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Revenue Laws in the *Yūsufzai* State of Swat, Khyber Pakhtunkhwa, Pakistan (An Analysis from Islamic Law's Perspective)

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Abstract

The taxation system is crucial for every country to perform its duties in an organized way and, at the same time, to develop itself, too. The *Yūsufzai* state of Swat, on the same way, had been developed vividly with an efficient system of *'Ushar* and *Zakāt* – the tax tools at that time. In this research endeavor, the taxation laws of the former Swat state, with primary focus on *'Ushr,* had been discussed and analyzed, too, critically from *Sharī'ah* perspective – as the head of the state, at that time, used to claim all state laws as *Sharī'ah* based. While probing this claim, only authentic and reliable sources had been used; applying the content analysis technique of qualitative research. During the analysis, it came to know that tax laws in the state were originated, primarily, from Islamic law followed *Rewāj* and laws of developed nations. These latter sources were either *Sharī'ah* based or *Sharī'ah* complied – at least. The mechanism for the collection of tax was including, not exhaustively, the contract of *'Ijāra* (lease) through auction process. This method of auction was in line with *Sharī'ah*. The *'Ijāragar* (contractor), for instance, was allowed to collect more than the stipulated quantity which he used to keep it as profit.in addition to this, *'Ushar* and *Zakāt* were also used as main sources for the generation of revenue. The mechanism, followed, herein, was also *Sharī'ah* based to a large extent. In addition, some other revenue sources were derived from *Rewāj*. Study reveals that few of such sources were in consistent with the basic guidelines of Islamic law.

Keywords: *Ushar*, *Zakāt*, *Rewāj*, Revenue Laws, Taxation, System, Islamic Law, Swat, State

Introduction:

"*The economy is the start and end of everything* …"[1], is a quote-cum-universal principle, evolved and established in the modern state system. Since, the strength of economy not only robusts the defense faculty of country, but also, at the same time, progresses the basic unit of society and nation- mainly through commercial activities. The state with stronger revenue system, owing to this fact, would enjoy a remarkable repute within subjects, being prosperous,[2] and being hopeful of financial assistance.[3] The aforesaid strength comes with well-ordered revenue mechanism; having strong enactment and effective follow up with use of force for defaulters. It also relies on inhabitants' productivity domestically, producing employment opportunities and services in numerous sectors, while, their government, on the other hand, generating revenue, levying tax on different class of people, carrying out varying commercial activities.

The *Yūsufzu* state of Swat[4], unlike the states in the neighborhood (including Dir State[5], State of Chitral[6] and etc.), emerged and gained fame, primarily, due to its updated and modern revenue laws in the region. The foundational income sources of the state, at that time, included, for instance, revenue generated from *asli ghwari* (desi ghee), *Gabinn* (honey), vehicle, licenses, various *Jarimī* (جريمي) (fines), stamp paper fee, telephone fee, proceeds of confiscated property, state owned hotel, contracts of emerald, *Chars* (hashish), forests, minerals, royalties, grants from government of Pakistan and etc.[7] Moreover, the state's revenue department was well organized; running under an appropriate and hard law.[8] This comprehensive tax system, commonly known as *Ushar* and *Zakāt*, was diverse and manifold; had various zones of implementation. '*Ushar*, for instance, was imposed on farmers from their yields, *Zakāt* on *Shpanki* (شپنکي)[9] from their cattle, *Octrois* (tax levied on import and export) on traders, *Hasiyyat* (حثيت)[10] tax on riches' properties and etc.[11]

There had been an inconclusive debate among the experts of historical jurisprudence about swat taxation laws; whether those were originated from *Rewāj* (custom and tradition) or emanated from *Sharyat* (Pushto version of *Sharī'ah* i.e. Islamic law). *Sharī'ah* offered a rich literature related to revenue laws and, therefore, could be found in the taxation laws of swat. Such *Sharī'ah's* literature could be traced back in the classical work of al-Shaiybānī,[12] Shams ul-'Aimma al-Sarakhsī,[13] al-Qudurī,[14] al-Murghīnāni,[15] Ibn 'Ābidīn,[16] al-Jaṣṣāṣ,[17] Ibn-Nujaym,[18] al-Ḥathīthi,[19] al-Nīsābūrī,[20] al-thamarqandī,[21] al-Kāsānī,[22] al-lakhmī,[23] al-tha'labī al-Mālikī,[24] al-Shafi'ī,[25] al-Murūzī al-Ḥanbalī[26] and plethora of contemporary *fuqahā* (jurists). They worked on taxation laws, in Islamic legal spectrum, with deliberation and contemplation. *Khulafā-e-Rāshidūn* (pious and guided caliphate) followed, too, these rules in their regimes. The mechanism *of Zakāt*[27] and *'Ushr*[28] , elaborated by these classical Muslim jurists, had followed by the Swat regime – as a major part of the swat legal system was derived from Islamic law . The detailed laws in the *Yūsufzai* state of Swat, concerning to taxes, were in line with elaborate economic concepts of *Zakāt* i.e. *Zakāt fil Bahīma wal An'ām* (*Zakāt* on domesticated animals), *Zakāt fil 'Ibil* (camels) *wal ghanam* (goats and sheeps)*, wal-baqara* (cattle)*, Zakāt fi al-Nuqūd* (income or available cash), *Zakāt fi al-Dhahab wal fiḍḍa* (gold and silver), *Zakāt fi al-Khārij min al-'Arḍ* (agricultural yields from farms, orchards and honey) and etc.[29]

The current study, like every other law and *Sharī'ah* research, is guided by a set of objectives; regulating the smooth running of this endeavor, in terms of ideas, towards its well-defined aims. It tends, primarily, to explore and display the law on taxes of the former state of Swat, investigating its sources, the particular subjects to whom the law was applied and punishments for the defaulters. Secondly, this paper is an attempt to do the *Sharī'ah* appraisal of such taxation laws in all facets; making it clear whether it was stemmed from Islamic law or evolved from the *Rewāj* and customary laws. Furthermore, it is also investigated, herein, whether those laws were *Sharī'ah* based or *Sharī'ah* compliant.

This essay has been confined by certain limitations which are indispensable for making it effective and not to lose focus, too, on its core. This work, for instance, does not go beyond the taxation laws available in the ancient Swat; meaning thereby it neither debates the legal system, as a whole, nor any other kind of laws offered at that time. It, also, does not look into system of revenue law prevailing in the nearby state of Dir, Chitral and Umb. It goes without saying that no law on the subject i.e. French law, German law, Greek law or any other law of any country has been consulted for the critical analysis - as it is almost impossible in nature. Only the Islamic law is cited for this purpose. Moreover, this endeavor is further restricted, in term of citation, to the *Ḥanafī fiqh*; as the state of Swat and its subjects were following (and still follow) the same *fiqh* almost in entirety. Other schools, however, have been mentioned, herein, wherever seemed necessary for the purpose of comparison or otherwise.

Methodology:

The methodology of this paper is sheer qualitative in nature - being typical methodology in all sorts of legal research. In order to investigate the issue, the technique of content analysis, one of the known research technique of qualitative research methodology, has been used; utilizing substantial secondary data available on the subject of revenue laws. For this purpose, every single datum, used throughout this paper, is collected from printed and online books, predominantly, from the work of classical Muslim Jurists, reputed journal on the same subject, specialized website on the issue, well-known magazines, critical essays and etc. The work of the contemporary Muslim and non-Muslim jurists is also followed where deemed fit and necessary. In addition, the scribed rules and regulations, available and implemented in the regime of swat at that time, are also followed herein; making the findings more authentic. To know revenue custom of that time (as majority of that is not available in written from) some elders personals are also interviewed in the present work in order to ensure the reliability of the scribed rules of that time. All these elders have been practically involved in various activities of the revenue operations.

Sources of Taxation Laws in Regime of *Wāli* Swat:

Legal history of any country and nation elaborates that every piece of legislation has a background and its own reasons for coming into being i.e. the necessity of state, facilitation of masses or sometimes a ruler has *an axe to grind*. These laws, sometimes, are made up of custom and, thereby, get evolved with the passage of time.[30] Other times, they are borrowed from different sources, for example, adopted from the religion of subjects and rulers or taken from other states, predominantly, jurisprudentially advanced foreign state. In the same fashion, sources of laws, in the *Yūsufzai* state of Swat, could be classified into three groups: firstly, *Rewāj* (custom)[31] coupled with *Zarrī Prikri* (precedents of old *Jirgas*), followed by *Sharī'ah*;[32] and lastly, in words of Ghazala Rafi, few secular laws of colonial power[33]. While probing the sources of taxation laws in the regime of *Wāli* Swat, it was found that such laws had been either *Sharī'ah* based or probably borrowed holistically from Islamic law and then, later on, customized. The following elaboration would further clarify the above with minute details.

***Sharī'ah*: As a Primary Source of Taxation Laws at the *Yūsufzu* State of Swat**

The taxation laws of the Yūsufzu state of Swat, as mentioned, hereinabove, were primarily based on or borrowed from *Sharī'ah*. This is reasonably evident, too, from the fact that the foundational terminologies viz. *'Ushar* (*'Ushr* عشر) and *Zakāt*[34] were adopted with its core concepts from Islamic law. *Zakāt* tax was levied on goats, sheep and cattle of *Shpanki*; on gold, silver and money as income of the wealthy people (*Hasiyyat tax*); on mercantile articles and goods of merchants and traders etc.[35] These concepts were originally discussed by many *Fuqahā* (jurists of *Sharī'ah*). Tawīrī, a renowned jurist of the *Ḥanafī* school, had offered a comprehensive work in this regard.[36]

Parallel to *Zakāt*, term '*Ushar*' is, too, a prominent terminology, being followed as a backbone of the taxation laws at *Wālī* Swat's state. The products of arable lands were subject to '*Ushar* where 13.33 percent of the yield used to be received as *Ushar* tax. Its actual source i.e. Islamic law had ordered collection of one-tenth of agricultural produce and orchards - if it receives enough rain itself- while, the irrigated land would pay one-twentieth of its agricultural product.[37] Sultan-i-Rome, Fakhr-ul-Islam and others had developed a comprehensive work on the mechanism of such taxation system. They, however, did not elaborate the manner of collecting such tax. Upon investigation at the ground level, it was revealed that actually contractors were hired who used to collect the grains or other produce from the people. On collection the same, the state's officer used to receive the money instead of yield, and submit into *Wālī's Khazāna* i.e. treasury of the state.[38]

Rewāj: **A Source of Taxation Law:**

Some tax laws at the state of Swat, as discussed previously, were taken exclusively or partly from *Sharī'ah* and incorporated the same into the state laws. Some laws, however, after derivation from Islamic law, were customized, thereby, according to their local *Rewāj*. These laws could be rightly called 'custom-based laws'. *'Ushar*, for instance, apparently, on the crops or yield of orchards self-precipitated, as per Islamic law, is ten percent (10%). Imām Moḥammad, a renowned jurist, stated in this regard, العشر فيما سقت السماء أو سُقِيَ سَيْحاً، ونصف العشر "فيما سقي بسَوَاني", meaning thereby; "tithe is of what is irrigated itself by water or rain and half of tithe of what is irrigated by a waterwheel".[39] This piece of legislation, notwithstanding, was customized in line with *Rewāj*, increasing it by 3% and making the net *'Ushar* 13.33%. It was the typical example where the law had borrowed from *Sharī'ah,* and, thereby, customized later on.[40] Furthermore, purely custom-based tax was imposed on *ghwari*[41], dairy farms, woolen blanket and etc. per annum. [42] While probing these tax laws, no evidence was found from prominent books of *Sharī'ah.* These laws, therefore, were originated from *Rewāj* rather *Sharī'ah .*

Laws of Colonial Powers: A Source of Taxation Law at the Regime of Swat:

Another source, apart from *Sharī'ah* and *Rewāj,* was the laws of British Empire; as it ruled over the sub-continent for a long time. These laws had rarely discussed by researchers in their work on the *Yūsufzu* state of Swat; therefore, number of these laws remained unusual and rare. The primary example of it was the tax imposed on goods and articles entered into the Swat state; technically called import tax. On the similar token, things that went out of the state for any end, be it selling or other, were subject to export tax. These import and export taxes were collectively called *'Octroi'* (export and import). *Octroi* was collected in the shape of incumbent toll tax on two borders of the state i.e. Landakay (A place where vehicles enter into the valley of Swat. This spot was established in January 1918) and Ambela (a post that was established in July 1925, after annexation of Buner).[43] These laws, according to some scholars, were fashioned in the manner of United Kingdom's core law, titled as, 'Import, Export and Customs Powers (Defense) Act 1939'.[44]

Mechanism for the Collection of Tax and Punishment for Defaulters:

The states, both in ancient and modern era, had been using group of people working together as an institution to run the day to day affairs of government. The *Wāli* Swat, in the same manner, used to hire influential of a particular society, for instance, *Malaks, Khāns* and such other renowned figures for managing the business of state on regular basis.[45] These people were agents of the state and, hence, had the same role as that of political agent in Federally Administered Tribal Areas (FATA) (now in these days) or like the role of Viceroy in British India. The mechanism for running state's affairs used by these local heads for *Wālī Ṣeb* was very much simple, expedient, extraordinarily efficient with answerability of each *'Āmil* (officer) to other. On the same way, the collection of taxes was manifold in nature but sample at the same time. For instance, the prominent and generic way was collection through the contract of *'Ijāra* (lease) where *'Ushar* and *Zakāt* had to be collected by *Ijāragar* (contractor).[46]

In the *Yūsufzai* state of Swat the terms 'tax' or 'duty' were not used for the tax duty rather the term *'Ushar*' had used for the same. It was a softer term comparatively to the previous, showing compassion and alignment to the legal spectrum of Islamic law. In '*Ushar*, predominantly, as discussed above, the concept of *Ijāra* (lease) was in vogue. An auction had to be held and the one who could collect more *'Ushar* from a particular area used to be selected as *'Āmil 'elāqa* (area administrator). The tax on crops was given on *Ijāra* for every harvest, while the other taxes had to be given on *Ijāra* for a period of one year; through a document duly signed by *Wazīr-i-Māl* (finance minister), *Tāsildār* (*Teḥsīl-dār*) and *Ḥākim* (administrator).[47] The *Ijāragar* had to accumulate the cereals in kind and *'Ushar* of orchards in cash. The *Ijāragar* (contractor)[48] would keep the excess (if any) of what had been collected as profit; in case of deficiency, he had to compensate the state by himself. The defaulters used to be dealt with mailed fist; however, in case of genuine reason i.e. natural calamities, drought and etc. the state would show flexibility.[49] The *Ijāragars*, in order to accomplish the tax target, used to compel the villagers to pay by hook or by crook. In a far flung area of the state, for instance, Shaikhdara (a remote area of Dubair Kohistan), they threatened a person with imprisonment for finding *Shataii* (corncob) near their house before payment of *'Ushar.* Other time, a person was drastically interrogated for having his hands black due to green walnuts, as he was thought to have eaten it to reduce *'Ushar.*[50]

This is a well-established fact that every law is backed by a power which can enforce it by penalizing the violators. Sir Salmond, a well renowned conventional law's jurist, has the same opinion when he defines the law.[51] Similarly, in the state of Swat violations of taxes were dealt with iron hand. This principle was applicable to both *'Ijāragar* and common people. The *'Ijāragar* used to have no option but paying the sum which was mutually agreed upon, otherwise, they would confront one of two kinds of penalties i.e. the traditional and the non-traditional punishments. The previous included fining of chronic defaulter, jailing him, beating him in the custody of police or, in some cases, his property had to be confiscated in favor of state until the payment of the outstanding amount or liquidated to make the loss good.[52] The non-traditional punishment, on the other hand, was unique of its kind and unprecedented in the contemporary legal spectrum. The *Sarkārī Malaysha* (government Police), for example, used to stay at the house of the defaulters, eating and drinking from their house until the payment; this was typically called *Sokaie Kina-wal* (employing watchdogs) or *Nauwkarān Kinawal* (employing servants on someone).[53]

Sharī'ah Appraisal of the Taxation Laws of the _Yūsufzai_ State of Swat:

The day people started to become civilized and conscious about self-security as a whole, they had started paying taxes to their rulers in numerous shapes and with different nomenclature. Islam, being a *Madhhab-us-Samāwiy* (a divine religion), on the same way, put emphasis on its followers to support their *Dar-al-Islam* (Islamic state) financially in two ways; paying something like taxes as an obligation i.e. *Zakāt* and *'Ushar*, and optional financial support for the needy ones i.e. *Ṣadaqāt* (charity). This system, historically, provided not only foundation to the newly Islamic state at the inception of Islam but, at the same time, turned out a foundation of the welfare state. Because of this extraordinary financial mechanism, no poverty was existing at the time of 'Umar bn Abdul Aziz *(RA)*. These taxation laws in *Sharī'ah* were very much comprehensive in nature from all facets. *Fuqahā* (the Muslim jurists), with the passage of time, elaborated these economic laws with minute details. The *Yūsufzai* state of Swat, surprisingly, had identical system of taxation as that of Islamic law; as it was the main source of law. Owing to this fact, *Fatāwā Wadūdiyyah*, one of the most important legal documents at that time, had detailed discussion on *'Ushr* and *Zakāt*.[54] In the coming line, therefore, sources of taxation laws, their mechanism and punishment for defaulters in the regime of swat, have been compared with that of Islamic law.

Sources of Taxation Laws in the Yūsufzai State of Swat: _Sharī'ah_ Appraisal

The sources of taxation laws at the state of Swat, as mentioned earlier, were borrowed from other legal system, primarily, from *Sharī'ah*. *'Ushar* and *Zakāt*, the most important concepts of Islamic finance laws, were used to be collected from the people of the state.[55] Sultan-i-Rome, while citing the work of Frederick Barth, stated that the *'Ushar*, in Swat state, was collected with the ratio of tenth of the agricultural produce and fruits of orchards.[56] *Sharī'ah,* with the similar fashion,[57] approved one tenth (1/10) of the crops irrigated naturally and twentieth (1/20) on irrigated artificially or with self-labour[58] The tax in Swat state, henceforth, was actual *'Ushr* as per Islamic law, notwithstanding, there was no distinction between naturally and artificially irrigated farms and fields. It means that there was no classification of taxes *('Ushar)* on the basis of self-irrigated or irrigated through labour; not differentiating one-tenth (1/10) and one-twentieth (1/20) of reap, respectively. As far as the other additional tenth was concerned, that had been taken as *Ḍarā'eb 'alā al-Qādirīn* (taxes on rich people). This concept, too, could be found in Islamic law. Al-Mousū'atul Fiqhiyyatul Kuwaitiyyah, for instance, stated, " According to *fuqahā*, Imām (ruler) could levy taxes on those who could afford, for the benefit of public and their necessities".[59] The aforementioned tax proved that *fuqahā* had allowed the imposition of tax on well-off people only and not on poor class. Al-Zuḥaylī, while referring to the work of classical *fuqahā*,[60] offered a view that such tax, as per rules of *Sharī'ah,* ought to be temporary only for the purposes of defense

(war) or any other such unfavorable circumstances.[61] The additional tax in Swat state, however, was not for a particular time but forever and that approach was, of course, against the provision of Islamic law.
The *Zakāt* on cash, at the state of Swat, was not collected by the government rather had to be distributed by the individuals themselves. However, its rates were fixed by the state i.e. one fortieth (1/40th) or half percent (2.5%) of the cash amount in the possession of a person for the one whole year.[62] This approach was in compliance with the principles of *Sharī'ah*. In this regard, *Abū-Bakkar al-Jaṣṣāṣ* had stated , "there is no *Zakāt* until it is fourty *Dirhams*, then in every fourty one dirham is *Zakāt".[63]* Furthermore, one goat or sheep was taken as *Zakāt* by the state, from every forty goats and sheep, respectively.[64] This was also in line with the basic principles of *Sharī'ah*.
Besides the Islamic law, *Rewāj* was also considered as an important source for the derivation of taxation laws. It was found that even some of Islamic finance laws had been molded as per local custom. *'Ushar*, for instance, could be cited as a typical example of the same. Miyāṇgull Jehan Zeb (the second and the last *Wālī* of Swat) ordered that *'Ushar* had to be taken one seventh (1/7) or 13.33% on agricultural produce; however, as per Islamic law it was one tenth or 10% of the entire produce.[65] In this situation, one tenth (1/10) or ten percent (10%) had to be considered as *'Ushr* as per the injunctions of *Sharī'ah*. The exceeding amount (from 10%) could be placed under the preview of *Ḍarā'eb* - a concept which was not forbidden by *Sharī'ah*.[66].
Another type of *Rewāj*/custom based tax was levied upon *Aṣlī* or *Koranaii ghwari* (Desi ghee or clarified butter) and *Paii* (milk). This type of taxation could not be found in Islamic law. The both *Wālīs,* however, used to collect these on the name of tax rather than *'Ushr* or *Zakāt.* The custom or *Rewāj*, related to taxation laws, seemed to be in compliance, to a large extent, with the *fiqh* of *Aimmah Arba'ah* (four schools of thought).
Apart from Islamic law and *Rewāj*, as a source of taxation laws, colonial laws were also used for the same purpose. The Swat state, from this source, borrowed Octroi law, imposing and regulating duties upon the traders doing import and export on the borders of the state. While legislating this piece of legislation, Swat state consulted a typical conventional law related to import and export i.e. '*Import, Export and Customs Powers (Defence) Act 1939*'. *Sharī'ah*, of course, had approved, under the administration of justice, such tariff law, particularly, when it helped the state in running its various affairs.

Mechanism for the Collection of Taxes and Punishment in Default of Payment of Tax: A *Sharī'ah* Appraisal
It is claimed that all laws, at the regime of Swat, were either borrowed from or legislated as per the principles of Islamic law. The following lines, therefore, would check the authenticity of such claim.
In the Yūsufzu state of Swat, the primary method of collection of taxes viz. *'Ushr* was through *'Ushriyān* (collectors of *'Ushar*). Contract of *'Ijāra* between *'Ijāragar* and state of Swat was, too, used for the same purpose.[67] *Sharī'ah*, on the other hand, appointed *'Ummāl* [68] for the purpose of collection. The word *'Āmil* literally would mean the one who acts; while in *'Ushr* perspective, it would mean, 'a person who collects *Zakāt* from its owners' (العَامِلُ: الذي يأْخذ الزكاةَ من أربابها").[69] However, in the state of Swat, instead of hiring permanent *'Ummāl*, collection of

'Ushar had to be made on the basis of contract of lease. Collection of tax through *'Ijāragar* could not be considered, under any stretch of explanation, a violation of Islamic law. The only difference was only in terms of time of employment. *'Āmil*, in case of Swat, for instance, used to be appointed for a harvesting cycle while in case of *Sharī'ah* the time frame of his employment had not fixed.[70] In *Sharī'ah,* the *'Āmil*, should have permission of Imām (ruler) and should also qualify some conditions i.e. he should be *'Ādil* (just), should have adequate knowledge of *'Ushr* and etc.[71] While in the case of Swat, the *'Ushri*, on the same way, enjoyed the will of *Wālī;* however, they had precisely limited knowledge of *'Ushr*. However, the factor of *'adl* (being just) was not considered appropriately as the auction had used a mode of preference among parties.

The contract of lease or *'Ijāragar* in itself, as mentioned earlier, instead of permanent hiring of *'Āmil*, was not an issue from the *Sharī'ah* perspectives. The problem, notwithstanding, was with the auction of *'Ushr* of a particular area; usually held among local heads, such as, *Malaks* and Khans. They used to make the auction matter of their ego, increasing the bid upon each other; eventually, maximizing the collection of *'Ushar* upon poor people. In this regard, example had already been quoted earlier; a person with black color on his hand (green walnuts) and another person before whose house *Shataii* were found, had to be apprehended and intimidated.[72] *Sharī'ah*, on the contrary, did not burden extra than stipulated on its subjects; allowing no cruelty on masses.[73]

Apart from the auction issue, another problem was the ascertainment of the target of *'Ushar* for a particular area, excess of which would belong to *'Ijāragar* and lesser would not be accepted by *Wālī's* administration until the target was achieved.[74] After a profound study, such approach was not found in Islamic law. The *'Ushrīs*, in some cases, used to collect more than the specified target for their personal benefits; sometimes, the target used to be unachievable for any reasons, then, they used to bother the farmers and owners of orchards, as referred hereinabove, to accomplish the target.[75] This approach was entirely against the basic norms of Islamic law. There was no proper standard of operation for the collection of *'Ushar* at the state level, and, therefore, there had no answerability in the rural and remote areas of the state and, consequently, resulted in exploitation of unaware and illiterate masses by local *'Ushrīs*.[76]

The defaulters of taxes in the state of Swat, as mentioned earlier, were dealt with several punishments and the same would not waived-off except in the unavoidable circumstances.[77] Yasin further asserted some of these traditional punishments, such as; fining a long-lasting defaulter, imprisoning him, beating him in the custody of *Wālī's Malaysha* (police) and, in some extreme cases, the assets and properties had to be confiscated to compensate the losses accrued to the regime. These penalties, in Islamic law, could not be found. These punishments, however, could be awarded by the rule under the concept of *Siyāsa.*[78] This concept is minutely discussed by the classical Muslim jurists in their scholarly works. The non-traditional punishment of *Sokai Kianawal* (or *Nauwkarān Kinawal*), mentioned by Sultan-i-Rome, would also considered as the discretionary power of *Imām*. However, the element of humiliation could not be supported under any stretch of explanation.

Implications of Research:

The current work highlights, primarily, the taxation law of the *Yūsufzu* state of Swat and its

Sharī'ah appraisal. This historical taxation mechanism, thereby, was very effective; henceforth, could be still proved beneficial as a guideline for the existing taxation laws in the country. Like other good research works, this endeavor would also carry some implications – both at institutional and social levels. The following discussion would clarify the point further profoundly.

Institutional Implications:

This essay and its results would, indeed, have some positive effects at institutional level in Pakistan. Instead of centralized complex system of tax collection, for instance, a new tax system can be introduced at a district level; having the same feature as that of taxation system in Swat. It is very suitable, particularly, at this point of time as the Federal Board of Revenue (FBR) in Pakistan is already over-burdened and, more importantly, cannot achieve the intended tax recovery target. This local model of *'Ushr* and *Zakāt* can be applied by the government of Pakistan, establishing such regional or local institutions at district and divisional levels. These institutions would be liable for the collection of taxes, *'Ushr* and *Zakāt*. It would be ideal if the collected amount is spent over various developmental projects of the same district from where it has been collected. This approach can be supported through a *ḥadīth* that states, "It would be taken from their rich people and would be returned to their poor".[79] Following this, an effective taxation system can be introduced in the whole country – having some variations as per local and cultural demands.

Social Implications:

An addition to the institutional implications, mentioned here above, there are numerous social implications of the present work; having tremendous positive effects at social levels. By following the Swat's taxation tracks, fair and just circulation of wealth can be introduced at local level; satisfying the general masses regarding the welfare nature of the state. The life standard of lower class, would, of course, improve by all means in every district of country. Moreover, Pakistan would gain points in Human Development Index – which is always considered a tool for the determination of welfare state. In this way, basic needs of life would be available to every individual in the country without any sort of discrimination on the basis of colour, sect, creed, religion and etc. Also, this would further decrease the line of demarcation between rich and poor class. The crime rate and other ills of the society would decrease to a large possible extent. It can be said that the people, at large, would get benefit, directly and indirectly, if the taxes are locally collected and spent, too, therein.

Conclusion:

The backbone of the countries' machinery, in this world, is its effective revenue system which, certainly, relies upon the taxation system. The same system was adopted by the Swat state. This essay, primarily, focused on sources of taxation laws in the regime of *Wālī* Swat (1915-1969). This is followed by studying the mechanism of collection of *'Ushar* and *Zakāt* (taxes) and punishments for defaulters existed at that time. These three areas had been thoroughly studied with *Qānūn al-'Ushūr wa al-Zakāt* in *Sharī'ah.* Finding proved that basic sources of these taxation laws, at the regime of Swat, were Islamic law, *Rewāj*, conventional law and etc. The basic terminologies of that taxation system i.e. *'Ushar* and *Zakāt,* were borrowed from

Islamic law. On the same way, taxes on *Aṣlī ghwarrī* (*Desi ghee* or clarified butter) and like other food stuffs were taken from *Rewāj* . The last source was the conventional law of the Great Britain. *Octroi* (import and export) law, for instance, was taken from the same legal system. The mechanism for the collection of *'Ushar*, at the regime of swat, was based on *'Ijāra* (lease). The accumulation of *'Ushar* used to be awarded to a particular individual through auction. Such approval had to be given by the top administrative officers like *Ḥākim* and *Tāsildār* of that very area. Moreover, if the *'Ijāragar* had succeeded to collect more taxes than the stipulated target; the excess would become their property. In case of lesser collection, on the other hand, they would compensate the State. The punishments for the defaulters were of two types i.e. traditional and non-traditional. The previous were consisted of fine, imprisonment, beating and confiscation of defaulters' properties and etc. The later included *Sauwkai* or *Nauwkarān Kinawal*, in which the volunteers or paid servants would stay at his house and continue to eat and drink until the payment had made. Study revealed that majority of such laws had in line with Islamic law. *Sharī'ah*, as a basic source of taxation laws, was devised in renowned book titled as, '*Fatāwa Wadūdiyyah'.* There was no division of lands, in terms of taxation, to *Mā Saqat al-Samā* (rain irrigated fields) and *Mā Saqat Nafsahū* (artificially irrigated). Finding shows that the taxation laws, originated from *Rewāj* and from conventional law, were in conformity with *'Uṣūl al-Ḍarā'eb* (أصول الضرائب), envisaged by Islamic law. The payment of *Zakāt* had to be made by the individual themselves. However, the ratio of *Zakāt* had calculated by the state and that was, too, as per the principles of Islamic law. Similar was the case of *Zakāt al-Ghanam.* Moreover, the concept of *'Ijāra* was used for the collection purposes. *'Āmil* (*'Ushr* collection officer) was hired on seasonal basis for the collection of *'Ushr*. Moreover, he had to collect a fixed quantity. This later approach (fixed quantity) had not recognized by *ibn 'Ābidīn*. The *Ushrīs* was allowed to collect more than the stipulated quantity. This situation led to tyranny as the *Ushrīs* used to force the people for more payment. This might be the reason that *ibn 'Ābidīn* did not allow this approach. The traditional punishment, awarded by the state of Swat for defaulters, were in compliance with the principles of *Sharī'ah* – as head of the Islamic state had the authority to enforce such punishment under the preview of administration of justice. The non-traditional punishments like *Sauwkai Kinawal* could not be considered in line with the principles of Islamic law as there was an element of humiliation in such sorts of punishments.

References:

[1] David Cameroon, "An interview with David Cameroon", *The Economist,* April 24, 2015. Please see for further details … https://www.economist.com/britain/2015/04/24/an-interview-with-david-cameron. (accessed Jan 23rd , 2020).

[2] The word 'Prosperous subjects' mean people having ample human development in their respective country or state.

[3] For minute details of the issue please see… Saksena, Shalini, and Moumita Deb. "Economic Growth and Human Development in Indian States after Two Decades of Economic Reforms1", *Indian Journal of Economics and Development* 13, no. 2 (2017): 269-280.

[4] The *Yūsufzū* state of Swat remained princely state until its accession to Pakistan in 1969. It is located in the north of Pakistan from Skhā-Kot (District Malākand) 34.4579° North and 71.9075° East in Malākand division. Presently, the *Qabāilu Masharān* (tribal chieftains) of urban Swat and its contiguous

areas, like, Buner etc. feared the invasion from the Chief of another strong neighbor called 'Dir Nawāb'. Hence, *Qabāilu Masharān* met in a *Ghwanda* (council) arranged at Kabal *Dāg* (spacious area or ground), whereby, they chose Miyāṇgull 'Abdul Wadūd as their *Wāli* (ruler) in Sep, 1917… (Bakht Taj Mingora, *Tārīkhi Swāt* (Mingora, Tāj company ltd. 2015): 112-113). He ruled until Dec 12th, 1949, and his son Miyāṇgull 'Abdul Ḥaqq Jahāṇ Zeb, then, was acceded who ruled from Dec 12th, 1949 to July 28th, 1969. The population was five lacs as mentioned by Muftī Shāh Ḥussain Shāmzai . He stated :

"طویل عرصہ میں بانیِ سوات اپنے محکم عزائم۔۔۔۔۔۔۔پانچ لاکھ انسانوں کی کشتیِ حیات کا یہ خدائی امتحان سہتے رہے۔"

Meaning thereby, "the founder of Swat with his unwavering will in long term… he remained persistent as he was subject to test of God, bearing the life boat of five lac people." …See for further details …Muftī Shāh Ḥussain Shāmzai, *Wādī Swāt kay 'Āṇsū* (Lahore, Nadīm Yūnus Printers, 2014): 36

[5] Read for further details, regarding the state of Dir, … http://journals.uop.edu.pk/papers/06%20Fazlul%20Haq%20.pdf (accessed Jan 23rd, 2020)

[6] Read for further details, regarding the State of Chitral (1320-1969)… https://cmsdata.iucn.org/downloads/chitral_a_study_in_statecraft.pdf(accessed Jan 25th, 2020).

[7] See for details … Von Fürer-Haimendorf, C. "Fredrik Barth: Political leadership among Swat Pathans.(London School of Economics. Monographs on Social Anthropology, No. 19.)[viii], 143 pp; London: University of London, The Athlone Press, 1959. 25s." *Bulletin of the School of Oriental and African Studies* 23, no. 3 (1960): 603-604.; Also see...Sirajuddin Swati, *Sarguzasht-e-Swat*(Lahore: AI-Hamrah Academy, 1970):. 41-45.

[8] William Rupert Hay, "The Yusufzai State of Swat", *the Geographical Journal* 84, no. 3 (1934): 236-246.

[9] A word of Pushto language used for 'shepherd'.

[10] A word of Pushto language used for 'status'.

[11] Shirazi, Nasim Shah, and Hafiz M. Yasin. *Fiscal structure, social welfare program and infrastructure development in the former state of Swat (Pakistan): a case study with implications for Muslim countries*. No. 1433-8. 2015.

[12] Abū 'Abdullah Moḥammad bin al-ḥassan bin farqad al-Shaiybānī, *al-Aṣlu*, (Beirut: Dār ul-Kutb al-'Elmiyyah, 1419/1999) 2:52-113.

[13] Abū Bakar Moḥammad ibn Abī Sahal Sarakhsī, *al-Mabsūṭ*, (Beirut: Dār al-Ma'rifah, 1414/1993) 2:149 – 3:53.

[14] Aḥmad bin Moḥammad bin Aḥmad bin Ja'far bin ḥamdān abū al- Ḥassan al-Qudūrī, *al-tajrīd lil Qudūrī,* 2nd ed., (Qāhira: Dār al-Salām, 1427/2006) 3:1125-1199.

[15] 'Ali bin Abu Bakr bin 'Abdul Jalil Al-Farghāni al-Murghīnāni, Abul Hassan Burhan ud Din, *Al-Hidāya Fī Sharḥ Bidāyatul Mubtadī Ma'a Sharḥ al-'allāma 'abd-al- ḥaiy al-Kanwi*, (Beirut, dār 'Iḥyā' al-Turāth al-'arabi, n.a), 1:102.

[16] Moḥammad Amīn bin 'Umar ibn al-'azīz 'Ābidīn al-dimashqi al-ḥanfī, *Radd al-Muḥtār 'alā al-durr-il-Mukhtār,* 2nd ed. (Beirut: Dār-al-fikr, 1412/1992) 2:256-356.

[17] 'Aḥmad bin 'Alī abū bakkar al-Rāzi al-Jaṣṣāṣ, *Sharḥ Mukhtathar al- Ṭaḥāvi,* 1st ed., (Beirut: Dār ul-Sīrāj Dār ul-Bashā'er al-Islāmiyya, 1431/2010) 2:229-344.

[18] Zayn al-'Ābidīn bin 'Ibrāhīm bin Nujaym, *Al-'Ashbāh wa al-Naẓā'er*, (Beirut: Dār al-Kutub al-'ilmiyya, 1400/1980) 1:171-2.

[19] Moḥammad bin 'Abdullah al-Ḥathīthi, *al-Ma'āni al-badī'ah fī Ma'rifati 'Ikhtilāfi Ahl-al-Sharī'ah*, (Beirut: Dār ul-Kutb al-'Elmiyyah, 1419/1999) 1:272

[20] Abū Bakkar Moḥammad bin 'Ibrāhim bin al-Munzir al-Nīsābūrī, *al-'Ijmā'*, (Riad: Dār ul Muslim li al-Nashr wa al-Tauzī', 1425/2004) 1:45.

[21] Abū al-Laith Naṣr bin Moḥammad bin Aḥmad bin 'Ibrāhīm al-thamarqandī, *'Uyūn al-Masā'el*, (Baghdad: Maṭba'ah 'As'ad, 1386/1966) 1:39-45.

[22] Abū Bakr ibn Mas'ūd al-Kāsānī, *Bādā'i'al-Sanā'i*, 2nd ed., (Beirut: Dār al-Kutub al-'ilmiyya, 1406/1986) 2:2.

[23] 'Alī bin Moḥammad al-Rab'ī abu al-ḥassan alias al-lakhmī, *al-tabṣirah,* 2nd ed., (Qatar, Wizārat al-Auwqāf wa al-Shu'ūn al-'Islāmiyyah, 1432/2011) 2:855 – 3:1120.
[24] Abū Moḥammad 'abd al-Wahhā bin 'Alī bin Naṣr al-tha'labī al-bughdādī al-Māliki, *Sharḥ al-Risālah,* 2nd ed., (Beirut: dār ibni-ḥazam, 1428/2007) 1:326 – 2:70.
[25] Abū 'Abdullah Moḥammad bin Idrīs bin al-'abbās bin 'uthmān bin Shfay' bin 'abd al-Muṭṭalib bin 'abd Manāf alias al-Shafi'ī, *Al-Umm*, (Beirut: Dār al-Ma'rifa, 1410/1990) 1:330 – 2:76.
[26] Issḥāq bin Manthūr bin Bahrām Abū Ya'qūb al-Murūzī al-Ḥanbalī alias al-Kūsij, *Masā'el al-'Imām 'Aḥmad bin ḥanbal wa Issḥāq bin Rāhawayh*, 1st ed., (Madina: 'Imādat al-baḥth al-'ilmī, 1425/2009) 3:989 – 94613.
[27] *Zakāt* literally means, 'increase' or 'growth'. A certain payment either monetarily or in other form becomes payable on known item after a span of one year by reaching to *Niṣāb* (a certain thing reaching to a specific number or amount). See for minute details of *Zakāt… Al-Mousū'atul Fiqhiyyatul Kuwaitiyyah,* 2nd Ed., (Kuwait, Dār ul Salāsil, 1425/2004) 23:225-6.
[28] *'Ushr* literally means 'tenth of something'. In Islamic law it means tenth (10th) of agricultural produce. According to some *fuqahā* (jurists) it is another sub-type of *Zakāt*. See for the detailed discussion of the issue… Moḥammad bin 'Ibrāhīm bin 'Abdullah al-tawījrī, *Mukhtaṣar al-fiqh ul Islamī fī Ḍauw'el Qur'ān wa al-Sunnah*, 11th ed*.,* (Saudi Arabia, Dār aṣdā' al-Mujtama', 1431/2010) 1:601
[29] Moḥammad bin 'Ibrāhīm bin 'Abdullah al-tawījrī, *Mukhtaṣar al-fiqh ul Islamī fī Ḍauw'el Qur'ān wa al-Sunnah,*1:586-608
[30] Bederman, David J. *Custom as a Source of Law*. Cambridge University Press, 2010
[31] '*Rewāj'* or '*Narkh'* means, the unwritten codes of *Pukhtūn's* way of life embedded in their minds; observed throughout the *Pukhtūn* belt of Pakistan and Afghanistan with slight changes from place to place. It is also known as *Pukhtunwali.* Please see for the comprehensive details… http://www.khyber.org/culture/a/Codes_of_Pakhtoonwali.shtml (accessed on Jan 23rd, 2020).
[32] Yousufzai, Hassan M., and Ali Gohar. *Towards Understanding Pukhtoon Jirga: An Indigenous Way of Peacebuilding and More..*. Just Peace International, 2005), 20
[33] Ghazala Rafi, "The Fall of Swat Valley to the Taliban: Reflecting on Immediate and Long Term Causes." *Pakistan Journal of Criminology* 9, no. 2 (2017): 39
[34] According to *Shams-ul-'Aimma Sarakhsī, Zakāt* means ' to increase' or 'to clean', while technically it means, "an obligation from *Shāray'* (law-giver i.e. Allah) on well off people whose *Māl* (assets and properties) reaches or exceeds *Niṣāb* and remains in one's possession (actual or constructive) for one year"…… Mohammad bin Aḥmad bin Abi Sahl Shamsul Aimma al-Sarakhsi, *Al-Mabsūt Lil Sarakhsī*, (Beirut, Dārul Ma'rifa, 1414/1993), 3:149.
[35] Sultan-I Rome, "Administrative system of the Princely State of Swat", *Journal of the research society of Pakistan* XXXXIII, no. 2 (2006): 7.
[36] Moḥammad bin 'Ibrāhīm bin 'Abdullah al-tawījrī, for instance, states

"ويشتمل على ما يلي: زكاة النقدين، زكاة بهيمة الأنعام، زكاة الخارج من الأرض، زكاة عروض التجارة، زكاة الفطر"

…Moḥammad bin 'Ibrāhīm bin 'Abdullah al-tawījrī, *Mukhtaṣar al-fiqh ul Islamī fī Ḍauw'el Qur'ān wa al-Sunnah, 1:586*-608.
[37] Ibid, 1:601
[38] An interview was conducted with Shah Salam Khan, resident of Saidu Sharif, Swat, who witnessed the revenue and judicial system of the Swat state and, therefore, has a comprehensive knowledge regarding the same. His comments, when analyzed in the light of available secondary data, have been proved very much vital in nature.
[39] Moḥammad bin al-Ḥassan al-Shaibānī, *Al-Aṣl*, 1st Ed. (Beirut, Dār ibni Ḥazm, 1433/2012) 2:129.
[40] At the time of *Bāchā Ṣeb* (Miyāṇgull 'Abdul Wadūd) twenty percent (20%) was used to be collected; ten percent as general *'Ushar* while 10% *'Ushar* as a tax for armed forces. Later on, *Wālī Ṣeb* (Miyāṇgull Jahāṇ Zeb), son of *Bāchā Ṣeb*, made it one seven and half (7.5) or two in fifteen (2/15). In 1969, before

merger, *Wālī Ṣeb* reduced it to one tenth viz. 10% … Sultan-i-Rome, *Riyāsat E Swat 1915 To 1969*, (Lahore, Nadīm Yūnus Printers, 2013); 162-3.

[41] The word is used for local pure oil. Sometime this dairy product is also called 'Desi Ghee'.

[42] Rome, S. I. "Administrative system of the Princely State of Swat." *Journal of the research society of Pakistan* 43, no. 2 (2006): 2-13,7.

[43] Sultan-i-Rome, ed. *Swat State (1915-1969) from Genesis to Merger: An Analysis of Political, Administrative, Socio-political, and Economic Development*. Oxford University Press, USA, 2008.192.

[44] Government of United Kingdom, *Import, 'Export and Customs Powers (Defence) Act 1939'*, [Internet]; available at http://www.legislation.gov.uk/ukpga/Geo6/2-3/69/contents

[45] Husain, A. Sultan. "The Story of Swat as told by the Founder Miangul Abdul Wadud Badshah Sahib to Muhammad Arif Khan." (1962); With Preface, Introduction and Appendices by Muḥammad 'Āṣif Khān, trans. Preface and trans by Ashruf Altāf Husain 2nd Ed. (Peshawar: New Raḥīl Printing Press, 2001), p. 224

[46] Yasin, Hafiz M. "Social Welfare Program in the Former State of Swat (The Paradise Lost)." *Dialogue* 4, no. 3 (2009): 335-7.

[47] Sultan-i-Rome, *Riyasat E Swat 1915 To 1969*, (Lahore, Nadīm Yūnus Printers, 2013), 162-3

[48] *Ijāragar* was also called *'Ijāradār'* and *'Ushrī'.* Moreover, the word *'Ushrī'* was prevalent in the areas of Kohistan.

[49] Yasin, Hafiz M. "Social Welfare Program in the Former State of Swat (The Paradise Lost)." *Dialogue* 4, no. 3 (2009): 336.

[50] Such facts are collected from Umar Daraz, resident of Shaikhdara, Dubair Kohistan. He was an *'Ushar* collector at the state of Swat. He has been thoroughly interviewed by the researchers on 26th January, 2020.

[51] According to renowned jurist Salmond, "law is the body of principles recognized and applied by the state in the administration of Justice." … Salmond, John William. *Jurisprudence: Or the theory of the law*. Stevens and Haynes, 1907; 11-15.

[52] Yasin, Hafiz M. "Social Welfare Program in the Former State of Swat (The Paradise Lost)." *Dialogue* 4, no. 3 (2009), 336

[53] Sultan-i-Rome, *Riyasat E Swat 1915 To 1969*; 163.

[54] The original text flows as under:

میاں گل نے رواج اور شریعت کو قانونی شکل دیتے ہوئے دو جلدوں میں فتاوی ودودیہ کے نام سے مجموعہ قوانین بھی مرتب کروایا۔(یہ مجموعہ مرتب کروانے کا خیال غالباً انہیں اورنگ زیب کی فتاوی عالمگیری کی شہرت کے سبب آیا ہوگا)۔ "Miyāṇgull (*Bāchā Ṣeb)* gave *Sharī'ah* and *Rewāj* a shape of legislation in two volumes, known as *Fatāwa Wadūdiyyah*. As per some historian, he was inspired by Aurang Zeb's *Fatāwa 'Ālamgiriyyah* and, therefore, had launched such codification… Wusatullah Khan, *Bahisht-i-Marhoom ki yād maiṇ* [Internet] available from …https://www.bbc.com/urdu/pakistan/story/2009/01/printable/090127_swat_history_wusat_zs.shtml (accessed 28th Feb, 2020)

[55] Shirazi, Nasim Shah, and Hafiz M. Yasin. *Fiscal structure, social welfare program and infrastructure development in the former state of Swat (Pakistan): a case study with implications for Muslim countries*. No. 1433-8. 2015.

[56] Sultan-i-Rome, *Riyasat E Swat 1915 To 1969*; 162.

[57] "قال أبو حنيفة: العشر واجب في قليل ما أخرجت الأرض وكثيره، وهو قول مجاهد والنخعي، حكاه عنه حماد والحكم."

(According to Imām abū-Ḥanīfa *'Ushr* is obligatory on agricultural yield less or more… Please see for the minute details of the issue … 'Aḥmad bin Moḥammad bin 'Aḥmad bin Ja'far bin ḥamdān abū al-Ḥussayn al-Qudurī, *al-Tajrīd li al- Qudurī*, 2nd Ed. (Cairo, Dār al-Salām, 1427/2006), 3:1264.)

[58] **Ḥanafī *Fiqh*:** Moḥammad bin al-Ḥassan al-Shaibānī, *Al-Aṣl*, 2:129;**Mālikī *Fiqh*:** 'Alī bin Moḥammad bin al-Rub'ī (abū al-Ḥassan) alias al-Khumyi, *al-Tabṣirah,* 1st Ed, (Qatar, Wizārah al-Auwqāf wa al-

Shu'ūn al-Islamiyyah, 1432/2011), 3:1087**; Shāfi'ī *Fiqh*:** Imām abū-Yūsuf and Imām Shāfi'ī added that there was no *'Ushr* in vegetables. Imām Shāfi'ī did not see *'Ushr* in *thimār* (fruits) as well. … Abū al-Maḥāsin 'Abd al-Wāḥid bin Ismā'īl al-Ru'yānī, *Baḥr al-Madh'hab (Fī furū' al-Madh'hab al-Shāfi'ī)*, 1st Ed. (Beirut, Dār al-Kutub al-'ilmiyyah, 2009), 3:116**;Ḥanbalī *Fiqh*:** Ibn Qudāma added that the agricultural produce ought to reach five *Auwsaq* (plural of *Wasq:* a certain weight whose one *Wasq* is equal to sixty *Ṣā'* and one *Ṣā'* is equivalent to five whole one third of *Arṭāl*) for *'Ushr* to paid from it. … Abū Moḥammad Mūfiq al-dīn 'Abd Allah bin 'Aḥmad bin Moḥammad bin Qudāma al-Jamā'īlī al-Muqaddasī thumma al-dimashqi al-Ḥanbalī alias Ibn-Qudāma al-Muqaddasī, *Al-Mughnī Li Ibn-Qudāma,* (Cairo, Maktabah al-Qāhira, 1388/1968), 3:3.

[59] The original text flows as;

ذَهَبَ الْفُقَهَاءُ إِلَى أَنَّ لِلإِمَامِ فَرْضَ ضَرَائِبَ عَلَى الْقَادِرِينَ لِوُجُوهِ الْمَصَالِحِ الْعَامَّةِ وَلِسَدِّ حَاجَاتِ الْمُسْلِمِينَ"

…*Al-Mousū'atul Fiqhiyyatul Kuwaitiyyah,* 2nd Ed., (Kuwait, Dār ul Salāsil, 2004), 13:35.

[60] These *Fuqahā,* for example, include 'Ibrāhīm bin Musā bin Moḥammad al-Shāṭibī al-Gharnāṭī in Al-Ai'tiṣām, Abū ḥamid Moḥammad ibn Moḥammad al-Ghizālī in al-Muṣtaṣfā, Moḥammad Amīn bin 'Umar bin 'Abd al-'Azīz Ābidīn Shāmi al-Dimashqī in Ḥāshiya ibn-Ābidīn, Abū Moḥammad 'Alī ibn Aḥmad ibn Sa'īd in Al-Muḥallā and etc.

[61] The original text flows as under:

"تأمين حاجيات الدفاع عن البلاد: إذا اقتضت حاجات الدفاع عن الأمة أوا لجهاد في سبيل الله بعض الأموال، ولم يكن في الخزينة العامة ما يكفي لسد تلك الحاجة، فعلى الدولة أن تفرض في أموال الناس من الضرائب بقدر ما يندفع به الخطر عملاً بالمصالح المرسلة، وقد نص على ذلك كثير من علماء الإسلام مثل الغزالي والقرافي والشاطبي وابن حزم والعز بن عبد السلام وابن عابدين."…

Wahba bin Muṣṭafā Al-Zuḥaylī, al-fiqh al-'Islāmī wa Adillatuhū, 4th Ed. (Damascus, Dār al-Fikr, 2011), 6:4589.

[62] Moḥammad 'Ibrāhīm Buneri Bazārgwi, *Fatāwa Wadūdiyyah* (Peshawar, Maktaba Dār-al-Salām, 1950): Bāb al-Zakāt.

[63] The original text goes as;

فلا شيء فيه حتى يكون أربعين درهمًا، فيكون فيها درهم، ثم يعتبر في كل زيادة أربعين درهمًا" "

…'Aḥmad bin 'Alī Abū-Bakkar al-Rāzī al-Jaṣṣāṣ, *Sharḥ Mukhtaṣar al-Ṭaḥāwī,* (Beirut, Dār al-Bashā'er al-'Islāmiyyah, 1431/2010), 2:307.

[64] Rome, Sultan-I. "Swat State (1915-1969): From Genesis to Merger-An analysis of political, administrative, socio-political and economic developments." (2008):191.

[65] The original text goes as: "…What is more, by the old system, the *siri* land was exempt from the *Lashkar* tithe- only *Pakhtuns* used to have to provide men to the Lashkar. When we imposed the one part to seven-and-a-half rate, then everyone was made to pay equally for an enlarged State Militia." … Jahanzeb, Miangul, and Fredrik Barth. *The Last Wali of Swat: An Autobiography*, Columbia University Press, 1985. 74-5.

[66] *Al-Mousū'atul Fiqhiyyatul Kuwaitiyyah,*, 13:35.

[67] Yasin, "Social Welfare Program in the Former State of Swat (The Paradise Lost)." 336.

[68] It is plural of '*'Āmil'* which means an officer appointed by Islamic state for the collection of *'Ushr* or *Zakāt*. The synonymous terms of *'Āmil*' in different books of *Sharī'ah* are used viz. *Muṣaddi*q, *'Āshir* or *Sā'ī* etc.

[69] Al-Maany dictionary…. https://www.almaany.com/ar/dict/ar-ar/عامل/ (accessed 22nd March, 2020)

[70] Zain ud dīn bin Ibrāhīm bin Moḥammad alias Ibn Nujaim al-Miṣri, *Al-Baḥr ur Rā-iq Sharḥ Kanz al Daqā'iq,* 2nd Ed.,(Lebanon, Dārul Kitāb al Islami Beirut), 6:297.

[71] 'Alā al-dīn Abū Bakkar bin Mas'ūd bin Aḥmad al-Kāsānī al-Ḥanafi, *Badāi' al- Ṣanāie' fī Tartīb al-Sharā'ie'*, 2nd Ed. (Lebanon, Dārul Kutub al Ilmiyyah Beirut, 1406/1986), 2:37.

[72] Such facts are collected from Umar Daraz, resident of Shaikhdara, Dubair Kohistan. He was an *'Ushar* collector at the state of Swat. He has been thoroughly interviewed by the researchers on 26th January, 2020.

[73] The original text flows as under:
"وَقَدْ يَقَعُ فِي جِبَايَةِ الْعُشُورِ بِهَذِهِ الطَّرِيقَةِ ظُلْمٌ لِأَهْلِ الْعُشُورِ أَوْ غَبْنٌ لِبَيْتِ الْمَال ، وَلِذَلِكَ مَال بَعْضُ الْفُقَهَاءِ وَمِنْهُمُ ابْنُ عَابِدِينَ إِلَى مَنْعِهَا", (sometimes this mode (*Qabāla*) contributes to the tyranny upon owner of crops, therefore, some *fuqahā* are against this (giving of *'Ushar* for a specific term or season). … *Al-Mousū'atul Fiqhiyyatul Kuwaitiyyah,* 2nd Ed., 30:115.

[74] *Orders of the Hukumrān Riyāsat-i-Swat*, No. 10, 4th January 1960; No. 34, 30th December 1960 and 4th April 1961,…(Rome, Sultan-I. "Swat State (1915-1969): From Genesis to Merger-An analysis of political, administrative, socio-political and economic developments." (2008).) and District Record Room Gulkada Swat.

[75] These facts are derived, during the interview, from Mufti Sardaraz Faizy, a resident of Saidu Sharif, who remained a young *'Ushri* at the state of Swat. He was interviewed, by the researchers, on 12th November, 2019).

[76] This occurred in the village of Shaikhdara, where the local *'Ushrī* (considering themselves as upper class) used to bother a religious influential (*Pīr*) and inhabitant. *'Abdul Ḥaq (baba)*, a spiritual leader of the same area, requested Mr. Maghfūr (an influential person in the Swat state) to shoulder this responsibility of collection on him as the others used to deal the locality unfairly. These facts were collected during an interview with Mohammad Jamal and his brother Mohammad Mahmud. They were interviewed by the researchers on January 29, 2020.

[77] Yasin, Social Welfare Program in the Former State of Swat (The Paradise Lost), 336.

[78] *Al-Mousū'atul Fiqhiyyatul Kuwaitiyyah*, 25:308.

[79] The original text of *ḥadīth* flows as; تُؤْخَذُ مِنْ أَغْنِيَاءِ الْمُسْلِمِينَ وَتُرَدُّ إِلَى فُقَرَائِهِمْ
… Moḥammad bin 'abd al- Ḥādi al-tatawī abū al-Ḥassan Nūr al-dīn al-Sindī, *Ḥāshiyah al-Sindī 'alā Sunan ibn Māja = Kifāyat al-Ḥājja fī Sharḥ Sunan ibn Māja,* 2nd Ed. (Lebanon, Dār al-Jayl Beirut, N.A) 1:543