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# A Framework for Accessing Funds through Charitable Assignment of Property

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## Abstract

Endowment has an old history and a long record and has been emphasized and ordered as a good tradition in Islam, but its dimensions and angles has not yet been considered by experts and economists. Expanding economic issues and their complexities, the role of endowment and endowed properties in economic development, and the need to fulfill the purposes of the Holy Legislator and benefactor indicate the need of revision in endowment in accordance with the conditions of that time and place. Endowment institution in the West, as a capable "financial institution" in equipping the capital to solve social problems has a desirable position; while, despite having deep cultural and powerful religious stimuli, our society still could not use the capacities and capabilities of this good custom properly. Using the methods and new resources of financing in the development of and endowments are ways which suit to the changing circumstances of time and space, to use of high capacity of endowment. In this paper, after examining traditional and modern methods and sources of financing in the development of endowments, the necessity to use Sukuk as a new way of financing is emphasized, then, in the following, profiting Sukuk pattern as one of the new ways in financing in the development of endowments will be provided.

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## Introduction

Islam is a comprehensive religion that does not limit the worshiped of God only to praying behaviors, but involves many aspects of human life in this category (Sadeghi Shahdani, 2009). Eradication of poverty and social-economic justice and equal distribution of the economic income are the primary objectives of Islam and should be the characteristics of Islamic economic system too (Jahanian, 2011). Islamic financial system, as a subset of the economic system of Islam, should move towards the goals of Islam. The philosophy of Islamic finance lies in justice and charity (Nazarboland, 2007). Islam promotes justice for people. In this regard, if by financing the poor, their income and wealth rise, the financial Islamic sector will show its social role in the best way (Mohammadi, 2011). There are several institutions and structures in Islam to redistribute income and wealth in order to satisfy the primary needs of all social segments. These institutions are: charity, endowment, and interest-free loan (Mesbahi Moghadam et al., 2012) Islam has discouraged the rich to move the wealth only among themselves, and says that they should distribute the wealth among their fellow men, and to distribute wealth from the rich to the poor suggests charity. Charity can be money or even something other than money; it can be optional or obligatory. Endowment is an optional charity.

Unlike high-risk investment areas, the endowment continues to grow. This sector as a viable economic sector is growing rapidly. Endowment organizations are nonprofit organizations that are the representatives of people which manage a lot of economic, social, and cultural activities. Simultaneously, as they have a major impact on the wellbeing and lifestyle of community, they are considered as important forces in the national economy. The growth of larger organizations is a reflection of productivity that may be possible through the use of advanced processes and systems (Sedighi, 2006). Endowment was known long ago and had a vital role in the history of Muslims. However, the efficiency of contemporary endowment institution is Islamic world has been reduced due to poor management. Therefore, it needs to be strengthened to regain its vital role. It can be reconstructed by the changes become a profitable endowment. Profitable endowment can not only finance itself, but also can finance other plans, too (Hosseini, 2009).

Profitable endowment needs investment to find its place. There are several ways to finance endowment projects that are: sharing efficiency, participation, lease Sukuk, etc. This paper, along with examining the methods of financing in endowment, tries to explain the pattern that has been successfully used in some countries (Sedighi, 2006).

## The Definition of Endowment

The word “endowment” literally means stationary. But its meaning in technical terminology which contains the literal meaning in itself too, is the endowment itself is stationary and its benefits are being used. In trade and sale the goods move, but the fact

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is that the endowment cannot be sold and cannot be inherited; so there is a stationary in its meaning, while the flow and movement are in its benefits which are given to the others. Article 55 of Civil Law defines endowment as: "Endowment is holding the property and distributing its benefits."

Also, it can be said that purposeful endowment is to help needy people, which is being used by some people in the society.

Reducing poverty through endowment is the primary mechanism for achieving the basic requirements to reduce the gap between the rich and the poor in society. Using this concept, the characteristics of endowment are the same as charity. In other words, endowment redistributes the income from the rich to the poor. Charity is in cash, while endowment is mostly property. Endowment is defined as the act of voluntary charitable donations, which is defined under such general topics as charity and nourishing (Rostami, 2008).

## Economic Characteristics of Endowment

To explaining the economic dimension of endowment, it can be redefined in another form: Cash transfer (or other sources) from consumption and investing them in productive assets which would result in benefit or income for the future consumption of individuals or groups. By this definition, the endowed capital or property is used in different forms (types) for different purposes such as religious, medical, productive activities, and other items. The endowed capital or property can be used in two ways: first, to provide services for a group of individuals (e.g., building hospitals, mosques, etc.) and, the second, as a productive capital (e.g., a production plan) to produce goods that are sold in the market. With these principles, the bases of economic interests and characteristics of an endowment institution will appear. On the one hand, developing endowment means increasing the sources and reducing consumption (phenomenon which is largely emphasized in undeveloped Islamic societies). In other words, these sources can be changed into a capital which can provide social services, and produce goods, too. Also, as the development of endowment is accompanied with the development of the culture of altruism and unified people, by strengthening the foundation of society and the sense of community, can cause the growth of social capital, and highly affect on the productivity of the economy (Haji Deh Abadi, 2011).

All of the above cases show that the available methods and financing resources to develop the endowments are inefficient, and using new resources and methods, to develop the endowments well and benefit from its, is an urgent need to reduce class gap in Islamic societies and eliminate the primary needs of the poor in these communities.

## The Need to Benefit from Financing in Endowment

Considering the importance of endowment and its role in social and economic development, a lot of efforts have been made to develop this institution in recent years. So, financing strategy has been proposed for this purpose. Based on theoretical developments in financial economics (in general) and Islam financial economics (in particular), new and various ways and tools have been introduced for the financing of endowment (Sedighi, 2006).

## Methods of Financing in Endowment

In general, for financing endowments, there are traditional and modern methods. Traditional methods generally are divided into five types four of which are described briefly in the following:

1. Seizing new endowment. This method is financed by creating new endowments and adding them to available endowments. This method was popular in the time of Prophet Mohammad (Peace Be Upon Him), Bani Umayya, and Bani Abbas. There are a lot of examples of this type of financing in Islamic history, such as: mosques, schools, hospitals, and universities. .

2. Borrowing. In this way, the money is borrowed to finance the operational requirements. By allocating the money of new donors, it is used for developing old endowments. In this way, the observer of the endowment borrows money to cover the current expenses of endowments, reconstruction or its termination. It is accepted in Islam.

3. Replacing endowments. Replacing method provides a possibility to provide the cash which is necessary for operating activities of endowments. This method increases the services provided by the endowment in certain cases, especially when there is a new application for endowments because of technical and population changes.

4. Hakr (a long term lease so that a great amount of payment in advance is paid in sum). It means exclusive or limiting. These methods have been presented by jurisprudents is a way to prevent the sale of endowment. From the viewpoint of endowment management, Hakr, virtual, gains the value of the endowments, which has been given altogether (which should be used for endowment purposes), by selling the exclusive rights of endowment. This is not selling the endowment itself; endowment management needs to replace the sales price which has obtained about a similar property (Meisami and Ghelich, 2011).

Modern financing methods to invest for endowments can be divided into eight groups:

1. Murabeheh. In this method of financing endowment, endowment management, by Murabeheh contract, does the required actions for borrowing from an Islamic bank to buy equipment and materials that are necessary for the development or maintenance of endowments, and, simultaneously, at the due date of the loan, will return the money and the interest of financing, gained from endowment incomes, to the bank.

2. Estesna. This method allows the management of the endowment, in some cases, does the needed development in endowment (for example, through construction) by an Estesna contract – after signing an agreement with a financial institution. Then, the financial institution or the bank, through a contractor, enters into another agreement to provide it. Endowment manager should pay this loan which has been formed by Estesna contract from the benefits of developed endowment.

3. Lease. In this financing method, the supervisor of the endowment issues a license, which is only valid for who finances for many years. This license allows the person who finances to build a building on the endowment (land). Then the supervisor leases the building for a period and returns the investment and its interest to the financier (if the financier likes). In this case, the lease finishes with the tenant who is now the owner of the building.

4. Bailment of a capital. In this financing method, the supervisor, as a contractor, gets the cash from the financier to construct a building on the endowment (land) to build. The obtained profit will be divided between the endowment management and the financier.

5. Collective ownership. The contract is called partnership of property in religious jurisprudence. In this method, the supervisor allows the financier to build a building on the endowment (land). But each part independently and separately owns its own property and agree on dividing the outputs among themselves.

6. Collective outputs. In this method of financing, the institution provides the land and other fixed properties (for the endowment institution) and the financier handles the costs and the management. The financier can also provide part of the machines or all of them provided that the land is supplied by a part other than management. This method is based on Mozaree, and the gross profit is divided by agreement between the parties.

7. Hakr and Long-term Lease. In long-term financing method, the financier leases the endowment for a long period of time. The financier accepts the responsibility to provide the manufacturing costs and endowment management, and pays periodic rent to the supervisor. In the minor method of Hakr, a clause is added to the contract according to which the financial institution, beside periodic lease, pays sum cash, too.

Other methods and sources have been offered for financing of endowments so far. These methods are actually based on the concept of "changing the properties into securities" which will be discussed in the next section.

8. Development of Endowments by using the endowments changing into securities. This method of developing endowments is based on connections between endowment concepts and "changing into securities" (Pak Nia, 2009).

One of the methods to convert the endowment into securities will be studied in the followings. This method is based on Sukuk has been designed as a set of new Islamic financial instruments based on the concept of "changing into securities" and will be used for developing the endowments. Indeed, Sukuk can be entered into endowments in two ways:

- Endowments using Sukuk change into securities. It causes improvement in the management of endowments.

- Using an initiative, a kind of Sukuk, which relates to properties which are not endowments, can be applied to support endowments.

## Characteristics of Sukuk and its Variants

Conventional bonds are those that indicate the issuer is in debt. In other words, these securities are documents showing that a party has the obligation to pay the loan in its due time. But Islamic bonds (Sukuk) are securities representing debt, ownership, and investment. These securities are published by issuers under religious conditions Haji (Deh Abadi, 2011). Sukuk, in its first use of the word in Arabic, means "to beat or smash". The term Suk, is the Arabic form of the Persian word “cheque”. Currently in Islamic financial literature the term Sukuk has been defined as "Islamic bonds" (Maysami et al., 1378). At Standard No. 17 of Accounting and Auditing Organization of Islamic Financial Institutions Sukuk is defined as "certificates with an equal nominal value, which after the completion of the underwriting process, indicates the amount paid by the buyer to the issuer, and its owner has one or a set of properties, profits from properties or has interest in a project or a special investment activity (Kalantari and Salehi, 2006).

The following features can be outlined for Islamic bonds Sukuk:

1. In the development of Islamic economics, Sukuk is a financing method which is in accordance with the religious principles.
2. To develop Sukuk according to Islamic principles is suitable.
3. It is used to transfer the savings of investors to invest in accordance with Islamic law.
4. It has been designed to develop and promote Islamic instruments to provide investment opportunities for investors and issuers of Islamic instruments.
It helps to create an efficient Islamic bond market with high liquidity (Mesbahi Moghadam et al., 2012)

## Types of Sukuk

Sukuk has many types such as, lease Sukuk, combined Sukuk, callable Sukuk with variable rate, Sukuk without unsalable coupons, and integrated Sukuk. Each of these Sukuks is briefly described.

1. Lease Sukuk: This type of Sukuk, as property-backed, is single. In this case the property can be land or rental equipments. Return of this Sukuk can be fixed or variable.

2. Combined Sukuk: It can be a combination of Estesna, accessible Murabehe, and also lease. The return of these bonds can only be fixed rate which has been determined before.

3. Callable Sukuk with variable rate: This type of Sukuk can be used for some companies as "due participation financial securities". Since this type of Sukuk employs the concept of participation, from a religious point of view it is preferable. Also, the floating-rate of these bonds does not depend on the evaluation process with market resources such as Libor, but rather, depends on the firm's balance sheet realities. These securities because of the seniority of the rights of the issuers, the nature of the callability, and their relatively stable rates compare with the payments of the stock interests can be a substitute for Sukuk.

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4. Sukuk without unsalable coupons: It is a special type of Sukuk by which there are no properties until then. These types of Sukuk can be used by adding some more properties to the company's balance sheet through Estesna.

5. Implicit Sukuk: This type of Sukuk can be without coupons, pure or mixed rent, with the implicit conversion to other forms of properties, depending on the particular circumstances.

6. Profiting Sukuk: This type of Sukuk is known as time share bonds. And ownership indicates a certain time in a certain apartment building for a number of years. Profiting Sukuk is in fact a form of lease Sukuk. The document of beneficial ownership of the property is of two kinds: one kind is the existing property document. In this type of Sukuk it is assumed that the property is already there. Then the owner publishes profiting Sukuk that used the property as basic property. Since this type of Sukuk is based on the concept of lease, the owner cashes these rental bonds from those who have committed to these bonds. But the second, the document of the interest ownership in the future will be available if needed. This type of document will be issued to finance the reconstruction of the properties. Therefore, beneficial owners of these future properties will be those who have commitment. These types of Sukuk were used in the early 2000's in Mecca (Nasr Abadi, 2008).

In the following, a model will be provided that works with this type of Sukuk, and is entirely appropriate to finance in endowment. This suggested model is a general model for financing and investing in the endowment by using a construction model, using and transfer, and profiting Sukuk. This model can also be used for other types of Sukuk.

## Operating Profiting Sukuk in Investing Endowment

In order that profiting Sukuk gains a significant role in supporting the management of the endowment, several prerequisites are required. The most important assumptions are:

1. The law and regulations relating to the Sukuk. Although the objective of Sukuk which is financing is similar to that of conventional bonds, Sukuk is actually very different from conventional bonds. The difference arises when we know that in the Sukuk properties are required but in bonds it is not like that. For example, currently in Indonesia, the legislations relating to Sukuk have not developed yet. Therefore, the government and Parliament should work together on this issue. Also, the concept of Sukuk should be introduced to investors, business sector, and others so that when the regulations relating to Sukuk were adopted the users already know that.

2. Endowment law is certainly one of the most important prerequisites. These laws should determine the rights and obligations of the parties- which typically include benefactor, supervisor, stakeholders and others. It should also explain the nature of the endowment itself, In other words, it should determine whether it is public or private, temporary or permanent.

3. Institution that manages the endowment. Most previous studies conducted in the field of endowment management by the government indicates that it must be managed by non-governmental organizations. This is because the governments in many Islamic

countries have problems such as corruption, mismanagement, etc. (Sharifi, 2006). These conditions have caused that the benefactors have no willing to endow their property because they are afraid that their property is not used for the public interest.

4. The support of the government, particularly through indirect policy for the development of the endowment. One of these policies can be reduction or even tax exemption for benefactors.

5. Information system of endowment should (for sample) be correctly defined to be operational. Pattern recognition needs that part which includes stakeholders. This detail identification is needed to operate the project among stakeholders.

6. Development of the Islamic financial market. Development of the Islamic financial markets will encourage investors to invest in the secondary profiting Sukuk in a way that, in this market, the liquidity of financial instruments increases (Sharifi, 2006).

## Operation of Profiting Endowment Plans in Endowment Investments

There are many endowments that have not yet been developed. These conditions have reduced the potential power of endowments to improve the welfare. In order to reconstruct endowments, the endowment organization requires capital to be able to finance the development of endowments. One way to provide capital by investors is through releasing profiting Sukuk.

In this model, the endowments are managed by the Endowment Organization. It needs management or vice presidency of endowment development to identify its undeveloped endowments (such as office buildings, chain stores, hotels, etc.) and search secondary suitable plans for these endowments. After finding a suitable plan management or vice presidency of endowment development proposes that, for the reconstruction of endowment, the management or vice presidency of endowment development supports the endowments. Management or vice presidency of endowment development will respond by appointing an intermediary company. Then the manager or vice president of endowments and management or vice president of endowment development agrees on how to finance the project (Mesbahi, 2010).

Three models that may be used to finance the project are:

1. The project is fully financed by releasing profiting Sukuk.

2. This case is similar to the first one. But there are options to extend the maturity of the Sukuk.

3. The main orientation of this method is that the project is financed by releasing profiting Sukuk, but a part of the plan will be financed from internal funds. Internal resources of other endowment plans are funds and other donations to fund treasury.

After determining the pattern of financing, management or vice presidency of endowment development starts construction and passes BOT contract for developer company, then by renting the plans to the intermediary company (which will then execute the plan) the work will continue (Nasr Abadi, 2008).

BOT contract between the developer company of endowment and the management or vice presidency of development is the basic property of rented endowments. Developer company, based on the contract, does the necessary steps to develop a complete plan of the endowment and then transmits the completed plan to the intermediary company. Thus, the time of the contract depends on the pattern of financing used in the finance of the project. The period of the BOT of a plan which is based on the first model is shorter than that of the second model. Based on the second model, the contract is extended so that the periodic income from management or the vice presidency of the financing of endowments is returned (Babajani, Mohadeseh, 2005).

Here is an example of the above conditions. BOT contract is between endowment management or vice presidency of it and the developer for a special second plan is 25 years. The time period for this contract is normal. But based on the second model, endowment management or vice presidency of it may approve the high natural course, for example, 35-30 years. Instead, the management or vice presidency of financing of endowments receive periodic payments (monthly or yearly) from the project developer – which is leasing the project from the developer company.

In the first case, the management or vice presidency of financing of endowments does not receive any income from the secondary for up to 25 years, after the end of the plan period (BOT contract period). However, the endowment organization receives the secondary plan sooner so that by this program, earning income will be operational. On the other hand, the second model extends the required time that the management or vice presidency of endowments needs to enforce a secondary plan by obtaining its right (e.g. 35-30 years, it means 5-10 years more). However, this case offers periodic payments of the medium company to the management or vice presidency of financing of endowments. These payments are considered as income for the management or vice presidency of financing of endowments. This revenue is used for financing the maintenance and first plan operational costs or could be used to prepare the human resources needed for the secondary plan (such as doctors and teachers). After signing a lease agreement with the developer, the medium company, for financial support, issues profiting Sukuk. Investors subscribe Sukuk which shows the ownership of the property for a stated period. Investor has the right at a specific time during a given period to use the determined property for Sukuk. However, maybe, the investors want to re-rent Sukuk to the other part which he wants to use the property. The company finances the funds from other investing models (such as a partnership investment or bailment of a capital). The medium company collects investing funds and then finances the secondary developing plan. Developer company begins and delivers it to the medium company right after finishing it. Now, the second completed project management is in the hand of medium company. It makes this project operational from the time it is completed to the time BOT contract ends. Secondary Plan continually creates revenue for medium company. Then, this income is distributed among medium company, the management or vice presidency of financing of endowments, and Sukuk owners based on the following conditions:

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1. The income will be paid to the management or vice presidency of financing of endowments over any given period (for example, monthly or yearly). The medium company periodically pays to the management or vice presidency of financing of endowments because the company fully financed the project through Sukuk release in which the second financing pattern is selected. However, the parties may extend the normal time of the period. In this example, the normal period is 25 years.

2. These earnings will be allocated between medium company and the management or vice presidency of financing of endowments according to the share of the parties in the project. The participation of the management or vice presidency of financing of endowments in the project is done through buying profiting Sukuk or any other permitted investments such as shared or bailment of a capital investment. In this context, the management or vice presidency of financing of endowments invests in the plan through buying profiting Sukuk. But the management or vice presidency of financing of endowments does not use the endowment property; so, this organization wants the medium company to rent the property again to the other part, for more income. Then, this income, after the medium company subtracted its management right on the property of the organization, is transmitted to the management or vice presidency of financing of endowments.

3. The medium company, which does not use the property and gives it to the medium company so that this company can rent again the property to the other part, pays interest (Namai, 2008).

The interest received by the management or vice presidency of financing of endowments is deposited into the plan incomes. The Fund is an internal fund source which will be used by the management or vice presidency of financing of endowments to finance primary investment projects and invest in secondary future schemes. This process continues until the end of the BOT contract. The medium company, at the end of the BOT contract, returns the property to the developer company. The developer company returns the property to the management or vice presidency of financing of endowments, too. Here, the endowment organization will totally be the owner of the second scheme, and continually earns for the management or vice presidency of financing of endowments (Pak Nia, 2009).

## Management and Structured Financing

As mentioned, dealing with financial matters are the basic requirements of any institution. Even in the case of NGOs, money, after the issues related to the work forces and participants, takes the time of managers more than anything else. Time to address issues related to revenues, expenses, financial capabilities in the present and future, financial rights of the partners, civil investment and the issues, in a word, conceptually are close to the issue of money can be seen as the offshoot of an organizational financing management. In other words, financial management is to do the main tasks of scheduling and controlling about the financial planning of an organization which, because of its importance, is usually the responsibility of one of the major deputies of manager. Nevertheless, it is assumed that in order to maintain autonomy and decentralization, each part of an institution in a social organization also takes the responsibility for their financial issues, and the financial vice presidency gets the responsibility of investigating these activities and managing all the financial issues of the whole institute. The financial management for social institutions can be classified in two macro and micro categories which are briefly discussed in the following section. Now, before describing the five sections of financial management for a nongovernmental organization (as mentioned in the following section), giving a brief talk about ways of financing for such organizations will be beneficial (Nasr Abadi, 2008).

## Conclusions

Currently, the rapid development of endowment organization does not lead to the sudden interest among Muslims about endowment. The benefit has always been from the beginning of Islam. The rapid development of endowment institution is a response to changes in geographical-political scopes-increasing and increasing awareness about the role of the endowment in the social and economic developments of Muslim societies. Examining the conditions of the market indicates that currently governments understand that the role of endowment in the lives of many families and individuals is vital.

Endowment has become the property and characteristics of social-economic structure in an Islamic society. Endowment, as an Islamic organization, has an important role in fighting poverty and increasing welfare, and is typically aligned with the goals of the Islamic Development Bank and Islamic banking. However, over many years, the sector was mostly abandoned and forgotten. Financial experts divide organizations into private and public sectors. Endowments are often considered as the third important sector. However, due to low efficiency (because of poor management) this section has not quite succeeded. One way to increase efficiency is to develop endowment by attracting new financial resources and using them in endowed property. One of the financing ways is to issue bonds. This paper describes a model by which the endowment organization (through issuing Sukuk) earns permanent income from revitalizing endowments.

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