler üzerine inşa edildiği zekât ödemesi üzerinden ispatlanmaya çalışılacaktır. Bunu gerçekleştiren belirlenen asıllardan hareketle, metinde doğrudan yer almasa da

dâbıt olmaya elverişli temel prensipler tespit edilecek, fikhî anlamlarına değinilecek, uygulamadaki yeri üzerinde durulacak, gerektiğinde fikhî değerlendirmeler yapılacaktır. Fikhî asıllar, genel olarak kitabın konu akışına riayet edilerek incelenecektir. Bununla birlikte birbirini tamamlayıcı veya açıklayıcı mahiyetteki asıllara, kitabın düzeni terk edilerek arka arkaya yer verilmeye çalışılacak, böylece konu bütünlüğünün sağlanması, kâidenin anlaşılmasının kolay kılınması hedeflenecektir.

Bu makale ile kısaca şu sonuçlara ulaşılmıştır: Fıkıh ilminin oluşumunda delil ve yöntemlerle birlikte hukukun temel ilke ve kaideleri de yer almıştır. Hanefî mezhebinin zahirü'r-rivâye görüşlerini *Mebisû't* adlı eserinde şerh eden Serahsî, meseleleri Fıkıh ilminin genel ilkeleri de denilen asıllar üzerine inşa etmiştir. *Mebisû't*'ta mal ile yapılan zekât ibadetinde de temel prensipler anlamındaki asıllara yer verilmiştir. Külli kaideler de denilen asıllar, fikhî konuların anlaşılmasında etkili olmuştur. Bu asıllardan hareketle *Mebisû't*'ta zekâtın, zekâta tabi aynı maldan, nakit paradan veya bir başka aynı maldan olmak üzere üç şekilde ödenebildiği tespit edilmiştir.

Anahtar Kelimeler: İslam Hukuku, Hanefî Mezhebi, Fıkıh Kâideleri, Zekât, Serahsî, *Mebisû't*.

Introduction

Before the fiqh was compiled, the principles in the form of general rules were in the minds of the mujtahids as basic principles in obtaining judgements and were taken into consideration in the deduction of judgements. In the following periods, Islamic jurists created a recognised field in fiqh by forming the literature of qawâ'id and dawâbit¹ in line with the general rules they obtained from the Quran, Sunnah, the practice of the companions and jurisprudence. The principles, which reflect the basic principles of Islamic law and are used as an auxiliary element in the solution of legal issues, were applied by the jurists in zakât as in all parts of fiqh. One of the important works that shows this application in zakât is Imâm Sarahsî's *Mabsû't*. The doctoral study on the principles in *Mabsû't* was conducted by Anar Gurbanov in 2018 with the title *Uşûl and Furû' Principles in Mabsû't of Sarahsî*.² The thesis covers the enti-

¹ Qa'idah are universal propositions that are applied to almost all areas of Islamic law and are universal statements that reflect the basic principles of law and cover the judgements of different matters completely or to a great extent. The dâbıt, on the other hand, is a narrower principle that encompasses issues related to only one part of fiqh. Even though the qa'idah and the dâbıt are synonymous concepts in terms of content and both of them express judgement in terms of being a principle and a principle, there is a difference between the qa'idah and the dâbıt in terms of scope. While the dâbıt is a narrow principle that gathers together only the issues related to a subject, the qa'idah is a general principle that can be valid in all parts of that field, thus encompassing the dâbıt.

² Anar Gurbanov, *Sarahsî'nin el-Mesû't'unda Usul ve Furu Kaideleri* (İstanbul: Marmara Üniversitesi, Sosyal Bilimler Enstitüsü, Doktora Tezi, 2018). The same author also wrote the following article on the subject: Anar Gurbanov, "Serahsî'nin el-Mebisû't'unda Fıkıh Kaideleri", *İslam Hukuku Araştırmaları Dergisi*, sy. 33, 2019, 103-129. In addition, Necmettin Kızılkaya's article titled "The Fiqh Principles Dominating the Punishment Bahis in Sarahsî's al-Mabsû't", which covers only the fiqh principles of the Mabsû't on punishment, can be considered as an example of the application of the principles (Necmettin Kızılkaya, "Serahsî'nin el-Mebisû't İsimli Eserindeki Ceza Bahislerine Hâkim Olan Fikhî Kâideler", *Diyanet İlmî Dergi* 49/2 (Nisan-Mayıs-Haziran 2013), 155-170). Necmettin

re *Mabsūt*, deals with the general principles of both uşul and jurisprudence of furū'. Includes 19 principles specific to zakāt, and the principles are explained by linking them with other subjects of fiqh. In this article, only in the chapter on zakāt in *the Mabsūt*, the principles on the payment of zakāt are identified by the term dābiṭ and its jurisprudential meanings are mentioned. When we look at the results obtained from these principles, it is seen that *the Mabsūt* reveals that zakāt payment can be made in three ways. The first of these forms of payment is from the in-kind property subject to zakāt, which can be fulfilled immediately for the obligor, the second is from money, which is a common means of exchange that provides more convenient use for the creditor and the needy, and the third is from another in-kind property that the creditor will need. Two of the forms of payment are in kind and one is money.

From a legal and practical standpoint, the most straightforward method for a zakāt payer is to discharge zakāt in the form of the actual assets ('ayn) upon which zakāt is due. This has been the most common form of zakāt payment since the earliest times. This mode of discharging zakāt facilitates ease for the obligor, particularly in cases where liquid assets are unavailable, while also serving to uphold the rights and interests of all parties involved. Mukallaf is relieved of his obligation by paying zakāt from his property subject to zakāt, and the creditor in need creates an opportunity for new productions by contributing to the expansion of the use and utilisation of the property by owning the zakāt property. Here, it will be necessary to pay attention to the medium-sized goods when paying zakāt. It is most appropriate to pay zakāt not from the best or the worst of the goods, but from the mediocre, medium-sized goods in terms of value.³ Paying from the best will be to the detriment of the obligor, and paying from the poor will be to the detriment of the poor. In the fulfilment of zakāt, the rights of the parties should be respected and they should not be harmed.

A second way of paying zakāt is to pay the value of the property in money. Coins such as gold and silver are used to determine the value of goods. In the early periods, when zakāt payments were made, the value of the go-

Kızılkaya's *Hanefi Mezhebi Bağlamında İslam Hukukunda Külli Kâideler* (Necmettin Kızılkaya, *Hanefi Mezhebi Bağlamında İslam Hukukunda Külli Kâideler* (İstanbul: İz Yayıncılık, 2016)), whose main subject is jurisprudential rules and the qawā'id works in which they are examined, and *İslam Hukukunda Farklar* (Necmettin Kızılkaya, *İslam Hukukunda Farklar furûk literatürü üzerine bir inceleme* (İstanbul: İz Yayıncılık, 2016)), which is published on the literature of the science of furûq, which examines jurisprudential issues and concepts that are similar in form but different in terms of ruling, provide detailed information about the rules and literature.

³ Bakara, 2/267.

ods was determined in money, which was mostly gold and silver at that time, and cash payments were also made, although they were not as common as in-kind payments. This type of payment is the most favourable for the poor in need. Because the main purpose of zakāt is to meet the needs of those in need. Cash offers the poor a wider opportunity to fulfil their needs than in-kind goods. Zakāt can also be paid by means of negotiable instruments such as promissory notes and cheques indicating its value and to whom it belongs. Zakāt is paid when the money on the negotiable instrument is collected. If it is impossible to collect, the zakāt debt continues. Paying zakāt in cash can sometimes be a practical and easy way for the rich.

If the zakāt payer does not want to pay zakāt out of the zakāt table property or out of cash/money that has a value equal to the amount of zakāt, he can pay zakāt out of another property in his possession that is more suitable to meet his needs and that he can benefit from, prioritising the interests of the poor. Here, care must be taken to ensure that the property to be given as zakāt is of the same value. There is a rule that the obliged person can pay zakāt from other movable property that is not of the same type as his property and that can be bought and sold by weight or volume, or from another movable property, as follows: “Zakāt on a commodity is not related to that commodity in such a way that it depends on the commodity itself. The owner has the option of paying zakāt from other property.”⁴ Although this type of payment is jurisprudentially valid, it should not be left to the sole discretion of the payer, and the current need of the poor should be taken as a basis here. Otherwise, there may be excessive accumulation of the same kind of zakāt property in the hands of the poor, and it may be sold below its value in order to meet the need for cash, resulting in a loss of value and a decrease in economic power to the detriment of the poor in the zakāt payment made.

1. Principles and Considerations Regarding The Payment of Zakāt

The principles related to issues such as from which goods the zakāt is to be paid, whether the payment is in advance or deferred, and to whom the payment is to be made will be determined by the term *ḍābiṭ*. The jurisprudential evaluations of the identified *ḍābiṭ* will be made on the spot. The evaluations will be limited to the essentials and will not go into detail.

Although the jurisprudential principles are dealt with in accordance with

⁴ Abū Bakr Shams al-eimme Muhammad b. Abī Sahl Ahmad al-Sarāḥsī, *al-Mabsūṭ* (Beirut: Dar el-Marefah, 1409/1989), 2/173.

the flow of the subject of the book, the principles that are complementary or explanatory to each other will be included one after the other, abandoning the chronological order of the book. Thus, the integrity of the subject and the ease of understanding of the relevant principle will be ensured.

1.1. Ḍābiṭ: It is not obligatory to pay zakāt out of the wealth that is subject to zakāt.⁵

Sarāhsī explains that it is not obligatory to pay zakāt from the property in hand, and it can be paid from other property, citing the hadiths on the zakāt of sāime camels as evidence:

“These hadiths do not include the necessity of giving zakāt from the kind of property in hand. Therefore, when the number of camels exceeds one hundred and twenty, two four-year-old camels (khikqa) and one sheep for every five camels and one two-year-old female camel (bint al-mehāz) are given as part of the one hundred and twenty.”⁶

The fact that The Prophet (pbuh) fixed the nisab of zakāt as 200 dirhams of silver and the zakāt to be given as 5 dirhams of silver, reveals that zakāt can be given from the type or value of the property. The value can be the cash equivalent of the property to be given as zakāt, or it can be another property of the same value. It is understood from these practices in the Sunnah that it is not obligatory to give zakāt in the form of goods; it is sufficient to give its value or other goods of the same value.

1.2. Ḍābiṭ: If zakāt is to be paid in the form of property, its value is taken into consideration.

Although it is possible to give zakāt from the type of the property, its value or from another property equivalent to its value, in practice, the principle is that the zakāt obligor and the poor should not be harmed. Although Sarāhsī does not express the principle in this way, he explains the issue in the following way by exemplifying the principle through the example of the sāime animals:

“If a camel of a certain age is obligatory as zakāt on a herd of camels, but there are no camels of the required age among the camels, but there are camels of a higher or lower age, the zakāt officer may take the value of the camel instead of zakāt, or he may take one of the available camels. If the camel that the zakāt officer takes is worth more than the

⁵ Sarāhsī, *al-Mabsūṭ*, 2/153.

⁶ Sarāhsī, *al-Mabsūṭ*, 2/153.

zakât, he should return the difference in cash. If the camel he takes is worth less, he takes the difference in cash from the owner.”⁷

There is no religiously prescribed amount for the zakât on the difference in value between the two age groups. This amount varies according to the current market value of the animals. The fact that The Prophet (pbuh) said that when the zakât officer could not find a female camel that was three years old and bought a female camel that was four years old, he should give back the difference in value between the two camels from two sheep or 20 dirhams of silver, whichever is easier,⁸ is due to the difference in value between the two ages of camels in his time. The difference in value may vary according to time and place. In another hadith narrated by Ali, the difference in the value of camels between two years of age is estimated as one sheep or 10 dirhams of silver,⁹ which reveals that the value is determined according to the current value of the time.¹⁰ Sarahsî emphasises the necessity of taking the value of the property as a basis for zakât as follows.

“If a person is required to pay zakât on a two-year-old female camel (bint al-maḥāz) because of his camels, but he does not have it, but he has a three-year-old male camel, the three-year-old male camel does not have to be given as zakât. The Prophet (pbuh) said: “In twenty-five camels, a two-year-old female camel is given. If it is not available, a male camel that is three years old is given.”¹¹ The hadith does not express an obligation, but points to the value between animals, which shows that the female camel (of the same age) was more valuable than the male camel at that time. Normally, a three-year-old animal is more valuable than a two-year-old of the same breed. The Prophet (pbuh) substituted the superiority of the value of the three-year-old camel over the two-year-old camel due to the difference in their age for the superiority of the value of the two-year-old female camel due to its femininity. In other words, he substituted the lack of value due to the male camel’s being male for the lack of value due to the female camel’s being

⁷ Sarahsî, *al-Mabsûṭ*, 2/155.

⁸ “If a person needs a three-year-old female camel (bint al-lbūn) as Zakât on his camels and he does not find it, if the Zakât officer finds nothing among the camels except a four-year-old female camel (khikka), he takes it and gives back two sheep or twenty dirhams of silver, whichever is easier for him.” Bukhārî, “Zakât”, 37 (No. 1453); Abū ‘Abdillāh Muhammad b. Yazid Māja al-Qazwīnī, *al-Sunan*, thk. Shu‘ayb Arnāwūd et al. (Beirut: Muṣṭat al-Risāla, 1431/2010), “Zakât”, 10 (No. 1800); Abū Dāwūd Suleimān b. al-Ash‘as b. Ishāq al-Sijistānī al-Azdī, *al-Sunnan*, thk. Shu‘ayb Arnāwūd et al (Beirut: al-Risālat al-‘Alamiyya, 2004), “Zakât”, 4 (No. 1567).

⁹ Abū Dāwūd, “Zakât”, 4 (No. 1572); Ibn Māja, “Zakât”, 4 (No. 1790).

¹⁰ Sarahsî, *al-Mabsûṭ*, 2/155.

¹¹ Abū Dāwūd, “Zakât”, 4 (No. 1567); Ibn Māja, “Zakât”, 9 (No. 1798).

young, and he equated the superiority in value due to the age difference in the male camel with the superiority in value due to the femininity of the female camel. Based on the apparent wording of the hadith and not taking into account the value of the two-year-old female camel, stipulating that a three-year-old male camel should be given as zakāt instead of a two-year-old female camel is not a correct view and may cause the poor or the owners to suffer losses. This is because differences in value may change according to time and place.”¹²

This explanation reveals that zakāt should be assessed fairly according to the value of the property, not only in terms of amount and type. With this view, Sarahsī aimed not to harm both the owners and the zakāt creditors, and drew attention to the importance of taking into account the economic and social conditions of the period.

1.3. *Ḍābiṭ*: Zakāt is paid from the value also of the property.¹³

Zakāt, sadaqah, khums and kaffarah may be paid with their value instead of what is stated in the āyah and hadiths, even if the person who is asked to pay them is in possession of them.¹⁴ The explanation of this rule was given in the explanations for the previous principle.

1.4. *Ḍābiṭ*: The owner is the one who has the right to have the right to pay zakāt.¹⁵

The zakāt payer can pay his zakāt either from his property subject to zakāt or from its value. He is free in this matter. This principle shows that the right of freedom of choice in giving zakāt belongs to the obligator of zakāt, not to the zakāt officer. Since the person liable for zakāt does not or cannot have much cash with him, it is possible for him to pay zakāt out of the zakātable property he has. This is a convenience for the zakāt payer. For example, when the zakāt payer pays zakāt on the livestock, he can pay zakāt on the same animal or on its value. If he wants, he can give the lower age and the difference in value. Or he can give an older animal and take the difference in value between what he gives and what he has to give. Even if the obliged person wants to give something that is known, the zakāt officer cannot refuse to take it. This is because the owner of the reli-

¹² Sarahsī, *al-Mabsūṭ*, 2/155-156.

¹³ Sarahsī, *al-Mabsūṭ*, 2/156.

¹⁴ Sarahsī, *al-Mabsūṭ*, 2/156.

¹⁵ Sarahsī, *al-Mabsūṭ*, 2/157.

gion has prioritised convenience for the obliged. This can only be realised if the obligator has a choice.¹⁶

1.5. **Ḍābiṭ: The zakāt payer pays his zakāt from whatever is convenient for him.**

This is inferred from the content of the above verse¹⁷ and the hadith¹⁸ on which it is based, which states that the obligator of zakāt is given a choice in paying his zakāt, even though this statement is not directly mentioned in *the Mabsūt*. The obliged person can pay zakāt in cash or in the form of the same property, or in the form of another property of the same value, or in cash.¹⁹ What should be considered and aimed here is that the zakāt given should be suitable to meet the needs of the poor. The need of the poor may sometimes be the zakāt itself, sometimes its cash value, and sometimes other goods of the same value. Although it is generally more convenient to pay zakāt from money, since it is a common means of exchange and provides the opportunity to use it as easily as desired for the poor creditor in need, the main thing is to provide the obligation with the ease of paying zakāt and the right to choose.

1.6. **Ḍābiṭ: Zakāt is levied on the middle class of property.**²⁰

The Prophet (pbuh) said: “Avoid taking the most valuable property of people.”²¹ he set the basic principle by saying. Accordingly, zakāt should not be taken from the best of the property, nor from the weakest and of low value. Zakāt should be taken from the middle class of the property subject to zakāt. Animals that have young in their wombs and are kept as breeding stock are not taken as zakāt because they are the most valuable property in the eyes of the owners. Thus, the rights of the owners are protected.²²

¹⁶ Sarahsī, *al-Mabsūt*, 2/157.

¹⁷ Bakara, 2/267.

¹⁸ “If a person needs a three-year-old female camel (bint al-‘lbūn) as Zakāt on his camels and he does not find it, if the Zakāt officer finds nothing among the camels except a four-year-old female camel (khikka), he takes it and gives back two sheep or twenty dirhams of silver, whichever is easier for him.” Bukhārī, “Zakāt”, 37 (No. 1453); Abū Dāwūd, “Zakāt”, 4 (No. 1567); Ibn Māja, “Zakāt”, 9 (No. 1798).

¹⁹ Sarahsī, *al-Mabsūt*, 2/157.

²⁰ Sarahsī, *al-Mabsūt*, 2/173.

²¹ Bukhārī, “Zakāt”, 41 (No. 1458); Abū Dāwūd, “Zakāt”, 4 (No. 1584); Abū Īsā Muhammad b. Īsā b. Sevra (Yazid) al-Tirmidhī, *al-Jāmi’u’l-kabīr*, thk. Shu’ayb Arnawūd - Abdullatif Hırzullah (Beirut: al-Risālāt al-‘Alamiyya, 2010), “Zakāt”, 6 (No. 2133); Ibn Māja, “Zakāt”, 1 (No. 1783).

²² Sarahsī, *al-Mabsūt*, 2/173.

1.7. Ḍābiṭ: The zakāt of the nisab can also be paid in advance a few years in advance.²³

According to the Hanafī madhhab, the zakāt of the nisab amount of goods can be paid in advance before the end of the year. It can even be paid in advance against the zakāt of the next few years. This is because The Prophet (pbuh) received the zakāt of two years in advance from Abbas. In addition, when the nisab is complete, zakāt becomes obligatory and the conditions for zakāt are fulfilled. Waiting for the year to expire is to defer the zakāt. It is also permissible to pay in advance. The reason why zakāt is fard has also been fulfilled. It is permissible to pay zakāt when the reason for its obligation is fulfilled. However, it is not valid to pay zakāt in advance without having the nisab amount of wealth. This is because the reason for the obligation is realised only when the nisab amount of wealth is found.²⁴

For example, if a person has a hundred dirhams and gives it to the poor as zakāt for the money he will earn in the future, and then earns a thousand dirhams in the same year, the hundred dirhams he gave in advance is not zakāt for this money. The reason for giving zakāt in advance was the fulfilment of the nisab. Zakāt given before the nisab is completed, and therefore before the reason is fulfilled, is invalid. Similarly, a prayer performed before its time is invalid for the obligatory prayers of that time, and a fast performed before the month of Ramadan is not counted as a fast of Ramadan.²⁵ According to al-Sarahsī, the rational proofs of the Hanafīs on this issue are as follows:

“The possession of the nisab amount of wealth is a condition for zakāt to be obligatory every year, provided that it does not diminish. The validity of advance payment is based on the completion of the year. In this respect, the second year is like the first year. This is not the case before the nisab amount of wealth is found. The person who gives zakāt in advance cannot take back what he has given if zakāt is not obligatory on him at the end of the year.²⁶ This is because the person is considered to have first given to Allah alone, and then to have given to the poor so that Allah will fulfil their needs. This is completed when the property reaches the poor. He cannot take anything back from it. It is considered as nafl sadaqah.”²⁷

²³ Sarahsī, *al-Mabsūṭ*, 2/176.

²⁴ Sarahsī, *al-Mabsūṭ*, 2/177.

²⁵ Sarahsī, *al-Mabsūṭ*, 3/32.

²⁶ Sarahsī, *al-Mabsūṭ*, 2/177.

²⁷ Sarahsī, *al-Mabsūṭ*, 2/178.

In connection with this principle, Sarahsî also includes the following principle: Since in the ruling that zakât is obligatory, the acquired property is considered to be the same as the property that has been in one's possession since the beginning of the year, then in the ruling that it is permissible to pay zakât in advance, it is considered to be the same as the property that has been in one's possession.²⁸

1.8. **Ḍābiṭ: Zakât given in advance does not interrupt the year.**²⁹

Sarahsî explains the matter with an example as follows:

"If a person has 1100 dirhams, and after 11 months have passed, he gives 1000 dirhams as zakât for his future wealth, and then (before the end of the year) he earns 40,000 dirhams, and a year has passed since then, the 1000 dirhams that he gave in advance is sufficient for the zakât of his future wealth. He must also pay zakât on 100 dirhams. Since he owns 100 dirhams, which is part of the nisab, the year is not interrupted by the zakât he paid in advance. In addition, since they are of the same kind, what is acquired later in the year is added to what he had before. When the year is over, he must pay zakât on all of them. He had given 1000 dirhams, the zakât of 40,000 dirhams, in advance. He owes zakât on 100 dirhams."³⁰

If he gives 10 dirhams in advance for two years' zakât on 200 dirhams, and then earns another 10 dirhams and two years pass, the 10 dirhams given in advance will be sufficient for two years' zakât. Since part of the nisab is left, the ruling of the year continues. The possession of nisab is a reason for zakât to be obligatory for each year. The passing of the year is a condition, not a cause. Therefore, it is valid to pay zakât in advance.³¹

But if a person has 200 dirhams and gives it to the poor as zakât for the money he will earn in the future, and then earns 10,000 dirhams in the same year, the year of this money starts over again. The 200 dirhams he gave before will not be valid as zakât for the 10,000 dirhams. This is because when he gave all the money he used to have to the poor and there was nothing left in his possession, the year was interrupted. And the 200 dirhams given before has become a nafl alms.³²

²⁸ Sarahsî, *al-Mabsûṭ*, 3/32.

²⁹ Sarahsî, *al-Mabsûṭ*, 3/32.

³⁰ Sarahsî, *al-Mabsûṭ*, 3/32.

³¹ Sarahsî, *al-Mabsûṭ*, 3/32-33.

³² Sarahsî, *al-Mabsûṭ*, 3/32.

1.9. Ḍābiṭ: Delay does not remove the established right to zakāt.³³

If a person swears falsely that he did not pay zakāt, but claimed that he did pay zakāt, and his lie is exposed, the zakāt for that year will be collected from him. This is because the reason that makes zakāt obligatory (having the nisab amount) has been fulfilled. Just like other rights of servitude, the obligation of zakāt is not cancelled by false swearing. This makes it clear that zakāt is a fixed right towards Allah and society and must be fulfilled.³⁴

1.10. Ḍābiṭ: Even what is given to a tyrant sultan with the intention of zakāt is cancelled.³⁵

Sarahsī explains this with the following reasoning: The property in the hands of the tyrant sultan is actually the property of the Muslims, and the debts they have to pay are more than their own property. If the tyrant sultans paid their debts they would have nothing left.³⁶

It would have been more accurate if, instead of considering the tyrant sultan as a debtor, he was regarded as a poor person, and as a result, instead of considering him to be able to receive zakāt, it would have been more accurate if the interpretation had been made that he would give the zakāt he collected to the needy, even if he was a tyrant, and the zakāt debt would be cancelled with what was given to him.

1.11. Ḍābiṭ: The zakāt received from the people of the town is given to the poor of that region; it is not sent abroad.³⁷

The poor of a town have the right to be close and neighbourly. In addition, they know the owners of the property of that town better than others. Therefore, it is preferable to give to them. However, it is permissible for the obligator to send his zakāt to a region other than his home town.³⁸ This is because sending zakāt to another region fulfils the purpose of meeting the needs of the poor. According to Abū Hanifa (d. 150/767), it is better for the obliged person to send the zakāt to his needy relatives in another place, both because it relieves him of the obligation and because it is a form of kindness.³⁹ Sarahsī explains the matter as follows:

³³ Sarahsī, *al-Mabsūṭ*, 2/182.

³⁴ Sarahsī, *al-Mabsūṭ*, 2/182.

³⁵ Sarahsī, *al-Mabsūṭ*, 2/180.

³⁶ Sarahsī, *al-Mabsūṭ*, 2/180.

³⁷ Sarahsī, *al-Mabsūṭ*, 2/180, 3/18.

³⁸ Sarahsī, *al-Mabsūṭ*, 2/180, 3/19.

³⁹ Sarahsī, *al-Mabsūṭ*, 2/181, 3/19.

“If there are no needy people in the town where the zakāt is collected and there are poor people in the neighbouring towns, the poor in these neighbouring towns are more entitled to it than others because of their proximity. The head of state is authorised to give the zakāt to those in need. Also, if a Muslim sends his zakāt to the poor of another town which is more virtuous than the people of his own town, it is permissible for him to do so.”⁴⁰

This statement serves as a guide for determining the priority beneficiaries in the distribution of zakāt.

1.12. *Ḍābiṭ*: In a place where the state does not have the right to receive zakāt, the property of the obliged person is like property of the *bāṭinah*.⁴¹

Even if the obliged person is not under the protection of the state, he has to pay zakāt on it, whether it is in the open (*al-amwāl al-zāhir*) or in the hidden (*al-amwāl al-bātin*), in order to pay his debt to Allah. This is because there is property that is the cause of zakāt, and as a result, the right of Allah has been established and the right of Allah can be cancelled only by giving.⁴² Likewise, if a person becomes a Muslim in the land of non-Muslims, where there is no peace between them and Muslims, and he knows that it is obligatory to pay zakāt, but he does not pay zakāt, he must pay zakāt for the past years in order to pay his debt to Allah, even if the zakāt of the past years is not collected by the state because he is not under the protection of the Islamic state when he comes to the country where Muslims live.⁴³

This principle implies that zakāt is a personal obligation, even if it has an institutional structure. It is not necessary for a Muslim who is obliged to pay zakāt to be under the protection of a state in which the provisions of Islam are in force. In fact, the obliged person is obliged to pay zakāt on the open goods, called *emwāl al zahira*, which are collected by the state, just as he is obliged to pay zakāt on the hidden goods, called *emwāl al bātinah*, which are not collected by the state but left to the responsibility of individuals.

1.13. *Ḍābiṭ*: The debt is repaid with cash in circulation.⁴⁴

If a person has a nisab amount of cash, a similar amount of debt and 40

⁴⁰ Sarahsī, *al-Mabsūṭ*, 3/37.

⁴¹ Sarahsī, *al-Mabsūṭ*, 2/181.

⁴² Sarahsī, *al-Mabsūṭ*, 2/181.

⁴³ Sarahsī, *al-Mabsūṭ*, 2/181.

⁴⁴ Sarahsī, *al-Mabsūṭ*, 2/184.

sheep, he must pay zakāt on the sheep after one year has passed. If the zakāt officer does not come, he can give zakāt from whatever he wants. This is because, according to the owner, they are equal, because they are both his property. However, the zakāt officer is authorised to collect zakāt from the sheep, not from the cash. For this reason, the debt is paid from the cash and zakāt is collected from the sheep.⁴⁵

1.14. *Ḍābiṭ*: Zakāt on camels is given only on the female.⁴⁶

While the male and female of the sāime sheep and cattle are given as zakāt, only the female of the sāime camel is given as zakāt. The reason for this is that the males and females are close to each other in sheep and cattle, while they are different in camels.⁴⁷

1.15. *Ḍābiṭ*: He who pays zakāt to the rebels pays it again.⁴⁸

Zakāt taken by rebels is not accepted as zakāt according to Islamic law. This is because the rebels take these goods as booty for their own benefit, not for worship, and do not spend them in the places specified by the fiqh. The zakāt officer of a legitimate state does not take into account the zakāt taken by the rebels. The fact that the owner of the property gives it to the officer of the rebels does not reduce the right of the legitimate state to collect zakāt. In this case, the legitimate state will ask for zakāt on that property again. When the owner offers his property to the zakāt officer of the rebels, this act indirectly means that he consents to the taking of his property. However, this does not relieve the owner of his religious responsibility and does not replace the zakāt that must be collected by the legitimate authority. Zakāt is collected for specific religious and social purposes and is spent on the needy. Since the rebels do not have such an intention or practice, the wealth collected by them cannot be considered zakāt in accordance with fiqh.⁴⁹

1.16. *Ḍābiṭ*: Zakāt can only be paid by assignment.⁵⁰

Sarahsī explains this principle as follows:

“Zakāt is the actual giving of a portion of the obligatory wealth. And giving can only be realised through appropriation. Any act of worship that does not involve appropriation, such as freeing a slave, perform-

⁴⁵ Sarahsī, *al-Mabsūṭ*, 2/184.

⁴⁶ Sarahsī, *al-Mabsūṭ*, 2/188.

⁴⁷ Sarahsī, *al-Mabsūṭ*, 2/188. For the zakāt of camels, see. Sarahsī, *al-Mabsūṭ*, 2/150-154.

⁴⁸ Sarahsī, *al-Mabsūṭ*, 2/202.

⁴⁹ Sarahsī, *al-Mabsūṭ*, 2/202.

⁵⁰ Sarahsī, *al-Mabsūṭ*, 2/202.

ing Hajj, paying the debt of the deceased, shrouding the deceased and building a mosque, is not zakāt. By freeing a slave, the slave has not been assigned. This is because the slave has been freed as the property of his owner. The same is the case with pilgrimage. Sending someone to Hajj with the intention of zakāt and covering his expenses is not alienation. Because the person who is sent on pilgrimage spends what he spends as the property of the one who sent him. Shrouding the deceased is not a transfer to the deceased, since the deceased is not capable of owning property. Building a mosque is also not an assignment to anyone.”⁵¹

It is clear from this that “Zakāt is paid to real persons, not to legal persons or legal entities.”

1.17. **Ḍābiṭ: Zakāt cannot be given to a non-Muslim.**⁵²

The Hanafis, citing the hadith of The Prophet (pbuh), “Take zakāt from their rich and give it to their poor”⁵³ as evidence, conclude that zakāt is taken from rich Muslims and given to poor Muslims. According to Imām Zuhafar (d. 158/775), one of the Hanafis, zakāt can also be given to dhimmis.⁵⁴ However, giving zakāt to a dhimmi, knowing that he is a dhimmi, is as invalid as giving zakāt to a rich person.⁵⁵

1.18. **Ḍābiṭ: Zakāt is given to the one who is stranded.**⁵⁶

The phrase “in the way of Allah” in the verse that specifies the places of expenditure of zakāt also includes the pilgrim who stays on the road. In addition, the pilgrim is a traveller in the general sense. The traveller is also one of the places where zakāt is spent.⁵⁷

1.19. **Ḍābiṭ: Zakāt is valid when it is paid to the creditor by order of the poor debtor.**⁵⁸

According to the Hanafī madhhab, in order for zakāt to be valid, it is essential that the zakāt property be assigned, that is, that it be transferred to the ownership of the poor. This rule is one of the basic principles of the Hanafī madhhab on zakāt. Zakāt is not valid unless it is directly transferred to the

⁵¹ Sarahsī, *al-Mabsūṭ*, 2/202.

⁵² Sarahsī, *al-Mabsūṭ*, 2/202.

⁵³ Bukhārī, “Zakāt”, 1 (No. 1395); Abū Dāwūd, “Zakāt”, 4 (No. 1584); Tirmidhī, “Zakāt”, 6 (No. 630).

⁵⁴ Sarahsī, *al-Mabsūṭ*, 2/202.

⁵⁵ Sarahsī, *al-Mabsūṭ*, 3/35.

⁵⁶ Sarahsī, *al-Mabsūṭ*, 2/203.

⁵⁷ Sarahsī, *al-Mabsūṭ*, 2/203.

⁵⁸ Sarahsī, *al-Mabsūṭ*, 2/203.

ownership of individuals. If the zakāt is not transferred to the ownership of the poor, but is merely made available for their use or indirectly benefited in some other way, the zakāt is considered invalid. This is an application of the Hanafī madhhab that zakāt is valid through indirect means, although the condition of assignment is preserved. However, in this case, the explicit consent of the poor must be obtained and it must be certain that the transaction is made on his behalf. If the poor person's debt is paid by the zakāt payer with his explicit consent and instruction, this transaction is considered to fulfil the condition of assignment indirectly. In this case, the zakāt giver first gives the poor person the wealth and then pays the debt out of his wealth at his command. This is similar to this: If a person orders another person to pay a debt and he pays it, the payer can return to the original debtor and ask for what he paid. This is only after the assignment.⁵⁹

1.20. Dābiṭ: Even if a year has elapsed since the debt was incurred, the creditor is not obliged to pay zakāt until he collects this amount.⁶⁰

Sarahsī justifies this with the following reasoning:

“The amount to be paid is considered part of the zakāt nisab. However, as long as this amount remains as another person's debt, the creditor has not yet realised full ownership. If the poor person is not in a position to pay the debt, the debt cannot be collected, and this property does not give rise to the obligation of zakāt. Just as in the case of the stranded rich (ibn al-sabīl) who is in a position to pay zakāt, the creditor does not have full ownership of this property until he collects his debt, and therefore does not have to pay zakāt. According to Abū Hanīfa, a debt does not have a real economic value as property until it is collected. The economic value of the receivable is realised only when the debt is collected and the property is in the hands of the creditor. Therefore, a receivable in the hands of another person does not constitute the zakāt nisab. Moreover, the requirement of one year for the obligation of zakāt applies only to the zakāt nisab of property.”⁶¹

This explanation establishes the principle that zakāt is only liable on property that is in one's full possession and ownership. The fact that the recei-

⁵⁹ Sarahsī, *al-Mabsūṭ*, 2/203.

⁶⁰ Sarahsī, *al-Mabsūṭ*, 2/194.

⁶¹ Sarahsī, *al-Mabsūṭ*, 2/195.

vable has not been collected means that its economic value has not actually been realised and therefore does not give rise to an obligation of zakāt.

1.21. *Ḍābiṭ*: The receivable is less than the same in terms of being property.⁶²

This principle, which is related to the law of obligations, is also important in the payment of zakāt. Sarahsī explains this as follows:

“If a man donates his receivables from another person to the debtor with the intention of paying zakāt, this is not valid. However, if the debtor is poor, it is sufficient as zakāt on the amount he will receive. This is because what is obligatory on a certain kind of property is a part of that property. However, the receivable is more incomplete in terms of being property than the same property. It is not permissible to give something incomplete instead of something complete.”⁶³

According to Hanafis, it is also not permissible to pay zakāt on one receivable by donating another receivable to the debtor. For example, if someone has a receivable of 200 dirhams from another person and a receivable of 5 dirhams from a poor person, and he intends to pay zakāt on 200 dirhams and releases the poor person from this 5 dirhams, this does not count as zakāt. Because this receivable becomes property when it is received. What he releases the poor from is not property. Therefore, it is less than the other in terms of being property. However, if the entire receivable is from a poor person, and the creditor donates the entire receivable to that poor person with the intention of paying zakāt on it, or releases the poor person from his debt, the zakāt on this receivable will be paid. This is because it is a part of this receivable that needs to be given. He has delivered it to the poor who is entitled to it. This is like donating the entire nisab amount of wealth to a poor person.⁶⁴

1.22. *Ḍābiṭ*: Counting the receivable as zakāt does not replace zakāt.⁶⁵

If a person who has a debt of a thousand dirhams from a rich or poor person donates it to the debtor or releases the debtor from the debt after a year has passed, he does not have to pay zakāt on this money. However, if he intends to pay zakāt on another item, this is not sufficient. This is beca-

⁶² Sarahsī, *al-Mabsūṭ*, 2/203.

⁶³ Sarahsī, *al-Mabsūṭ*, 2/203.

⁶⁴ Sarahsī, *al-Mabsūṭ*, 2/203, 3/35.

⁶⁵ Sarahsī, *al-Mabsūṭ*, 2/35.

use it is not permissible to pay zakāt on a receivable. Because the property in hand is worth more than the receivable in terms of value. If the debtor is poor, the zakāt of the thousand dirhams he donated will be cancelled from him, because the zakāt has reached the rightful owner.⁶⁶

1.23. Ḍābiṭ: Zakāt can be paid with any kind of property.⁶⁷

Zakāt can be paid from movable goods that can be sold by scale, weighing, metre, or from other goods that are not of the type of zakāt goods.⁶⁸

According to the Hanafis, the obliged person can pay zakāt from a movable property that is not of the same type as the zakātable property, but is bought and sold by scale/keylī or by weighing/waznī, or from a movable property other than these, or from any other property.⁶⁹ It is understood from this that if the payer does not pay zakāt from the zakātable property, he can pay zakāt from any property other than real estate and animals.

1.24. Ḍābiṭ: The value is not taken into consideration when zakāt is paid on interest-free, ribbed property.⁷⁰

Sarahsī justifies this with the following reasoning:

“If the obliged person pays zakāt in terms of the zakāt of the zakātable ribawī property, the value is not taken into consideration; it must be paid in quantity. For example, if an obliged person who has 200 dirhams of poor quality silver gives zakāt of 4 dirhams of good quality silver equivalent to the value of 5 dirhams of poor quality silver, this is not enough, he must give another dirham. This is because the quality is of no value when it is exchanged with its own kind. Therefore, giving 4 dirhams of good quality silver is like giving 4 dirhams of poor quality silver. In the end, the amount of its own weight may be sufficient.”⁷¹

According to Abū Hanifa, the zakāt on a silver vessel weighing 200 dirhams is 5 dirhams. Here, the weight of the vessel is taken into consideration, not its quality or workmanship. However, if the zakāt on a silver vessel weighing 5 dirhams is less than its gold value, the zakāt is not deducted from the amount of zakāt due on the vessel, since it is of a different kind from the

⁶⁶ Sarahsī, *al-Mabsūṭ*, 3/35.

⁶⁷ Sarahsī, *al-Mabsūṭ*, 2/203.

⁶⁸ Sarahsī, *al-Mabsūṭ*, 2/203.

⁶⁹ Sarahsī, *al-Mabsūṭ*, 2/203.

⁷⁰ Sarahsī, *al-Mabsūṭ*, 2/203.

⁷¹ Sarahsī, *al-Mabsūṭ*, 2/203.

property in hand, and the zakāt on the excess of the value of the vessel must be paid in addition.⁷²

According to the rule of Imām Muhammad (d. 189/805) and Imām Zuhafar (d. 158/775), “If the zakāt of a commodity is given in its own kind, the value is taken into consideration”, if the zakāt of a silver container weighing 200 dirhams in the house is given as 5 dirhams, the entire zakāt is not deducted from it. Zakāt must also be paid on the excess value of the vessel.⁷³

1.25. Ḍābiṭ: Zakāt is valid only when the payer completely relinquishes his control over the property he is giving.⁷⁴

Therefore, it is not permissible to give zakāt to one’s parents, grandparents, grandparents, spouses, children and grandchildren. This is because there is a relationship of mutual benefit between the taxpayer and these people. This kind of payment is not considered a full zakāt payment, because it may indirectly return to the taxpayer or serve for his benefit.⁷⁵ The main purpose of zakāt is to ensure that the needy benefit independently. Therefore, it should be given to those who do not have such a beneficial relationship with the taxpayer.

1.26. Ḍābiṭ: Zakāt is the right of the poor; it is not permissible to give it to the rich or to the young child of the rich.⁷⁶

It is stated in the verse that the person to be given zakāt must be poor.⁷⁷ The maintenance of the child is on the father. The father must provide for his needs. Thus, zakāt is not valid for the young child of the rich.

1.27. Ḍābiṭ: Zakāt is the right of the poor; if the head of state spends zakāt funds elsewhere out of necessity, it is written off as a debt.⁷⁸

Sarahsī justifies this with the following reasoning:

“The head of state is authorised to take the necessary measures for the functioning of the state and the needs of its citizens. If the Muslims are in need, but there is no zakāt money in the treasury, the head of state is authorised to provide for the needs of the poor out of the kharaj

⁷² Sarahsī, *al-Mabsūṭ*, 3/37.

⁷³ Sarahsī, *al-Mabsūṭ*, 3/37.

⁷⁴ Sarahsī, *al-Mabsūṭ*, 3/11.

⁷⁵ Sarahsī, *al-Mabsūṭ*, 3/11.

⁷⁶ Sarahsī, *al-Mabsūṭ*, 3/12.

⁷⁷ Sarahsī, *al-Mabsūṭ*, 3/12.

⁷⁸ Sarahsī, *al-Mabsūṭ*, 3/18.

fund. However, this is not written off as a debt to the zakāt fund. This is because kharaj and the income from kharaj are spent on the needs of the Muslims. If the state needs to pay salaries to its employees or spend it on other things when there is no money in the kharaj fund, it will pay for it from the zakāt fund, but it will be debited to the kharaj fund. This is because zakāt is the right of the poor. If the head of state spends money from the zakāt fund on other things out of necessity, the poor will be entitled to a credit from it.”⁷⁹

This means that the money collected for zakāt can be used for other services, based on individual or organisational needs, but not for personal profit, provided that it is paid later. In particular, since money is a commodity that is not recognisable by determination, the banknotes collected for zakāt can be replaced by other banknotes of the same amount and value.

1.28. Ḍābiṭ: While a single intention is valid for the zakāt of the same kind of goods, for different kinds of goods it is necessary to make a separate intention as to which kind of goods the zakāt is for.⁸⁰

Sarahsī gives the following example on the subject:

“If a person has five camels and forty sheep, and he gives a sheep as zakāt for the sheep before the end of the year, and then the sheep perish, the sheep given beforehand does not replace the zakāt for the five camels, even if a year has passed since then. This is because camels and sheep are two different types in terms of zakāt, and one cannot be used to complete the nisab of the other. Therefore, only a general intention of zakāt is not sufficient for the zakāt of different types of goods. At the same time, it is necessary to intend to pay zakāt on a specific type of property.”⁸¹

This explanation emphasises that different types of goods are considered independently in the obligation of zakāt and that the intention plays a decisive role when paying zakāt on such goods. Thus, the taxpayer’s intention clarifies the type of property to which the zakāt belongs and ensures the validity of the zakāt.

⁷⁹ Sarahsī, *al-Mabsūṭ*, 3/18.

⁸⁰ Sarahsī, *al-Mabsūṭ*, 3/23.

⁸¹ Sarahsī, *al-Mabsūṭ*, 3/23.

1.29. **Ḍābiṭ: What is given to the poor without intending to pay zakāt is not sufficient for zakāt.**⁸²

Zakāt is an act of worship; it is not valid without intention. However, if a person gives the entire nisab to the poor, whether he intends to pay zakāt or not, zakāt is cancelled from him. This is because the obligatory zakāt was part of what he gave.⁸³

1.30. **Ḍābiṭ: Power of attorney is valid in zakāt.**⁸⁴

Sarahsī gives the following example on the subject:

“If a person gives zakāt from his own property on behalf of another person and by his order, it is valid. If someone else gives zakāt on someone else’s orders, it is as valid as if the one who ordered it gave it. If the person who gives the zakāt has not stipulated a condition, he cannot demand it from the obliged person after he has given it. However, if someone gives zakāt to the poor on behalf of the obliged person without his order, the zakāt is not valid for the obliged person because there is no intention of zakāt. This is because zakāt, which is one of the acts of worship, requires intention and the worshipper must do it. Zakāt cannot be paid by someone else without the order of the obliged person.”⁸⁵

Since zakāt is an act of worship that is performed solely with wealth, and since niyabah is valid in financial acts of worship, wakalah is also valid.

1.31. **Ḍābiṭ: Zakāt debt cannot be forced to be paid through judgement.**⁸⁶

The zakāt debtor is free to decide whether or not to pay his zakāt. He cannot be forced to pay it by judgement. Therefore, the one who pays the zakāt without any conditions cannot demand anything from him.⁸⁷

1.32. **Ḍābiṭ: Even if there is no state protection, a Muslim must pay zakāt on his property subject to zakāt.**⁸⁸

⁸² Sarahsī, *al-Mabsūt*, 3/34.

⁸³ Sarahsī, *al-Mabsūt*, 3/34.

⁸⁴ Sarahsī, *al-Mabsūt*, 3/35.

⁸⁵ Sarahsī, *al-Mabsūt*, 3/35.

⁸⁶ Sarahsī, *al-Mabsūt*, 3/35.

⁸⁷ Sarahsī, *al-Mabsūt*, 3/35.

⁸⁸ Sarahsī, *al-Mabsūt*, 2/181.

While explaining this issue in the context of the obligatory nature of zakāt and the obligation to pay it, Sarahsī gives the following example:

“If a person served in the army of the rebels for several years and did not pay zakāt during that time, then when he repented later, the zakāt of the past years would not be taken from him by the state. This is because at the time when zakāt was obligatory, he was not under the protection of the state and the ruling of the state did not bind him. However, this does not remove his obligation to Allah. The reason for zakāt has been fulfilled and a right has been established in the sight of Allah. This right can only be fulfilled and cancelled by the payment of zakāt.”⁸⁹

This example of Sarahsī explains both the individual’s obligation to Allah and the social dimension of zakāt. Although it is not legally possible to collect the zakāt of the past years by force in a situation where the state’s authority does not exist, the individual’s responsibility in the sight of Allah continues. This responsibility will be fulfilled by paying the zakāt debt. In the context of this principle regarding the obligation to pay zakāt, Sarahsī makes the following explanation:

“If a person converts to Islam in a non-Muslim country where there is no peace between Muslims and non-Muslims, and he stays there for a few years, and he does not pay zakāt even though he knows that zakāt is obligatory, when he returns to the Islamic country, the zakāt of the past years will not be taken from him by the state. This is because at that time he was not under the protection of the Islamic state and the ruling of the state did not apply to him. However, this does not remove his obligation to Allah. Therefore, he must pay his zakāt for the past years in order to fulfil his obligation before Allah.”⁹⁰

This explanation emphasises that the fact that zakāt is obligatory creates a right against Allah, but this right cannot be legally collected in cases that take place outside the authority and protection of the state. Nevertheless, it is stated that the person must fulfil his responsibility towards Allah. Thus, Sarahsī clarifies the boundaries of both individual religious responsibility and the state’s sphere of application.

⁸⁹ Sarahsī, *al-Mabsūf*, 2/181.

⁹⁰ Sarahsī, *al-Mabsūf*, 2/181.

1.33. *Ḍābiṭ*: In cases where the state does not have the right to receive zakāt, the Muslim's open property / *emwāl-ı zāhire* is like his hidden property / *emwāl-ı bātine*.⁹¹

This *Ḍābiṭ* mentions an important legal principle that emphasises that zakāt is an individual worship and financial obligation. In Islamic law, zakāt is recognised as an individual responsibility of the Muslim. *Emwāl al-zāhirah* (open goods) are goods that can be easily identified by the public, such as agricultural products and animals, and whose zakāt is usually collected by the state. *Emwāl-ı bātine* (hidden goods), on the other hand, are goods such as money, gold, and trade goods, which are usually under the control of the individual and out of sight, and in which the state does not directly intervene. Since zakāt is an individual worship, whether the state fulfils this duty or not does not remove this obligation for a Muslim. Even in cases where the state does not collect zakāt, the Muslim is still obliged to pay zakāt on his open goods individually, just as he pays zakāt on his hidden goods. The validity or obligation of zakāt does not depend on the existence of a state that enforces the rules of Islam. The Muslim is obliged to give zakāt directly to the poor or other classes to whom zakāt is due. When the open goods (*emwāl al-zāhirah*) are not collected by the state, they are considered under individual responsibility in the same way as the individual is careful in paying zakāt on his hidden goods (*emwāl al-bātinah*). This situation reveals that zakāt is not only an institutional structure, but also an individual's worship towards Allah. This *Ḍābiṭ* emphasises the personal responsibility of financial worship in Islam.

Conclusion

The general principles and expressions that reflect the basic principles of Islamic law and contribute to the science of fiqh in solving legal issues have been applied in zakāt, which is a financial worship, as in all parts of the science of fiqh. One of the important books showing the application of the rules of fiqh in zakāt is Sarahsī's *Mabsūṭ*. The fact that *the Mabsūṭ* is a commentary of the *zāhir al-rivāya* works that constitute the basic views of the Hanafi madhhab has been a reason for preference in determining the principles on the payment of zakāt. Another feature that makes *the Mabsūṭ* important in terms of fiqh and uṣūl is that Sarahsī is a scholar of uṣūl. In *Uṣūl al-Sarahsī*, he systematised the procedural principles he extracted from *the Mabsūṭ* into a systematic book. For this reason, *the Mabsūṭ* is a voluminous work in which the principles of fiqh are applied.

⁹¹ Sarahsī, *al-Mabsūṭ*, 2/181.

Sarahsī, in general, used the term ‘basis’ to describe the rules and principles when explaining the rulings on the payment of zakāt, as he did in all matters of fiqh. Sarahsī used the principles mostly to contribute to the understanding of the ruling and to support the ruling, and he prioritised the transmissible evidences in determining the ruling and made the principles supportive of the ruling as rational evidences.

In explaining the ruling on the subject, Sarahsī, while explaining the essentials, took the opinions of the Hanafī imāms as basis, but in matters where they disagreed, he sometimes preferred one of them or the general opinion accepted in the sect. While explaining the issues related to the payment of zakāt, Sarahsī, in addition to mentioning the different views and ways of reasoning among the Hanafī imāms, sometimes included the views of the imāms of the Shafī’i and Maliki sects, and explained them together with their intellectual and rational evidences, thus enabling the comparison of views. Since the article is limited to Hanafī jurisprudence and is specialised with Sarahsī’s *Mabsūṭ*, other opinions are not included. However, Sarahsī’s inclusion of the principles related to the payment of zakāt in *the Mabsūṭ* by comparing the views of not only the Hanafī madhhab, but also the views of the imāms of other madhhabs when necessary, with the principles they adopted, shows that the science of fiqh is based on some principles with evidence.

In *the Mabsūṭ*, the principles about the payment of zakāt, the method of payment, and to whom and how it should be paid are less common than the principles about the obligatory nature of zakāt, the reason why it is obligatory, and its obligation. Nevertheless, nearly one hundred principles about the payment of zakāt have been identified. In line with the volume of the article, only thirty-three of them such as ‘The zakāt of the goods that fill the nisab can be paid in advance a few years in advance’, ‘It is not obligatory to pay zakāt unless the debt is collected’, ‘The zakāt of the camel is only given to the female’, ‘Zakāt is not given to non-Muslims’, ‘Counting a receivable as zakāt does not replace zakāt’, ‘Zakāt can be paid with all kinds of goods’ are included.

In *al-Mabsūṭ*, al-Sarahsī states that zakāt can be paid in three different ways. The first of these ways of payment is from in-kind goods subject to zakāt, which can be fulfilled immediately for the debtor, the second is from cash/money, which is a common medium of exchange that can be easily used by the creditor in need, and the third is from another in-kind good that the creditor needs more. Based on these principles, it is seen that zakāt can be paid in three ways: from zakāt in kind, from money, or from other goods in kind. The fact that zakāt can be spent in different ways facilitates zakāt payments.

As a result, in the formation of the science of fiqh, in addition to the evi-

dence and methods, the basic principles and rules of law were also included. Commenting on the *zahir al-rivāya* views of the Hanafī madhhab in his work *Mabsūt*, al-Sarahsī built the issues on the principles, which are also called the general principles of fiqh. The principles in the sense of basic principles in *the Mabsūt* were also included in the payment of zakat and were effective in understanding the fiqh issues. In this article, it has been seen through Sarahsī's *Mabsūt* that the principles, which are also called general principles, are important and used in the structuring of the judgement together with the evidences of fiqh.

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