

*Features Of Endowment's Creative in Imam Ibn Taimeyah doctrine*¹



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¹ Dr. *Sami Salahat*, Studies & Corporate Relations Consultant, AWAQF and Minor Affairs Foundation, UAE.

Abstract:

This study aims at clarifying the main aspects of creativity in the thought of *ibn taimeyah* specially in the way he discussed the issues related to endowments.

This creativity in thinking about endowments has been shaped in many views:

- he had connected endowments with a legislative frame, concerning it as a worship sign, assuring that it's benefits should be returned to whom it was endowed for in the first place. Indeed , he always stood against the jurisprudence doctrine stagnancy .
- he stood for the necessity of making benefit of the endowed money and thinking of the best way of investing it.
- For *Ibn Taimeya* waqf is not only restricted to mosques and schools, which was the traditional waqf forms, but it should be effective in all aspects of Muslims life, even for releasing Muslim prisoners or to take advantage of it in calling non Muslims to convert to Islam.
- *Ibn Taimeya* is one of the first group of scholars who discussed the importance of the foundational frame of endowments, for better linking with society needs, and under the supervision of scholars and judges.
- *Ibn Taimeya* has repeatedly talked about making the best that can be through investing endowments with which it can grow to a stronger element of stability of the Muslim community.

Introduction:

The overall purpose of this article is to confirm that the nature of endowment can be suitable with every age and time. Since when the prophet sings about the important to keep some thing after you die, that mention in his traditional which Abu Huraira (Allah be pleased with him) reported Allah's Messenger (may peace be upon him) as saying:" When a man dies, his acts come to an end, but three, recurring charity, or knowledge (by which people) benefit, or a pious son, who prays for him (for the deceased)"².

And in the same manner, he advices his closer companions Omar Ibn Khattab to do that, which Ibn Omar reported: Omar acquired a land at Khaibar. He came to Allah's Apostle (may peace be upon him) and sought his advice in regard to it. He said: Allah's Messenger, I have acquired land in Khaibar. I have never acquired property more valuable for me than this, so what do you command me to do with it? Thereupon he (Allah's Apostle) said: "If you like, you may keep the corpus intact and give its produce as *Sadaqa*". So Omar gave it as *Sadaqa* declaring that property must not be sold or inherited or given away as gift. And Umar devoted it to the poor, to the nearest kin, and to the emancipation of slaves, aired in the way of Allah and guests³.

There is no sin for one who administers it if he eats something from it in a reasonable manner or if he feeds his friends and does not hoard up goods (for himself). He (the narrator) said: I narrated this traditional to Muhammad, but as I reached the (words) "without hoarding (for himself) out of it." he (Muhammad' said: "without storing the property with a view to becoming rich." Ibn 'Aun said: He who read this book (pertaining to WAQF) informed me that in it (the words are) "without storing the property with a view to becoming rich."⁴

From this different Islamic texts and endowment culture of first century Islamic periods Muslims scholars confirmed that endowment can be development regarding to the society needs and

² See: *Sahih Muslim*, Book 13. Bequests. Number of traditional is 4005.

³ See: *Sunnah Abi Da'oad*, Book of Bequest.

⁴ See: *Sahih Muslim*, Book 13. Bequests. Number of traditional is 4006.

demands. *Imam Ibn Taimeyah* is the one who understand this purpose beside other various schools of Islamic law. With note that *Ibn Taimeyah* when he gave legal opinion (*Fatawa*) about endowments he mixed the Islamic objectives with details of his answers. In other word, he put aims of Shariah as farm of endowments and other chapters of Islamic law. Therefore, the aim of our study to clarify that endowment based on advantage and interest, such as the student of *Ibn Taimeyah* call (Ibn Qiam 751 H) said:" When you find the interest you find the Islamic roles "⁵.

The method of *Ibn Taimeyah* to confirm that endowment is worship in all different points, so we have to deal with it through this fact, so, he refused to accept what other scholars said about conditions of owner in his contact of endowments and purpose of it, especially if these conditions or purposes clash with and Islamic roles or with advantage of endowments.

Consequently, he adds various pictures of usages endowment in different filed of life, he asked to specific endowment to call for Islam or help Muslim who need help. He gave prisoner in jail as example from his own time.

The researcher found in many places form *Ibn Taimeyah* book this word, [] advantage or the best of endowments [] which means that is main aim of endowment and its practices.

Therefore, our method in this study to summaries the whole main points of *Ibn Taimeyah* thought which can lead endowments and charities foundation to follow this the best way for use and invest endowment in their societies.

A) The whole idea of endowments in Islam is worship

The scholar *Ibn Taimeyah* believe strongly that endowment is worship and therefore, can every Muslim adds his efforts and charities to increase his rewards in the hereafter.

This what he said:" Since the condition of Endowment are divided into valid and invalid by agreement and if the endower has placed an apparent invalid condition, then the Endowment is

⁵ Ibn Qiam, *Al'am al Maqeen An Rab ALLameen*, (Beruit, Dar al Jalil, 1973), 4/373.

void and not to be followed as it will create more creational evil. And if the condition is allowed neutrally (mubah- no reward or punishment), it will not bring you closer to Allah by doing it, so it is also void. Because the condition has no value or benefit in it, not for the one following the Endowment or the one who the Endower. Because you are not to do that has no benefit but only that which will help the endower in which increases righteousness (birr) and God-consciousness (taqwa)⁶. So, he considers what are support and increases righteousness and God-consciousness. The goal, Imaam Ibn Taymiyyah mentions, of endowment is to bring one closer to Allah as in any other deeds. To attain this reward, one must also have the right and sincere intention. This is also based on the famous Major Fiqh Maxim: "Acts are judged according to their intended goals." The following hadeeths support this statement:

Narrated By 'Umar bin Al-Khattab: I heard Allah's Apostle saying, "The reward of deeds depends upon the intentions and every person will get the reward according to what he has intended. So whoever emigrated for worldly benefits or for a woman to marry, his emigration was for what he emigrated for."⁷ Narrated By Sa'd bin Abi Waqqas: Allah's Apostle said, "You will be rewarded for whatever you spend for Allah's sake even if it were a morsel which you put in your wife's mouth."⁸ Narrated By Ibn 'Umar: Allah's Apostle said, "If Allah sends punishment upon a nation then it befalls upon the whole population indiscriminately and then they will be resurrected (and judged) according to their deeds."⁹

Narrated By Ibn 'Abbas: The Prophet said, on the day of the Conquest of Mecca, "There is no migration (after the Conquest), but jihad and good intentions, and when you are called for Jihad, you should immediately respond to the call."¹⁰

⁶ *Ibn Taymeeyah*, *Majmoo al-Fatawa*, (Riyadh: *Maktabah Al-Abikah*, Edition 1, 1998), 16/31.

⁷ *Sahih Bukhari*, Vol 1, Book 1. Revelation. Hadith 001.

⁸ *Sahih Bukhari*, Vol 1, Book 2. Belief. Hadith 053.

⁹ *Sahih Bukhari*, Vol 9, Book 88. Afflictions And The End Of The World. Hadith 224.

¹⁰ *Sahih Bukhari*, Vol 4, Book 52. Fighting For the Cause Of Allah (Jihad) Hadith 311.

As on the purpose of increasing righteousness and God-consciousness, the Prophet has taught various supplications that perform this purpose in daily acts. One of which is when one sits into one's transportation: Ibn Umar (Allah be pleased with them) reported that whenever Allah's Messenger (may peace be upon him) mounted his camel while setting out on a journey, he glorified Allah (uttered Allah-O-Akbar) thrice, and then said: Hallowed is He Who subdued for us this (ride) and we were not ourselves powerful enough to use It as a ride, and we are going to return to our Lord. O Allah, we seek virtue and PIETY from Thee in this journey of ours and the act which pleased Thee. O Allah, lightens this journey of ours, and makes its distance easy for us. O Allah, Thou art (our) companion during the journey, and guardian of (our) family. O Allah, I seek refuge with Thee from hardships of the journey, gloominess of the sights, and finding of evil changes in property and family on return. And he (the Holy Prophet) uttered (these words), and made this addition to them: We are returning, repentant, worshipping our Lord and praising Him.¹¹". From this point, *Ibn Taimeyah* refused any condition from the owner of endowments if his or her condition clash or opposite with certainty text or even with Islamic roles. He confirms that when he said:" All praises to Allah, the heart of the matter in this: For every condition on the deed of Endowment is endowed on the deeds, so that no doubt it is done to bring you closer to Him or for relatives or it is a duty or you like to do it. This is right. But when you are asked to do something that is not allowed, this Endowment becomes worthless. And this is right as agreed by the scholars of the Muslims, even if it is disliked or if it is allowed neutrally (no reward or punishment) and this is correct¹².

It is agreed by the Muslims that the conditions of Endowment are divided into valid and invalid like other conditions in a contract. One from the Islamic legislators said: The conditions of Endowment are like the laws passed by a legislator, the conditions are the steps, which the

¹¹ *Sahih Muslim* Book 7. Pilgrimage. Hadith 3113.

¹² *Ibn Taymeeyah* , *Majmoo al-Fatawa*, 16/30.

endower wants you to follow. Nothing else is compulsory to do. The intention of the Endowment creates benefits as a result of the laws of the conditioner just like the one who benefits from the intention of the law from Shar'eeah laws through knowing the general and the specific and the freedom of choice and to obey without objection and sharing and arrangement in the Islam legislature and Shar'eeah laws. So this is how you know the Endowment from the laws of Endowment"¹³. He discuss and clarifies that this idea can't couturiers with Islamic roles, and other reason we can noted form his sprit's texts that this condition may be lead to the results can't lead to the objective of the purpose of endowments. Only Islamic roles can lead our practices of endowments to their objectives.

Narrated By Abu Hurairah: The Prophet (pbuh) said: Conciliation between Muslims is permissible. The narrator Ahmad added in his version: "except the conciliation which makes lawful unlawful and unlawful lawful." Sulayman ibn Dawud added: The Apostle of Allah (pbuh) said: Muslims are on (i.e. stick to) their conditions¹⁴.

And at all, we can't agree that the condition of founder of endowment will be fixing to every age or time. We need to find a good condition and objective form our roles to support any changing and development of endowments.

Commenting on an invalid endowment where the conditions or the endowment itself is invalid: This is because the main and underlying purpose of Endowment is for spiritual and material benefit for society. For instance if the money of an endowed Masjid is useless for itself and it is not being used, it can be given to another Masjid. Or if the endowed money was used for some beneficial importance but the relatives of the endower need money, it could then be used for them.

¹³ *Sahih Muslim*, Book 7. Pilgrimage. Hadith 3113.

¹⁴ *Suannh Abu Dawud*, Book 18. The Office of the Judge. Hadith 3587.

As the Imaam mentioned that the laws of the Endowment are similar to the normal laws, this principle is based on the Major Fiqh Maxim: Custom Determines or what's known by custom is like a condition in what is made conditional.

Also by understanding the normal methods of deducing laws, one is able to deduce the laws of endowment from what the endower said on the endowment he offered, that is by knowing what was specified or made general, etc.

In short, he refused all these conditions if this conditions make let of development of investments or services of society. Also he was strict with those who said that conditions of founder of endowment like the conditions of Islamic roles. This what he said in Arabic:

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The making of conditions of an Endowment or the conditions of other kinds of contracts is like the conditions of the Law in deeds, which is compulsory to perform. So, this is disbelief as agreed by the Muslim scholars if no one tries to do all what was ordered to obtain the provision.

Especially after the Messenger of Allah peace is upon him said: *"And the conditions that the were endowed by the Book of Allah is correct and what came before the Book of Allah is invalid.*

Also firmly mentioned in the Two Correct that the Messenger peace be upon him said during a sermon on his pulpit:

"What about some people who impose conditions which are not present in Allah's Book (Laws)? Whoever imposes conditions, which are not in Allah's Book (Laws), his conditions will be invalid even if he imposed them a hundred times.¹⁶, Allah's ordinance is the truth, and Allah's condition is stronger and more solid.¹⁷"

¹⁵ *Ibn Taymeeyah*, *Majmoo al-Fatawa*, 16/31.

¹⁶ *Sahih Bukhari*,. Vol 1, Book 8. Prayers (Salat). Hadith 446.

¹⁷ *Sahih Bukhari*, Vol 3, Book 46. Manumission of slaves. Hadith 737.

Just as before, we know that the Messenger of Allah has told us to stick to the lawful conditions, so when we don't do this obligation, we are disbelieving in what the Messenger of Allah has ordered. Lawful conditions are upheld and when we follow them, we then also following the conditions of the Book of Allah.

But in the case of unlawful conditions, they are never to be followed. They are invalid, void and forbidden as in the traditional even if they were one hundred times, that would never make them lawful or valid. Whereas the conditions of Allah are the solid truth that no one can ever deny.

This what he believed and thought, endowment is worship and way to be closed to god and his creatures. Therefore, no conditions must respect unless what's Islamic roles accept.

B) Join endowment with the Islamic objective and advantaged

Ibn Taimeyah after he confirmed his idea about endowment is worship. He tried to join the whole chapter of it with Islamic objective and legal advantage. This clear with all his speech.

He said when he discuss the replacement of endowment with other : " I do not know of anyone who made a condition that the change in the endowment should be in the place of the first endowment, but according to Ahmad's evidences ,his principles, his general statements and the statements of his companions, it is permitted, that in this case the benefit of the people of endowment is considered, as the principle of this matter is to consider the best interest of the people of endowment, rather its the principle of all kinds of contracts to consider the interest of the people, as Allah commands justice and prohibits transgression and he sent His Prophets to bring about welfare and complete it, and to bring a halt to corruption and to decrease it:

“And We appointed for Muse thirty nights and added ten, and he completed the term, appointed by his Lord, of forty nights. And Muse said to his brother Harun: "Replace me among my people, act in the right way and follow not the way of the mischief-makers.”(Al-A'raaf:142), and Shuaib said “I only desire reform to the best of my power.” (Hud:88). And Allah says:

“Then whosoever has Taqwa and becomes righteous, on them shall be no fear nor shall they grieve.” (Al-A’raaf: 35). And Allah says: “And when it is said to them: "Do not make mischief on the earth," they say: "We are only peacemakers." Verily, they are the ones who make mischief, but they perceive not. (Baqarah: 11-12)

Ahmad bin Hanbal permitted the substitution of a mosque with another mosque for the welfare of the people, just as he permitted changing it for welfare of the people. He proved this by saying that U’mar bin Al-Khattab (May Allah be pleased with him) substituted the Old Koofah mosque with another mosque, and he made the first mosque into a sports centre. Ahmad also permitted the transfer of the mosque to another village when the place is destroyed; rather it is permissible according to the two strong views of his: that he sells that mosque and builds with its money another mosque in another village if there is no need of it in the first village. The benefit is in the mosque, even if it is in another village and not in the first village, since the importance of mosque is common to all Muslims (31/ 267). It is the right of the people of endowment to shift the mosque to their city. The people of endowment have the right over it and no one can share it with them. The purpose is that after it has been passed over to the authorized people like the poor and the needy, its case becomes like the mosque. If the endowment is more beneficial in their country then the substitute can be bought in their country, which is incumbent upon the guardian of the endowment.

It becomes like the imprisoned horse that is sold and bought with a price that is evaluated according to its status. If it is imprisoned for people of some towns, and then they move to another town, then the substitute is bought by the people of the town in which it was first secured from its purchase by the other town. If the horse was imprisoned for all of the Muslims, then its place of endowment is on the common mass, like the mosque where the endowment was for the needy.

If the endowment is that which can be transferred like lights, weapons and books of knowledge and has been done for the off-springs of a particular man then it is permissible to consider the place of endowment to be where ever they are. Rather this is the view that is held upon, contrary to if the endowment would have been done on the people of a particular country.

Therefore, he looks for advantage and interest of endowment. He can replaces and change if the need of society support that strongly. And that what's the most of scholars and endowment foundation nowadays do and practicing.

And if the land on which the new mosque is to be built will be purchased, then the land of the present mosque may be sold and its price used in part payment for the land of the new mosque.

Thus the original endowment is observed. If this is not needed and the land is an endowment, then it would be used for the benefit of the Muslim community. There is another way of endowment losing its usefulness. In the case of a mosque this may happen if the people of a certain village move their houses away from the site of the mosque and it is no longer used for prayer. In this case, it is possible to sell it and the proceeds must be used for the same purpose of the endowment, i.e. building another mosque in an area where it will be used for worship.”¹⁸

“Any legitimate action taken by the trustees of such properties with the specific intention of enhancing the value of the property falls within the permissible actions in Shari`ah. They are thus allowed to undertake the necessary repairs or steps to improve the same; it is also considered permissible for the trustees to sell such a property and replace it with another if the said property is diminished in value to such an extent that it becomes more profitable to replace it with another or relocate it. Such actions are clearly within the intent of the endower as well as within the spirit of the Shari`ah.

And this the fact of endowment properties can be relocated to another site or locality if it is deemed necessary or considered more beneficial, was established by the precedent of Caliph

¹⁸ See this site: www.ourdialogue.com

`Umar (may Allah be pleased with him). According to authentic reports, `Umar ordered a mosque in Kufah to be relocated to another site in response to a question posed by the prominent Companion `Abdullah ibn Mas`ud. `Umar responded by ordering that the mosque be relocated, for such an action was deemed more beneficial for the greater interests of the Muslim community. Accordingly, the mosque was relocated and such an action was taken by the tacit approval of the Companions of the Prophet (peace and blessings be upon him).

Based on the above precedent of `Umar, which was endorsed by the tacit consensus of the Prophet's Companions, Imam Ibn Taymiyyah concluded, after an exhaustive study of the sources, that endowment properties can be sold or disposed of in order to build or get another one, if such an action is taken for enhancing and increasing the value of the same.

There are precedents in Islamic law for the permissibility of such actions, as the jurists have permitted the sale of horses, animals, properties in similar cases in order to replace them with others with the intention of enhancing their value and benefits.

Based on the above clear precedents as well as the fact that there is no explicit evidence to the contrary, we conclude that it is allowed to sell endowment properties in order to construct another one with the proceeds if by doing so the value and the dividends that are intended by the endower are deemed to be enhanced and increased. This permissibility, however, is conditional on such an action being taken not on the whimsical opinion of an individual or two but based on an objective study of the market forces and facts, for any interference with endowment properties for other than the purpose of enhancing its intended value is clearly forbidden in Shari`ah and thus constitutes a clear breach of trust.”¹⁹

As it is clearly explained by Imam Ahmad, that it is permissible to substitute one mosque with another for the benefit of people and if the benefit of people lies in transferring the mosque to

¹⁹ See this site: www.islamonline.net

another place then it can be done so by selling the land on which the mosque was build and using the money to build a new one there.

As for substituting the vowed stuff or the endowment for something, which is better than that as in the case of substituting the gift, this is of two kinds?

Firstly: substituting for a necessity as in case if something is damaged so it is sold and bought with it's price something else in its place, like the horse which is kept for battles if it is not possible to use it in the battle then it is sold and something else is bought in its place, and the mosque if its surrounding is destroyed then its equipments are sent to other position. Or it is sold and something else is bought in its place, If it the mosque is spoilt and was impossible to rebuild it, then the [*Urash*] courtyard is sold, and something else is bought in its place, all these mentioned cases are allowed, if the original endowment is of no benefit then it can be changed to something else.

The second: to substitute for a better benefit for the Muslims, for example to change the offering with one which is better, and as in the case of the mosque if other mosque is built in its place which is better serving the interest of the community, and the first mosque is sold, this kind and its similar is allowed according to Ahmad and other scholars. Ahmad justified that Umar Ibn Al Khattab – May Allah Be Pleased with him – he transferred the old Koofah mosque to a different place, and the first place became a sports center, this kind is like selling courtyard in place for mosque.²⁰

Our Commenting can be summaries in the following points:

- “If the land on which the new mosque is to be built will be purchased, then the land of the present mosque may be sold and its price used in part payment for the land of the new

²⁰ *Majmoo‘ fatawa*, 16/140.

mosque. Thus the original endowments are observed. If this is not needed and the land is an endowment, then it would be used for the benefit of the Muslim community.”²¹

- “It is needless to say that the demolition of a mosque in order to rebuild it and to make a better use of the land on which it stands for the same purpose is permissible. The Ka’abah itself was rebuilt several times over the centuries. It is also possible to buy the land adjacent to a mosque, which has become inadequate to serve the neighboring area because of its residential development, and to demolish the mosque in order to rebuild it on the larger area, if that is deemed the best way to build the larger mosque”.²²
- “If a person makes something Waqf, it ceases to be his property, and neither he nor anybody else can either gift it or sell it to any person. Also, no one can inherit anything out of it”.²³

To conclude as I thought in general it is permissible if the original endowment is not needed can be changed to another one if it serves the Muslims, and the allowing of transferring the mosque to a different place if the Muslims need, and the first place is used for something else that serves the benefit for Muslims.

If we have enough income of endowment we can as he thought used in similar way, he said: If there is remaining money on the endowment, it is given for the betterment of the Muslims and if his relatives are needy they have more rights to receive the money than any other. And Allah knows the best.”²⁴.

C) The important to protect endowment form their benefits and outcomes.

Ibn Taimyah knows that no way to protect endowment from itself without any investment, therefore, he called Muslims to keep their endowment through trading and investing. And any

²¹ See this site: www.ourdialogue.com

²² See this site: www.ourdialogue.com

²³ See this site: www.lankarani.org

²⁴ *Ibn Taimyah, Majmoo‘ fatawa*, 16/111.

increase of income of endowment must spend in a similar purpose. That's what he said:" Yes, it is allowed to give the Imam and Mu'ddin like the prescribed endowment if it was more than two third. But if both of them are poor then there is not a fixed rate, it is allowed to spend for them"²⁵. The expenditure of the daily life will be varying from time to time. We cannot decide a fixed rate of money for the expenditure of livelihood. So it can be negotiable as per the needs and the conditions of the provider or the giver.

And many of other Islamic schools support this opinion this now days, and there is a similar question, which other said: It is permissible and more prudent that it be spent on the thing specified by the one who gave it , I fit was some prescribed thing such as toilets or something else allowed considered that need or necessity called for it being spent on building the mosque, there is no sin in that – Allah Willing because building a mosque is better, and of greater benefit than Mosque is the primary goal while building toilets falls under the category of means and support facilitating the performance of prayer, and increasing the number of worshippers. And Allah knows best. Other point, he called to spend any income of endowment's investment to maintenance of the original endowment, especially if that needs. And he said here:" “Yes, the staff that take care of the Masjid with work such as cleaning, protecting, furnishing, lighting, opening the doors and closing them are for the benefit of the endowment and are entitled to the endowment for its benefit”²⁶.

D) The role of endowment to support Islamic issues in calling for Islam or helps Muslims in their services.

He confirmed as other scholars that endowment can take a good role in our general life and in various filed such as economies or political or social or education. Even in the war and peace in our Muslim commity, can the endowment support any needs of that. He gives example of that in

²⁵ *Ibn Taimeyah, Majmoo'ah fataawa*, 16/13.

²⁶ *Majmoo'ah fataawa*, 16/109.

the war, he said:“ Yes that is permissible and indeed the way to get rid of prisoners of war. It is better than giving the money to whoever will free them as he could not completely be trusted, and he could use it in other ways other than freeing them. As for this it is paid for freeing only. It will not make a difference whether or not the money should be given to directly free them or to be paid to the debited. Just as the prophet (s) used to give the Zakah money to the people of *Sahman* and other times he would borrow money for the people of *Sahman* and pay the *Zakah* to those he had borrowed from for them so he taught that paying is a fulfillment just like paying is a settlement. And Allah knows the best”²⁷. Here, he support to share the money of endowment in any filed, not only in the worship acts or rates, but also we can use this kind of many to help Muslims in their problems.

E) The important of different form of investments of endowments.

Many question or doubt the continuity of the endowed material. Islam has come with many ways that preserve the endowment even after the endower’s death.

The general ruling on endowed material is that it should be able to finance itself. Endowments’ benefits do a lot more than just preserve a building, indeed even the workers who work to preserve the endowment are entitled to its benefits as Ibn Taymiyah ruled in his famous book *Fataawa Ibn Taymiyah*.

In two occasions, Ibn Taymiya was asked about remaining money after all expenses have been made for the preservation of the endowment. In one of these occasions, Ibn Taymiyah’s response was that it was permissible to use the surplus elsewhere as long as all the expenses have been paid for.

²⁷ *Ibn Taimiyah, Majmoo’ah fataawa*, 16/110.

In another occasion, similar to this, Ibn Taymiyah was asked about a deserted endowed building whether or not it was permissible to transfer its worth of money to something similar to it. Ibn Taymiya premised such type of transfer.

Imam Ibn Taimeyah like others Muslims scholars invited all who in charge of endowment money to use any kind of investment or form of trade to use their money for increase it. And that is the secret of successes of denimik of endowment thought out Islamic history. No stop from their activities or programs in different filed or way.

Therefore, he disliked keeping or using endowment in the same investment form, he invited to change that if we can collect interest for Muslims, he answered about plucking the trees for benefit, “Yes if plucking the trees is of benefit to the earth in the sense that usage of the earth will increase if they are plucked. It is essential for the caretaker to pluck them and do what is more beneficial for the endowment and to spend its money in what is better for the endowment for its building or Masjid if it is needed.²⁸” Also he called to change any form to other for benefits or advantages of endowments, as he said: “All praise is due to Allah; yes it is permissible to work on that as long as it is for the benefit of the Masjid and his family, that is, renewal of the building, changing the design of the building and so forth. And Allah knows the best.²⁹” But that not meant to change any purpose for any reasons, the reason for that only benefits for society and public services, not for private need or personal demands. Form this point, he called to use this endowment to spend in the similar purpose, as he said: “Alhamdulillah, if it was possible to benefit from both areas, that is to spend what is necessary for his family’s needs, and build the remaining, this would be essential and if some of the building was delayed for a period of time, there is no problem in that as the building is compulsory and the work that cannot be done without a pay is compulsory and payment of

²⁸ *Ibn Taimeyah, Majmoo’ah fataawa*, 16/114.

²⁹ *Majmoo’ah fataawa*, 16/115.

calamities is compulsory. Therefore the compulsory acts are better than leaving other. And as for the ones that the building does not stand without them (accountants, workers) they are part of the building. And whatever remains of the conditioned expenditures and Masjid's expenses, should be spent for the same object such as building another Masjid, and repairing it and the money should never be kept aside for no particular defect, and especially in Masaajids as it has been known that what remains is always a remainder of what is not needed, holding back of such money is corruption and Allah does not like the corrupted."³⁰

From this point, we can say Islam places a high reward for a donator. There are several types of donations and the long-term donation is considered one of the best types.

This point discusses a particular type of donation which has a specific word in Islamic jurisprudence and that is endowment, bequest or trust, it is also used in different terms such as "*Sadaqah jariya*" or The continuing charity. The most commonly known and practiced form of endowment is building or giving a Masjid. It has to be mentioned though that it is not the only kind of endowment a person can place. Endowments could be in many forms such as giving a house, book or a well, basically anything known to have a lasting benefit.

Ibn Taymiyah was also asked in an occasion whether cutting down trees to further benefit from the endowed material was permissible, he supported the idea as long as it was for the benefit of the endowed material.

To conclude, when an endowed material has been placed by the endower, whoever is the caretaker of this material is to remember that it is a great trust put under his hand.

The caretakers of the endowed materials should follow the endower's specifications. If the donor meant it for a specific cause, the caretaker has no right whatsoever to change according to his desires unless the specifications given was against Allah and the Prophet's teachings.

Regarding ((Replacing/Substituting the Endowment)) even the masjid with similar to it or better out of necessity or benefit. And also for the replacing of an offering/sacrifice, the substituting of an oath and also the beneficiary's replacement with similar to it if it becomes difficult to give him similar. And the substitution may sometimes be in order to compensate it with the replacement and sometimes with that which is sold and bought with its price.

So Ahmad's way (mathhab) regarding other than the masjid is that it is permissible to sell it if there is a need; as for the masjid, it is (also) permissible to sell it out of necessity in the two most famous narrations from him and in another narration: "Do not sell its roof, but transfer the facility to another place"

And similarly this ((Al-Mushaf)), it is disliked to sell it as a prohibition or out of integrity. As for replacing it, according to him, it is permissible with him in one of the two narrations from him without a dislike (for it), but the literal meaning of his mathhab is: "if it is purchased or sold for its price, then this is a type of replacement, if its intent is there. So in this (endowment), the benefit of its exchange is similar to the object sold if it is difficult to exchange it for the same.

So if the masjid was endowed in a town or place and it was difficult for the people of that area to benefit from it, then the benefit or profit can be exchanged for something similar, like building another masjid in another area. Ahmad says similar to that for the lighting and carpets of the masjid if they are not being used in the masjid: they can be taken to another masjid, and it is permissible to give them to the neighboring poor according to him. And the proof for that: is that Umar bin Al-Kkattab (may Allah be pleased with him) used to divide the Ka'bah's covering amongst the Muslims, so likewise the things in the masjid, because the Muslims are the beneficiaries of the masjid, and he (Ahmad) proved its exchange for similar to that: because Ali bin Abi Taalib (may Allah be pleased with him) collected wealth for a *mukaatib* (a slave working his way towards freedom) and when the wealth exceeded what was required to free him, he used it (the wealth) to free another *mukaatib*. The people had given the wealth for the purpose of

freeing a slave and when the money was sufficient for that purpose, he (Ali) used it for a similar exchange.

And the intended is that Ahmad bin Hanbal's opinion differed regarding selling the masjid when it wasn't being utilized and his opinion didn't differ regarding selling other than that with a need. He (Ahmad) said in a narration from his son, Abdullah: "If the masjid becomes damaged, sell it and spend its earnings on another masjid"³¹

As for the endowment of a masjid for another one for a benefit even though the first masjid is still useful, there are two opinions in Ahmad's mathhab. His followers differed regarding them, but the permissibility is clear in his texts and proofs.³²

And there is no doubt that in his speech there is what clarifies the permissibility of replacing a masjid with another masjid for a benefit even if the masjid being replaced is still beneficial, due to the fact that the second masjid is more beneficial, it replaces the first one. Abu Bakr said in ((Zaad Al-Musaafir)): Ahmad said regarding Saleh's narration: stock was taken of the Bait Al-Maal (treasury) when Ibn Mas'ud (may Allah be pleased with him) was in charge of it. He wrote a letter to Umar (May Allah be pleased with him) and Umar wrote him back saying: move the masjid and build the Bait Al-Maal in front of it, so that the worshippers don't dwindle in number. Then Sa'ad moved the masjid to where it is today in the Tammareen marketplace and the marketplace was put in its (the masjid's) place. So there is nothing wrong with transferring a masjid if it is desolate. And he (Ahmad) said regarding Abu Talib's (may Allah be pleased with him) narration: if the masjid was too small for the people, there is nothing wrong with transferring it to a place with more space. The permissibility of its transfer is due to the lesser benefit of the first place not its unfeasibility.³³

³¹ Ibn Taymeeyah. *Majmoo'ah Fataawa*, 16/117

³² *Majmoo'ah Fataawa*, 16/118

³³ Ibn Taymeeyah. *Majmoo'ah Fataawa*, 16/119

Umar (may Allah be pleased with him) ordered the transfer of the Kuufah masjid to another place and the first masjid became the Tammareen marketplace. The reason why he did this was because of the greater benefit in the new masjid. Even Maalik and others gave a ruling for purchasing a neighboring endowment for a masjid and compensating its owners for it. They permitted the selling of an endowment and compensating for it in order to benefit the masjid and not the people.³⁴

Selling the endowment is permissible in the necessity of keeping the intent of the endowment from being lost.³⁵

There is no need to sell the endowment and when it is sold for a weighted benefit and the need of those who are dependant on it for its complete benefit then necessities make permissible the prohibited things. Its selling is permissible in order to complete its benefit even if they weren't obliged to sell it.³⁶

The first portion deals with all endowments and the issue of the permissibility of their exchange or substitution with the like or something similar to it in the form of compensation or the money received from the sale. Ahmad was specifically of the opinion that it was permissible to sell any endowment other than the masjid. And according to him, even the masjid was permissible to sell out of necessity. He was against the selling of Al-Mushaf and regarded it as forbidden or highly disliked and unbefitting of Allah's Book, but he permitted replacing it by means of selling it. Some Muslim jurists argue that the right of ownership of endowments belongs to Allah. Others believe that it belongs to the beneficiaries although their ownership is not complete in the sense that they are not permitted to dispose of the property or use it in a way different from what was decreed by the founder of endowments.³⁷

³⁴ Ibn Taymeeyah. *Majmoo'ah Fataawa*, 16/121

³⁵ *Majmoo'ah Fataawa*, 16/122

³⁶ *Majmoo'ah Fataawa*, 16/123

³⁷ See this site: http://islamic-world.net/economic/waqf/waqaf_mainpage.html

From the above-mentioned example we can determine that as long as the endowment's intent remains the same or similar then there is no harm done, towards the endowments and the examples also show that once an endowment is made, then as long as it's beneficiaries are the once benefiting from it then it should be accepted and recognized.

It appears that Imam Ahmad may have had more than one opinion regarding the selling of the masjid if it was not being utilized, but I think that this was conditional on the given circumstances, otherwise he permitted selling the masjid only as a means of replacing it.

Perhaps to better understand Umar and Ali's (may Allah be pleased with them both) rationale for the above given examples we have to look at the two main characteristics of endowments and they are:

Since endowment is a voluntary act of benevolence, conditions specified by the founder must be fulfilled to their letter as long as they do not contradict or violate any of the Shari'ah rulings.

This implies that revenues of endowments should exclusively be used for the objective stipulated by its founder and this may not be changed by management or supervisory courts as long as the objective is compatible with Shari'ah on one hand and is still feasible on the other hand. If an endowment purpose becomes infeasible, the revenue of this endowments should be spent on the closest purpose available and if not it goes to the poor and needy. Permanence covers all the founder's stipulations whether they relate to purpose, distribution of revenues, management, supervisory authority, etc.³⁸

I think that the reason why Ahmad mentioned Malik specifically was because the Maliki School has the only group of jurists who explicitly accept temporality in endowment by virtue of the will of the founder. Even Maliks themselves do not accept temporality in endowment for a mosque and they say that even if a founder of endowment decreed that his/her endowment for a

³⁸ See this site: islamic-world.net.

mosque is temporal, the endowment is considered perpetual and the temporality condition is nullified.³⁹

Here, we can note that *Imam Ibn Taimeyah* looking for what's good for Muslim society, he discuss to replace the place of Masjid because the benefits of Muslims will be happened. He said: " As for the mosque and such assets, it is not a possession for a particular person with the consensus of Muslims, however it is said: it is Allah's possession. It might also be said it is a possession for Muslims, because they are the ones who use the mosque, if it is allowed to substitute it with something better than substitute it with something which best serves the interest of the Muslims community, so the first is appropriate, either to compensate with the substitute, or it should be sold and bought with its price the substitute, and the substitute as mentioned earlier should be substituted with its kind with what is better to what is entailed to it. (Mawqoof 'Alaiyh) ⁴⁰.

and he mentioned about this story of Asiha, and what is proven in the two Saheeh's narrated by 'Aisha – May Allah Be Pleased with her that - the Prophet Peace Be Upon Him said: "if your people had not quite recently abandoned the ignorance (un belief)! I would have dismantled the Ka'bah and would have made two doors in it; one for entrance and the other for exit."⁴¹ It is well-known that the Ka'bah is the best endowment on earth, if it's substituting or changing it with what was described by the Prophet Peace Be Upon Him was compulsory he would have not left it, so it was known that this is permissible, and it was the best if it was not for the reason that the Quraish had just embraced Islam. In this matter there is altering in its construction with another one. So this was in general permissible. Substituting a building with another building is one of the kinds of substitution.⁴²

³⁹ See this site: islamic-world.net

⁴⁰ *Majmoo' fatawa* , 16/127.

⁴¹ Saheeh Al Bukharee Hadeeth no 126, Chapter: 48, page no: 67

⁴² *Majmoo' fatawa*, 16/134.

And changing the buildings picture from other than misuse in that is to benefit. Although this was the better picture in account of the endowments and its approval even its restoration to what was upon him is better reinstated.⁴³

Despite, building that occurs on the third picture is better to endow at construction.

To build that in some other form, will be more beneficial to endow as it handles benefits wherever it is .⁴⁴

It has been proved from the righteous caliphs namely-Umar and Uthman, that both of them have made changes to endowment property for a beneficial cause .In fact, Umar bin al-Khattab did more than that regarding the old Masjid which then became the date market made for them and the mosque being made in another place. Allah knows.⁴⁵

E) Reject every form or opinion hindrance or let the developments of endowments.

Also he tried by his greatest thought to refused any opinion or method making any kind of hindrance or let of development of endowment. Therefore, when he answered about this case, " If that place is not prepared for five daily prayers then it will have the right of the normal place. So it is allowed to make whatever suit for the certain place. To keep a Mihraab does not make it a Mosque. However if the Mosque is made for the purpose the Salah there are arguments among the scholars"⁴⁶.

⁴³ *Majmoo‘ fatawa*, 16/145.

⁴⁴ *Majmoo‘ fatawa*, 16/145.

He said in same manner:" It is paid in an area which is similar to it. For example if the Masjid has any remaining profit, it could be used on another Masjid because the endower gave it to a certain type of object. Therefore if it happens that the first Masjid got ruined and no one is benefiting from it, the remains should be spent on another Masjid. Equally if it remains and cannot be renovated for its benefit nor to dismantle it, spending it in the same object is better and it is closer to the way the endower meant it to be. Ahmad narrated from Ali (r) that he encouraged people to give to the writers so some of it remained and he used it for other writers." See: 16/113.

⁴⁵ Ibn Ttaymeeyah , *Majmoo al-Fatawa*, 16/146.

⁴⁶ *Majmoo‘ fatawa* , 16/ 8.

So, he concern the advantage of purpose of endowment, he careless about any form of purpose, only he accept what's good for place. So the place which built only for the purpose of the prayer and it considers as Mosque by the people it will have the ruling of the Mosque. We have to give the respect of Mosque and have to treat it as a holy place. But keep a Mihraab in a certain place should not make it a Mosque. It is just a place only. It can be a bedroom, play area or guest room tomorrow.

He also answered about similar question, when he said:" Praise be to Allah, if not carrying out his obligatory duties must be changed by the person in authority who carries out the obligation , if the former does not repent and carries out his obligations. Perhaps, what is extra and is not needed by the mosque can be spent on other mosques and on the ones deserving charity from relatives of the endowments owner and neighbors mosques.⁴⁷

Yes, selling that tree is permissible by purchasing with what is being a lot profitable because the trees are like buildings and the person in charge of the endowments changes the picture of endowments from picture to picture better than it. Likewise, changing the picture of the righteous caliphates pictures mosques to those which are in Mecca and Medina. Umar bin al- Khattab transmitted the Kufah mosque from place to place and alike. Do not distribute the trees value between the presents because the trees are like buildings that are not authorized by its price and the presents. And it is not in the place of the tree, plants and benefits are all authorized members of what can be taken from.

And the person in charge of the endowments should work in what is affordable on the obligatory work and that is the work which is considered, because the obligation is 10 portions from compensation (wage reward) even if it was all deserved on what his work takes gathering it. He may take being a poor, in what might be taken by a poor man.

⁴⁷ Ibn Taymeeyah, *Majmoo al-Fatawa*,16/ 144.

F) His early invitation for endowments institutions.

He called to be closed with scholars agreements and advices, this consultation will lead to establish institutions and foundations, he said to keep their advises as lead for any kind of endowment's developments. He gave many examples when other roles used their changes of endowment regarding scholar's advices⁴⁸.

In the opposite of this, he asked to avoid any responsibility or relation of endowment with ignored people or how don't have any idea of institutions of endowment⁴⁹.

G) looking for find welfare of society though endowment

He followed the money objective as mention in the Qur'an to prevent to keep money in the specific people, and through endowment could be that. He said:" The basic for this question if condition of the endowment must be pleasure of Allah (to bring closer to Allah) and to obey Him and His Prophet was right. If there no compulsory condition it will be permissible like, the Prophet, he did not permit context of race except in case of boot or hoof of animals or shooting arrows. If the race is without replacement it will be accepted without foot or something else. Because Allah said that about the wealth "in order that it may not merely make a circuit between the wealthy among you, if the remedy accepted between the rich it not accepted to stop only on the rich people. On the analogy it is allowed all legal objectives. If the work does not cause to close to Allah is not compulsory to pay in that. So if he spent the money in inappropriate way it should not benefited for him in this life and life after death also. If the work is not beneficial in this world it will be a torture for him without reaching any benefit. It resemble was the pagans use to do from the Ahbas which they have been warned in the Surah al-Aam and al- Ma'idah.

If the conditions in the contracts went wrong in case of the benefit of Deen or Dunia it will be wrong with agreements of many Usool.

⁴⁸ See, Ibn Taymeeyah, *Majmoo al-Fatawa*,16/ 39.

⁴⁹ *Majmoo al-Fatawa*,16/ 144.

Example of that : to Precondition on him to abide by a single type of food or clothing or residence which is not liked in Sharee'ah or that he abandoned some acts which are encouraged by Sharee'ah or something of like this"⁵⁰.

The Ruling on the Endowment of Buildings Which Were Built With Loans from the Property Development Fund, so it permissible to endow buildings which were constructed with loan from the Property Development Fund, while they are still mortgaged to the Fund. This what's he wished to say. There is disagreement on this question among the scholars, based upon another question, which is: Is a mortgaged binding if the ownership of item has not yet been transferred or not? So those who said that it is correct to give it as an endowment or dispose of it in any other way which entails transfer of ownership has not been transferred.

Those who said that the mortgaged is binding even if the borrower has not acquired it, they say that endowing it is not correct, nor disposal of it any other way which entails transfer of its ownership.

Based upon this, it is more prudent not to endow it until the money for it has been paid to the bank, in order to avoid the disagreement of the scholars and to act in accordance with the noble. And The Muslim must abide by their conditions of Purchase and sale.

Finally, *Imam Ibn Taimyah* tried to establish his view of endowment through Islamic objective and legal advantage which Islam supported strongly. This view in fact which most of scholars and endowment foundations nowadays followed and practiced.

As *Ibn Taimyah* known, he gave us wishes and hopes of how we can deal with endowment without stopped with their scholars opinions or methods, if there's no benefits from their opinions or methods.

⁵⁰ Ibn Taymeeyah, *Majmoo al-Fatawa*, 16/ 11.

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