

## ANALYSIS ON THE ISLAMIC RULING OF TAKING COMMISSION FROM THE DONATION COLLECTION

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### Abstract

*The practice of giving donation to those in need is a very common thing among society in Malaysia. As a result, there are various parties that act as a collector agent either as an individual or organization. However, there is confusion among the collector in regard to take the commission other than there is no specific commission rate to be given to the collector of the donation. The purpose of this study is to analyse the Islamic ruling of taking commission from the donation collection according to Islamic perspective. In addition, it also aims to study whether the contract of ijarah, ji'alah and wakalah comply with the Islamic ruling of taking commission taken from the donation collection. The methodology of this study is qualitative with the approach of document analysis. The finding shows that the contract of ijarah, ji'alah and wakalah are comply with Islamic ruling of taking commission taken from the donation collection. However, it is necessary to set the commission of coin limit which can be taken by the collector to avoid the misuse or malpractice of the donation. Further research need to be done to identify the factors that influence the setting of commission of coin limit especially by non-governmental organizations (NGOs) in Malaysia.*

**Keywords:** *Commission of donation, ijarah, ji'alah, wakalah.*

### INTRODUCTION

Donation collection is increasingly popular among Malaysians. There are many parties involved in the donation collection regardless of individuals, non-governmental organizations (NGOs) or private institutions. Usually, the parties involved in the donation activity will earn commission from the work that has been done. Commission means a fee paid to an agent or employee for transacting a piece of business or performing a service. It also means a fee paid to an agent as compensation for executing a transaction. It is calculated either as a percentage of the transaction value or as a flat fee (Merriam-Webster, 1828).

According to *the Dewan Bahasa & Pustaka* (n.d), commission means a wage paid to a representative or agent for selling goods or also referred as *dalal*. Commission is not clearly mentioned in the Employment Act 1955, (Act 265). However, under Section 2, it can be said that commission is a second component under wage which is included in all other payments with cash paid to an employee for the work done relating to the service contract.

In fact, there is still no specific description of the commission taking from the donation collection according to Islam. As a result, the collector takes the commission without consulting with the management involved for their own benefit.

Based on the issue arise in the online newspaper regarding to the taking commission, the collector is considered as untrustworthy if they take the commission without getting instruction from the authority. The donation collection must be given to the management department. Then, the management department should give the commission based on their consent (“Ambil komisen tanpa izin”, 2016).

Therefore, the Islamic ruling of taking commission should be in details according to the contract which is parallel in *muamalah* Islam so that it is not contrary to the *syara'*. It can also help to improve the donation collection activities between the collector and recipient of the donation fairly. This is very important to ensure that there will be no confusion regarding to the Islamic ruling of taking commission in the future.

## 1.0 Concept of *Ijarah* According to Islamic Perspective

Human being will be always connecting with the daily activities in term of *muamalah*. One of them is *muamalah ijarah*. *Ijarah* comes from the word *al-ajru* which means *al-'iwad* (replace). Because of that, the reward (thawab) is also called as *ajru* or wage (Sayyid Sabiq, 2002). In terminology, *ijarah* or wage can be defined as an agreement on a required and known benefit where it can be obtained through a certain payment for something that is required (Al-Syarbini, 1997). *Ijarah* is also known as *ujrah* or wage. Sayyid Sabiq (2008) also stated the meaning of *ijarah* as a type of contract to take a benefit by way of replacement.

Meanwhile, *ujrah* or wage means giving replacement for taking energy benefit from others with certain conditions (Ibnu Mas'ud & Zainal, 2007). Idris (1986) stated that wage is taking energy benefit of others by giving replacement way according to the certain conditions.

According to the definitions above, it can be concluded that *ijarah* is an agreement involving two parties in a contract where it aims to take benefit of thing and it ends with reward or wage.

### 1.1 Islamic Ruling of *Ijarah*

The Islamic ruling of *ijarah* according to *jumhur ulama* is *mubah* or necessary. The evidences of *ijarah* are based on al-Quran, *hadith* and *ijma'*. For example, Allah said;

قَالَتْ إِحْدَاهُمَا يَا أَبَتِ اسْتَجِرْهُ إِنَّ خَيْرَ مَنِ اسْتَجَرْتَ الْقَوِيُّ الْأَمِينُ (٢٦)

Translation: One of the women said, 'Oh my father, hire him. Indeed, the best one you can hire is the strong and the trustworthy'.

(Surah al-Qasas 28:26)

This verse means that we are allowed to use someone's service to work with other people. The characteristics must be strong and reliable person.

Allah also said;

فَإِنْ أَرْضَعْنَ لَكُمْ فَآوَهُنَّ أَجُورَهُنَّ... (٦)

Translation: And if they breastfeed for you, then give them their payment.

(Surah al-Talaq 65:6)

The meaning of this verse is a person should give reward or wage to those who have worked toward them.

The evidences from *hadith*;

عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، قَالَ قَالَ رَسُولُ اللَّهِ ﷺ: "أَعْطُوا الْأَجِيرَ أَجْرَهُ قَبْلَ أَنْ يَجْفَ عَرْقُهُ".

Translation: It was narrated from 'Abdullah bin 'Umar that the Messenger of Allah (ﷺ) said: 'Give the worker his wages before his sweat dries.'

(Hadith. Ibn Majah. Chapter of Pawning; Vol 3#2443)

عَنِ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ احْتَجَمَ النَّبِيُّ ﷺ، وَأَعْطَى الْحُجَّامَ أَجْرَهُ.

Translation: Narrated Ibn 'Abbas: When the Prophet (ﷺ) was cupped, he paid the man who cupped him his wages.

(Hadith. Al-Bukhari. Book of Hiring.  
Chapter of The Wages of One Who Has The Profession of Cupping:  
Vol 3#2278)

## 1.2 Pillars of *Ijarah*

The pillars of *ijarah* can be divided into four (Sayyid Sabiq, 2008). First, two parties who are in agreement which is a tenant who rents the asset or a person who use the energy for a job (*musta'jir*) and an owner who gives rent the asset or a person who gives a job (*mu'jir*). Second, *sighah* which is *ijab* and *qabul* between *mu'jir* and *musta'jir* where it is an agreement to show the willingness between two parties which do the contract or transaction in rent or wage. Third is *ujrah* or wage. According to Labib (2006), the wage is as a payment to someone who does a particular job and the wage is given according to an agreement that have been mutually agreed. Wage should be something of value either in the form of money or service. According to Wahbah Al-Zuhaili (1985), Wage should also be sacred and something useful. It also should be something that can be given and the value of wage must be known by both parties. Wage also need to be clear, specific and something that has economic value. Fourth is benefit. Wahbah Al-Zuhaili (1985) added that benefit must be something of value and can be given by the owner. In the *ijarah* of rental, the benefit can be used by the tenant not the owner. In addition, it is required that the benefit must be known to its type, size and nature by describing the object of the benefit, type, nature and the size of the time.

## 1.3 Types of *Ijarah*

*Ijarah* can be categorized into two which are *ijarah 'ayan* and *ijarah amal* (Sударsono, 1992). *Ijarah 'ayan* is *ijarah* of rental in the form of thing or animal. It means that the owner will get a reward from the tenant. Meanwhile *ijarah amal* occurs in form of service or energy. *Ijarah* also can be divided into *ijarah khusus* and *ijarah musytarik* (Al- Zuhaili, 1985). *Ijarah khusus* is done by the worker. Therefore, the worker is not allowed to work with someone else. *Ijarah musytarik* is done together or through cooperation. It is permissible to cooperate with other person.

## 1.4 Payment of Wage in *Ijarah*

*Mu'jir* is compulsory to pay the wage to the *musta'jir* after the work is done. In fact, Islam really encourages Muslim to pay the wage immediately. The wage

also must be paid after getting the benefit if the *ijarah* is in term of thing. However, *ijarah* will be void if there is a defect at the goods without any delay in the duration of the contract. Next, wage need to be paid if there is possibility to get the benefit even though it is not entirely. In fact, the payment of the wage needs to be paid as soon as possible based on the agreement of both parties (Sayyid Sabiq, 2008). According to Helmi (2005), the wages should be based on the position of the person and benefit given by the worker. Wage should be clear and is given in the agreed time. The determination of wage rate can be based on the custom of community. Abdul Kadir (1980) added that the sum of the wage can be set by negotiation based on the custom of the community or work done or both.

### 1.5 Termination of *Ijarah* Contract

*Ijarah* contract will be end if there is a defect at the goods rented made by the tenant or the goods rented are damaged such as house. *Ijarah* also will be void if the goods are damaged like a fabric sewed turn into shirt. Then, *ijarah* will end if the work is done or the time ended. In addition, the follower of Hanafi scholar added that *ijarah* can be canceled if there is something happened from any parties. For instance, the house rented is burned (Sayyid Sabiq, 2008).

### 2.0 Concept of *Ji'alah* According to Islam

*Ji'alah* in language means salary or wage. In terminology, it is an agreement to give a reward to a particular job or job that is not certain yet to be performed (Al-Syarbini, 1997). According to Ibn Rusyd (1994), *ji'alah* means wage payment for a benefit that is supposed to be existed, such as requiring a healing from a doctor, intelligence from a teacher, or looking for a runaway slave. Meanwhile according to Abdul Azis Dahlan (1997), *ji'alah* means wage or reward given to a person as the person does or performs certain works or acts.

Besides, the concept of *ji'alah* according to Wahbah Al-Zuhaili is agreement to give a reward for a particular job or work that is uncertain to be done. Sayyid Sabiq (2008) also gives a meaning of *ji'alah* as an agreement for a benefit which will be rewarded as promised to a job.

Based on the definitions above, it can be concluded that *ji'alah* is an agreement to give reward to a particular job.

### 2.1 Islamic Ruling of *Ji'alah*

*Ji'alah* is allowed because it is a method to fulfill the human necessity. It is based on the evidence as follow;

قَالُوا نَفَقْدُ صَوَاعِ الْمَلِكِ وَلِمَنْ جَاءَ بِهِ حِمْلُ بَعِيرٍ وَأَنَا بِهِ زَعِيمٌ (٧٢)

Translation: They said: ,We are missing the measure of the king. And for he who produces it is (the reward of) a camel's load, and I am responsible for it'(72)

(Surah Yusuf 12:72)

In a hadith narrated by Abu Said Al-Khudri telling that there are companions of Prophet receive gift or wage through *ji'alah* which is a number of sheep. This is because one of them managed to cure someone by reciting surah al-Fatihah. They tell this matter to Rasulullah because they are worried the gift is illegal. Then, Rasulullah laughed and said;

"وَمَا أَدْرَاكَ أَهَّأَ رُقِيَّةٌ". ثُمَّ قَالَ "خُذُوا مِنْهُمْ وَاضْرِبُوا لِي بِسَهْمٍ مَعَكُمْ".

Translation: ,How did you come to know that it can be used (as incantation)? And then said: Take out of that and allocate a share for me along with your share`.

(Hadith. Muslim. Book of Greetings. Chapter of the Permissibility of Accepting a Reward for Reciting Ruqyah With Quran and Supplications: Vol 6#5733)

## 2.2 Pillars of *Ji'alah*

Pillars of *ji'alah* can be divided into four. First is *lafaz*. *Ji'alah* also valid if it is only happen *ijab* without *qabul* because this agreement is unilateral (Abdul Azis, 1997).Second, a person who promises a reward either who is losing a thing or his representative. Third is type of work which is looking for a missing thing. The work is necessary and not something illegal. Fourth is wage or reward (Sulaiman, 1986).

## 2.3 Determination of Wage in *Ji'alah*

In the context of wage or reward, Syafie and Hambali stated that the first party can change the amount of the wage either by increasing or reducing the amount. However, Hambali scholar opined that the wage can only be changed before the work started. Meanwhile Syafie scholar stated that the first party can change the amount of the wage as long as the work has not been completed by the second party. But if the first party still wants to deduct the amount of the wage when the work is still in progress, it must be follow the reasonable wage according to the custom of the community (Abdul Azis, 1997).

## 2.4 Termination of *Ji'alah* Contract

In the cancellation of *ji'alah*, Maliki, Syafie and Hambali have a different opinion. Maliki scholar stated that *ji'alah* can be terminated if it is canceled by the first party before the work is started. This is because the second party has not started the work so the responsibility does not happen yet. Syafie and Hambali stated that any parties can cancel the work as long as the work is not been completed yet. If the second party cancels the work where it is happening on that time, it will not cause any problem to the both parties. This is because the purpose of the first party is still not achieved yet. Nevertheless, Syafie and Hambali opined that if the work is canceled by the first party while the second party is doing the work, so the first party is compulsory to pay the wage to the second party based on the work done (Abdul Azis, 1997).

## 3.0 Concept of *Wakalah* in Islam

*Wakalah* means representative work. In terminology, *wakalah* means a submission of authority in a matter that can be done by himself and can represent to other representative as to be implemented by that representative as long as the owner of the original authority is still alive (Al-Syarbini, 1997). Sayyid Sabiq (2008) stated that *wakalah* is submission of power by someone to others in the matter that can be represented.

Based on the definitions above, *wakalah* can be concluded as a submission of a person to someone else to be the representative in doing a job as long as the person is still alive.

## 3.1 Islamic Ruling of *Wakalah*

The scholars agree that *wakalah* is permissible as long as the pillars is fulfilled and based on the evidences as follow;

Al-Quran;

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَأَبْعَثُوا حَكْمًا مِّنْ أَهْلِهِ وَحَكْمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا (٣٥)

Translation: And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted (with all things) (35)

(Surah an-Nisa' 4:35)

Hadith;

عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، أَنَّهُ سَمِعَهُ يُحَدِّثُ، قَالَ أَرَدْتُ الْخُرُوجَ إِلَى خَيْبَرَ فَأَتَيْتُ رَسُولَ اللَّهِ ﷺ، فَسَلَّمْتُ عَلَيْهِ وَقُلْتُ لَهُ إِنِّي أَرَدْتُ الْخُرُوجَ إِلَى خَيْبَرَ. فَقَالَ "إِذَا أَتَيْتَ وَكَيْلِي فَخُذْ مِنْهُ خَمْسَةَ عَشَرَ وَسَقًا فَإِنْ ابْتَعَى مِنْكَ آيَةً فَضَعْ يَدَكَ عَلَى تَرْفُوتِهِ".

Translation: Narrated Jabir ibn Abdullah: I intended to go (on expedition) to Khaybar. So I came to the Holy Prophet (ﷺ), greeted him and said: I am intending to go to Khaybar. He said: ,When you come to my agent, you should take from him fifteen wasqs (of dates). If he asks you for a sign, then place your hand on his collar-bone`.

(Hadith. Abu Dawud. The Book of Judgments).  
Chapter of Regarding Authorization: Vol 6#3632)

Based on the hadith above, Rasulullah also practice the contract of *wakalah* in various matters. For example, paying the debt, represent the camel management, providing animal enclosure and others (Muhammad Syafi'i, 2001).

### 3.2 Pillars of *Wakalah*

*Wakalah* has four pillars. Firstly, a person who is represents (*al-muwakkil*). *Al-muwakkil* should belong to the right over the thing that he wants to represents and have the right over it. *Al-muwakkil* also must be *mukallaf*. Secondly, a representative which is *al-wakil*. *Al-wakil* should have the ability to carry out the work given as long as it does not violatethe conditions and not contrary to the *syara'*. The representative must be fair and trustto the work represented to him. Thirdly, the object represented. It should be in the form of work, clear its specification and criteria. For example, ,I represent you to send thisitem`. The object of *wakalah* also can be implemented by the representative. *Wakalah* is invalid if it is relating to the *ibadah badaniah* such as prayer or fasting. Fourthly is *sighah* (*ijab* and *qabul*) (An-Nawawi, 2003).

### 3.3 Category of *Wakalah*

*Wakalah* can be categorized into two which are *wakalah muqayyadah* and *wakalah mutlaqah*. *Wakalah muqayyadah* is an agreement of representative which has a limit or restriction to the action of the representative based on the certain conditions(Mohammad Deen, 1995). For instance is selling a pen with a price of RM5.00 in cash. Meanwhile, *wakalah mutlaqah* is an appointment of

representative without binding the representative with something and do not put certain conditions (Al-Zuhaili, 1985). For instance is selling a pen without mentioning the price.

### 3.4 Payment of Wage in *Wakalah*

The appointment of representative with wage is permissible in the muamalah of Islam. It is based on the hadith as follows;

عَنْ عُقْبَةَ بْنِ عَامِرٍ . رَضِيَ اللَّهُ عَنْهُ أَنَّ النَّبِيَّ ﷺ أَعْطَاهُ غَنَمًا يَفْسِمُهَا عَلَى صَحَابِيَّتِهِ،  
فَبَقِيَ عَتُودٌ فَذَكَرَهُ لِلنَّبِيِّ ﷺ فَقَالَ " ضَحِّحْ بِهِ أَنْتَ . "

Translation: Narrated `Uqbah bin Amir: that the Prophet (ﷺ) had given him sheep to distribute among his companions and a male kid was left (after the distribution). When he informed the Prophet (ﷺ) of it, he said (to him), "Offer it as a sacrifice on your behalf".

(Hadith. Al-Bukhari. Book of Representation (or Authorization). Chapter of a partner can deputize for another while distributing things etc.: Vol 3#2300)

The hadith explains that the Prophet represented Uqbah bin Amir to divide the sheep among the companions of Prophet and the balance of a kid is given to him to be sacrificed. This is the wage received by Uqbah.

However, *wakalah* also can be done without any wage. It is voluntary for goodness and *ta'awun* that is highly encouraged in Islam (Mohammad Deen, 1995).

### 3.5 Termination Contract of *Wakalah*

*Wakalah* can be terminated for some reasons. One of it is when the thing represented is done by *al-wakil*. Besides, *wakalah* ended when *al-muwakkil* take back the position of *al-wakil* for certain reasons. In addition, if *al-muwakkil* does not have a right over the thing or *al-wakil* is died or insane, so the contract of *wakalah* will be end. Then, if *al-wakil* withdraws from doing the work, *wakalah* will be canceled (Al-Zuhaili, 1985). Usually, this happens because there is no wage in the contract.

## DISCUSSION

Based on the discussion above, the contract of *ijarah* and *ji'alah* can be related to the ruling of taking commission from the donation collection. It is based on a few things such as the definition itself. Briefly, the meaning of *ijarah* is a

contract to take a benefit by using the energy of someone else for a work and the wage is given after the work is done. Same goes to the *ji'alah* where it means someone is given a reward based on the work done. It is really suitable with the concept of commission received based on the service and energy given from the donation collection done by a person.

Secondly is in terms of evidence of *ijarah* and *ji'alah*. Based on the surah al-Talaq verse 6, the mother is entitled to a wage after nursing the child. Similarly in surah Yusuf verse 72 indicates that anyone who succeeds in returning the measure of the king will be given a gift of food as much as a camel's load. These two Quran verses show that every work done will end with wage and reward. Therefore, donation collection activities can also get a commission upon completion of the task.

Besides, the pillars of *ijarah* and *ji'alah* can be used in the activity of donation collection where there are two parties in a contract, *sighah*, object and wage. In fact, the determination of wage and reward were discussed in these contracts where it is a very important element in this discussion.

In the contract of *wakalah*, even though the wage is not one of the pillars but there are choices whether the contract is done with wage or without wage. Therefore, taking commission from the donation collection activity is parallel to the representative with wage in the contract of *wakalah*. Based on the hadith from Uqbah bin Amir stated that the Prophet gave him a goat to give to his companions. Then, there was a balance of a kid. So, the Prophet gave the kid for Uqbah as a wage on the work he representing to.

Therefore, these three contracts that have been discussed above are very likely suitable to be applied in the taking commission from the donation collection. Even so, the determination of coin limit from the commission is depends on the management that manage the activity of donation collection.

## CONCLUSION

Taking commission is a reward from the work done. In this context, it is related to the taking commission from the donation collection. Therefore, the contracts that have been existed in *muamalah* Islam are explained in this writing where it can be related to the taking commission. To be clear about commission, the contract of *ijarah*, *ji'alah* and *wakalah* were discussed in this research. The explanation relating to these three contracts answer the Islamic ruling of taking commission from the donation collection.

Based on the discussion of Islamic ruling above, the contracts that have been discussed are very much related to the ruling of taking commission. This is because these three contracts end with giving a wage or reward after the work done. It is very suitable with the concept of commission given after the activity of donation collection is done. This means that commission is permissible as long as the wage is not excessive than it should be. In addition, the management involved can decide the suitable rate of coin limit to be given to the collector of the donation. The commission given is based on the effort and energy used during the work.

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### **Penafian**

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