



Zakat on Cash and its Latest Developments

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“Why Silver Should Be the Basis for
Appraising Zakat on Paper Money”

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TRANSLATOR'S PREFACE

The following fatwa was issued in 2001. It argues in contradistinction to another view that Zakat is due on paper money as opposed to merely being restricted to gold and silver currency. It further supports making the payout threshold of silver (595 or 624 grams) to be the foundation for appraising how much paper currency is required before one is obligated to pay Zakat: a view that conflicts with the majority of modern Muslim jurists who today argue that the payout threshold for gold (85 grams) should be the basis for evaluating how much paper currency is sufficient for obligating one to pay Zakat. Notice the pellucid methodological approach of the Shaykh's fatwa and the strength of his argument. The matter of Zakat on paper money is just as relevant today as it was since the start of the broad transition from gold and silver currency.

INTRODUCTION

Before delving into the topic, we should be reminded of some established facts that are considered the basic reference point regarding the topic of Zakat on currency. Those facts are:

- 1- The consensus (ijmā') about the compulsoriness of Zakat on this particular currency (gold & silver) as opposed to other forms of precious jewels, like gems (jawhar) and pearls (lu'lu').
- 2- The consensus about limiting the obligation to be spent from it to 2.5%
- 3- The consensus about limiting the payout threshold (niṣāb) on silver to 200 legal dirhams (silver currency) and 20 legal dinars (gold currency) other than the irregular departure [from that consensus by some]

These consensuses and the many hadiths that they are founded upon once played a large role with a far-reaching influence, and served as a radiant light in granting clarity to the vision about Zakat on cash—during the pioneer era during the days of the unified legal currency—with respect to the vessel of Zakat, its measure, and the amount of its payout threshold (niṣāb): a thing known by both specialists and laypersons. It, however, was quite fast that this unified currency became obscure and a number of gold and silver based local currencies of disparate measures, quality, and inferiority appeared; as well as Hashimite copper-based currencies known as 'fulūs' until that was crowned with the emergence of paper money (awraq naqdiyya) and other monetary bills known as 'sanadāt wa ashum' (stocks and bonds).

So this subsequent and consecutive change in the Islamic currency had a negative effect on Zakat on cash such that the views surrounding it became a bit foggy and took from jurisprudence (fiqh) and jurists great exertion and valuable time in research and comparison between the currency of the era within which they were living and the legal dirhams and dinars concerning which Zakat was imposed; and in accord with whose measures the various payout

thresholds were determined. Then, those unifying consensuses became obscured and were replaced by disagreement; such that opinions and fatwas raged surrounding this precept (*farīda*) to such an extent that some [scholars] were found restricting Zakat to gold and silver and negating it from other forms of currency.

I will limit discussion in this topic to Zakat on paper money even though there are other topics in the same context, like Zakat on bank deposits, Zakat on stocks and bonds, and on corporate income (*amwāl al-sharikāt*) to which we may return in later articles if Allah facilitates that.

Zakat on Paper Money

As stated previously, the obfuscation of gold and silver based legal currency had an impact on Zakat on cash. [This led scholars to ask] if its obscuration resulted because of our eyes being closed due to some inseparable connection [between the eye and the teachings on Zakat] which existed at the time of its institution resulting in the poor being denied their rights and the well-to-do increasing in affluence due to being exempted [from payment]? Or is it a duty to preserve Zakat in its [monetary] substitutes since they serve the same purpose [as gold and silver currency]?

The ancient jurists differed about Zakat on copper-based currency (*fulūs*) to an extent which mirrors the fatwas of the latter day scholars about paper money. Some of them held the view that the *ratio legis* for Zakat on gold and silver is [simply] their characterization as gold and silver. Such scholars did not obligate Zakat on other forms of currency, like *fulūs* and paper money. This is the expressed position of the Mālikis and Ḥanafis concerning *fulūs*, and the logical assumption (*muqtaḍā*) to be made from the school of the Shāfi'is and others who reject counterfeit coins and opine that only pure gold and silver are to be considered [in transactions]. On the other hand, others hold that the reason for Zakat being imposed on the two of them (gold and silver) is that they are appreciable wealth and a cost for appraising the value of other things, like sale items. These scholars placed the obligation of Zakat on every form of currency regardless of the base

element from which it is taken. And this is the more correct view—and the truth. For undoubtedly the *ratio legis* must be a patent characteristic (*waṣf zāhir*). And it is not permissible to justify the legality of scriptural rulings through physicalities (*dhawāt* and *a'yān*) [like something merely being 'gold' or 'silver'], because those [descriptions] do not include a wisdom (*ḥikma*) necessitating a ruling. And, perhaps, the fatwa of Mālik—Allah's mercy on him—exempting Zakat from being paid on copper-based coins (*fulūs*) during his time, as is reported in *Al-Mudawwana*, was not in light of copper-based currency not being gold or silver such that it is understood that he restricts Zakat to gold and silver cash (*'ayn*) to the exclusion of other things. Rather, the reason for it was that *fulūs* during his time did not possess the seal of the official currency, and because it (*fulūs*) was exposed to depression and lack of use. So he did not consider it to be appreciable wealth. He, therefore, did not oblige Zakat on it.

In light of that, when he assumed the possibility of the existence of a stable currency in wide circulation and of guaranteed exchange, he did not waver about transacting with it in the way that gold and silver are transacted and on equal footing, as is reported in *Al-Mudawwana* 4,

“If hides were to become a common basis of exchange between people in the way that it happens with minted cash (*'ayn maskūka*), we would disapprove of its sale against gold and silver with delayed payment (i.e. equating it with a usurious transaction).”

Therein is a clear allusion to the fact that the matter of currency and minting are no more connected with the type of mineral from which the mint is stricken any more than it is connected with the political stability of the nation and the guarantee of exchange and circulation. Therefore, he said about counterfeit cash once it starts to circulate the same way as authentic cash that it is compulsory to pay Zakat on it when it reaches the *nisab* even if the amount of gold and silver mixed with it is less than

the *niṣāb* threshold; in contradistinction to what the Shāfi'is and others opine in considering what is pure [of gold and silver] only.

This theory is also corroborated by what some Mālikī jurists have said about *dirhams* and *dinars* not possessing any intrinsic value. Rather, they are sought after because they stimulate monetary growth (*tanmiya*), and this same characteristic is found in paper money. It is, hence, beyond the scope of anyone to deny that or reject the obligation of Zakat on them. Beyond that, all that remains is the discussion of the extent of the *niṣāb*.

So since no space remains for anyone to hold that there is no Zakat due on paper money after establishing the proof of its compulsoriness with respect to it and that there is a reasonable excuse for the disagreement about it, what is left is the discussion and study of the measure of its *niṣāb* (minimum payout threshold). Is consideration to be given to their number (i.e. of bills of debt) such that Zakat is made compulsory on whoever owns two hundred *dirhams* according to the *dirhams* of his era once the year expires? Or is consideration to be given to their value?

The Mālikī, Ibn Ḥabīb, adopted the view that consideration with respect to the *niṣāb* is to be given to the *dirhams* of each town without being circumscribed by the [weight of the] legal *dirham* (*dirham shar'ī*), because the Prophet ﷺ obligated Zakat on two hundred *dirhams* without qualifying [its precise intention]. And the *dirhams* during the Prophet's ﷺ era were of disparate measures. Among them were those that were large in size from a group of eight *dāniqs*,¹ and among them were those small in size from a group of six *dāniqs* until 'Abd Al-Malik b. Marwān came and merged the small *dirham* with the big one; making from them two *dirhams* of equal size from a group of seven *dāniqs*.

So if the Messenger ﷺ did not explicate in his hadiths the particular *dirham*—the big or small one—that should be considered in determining the *niṣāb*, that indicates that the number, not the weight, should be considered. And it then is not

¹ A *dāniq* is equivalent to 1/8 of a *dirham*.

correct to construe the *dirhams* mentioned in the hadiths of Zakat as the *dirham* that 'Abd Al-Malik b. Marwān minted, because it is equivalent to referring someone to something unidentified and a delay of clarification beyond the time it is needed. And that is not permitted by consensus, as the scholars of legal theory declare.

If this opinion was correct, it would be simplest to apply in every period and in every land; and it would be most inclusive and most expansive as a maxim for the sources of Zakat; and most widespread in benefit to the poor and others among those entitled to Zakat without bringing harm to the possessors of wealth due to the simplicity of what they spend from one regard and because Zakat is only compulsory in that over which a year has passed. And whoever has an excess of two hundred *dirhams* regardless of their value has no need for them; except that the jurists have unanimously agreed upon the incorrectness of Ibn Ḥabīb's view. They also agreed upon the standard of the legal *dirham* minted by 'Abd Al-Malik by the consensus of the scholars. Hence, it is compulsory to appraise the value of the paper money transacted between people in order to know its *niṣāb* against it. And it is what those who obligated Zakat on it have unanimously agreed upon except that they differed about what should be the basis of their appraisal—gold, silver, or something else?

The first position—which is the truth and correct view—is to have [the paper money] appraised according to silver, which happens to be either 624 grams or 595 grams according to the disagreement over the measure of the *dirham* i.e. is its weight 3.12 grams or 2.975 grams? So once a person owns the amount of paper money equivalent to the *niṣāb* for silver, he must pay Zakat on it even if it does not reach the *niṣāb* for gold, which is 85 grams, because of the following proofs:

- 1- The *nisab* for silver is expressly stated in a number of sound hadiths reported by Bukhari and Muslim (*muttafaq 'alayha*). One of them is the hadith, "There is no alms due on less than five *'ūqiyas*."² This is

² An *ūqiya* is equivalent to 40 *dirhams*.

contrary to the case for gold, since not a single sound hadith exists in its regard. It, rather, is established through analogy with the *niṣāb* for silver at an exchange rate of one dinar to ten dirhams. And the appraisal of the value of paper money according to the silver *niṣāb* is more deserving than appraising it according to the gold *niṣāb* in light of the legal maxim, “It is not valid to build an analogy upon what itself is established by analogy.”

- 2- The *niṣāb* for silver is agreed upon (*mujmaʿ alayhi*), while the *niṣāb* for gold is a point of disagreement, even though the correct view is that it is equal to twenty dinars. And building an analogy upon a point of consensus is more deserving than building it upon a point of dispute even according to those who deem it valid to build analogies on disputed sources. As for those who stipulate that the judgment of the basis of analogy (*ḥukm al-aṣl*) be a point of consensus, such an analogy is corrupt and invalid in their view.
- 3- The Prophet ﷺ and his Companions after his demise relied upon silver to appraise the value of stolen items due to having knowledge of the *niṣāb* for theft that necessitates one’s hand being severed. Bukhārī and others have related that the Prophet ﷺ severed the hand of a thief who stole a shield (*mijann*) that cost three dirhams. And what this means is that the shield was appraised according to dirhams, not gold dinars. Likewise, ‘Uthmān ؓ ordered that a stolen citron (*utrujja*) be appraised at the value of three dirhams after which he severed the hand of the one who stole it. And that happened in the presence of the Companions, and it is not known that anyone of them objected. It, therefore, constitutes an implicit consensus (*ijmāʿ sukūṭī*) that silver is to be considered in appraising the value of things. And if the silver-based dirham is to be considered in matters of theft, an area wherein its punishment is deterred because of

reasonable doubt (*shubuhāt*), considering it in the chapter of Zakat is even more deserving and appropriate.

- 4- The Prophet ﷺ gave consideration to dirhams in appraising wealth in the topic of Zakat itself in what is known as the ‘restorative sheep’ (*shāt al-jubrān*). In the collection of Bukhārī and others there is the hadith of Anas that Abū Bakr ؓ wrote for him the ordinance of alms-giving that Allah ordained upon His messenger ﷺ,

“Whoever’s camels reach a number obligating the alms of a four-year old camel (*jadhaʿa*) and does not own a four-year old camel but has one of three years (*ḥiqqa*), then the three-year old camel is accepted from him. However, one should place along with it two sheep if that is easy for him or twenty dirhams. And whoever’s camels reach a number obligating the alms of a three-year old camel and he does not have a three-year old but has a four-year old, then the four-year old will be accepted from him. And the tax collector (*muṣaddiq*) is to give him (the owner) twenty dirhams or two sheep [along with it]. And whoever’s camels reach a number obligating the alms of a three-year old camel and he only has a two-year old camel (*bint labūn*), then the two-year old will be accepted from him, and he is to give two sheep or twenty dirhams. And when the alms due from a person reaches that obligating a two-year old camel and he only has a three-year old camel, then it will be accepted from him, and the tax collector shall give him twenty dirhams or two sheep. And when the

alms due from a person reaches that obligating a two-year old camel and he does not have one but has a one-year old camel, then the one-year old will be accepted from him, and he shall give along with it twenty dirhams or two sheep.”

The Messenger ﷺ placed as a substitute for the two sheep, twenty dirhams, which the tax collector either takes or gives. And he did not make two dinars a substitute for either of them. He also did not offer the option between paying two dinars, [twenty] dirhams, and two sheep in spite of knowing that the dinar during his lifetime ﷺ was equivalent to ten dirhams. So that indicates that silver dirhams are to be considered in appraising the value of things instead of gold.

- 5- When appraising items of commerce, the ancient jurists supported the lesser *niṣāb* between gold and silver when their values differed from one another. And there is no doubt that the lesser *niṣāb* in the current age is the *niṣāb* of silver. So it must be supported and made the point of reference because of what the jurists have stated. And there is no justification for opposing them without sound legal evidence or convincing proof.
- 6- It (the silver *niṣāb*) is precautionary for maintaining the rights of the poor and others entitled to Zakat, because monetary appraisal by a gold standard leads to the exemption of many people from having to purify their wealth in such a way that it harms the poor and others who are entitled due to that exemption. So numerous rights will be lost of which they are in most dire need.
- 7- It is precautionary for those possessing surplus wealth also, since it clears them of an obligation upon them.

- 8- Appraising wealth according to a gold standard leads to removing the obligation of Zakat from a number of well-to-do people with respect to important savings of which they had no need the entire year for no other reason than that the savings did not reach the *niṣāb* of gold despite the fact that they greatly exceeded the *niṣāb* of silver.

The second position:

In this position, those who adopt it opine that paper money should be appraised according to the gold standard instead of silver, and that Zakat is not due on the money until its value reaches 85 grams of gold bullion. And there are two matters that support their argument in this position:

- 1- The devaluation of silver and the excessive rise in living expenses that have placed the person who possesses a surplus appraised at the value of the *niṣāb* for silver in the company of the poor who themselves are entitled to receive Zakat. So it is not permissible to take it from them because of the Prophet’s saying ﷺ “It is to be taken from their affluent and dispensed to their poor.”
- 2- The second matter is that the *niṣāb* of gold is approximately the same as the *niṣāb* for livestock or precisely the same, in light of the different ways they express that in this topic.

These, however, are two weak arguments unfit for presentation as evidence and do not stand firm in face of the aforementioned arguments and proofs. As for the argument about the devaluation of silver, the rise in living expenses, and negation of affluence from those who own the *niṣāb* of silver, it is rejected for the following reasons:

- 1- The devaluation of silver and rise in living expenses are not sufficient cause for amending the legal *niṣāb* in Zakat. The first reason is because the restriction of the *niṣāb* to 200 dirhams is by an explicit text (naṣṣ qat’ī). And there is no legal

interpretation (ijtihād) possible in the face of an explicit text as the scholars of legal theory (usūliyyūn) state. In addition, there is a decisive consensus (ijmā' qat'i) convened about the compulsoriness of Zakat on five *ūqiyas* or two hundred dirhams. And consensus is something that cannot be contravened; just as the cancellation of Zakat in what is equal to two hundred dirhams and does not reach the *niṣāb* of gold is a contravention of consensus and a contradiction of the text. The second reason is that there was an extreme inflation in the prices during the era of the Companions after the Islamic conquests, and the treasures of Persia and Rome gushed forth unto Medina such that a single citron cost three dirhams—a cost it does not reach in most countries today with inflation. In spite of that, they severed the hands of thieves without raising the *niṣāb* for theft to more than the scripturally based *niṣāb* by making the claim of inflation or caution over some hands [being severed for insignificant items] despite the fact that corporal punishments (ḥudūd) are suspended because of reasonable doubts. So how can the *niṣāb* for Zakat be raised or neglected based on the claim that living expenses have risen and the fear of imposing Zakat on one who it is thought to be in need of what is in his possession?

- 2- Next, the obligating cause (sabab) for the payment of Zakat according to the jurists is the ownership of the *niṣāb*. The obligating cause is that upon which the existence of the ruling or its non-existence is contingent. Therefore, when one owns what is equal to the *niṣāb* of silver, it is compulsory to pay Zakat due to the existence of its obligating cause which is the ownership of the *niṣāb*. As for affluence (ghinā), it is [merely] the wisdom (ḥikma) behind the legal obligation of Zakat, not its obligating cause (sabab). This is due, firstly, to the fact that it is a volatile characteristic (waṣf ghayru munḍabiṭ) of disparate quality. So it is not fit for being made an

obligating cause (sabab), since one of the conditions for something being an obligating cause and the *ratio legis* ('illa) is regularity (inḍibaṭ) as stated by the scholars of legal theory. Secondly, if we surrender to the regularity of the cause according to custom—as might be claimed, the indication of the hadith, “It is to be taken from their affluent...” that Zakat is connected with affluence only hints at this understanding (bi ṭarīq al-īmā) by ordering the ruling according this characteristic. This is so, while the indication of the hadith, “In silver there is a quarter of a tenth (2.5%) due” is a precise assignment of the *niṣāb* as two hundred dirhams which is established by explicit utterance (manṭūq ṣarīḥ). And such expressions are given precedence over meanings merely hinted at. Thirdly, the one who bounded Zakat with affluence is the same one who delineated the standard of affluence that obligates the payment of Zakat according to the *niṣāb* of silver. And there is no consideration given to culturally determined affluence in the face of the scripturally based definition. So when the *ratio legis* ('illa) is the achievement of the *niṣāb* (bulūgh al-niṣāb) and the wisdom (ḥikma) is affluence (ghinā), then the custom among scholars of legal theory is that it is not permissible to justify the legality or assign the *ratio legis* to an undefined wisdom, and that the absence or presence of such a wisdom does not result in the absence of the ruling. For this reason, we find Islam obligating Zakat upon those who own merely five *wasqs*³ of barley, a measure that may not suffice one for a year if such a person has a number of dependents, but it did not impose it upon one who owns less than the *niṣāb* of a variety of forms of wealth, like one who possesses 29 cows, 39 sheep, four camels, four *wasqs* of dates, four [wasqs] of raisins,

³ Five *wasqs* are approximately 1263.6 liters or 610 kilograms of farm produce.

and the like of legumes (qaṭānī), 199 dirhams, and 9 dinars according to those who are of the view that gold is not to be counted together with silver. Undoubtedly, the opulence of this latter person exceeds the opulence of the owner of barley many times over, and he is remarkably richer than him. Despite that, the Legislator does not obligate the richer person to pay Zakat, even though He obligates it upon the owner of the five *wasqs* of barley. So is it correct for anyone to say that this is not just or that there is some injury to the right of the former and a privileging of the latter? Absolutely not! And this confirms that the affluence considered is the scripture based affluence as opposed that which is cultural.

3- [This argument is rejected] thirdly because Zakat in Islam is only compulsory once a year passes over it as the Prophet ﷺ said, “There is no Zakat on any wealth until a year passes over it.” And whoever owns a *niṣāb* of silver and was given no reason to spend it the entire year is affluent beyond a doubt. And there is no justification for characterizing such a person as poor and exempting him from Zakat until he owns the *niṣāb* for gold.

4- [The fourth reason is] that it obliges those who uphold the *niṣāb* of silver as the standard of appraisal as being non-obligating for the payment of Zakat due to the indigence of its possessor such that whoever owns the *niṣāb* of silver itself, Zakat is not due from him because whatever applies to the thing of like nature applies also to that which is equated to it (*mā jarā ‘alā al-mithli yajrī ‘alā al-mumāthil*). So whoever owns riyals and dirhams that equal [combined] the value of two hundred dirhams, he is poor: a thing that exempts him from the obligation of paying Zakat. For surely one who owns two hundred dirhams worth of silver bullion is also not obliged to pay Zakat. But that is contrary to the explicit texts and scholarly consensus.

5- [The fifth reason is] that there is nothing in Islam that bars a person from being obligated to pay Zakat in light of his ownership of the *niṣāb* nor anything that bars his entitlement to taking Zakat in light of his need and lack of sufficiency based on his assets. And one [of the two] applies to every person who has two regards as stated by the scholars of legal theory. And the quotes (*nuṣūṣ*) of the jurists in this regard are many, because the affluent person who pays Zakat is the one who owns the *niṣāb* even if that amount is not sufficient to sustain him for a year. And the poor or indigent who is entitled to Zakat is the one who does not own what will suffice him for a year, though there is disagreement among the jurists, even if he owns the *niṣāb*.

As for arguing that the *niṣāb* of gold is approximately or equal to the *niṣāb* of livestock, it is a mistake to argue that Islam has observed the principle of equivalence and approximation in delineating payout thresholds for a number of reasons:

1- It is contrary to the lived reality that does not accept any debate. This is, firstly, because the Prophet ﷺ instituted as a substitute for the restorative sheep (*shāt al-jubrān*): ten dirhams as has been mentioned already in the hadith of Bukhārī. And what this means is that a sheep during his lifetime ﷺ was equivalent to ten dirhams. If equivalency between payout thresholds was truly observed in delineating payout thresholds, then one of two matters would be the inescapable result of that: i) either raising the *niṣāb* of silver to 400 dirhams due to the equivalency to 40 sheep by the price of $10 \times 40 = 400$; or ii) the deflation of the *niṣāb* of small livestock (*ghanam*) to 20 which is equal to 200 dirhams i.e. $20 \times 10 = 200$. However, the Lawgiver did none of that. Similarly, it was confirmed in the *Ṣaḥīḥ* of Bukhārī and other collections that the Prophet ﷺ divided the spoils and equated

one camel to ten sheep. And the logical conclusion (muqtaḍā) of equivalency between the payout thresholds or their mutual approximation is for the *niṣāb* of small livestock to be raised to fifty due to being equivalent to five camels or for the *niṣāb* of camels to decrease to four in order to be equal to 40 sheep. The Lawgiver, however, did neither this nor that, and He delineated the *niṣāb* of camels in five and that of sheep in forty as has come in the hadith, “There are no alms due in what is fewer than five camels” and the hadith, “One sheep is due in every forty sheep.” And he paid no attention to the disparity between the two payout thresholds as regards their value. So that indicates that this characteristic is consistent throughout but a consideration that has been disregarded (ṭardī mulghā). Secondly, no one is able to say that five *wasqs* of barley approximate or equal forty sheep or thirty cows or five camels or twenty dinars. And when have forty goats ever been equivalent to thirty cows to the point that one imagines that the Lawgiver has observed in the delineation of payout thresholds their mutual equivalency or approximation in order to build upon that that the *niṣāb* of cash (nuqūd) must be considered in accord with the value of gold instead of silver? Grains themselves are of such a disparate value that it does not permit for anyone to speak of their mutual equivalency or approximation.

- 2- The view of observing equivalency in payout thresholds bears in its folds a statement of failure in its application whenever a person is convinced on his own of the existence of clear disparity between them. So it should either be said that Islam did not observe such a thing—which is the correct view that lived experience indicates; or it should be said that it did observe it but without being graced in its application or one is to act stubbornly and claim equivalency while being belied by reality. Lastly, and perhaps it is part of the

duty that the philosophy of Islam in Zakat and its standards of judging with respect to it (Zakat) are not the philosophy of the institutors of taxes in the East or West. And it is a duty for everyone to understand that and understand that Zakat in Islam is an act of devotion (‘ibāda) and a means of nearness (qurba). The Muslims vie with one another to pay it, and they do not complain about its burdensomeness. And they demand neither that it be lightened nor for the principle of equality in their measures and payout thresholds. And they consign that to Allah alone, the one who imposed it. And they are pleased with His Sharī‘a concerning it. So there is no reason to oppose the scriptural sources and the views of the jurists in delineating the *niṣāb* by silver with the claim of the lessening of its monetary value, the rise in living expenses, and considering its owner to be poor. And the thing that plunged them into that [error] is that they started while considering the compulsoriness of Zakat once one owns the *niṣāb* at the beginning of the year before it has passed. And that is contrary to the hadith, “There is no Zakat due on wealth until the year has passed over it.” It is inclusive of all forms of wealth. And there is no doubt that the one who owns a *niṣāb* of silver or what is equal to it of bank cash (nuqūd bankiya) and a full year passes over it without having a need to spend it is considered to be one who has no need of it. So once Zakat is compulsory to pay on that measure, it is compulsory upon [and being paid by one who is] an affluent person, not someone who is poor as those who hold that gold should be considered the standard for appraisal think.

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