

# Shariah Governance

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# Table of Contents

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FRAMEWORK OVERVIEW .....	4
SADAQAH FUNDS .....	4
PRINCIPLES FOR THE SADAQAH DONOR .....	4
PRINCIPLES FOR THE SADAQAH BENEFICIARY .....	4
PRINCIPLES OF THE SADAQAH PAYMENT .....	4
PRINCIPLES FOR SADAQAH.IO .....	4
AUDIT AND ASSURANCE .....	4
BIOGRAPHY OF MUFTI FARAZ ADAM, AMANAH ADVISORS .....	6

## 1. Framework Overview

- 1.1 This document describes the Shariah governance framework in place to guide Sadaqah.io users, beneficiaries and the Sadaqah.io team in managing Sadaqah payments.

## 2. Sadaqah Funds

- 2.1 Sadaqah.io only accepts Sadaqah Nafilah. Any obligatory form of Sadaqah is not called for and is neither encouraged to be paid through this platform.
- 2.2 The platform will make it very clear that it does not collect any other type of payment.
- 2.3 If any other form of payment is paid, the platform will refund the amount to the payer if possible. Otherwise, the payment will be allocated to a Zakat compliant category to ensure the payment is valid on behalf of the payer.

## 3. Principles for the Sadaqah Donor

- 3.1 The donor must be a mature individual with mental capacity.
- 3.2 The donor must not be a small child<sup>1</sup>.
- 3.3 The wealth of a minor child should not be paid as Sadaqah<sup>2</sup>.
- 3.4 A person who lacks mental capacity cannot pay Sadaqah.
- 3.5 The wealth of a person who lacks mental capacity should not be given as Sadaqah.
- 3.6 Any person who is legally barred from transacting should not pay Sadaqah<sup>3</sup>.
- 3.7 The Sadaqah payer is encouraged to ensure that the Sadaqah payment is beyond their immediate need and that of their family<sup>4</sup>.
- 3.8 The Sadaqah payer should have an intention of reward and pleasing Allah<sup>5</sup>.
- 3.9 The Sadaqah payer should not have a Shariah non-compliant intention or discouraged intention when paying Sadaqah.

## 4. Principles for the Sadaqah Beneficiary

- 4.1 The beneficiary can be:
  - o A child
  - o A person who lacks mental capacity
  - o A person legally barred from transacting and spending
  - o A bankrupt or insolvent person

- 4.2 Sadaqah can be paid to the family of the Prophet Muhammad (peace be upon him).
- 4.3 It is acceptable to pay Sadaqah to one's family and relatives through the platform<sup>6</sup>.
- 4.4 The beneficiary should be in need of funds and relatively poor in their location.
- 4.5 It is permissible to give Sadaqah to a wealthy person. However, a wealthy person should abstain from asking for Sadaqah as he is not in need. It is unlawful for a wealthy person to take Sadaqah if pretentiously express poverty<sup>7</sup>.
- 4.6 Sadaqah can be given to a needy non-Muslim<sup>8</sup>.

## 5. Principles of the Sadaqah Payment

- 5.1 Sadaqah should be paid from halal and lawful earnings<sup>9</sup>.
- 5.2 Once the Sadaqah has been paid to the beneficiary, it cannot be recalled or clawed back<sup>10</sup>.

## 6. Principles for Sadaqah.io

- 6.1 Sadaqah.io must allocate the Sadaqah payment to the selected cause.
- 6.2 All fees and expenses must be clearly stipulated and communicated.
- 6.3 Any Sadaqah for a beneficiary cannot be used by Sadaqah.io.
- 6.4 Sadaqah.io cannot permit any non-Shariah compliant beneficiary on the platform.
- 6.5 Sadaqah.io cannot permit any terrorist or illegal fundraiser onto the platform.
- 6.6 Sadaqah.io must abide and ensure it fulfils all legal, regulatory and accounting requirements.

## 7. Audit and Assurance

- 7.1 The Shariah advisor has full authority and complete access to review any process, service, facility or Sadaqah payment grant.
- 7.2 The Shariah advisor can question, review or interview staff on any practice.

!!وَأَمَّا الصَّغِيرُ الْمُمَيَّرُ: فَإِنَّ الصَّدَقَةَ مِنْهُ تُعْتَبَرُ مِنَ التَّصَرُّفَاتِ الضَّارَّةِ ضَرَرًا مَحْضًا، وَقَدْ ذَهَبَ الْفُقَهَاءُ إِلَى أَنَّ التَّصَرُّفَاتِ الضَّارَّةَ ضَرَرًا دُنْيَوِيًّا، وَالَّتِي يَتَرْتَّبُ عَلَيْهَا خُرُوجُ شَيْءٍ مِنْ مِلْكِهِ مِنْ غَيْرِ مُقَابِلٍ، كَالْهَبَةِ، وَالصَّدَقَةِ، وَالْوَقْفِ، وَسَائِرِ التَّبَرُّعَاتِ لَا تَصِحُّ، بَلْ تَقَعُ بَاطِلَةً، حَتَّى لَوْ أُذِنَ الْوَلِيُّ أَوْ الْوَصِيُّ؛ لِأَنَّ إِجَارَتَهُمَا فِي التَّصَرُّفَاتِ الضَّارَّةِ لَاغِيَةٌ، وَقَدْ اسْتَنْتَى الْمَالِكِيَّةُ، وَالْحَنَابِلَةُ، وَصِيَّةَ الصَّبِيِّ الْمُمَيَّرِ الَّذِي يَعْقِلُ الْوَصِيَّةَ (الموسوعة الفقهية الكويتية ج 26 ص 327)

2 وَكَمَا لَا تَصِحُّ صَدَقَةُ التَّطَوُّعِ مِنَ الصَّبِيِّ، وَالْمَجْنُونِ، وَالْمَحْجُورِ عَلَيْهِ، لَا تَصِحُّ الصَّدَقَةُ مِنْ أَمْوَالِهِمْ مِنْ قَبْلِ أَوْلِيَائِهِمْ نِيَابَةً عَنْهُمْ، لِأَنَّ لَهُمْ لَا يَمْلِكُونَ التَّبَرُّعَ مِنْ أَمْوَالٍ مَنْ تَحْتَ وَلَا يَتِيمَهُ (1)

3 وَأَمَّا الْمَحْجُورُ عَلَيْهِمْ لِلْسَّفَةِ، أَوْ الْإِفْلَاسِ، أَوْ غَيْرِهِمَا فَهُمْ مَمْنُوعُونَ مِنَ التَّصَرُّفِ فَلَا تَصِحُّ مِنْهُمْ الصَّدَقَةُ

4 يُسْتَحَبُّ أَنْ تَكُونَ الصَّدَقَةُ بِفَضْلِ عَنْ كِفَايَتِهِ، وَكَفَايَةً مِنْ يَمُونَهُ، وَإِنْ تَصَدَّقَ بِمَا يُنْقِصُ مُؤَنَةً مِنْ يَمُونَهُ أَيْم. وَمَنْ أَرَادَ التَّصَرُّفَ بِمَالِهِ كُلِّهِ، وَهُوَ يَعْلَمُ مِنْ نَفْسِهِ حُسْنَ التَّوَكُّلِ وَالصَّبْرِ عَنِ الْمَسْأَلَةِ فَلَهُ ذَلِكَ، وَإِلَّا فَلَا يَحُوزُ. وَيُكْرَهُ لِمَنْ لَا صَبْرَ لَهُ عَلَى الصَّبْرِ أَنْ يُنْقِصَ نَفْسَهُ عَنِ الْكِفَايَةِ التَّامَّةِ.

5 الصَّدَقَةُ قُرْبَةٌ؛ لِأَنَّهَا تَمْلِكُ بِلَا عَوَضٍ، لِأَنَّ جُلَّ ثَوَابِ الْأَخْرَةِ، فَلَا بُدَّ فِيهَا مِنَ النَّبَةِ، وَقَدْ وَرَدَ فِي الْحَدِيثِ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: إِنَّمَا الْأَعْمَالُ بِالنِّيَّاتِ (2) وَيُسْتَحَبُّ فِي الصَّدَقَةِ أَنْ يَنْوِيَ الْمُتَصَدِّقُ ثَوَابَهَا لِجَمِيعِ الْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ.

6 لَا خِلَافَ بَيْنَ الْفُقَهَاءِ فِي جَوَازِ التَّصَدَّقِ عَلَى الْأَقْرَبَاءِ، وَالْأَزْوَاجِ صَدَقَةَ التَّطَوُّعِ، بَلْ صَرَّحَ بَعْضُهُمْ: بِأَنَّهُ يُسَنُّ التَّصَدَّقَ عَلَيْهِمْ، وَلَهُمْ أَخْذُهَا، وَلَوْ كَانُوا مِمَّنْ تَجِبُ نَفَقَتُهُ عَلَى الْمُتَصَدِّقِ (2)، فَعَنْ أَبِي مَسْعُودٍ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: إِذَا أَتَفَقَّ الرَّجُلُ عَلَى أَهْلِهِ يَحْتَسِبُهَا فَهُوَ لَهُ صَدَقَةٌ (3) وَقَالَ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: الصَّدَقَةُ عَلَى الْمِسْكِينِ صَدَقَةٌ، وَعَلَى ذِي الرَّحِمِ ثَنَانٌ: صَدَقَةٌ وَصِلَةٌ (4).

7 الْأَصْلُ أَنَّ الصَّدَقَةَ تُعْطَى لِلْفُقَرَاءِ وَالْمُحْتَاجِينَ، وَهَذَا هُوَ الْأَفْضَلُ، كَمَا صَرَّحَ بِهِ الْفُقَهَاءُ (1). وَذَلِكَ لِقَوْلِهِ تَعَالَى: {أَوْ مِسْكِينًا ذَا مَتْرَبَةٍ} (2) وَاتَّفَقُوا عَلَى أَنَّهَا تَحِلُّ لِلْغَنِيِّ (3)؛ لِأَنَّ صَدَقَةَ التَّطَوُّعِ كَالْهَبَةِ فَتَصِحُّ لِلْغَنِيِّ وَالْفَقِيرِ (4). قَالَ السَّرْحَسِيُّ: ثُمَّ التَّصَدَّقُ عَلَى الْغَنِيِّ يَكُونُ قُرْبَةً يُسْتَحَقُّ بِهَا الثَّوَابُ، فَقَدْ يَكُونُ غَنِيًّا يَمْلِكُ النَّصَابَ، وَلَهُ عِيَالٌ كَثِيرَةٌ، وَالنَّاسُ يَصَدِّقُونَ عَلَى مِثْلِ هَذَا لِثَنَالِ الثَّوَابِ (5). لَكِنْ يُسْتَحَبُّ لِلْغَنِيِّ التَّنَزُّهُ عَنْهَا، وَيُكْرَهُ لَهُ التَّعَرُّضُ لِأَخْذِهَا؛ لِأَنَّ اللَّهَ تَعَالَى مَدَحَ الْمُتَعَفِّفِينَ عَنِ السُّؤَالِ مَعَ وُجُودِ حَاجَتِهِمْ، فَقَالَ: {يَحْسِبُهُمُ الْحَاحِلُ أَغْنِيَاءَ مِنَ التَّعَفُّفِ} (6) وَيُكْرَهُ لَهُ أَخْذُهَا وَإِنْ لَمْ يَتَعَرَّضْ لَهَا. وَيَحْرُمُ عَلَيْهِ أَخْذُهَا إِنْ أَظْهَرَ الْفَاقَةَ، كَمَا يَحْرُمُ أَنْ يَسْأَلَ، وَيَسْتَوِي فِي ذَلِكَ الْغَنِيُّ بِالْمَالِ، وَالْغَنِيُّ بِالْكَسْبِ،

8 اخْتَلَفَ الْفُقَهَاءُ فِي جَوَازِ صَدَقَةِ التَّطَوُّعِ عَلَى الْكَافِرِ، وَسَبَبُ الْخِلَافِ: هُوَ أَنَّ الصَّدَقَةَ تَمْلِكُ لِأَجْلِ الثَّوَابِ، وَهَلْ يُنَابُ الشَّخْصُ بِالْإِئْتِاقِ عَلَى الْكُفَّارِ؟.

فَقَالَ الْحَنَابِلَةُ: وَهُوَ الْمَشْهُورُ عِنْدَ الشَّافِعِيَّةِ، وَالْمَنْقُولُ عَنْ مُحَمَّدٍ فِي السَّبْرِ الْكَبِيرِ: إِنَّهُ يَحُوزُ دَفْعَ صَدَقَةِ التَّطَوُّعِ لِلْكَفَّارِ مُطْلَقًا، سَوَاءً أَكَانُوا مِنْ أَهْلِ الدِّمَةِ أَمْ مِنَ الْحَرَبِيِّينَ؟ مُسْتَأْمِنِينَ أَمْ غَيْرَ مُسْتَأْمِنِينَ، وَذَلِكَ لِعُمُومِ قَوْلِهِ تَعَالَى: {وَيُطْعَمُونَ الطَّعَامَ عَلَى حُبِّهِ مِسْكِينًا وَيَتِيمًا وَأَسِيرًا}.

9 لَقَدْ حَثَّ الْإِسْلَامُ أَنْ تَكُونَ الصَّدَقَةُ مِنَ الْمَالِ الْحَلَالِ وَالطَّيِّبِ، وَأَنْ تَكُونَ مِمَّا يُجِبُهُ الْمُتَصَدِّقُ. فَقَدْ وَرَدَ فِي الْحَدِيثِ عَنْ أَبِي هُرَيْرَةَ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَا تَصَدَّقَ أَحَدٌ بِصَدَقَةٍ مِنْ طَيِّبٍ، وَلَا يَقْبَلُ اللَّهُ إِلَّا الطَّيِّبَ

10 اتَّفَقَ الْفُقَهَاءُ عَلَى أَنَّهُ لَا يَصِحُّ لِلْمُتَصَدِّقِ أَنْ يَرْجِعَ فِي صَدَقَتِهِ؛ لِأَنَّ الْمَقْصُودَ بِالصَّدَقَةِ الثَّوَابُ، وَقَدْ حَصَلَ، وَإِنَّمَا الرُّجُوعُ يَكُونُ عِنْدَ تَمَكُّنِ الْخَلَلِ فِيمَا هُوَ الْمَقْصُودُ كَمَا يَقُولُ السَّرْحَسِيُّ. وَيَسْتَوِي أَنْ تَكُونَ الصَّدَقَةُ عَلَى غَنِيٍّ أَوْ فَقِيرٍ فِي أَنْ لَا رُجُوعَ فِيهَا، كَمَا صَرَّحَ بِهِ فَهَاءُ الْحَنْفِيَّةِ (الموسوعة الفقهية الكويتية)

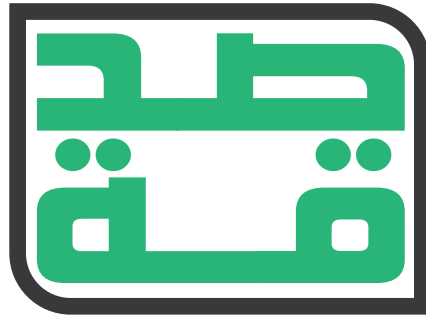
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Mufti Faraz Adam is a UK-based Islamic Finance & FinTech advisor and heads the Shariah advisory firm Amanah Advisors. He serves as an advisor on several global Shariah boards in countries such as Bahrain, Singapore, Dubai, Saudi Arabia, United Kingdom and the United States. He has published over a dozen research papers in contemporary Islamic Finance matters and has published many chapters in Islamic FinTech.

Mufti Faraz studied his Islamic degree in the UK and completed his Mufti training and course in South Africa. He completed a master's degree in Islamic Finance, Banking and Management from Newman University, UK in 2017. He has attained various finance-industry qualifications such as the IFQ, CIFE and is a Certified Shariah Advisor and Auditor (CSAA). He has completed an MBA diploma and specialised in Fintech at the University of Michigan, US. He holds an ACCA Accounting and Business diploma and is currently a candidate at the Chartered Insurance Institute for Regulated Financial Planning.



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