

THE EUROPEAN COUNCIL FOR ISSUANCE OF FATWAS AND RESEARCH

THE TWENTY EIGHTH ANNUAL CONFERENCE

01st – 05th RABI'UL AWWAL 1440

09th – 13th NOVEMBER 2018

ISTANBUL- TURKEY



**PAYING ZAKAAT TO A CHARITABLE ENDOWMENT
CONSTITUTES AN EXPENDITURE FROM AMONGST THE
LEGALLY ACCEPTED ZAKAAT EXPENDITURES**

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SUMMARY

This brief research paper answers the question regarding the permissibility of paying *Zakaat* of money to a charitable endowment, the proceeds of which are spent on an expenditure from amongst the legally accepted categories of *Zakaat* expenditures. The traditional response to this question which has reached us from previously issued *fatwas* is that it is impermissible bearing in mind the following four considerations:

The first consideration is related to fact that some jurists have made it a condition that ownership of the *Zakaat* being paid must pass to the eligible recipient upon payment. We respond to this consideration with various proofs establishing the permissibility of paying *Zakaat* to an organisation that distributes it instead of directly handing it over to an eligible recipient.

The second consideration is related to the vast majority of jurists making it a condition that the endower must own that which he has stopped (i.e. made *Waqf*) in the path of Allah. We respond to such a consideration with various proofs to demonstrate that such a condition is not a pre-requisite e.g. the permissibility of (الإرصاد) of the Imaam i.e. the permissibility of the Imaam identifying something from the Muslim treasury (Baytul Maal) to be stopped/ contained as an endowment (*Waqf*) because he deems it appropriate.

The third consideration is the prohibition where the vast majority of jurists prohibit the donation of money (cash) as an endowment (*Waqf*). We respond to this consideration with various proofs to establish its permissibility.

The forth (and last) consideration relates to the possibility of sustaining a loss of the *Zakaat* (i.e. the capital amount) in the process of investing it in an endowment (*Waqf*) investment. We respond to this consideration by stipulating that a condition be stipulated to the effect that all necessary precautionary measures must be taken in preventing such a possible loss.

This research also addresses, with relative detail, some aspects of the objectives of endowments (*Waqf*), in its modern context, as well as the effect of paying *Zakaat* for the benefit of endowment (*Waqf*) institutions that serve the legally accepted expenditures of *Zakaat* and in so doing achieve these objectives in the reality of the Muslim nation.

UNDERSTANDING ENDOWMENTS FROM LEGISLATIVE TEXTS

Legal texts that specifically deal with endowments are limited. This silence regarding the detail around endowments and sub-rulings which may arise regarding endowments is, in my opinion, intentional from the legislature so as to keep the doors of innovation, *Ijtihad* and revival open so that this institution (of *Awqaaf*) could be utilised for the benefit of the Muslim nation and for the benefit of new issues that constantly develop.

As for in the book of Allah, the general verses that refer to doing good and spending (in the way of Allah) are the Qur'anic proofs for the permissibility of endowments (**Waqf**).

Allah says:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَنْفِقُوا مِمَّا رَزَقْنَاكُمْ مِنْ قَبْلِ أَنْ يَأْتِيَكُمْ يَوْمٌ لَا بَيْعَ فِيهِ وَلَا خُلَّةٌ وَلَا شَفَاعَةٌ
وَالْكَافِرُونَ هُمُ الظَّالِمُونَ

Oh you, who believe, spend from that, which we have provided you (all) with, before a day comes wherein there is no trade nor any friend nor any intercession. And those who have rejected the truth they are the oppressors.¹

and

مَثَلُ الَّذِينَ يُنْفِقُونَ أَمْوَالَهُمْ فِي سَبِيلِ اللَّهِ كَمَثَلِ حَبَّةٍ أَنْبَتَتْ سَبْعَ سَنَابِلٍ فِي كُلِّ سُنْبُلَةٍ مِئَةٌ
حَبَّةٌ وَاللَّهُ يُضَاعِفُ لِمَنْ يَشَاءُ وَاللَّهُ وَاسِعٌ عَلِيمٌ

The similitude of those who spend their wealth in the way of Allah is like that of a grain (of wheat) that sprouted seven ears, in each ear there is a hundred grains. And Allah multiplies for whomsoever He wishes. And Allah is Most Giving Most Knowing.²

and

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ

None of you shall attain piety until you spend from that which you love. And you do not spend of something except that Allah is aware of it.³

Verses of similar meaning are numerous. It is noteworthy to mention that the word used in the speech of the Prophet of Allah ﷺ regarding endowments is '*tasbeel*' which literally means to make/do in the way of Allah. So every instance where the word *infaaq* (spending) in the way of Allah is mentioned in the Quraan, endowments (*Waqf*) or *tasbeel* fall under this meaning.

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1. Surah Al Baqarah verse 254
 2. Surah Al Baqarah verse 261
 3. Surah Aal 'Imraan verse 92

The actual wording of the *Hadeeth* in which the word *tasbeel* is mentioned is to be found in the chapter entitled “Endowments, How They Should Be Written”, in the authentic book of Imaam Al Bukhari⁴: It is narrated by the son of Umar (Allah be pleased with him) that he said that Umar (Allah be pleased with him) acquired a piece of land in *Khaybar*. He then came to the Prophet of Allah (peace and blessings of Allah be upon him and his family) and he said, “I acquired a piece of land and I have never before acquired any possession more valuable than it. So what do you instruct me to do with it?” He the Prophet of Allah (peace and blessings of Allah be upon him and his family) said, “If you wish you may stop (i.e. make *Waqf*) the actual land and you may give it (i.e. its fruits and benefits) in charity. So Umar (Allah be pleased with him) gave it in charity to the poor, kindred, slaves, in the way of Allah (Jihad), the weak and the wayfarer and stipulated that it (i.e. the land) should not be sold nor should it be donated nor should it be inherited. There is no blame for the one who oversees the endowment (*Waqf*), to eat, in goodness (i.e. without being excessive), from the endowment or feed a friend without him reaping any financial benefit.” The hadeeth is narrated by Imaam Ahmed and Ad-Dar Qutniy and he added to the narration, “stopped for as long as the skies and earth exist”. At-Tahawi narrated it from the narration of Yahya ibn Saeed Al Ansaari and the word of the narration is, “Give in charity it’s fruits and stop (as a *Waqf*) the actual land.” And An-Nasaa’ee from the narration of Ubaidullah ibn Umar and its word is, “Stop (as an endowment) the actual land and spend it’s fruits”. Muslim added (in his narration) “And do not sell”. But all these narrations are via Naa-fi’ in any event.

Ibn Hajar in his book “*Al-Fath*” makes a comment which is linked to our topic and he says, “And in the way of Allah (Jihad), the slaves, the poor, the guest and the wayfarer, all of these categories except the guest are mentioned as recipients of Zakaat in the verse of *Zakaat* and the list of recipients has previously been mentioned in the Book of *Zakaat*.”

4. The Authentic Book of Bukhari, Book of Legacies, Chapter of Endowments and How it is written, 2646

At-Tahawi and ibn Abul- Bar narrated via Maalik ibn Shihaab who said, Umar (Allah be pleased with him) said, “Had I not mentioned my charity to The Messenger of Allah (peace and blessings of Allah be upon him and his family), I would have taken it back.” It is from this *Hadeeth* that the impermissibility of taking back what has been stopped (as *Waqf*) and the impermissibility of selling it (i.e. *Waqf*), is concluded. But the scholars always differentiated, in their writings and *fatwas*, between the chapters of *Zakaat* and Endowments (*Waqf*).

But I have found in the Book of *Zakaat*, in the Authentic Book of Bukhari under the chapter, *Zakaat* for Relatives, a clear reference (in my opinion, and I have not seen anyone previously make reference to it) to invest *Zakaat* money in an endowment (*Waqf*) which later became known as a (civil) endowment. This is the *Hadeeth* of *Al- Bayrahaa*. Anas ibn Maalik رضي الله عنه said, “Abu Talhah was the person that possessed them most date palms amongst the Ansaar in Madinah. And the most beloved of his wealth to him was *Bayrahaa* which faced the masjid and the Messenger of Allah ﷺ used to enter it and drink from its perfumed water.” Anas said, “And when the verse:

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ

None of you shall attain piety until you spend from that which you love. And you do not spend of something except that Allah is aware of it.

was revealed, Abu Talhah went to the Messenger of Allah ﷺ and he said, “O Messenger of Allah ﷺ, Allah says, “You will not attain piety until you spend from that which you love!” and the most beloved of my wealth is *Bayrahaa* so I give it in charity for Allah. I hope for its good and for its concealed benefits from Allah. O Messenger of Allah, place it where Allah shows you to place it. So he (Anas) said “So the Messenger of Allah ﷺ said, “Splendid! That’s a profitable investment! That’s a profitable investment! And I have heard what you have requested and I see that you should put it to use for the benefit of your relatives.” So Abu Talhah said, “I will do so O Messenger of Allah ﷺ”. And so Abu Talhah

divided it amongst his relatives and the children of his paternal uncles.⁵

And this *Hadeeth* of *Bayrahaa*, is in my opinion, the reference permitting the stopping (as *Waqf*) of *Zakaat*.

And there is another *Hadeeth* that links *Al Habs* (the containing) (i.e. synonym for *Waqf*) with *At- Tasbeel* (make/do in the way of Allah)

عن أبي هريرة رضي الله عنه قال: قال رسول الله ﷺ (مَنْ أَحْتَبَسَ فَرَسًا فِي سَبِيلِ اللَّهِ،
إِيمَانًا بِاللَّهِ، وَتَصَدِيقًا بِوَعْدِهِ، فَإِنَّ شَبْعَهُ وَرِيَهُ وَرَوْثَهُ وَبَوْلَهُ فِي مِيزَانِهِ يَوْمَ الْقِيَامَةِ) رواه البخاري

The *Hadeeth* is narrated by Abu Hurairah who said, “The Messenger of Allah ﷺ said, “Whomsoever stops (as a *Waqf*) his horse in the way of Allah whilst believing in Allah and having conviction that His promise is true, then definitely its (i.e. his horse’s) food, drink, dung and urine are in his scales (of good deeds) on the Day of Resurrection.”⁶

and

عَنْ أَبِي مَسْعُودٍ الْأَنْصَارِيِّ، قَالَ جَاءَ رَجُلٌ بِنَاقَةٍ مَخْطُومَةٍ فَقَالَ هَدِيهِ فِي سَبِيلِ اللَّهِ. فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " لَكَ بِهَا يَوْمَ الْقِيَامَةِ سَبْعُمِائَةٍ نَاقَةٍ كُلُّهَا مَخْطُومَةٌ "

It has been narrated on the authority of Abu Mas'ud al-Ansari who said, “A man came with a bridled she-camel and said: (I give) this in the way of Allah. The Messenger of Allah ﷺ said: By virtue of it (i.e. this one bridled she-camel which you have given) you will have seven hundred she-camels on the Day of Resurrection, all of them bridled”⁷

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5. Narrated by Bukhari, The Authentic Book of Bukhari, Book of Zakaat, Chapter of Whomsoever Stops His Horse In The Way of Allah- 2698
 6. Narrated by Muslim, The Authentic Book of Muslim, Book of Governance, Chapter of The Virtue of Charity and its – 1392
 7. Narrated by An-Nasaa’ee and At-Tirmidhi: “Ilaa As-Sunan 14-1 Vol 8- 4503, And it is said *Hadeeth*-Hasan(nayl Al- Awtaar 5/260)- and it is narrated by Al Baghawi in “The Sahaabah” and he added “And so Uthmaan Bought it for Thirty Five Thousand Dirhams and then The Prophet ﷺ came and he said: I have made it for the Muslims (fathul Bari 5/305). It is Hasan or Sahih in its own right

And in the following hadeeth, the authenticity of which is agreed upon:

أما خالد فقد احتبس أذراعه وأعتاده في سبيل الله

As for Khaalid he stopped (i.e. he made *Waqf of*) his shields and materiel in the way of Allah.

By “materiel” is meant instruments of war like weapons, animals etc. In this hadeeth we find proof that it is permissible to stop (i.e. to make *Waqf of*) items that perish with use like animals and weapons. Despite some of the companions allowing room for flexibility as compared to the understanding of the jurists with regards to stopping (making *Waqf of*) an item, we find that the vast majority of the jurists prohibit the stopping (making *Waqf of*) items that perish with use.

The hadeeth of the “Well of *Rumah*” is another reference narrated with regards to stopping (making *Waqf*).

ففي صحيح البخاري أن عثمان رضي الله عنه: قال النبي ﷺ: «من اشترى بئر رومة، فيكون دلوه فيها كدلاء المسلمين» فاشتراها عثمان رضي الله عنه

It is mentioned in the Authentic Book of Bukhari that Uthmaan رضي الله عنه said that the Prophet ﷺ said, “Who would purchase the well of *Rumah* while his bucket will be equivalent to the buckets of the Muslims. So Uthmaan purchased it”⁸

As for the word "وقف" [translated literally as “stopping” (as an endowment)] it is mentioned in the *Hadeeth of Jaabir*.

8. Refer to Al Mughni by Ahmed ibn Qudamah, Dar Ihya Turath Al Arabi- 1985, The Book of Stopping (as endowments) and Gifting

لم يكن أحد من أصحاب رسول الله ﷺ ذو مقدرة إلا وقف

None of the companions of the Messenger of Allah ﷺ were financially able except that they stopped (something as an endowment).⁹

THE PREVIOUS OPINIONS ARE RELATED TO THE DETAILS OF THE ISSUE

The question of paying over *Zakaat* to an organisation that takes care of a category of legally recognised recipients of *Zakaat* was put forward to the Islamic *Fiqh* Council in 1986 and the responses varied between those that permitted it and those that forbid it. Some of the scholars like Shaykh Wahbah al- Zuhayli, Shaykh Abd Allah Nasih Ulwan and Shaykh Muhammed Taqi Usmani stipulated the immediate passing of ownership of *Zakaat* as a prerequisite and upon this premise they established that it is not permissible to pay *Zakaat* over to such an organisation.

Other scholars opposed the first opinion and they brought forward various proofs from both the predecessors and later scholars like our teacher Yusuf al-Qaradawi, Shaykh Mustafa Al- Zarqa, Shaykh Abd al- Fattah Abu Ghudda, Shaykh Abd Al- Aziz Al-Khayyat, Abdul Salam Abbadi and Shaykh Mohamed Farouk Al Nabhan and others. However after some deliberation the Council reached the following decision, the text of which follows hereunder:-

The Higher Council of the Islamic *Fiqh* Council, held its third annual meeting between 8th - 13th Safar 1407 corresponding to 11th – 16th October 1986 in Amman, the capital of the Hashemite Kingdom of Jordan on the topic, Utilization of *Zakaat* in Income Generating Projects Without Handing Over Ownership to the Deserving Individual.

9. The decision of the Islamic Fiqh Council during its 3rd annual meeting held between 8 – 13 Safar 1407 corresponding to 11 -16 October 1986 in Amman on the topic “Utilisation of *Zakaat*”

After listening to the opinions of the members and experts on the subject, The Higher Council of the Islamic *Fiqh* Council decided as follows: that the utilization of *Zakaat* in income generating projects without handing over ownership to the deserving individual is, as a principle, permissible if:

- a. Ownership is passed to the deserving recipient/s of *Zakaat*, OR
- b. The project is under the auspices of legal authority that is responsible for collecting the *Zakaat* and distributing it provided:
 - i. That the urgent and pressing immediate needs of the deserving recipients of *Zakaat* have been fulfilled; and
 - ii. That sufficient guarantees are in place to prevent any losses,

and Allah knows best.”¹⁰

And this opinion (of the Islamic *Fiqh* Council is our preferred opinion taking into consideration the silence of legislature on these details as well as public need for such an opinion.

But the issue of endowment (*Waqf*) institutions being sustained by *Zakaat* funds is another question all together. That means that there is a combination of two distinct types of charity that have historically never been mixed i.e. *Zakaat* and Endowments (*Waqf*). And everyone that opposed it, opposed it because of the combination of these two elements and this is what I found in my research of the previous opinions.

10. The decision of the Islamic *Fiqh* Council, during its third annual meeting held between 8 - 13 Safar 1407 corresponding to 11 - 16 October 1986 in Amman, on the topic “Utilisation of *Zakaat*”

PREVIOUS OPINIONS

We could summarise the objections of the scholars under the following points:

Firstly: It is imperative for the person donating the endowment to own the item he is stopping (i.e. making *Waqf* of) in the way of Allah. The issue is that the person paying over *Zakaat* does not own the *Zakaat* he pays over because it is a right over his wealth (in favour of the recipient categories) that he actually does not own and this is the opinion of our teacher Yusuf al-Qaradawi.¹¹ But this is, in my opinion, in contradiction with *Al-Irsaad* (الإرصاد) which the scholars are unanimous regarding its permissibility i.e. the permissibility of the Imaam identifying something from the Muslim treasury (Baytul Maal) to be stopped/ contained (i.e. to make it *Waqf*) for a specific purpose. This is a type of an endowment (*Waqf*) that is concluded with the will of the Imaam alone based on his powers but without him actually owning that wealth.

Abu Yusuf narrates in (his book entitled) '*Al-Kharaaj*', "Umar رضي الله عنه consulted them regarding the division of the two lands which Allah had bestowed on the Muslims i.e. Iraq and the Levant (Sham). Some of those present voiced their opinion and wanted the lands be divided and they wanted their share of rights in the lands they conquered.

So Umar رضي الله عنه said, "So how (would we respond) to Muslims who come (to us subsequent to us dividing these lands) and they find (these) land(s) in its entirety having already been divided (and subsequently) inherited from their fathers and now under their control. I do not think this is a suitable opinion". They said, "Will you stop (i.e. make *Waqf* of) that which Allah has bestowed upon us by virtue of our swords for a people who were not even present and did not witness (the conquest) and for the children of a people and for the children of their children who did not witness (the conquest)." And so Umar رضي الله عنه said nothing more than, "This is my opinion and I see that we should stop (i.e. we should make *Waqf*) both lands." So they all said, "What you see is final and what you say and decide is best."¹²

11. The programme: Shari'ah and life- Al Jazeera Channel, date 20/05/2007, see: aljassra.net

12. *Al-Kharaaj* by Abu Yusuf, Dar Al Marifah, 1987, pages 24- 27

Numerous scholars have adopted this approach in giving the leader the option to purchase (from the booty) what he desires and stop it (i.e. make it *Waqf*) in the way of Allah. Imaam An-Nawawi says in his book entitled '*Al-Majmoo*', "The leader has the choice either to give to the soldier the horse, weapons and materiel or grant him ownership of the cost/ value (of such items) or he can hire it for him. Alternatively, he could purchase the horses and materiel from the category of *Zakaat* allotted for "in the path of Allah" and he can stop it (i.e. make it *Waqf*) in the way of Allah and give it to them when needed.¹³

It must be noted that Imam *An-Nawawi* used the word *Al-Waqf* 'الوقف' (i.e. to stop as an endowment) and not the word *Al-Irsaad* 'الإرصاد' (i.e. to identify and set aside for a specific purpose). But in any event there should be no disagreement over terminology because these terms are innovated and not precisely defined in legal texts, like has been previously said.

There are actually no grounds for the objection of those jurists who object to the stopping (i.e. making something *Waqf*) by the leader on the basis of the apparent technicality that he does not own that which he is stopping (as *Waqf*) because in essence the leader has been entrusted with the wealth of the Muslim nation in goodness and to ensure justice. There is in fact no evidence, neither on the basis of truth nor custom, that one can put forward to oppose this action of stopping (as "*Waqf*") (by the Imaam). To the contrary, I see a similarity between the leader's authority to deal with the treasury of the Muslims (which he does not own) for the benefit of stopping (as a *Waqf*) and the authority of one who pays *Zakaat* to deal with the *Zakaat* (which he does not own) for the benefit of some legitimate objective of *Zakaat*. This objective here is the endowment (*Waqf*) institution that is established to deal with a specific expenditure from amongst the legally accepted *Zakaat* expenditures.

13. At-Taaj Wal-Ikleeel 6/21, Rawdatus Saliheen5/135, Al-Insaaf 7/10

Secondly: As for those who object to the permissibility of stopping cash (i.e. making cash *Waqf*), which is by the way the opinion of the vast majority of jurists,¹⁴ their objection is based on the fact that cash is not a “permanent” commodity compared to actual stopped items, which are stipulated in legal texts. Furthermore, benefitting from it (i.e. the cash) leads to what can be termed it’s “depletion”.

The response to the proponents of this opinion is that in some texts we find mention of non-“permanent” items like the horse in the narration of Abu Hurairah which was previously mentioned as well as the animals in Khalid’s materiel.

In any event there is no text relating to the “permanent” or non-“permanent” nature (of the items being stopped as *Waqf*) but it is a matter of exercising independent juristic reasoning to arrive at a juristic opinion based on interpretation of the texts which is open to difference of opinion. In addition to this, the investment of money in endowment (*Waqf*) institutions will, by the will of Allah, ensure its growth rather than its “depletion”.

A further objection to stopping (i.e. making *Waqf* of) cash is that there is no text that deals with it. The response to this objection is that the legal texts specific to endowments are few and were intentional in remaining silent on many details so as to facilitate ease. Furthermore, there is no proof that legal texts are intended to limit jurisprudence to legal texts only.

Thirdly: As for those who objected to the paying of *Zakaat* to an endowment (*Waqf*) institution which will in turn invest it, on the basis that they fear that the capital investment may be lost. The response to them is the same response that the Islamic *Fiqh* Council gave with regards to paying *Zakaat* to an institution instead of an individual. This is a response, the summary of which is that losses in such instances are not only rare but to the contrary, results show that such investments are usually profitable. In addition, those overseeing such Islamic investment institutions must exercise caution in as much as they

14. Islamic *Fiqh* Council Conference, Amman, 1986

can to ensure that there are no losses and they must follow up on all accounts and hold accountable (to the finest detail) all those who oversee such matters.¹⁵

THE OBJECTIVES OF ENDOWMENTS AND THE OBJECTIVES OF ZAKAAT

Besides the aforementioned review of details surrounding the texts and opinions regarding its interpretation, understandings and discussions, it seems to me that the primary element in taking a decision on the matter is to consider the objectives of endowments (*Waqf*) and the objective of *Zakaat* and to ensure the realization of all these objectives in our modern context by investing our *Zakaat* in endowment (*Waqf*) institutions.

As far as stopping (i.e. making a *Waqf*) is concerned, it has unique spiritual objectives like desiring the rewards of the hereafter, thanking He who bestowed such bounties upon us without us being deserving of them and the purification of the lower self.¹⁶ But it seems to me that the instruction of the Prophet ﷺ:

غير أنه لا يباع أصلها ولا يبتاع ولا يوهب ولا يورث

Except that the actual thing (i.e. the land) should not be sold nor should it be donated nor should it be inherited.¹⁷

is aimed at freeing the capital (i.e. the actual stopped item) itself from its previous owner having any control over. The following agreed upon jurisprudential maxim “The conditions stipulated by the endower is like a legal text (in force)”¹⁸ further illustrates that that freeing (of the actual stopped item i.e. the item that was made *Waqf*) from the control of its original owner is like a third person taking such action irrespective of who that third party

15. Ahmed al-Raysuni, Endowments in Islam- Its Fields and Its Dimensions, Maktabt Dar Elkalema

16. Authentic Book of Bukhari, Book of Legacies, Chapter of Endowments and How it is written, 2646

17. Refer to, for example: Islamic Fiqh Council Magazine 604/13

18. There are some acceptable situations where it is necessary for the condition stipulated by the person who stopped the property to be contravened eg. like dismissing the supervisor if he is unfit or to increase salaries if it is not sufficient etc. Refer to, for example: Mughni Al Muhtaaj 385/2 Al Muhadhdhab 443/1

is or what that third party's authority is, except within logical bounds agreed upon by the scholars.¹⁹

These objectives, in our modern day language, means giving "financial and administrative independence" to the endowment (*Waqf*) Institution so that it is not subject to the control of people irrespective of who they are and irrespective of what they intend doing with the stopped property (i.e. the *Waqf*) and this includes government authorities. This also means, in our modern day language, that the projects that were intended to be funded by *Waqf* would continue by virtue of the continuous existence of these projects. The abovementioned two objectives have specific importance in our era as modern states and multinational companies have seized control of the finances and morale of the masses and have reduced (either by choice or by force) any room for civil action to a minimum. As for the modern state, irrespective of whether it be democratic or autocratic, politicians continuously try to take control of community institutions outside the control of the state like civil organisations and non-governmental organisations, especially religious ones. This control is important to them because it guarantees their continued positions, irrespective of their shortcomings, at the cost of civil, legal and charitable struggles so long as they can cling onto their chairs irrespective of whether they are elected or not.

The Islamic world also witnessed a ruthless attack on its endowments (*Awqaaaf*) from the secular governments in the period after colonisation.²⁰ As for global companies, they too try and exercise control over both governmental institutions and non-governmental institutions in order to ensure the continuity of their benefits, gains and fulfilment of their business objectives, irrespective of what they are. And all of this is in any event a

19. Al-Raysuni: Endowments- Its fields and dimensions, Chapter 3, Dar El Kalema Library

20. Refer to Al-Raysuni: Endowments- Its fields and dimensions and Ibrahim Al Bayoumi Ghanem, *Awqaaaf and Politics in Egypt*, Madarat Publishing House

continuation of historical colonialist politics to fight the system of *Awqaaf* and to restrict it as part of the war against the identity of the Islamic nation and its independence.²¹

The systems of endowments (*Awqaaf*) guarantees financial independence and what is linked to financial independence like the administrative and political independence of civil institutions in general but in particular Islamic institutions that are established to take care of the objectives of *Zakaat*. It also guarantees, Allah willing, the continuation of the projects these institutions undertake to fulfil taking into consideration the continued existence and growth of the capital investment which was stopped (i.e. which was made *Waqf*).

This independence and continuity have benefits for both the objectives and intended categories of recipients of *Zakaat*. In fact, we consider it essential (to invest *Zakaat* in such institutions), taking into consideration our modern reality in fulfilling the objectives with regards to ‘the poor’, ‘the needy’, ‘those employed to administer *Zakaat*’, ‘those whose hearts tend to Islam’ etc. (i.e. the lawful recipients of *Zakaat*).

As for ‘the poor’, ‘the needy’ and ‘those in debt’, it is not possible to constructively combat their problems consisting of food, drink, clothes, shelter, debt individually and on a once off basis. To the contrary, what is required are organisations that take care of what has come to be known as “Human Development” for them and their communities and not just feeding the poor mere morsels till they get hungry again the next day or to settle the debt of the indebted just so that they find themselves in the position where they must loan more money the next month.

We have to, without doubt, give preference to the immediate needs of ‘the poor’, ‘the needy’ and ‘those in debt’ in the form of hunger, thirst and various other tribulations. However, after taking care of these immediate needs there has to be charitable organisations that develop the capabilities of these categories of *Zakaat* worthy recipients to help them leave the cycle of poverty and loss so that they can be as far away as

21. Refer to Ahmad al-Raysuni: Endowments in Islam, its fields and its dimensions and Ibrahim Al Bayoumi Ghanem: *Awqaaf and Politics in Egypt*, Madarat Publishing House

possible from what is termed 'Development Standards' which has been defined by international and private organisations. The reason we have to stay as far away as possible from 'Development Standards' is because even the most insignificant harms of these standards manifest themselves in that they stem from an un-Islamic philosophy with regards to priorities and necessities. This is what Islamic organisations remedy as they ensure the continuation of endowments (*Waqf*) so that priority, in an Islamic order of importance is necessities then needs and then luxuries (protection of religion then the self then the mind then chastity then progeny then wealth).

The worst harms of 'Development Standards' is that it does not aim to serve the poor more than it actually aims to serve global companies whose sole purpose is to sell their products via charitable services. What does a poor person benefit from getting silly luxuries in the form of merchandise (and gifts) being distributed while he is in need of unpolluted sources of healthy food, clean water, shelter to protect his and his family's dignity and protection of their religion. As for an illiterate person who can't even read and write what does he actually benefit if he owns a mobile phone or a fast digital internet line in accordance with the 'Development Standards' programme.

The independence of charitable organisations is the guarantee against 'Development Standards' manipulating their objectives in combatting poverty for the promotion of political and commercial benefits. Paying over the shares of *Zakaat* deserved by the following recipient categories of *Zakaat*: 'the poor', 'the needy' and 'those in debt' to these endowment institutions that accept *Zakaat* guarantees their continuity and success in a progressive manner, Allah willing.

With regards to the recipient category of 'those employed to administer *Zakaat*', instead of them receiving their salaries and compensation directly from *Zakaat* funds, it is better to invest these *Zakaat* funds in Endowment investments that ensure the continued employment these institutions provide their employees with and also provide more employment to this recipient category.

This even guarantees the independence of all from the direct effects of any hidden

agendas and personal benefits that the one who is paying *Zakaat* might have.

As for the recipient category: ‘those whose hearts tend to Islam’, this category forms one of the biggest dilemmas in that the work of *Da’wah* (Calling to Islam) in our era as financial aid to ‘those whose hearts tend to Islam’, be they in the form of new Muslims or those who are on the verge of accepting Islam, is non-existent. More often than not this form of assistance is usually linked to the benefits of certain countries or certain specific individuals who pay, that is if they do actually pay, and is for the benefit of the ‘soft power’ that these countries/ individuals represent, while the recipients of such aid are usually new reverts from the stronger Western or Eastern countries.

Therefore it has become, in my view, essential that endowment (*Awqaaʿ*) be invested to ensure the continuity as well as the financial, administrative and political independence of programmes to, in our time, support new Muslims or ‘those whose hearts tend to Islam’. This is necessary in order that the efforts of these *Da’wah* bodies do not go wasted because of some or most of these reverts leave Islam due to lack of support either in the form of support structure programmes or financial aid, like we are witnessing today.

As for the expenditure or recipient category: ‘in the way of Allah’ in today’s times, the following opinions of modern scholars must be added to what the scholars have mentioned in this regard. The opinions include the objectives of educational, *Da’wah*, relief etc.²²

The educational objectives of the expenditure/ recipient category: ‘in the way of Allah’ has special importance in the field of endowments (*Waqf*) because, in my opinion, education is the most important objective that *Zakaat* should be focussed at, in today’s time. So in addition to the importance of knowledge in Islam which is no secret, the protection of the mind and its development are on par with regards to protection of the self and life. So it is a necessity to pay the *Zakaat* intended for this recipient category/ expenditure not to

22. Yusuf al-Qaradawi: the Fiqh of Zakaat, Al Resala Printing Press, second edition, 1973AD/ 1393AH

educational institutions but to endowment institutions that take care of educational institutions. This is the only way to achieve what has been termed in our time the 'academic freedom' of these institutions. And so the absence of the academic independence or academic freedom of educational institutions, in our times, is the biggest educational problem, especially in the field of Islamic education.

As for outside the circle of Islamic studies i.e. in accordance with the classification of 'Islamic' and 'general'²³, education in the fields of general knowledge is linked to the work market which is a purely profitable system and which is structured to benefit the various markets like economic, political, legal etc. This work market never aims at developing a conscious human being that can carry out his divine trust of being a vicegerent on earth like how Islam has depicted his role to be. To the contrary this educational system merely focusses on producing another cog in the wheel so that they can exploit and utilise these skills in accordance with modern 'Development Standards' which are nothing but economic and capitalistic standards.

Therefore it is an Islamic priority, in our time, to fund these financial endowment institutions which in turn fund modern educational institutions. We have, as a matter of fact, a precedent in universities and major research centres in the West that have made absolutely phenomenal progress in the past century which, had it not been for the institution of *Awqaaf* (or what is commonly known in Western legal culture as charitable organisations- endowments/ donations), these universities and research centres would not have made such progress. In fact and as is well known the west historically borrowed these endowment institutions from Islamic jurisprudence.²⁴

With regards to Islamic studies there has never been a greater need for independent

23. There is another problem with this dual classification of knowledge dividing it into 'Islamic' and 'non-Islamic' or 'quoted' and 'mental' because all knowledge in Islam is Islamic, irrespective of whether it revolves around verses of the Qur'an or the signs of Allah in His creation.

24. Refer to- Studies in Islamic Civilization: The Muslim Contribution to the Renaissance, Ahmed Essa and Othman Ali, International Institute of Islamic Thought (IIIT), 2010
Refer also to Sayed El Dusuki Hasan: Introduction to Civilizational Resurgence, Dar Al Qalam, Kuwait

endowment (*Waqf*) institutions, the affairs of which are solely run by independent scholars because Islamic teaching institutions, east, west, north and south- save a few- have turned into incubators for biased ideologies and schools which could outwardly be categorised as Islamic except that they do not, in essence, serve pure Islamic objectives and priorities. To the contrary these institutions serve the objectives of specific individuals or commercial or political ends in the name of religion- while religion is free from such objectives.

Governments east and west constantly try to control the independence of studies and research in the Islamic field for its own political and commercial agendas and to promote what has come to be known by the West as ‘integration’ of Muslim minorities or what Muslims have termed “citizenship’ of Muslim majorities. So in Muslim majority countries governments and educational bodies that support Islamic studies entice students of religion to become biased towards small groups on the basis of prejudices despite actually being one nation divided into smaller countries by the colonialists. This has become the political reality of Muslims. Preference is given in research proposals to research that serves ‘National interests’ which are in the best cases narrow economic benefits that do not necessarily fit in Islamic standards and its priorities.

Bearers of pure Islamic ideologies suffer from the absence of sufficient funding for their projects in the field of Islamic studies and research except if they pay the political or commercial price for such funding. In this is great harm to the higher objectives of Islam and its firm beacons. Islamic education has become easy prey for politicians businessmen and people with similar objectives. The classical universities like *Al Azhar* and *Ez-Zitouna*, after losing their endowments are not too far from this situation.

Therefore paying *Zakaat* meant for the expenditure of the recipient category ‘in the way of Allah’ towards supporting the endowments of Islamic studies forms an important part of the solution to this crisis and a necessity, in my opinion, to penetrate the battle of consciousness and win it because the Islamic nation’s existence depends on getting involved in this battle and winning it.

Zakaat has throughout Islamic history formed an essential component of the Islamic state. The first Muslim Caliph, Abu Bakr As-Siddique said. "By Allah if they withhold from me (something as insignificant as) a rope (used to tie a camel) which they used to pay to the Messenger of Allah I will fight them for it!"²⁵ *Zakaat* has played a role, since those times, in supporting the state in fulfilling its social obligations towards 'the poor', 'the needy' and the deserving recipients of *Zakaat*.

Today we have a historical opportunity to use *Zakaat* to help increase the role of the state. While the influence of the state, in its modern form, has without doubt been increased in an unbalanced way and the political and administrative roles of the state have overpowered its humanitarian and its various other divine obligations which are, from an Islamic perspective, from amongst the objectives of the state. And this way we would change the general system and grant the individual and the community, via the two institutions of *Zakaat* and endowments (*Waqf*), more power and authority administratively and even legislatively, obviously within the parameters of the general framework of the laws of endowments (*Waqf*).

SUMMARY

We have, in this research paper reached the conclusion, that it is permissible for a person paying his *Zakaat* to pay it over to an endowment (*Waqf*) institution that takes care of the needs of the expenditure/ recipient category for which that *Zakaat* was paid eg. 'the poor', 'the needy' and 'those whose hearts tend to Islam'. We have seen that the legislative texts that deal with endowments (*Awqaaif*) or *tasbeel* and the opinions of the scholars (both the predecessors and later scholars) support this new opinion which we deem necessary for our times in order to support Islamic organizations (many of them being endowment (*Waqf*) institutions) to guarantee the continuation of its work despite the great challenges that the Muslim nation face today. And Allah knows best is as Most Wise.

25. Authentic Book Of Bukhari, Book Of Seeking Verification Of Those Who Leave The Fold Of Islam And The Stubborn And Fighting Them, Chapter Of Of Killing Who Refuses To Accept Compulsory and what is attributed to leaving the Fold of Islam, 6526 The