Juristic Debates on Investability of *Zakat* Funds under Islamic Law: Classical Foundations, Contemporary Fatwa and Regulatory Implications for Nigeria

By

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Abstract

The investment of Zakat funds remains one of the most contested questions in contemporary Islamic social finance. Classical jurists did not discuss 'Zakat investment funds' in the modern institutional sense, yet their writings on transfer of ownership (*tamlik*), prompt payment (*fawriyyat al-ada*'), public authority over Zakat administration and the protection of beneficiaries provide the juristic foundations for evaluating the issue. This paper examines the restrictive and permissive approaches to Zakat investment under Shari'ah and argues that the real juristic question is not whether investment is permissible in the abstract, but whether a particular investment structure preserves the Qur'anic entitlement of eligible beneficiaries, satisfies immediate needs, avoids unjust delay, protects capital and operates under accountable Shari'ah governance. Using a doctrinal and comparative legal research methodology, the paper analyses classical *fiqh* authorities, contemporary juristic opinions, Prophetic administrative precedents, the International Islamic Fiqh Academy Resolution No 15 (3/3), and Islamic Financial Services Board governance materials. The paper finds that a qualified permissive position is more persuasive where the investment is limited, Shari'ah-compliant, low-risk, transparent, liquid and demonstrably beneficial to Zakat beneficiaries. The paper recommends that Nigerian Zakat institutions adopt a harmonised framework that distinguishes emergency distribution from productive empowerment, recognises collective beneficial ownership, establishes Shari'ah and prudential safeguards, and prohibits speculative or indefinite retention of Zakat funds.

Keywords: Zakat investment; *tamlik*; *fawriyyah*; *maslahah*; Islamic social finance; Shari'ah governance; Nigeria.

1.0 INTRODUCTION

Zakat occupies a dual position in Islamic law. It is an act of worship, but it is also a legally structured financial obligation directed to specified social and economic ends. The Qur'an identifies the eligible categories of recipients, including the poor, the needy, Zakat administrators, those whose hearts are to be reconciled, persons in bondage, debtors, causes in the path of Allah and the stranded wayfarer.[1] The existence of these defined categories makes Zakat different from

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[1] Qur'an 9:60.

ordinary voluntary charity. It is a designated right of the beneficiaries and public trust in the hands of any person or institution that collects, holds or distributes it.

The modern question is whether Zakat funds, or a defined portion of them, may be placed in productive investments for the eventual benefit of eligible beneficiaries. This question has become important because poverty in many Muslim communities is no longer merely episodic. In Nigeria, poverty, unemployment, informal labour, fragile livelihoods and weak social protection[2] create circumstances in which one-off cash distribution may bring temporary relief without necessarily improving the long-term economic position of recipients. This practical reality has encouraged Zakat administrators, scholars and Islamic finance practitioners to ask whether Zakat can be used not only for consumption support but also for sustainable empowerment.

The debate is, however, juristically sensitive. If Zakat belongs to its beneficiaries,[3] an administrator who retains it for investment may be accused of delaying a due right. If the investment fails, the poor may lose wealth that had already become theirs in law. If the fund is held perpetually and only profits are distributed, Zakat may begin to resemble waqf, even though both institutions have distinct legal purposes. Conversely, if Zakat must always be distributed immediately in small consumptive grants, its potential to restore economic capacity, create employment and reduce dependency may remain underdeveloped.

2.0 BRIEF REVIEW OF LITERATURE

Existing scholarship on Zakat investment usually begins from the broader philosophy of Zakat as a redistributive institution. Al-Qaradawi's[4] treatment remains important because it links Zakat to poverty reduction, social justice and economic restoration, rather than mere symbolic charity. His approach supports the view that Zakat may be administered in a way that changes the condition of beneficiaries, but it does not by itself settle the institutional question of investing undistributed Zakat capital.

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[2] National Bureau of Statistics. 'Nigeria Multidimensional Poverty Index Survey Results' 2022 (2, 4–5) Abuja: NBS. <https://www.nigerianstat.gov.ng/> accessed 25 December 2025.

[3] This will be adequately elaborated when discussing ownership of Zakat proceeds.

[4] Yusuf al-Qaradawi, *Fiqh al-Zakah: A Comparative Study of Zakah, Regulations and Philosophy in the Light of the Qur'an and Sunnah*, Monzer Kahf tr, (Dar al-Taqwa 1999) v. 2, 860-862.

Kahf's work [5] develops the development-finance dimension of Zakat by arguing that Zakat may be used to strengthen productive capacity where the benefit ultimately returns to the lawful recipients. This literature is useful because it moves the discussion beyond consumptive relief. Its limitation, however, is that it does not fully resolve the classical objections based on *tamlik, fawriyyah* and fiduciary liability where investment loss occurs.

Sairally's review of the classical *fiqh* on productive Zakat[6] shows that the juristic tradition already recognised productive forms of distribution, including tools, working capital and assets that enable the poor to earn a livelihood. The value of this literature is that it prevents the debate from being framed as a simple opposition between classical law and modern development. The remaining gap is how such productive distribution can be translated into institutional investment without dissolving the beneficiaries' proprietary rights.

Recent systematic literature on investment of Zakat funds confirms that the subject has attracted growing academic attention, especially because investment is expected to increase future income for the beneficiaries rather than merely finance immediate consumption. That literature also notes that studies on income generation, sustainability and productivity of Zakat distribution remain limited, which justifies further doctrinal and governance-focused research.[7]

The International Islamic Fiqh Academy Resolution No 15 (3/3) is central to the contemporary literature because it gives collective juristic recognition to a qualified permissive position. It permits investment only where the projects are eventually owned by deserving beneficiaries or remain under competent Zakat authority, and only after basic and immediate needs have been fulfilled with proper safeguards against loss. The Resolution, however, states the principle in general terms and does not provide a detailed national governance model for Nigeria.[8]

Governance literature from Islamic finance, particularly IFSB-10, is also relevant. Although IFSB-10 is not a Zakat fatwa, it provides institutional principles on Shari'ah governance, competence,

[5] Monzer Kahf, 'Utilization of Zakat Funds in Financing Development Projects' (1999) 1(2) *Journal of Islamic Economics* 37, 40-43.
[6] Beebee Salma Sairally, 'A Review of the Classical Fiqh on the Productive Use of Zakat' (2013) 5(2) *ISRA International Journal of Islamic Finance* 17.
[7] Ainun Ruzana, 'What Do We Know About Investment of Zakat Fund? A Systematic Literature Review' (2022) 7(2) *International Journal of Zakat* 91, 91-104.
[8] International Islamic Fiqh Academy, 'Resolution No 15 (3/3): Investment of Zakah Funds in Profit-Generating Projects without Attributing Individual Ownership to Recipients' (3rd Session, Amman, 11-16 October 1986) <https://iifa-aifi.org/en/32251.html> accessed 24 July 2026.

independence, review and disclosure. These principles can help translate *fiqh* conditions into operational controls for Zakat institutions, but they require adaptation because Zakat funds belong to designated beneficiaries and not to profit-seeking financial institutions.[9]

Restrictive contemporary jurists emphasise that Zakat should not be converted into institutional capital because the poor are entitled to receive it without unjust delay. Their literature is valuable because it protects *tamlik,* immediate relief and the distinction between Zakat and waqf. Its limitation is that it may not fully address modern conditions of structural poverty where carefully designed productive empowerment may better preserve the welfare of beneficiaries.[10]

The literature on *tamlik* is particularly important because it determines whether Zakat must always be transferred physically to individual beneficiaries or may, in some cases, be vested in a defined class through collective or beneficial ownership. Classical and contemporary writings show that *tamlik* remains a controlling principle, but they also leave room for debate over the legal form through which ownership or entitlement may be secured in institutional settings.[11]

Nigerian scholarship and policy discussions on poverty, Islamic social finance and public accountability make the issue more urgent. Nigeria's plural legal environment means that Zakat institutions must operate with sensitivity to Shari'ah doctrine, constitutional religious freedom, property protection, institutional transparency and public trust. The literature has not sufficiently joined these strands into a single Zakat-investment framework.[12]

The gap addressed by this paper is therefore specific. Existing works discuss permissibility, productive Zakat, *tamlik, maslahah* and institutional governance, but many do so either in general terms or with reference to other jurisdictions. This paper contributes by connecting classical *fiqh* debates, contemporary fatwa, IIFA's qualified permissive position, IFSB-style governance

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[9] Islamic Financial Services Board, Guiding Principles on Shari'ah Governance Systems for Institutions Offering Islamic Financial Services (IFSB-10, December 2009) paras 7-11.

[10] Wahbah al-Zuhayli, *Al-Fiqh al-Islami wa Adillatuhu* (Dar al-Fikr, 7th edn, 2011) v. 3, 1956-1958.

[11] Muhammad 'Uthman Shubayr, *'Mabda' al-Tamlik wa Mada I'tibarihi fi Sarf al-Zaka'*, in Muhammad Sulayman al-Ashqar and others (eds), Abhath Fiqhiyyah fi Qadaya al-Zakat al-Mu'asirah (Dar al-Nafa'is 2000) vol 2, 400-405.

[12] National Bureau of Statistics, 'Nigeria Multidimensional Poverty Index Survey Results' (2022) 2, 4-5 <https://www.nigerianstat.gov.ng/> accessed 24 July 2026; Constitution of the Federal Republic of Nigeria 1999 (as amended) ss 10 and 38.

safeguards and the Nigerian legal context in order to propose a beneficiary-centred framework for Zakat investment.[13]

This paper therefore examines the juristic debates on the investment of Zakat funds under Shari'ah. It does not treat investment as an automatic legal entitlement of Zakat institutions. Rather, it asks whether the classical principles of *tamlik*, immediacy, public interest, institutional discretion and capital preservation can accommodate a controlled model of Zakat investment. The argument advanced is that Shari'ah does not support speculative, indefinite or institution-centred retention of Zakat funds; nevertheless, it can support carefully regulated productive investment where immediate needs are first met, beneficiaries' proprietary interests are protected, and governance mechanisms prevent loss, abuse or diversion.[14]

The Nigerian relevance of this debate is considerable. Zakat administration in Nigeria operates within a plural legal environment in which constitutional norms, state-level Islamic institutions, private Zakat organisations and community-based religious authorities interact. Any serious framework for Zakat investment must therefore harmonise Islamic legal doctrine with public law, values of accountability, transparency, property protection and institutional responsibility.[15]

3.0 METHODOLOGY

This paper adopts a doctrinal and comparative legal methodology. The doctrinal component analyses primary Shari'ah sources, including relevant Qur'anic provisions and Prophetic precedents, together with classical juristic writings on ownership, prompt discharge of Zakat, administrative discretion and public interest. The comparative component evaluates how contemporary jurists and collective fatwa institutions have interpreted these classical materials in response to modern Zakat administration and Islamic social finance.

The study is library-based. It relies on classical *fiqh* texts, contemporary Islamic finance scholarship, international standard-setting materials and legal reasoning. It does not undertake empirical fieldwork or measure the performance of existing Zakat investment projects. Its contribution is therefore conceptual and legal: it clarifies the juristic boundaries within which

[13] Ainun Ruzana, 'What Do We Know About Investment of Zakat Fund? A Systematic Literature Review' (2022) 7(2) *International Journal of Zakat* 91.
[14] This is in tandem with the International Islamic Fiqh Academy's (IIFA) Resolution No. 15 (3/3) on Zakat.
[15] Constitution of the Federal Republic of Nigeria 1999 (as amended) ss 4, 5, 6, 10 and 38.

Nigerian Zakat institutions may design an investment framework without undermining the rights of Zakat beneficiaries.

4.0 CONCEPTUAL FRAMEWORK: ZAKAT, OWNERSHIP AND INSTITUTIONAL ADMINISTRATION

The starting point of the debate is the legal framework of Zakat. The Qur'anic command to give Zakat establishes an obligation owed by the payer, while the specification of recipients in Qur'an 9:60 identifies those for whose benefit the obligation is legislated.[16] Zakat is therefore not merely a moral contribution. It is a financial duty that must be discharged in a manner recognised by Islamic law.

Three concepts dominate the juristic debate. The first is *tamlik*,[17] meaning the transfer or vesting of ownership in favour of eligible beneficiaries. The second is *fawriyyah*,[18] meaning the promptness or immediacy required in the payment and disbursement of Zakat once it becomes due. The third is *wilayat al-Imam* or institutional authority,[19] meaning the power of the imam, state or authorised Zakat institution to collect, organise, hold and distribute Zakat in a manner that serves the public interest.

These concepts are not mutually exclusive. A valid Zakat system must protect beneficiaries' ownership rights, respond to immediate need and still allow sufficient administrative order to identify recipients, prevent fraud, avoid duplication and support sustainable distribution. The difficulty arises when institutional administration becomes investment. At that point, the administrator is no longer merely moving Zakat from payer to recipient; he is retaining a portion of it for a period in the hope of producing greater future benefit. The legality of that act depends on whether the retention remains a lawful means of delivering Zakat or becomes unlawful withholding of the beneficiaries' property.

[16] Qur'an 9:60

[17] Muhammad 'Uthman Shubayr, 'Mabda' al-Tamlik wa Mada I'tibarihi fi Sarf al-Zaka', in Muhammad Sulayman al-Ashqar and others (eds), Abhath Fiqhiyyah fi Qadaya al-Zakat al-Mu'asirah (Dar al-Nafa'is 2000) vol 2, 400-405; Yahya ibn Sharaf al-Nawawi, al-Majmu' Sharh al-Muhadhdhab (Muhammad Najib al-Muti'i ed, Dar al-Fikr 2nd edn, 1997) vol 6, 155-156; Ibn 'Abidin, Radd al-Mukhtar 'ala al-Durr al-Mukhtar ('Adil Ahmad 'Abd al-Mawjud and 'Ali Muhammad Mu'awwad eds, Dar al-Kutub al-'Ilmiyyah 1994) vol 2, 344-345.

[18] 'Ala' al-Din al-Kasani, Bada'i' al-Sana'i' (Dar al-Kutub al-'Ilmiyyah 1986) vol 2, 3; Muwaffaq al-Din Ibn Qudamah, al-Mughni ('Abd Allah ibn al-Muhsin al-Turki and 'Abd al-Fattah Muhammad al-Hulw eds, Dar 'Alam al-Kutub 1997) vol 4, 146-147.

[19] Abu al-Hasan al-Mawardi, al-Ahkam al-Sultaniyyah (Dar al-Kutub al-'Ilmiyyah 1996) 123; Shihab al-Din Ahmad ibn Idris al-Qarafi, al-Furuq ('Alam al-Kutub nd) vol 4, 39-41.

5.0 CLASSICAL *FIQH* POSITIONS RELEVANT TO ZAKAT INVESTMENT

5.1 The Requirement of Transfer of Ownership (*Tamlik*)

Classical jurists did not discuss modern Zakat investment scheme, but their treatment of *tamlik* is central to the present debate. Linguistically, *tamlik* connotes the conferment of ownership. In the Zakat context, it refers to a transfer by which an eligible beneficiary acquires a proprietary right in the Zakat property and may enjoy, use or dispose of it according to law.[20] The classical concern was that Zakat should not remain under the control of the payer or collector after it has become due to the recipient.

A strong classical position, especially within the Shafi'i and Hanbali discussions, is that Zakat is not fully discharged until the subject matter is transferred to eligible beneficiaries.[21] Al-Nawawi states that the imam or authorised collector should not trade with Zakat property before delivery to its recipients, because the poor are legally competent to manage their property once it reaches them.[22] The Hanafi jurists also emphasised effective transfer, legal capacity of the recipient, complete conferment of ownership and the existence of transferable property as conditions for valid *tamlik*.[23]

According to Al-Bahuti, the requirement of transfer of ownership (*tahwil al-tamlik*) to Zakat beneficiaries is derived from the Qur'anic expression in Qur'an 9: 60, where the preposition "*li*" ("for/to") preceding the categories of recipients denotes allocation implying ownership of Zakat by those beneficiaries.[24] The Glorious Qur'an says:

> "Alms are for the poor (*faqir*) and the needy (*miskin*), and those employed to administer the (funds); for those whose hearts have been (recently) reconciled (to Truth); for those in bondage and in debt; in the cause of Allah; and for the

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[20] Muhammad 'Uthman Shubayr, 'Mabda' al-Tamlik wa Mada I'tibarihi fi Sarf al-Zaka', in *Abhath Fiqhiyya Fi Qadaya al-Zakat al-Mu'asirah* ed. Al-Ashqar, Muhammad Sulaiman et. al., (Amman: Dar al-Nafa`is 2000), v. 2, 400.
[21] Amin Ahsan Islahi, *Zakat and Problem of Tamleek*, <https://islamiceconomicsproject.com/2024/09/13/zakat-and-problem-of-tamleek> accessed 20 February 2025.
[22] Yahya ibn Sharaf al-Nawawi, *al-Majmu' Sharh al-Muhadhdhab*, ed. Muhammad Najib al-Muti'i (Beirut: Dar al-Fikr, 2 edn, 1997), v. 6, 155-156.
[23] Ibn 'Ābidīn, *Radd al-Mukhtār 'ala al-Durr al-Mukhtar*, ed. 'Adil Ahmad 'Abd al-Mawjud and 'Ali Muhammad mu'wwad, (Beirut: Dar al-Kutub al'Ilmiyyah, 1st edn, 1994), v.2, 344-345.
[24] Mansur ibn Yunus al-Bahuti, Kashshaf al-Qina' 'an Matn al-Iqna' (Muhammad Amin al-Dannawi ed, Dar al-Kutub al-'Ilmiyyah 1997) vol 2, 283.

> wayfarer: (thus is it) ordained by Allah and Allah is full of knowledge and wisdom.[25]

On this reasoning, an investment scheme controlled by a Zakat institution may be problematic if the poor never acquire any definite right in the fund or its proceeds.

The contrary view is more flexible. Ibn Taymiyyah and several Maliki jurists recognised that direct hand-to-hand ownership is not equally necessary for every category of recipient. According to them, the expression fi (*al-zarfiyyah*) affixed to the latter four categories in the Qur'anic wording differentiates between categories introduced by expressions of entitlement and categories in which Zakat may be spent to achieve a specified purpose. Payment to a creditor on behalf of an eligible debtor, for example, may validly satisfy the debtor's Zakat need even if the cash is not physically delivered to the debtor.[26] Al-Shawkani also questioned whether the language of the verse conclusively establishes *tamlik* as an absolute condition in all cases.[27]

This disagreement is important for Zakat investment. If *tamlik* requires direct individual transfer in every case, institutional investment before distribution will ordinarily be invalid.[28] If, however, *tamlik* can include collective or beneficial ownership where the recipients' class is legally protected, then a limited investment structure may be possible.[29] The stronger contemporary synthesis is that Zakat investment cannot ignore *tamlik*, but *tamlik* may be satisfied through legally recognised "collective beneficial ownership" where beneficiaries are clearly defined and the fund is not diverted to institutional interests.[30]

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[25] Qur'an 9:60.
[26] Ibn Taymiyya, Ahmad ibn 'Abd al-Halim, *Majmu' al-Fatawa*, ed. Abd al-Rahman ibn Qasim and Muhammad ibn 'Abd al-Rahman Ibn Qasim (King Fahd Complex for the Printing of the Holy Qur'an , 1st edn, 1995), v. 25, 80; Salih al-Azhari, *Jawahir al-Iklil Sharh Mukhtasar Khalil,* ed. Zakariyyah 'Umayrat (Beirut: Dar al-Kutub al'Ilmiyyah, 1st edn, 1997), v. 1, 149.
[27] Muhammad ibn 'Ali al-Shawkani, *Kitab al-Sayl al-Jarar al-Mutadaffiq 'Ala Hadaiq al-Azhar* (Cairo: Lajnat Ihya' al-Turath al-Islami, 1970-88), v. 2, 77.
[28] Yahya ibn Sharaf al-Nawawi, *al-Majmu' Sharh al-Muhadhdhab*, Muhammad Najib al-Muti'i ed, (Dar al-Fikr 2nd edn, 1997) vol 6, 155-156.
[29] International Islamic Fiqh Academy, 'Resolution No 15 (3/3): Investment of Zakah Funds in Profit-Generating Projects without Attributing Individual Ownership to Recipients' (3rd Session, Amman, 11-16 October 1986) <https://iifa-aifi.org/en/32251.html> accessed 24 July 2026.
[30] Monzer Kahf, 'Utilization of Zakat Funds in Financing Development Projects' (1999) 1(2) *Journal of Islamic Economics* 37, 43-44.

5.2 The Requirement of Immediacy in Zakat Payment

The second classical issue is whether Zakat must be paid immediately once it becomes due. The dominant view among the major schools is that Zakat is payable without unjustified delay when the obligation has matured and the payer is able to discharge it. This position is attributed to Abu Hanifah and his two companions,[31] and it is also accepted in the Maliki,[32] Shafi'i[33] and Hanbali[34] schools.

The proponents of immediacy rely on Qur'anic commands to give Zakat. *"*And perform As-Salat and give Zakat".[35] They argue that an unrestricted command, particularly one connected with the rights of vulnerable beneficiaries, should be performed promptly unless there is evidence permitting delay. They also rely on the command to give the due of agricultural produce on the day of harvest where the Glorious Qur'an says: *"*And give its due on the day of its harvest"[36] They interpret the term "its due" as referring to Zakat, and the specification of "the day of harvest" as indicating prompt payment. Similarly, they rely on the social purpose of Zakat: the poor and needy may have immediate needs, and unnecessary postponement defeats the purpose of the obligation.

A more relaxed position is attributed to some later Hanafi jurists, who treated the obligation as established but not necessarily tied to the earliest possible moment. On this view, the command imposes liability but does not automatically render every short delay sinful.[37] Even the dominant view recognises limited exceptions where delay is justified by a stronger Zakat-related benefit, such as identifying a more deserving recipient, delivering zakat to a needy relative, verifying entitlement or overcoming logistical constraints.[38]

The implication is that immediacy is the law unless evidence suggests otherwise.

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[31] 'Ala' al-Din al-Kasani, *Bada'i' al-Sana'i'* (Beirut: al-Kitab al-'Arabi, 2nd edn, 1972), v. 2, 3; Kamal al-Din Ibn al-Humam, *Fath al-Qadir* (Beirut: Dar Ihya' al-Turath al-'Arabi, n.d.), v. 2, 114.
[32] Ibn al-Jallab, *al-Tafri'* (Beirut: Dar al-Gharb, 1978), 275; Shihab al-Din al-Qarafi, *al-Dhakhirah* (Beirut: Dar al-Gharb al-Islami 1994), v. 3, 139.
[33] Sharaf al-Din al-Nawawi, *Rawdat al-Talibin Wa 'Umdat al-Muftin* (Beirut: al-Maktab al-Islami 1985), v. 2, 204.
[34] Muwaffaq al-Din Ibn Qudamah, *al-Mughni* (Al-Qahirah: Dar Hajr, 3rd edn, 1992), 4, 146; Shams al-Din Ibn Mulih, *al-Furu'* (Beirut: 'Alam al-Kutub, 4th edn, 1985), v. 2, 542.
[35] Qur'an 2:43. They contend that this constitutes an imperative command (amr), and that an unrestricted command in legal theory denotes immediacy. Consequently, delaying compliance without justification entails sin.
[36] Qur'an 6: 141.
[37] Kamal al-Din Ibn al-Humam, *Fath al-Qadir* (Beirut: Dar Ihya' al-Turath al-'Arabi, n.d.), v. 2, 114
[38] Muwaffaq al-Din Ibn Qudama, *al-Mughni*, ed. 'Abdullah ibn al-Muhsin al-Turki and 'Abd al-Fattah Muhammad al-Hulw (Dar 'Alam al-Kutub, 3rd edn, 1997), v. 4, 147.

5.3 Immediacy in Institutional Disbursement

When Zakat is collected by an authority, the question shifts from the payer's duty to the administrator's duty. One argument for immediate institutional disbursement is derived from the report of 'Uqbah ibn al-Harith where he narrates: the Prophet (peace be upon him) led the *ʿAṣr* prayer, then hastened home and soon returned. When asked about this, he explained that some gold set aside for charity had remained in his house, and he disliked keeping it overnight; therefore, he distributed it.[39] The report is frequently cited to show the ethical seriousness of prompt distribution and the undesirability of retaining charitable wealth without need.

Nevertheless, the Sunnah also shows that Zakat assets could be institutionally managed. The report concerning the camels assigned to *sadaqah* demonstrates that collected Zakat assets were under public supervision and could be used in an organised way for the benefit of persons in need.[40] For present purposes, the legal point is not the criminal episode attached to the report, but the administrative fact that Zakat assets were identifiable public assets under Prophetic authority. Ibn Hajar's commentary treats the seizure of those assets as an offence against protected communal property.[41] This precedent suggests that distribution is not always reducible to the immediate physical handing over of cash. In some circumstances, making the benefit of an asset available to beneficiaries may constitute a valid form of Zakat administration. However, the precedent cannot be stretched to justify speculative or indefinite investment. It supports administrative discretion only where the asset remains directed to eligible beneficiaries and where the arrangement serves a concrete welfare need.

5.4 Conditions Regulating Delay

Classical legal theory places limits on administrative discretion. Al-Qarafi's well-known treatment of public authority emphasises that the acts of the ruler in relation to subjects must be tied to welfare.[42] Al-Mawardi similarly characterises public officials dealing with Zakat as trustees who must collect and distribute according to law.[43] The legal maxims that harm must be removed and

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[39] Ibn Hajar al-'Asqalani, *Fath al-Bari* (India: Al-Dar al-Salafiyyah, 1980), v. 3, 299.

[40] Muhammad ibn Ismail al-Bukhari, *Sahih al-Bukhari*, *Kitab al-Muḥaribin Min Ahl al-Kufr Wa al-Riddah*, in Muḥammad Fuʾad ʿAbd al-Baqi (ed), *Ṣaḥiḥ al-Bukhari* (Dār Ibn Kathir 2002), v. 8, Hadith, 6417.

[41] Muhammad ibn Isma'il al-Bukhari, Sahih al-Bukhari, Kitab al-Muharibin min Ahl al-Kufr wa al-Riddah, in Muhammad Fu'ad 'Abd al-Baqi (ed), Sahih al-Bukhari (Dar Ibn Kathir 2002) vol 8, hadith 6417; Ibn Hajar al-'Asqalani, Fath al-Bari (al-Dar al-Salafiyyah 1980) vol 3, 299.

[42] Shihab al-Din Ahmad ibn Idris al-Qarafi, al-Furuq (Alam al-Kutub, Beirut, nd) vol 4, 39-41.

[43] Abu al-Ḥasan al-Mawardi, *al-Aḥkam al-Sulṭaniyyah* (Beirut: Dar al-Kutub al-ʿIlmiyyah, 1996), 123.

that preventing harm takes priority over acquiring benefit further restrict any decision that exposes beneficiaries to unjustified risk.[44]

Accordingly, any delay in Zakat disbursement must satisfy strict conditions.[45] First, there must be a genuine and recognised public interest connected to the beneficiaries. Secondly, the delay must not prejudice eligible recipients who have urgent needs. Thirdly, the delay must be temporary and defined, not open-ended. Fourthly, the fund must be securely preserved and not exposed to avoidable loss. Fifthly, the delay must be proportionate to the intended benefit. Finally, the administrator must act in good faith and remain accountable for breach of trust, negligence or self-dealing. These conditions convert the debate from abstract permission into a governance test. A Zakat Board that cannot identify beneficiaries, publish investment rules, assess risk, maintain liquidity, report performance and guarantee that immediate needs have been met cannot rely on *maslahah* as a blanket justification for investment.

5.5 Classical Precedents for Productive Distribution

Although classical jurists did not use the language of fund management, they recognised productive distribution. Jurists allowed a skilled poor person to be given tools, trading capital or productive assets sufficient to establish livelihood, even where the amount exceeded a simple subsistence grant. Farmers could be assisted with seeds and implements; artisans could be given tools [46] and some jurists allowed income-generating assets to be purchased for poor people so that they could receive recurring benefit.[47]

These examples show that productivity is not alien to Zakat. What classical law seeks to prevent is the deprivation of the beneficiaries' rights. If a poor tailor receives a sewing machine, or a poor farmer receives agricultural inputs, the Zakat has not been distorted merely because the asset produces future income. The legal question is whether the beneficiary acquires a real right and

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[44] ʿAlaʾ al-Din al-Kasani, *Badaʾiʿ al-Ṣanaʾiʿ fi Tartib al-Sharaʾiʿ*, (Beirut: Dar al-Kutub al-ʿIlmiyyah, 1986), v. 2, 46

[45] Shihab al-Din Ahmad ibn Idris al-Qarafi, al-Furuq ('Alam al-Kutub nd) vol 4, 39-41; Abu al-Hasan al-Mawardi, al-Ahkam al-Sultaniyyah (Dar al-Kutub al-'Ilmiyyah 1996) 123; Muwaffaq al-Din Ibn Qudamah, al-Mughni ('Abd Allah ibn al-Muhsin al-Turki and 'Abd al-Fattah Muhammad al-Hulw eds, Dar 'Alam al-Kutub 1997) vol 4, 147; Jalal al-Din al-Suyuti, al-Ashbah wa al-Naza'ir (Dar al-Kutub al-'Ilmiyyah 1990) 83-87.

[46] Sairally S, 'A Review of the Classical Fiqh on the Productive Use of Zakat' *ISRA International Journal of Islamic Finance* (2013), 5 (2), 17.

[47] Yusuf al-Qaradawi, Fiqh al-Zakah: A Comparative Study of Zakah, Regulations and Philosophy in the Light of the Qur'an and Sunnah (Monzer Kahf tr, Dar al-Taqwa 1999) vol 2, 860-862.

whether the arrangement genuinely improves his capacity. Contemporary Zakat investment can draw from these precedents once is for the benefits of the beneficiaries.

6.0 CONTEMPORARY SCHOLARLY OPINIONS

6.1 The Restrictive Approach

The restrictive approach maintains that Zakat funds should generally not be invested before distribution. Contemporary scholars associated with caution on this issue include: Wahbah al-Zuhayli,[48] Abdullah Nasih Ulwan,[49] and Muhammad Taqi Usmani.[50] They emphasise the sanctity of Zakat as the immediate right of the poor and the risk that institutional investment may undermine *tamlik*, delay distribution, expose capital to loss and confuse Zakat with waqf.

The first restrictive argument is based on *tamlik*. Where a Zakat institution invests the funds and merely promises future benefit, the recipients may not acquire immediate ownership. In such a case, the obligation of Zakat may remain incomplete because the beneficiaries have not received the property due to them.[51] This objection is especially strong where no list, class, share, trust mechanism or beneficial entitlement is created in favour of the recipients. But where it is created, the objection is allayed. Furthermore, the argument was countered that ownership can be individual or collective. Zakat investment allows for collective ownership, and this is the collective position of the International Islamic Fiqh Academy.[52]

The second argument is based on immediacy. Investment usually requires retention of capital for a period. If poor and needy persons currently require food, health support, shelter, debt relief or basic livelihood assistance, postponing distribution in anticipation of future returns may contradict the very purpose of Zakat.[53]

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[48] Wahbah al-Zuhayli, *Al-Fiqh al-Islami Wa Adillatuhu* (Beirut: Dār al-Fikr, 7th edn, 2011), v. 3, 1956–1958.

[49] Abdullah Nasih ‘Ulwan, *Ahkām al-Zakāt: Dirāsah Muqāranah li-Ahkām Zakāt al-Māl fī al-Fiqh al-Islāmī* (Cairo: Dār al-Salām 1986), 742–746.

[50] Muhammad Taqi Usmani, ‘The Principle of Tamlik in Zakat and Its Implications for Contemporary Zakat Administration’ (2004) *Journal of Islamic Finance* 1(2) 27, 31–33.

[51] Ibid.

[52] International Islamic Fiqh Academy, Resolution No. 15 (3/3) on *Investment of Zakat Funds*, adopted at the Third Session of the International Islamic Fiqh Academy, Amman, 11-16 October 1986, in *Resolutions and Recommendations of the Council of the International Islamic Fiqh Academy* 1985-2000 (Jeddah: Organisation of Islamic Cooperation 2000) 29.

[53] Abdullah Nasih ‘Ulwan, *Ahkām al-Zakāt: Dirāsah Muqāranah li-Ahkām Zakāt al-Māl fī al-Fiqh al-Islāmī* (Cairo: Dār al-Salām 1986), 742–746.

The third objection is risk. Even low-risk investments may fail, and the poor should not bear losses created by administrators. This was however countered that those who advocate for conditional and / or necessary Zakat investments advise that the investment instruments must be asset backed and conducted under a system of transparency, accountability and prudence.[54]

The fourth objection is institutional confusion. If Zakat capital is preserved indefinitely and only profits are distributed, the arrangement resembles waqf rather than Zakat. This was equally answered by the principle of liquidity where Zakat administrators are empowered by Islamic law to liquidate Zakat asset should an urgent need arises. Meanwhile, waqf property cannot be sold to attend to the need of beneficiaries of waqf. So therefore, there is a difference.

These objections are serious. They show that Zakat investment cannot be treated like ordinary institutional treasury management. A Zakat institution does not own the funds for itself. It is an amin, or trustee, and must not convert the beneficiaries' rights into institutional capital for prestige, bureaucracy or speculative gain.

6.2 The Permissive Approach

The permissive approach allows investment subject to strict safeguards. Jurists and scholars such as Mustafa al-Zarqa, Yusuf al-Qaradawi and Monzer Kahf argue that the Qur'an[55] specifies eligible categories but does not prescribe a single administrative mechanism for delivering benefit to them. In their view, where modern poverty is structural, Zakat may be used productively to restore economic capacity rather than merely finance repeated subsistence grants.[56]

The permissive argument rests on four propositions. First, the texts identify beneficiaries and purposes, leaving room for mechanisms that serve those beneficiaries within Shari'ah limits.[57]

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[54] International Islamic Fiqh Academy, 'Resolution No 15 (3/3): Investment of Zakah Funds in Profit-Generating Projects without Attributing Individual Ownership to Recipients' (3rd Session, Amman, 11-16 October 1986) <https://iifa-aifi.org/en/32251.html> accessed 24 July 2026; Islamic Financial Services Board, Guiding Principles on Shari'ah Governance Systems for Institutions Offering Islamic Financial Services (IFSB-10, December 2009) paras 44-50.

[55] Qur'an 9:60.

[56] Kahf, M, 'Utilization of Zakat Funds in Financing Development Projects' *Journal of Islamic Economics* (1999) 1(2), 37, 41–42.

[57] Yusuf al-Qaradawi, *Fiqh al-Zakāh: A Comparative Study of Zakah, Regulations and Philosophy in the Light of the Qur'an and Sunnah*, trans Monzer Kahf, (Dār al-Taqwa 1999) v. 1, 512–513; Kahf, M, 'Utilization of Zakat Funds in Financing Development Projects' *Journal of Islamic Economics* (1999) 1(2), 37, 40–41.

Secondly, *maslahah* supports arrangements that transform recipients into economically active persons, provided no clear text is violated.[58]

Thirdly, classical precedents for tools, working capital and income-generating assets show that Zakat may be distributed in productive forms.[59]

Fourthly, *tamlik* can be protected through collective or beneficial ownership models, such as unit-shares in a Zakat-funded asset pool held solely for eligible recipients.[60]

According to the permissive approach, every investment of Zakat funds requires sequencing: emergency and immediate needs must be satisfied first. It requires Shari'ah screening: funds cannot be placed in interest-based, speculative, uncertain or unlawful activities. It requires capital preservation: investments must be low-risk, asset-backed and professionally managed. It requires liquidity: the fund must not be locked in a way that prevents response to urgent need. It requires accountability: beneficiaries, payers and supervisory authorities must be able to know how funds are used.

6.3 A Synthesised Juristic Position

A balanced position is preferable. The restrictive school is correct that the rights of beneficiaries are prior to institutional ambition. The permissive school is also correct that Shari'ah is not indifferent to sustainable poverty reduction. The better view is therefore a qualified permissive rule: Zakat investment is not the default method of distribution, but it may be lawful where it is necessary or clearly beneficial, limited in scale, time-bound, low-risk and governed by clear rules and more importantly, serves the interests of the beneficiaries.

This synthesis preserves the immediacy principle by requiring immediate needs assessment before investment. It preserves *tamlik* by recognising beneficiaries as owners or beneficial owners of the invested assets or their proceeds. It preserves the distinction between Zakat and waqf by requiring liquidity and allowing liquidation where beneficiaries' needs demand it. It preserves public interest

[58] Umer Chapra, 'The Role of Zakat in Poverty Alleviation' *Journal of Islamic Economic Studies* (2000) 8(1) 1, 8–10.
[59] Al-Qaradawi, Y, *Fiqh al-Zakat: A Comparative Study of Zakat, Regulations and Philosophy in the Light of the Qur'an and Sunnah* (trans Monzer Kahf, Dār al-Taqwa 1999) v. 2, 860–862.
[60] Kahf, M, 'Utilization of Zakat Funds in Financing Development Projects' *Journal of Islamic Economics* (1999) 1(2) 37, 43–44.

by ensuring that investment serves the poor rather than the institution. It also protects public trust by requiring independent Shari'ah review, financial audit and disclosure.

7.0 PROPHETIC GOVERNANCE AND INSTITUTIONAL DISCRETION

Anas Ibn Malik (may Allah be pleased with him) reported: [61]

> A group of people from the tribes of ʿUql or ʿUraynah came to the Messenger of Allah (peace and blessings be upon him) in Madinah. However, they found the climate of the city unsuitable and fell ill. The Prophet instructed them to go to the camels that had been set aside as alms (Zakat) and to drink from their milk and urine. They followed this instruction and recovered their health. Thereafter, they attacked the shepherd, killed him, renounced Islam, and drove away the camels of charity. When news of this reached the Prophet (peace be upon him), he sent a party in pursuit of them. They were captured and brought back. The Prophet ordered that their hands and feet be cut off and that their eyes be branded. They were then left in the stony plain seeking water, but they were not given any until they died.

This narration though situated within the law of brigandage (*hirabah*), carries broader constitutional implications for the governance of public wealth in the early Islamic polity. The incident demonstrates that Zakat assets represented in the report by the camels assigned to Sadaqah/Zakat were not treated as informal charity, but as regulated public property under the supervisory authority exercised by the Prophet (peace be upon him) in his capacity as the head of state.

8.0 IIFA RESOLUTION AND IFSB REGULATORY PERSPECTIVES

The most important collective juristic statement on the subject is Resolution No 15 (3/3) of the International Islamic Fiqh Academy, adopted at its third session in Amman in October 1986. The Resolution permits, in principle, the use of Zakat funds in profit-generating projects where the projects are eventually owned by deserving Zakat recipients or remain under the administration of

[61] Muhammad ibn Ismail al-Bukhari, *Sahih al-Bukhari*, *Kitab al-Muḥaribin Min Ahl al-Kufr Wa al-Riddah*, in Muḥammad Fuʾad ʿAbd al-Baqi (ed), *Ṣaḥiḥ al-Bukhari* (Dār Ibn Kathir 2002), v. 8, Hadith 6417.

the competent Zakat authority, provided that immediate basic needs are first fulfilled and proper guarantees are established to avoid loss.[62]

The importance of this Resolution lies in its balance. It rejects absolute prohibition, but it also rejects uncontrolled investment. It identifies three mandatory safeguards: satisfaction of immediate needs, preservation of capital and control by a competent authority. These conditions are especially relevant to Nigeria, where Zakat administration may be fragmented among state bodies, private Islamic organisations, mosques and community groups.

The IFSB does not issue Zakat fatwa in the same manner as IIFA, but its governance materials are relevant by analogy. IFSB-10 stresses the need for Shari'ah governance structures that ensure competence, independence, transparency, review and harmonisation across jurisdictions.[63]

These regulatory insights do not replace classical *fiqh*. They provide institutional architecture through which the *fiqh* conditions can be made operational. A Nigerian Zakat investment framework should therefore combine IIFA's juristic permissibility conditions with IFSB-style governance principles: formal policy approval, Shari'ah review, risk assessment, segregation of funds, audited reporting, conflict management, beneficiary protection and supervisory oversight.

9.0 FINDINGS

This paper makes six principal findings.

First, classical *fiqh* does not contain a direct discussion of modern Zakat investment funds, but it provides controlling principles through principles of *tamlik*, immediacy, trusteeship, public interest and protection against harm.

Secondly, there is no absolute consensus that *tamlik* must always be individual physical delivery in every Zakat category. A credible juristic basis exists for collective or beneficial ownership where the beneficiaries' class is defined and legally protected.

Thirdly, immediacy remains the default rule. Investment cannot be used to postpone urgent relief. Any delay must be justified, temporary, proportionate and demonstrably beneficial to eligible beneficiaries.

[62] International Islamic Fiqh Academy, 'Resolution No 15 (3/3): Investment of Zakah Funds in Profit-Generating Projects without Attributing Individual Ownership to Recipients' (3rd Session, Amman, 11-16 October 1986) <https://iifa-aifi.org/en/32251.html> accessed 7 May 2026.

[63] Islamic Financial Services Board, Core Principles for Islamic Finance Regulation (Banking Segment) (IFSB-17, December 2015) paras 3-5.

Fourthly, classical precedents for providing tools, capital and productive assets to the poor show that productive use of Zakat is not inherently alien to Shari'ah. The decisive issue is whether the arrangement truly serves beneficiaries and preserves their rights.

Fifthly, the contemporary restrictive approach rightly warns against institutional abuse, capital loss, speculative ventures and the transformation of Zakat into waqf-like perpetual capital. These concerns must be incorporated as safeguards even where investment is allowed.

Sixthly, the IIFA Resolution supports a qualified permissive position. Zakat investment may be lawful only after immediate needs are met, the investment is controlled by a competent authority, and proper guarantees exist to avoid loss.

The broader finding is that Zakat investment is legally defensible only as a beneficiary-centred instrument of empowerment. It is not lawful where it primarily serves institutional growth, delays urgent distribution, exposes capital to unreasonable risk or leaves ownership and accountability uncertain.

10.0 CONCLUSION AND RECOMMENDATIONS

The juristic debates on Zakat investment reflect a deeper debate between immediate distributive justice and sustainable economic empowerment. Classical law protects the immediate rights of the poor through *tamlik* and *fawriyyah*. Contemporary realities, however, show that poverty may require more than repeated consumptive transfers. A Shari'ah-compliant framework must therefore avoid two extremes: a rigid model that prevents all productive use of Zakat, and a loose institutional model that exposes the poor's entitlement to delay, speculation and loss.

The stronger legal position is a conditional permissive approach. Zakat funds may be invested only where the investment is designed for eligible beneficiaries, immediate needs have been satisfied, ownership or beneficial entitlement is legally recognised, the investment is Shari'ah-compliant, the capital is protected, liquidity is maintained and the institution is subject to transparent governance. Any model that lacks these safeguards should be treated as unlawful or at least legally defective.

For Nigeria, the following recommendations are proposed.

i. A model Zakat Administration and Investment Bill should be developed for adoption or adaptation by states and recognised Zakat institutions. The Bill should define when Zakat investment is permissible, who may authorise it, what percentage of funds may be invested, and what safeguards must exist.

ii. Beneficial ownership should be expressly recognised. Where funds are pooled, the law should state that the eligible beneficiaries, or a defined class of them, are the beneficial owners of the invested assets or proceeds.

iii. Investment should be limited to Shari'ah-compliant, low-risk, asset-backed and liquid instruments. Interest-bearing deposits, speculative instruments, gambling-like transactions and opaque private ventures should be expressly prohibited.

iv. Every Zakat investment institution should have a Shari'ah supervisory committee, investment committee, risk management policy, internal audit process and annual external audit.

v. A liquidity buffer should be compulsory. A defined percentage of Zakat collections should remain available for immediate distribution, and investment assets should be capable of liquidation where urgent beneficiary needs arise.

If these safeguards are adopted, Zakat investment can be harmonised with Shari'ah rather than treated as a departure from it. The objective is not to commercialise Zakat, but to ensure that Zakat continues to perform its original legal and moral function: relieving hardship, protecting human dignity and restoring economic capacity among those whom Allah has made entitled to it.