CAN YOU DONATE YOUR ZAKAT MONEY TO BUILD A MASJID

I. What does the Quran say

Allah says in the Quran “Alms are for the poor and the needy and those employed to manage the funds, for those whose hearts have turned to truth and belief recently, for those in slavery (and for the freedom of captives) and in debt, and for Fighters for the cause of Allah and for the wayfarer ordered by Allah, and Allah is All knowing All Wise”

Allah stated the seventh category of Zakat to be fi-sabil Allah, which means in the way of Allah, and the linguistic meaning of the word according to Ibn –AlAthir “sabil” means way, and sabil Allah is the way that leads to the pleasure of Allah. So it’s a general term that covers all the deeds we do for the cause of Allah. However, if you use it in an unmodified manner then the literal meaning will be to fight for the cause of Allah. That difference between the grammarians regarding the meaning of the word is what caused the jurists to differ regarding this seventh category.
II. What do the four madahib say

So in the following pages we will try to attempt to list all the opinions of the different scholars, both old and recent, to understand this better. We will start with the four schools of thoughts:

1- Hanafi school of thought:

A- Abu Yusuf (731-798): He said the fi-sabil Allah means fighters who don't have enough means to participate in battles. In this case Zakat is lawful to them even if they are able to earn income, since working would prevent them from fighting.

B-Muhammad (the companion of Abo Haifa) (131-189): He said that the term fi-sabil Allah includes those who want to perform Hajj but can't do it because they don't have enough funds. His proof is a report that a man who devoted his camel in the cause of Allah was ordered by the Prophet SAAW to carry Hajjis on it, since Hajj is for the cause of Allah and it's an act of obedience to Him.

C- Abo Bakr Al-Kasani (died 587) He said in his book (Bada’a Al-Sanaa’a) that everyone who performs good deeds can be helped as fi-sabil Allah

D- Some Hanafis jurists: They said that fi-sabil Allah also includes the students who go to learn Islamic studies and Shaira, and they don't have enough money to support them. In this case the Zakat money is lawful for them.

After mentioning some of the most famous hanifis Jurists opinions we need to note that most of them agree that Zakat cannot be spent to build mosques, parks, irrigation projects, roads, and highways or for pilgrimage or even jihad unless the person is unable to spend from his own money to participate in fighting, since they made poverty a must to receive zakat. (Rad Al-Muhtar Ala Al-Dur Al-Mukhtar) (Vol1 Page 85.)

2- Maliki School of thought:

A- Al-Qadi Abo-Bakr Ibn Al-Arabi Al-Maliki(born 468) He said in his famous book “Ahlam Al-Quran” that fi-saibl Allah means many different types, however i don't know of any disagreement between the Maliki scholars that what is meant by fi-sabil Allah in this case is fighting. He also
rejected the condition of poverty of the fighter that the Hanafis claimed. (Ahlam Al-Quran vol2 p.957)

So the Malik scholars all agreed that fi-saibl Allah is restricted to fighting and guarding Muslim land.

3- Al-Shafii school of thought:

A- Imam Al-Nawawi )631-1233) He said that fi-sabil Allah means voluntary fighters who don’t receive any compensation from the government. (Tohfat Al-Muhtaj Bisharh Al-Menhaj. vol.3 p.96)

4- Hanbali school of thought:

Most of the handbills jurists also restrict the term fi-sabil Allah to the volunteer fighters, who don’t receive any compensation from the government, or receive a small amount which won’t help them to participate in fighting.

Some of them however have differed whether Hajj is considered to be one of the meanings of fi-sabil Allah or not. Some agreed and some disagreed (Al-Mughni Ibn Qudamah)
III. What do the great scholars say

Now that the four schools of thought that were originally established have been listed we would like to list also other opinions of other great scholars that have expanded on the meaning of fi-sabil Allah in more recent times:

1- Al-Fakhr Al-Razi:  
In his commentary on the Qur’an (Tafsir Al-Fakhr) vol16 p. 113  
He said: the meaning of the term fi-sabil Allah is not restricted to fighters, for this reason, Al-Qafal who is a well known Shafii scholar, said some jurists allow spending zakat on all kinds of good deeds, including supplying coffins for the deceased and building fortresses and mosques, since fi-sabil Allah covers all these.

2-Ibn Qodamah in his famous book Al-Mughni, he stated a statement and he attributed it to Ans ibn Malik RAA and Al-Hassan Al-Basri that the Zakat which is given on bridges and highways is acceptable as Zakat.”

3- Sheikh Yusuf Al-Qaradawi in his book “Fiqh Al-Zakat” stated some of the contemporary opinions of great scholars and Muftis. One of them is Sheikh Rashid Reda who said in Al-Manar:  
The truth is that the fi-sabil Allah includes all public interests of Muslims necessary for the establishment of religion and state, not including individual interests. He added that spending zakat on establishing roads and highways for Hajj, and also providing Hajjis with services are included if there are no better uses in the way of God. He continues, "The sake of God covers all legitimate public interests by which religion and state are maintained. No doubt fighting and buying weapons and spending on soldiers top this list. Fighting as stated here is meant to be that which is done in order to make God's word supreme on earth. A similar view is reported from Muhammad bin 'Abd al Hakam, who includes in this share of zakat building military, charitable hospitals, roads and armies, non-commercial railroads, military airports, fortifications, and military ships. Also included are expenses of training and travelling for speakers, writers, and the like, who go to the lands of unbelievers to inform them about Islam and spread the word of God. God says 'let there be among you a group that calls for good' (3. 104)

4- Sheikh Shaltut (former Grand Mufti in Egypt died 1963)  
He was asked if zakat funds can be used to build a masjid. He responded “if the masjid is the only one in town or if the existing masjid doesn’t have enough space for all the people in town or the people who are surrounding this masjid, then it is permissible in Sharia to spend zakat in building and even maintaining the masjid.” Then he quoted Imam Al-Razi. (Al-Fatwaw p219)
5- Sheikh Hasanain Makhluf, (a former Grand Mufti of Egypt, died 1990) was asked the same question whether or not Zakat funds can be used for building a masjid. He answered affirmatively based on Al-Qaffal’s and other scholars' interpretation of fi-sabil Allah (Fatawah Makhluf, vol2)

6- Siddiq Hasan Khan (1832-1890) considered to be the most important Muslim scholar of Bhopal state. In his famous book Al-Rawdah Al-Nadiyah, he said “fi-sabil Allah means the path to Allah, no doubt the greatest way to God is fighting for His cause, but there is no proof that this share fi-sabil Allah is restricted to this meaning alone. Therefore it is permissible to spend on any way to Allah.” He also said among the ways to please Allah fi-sabil Allah is supporting scholars who study and teach people virtues, whether they are rich or poor, this is very important since scholars are the heirs of the prophets.

7- Ibn Rushd said, those who allow payment to zakat workers even if they are rich, also allow payment to judges and persons who work for Muslims’ public interest. We also noted that some Hanafite jurists include in the category of wayfarers every person detached from his or her wealth and unable to make use of it, even if such a person is in his hometown. By the same token, all activities that fulfill the same purpose of fighting for the cause of Allah must be treated like jihad. This analogy can be applied in zakat; every school of thought applies analogy in zakat one way or another, and this is an appropriate analogy.

It should also be noted that Sheikh Shaltut and Sheikh Makhluf were asked this question by Muslims living in Muslim countries (for example, in Egypt, where the government has a ministry to take care of these affairs), yet they still authorized it.
IV. How to reconcile the differences

We should view these disagreements between the scholars from the past and present as something positive and beneficial. As Sufyan Al-Thawri said, "Scholars have seen differences of opinion as an aid in practicing the religion. Differences of opinion are rooted in our history and embraced in our tradition."

Sheikh Yusuf Al-Qaradawi once wrote, "When we find a matter about which the scholars have differences of opinion, then we can't claim that our opinion is the right one or ignore or neglect the opinions of others."

Ibn Tayymyah was also asked about this matter, and he said, "When it comes to cases where the scholars have different opinions, then no one can reject any of their opinions, and no one can be blamed for following any of their opinions." And he added, "It is not even within a ruler's rights to enforce his madhab if his people follow a different madhab."

This reminds me of when the caliph Al-Mansour wanted to impose the Muwata of Imam Malik, which was a book that Imam Malik compiled over a period of 40 years, but Malik refused. He said, "Some of the sahaba traveled and left Madina. There are things that didn't reach me, so I don't want to make the religion of Allah narrow for people." So he refused for his school of thought to become the country's official school of thought.

Sheikh Muhammad Al-Ghazali in his book about "Ijtihad" (the making of a decision in Islamic law (sharia) by personal effort) mentions some examples from the lives of the sahabah regarding how they viewed ijtihad, including this story:

A man came to Umar looking to find a solution for a personal matter, and Umar asked him, "What have you done so far?" He said that he went to Ali and Zaid, who gave him a fatwa, which he repeated for Umar. Umar then said, "I would have said something else if I had been asked." Then the man said, "Why don't you impose your opinion, since you are the khalifa?" Umar replied, "If I were going to impose something, it would be the book of Allah and the tradition of His prophet, but I was going to tell you my personal opinion." This meant that as the khalifa, Umar had no choice but to impose the rule of Allah and his messenger on the land. But when it came to differences of opinion, he was not in his right to impose his own personal opinion over another valid opinion. The companions of the Prophet Muhammad (SAWS) differed amongst each other, but the question is how did they view these differences of opinion? They understood that differences are a part of human nature.
V. What is the Fiqh of minorities and how does this apply

Even the scholars in the past understood that as times and conditions change, their very own opinions from earlier periods may be subject to change. The example of that is Imam Al-Shafii, when he moved to Egypt, he changed a lot of his views on certain things, and the reason behind that was the new circumstances he found in Egypt.

The other area that should be examined is called “Al-Nawazil” which means “momentous events”, and there is an important part of our fiqh called, Fiqh Al-Nawazil, or in our situation as minorities in non-Muslim countries, we call it fiqh of Muslims minorities. I believe in the fiqh of minorities, and so do most of the Muslims in the west. It is not a new area of fiqh, but maybe a new name for an old area. The Maliki school of thought is the most well known literature for this, maybe because of what the Muslims in Spain experienced in losing Andalusia, and there were pieces like “Al-Nawazil of Ahl Qurtuba” in which they changed certain fatwah to go along with their situation at this time. This was not only the Maliki school of thought, but also the Hanafi school of thought as well, like (Hashiyat ibn Abidin) or (Al-Fatwah Al-hindiyya, the fatwa of India).

Looking closely at the lives of the great Imams, it is very clear that their opinions about certain matters changed when they moved from one land to another, and this is not only logical, but necessary. Our condition here as Muslims living in a non-Muslim land is completely different from the condition of Muslims living in Muslim-majority countries. There are also normative differences in the lifestyles and habits of people from one land to another. Since we do have the principles of the fiqh of Muslim minorities, we can't ignore it.

As an example, after the fall of Andalus, and the horror that Muslims had to go through there, there was a fatwah that was issued at that time that it is not permissible for a Muslim to live in a non-Muslim land where shari'a does not rule even for a day. However that changed later. Now here in the US muslims pray two Jummahs and sometimes even three Jummahs because of the lack of space. According to the traditional schools, the second Jummah is void, and actually according to Imam Al-shafi it should be only one Jummah in the whole town, and it should be held in the biggest mosque (Jame’a). Although we still have very minor voices here who believe in that, logically we are in a unique situation, and we have to issue a fatwah that is relevant for the circumstances and the period as long as its not prohibited.

Another example is of Zakat Al-fitr where most of the scholars in past said it must be paid in grains. However, we don't do that here anymore, because people here are more in need of the money than the grains. I once read that in some parts in South Asia, some Muslims collect zakat from the poor farmers and not the rich ones. The reasoning behind this is that the poor farmers plant wheat and
barley, while the rich farmers plant coffee, tea and rubber. So according to some scholars, zakat is not required for these plants because the latter are not considered grain even though they usually yield very good profits for farmers nowadays. Is this justice? Maybe in past they didn't know know the profits of these plants, but I'm positive if they heard that the Middle East accounts for eight per cent of the global consumer spend on coffee ($6.5 billion), they would've changed their fatwas.

So we should be careful, that issuing a fatwah on the exceptional rulings of fiqh of minorities requires a mufti who is qualified to do ijtihad. This is especially so with the fiqh of minorities which has a lot of objectives like Sheikh Al-Qaradawi mentioned in his book (fiqh of minorities) and these objectives are:
1- To help Muslim minorities, individual, families and communities, lead a wholesome Islamic life.
2- To help them maintain the essence of their Islamic identity known for its principles, obligations, values, moral manners and common concepts, so much that all aspects of its life should be devoted to Allah and foster these precepts in forthcoming generations.
3- To enhance their disciplined flexibility (what does this mean) so that they should not become isolated.
4- To contribute to educating and awakening these Muslim communities in order to maintain their religious, culture, social, economic and political rights guaranteed by the constitution, therefore they can practice such rights freely without pressure or concessions.
5- To assist Muslim communities in fulfilling their various obligations whether it is religious, social or culture without their being hindered by religious extravagance, world gaieties negligence or indulgence. in this way religion becomes an incentive and a guide rather than a chain or a fetter.
6- This prospective fiqh should provide answers to their questions and deal with their problems in a non-muslim community with its dissimilar principles, values, concepts and customs, according to a modern Shariijtihad excreted by eligible jurists.

To address this matter more specifically, we should know that Sheikh Al-Qaradawi in his book "Fiqh of Muslim minorities" was asked the following: "We would like to know the AShari ruling regarding something very important to all Muslims, most especially Muslims living in America and the West. It concerns the building of mosques and Islamic centers there, as they play a great role in the proper of our Islamic activities. It should be noted that Muslim communities in Western countries and also students with temporary residence permits are in dire need of Islamic centers to practice their various religious activities. However, a question usually arises regarding the Zakat, which constitutes the main source of income for such Islamic centers in the West. Can money collected as Zakat be used to build Islamic centers in the West? Many of the contributors stipulate that their Zakat money should be used for that purpose (building Islamic centers).
While people in charge of the center do not feel at ease to accept that money.
They are not certain if the Zakat money might be spent on such a project. Does your excellency consider building an Islamic center into consideration that the center will include a prayer hall, and may be a library, prayer room for women, residence place for the Imam and other facilities? The legal owner of that center and almost to all Islamic centers in North American Islamic Temporalities (NAIT), a body affiliated to Islamic Society of North America (ISNA). Both are reputed, reliable and trusted. I hope your excellency will reply to our question, especially as we are now collecting money to build out center. If we could not manage to collect money, Allah forbids, we will lose the Town Hall approval as well as a huge amount of money, not to mention the efforts excreted to bring this project into light. May Allah guide us to the right path, protect you, and help us benefit from your knowledge.

His answer was: According to the Quran, one of the ways in which Zakat money can be spent is “fi-sabil Allah” However, Muslim scholars hold different opinions on the meaning of “fi-sabil Allah” a lot of scholars maintain that it means Jihad, because it bears the closest lexical meaning to “fi-sabil Allah” Some other scholars state that the meaning of “fi-sabil Allah” has a larger scope of meaning, much wider that the areas mentioned in the two juristic opinions. Hence, Zakat may be used to build Islamic centers for the purpose of calling others to Islam in those countries, where many challenges are posed against Muslims, and many others to seduce Muslims away from their creed and distract them from the essence of their religion. There is no doubt that establishing such Islamic centers is a modern way of striving in the cause of Allah, it is jihad with both the tongue and the pen, via preaching and educating, calling, teaching and guiding people to Islam, this type of Jihad is indispensable. Nowadays Islamic centers are regarded as fortresses that defend Islam.

In another answer to a similar question in October 2010, Sheih Al-Qaradawi said that the ability to use Zakat funds to build masajid is permitted when the need is:

a) To build these centers in poor areas
   Or,
   b) When Muslims in non-Muslim countries might face danger of losing their faith or identity.

As a result he said that he comfortably agreed that Zakat can be used for building Islamic Centers since these centers are not just prayer halls, but rather places where the community can gather, people can be taught about the religion, and the faith can be promoted and defended against the enemies of Islam.
VI. The priorities – what they are and how to evaluate them

In order to establish our identity as American Muslims, the activities of educating our communities, and providing information about the true principles of our religion to the broader society are all important forms of Jihad. As a result, building centers for dawah is considered fi-sabil Allah. Building Islamic centers to provide Islamic education and training and protect the faith of Muslim youth is also fi-sabil Allah. As a matter of fact, this is the highest form of jihad in the current times. Establishing Islamic newspapers that provide education and information for Muslims and non-Muslims is considered fi-sabil Allah. Providing scholarships for students of knowledge, and people who are willing to study and come back and benefit their communities, is also fi-sabil Allah. All these activities deserve to fall under the category of fi-sabil Allah, and they should be considered equally important as the military jihad, if not more important, and they should take priority over military fighting.

Since the phrase fi-sabil Allah can be interpreted to be quite broad in nature, it is important to note that it is precisely because this is a broad statement, that the other seven categories were specifically stated, so as not to forget those causes. However, the specification of those seven causes by itself should not be interpreted to provide greater (or lesser) emphasis or priority on them versus fi-sabil Allah.

As a matter of fact, here is what each of the Madahib said about the relative priorities of these categories:

a) The Shafi’i school said that all eight categories must be equally prioritized
b) The Hanbali school said that all eight categories must be equally prioritized
c) The Maliki school said that it is up to the wali (the guardian or the governor, which in our case would be our community leaders) to decide how the zakat is distributed.
d) The Hanafi school said that any single category can be prioritized at the expense of all the others

To evaluate the importance of fi-sabil Allah versus the other uses of Zakat, we first need to remind ourselves of a type of fiqh that many Muslims have forgotten. It is called the fiqh of priorities. Sheikh Yusuf Al-Qaradawi is one of the scholars who spoke about the fiqh of priorities, and he defined it as putting everything in order of priority with justice whether relating to rules, values or actions. He added that one must not prioritize the unimportant over the important and the important over the more important; nor the minor over the major, nor the worst over the worse or the worse over the better. Indeed, one must put first things first and last things last so as not make the small big and vice versa.
According to the scholars of “usul” (the principles of jurisprudence), there is something called “maslaha” (public interest), and these public interests are not all of the same importance, but rather they can be classified into three categories: a. necessities  b. conveniences  c. luxuries

As for necessities, no one can live without them, as for conveniences, we are able to live without them, but they make life easier, and as for luxuries, these are what adorn life.

So the scholars have also formulated the following principles in prioritizing among conflicting public interests:

1. An interest that is certain must take priority over an interest that is uncertain.
2. The greater interest must take priority over the smaller interest.
3. The interest of the broader community must take priority over individual interests.
4. The interest of the majority must take priority over the interest of a minority.
5. The interest that is permanent must take priority over a temporary interest.
6. An essential interest must take priority over a superficial interest.
7. A future interest that is promising must take priority over a present interest that is not promising.

For example, in the treaty of Hudaybiyah, the Prophet SAWS prioritized the future interest that was promising by accepting all of the terms of the treaty that the polytheists proposed, even though at first the Muslims thought that the treaty was not fair for them. But the Prophet SAWS accepted it anyway because he could see that this would bring benefit to the broader community in the future.

This is something that we have failed to grasp in our communities. For example, we see people nowadays who go for Hajj every year and spend thousands of dollars. Although there is no doubt that this is a good deed and that they will be rewarded for it, the question is whether it would be even more beneficial to give another person the opportunity to perform Hajj who otherwise couldn’t afford it, or sponsor a student who will go study overseas and come back to benefit the community, or open a dawah center where people will spread the message of Islam, or many other noble uses of this money?

Another common example in our community is people giving precedence to the sunnah over the fard. Once Muhammad Al-Ghazzali was approached by a group of people who were fighting about whether to pray 8 or 20 rakaat for taraweeh. They asked him his opinion about that, and he said, “My opinion is to go close the masjid.” They said, “But we are asking a serious question.” He replied, “This is the true fiqh opinion because taraweeh is a sunnah, while unity among the Muslims is essential and obligatory, and this takes priority over a sunnah like taraweeh prayers.”
In our society, there are many examples like this of priorities being out of synch.

As a matter of fact, Sheikh Al-Qaradawi stated the following regarding the relative priorities for the different categories of Zakat:

1. When funds are plenty and there are deservants in all categories, distribution must cover all of them. It is not acceptable to deprive deservants who are in need; the duty of the state is to collect zakat and distribute it according to the needs of the deservant categories.

2. Distribution among the eight categories don’t need to be equal, each group doesn’t receive exactly one-eighth of total proceeds, since the criteria is need.

3. Zakat may all be given to certain categories when this is necessary. Preference must be based on actual needs and public interest and not on personal opinions or prejudice.

4. The poor and the needy are the most important category of all. Satisfying their needs is the main objective of zakat, as repeatedly mentioned in saying of the Prophet. It is not permissible to spend zakat on the army while tremendous need exists for food and shelter among the poor and needy. However, there may be exceptionally urgent needs for diverting funds from the poor and needy in response to emergencies in other categories, such as defense.

5. When zakat proceeds are small, as when an individual payer distributes his small amount of zakat, all of it may be spent on one deservant, since dividing such a small amount diminishes its usefulness, and would not enrich zakat recipients, as urged by the Shafi'i school.
VII. The Fatwah

After stating the opinions of the scholars who expanded the meaning of fi-sabil Allah, and based on the Fatwahs from modern, esteemed and respected scholars, my opinion is that we shouldn't restrict the meaning of fi-sabil Allah to military fighting alone. Rather, we should appreciate that the word “Jihad” itself is a broader word, and it includes all kinds of jihad, that helps make Allah's word supreme on earth. When the Prophet SAW was asked which jihad is better, He answered, “speaking the truth in the presence of an oppressive ruler.” And when a man came and asked the prophet SAW to join Him in a battle, the Prophet SAW asked are any of your parents still alive? The man replied yes. Then the Prophet SAW said to him 'go home and make Jihad for their cause in other words, stay with them obey them and struggle with them.” So the word Jihad is not restricted to be only the military Jihad.

As a result, we should view building Islamic centers or institutions as a form of Jihad in these times as well, especially because, as Sheikh Al-Qardawi said “those centers protect the faith of Muslim youth from deviation, agnosticism, and behavioral corruption, for they prepare Muslim youth to support Islam and resist the aggression of its enemies.” However, it should be noted that in Muslim countries/areas where the government spends substantial amounts of money to establish Mosques, Islamic centers, Dawah centers and youth centers, one should not be encouraged to spend Zakat on these projects since the government is taking care of that need.

To evaluate fi-sabil Allah in terms of priority against the other categories of Zakat, we need to use the Fiqh of priorities explained earlier. In that context it is clear that building an institution is more certain, of greater interest, addresses the needs of the broader community, addresses the needs of the majority, is more permanent, is essential in our circumstances, and is an interest for our future generations.

In fact, I asked an Associate Professor of Islamic Studies at a university in the Netherlands, about this matter, and he cited many historical examples of European mosques in the United Kingdom, German, France, Poland and the Netherlands that were built in the early twentieth century using zakat funds. The Muslim communities there did not have any assistance from the government to build their institutions, and they needed places to pray and establish their identity as European Muslims. So they would send delegations to Muslim countries like Syria and Egypt, and these individuals would collect zakat funds and bring them back in order to build Islamic centers that would benefit the European Muslims.
Of course, each individual is free to choose which opinion he wants to follow, but the purpose of publishing this document is so that any American Muslim who may have had doubts about this matter can be informed that there are legitimate and respected scholars who have authorized the use of zakat funds that fall under the category “fi-sabil Allah” for building Islamic institutions in countries where:

a) Muslims are a minority,
b) the government does not have or does not spend its funds on building mosques,
c) when it is essential in our circumstances to preserve or promote our faith and the faith and identity of our children, and there are insufficient funds from other sources to undertake these projects

It should be kept in mind that doing this should not take away from the requirement to provide aid to the poor and needy.
VIII. References


9. Al Fatawa Shar'iyyah by Hassanayn Makhluf. Cairo: Dar Al-Ketab Al-Arabiyyah