

**SOCIAL SECURITY SYSTEM OF
ISLAM WITH SPECIAL
REFERENCE TO ZAKAH**

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SOCIAL SECURITY SYSTEM OF ISLAM WITH SPECIAL REFERENCE TO ZAKAH

By

Najmul Hasan*

1. THE PERSPECTIVE

Looking back at the historical perspective of social security movement, it is easy to discover that the human society has tried to provide economic protection to its needy members in some form or the other, whatever the stage of its evolution. But forms that social security techniques took in the course of their evolution in different communities reflect the stage of their economic development at that time of history and the appropriateness of the device adopted. It also serves as an index of the social security needs of the time and the capacity and will of the community to provide such protection in the given framework. Thus, from voluntary charity to its modern institutionalised forms of protection, it is not entirely a leap forward without precedents. It is rather the result of a gradual and often imperceptible progression from undefined, unguaranteed charitable offerings to a well-defined, guaranteed system of rights under specific circumstances. This explains why, in course of time, individual emotions towards the sufferings of *homo sapiens*, religious teachings and state obligations began not only to supplement the efforts of each other but also to reflect the concern of the human society towards the achievement of a goal cherished by all. *This goal is the attainment of a stage in the socio-economic scheme of things at which no individual suffers from the avoidable economic deprivations and afflictions.* The variants of the devices adopted for the achievement of this goal in different parts of the world depends on priorities, set out by the communities concerned for tackling the problems of economic insecurity.

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The Resurgence of Islamic System

Islam is an eternal religion. As revealed to last messenger of Allah, Hadrat Mu'hammad (peace be upon him), Islam provides a complete code of conduct for the present as well as the time to come. Islamic system has been the most progressive of all in its early years. But it lost its sway later not because of any inherent incapacity of its own to meet the new challenges but because of its mismanagement by the followers of the faith. In the years that followed, the number of the faithful multiplied not only as a sequel to natural growth of population but also because of the widespread acceptance of the faith in different parts of the world. But the spirit that put the faith and the faithful on the high pedestal of leadership of the world shrank. And it was lost for many years --- for last centuries at a stretch. During this period of history some very far-reaching changes were witnessed. They pervaded all walks of human life, cultural, social, political, economic, scientific and technological. Meanwhile 'scientific attitude' had begun to put every thing to objective test. The old political philosophy yielded place to a new one based on the greatest good to the greatest number achieved through a state sovereignty "of the people for the people and by the people".

Besides the economic consequences of the Industrial Revolution of the West and consequent pre-occupation with materialistic attainment, the established social system out of gear in many Muslim countries. Nevertheless, Islam still remained the religion of the Muslim-majority areas. But the reaction of the Muslim community to these changes may be described, by and large, as that of unconcern, to use the most charitable expression. The total effect of all this was that the world at large, including the followers of the faith, began to doubt the efficacy of the Islamic way of life in meeting the new challenges.

It is only lately that Islamic resurgence is becoming manifest in the Muslim belt of the world. Islamic revolution has already become a *fait accompli* in some of the countries of the region and some are planning to go Islamic.

There are both poor and rich countries in the Muslim belt. While some of them enjoy the highest per capita income in the world, there are others living at the verge of poverty line. Per capita income, it may be stated here, is not the sole index of economic development. Looking

from the angle of the use of modern technology and growth and diversification of economic activities, the entire Muslim world constitutes a part of the Third World.

The fact is that economic ideology of Islam has the full capacity to respond to the needs of the modern world. Nevertheless, the present paper confines itself to treating only one important problem: that of establishing a system of social security in an Islamic setting so that the social cost of industrialisation is minimised and the Muslim community is enabled to adjust easily and quickly to the demands of the new economic order that is sure to take birth much sooner than later in the Muslim belt. In the pages that follow, an attempt will be made to pose and examine the following questions:

1. What is the scope of the secular schemes of social security?
2. How far are they compatible with the ideology and the carrying capacity of the Islamic schema?
3. What would be the main constituents of the social security system of Islam?
4. What problems are likely to be encountered in implementing an Islamic system of social security?

2. THE NEED AND SCOPE OF SOCIAL SECURITY

Human life is full of contingencies --- acute conditions requiring immediate relief for satisfying elementary wants. What constitute an elementary want depends upon the social status of the individual, the stage of economic development of the community of which he is a member and the accepted norms and conventions of that community. Thus indigence is as much a social malaise as it is an individual affliction. And, perhaps, this social problem is as old as the society itself.

All social problems symptomatise the existence of maladjustment in the society. Human society, whatever the stage of its civilisation or economic development, has always tried to keep some sort of balance in the inequalities of incomes to maintain its own homeostasis. Social security is a scheme to provide relief to the victims of social contingencies¹. The International Labour Organisation (ILO) explains social security system as “a set of legal provisions creating a title to defined benefits for defined categories of persons, in defined

contingencies, including maternity (cash benefits), child maintenance, conditions requiring medical care, maintenance of community health (where combined with provisions for other contingencies), incapacity for work, unemployment, old age, funeral and death of the breadwinner²". It has been a universal practice to operate the social security schemes under the auspices of the state which may assume any of the three patterns: It may pass enabling legislation and supervise the implementation of the scheme; it may pass legislation, finance and administer the scheme; it may pass legislation, subsidies and monitor the implementation of the scheme.

The Scope

Contingencies against which protection is provided under the social security schemes fall in three categories: biological, economic and bio-economic. Biological contingencies include sickness, maternity, invalidity and, possibly, occupational hazards. Their protection necessitates income security as well as medical services. Economic contingency is illustrated by unemployment. According to the ILO, it is "the unemployment of an insured person who is ordinarily employed capable to regular employment in some occupation and seeking suitable employment, or due to part-time unemployment³." This excludes unemployment of the idle rich or the idle poor or unemployables owing to physical or mental disability or those not able to secure employment for lack of requisite qualifications⁴. It may be noted here that unemployment owing to inability to secure a job because of uncontrollable factors is covered under a scheme to which the beneficiary is not a contributor. Another economic contingency protected under social security schemes is death of the bread-winner. The beneficiaries under such schemes include minor children, widow, aged parents and other unemployable dependents of the deceased.

Largeness of family, born disability, or old age backed by past savings are other economic contingencies which call for social security protection⁵. Purely economic contingencies, it may be pointed out here, require only income protection unlike the biological ones which require medical relief also.

A bio-economic contingency refers to a situation when a worker become too old to work although he is still too young to die. For the remaining period of his life after retirement one needs income security as well as health care. It may be seen that biological and economic contingencies are, at least theoretically, avoidable but old age is unavoidable.

The Techniques

Social security may be provided through two main techniques: social insurance and social assistance. Apart from them, certain allied measures may also be included under social security schemes.

Social Insurance

Social insurance has been defined as “a plan of giving in return for contributions benefits up to the subsistence level, as of right and without means test so that individuals may build freely upon it⁶.” It is a contributory scheme for the benefit of employees with subsidies from the employer and the state⁷. The major part of the cost of social insurance benefits is met by the employers. The state often makes only a token contribution. When self-employed persons are also covered, their contributions are generally one-and-a-half times the rates paid by the wage employees⁸.

Social insurance differs from commercial insurance in many respects. **Firstly**, while commercial insurance is financed unilaterally by the policyholder, social insurance is financed by the insured person, his employer and the state in defined proportions. **Secondly**, one policy under commercial insurance covers only one risk. Under social insurance, one contribution is paid for covering many contingencies. **Thirdly**, commercial insurance is a business: its motive is profit. Social insurance is a welfare measure; its motive is service. **Fourthly**, the amount of claim under commercial insurance depends on the sum insured. Social insurance defines an income limit for coverage. **Fifthly**, while commercial insurance is voluntary, social insurance is compulsory. And, **lastly**, while commercial insurance usually pays claims in money, social insurance provides for medical benefits also.

In view of these vital differences, the criteria for the evaluation of social insurance schemes have to be different.

Social Assistance

Social assistance is a scheme which “provides benefits for persons of small means granted as of right in amounts sufficient to meet a minimum standard of need and financed from taxation⁹.” Like social insurance, social assistance also grants both cash and medical benefits and confers legal right to them on qualifying person. This distinguishes it from private charity or doles.

However, social assistance differs from social insurance as it is *non-contributory* and is conditional on the *means* of the beneficiary. Social assistance schemes stipulate that ‘the liable relations’ maintain the needy person in the first instance. The concept of ‘liable person’ differs from country to country. In an Islamic set-up only a husband is liable to maintain his wife and children, whatever his economic conditions. It also places a moral responsibility on the sons and daughters to maintain their needy parents¹⁰.

Allied Schemes

Apart from these, there are number of other measures which may be considered to be social security measures. *Friendly benefit* schemes were the oldest trade union method to keep up the wages as well as "to provide maintenance..... in cases in which a member is deprived of his livelihood by causes over which neither he nor the union has any control¹¹.” Friendly benefits helped "bind the member to the union¹².”

In the modern times, employer-financed schemes are undertaken for granting retrieval benefits, medical facilities, education, housing and community welfare of workers. The idea which germinated in 19th century with Robert Owen founding ‘Villages of Co-operation’ at New Lanark¹³ has spread to other parts of the western world.

Life insurance is also progressively adopted for making social security provision mainly against old age but also for other contingencies such as marriage of children, their education and invalidity. However, the allied schemes discussed above are voluntary measures and hence they have not been given serious consideration in social security planning.

System of Social Security

Various schemes of social security operating in different parts of the world can be grouped into three models: The ILO model; the communist model and others.

The ILO has evolved through a set of "Conventions and Recommendations" a model which has been accepted universally except in communist countries. The mainstay of the ILO model is social insurance covering (i) sickness, (ii) maternity, (iii) occupational hazards including accidents and occupational diseases, (iv) invalidity, (v) unemployment, (vi) retirement, (vii) death of the breadwinner before retirement and (viii) medical care. As stated earlier, such schemes are contributory based on the following:

1. Beneficiary contribution both for the individual and the class should be lower than that of the employer. It envisages that a minimum absolute rate of earnings should be charged as contribution¹⁴.
2. Employers should contribute "as much as half of the total cost of benefits confined to employed persons" particularly low-paid¹⁵.
3. The state should meet the entire deficit of the social insurance scheme to ensure its solvency.

The ILO model represents the latest trend in the social security movement and has been accepted as a standard in a major part of the world. However, it may not be most suitable for less-industrialised countries.

Centrally planned and controlled countries such as the U.S.S.R have adopted a *communist model* of social security. Social security schemes have been planned by this state and financed entirely by the employer. The Russian social insurance system covers "all employed persons irrespective of whether the undertakings, institutions or business in which they are employed are state, public, co-operative, established under a concession or lease of mixed character or private or whether they are employed by private individuals irrespective also of the nature and duration of their employment and the method of remuneration¹⁶." Neither the employees nor the state pay any contribution. Each enterprise is levied a charge for financing the cost of

social insurance benefits¹⁷. Since work is compulsory for the all able-bodied persons, unemployment insurance has been abolished. Farm population is provided social security by collectives. It is financed by members as well as collectives. The remaining population is provided social assistance by the *Commissariats* of Social Welfare in each of the Republics¹⁸. Health services are financed from the budget and administered by the Commissariat of Health. Combined social insurance is administered by trade unions through locally constituted Social Insurance Committees attached to Factory Committees. As a rule, the members of the trade unions are entitled to higher benefits than the non-members¹⁹. It may be pointed out here that Communist model of social security can not work without central control of the economy.

Among other models of social security, mention may be made of the Japanese system. It is based on two main pillars: life-time employment and seniority wage system. Owing to this, employers retain surplus labour during depression also and the rate of unemployment is low. The company (i.e., the employer) is held to be and considers itself responsible for the total person, including his food, clothing and shelter, and takes a direct responsibility for providing these things, along with such items as medical care and education²⁰. The employer also undertakes non obligatory welfare programmes which are extensive both in scale and variety such as housing, medical care, cafeteria and free meal service, cultural and recreational facilities, monetary contribution to private insurance of employees, and assistance in their acquisition of company's shares. The Japanese society is traditional and takes pride in being so. It was found in 1973 that over 74% of aged parents were living with their children²¹. This has not changed much despite rapid industrialisation after World War II.

The existing social security system of Japan consists of three types of programmes; medical care security, income security and public welfare. *Medical care security* is mainly provided under medical care insurance. Besides, there are schemes financed by the general revenues²².

Income Security is provided under medical care, insurance system, workmen's accident compensation insurance and employment insurance system and pensions plan. They are financed on social insurance lines.

Public assistance programme is designed to guarantee the minimum standards of healthy and cultured living to those who cannot make it²³.

Welfare services are provided under the welfare laws for children, physically handicapped and elderly persons²⁴.

Medical Care

Medical care is a part of modern social security planning. Thus, in the U.S.S.R., health services are provided free to all working men and women. In the U.K., it is provided under the National Health Insurance Scheme of 1946. In a welfare state, a comprehensive medical care includes curative as well as preventive services. Private practice is usually allowed for supplementing the public health programmes as in the countries of the non-communist block.

3. THE ISLAMIC SYSTEM

Islam, unlike other religions, does not confine itself to outlining the system of worship and rituals and to defining the relation between man and his Creator. It offers a complete code of conduct of life. The Islamic system has many sub-systems contributing to the attainment of the goals of the whole system. They are interwoven in such a way that the whole falls if the parts are removed, distorted or replaced. That is why the Qur'an enjoins upon the faithful to enter Islam wholly²⁵.

The main sources of Islamic laws and practices consists of the Qur'an; the *sunnah*, the traditions of the Holy Prophet; *ijma'* or consensus of the scholars of *shari'ah*; and *qiyas* or analogy. A deep knowledge of the science of interpretation of Qur'an, '*ilm al'tafsir* is very helpful in grasping the basic tenets of Islamic system²⁶. *Sunnah* refers to the sayings, conduct and sometimes even silence of the Prophet (p.b.u.h.). This source is very useful for understanding the meaning and spirit of the Qur'an. *Ijma'* is the consensus of Muslim community expressed by a *mujtahid* who is well-versed in the objectives of *shari'ah*, and who can deduce principles on the basis of evidence on a particular point of *shari'ah*²⁷. *Qiyas* or legal analogy is "the extension of the *shari'ah* value from the original case (*asl*) over the *far'*

(subsidiary) by reason of an effective cause (*'illat*) which is common to both cases and cannot be understood from the expression (concerning the original case) alone²⁸.”

These four sources of *shari'ah* when used with intelligence yet caution, can cope with all situations arising in modern times. *Mujtahids* have made extensive use of *ijma'* and *qiyas* in the past in solving problems where no specific guidance was available in the Book and/or *sunnah*. In the present times, the Muslim community all over the world is faced with new challenges. The Muslims of the non Muslim majority areas cannot influence the legal system of their lands to remove any conflicts with the *shari'ah*. They look forward to Muslim-majority countries for guidance in conducting their affairs according to *shari'ah*. Therefore, it is of utmost importance that a system based on the tenets of Islam is evolved which is capable of handling the problems of modern life. And, this would re-affirm our faith that Islam is the only system acceptable to Allah²⁹.

Foundations of an Islamic Economy

The Islamic system creates a socio-economic milieu as well as moral and spiritual fabric that enables a Muslim to seek *najah* or deliverance on the Day of Judgement³⁰. It creates a cooperative society enjoining upon the followers to ‘hold fast the rope of Allah and divide not’. The Holy Qur’an decrees: ‘Verily all Muslims are brotheren; so establish concord among your brotheren.....’³²

Islamic system permits possession and holding of property but basically all property belongs to Allah³³. It particularly condemns hoarding³⁴. A Muslim holds wealth in trust for all who are needy and they have a defined share in it³⁵. It commends moderation and strongly condemns wastes of all kinds³⁶. It does, however, permit comfortable living³⁷ and praises those who practice moderation while avoiding niggardliness³⁸.

A true Islamic state assumes full responsibility for providing the basic minimum economic needs of its population³⁹. This responsibility is discharged with the co-operation of the rich. A tradition attributed to Ali (Allah’s mercy be on him) runs as follows: ‘Verily Allah has made it obligatory on the rich to fulfill the needs of the poor to the extent that it becomes sufficient if they are hungry, naked or suffer from any other economic inadequacy; Allah will make it a point to question the rich about it on the Day of Judgement and punish them for any

failure⁴⁰. In such a society the chances of class conflict are eliminated and confrontation between haves and have nots becomes irrelevant.

4. CONTINGENCY PROTECTION IN ISLAM

All great religions of the world assign significant place to charity and almsgiving. But the underlying idea was not, however, to organise relief for the benefit of those who were unable to provide for their economic needs. Charity was commended for the redemption of giver's own sins. In England, it evolved into the Poor Law which was described as "the relief of destitution in the framework of repression"⁴¹. Under other religious systems, charity is voluntary.

Islam was the first religion to institutionalise charity. Islamic system of charity consists of *khairat*, *sadaqah* and *zakah*. *Khairat* literally stands for any good deeds but in practice it signifies voluntary spending of one's *mal* (wealth or thing of value) for the benefit of the needy. *Sadaqah* literally means righteousness but signifies expenditure on certain occasions, sometimes in recompense for one's sins such as the breaking of oath; *fitrah*, a token of thanksgiving in the month of Ramadan. In texts on Islamic jurisprudence and also in the Qur'an, the terms *sadaqah* and *zakah* have been used interchangeably.

Zakah

In an Islamic system the main reliance for providing contingency protection is placed on *zakah*. A detailed examination of the issues related to this has, therefore, been attempted in the following pages in order to bring out how wide is the mesh provided by *zakah* to prevent destitution and to ameliorate the conditions of the needy.

Zakah is derived from the root *zakah* which means growth and also purification. It signifies blessedness (*barakah*), growth (*nama*), purification (*tazkiyah*) and reform. In the meaning of *shari'ah*, *zakah* is the part of the wealth which is ordained on the rich to spend for the poor. It also refers to the payment of this part⁴². *Zakah* differs from charity in certain fundamental respects. **First**, *zakah* is not an ordinary virtue; it is one of the pillars of Islam. Muslim refusing to pay it is a *fasiq* or violator of the faith; the one who doubts its legitimacy

is a *kafir*, a non-believer. *Zakah* is a *faridah* of great religious significance. **Second**, *shari'ah* itself fixes the rate of *Zakah*. **Third**, the payer of *zakah* does not do any favour to the beneficiary but discharges only his obligation. **Fourth**, it is in the nature of a levy and an Islamic state can realise its payment through its own collectors and functionaries (*'amilun*). **Fifth**, the state has a right to impose penalty in case of default. **Sixth**, state may even wage a war against wilful defaulters (after the tradition of Caliph Abu Bakr)⁴³. **Seventh**, even if the state does not collect *zakah*, the obligation to pay it remains. **Eighth**, the Qur'an itself defines its beneficiaries. Its spirit is to take from 'their (Muslims') rich to pay back to their poor'⁴⁴. **Ninth**, it is continuous obligation on the part of the rich for the improvement of the lot of the poor. **Tenth**, it has spiritual, moral, political, social and economic implications such as soothing the hearts of the new entrant to the fold of Islam and relieving the debts of the heavily indebted persons. This distinguishes *zakah* from other charities commended and recommended by other systems⁴⁵.

Nisab

Nisab is the minimum wealth (*mal*) that attracts *zakah*. *Nisab* is fixed by and on the basis of a tradition reported by the two Sheikhs (refers to Abu Bakr and 'Umar) which prescribes *Nisab* on grains and dates, cattle and animals and silver and gold⁴⁶. Waliullah holds that this limit is sufficient to meet the basic needs of a family of three for a year and would leave a small margin for taking care of contingencies⁴⁷.

Wealth Liable to *Zakah*

Zakah is payable on all kinds of *mal* which has the capacity to grow such as (1) gold and silver⁴⁸ including cash; (2) produce of land and fruits⁴⁹; (3) profits from trade, etc.⁵⁰; (4) minerals⁵¹ and (5) *mal* in general⁵². The term *mal* is generic and connotes all that has the following characteristics:

- a) Complete ownership (excluding *waqf* and illegitimate *mal*⁵³);
- b) Capacity to grow;
- c) Reaching the *nisab*⁵⁴;

- d) Surplus over basic needs⁵⁵;
- e) Freedom from debt;
- f) Lapse of one year⁵⁶.

Articles of Basic Needs (*Al-hawaij al-asliyah*)

Articles of basic needs are supposed to be devoid of productivity and growth. They are, therefore, excluded from computation of *nisab*. The following are included in the articles of basic needs⁵⁷: (a) dwelling; (b) wearing apparel; (c) household utensils; (d) riding horses; (e) arms for personal safety or holy war; (f) food for self and family; (g) articles of gold or silver used for decoration or ornaments*, (h) gems, pearls, rubies, emeralds and other precious stones; (i) coins other than of gold or silver meant for personal use; (j) books for acquiring knowledge or disseminating it; (k) tools and appliances used for making a living.

It may thus be seen that on the one hand, the net of *zakah* is wide enough to take in it all wealth that may satisfy human needs and on the other, it ensures economic justice by not neglecting the basic needs of the earners.

Who is Liable to Pay *Zakah*?

Zakah is levied only on individuals who have the following attributes:

- a) **Islam**: Non-Muslims do not pay *zakah*.
- b) **Reason**: The insane does not pay *zakah*. (But his guardian has to pay *zakah* on his behalf).
- c) **Majority**⁵⁸: Minor pays through his guardian only⁵⁹.
- d) **Freedom**: Slaves are exempt from *zakah*.

* According to Hanafites, gold and silver ornaments are subject to *zakah*. Shiite law exempts them.

Exemptions From *Zakah*

The following exemptions are specially mentioned:

- i) *Al-mukatab* or a bonded person under an agreement of manumission.
- ii) *Debtor (madyun)* of demand debts is exempt from the payment of *zakah* if his debt obligation exceeds his wealth. However, if the debt is in respect of the past *zakah* obligation, it would be recovered by the imam or the state⁶⁰. Some scholars believe that debt exempts only non-apparent wealth (*amwal batinah*) from *zakah*⁶¹.
- iii) *Dimar* or wealth which has slipped out of the hands of its owner with little chance of recovery is exempt from *zakah* according to Abu Hanifah and his companions. Shafii and Zufar hold that on recovery, it will be subject to *zakah* for past years also⁶². Malikites hold that if such property is cash, gold or silver, only one year's *zakah* will be payable on it⁶³.

5. SPECIAL ISSUES

It may be seen that all types of *zakah* and their uses do not have the same relative significance. Some of them such as *zakah* on *dimar*, cattle, *mukatab* etc., have lost significance in the modern times. On the other hand, with tremendous sophistication in prospecting technology, mines have acquired much greater significance than in the past. Like wise, hotels, manufacturing plants, agricultural farms, etc., which were treated in *fiqh* only in passing, merit greater examination in the present context. Some of these issues will be discussed in the following lines.

(a) *Zakah on Mines*

Faqihs treat mines (*ma'dan*), treasure trove (*'kanz*) and buried property under one heading. *Rikaz* refers to treasures buried for safety and secrecy but some scholars include in it

only mines.⁶⁴ For the purpose of *zakah*, mines refer to minerals extracted from the underground⁶⁵.*

Occurrence of vast deposits of petroleum in the countries of the Muslim belt has brought the mine-owners unprecedented wealth. In the past, mining leases were given to multinational corporations who worked them to their own advantage. This deprived these countries of large revenues from these sources. In some countries, petroleum and other mines were nationalised. The correct classification of mineral wealth for *zakah* purposes will determine the revenues available to them for financing their welfare programmes.

Oil extraction was not an industry during the times of the Prophet (p.b.u.h.). Hence, petroleum cannot be equated with water for *zakah*. Mining may rather be treated as any other productive activity and minerals extracted may be made subject to *zakah* as articles of trade.

* The Hanafites distinguish three kinds of minerals: (i) solid minerals which can be melted and imprinted such as gold, silver and other metals; (ii) those that cannot be melted such as gypsum, arsenic, coal, etc.; and (iii) liquid minerals such as petroleum and water. The minerals of the first type only are subject to *zakah* at the rate of 20%, the rest belonging to the extractor. Liquid and other solid minerals are totally exempt.

According to Hambalites and a large number of Shiite scholars, there is no difference between imprintable and non-imprintable minerals such as sulphur coaltar, crude petroleum, etc. All types are subject to *zakah*.

There is also difference of opinion as to the rate of the levy. According to Hanafites, the rate is 20% but for Shiites, it is 2.5%. Malikites classify minerals into (i) those requiring efforts for extracting and (ii) those not requiring such efforts. They hold that *zakah* is payable only on the first type. For the rest, two opinions are attributed to Imam Malik. According to one there is *zakah* on all minerals; according to the other, there is a fifth on the latter. There is another well-known opinion held by the Malikites: All minerals, rather mines belong to the state as the private ownership of mines militates against public good. But salt is exempted as it is an article of common usage.

Those who hold that minerals are subject to *zakah* @ 2.5% argue that on the basis of a tradition reported by Malik in *Muwatta* as narrated by Rabi'ah ibn Abu 'Abd al-Rahman that the mines of Qabliyah which was gifted by the Messenger of Allah (p.b.u.h.) to Hilal ibn al-'Harith was later subjected to *zakah* only. Hanafites, on the other hand, rely on the famous '*hadith*' that in *rikaz* there is a fifth for *zakah*.

(b) Articles of Trade

Articles of trade (*urud al-tijarah*) are subject to *zakah* on the authority of a Qur'anic verse⁶⁶. According to the acknowledged commentaries, the phrase 'spend from out of what you earned' occurring in the verse refers to the articles of trade and profits therefrom⁶⁷. This opinion is confirmed by a 'hadith occurring in Abu Dawood⁶⁸. Abd al-Qarri (of Qarrah tribe) narrates: 'I was on the *bait al-mal* in the times of 'Omar b. Khattab; then 'Ata came, collected articles of trade and estimated their worth of whatever was present or not present; then he ('Omar) collected *zakah* from the present *mal* on the whole of the articles of trade⁶⁹. It has been stated in *al-Mughni* that the incident became quite famous and nobody disputed it; hence, it constituted *ijma'*⁷⁰.

Trade has been defined as what has been kept for sale and purchase for profit⁷¹. Its two essential elements are, therefore, action and intention. Articles of trade must possess both attributes.

In regard to *nisab* on articles of trade, there are three schools: (1) Mallk and al-Shafii hold that it should be based on the value of such articles at the end of the year⁷². (2) Al-Thawri, Ahmad, Is'haq, Abu 'Obaid, Abu Thawr and Abu Mundhir believe that *nisab* would be reckoned throughout the year so that if it is dissolved any time in the year, the year will be broken⁷³. (3) According to Abu Hanifah and his companions, *nisab* will be reckoned in the beginning or in the end of the year and will be ignored for intervening period⁷⁴.

A business concern holds three kinds of articles of value: (a) cash and bank balance; (b) working capital and fixed capital; (c) debtors. The aggregate value of these items should be reduced by the amount of liabilities owed to others. This would be the net worth. Since fixed assets, tools and appliances as also raw materials are not held for resale but for manufacturing, their value should be deducted from net worth. This would leave profit-earning net working capital which should be assessed to *zakah*⁷⁵.

It may be noted here that *zakah* is not assessed on profits but on wealth unlike income tax of secular states. It is levied on the total wealth once the *nisab* is exceeded; income tax is assessed on the income beyond the minimum exemption limit only. *Zakah* is a flat-rate levy;

income tax is progressive. Moreover, in case of loss no income tax is payable; *zakah* would still be payable on profit earning working capital.

(c) The Problem of Depreciation

Depreciation is allowed as an admissible deduction for computing income from business. But it is a non-cash 'cost'. It does not necessitate use of funds nor does it create a liability if it is not charged. Income tax laws do not differentiate between cash and non-cash costs. But in assessing *zakah*, depreciation is completely ignored, for, it neither reduces the value of articles of trade nor does it reduce liquid assets held by business. Hence, if depreciation is ignored, the value of fixed assets would be ultimately reduced to zero. The business would cease to exist without such assets. In my opinion, 'spend from what you earned' should be interpreted to refer to profits rather than articles of trade. Obviously, it is profits that are earned and not the articles of trade themselves. This interpretation may explain assessment in case of service industries which hardly acquire any articles of trade in course of business but earn profits all the same.

(d) Joint Stock Companies

The concept of limited liability was unknown during the times of the Prophet (p.b.u.h.). It was introduced later and acquired great significance during and after the Industrial Revolution in Great Britain. It enabled entrepreneurs to acquire larger resources without asking the contributors of capital to share in the market and financial risks involved in business propositions. A limited liability company issues shares to the members of the public, each share being of equal denomination which also limits the liability of the shareholder. The equity of the company is its share capital composed of ordinary or/and preference shares. Ordinary shareholders are the ultimate owners of the company and bear all the risk. In case of loss exceeding the paid up value of all ordinary shares, an ordinary shareholder would not make good the excess. The company's creditors, if any, would, then, be paid in the following order:

1. Preferential creditors;
2. Fully secured creditors out of realisations from the security;
3. Unsecured creditors ranking *pari passu* for payment.

Thus, if nothing is left after meeting the claims of the above types of creditors, the shareholders would be paid back for their capital contribution. If, on the other hand, total cash realised on liquidation falls short of the claims of the creditors, they would lose a part of their claims. No holder of a fully paid share will be called upon to meet the balance of claims. Preference shares, however, enjoy preference or priority over the ordinary shares in respect of return on capital.

In the secular law, the company pays taxes on income as a company which is a legally created artificial person. Its shareholders are assessed to income tax on the dividends received by them on company's shares as well as other incomes in their capacity as individuals. Double taxation is avoided by adjustment of income tax paid by the company. But dividend income is included in the total income of the shareholder.

Zakah can be levied only when the conditions of its imposition (*wujub*) are fulfilled. The crucial question to decide is to determine whether a joint stock company fulfils these conditions, viz., Islam, reason, majority and freedom. It is hard to decide when the company has non-Muslim shareholders too. Moreover, a joint stock company does not own its property completely for itself. It only represents shareholders. Hence, strictly speaking, a joint stock company cannot be assessed to *zakah*. But its complete exemption will open the flood gates of tax evasion and deprive the poor of a share in the wealth of these companies. This problem may be re solved by treating the management of the company as trustee or *wali* of the shareholders. But, however, in that case, the shareholders should not be assessed to *zakah* on the dividends received from the company as it would be tantamount to double taxation. Since *zakah* does not admit of progressive rates of levy, it would make little difference whether *zakah* is levied on the company or on the individuals owing the company.

The above position refers to *zakah* on profits. If shares are treated as articles of trade, the management of the company will be assessed to it and the individual shareholders will pay *zakah* on cash. In that case, the problem of double taxation does not arise.

(e) Shares and Securities

Shares held by an individual in a joint stock company are certificates of ownership. However, in modern times, shares are often bought as financial assets to be sold in the stock exchange. They have a stated (nominal or par) value as well as quoted or market value. Their market value may be either 'net worth' value of the share or the capitalised value of the dividends expected to be received on it. In a zero-growth company, the capitalised value of the dividend is computed as:

$P = \frac{D}{k}$, where P is the price of the share, D, the amount of dividend paid by the company per share and k is the cost of capital (equity) or the rate of capitalisation. In a growth concern, the value of the share would be $P = \frac{D}{k - g}$, where g is the expected rate of growth in the company dividends.

Not much in-depth treatment has been given by the modern writers of Islamic economics on this aspect of the problem. Sheikh 'Abd-al-Ra'hrnan 'Isa recognises only manufacturing and trading companies. According to him *zakah* should be payable only on the shares held in the former as they are articles of trade. In case of service concerns such as printing press, cold storage, shipping, air and other transport companies, there are no articles of trade. Their shares, therefore, represent equipment and plant which are not liable to *Zakah*. He suggests, however, to study the annual accounts of such concerns to estimate proportion of equipments and appliances to the total stock of the firm. Only the remaining part of the value of the share should be liable to tax in the hands of the shareholders⁷⁶.

It may be noted here that the fixed asset comes from all long-term sources of finance such as share capital, bonds and debentures and profits and retained earnings ploughed back in the firm. The right mix of these sources, the optimal capital structure, maximises the value of firm (or the market price of equity shares or the net worth of the firm). In increasing the debt-equity ratio, the equity shareholders' risk also increases. The increase in their dividend prospect or market quotation of shares is the compensation for assumption of greater risk. It would be somewhat less than fair to shareholders to apportion the fixed block of the firm in proportion to the capital structure ratios. The proposals of Sheikh 'Isa are not based, as far as I can see, on any specific analogy found in the Qur'an, *sunnah, ijma'* or *qiyas*. If accepted, they may disturb the national priorities and divert investment to channels that may not be in consonance with the state economic policy. In my opinion, share prices are based on a number of factors such as yield, security, safety, financial strength of the firm and its past records, quality of its management, state of competition in the industry, government policy and politico-economic situation of the country. All shares are transferable and represent the year wealth. Therefore, their value at the end of the year should be subject to *zakah* like cash or articles of trade⁷⁷.

Securities represent debt owed to the holder. They may be issued by government or commercial concerns. In all cases, they carry a guarantee as to the repayment of principal and interest. Hence, the debt is collectible. Commercial securities are subject to market fluctuations in the same manner as shares. Therefore, they may be treated at par with the shares.

(f) Non-Residential Buildings

As far as residential buildings are concerned, they are exempt from *zakah* as *al-dar al-sakani*. But a distinction has to be made between the buildings rented out for subsistence requirements of the owner and those as commercial investment. The prescription of *nisab* takes cognisance of the basic needs, *al 'hawaij al 'asliyah*. They should be defined with due consideration of the level of prices, cost and standard of living, etc. Obviously, the basic requirements would be different for different countries.

Rental property has two aspects: it has its own capital value and it has its rental value. The latter is zakatable. But there is need to reconsider the position with regard to the capital of such buildings. It has to be noted also that certain weaker sections of the population such as widows, orphans, aged persons, etc., may subsist solely on the income from such sources. Often it may not be possible for them to pay *Zakah* on such buildings except by selling them⁷⁸. In such cases, if the building is not occupied wholly by the owner, they may be treated as appliances (*al-alat*) for trade. It may be restated here that Islam cuts at the very roots of concentration of wealth. Therefore, the big hotel empires, international tourist houses and other such monopolies that are sources of unearned income just do not fit in the Islamic schema. They are bound to liquidate in course of time. Anyway, it would be proper for the state to call a *shura* of *ulama* and clarify the position on the issue.

(g) *Zakah on Public Undertakings*

In the modern times, economic activities of the state have increased both in dimension and quality. In a communist society, all means of production and distribution are owned by the state. Even in capitalist societies of the west, there is a drift towards a mixed economy. Many big industries have come under state ownership in the United Kingdom, United States and France. Basic and key industries in the Third World are mostly located in the state sector. Public undertakings are earning huge profits and are subject to corporation tax under the secular law.

I find no specific injunction under an Islamic system on state ownership. Some countries with predominantly Muslim population have already nationalised certain industries. There is a strong case for the nationalisation of mining industry even if only to diffuse the benefits accruing from this natural endowment over larger sections. The *sunnah* and the practice followed by the Caliphs provide precedent on the disposal and taxability of income of such undertakings. They are supposed to become perpetual trust, *waqf mu'abbad* according to one view. According to another view, it is like orphan property with the state as *wali*. In case a deliberate decision is taken by the state to own and operate an industrial unit, the entire

income accruing from it should belong to the state. This should then be available for welfare measures.

6. THE BENEFICIARIES OF ZAKAH

The proceeds of *Zakah* cannot be utilised except within the framework of the Qur-anic injunctions. The Qur'an lays down⁷⁹ that *zakah* is for:

- (1) *Faqir*, the poor.
- (2) *Miskeen*, the indigent.

These two cover those who neither own sufficient means of living nor can make it owing to old age, disability, blindness, lameness or owing to their whole time engagement in the performance of duties in the cause of Islam and due to inability to travel on earth in search of any employment⁸⁰. A non-believer *faqir* may be treated as a *miskeen* according to one opinion attributed to 'Omar⁸¹. According to a tradition of the Prophet (p.b.u.h.), *sadaqah* should not be applied to support a wealthy person or an able-bodied person capable of earning his living⁸². An idle poor thus excluded fulfils the following conditions⁸³:

- a) He can secure a job and earn his living.
- b) The job he can secure is permissible ('*halal*').
- c) The job does not demand labour beyond his endurance.
- d) The job is suitable for his position and status.
- e) The earnings from the job are sufficient for the upkeep of himself and his dependents.

A poor person can be paid *zakah* for making him care-free for one year but no more. But the amount paid should not make him non-poor.

- (3) Functionaries ('*amilun*') including
 - a. *sa'i*, *zakah* collector on animals,
 - b. *kitab*, a scribe or record-keeper,
 - c. *qasim* or burser,

- d. *‘ashir* or the collector of *zakah* on Muslim traders and dhimmi and *‘harabi* who cross the checkposts,
- e. *‘arif*, who identifies the beneficiaries,
- f. *‘Hafiz*, who keep safe custody of *zakah* proceeds,
- g. *‘hasib* or the account-keeper⁸⁴. There is some difference of opinion over the inclusion of
- h. *kayyal*, the measurer in this category,
- i. *Qadi*, the judge,
- j. *mufti*, the interpreter and arbitrator and
- k. *wali* may also be paid from *zakah* revenues. It may be noted that functionaires are not beneficiaries of *zakah* but may be paid for the hire of their services even if they are non-poor⁸⁵,
- l. *ra’i*, the cattle-tender of *zakah* animals,
- m. *saqi*, the waterer are paid from *zakah* revenues only if they are not paid from fay revenue. The total amount payable to this category should not exceed one-half of the total *zakah* collected⁸⁶. However, *Mu’hit* holds that this may reach three fourths of the tithe collected⁸⁷. But al-Quduri does not favour any ceiling on it⁸⁸. An *‘amil* should be a Muslim. However, Imam Ahmad holds that he may be a non-Muslim also⁸⁹. Likewise, he should be a non-Hashmite⁹⁰.

- (4) Those whose hearts need be reconciled’ refers to new entrants in the fold of Islam as they might have been deprived of their belongings, a share in the ancestral property, subjected to social boycott, dismissal from employment, etc.
- (5) In the freeing of necks: The category encompasses slaves under the contract of manumission-purchase and setting free of slaves. As it is, this category has become irrelevant in the present age.
- (6) *Gharimun* or those under heavy debt may be helped to discharge their debts. Opinions differ on whether or not the debt of a deceased person may be discharged from *zakah*⁹¹.

(7) In the way of Allah (*fi sabil-Allah*):

This is a wide category and may be interpreted in many ways. According to Ibn Athir, the following may be included in this:

- a) any good deed;
- b) *jihad* or struggle in the way of Allah⁹²; the Hanafites include under this help to *ghazis*, *hajis* and the seekers of knowledge⁹³. Syed Rashid Rida holds that the 'way of Allah' refers to common good of Muslims that establishes the edict of *din* and Islamic state not of individuals⁹⁴ and helping those who travel to other lands for calling people to Islam⁹⁵.

(8) The wayfarer who has undertaken the journey for lawful purposes and is needy at his place. The importance of this category has declined in the modern times as the conditions of traveling have improved considerably.

There are certain kinds of persons whom *Zakah* cannot be paid. They include:

- (1) *ghani*, well-to-do;
- (2) able-bodied;
- (3) non-believers who fight against Islam;
- (4) the children or the parents of the payer of *zakah*,
- (5) legal descendents of the Prophet (p.b.u.h.). However, a *q'hani* who is:
 - i) a *ghazi*,
 - ii) an *'amil*,
 - iii) a *gharim*,
 - iv) buys *zakah* property for consideration or
 - v) helps a person who is needy and is his neighbour may get reimbursed from *zakah*⁹⁶.

7. ZAKAH AS A SOCIAL SECURITY TECHNIQUE

It may be seen that *Zakah* is not a tax that can be levied or withdrawn by the state. It is an obligation towards the poor accountable before Allah. Thus, if the state does not take action to collect it, the rich still owe this obligation and have to make the payment voluntarily. There is no such parallel in the modern system of public finance. Whereas a tax is considered necessary evil by its assessee, *zakah* is only a token of thanksgiving to Allah.

Zakah is an important technique of social security provided in an Islamic setup. In certain respects, it resembles social assistance. In the **first** instance, social assistance is financed from the general revenues but *zakah* is a special levy and can be used for specified purposes only. **Secondly**, the beneficiaries of social assistance carry legal title to benefits; *zakah* beneficiaries have only moral but no legal title to it. The state has to raise funds for disbursing social assistance benefits; *Zakah* beneficiaries have to share whatever is collected on this account. **Thirdly**, the beneficiaries of social assistance are protected against the contingencies of old age, unemployment, born invalidity, largeness of families and medical care; *zakah* proceeds may be applied for all these purposes plus a few more such as heavy debt, conciliation of hearts, in case of natural calamities and social persecution and help to travelers in distress. Under the secular system, these do not rank as protectible contingencies.

It is pertinent to note here that Islam discourages subsisting on *zakah*⁹⁷. Therefore, a true Muslim prefers hard labour and low living standards to living on charity.

8. SOCIAL INSURANCE AND ISLAM

There are certain contingencies which are matters of common occurrence in the industrialised societies such as sickness, childbirth, industrial accidents and occupational diseases, premature death of the breadwinner, unemployment and retirement of gainfully employed members of the population. The victims of these contingencies may not qualify for *zakah* benefits as they may be technically non-poor. Under the secular system, they are protected under the technique of social insurance. Under the Islamic system, a scheme of

sharing certain common burdens is found in the institution of '*aqilah* which is a pre-Islamic institution which the Prophet (p.b.u.h.) permitted to operate even after the advent of Islam.

'*Aqilah*

In the texts on Islamic jurisprudence, '*aqilah* is discussed under the broad heading of *diyat* or blood money. Hidayah, a well-known text on the Hanafite system defines *ma'aqil* (plural of *m'aqulah*) as the money paid to prevent blood from being shed⁹⁸. It pacifies the relations of the deceased who might have been killed unintentionally. When the killer cannot be traced but there is a ground for suspicion that he was from a particular group, that group pays the blood money to the heirs of the deceased. '*Aqilah* is the group required to pay '*aql* or prevention money⁹⁹.

'*Aqilah* refers to the killer's tribe and is based on a '*hadith* by Hamad ibn Malik. Later, it was extended to *ahl diwan* from whom the total '*aql* could be realized over three years¹⁰⁰. *Ahl diwan* were members of an army under a common flag whose names were entered in a register and who received pension or maintenance¹⁰¹. However, Shafi feels that this tantamounts to abrogation of Prophet's (p.b.u.h.) *sunnah*. The Hanafites argue that when 'Omar compiled the registers the Prophet's companions did not raise an objection. This goes to confirm *sunnah*¹⁰².

'*Aql* is imposed on those who are supposed to support (*ahl al-nusrah*) the killer by their silence or otherwise¹⁰³. Hence, '*aqilah* may be

- a) blood relationship (*qarabah*) with the killer¹⁰⁴;
- b) '*hilf* or covenant to support that community¹⁰⁵;
- c) '*aqd mawalat* or an agreement to share the burden of the other whether monetary or otherwise. It started in the beginning of Islam, when a non-believer accepted faith on the exhortation of a Muslim, the two were bound by agreement to help each other. Sarakhsi holds that acceptance of faith is only an illustration and not a condition of this kind of agreement and that any two persons can enter into '*aqd mawalat*¹⁰⁶.

- d) *Wala* or inclusion of a freed slave in the family of the previous master;
- e) *'Idd* or counting a person as member of the group. Such a person might have immigrated and assumed customs and manners of the group so that he is identified with it for all practical purposes.
- f) *Qassamah* or imposition of voluntary collective fine for the payment of *'aql*. According to a *'hadith in Sa'hi'h al-Muslim*, the Prophet (p.b.u.h.) made an award by validating an agreement between the ansar and the Jews when the former claimed *diyat* on the latter¹⁰⁷.
- g) *'hurfah* or trade, if the members help each other and provide protection to fellow tradesmen¹⁰⁸.

Social Insurance and *Ma'aqil*

It may be seen that the twin purposes of the system of *ma'aqil* are (i) prevention of unnecessary blood shed and (ii) sharing a burden which is necessarily heavy on one person¹⁰⁹. Social insurance has in common the second objective of *ma'aqil* as it aims to lighten the burden of beneficiaries' maintenance in the event of materialisation of a social contingency by apportioning the cost on the beneficiary himself, his employer and the state. The principle of *'hurfah* may be applied to make a common cause of contingency protection with the beneficiary's employer in sharing the cost of providing social insurance benefit. Therefore, the technique of social insurance does not appear to be incompatible with the institution of *ma'aqil*. Here, one need not be unusually alarmed with the term 'insurance'. It has already been discussed how social insurance is not strictly based on the principles of insurance. The objectives are uppermost in case of social insurance; (1) welfare of the economically underprivileged and (2) lightening the burden of contingencies on their victims.

Some scholars have already expressed their opinion on the permissibility of social insurance schemes in Islam. Sheikh Abu Zohra holds: 'Social insurance which is instituted by the state whether for workers or salaried employees, whether limited to specific groups or applicable in general, is right and permissible¹¹⁰'. Likewise, the majority of the *Mu-tamar*

Islami also holds permissible¹¹¹. Among the classicals, Shah Waliullah of Delhi favours that the mal such as the estate of a deceased who leaves no heirs, the animals not claimed by their keepers, lost property, whose owner is not traceable (*luqtah*), etc., should be applied for general good in which no single person owns specifically but all benefit like construction of canals, fountains, mosques, digging of wells, etc¹¹². In my opinion, state may grant aid to social insurance institution from such revenues. Thus, a social insurance scheme would not violate the principles of the Shari'ah.

9. ISLAMIC VS. SECULAR SOCIAL SECURITY

The secular schemes of social security originated in the latter half of the nineteenth century particularly in Prussia as a measure to forestall socialism¹¹³. Even earlier to this, English Poor Laws provided relief to the down-trodden people. Islamic system is twelve centuries older. The main reliance of the secular schemes is on social insurance schemes. The Islamic system would place greater reliance on *Zakah* for protecting the social contingencies. This would be because the Islamic state would secure *Zakah* revenues which can be applied only for purposes specified in the Qur'an. Under the secular schemes, finances have to be provided from the general revenues which have many claimants. It is because of this that much public pressure is to be built before social assistance schemes are instituted in secular states. Social assistance schemes provide protection against the following contingencies:

1. Family allowances;
2. old age;
3. unemployment;
4. assistance to physically handicapped person and their rehabilitation.

Under *zakah* beneficiaries may include

- (a) the poor and indigent owing to:
 - i) largeness of family;
 - ii) sickness
 - iii) childbirth;
 - iv) unemployment;
 - v) old age;
- b) physically handicapped;
- c) born invalids;
- d) victims of floods, natural calamities, civil violence (as an effort at conciliation of hearts);
- e) debt-relief;
- f) those who are temporarily short of means while in journey;
- g) those engaged in social work on whole-time basis (fi sabilillah);
- h) medicare services.

As it were, these benefits will be non-contributory as social assistance benefits.

Secular schemes of social security place main burden of protection on social insurance techniques. Under an Islamic schema, the principle of *ma'aqil* may be extended to provide contingency coverage to the victims of social contingencies who do not formally qualify for *zakah*. The benefits under this kind of scheme may be financed by the contributions of the beneficiaries. Their employers and the state may also share the part of burden as decided in these cases. In case of the self-employed persons, contributions towards the cost of *ma'aqil* benefits may be a little higher than for employee beneficiaries.

Medicare and health protection may also be extended to the whole population free of cost. However, the better-to-do beneficiaries may be required to contribute a part of the cost.

10. OPERATIONAL ASPECTS

Social security planning in an Islamic system may require the classification of the population in income groups rather than occupational groups as is done under the secular schemes. Classification may be a dichotomous one dividing the population into (1) those falling below the *nisab* or income that attracts *zakah* levy (*ghair nisabi*) and (2) those possessing *nisab* (*nisabi*).

Ghair nisabi population may be paid cash benefits from out of *zakah* revenues without having to contribute towards the cost. The contingencies for which protection may be provided may include:

- (a) sickness;
- (b) unemployment;
- (c) born invalidity;
- (d) childbirth;
- (e) old age;
- (f) orphanhood;
- (g) widowhood;
- (h) indigence at large; and
- (i) comprehensive health services. Able-bodied persons would cease to qualify for any of these benefits the moment they are fit for work and secure gainful employment.

It may be noted here that measures should be taken by the state to promote conditions of full employment. Schemes of rehabilitation for widows and born invalids should also be undertaken on a large scale as a constituent part of comprehensive social security planning. Generation of the forces of economic development in the country has no alternative in the modern world. This will discourage the extension of the population who would seek subsistence from *zakah*.

Nisahi population may be protected under a scheme of *ma'aqil*. This category would be defined as those whose annual possessions exceed *nisab*. They would be required to make a regular contribution with regressive scales to a fund created for this purpose. If they belong to the wage or salary class, their employers would also make regular contributions on behalf of

the employees to the *ma'aqil* fund. On the materialisation of social contingencies, cash benefits at predetermined scales would become payable to them for specified periods. The state should guarantee the solvency of the fund in case of deficit. However, contributions should be fixed in such a way as to avoid any deficit. The contingencies for which *ma'aqil* protection may be provided should be usually the same for which social insurance schemes are instituted under the secular systems, viz:

- (1) sickness;
- (2) maternity;
- (3) industrial accidents resulting in total temporary disablement, total permanent or partial permanent disablement arising out of and in course of employment;
- (4) occupational diseases;
- (5) death while performing duties;
- (6) retirement; and
- (7) unemployment.

For the purpose of instituting *ma'aqil* schemes, the registration of the *nisabi* population will be first step to take. Registration may be based on the occupational categories of the population. Broadly, it may be grouped into:

- (A) agricultural population,
- (B) unorganised industries such as cottage industries, agricultural workers, workers engaged in other elementary callings,
- (C) self-employed persons and petty shopkeepers,
- (D) industrial workers employed in factories, mining and extraction activities,
- (E) transport workers including rail, road, air and shipping transport,
- (F) government employees and office employees, and
- (G) those employed or engaged in service occupations such as health services, legal profession, education etc.

For various reasons those engaged in the unorganised sector occupations are covered last for social security protection. This practice should be followed in an Islamic setup also as it would be difficult to secure regular payment of contributions from them. A beginning may be

made with the organised sector, viz., (D) to (G) classes as mentioned above. Their contributions to the *ma'afil* fund may be collected through their employers. Those engaged in other professions such as medical, legal and consultancy jobs may be required to pay their contributions directly to the fund. Monitoring of the payment may be enforced periodically by checking their registration cards.

For disbursement of benefits, a number of pay offices may be opened at suitable centres. The pay offices may verify the claims and pay cash benefits.

In case of long-term contingencies such as retirement pensions and permanent disablement benefits, the problem of surplus funds may arise. Over a period of time, large amounts will be accumulated in the fund which cannot be left idle. They may be invested in projects with economic and social utility to the beneficiary class in the first instance and to the population at large in general. However, since an Islamic economy will be an interest-free economy, the investments of funds should be managed in the general framework of investment by banking companies.

After gaining experience, the schemes may be implemented in case of the workers engaged in unorganised classes of callings and occupations.

As far as medical services are concerned, they are an essential part of social security planning in any society. Islamic system is essentially a welfare system. Most of the Muslim-majority states are presently providing medical services to population. Therefore, health security schemes should be integrated with the general provisions of medical care both preventive and curative.

Since social security claims arise as of right and are governed by law, a system of social security judiciary should be created to look into the disputes with regard to claims, amounts and other aspects. The presiding officers of the social security courts should be persons with specialisation in labour administration and social security.

11. IMPLICATIONS OF SOCIAL SECURITY PROGRAMMES

It may be seen that social security movement is both an expression of an ideal as well as the tool for the achievement of this ideal. The ideal is the attainment of social equality and social justice. It aims to avoid avoidable privation. Therefore, it would not be fair to expect stupendous achievements in the field of efficiency, industrial relations, capital formation and national income. Some of the implications of the social security schemes will, however, be discussed briefly in the following lines.

Effects on Efficiency and Industrial Relations

It is difficult to measure the impact of social security schemes on worker efficiency and industrial relations. Theoretically speaking, social security schemes bind the worker with the employing firm. In case of long-term schemes such as retirement and unemployment, it pays to remain tied to the same employer. Thus, it increases the loyalty of the worker with the unit. It also brings about improvement in employee's health and welfare. Efficiency of the worker is bound to improve in the long-run. Nevertheless, these effects are manifest only in a fairly long-run and the intervening factors make it very difficult to measure the effects directly. Moreover, efficiency and industrial relations are affected by other variables which can be hardly isolated. But, on balance, social security schemes increase the worker loyalty with the plant and help create a structured labour force which is a sine qua non for sustained industrial growth of a country.

Effects on Savings and Willingness to Work

Schemes of social security improve the ability and willingness of the worker to work and save as care is taken of social contingencies that may afflict them as matter of course. They improve, in general, the quality of population. It may however be conceded that ability to save from current income may fall in case of some persons as the payment of social security contributions would reduce their take-home pay. But they will be spared of the worry to save for rainy days once this responsibility is assumed by the social security institution. Freedom from want is undoubtedly conducive to willingness to work.

Effects on Cost of Production

Social security contributions imposed on employers would raise the labour cost of production of goods and services. The prices may rise as a consequences. However, the burden is negligible and can be shifted to consumers or suppliers of inputs in the proportion of their supply/ demand elasticities. A comprehensive scheme of social security may cost something like 30% of wage-bill. Of this, only about half or 15% would be shared by the industry. The net effect on cost and prices would be much less than this because of shifting of the burden. Moreover, the cost of social security should not be viewed as a necessary evil; it is an essential cost. If served, it would only increase the exploitation of workers.

Implications for Redistributive Justice

Social security secures redistributive justice to the weaker sections of the population. In the present day conditions of work and living, it is difficult for them to secure fair wages. Social security schemes are a technique of mitigating, if not of eliminating, the evils of non-intervention in the economic pursuits of the members of the population. It brings about both vertical as well as horizontal redistribution of income in favour of those who most need them. In fact, Islam condemns concentration of wealth. Social security schemes assist in the attainment of a social milieu based on economic justice.

Effects on Economy in General

The recipients of social security benefits have high propensity to consume. Payment of social security benefits increases the effective demand of goods and services. By liberalising benefits during economic depressions, social security may be used as a it is possible to stabilise economic conditions to certain booms, it may be used as an anti-inflationary device. Thus, device to cheer up economic outlook. During inflationary extent through social security planning. Moreover, social security funds may promote capital formation and investment in human assets to build up a strong base for future growth.

In the end, it must be emphasised that social security should be treated as a means to an end; as it seeks to establish a kind of society based on economic and social justice which is the distinguishing feature of an Islamic set-up. Hence, Islamic state should take steps to implement comprehensive schemes of social security to re-establish the spirit of Islamic brotherhood and fellow-feeling.

FOOTNOTES

1. International Labour Organisation (ILO), *Approaches to Social Security*, Montreal, 1942, p. 83.
2. ILO, *Summary of National Legislation on Social Security*, Geneva, 1949, p. 9.
3. ILO, *Social Security: Principles*, Geneva, 1944, p. 44.
4. Najmul Hasan, *Social Security System of India*, S. Chand & Co., Pvt. Ltd., New Delhi, 1972, p. 18.
5. For details, vide *Ibid*, pp. 24-25.
6. Beveridge, Lord William, *Report on Social Insurance and Allied Services*, H.M. Stationary Office, London, 1942, para.
7. ILO, *Approaches op.cit.*, p. 84.
8. Vide *Social Security Bulletin*, U.S. Department of Health, Education and Welfare, Washington D.C., September, 1959.
9. ILO, *Approaches* , p. 84.
10. Abu Dawood, *Kitab al-Buyu'* Bab: *AI-Rajulu yakulu min mall waladihl*.
11. Sidney and Beatrice Webb, *Industrial Democracy*, Longman's Green & Co., London, 1920, 152.
12. George Howell, *Trade Unionism: Old and New*, London, 1892, p. 102.
13. Heilbroner, R.L. *Worldly Philosophers*, Simon and Schuster, New York, 1964, pp. 88-96.
14. ILO, *Social Security: Principles*, op.cit. p. 52.
15. *Ibid*.
16. USSR Labour Code, 1922, Article 75.
17. Vide Dobb, Maurice, *Soviet Economic Development Since 1917*, Routledge and Kegan Paul Ltd., London, p. 488.
18. *Ibid*.

19. *Ibid.* 20.
20. James C. Abegglen, *The Japanese Factory*, Asia Publishing House, New York, p. 48.
21. *Facts About Japan*, Public Information Bureau, Ministry of Foreign Affairs, Japan, October, 1978, p. 4.
22. *Ibid.*
23. *Ibid.* p. 7.
24. *Ibid.* p. 8.
25. *Qur'an*, II, 208.
26. Vide Agnides, Nicholas P., *Mohammedan Theories of Finance*, Premier Book House, Lahore, 1961, Ch. II.
27. Imam Shatibi; *Al-Muwafaqat fi Usul al-Shari'ah*; Vol. IV, p. 106.
28. *Al-Tawdi'h fi 'Hall al 'Ghwamid al 'Tanqih* by 'Ubaidullah bin Mas'ud; quoted by Agnides, op.cit., 71.
29. *Qur'an*, III: 85.
30. *Qur'an*, III: 133.
31. *Qur'an*, III: 103.
32. *Qur'an*, XLIX: 10.
33. *Qur'an*, VII: 128.
34. Ibn Majah: *Sunnah, Kitab al Tijarah, Bab al hukrah wa'l Jalb.*
الجالب مرزوق والمحتكر ملعون
35. *Qur'an*, LI: 19.
36. *Qur'an*, XVII: 26-27.
37. *Qur'an*, VII: 31.
38. *Qur'an*, XXI: 67.
39. *Tirmudhi: Abwab al-Fara-id.*

40. Ibn Hazm: *Al-Muhalla, Qasimal-Sadaqah*.
 إن الله تعالى فرض على الأغنياء في أموالهم بقدر ما يكفي فقرائهم فإن جاعوا وعروا وجهدوا
 فيمنع الأغنياء وحق على الله تعالى أن يحاسبهم يوم القيامة ويعذبهم
41. Sidney and Beatrice Webb, *English Poor Law History*, Part II, p. 8.
42. Yusuf al-Qaradawi, *Fiqh al-Zakah*, Dar al-Irshad, Beirut, 1969, Vol. I, p. 38.
43. Bukhari: *Sahih, Kitab al Zakah, Bab wajib al-Zakah*.
 قال أبو بكر والله لو منعوني عناقاً كانوا يؤدونها إلى رسول الله صلى الله عليه وسلم لقاتلتهم على منعها
44. Bukhari: *Sahih, Kitab al Zakah, Bab akhaz al sadaqah min al-aghniya'*.
 تؤخذ من أغنيائهم فترد على فقرائهم
45. Yusuf al-Qaradawi, op.cit. pp. 86-88.
46. Bukhari: *Sahih, Kitab al Zakah, Bab laisa fi ma duna Khamsat ausuq sadaqah*.
 ليس فيما أقل من خمسة أوسق ولا في أقل من خمسة من الإبل الذود
 صدقة ولا في أقل من خمس أواق من الورق صدقة
47. Shah Waliullah al-Dehlawi, '*Hujjatullah al-Balighah*, Vol. II, p. 506.
48. *Qur'an*, IX: 34.
49. *Qur'an*, VI: 141.
50. *Qur'an*, II: 267.
51. *Qur'an*, II: 274.
52. *Qur'an*, LI: 19.
53. Muslim: *Sahih*.
54. Bukhari: *Sahih*.
55. *Qur'an*, II: 219.
56. Cf. Al-Qaradawi, op.cit., p. 166.
57. Siddiqi, S.A.: *Public Finance in Islam*, Lahore, p. 31.
58. Abu Dawud: *Sunan, Kitab al Hudud, Bab fil majnun*.
 رفع القلم عن ثلاثة عن النائم حتى يستيقظ وعن الصبي حتى يحتلم وعن المجنون حتى يعقل
59. Al-Qaradawi, op.cit. p. 108, et seq. Also p. 119.

60. Vide *Hidayah* and its commentaries, Vol. I.
61. These differences have been discussed in the texts on *Fiqh*. See for details: *Al-Hidayah*, Vol. I, pp. 168-9; *Al-Mughni*, Vol. III, p. 42; and *Tashri'h al-Daraib* by Dr. Mohammad Ali Hilmi, Vol. I, p. 87, *et seq.*
62. *Kitab al-Umm, Vol. II, Mataba' al-Kubra al-Amiriyah, Bulaq, Misr al-Ma' himisiyah*, 1314 A.H., p. 44.
63. Khalil, *Mukhtasar*, p. 41; Also *Al-Masail al-Mudawwanah*, p. 98; *Shar'h*, al-Kharashi, p. 84.
64. Vide al-Qaradawi, *op.cit.* p. 433, also Agnides, *op.cit.*, p. 412.
65. *Al-Mughni*, *op.cit.*, Vol. III, p. 23.
66. *Qur'an*, II: 267.
67. *Tafsir al-Tabari, Dar al-Ma'arif, Misr, Vol. V*, p. 555-6. Also vide *A'hkam al-Qur'an* by Jassas, Vol. I, al-Matab'ah al-Bahiyyah, Misr, 1347 A.H. Bab-Mukasabah, p. 543.
68. Abu Dawud: *Sunan, Kitab al Zakah, Bab al-urdu idha kanat li'l tijarah.*
كان الرسول صلى الله عليه وسلم يأمرنا أن نخرج الصدقة من الذي نعد للبيع
69. Ibn Hazm, *op.cit.*, Vol. VI, p. 34.
70. *Al-Mughni*, *op.cit.*, Vol. III, p. 35.
71. *Matalib Uli al-Nuha*, Vol. II.
72. *Al-Mughni*, *op.cit.*, Vol. III, pp. 32 *et seq.*
73. *Al-Majmu'*, *op.cit.* Vol. P. 55.
74. *Ibid*, p. 31.
75. *Matalib*, *op.cit.*, Vol. II, p. 96.
76. Sheikh 'Abd-al-Ra'hman 'Isa, *Al-Mu'amalat al-'Hadithah wa A'hkamuha*, p. 83-4.
77. Cf. *'Halqat al-Dirasat al-Ijtima'iah*, *op.cit.*, p. 242.
78. For a detailed discussion, vide al-Qaradawi, *op.cit.*, pp. 458-486.
79. *Qur'an*, IX: 60.

80. *Qur'an*, II: 37
81. Shibli No'mani, *Al-Faruq*, Azamgarh, India, 1956, p. 181.
82. Tirmidhi: *Sunan, Kitab al Zakah Bab ma ja' man tahillu lahu al Sadaqah*.
لا تحل الصدقة لغني ولا ذي مرة سوي
83. Al-Qaradawi, op.cit. Vol. II, p. 559.
84. *Minhaj*, Vol. II, p. 33; *Al-Mughni*, Vol. III. P. 111.
85. *Al-Nayl al-Awtar*, Vol. II, p. 134.
86. *Hidayah*, p. 204.
87. *Jami' al-Saghir*, p. 335.
88. *Ibid*.
89. *Al-Mughni*, Vol. II, p. 654.
90. Based on a 'hadith' which partly reads:
إنما هي أوساخ الناس
91. Vide Al-Qaradawi, op.cit. pp. 632-4 for the details of the controversy.
92. *Al-Nihayah*, Vol. II, p. 156.
93. *Radd al-Muhtar*, Vol. II, p. 82.
94. *Tafsir al-Manar*, Vol. X, p. 585.
95. Cf. Mahmud Shaaltut, *Al-Islam: 'Aqidah wa Shari'ah* Al-Azhar, Cairo, pp. 97-8. Also vide Fatawah by Shaltut, Al-Azhar, p. 219.
96. The 'hadith occurs in Majmu', Vol. VI, p. 206. It reads:
لا تحل الصدقة لغني إلا لخمسة لغاز في سبيل الله أو لعامل عليها أو لغارم
أو لرجل اشتراها بماله أو لرجل له جار مسكين فأهدى المسكين إليه
97. Vide reference No. 90 above.
98. Cf. *Hidayah*, Vol. IV. P. 629. The full text runs as:
المعاقل جمع معقلة وهي الدبة وتسمى الدبة عقلا لأنها تعقل الدم من أن تسفك أي تمسك
99. *Ibid*.

100. *Ibid*, the text reads:

والعاقلة أهل الديوان وان كان القاتل من أهل الديوان يؤخذ من عطاياهم في ثلاث سنين

101. *Ibid*, the text reads:

وأهل الديوان أهل الرايات وهم الجيش الذين كتبت أسماءهم في الديوان

102. *Ibid*, the text reads:

فإنه لما دون الدواوين جعل العقل على أهل الديوان وكان ذلك بمحض من الصحابة من غير نكير منهم

103. *Vide Fatawa 'Alamgiri*, Vol. VI, p. 83. The text reads:

إن العبرة في هذا للتناصر وقيام البعض بأمر البعض

Vide also Radd al-Muhtar where it is observed that 'aqilah is constituted for their failure to withdraw protection of the killer and failures to keeping a watch on him for the commits the crime being emboldened on the support from them; thus, they become guilty of complicity in the crime.

104. *Hidayah*, p. 629.

105. *Ibid*.

106. *Al-Mabsut*, Vol. VIII, p. 91. It is reported that Tamim Dari narrates:

سألت الرسول صلى الله عليه وسلم عن الرجل يسلم على يد الرجل ما السنة فيه قال هو أولى الناس بمحياء ومماته وأيد هذا قوله تعالى (والذين عقدت أيمانهم فأتواهم نصيبيهم).

107. *Vide Sarakhsi*, op.cit. p. 108. The 'hadith of *Sahih' al-Muslim* reads:

أن رسول الله صلى الله عليه وسلم أقر القسامة على ما كانت عليه في الجاهلية

108. *Hidayah*, op.cit. The text reads:

لو كان اليوم قوم تناصرهم بالحرف فعاقلهم أهل الحرفة

109. *Ibid*.

وفي إيجاب مال عظيم إجحافه واستئصاله فيصير عقوبة فضم العاقلة تحقيق للتخفيف

110. Sheikh Abu Zuhra, 'Aqd al-Tamin, p. 56.

111. Sayyid Mohammad Dasuqi, Al-Tamin, p. 122.

112. Shah Waliullah al-Dehlawi, op.cit. Vol. II.

113. Najmul Hasan; *Social Security System of India*, quoted from Annie Ashley, *The Social Policy of Bismark*, Longman's Green & Co., London, 1912, p. 5.

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