

The Inconsistency Of Assessing Agricultural Zakat

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Abstract

The management of agricultural zakat in Malaysia is under the jurisdiction of States Religious Council. The objective of this paper is to analyze the nisab, rate and to assess the deduction of cost before zakat is imposed. A qualitative methodology was used to analyze the data through descriptive and comparative methods. The researchers used five states as

samples, namely Selangor, Penang, Perlis, Terengganu, and Sarawak. The findings showed the inconsistency in deciding the nisab for the bushel (*sa'*) metric weight. In addition, the variability of rates was applied in all states and the deduction of cost is allowed only in the state of Perlis. It can be summarized that the occurrence of the diversity is due to inconsistency of bushel (*sa'*) weight in every state and there are various rates of agriculturazakat, specifically 5%, 7.5%

and 10% which is set by State Islamic Religious Authority. It can be implied that *fatwa* issued by the State Mufti Department and Baitulmal are required to be reassessed from time to time. It is recommended that digital modern metric measurement is to be used and all costs should be deducted before they imposed agricultural zakat.

Keywords : *Argicultural Zakat; Inconsistency; Nisab; Rate; Costs*

Introduction

Zakat is one of the major financial obligations which every Muslim has to pay once in a year if he is a *Sahib-i-Nisab* (a minimum prescribed amount by *Shariah*, which varies for different categories). The system of *zakat* collection and its disbursement is based on *Quranic* injunctions (at-Taubah 9:60). Additionally, the early period of Islamic history provides some significant practical examples of the system of *zakat*, i.e., collection and disbursement. The practice of its tenets is worldwide such as in Nigeria (Akanni, 2006), in Pakistan (Suhaib, 2009; Aziz et al., 2013) and Sulawesi (Darma et al., 2012), regardless of whether the adherents of the religion are the majority or constitute the minority group where they live. Like other tenets of Islam, adherents are expected to practise *zakat*, an institution meant to generate funds from the wealthy Muslims for the upkeep of the poor ones among them. A major condition for validity of the practice of this pillar of Islam requires that it is managed or administered by the machineries of the state.

The reality of zakat management in Malaysia is under the jurisdiction of the state government, based on the allocation of Federal Constitution (2006) in the Ninth Schedule of II list of States List. The administration of zakat is under the

States Islamic Religious Council (MAIN) and in some states it is also placed under a specific institution that is separated from MAIN. The implementation of all the policies and activities of a state Islamic Religious Council is in accordance with the enactment or the State Islamic Religious Administration Ordinance and State Fatwa Committee. MAIN is a body under the DYMM Sultan or His Majesty the King which is responsible for all matters related to Islamic activities in the state, including The Mufti and the Department of Zakat Management Centre (Azman et al., 2012).

The administrative management for zakat distribution in Malaysia is divided into two categories. First, the distribution of zakat under the Islamic Religious Council of the respective States Baitulmal as practised in the states of Perlis, Kedah, Perak, Johor, Sabah, Kelantan, Pahang, Melaka, Negeri Sembilan, Sarawak, Federal Territory and Terengganu. Although MAIN has established corporate subsidiary “corporate governance” that manages zakat in their respective states such as the Federal Territory Zakat Collection Centre, Melaka Zakat Center, Pahang Zakat Collection Center and Negeri Sembilan Zakat Collection Center, the power to distribute zakat is being still retained under the MAIN Baitulmal (Razak et al., 2013).

The second category is that the distribution made by the corporation or subsidiary company established specifically by MAIN is to manage the collection and distribution of zakat synchronously and to be unified on behalf of MAIN as in Selangor Zakat Board and Penang Zakat Governance Centre (Dhar, 2013). Table 1 indicates the management and administration of agricultural zakat in states which formed the samples of the study:

Table 1: The Administration of Argicultural Zakat in Malaysia

No.	States	Management of Argicultural Zakat
1	Selangor	Selangor Zakat Board (LZS)
2	Pulau Pinang	Penang Islamic Religious Council Zakat Governance Centre (PUZ MAINPP)
3	Sarawak	Sarawak Baitulmal Fund (TBS)

4	Terengganu	Terengganu Islamic Religious and Malay Customs Council (MAIDAM)
5	Perlis	Perlis Baitulmal, Islamic Religious and Malay Custom Council MAIPs

Source : Selangor Zakat Board website,(2014). Agricultural Zakat. Retrieved from <http://www.e-zakat.com.my/zakat-harta/zakat-pertanian/>

The research analyzed the agricultural zakat and its management in the five states above: Selangor, Sarawak, Penang, Terengganu and Perlis which are the sample of the research. The objective of the research is to analyze the nisab, rate of agricultural zakat and the assessment deduction of the cost before zakat is imposed.

Method

In general, the researcher has put forth the qualitative approach in the data collection method. This study involves a primary method, namely the theoretical research method (library study) and the empirical method (field study).

Through this theoretical approach, the library study was conducted to gather some initial information about the study background which is finding the *'illah* (reason) of the agricultural zakat, other than paddy plantation and probing into the deduction of the operational cost of the crops in question, and also looking for any association in *masalah maqasid syari'ah*. Both primary and secondary sources will also be studied, entailing studies on books on zakat, and *maqasid syari'ah*, academic articles, journals, academic training working paper conferences and information obtained from official websites. The data were extracted from a few libraries namely, Universiti Malaya Main Library, Za'ba Memorial Library Universiti Malaya (UM), Tun Sri Lanang Library National University of Malaysia (UKM) and International Islamic University Library Malaysia (UIAM).

This study also involves a documentation method by means of compiling documents on agricultural zakat and also using the historical approach which places more emphasis on the practice of the Caliphs of 'al-Rasyidin who had all performed *ijtihad* on zakat resources. The empirical research method involves two stages, namely data collection and analysis. This study will also gather primary and secondary data. For the former, information can be obtained through field study namely interviews.

The interview method is used on experts in the field of zakat especially those who are directly involved in the administration and management of zakat laws, those of whom comprise respondents in the State Zakat Institutions and Mufti Department as mentioned in the study's limitation of location. The objective here is to obtain information on the fatwa of agricultural zakat decided at the level of State Fatwa Committee and the implementation method of the management of crops zakat in the State Baitulmal, also to obtain other people's opinions on issues raised.

The semi-structured interview was done by arranging for an appointment first, through an application letter attached with the interview questions. The method of data-recording was done using written notes and the MP3 voice recording (with the permission of the respondents). Table 2 indicates the selection of respondents for the interview, self-determined by the institutions as follows:

Table 2: The Interview Session with State Zakat Centre and State Mufti Department

State	State Zakat Centre/ Baitulmal	State Mufti Department
Penang	Azhari Bin Ahmad (Executive Officer for Dakwah Syara' Consultancy, Collection and Marketing Department PUZ Pulau Pinang)	Y.Bhg. S.S. Dato' Seri Haji Hassan Bin Haji Ahmad (Mufti of Penang)

Perlis	Mohd Nazim bin Haji Md Noor (Head, Zakat Unit, Baitulmal Department, Perlis)	Roslan bin Isa (Deputy Mufti of Perlis)
Terengganu	Zuhaimi Bin Tuan Sembok (Executive Officer for Zakat Assesment , MAIDAM Terengganu)	-

Interview questions are structured by referring to the need of the study that involves the study of agricultural zakat and *maqasid syari'ah*. The questions were posted earlier on and every one had been posed and answered one by one. The structure of the questions is done by categorizing every question to the issues raised so as to make the data analysis via interview transcribing easier. Table 3 below then is drawn:

Table 3: The Structure of Interview Questions

Category	Law (fatwa) of agricultural zakat		Type of crops which zakat are to be paid		Nisab of the crops zakat		Rate of the crops zakat		Deduction of costs before zakat		<i>Maqasid syari'ah</i> of the zakat	
No. of question	(1) (3)	(2) (6)	(4) (7)	(5) ()	(8) (1 0)	(9) ()	(11) (1 3)	(12) ()	(14) (1 6)	(15) ()	(17) ()	(18) ()
Total number of questions (18)	2		4		3		3		3		2	

The second stage of the empirical method is the processing and analysis of data. To analyse the data obtained, the method used was in the form of inductive analysis (*istinbat*), deductive (*istiqrā'i*) and comparative (*muqaranah*). The method used is content analysis, which is by concentrating on the views of previous scholars and the contemporary ones over the issue of expanding the range of agricultural zakat, also its estimation that covers arguments of the costs of crops. Researcher also used the law analysis method on the arguments and views of the fuqaha with regards to agricultural zakat.

The interview questions were structured from library data and the interview was analysed in a deductive manner. The researchers used tables, diagrams and graphs to represent the analyzed data obtained from interviews and reports. In addition, comparing data from the interview and documentation accessed from all the five states, researchers looked at the most suitable approach that goes in line with the current *maqasid*. In

the same vein, a comparative method was also adopted by way of finding differences and similarities between all the different opinions to produce systematic, integrated and consistent resolutions. Then, the researcher would use the analysis of the current and local value of *'urf, masalahah (maqasid syari'ah)*, to see the justification for us to resolve issues related to laws of agricultural zakat in Malaysia.

Findings and Discussion

In Malaysia, all the states only levied zakat on paddy based on the view of Imam al-Shafi'i that imposes on the basic food of a place, which can be stored and dried. Thus, the findings of this research are best explained by discussing the definition, nisab and rate of agricultural zakat in Malaysia.

Definition of Agricultural Zakat in Malaysia

There are no designated or specific definitions within the states, due to the reason that the existing definition of agricultural zakat is too broad (Mohd Farid bin Mohd Zainal, pers. com., September 12, 2012) based on evidence (*dalils*) from Surah al – Baqarah 2:267 and only on the opinion of Shafi'i sects or school. As an example in LZS, agricultural zakat is defined as “A zakat that is being levied on satiate staple food of a state that has reached its nisab. Crops that are compulsory to be zakat are cereal-grain

consist of satiate and long lasting staple food if stored such as rice, dates, corn, and wheat and so on. The staple food for Malaysians is rice and rice is produced from paddy” (Selangor Zakat Board, 2014).

PUZ MAINPP and MAIPs Baitulmal added that the requirement on crops is “which are cultivated by man” (Zakat Management Centre of Penang, 2014) and “on land owned, rented and otherwise” in their definition of agricultural zakat. In TBS it is defined as part of “the net income” and “beneficial agricultural products” (Sarawak Baitulmal Fund, 2014). Researchers assume that the definition has a close connection to its implementation for example, in Sarawak the term “net income” is imposed due to the deduction of operational cost allowed by TBS before zakat can be levied compared to Selangor that only imposes on gross revenue. Meanwhile, the term “beneficial agricultural products” has opened the *maslahah* dimension, in addition to expending other than paddy to crops that will bring high return and benefited the recipients. However, there is an issue in MAIPs Baitulmal in defining agricultural zakat. This is because based on fatwa or ruling, agricultural zakat is categorized under income zakat on the basis that the revenue is obtained during a certain season or period of time (Perlis Fatwa Department, n.d.), this is conflicting with the definition issued by Perlis Baitulmal (Baitulmal MAIPs, n.d.). Based on the differentiation of definitions, it is a must for all states authority to develop a system of guidelines on the interpretation of each terminology on types of property and zakat recipients so that its implementation is parallel with the terminology that has been set.

Nisab on Argicultural Zakat in Malaysia

Majority of jurists agreed that the *nisab* on crop is 5 *awsuq* based on the original hadith from Abu Sa'id al-Khudri r.a. However, this opinion is not agreed upon by Imam Abu Hanifah that did not limit the *nisab* on crop, and zakat is made compulsory on outcome of productivity without looking at the quantity.

In Malaysia, all states adhere to the majority of scholars' point of view (Ibnu Qudamah, 1994) by applying *nisab* with a rate of 5 *awsuq* as the benchmark of ability and *muzakki* qualification to issue zakat on paddy plants. The setting of *nisab* ratio is for the paddy crop that has been cleared of shell and straw. Thus, the *nisab* weight of 5 *awsuq* that is being practiced is based on the weight of rice, as for paddy that has not been cleaned yet shelled, the setting of *nisab* is doubled which is 10 *awsuq*. Even so, the states in Malaysia have not reached the consensus in deciding the metric rate of bushel and kilogram, such as shown in Table 4 below:

Table 4: The Inconsistency of Nisab of Zakat on Paddy in Malaysia

No.	States	Bushel (sa ³)	Kilogram (kg)
1	Selangor Zakat Board	363 Bushel	1306 kg / 1.306 tan
2	Penang Zakat Governance Center	363 Bushel	1300 kg / 1.3 tan
3	Perlis Baitulmal Islamic Religious Council	363 Bushel / 2 <i>kunca</i> ¹ / 7 <i>naleh</i> ²	1300 kg / 1.3 tan
4	MAIDAM Terengganu	375 Bushel / 600 Medina Bushel	937 kg / 0.937 tan
5	Sarawak Baitulmal Fund	400 Bushel / 50 <i>pasuk</i> ³	1080 kg / 1.08t an

Source: (a) Mohd Farid bin Mohd Zainal (pers. com., September 12, 2012). (b) Zulhazmi bin Bohari (pers. com., September 24, 2012). (c) Tuan Zuhaimi bin Tuan Sembok (pers. com., October 3, 2012). (d) Azhari bin Ahmad (pers. com., September 18, 2012).

Based on the table above, there are three diversifications of bushel rates in Malaysia which are 363 bushels, 375 bushels and 400 bushels. Similarly, to the diversity of kilogram, the rate follows 987 kg, 1080 kg, 1300 kg and 1306 kg. The researchers believe that the occurrence of the diversity is due to several factors. The first factor is that there is no consistency of bushel weight in every state and the weight transitional shift is from 5 *aswuq* to bushel and kilogram. Basically, because bushel is a tool for measuring and not to be weighed, is based on the Hadith narrated by Ibn 'Umar (Al-Nasa'i, 1992). The measure of a *sa* 'varies

based on the current situation and as example, the different bushel measure of Medina and Egypt because each state *ijtihad* in determining the measure of *sa'* based on shape and size of the inherited bushel model.

In Sarawak, according to Zulhazmi bin Bohari (pers. com., September 24, 2012), it is still using the traditional weights 40 to 55 *pasuk* that has been practiced by previous paddy operators before the existence of Sarawak Baitulmal Fund and this rate is still being practiced till now, though in 2007 the Baitulmal has set a modern 400 bushels rate in which the equal weight is 1080 kg (1 bushel = 2.7 kg). The bushel setting was supported by Tarimin (1987) and Majid (2003) that 400 Malaysian bushels is equivalent to 1600 pound which means one count bushel is equals to 4 pound. However, they differ in the setting of kilogram which is 960 kg (1 bushel = 2.4 kg) and 1000 kg (1 bushel = 2.5 kg).

In Terengganu the *nisab* ratio rate is 375 bushel or 600 Medina bushel equivalent to 937 kg (1 bushel = 2.5 kg). Meanwhile, Perlis, Selangor and Penang impose the size of 363 bushel or 2 *kunca* and 7 *naleh* equivalents to 1300 kg and 1306 kg (1 bushel = 3.58 kg). The diversity is clearly due to the local traditional weights which are still being used such as *pasuk*, *kunca* and *naleh*. Assessment of the different rate measurement of a bushel either 2.5 kg or 2.7 kg or 3.58 kg contributes to these differences. The basic differences occur due to the type of paddy grown in an area, because each type of paddy has different weights depending on the quality grade of the paddy and its density.

This clash of view occurs not only in Malaysia, but also throughout the world, as well as the different opinion between scholars on the kilogram of a Baghdad bushel? For example respectively on the different scales of Imam Abu Hanifah and Imam Syafi'e each with eight (8) pounds and five to one third ($5 \frac{1}{3}$) pounds (Abu 'Ubaid, 1988). The researchers consider this difference occurs due to the local and current factors, as an example, Imam Abu Hanifah who

resided in Iraq and Imam Syafi'e who was in Hijaz.

The second factor involves the jurisdiction of the policy makers, the Mufti Department and the States Baitulmal which need to reassess the issue as how the assessment has been conducted by The National Fatwa Council Discussion for 57th Islamic Religious Affairs Malaysia in the discussion of setting up the price of zakat fitrah throughout Malaysia (Institute of World Fatwa Management and Research INFAD, 2014). As a result of the discussions, it was decided that the pricing of *zakat fitrah* for the states in Peninsular Malaysia is based on the local price set by the Padiberas National Berhad (BERNAS) for Local Super Grade A, based on the measurement of a Baghdad bushel with an equivalent weight of 2.6 kg. While *zakat fitrah* for the states of Sabah and Sarawak are based on the price of Vietnamese White Rice for Sabah and Thai White Rice for Sarawak in accordance with the equal weights of 1 Baghdad equivalent to 2.7 kg. Bushel that is measured to the digital metric scales use the wooden replica of Baghdad Bushels from Negeri Sembilan and the copper replica of Baghdad bushels from the Kelantan Islamic Religious Council.

When comparing the results of the discussion on the consistency rate of *zakat fitrah* with the applied practice of other states, it indicates that only the state of Sarawak synchronizes the measurement rate of *zakat fitrah* with the zakat on agricultural produce of one bushel equals to 2.7 kg. This differentiates only the quantity that is required to be issued by which *zakat fitrah* is only 1 bushel, whereas crops are at 400 bushels. The states of Peninsular Malaysia as what has been decided recommended that the measure of 1 Baghdad bushel of *zakat fitrah* is equals to 2.6 kg. However, from the scope of practice measurement of one bushel for crops differ in each state, for example in Terengganu one bushel is equivalent to 2.5 kg, whereas Perlis, Penang and Selangor decided on 3.58 kg a bushel.

The question arises on generalizing the measurement of one bushel of *zakat fitrah* with to one bushel of zakat on agricultural produce. This is because the weight of the bushel meant in *zakat fitrah* is Baghdad bushel. Meanwhile, the bushel used in agricultural zakat in Malaysia has been changed to Malaysia bushel weight. For example in Sarawak, 400 bushels of crops intended is Malaysia bushels (Sarawak Baitulmal Fund, 2014).

Researchers felt the need to set a standard of consistency of modern metric weights which are kilogram and bushel. The Fatwa or ruling on the value setting of the *nisab* should be reevaluated from time to time to obtain the accurate value; this is due to the debate on the lack of emphasis on *zakat nisab* in the State Baitulmal and Fatwa Committee. Based on the interview conducted, fatwa or the *nisab* outcome of the agricultural zakat after first being fatwa or ruled, has not been reevaluated from a long period of time, example in Selangor, Penang, and Terengganu only debated on the issue of rate setting, the decline of cost and subsidiaries.

The re-evaluation of *nisab* law occurred in Sarawak from 363 bushel that changed to 400 bushels in the year 2007. However, it did not emphasize on details the accounting and the current assessment value of a bushel. Similarly in Perlis, the fatwa has set the *nisab* paddy of 2 *kunca* and 7 *naleh* is equivalent to 937 kilogram, but the Baitulmal has amended the kilogram measurement to 1300 kg based on current situation without involving the State of Perlis Fatwa Committee (Roslan Isa, pers. com., September 5, 2012).

The interview findings between the researchers and the State Mufti Department in relation to fatwa or ruling on agricultural zakat that had been decided was a disappointment because the details of the fatwa were not kept and documented systematically, Hence, it causes difficulties for the researchers to examine the accurate date when the decision was issued, the copies of the discussion minuted, detailed

discussion on findings and so on. This fact is recognized by Buang (1988) in his analysis of current shariah fatwa in Malaysia.

The researchers' evaluation in relation to the issue of fatwa changes of bushel weight in Sarawak and Perlis are not due to the current economic and technological changes, this is because of the 5 *nisab aswuq dalil* or evidences are *sarih* (clear) and *thabit* (rigid). The possibility of changes in the *nisab* of fatwa or ruling is an improvement against the inaccurate law that has been decided earlier by the Fatwa Committee.

In this cutting edge of globalization, this problem can be overcome by modern methods of metric scales such as the "digital" scales provided by the Metric Unit, Ministry of Domestic Trade and Consumer Affairs that are being exercised to ensure the accuracy of the approximate weight of 5 *aswuq* or 300 Baghdad bushels to Malaysia bushel measurement. In the mudd weight metric system, mudd is weighed in terms of grams (g), and *sa'* (bushels) and *wasaq* is weighed in kilograms (kg). Even so there are difficulties in obtaining the accurate weights, though when using the same measure of one bushel weight, the results will be different due to the weight and density such as nuts weight heavier than corn, and corn is heavier than paddy and flour. Moreover, scholars also have different opinion in the setting of one bushel weight.

Bushel measure is for measurement, so the most accurate weight is in liter and not kilogram; however with the passing of time, kilogram is more efficient as well as able to facilitate the *mu`amalat* affairs of human. Thus, the *maqasid shari`ah* recognizes local element which is country, such as the differences that occurred in Medina and Baghdad, so the researchers believe in Malaysia, locality should be divided into two sides which are Peninsular Malaysia and Sabah and Sarawak. Reassessment is a must to set an exact measurement between types of paddy plants that are grown in an area, because it is the current *ijtihad* trait. Division of the two types of areas are due the geographical differences,

technology used, as well as farmer economic status, as the agriculture practices in Sarawak and Sabah differ from what has been practised in the Peninsular Malaysia.

Bushel rate setting may be referring to the consistency method of *zakat fitrah* rate by the National Fatwa Discussion in which one Baghdad bushel is equivalent to 2.6 kg for states in the Peninsular and 2.7 kg for the states of Sabah and Sarawak. However, the differences would be how much bushel should be measured as in 363, 375 or 400 Malaysia bushels, should be extended to the States Zakat Administration Commission (SPZN) to assess the accurate conversion measure of one Baghdad bushel if translated into Malaysia kilogram weight. While the current pricing depends on the types of paddy grown based on the quality and density such as paddy rice and upland rice and can be referred to (BERNAS).

Resolution of Haul (Annually) for Agricultural Zakat

Compared to the other types of property that zakat are being levied, agricultural zakat is excluded from the resolution of *haul* because the crop is collected during the time of harvest, based on the word of Allah in Surah al- An 'am : 141 " *And due its right (zakat) on the day of picking or harvesting*". But the practice in Selangor , Sarawak and Penang, if the sale value of rice during the first season is less than *nisab* , then it shall be added to the second season of the same year. This is because, according to an interview with the LZS, TBS and PUZ MAINPP, many farmers will pay zakat on crops at the end of the year in order to facilitate their business. The researcher considers the prescribed method is seemingly applying the duration of *haul* as opposed to *nas*. *Maqsad* in determining *nisab* is a benchmark on the ability of a person to pay the zakat, but this method is seen as pressing the farmer by making agricultural zakat compulsory, even though it is not beyond the *nisab* rate of a season.

Agricultural Zakat Rate in Malaysia

In Malaysia, all states in the Peninsular has agreed to use the basic setting rate of 10% and 5% based on the source of hadith *sarih* of Ibn 'Umar and Hadith of Mu'az (Al-Asqalani, n.d.). Determining the rate of zakat on crop is divided into two categories, based on the method of irrigation and energy that used natural drainage or machinery as well as manpower. However, some states limit the rate by imposing a single rate of either 10% or 5% only. While in Sarawak the third alternative rate of 7.5% is imposed based on the view of Ibnu Qudamah, as stated in Table 5 below:

Table 5: Inconsistency Rate of Agricultural Zakat in Malaysia

No.	States	Zakat Rate
1	Selangor Zakat Board	5% only
2	Penang Zakat Central Governance	10% only
3	MAIDAM Terengganu	5% and 10%
4	MAIPs Baitulmal	5% and 10%
5	Sarawak Baitulmal Fund	5% , 10% and 7.5%

Source: (a) Mohd Farid bin Mohd Zainal (pers. com., September 12, 2012). (b) Zulhazmi bin Bohari (pers. com., September 24, 2012). (c) Tuan Zuhaimi bin Tuan Sembok (pers. com., October 3, 2012). (d) Azhari bin Ahmad (pers. com., September 18, 2012)

Based on the table above it can be summarized that there are three categories of zakat rate setting on crops. First, the setting of a single rate whether 5 % or 10 % which are being practiced only in Selangor and Penang respectively. In Selangor in the year 1989, the earlier rates of zakat crop approved are the option of either 5 % or 10 % according to the willingness of farmers. Because there are no specific guidance, the Syara' Legal Consultative Committee has decided that the rate of zakat on paddy is 10% based on the book of Majmu' Sharh al-Muhazzab that stated threshes and irrigation dug which are linked to major rivers and are costly, the zakat levied is still as much as 10% (Islamic Religious Council of Selangor, 1989). Now with the use of modern agricultural technology Mohd Farid bin Mohd Zainal (pers. com., September 12, 2012)

emphasizes that the Selangor Zakat Board has reassessed and set the rate of 5 % for zakat on crops with a grounded reality that in Selangor 100% of farmers that cultivate paddy field are using the irrigation system provided by Selangor Department of Irrigation and Drainage which involved a planned and systematic drainage and no longer uses the natural drainage.

Jurists also have different opinion on the water purchase issue just as the differences of opinion between al-Rafi'e and al-Dusuqi by imposing a 5% rate if it involves the purchase of water "irrigation tax". It is believed that the purchase of water is included within the liability cost (Al-Nawawi, n.d.) although there are conditions that must be obeyed before the rate of zakat is deducted by which the cost must be a major cost by viewing the current *'urf* of agricultural and the costs directly affect the crop productivity. This is because the jurists do not include the cost of creating drainage or reservoir as part of the cost of crops based on the opinion of Imam al-Nawawi and supported by Imam al-Haramain.

In Penang also occurred the reassessment of the current rate setting law. The 5% rate is the existing rate that has been used previously by the Islamic Religious Council of Penang (2005). However in 2005, the discussion of State Fatwa Muzakarah has decided that the zakat rate for paddy is as much as 10% by giving waiver for operational cost. The researchers consider that the Penang Mufti has decided on this outcome on the basis of *qaul* Al-Dusuqi (1996), this is based on the interview of Hassan bin Ahmad (pers. com., September 20, 2012), as follows "*There is also the issue of JPN irrigation tax (Department of Irrigation and Drainage), water tax is not a lot and does not match and cannot be instilled within the irrigation effort to make the rate of 5%. For example, an alcove is only a few Ringgit Malaysia RM. As such, it is treated only as an ordinary tax. A 10% rate is more profitable and better suited to the recipients*".

The review made by the researcher on the above statement indicated as if Y. Bhg Sahibul

Samahah only prioritizes on *maslahah* of the recipients compared to looking at the overall overview of both zakat entities including the *muzakki* (farmer) themselves. However, based on the decision of Penang Fatwa Committee in the setting of 10% rate is by taking into consideration the deduction of operational costs, is almost equal to the 5% rate as what has been applied in Selangor on the gross cost without the deduction of any of the costs.

The second category on the rate setting of zakat on crops is based on *zahir* of hadith which is 10% rate for natural irrigation and 5% involving labour as has been practised in Perlis and Terengganu. In Perlis, the zakat rate set in the year 1980s is only 5% which is the single rate (Perlis Fatwa Department, n.d.). But MAIPs Baitulmal has updated the method by imposing 5% rate without deducting any cost and 10% if the deduction of costs complies with the requirement of Islamic law. The current methods used by MAIPs Baitulmal emphasizes more on the value of justice to the farmer and the recipients of zakat by balancing between the setting rate of zakat on crop with deduction of certain costs.

In Terengganu a single rate of 10% was imposed in 1990 (Fatwa Committee of the State of Terengganu, 1990) because at that moment the water irrigation was from the drainage and free water irrigation and the water tax imposed during that time was not a burden. Thus, it does not change the rate of zakat. The situation changed in 1994 (Fatwa Committee of the State of Terengganu, 1994) when there is an effort to use modern machinery in the irrigation sector. Hence, 5 % rate is imposed , and 10% rate is charged on farmers that still use the traditional water irrigation which employ ditches, reservoirs and water catchment.

The third category has set the third alternative rates which are 7.5 % after 5 % and 10 %. Although the rates have specified the *nas* of 5 % and 10%, according to Zulhazmi bin Bohari (pers. com., September 24, 2012), in

practical Sarawak Baitulmal Fund imposes an average of only 7.5% based on the view of Ibnu Qudamah. This is because the geographical factor of Sarawak differs, besides the types of crops such as upland rice and paddy rice, as well as the area of hilly plants that limited the use of modern technology in irrigation and agricultural system.

The researchers think the debate on rate setting of 7.5% only if it involves two crops or more, is being mixed flushed and if the ratio of both irrigations are equal (Ibnu Qudamah, 1994). This is because in relation to the work of digging trenches or irrigation, Ibnu Qudamah did not input within the definition of flushed and did not reduce the rate of zakat due to the term “heavy workload” being too subjective and difficult to determine (Ibnu Qudamah, 1994).

Based on the analysis of the three categories above, it is summarized that the rate of agricultural zakat in Malaysia varies according to the environment of the respective states. This is because the differences are due to the influential factors of the irrigation capacity of water drainage, weather, energy resources (technology) and geographical changes of some places (Al-Yusuf, 2012). Undoubtedly, the fundamental rate setting in agricultural zakat is anchored on *nas sarih* hadith Ibn ‘Umar and hadith Mu’az, that is, on the basis of irrigation either 10% or 5%. However, the objectives of shariah still celebrated the condition of locality.

All the sect jurists have detailed the rate setting methods as of Al-Kasani (2002) that compare the burden as the determination of *‘Illah* as well as Al-‘Imrani (2000) and Ibnu Qudamah (1994) by bringing examples of *sa’imah* animals that is a must for zakat to be levied. This is because zakat is made compulsory on human endeavour and burden by which will reduce the productivity. Even so, Al - Dusuqi (1996) asserts that setting of the 10 % rate if the purchase of water or leasing of irrigation were due to fewer loads.

In today's globalization which demands each action is administered, the rate of agricultural zakat is no longer being decided by the farmers themselves as what has been traditionally practiced previously. Now, agricultural irrigation affairs are managed by the State Drainage and Irrigation Department, it is the responsibility of the State Baitulmal to connect from time to time with the party that directly manages the agricultural sector, in order to update the law and set suitable irrigation methods that are compatible with the current situation.

Deduction of Cost Expenses of Argricultural Zakat in Malaysia

In Malaysia, zakat assessment of paddy crop includes subsidized money (coupons) that was earned which is calculated as *al-Mal al-Mustafad* and must be issued 2.5% if the *nisab* is sufficient as what has been practised in Selangor, Sarawak, Perlis and Penang. Thus, the exclusion of certain costs before agricultural zakat is imposed has been applied by some states in Malaysia as a means of easing the farmers by allowing the deduction of crop operational cost. However, only in Perlis it is made official to forgo the crop operational cost as well as cost of living as stated in Table 6 below:

Table 6: The Inconsistency of Cost Deduction before Zakat on Paddy is made Compulsory

Bil	States	Costs Deduction
1	Selangor Zakat Board	-
2	Penang Zakat Administrative Centre	Deduction of operational and living cost (If there is no other source of income)
3	MAIDAM Terengganu	Deduction of Operational Cost
4	Baitulmal MAIPs	Deduction of operational and living cost
5	Sarawak Baitulmal Fund	Deduction of only operational cost

Based on the interview it was identified that only in Selangor that no deduction of cost is allowed and zakat on crops is levied only on gross cost. Some states are only allowing the relief of operational cost as what has been practised in Terengganu and Sarawak. Meanwhile, the relief of all costs inclusive of operational cost and

cost of living before zakat on crops is issued as in Penang and Perlis.

In Selangor, zakat on crops is levied only on the gross income. This is based on the verdict decided by the Syara Law Consultancy Committee in the year 1989 based on the Book of al-'Ubab that stated "*When harvesting of crops is done, the farmers are not allowed to eat the produce, pay planning wages or donating alms before zakat on crop is issued. Takzir (penalty) will be imposed if the farmers refuse. While all the cost expenditure on crop costs are borne by the farmers*" (Islamic Religious Council of Selangor, 1989).

The verdict is still being applied until now, even though most states such as Perlis, Penang, Terengganu and Sarawak have given relief whether the deduction is only operational cost or along with the cost of living. Based on the interview with Mohd Farid Mohd Zainal (pers. com., September 12, 2012) identified that there is no reassessment by LZS Syariah Researches, even though there was demand for reassessment in relation to the deduction of *kifayah* limit cost on farmers that pay zakat on crops.

The second category is the states that allowed the relief of certain cost before zakat on crop is being levied such as what has been practised in Terengganu, Sarawak, Penang and Perlis. Perlis, Penang, Terengganu and Sarawak have agreed in unison to allow the relief of cost to the paddy operators such as cost of fertilizer, land lease, labour wages and harvest machine and plowing wages. Meanwhile, the deduction of transportation cost is allowed in all states stated above except Terengganu. Even though the law of cost deduction has been decided, the fact is in Terengganu, the law is not being practised by farmers, that it is not even stated in the MAIDAM 2012 Agricultural Zakat Guidelines Pamphlet.

According Tuan Zuhaimi bin Tuan Sembok (pers. com., October 3, 2012) most of the farmers that pay zakat is with the intention of

"*ibadah mahdah*" with the "*ta'abbud*" trait which consists of senior farmers. Thus, they hold to *qaul* jumhur of jurists that defined the wealth of an individual with sufficient *nisab* rate. This group does not accept the opinion of *qaul* Ibnu' Abbas and Ibnu 'Umar on the must of *daruriyyat* cost deduction and basic necessities, even though it has been informed by MAIDAM.

In Penang, there is an additional exclusion that was allowed in the year 2005 which is $\frac{1}{4}$ of unexpected reduction such as from bird attack, natural disasters and others. Nevertheless, based on the opinion of Azhari bin Ahmad (pers. com., September 18, 2012) as well the 2012 zakat on paddy crop pamphlet did not state the relief. This clearly shows that it is not being practised by Zakat Governance Centre of Penang Islamic Religious Council.

In relations to the relief of cost of living, the findings for the interview conducted identified that only Perlis and Penang allowed the relief of all the costs which are the production cost and living necessities. In Perlis, the deduction of both costs has been decided since 1980 by the Perlis Fatwa Committee at that time. They emphasized on this as a must on the basis on *qaul* of Ibnu 'Abbas, Ibn 'Umar, Ahmad Ibnu Hanbal and others with the reason of *daruriyyat* debt for the question on the relief of the operational cost as the problem of *ijtihad* guided by hadith; which means; "*Narrated by Abu 'Ubaid in the al-Amwal chapter with the chain from Jabir bin Zaid who said to the man who is in debt to be used for the needs of his family and his farm, he said: Ibn' Abbas said removed debt attributable to his farm, Ibn 'Umar said: removed the issuance debt and also to his family (self-sufficiency).*"

Yahya bin Adam has also narrated as the above, he said: Ibn 'Umar said it must be the outcome from the crop that is used to pay off the debt first and zakat will be levied from the balance. Ibnu 'Abbas said: fulfilled what is owed in advance as the cost of production and the balance will

be levied zakat. Meanwhile, the relief of basic necessities and *daruriyyat* expenditure based on the view of Ibnu 'Umar stated that zakat is only levied only on the wealthy people based on the Word (Hadith) Rasulullah (pbuh) that means "It is not zakat (alms) except for the rich" (Al-Bukhari, 1993), which concurred with the hadith "Take zakat from the rich and returned them to the poor and needy" (Al-Bukhari, 1993). This is due to the reason that one of the recipients that is the objective of zakat collection is to assist those who are poor as in the word of Allah swt in Surah Al-Taubah: 60.

Practically in Perlis, in general the deduction of cost output is allowed to the entire farming community; however the deduction of all cost which is operational and living cost is permissible if the farmers do not have any other source of income other than farming. MAIPS Baitulmal balanced between the setting of rate and deduction costs, if the deduction of cost occurred before it is being zakat, thus the rate levied is as much as 10% (original rate). The second scenario, if the farmers did not deduct any cost, so the rate set is as much as 5% (*ruksah* rate).

MAIPS Baitulmal has set a specific formula for the deduction of living necessities cost covering the farmer with the rate of RM 14.12 a day, RM 8.47 a day for the necessities rate of the wife and RM 3.28 a day for the children. Meanwhile, the allowed maximum amount a year for the necessities of the farmer, wife and children is RM 5000, RM 3000 and RM 1200 each. Other than that the deduction of *daruriyyat* debt such as transportation and residential are also allowed, so does the medical cost and contribution to the parents. In Penang, Syariah Committee Meeting, Penang Islamic Religious Council No. 1/2005, Item 3. (e) has recommended the deduction for cost of living if there are no other means of income as what has been practised in Perlis. Based on the interview with Azhari bin Ahmad (pers. com., September 18, 2012), in reality, the law is not being applied by the Zakat Governance Centre, Penang Islamic Religious

Council even though there have been regulations set by Syariah Committee and were not included in the PUZPP 2012 Paddy Zakat Pamphlet.

Conclusion

This study concludes that the state Baitulmal has agreed that the *nisab* for crop zakat is five *awsuq*, but differs in terms of bushel (*gantang*) and kilogram measurement with few varieties namely 363 *gantang*, 375 *gantang* and 400 *gantang*. The same goes with kilograms that have different measurement of 937 kg, 1080 kg, 1300 kg and 1306 kg. Inconsistencies also occurred regarding the rate of agricultural zakat with some of the states imposing a single rate 5% or 10% only. However, others give alternatives based on irrigation, whether traditional ones which correspond to 10% or requiring manpower or machinery with 5%. The state of Sarawak imposes the third rate of 7.5% where irrigation practices in common. In terms of costs deduction, in Selangor, zakat for crop is imposed only on gross yield, compared to the state of Sarawak, Penang and Terengganu where zakat for crop is imposed after operational costs have been deducted. Except for the state of Perlis, operational costs and cost of living are both allowed to be deducted. It can be implied that each fatwa that was issued by State Mufti Department are required to be reassessed from time to time. The recommendations are the diversity of *nisab* rate is clearly caused by the locality traditional measurement which are still in use like *pasuk*, *kunca* and *naleh*. It is suggested thus, that modern metric measurement is used like the digital-type measuring device provided for by the Metric Unit of the Domestic Trade and Consumer Affairs Ministry (KPDNHEP) to be practised to ensure that the accuracy of measurement equates 5 *awsuq* or 300 Baqhdad bushels to the Malaysian bushels.

Endnote

- 1 Traditional Perlis measurement: 1 Kunca = 10 nalih.

2 Traditional Perlis measurement: 1 Nalih = 16 *gantang* (bushel), 1 *gantang* (bushel) = 4 cupak (mudd).

3 Traditional Sarawak measurement: 1 Pasuk = 8 *gantang* (bushel) or 1 pasuk = 2 containers of gasoline/biscuits, 1 *gantang* (bushel) = 14 milk container (kong) 387 gram.

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