

JURISPRUDENCE OF ISLAMIC ENDOWMENT

Rating:

Description: A brief history of Islamic endowments and a basic account of the terms and conditions of endowments.

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Islamic endowment is known  in Arabic as *waqf*. The literal meaning of the word is to stop, contain, or preserve. In Islamic jurisprudence, or in the shariah (Islamic law) an endowment is a voluntary, permanent, irrevocable dedication of a portion of one's wealth, either in cash or in kind, to God. Once this portion is an endowment, it can never be withdrawn, inherited or sold. It belongs to God. The body of the endowment always remains intact, but the produce or profits can be utilized for any shariah compliant purpose. It is a very important part of Islamic law because it is woven into the structure of a Muslim society.

The many verses in the Quran that urge believers to be charitable pave the way for endowments.

"And give glad tidings (O Muhammad) to those who believe and do righteous deeds..."
(Quran 2:25)

"By no means will you attain righteousness unless you spend in God's cause giving freely from what you love. And whatever you give, God knows it well." (Quran 3:92)

Moreover, the traditions of Prophet Muhammad, may the mercy and blessings of God be upon him, make endowments a popular form of charity because they constitute an ongoing charity. Prophet Muhammad said, "When a human being dies, good deeds come to an end, except for three: ongoing charity (known in Arabic as *sadaqah jariyah*), knowledge which benefits others, and a righteous child who prays for him or her."^[1]

In order to please God and to assure that their rewards in the Hereafter continue long past their death, Muslims across the globe donate their property and possessions in the form of endowments. They build places of worship and centers of education, provide health-care, facilitate trade to fund and maintain structures that provide free water to the public, and provide a range of institutions for the protection of the weak and needy.

The practice of endowment developed with the Islamic society. At first, endowments were simple assets such as farmlands, wells, and orchards. A famous example of an

endowment property is the Well of Uthman in Medina, founded in the first year after migration. This well originally belonged to someone who was selling water to the poor at an exorbitant price. Prophet Muhammad promised Paradise to the one who would buy the well and endow it to the city.^[2] When Uthman heard this, he purchased the well in two installments, at a high price. The well was registered as an endowment and all the people of Medina, Muslim and non-Muslim alike, were allowed to draw water from it for free. This well still exists and is used till today.

Umar ibn al-Khattab also founded a noteworthy endowment. Umar acquired a valuable piece of land and asked Prophet Muhammad to advise him on what he should do with it. Prophet Muhammad said, "If you wish you can keep it as an endowment to be used for charitable purposes."^[3] So, Umar gave the land as an endowment. Thus the land could not be sold nor given away either as a present or a bequest, but its yield would, in perpetuity, be used for lawful Islamic charitable purposes, for example feeding the poor, using the profits to emancipate slaves, or other charitable acts necessary at the time.

Laws specifically relating to endowments developed in the 7th to 9th centuries. In 919 CE a financial official named Abu Bakr Muhammad made an endowment of a pond, known as Birkat Habash, and its surrounding orchards, whose revenue was to be used to operate a hydraulic complex and feed the poor. Another early endowment was the land donated for the first mosque built in Egypt by 'Amr ibn al-'As.

Throughout Islamic history, endowments have been used to support hospitals and schools, to provide relief for the poor, to maintain mosques and other religious centers, and even to endow astronomical observatories and other facilities for scientific research. Many of the historical endowment documents stipulated that the beneficiaries could be rich or poor and belong to any religion, race, or ethnicity.

Types of Endowments

Generally, there are two kinds of endowments; public and private. In a private endowment, the proceeds from the endowment are designated for the offspring and descendants of the endowment's founder. In a public endowment, the proceeds are dedicated to charity and philanthropy.

Public endowments are not subject to the obligatory charity known in Islam as *zakah*.

Imam al-Nawawi said, if something is endowed for the public interest, such as for the poor, mosques, orphans and so on, there is no *zakah* on it, and there is no difference of scholarly opinion concerning that because it does not have a specific owner.

Essential Conditions for Making a Valid Endowment

1. The person making the endowment must be competent. This means that the person must be of sound mind and have reached the age of legal maturity.

- 2.The person making the endowment must be the legal owner of the property.
- 3.A family endowment cannot come into conflict with rules of inheritance.
- 4.The person making the endowment must be free from debt.
- 5.The endowment must be voluntary. The person making the endowment must not be coerced in any way.

Essential Conditions of the Endowment

- 1.The endowment must be permanent. It cannot be made for a limited period.
- 2.The endowment should be intended for a good purpose. The result of the endowment cannot harm individuals or the community.
- 3.The endowment assets should be Islamically lawful. For instance, it would not be lawful to create an endowment from a factory producing alcohol.
- 4.Endowment assets should be clearly defined and tangible.
- 5.The endowment must be unconditional with no hidden aspects.

Today there are ministries of endowments in most Muslim countries that oversee mosques, other endowment properties, and all philanthropic and charitable undertakings that exist because many Muslims choose to leave charitable works that will continue to reap rewards long after their death.

Footnotes:

[1] *Saheeh Muslim*

[2] *Saheeh Muslim, Saheeh Al-Bukhari*

[3] *Saheeh Al-Bukhari*

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