



Charity under Threat?

Zakat Institutions in the Occupied Palestinian Territory

Research Summary

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Key Messages

Zakat institutions and the challenges they face: Voluntary committees charged with the collection and distribution of zakat (mandatory alms donated in accordance with Islamic practice) have historically been well-respected local providers of relief and assistance to the communities in the Occupied Palestinian Territory (OPT). Research summarized here has examined the nature of zakat institutions in the OPT and highlighted the challenges they are facing due to increased political interference and structural reforms introduced since the 2006 elections.

Before 2007: For historical and contextual reasons zakat institutions evolved differently in the West Bank and the Gaza Strip. However, up until 2007, they generally enjoyed an excellent reputation in both territories. Popular confidence in them was high as they were perceived as being on the whole effective, conscientious, politically-neutral organizations rooted in their local communities and responsive to local needs.

After 2007: The political events of 2006 and 2007, culminating in the split in political control of the West Bank and the Gaza Strip, had significant consequences for the functioning of zakat institutions. Reforms in both territories led to their increasing politicization. These reforms and increased political interference have compromised the integrity and effectiveness of zakat institutions causing local and international donors to lose confidence and funding to decline dramatically.

Looking ahead: Recent political developments, including moves towards a political reconciliation between Hamas and Fatah, suggest a space may be opening up to address the challenges facing zakat institutions. Drawing lessons from the experience of the last years, it is suggested that focusing on the following areas could be helpful for any attempts to address the issue:

- consolidating the return to a **decentralized** model of governance for zakat institutions and standardizing it across the whole OPT
- Developing one **unified legal framework** for zakat institutions
- Working towards **depolicitizing** zakat institutions by restoring the implicit agreement of non-interference that existed pre-2007
- **Engaging international donors** to understand their concerns and work with them to rebuild confidence in zakat institutions

This paper is a summary of two research papers published by the Centre on Conflict, Development and Peacebuilding (CCDP) of the Graduate Institute of International and Development Studies, Geneva. The research was conducted under the auspices of the Islamic Charities Project (ICP). The project works towards the removal of unjustified obstacles for *bona fide* Islamic charitable institutions by arguing for more nuanced interpretations of their role and activities. ICP is supported and funded by the Human Security Division of the Swiss Federal Department of Foreign Affairs and is currently co-ordinated by the Center for Security Studies, ETH Zurich in the framework of its Culture and Religion in Mediation Program (CARIM). Readers seeking more in-depth information and references to sources are directed to the original research papers: Schaeublin, E., (2009) "The West Bank Zakat Committees (1977–2009) in the Local Context", *CCDP Working Paper 5*, Geneva: The Graduate Institute and Schaeublin, E., (2011) "Gaza Zakat Organizations (1973–2011) in the Local Context", *CCDP Working Paper 9*, Geneva: The Graduate Institute. Both available for download at <http://graduateinstitute.ch/ccdp/ccdp-research/projects/completed-projects/religion-politics/religion-politics-islamic-charities.html>

Introduction

This note aims to contribute to discussions concerning the functioning of local charitable welfare institutions, particularly zakat institutions, in the Occupied Palestinian Territory (OPT). Recent political developments, notably the moves towards a political reconciliation between Hamas and Fatah and the formation of a unity government, suggest that a space may be opening up to jointly address this issue.¹

Zakat, known as mandatory alms, is one of the five pillars of Islam. Zakat institutions are voluntary committees charged with the collection and distribution of zakat donations from the local community. They have a long history in the Middle East and have historically been well-respected local providers of relief and assistance to the communities in the OPT. They run charitable projects funded by and for the local community. Typical activities include financial aid to poor families, orphan sponsorship, in-kind aid (school bags, toys, material for house renovation), distribution of meat of sacrificial animals during religious celebrations, medical services (running clinics, provision of medicines), educational activities (running private schools, provision of scholarships) and job creation projects. Besides having a strong social and religious component to their work, through their activities they are a strong source of communal solidarity.

Research conducted in the West Bank and the Gaza Strip in 2009 and 2010 under the auspices of the Islamic Charities Project (a Swiss Federal Department of Foreign Affairs initiative) has highlighted the challenges that these organizations are facing to operate effectively due to increased political interference and structural reforms introduced since the 2006 elections. By summarizing the main findings of the research it is hoped that lessons from past experience can be helpful in shaping the future framework in which zakat institutions will function.²

1 According to the Fatah-Hamas Reconciliation Agreement of 4 May 2011 both parties agreed "to fix the status of associations, non-governmental organizations and charities".

2 Further recommended reading on the zakat sector in Gaza: Alaaw, J. (supervisor Alaa al-Din Adel al-Rafati), (2007) "Management and Organization of Zakat Funds: Their Effect on Limiting the Poverty Rate in the Gaza Strip – A Study of Applied Research on the Islamic Associations Working in the Domain of Zakat in the Gaza Strip," Islamic University Gaza – Department of Trade – Section Business Administration.

The nature and functioning of zakat institutions pre-2007

Voluntary committees charged with the collection and distribution of zakat started to be officially registered in the Palestinian territories from the 1970s. Their number significantly increased with the First Intifada as local welfare organizations strove to fill the gap left by the decline in social and medical services provided by the official institutions under Israeli administration.³

In the past 40 years these informal charitable committees in the West Bank and the Gaza Strip have evolved into different forms of registered zakat institutions. Two major types of institutions can be distinguished in both the West Bank and the Gaza Strip: (a) the 'Islamic charitable societies', which generally followed the model of independent membership organizations with a general assembly; and (b) the 'zakat committees' following the Jordanian legal model, whereby locally elected committees operated as semi-state institutions under the Ministry of Awqaf. While the former predominated in the Gaza Strip, the latter predominated in the West Bank. The term 'zakat institutions' is used here when referring at once to both 'zakat committees' and 'Islamic charitable societies', otherwise the individual terms as defined above are used (for example, when speaking of the reforms which dealt specifically with zakat committees but not Islamic charitable societies).

Legal framework and state involvement

Given the differing historical and political development of the Gaza Strip and the West Bank, the evolution of zakat institutions in the two territories has been somewhat distinct. Traditional zakat committees played a more prominent role in the West Bank where the Jordanian legacy left a coherent legal framework for zakat committees and the Jordanian Ministry of Awqaf (and then later the Ministry of Awqaf and Religious Affairs of the Palestinian Authority (PA)) allowed them to operate as relatively autonomous decentralized institutions. In 1996 there were 47 zakat committees in the West Bank. By 2007 this number had grown to 92.

In the Gaza Strip, there was no unified legal framework for the collection and distribution of zakat funds. From the 1970s, several large Islamic charitable societies were established on the basis of a 1907 Ottoman law and

3 Before 2007 zakat institutions as a sector were the third major source of welfare support after UNRWA and the Palestinian Authority (PA), although considerably smaller. Reliable statistics are lacking. Estimates of the proportion of Palestinian households that benefited from their various services during a given year vary from 5 to 17 per cent.

largely superseded the role of the zakat committees, collecting and distributing zakat funds through their network of sub-branches. Until 1994, these Islamic charitable societies and other NGOs were supervised by the internal affairs section of the Israeli Defence Forces (IDF) Civil Administration Office and then, after the Oslo Accords, the PA's Ministry of Interior. With a few exceptions, most zakat committees in the Gaza Strip were established by the PA Ministry of Awqaf after 1994, and were considered as arms of the government rather than as autonomous local institutions. Only a few zakat committees and large Islamic charitable societies established before 1994 could be considered to be grass-roots, independent institutions analogous to that of the larger zakat committees in the West Bank.⁴ In general, in the Gaza Strip there was a lesser degree of local autonomy of zakat institutions, irrespective of whether they were zakat committees under the PA Ministry of Awqaf or Islamic charitable societies with their various sub-branches under the PA Ministry of Interior.

Funding sources

While in the beginning much funding for zakat institutions was collected locally, the First Intifada saw a large expansion in the availability of foreign funding for social and charitable institutions in the Palestinian territories and soon the vast majority of the funding of zakat institutions was coming from abroad, particularly from private Islamic charitable organizations in the Gulf states, Europe and the US. The independence from the traditional funding streams of the PA or the Western donor apparatus, which were viewed as highly politicized, enabled zakat institutions to determine their priorities according to the needs of the local population, which enhanced their credibility. However, it also appears that during this period the zakat institutions competed with one another for external funding and that, though reporting regularly to the Palestinian ministries, they had no umbrella body or other system of coordination.

Composition and political affiliation

Prior to 2007 committee members of zakat institutions were typically pious businessmen, representatives of well-known local families, and academics with a good and honest reputation and close contacts to local governments and village councils. Committee members

worked on a voluntary basis and the businessmen on the committees contributed the necessary know-how to run the committees efficiently and provided for excellent financial reporting. In the Gaza Strip, membership was not quite as diverse as in the West Bank. The zakat committees established by the PA tended to be composed of locally-respected teachers and sheikhs and benefitted less from the know-how of local businessmen. They also tended to have members loyal to the PA, and consequently Fatah. The major Islamic charitable organizations, on the other hand, tended to have a membership more sympathetic to the Muslim Brotherhood and Hamas.

Nonetheless, while individual committee members may have been members of political parties or had political sympathies, zakat institutions sought to remain politically neutral and committees often included members from a range of political parties. There appears to have been a tacit agreement between the political parties not to interfere in the functioning of the committees, although there were certain periods in both the West Bank and the Gaza Strip when political parties did seek to influence committees by actively placing their representatives as committee members.

Certain institutions, particularly in the Gaza Strip, were affiliated to political movements (mainly through overlap of their management board members and political leaders). Their operations and funding, however, were kept strictly separate from political or military organizational structures.

Reputation and effectiveness

Due to their being rooted in local communities, zakat institutions had excellent access to beneficiaries and knowledge about local needs. They had a reputation for being on the whole effective and conscientious organizations with very low-overhead costs. Their autonomy and political independence allowed them to respond on the basis of needs alone. In sum, zakat institutions enjoyed a reputation for being honest, efficient, apolitical, and non-discriminatory. Popular confidence in them was high. A number of polls ranked them among the most trusted of local institutions. The important and complementary role that zakat institutions played in providing charitable services to the population was also frequently recognized by governmental and political authorities while the degree of funding received from abroad was indicative of the confidence foreign donors had in these institutions.

⁴ Such as the Gaza Zakat Committee, the Khan Younis Zakat Committee, the al-Rahma Zakat Committee, al-Mujamma al-Islami, al-Salah Charitable Society and the Islamic Society.

Post-2007: a changed landscape

The political events of 2006 and 2007 had significant consequences for the functioning of zakat institutions. Hamas' election victory, the boycott of Hamas by sections of the international community, and the subsequent split between the Gaza Strip under a Hamas government and the West Bank under a Fatah-dominated Palestinian Authority led to an increasing politicization of the work of all organizations working in the charitable and NGO sector. There were a number of reasons for this. Firstly, while politically independent, the positive reputation enjoyed by zakat institutions was perceived as having indirectly benefitted Hamas, whose electoral campaign drew on Islamic icons and had a strong focus on fighting corruption. Secondly, the boycott of the Hamas government by the US and EU, and the Israeli blockade of the Gaza Strip, meant that the population was increasingly dependent on external assistance. Charitable organizations were one of the few remaining ways for assistance to enter the Gaza Strip and so their political importance increased.

A study of Palestinian media has confirmed this view that aid became more politicized. Since 2007, there have been an increased number of media articles where both the West Bank and Gaza governments have tended to take political credit for the work and activities of zakat institutions.⁵

West Bank reforms since 2007

Following the formation of the emergency cabinet under Prime Minister Fayyad, the PA Ministry of Interior launched a series of reforms, some of which had implications for charitable organizations. During 2007, the PA Ministry of Interior closed 123 Islamic and secular charitable organizations with NGO status in the West Bank. NGOs were asked to re-register at the Ministry of Interior. All ninety-two zakat committees were also dissolved and replaced by eleven new central zakat committees, one for each governorate, under the co-ordination of a newly created Central Zakat Fund. The Zakat Fund nominated members to the new committees on the basis of lists drawn up in consultation with local PA governors, presidents of municipalities, local chambers of commerce and the PA Ministry of Awqaf and cross-checked with the PA Ministry of Interior. The majority of those nominated were new to zakat work and were affiliated to Fatah. At the same time all employees of

the old zakat committees were dismissed. In some committees many of the old staff was re-appointed while in others most of the employees were replaced. This abrupt change in leadership and personnel created some challenges for the new zakat committees to operate effectively. This was recognized in an assessment by the Zakat Fund and some members of the new committees were replaced in December 2008 and more older and experienced people with local legitimacy were added to the committees.

By 2009 there was still no internal procedures document to guide the work of the new zakat committees. They were run on the basis of instructions coming directly from the PA Ministry of Awqaf. Most of these instructions were said to be based on the Jordanian Zakat Fund Law of 1988. Although some pre-2007 committees, such as the Ramallah zakat committee, had worked out internal governance documents on instructions from the PA Ministry of Awqaf, these didn't appear to be a reference for the governance of the new system.

Other PA ministries also sought a greater role in the governance of the zakat committees. For example, it was proposed to establish a mixed steering committee with representatives of the Ministry of Interior, the Ministry of Social Affairs and the Ministry of Awqaf. The Ministry of Finance also appointed financial supervisors who closely supervised the work of the new committees but were employed at the Ministry of Finance.

Although not completed, it can be concluded that the reforms have led to an increase of central control and strong one-party (i.e. Fatah) dominance in the West Bank zakat committees. In 2010, the PA Ministry of Awqaf realized that the reorganization was a failure, and in 2011 decided to partially return to a more decentralized model. The head of the zakat section at the PA Ministry of Awqaf was committed to transforming and modernizing the zakat committee system in the West Bank. In consultation with the central zakat committees, the Ministry drafted a new governance system for zakat committees, issued on 17 March 2011. It foresaw the establishment of branch committees for the central committees in each governorate. These branch committees would cover several villages and would work with the central committee in an implementing role. The branch committees would not be allowed to do their own fundraising abroad. Seemingly this new system was not far from the draft zakat committee law as presented by the authorities in the Gaza Strip (see below). If there is political will it may not be too complicated to overcome the differences and unify the zakat law in both territories.

5 Saif, A.A., (forthcoming, 2012) "Reforming or Instrumentalizing Zakat? A Study of Palestinian Media Coverage," Geneva: The Graduate Institute. http://graduateinstitute.ch/ccdp/ccdp-research/projects/completed-projects/religion_politics/religion-politics-islamic-charities.html

Gaza reforms since 2007

After Hamas established its government in the Gaza Strip in 2007, it took over the branch office of the PA Ministry of Awqaf in the Gaza Strip and turned it into its own Ministry of Awqaf. In September 2010, the Gaza Minister of Awqaf expressed a commitment to a decentralized zakat committee system with a committee in every neighbourhood. From 2007 the Gaza Ministry of Awqaf registered 14 new zakat committees, bringing the total under its oversight to 32 by 2010. According to one source, many of these new committees were working on an informal basis from within mosques before 2006 but did not register for fear of interference by the security services.

From 2007, a number of zakat committees were re-registered in the Gaza strip and occasionally Fatah members were removed or prevented from being appointed to a zakat committee. There were also reports of PA employees leaving zakat committees out of fear that the PA in Ramallah would cease to pay their salaries. Generally the zakat committees established since 2006 were composed of a mixture of Hamas members and non-politically-affiliated, wealthy respected men, including policemen and members of already existing Islah committees.⁶ Many of these new committees were further encouraged by the government through the provision of modest amounts of start-up capital. Although these developments partly reinforced the perception that the zakat committee system was close to, if not part of, the Gaza government, a number of committees succeeded in accessing local zakat donations and maintaining their reputation of working in a fair and even-handed way.

In 2008 the Gaza government issued a new law named Zakat System Law number 9 [*qanun tanzeem al-zakat*]. It provided for the establishment of a central zakat association based in Jerusalem enjoying the status of a legal entity that can open branch offices throughout Palestine and that receives and distributes local zakat payments, as well as international zakat funds and other donations. This central zakat association was still in the process of being established in 2010.

Islamic charitable societies remained active in the Gaza Strip and continued to play an important role. From 2007 many personalities from the management boards of these organizations started to occupy posts in the de facto government. It has been observed that much aid that used to be distributed through Islamic charitable societies has been re-channelled through the de facto government – a process that has contributed to the blurring of the lines between the charitable societies and government.

Although there are structural differences, the thrust of the reforms in the Gaza strip mirror those in the West Bank with increased central government involvement and a strong presence of politically-affiliated members in the committees, as well as government interference in the composition of boards of successful zakat committees.

Consequences of the reforms

The reforms in the West Bank and the Gaza Strip, but also the general context, have contributed to a drastic decline in funding for zakat committees and Islamic charitable societies. No exact figures are available but some have estimated that the turnover of zakat committees is down to anywhere between 20% and 50% of what it was pre-2007.⁷ This drop-off in funding can be attributed to two factors. Firstly, the perception that the reforms have led to an increasing politicization of aid has caused local and international donors to lose trust in these charitable organizations, to doubt their capacity to operate effectively and particularly to fear that the risk of charitable donations being diverted has increased. This trust has been further undermined by changes in committee leadership. Fundraising depends to a large extent on trust and personal relationships and the newer members appointed post-2007 did not all have the same personal connections in the international Islamic charity sector as the old ones. Secondly, counter-terrorism measures in the US and Europe continue to deter funders from abroad for fear of being prosecuted for supporting terrorism. Efforts to centralize and increase government control have failed to result in a change in the policy of these governments towards zakat institutions. Both these factors mean that much funding is now collected and distributed through informal channels.

Such a drop-off in funding, even if slowly being reversed, has naturally had a major impact on the ability of zakat committees and Islamic charitable societies to implement their activities and assist those in need. Ambitious projects such as the al-Safa dairy and the Islamic school sponsored by the Nablus committee have been starved of ongoing support, many smaller programs simply terminated and many organizations reduced to doling out small sums of cash to approved applicants.

⁶ Islah committees are local mediation committees for solving disputes.

⁷ Note that these numbers refer to zakat committees only and exclude Islamic charitable societies. For the latter it is very difficult to make estimates.

Conclusion

The overall conclusion of the research conducted in the West Bank and the Gaza Strip is that the functioning and effectiveness of zakat institutions has been negatively impacted by both the prevailing political context and the reforms introduced in both territories.

In light of the importance of the iconic status of religious social institutions, political movements such as Hamas, and later Fatah, sought to be represented in zakat institutions since the 1990s. However, it took the far-reaching political changes of the 2007 West Bank-Gaza split to lead the Fatah-led PA in the West Bank, and the Hamas authorities in the Gaza Strip, to launch overt attempts to control and take political credit for the social welfare services provided by zakat institutions. This naturally turned the sector into an arena of political competition following the increasing antagonism between Hamas and Fatah after the 2006 elections. In parallel, the designation of Hamas as a terrorist organization by foreign donor governments such as the US and EU meant that there were external pressures to address concerns that zakat institutions benefited movements with an Islamic profile.

Given the important role zakat institutions have played in providing assistance to the needy and in strengthening the fabric of local communities, it is important to try and draw some lessons from the experience of the last forty years to help define the way forward. There are a number of different schools of thought within government and the charitable sector about what approach would be best. The reform processes are not complete and at the same time it must be recognized that the debate about reform is overshadowed by the political instability resulting from the absence of a Palestinian state and frequent foreign interference in policy making in both the West Bank and the Gaza Strip.

To advocate a simple return to the pre-2007 status quo would be to ignore the motivations behind the changes that took place. It is also important to recognize that some problems of corruption, of discriminatory practices in selecting beneficiaries and of political interference did exist prior to 2007 and some reform was necessary. These various motivations and issues need to be addressed if discussions are to yield a sustainable framework that can be implemented to the satisfaction of all. Furthermore, a sustainable solution depends on the political parties working together towards an agreement that addresses the political competition at the root of the decline of the sector. The priority of any efforts should be to ensure that aid can reach people in need in an efficient and transparent way and that obstacles in the way of this aim are removed. The following lessons drawn from the research indicate avenues that a joint effort on zakat reform could pursue.

- **A decentralized structure**

A key strength of pre-2007 zakat institutions was that they were representative of local communities and responsive to their needs, thanks to their good local knowledge and connections and a large amount of autonomy in their activities. The re-organization that occurred in the West Bank resulted in fewer but larger committees with tighter central control. It has now been recognized that this approach undermined the attributes that were the strength of the earlier committees. Central government should of course maintain a role in regulation and oversight, as was the case pre-2007. Transparency and good governance is important but care should be taken that steps to promote these values are not heavy-handed and that they do not undermine the effectiveness of the institutions being regulated.

Possible activity: consolidating the return to a decentralized model of governance and standardizing it across the whole OPT.

- **A unified legal framework**

The lack of one unified legal framework governing zakat institutions creates confusion and space for abuse. A clear legal framework would contribute to transparency and help protect organizations from political interference such as arbitrary closures and delays resulting from the interventions of security services. The PA Ministry of Awqaf in the West Bank has already drafted a possible model and in the Gaza Strip the de facto government has introduced the Zakat System Law which is quite similar.

Possible activity: Comparing and contrasting the legal frameworks being proposed by the West Bank and the Gaza Strip governments, along with examples from neighbouring countries, to reach a unified legal framework that best fits the institutions across the whole of the OPT.

- **Depoliticization**

Zakat institutions became politicized in two ways. Firstly, they were brought more under the control of government. This undermined their autonomy and created doubts about their impartiality as the political parties in control of government increasingly tried to take credit for the achievements of zakat institutions. It also increased suspicions that political considerations played a role in priority-setting and aid distribution.

Secondly, zakat institutions were politicized through the increased practice of selecting members and ap-

pointing staff along party political lines. This practice became more frequent because government became more involved in the appointment of committee members. This again undermined confidence that management and operational decisions were above politics. Those institutions in both the West Bank and the Gaza Strip, not just zakat institutions but NGOs generally, that were not brought under political control risked political interference and harassment from the security services with raids on office premises or the temporary shutting down of the organization.

There was a lesser degree of politicization before 2007 because a tacit agreement probably existed that there should not be political interference in the functioning of charitable institutions.

Possible activity: restoring a 'political hands-off' agreement in order to depoliticize zakat institutions.

- **Engagement with foreign donors**

The decline in funding from abroad for zakat institutions has been pronounced. Besides the challenge that foreign counter-terrorism measures pose, there has been a simple decline of confidence in the integrity of zakat institutions, particularly among private donors in Gulf countries and in Muslim communities in Western countries.

Pressure from Western donor states, concerned that funding zakat institutions meant indirectly funding so-called 'terrorist activities', was one of the drivers for centralization and increased government control in the West Bank and the involvement of security services in screening and monitoring committee members. These efforts did not result in the increased confidence of Western states. At the same time, they had the perverse effect of scaring off foreign Muslim donors who lost confidence in the integrity and credibility of the institutions. The costs of satisfying foreign country donor concerns must be carefully weighed against the benefits.

Possible activity: consulting a wide range of foreign donors in order to explore their views on how to rebuild confidence and support for zakat institutions as an effective, neutral way of ensuring aid reaches those in need.

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